

AN ORDINANCE

No. \_\_\_\_\_

**AUTHORIZING A SECOND AMENDMENT TO A FEE-IN-LIEU OF AD VALOREM TAXES AGREEMENT BY AND BETWEEN GREENVILLE COUNTY, SOUTH CAROLINA, AND FITESA SIMPSONVILLE, INC., TO PROVIDE FOR AN EXTENSION OF THE INVESTMENT PERIOD AND A SPECIAL SOURCE REVENUE CREDIT; AND TO ENTER INTO SUCH OTHER NECESSARY AGREEMENTS OR AMENDMENTS TO EFFECT THE INTENT OF THIS ORDINANCE; AND OTHER RELATED MATTERS.**

WHEREAS, pursuant to the provisions of Title 12, Chapter 44 and Title 4, Chapters 1 and 29, Code of Laws of South Carolina 1976, as amended (collectively, the “Act”), Greenville County (“County”) and a company known to the County as Fitesa Simpsonville, Inc. (“Company”) previously entered into a Fee-in-Lieu of *Ad Valorem* Taxes Agreement dated December 1, 2009 (the “Fee Agreement”), and an amendment to that Fee Agreement dated November 5, 2013 (the “First Amendment”); and

WHEREAS, the Fee Agreement originally provided for, among other things, a fee in lieu of *ad valorem* taxes benefit to the Company, as well as a special source revenue credit (“SSRC”) equal to 40% of the fee payments thereunder for a period of thirteen (13) years in connection with an investment of \$100,000,000 in the Project (as defined in the Fee Agreement) by December 31, 2016, which was the end of the Investment Period as defined in the Fee Agreement; and

WHEREAS, the First Amendment amended the Fee Agreement (the Fee Agreement as amended is referred to herein as the “First Amended Fee Agreement”) to provide for (a) an additional investment of \$15,000,000 such that the total investment in the Project was \$115,000,000; (b) an increase of the SSRC to forty-five percent (45%); (c) an extension of the term of the SSRC for an additional five years; and (d) an extension of the Investment Period by three years, such that Investment Period was anticipated to end on December 31, 2019; and

WHEREAS, the Company, as Sponsor, along with one or more existing, or to be formed or acquired subsidiaries, or affiliated or related entities, is planning to expand the Project and increase its investment commitment thereunder by \$62,000,000 (the “Expansion Project”) to a total aggregate amount of \$177,000,000 by the end of the Investment Period; and

WHEREAS, in connection with the Expansion Project, the Company has requested that the County further amend the Fee Agreement to provide for a forty-five percent (45%) SSRC in connection with the Expansion Project for a period of fifteen (15) years; and

WHEREAS, the County Council desires to cause the First Amended Fee Agreement to be further amended, through a Second Amendment of Fee-in-Lieu of *Ad Valorem* Taxes Agreement, to reflect the provision of the above referred to changes, a copy of which is attached to this Ordinance as Exhibit A (the “Second Amendment”); and

WHEREAS, County Council has determined to cause the County to enter into such other agreements and amendments with the Company, and its subsidiaries and affiliated or related entities, to effect the intent of this Ordinance.

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

**Section 1. Authorization of Special Revenue Source Credit Benefits.** In connection with the Expansion Project, the County Council hereby authorizes a special source revenue credit, the terms of which are further set forth in the Second Amendment.

**Section 2. Authorization to Execute and Deliver the Second Amendment.** The Chair of County Council and the County Administrator are authorized and directed to execute the Second Amendment, with any minor modifications and revisions thereto as are made, upon advice of counsel to the County, which shall not be materially adverse to the County. Any such changes shall be deemed approved by such officers' execution of the Second Amendment. The Clerk to County Council is authorized and directed to attest such execution; and the Chair of County Council and the County Administrator are further authorized and directed to deliver the executed Second Amendment to the Company.

**Section 3. Further Acts.** The County Council authorizes the Chair of the County Council, the County Administrator, other County staff, and the County Attorney, along with any designees and agents who any of these officials deems necessary and proper, in the name of and on behalf of the County (each an "Authorized Individual"), to take whatever further actions, and enter into whatever further agreements or amendments to agreements, as any Authorized Individual deems to be reasonably necessary and prudent to effect the intent of this Ordinance and induce the Company to locate the Project, as expanded, in the County.

**Section 4. General Repealer.** All ordinances, resolutions, and parts thereof in conflict herewith are, to the extent of such conflict, only, hereby repealed.

**Section 5. Severability.** Should any part, provision, or term of this Ordinance be deemed unconstitutional or otherwise unenforceable by any court of competent jurisdiction, such finding or determination shall not affect the rest and remainder of the Ordinance or any part, provision or term thereof, all of which is hereby deemed separable.

This Ordinance shall take effect and be in full force as of such time as the County Council has approved this Ordinance upon three readings hereof.

Adopted April 19, 2016.

GREENVILLE COUNTY, SOUTH CAROLINA

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By: Bob Taylor  
Its: County Council Chairman

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By: Joe Kernell  
Its: County Administrator

ATTEST:

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Theresa B. Kizer  
Clerk to County Council

READINGS:

First Reading: March 15, 2016  
Second Reading: April 5, 2016

Third Reading: April 19, 2016  
Public Hearing: April 5, 2016