
STATE OF SOUTH CAROLINA

)

ORDINANCE NO. 2022-1836

COUNTY OF LANCASTER

)

AN ORDINANCE

TO AUTHORIZE THE EXECUTION AND DELIVERY OF AN AMENDMENT TO THAT CERTAIN MARCH 22, 2021 SPECIAL SOURCE REVENUE CREDIT AGREEMENT BY AND BETWEEN LANCASTER COUNTY, SOUTH CAROLINA AND STUDIO DISPLAYS, INC. (THE “SSRC AGREEMENT”) TO ADD T&T CAPITAL, LLC AS A PARTY THERETO WITH RETROACTIVE EFFECT; TO EXTEND THE PROVISION OF SPECIAL SOURCE REVENUE CREDITS UNDER THE SSRC AGREEMENT TO INVESTMENT MADE BY T&T CAPITAL, LLC IN LANCASTER COUNTY; AND TO PROVIDE FOR OTHER MATTERS RELATED THERETO.

WHEREAS, Lancaster County, South Carolina, a body politic and corporate and a political subdivision of the State of South Carolina (the “County”), acting by and through its County Council (the “County Council”) is authorized and empowered to establish a multicounty park pursuant to Article VIII, Section 13(D) of the Constitution of South Carolina, and also authorized to provide special source revenue credits pursuant to Sections 4-1-170, 4-1-172, 4-1-175 and 4-29-68 of the Code of Laws of South Carolina 1976, as amended (the “MCP Act”) against fee-in-lieu of tax payments made pursuant to the MCP Act to reimburse a project for the costs of designing, acquiring, constructing, improving, or expanding (i) infrastructure serving the project, or (ii) improved or unimproved real estate and personal property, including machinery and equipment used in the operation of a manufacturing or commercial enterprise, through which powers the industrial development of South Carolina and the County will be promoted and trade developed by inducing manufacturing and commercial enterprises to locate and remain in South Carolina and the County and thus to utilize and employ the workforce, products, and natural resources of South Carolina to benefit the general public welfare of the County by providing services, employment, and other public benefits not otherwise provided locally; and

WHEREAS, the County entered into that certain Special Source Revenue Credit Agreement by and between the County and Studio Displays, Inc. (the “Company”) and dated as of March 22, 2021 (the “Original Agreement”); and

WHEREAS, the County and the Company desire to amend the Original Agreement to add T&T Capital, LLC (“T&T”) as a party to the Original Agreement in accordance with the MCP Act as set forth more fully in that certain Amendment to Special Source Revenue Credit Agreement attached hereto as Exhibit A (the “Amendment”; the Original Agreement as amended and modified by the Amendment, the “SSRC Agreement”); and

WHEREAS, by virtue of the Amendment, T&T's investments at the Project (as defined in the SSRC Agreement) dating back to January 1, 2021, will be eligible for the FILOT Payments (as defined in the SSRC Agreement) and Special Source Revenue Credits (as defined in the SSRC Agreement) provided under the SSRC Agreement; and

WHEREAS, the Company and T&T intend to make additional investments at the Project (as defined in the SSRC Agreement) that will be eligible for the FILOT Payments (as defined in the SSRC Agreement) and Special Source Revenue Credits (as defined in the SSRC Agreement) provided under the SSRC Agreement; and

WHEREAS, in order to induce the Company and T&T to continue to make additional investment in the Project, the County has determined that it is in the best interest of the County to enter into the Amendment with the Company and T&T to clarify that: (a) T&T's investment in the Project (as defined in the SSRC Agreement) from January 1, 2021 through the end of the term of the SSRC Agreement shall be eligible for the FILOT Payments (as defined in the SSRC Agreement) and Special Source Revenue Credits (as defined in the SSRC Agreement) provided under the SSRC Agreement; (b) T&T shall be eligible for Special Source Revenue Credits (as defined in the SSRC Agreement) with respect to any investment made by T&T in the County on or after January 1, 2021; and (c) from and after the date of the Amendment authorized by this ordinance, the terms and provisions of the SSRC Agreement shall apply with equal force to T&T.

NOW, THEREFORE, be it ordained by the County Council:

Section 1. Approval of Amendment.

Subject to the provisions of Section 3 of this ordinance, and, in order to promote industry, develop trade, and utilize and employ the manpower, products, and natural resources of the State by assisting the Company and T&T to expand their operations in the State, the Amendment is hereby authorized, ratified, and approved. Without limitation of the foregoing sentence, the County specifically authorizes, ratifies and approves the following amendments to the SSRC Agreement: (a) T&T's investment in the Project (as defined in the SSRC Agreement) from January 1, 2021 through the end of the term of the SSRC Agreement shall be eligible for the FILOT Payments (as defined in the SSRC Agreement) and Special Source Revenue Credits (as defined in the SSRC Agreement) provided under the SSRC Agreement; (b) T&T shall be eligible for Special Source Revenue Credits (as defined in the SSRC Agreement) with respect to any investment made by T&T in the County on or after January 1, 2021; and (c) from and after the date of the Amendment authorized by this ordinance, the terms and provisions of the SSRC Agreement shall apply with equal force to T&T.

Section 2. Findings.

The County Council makes the following findings:

(a) The County's actions herein will subserve the purposes and in all respects conform to the provisions and requirements of the MCP Act.

(b) The Project and the payments in lieu of taxes set forth herein are beneficial to the County, and the County has evaluated the Project based upon all criteria prescribed by law, including the anticipated dollar amount and nature of the investment to be made.

(c) 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.

(d) The Project gives rise to no pecuniary liability of the County or any incorporated municipality or a charge against the general credit or taxing power of either.

(e) The purposes to be accomplished by the Project, *i.e.*, economic development and addition to the tax base of the County, are proper governmental and public purposes.

(f) The inducement of the location or expansion of the Project within the County and State is of paramount importance.

(g) The benefits of the Project to the public will be greater than the costs to the public.

Section 3. Approval and Execution of the Amendment.

The form, terms, and provisions of the Amendment, attached hereto as Exhibit A, are approved, and all of the terms, provisions, and conditions thereof are incorporated herein by reference as if the Amendment was set out in this ordinance in its entirety. The County Council Chair and County Council Secretary are authorized, empowered, and directed to execute and acknowledge the Amendment in the name of and on behalf of the County, and thereupon to cause the Amendment to be delivered to the Company and T&T. The Amendment is to be in substantially the form as attached to this ordinance 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 officer's execution thereof to constitute conclusive evidence of such officer's approval of any and all changes or revisions therein from the form of the Amendment attached to this ordinance.

Section 4. Authority to Act.

The County Council Chair, County Council Secretary, Clerk to County Council, County Administrator, County Attorney and all other appropriate officials of the County are authorized, empowered and directed to do any and all things necessary to effect the execution and delivery of the Amendment and the performance of all obligations of the County under and pursuant to the SSRC Agreement, as amended.

Section 5. Severability.

If any section, subsection or clause of this ordinance is held to be unconstitutional or otherwise invalid, the validity of the remaining sections, subsections and clauses shall not be affected.

Section 6. Controlling Provisions.

To the extent this ordinance contains provisions that conflict with provisions contained elsewhere in the Lancaster County Code or other County ordinances, resolutions or orders, the provisions contained in this ordinance supersede all other provisions and this ordinance is controlling.

Section 7. Effective Date.

This ordinance is effective upon third reading.

AND IT IS SO ORDAINED, this ___ day of _____, 2022.

LANCASTER COUNTY, SOUTH CAROLINA

Steve Harper, Chair, County Council

Billy Mosteller, Secretary, County Council

ATTEST:

Sherrie Simpson, Clerk to Council

First Reading:	November 14, 2022
Second Reading:	November 28, 2022
Public Hearing:	December 12, 2022
Third Reading:	December 12, 2022

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Exhibit A to Ordinance No. 2022- 1836

AMENDMENT TO SPECIAL SOURCE REVENUE CREDIT AGREEMENT

Lancaster County, South Carolina, Studio Displays, Inc. and T&T Capital, LLC

See attached.

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