

ORDINANCE NO. \_\_\_\_\_

**AN ORDINANCE AUTHORIZING THE EXECUTION AND DELIVERY OF AN INFRASTRUCTURE CREDIT AGREEMENT BY AND BETWEEN GREENVILLE COUNTY, SOUTH CAROLINA, AND A COMPANY KNOWN TO THE COUNTY AS PROJECT EAGLE, ITS AFFILIATES AND ASSIGNS, TO PROVIDE FOR A SPECIAL SOURCE REVENUE CREDIT; AND OTHER RELATED MATTERS.**

WHEREAS, Greenville County, South Carolina (the “County”), acting by and through its County Council (the “County Council”) is authorized by Title 4, Chapter 1 of the Code of Laws of South Carolina 1976, as amended, including Sections 4-1-170 and 4-1-175 thereof, Section 4-29-68 of the Code of Laws of South Carolina 1976, as amended (collectively, the “Infrastructure Credit Act”), and Article VIII, Section 13 of the South Carolina Constitution (i) to provide special source revenue credits for the purpose of defraying certain costs, including, without limitation, the cost of designing, acquiring, constructing, improving, or expanding the infrastructure serving the County or the project and for improved and unimproved real estate and personal property, including machinery and equipment, used in the operation of a manufacturing facility or commercial enterprise, all to enhance the economic development of the County (“Infrastructure”); and (ii) to create, in conjunction with one or more other counties, a joint county industrial or business park (“Park”) in order to facilitate the grant of such special source revenue credits; and

WHEREAS, a company known to the County as Project Eagle, along with one or more existing, or to-be-formed or acquired subsidiaries, or affiliated or related entities (“Company”), is planning an investment consisting of the expenditure of approximately \$14,000,000 (“Investment”) and the creation of approximately 279 new, full-time jobs (“Jobs”) and to acquire by construction, lease and purchase certain land, buildings, furnishings, fixtures, apparatus, and equipment, for the purpose of expanding a manufacturing facility in the County (collectively, “Project”); and

WHEREAS, the Project is located in the Park established by that “Agreement for Development of Joint County Industrial and Business Park” between the County and Pickens County dated January 4, 1996, as amended;

WHEREAS, in accordance with Article VIII, Section 13 of the South Carolina Constitution, real and personal property having a *situs* in a Park, are exempt from all *ad valorem* taxation, however, the owners or lessees of such real and personal property are obligated to make, or cause to be made, payments in lieu of taxes to the County in the total amount equivalent to the *ad valorem* property taxes or other fee-in-lieu-of-taxes that would have been due and payable with respect to such real and personal property but for the location of such real and personal property within such Park (each, a “Fee Payment”); and

WHEREAS, in connection with the Project, the Company has requested the County to enter into an incentives agreement, to the extent and subject to the conditions provided in that agreement, to establish the commitments of (i) the Company to make the Investment and create the Jobs; and (ii) the County to provide certain special source revenue credits; and

WHEREAS, the County has determined to provide an annual special source revenue credit for a period of 10 years equal to 30% of the annual Fee Payment due the County for the Project, the terms and conditions of which are more fully set forth in an agreement attached hereto as **Exhibit A** (“Infrastructure Credit Agreement”); and

WHEREAS, the County understands that the State of South Carolina, through its Coordinating Council for Economic Development (“Coordinating Council”), plans to approve one or more monetary grants for the benefit of the Project in the County (“State Grant(s)”), the funds of which will be received and administered by the County, or its affiliates, as grantee, for the benefit of the Project; and

WHEREAS, the County understands that AdvanceSC, Inc. and Duke Energy, their affiliates and related entities (“AdvanceSC and Duke”), plan to provide one or more monetary grants for the benefit of the Project in the County (“Utility Grants”), the funds of which will be received and administered by the County, or its affiliates, as grantee, for the benefit of the Project; and

WHEREAS, County Council has determined (i) to enter into any necessary agreements with the Coordinating Council or the Company, including but not limited to a grant award agreement and performance agreement (“State Grant Agreements”); and (ii) to accept, receive and administer the State Grants for the benefit of the Project in the County; and

WHEREAS, County Council has determined (i) to enter into any necessary agreements with AdvanceSC and Duke or the Company, including but not limited to a grant award agreement, performance agreement or utility tax credit agreement (“Utility Grant Agreements”); and (ii) to accept, receive and administer the Utility Grants for the benefit of the Project in the County; and

WHEREAS, based on information provided by the Company, the County Council has determined that the expenditure of the State Grants and Utility Grants funds for eligible purposes set forth in either the State Grant Agreements or Utility Grant Agreements, respectively, is authorized.

**NOW, THEREFORE, BE IT ORDAINED BY THE GREENVILLE COUNTY COUNCIL DULY ASSEMBLED THAT:**

**Section 1. Findings.** The County hereby finds and affirms based on information provided by the Company: (i) the Project will benefit the general public welfare of the County by providing services, employment, recreation or other public benefits not otherwise provided locally; (ii) the Project gives rise to no pecuniary liability of the County or any incorporated municipality and to no charge against its general credit or taxing power; (iii) the purposes to be accomplished by the Project are proper governmental and public purposes; and (iv) the benefits of the Project to the public are greater than the costs to the public.

**Section 2. Authorization to Execute and Deliver Infrastructure Credit Agreement.** The County Council authorizes and directs the County Council Chairman and the County Administrator to execute the Infrastructure Credit Agreement, with any minor modifications and revisions which shall not be materially adverse to the County and shall be deemed approved by the County Council upon the Chairman’s and the County Administrator’s execution of the Infrastructure Credit Agreement, and the Clerk to County Council is authorized and directed to attest the same; and the Clerk to County Council is further authorized and directed to deliver the executed Infrastructure Credit Agreement to the Company.

**Section 3. Authorization to Receive and Administer the State Grants and Utility Grants and Execute and Deliver Agreements related thereto.** The County Council authorizes each Authorized Individual (defined below), to take whatever further actions, and enter into whatever further agreements, including the State Grant Agreements, and Utility Grant Agreements, as any Authorized Individual deems to be reasonably necessary and prudent to accept and receive the State Grants or the Utility Grants, and to thereafter administer the funds of the State Grants and the Utility Grants for the benefit of the Project.

**Section 4. *Use of State Grants and Utility Grants.*** The County Council authorizes and approves the expenditure of the State Grants and the Utility Grants for the Project for eligible purposes set forth in the State Grant Agreements and the Utility Grant Agreements, respectively.

**Section 5. *Park Boundaries.*** The County Council agrees to use its best efforts to ensure that the Project is incorporated into and remains in the Park for no less than the term of the Infrastructure Credit Agreement.

**Section 6. *Further Acts.*** The County Council authorizes the County Administrator, other County staff, and the County Attorney, along with any designees and agents who any of these officials deems necessary and proper, in the name of and on behalf of the County (each an “Authorized Individual”), to take whatever further actions, and enter into whatever further agreements, as any Authorized Individual deems to be reasonably necessary and prudent to effect the intent of this Ordinance and induce the Company to locate the Project in the County.

**Section 7. *General Repealer.*** All ordinances, resolutions, and parts thereof in conflict herewith are, to the extent of such conflict, hereby repealed.

**Section 8. *Severability.*** Should any part, provision, or term of this Ordinance be deemed unconstitutional or otherwise unenforceable by any court of competent jurisdiction, such finding or determination shall not affect the rest and remainder of the Ordinance or any part, provision or term thereof, all of which is hereby deemed separable.

This Ordinance takes effect and is in full force only after the County Council has approved this Ordinance following three readings and a public hearing.

GREENVILLE COUNTY, SOUTH CAROLINA

\_\_\_\_\_  
Herman G. Kirven, Jr., Chairman  
Greenville County Council

(SEAL)

ATTEST:

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Joseph Kernell  
County Administrator

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Teresa B. Kizer, Clerk to Council  
Greenville County Council

First Reading: June 5, 2012  
Second Reading: June 19, 2012  
Third Reading: July 17, 2012  
Public Hearing: June 19, 2012

**EXHIBIT A**

Infrastructure Credit Agreement

[Attached]