

STATE OF SOUTH CAROLINA)
)
COUNTY OF DORCHESTER)

A RESOLUTION OF THE #09-17
DORCHESTER COUNTY COUNCIL

MAKING APPLICATION TO THE STATE BUDGET AND CONTROL BOARD OF SOUTH CAROLINA FOR APPROVAL OF THE ISSUANCE BY DORCHESTER COUNTY, SOUTH CAROLINA, OF ITS SPECIAL SOURCE REVENUE BOND, SERIES 2009, IN AN AGGREGATE PRINCIPAL AMOUNT OF NOT TO EXCEED \$3,250,000, PURSUANT TO THE PROVISIONS OF THE CODE OF LAWS OF SOUTH CAROLINA 1976, AS AMENDED, TITLE 4, CHAPTERS 1 AND 29; AND PROVIDING FOR OTHER MATTERS THERETO RELATING.

WHEREAS, Dorchester County, South Carolina ("County"), acting by and through its County Council ("County Council"), is authorized and empowered under and pursuant to the provisions of the Constitution of the State of South Carolina of 1895, as amended ("Constitution"), the Code of Laws of South Carolina 1976, as amended ("Code"), and the case law of the Courts of the State of South Carolina, to offer and provide certain privileges, benefits, and incentives to industries as inducements for economic development within the County; is authorized and empowered under and pursuant to the provisions of Article VIII, Section 13 of the South Carolina Constitution, in conjunction with other portions and provisions of Title 4 of the Code of Laws of South Carolina including, without limitation, Chapters 1 and 29, as amended (collectively "Act") to jointly develop an industrial or business park with other counties wherein the area comprising the parks and all property having a situs therein are exempt from all *ad valorem* taxation but, instead, pays fees in lieu of tax; and to issue special source revenue bonds secured by such payments for the purpose of paying the cost of designing, acquiring, constructing, improving, or expanding the infrastructure serving the issuer and for improved or unimproved real estate used in the operation of a manufacturing or commercial enterprise in order to enhance the economic development of the issuer and pay the costs of issuance of the bonds; and

WHEREAS, the County is designing, acquiring, constructing, improving or expanding certain infrastructure, in particular, to provide for water and sewer and other infrastructure for one of more industrial parks in the County, so as to induce companies to locate or expand in the County, at an estimated total cost of approximately \$5,090,000, including necessary expenses incident thereto, of which \$2,500,000 will be funded by grant funds (collectively, "Project");

WHEREAS, the County has several agreements already existing between the County and various companies through which the companies have negotiated and agreed to pay a fee in lieu of *ad valorem* taxes and otherwise companies located in a Park (defined below) make payments in lieu of taxes pursuant to Section 13(D), Article VIII of the Constitution (collectively, "FILOT Payments"), the County millage-portion of which the County is willing to pledge for the repayment of the Bonds (defined below); and

WHEREAS, one, or more, as yet, unnamed company has committed to make FILOT Payments, the entire amount of which the County is willing to pledge for the repayment of the Bonds; and

WHEREAS, the County Council believes that the Project directly and substantially benefits the general public welfare of the County by, prospectively, providing for the creation of jobs and employment, the increase of *ad valorem* tax base, service, employment, recreation or other public benefits not otherwise provided locally; and, that the Project gives rise to no pecuniary liability of the County or a charge against the County's general credit or taxing power; and that the purposes to be accomplished by the Project, *i.e.*,

County's general credit or taxing power; and that the purposes to be accomplished by the Project, *i.e.*, economic development, creation or retention of jobs, and addition to the tax base of the County, are proper governmental and public purposes and that the inducement of the location or expansion of companies within one or more industrial parks, and multi-county industrial/business parks (each, a "Park"), which is located in the County and State is of paramount importance to the County and that the benefits of the Project to the County will be greater than the costs; and

WHEREAS, the County is authorized by Section 4-29-68 and Section 4-1-175 of the Code ("Bond Act") to issue its special source revenue bonds, secured by and payable solely from revenues of the County from FILOT Payments, for the purpose of paying the cost of designing, acquiring, constructing, improving, or expanding the infrastructure serving the County and for improved or unimproved real estate to be used in the operation of a manufacturing or commercial enterprise in order to enhance the economic development of the issuer and pay the costs of issuance of the bonds; and

WHEREAS, the County proposes to issue, subject to the approval of the State Budget and Control Board of South Carolina ("Budget and Control Board"), its Special Source Revenue Bond Series 2009 ("Bond"), in the principal amount of not exceeding \$3,250,000 to defray the costs of designing, acquiring, constructing, improving or expanding certain infrastructure serving the County and for improved or unimproved real estate to be used in the operation of a manufacturing or commercial enterprise, in order to enhance the economic development of the County, as defined in Section 4-29-68(A)(2) ("Infrastructure"), and, as applicable, to pay for a debt service reserve fund, to pay for capitalized interest and to pay the cost of issuance of the Bonds; and

WHEREAS, pursuant to the provisions of one or more agreements governing the Park (collectively, "Park Agreements"), all properties located within the Park make FILOT Payments to the County; and

WHEREAS, it is now deemed advisable by the County Council to file with the Budget and Control Board, in compliance with Section 4-29-140 of the Code, the Petition of the County requesting approval of the issuance of the Bond by the Budget and Control Board; and

NOW, THEREFORE, BE IT RESOLVED by the County Council of Dorchester County, South Carolina:

Section 1. Findings and Determinations. It is hereby found, determined and declared:

(a) The Infrastructure will constitute "infrastructure" as referred to and defined in Section 4-29-68 of the Bond Act, and the issuance of the Bond in the principal amount of not exceeding \$3,250,000 to defray the cost of the Infrastructure will serve the purposes and in all respects conform to the provisions and requirements of the Bond Act.

(b) A reasonable estimate of the cost of the Infrastructure, including necessary expenses incident thereto, is not more than \$5,750,000.

(c) The amounts necessary in each year to pay the principal of and interest on the Bond are set forth in a Bond Ordinance, which is anticipated to be enacted by the County Council in October 2009. The Bond Ordinance will provide terms and conditions which govern (i) the issuance and repayment of all special source revenue bonds payable from the FILOT Payments and (ii) the issuance and repayment of the Bond.

Section 2. Submission of Petition. There be and is hereby authorized and directed the submission on behalf of the County of a Petition requesting the approval of the proposal of the County to issue the Bond by


the Budget and Control Board pursuant to the within-referenced provisions of the Code; the Petition, which constitutes and is hereby made a part of this Resolution, to be in substantially the form attached hereto.

Section 3. *Execution of Petition.* The Chairman of the County Council and the Administrator of the County shall be and are hereby authorized and directed to execute the Petition in the name of and on behalf of the County; and the Clerk to the County Council shall be and is hereby authorized and directed to attest the same and thereafter to submit an executed copy of this Resolution and the Petition to the Budget and Control Board in Columbia, South Carolina.

Section 4. *Effect of Resolution.* All orders and resolutions and parts thereof in conflict herewith are to the extent of such conflict hereby repealed, and this Resolution shall take effect and be in full force from and after its passage and approval.

Adopted this 8th day of September, 2009.

DORCHESTER COUNTY, SOUTH CAROLINA

By: 
Jamie Feltner
Chairman of County Council

(SEAL)
ATTEST:


Sandy Lawley
Clerk to County Council

STATE OF SOUTH CAROLINA)
)
DORCHESTER COUNTY)
_____)

TO THE STATE BUDGET)
AND CONTROL BOARD)

PETITION OF DORCHESTER COUNTY,
SOUTH CAROLINA

This Petition of Dorchester County, South Carolina ("County"), pursuant to South Carolina Code Annotated, Title 4, Chapter 29 (1976), as amended ("Act"), and specifically Section 4-29-140 thereof, respectfully shows:

1. The County Council of Dorchester County ("County Council") is the governing body of the County and as such is the "governing board" of the County referred to in the Act.

2. The County, acting by and through the County Council, is authorized and empowered under and pursuant to the provisions of the Constitution of the State of South Carolina of 1895, as amended ("Constitution"), the Code of Laws of South Carolina 1976, as amended ("Code"), and the case law of the Courts of the State of South Carolina, to offer and provide certain privileges, benefits, and incentives to industries as inducements for economic development within the County; is authorized and empowered under and pursuant to the provisions of Article VIII, Section 13 of the South Carolina Constitution, in conjunction with other portions and provisions of Title 4 of the Code of Laws of South Carolina including, without limitation, Chapters 1 and 29, as amended (collectively "Act") to jointly develop an industrial or business park with other counties wherein the area comprising the parks and all property having a situs therein are exempt from all *ad valorem* taxation but, instead, pays fees-in-lieu of tax; and to issue special source revenue bonds secured by such payments for the purpose of paying the cost of designing, acquiring, constructing, improving, or expanding the infrastructure serving the issuer and for improved or unimproved real estate used in the operation of a manufacturing or commercial enterprise in order to enhance the economic development of the issuer and pay the costs of issuance of the bonds; and

3. The County is designing, acquiring, constructing, improving or expanding certain infrastructure, in particular, to provide for water and sewer and other infrastructure for one or more industrial parks in the County, so as to induce companies to locate or expand in the County, at an estimated total cost of approximately \$5,750,000, including necessary expenses incident thereto, of which \$2,500,000 will be funded by grant funds (collectively, "Project");

4. The County has several agreements already existing between the County and various companies, including, *e.g.*, Robert Bosch Corporation, through which the companies have negotiated and agreed to pay a fee in lieu of *ad valorem* taxes and otherwise companies located in a Park (defined below) make payments in lieu of taxes pursuant to Section 13(D), Article VIII of the Constitution (collectively, "FILOT Payments"), the County millage-portion of which the County is willing to pledge for the repayment of the Bonds (defined below); and

5. One, or more, as yet, unnamed company has committed to make FILOT Payments, the entire amount of which the County is willing to pledge for the repayment of the Bonds; and

6. The County has amended, or will amend its agreements with various counties for the development of one or more joint-county industrial or business parks (each, a "Park") pursuant to Section 13 of Article VIII of the Constitution and Section 4-1-170 of the Code (each, a "Park Agreement") in order to include the companies that will benefit from the Project in a Park and to implement the public purposes enumerated in the Act;

7. The County proposes to issue, subject to the approval of the State Budget and Control Board of South Carolina (“Budget and Control Board”), its Special Source Revenue Bond Series 2009 (“Bond”) in the principal amount of not exceeding \$3,250,000 to defray the costs of designing, acquiring, constructing, improving or expanding certain infrastructure serving the County and for improved or unimproved real estate to be used in the operation of a manufacturing or commercial enterprise, in order to enhance the economic development of the County, as defined in Section 4-29-68(A)(2) (“Infrastructure”); and

8. The County has been advised that the cost of the Infrastructure is not more than \$5,750,000, and the County intends to execute and deliver the Bonds in an aggregate principal amount of not exceeding \$3,250,000 to defray cost of the Infrastructure.

9. Pursuant to Section 4-29-140 of the Act, the County sets forth the following information:

(a) The Project consists of designing, acquiring, constructing, improving or expanding certain infrastructure, in particular, to provide for water and sewer and other infrastructure for one of more industrial parks in the County. The County has found that the Project would be directly and substantially beneficial to the County, the taxing entities of the County, and the citizens and residents of the County, and that the Project would directly and indirectly benefit the general residents of the County, and that the Project would directly and indirectly benefit the general public welfare and serve a public purpose of the County by providing services, employment, recreation, promotion of tourism, or other public benefits not otherwise provided locally; and, that the Project gives rise to no pecuniary liability of the County or incorporated municipality, or a charge against the general credit or taxing power of either; and, that the purposes to be accomplished by the Project, *i.e.*, economic development and welfare, creation of jobs, promotion of tourism, and addition to the tax base of the County, are proper governmental and public purposes and that the inducement of the location or expansion of the Project within the County and State is of paramount importance and that the benefits of the Project will be greater than the cost. It is estimated that the Project, at completion, will involve the investment of \$5,750,000.

(b) The Bond will be issued pursuant to a Bond Ordinance which the County anticipates enacting in October 2009. The Bond, together with the interest thereon, will be payable solely from and secured equally and ratably by a pledge of a portion of the Pledged Revenues (as defined in the Bond Ordinance) received and retained by the County under a Park Agreement, which shall be irrevocably pledged to the payment of the principal of and interest on the Bond; provided, in no event shall the County be obligated to pay in any year more than a specified percentage of the Pledged Revenues to the holder of the Bond. The Bond, and the interest thereon is, (i) payable solely from all or a specifically described part of the Pledged Revenues in lieu of taxes received and retained by the County under a Park Agreement; (ii) not secured by, or in any way entitled to, a pledge of the full faith, credit, or taxing power of the County; (iii) not an indebtedness of the County within the meaning of any state constitutional provision or statutory limitation but are payable solely from a special source that does not include revenues from any tax or license; and (iv) not a pecuniary liability of the County or a charge against the County’s general credit or taxing power.

Upon the basis of the foregoing, the County respectfully requests that the Budget and Control Board:

1. Accept the filing of this Petition;
2. Conduct such review as it considers advisable;
3. If it finds that the proposal of the County is intended to promote the purposes of the Act, approve the proposal of the County to execute and deliver the Bond pursuant to the Act to defray the cost

of the Infrastructure (including changes in any details of the said financing as finally consummated which do not materially affect the undertaking of the County); and

4. Give published notice of its approval in the manner set forth in Section 4-29-140 of the Act.