

AN ORDINANCE AUTHORIZING (1) THE EXECUTION AND DELIVERY OF A FIRST AMENDMENT TO THAT CERTAIN FEE AGREEMENT BY AND BETWEEN CHARLESTON COUNTY, SOUTH CAROLINA (THE "COUNTY") AND THE BOEING COMPANY DATED AS OF DECEMBER 1, 2010 (THE "FEE AGREEMENT"), TO (A) PROVIDE FOR ADDITIONAL INVESTMENT AND JOB CREATION IN THE COUNTY BY, OR ON BEHALF OF, THE BOEING COMPANY, ITS AFFILIATES AND SUBSIDIARIES, AND OTHER PERMITTED PERSONS UNDER THE FEE AGREEMENT ("BOEING"); AND (B) PROVIDE FOR SPECIAL SOURCE CREDITS IN CONNECTION WITH SUCH ADDITIONAL INVESTMENT; (2) THE AMENDMENT OF THAT CERTAIN MULTI-COUNTY PARK AGREEMENT BETWEEN THE COUNTY AND COLLETON COUNTY, SOUTH CAROLINA DATED AS OF SEPTEMBER 1, 1995, AS AMENDED, TO INCLUDE ADDITIONAL PROPERTY ACQUIRED OR TO BE ACQUIRED BY BOEING; AND (3) OTHER MATTERS RELATING THERETO.

**WHEREAS**, Boeing is considering a significant expansion of its operations in the County ("Phase II") and anticipates that such expansion would result in additional investment of at least One Billion Dollars (\$1,000,000,000.00) and the creation of at least Two Thousand (2000) new jobs in the County; and

**WHEREAS**, on the basis of the information supplied to it by Boeing, the County has determined, among other things, that Phase II would be directly and substantially beneficial to the County, the taxing entities of the County and the citizens and residents of the County due to the investment to be made and the jobs to be created in connection with Phase II, all of which contribute to the tax base and the economic welfare of the County, and accordingly, the County wishes to induce Boeing to undertake Phase II by offering the special source credit benefits set forth herein; and

**WHEREAS**, to induce companies to locate in the State of South Carolina (the "State") and to encourage companies such as Boeing now located in the State to expand their investments and thus make use of and employ workers and other resources of the State, the County, acting by and through its County Council (the "Council"), is authorized by the Code of Laws of South Carolina 1976, as amended (the "Code") and particularly Title 12, Chapter 44 thereof (the "Fee Act"), to enter into a fee agreement with such companies, pursuant to which such companies commit to establish or expand manufacturing facilities or other commercial facilities which result in investment and job creation within the County and in consideration for such investment the County agrees to accept negotiated payments in lieu of taxes with respect to such facilities, and the County is further authorized by Title 4, Chapter 1 of the Code (the "Multi-County Park Act" or, as to Sections 4-1-175 of the Multi-County Park Act and, by incorporation, Section 4-29-68 of the Code, the "Special Source Act") and Article VIII, Section 13 of the Constitution of the State to designate such facilities as part of a multi-county industrial or business park (a "Multi-County Park") and to use all or a portion of the payments-in-lieu-of-taxes resulting from such designation to pay, or reimburse such companies for paying, the cost of infrastructure and

other property used in the operation of a manufacturing or commercial enterprise (“Special Source Improvements”) through the provision to such companies of special source credits (“Special Source Credits”), all of which enhances the economic development of the County; and

**WHEREAS**, the County, pursuant to the Fee Act, the Multi-County Park Act, the Special Source Act, and an Ordinance duly enacted by the Council on January 12, 2010, previously entered into the Fee Agreement with The Boeing Company, pursuant to which Boeing agreed to make, and the County agreed to accept, certain Payments-in-Lieu-of-Taxes (as defined in the Fee Agreement) with respect to the Project (as defined in the Fee Agreement), and the County agreed to provide Boeing and the Project with the benefits of certain Special Source Credits and to include the Project in a Multi-County Park; and

**WHEREAS**, in order to induce Boeing to locate Phase II within the County, the County, by Resolution adopted by County Council on April 23, 2013, approved (i) amendment of the Fee Agreement to provide that Boeing shall be entitled to claim Special Source Credits in an amount equal to fifty percent (50%) of the Payments-in-Lieu-of-Taxes under the Fee Agreement pertaining to Phase II investment for thirty (30) years; and (ii) amendment of the Multi-County Park Agreement (as defined in the Fee Agreement) to include additional property acquired or to be acquired by Boeing, whether acquired by lease or purchase, all as shall be set forth in greater detail in the First Amendment to Fee Agreement (the “First Amendment”) presented to this meeting; and

**WHEREAS**, it appears that the First Amendment now before this meeting is in appropriate form and is an appropriate instrument to be executed and delivered by the County for the purposes intended.

**NOW, THEREFORE, BE IT ORDAINED** by the Council in meeting duly assembled, as follows:

**Section 1.** The County and The Boeing Company shall amend the Fee Agreement to provide that, on or before December 31, 2021 (the “Phase II Compliance Period”), Boeing will invest or cause to be invested in the County not less than \$1,000,000,000.00 (without regard to depreciation or other diminution in value) and will create or cause to be created in the County at least 2000 new jobs, all as set forth in greater detail in the First Amendment. The County acknowledges that Phase II shall be part of the Project under the Fee Agreement and that the benefits provided thereunder for the Project shall apply to Phase II. In consideration of such investment and job creation by Boeing, the County agrees to amend the Fee Agreement to provide that Boeing shall be entitled to claim Special Source Credits in an amount equal to fifty percent (50%) of the Payments-in-Lieu-of-Taxes under the Fee Agreement pertaining to Phase II investment for thirty (30) years.

**Section 2.** If any of the Phase II investment or job creation requirements are not certified as satisfied by The Boeing Company to the County on or before the end of the Phase II Compliance Period, the County shall have the right, if authorized by the provisions of the First Amendment, to reduce prospectively on a pro-rata basis the Special Source Credits annual percentage applicable to Payments-in-Lieu-of-Taxes pertaining to Phase II investment below fifty percent (50%), commencing with the sixteenth (16<sup>th</sup>) annual Payment-in-Lieu-of-Taxes

pertaining to Phase II investment, all in accordance with the provisions set forth in the First Amendment.

**Section 3.** The County further agrees to amend the Multi-County Park Agreement to include Phase II within the boundaries of the Multi-County Park to insure that Phase II will be afforded the benefits under Multi-County Park Act and Article VIII, Section 13(D) of the State Constitution which provide Boeing any additional jobs creation tax credits afforded by the laws of the State for projects located within multi-county industrial or business parks and on terms which facilitate the Special Source Credits described herein.

**Section 4.** The form, provisions, terms, and conditions of the First Amendment presented to this meeting and filed with the Clerk to Council be and they are hereby approved and ratified, and all of the provisions, terms, and conditions thereof are hereby incorporated herein by reference as if the First Amendment was set out in this Ordinance in its entirety. The Chairman of the Council is hereby authorized, empowered, and directed to execute the First Amendment in the name and on behalf of the County; the Clerk to Council is hereby authorized and directed to attest the same; and the County Administrator is further authorized, empowered, and directed to deliver the First Amendment to the Company.

**Section 5.** The First Amendment is to be in substantially the form now before this meeting and hereby approved, or with such changes therein as shall not materially adversely affect the rights of the County thereunder and as may be recommended by counsel for the County and as shall be approved by the official or officials of the County executing the same, their execution thereof to constitute conclusive evidence of their approval of any and all changes or revisions therein from the form of the First Amendment now before this meeting.

**Section 6.** The Chairman of the Council, the County Administrator and the Clerk to Council, for and on behalf of the County, are hereby each authorized, empowered, and directed to do any and all things necessary or proper to effect the performance of all obligations of the County under and pursuant to the First Amendment and to carry out the transactions contemplated thereby and by this Ordinance.

**Section 7.** The provisions of this Ordinance are hereby declared to be separable and if any section, phrase, or provision shall for any reason be declared by a court of competent jurisdiction to be invalid or unenforceable, such declaration shall not affect the validity of the remainder of the sections, phrases, and provisions hereunder.

**Section 8.** All orders, ordinances, resolutions, and parts thereof in conflict herewith are to the extent of such conflict hereby repealed. This Ordinance shall take effect and be in full force from and after its passage and approval.

[End of Ordinance]

Done in meeting duly assembled this 21<sup>st</sup> day of May, 2013.

**CHARLESTON COUNTY, SOUTH CAROLINA**

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Teddie E. Pryor, Chairman, County Council

(SEAL)

ATTEST:

By: \_\_\_\_\_  
Beverly T. Craven, Clerk to County Council

First Reading: April 23, 2013  
Second Reading: May 7, 2013  
Public Hearing: May 21, 2013  
Third Reading: May 21, 2013