

ORDINANCE NO. _____

AN ORDINANCE AUTHORIZING THE EXECUTION AND DELIVERY OF AN AMENDMENT TO THE EXISTING LEASE AGREEMENT DATED JUNE 1, 1997 BY AND BETWEEN GREENVILLE COUNTY, SOUTH CAROLINA AND FAIVELEY TRANSPORT NORTH AMERICA, INC. WITH RESPECT TO CERTAIN ECONOMIC DEVELOPMENT PROPERTY IN THE COUNTY, WHEREBY THE TERM OF THE LEASE AGREEMENT SHALL BE EXTENDED; AND OTHER MATTERS RELATED THERETO.

WHEREAS, 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 Title 4, Chapter 12 (the “*FILOT Act*”), of the Code of Laws of South Carolina 1976, as amended, to acquire, or cause to be acquired, properties (which such properties constitute "projects" as defined in the Act) and to enter into agreements with any industry to construct, operate, maintain and improve such projects; to enter into or allow financing agreements with respect to such projects; and, to accept any grants for such projects through which powers the industrial development of the State of South Carolina (the “*State*”) and 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 and benefit the general public welfare of Greenville County by providing services, employment, recreation or other public benefits not otherwise provided locally; and to enter into a lease agreement, as defined under the FILOT Act, with respect to such projects; and

WHEREAS, pursuant to the FILOT Act, and in order to induce investment in the County, the County did previously enter into a Lease Agreement (the “**Lease Agreement**”) dated June 1, 1997 with Ellcon-National, Inc., a New York Corporation which is now known as Faiveley Transport North America, Inc. (the “*Company*”) with respect to the Project, as defined therein; and

WHEREAS, the Company has requested that the County agree to an extension of the Term, as defined in the Lease Agreement; and

WHEREAS, the County has determined on the basis of the information supplied to it by the Company that the Project has and continues to qualify as a “project”, and that the Project serves the purposes of the FILOT Act; and

WHEREAS, the County Council has caused to be prepared and presented to this meeting the form of a First Amendment to Lease Agreement which the County proposes to execute and deliver; and

WHEREAS, it appears that the documents above referred to, which are now before this meeting, are in appropriate form and are 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, as follows:

(a) The Project constitutes a “project” as said term is referred to and defined in the FILOT Act, and the County’s actions herein will subserve the purposes and in all respects conform to the provisions and requirements of the FILOT Act;

(b) The Project continues to benefit the general public welfare of the County by providing services, employment, recreation or other public benefits not otherwise provided locally;

(c) The Project will give rise to no pecuniary liability of the County or any incorporated municipality or a charge against the general credit or taxing power of either;

(d) The purposes to be accomplished by the Project, i.e., economic development, creation of jobs and addition to the tax base of the County, are proper governmental and public purposes; and

(e) The benefits of the Project are anticipated to be greater than the costs.

Section 2. The form, terms and provisions of the First Amendment to Lease 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 First Amendment to Lease 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 First Amendment to Lease 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 First Amendment to Lease 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 First Amendment to Lease 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 Chairman of County Council and the County Administrator, upon advice of counsel, their execution thereof to constitute conclusive evidence of their approval of any and all changes or revisions therein from the form of First Amendment to Lease 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 First Amendment to Lease Agreement and the performance of all obligations of the County thereunder.

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 __ day of _____, 2018.

GREENVILLE COUNTY, SOUTH CAROLINA

Chairman of County Council

County Administrator

Attest:

Clerk to County Council

First Reading: _____, 2018
Second Reading: _____, 2018
Third Reading: _____, 2018
Public Hearing: _____, 2018

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 _____, 20__, _____, 20__, and _____, 20__, 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: _____, 20__