

ORDINANCE NO.: 2019-081

*Consenting to the Inclusion of Property in a Multi-County Industrial/Business Park
(North Main Senior, LLC, 3700 North Main Street and 3706 North Main Street,
Richland County TMS Numbers 09209-20-04 and 09209-20-03)*

ORIGINAL
STAMPED IN RED

WHEREAS, Richland County desires to enlarge the boundaries of a joint county industrial and business park (the "Park") of Richland and Fairfield Counties (together, the "Counties") created pursuant to that certain Amended and Restated Master Agreement Governing the I-77 Corridor Regional Industrial Park dated as of September 1, 2018, as amended, delivered pursuant to Section 4-1-170, Code of Laws of South Carolina 1976, as amended (the "Code"), in order to locate certain parcels of real property in Richland County therein; and

WHEREAS, the parcels described in the attached Exhibit A (the "Parcels") are located within the corporate limits of the City of Columbia (the "City") and are among the parcels of land that the Counties desire to include within the Park in accordance with the Infrastructure Credit Agreement attached hereto as Exhibit B; and,


WHEREAS, pursuant to Section 4-1-170(C) of the Code, the City must consent to the inclusion of the Parcels in the Park; NOW, THEREFORE,

BE IT ORDAINED by the Mayor and City Council this 25th day of November, 2019, that the City hereby consents to the inclusion of the Property in the Park pursuant to all requirements of South Carolina law, including Section 4-1-170(C) of the Code.

The City Manager is authorized to execute any documents, and take any further action as may be reasonably necessary to further the intent of this Ordinance. Any prior ordinance, resolution or order, the terms of which are in conflict with this Ordinance, is, only to the extent of that conflict, repealed.

Requested by:

Assistant City Manager Gentry




Mayor

Approved by:



City Manager

Approved as to form:



City Attorney

ATTEST:



City Clerk

First Reading: 10/15/2019
Second Reading: 11/25/2019

ORDINANCE NO.: 2019-081
EXHIBIT A
DESCRIPTION OF PROPERTY

The following real property located in Columbia, Richland County, South Carolina more particularly described as:

All those certain pieces, parcels or lots of land with the improvements thereon, situate, lying and being in the City of Columbia, County of Richland, State of South Carolina, being shown as Parcel "A" containing 1.01 acres, Parcel "B", containing 0.25 acres, Parcel "C", containing 0.19 acre, Parcel "D", containing 0.26 acre, and Parcel "E", containing 0.14 acres, on that certain Plat prepared for Eau Claire Development Corporation by Jay S. Joshi, PLS, dated July 30, 2001 and recorded in the Office of Register of Deeds for Richland County, South Carolina in Book 550, at page 2265.

LESS AND EXCEPT THE FOLLOWING PROPERTIES:

- a) That certain 110.19 square feet conveyed to Richland County, South Carolina by deed dated May 26, 2015 and recorded July 8, 2015 in the Office of Register of Deeds for Richland County, South Carolina in Book 2041, at page 1600; and,
- b) That certain 184.68 square feet conveyed to Richland County, South Carolina by deed dated May 26, 2015 and recorded July 8, 2015 in the Office of Register of Deeds for Richland County, South Carolina in Book 2041, at page 1588.

MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT A POINT LOCATED ON THE EASTERN RIGHT OF WAY OF MAIN STREET (U.S. HWY. 21) AT THE NORTHWESTERN END OF A MITERED CORNER MARKING THE INTERSECTION OF SAID EASTERN RIGHT OF WAY OF MAIN STREET (U.S. HWY 21) AND THE NORTHERN RIGHT OF WAY OF MILLER AVENUE, SAID POINT ALSO BEING LOCATED N 15-51-27 E 15.00 FEET FROM AN IRON PIN OLD 3/4" OPEN TOP LOCATED AT THE INTERSECTION OF SAID RIGHTS OF WAY IF EXTENDED; THENCE RUNNING ALONG SAID EASTERN RIGHT OF WAY OF MAIN STREET (U.S. HWY. 21) N 15-51-27 E 144.55 FEET TO AN IRON PIN OLD 1/2" REBAR; THENCE N 15-38-03 E 156.89 FEET TO POINT LOCATED AT THE SOUTHWESTERN END OF A MITERED CORNER MARKING THE INTERSECTION OF THE EASTERN RIGHT OF WAY OF MAIN STREET (U.S. HWY 21) AND THE SOUTHERN RIGHT OF WAY OF ELMORE STREET; THENCE TURNING AND LEAVING SAID EASTERN RIGHT OF WAY AND RUNNING ALONG SAID MITERED CORNER N 54-44-45 E 31.04 FEET TO A POINT LOCATED AT THE NORTHEASTERN END OF SAID MITERED CORNER, SAID POINT BEING LOCATED ON THE SOUTHERN RIGHT OF WAY OF ELMORE STREET; THENCE TURNING AND RUNNING WITH SAID SOUTHERN RIGHT OF WAY S 86-08-32 E 139.18 FEET TO AN IRON PIN OLD 1-1/2" OPEN TOP; THENCE S 87-41-46 E 64.88 FEET TO IRON PIN OLD 1/2" REBAR AT THE JOINT CORNER OF FJ TUCKER PROPERTY, NOW OR FORMERLY; THENCE TURNING AND LEAVING SAID SOUTHERN RIGHT OF WAY AND RUNNING WITH THE COMMON LINES OF THE TUCKER PROPERTY S 15-07-21 W 122.01 FEET TO AN IRON PIN OLD 1/2" REBAR; THENCE S 15-13-29 W 50.06 FEET TO IRON PIN OLD 1/2" REBAR; THENCE S 87-41-55 E 25.38 TO AN IRON PIN OLD 1/2" REBAR AT THE JOINT CORNER OF 1216 MILLER LLC PROPERTY, NOW OR FORMERLY; THENCE TURNING AND RUNNING WITH THE COMMON LINE OF SAID 1216 MILLER LLC PROPERTY S 00-37-38 W 164.18 FEET TO AN IRON PIN OLD 1/2" REBAR (BENT) LOCATED ON THE NORTHERN RIGHT OF WAY OF MILLER AVENUE, CROSSING OVER AN IRON PIN OLD 1" OPEN TOP AT 161.45 FEET; THENCE TURNING AND RUNNING ALONG SAID NORTHERN RIGHT OF WAY N 85-57-12 W 279.24 FEET TO A POINT LOCATED AT THE SOUTHEASTERN END OF A MITERED CORNER MARKING THE INTERSECTION OF SAID NORTHERN RIGHT OF WAY OF MILLER AVENUE AND THE EASTERN RIGHT OF WAY OF MAIN STREET (U.S. HWY. 21); THENCE LEAVING THE NORTHERN RIGHT OF WAY OF MILLER AVENUE AND RUNNING ALONG SAID MITERED CORNER N 35-02-52 W 18.92 FEET TO THE POINT AND PLACE OF BEGINNING.

ORDINANCE NO.: 2019-081
EXHIBIT B
INFRASTRUCTURE CREDIT AGREEMENT

INFRASTRUCTURE CREDIT AGREEMENT

by and between

RICHLAND COUNTY, SOUTH CAROLINA

and

NORTH MAIN SENIOR, LLC, a South Carolina limited liability company

Effective as of: June 18, 2019

INFRASTRUCTURE CREDIT AGREEMENT

This INFRASTRUCTURE CREDIT AGREEMENT, effective as of June 18, 2019 (“Agreement”), is by and between RICHLAND COUNTY, SOUTH CAROLINA, a body politic and corporate, and a political subdivision of the State of South Carolina (“County”), and NORTH MAIN SENIOR, LLC, a South Carolina limited liability company (“Company” together with the County, “Parties,” each, a “Party”).

WITNESSETH:

WHEREAS, the County, acting by and through its County Council (“County Council”), is authorized and empowered under and pursuant to the provisions of Article VIII, Section 13(D) of the South Carolina Constitution and the provisions of Title 4, Chapter 1 of the Code of Laws of South Carolina, 1976, as amended (collectively, “Act”), to (i) develop multicounty parks with counties having contiguous borders with the County; and (ii) include property in the multicounty park, which inclusion under the terms of the Act (A) makes such property exempt from *ad valorem* property taxes, and (B) changes the character of the annual receipts from such property to fees-in-lieu of *ad valorem* property taxes in an amount equal to the *ad valorem* taxes that would have been due and payable but for the location of the property in such multicounty park (“Fee Payments”);

WHEREAS, the County is further authorized by Section 4-1-175 of the Act to grant credits against Fee Payments (“Infrastructure Credit”) to pay costs of designing, acquiring, constructing, improving or expanding (i) infrastructure serving a project or the County and (ii) improved and unimproved real estate and personal property used in the operation of a commercial enterprise or manufacturing facility (collectively, “Infrastructure”);

WHEREAS, pursuant to the authority provided in the Act, the County has developed with Fairfield County, South Carolina, the I-77 Corridor Regional Industrial Park (“Park”) and executed the “Amended and Restated Master Agreement Governing the I-77 Corridor Regional Industrial Park” dated September 1, 2018 (“Park Agreement”), which governs the operation of the Park;

WHEREAS, the Company with the sponsorship and involvement of the Columbia Empowerment Zone, Inc. through its wholly owned subsidiary The Veranda at North Main, LLC (a co-managing member of the Company) has committed to establish a low-income rental housing project for seniors in the County (“Project”) on property more particularly identified by Exhibit A (“Land”), consisting of a total investment of greater than \$10,000,000, of which \$7,000,000 is a taxable investment in real and personal property;

WHEREAS, the Project is encumbered by an Agreement as to Restrictive Covenants between the South Carolina State Housing Finance and Development Authority (“State Housing”) and the Company dated December 27, 2017 (“Restrictive Covenants”) pursuant to which the Company will agree that at least 40% of the completed dwelling units in the Project will be rented continuously to individuals or families whose total aggregate income at the time of initial occupancy does not exceed 60% of the area median gross income as computed by HUD at rents not in excess of the fair market rent as determined by HUD (“Low Income Rental Restrictions”); and

WHEREAS, by an ordinance enacted on June 18, 2019 (“Ordinance”), the County authorized the expansion of the boundaries of the Park and an amendment to the Park Agreement to include the Land and other real and personal property relating to the Project (“Property”) in the Park; and

WHEREAS, pursuant to the Ordinance, the County further authorized the execution and delivery of this Agreement to provide Infrastructure Credits against the Company's Fee Payments with respect to the Project for the purpose of assisting in paying the costs of certain Infrastructure, subject to the terms and conditions below.

NOW, THEREFORE, in consideration of the respective representations and agreements hereinafter contained, the County and the Company agree as follows:

ARTICLE I REPRESENTATIONS

Section 1.1. *Representations by the County.* The County represents to the Company as follows:

(a) The County is a body politic and corporate and a political subdivision of the State of South Carolina;

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

(c) The County has duly authorized and approved the execution and delivery of this Agreement by adoption of the Ordinance in accordance with the procedural requirements of the Act and any other applicable state law;

(d) The County is not in default of any of its obligations (contractual or otherwise) as a result of entering into and performing its obligations under this Agreement;

(e) The County has approved the inclusion of the Property in the Park; and

(f) Based on representations made by the Company to the County, the County has determined the Project and the Infrastructure will enhance the economic development of the County. Therefore, the County is entering into this Agreement for the purpose of promoting the economic development of the County.

Section 1.2. *Representations by the Company.* The Company represents to the County as follows:

(a) The Company is in good standing under the laws of the State of South Carolina, has power to conduct business in the State of South Carolina and enter into this Agreement, and by proper company action has authorized the officials signing this Agreement to execute and deliver it;

(b) The Company will comply with the Restrictive Covenants and will use commercially reasonable efforts to provide low-income housing at the Project for the balance of the units;

(c) The Company will use commercially reasonable efforts to achieve the Company Commitment, as defined below; and

(d) The Company's execution and delivery of this Agreement, and its compliance with the provisions of this Agreement do not result in a default under any agreement or instrument to which the Company is now a party or by which it is bound.

**ARTICLE II
INFRASTRUCTURE CREDITS**

Section 2.1. *Company Commitment.* The Company shall invest not less than \$10,000,000 in the Project, of which \$7,000,000 shall consist of taxable property, to acquire, construct, furnish and equip the Project (“Company Commitment”) by the Certification Date, as defined below. The Company shall certify to the County completion of the Project by no later than December 31, 2019 (“Certification Date”), by providing documentation to the County sufficient to reflect completion of the Project. If the Company fails to achieve and certify the Company Commitment by the Certification Date, the County may terminate this Agreement and, on termination, the Company is no longer entitled to any further benefits under this Agreement. In the event of a default of the Company under the Restrictive Covenants, the Company is subject to the clawback requirements set forth in Section 2.3 below.

Section 2.2. *Infrastructure Credits.*

(a) To assist in paying for costs of Infrastructure, the County shall provide an Infrastructure Credit against certain of the Company’s Fee Payments due with respect to the Project. The term, amount and calculation of the Infrastructure Credit is described in Exhibit B.

(b) For each property tax year in which the Company is entitled to an Infrastructure Credit (“Credit Term”), the County shall prepare and issue the Company’s annual property tax bill with respect to the Project net of the Infrastructure Credit set forth in Section 2.2(a) (“Net Fee Payment”). Following receipt of the annual bill, the Company shall timely remit the Net Fee Payment to the County in accordance with applicable law.

(c) THIS AGREEMENT AND THE INFRASTRUCTURE CREDITS PROVIDED BY THIS AGREEMENT ARE LIMITED OBLIGATIONS OF THE COUNTY. THE INFRASTRUCTURE CREDITS ARE DERIVED SOLELY FROM AND TO THE EXTENT OF THE FEE PAYMENTS MADE BY THE COMPANY TO THE COUNTY PURSUANT TO THE ACT AND THE PARK AGREEMENT. THE INFRASTRUCTURE CREDITS DO NOT AND SHALL NOT CONSTITUTE A GENERAL OBLIGATION OF THE COUNTY OR ANY MUNICIPALITY 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 ANY MUNICIPALITY OR A CHARGE AGAINST THE GENERAL CREDIT OR TAXING POWER OF THE COUNTY OR ANY MUNICIPALITY. THE FULL FAITH, CREDIT, AND TAXING POWER OF THE COUNTY OR ANY MUNICIPALITY ARE NOT PLEDGED FOR THE PROVISION OF THE INFRASTRUCTURE CREDITS.

Section 2.3. *Clawback.* In the event of a default of the Company under the Restrictive Covenants (after the expiration of any notice or remedial period contained thereunder) resulting from the Company's failure to satisfy the Low Income Rental Restrictions for any calendar year, the Company shall repay the Infrastructure Credits received for such year. The portion of the Infrastructure Credit to be repaid (“Repayment Amount”) is based on the percentage of the occupied dwelling units in the Project which failed to satisfy the Low Income Rental Restrictions divided by the total number of occupied dwelling units in the Project for the prior calendar year, calculated as follows:

Repayment Amount = Total Received x Clawback Percentage

Clawback Percentage = 100% - Low Income Rental Percentage

Low Income Rental Percentage = Number Of Occupied Dwelling Units Which Failed To Satisfy the Low Income Rental Restrictions Divided By The Total Number Of Occupied Dwelling Units in the Project Subject to the Low Income Rental Restrictions For the Prior Calendar Year.

For example, and by way of example only, if the Company had received \$500,000 in Infrastructure Credits, the Project contained 24 occupied dwelling units subject to The Low Income Rental Restrictions in any year and an event of default under the Restrictive Covenants had occurred due to the failure of the Company to satisfy the Low Income Rental Restrictions as to 8 occupied dwelling units in that calendar year, the Repayment Amount would be calculated as follows:

Low Income Rental Percentage = $8/24 = 33.33\%$

Clawback Percentage = $100\% - 33.33\% = 66.66\%$

Repayment Amount = $\$500,000 \times 66.66\% = \$33,330$

All percentages will be rounded to the nearest two decimal places. The Company shall prepare and return the Credit Certificate, attached hereto as Exhibit C ("Credit Certificate"), within 60 days of receiving the Annual Bill certifying that the Company satisfied the Low Income Rental Restrictions or certifying that an event of default occurred under the Restrictive Covenants due to the Company's failure to satisfy the Low income Rental Restrictions. The Credit Certificate shall calculate and set forth the Repayment Amount for the prior calendar year, if any, and the Company shall remit the Repayment Amount along with the Credit Certificate. If not timely paid, the Repayment Amount is subject to the minimum amount of interest that South Carolina law may permit with respect to delinquent *ad valorem* tax payments. The repayment obligation arising under this Section survives termination of this Agreement.

Section 2.4. Filings. To assist the County in administering the Infrastructure Credits, the Company shall, for the Credit Term, prepare and file a separate schedule to the SCDOR PT-100, PT-300 with respect to the Property.

Section 2.5 Cumulative Infrastructure Credit. The cumulative dollar amount expended by the Company on Infrastructure shall equal or exceed the cumulative dollar amount of all the Infrastructure Credits received by the Company.

Section 2.6. Termination Upon Receipt of Statutory Exemption. If the South Carolina law provides that the Project qualifies for an exemption under South Carolina law, the Company shall be required to diligently pursue such exemption. This Agreement shall automatically terminate if the Project is determined to be exempt from *ad valorem* property taxes under South Carolina law.

**ARTICLE III
DEFAULTS AND REMEDIES**

Section 3.1. *Events of Default.* The following are “Events of Default” under this Fee Agreement:

(a) Failure by the Company to make a Net Fee Payment, which failure has not been cured within 30 days following receipt of written notice from the County specifying the delinquency in payment and requesting that it be remedied;

(b) A Cessation of Operations. For purposes of this Agreement, a “Cessation of Operations means closure of the Project for a continuous period of twelve (12) months or an event of default under the Restrictive Covenants, in which the Company fails to meet the Low Income Rental Restrictions for a period of 12 months;

(c) A representation or warranty made by the Company which is deemed materially incorrect when deemed made;

(d) Failure by the Company to perform any of the terms, conditions, obligations, or covenants under this Agreement (other than those described in Section 2.1 under (a) above), which failure has not been cured within 30 days after written notice from the County to the Company specifying such failure and requesting that it be remedied, unless the Company has instituted corrective action within the 30-day period and is diligently pursuing corrective action until the default is corrected, in which case the 30-day period is extended to include the period during which the Company is diligently pursuing corrective action;

(e) A representation or warranty made by the County which is deemed materially incorrect when deemed made; or

(f) Failure by the County to perform any of the terms, conditions, obligations, or covenants hereunder, which failure has not been cured within 30 days after written notice from the Company to the County specifying such failure and requesting that it be remedied, unless the County has instituted corrective action within the 30-day period and is diligently pursuing corrective action until the default is corrected, in which case the 30-day period is extended to include the period during which the County is diligently pursuing corrective action.

Section 3.2. *Remedies on Default.*

(a) If an Event of Default by the Company has occurred and is continuing, then the County may take any one or more of the following remedial actions:

(i) terminate the Agreement; or

(ii) take whatever action at law or in equity may appear necessary or desirable to collect amounts due or otherwise remedy the Event of Default or recover its damages.

(b) If an Event of Default by the County has occurred and is continuing, the Company may take one or more of the following actions:

(i) bring an action for specific enforcement;

(ii) terminate the Agreement; or

(iii) in case of a materially incorrect representation or warranty, take such action as is appropriate, including legal action, to recover its damages, to the extent allowed by law.

Section 3.3. *Reimbursement of Legal Fees and Other Expenses.* On the occurrence of an Event of Default, if a Party is required to employ attorneys or incur other reasonable expenses for the collection of payments due under this Agreement or for the enforcement of performance or observance of any obligation or agreement, the prevailing Party is entitled to seek reimbursement of the reasonable fees of such attorneys and such other reasonable expenses so incurred.

Section 3.4. *Remedies Not Exclusive.* No remedy described in this Agreement is intended to be exclusive of any other remedy or remedies, and each and every such remedy is cumulative and in addition to every other remedy given under this Agreement or existing at law or in equity or by statute.

Section 3.5. *Nonwaiver.* A delay or omission by the Company or County to exercise any right or power accruing on an Event of Default does not waive such right or power and is not deemed to be a waiver or acquiescence of the Event of Default. Every power and remedy given to the Company or County by this Agreement may be exercised from time to time and as often as may be deemed expedient.

ARTICLE IV MISCELLANEOUS

Section 4.1. *Examination of Records; Confidentiality.*

(a) The County and its authorized agents, at any reasonable time on prior notice, may enter and examine the Project and have access to and examine the Company's books and records relating to the Project for the purposes of (i) identifying the Project; (ii) confirming achievement of the Investment Commitment; and (iii) permitting the County to carry out its duties and obligations in its sovereign capacity (such as, without limitation, for such routine health and safety purposes as would be applied to any other manufacturing or commercial facility in the County).

(b) The County acknowledges that the Company may utilize confidential and proprietary processes and materials, services, equipment, trade secrets, and techniques ("Confidential Information") and that disclosure of the Confidential Information could result in substantial economic harm to the Company. The Company may clearly label any Confidential Information delivered to the County pursuant to this Agreement as "Confidential Information." Except as required by law, the County, or any employee, agent, or contractor of the County, shall not disclose or otherwise divulge any labeled Confidential Information to any other person, firm, governmental body or agency. The Company acknowledges that the County is subject to the South Carolina Freedom of Information Act, and, as a result, must disclose certain documents and information on request, absent an exemption. If the County is required to disclose any Confidential Information to a third party, the County will use its best efforts to provide the Company with as much advance notice as is reasonably possible of such disclosure requirement prior to making such disclosure and to cooperate reasonably with any attempts by the Company to obtain judicial or other relief from such disclosure requirement.

Section 4.2. *Assignment.* The Company may assign or otherwise transfer any of its rights and interest in this Agreement on prior written consent of the County, which may be given by resolution, and which consent will not be unreasonably withheld.

Section 4.3. Provisions of Agreement for Sole Benefit of County and Company. Except as otherwise specifically provided in this Agreement, nothing in this Agreement expressed or implied confers on any person or entity other than the County and the Company any right, remedy, or claim under or by reason of this Agreement, this Agreement being intended to be for the sole and exclusive benefit of the County and the Company.

Section 4.4. Severability. If any provision of this Agreement is declared illegal, invalid, or unenforceable for any reason, the remaining provisions of this Agreement are unimpaired, and the Parties shall reform such illegal, invalid, or unenforceable provision to effectuate most closely the legal, valid, and enforceable intent of this Agreement.

Section 4.5. Limitation of Liability.

(a) The County is not liable to the Company for any costs, expenses, losses, damages, claims or actions in connection with this Agreement, except from amounts received by the County from the Company under this Agreement.

(b) All covenants, stipulations, promises, agreements and obligations of the County contained in this Agreement are binding on members of the County Council or any elected official, officer, agent, servant or employee of the County only in his or her official capacity and not in his or her individual capacity, and no recourse for the payment of any moneys or performance of any of the covenants and agreements under this Agreement or for any claims based on this Agreement may be had against any member of County Council or any elected official, officer, agent, servant or employee of the County except solely in their official capacity.

Section 4.6. Indemnification Covenant.

(a) Except as provided in paragraph (d) below, the Company shall indemnify and save the County, its employees, elected officials, officers and agents (each, an "Indemnified Party") harmless against and from all liability or claims arising from the County's execution of this Agreement, performance of the County's obligations under this Agreement or the administration of its duties pursuant to this Agreement, or otherwise by virtue of the County having entered into this Agreement.

(b) The County is entitled to use counsel of its choice and the Company shall reimburse the County for all of its costs, including attorneys' fees, incurred in connection with the response to or defense against such liability or claims as described in paragraph (a) above. The County shall provide a statement of the costs incurred in the response or defense, and the Company shall pay the County within 30 days of receipt of the statement. The Company may request reasonable documentation evidencing the costs shown on the statement. However, the County is not required to provide any documentation which may be privileged or confidential to evidence the costs.

(c) The County may request the Company to resist or defend against any claim on behalf of an Indemnified Party. On such request, the Company shall resist or defend against such claim on behalf of the Indemnified Party, at the Company's expense. The Company is entitled to use counsel of its choice, manage and control the defense of or response to such claim for the Indemnified Party; provided the Company is not entitled to settle any such claim without the consent of that Indemnified Party.

(d) Notwithstanding anything herein to the contrary, the Company is not required to indemnify any Indemnified Party against or reimburse the County for costs arising from any claim or liability (i) occasioned by the acts of that Indemnified Party, which are unrelated to the execution of this Agreement, performance of the County's obligations under this Agreement, or the administration of its

duties under this Agreement, or otherwise by virtue of the County having entered into this Agreement; or (ii) resulting from that Indemnified Party's own negligence, bad faith, fraud, deceit, or willful misconduct.

(e) An Indemnified Party may not avail itself of the indemnification or reimbursement of costs provided in this Section unless it provides the Company with prompt notice, reasonable under the circumstances, of the existence or threat of any claim or liability, including, without limitation, copies of any citations, orders, fines, charges, remediation requests, or other claims or threats of claims, in order to afford the Company notice, reasonable under the circumstances, within which to defend or otherwise respond to a claim.

Section 4.7. 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 and confirmed by United States first-class, registered mail, postage prepaid or (ii) sent by facsimile, and addressed as follows:

if to the County: Richland County, South Carolina
Attn: Director of Economic Development
2020 Hampton Street
Columbia, South Carolina 29204
Phone: 803.576.2043
Fax: 803.576.2137

with a copy to
(does not constitute notice): Parker Poe Adams & Bernstein LLP
Attn: Ray E. Jones
1221 Main Street, Suite 1100 (29201)
Post Office Box 1509
Columbia, South Carolina 29202
Phone: 803.255.8000
Fax: 803.255.8017

if to the Company: North Main Senior, LLC
c/o Integral Development LLC
191 Peachtree Street NE, Suite 4100
Atlanta, Georgia 30303

with a copy to
(does not constitute notice): The Veranda at North Main, LLC
c/o Columbia Empowerment Zone, Inc.
3200 Grand Street
Columbia, South Carolina 29203

with a copy to
(does not constitute notice): Haynsworth Sinkler Boyd, P.A.
Attn: Benton D. Williamson
1201 Main Street, 22nd Floor
Columbia, South Carolina 29201

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

Section 4.8. *Administrative Fees.* The Company will reimburse, or cause reimbursement to, the County for the Administration Expenses in the amount of \$3,000. The Company will reimburse the County for its Administration Expenses on receipt of a written request from the County or at the County's direction, which request shall include a statement of the amount and nature of the Administration Expense. The Company shall pay the Administration Expenses as set forth in the written request no later than 60 days following receipt of the written request from the County. For purposes of this Section, "Administration Expenses" means the reasonable expenses incurred by the County in the negotiation, approval and implementation of the terms and provisions of this Agreement, including reasonable attorneys' fees. Administration Expenses do not include any costs, expenses, including attorneys' fees, incurred by the County (i) in defending challenges to the Fee Payments or Infrastructure Credits brought by third parties or the Company or its affiliates and related entities, or (ii) in connection with matters arising at the request of the Company outside of the immediate scope of this Agreement, including amendments to the terms of this Agreement. The payment by the Company of the County's Administration Expenses shall not be construed as prohibiting the County from engaging, at its discretion, the counsel of the County's choice.

Section 4.9. *Entire Agreement.* This Agreement expresses the entire understanding and all agreements of the Parties with each other, and neither Party is bound by any agreement or any representation to the other Party which is not expressly set forth in this Agreement or in certificates delivered in connection with the execution and delivery of this Agreement.

Section 4.10 *Agreement to Sign Other Documents.* From time to time, and at the expense of the Company, to the extent any expense is incurred, the County agrees to execute and deliver to the Company such additional instruments as the Company may reasonably request and as are authorized by law and reasonably within the purposes and scope of the Act and this Agreement to effectuate the purposes of this Agreement.

Section 4.11. *Agreement's Construction.* Each Party and its counsel have reviewed this Agreement and any rule of construction to the effect that ambiguities are to be resolved against a drafting party does not apply in the interpretation of this Agreement or any amendments or exhibits to this Agreement.

Section 4.12. *Applicable Law.* South Carolina law, exclusive of its conflicts of law provisions that would refer the governance of this Agreement to the laws of another jurisdiction, governs this Agreement and all documents executed in connection with this Agreement.

Section 4.13. *Counterparts.* This Agreement may be executed in any number of counterparts, and all of the counterparts together constitute one and the same instrument.

Section 4.14. *Amendments.* This Agreement may be amended only by written agreement of the Parties.

Section 4.15. *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 4.16. *Termination.* Unless first terminated under any other provision of this Agreement, this Agreement terminates on the expiration of the Credit Term and payment by the Company of any outstanding Net Fee Payment due on the Project pursuant to the terms of this Agreement.

Section 4.17. *Business Day.* If any action, payment, or notice is, by the terms of this Agreement, required to be taken, made, or given on any Saturday, Sunday, or legal holiday in the jurisdiction in which

the Party obligated to act is situated, such action, payment, or notice may be taken, made, or given on the following business day with the same effect as if taken, made or given as required under this Agreement, and no interest will accrue in the interim.

*[TWO SIGNATURE PAGES FOLLOW]
[REMAINDER OF PAGE INTENTIONALLY BLANK]*

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

RICHLAND COUNTY, SOUTH CAROLINA



Chair, Richland County Council

(SEAL)
ATTEST:



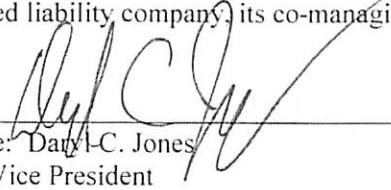
Clerk to Council, Richland County Council

[SIGNATURE PAGE 1 TO INFRASTRUCTURE CREDIT AGREEMENT]

IN WITNESS WHEREOF, Company has caused this Agreement to be executed by its authorized officer(s), effective the day and year first above written.

**NORTH MAIN SENIOR, LLC, A SOUTH
CAROLINA LIMITED LIABILITY COMPANY**

By: INTEGRAL NORTH MAIN, LLC, a Georgia
limited liability company, its co-managing member

By: 
Name: Daniel C. Jones
Its: Vice President

[SIGNATURE PAGE 2 TO INFRASTRUCTURE CREDIT AGREEMENT]

EXHIBIT A

LAND DESCRIPTION

All those certain pieces, parcels or lots of land with the improvements thereon, known as 3700 North Main Street, Columbia, South Carolina being situate, lying and being in the City of Columbia, County of Richland, State of South Carolina, containing **1.873** acres, more or less, and being shown on that certain plat prepared for Integral Development, LLC by Site Design, Inc. dated November 27, 2017 and last revised December 27, 2017.

AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT A POINT LOCATED ON THE EASTERN RIGHT OF WAY OF MAIN STREET (U.S. HWY. 21) AT THE NORTHWESTERN END OF A MITERED CORNER MARKING THE INTERSECTION OF SAID EASTERN RIGHT OF WAY OF MAIN STREET (U.S. HWY 21) AND THE NORTHERN RIGHT OF WAY OF MILLER AVENUE, SAID POINT ALSO BEING LOCATED N 15-51-27 E 15.00 FEET FROM AN IRON PIN OLD 3/4" OPEN TOP LOCATED AT THE INTERSECTION OF SAID RIGHTS OF WAY IF EXTENDED; THENCE RUNNING ALONG SAID EASTERN RIGHT OF WAY OF MAIN STREET (U.S. HWY. 21) N 15-51-27 E 144.55 FEET TO AN IRON PIN OLD 1/2" REBAR; THENCE N 15-38-03 E 156.89 FEET TO POINT LOCATED AT THE SOUTHWESTERN END OF A MITERED CORNER MARKING THE INTERSECTION OF THE EASTERN RIGHT OF WAY OF MAIN STREET (U.S. HWY 21) AND THE SOUTHERN RIGHT OF WAY OF ELMORE STREET; THENCE TURNING AND LEAVING SAID EASTERN RIGHT OF WAY AND RUNNING ALONG SAID MITERED CORNER N 54-44-45 E 31.04 FEET TO A POINT LOCATED AT THE NORTHEASTERN END OF SAID MITERED CORNER, SAID POINT BEING LOCATED ON THE SOUTHERN RIGHT OF WAY OF ELMORE STREET; THENCE TURNING AND RUNNING WITH SAID SOUTHERN RIGHT OF WAY S 86-08-32 E 139.18 FEET TO AN IRON PIN OLD 1-1/2" OPEN TOP; THENCE S 87-41-46 E 64.88 FEET TO IRON PIN OLD 1/2" REBAR AT THE JOINT CORNER OF FJ TUCKER PROPERTY, NOW OR FORMERLY; THENCE TURNING AND LEAVING SAID SOUTHERN RIGHT OF WAY AND RUNNING WITH THE COMMON LINES OF THE TUCKER PROPERTY S 15-07-21 W 122.01 FEET TO AN IRON PIN OLD 1/2" REBAR; THENCE S 15-13-29 W 50.06 FEET TO IRON PIN OLD 1/2" REBAR; THENCE S 87-41-55 E 25.38 TO AN IRON PIN OLD 1/2" REBAR AT THE JOINT CORNER OF 1216 MILLER LLC PROPERTY, NOW OR FORMERLY; THENCE TURNING AND RUNNING WITH THE COMMON LINE OF SAID 1216 MILLER LLC PROPERTY S 00-37-38 W 164.18 FEET TO AN IRON PIN OLD 1/2" REBAR (BENT) LOCATED ON THE NORTHERN RIGHT OF WAY OF MILLER AVENUE, CROSSING OVER AN IRON PIN OLD 1" OPEN TOP AT 161.45 FEET; THENCE TURNING AND RUNNING ALONG SAID NORTHERN RIGHT OF WAY N 85-57-12 W 279.24 FEET TO A POINT LOCATED AT THE SOUTHEASTERN END OF A MITERED CORNER MARKING THE INTERSECTION OF SAID NORTHERN RIGHT OF WAY OF MILLER AVENUE AND THE EASTERN RIGHT OF WAY OF MAIN STREET (U.S. HWY. 21); THENCE LEAVING THE NORTHERN RIGHT OF WAY OF MILLER AVENUE AND RUNNING ALONG SAID MITERED CORNER N 35-02-52 W 18.92 FEET TO THE POINT AND PLACE OF BEGINNING.

Tax Map Numbers: 09209-20-04 and 09209-20-03

EXHIBIT B

DESCRIPTION OF INFRASTRUCTURE CREDIT

The Company is entitled to an Infrastructure Credit equal to 97% of the annual Fee Payment due with respect to the Project for a period of 30 years commencing with the first Fee Payment due with respect to the Project.

EXHIBIT C

FORM OF CREDIT CERTIFICATE

Reference is made to that certain Infrastructure Credit Agreement effective as of _____, 2019 ("*Credit Agreement*"), by and among Richland County, South Carolina ("*County*"), and North Main Senior, LLC ("*Company*"). Each capitalized term not defined herein has the meaning ascribed thereto in the Credit Agreement. Company shall in each respective tax year, submit this Certification to County.

As set forth in Section 2.2 of the Credit Agreement, County has agreed to provide Infrastructure Credits against Fee Payments made by the Company as part of the Project. Pursuant to Section 2.2 of the Credit Agreement, the Company is entitled to an Infrastructure Credit in an amount equal to 97% of the annual Fee Payment due with respect to the Project for a term of 30 years. Pursuant to Section 2.3 of the Credit Agreement, the Company shall be required to pay the Repayment Amount in the event there is an Event of Default occurring under the Restrictive Covenants. The Repayment Amount shall be calculated based on the percentage of occupied dwelling units in the Project which fail to satisfy the Low Income Rental Restrictions divided by the total number of occupied dwelling units in the Project for the prior calendar year.

In accordance with the terms of the Credit Agreement, the undersigned authorized agent of the Company certifies Items 1 through 5 as follows:

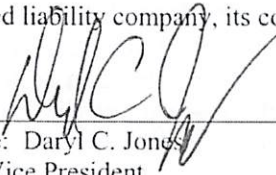
1. For tax year [YEAR], the Company hereby certifies that the Project contains [] occupied units.
2. For tax year [YEAR], the Company hereby certifies that _____ occupied units failed to satisfy the Low Income Rental Restrictions.
3. For tax year [YEAR], the Company received \$ _____ in Infrastructure Credits, which is the amount required to reduce the Company's tax liability \$ _____.
4. Pursuant to Section 2.3 of the Credit Agreement, the Repayment Amount shall be calculated as follows:
Low Income Rental Percentage = _____
Clawback Percentage = 100% - % _____
Repayment Amount = \$ _____ x _____ % = \$ _____
5. For tax year [YEAR], the Company is remitting the Repayment Amount equal to \$ _____ along with this Credit Certificate.

Should the County have a genuine dispute as to the validity or accuracy of the Repayment Amount calculations set forth in this Credit Certificate, the Company agrees to pay County's costs and fees, including its attorneys' fees and costs, associated with the certification, calculation, or adjustment of the Credit, in an amount up to \$250 per year.

IN WITNESS WHEREOF, Company has caused this Agreement to be executed by its authorized officer(s), effective the day and year first above written.

**NORTH MAIN SENIOR, LLC, A SOUTH
CAROLINA LIMITED LIABILITY COMPANY**

By: INTEGRAL NORTH MAIN, LLC, a Georgia
limited liability company, its co-managing member

By: 
Name: Daryl C. Jones
Its: Vice President

[SIGNATURE PAGE 2 TO INFRASTRUCTURE CREDIT AGREEMENT]