

ORDINANCE NO. _____

AN ORDINANCE AUTHORIZING AN AMENDMENT TO FEE IN LIEU OF TAX AGREEMENT BY AND AMONG GREENVILLE COUNTY, SOUTH CAROLINA, NHT SOUTHCHASE, LLC AND MDH F1 GREENVILLE SOUTHCHASE, LLC

WHEREAS, Greenville County, South Carolina (the “County”), acting by and through its County Council (the “County Council”), is authorized by the Code of Laws of South Carolina, 1976, as amended (the “Code”), particularly Title 12, Chapter 44 (the “FILOT Act”): (i) to enter into a fee in lieu of tax agreement with companies meeting the requirements of the FILOT Act, which identifies certain property of such companies as economic development property, to induce such companies to locate in the State of South Carolina (the “State”) and to encourage companies now located in the State to expand their investments and thus make use of and employ workers and other resources of the State; and (ii) to covenant with such companies to accept certain fees in lieu of ad valorem tax payments with respect to projects in the County; and

WHEREAS, Southchase Wilson Bridge, LLC a Georgia limited liability company (“Southchase Wilson Bridge”), is party to that certain Fee in Lieu of Tax Agreement by and between the County and Southchase Wilson Bridge, dated as of January 1, 2018 (as amended, restated, supplemented, modified and assigned, the “FILOT Agreement”); wherein, in relevant part, the County agreed to provide certain incentives to Southchase Wilson Bridge with respect to certain real property, more particularly described in Exhibit A to the FILOT Agreement (the “Land”), and certain tangible and personal property, improvements and other property located thereon (collectively, the “Property”); and

WHEREAS, the Land was subdivided after the effective date of the FILOT Agreement; and

WHEREAS, Southchase Wilson Bridge has previously conveyed all of its rights and obligations under the FILOT Agreement, as they pertain to the Property, to a subsidiary company, NHT Southchase, LLC, a Delaware limited liability company (the “Company”), effective as of December 21, 2018; and

WHEREAS, the Company has conveyed to MDH F1 Greenville Southchase, LLC, a Delaware limited liability company (“MDH”), a portion of the Property more particularly described in Exhibit A to this Ordinance, attached hereto (the “Sold Property”), pursuant to an agreement between the Company and MDH relating to the purchase and sale of the Sold Property, wherein and whereby MDH agreed to purchase the Sold Property for the consideration expressed in such agreement; and

WHEREAS, following such sale, the Company has retained a portion of the Property more particularly described in Exhibit B to this Ordinance, attached hereto (the “Retained Property”); and

WHEREAS, pursuant to that certain Partial Assignment and Assumption of Fee in Lieu of Tax Agreement, effective as of December 31, 2021, the Company assigned, and MDH assumed,

certain rights and obligations under the FILOT Agreement as they pertain to the Sold Property; and

WHEREAS, the Company and MDH desire to enter into that certain Amendment to Fee in Lieu of Tax Agreement (the “Amendment”), wherein and whereby the Company, MDH and the County would acknowledge that the portion of the Contract Minimum Investment Requirement (as defined in the FILOT Agreement) applicable to the Sold Property will be deemed satisfied, and any remaining investment required to satisfy the remaining portion of the Contract Minimum Investment Requirement shall be satisfied solely by the Company by its investment into the Retained Property; and

WHEREAS, the Company and MDH have requested that the County approve such Amendment in accordance with the provisions of the FILOT Act; and

WHEREAS, based on the information provided by the County and MDH, the County Council has made a finding of substantial public benefit to be derived from approving the Amendment.

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

Section 1. Definitions. Terms used in this Ordinance but not defined herein shall have the meanings ascribed to them in the FILOT Agreement.

Section 2. Approval of Amendment. The County hereby authorizes, approves and consents to the Amendment and authorizes the Chair of County Council, the County Administrator and all other appropriate officials of the County to execute and deliver the Amendment in substantially the form presented to County Council, or with such changes not materially adverse to the County as may be approved by the County Attorney, and the Clerk of County Council is hereby authorized and directed to attest to the same.

Section 3. Further Documentation. The County Council and the County’s duly authorized representatives shall take such action as may be necessary to effectuate the action herewith taken and the Assignment herein authorized. The Chair of County Council and the County Administrator are each hereby authorized and directed, in the name and on behalf of the County, to execute such other documents, agreements, affidavits and certificates (including any estoppel certificates), and the Clerk of County Council is hereby authorized to attest the same, and to deliver such other documents, agreements, affidavits, and certificates to the Company and MDH, in order to consummate the transactions contemplated by this Ordinance.

Section 4. Miscellaneous.

(a) The Chair of County Council, the County Administrator and all other appropriate officials of the County are hereby authorized to execute, deliver and receive any other agreements and documents as may be required by the County in order to carry out, give effect to and consummate the transactions authorized by this Ordinance;

(b) This Ordinance shall be construed and interpreted in accordance with the laws of the State of South Carolina;

(c) This Ordinance shall become effective immediately upon approval by the County Council following its third reading before County Council;

(d) The provisions of this Ordinance are hereby declared to be severable and if any section, phrase or provision shall for any reason be declared by a court of competent jurisdiction to be invalid or unenforceable, that declaration shall not affect the validity of the remainder of the sections, phrases and provisions hereunder; and

(e) All ordinances, resolutions and parts thereof in conflict herewith are, to the extent of the conflict, hereby repealed.

[Signature Page to Follow]

Executed this ____ day of _____, 2022.

GREENVILLE COUNTY, SOUTH CAROLINA

Willis Meadows, Chair of County Council

Joseph Kernell, County Administrator

ATTEST:

Regina McCaskill, Clerk to County Council

First Reading: [_____, 2022]
Second Reading: [_____, 2022]
Public Hearing: [_____, 2022]
Third Reading: [_____, 2022]

Exhibit A

Legal Description of the Sold Property

ALL that certain piece, parcel or lot of land, lying and being in Greenville County, State of South Carolina, being more fully shown and designated as 21.779 Acres, 948,698 Sq Ft on a survey for "Survey for Southchase Wilson Bridge, LLC " prepared by Benchmark Surveying, Inc., dated November 9, 2018 and recorded November 21, 2018 in Plat Book 1322 at Page 14, in the Office of the Register of Deeds for Greenville County, and having the following metes and bounds, to—wit:

Beginning at a Mag nail in the center of Wilson Bridge Road (S-23-1080) and being 1,351± feet east of the intersection of Wilson Bridge Road and Parsons Road. Thence, leaving the center of Wilson Bridge Road with the line of Tract C, N 14-20-54 W for 397.64 feet to an iron pin. Thence, along the arc of a curve to the left having a radius of 220.00 feet, and arc length of 97.53 feet and a chord bearing of N 27-01-29 W for 96.56 feet to an iron pin. Thence, N 39-42-03 W for 17.22 feet to an iron pin. Thence, still with the line of Tract C, S 80-07-08 W for 41.44 feet to iron pin. Thence, S 67-38-39 W for 566.56 feet to an iron pin. Thence, with the line of Stag Industrial Holdings, LLC, N 16-49-47 W for 633.29 feet to an iron pin on the right of way of Southchase Boulevard. Thence, with said right of way along the arc of a curve to the left, having a radius of 761.44 feet, an arc length of 80.04 feet and a chord bearing of N 38-36-06 E for 80.00 feet to an iron pin. Thence, leaving the right of way of Southchase Boulevard, S 35-56-21 E for 150.03 feet to an iron pin. Thence, S 10-30-56 E for 139.03 feet to an iron pin. Thence, S 33-55-31 W for 85.33 feet to an iron pin. Thence, S 56-48-46 E for 255.41 feet to an iron pin. Thence, N 79-50-36 E for 166.50 feet to an iron pin. Thence, N 34-42-15 E for 766.56 feet to an iron pin on the line of W.W.Grainger, Inc. Thence, with the line of W.W.Grainger, Inc., S 55-05-18 E for 937.27 feet to and iron pin. Thence, N 87-25-02 E for 185.26 feet to an iron pin. Thence, still with the line of W.W.Grainger, Inc., S 19-43-34 W for 365.80 feet to an iron pin in the center of Wilson Bridge Road. Thence, with the center of Wilson Bridge Road, S 75-16-19 W for 906.69 feet to a nail. Thence, S 76-29-34 W for 78.95 feet to a Mag nail, the point and place of beginning.

Derivation: This being the same property conveyed to MDH F1 Greenville Southchase, LLC, a Delaware limited liability company by deed from NHT Southchase, LLC, a Delaware limited liability company, dated November 12, 2020 and recorded November 16, 2020 in the Greenville County Register of Deed Office in Deed Book 2608, Page 4878.

FOR INFORMATIONAL PURPOSES ONLY:

Tax Map ID Number: 0335000100429

Property Address: 250 Wilson Bridge Road, Fountain Inn, SC

Exhibit B

Legal Description of the Retained Property

All that certain piece, parcel or tract of land situate, lying and being on the northern side of Wilson Bridge Road in Greenville County, State of South Carolina, being shown and designated as Tract B, containing 5.112 acres, and Tract C, containing 5.332 acres, in accordance with a plat made for Southchase Wilson Bridge, LLC, dated March 1, 2021, by Benchmark Surveying, Inc. Reference to said plat is hereby made for a complete metes, bounds, courses and distances description thereon. Said Plat being recorded March 3, 2021 in Plat Book 1391, Page 48, in the Office of the Register of Deeds for Greenville County.