

AN ORDINANCE

AUTHORIZING THE EXECUTION AND DELIVERY OF A SPECIAL SOURCE REVENUE CREDIT AGREEMENT BY AND BETWEEN CHARLESTON COUNTY AND NCGS, INC. (THE "COMPANY"), WHEREBY CHARLESTON COUNTY WILL ENTER INTO A SPECIAL SOURCE REVENUE CREDIT AGREEMENT WITH THE COMPANY; AND ALLOWING FOR THE PROVISION OF CERTAIN SPECIAL SOURCE REVENUE CREDITS TO THE COMPANY; PROVIDING FOR THE ALLOCATION OF FEE-IN-LIEU OF TAX PAYMENTS PAYABLE UNDER THE AGREEMENT FOR DEVELOPMENT FOR A JOINT COUNTY INDUSTRIAL PARK; AND OTHER MATTERS RELATING THERETO.

WHEREAS, Charleston County, South Carolina (the "County") would like to enter into a Special Source Revenue Credit Agreement with NCGS, Inc., a South Carolina corporation (the "Company"), as the Company has expressed its 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 Company's desire to undergo the project, the Company has asked the County to enter into a Special Source Revenue Credit Agreement by and between the County and the Company in order to encompass the terms of the project and certain incentives to be provided to the project;

WHEREAS, the County, acting by and through its County Council (the "County Council") is authorized by Title 4 of the Code of Laws of South Carolina 1976, as amended (the "Code"), to provide special source revenue financing, secured by and payable solely from revenues of the County derived from payments in-lieu of taxes pursuant to Article VIII, Section 13(D) of the South Carolina Constitution, and Sections 4-1-170, 4-1-175 and 4-29-68 of the Code (collectively, the "Act", as defined herein) for the purpose of defraying the cost of designing, acquiring, constructing, improving, or expanding, among other things, the infrastructure serving the County or the project, and for improved or unimproved real estate and personal property including machinery and equipment used in the operation of a manufacturing or commercial enterprise in order to enhance the economic development of the County; and

WHEREAS, the County, acting by and through the County Council, is further authorized and empowered under and pursuant to the provisions of the 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 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 Company proposes to develop a corporate headquarters facility in Charleston County by acquiring, constructing, equipping and furnishing machinery, equipment and other real and personal property (the "Project") which the Company has represented will likely consist of a capital investment of approximately Six Million Four Hundred Fifty-Three Thousand Dollars (\$6,453,000.00) and the creation of approximately fifty (50) new jobs in the County; and

WHEREAS, the Project is located entirely within Charleston County and will be included in and subject to the multi-county park and Special Source Revenue Credit 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 Company to invest its funds to acquire and equip the Project (the "Incentives"); and

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

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

Section 1. Evaluation of the Project. County Council has evaluated the 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 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 Commerce and the South Carolina Department of Revenue, as required, County Council hereby finds that:

- (a) the Project will serve the purposes of the Act;
- (b) the investment by the Company in the Project is anticipated to be approximately Six Million Four Hundred Fifty-Three Thousand Dollars (\$6,453,000.00) to be invested within five (5) years from the end of the property tax year in which the Company and the County execute the SSRC Agreement (as defined herein).
- (c) the Project will be located entirely within the County;
- (d) the Project will benefit the general public welfare of the County by providing services, employment, recreation or other public benefits not otherwise adequately provided locally;
- (e) the 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;
- (f) the purposes to be accomplished by the Project are proper governmental and public purposes;
- (g) the inducement of the location of the Project is of paramount importance; and
- (h) the benefits of the Project to the public are greater than the costs to the public.

Section 3. Special Source Revenue Credit Arrangement. Pursuant to the authority of the Act, there is hereby authorized a Special Source Revenue Credit arrangement with the Company which will provide Special Source Revenue Credits to be made with respect to certain portions of the Project based upon an amount of 50% of each annual fee payment pursuant to the Park Agreement (as defined herein) during the first twenty (20) years of the term of the SSRC Agreement (as defined herein), but not to exceed the aggregate amount of Fifty Thousand Dollars (\$50,000.00), as more fully set forth in the Special Source Revenue Credit Agreement by and between the County and the Company (the "SSRC Agreement").

Section 4. Execution of the SSRC Agreement. The form, terms and provisions of the SSRC 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 SSRC Agreement were set out in this Ordinance in its entirety. The Chair 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 SSRC Agreement in the name and on behalf of the County, and thereupon to cause the SSRC Agreement to be delivered to the Company. The SSRC Agreement is to be in substantially the form now before the meeting at which this Ordinance receives third reading 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 SSRC Agreement now before this meeting.

Section 5. Miscellaneous.

- (a) The Chair 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 Revenues.

By separate ordinance of the County Council, the County, in cooperation with Colleton County (the "Partner County"), shall designate the site of the Project as a multi-county park pursuant to Article VIII, Section 13 of the Constitution of South Carolina (the "Multi-County Park Act"), the Act and the terms of the Agreement for the Establishment of Multi-County Industrial/Business Park for Properties Located in a Redevelopment Project Area, dated December 6, 2016,

between the County and Colleton County, South Carolina, as amended (the "Park Agreement"). The County will agree to maintain such designation for a term of at least twenty (20) years; and

(b) Pursuant to the terms of the Multi-County Park Act and the Park Agreement, the County hereby provides that for the term of the SSRC Agreement, commencing with the first tax year in which Fee Payments (as defined in the Park Agreement) are generated by the Project and payable to the County, Fee Payments will be distributed in accordance with the terms of the Park Agreement as follows:

(i) After deducting any amounts distributed to the Partner County in accordance with the Park Agreement, to the County an amount equal to the total Special Source Revenue Credits to be provided in such year pursuant to Section 3 hereof; and

(ii) After making the allocations under paragraph (i) of this Section, the balance is to be distributed among the taxing districts in Charleston County in accordance with the applicable provisions of Section 7 of the Park Agreement.

CHARLESTON COUNTY, SOUTH CAROLINA

By: _____
Name: A. Victor Rawl
Title: Chair, Charleston County Council
Charleston County, South Carolina

ATTEST:

Name: Beverly Craven
Title: Clerk of Council, Charleston County Council
Charleston County, South Carolina

First Reading: April 25, 2017
Second Reading: May 9, 2017
Public Hearing: May 23, 2017
Third Reading: May 23, 2017