

ORDINANCE NO. _____

AN ORDINANCE AUTHORIZING THE CONVERSION OF A FEE IN LIEU OF TAX ARRANGMENT UNDER TITLE 4, CHAPTER 12 OF THE CODE OF LAWS OF SOUTH CAROLINA, 1976, AS AMENDED, BY AND BETWEEN GREENVILLE COUNTY, SOUTH CAROLINA (THE “*COUNTY*”) AND PIERBURG US, LLC, FORMERLY KNOWN AS PIERBURG, LLC, FORMERLY KNOWN AS PIEBURG INC., (THE “*COMPANY*”) TO A SIMPLIFIED FEE IN LIEU OF TAXES ARRANGEMENT UNDER TITLE 12, CHAPTER 44 OF THE CODE OF LAWS OF SOUTH CAROLINA, 1976, AS AMENDED; THE TERMINATION OF A CERTAIN LEASE AGREEMENT BETWEEN THE COUNTY AND THE COMPANY; THE RECONVEYANCE BY THE COUNTY OF RELATED PROPERTY TO THE COMPANY; THE EXTENTION OF THE FILOT TERM; AND OTHER MATTERS RELATED THERETO.

WHEREAS, GREENVILLE COUNTY, SOUTH CAROLINA, acting by and through its County Council (the “*County Council*”), is authorized and empowered under and pursuant to the provisions of Title 4, Chapter 12, Code of Laws of South Carolina, 1976, as amended (the “*Title FILOT Act*”) Title 12, Chapter 44 (the “*Simplified FILOT 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; 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 Title FILOT Act, the County and the Company entered into that certain Inducement and Millage Rate Agreement dated October 15, 1996 and Lease Agreement dated December 1, 1996, as amended by that certain Amended Inducement and Millage Rate Agreement dated November 2, 1999, and as further amended by that certain Second Amendment to Lease Agreement dated October 17, 2002, 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 facility in the County for the manufacture of automotive and related products (collectively, the “*Project*”), pursuant to which (i) the Company committed to invest not less than \$20,000,000 (“*Investment Commitment*”) in real and personal property in the County; and (ii) the County provided Company with a fee-in-lieu of ad valorem taxes (“*FILOT*”) benefits with respect to the Project (the “*Original Fee*”); and

WHEREAS, the Title FILOT Act requires that the County hold title to all of the assets subject to the Original Fee, and pursuant to the Lease Agreement, such assets have been leased back to the Company by the County, and the FILOT benefits have been provided to the Company thereunder; and

WHEREAS, the Simplified FILOT Act permits the granting of FILOT benefits with respect to a project without the need for the County to hold title to all of the assets to be subject to the FILOT benefit; and

WHEREAS, pursuant to Section 12-44-30(21) of the Simplified FILOT Act, the Company requests and County desires to grant an extension of the term of the Original Fee from twenty (20) years to thirty (30) years (the “*Extension*”);

WHEREAS, under Section 12-44-170 of the Simplified FILOT Act, because the Company has an existing FILOT arrangement with the County pursuant to the Title FILOT Act, the Company may elect, with the consent of the County, to “convert” the FILOT arrangement under the Title FILOT Act to a FILOT arrangement under the Simplified FILOT Act; and

WHEREAS, as provided under Section 12-44-170 under the Simplified FILOT Act, the Company has elected to transfer the Project from a FILOT arrangement under the Title FILOT Act to a FILOT arrangement under the Simplified FILOT Act (“*Conversion*”), and the County has consented to the same, subject to the following conditions: (i) a continuation of the same fee payments required under the Original Fee; (ii) a continuation of the same fee in lieu of tax payments only for the time required for payments under the Original Fee; (iii) a carryover of the minimum investment or employment requirements of the existing arrangements to the new fee arrangement under the Simplified FILOT Act; and (iv) the Extension.

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

WHEREAS, it appears that the Fee Agreement 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, the County approves the Conversion.

Section 2. The form, terms and provisions of the Fee 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 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 Fee 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 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 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 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 performance of all obligations of the County thereunder, including without limitation, the termination of the Lease Agreement pursuant to the Original Fee and the reconveyance by the County to the Company previously conveyed to the County for purposes of the FILOT arrangement under the Title Act.

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 3rd day of December, 2019.

GREENVILLE COUNTY, SOUTH CAROLINA

Chairman of County Council

County Administrator

Attest:

Clerk to County Council

First Reading: November 5, 2019
Second Reading: November 19, 2019
Third Reading: December 3, 2019
Public Hearing: December 3, 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 November 5, 2019, November 19, 2019, and December 3, 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