

FILED
NEWBERRY COUNTY
2023 SEP -7 AM 9:51
ELIZABETH P FOLK
CLERK OF COURT

STATE OF SOUTH CAROLINA)
)
COUNTY OF NEWBERRY)

ORDINANCE NO. 07-02-2023

AN ORDINANCE AUTHORIZING THE EXECUTION AND DELIVERY OF A FEE IN LIEU OF TAX AGREEMENT BY AND BETWEEN NEWBERRY COUNTY, SOUTH CAROLINA AND WEST FRASER, INC. WITH RESPECT TO CERTAIN ECONOMIC DEVELOPMENT PROPERTY IN THE COUNTY, WHEREBY SUCH PROPERTY WILL BE SUBJECT TO CERTAIN PAYMENTS IN LIEU OF TAXES, INCLUDING THE PROVISION OF CERTAIN SPECIAL SOURCE CREDITS; AND OTHER MATTERS RELATED THERETO.

WHEREAS, NEWBERRY 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 12, Chapter 44 (the "FILOT Act"), Title 4, Chapter 1 (the "Multi-County Park Act"), and Title 4, Chapter 29, of the Code of Laws of South Carolina 1976, as amended, to enter into agreements with industry whereby the industry would pay fees-in-lieu-of taxes with respect to qualified industrial projects; to provide infrastructure credits against payment in lieu of taxes for reimbursement in respect of investment in certain infrastructure enhancing the economic development of the County; through all such powers the industrial development of the State of South Carolina (the "State") will be promoted and trade developed by inducing manufacturing and commercial enterprises to locate or remain in the State and thus utilize and employ the manpower, products and resources of the State and benefit the general public welfare of the County by providing services, employment, recreation or other public benefits not otherwise provided locally; and

WHEREAS, pursuant to the FILOT Act, and in order to induce investment in the County, the County Council adopted on July 19, 2023, an inducement resolution (the "Inducement Resolution") with West Fraser, Inc. (the "Company"), with respect to the acquisition, construction, and installation of land, buildings, improvements, fixtures, machinery, equipment, furnishings and other real and/or tangible personal property to constitute an expansion of the Company's existing facilities in the County for the manufacture of wood products (collectively, the "Project"); and

WHEREAS, the Company has represented that the Project will involve an investment of approximately \$17,703,823 in the County and the creation of approximately 30 new, full-time jobs at the Project, all within the Investment Period (as such term is defined in the hereinafter defined Fee Agreement; and

WHEREAS, the County has determined, solely on the basis of the information supplied to it by the Company, that the Project would be a "project" and "economic development property" as such terms are defined in the FILOT Act, and that the Project would serve the purposes of the FILOT Act; and

WHEREAS, pursuant to the authority of Section 4-1-170 of the Multi-County Park Act and Article VIII, Section 13 of the South Carolina Constitution, the County intends to cause the Project, to the extent not already therein located, to be placed in a joint county industrial and business park such that the Project will receive the benefits of the Multi-County Park Act; and

WHEREAS, at the request of the Company, the County desires to, among other things, (a) enter into a FILOT Agreement with the Company (the "Fee Agreement"), whereby the County would provide therein for a payment of a fee-in-lieu-of taxes by the Company with respect to the Project, and (b) provide

for certain infrastructure credits to be claimed by the Company against its payments of fees-in-lieu-of taxes with respect to the Project pursuant to Section 4-1-175 of the Multi-County Park Act; and

WHEREAS, there is hereby presented to this meeting the form of the Fee Agreement, a copy of which is attached hereto as Exhibit A, 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 will constitute a “project” and “economic development property” as said terms are 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 is anticipated 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 Fee 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 Fee Agreement was set out in this Ordinance in its entirety. The County Administrator is hereby authorized, empowered and directed to execute, acknowledge and deliver the Fee 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. The Fee 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 County Administrator, upon advice of counsel, her execution thereof to constitute conclusive evidence of her approval of any and all changes or revisions therein from the form of Fee Agreement now before this meeting.

Section 3. To the extent the Project is not already located in the Park, the expansion of the Park boundaries to include the Project is authorized and approved. The Chair, the County Administrator and the Clerk to County Council are each 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 (“Park Agreement”), the expansion of the Park’s boundaries and the amendment to the Park Agreement is complete on adoption of this Ordinance by County Council and delivery of this Ordinance to the Clerk to County Council of Greenwood County, South Carolina.

Section 4. The County Administrator, for and on behalf of the County, is hereby authorized and directed to do any and all things necessary to effect the execution and delivery of the Fee Agreement and the performance of all obligations of the County thereunder.

Section 5. 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 6. 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 6th day of September, 2023.


NEWBERRY COUNTY, SOUTH CAROLINA

(SEAL)



Jeff Shacker
Newberry County Administrator

ATTEST:



Andrew Wigger
Clerk to Newberry County Council

First Reading: July 19, 2023
Second Reading: August 16, 2023
Third Reading: September 6, 2023
Public Hearing: August 16, 2023

STATE OF SOUTH CAROLINA

COUNTY OF NEWBERRY

I, the undersigned Clerk to County Council of Newberry 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 July 19, 2023, August 16, 2023, and September 6, 2023, 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.



Andrew Wigger
Clerk to Newberry County Council

Dated: September 6, 2023