

AN ORDINANCE

AN ORDINANCE AUTHORIZING (1) THE EXECUTION AND DELIVERY OF A FIRST AMENDMENT TO THE FEE IN LIEU OF TAX AND INCENTIVE AGREEMENT BY AND BETWEEN GREENVILLE COUNTY, SOUTH CAROLINA (THE “COUNTY”) AND MICHELIN NORTH AMERICA, INC. (THE “COMPANY”) TO EXTEND THE INVESTMENT PERIOD, THE NEGOTIATED FILOT PAYMENT PERIOD, AND THE PERIOD DURING WHICH THE COMPANY IS ELIGIBLE FOR SPECIAL SOURCE CREDITS (THE “FIRST AMENDMENT”); (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 “Council”), is authorized and empowered under and pursuant to the provisions of Title 12, Chapter 44 of the Code of Laws of South Carolina 1976, as amended (the “Simplified FILOT Act”) and Title 4, Chapter 1 of the Code (the “Multi-County Park Act” or, as to Section 4-1-175 thereof, and Section 4-29-68 of the Code by incorporation, the “Special Source Act”) (collectively, the “Act”) and by Article VIII, Section 13(D) of the South Carolina Constitution: (i) to enter into agreements with certain investors to construct, operate, maintain, and improve certain projects through which the economic development of the State of South Carolina (the “State”) will be promoted and trade developed by inducing manufacturing and commercial enterprises to locate and remain 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 negotiated fee in lieu of *ad valorem* tax (“Negotiated FILOT”) payments, with respect to a project; (iii) to permit investors to claim special source revenue credits against their FILOT payments (“Special Source Credits”) to reimburse such investors for expenditures in connection with infrastructure serving the County and improved or unimproved real estate and personal property, including machinery and equipment, used in the operation of a manufacturing or commercial enterprise in order to enhance the economic development of the County (“Special Source Improvements”); 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 expanded certain facilities in the County for the production and sale of tires and other legal activities of the Company and its affiliates (the “Expansion Project”);

(c) in connection with the expansion of certain manufacturing and related facilities in the County (the “Expansion Project”) by Michelin North America, Inc. (“Michelin”), and pursuant to the Simplified FILOT Act and an Ordinance duly enacted by the Council, the County and Michelin

entered into that certain Fee in Lieu of Tax and Incentive Agreement dated as of December 4, 2012 (the "FILOT Agreement"), whereby the County agreed to provide, amongst other things, certain Negotiated FILOT benefits and Special Source Revenue Credits to the Company with respect to the Expansion Project for an initial term as set forth therein (the "Initial Negotiated FILOT Term");

(d) Michelin has invested over \$442,000,000 in the Expansion Project under the FILOT Agreement as of the date of this Ordinance;

(e) pursuant to Section 12-44-30(13) of the Simplified FILOT Act and the FILOT Agreement, and due to Michelin's level of investment in the Expanded Project exceeding \$200,000,000 by the end of the Enhanced Investment FILOT Compliance Period, Michelin has ten (10) years to complete the Expansion Project (the "Initial Investment Period");

(f) pursuant to the Special Source Act and the FILOT Agreement, the County has granted Michelin Special Source Credits against each Negotiated FILOT Payment due with respect to the Expansion Project for a period of twenty (20) consecutive Property Tax Years, in an amount equal to forty percent (40%) of each such Negotiated FILOT Payment;

(g) pursuant to Section 12-44-30(13) of the Simplified FILOT Act, the County desires to extend the Investment Period by five (5) years, for a total period for completion of the Expansion Project of fifteen (15) years (the "Extended Investment Period");

(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 Initial Negotiated FILOT Term, such that the extended period shall amount to a term of forty (40) years with respect to each annual increment of investment in the Expansion Project under the FILOT Agreement, all as memorialized and ratified herein; and

(i) in consideration of, and conditioned on Michelin's additional investment of \$100,000,000 in the Expansion Project under the FILOT Agreement for a total investment of \$542,000,000 by the end of the Extended Investment Period, and as authorized by the Special Source Act and the Simplified FILOT Act, the County desires to extend the period during which Michelin will receive Special Source Credits against each Negotiated FILOT Payment due with respect to the Expansion Project by ten (10) years, for a total period of thirty (30) consecutive Property Tax Years, in an amount equal to forty percent (40%) of each such Negotiated FILOT Payment; and

(j) as permitted by Section 12-44-30(13) and (21) of the Simplified FILOT Act, and the Special Source Act, the County desires to authorize the foregoing actions to be taken for the benefit of Michelin;

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

(l)

Section 2. Approval and Execution of First Amendment.

(a) The County agrees to extend the Initial Negotiated FILOT Term, the Initial Investment Period and the period during which Michelin will receive Special Source Credits against each Negotiated FILOT Payment as set forth in greater detail in the First Amendment.

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

(c) The First Amendment, 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.

Section 3. Authority to Act.

The Chairman of the Council 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 First Amendment 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