

AN ORDINANCE

AUTHORIZING THE EXECUTION AND DELIVERY OF A FEE-IN-LIEU OF TAX AGREEMENT BY AND BETWEEN CHARLESTON COUNTY AND REMOUNT VENTURES, LLC, WHEREBY CHARLESTON COUNTY WILL ENTER INTO A FEE-IN-LIEU OF TAXES ARRANGEMENT WITH REMOUNT VENTURES, LLC; PROVIDING FOR PAYMENT BY REMOUNT VENTURES, LLC OF CERTAIN FEES IN LIEU OF AD VALOREM TAXES; AND OTHER MATTERS RELATING THERETO.

WHEREAS, Charleston County, South Carolina (the "County"), acting by and through its County Council (the "County Council") is authorized and empowered under and pursuant to the provisions of Title 12, Chapter 44 of the Code of Laws of South Carolina 1976, as amended (the "FILOT Act"), to designate real and tangible personal property as "economic development property" and to enter into an arrangement which provides for payment in lieu of taxes ("FILOT Payments") for a project qualifying under the FILOT Act; and

WHEREAS, the Space and Air Warfare Systems (SPAWAR) Center Atlantic is a driving force in the Charleston regional economy, providing a \$2.6 billion annual impact and 3,100 local jobs; and

WHEREAS, Remount Ventures, LLC, a South Carolina limited liability company (the "Company") has developed the first phase of the 60-acre Remount Road Business Park (the "Project"), located just across from SPAWAR, with significant input from defense industry experts and features unique, highly specialized high-bay flex space equipped with state-of-the-art telecommunications, by constructing the first building (200,000 square feet developed with a capital investment of over \$20 million) now under lease to Scientific Research Corporation, Inc., Bartling Bay / Three Saints, and Stanley, Inc. – three SPAWAR vendors employing nearly 300 high-tech workers; and

WHEREAS, the Company has proposed a \$35 million expansion of the park that is anticipated to create 600 or more new jobs during the next ten years with a capital investment of nearly \$24 million in the construction of the 105,000 sq. ft. Building Two and the 77,000 sq. ft. Building Three; with additional investment estimated at \$11 million to occur later in additional phases on the remaining 15 acres (collectively, the "Expansion"); during the next twenty years, the Expansion (including only real property improvements) is anticipated to generate approximately \$10.8 million in new property tax revenues; and

WHEREAS, to facilitate the Expansion, the County has agreed to enter into a fee-in-lieu-of-taxes (FILOT) arrangement and provide a special source revenue credit (SSRC) to reimburse the Company for a portion of the infrastructure costs which will

occur with the Expansion; and

WHEREAS, this SSRC benefit would be provided to the Company annually over a 10-year period, subject to several capital investments, job creation, and payroll clawbacks which would diminish or even eliminate benefits if less than the pledged \$35 million in capital investment takes place, or if new job creation lags below the projected 600 new jobs, or if the associated \$30 million in additional payroll does not occur, which benefits were the basis for this agreement. As part of its agreement, the Company has also pledged to pursue the creation of a high technology incubator facility at Remount Road Business Park which would fuel innovation among existing companies, enhance collaboration with SPAWAR, and help spawn new entrepreneurial activity; and

WHEREAS, it is in the public interest, for the public benefit, and in furtherance of the public purposes of the FILOT Act that the County Council provide final approval for qualifying the Project under the FILOT Act;

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

Section 1. Evaluation of the Project. County Council have evaluated the Project on the following criteria based upon the advice and assistance of the South Carolina Department of Revenue and the Board of Economic Advisors:

- (a) the purposes to be accomplished by the Project are proper governmental and public purposes;
- (b) the anticipated dollar amount and nature of the investment to be made; and
- (c) the anticipated costs and benefits to the County.

Section 2. Findings by County Council. Based upon information provided by and representations of the Company, County Council's investigation of the Project, including the criteria described in Section 1 above, and the advice and assistance of the South Carolina Department of Revenue and the Board of Economic Advisors, as required, County Council hereby find that:

- (a) the Project constitutes a "project" as that term is defined in the FILOT Act;
- (b) the Project will serve the purposes of the FILOT Act;
- (c) the Investment by the Company in the Project is anticipated to be approximately \$35,000,000, all to be invested within five (5) years from the end of the property tax year in which the Company and the County execute the Fee Agreement;
- (d) the Project will be located entirely within Charleston County;

- (e) the Project is anticipated to benefit the general public welfare of Charleston County by providing services, employment, recreation, or other public benefits not otherwise adequately provided locally;
- (f) the Project gives rise to neither a pecuniary liability of the County nor a charge against its general credit or taxing power;
- (g) the purposes to be accomplished by the Project are proper governmental and public purposes;
- (h) the inducement of the location of the Project is of paramount importance; and
- (i) the benefits of the Project to the public are greater than the cost to the public.

Section 3. Fee-in-Lieu of Taxes Arrangement. Pursuant to the authority of the FILOT Act, the Project is designated as “economic development property” under the FILOT Act and there is hereby authorized a fee-in-lieu of taxes arrangement with the Company which will provide FILOT Payments to be made based upon a 6% assessment ratio with the millage rate of 273.8 mils to be fixed for the entire 20-year term of the fee-in-lieu of taxes, all as more fully set forth in the Fee-in-Lieu of Tax Agreement between the County and the Company (the “Fee Agreement”).

Section 4. Special Source Revenue Credits. Specifically, the Company would benefit from a property tax millage rate ‘fixed’ at the current rate over the next twenty years, and would receive an SSRC benefit equivalent to 28% of the total FILOT revenues over the twenty-year project term, not to exceed \$3 million.

Section 5. Execution of the Fee Agreement. The form, terms, and provisions of the Fee Agreement presented to this meeting and filed with the Clerk of the County Council be and hereby are approved, and all of the terms, provisions, and conditions thereof are hereby incorporated herein by reference as if such Fee Agreement were set out in this Ordinance in its entirety. The Chairman of the County Council and the Clerk of the County Council be and they are hereby authorized, empowered, and directed to execute, acknowledge, and deliver the Fee Agreement in the name and on behalf of the County, and thereupon to cause the Fee Agreement to be delivered to the Company. The Fee Agreement is to be in substantially the form now before this meeting and hereby approved, or with any changes therein as shall not materially adversely affect the rights of the County thereunder and as shall be approved by the County Attorney and the officials of the County executing the same, their execution thereof to constitute conclusive evidence of their approval of all changes therein from the form of Fee Agreement now before this meeting.

Section 6. Miscellaneous.

(a) The Chairman and all other appropriate officials of the County are hereby authorized to execute, deliver, and receive any other agreements and documents as may be required by the County in order to carry out, give effect to, and consummate the transactions authorized by this Ordinance.

(b) This Ordinance shall be construed and interpreted in accordance with the laws of the State of South Carolina.

(c) This Ordinance shall become effective immediately upon approval following third reading by the County Council.

(d) The provisions of this Ordinance are hereby declared to be severable and if any section, phrase, or provision shall for any reason be declared by a court of competent jurisdiction to be invalid or unenforceable, that declaration shall not affect the validity of the remainder of the sections, phrases, and provisions hereunder.

(e) All ordinances, resolutions, and parts thereof in conflict herewith are, to the extent of the conflict, hereby repealed.

CHARLESTON COUNTY COUNCIL
Teddie E. Pryor, Sr., Chairman

ATTEST:
Beverly T. Craven, Clerk

First Reading September 7, 2010
Second Reading September 21, 2010
Public Hearing October 5, 2010
Third Reading October 5, 2010