

A RESOLUTION
(SUMTER COUNTY)

COMMITTING SUMTER COUNTY TO PROVIDE CERTAIN ECONOMIC DEVELOPMENT INDUCEMENTS TO A COMPANY KNOWN AS PROJECT TRAILBLAZER, AND SUPERCEDEING THAT RELATED RESOLUTION ADOPTED APRIL 13, 2004; BY EXECUTING, UNDER CERTAIN CIRCUMSTANCES, A FEE AGREEMENT WITH A COMPANY KNOWN AS PROJECT TRAILBLAZER FOR PROJECT IN THE COUNTY.

WHEREAS, Sumter County, South Carolina (the "County"), acting by and through its County Council (the "County Council"), is authorized and empowered under and pursuant to the provisions of the South Carolina Constitution (the "Constitution") and the Code of Laws of South Carolina 1976, as amended, (the "Code") and the case law of the Courts of the State of South Carolina, to offer and provide certain privileges, benefits, and incentives to prospective industries as inducements for economic development within the County; is authorized and empowered under and pursuant to the provisions of Title 12, Chapter 44, Code of Laws of South Carolina 1976, as amended (the "Act"), to enter into certain agreements with any industry that constructs, operates, maintains, and improves certain properties (which constitute "projects" as defined in the Act) and to accept any grants for such projects through which powers the industrial development of the State of South Carolina (the "State") will be promoted and trade developed by inducing manufacturing and commercial enterprises to locate and remain in the State and thus use and employ the manpower, agricultural products, and natural resources of the State and benefit the general public welfare of the County by providing services, employment, recreation, or other public benefits not otherwise provided locally that provide for the exemption of such project from property taxes and provide for the payment of a fee in lieu of property taxes (a "fee agreement" as defined in the Act); and,

WHEREAS, the County and Lee County have heretofore established a multi-county industrial park in accordance with the provisions of Title 4, Chapter 1, Section 170 of the Code of Laws of South Carolina (the "Park"); and .

WHEREAS, A Company known as Project Trailblazer (the "Company"), desires to expand and modernize its manufacturing facilities located in the County (the "Project") and has requested the County to commit to the Project by passing an Inducement Resolution; and

WHEREAS, the County previously adopted a resolution dated April 13, 2004 pertaining to Project Trailblazer, and now wishes to supercede such resolution with this Resolution, which sets forth the most current information concerning the Project; and

WHEREAS, the Project involves an investment by the Company of at least \$64,155,929 and the creation of at least 120 new full-time jobs in the County; and

WHEREAS, the Company has invested and/or will invest an additional \$15

million at the Project site, provided, however, that such additional investment may not be part of the Project itself; and

WHEREAS, the County has determined that (a) the Project is anticipated to benefit the general public welfare of the locality by providing services, employment, recreation, or other public benefits not otherwise adequately provided locally; (b) the Project gives rise to no pecuniary liability of the County or incorporated municipality or a charge against its general credit or taxing power; and (c) the purposes to be accomplished by the Project are proper governmental and public purposes and the benefits of the Project are greater than the costs; and

WHEREAS, the County has determined on the basis of the information supplied to it by the Company that the Project would be a "project" as that term is defined in the Act and that the Project would subserve the purposes of the Act; and,

WHEREAS, the Company has requested that the County pass an inducement resolution that sets forth the commitment of the county to enter into a fee agreement as defined in the Act (the "Fee Agreement")

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

Section 1. Commitment to Enter into Fee Agreement. Pursuant to the authority given to the County Council by the Code and the Constitution, the County hereby commits to enter into a Fee Agreement between the County and the Company pertaining to the Project involving the expansion by the Company of its manufacturing facility in the Park which is located in the County. The Fee Agreement will provide for certain additional findings or determinations to be made by the County Council, and also provide for the disposal and/or replacement of property subject to a fee-in-lieu-of tax in the Fee Agreement, committed to by this Resolution and to be authorized by an ordinance, on the terms of and subject to the conditions of Section 12-44-40 *et seq.* of the Act.

Section 2. Fee Agreement. The provisions, terms, and conditions of a Fee Agreement, under and pursuant to the Act by and between the County and the Company, as committed to by this resolution, are subject to the enactment of an ordinance by the County Council, which shall be consistent with the terms of this Resolution.

Section 3. Project within Park. The Project shall be located within the boundaries of the Park.

Section 4. Provisions in Fee Agreement. The Fee Agreement will be executed and delivered at such times and upon such mutually acceptable terms as the County and the Company shall agree; provided, however, that the County will use its best efforts to deliver and execute the Fee Agreement by September 30, 2004. The terms and provisions of the Fee Agreement by and between the County and the Company shall be substantially in the form generally used in connection with the Act as agreed upon by the County and the Company. Such Fee Agreement shall contain, in substance, the following provisions:

- (a) Its term will coincide with the maximum exemption period pursuant to the Act.

(b) In the performance of the agreements contained therein on the part of the County, any obligations the County may incur for the payment of money shall not create a pecuniary liability of the County nor create a general obligation on its part or by the State of South Carolina or any incorporated municipality, but shall be payable solely from the payments received under such Fee Agreement and, under certain circumstances, insurance proceeds and condemnation awards.

(c) A provision requiring the Company to make payments in lieu of taxes pursuant to Section 12-44-30 *et seq.* of the Act (“FILOT Payments”), and such payments shall continue for a period to coincide with the maximum term pursuant to the Act. Unless higher payments are required by the Act, the amounts of such FILOT Payments shall be determined by using an assessment ratio of 6.0 percent, a millage rate of initially 301.5 that is to be adjusted every fifth (5th) year pursuant to the average cumulative actual millage rate applicable to the Project site based upon the preceding five-year period, and the fair market value of the property that is part of the Project (the ‘Project Property’) to be determined according to the Act (the “Fair Market Value”).

(d) That any property which is placed in service as a replacement for Project Property exempted from property tax under the Fee Agreement becomes itself Project Property exempted from property tax subject to the FILOT Payments to the furthest extent allowed under the Act.

(e) That any Project Property may be disposed or scrapped in accordance with the Act and that the FILOT Payments shall be reduced by the amount applicable to the disposed or scrapped property to the furthest extent allowed under the Act.

(f) That the Company will pay reasonable attorney's fees and costs incurred by the County with regard to this Resolution, the Fee Agreement, an ordinance authorizing the Fee Agreement, and all other undertakings of the County referred to herein.

(g) Contain the following additional obligations on the part of the Company:

(1) To develop, construct, and operate the Project;

(2) To make the payments required by the Act including, but not limited to, the FILOT Payments;

(3) To perform such further acts and adopt such further proceedings as may be required to faithfully implement its undertakings and consummate the proposed transaction;

(4) To apply for, and use its best efforts to obtain, all permits, licenses, authorizations and approvals required by all governmental authorities in connection with the acquisition, construction, operation and use of the Project;

(5) To invest at least \$64,155,929 in the Project (the “Minimum Investment”) plus an additional \$15 million in the County within the ‘investment period’ as such term is defined in the Act, and as such period may be extended by the County according to the Act (the “Investment Period”, whereby the initial unextended Investment Period shall be referred to hereinafter as the “Initial Investment Period”); and,

(h) The Company shall receive a credit against its annual FILOT Payment pursuant to Section 12-44-70 of the Act for offsetting improvement costs (“Special Source Revenue Credits” or “SSRC”) once the Company creates at least 120 new full-time jobs at the Project (the “New Job Threshold”). Once the New Job Threshold is reached, the Company shall receive a SSRC for six (6) consecutive years beginning in the year immediately following the year in which the New Job Threshold is reached equal to 25% of each of the Company’s respective annual FILOT payments.

Section 5. Procedural Requirements. Notwithstanding anything in this Resolution to the contrary, the execution and delivery by the County of a Fee Agreement, and the inclusion of the Project within the Park are subject to the provisions of the Home Rule Act and the Code and Constitution regarding the procedural requirements for adopting all required ordinances and resolutions.

Section 6. Effectiveness of Resolution. All orders, resolutions, and parts thereof in conflict herewith are, to the extent of such conflict, hereby repealed. This Resolution shall take effect and be in full force from and after its passage by the County Council.

Section 7. Official Action. It is the intention of the County Council that this Resolution shall constitute an official action on the part of the County within the meaning of any statute or other legislative enactment relating to the provision of incentives including, without limitation, the approval of a Fee Agreement for the inducement of economic development projects.

Section 8. Optional Title Transfer Fee. The County hereby acknowledges that the Company, at any time during the term of the Fee Agreement, may desire to elect to utilize the provisions of Title 4, Chapter 12 or Chapter 29 Code of Laws of South Carolina 1976, as amended, insofar as the same permits a like arrangement for payment of fee in lieu of taxes as provided in this Agreement, but with the necessity of transferring title to the project to the County. In the event that Company notifies the County of its desire to so elect, the County agrees to favorably consider such request.

[signatures on next page]

Adopted in meeting duly assembled this ___ day of _____ 2004.

SUMTER COUNTY, SOUTH CAROLINA

By: _____
Naomi D. Sanders, Chairwoman, County Council of
Sumter County, South Carolina

By: _____
William T. Noonan, Administrator, Sumter County,
South Carolina

(SEAL)

ATTEST:

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