

STATE OF SOUTH CAROLINA

ORDINANCE NUMBER 14-14

COUNTY OF DORCHESTER

**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 DORCHESTER COUNTY, SOUTH CAROLINA AND INNOVATIVE MACHINING TECHNOLOGY, INC.; AND MATTERS RELATING THERETO.**

**WHEREAS**, Dorchester 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 July 21, 2014 (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 with **Innovative Machining Technology, Inc.**, a Pennsylvania corporation (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, as defined in the Act, concerning the Company’s investment in certain buildings, improvements, fixtures, machinery, equipment, and other personal property for manufacturing purposes and any and all activities relating thereto (which properties and facilities constitute a project under the Act and are referred to hereinafter 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 invest in the Project in the County, the County hereby agrees 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**, Dorchester County Council (the “County Council”) has caused to be prepared and presented to this meeting the form of the Fee Agreement between the County and the Company, which the County proposes to execute and deliver;

**WHEREAS**, as further inducement to the Company, the County will cause the Project to be added to a Multi-County Industrial Park (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”);

**WHEREAS**, under the provisions of Sections 4-1-175 of the Code of Laws of South Carolina, 1976, as amended, and Section 12-44-70 of the Act (collectively, the “Infrastructure Law”), the County is authorized to use revenues received from payments of fees-in-lieu of taxes under the Infrastructure Law, the Act and/or the MCIP Law for the purpose of defraying a portion of the cost of designing, acquiring, constructing, improving or expanding the infrastructure (the “Infrastructure”) serving the Project;

**WHEREAS**, the Company has requested the County to use a portion of the above aforementioned payments for the purpose of defraying the costs of the Infrastructure serving the Project as permitted by the Infrastructure Law;

**WHEREAS**, the County Council, having found that the Infrastructure will serve the County and, as a direct result of the acquisition thereof, assist the County in its economic development efforts by inducing the Company to locate an industrial facility in the County, proposes to provide an Annual Special Revenue Credit (as defined in the Fee Agreement) against payments of fees-in-lieu of taxes to be made concerning the Project pursuant to the Infrastructure Law, the Act and/or the MCIP Law; and

**WHEREAS**, it appears that the document above referred to, which is now before this meeting, is in appropriate form and is an appropriate instrument 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 expenditures of not less than \$5,000,000;

(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 is before this meeting and filed with the Clerk to County Council is 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. The Fee Agreement is to be in substantially the form now before this meeting and hereby approved, or with such changes therein 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 Fee Agreement now before this meeting.

**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 and the performance of all obligations of the County under and pursuant to the Fee Agreement.

**Section 4.** The consummation of all transactions contemplated by the Fee Agreement is hereby approved.

**Section 5.** This Ordinance shall be construed and interpreted in accordance with the laws of the State of South Carolina.

**Section 6.** 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 7.** 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 15<sup>th</sup> day of September, 2014.

**DORCHESTER COUNTY COUNCIL:**



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

First Reading: August 11, 2014  
Second Reading: September 2, 2014  
Public Hearing: September 15, 2014  
Third Reading: September 15, 2014

ATTEST:



Sally K. Hebert, Clerk to Council