

AN ORDINANCE

AN ORDINANCE AUTHORIZING (1) THE CONVERSION AND TRANSFER OF PROPERTY SUBJECT TO AN EXISTING LEASE AGREEMENT BETWEEN GREENVILLE COUNTY, SOUTH CAROLINA (THE “COUNTY”) AND MICHELIN NORTH AMERICA, INC. (THE “COMPANY”), TO A FEE-IN-LIEU OF PROPERTY TAXES ARRANGEMENT UNDER TITLE 12, CHAPTER 44 OF THE SOUTH CAROLINA CODE, AS AMENDED; (2) THE EXECUTION AND DELIVERY OF SUCH DOCUMENTS AS MAY BE NECESSARY TO EFFECT THE INTENT OF THIS ORDINANCE; AND (3) OTHER MATTERS RELATING THERETO.

Section 1. Findings.

The Greenville County council finds that:

(a) 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 the Code of Laws of South Carolina 1976, as amended (the “Code”), particularly Title 4, Chapter 12 of the Code (the “Original FILOT Act”), Title 12, Chapter 44 of the Code (the “Simplified FILOT Act”); and Title 4, Chapter 1 of the Code (the “Multi-County Park Act” or, as to Section 4-1-75 of the Multi-County Park Act and by incorporation, Section 4-29-68 of the Code, the “Special Source Act”) (collectively, the “Act”) and by Article VIII, Section 13 of the South Carolina Constitution: (i) to enter into agreements with certain investors to construct, operate, maintain, and improve industrial and commercial facilities through which the economic development of the State of South Carolina (the “State”) will be promoted by inducing manufacturing and commercial enterprises to locate, remain, and expand in the State and thus utilize and employ the manpower, agricultural products and natural resources of the State; (ii) to covenant with such investors to accept certain fee in lieu of *ad valorem* tax (“FILOT”) payments, including, without limitation, negotiated FILOT payments, with respect to such properties; (iii) to grant special source revenue credits (“Special Source Credits”) against FILOT payments for certain qualifying infrastructure expenditures as defined in the Special Source Act; and (iv) to create, in conjunction with one or more other counties, a multi-county industrial or business park in order to afford certain enhanced income tax credits to such investors and facilitate the grant of Special Source Credits;

(b) Michelin North America, Inc. a corporation organized and existing under the laws of the State of New York and qualified to do business in South Carolina (“Michelin”), previously established certain facilities in the County for the production and sale of tires and other legal activities of the Company and its affiliates (the “Project”);

(c) pursuant to the Original FILOT Act, the County entered into that certain Lease Agreement between the County, as lessor, and Michelin North America, Inc., as lessee, dated as of December 1, 1996 (the “Lease”) to lease Michelin that portion of the Project consisting of equipment, improvements, and real property for the purpose of providing Michelin with FILOT incentives under the Original FILOT Act;

(d) under the Simplified Act, the County may provide FILOT incentives with respect to the Project without the need for the County to hold title to the Project assets subject to the FILOT incentives;

(e) because Michelin (the “Company”) has an existing FILOT arrangement with the County, Section 12-44-170 of the Simplified FILOT Act permits the Company to “convert” from a title transfer FILOT

arrangement under the Original FILOT Act to a non-title transfer FILOT arrangement under the Simplified FILOT Act;

(f) pursuant to Section 12-44-170(B) of the Simplified FILOT Act, the County and the Company have determined to convert and re-document the FILOT and other incentive arrangements specified in the Lease (the "Conversion") and, in connection therewith, the County will convey to the Company its right, title and interest in and to the Project and the parties will replace the Lease and related documents in their entirety with a Conversion and Fee in Lieu of Tax Agreement (the "Fee Agreement") providing for Negotiated FILOT Payments for the remainder of the term set forth in the Lease;

(g) simultaneously with the replacement of the Lease and related documents by the Conversion, the County shall convey and/or re-convey, as the case may be, to the Company all assets comprising the Project currently titled in the County in accordance with the terms of the Lease;

(h) in consideration of Michelin's continued investment and employment in the County, in accordance with Section 12-44-30(21) of the Simplified FILOT Act, the County has determined to approve an extension of the Negotiated FILOT Payment period, from, and effective as of, the expiration of the Negotiated FILOT Term as originally set forth in the Lease, such that the extended period shall amount to a term of forty (40) years with respect to each annual increment of investment in the Project under the Lease, all as memorialized and ratified herein; and

(i) all such matters are to be undertaken in accordance with the terms and provisions of the Fee Agreement now before this meeting and such Fee Agreement is in appropriate form and is an appropriate instrument to be executed and delivered by the County for the purposes intended.

Section 2. Approval and Execution of Fee Agreement.

(a) The County agrees to convert and re-document the FILOT and other incentives set forth in the Lease and related documents in their entirety with the Fee Agreement and the Simplified Fee Act shall govern the FILOT arrangements pertaining thereto. In furtherance of such replacement, the parties agree that the Lease will be terminated and the County will convey to the Company its right, title and interest in and to any assets comprising the Project.

(b) The form, terms and provisions of the Fee Agreement presented to this meeting and filed with the Clerk of the County Council be and hereby are approved, and all of the terms, provisions and conditions thereof are hereby incorporated herein by reference as if such Fee Agreement were set out in this Ordinance in its entirety. The Chairman of the County Council, the County Administrator and the Clerk of the County Council be and they are hereby authorized, empowered and directed to execute, acknowledge and deliver the Fee Agreement in the name and on behalf of the County, and thereupon to cause the Fee Agreement to be delivered to the Company.

(c) The Fee Agreement, attached hereto as **EXHIBIT A** is to be in substantially the form now before this meeting and hereby approved, or with any changes therein as shall not materially adversely affect the rights of the County thereunder and as shall be approved by the County Attorney and the officials of the County executing the same, their execution thereof to constitute conclusive evidence of their approval of all changes therein from the form of Fee Agreement now before this meeting.

(d) The County shall, simultaneously with the execution and delivery of the Fee Agreement, convey to the Company title to the Project.

Section 3. Authority to Act.

The Chairman of the Council, the County Administrator and the Clerk to Council, for and on behalf of the County, are hereby each authorized, empowered, and directed to do any and all things necessary or proper to effect the performance of all obligations of the County under and pursuant to the Fee Agreement and to carry out the transactions contemplated thereby and by this Ordinance.

Section 4. Controlling Provisions.

This Ordinance shall be construed and interpreted in accordance with the laws of the State of South Carolina. To the extent this ordinance contains provisions that conflict with provisions contained elsewhere in the Greenville County Code or other County ordinances, resolutions or orders, the provisions contained in this ordinance supersede all other provisions and this ordinance is controlling.

Section 5. Severability.

The provisions of this Ordinance are hereby declared to be separable and if any section, phrase, or provision 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 6. Effective Date.

All orders, 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 upon adoption by the Council.

[EXECUTION PAGE TO FOLLOW]

Done in meeting duly assembled _____, 2020.

GREENVILLE COUNTY, SOUTH CAROLINA

By: _____(SEAL)
Butch Kirven, Chairman, County Council
Greenville County, South Carolina

By: _____(SEAL)
Joseph Kernell, County Administrator
Greenville County, South Carolina

Attest:

By: _____(SEAL)
Regina McCaskill, Clerk to Council
Greenville County, South Carolina

First Reading: _____, 2020
Public Hearing: _____, 2020
Second Reading: _____, 2020
Third Reading: _____, 2020