

2016-1-450-R
FILED

STATE OF SOUTH CAROLINA)
)
BARNWELL COUNTY)

A RESOLUTION

2016 JAN 13 AM 10:49

IDENTIFYING A PROJECT TO SATISFY THE REQUIREMENTS OF TITLE 12, CHAPTER 44 OF THE SOUTH CAROLINA CODE, SO AS TO ALLOW INVESTMENT EXPENDITURES INCURRED BY A COMPANY KNOWN TO THE COUNTY AS PROJECT BEACON XVII, ITS AFFILIATES AND RELATED ENTITIES, TO QUALIFY AS EXPENDITURES ELIGIBLE FOR A FEE-IN-LIEU OF TAXES ARRANGEMENT WITH BARNWELL COUNTY, SOUTH CAROLINA; PROVIDING FOR OTHER RELATED ECONOMIC DEVELOPMENT INCENTIVES, INCLUDING SPECIAL SOURCE REVENUE CREDITS; AND OTHER MATTERS RELATED THERETO.

WHEREAS, Barnwell County (the "County") is a political subdivision of the State of South Carolina and as such has all powers granted to counties by the Constitution and the general law of this State; and

WHEREAS, the County, acting by and through its 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 "Act") (i) to enter into agreements with qualifying companies to encourage investment in projects constituting economic development property through which the economic development of the State of South Carolina (the "State") will be promoted by inducing new and existing manufacturing and commercial enterprises to locate and remain in the State and thus utilize and employ manpower and other resources of the State; (ii) to covenant with such industry to accept certain fee payments in lieu of *ad valorem* taxes ("FILOT") with respect to such investment; (iii) to grant credits against FILOT payments to qualifying companies to offset qualifying infrastructure related expenditures ("Special Source Revenue Credits") pursuant to Sections 4-1-175, 4-29-68 and 12-44-70 of the Code of Laws of South Carolina, 1976, as amended (collectively, "Infrastructure Credit Act"); and (iv) to make and execute contracts pursuant to Section 4-9-30 of the Code of Laws of South Carolina, 1976, as amended; and

WHEREAS, a company known to the County as Project Beacon XVII, as Sponsor, along with one or more existing, or to-be-formed or acquired subsidiaries, or affiliated or related entities and any Sponsor Affiliates that the Sponsor may designate and have the County approve in accordance with the Act (collectively, "Company"), contingent upon satisfaction of certain commitments made by and on behalf of the County, as set forth herein and to be further set forth in future agreements, and to the extent allowed by law, plans to establish a facility in the County through the acquisition, lease, construction and purchase of certain land, buildings, furnishings, fixtures, apparatuses, and equipment (collectively, the "Project"), which will result in an investment in real and personal property of approximately \$7,600,000 in the County ("Investment"); and

WHEREAS, as an inducement for the Project, the Company requests and the County desires to provide certain incentives, including but not limited to, the following: (1) the incentive of a FILOT as authorized by the Act for a term of 30 years and having a fixed assessment ratio of 6% with a fixed millage rate equal to the lower of that millage rate in effect at the Project site for all taxing entities on either June 30, 2015 or June 30, 2016, and the terms of which shall be further set forth in a fee-in-lieu of *ad valorem* taxes agreement between the County and the Company ("Fee Agreement"); (2) to provide an annual Special Source Revenue Credit against those FILOT payments made by the Company and any of the Sponsor Affiliates to the County for the Project in amounts set forth in the Fee Agreement; and (3)

any other incentives that may be set forth in the Fee Agreement or other agreements by and between the County and the Company (collectively, the "Incentives"); and

WHEREAS, the parties recognize and acknowledge that the Company would not otherwise locate the Project in the County but for the delivery of the Incentives; and

WHEREAS, in accordance with Section 12-44-40 of the Act, and based on information provided by the Company, the County has determined that (i) the Project will benefit the general public welfare of the County by providing services, employment, recreation or other public benefits, not otherwise adequately provided locally; (ii) the Project will not give rise to any pecuniary liability of the County or incorporated municipality or a charge against the general credit or taxing power of either the County or any incorporated municipality; (iii) the purposes to be accomplished by the Project are proper governmental and public purposes; and (iv) the benefits of the Project to the public are greater than the costs to the public.

NOW THEREFORE, BE IT RESOLVED, by the County Council as follows:

Section 1. Project Identification for Purposes of the Act. The County hereby identifies the Project as a "project" as contemplated by Section 12-44-40 of the Act.

Section 2. Project Findings. Based on information provided by the Company, the County hereby finds and affirms its determination that: (i) the Project will benefit the general public welfare of the County by providing services, employment, recreation or other public benefits not otherwise provided locally; (ii) the Project will not give rise to any pecuniary liability of the County or incorporated municipality and or a charge against its general credit or taxing power; (iii) the purposes to be accomplished by the Project are proper governmental and public purposes; and (iv) the benefits of the Project to the public are greater than the costs to the public.

Section 3. Authorization to Negotiate Incentives. The County shall negotiate in good faith the Incentives and the agreements relating thereto, including but not limited to the Fee Agreement.

Section 4. Past and Future Acts. The County Council hereby authorizes the Chair of the County Council and other County staff, along with any designees and agents any of these officials deems necessary and proper, including the County's attorney for this Project, in the name of and on behalf of the County (each an "Authorized Individual"), to take whatever further actions, and enter into whatever further agreements, as are allowed by law and as any Authorized Individual deems to be reasonably necessary and prudent to effect the intent of this Resolution and induce the Company to locate the Project in the County, and authorizes and ratifies all actions previously undertaken by Authorized Individuals with respect to the Project and the actions contemplated by this Resolution.

Section 5. Severability. Should any part, provision, or term of this Resolution be deemed unconstitutional or otherwise unenforceable by any court of competent jurisdiction, such finding or determination shall not affect the rest and remainder of the Resolution or any part, provision or term thereof, all of which is hereby deemed separable.

Section 6. Repealer Clause. All orders, resolutions, or any parts of either, in conflict with this Resolution are, to the extent of that conflict, repealed. This Resolution is effective and remains in effect as of its adoption by the County Council.


January 12, 2016 ~~KA~~
Resolved: ~~December 12, 2015~~

BARNWELL COUNTY, SOUTH CAROLINA



David Kenner., Chairman
Barnwell County Council

Attest:



Kim Futrell, Clerk to Council
Barnwell County, South Carolina