

STATE OF SOUTH CAROLINA  
COUNTY COUNCIL FOR KERSHAW COUNTY  
ORDINANCE NO. 167.2010

2010 DEC -7 AM 8:53  
CLERK OF COURT  
KERSHAW COUNTY

AN ORDINANCE AUTHORIZING: (1) THE EXECUTION AND DELIVERY OF A FEE IN LIEU OF TAX AND INCENTIVE AGREEMENT BETWEEN KERSHAW COUNTY, SOUTH CAROLINA ("KERSHAW COUNTY") AND TB KAWASHIMA USA, INC., ACTING ON BEHALF OF ITSELF OR ANY AFFILIATE OR OTHER PROJECT SPONSOR (THE "COMPANY"), PURSUANT TO WHICH KERSHAW COUNTY SHALL COVENANT TO ACCEPT CERTAIN NEGOTIATED FEES IN LIEU OF *AD VALOREM* TAXES WITH RESPECT TO THE EXPANSION OF CERTAIN MANUFACTURING FACILITIES IN THE COUNTY (THE "PROJECT"); (2) THE BENEFITS OF A MULTI-COUNTY PARK TO BE MADE AVAILABLE TO COMPANY; AND (3) OTHER MATTERS RELATING THERETO.

WHEREAS, Kershaw County, South Carolina (the "County"), acting by and through its County Council (the "Council"), is authorized and empowered, under and pursuant to the provisions of the Code of Laws of South Carolina 1976, as amended (the "Code"), particularly Title 12, Chapter 44 thereof (the "Negotiated FILOT Act") and Title 4, Chapter 1 of the Code (the "Multi-County Park Act" and, together with the Negotiated FILOT Act, the "Act"), and by Article VIII, Section 13 of the South Carolina Constitution: (i) to enter into agreements with certain investors pursuant to construct, operate, maintain, and improve certain projects through which the economic 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 utilize and employ the manpower, agricultural products, and natural resources of the State; (ii) to covenant with such investors to accept certain fee in lieu of *ad valorem* tax ("FILOT") payments with respect to a project; and (iii) to create, in conjunction with one or more other counties, a multi-county industrial or business park in order to afford certain enhanced income tax credits to such investors; and

WHEREAS, TB Kawashima USA, Inc., a corporation organized and existing under the laws of the State of Delaware (the "Company"), proposes making a significant investment in the County through the expansion of certain manufacturing facilities within the County (the "Project"); and

WHEREAS, the Company anticipates that, should its plans proceed as expected, it will invest, or cause to be invested, at least \$9,000,000 at the Project and will create, or cause to be created, at least 50 new jobs within the County, all by the end of the Compliance Period (defined below); and

WHEREAS, the County has determined that the Project will subserve the purposes of the Act and has made certain findings pertaining thereto in accordance with the Act; and

WHEREAS, in accordance with such findings and determinations and in order to induce the Company to locate the Project in the County, the County adopted a Resolution on October

26, 2010 (the "Inducement Resolution"), pursuant to which the Company entered into an Inducement and Millage Rate Agreement ("Inducement Agreement"); and

WHEREAS, the County and the Company have agreed to the specific terms and conditions of such arrangements as set forth in a Fee in Lieu of Tax and Incentive Agreement between the County and the Company (the "Incentive Agreement") the form of which presented to this meeting, which Incentive Agreement is to be as of dated November 1, 2010 or such other date as the parties may agree; and

WHEREAS, it appears that the Incentive Agreement now before this meeting is in appropriate form and is an appropriate instrument to be executed and delivered by the County for the purposes intended;

NOW, THEREFORE, BE IT ORDAINED by the Council as follows:

Section 1. As contemplated by Section 12-44-40(I) of the Code, the findings and determinations set forth in the Inducement Resolution are hereby ratified and confirmed and the terms and conditions of the Inducement Agreement are hereby ratified and approved except as otherwise specifically modified by this Ordinance and the Incentive Agreement. In the event of any disparity or ambiguity, the terms of this Ordinance and the Incentive Agreement shall control. Additionally, the County makes the following findings and determinations:

(a) The Project will constitute a "project" within the meaning of the Negotiated FILOT Act.

(b) The Project, and the County's actions herein, will subserve the purposes of the Negotiated FILOT Act.

(c) The Project is anticipated to benefit the general public welfare of the State and the County by providing services, employment, recreation, or other public benefits not otherwise adequately provided locally.

(d) The Project gives rise to no pecuniary liability of the County or incorporated municipality or a charge against its general credit or taxing power.

(e) The purposes to be accomplished by the Project are proper governmental and public purposes.

(f) The benefits of the Project are greater than the costs.

(g) The Project will have a substantial public benefit.

Section 2. The County hereby agrees, subject to the investment and other requirements set forth herein, in the Incentive Agreement, and in the Negotiated FILOT Act, to enter into the Incentive Agreement with the Company, whereby the Company will agree to pay a Negotiated FILOT (as defined herein) with respect to the Project in accordance with the terms of such Incentive Agreement. The Incentive Agreement will provide, *inter alia*, the following:

(a) The Company must invest, or cause to be invested, at least \$9,000,000 at the Project (the "Minimum Contractual Investment Requirement") and will create, or cause to be created, at least 50 new jobs within the County (the "Minimum Jobs Requirement") all by the end of the period commencing with the Company's initial expenditures with respect to the Project and ending on the fifth anniversary of the end of the property tax year in which the Company places in service the initial assets comprising the Project (the "Compliance Period"). The Company may, prior to the end of the Compliance Period, apply to the County for up to a five-year extension of the period for completion of the Project beyond the Compliance Period (or any longer extension that may be hereafter permitted by the Negotiated FILOT Act) up to the tenth anniversary (or such later anniversary, if extended) of the end of the property tax year in which the Company places in service the initial assets comprising the Project as permitted by the Negotiated FILOT Act (the "Investment Period"), and the County may approve of such extension, in its sole discretion; provided, however, that there shall be no extension beyond the Compliance Period for meeting the minimum investment required by the Negotiated FILOT Act (\$2,500,000).

(b) (i) The Company shall pay a fee in lieu of ad valorem taxes calculated as provided in this Section 2(b) (the "Negotiated FILOT") for all property placed in service as part of the Project during the Compliance Period, or if extended as set forth in Section 2(a) hereof, the Investment Period. The annual Negotiated FILOT payments shall commence with respect to the property tax year in which the first assets comprising a part of the Project are placed in service and shall, assuming no extension to such period as set forth below in this Section 2(b)(i) hereof, continue for a total of 20 years for each such annual increment of investment during the Compliance Period, or if extended as set forth in Section 2(a) hereof, the Investment Period. In addition, the Company may, prior to the end of the Negotiated FILOT payment period set forth in this Section, apply to the County for up to a ten-year extension (or any longer extension that may hereafter be permitted by the Negotiated FILOT Act) of such period as permitted by the Negotiated FILOT Act, and the County may approve of such extension, in its sole discretion.

(ii) The Negotiated FILOT shall be determined using: (1) an assessment ratio of 6.0%, (2) a millage rate of 318.8 mills, which rate will be fixed for the term of the Agreement as set forth in the Negotiated FILOT Act; and (3) the fair market value of the Project, determined in accordance with the Act.

Section 3. The County will diligently take all reasonable acts to insure that the Project will be included, if not already included, and will remain, within the boundaries of a multi-county industrial or business park pursuant to the provisions of the Multi-County Park Act on terms which provide, for all jobs created by the Company in the County during the Compliance Period, or if extended as set forth in Section 2(a) hereof, the Investment Period, any additional jobs tax credits afforded by the laws of the State for projects located in multi-county industrial or business parks.

Section 4. The form, provisions, terms, and conditions of the Incentive Agreement presented to this meeting and filed with the Clerk to Council be and they are hereby approved, and all of the provisions, terms, and conditions thereof are hereby incorporated herein by

reference as if the Incentive Agreement were set out in this Ordinance in its entirety. The Incentive 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 the County thereunder and as shall be approved by the officials of the County executing the same, their execution thereof to constitute conclusive evidence of their approval of any and all changes or revisions therein from the form of the Incentive Agreement now before this meeting.

Section 5. The form, terms and provisions of the Inducement Agreement heretofore entered into by the County and the Company are hereby ratified and approved to the extent allowed by law, and all of the terms, provisions and conditions thereof are hereby incorporated herein by reference as if the Inducement Agreement were set out in this Ordinance in its entirety, except to the extent modified by this Ordinance or the Incentive Agreement. In the event of any disparity or ambiguity, the terms of this Ordinance and the Incentive Agreement shall control.

Section 6. The Chairman and Vice-Chairman of the Council are hereby authorized, empowered, and directed to execute the Incentive Agreement in the name and on behalf of the County; the Clerk to Council is hereby authorized and directed to attest the same; and the Chairman and Vice-Chairman of the Council are further authorized, empowered, and directed to deliver the Incentive Agreement to the Company. The Chairman and Vice-Chairman of the Council, and the Clerk to Council, for and on behalf of the County, are hereby each authorized, empowered, and directed to do any and all things necessary or proper to effect the performance of all obligations of the County under and pursuant to the Incentive Agreement, and to carry out the transactions contemplated thereby and by this Ordinance.

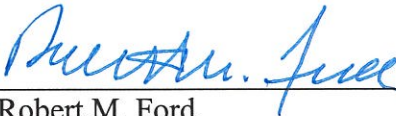
Section 7 The provisions of this Ordinance are hereby declared to be separable and if any section, phrase, or provision shall for any reason be declared by a court of competent jurisdiction to be invalid or unenforceable, such declaration shall not affect the validity of the remainder of the sections, phrases, and provisions hereunder.

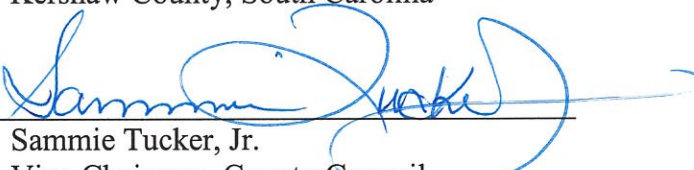
Section 8 All orders, resolutions, ordinances, and parts thereof in conflict herewith are, to the extent of such conflict, hereby repealed and this Ordinance shall take effect and be in full force from and after its passage and approval.

[End of Ordinance; execution page to follow.]

Enacted and approved this 23rd day of November, 2010.

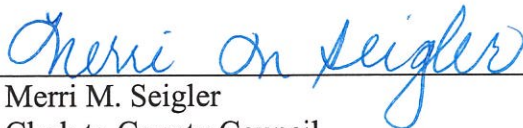
KERSHAW COUNTY, SOUTH CAROLINA

By:   
Robert M. Ford  
Chairman, County Council  
Kershaw County, South Carolina

By:   
Sammie Tucker, Jr.  
Vice-Chairman, County Council  
Kershaw County, South Carolina

[SEAL]

Attest:

By:   
Merri M. Seigler  
Clerk to County Council  
Kershaw County, South Carolina

First Reading:           October 26, 2010  
Second Reading:       November 9, 2010  
Public Hearing:           November 23, 2010  
Third Reading:          November 23, 2010