AUTHORIZING THE COUNTY TO EXECUTE AND DELIVER AN AMENDED AND RESTATED MASTER PARK AGREEMENT AMENDING AND RESTATING THE TERMS OF THE AGREEMENT GOVERNING THE MULTI-COUNTY INDUSTRIAL PARKS AMONG ALLENDALE COUNTY, BAMBERG COUNTY, BARNWELL COUNTY AND HAMPTON COUNTY; AND OTHER RELATED MATTERS.

WHEREAS, pursuant to Title 4, Chapter 1 of the Code of Laws of South Carolina 1976, as amended ("Act") and Article VIII, Section 13(D) of the South Carolina Constitution, Barnwell County ("County"), acting through the Barnwell County Council ("County Council") is authorized to develop multi-county industrial or business parks with other counties;

WHEREAS, the County, along with Allendale County, Bamberg County and Hampton County (collectively, "Counties") previously developed two multi-county industrial parks pursuant to the Act, designated the parks as the “Quad-County Regional Industrial Park I and Park II" (each a “Park”) and entered into the “Master Agreement for the Establishment of the Quad-County Regional Industrial Park I and Park II" ("Initial Agreement");

WHEREAS, the Counties now desire to amend and restate the Initial Agreement to provide for additional review of the anticipated investment to be placed in each Park, as provided in the “Amended and Restated Master Agreement for the Establishment of the Quad-County Industrial Park I and Park II,” as presented to this meeting and attached to this Ordinance as Exhibit A ("Amended and Restated Agreement").

NOW, THEREFORE, BE IT ORDAINED BY THE COUNTY COUNCIL:

Section 1. Authority to Execute Amended and Restated Agreement and Approval of Terms. In the name of and on behalf of the County, the Chair of the County Council, and in the event the Chair is unavailable, the Vice-Chair, is authorized and directed to execute the Amended and Restated Agreement, along with all other documents reasonably necessary to effect the intent of this Ordinance and the transactions contemplated by this Ordinance (collectively, "Transaction Documents"), each subject to the prior approval by the County Administrator and County Attorney, so as to not be materially adverse to the County, and the Clerk to County Council is authorized and directed to attest the Transaction Documents; and the Chair of the County Council, and in the event the Chair is unavailable, the Vice-Chair, is further authorized and directed to deliver the Transaction Documents, and as reasonably necessary, to provide for recording of the same.

Section 2. Amended and Restated Agreement Termination. The Amended and Restated Agreement terminates automatically at the end of the calendar year that is thirty years from the date of the Amended and Restated Agreement’s full execution. Prior to automatic termination, the Counties may terminate the Amended and Restated Agreement by adopting terminating ordinances of Allendale County Council, Bamberg County Council, Barnwell County Council and Hampton County Council. Any fee-in-lieu of ad valorem property tax imposed or levied prior to the Parks’ termination, but collected after the Parks’
termination, shall be allocated and distributed in the same manner as other Park Revenues in accordance with the Amended and Restated Agreement.

Section 3. Ratification of Prior Acts. All previous actions taken by the County Council, or those acting on the County Council's behalf, in connection with the adoption of this Ordinance and the approval of the Initial Agreement and the Amended and Restated Agreement are ratified as official acts of the County Council.

Section 4. Conflicts Among Counties' Ordinances. To avoid any conflict of laws or ordinances among the Counties, the Host-County's law governs property located in that County. This section is not intended to attempt to supersede any state or federal law or regulation.

Section 5. Prior Ordinances Repealed. Any prior ordinance, resolution, order, agreement or other act of the County Council, the terms of which are in conflict with this Ordinance is, only to the extent of that conflict, repealed.

Section 6. Severability. If, and only to the extent, any portion of this Ordinance is unenforceable for any reason, the enforceability and binding effect of the remaining portions are not affected.

Section 7. Saving's Clause. Further, notwithstanding the adoption of the Amended and Restated Agreement, any acts taken under the Initial Agreement are approved, ratified and confirmed as being necessary and proper acts for the County and are "saved" and continue under the Amended and Restated Agreement as if the acts were originally taken under the Amended and Restated Agreement

Section 8. Effective Date. This Ordinance is effective after third reading.

[signature page follows]
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BARNWELL COUNTY, SOUTH CAROLINA

(Seal)

F. Pickens Williams, Jr., County Administrator
Barnwell County, South Carolina

Approved as to Form and Content.

J.D. Mosteller, III, Esquire, County Attorney
Barnwell County, South Carolina

Readings:
First Reading: July 6, 2010
Second Reading: August 3, 2010
Third Reading: October 5, 2010
EXHIBIT A

Amended and Restated
Master Agreement for the Establishment of the
Quad-County Industrial Park I and Park II
This Amended and Restated Master Agreement for the Establishment of the Quad-County Industrial Park I and II ("Agreement") is entered into by and among: (i) Allendale County, South Carolina ("Allendale"), (ii) Bamberg County, South Carolina ("Bamberg"), (iii) Barnwell County, South Carolina ("Barnwell") and (iv) Hampton County, South Carolina ("Hampton") (collectively "Counties," each a "County"), each a political subdivision of the State of South Carolina.

RECEITALS

WHEREAS, a certain region of South Carolina, consisting of Allendale County, Bamberg County, Barnwell County and Hampton County ("Quad-County Area"), holds great promise for future development and growth;

WHEREAS, the Counties, by their duly-adopted approving ordinances ("Approving Ordinances"), have determined that to promote economic development of, provide additional employment opportunities in and increase the tax base of the Quad-County Area, the Counties should establish two new, multi-county industrial parks; and

WHEREAS, as a consequence of establishing the Parks, all property located in either Park is exempt from ad valorem property taxation, during the term of this Agreement, and, instead, each owner or lessee of property located in either Park shall annually pay a fee-in-lieu of ad valorem property taxes as provided in this Agreement and by the law of this State;

NOW, THEREFORE, based on the collective agreement, representations and benefits obtained by the Counties, as expressed in this Agreement and in the Approving Ordinances, and for other good and valuable consideration, the receipt and sufficiency of which the Counties acknowledge, the Counties agree:

Section 1. Binding Agreement. This Agreement is the written instrument setting forth the entire agreement between the Counties with respect to the Agreement's subject matter and is binding on the Counties, their successors and assigns.

Section 2. Authorization. Article VIII, Section 13(d), of the Constitution of South Carolina provides that counties may develop multi-county industrial and business park in the geographical boundaries of one or more member counties (each an "MCIP"), provided that certain conditions specified in the Constitution are met and further provided that the General Assembly of the State of South Carolina provides by law a means by which the value of property in an MCIP is considered for purposes of bonded indebtedness of political subdivisions and school districts and for computing the index of taxpaying ability for school districts. Section 4-1-170, Code of Laws of South Carolina, 1976, as amended ("Section 4-1-170"), satisfies the conditions imposed by Article VIII, Section 13(d), of the Constitution and, along with other applicable statutory provisions, provides the statutory vehicle through which member counties may create an MCIP.

(A) If, and when, appropriate, the Counties shall, at any time and from time to time, add to the Parks' property located in the unincorporated areas of the Counties. The County in which the property
is located ("Host County") shall designate and establish the property as a part of the appropriate Park, as described below. The Parks may at any time and from time to time consist of non-contiguous properties. The Counties may expand and diminish the Parks' boundaries at any time and from time to time as the Host County deems appropriate, pursuant to approving ordinances or resolutions of the Counties. The Counties are not entitled to diminish the Parks' boundaries if the diminution would negatively impact any indebtedness incurred or proposed to be incurred that is to be repaid from that property's fee-in-lieu of ad valorem tax revenue. If the property proposed for addition to either Park is in a municipality's corporate limits, then prior to adding the property to the appropriate Park, the Counties shall obtain the municipality's consent, by ordinance or resolution, to the addition of the property to the appropriate Park.

(B) If the Counties' enlarge or diminish either Park's boundaries, this Agreement is automatically, without any further action of the Counties, amended, and the Counties shall cause a revised Exhibit A to be attached to this Agreement on which the Counties shall describe the property in the appropriate Park being added or removed, together with information identifying or referencing the specific approving ordinances or resolutions of the Counties.

(C) Prior to the Counties' diminution of either Park's boundaries, the Host County shall first hold a public hearing, notice of which shall be published in a newspaper of general circulation in the Host County not less than fifteen days prior to the public hearing. At least fifteen days prior to the public hearing, the Host County shall serve notice of the public hearing on the owner or lessee of property that is proposed to be removed from the Park in any manner permitted for the service of process.

(D) Nothing in this Agreement to the contrary withstanding, the County is not entitled to remove property from either Park's boundaries absent either the owner's or lessee's consent.

Section 4. Fee-in-lieu of Ad Valorem Property Taxes. Property located in the Parks is exempt from ad valorem property taxes during the term of this Agreement. The owner or lessee of any property located in either Park shall pay, in accordance with and during the term of this Agreement, either: (a) an amount equal to the ad valorem property taxes that would have been due and payable but for the location of the property in the Parks or (b) any other fee-in-lieu of ad valorem property taxes, including any negotiated fee-in-lieu of ad valorem property taxes (collectively, "Fees"). "Fees" includes the deduction of all applicable allowances, credits, deductions and exemptions authorized or required by state law.

Section 5. Sharing of Parks' Expenses.

(A) The Host County is responsible for bearing one hundred percent of the expenses for the cost of providing public services for the portion of the Parks that are located in the Host County.

(B) The Counties shall share any legal expenses incurred in connection with the establishment or ongoing validity of the Parks on a pro-rata basis according to each County's share of revenues received from the Parks, provided, however, the required pro-rata share for any County shall not exceed that County's share of Park Revenues (as defined below) received.

Section 6. Creation of Park I and Park II; Allocation of Park Revenues.

(A) For Property that is located in an incorporated municipality at the time that it is placed in a Park, prior to the allocation of revenues as set forth in either Sections B(i) or Section B(ii), below, the incorporated municipality, in which the Property is located, shall receive an allocation of revenue generated by the property according to the proportion of that incorporated municipality's millage against the total millage for the tax district in which the property is located, except that each County reserves the right to alter the allocation to each incorporated municipality located in that County's jurisdictional limits.
(B)(i) The Counties create an MCIP for industries that expect, at the time the Host County takes county council action to include that industry’s property in the Park, to invest less than $20,000,000 (designated as “Quad-County Regional Industrial Park I,” or “Park I”). The Counties shall receive an allocation of revenue generated by Park I according to the following:

a. When Allendale serves as the Host County:
   - Allendale County: 97%
   - Bamberg County: 1%
   - Barnwell County: 1%
   - Hampton County: 1%

b. When Bamberg serves as the Host County:
   - Allendale County: 1%
   - Bamberg County: 97%
   - Barnwell County: 1%
   - Hampton County: 1%

c. When Barnwell serves as the Host County:
   - Allendale County: 1%
   - Bamberg County: 1%
   - Barnwell County: 97%
   - Hampton County: 1%

d. When Hampton serves as the Host County:
   - Allendale County: 1%
   - Bamberg County: 1%
   - Barnwell County: 1%
   - Hampton County: 97%

(B)(ii) The Counties create an MCIP for industries that expect, at the time the Host County takes county council action to include that industry’s property in the Park, to invest no less than $20,000,000 (designated as “Quad-County Regional Industrial Park II,” or “Park II”). The Counties shall receive an allocation of revenue generated by Park II according to the following:

a. When Allendale serves as the Host County:
   - Allendale County: 40%
   - Bamberg County: 20%
   - Barnwell County: 20%
   - Hampton County: 20%

b. When Bamberg serves as the Host County:
   - Allendale County: 20%
   - Bamberg County: 40%
   - Barnwell County: 20%
   - Hampton County: 20%
c. When Barnwell serves as the Host County:
   - Allendale County 20%
   - Bamberg County 20%
   - Barnwell County 40%
   - Hampton County 20%

d. When Hampton serves as the Host County:
   - Allendale County 20%
   - Bamberg County 20%
   - Barnwell County 20%
   - Hampton County 40%

(C) Any payment of Park Revenues from one County to any other County shall be made no later than ten business days following the end of the calendar quarter in which the Host County received the Park Revenues, shall be accompanied by a statement showing the manner in which total payment and the County's share were calculated and shall reflect the industries located in the Host County's portion of the Parks at the time of payment. If any Park Revenues are received by a County through an industry's "payment under protest" or otherwise as part of a dispute, then the payor County is not obligated to pay to any other County more than the other County's share of the undisputed portion of the Park Revenues until thirty days after the final resolution of the protest or dispute.

(D)(i) For each property, located in either Park I or II, that has any form of "incentive agreement" involving the Host County, at the conclusion of the last property tax year in the "investment period," including any extensions (as that term may be defined in the incentive agreement), each owner or lessee of the property shall provide to the Host County a copy of the property tax return related to the property, and certify, to the Host County the cumulative amount (without regard to depreciation) of the investment of that owner's or lessee's property in either Park I or II. Using the certified investment figure, based on the investment thresholds set forth in subsections (B)(i) and (ii), above, the property shall, for the remainder of the time that the property is located in either Park I or II, either remain in its then designated Park or automatically move, without further action by the Counties, to the other Park, but remain in either Park I or II. For purposes of effecting this section, the Host County shall require in each "incentive agreement" that the company be required to annually provide the Host County with the company's property tax return related to the property located in either Park I or II.

(D)(ii) For each property located in either Park I or II that does not have any form of "incentive agreement" involving the Host County, at the conclusion of the fifth property tax year after the property was placed in either Park I or II, each owner or lessee of the property shall provide to the Host County a copy of the property tax return related to the property, and certify, to the Host County the cumulative amount (without regard to depreciation) of the investment of that owner's or lessee's property. Using the certified investment figure, based on the investment thresholds set forth in subsections (B)(i) and (ii), above, the property shall, for the remainder of the time that the property is located in either Park I or II, either remain in its then designated Park or automatically move, without further action by the Counties, to the other Park, but remain in either Park I or II.

(E) An existing MCIP, in which a County is a member county, is not affected by this Agreement and remains in effect, provided, however, except as related to the expansion of an existing industry, following full execution of this Agreement, if, and when, a Host County determines it is appropriate to place property in an MCIP, the Host County shall not place property in the Tri-County Park currently existing among Allendale, Bamberg and Barnwell.
Section 7. Revenue Allocation Within Each County.

(A) Except as each County may otherwise provide by ordinance, revenues generated by the Parks through the payment of Fees ("Park Revenues") shall be distributed to the Counties according to the proportions established by Section 6. Park Revenues shall be distributed by each County to each of its taxing entities as the respective taxing entities would have received in *ad valorem* property tax revenues if the property located in that County’s portion of the Parks were subject to *ad valorem* property taxation (respectively, “Allendale Participating Taxing Entities,” “Bamberg Participating Taxing Entities,” “Barnwell Participating Taxing Entities” and “Hampton Participating Taxing Entities”), in the same proportion as the taxing entity’s millage bears to the total millage imposed in that County except that each County reserves the right to alter the allocation to its taxing entities but only if the revised allocation is in accordance with S.C. Code Section 4-1-170(3) and *Horry County School District v. Horry County*, 346 S.C. 621, 552 S.E.2d 737 (2001). To the extent that a County’s Participating Taxing Entities is a duly constituted school district levying both operating and debt-service millage, then the proportion of revenues received by that school district shall be divided on a pro-rata basis according to the millage rates levied for operational and debt-service expenditures.

(B) The Counties shall allocate and pay a portion of the Park Revenues to the Southern Carolina Regional Development Alliance, Inc., or its designee or successor-in-interest ("Alliance") (those funds being, “Alliance Contribution”) for the development, operation, maintenance, improvement, promotion and marketing of the Parks and the Alliances overall operations. Each County’s share of the Alliance Contribution is calculated as follows:

\[
\text{Amount each Host County shall transmit to Alliance} = \left( \frac{\text{Amount of Host County Share Retained}}{100} + \frac{\text{Amount of Distribution to Host County from County 1}}{100} + \frac{\text{Amount of Distribution to Host County from County 2}}{100} + \frac{\text{Amount of Distribution to Host County from County 3}}{100} \right) \times 10\% 
\]

By way of example only, assume that each County’s Park Revenues from Park II equals $100.

<table>
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<tr>
<th>Host County</th>
<th>Amount of Park Revenues Generated by Host County Property</th>
<th>Amount of Park Revenues Retained by Host County</th>
<th>Amount Owed to Allendale</th>
<th>Amount Owed to Bamberg</th>
<th>Amount Owed to Barnwell</th>
<th>Amount Owed to Hampton</th>
<th>Distribution Totals</th>
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<td>20</td>
<td>$100</td>
</tr>
<tr>
<td>Barnwell</td>
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</tr>
<tr>
<td>Hampton</td>
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</table>

Barnwell’s share of the Alliance Contribution would be:

- Amount of Host County Share Retained = $40
- Amount Received from County 1 = $20
- Amount Received from County 2 = $20
- Amount Received from County 3 = $20

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I certify this to be a true and exact copy of the original filed in the office of the Barnwell County Clerk to Council.

Total = $100

x 10%

= $10 share of the Alliance Contribution

Each County shall annually pay its share of the Alliance Contribution no later than May 1.

The Counties shall review the amount set as the Alliance Contribution no less frequently than once every five years. During that review, the Counties shall consider factors, including the availability of other funding sources and the expense for developing, operating, maintaining, improving, promoting and marketing of the Parks, and for the Alliance’s overall operation. The Counties may amend the Alliance Contribution by approving resolutions adopted by each County.

Section 8. Fee-in-Lieu of Ad Valorem Property Taxes Pursuant to Code of Laws of South Carolina. The Counties are entitled to enter into any one or more negotiated fee-in-lieu-of-tax agreements pursuant to Titles 4 or 12, South Carolina Code, 1976, as amended, or any successor or comparable statutes, with respect to property located in the Parks with the terms of these fee-in-lieu arrangements being at the Host County’s sole discretion.

Section 9. Assessed Valuation. This is for the purpose of calculating the bonded indebtedness limitation of the Allendale Participating Taxing Entities, the Bamberg Participating Taxing Entities, the Barnwell Participating Taxing Entities and the Hampton Participating Taxing Entities and for the purpose of computing the index of taxing ability of the school districts of each County pursuant to Section 59-20-20(3), Code of Laws of South Carolina, 1976, as amended, allocation of the assessed value of property in the Parks to each County is identical to the percentage established for the allocation of revenue to each County pursuant to Sections 6 and 7, as appropriate.

Section 10. Records. Any County may request from any other County a copy of that County’s records of the annual fee-in-lieu of tax levies, fee-in-lieu of tax invoices and collection for the fee-in-lieu taxes payments for property located in that County, all these records become available in the normal course of County procedures. A County is not entitled to request these records from any other County more than once per calendar year.

Section 11. Severability. If, and only to the extent, any portion of this Agreement is unenforceable for any reason, the enforceability and binding effect of the remaining portions are not affected.

Section 12. Termination. This Agreement terminates automatically at the end of the calendar year that is thirty years from the date of this Agreement’s full execution. Prior to automatic termination, the Counties may terminate this Agreement by adopting terminating ordinances of Allendale County Council, Bamberg County Council, Barnwell County Council and Hampton County Council. Any fee-in-lieu of ad valorem property tax imposed or levied prior to the Parks’ termination, but collected after the Parks’ termination, shall be allocated and distributed in the same manner as other Park Revenues in accordance with this Agreement.

Section 13. Effective Date. This Agreement is effective for each property placed in either Park I or Park II on and after January 1, 2009.
WITNESS our hands and seals this ________ day of __________, 2010.

ALLENDALE COUNTY, SOUTH CAROLINA

(Seal)
Chair of County Council

ATTEST:

Clerk to County Council

Witness

STATE OF SOUTH CAROLINA ) ) PROBATE
COUNTY OF ALLENDALE ) )

Personally appeared before me the undersigned witness and made oath that s/he saw the within named Chair of County Council sign, seal and deliver the foregoing Agreement, and that s/he with the Clerk to County Council witnessed the execution of the same.

Witness

Sworn to and subscribed before me this ________ day of __________, 2010.

Notary Public for South Carolina
My Commission Expires: __________________
WITNESS our hands and seals this ___________ day of ____________, 2010.

BAMBERG COUNTY, SOUTH CAROLINA

__________________________
Chair of County Council

(SEAL)

ATTEST:

__________________________
Clerk to County Council

__________________________
Witness

STATE OF SOUTH CAROLINA  )  PROBATE
COUNTY OF BAMBERG  )

Personally appeared before me the undersigned witness and made oath that s/he saw the within named Chair of County Council sign, seal and deliver the foregoing Agreement, and that s/he with the Clerk to County Council witnessed the execution of the same.

__________________________
Witness

Sworn to and subscribed before me
this ___________ day of ____________, 2010.

__________________________ (Notary Seal)
Notary Public for South Carolina
My Commission Expires: ____________________

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I certify this to be a true and exact copy of the original filed in the office of the Barnwell County Clerk to Council.

Kim Futrell, Clerk to Council

WITNESS our hands and seals this 7th day of October, 2010.

BARNWELL COUNTY, SOUTH CAROLINA

Chair of County Council

(SEAL)

ATTEST:

Barnwell County Administrator

Witness

STATE OF SOUTH CAROLINA ) PROBATE
COUNTY OF BARNWELL )

Personally appeared before me the undersigned witness and made oath that s/he saw the within named Chair of County Council sign, seal and deliver the foregoing Agreement, and that s/he with the Barnwell County Administrator witnessed the execution of the same.

Witness

Sworn to and subscribed before me this 7th day of October, 2010.

(Notary Seal)

Notary Public for South Carolina
My Commission Expires: 3-2-2014
WITNESS our hands and seals this _________ day of ____________, 2010.

HAMPTON COUNTY, SOUTH CAROLINA

(SIGNATURE)
Chair of County Council

ATTEST:

(SIGNATURE)
Clerk to County Council

Witness

STATE OF SOUTH CAROLINA ) ) PROBATE
COUNTY OF HAMPTON ) )

Personally appeared before me the undersigned witness and made oath that s/he saw the within named Chair of County Council sign, seal and deliver the foregoing Agreement, and that s/he with the Clerk to County Council witnessed the execution of the same.

Witness

Sworn to and subscribed before me
this _________ day of ____________, 2010.

(Notary Seal)
Notary Public for South Carolina
My Commission Expires: ____________________