

**CLARENDON COUNTY
ORDINANCE NO. 2020-02**

**AUTHORIZING THE EXECUTION AND DELIVERY OF AN
INFRASTRUCTURE CREDIT AGREEMENT BY AND BETWEEN
CLARENDON COUNTY, SOUTH CAROLINA, AND BSPA
HOSPITALITY LLC; PROVIDING FOR A SPECIAL SOURCE
REVENUE CREDIT; AND OTHER RELATED MATTERS.**

WHEREAS, Clarendon County, South Carolina ("County") acting by and through its County Council ("County Council") is authorized and empowered pursuant to the provisions of Sections 4-1-175 and 4-29-68 of the Code of Laws of South Carolina, 1976, as amended ("Act"), 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 of the South Carolina Constitution, for the purpose of defraying the cost of designing, acquiring, constructing, improving, or expanding the infrastructure serving Clarendon County, for improved or unimproved real estate and personal property including machinery and equipment used in the operation of a manufacturing facility or commercial enterprise to enhance the economic development of Clarendon County;

WHEREAS, BSPA Hospitality LLC, a limited liability company organized and existing under the laws of the State of South Carolina and authorized to do business in the State (referred to hereinafter as the "Company") intends to invest in the establishment of a commercial facility through the acquisition of land, a building, and improvements thereon ("Land and Building"); the construction of improvements thereon and/or therein; and/or the acquisition of personal property, including, but not limited to, equipment and furniture to be installed on and/or in the Land and Building;

WHEREAS, the Company expects to invest \$8,000,000 and create 15 full-time equivalent jobs over five years ("Project"), all as more fully set forth in the Infrastructure Credit Agreement attached hereto, and provided that approvals of various incentives contemplated for the Project are formalized by the State and/or County;

WHEREAS, the Company has caused to be prepared and presented to this meeting the form of the Infrastructure Credit Agreement by and between the County and the Company ("Infrastructure Credit Agreement"), which provides for a credit against the fee-in-lieu of tax payments ("FILOT Payments") made by the Company equal to 25% of such FILOT Payments for years 1-5, 15% of such FILOT Payments for years 6-10 and 10% of such FILOT Payments for years 11-15; and

WHEREAS, it appears that the Infrastructure Credit Agreement, which is now before this meeting, is in appropriate form and is an appropriate instrument to be executed and delivered by the County for the purposes intended.

NOW, THEREFORE, BE IT ORDAINED by the County Council in a meeting duly assembled as follows:

Section 1. To promote industry, develop trade, and utilize and employ the manpower, products, and natural resources of the State of South Carolina by assisting the Company to expand or locate an industrial facility in the State of South Carolina, the Infrastructure Credit Agreement is hereby authorized, ratified, and approved.

Section 2. The form, terms, and provisions of the Infrastructure Credit Agreement presented to this meeting are hereby approved, and all of the terms, provisions, and conditions thereof are incorporated herein by reference as if the Infrastructure Credit Agreement were set out in this Ordinance in its entirety. The Chairman of the County Council and/or the County Administrator are authorized, empowered, and directed to execute, acknowledge, and deliver the Infrastructure Credit Agreement in the name of and on

behalf of the County, and thereupon to cause the Infrastructure Credit Agreement to be delivered to the Company. The Infrastructure Credit Agreement is to be in substantially the form now before this meeting and hereby approved, with such changes therein as shall not be materially adverse to the County and as shall be approved by the officials of the County executing the same, upon the advice of counsel to the County, such official's execution thereof to constitute conclusive evidence of such official's approval of any and all changes or revisions therein from the form of the Infrastructure Credit Agreement now before this meeting.

Section 3. The Chairman of the County Council and/or the County Administrator, for and on behalf of the County, are hereby authorized and directed to do any and all things necessary to effect the execution and delivery of the Infrastructure Credit Agreement and the performance of all obligations of the County under and pursuant to the Infrastructure Credit Agreement.

Section 4. The provisions of this Ordinance are hereby declared to be separable, and if any section, phrase, or provision shall for any reason be declared by a court of competent jurisdiction to be invalid or unenforceable, such declaration shall not affect the validity of the remainder of the sections, phrases, and provisions hereunder.

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

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

[ONE SIGNATURE PAGE AND ONE EXHIBIT 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: February 10, 2020
Second Reading: March 9, 2020
Public Hearing: March 9, 2020
Third Reading: April 13, 2020

EXHIBIT A
FORM OF INFRASTRUCTURE CREDIT AGREEMENT

SOUTH CAROLINA)
CLARENDON COUNTY)

I, the undersigned, Clerk to County Council of Clarendon County, South Carolina ("County Council"), DO HEREBY CERTIFY:

That the foregoing constitutes a true, correct, and verbatim copy of an Ordinance adopted by the County Council. The Ordinance was read and received a favorable vote at three public meetings of the County Council on February [], 2020, March [], 2020, and April [], 2020. At least one day passed between first and second reading, and at least seven days passed between second and third readings. A public hearing was held on March [], 2020, and notice of the public hearing was published in the [] on [] [], 2020. At each meeting, a quorum of County Council was present and remained present throughout the meeting.

Attached are excerpts of the minutes of the meetings of the County Council.

IN WITNESS WHEREOF, I have hereunto set my Hand and the Seal of Clarendon County, South Carolina, as of April [], 2020.

[SEAL]



By: *Dorothy M. Levy*
Dorothy M. Levy
Clerk to County Council