

**AGENDA ITEM SUMMARY
OCONEE COUNTY, SC**

COUNCIL MEETING DATE: December 2, 2014
COUNCIL MEETING TIME: 6:00 PM

ITEM TITLE [Brief Statement]:

Third & Final Reading of Ordinance 2014-28 "AN ORDINANCE AMENDING CHAPTER 32 AND CHAPTER 38 OF THE OCONEE COUNTY CODE OF ORDINANCES, IN CERTAIN LIMITED REGARDS AND PARTICULARS ONLY, REGARDING HEIGHT RESTRICTIONS FOR STRUCTURES LOCATED IN ZONED INDUSTRIAL DISTRICTS AND FOR STRUCTURES LOCATED IN AREAS DESIGNATED BY OCONEE COUNTY AS COUNTY INDUSTRIAL PARKS; AND OTHER MATTERS RELATED THERETO"

BACKGROUND DESCRIPTION:

Proposed ordinance 2014-28 stems from a desire to ensure Oconee's land use regulations take into account the evolving needs of industrial development. Rapid technological advances are allowing companies to design and build facilities that ensure increased operational efficiencies. Ordinance 2014-28 will increase allowable height for property zoned in the Industrial District and for County Industrial Parks. Ordinance 2014-28 will help ensure that Oconee County maintains it competitive edge when recruiting new industry and when working with existing industry.

SPECIAL CONSIDERATIONS OR CONCERNS [only if applicable]:

None

FINANCIAL IMPACT [Brief Statement]:

Check Here if Item Previously approved in the Budget. No additional information required.

Approved by : **Finance**

COMPLETE THIS PORTION FOR ALL GRANT REQUESTS:

Are Matching Funds Available: Yes / No

If yes, who is matching and how much:

Approved by : **Grants**

ATTACHMENTS

None

STAFF RECOMMENDATION [Brief Statement]:

It is staff's recommendation that Council take Third & Final reading of Ordinance 2014-28.

Submitted or Prepared By:

JOSH STEPHENS
Department Head/Elected Official

Approved for Submittal to Council:


T. Scott Moulder, County Administrator

Council has directed that they receive their agenda packages a week prior to each Council meeting, therefore, Agenda Items Summaries must be submitted to the Administrator for his review/approval no later than 12 days prior to each Council meeting. It is the Department Head / Elected Officials responsibility to ensure that all approvals are obtained prior to submission to the Administrator for inclusion on an agenda.

A calendar with due dates marked may be obtained from the Clerk to Council.

STATE OF SOUTH CAROLINA
COUNTY OF OCONEE
ORDINANCE 2014-28

AN ORDINANCE AMENDING CHAPTER 32 AND CHAPTER 38 OF THE OCONEE COUNTY CODE OF ORDINANCES, IN CERTAIN LIMITED REGARDS AND PARTICULARS ONLY, REGARDING HEIGHT RESTRICTIONS FOR STRUCTURES LOCATED IN ZONED INDUSTRIAL DISTRICTS AND FOR STRUCTURES LOCATED IN AREAS DESIGNATED BY OCONEE COUNTY AS COUNTY INDUSTRIAL PARKS; AND OTHER MATTERS RELATED THERETO.

WHEREAS, Oconee County, South Carolina (the “County”), a body politic and corporate and a political subdivision of the State of South Carolina (the “State”), acting by and through its governing body, the Oconee County Council (the “County Council”), has adopted multiple ordinances for the effective, efficient governance of the County, which, subsequent to adoption, are codified in the Oconee County Code of Ordinances (the “Code of Ordinances”), as amended, from time to time; and

WHEREAS, the County, acting by and through the County Council, is authorized by Section 4-9-30(9) and Chapter 29 of Title 6 of the South Carolina Code, 1976, as amended, among other sources, to impose land use restrictions and development standards in the unincorporated areas of the County; and,

WHEREAS, Chapter 32 of the Code of Ordinances contains terms, provisions and procedures applicable to performance standards in the County; and

WHEREAS, Chapter 38 of the Code of Ordinances contains terms, provisions and procedures applicable to zoning in the County; and

WHEREAS, County Council recognizes that there is a need to revise the law of the County to meet the changing needs of the County and that there is a need to amend, specifically, certain sections of Chapter 32 and Chapter 38 of the Code of Ordinances to increase allowable height for property zoned in Industrial Districts and for property located in those industrial parks designated by the County as County Industrial Parks (“County Industrial Parks”) in order to take into account the evolving needs of industrial development, including the rapid technological advances that allow companies to design and build facilities that ensure increased operational efficiencies, and to ensure that the County maintains it competitive edge when recruiting new industry and when working with existing industry; and

WHEREAS, County Council has therefore determined to modify Chapters 32 and 38 of the Code of Ordinances, and to affirm and preserve all other provisions of the Code of Ordinances not specifically or by implication amended hereby.

NOW, THEREFORE, it is hereby ordained by the Oconee County Council, in meeting duly assembled, that:

1. Section 32-605 of Chapter 32 of the Code of Ordinances, entitled *Requirements*, is hereby revised, rewritten, and amended to read as set forth in Attachment A, which is attached hereto and hereby incorporated by reference as fully as if set forth verbatim herein.

2. Section 32-606 of Chapter 32 of the Code of Ordinances, entitled *Exemptions*, is hereby revised, rewritten, and amended to read as set forth in Attachment B, which is attached hereto and hereby incorporated by reference as fully as if set forth verbatim herein.

3. Section 38-9.4 of Chapter 38 of the Code of Ordinances, entitled *Height*, is hereby revised, rewritten, and amended to read as set forth in Attachment C, which is attached hereto and hereby incorporated by reference as fully as if set forth verbatim herein.

4. Section 38-10.11 of Chapter 38 of the Code of Ordinances, entitled *Industrial district (ID)*, is hereby revised, rewritten, and amended to read as set forth in Attachment D, which is attached hereto and hereby incorporated by reference as fully as if set forth verbatim herein.

5. County Council hereby declares and establishes its legislative intent that Attachments C and D, hereto, as may perhaps be amended from time to time, become the applicable zoning provisions of the County with regard to the sections amended by Attachments C and D, from and after their adoption, states its intent to so adopt Attachments C and D, and directs that a public hearing thereon be undertaken by County Council or the Oconee County Planning Commission, in accord with and as required by Section 6-29-760 and by Section 4-9-130, South Carolina Code, 1976, as amended.

6. Should any part or provision of this Ordinance be deemed unconstitutional or unenforceable by any court of competent jurisdiction, such determination shall not affect the rest and remainder of this Ordinance, all of which is hereby deemed separable.

7. All ordinances, orders, resolutions, and actions of County Council inconsistent herewith are, to the extent of such inconsistency only, hereby repealed, revoked, and rescinded. However, nothing contained herein, or in the Attachments hereto, shall cancel, void, or revoke, or shall be interpreted as cancelling, voiding, or revoking in any regard any prior performance standard, zoning or rezoning acts, actions, or decisions of the County or County Council, in any regard.

5. All other terms, provisions, and parts of the Code of Ordinances, and specifically, Sections 32-605 and 32-606 of Chapter 32 and Sections 38-9.4 and 38-10.11 of Chapter 38, not amended hereby, directly or by implication, shall remain in full force and effect.

6. This Ordinance shall take effect and be in full force and effect from and after third reading and enactment by County Council, and will apply to all zoning processes initiated after first (1st) reading hereof. All processes actually initiated by submitting a properly and legally completed petition to the County, at a minimum, prior to first (1st) reading of this ordinance and the establishment of the pending ordinance doctrine thereby, shall be completed under the zoning and performance standard rules and regulations of Chapters 32 and 38 of the Code of Ordinances, as in effect prior to final adoption of this ordinance.

ORDAINED in meeting, duly assembled, this 16th day of December, 2014.

ATTEST:

Elizabeth Hulse,
Clerk to Oconee County Council

Joel Thrift,
Chairman, Oconee County Council

First Reading: November 18, 2014
Second Reading: December 2, 2014
Public Hearing: December 16, 2014
Third Reading: December 16, 2014

Attachment A

Sec. 32-605. - Requirements.

All proposed Structures not specifically exempted by this article that are greater than 65 feet in height, or otherwise subject to the exemptions found in Sec. 32-606(19) and (20) and greater than 199 feet in height, shall be subject to review and approval by the Oconee County Board of Zoning Appeals only as a special exception. In addition to the requirements for special exceptions established in chapter 32, article I of this Code, as amended, the board shall issue findings on each of the following criteria:

- (1) Projected traffic and ability of existing roadways to accommodate the increase caused by the proposed structure.
- (2) Anticipated cost of any specialized emergency response equipment and training required to serve the proposed Structure.
- (3) Potential noise, light, fumes, shadows, obstruction of air flow, and other negative secondary effects caused by the proposed Structure that may impact existing uses and/or adjacent properties.
- (4) The aesthetic and cultural character of the environs, specifically regarding any potential degradation by the proposed structure of scenic views, historic sites, significant landmarks, and other sensitive areas.
- (5) Appropriateness of proposed Structure in relation to the character of the community.

Attachment B

Sec. 32-606. - Exemptions.

The following Structures shall be exempt from the standards governing height established by this article:

- (1) Belfries.
- (2) Chimneys.
- (3) Church spires.
- (4) Communication towers (to include amateur radio antennas).
- (5) Conveyors.
- (6) Cooling towers.
- (7) Cupolas.
- (8) Domes.
- (9) Elevator bulkheads.
- (10) Fire towers.
- (11) Flag poles.
- (12) Ornamental towers and spires.
- (13) Public monuments.
- (14) Public utility poles.
- (15) Silos.
- (16) Skylights.
- (17) Smoke stacks.
- (18) Stage towers or scenery lofts.
- (19) Structures, not otherwise exempt by this section, that are 200 feet or less in height, and located on property zoned as an Industrial District (ID) in accordance with Chapter 38 of the Oconee County Code of Ordinances.

(20) Structures, not otherwise exempt by this section, that are 200 feet or less in height, and located on property designated by Oconee County as County Industrial Parks.

Such features shall be erected only to such height as is necessary to accomplish the purpose they are intended to serve and no height extension shall serve as a dwelling place for human habitation.

This section shall in no way exempt any structure from the application of standards or regulations contained in other chapters of this Code or other articles of this chapter, including, without limitation, any standards or regulations regarding height restrictions for certain areas of Oconee County, such as airport approach height restrictions.

Attachment C

Sec. 38-9.4. - Height.

(a) The height of a building or structure shall be measured according to methods provided for in adopted building codes. The height of a tree shall be measured as the distance from the ground at the base to the highest point of vegetation.

(b) The height limitations of this chapter shall not apply to the following:

- (1) Belfries.
- (2) Chimneys.
- (3) Church spires.
- (4) Conveyors.
- (5) Cooling towers.
- (6) Cupolas.
- (7) Domes.
- (8) Elevator bulkheads.
- (9) Fire towers.
- (10) Flag poles.
- (11) Ornamental towers and spires.
- (12) Public monuments.
- (13) Public utility poles.
- (14) Silos.
- (15) Skylights.
- (16) Smoke stacks.
- (17) Stage towers or scenery lofts.

(18) Structures, not otherwise exempt by this section, that are 200 feet or less in height, and located on property zoned as an Industrial District (ID) in accordance with Chapter 38 of the Oconee County Code of Ordinances.

(19) Structures, not otherwise exempt by this section, that are 200 feet or less in height, and located on property designated by Oconee County as County Industrial Parks.

Such features shall be erected only to such height as is necessary to accomplish the purpose they are intended to serve and no height extension shall serve as a place for human habitation.

This section shall in no way exempt any structure from the application of standards or regulations contained in other chapters of this Code or other articles of this chapter, including, without limitation, any standards or regulations regarding height restrictions for certain areas of Oconee County, such as airport approach height restrictions.

(c) Communication towers, antennas, and water tanks shall be exempt from district height requirements in these standards, but shall instead be subject to standards provided for in the Oconee County Unified Performance Standards Chapters of the Oconee County Code of Ordinances; however, all other district dimensional standards shall apply as specified.

Attachment D

Sec. 38-10.11. - Industrial district (ID).

Title: Industrial district.

Definition: Those areas suited for light and/or heavy industries.

Intent: The intent of this district is to provide for the industrial and commercial needs of Oconee County while protecting other uses from potential negative impacts associated with such activities.

*Dimensional requirements: **

ID District	Minimum District Size		Minimum District Buffer			Max. Height
	10 Acres		50 feet			
Nonresidential Uses (interior lots)	Minimum Lot Size		Minimum Yard Requirements			Max. Height
	Min. Lot Size	Min. Width (ft.)	Front Setback (ft.)	Side Setback (ft.)	Rear Setback (ft.)	Structure Height (ft.)
	½ acre (21,780 sf)	90	30	10	15	200

STATE OF SOUTH CAROLINA
OCONEE COUNTY
ORDINANCE 2014-29

AN ORDINANCE AUTHORIZING (1) THE EXECUTION AND DELIVERY OF A FEE IN LIEU OF TAX AND INCENTIVE AGREEMENT BY AND BETWEEN OCONEE COUNTY, SOUTH CAROLINA (THE "COUNTY") AND MICHELIN NORTH AMERICA, INC., A COMPANY PREVIOUSLY IDENTIFIED AS PROJECT SARAH, ACTING FOR ITSELF, AND/OR ONE OR MORE AFFILIATES OR OTHER PROJECT SPONSORS (THE "COMPANY"), PURSUANT TO WHICH THE COUNTY SHALL COVENANT TO ACCEPT CERTAIN NEGOTIATED FEES IN LIEU OF AD VALOREM TAXES WITH RESPECT TO THE ESTABLISHMENT AND/OR EXPANSION OF CERTAIN FACILITIES IN THE COUNTY (COLLECTIVELY, THE "PROJECT"); (2) THE BENEFITS OF A MULTI-COUNTY INDUSTRIAL OR BUSINESS PARK TO BE MADE AVAILABLE TO THE COMPANY AND THE PROJECT; (3) CERTAIN SPECIAL SOURCE REVENUE CREDITS IN CONNECTION WITH THE PROJECT; AND (4) OTHER MATTERS RELATING THERETO.

WHEREAS, Oconee County, South Carolina (the "County"), acting by and through its County Council (the "Council"), is authorized and empowered under and pursuant to the provisions of the Code of Laws of South Carolina 1976, as amended (the "Code"), particularly Title 12, Chapter 44 of the Code (the "Negotiated FILOT Act") and Title 4, Chapter 1 of the Code (the "Multi-County Park Act" or, as to Section 4-1-175 thereof, and, by incorporation Section 4-29-68 of the Code, the "Special Source Act") (collectively, the "Act") and by Article VIII, Section 13(D) of the South Carolina Constitution: (i) to enter into agreements with certain investors to construct, operate, maintain, and improve certain projects through which the economic development of the State of South Carolina (the "State") 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; (ii) to covenant with such investors to accept certain fee in lieu of *ad valorem* tax ("FILOT") payments, including, but not limited to, negotiated FILOT payments made pursuant to the Negotiated FILOT Act, with respect to a project; (iii) to permit investors to claim special source revenue credits against their FILOT payments ("Special Source Credits") to reimburse such investors for expenditures in connection with infrastructure serving the County and improved or unimproved real estate and personal property, including machinery and equipment, used in the operation of a manufacturing or commercial enterprise in order to enhance the economic development of the County ("Special Source Improvements"); and (iv) to create, in conjunction with one or more other counties, a multi-county industrial or business park in order to afford certain enhanced income tax credits to such investors and to facilitate the grant of Special Source Credits; and

WHEREAS, Michelin North America, Inc., a corporation organized and existing under the laws of the State of New York, and previously identified as Project Sarah, acting for itself or one or more affiliates or other project sponsors (the "Company"), is considering the

establishment and/or expansion of certain facilities at one or more locations in the County (the "Project"), and anticipates that, should its plans proceed as expected, the Project will generate substantial investment and job creation in the County; and

WHEREAS, based on information provided to the County by the Company, the County has determined that the Project would subserve the purposes of the Act and has made certain findings pertaining thereto in accordance with the Act; and

WHEREAS, in accordance with such findings and determinations and in order to induce the Company to locate the Project in the County, the Council adopted a Resolution on November 18, 2014 (the "Inducement Resolution"), whereby the County agreed to provide the benefits of a negotiated FILOT, a multi-county industrial or business park, and Special Source Credits with respect to the Project; and

WHEREAS, the County and the Company have agreed to the specific terms and conditions of such arrangements as set forth herein and in a Fee in Lieu of Tax and Incentive Agreement by and between the County and the Company with respect to the Project (the "Incentive Agreement"), the form of which Incentive Agreement is presented to this meeting, and which Incentive Agreement is to be dated as of December 16, 2014 or such other date as the parties may agree; and

WHEREAS, it appears that the Incentive Agreement now before this meeting is in appropriate form and is an appropriate instrument to be executed and delivered by the County for the purposes intended.

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

Section 1. As contemplated by Section 12-44-40(I) of the Negotiated FILOT Act, the findings and determinations set forth in the Inducement Resolution are hereby ratified and confirmed. In the event of any disparity or ambiguity between the terms and provisions of the Inducement Resolution and the terms and provisions of this Ordinance and the Incentive Agreement, the terms and provisions of this Ordinance and the Incentive Agreement shall control. Capitalized terms used and not otherwise defined herein shall have the meanings ascribed thereto in the Incentive Agreement. Additionally, based on information provided to the County by the Company with respect to the Project, the County makes the following findings and determinations:

(a) The Project will constitute a "project" within the meaning of the Negotiated FILOT Act; and

(b) The Project, and the County's actions herein, will subserve the purposes of the Negotiated FILOT Act; and

(c) The Project is anticipated to benefit the general public welfare of the State and the County by providing services, employment, recreation, or other public benefits not otherwise provided locally; and

(d) The Project gives rise to no pecuniary liability of the County or incorporated municipality or a charge against its general credit or taxing power; and

(e) The purposes to be accomplished by the Project are proper governmental and public purposes; and

(f) The benefits of the Project are greater than the costs; and

(g) The Project will have a substantial public benefit.

Section 2.

(a) The County hereby agrees to enter into the Incentive Agreement, which agreement shall be in the form of a fee agreement, pursuant to the Negotiated FILOT Act, whereby the Company will agree to satisfy, or cause to be satisfied, certain investment requirements with respect to the Project within certain prescribed time periods and the County will agree to accept certain negotiated FILOT payments with respect to the Project (the "Negotiated FILOT"), as set forth in Section 2(b) hereof and in accordance with the terms of the Incentive Agreement.

(b)

(i) The Negotiated FILOT shall be determined using: (1) an assessment ratio of 6%, (2) the lowest millage rate or millage rates allowed with respect to the Project pursuant to Section 12-44-50(A)(1)(d) of the Negotiated FILOT Act, as set forth in greater detail in the Incentive Agreement, which millage rate or millage rates shall be fixed pursuant to Section 12-44-50(A)(1)(b)(i) of the Negotiated FILOT Act for the full term of the Negotiated FILOT; (3) the fair market value of the Project, as determined in accordance with Section 12-44-50(A)(1)(c) of the Negotiated FILOT Act; and (4) and such other terms and conditions as will be specified in the Incentive Agreement.

(ii) The Negotiated FILOT shall be calculated as provided in this Section 2(b) for all Negotiated FILOT Property placed in service during the Investment Period. For each annual increment of investment in Negotiated FILOT Property, the annual Negotiated FILOT payments shall be payable for an aggregate payment period of forty (40) years, which period shall be comprised of an initial period of thirty (30) years and an automatic extension period of ten (10) years. Accordingly, if such Negotiated FILOT Property is placed in service during more than one year, each year's investment during the Investment Period shall be subject to the Negotiated FILOT for a payment period of forty (40) years.

Section 3. The County will use its best commercially reasonable efforts to insure that the Project will be included, if not already included, and will remain, during the term of the incentives described herein, within the boundaries of a multi-county industrial or business park pursuant to the provisions of the Multi-County Park Act and Article VIII, Section 13(D) of the State Constitution on terms which provide the Company and the Project with any and all additional jobs creation tax credits afforded by the laws of the State for projects located within multi-county industrial or business parks and on terms which facilitate the Special Source Credits referenced in Section 4 hereof.

Section 4. As an additional incentive to induce the Company to undertake the Project, and as reimbursement for investment in Special Source Improvements and subject to the requirements of the Special Source Act, the County does hereby agree that each Credit Eligible Entity shall be entitled to receive, and the County shall provide, Special Source Credits against each Negotiated FILOT payment due with respect to the Project in a manner and amount, and for a period of time, as is set forth in greater detail in the Incentive Agreement. In accordance with the Special Source Act, the Special Source Credits authorized herein shall not, in the aggregate, exceed the aggregate cost of Special Source Improvements funded from time to time in connection with the Project.

Section 5. The form, provisions, terms, and conditions of the Incentive Agreement presented to this meeting and filed with the Clerk to the Council are hereby approved, and all of the provisions, terms, and conditions thereof are hereby incorporated herein by reference as if the Incentive Agreement was set out in this Ordinance in its entirety. The Chairman of the Council is hereby authorized, empowered, and directed to execute the Incentive Agreement in the name and on behalf of the County; the Clerk to the Council is hereby authorized, empowered and directed to attest the same; and the Chairman of the Council is further authorized, empowered, and directed to deliver the Incentive Agreement to the Company. The Incentive Agreement is to be in substantially the form now before this meeting and hereby approved, or with such changes therein as shall not materially adversely affect the rights of the County thereunder and as shall be approved by the official or officials of the County executing the same, upon the 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 the Incentive Agreement now before this meeting.

Section 6. The Chairman of the Council, the County Administrator of the County, and the Clerk to the Council, for and on behalf of the County, are hereby each authorized, empowered, and directed to do any and all things necessary or proper to effect the performance of all obligations of the County under and pursuant to Incentive Agreement.

Section 7. The provisions of this Ordinance are hereby declared to be separable and if any section, phrase, or provision 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 8. All orders, 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 and approval.

[End of Ordinance]

Enacted and approved, in meeting duly assembled, this 16th day of December, 2014.

OCONEE COUNTY, SOUTH CAROLINA

By: _____
Joel Thrift, Chairman, County Council
Oconee County, South Carolina

[SEAL]

Attest:

By: _____
Elizabeth G. Hulse, Clerk to County Council
Oconee County, South Carolina

First Reading: November 18, 2014
Second Reading: December 2, 2014
Public Hearing: December 16, 2014
Third Reading: December 16, 2014

FEE IN LIEU OF TAX AND INCENTIVE AGREEMENT

between

OCONEE COUNTY, SOUTH CAROLINA

and

MICHELIN NORTH AMERICA, INC.

Dated as of December 16, 2014

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FEE IN LIEU OF TAX AND INCENTIVE AGREEMENT

THIS FEE IN LIEU OF TAX AND INCENTIVE AGREEMENT (this "Agreement" dated as of December 16, 2014, by and between OCONEE COUNTY, SOUTH CAROLINA (the "County"), a body politic and corporate and a political subdivision of the State of South Carolina, and MICHELIN NORTH AMERICA, INC., a corporation organized and existing under the laws of the State of New York, and previously identified as PROJECT SARAH, acting for itself, one or more affiliates or other project sponsors (the "Company").

WITNESSETH:

WHEREAS, the County, acting by and through its County Council (the "Council"), is authorized and empowered under and pursuant to the provisions of the Code of Laws of South Carolina 1976, as amended (the "Code"), and particularly Title 12, Chapter 44 of the Code (the "Negotiated FILOT Act") and Title 4, Chapter 1 of the Code (the "Multi-County Park Act" or, as to Section 4-1-175 thereof, the "Special Source Act", and, together with the Negotiated FILOT Act, the "Act") and by Article VIII, Section 13(D) of the South Carolina Constitution: (i) to enter into agreements with certain investors to construct, operate, maintain, and improve certain projects through which the economic development of the State of South Carolina (the "State") 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; (ii) to covenant with such investors to accept certain fee in lieu of *ad valorem* tax ("FILOT") payments, including, but not limited to, negotiated FILOT payments made pursuant to the Negotiated FILOT Act, with respect to a project; (iii) to permit investors to claim special source revenue credits against their FILOT payments ("Special Source Credits") to reimburse such investors for expenditures in connection with infrastructure serving the County or improved or unimproved real estate and personal property including machinery and equipment used in the operation of a manufacturing or commercial enterprise in order to enhance the economic development of the County ("Special Source Improvements"); and (iv) to create, in conjunction with one or more other counties, a multi-county industrial or business park in order to afford certain enhanced income tax credits to such investors and to facilitate the grant of Special Source Credits; and

WHEREAS, the Company is considering the establishment and/or expansion of certain facilities at one or more locations in the County (the "Project"), and anticipates that, should its plans proceed as expected, it will invest, or cause to be invested, at least \$175,000,000 in the Project and will create, or cause to be created, at least 30 new, full-time jobs within the County, all by the end of the Compliance Period (as defined herein) as set forth in greater detail herein; and

WHEREAS, the County has determined the Project will subserve the purposes of the Act and has made certain findings pertaining thereto in accordance with the Act; and

WHEREAS, in accordance with such findings and determinations and in order to induce the Company to locate the Project in the County, the Council adopted a Resolution on November

18, 2014 (the “Inducement Resolution”), whereby the County agreed to provide the benefits of a negotiated FILOT, a multi-county industrial or business park, and Special Source Credits, all with respect to the Project, the terms of all of which are set forth in greater detail in this Agreement; and

WHEREAS, the County has determined it is in the best interest of the County to enter into this Agreement with the Company, subject to the terms and conditions set forth herein, and, by Ordinance No. [] enacted by the Council on December 16, 2014, approved the form, terms and conditions of this Agreement and ratified all prior actions taken with respect to the Project.

NOW, THEREFORE, in consideration of the premises, the mutual covenants contained herein, the above recitals which are incorporated herein by reference, the potential investment to be made, or caused to be made, and the potential jobs to be created, or caused to be created, by the Company which contribute to the tax base and the economic welfare of the County, the respective representations and agreements hereinafter contained, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the County and the Company agree as follows:

ARTICLE I

DEFINITIONS

Section 1.01. Definitions. In addition to the words and terms elsewhere defined in this Agreement, the following words and terms as used herein and in the preambles hereto shall have the following meanings unless the context or use indicates another or different meaning or intent.

“*Act*” shall mean, collectively, the Negotiated FILOT Act and the Multi-County Park Act, including, but not limited to, the Special Source Act.

“*Administration Expenses*” shall mean the reasonable and necessary expenses incurred by the County in the fulfillment of its obligations under this Agreement and in the implementation of its terms and provisions, including reasonable and necessary attorneys’ fees at the hourly rates which are standard for the applicable legal services to the County, but excluding any expenses incurred by the County in defending either challenges to the incentives provided herein by third parties or suits brought by the Company or any other Sponsor or Sponsor Affiliate under **Section 8.04** hereof; provided, however, that no such expense shall be considered an Administration Expense unless the Company, or other Sponsor or Sponsor Affiliate required to pay such expense hereunder, shall have first agreed, prior to the County incurring such expense, as to the maximum amount thereof or as to the basis for which such expenses will be incurred and the County shall have furnished to such Company, or other Sponsor or Sponsor Affiliate, an itemized statement of all such expenses incurred.

“*Affiliate*” shall mean any corporation, limited liability company, partnership or other Person or entity which now or hereafter owns all or part of the Company or any other Sponsor or

Sponsor Affiliate, as the case may be, or which is now or hereafter owned in whole or in part by the Company or any other Sponsor or Sponsor Affiliate, as the case may be, or by any partner, shareholder or owner of the Company or any other Sponsor or Sponsor Affiliate, as the case may be, as well as any subsidiary, affiliate or other Person, individual, or entity who now or hereafter bears a relationship to the Company or any other Sponsor or Sponsor Affiliate, as the case may be, as described in Section 267(b) of the Internal Revenue Code.

“Agreement” shall mean this Fee in Lieu of Tax and Incentive Agreement as originally executed and from time to time supplemented or amended as permitted herein.

“Code” shall mean the Code of Laws of South Carolina 1976, as amended, unless the context clearly requires otherwise.

“Co-Investor” shall mean the Company, any other Sponsor or Sponsor Affiliate within the meaning of Sections 12-44-30(19) and (20) of the Negotiated FILOT Act, any Affiliate of the Company or of any such other Sponsor or Sponsor Affiliate, any developer in a build-to-suit arrangement or other leasing arrangement with respect to the Project, any lessor of equipment or other property comprising a part of the Project, and any financing entity or other third party investing in, or providing funds for, the Project. The Company shall notify the County in writing of the identity of any other Sponsor, Sponsor Affiliate or other Co-Investor and shall, to the extent the Company and any such other Sponsor, Sponsor Affiliate, or other Co-Investor intend to extend the benefits of the Negotiated FILOT to property owned by such Co-Investor pursuant to **Section 6.02** hereof, comply with any additional notice requirements, or other applicable provisions, of the Negotiated FILOT Act. As of the date of original execution and delivery of this Agreement, the Company is the only Co-Investor.

“Company” shall mean Michelin North America, Inc., a corporation organized and existing under the laws of the State of New York, and previously identified as Project Sarah, and any surviving, resulting, or transferee entity in any merger, consolidation or transfer of assets permitted under **Sections 4.05** or **6.01** hereof or any other assignee or transferee hereunder which is designated by the Company and approved by the County.

“Compliance Period” shall mean the period commencing with the first day that Negotiated FILOT Property is purchased or acquired, whether before or after the date of this Agreement, and ending on the fifth anniversary of the end of the Property Tax Year in which the initial Negotiated FILOT Property comprising all or a portion of the Project is placed in service, all as specified in Section 12-44-30(13) of the Negotiated FILOT Act. In the event that the initial Negotiated FILOT Property comprising all or a portion of the Project is placed in service in the Property Tax Year ending on December 31, 2016, the Compliance Period will end on December 31, 2021.

“County” shall mean Oconee County, South Carolina, a body politic and corporate and a political subdivision of the State, and its successors and assigns.

“Council” shall mean the governing body of the County and its successors.

“Credit Eligible Entity” shall have the meaning specified in **Section 3.02(a)** hereof.

“Deficiency Payment” shall have the meaning specified in **Section 5.01(e)** hereof.

“Department of Revenue” shall mean the South Carolina Department of Revenue and any successor thereof.

“Event of Default” shall mean an Event of Default, as set forth in **Section 8.01** hereof.

“Existing Property” shall mean property which will not qualify for the Negotiated FILOT pursuant to Section 12-44-110 of the Negotiated FILOT Act, including, but not limited to, property which has been subject to *ad valorem* taxes in the State prior to commencement of the Investment Period and property included in the Project as part of the repair, alteration, or modification of such previously taxed property; provided, however, that Existing Property shall not include: (a) the Land; (b) property acquired or constructed by or on behalf of the Company or any other Sponsor or Sponsor Affiliate during the Investment Period which has not been placed in service in this State prior to the commencement of the Investment Period notwithstanding that *ad valorem* taxes have heretofore been paid with respect to such property, or property which has been placed in service in the State pursuant to an inducement agreement or other preliminary approval by the County, including, but not limited to, the Inducement Resolution, prior to execution of this Agreement pursuant to Section 12-44-40(E) of the Negotiated FILOT Act, which property shall qualify as Negotiated FILOT Property; (c) property purchased by or on behalf of the Company or any other Sponsor or Sponsor Affiliate during the Investment Period in a transaction other than between any of the entities specified in Section 267(b) of the Internal Revenue Code, as defined under Chapter 6 of Title 12 of the Code as of the time of the transfer, to the extent that the Company or such other Sponsor or Sponsor Affiliate invests at least an additional \$45,000,000 in the Project, exclusive of the property identified in this subsection (c); or (d) modifications which constitute an expansion of the real property portion of Existing Property.

“FILOT” shall mean fee in lieu of *ad valorem* property taxes.

“Investment Period” shall mean the period for completion of the Project, which shall initially be equal to the Compliance Period; provided, however, that, in the event that the Minimum Investment Period Extension Requirement is satisfied by the end of the Compliance Period, the Investment Period shall be hereby automatically extended, without further action or proceedings of the County or the Council, by five (5) years beyond the Compliance Period to end on the tenth anniversary of the end of the Property Tax Year in which the initial Negotiated FILOT Property comprising all or a portion of the Project is placed in service, all in accordance with Section 12-44-30(13) of the Negotiated FILOT Act; provided further that there shall be no extension of the period for meeting the Minimum Statutory Investment Requirement beyond the Compliance Period, all determined as specified in Section 12-44-30(13) of the Negotiated FILOT Act. In the event that the initial Negotiated FILOT Property comprising all or a portion of the Project is placed in service in the Property Tax Year ending on December 31, 2016, and if and when so extended, the Investment Period will end on December 31, 2026.

“Land” shall mean the land upon which the Project has been or will be acquired, constructed and equipped, as described in **Exhibit A** attached hereto, as **Exhibit A** may be revised, modified, or supplemented from time to time in accordance with the provisions hereof.

“Minimum Contractual Investment Requirement” shall mean investment in the Project, within the period commencing on the first day that Project property is purchased or acquired, whether before or after the date of this Agreement, and ending at the end of Compliance Period, by the Company and all Co-Investors, in the aggregate, of at least \$175,000,000 (without regard to depreciation or other diminution in value).

“Minimum Investment Period Extension Requirement” shall mean investment in the Project, within the period commencing on the first day that Project property is purchased or acquired, whether before or after the date of this Agreement, and ending at the end of Compliance Period, by the Company together with all Co-Investors, in the aggregate, of at least \$50,000,000 (without regard to depreciation or other diminution in value).

“Minimum Jobs Requirement” shall mean the creation of at least thirty (30) new, full-time jobs in the County by the Company and all Co-Investors, in the aggregate, within the period commencing on January 1, 2014 and ending at the end of the Compliance Period.

“Minimum Statutory Investment Requirement” shall mean investment in the Project of not less than \$2,500,000 within the Compliance Period, as required by Section 12-44-30(14) of the Negotiated FILOT Act, which investment amount shall be calculated in accordance with, and subject to, Section 12-44-130 of the Negotiated FILOT Act and **Section 6.02** hereof.

“Multi-County Park” shall mean the multi-county industrial or business park established pursuant to the Multi-County Park Act and the Multi-County Park Agreement, and any multi-county industrial or business park which now or hereafter includes the Project and which is designated by the County as such pursuant to any agreement, which supersedes or replaces the initial Multi-County Park Agreement.

“Multi-County Park Act” shall mean Title 4, Chapter 1 of the Code.

“Multi-County Park Agreement” shall mean that certain Agreement for Development of a Joint County Industrial and Business Park (Michelin North America, Inc.) by and between the County, and Pickens County, South Carolina dated as of the date the parties thereto shall agree, as supplemented, modified or amended, to include the Project and the Land, as such agreement may be further supplemented, modified, amended, or replaced from time to time.

“Negotiated FILOT” or *“Negotiated FILOT Payments”* shall mean the FILOT payments due pursuant to **Section 5.01** hereof with respect to that portion of the Project consisting of Negotiated FILOT Property qualifying under the Negotiated FILOT Act for the negotiated assessment ratio and millage rate or rates described in **Section 5.01(b)(ii)** hereof.

“Negotiated FILOT Act” shall mean Title 12, Chapter 44 of the Code.

"Negotiated FILOT Property" shall mean all property qualifying for the Negotiated FILOT as economic development property within the meaning of Section 12-44-30(6) of the Negotiated FILOT Act, including, but not limited to, each item of real and tangible personal property comprising the Project which is placed in service during the Investment Period and which meets the requirements of Sections 12-44-30(6) and 12-44-40(C) of the Negotiated FILOT Act, together with all Replacement Property, but excluding any Non-Qualifying Property and any Released Property.

"Non-Qualifying Property" shall mean that portion of the facilities located on the Land, which does not qualify as Negotiated FILOT Property, such Non-Qualifying Property to include: (i) Existing Property; (ii) except as to Replacement Property, property which the Company or any other Sponsor or Sponsor Affiliate places in service after the end of the Investment Period; and (iii) any other property which fails or ceases to qualify for Negotiated FILOT Payments under the Negotiated FILOT Act or under this Agreement, including without limitation property as to which the Company or any other Sponsor or Sponsor Affiliate has terminated the Negotiated FILOT pursuant to **Section 4.01(e)(iii)** hereof.

"Person" shall mean and include any individual, association, unincorporated organization, corporation, partnership, limited liability company, joint venture, or government or agency or political subdivision thereof.

"Project" shall mean: (i) the Land and all buildings, structures, fixtures and other real property improvements prior hereto or hereafter constructed on the Land; (ii) all machinery, equipment, furnishings and other personal property prior hereto or hereafter acquired by or on behalf of the Company or any other Co-Investors for use on or about the Land; and (iii) any Replacement Property; provided, however, except as to Replacement Property, the term Project shall be deemed to include such real property improvements and personal property, whether now existing or hereafter constructed, improved, acquired or equipped, only to the extent placed in service during the Investment Period.

"Property Tax Year" shall mean the annual period which is equal to the fiscal year of the Company, or any other Co-Investor, as the case may be, *i.e.*, with respect to the Company, the annual period ending on December 31 of each year.

"Released Property" shall include property which was initially Negotiated FILOT Property but which is scrapped, sold, disposed of, or released from this Agreement by the Company or any other Sponsor or Sponsor Affiliate pursuant to **Section 4.01(e)** hereof and Section 12-44-50(B) of the Negotiated FILOT Act, any portion of the Negotiated FILOT Property constituting infrastructure which the Company or any other Sponsor or Sponsor Affiliate dedicates to the public use within the meaning of Section 12-6-3420(C) of the Code, or property which is damaged, destroyed, or taken by process of eminent domain and not restored or replaced.

"Replacement Property" shall mean all property placed in service on the Land in substitution of, or as replacement for, any Negotiated FILOT Property which becomes Released

Property, regardless of whether such property serves the same function as the property it replaces and regardless of whether more than one piece of such property replaces a single piece of the Negotiated FILOT Property, to the maximum extent that such property may be included in the calculation of the Negotiated FILOT pursuant to **Section 5.01(d)** hereof and Section 12-44-60 of the Negotiated FILOT Act.

“Special Source Act” shall mean Section 4-1-175 of the Code.

“Special Source Credits” shall mean the Tier 1 Special Source Credits and the Tier 2 Special Source Credits, collectively, as set forth in **Section 3.02** hereof.

“Special Source Improvements” shall mean to the extent paid for by the Company or any other Sponsor or Sponsor Affiliate, any infrastructure serving the economic development of the County and any improved or unimproved real property, buildings, structural components of buildings, fixtures, or other real property improvements and, upon the written election of the Company to the County, personal property, including machinery and equipment, used in the operation of a manufacturing or commercial enterprise in order to enhance the economic development of the County, all as set forth in the Special Source Act. For purposes of this Agreement, Special Source Improvements shall initially be deemed to include, but not be limited to, all roadwork, water, sewer, drainage, power and utility facilities serving the Project, as well as the Land, the buildings, fixtures and other real property improvements on the Land, and any additions or improvements to any of the foregoing, whether paid for by the Company or any Sponsor or Sponsor Affiliate directly or through lease payments.

“Sponsor” and *“Sponsor Affiliate”* shall mean an entity whose investment with respect to the Project will qualify for the Negotiated FILOT pursuant to **Section 6.02** hereof and Sections 12-44-30(19) or (20) and Section 12-44-130 of the Negotiated FILOT Act if the statutory investment requirements are met. Initially, the only Sponsor or Sponsor Affiliate is the Company.

“State” shall mean the State of South Carolina.

“Term” shall mean the term of this Agreement, as set forth in **Section 7.01** hereof.

“Tier 1 Special Source Credits” shall mean the special source revenue credits hereby granted by the County and described in **Section 3.02(a)** hereof.

“Tier 2 Special Source Credits” shall mean the special source revenue credits hereby granted by the County and described in **Section 3.02(b)** hereof.

“Transfer Provisions” shall mean the provisions of Section 12-44-120 of the Negotiated FILOT Act.

Section 1.02. References to Agreement. The words “hereof”, “herein”, “hereunder”, and other words of similar import refer to this Agreement as a whole.

ARTICLE II

REPRESENTATIONS AND WARRANTIES

Section 2.01. Representations and Warranties by County. The County makes the following representations and warranties as the basis for the undertakings on its part herein contained:

(a) The County is a body politic and corporate and a political subdivision of the State and is authorized and empowered by the provisions of the Act to enter into the transactions contemplated by this Agreement and to carry out its obligations hereunder. By proper action of the Council, the County has duly authorized the execution and delivery of this Agreement and has duly approved the Negotiated FILOT and Special Source Credits, as well as the inclusion and maintenance of the Project in the Multi-County Park, all as set forth herein, and any and all actions reasonably necessary and appropriate to consummate the transactions contemplated hereby.

(b) On the basis of information supplied to it by the Company, the County has determined the Project will subserve the purposes of the Act and has made all other findings of fact required by the Act in connection with the undertaking of the arrangements set forth herein.

(c) This Agreement has been duly authorized, executed and delivered on behalf of the County. The authorization, execution, and delivery of this Agreement and the performance by the County of its obligations hereunder will not, to the best knowledge of the County, conflict with or constitute a breach of, or a default under, any State or local law, court or administrative regulation, decree, order, provision of the Constitution or laws of the State or the County relating to the establishment of the County or its affairs, or any material agreement, mortgage, lease, or other instrument to which the County is subject or by which it is bound, nor, to the best knowledge of the County, any existing law or the provisions of the Constitution of the State.

(d) To the best knowledge of the County, no actions, suits, proceedings, inquiries, or investigations are pending or threatened against or affecting the County in any court or before any governmental authority or arbitration board or tribunal, any of which to the best knowledge of the County could materially adversely affect this Agreement or which could, in any way, adversely affect the validity or enforceability of this Agreement or the transactions contemplated hereby.

Section 2.02. Representations and Warranties by the Company. The Company makes the following representations and warranties as the basis for the undertakings on its part herein contained:

(a) The Company is a corporation validly existing and in good standing under the laws of the State of New York and is authorized to do business in the State of South

Carolina, has all requisite power to enter into this Agreement and to carry out its obligations hereunder, and by proper action has been duly authorized to execute and deliver this Agreement. The Company's fiscal year end is December 31 and the Company will notify the County of any changes in the fiscal year of the Company.

(b) The Company intends to operate the Project as manufacturing and related facilities primarily for the warehousing and distribution of tires.

(c) The agreements with the County with respect to the Negotiated FILOT, the Special Source Credits, and the Multi-County Park were factors in inducing the Company to locate the Project within the County and the State.

(d) To the best knowledge of the Company, no actions, suits, proceedings, inquiries, or investigations are pending or threatened against or affecting the Company in any court or before any governmental authority or arbitration board or tribunal, which would materially adversely affect this Agreement or which would, in any way, adversely affect the validity or enforceability of this Agreement, or the transactions contemplated hereby.

ARTICLE III

COVENANTS OF COUNTY

Section 3.01. Agreement to Accept Negotiated FILOT Payments. The County hereby agrees to accept Negotiated FILOT Payments in accordance with **Section 5.01** hereof in lieu of *ad valorem* taxes with respect to that portion of the Project consisting of Negotiated FILOT Property until this Agreement expires or is sooner terminated.

Section 3.02. Special Source Credits.

(a) As reimbursement for investment in Special Source Improvements and subject to the requirements of the Special Source Act, the County hereby agrees to provide, and the Company and each other Sponsor or Sponsor Affiliate (each, a "Credit Eligible Entity") shall be entitled to receive, special source revenue credits against each Negotiated FILOT Payment due from each such Credit Eligible Entity with respect to the Project, for each tax year for the entire term of the Negotiated FILOT, in an amount equal to thirty-three percent (33%) of each such Negotiated FILOT Payment, commencing with the tax year for which the initial Negotiated FILOT Payment is due hereunder from the Company (collectively, the "Tier 1 Special Source Credits).

(b) As additional reimbursement for investment in Special Source Improvements and, subject to the requirements of the Special Source Act and **Section 4.02** hereof, and in addition to the Tier 1 Special Source Credits, the County hereby agrees to provide, and each Credit Eligible Entity shall be entitled to receive, special source revenue credits against each net Negotiated FILOT Payment due from each such

Credit Eligible Entity with respect to the Project, after application of the Tier 1 Special Source Credits, for a period of fifteen (15) consecutive tax years, in an amount equal to forty percent (40%) of each such net Negotiated FILOT Payment, commencing with the tax year for which the initial Negotiated FILOT Payment is due hereunder from the Company (collectively, the “Tier 2 Special Source Credits”).

(c) The Special Source Credits to which each Credit Eligible Facility is entitled for each tax year of the period set forth in **Section 3.02(a)** and **Section 3.02(b)** hereof, shall be reflected by the County Auditor or other authorized County official or representative on each bill for Negotiated FILOT Payment due sent by the County to each such Credit Eligible Entity for each such tax year, by reducing the total gross Negotiated FILOT Payment amount otherwise due for such tax year by the amount of Special Source Credits to which such Credit Eligible Entity is entitled for such tax year.

(d) THE SPECIAL SOURCE CREDITS AUTHORIZED HEREIN SHALL NOT CONSTITUTE A GENERAL OBLIGATION OF THE COUNTY, BUT SHALL BE A LIMITED OBLIGATION OF THE COUNTY PAYABLE SOLELY FROM THE NEGOTIATED FILOT PAYMENTS DUE TO THE COUNTY HEREUNDER WITH RESPECT TO THE PROJECT IN THE MULTI-COUNTY PARK.

(e) In accordance with the Special Source Act, the Special Source Credits authorized herein shall not, in the aggregate, exceed the aggregate cost of Special Source Improvements funded from time to time in connection with the Project by the Company and all other Sponsors and Sponsor Affiliates.

Section 3.03. Multi-County Park Designation. The County agrees to designate the Project and the Land as part of a Multi-County Park, if not already so designated, and agrees to maintain the Project and the Land within the boundaries of the Multi-County Park pursuant to the provisions of the Multi-County Park Act and Article VIII, Section 13(D) of the State Constitution on terms which provide for all jobs created at the Project from January 1, 2014 through the end of the Investment Period, any additional jobs tax credits afforded by the laws of the State for projects located within multi-county industrial or business parks, and on terms which facilitate the Special Source Credits set forth in **Section 3.02** hereof.

Section 3.04. Commensurate Benefits. The parties acknowledge the intent of this Agreement, in part, is to afford the Company and each other Sponsor or Sponsor Affiliate the benefits specified in this Agreement in consideration of the Company’s decision to locate the Project within the County, and this Agreement has been entered into in reliance upon the enactment of the Act and the County’s compliance with the requirements thereof. In the event that a court or other entity of competent jurisdiction holds that the Act is unconstitutional or this Agreement, the Multi-County Park Agreement, or agreements similar in nature to this Agreement or the Multi-County Park Agreement are invalid or unenforceable in any material respect, or should the Company determine there is a reasonable doubt as to the validity or enforceability of this Agreement or the Multi-County Park Agreement in any material respect, then at the request of the Company, the County agrees to use its best efforts to extend to the

Company and each other Sponsor or Sponsor Affiliate the intended benefits of this Agreement, including, but not limited to, the Negotiated FILOT and the Special Source Credits and agrees, if requested by the Company, to enter into a lease purchase agreement with the Company and each other Sponsor or Sponsor Affiliate pursuant to Section 12-44-160 of the Negotiated FILOT Act and Title 4, Chapter 29 or Title 4, Chapter 12 of the Code, as applicable, and to take such other steps as may be appropriate to extend to the Company and each other Sponsor or Sponsor Affiliate the intended benefits of this Agreement, including, but not limited to, the Negotiated FILOT and the Special Source Credits. In furtherance of this covenant, the County also agrees that, in the event that, for any reason, the Multi-County Park is declared by a court or other entity of competent jurisdiction to be invalid or unenforceable in whole or in part, the Company and the County express their intentions, and the County will use its best commercially reasonable efforts to ensure, that tax or FILOT payments be reformed so as to best afford the Company and each other Sponsor or Sponsor Affiliate benefits commensurate with, but not in excess of, those intended under this Agreement, including, but not limited to, the Special Source Credits, as then permitted by law, including, but not limited to, any benefits afforded under Title 12, Chapter 6, Title 4, Chapter 1 and Title 4, Chapter 29 of the Code, as applicable, to the extent allowed by law. The Company acknowledges, if a court of competent jurisdiction holds all or part of the Negotiated FILOT Act is unconstitutional or otherwise illegal, the Negotiated FILOT Act currently provides that the Company and each other Sponsor or Sponsor Affiliate must transfer their respective portion of the Negotiated FILOT Property to the County within one hundred eighty (180) days following such determination in order for the Negotiated FILOT benefits to continue to apply to such property. In such lease purchase agreement, the County, upon the conveyance of title to the Project to the County at the expense of the Company or any other Sponsor or Sponsor Affiliate, as the case may be, agrees to lease the Project to the Company or any such other Sponsor or Sponsor Affiliate, as the case may be. At the end of the term of any such lease purchase agreement, and upon payment of all outstanding obligations incurred under such lease purchase agreement, each of the Company and any such other Sponsor or Sponsor Affiliate shall have the option to purchase its respective portion of the Project for Ten Dollars (\$10.00).

ARTICLE IV

COVENANTS OF THE COMPANY

Section 4.01. Investment in Project.

(a) The Company hereby agrees to acquire, construct, equip, or improve or cause to be acquired, constructed, equipped, or improved, the Project, as the same shall be determined from time to time by the Company in its sole discretion. As required by Section 12-44-30(2) of the Negotiated FILOT Act, at least a portion of the Negotiated FILOT Property comprising the Project shall be placed in service no later than the end of the Property Tax Year which is three years from the year in which this Agreement is entered, *i.e.*, the Property Tax Year ending on December 31, 2017.

(b) Notwithstanding anything herein to the contrary, and to the maximum extent permitted by law, investment and job creation by any and all other Co-Investors shall, together with investment and job creation by the Company, count toward all investment and job creation requirements, thresholds, and levels set forth in this Agreement, including, but not limited to, the Minimum Contractual Investment Requirement, the Minimum Jobs Requirement, the Minimum Investment Period Extension Requirement and, to the full extent permitted by the Negotiated FILOT Act, the Minimum Statutory Investment Requirement. Aggregate investment shall generally be determined by reference to the property tax returns of the Company and each other Co-Investor filed with respect to the Project, including without limitation, each such entity's SCDOR PT-300 or such comparable forms, as the Department of Revenue may provide in connection with projects under the Act, without regard to depreciation or other diminution in value.

(c) To encourage increased investment in the Project, the County hereby agrees that in the event the Minimum Investment Period Extension Requirement is satisfied by the end of Compliance Period, the Investment Period shall be hereby automatically extended, without further action or proceedings of the County or the Council, by five (5) years beyond the end of the Compliance Period, and the County hereby agrees to such extension. There shall be no extension, however, beyond the Compliance Period of the period for meeting the Minimum Statutory Investment Requirement. In the event that the initial Negotiated FILOT Property comprising all or a portion of the Project is placed in service in the Property Tax Year ending on December 31, 2016, and if and when so extended, the Investment Period will end on December 31, 2026.

(d) The Company and each other Co-Investor shall, upon acquisition and use, retain title to, or other property rights in, its respective portion of the Project throughout the Term of this Agreement, and the Company and each other Co-Investor shall have full right to mortgage, lease, or encumber all or any portion of the Project, including without limitation, in connection with any financing transactions, all without the consent of the County.

(e) The Company and each other Co-Investor shall have the right at any time and from time to time during the Term hereof to undertake any of the following:

(i) The Company and each other Co-Investor may, at its own expense, add to the Project all such real and personal property as the Company, or such other Co-Investor, in its discretion deems useful or desirable, including, but not limited to, Negotiated FILOT Property, without any limit as to the amount thereof.

(ii) Subject to the provisions of **Section 5.01(f)(ii)** hereof, in any instance when the Company or any other Co-Investor, in its discretion, determines any property included in the Project, including without limitation,

any Negotiated FILOT Property, has become inadequate, obsolete, worn out, unsuitable, undesirable, or unnecessary for operations at the Project, the Company or such other Co-Investor may remove such property from the Project and sell, trade in, exchange, or otherwise dispose of it or them as a whole or in part without the consent of the County.

(iii) Each of the Company and each other Co-Investor may, at any time and in its sole discretion by written notice to the County, remove any Project property including, but not limited to, Negotiated FILOT Property, real or personal, from the Project or the provisions of this Agreement including, but not limited to, the Negotiated FILOT arrangement set forth in this Agreement and retain such property for use as part of its operations in the County, whether or not such property remains as part of the Project, and thereafter such property will be subject to *ad valorem* taxes or FILOT payments pursuant to the Multi-County Park Act, as the case may be; provided, that, any such notice requirement may be, but shall not be required to be, satisfied by property tax returns filed with respect to the Project and any other such property, including without limitation, such entity's SCDOR PT-300 or such comparable forms, as the Department of Revenue may provide in connection with projects under the Act.

(iv) If the Company or any other Co-Investor sells, leases, or otherwise disposes of any portion of, or adds to, the Land, or removes any portion of the Land from the Project, but retains such property for use as part of its operations in the County, all as permitted herein, the Company or such Co-Investor shall deliver to the County a revised **Exhibit A** to this Agreement or supplements to **Exhibit A** reflecting any such addition, disposal, or removal and such revised or supplemented **Exhibit A** shall be hereby automatically made a part of this Agreement without further action or proceedings by the County or the Council; provided, that any requirement to provide such schedules or supplements to the County may be, but shall not be required to be, satisfied by property tax returns filed with respect to the Project and any other such property, including without limitation, such entity's SCDOR PT-300 or such comparable forms, as the Department of Revenue may provide in connection with projects under the Negotiated FILOT Act.

(v) All Negotiated FILOT Property sold or otherwise disposed of under this Section shall be deemed Released Property for purposes of this Agreement.

Section 4.02. Failure to Satisfy Minimum Contractual Investment Requirement and/or Minimum Jobs Requirement. If either or both of the Minimum Contractual Investment

Requirement and the Minimum Jobs Requirement are not satisfied by the end of the Compliance Period, each of the following provisions shall apply:

(a) The Company and each other Sponsor or Sponsor Affiliate shall continue to be eligible for the Negotiated FILOT described in **Section 5.01** hereof and the Tier 1 Special Source Credits so long as the Minimum Statutory Investment Requirement is nevertheless satisfied by the end of the Compliance Period.

(b) Each Credit Eligible Entity shall, to the extent required by the below provisions of this **Section 4.02(b)**, reimburse the County for any Tier 2 Special Source Credits previously received, or to be received, by such Credit Eligible Entity for each of the first five (5) tax years of the credit period set forth in **Section 3.02(b)** hereof (*i.e.*, for each tax year for which such Credit Eligible Entity is entitled to receive Special Source Credits under **Section 3.02(b)** hereof and for which a Negotiated FILOT Payment has been, or will be, due to be paid without penalty with respect to the Project on or before the January 15 immediately following the end of the Compliance Period) (collectively, the “Compliance Period Special Source Credits”), taking into account (i) the highest level of aggregate investment in the Project (without regard to depreciation or diminution in value) within the Compliance Period at any time during the Compliance Period (the “Actual Project Investment”), as compared to the Minimum Contractual Investment Requirement, (ii) the highest number of new, full-time jobs created, in the aggregate, at the Project within the period set forth in the Minimum Jobs Requirement at any time during such period (the “Actual Project Jobs”), as compared to the Minimum Jobs Requirement, and (iii) an equal weighting for investment and jobs; provided, in the event that the Actual Project Investment exceeds the Minimum Contractual Investment Requirement or the Actual Project Jobs exceeds the Minimum Jobs Requirement, the percentage of any such surplus shall be applied to offset any shortfall in satisfaction of the other such requirement, as the case may be, in accordance with the weighting set forth in subsection (iii) above, all as further detailed and illustrated in the formula and examples set forth below:

Formula:

1. $\frac{\text{Actual Project Investment}}{\$175,000,000} \times 100 = \text{Investment Satisfaction Percentage [ISP]}$
2. $100\% - \text{ISP} = \text{Investment Satisfaction Factor [ISF]}$
3. $\frac{\text{Actual Project Jobs}}{30 \text{ new, full-time jobs}} \times 100 = \text{Jobs Satisfaction Percentage [JSP]}$
4. $100\% - \text{JSP} = \text{Jobs Satisfaction Factor [JSF]}$
5. $\frac{\text{ISF} + \text{JSF}}{2} = \text{Final Satisfaction Factor [FSF]}$

2

6. In the event that determination of the Final Satisfaction Factor results in a positive percentage figure, the Final Satisfaction Factor shall be applied to the Compliance Period Special Source Credits received, or to be received, by each Credit Eligible Entity as set forth above to determine reimbursement amounts due to the County, if any, from each such Credit Eligible Entity, as further illustrated in the examples set forth below. Any such amounts shall be due to be paid by a Credit Eligible Entity on or before the date by which such Credit Eligible Entity is required, under applicable law, to make its Negotiated FILOT Payment due with respect to the Project for the tax year corresponding to the final Property Tax Year of the Compliance Period (*i.e.*, the Negotiated FILOT Payment due with respect to Project property placed in service as of the end of the final Property Tax Year within the Compliance Period).

Examples:

As an example, assuming Actual Project Investment of \$140,000,000 and Actual Project Jobs of 24, the Final Satisfaction Factor to be applied against the Compliance Period Special Source Credits, as set forth in the above formula, would be calculated as follows:

1.
$$\frac{\$140,000,000}{\$175,000,000} \times 100 = 80.0\% \text{ [ISP]}$$
2. $100\% - 80.0\% = 20.0\% \text{ [ISF]}$
3.
$$\frac{24}{30} \times 100 = 80.0\% \text{ [JSP]}$$
4. $100\% - 80.0\% = 20.0\% \text{ [JSF]}$
5.
$$\frac{20.0\% + 20.0\%}{2} = 20.0\% \text{ [FSF]}$$
6. Assuming Compliance Period Special Source Credits for a Credit Eligible Entity of \$1,000,000, upon application of the Final Satisfaction Factor of 20.0% to such amount, such Credit Eligible Entity would be required to make a reimbursement payment to the County, as set forth above, in the amount of \$200,000.

As an additional example, assuming Actual Project Investment of \$262,500,000 and Actual Project Jobs of 24, the Final Satisfaction Factor to be applied against the Compliance Period Special Source Credits, as set forth in the above formula, would be calculated as follows:

1. $\frac{\$262,500,000}{\$175,000,000} \times 100 = 150.0\%$ [ISP]
2. $100\% - 150.0\% = (-50.0\%)$ [ISF]
3. $\frac{24 \text{ jobs}}{30 \text{ jobs}} \times 100 = 80.0\%$ [JSP]
4. $100\% - 80.0\% = 20.0\%$ [JSF]
5. $\frac{(-50.0\%) + 20.0\%}{2} = (-15.00\%)$ [FSF]
6. No reimbursement of Compliance Period Special Source Credits from any Credit Eligible Entity would be due to the County.

(c) Each Credit Eligible Entity shall continue to be eligible for Tier 2 Special Source Credits against each Negotiated FILOT Payment due from such Credit Eligible Entity with respect to the Project for the remaining ten (10) tax years of the period set forth in **Section 3.02(b)** hereof; provided, however, in the event that determination of the Final Satisfaction Factor pursuant to this **Section 4.02(b)** results in a positive percentage figure, the initial Tier 2 Special Source Credits percentage set forth in **Section 3.02(a)** hereof of forty percent (40%) shall be reduced for the remaining such tax years by the percentage equal to such Final Satisfaction Factor, as further illustrated in the example set forth below:

Example:

As an example, assuming a Final Satisfaction Factor of twenty percent (20%), the Tier 2 Special Source Credits percentage applicable for the remaining such tax years would be reduced from 40% by 20% of such initial Special Source Credits percentage, down to a Special Source Credits percentage of 32%.

Section 4.03. Payment of Administration Expenses. The Company or any other Sponsor or Sponsor Affiliate will reimburse, or cause reimbursement of, the County from time to time for the County's Administration Expenses incurred in the fulfillment of its obligations hereunder, or in the implementation of this Agreement's terms and provisions, with respect to the Company or such other Sponsor or Sponsor Affiliate, promptly upon written request therefor, but in no event later than sixty (60) days after receiving written notice from the County specifying the nature of such expense and requesting the payment of the same. The County acknowledges that it imposes no charges in the nature of impact fees or recurring fees in connection with the Project or the incentives authorized by this Agreement, and, aside from the attorneys' fees set forth below, the County anticipates no out of pocket expenses in connection with this Agreement and the transactions authorized hereby. The parties understand that the County will incur legal fees and

other expenses for review of the Inducement Resolution, this Agreement, the Multi-County Park Agreement and all resolutions, ordinances and other documentation related thereto in an amount, absent extraordinary, unforeseen circumstances and subject to the following proviso, not to exceed \$7,500,000; provided, however, in the event of such extraordinary, unforeseen circumstances, any such excess legal fees or expenses incurred by the County shall not be deemed to be Administration Expenses unless, the Company has been notified of such fees or expenses prior to them being incurred and (2) the Company and the County further agree that such fees or expenses shall be, in whole or in part, deemed Administration Expenses hereunder.

Section 4.04. Use of Project for Lawful Activities. During the Term of this Agreement, the Company and each other Co-Investor may use the Project as it deems fit for any lawful purpose.

Section 4.05. Maintenance of Existence. Except in the event the resulting, surviving or transferee entity is the Company or an Affiliate of the Company, as to which such consolidation, merger, or transfer, the County hereby preapproves and consents, unless the County shall provide prior consent or subsequent ratification otherwise, which consent or ratification shall not be unreasonably withheld, conditioned or delayed, the Company covenants that it will maintain its separate existence and will not dissolve or consolidate with, merge into or transfer, or otherwise dispose of substantially all of its property to any other entity or permit one or more other entities to consolidate with or merge into it or purchase substantially all of its property unless:

(a) the Company shall be the continuing business entity, or the business entity formed by such consolidation or into which the Company is merged or the entity which acquires by conveyance or transfer all or substantially all of the Company's assets shall (i) be an entity organized and existing under the laws of the United States of America or any state thereof or the District of Columbia and qualified to do business in the State; (ii) have a net worth equal to or greater than the net worth of the Company immediately preceding the date of such merger, consolidation or transfer; and (iii) expressly and unconditionally assume, by written agreement supplemental hereto and acceptable to the County as to form and content, in its reasonable discretion, every payment obligation of the Company herein and the performance of every covenant of this Agreement on the part of the Company to be performed or observed;

(b) immediately after giving effect to such transaction, no Event of Default, and no event, which, after notice or lapse of time or both, would become an Event of Default, shall have happened and be continuing; and

(c) the Company shall have delivered to the County (i) a certificate of a duly authorized officer of the Company, accompanied by financial statements of the surviving company (if other than the Company) showing compliance with the net worth requirements specified in paragraph (a) above and (ii) an opinion of counsel for the Company and/or counsel to the transferee company, each stating that such consolidation, merger, conveyance or transfer and such supplement to this Agreement comply with this

Section and that all conditions precedent herein provided for relating to such transaction have been complied with.

Upon any consolidation or merger or any conveyance or transfer of all or substantially all of the Company's assets in accordance with this Section, the successor entity formed by such consolidation or into which the Company is merged or to which such conveyance or transfer is made, shall succeed to, and be substituted for, and may exercise every right and power of the Company under this Agreement with the same effect as if such successor entity had been named as the Company herein, and thereafter the Company shall be relieved of all obligations and covenants under this Agreement.

If a consolidation, merger or conveyance or transfer is made as permitted by this Section, the provisions of this Section shall continue in full force and effect and no further consolidation, merger or conveyance or transfer shall be made except in compliance with the provisions of this Section.

The Company acknowledges transfers of this Agreement or the Negotiated FILOT Property may cause the Negotiated FILOT Property to become ineligible for a Negotiated FILOT or result in penalties under the Act absent compliance by the Company with the Transfer Provisions.

Section 4.06. Records and Reports. The Company and each other Sponsor and Sponsor Affiliate will maintain, or cause to be maintained, such books and records with respect to its respective portion of the Project as will permit the identification of those portions of the Project it places in service during the Investment Period, the amount of investment with respect thereto, and any computations of Negotiated FILOT Payments made by such entity hereunder, and will comply with all reporting requirements of the State and the County applicable to Negotiated FILOT Property under the Negotiated FILOT Act, including without limitation the reports required by 12-44-90 of the Negotiated FILOT Act (collectively, "Filings"); provided, however, that the parties hereby waive in its entirety the requirement under Section 12-44-55 of the Negotiated FILOT Act for a recapitulation of the terms of this Agreement, so long as and to the extent that copies of all Filings are provided to the fiscal officers of the County in accordance with subsections (b) and (c), below. In addition, the following records shall be provided to the County:

(a) Upon direction of the governing body of the County, a County Official may request and obtain such financial books and records from the Company and any other Sponsor or Sponsor Affiliate that support the Negotiated FILOT returns of the Company or such other Sponsor or Sponsor Affiliate as may be reasonably necessary to verify the calculations of the Negotiated FILOT Payments by the Company or such other Sponsor or Sponsor Affiliate. For purposes of this Agreement, the term "County Official" shall include the Administrator, Auditor, Assessor, or Treasurer of the County.

(b) Each year during the Term hereof, the Company and each other Sponsor or Sponsor Affiliate shall deliver to the County Auditor, the County Assessor and the County Treasurer a copy of any form or return it files with the Department of Revenue with respect to the Project at the same time as delivery thereof to the Department of Revenue.

(c) The Company shall cause a copy of this Agreement, as well as a copy of the completed Form PT-443 required by the Department of Revenue, to be filed within thirty (30) days after the date of original execution and delivery hereof with the County Auditor, the County Assessor and the County Treasurer of the County and of each other county which is a party to the Multi-County Park Agreement, and with the Department of Revenue and shall update such Form PT-443 from time to time to the extent that the information therein is no longer accurate.

Notwithstanding any other provision of this Section, the Company and each other Sponsor or Sponsor Affiliate may, by clear, written designation, conspicuously marked, designate with respect to any Filings or other documents or information delivered to the County segments thereof that the Company or such other Sponsor or Sponsor Affiliate believes contain proprietary, confidential, or trade secret matters. The County shall comply with all reasonable, written requests made by the Company or any such other Sponsor or Sponsor Affiliate with respect to maintaining the confidentiality of such designated segments. Except to the extent required by law, and unless the County has provided at least fifteen (15) days advance written notice to the Company or such other Sponsor or Sponsor Affiliate of such proposed release, the County shall not knowingly and voluntarily release any Filing, documents or information provided to the County by the Company or any other Sponsor or Sponsor Affiliate in connection with the Project, whether or not such information has been designated as confidential or proprietary by the Company or any other Sponsor or Sponsor Affiliate.

Section 4.07. Funding for Special Source Improvements The Company and each other Sponsor Affiliate shall provide, or cause the provision of, funding for the Special Source Improvements related to its respective portion of the Project.

ARTICLE V

FEES IN LIEU OF TAXES

Section 5.01. Payment of Fees in Lieu of *Ad Valorem* Taxes.

(a) In accordance with the Negotiated FILOT Act, the parties hereby agree, during the Term hereof, that there shall be due annually with respect to that portion of the Project constituting Negotiated FILOT Property, whether owned by the Company or by any other Sponsor or Sponsor Affiliate, a Negotiated FILOT Payment calculated as set forth in this Section, at the places, in the manner and subject to the penalty assessments prescribed by the County or the Department of Revenue for *ad valorem* taxes. It is anticipated, but not required, that the initial Negotiated FILOT Payment, which shall be

due under current Code requirements on the January 15 following the year in which the County adds the initial Negotiated FILOT Property to its tax rolls, will be due on January 15, 2018. If the Company designates any other Sponsor or Sponsor Affiliates, as the same shall have been consented to by the County, if such consent is required pursuant to **Section 6.02** hereof, the Company must notify the County in writing at the time of such designation as to whether such additional Sponsor or Sponsor Affiliate shall be primarily liable for the Negotiated FILOT Payments due hereunder with respect to such other entity's respective portion of the Negotiated FILOT Property. Unless and until such additional notification is received, the Company shall be primarily liable for all Negotiated FILOT Payments due with respect to such Negotiated FILOT Property.

(b) Subject to adjustment pursuant to the provisions of this **Section 5.01**, the Negotiated FILOT shall be calculated each year in accordance with the following provisions:

(i) The County hereby finds that the Project will have a substantial public benefit. Accordingly, pursuant to Section 12-44-30(21) of the Negotiated FILOT Act, for each annual increment of investment in Negotiated FILOT Property, the annual Negotiated FILOT payments shall be payable for an aggregate payment period of forty (40) years, which period shall be comprised of an initial period of thirty (30) years and an automatic extension period of ten (10) years. Accordingly, if such Negotiated FILOT Property is placed in service during more than one year, each year's investment in Negotiated FILOT Property during the Investment Period shall be subject to the Negotiated FILOT for a payment period of forty (40) years up to an aggregate of forty-five (45) years or, if the Investment Period is extended as set forth in **Section 4.01(c)** hereof, up to an aggregate of fifty (50) years.

(ii) The Negotiated FILOT shall be determined using (1) an assessment ratio of 6%; (2) the lowest millage rate or rates allowed with respect to the Project pursuant to Section 12-44-50(A)(1)(d) of the Negotiated FILOT Act, which the parties believe to be, based on the property comprising the Land as of the original execution and delivery of this Agreement, 213.0 mills with respect to the Land and all Negotiated FILOT property located thereon, which millage rate shall be fixed in accordance with Section 12-44-50(A)(1)(b)(i) of the Negotiated FILOT Act for the entire term of the Negotiated FILOT; and (3) the fair market value of such Negotiated FILOT Property as determined in accordance with Section 12-44-50(A)(1)(c) of the Negotiated FILOT Act, which, for typical arm's length construction or acquisition, uses the original income tax basis for any real property without regard to depreciation or reassessment and the original income tax basis for any personal property less allowable depreciation (except depreciation due to extraordinary obsolescence); provided, however,

that the Company or any other Sponsor or Sponsor Affiliate and the County may agree, in writing, and only with the consent of both, at a later date to amend this Agreement as to Negotiated FILOT Property owned by the Company or such other Sponsor or Sponsor Affiliate so as to determine the fair market value of any such real property in accordance with any other method permitted by the Negotiated FILOT Act.

(iii) All such calculations shall take into account all deductions for depreciation or diminution in value allowed by the Code or by the tax laws generally, as well as tax exemptions which would have been applicable if such property were subject to *ad valorem* taxes, except the five-year exemption from County taxes allowed for certain manufacturing, distribution, corporate headquarters and research and development facilities pursuant to Section 3(g) of Article X of the Constitution of the State and Sections 12-37-220(B)(32) and (34) of the Code.

(iv) For purposes of calculating the Negotiated FILOT, the Negotiated FILOT Property shall not include any Released Property or Non-Qualifying Property.

(c) The Negotiated FILOT Payments are to be recalculated:

(i) to reduce such payments in the event the Company or any other Sponsor or Sponsor Affiliate disposes of any part of the Negotiated FILOT Property within the meaning of Section 12-44-50(B) of the Negotiated FILOT Act and as provided in **Section 4.01(e)(ii)** hereof, by the amount applicable to the Released Property;

(ii) to reduce such payments in the event that the Negotiated FILOT Property or any portion thereof is damaged or destroyed, lost or stolen, or the subject of condemnation proceedings or otherwise removed from the Project as a result of circumstances beyond the control of the Company or any other Sponsor or Sponsor Affiliate;

(iii) to increase such payments in the event the Company or any other Sponsor or Sponsor Affiliate adds any Negotiated FILOT Property (other than Replacement Property) to the Project; or

(iv) to adjust such payments if the Company or any other Sponsor or Sponsor Affiliate elects to convert any portion of the Negotiated FILOT Property from the Negotiated FILOT to *ad valorem* taxes or FILOT payments pursuant to the Multi-County Park Act, as the case may be, as permitted by **Section 4.01(e)(iii)**.

(d) Upon installation or placing in service of any Replacement Property for any Released Property, such Replacement Property shall become subject to Negotiated FILOT Payments to the fullest extent allowed by the Negotiated FILOT Act, subject to the following rules:

(i) Such Replacement Property does not have to serve the same function as the Released Property it is replacing. Replacement Property is deemed to replace the oldest property subject to the Negotiated FILOT, whether real or personal, which is disposed of in the same Property Tax Year as the Replacement Property is placed in service. Replacement Property qualifies for Negotiated FILOT Payments up to the original income tax basis of the Released Property which it is replacing in the same Property Tax Year. More than one piece of property can replace a single piece of property. To the extent that the income tax basis of the Replacement Property exceeds the original income tax basis of the Released Property which it is replacing, the excess amount is subject to payments equal to the *ad valorem* taxes or FILOT payments pursuant to the Multi-County Park Act, as the case may be, which would have been paid on such property but for this Agreement. Replacement property is entitled to the Negotiated FILOT Payments for the remaining portion of the forty-year period set forth in **Section 5.01(b)(i)** hereof applicable to the Released Property

(ii) The Company or any other Sponsor or Sponsor Affiliate shall maintain, or cause to be maintained, records sufficient to identify all Replacement Property it places in service, and the Negotiated FILOT Payments with respect thereto shall be calculated using the millage rate and assessment ratio provided on the property it is replacing.

(e) In the event that, for any reason, the Negotiated FILOT Act and/or the Negotiated FILOT or any portion thereof is, by a court of competent jurisdiction following allowable appeals, declared invalid or unenforceable in whole or in part, or the portion of the Project consisting of Negotiated FILOT Property is deemed not to be eligible for a Negotiated FILOT pursuant to the Act in whole or in part, the Company and the County express their intentions that such payments be reformed so as to afford the Company and each other Sponsor or Sponsor Affiliate benefits commensurate with those intended under this Agreement as then permitted by law, including without limitation any benefits afforded under Title 4, Chapter 12 and Title 4, Chapter 29 of the Code, as applicable, to the extent allowed by law. Absent the legal authorization to effect such reformation, the Company and the County agree that there shall be due hereunder with respect to that portion of the Negotiated FILOT Property affected by such circumstances *ad valorem* taxes or FILOT payments pursuant to the Multi-County Park Act, as the case may be, and that, to the extent permitted by law, the Company and each other Sponsor or Sponsor Affiliate shall be entitled: (1) to enjoy the five-year exemption from *ad valorem* taxes (or fees in lieu of taxes) provided by Article X, Section 3 of the Constitution of the

State, and any other exemption allowed by law; (2) to enjoy all allowable depreciation; and (3) to receive all other tax credits which would be due if the Company and each other Sponsor or Sponsor Affiliate were obligated to pay *ad valorem* taxes hereunder. To the extent that under such circumstances the Negotiated FILOT Payments hereunder are subject to retroactive adjustment, then there shall be due and payable from the Company and any other Sponsor or Sponsor Affiliate, as the case may be, with respect to such entity's portion of the Negotiated FILOT Property in question, an amount equal to the difference between the Negotiated FILOT Payments theretofore actually paid and the amount which would have been paid as *ad valorem* taxes, together with interest on such deficiency as provided in Section 12-54-25(D) of the Code (a "Deficiency Payment").

(f)

(i) In the event that the Minimum Statutory Investment Requirement is not satisfied by the end of the Compliance Period, then all Negotiated FILOT Payments shall revert retroactively to *ad valorem* taxes, calculated as set forth in paragraph (e) above, and a Deficiency Payment from each such owing entity shall be due and payable with respect to Negotiated FILOT Payments theretofore made. Pursuant to Section 12-44-30(19) of the Negotiated FILOT Act, in the event that the aggregate investment in the Project by all Sponsors and Sponsor Affiliates does not exceed \$5,000,000 by the end of the Compliance Period and any Sponsor or Sponsor Affiliate does not satisfy the Minimum Statutory Investment Requirement solely through its own direct investment in the Project, then the Negotiated FILOT Payments with respect to that portion of the Project owned by such non-qualifying Sponsor or Sponsor Affiliate shall revert retroactively to *ad valorem* taxes calculated as set forth in paragraph (e) above, and such Sponsor or Sponsor Affiliate shall owe a Deficiency Payment with respect to Negotiated FILOT Payments theretofore made as to such portion of the Project. To the extent necessary to collect a Deficiency Payment under this clause (i) due to failure to satisfy the Minimum Statutory Investment Requirement, Section 12-44-140(D) of the Negotiated FILOT Act provides that any statute of limitations that might apply pursuant to Section 12-54-85 of the Code is suspended.

(ii) In the event that the Minimum Statutory Investment Requirement is satisfied by the end of the Compliance Period, but following the Compliance Period, investment in the Project, without regard to depreciation or other diminution in value, falls below the investment level set forth in the Minimum Statutory Investment Requirement, then the Project shall prospectively be subject to *ad valorem* taxes, or to FILOT Payments pursuant to the Multi-County Park Act, as the case may be, calculated as set forth in paragraph (e) above, in accordance with Section 12-44-140(C) of the Negotiated FILOT Act, commencing with any Negotiated FILOT Payments

due with respect to Project property placed in service as of the end of the first Property Tax Year following the Property Tax Year in which such deficiency occurs.

(iii) If either or both of the Minimum Contractual Investment Requirement and the Minimum Jobs Requirement are not satisfied by the end of the Compliance Period, but the Minimum Statutory Investment Requirement is nevertheless satisfied by the end of the Compliance Period, the Company and each other Sponsor or Sponsor Affiliate shall continue to be eligible to take advantage of the Negotiated FILOT described in **Section 5.01** hereof and the Tier 1 Special Source Credits, but the County shall have the rights specified in **Section 4.02** hereof with respect to the Tier 2 Special Source Credits.

(iv) In accordance with the provisions of **Sections 4.01(b)** and **6.02** hereof, except for Existing Property, the investment in all property utilized by the Company or any other Co-Investor at the Land, whether owned by the Company or any other Co-Investor outright or utilized by the Company or any other Co-Investor pursuant to any financing agreement or any lease or other arrangement with the Company or any other Co-Investor and whether or not subject to this Agreement, shall be counted toward all investment obligations under this Agreement, including, to the extent permitted by law, investment obligations under the Negotiated FILOT Act.

(g) Except as otherwise set forth in this Agreement or as otherwise required by the Act, any amounts due to the County under this **Section 5.01** as a Deficiency Payment or other retroactive payment shall be paid within one hundred eighty (180) days following receipt by the Company or any other Sponsor or Sponsor Affiliate of notice from the County that such a Deficiency Payment or other retroactive payment is due from such entity.

Section 5.02. Statutory Lien. The parties acknowledge the County's right to receive Negotiated FILOT Payments hereunder and that the County is entitled to and shall have a statutory lien with respect to the Project pursuant to Section 12-44-90(E) of the Negotiated FILOT Act and Title 12, Chapter 54 of the Code relating to the collection and enforcement of *ad valorem* property taxes.

ARTICLE VI

THIRD PARTY ARRANGEMENTS

Section 6.01. Conveyance of Liens and Interests; Assignment. The County agrees that the Company and each other Sponsor or Sponsor Affiliate may at any time (a) transfer all or any of its rights and interests hereunder or with respect to all or any part of the Project to any Person; or (b) enter into any lending, financing, leasing, security, or similar arrangement or succession of

such arrangements with any financing entity or other Person with respect to this Agreement or all or any part of the Project, including without limitation any sale-leaseback, equipment lease, build-to-suit lease, synthetic lease, nordic lease, defeased tax benefit or transfer lease, assignment, sublease or similar arrangement or succession of such arrangements, regardless of the identity of the income tax owner of such portion of the Project, whereby the transferee in any such arrangement leases the portion of the Project in question to the Company or any other Sponsor or Sponsor Affiliate or any of their respective Affiliates or operates such assets for the Company or any other Sponsor or Sponsor Affiliate or any of their respective Affiliates or is leasing portion of the Project in question from the Company or any other Sponsor or Sponsor Affiliate or any of their respective Affiliates. In order to transfer all or any of its rights and interests under this Agreement and preserve the benefits hereunder, including, but not limited to, the benefits of the Negotiated FILOT and the Special Source Credits, with respect to any Project property so transferred, leased, financed, or otherwise affected: (i) except in connection with any transfer to any other Sponsor or Sponsor Affiliate or an Affiliate of the Company or any Sponsor or Sponsor Affiliate, or transfers, leases, or financing arrangements pursuant to clause (b) above (as to which such transfers the County hereby consents), the Company shall obtain the prior consent or subsequent ratification of the County, which consent or subsequent ratification of the County shall not be unreasonably conditioned, withheld, or delayed; (ii) except when a financing entity which is the income tax owner of all or part of the Project property is the transferee pursuant to clause (b) above and such financing entity assumes in writing the obligations of the Company or any such other Sponsor or Sponsor Affiliate hereunder, or when the County consents in writing or when the transfer relates to Released Property pursuant to **Section 4.01(e)** hereof, no such transfer shall affect or reduce any of the obligations of the Company or any such other Sponsor or Sponsor Affiliate hereunder; (iii) to the extent the transferee or financing entity shall become obligated to make Negotiated FILOT payments hereunder, the transferee shall assume the then current basis of the Company or any such other Sponsor or Sponsor Affiliate (or prior transferee) in the Negotiated FILOT Property transferred; (iv) the Company or any such other Sponsor or Sponsor Affiliate, transferee or financing entity shall, within sixty (60) days thereof, furnish or cause to be furnished to the County and the Department of Revenue notice of any such transfer agreement in order to preserve the benefits of the Negotiated FILOT; and (v) the Company or any such other Sponsor or Sponsor Affiliate and the transferee shall comply with all other requirements of the Transfer Provisions in order to preserve the benefits of the Negotiated FILOT.

Subject to County consent when required under this **Section 6.01**, and at the expense of the Company or any such other Sponsor or Sponsor Affiliate, the County agrees to take such further action and execute such further agreements, documents, and instruments as may be reasonably required to effectuate the assumption by any such transferee of all or part of the rights of the Company or any other Sponsor or Sponsor Affiliate under this Agreement and/or any release of the Company or any other Sponsor or Sponsor Affiliate pursuant to this **Section 6.01**.

The Company acknowledges that any transfer in the Negotiated FILOT Property may cause all or part of the Negotiated FILOT Property to become ineligible for a Negotiated FILOT

or result in penalties under the Negotiated FILOT Act absent compliance by the Company or any such Sponsor or Sponsor Affiliate with the Transfer Provisions.

Section 6.02. Sponsors and Sponsor Affiliates. The Company may designate from time to time other Sponsors or Sponsor Affiliates pursuant to the provisions of Sections 12-44-30(19) or (20), respectively, and Section 12-44-130 of the Negotiated FILOT Act, which Sponsors or Sponsor Affiliates shall be Persons who join with the Company and make investments with respect to the Project, or who participate in the financing of such investments, who agree to be bound by the terms and provisions of this Agreement and who shall be Affiliates of the Company or other Persons described in **Section 6.01(b)** hereof. All other Sponsors or Sponsor Affiliates who otherwise meet the requirements of Section 12-44-30 (19) or (20) and Section 12-44-130 of the Negotiated FILOT Act must be approved by Resolution of the Council. To the extent that a Co-Investor invests an amount equal to the Minimum Statutory Investment Requirement at the Project by the end of the Compliance Period all investment by such Sponsor or Sponsor Affiliate shall qualify for the Negotiated FILOT payable under **Section 5.01** hereof (subject to the other conditions set forth therein) in accordance with Section 12-44-30(19) of the Negotiated FILOT Act. To the extent that the aggregate investment in the Project by the end of the Compliance Period by the Company, all Sponsors and Sponsor Affiliates and, to the extent provided by law, other Co-Investors, exceeds \$5,000,000 as provided in Section 12-44-30(19) of the Negotiated FILOT Act, all investment by such Sponsors and Sponsor Affiliates during the Investment Period shall qualify for the Negotiated FILOT pursuant to **Section 5.01** of this Agreement (subject to the other conditions set forth therein) regardless of whether each such entity invested amounts equal to the Minimum Statutory Investment Requirement by the end of the Compliance Period. The Company shall provide the County and the Department of Revenue with written notice of any Sponsor or Sponsor Affiliate designated pursuant to this **Section 6.02** within ninety (90) days after the end of the calendar year during which any such Sponsor or Sponsor Affiliate has placed in service Negotiated FILOT Property to be used in connection with the Project, all in accordance with Section 12-44-130(B) of the Negotiated FILOT Act.

ARTICLE VII

TERM; TERMINATION

Section 7.01. Term. Unless sooner terminated pursuant to the terms and provisions herein contained, this Agreement shall be and remain in full force and effect for a term commencing on the date on which the Company executes this Agreement, and ending at midnight on the later of (i) the day the last Negotiated FILOT Payment is made hereunder; or (ii) the day that all Special Source Credits due from the County hereunder have been fully provided by the County.

Section 7.02. Termination. In addition to the termination rights of the County under **Section 8.02(a)** hereof, the County and the Company may jointly agree to terminate this Agreement at any time, or the Company, may, at its option, unilaterally terminate this Agreement at any time, with respect to all, or any portion, of the Project in which event the Project, or such

portion of the Project, shall be subject to *ad valorem* taxes or to FILOT payments under the Multi-County Park Act, as the case may be, from the date of termination. Notwithstanding termination of this Agreement, the County shall have the same rights to receive payment for any retroactive *ad valorem* taxes, Deficiency Payments, interest or penalties, and the same enforcement rights with respect to such obligations as it would have with respect to *ad valorem* taxes, and the County's rights arising under **Section 5.01** prior to the time of such termination shall survive any such termination.

ARTICLE VIII

EVENTS OF DEFAULT AND REMEDIES

Section 8.01. Events of Default. Any one or more of the following events (herein called an "Event of Default", or collectively "Events of Default") shall constitute an Event of Default by the Company or any other Sponsor or Sponsor Affiliate (the "Defaulting Entity") but only with respect to such Defaulting Entity's rights, duties, and obligations contained herein:

(a) if default shall be made in the due and punctual payment of any Negotiated FILOT Payments, which default shall not have been cured within sixty (60) days following receipt of written notice of such default from the County; or

(b) if default shall be made in the due performance of or compliance with any of the terms hereof, other than those referred to in the foregoing paragraph (a), and such default shall continue for ninety (90) days after the County shall have given the Defaulting Entity written notice of such default; provided, the County may, in its discretion, grant the Defaulting Entity a longer period of time as necessary to cure such default if the Defaulting Entity proceeds with due diligence to cure such default; provided however, that no Event of Default shall exist under this Agreement during any period when there is pending, before any judicial or administrative tribunal having jurisdiction, any proceeding in which the Defaulting Entity has contested the occurrence of such default.

Notwithstanding anything herein to the contrary, failure to meet any investment or job creation requirements, thresholds, or levels set forth in this Agreement shall not be deemed to be an Event of Default under this Agreement, but may terminate certain benefits hereunder or obligate the Company or other Sponsors or Sponsor Affiliates, as the case may be, to make certain additional payments to the County, all as set forth in **Section 4.02** and **Section 5.01(f)** hereof.

Section 8.02. Remedies on Event of Default. Upon the occurrence of any Event of Default, the following remedies may be exercised by the County only as to the Defaulting Entity:

(a) the County may terminate this Agreement by delivery of written notice to the Defaulting Entity not less than sixty (60) days prior to the termination date specified therein;

(b) the County may have access to and inspect, examine, and make copies of the books and records of the Defaulting Entity pertaining to the construction, acquisition, or maintenance of the Project or calculation of the Negotiated FILOT as provided in **Section 4.06** hereof;

(c) the County may take whatever action at law or in equity as may appear necessary or desirable to collect the amount then due or enforce the County's rights hereunder, it being the express intent of the parties that the County, but not limited to, shall have the same remedies available by law to collect Negotiated FILOT Payments as if they were delinquent *ad valorem* tax payments, including execution upon the lien referred to in **Section 5.02** hereof.

Section 8.03. Defaulted Payments. In the event the Company or any other Sponsor or Sponsor Affiliate should fail to make any of the payments required to be made by such entity under this Agreement, the item or installment so in default shall continue as an obligation of such entity until the amount in default shall have been fully paid. If any such default relates to its obligations to make Negotiated FILOT Payments hereunder, such entity shall pay the same with interest thereon at the rate per annum provided by the Code for late payment of *ad valorem* taxes together with any penalties provided by the Code for late payment of *ad valorem* taxes, all as provided in Section 12-44-90 of the Negotiated FILOT Act.

Section 8.04. Default by County. Upon the default of the County in the performance of any of its obligations hereunder, the Company and any other Sponsor or Sponsor Affiliate may take whatever action at law or in equity as may appear necessary or desirable to enforce its rights under this Agreement, including without limitation a suit for *mandamus* or specific performance.

ARTICLE IX

MISCELLANEOUS

Section 9.01. Rights and Remedies Cumulative. Each right, power, and remedy of the County or of the Company or any other Sponsor or Sponsor Affiliate provided for in this Agreement shall be cumulative and concurrent and shall be in addition to every other right, power, or remedy provided for in this Agreement or now or hereafter existing at law or in equity, in any jurisdiction where such rights, powers, and remedies are sought to be enforced; and the exercise by the County or by the Company or any other Sponsor or Sponsor Affiliate of any one or more of the rights, powers, or remedies provided for in this Agreement or now or hereafter existing at law or in equity or by statute or otherwise shall not preclude the simultaneous or later exercise by the County or by the Company or any other Sponsor or Sponsor Affiliate of any or all such other rights, powers, or remedies.

Section 9.02. Successors and Assigns. The terms and provisions of this Agreement shall be binding upon and inure to the benefit of the parties hereto, each Sponsor or Sponsor Affiliate hereof, and their respective successors and assigns as permitted hereunder; provided, however, that notwithstanding anything herein to the contrary, the County may not assign, except as may

be required by law, any or all of its rights, duties, and obligations in, to, and under this Agreement without the written consent of the Company, which consent may be provided by the Company in its sole discretion.

Section 9.03. Notices; Demands; Requests. All notices, demands, and requests to be given or made hereunder to or by the County or the Company shall be in writing and shall be deemed to be properly given or made if sent by United States first class mail, postage prepaid, or via facsimile transmission or reputable courier service, to the following persons and addresses or to such other persons and places as may be designated in writing by such party.

(a) As to the County:

Oconee County
Attn: County Administrator
415 South Pine Street
Walhalla, South Carolina 29691
Phone: 864-638-4245
Fax: 864-718-1024

(b) with a copy (which shall not constitute notice) to:

Oconee County
Attn: Oconee County Attorney
415 South Pine Street
Walhalla, South Carolina 29691
Phone: 864-638-4245
Fax: 864-718-1024

(c) As to the Company:

Michelin North America, Inc.
Attention: Vice President of Tax
One Parkway South (29602)
P.O. Box 19001
Greenville, South Carolina 29615
Phone: 864-458-5094
Fax: 864-458-4355

(d) with a copy (which shall not constitute notice) to:

Burnet R. Maybank, III, Esq.
Tushar V. Chikhliker, Esq.
Nexsen Pruet, LLC
1230 Main Street, Suite 700 (29201)

P.O. Drawer 2426
Columbia, South Carolina 29202
Phone: 803-771-8900
Fax: 803-253-8277

Section 9.04. Applicable Law. This Agreement shall be governed by, and construed in accordance with, the laws of the State. To the extent of any conflict between the provisions of this Agreement and the Act, the Act controls.

Section 9.05. Entire Understanding. This Agreement expresses the entire understanding and all agreements of the parties hereto with each other and supersedes all prior and contemporaneous discussions of the parties, whether oral or written, and neither party hereto has made or shall be bound by any agreement or any warranty or representation to the other party which is not expressly set forth in this Agreement or in certificates delivered in connection with the execution and delivery hereof. Unless as otherwise expressly set forth herein, this Agreement will not confer any rights or remedies upon any Person other than the parties hereto and their respective successors and assigns as permitted hereunder.

Section 9.06. Severability. In the event that any clause or provisions of this Agreement shall be held to be invalid by any court of competent jurisdiction, the invalidity of such clause or provision shall not affect any of the remaining provisions hereof.

Section 9.07. Headings and Table of Contents; References. The headings of the Agreement and any Table of Contents annexed hereto are for convenience of reference only and shall not define or limit the provisions hereof or affect the meaning or interpretation hereof. All references in this Agreement to particular articles or Sections or paragraphs of this Agreement are references to the designated articles or Sections or paragraphs of this Agreement.

Section 9.08. Multiple Counterparts. This Agreement may be executed in multiple counterparts, each of which shall be an original but all of which shall constitute but one and the same instrument.

Section 9.09. Amendments. Subject to the limitations set forth in Section 12-44-40(K)(2) of the Negotiated FILOT Act, this Agreement may be amended, or the rights and interest of the parties hereunder surrendered, only by a writing signed by both parties.

Section 9.10. Waiver. Either party may waive compliance by the other party with any term or condition of this Agreement only in a writing signed by the waiving party.

Section 9.11. Further Proceedings. The parties intend any action to be taken hereinafter by the County pursuant to the express provisions of this Agreement may be undertaken by the Chairman of the Council without necessity of further proceedings. To the extent additional proceedings are required by law, however, the County agrees to undertake all such steps as may be reasonably required or appropriate to effectuate the intent of this Agreement.

[Execution Pages to Follow]

IN WITNESS WHEREOF, the parties hereto, each after due authorization, have executed this Fee in Lieu of Tax and Incentive Agreement to be effective as of the date first written above.

OCONEE COUNTY, SOUTH CAROLINA

By: _____
Joel Thrift, Chairman, County Council
Oconee County, South Carolina

[SEAL]

ATTEST:

By: _____
Elizabeth G. Hulse, Clerk to Council
Oconee County, South Carolina

MICHELIN NORTH AMERICA, INC.

By: _____
Name: _____
Its: _____

EXHIBIT A
LEGAL DESCRIPTION

All that certain piece, parcel or tract of land, situate, lying and being in the County of Oconee, State of South Carolina, containing 328.62 acres, more or less, and being more particularly shown and delineated on a survey prepared for Oconee County by Lavender, Smith & Associates, Inc. dated August 27, 2014 and recorded in the Office of the Register of Deeds for Oconee County in Plat Book B486, pages 1 and 2; which survey is incorporated herein by reference and said tract of land having such size, shape, dimensions, buttings and boundings, more or less, as will by reference to said survey more fully appear.

Cost/Benefit Analysis
Project Sarah
Oconee County

Project Data

New Building (Construction)	\$	125,000,000
Existing Building	\$	-
Land Cost	\$	1,883,700
Equipment (Less Pollution Cor	\$	125,000,000
Employees		150
Avg. Hourly Wage	\$	22.50
Avg. Salary	\$	45,000
Total Direct Payroll	\$	6,750,000

Project Multipliers

Income		1.37
Investment -- Construction		1.33
Investment -- Machinery		0.20

Employment Impacts

Employment -- Direct		150
Employment -- Indirect		94
<u>Total Employment Impact</u>		<u>244</u>

	<u>Year 1</u>	<u>20-Year NPV</u>
Net Costs		
Local	\$ 5,426,629	\$ 40,113,954
<u>Total State & Local Costs</u>	<u>\$ 5,426,629</u>	<u>\$ 40,113,954</u>
Net Benefits		
Local	\$ (1,898,559)	\$ 1,355,980
Local Economy	\$ 195,000,000	\$ 201,106,728
<u>Total Local Benefits</u>	<u>\$ 193,101,441</u>	<u>\$ 202,462,709</u>

	<u>Year 1</u>	<u>20-Year NPV</u>
Local Government Costs		
Fee-in-Lieu of Property Taxes	\$ 1,480,120	\$ 23,590,096
MCP Split	\$ 35,281	\$ 414,699
Special Source	\$ 1,411,228	\$ 13,739,490
Gov't Services	\$ -	\$ -
Education Costs	\$ -	\$ -
Site Acquisition	\$ -	\$ -
Site Preparation	\$ -	\$ -
Site Utilities	\$ 2,500,000	\$ 2,369,668
Special Infrastructure	\$ -	\$ -
Equipment / Machinery	\$ -	\$ -
Special Development Financing	\$ -	\$ -
Consulting/ Special Studies	\$ -	\$ -
Waived Fees / Permits	\$ -	\$ -
Streamlined Approvals	\$ -	\$ -
Total Value of Costs	\$ 5,426,629	\$ 40,113,954
Local Government Benefits		
Taxes from existing building	\$ -	\$ -
Direct Property Taxes	\$ 3,528,070	\$ 41,469,934
New Residential Prop. Taxes		
Single family - (Owner occupied)	\$ -	\$ -
Single Family - (Rental)	\$ -	\$ -
Multi-family (Rental)	\$ -	\$ -
Prop. Taxes from New Autos	\$ -	\$ -
LOST from Const. Materials	\$ -	\$ -
LOST from Increase Retail Sales	\$ -	\$ -
LOST from Operational Supplies	\$ -	\$ -
Public Utilities	\$ -	\$ -
Total Value of Benefits	\$ 3,528,070	\$ 41,469,934
Net Local Benefits	\$ (1,898,559)	\$ 1,355,980
Local Benefit/Cost Ratio	0:1	0:1
Local Economy Benefits		
Total Private Sector Benefits	\$ 195,000,000	\$ 201,106,728

STATE OF SOUTH CAROLINA
OCONEE COUNTY
ORDINANCE 2014-30

AN ORDINANCE AUTHORIZING AND APPROVING (1) DEVELOPMENT OF A JOINT COUNTY INDUSTRIAL AND BUSINESS PARK PURSUANT TO SECTION 4-1-170 OF THE CODE OF LAWS OF SOUTH CAROLINA 1976, AS AMENDED, IN CONJUNCTION WITH PICKENS COUNTY (THE "PARK"), SUCH PARK TO BE, AT THE TIME OF ITS INITIAL DEVELOPMENT, GEOGRAPHICALLY LOCATED IN OCONEE COUNTY AND TO INCLUDE CERTAIN PROPERTY NOW OR TO BE OWNED AND/OR OPERATED BY MICHELIN NORTH AMERICA, INC., A COMPANY PREVIOUSLY IDENTIFIED AS PROJECT SARAH; (2) THE EXECUTION AND DELIVERY OF A WRITTEN PARK AGREEMENT WITH PICKENS COUNTY AS TO THE REQUIREMENT OF PAYMENTS OF FEE IN LIEU OF *AD VALOREM* TAXES WITH RESPECT TO PARK PROPERTY AND THE SHARING OF THE REVENUES AND EXPENSES OF THE PARK; (3) THE DISTRIBUTION OF REVENUES FROM THE PARK WITHIN OCONEE COUNTY; AND (4) OTHER MATTERS RELATED THERETO.

WHEREAS, Oconee County, South Carolina ("Oconee County") and Pickens County, South Carolina ("Pickens County"), as authorized under Article VIII, Section 13(D) of the South Carolina Constitution and Section 4-1-170 of the Code of Laws of South Carolina, 1976, as amended (the "Act"), propose to develop a joint county industrial and business park (the "Park"); and

WHEREAS, in order to promote economic development and thus encourage investment and provide additional employment opportunities within both of said counties, Oconee County and Pickens County have agreed to develop a Park in Oconee County and Pickens County to be located, at the time of its initial development, upon property that is located in Oconee County and which now or will be owned and/or operated by Michelin North America, Inc., previously identified as Project Sarah; and

WHEREAS, Oconee County and Pickens County have agreed to the specific terms and conditions of such arrangement as set forth in the Agreement for Development of a Joint County Industrial and Business Park (Project Sarah) proposed to be entered into by and between Oconee County and Pickens County as of such date as may be agreed to by Oconee County and Pickens County (the "Park Agreement"); and

WHEREAS, it appears that the Park Agreement now before this meeting is in appropriate form and is an appropriate instrument to be executed and delivered by Oconee County for the purposes intended.

NOW, THEREFORE, BE IT ORDAINED BY THE OCONEE COUNTY COUNCIL AS FOLLOWS:

Section 1. Approval of the Park Agreement. The form, provisions, terms and conditions of the Park Agreement now before this meeting and filed with the Clerk to Oconee County Council be and they are hereby approved, and all of the provisions, terms and conditions thereof are hereby incorporated herein by reference as if the Park Agreement were set out in this Ordinance in its entirety. The Chairman of Oconee County Council is hereby authorized, directed, and empowered to execute the Park Agreement in the name and on behalf of Oconee County; the Clerk to Oconee County Council is hereby authorized, directed, and empowered to attest the same; and the Chairman of Oconee County Council is further authorized, directed, and empowered to deliver the Park Agreement to Pickens County.

The Park Agreement is to be in substantially the form now before this meeting and hereby approved, or with such changes therein as shall not materially adversely affect the rights of Oconee County thereunder and as shall be approved by the officials of Oconee County executing the same, their execution thereof to constitute conclusive evidence of their approval of any and all changes or revisions therein from the form of the Park Agreement now before this meeting.

The Chairman of Oconee County Council, the County Administrator of Oconee County, and the Clerk to the Oconee County Council, for and on behalf of Oconee County, are hereby each authorized and empowered to do any and all things necessary or proper to effect the development of the Park and the performance of all obligations of Oconee County under and pursuant to the Park Agreement and to carry out the transactions contemplated thereby and by this Ordinance.

Section 2. Payment of Fee in Lieu of Tax. The businesses and industries located in the Park must pay a fee in lieu of *ad valorem* taxes as provided for in the Park Agreement. With respect to properties located in the Oconee County portion of the Park, the fee paid in lieu of *ad valorem* taxes shall be paid to the Treasurer of Oconee County. That portion of such fee allocated pursuant to the Park Agreement to Pickens County shall be thereafter paid by the Treasurer of Oconee County to the Treasurer of Pickens County within fifteen (15) business days following the end of the calendar quarter of receipt for distribution in accordance with the Park Agreement. With respect to properties located in the Pickens County portion of the Park, the fee paid in lieu of *ad valorem* taxes shall be paid to the Treasurer of Pickens County. That portion of such fee allocated pursuant to the Park Agreement to Oconee County shall thereafter be paid by the Treasurer of Pickens County to the Treasurer of Oconee County within fifteen (15) business days following the end of the calendar quarter of receipt for distribution in accordance with the Park Agreement. The provisions of Section 12-2-90 of the Code of Laws of South Carolina 1976, as amended, or any successor statutes or provisions, apply to the collection and enforcement of the fee in lieu of *ad valorem* taxes.

Section 3. Distribution of Revenues within Oconee County.

(a) Revenues generated from industries and businesses located in the Oconee County portion of the Park to be retained by Oconee County shall be distributed within Oconee County

in accordance with this subsection: first, unless Oconee County elects to pay or credit the same from only those revenues which Oconee County would otherwise be entitled to receive as provided under the third item below, to pay annual debt service on any special source revenue bonds issued by Oconee County pursuant to, or to be utilized as a special source revenue credit in the manner provided in, Section 4-1-175 of the Act; second, at the option of Oconee County, to reimburse Oconee County for any expenses incurred by it in the administration, development, operation, maintenance and promotion of the Park or the industries and businesses located therein or for other economic development purposes of Oconee County; and third, in accordance with Oconee County rules regarding the distribution of Park revenues from all County Parks, including, without limitation, after payment of all other authorized allocations provided herein or in such County regulations, including, without limitation, in the annual County budget ordinance, allocation of the remaining Park revenues to those taxing entities in which the applicable revenue-generating property is located, in the same manner and proportion that the millage levied for the taxing entities would be distributed if such property were taxable but without regard to exemptions otherwise available pursuant to Section 12-37-220 of the Code of Laws of South Carolina 1976, as amended, for that year.

(b) Notwithstanding any other provision of this section, all taxing entities which overlap an applicable revenue-generating property within the Park shall receive at least some portion of the revenues generated from such property, and all revenues receivable by a taxing entity in a fiscal year shall be allocated to operations and maintenance and to debt service as determined by the governing body of the taxing entity. Except as provided in this Ordinance, all other taxing entities in Oconee County shall receive zero percent (0%) of such Park revenues.

(c) Revenues generated from industries and businesses located in the Pickens County portion of the Park and received by Oconee County shall be retained by Oconee County.

Section 4. Applicable Ordinances and Regulations. Any applicable ordinances and regulations of Oconee County including those concerning zoning, health and safety, and building code requirements shall apply to the Park properties located in Oconee County unless the properties are within the boundaries of a municipality in which case, the municipality's applicable ordinances and regulations shall apply. Any applicable ordinances and regulations of Pickens County including those concerning zoning, health and safety, and building code requirements shall apply to the Park properties located in Pickens County unless the properties are within the boundaries of a municipality in which case, the municipality's applicable ordinances and regulations shall apply.

Section 5. Law Enforcement Jurisdiction. Jurisdiction to make arrests and exercise all authority and power within the boundaries of the Park properties located in Oconee County is vested with the Sheriff's Department of Oconee County. Jurisdiction to make arrests and exercise all authority and power within the boundaries of the Park properties located in Pickens County is vested with the Sheriff's Department of Pickens County. If any of the Park properties located in either Oconee County or Pickens County are within the boundaries of a municipality, then jurisdiction to make arrests and exercise law enforcement jurisdiction is vested with the law enforcement officials of the municipality.

Section 6. Conflicting Provisions. To the extent this ordinance contains provisions that conflict with provisions contained elsewhere in the Oconee County Code or other Oconee County ordinances, the provisions contained in this ordinance supersede all other provisions and this ordinance is controlling. No prior acts or actions previously lawfully undertaken in accordance with such conflicting provisions, however, shall be repealed or revoked by this general repealer.

Section 7. Severability. If any section of this ordinance is, for any reason, determined to be void or invalid by a court of competent jurisdiction, it shall not affect the validity of any other section of this ordinance which is not itself void or invalid.

Section 8. Effectiveness. This Ordinance shall be effective upon third and final reading following duly noticed public hearing.

[End of Ordinance - Signature page to follow]

Enacted and approved, in meeting duly assembled, this 16th day of December, 2014.

OCONEE COUNTY, SOUTH CAROLINA

By: _____
Joel Thrift, Chairman County Council
Oconee County, South Carolina

ATTEST:

By: _____
Elizabeth G. Hulse, Clerk to County Council
Oconee County, South Carolina

First reading: November 18, 2014
Second reading: December 2, 2014
Public hearing: December 16, 2014
Third reading: December 16, 2014

STATE OF SOUTH CAROLINA)
)
 COUNTY OF OCONEE)
)
 COUNTY OF PICKENS)
)

) **AGREEMENT FOR DEVELOPMENT OF A
) JOINT COUNTY INDUSTRIAL AND
) BUSINESS PARK (MICHELIN NORTH
) AMERICA, INC.)**

THIS AGREEMENT for the development of a joint county industrial and business park to be located within Oconee County and Pickens County is made and entered into as of [____], 2014, by and between Oconee County, South Carolina (“Oconee County”) and Pickens County, South Carolina (“Pickens County”).

RECITALS

WHEREAS, Oconee County and Pickens County are contiguous counties which, pursuant to Ordinance No. _____, enacted by Oconee County Council on December 16, 2014, and Ordinance No. [____] enacted by Pickens County Council on _____, 2014, have each determined that, in order to promote economic development and thus encourage investment and provide additional employment opportunities within both of said counties, there should be developed in Oconee County and Pickens County a joint county industrial and business park (the “Park”), to be located upon property more particularly described in Exhibit A (Oconee) and Exhibit B (Pickens) hereto; and

WHEREAS, as a consequence of the development of the Park, property comprising the Park and all property having a situs therein is exempt from *ad valorem* taxation pursuant to Article VIII, Section 13(D) of the South Carolina Constitution, but the owners or lessees of such property shall pay annual fees in an amount equivalent to the property taxes or other in-lieu-of payments that would have been due and payable except for such exemption.

NOW, THEREFORE, in consideration of the mutual agreement, representations and benefits contained in this Agreement and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties agree as follows:

1. **Binding Agreement.** This Agreement serves as a written instrument setting forth the entire agreement between the parties and shall be binding on Oconee County and Pickens County, their successors and assigns.

2. **Authorization.** Article VIII, Section 13(D) of the South Carolina Constitution provides that counties may jointly develop an industrial or business park with other counties within the geographical boundaries of one or more of the member counties, provided that certain conditions specified therein are met and further provided that the General Assembly of the State of South Carolina provides by law a manner in which the value of property in such park will be considered for purposes of bonded indebtedness of political subdivisions and school districts and for purposes of computing the index of taxpaying ability pursuant to any provision of law which measures the relative fiscal capacity of a school district to support its schools based on the assessed valuation of taxable property in the district as compared to the assessed valuation of

taxable property in all school districts in South Carolina. The Code of Laws of South Carolina, 1976, as amended (the "Code") and particularly, Section 4-1-170 thereof, satisfies the conditions imposed by Article VIII, Section 13(D) of the South Carolina Constitution and provides the statutory vehicle whereby a joint county industrial or business park may be created.

3. Location of the Park.

(A) As of the original execution and delivery of this Agreement, the Park initially consists of property that is located in Oconee County and which now or will be owned and/or operated by a company identified for the time being as Project Sarah, as more particularly described in Exhibit A (Oconee) hereto. It is specifically recognized that the Park may from time to time consist of non-contiguous properties within each county. The boundaries of the Park may be enlarged or diminished from time to time as authorized by ordinances of the county councils of both Oconee County and Pickens County. If any property proposed for inclusion in the Park is located, at the time such inclusion is proposed, within the boundaries of a municipality, then the municipality must give its consent prior to the inclusion of the property in the Park.

(B) In the event of any enlargement or diminution of the boundaries of the Park, this Agreement shall be deemed amended and there shall be attached hereto a revised Exhibit A (Oconee) or a revised Exhibit B (Pickens) which shall contain a legal description of the boundaries of the Park within Oconee County or Pickens County, as the case may be, as enlarged or diminished, together with a copy of the ordinances of Oconee County Council and Pickens County Council pursuant to which such enlargement or diminution was authorized.

(C) Prior to the adoption by Oconee County Council and by Pickens County Council of ordinances authorizing the diminution of the boundaries of the Park, separate public hearings shall first be held by Oconee County Council and Pickens County Council. Notice of such public hearings shall be published in newspapers of general circulation in Oconee County and Pickens County, respectively, at least once and not less than fifteen (15) days prior to such hearing. Notice of such public hearings shall also be served in the manner of service of process at least fifteen (15) days prior to such public hearing upon the owner and, if applicable, the lessee of any property which would be excluded from the Park by virtue of the diminution.

4. Fee in Lieu of Taxes. Pursuant to Article VIII, Section 13(D) of the South Carolina Constitution, all property located in the Park is exempt from all *ad valorem* taxation. The owners or lessees of any property situated in the Park shall pay in accordance with this Agreement an amount (referred to as fees in lieu of *ad valorem* taxes) equivalent to the *ad valorem* taxes or other in-lieu-of payments that would have been due and payable but for the location of such property within the Park.

5. Allocation of Expenses. Oconee County and Pickens County shall bear expenses incurred in connection with the Park, including, but not limited to, those incurred in the administration, development, operation, maintenance and promotion of the Park, in the following proportions:

If the property is located in the Oconee County portion of the Park:

A. Oconee County	100%
B. Pickens County	0%

If the property is located in the Pickens County portion of the Park:

A. Oconee County	0%
B. Pickens County	100%

6. **Allocation of Revenues.** Oconee County and Pickens County shall receive an allocation of all revenues generated by the Park through payment of fees in lieu of *ad valorem* taxes in the following proportions:

If the property is located in the Oconee County portion of the Park:

A. Oconee County	99%
B. Pickens County	1%

If the property is located in the Pickens County portion of the Park:

A. Oconee County	1%
B. Pickens County	99%

With respect to such fees generated from properties located in the Oconee County portion of the Park, that portion of such fees allocated to Pickens County shall thereafter be paid by the Treasurer of Oconee County to the Treasurer of Pickens County within fifteen (15) business days following the end of the calendar quarter of receipt for distribution. With respect to such fees generated from properties located in the Pickens County portion of the Park, that portion of such fees allocated to Oconee County shall thereafter be paid by the Treasurer of Pickens County to the Treasurer of Oconee County within fifteen (15) business days following the end of the calendar quarter of receipt for distribution.

7. **Revenue Allocation within Each County.**

(A) Revenues generated by the Park through the payment of fees in lieu of *ad valorem* taxes shall be distributed to Oconee County and to Pickens County, as the case may be, according to the proportions established by Section 6 of this Agreement. With respect to revenues allocable to Oconee County or Pickens County by way of fees in lieu of *ad valorem* taxes generated from properties within its own boundaries (the "Host County"), such revenue shall be distributed within the Host County in the manner provided by ordinance of the county council of the Host County; provided, that (i) each taxing entity which overlaps the applicable revenue-generating portion of the Park shall receive at least some portion of the revenues generated from such revenue-generating portion, and (ii) with respect to amounts received in any fiscal year by a taxing entity, the governing body of such taxing entity shall allocate the revenues received to operations and/or debt service of such entity. Each Host County is specifically authorized to use a portion of the revenue for economic development purposes as permitted by law and as established by ordinance of the county council of the Host County.

(B) Revenues allocable to Oconee County by way of fees in lieu of *ad valorem* taxes generated from properties located in the Pickens County portion of the Park shall be distributed

solely to Oconee County. Revenues allocable to Pickens County by way of fees in lieu of *ad valorem* taxes generated from properties located in the Oconee County portion of the Park shall be distributed solely to Pickens County.

8. **Fees in Lieu of *Ad Valorem* Taxes Pursuant to Title 4 or Title 12 of the Code.** It is hereby agreed that the entry by Oconee County into any one or more fee in lieu of *ad valorem* tax agreements pursuant to Title 4 or Title 12 of the Code or any successor or comparable statutes (“Negotiated Fee in Lieu of Tax Agreements”), with respect to property located within the Oconee County portion of the Park and the terms of such agreements shall be at the sole discretion of Oconee County. It is further agreed that entry by Pickens County into any one or more Negotiated Fee in Lieu of Tax Agreements with respect to property located within the Pickens County portion of the Park and the terms of such agreements shall be at the sole discretion of Pickens County.

9. **Assessed Valuation.** For the purpose of calculating the bonded indebtedness limitation and for the purpose of computing the index of taxpaying ability pursuant to Section 59-20-20(3) of the Code, allocation of the assessed value of property within the Park to Oconee County and Pickens County and to each of the taxing entities within the participating counties shall be in accordance with the allocation of revenue received and retained by each of the counties and by each of the taxing entities within the participating counties, pursuant to **Section 6 and Section 7** of this Agreement.

10. **Applicable Ordinances and Regulations.** Any applicable ordinances and regulations of Oconee County including those concerning zoning, health and safety, and building code requirements shall apply to the Park properties located in the Oconee County portion of the Park unless any such property is within the boundaries of a municipality in which case, the municipality’s applicable ordinances and regulations shall apply. Any applicable ordinances and regulations of Pickens County including those concerning zoning, health and safety, and building code requirements shall apply to the Park properties located in the Pickens County portion of the Park unless any such property is within the boundaries of a municipality in which case, the municipality’s applicable ordinances and regulations shall apply.

11. **Law Enforcement Jurisdiction.** Jurisdiction to make arrests and exercise all authority and power within the boundaries of the Park properties located in Oconee County is vested with the Sheriff’s Department of Oconee County. Jurisdiction to make arrests and exercise all authority and power within the boundaries of the Park properties located in Pickens County is vested with the Sheriff’s Department of Pickens County. If any of the Park properties located in either Oconee County or Pickens County are within the boundaries of a municipality, then jurisdiction to make arrests and exercise law enforcement jurisdiction is vested with the law enforcement officials of the municipality.

12. **South Carolina Law Controlling.** This Agreement has been entered into in the State of South Carolina and shall be governed by, and construed in accordance with South Carolina law.

13. **Severability.** In the event and to the extent (and only to the extent) that any provision or any part of a provision of this Agreement shall be held invalid or unenforceable by

any court of competent jurisdiction, such holding shall not invalidate or render unenforceable the remainder of that provision or any other provision or part of a provision of this Agreement.

14. **Counterpart Execution.** This Agreement may be executed in multiple counterparts.

15. **Term; Termination.** This Agreement shall extend for a term of fifty-five (55) years from the effective date of this Agreement, or such later date as shall be specified in any amendment hereto. Notwithstanding the foregoing provisions of this Agreement or any other provision in this Agreement to the contrary, this Agreement shall not expire and may not be terminated to the extent that Oconee County or Pickens County has outstanding contractual covenants, commitments or agreements to any owner or lessee of Park property, including, but not limited to, a company identified for the time being as Project Sarah, to provide, or to facilitate the provision of, special source revenue credits, including, but not limited to, those set forth in that certain Fee in Lieu of Tax and Incentive Agreement by and between Oconee County and Michelin North America, Inc., previously identified as Project Sarah, dated as of December 16, 2014, as may be amended, modified, or supplemented from time to time, or other incentives requiring inclusion of property of such owner or lessee within the boundaries of a joint county industrial or business park created pursuant to Article VIII, Section 13(D) of the South Carolina Constitution and Title 4, Chapter 1 of the Code, unless the Host County (as defined in Section 7(A) hereof) shall first (i) obtain the written the consent of such owner or lessee and (ii) include the property of such owner or lessee as part of another joint county industrial or business park created pursuant to Article III, Section 13(D) of the South Carolina Constitution and Title 4, Chapter 1 of the Code, which inclusion is effective immediately upon termination of this Agreement.

[End of Agreement – Execution Page to Follow]

IN WITNESS WHEREOF, the parties hereto have executed this Agreement to be effective as of the day and the year first above written.

OCONEE COUNTY, SOUTH CAROLINA

By: _____
Joel Thrift, Chairman, County Council
Oconee County, South Carolina

[SEAL]

Attest:

By: _____
Elizabeth G. Hulse, Clerk to County Council
Oconee County, South Carolina

PICKENS COUNTY, SOUTH CAROLINA

By: _____
G. Neil Smith, Chairman, County Council
Pickens County, South Carolina

[SEAL]

Attest:

By: _____
Donna F. Owen, Clerk to County Council
Pickens County, South Carolina

Exhibit A (Oconee)

Oconee County Property

All that certain piece, parcel or tract of land, situate, lying and being in the County of Oconee, State of South Carolina, containing 328.62 acres, more or less, and being more particularly shown and delineated on a survey prepared for Oconee County by Lavender, Smith & Associates, Inc. dated August 27, 2014 and recorded in the Office of the Register of Deeds for Oconee County in Plat Book B486, pages 1 and 2; which survey is incorporated herein by reference and said tract of land having such size, shape, dimensions, buttings and boundings, more or less, as will by reference to said survey more fully appear.

The remainder of this page intentionally left blank.

Exhibit B (Pickens)

Pickens County Property

None.

The remainder of this page intentionally left blank.

STATE OF SOUTH CAROLINA
OCONEE COUNTY
ORDINANCE 2014-31

AN ORDINANCE TO ALLOW AN EXISTING MULTI-COUNTY INDUSTRIAL PARK AGREEMENT BETWEEN OCONEE COUNTY, SOUTH CAROLINA AND WILLIAMSBURG COUNTY, SOUTH CAROLINA TO EXPIRE; TO DEVELOP A MULTI-COUNTY INDUSTRIAL PARK IN CONJUNCTION WITH PICKENS COUNTY, SOUTH CAROLINA, ESTABLISHED PURSUANT TO THE SOUTH CAROLINA CODE OF LAWS OF 1976, SECTION 4-1-170, ET SEQUITUR, AS AMENDED; TO PROVIDE FOR A WRITTEN AGREEMENT WITH PICKENS COUNTY REGARDING THE MULTI-COUNTY PARK JOINTLY DEVELOPED WITH PICKENS COUNTY; TO RELOCATE PROPERTY TO THE MULTI-COUNTY PARK JOINTLY DEVELOPED WITH PICKENS COUNTY; AND OTHER RELATED MATTERS RELATED THERETO.

WHEREAS, on July 25, 1994, Oconee County, South Carolina (“Oconee County”), and Williamsburg County, South Carolina (“Williamsburg County”), developed a joint county industrial/business in accordance with Article VIII, Section 13(D) of the South Carolina Constitution and Section 4-1-170 of the Code of Laws of South Carolina, 1976, as amended (the “Act”) and thereafter amended the Agreement for Joint County Industrial Park on December 6, 1994 (“Amended Williamsburg Agreement”);

WHEREAS, Oconee County and Williamsburg County thereafter created one or more multi-county industrial parks (each a “Prior MCIP”), executed and delivered one or more agreements governing each MCIP and placed property in each MCIP;

WHEREAS, Oconee County desires to allow the Amended Williamsburg Agreement, as well as each Prior MCIP, to expire effective December 6, 2014 (“Effective Date”) pursuant to the Amended Williamsburg Agreement;

WHEREAS, Oconee County and Pickens County, South Carolina (“Pickens County”), as contiguous counties, are authorized under Article VIII, Section 13(D) of the South Carolina Constitution and the Act, to (i) develop jointly multi-county industrial parks, and (ii) include real and personal property located in the geographic boundaries of the counties, which inclusion under the terms of the Act makes such property exempt from *ad valorem* property taxes, and changes the character of the annual receipts from such property to fees-in-lieu of *ad valorem* property taxes in an amount equivalent to *ad valorem* taxes that would have been due and payable but for the location of the property in such multi-county industrial parks;

WHEREAS, as provided under the Act, to promote the economic welfare of their citizens, Oconee County and Pickens County desire to jointly develop a multi-county park (“Park”) and execute and deliver the Agreement Governing the Oconee-Pickens Industrial Park, the substantially final form of which is attached as Exhibit A (“Agreement”), to govern the operation of the Park; and

WHEREAS, for the property in each expiring Prior MCIP located in Oconee County and as designated on Exhibit B (“Relocated Oconee County Property”), Oconee County desires to, contemporaneously with the expiration of the Amended Williamsburg Agreement, relocate the Relocated Oconee County Property to the Park which is governed by the Agreement.

NOW, THEREFORE, BE IT ORDAINED BY THE OCONEE COUNTY COUNCIL:

Section 1. Expiration of MCIP. The Oconee County Council (“Council”) approves and authorizes the expiration of the Amended Williamsburg Agreement and each Prior MCIP, effective December 6, 2014. The Council Chair (“Chair”) and the Oconee County Clerk to Council (or their respective designees) are authorized to execute whatever documents and take whatever further actions as may be necessary to memorialize the expiration of the Amended Williamsburg Agreement and each Prior MCIP.

Section 2. Development of Park; Execution of Agreement. Oconee County is authorized to jointly develop the Park with Pickens County. The Chair or the Council Vice-Chair (“Vice-Chair”) in the event the Chair is absent, is authorized to execute the Agreement, the Oconee County Clerk to Council is authorized to attest the same, and the Oconee County Administrator is authorized to deliver the Agreement to Pickens County. The form and terms of the Agreement are approved, with any revisions that are not materially adverse to Oconee County and are approved by the Oconee County Administrator after consultation with legal counsel to Oconee County. All of the terms of the Agreement are incorporated in this Ordinance by reference as if the Agreement were set forth in this Ordinance in its entirety.

Section 2. Inclusion of Property. The Park’s boundaries are expanded to include the Relocated Oconee County Property as of the Effective Date. The Chair, or the Vice Chair in the event the Chair is absent, the Oconee County Administrator and the Oconee County Clerk to Council are hereby authorized to take such further actions as may be necessary to complete the expansion of the Park boundaries. Pursuant to the terms of the Agreement, the expansion is complete upon (i) the adoption of this Ordinance by the Oconee County Council and a companion resolution or ordinance by the Pickens County Council and (ii) the delivery by Oconee County of a description of the Property to Pickens County.

Section 3. Further Assurances. The Chair, the Clerk and the Oconee County Administrator (or their respective designees) are authorized to execute whatever other documents and take whatever further actions as may be necessary to effect the intent of this Ordinance.

Section 4. Severability. If any part of this Ordinance is unenforceable, the remainder is unaffected

Section 5. General Repealer. Any ordinance, order, resolution, or parts thereof in conflict herewith are to the extent of such conflict, only, hereby repealed. No act or action previously undertaken pursuant to authority valid at the time shall be considered revoked by this Ordinance however.

Section 6. Effective Date. This Ordinance is effective after third and final reading.

OCONEE COUNTY, SOUTH CAROLINA

Chairman of County Council
Oconee County, South Carolina

(SEAL)
ATTEST:

Clerk to County Council
Oconee County, South Carolina

First Reading: November 18, 2014 [title only]
Second Reading: December 2, 2014
Public Hearing: December 16, 2014
Third Reading: December 16, 2014

EXHIBIT A
OCONEE-PICKENS INDUSTRIAL PARK AGREEMENT

EXHIBIT B
DESCRIPTION OF OCONEE COUNTY PROPERTY TO BE RELOCATED TO A MULTI-COUNTY PARK
JOINTLY DEVELOPED WITH PICKENS COUNTY, SOUTH CAROLINA

PROJECT/OWNER NAME	TAX MAP NUMBER	NOTES
COVIDIEN	TMS # 223-00-02-001	49.3 Acres Property identified as "Tract 1" in the Amended Williamsburg Agreement
BORGWARNER	TMS # 253-00-03-074	46.51 Acres Property identified as "Tract 2" in the Amended Williamsburg Agreement
JOHNSON CONTROLS, INC.	TMS # 192-00-01-003	30.5 Acres Property identified as "Tract 3" in the Amended Williamsburg Agreement
STONE MOUNTAIN IND. PARK INC.	TMS # 252-00-02-003	58.71 Acres Property identified as "Tract 4" in the Amended Williamsburg Agreement
CRYOVAC TRACT A	TMS # 237-00-03-003	103.51 Acres Property identified as "Tract 6 Parcel A" in the Amended Williamsburg Agreement
CRYOVAC TRACT B	TMS # 237-00-03-001	5.36 Acres Property identified as "Tract 6 Parcel B" in the Amended Williamsburg Agreement
U.S. ENGINE VALVE	TMS # 251-00-04-019	17.60 Acres Property identified as "Tract 7" in the Amended Williamsburg Agreement
MIJAN PROPERTIES, LLC	TMS # 191-00-02-026 & TMS # 191-00-02-027	16.67 Acres & 30.81 Acres Property identified as "Tract 8" in the Amended Williamsburg Agreement
ITRON	TMS # 161-00-02-002	48 Acres Property identified as "Tract 9" in the Amended Williamsburg Agreement
TDC LAND CO	TMS # 226-00-04-006	28.45 Acres Property identified as "Tract 10" in the Amended Williamsburg Agreement

Because the following Oconee County Property is not used for economic development or industrial property, the following Oconee County Property will not be relocated into the Park as contemplated in Oconee County Ordinance 2014-31:

Tax Map Number	Description
TMS # 265-00-03-002	71.37 Acres Property identified as "Tract 5" in the Amended Williamsburg Agreement

STATE OF SOUTH CAROLINA)
)
 COUNTY OF OCONEE)
)
 COUNTY OF PICKENS)

AGREEMENT FOR DEVELOPMENT OF
 JOINT COUNTY INDUSTRIAL AND
 BUSINESS PARK

THIS AGREEMENT for the development of a joint county industrial and business park to be located in Oconee County, South Carolina (“Oconee County”), dated as of _____, 2014, is made and entered into by and between Oconee County and Pickens County, South Carolina (“Pickens County”, and Oconee County and Pickens County collectively, the “Counties”), both political subdivisions of the State of South Carolina.

RECITALS

WHEREAS, the Counties have determined that, in order to promote economic development and thus provide additional employment opportunities within both of said Counties, and to increase the tax base of Oconee County, there should be established in Oconee County a joint county industrial and business park (the “Park”), which Park shall be in addition to all previous joint county industrial and business parks previously established between the Counties; and

WHEREAS, as a consequence of the establishment of the Park, property therein shall be exempt from *ad valorem* taxation, during the term of this Agreement, but the owners or lessees of such property shall pay annual fees during that term in an amount equal to that amount of *ad valorem* taxes for which such owner or lessee would be liable except for such exemption.

NOW, THEREFORE, in consideration of the mutual agreement, representations and benefits contained in this Agreement and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties hereby agree as follows:

1. **Binding Agreement.** This Agreement serves as a written instrument setting forth the entire agreement between the parties and shall be binding on the Counties, their successors and assigns.

2. **Authorization.** Article VIII, Section 13(d), of the Constitution of South Carolina provides that counties may jointly develop an industrial and business park with other counties within the geographical boundaries of one or more of the member counties, provided that certain conditions specified therein are met and further provided that the General Assembly of the State of South Carolina provides by law a means by which the value of property in such park will be considered for purposes of bonded indebtedness of political subdivisions and school districts and for purposes of computing the index of taxpaying ability for school districts. Section 4-1-170, Code of Laws of South Carolina, 1976, as amended ("Section 4-1-170"), satisfies the conditions imposed by Article VIII, Section 13(d), of the Constitution and provides the statutory vehicle whereby a joint county industrial and business park may be created.

3. Location of the Park.

(A) The Park consists of property located in Oconee County, as is hereinafter more specifically described in Exhibit A hereto. It is specifically recognized that the Park may from time to time consist of non-contiguous properties. The boundaries of the Park may be enlarged or diminished from time to time as authorized by ordinances of both of the Counties.

(B) In the event of any enlargement or diminution of the boundaries of the Park, this Agreement shall be deemed amended and there shall be attached hereto a revised Exhibit A which shall contain a description of the properties located in the Park, as enlarged or diminished, together with a copy of the ordinances of Oconee County Council and Pickens County Council pursuant to which such enlargement or diminution was authorized.

(C) Prior to the adoption by Oconee County Council and by Pickens County Council of ordinances authorizing the diminution of the boundaries of the Park, a public hearing shall first be held by the Oconee County Council. Notice of such public hearing shall be published in a newspaper of general circulation in Oconee County at least once and not less than fifteen (15) days prior to such hearing.

(D) Notwithstanding the foregoing, for a period of forty (40) years commencing with the later of the effective date of this Agreement or the effective date of the expansion of the boundaries of the Park to include such parcel, the boundaries of the Park shall not be diminished so as to exclude therefrom any parcel of real estate without the consent of the owner thereof and the Counties and, if applicable, lessee of such parcel.

4. Fee-in-Lieu of Taxes. Property located in the Park shall be exempt from *ad valorem* taxation during the term of this Agreement. The owners or lessees of any property situated in the Park shall pay in accordance with and during the term of this Agreement an amount equivalent to the *ad valorem* property taxes or other in-lieu of payments that would have been due and payable but for the location of such property within the Park. Where, in this Agreement, reference is made to payment of *ad valorem* property taxes or other in-lieu of payments, such reference shall be construed, in accordance with this Section 4, to mean the *ad valorem* property taxes or other in-lieu of payments that would otherwise have been due to be paid to Oconee County, after deduction of all applicable allowances, credits, deductions, and exemptions authorized or required by state law.

5. Allocation of Park Expenses. The Counties shall bear expenses, including, but not limited to, development, operation, maintenance and promotion of the Park in the following proportions:

A.	Oconee County	100%
B.	Pickens County	0%

6. **Allocation of Park Revenues.** The Counties shall receive an allocation of all revenue generated by the Park through payment of fees-in-lieu of *ad valorem* property taxes or from any other source in the following proportions:

A.	Oconee County	99%
B.	Pickens County	1%

Any payment by Oconee County to Pickens County of its allocable share of the fees-in-lieu of taxes from the Park shall be made not later than fifteen (15) days from the end of the calendar quarter in which Oconee County receives such payment from the occupants of the Park. In the event that the payment made by any occupant of a Park is made under protest or is otherwise in dispute, Oconee County shall not be obligated to pay to Pickens County more than Pickens County's share of the undisputed portion thereof until thirty (30) days after the final resolution of such protest or dispute.

7. **Revenue Allocation Within Each County.** Revenues generated by the Park through the payment of fees-in-lieu of *ad valorem* property taxes shall be distributed to the Counties according to the proportions established by Paragraph 6. Such revenues shall be distributed within Oconee County and Pickens County in the manner directed by the respective ordinances enacted by such counties relating to the Park or such distribution from time to time, including, but not limited to, the allocation of the revenues such counties receive and retain from the Park for the payment of special source revenue bonds, provision of special source credits or payments, or other permitted uses of such revenues.

8. **Fees-in-Lieu of Taxes Pursuant to Code of Laws of South Carolina.** It is hereby agreed that the entry by Oconee County into any one or more negotiated fee-in-lieu of tax agreements pursuant to Titles 4 or 12, South Carolina Code, 1976, as amended, or any successor or comparable statutes, with respect to property located within the Park and the terms of such agreements shall be at the sole discretion of Oconee County.

9. **Assessed Valuation.** For the purpose of calculating the bonded indebtedness limitation of the political subdivisions and overlapping tax districts which levy taxes in the park property described in Exhibit A, and for the purpose of computing the index of taxpaying ability of any applicable school districts located in Oconee County pursuant to Section 59-20-20(3), Code of Laws of South Carolina, 1976, as amended, allocation of the assessed value of property within the Park to Oconee County shall be identical to the percentage established for the allocation of revenue to Oconee County pursuant to Paragraphs 6 and 7 respectively and any ordinance enacted by Oconee County which provides for the allocation or distribution of such revenue, subject, however, to the provisions of Section 4-29-68(E) of the Code of Laws of South Carolina, 1976, or any successor legislation.

10. **Records.** The Counties covenant and agree that, upon the request of either, the other will provide to the requesting party copies of the records of the annual tax levy and copies of the actual tax bills, for parcels of property encompassed by this Agreement, and will further provide copies of the County Treasurer's collection records for the taxes so imposed, all as such records become available in the normal course of County procedures. It is further agreed that none of the

parties shall request such records from any other party more frequently than once annually, absent compelling justification to the contrary.

11. **Severability.** In the event and to the extent (and only to the extent) that any provision or any part of a provision of this Agreement shall be held invalid or unenforceable by any court of competent jurisdiction, such holding shall not invalidate or render unenforceable the remainder of that provision or any other provision or part of a provision of this Agreement.

12. **Termination.** Notwithstanding any provision of this Agreement to the contrary, Oconee County and Pickens County agree that this Agreement may not be terminated by either party for a period of forty (40) years commencing with the effective date hereof.

**THE REMAINDER OF THIS PAGE IS INTENTIONALLY LEFT BLANK
SIGNATURE PAGES FOLLOW**

WITNESS our hands and seals this _____ day of _____, 2014.

OCONEE COUNTY, SOUTH CAROLINA

By: _____
Chairman, County Council
Oconee County, South Carolina

(SEAL)

ATTEST:

Clerk to County Council
Oconee County, South Carolina

WITNESS our hands and seals this _____ day of _____, 2014.

PICKENS COUNTY, SOUTH CAROLINA

By: _____
Chairman, County Council
Pickens County, South Carolina

By: _____
Administrator
Pickens County, South Carolina

(SEAL)

ATTEST:

Clerk to County Council
Pickens County, South Carolina

Exhibit A

Park Property

The Park is comprised of the following parcels:

PROJECT/OWNER NAME	TAX MAP NUMBER	NOTES
COVIDIEN	TMS # 223-00-02-001	49.3 Acres Property identified as "Tract 1" in the Amended Williamsburg Agreement
BORGWARNER	TMS # 253-00-03-074	46.51 Acres Property identified as "Tract 2" in the Amended Williamsburg Agreement
JOHNSON CONTROLS, INC.	TMS # 192-00-01-003	30.5 Acres Property identified as "Tract 3" in the Amended Williamsburg Agreement
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MIJAN PROPERTIES, LLC	TMS # 191-00-02-026 & TMS # 191-00-02-027	16.67 Acres & 30.81 Acres Property identified as "Tract 8" in the Amended Williamsburg Agreement
ITRON	TMS # 161-00-02-002	48 Acres Property identified as "Tract 9" in the Amended Williamsburg Agreement
TDC LAND CO	TMS # 226-00-04-006	28.45 Acres Property identified as "Tract 10" in the Amended Williamsburg Agreement

**AGENDA ITEM SUMMARY
OCONEE COUNTY, SC**

COUNCIL MEETING DATE: December 2, 2010
COUNCIL MEETING TIME: 6:00 PM

ITEM TITLE [Brief Statement]:

Second Reading of Ordinance 2014-27 "AN ORDINANCE TO ACKNOWLEDGE AND AUTHORIZE THE EXECUTION OF AN INTERGOVERNMENTAL AGREEMENT BETWEEN OCONEE COUNTY AND THE CITY OF WESTMINSTER FOR THE PROVISION OF A COUNTY MAGISTRATE TO ACT AS MUNICIPAL JUDGE FOR THE CITY OF WESTMINSTER; AND OTHER MATTERS RELATED THERETO."

BACKGROUND DESCRIPTION:

This Ordinance authorizes an intergovernmental agreement between the County and the City of Westminster in order to allow a County Magistrate Judge to act as Municipal Judge for the City.

SPECIAL CONSIDERATIONS OR CONCERNS [only if applicable]:

FINANCIAL IMPACT [Brief Statement]:

Check Here if Item Previously approved in the Budget. No additional information required.

Approved by : Finance

COMPLETE THIS PORTION FOR ALL GRANT REQUESTS:

Are Matching Funds Available? Yes / No

If yes, who is matching and how much:

Approved by : Grants

ATTACHMENTS

Ordinance 2014-27.

STAFF RECOMMENDATION [Brief Statement]:

It is the recommendation of staff that Council approve Ordinance 2014-27 on second reading.

Submitted or Prepared By:

Approved for Submittal to Council:

Department Head/Elected Official



T. Scott Moulder, County Administrator

Council has directed that they receive their agenda packages a week prior to each Council meeting, therefore, Agenda Items Summaries must be submitted to the Administrator for his review/approval no later than 12 days prior to each Council meeting. It is the Department Head / Elected Officials responsibility to ensure that all approvals are obtained prior to submission to the Administrator for inclusion on an agenda.

A calendar with due dates marked may be obtained from the Clerk to Council.

STATE OF SOUTH CAROLINA
COUNTY OF OCONEE
ORDINANCE 2014-27

**AN ORDINANCE TO ACKNOWLEDGE AND AUTHORIZE
THE EXECUTION OF AN INTERGOVERNMENTAL
AGREEMENT BETWEEN OCONEE COUNTY AND THE CITY
OF WESTMINSTER FOR THE PROVISION OF A COUNTY
MAGISTRATE TO ACT AS MUNICIPAL JUDGE FOR THE
CITY OF WESTMINSTER; AND OTHER MATTERS RELATED
THERETO.**

WHEREAS, Oconee County, South Carolina (“Oconee County”), is a body politic and corporate and a political subdivision of the State of South Carolina; and,

WHEREAS, the City of Westminster (the “City”) has established a municipal court, which is part of the South Carolina unified judicial system, to hear and determine all cases within its jurisdiction; and,

WHEREAS, pursuant to §14-25-25 of the South Carolina Code of Laws, 1976, as amended (the “Act”), a municipality may, after establishing a municipal court by ordinance, contract with a county governing authority for the services of a magistrate to serve as its municipal judge and may designate such magistrate as its municipal judge; and,

WHEREAS, significant changes in South Carolina laws have made it unfeasible for some municipalities to continue to operate municipal courts on an efficient, economical basis; and,

WHEREAS, the City acknowledges that the Oconee County Magistrate’s Office (“County Magistrate’s Office”) has the capability to provide the City with a county magistrate, to act as a municipal judge to hear and determine all cases under the City’s jurisdiction thereby providing this vital service to the citizens of Westminster on an uninterrupted basis with maximum cost efficiency; and,

WHEREAS, the City is willing to compensate the County Magistrate’s Office for providing the City with a county magistrate to act as a municipal judge, and the City has formally requested a contractual arrangement with Oconee County so that the County Magistrate’s Office may make a county magistrate available to be designated by the City as a municipal judge; and,

WHEREAS, the County Magistrate’s Office is willing to provide the City with a county magistrate, to act as a municipal judge to hear and determine all cases under the City’s jurisdiction in return for compensation from the City; and,

WHEREAS, Oconee County recognizes that such an arrangement would efficiently serve the taxpayers of both governmental entities; and,

WHEREAS, the Chief Magistrate of Oconee County has agreed to seek an Order of the Chief Justice of the South Carolina Supreme Court authorizing the Chief Magistrate of the County to assign any magistrate of the County as the municipal judge for the City and to assign a magistrate to serve as an associate municipal judge; and,

WHEREAS, through the authority granted by the Act, the City and Oconee County desire to enter into an intergovernmental agreement (the “Agreement”) in the form attached as Exhibit A, and incorporated by this reference; and,

WHEREAS, pursuant to the Agreement, Oconee County intends to pay the assigned magistrate additional and clearly separable compensation solely for additional duties as a Municipal Judge for the City, over and above and not as a part of the compensation received by such assigned magistrate for his or her duties as magistrate pursuant to §22-8-40 of the South Carolina Code of Laws, 1976, *as amended*, only if the assigned magistrate signs a document acknowledging that the compensation is separable and solely for such additional duties as Municipal Judge.

NOW, THEREFORE, it is hereby ordained, by Oconee County Council, in meeting duly assembled that:

1. Oconee County, acting by and through the Oconee County Council, hereby acknowledges and accepts the Agreement.
2. The Oconee County Administrator is authorized to execute the Agreement on behalf of Oconee County and may take all other steps and actions as are necessary or appropriate to enter into and enforce the Agreement.
3. The Oconee County Administrator shall ensure that any payments made to the assigned magistrate pursuant to or as a result of the Agreement are additional and clearly separable compensation solely for additional duties as a Municipal Judge for the City, over and above and not as a part of the compensation received by such assigned magistrate for his or her duties as magistrate pursuant to §22-8-40 of the South Carolina Code of Laws, 1976, *as amended*, and the Oconee County Administrator shall ensure that before any payment is made, the assigned magistrate signs a document acknowledging that the compensation is separable and solely for such additional duties as Municipal Judge and will last only so long as the assigned magistrate is performing such duties.
4. Should any part or provision of this Ordinance be deemed unconstitutional or unenforceable by any court of competent jurisdiction, such determination shall not affect the rest and remainder of this Ordinance, all of which is hereby deemed separable.
5. All ordinances, orders, resolutions, and actions of Oconee County Council inconsistent herewith are, to the extent of such inconsistency only, hereby repealed, revoked, and rescinded.
6. This Ordinance shall take effect and be in full force and effect from and after third reading and enactment by Oconee County Council.

ORDAINED in meeting, duly assembled, this ____ day of _____, 2014.

ATTEST:

Elizabeth Hulse,
Clerk to Oconee County Council

Joel Thrift,
Chairman, Oconee County Council

First Reading: December 2, 2014
Second Reading: December 16, 2014
Public Hearing:
Third Reading:

INTERGOVERNMENTAL AGREEMENT

THIS INTERGOVERNMENTAL AGREEMENT (the “Agreement”) is made and entered into this ____ day, of _____, 2014, by and between Oconee County, South Carolina (the “County”), and the City of Westminster, South Carolina, (the “City”).

WHEREAS, the City has established a municipal court, which is part of the South Carolina unified judicial system, to hear and determine all cases within its jurisdiction; and,

WHEREAS, pursuant to §14-25-25 of the South Carolina Code of Laws, 1976, as amended (the “Act”), a municipality may, after establishing a municipal court by ordinance, contract with a county governing authority for the services of a magistrate to serve as its municipal judge and may designate such magistrate as its municipal judge; and,

WHEREAS, significant changes in South Carolina laws have made it unfeasible for some municipalities to continue to operate municipal courts on an efficient, economical basis; and,

WHEREAS, the City acknowledges that the Oconee County Magistrate’s Office (“County Magistrate’s Office”) has the capability to provide the City with a County magistrate, to act as a municipal judge to hear and determine all cases under the City’s jurisdiction thereby providing this vital service to the citizens of Westminster on an uninterrupted basis with maximum cost efficiency; and,

WHEREAS, the City is willing to compensate the County for providing the City with a County magistrate, to act as a municipal judge and the Mayor, Administrator, and City Council of the City have formally requested a contractual arrangement with the County so that the County Magistrate’s Office is authorized to make a magistrate available to provide the service required by the City and be designated by the City as a municipal judge; and,

WHEREAS, the County and the County Magistrate’s Office are willing to provide the City with a County magistrate, to act as a municipal judge to hear and determine all cases under the City’s jurisdiction in return for compensation from the City paid to the County; and,

WHEREAS, the County and the City recognize that such an arrangement would efficiently serve the taxpayers of both governmental entities; and,

WHEREAS, the Chief Magistrate of Oconee County has agreed to seek an Order of the Chief Justice of the South Carolina Supreme Court authorizing the Chief Magistrate of the County to assign any magistrate of the County as the municipal judge for the City and to assign a magistrate to serve as an associate municipal judge; and,

WHEREAS, through the authority granted by the Act, and in accordance with the Order to be obtained by the Chief Magistrate, the City and the County desire to enter into this Agreement.

NOW THEREFORE, in consideration of the foregoing and other good and valuable consideration, the City and the County agree as follows:

1. Services Provided By County and County Magistrate's Office:

- a. The County agrees to authorize the Chief Magistrate to provide judicial services and perform judicial duties for the City by assigning a county magistrate by and through a request made to the Chief Justice of the South Carolina Supreme Court, pursuant to the Chief Justice's powers as administrative head of the unified judicial system, to act as the municipal judge for the City, in addition to the assigned magistrate's normal duties as a magistrate for the County. The County will pay the assigned magistrate additional, clearly separable compensation solely for such additional duties as municipal judge, over and above, and not as a part of the compensation received by such assigned magistrate for his or her duties as magistrate pursuant to §22-8-40 of the South Carolina Code of Laws, 1976, as amended, and the assigned magistrate will sign a document acknowledging that the compensation is separable and solely for such additional duties as municipal judge. The County further agrees to authorize the Chief Magistrate to provide judicial services and perform judicial duties for the City by assigning a county magistrate by and through a request made to the Chief Justice of the South Carolina Supreme Court, pursuant to the Chief Justice's powers as administrative head of the unified judicial system, to act as the associate municipal judge for the City in the absence of the full-time municipal judge assigned, in addition to the assigned magistrate's normal duties as a magistrate for the County. The County will pay the assigned associate magistrate additional, clearly separable compensation solely for such additional duties as associate municipal judge, over and above, and not as a part of the compensation received by such assigned magistrate for his or her duties as magistrate pursuant to §22-8-40 of the South Carolina Code of Laws, 1976, as amended, and the assigned magistrate will sign a document acknowledging that the compensation is separable and solely for such additional duties as associate municipal judge.
- b. The assigned magistrate will:
 - i. Hold court at least twice per month during hours that do not conflict with the magistrate's hours serving the County; and,
 - ii. Conduct jury and bench trials for the City on an as needed basis. All trials will be scheduled by a clerk employed by the County; and,
 - iii. Issue arrest warrants and search warrants on a prompt and reasonable basis and based upon appropriate standards, hold bond hearings, and be responsible for all other judicial duties as required by law; and,

- iv. Be on call, but only within the hours prescribed for the conduct of his or her duties for the City and not as an extension of his or her County hours, it being understood and agreed by all parties hereto that the assigned magistrate's duties as municipal judge are in addition to, separate, and apart from his or her duties as a magistrate for the County for purposes of pay and determination as a full-time or part-time magistrate for the County.
- v. Should the regular duties of the assigned magistrate conflict with providing services to the City, the assigned magistrate will always handle any duties in connection with the County Magistrate's Office first.
- vi. The assigned magistrate acting as associate municipal judge shall perform the abovementioned duties in the absence of the magistrate assigned as the full-time municipal judge.

2. Reimbursement for Municipal Judges and Responsibilities of City:

- a. The City shall reimburse the County **\$1,350.00 (One Thousand Three Hundred Fifty and no/100 Dollars)** per month, in advance, on or before the 1st day of each month on and after the effective date of this Agreement, which will be the amount of additional compensation paid to the full-time judge, associate judge, and clerk as follows:
 - i. \$1,000.00 per month to be paid to the full-time judge,
 - ii. \$100.00 per month to be paid to the associate judge, and
 - iii. \$200.00 per month to be paid to the clerk.
 - iv. The city further agrees to reimburse the County \$50.00 per month for supplies.
- b. The City further agrees to:
 - i. Reimburse the County for any costs incurred by the County for trials conducted on behalf of the City and for the cost of compensating jurors according to law. The City agrees to reimburse the County on or before the thirtieth (30th) day after receiving an invoice from the County that details the actual costs incurred by the County for conducting trials; and,
 - ii. Designate the assigned magistrate as the City's full-time municipal judge for purposes of this Agreement, and designate the assigned magistrate as the City's associate municipal judge for purposes of this Agreement; and
 - iii. Pay for and acquire the necessary licenses/permissions and equipment needed to implement and utilize the South Carolina Judicial

Department Case Management System (“CMS”). The City agrees to pay all fees directly to the South Carolina Judicial Department and further agrees to maintain CMS at all times during the term of this Agreement. The City acknowledges that the fees for CMS are determined by the South Carolina Judicial Department and are presently \$3,500.00 annually for municipalities in Oconee County.

- c. The City acknowledges and understands that the assigned magistrates will still have his or her regular duties in connection with the County Magistrate’s Office, for which the assigned magistrates will receive his or her usual County pay pursuant to §22-8-40 of the South Carolina Code of Laws, 1976, as amended.
 - d. The City acknowledges that, in the sole discretion of the Chief Magistrate of the County, any activities of the assigned magistrates pursuant to this Agreement may be conducted at any location designated by the Chief Magistrate as deemed necessary in the furtherance of justice. It is the intent of the preceding sentence to clarify that on a case-by-case basis the Chief Magistrate may designate a temporary alternative facility for the adjudication of any particular case after consultation with the City. The parties to this agreement understand that there may be cases and instances where the existing facility utilized by the City as a municipal court may not accommodate more complex cases involving numerous witnesses. Moreover, the parties to this agreement acknowledge there may be instances wherein a particular case requires the assigned magistrates to disqualify themselves from presiding over the case due to the requirements of the Code of Judicial Conduct. In such circumstances, it may be necessary to assign the case to a neutral location to be adjudicated before a non-disqualified magistrate in order to avoid any appearance of impropriety. Additionally, there may be cases wherein a defendant demands a live-jury selection or requires numerous potential jurors to be summoned to appear for jury selection and the assigned magistrates grant such request. These examples are not meant to be exhaustive and are merely used to demonstrate that the intent of this section, particularly the first sentence, is to clarify that the Chief Magistrate may consult with the City and direct that a particular case be adjudicated at an alternative location. This section is not intended to be used as a means whereby the Chief Magistrate may permanently transfer the adjudication of municipal cases to a location other than that designated by the City.
3. **Term of Agreement:** The term of this Agreement will commence on January 1, 2015, and shall thereafter be renewed automatically on a monthly basis.
 4. **Termination of Agreement:** Either party may terminate this Agreement with thirty (30) days written notice of termination. This Agreement is always subject to

appropriation of funds. In the event of non-appropriation by either party, this Agreement will be deemed terminated ninety (90) days following such non-appropriation.

5. Notice to the County and the City: Unless otherwise specifically provided in this Agreement or by law, any and all notices or other communications required or permitted by this Agreement or by law to be served on, given to, or delivered to either party to this Agreement shall be in writing and shall be deemed duly served, given, delivered and received when personally delivered (including confirmed overnight delivery service to the party to whom it is directed), or in lieu of such personal delivery, when three (3) business days have elapsed following deposit thereof in the United States mail, first-class postage prepaid, certified, return receipt requested, addressed to:

County: Administrator	(with copy to): Chief Magistrate
Oconee County	Oconee County
415 South Pine Street	207-A E.N. 1 st Street
Walhalla, SC 29691	Seneca, SC 29678

City: Administrator
City of Westminster
PO Box 399
Westminster, SC 29693

Either party may change its address for the purpose of this paragraph by giving written notice of such change to the other party in the manner provided in this paragraph.

6. Breach of Agreement: Failure of either party to perform any of its covenants or conditions under the Agreement is a breach of the Agreement, and, in the event of breach, the non-breaching party will have the right to any legal remedy provided under the laws of the State of South Carolina.

7. Unavoidable Delay - Force Majeure: If either party shall be delayed or prevented from the performance of any act required by this Agreement by reason of acts of God, strikes, lockouts, labor troubles, inability to procure materials, restrictive governmental laws, or regulations or other cause, without fault and beyond the reasonable control of the party obligated (financial inability excepted), performance of such act will be excused for the period of the delay; and the period for the performance of any such act will be extended for a period equivalent to the period of such delay; provided, however, nothing in this section shall excuse the City from the prompt payment of any fee or other charge required of the City except as may be expressly provided elsewhere in this Agreement.

8. Inconsistent Terms: To the extent that any provisions of the City's or the County's ordinances are inconsistent with the terms of the Agreement, the City or the County will waive said ordinance provisions and said provisions will not apply to the City or County for purposes of this agreement, its terms and provisions, application and implementation.

The Agreement shall be approved by ordinances enacted by the City and the County, in order to constitute binding legal authority of each.

9. Severability of Agreement: In the event any portion of this Agreement is declared invalid or unenforceable, the remaining portions hereof shall remain in full force and effect.

10. Waivers and Amendments to Agreement: No modification, waiver, amendment, discharge or change of this Agreement shall be valid unless the same is in writing and signed by the party against which the enforcement of such modification, waiver, amendment, discharge or change is or may be sought.

11. No Waiver of Breach: No failure by either the County or City to insist upon the strict performance by the other of any covenant, agreement, term or condition of this Agreement, or to exercise any right or remedy consequent upon a breach thereof, shall constitute a waiver of any such breach or of such covenant, agreement, term or condition. No waiver of any breach shall affect or alter this Agreement, but each and every covenant, condition, agreement and term of this Agreement shall continue in full force and effect with respect to any other then existing or subsequent breach.

12. Captions: Captions in this Agreement are inserted for convenience of reference only and do not define, describe or limit the scope or the intent of this Agreement or any of the terms hereof.

13. Controlling Law: This Agreement shall be construed and enforced under the laws of the State of South Carolina.

OCONEE COUNTY

CHIEF MAGISTRATE

BY: _____
Scott Moulder
ITS: Administrator

BY: _____
M. Todd Simmons

DATED: _____

DATED: _____

CITY OF WESTMINSTER

BY: _____
Jeff Lord
ITS: Administrator

DATED: _____

AGENDA ITEM SUMMARY
OCONEE COUNTY, SC

COUNCIL MEETING DATE: December 16, 2014
COUNCIL MEETING TIME: 6:00 PM

ITEM TITLE [Brief Statement]:

First Reading of Ordinance 2014-32 [Title Only] "AN ORDINANCE AUTHORIZING THE EXECUTION AND DELIVERY OF AN INFRASTRUCTURE TAX CREDIT AGREEMENT BETWEEN OCONEE COUNTY, SOUTH CAROLINA AND **PROJECT EAGLE**; AND OTHER MATTERS RELATING THERETO INCLUDING, WITHOUT LIMITATION, AUTHORIZATION AND THE CREATION OF A JOINT COUNTY INDUSTRIAL AND BUSINESS PARK FOR THE PROJECT"

First & Final Reading of Resolution R2014-20 "A RESOLUTION AUTHORIZING THE EXECUTION AND DELIVERY OF AN INDUCEMENT AGREEMENT BY AND BETWEEN OCONEE COUNTY, SOUTH CAROLINA AND **PROJECT EAGLE**, WHEREBY, UNDER CERTAIN CONDITIONS, OCONEE COUNTY WILL PROVIDE AN INFRASTRUCTURE TAX CREDIT TO PROJECT EAGLE AND PLACE THE PROJECT INTO A JOINT COUNTY INDUSTRIAL AND BUSINESS PARK"

BACKGROUND DESCRIPTION:

Ordinance 2014-32 puts into place an agreed upon infrastructure tax credit between Oconee County and Project Eagle. The company will locate this capital investment within Oconee as part of this incentive offered from the County.

Resolution R2014-20 authorizes the execution of the inducement agreement defining the incentives offered by the County and the investment created by this economic development project.

SPECIAL CONSIDERATIONS OR CONCERNS (only if applicable):

N/A

FINANCIAL IMPACT [Brief Statement]:

Check Here if Item Previously approved in the Budget. No additional information required.

Approved by: Finance

COMPLETE THIS PORTION FOR ALL GRANT REQUESTS:

Are Matching Funds Available: Yes: No

If yes, who is matching and how much:

Approved by: Grants

ATTACHMENTS

STAFF RECOMMENDATION [Brief Statement]:

It is the staff's recommendation that Council [1] approve Ordinance 2014032 on first reading in title only and, [2] approve Resolution R2014-20 on first and final reading.

Submitted or Prepared By:



Department Head/Elected Official

Approved for Submittal to Council:



T. Scott Moulder, County Administrator

Council has directed that they receive their agenda packages a week prior to each Council meeting, therefore, Agenda Items Summaries must be submitted to the Administrator for his review/approval no later than 12 days prior to each Council meeting. It is the Department Head/ Elected Officials responsibility to ensure that all approvals are obtained prior to submission to the Administrator for inclusion on an agenda.

A calendar with due dates marked may be obtained from the Clerk to Council.

**STATE OF SOUTH CAROLINA
OCONEE COUNTY COUNCIL
RESOLUTION R2014-20**

A RESOLUTION AUTHORIZING THE EXECUTION AND DELIVERY OF AN INDUCEMENT AGREEMENT BY AND BETWEEN OCONEE COUNTY, SOUTH CAROLINA AND PROJECT EAGLE; WHEREBY, UNDER CERTAIN CONDITIONS, OCONEE COUNTY WILL PROVIDE AN INFRASTRUCTURE TAX CREDIT TO PROJECT EAGLE AND PLACE THE PROJECT INTO A JOINT COUNTY INDUSTRIAL AND BUSINESS PARK

WHEREAS, Oconee 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 1, Code of Laws of South Carolina, 1976, as amended (the "Act"), to acquire, or cause to be acquired by the industry properties and to enter into agreements with any industry inducing the industry to construct, operate, maintain and improve such property; to enter into or allow financing agreements or tax credit agreements with respect to such projects; and, to accept any grants for such infrastructure through which powers the economic development of the State of South Carolina (the "State") 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 the County by providing services, employment, recreation or other public benefits not otherwise provided locally; and

WHEREAS, Project Eagle (the "Company"), has requested the County to participate in executing an Inducement Agreement (Project Eagle Project) pursuant to the Act for the purpose of inducing the Company to acquire by purchase and/or construction certain land, buildings, machinery, apparatus, and equipment, for the purpose of a facility that will manufacture printed materials (the "Project"), involving the investment of not less than \$1,500,000 in new taxable investment and the creation of Twenty (20) new jobs, all in the County, and all as more fully set forth in the Inducement Agreement attached hereto; and

WHEREAS, the County has determined that the Project would benefit the general public welfare of the County by providing service, employment, recreation or other public benefits not otherwise provided locally; and, that the Project gives rise to no pecuniary liability of the County or incorporated municipality or a charge against the general credit or taxing power of either; and that 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 that the inducement of the location or expansion of the Project within the County and State is of paramount importance and that the benefits of the Project will be greater than the costs; and

WHEREAS, the County and Pickens County, South Carolina ("Pickens County") will enter into a Joint County Industrial and Business Park Agreement, as amended from time to time (the "Park Agreement"), for the creation of a joint county industrial and business park (the "Park") pursuant to Section 4-1-170 of the Act, and the Project property is already in, or can be added to the Park (subject to the consent of any municipality within which the Project property is located), by an existing Park Agreement or a new Park Agreement and the Company has requested the County to so include the Project site in the Park, in order to enable payment of the Infrastructure Credit, as described herein, and the County has agreed to do so, to the extent within its control; and

WHEREAS, the Company has requested the County to provide an infrastructure tax credit from the Company's payments in lieu of taxes for the Project in the Park (hereinafter referred to as the "Infrastructure Credit") pursuant to Section 4-1-175 of the Act for the purpose of defraying the cost of acquiring or enhancing the infrastructure for the Project, including the acquisition of improved real property; and

WHEREAS, the County has determined on the basis of the information supplied to it by the Company that the Project would be a "project" as that term is defined in the Act and that the Project would subserve the purposes of the Act.

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

Section 1. Pursuant to the authority of the Act and for the purpose of providing infrastructure to the Project, there is hereby authorized to be executed and delivered an Inducement Agreement between the County and the Company in substantially the form attached hereto or with such minor revisions as are not materially adverse to the County and as shall be approved by the Chairman of County Council, upon the advice of counsel. The Inducement Agreement shall, among other things, agree to the authorization of an Infrastructure Credit to provide infrastructure funds to facilitate the Project, and to the inclusion of the Project site in the Park, to the extent within the control of the County. The final determination of the amount of the Infrastructure Credit is to be determined pursuant to Section 1.1 (e) of the Inducement Agreement. The Infrastructure Credit will be payable exclusively from payments in lieu of tax the County receives and retains from the fee in lieu of tax due from the Project, in the Park if the Project property can be placed in a Park, but not otherwise, if the County is not able to place the Project Property in the Park despite its best reasonable efforts to do so, unless the Company separately qualifies for a negotiated fee in lieu of tax payment for the Project, as envisioned in the Inducement Agreement, in which case a separate Infrastructure Credit will need to be agreed upon in good faith between the Parties. The Infrastructure Credit shall not constitute a general obligation or indebtedness of the County nor a pledge of the full faith and credit or the taxing power of the County.

Section 2. The provisions, terms and conditions of the Infrastructure Credit Agreement to be entered into by and between the County and the Company (the "Infrastructure Credit Agreement") shall be prescribed by subsequent ordinance of the County Council.

Section 3. The Chairman of County Council is hereby authorized and directed to execute the Inducement Agreement attached hereto in the name of and on behalf of the County, and the Clerk of the County Council is hereby authorized and directed to attest the same; and the Chairman of County Council is hereby further authorized and directed to deliver said executed Inducement Agreement to the Company.

Section 4. Prior to the execution of the Infrastructure Credit Agreement and the provision of the Infrastructure Credit, authorized by the Inducement Agreement, the County Council will comply with the provisions of the Home Rule Act regarding the procedural requirements for adopting ordinances and resolutions.

Section 5. All orders, resolutions, and parts thereof in conflict herewith are, to the extent of such conflict, hereby repealed. This resolution shall take effect and be in full force from and after its passage by the County Council.

Section 6. It is the intention of the County Council that this resolution shall constitute an official action on the part of the County relating to the inducement of the Project.

Done in meeting duly assembled this 16th day of December 2014.

OCONEE COUNTY, SOUTH CAROLINA

By: _____
Joel Thrift, Chairman of County Council
Oconee County, South Carolina

ATTEST:

By: _____
Elizabeth G. Hulse, Clerk to County Council
Oconee County, South Carolina

INDUCEMENT AGREEMENT

THIS INDUCEMENT AGREEMENT made and entered into by and between Oconee County, South Carolina, a body politic and corporate and a political subdivision of the State of South Carolina (jointly hereinafter the "County") and Project Eagle (the "Company") or any assignee or co-owner that is an affiliated company (within the meaning ascribed in the Internal Revenue Code).

WITNESSETH:

ARTICLE I.

RECITATION OF FACTS

Section 1.1. As a means of setting forth the matters of mutual inducement which have resulted in the making and entering into of this Agreement, the following statements of fact are herewith recited:

- (a) The County is authorized and empowered by the provisions of Title 4, Chapter 1 Code of Laws of South Carolina, 1976, as amended (the "Act") to induce the Company to acquire, enlarge, improve, expand, equip, furnish, own, lease, and dispose of properties through which the industrial and economic development of the State of South Carolina (the "State") will be promoted and trade developed by inducing new industries to locate in the State and by encouraging industries now located in the State to expand their investments and thus utilize and employ manpower and other 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.
- (b) The Company is considering the acquisition by construction, purchase or lease of facilities and capabilities to be used for manufacturing printed materials (the "Project") in the County.. The Project will involve an investment of at least One Million Five Hundred Thousand Dollars (\$1,500,000) and the creation of Twenty (20) new, full-time jobs with standard benefits at the Project in the County, all over a five (5) year period.
- (c) The Company has requested and will enter into an infrastructure credit agreement, by and between the Company and the County (the "Infrastructure Credit Agreement"), and the County will provide an infrastructure credit (the "Infrastructure Credit") pursuant to and in accordance with Section 4-1-175 of the Act, based on and subject to the Project site being located in a joint county industrial and business park, created by the County pursuant to and in accordance with Section 4-1-170 of the Act (the "Park").

(d) The County has given due consideration to the economic development impact of the Project, and that the Project would benefit the general public welfare of the County by providing service, employment, recreation or other public benefits not otherwise provided locally; and, that the Project gives rise to no pecuniary liability of the County or incorporated municipality or a charge against the general credit or taxing power of either; and, that 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 that the inducement of the location or expansion of the Project within the County and State is of paramount importance and that the benefits of the Project will be greater than the costs; and, has agreed to effect the issuance and delivery of this Agreement, pursuant to the Act, and on the terms and conditions hereafter set forth.

(e) To the extent within its authority and control, the County will use its best reasonable efforts to include the Project site in a Park, either existing or to be created, with an adjoining county, and provide an infrastructure credit against payments in lieu of taxes from the Project in the Park in an annual amount equal to Thirty percent (30%) of the payments in lieu of taxes allocated to the County taxing entities pursuant to the agreement creating the Park (the "Park Agreement") for six (6) years of fee in lieu of tax payments by the Project in the Park pursuant to the Park Agreement, beginning with the payment due (without penalty) on or before January 15, 2017. No Infrastructure Credit will be due to the Company for fee in lieu of tax payments on the Project in the Park due on or before January 15, 2017, and no Infrastructure Credit will be due, at all, if the County is unable to place the Project Property into a Park, despite using its best reasonable efforts to do so. The adoption of ordinances and procedures for the provision of the Infrastructure Credit to the Company and the creation or amendment of the Park through a new or amended Park Agreement shall conform to the provisions of the Act and the Home Rule Act.

(f) The County, acting by and through the Oconee County Council, agrees to favorably consider offering a fee in lieu of tax for the Project pursuant to Section 12-44-10 et. sequitar of the South Carolina Code of Laws, 1976, as amended at such time as the Company may commit to construct or purchase a building in the County and commit to invest not less than five (5) million dollars in qualified, taxable, investment in the Project in the County

ARTICLE II

UNDERTAKINGS ON THE PART OF THE COUNTY

The County agrees as follows:

Section 2.1. The Company will maintain the Project and will (i) keep the Project insured against loss or damage or perils generally insured against by industries or businesses similar to the Company and will carry public liability insurance covering personal injury, death or property damage with respect to the Project; or (ii) self-insure with respect to such risks in the same manner as it does with respect to similar property owned by the Company; or (iii) maintain a combination of insurance coverage and self-insurance as to such risks.

The Infrastructure Credit Agreement shall provide that, in the performance of the agreements contained therein on the part of the County, any obligations the County may incur for the payment of money shall not create a pecuniary liability of the County nor create a general obligation on its part or by the State or any incorporated municipality.

Section 2.2. Upon the request of the Company, the County will permit the planning, design, acquisition, construction and carrying out of the Project to commence prior to the execution and delivery of the Infrastructure Credit Agreement.

Section 2.3. Oconee County Council agrees that this constitutes an agreement committing the County to provide the Company with the Infrastructure Credit, subject to the other terms and conditions of this Agreement, and compliance with all applicable state laws, including, without limitation, the Home Rule Act of the state.

Section 2.4. (a) To the extent within its authority and control, using its best reasonable efforts, Oconee County Council does hereby agree, subject to the requirements of Section 4-1-170 and Section 4-1-175 of the Act, respectively to insuring that the Project site is already in a Park or will be placed in a Park and to undertake the preparation and adoption of an ordinance authorizing the provision of the Infrastructure Credit which shall be made available to pay or reimburse the payment of a portion of or all of the costs of the infrastructure improvements for the Project. The amount of the Infrastructure Credit will be limited such that the amount of the credit will be thirty percent (30%) of the fee-in-lieu of tax payments from the Project in the Park retained by the County taxing entities for the first six (6) years of fee in lieu of tax payments by the Project in the Park pursuant to the Park Agreement, beginning with the payment due (without penalty) on or before January 15, 2017, and such that the Infrastructure Credit will never exceed, at any point in time, the actual cost of Project Infrastructure to that point. The Infrastructure Credit will be payable exclusively from payments in lieu of taxes which the County receives and retains from the Company for the Project in the Park under the Infrastructure Credit Agreement. The Infrastructure Credit shall not constitute a general obligation or indebtedness of the County nor a pledge of the full faith and credit or the taxing power of the County. Provided, for so long as the Infrastructure Credit Agreement remains in full force and effect, the Infrastructure Credit shall be

paid solely by setoff by the Company against fee in lieu of tax payments due under the Infrastructure Credit Agreement. The Company and the County agree that if the County is unable to place the Project Property in a Park despite using its best reasonable efforts to do so, the County will not be obligated to provide any Infrastructure Credit to the Company.

(b) The undertakings of the County hereunder are contingent upon the County being able to place the Project Property into a Park, using its best reasonable efforts, and the Company providing the County with such further evidence as may be satisfactory to the County as to compliance with all applicable statutes and regulations and this Agreement and the Company's commitments hereunder.

ARTICLE III

UNDERTAKINGS ON THE PART OF THE COMPANY

Section 3.1. Prior to execution of the Infrastructure Credit Agreement and subsequent to this Agreement, the Company may advance any acquisition or construction funds required in connection with the planning, design, acquisition, construction and carrying out of the Project including any infrastructure.

Section 3.2. The County will have no obligation to assist the Company in finding a bank and the Company may endeavor to finance the Project to the extent required to finance the cost of the acquisition and installation of the Project and the costs of the transaction.

Section 3.3. If the Project proceeds as contemplated, the Company further agrees as follows:

- (a) To acquire, or cause to be acquired, title to the assets constituting the Project;
- (b) To indemnify, defend, and hold the County harmless from all pecuniary liability and to reimburse it for all expenses to which it might be put in the fulfillment of its obligations under this Agreement and in the negotiation and implementation of its terms and provisions;
- (c) To apply for, and use its best efforts to obtain, all permits, licenses, authorizations and approvals required by all governmental authorities in connection with the acquisition, construction, operation and use of the Project;
- (d) To indemnify, defend and hold the County and the individual directors, officers, agents and employees thereof harmless against any claim or loss or damage to property or any injury or death of any person or persons occurring in connection with the planning, design, acquisition, construction, leasing and carrying out of the Project. The Company also agrees to reimburse or otherwise pay, on behalf of the

County, any and all expenses not hereinbefore mentioned incurred by the County in connection with the Project. This indemnity shall be superseded by a similar indemnity in the Infrastructure Credit Agreement;

(e) To invest not less than One Million Five Hundred Thousand Dollars (\$1,500,000) and create not less than Twenty (20) new, full-time jobs in the Project between January 1, 2014 and December 31, 2019 or lose the benefits of this Agreement prospectively, from that point, for failure to do so, in addition to repaying the full amount of any Infrastructure Credit previously received to the County within sixty (60) days of December 31, 2019. Provided, should the Company invest the One Million Five Hundred Thousand Dollars (\$1,500,000) and create Fifteen (15) or more jobs but less than Twenty (20) jobs on or before December 31, 2019, the Infrastructure Credit provided in this Agreement will still be provided, for the full six year term, but the percentage of the Infrastructure Credit will be prorated, based on the actual number of jobs created as a percentage of the full twenty (20) jobs expected, and the Company must repay to the County the difference between the Infrastructure Credit already received and that which should have been provided, based on the proration described in this subsection, within sixty (60) days following December 31, 2019. There is to be no proration of benefits for failure to make the investment commitment.

ARTICLE IV

GENERAL PROVISIONS

Section 4.1. All commitments of the County hereunder are subject to all of the provisions of the Act and the Home Rule Act, including, without limitation, the condition that nothing contained in this Agreement shall constitute or give rise to a pecuniary liability of the County or any incorporated municipality or a charge against the general credit or taxing powers of either.

Section 4.2. All commitments of the County and the Company hereunder are subject to the condition that the County and the Company agree on mutually acceptable terms and conditions of all documents, the execution and delivery of which are contemplated by the provisions hereof.

Section 4.3. If for any reason this Agreement is not executed and delivered by the Company to the County on or before December 31, 2015 the provisions of this Agreement shall be cancelled and neither party shall have any rights against the other and no third parties shall have any rights against either party except:

(a) The Company will pay the County for all expenses which have been authorized by the Company and incurred by the County in connection with the planning, design, acquisition, construction and carrying out of the Project and for all expenses incurred by the County in connection with the authorization and approval of the Infrastructure Credit Agreement or this Agreement;

(b) The Company will pay the out-of-pocket expenses of officers, agents and employees of the County and counsel for the County incurred in connection with the Project and the execution of the Infrastructure Credit Agreement, and will pay fees for legal services related to the Project and the execution of this Agreement and the Infrastructure Credit Agreement.

Section 4.4. The parties understand that the Company may choose not to proceed with the Project, in which event this Agreement shall be cancelled and, subject to parties' obligations described in Section 4.3, neither party shall have any further rights against the other, and no third party shall have any rights against either party.

Section 4.5. To the maximum extent allowable under the Act the Company may, without the prior consent of the County, assign (including, without limitation, absolute, collateral, and other Assignments) all or a part of its rights and/or obligations under this Inducement Agreement, the Infrastructure Credit Agreement, or any other agreement related hereto or thereto, to one or more other entities which are "Related Parties" within the meaning of the Internal Revenue Code without adversely affecting the benefits to the Company or its assignees pursuant to any such agreement or the Act.

IN WITNESS WHEREOF, the parties hereto, each after due authorization, have executed this Inducement Agreement on the respective dates indicated below.

OCONEE COUNTY, SOUTH CAROLINA

By: _____
Joel Thrift, Chairman of County Council
Oconee County, South Carolina

ATTEST:

By: _____
Elizabeth G. Hulse, Clerk to County Council
Oconee County, South Carolina

Dated: December 16, 2014

PROJECT EAGLE

By: _____

Its: President

AGENDA ITEM SUMMARY
OCONEE COUNTY, SC

COUNCIL MEETING DATE: December 16, 2014
COUNCIL MEETING TIME: 6:00 PM

ITEM TITLE [Brief Statement]:

First Reading of Ordinance 2014-33 [Title Only] "AN ORDINANCE AUTHORIZING THE EXECUTION AND DELIVERY OF A FEE IN LIEU OF TAX AGREEMENT BETWEEN OCONEE COUNTY, SOUTH CAROLINA AND PROJECT CONTROL, AND OTHER MATTERS RELATING THERETO INCLUDING, WITHOUT LIMITATION, PAYMENT OF A FEE IN LIEU OF TAXES RELATED TO THE PROJECT"

First & Final Reading of Resolution R2014-22 "A RESOLUTION AUTHORIZING THE EXECUTION AND DELIVERY OF AN INDUCEMENT AGREEMENT BY AND BETWEEN OCONEE COUNTY, SOUTH CAROLINA AND PROJECT CONTROL, WHEREBY, UNDER CERTAIN CONDITIONS, OCONEE COUNTY WILL EXECUTE A FEE IN LIEU OF TAX AGREEMENT FOR A PROJECT INVOLVING NOT LESS THAN TWO MILLION FIVE HUNDRED THOUSAND DOLLARS (\$2,500,000) INVESTMENT"

BACKGROUND DESCRIPTION:

Ordinance 2014-33 puts into place an agreed upon "fee-in-lieu" (FILT) tax agreement between the company and the County.

Resolution R2014-22 authorizes the execution of the inducement agreement defining the incentives offered by the County and the investment created by this economic development project.

SPECIAL CONSIDERATIONS OR CONCERNS (only if applicable):

NA

FINANCIAL IMPACT [Brief Statement]:

Check Here if Item Previously approved in the Budget. No additional information required.

Approved by: _____ Finance

COMPLETE THIS PORTION FOR ALL GRANT REQUESTS:

Are Matching Funds Available: Yes / **No**

If yes, who is matching and how much.

Approved by: _____ Grants

ATTACHMENTS

STAFF RECOMMENDATION [Brief Statement]:

It is the staff's recommendation that Council [1] approve Ordinance 2014-33 on first reading in title only and, [2] approve Resolution R2014-22 on first and final reading.

Submitted or Prepared By:

Approved for Submittal to Council:

Department Head/Elected Official

T. Scott Moulder, County Administrator

Council has directed that they receive their agenda packages a week prior to each Council meeting, therefore, Agenda Items Summaries must be submitted to the Administrator for his review/approval no later than 12 days prior to each Council meeting. It is the Department Head/ Elected Officials responsibility to ensure that all approvals are obtained prior to submission to the Administrator for inclusion on an agenda.

A calendar with due dates marked may be obtained from the Clerk to Council.

**STATE OF SOUTH CAROLINA
OCONEE COUNTY
RESOLUTION R2014-22**

A RESOLUTION AUTHORIZING THE EXECUTION AND DELIVERY OF AN INDUCEMENT AGREEMENT BY AND BETWEEN OCONEE COUNTY, SOUTH CAROLINA AND PROJECT CONTROL, WHEREBY, UNDER CERTAIN CONDITIONS, OCONEE COUNTY WILL EXECUTE A FEE IN LIEU OF TAX AGREEMENT FOR A PROJECT INVOLVING NOT LESS THAN TWO MILLION FIVE HUNDRED THOUSAND DOLLARS (\$2,500,000) INVESTMENT

WHEREAS, Oconee 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 of Code of Laws of South Carolina, 1976, as amended (the "Act"), to acquire, or cause to be acquired, properties and to enter into agreements with any industry to construct, operate, maintain and improve such property and to enter into or allow financing agreements with respect to such properties through which powers the economic development of the State of South Carolina will be promoted and trade developed by inducing manufacturing and commercial enterprises to locate and remain in the State of South Carolina and thus utilize and employ the manpower, agricultural products and natural 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, Project Control, (the "Company"), has requested the County to participate in executing an Inducement and Millage Rate Agreement and a Fee in Lieu of Tax Agreement (the "Fee Agreement") (Project Control) pursuant to the Act for the purpose of authorizing and of acquiring by purchase, lease or construction certain land, building(s), machinery, apparatus, and equipment, for the purpose of manufacturing natural gas vehicle components and products (the "Project"), all as more fully set forth in the Inducement and Millage Rate Agreement (the "Inducement Agreement") attached hereto; and

WHEREAS, the Project is located within a multi-county industrial/business park pursuant to Section 4-1-170 of the Act; and

WHEREAS, the County is authorized by the Act to execute such agreements, as defined in the Act, with respect to such Project; and

WHEREAS, the County has determined that the Project would benefit the general public welfare of the County by providing service, employment, recreation or other public benefits not otherwise provided locally; and, that the Project gives rise to no pecuniary liability of the County or incorporated municipality or a charge against the general credit or taxing power of either; and that

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 that the inducement of the location or expansion of the Project within the County and State is of paramount importance and that the benefits of the Project will be greater than the costs; and

WHEREAS, the County has determined on the basis of the information supplied to it by the Company that the Project would be a "project" as that term is defined in the Act and that the Project would subserve the purposes of the Act.

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

Section 1. Pursuant to the authority of the Act and for the purpose of authorizing the Fee Agreement (as described in the Act) for the Project, there is hereby authorized to be executed an Inducement and Millage Rate Agreement between the County and the Company pertaining to the Project involving investment in the County of not less than \$2,500,000 in qualifying fee in lieu of tax investment by the end of the fifth (5th) year after the year of execution of the Fee Agreement.

Section 2. The provisions, terms and conditions of the Fee Agreement by and between the County and the Company shall be prescribed by subsequent ordinance of the County Council.

Section 3. The Chairman of County Council is hereby authorized and directed to execute the Inducement Agreement attached hereto in the name of and on behalf of the County, in substantially the form attached, or with such changes or additions as shall not materially prejudice the County, upon the advice of the county attorney, and the Clerk of the County Council is hereby authorized and directed to attest the same; and the Chairman of County Council is hereby further authorized and directed to deliver said executed Inducement Agreement to the Company.

Section 4. Prior to the execution of the Fee Agreement, the County Council will comply with the provisions of the Home Rule Act regarding the procedural requirements for adopting ordinances and resolutions.

Section 5. All orders, resolutions, and parts thereof in conflict herewith are, to the extent of such conflict, hereby repealed. This Resolution shall take effect and be in full force from and after its passage by the County Council.

Section 6. It is the intention of the County Council that this Resolution shall constitute an official action on the part of the County relating to the inducement of the Project.

Done in meeting duly assembled this 16th day of December 2014.

OCONEE COUNTY, SOUTH CAROLINA

By: _____
Joel Thrift, Chairman of County Council
Oconee County, South Carolina

ATTEST:

By: _____
Elizabeth G. Hulse, Clerk to County Council
Oconee County, South Carolina

**INDUCEMENT AGREEMENT
AND MILLAGE RATE AGREEMENT**

THIS INDUCEMENT AND MILLAGE RATE AGREEMENT (the "Agreement") made and entered into by and between Oconee County, South Carolina, a body politic and corporate and a political subdivision of the State of South Carolina (the "County") and Project Control (the "Company"), a corporation duly incorporated under the laws of State of Delaware.

WITNESSETH:

ARTICLE I

RECITATION OF FACTS

Section 1.1. As a means of setting forth the matters of mutual inducement which have resulted in the making and entering into of this Agreement, the following statements of fact are herewith recited:

(a) The County is authorized and empowered by the provisions of Title 12, Chapter 44 Code of Laws of South Carolina, 1976, as amended (the "Act") to acquire, enlarge, improve, expand, equip, furnish, own, lease, and dispose of properties through which the industrial development of the State of South Carolina will be promoted and trade developed by inducing new industries to locate in the State and by encouraging industries now located in the State to expand their investments and thus utilize and employ manpower and other 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.

(b) The Company is considering the acquisition by construction, purchase or lease of facilities and machinery and equipment to be used for the purpose of manufacturing natural gas vehicle components and products (the "Project") in the County. The Project will involve an investment of at least Two Million Five Hundred Thousand Dollars (\$2,500,000) in new, taxable (fee in lieu of tax) investment within the meaning of the Act, occurring by the end of the fifth (5th) year following the year of execution of a fee in lieu of tax agreement pursuant to the Act, by and between the Company and the County (the "Fee Agreement").

(c) The Company has requested the County to assist it through the incentive of a payment in lieu of ad valorem taxes as authorized by Section 12-44-10 et seq. of the Act.

(d) The Project is located within a multi-county industrial/business park pursuant to Section 4-1-170 of the Code of Laws of South Carolina, 1976, as amended (the "Park").

(e) The County has given due consideration to the economic development impact of the Project, has found that the Project and the payments in lieu of ad valorem taxes set forth herein are beneficial to the Project and that the Project would benefit the general public welfare of the County by providing service, employment, recreation or other public benefits not otherwise provided locally; and, that the Project gives rise to no pecuniary liability of the County or any incorporated municipality or a charge against the general credit or taxing power of either; and, that 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 that the inducement of the location or expansion of the Project within the County and State is of paramount importance and that the benefits of the Project will be greater than the costs; and, has agreed to effect the issuance and delivery of this Agreement, pursuant to the Act, and on the terms and conditions hereafter set forth.

ARTICLE II

UNDERTAKINGS ON THE PART OF THE COUNTY

The County agrees as follows:

Section 2.1. The Project will be constructed or installed by the Company on the sites now owned or hereafter acquired by the Company in the County and will involve a capital expenditure of not less than \$2,500,000 in new, taxable property occurring by the end of the fifth (5th) year following the year of execution of the Fee Agreement. The Fee Agreement will contain suitable provisions for acquisition and construction of the project by the Company.

Section 2.2. The Fee Agreement will be executed at such time and upon acceptable terms to the County, as the Company shall request subject to Section 4.2 herein.

Section 2.3. The terms and provisions of the Fee Agreement by and between the County and the Company shall be substantially in the form generally utilized in connection with the Act as agreed upon by the County and the Company. Such Fee Agreement shall contain, in substance, the following provisions:

(a) The term of the Fee Agreement will coincide with the maximum term of the negotiated fee pursuant to the Act (without extension), at the time of execution of the Fee Agreement. Thus, the Company shall be allowed and required to invest under and pursuant to the Fee Agreement not less than \$2,500,000 in qualifying fee in lieu of tax investment in the Project by the end of the fifth (5th) year after the year of execution of the Fee Agreement with such investment being maintained in accordance with the Act.

(b) The Company will maintain the Project and will (i) keep the Project insured against loss or damage or perils generally insured against by industries or businesses similar to the Company and will carry public liability insurance

covering personal injury, death or property damage with respect to the Project; or (ii) self-insure with respect to such risks in the same manner as it does with respect to similar property owned by the Company; or (iii) maintain a combination of insurance coverage and self-insurance as to such risks.

(c) The Fee Agreement shall provide that, in the performance of the agreements contained therein on the part of the County, any obligations the County may incur for the payment of money shall not create a pecuniary liability of the County nor create a general obligation on its part or by the State of South Carolina or any incorporated municipality, but shall be payable solely from the payments received under such Fee Agreement and, under certain circumstances, insurance proceeds and condemnation awards.

(d) The Fee Agreement shall contain agreements providing for the indemnification of the County and the individual officers, agents and employees thereof for all expenses incurred by them and for any claim of loss suffered or damaged to property or any injury or death of any person occurring in connection with the planning, design, approval, acquisition, construction and carrying out of the Project.

(e) The Fee Agreement shall contain a provision requiring the Company to make payments in lieu of taxes. Pursuant to the Act, such payments shall continue for a period of up to thirty (30) years from the date of the Fee Agreement and each of the annual capital investments made under the Fee Agreement for the first five years, not counting the initial year of the Fee Agreement, and any amendments or supplements to the Fee Agreement to the extent permitted by law and authorized by the County, herein. The amounts of such payments shall be determined by using an assessment ratio of 6%, a fixed millage rate based on the cumulative, combined June 30, 2014 millage rate for the Project site (which the parties understand to be 215.0 mils), and the fair market value for the Project property (which value is not subject to reassessment as provided in the Act) as determined by using original cost for any real property and original cost less allowable depreciation for any personal property in accordance with Title 12, Chapter 37, Code of Laws of South Carolina 1976, as amended.

(f) The County and the Company agree, in accordance with the Act, that the Company may dispose of property subject to fee payments, as set forth in this Section.

(1) When the Company disposes of property subject to the fee, the fee payment must be reduced by the amount of the fee payment applicable to that property, subject to an absolute requirement to invest not less than \$2,500,000 in qualifying fee in lieu of tax investment in the Project, with such investment

occurring by the end of the fifth (5th) year after the year of execution of the Fee Agreement, and maintain such investment, without regard to depreciation, in accordance with the Act.

(2) Property shall be considered disposed of for purposes of this Section only when it is scrapped or sold in accordance with the Fee Agreement.

(3) The Company will be allowed to replace personal property subject to the Fee Agreement to the full extent provided by law.

(g) The County has previously entered into a Park agreement with Pickens County and included the Project, and undeveloped land of the Company in such Park.

Section 2.4. Upon the request of the Company, the County will permit the planning, design, acquisition, construction and carrying out of the Project to commence prior to the execution and delivery of the Fee Agreement. Contracts for construction and for purchase of machinery, equipment and related real and personal property deemed necessary under the Fee Agreement may be let by the Company.

Section 2.5. Oconee County Council agrees that this Agreement constitutes a Millage Rate Agreement, within the meaning of the Act, providing the Company with the cumulative, combined millage rate legally levied and applicable to the Project site on June 30, 2014, which millage rate shall be fixed as to all property subject to the Fee Agreement for the duration of the Fee Agreement.

ARTICLE III

UNDERTAKINGS ON THE PART OF THE COMPANY

Section 3.1. Prior to execution of the Fee Agreement and subsequent to this Agreement, the Company may advance any acquisition or construction funds required in connection with the planning, design, acquisition, construction and carrying out of the Project including any infrastructure and be entitled to subject the constructed or acquired property to the Fee Agreement, to the extent permitted by law.

Section 3.2. The County will have no obligation to assist the Company in finding a bank and the Company may endeavor to finance the Project to the extent required to finance the cost of the acquisition and installation of the Project and the costs of the fee in lieu of tax transaction.

Section 3.3. If the Project proceeds as contemplated, the Company further agrees as follows:

(a) To obligate itself to make the payments required by the Act including, but not limited to, payments in lieu of taxes at rates calculated in accordance with Section 2.3 (e) hereof;

(b) To indemnify, defend, and hold the County harmless from all pecuniary liability and to reimburse it for all expenses to which it might be put in the fulfillment of its obligations under this Agreement and in its negotiation and execution and in the implementation of its terms and provisions;

(c) To perform such further acts and adopt such further proceedings as may be required to faithfully implement its undertakings and consummate the proposed financing;

(d) To apply for, and use its best efforts to obtain, all permits, licenses, authorizations and approvals required by all governmental authorities in connection with the acquisition, construction, operation and use of the Project;

(e) To indemnify, defend and hold the County and the individual directors, officers, agents and employees thereof harmless against any claim or loss or damage to property or any injury or death of any person or persons occurring in connection with the planning, design, approval, acquisition, construction, leasing and carrying out of the Project. The Company also agrees to reimburse or otherwise pay, on behalf of the County, any and all expenses not hereinbefore mentioned incurred by the County in connection with the Project, including the County's attorney fees. This indemnity shall be superseded by a similar indemnity in the Fee Agreement;

(f) To invest not less than Two Million Five Hundred Thousand Dollars (\$2,500,000) in new taxable investment in the Project by the end of the fifth (5th) year following the end of the year in which the Fee Agreement is executed and maintain such investment in accordance with the Act, or lose the benefits of this Agreement in accordance with the Act for failure to do so.

ARTICLE IV

GENERAL PROVISIONS

Section 4.1. All commitments of the County under Article II hereof are subject to all of the provisions of the Act and the Home Rule Act, including, without limitation, the condition that nothing contained in this Agreement shall constitute or give rise to a pecuniary liability of the County or any incorporated municipality or a charge against the general credit or taxing powers of either.

Section 4.2. All commitments of the County and the Company hereunder are mutually dependent, each on the other, and are subject to the condition that the County and the Company agree on mutually acceptable terms and conditions of all documents, the execution and delivery of which are contemplated by the provisions hereof.

Section 4.3. If for any reason this Agreement is not executed and delivered by the Company on or before December 31, 2015 the provisions of this Agreement shall be cancelled and neither party shall have any rights against the other and no third parties shall have any rights against either party except:

(a) The Company will pay the County for all expenses which have been authorized by the Company and incurred by the County in connection with the planning, design, acquisition, construction and carrying out of the Project and for all expenses incurred by the County in connection with the authorization and approval of the Fee Agreement or this Agreement;

(b) The Company will pay the out-of-pocket expenses of officers, agents and employees of the County and counsel for the County incurred in connection with the Project and the preparation and execution of this Agreement and the Fee Agreement, and will pay fees for legal services related to the Project and the negotiation, authorization, and execution of the Fee Agreement and this Agreement.

Section 4.4. The parties understand that the Company may choose not to proceed with the Project, in which event this Agreement shall be cancelled and, subject to parties' obligations described in Section 4.3, neither party shall have any further rights against the other, and no third party shall have any rights against either party.

Section 4.5. To the maximum extent allowable under the Act, the Company may, with the prior consent of the County, which consent will not unreasonably be withheld, assign (including, without limitation, absolute, collateral, and other Assignments) all or a part of its rights and/or obligations under this Inducement Agreement, the Fee Agreement, or any other Agreement related hereto or thereto, to one or more other entities which are "Related Parties" within the meaning of the Internal Revenue Code without adversely affecting the benefits to the Company or its Assignees pursuant to any such Agreement or the Act.

IN WITNESS WHEREOF, the parties hereto, each after due authorization, have executed this Inducement Agreement on the respective dates indicated below.

OCONEE COUNTY, SOUTH CAROLINA

By: _____
Joel Thrift, Chairman of County Council
Oconee County, South Carolina

ATTEST:

By: _____
Elizabeth G. Hulse, Clerk to County Council
Oconee County, South Carolina

Dated: December 16, 2014

Project Control

By: _____

Its:

Date: _____

STATE OF SOUTH CAROLINA
OCONEE COUNTY
RESOLUTION R2014-21

A RESOLUTION IN SUPPORT OF THE EFFORT TO DEEPEN CHARLESTON HARBOR

WHEREAS, Oconee County, South Carolina (the "County") and its County Council are committed to strengthening the economic vibrancy of the State of South Carolina; and,

WHEREAS, the United States Army Corps of Engineers and the South Carolina Ports Authority have diligently prepared a proposal for a project to deepen Charleston Harbor to 52 feet; and,

WHEREAS, this project is absolutely essential to South Carolina's economic future because the South Carolina port system is tied to one of every 11 jobs statewide and is the key reason for the tremendous economic growth throughout the State of South Carolina; and,

WHEREAS, a failure to deepen Charleston Harbor to accommodate post-Panamax vessels would impact the collective statewide efforts to create more jobs and improve the quality of life for our citizens; and,

WHEREAS, the U.S. Army Corps of Engineers' Draft Integrated Feasibility Report and Environment Impact Statement finds that the project can be accomplished in an environmentally-responsible manner; and,

WHEREAS, County Council desires to let the U.S. Army Corps of Engineers and others who will decide whether or not the project will move forward that Oconee County wholeheartedly endorses the project for the economic well-being of the State of South Carolina:

NOW, THEREFORE, in meeting duly assembled, the Oconee County Council hereby resolves to endorse and lend its full support for the project to deepen Charleston Harbor to 52 feet.

Should any portion of this Resolution be deemed unconstitutional or otherwise enforceable by any court of competent jurisdiction, such determination should not affect the remaining terms and provisions of this Resolution, all of which are hereby deemed separable.

All orders, resolutions and enactments of Oconee County Council inconsistent herewith are to the extent of such inconsistency only, hereby repealed, revoked and rescinded.

This Resolution shall take effect and be in full force and effect after enactment by Oconee County Council.

APPROVED AND ADOPTED this 16th day of December, 2014.

OCONEE COUNTY, SOUTH CAROLINA

By: _____
Joel Thrift, Chairman of County Council,
Oconee County, South Carolina

ATTEST:

By: _____
Elizabeth G. Hulse, Clerk to County Council
Oconee County, South Carolina

**AGENDA ITEM SUMMARY
OCONEE COUNTY, SC**

**COUNCIL MEETING DATE: December 16, 2014
COUNCIL MEETING TIME: 6:00 PM**

ITEM TITLE OR DESCRIPTION:

PRT Commission Local and State ATAX grant request of \$20,000, which includes \$5,000 for USA Triathlon Collegiate National Championships and \$15,000 to Mountain Lakes CVB as the final payment of the 2014-2015 budget. \$15,000 was withheld from original CVB allocation until the 4th Quarter ATAX payment was received from the State. The requests were approved and recommended by the PRT Commission on 11/20/14.

BACKGROUND OR HISTORY:

Request A portion of Local and State ATAX revenues received by Oconee County are made available for ATAX grants through Ordinance 2011-12. All ATAX grants are to be tourism related grants that meet the ATAX guidelines specified by local and State mandates. Grants are recommended by the PRT Commission and approved by County Council. All ATAX grant recipients are required to turn in intermediate reports every 60 days to the progress of the grant and a final report upon completion of the grant. These reports are placed in the grant folder, which is kept active by the PRT staff until the grant is considered complete.

SPECIAL CONSIDERATIONS OR CONCERNS:

None

COMPLETE THIS PORTION FOR ALL PROCUREMENT REQUESTS:

Does this request follow Procurement Ordinance #2001-15 guidelines? Yes / No (review #2001-15 on Procurement's website)
If no, explain briefly: NO-ATAX grants

STAFF RECOMMENDATION:

Approval of ATAX grant request as recommended by the PRT Commission!

FINANCIAL IMPACT:

Local ATAX balance = \$167,622

State ATAX balance = \$24,000

See spreadsheet for grant recommendations. If all grants are approved, new balances will be:

Local ATAX = \$147,622

State ATAX = \$24,000

COMPLETE THIS PORTION FOR ALL GRANT REQUESTS:

Are Matching Funds Available: Yes

If yes, who is matching and how much: See attached spreadsheet!

ATTACHMENTS

Reviewed By/ Initials:

_____ County Attorney _____ Finance _____ Grants _____ Procurement

Submitted or Prepared By:

Phil Shirley, PRT Director
Department Head/Elected Official

Approved for Submittal to Council:


Scott Moulder, County Administrator

Council has directed that they receive their agenda packages a week prior to each Council meeting; therefore, Agenda Items Summaries must be submitted to the Administrator for his review/approval no later than 12 days prior to each Council meeting. It is the Department Head / Elected Officials responsibility to ensure that all approvals are obtained prior to submission to the Administrator for inclusion on an agenda.

A calendar with due dates marked may be obtained from the Clerk to Council.

November 20,2014

Local ATAX Grants

Applicant	Funds Requested	Project Description	Amount Eligible for ATAX	PRT Commission Recommendation	State or Local ATAX
Oconee PRT	\$5,000	Host USA Triathlon Collegiate National Championship	\$5,000.00	\$5,000	Local
Oconee PRT	\$15,000	Mountain Lakes CVB FY15 final budget payment	\$15,000.00	\$15,000	Local
TOTAL	\$20,000		\$20,000	\$20,000	

PROCUREMENT - AGENDA ITEM SUMMARY
OCONEE COUNTY, SC

COUNCIL MEETING DATE: December 18, 2014

ITEM TITLE:

Title: **CHEVROLET TAHOES**

Department: **SHERIFF'S OFFICE**

Amount: **\$ 204,903.00**

FINANCIAL IMPACT:

Procurement was approved by Council in Fiscal Year 14-15 budget process

Budget: \$ 259,598

Project Cost: \$ 204,903

Balance: \$ 52,695

Finance Approval:  12/5/2014

BACKGROUND DESCRIPTION:

Sheriff's fleet vehicles necessary for fiscal year 2014-2015 operations include (7) seven 2015 Chevrolet Tahoes with the Police Pursuit package. Five (5) of the seven (7) will have a left hand spotlight option added.

The new vehicles will replace high-mileage vehicles currently used in the Sheriff's fleet. The replaced vehicles will either be used as spares, rotated to other departments, or sold on GovDeals.com. The Fleet Maintenance Director also approves this purchase.

SPECIAL CONSIDERATIONS OR CONCERNS:

Pricing for this purchase is per State Contract # 4400009456

ATTACHMENT(S):

1. State Contract
2. Pricing Spreadsheet

STAFF RECOMMENDATION:

It is the staff's recommendation that Council approve purchase of seven Chevrolet Tahoes to Love Chevrolet, of Columbia, SC, in the amount of \$204,903.00, per State Contract # 4400009456.

Submitted or Prepared By: 
Robyn Courtwright, Procurement Director

Approved for Submittal to Council: _____
T. Scott Moulder, County Administrator

Council has directed that they receive their agenda packages a week prior to each Council meeting, therefore, Agenda Items Summaries must be submitted to the Administrator for his review/approval no later than 12 days prior to each Council meeting. It is the Department Head / Elected Officials responsibility to ensure that all approvals are obtained prior to submission to the Administrator for inclusion on an agenda.

A calendar with due dates marked may be obtained from the Clerk to Council.

Sheriff's Vehicles 2014-2015 Fiscal Year			
2015 Chevy Tahoe Police Pursuit Vehicles	5	\$28,649.00	\$143,245.00
Add Spotlight (Door Mounted Left hand)	5	\$452.00	\$2,260.00
Sales Tax	5	\$300.00	\$1,500.00
Sub-total 5 with Adds			\$147,005.00
2015 Chevy Tahoe Police Pursuit Vehicles	2	\$28,649.00	\$57,298.00
No Adds			\$0.00
Sales Tax	2	\$300.00	\$600.00
Sub-total 2 with NO Adds			\$57,898.00
Grand Total			\$204,903.00

Truck, 4 x 2 Utility (SUV), Full Size, Four Door, Pursuit Package, Flex Fuel

<u>Contract Number:</u>	4400009456	<u>Contractor:</u>	Love Chevrolet Company
<u>Initial Contract Term:</u>	11/1/14 – 10/31/15	<u>Address:</u>	PO Box 8387 Columbia, SC 29202
<u>Contract Rollover Dates:</u>		<u>Vendor #:</u>	7000044959
<u>Order Cutoff Date:</u>		<u>Contact:</u>	Donna Casey
<u>Model:</u>	Chevrolet Tahoe PPV	<u>Email:</u>	governmentsales@loveauto.com
<u>Commodity Code:</u>	07180	<u>Telephone:</u>	(803) 794-9004 ext. 7
<u>Delivery:</u>	90 – 120 days ARO	<u>Fax:</u>	(803) 926-7467

BASE PRICE = \$28,649.00

* Click on the link above for an itemized listing of items included in the base price.

Optional Additions:

4 x 4 Package – Pursuit Rated \$ 3,065.00
Spot Light (Door Mounted Left Hand) \$ 452.00

Optional Deductions:

Auxiliary Power Connection – Standard State Spec Factory Standard
Auxiliary Power Outlet – Standard State Spec Factory Standard

Beth Hulse

From: Chastain, Sandra S. <SChastain@nexsenpruet.com>
Sent: Wednesday, November 26, 2014 9:33 AM
To: classadmgr@upstatetoday.com
Cc: Chikhliker, Tushar V.; Richard Blackwell; ferri.heard@us.michelin.com; Scott Maulder; Beth Hulse; tmartin@mcnair.net
Subject: Oconee County Notices of Public Hearing [IWOV-NPCOLL.FID338416]
Attachments: Notice of Public Hearing - FILOT Ordinance.DOC; Notice of Public Hearing - Oconee MCP Ordinance.DOC

Attached are two Notices of Public Hearing for publication in *The Daily Journal* on Saturday, November 29, 2014. Upon publication, please forward four (4) Affidavits of Publication to me along with your invoice for the cost of publication. Please confirm receipt and publication of these Notices of Public Hearing. Thanks.

Sandra Chastain
Paralegal
Banking and Finance
Nexsen Pruet, LLC
1230 Main Street, Suite 700
Columbia, South Carolina 29201
T: 803.540.2059 F: 803.727.1412
SChastain@nexsenpruet.com

www.nexsenpruet.com

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NOTICE OF PUBLIC HEARING
OCONEE COUNTY, SOUTH CAROLINA

NOTICE IS HEREBY GIVEN that a public hearing for the below-referenced ordinance will be held by the County Council of Oconee County, South Carolina (“Oconee County”), on Tuesday, December 16, 2014, at 6:00 p.m. or as soon thereafter as may be heard following other agenda matters, and other public hearings, in the County Council Chambers located in the County Administrative Offices, 415 South Pine Street, Walhalla, South Carolina.

The purpose of such public hearing is to receive comments regarding Ordinance No. 2014-29 authorizing (1) the execution and delivery of a Fee in Lieu of Tax and Incentive Agreement by and between Oconee County, South Carolina (the “County”) and Michelin North America, Inc., a company previously identified as Project Sarah, acting for itself, and/or one or more affiliates or other project sponsors (the “Company”), pursuant to which the county shall covenant to accept certain negotiated fees in lieu of *ad valorem* taxes with respect to the establishment and/or expansion of certain facilities in the County (collectively, the “Project”); (2) the benefits of a multi-county industrial or business park to be made available to the Company and the Project; (3) certain special source revenue credits in connection with the Project; and (4) other matters relating thereto.

At the public hearing all taxpayers and residents of Oconee County and other interested persons who appear will be given an opportunity to express their views for or against the ordinance.

OCONEE COUNTY, SOUTH CAROLINA

By: Joel Thrift, Chairman of County Council

NOTICE OF PUBLIC HEARING
OCONEE COUNTY, SOUTH CAROLINA

NOTICE IS HEREBY GIVEN that a public hearing for the below-referenced ordinance will be held by the County Council of Oconee County, South Carolina ("Oconee County"), on Tuesday, December 16, 2014, at 6:00 p.m. or as soon thereafter as may be heard following other agenda matters, and other public hearings, in the County Council Chambers located in the County Administrative Offices, 415 South Pine Street, Walhalla, South Carolina.

The purpose of such public hearing is to receive comments regarding Ordinance No. 2014-30 authorizing and approving (1) development of a joint county industrial and business park pursuant to Section 4-1-170 of the Code of Laws of South Carolina 1976, as amended, in conjunction with Pickens County (the "Park"), such Park to be, at the time of its initial development, geographically located in Oconee County and to include certain property now or to be owned and/or operated by Michelin North America, Inc., a company previously identified as Project Sarah; (2) the execution and delivery of a written park agreement with Pickens County as to the requirement of payments of fee in lieu of *ad valorem* taxes with respect to Park property and the sharing of the revenues and expenses of the Park; (3) the distribution of revenues from the Park within Oconee County; and (4) other matters related thereto.

At the public hearing all taxpayers and residents of Oconee County and other interested persons who appear will be given an opportunity to express their views for or against the ordinance.

OCONEE COUNTY, SOUTH CAROLINA

By: Joel Thrift, Chairman of County Council



Oconee County
Council Office



T. Scott Moulder
Administrator

Oconee County
Administrative Offices
115 South Pine Street
Walhalla, SC 29691

Phone: 864 718 1024
Fax: 864 718 1024

Email:
info@oconee-sc.gov

Paul Corbell
Vice Chairman
District I

Wayne McCell
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Archie Barron
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Joel Trinf
District IV
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Reginald T. Dexter
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.....LEGAL AD.....

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The Oconee County Council will hold a Public Hearing for Ordinance 2014-28 "AN ORDINANCE AMENDING CHAPTER 32 AND CHAPTER 38 OF THE OCONEE COUNTY CODE OF ORDINANCES, IN CERTAIN LIMITED REGARDS AND PARTICULARS ONLY; REGARDING HEIGHT RESTRICTIONS FOR STRUCTURES LOCATED IN ZONED INDUSTRIAL DISTRICTS AND FOR STRUCTURES LOCATED IN AREAS DESIGNATED BY OCONEE COUNTY AS COUNTY INDUSTRIAL PARKS; AND OTHER MATTERS RELATED THERETO" and Ordinance 2014-31 "AN ORDINANCE TO ALLOW AN EXISTING MULTI-COUNTY INDUSTRIAL PARK AGREEMENT BETWEEN OCONEE COUNTY, SOUTH CAROLINA AND WILLIAMSBURG COUNTY, SOUTH CAROLINA TO EXPIRE; TO DEVELOP A MULTI-COUNTY INDUSTRIAL PARK IN CONJUNCTION WITH PICKENS COUNTY, SOUTH CAROLINA, ESTABLISHED PURSUANT TO THE SOUTH CAROLINA CODE OF LAWS OF 1976, SECTION 4-1-170, ET SEQUITUR, AS AMENDED; TO PROVIDE FOR A WRITTEN AGREEMENT WITH PICKENS COUNTY REGARDING THE MULTI-COUNTY PARK JOINTLY DEVELOPED WITH PICKENS COUNTY; TO RELOCATE PROPERTY TO THE MULTI-COUNTY PARK JOINTLY DEVELOPED WITH PICKENS COUNTY; AND OTHER RELATED MATTERS RELATED THERETO." on Tuesday, December 16, 2014 at 6:00 p.m. in Council Chambers, Oconee County Administrative Offices, 115, S. Pine Street, Walhalla, SC.



PUBLISHER'S AFFIDAVIT

**STATE OF SOUTH CAROLINA
COUNTY OF OCONEE**

OCONEE COUNTY COUNCIL

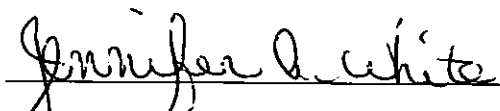
IN RE: Public Hearing - 2014-28, 31 12-16-2014

BEFORE ME the undersigned, a Notary Public for the State and County above named, This day personally came before me, Hal Welch, who being first duly sworn according to law, says that he is the General Manager of **THE JOURNAL**, a newspaper published Tuesday through Saturday in Seneca, SC and distributed in **Oconee County, Pickens County** and the Pendleton area of **Anderson County** and the notice (of which the annexed is a true copy) was inserted in said papers on 12/04/2014 and the rate charged therefore is not in excess of the regular rates charged private individuals for similar insertions.

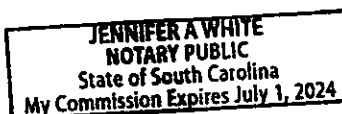


Hal Welch
General Manager

Subscribed and sworn to before me this
12/04/2014



Jennifer A. White
Notary Public
State of South Carolina
My Commission Expires July 1, 2024



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■ LEGAL NOTICES

LEGALS

now for an Order of Reference in this case to the Master in Equity or Special Referee for this County which Order shall, pursuant to Rule 53 of the South Carolina Rules of Civil Procedure, specifically provide that the said Master-in-Equity or Special Referee is authorized and empowered to order a final judgment in this case with appeal only to the South Carolina Court of Appeals pursuant to Rule 253(c)(1) of the SCAR, effective June 1, 1996. YOU WILL ALSO TAKE NOTICE that under the provisions of the South Carolina Code Section 29-9-100, effective June 18, 1993, any collateral assignments of rents, not listed in the attached mortgage, perfected and Plaintiff hereby gives notice that all rents shall be payable directly to it by delivery to its undesignated attorneys from the date of default. In the alternative, David R. Price, Jr., P.A. will move before the judge of this Circuit on the 10th day of service listed, or on any other thereafter of counsel may be heard, for an Order compelling the assignment of rents, if any, and compelling payment of all rents covered by such assignment directly to the Plaintiff, which motion is to be heard upon the original Note and Mortgage and the Complaint attached hereto. Respectfully Submitted,

David R. Price, Jr. (S.C. Bar # 78149)
DAVID R. PRICE, JR., P.A.
318 West Stone Avenue (S8028)
Post Office Box 2546
Greenville, South Carolina 29602-2546
(864) 271-2636 office
(864) 271-6617 fax
David@GreenvilleLegal.com
Attorney for Plaintiff
Greenville, South Carolina
www.drpaw.com

The Oconee County Council will hold a Public Hearing to Ordinance 2014-21, AN ORDINANCE AMENDING CHAPTER 32 AND CHAPTER 33 OF THE OCONEE COUNTY

■ LEGAL NOTICES

LEGALS

CODE OF ORDINANCES, IN CERTAIN LIMITED REGARDS AND PARTICULARS ONLY REGARDING HEIGHT RESTRICTIONS FOR STRUCTURES LOCATED IN ZONED INDUSTRIAL DISTRICTS AND FOR STRUCTURES LOCATED IN AREAS DESIGNATED BY OCONEE COUNTY AS COUNTY INDUSTRIAL PARKS; AND OTHER MATTERS RELATED THERETO and Ordinance 2014-31 AN ORDINANCE TO ALLOW AN EXISTING MULTI-COUNTY INDUSTRIAL PARK AGREEMENT BETWEEN OCONEE COUNTY SOUTH CAROLINA AND WILLIAMSBURG COUNTY SOUTH CAROLINA TO EXPIRE; TO DEVELOP A MULTI-COUNTY INDUSTRIAL PARK IN CONJUNCTION WITH PICKENS COUNTY, SOUTH CAROLINA ESTABLISHED PURSUANT TO THE SOUTH CAROLINA CODE OF LAWS OF 1976 SECTION 41-178, ET SEQUITUR AS AMENDED; TO PROVIDE FOR A WRITTEN AGREEMENT WITH PICKENS COUNTY REGARDING THE MULTI-COUNTY PARK JOINTLY DEVELOPED WITH PICKENS COUNTY; TO RELOCATE PROPERTY TO THE MULTI-COUNTY PARK JOINTLY DEVELOPED WITH PICKENS COUNTY; AND OTHER RELATED MATTERS RELATED THERETO on Tuesday, December 16, 2014 at 5:00 p.m. in Council Chambers, Oconee County Administrative Office, 415 S. Pine Street, Wadega, SC.

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Beth Hulse

From: Beth Hulse
Sent: Wednesday, December 03, 2014 10:05 AM
To: Beth Hulse; classadmgr@upstatetoday.com
Subject: PH 2014-28, 31 12/16/14
Attachments: 120314 - PH 2014-28, 31 12-16-2014.doc

Please run at your earliest convenience.
Thanks.

Elizabeth G. Hulse, CCC
Clerk to Council
Oconee County Administrative Offices
415 South Pine Street
Walhalla, SC 29691
864-718-1023
864-718-1024 [fax]
bhulse@oconeesc.com
www.oconeesc.com/council

Beth Hulse

From: Beth Hulse
Sent: Wednesday, December 03, 2014 10:06 AM
To: Beth Hulse; Carlos Galarza; Chad Dorsett; DJM News Editor; Fox News; Greenville News (localnews@greenvillenews.com); Kevin; Norman Cannada (ncannada@upstatetoday.com); Ray Chandler; Steven Bradley (sbradley@upstatetoday.com); Westminster News / Keowee Courier (westnews@bellsouth.net); WGOG (dickmangrum@wgog.com); WSPA TV - Channel 7 (assignmentdesk@wspa.com); WYFF 4 News
Subject: Public Hearings: 2011-28, 2014-31

The Oconee County Council will hold a Public Hearing for Ordinance 2014-28 “AN ORDINANCE AMENDING CHAPTER 32 AND CHAPTER 38 OF THE OCONEE COUNTY CODE OF ORDINANCES, IN CERTAIN LIMITED REGARDS AND PARTICULARS ONLY, REGARDING HEIGHT RESTRICTIONS FOR STRUCTURES LOCATED IN ZONED INDUSTRIAL DISTRICTS AND FOR STRUCTURES LOCATED IN AREAS DESIGNATED BY OCONEE COUNTY AS COUNTY INDUSTRIAL PARKS; AND OTHER MATTERS RELATED THERETO” and Ordinance 2014-31 “AN ORDINANCE TO ALLOW AN EXISTING MULTI-COUNTY INDUSTRIAL PARK AGREEMENT BETWEEN OCONEE COUNTY, SOUTH CAROLINA AND WILLIAMSBURG COUNTY, SOUTH CAROLINA TO EXPIRE; TO DEVELOP A MULTI-COUNTY INDUSTRIAL PARK IN CONJUNCTION WITH PICKENS COUNTY, SOUTH CAROLINA, ESTABLISHED PURSUANT TO THE SOUTH CAROLINA CODE OF LAWS OF 1976, SECTION 4-1-170, ET SEQUITUR, AS AMENDED; TO PROVIDE FOR A WRITTEN AGREEMENT WITH PICKENS COUNTY REGARDING THE MULTI-COUNTY PARK JOINTLY DEVELOPED WITH PICKENS COUNTY; TO RELOCATE PROPERTY TO THE MULTI-COUNTY PARK JOINTLY DEVELOPED WITH PICKENS COUNTY; AND OTHER RELATED MATTERS RELATED THERETO.” on Tuesday, December 16, 2014 at 6:00 p.m. in Council Chambers, Oconee County Administrative Offices, 415. S. Pine Street, Walhalla, SC.

Elizabeth G. Hulse, CCC
Clerk to Council
Oconee County Administrative Offices
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Walhalla, SC 29691
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bhulse@oconeesc.com
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