

ORDINANCE NO. _____

AN ORDINANCE AUTHORIZING (1) THE EXECUTION AND DELIVERY OF A SPECIAL SOURCE CREDIT AGREEMENT BY AND BETWEEN GREENVILLE COUNTY, SOUTH CAROLINA (THE “COUNTY”) AND MICHELIN NORTH AMERICA, INC. (THE “COMPANY”) WITH RESPECT TO CERTAIN PROPERTY IN THE COUNTY, WHEREBY SUCH PROPERTY WILL RECEIVE CERTAIN SPECIAL SOURCE REVENUE CREDITS IN RESPECT OF CERTAIN QUALIFYING INVESTMENT IN RELATED INFRASTRUCTURE; AND (2) OTHER MATTERS RELATING THERETO.

WHEREAS, GREENVILLE COUNTY, SOUTH CAROLINA (the “County”), acting by and through its County Council (the “*County Council*”) is authorized by the Code of Laws of South Carolina 1976, as amended (the “*Code*”) to (i) pursuant to Section 4-1-175 of the Code, and by incorporation, Section 4-29-68 of the Code (collectively, the “*Special Source Credit Act*”), provide special source revenue credits to investors which are 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 certain costs, including without limitation, the cost of designing, acquiring, constructing, improving, or expanding the infrastructure serving the County or a project and for improved and 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 the County, all within the meaning of the Special Source Credit Act (the “*Special Source Improvements*”); and (ii) create, in conjunction with one or more other counties, pursuant to the provisions of Title 4, Chapter 1 of the Code and Article VIII, Section 13 of the South Carolina Constitution (collectively, the “*Multi-County Park Act*”), a joint county industrial or business park (each a “*Park*”) in order to facilitate the grant of such special source revenue credits to such investors; and

WHEREAS, Michelin North America, Inc., a corporation organized and existing under the laws of the State of New York (the “Company”), has made, and is considering the making of, significant additional investment in the County through the expansion of certain manufacturing and related facilities consisting of the acquisition, construction, and installation of buildings, improvements, fixtures, machinery, equipment, furnishings and other real and/or tangible personal property at one or more locations within the County (the “*Expansion Project*”) and in order to induce the Company to locate the Expansion Project in the County, the County, pursuant to Title 12, Chapter 44 of the Code (the “*Negotiated FILOT Act*”) and the Special Source Credit Act, entered into that certain Fee in Lieu of Tax and Incentive Agreement dated as of December 4, 2012 with the Company (the “*Expansion Project Incentive Agreement*”), whereby the County agreed to provide the Company and the Expansion Project with the benefits of certain incentives including, without limitation, certain negotiated fee in lieu of tax benefits (the “*Expansion Project Negotiated FILOT*”) and special source revenue credit benefits against the Expansion Project Negotiated FILOT payments (the “*Expansion Project Special Source Credits*”), as set forth in greater detail therein; and

WHEREAS, as set forth in greater detail in the Expansion Project Incentive Agreement, Expansion Project property is eligible to be located on any parcels of land comprising the Land (as such term is defined in the Expansion Project Incentive Agreement), which parcels are described in greater detail in Exhibit A to the Expansion Project Incentive Agreement (the “*Expansion Project Land*”); and

WHEREAS, as of the original execution and delivery of the Expansion Project Incentive Agreement, Exhibit A to the Expansion Project Incentive Agreement identified fourteen (14) parcels of land as the Expansion Project Land, Parcel 14 of which is located at 478 Garrison Road, Pelzer, South Carolina 29669, and is being presently leased, together with certain real property improvements located thereon, to the Company (the “*Garrison Road Site*”); and

WHEREAS, pursuant to Section 4.01(d)(iv) of the Expansion Project Incentive Agreement, the Company, by written notice to the County dated December 13, 2013, added one (1) additional parcel of land as Parcel 15 to the Expansion Project Land and, accordingly, to Exhibit A to the Expansion Project Incentive Agreement, which parcel is located at 280 Griffin Road, Piedmont, South Carolina 29673, and is also being presently leased, together with certain real property improvements located thereon, to the Company (the “*Griffin Road Site*”); and

WHEREAS, in connection with, and as part of, the Expansion Project, the Company has invested, and is considering additional investment, in certain real property improvements, which despite being wholly comprised of investment made as part of the Expansion Project, the parties believe is, or will be, ineligible, under Section 12-44-110 of the Negotiated FILOT Act, for the Expansion Project Negotiated FILOT and, accordingly, the Expansion Project Special Source Credits, all of which investment is or would be located at the Garrison Road Site (the “*Garrison Road Non- FILOT Expansion Project*”) or the Griffin Road Site (the “*Griffin Road Non-FILOT Expansion Project*”, and together with the Garrison Road Non-FILOT Expansion Project, referred to herein as the “*Non-FILOT Expansion Project*”); and

WHEREAS, the Company expects that its investment in the Non-FILOT Expansion Project has resulted, and will result, in an expected aggregate investment of at least \$9,000,000, all within the period identified as the “Investment Period” in the Expansion Project Incentive Agreement; and

WHEREAS, in accordance with Article VIII, Section 13 of the South Carolina Constitution and the Multi-County Park Act, real and personal property having a *situs* in a Park, is exempt from all *ad valorem* taxation, but, each owner or lessee of such real and personal property is obligated to make, or cause to be made, payments in lieu of taxes to the County in the total amount equivalent to the *ad valorem* taxes or other fee in lieu of tax payments that would have otherwise been due and payable from each such entity with respect to such real and personal property but for the location of such real and personal property within such Park and such exemption (each, a “Multi-County Park Fee Payment”); and

WHEREAS, the County and Pickens County have established a Park by entering into an Agreement for the Development of a Joint County Industrial and Business Park dated as of November 4, 1996, as amended (the “*Greenville-Pickens Park Agreement*”), pursuant to the provisions of Article VIII, Section 13 of the South Carolina Constitution and the Multi-County Park Act and have designated the Garrison Road Site as being included within the Greenville-Pickens Park, and the County desires to cause the Garrison Road Site to continue to be located in the Greenville-Pickens Park or such other Park so as to afford the Company, pursuant to the Special Source Credit Act, the benefits of the special source revenue credits with respect to the Non-FILOT Garrison Road Expansion Project provided herein; and

WHEREAS, the County and Anderson County have established a Park by entering into an Agreement for the Development of a Joint County Industrial and Business Park dated as of December 31, 2015, as amended (the “*Greenville-Anderson Park Agreement*”), pursuant to the provisions of Article VIII, Section 13 of the South Carolina Constitution and the Multi-County Park Act and have designated the Griffin Road Site as being included within the Greenville- Anderson Park, and the County desires to cause the Griffin Road Site to continue to be located in the Greenville-Anderson Park or such other Park so as to afford the Company, pursuant to the Special Source Credit Act, the benefits of the special source revenue credits with respect to the Non-FILOT Griffin Road Expansion Project provided herein; and

WHEREAS, pursuant to the Special Source Credit Act, and as further inducement for location of the Expansion Project in the County, the County has agreed to provide certain special source revenue credits to the Company against each Multi-County Park Fee Payment due from the Company with respect to the Non-FILOT Expansion Project as set forth herein, and all as set forth more fully in the Special Source Credit Agreement by and between the County and the Company, the form of which is presented to this meeting, and

which is to be dated as of _____, 2016 or such other date as the parties may agree (the “*Special Source Credit Agreement*”); and

WHEREAS, the County Council has caused to be prepared and presented to this meeting the form of the Special Source Credit Agreement which the County proposes to execute and deliver; and

WHEREAS, it appears that the Special Source Credit 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; and

WHEREAS, terms used, but not defined, herein shall have the meanings set forth with respect to such terms in the Special Source Credit Agreement.

NOW, THEREFORE, BE IT ORDAINED, by the County Council as follows:

Section 1. In order to induce investment in the Expansion Project in the County, and as reimbursement for the Costs of Special Source Improvements, the Company shall, subject to the provisions of Section 3.02(d) of the Special Source Credit Agreement, be entitled to receive, and the County shall provide, special source revenue credits against each Multi-County Park Non-FILOT Expansion Project Fee Payment due with respect to the Non-FILOT Expansion Project from the Company for a period equal to the Expansion Project Negotiated FILOT term that would be applicable to such property if it were eligible for the Expansion Project Negotiated FILOT set forth in the Expansion Project Incentive Agreement, which shall initially be equal to a period of thirty (30) consecutive tax years with respect to each annual increment of investment in Non-FILOT Expansion Project property placed in service during the Expansion Project Investment Period, commencing with the initial Multi-County Park Non-FILOT Expansion Project Fee Payment due for each annual increment of investment (*i.e.*, the Multi-County Park Non-FILOT Expansion Project Fee Payment due with respect to such an annual increment of investment to be first payable on or before the January 15 immediately following the year immediately following the first year in which such annual increment of investment of the Non-FILOT Expansion Project is first placed in service) as follows: (i) with respect to the Non-FILOT Garrison Road Expansion Project, in an amount sufficient to reduce the amount of each such Multi-County Park Non-FILOT Expansion Project Fee Payment due for each such tax year, after reduction of such payment arising from any manufacturing exemption received by the Company with respect to the Non-FILOT Garrison Road Expansion Project pursuant to Section 12-37-220(A)(7) of the Code for such tax year, so that the resulting net payment due equals the amount of such payment if calculated using (1) an assessment ratio of 4%, (2) a fixed millage rate which is the millage rate in effect for Garrison Road Site as of June 30, 2011, which the parties hereto believe to be 266.0, and (3) a valuation of such Non-FILOT Garrison Road Expansion Project property, as real property, utilizing such property’s original income tax basis for South Carolina income tax purposes without regard to depreciation or reassessment, and (ii) with respect to the Non-FILOT Griffin Road Expansion Project, in an amount sufficient to reduce the amount of each such Multi-County Park Non-FILOT Expansion Project Fee Payment due for each such tax year, after reduction of such payment arising from any manufacturing exemption received by the Company with respect to the Non-FILOT Griffin Road Expansion Project pursuant to Section 12-37-220(A)(7) of the Code for such tax year, so that the resulting net payment due equals the amount of such payment if calculated using (1) an assessment ratio of 4%, (2) a fixed millage rate which is the millage rate in effect for Griffin Road Site as of June 30, 2011, which the parties hereto believe to be 272.1, and (3) a valuation of such Non-FILOT Griffin Road Expansion Project property, as real property, utilizing such property’s original income tax basis for South Carolina income tax purposes without regard to depreciation or reassessment.

As further inducement to locate the Expansion Project in the County, and as further reimbursement for the Costs of Special Source Improvements, and in addition to the Tier 1 Special Source Credits, the

Company shall, subject to the provisions of Section 3.02(d) of the Special Source Credit Agreement, be entitled to receive and the County shall provide, special source revenue credits against each net Multi-County Park Non-FILOT Expansion Project Fee Payment due with respect to the Non-FILOT Expansion Project from the Company, after application of the Tier 1 Special Source Revenue Credits, for a period of seventeen (17) consecutive tax years, commencing with such net Multi-County Park Non-FILOT Expansion Project Fee Payment due for tax year 2016 (*i.e.*, the Multi-County Park Non-FILOT Expansion Project Fee Payment typically due to be paid without penalty on or before January 15, 2017), in an amount equal to forty percent (40%) of each such net Multi-County Park Non-FILOT Expansion Project Fee Payment (collectively, the “Tier 1 Special Source Credits”), all as set forth in greater detail in the Special Source Credit Agreement.

Section 2. The form, provisions, terms, and conditions of the Special Source Credit Agreement presented to this meeting and filed with the Clerk to the County Council are hereby approved, and all of the provisions, terms, and conditions thereof are hereby incorporated herein by reference as if the Special Source Credit Agreement was set out in this Ordinance in its entirety. The Chairman of the County Council and the County Administrator, for and on behalf of the County, are hereby authorized to execute and deliver the Special Source Credit Agreement, in substantially the form attached hereto, or with such minor changes as are not materially adverse to the County and as such officials shall determine and as are not inconsistent with the matters contained herein, and are directed to do anything otherwise necessary to effect the execution and delivery of the Special Source Credit Agreement and the performance of all obligations of the County under and pursuant to the Special Source Credit Agreement.

Section 3. The Chairman of County Council, the County Administrator and the Clerk to County Council, 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 Special Source Credit Agreement and the performance of all obligations of the County thereunder.

Section 4. The provisions of this ordinance are hereby declared to be separable and if any section, phrase or provisions 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. All ordinances, resolutions, and parts thereof in conflict herewith are, to the extent of such conflict, hereby repealed. This ordinance shall take effect and be in full force from and after its passage by the County Council.

[End of Ordinance]

ENACTED in meeting duly assembled this __ day of _____, 20__.

GREENVILLE COUNTY, SOUTH CAROLINA

Chairman of County Council

County Administrator

Attest:

Clerk to County Council

First Reading: _____, 20__
Second Reading: _____, 20__
Third Reading: _____, 20__
Public Hearing: _____, 20__

STATE OF SOUTH CAROLINA

COUNTY OF GREENVILLE

I, the undersigned Clerk to County Council of Greenville County, South Carolina, do hereby certify that attached hereto is a true, accurate and complete copy of an ordinance which was given reading, and received unanimous approval, by the County Council at its meetings of _____, 20__, _____, 20__, and _____, 20__, at which meetings a quorum of members of County Council were present and voted, and an original of which ordinance is filed in the permanent records of the County Council.

Clerk to County Council,
Greenville County, South Carolina

Dated: _____, 20__