

AN ORDINANCE
AUTHORIZING THE EXECUTION AND DELIVERY OF AN
AMENDMENT TO THE PAYMENTS IN LIEU OF TAX
AGREEMENT BY AND BETWEEN CHARLESTON COUNTY,
SOUTH CAROLINA AND FERRY WHARF COTTAGES, LLC, TO
PROVIDE FOR ADDITIONAL PROPERTY TO BE SUBJECT
THERE TO; AND OTHER MATTERS

WHEREAS, Patriots Point Development Authority (hereinafter, the “*PPDA*” and/or “*Landlord*”) is the owner of certain real property located at Patriot’s Point in the Town of Mt. Pleasant, County of Charleston, State of South Carolina, designated by TMS No. 517-00-00-118, also known as Parcel E and described in Exhibit A to the First Amendment, as hereinafter defined (being hereinafter referred to as “*Parcel E*”); and

WHEREAS, the development on the Patriot’s Point parcels consists of a combination of hotel, office, retail and related uses; and

WHEREAS, Ferry Wharf IV, LLC, a South Carolina limited liability company (“*FW IV*”) is currently tenant, by assignment and assumption, under that certain Lease Agreement dated January 1, 1997 by PPDA, as landlord, with Gulf Stream Capital Associates, L.L.C., as tenant, which interest of tenant was assigned by Gulf Stream Capital Associates, L.L.C. to Charleston Harbor Partners IV Limited Partnership, as tenant, as evidenced by a Short Form Lease for Parcel E dated January 1, 1997, recorded in Book C292, at Page 805 on October 27, 1997, as amended by that certain First Amendment to Lease for Parcel E, dated October 14, 1997, recorded in Book D292, at Page 113 on October 27, 1997, as further amended by Second Amendment to Lease Agreement dated April 20, 2000; as further amended by Third Amendment to Lease Agreement dated April 11, 2001, as assigned by an Assignment of Lease by Charleston Harbor Partners IV Limited Partnership to Ginn-LA Fund IV Charleston PP Land, LLC dated December 17, 2004, recorded in Book X519, at Page 634 on December 20, 2004 as further amended by a Settlement Agreement and Lease Amendment dated May 8, 2008, recorded in Book U664, at Book 828 on July 16, 2008, as further amended by Fourth Amendment to Lease Agreement for Parcel E dated May 8, 2008, recorded in Book U 664, at Page 859 on July 16, 2008, as assigned by that Assignment of Lease by and between LRA Charleston PP Land, LLC and FW IV, dated January 20, 2016, and recorded on January 20, 2016, in Book 0530, at Page 005 in the RMC Office for Charleston County (said Lease Agreement, as amended, being hereinafter referred to as the “*Parcel E Lease*”), whereby Landlord leases to FW IV and FW IV leases from Landlord Parcel E; and

WHEREAS, Ferry Wharf Cottages, LLC, a South Carolina limited liability company (“*FW Cottages*”), as party by assignment and assumption, and Charleston County, South Carolina (the “*County*”) entered into that certain “*Agreement*” (as assigned, hereinafter, the “*PILOT Agreement*,” a copy of which is attached to the First Amendment as Exhibit B), with respect to property known as

Parcel A-1 (being hereinafter referred to as “*Parcel A-1*”), lying adjacent to Parcel E, which Parcel A-1 is owned by the PPDA and leased to FW Cottages, by assignment and assumption (as assigned and amended, the “*Parcel A-1 Lease*”); and

WHEREAS, by the County’s Ordinance No. 1075, enacted October 20, 1998, the County authorized the execution and delivery of the PILOT Agreement; and

WHEREAS, the PILOT Agreement provides, among other things, that: (A) the County would provide all customary County services to FW Cottages, as the tenant and occupant of Parcel A-1, including but not limited to emergency medical services, mosquito abatement, and hazardous material response expertise; and (B) despite the County’s agreement to provide such services: (i) the County would not collect any ad valorem real property taxes for Parcel A-1 for the years preceding the date of the PILOT Agreement, and (ii) in lieu of collecting ad valorem real property taxes on Parcel A-1 for the year in which the PILOT Agreement was executed and the remaining years of the term of the Parcel A-1 Lease, the tenant under the Parcel A-1 Lease would make an annual PILOT Payment, as defined and to be calculated as specifically set forth in the PILOT Agreement; and

WHEREAS, the County, FW Cottages and FW IV agree that the PILOT Agreement and this Amendment do not in any manner limit the County’s ability to impose any fees, assessments, licenses and taxes other than ad valorem real property taxes; and

WHEREAS, the County, FW Cottages and FW IV now desire to amend the PILOT Agreement to add FW IV as a party thereto and to make Parcel E, improvements made by FW IV thereon and related personal property of FW IV subject to the PILOT Agreement.

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

Section 1. Authorization to Execute and Deliver First Amendment to PILOT Agreement.

The Chair of County Council, or in the Chair’s absence, the Vice-Chair, is authorized and directed to execute and deliver, and the Clerk to County Council is authorized and directed to attest the same, an amendment to the PILOT Agreement (the “*First Amendment*”), which First Amendment adds FW IV as a party thereto and makes Parcel E, improvements made by FW IV thereon and related personal property of FW IV subject to the PILOT Agreement. The First Amendment is attached to this Ordinance as Exhibit A in substantially final form, with such changes as may be required or deemed appropriate by the Chair, or Vice-Chair in the Chair’s absence, with the advice of counsel.

Section 2. Further Acts. The Chair, or the Vice-Chair in the Chair’s absence, and the Clerk to County Council are authorized to execute and deliver such other closing and related instruments, documents, certificates and other papers as are necessary to effect the intent and delivery of the First Amendment.

Section 3. General Repealer. The County Council repeals any part of any ordinance or resolution that conflicts with any part of this Ordinance.

Section 4. 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 deemed separable.

This Ordinance takes effect and is in full force only after the County Council has approved it following three readings and a public hearing.

APPROVED, as of this 10th day of January 2017.

CHARLESTON COUNTY, SOUTH CAROLINA

J. Elliott Summey, Chair of County Council

ATTEST:

Beverly Craven, Clerk to County Council

READINGS:

First Reading: December 6, 2016

Second Reading: December 15, 2016

Public Hearing: January 10, 2017

Third Reading: January 10, 2017

EXHIBIT A
FIRST AMENDMENT TO THE PILOT AGREEMENT