

STATE OF SOUTH CAROLINA)
)
COUNTY OF MARLBORO)

ORDINANCE NO. 822

AN ORDINANCE AUTHORIZING, PURSUANT TO TITLE 12, CHAPTER 44, AND SECTIONS 4-1-170, 4-1-175, AND 4-29-68 OF THE CODE OF LAWS OF SOUTH CAROLINA 1976, AS AMENDED, AND ARTICLE VIII, SECTION 13 OF THE SOUTH CAROLINA CONSTITUTION, THE EXECUTION AND DELIVERY OF AN INFRASTRUCTURE CREDIT AGREEMENT BETWEEN MARLBORO COUNTY, SOUTH CAROLINA AND ALADDIN MANUFACTURING CORPORATION (FORMERLY IDENTIFIED BY THE COUNTY AS PROJECT FEATHER), WHICH INCLUDES A GRANT OF CERTAIN SPECIAL SOURCE REVENUE CREDITS; AUTHORIZING AN AMENDMENT TO AN EXISTING FEE-IN-LIEU OF AD VALOREM TAXES AGREEMENT BETWEEN THE COUNTY AND PROJECT FEATHER TO PROVIDE FOR AN EXTENSION OF THE INVESTMENT PERIOD THEREIN; AUTHORIZING AN AMENDMENT TO ANOTHER EXISTING FEE-IN-LIEU OF AD VALOREM TAXES AGREEMENT BETWEEN THE COUNTY AND PROJECT FEATHER TO PROVIDE FOR AN EXTENSION OF THE TERM OF THE AGREEMENT; AND OTHER RELATED MATTERS.

WHEREAS, Marlboro County (the "County"), acting by and through its County Council (the "County Council") is authorized by Title 12, Chapter 44 of the Code of Laws of South Carolina 1976, as amended (the "Act"), and Article VIII, Section 13 of the South Carolina Constitution: (i) to enter into agreements with qualifying companies to encourage investment in projects constituting economic development property through which the economic development of the State of South Carolina (the "State") will be promoted by inducing new and existing manufacturing and commercial enterprises to locate and remain in the State and thus utilize and employ manpower and other resources of the State; (ii) to covenant with such industry to accept certain fee payments in lieu of ad valorem taxes ("FILOT") with respect to such investment ("FILOT Payments"); (iii) to provide credits to qualifying companies to offset qualifying infrastructure related expenses pursuant to Section 4-1-175, 4-29-68, and 12-44-70 of the Code of Laws of South Carolina 1976, as amended ("SSRC"); (iv) under Section 4-1-170 of the Code of Laws of South Carolina 1976, as amended ("MCIP Act"), to create one or more multi-county industrial parks with contiguous counties, one of which the County has established with Darlington County, South Carolina (the "Park"), pursuant to that "Agreement for Development of a Joint County Industrial and Business Park" dated November 13, 1997; and (v) to make and execute contracts of the type hereinafter described pursuant to Section 4-9-30 of the Code of Laws of South Carolina 1976, as amended; and

WHEREAS, in connection with an expansion of certain manufacturing and related facilities within the County in 2006 (the "2006 Project"), the County and Aladdin Manufacturing Corporation, a Delaware corporation (the "Company") entered into a Fee in Lieu of Tax Agreement dated March 1, 2006 (the "2006 FILOT Agreement"), wherein, amongst other things, the Company agreed to make, and the County agreed to accept, certain FILOT Payments with respect to the 2006 Project (the "2006 FILOT Payments"); and

WHEREAS, in connection with an additional expansion of the Company's manufacturing and related facilities located within the County (the "2018 Project"), the County and the Company, entered into an additional Fee in Lieu of Tax Agreement dated February 13, 2018 (the "2018 FILOT Agreement"), wherein, amongst other things, the Company agreed to make, and the County agreed to accept, certain FILOT Payments with respect to the 2018 Project (the "2018 FILOT Payments" and together with the 2006

FILOT Payments, the “Combined FILOT Payments”); and

WHEREAS, in order to expand its manufacturing and related facilities in the County, the Company, together with one or more Sponsor Affiliates, if applicable (as defined in Section 12-44-30(20) of the FILOT Act), plans to invest more than \$4,000,000 in the County through the acquisition, construction, lease, and purchase of certain real and personal property (collectively, the “2022 Project”); and

WHEREAS, as inducements for the 2022 Project, the County has determined to offer the Company the following: (i) an amendment to the 2006 FILOT Agreement which would grant the Company a ten (10) year extension of the Term, as permitted under the FILOT Act, such that the total term thereunder would be thirty (30) years (the “Term Extension”); (ii) an amendment to the 2018 FILOT Agreement which would grant the Company a five (5) year extension of the Investment Period, as permitted under the FILOT Act, such that the total Investment Period would be ten (10) years (the “Investment Period Extension”); and (iii) to enter into an infrastructure credit agreement which will provide SSRs to the Company in order to ensure that the total annual net FILOT Payment liability for the Combined FILOT Payments will equal one million five hundred thousand (\$1,500,000) dollars for six (6) tax years beginning with the Combined FILOT Payments due for tax year 2022, all as more fully set forth in the Infrastructure Credit Agreement attached as **Exhibit A** (the “Infrastructure Credit Agreement”) (collectively, the “Incentives”); and

WHEREAS, the parties recognize and acknowledge that the Company would not otherwise locate the 2022 Project in the County but for the delivery of the Incentives; and

WHEREAS, to the best of the County’s knowledge, the 2006 Project and the 2018 Project currently are within the Park; however, out of an abundance of caution the County desires to confirm the placement of the 2006 Project and the 2018 Project, as further described on the attached **Exhibit B**, within the Park, ratify all prior acts placing the 2006 Project and 2018 Project in the Park, and will use best efforts to take any further action necessary to ensure those projects remain in the Park for a period no less than the duration of the Term of the Infrastructure Credit Agreement, and

WHEREAS, capitalized terms used and not otherwise defined herein shall have the meanings ascribed thereto in the 2006 FILOT Agreement, the 2018 FILOT Agreement, any amendments to either and the Infrastructure Credit Agreement, as applicable.

NOW, THEREFORE, BE IT ORDAINED by the County Council, as follows:

Section 1. Findings. The County hereby finds and affirms, based on information provided by the Company: (i) the 2022 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 2022 Project will give 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 2022 Project are proper governmental and public purposes; (iv) the benefits of the 2022 Project to the public are greater than the costs to the public; and (v) the 2022 Project will provide a substantial public benefit to the County.

Section 2. Approval of the Term Extension and Authorization to Execute and Deliver an Amendment to the of the 2006 FILOT Agreement. The County hereby approves the ten (10) year extension to the Term resulting in a total of thirty (30) years for the 2006 Project and authorizes the execution and delivery of the Amendment to the 2006 FILOT Agreement attached hereto as **Exhibit C**.

Section 3. Approval of the Investment Period Extension and Authorization to Execute and Deliver an Amendment to the 2018 FILOT Agreement. The County approves the five (5) year extension

of the Investment Period for the 2018 Project resulting in a ten (10) year Investment Period and authorizes the execution and delivery of the Amendment to the 2018 FILOT Agreement attached hereto as **Exhibit D**.

Section 4. Authorization to Execute and Deliver the Infrastructure Credit Agreement. The form, terms, and provisions of the Infrastructure Credit Agreement attached as **Exhibit A** be and it is hereby approved, and all of the terms, provisions, and conditions thereof are hereby incorporated herein by reference as if the Infrastructure Credit Agreement was set out in this Ordinance in its entirety. The Chairman of County Council and the Clerk to County Council be and they are hereby authorized, empowered, and directed to execute, acknowledge, and deliver the Infrastructure Credit Agreement in the name and on behalf of the County, and thereupon to cause the Infrastructure Credit Agreement to be delivered to the Company. The Infrastructure Credit Agreement 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 shall be approved by the officials of the County executing the same upon the advice of legal counsel, their execution thereof to constitute conclusive evidence of their approval of any and all changes or revisions therein from the form of Infrastructure Credit Agreement now before this meeting.

Section 5. Inclusion of the Projects in the Multi-County Industrial Park. Based on the information provided by the Company, the County confirms that the Park boundaries include all the real and personal property comprising the 2006 Project and the 2018 Project, and ratifies any and all actions taken with respect to the inclusion of those projects in the Park. By extension, any additional real and personal property comprising the 2022 Project is permitted to be included in the Park; however, to the extent that the Park requires future expansion or modification of the boundaries of the Park, the County will use its best efforts to take any further action necessary to ensure those projects remain in the Park for a period no less than the duration of the Term of the Infrastructure Credit Agreement.

Section 6. Allocation of Park Revenue. The revenue generated by the FILOT Payments arising from the 2006, 2018 and 2022 Projects shall be allocated in a manner that has been or will be approved by the County Council.

Section 7. 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 2022 Project in the County.

Section 8. General Repealer. All ordinances, resolutions, and parts thereof in conflict herewith are, to the extent of such conflict, hereby repealed.


Section 9. 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.

Enacted and approved, in meeting duly assembled, this 19th day of April, 2022.

MARLBORO COUNTY, SOUTH CAROLINA

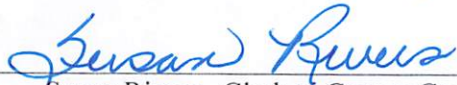
By: _____


Charles P. Midgley, Jr., Chairman, County Council,
Marlboro County, South Carolina

[SEAL]

Attest:

By: _____


Susan Rivers, Clerk to County Council,
Marlboro County, South Carolina

First Reading :	September 14, 2021
Second Reading:	October 12, 2021
Public Hearing:	April 19, 2022
Third Reading:	April 19, 2022

INFRASTRUCTURE CREDIT AGREEMENT

between

MARLBORO COUNTY, SOUTH CAROLINA

and

ALADDIN MANUFACTURING CORPORATION

Dated as of April 19, 2022

EXHIBIT A

Infrastructure Credit Agreement

[to be attached]

EXHIBIT B

Park Property Description

All that certain piece, parcel or lot of land lying and being situated in the County of Marlboro, State of South Carolina, with improvements thereon, identified by Tax Map Number 058-00-01-003, consisting of approximately 435.10 acres.

All that certain piece, parcel or lot of land lying and being situated in the County of Marlboro, State of South Carolina, with improvements thereon, identified by Tax Map Number 058-00-01-004, consisting of approximately 53.00 acres.

EXHIBIT C

Amendment to the 2006 FILOT Agreement

[to be attached]

EXHIBIT D

Amendment to the 2018 FILOT Agreement

[to be attached]

INFRASTRUCTURE CREDIT AGREEMENT

This INFRASTRUCTURE CREDIT AGREEMENT, dated as of April 19, 2022 (as the same may be amended, modified or supplemented in accordance with the terms hereof, the “Agreement”), by and among MARLBORO COUNTY, SOUTH CAROLINA, a body politic and corporate, and a political subdivision of the State of South Carolina (the “County”), and ALADDIN MANUFACTURING CORPORATION, a Delaware corporation (“Company”).

WITNESSETH:

WHEREAS, the County, acting by and through its County Council (the “County Council”) is authorized and empowered under and pursuant to the provisions of the Code of Laws of South Carolina 1976, as amended (the “Code”), and particularly by Title 4, Chapter 1 of the Code, including Sections 4-1-170 and 4-1-175 thereof, and Section 4-29-68 of the Code (collectively, the “Act”), and Article VIII, Section 13 of the South Carolina Constitution (i) to provide special source revenue credits (“Special Source 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 a project and for improved and unimproved real estate and personal property, including, without limitation, machinery and equipment, used in the operation of a manufacturing facility or commercial enterprise, all to enhance the economic development of the County; and (ii) to create, in conjunction with one or more other counties, a multi-county industrial or business park (“Park”) in order to facilitate the grant of such Special Source Credits; and

WHEREAS, in accordance with Article VIII, Section 13(D) of the South Carolina Constitution, real and personal property having a *situs* in a Park is 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, fee in lieu of *ad valorem* tax (“Park FILOT”) payments to the County in the total amount equivalent to the *ad valorem* property taxes or other FILOT payments 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 Multi-County Park (each, a “Marlboro Park FILOT Payment”); and

WHEREAS, with respect to certain manufacturing and related facilities located within the County (the “2006 Project”), the County and Company, pursuant to Title 12, Chapter 44 of the Code, as amended, entered into that certain Fee in Lieu of Tax Agreement dated as of March 1, 2006 (as amended, the “2006 Project FILOT Agreement”), wherein, amongst other things, Company agreed to make, and the County agreed to accept, certain negotiated fee in lieu of *ad valorem* tax payments with respect to the 2006 Project; and

WHEREAS, pursuant to an Ordinance enacted by the County Council on February 9, 2006, the County, amongst other things, agreed to provide certain Special Source Credits against each Marlboro Park FILOT Payment made by Company with respect to the 2006 Project, all as more fully described in that certain Infrastructure Finance Agreement between the County and Company dated as of March 1, 2006, which has since expired; and

WHEREAS, with respect to certain additional manufacturing and related facilities located within the County (the “2018 Expansion Project” and together with the 2006 Project, the “Existing Project Property”), the County and Company, pursuant to Title 12, Chapter 44 of the Code, as amended, entered into that certain Fee Agreement dated as of February 13, 2018 (as amended, the “2018 Expansion Project FILOT Agreement”), wherein, amongst other things, Company agreed to make, and the County agreed to

accept, certain negotiated fee in lieu of *ad valorem* tax payments with respect to the 2018 Expansion Project; and

WHEREAS, the Existing Project Property includes real and personal property situated at a yarn plant (“Yarn Plant”) and a separate extrusion plant (“Extrusion Plant”) located in the County, it being the intent of the County and the Company that this Agreement shall only apply to the real and personal property situated at the Extrusion Plant (“Extrusion Plant Assets”); and

WHEREAS, the County and Company have mutually determined to (1) extend the Term of the 2006 Project FILOT Agreement by 10 years to a total of 30 years, (2) extend the Investment Period of the 2018 Expansion Project FILOT Agreement by 5 years to a total of 10 years, and (3) provide for certain Special Source Credits against each Marlboro Park FILOT Payment due with respect to the Extrusion Plant Assets only for a period of six (6) consecutive tax years commencing with Tax Year 2022 (*i.e.*, the tax year corresponding to the lien date of December 31, 2021 and for which such payment would typically be due to be paid on or before January 15, 2023) (the “Credit Term”), all as set forth in greater detail herein; and

WHEREAS, the Extrusion Plant Assets are presently situated on land more fully described in the attached Exhibit A attached hereto and made a part hereof (collectively, the “Extrusion Plant Land”); and

WHEREAS, pursuant to the provisions of Article VIII, Section 13 of the South Carolina Constitution and the Act, the County and Darlington County, South Carolina (“Darlington County”) have established a Park (the “Marlboro-Darlington Park”) by entering into that certain Agreement for Development of a Joint County Industrial and Business Park, dated as of November 13, 1997 (as amended, modified, or supplemented through the date hereof and as may be further amended, modified, or supplemented from time to time, the “Marlboro-Darlington Park Agreement”); and

WHEREAS, the County and Darlington County have previously amended the Marlboro-Darlington Park Agreement to expand the boundaries of the Marlboro-Darlington Park to include therein the Extrusion Plant Land and all real and personal property located thereon, including, without limitation, the Extrusion Plant Assets, and the County has agreed to maintain such property within the boundaries of the Marlboro-Darlington Park (or a replacement or successor Park) in order to facilitate the Special Source Credits set forth herein; and

WHEREAS, the County Council has authorized the execution and delivery of this Agreement by Ordinance No. 822 enacted by the County Council on April 19, 2022 (the “Ordinance”).

NOW, THEREFORE, in consideration of the respective representations and agreements hereinafter contained, the above recitals which are incorporated herein by reference, and other good and valuable consideration, the receipt and legal sufficiency of which is hereby acknowledged, the parties hereto agree as follows:

ARTICLE I

ADDITIONAL DEFINITIONS

The defined terms in this Agreement shall for all purposes of this Agreement have the meanings specified, unless the context clearly otherwise requires. Except where the context otherwise requires, words importing the singular number shall include the plural number and *vice versa*.

“*Affiliate*” shall mean any corporation, limited liability company, partnership or other Person or

entity which owns all or part of Company or which is owned in whole or in part by Company or by any partner, shareholder or owner of Company.

"Costs of Special Source Improvements" means all the costs of designing, acquiring, constructing, improving, equipping or expanding the Special Source Improvements, whether incurred prior to or after the date of this Agreement, and shall be deemed to include, without limitation: (a) obligations incurred for labor, materials, and other expenses to builders and materialmen in connection with the acquisition, construction, and installation of the Special Source Improvements; (b) the cost of construction bonds and of insurance of all kinds that may be required or necessary during the course of construction and installation of the Special Source Improvements, which is not paid by the contractor or contractors or otherwise provided for; (c) the expenses for test borings, surveys, test and pilot operations, estimates, plans and specifications and preliminary investigations therefore, and for supervising construction, as well as for the performance of all other duties required by or reasonably necessary in connection with the acquisition, construction, and installation of the Special Source Improvements; and (d) all other costs which shall be required under the terms of any contract for, or incurred in connection with, the designing, acquisition, construction, equipping and installation of the Special Source Improvements.

"County" shall mean Marlboro County, South Carolina, a body politic and corporate and a political subdivision of the State of South Carolina, and its successors and assigns.

"Company" shall mean Aladdin Manufacturing Corporation, a Delaware corporation, and its successors and assigns.

"Company Land" shall have the meaning ascribed thereto in the recitals of this Agreement.

"Extrusion Plant Assets" shall have the meaning ascribed thereto in the recitals of this Agreement.

"Extrusion Plant Land" shall have the meaning ascribed thereto in the recitals of this Agreement.

"Marlboro Park" shall mean the Marlboro-Darlington Park established pursuant to the terms of the Park Agreement, and any Park which hereafter includes the Extrusion Plant Land and the Extrusion Plant Assets, and which is designated by the County as such pursuant to any Park Agreement which replaces or succeeds the Marlboro-Darlington Park Agreement.

"Marlboro Park FILOT Payment" shall have the meaning ascribed thereto in the recitals of this Agreement.

"Park Agreement" shall mean the Marlboro-Darlington Park Agreement, as amended, supplemented, replaced, or succeeded from time to time.

"Person" means an individual, a corporation, a partnership, a limited liability company, an association, a joint stock company, a joint venture, a trust, any unincorporated organization, or a government or an agency or a political subdivision thereof.

"Special Source Improvements" means, to the extent paid for by Company or any of its predecessors in interest, if any, whether prior to or after the date of this Agreement, any infrastructure serving the economic development of the County, any improved and unimproved real property, buildings, structural components of buildings, fixtures or other real property improvements and any personal property, including, without limitation, machinery and equipment used in the operation of a manufacturing or commercial enterprise, all in order to enhance the economic development of the County, including, without

limitation, the Extrusion Plant Assets, all to the extent permitted by the Act.

“Special Source Credits” shall mean the special source revenue credits granted by the County described in **Section 3.01** hereof.

The words “hereof”, “herein”, “hereunder”, and other words of similar import refer to this Agreement as a whole.

ARTICLE II

REPRESENTATIONS AND COVENANTS

SECTION 2.01. Representations by the County. The County makes the following representations:

(a) The County is a body politic and corporate and a political subdivision of the State of South Carolina. By proper action of the County Council, the County has duly authorized the execution and delivery of this Agreement and any and all actions reasonably necessary and appropriate to consummate the transactions contemplated hereby.

(b) The County is authorized and empowered by the provisions of the Act to enter into, execute, deliver, and carry out its obligations under, this Agreement.

(c) The County has duly approved this Agreement, including, without limitation, the Special Source Credits, by adoption of the Ordinance in accordance with the procedural requirements of the Act and any other applicable state and local law.

(d) The County enters into this Agreement for the purpose of promoting the economic development of the County.

(e) No actions, suits, proceedings, inquiries, or investigations are pending or, to the best of the County’s knowledge, threatened against or affecting the County in any court or before any governmental authority or arbitration board or tribunal, any of which could materially adversely affect this Agreement or which could, in any way, adversely affect the validity or enforceability of this Agreement or the transactions contemplated hereby.

SECTION 2.02. Representations by Company. Company makes the following representations:

(a) Company is a corporation duly organized, validly existing, and in good standing, under the laws of the State of Delaware, authorized to transact business in the State of South Carolina, has power to enter into this Agreement, and by proper company action has authorized the officials signing this Agreement to execute and deliver this Agreement.

(b) No actions, suits, proceedings, inquiries, or investigations are pending or, to the actual knowledge of Company, threatened against or affecting Company in any court or before any governmental authority or arbitration board or tribunal, any of which could materially adversely affect this Agreement or which could, in any way, adversely affect the validity or enforceability of this Agreement or the transactions contemplated hereby.

(c) The Special Source Credits provided by the County in the manner set forth in this

Agreement have been instrumental in inducing Company to continue to invest in, or cause investment in, the County.

(d) As of December 31, 2020, the Company's gross taxable investment level at the Extrusion Plant, as measured by original income tax basis without regard to depreciation, was \$231,126,171 ("Baseline Investment").

(e) The Company maintained 276 full-time employees at the Extrusion Plant as of December 31, 2020 ("Baseline Employment").

SECTION 2.03. Covenants by the County. The County has previously included and will maintain the Extrusion Plant Land and all real and personal property located thereon, including, without limitation, the Extrusion Plant Assets, within the boundaries of the Marlboro-Darlington Park or another Marlboro Park in order to facilitate the Special Source Credits.

ARTICLE III

SPECIAL SOURCE CREDITS

SECTION 3.01. Special Source Credits.

(a) To defray or reimburse the Costs of Special Source Improvements, in particular the maintenance of certain of the Extrusion Plant Assets in the County, the County hereby agrees that Company shall be entitled to receive, and the County shall provide, Special Source Credits against each Marlboro Park FILOT Payment due with respect to the Extrusion Plant Assets for a period of six (6) consecutive tax years commencing with Tax Year 2022 (*i.e.*, the tax year corresponding to the lien date of December 31, 2021 and for which such payment would typically be due to be paid on or before January 15, 2023) ("Credit Term") in an amount sufficient so that the resulting aggregate net Marlboro Park FILOT Payment due with respect to the Extrusion Plant Assets equals \$1,500,000; provided, however, Company must, for each tax year during the Credit Term: (1) maintain a gross taxable investment of at least 80% of the Baseline Investment (*i.e.*, the Baseline Investment, as of December 31, 2020, was \$231,126,171, of which 80% is \$184,900,936); and (2) maintain at least 80% of Baseline Employment at the Extrusion Plant (*i.e.*, the Baseline Employment, as of December 31, 2020, was 276 full-time employees, of which 80% is 221 full-time employees).

If either the Company's gross taxable investment (measured by original income tax basis without regard to depreciation) or its full-time employment at the Extrusion Plant is less than 80% but at least 70% of the respective Baseline Investment or Baseline Employment as of December 31 immediately preceding any applicable tax year during the Credit Term, then the Special Source Credits shall terminate prospectively for that tax year and all future tax years, but no retractive claw-back payment shall be due.

If either the Company's gross taxable investment (measured by original income tax basis without regard to depreciation) or its full-time employment at the Extrusion Plant is less than 70% of the respective Baseline Investment or Baseline Employment as of December 31 immediately preceding any applicable tax year during the Credit Term, then (1) the Special Source Credits shall terminate prospectively for that tax year and all future tax years and (2) Company shall be subject to a retroactive, pro-rata claw-back of all Special Source Credits received to date, payment in full of which is due by January 15th of the year immediately following the tax year. Calculation of the pro-rata claw-back will be determined as follows:

Step 1: Establish the investment achievement percentage (“Investment Achievement Percentage”) by dividing the actual gross taxable investment at the Extrusion Plant as of December 31 immediately preceding the tax year by the Baseline Investment. In the event this calculation yields a percentage greater than one hundred percent (100%), the Investment Achievement Percentage shall be deemed to equal one hundred percent (100%).

Step 2: Establish the employment achievement percentage (“Employment Achievement Percentage”) by dividing the actual full-time employment at the Extrusion Plant as of December 31 immediately preceding the tax year by the Baseline Employment. In the event this calculation yields a percentage greater than one hundred percent (100%), the Employment Achievement Percentage shall be deemed to equal one hundred percent (100%).

Step 3: Establish the combined achievement percentage (“Combined Achievement Percentage”) by taking the sum of the Investment Achievement Percentage and the Employment Achievement Percentage and dividing the resulting sum by two.

Step 4: Establish the clawback percentage (“Clawback Percentage”) by subtracting the Combined Achievement Percentage from one hundred percent (100%).

Step 5: Multiply the Clawback Percentage by the total amount of Special Source Credits received by the Company pursuant to this Section 3.01 as of December 31 immediately preceding the tax year.¹ The resulting product is the retroactive, pro-rata clawback owed by the Company to the County.

If the Company’s gross taxable investment (measured by original income tax basis without regard to depreciation) at the Extrusion Plant is greater than 120% of the Baseline Investment as of December 31 immediately preceding any applicable tax year during the Credit Term (i.e., above \$277,351,405), the investment over such amount would not be subject to the Special Source Credits provided by this

¹ The following examples are illustrative of the application of the claw-back provision:

- Example 1: As of 12/31/2023, Company is at 106% (292 FTE’s) of its 276 FTE commitment and is at 60% (\$138,675,702.60) of its \$231,126,171 investment commitment at the Extrusion plant and has received \$3,000,000 in SSRCs to date (\$1.5 million each for tax years 2022 and 2023). The SSRCs would be terminated prospectively (i.e. Company is not entitled to any SSRC’s for tax years 2024 through 2027). In addition, a retroactive, pro-rata clawback payment is due to the County by January 15, 2025. The company’s Investment Achievement Percentage of 60% is added to its Employment Achievement Percentage and the resulting sum is divided by two to yield a Combined Achievement Percentage of 80%, which is subtracted from 100% to yield a Clawback Percentage of 20%. Thus, Company would be required to repay \$600,000 ($3,000,000 \times 20\% = \$600,000$).
- Example 2: As of 12/31/2023, Company is at 106% (292 FTE’s) of its 276 FTE commitment and is at 80% (\$184,900,936.80) of its \$231,126,171 investment commitment at the Extrusion plant and has received \$3,000,000 in SSRCs to date (\$1.5 million each for tax years 2022 and 2023). The SSRCs would not be terminated prospectively and no retroactive, pro-rata clawback is due.
- Example 3: As of 12/31/2023, Company is at 75% (207 FTE’s) of its 276 FTE commitment and is at 80% (\$184,900,936.80) of its \$231,126,171 investment commitment at the Extrusion plant and has received \$3,000,000 in SSRCs to date (\$1.5 million each for tax years 2022 and 2023). The SSRCs would be terminated prospectively (i.e. Company is not entitled to any SSRCs for tax years 2024 through 2027) but no retroactive, pro-rata clawback is due.

Agreement, and a separate payment would be due on the value of such excess investment in accordance with the 2018 Expansion Project FILOT Agreement.

(b) The annual aggregate Special Source Credits to which Company is entitled during each tax year set forth in **Section 3.01(a)** hereof shall be reflected on each tax bill for Marlboro Park FILOT Payments due with respect to the Extrusion Plant Assets and sent to Company by the County Auditor for each such tax year, by reducing such Marlboro Park FILOT Payment otherwise due by the amount of annual aggregate Special Source Credits due for such tax year.

(c) If **Section 3.01(a)** hereof, or the granting of the Special Source Credits under this Agreement, is found to be invalid, illegal or unenforceable by a court or other entity of competent jurisdiction, the County agrees to provide Company with an incentive that is valid pursuant to such court or other entity ruling and commensurate to the nature and value of the benefits provided under this Agreement. The responsibility for the preparation of documents or modification of this Agreement in connection with such incentive and the applicable and reasonable costs thereof (including any applicable and reasonable legal fees incurred by the County) shall be borne solely by Company.

(d) THIS AGREEMENT AND THE SPECIAL SOURCE CREDITS GRANTED HEREUNDER ARE LIMITED OBLIGATIONS OF THE COUNTY TO BE CLAIMED BY COMPANY SOLELY FROM THE MARLBORO PARK FILOT PAYMENTS RECEIVED BY THE COUNTY FROM COMPANY, AND DO NOT AND SHALL NOT CONSTITUTE A GENERAL OBLIGATION OF THE COUNTY WITHIN THE MEANING OF ANY CONSTITUTIONAL OR STATUTORY LIMITATION AND DO NOT AND SHALL NOT CONSTITUTE OR GIVE RISE TO A PECUNIARY LIABILITY OF THE COUNTY OR A CHARGE AGAINST THE GENERAL CREDIT OR TAXING POWER OF THE COUNTY. THE FULL FAITH, CREDIT, AND TAXING POWER OF THE COUNTY ARE NOT PLEDGED IN CONNECTION WITH THE GRANTING OF THE SPECIAL SOURCE CREDITS HEREUNDER.

(e) No breach by the County of this Agreement shall result in the imposition of any pecuniary liability upon the County other than against the Marlboro Park FILOT Payments made by Company with respect to Extrusion Plant Assets or any charge upon its general credit or against its taxing power. The liability of the County under this Agreement or for any breach or default by the County of any of the foregoing shall be limited solely and exclusively to the Marlboro Park FILOT Payments received from Company. The County shall not be required to provide the Special Source Credits except with respect to the Marlboro Park FILOT Payments received from Company.

ARTICLE IV

TRANSFERS OF COMPANY'S 2006 PROJECT PROPERTY AND 2018 EXPANSION PROJECT PROPERTY; ASSIGNMENT

SECTION 4.01. Transfers of Extrusion Plant Assets; Assignment of Interest in this Agreement. The County hereby acknowledges that Company may from time to time, and in accordance with applicable law, sell, transfer, lease, convey, or grant the right to occupy and use all, or any portion of, the Extrusion Plant Assets, or its respective interest in all or any portion of the Extrusion Plant Assets, in whole or in part, or assign its interests in this Agreement, in whole or in part, to other Persons without the consent of the County; provided, however, that any transfer or assignment by Company of all or any of its interest in this Agreement to any Person other than an Affiliate shall require the prior written consent or subsequent ratification of the County, which consent or ratification shall not be unreasonably withheld and provided, further, that Company shall provide written notice to the County of any such transfer or assignment by

Company to an Affiliate. No such sale, lease, conveyance, grant or assignment shall relieve the County from the County's obligation to provide Special Source Credits to Company, or any assignee of the same, under this Agreement as long as such assignee is qualified to receive the Special Source Credits under the Act.

ARTICLE V

DEFAULTS AND REMEDIES

SECTION 5.01. Events of Default. If any party shall fail duly and punctually to perform any material covenant, condition, agreement or provision contained in this Agreement on the part of such party to be performed, which, except as otherwise provided in this Agreement, failure shall continue for a period of sixty (60) days after written notice by the other party specifying the failure and requesting that it be remedied is given to the defaulting party by first-class mail, then such party shall be in default under this Agreement (an "Event of Default"); provided, however, that if any such failure is not, with due diligence, susceptible of cure within such 60-day period, then such defaulting party shall have an additional period of time not to exceed thirty (30) days from the date of such written notice by the other party to remedy such failure, unless such parties agree in a writing signed by all parties to an extension of such time prior to its expiration.

SECTION 5.02. Legal Proceedings by Company and the County. Upon the happening of any Event of Default by a party, then and in every such case the other party in its respective discretion may:

- (1) by mandamus, or other suit, action, or proceeding at law or in equity, enforce all of its rights and require the defaulting party to carry out any agreements with or for its benefit and to perform its duties under the Act and this Agreement;
- (2) bring suit upon this Agreement;
- (3) exercise any or all rights and remedies provided by the applicable laws of the State; or
- (4) by action or suit in equity enjoin any acts or things which may be unlawful or in violation of its rights.

SECTION 5.03. Remedies Not Exclusive. No remedy in this Agreement conferred upon or reserved to Company or the County is intended to be exclusive of any other remedy or remedies, and each and every such remedy shall be cumulative and shall be in addition to every other remedy given under this Agreement or now or hereafter existing at law or in equity or by statute.

SECTION 5.04. Nonwaiver. No delay or omission of Company or the County to exercise any right or power accruing upon any default or Event of Default shall impair any such right or power or shall be construed to be a waiver of any such default or Event of Default, or an acquiescence therein; and every power and remedy given by this Article V to Company or the County may be exercised from time to time and as often as may be deemed expedient.

ARTICLE VI

MISCELLANEOUS

SECTION 6.01. Termination This Agreement shall automatically terminate on the date upon which all Special Source Credits provided for in **Section 3.01** hereof have been provided or credited to Company. Additionally, the County and Company may agree to terminate this Agreement at any time and Company, may, at its option, terminate this Agreement at any time with respect to all or any portion of the Extrusion Plant Assets.

SECTION 6.02. Binding Effect; Successors and Assigns. This Agreement shall be binding, in accordance with its terms, upon and inure to the benefit of Company and the County, and their respective successors and assigns. All covenants, stipulations, promises, and agreements contained in this Agreement, by or on behalf of, or for the benefit of, the County, shall bind or inure to the benefit of the successors of the County from time to time and any officer, board, commission, agency, or instrumentality to whom or to which any power or duty of the County, shall be transferred.

SECTION 6.03. Provisions of Agreement for Sole Benefit of Company and the County. Except as otherwise specifically provided in this Agreement, nothing in this Agreement expressed or implied is intended or shall be construed to confer upon any person other than Company and the County any right, remedy, or claim under or by reason of this Agreement, this Agreement being intended to be, except as otherwise specifically provided in this Agreement, for the sole and exclusive benefit of Company and the County.

SECTION 6.04. Severability. In case any one or more of the provisions of this Agreement shall, for any reason, be held to be illegal, invalid or unenforceable, the illegality, invalidity or unenforceability shall not affect any other provision of this Agreement, and this Agreement shall be construed and enforced as if the illegal, invalid or unenforceable provisions had not been contained herein so as to most closely effectuate the legal, valid and enforceable intent hereof or thereof and so as to afford Company with the maximum benefits to be derived herefrom.

SECTION 6.05. No Liability for Personnel of the County, Company. No covenant or agreement contained in this Agreement is deemed to be a covenant or agreement of any member, agent, or employee of the County or its governing body or Company or any of their respective officers, employees, or agents in an individual capacity, and neither the members of the governing body of the County nor any official executing this Agreement is liable personally on the Special Source Credits or the Agreement or subject to any personal liability or accountability by reason of the issuance thereof.

SECTION 6.06. Notices. All notices, certificates, requests, or other communications under this Agreement are sufficiently given and are deemed given, unless otherwise required by this Agreement, when (i) delivered or (ii) sent by facsimile and confirmed by United States first-class registered mail, postage prepaid, addressed as follows:

(a) As to the County:

Marlboro County
Attn: Administrator
William P. Wallace Sr. Administration Building
205 East Market Street
Bennettsville, SC 29512

Phone: 843-479-5600 ext. 12
Email: jrmunnerlyn@marlborocounty.sc.gov

with a copy (which shall not constitute notice) to:

Parker Poe Adams & Bernstein, LLP
Sam C. Moses, Esq.
1221 Main Street, Suite 1100
Columbia, SC 29201
Phone: (803) 255-8000
E-mail: sammoses@parkerpoe.com

(c) As to Company:

Aladdin Manufacturing Corporation
c/o Mohawk Industries
Attn: General Counsel
P.O. Box 12069
Calhoun, GA 30703

with a copy (which shall not constitute notice) to:

Clark Calhoun, Esq.
1201 W. Peachtree Street NW
Atlanta, Georgia 30309
Phone: (404) 881-7553
Email: Clark.Calhoun@alston.com

The County and Company may, by notice given under this **Section 6.06**, each designate any further or different addresses to which subsequent notices, certificates, requests, or other communications shall be sent.

SECTION 6.07. Administrative Fees. Company shall reimburse, or cause reimbursement of, the County for reasonable expenses, including, reasonable attorneys' fees, related to review of this Agreement, and any other documents related to this Agreement in an amount not to exceed \$15,000.

SECTION 6.08. Merger. This Agreement constitutes the entire agreement among the parties to it with respect to the matters contemplated in it, and it is understood and agreed that all undertakings, negotiations, representations, promises, inducements and agreements heretofore had among these parties are merged herein.

SECTION 6.09 Agreement to Sign Other Documents and to Take Further Action. The County agrees that it will from time to time execute and deliver such further instruments, in form and substance reasonably acceptable to the County, and take such further action as may be reasonable and as may be requested by Company or as may be required to carry out the purpose of this Agreement. Company shall reimburse, or cause reimbursement of, the County for reasonable attorneys' fees, related to review and negotiation of such further instruments. Such instruments or actions shall never create or constitute an indebtedness of the County within the meaning of any state constitutional provision (other than the provisions of Article X, Section 14(10) of the South Carolina Constitution) or statutory limitation and shall never constitute or give rise to a pecuniary liability of the County, other than against the Marlboro Park

FILOT Payments made by Company with respect to Extrusion Plant Assets, or a charge against its general credit or taxing power or pledge the credit or taxing power of the State of South Carolina, or any other political subdivision of the State of South Carolina.

SECTION 6.10. Construction of Agreement. The parties agree that each party and its counsel have reviewed and revised this Agreement and that any rule of construction to the effect that ambiguities are to be resolved against the drafting party does not apply in the interpretation of this Agreement or any amendments or exhibits to this Agreement.

SECTION 6.11. Applicable Law. The laws of the State of South Carolina govern the construction of this Agreement.

SECTION 6.12. Counterparts; Electronic Signatures. This Agreement may be executed in any number of counterparts and each such executed counterpart shall be, and shall be deemed to be, an original, but all of which shall constitute, and shall be deemed to constitute, in the aggregate but one and the same instrument. This Agreement may be circulated for signature through electronic transmission, including, without limitation, facsimile and email, and all signatures so obtained and transmitted shall be deemed for all purposes under this Agreement to be original signatures and may conclusively be relied upon by any Party to this Agreement.

SECTION 6.13. Amendments. This Agreement may be amended only by written agreement of the parties hereto.

SECTION 6.14. Waiver. Either party may waive compliance by the other party with any term or condition of this Agreement, but the waiver is valid only if it is in a writing signed by the waiving party.


SECTION 6.15. Further Proceedings. It is intended by the parties that any action to be taken hereinafter by the County pursuant to the express provisions of this Agreement may be undertaken by the County without necessity of further proceedings. To the extent that additional proceedings are required by law, however, the County agrees, to the extent permitted by law, to undertake all such steps as may be reasonably required or appropriate to effectuate the intent of this Agreement.

SIGNATURES FOLLOW ON NEXT PAGE.

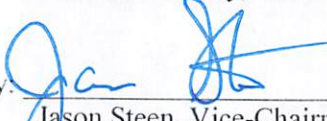
THE REMAINDER OF THIS PAGE IS INTENTIONALLY LEFT BLANK.

IN WITNESS WHEREOF, Marlboro County, South Carolina, has caused this Agreement to be executed by the appropriate officials of the County and its corporate seal to be hereunto affixed and attested and Company have caused this Agreement to be executed by its respective authorized officer, effective the day and year first above written.

MARLBORO COUNTY, SOUTH CAROLINA

By: 

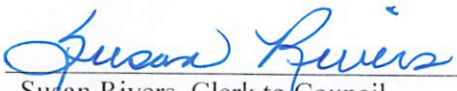
Charles P. Midgley, Jr., Chairman, County Council
Marlboro County, South Carolina

By: 

Jason Steen, Vice-Chairman, County Council
Marlboro County, South Carolina

[SEAL]

ATTEST:

By: 

Susan Rivers, Clerk to Council
Marlboro County, South Carolina

ALADDIN MANUFACTURING CORPORATION

By: Terrel Gilbert

Name: Terrel Gilbert

Its: Assistant Secretary

EXHIBIT A

EXTRUSION PLANT

LEGAL DESCRIPTION

All that certain piece, parcel or lot of land lying and being situated in the County of Marlboro, State of South Carolina, with improvements thereon, identified by Tax Map Number 058-00-01-003.

FIRST AMENDMENT
TO
FEE-IN-LIEU OF TAX AGREEMENT
ORIGINALLY DATED AS OF MARCH 1, 2006
BY AND BETWEEN
ALADDIN MANUFACTURING CORPORATION
AND
MARLBORO COUNTY, SOUTH CAROLINA

April 19, 2022

FIRST AMENDMENT TO FEE AGREEMENT

THIS FIRST AMENDMENT TO FEE-IN-LIEU OF TAX AGREEMENT (this "*First Amendment*") is made and entered into as of April 19, 2022, by and between MARLBORO COUNTY, SOUTH CAROLINA (the "*County*"), a body politic and corporate and a political subdivision of the State of South Carolina, acting by and through its County Council (the "*County Council*") as governing body of the County, and Aladdin Manufacturing Corporation, a Delaware corporation, along with any affiliated or related entities and assigns (collectively, "*Company*") (hereinafter, the County and the Company are each referred to individually as a "Party" and, collectively, as "Parties").

WITNESSETH:

WHEREAS, the County, acting by and through its County Council, and as authorized and empowered under and pursuant to the provisions of Title 12, Chapter 44, Code of Laws of South Carolina, 1976, as amended (the "*Act*"), entered into a Fee-in-Lieu of Tax Agreement dated as of March 1, 2006 (the "*Fee Agreement*") with the Company, whereby the County covenanted with the Company to accept certain payments in lieu of *ad valorem* taxes ("*FILOT*"), among other things, with respect to investments by the Company relating to the Company's development of industrial facilities located in the County (the "*Project*"); and

WHEREAS, the County has agreed to amend the Term so that it is extended by ten (10) additional years, resulting in a total Term of thirty (30) years which is anticipated to end on December 31, 2046 (the "*First Amendment*"); and

WHEREAS, Section 12-44-30(13) of the Act permits the County, in its sole discretion, to amend the Fee Agreement as requested by the Company and Section 4.6 of the Fee Agreement permits the Fee Agreement to be amended provided that such amendment is in writing and signed by each of the parties to the Fee Agreement; and

WHEREAS, the County Council finds that executing the First Amendment as requested by the Company is in the best interest of the County and its citizens since it will induce the Company to continue the Project; and

WHEREAS, pursuant to an Ordinance adopted on April 19, 2022, the County Council authorized the County to execute and deliver this First Amendment to the Company.

NOW, THEREFORE, FOR AND IN CONSIDERATION of the respective representations and agreements herein contained and other value, the parties hereto agree to amend the Fee Agreement as follows:

The language in *Section 4.01 (Term)* is hereby amended as follows (deletion indicated by ~~strikeout~~ and addition indicated by underline):

Subject to the terms and provisions herein contained, with respect to each

Project Increment, this Agreement shall be and remain in full force and effect for a term commencing on the date hereof, and ending at midnight on December 31 of the year which is the ~~nineteenth (19th)~~ twenty-ninth (29th) year following the first year in which such Project Increment is placed in service, unless sooner terminated as herein permitted; provided that, if at the expiration of the Term, payment of all FILOT Payments under Section 5.02 hereof relating to the operation of the Project during the Term have not been made, the Term shall expire on such later date as such payments shall have been made in full or so provided for.

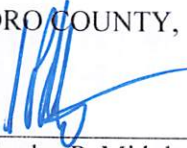
Except as modified by this First Amendment, the Company and the County hereby acknowledge and agree that the Fee Agreement remains in full force and effect.

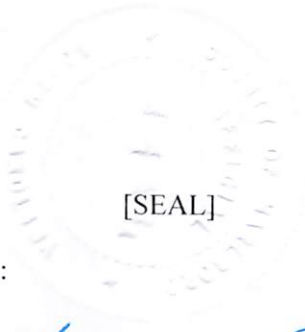
[Signatures appear on following pages]

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.


Enacted and approved, in meeting duly assembled, this 19th day of April, 2022.

MARLBORO COUNTY, SOUTH CAROLINA

By: 
Charles P. Midgley, Jr., Chairman, County Council,
Marlboro County, South Carolina




Attest:

By: 
Susan Rivers, Clerk to County Council,
Marlboro County, South Carolina

First Reading :	September 14, 2021
Second Reading:	October 12, 2021
Public Hearing:	April 19, 2022
Third Reading:	April 19, 2022

IN WITNESS WHEREOF, by and through its authorized officials, the Company has caused this Fee Agreement to be executed by its duly authorized officer, all as of the day first above written.

ALADDIN MANUFACTURING CORPORATION



BY: Terrell Gilbert

ITS: Assistant Secretary

FIRST AMENDMENT
TO
FEE AGREEMENT
ORIGINALLY DATED AS OF FEBRUARY 13, 2018
BY AND BETWEEN
ALADDIN MANUFACTURING CORPORATION
AND
MARLBORO COUNTY, SOUTH CAROLINA

April 19, 2022

FIRST AMENDMENT TO FEE AGREEMENT

THIS FIRST AMENDMENT TO FEE AGREEMENT (this "***First Amendment***") is made and entered into as of April 19, 2022, by and between MARLBORO COUNTY, SOUTH CAROLINA (the "***County***"), a body politic and corporate and a political subdivision of the State of South Carolina, acting by and through its County Council (the "***County Council***") as governing body of the County, and Aladdin Manufacturing Corporation, a Delaware corporation previously identified by the County as Project Feather, along with any affiliated or related entities and assigns (collectively, "***Company***")—(hereinafter, the County and the Company are each referred to individually as a "Party" and, collectively, as "Parties").

WITNESSETH:

WHEREAS, the County, acting by and through its County Council, and as authorized and empowered under and pursuant to the provisions of Title 12, Chapter 44, Code of Laws of South Carolina, 1976, as amended (the "***Act***"), entered into a Fee Agreement dated as of February 13, 2018 (the "***Fee Agreement***") with the Company, whereby the County covenanted with the Company to accept certain payments in lieu of *ad valorem* taxes ("***FILOT***"), among other things, with respect to investments by the Company relating to the Company's expansion of existing industrial facilities located in the County (the "***Project***"); and

WHEREAS, the County has agreed to amend the Investment Period so that it is extended by five (5) additional years, resulting in a total Investment Period of ten (10) years which is anticipated to end on December 31, 2027 (the "***First Amendment***"); and

WHEREAS, Section 12-44-30(13) of the Act permits the County, in its sole discretion, to amend the Fee Agreement as requested by the Company and Section 4.6 of the Fee Agreement permits the Fee Agreement to be amended provided that such amendment is in writing and signed by each of the parties to the Fee Agreement; and

WHEREAS, the County Council finds that executing the First Amendment as requested by the Company is in the best interest of the County and its citizens since it will induce the Company to continue the Project; and

WHEREAS, pursuant to an Ordinance adopted on April 19, 2022, the County Council authorized the County to execute and deliver this First Amendment to the Company.

NOW, THEREFORE, FOR AND IN CONSIDERATION of the respective representations and agreements herein contained and other value, the parties hereto agree to amend the Fee Agreement as follows:

The defined term "Investment Period" in Section 1.1 is hereby amended as follows (deletion indicated by ~~strikeout~~ and addition indicated by underline):

"Investment Period" shall mean the period beginning with the first day of

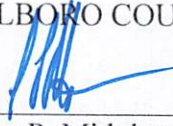
any purchase or acquisition of Economic Development Property and ending five ten years after the Commencement Date, which end date is expected to be December 31, 2027, pursuant to Section 12-44-30(13) of the Act.

Except as modified by this First Amendment, the Company and the County hereby acknowledge and agree that the Fee Agreement remains in full force and effect.

[Signatures appear on following pages]

IN WITNESS WHEREOF, the County, acting by and through the County Council, has caused this First Amendment to be executed in its name and on its behalf by the Chairman of the County Council and to be attested by the Clerk of its County Council as of the day first above written.

MARLBORO COUNTY, SOUTH CAROLINA



Charles P. Midgley, Jr., Chairman
Marlboro County Council



(SEAL)

ATTEST:



Susan Rivers, Clerk
Marlboro County Council

IN WITNESS WHEREOF, by and through its authorized officials, the Company has caused this Fee Agreement to be executed by its duly authorized officer, all as of the day first above written.

ALADDIN MANUFACTURING CORPORATION



BY: Terrell Gilbert

ITS: Assistant Secretary