

ORDINANCE No. 10-02

AN ORDINANCE AUTHORIZING PURSUANT TO CHAPTER 44 OF TITLE 12, SOUTH CAROLINA CODE OF LAWS, 1976, AS AMENDED, THE EXECUTION AND DELIVERY OF A FEE AGREEMENT BETWEEN LEXINGTON COUNTY, SOUTH CAROLINA AND REPUBLIC NATIONAL DISTRIBUTING COMPANY, LLC; THE ADDITION OF CERTAIN PROPERTY TO THE JOINT COUNTY INDUSTRIAL PARK SO AS TO ENLARGE THE PARK; AND MATTERS RELATING THERETO.

WHEREAS, Lexington County (the “County”), a public body corporate and politic under the laws of the State of South Carolina has, by an Inducement Resolution adopted on January 26, 2010 (the “Resolution”), taken official action to identify the project (as defined below) for purposes of applicable fee-in-lieu of taxes statutes and otherwise;

WHEREAS, the County desires to enter into a fee agreement (the “Fee Agreement”) with **Republic National Distributing Company, LLC** (the “Company”), which shall provide for payments of fees-in-lieu of taxes for a project qualifying under the provisions of Title 12, Chapter 44 of the Code of Laws of South Carolina 1976, as amended (the “Act”);

WHEREAS, the County and the Company desire to enter into a Fee Agreement concerning the expansion of a facility in the County which will consist of certain personal property including all equipment, furnishings and other personal property required by the Company and any and all activities relating thereto (which properties constitute a project under the Act and are referred to herein as the “Project”). The Project is expected to provide significant economic benefits to the County and surrounding areas. In order to induce the Company to locate the Project in the County, the County has agreed to charge a fee-in-lieu of taxes with respect to the Project and otherwise make available to the Company the benefits intended by the Act;

WHEREAS, Lexington County Council (the “County Council”) has caused to be prepared and presented to the County Council the Fee Agreement between the County and the Company, which the County shall execute and deliver;

WHEREAS, as further inducement to the Company, the County will utilize an existing Multi-County Industrial Park which will include the site of the Company’s property that is subject to the fee-in-lieu of tax agreement (the “MCIP”) under the provisions of Article VIII, Section 13 of the Constitution of the State of South Carolina of 1895, as amended (the “State Constitution”), and Section 4-1-170 of the Code of Laws of South Carolina, 1976, as amended (collectively, the “MCIP Law”); and whereas Ordinance 95-12, as subsequently amended, entered into an Agreement for development of a joint park with Calhoun County (the “Park”)’ and whereas, pursuant to Section 3 of the Park Agreement allowed for the Park to be subsequently enlarged; and

WHEREAS, it appears that the documents above referred to are appropriate instruments to be executed and delivered or approved 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 Act and particularly Section 12-44-40(H) and (I) thereof, the County Council 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 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 a total investment of real estate and improvements of \$11,850, 000 as more fully set forth in the Fee agreement.

(e) The benefits of the Project to the public are 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) Having evaluated the purposes to be accomplished by the Project as proper governmental and public purposes, the anticipated dollar amount and nature of the investment to be made, and the anticipated costs and benefits to the County, the County has determined that the Project is properly classified as economic development property.

Section 2. In order to promote industry, develop trade and utilize the manpower, agricultural products and natural resources of the State, the form, terms and provisions of the Fee Agreement which shall be executed and filed with the Clerk to County Council which comply with the terms of the aforementioned Inducement Resolution are 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 Chair of County Council and the Clerk to County Council be and they are hereby authorized, empowered and directed to execute, acknowledge and deliver the Fee Agreement to the Company.

Section 3. The Chair of County Council 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 in a form substantially identical to the terms contemplated herein and the performance of all obligations of the County under and pursuant to the Fee Agreement.

Section 4. The park Agreement is hereby amended to include the property set forth herein as part of the Fee in Lieu of Tax and attached hereto as Exhibit A

Section 5. The consummation of all transactions contemplated by the Fee Agreement and a multi-county industrial park agreement are hereby approved.

Section 6. This Ordinance shall be construed and interpreted in accordance with the laws of the State of South Carolina.

Section 7. 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 8. 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 ADOPTED this _____ day of _____, 2010.

LEXINGTON COUNTY, SOUTH CAROLINA

James E. Kinard, Jr.
Chair of Lexington County Council

ATTEST:

By: _____
Diana W. Burnett
Clerk to Lexington County Council

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