

STATE OF SOUTH CAROLINA
COUNTY COUNCIL FOR DORCHESTER COUNTY
ORDINANCE NO. 22-27

AUTHORIZING THE EXECUTION AND DELIVERY OF A FEE-IN-LIEU OF *AD VALOREM* TAXES AND SPECIAL SOURCE REVENUE CREDIT AGREEMENT BY AND BETWEEN DORCHESTER COUNTY, SOUTH CAROLINA AND PHENOM YACHTS, LLC AND OTHER OF ITS AFFILIATED ENTITIES, TO PROVIDE FOR PAYMENT OF A FEE-IN-LIEU OF TAXES WITH RESPECT TO CERTAIN PROJECTS; AUTHORIZING THE INCLUSION OF CERTAIN PROJECT SITES IN A MULTI-COUNTY BUSINESS PARK; AUTHORIZING SPECIAL SOURCE REVENUE CREDITS; AND OTHER RELATED MATTERS.

WHEREAS, Dorchester County, South Carolina (“County”), acting by and through its County Council (“County Council”) is authorized pursuant to the provisions of Title 12, Chapter 44, Code of Laws of South Carolina, 1976, as amended (“FILOT Act”), to encourage manufacturing and commercial enterprises to locate in the State of South Carolina (“South Carolina” or “State”) or to encourage manufacturing and commercial enterprises now located in the State to expand their investments and thus make use of and employ the manpower, products, and other resources of the State by entering into an agreement with a sponsor, as defined in the FILOT Act, that provides for the payment of a fee-in-lieu of *ad valorem* tax (“FILOT Payments”), with respect to economic development property, as defined in the FILOT Act; and

WHEREAS, pursuant to Article VIII, Section 13 of the South Carolina Constitution and Title 4, Section 1, Code of Laws of South Carolina, 1976, as amended (collectively, “MCIP Act”), the County is authorized to jointly develop multicounty parks with counties having contiguous borders with the County and, in the County’s discretion, include property within the boundaries of such multicounty parks. Under the authority provided in the MCIP Act, the County has created a multicounty park with Orangeburg County (“Park”); and

WHEREAS, pursuant to the FILOT and MCIP Acts, the County is authorized to provide special source revenue credits (“Infrastructure Credits”) against FILOT Payments derived from economic development property to pay costs of designing, acquiring, constructing, improving or expanding (i) infrastructure serving a project or the County and (ii) improved and unimproved real estate and personal property used in the operation of a commercial enterprise or manufacturing facility (“Infrastructure”);

WHEREAS, Phenom Yachts, LLC, a South Carolina limited liability company (together with its affiliates in the Project, collectively, the “Company”), desires to develop a certain parcel of real property located within the County, as more particularly described on Exhibit A (the “Real Property”), and establish a manufacturing facility (the “Facility”) thereon (collectively, the “Project”), which shall create approximately 149 new, full-time jobs in the County and consist of investments in real and personal property of approximately \$12,125,000.00 in total within the County; and

WHEREAS, the County has agreed to provide certain Infrastructure Credits to the Company, as incentive and inducement for developing or re-developing the Real Property, to partially reimburse the Company for infrastructure serving the economic development needs of the County; and

WHEREAS, at the request of the Company and as an inducement to locate the Project in the County, the County desires to enter into a Fee in Lieu of Taxes and Special Service Revenue Credit Agreement in substantially the form attached hereto as Exhibit B (“Fee Agreement”), pursuant to which the County will provide certain incentives to the Company with respect to the Project, including (1) FILOT Payments, to be calculated as set forth in the Fee Agreement, with respect to the portion of the Project

which constitutes economic development property; (2) locating the Project in the Park; and (3) Infrastructure Credits, as described in the Fee Agreement, to assist in paying the costs of certain Infrastructure, all as previously described in the Inducement Resolution.

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

Section 1. *Statutory Findings.* Based on information supplied to the County by the Company, County Council evaluated the Project based on relevant criteria including, the purposes the Project is to accomplish, the anticipated dollar amount and nature of the investment, and the anticipated costs and benefits to the County, and hereby finds:

(a) The Project is anticipated to benefit the general public welfare of the County 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;

(c) The purposes to be accomplished by the Project are proper governmental and public purposes; and

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

Section 2. *Approval of Incentives; Authorization to Execute and Deliver Fee Agreements.* The incentives as described in this Ordinance (“Ordinance”), and as more particularly set forth in the Fee Agreement with respect to the Project are hereby approved. The form, terms and provisions of the Fee Agreement that are before this meeting are approved and all of the Fee Agreement’s terms and conditions are incorporated in this Ordinance by reference. The Chair of County Council (“Chair”) is authorized and directed to execute the Fee Agreement with Company, in the name of and on behalf of the County, subject to the approval of any revisions or changes as are not materially adverse to the County by the County Administrator and counsel to the County, and the Clerk to County Council is hereby authorized and directed to attest such Fee Agreement and to deliver the same to the Company.

Section 3. *Inclusion within the Park.* The creation of a multi-county park to include the Project site or the expansion of the Park boundaries to include the Project site are authorized and approved. The Chair, the County Administrator and the Clerk to County Council are each authorized to execute such documents and take such further actions as may be necessary to complete the establishment or expansion of the Park boundaries. Pursuant to the MCIP Act and the terms of the agreement governing the Park (“Park Agreement”), the expansion of the Park’s boundaries is complete on adoption of this Ordinance by County Council, and the delivery of this Ordinance to Orangeburg County, along with a description of the additional property to be included in the Park.

Section 4. *Further Assurances.* The County Council confirms the authority of the Chair, the County Administrator, the Clerk to County Council, and various other County officials and staff, acting at the direction of the Chair, the County Administrator, or Clerk to County Council, as appropriate, to take whatever further action and to negotiate, execute and deliver whatever further documents as may be appropriate to effect the intent of this Ordinance and the incentives offered to the Company under this Ordinance and the Fee Agreement, including, but not limited to, any joinder agreements with sponsor affiliates as provided in the Fee Agreement, which execution and delivery is hereby expressly approved without any further County Council action.

Section 5. *Savings Clause.* The provisions of this Ordinance are separable. If any part of this Ordinance is, for any reason, unenforceable then the validity of the remainder of this Ordinance is unaffected.

Section 6. *General Repealer.* Any prior ordinance, resolution, or order, the terms of which are in

conflict with this Ordinance, is, only to the extent of that conflict, repealed.

Section 7. *Effectiveness.* This Ordinance is effective after its third reading and public hearing.

[Remainder of page intentionally left blank – Signature Page Follows]

DORCHESTER COUNTY, SOUTH CAROLINA



(SEAL)
ATTEST:

A handwritten signature in black ink, appearing to read "W.R. Hearn, Jr.", is written over a horizontal line.

William R. Hearn, Jr.,
Chairman, County Council

A handwritten signature in black ink, appearing to read "Tracey L. Langley", is written over a horizontal line.

Tracey L. Langley
Clerk to Council, Dorchester County Council

First Reading: September 19, 2022
Second Reading: October 3, 2022
Public Hearing: November 7, 2022
Third Reading: November 7, 2022

[Remainder of page intentionally left blank – Exhibit A follows]

EXHIBIT A

REAL PROPERTY DESCRIPTION

113 Sportsman Way
Summerville, South Carolina 29483
Dorchester County

[TMS Number: 122-00-00-151.000]

[Remainder of page intentionally left blank – Exhibit B follows the attachment]

EXHIBIT B

FEE AGREEMENT

(attached)