

AN ORDINANCE

AUTHORIZING THE EXECUTION AND DELIVERY OF A FEE-IN-LIEU OF TAX AGREEMENT BY AND AMONG CHARLESTON COUNTY, STONEY LADSON, LLC, (THE “SPONSOR”) AND SEA PAC, LLC (THE “SPONSOR AFFILIATE”) WHEREBY CHARLESTON COUNTY WILL ENTER INTO A FEE-IN-LIEU OF TAX ARRANGEMENT WITH THE SPONSOR AND SPONSOR AFFILIATE, AND PROVIDING FOR PAYMENT BY SPONSOR AND SPONSOR AFFILIATE OF CERTAIN FEES-IN-LIEU OF *AD VALOREM* TAXES; PROVIDING FOR THE ALLOCATION OF FEES-IN-LIEU OF TAXES PAYABLE UNDER THE AGREEMENT FOR THE ESTABLISHMENT OF A MULTI-COUNTY INDUSTRIAL/BUSINESS PARK; AND OTHER MATTERS RELATING THERETO.

WHEREAS, Charleston County, South Carolina (the “County”) would like to enter into a Fee-in-Lieu of Tax Agreement with Stoney Ladson, LLC (referred to herein as the “Sponsor”) and Sea Pac, LLC (referred to herein as the “Sponsor Affiliate”), as the Sponsor and Sponsor Affiliate have expressed their intent to the County to make a capital investment in Charleston County and to hire full time employees in Charleston County, i.e., the project;

WHEREAS, as a result of the Sponsor and Sponsor Affiliate’s desire to undergo the project, the Sponsor and Sponsor Affiliate have asked the County to enter into a Fee-in-Lieu of Tax Agreement by and among the County, the Sponsor and Sponsor Affiliate dated as of October 27, 2015 in order to encompass the terms of the project;

WHEREAS, 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 payments-in-lieu of taxes (“Negotiated FILOT Payments”) for a project qualifying under the FILOT Act; and

WHEREAS, the County, acting by and through the County Council, is further authorized and empowered under and pursuant to the provisions of Title 4, Chapter 1 of the Code of Laws of South Carolina 1976, as amended (the “MCIP Act”) to provide for payments-in-lieu of taxes with respect to property located in a multi-county business or industrial park created under the MCIP Act; and to create, in conjunction with one or more other counties, a multi-county park in order to afford certain enhanced tax credits to such investors; and

WHEREAS, the Sponsor and Sponsor Affiliate propose to develop a facility in Charleston County by acquiring, constructing, equipping and furnishing machinery, equipment and other real and personal property (the “Negotiated FILOT Project”) which the Sponsor and Sponsor Affiliate have represented will likely consist of a capital investment of approximately \$32,000,000.00 and creating employment for approximately 50 new, full time employees; and

WHEREAS, the Negotiated FILOT Project is located entirely within Charleston County and will be included in and subject to the multi-county park and fee-in-lieu of tax arrangements as described herein; and

WHEREAS, the County has made specific proposals, including proposals to offer certain economic development incentives set forth herein, for the purpose of inducing the Sponsor and Sponsor Affiliate to invest its funds to acquire and equip the Negotiated FILOT Project (the “Incentives”); and

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

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

Section 1. Evaluation of the Negotiated FILOT Project. County Council has evaluated the Negotiated FILOT Project on the following criteria and based upon the advice and assistance of the South Carolina Department of Commerce and the South Carolina Department of Revenue:

- (a) whether the purposes to be accomplished by the Negotiated FILOT 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 Sponsor and Sponsor Affiliate, County Council’s investigation of the Negotiated FILOT Project, including the criteria described in Section 1 above, and the advice and assistance of the South Carolina Department of Commerce and the South Carolina Department of Revenue, as required, County Council hereby finds that:

- (a) the Negotiated FILOT Project constitutes a “project” as that term is defined in the FILOT Act;
- (b) the Negotiated FILOT Project will continue to serve the purposes of the FILOT Act;
- (c) The investment by the Sponsor and Sponsor Affiliate in the project is anticipated to be approximately \$32,000,000.00 to be invested within five (5) years from the end of the property tax year in which the Sponsor, Sponsor Affiliate and the County execute the FILOT Agreement (as defined herein) and to create employment for approximately 50 new, full time employees.

- (d) the Negotiated FILOT Project will be located entirely within the County;
- (e) the Negotiated FILOT Project will benefit the general public welfare of the County by providing services, employment, recreation or other public benefits not otherwise adequately provided locally;
- (f) the Negotiated FILOT Project will not give rise to a pecuniary liability of the County or any municipality nor a charge against its general credit or taxing power of the County or any municipality;
- (g) the purposes to be accomplished by the Negotiated FILOT Project are proper governmental and public purposes;
- (h) the inducement of the location of the Negotiated FILOT Project is of paramount importance; and
- (i) the benefits of the Negotiated FILOT Project to the public are greater than the costs to the public.

Section 3. Fee-in-Lieu of Taxes Arrangement. Pursuant to the authority of the FILOT Act, the Negotiated FILOT 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 Sponsor and Sponsor Affiliate which will provide Negotiated FILOT Payments to be made with respect to the Negotiated FILOT Project based upon a 6% assessment ratio and a millage of rate of 192.3 mills, all as more fully set forth in the Fee-in-Lieu of Tax Agreement by and among the County, the Sponsor and Sponsor Affiliate (the “FILOT Agreement”).

Section 4. Execution of the Fee Agreement. The form, terms and provisions of the FILOT 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 FILOT 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 FILOT Agreement in the name and on behalf of the County, and thereupon to cause the FILOT Agreement to be delivered to the Sponsor and Sponsor Affiliate. The FILOT 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 FILOT Agreement now before this meeting.

Section 5. 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; and

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

Section 6. Allocation of MCIP FILOT Revenues. (a) By separate ordinance (the “MCIP Ordinance”) of the County Council, the County, in cooperation with Colleton County (the “Partner County”), shall designate the site of the Negotiated FILOT Project as a multi-county park pursuant to Article VIII, Section 13 of the Constitution of South Carolina, the MCIP Act, and the terms of the Agreement for the Establishment of Multi-County Industrial/Business Park (the “MCIP Agreement”). In the FILOT Agreement, the County will agree to maintain such designation for a term of at least 20 years.

(b) Pursuant to the terms of the MCIP Act and the MCIP Agreement, the County hereby provides that for 20 years, commencing the first year in which property that is a part of the project will be placed in service, the annual allocation of the fee-in-lieu of *ad valorem* taxes revenue generated by the property and payable to the County in accordance with the terms of the MCIP Agreement (the “MCP FILOT”), after deducting any amounts distributed to the Partner County, will be distributed to the County and the Partner County in the same manner as set forth in greater detail in the MCIP Agreement.

[Signature Page to Follow]

CHARLESTON COUNTY, SOUTH CAROLINA

By: _____
J. Elliott Summey
Council Chairman, Charleston County Council
Charleston County, South Carolina

ATTEST:

Beverly Craven
Clerk of Council, Charleston County Council
Charleston County, South Carolina

First Reading: August 25, 2015
Second Reading: September 15, 2015
Public Hearing: October 27, 2015
Third Reading: October 27, 2015