

STATE OF SOUTH CAROLINA
COUNTY COUNCIL FOR NEWBERRY COUNTY
ORDINANCE NO. 12-19-16

AUTHORIZING THE EXECUTION AND DELIVERY OF A FEE IN LIEU OF *AD VALOREM* TAX AND INCENTIVE AGREEMENT BY AND BETWEEN NEWBERRY COUNTY, SOUTH CAROLINA, AND [PROJECT APOLLO II], TO PROVIDE FOR A FEE IN LIEU OF *AD VALOREM* TAXES INCENTIVE, THE GRANT OF INFRASTRUCTURE CREDITS, THE TRANSFER OF CERTAIN PROPERTY, AND OTHER MATTERS RELATED THERETO.

WHEREAS, Newberry County, South Carolina (“County”), acting by and through its County Council (“County Council”) is authorized and empowered under and pursuant to the provisions of Title 12, Chapter 44, Code of Laws of South Carolina, 1976, as amended (“FILOT Act”), (i) to enter into agreements with industry to encourage investment in projects constituting economic development property through which the development of the State of South Carolina (“State”) will be promoted by inducing new manufacturing and commercial enterprises to locate in the State and thus utilizing and employing the manpower and other resources of the State; and (ii) to covenant with such industry to accept certain fees in lieu of *ad valorem* taxes (“FILOT”) with respect to such investment;

WHEREAS, pursuant to Article VIII, Section 13 of the South Carolina Constitution and Title 4, Section 1, Code of Laws of South Carolina, 1976, as amended (collectively, “MCIP Act”), the County is authorized to develop multicounty parks with other qualifying counties and, in its discretion, include within the boundaries of such parks the property of qualifying industries. Under the authority provided in the MCIP Act, the County has created previously a multicounty park with Greenwood County (“Park”);

WHEREAS, the County is further authorized pursuant to the MCIP Act, in order to enhance the economic development of the County, to grant credits (“Infrastructure Credits”) against payments due with respect to the property located in the Park in order to assist in paying the costs of designing, acquiring, constructing, improving, or expanding (1) infrastructure serving the County or the property of a company located within in the Park or (2) improved or unimproved real estate and personal property used in the operation of a manufacturing enterprise located within the Park (collectively, “Infrastructure”);

WHEREAS, [Project Apollo II], (“Company”), desires to establish a manufacturing facility in the County consisting of taxable investment of not less than \$13,000,000 (“Project”);

WHEREAS, at the request of the Company and as an inducement to locate the Project in the County, the County pursuant to the FILOT Act and the MCIP Act desires to offer the Company certain incentives, including (1) offering a negotiated FILOT incentive to the Company with respect to the Project, to be calculated using an assessment ratio of 6% and a fixed millage rate for a period of 20 years; (2) locating the Project in the Park and providing to the Company Infrastructure Credits to partially reimburse the Company for its investment in Infrastructure; (3) conveying to the Company twenty-five acres, more or less, of real property, as more particularly described on Exhibit A (“Land”), at no expense to the Company; (4) committing to seeking, applying, as may be required, and administering certain grants to help offset certain Project site improvement expenses; and (5) offering certain temporary office and testing space to the Company at no cost to the Company; and

WHEREAS, the County and the Company desire to enter into the Fee In Lieu of *Ad Valorem* Tax and Incentive Agreement (“Fee Agreement”) attached hereto as Exhibit B, to set forth the terms and conditions of certain of the incentives authorized pursuant to this Ordinance.

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

Section 1. *Statutory Findings.* Based on information supplied to the County by the Company, County Council evaluated the Project based on relevant criteria including, the purposes the Project is to accomplish, the anticipated dollar amount and nature of the investment, employment to be created, and the anticipated costs and benefits to the County, and hereby finds: (i) the Project will benefit the general public welfare of the County by providing service, employment, recreation or other public benefits not otherwise provided locally; (ii) the Project gives rise to no pecuniary liability of the County or incorporated municipality or to no charge against its general credit or taxing power; (iii) the purposes to be accomplished by the Project are proper governmental and public purposes; and (iv) the benefits of the Project to the public are greater than the costs to the public.

Section 2. *Authorization of Incentives; Authorization to Execute and Deliver Fee Agreement.* The incentives as described in this Ordinance with respect to the Project are hereby approved, including specifically, the transfer of the Land to the Company and the lease of certain County facilities to the Company, each at no cost to the Company. The form, terms and provisions of the Fee Agreement that is before this meeting are approved and all of the Fee Agreement's terms and conditions are incorporated in this Ordinance by reference. The Chairman of County Council is hereby authorized and directed to execute the Fee Agreement in the name of and on behalf of the County, subject to the approval of any revisions or changes as are not materially adverse to the County by the County Administrator and the County Attorney, and the County Administrator is hereby authorized and directed to attest the Fee Agreement and to deliver the Fee Agreement to the Company.

Section 3. *Inclusion within the Park.* The expansion of the Park boundaries to include the Project, is hereby authorized and approved. The Chairman, the County Administrator and the Clerk to the County Council are each hereby authorized to execute such documents and take such further actions as may be necessary to complete the expansion of the Park boundaries. Pursuant to the terms of the agreement governing the Park, the expansion shall be complete upon the adoption of this Ordinance and a companion ordinance by the Greenwood County Council.

Section 4. *Further Assurances.* The County Council confirms the authority of the Chairman, the County Administrator, the Director of Economic Development and the Clerk to County Council, and various other County officials and staff, acting at the direction of the Chairman, the County Administrator, the Director of Economic Development or Clerk to County Council, as appropriate, to take whatever further action and to negotiate, execute and deliver whatever further documents as may be appropriate to effect the intent of this Ordinance and the incentives offered to the Company hereunder.

Section 5. *General Repealer.* All ordinances, resolutions, and parts thereof in conflict herewith are, to the extent of such conflict, hereby repealed.

This Ordinance takes effect and is in full force only after the County Council has approved it following three readings and a public hearing.

NEWBERRY COUNTY, SOUTH CAROLINA

Chair, Newberry County Council

(SEAL)
ATTEST:

Clerk to Council
Newberry County Council

READINGS:

First Reading: December 14, 2016
Second Reading: January 4, 2017
Public Hearing: January 18, 2017
Third Reading: January 18, 2017

EXHIBIT A
PROPERTY DESCRIPTION

EXHIBIT B
FORM OF FEE AGREEMENT