

ORDINANCE NO. _____

AN ORDINANCE AUTHORIZING THE EXECUTION AND DELIVERY OF A FEE IN LIEU OF TAX AGREEMENT BY AND BETWEEN GREENVILLE COUNTY, SOUTH CAROLINA AND A COMPANY KNOWN TO THE COUNTY AT THIS TIME AS PROJECT FIBER WITH RESPECT TO CERTAIN ECONOMIC DEVELOPMENT PROPERTY IN THE COUNTY, WHEREBY SUCH PROPERTY WILL BE SUBJECT TO CERTAIN PAYMENTS IN LIEU OF TAXES, INCLUDING THE PROVISION OF CERTAIN SPECIAL SOURCE CREDITS; 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*"), Title 4, Chapter 1 (the "*Multi-County Park Act*"), and Title 4, Chapter 29, 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 industrial projects; to provide infrastructure credits against payment 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, and in order to induce investment in the County, the County Council adopted on _____, 2019 an inducement resolution (the "*Inducement Resolution*") with respect to certain proposed investment by _____, a _____ (the "*Company*") (which was known to the County at the time as "*Project Fiber*"), with respect to the acquisition, construction, and installation of land, buildings, improvements, fixtures, machinery, equipment, furnishings and other real and/or tangible personal property to constitute a new data processing facility in the County (collectively, the "*Project*"); and

WHEREAS, the Company has represented that the Project will result in (i) an expected investment by the Company in the Project of approximately \$10,000,000, but not less than \$7,500,000 (the "*FILOT Investment Target*"), in non-exempt investment and the expected creation of approximately (but not required) five (5) new, full-time jobs (with benefits) in connection therewith, all within the Investment Period (as such term is defined in the hereinafter defined Fee Agreement) and (ii) an expected aggregate investment by the Company and the Company's tenants (the "*Project Tenants*") in taxable personal property at the Project facility of at least \$20,000,000 in non-exempt investment by December 31 of the fifth year after the first year which any portion of the Project is first placed in service, of at least \$30,000,000 in non-exempt investment by December 31 of the seventh year after the first year which any portion of the Project is first placed in service, of at least \$40,000,000 in non-exempt investment by December 31 of the eighth year after the first year which any portion of the Project is first placed in service, of at least \$50,000,000 in non-exempt investment by December 31 of the tenth year after the first year which any portion of the Project is first placed in service; and

WHEREAS, the County has determined on the basis of the information supplied to it by the Company that the Project would be a "project" and "economic development property" as such terms are defined in the FILOT Act, and that the Project would serve the purposes of the FILOT Act; and

WHEREAS, pursuant to the authority of Section 4-1-170 of the Multi-County Park Act and Article

VIII, Section 13 of the South Carolina Constitution, the County intends to cause the Project, to the extent not already therein located, to be placed in a joint county industrial and business park such that the Project will receive the benefits of the Multi-County Park Act; and

WHEREAS, pursuant to the Inducement Resolution, the County has agreed to, among other things, (i) enter into a Fee in Lieu of Tax and Special Source Revenue Credits Agreement with the Company (the "**Fee Agreement**"), whereby the County would provide therein for a payment of a fee-in-lieu-of taxes by the Company with respect to the Project, and provide for certain infrastructure credits to be claimed by the Company against its payments of fees-in-lieu-of taxes with respect to the Project pursuant to Section 4-1-175 of the Multi-County Park Act and (ii) enter into a separate Special Source Revenue Credit Agreement with the Company (the "**SSRC Agreement**") whereby the County would provide certain infrastructure credits to be claimed by the Company and certain of the Project Tenants against payments in lieu of taxes for personal property of the Company and the Project Tenants; and

WHEREAS, the County Council has caused to be prepared and presented to this meeting the forms of the Fee Agreement and the SSRC Agreement which the County proposes to execute and deliver; and

WHEREAS, it appears that the documents above referred to, which are now before this meeting, are in appropriate form and are 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 Project 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 Project 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 Project 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 Project, i.e., economic development, creation of jobs and addition to the tax base of the County, are proper governmental and public purposes; and

(e) The benefits of the Project are anticipated to be greater than the costs.

Section 2. The form, terms and provisions of the Fee Agreement and the SSRC Agreement presented to this meeting are hereby approved and all of the terms and provisions thereof are hereby incorporated herein by reference as if the Fee Agreement and the SSRC Agreement were 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 Fee Agreement and the SSRC Agreement 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 Fee Agreement and the SSRC Agreement 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 Fee Agreement and the SSRC Agreement are to be in substantially the forms 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, her execution thereof to constitute conclusive evidence of her approval of any and all changes or revisions therein from the form of Fee Agreement 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 Fee Agreement and the SSRC 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.

ENACTED in meeting duly assembled this __ day of _____, 2019.

GREENVILLE COUNTY, SOUTH CAROLINA

Chairman of County Council

County Administrator

Attest:

Clerk to County Council

First Reading: _____, 2019
Second Reading: _____, 2019
Third Reading: _____, 2019
Public Hearing: _____, 2019

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 _____, 2019, _____, 2019, and _____, 2019, 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: _____, 2019