

CLARENDON COUNTY
ORDINANCE NO. 2019-06

AUTHORIZING THE EXECUTION AND DELIVERY OF A FEE-IN-LIEU OF *AD VALOREM* TAX AND SPECIAL SOURCE REVENUE CREDIT AGREEMENT BY AND BETWEEN CLARENDON COUNTY, SOUTH CAROLINA, AND BONEFISH SOLAR, LLC TO PROVIDE FOR PAYMENT OF A FEE-IN-LIEU OF TAXES; AUTHORIZING THE INCLUSION OF A PROJECT SITE IN A MULTI-COUNTY BUSINESS PARK; AUTHORIZING CERTAIN SPECIAL SOURCE REVENUE CREDITS; AND OTHER RELATED MATTERS.

CERTIFIED TRUE COPY
OF ORIGINAL FILED IN THIS OFFICE
DATE 9-18-19
Beulah A. Roberts
CLERK OF COURT
CLARENDON COUNTY, SC

WHEREAS, Clarendon County, South Carolina (“County”), acting by and through its County Council (“County Council”) is authorized pursuant to the provisions of Title 12, Chapter 44, Code of Laws of South Carolina, 1976, as amended (“FILOT Act”), to encourage manufacturing and commercial enterprises to locate in the State of South Carolina or to encourage manufacturing and commercial enterprises now located in the State to expand their investments and thus make use of and employ the manpower, products, and other resources of the State by entering into an agreement with a sponsor, as defined in the FILOT Act, that provides for the payment of a fee-in-lieu of *ad valorem* tax (“FILOT Payments”), with respect to economic development property, as defined in the FILOT Act;

WHEREAS, pursuant to Article VIII, Section 13 of the South Carolina Constitution and Title 4, Section 1, Code of Laws of South Carolina, 1976, as amended (collectively, “MCIP Act”), the County is authorized to jointly develop multicounty parks with counties having contiguous borders with the County and, in the County’s discretion, include property within the boundaries of such multicounty parks. Under the authority provided in the MCIP Act, the County has created a multicounty park with Sumter County (“Park”) according to the Master Agreement Governing the Sumter-Clarendon Industrial Park dated as of December 31, 2010 (as may be amended, modified, and supplemented);

WHEREAS, pursuant to the FILOT and MCIP Acts, the County is authorized to provide special source revenue credits (“Infrastructure Credits”) against FILOT Payments derived from economic development property to pay costs of designing, acquiring, constructing, improving or expanding (i) infrastructure serving a project or the County and (ii) improved and unimproved real estate and personal property used in the operation of a commercial enterprise or manufacturing facility (collectively, “Infrastructure”);

WHEREAS, Project Bonefish (“Sponsor”) desires to establish a photovoltaic solar facility in the County (“Project”) consisting of an investment in real and personal property of not less than \$2,500,000; and

WHEREAS, at the request of the Sponsor and as an inducement to locate the Project in the County, the County desires to enter into a Fee-in-Lieu of *Ad Valorem* Taxes Agreement with the Sponsor, as sponsor and [landowner], as sponsor affiliate, the substantially final form of which is attached as Exhibit A (“Fee Agreement”), pursuant to which the County will provide certain incentives to the Sponsor with respect to the Project, including (i) providing for FILOT Payments, to be calculated as set forth in the Fee Agreement, with respect to the portion of the Project which constitutes economic development property; (2) locating the Project in the Park; and (3) providing Infrastructure Credits, as described in the Fee Agreement, to assist in paying the costs of certain Infrastructure.

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

Section 1. Statutory Findings. Based solely on information supplied to the County by the Sponsor,

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Beulah Roberts, Clerk-Clarendon S.C

County Council evaluated the Project based on relevant criteria, including the purposes the Project is to accomplish, the anticipated dollar amount and nature of the investment, and the anticipated costs and benefits to the County, and finds:

(a) 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;

(b) The Project gives rise to no pecuniary liability of the County or incorporated municipality or a charge against its general credit or taxing power;

(c) The purposes to be accomplished by the Project are proper governmental and public purposes; and

(d) The benefits of the Project are greater than the costs.

Section 2. *Approval of Incentives; Authorization to Execute and Deliver Fee Agreement.* The incentives as described in this Ordinance (“Ordinance”), and as more particularly set forth in the Fee Agreement, with respect to the Project are approved. The form, terms and provisions of the Fee Agreement that is before this meeting are approved and all of the Fee Agreement’s terms and conditions are incorporated in this Ordinance by reference. The Chair of County Council (“Chair”) is authorized and directed to execute the Fee Agreement in the name of and on behalf of the County, subject to the approval of any revisions or changes as are not materially adverse to the County by the County Administrator and counsel to the County, and the Clerk to County Council is authorized and directed to attest the Fee Agreement and to deliver the Fee Agreement to the Sponsor.

Section 3. *Inclusion within the Park.* The creation of a multi-county park to include the Project Site, as more particularly described on Exhibit B, or the expansion of the Park boundaries to include the Project Site is authorized and approved. The Chair, the County Administrator and the Clerk to County Council are each authorized to execute such documents and take such further actions as may be necessary to complete the establishment or expansion of the Park boundaries. Pursuant to the MCIP Act and the terms of the agreement governing the Park (“Park Agreement”), the creation of or expansion of the Park’s boundaries is complete on adoption of this Ordinance by County Council and providing notice to Sumter County of the same.

Section 4. *Further Assurances.* The County Council confirms the authority of the Chair, the County Administrator, the Clerk to County Council, and various other County officials and staff, acting at the direction of the Chair, the County Administrator, or Clerk to County Council, as appropriate, to take whatever further action and to negotiate, execute and deliver whatever further documents as may be appropriate to effect the intent of this Ordinance and the incentives offered to the Sponsor under this Ordinance and the Fee Agreement.

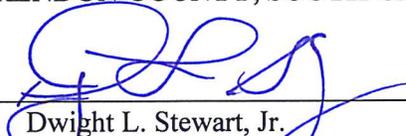
Section 5. *General Repealer.* Any prior ordinance, resolution, or order, the terms of which are in conflict with this Ordinance, is, only to the extent of that conflict, repealed.

Section 6. *Effectiveness.* This Ordinance is effective after its third reading and public hearing.

[SIGNATURE PAGE AND TWO EXHIBITS FOLLOW]
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CLARENDON COUNTY, SOUTH CAROLINA

By: 
Dwight L. Stewart, Jr.
Chairman County Council

[SEAL]
Attest:

By: 
Dorothy M. Levy
Clerk to County Council

First Reading: July 9, 2019
Second Reading: August 12, 2019
Public Hearing: August 12, 2019
Third Reading: September 1, 2019

EXHIBIT A
FORM OF FEE IN-LIEU OF TAXES AGREEMENT

EXHIBIT B
DESCRIPTION OF PROJECT SITE

Tax Map No. 185-00-03-003-00
Approximately 1,000 yards East of the intersection of June Burn Road and U.S. Highway 301

~#4848-5948-8648 v.3~