

**AN ORDINANCE**

AUTHORIZING THE EXECUTION AND DELIVERY OF A FEE-IN-LIEU OF TAX AGREEMENT BY AND BETWEEN CHARLESTON COUNTY AND MAHLE BEHR CHARLESTON INC. (ALSO KNOWN TO THE COUNTY AS "PROJECT POLAR BEAR,") WHEREBY CHARLESTON COUNTY WILL ENTER INTO A FEE-IN-LIEU OF TAXES ARRANGEMENT WITH MAHLE BEHR CHARLESTON INC.; PROVIDING FOR PAYMENT BY MAHLE BEHR CHARLESTON INC. OF CERTAIN FEES IN LIEU OF *AD VALOREM* TAXES; AND OTHER MATTERS RELATING THERETO.

WHEREAS, Charleston 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 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 authorized and empowered under and pursuant to the provisions of Title 4, Chapter 1 of the Code (the "MCIP Act"), to provide for payments in lieu of taxes ("PILOT Payments") with respect to property situated or having a situs in a multi-county business or industrial park created under the MCIP Act, and to provide certain enhanced tax credits to such investors; and

WHEREAS, Mahle Behr Charleston, Inc., an industry known to the County as "Project Polar Bear" (the "Company"), intends to expand its automotive components manufacturing facility (the "Project") located in the City of North Charleston, Charleston County (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 of not less than \$36,051,000, of which \$5,800,000 will be in real property improvements and \$30,251,000 will be in new machinery and equipment to be located at the Project Site, in addition to the more than \$60,000,000 capital investment made by the Company in its existing facility in Charleston County since 1993; and

WHEREAS, the County has been advised that upon the completion of the Project, the Project is anticipated to employ an additional approximately 115 full-time employees, in addition to the current 400 employees; and

WHEREAS, the County has previously authorized inclusion of the site of the Project Site within a multi-county industrial and business park pursuant to the MCIP Act; 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 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 that the County Council provide final approval for qualifying the Project under the FILOT 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 will be approximately \$36,051,000, all to be invested within the "investment period" (as defined in the FILOT Act); and the Company will employ 115 full-time employees at the Project within two years of the completion of the Project;
- (d) the Project will be located entirely within Charleston County and is anticipated to be located in the Park created pursuant to the MCIP Act;
- (e) the Project is anticipated to benefit the general welfare of Charleston County by providing services, employment, or other public benefits not otherwise adequately provided locally;
- (f) the Project gives rise to neither a pecuniary liability of the County nor a charge against its 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 20-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. By separate ordinance of the County Council, the County, in cooperation with Colleton County, has designated 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, dated as of September 1, 1995, as amended.

Section 5. Execution of the FILOT Agreement. The form, terms, and provisions of the FILOT Agreement presented to the meeting at which this Ordinance received third reading 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 authorized 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 before the 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 presented to said meeting.

Section 6. Miscellaneous.

(a) The Chairman and all other appropriate officials of the County are hereby authorized 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 authorized 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:

---

Clerk to County Council  
Charleston County, South Carolina

First Reading: July 18, 2017  
Second Reading: September 12, 2017  
Public Hearing: September 26, 2017  
Third Reading: September 26, 2017