

ORDINANCE

AUTHORISING THE EXECUTION AND DELIVERY OF A FEE-IN-LIEU OF TAX AGREEMENT BETWEEN CHARLESTON COUNTY AND COLONY CRAFT BEVERAGE COMPANY, LLC, WHEREBY CHARLESTON COUNTY WILL ENTER INTO A FEE-IN-LIEU OF TAXES ARRANGEMENT WITH COLONY CRAFT BEVERAGE COMPANY, LLC; PROVIDING FOR PAYMENT BY COLONY CRAFT BEVERAGE COMPANY, 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 (“Negotiated FILOT Payments”) for a project qualifying under the FILOT Act; and

WHEREAS, the County, acting by and through the County Council, is authorized and empowered under and pursuant to the provisions of Title 4, Chapter 1 of the Code (the “MCIP Act”), to provide for payments in lieu of taxes (“PILOT Payments”) with respect to property situated or having a situs in a multi-county business or industrial park created under the MCIP Act to provide certain enhanced tax credits to such investors; and

WHEREAS, Colony Craft Beverage Company, LLC (the “Company”), intends to expand its existing distillery operations in Charleston County (the “Project”) by acquiring, constructing, furnishing, and equipping a 22,400 square foot production and tasting facility; the Project is to be located at 311 Huger Street in the City of Charleston (the “Project Site”); and

WHEREAS, the Project when completed will represent an anticipated “investment” (as defined in the FILOT Act) (the “Investment”) by the Company of not less than \$1,350,000 in real property and real property improvements and not less than \$1,650,000 in new machinery and equipment to be located at the Project Site, in addition to the approximately \$550,000 capital investment previously made by the Company in Charleston County; and

WHEREAS, the County has been advised that upon the completion of the Project, the Project is anticipated to employ approximately 42 to 45 full-time employees, in addition to the current four employees, at the Company’s existing facility; and

WHEREAS, the County, with the consent of the City of Charleston (the “Municipality”), is authorized to include the site of the Project Site within a multi-county industrial and business park pursuant to the MCIP; and

WHEREAS, the Project is located entirely within Charleston County and within the incorporated limits of the Municipality 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 Company to invest its funds to expand its operations in Charleston County (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 final approval for qualifying the Project under the FILOT Act for the Incentives;

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 any advice and assistance of the South Carolina Department of Revenue and the Revenue and Fiscal Affairs Office, as necessary:

- (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 any advice and assistance of the South Carolina Department of Revenue and the Revenue and Fiscal Affairs Office, as necessary, 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 and the MCIP Act;
- (c) the Investment by the Company in the Project will be approximately \$3,000,000, all to be invested within the “investment period” (as defined in the FILOT Act); and the Company will employ 42 to 45 new full-time employees at the Project upon the completion of the Project;
- (d) the Project will be located entirely within Charleston County and the Municipality and is anticipated to be located in the Park created pursuant to the MCIP Act;
- (f) the Project is anticipated to benefit the general welfare of Charleston County and the Municipality by providing services, employment, or other public benefits not otherwise adequately provided locally;
- (g) the Project gives rise to neither a pecuniary liability of the County or the Municipality nor a charge against either’s general credit or taxing power;

- (h) the purposes to be accomplished by the Project are proper governmental and public purposes;
- (i) the inducement of the location of the Project is of paramount importance; and
- (j) 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 authorised a fee-in-lieu of taxes arrangement with the Company which will provide Negotiated FILOT Payments to be made with respect to the Project based upon a 6% assessment ratio with the millage rate which is the lower of (a) the cumulative property tax millage rate levied on behalf of all taxing entities within which the Project is located on June 30 of the year preceding the calendar year in which the FILOT Agreement (as defined below) is executed or (b) the cumulative property tax millage rate levied on behalf of all taxing entities within which the Project is located on June 30 of the calendar year in which the FILOT Agreement is executed, such rate 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 “FILOT Agreement”). The FILOT Agreement shall be a “Fee Agreement” within the meaning of Section 12-44-30(10) of the FILOT Act.

Section 4. Multi-County Park Incentive.

By separate ordinance (the “MCIP Ordinance”) of the County Council, the County, in cooperation with Colleton County (the “Partner County”) and with consent of the Municipality, will designate the Project Site as a multi-county business park pursuant to Article VIII, Section 13 of the South Carolina Constitution, the MCIP Act, and the terms of the Agreement for the Establishment of a Multi-County Industrial/Business Park (the “MCIP Agreement”).

Section 5. Execution of the FILOT Agreement. The form, terms, and provisions of the FILOT Agreement presented to the meeting at which this Ordinance received third reading 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 and directed to execute 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 Company. The FILOT Agreement is to be in substantially the form before the meeting of County Council at which this Ordinance received third reading and hereby approved, or with any changes therein as shall not materially adversely affect the rights of the County thereunder, upon the advice of legal counsel, by 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 presented to said 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, SOUTH CAROLINA

By: _____
Chairman, County Council of
Charleston County, South Carolina

ATTEST:

Clerk to County Council
Charleston County, South Carolina

First Reading: July 30, 2019
Second Reading: August 20, 2019
Public Hearing: September 24, 2019
Third Reading: October 8, 2019