

ORDINANCE

AUTHORIZING THE EXECUTION AND DELIVERY OF A FEE-IN-LIEU OF TAX AGREEMENT BY AND BETWEEN GREENVILLE COUNTY AND PROJECT ORANGE, WHEREBY GREENVILLE COUNTY WILL ENTER INTO A FEE-IN-LIEU OF TAX ARRANGEMENT WITH PROJECT ORANGE, AND PROVIDING FOR PAYMENT BY PROJECT ORANGE OF CERTAIN FEES-IN-LIEU OF *AD VALOREM* TAXES; PROVIDING FOR THE ALLOCATION OF FEES-IN-LIEU OF TAXES PAYABLE UNDER THE AGREEMENT FOR THE ESTABLISHMENT OF A MULTI-COUNTY INDUSTRIAL/BUSINESS PARK; AND OTHER MATTERS RELATING THERETO.

WHEREAS, Greenville County, South Carolina (the “County”) would like to enter into a fee in lieu of tax arrangement with _____, a _____ (the “Company”, formerly known to the County as “Project Orange”), as the company has expressed its intent to the County to make a capital investment in Greenville County and to hire full time employees in Greenville County, i.e., the project;

WHEREAS, as a result of the Company’s desire to undergo the project, the Company has asked the County to enter into a Fee-in-Lieu of Tax Agreement by and between the County and the Company (the “FILOT Agreement”) in order to encompass the terms of the project;

WHEREAS, 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 of the Code of Laws of South Carolina 1976, as amended (the “FILOT Act”), to designate real and tangible personal property as “economic development property” and to enter into an arrangement which provides for payments-in-lieu of taxes (“Negotiated FILOT Payments”) for a project qualifying under the FILOT Act; and

WHEREAS, pursuant to the authority of Title 4, Chapter 1 of the Code of Laws of South Carolina 1976, as amended and Article VIII, Section 13 of the South Carolina Constitution, the County has agreed to use its best commercially reasonable efforts to cause the new Project site to be located in a multi-county industrial and business park established by the County pursuant to qualifying agreement with an adjoining county in the State; and

WHEREAS, The Company proposes to develop a facility in Greenville County by acquiring, constructing, equipping and furnishing machinery, equipment and other real and personal property (the “Negotiated FILOT Project”) which the Company has represented will likely consist of a capital investment of approximately \$5,000,000.00 and creating employment for approximately 100 full time employees; and

WHEREAS, the Negotiated FILOT Project is located entirely within Greenville County and will be included in and subject to the multi-county park and fee-in-lieu of tax arrangements as described herein; and

WHEREAS, the County has made specific proposals, including proposals to offer certain economic development incentives set forth herein, for the purpose of inducing the Company to invest its funds to acquire and equip the Negotiated FILOT Project (the “Incentives”); and

WHEREAS, it is in the public interest, for the public benefit and in furtherance of the public purposes of the FILOT Act that the County Council provide approval for qualifying the Negotiated FILOT Project;

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

Section 1. Evaluation of the Negotiated FILOT Project. County Council has evaluated the Negotiated FILOT Project on the following criteria based upon the advice and assistance of the South Carolina Department of Commerce and the South Carolina Department of Revenue:

- (a) whether the purposes to be accomplished by the Negotiated FILOT Project are proper governmental and public purposes;
- (b) the anticipated dollar amount and nature of the investment to be made; and
- (c) the anticipated costs and benefits to the County.

Section 2. Findings by County Council. Based upon information provided by and representations of the Company, County Council’s investigation of the Negotiated FILOT Project, including the criteria described in Section 1 above, and the advice and assistance of the South Carolina Department of Commerce and the South Carolina Department of Revenue, as required, County Council hereby find that:

- (a) the Negotiated FILOT Project constitutes a “project” as that term is defined in the FILOT Act;
- (b) the Negotiated FILOT Project will continue to serve the purposes of the FILOT Act;
- (c) The investment by the Company in the project is anticipated to be approximately \$5,000,000.00 to be invested within seven (7) years from the end of the property tax year in which the Company and the County execute the FILOT Agreement (as defined herein).
- (d) the Negotiated FILOT Project will be located entirely within the County;
- (e) the Negotiated FILOT Project will benefit the general public welfare of the County by providing services, employment, recreation or other public benefits not otherwise adequately provided locally;
- (f) the Negotiated FILOT Project will not give rise to a pecuniary liability of the County or any municipality nor a charge against its general credit or taxing power

of the County or any municipality;

- (g) the purposes to be accomplished by the Negotiated FILOT Project are proper governmental and public purposes;
- (h) the inducement of the location of the Negotiated FILOT Project is of paramount importance; and
- (i) the benefits of the Negotiated FILOT Project to the public are greater than the costs to the public.

Section 3. Fee-in-Lieu of Taxes Arrangement. Pursuant to the authority of the FILOT Act, the Negotiated FILOT Project is designated as “economic development property” under the FILOT Act and there is hereby authorized a fee-in-lieu of taxes arrangement with the Company which will provide Negotiated FILOT Payments to be made with respect to the Negotiated FILOT Project based upon a 6% assessment ratio and a millage of rate of 279.1 mills, all as more fully set forth in the FILOT Agreement.

Section 4. Execution of the FILOT Agreement. The form, terms and provisions of the FILOT 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 FILOT Agreement were set out in this Ordinance in its entirety. The Chairman of the County Council (or in his absence for any reason, the Vice Chairman of County Council) and the County Administrator be and they are hereby authorized, empowered and directed to execute, acknowledge and deliver the FILOT Agreement in the name and on behalf of the County, and thereupon to cause the FILOT Agreement to be delivered to the Company. The FILOT Agreement 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 FILOT Agreement now before this meeting.

Section 5. Miscellaneous.

- (a) The Chairman 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 following third reading by the 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]

Enacted in meeting duly assembled this ____ day of _____, 2015.

GREENVILLE COUNTY, SOUTH CAROLINA

(SEAL)

By: _____
Chairman of County Council

By: _____
County Administrator
Greenville County, South Carolina

ATTEST:

By: _____
Clerk to County Council
Greenville County, South Carolina

First Reading: _____, 2015
Second Reading: _____, 2015
Public Hearing: _____, 2015
Third Reading: _____, 2015