

MICHIGAN STRATEGIC FUND

RESOLUTION

2020-042

FEDERAL-MOGUL CORPORATION MEGA RETENTION TAX CREDIT AMENDMENT AND ASSIGNMENT

WHEREAS, the Michigan Legislature created the Michigan Economic Growth Authority (“MEGA”) under the Michigan Economic Growth Authority Act, 1995 PA 24, as amended, with the authority to grant an authorized business a credit against the tax imposed by the Michigan Business Tax Act, 2007 PA 36, as amended (a “Tax Credit”);

WHEREAS, by Executive Order 2012-9, the all the authority, powers, duties and functions of the MEGA Board were transferred to the Michigan Strategic Fund (“MSF”);

WHEREAS, the Michigan Economic Development Corporation (“MEDC”) provides administrative services to the MSF;

WHEREAS, on December 14, 2004, the MEGA Board authorized a Retention Tax Credit for Federal-Mogul Corporation (“Federal-Mogul” or “Company”) of up to 100 percent for twenty consecutive years for at least 1,000 and no more than 1,866 retained jobs in the State of Michigan with an average weekly wage of at least \$1,174, including 150 retained jobs at the Company’s Southfield headquarters and a minimum of 220 retained jobs at the Company’s Greenville facility (the “Federal-Mogul MEGA Tax Credit”) pursuant to the MEGA Tax Credit Agreement between MEGA and Federal-Mogul dated January 31, 2005 (the “Federal-Mogul MEGA Agreement”);

WHEREAS, the following companies were included in the Federal-Mogul MEGA Agreement and Federal-Mogul MEGA Tax Credit for the purposes of counting retained jobs: Federal-Mogul Corporation, Federal-Mogul Powertrain, Inc., Federal-Mogul World Wide, Inc. and Federal-Mogul-Piston Rings, Inc.;

WHEREAS, on May 15, 2007, the MEGA Board approved a transfer of the Federal-Mogul MEGA Tax Credit from Federal-Mogul Corporation to New Federal-Mogul Corporation, which was the surviving entity of a merger with Federal-Mogul Corporation;

WHEREAS, on July 21, 2009, the MEGA Board approved an amendment to the Federal-Mogul MEGA Agreement to reduce the number of retained jobs required to be maintained at the Greenville facility from 220 to 150. In consideration for reducing the retained jobs at the Greenville facility, the term MEGA Tax Credit was reduced from twenty years to eighteen years;

WHEREAS, on March 27, 2013, the MSF Board approved an amendment to the Federal-Mogul MEGA Agreement to add Federal-Mogul Vehicle Component Solutions, Inc. as an entity to be counted for retained jobs;

WHEREAS, on June 26, 2013, the MSF Board approved an amendment to the Federal-Mogul MEGA Agreement allowing Federal-Mogul Corporation to move their headquarters from Southfield to another location within the boundaries of Oakland County;

WHEREAS, on October 29, 2014, the MSF Board approved an amendment to the Federal-Mogul MEGA Agreement to reflect ownership structure changes at the Company and added Federal-Mogul Motorparts Corporation as an Affiliated Business for the purpose of counting retained jobs;

WHEREAS, Federal-Mogul has applied for and received tax credits through tax year 2017;

WHEREAS, effective October 1, 2018, Tenneco Inc. (“Tenneco”), one of the world’s largest designers, manufacturers, and marketers of clean air and ride performance products and systems for the automotive and commercial trucking industries, acquired Federal-Mogul for a total consideration of \$5.4 billion in the form of cash, Tenneco equity, and assumption of debt;

WHEREAS, on November 27, 2018, the MSF Board approved the following amendment to the Federal-Mogul MEGA Agreement and Federal-Mogul MEGA Tax Credit (collectively, the “Amendment Request”):

- (1) Add Tenneco Inc. and Tenneco Automotive Operating Company, Inc. as entities that may be included for the purpose of counting retained jobs and base jobs under the agreement for tax year 2018;
- (2) Increase the maximum number of retained jobs under the Federal-Mogul MEGA Tax Credit from 1,866 to 3,400;
- (3) Allow a statewide consideration for calculating base employment and retained jobs;
- (4) Reduce the term of the Federal-Mogul MEGA Tax Credit from 18 to 14 years so that the credit expires with the tax year ending December 31, 2018;
- (5) Impose a cap of \$12 million for any tax credit claimed for tax year 2018;
- (6) Require repayment of the Federal-Mogul MEGA Tax Credit if 33 percent (33%) or more of the retained jobs are relocated out of the State of Michigan within four years of December 31, 2018;

WHEREAS, the Amendment Request has not yet been finalized;

WHEREAS, Section 8(12) of the MEGA Act, MCL 207.808(12) permits the MSF to modify or amend the MEGA tax credit agreement approved by a resolution of the MSF Board on November 27, 2018 and subsequently assign or transfer the Federal-Mogul MEGA Agreement and Federal-Mogul MEGA Tax Credit so long as the modification or amendment reduces the total amount of the credit, the modification or amendment does not extend the term of to claim the credit, and the value of the credit taken by the transferee does not exceed \$12,000,000;

WHEREAS, Section 8(13) of the MEGA Act, 207.808(13) requires the MSF to establish guidelines for the amendment, modification, or transfer described in subsection 12 of the MEGA Act and publish those guidelines on its website (the “MEGA Transfer Policy”);

WHEREAS, the MEDC recommends that the MSF Board 1) adopt the MEGA Transfer Policy set forth in Exhibit A to this Resolution; 2) approve an assignment of the Federal-Mogul MEGA Agreement and Federal-Mogul MEGA Tax Credit to Tenneco Inc. (the “Assignment Request”); 3) affirm the terms of the Amendment Request; and 4) authorize the MSF Fund Manager to negotiate and execute all final documents necessary to effectuate the Amendment Request and the Assignment Request (collectively, the “Recommendation”).

NOW, THEREFORE, BE IT RESOLVED, the MSF Board approves the Recommendation;

BE IT FURTHER RESOLVED, except as to those provisions that must be revised in order to effectuate the Amendment Request and the Assignment Request, the terms and conditions of the Federal-Mogul MEGA Agreement shall remain in full force and effect.

BE IT FURTHER RESOLVED, the MSF Board authorizes the MSF Fund Manager, with only one required to act, to negotiate the final terms and conditions of the Recommendation and to execute all documents necessary to effectuate the Recommendation.

Ayes: Britany L. Affolter-Caine, Paul Ajegba, Ronald W. Beebe, Mark Burton, Jeff Donofrio, September Hargrove, Andrew Lockwood (on behalf of Treasurer Eubanks, designation attached), Charles P. Rothstein, Susan Tellier, Cindy Warner

Nays: None

Recused: None

Lansing, Michigan
April 14, 2020

EXHIBIT A

April 14, 2020

Michigan Economic Growth Authority Tax Credit Policy

Pursuant to Section 8(13) of the Michigan Economic Growth Authority (“MEGA”) Act, MCL 207.808(13), the Michigan Strategic Fund (“MSF”), as the successor entity to the MEGA board, adopts the following policy with respect to the amendment modification, or transfer described in Section 8(12) of the MEGA Act, MCL 207.808(12):

The MEGA tax credit agreement amended by the MSF Board on November 27, 2018 may be assigned or transferred to a successor-in-interest to the entity named in the MEGA tax credit agreement provided that the amendment reduces the total amount of the credit, the modification does not extend the term of the credit, and the value of the credit taken by the successor-in-interest does not exceed \$12,000,000.



STATE OF MICHIGAN
DEPARTMENT OF TREASURY
LANSING

GRETCHEN WHITMER
GOVERNOR

RACHAEL EUBANKS
STATE TREASURER

January 16, 2020

Ms. Rhonda Bishop
Board Relations Liaison
Michigan Strategic Fund Office
300 N. Washington Square
Lansing, MI 48913

Re: Michigan Strategic Fund Board Meeting Designee for Treasurer Eubanks

Dear Ms. Bishop:

I hereby designate Andrew Lockwood to attend all Michigan Strategic Fund meetings that I am unable to attend in 2020.

If you need anything additional, please contact Kara Kabia at (517) 241-2624.

Sincerely,

A handwritten signature in blue ink that reads "Rachael Eubanks".

Rachael Eubanks
State Treasurer

Cc: Eric Bussis
Andrew Lockwood