



RESOLUTION TITLE: TO AUTHORIZE GASTON COUNTY TO APPLY FOR A ONE NORTH CAROLINA GRANT AND ENTER INTO AN ECONOMIC DEVELOPMENT AGREEMENT (EDA) WITH PROJECT LENO AND TO AUTHORIZE A FUND BALANCE APPROPRIATION OF \$50,000 FOR A LOCAL MATCH

WHEREAS, Project LENO is considering a total investment of \$3.4 million in purchasing a building and machinery and equipment (M&E) to maintain an advanced manufacturing and technical facility in Stanley with the expectation to complete this investment on or before December 31, 2020; and,

WHEREAS, the firm intends to create at least twenty-nine (29) new jobs expecting to pay an average annual wage of \$38,900 with the current average annual wage for Gaston County being \$39,852; and,

WHEREAS, this investment consist of not less than nine hundred twenty-five thousand dollars (\$925,000) in real property investment and two million five hundred thousand dollars (\$2.5 Million) in personal property (M&E) investment; and,

WHEREAS, North Carolina General Statute §158-7.1 authorizes a County to undertake an economic development project by providing grants for the location of industry; and,

WHEREAS, it is anticipated that the Company's capital investment in and at the Property and its operations thereat will generate significant ad valorem tax, sales tax and other revenues for the County; and,

WHEREAS, The State of North Carolina is expected to offer a One North Carolina Fund Discretionary Grant of one hundred thousand dollars (\$100,000) which requires a local match of 50% (fifty thousand dollars \$50,000) being sourced from local investment grants of the County; and,

WHEREAS, the County's One North Carolina Fund application will be incorporated into a detailed economic development agreement (EDA), between Project LENO, and the County, so as to induce the company to provide good job opportunities and capital investment which will enhance the County's ability to attract additional business and industry.

NOW, THEREFORE, BE IT RESOLVED that the Gaston County Board of Commissioners:
 Authorizes the Chairman of the Gaston County Board of Commissioners to execute any documents necessary to make application for a One North Carolina Grant and authorizes a fund balance appropriation of \$50,000 for the required local match. The Board further authorizes the Chairman to execute an Economic Development Agreement for Project LENO.

DO NOT TYPE BELOW THIS LINE

I, Donna S. Buff, Clerk to the County Commission, do hereby certify that the above is a true and correct copy of action taken by the Board of Commissioners as follows:

NO.	DATE	M1	M2	CBrown	JBrown	AFrale	BHovls	TKelgher	WHubbeck	RWorley	Vote
2019-302	11/12/2019	RW	CB	A	AB	A	A	A	A	A	U

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GASTON COUNTY BUDGET CHANGE REQUEST

TO: Dr. Kim S. Eagle COUNTY MANAGER

FROM: 4950 ECONOMIC DEVELOPMENT
Dept. # Department Name

Donny Hicks 10/31/2019
Department Director's Name Date

TYPE OF REQUEST:

- Line Item Transfer Within Department & Fund
 Line Item Transfer Between Funds *
 Project Transfer Within Department & Fund
 Additional Appropriation of Funds *
 Line Item Transfer Between Departments*
 * Requires resolution by the Board of Commissioners

ACCOUNT DESCRIPTION <small>(As it appears in the budget)</small>	ACCOUNT NUMBER <small>Fund - Function - Dept - Division - Object - Project xxx - xx - xxxx - xxxx - xxxxx - xxxxxx</small>	AMOUNT <small>Whole Dollars Only (See Note Below)</small>
Fund Balance Appropriated	040-99-9900-0000-490000	\$ (50,000.00)
One NC Grant: Project LENO	040-07-4920-4920-540006-20551	\$ 50,000.00

JUSTIFICATION FOR REQUEST:

PROJECT LENO IS CONSIDERING A TOTAL INVESTMENT OF \$3.4 MILLION IN PURCHASING A BUILDING AND MACHINERY AND EQUIPMENT TO MAINTAIN AN ADVANCED MANUFACTURING FACILITY IN STANLEY. THE COMPANY IS APPLYING FOR A ONE NORTH CAROLINA GRANT THROUGH THE NC DEPARTMENT OF COMMERCE AND GASTON COUNTY IS REQUIRED TO MATCH THIS GRANT WITH \$50,000 (50%). THIS BOARD ACTION AND BUDGET CHANGE REQUEST APPROVES AND APPROPRIATES \$50,000 FROM FUND BALANCE .

\$50,000.00 FROM 040-99-9900-0000-490000 TO 040-07-4920-4920-540006-20551

Note: Decreases in expenditures & increases in revenue accounts require brackets. Increases in expenditures & decreases in revenue do not require brackets. Please note that transfers between funds require interfund transfer accounts.

NORTH CAROLINA
GASTON COUNTY

ECONOMIC DEVELOPMENT
AGREEMENT

This ECONOMIC DEVELOPMENT AGREEMENT dated as of the ____ day of _____ 2019, is entered into by and between GASTON COUNTY, a political subdivision of the State of North Carolina (the "County"), and PROJECT LENO INC. (the "Company").

WITNESSETH:

WHEREAS, the Company proposes to purchase an existing building hereinafter defined as the Property, consisting of an existing building located at _____ on Gaston County Parcel Identification Number _____; with the intent of establishing an advanced manufacturing plant at a cost of **three million four hundred thousand dollars (\$3,400,000)** of investment in land, building and equipment hereinafter defined as the "Facility" and;

WHEREAS, in consideration of the certain incentives to be provided to the Company by the County and other inducements, all as more fully described herein;

WHEREAS, pursuant to the Local development Act of 1925, North Carolina General Statutes §158-7.1, and the County's and policies on economic development incentive grants the County has determined, after having conducted a public hearing thereon, agreed to provide certain incentives to the Company as more particularly described herein to induce the Company to complete construction of the Facility and certain other improvements upon the Property, to locate certain equipment upon the Property, and to provide certain high quality jobs and to house the Company's North American corporate offices at the Facility;

WHEREAS, the parties desire hereby to document their respective commitments, and, to the fullest extent permitted by North Carolina law, contractually bind them thereto;

WHEREAS, it is anticipated that the Company's capital investment in and at the Property and its operations thereat will generate significant ad valorem tax, sales tax and other revenues to the County, which revenue sources constitute a material part of the financial basis for the County entering into this Agreement; and

NOW, THEREFORE, for and in consideration of the mutual covenants and agreements contained herein, the parties agree and contract as follows:

1. The Facility. The Company proposes to complete improvements to Facility, and locate and maintain upon the Property equipment and other personal property, representing a combined investment of not less than **three million four hundred thousand dollars (\$3,400,000)**. The Company currently expects to complete the Facility and this multi-phased investment on or before _____.
2. Grants. Based upon the Company establishing an advanced manufacturing facility on the property, and having received a One North Carolina Fund Discretionary Grant of \$100,000.00, which requires a 50% local match, the County will provide a matching grant of \$50,000.00.
3. Additional grants and inducements. The County additionally agrees to provide the following grants and inducements to Company from lawfully available funds not otherwise restricted for the applicable project costs as set forth in this section 4 and expressly incorporated herein by reference.

(i) Business Retention and Expansion Program

The County EDC agrees to provide a central point-of-contact for any future expansions contemplated by Company involving existing industry issues which might need to be addressed on Company's behalf. This would include but not be limited to training, incumbent worker programs, utility upgrades and vendor support. The County EDC's Existing Industry Coordinator shall be designated as the initial point of contact. Once the Company's Facility is established, the County's Existing Industry Coordinator agrees to conduct periodic visits to the plant to insure that the Company's expectations of local and State support have been met.

(ii) Project Coordination

The County also agrees to provide the following assistance to Company:

- (a) Permitting: Upon project announcement, a designee from the County EDC and the Gaston County Building Inspections and Permitting Department will assemble a project team to meet with the Company's administration team at a location and time of Company's choice.
- (b) Recruitment and Training: The County shall cause the County EDC to facilitate meetings between Company, the North Carolina Employment Services Division, Gaston County Workforce Development Board and the North Carolina Community College System to initiate the activities of recruitment and training of employees on behalf of the Company. These activities are standard State of North Carolina programs administered and delivered by local agencies.

4. Assignment.
 - (a) Except as provided in the following provisions of this Section 4 or otherwise set forth in this Agreement, no party shall assign its rights hereunder.
 - (b) Notwithstanding the foregoing, the Company may assign its rights hereunder to any entity that it controls, that controls the Company or that is under the common control of another with the Company.
 - (c) Nothing in the foregoing shall be interpreted or construed to prohibit the Company (or any permitted assignee under Subsection 6(b)) from engaging in a sale-leaseback transaction or using, or permitting the use of, the Property or any portions thereof by or for the benefit of third parties under leases, subleases, licenses, contracts, or other arrangements satisfactory to the Company (or its permitted assignee under Subsection 6(b)) in its sole and absolute discretion.

The Company will give the County at least thirty (30) days' prior written notice of any assignment hereunder.

5. Disclaimers. The Company acknowledges that the County has not designed the Facility, the County has not supplied any plans or specifications with respect thereto and the County (a) is not a manufacturer of, or dealer in, any of the component parts of the Facility or similar facilities, (b) has not made any recommendation, given any advice or taken any other action with respect to (1) the choice of any supplier, vendor or designer of, or any other contractor with respect to, the Facility or any component part thereof or any property or rights relating thereto, or (2) any action taken or to be taken with respect to the Facility or any component part thereof or any property or rights relating thereto at any stage of the construction thereof, and (c) has not made any warranty or other representation, express or implied, that the Facility or any component part thereof or any property or rights relating thereto (i) will not result in or cause injury or damage to persons or property, (ii) has been or will be properly designed, or will accomplish the results which the Company intends therefor, or (iii) is safe in any manner or respect.

The County makes no express or implied warranty or representation of any kind whatsoever with respect to the Facility or any component part thereof, including but not limited to any warranty or representation with respect to the merchantability or the fitness or suitability thereof for any purpose, and further including the design or condition thereof; the safety, workmanship, quality or capacity thereof; compliance thereof with the requirements of any law, rule, specification or contract pertaining thereto; any latent defect; the Facility's ability to perform any function; or any other characteristic of the Facility; it being agreed that the Company is to bear all risks relating to the Facility, the completion thereof and the transactions contemplated hereby and the Company hereby waives the benefits of any and all implied warranties and representations of the County as they may relate to the

foregoing. Nothing herein is intended to contradict or make void any warranty or representation made in the land Contract.
The provisions of this Section shall survive the Agreement's termination.

6. **Controlling Law.** This Agreement is entered into pursuant to the laws of the State of North Carolina, and shall be construed and enforced thereunder.
7. **Force Majeure.** If by reason of acts of God, floods, storms, insurrection, riots, acts of the public enemy, national catastrophe, or similar unexpected events, the Company is unable to complete the construction and related undertakings called for herein, or if same is delayed as a result of such event or events, then the parties hereto agree to extend the time period that the County will be obligated to make the payments and provide the incentives described herein to a date to be mutually agreed upon by the parties hereto based upon the gravity and duration of such unexpected event.
9. **Defaults; Remedies; Dispute Resolution and Cooperation.**
 - (a) In the event of litigation for any alleged breach of this Agreement, exclusive jurisdiction and venue for such litigation shall be in the Superior Court of Gaston County, North Carolina or the United States District Court for the Western District of North Carolina. The County further agrees to reasonably assist the Company in its present as well as future applications for any incentives, grants and programs that may be or, alternatively, become available from the County, and/or the State, and that the County will cooperate with the Company in its defense (should any defense ever be necessary) of this Agreement and/or the incentives granted hereunder, so as to support and in no way undercut same. The Company also agrees to reasonably cooperate with the County, and other North Carolina, federal and municipal authorities in any such efforts. In the event that any of the incentives or other agreements of the County are determined to be invalid, the County agrees that it will, to the extent permitted by law, reasonably provide the Company with any permitted incentives of substantial equal value pursuant to one or more replacement incentive grant programs.
10. **Notices.**
 - (a) Whenever this Agreement requires or permits any consent, approval, notice, request, proposal, or demand (collectively, "Notice") from one party to another, the Notice must be in writing and shall be effective upon the first to occur of (i) actual receipt by the intended recipient, or (ii) the third (3rd)

business day after it is properly deposited in the United States mail via certified mail, return receipt requested.

(b) Each party's address to which such Notices shall be delivered is listed below:

(1) If to Company, to **LENO INC.**
Attn: Plant Manager

Stanley, NC 28054

(2) If to County, to Gaston County Government Offices
Attn: County Manager
P.O. Box 1578
Gastonia, NC 28053-1578

(c) Any party entitled to receive a Notice hereunder may change the address which it previously had specified for receiving the same, at any time and from time to time, by delivering a written change notice in accordance with the above provisions to the other parties five (5) business days prior to the effective date of such change.

12. **Non-Business Days.** If the date for making any payment or the last day for performance of any act or the exercising of any right shall not be a Business Day, such payment shall be made or act performed or right exercised on or before the next Business Day.

13. **Severability.** If any provision of this Agreement shall be determined to be invalid or unenforceable by a court of competent jurisdiction, then (a) such determination shall not invalidate or render unenforceable any other provision of this Agreement; (b) such provision shall be construed as closely as possible to the parties' original intent in order to render such provision valid or enforceable, as applicable; and (c) the remaining terms hereof, together with such reconstructed provision, shall constitute the parties' entire agreement hereof.

14. **Amendments.** This Agreement shall not be changed except in writing and signed by all the parties.

15. **Binding Effect and Effectiveness.** Subject to the specific provisions of this Agreement, this Agreement shall be binding upon and inure to the benefit of and be enforceable by the parties and their respective successors and assigns,

notwithstanding changes in corporate or other governance. The County represents and warrants that it has approved this Agreement and the terms and incentives hereunder, and that the same are in compliance with any economic development or other policies or applicable legal authorities, and that the terms and incentives hereunder have been, and this Agreement shall further be conditioned upon it being stamp-certified as having been, pre-audited in order to comply with the budgetary accounting requirements (if any) that apply, under the Local Government Budget and Fiscal Control Act or otherwise. Such certification is set forth at the end of this Agreement, and must be signed by the Finance Officer for the County.

16. **Liability of Officers and Agents.** No official, officer, agent or employee of the County, or Company shall be subject to any personal liability or accountability by reason of the execution or performance of this Agreement or any other documents related to the transactions contemplated hereby. Such officials, officers, agents, or employees shall be deemed to execute such documents in their official capacities only, and not in their individual capacities. This Section shall not relieve any such official, officer, agent or employee from the performance of any official duty provided by law. Nevertheless, the parties, and each person executing this Agreement on behalf thereof, represent and warrant that they have the full right and authority to enter into this Agreement, which is binding upon the party represented by them, and to sign on behalf of the party indicated, and are acting on behalf of themselves, their constituent members, and the successors and assigns of each of them.
17. **Publicity.** The County shall not make any public announcement of the entering into of this Agreement or the terms and conditions hereof without the prior written consent of the Company.
18. **Counterparts.** This Agreement may be executed in any number of separate counterparts. Each executed counterpart shall constitute an original, but all of them taken together shall constitute a single instrument.

SIGNATURES NEXT PAGE

GASTON COUNTY

By: _____
Tracy L. Philbeck, Chairman
Board of County Commissioners

ATTEST:

By: _____
Clerk to the Board of County Commissioners

This instrument has been pre-audited to the extent, and in the manner, required by the "Local Government Budget and Fiscal Control Act."

Gaston County Finance Officer, on behalf of the County

Approved as to Form:

Gaston County Attorney

This Agreement was approved by the Gaston County Board of Commissioners at its meeting held the _____ day of _____, 2019 .

Clerk to the Board of County Commissioners

PROJECT LENO

By: _____

Name:

Title:

Attest:



Gaston County

Gaston County
Board of Commissioners
www.gastongov.com

Economic Development Commission Board Action

File #: 19-453

Commissioner Chad Brown - EDC - To Authorize Gaston County to Apply for a One North Carolina Grant and Enter into an Economic Development Agreement (EDA) with Project LENO and to Authorize a Fund Balance Appropriation of \$50,000 for a Local Match

STAFF CONTACT

Donny Hicks - Economic Development - 704-825-4046

BUDGET IMPACT

Fund Balance Appropriation - Required Local Match (\$50k)

BUDGET ORDINANCE IMPACT

N/A

BACKGROUND

Project LENO is considering a total investment of \$3.4 million in purchasing a building and machinery and equipment to maintain an advanced manufacturing facility in Stanley with the expectation to complete this investment on or before December 31, 2020. The firm intends to create at least twenty-nine new jobs expecting to pay an average annual wage of \$38,900 with the current average annual wage of Gaston County being \$39,852. Gaston County is required to provide a local match for the One North Carolina Grant of \$50,000.

POLICY IMPACT

N/A

ATTACHMENTS

Resolution, Budget Change Request and Economic Development Agreement

DO NOT TYPE BELOW THIS LINE

I, Donna S. Buff, Clerk to the County Commission, do hereby certify that the above is a true and correct copy of action taken by the Board of Commissioners as follows:

NO.	DATE	M1	M2	CBrown	JBrown	AFraley	BHovis	TKelgher	TPhillbeck	RWorley	Vote
2019-302	11/12/2019	RW	CB	A	AB	A	A	A	A	A	U

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A=AYE, N=NAY, AB=ABSENT, ABS=ABSTAIN, U=UNANIMOUS