

STATE OF SOUTH CAROLINA)
)
COUNTY OF DORCHESTER)

ORDINANCE NO. 18-08

AN ORDINANCE AUTHORIZING PURSUANT TO TITLE 12, CHAPTER 44 OF THE CODE OF LAWS OF SOUTH CAROLINA 1976, AS AMENDED, THE EXECUTION AND DELIVERY OF A FEE-IN-LIEU OF AD VALOREM TAXES AGREEMENT, BY AND BETWEEN DORCHESTER COUNTY, SOUTH CAROLINA AND EVERRIS NA INC, AS SPONSOR; TO AMEND AN EXISTING AMENDED AND RESTATED AGREEMENT FOR DEVELOPMENT OF JOINT COUNTY INDUSTRIAL PARK; AND OTHER RELATED MATTERS.

WHEREAS, Dorchester County, South Carolina (the "County"), acting by and through its County Council (the "County Council") is authorized (i) by Title 12, Chapter 44 of the Code of Laws of South Carolina 1976, as amended (the "Act") to enter into agreements with qualifying companies to encourage investment in projects constituting economic development property through which the economic development of the State will be promoted by inducing new and existing manufacturing and commercial enterprises to locate and remain in the State and thus utilize and employ manpower and other resources of the State and to covenant with such industry to accept certain fee payments in lieu of *ad valorem* taxes ("FILOT") with respect to such investment; (ii) to create, pursuant to Article VIII, Section 13 of the South Carolina Constitution ("Article VIII") and Section 4-1-170 of Title 4, Chapter 1 of the Code of Laws of South Carolina 1976, as amended, (the "MCIP Act") multi-county industrial parks with one or more contiguous counties and, in its discretion, include within the boundaries of these parks the property of qualifying industries, and under the authority of Article VIII and the MCIP Act the County has created a multi-county park with Orangeburg County, South Carolina ("Park") through that "Amended and Restated Agreement for Development of Joint County Industrial Park" as amended (the "Park Agreement") dated April 19, 2010; and (iii) to make and execute contracts of the type hereinafter described pursuant to Section 4-9-30 of the Code of Laws of South Carolina 1976, as amended; and

WHEREAS, Everris NA Inc., a California corporation, along with any other existing, or to-be-formed or acquired subsidiaries, or affiliated or related entities, as Sponsor (collectively, "Company"), contingent upon satisfaction of certain commitments made by and on behalf of the County, as set forth herein and to be further set forth in future agreements, and, to the extent allowed by law, plans to expand a manufacturing facility in the County through the acquisition, lease, construction, and purchase of certain land, including the Project Property (defined below), buildings, furnishings, fixtures, apparatuses, and equipment (the "Project"), which will result in approximately \$3,200,000 in new investment in real and personal property in the County ("Investment") and the creation of approximately 25 jobs in the County; and

WHEREAS, by its resolution adopted on April 16, 2018, the County identified the Project, as required by the Act; and

WHEREAS, the Project will comprise one or more parcels of real property or a portion thereof within such tax map parcels bearing Tax Map Numbers 122-00-00-052 with improvements thereon, a description of which is set forth on the attached Exhibit A ("Project Property"); and

WHEREAS, the County desires to enlarge the boundaries of Park to include the Project Property and to ensure that the Project Property remains in the Park or any other multi-county park created pursuant to Article VIII for no less than the duration of the Fee Agreement; and

WHEREAS, the County desires that the Project Property remain in the Park for no less than the duration of the Fee Agreement; and

WHEREAS, Section 3(H) of the Park Agreement provides, in part, that unless otherwise expressly set forth in the Park Agreement or an amendment or modification to the Park Agreement, the term during which property is to be included in the Park shall automatically end on December 31 of the tenth (10th) year after the initial year in which such property is included in the Park; and

WHEREAS, the County and Orangeburg County, having determined that an extended period of time, beyond the 10-year period described above, for inclusion of the Project Property in the Park, would promote economic development and thus provide additional employment and investment opportunities within said counties, have agreed to enter into an Amendment of the Amended and Restated Agreement for Development of Joint County Industrial Park (the "Amendment") to effect such matters, as set forth in greater detail in the form of the Amendment which is presented to this meeting, and which Amendment is to be dated as of such date as the County and Orangeburg County may agree; and

WHEREAS, in connection with the Project, the Company has requested the County to enter into incentive agreements, to the extent and subject to the conditions provided in those agreements, to establish the commitments of (i) the Company and any Sponsor Affiliate(s) to make the Investment; and (ii) the County to provide certain incentives; and

WHEREAS, the County has determined: (i) to offer a FILOT arrangement and enter into a fee-in-lieu of *ad valorem* taxes agreement with the Company and, as applicable, any Sponsor Affiliate(s), the form of which is attached as **Exhibit B** ("Fee Agreement"), but with the principal terms as follows: 20-year, 6.0% assessment ratio, and a fixed millage rate equal to that millage rate in effect at the Project Property, for all taxing entities, on June 30, 2017, which the parties hereto believe to be .3316 for the entire term of the FILOT arrangement; and (ii) any other incentives further set forth in the Fee Agreement attached to this Ordinance (collectively, the "Incentives"); and

WHEREAS, the state of South Carolina, through its Coordinating Council for Economic Development ("CCED"), has or is expected to approve a monetary grant for the benefit of the Project in the County ("State Grant"), the funds of which would be received and administered by the County, as grantee, for the benefit of the Project; and

WHEREAS, County Council has determined (i) to enter into any necessary agreements with the CCED or the Company, including but not limited to a grant award agreement and a performance agreement ("State Grant Agreements"); and (ii) to accept, receive, and administer the State Grant for the benefit of the Project in the County; and

WHEREAS, Carolina Trade Zone, LLC (the "Sponsor Affiliate") plans to participate in the Investment in the Project and desires to be approved as a Sponsor Affiliate (as that term is defined in the Fee Agreement) pursuant to section 12-44-130(A) of the Act; and

WHEREAS, the parties recognize and acknowledge that the Company would not otherwise locate the Project in the County but for the delivery of the Incentives.

NOW, THEREFORE, BE IT ORDAINED BY THE DORCHESTER COUNTY COUNCIL DULY ASSEMBLED THAT:

Section 1. Findings. The County hereby finds and affirms, based on information provided by the Company: (i) the Project is anticipated to benefit the general public welfare of the County by providing services, employment, recreation, or other public benefits not otherwise adequately provided locally; (ii) the Project gives rise to no pecuniary liability of the County or any incorporated municipality and to no charge against its general credit or taxing power; (iii) the purposes to be accomplished by the Project are proper governmental and public purposes; and (iv) the benefits of the Project to the public are greater than the costs to the public; and (v) the Project will provide a substantial public benefit to the County.

Section 2. Authorization to Execute and Deliver Fee Agreement. The form, terms, and provisions of the Fee Agreement presented to this meeting and filed with the Clerk to County Council are hereby approved, and all of the terms, provisions, and conditions thereof are hereby incorporated herein by reference as if the Fee Agreement was set out in this Ordinance in its entirety. The Chairman of County Council and the Clerk to County Council be and they are hereby authorized, empowered, and directed to execute, acknowledge, and deliver the Fee Agreement in the name of and on behalf of the County. The Fee Agreement to be in substantially the form now before this meeting and hereby approved, or with such changes therein as shall not materially adversely affect the rights of the County thereunder and as shall be approved by the officials of the County executing the same upon the advice of the County Attorney, their execution thereof to constitute conclusive evidence of their approval of any and all changes or revisions therein from the form of Fee Agreement now before this meeting.

Section 3. Authorization to Receive and Administer the State Grant and Execute and Deliver Agreements Related Thereto. The County Council authorizes the Chair of the County Council, the County Administrator, other County staff, and the County Attorney, along with any designees and agents who any of these officials deems necessary and proper, in the name of and on behalf of the County (each an "Authorized Individual"), to take whatever further actions, and enter into whatever further agreements, including the State Grant Agreements, as any Authorized Individual deems to be reasonably necessary and prudent to accept and receive the State Grant and to thereafter administer the funds of the State Grant for the benefit of the Project in the County.

Section 4. Inclusion and Maintenance of Project in the Park. The expansion of the Park boundaries to include the Project Property, as described on Exhibit A, within the Park is hereby authorized. The County Council Chairman is hereby authorized to execute and deliver on behalf of the County an amendment to the Park Agreement in substantially the form attached hereto as Exhibit C. The County Council shall ensure that the Project is incorporated into and will remain in the Park (or a successor multi-county industrial park) for no less than the term of the Fee Agreement.

Section 5. Approval of Sponsor Affiliate. Pursuant to Section 12-4-130(A) the participation by the Sponsor Affiliate in the Investment as contemplated by the Act and the Fee Agreement is hereby approved.

Section 6. No Recapitulation Required. Pursuant to Section 12-44-55(B) of the Act, the County hereby agrees that no recapitulation information, as set forth in Section 12-44-55(A) of the Act is required to be provided by the Company in the Fee Agreement, or in any other documents or agreements in

connection with the fee-in-lieu of tax arrangement between the Company and the County, so long as the Company shall file a copy of the South Carolina Department of Revenue form PT-443, and any subsequent amendments thereto, and all filings required by the Act with the County after the execution of the Fee Agreement by the County and the Company.

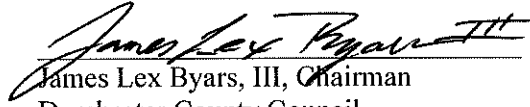
Section 7. *Further Acts.* The County Council authorizes any Authorized Individual to take whatever further actions, and enter into whatever further agreements, as any Authorized Individual deems to be reasonably necessary and prudent to effect the intent of this Ordinance and induce the Company to locate the Project in the County.

Section 8. *General Repealer.* All ordinances, resolutions, and parts thereof in conflict herewith are, to the extent of such conflict, hereby repealed.

Section 9. *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 hereby deemed separable.

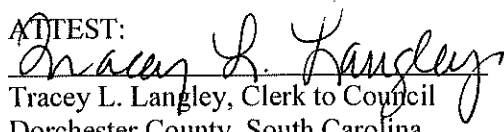
This Ordinance takes effect and is in full force only after the County Council has approved this Ordinance following three readings and a public hearing.

DORCHESTER COUNTY,
SOUTH CAROLINA


James Lex Byars, III, Chairman
Dorchester County Council

(SEAL)

ATTEST:


Tracey L. Langley, Clerk to Council
Dorchester County, South Carolina

First Reading: April 16, 2018
Second Reading: May 7, 2018
Third Reading: June 4, 2018
Public Hearing: June 4, 2018

EXHIBIT A

PROJECT PROPERTY LEGAL DESCRIPTION

All or a portion of a parcel of real property consisting of approximately 3.65 acres, with improvements thereon, located at 2755 W. 5th North Street entirely within Dorchester County, South Carolina and identified by tax map number 122-00-00-052.

EXHIBIT B

FEE AGREEMENT

[Attached]

EXHIBIT C

AMENDMENT TO PARK AGREEMENT

[Attached]