

ORDINANCE NUMBER 22-25

AUTHORIZING THE EXECUTION AND DELIVERY OF A FEE-IN-LIEU OF TAX AGREEMENT BY AND AMONG ARCADIA COLD CHARLESTON, LLC AND RIDGEVILLE PROPCO, LLC (COLLECTIVELY, THE “COMPANIES”) AND DORCHESTER COUNTY, SOUTH CAROLINA WHEREBY DORCHESTER COUNTY WILL ENTER INTO A FEE-IN-LIEU OF TAX AGREEMENT WITH THE COMPANIES PROVIDING FOR PAYMENT BY THE COMPANIES OF CERTAIN FEES-IN-LIEU OF *AD VALOREM* TAXES; PROVIDING FOR SPECIAL SOURCE REVENUE CREDITS IN CONNECTION WITH SUCH AGREEMENT; AUTHORIZING AND APPROVING THE LOCATION OF CERTAIN PROPERTY IN A MULTI-COUNTY INDUSTRIAL PARK; AND OTHER MATTERS RELATING THERETO.

WHEREAS, Dorchester County, South Carolina (the “County”) desires to enter into a Fee-in-Lieu of Tax Agreement with Arcadia Cold Charleston, LLC (“Sponsor”) and Ridgeville PropCo, LLC (“Sponsor Affiliate” and collectively with Sponsor, the “Companies”) (such agreement, the “FILOT Agreement”), as the Companies have expressed their intent to the County to make a capital investment in the County;

WHEREAS, as a result of the Companies’ desire to undertake such investment, the Companies have asked the County to enter into the FILOT Agreement by and among the Companies and the County, 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;

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 (“FILOT Payments”) 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;

WHEREAS, the Companies propose to develop a project in the County by acquiring, constructing, equipping and furnishing machinery, equipment and other real and personal property (the “Negotiated FILOT Project”), which the Companies have estimated could consist of capital investment of not less than \$5,000,000.00;

WHEREAS, pursuant to the MCIP Act, the County intends to cause the Project, to the extent not already therein located, to be placed in a joint county industrial and business park with Orangeburg County, South Carolina (the “Park”), created pursuant to that certain Agreement for Development for a Joint County Industrial Park effective as of September 1, 1995 (as amended,

modified and supplemented from time to time, the “Park Agreement”), such that the Project will receive the benefits of the Multi-County Park Act; and

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

WHEREAS, the County has made specific proposals, including proposals to offer certain economic development incentives set forth herein, for the purpose of inducing the Companies 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 as follows:

Section 1. Evaluation of the Negotiated FILOT Project. County Council (acting on behalf of the County) has evaluated the Negotiated FILOT Project on the following criteria based upon the advice and assistance of the South Carolina Revenue and Fiscal Affairs Office 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 Companies, 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 Revenue and Fiscal Affairs Office 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 serve the purposes of the FILOT Act;
- (c) the investment by the Companies in the Negotiated FILOT Project is anticipated to be not less than \$5,000,000.00, within ten (10) years from the end of the property tax year in which the initial portion of the Negotiated FILOT Project is placed in service under the FILOT Agreement;

- (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 Companies, which will provide Negotiated FILOT Payments to be made with respect to each Company’s portion of the Negotiated FILOT Project based upon a 6% assessment ratio and a millage rate which shall be fixed for the full term of the FILOT Agreement and shall be the lower of the cumulative property tax millage rate levied on behalf of all taxing entities within which the Project is to be located on either (1) the June 30 preceding the year in which the FILOT Agreement is executed, or (2) the June 30 of the year in which the FILOT Agreement is executed, for a term of thirty (30) years or longer as provided by the FILOT Act, and including Special Source Revenue Credits in the amount of 25% of the applicable Company’s payments under the FILOT in years 1-10 after each applicable increment of property is placed in service at the Project, all as more fully set forth in FILOT Agreement.

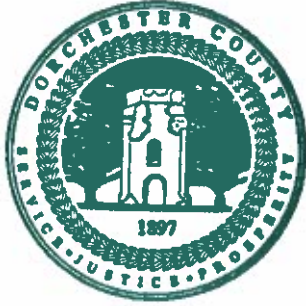
Section 4. Execution of the FILOT Agreement. The form, terms and provisions of the FILOT Agreement presented to this meeting and filed with the Clerk of the County Council be and hereby are approved, and all of the terms, provisions and conditions thereof are hereby incorporated herein by reference as if such FILOT Agreement were set out in this Ordinance in its entirety. The Chair of the County Council and the Clerk of the County Council 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 Companies. The FILOT Agreement is to be in substantially the form now before this meeting and hereby approved, with any changes thereto 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. Multi-County Park Expansion. The County hereby authorizes and approves an amendment to the Park Agreement, such that the Park is enlarged to include the property to be attached as Exhibit A to this Ordinance. The amendment of the Park Agreement shall become effective upon the execution and delivery of this Ordinance and a resolution of Orangeburg County consenting to such amendment.

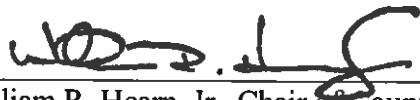
Section 6. Miscellaneous.

- (a) The Chair of County Council and all other appropriate officials of the County are (and each individually is) hereby authorized, empowered and directed to take or cause to be taken such further action and to receive and/or execute and deliver for and in the name and on behalf of the County or County Council (as applicable) any and all instruments, certificates, agreements and documents as may be required, necessary or appropriate to carry out, give effect to and consummate the transactions contemplated 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.

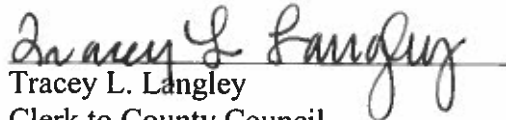
[Signature Page to Follow]



DORCHESTER COUNTY, SOUTH CAROLINA

By: 
William R. Hearn, Jr., Chair of County Council

ATTEST:


Tracey L. Langley
Clerk to County Council

First Reading: May 2, 2022
Second Reading: May 16, 2022
Public Hearing: June 6, 2022
Third Reading: October 17, 2022

Exhibit A

Property Description

ALL THAT PARCEL OR TRACT OF LAND LOCATED IN THE TOWN OF RIDGEVILLE, DORCHESTER COUNTY, SOUTH CAROLINA BEING PARCEL FIVE AS SHOWN ON A PLAT ENTITLED "SUBDIVISION PLAT OF PARCEL THREE (322.494 Ac.) & PARCEL FOUR (55.902 Ac.) TO CREATE PARCEL THREE (313.827 Ac.), PARCEL FOUR (33.167 Ac.) & PARCEL FIVE (31.402 Ac.) PREPARED FOR AND OWNED BY SOUTH CAROLINA STATE PORTS AUTHORITY" PREPARED BY THOMAS AND HUTTON ENGINEERING CO. DATED AUGUST 24, 2022 AND RECORDED IN PLAT BOOK O AT PAGE 20 IN THE RMC OFFICE FOR DORCHESTER COUNTY, SOUTH CAROLINA. SAID PROPERTY BEING MORE FULLY DESCRIBED AS FOLLOWS:

COMMENCING (P.O.C.) AT A POINT ON THE NORTHEASTERN MARGIN OF THE 200' RIGHT-OF-WAY OF NORFOLK SOUTHERN RAILWAY. SAID POINT IS LOCATED APPROXIMATELY 1066' FROM THE RIGHT OF WAY INTERSECTION OF NORFOLK SOUTHERN RAILWAY AND N. MAIN STREET (S-5), A PUBLIC STATE MAINTAINED RIGHT-OF-WAY. RUNNING WITHIN THE 200' RIGHT-OF-WAY OF NORFOLK SOUTHERN RAILWAY IS THE COUNTY MAINTAINED, PUBLIC, "N. RAILROAD AVENUE".

THENCE ONE (1) CALL WITH THE RIGHT-OF-WAY OF NORFOLK SOUTHERN RAILWAY:

(1) N 58°03'42" W, A DISTANCE OF 110.83 FEET TO A POINT;

THENCE SIX (6) CALLS ACROSS THE LANDS OF TMS#097-00-00-010 ALONG THE NORTHWESTERN MARGIN OF AN 85' TEMPORARY INGRESS/EGRESS & GENERAL UTILITY EASEMENT:

(1) N 31°36'07" E A DISTANCE OF 184.36 FEET TO A POINT;

(2) THENCE WITH THE ARC OF A CURVE TURNING TO THE RIGHT, HAVING AN ARC LENGTH OF 308.10 FEET, A RADIUS OF 547.50 FEET, A CHORD LENGTH OF 304.05 FEET, AND A CHORD BEARING OF N 47°43'24" E TO A POINT;

(3) THENCE N 63°50'40" E A DISTANCE OF 318.25 FEET TO A POINT;

(4) THENCE WITH THE ARC OF A CURVE TURNING TO THE LEFT, HAVING AN ARC LENGTH OF 253.85 FEET, A RADIUS OF 452.50 FEET, A CHORD LENGTH OF 250.53 FEET, AND A CHORD BEARING OF N 47°46'24" E TO A POINT;

(5) THENCE N 31°42'07" E A DISTANCE OF 243.53 FEET TO A POINT;

(6) THENCE N 58°17'53" W A DISTANCE OF 40.25 FEET TO A POINT; SAID POINT BEING THE TRUE POINT OF BEGINNING (P.O.B.).

THENCE ONE (1) CALL ACROSS THE LANDS OF TMS#097-00-00-010:

(1) N 57°56'48" W A DISTANCE OF 1,441.53 FEET TO A POINT;

THENCE TEN (10) CALLS ACROSS THE LANDS OF TMS#097-00-00-002:

(1) N 57°56'48" W A DISTANCE OF 78.47 FEET TO A POINT;

(2) THENCE N 32°03'12" E A DISTANCE OF 519.07 FEET TO A POINT;

(3) THENCE N 77°03'12" E A DISTANCE OF 476.49 FEET TO A POINT;

(4) THENCE S 57°57'23" E A DISTANCE OF 315.14 FEET TO A POINT;

(5) THENCE N 31°59'48" E A DISTANCE OF 119.32 FEET TO A POINT;

(6) THENCE S 58°14'56" E A DISTANCE OF 108.15 FEET TO A POINT;

- (7) THENCE N 85°06'38" E A DISTANCE OF 99.51 FEET TO A POINT;
- (8) THENCE S 49°35'26" E A DISTANCE OF 155.00 FEET TO A POINT;
- (9) THENCE S 65°48'42" E A DISTANCE OF 158.42 FEET TO A POINT;
- (10) THENCE S 53°21'10" E A DISTANCE OF 84.72 FEET TO A POINT;

THENCE FIVE (5) CALLS ACROSS THE LANDS OF TMS#097-00-00-010:

- (1) S 53°21'10" E A DISTANCE OF 107.94 FEET TO A POINT;
- (2) THENCE WITH THE ARC OF A CURVE TURNING TO THE LEFT, HAVING AN ARC LENGTH OF 74.71 FEET, A RADIUS OF 2,897.50 FEET, A CHORD LENGTH OF 74.70 FEET, AND A CHORD BEARING OF S 14°35'04" E TO A POINT;
- (3) THENCE S 15°19'23" E A DISTANCE OF 62.66 FEET TO A POINT;
- (4) THENCE WITH THE ARC OF A CURVE TURNING TO THE RIGHT, HAVING AN ARC LENGTH OF 130.43 FEET, A RADIUS OF 352.50 FEET, A CHORD LENGTH OF 129.68 FEET, AND A CHORD BEARING OF S 04°43'23" E TO A POINT;
- (5) THENCE S 32°03'12" W A DISTANCE OF 821.87 FEET TO THE TRUE POINT OF BEGINNING (P.O.B.).

SAID PARCEL FIVE HAVING AN AREA OF 1,367,875 SQUARE FEET OR 31.402 ACRES MORE OR LESS.