

AN ORDINANCE

AN ORDINANCE AUTHORIZING AN AMENDMENT TO THAT CERTAIN FEE IN LIEU OF TAX AGREEMENT AMONG GREENVILLE COUNTY, SOUTH CAROLINA, ROY METAL FINISHING COMPANY, INC., AND JPCR, LLC DATED JUNE 1, 2012, AND OTHER MATTERS RELATED THERETO.

WHEREAS, GREENVILLE 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 12, Chapter 44 (the “*FILOT Act*”), and Title 4, Chapters 1 and 29 (the “*Multi-County Park Act*”) of the Code of Laws of South Carolina, 1976, as amended, to enter into agreements with industry whereby the industry would pay fees in lieu of taxes with respect to qualified projects, to provide infrastructure credits against payments in lieu of taxes for reimbursement in respect of investment in certain infrastructure enhancing the economic development of the County; through all such powers the industrial development of the State of South Carolina (the “*State*”) will be promoted and trade developed by inducing manufacturing and commercial enterprises to locate or remain in the State and thus utilize and employ the manpower, products and resources of the State and benefit the general public welfare of the County by providing services, employment, recreation or other public benefits not otherwise provided locally; and

WHEREAS, pursuant to the FILOT Act, the County previously entered into that certain Fee in Lieu of Tax Agreement with Roy Metal Finishing Company, Inc. and JPCR, LLC (collectively, the “*Company*”) dated June 1, 2012 (the “*Fee Agreement*”), providing for the payment of fees in lieu of taxes with respect to the Project, as the Fee Agreement defines such term; and

WHEREAS, pursuant to the Multi-County Park Act, the property encompassing the Project was initially included in that certain Multi-County Park Agreement by and between the County and Williamsburg County dated October 4, 1994 and then subsequently included in that certain Multi-County Park by and between the County and Anderson County dated as of December 31, 2015; and

WHEREAS, the Company has represented that it intends to expand the Project such that the total investment under the Fee Agreement will reach approximately \$60,000,000 (the “*Expansion*”); and

WHEREAS, Section 12-44-30(13) of the FILOT Act provides that the Company may request an extension of the Investment Period, as the FILOT Act defines such term, and the County may approve an extension of up to five years; and

WHEREAS, Section 12-44-30(21) of the FILOT Act provides that the Company may request an extension of the Termination Date, as the FILOT Act defines such term, and the County may approve such an extension of the Termination Date; and

WHEREAS, Section 4-1-175 of the Multi-County Park Act authorizes the County to provide special source revenue credits to offset fees in lieu of taxes for the purposes outlined in Section 4-29-68 of the Multi-County Park Act; and

WHEREAS, the Company has requested an extension of the Investment Period and the term of the Fee Agreement, and the providing of certain special source revenue credits, to induce the location of the Expansion within the County; and

WHEREAS, the County Council has caused to be prepared and presented to this meeting the form of the Amendment to Fee Agreement (the “**Amendment**”), which the County proposes to execute and deliver; and

WHEREAS, it appears that the Amendment now before this meeting is in appropriate form and is an appropriate instrument to be executed and delivered or approved by the County for the purposes intended.

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

Section 1. Based on information supplied by the Company, it is hereby found, determined and declared by the County Council, as follows:

(a) The Expansion will constitute a “project” and “economic development property” as said terms are referred to and defined in the FILOT Act, and the County’s actions herein will subserve the purposes and in all respects conform to the provisions and requirements of the FILOT Act;

(b) The Expansion is anticipated to benefit the general public welfare of the County by providing services, employment, recreation or other public benefits not otherwise provided locally;

(c) The Expansion will give rise to no pecuniary liability of the County or any incorporated municipality or a charge against the general credit or taxing power of either;

(d) The purposes to be accomplished by the Expansion, i.e., economic development, creation of jobs and addition to the tax base of the County, are proper governmental and public purposes;

(e) The benefits of the Expansion are anticipated to be greater than the costs; and

(f) The extension of the term of the Fee Agreement will encourage additional investment in the County and thereby produce a substantial public benefit.

Section 2. The form, terms and provisions of the Amendment presented to this meeting are hereby approved and all of the terms and provisions thereof are hereby incorporated herein by reference as if the Amendment was set out in this Ordinance in its entirety. The Chairman of County Council and/or the County Administrator are hereby authorized, empowered and directed to execute, acknowledge and deliver the Amendment in the name of and on behalf of the County, and the Clerk to County Council is hereby authorized and directed to attest the same, and thereupon to cause the Amendment to be delivered to the Company and cause a copy of the same to be delivered to the Greenville County Auditor, Assessor and Treasurer. The Amendment is to be in substantially the form now before this meeting and hereby approved, or with such minor changes therein as shall be approved by the County Administrator, upon advice of counsel, his execution thereof to constitute conclusive evidence of his approval of any and all changes or revisions therein from the form of Amendment now before this meeting.

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 Amendment 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.

ENACTED in meeting duly assembled this __ day of _____, 2017.

GREENVILLE COUNTY, SOUTH CAROLINA

Chairman of County Council

County Administrator

Attest:

Clerk to County Council

First Reading: _____, 2017
Second Reading: _____, 2017
Third Reading: _____, 2017
Public Hearing: _____, 2017

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 _____, 2017, _____, 2017, and _____, 2017, 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: _____, 2017