

**ORDINANCE**

AUTHORISING THE EXECUTION AND DELIVERY OF A FEE-IN-LIEU OF TAX AGREEMENT BY AND BETWEEN CHARLESTON COUNTY AND HUBNER MANUFACTURING CORPORATION, WHEREBY CHARLESTON COUNTY WILL ENTER INTO A FEE-IN-LIEU OF TAXES ARRANGEMENT WITH HUBNER MANUFACTURING CORPORATION; PROVIDING FOR PAYMENT BY HUBNER MANUFACTURING CORPORATION OF CERTAIN FEES IN LIEU OF *AD VALOREM* TAXES; PROVIDING FOR CERTAIN SPECIAL SOURCE REVENUE OR INFRASTRUCTURE CREDITS; PROVIDING FOR THE ALLOCATION OF FEE-IN-LIEU OF TAXES PAID BY HUBNER MANUFACTURING CORPORATION, UNDER THE AGREEMENT FOR ESTABLISHMENT OF MULTI-COUNTY INDUSTRIAL/BUSINESS PARK; AND OTHER MATTERS RELATING THERETO.

WHEREAS, Charleston County, South Carolina (the “County”), acting by and through its County Council (the “County Council”) is authorised and empowered under and pursuant to the provisions of Title 12, Chapter 44 of the Code of Laws of South Carolina 1976, as amended (the “FILOT Act”), to designate real and tangible personal property as “economic development property” and to enter into an arrangement which provides for payment in lieu of taxes (“Negotiated FILOT Payments”) for a project qualifying under the FILOT Act; and

WHEREAS, the County, acting by and through the County Council, is further authorised and empowered under and pursuant to the provisions of Title 4, Chapter 1 of the Code of Laws of South Carolina 1976, as amended (the “MCIP Act”), to provide for payments in lieu of taxes (“PILOT Payments”) with respect to property located in a multi-county business or industrial park created under the MCIP Act and to create, in conjunction with one or more other counties, a multi-county park in order to afford certain enhanced tax credits to such investors; and

WHEREAS, Hubner Manufacturing Corporation, a South Carolina corporation (the “Company”), intends to expand and upgrade its existing rubber and plastic production facilities in Charleston County (the “Existing Facility”), all of which will constitute a “project” within the meaning of the FILOT Act (the “Project”); the Project is to be located in Wando Business Park in Mt. Pleasant, South Carolina (the “Project Site”); and

WHEREAS, the Project when completed will represent an anticipated “investment” (as defined in the FILOT Act) (the “Investment”) by the Company in the aggregate not less than \$3,676,000 in new machinery and equipment to be located at the Project Site and additional real property of approximately \$5,510,000; and

WHEREAS, the County has been advised that upon the completion of the Project, the Project is anticipated to employ an additional approximately 50 full-time employees, in addition to the current 83 employees at the Existing Facility; and

WHEREAS, the County, with the consent of the Town of Mount Pleasant, is authorised to include the site of the Project Site within a multi-county industrial and business park pursuant

to the MCIP Act and to provide special source revenue or infrastructure credits pursuant to Section 4-1-175 of the Code; and

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

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

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

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

Section 1. Evaluation of the Project. County Council have evaluated the Project on the following criteria based upon the advice and assistance of the South Carolina Department of Revenue and the Board of Economic Advisors:

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

Section 2. Findings by County Council. Based upon information provided by and representations of the Company, County Council's investigation of the Project, including the criteria described in Section 1 above, and the advice and assistance of the South Carolina Department of Revenue and the Board of Economic Advisors, as necessary, County Council hereby find that:

- (a) the Project constitutes a "project" as that term is defined in the FILOT Act;
- (b) the Project will serve the purposes of the FILOT Act;
- (c) the Investment by the Company in the Project is anticipated to be approximately \$9,200,000, all to be invested within the "investment period" (as defined in the FILOT Act); and the Company will, upon the completion of the Project, employ an additional approximately 50 full-time employees, in addition to the current 83 employees at the Existing Facility, as is provided in the Fee-in-Lieu of Tax Agreement (the "FILOT Agreement") between the County and the Company;
- (d) the Project will be located entirely within Charleston County and within the

incorporated limits of the Town of Mount Pleasant;

- (e) the Project is anticipated to benefit the general public welfare of Charleston County and the Town of Mount Pleasant by providing services, employment, recreation, or other public benefits not otherwise adequately provided locally;
- (f) the Project gives rise to neither a pecuniary liability of the County or the Town of Mount Pleasant, nor a charge against either public body's general credit or taxing power;
- (g) the purposes to be accomplished by the Project are proper governmental and public purposes;
- (h) the inducement of the location of the Project is of paramount importance; and
- (i) the benefits of the Project to the public are greater than the cost to the public.

Section 3. Fee-in-Lieu of Taxes Arrangement. Pursuant to the authority of the FILOT Act, the Project is designated as "economic development property" under the FILOT Act and there is hereby authorized a fee-in-lieu of taxes arrangement with the Company which will provide Negotiated FILOT Payments to be made with respect to the Project based upon a 6% assessment ratio with the millage rate which is the lower of (a) the cumulative property tax millage rate levied on behalf of all taxing entities within which the Project is located on June 30 of the year preceding the calendar year in which the FILOT Agreement is executed or (b) the cumulative property tax millage rate levied on behalf of all taxing entities within which the Project is located on June 30 of the calendar year in which the FILOT Agreement is executed, such rate to be fixed for the entire 30-year term of the fee-in-lieu of taxes, all as more fully set forth in the FILOT Agreement.

Section 4. Multi-County Park Incentive.

(A) By separate ordinance (the "MCIP Ordinance") of the County Council, the County, in cooperation with Colleton County (the "Partner County") and with consent of the Colleton County, will designate the Project Site as a multi-county business park pursuant to Article VIII, Section 13 of the South Carolina Constitution, the MCIP Act, and the terms of the Agreement for the Establishment of a Multi-County Industrial/Business Park (the "MCIP Agreement").

(B) The County will provide for 5 years that the annual allocation of the PILOT Payments generated by the Project within the boundaries of the Multi-County Park (the "MCP FILOT") will be distributed (after distribution of a portion of the PILOT Payments to the Partner County in accordance with the MCIP Agreement) as follows:

- (i) To the County, for providing the SSRCs (as defined in Section 5 hereof), an amount equal to the annual SSRC provided in Section 5 of this

Ordinance and in the FILOT Agreement; and

- (ii) Except as may otherwise be provided by ordinance of the County Council from time to time, the balance of the MCP FILOT to the County and the other overlapping taxing entities, in the same relative percentages as the relative millage rates imposed by such taxing entities for the applicable tax year.

Section 5. Special Source Revenue Credits.

(A) After the identification of qualifying public infrastructure located solely within Charleston County and the costs thereof to the satisfaction of the County, the County will provide to the Company an infrastructure or special source revenue incentive (the “SSRC”) as follows: an annual SSRC in the amount of \$300,000 against the Negotiated FILOT payments due with respect to the Project in property tax years one (1) through five (5) of the term of the FILOT Agreement.

(B) The documents providing for the SSRC shall include customary terms providing: (i) for the recovery by the County, on a pro rata basis, of certain moneys if certain thresholds are not achieved (a “clawback” provision); (ii) that the Company will pay the County’s administrative expenses associated with the approval and administration of the SSRC; (iii) that under certain terms and conditions, the County will have access to certain information of the Company; and (iv) that the Company will indemnify and hold the County harmless for claims, losses, and damages with respect to the Project.

Section 6. Execution of the Fee Agreement. The form, terms, and provisions of the FILOT Agreement presented to this meeting and filed with the Clerk of the County Council be and hereby are approved, and all of the terms, provisions, and conditions thereof are hereby incorporated herein by reference as if such FILOT Agreement were set out in this Ordinance in its entirety. The Chairman of the County Council and the Clerk of the County Council be and they are hereby authorised and directed to execute and deliver the FILOT Agreement in the name and on behalf of the County, and thereupon to cause the FILOT Agreement to be delivered to the Company. The FILOT Agreement is to be in substantially the form now before this meeting of County Council at which this Ordinance received third reading and hereby approved, or with any changes therein as shall not materially adversely affect the rights of the County thereunder, upon the advice of legal counsel, by the officials of the County executing the same, their execution thereof to constitute conclusive evidence of their approval of all changes therein from the form of FILOT Agreement now before this meeting.

Section 7. Miscellaneous.

(a) The Chairman and all other appropriate officials of the County are hereby authorised to execute, deliver, and receive any other agreements and documents as may be required by the County in order to carry out, give effect to, and consummate the transactions authorised by this Ordinance.

(b) This Ordinance shall be construed and interpreted in accordance with the laws of the State of South Carolina.

(c) This Ordinance shall become effective immediately upon approval following third reading by the County Council.

(d) The provisions of this Ordinance are hereby declared to be severable and if any section, phrase, or provision shall for any reason be declared by a court of competent jurisdiction to be invalid or unenforceable, that declaration shall not affect the validity of the remainder of the sections, phrases, and provisions hereunder.

(e) All ordinances, resolutions, and parts thereof in conflict herewith are, to the extent of the conflict, hereby repealed.

**CHARLESTON COUNTY, SOUTH CAROLINA**

By: \_\_\_\_\_  
Chairman, County Council of  
Charleston County, South Carolina

ATTEST:

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Clerk to County Council  
Charleston County, South Carolina

First Reading: December 9, 2014  
Second Reading: December 18, 2014  
Public Hearing: December 18, 2014  
Third Reading: January 6, 2015