

ORDINANCE NO. 02-460
SUMTER COUNTY

(Designating Biopure Project as Multi-County Park Property)

AN ORDINANCE BY THE COUNTY COUNCIL OF SUMTER COUNTY, SOUTH CAROLINA (“SUMTER COUNTY”) AUTHORIZING (1) THE DEVELOPMENT, PURSUANT TO ARTICLE VIII, SECTION 13 OF THE SOUTH CAROLINA CONSTITUTION AND SECTION 4-1-170, ET SEQ., OF THE CODE OF LAWS OF SOUTH CAROLINA, 1976, AS AMENDED, OF A JOINTLY OWNED AND OPERATED INDUSTRIAL/BUSINESS PARK (THE “PARK”) IN CONJUNCTION WITH CLARENDON COUNTY, SOUTH CAROLINA (“CLARENDON COUNTY”), SUCH PARK TO BE GEOGRAPHICALLY LOCATED IN SUMTER COUNTY AND CLARENDON COUNTY (JOINTLY, THE “COUNTIES”); (2) THE EXECUTION AND DELIVERY OF A MULTI-COUNTY PARK AGREEMENT BETWEEN THE COUNTIES PROVIDING FOR THE SHARING OF THE EXPENSES AND REVENUES OF THE PARK; (3) DISTRIBUTION OF THE REVENUES RECEIVED BY SUMTER COUNTY PURSUANT TO SUCH PARK ARRANGEMENTS TO THE RELEVANT TAXING ENTITIES WITHIN SUMTER COUNTY IN THE PROPORTIONS SPECIFIED HEREIN; AND (4) OTHER MATTERS RELATING THERETO.

WHEREAS, Sumter County, South Carolina (“Sumter County”) and Clarendon County, South Carolina (“Clarendon County”) (jointly, the “Counties”) are authorized under Article VIII, Section 13 of the South Carolina Constitution and Section 4-1-170 of the Code of Laws of South Carolina, 1976, as amended, (collectively, the “Act”) to develop a jointly owned and operated industrial or business park within the geographical boundaries of one or more of the member counties; and

WHEREAS, in order to promote the economic welfare of the citizens of the Counties by providing employment and other benefits to the citizens of the Counties, Sumter County proposes to enter into an agreement with Clarendon County to develop jointly such an industrial or business park (the “Park”), as provided by the Act; and

WEHREAS, pursuant to an Inducement and Millage Rate Agreement by and among Sumter County, Biopure Corporation (“Biopure”) and Sumter Realty Group, LLC (“Sumter Realty”) (Biopure and Sumter Realty collectively referred to herein as the “Companies”) approved by the County Council of Sumter County (the “County Council”) on August 28, 2001, and in order to induce the Companies to locate certain manufacturing facilities within Sumter County (the “Biopure Project”) thereby bringing substantial capital investment and jobs to Sumter County and the surrounding areas, the County agreed to designate the Biopure Project as part of a multi-county industrial or business park; and

WHEREAS, the County Council, in furtherance of such agreements has enacted this Ordinance in order to establish the Park and designate the Biopure Project as the initial site to be

included in the Park;

NOW, THEREFORE, BE IT ORDAINED BY THE COUNTY COUNCIL OF SUMTER COUNTY:

Section 1. Sumter County is hereby authorized to execute and deliver a written agreement to develop jointly a Park (the "Agreement") with Clarendon County. The Park is to be located both within the boundaries of Sumter County and Clarendon County, and the property to be initially included in the Park shall include the Biopure Project. The provisions, terms, and conditions of the Agreement presented to this meeting and filed with the Clerk to the County Council are hereby approved, and all of the provisions, terms, and conditions thereof are hereby incorporated by reference as if the Agreement were set out in this Ordinance in its entirety. The Chairman of County Council is hereby authorized, empowered, and directed to execute the Agreement in the name and on behalf of Sumter County; the Clerk to the County Council is hereby authorized, empowered, and directed to attest the same; and the Chairman of the County Council is hereby further authorized, empowered and directed to deliver the Agreement to Clarendon County. The Agreement is to be in substantially the form now before this meeting and hereby approved, or with such changes therein as shall not materially adversely affect the rights of Sumter County thereunder and as shall be approved by the official of the County executing the same, his or her execution thereof to constitute conclusive evidence of his or her approval of any and all changes or revisions therein from the form of Agreement now before this meeting.

Section 2. The Chairman of the County Council and the Clerk to the County Council, for and on behalf of Sumter County, are hereby each authorized, empowered, and directed to do any and all things necessary or proper to effect the execution and delivery of the Agreement, the performance of all obligations of Sumter County under and pursuant to the Agreement, and to carry out the transactions contemplated by this Ordinance.

Section 3. Any business enterprise locating in the Park shall pay a fee-in-lieu of *ad valorem* taxes as provided for in the Agreement and the Act. The fee paid in lieu of *ad valorem* taxes shall be paid to the treasurer of the respective County where the premises comprising the Park are located. The Counties, acting by and through the tax collector of the respective Counties, shall maintain all liens and rights to foreclose upon liens provided for counties in the collection of *ad valorem* taxes.

Section 4. The administration, development, promotion, and operation of the Park shall be the responsibility of both Sumter County and Clarendon County, and the respective rights and obligations of each County shall be as set forth in the Agreement.

Section 5. Should any section of this Ordinance be, for any reason, held void or invalid, it shall not affect the validity of any other section hereof which is not itself void or invalid.

Section 6. The Agreement may not be terminated except by ordinances of both the County Council and Clarendon County Council. The Agreement shall expire 20 years from the date of its execution by both parties unless extended or sooner terminated by the parties.

Section 7. Sumter County hereby specifies that the distribution of the fees in lieu of *ad valorem* taxes pursuant to the Agreement received by Sumter County shall be as set forth in this paragraph. **[The Sumter County Treasurer shall deposit the first [_____ %] of such fees into the Infrastructure Fund established by Sumter County in accordance with Ordinance No. _____ enacted simultaneously herewith.]** The Sumter County Treasurer shall pay the balance of such fees to each of the taxing entities in Sumter County which levy an *ad valorem* property tax in any of the areas comprising the Park premises within Sumter County in the same percentage as is equal to that taxing entity's percentage of the millage rate being levied in the then current tax year for property tax purposes; **[provided, however, that if Sumter County has agreed to fix the millage with respect to any property for any period of time, the relative percentages of fees derived from such property to be distributed to each taxing entity during such period shall be determined based upon the proportional share of the millage specified in such agreement; and]**provided, **[further]**, that Sumter County may, from time to time, by ordinance, amend the distribution of the fees in lieu of tax payments to all taxing entities. **[In addition to amounts deposited in the Infrastructure Fund as set forth above, a]** portion of the fee-in-lieu of *ad valorem* taxes Sumter County receives pursuant to this Agreement for property located in the Park may be, from time to time and by ordinance of the County Council, designated for the payment of special source revenue bonds (including the note specified in the next succeeding sentence) or for other expenses of Sumter County in connection with establishment, maintenance, and operation of the Park and the improvements therein, and, in such event, distribution of the fees in lieu of *ad valorem* taxes to the other taxing entities as described in the preceding sentences of this Section 7 shall be net of costs associated with such bonds or expenses. Simultaneously with the approval of this Ordinance, the County Council has approved certain Ordinances authorizing the issuance of a special source revenue note in the principal amount of not exceeding **[\$4,500,000]**, the proceeds of which will be used to finance certain real property improvements in connection with the Biopure Project which is to be located in the Park. Until such note is repaid in full, distribution of the fees received by the County pursuant to the Agreement to the relevant taxing entities shall be net of debt service with respect to such note.

Section 8. This Ordinance shall be effective after a public hearing, and the third and final reading.

[End of Ordinance]

DONE, RATIFIED AND ADOPTED this 12th day of March, 2002.

SUMTER COUNTY, SOUTH CAROLINA

(SEAL)

By: _____
Frank E. Williams, Jr., Chairman, County
Council, Sumter County, South Carolina

ATTEST:

By: _____
Mary L. Blanding, Clerk to County Council
Sumter County, South Carolina

First Reading: February 12, 2002
Second Reading: February 26, 2002
Public Hearing: February 26, 2002
Third Reading: March 12, 2002