

AN ORDINANCE AUTHORIZING AND PROVIDING FOR THE ISSUANCE OF NOT TO EXCEED \$38,000,000 CHARLESTON COUNTY, SOUTH CAROLINA, TAXABLE SPECIAL SOURCE REVENUE BONDS; PRESCRIBING THE FORM OF BONDS; LIMITING THE PAYMENT OF THE BONDS SOLELY FROM CERTAIN REVENUES DERIVED FROM THE PAYMENT OF FEES IN LIEU OF TAXES FROM A DESIGNATED MULTI-COUNTY PARK LOCATED IN CHARLESTON COUNTY AND PLEDGING CERTAIN REVENUES OF SUCH PAYMENT; CREATING CERTAIN FUNDS AND PROVIDING FOR PAYMENTS INTO SUCH FUNDS; AND MAKING OTHER COVENANTS AND AGREEMENTS IN CONNECTION WITH THE FOREGOING; THE ENTERING INTO OF CERTAIN COVENANTS AND AGREEMENTS; AND THE EXECUTION AND DELIVERY OF CERTAIN INSTRUMENTS RELATING TO THE ISSUANCE OF THE AFORESAID BONDS, INCLUDING A SECOND SUPPLEMENTAL TRUST INDENTURE AND CERTAIN OTHER MATTERS RELATING THERETO.

WHEREAS, the County Council of Charleston County, South Carolina (the "Council"), the governing body of Charleston County, South Carolina (the "County"), is authorized and empowered under and pursuant to the provisions of Title 4, Chapter 1 and Section 4-29-68 of the Code of Laws of South Carolina 1976, as amended (the "Act"), to provide for the issuance of special source revenue bonds by the County payable solely from revenues derived from payments in lieu of taxes ("FILOT Payments") pursuant to Section 13 of Article VIII of the South Carolina Constitution for the purpose of paying the cost of designing, acquiring, constructing, improving, or expanding (i) the infrastructure serving Charleston County or any project, (ii) for improved or unimproved real estate and personal property, including machinery and equipment, used in the operation of a manufacturing or commercial enterprise, (iii) aircraft which qualifies as a project pursuant to Section 12-44-30(16) of the Code of Laws of South Carolina 1976, as amended, or (iv) such other purposes as may be permitted, from time to time, by the Act, which property is determined by the Council to enhance economic development of Charleston County (each, an "SSRB Project"); and

WHEREAS, the County heretofore created a multicounty park (the "Multi-County Park") pursuant to the Agreement for Development for a Joint County Industrial Park, effective as of September 1, 1995 (the "Multi-County Park Agreement"), between the County and Colleton County, South Carolina, in accordance with Section 13 of Article VIII of the South Carolina Constitution pursuant to which the property owners located in the Multi-County Park pay FILOT Payments with respect to such properties; and

WHEREAS, the County expects to issue and sell from time to time special source revenue bonds (the "Bonds"), in one or more series as provided herein, secured by and payable solely from the Pledged FILOT Payments (as defined in the below) for the payment of the costs of designing, acquiring, constructing, and improving SSRB Projects, including the payment of capitalised interest on the Bonds and BANs (as defined below) authorized hereby, for the funding of any necessary reserve or other funds, and for the payment of costs of issuance with respect to the Bonds and BANs, all as set forth herein and permitted by the Act; and

WHEREAS, in order to induce Mercedes-Benz Vans, LLC ("Mercedes"), to expand its manufacturing operations in Charleston County by acquiring, constructing, and installing a manufacturing facility for the Sprinter Vans and related vehicles (and related activities), directly or through related companies (the "Project"), resulting in a significant expansion of its operations in Charleston County by investing an additional not less than \$495,000,000 and creating an additional not less than 1,300 new jobs in Charleston County, the Council approved a First

Amended and Restated Fee-in-lieu of Tax and Incentive Agreement (the "FILOT Agreement") and determined to fund the cost of designing, acquiring, constructing, improving, or expanding the infrastructure serving Charleston County and improved or unimproved real estate used in the operation of a manufacturing enterprise, or such other purposes as may be permitted from time to time, by the Act, all of which will constitute "infrastructure" within the meaning of the Act; and

WHEREAS, the Council determined that the Project is for the benefit of the economic welfare and improvement of the people who are residents of Charleston County and for the benefit of the economic welfare and economic improvement of Charleston County and its citizens; and

WHEREAS, the Council determined that it is in the best interest of the citizens of Charleston County to issue taxable special source revenue bonds to pay a portion of the costs of the Project, such taxable special source revenue bonds (the "Series 2017 Bonds") to be payable from FILOT Payments received by the County from Mercedes pursuant to the FILOT Agreement and further from the FILOT Revenues received under the Multi-County Park Agreement (the "Pledged FILOT Payments"); and

WHEREAS, pending the issuance of Series 2017 Bonds, the County is authorized to issue bond anticipation notes (the "BANs") in accordance with the procedures set forth in Section 4-29-68(A)(10) and Title 11, Chapter 17 of the Code of Laws of South Carolina 1976, as amended (collectively, the "Note Act"); and

WHEREAS, the Council has hereby determined that the estimated amount necessary to finance that portion of the cost of the Project to be defrayed by the County and reserves and expenses incidental thereto requires that the Series 2017 Bonds be issued in the aggregate principal amount of not to exceed \$38,000,000; and

WHEREAS, the Series 2017 Bonds be (i) limited obligations of the County, payable from the Pledged FILOT Payments; Daimler North America Corporation will guarantee to the County payment by Mercedes of portions of the annual FILOT Payments in amounts attributable to debt service on the Series 2017 Bonds or provide the County with Alternative Security (as provided in the FILOT Agreement) for such purpose; and (ii) will be secured on parity with the pledge of the Pledged FILOT Payments securing the County's outstanding Special Source Revenue Bonds, Series 2013, issued pursuant to the terms of the Indenture of Trust (the "Indenture") between the County and Wells Fargo Bank, National Association (the "Trustee"); and

WHEREAS, the Council hereby determine to issue the Series 2017 Bonds in accordance with the terms set forth in the Indenture and in a Second Supplemental Trust Indenture (the "Second Supplemental Trust Indenture") to be entered into by the County and the Trustee;

NOW, THEREFORE, BE IT ORDAINED by the County Council of Charleston County, South Carolina, as follows:

Section 1. Authority to Issue Series 2017 Bonds. (a) Pursuant to the authority of the Act, there shall be issued (subject to the provisions of Section 2 hereof) Taxable Special Source Revenue Bonds of the County in one or more series having a series designation corresponding to the calendar year in which they are issued, in the aggregate principal amount of not to exceed Thirty-Eight Million Dollars (\$38,000,000.00) in order (a) to provide funds to pay a portion of the

costs of the design acquisition, and construction of the Project, including such real property components of and improvements to the Project as may have already been acquired, constructed, or completed, (b) to pay capitalized interest on the Series 2017 Bonds (for a period of not to extend beyond the date that is three years from the date of issuance of the Series 2017 Bonds), (c) to pay costs of issuance of the Series 2017 Bonds (including the provision of credit enhancement for the Series 2017 Bonds), (d) all other expenses, premiums, commissions, and expenses which are necessary or advantageous in connection with the authorization, sale, and issuance of the Series 2017 Bonds, and (e) to fund or satisfy any necessary reserve fund requirements with respect to the Series 2017 Bonds.

(b) The Series 2017 Bonds shall be dated the date of their initial issuance and shall be issued as fully registered bonds. Principal of, redemption premium, if any, and interest on the Series 2017 Bonds shall be payable upon the terms, at the places, and on the dates and at the rates set forth in the Indenture and the Second Supplemental Indenture.

(c) The Council hereby delegate to the Chairman of the Council, upon the advice of the County's financial advisor and bond counsel, the authority to approve the terms of the Series 2017 Bonds subject to the following parameters:

(i) The true interest cost on the Series 2017 Bonds may not exceed 4.25% per annum.

(ii) The principal amount of the Series 2017 Bonds may not exceed \$38,000,000.

(iii) The final maturity of the Series 2017 Bonds may not be later than December 1, 2038.

The parameters set forth above may be modified prior to the issuance of the Series 2017 Bonds by resolution duly adopted by the Council.

(d) The Series 2017 Bonds and the assignment provisions pertaining thereto shall be in substantially the form set forth in the Second Supplemental Indenture, with such necessary or appropriate variations, omissions, and insertions as are incidental to the series, numbers, denominations, maturities, interest rate or rates, redemption provisions, the purpose of issuance, and other details thereof or as are otherwise permitted or required by law or by the Indenture and the Second Supplemental Indenture.

(e) The Series 2017 Bonds shall be subject to optional or mandatory redemption prior to maturity, upon the terms and conditions as set forth in the Second Supplemental Indenture.

Section 2. Sale of Series 2017 Bonds. (a) The Series 2017 Bonds shall be sold at a negotiated sale to Wells Fargo Bank, National Association (the "Underwriter"), upon the advice of the County's financial advisor, upon terms and conditions as set forth in this Ordinance and as is determined to be most advantageous.

(b) The Chairman of the Council is hereby authorized and directed to execute and deliver the Series 2017 Bonds to the Underwriter in accordance with the terms of the bond purchase agreement or agreements to be entered into with the Underwriter (collectively, the "Purchase Contract"), as approved by the Chairman; provided however, that the Series 2017 Bonds shall not be sold at a price of less than 99% of the par amount thereof unless otherwise approved by resolution adopted by the Council.

(c) The Council hereby agree to and authorize the entering into by the County of the Purchase Contract with the Underwriter for the purchase of the Series 2017 Bonds, which shall include terms which are fair and reasonable and in the best interest of the County in the discretion of the Chairman upon the advice of bond counsel; and that the Series 2017 Bonds shall be sold to the Underwriter upon the terms and conditions set forth in the Purchase Contract and upon the basis of the representations therein set forth. The Council hereby authorize and direct the Chairman to execute the Purchase Contract, in such form as he shall approve upon the advice of bond counsel, and deliver it to the Underwriter.

Section 3. Series 2017 Bonds are Limited Obligations of the County. The Series 2017 Bonds shall be limited obligations of the County payable by the County solely from, and secured by a pledge of, the FILOT Payments as provided in the Indenture and the Second Supplemental Indenture. The Series 2017 Bonds are not secured by, or in any way entitled to, a pledge of the full faith, credit, or taxing power of the County. The Series 2017 Bonds do not and shall never constitute an indebtedness of the County within the meaning of any State constitutional provision or statutory limitation but are payable solely from a special source that does not include revenues from any tax or license. The Series 2017 Bonds shall never constitute or give rise to a pecuniary liability of the County or a charge against its general credit or taxing power. Such limitations shall be plainly stated on the face of the Series 2017 Bonds.

Section 4. Budgetary Appropriation. In adopting the budget for each Fiscal Year, the Council shall follow its established practice of appropriating debt service payments on the Series 2017 Bonds for such Fiscal Year to be paid from the receipt of FILOT Payments during such Fiscal Year. If, during the course of that Fiscal Year, the County does not receive or anticipate to receive Pledged FILOT Payments sufficient to satisfy the requirements to pay debt service on the Series 2017 Bonds in such Fiscal Year, the County Administrator shall request and the Council shall, subject to the provisions of the following sentence, make provision through a budgetary directive to apply other available moneys to satisfy the appropriation for the payment of debt service on the Series 2017 Bonds, with such moneys being deemed Revenues within the meaning of the Indenture. Notwithstanding the preceding sentence, in adopting its general operating budget or supplemental budget, the Council may, in its sole discretion, determine (a "Determination of Nonappropriation") not to make the budgetary appropriations described in the preceding sentence, and such Determination of Nonappropriation shall not constitute an Event of Default under the Indenture, nor shall the County have any obligation to make such payment.

Section 5. Execution of Series 2017 Bonds. The Series 2017 Bonds shall be executed in the name of the County with the manual or facsimile signature of the Chairman of the Council and shall be attested by the manual or facsimile signature of the Clerk to the Council and shall have the seal of the County impressed or imprinted thereon. In case the officers whose signature shall appear on the Series 2017 Bonds shall cease to be such officers before the delivery of the Series 2017 Bonds, such signatures shall nevertheless be valid and sufficient for all purposes, the same as if such officers had remained in office until delivery.

Section 6. Approval of Second Supplemental Indenture. The form of the Second Supplemental Indenture, as submitted to the meeting at which this Ordinance received third reading and made a part of this Ordinance as though set forth in full herein, has been approved by the Council pursuant to this Ordinance. The Chairman of the Council is hereby authorized and directed to execute and deliver the Second Supplemental Indenture with such changes, insertions, and omissions as do not impose liability upon the County and as may be approved by the Chairman, with the advice of counsel, said execution being conclusive evidence of such

approval; and the Clerk of the Council is hereby authorized and directed to affix the corporate seal of the County to the Second Supplemental Indenture and to attest the same.

Section 7. Approval of Other Documents, Certificates, Etc. (a) The Chairman of the Council and the Clerk of the Council, the County Administrator, and any other proper officer of the County, be and each of them is hereby authorized and directed to execute and deliver any and all documents and instruments and to do and to cause to be done any and all acts and things necessary or proper for carrying out the transactions contemplated by this Ordinance.

(b) The Council hereby authorize the preparation of a Preliminary Official Statement and Official Statement of the County relating to each series of the Series 2017 Bonds and the distribution thereof in connection with the sale of the Series 2017 Bonds, and hereby delegate to the Chairman the power to deem it final within the meaning of S.E.C. Rule 15(c)(2)-12; the Chairman is hereby authorized and directed to execute copies of the Official Statement and deliver them to the Underwriter, which execution and delivery shall be conclusive evidence of the approval of any modifications thereto; and the Council hereby authorize the use of the Official Statement and the information contained therein in connection with the public offering and sale of the Series 2017 Bonds by the Underwriter.

Section 8. Approval of Findings Made in Petition. The Council hereby reaffirms and ratifies each of the findings of fact made by the County in the Petition submitted to the State Fiscal Accountability Authority with respect to the Series 2017 Bonds. The Council further find, determine, and declare that:

(a) The Project to be financed in part with the Series 2017 Bonds will constitute infrastructure that enhances the economic development of Charleston County and will subserve the purposes of the Act;

(b) The Project, and each component thereof, is anticipated to benefit the general public welfare of Charleston County by providing services, employment, and other public benefits not otherwise provided locally;

(c) By inducing MBV to make the investment in the Project, it is expected to result in 1,300 additional full-time jobs and a capital investment of \$495,000,000 in Charleston County;

(d) Neither the Project, the Series 2017 Bonds, nor any documents or agreements entered into by the County in connection therewith, will constitute or give rise to a pecuniary liability of the County or a charge against the general credit or taxing power of the County;

(e) Adequate provision will be made in the Indenture for the payment of principal of and interest on the Series 2017 Bonds and any necessary reserves therefor and for the operation, repair, and maintenance of the Project, including all proper insurance with respect thereto from funds pledged or made available therefor;

(f) There is a need for the Project in the area in which it is to be located in Charleston County; and

(g) The public facilities, including utilities and public services necessary for the Project, will be made available.

(h) The Pledged FILOT Payments are in an amount sufficient for the payment of principal and interest on the Series 2017 Bonds.

(i) The Bond Ordinance, the Indenture, and the Second Supplemental Indenture contain no provisions imposing an indebtedness on the County within the meaning of any State constitutional provision or statutory limitation and shall never constitute nor give rise to a pecuniary liability of the County or a charge against its general credit or taxing powers.

(j) The Bond Ordinance, the Indenture, and the Second Supplemental Indenture contain provisions whereby the Pledged FILOT Payments are pledged and assigned to the Trustee for the benefit of the holders of the Series 2017 Bonds.

(k) The Bond Ordinance, the Indenture, and the Second Supplemental Indenture contain covenants providing for payments in amounts (a) sufficient to pay principal and interest on the Series 2017 Bonds, (b) to build up and maintain any reserves deemed by the Council to be advisable, and (c) to pay the costs of maintenance and insurance for the Project, all from funds of the County that are available for these purposes.

Section 9. No Personal Liability. No recourse shall be had for the enforcement of any obligation, covenant, promise, or agreement of the County contained in this Ordinance, the Indenture, the Second Supplemental Indenture, or the Series 2017 Bonds against any member of the Council, or any officer or employee, in his or her individual capacity, past, present, or future, of the County, either directly or through the County, whether by virtue of any constitutional provision, statute, or rule of law, or by the enforcement of any assessment or penalty or otherwise, it being expressly agreed and understood that this Ordinance, the Indenture, the Second Supplemental Indenture, and the Series 2017 Bonds are solely corporate obligations, and that no personal liability whatsoever shall attach to, or be incurred by, any member of the Council, or any officer or employee, past, present, or future, of the County, either directly or by reason of any of the obligations, covenants, promises, or agreements entered into between the County and the Trustee or the bondholders or to be implied therefrom as being supplemental hereto or thereto; and that all personal liability of that character against every such member, officer, and employee is, by the enactment of this Ordinance and the execution of the Series 2017 Bonds, and as a condition of, and as a part of the consideration for, the enactment of this Ordinance and the execution of the Series 2017 Bonds, expressly waived and released. The immunity of members of the Council and any officers and employees of the County under the provisions contained in this Section 12 shall survive the termination of this Ordinance.

Section 10. Authority to Issue Bond Anticipation BANs.

(a) Statutory Authorisation of BANs. The County is authorized and empowered by the provisions of the Note Act to borrow on a temporary basis pursuant to the provisions thereof in anticipation of the receipt of the proceeds of the Series 2017 Bonds.

(b) Issuance of BANs. Pursuant to the Note Act, the County may borrow not to exceed \$38,000,000 in anticipation of the issuance of the Series 2017 Bonds to be evidenced by bond anticipation notes in the aggregate principal amount of not to exceed \$38,000,000 to be designated "Special Source Revenue Bond Anticipation Notes" and maturing on a date selected by the County Administrator not later than one year after the date of issuance of the BANs.

(c) Form of BANs. The BANs shall be in substantially the form attached to the Second Supplemental Indenture, with any necessary changes or appropriate variations, omissions, and insertions as are incidental to the series, numbers, denominations, and registration and transfer provisions as are otherwise permitted or required by law or the Second Supplemental Indenture.

(d) Interest Rate on BANs. The BANs shall bear interest at the rate of interest as approved by the County Administrator.

(e) Redemption of BANs. The BANs may be subject to redemption on the terms and at the prices as approved by the County Administrator prior to their issuance and delivery.

(f) Security for the BANs. For the payment of principal of, premium, if any, and interest on the BANs, there shall be pledged under the Indenture the proceeds to be derived from the sale of the Series 2017 Bonds. The proceeds of the Series 2017 Bonds, when received by the County, shall be applied first to the payment of principal of and interest on the BANs. As additional security for the payment of interest on the BANs, there shall be pledged under the Indenture, the Trust Estate, on a parity with the pledge of the Trust Estate securing the payment of principal and interest on the Series 2017 Bonds. As additional security for the payment of principal of the BANs, when due, there shall be pledged under the Indenture, the Trust Estate, on a junior and subordinate basis to the pledge thereof securing the payment of principal and interest on the Series 2017 Bonds and to the pledge thereof securing the payment of interest on the BANs.

(g) Disposition of Note Proceeds. Proceeds from the sale of the BANs shall be applied as provided in the Second Supplemental Indenture.

Section 11. Governing Law. This Ordinance shall be construed and interpreted in accordance with the laws of the State of South Carolina.

Section 12. Provisions of Ordinance of Separable. 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 13. Repeal of Conflicting Ordinance, etc.; Effective Date. All orders, resolutions, ordinances and parts thereof in conflict herewith are, to the extent of such conflict, hereby repealed and this Ordinance shall take effect and be in full force from and after its approval following third reading.

CHARLESTON COUNTY, SOUTH CAROLINA

By: _____
Chairman of County Council
Charleston County, South Carolina

ATTEST:

By: _____
Clerk to County Council
Charleston County, South Carolina

First Reading: August 17, 2017

Second Reading: September 19, 2017

Public Hearing: October 10, 2017
Third Reading: October 10, 2017