

ORDINANCE NO. 2008-132 - FILOT

FILED FOR RECORD  
2009 DEC 31 PM 3:05

**AN ORDINANCE AUTHORIZING THE EXECUTION AND DELIVERY OF A FEE IN LIEU OF TAX AGREEMENT BETWEEN KERSHAW COUNTY, SOUTH CAROLINA, AND WEYLCHAM US, INC.; AND OTHER MATTERS RELATING THERETO INCLUDING, WITHOUT LIMITATION, PAYMENT OF A FEE IN LIEU OF TAXES.**

WHEREAS, **Kershaw County, South Carolina** (the "County"), acting by and through its County Council (the "County Council"), is empowered under and pursuant to the provisions of the Code of Laws of South Carolina 1976, as amended, (the "Code") and specifically, Title 4, Chapter 29 (the "Original FILOT Act"); Title 4, Chapter 12 (the "Streamlined FILOT Act"); and Title 12, Chapter 44 of the Code (the "FILOT Simplification Act") (collectively, the "FILOT Act"), each as amended through the date hereof (collectively, the "Act"), (i) to assist investors in acquiring, enlarging, improving, and expanding certain types of industrial and commercial projects; (ii) to enter into agreements, including fee agreements for the payment of certain fees in lieu of *ad valorem* taxes, with such investors to induce such investors to construct and thereafter operate, maintain, and improve such projects; and (iii) to covenant with such investors to accept certain payments in lieu of *ad valorem* taxes with respect to the project (the "FILOT"); through all of which the economic development of the State of South Carolina will be promoted and trade developed by inducing manufacturing and certain other business enterprises to locate in and remain in the State of South Carolina, and thus utilize and employ the manpower and resources of the State of South Carolina;

WHEREAS, **WeylChem US, Inc.**, a corporation organized and existing under the laws of the State of Minnesota (the "Company"), has represented to the County that the Company intends to equip, upgrade, expand, and operate a facility for the purpose of manufacturing active ingredients for crop protection and advanced intermediates and other products (the "Project");

WHEREAS, the County, has agreed to enter into a Fee Agreement with the Company and to make FILOT payments with respect to the Project as authorized in the FILOT Act;

WHEREAS, the County and the Company have agreed to the specific terms and conditions of such FILOT arrangement as set forth in that certain Fee Agreement between the County and the Company (the "Fee Agreement") to be dated as of December 30, 2008, or such other date as the parties may agree, which are to be in substantially the form presented to this meeting and filed with the Clerk to County Council;

WHEREAS, the County Council, having determined, based on the information provided to it by the Company, that the Project will provide additional permanent employment for approximately fifteen (15) people from the County and areas adjacent thereto, with a resulting alleviation of unemployment and a substantial increase in payrolls and other public benefits incident to the conducting of industrial operations, proposes to execute and deliver the Fee Agreement with the Company;

WHEREAS, pursuant to the provisions of the Fee Agreement, the Company will be obligated to make payments in lieu of taxes to the County, as required by the FILOT Simplification Act or, under the circumstances described in the Fee Agreement, by the Streamlined FILOT Act or the Original FILOT Act;

WHEREAS, the acquisition and construction of the Project will serve the intended purposes and, in all respects, conform to the provisions and requirements of the Act;

WHEREAS, it appears that the Fee Agreement 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 Kershaw County, South Carolina, as follows:

Section 1. As contemplated by Section 12-44-40(H) of the Code, based on information provided by the Company, it is hereby found, determined and declared by the County Council, as follows:

(a) The Project will constitute a "project" as said term is referred to and defined in Section 12-44-30(16) of the Code, and will subserve the purposes and in all respects conform to the provisions and requirements of the Act;

(b) It is anticipated that the Project will benefit the general public welfare of the County by providing employment and other public benefits not otherwise adequately provided locally;

(c) Neither the Project, nor any documents or agreements entered into by the County in connection therewith will constitute or give rise to any pecuniary liability of the County or any municipality or a charge against their general credit or taxing powers;

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

(e) The benefits of the Project to the public are greater than the costs to the public;

(f) The Project will be owned by the Company and the Fee Agreement will require the Company to make the payments in lieu of taxes in accordance with the provisions of the Act; and

(g) The fee-in-lieu of tax payments referred to in item (f) above shall be calculated as specified in Section 5.01 of the Fee Agreement.

Section 2. The form, terms, and provisions of the Fee Agreement presented to this meeting and filed with the Clerk to the County Council be and they are hereby approved, and all of the terms, provisions, and conditions thereof are hereby incorporated herein by reference as if the Fee Agreement were set out in this Ordinance in its entirety. The Chairman of the County Council and the Clerk to the County Council be and they are hereby authorized, empowered, and directed to execute, acknowledge, and deliver the Fee Agreement in the name and on behalf of the County, and thereupon to cause the Fee Agreement to be delivered to the Company. The Fee Agreement is to be in substantially the form now before this meeting and hereby approved, or with such changes therein as shall not materially adversely affect the rights of the County thereunder and as shall be approved by the officials of the County executing the same upon the advice of the County's attorneys, their execution thereof to constitute conclusive evidence of their approval of any and all changes or revisions therein from the form of Fee Agreement now before this meeting.

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

Section 4. The Chairman of the County Council, the County Administrator, and the Clerk to the County Council and any other proper officer of the County, be and each of them is hereby authorized and

directed to execute and deliver any and all documents and instruments and to do and to cause to be done any and all acts and things necessary or proper for carrying out the transactions contemplated by this Ordinance.

Section 5. 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 6. All orders, resolutions, ordinances, and parts thereof in conflict herewith are, to the extent of such conflict only, hereby repealed, and this Ordinance shall take effect and be in full force from and after its passage and approval.

[End of Ordinance, execution page to follow]

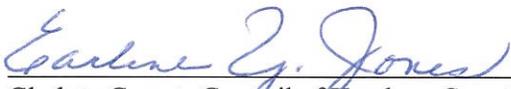
Enacted and approved this 30 day of December, 2008.

**KERSHAW COUNTY, SOUTH CAROLINA**

BY:   
Steve S. Kelly, Jr., Chairman  
County Council of Kershaw County,  
South Carolina

[SEAL]

**ATTEST:**

BY:   
Clerk to County Council of Kershaw County,  
South Carolina

FIRST READING: December 9, 2008  
SECOND READING: December 16, 2008  
PUBLIC HEARING: December 30, 2008  
THIRD READING: December 30, 2008