

## ORDINANCE

PROVIDING FOR INFRASTRUCTURE OR SPECIAL SOURCE REVENUE CREDITS TO NAVY HOSPITAL PARTNERS, LLC; AUTHORIZING AN INFRASTRUCTURE CREDIT AGREEMENT BETWEEN CHARLESTON COUNTY AND NAVY HOSPITAL PARTNERS, LLC; PROVIDING FOR THE ALLOCATION OF FEES-IN-LIEU OF TAXES PAYABLE UNDER THE AGREEMENT FOR DEVELOPMENT FOR A JOINT COUNTY INDUSTRIAL PARK WITH COLLETON COUNTY (NAVY HOSPITAL PARTNERS, LLC); ESTABLISHING, PURSUANT TO SECTION 4-1-170 OF THE CODE OF LAWS OF SOUTH CAROLINA 1976, AS AMENDED, A MULTI-COUNTY INDUSTRIAL/BUSINESS PARK, IN CONJUNCTION WITH COLLETON COUNTY, SOUTH CAROLINA; TO PROVIDE FOR A WRITTEN AGREEMENT WITH COLLETON COUNTY AS TO THE SHARING OF THE REVENUES AND EXPENSES OF THE PARK; TO PROVIDE FOR THE DISTRIBUTION OF REVENUES FROM THE PARK AMONG TAXING ENTITIES HAVING JURISDICTION OVER THE PARK; 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 4, Chapter 1 (the “MCIP Act”) of the Code of Laws of South Carolina 1976, as amended (the “Code”) to provide for payments in lieu of taxes (“PILOT Payments”) with respect to property located in a multi-county business or industrial park created under the MCIP Act and pursuant to Sections 12-44-70, 4-1-175, and 4-29-68 of the Code (the “SSRC Act”) to permit investors to claim infrastructure or special source revenue credits against their PILOT Payments to reimburse such investors for expenditures for infrastructure serving Charleston County and improved or unimproved real estate and personal property, including machinery and equipment, used or to be used in the operation of a manufacturing or commercial enterprise in order to enhance the economic development of Charleston County (“Infrastructure Improvements”); 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 and facilitate the grant of infrastructure or special source revenue credits; and

WHEREAS, in order to promote the economic welfare of the citizens of the County and Colleton County (“the Partner County” and collectively with the County, the “Counties”) by providing employment and other benefits to the citizens of the Counties, the Counties propose to enter into an Agreement for Development for Joint County Industrial Park (Navy Hospital Partners, LLC) (the “MCIP Agreement”), to develop jointly an industrial and business park (the “Park”), as provided by Article VIII, Section 13 of the South Carolina Constitution and in accordance with the MCIP Act; and

WHEREAS, the Counties have agreed to the specific terms and conditions of the arrangement set forth in the MCP Agreement; and

WHEREAS, Navy Hospital Partners, LLC, a South Carolina limited liability company (the “Company”) proposes to purchase approximately 13.11 acre real property with a street address of 3600 Rivers Avenue, North Charleston, South Carolina (the “Project Site”), together with the existing buildings and other improvements thereon, and to rehabilitate and renovate such property into a modern, state-of-the-art mixed use residential and commercial facility by renovating and improving the real property and buildings at the Project Site (the “Project”); and

WHEREAS, the Counties now desire to establish the Park to include the Initial Property;

WHEREAS, the Project when completed will represent an anticipated capital investment by the Company in the aggregate not less than \$35,000,000 in the Project; and

WHEREAS, the Project is located entirely within Charleston County and within the corporate limits of the City of North Charleston (the "Municipality") and subject to the consent of the Municipality as required by the MCIP Act, will be included in and subject to the multi-county park arrangement 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 acquire, rehabilitate, and renovate the Project (the "Incentives"); and

WHEREAS, it is in the public interest, for the public benefit, and in furtherance of the public purposes of the MCIP Act and the SSRC Act that the County Council provide final approval for qualifying the Project under the MCIP Act and SSRC 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 the advice and assistance of the South Carolina Department of Revenue and the Board of Economic Advisors:

- (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 the advice and assistance of the South Carolina Department of Revenue and the Board of Economic Advisors, as necessary, County Council hereby find that:

- (a) the Project will be located entirely within Charleston County and the Municipality;
- (b) the Project is anticipated to benefit the general public welfare of Charleston County by providing services, employment, recreation, or other public benefits not otherwise adequately provided locally;
- (c) the Project gives rise to neither a pecuniary liability of the County or the Municipality nor a charge against the general credit or taxing power of the County or the Municipality;

- (d) the Infrastructure Improvements to be reimbursed from the SSRCs (as defined below) consist of infrastructure serving Charleston County and improved or unimproved real estate and personal property, including machinery and equipment, used or to be used in the operation of a manufacturing or commercial enterprise in order to enhance the economic development of Charleston County; and
- (e) the purposes to be accomplished by the Project are proper governmental and public purposes;
- (f) the inducement of the location of the Project is of paramount importance; and
- (g) the benefits of the Project to the public are greater than the cost to the public.

Section 3. Special Source Revenue Credits. The County will provide to the Company infrastructure or special source revenue credits (“SSRCs”) under the SSRC Act, on the conditions described below, as follows:

(a) Subject to the provisions of the Infrastructure Credit Agreement between the County and the Company (the “Infrastructure Credit Agreement”), the County shall provide to the Company annual SSRC against the PILOT Payments attributable to the Project (the “Project PILOT Payments”), in the amount necessary to reduce the Project PILOT Payment in each year (the “Net Project PILOT Payment”) to the amount of the Net Project PILOT Payment for that corresponding year set forth in the attached Exhibit A. The SSRC will begin for the first property tax year designated by the Company in accordance with the terms of the Infrastructure Credit Agreement, and continue annually for nineteen (19) additional property tax years; provided, however, that such SSRCs shall not, in the aggregate, exceed the aggregate cost of the Infrastructure Improvements funded from time to time by the Company.

(b) The documents providing for the SSRCs shall include customary terms providing: (i) that the Company will pay the County’s administrative expenses associated with the approval and administration of the SSRCs; (ii) that under certain terms and conditions, the County will have access to certain information of the Company; and (iii) that the Company will indemnify and hold the County harmless for claims, losses, and damages with respect to the Project.

Section 4. Approval and Execution of the Infrastructure Credit Agreement. The form, terms, and provisions of the Infrastructure Credit 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 Infrastructure Credit 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 Infrastructure Credit Agreement in the name 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 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 Infrastructure Credit Agreement presented to said meeting.

Section 5. Approval and Execution of the MCIP Agreement. (a) There is hereby authorized to be established, initially in conjunction with Colleton County, a multi-county industrial/business park to include therein the Initial Property. The form, provisions, terms, and conditions of the MCP Agreement in substantially the form before Colleton County Council (the "County Council") at the meeting at which this Ordinance receives third reading, and filed with the Clerk to County Council, be and they are hereby approved, and all of the provisions, terms, and conditions thereof are hereby incorporated herein by reference as if the MCP Agreement were set out in this Ordinance in its entirety.

(b) The form, terms, and provisions of the MCIP 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 MCIP 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 MCIP Agreement in the name and on behalf of the County, and thereupon to cause the MCIP Agreement to be delivered to the Partner County. The MCIP Agreement shall become effective on the date of the later of (i) enactment of this Ordinance by the Charleston County Council, after third and final reading and public hearing, (ii) enactment of an ordinance by Colleton County Council approving the MCIP Agreement, and (iii) adoption of a resolution by North Charleston City Council consenting to the inclusion in the Park premises of the property described in Exhibit B to this Ordinance. The Colleton County Council and the North Charleston City Council have been requested to give their respective approvals to the MCIP Agreement. The MCIP 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 MCIP Agreement presented to said meeting.

(c) As of the date of enactment of this Ordinance, the Park shall consist of the Project Site located in Charleston County. It is recognized that the Park may from time to time consist of non-contiguous properties within each Member County. The boundaries of the Park may be enlarged or diminished from time to time as authorized by (a) an ordinance of the Member County in which the property to be added or removed from the Park is actually located, and (b) a resolution (or comparable action) of the governing bodies of all other Member Counties.

Section 6. Payment of Fee-in-lieu of Taxes. (a) In accordance with Article VIII, Section 13(D) of the South Carolina Constitution, the area comprising the Park and all property having a situs therein is exempt from all *ad valorem* taxation. All owners and lessees of property situated in the Park will pay a fee in lieu of *ad valorem* taxes as provided for in the MCP Agreement. The fee paid in lieu of *ad valorem* taxes shall be paid to the county treasurer of the county in which such property is located. That portion of the fee from the Park property located in a Member County and allocated pursuant to the MCP Agreement to the other Member Counties shall be paid to the respective county treasurer (or other designated official) of the other Member Counties in accordance with the terms of the MCP Agreement. Payments of fees in lieu of *ad*

*valorem* taxes for each year will be due on the due date for property taxes for such year. Penalties for late payment will be at the same rate as late tax payments. Any late payment beyond the due date will accrue interest at the same rate of as late tax payments. The Member Counties, acting by and through the appropriate official, shall maintain all liens and rights to foreclose upon liens provided for counties in the collection of *ad valorem* taxes.

(b) Nothing herein shall be construed to prohibit any Member County from negotiating and collecting reduced fees in lieu of taxes pursuant to Title 4, Chapter 29 or Chapter 12, or Title 12, Chapter 44 of the Code of Laws of South Carolina 1976, as amended, or any similar provision of South Carolina law.

Section 7. Sharing of Expenses and Revenues. Sharing of expenses and revenues of the Park by the Member Counties shall be as set forth in the MCP Agreement.

Section 8. Distribution of Revenues to Taxing Entities. Revenues from the Park shall be distributed to and within the Member Counties as set forth in the MCP Agreement.

Section 9. Governing Laws and Regulations. In order to avoid any conflict of laws or ordinances among the Member Counties, the ordinances or other local laws of each Member County will be the reference for such regulations or laws in connection with Park premises located within such Member County. Nothing herein shall be taken to supersede any applicable municipal, state, or federal law or regulation. The Member County in which a parcel of Park premises is located is specifically authorized to adopt restrictive covenants and land use requirements in accordance with law for each such parcel at that Member County's sole discretion. The ordinances of a Member County shall in no way apply to Park property not located in such Member County.

Section 10. Allocation of MCP FILOT Revenues. (a) The County, in cooperation with the Partner County, hereby designates the site of the Project as a multi-county park pursuant to Article VIII, Section 13 of the Constitution of South Carolina and the MCIP Act, and approves the terms of the MCIP Agreement. In the Infrastructure Credit Agreement, the County will agree to maintain such designation for a term of at least thirty (30) years to fund the SSRCs, subject to earlier termination as provided therein.

(b) Pursuant to the terms of the MCIP Act and the MCIP Agreement, the County hereby provides that for the term of the Infrastructure Credit Agreement commencing with the first tax year in which the PILOT Payments are generated by the Project and payable to the County in accordance with the terms of the MCIP Agreement will be distributed as follows:

- (1) After deducting any amounts distributed to the Partner County, to the County the amount provided in the MCIP Agreement for allocation to the Charleston County Economic Development Fund; and
- (2) After making the allocations under paragraphs (1), to the County an amount equal to the total SSRCs to be provided in such year pursuant to Section 3 hereof; and

- (3) After making the allocations under paragraphs (1) and (2) of this subsection (b), the balance is to be distributed among the taxing districts based on their current millage rates for the year in which the distribution is made.

Section 11. Miscellaneous.

(a) The Chairman and all other appropriate officials of the County are hereby authorised 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 authorised 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

EXHIBIT A

<u>Year</u>	<u>Annual Net Project PILOT Payment</u>
Years 1 through 10	\$56,735
<u>Years 11 and 12</u>	<u>62,409</u>
Years 13 and 14	68,649
Years 15 and 16	75,514
Years 17 and 18	83,066
Years 19 and 20	91,372

EXHIBIT B

[Description of Project Site]