



ORDINANCE NUMBER 9-2019

AN ORDINANCE AUTHORIZING THE EXECUTION AND DELIVERY OF AN ECONOMIC DEVELOPMENT AGREEMENT BY AND BETWEEN THE CITY OF GREER, SOUTH CAROLINA AND [PROJECT O'HARE], WITH RESPECT TO INFRASTRUCTURE CREDITS TO BE APPLIED AGAINST FEE IN LIEU OF TAX PAYMENTS RELATED TO CERTAIN INVESTMENTS IN THE CITY; AND OTHER RELATED MATTERS.

WHEREAS, the City of Greer, South Carolina, ("City") acting by and through its City Council ("City Council") is authorized by Section 4-1-175 of the Code of Laws of South Carolina 1976, as amended ("Infrastructure Act"), to provide infrastructure credit financing, secured by and payable solely from revenues of the City derived from payments in lieu of taxes pursuant to Article VIII, Section 13 of the South Carolina Constitution (Fee Payments, as defined below), for the purpose of defraying the cost of designing, acquiring, constructing, improving, or expanding the infrastructure serving the City and for improved and unimproved real estate and personal property, including machinery and equipment, used in the operation of a manufacturing facility or commercial enterprise in order to enhance the economic development of the City, all within the meaning of Section 4-29-68 of the Code of Laws of South Carolina 1976, as amended ("Infrastructure");

WHEREAS, the Company will operate the Project (as defined below) on the land owned by the Company and to be annexed into the City ("Land");

WHEREAS, the Company has represented that it intends to invest in the acquisition, construction and installation of buildings, improvements, fixtures, machinery, equipment, furnishings and other real and/or tangible personal property to constitute one or more distribution/manufacturing facilities in the City ("Project");

WHEREAS, Spartanburg County ("County") and Cherokee County have established a joint county industrial and business park ("Park") by entering into an Agreement for Development for Joint County Industrial and Business Park, dated as of April 20, 2009, as may be amended or supplemented from time to time, ("Park Agreement") pursuant to the provisions of Article VIII, Section 13 of the South Carolina Constitution and Title 4, Chapter 1 of the Code of Laws of South Carolina 1976, as amended, (collectively, "Multi-County Park Act") and the City desires the County to cause the Project to be located in the Park, if it is not already, and continue to be located in the Park or such other multi-county industrial and business park so as to afford the Company the benefits of the Infrastructure Act;

WHEREAS, pursuant to the provisions of the Park Agreement and the Multi-County Park Act, if and when the Project is located in the Park, the Company and any future owners or lessees of the Project are obligated to make or cause to be made payments in lieu of taxes in the total amount equivalent to the *ad valorem* property taxes or, if applicable, any negotiated payments in lieu of taxes pursuant to the Code of Laws of South Carolina 1976, as amended, including Title 4, Chapter 29 thereof ("FILOT Act") that would have been due and payable but for the location of the Project within the Park (Fee Payments, as defined below);

WHEREAS, pursuant to and in accordance with the Infrastructure Act, the City has agreed to make certain payments to the Company, its successors and assigns, payable from the City's portion of the payments in lieu of taxes made by the Company, its successors and assigns, with respect to the Project ("Fee Payments") in reimbursement of a portion of the cost of infrastructure with respect to the Project in the Park, as set forth in the Economic Development Agreement between the City and the Company presented to this meeting, the

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substantially final form of which is attached to this Ordinance as Exhibit A (“Economic Development Agreement”); and


WHEREAS, it appears that the Economic Development Agreement, which is now before this meeting, and is in appropriate form and is an appropriate instrument to be executed and delivered or approved by the City for the purposes intended.

NOW THEREFORE, CITY COUNCIL ORDAINS:

Section 1. The Mayor of the City, for and on behalf of the City, is hereby authorized to execute and deliver the Economic Development Agreement, in substantially the form attached to this Ordinance as Exhibit A, or with such minor changes as are not materially adverse to the City and as such official shall determine and as are not inconsistent with the matters contained herein, that official’s execution thereof to constitute conclusive evidence of the City’s approval of any and all changes or revisions therein from the form of the Economic Development Agreement now before this meeting, and the Mayor and the City Administrator are directed to do all things reasonably necessary and proper to effect the execution and delivery of the Economic Development Agreement and the performance of the City’s obligations under and pursuant to the Economic Development Agreement.

Section 2. All ordinances, resolutions, and parts thereof in conflict herewith are, to the extent of such conflict, hereby repealed. This ordinance shall take effect and be in full force from and after its passage by the City Council.

CITY OF GREER, SOUTH CAROLINA


Richard W. Danner, Mayor

[SEAL]
ATTEST:


Tammela Duncan, Municipal Clerk

Introduced by: Councilmember Judy Albert

First Reading: March 26, 2019

Second Reading / Final Approval: April 9, 2019

APPROVED AS TO FORM:

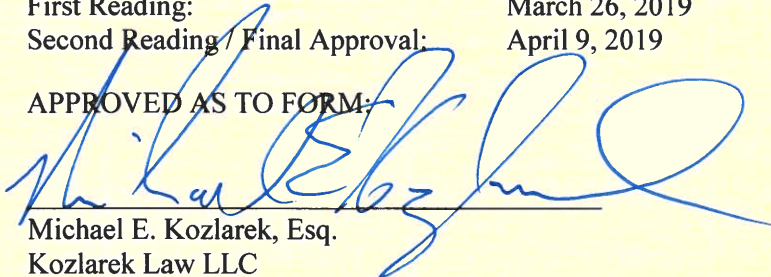

Michael E. Kozlarek, Esq.
Kozlarek Law LLC

EXHIBIT A
FINAL FORM OF AGREEMENT