

ORDINANCE No. _____

AN ORDINANCE PURSUANT TO CHAPTER 44 OF TITLE 12, CODE OF LAWS OF SOUTH CAROLINA 1976, AS AMENDED, TO ENTER INTO A FEE AGREEMENT BETWEEN GREENVILLE COUNTY, SOUTH CAROLINA, PROJECT RAMPART AND ABC REALTY, PROVIDING FOR PAYMENT OF FEES IN LIEU OF TAXES AND CERTAIN SPECIAL SOURCE REVENUE CREDITS AGAINST THE SAME; AND MATTERS RELATING THERETO.

WHEREAS, Greenville County, South Carolina (the “County”), acting by and through its County Council (the “County Council”) is empowered under and pursuant to the provision of Title 12, Chapter 44 of the Code of Laws of South Carolina, 1976, as amended (the “FILOT Act”) to enter into fee-in-lieu-of property tax agreements with companies in order to induce such companies to design, acquire, construct, operate, maintain or improve a project, within the meaning of the FILOT Act; and

WHEREAS, the County Council is 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”), and particularly Section 4-1-175 thereof, to grant special source revenue credits against fee-in-lieu of tax payments (“Special Source Revenue Credits”) in order to reimburse companies for expenditures towards infrastructure serving the County or the applicable project for improved or unimproved real estate and personal property used in the operation of manufacturing or commercial enterprises, all within the meaning of Section 4-29-68, Code of Laws of South Carolina 1976 (“Infrastructure”); and

WHEREAS, the County, by an Inducement Resolution adopted by the County Council on August 18, 2015, has agreed to assist and induce Project Rampart, a limited liability company organized under the laws of _____, as the operating company, tenant and owner of the personal property (the “Sponsor”), and ABC Realty, LLC a _____ limited liability company, as the landlord and owner of the real property (the “Sponsor Affiliate”), in respect of the investment in certain land, buildings or other improvements thereon and in certain machinery, apparatus, equipment, furnishings and personal property in the form of new and/or additional manufacturing and office facilities in the County by the Sponsor and the Sponsor Affiliate, as identified in said Resolution, and any and all activities relating thereto (which properties and facilities constitute a project under the FILOT Act and are referred to hereinafter as the “Project”), by entering into a Fee Agreement providing for payments-in-lieu of taxes and certain Special Source Revenue Credits against the same; and

WHEREAS, the Sponsor has represented to the County that it expects that the Project will represent approximately \$44 million of investment in the County and create approximately 130 new, full-time jobs in connection therewith, within the Investment Period set forth in the Fee Agreement described below; and

WHEREAS, the County has agreed to use its best efforts to place the Project in a joint county industrial and business park established by the Sponsor and the Sponsor Affiliate pursuant to the MCIP Act and Article VIII, Section 13 of the South Carolina Constitution; and

WHEREAS, the Sponsor and the Sponsor Affiliate have requested that the County use a portion of the above aforementioned fee-in-lieu of tax payments for the purpose of reimbursing the Company for certain of the costs of designing, acquiring, constructing, improving or expanding the Infrastructure serving the Project; and

WHEREAS, the County Council, having found that the investment by the Sponsor and the Sponsor Affiliate in the Infrastructure will assist the County in its economic development efforts by inducing the Sponsor to locate the Project in the County, proposes to provide the Sponsor and the Sponsor Affiliate with annual Special Source Revenue Credits for a period of between 10 and 15 years as described in the Fee Agreement; and

WHEREAS, the County Council has caused to be prepared and presented to this meeting the form of the Fee Agreement between the County and the Sponsor and Sponsor Affiliate (the “Fee Agreement”), which will provide for the payment of fee-in-lieu of taxes by the Sponsor and the Sponsor Affiliate and the provision of the Special Source Revenue Credits described herein against the same, which the County proposes to execute and deliver; and

WHEREAS, it appears that the documentation referred hereby which is now before this meeting, is in appropriate form for approval, signature and delivery by the County for the purposes intended.

NOW, THEREFORE, BE IT ORDAINED by the County Council in meeting duly assembled as follows:

Section 1. Pursuant to the FILOT Act and particularly Section 12-44-40(H) and (I) thereof, the County Council, based on information supplied by the Sponsor and Sponsor Affiliate, has made and hereby makes the following findings:

(a) The Project constitutes a “project” as said term is referred to and defined in Section 12-44-30 of the FILOT Act;

(b) It is anticipated that the Project will benefit the general public welfare of the County by providing services, employment and other public benefits not otherwise adequately provided locally;

(c) The purposes to be accomplished by the Project are proper governmental and public purposes;

(d) It is anticipated that the cost of planning, designing, acquiring, constructing and completing the Project will require expenditures of approximately \$44 million;

(e) The benefits of the Project to the public will be greater than the costs to the public;

(f) Neither the Project nor any documents or agreements entered into by the County in connection therewith will give rise to any pecuniary liability of the County or incorporated municipality or to any charge against its general credit or taxing power; and

(g) Based on the above, the County has determined that the Project will be properly classified as economic development property.

Section 2. The form, terms and provisions of the Fee Agreement which is before this meeting and filed with the Clerk to County Council is hereby approved and all of the terms, provisions and conditions thereof are hereby incorporated herein by reference as if the Fee Agreement was set out in this Ordinance in its entirety. The Chairman of County Council, the County Administrator and the Clerk to County Council are hereby authorized, empowered and directed to execute, acknowledge and deliver the Fee Agreement to the Sponsor and Sponsor Affiliate. The Fee Agreement is to be in substantially the form now before this meeting and hereby approved, or with such changes therein as shall be approved by the County Administrator's execution of the same, his execution thereof to constitute conclusive evidence of his approval of any and all changes or revisions therein from the form of Fee Agreement now before this meeting.

Section 3. The Chairman of County Council, the County Administrator and the Clerk to County Council, for and on behalf of the County, are hereby each authorized and directed to do any and all things necessary to effect the execution and delivery of the Fee Agreement and the performance of all obligations of the County under and pursuant to the Fee Agreement.

Section 4. The consummation of all transactions contemplated by the Fee Agreement is hereby approved. The County hereby agrees to waive, to the full extent allowed by law, the requirements of Section 12-44-55 with regard to the Fee Agreement for the Project, to the extent and so long as the Company makes and continues to make all filings with the County required by the Act.

Section 5. This Ordinance shall be construed and interpreted in accordance with the laws of the State of South Carolina.

Section 6. 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 7. 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 passage and approval.

DONE, RATIFIED AND ENACTED this __ day of _____, 2015.

GREENVILLE COUNTY, SOUTH CAROLINA

By: _____
Bob Taylor, Chairman of County Council
Greenville County, South Carolina

By: _____
Joseph M. Kernell, Administrator of County
Greenville County, South Carolina

ATTEST:

By: _____
Theresa B. Kizer, Clerk to County Council
Greenville County, South Carolina

First Reading: _____, 2015
Second Reading: _____, 2015
Third Reading: _____, 2015
Public Hearing: _____, 2015