9. INFRASTRUCTURE INCENTIVE FOR TOURISM AND RECREATION FACILITIES

The Tourism Infrastructure Admissions Tax Act in Article 27, Chapter 21 of Title 12 allows a portion of the admissions tax collected at a qualifying tourism and recreation facility ("facility") to be remitted to the county or municipality where the facility is located and to the Infrastructure Fund administered by the Coordinating Council for Economic Development ("Council") for making infrastructure improvements.

If a facility meets the requirements of an establishment, the admissions tax will be subject to the provisions of this law for a 15 year benefit period. The amount to be remitted to the county or municipality is 25% of the admissions tax collected at the establishment. An additional 25% of the admissions tax collected at any establishment must be remitted to the Infrastructure Fund. Counties and municipalities located within 5 miles of the establishment may request grants from the Infrastructure Fund, but preference is given to infrastructure that benefits the facility.

To be an establishment, the facility must be:

1. A major tourism or recreation facility. This is a single tourism or recreational facility in which an investment exceeding $20 million is made; or

2. A tourism or recreation facility located in a major tourism or recreation area. This is an area designated by a county or municipality as a designated development area that has one or more tourism or recreation facilities that collect admissions tax where there is a combined investment of at least $20 million.

A tourism or recreation facility can consist of a theme park; an amusement park; a historical, educational or trade museum; a botanical or zoological garden; an aquarium; a cultural center; a theater; a motion picture production studio; a convention center; an arena; a coliseum; an auditorium; a golf course; a spectator or participatory sports facility or any similar establishment that collects admissions tax. Additionally, a "tourism or recreational facility" can be an aquarium or natural history exhibit or museum located within, or contiguous to, an extraordinary retail establishment as described below.

A designated development area must be designated as such by county or municipal ordinance and must include at least one tourism and recreation facility. Such area includes, but is not limited to, a downtown district, a historic district, a waterfront redevelopment area, or redevelopment of a closed military facility. The development area may not exceed 5% of the

total acreage of the municipality or county. A municipality or county may create more than one designated development area, but the combined acreage of all development areas may not exceed 10% of the total acreage of the municipality or county.

To have admissions tax collected at an establishment subject to these provisions, the county or municipality in which an establishment is located must submit a certification application on behalf of the establishment to the Department of Parks, Recreation, and Tourism for approval. The application must be filed within 1 year of the end of the investment period. The investment period is a consecutive 60 month period in which the $20 million investment is made. Once certified, the benefits continue for 15 years.

Additionally, the establishment must request that the Council determine whether the $20 million investment creates a new facility or whether it results in the expansion of an existing facility. If it is determined to be an expansion, then only admissions tax in excess of the average admissions tax collected at the establishment for the 24 months immediately preceding the date the certification application is filed is subject to this statute.

South Carolina Code §12-21-6590 allows the Department of Parks, Recreation, and Tourism to designate up to 4 qualifying facilities as "extraordinary retail establishments." Instead of the admissions tax being subject to the Tourism Infrastructure Admissions Tax Act, a qualifying establishment's sales tax collected is subject to the Act. It is not required to collect admissions tax. An extraordinary retail establishment is a single store located in South Carolina that is located in a county with at least 3.5 million visitors a year or which is located within 2 miles of an interstate highway. It must attract at least 2 million visitors a year with at least 35% of those visitors traveling at least 50 miles to the establishment and it must remit at least $2 million in sales tax each year. Additionally, it must have a capital investment of at least $25 million, including land, building, and site preparation costs and one or more hotels must be built to service the establishment within 3 years of occupancy.

Prior to completion of the "extraordinary retail establishment" the entity operating the establishment and the county in which the establishment is located may request the Department of Parks, Recreation and Tourism to conditionally certify the extraordinary retail establishment. The Department of Parks, Recreation and Tourism may grant this conditional certification based on reasonable projections that the establishment will meet all requirements within 3 years of issuance of a certificate of occupancy for the establishment. Conditional certification provides limited benefits to an extraordinary retail establishment; however, it cannot receive monetary benefits prior to satisfying the requirements of the conditional certification and the provisions contained in the definition of a "tourism and recreational facility."

If the extraordinary retail establishment obtains conditional certification and complies with both the conditional certification and the requirements contained in the definition of a "tourism or recreational facility" then 50% of the sales tax collected by the establishment will be remitted to the county in which the establishment is located and no amounts will be remitted to the Infrastructure Fund administered by the Council.