



RICHLAND COUNTY COUNCIL REGULAR SESSION AGENDA

**MAY 6, 2014
6:00 PM**

CALL TO ORDER **THE HONORABLE NORMAN JACKSON**

INVOCATION **THE HONORABLE KELVIN E. WASHINGTON, SR.**

PLEDGE OF ALLEGIANCE **THE HONORABLE KELVIN E. WASHINGTON, SR.**

Presentation Of Resolutions

1. a. National Public Works Week Proclamation
- b. National Travel & Tourism Week Proclamation
- c. **Resolution Recognizing May 15th as National Peace Officers' Memorial Day**

Approval Of Minutes

2. Regular Session: April 15, 2014 [PAGES 9-19]
3. Zoning Public Hearing: April 22, 2014 [PAGES 20-24]

Adoption Of The Agenda

Report Of The Attorney For Executive Session Items

4. a. Robert Sweeper vs. Richland County - Litigation Update
- b. Personnel Matter

Citizen's Input

5. For Items on the Agenda Not Requiring a Public Hearing

Report Of The County Administrator

6. a. Employee Recognition
- b. Alvin S. Glenn Detention Center Accreditation
- c. Library Bond Sale
- d. Employee Grievances (4) [ACTION]
- e. **Community Development Presentation**

Report Of The Clerk Of Council

7. a. SCAC Annual Conference & Institute of Government Classes, August 2-6, 2014
- b. Dirt Road Paving Program Groundbreaking, May 8th, 11:30 AM, Mt. Pilgrim Baptist Church, 9300 Farrow Road
- c. *REMINDER: Budget Work Sessions*
 - May 8th - [General Fund]
 - May 13th - [Special Revenue, Enterprise and Millage Agencies]
 - May 15th - [Grants]
- d. Chamber of Commerce "Small Business Week" Presentation, May 13th, 2:00 PM, Chamber of Commerce
- e. Richland County Soil & Water Conservation Annual Banquet, May 13th, 6:00 PM, SC Farm Bureau, 724 Knox Abbott Drive
- f. Turning Leaf Graduation, May 15th, 11:30 AM, Alvin S. Glenn Detention Center

Report Of The Chairman

8. Personnel Matters

Open/Close Public Hearings

9. a. An Ordinance Amending the Fiscal Year 2013-2014 Transportation Tax Fund Budget to add two full time positions
- b. An Ordinance Amending the Fiscal Year 2013-2014 Community Development Department Budget for the Development of one city block within Phase II of the Monticello Road Streetscape Project
- c. An Ordinance Amending the Richland County Code of Ordinances, Chapter 1, General Provisions; Section 1-15, Naming of Buildings; so as to amend the title to include properties, facilities and structures and to allow for labeling based on geographic location
- d. An Ordinance Amending the Richland County Code of Ordinances, Chapter 2, Administration; Article X, Purchasing; by adding Section 2-591 to authorize County Council to determine which purchasing decisions regarding purchasing made exclusively with monies raised through the Penny Tax are of such County-wide significance that County Council has the

authority to make the final and conclusive determination to whom to award the contracts

e. An Ordinance Amending the Richland County Code of Ordinances, Chapter 2, Administration; Article X, Purchasing; Division 7, Small Local Business Enterprise Procurement Requirements; Section 2-639, General Provisions; Subsection (c), Definitions; so as to amend the definition of Small Business Enterprise; and amending all sections referencing size standards so as to delete such standards from the ordinance and replace with language allowing the Richland County Council to set such standards in a separate schedule to size standards

Approval Of Consent Items

10. An Ordinance Amending the Fiscal Year 2013-2014 Community Development Department Budget for the Development of one city block within Phase II of the Monticello Road Streetscape Project [**THIRD READING**] [**PAGES 31-44**]
11. An Ordinance Amending the Fiscal Year 2013-2014 Transportation Tax Fund Budget to add two full time positions [**THIRD READING**] [**PAGES 45-55**]
12. 14-02MA
Noralba Hurtado
RU to GC (.45 Acres)
10356 Broad River Rd.
03300-06-10 [**SECOND READING**] [**PAGES 56-57**]
13. 14-03MA
Preston Young
RU to OI (1.5 Acres)
Cabin Creek Rd.
21615-04-26 [**SECOND READING**] [**PAGES 58-59**]
14. 14-06MA
Jimmy Derrick
RS-MD to NC (3.83 Acres)
6405 Monticello Rd.
09401-06-09 [**SECOND READING**] [**PAGES 60-61**]
15. 14-07 MA
W. D. Morris
GC to LI (3.2 Acres)
Two Notch Rd. & Brickyard Rd.
22804-04-10 [**SECOND READING**] [**PAGES 62-63**]
16. Service (One Stop) Requests for Council [**PAGES 64-67**]
17. Detention Center: Provide Epoxy Coating System for Phase 1 Housing Showers [**PAGES 68-77**]
18. Quit Claim of Branning Drive [**PAGES 78-87**]

Third Reading Items

19. An Ordinance Authorizing an Easement to 2T Properties LLC for a sanitary sewer line across land owned by Richland County; specifically a portion of TMS # 14900-01-02 **[PAGES 88-94]**
20. An Ordinance Amending the Richland County Code of Ordinances, Chapter 2, Administration; Article X, Purchasing by Adding Section 2-591 to Authorize County Council to Determine which Purchasing Decisions Regarding Purchasing Made Exclusively with Monies Raised through the Penny Tax are of such County Wide Significance that County Council has the Authority to make the Final and Conclusive Determination to whom to award the contracts **[PAGES 95-102]**
21. An Ordinance Amending the Richland County Code of Ordinances, Chapter 2, Administration; Article X, Purchasing; Division 7, Small Local Business Enterprise Procurement Requirements; so as to amend certain sections referencing size standards to delete such standards from the ordinance and replace with language allowing the Richland County Council to set such standards in a separate "SLBE Schedule of Size Standard Eligibility Requirements"; and amending the Richland County Code of Ordinances, Chapter 2, Administration; Article X, Purchasing; by adding a new division entitled 8, Commercial Nondiscrimination Ordinance **[PAGES 103-109]**

Second Reading Items

22. An Ordinance Amending the Richland County Code of Ordinances, Chapter 1, General Provisions; Section 1-15, Naming of Buildings; so as to amend the title to include properties, facilities and structures and to allow for labeling based on geographic location **[PAGES 110-114]**
23. Authorizing an Amendment to the Master Agreement Governing the I-77 Corridor Regional Industrial Park jointly developed with Fairfield County to ratify and approve the internal distribution of revenues received from property located in the park; and other related matters **[PAGES 115-133]**
24. 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 Richland County, South Carolina and American Italian Pasta Company and matters relating thereto **[PAGES 134-163]**
25. Authorizing an Amendment to the 2003 Fee in Lieu of Ad Valorem taxes arrangement by and between Richland County, South Carolina and American Italian Pasta Company to provide an Infrastructure Credit; and other matters related thereto **[PAGES 164-171]**
26. Authorizing the Conversion and Extension of a 1995 Fee in Lieu of Ad Valorem Taxes arrangement by and between Richland County, South Carolina and American Italian Pasta Company; and other matters related thereto **[PAGES 172-205]**
27. An Ordinance Amending the Richland County Code of Ordinances; Chapter 26, Land Development; Article VII, General Development, Site, and Performance Standards; Section 26-177, Lighting Standards; Subsection (b), Standards; Paragraph (1); Subparagraph h; so as to delete reference to pole color **[PAGES 206-208]**
- 28.

An Ordinance Amending the Richland County Code of Ordinances, Chapter 26, Land Development; Article II, Rules of Construction; Definitions; and Article V, Zoning Districts and District Standards; Section 26-141, Table of Permitted Uses, Permitted Uses with Special Requirements, and Special Exceptions; Subsection (f), Table of Permitted Uses, Permitted Uses with Special Requirements, and Special Exceptions; so as to only allow shipping containers as an accessory use in the RU (Rural), GC (General Commercial District), M-1 (Light Industrial District), LI (Light Industrial) and HI (Heavy Industrial) Zoning Districts **[PAGES 209-212]**

First Reading Items

29. An Ordinance to raise revenue, make appropriations, and adopt a budget for Richland County, South Carolina for Fiscal Year beginning July 1, 2014 and ending June 30, 2015 **[FIRST READING BY TITLE ONLY] [PAGES 214-215]**
30. An Ordinance Authorizing the levying of ad valorem property taxes, which, together with the prior year's carryover and other State levies and any additional amount appropriated by the Richland County Council prior to July 1, 2014, will provide sufficient revenues for the operations of Richland County Government during the period from July 1, 2014, through June 30, 2015 **[FIRST READING BY TITLE ONLY] [PAGES 216-217]**
31. An Ordinance Amending the Richland County Code of Ordinances, Chapter 2, Administration; Article X, Purchasing by adding Division 9, Prompt Payment Requirements **[PAGES 218-221]**
32. An Ordinance Amending the Richland County Code of Ordinances; Chapter 2, Administration; Article V, County Departments; Division 2, Public Works; Section 2-197, Use of County Equipment by Private Parties and During Public Emergencies; and Chapter 21, Roads, Highways and Bridges; Article I, in general; Section 21-4, Drainage on Private Property; and Section 21-16; so as to broaden the circumstances under which the County may perform emergency maintenance **[PAGES 222-226]**

Report Of Administration And Finance Committee

33. Motion related to County Attorney's Representation of the Board of Elections and Voter Registration **[PAGES 227-229]**
34. Potential Yard Waste Management Options **[PAGES 230-235]**
35. Small Local Business Enterprise Program Design Model and Projected Budget Approval **[PAGES 236-258]**

Report Of Economic Development Committee

36. a. Authorizing an Amendment to the Master Agreement Governing the I-77 Corridor Regional Industrial Park by and between Richland County, South Carolina, and Fairfield County, South Carolina, to expand the boundaries of the park to include certain real property located in Richland County; and other related matters **[FIRST READING BY TITLE ONLY] [PAGE 260]**
- b. An Ordinance Authorizing a deed to the City of Columbia for certain water lines to serve the JTEKT Koyo Expansion in Northeast Business Park; Richland County TMS #14900-01-16 (p) & 15005-01-02 (p) **[FIRST READING] [PAGES 261-266]**

- c. An Ordinance Authorizing pursuant to Title 4, Chapter 1, Section 170; Title 4, Chapter 1, Section 175; and Title 4, Chapter 29, Section 68 of the Code of Laws of South Carolina, 1976, as amended, the execution and delivery of a Special Source Revenue Credit Agreement relating to Project Cesium; and matters relating thereto **[FIRST READING BY TITLE ONLY]**
[PAGE 267]
- d. Resolution Authorizing the amendment of the restrictive covenants for the Richland Northeast Industrial Park **[PAGES 269-272]**
- e. Economic Development Office Lease Agreement **[PAGES 273-310]**

Other Items

- 37. REPORT OF THE TRANSPORTATION AD HOC COMMITTEE: **[PAGES 312-315]**
 - a. Committee recommendation to separate out Greenways from the Program Development Team RFQ and Contract **[ACTION]**
 - b. Committee recommendation to have staff contact SCDOT in attempts to partner with them on their summer resurfacing contracts to include bike lanes and sidewalks on Transportation Penny funded bike/pedestrian projects **[ACTION]**
 - c. Committee recommendation to have staff take the draft resurfacing list included in the agenda and work with individual Council members to finalize a resurfacing contract for 2014 **[ACTION]**
 - d. Resolution Designating PDT Solicitation as Significant Purchase **[ACTION]** **[PAGES 316-317]**
- 38. REPORT OF THE HOSPITALITY TAX FEASIBILITY STUDY AD HOC COMMITTEE:
 - a. Hospitality Tax Feasibility Studies
 - b. Project Limited Money
 - c. Hospitality Tax Fund Update
- 39. REPORT OF THE DIRT ROAD COMMITTEE:
 - a. Package B Bid results **[ACTION]** **[PAGES 320-322]**
 - b. Dirt Road Paving Project Development Process **[ACTION]** **[PAGE 323]**
 - c. Additional Dirt Road Paving Public Outreach **[UPDATE]**
 - d. Dirt Road Paving Ordinance **[ACTION]**
- 40. REPORT OF THE JAIL AD HOC COMMITTEE:
 - a. Alvin S. Glenn Detention Center Management and Operations Study

41. Haile Gold Mine Mitigation Comments [PAGES 326-327]

42. SLBE Schedule of Size Standard Eligibility Requirements [PAGE 329]

Citizen's Input

43. Must Pertain to Items Not on the Agenda

Executive Session

Motion Period

44. a. With a growing aging population and growing county service needs. I move to develop "Richland County Commission on Aging" [WASHINGTON]

b. I move to fund the SC Philharmonic at \$25,000 using FY14 Hospitality Tax funds [PEARCE]

c. Move to initiate the competitive procurement process for the County's recycling services [WASHINGTON]

d. As cost savings measure my motion is to "Consolidate all printing and mailing operation countywide and put the operations under the Public Information Office". This motion is to be taken up at budget time. [WASHINGTON]

Adjournment



Special Accommodations and Interpreter Services

Citizens may be present during any of the County's meetings. If requested, the agenda and backup materials will be made available in alternative formats to persons with a disability, as required by Section 202 of the Americans with Disabilities Act of 1990 (42 U.S.C. Sec. 12132), as amended and the federal rules and regulations adopted in implementation thereof.

Any person who requires a disability-related modification or accommodation, including auxiliary aids or services, in order to participate in the public meeting may request such modification, accommodation, aid or service by contacting the Clerk of Council's office either in person at 2020 Hampton Street, Columbia, SC, by telephone at (803) 576-2061, or TDD at 803-576-2045 no later than 24 hours prior to the scheduled meeting.

Richland County Council Request of Action

Subject

- a. National Public Works Week Proclamation
- b. National Travel & Tourism Week Proclamation
- c. Resolution Recognizing May 15th as National Peace Officers' Memorial Day

Richland County Council Request of Action

Subject

Regular Session: April 15, 2014 [PAGES 9-19]



**MINUTES OF
RICHLAND COUNTY COUNCIL
REGULAR SESSION
APRIL 15, 2014
6:00 PM**

In accordance with the Freedom of Information Act, a copy of the agenda was sent to radio and TV stations, newspapers, persons requesting notification, and was posted on the bulletin board located in the lobby of the County Administration Building.

MEMBERS PRESENT:

Chair	Norman Jackson
Vice Chair	Joyce Dickerson
Member	Julie-Ann Dixon
Member	Damon Jeter
Member	Paul Livingston
Member	Bill Malinowski
Member	Jim Manning
Member	Greg Pearce
Member	Torrey Rush
Member	Seth Rose
Member	Kelvin E. Washington, Sr.

OTHERS PRESENT – Tony McDonald, Roxanne Ancheta, Sparty Hammett, Warren Harley, Beverly Harris, Rob Perry, Chris Gossett, Daniel Driggers, Buddy Atkins, Justine Jones, Quinton Epps, Ismail Ozbek, Brad Farrar, Dale Welch, Annie Caggiano, Christ Eversmann, Nelson Lindsay, Elizabeth McLean, Geo Price, Monique Walters, Michelle Onley

CALL TO ORDER

The meeting was called to order at approximately 6:02 p.m.

INVOCATION

The Invocation was given by the Honorable Jim Manning

PLEDGE OF ALLEGIANCE

The Pledge of Allegiance was led by the Honorable Jim Manning

APPROVAL OF MINUTES

Regular Session: April 1, 2014 – Ms. Dickerson moved, seconded by Ms. Dixon, to approve the minutes as distributed. The vote in favor was unanimous.

ADOPTION OF THE AGENDA

Mr. Malinowski moved, seconded by Ms. Dixon, to adopt the agenda as published.

Mr. Livingston moved, seconded by Ms. Dickerson, to add Presentation of Resolutions immediately following the Adoption of the Agenda. The vote in favor was unanimous.

PRESENTATION OF RESOLUTIONS/PROCLAMATIONS

Resolution Honoring Heathwood Hall's A'ja Wilson as the National High School Player of the Year [LIVINGSTON] – Mr. Livingston presented the resolution to Ms. Wilson.

National Community Development Week Proclamation – Mr. Rush presented the proclamation to Ms. Valeria Jackson, Community Development Director.

POINT OF PERSONAL PRIVILEGE – Mr. Pearce commended Ms. Jackson on Community Development's service to the citizens of Richland County.

REPORT OF THE ATTORNEY FOR EXECUTIVE SESSION ITEMS

Mr. Farrar stated that the following items were potential Executive Session Items:

- a. **Contractual Matter: Personnel Matter**
- b. **Economic Development Property**
- c. **Legal Advice: SLBE/DBE Work Session Update**
- d. **Personnel Matter(s)**
- e. **Contractual Matter: Potential Purchase of Property (2)**
- f. **Contractual Matter: Mitigation Property**
- g. **Change Order for CECS**

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Council went into Executive Session at approximately 6:22 p.m. and came out at approximately 6:49 p.m.
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- a. **Legal Advice: SLBE/DBE Work Session Update** – Mr. Washington moved to send a proposal to split the Program Development Team for the greenways to the Transportation Ad Hoc Committee.

CITIZENS INPUT

No one signed up to speak.

REPORT OF THE COUNTY ADMINISTRATOR

- a. **Introduction of Greater Columbia Chamber of Commerce President, Carl Blackstone** – Mr. Lee Catoe introduced the new Chamber of Commerce President, Carl Blackstone.
- b. **Employee Recognition** – Mr. McDonald recognized Mr. Chris Eversmann for being certified as an Accredited Airport Executive by the American Association of Airport Executives.

REPORT OF THE CLERK OF COUNCIL

- a. **Internal Audit Committee, April 17th, 1:00-3:00 PM, Admin Conference Room** – Ms. Onley stated that the Internal Audit Committee is scheduled to meet Thursday, April 17th at 1:00 PM in the Administration Conference Room.
- b. **IT-ology “Summit on Information Technology”, April 23rd, 8:00 AM – 4:00 PM, IT-ology, 1301 Gervais Street** – Ms. Onley stated that IT-ology is hosting a “Summit on Information Technology” on April 23rd, 8:00 AM – 4:00 PM.
- c. **Parker Poe’s Family Night at the Ballpark, April 25th, Carolina Stadium, 5:00 PM – Pre-Game Festivities and 7:00 PM – Game** – Ms. Onley stated that Parker Poe is hosting Family Night at Carolina Stadium on April 25th.
- d. **Unveiling of SimCOACH, April 29th, 10:00 AM, Palmetto Health Richland – USC School of Medicine Simulation Center, 15 Medical Park, Lower Level** – Ms. Onley stated that Palmetto Health Richland is hosting the unveiling of the SimCOACH on April 19th at 10:00 AM at the USC School of Medicine Simulation Center.
- e. **US Global Leadership Coalition Luncheon with General James Conway, April 29th, 12:00 PM, Capital City Club** – Ms. Onley stated that US Global Leadership Coalition is

sponsoring a luncheon with General James Conway on April 29th, 12:00 PM at the Capital City Club.

- f. **36th Annual Eastover Barbeque Festival, May 2nd & 3rd** – Ms. Onley stated that the Annual Eastover Barbeque Festival is scheduled for May 2nd and 3rd.
- g. **SCAC Annual Conference & Institute of Government Classes, August 2-6, 2014** – Ms. Onley stated that registration for the SCAC Annual Conference and Institute of Government classes has opened. Mr. Pearce encouraged Councilmembers wishing to attend to register early to insure hotel reservations at the host hotel.
- h. **26th Annual Senior Citizens Healthcare Fun Day Luncheon, April 16th, 9:00 AM – 12:00 PM, Seawells** – Ms. Only invited Councilmembers to participate in the 26th Annual Senior Citizens Healthcare Fun Day Luncheon on April 16th, 9:00 AM – 12:00 PM at Seawells.

REPORT OF THE CHAIR

- a. **Personnel Matter** – This item was taken up in Executive Session.
- b. **Project LM** – This item was taken up in Executive Session.
- c. **SLBE/DBE Work Session Update** – This item was taken up in Executive Session.
- d. **Central SC** – This item was referred to the Economic Development Committee.

PRESENTATIONS

- a. **Historic Columbia Foundation – Robin Waites, Executive Director** – Ms. Waites thanked Council for their support on the renovations and re-opening of the Woodrow Wilson House.
- b. **Pratt Recycling, Inc. – Mary Place** – Ms. Place gave a brief overview of Pratt Recycling and the services they provide.

OPEN/CLOSE PUBLIC HEARINGS

- **Authorizing the expansion of the boundaries of the I-77 Corridor Regional Industrial Park jointly developed with Fairfield County to include certain real property located in Richland County; the execution and delivery of a Credit Agreement to provide for Special Source Revenue Credits to University Residences Columbia, LLC; and other related matters** – No one signed up to speak.

APPROVAL OF CONSENT ITEMS

- **Authorizing the expansion of the boundaries of the I-77 Corridor Regional Industrial Park jointly developed with Fairfield County to include certain real property located in Richland County; the execution and delivery of a Credit Agreement to provide for Special Source Revenue Credits; to University Residences Columbia, LLC; and other related matters [THIRD READING]**
- **14-04MA, Tom Milliken, RU to LI (35.05 Acres), Farrow Rd., 17600-01-12 [THIRD READING]**
- **14-05MA, Bill Dixon, RU to RS-LD (6.32 Acres), Sloan Rd., 20100-03-14/21/23/30 [THIRD READING]**

Ms. Dickerson moved, seconded by Ms. Dixon, to approve the consent items. The vote in favor was unanimous.

SECOND READING ITEM

An Ordinance Amending the Fiscal Year 2013-2014 Community Development Department Budget for the Development of one city block within Phase II of the Monticello Road Streetscape – Ms. Dickerson moved, seconded by Mr. Manning, to approve this item. The vote in favor was unanimous.

An Ordinance Amending the Richland County Code of Ordinances, Chapter 1, General Provisions; Section 1-15, Naming of Buildings; so as to amend the title to include properties, facilities and structures and to allow for labeling based on geographic location – Ms. Dickerson moved, seconded by Mr. Manning, to approve this item. The vote in favor was unanimous.

Mr. Malinowski moved, seconded by Mr. Manning, to reconsider #13 divided from the main motion. The vote in favor was unanimous.

Mr. Malinowski moved, seconded by Ms. Dickerson, to approve Version #2 of the ordinance.

Mr. Washington moved to defer this item until the May 6th Council meeting.

The motion died for lack of a second.

A discussion took place.

Ms. Dickerson moved, seconded by Mr. Washington, to defer this item until the May 6th Council meeting. The vote in favor was unanimous.

An Ordinance Amending the Richland County Code of Ordinances, Chapter 2, Administration; Article X, Purchasing by Adding Section 2-591 to Authorize County

Council to Determine which Purchasing Decisions Regarding Purchasing Made Exclusively with Monies Raised through the Penny Tax are of such County-wide Significance that County Council has the Authority to make the Final and Conclusive Determination to whom to award the contracts – Ms. Dickerson moved, seconded by Mr. Manning, to approve this item. The vote in favor was unanimous.

An Ordinance Amending the Richland County Code of Ordinances, Chapter 2, Administration; Article X, Purchasing; Division 7, Small Local Business Enterprise Procurement Requirements; Section 2-639, General Provisions; Subsection (c), Definitions; so as to amend the definition of Small Business Enterprise; and Amending All Sections Referencing Size Standards so as to delete such standards from the ordinance and replace with language allowing the Richland County Council to set such standards in a separate schedule to size standards – Ms. Dickerson moved, seconded by Mr. Manning, to approve this item. The vote in favor was unanimous.

REPORT OF THE DEVELOPMENT AND SERVICES COMMITTEE

Quit Claim of Hermes Road – Mr. Rush stated that the committee recommended approval of this item. The vote in favor was unanimous.

REPORT OF ECONOMIC DEVELOPMENT COMMITTEE

Authorizing an Amendment to the Master Agreement Governing the I-77 Corridor Regional Industrial Park jointly developed with Fairfield County to ratify and approve the internal distribution of revenues received from property located in the park; and other related matters [FIRST READING BY TITLE ONLY] – Mr. Livingston stated that the committee recommended approval of this item. The vote in favor was unanimous.

Inducement Resolution for Fee-in-Lieu of Property Tax Incentive for American Italian Pasta Company – Mr. Livingston stated that the committee recommended approval of this item. The vote in favor was unanimous.

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 Richland County, South Carolina and American Italian Pasta Company and matters relating thereto [FIRST READING BY TITLE ONLY] – Mr. Livingston stated that the committee recommended approval of this item. The vote in favor was unanimous.

Authorizing an Amendment to the 2003 Fee in Lieu of Ad Valorem taxes arrangement by and between Richland County, South Carolina and American Italian Pasta Company to provide an Infrastructure Credit; and other matters related thereto [FIRST READING BY TITLE ONLY] – Mr. Livingston stated that the committee recommended approval of this item. The vote in favor was unanimous.

Authorizing the conversion and extension of a 1995 Fee in Lieu of Ad Valorem taxes arrangement by and between Richland County, South Carolina and American Italian Pasta Company; and other matters related thereto [FIRST READING BY TITLE ONLY] – Mr. Livingston stated that the committee recommended approval of this item. The vote in favor was unanimous.

Land Option Agreements between Richland County and SLB Blythewood, LLC; WJB Blythewood, LLC; and VB Blythewood, LLC – This item was taken up in Executive Session.

REPORT OF RULES AND APPOINTMENTS COMMITTEE

I. NOTIFICATION OF APPOINTMENTS

- a. **Accommodations Tax Committee—3** – Mr. Malinowski stated that the committee recommended re-advertising for these vacancies. The vote in favor was unanimous.
- b. **Building Codes Board of Appeals—1** – Mr. Malinowski stated that the committee recommended re-advertising for this vacancy. The vote in favor was unanimous.
- c. **Central Midlands Council of Governments—1** – Mr. Malinowski stated that the committee recommended appointing Mr. Pedro De Abreu. The vote in favor was unanimous.
- d. **Employee Grievance Committee—1** – Mr. Malinowski stated that the committee recommended re-advertising for this vacancy. The vote in favor was unanimous.
- e. **Hospitality Tax Committee—1** – Mr. Malinowski stated that the committee recommended re-advertising for this vacancy. The vote in favor was unanimous.
- f. **Procurement Review Panel—2** – Mr. Malinowski stated that the committee recommended re-advertising for these vacancies. The vote in favor was unanimous.

II. DISCUSSION FROM RULES AND APPOINTMENTS COMMITTEE

- a. **Central Midlands Council of Governments Appointments** – Mr. Malinowski stated that the committee received clarification regarding appointments to the Central Midlands Council of Governments. There are to be 6 elected officials and 6 citizens.
- b. **Policy Change for placement of Committee Items forwarded with no recommendation on the Consent Agenda** – Mr. Malinowski stated that the committee recommended that any item forwarded from committee without a

recommendation would not be placed on the Consent Agenda. The vote in favor was unanimous.

OTHER ITEMS

REPORT OF THE DIRT ROAD AD HOC COMMITTEE:

- a. **Change Order for CECS to design two additional dirt roads (Bolyston and Overlook)** – This item was taken up in Executive Session.

CITIZENS' INPUT

No one signed up to speak.

POINT OF PERSONAL PRIVILEGE – Mr. Manning recognized that there were journalism students from the University of South Carolina in the audience.

EXECUTIVE SESSION

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Council went into Executive Session at approximately 7:27 p.m. and came out at approximately 8:15 p.m.
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- a. **Contractual Matter: Potential Purchase of Property – Project LM** – This item was forwarded to the Hospitality Ad Hoc Committee for discussion.
- b. **Economic Development Property** – Mr. Livingston stated that the committee recommended approval of this item. The vote in favor was unanimous.

Mr. Livingston moved, seconded by Ms. Dickerson, to reconsider this item. The motion failed.
- c. **Contractual Matter: Potential Purchase of Property – Township** – The Township Board was directed to proceed as discussed in Executive Session. The vote in favor was unanimous.
- d. **Change Order for CECS** – Ms. Dixon stated that the committee recommended approval of this item. The vote in favor was unanimous.
- e. **Personnel Matter: Administration** – Mr. Manning moved, seconded by Ms. Dixon, to direct the Administrator to proceed as directed in Executive Session. The vote in favor was unanimous.
- f. **Contractual Matter: Personnel Matter** – No action was taken.
- g. **Personnel Matter** – No action was taken.

MOTION PERIOD

- a. **With the court ruling that the Richland County Election and Voter Registration Boards must now be two separate entities, I move that funding for the Voter Registration Board be rolled back to the 2011 funding amount [MALINOWSKI] –** This item was referred to the A&F Committee.

- b. **I move that the Rules & Appointments Committee develop expanded written guidelines for Council consideration regarding the “Presentations” portion of County Council Agendas. Although not inclusive and open for discussion/expansion by the R&A Committee, it is requested that the following items be included in the review: 1) How many Presentations should be scheduled per meeting; 2) What process should be employed in determining whether a Presentation should be placed on the Agenda (i.e., Clerk’s review, Chair’s review, Committee review?); 3) In determining whether a Presentation should be included on an Agenda, should selective criteria be employed? (For example, should funding requests be excluded?); 4) At the discretion of the R&A Committee, suggest where presentations deemed not appropriate for Council Agendas (e.g., funding requests) should be aired; 5) Any exceptions to the written guidelines should be specifically identified and listed [PEARCE] –** This item was referred to the Rules & Appointments Committee.

- c. **Resolution Recognizing May 15th as National Peace Officers’ Memorial Day [JACKSON] –** Mr. Washington moved, seconded by Mr. Livingston, to adopt a resolution recognizing May 15th as National Peace Officers’ Memorial Day. The vote in favor was unanimous.

ADJOURNMENT

The meeting adjourned at approximately 8:20 p.m.

Norman Jackson, Chair

Joyce Dickerson, Vice-Chair

Julie-Ann Dixon

Damon Jeter

Paul Livingston

Bill Malinowski

Jim Manning

Greg Pearce

Seth Rose

Torrey Rush

Kelvin E. Washington, Sr.

The minutes were transcribed by Michelle M. Onley

Richland County Council Request of Action

Subject

Zoning Public Hearing: April 22, 2014 [**PAGES 20-24**]

MINUTES OF



RICHLAND COUNTY COUNCIL ZONING PUBLIC HEARING TUESDAY, APRIL 22, 2014 7:00 p.m.

In accordance with the Freedom of Information Act, a copy of the agenda was sent to radio and TV stations, newspapers, persons requesting notification, and was posted on the bulletin board located in the lobby of the County Administration Building.

MEMBERS PRESENT:

Chair	Norman Jackson
Vice Chair	Joyce Dickerson
Member	Julie-Ann Dixon
Member	Paul Livingston
Member	Bill Malinowski
Member	Jim Manning
Member	Greg Pearce
Member	Seth Rose
Member	Torrey Rush
Member	Kelvin E. Washington, Sr.

Absent Damon Jeter

OTHERS PRESENT: Amelia Linder, Tracy Hegler, Geo Price, Holland Leger, Tommy DeLage, Sparty Hammett, Brad Farrar, Tony McDonald, Monique Walters, Michelle Onley

CALL TO ORDER

The meeting was called to order at approximately 7:00 p.m.

ADDITIONS/DELETIONS TO AGENDA

Ms. Dickerson moved, seconded by Mr. Rush, to add an Executive Session at the end of the meeting to receive legal advice. A discussion took place.

The vote was in favor.

Ms. Dickerson moved, seconded by Mr. Pearce, to adopt the agenda as amended. The vote in favor was unanimous.

MAP AMENDMENT

14-02MA, Noralba Hurtado, RU to GC (.45 Acres), 10356 Broad River Rd. 03300-06-10

Mr. Jackson opened the floor to the public hearing.

No one signed up to speak.

The floor to the public hearing was closed.

Mr. Malinowski moved, seconded by Mr. Pearce, to approve this item. The vote in favor was unanimous.

14-03MA, Preston Young, RU to OI (1.5 Acres), Cabin Creek Rd., 21615-04-26

Mr. Jackson opened the floor to the public hearing.

No one signed up to speak.

The floor to the public hearing was closed.

Mr. Washington moved, seconded by Ms. Dickerson, to approve this item. The vote in favor was unanimous.

14-06MA, Jimmy Derrick, RS-MD to NC (3.83 Acres), 6405 Monticello Rd., 09401-06-09

Mr. Jackson opened the floor to the public hearing.

Ms. Becky Bailey spoke in favor of this item.

The floor to the public hearing was closed.

Mr. Livingston moved, seconded by Mr. Rose, to approve this item. The vote in favor was unanimous.

**14-07MA, W. D. Morris, GC to LI (3.2 Acres), Two Notch Rd. & Brickyard Rd.,
22804-04-10**

Mr. Jackson opened the floor to the public hearing.

No one signed up to speak.

The floor to the public hearing was closed.

Ms. Dixon moved, seconded by Ms. Dickerson, to approve this item. The vote in favor was unanimous.

TEXT AMENDMENTS

An Ordinance Amending the Richland County Code of Ordinances; Chapter 26, Land Development; Article VII, General Development, Site, and Performance Standards, Section 26-177, Lighting Standards; Subsection (B), Standards; Paragraph (1); Subparagraph H; so as to include brown and dark green poles [FIRST READING]

Mr. Jackson opened the floor to the public hearing.

No one signed up to speak.

The floor to the public hearing was closed.

Ms. Dickerson moved, seconded by Mr. Rose, to approve this item. A discussion took place.

Mr. Malinowski made a substitute motion, seconded by Mr. Pearce, to eliminate specific colors from the ordinance and replace with language that states “poles used must blend in with the facility and the Planning Director will have final approval of said poles”. A discussion took place.

The vote in favor was unanimous.

An Ordinance Amending the Richland County Code of Ordinances, Chapter 26, Land Development; Article II, Rules of Construction; Definitions; and Article V, Zoning Districts and District Standards; Section 26-141, Table of Permitted Uses, Permitted Uses with Special Requirements, and Special Exceptions; Subsection (f), Table of Permitted Uses, Permitted Uses with Special Requirements, and Special Exceptions; so as to only allow shipping containers as an accessory use in the GC (General Commercial District), M-1 (Light Industrial District), LI (Light Industrial District), LI (Light Industrial) and HI (Heavy Industrial) Zoning Districts [FIRST READING] – Mr. Rose moved, seconded by Mr. Pearce, to approve this item. A discussion took place.

Mr. Washington made a substitute motion, seconded by Mr. Rose, to include non-residential rural with a minimum of one acre to the ordinance. A discussion took place.

The vote in favor was unanimous.

EXECUTIVE SESSION

=====
**Council went into Executive Session at approximately 7:19 p.m. and came
out at approximately 7:23 p.m.**
=====

ADJOURNMENT

The meeting adjourned at approximately 7:24 p.m.

Submitted respectfully by,

Norman Jackson
Chair

The minutes were transcribed by Michelle M. Onley

Richland County Council Request of Action

Subject

- a. Robert Sweeper vs. Richland County - Litigation Update
- b. Personnel Matter

Richland County Council Request of Action

Subject

For Items on the Agenda Not Requiring a Public Hearing

Richland County Council Request of Action

Subject

- a. Employee Recognition
- b. Alvin S. Glenn Detention Center Accreditation
- c. Library Bond Sale
- d. Employee Grievances (4) **[ACTION]**
- e. Community Development Presentation

Richland County Council Request of Action

Subject

- a. SCAC Annual Conference & Institute of Government Classes, August 2-6, 2014
- b. Dirt Road Paving Program Groundbreaking, May 8th, 11:30 AM, Mt. Pilgrim Baptist Church, 9300 Farrow Road
- c. *REMINDER: Budget Work Sessions*
 - May 8th - [General Fund]
 - May 13th - [Special Revenue, Enterprise and Millage Agencies]
 - May 15th - [Grants]
- d. Chamber of Commerce "Small Business Week" Presentation, May 13th, 2:00 PM, Chamber of Commerce
- e. Richland County Soil & Water Conservation Annual Banquet, May 13th, 6:00 PM, SC Farm Bureau, 724 Knox Abbott Drive
- f. Turning Leaf Graduation, May 15th, 11:30 AM, Alvin S. Glenn Detention Center

Richland County Council Request of Action

Subject

Personnel Matters

Richland County Council Request of Action

Subject

- a. An Ordinance Amending the Fiscal Year 2013-2014 Transportation Tax Fund Budget to add two full time positions
- b. An Ordinance Amending the Fiscal Year 2013-2014 Community Development Department Budget for the Development of one city block within Phase II of the Monticello Road Streetscape Project
- c. An Ordinance Amending the Richland County Code of Ordinances, Chapter 1, General Provisions; Section 1-15, Naming of Buildings; so as to amend the title to include properties, facilities and structures and to allow for labeling based on geographic location
- d. An Ordinance Amending the Richland County Code of Ordinances, Chapter 2, Administration; Article X, Purchasing; by adding Section 2-591 to authorize County Council to determine which purchasing decisions regarding purchasing made exclusively with monies raised through the Penny Tax are of such County-wide significance that County Council has the authority to make the final and conclusive determination to whom to award the contracts
- e. An Ordinance Amending the Richland County Code of Ordinances, Chapter 2, Administration; Article X, Purchasing; Division 7, Small Local Business Enterprise Procurement Requirements; Section 2-639, General Provisions; Subsection (c), Definitions; so as to amend the definition of Small Business Enterprise; and amending all sections referencing size standards so as to delete such standards from the ordinance and replace with language allowing the Richland County Council to set such standards in a separate schedule to size standards

Richland County Council Request of Action

Subject

An Ordinance Amending the Fiscal Year 2013-2014 Community Development Department Budget for the Development of one city block within Phase II of the Monticello Road Streetscape Project **[THIRD READING]**
[PAGES 31-44]

Notes

March 25, 2014 - The Committee recommended that Council give first reading approval to a budget amendment in the amount of \$71,000 from the City of Columbia for the Community Development Department to develop one city block within Phase II of the Monticello Road Streetscape project.

First Reading: April 1, 2014
Second Reading: April 15, 2014
Third Reading:
Public Hearing:

Richland County Council Request of Action

Subject: Department of Community Development Budget Amendment

A. Purpose

County Council is requested to approve a budget amendment to increase the Community Development Department budget in the amount of \$71,000.00. The City of Columbia will provide a contribution of \$71,000 to the Richland County Community Development Department for the development of one city block within Phase II of the Monticello Road Streetscape project.

B. Background / Discussion

In 2010, URS/BP Barber completed the architectural design for the Monticello Road streetscape project and estimated project construction to be \$500,000. Within the boundary of the project is one City block located between Summit Avenue and Dixie Avenue. URS/BP Barber estimated the City's block's cost at \$99,000.00. Community Development staff informed City Council member Sam Davis and County Council member Paul Livingston of this matter. Councilman Davis agreed to seek financial support from the City for the Monticello Road project.

Councilman Livingston received a letter dated April 7, 2011 from the City Manager which stated that the City will make available \$71,000.00 for Monticello Road (see attached). The source will be remaining funds from a previous streetscape project. City Council approved the funds on June 21, 2011 (see attached). In addition to the \$71,000, the City will purchase 6 lights for the City block and will own and maintain them. The County will be responsible for the installation and construction of the proposed improvements for the project. Phase II of the project is slated to begin summer of 2014. The City held the \$71,000.00 until the funds were needed by the County, and the City is prepared to disburse the \$71,000.00 upon request from Richland County. Phase II bid package is under review in the County's Procurement Department. Once approved, URS/BP Barber will bid the project through a competitive process.

C. Legislative / Chronological History

This is a staff initiated request.

D. Financial Impact

There is no financial impact to the County other than a funds contribution from an external source (the City of Columbia). This increases the overall Community Development budget, thereby generating the need to do a budget amendment. The City is not requesting any County match funds in exchange for this contribution. The County's source of funding for the Monticello Road Streetscape project is CDBG through the Community Development Department. The Community Development Department is also prepared to expend up to \$28,000 for the City block, if deemed appropriate.

E. Alternatives

1. Approve the request to amend the Community Development budget and accept the \$71,000.00 from the City of Columbia.
2. Do not approve the request to amend the Community Development budget and reject the City’s contribution to the Monticello Streetscape project. Not accepting the contribution from the City of Columbia will result in omitting the City block from the redevelopment project.

F. Recommendation

It is recommended that Council approve the request to amend the Community Development budget and accept the City contribution of \$71,000.00.

Recommended by: Valeria Jackson Department: Community Development Date: 3/5/2014

G. Reviews

(Please replace the appropriate box with a ✓ and then support your recommendation in the Comments section before routing on. Thank you!)

Please be specific in your recommendation. While “Council Discretion” may be appropriate at times, it is recommended that Staff provide Council with a professional recommendation of approval or denial, and justification for that recommendation, as often as possible.

Finance

Reviewed by: Daniel Driggers

Date: 3/9/14

Recommend Council approval

Recommend Council denial

Comments regarding recommendation:

Recommend approval contingent on the fact that project completion is already programmed through County CDBG funds and requires no additional funding from the County.

Grants

Reviewed by: Sara Salley

Date:3/9/14

X Recommend Council approval

Recommend Council denial

Comments regarding recommendation:

Legal

Reviewed by: Elizabeth McLean

Date: 3/12/14

Recommend Council approval

Recommend Council denial

Comments regarding recommendation:

Administration

Reviewed by Sparty Hammett:

Date: 3/12/14

Recommend Council approval

Recommend Council denial

Comments regarding recommendation:

Richland County Government

County Administration Building
2020 Hampton Street
P.O. Box 192
Columbia, SC 29202



Phone (803) 576-2050
Fax (803) 576-2137
TDD (803) 748-4999

Office of the County Administrator

Mr. Steven A. Gantt
City Manager
City of Columbia
1737 Main Street
P.O. Box 147
Columbia, SC 29217

Dear Mr. Gantt:

Richland County is in receipt of your letter dated April 7, 2011 regarding the Monticello Road Streetscape Project.

Overall, it is my understanding that the City's portion (Summit to Dixie Ave) is estimated to be \$99,000.00, as determined by our selected vendor BP Barber. The City has noted their commitment of \$71,000.00 from a previous streetscaping project to their portion of the project that will entail Summit to Dixie Avenue. The County will accept the City's \$71,000.00 and will commit to the additional estimated amount of \$28,000.00 for the remaining portion of the City's balance. The County's source will be CDBG funding from our Community Development Department. This \$99,000 is anticipated to cover the costs of the streetscape and not the lighting (see attached). As per your email, the City will in addition purchase their portion of the lighting as to where the County will be leasing from SCE&G. In order to make sure that all lighting is consistent and uniform, the County's Community Development office has supplied a copy of the SCE&G street lighting proposal for your information.

Please let me know if you need any additional information and please confirm receipt of this letter. You can correspond directly with me and/or Valeria Jackson, Director of Community Development at 803-576-2063, moving forward on this initiative. I look forward to seeing this enhanced streetscape serving as a main gateway into the city and county.

Sincerely,

A handwritten signature in black ink, appearing to read "J. Milton Pope".

J. Milton Pope
County Administrator

Attachment

**Monticello Road Streetscape Improvements
for
Richland County
(City of Columbia Jurisdiction)**

I. Streetscape Improvements

Item	Qty.	Unit	Description	Unit Price	Total
1.	1	LS	Demolition	\$2,500.00	\$2,500.00
2.	1	LS	Traffic Control	\$10,000.00	\$10,000.00
3.	1	LS	Repair Utilities/Water Vault	\$1,000.00	\$1,000.00
4.	525	LF	Horizontal Directional Drill	\$12.00	\$6,300.00
5.	30	SY	12" Decorative Stamped Concrete	\$72.00	\$2,160.00
6.	45	SY	24" Decorative Stamped Concrete	\$72.00	\$3,240.00
7.	6	EA	Decorative Street Lamps w/ hand holes	\$0.00	\$0.00
8.	90	SY	4" Thick Concrete Sidewalk	\$35.00	\$3,150.00
9.	35	LF	18" Concrete Curb and Gutter	\$16.50	\$577.50
10.	875	LF	Thermoplastic Crosswalk	\$3.00	\$2,625.00
11.	1050	SY	Asphalt Milling	\$3.50	\$3,675.00
12.	1050	SY	Asphalt Surface Course	\$10.00	\$10,500.00
13.	315	SY	Stamped Asphalt Crosswalk	-\$100.00	\$31,500.00
14.	225	SF	Detectable Warning Surface	\$35.00	\$7,875.00
15.	4	EA	Decorative Street Sign	\$1,000.00	\$4,000.00
				Streetscape Subtotal:	\$89,102.50
				10% Contingency:	\$8,910.25
				Streetscape Total:	\$99,000.00

Notes:

1. Horizontal Directional Drill estimate includes full length installation of 2" Schedule 40 electrical conduit.
2. Decorative stamped concrete to be single color - red.
3. Decorative street lamps and hand holes to be supplied by SCE&G.
4. Stamped asphalt crosswalk to be StreetPrint XD or approved equal.
5. Decorative street signs to be Brandon Industries, or approved equal, combination stop and street signs.
6. Proposed work includes intersections of Monticello Road and Summit Avenue and Monticello Road and Dixie Road, and the rights-of-way in between.

Prepared By: BP Barber



CITY OF COLUMBIA
SOUTH CAROLINA

April 7, 2011

Mr. Paul Livingston, Chairman
Richland County Council
2308 Park Street
Columbia, SC 29201

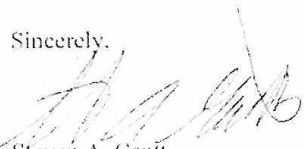
Dear Chairman Livingston,

The Columbia City Council, at its April 6th meeting, authorized me to provide some funding to assist the County in their streetscaping efforts along a portion of Monticello Road.

It is my understanding from your February 22nd communication that the County is requesting \$99,000.00 to fund the improvements to the 5000 block of Monticello Road. The City of Columbia has available \$71,000.00 from a previous streetscaping project that it is willing to make available for this project. Council has asked for some confirmation from the County that they will provide the remaining funds necessary to complete this portion of the project. City funding is contingent upon receiving an assurance from the County that the 5000 block of Monticello will improved to the same level as the blocks being funded by the County.

If this proposal is acceptable to the County please provide some correspondence confirming your willingness to complete this portion of the project with the funding available from the City of Columbia.

Sincerely,


Steven A. Gantt
City Manager

Cc: Mayor Steve Benjamin
Councilman Sam Davis
Councilwoman Tameika Isaac-Devine
Councilman Daniel Rickenmann
Councilwoman Belinda Gergel
Councilwoman Leona Plough
Councilman Brian Newman

Steven A. Gantt • City Manager
1737 Main Street • P.O. Box 147 • Columbia, South Carolina 29217
Office: 803-545-3026 • Fax: 803-255-8922 • Email: sagantt@columbiase.net



CITY OF COLUMBIA
CITY COUNCIL MEETING MINUTES
TUESDAY, JUNE 21, 2011
6:00 P.M.
CITY HALL – COUNCIL CHAMBERS
1737 MAIN STREET

The Columbia City Council conducted a Regular Meeting and a Public Hearing on Tuesday, June 21, 2011 at City Hall, 1737 Main Street, Columbia, South Carolina. The Honorable Mayor Pro-Tempore Belinda F. Gergel called the meeting to order at 6:08 p.m. and the following members of Council were present: The Honorable Sam Davis, The Honorable Tameika Isaac Devine, The Honorable Daniel J. Rickenmann, The Honorable Leona K. Plough and The Honorable Brian DeQuincey Newman. The Honorable Mayor Stephen K. Benjamin was absent. Also present were Mr. Steven A. Gantt, City Manager and Ms. Erika D. Salley, City Clerk.

PLEDGE OF ALLEGIANCE

INVOCATION

Chaplain Clyde Waters, Columbia Police Department offered the Invocation.

APPEARANCE OF PUBLIC WITH COMMENTS RELATED TO THE AGENDA ITEMS

No one appeared at this time.

APPROVAL OF MINUTES

1. Amended Minutes of March 1, 2011 – *Approved*

Upon a motion made by Ms. Devine and seconded by Mr. Newman, Council voted unanimously to approve the Minutes of March 1, 2011, as amended.

2. Work Session Minutes of June 7, 2011 - *Approved*
3. Council Meeting Minutes of May 24, 2011 and June 7, 2011 - *Approved*

Upon a single motion made by Ms. Devine and seconded by Ms. Plough, Council voted unanimously to approve the Work Session Minutes of June 7, 2011 and the Council Meeting Minutes of May 24, 2011 and June 7, 2011, as presented.

PRESENTATIONS

4. Introduction of the June 2011 Employee of the Month – Mr. Randy Scott, Chief of the Columbia Police Department

Chief Randy Scott, Columbia Police Department introduced Captain Estelle Young as the City of Columbia June 2011 Employee of the Month.

**Amendment to the Agenda

MN 06/21/2011 Page 1 of 17

Captain Estelle Young, Columbia Police Department thanked the Council for the love shown and the assistance given to her over the years. She thanked Ms. Utsey for advertising the Fan the Heat Program, Shop with a Cop and many other programs undertaken by the Police Department.

Mayor Pro-Tem Gergel presented Captain Young with a plaque and Mr. Steven A. Gantt, City Manager presented Captain Young with a token of appreciation for being selected as the City of Columbia June 2011 Employee of the Month.

5. Broad River Road Corridor and Community Study – Ms. Krista Hampton, Director of Planning/Development Services

Ms. Tiaa Rutherford, Neighborhood Planner / Richland County Community Development Department presented the Broad River Road Corridor and Community Study, which was initiated by Richland County and the Central Midlands Council of Governments. It includes a five-mile stretch of Broad River Road bounded by Harbison State Forest to the north, the Broad River to the east, the Saluda River to the south and I-26/126 to the west. The goals and objectives of this plan are to optimize transportation operations; improve the roadway; preserve the existing character of the area; introduce mixed-use development; increase homeownership; produce enhanced connectivity; pursue beautification efforts; promote and strengthen development patterns as well as the existing network of community based services and institutions; and to improve the business climate. We would like to enter into a Memorandum of Understanding (MOU) with the City, but one of the first steps is for you all to adopt and accept this master plan.

Councilor Devine requested a copy of the proposed MOU. We can adopt the plan tonight and you all could send us a copy to review.

Councilor Davis said that he attended a couple of the charrettes. The fact that the business group is looking at the role they can play in enhancing the corridor will help move this plan along.

Councilor Rickenmann said it would be more prudent if we had the MOU. I saw something about Tax Increment Financing in one of the slides; we need to understand our financial commitment in the long run.

Councilor Plaugh sought clarification of the boundaries of the plan as it relates to the river.

Ms. Tiaa Rutherford, Neighborhood Planner / Richland County Community Development Department said that the project starts at the Broad River Bridge and goes to Harbison State Forest. We will also tie into the plans that are in place for the improvements to the walkway at Riverbanks Zoo.

Councilor Newman explained that he and Councilman Davis met with Ms. Rutherford and members of Richland County Council several months ago to receive background information on this plan, being that the portion that is in the City is shared by us. We embrace the idea; the look of the plan is beautiful, but at that time the details weren't quite vetted in terms of finances and the City's role. I'm not sure that voting to endorse this plan will obligate us financially.

***Amendment to the Agenda*

MN 06/21/2011 Page 2 of 17

Councilor Devine reminded the Council that a deliverable from the Joint Economic and Community Development Committee Meeting held on June 1, 2011, was for our staff to work more closely together on several economic development and community development issues. We discussed the fact that there are things that we are already planning to do in the area that is in the City limits. I agree with Mr. Newman; I don't think endorsing the plan would obligate us to anything. I want to see what we will be specifically asked to participate in down the road. We would clearly endorse the concept and ask that our staff work together to see if there are things we can come together to do and plan in the same direction since this area encompasses both the City and the County.

Ms. Tiaa Rutherford, Neighborhood Planner / Richland County Community Development Department asked that City Council accept the concept of the plan and that the two governments work together to establish the MOU as to how we move forward with implementation. Adopting the plan does not tie you financially to the implementation; you are agreeing with the concept as presented and as a government, we are going to work together to see the plan to fruition.

Upon a motion made by Mr. Rickenmann and seconded by Mr. Newman, Council voted unanimously to endorse the concept of the Broad River Road Corridor and Community Plan. The two governments will continue discussions and work together to develop a Memorandum of Understanding. Staff was directed to work together to move the plan forward.

CITY COUNCIL DISCUSSION / ACTION

6. Hospitality Tax Application for the 9/11 Memorial

Mr. Steven A. Gantt, City Manager explained that this is a Hospitality Tax Application for the construction of a September 11th Memorial at the Convention Center. We had discussions about funding for this memorial that would require an agreement with Richland County and Lexington County for the funding to be made available. We've received indication that one of the counties isn't in agreement with using those funds for this purpose. We have a surplus in the Hospitality Tax Fund and we ask that we be allowed to use a portion of that surplus for this project.

Councilor Davis asked where the remainder of the funds would come from.

Mr. Steven A. Gantt, City Manager said that the projected cost is \$170,000; this request is for \$50,000; and we will ask the other two counties to assist in an equal manner.

Councilor Devine made a motion to approve the allocation of \$50,000 from the Hospitality Tax Fund, contingent upon the other governments participating.

Councilor Plaugh sought clarification of the funding source. Are we talking about the \$500,000 +/- in a Reserve Fund? Is there a timeframe in which we need to act on this?

Mr. Steven A. Gantt, City Manager said yes and there is also \$96,000 that came back to the City from grantees that did not use all of their allocations. It is time sensitive in regard to starting construction. They would like to have this completed by the end of August 2011.

Councilor Rickenmann asked that the Council defer the vote on this matter, because he would also like to defer consideration of **Item 7**, until they schedule a Work Session for further discussion. The committee has done a great job, but we need to spend time discussing these items as a group. I would also like to have the Mayor here for this discussion. Some groups who generate the tax have seen significant cuts and some groups have gotten some bumps.

Councilor Devine concurred with deferring **Item 7**, but she would like to move forward with **Item 6** since it is coming from this year's surplus.

Councilor Newman concurred with Ms. Devine, noting that it would be prudent to move forward with **Item 6** I have some concerns with our Hospitality Tax funding recommendations and it would be appropriate to have a Work Session for further discussion of the committee's recommendations.

Upon a motion made by Ms. Devine and seconded by Mr. Newman, Council voted five (5) to one (1) to allocate up to \$50,000 from the Hospitality Tax Surplus Fund for the construction of a September 11th Memorial at the Columbia Metropolitan Convention Center, contingent upon Richland County and Lexington County participating in funding the project. Voting aye were Mr. Davis, Ms. Devine, Dr. Gergel, Ms. Plough and Mr. Newman. Mr. Rickenmann voted nay.

7. Fiscal Year 2011/2012 Accommodations Tax and Hospitality Tax Funding Recommendations – Ms. Libby Gober, Assistant to Council

Councilor Devine said that every year we get lots of e-mails and calls from people who were cut and some people are not happy. Typically we understand that, but by looking at the allocations it seems like some got jumps and some got cuts and there was not a lot of explanation as to the rationale.

Ms. Libby Gober, Assistant to City Council explained that this pot has been the same for the committee for the past several years and the only way to consider any new applications was to cut some of the groups that have been heavily funded for several years.

Ms. Cynthia Hardy, Chair of the Hospitality Tax Advisory Committee agreed with Ms. Gober's explanation, adding that it is an 11-member committee; most of us are business individuals and we recognize the economic strains that a number of businesses and organizations in our area find themselves in. We had \$2.55 million and 73 applications to consider over four days and we kept a contingency of \$200,000. I agree with Councilors Devine and Rickenmann; it would be best to sit down with you all to go over the recommendations. The committee unanimously voted on the bottom line. I will avail myself to answer those questions at a time that you all deem appropriate.

There was a consensus of Council to ask the City Manager to schedule a Work Session for next week and Ms. Hardy was asked to be prepared to address the areas that have seen reductions or increases in Accommodations and Hospitality Tax funding.

8. Accidental Death Coverage Comparison

Mr. Steven A. Gantt, City Manager said that at the request of Council we have been looking at an Accidental Death Policy for our employees that may be injured or killed in the line of duty. We have two policies that we were asked to review in order to determine which was the most appropriate for City employees.

Ms. Hattie Halsey, Deputy Director of Human Resources said that they looked at the SC Police Officer Retirement System and Guardian's Accidental Death and Dismemberment Policy. A legal review and comparison was done with the sample contract from Guardian to the State's program. The comparison shows that all employees would be covered under Guardians policy versus the Police Officer Retirement System, which only covers Police and Fire personnel. She cited other differences in the two policies and recommended that the City of Columbia enter into a contract with Guardian Life Insurance Company for Employee Accidental Death and Dismemberment Coverage.

Upon a motion made by Mr. Rickenmann and seconded by Ms. Devine, Council voted unanimously to authorize the City Manager to proceed with obtaining a contract from Guardian Life Insurance Company for consideration by City Council on July 19, 2011 after it has been reviewed by the City Attorney.

9. Council is asked to approve an allocation to Sister Care, Inc. in the amount of \$10,000 for fiscal year 2010/2011, as requested by City Administration. *Funding Source: Victim's Assistance Fund 2154601-680170 - Approved*

Upon a motion made by Ms. Devine and seconded by Mr. Rickenmann, Council voted unanimously to approve an allocation to Sister Care, Inc. in the amount of \$10,000 for fiscal year 2010/2011, as requested by City Administration.

10. Council is asked to approve the Destruction of 971 Narcotics to include Paraphernalia, as requested by the Police Department's Evidence and Property Unit. - *Approved*

Upon a motion made by Mr. Rickenmann and seconded by Mr. Davis, Council voted unanimously to approve the Destruction of 971 Narcotics to include Paraphernalia, as requested by the Police Department's Evidence and Property Unit.

11. Council is asked to approve the Disbursement of \$71,000.00 to Richland County for the Monticello Road Streetscape Project from Summit Avenue to Dixie Avenue, as requested by Richland County Administration. *Funding Source: Remaining Funds from the Main Street Phase II Project - Approved*

Mr. Steven A. Gantt, City Manager said that we received correspondence back from Richland County indicating that they would be willing to make up the difference of \$28,000 for the project. The County will be leasing ornamental lights for their portion of the project; I don't think we should lease lights from SCE&G in perpetuity, because it is expensive. We will be purchasing six lights for our block through the Public Works Department lighting funds. We will own and maintain the lights and that will save us money in the long-term.

Councilor Plough said that this is an example of how we can use the Community Development Block Grant Fund, which is what the County is using to fund their portion.

Upon a motion made by Mr. Newman and seconded by Ms. Devine, Council voted unanimously to approve the disbursement of \$71,000.00 to Richland County for the Monticello Road Streetscape Project from Summit Avenue to Dixie Avenue.

12. Neighborhood Street Lighting Request – Mr. Dave Brewer, Director of Traffic Engineering

Upon a motion made by Ms. Devine and seconded by Mr. Davis, Council voted unanimously to approve a Neighborhood Street Lighting Request for one (1) additional light on Rigby Road for an increased amount of \$118.92.

13. Request for Special Exception to Establish a Liquor Store within a Commercial Planned Unit Development at 5424 Forest Drive Suite 108, TMS #16706-04-06 – (Council District 4)

Mr. Jonathan Chambers, Zoning Administrator said that this is located in the Wal-Mart Shopping Center near the Sam's Club. He explained that this is a rare instance where the Zoning Ordinance requires both the Planning Commission and City Council to review a Special Exception request within a Commercial Planned Unit Development. On May 2, 2011, the Planning Commission reviewed the request and approved it. The case is in front of you for review and approval, as well. With special exceptions, there are criteria that should be reviewed in regards to the impact on traffic circulation, vehicular and pedestrian safety, the aesthetic character of the environs and the orientation or spacing of improvements or buildings.

Councilor Plough asked if the property had been posted.

Mr. Jonathan Chambers, Zoning Administrator replied yes.

Councilor Davis asked if there had been any opposition to this from adjoining merchants.

Mr. Jonathan Chambers, Zoning Administrator replied no.

Mr. Edgardo Andino, Applicant explained that he is retired from the military and he just wanted to start his own business. I wasn't aware of this legislation, but I had all of my licenses and I am ready to open my store. I am in agreement with the legislation. I selected a shopping center, because I don't want to be behind or in front of anyone's house.

STATE OF SOUTH CAROLINA
COUNTY COUNCIL FOR RICHLAND COUNTY
ORDINANCE NO. SR-10

AN ORDINANCE AMENDING THE FISCAL YEAR 2013-2014 COMMUNITY DEVELOPMENT DEPARTEMENT BUDGET FOR THE DEVELOPMENT OF ONE CITY BLOCK WITHIN PHASE II OF THE MONTICELLO ROAD STEETScape PROJECT.

Pursuant to the authority granted by the Constitution and the General Assembly of the State of South Carolina, BE IT ENACTED BY THE COUNTY COUNCIL FOR RICHLAND COUNTY:

SECTION I. Approve the addition \$71,000 for the Development of the Monticello Road Streetscape project. Fiscal Year 2013-2014 Community Development Annual Budget is hereby amended as follows:

COMMUNITY DEVELOPMENT - REVENUE

Revenue appropriated July 1, 2013 as amended:	\$ 4,131,268
City of Columbia Contribution:	\$ <u>71,000</u>
Community Development Revenue as Amended:	\$ 4,202,268

COMMUNITY DEVELOPMENT - EXPENDITURES

Expenditures appropriated July 1, 2013 as amended:	\$ 4,131,268
Development of the Monticello Road Streetscape Project:	\$ <u>71,000</u>
Total Community Development Expenditures as Amended:	\$ 4,202,268

SECTION II. Severability. If any section, subsection, or clause of this ordinance shall be deemed to be unconstitutional or otherwise invalid, the validity of the remaining sections, subsections, and clauses shall not be affected thereby.

SECTION III. Conflicting Ordinances Repealed. All ordinances or parts of ordinances in conflict with the provisions of this ordinance are hereby repealed.

SECTION IV. Effective Date. This ordinance shall be enforced from and after _____, 2014.

RICHLAND COUNTY COUNCIL

BY: _____
Kelvin Washington, Chair

ATTEST THIS THE ____ DAY

OF _____, 2014

Clerk of Council

RICHLAND COUNTY ATTORNEY'S OFFICE

Approved As To LEGAL Form Only.
No Opinion Rendered As To Content.

First Reading:
Second Reading:
Public Hearing:
Third Reading:

Richland County Council Request of Action

Subject

An Ordinance Amending the Fiscal Year 2013-2014 Transportation Tax Fund Budget to add two full time positions
[THIRD READING] [PAGES 45-55]

Notes

First Reading: March 18, 2014

Second Reading: April 1, 2014

Third Reading:

Public Hearing:

STATE OF SOUTH CAROLINA
COUNTY COUNCIL FOR RICHLAND COUNTY
ORDINANCE NO. SR-09

AN ORDINANCE AMENDING THE FISCAL YEAR 2013-2014
TRANSPORTATION TAX FUND BUDGET TO ADD TWO FULL TIME
POSITIONS.

Pursuant to the authority granted by the Constitution and the General Assembly of the State of South Carolina, BE IT ENACTED BY THE COUNTY COUNCIL FOR RICHLAND COUNTY:

SECTION I. Approve the addition of two full time positions. No additional funding is appropriated. Therefore, the Fiscal Year 2013-2014 Transportation Tax Annual Budget is hereby amended as follows:

TRANSPORATION TAX - REVENUE

Revenue appropriated July 1, 2013 as amended:	\$ 65,061,018
Appropriation of unassigned fund balance:	\$ _____ 0
Total Transportation Tax Revenue as Amended:	\$ 65,061,018

TRANSPORTATION TAX - EXPENDITURES

Expenditures appropriated July 1, 2013 as amended:	\$ 65,061,018
Preconstruction Project Manager (Projected Min. Salary \$85,000)	\$ _____ 0
Construction Engineering Manager (Projected Min. Salary \$80,000)	\$ _____ 0
Total Transportation Tax Expenditures as Amended:	\$ 65,061,018

SECTION II. Severability. If any section, subsection, or clause of this ordinance shall be deemed to be unconstitutional or otherwise invalid, the validity of the remaining sections, subsections, and clauses shall not be affected thereby.

SECTION III. Conflicting Ordinances Repealed. All ordinances or parts of ordinances in conflict with the provisions of this ordinance are hereby repealed.

SECTION IV. Effective Date. This ordinance shall be enforced from and after _____, 2013.

RICHLAND COUNTY COUNCIL

BY: _____
Norman Jackson, Chair

ATTEST THIS THE ____ DAY

OF _____, 2013

Clerk of Council

RICHLAND COUNTY ATTORNEY'S OFFICE

Approved As To LEGAL Form Only.
No Opinion Rendered As To Content.

First Reading:
Second Reading:
Public Hearing:
Third Reading:

**RICHLAND COUNTY, SOUTH CAROLINA
CLASS DESCRIPTION
2014**

CLASS TITLE: CONSTRUCTION ENGINEERING MANAGER

TRANSPORTATION DEPARTMENT

GENERAL DESCRIPTION OF CLASS

The purpose of the class is to serve as the County Construction Engineering Manager for all new construction projects funded by the County Penny Transportation Program. This equates to approximately \$405 million in projects managed based on a summary of current, individual project estimates. This class shall work within the Transportation Department to implement and manage Consultant and Contractor contracts during the construction phase of work. This class has expertise and knowledge of transportation construction plan reviews, transportation construction inspection and standards, field revisions, conflict resolution, and value engineering. This class provides in house construction engineering management from individual construction contract award through completion. This class plans, organizes and implements the aforementioned project types within major organizational policies. This class shall perform related professional, administrative and supervisory work as required in support of all Transportation Penny items.

ESSENTIAL TASKS

The tasks listed below are those that represent the majority of the time spent working in this class. Management may assign additional tasks related to the type of work of the class as necessary.

Manages Consultant and Contractor contracts in the construction phase of work within the County Penny Transportation Program, ensuring projects are completed appropriately, on time, and within budget.

Understands both SCDOT and County roadway construction standards and guidelines.

Understands both SCDOT and County bridge construction standards and guidelines.

Understands construction related permitting.

Ensures compliance with applicable federal, state and local laws and regulations, County policies and procedures, and standards of quality and safety.

Reviews Contractor traffic control plans on behalf of the County to include construction staging.

Develops various construction related solutions to engineering problems.

Processes Contractor and Consultant pay requests associated with construction phase related activities.

Processes change orders as appropriate.

Meets with County officials, residents and citizen groups to discuss and resolve problems related to construction within the Transportation Penny program.

CLASS TITLE: CONSTRUCTION ENGINEERING MANAGER

Assists staffs with the Transportation Penny Advisory Committee.

Supervises subordinates and support staff, if applicable. Supervisory duties include instructing; assigning, reviewing and planning work of others; maintaining standards; coordinating activities; selecting new employees; acting on employee problems; approving employee discipline and discharge.

Reviews the work of subordinates for completeness and accuracy; evaluates and makes recommendations as appropriate; offers advice and assistance as needed.

Provides for adequate staff training and development opportunities.

Attends and participates in County Council and Committee meetings as needed.

Receives and responds to inquiries, concerns, complaints and requests for assistance regarding areas of responsibility.

Performs general administrative / clerical work as required, including but not limited to preparing reports and correspondence, copying and filing documents, entering and retrieving computer data, attending and conducting meetings, etc.

Attends meetings, workshops, conferences, etc., as appropriate to maintain knowledge of current legislation, trends and technology in assigned areas of responsibility.

Prepares and updates status reports for PIO use in public education.

INVOLVEMENT WITH DATA, PEOPLE, AND THINGS

DATA INVOLVEMENT:

Requires developing new approaches or methodologies to solve problems not previously encountered by analyzing, synthesizing or evaluating data or information using unconventional or untried methods.

PEOPLE INVOLVEMENT:

Requires negotiating, exchanging ideas, information, and opinions with others to formulate policy and programs or arrive jointly at decisions, conclusions, or solutions.

INVOLVEMENT WITH THINGS:

Requires establishing long-range plans and programs, identifying funding resources, allocating funds for and implementing long-range capital improvements, major construction projects, major equipment, rolling stock, and new technology systems which support goals and objectives of the organization.

COGNITIVE REQUIREMENTS

REASONING REQUIREMENTS:

Requires performing work involving the application of principles of logical thinking to diagnose or define problems, collect data and solve abstract problems with widespread unit or organizational impact.

CLASS TITLE: CONSTRUCTION ENGINEERING MANAGER

MATHEMATICAL REQUIREMENTS:

Requires using mathematics involving the practical application of fractions, percentages, ratios and proportions; or measurements, logarithmic or geometric construction. May use algebraic solutions of equations and inequalities; descriptive statistics; deductive geometry, plane and solid, and rectangular coordinates; mathematical classifications or schemes.

LANGUAGE REQUIREMENTS:

Requires reading professional literature and technical manuals; speaking to groups of employees, other public and private groups; writing manuals and complex reports.

MENTAL REQUIREMENTS:

Requires using advanced professional-level work methods and practices in the analysis, coordination or interpretation of work of a professional, engineering, fiscal, legal, managerial or scientific nature and the ability for formulate important recommendations or make technical decisions that have an organization-wide impact. Requires sustained, intense concentration for accurate results and continuous exposure to sustained, unusual pressure.

VOCATIONAL/EDUCATIONAL AND EXPERIENCE PREPARATION

VOCATIONAL/EDUCATIONAL PREPARATION:

Requires Bachelor's degree in civil engineering, project management or a related field.

SPECIAL CERTIFICATIONS AND LICENSES:

Registered Professional Engineer in the State of South Carolina preferred.

Must possess a valid state driver's license.

EXPERIENCE REQUIREMENTS:

Requires a minimum of six years of relevant experience.

SCDOT experience preferred.

AMERICANS WITH DISABILITIES ACT REQUIREMENTS

PHYSICAL AND DEXTERITY REQUIREMENTS:

Requires light work that involves walking or standing some of the time and involves exerting up to 20 pounds of force on a recurring basis, or skill, adeptness and speed in the use of fingers, hands or limbs on repetitive operation of mechanical or electronic office or shop machines or tools within moderate tolerances or limits of accuracy.

ENVIRONMENTAL HAZARDS:

The job may risk exposure to bright/dim light, dusts and pollen, extreme noise levels, vibration, fumes and/or noxious odors, moving machinery, electrical shock, toxic/caustic chemicals.

CLASS TITLE: CONSTRUCTION ENGINEERING MANAGER

SENSORY REQUIREMENTS:

The job requires normal visual acuity, depth perception, and field of vision, hearing and speaking abilities.

JUDGMENTS AND DECISIONS

JUDGMENTS AND DECISIONS:

Decision-making is primary to the job, affecting the organization, related organizations and major segments of the general population; works in an evolving environment with emerging knowledge and technologies, competing priorities, and changing politics. Responsible for long-range goals, planning and methodologies.

ADA COMPLIANCE

Richland County is an Equal Opportunity Employer. ADA requires the County to provide reasonable accommodations to qualified individuals with disabilities. Prospective and current employees are invited to discuss accommodations.

**RICHLAND COUNTY, SOUTH CAROLINA
CLASS DESCRIPTION
2014**

CLASS TITLE: PRECONSTRUCTION PROJECT MANAGER

TRANSPORTATION DEPARTMENT

GENERAL DESCRIPTION OF CLASS

The purpose of the class is to manage all enhancements, dirt road paving, and resurfacing projects within the County Penny Transportation Program at the direction of the Deputy Director of Transportation. This equates to approximately \$219 million in projects managed. This class shall also work with the Deputy Director of Transportation to execute Consultant scopes and contracts. This class has expertise and knowledge of transportation planning, engineering and design, and contract and project / program management, scheduling, cost estimating, right-of-way acquisitions, surveying, plan review and inspection; and performs related professional, administrative work as required in support of all Transportation Penny items. This class provides in house project management from design to completion, and performs and/or supervises design work as necessary. This class plans, organizes and implements the aforementioned project types within organizational policies.

This position reports directly to the County Deputy Director of Transportation.

ESSENTIAL TASKS

The tasks listed below are those that represent the majority of the time spent working in this class. Management may assign additional tasks related to the type of work of the class as necessary.

Manages enhancements, dirt road paving, and resurfacing projects within the County Penny Transportation Program, ensuring projects are completed appropriately, on time, and within budget.

Understands DOT and County standard roadway design practices and procedures.

Understands permitting (environmental, land disturbance, etc)

Reviews consultant(s) design plans.

Administers contracts and provides in house project management from design to completion, and performs design work as necessary.

Assist with management of the program management firm(s).

Coordinates the bidding process for projects.

Prepares scopes of work; reviews plans and specifications as submitted for compliance with established codes, ordinances and standards.

Ensures compliance with applicable federal, state and local laws and regulations, County policies and procedures, and standards of quality and safety.

Directs and provides engineering expertise in the planning, design and project management of the construction of managed projects.

CLASS TITLE: PRECONSTRUCTION PROJECT MANAGER

Develops and designs various solutions to engineering problems; seeks alternatives to designs and submits plans for approval.

Oversees the preparation of plans, specifications and contract documents for projects; develops and implements long-range resurfacing and paving plans and financing for Transportation Projects.

Processes change orders as appropriate.

Processes contractor pay requests.

Coordinates projects with local, state and federal agencies, as well as other County and municipal departments, contractors, developers, engineers, land surveyors, architects, attorneys, environmental agencies / special interest groups, and other parties as necessary.

Supervises subordinate supervisory and support staff, if applicable. Supervisory duties include instructing; assigning, reviewing and planning work of others; maintaining standards; coordinating activities; selecting new employees; acting on employee problems; approving employee discipline and discharge.

Reviews the work of subordinates for completeness and accuracy; evaluates and makes recommendations as appropriate; offers advice and assistance as needed.

Provides for adequate staff training and development opportunities.

Manages and oversees the project budgets; ensures effective and efficient use of budgeted funds, personnel, materials, facilities and time.

Assists with the preparation of applications and implementation of received state and federal funding opportunities (grants, TIGER, etc.).

Supervises and participates in the inspection of construction work in progress and at completion for compliance with established policies, procedures, regulations, codes, contracts, and standards of quality and safety.

Meets with County officials, residents and citizen groups to discuss and resolve problems related to the Transportation Penny program.

Prepares a variety of studies, reports and related information for decision-making purposes and as required by the County and regulatory agencies.

Attends and participates in County Council and Committee meetings.

Receives and responds to inquiries, concerns, complaints and requests for assistance regarding areas of responsibility.

Performs general administrative / clerical work as required, including but not limited to preparing reports and correspondence, copying and filing documents, entering and retrieving computer data, attending and conducting meetings, etc.

Attends meetings, workshops, conferences, etc., as appropriate to maintain knowledge of current legislation, trends and technology in assigned areas of responsibility.

Prepares and updates status reports for PIO use in public education.

CLASS TITLE: PRECONSTRUCTION PROJECT MANAGER

Staffs and/or assists Transportation Penny Advisory Committee.

INVOLVEMENT WITH DATA, PEOPLE, AND THINGS

DATA INVOLVEMENT:

Requires developing new approaches or methodologies to solve problems not previously encountered by analyzing, synthesizing or evaluating data or information using unconventional or untried methods.

PEOPLE INVOLVEMENT:

Requires negotiating, exchanging ideas, information, and opinions with others to formulate policy and programs or arrive jointly at decisions, conclusions, or solutions.

INVOLVEMENT WITH THINGS:

Requires establishing long-range plans and programs, identifying funding resources, allocating funds for and implementing long-range capital improvements, major construction projects, major equipment, rolling stock, and new technology systems which support goals and objectives of the organization.

COGNITIVE REQUIREMENTS

REASONING REQUIREMENTS:

Requires performing work involving the application of principles of logical thinking to diagnose or define problems, collect data and solve abstract problems with widespread unit or organizational impact.

MATHEMATICAL REQUIREMENTS:

Requires using mathematics involving the practical application of fractions, percentages, ratios and proportions; or measurements, logarithmic or geometric construction. May use algebraic solutions of equations and inequalities; descriptive statistics; deductive geometry, plane and solid, and rectangular coordinates; mathematical classifications or schemes.

LANGUAGE REQUIREMENTS:

Requires reading professional literature and technical manuals; speaking to groups of employees, other public and private groups; writing manuals and complex reports.

MENTAL REQUIREMENTS:

Requires using advanced professional-level work methods and practices in the analysis, coordination or interpretation of work of a professional, engineering, fiscal, legal, managerial or scientific nature and the ability for formulate important recommendations or make technical decisions that have an organization-wide impact. Requires sustained, intense concentration for accurate results and continuous exposure to sustained, unusual pressure.

CLASS TITLE: PRECONSTRUCTION PROJECT MANAGER

VOCATIONAL/EDUCATIONAL AND EXPERIENCE PREPARATION

VOCATIONAL/EDUCATIONAL PREPARATION:

Requires Bachelor's degree in civil engineering, project management or a related field.

SPECIAL CERTIFICATIONS AND LICENSES:

Registered Professional Engineer in the State of South Carolina preferred.

Must possess a valid state driver's license.

EXPERIENCE REQUIREMENTS:

Requires a minimum of four years of relevant experience.

SCDOT experience preferred.

AMERICANS WITH DISABILITIES ACT REQUIREMENTS

PHYSICAL AND DEXTERITY REQUIREMENTS:

Requires light work that involves walking or standing some of the time and involves exerting up to 20 pounds of force on a recurring basis, or skill, adeptness and speed in the use of fingers, hands or limbs on repetitive operation of mechanical or electronic office or shop machines or tools within moderate tolerances or limits of accuracy.

ENVIRONMENTAL HAZARDS:

The job may risk exposure to bright/dim light, dusts and pollen, extreme noise levels, vibration, fumes and/or noxious odors, moving machinery, electrical shock, toxic/caustic chemicals.

SENSORY REQUIREMENTS:

The job requires normal visual acuity, depth perception, and field of vision, hearing and speaking abilities.

JUDGMENTS AND DECISIONS

JUDGMENTS AND DECISIONS:

Decision-making is primary to the job, affecting the organization, related organizations and major segments of the general population; works in an evolving environment with emerging knowledge and technologies, competing priorities, and changing politics. Responsible for long-range goals, planning and methodologies.

ADA COMPLIANCE

Richland County is an Equal Opportunity Employer. ADA requires the County to provide reasonable accommodations to qualified individuals with disabilities. Prospective and current employees are invited to discuss accommodations.

Richland County Council Request of Action

Subject

14-02MA
Noralba Hurtado
RU to GC (.45 Acres)
10356 Broad River Rd.
03300-06-10 [**SECOND READING**] [**PAGES 56-57**]

Notes

First Reading: April 22, 2014
Second Reading:
Third Reading:
Public Hearing: April 22, 2014

STATE OF SOUTH CAROLINA
COUNTY COUNCIL OF RICHLAND COUNTY
ORDINANCE NO. ____-14HR

AN ORDINANCE OF THE COUNTY COUNCIL OF RICHLAND COUNTY, SOUTH CAROLINA, AMENDING THE ZONING MAP OF UNINCORPORATED RICHLAND COUNTY, SOUTH CAROLINA, TO CHANGE THE ZONING DESIGNATION FOR THE REAL PROPERTY DESCRIBED AS TMS # 03300-06-10 FROM RU (RURAL DISTRICT) TO GC (GENERAL COMMERCIAL DISTRICT); AND PROVIDING FOR SEVERABILITY AND AN EFFECTIVE DATE.

Pursuant to the authority granted by the Constitution of the State of South Carolina and the General Assembly of the State of South Carolina, BE IT ENACTED BY RICHLAND COUNTY COUNCIL:

Section I. The Zoning Map of unincorporated Richland County is hereby amended to change the real property described as TMS # 03300-06-10 from RU (Rural District) zoning to GC (General Commercial District) zoning.

Section II. Severability. If any section, subsection, or clause of this Ordinance shall be deemed to be unconstitutional, or otherwise invalid, the validity of the remaining sections, subsections, and clauses shall not be affected thereby.

Section III. Conflicting Ordinances Repealed. All ordinances or parts of ordinances in conflict with the provisions of this ordinance are hereby repealed.

Section IV. Effective Date. This ordinance shall be effective from and after _____, 2014.

RICHLAND COUNTY COUNCIL

By: _____
Norman Jackson, Chair

Attest this _____ day of
_____, 2014.

Michelle Onley
Clerk of Council

Public Hearing: March 25, 2014
2nd Public Hearing: April 22, 2014
First Reading: April 22, 2014
Second Reading: May 6, 2014 (tentative)
Third Reading:

Richland County Council Request of Action

Subject

14-03MA
Preston Young
RU to OI (1.5 Acres)
Cabin Creek Rd.
21615-04-26 [**SECOND READING**] [**PAGES 58-59**]

Notes

First Reading: April 22, 2014
Second Reading:
Third Reading:
Public Hearing: April 22, 2014

STATE OF SOUTH CAROLINA
COUNTY COUNCIL OF RICHLAND COUNTY
ORDINANCE NO. ____-14HR

AN ORDINANCE OF THE COUNTY COUNCIL OF RICHLAND COUNTY, SOUTH CAROLINA, AMENDING THE ZONING MAP OF UNINCORPORATED RICHLAND COUNTY, SOUTH CAROLINA, TO CHANGE THE ZONING DESIGNATION FOR THE REAL PROPERTY DESCRIBED AS TMS # 21615-04-26 FROM RU (RURAL DISTRICT) TO OI (OFFICE AND INSTITUTIONAL DISTRICT); AND PROVIDING FOR SEVERABILITY AND AN EFFECTIVE DATE.

Pursuant to the authority granted by the Constitution of the State of South Carolina and the General Assembly of the State of South Carolina, BE IT ENACTED BY RICHLAND COUNTY COUNCIL:

Section I. The Zoning Map of unincorporated Richland County is hereby amended to change the real property described as TMS # 21615-04-26 from RU (Rural District) zoning to OI (Office and Institutional District) zoning.

Section II. Severability. If any section, subsection, or clause of this Ordinance shall be deemed to be unconstitutional, or otherwise invalid, the validity of the remaining sections, subsections, and clauses shall not be affected thereby.

Section III. Conflicting Ordinances Repealed. All ordinances or parts of ordinances in conflict with the provisions of this ordinance are hereby repealed.

Section IV. Effective Date. This ordinance shall be effective from and after _____, 2014.

RICHLAND COUNTY COUNCIL

By: _____
Norman Jackson, Chair

Attest this _____ day of
_____, 2014.

Michelle Onley
Clerk of Council

Public Hearing: March 25, 2014
2nd Public Hearing: April 22, 2014
First Reading: April 22, 2014
Second Reading: May 6, 2014 (tentative)
Third Reading:

Richland County Council Request of Action

Subject

14-06MA
Jimmy Derrick
RS-MD to NC (3.83 Acres)
6405 Monticello Rd.
09401-06-09 [**SECOND READING**] [**PAGES 60-61**]

Notes

First Reading: April 22, 2014
Second Reading:
Third Reading:
Public Hearing: April 22, 2014

STATE OF SOUTH CAROLINA
COUNTY COUNCIL OF RICHLAND COUNTY
ORDINANCE NO. ___-14HR

AN ORDINANCE OF THE COUNTY COUNCIL OF RICHLAND COUNTY, SOUTH CAROLINA, AMENDING THE ZONING MAP OF UNINCORPORATED RICHLAND COUNTY, SOUTH CAROLINA, TO CHANGE THE ZONING DESIGNATION FOR THE REAL PROPERTY DESCRIBED AS TMS # 09401-06-09 FROM RS-MD (RESIDENTIAL, SINGLE-FAMILY – MEDIUM DENSITY DISTRICT) TO NC (NEIGHBORHOOD COMMERCIAL DISTRICT); AND PROVIDING FOR SEVERABILITY AND AN EFFECTIVE DATE.

Pursuant to the authority granted by the Constitution of the State of South Carolina and the General Assembly of the State of South Carolina, BE IT ENACTED BY RICHLAND COUNTY COUNCIL:

Section I. The Zoning Map of unincorporated Richland County is hereby amended to change the real property described as TMS # 09401-06-09 from RS-MD (Residential, Single-Family – Medium Density District) TO NC (Neighborhood Commercial District) zoning.

Section II. Severability. If any section, subsection, or clause of this Ordinance shall be deemed to be unconstitutional, or otherwise invalid, the validity of the remaining sections, subsections, and clauses shall not be affected thereby.

Section III. Conflicting Ordinances Repealed. All ordinances or parts of ordinances in conflict with the provisions of this ordinance are hereby repealed.

Section IV. Effective Date. This ordinance shall be effective from and after _____, 2014.

RICHLAND COUNTY COUNCIL

By: _____
Norman Jackson, Chair

Attest this _____ day of _____, 2014.

Michelle Onley
Clerk of Council

Public Hearing: April 22, 2014
First Reading: April 22, 2014
Second Reading: May 6, 2014 (tentative)
Third Reading:

Richland County Council Request of Action

Subject

14-07 MA
W. D. Morris
GC to LI (3.2 Acres)
Two Notch Rd. & Brickyard Rd.
22804-04-10 [**SECOND READING**] [**PAGES 62-63**]

Notes

First Reading: April 22, 2014
Second Reading:
Third Reading:
Public Hearing: April 22, 2014

STATE OF SOUTH CAROLINA
COUNTY COUNCIL OF RICHLAND COUNTY
ORDINANCE NO. ____-14HR

AN ORDINANCE OF THE COUNTY COUNCIL OF RICHLAND COUNTY, SOUTH CAROLINA, AMENDING THE ZONING MAP OF UNINCORPORATED RICHLAND COUNTY, SOUTH CAROLINA, TO CHANGE THE ZONING DESIGNATION FOR THE REAL PROPERTY DESCRIBED AS TMS # 22804-04-10 FROM GC (GENERAL COMMERCIAL DISTRICT) TO LI (LIGHT INDUSTRIAL DISTRICT); AND PROVIDING FOR SEVERABILITY AND AN EFFECTIVE DATE.

Pursuant to the authority granted by the Constitution of the State of South Carolina and the General Assembly of the State of South Carolina, BE IT ENACTED BY RICHLAND COUNTY COUNCIL:

Section I. The Zoning Map of unincorporated Richland County is hereby amended to change the real property described as TMS # 22804-04-10 from GC (General Commercial District) zoning to LI (Light Industrial District) zoning.

Section II. Severability. If any section, subsection, or clause of this Ordinance shall be deemed to be unconstitutional, or otherwise invalid, the validity of the remaining sections, subsections, and clauses shall not be affected thereby.

Section III. Conflicting Ordinances Repealed. All ordinances or parts of ordinances in conflict with the provisions of this ordinance are hereby repealed.

Section IV. Effective Date. This ordinance shall be effective from and after _____, 2014.

RICHLAND COUNTY COUNCIL

By: _____
Norman Jackson, Chair

Attest this _____ day of
_____, 2014.

Michelle Onley
Clerk of Council

Public Hearing: April 22, 2014
First Reading: April 22, 2014
Second Reading: May 6, 2014 (tentative)
Third Reading:

Richland County Council Request of Action

Subject

Service (One Stop) Requests for Council [**PAGES 64-67**]

Notes

April 22, 2014 - The committee recommended approval of the process outlined in the ROA where citizens should receive one official, organized response from Council via the Clerk of Council's Office. One Stop requests should not be closed until a response from Council has been sent by the Clerk's Office. Staff is to determine response time.

Richland County Council Request of Action

Subject: Service (One Stop) Requests for Council

A. Purpose

Council is requested to approve the proposed system to assure requests and/or comments received by Council members, staff, or the Ombudsman's Office are responded to officially, and in an organized manner.

B. Background / Discussion

Mr. Malinowski made the following motion at the March 18, 2014 Council Meeting:

At time throughout the year Council receives service requests. We need to make sure such requests are responded to in order that those submitting these comments don't feel their comments are totally ignored. Based on this I am making the following motion: Richland County Council, with the assistance of the Legal Department, will develop a system to assure that requests and/or comments received in general by Council members, staff or the Ombudsman's Office are responded to officially. This will eliminate the possibility of the remitter receiving 11 or more different responses/opinions or possibly not receiving any. The item was forwarded to the April D&S Committee.

Current Process:

Upon receipt of a request in the Ombudsman's Office that must be sent to full Council, it is entered into One Stop and forwarded to the Clerk of Council for dissemination, as well as review and response by Council. Additionally, an email is sent to the Clerk of Council's Office notifying them of the same. The Ombudsman's Office then informs the citizen his or her request has been sent to the Clerk of Council for dissemination to full Council.

Oftentimes, individual Council Members may reply to the citizen via email, or not at all. This either causes a "hodgepodge" of responses to the citizen, or a lack of response entirely.

Recommendation:

Citizens should receive one official, organized response from Council via the Clerk of Council's Office. One Stop requests should not be closed until a response from Council has been sent by the Clerk's Office.

Therefore, the following process is being proposed:

1. Upon receipt of the request from the Ombudsman's Office, the Clerk should disseminate the request to full Council informing them a response is needed, and establishing a time frame in which to respond to the request via the Clerk's Office. (If a request of / for Council is generated outside the Ombudsman's Office, the request should be forwarded to the Ombudsman's Office for processing.)

2. If Council Members wish to respond to the citizen's request / question, they should reply to the Clerk's Office with their response within the established timeframe. This may require the Clerk follow up with Council to generate a timely response.
3. The Clerk will then compile all of Council's responses in one email.
4. Once Council's combined responses have been generated into one all-inclusive response, the Clerk should send it to Council for review. A deadline for Council's review should be provided – perhaps 24 – 48 hours. If no revisions are requested by Council, the response should then be forwarded to the citizen, with a cc to the Ombudsman's Office and Council Members. If revisions are requested by Council, the Clerk should make the changes and forward the revised response one more time to Council for review. If no revisions are requested by Council, the response should then be forwarded to the citizen, with a cc to the Ombudsman's Office and Council Members.
5. The Clerk's Office is to then close the service request after the response has been sent to the citizen, as well as inform full Council that the request has been closed.
6. The Clerk's Office should use One Stop to track the request from its opening to closing. If the request remains open, and a response is not sent timely, the service request would appear in the overdue report.

C. Legislative / Chronological History

Motion by Mr. Malinowski at the March 18th, 2014 Regular Session Council meeting.

D. Financial Impact

There is no financial impact associated with this request.

E. Alternatives

1. Approve the request to establish the official system outlined above to respond to comments/concerns from citizens.
2. Approve a revised version of the system outlined above.
3. Do not approve the request and continue with the current process as outlined above.

F. Recommendation

It is recommended Council approve the proposed system outlined above to assure requests and/or comments received by Council members, staff, or the Ombudsman's Office are responded to officially, and in an organized manner.

Recommended by: Bill Malinowski Department: Council Date: March 18, 2014

G. Reviews

(Please replace the appropriate box with a ✓ and then support your recommendation in the Comments section before routing on. Thank you!)

Please be specific in your recommendation. While "Council Discretion" may be appropriate at times, it is recommended that Staff provide Council with a professional recommendation of approval or denial, and justification for that recommendation, as often as possible.

Finance

Reviewed by: Daniel Driggers

Date: 4/7/14

 Recommend Council approval Recommend Council denial Recommend Council Discretion

Comments regarding recommendation:

No financial impact and is a policy decision for Council Discretion

Clerk of Council's Office

Reviewed by: Michelle Onley

Date:

 Recommend Council approval Recommend Council denial Recommend Council Discretion

Comments regarding recommendation:

This is a policy decision of Council.

Ombudsman's Office

Reviewed by: Judy Carter

Date: April 17, 2014

 Recommend Council approval Recommend Council denial

Comments regarding recommendation:

Approval will ensure a timely response to citizen's concerns and requests, minimize call backs due to no response and will establish an effective procedure for tracking such matter.

Legal

Reviewed by: Elizabeth McLean

Date: 4/17/14

 Recommend Council approval Recommend Council denial

Comments regarding recommendation: Policy decision left to Council's discretion.

Please find below the Employee Handbook Policy recently adopted by Council regarding citizen requests:

"All customer contacts, such as emails, telephone calls, visits via walk-in's, etc., should be responded to timely, but at least acknowledged by the end of the following business day. Information provided should be accurate, complete, and in a manner understandable to the customer or citizen. A timely response for phone call, visit via walk-in's, or e-mail is by the end of the following business day and for letters is within five business days. Any employee who fails to comply with this guideline will be subject to disciplinary action up to and including termination."

Administration

Reviewed by: Roxanne Ancheta

Date: April 18, 2014

 Recommend Council approval Recommend Council denial

Comments regarding recommendation: It is recommended that Council approve the proposed system outlined above to assure requests and/or comments received by Council members, staff, or the Ombudsman's Office are responded to officially, and in an organized manner.

Richland County Council Request of Action

Subject

Detention Center: Provide Epoxy Coating System for Phase 1 Housing Showers [**PAGES 68-77**]

Notes

April 22, 2014 - The Committee recommended approval of the repair and upgrade of Phase I housing showers at the Detention Center, in the amount of \$117,720.

Richland County Council Request of Action

Subject: Detention Center: Provide Epoxy Coating System for Phase 1 Housing Showers

A. Purpose

County Council is requested to approve the repair and upgrade of Phase I housing showers at the Detention Center, in the amount of \$117,720. This includes preparation and installation of a moisture barrier and a new epoxy coating system. Phase I consists of six (6) dormitories, at approximately 633 square feet of surface for repair, totaling an estimated 3800 square feet. The phase I showers are open shower bays and a handicap shower location is adjacent to the open shower. Scope includes demolition of existing shower tiles

B. Background / Discussion

The existing tiled shower walls and floors are breaking down and the tiles are coming loose and falling out. The failures of the existing showers began approximately four years ago and have continued and are failing at a higher rate. The components listed in the attached quote need replacement due to the following:

- Normal wear. The phase 1 housing showers were installed in 1995 and have been in continuous operation.
- The tile failure is due to loss of adhesive bond and wear on the tile surface areas.
- Cracks in existing walls and floor have damaged the integrity of the water tight sealing.

The failure and loss of the tiles are resulting in structural damage to the concrete walls and floor. Continuous repairs to the existing showers have allowed the facility continued use of the showers but has not eliminated the structural damage from the water from the loss of the water tight seal. The proposed repairs and upgrades will remove all of the damaged tiles and brittle adhesives. Once the existing structural walls and floors have been repaired and prepped, the new moisture barrier and epoxy coating will be installed to provide a smooth, sealed surface that will retain the water and route to the appropriate drains for proper removal.

This moisture barrier /epoxy coating system was installed in the Detention Center's phase 3 housing showers in 2012 and has performed well. The phase 3 showers were tiled showers as well prior to the repairs and upgrades.

Dormitories

Alpha	Delta
Bravo	Echo
Charlie	Foxtrot



Ph 1 Tiled Showers (Typical) Ph 3 Epoxy System (Reference)

C. Legislative / Chronological History

This is a staff-initiated request with no legislative history.

D. Financial Impact

The funding for this project will come from the Detention Center’s current allocated budget.

The estimated expenditure is \$ 117,720 requested in account # 11002100005303, Building Improvements.

E. Alternatives

1. Approve the repair and upgrade of Phase I housing showers at the Detention Center, in the amount of \$117,720. This alternative will provide water tight sealed showers in the phase I housing dormitories.
2. Do not approve the repair and upgrade of Phase I housing showers at the Detention Center, in the amount of \$117,720. This alternative could result in continual damage to the existing structural walls and floors.

F. Recommendation

It is recommended the County Council approve the repair and upgrade of Phase I housing showers at the Detention Center, in the amount of \$117,720.

Recommended by: Ronaldo D. Myers Department: Detention Center Date:03/18/2014.

G. Reviews

Finance

Reviewed by: Daniel Driggers

Date: 4/3/14

Recommend Council approval

Recommend Council denial

Comments regarding recommendation:

Procurement

Reviewed by: Rodolfo Callwood

Date: 4/3/14

Recommend Council approval

Recommend Council denial

Comments regarding recommendation:

Legal

Reviewed by: Elizabeth McLean

Date: 4/3/14

Recommend Council approval

Recommend Council denial

Comments regarding recommendation: Policy decision left to Council’s discretion. I am not sure what Attachment 1 is, so I have provided no review of the document.

Administration

Reviewed by: Warren Harley

Date:

Recommend Council approval

Recommend Council denial

Comments regarding recommendation:

PH I SHOWERS- SEAMLESS EPOXY COATINGSYSTEM

Scope of Work

Provide upgraded Showers for Phase I dormitories at the Detention Center. Phase I consists of six (6) dormitories, at approximately 633 square ft of surface for repair, totaling an estimated 3,800 square feet. Each dormitory has one (1) shower location on the 1st floor. Phase I showers are open shower bays with six (6) shower heads. The handicap shower location is adjacent to the open shower and this area is also included in scope of work. Scope includes demolition of existing shower tiles and attachment adhesives mounted directly to concrete construction walls. This scope also includes preparation and installation of a new epoxy coating. Existing system s breaking down and the tiles are breaking loose and falling out. The components that are listed in the attached quote need replacement due to the following:

- Normal wear.
- Tile failure due to loss of adhesive bond.
- Cracks in existing walls and floor.

QUALITY ASSURANCE

- A. All resin used in the epoxy/polyurethane wall coating system shall be manufactured by a single manufacturer to ensure compatibility and proper bonding.
- B. Applicator shall be a licensed contractor, trained and approved by the manufacturer and shall have a minimum of 3 years' experience in the application of special wall coatings.
- C. All work shall be performed in strict accordance with the manufacturer's written instructions.

WARRANTY

- A. Contractor shall guarantee that materials are free from defects and comply with manufacturer's published specifications.
- B. Contractor shall warranty against faulty workmanship and the performance and quality of all coating applications for a period of five (5) years from substantial completion of the project.

MATERIALS

- A. Wall coating system shall consist of build coats of 100% solids Epoxy and a full broadcast layer of aggregate to serve as a build coat for subsequent coatings.
- B. Material shall be unaffected by the following:
 1. Blood
 2. Urine
 3. Alcohol
 4. Mineral Spirits
 5. 10% Sulfuric Acid
 6. 10% Hydrochloric Acid
 7. 10% Acetic Acid

8. Cleaning solvents.

PREPARATION

- A. Prep work will entail the removal of the ceramic tile to the construction wall.
 - a. Contractor shall take measures to contain the construction area within the shower stall to limit the dust and debris from the open dormitory as well as to reduce the direct exposure to inmates as the dormitories will remain occupied during demolition and construction. This may be achieved by a plastic sheathing barrier or other temporary barrier.
 - b. Using surface grinders clean and prepare the floor, wall, and ceiling surfaces to remove all existing ceramic tiling to bare construction surface. All grinders must be equipped with vacuum assisted dust shrouds, containing the dust generated during the grinding process.
 - c. Scope to include floor base repairs and preparation for application.
 - d. Install specialized sealant to vertical corners to provide a small concave radius suitable for subsequent coatings.
 - e. Install 100% solids epoxy patching material to patch dings, holes and imperfections to walls, ceiling and floors.
 - f. Install a barrier lip, to the inside perimeter to contain water within shower stalls.
 - g. Application of any material shall signify that surfaces have been inspected and are satisfactory.
 - h. All surfaces to be coated shall be clean, dry and sound.

INSTALLATION

- A. All contractor's work will be limited to (1) dormitory and is to be completed before demolition can begin on the next scheduled dormitory. Multiple dormitories cannot be out of service at the same time due to housing limitations.

Dormitories

Alpha	Delta
Bravo	Echo
Charlie	Foxtrot

- B. Install 100% solids epoxy primer by brush and roller per manufacturer's

- specifications to floor, ceiling and walls.
- C. Install 100% solids epoxy, fiber reinforced, high-build material by specialized high-output airless spray equipment per manufacturer's specifications to floors, ceiling and walls.
 - D. Install 100% solids epoxy topcoat/ glaze coat by brush and roller per manufacturer's specifications to floor, ceiling and walls.
 - E. An epoxy flooring system will be installed at a nominal 1/8" thickness, average, including all slopes and wall attachments.
 - F. Floor slopes to existing drains will contour to existing design of original installation.
 - G. Contractor shall monitor the thickness of the system as work progresses. Areas found not to meet the required thickness (according to the manufacturer's recommendations) shall receive additional material until the required thickness is attained.
 - H. The wall applications will be 50 mils thick, over a 1/16" skim coat. The outside corner applications can average less due to the wrap and seal issues of these locations.
 - I. The floors are to receive an aggregate for non-skid texture.
 - J. Floor preparations shall include a moisture barrier process to protect the new epoxy system
 - K. An antimicrobial additive must be added to the finish coat to help fight fungi.

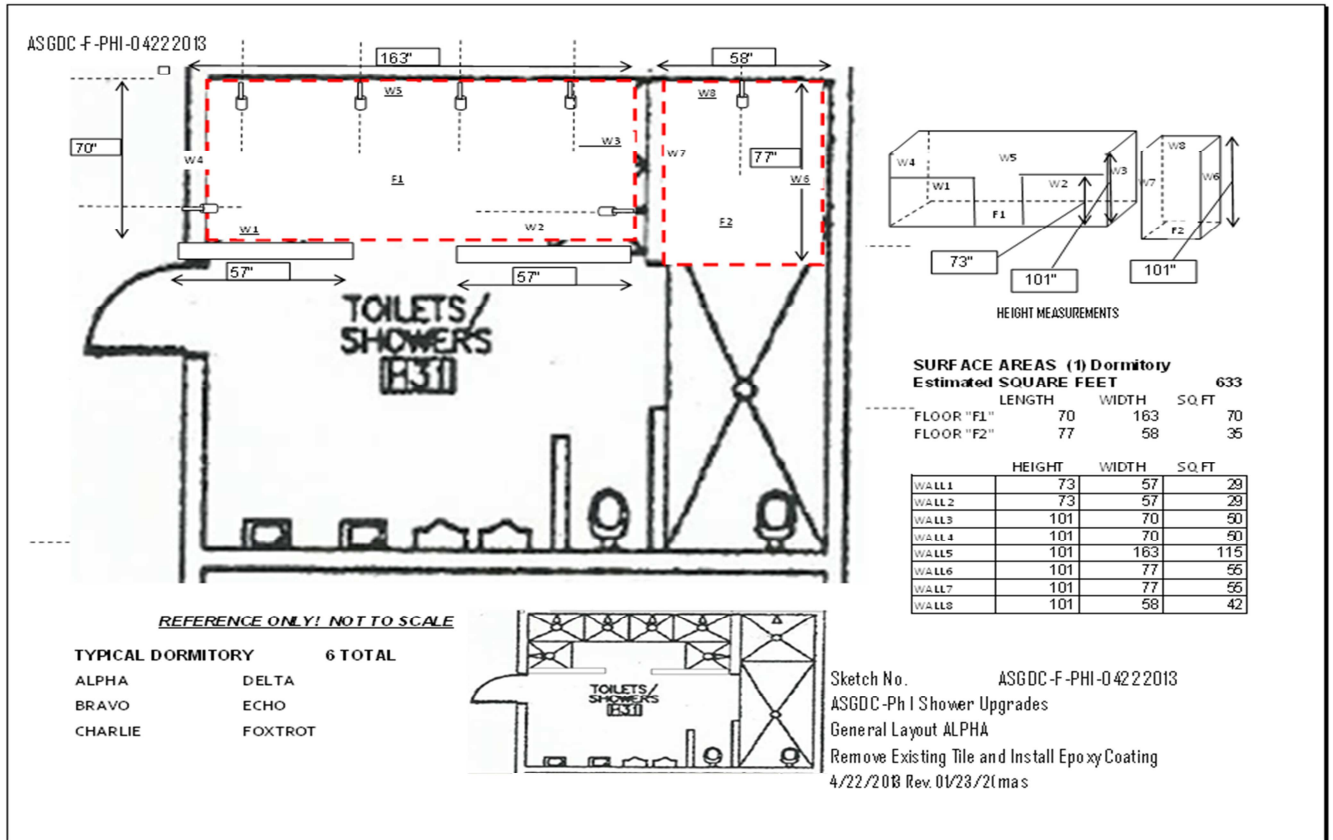
ADDITIONAL INFORMATION

- A. Richland County Facility Maintenance will provide the following supporting services as indicated:
 - a. Electrical circuit(s) with power of 110 Volts, 1 phase, and 20 Amps continuous operating current
 - b. Toilet facilities in the building or on site
 - c. Storage space in the building, securable against illegal or unauthorized entry, for product, equipment and machinery
 - d. Access to workspaces on weekends for continuity of product installation if applicable
 - e. Richland County Facility Maintenance will prepare the work environment by removing excessive dirt, debris and other hindrances and will keep any water,

oil, or other contaminants from entering the work area 24 hours prior to contractor's work commencing

- f. Richland County Facility Maintenance will remove all plumbing fixtures, handicap fixtures, steel vents and drains that apply, prior to contractor's work commencing and will reinstall at satisfactory completion of work
- g. Provide a dumpster for demolition debris such as wall tile.
- h. All inmates will be moved to other dormitories prior to the beginning of work in scheduled dormitory.

REFERENCE INFORMATION (ATTACHMENT ONE)



REFERENCE INFORMATION (ATTACHMENT TWO)



MAIN SHOWER DORMITORY



HANDICAP SHOWER



Sketch No. ASGDC-F-PHI-04222013
ASGDC-Ph I Shower Upgrades
General Layout ALPHA
REFERENCE PHOTOGRAPHS
4/22/2018 mas

Richland County Council Request of Action

Subject

Quit Claim of Branning Drive **[PAGES 78-87]**

Notes

April 22, 2014 - The Committee recommended approval of the request to quit claim this road back to the adjoining property owners.

Richland County Council Request of Action

Subject: Quit Claim of Branning Drive

A. Purpose

County Council is requested to approve a Quit Claim of Branning Drive to Chinese Culture Center, a 501(c)3 non-profit organization whose Registered Agent is Lea Walker.

B. Background / Discussion

Branning Drive is a County-owned dirt road (3-305) just south of the city limits of the City of Columbia. Branning Drive runs off Pineview Road, approximately 2050 feet east of its intersection with Bluff Road. Branning Drive is approximately 1050 feet long and 50 feet wide (see Exhibit "A")

A deed was prepared to deed Branning Drive to Richland County and signed on May 24, 1971 by Charlie Milton Walker and Pearlene B. Walker. The deed was signed and witnessed by both parties; however, the deed was not recorded because neither signature was notarized. (see Exhibits "B-1 and B-2")

Attached is a letter by which the claimant makes the request for Branning Drive to be quit claimed to the adjoining property owners. The Chinese Culture Center owns all the adjoining properties around Branning Drive. (see Exhibit "C")

A Quit Claim is a transfer of all one's interest, as in a parcel of real estate, especially without a warranty of title. (see Exhibit "D")

C. Legislative / Chronological History

May 27, 1971: Branning Drive was deeded to Richland County

February 18, 2014: Ms. Lea Walker, a/k/a Chinese Culture Center, completed acquisition of all the properties surrounding the county-owned portion of Branning Drive. The road is currently being used only by Ms. Lea Walker.

D. Financial Impact

As this road will be quit claimed to a non-profit organization, there will be no new taxes on this road. However, this road will come off the road maintenance inventory. Even though it has not been maintained in several years, a request could come in anytime. Also, at this time, a request could be made to have the road paved.

(b) Any person or organization wishing the county to abandon maintenance on an existing county-maintained street, road or highway shall submit to the public works department a petition to do so signed by the owners of all property adjoining the road and by the owners of all property who use the road as their only means of ingress/egress to their property. The petition shall state that the property owners release and indemnify the county from any duty to maintain the road. At the recommendation of the county engineer, the county administrator shall have the authority to act on a petition that involves a dead-end road; county council shall have the authority to approve petitions under all other circumstances. If the petition is approved, the county engineer may require the property owners to place an appropriate sign alongside or at the end of the road.

(c) Any person or organization wishing to acquire ownership of an unused road right-of-way in the county (including a public right-of-way that is dedicated either by deed, prescription, or recordation of a plat) may submit a petition for consideration by county council. If it is determined by the county's planning department and public works department that the right-of-way will not be utilized by the county for road purposes, county council may approve a quit-claim deed conveying the county's interest to the owners of the adjoining property. Unless the owners of the adjoining property agree to another division, each may acquire that portion of the right-of-way adjacent to his/her property on his/her side of the right-of-way's centerline. The grantee(s) of the quit-claim deed(s) shall be responsible for preparing the deed(s) prior to county council's consideration of the request. Upon approval and execution of the deed(s), the grantee(s) shall be responsible for recording the deed(s) in the office of the register of deeds and for returning a filed copy to the office of the county attorney. The county council may require the grantees) to pay up to the fair market value, as determined by the county assessor's office, in exchange for the conveyance of the right-of-way. Upon recordation of the deed, the county assessor's office shall adjust the appraisal of the adjoining parcels to reflect the value of the additional property.

Administration

Reviewed by: Sparty Hammett

Date: 4/16/14

Recommend Council approval

Recommend Council denial

Comments regarding recommendation:

Exhibit A

All that certain piece, parcel or lot of land, situate, lying and being in the County of Richland, State of South Carolina, having the County designation of dirt road 3-305, Branning Drive

This right of way to be 20 feet in width off of Lot 6 of the lands of now or formerly of Pearline B. Walker and Charles Milton Walker, along with 30 feet in width off of Lot 7 of the lands of now or formerly Pearline B. Walker and as shown on a survey for Mr. O. J. Summers by A. L. Lown, surveyor, dated January 15, 1941 and recorded in the ROD of Richland County in Plat Book J, Page 80.

Along with a 50 foot strip of land from canal on back of lot to make right of way through lands to back lands, leaving strip of land 50 feet in length and 50 feet in width (by canal)

Length through lands is 929 feet more or less.

The beginning of this quit claim deed shall begin 208 feet off Pineview Drive.

This is being a part of the existing road system, there is no Tax Map Sheet Number.

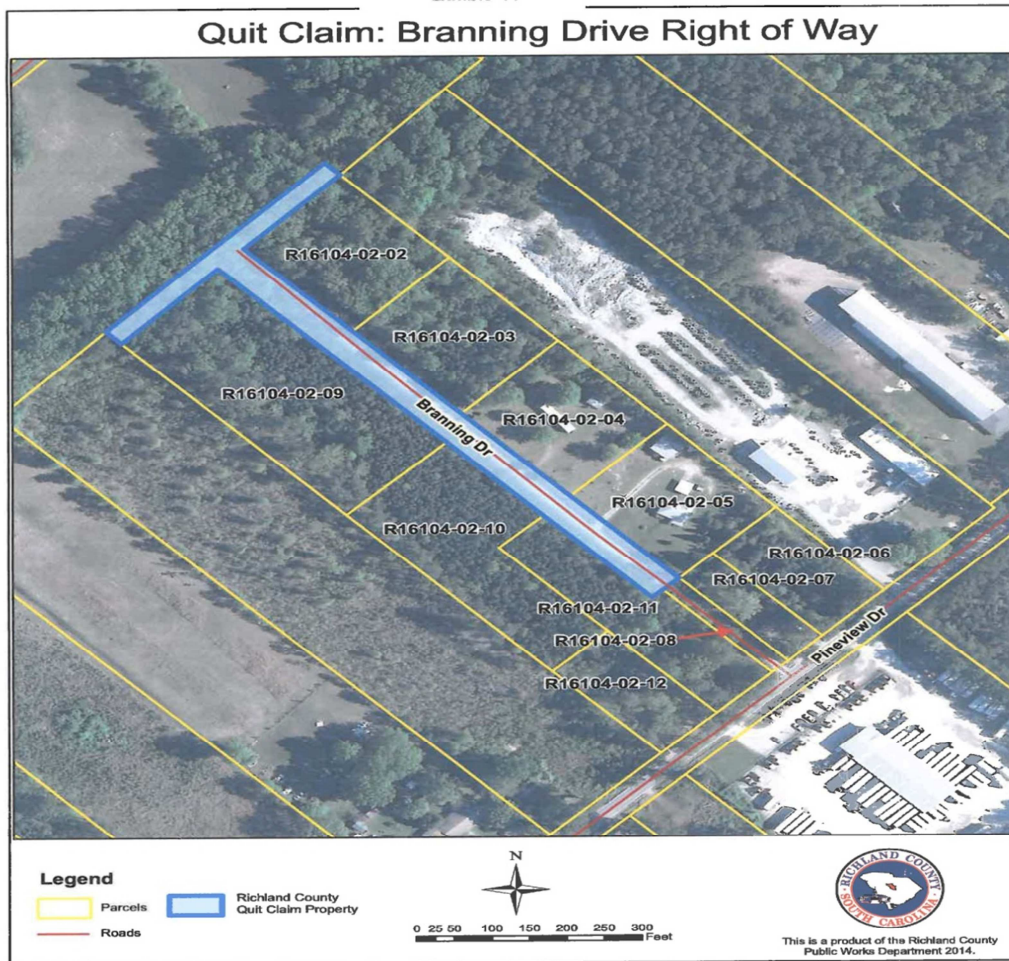


EXHIBIT "B-1"

THE STATE OF SOUTH CAROLINA
COUNTY OF RICHLAND

EASEMENT AND RIGHT-OF-WAY DEED

THIS INDENTURE made this the 24th day of May, 19 71,
B.

by and between Pearline/Walker of the County and State aforesaid, Party of the First Part, and the Supervisor and County Council of Richland County, of the County and State aforesaid, Party of the Second Part, WITNESSETH:

That the said Parties hereto, for and in consideration of the sum of one (\$1.00) dollar each to the other paid, the receipt whereof is hereby acknowledged, and in further consideration of the agreements and conditions hereinafter contained do mutually agree as follows:

That the Party of the First Part does hereby grant, bargain, sell, release and convey unto the Party of the Second Part, their successors in office, easements and rights-of-way, 50 feet in width, over and across the lands hereinafter described for the purpose of constructing and maintaining streets or roads thereon, said easements and rights-of-way for the construction and maintenance of such streets or roads being more particularly described as follows:

20 ft. width off Lot 6 of lands of Pearline B. Walker and Charles Milton Walker

30 ft. off Lot 7 of Pearline B. Walker's property.

(Leaving a width of 50 feet strip of land from canal on back of lot to make right-of-way through lands to back lands, leaving strip of land 50 ft. in length and 50 ft. in width (by canal).

Length through lands - 929 ft. more or less.

(The beginning of right-of-way shall be 208 ft. off Pineview Drive joining rock drive.)

*Banning Dr.
3-305*

It is understood and agreed that the width of the above described easements and rights-of-way exceed _____ feet if made necessary by cuts and fills or by drainage ditches.

Together with all and singular the rights, members, hereditaments and appurtenances thereunto belonging, or in anywise incident or appertaining.

TO HAVE AND TO HOLD the said easements and rights-of-way unto the said Party of the Second Part, their successors and assigns, upon the following conditions:

Party of the First Part understands that said streets or roads are located by the Party of the First Part; that the construction and maintenance of said streets or roads will tend to collect surface waters into artificial channels and cast same on the lands adjoining said rights-of-way in concentrated form, through interference with the natural flow of such surface waters; that the Party of the Second Part do not hold themselves out to perform, nor do they have equipment and material or appropriations of money to purchase equipment and material necessary to adequately pipe and ditch the lands adjoining said rights-of-way (the contemplated road beds) for the purpose of removing the surface waters or to provide means so that the natural flow of water shall not be impounded or interfered with to the damage of adjoining lands; and it is therefore agreed as one of the material considerations and inducements for constructing and maintaining said streets or roads by the Party of the Second Part, that the Party of the first part does, hereby release the Party of the Second Part, and their successors in office and Richland County, in the State aforesaid, from, and does hereby assume all risks of loss, damage, destruction or claims, of every kind or description, present or future, caused to, or suffered by Party of the First Part, _____ heirs, assigns or successors in title to property adjoining said rights-of-way resulting from the collection of, or interference with, the natural flow of surface water due to the construction, maintenance and repair, including future construction, maintenance and repair, of said streets or roads creating or resulting in a nuisance or of the taking of property without due process of law.

And the said Party of the First Part for _____ and for their heirs, assigns or successors to title does hereby further agree to save and hold harmless the Party of the Second Part, their successors in office, and Richland County, from all such losses, damages, destruction and claims hereinabove specified.

It being understood and agreed by and between the parties hereto that the Party of the First Part shall furnish, at no cost to the Party of the Second Part, all necessary drain pipe to be used in construction of the roads or streets over the rights-of-way hereinabove described and the Party of the Second Part shall furnish at no cost to the Party of the First Part all necessary pipe for opening driveways from said rights-of-way to the adjoining property.

And the Party of the Second Part, their successors in office agree to maintain and repair said streets or roads in a reasonably good and workmanlike manner.

IN WITNESS WHEREOF the Parties hereto have hereunto set their hands and seals the day and year first hereinabove written.

Charles Milton Walker
Party of the First Part (Seal)
Pearline B. Walker
PARTY OF THE FIRST PART (SEAL)

SUPERVISOR AND COUNTY COUNCIL
OF RICHLAND COUNTY

SIGNED, SEALED AND DELIVERED
IN THE PRESENCE OF:
Faye E. Lewis
Mary A. Griffin
As to Party of the First Part
Barbara M. Stone

By C. Lancy J. ... (SEAL)
Supervisor

Attest:

EXHIBIT "B-2"

THE STATE OF SOUTH CAROLINA
COUNTY OF RICHLAND

PROBATE NO. 1
As to Party of the First Part

PERSONALLY appeared before me Faye P. Lewis Pearlina B. Walker
who being duly sworn says that he saw the within named MARY GRIFFIN
Party of the First Part, sign, seal and as its act and deed deliver the within written Instrument for the uses
and purposes therein mentioned, and that he with FAYE P. LEWIS
witnessed the execution thereof.

SWORN to before me this Mary A. Griffin
day of _____ 19____

(L. S.)
Notary Public for South Carolina

THE STATE OF SOUTH CAROLINA
COUNTY OF RICHLAND

PROBATE NO. 2
As to Party of the Second Part

PERSONALLY appeared before me Goodwyn M. HANE
who being duly sworn says that he saw the within named Supervisor and County Council of Richland County by the Supervisor,
attested to by the Administrative Assistant, sign, seal; and as their act and deed deliver the within written Instrument for the uses
and purposes therein mentioned and that he with James W. Payer
witnessed the execution thereof.

SWORN to before me this Goodwyn M. Hane
day of _____ 19____

(L. S.)
Notary Public for South Carolina

THE STATE OF SOUTH CAROLINA
COUNTY OF RICHLAND

RENUNCIATION OF DOWER

I, _____ Notary Public for S. C.,
do hereby certify unto all whom it may concern that Mrs. _____
the wife of the within named _____, did this day appear
before me, upon being privately and separately examined by me did declare that she does, freely, voluntarily, and without any com-
pulsion, dread or fear of any person or persons whomsoever, renounce, release, and forever relinquish unto the within named Super-
visor and County Council of Richland County, S. C., their successors and assigns, all her interest and estate, and also her right and
claim of dower of, in and to, all and singular, the premises within mentioned and released.

Given under my hand and seal, this _____ day of _____
Anno Domini, 19____

Signature of Wife
Sworn to before me this _____ day of _____ A. D. 19____

(L. S.)
Notary Public for South Carolina

STATE OF SOUTH CAROLINA
RICHLAND COUNTY

— TO —
SUPERVISOR AND COUNTY
COUNCIL
RICHLAND COUNTY, S. C.

PAGE 84 OF 333
I certify that the within deed has

A. D. _____
Filed in Book _____

Clerk of Court for Richland County.

I certify that the within deed has

A. D. _____
Filed in Book _____

Auditor.

Lea Walker

From: "Lea Walker" <walkerlea@gmail.com>
Date: Tuesday, February 11, 2014 2:13 PM
To: "RANDY BYRD" <BYRDR@rcgov.us>
Subject: Re: 2 Deeds in attachments

Dear Mr. Byrd:

Would you please deed the Branning Drive and the related easement to Chinese Culture Center? Thanks!

Best regards,



Lea Walker, President
(US) Chinese Culture Center
1708 Greene Street
Columbia, SC 29201, USA
(803) 252-9086
walkerlea@gmail.com
walker@ChineseCultureCenter.org
www.ChineseCultureCenter.org
Call me free from China: 950-40333-555
Extension: 8991112637#

Exhibit D

STATE OF SOUTH CAROLINA)
)
COUNTY OF RICHLAND) QUIT CLAIM DEED

THIS QUIT-CLAIM DEED, executed this _____ day of _____, 20__ by Richland County, (hereinafter “Grantor”), and Chinese Culture Center (hereinafter “Grantee”). (Wherever used herein, the terms “Grantor” and “Grantee” shall include singular and plural, heirs, successors, assigns, legal representatives and corporations wherever the context so permits or requires).

WITNESSETH, that the said Grantor, for and in consideration of the sum of One Dollar (\$1.00), in hand paid by the grantee, the receipt of which is hereby acknowledge, does hereby remise, release, and quit-claim unto the Grantee, their heirs, successors, and assigns, forever, all their right, title, interest, claim and demand which Grantor has in and to the following described lot, piece, or parcel of land, situate, lying and being in the County of Richland, State of South Carolina, to wit:

Description:

See Attached Exhibit “A”

TO HAVE AND TO HOLD the same together with all and singular the rights, members, hereditaments and appurtenances to the premises belonging, or in anywise incident or appertaining.

TO HAVE AND TO HOLD, all and singular the remises before mentioned unto the said Grantee, their heirs, successors and assigns forever so that neither the said Grantors nor their heirs successors, or assigns nor any other person or persons, claiming under their heirs, successors, or assigns, predecessors, or them, shall at any time hereafter, by any way or means, have claim or demand any right or title to the aforesaid premises or appurtenances, or any part of parcel thereof, forever.

WITNESS my hands and seals this _____ day of _____ in the
_____ year of our lord.

WITNESSES:GRANTOR

(Witness #1) By _____
Councilperson Norman Jackson
Its: Chairman Richland County Council

(Witness #2/Notary)

STATE OF SOUTH CAROLINA)
COUNTY OF RICHLAND)

PROBATE
(Grantor)

Personally appeared before me _____ and
(Name of Witness #1)
made oath that (s)he saw the within named _____

Execute, seal and as its act and deed, deliver the within Assignment and that (s)he with
_____ witnessed the execution thereof
(Name of Witness #2/Notary

Signature of Witness #1

Sworn to before me this _____
day of _____, 20__

Notary Public for South Carolina

MCE _____

Richland County Council Request of Action

Subject

An Ordinance Authorizing an Easement to 2T Properties LLC for a sanitary sewer line across land owned by Richland County; specifically a portion of TMS # 14900-01-02 [**PAGES 88-94**]

Notes

First Reading: February 18, 2014

Second Reading: March 4, 2014

Third Reading:

Public Hearing:

STATE OF SOUTH CAROLINA
COUNTY COUNCIL FOR RICHLAND COUNTY
ORDINANCE NO. _____-14HR

AN ORDINANCE AUTHORIZING AN EASEMENT TO CITY OF COLUMBIA, SOUTH CAROLINA FOR A SANITARY SEWER LINE ACROSS LAND OWNED BY RICHLAND COUNTY; SPECIFICALLY A PORTION OF TMS # 14900-01-02.

Pursuant to the authority granted by the Constitution of the State of South Carolina and the General Assembly of the State of South Carolina, BE IT ENACTED BY RICHLAND COUNTY COUNCIL:

SECTION I. The County of Richland and its employees and agents are hereby authorized to grant an easement for a sanitary sewer line to City of Columbia, South Carolina across a portion of Richland County TMS #14900-01-02, as specifically described in the Easement, which is attached hereto and incorporated herein.

SECTION II. Severability. If any section, subsection, or clause of this ordinance shall be deemed unconstitutional or otherwise invalid, the validity of the remaining sections, subsections, and clauses shall not be affected thereby.

SECTION III. Conflicting Ordinances. All ordinances or parts of ordinances in conflict with the provisions of this ordinance are hereby repealed.

SECTION IV. Effective Date. This ordinance shall be enforced from and after _____.

RICHLAND COUNTY COUNCIL

By: _____
Norman Jackson, Chair

Attest this _____ day of _____, 2014.

Michelle Onley
Interim Clerk of Council

RICHLAND COUNTY ATTORNEY'S OFFICE

Approved As To LEGAL Form Only
No Opinion Rendered As To Content

First Reading:
Second Reading:
Public Hearing:
Third Reading:


STATE OF SOUTH CAROLINA)
COUNTY OF RICHLAND)

EASEMENT

For and in consideration of the sum of One (\$1.00) Dollar, each to the other paid, the receipt of which is hereby acknowledged, RICHLAND COUNTY (also hereinafter referred to as "Grantor") does hereby grant unto the CITY OF COLUMBIA (also hereinafter referred to as "Grantee"), its successors and assigns, a permanent, exclusive easement twenty (20) feet in width, together with the right of ingress and egress at all times for the purpose of constructing, operating, reconstructing and maintaining a sanitary sewer main and with the right to remove shrubbery, trees and other growth from the easement area provided that the property will be restored as nearly as practicable to its original condition upon completion of the construction and any trees which must be removed shall be moved from the premises, and any damaged shrubbery will be replaced with the same variety from nursery stock, said easement to run through the property which Grantor owns or in which Grantor has an interest, situate, lying and being:

In the State of South Carolina, County of Richland, near the City of Columbia, located southwest of Community Road within Northpoint Business Park, and being further identified as a portion of Richland County tax map number 14900-01-02, as shown on tax maps prepared by the office of the Richland County Tax Assessor, 2014 Edition.

A permanent, exclusive easement for a sanitary sewer main, twenty (20) feet in width and having the following perimeter measurements: beginning at an existing City of Columbia 15' sanitary sewer easement (CF#172-21) at a point two hundred nine and eight hundredths (209.08) feet northeast of the northwestern property corner of Richland County TMS#14900-01-02, n/f 2T Properties (Tract A, 5.30 Acres); thence extending therefrom S63°20'09"E crossing the subject property, for a distance of one hundred ninety-six (196) feet to intersect the common boundary of the northwestern property line of said 2T Properties Tract and the southeastern property line of the subject property at a point two hundred twenty-two and sixty-five hundredths (222.65) feet northeast of the northwestern property corner of said 2T Properties Tract; thence turning and extending therefrom N57°10'22"E along the common boundary of the northwestern property line of 2T Properties Tract and the southeastern property line of the subject property, for a distance of twenty-three (23) feet to a point located one hundred sixty-seven and twenty-six hundredths (167.26) feet southwest of the northern property corner of the 2T Properties Tract; thence turning and extending therefrom N63°20'09"W crossing the subject property, for a distance of two hundred six (206) feet to intersect an existing City of Columbia 15' sanitary sewer easement (CF#172-21) located on the subject property at a point three hundred twenty-four and twenty-five hundredths (324.25) feet west of the northern property corner of said 2T Properties Tract; thence turning and extending therefrom S37°32'50"W, parallel to and adjoining said existing City of Columbia 15' sanitary sewer easement (CF#172-21) located on the subject property, for a distance of ten (10) feet to a point located approximately two hundred nineteen (219) feet northeast of the northwestern property corner of said 2T Properties Tract; thence turning and extending therefrom S29°31'36"W parallel to and adjoining said existing City of Columbia 15' sanitary sewer easement (CF#172-21) on the subject property, for a distance of ten (10) feet to a point located two hundred nine and eight hundredths (209.08) feet northeast of the northwestern property corner of said 2T Properties Tract, also being the point of beginning;

APPROVED AS TO FORM

Legal Department City of Columbia, SC

thence terminating. Be all measurements a little more or less.

This easement being more clearly shown and delineated on an easement drawing for Off-Site Sanitary Sewer Main to Serve 2T Properties Northpoint Warehouse (Intersection of Northpoint Blvd and Community Rd), dated April 7, 2014, prepared by Power Engineering Company, Inc., for the City of Columbia, South Carolina, and being on file in the office of the Department of Utilities and Engineering, City of Columbia, South Carolina under City file reference 329-04.

A copy of said easement drawing being attached hereto and made a part hereof as Exhibit "A".

HMG

EASEMENT #1 OF 1

(THE REMAINDER OF THIS PAGE INTENTIONALLY LEFT BLANK)

TO HAVE AND TO HOLD the aforesaid rights to the Grantee, its successors and assigns, as aforesaid, forever.

And the Grantor does hereby bind the Grantor and Grantor's successors and assigns to warrant and forever defend all and singular the said premises unto the Grantee, its successors and assigns against the Grantor and Grantor's successors and assigns and against every person whomsoever lawfully claiming, or to claim, the same or any part thereof.

WITNESS the hand and seal of the Grantor by the undersigned this _____ day of _____, 2014.

WITNESSES:

RICHLAND COUNTY

(1st Witness Signature)

By: _____
(Signature)

Name: _____
(Print Name)

(2nd Witness Signature)

Title: _____
(Print Title)

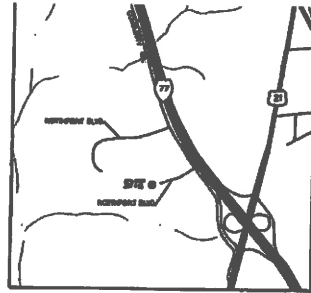
STATE OF _____)
COUNTY OF _____)

ACKNOWLEDGMENT

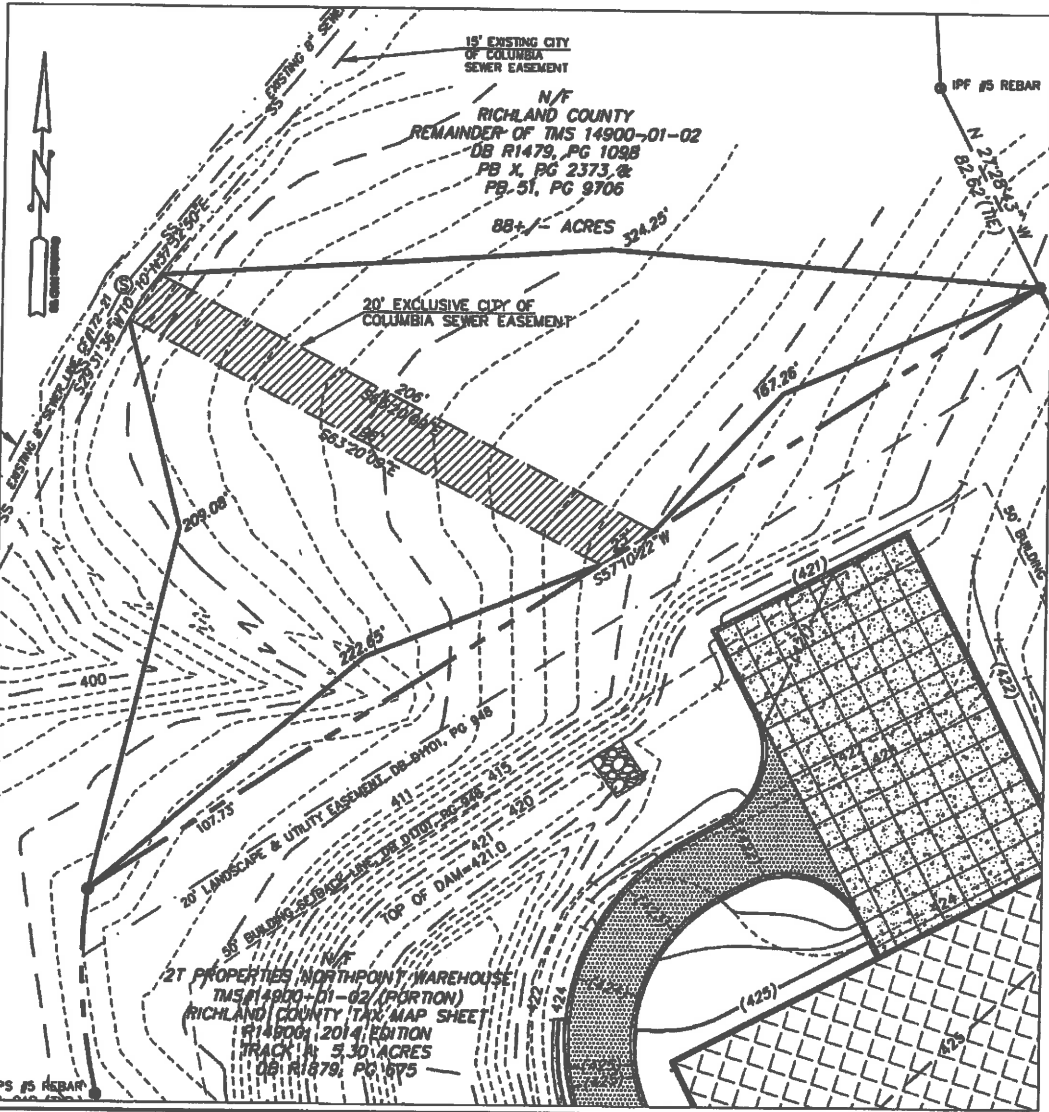
The foregoing instrument was acknowledged before me this _____ day of _____, 2014 by _____
(Name & Title of Officer)
of _____ on behalf of the within-named Grantor.
(City & State)

Notary Public for the State of _____
My Commission Expires: _____

EXHIBIT

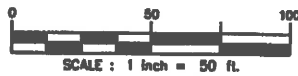


UTILITY MAP
SCALE: 1" = 100'



2T PROPERTIES NORTHPOINT WAREHOUSE EASEMENT EXHIBIT OF
PREPARED FOR
CITY OF COLUMBIA
CF #329-04
RICHLAND COUNTY, SOUTH CAROLINA

OWNER INFO:
RICHLAND COUNTY
P.O. BOX 192
COLUMBIA, SC 29202



REFERENCE: RICHLAND COUNTY TAX MAP
SHEET 149900; 2014 EDITION

DATE: 4-7-2014
PROJECT: 2T PROPERTIES
NORTHPOINT WAREHOUSE
DRAWING: SHEET 1 OF 1
CF #329-04

ATTORNEY CERTIFICATION

I, _____, an attorney licensed to practice in the State of _____ do hereby certify that I supervised the execution of the attached Off Site Sewer Easement to Serve 2T Properties Warehouse with Richland County as Grantor and the City of Columbia, as Grantee, this _____ day of _____, 20 _____.

State Bar Number: _____

Richland County Council Request of Action

Subject

An Ordinance Amending the Richland County Code of Ordinances, Chapter 2, Administration; Article X, Purchasing by Adding Section 2-591 to Authorize County Council to Determine which Purchasing Decisions Regarding Purchasing Made Exclusively with Monies Raised through the Penny Tax are of such County Wide Significance that County Council has the Authority to make the Final and Conclusive Determination to whom to award the contracts [**PAGES 95-102**]

Notes

First Reading: April 1, 2014
Second Reading: April 15, 2014
Third Reading:
Public Hearing:

STATE OF SOUTH CAROLINA
COUNTY COUNCIL FOR RICHLAND COUNTY
ORDINANCE NO. _____

AN ORDINANCE AMENDING THE RICHLAND COUNTY CODE OF ORDINANCES, CHAPTER 2; ADMINISTRATION; ARTICLE X, PURCHASING BY ADDING SECTION 2-591 TO AUTHORIZE COUNTY COUNCIL TO DETERMINE WHICH PURCHASING DECISIONS REGARDING PURCHASING MADE EXCLUSIVELY WITH MONIES RAISED THROUGH THE PENNY TAX ARE OF SUCH COUNTY WIDE SIGNIFICANCE THAT COUNTY COUNCIL HAS THE AUTHORITY TO MAKE THE FINAL AND CONCLUSIVE DETERMINATION TO WHOM TO AWARD THE CONTRACTS.

Pursuant to the authority by the Constitution of the State of South Carolina and the General Assembly of the State of South Carolina, BE IT ENACTED BY RICHLAND COUNTY COUNCIL:

The Richland County Code of Ordinances, Chapter 2; Administration; Article X, Purchasing is hereby amended as follows:

Section 2-591 is added to read:

1. When Richland County (the "County") is engaged in a purchase involving only the expenditure of funds raised from the Penny Sales Tax Referendum passed November 6, 2012, the County Council may, upon a vote of the majority of its members, exempt any specific procurement which County Council determines is of great county wide significance, from the purchasing procedures of Article X, Division 2, Competitive Purchasing Policy, § 2-600 (Procurement of Professional Services) and 2-601 (Competitive Sealed Proposals). For purposes of this section, "determination" means County Council's majority vote that a specific procurement is of such great county wide significance that it is exempt from the provisions of § 2-600 or 2-601. For purposes of this section "Director of Procurement" means the Director of Procurement or any employee of the Richland County Department of Procurement designated by the Director of Procurement, in consultation with the County Administrator, to handle a solicitation under this section. Any solicitation so exempted as being of great county wide significance shall follow the procurement procedure set forth in this section. Any solicitation procured pursuant to this section is not subject to any other provision of Article X, Division 2, Competitive Purchasing Policy unless specifically stated to the contrary herein.

2. For a specific procurement involving professional services which would otherwise be subject to the provisions of § 2-600, requests for qualifications, for which County Council has made a determination, the procurement shall proceed as set forth below:

a. The Director of Procurement, in conjunction with any County employee(s) appointed by the County Administrator, shall be responsible for developing a request for qualifications and shall prepare a government project cost estimate for use in negotiations, which cost estimation shall remain confidential until after negotiation and award of a contract. A "request for qualification" is a written or published solicitation for submittals for the provision of professional services such as architectural, landscaping or engineering services, where the contract award is based upon the qualifications of the offeror for the specific project and cost is not an award criterion. The request for qualifications must contain, at a minimum, a description of the scope of the work being requested, the deadline for submission of information, how prospective offerors may apply for consideration and must require information on prospective offerors qualifications, experience, and ability to perform the requirements of the contract.

b. The County Administrator shall establish a short-list evaluation committee (the "Committee") of three (3) or more individuals whom he determines to be qualified to make an informed recommendation to County Council as to offerors qualified to work on the proposed project.

c. The Director of Procurement, in conjunction with the County employee(s) appointed by the County Administrator, shall prepare a request for qualifications, which shall include evaluation criteria, developed by the Director of Procurement, in conjunction with any County employee(s) appointed by the County Administrator, as they determine appropriate for the specific project. There are no restrictions on the kind or number of evaluation factors that may be used, as long as they are stated in the request for qualifications and relate to the purpose of the procurement. The evaluation criteria shall be listed in the solicitation in relative order of importance, but the solicitation shall not publicly list the numerical weighting of each factor. The request for qualifications shall be submitted to County Council for its approval prior to publication.

d. The notice of the request for qualifications will be published in a newspaper of general circulation in the County and in the South Carolina Materials Management, South Carolina Business Opportunity publication, which notice shall include, but not be limited to, the project title, the general scope of work, a description of all professional services required for that project, the submission deadline, and how and to whom interested offerors may submit qualifications for consideration.

e. Offerors shall submit qualification information as required in the request for qualifications.

f. Qualification submittals shall be opened publicly in the presence of one (1) or more witnesses at the time and place designated in the request for qualifications. Only the names of the offering offerors shall be disclosed at the qualification submittal opening. Contents of the qualification submittals shall remain confidential and shall not be disclosed during the negotiation process. Qualification submittals shall be open for public inspection after contract award, except that proprietary or confidential information in any qualification submittal that is clearly marked "confidential" by the offering offeror shall not be disclosed except as provided in the request for qualifications and allowed by the South Carolina Freedom of Information Act, S.C. Code Ann. §§ 30-4-10 and S.C. Code Ann. § 11-35-410, "Public access to procurement information."

g. Prior to sending the qualifications submittals to the Committee, the Director of Procurement shall make an initial evaluation to determine whether the offeror is responsive and responsible, as such terms are defined in the County Ordinance, Chapter 2, Administration, Article X, Purchasing, Division 1, § 2-590. During its evaluation process, the Committee shall bring any issues regarding the responsiveness or responsibility of any offeror to the attention of the Director of Procurement. The Director of Procurement, in his sole discretion, shall have the right to waive any minor irregularities or informalities of a qualifications submittal from the material requirements of the request for qualifications. A minor informality or irregularity is one which is merely a matter of form or is some immaterial variation from the exact requirements of the request for qualifications having no effect or merely a trivial or negligible effect on total price, quality, quantity, or performance of the contract, and the correction or waiver of which would not be prejudicial to other offerors. The Director of Procurement shall either give the offeror an opportunity to cure any deficiency resulting from a minor informality or irregularity in the request for qualifications or waive any such deficiency when it is to the advantage of the County. If the Director of Procurement determines to allow an offeror to cure the deficiency

resulting from a minor informality or irregularity, the offeror shall have five (5) business days from the date the Director of Procurement notifies the offeror of any such deficiency to cure the deficiency. The Director of Procurement's notification and offeror's response to the notification shall be in writing. If the offeror fails to cure the deficiency within the five (5) day notification period, within the sole discretion of the Director of Procurement, the offeror will be rejected and the submittal will not be forwarded to the Committee. If the Director of Procurement determines to waive such deficiency, it shall be in writing. If a qualification submittal is incomplete with regards to the material requirements of the request for qualifications or the offeror is found to be non-responsive or non-responsible, the offeror will be rejected and the submittal will not be forwarded to the Committee.

h. The Committee may conduct discussions, in conjunction with the Director of Procurement, with each of the offerors submitting responses to the request for qualifications which responses appear eligible for contract award (based upon the evaluation factors) for the purpose of clarification to assure full understanding of and responsiveness to the requirements of the request for qualifications. Offerors shall be accorded fair and equal treatment with respect to clarification and any opportunity for discussion and revision of qualifications.

i. The Committee may conduct interviews with offerors submitting responses to the request for qualifications as it deems appropriate.

j. Based upon the evaluation criteria, the Committee shall select not more than five (5) offerors, as directed by County Council in its determination, which, in the Committee's judgment, are the offerors whose qualification package, including the discussions and interviews, if any, are the most qualified offerors to be forwarded to County Council for consideration of award of the specific project. The Committee shall develop a written short-list report regarding the most qualified offerors, listing the offerors in alphabetical order. No non-responsive, non-responsible or non-qualified qualification submittals shall be included in the written short-listed report to County Council.

k. When the Committee has completed its written short-list report, the Director of Procurement shall forward the report and a copy of each of the short-listed offerors' qualification submittals to members of County Council.

l. Upon receipt of the Committee's written short-list report and the short-listed offerors' qualification submittals, County Council, in its sole discretion, may conduct interviews with each of the short-listed offerors to seek clarification regarding the offerors' qualification submittals or additional information from the offerors regarding their respective approach to the specific project.

m. When County Council determines, in its sole discretion, that it has sufficient information to make its award decision, County Council shall decide which of the offeror's qualification submittal is in the best interests of the citizens of the county as a whole. County Council's award decision shall be by majority vote with the first offeror receiving a majority of votes being ranked number one. Once the first ranked offeror has been identified, County Council shall vote to identify the second ranked offeror by a majority vote. This process shall be repeated until all of the short-listed offerors have been ranked.

n. The Director of Procurement shall request a cost proposal from the top ranked offeror. Upon receipt of the cost proposal, in its sole discretion, County Council may direct the Director of Procurement to proceed in any of the manners indicated below, except in no case may

confidential information derived from qualification submittals and negotiations submitted by competing offerors be disclosed:

i. negotiate with the highest ranking offeror on price, on matters affecting the scope of the contract, so long as the changes are within the general scope of the request for proposals, or on both. If a satisfactory contract cannot be negotiated with the highest ranking offeror, negotiations may be conducted, in the sole discretion of County Council, with the second, and then the third, and so on, ranked offerors to the level of ranking determined by the County Council, in its sole discretion;

ii. during the negotiation process, as outlined in item (a) above, if the Director of Procurement is unsuccessful in the first round of negotiations, County Council may reopen negotiations with any offeror with whom the Director of Procurement had previously negotiated; or

iii. the Director of Procurement, as directed by County Council, may make changes within the general scope of the request for qualifications and may provide all of the short-listed offerors an opportunity to submit their best and final offers.

3. For a specific procurement involving professional services that would otherwise be subject to the provisions of § Section 2-601, requests for proposals, for which County Council has made a determination, the procurement shall proceed as set forth below:

a. The Director of Procurement, in conjunction with any County employee(s) appointed by the County Administrator, shall prepare the request for proposals for the specific project. A "request for proposal" is a written or published solicitation for proposals to provide goods, services, or construction as described therein. Evaluation factors upon which the proposals will be evaluated by the Committee (hereinafter defined) for purposes of making a written report to County Council shall be stated in the request for proposals. Price may or may not be one of the evaluation factors but it shall not be the sole basis for evaluation and award of the contract. The pricing in proposals shall remain confidential until after negotiation and award of a contract except as provided in the request for proposals and allowed by the South Carolina Freedom of Information Act, S.C. Code Ann. § 30-4-10 and S.C. Code Ann. § 11-35-410, "Public access to procurement information." The request for proposals shall be submitted to County Council for its approval prior to publication.

b. The notice of the request for proposals will be published in a newspaper of general circulation in the County and in the South Carolina Materials Management, South Carolina Business Opportunity publication, which notice shall include, but not be limited to, the project title, the general scope of work, if applicable, a description of the goods, services, or construction to be provided for that project, the submission deadline, and how and to whom interested offerors may submit proposals.

c. Proposals shall be opened publicly in the presence of one (1) or more witnesses at the time and place designated in the request for proposals. Only the names of the offerors shall be disclosed at the proposal opening. Contents of the proposals shall not be disclosed during the negotiation process. Proposals shall be open for public inspection after contract award, except that proprietary or confidential information in any proposal that is clearly marked "confidential" by the offering vendor shall not be disclosed except as provided in the request for proposals and allowed by the South Carolina Freedom of Information Act, S.C. Code Ann. §§ 30-4-10 and S.C. Code Ann. § 11-35-410, "Public access to procurement information."

d. The request for proposals shall list the evaluation factors including price, if it is an evaluation factor, in relative order of importance, but shall not publically list the numerical weighting of each factor. There are no restrictions on the kind or number of evaluation factors that may be used, as long as they are stated in the request for proposals and relate to the purpose of the procurement.

e. The County Administrator shall establish a short-list evaluation committee (the "Committee") of three (3) or more individuals whom he determines to be qualified to make an informed recommendation to County Council as to offerors qualified to work on the proposed project.

f. Prior to sending the proposals to the Committee, the Director of Procurement shall make an initial evaluation to determine whether the offeror is responsive and responsible, as each is defined in County Ordinance, Chapter 2, Administration, Article X, Purchasing, Division 1, § 2-590. During its evaluation process, the Committee shall bring any issues regarding the responsiveness or responsibility of any offeror to the attention of the Director of Procurement. The Director of Procurement, in his sole discretion, shall have the right to waive any minor irregularities or informalities of a proposal from the material requirements of the request for proposal. A minor informality or irregularity is one which is merely a matter of form or is some immaterial variation from the exact requirements of the request for proposals having no effect or merely a trivial or negligible effect on total price, quality, quantity, or performance of the contract, and the correction or waiver of which would not be prejudicial to other offerors. The Director of Procurement shall either give the offeror an opportunity to cure any deficiency resulting from a minor informality or irregularity in the request for proposals or waive any such deficiency when it is to the advantage of the County. If the Director of Procurement determines to allow an offeror to cure the deficiency resulting from a minor informality or irregularity, the offeror shall have five (5) business days from the date the Director of Procurement notifies the offeror of any such deficiency to cure the deficiency. The Director of Procurement's notification and offeror's response to the notification shall be in writing. If the offeror fails to cure the deficiency within the five (5) day notification period, within the sole discretion of the Director of Procurement, the offeror will be rejected and the submittal will not be forwarded to the Committee. If the Director of Procurement determines to waive such deficiency, it shall be in writing. If a proposal is incomplete with regards to the material requirements of the request for proposals or the offeror is found to be non-responsible or non-responsive, the offeror will be rejected, and the proposal will not be forwarded to the Committee.

g. The Committee may conduct discussions, in conjunction with the Director of Procurement, with each of the offerors submitting responses to the request for proposals, which response appears eligible for contract award (based upon the evaluation factors) for the purpose of clarification to assure full understanding of and responsiveness to the requirements of the request for proposals. Offerors shall be accorded fair and equal treatment with respect to clarification and any opportunity for discussion and revision of proposals.

h. The Committee may conduct interviews with offerors submitting responses to the request for proposals as it deems appropriate.

i. Based upon the evaluation criteria, the Committee shall select not more than five (5) offerors, as directed by County Council in its determination, which, in the Committee's judgment, are the offerors whose proposals, including the discussions and interviews, if any, are most advantageous to the County. The Committee shall then develop a written short-list report regarding the offerors whose proposals are most advantageous to the County, listing the offerors

in alphabetical order. No non-responsive, non-responsible, or non-qualified offeror shall be included in the written short-list report to County Council.

j. When the Committee has completed its written short-list report, the Director of Procurement shall forward the report and the short-listed offerors' proposals to members of County Council.

k. Upon receipt of the Committee's short-list report and the copies of the short-listed offerors' proposals, County Council, in its sole discretion, may conduct interviews with each of the short-listed offerors to seek clarification regarding the proposals or additional information from the offerors regarding their approaches to the specific project.

l. When County Council determines, in its sole discretion, that it has sufficient information to make its award decision, County Council shall decide which of the offeror's qualification submittal is in the best interests of the citizens of the county as a whole. County Council's award decision shall be by majority vote with the first offeror receiving a majority of votes being ranked number one. Once the first ranked offeror has been identified, County Council shall vote to identify the second ranked offeror by a majority vote. This process shall be repeated until all of the short-listed offerors have been ranked.

m. Whether price was an evaluation factor or not, the County Council in its sole discretion may direct the Director of Procurement to proceed in any of the manners indicated below, except that in no case may confidential information derived from proposals and negotiations submitted by competing offerors be disclosed:

i. negotiate with the highest ranking offeror on price, on matters affecting the scope of the contract, so long as the changes are within the general scope of the request for proposals, or on both. If a satisfactory contract cannot be negotiated with the highest ranking offeror, negotiations may be conducted, in the sole discretion of County Council, with the second, and then the third, and so on, ranked offerors to the level of ranking determined by the County Council in its sole discretion;

ii. during the negotiation process as outlined in item (a) above, if the Director of Procurement is unsuccessful in the first round of negotiations, County Council may direct the Director of Procurement to reopen negotiations with any offeror with whom it had previously negotiated; or

iii. the Director of Procurement, as directed by County Council, may make changes within the general scope of the request for proposals and may provide all of the short-listed offerors an opportunity to submit their best and final offers.

4. The County Council reserves the right to reject any solicitation, in whole or in part, issued pursuant to this section and may reject, in whole or in part, any or all qualifications or proposals submitted pursuant to this section.

5. Once the County Council makes a determination pursuant to section 1 of the section, offerors and anyone acting on behalf of offerors are prohibited from contacting, by any means of communication, any County elected official, County employee other than the Director of Procurement, or a consultant advising the County regarding the solicitation about the solicitation or any portion of the solicitation. If an offeror or anyone acting on behalf of the offeror contacts a County elected official, County employee or consultant advising the County on the solicitation, the County elected official,

employee, or consultant shall immediately notify the Director of Procurement and the County Attorney regarding the name of the individual making the contact, the name of the offeror on whose behalf the contact was made and the nature of the contact. Any offeror who contacts a County elected official, a County employee other than the Director of Procurement, or a consultant advising the County on the solicitation regarding the solicitation will not be eligible for award of the contract and may be subject to suspension or debarment proceedings.

6. Any procurement conducted pursuant to the provisions of this section is exempt from all other requirements of Article X, Division 2, Competitive Purchasing Policy, including but not limited to, the protest provisions therein.

7. The provisions of the South Carolina Freedom of Information Act and Section 11-35-410 of the South Carolina Consolidated Procurement Code are applicable to any solicitation undertaken pursuant to this section.

8. If any section, subsection or clause of this ordinance shall be deemed to be unconstitutional or otherwise invalid, the validity of the remaining sections, subsections, and clauses shall not be affected thereby.

Enacted this ____ day of _____, 2014.

RICHLAND COUNTY, SOUTH CAROLINA

By: _____
Norman Jackson, Chair
Richland County Council

(SEAL)

ATTEST THIS ____ DAY OF _____, 2014:

Interim Clerk to Council

RICHLAND COUNTY ATTORNEY'S OFFICE

Approved As To LEGAL Form Only
No Opinion Rendered As To Content

Date of First Reading:
Date of Second Reading:
Date of Public Hearing:
Date of Third Reading:

Richland County Council Request of Action

Subject

An Ordinance Amending the Richland County Code of Ordinances, Chapter 2, Administration; Article X, Purchasing; Division 7, Small Local Business Enterprise Procurement Requirements; so as to amend certain sections referencing size standards to delete such standards from the ordinance and replace with language allowing the Richland County Council to set such standards in a separate "SLBE Schedule of Size Standard Eligibility Requirements"; and amending the Richland County Code of Ordinances, Chapter 2, Administration; Article X, Purchasing; by adding a new division entitled 8, Commercial Nondiscrimination Ordinance **[PAGES 103-109]**

Notes

First Reading: April 1, 2014
Second Reading: April 15, 2014
Third Reading:
Public Hearing:

STATE OF SOUTH CAROLINA
COUNTY COUNCIL FOR RICHLAND COUNTY
ORDINANCE NO. ____-14HR

AN ORDINANCE AMENDING THE RICHLAND COUNTY CODE OF ORDINANCES, CHAPTER 2, ADMINISTRATION; ARTICLE X, PURCHASING; DIVISION 7, SMALL LOCAL BUSINESS ENTERPRISE PROCUREMENT REQUIREMENTS; SO AS TO AMEND CERTAIN SECTIONS REFERENCING SIZE STANDARDS TO DELETE SUCH STANDARDS FROM THE ORDINANCE AND REPLACE WITH LANGUAGE ALLOWING THE RICHLAND COUNTY COUNCIL TO SET SUCH STANDARDS IN A SEPARATE "SLBE SCHEDULE OF SIZE STANDARD ELIGIBILITY REQUIREMENTS"; AND AMENDING THE RICHLAND COUNTY CODE OF ORDINANCES, CHAPTER 2, ADMINISTRATION; ARTICLE X, PURCHASING; BY ADDING A NEW DIVISION ENTITLED 8, COMMERCIAL NONDISCRIMINATION ORDINANCE.

WHEREAS, on September 17, 2013, Richland County Council enacted the Small Local Business Enterprise Procurement Requirements (Richland County Code of Ordinances sections 2-639 et seq.); and

WHEREAS, as a part of said ordinance, Richland County Council adopted certain size standards for eligible businesses, making the standards part of the ordinance language; and

WHEREAS, Richland County Council now desires to remove the size standards from the ordinance to allow for greater flexibility in amending the size standards commensurate with data gathered during Program implementation; and

WHEREAS, Richland County Council desires to adopt a separate "SLBE Schedule of Size Standard Eligibility Requirements," which it will do concurrently with third reading of this ordinance;

NOW THEREFORE, pursuant to the authority granted by the Constitution and the General Assembly of the State of South Carolina, BE IT ENACTED BY THE COUNTY COUNCIL FOR RICHLAND COUNTY:

SECTION I. The Richland County Code of Ordinances; Chapter 2, Administration; Article XI, Inquiries and Investigation; Section 2-647, Short title; is hereby renumbered to read as Section 2-649, and all remaining paragraphs in Article XI are renumbered in appropriate chronological order.

SECTION II. The Richland County Code of Ordinances, Chapter 2, Administration; Article X, Purchasing; Division 7, Small Local Business Enterprise Procurement Requirements; Section 2-639, General Provisions; Subsection (c), Definitions; is hereby amended by the insertion of the following language, to be alphabetized accordingly:

SLBE Schedule of Size Standard Eligibility Requirements – a document, separate and apart from this ordinance, adopted by the Richland County Council, which defines the SLBE size standard eligibility requirements, in number of employees and annual gross revenue dollars, applicable to the SLBE Program. The size standards shall be reviewed not less than annually and adjusted periodically by the Richland County Council to meet changes in market conditions.

SECTION III. The Richland County Code of Ordinances, Chapter 2, Administration; Article X, Purchasing; Division 7, Small Local Business Enterprise Procurement Requirements; Section 2-639, General Provisions; Subsection (c), Definitions; Subparagraph entitled Small Business Enterprise ("SBE"); is hereby amended to read as follows:

Small Business Enterprise ("SBE") - a small business enterprise is any for-profit enterprise as defined by South Carolina Code of Laws, Title 33, Chapter

31 that is not a broker, that is independently owned and operated, that is not a subsidiary of another business, and that is not dominant in its field of operation; and that also meets the size standard limitations as adopted and periodically amended in the SLBE Schedule of Size Standard Eligibility Requirements. Once the gross annual receipts of a business exceed the gross sales average limits, it should no longer be eligible to benefit as an SLBE firm and should be graduated from the program. The size standards in number of employees and annual gross revenue dollars should be reviewed annually and adjusted periodically to meet economic changes. Joint ventures must be certified on a bid-by-bid basis. The joint venture shall not be subject to the average gross receipts and employee limits imposed by this section. However, each individual business participating in the joint venture must be certified by the Procurement Department as an SLBE.

SECTION IV. The Richland County Code of Ordinances, Chapter 2, Administration; Article X, Purchasing; Division 7, Small Local Business Enterprise Procurement Requirements; Section 2-641, Eligibility for the SLBE Program; Subsection (a)(2); is hereby amended to read as follows:

2. It meets size standard eligibility requirements for Small Business Enterprises as adopted and periodically amended in the SLBE Schedule of Size Standard Eligibility Requirements.

Once the gross annual revenues of a business exceed the three-year average gross annual revenue limits, it should no longer be eligible to benefit as an SLBE firm and should be permanently graduated from the program. The size standards in number of employees and annual gross revenue dollars should be reviewed annually and adjusted periodically to meet changes in market conditions. Joint ventures must be certified on a bid-by-bid basis. The joint venture itself shall not be subject to the size standard limitations imposed by this section. However, each individual business participating in the joint venture must be certified by the Procurement Department as an SLBE in order for the joint venture to receive the benefits of the SLBE program.

SECTION V. The Richland County Code of Ordinances, Chapter 2, Administration; Article X, Purchasing; is hereby amended by the creation of a new Division, to read as follows:

DIVISION 8: COMMERCIAL NONDISCRIMINATION ORDINANCE

Sec. 2-647. General Provisions.

(a) Statement of Policy.

It is the policy of the County not to enter into a contract or to be engaged in a business relationship with any business entity that has discriminated in the solicitation, selection, hiring or commercial treatment of vendors, suppliers, subcontractors or commercial customers on the basis of race, color, religion, ancestry or national origin, sex, age, marital status, sexual orientation, gender identity, or on the basis of disability or any otherwise unlawful use of characteristics regarding the vendor's, supplier's or commercial customer's employees or owners; provided that nothing in this policy shall be construed to prohibit or limit otherwise lawful efforts to remedy the effects of discrimination that have occurred or are occurring in the relevant marketplace.

(b) Implementation.

The Small Local Business Enterprise Division shall implement this Ordinance by periodically conducting outreach and distributing educational materials to the County's contracting and vendor community and related trade associations to advise such contractors, vendors and prospective Offerors of this Ordinance and

the procedures to be followed in submitting complaints alleging violations of this Ordinance. The Director of Procurement, in consultation with the County Attorney, shall promulgate regulations and procedures to establish due process for the filing of complaints pursuant to this Ordinance, as well as for the investigation of complaints, the conduct of administrative hearings, the issuance of factual determinations, the establishment of an appeals process, and the establishment and application of sanctions and other remedies pursuant to this Ordinance. In addition, the County Administrator or designee, the Director of Procurement, and the County Attorney's Office shall insure that the following commercial nondiscrimination clause language is set forth in, and incorporated into, all the County contracts that result from formally advertised solicitations:

1. Every contract and subcontract shall contain a nondiscrimination clause that reads as follows:

As a condition of entering into this agreement, the Contractor represents and warrants that it will comply with the County's Commercial Nondiscrimination Ordinance, as described under Section 2-647 of the Richland County Code of Ordinances. As part of such compliance, the Contractor shall not discriminate on the basis of race, color, religion, ancestry or national origin, sex, age, marital status, sexual orientation, gender identity, or on the basis of disability or other unlawful forms of discrimination in the solicitation, selection, hiring or commercial treatment of subcontractors, vendors, suppliers, or commercial customers, nor shall the Contractor retaliate against any person for reporting instances of such discrimination. The Contractor shall provide equal opportunity for subcontractors, vendors and suppliers to participate in all of its public sector and private sector subcontracting and supply opportunities, provided that nothing contained in this clause shall prohibit or limit otherwise lawful efforts to remedy the effects of marketplace discrimination that have occurred or are occurring in the County's relevant marketplace. Moreover, the Contractor affirms that it will cooperate fully with any County inquiries regarding Contractor's compliance with this Ordinance. The Contractor understands and agrees that a material violation of this clause shall be considered a material breach of this agreement and may result in termination of this agreement, disqualification of the Contractor from participating in County contracts, or other sanctions. This clause is not enforceable by or for the benefit of, and creates no obligation to, any third party.

2. All Formal Solicitations issued for County contracts shall include the following certification to be completed by the Offeror:

The undersigned Offeror hereby certifies and agrees that the following information is correct:

In preparing its response on this project, the Offeror has considered all proposals submitted from qualified, potential subcontractors and suppliers, and has not engaged in "discrimination" as defined in the County's Commercial Nondiscrimination Ordinance, Section 2-647; to wit: discrimination in the solicitation, selection or commercial treatment of any subcontractor, vendor, supplier or commercial customer on the basis of race, color, religion, ancestry or national origin, sex, age, marital status, sexual orientation, gender identity, or on the basis of disability or other unlawful forms of discrimination. Without limiting the foregoing, "discrimination" also includes retaliating against any person or other entity for reporting any incident of "discrimination". Without limiting any other provision of the solicitation for responses on this project, it is understood and agreed that, if this certification is false, such false certification will constitute grounds for the County to reject the response submitted by the Offeror

on this project, and terminate any contract awarded based on the response. As part of its response, the Offeror shall provide to the County a list of all instances within the immediate past 4 years where there has been a final adjudicated determination in a legal or administrative proceeding in the State of South Carolina that the Offeror discriminated against its subcontractors, vendors, suppliers or commercial customers, and a description of the status or resolution of that complaint, including any remedial action taken. As a condition of submitting a response to the County, the Offeror agrees to comply with the County's Commercial Nondiscrimination Ordinance, Section 2-647 of the Richland County Code of Ordinances, and further agrees to fully cooperate with the County in its inquiries relating to compliance with this Ordinance.

SECTION VI. The Richland County, South Carolina, SLBE Schedule of Size Standard Eligibility Requirements (the "Schedule") attached to this Ordinance is hereby adopted. Amendments to this Schedule shall hereafter be approved by Resolution of Richland County Council duly and lawfully adopted.

SECTION VII. Severability. If any section, subsection, or clause of this ordinance shall be deemed to be unconstitutional or otherwise invalid, the validity of the remaining sections, subsections, and clauses shall not be affected thereby.

SECTION VIII. Conflicting Ordinances Repealed. All ordinances or parts of ordinances in conflict with the provisions of this ordinance are hereby repealed.

SECTION IX. Effective Date. This ordinance shall be effective from and after _____, 2014.

RICHLAND COUNTY COUNCIL

BY: _____
Norman Jackson, Chair

Attest this _____ day of _____, 2014.

Michelle Onley
Interim Clerk of Council

RICHLAND COUNTY ATTORNEY'S OFFICE

Approved As To LEGAL Form Only.
No Opinion Rendered As To Content.

First Reading:
Second Reading:
Third Reading:
Public Hearing:

Richland County, South Carolina
SLBE SCHEDULE OF SIZE STANDARD ELIGIBILITY
REQUIREMENTS

1. Small Business Enterprise (“SBE”)

A Small Business Enterprise, as defined by section 2-639 of the Richland County Code of Ordinances, shall have the following size limitations:

a. The SBE must not have employed more than **fifty (50)** full-time employees at any one time during the last three years; and

b. The SBE must have annual gross revenues within its largest primary NAICS commodity code as averaged over its most recent past three fiscal years of not more than **\$7 million** for construction firms, specialty trade contractors, and manufacturing firms; not more than **\$3 million** for architectural firms; not more than **\$3 million** for professional services firms (e.g., scientific, real estate, insurance, accounting, legal, etc.); not more than **\$2.5 million** for engineering firms; and not more than **\$2 million** for wholesale operations, retail firms, and all other services firms (e.g., truck transportation, administrative support services, repair and maintenance services).

c. If a business has not existed for 3 years, the employment and gross sales limits described above shall be applied based upon the annual averages over the course of the existence of the business not to exceed the three years. Once the gross annual receipts of a business exceed the gross sales average limits, it should no longer be eligible to benefit as an SLBE firm and should be graduated from the program.

2. Eligibility for the SLBE Program

To meet the size standard requirements for the SLBE Program, per section 2-641(a)(2) of the Richland County Code of Ordinances, a firm must comply with the size standards outlined in section 1 above.

ADOPTED THIS the _____ day of _____, 2014.

Norman Jackson, Chair
Richland County Council

Attest:

Michelle Onley
Interim Clerk of Council

Document comparison by Workshare Professional on Monday, May 05, 2014
3:58:28 PM

Input:	
Document 1 ID	PowerDocs://COLUMBIA/1149545/1
Description	COLUMBIA-#1149545-v1-SLBE_Ordinance_Amendments_for_RCC_5/6/2014_Meeting
Document 2 ID	PowerDocs://COLUMBIA/1149545/2
Description	COLUMBIA-#1149545-v2-SLBE_Ordinance_Amendments_for_RCC_5/6/2014_Meeting
Rendering set	Standard

Legend:	
<u>Insertion</u>	
Deletion	
Moved from	
<u>Moved to</u>	
Style change	
Format change	
Moved deletion	
Inserted cell	
Deleted cell	
Moved cell	
Split/Merged cell	
Padding cell	

Statistics:	
	Count
Insertions	20
Deletions	2
Moved from	0
Moved to	0
Style change	0
Format changed	0
Total changes	22

PROMPT PAYMENT ORDINANCE AMENDMENT

SECTION _____(1). Right of County prime contractor and subcontractor to prompt payment.

- (a) Performance by a prime contractor in accordance with the provisions of its Richland County contract entitles prime contractor to payment from the County in a prompt manner. Provided there are no bona fide disputes relating to the adequacy of performance by the contractor, the County shall pay contractor no later than 30 days after receipt of a proper invoice from the contractor that summarizes the services provided or goods delivered to County by contractor and the cost of same. For each thirty-day interval that payment from the County is late, contractor shall be entitled to interest penalty payments from the County equal to 5% of the late balance, This late penalty fee payment shall be in addition to the payment of the undisputed original balance due by the County.
- (b) Performance by a subcontractor in accordance with the provisions of its subcontract agreement with County's prime contractor while providing goods or services on behalf of Richland County entitles subcontractor to payment from the prime contractor in a prompt manner. Provided there are no bona fide disputes relating to the adequacy of performance by the subcontractor, the prime contractor shall pay subcontractor no later than seven days after prime contractor has received payment from the County for the goods or services that subcontractor has properly invoiced prime contractor for by summarizing the goods or services delivered on behalf of the County through the prime contractor. Alternatively, in instances where, through no fault of subcontractor, prime contractor has not been paid by the County for goods or services rendered by subcontractor, and more than thirty-seven days have lapsed since prime contractor received a proper invoice from subcontractor, the prime contractor shall authorize the County to pay subcontractor's undisputed invoice directly and to then deduct subcontractor's payment portion from prime contractor's account receivables due under its contract with the County. For each thirty-day interval beyond thirty-seven days that payment to subcontractor is late, subcontractor shall be entitled to an interest penalty fee equal to 5% of the late balance. This late penalty fee shall be in addition to the payment of the undisputed original balance due by the prime contractor, and shall be payable by either the prime contractor or the County depending upon which party is responsible for the late payment under these terms.
- (c) The County shall place language establishing these prompt payment terms as described above in (a) and (b) in any County bid solicitation and resulting contract awarded under County Ordinance, Chapter 2, Administration, Article X, Purchasing, § 2-591 and in each instance wherein the County determines to apply the provisions of County Ordinance, Chapter 2, Administration, Article X, Purchasing, Division 7 to a solicitation. In addition, each prime contractor shall be required to include similar prompt payment flow-down provisions for each tier of subcontractors that perform services or provide goods on behalf of the County through the prime contractor or a subcontractor.
- (d) Any prevailing party that makes a final written demand for payment and late penalty fees to the responsible party pursuant to this Ordinance and fails to receive payment in full within 30 days, and subsequently takes legal recourse to enforce these prompt payment provisions, shall also be entitled to the award of reasonable attorneys' fees by a court of competent jurisdiction.

SECTION.

SECTION _____(2). Grounds on which County, prime contractor, or subcontractor may withhold application and certification for payment; contract terms unaffected.

Nothing in this Ordinance prevents the County, the contractor, or a subcontractor from withholding application and certification for payment because of the following: unsatisfactory job progress, defective construction not remedied, disputed work, third party claims filed or reasonable evidence that claim will be filed, failure of contractor or subcontractor to make timely payments for labor, equipment, and materials, damage to County, contractor, or another subcontractor, reasonable evidence that contract or subcontract cannot be completed for the unpaid balance of the contract or subcontract sum, or a reasonable amount for retainage.

Nothing in this Ordinance requires that payments due a contractor from the County be paid any more frequently than as set forth in the construction documents, nor shall anything in this Ordinance affect the terms of any agreement between the County and any lender.

SECTION _____(3). Failure of contractor or subcontractor to make timely payments.

In addition to the interest on late payments provided in section 1, if any contractor or subcontractor makes late payments more than three times during the course of a contract, unless sufficient justification is made to the County and the County determines not to count the payment as late, the County can withhold the amount of the late payment due from the contractor to the subcontractor or to the lower tier subcontractor and make such late payment directly to the subcontractor or the lower tier subcontractor.

DRAFT

Richland County Council Request of Action

Subject

An Ordinance Amending the Richland County Code of Ordinances, Chapter 1, General Provisions; Section 1-15, Naming of Buildings; so as to amend the title to include properties, facilities and structures and to allow for labeling based on geographic location **[PAGES 110-114]**

Notes

First Reading: April 1, 2014

Second Reading:

Third Reading:

Public Hearing:

STATE OF SOUTH CAROLINA
COUNTY COUNCIL FOR RICHLAND COUNTY
ORDINANCE NO. ____-14HR

AN ORDINANCE AMENDING THE RICHLAND COUNTY CODE OF ORDINANCES, CHAPTER 1, GENERAL PROVISIONS; SECTION 1-15, NAMING OF BUILDINGS; SO AS TO AMEND THE TITLE TO INCLUDE PROPERTIES, FACILITIES AND STRUCTURES AND TO ALLOW FOR LABELING BASED ON GEOGRAPHIC LOCATION.

Pursuant to the authority granted by the Constitution of the State of South Carolina and the General Assembly of the State of South Carolina, BE IT ENACTED BY RICHLAND COUNTY COUNCIL:

SECTION I. The Richland County Code of Ordinances; Chapter 1, General Provisions; Section 1-15, Naming of Buildings; is hereby amended to read as follows:

Sec. 1-15. Naming and labeling of ~~Buildings~~ buildings, properties, facilities, and structures.

(a) The county council shall have the authority to name or label all county-built, county-financed and/or county-owned public buildings, ~~or~~ properties, facilities, or structures. Naming and/or labeling shall be based on the following guidelines at the sole discretion of county council:

- (1) Any building, property, facility, or structure may be named in honor of any organization, or deceased or living individual; or
- (2) In addition to Richland County identification, any building, property, facility, or structure may be labeled with the geographic location within the County, such as a municipality, neighborhood, unincorporated community, or a designation based on common usage by residents of an area, such as topographical features or historical plat names.

~~(b) Such county-built, county-financed and/or county-owned public buildings or properties may be named in honor of any organization or deceased or living individual, at the discretion of County Council. The following procedure shall be used to recommend a building, property, facility, or structure name or label to county council for consideration:~~

- (1) Any council member may make a motion to name or label a building, property, facility, or structure based on the above guidelines. Such motion shall be forwarded to the appropriate committee for review and recommendation to the full council; or
- (2) Any citizen, community group or organization, or county staff member, when requested by a citizen or community group or organization, may initiate a naming or labeling request. In such circumstances:

~~(c) When a county-built, county-financed and/or county-owned public buildings or property is to be named to honor an individual or organization, the following procedure shall be used:~~

- (1)a. Appropriate persons likely to be interested in the name or labeling of the ~~park~~ building, property, facility, or structure shall be contacted and encouraged to submit one (1) or more suitable names or geographic label suggestions. When naming in honor of an organization, or deceased or living individual, These these persons may be parties who donated land for the building, facility, or structure in question or who made some other similar contribution.

- (2)b. Once appropriate county staff persons are satisfied that all relevant sources of input have been exhausted, they will submit all such information to the county administrator with a staff recommendation as to what or how the building, property, facility, or structure should be named or labeled.
- (3)c. Upon receipt of the staff's recommendation, the county administrator shall review it and submit the list to the chairman of the appropriate committee of the county council for inclusion on the agenda of the next available ~~county council~~ committee meeting.
- (4)d. Such committee shall review the staff recommendation and forward a recommendation of its own to the full county council.
- (5)e. Upon receipt of the committee's recommendation, county council shall give the building, property, facility, or structure such name or label as it deems to be in the best interest of the community as a whole and of its citizens, and one which reflects the community's history, geography, leaders, and/or culture.

(c) The addition of the name or label should be incorporated at the outset of construction when appropriate, or added when it is financially feasible to do so, such as the regularly scheduled re-painting of a building or replacement sign.

(d) Specific labeling shall be submitted by staff and approved by county council concurrently with the above process.

SECTION II. Severability. If any section, subsection, or clause of this ordinance shall be deemed unconstitutional or otherwise invalid, the validity of the remaining sections, subsections, and clauses shall not be affected thereby.

SECTION III. Conflicting Ordinances. All ordinances or parts of ordinances in conflict with the provisions of this ordinance are hereby repealed.

SECTION IV. Effective Date. This ordinance shall be enforced from and after _____, 2014.

RICHLAND COUNTY COUNCIL

BY: _____
Norman Jackson, Chair

ATTEST THIS THE _____ DAY
OF _____, 2014.

Michelle Onley
Interim Clerk of Council

First Reading:
Second Reading:
Public Hearing:
Third Reading:

STATE OF SOUTH CAROLINA
COUNTY COUNCIL FOR RICHLAND COUNTY
ORDINANCE NO. ____-14HR

AN ORDINANCE AMENDING THE RICHLAND COUNTY CODE OF ORDINANCES, CHAPTER 1, GENERAL PROVISIONS; SECTION 1-15, NAMING OF BUILDINGS; SO AS TO AMEND THE TITLE TO INCLUDE PROPERTIES, FACILITIES AND STRUCTURES AND TO ALLOW FOR LABELING BASED ON GEOGRAPHIC LOCATION.

Pursuant to the authority granted by the Constitution of the State of South Carolina and the General Assembly of the State of South Carolina, BE IT ENACTED BY RICHLAND COUNTY COUNCIL:

SECTION I. The Richland County Code of Ordinances; Chapter 1, General Provisions; Section 1-15, Naming of Buildings; is hereby amended to read as follows:

Sec. 1-15. Naming and labeling of ~~Buildings~~ buildings, properties, facilities, and structures.

(a) The county council shall have the authority to name or label all county-built, county-financed and/or county-owned public buildings, ~~or properties~~ properties, facilities, or structures. Naming and/or labeling shall be based on the following guidelines at the sole discretion of county council:

(1) Any building, property, facility, or structure may be named in honor of any organization, or deceased or living individual; or

(2) In addition to Richland County identification, any building, property, facility, or structure may be labeled with the geographic location within the County, such as a municipality, neighborhood, unincorporated community, or a designation based on common usage by residents of an area, such as topographical features or historical plat names.

~~(b) Such county-built, county-financed and/or county-owned public buildings or properties may be named in honor of any organization or deceased or living individual, at the discretion of County Council. The following procedure shall be used to recommend a building, property, facility, or structure name or label to county council for consideration:~~

~~(1) Any council member may make a motion to name or label a building, property, facility, or structure based on the above guidelines. Such motion shall be forwarded to the appropriate committee for review and recommendation to the full council; or~~

~~(2) Any citizen, community group or organization, or county staff member, when requested by a citizen or community group or organization, may initiate a naming or labeling request. In such circumstances:~~

~~(c) When a county-built, county-financed and/or county-owned public buildings or property is to be named to honor an individual or organization, the following procedure shall be used:~~

~~(1)~~a. Appropriate persons likely to be interested in the name or labeling of the ~~park~~ building, property, facility, or structure shall be contacted and encouraged to submit one (1) or more suitable names or geographic label suggestions. When naming in honor of an organization, or deceased or living individual, These these persons may be parties who donated land for the building, facility, or structure in question or who made some other similar contribution.

- (2)b. Once appropriate county staff persons are satisfied that all relevant sources of input have been exhausted, they will submit all such information to the county administrator with a staff recommendation as to what or how the building, property, facility, or structure should be named or labeled.
- (3)c. Upon receipt of the staff's recommendation, the county administrator shall review it and submit the list to the chairman of the appropriate committee of the county council for inclusion on the agenda of the next available county council committee meeting.
- (4)d. Such committee shall review the staff recommendation and forward a recommendation of its own to the full county council.
- (5)e. Upon receipt of the committee's recommendation, county council shall vote whether or not to give the building, property, facility, or structure such name or label as it deems to be in the best interest of the community as a whole and of its citizens, and one which reflects the community's history, geography, leaders, and/or culture.

(c) The addition of the name or label should be incorporated at the outset of construction when appropriate, or added when it is financially feasible to do so, such as the regularly scheduled re-painting of a building or replacement sign.

(d) Specific labeling shall be submitted by staff and approved by county council concurrently with the above process.

SECTION II. Severability. If any section, subsection, or clause of this ordinance shall be deemed unconstitutional or otherwise invalid, the validity of the remaining sections, subsections, and clauses shall not be affected thereby.

SECTION III. Conflicting Ordinances. All ordinances or parts of ordinances in conflict with the provisions of this ordinance are hereby repealed.

SECTION IV. Effective Date. This ordinance shall be enforced from and after _____, 2014.

RICHLAND COUNTY COUNCIL

BY: _____
Norman Jackson, Chair

ATTEST THIS THE _____ DAY
OF _____, 2014.

Michelle Onley
Interim Clerk of Council

First Reading:
Second Reading:
Public Hearing:
Third Reading:

Richland County Council Request of Action

Subject

Authorizing an Amendment to the Master Agreement Governing the I-77 Corridor Regional Industrial Park jointly developed with Fairfield County to ratify and approve the internal distribution of revenues received from property located in the park; and other related matters [**PAGES 115-133**]

Notes

First Reading: April 15, 2014

Second Reading:

Third Reading:

Public Hearing:

STATE OF SOUTH CAROLINA
COUNTY COUNCIL FOR RICHLAND COUNTY
ORDINANCE NO. _____

AUTHORIZING AN AMENDMENT TO THE MASTER AGREEMENT GOVERNING THE I-77 CORRIDOR REGIONAL INDUSTRIAL PARK JOINTLY DEVELOPED WITH FAIRFIELD COUNTY TO RATIFY AND APPROVE THE INTERNAL DISTRIBUTION OF REVENUES RECEIVED FROM PROPERTY LOCATED IN THE PARK; AND OTHER RELATED MATTERS.

WHEREAS, Richland County (“County”), a public body corporate and politic under the laws of the State of South Carolina, is authorized under Article VIII, Section 13(D) of the South Carolina Constitution and Title 4, Chapter 1 of the Code of Laws of South Carolina, 1976, as amended (collectively, “Act”), to (i) create multi-county industrial parks in partnership with counties having contiguous borders with the County; and (ii) include the property of eligible companies within such multi-county industrial parks, which inclusion under the terms of the Act makes such property exempt from *ad valorem* property taxes, and changes the character of the annual receipts from such property to fees-in-lieu of ad valorem property taxes in an amount equivalent to the *ad valorem* taxes that would have been due and payable but for the location of the property in such multi-county industrial parks (“Fee Payments”);

WHEREAS, the County and Fairfield County, South Carolina (“Fairfield”) have previously developed a multi-county industrial park (“Park”) and entered into the “Master Agreement Governing the I-77 Corridor Regional Industrial Park,” dated April 15, 2003 which governs the operation of the Park (“Park Agreement”);

WHEREAS, pursuant to the Act and Agreement, the County is authorized to specify the manner in which Fee Payments (i) received by the County from property located in Fairfield or (ii) retained by the County from property located in the County are distributed to each of the taxing entities within the County;

WHEREAS, to continue to attract investment to and encourage economic development in the County, the County desires to amend the Agreement to ratify and approve the manner in which certain Fee Payments are distributed to the taxing entities within the County;

NOW THEREFORE, THE COUNTY COUNCIL OF RICHLAND COUNTY, SOUTH CAROLINA, ORDAINS:

Section 1. Amendment Authorized. Council authorizes an amendment to the Agreement, as set forth more fully in the Second Amendment to Master Agreement Governing the I-77 Corridor Regional Industrial Park attached as Exhibit A (“Amendment”), to ratify and approve the internal distribution of certain Fee Payments. The County Council Chair, or the Vice Chair in the event the Chair is absent, and the Clerk to the County Council are hereby authorized to execute the Amendment. The Chair is further directed to deliver the Amendment to Fairfield.

Section 2. Further Assurances. The County Administrator (and his designated appointees) is authorized and directed, in the name of and on behalf of the County, to take whatever further actions and execute whatever further documents as the County Administrator (and his designated appointees) deems to be reasonably necessary and prudent to effect the intent of this Ordinance.

Section 3. *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 4. *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.

This Ordinance is effective after its third reading and public hearing.

RICHLAND COUNTY, SOUTH CAROLINA

Chairman, Richland County Council

(SEAL)
ATTEST:

Clerk to Richland County Council

First Reading: April 15, 2014
Second Reading: May 6, 2014
Public Hearing:
Third Reading:

EXHIBIT A
FORM OF AMENDMENT

**SECOND AMENDMENT TO MASTER AGREEMENT
GOVERNING THE I-77 CORRIDOR REGIONAL INDUSTRIAL PARK**

This Second Amendment to the Master Agreement Governing the I-77 Corridor Regional Industrial Park between Richland County, South Carolina and Fairfield County, South Carolina (“Amendment”) is effective July 1, 2014.

WHEREAS, pursuant to Article VIII, Section 13(D) of the South Carolina Constitution, as amended, and Title 4, Chapter 1, Section 170 of the Code of Laws of South Carolina, 1976, as amended (“Act”), Richland County, South Carolina (“County”) and Fairfield County, South Carolina (“Fairfield”) entered into the Master Agreement Governing the I-77 Corridor Regional Industrial Park between Richland County, South Carolina and Fairfield County, South Carolina (“Agreement”) a copy of which is attached as Exhibit A;

WHEREAS, each capitalized term not defined in this Amendment has the meaning as provided in the Agreement and, if not provided in the Agreement, as provided in the Act;

WHEREAS, the County adopted an amendment to Section 3.03(a), effective April 3, 2012, which modified the internal distribution of the County’s Revenues;

WHEREAS, pursuant to the Act and Section 3.03(b) of the Agreement, the County wishes to further amend Section 3.03(a) to ratify and approve the internal distribution of the County’s Revenues to continue to provide for funds to attract investment in and encourage economic development in the County; and

WHEREAS, by Ordinance No. [], the County authorized the execution and delivery of this Amendment.

NOW, THEREFORE, the County amends the Agreement as follows:

Section 1. Amendment to Internal Distribution of Revenues. As authorized by the Act and Section 3.03(b), the County amends the internal distribution of the County’s Revenues by amending Section 3.03(a) of the Agreement through the insertion of following underlined language and deletion of the language indicated by strike-through text:

Section 3.03. Revenue Distribution Within Each County.

(a) In accordance with the provisions of the *Horry County School District* case, the Counties acknowledge they are required to set forth herein the scheme for distribution of Revenues received from the Park to other taxing entities within each of the Counties. Fairfield hereby elects to retain all of the Revenues from the Park. For Revenues generated by properties located in Fairfield and received by Richland pursuant to Section 3.02, Richland shall deposit all of the Revenues into the Richland County Industrial Park fund (“Fund”). ~~If For Revenues are generated by properties located in Richland and retained by Richland under Section 3.02, if the property is (i) located in the Park on or after January 15, 2009, and (ii) subject to a negotiated FILOT or a special source revenue credit incentive,~~ then Richland shall first deposit 3% of the Revenues into the Fund. For Revenues remaining after such deposit in the Fund or generated by properties located in Richland and retained by Richland under Section 3.02 but not meeting the criteria of (i) and (ii) above, Richland shall retain a portion as may be necessary reimburse it for any investments made in relation to attracting each new investment to Richland. The Richland County Council reserves the right to determine the reimbursement amount

on a case by case basis. Revenues remaining after such reimbursement shall be distributed on a pro-rata basis to the entities that would otherwise, at the time the property is included in the Park, be eligible to levy tax millage on the properties located in the Richland portion of the Park, if such properties were not located in the Park. Any school districts receiving a distribution of Revenues, shall divide the Revenues on a pro rata basis between operational and debt service expenditures in accordance with the amount of operating and debt service millage levied by such school district or collected on behalf of such school district.

Section 2. Remainder of Agreement. Except as described in this Amendment's Section 1, the Agreement remains unchanged and in full force.

Section 3. Execution. This Amendment may be executed, in original, by electronic means, or by facsimile, and is effective on delivery of the Amendment to Fairfield.

[SIGNATURE PAGES FOLLOW]
[REMAINDER OF PAGE INTENTIONALLY BLANK]

IN WITNESS WHEREOF, the County, acting by and through the County Council, has caused this Amendment to be executed in its name and on its behalf by the Chairman of County Council and to be attested by the Clerk to County Council effective as of the day and year first above written.

RICHLAND COUNTY, SOUTH CAROLINA

Norman Jackson, Chairman
Richland County Council

(SEAL)
ATTEST:

Michelle Onley, Clerk to Council
Richland County Council

**EXHIBIT A
MASTER AGREEMENT**

MASTER AGREEMENT
GOVERNING THE
I-77 CORRIDOR REGIONAL INDUSTRIAL PARK
BETWEEN
RICHLAND COUNTY, SOUTH CAROLINA
AND
FAIRFIELD COUNTY, SOUTH CAROLINA

DATED AS OF APRIL 15, 2003

PREPARED BY:
PARKER POE ADAMS & BERNSTEIN LLP
COLUMBIA, SOUTH CAROLINA
803-253-8917

INSTRUCTIONS FOR COUNTY AUDITOR AND COUNTY TREASURER

THE TAX STATUS OF THE REAL AND PERSONAL PROPERTY LOCATED WITHIN THIS MULTI-COUNTY INDUSTRIAL PARK WILL BE EXEMPT FROM AD VALOREM TAXES AND WILL BE SUBJECT INSTEAD, UNDER THE TERMS OF THE STATE CONSTITUTION, TO A FEE-IN-LIEU OF AD VALOREM TAXES EQUAL TO WHAT THE TAXES WOULD HAVE BEEN. NOTE, THAT THE FEE-IN-LIEU PAYMENTS MAY BE REDUCED BELOW NORMAL AD VALOREM TAX RATES IN THE EVENT THE PROPERTY IS ALSO SUBJECT TO A NEGOTIATED FEE-IN-LIEU OF TAXES ("FILOT") ARRANGEMENT WITH EITHER RICHLAND OR FAIRFIELD COUNTY. THEREFORE, WHEN PREPARING THE FEE BILLS FOR THE REAL AND PERSONAL PROPERTY LOCATED IN THE PARK, PLEASE REFERENCE YOUR FILOT RECORDS TO ENSURE YOU ARE USING THE CORRECT MILLAGE RATE AND ASSESSMENT RATIO.

ONCE A FEE BILL HAS BEEN PAID, THE PROVISIONS OF THIS AGREEMENT WILL GOVERN HOW THE FEES RECEIVED ARE TO BE DISTRIBUTED AMONG THE VARIOUS TAXING ENTITIES WITHIN THE COUNTY. BY LAW, THE COUNTIES MAY UNDER THE TERMS OF THIS AGREEMENT ALTER THE CUSTOMARY DISTRIBUTION OF REVENUES.

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THIS AGREEMENT, made and entered into as of the 15th day of April 2003 by and between Richland County, a political subdivision of the State of South Carolina (“Richland”); and Fairfield County, a political subdivision of the State of South Carolina (“Fairfield”) (“Richland” and “Fairfield” referred to collectively herein as the “Counties”), pursuant to Article VIII, Section 13(D) of the South Carolina Constitution, as amended, and Title 4, Chapter 1, Section 170 of the Code of Laws of South Carolina, 1976, as amended (the “Act”).

RECITALS:

WHEREAS, in order to promote the economic welfare of their citizens, the Counties created the I-77 Corridor Regional Industrial Park (the “Park”); and,

WHEREAS, in response to requests from companies seeking to invest in either Richland or Fairfield, the Counties have heretofore expanded the boundaries of the Park to include additional property, which inclusion has afforded the requesting companies additional tax benefits under South Carolina law; and

WHEREAS, the Counties have entered into separate agreements to reflect each new phase of expansion of the Park (“Phase Agreements”); and

WHEREAS, in accordance with the Act, the Counties have provided for the sharing of expenses and revenues from the Park (hereafter, “Expenses” and “Revenues”) in each of the Phase Agreements. The Counties initially established the revenue sharing ratio to allow the host county to retain 95% of the Revenues, with the partner county receiving 5% of the Revenues (this arrangement is hereafter referred to as “95/5”). The Counties later amended the revenue sharing ratio to allow the host county to retain 99%, with the partner county receiving 1% of the Revenues (this arrangement is hereafter referred to as “99/1”); and

WHEREAS, the Counties desire to preserve the revenue sharing scheme such that the 95/5 revenue sharing ratio is preserved on those properties to which it applies and the 99/1 revenue sharing ratio is likewise preserved and employed to any future expansions of the Park; and

WHEREAS, on September 4, 2001, the South Carolina Supreme Court issued an opinion in the case of *Horry County School District v. Horry County and the City of Myrtle Beach*, which provided guidance regarding provisions of the Act and established new requirements for the contents of multi-county park agreements; and

WHEREAS, in order to ensure compliance with the *Horry County School District* decision, the Counties now desire to adopt this Master Agreement (hereafter “Agreement”), which shall replace all of the Phase Agreements and serve as the governing document for the Park moving forward from the date hereof.

NOW, THEREFORE, on the basis of the premises and mutual covenants herein contained, the sufficiency of which consideration is acknowledged, the parties agree as set forth below:

**ARTICLE I
PARK BOUNDARIES**

Section 1.01. Phase I of the Park. Phase I of the Park (“Phase I”) shall consist of those properties to which the Counties have historically applied a 95/5 revenue sharing arrangement. These properties are identified by tax map number on the attached “**Exhibit A: 95/5 Properties.**” The Counties do not intend that there will be any future expansion of Phase I.

Section 1.02. Phase II of the Park. Phase II of the Park (“Phase II”) shall consist of those properties to which the Counties have historically applied a 99/1 revenue sharing arrangement. These properties are identified by tax map number on the attached “**Exhibit B: 99/1 Properties.**” The Counties intend that only Phase II will be subject to future expansion.

Section 1.03. Modification of Park Boundaries.

(a) The boundaries of the Park may be enlarged, to include additional properties in one or both Counties, or diminished from time to time, as authorized by ordinances adopted by the County Councils of both Counties.

(b) In the event of any enlargement or diminution of the boundaries of the Park, this Agreement shall be deemed amended and the attached Exhibit B shall be revised accordingly to reflect the addition of property to the Park or the removal of property from the Park. Each County shall file in its respective ordinance books either a copy or an original (depending on County practice) of the ordinance adopted by the County Council of such County pursuant to which such enlargement or diminution was authorized.

(c) Prior to the adoption by the Richland County Council and the Fairfield County Council of ordinances authorizing the diminution of the boundaries of the Park, a public hearing shall first be held by the respective County Council of the County in which the area proposed for deletion is located. Notice of such public hearing shall be published in a newspaper of general circulation in that County at least once and not less than 15 days prior to such hearing.

(d) Notwithstanding the foregoing, for a period of 30 years commencing with the later of the effective date of this Agreement or the effective date of the expansion of the boundaries of the Park to include such parcel, the boundaries of the Park shall not be diminished so as to exclude therefrom any parcel of real estate without the consent of the owner and the Counties and, if applicable, lessee of such parcel; and this sentence of this Agreement may not be modified or deleted herefrom for a period of thirty (30) years commencing with the effective date hereof; except as provided below.

**ARTICLE II
TAX STATUS OF PROPERTIES LOCATED IN THE PARK**

Section 2.01. Constitutional Exemption from Taxation. The Counties acknowledge that under the provisions of Article VIII, Section 13(D) of the South Carolina Constitution, all real and personal property located in the Park shall be exempt from all *ad valorem* taxation.

Section 2.02. Fee-in-Lieu of Taxes. Property located in the Park shall be exempt from *ad valorem* taxation only during the term of this Agreement. The owners or lessees of any property situated in the Park shall pay in accordance with and during the term of this Agreement an amount equivalent to the *ad valorem* property taxes or other in lieu of payments that would have been due and payable but for the location of such property within the Park.

Section 2.03. Negotiated Fee-in-Lieu of Taxes. The amount of the annual payments due from the owner or lessee may be reduced if the owner or lessee has negotiated a FILOT incentive with either Richland or Fairfield pursuant to the provisions of Sections 12-44-10, *et seq.*, 4-12-30, or 4-29-67 of the Code of Laws of South Carolina 1976, as amended, or any successor provisions thereto as may be provided under South Carolina law. In such case, the terms of the executed FILOT agreement between the company and the applicable county shall govern the calculation of the annual FILOT payment.

ARTICLE III
SHARING OF REVENUES AND EXPENSES OF THE PARK

Section 3.01. Expense Sharing. The Counties shall share Expenses including, but not limited to, development, operations, maintenance and promotion of the Park. If the property is located in Fairfield, then Fairfield shall bear 100% of such expenses. If the property is located in Richland, then Richland shall bear 100% of such expenses. The Counties reserve the right to negotiate on a case-by-case basis the sharing of any additional expenditures that may be approved by both the Richland County Council and the Fairfield County Council.

Section 3.02. Revenue Sharing.

(a) Revenues generated within the Park from sources other than fees in lieu of *ad valorem* taxes shall be distributed directly to Fairfield and Richland according to the proportions established in this Section 3.02 herein to be expended in any manner as the County Council of each County deems appropriate.

(b) The Counties shall share all of the Revenues received in lieu of *ad valorem* taxes from properties located in the Park.

With respect to Phase I of the Park, if Revenues are generated by properties located in Fairfield, then Fairfield shall, after reimbursing itself for expenditures made to attract a particular investment and/or making any reductions required by law or other agreement, retain 95% of such Revenues and transmit 5% of such Revenues to Richland. Likewise, if Revenues are generated by properties located in Richland, then Richland shall, after reimbursing itself for expenditures made to attract a particular investment and/or making any reductions required by law or other agreement, retain 95% of such Revenues and transmit 5% of such Revenues to Fairfield.

With respect to Phase II of the Park, if Revenues are generated by properties located in Fairfield, then Fairfield shall, after reimbursing itself for expenditures made to attract a particular investment and/or making any reductions required by law or other agreement, retain 99% of such Revenues and transmit 1% of such Revenues to Richland. Likewise, if Revenues are generated by properties located in Richland, then Richland shall, after reimbursing itself for expenditures made to attract a particular investment and/or making any reductions required by law or other agreement, retain 99% of such Revenues and transmit 1% of such Revenues to Fairfield.

Section 3.03. Revenue Distribution Within Each County.

(a) In accordance with the provisions of the *Horry County School District* case, the Counties acknowledge they are required to set forth herein the scheme for distribution of Revenues received from the Park to other taxing entities within each of the Counties. Fairfield hereby elects to retain all of the Revenues from the Park. If Revenues are generated by properties located in Richland, then Richland shall retain a portion as may be necessary to reimburse it for any investments made in relation to attracting each new tenant in the Park. The Richland County Council reserves the right to determine the reimbursement amount on a case by case basis. Revenues remaining after such reimbursement shall be distributed on a pro-rata basis to the entities that would otherwise levy tax millage on the properties located in the Richland portion of the Park, if such properties were not located in the Park. Any school districts receiving a distribution of Revenues, shall divide the Revenues on a pro rata basis between operational and debt service expenditures in accordance with the amount of operating and debt service millage levied by such school district or collected on behalf of such school district.

(b) Either County may unilaterally amend the distribution scheme applicable to such County and set forth in section (a) above. Such amendment must be accomplished by passage of an ordinance.

Section 3.04. Annual Report and Disbursement. Not later than July 15 of each year, starting July 15, 2004, each of the Counties shall prepare and submit to the other County a report detailing the Revenues owed to the other County under the terms of this Agreement. A check for the amount reflected in the report shall be delivered at the same time.

**ARTICLE IV
MISCELLANEOUS**

Section 4.01. Jobs Tax Credit Enhancement. Business enterprises locating in the Park shall be entitled to such enhancement of the regular jobs tax credits authorized by Section 12-6-3360 of the Code of Laws of South Carolina 1976, as amended, or any successive provisions, as may be provided under South Carolina law.

Section 4.02. Assessed Valuation. For the purpose of bonded indebtedness limitation and for the purpose of computing the index of taxpaying ability pursuant to Section 59-20-20(3) of the Code of Laws of South Carolina 1976, as amended, allocation of the assessed value of property within the Park to the counties which are party to this Agreement must be identical to the percentage of total fee-in-lieu of *ad valorem* tax revenues retained and received by each such County in the preceding fiscal year.

Section 4.03. Non-Qualifying Use. In the event that a tract or site of land located in the Park is purchased and developed by a business enterprise which locates employees within the Park and which employees, because of the nature of their employment, do not qualify for the corporate income tax credit provided in South Carolina Code of Laws, 1976, as amended, Section 12-6-3360 (the "Non-Qualifying Site"), the Counties may remove, by ordinance, the Non-Qualifying Site from the Park pursuant to the provisions of Section 1.03(c) hereof.

Section 4.04. Records. The Counties covenant and agree that, upon the request of either, the other will provide to the requesting party copies of the records of the annual tax levy and copies of the actual fee-in-lieu of tax bills, for parcels of property encompassed by this Agreement, and will further provide copies of the County Treasurer's collection records for the fees-in-lieu of taxes so imposed, all as such records became available in the normal course of County procedures.

Section 4.05. Applicable Law. In order to avoid any conflict of laws or ordinances between the Counties, the County ordinances of the County in which a parcel of Park property is located will be the reference for such regulations or laws in connection with that part of the Park. Nothing herein shall be taken to supersede any state or federal law or regulation. The County in which Park property is located is specifically authorized to adopt restrictive covenants and land use requirements for that part of the Park at that County's sole discretion. This Agreement has been entered into in the State of South Carolina and shall be governed by, and construed in accordance with South Carolina law.

Section 4.06. Law Enforcement. The Sheriff's Department for each respective County will have initial jurisdiction to make arrests and exercise all authority and power within the boundaries of the Park located in that County and fire, sewer, water and EMS service for that part of the Park will be provided by the applicable service district or other political unit within that County.

Section 4.07. *Binding Effect of Agreement.* This Agreement serves as a written instrument, which is binding upon the signatory parties.

Section 4.08. *Severability.* In the event and to the extent (and only to the extent) that any provision or any part of a provision of this Agreement shall be held invalid or unenforceable by any court of competent jurisdiction, such holding shall not invalidate or render unenforceable the remainder of that provision or any other provision or part of a provision of this Agreement.

Section 4.09. *Complete Agreement: Amendment.* This Agreement constitutes the entire agreement between the parties and supersedes all agreements, representations, warranties, statements, promises and understandings, whether oral or written, with respect to the subject matter hereof, and no party hereto shall be bound by any oral or written agreements, statements, promises, or understandings not specifically set forth in this Agreement. Except for the amendment provided for in Section 3.03(b) above, this Agreement may be amended upon the adoption of an ordinance by both of the respective County Councils of Richland and Fairfield.

Section 4.10. *Counterpart Execution.* This Agreement may be executed in multiple counterparts.

Section 4.11. *Termination.* Notwithstanding any provision of this Agreement to the contrary, Fairfield and Richland agree that this Agreement may not be terminated by either party for a period of 30 years commencing with the effective date hereof.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement the day and the year first above written.

Witness:

Ashley Bloom
T. Cary McSwain

RICHLAND COUNTY, SOUTH CAROLINA

By: Emmie G. Scott
Council Chair

Attest: Michelle R. Bannan-Driels
Clerk to County Council

Witness:

Reba S. Clouney
Travis Richardson

FAIRFIELD COUNTY, SOUTH CAROLINA

By: [Signature]
Council Chair

Attest: Sheryl K. Brown
Clerk to County Council

Richland County Council Request of Action

Subject

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 Richland County, South Carolina and American Italian Pasta Company and matters relating thereto **[PAGES 134-163]**

Notes

First Reading: April 15, 2014

Second Reading:

Third Reading:

Public Hearing:

AN ORDINANCE

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 RICHLAND COUNTY, SOUTH CAROLINA AND AMERICAN ITALIAN PASTA COMPANY AND MATTERS RELATING THERETO.

Adopted _____, 2014

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 RICHLAND COUNTY, SOUTH CAROLINA AND AMERICAN ITALIAN PASTA COMPANY AND MATTERS RELATING THERETO.

WHEREAS, Richland County (the “County”), a public body corporate and politic organized and existing under the laws of the State of South Carolina has, by an Inducement Resolution adopted on April 15, 2014 (the “Resolution”), committed to enter into a fee agreement with American Italian Pasta Company, a corporation organized and existing under the laws of the State of Delaware (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 an expansion of the Company’s existing operation which is located in the County, and which will consist of certain buildings or other improvements thereon and/or machinery, apparatus, equipment, office facilities, furnishings and other personal property to be installed therein for the purpose of a project to add certain production lines and products and/or packaging capabilities and other expansion investments 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”).

WHEREAS, the Project is expected to provide significant economic benefits to the County and surrounding areas. In order to induce the Company to locate the Project in the County, the County has agreed to charge a fee-in-lieu of taxes with respect to the Project for a period of 20 years, calculated using a 6% assessment ratio and a fixed millage rate of 423.2, and otherwise make available to the Company the benefits intended by the Act;

WHEREAS, Richland County Council (the “County Council”) has caused to be prepared and presented to this meeting substantially the form of the Fee Agreement, attached as Exhibit A (“Fee Agreement”), between the County and the Company, which the County proposes to execute and deliver;

WHEREAS, it is anticipated that the Project will represent an investment of at least \$13 million in the County during the Investment Period (as defined in the Fee Agreement) without regard to whether the entire investment qualifies for fee-in-lieu of taxes benefits under the Act;

WHEREAS, it appears that the Fee Agreement, 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(I) thereof, based on representations made by the Company to the County, 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) 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;

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

(e) The benefits of the Project to the public are greater than the costs to the public; and

(f) 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 are 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 the County Council (“Chair”) is authorized, empowered and directed to execute and acknowledge the Fee Agreement in the name of and behalf of the County and the Clerk to County Council is authorized, empowered and directed to attest the Fee Agreement. The Chair is further authorized and directed to deliver the Fee Agreement to the Company. The Fee Agreement is to be in substantially the form now before this meeting and hereby approved, with such changes as are not materially adverse to the County and are approved by the Chair or the County’s Director of Economic Development following receipt of advice from counsel to the County. The execution of the Fee Agreement by the Chair is conclusive evidence of the approval of all changes or revisions therein from the form of Fee Agreement now before this meeting.

Section 3. The Chair of County Council, the County Administrator 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 and authorized.

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 ___ day of _____, 2014.

RICHLAND COUNTY, SOUTH CAROLINA

Chair, Richland County Council

ATTEST:

By: _____
Clerk to Richland County Council

First Reading: April 15, 2014

Second Reading: _____, 2014

Third Reading: _____, 2014

Public Hearing: _____, 2014

EXHIBIT A
FORM OF FEE AGREEMENT

FEE AGREEMENT

BETWEEN

RICHLAND COUNTY, SOUTH CAROLINA

AND

AMERICAN ITALIAN PASTA COMPANY

DATED
AS OF
May __, 2014

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FEE AGREEMENT

THIS FEE AGREEMENT (the "Fee Agreement") is made and entered into as of May ____, 2014, by and between RICHLAND COUNTY, SOUTH CAROLINA (the "County"), a body politic and corporate and a political subdivision of the State of South Carolina, acting by and through its County Council (the "County Council") as governing body of the County; and AMERICAN ITALIAN PASTA COMPANY, a corporation organized and existing under the laws of the State of Delaware (the "Company").

WITNESSETH:

WHEREAS, the County is authorized by Title 12, Chapter 44, Code of Laws of South Carolina, 1976, as amended (the "Act"), to enter into a Fee Agreement with companies meeting the requirements of such Act, which identifies certain property of such companies as economic development property to induce such companies to locate in the State and to encourage companies now located in the State to expand their investments and thus make use of and employ manpower and other resources of the State;

WHEREAS, the County and the Company desire to enter into a Fee Agreement regarding the Project (as defined herein);

WHEREAS, pursuant to the Act and an Ordinance adopted on _____, 2014 (the "Ordinance"), the County, based on representations made to the County by the Company, determined that (a) the Project is anticipated to benefit the general public welfare of the County by providing services, employment and other public benefits not otherwise adequately provided locally; (b) 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; (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;

WHEREAS, it is anticipated that the Project will represent an investment in the County of at least \$13 million;

WHEREAS, pursuant to an Inducement Resolution dated April 15, 2014 (the "Inducement Resolution"), the County committed to enter into a Fee Agreement with the Company, which shall provide for payments of fees-in-lieu of taxes for a project qualifying under the Act using an assessment ratio of 6% and a fixed millage rate of 423.2 for 20 years, and the Project will remain in a multi-county industrial park for the Fee Term; and

WHEREAS, pursuant to the Ordinance, as an inducement to the Company to develop the Project, the County Council authorized the County to enter into the Fee Agreement with the Company which identifies the property comprising the Project as economic development property under the Act subject to the terms and conditions hereof;

NOW, THEREFORE, FOR AND IN CONSIDERATION of the respective representations and agreements hereinafter contained and other value, the parties hereto agree as follows:

**ARTICLE I
WAIVER OF RECAPITULATION; DEFINITIONS**

SECTION 1.1. *Waiver of Statutorily Required Recapitulation.* Pursuant to Section 12-44-55(B) of the Act, the County and the Company waive any and all compliance with any and all of the provisions, items or requirements of Section 12-44-55.

SECTION 1.2. *Rules of Construction; Use of Defined Terms.* Unless the context clearly indicates otherwise, in this Fee Agreement words and terms defined in Section 1.3 hereof are used with the meanings ascribed thereto. The definition of any document shall include any amendments to that document, unless the context clearly indicates otherwise.

From time to time herein, reference is made to the term taxes or *ad valorem* taxes. All or portions of the Project are located in a Multi-County Industrial Park (as defined herein) and are exempt from *ad valorem* taxation under and by virtue of the provisions of Paragraph D of Section 13 of Article VIII of the S.C. Constitution (the "MCIP Provision"). With respect to facilities located in a Multi-County Industrial Park, references to taxes or *ad valorem* taxes means the payments-in-lieu-of-taxes provided for in the MCIP Provision, and, where this Fee Agreement refers to payments of taxes or Payments-in-Lieu-of-Taxes to County Treasurers, such references shall be construed to mean the payments to the counties participating in such a Multi-County Industrial Park.

SECTION 1.3. *Definitions.*

“Act” means Title 12, Chapter 44, Code of Laws of South Carolina, 1976, as in effect on the date hereof and, to the extent such amendments are specifically made applicable to this Fee Agreement or the Project, as the same may be amended from time to time; provided that if any such amendment shall be applicable only at the option of the County or the Company, then such amendment shall only be applicable with the consent of both parties.

“Chair” means the Chair of County Council (or the person or persons authorized to perform the duties thereof in the absence of the Chair).

“Clerk” means the Clerk of County Council (or the person or persons authorized to perform the duties thereof in the absence of the Clerk).

“Commencement Date” means the last day of the property tax year when Project property is first placed in service, except that this date must not be later than the last day of the property tax year which is three years from the year in which the County and the Company have entered into this Fee Agreement.

“Company” means American Italian Pasta Company, a corporation duly organized under the laws of the State of Delaware, and its successors and assigns.

“County Administrator” means the County Administrator of the County (or person or persons authorized to perform the duties thereof in the absence of the County Administrator).

“County Council” means the County Council of the County.

“County” means Richland County, South Carolina, and its successors and assigns.

“Documents” means the Ordinance and this Fee Agreement.

“DOR” means the South Carolina Department of Revenue and any successor thereto.

“Equipment” means all machinery, apparatus, equipment, fixtures, office facilities, furnishings and other personal property to the extent such property becomes a part of the Project under this Fee Agreement.

“Event of Default” shall mean any Event of Default specified in Section 9.1 of this Fee Agreement.

“Fee Agreement” means this Fee Agreement dated as of May _____, 2014, between the County and the Company.

“Fee Term” shall mean the duration of this Fee Agreement with respect to each Stage of the Project as specified in Section 5.3 hereof.

“Improvements” shall mean improvements to the Real Property together with any and all additions, accessions, replacements and substitutions thereto or therefor, to the extent such additions, accessions, replacements, and substitutions become part of the Project under this Fee Agreement.

“Investment Period” shall mean the period beginning with the first day that economic development property is purchased or acquired and ending on the last day of the fifth property tax year following the Commencement Date. The Investment Period may include an extension granted pursuant to the Act and Section 3.2(b) of this Fee Agreement.

“Multi-County Industrial Park” means an industrial or business park established by two or more counties acting under the provisions of Section 4-1-170 of the Code of Laws of South Carolina, 1976, as amended, and Article VIII, Section 13, Paragraph D of the Constitution of the State of South Carolina.

“**Multi-County Industrial Park Agreement**” means the Master Agreement Governing the I-77 Corridor Regional Industrial Park between Richland County, South Carolina and Fairfield County, South Carolina, dated as of April 15, 2003, as amended.

“**Ordinance**” means the Ordinance adopted by the County on _____ 2014, authorizing this Fee Agreement.

“**Payments-in-Lieu-of-Taxes**” means the payments to be made by the Company pursuant to Section 5.1 of this Fee Agreement.

“**Project**” shall mean the Equipment, Improvements, and Real Property, together with the acquisition, construction, installation, design and engineering thereof which are eligible for inclusion as economic development property under the Act and become subject to this Fee Agreement. The parties agree that Project property shall consist of such economic development property so identified by the Company in connection with its annual filing with DOR of an SCDOR PT-300, or such comparable form, and with such schedules as DOR may provide in connection with projects subject to the Act (as such filing may be amended or supplemented from time to time) for each year within the Investment Period.

“**Real Property**” shall mean the land identified on Exhibit A hereto, together with all and singular rights, members, hereditaments and appurtenances belonging or in any way incident or appertaining thereto to the extent such become a part of the Project under this Fee Agreement; all Improvements now or hereafter situated thereon; and all fixtures now or hereafter attached thereto, to the extent such Improvements and fixtures become part of the Project under this Fee Agreement.

“**Replacement Property**” means any property acquired or constructed after the Investment Period as a replacement for any property theretofore forming a part of the Project and disposed of, or deemed disposed of, as provided in Section 5.2 hereof.

“**Stage**” in respect of the Project shall mean the Equipment, Improvements and Real Property, if any, placed in service during each year of the Investment Period.

“**State**” means the State of South Carolina.

Any reference to any agreement or document in this Article I or otherwise in this Fee Agreement shall be deemed to include any and all amendments, supplements, addenda and modifications to such agreement or document.

ARTICLE II LIMITATION OF LIABILITY; INDUCEMENT

SECTION 2.1. *Limitation of Liability.* Any obligation which the County may incur for the payment of money as a result of the transactions described in the Documents shall never constitute an indebtedness of the County within the meaning of any State constitutional provision

or statutory limitation and shall never create a pecuniary liability of the County or a charge upon its general credit or against its taxing powers but shall be payable solely out of the funds received by it under the Documents.

SECTION 2.2. *Inducement.* The County and the Company acknowledge that pursuant to the Act, no part of the Project will be subject to *ad valorem* property taxation in the State, and that this factor has induced the Company locate the Project in the County. The County and the Company acknowledge that the Company's commitment to invest at least \$13 million at the Project has induced the County to offer the incentives described in the Fee Agreement.

ARTICLE III REPRESENTATIONS, WARRANTIES AND COVENANTS

SECTION 3.1. *Representations and Warranties of the County.* The County makes the following representations and warranties to the Company and covenants with the Company as follows:

(a) The County is a body politic and corporate and a political subdivision of the State and is authorized and empowered by the Act to execute the Documents to which it is a party and to fulfill its obligations described in the Documents. By proper action, the County Council has duly authorized the execution and delivery of the Documents to which the County is a party and has taken all such action as is necessary to permit the County to enter into and fully perform the transactions required of it under the Documents.

(b) Neither the execution and delivery of the Documents, nor the consummation and performance of the transactions described in the Documents, violate, conflict with or will result in a material breach of any of the material terms, conditions or provisions of any agreement, restriction, statute, law, rule, order or regulation to which the County is now a party or by which it is bound.

(c) There is no action, suit, proceeding, inquiry or investigation at law or in equity before or by any judicial or administrative court or agency, public board or body, pending or threatened, against the County, wherein an unfavorable decision, ruling or finding may or would materially adversely affect the County or the consummation of the transactions described in the Documents.

(d) Neither the existence of the County nor the rights of any members of County Council to their offices is being contested and none of the proceedings taken to authorize the execution, delivery and performance of such of the Documents as require execution, delivery and performance by the County has been repealed, revoked, amended or rescinded.

(e) All consents, authorizations and approvals required on the part of the County in connection with the execution, delivery and performance by the County of such of the Documents as require execution, delivery and performance by the County have been obtained and remain in full force and effect as of the date hereof or will be obtained.

(f) Assuming the Act is constitutional, the Documents to which the County is a party are (or, when executed, will be) legal, valid and binding obligations of the County enforceable against the County in accordance with their respective terms, except as such terms may be limited by laws affecting creditors' rights generally.

(g) The Project constitutes a "project" within the meaning of the Act.

(h) By due corporate action, the County has agreed that, subject to compliance with applicable laws, each item of real and tangible personal property comprising the Project shall be considered economic development property under the Act.

SECTION 3.2. *Covenants by the County.* The County covenants with the Company as follows:

(a) The County agrees to do all things deemed reasonably necessary by the Company in connection with the Project and in accordance with the Act all for the purposes of promoting industrial development, developing trade, and utilizing and employing the manpower and natural resources of the County and the State. Except as required by statute or law, the County will take no action with respect to the Project unless authorized or requested to do so by the Company.

(b) Provided that the Company meets the investment requirement referred to in Section 12-44-30(14) of the Act, on application by the Company pursuant to Section 12-44-30(13), the County shall consider a request of an extension of the Investment Period of up to five (5) years, so that the Project's total investment period, as defined in Section 12-44-30(13) of the Act, may be up to ten (10) years.

SECTION 3.3. *Representations and Warranties of the Company.* The Company makes the following representations and warranties to the County:

(a) The Company is a corporation duly organized and validly existing under the laws of the State of Delaware and is qualified to do business in the State. The Company has full corporate power to execute the Documents to which it is a party and to fulfill its obligations described in the Documents and, by proper corporate action, has authorized the execution and delivery of the Documents to which it is a party.

(b) Neither the execution and delivery of the Documents to which the Company is a party, nor the consummation and performance of the transactions described in the Documents violate, conflict with, or will, to its knowledge, result in a material breach of any of the material terms, conditions or provisions of any agreement, restriction, statute, law, rule, order or regulation to which the Company is now a party or by which it is bound.

(c) There is no action, suit, proceeding, inquiry or investigation at law or in equity before or by any judicial or administrative court or agency, public board or body, pending or threatened, against or affecting the Company wherein an unfavorable decision, ruling or finding would materially adversely affect the Company or the consummation of the transactions described in the Documents.

(d) All consents, authorizations and approvals required on the part of the Company in connection with the Documents and the transactions contemplated thereby and the acquisition, construction and installation of the Project have been obtained and remain in full force and effect or will be obtained.

(e) Assuming the Act is constitutional, the Documents to which the Company is a party are (or, when executed, will be) legal, valid and binding obligations of the Company enforceable against the Company in accordance with their respective terms, except as such terms may be limited by laws affecting creditors' rights generally.

(f) In accordance with and as required by Section 12-44-40(G) of the Act, the Company commits to a Project which meets the minimum investment level required under the Act.

ARTICLE IV COMMENCEMENT AND COMPLETION OF THE PROJECT; MODIFICATIONS

SECTION 4.1. *The Project.*

(a) The Company has acquired, constructed and/or installed or made plans for the acquisition, construction and/or installation of certain economic development property which comprises the Project.

(b) Pursuant to the Act, the Company and the County hereby agree that the property comprising the Project shall be economic development property as defined under the Act.

(c) Notwithstanding any other provision of this Fee Agreement, the Company may place real property and/or personal property into service at any time under this Fee Agreement.

SECTION 4.2. *Diligent Completion.* The Company agrees to use its reasonable efforts to cause the acquisition, construction and installation of the Project to be completed and to achieve the anticipated investment of \$13 million at the Project. Anything contained in this Fee Agreement to the contrary notwithstanding, the Company shall not be obligated to complete the acquisition of the Project and may terminate this Agreement with respect to all or portion of the Project as set forth in Article X herein.

SECTION 4.3. *Modifications to Project.* The Company may make or cause to be made from time to time any additions, modifications or improvements to the Project that it may deem desirable for its business purposes.

ARTICLE V PAYMENTS-IN-LIEU-OF-TAXES; DISPOSITION OF PROPERTY; REPLACEMENT PROPERTY; FEE TERM

SECTION 5.1. *Payments-in-Lieu-of-Taxes.* The parties acknowledge that under Article I, Section 3 of the South Carolina Constitution, the Project is exempt from *ad valorem* property taxes. However, the Company shall be required to make the Payments-in-Lieu-of-Taxes with respect to each stage of the Project as provided in this Section 5.1. In accordance with the Act, and unless this Fee Agreement is sooner terminated, the Company shall make annual Payments-in-Lieu-of-Taxes with respect to each stage of the Project, said payments being due and payable and subject to penalty assessments in the manner prescribed by the Act. Such amounts shall be calculated and payable as follows:

(a) The Company has agreed to make annual Payments-in-Lieu-of-Taxes with respect to each stage of the Project in an amount not less than the property taxes that would be due with respect to such property, if it were taxable, but using an assessment ratio of 6.0% and a millage rate equal to the legally levied cumulative property tax millage rate applicable on June 30, 2013, which the parties understand to be 423.2 mills. Subject in all events to the provisions of the Act, the fair market value estimate determined by the DOR will be as follows:

- (i) for any real property, if real property is constructed for the fee or is purchased in an arm's length transaction, using the original income tax basis for South Carolina income tax purposes without regard to depreciation; otherwise, the fair market value must be reported at its fair market value for ad valorem property taxes as determined by appraisal; and
- (ii) for personal property, using the original tax basis for South Carolina income tax purposes less depreciation allowable for property tax purposes, except that the Company is not entitled to extraordinary obsolescence.

(b) The Payments-in-Lieu-of-Taxes must be made on the basis that the Project property, if it were otherwise subject to *ad valorem* property taxes, would be allowed all applicable exemptions from those taxes, except for the exemptions allowed under Section 3(g) of Article X of the South Carolina Constitution and Section 12-37-220(B)(32) and (34) of the Code of Laws of South Carolina, as amended.

(c) The Company shall make Payments-in-Lieu-of-Taxes for each year during the term hereof beginning with respect to the property tax year in which Project property is first placed in service. The Payments-in-Lieu-of-Taxes shall be made to the County Treasurer on the due dates which would otherwise be applicable for *ad valorem* property taxes for the Project, with the first payment being due on the first date following the delivery of this Fee Agreement when, but for this Fee Agreement, such taxes would have been paid with respect to the Project.

(d) If the Company does not achieve at least \$5 million of investment at the Project by the end of the Investment Period, then this Fee Agreement terminates and the Payments-in-Lieu-of-Taxes due on the Project are calculated, both retroactively to the Commencement Date and prospectively, as if the exemption for economic development property under the Act were not allowed. The Company shall remit to the County, within 30 days of receipt of written notice

from the County, the difference between (i) the Payments-in-Lieu-of-Taxes due on the Project as calculated under this subsection (d) and (ii) the Payments-in-Lieu-of-Taxes, previously remitted to the County.

(e) If, following the Investment Period, the Company does not maintain through the Fee Term investment at the Project which is equal to a minimum of \$5 million, then this Fee Agreement terminates and the Payments-in-Lieu-of-Taxes due on the Project are calculated, prospectively, as if the exemption for economic development property under the Act were not allowed.

(f) Any property placed in service as part of the Project during the Investment Period shall be included in the calculation of payments pursuant to paragraphs (a) and (b), above, for a period not exceeding 20 years following the year in which such property was placed in service. Replacement Property shall be included (using its income tax basis) in the calculation of payments pursuant to paragraphs (a), (b) and (c), above, but only up to the original income tax basis of property which is being disposed of in the same property tax year. More than one piece of replacement property can replace a single piece of economic development property. To the extent that the income tax basis of the Replacement Property exceeds the original income tax basis of the property which it is replacing, the portion of such property allocable to the excess amount shall be subject to annual payments calculated as if the exemption for economic development property under the Act were not allowed. Replacement Property is entitled to the fee payment pursuant to this Section 5.1 for the period of time remaining on the 20-year fee period for the property which it is replacing. Replacement Property is deemed to replace the oldest property subject to this Fee Agreement, whether real or personal, which is disposed of in the same property tax year as the Replacement Property is placed in service.

SECTION 5.2. *Disposal of Property; Replacement Property.*

(a) In any instance where the Company in its sole discretion determines that any item or items of property included in the Project have become, in whole or in part, inadequate, obsolete, worn out, unsuitable, undesirable or unnecessary, the Company may remove such item (or such portion thereof as the Company shall determine) or items and sell, trade in, exchange or otherwise dispose of it or them (as a whole or in part) without any responsibility or accountability to the County therefor. The loss or removal from the Project of any property, or any portion thereof, as a result of fire or other casualty or by virtue of the exercise or threat of the power of condemnation or eminent domain shall be deemed to be a disposal of such property, or portion thereof, pursuant to this Section 5.2. Subject to the provisions of Section 5.1(d) and this Section 5.2 with respect to Replacement Property, the Payments-in-Lieu-of-Taxes required by Section 5 hereof shall be reduced by the amount thereof applicable to any property included in the Project, or part thereof, disposed of, or deemed disposed of, pursuant to this Section 5.2.

(b) The Company may, in its sole discretion, replace, renew or acquire and/or install other property in substitution for, any or all property or portions thereof disposed of, or deemed disposed of, pursuant to Section 5.2(a) hereof. Any such property may, but need not, serve the same function, or be of the same utility or value, as the property being replaced. Absent a

written election to the contrary made at the time of filing the first property tax return that would apply to such property, such property shall be treated as Replacement Property.

SECTION 5.3. *Fee Term.* With respect to each Stage of the Project, the applicable term of this Fee Agreement shall be from the first day of the property tax year after the property tax year in which such Stage is placed in service through the last day of the property tax year which is the nineteenth year following the first property tax year in which such Stage is placed in service; provided, that the maximum term of this Fee Agreement shall not be more than 20 years from the end of the last year of the Investment Period or such longer period of time as shall be legally required or permitted under the Act. This Fee Agreement shall terminate with respect to the Project or any Stage or part thereof upon the earlier to occur of (a) payment of the final installment of Payments-in-Lieu-of-Taxes pursuant to Section 5.1 hereof, (b) termination under a provision of this Fee Agreement or (c) exercise by the Company of its option to terminate pursuant to Section 10.1 hereof.

ARTICLE VI PROPERTY TAX EXEMPTION AND ABATEMENT

SECTION 6.1. *Protection of Tax Exempt Status of the Project.* In order to insure that the Project is not and will not become subject to *ad valorem* property taxes under the laws of the State of South Carolina or any political subdivision thereof, the County and the Company covenant that:

(a) all right and privileges granted to either party under this Fee Agreement or any other Documents shall be exercised so that if any conflict between this Section and any other provision in any document shall arise, then in that case, this Section shall control;

(b) the County and the Company have not committed or permitted and will not knowingly commit or permit (as to any act over which either has control) any act which would cause the Project to be subject to *ad valorem* property taxes by the County or political subdivision of the State of South Carolina in which any part of the Project is located; and

(c) the Company will maintain the identity of the Project as a "project" in accordance with the Act.

SECTION 6.2. *Rescission and Reversion in the Event of Termination.* In the event it shall be determined by a court of competent jurisdiction that the Project or any portion thereof are subject to State, County, or other local property taxes, then, at the option of the Company, the provisions of Section 11.4 hereof shall apply, either to the Project as a whole or to such portion thereof as the Company may elect.

ARTICLE VII EFFECTIVE DATE

SECTION 7.1. *Effective Date.* This Fee Agreement shall become effective as of the date first written above.

ARTICLE VIII SPECIAL COVENANTS

SECTION 8.1. *Confidentiality/Limitation on Access to Project.* The County acknowledges and understands that the Company utilizes confidential and proprietary processes and materials, services, equipment, trade secrets and techniques and that any disclosure of any information relating to such processes and materials, services, equipment, trade secrets or techniques, including but not limited to disclosures of financial, sales or other information concerning the Company's operations would result in substantial harm to the Company and could thereby have a significant detrimental impact on the Company's employees and also upon the County. Therefore, the County agrees that, except as required by law, neither the County nor any employee, agent or contractor of the County: (i) shall request or be entitled to receive any such confidential or proprietary information; (ii) shall request or be entitled to inspect the Project or any property associated therewith; or (iii) shall disclose or otherwise divulge any such confidential or proprietary information to any other person, firm, governmental body or agency, or any other entity unless specifically required to do so by State law; provided, however, that the County shall have no less rights concerning information relating to the Project and the Company than concerning any other property or property taxpayer in the County. Prior to disclosing any confidential or proprietary information or allowing inspections of the Project or any property associated therewith, subject to the requirements of law, the Company may require the execution of reasonable, individual, confidentiality and non-disclosure agreements by any officers, employees or agents of the County or any supporting or cooperating governmental agencies who would gather, receive or review such information or conduct or review the results of any inspections. In the event that the County is required to disclose any confidential or proprietary information obtained from the Company to any third party, the County agrees to provide the Company with maximum possible advance notice of such requirement before making such disclosure, and to reasonably cooperate with any attempts by the Company to obtain judicial or other relief from such disclosure requirement.

SECTION 8.2. *Indemnification Covenants.*

(a) The Company shall and agrees to hold the County and its county council members, officers, agents and employees harmless from all pecuniary liability in connection with those reasons set forth in (i), (ii) or (iii) of Section 8.2(b) (including any claim for damage to property or any injury or death of any person occurring in connection with the planning, design, acquisition and carrying out of the Project) and to reimburse them for all reasonable expenses to which any of them might be put in the fulfillment of their obligations under this Fee Agreement in the implementation of its terms and provisions.

(b) Notwithstanding the fact that it is the intention of the parties that neither the County nor any of its county council members, officers, agents and employees shall incur any pecuniary liability to any third-party (i) by reason of the terms of this Fee Agreement or the undertakings of

the County required hereunder, (ii) by reason of the performance of any act in connection with the entering into and performance of the transactions described in the Documents, or (iii) by reason of the condition or operation of the Project, including claims, liabilities or losses arising in connection with the violation of any statutes or regulations, if the County or any of its county council members, officers, agents or employees should incur any such pecuniary liability, then, in that event the Company shall indemnify and hold harmless the County and its county council members, officers, agents and employees against all pecuniary claims by or on behalf of any person, firm or corporation, arising out of the same, and all costs and expenses incurred in connection with any such claim, and upon notice from the County, the Company at its own expense shall defend the County and its county council members, officers, agents and employees in any such action or proceeding, except in situations that may present a legal conflict. In such case, the Company shall reimburse the County and its county council members, officers, agents and employees for all reasonable legal costs and expenses associated with the hiring of separate counsel.

(c) Notwithstanding the foregoing, the Company shall not be obligated to indemnify the County or any of its individual members, officers, agents and employees for expenses, claims, losses or damages arising from the intentional or willful misconduct or negligence of the County or any of its individual officers, agents or employees.

SECTION 8.3. *Assignment.* With the County's consent, which shall not be unreasonably withheld, any or all of the Company's interest in the Project and/or this Fee Agreement may be transferred or assigned by the Company or any assignee to any other entity; provided, however, that such approval is not required in connection with financing related transfers or any other transfers not requiring consent of the County under the Act. The County further agrees that the County Council can provide any required consent by a resolution of County Council. The County Administrator and the Clerk to County Council are hereby expressly individually and jointly authorized and directed to evidence the County's consent by timely executing such documents as the Company may reasonably request.

SECTION 8.4. *Administrative Expenses.* The Company shall reimburse the County for its reasonable costs, including attorneys' fees and costs, incurred in the negotiation and approval of this Fee Agreement, exclusive of normal County overhead, including costs and salaries related to administrative, staff employees and similar costs and fees, as they shall become due, but in no event later than the date which is the earlier of any payment date expressly provided for in this Fee Agreement or the date which is 45 days after receiving written notice from the County, accompanied by such supporting documentation as may be necessary to evidence the County's right to receive such payment, specifying the nature of such expense and requesting payment of same. The costs reimbursable under this Section are not to exceed \$5,000 in the aggregate.

SECTION 8.5. *Accountability Practices.* The Company shall timely file annually with the County Administrator the information required by County Resolution dated December 21, 2010 and attached as Exhibit B.

**ARTICLE IX
EVENTS OF DEFAULT AND REMEDIES**

SECTION 9.1. *Events of Default Defined.* The occurrence of any one or more of the following events shall be an "Event of Default" under this Fee Agreement:

(a) If the Company shall fail to make any Payment-in-Lieu-of-Taxes or any other amount required under this Fee Agreement and such failure shall continue for 30 days after receiving written notice of default from the County; or

(b) If the Company shall fail to observe or perform any covenant, condition or agreement required herein to be observed or performed by the Company (other than as referred to in Section 9.1(a) hereof), and such failure shall continue for a period of 30 days after written notice of default has been given to the Company by the County; provided if by reason of "*force majeure*" as hereinafter defined the Company is unable in whole or in part to carry out any such covenant, condition or agreement or if it takes longer than 30 days to cure such default and the Company is diligently attempting to cure such default, there shall be no Event of Default during such inability. The term "*force majeure*" as used herein shall mean circumstances not reasonably within the control of the parties, such as acts, without limitation, of God, strikes, lockouts or other industrial disturbances; war; acts of public enemies; mobilization or military conscription on a large scale; order of any kind of the government of the United States or any State, or any civil or military authority other than the County Council; insurrections; riots; landslides; earthquakes; fires; lightning; storms; droughts; floods; requisitions, confiscation, or commandeering of property; fuel restrictions; general shortages of transport, goods, or energy; or

(c) If any material representation or warranty on the part of the Company made in the Documents, or in any report, certificate, financial or other statement furnished in connection with the Documents or the transactions described in the Documents shall have been false or misleading in any material respect.

SECTION 9.2. *Remedies on Default.* Whenever any Event of Default shall have happened and be subsisting, the County may take whatever action at law or in equity may appear legally required or necessary or desirable to collect any payments then due. Subject to the following sentences of this Section, the only other remedy available to the County in such event will be to terminate this Fee Agreement. Although the parties acknowledge that the Project is exempt from *ad valorem* property taxes, the County and any other taxing entity affected thereby may, without limiting the generality of the foregoing, exercise the remedies provided by general law (Title 12, Chapter 49) and the Act relating to the enforced collection of taxes.

SECTION 9.3. *No Remedy Exclusive.* No remedy herein conferred upon or reserved to the County or Company is intended to be exclusive of any other available remedy or remedies, but in each and every instance such remedy shall be cumulative and shall be in addition to every other remedy given under the Documents or now or hereafter existing at law or in equity or by statute. Unless otherwise provided herein or in the other Documents, no delay or omission to

exercise any right or power shall be construed to be a waiver thereof, but any such right and power may be exercised from time to time and as often as may be deemed expedient.

SECTION 9.4. *No Additional Waiver Implied by One Waiver.* In the event any warranty, covenant or agreement contained in this Fee Agreement should be breached by the Company or the County and thereafter waived by the other party to this Fee Agreement, such waiver shall be limited to the particular breach so waived and shall not be deemed to waive any other breach.

**ARTICLE X
COMPANY OPTION TO TERMINATE**

SECTION 10.1. *Company Option to Terminate.* From time to time (including without limitation any time during which there may be subsisting an Event of Default) and at any time upon at least 30 days notice, the Company may terminate this Fee Agreement with respect to the entire Project or any portion thereof. Upon termination of all or part of this Fee Agreement, the Company will become liable for *ad valorem* property taxes on the Project or such portion thereof. Termination by the Company under this Section 10.1 does not reduce or eliminate any liability the Company may have as a result of an Event of Default or under Section 5.1(d) of this Fee Agreement.

**ARTICLE XI
MISCELLANEOUS**

SECTION 11.1. *Notices.* All notices, approvals, consents, requests and other communications hereunder shall be in writing and may be delivered personally, or may be sent by facsimile or certified mail, return receipt requested, to the following addresses, unless the parties are subsequently notified of any change of address in accordance with this Section 11.2:

If to the Company:

American Italian Pasta Company
c/o Dwayne Bolling
Manager, Finance
ConAgra Foods, Inc.
Property Tax Group
5645 N. 90th St., MS 90-185
Omaha, NE 68134

With a copy to:

Nelson Mullins Riley & Scarborough, LP
Attention: John C. von Lehe, Jr. or Jennifer W. Davis

151 Meeting Street, Suite 600
Charleston SC 29401
Facsimile: (843) 722-8700

If to the County:

Richland County, South Carolina
220 Hampton Street
Columbia, South Carolina 29201
Attention: County Administrator
Facsimile: (803) 576-2137

With a copy to:

Parker Poe Adams & Bernstein LLP
Attn: Ray E. Jones, Esq.
1201 Main Street, Suite 1450
Columbia, South Carolina 29201

Any notice shall be deemed to have been received as follows: (1) by personal delivery, upon receipt; (2) by facsimile, 24 hours after confirmed transmission or dispatch; and (3) by certified mail, 3 business days after delivery to the U.S. Postal authorities by the party serving notice.

SECTION 11.2. *Binding Effect.* This Fee Agreement shall inure to the benefit of and shall be binding upon the County and the Company and their respective successors and assigns.

SECTION 11.3. *Rescission and Severability.* In the event that the Act or the Payments-in-Lieu-of-Taxes arrangement described in Section 5.1 hereof is determined to be invalid in its entirety, the parties hereby agree that except as the final judicial decision may otherwise require, the Company shall be entitled to retain any benefits received under or pursuant to this Fee Agreement; otherwise, in the event any provision of this Fee Agreement shall be held invalid or unenforceable by any court of competent jurisdiction, that decision shall not invalidate or render unenforceable any other provision of this Fee Agreement, unless that decision destroys the basis for the transaction, in which event the parties shall in good faith attempt to preserve, to the maximum extent possible, the benefits provided and to be provided to the Company hereunder by either restructuring or reconstituting this Fee Agreement under any then applicable law, including but not limited to Chapter 20 of Title 4 and Chapter 12 of Title 4, Code of Laws of South Carolina, as amended.

SECTION 11.4. *Payments Due on Saturday, Sunday and Holidays.* Whenever any payment to be made hereunder shall be stated to be due on a Saturday, a Sunday or a holiday, such payment shall be made on the next business day.

SECTION 11.5. *Fiscal Year; Property Tax Year.* If the Company's fiscal year changes in the future so as to cause a change in the Company's property tax year, the timing of the requirements set forth in Section 3.2 of this Fee Agreement shall be revised accordingly.

SECTION 11.6. *Amendments, Changes and Modifications.* Except as otherwise provided in this Fee Agreement, this Fee Agreement may not be amended, changed, modified, altered or terminated without the written consent of the County and the Company. To the maximum extent allowed by law, any such County consent may be provided by a resolution of County Council.

SECTION 11.7. *Execution of Counterparts.* This Fee Agreement may be executed in several counterparts, only one of which shall be an original for Uniform Commercial Code perfection purposes; provided, however, that any action may be brought upon any counterpart of this Fee Agreement or any counterpart of any document that is attached to this Fee Agreement as an exhibit.

SECTION 11.8. *Law Governing Construction of Fee Agreement.* The laws of the State of South Carolina shall govern the construction of this Fee Agreement.

SECTION 11.9. *Filings.* Whenever the County shall be required to file or produce any reports, notices or other documents during the Fee Term, the Company shall in due time furnish to the County the completed form of such report, notice or other required documents together with a certification by the Company that such document is accurate.

SECTION 11.10. *Headings.* The headings of the articles and sections of this Fee Agreement are inserted for convenience only and shall not be deemed to constitute a part of this Fee Agreement.

SECTION 11.11. *Further Assurance.* From time to time the County agrees to execute and deliver to the Company such additional instruments as the Company may reasonably request to effectuate the purposes of this Fee Agreement.

IN WITNESS WHEREOF, RICHLAND COUNTY, SOUTH CAROLINA, and AMERICAN ITALIAN PASTA COMPANY, pursuant to due authority, have duly executed this Fee Agreement, all as of the date first above written.

RICHLAND COUNTY, SOUTH CAROLINA

Chair, Richland County Council

ATTEST:

Clerk to County Council

AMERICAN ITALIAN PASTA COMPANY

By: _____
Name: _____
Title: _____

EXHIBIT A

DESCRIPTION OF LAND

All that certain piece, parcel or lot of land, containing 60.00 acres with any improvements thereon, situate, lying and being in the County of Richland, State of South Carolina, being shown and designated as Parcel "B" on a plat for American Italian Pasta Company by B.P. Barber & Associates, Inc. dated September 20, 1994, recorded October 7, 1994 in Plat Book 55, page 4834, and according to said plat, having the following metes and bounds, to-wit:

BEGINNING at an iron located on the northwestern edge of the right-of-way of Longwood Road (S-40-960) at its point of intersection with the right-of-way of Southern Railroad and running North 47°11'11" West for a distance of 1,793.53 feet to an iron; thence turning and running North 47°27'17" West for a distance of 684.17 feet to an iron; thence turning and running North 47°45'51" West for a distance of 147.72 feet to an iron, this being the POINT OF BEGINNING; thence turning and running North 47°45'51" West for a distance of 1,529.99 feet to an iron; thence turning and running North 34°53'15" East for a distance of 242.74 feet to an iron; thence turning and running North 48°03'08" East for a distance of 1,393.39 feet to an iron; thence turning and running South 54°20'32" East for a distance of 1,490.71 feet to an iron; thence turning and running South 44°11'17" West for a distance of 1,801.77 feet to the POINT OF BEGINNING be all measurements a little more or less.

This being the same property heretofore conveyed to American Italian Pasta Company, a Corporation by deed of Garners Ferry Development Company, a co-partnership dated October 7, 1994 and also recorded October 7, 1994 in Record Book 1223, at page 398.

TMS: 19000-05-03, 04, 09 AND 10

EXHIBIT B
ACCOUNTABILITY PRACTICES RESOLUTION

Richland County Council Request of Action

Subject

Authorizing an Amendment to the 2003 Fee in Lieu of Ad Valorem taxes arrangement by and between Richland County, South Carolina and American Italian Pasta Company to provide an Infrastructure Credit; and other matters related thereto **[PAGES 164-171]**

Notes

First Reading: April 15, 2014

Second Reading:

Third Reading:

Public Hearing:

STATE OF SOUTH CAROLINA
COUNTY COUNCIL FOR RICHLAND COUNTY
ORDINANCE NO. _____

**AUTHORIZING AN AMENDMENT TO THE 2003 FEE IN LIEU
OF *AD VALOREM* TAXES ARRANGEMENT BY AND BETWEEN
RICHLAND COUNTY, SOUTH CAROLINA AND AMERICAN
ITALIAN PASTA COMPANY TO PROVIDE AN
INFRASTRUCTURE CREDIT; AND OTHER MATTERS
RELATED THERETO.**

WHEREAS, Richland County, South Carolina (“County”), acting by and through its County Council (“County Council”) is authorized and empowered under and pursuant to the provisions of Title 12, Chapter 44, Code of Laws of South Carolina, 1976, as amended (“Fee Act”), (i) to enter into agreements with qualifying industry to encourage investment in projects constituting economic development property through which the industrial development of the State of South Carolina (“State”) will be promoted by inducing new and existing manufacturing and commercial enterprises to locate and remain in the State and thus utilize and employ manpower and other resources of the State; and (ii) to covenant with such industry to accept certain fee payments in lieu of *ad valorem* taxes with respect to such investment;

WHEREAS, pursuant to Title 4, Section 1, Code of Laws of South Carolina, 1976, as amended (“MCIP Act”), the County is authorized (i) to develop multi-county industrial parks in partnership with counties having contiguous borders with the County, (ii) to include within the boundaries of such parks the property of eligible companies; and (iii) to grant credits (“Infrastructure Credits”) in order to assist a company located in a multi-county industrial park in paying the cost of designing, acquiring, constructing, improving, or expanding (A) the infrastructure serving the County or the property of a company located within such multi-county industrial parks or (B) improved or unimproved real estate and personal property used in the operation of a manufacturing enterprise located within such multi-county industrial park in order to enhance the economic development of the County (collectively, “Infrastructure”);

WHEREAS, pursuant to the Fee Act, the County entered into a Fee Agreement dated as of December 1, 2003 (“Fee Agreement”), with American Italian Pasta Company (“Company”) pursuant to which (i) the Company invested at least \$10 million in the County to expand the Company’s existing manufacturing facility in the County (“Project”) and (ii) the County granted fee-in-lieu of *ad valorem* (“FILOT”) benefits with respect to the Project;

WHEREAS, pursuant to the MCIP Act, the County jointly developed with Fairfield County, South Carolina the I-77 Corridor Regional Industrial Park (“Park”) and the County has previously located the Project in the Park;

WHEREAS, the Company has made and continues to make substantial investment in connection with its manufacturing facility in the County;

WHEREAS, the County wishes to induce the Company to continue to invest in the County and, to assist the Company in paying the cost of certain Infrastructure at the Project, the County desires to grant the Company Infrastructure Credits against the FILOT payments due with respect to the Project;

WHEREAS, as authorized by Section 12-44-40(K) of the Act and Section 11.7 of the Fee Agreement, the Company and the County desire to amend the Fee Agreement to provide the terms and conditions of the Infrastructure Credits;

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

Section 1. *Statutory Findings.* The County determines that the grant of the Infrastructure Credits (i) directly and substantially benefits the general public welfare of the County by inducing the Company to make further investments in the County, thereby increasing the *ad valorem* tax base of the County, and service, employment or other public benefits not otherwise provided locally; and (ii) gives rise to no pecuniary liability of the County or incorporated municipality or a charge against the general credit or taxing power of either. The County further determines that the purposes to be accomplished by the Incentives, i.e., economic development, creation of jobs, and addition to the tax base of the County, are proper governmental and public purposes and the inducement of continued utilization of and growth at the Project which is located in the County and State are of paramount importance and the benefits of the Project will be greater than the costs of the Infrastructure Credit.

Section 2. *Authorization of Infrastructure Credits; Authorization to Execute and Deliver Amendment to Fee Agreement.* The County approves the grant of Infrastructure Credits to the Company. The Chairman of County Council (“Chairman”) is authorized and directed to execute the First Amendment to Fee Agreement, which is in substantially final form as attached as Exhibit A, in the name of and on behalf of the County, subject to any revisions as are not materially adverse to the County and approved by the County’s Director of Economic Development on receipt of advice from counsel to the County, and the Clerk to Council is hereby authorized and directed to attest the Amendment; and the Chairman is hereby further authorized and directed to deliver the Amendment to the Company.

Section 3. *Further Assurances.* The County Administrator is hereby authorized and directed to take whatever further action and execute whatever further documents as may be necessary or appropriate to effect the intent of this Ordinance.

Section 4. *Severability.* If any portion of this Ordinance is deemed unlawful, unconstitutional or otherwise invalid, the validity and binding effect of the remaining portions shall not be affected thereby.

Section 5. *General Repealer.* All ordinances, resolutions, and parts thereof in conflict herewith are, to the extent of such conflict, hereby repealed.

This Ordinance takes effect and is in full force only after the County Council has approved it following three readings and a public hearing.

RICHLAND COUNTY, SOUTH CAROLINA

Norman Jackson, Chair
Richland County Council

(SEAL)
ATTEST:

Michelle Onley, Clerk to Council
Richland County Council

READINGS:

First Reading: April 15, 2014
Second Reading:
Third Reading:
Public Hearing:

EXHIBIT A
AMENDMENT TO FEE AGREEMENT

FIRST AMENDMENT TO FEE AGREEMENT

This FIRST AMENDMENT TO FEE AGREEMENT (“Amendment”) effective as of May, [], 2014, is by and between Richland County, South Carolina (“County”), a body politic and corporate and a political subdivision of the State of South Carolina, and American Italian Pasta Company, a corporation organized and existing under the laws of the State of South Carolina (“Company”). All capitalized terms not specifically defined herein shall have the meaning as defined in the Fee Agreement (as that term is defined below).

RECITALS

WHEREAS, the County, acting by and through its County Council (“County Council”) is authorized and empowered under and pursuant to the provisions of Title 12, Chapter 44, Code of Laws of South Carolina, 1976, as amended (“Fee Act”), (i) to enter into agreements with qualifying industry to encourage investment in projects constituting economic development property through which the industrial development of the State of South Carolina (“State”) will be promoted by inducing new and existing manufacturing and commercial enterprises to locate and remain in the State and thus utilize and employ manpower and other resources of the State; and (ii) to covenant with such industry to accept certain fee payments in lieu of *ad valorem* taxes with respect to such investment;

WHEREAS, pursuant to Title 4, Section 1, Code of Laws of South Carolina, 1976, as amended (“MCIP Act”), the County is authorized (i) to develop multi-county industrial parks in partnership with counties having contiguous borders with the County, (ii) to include within the boundaries of such parks the property of eligible companies; and (iii) to grant credits (“Infrastructure Credits”) in order to assist a company located in a multi-county industrial park in paying the cost of designing, acquiring, constructing, improving, or expanding (A) the infrastructure serving the County or the property of a company located within such multi-county industrial parks or (B) improved or unimproved real estate and personal property used in the operation of a manufacturing enterprise located within such multi-county industrial park in order to enhance the economic development of the County (“Infrastructure”);

WHEREAS, pursuant to the Fee Act, the County entered into a Fee Agreement dated as of December 1, 2003 (“Fee Agreement”), with American Italian Pasta Company (“Company”) pursuant to which (i) the Company invested at least \$10 million in the County to expand the Company’s existing manufacturing facility in the County (“Project”), and (ii) the County granted fee-in-lieu of *ad valorem* (“FILOT”) benefits with respect to the Project;

WHEREAS, pursuant to the MCIP Act, the County jointly developed with Fairfield County, South Carolina the I-77 Corridor Regional Industrial Park (“Park”) and the County has previously located the Project in the Park;

WHEREAS, the Company has made and continues to make substantial investment in connection with its manufacturing facility in the County;

WHEREAS, the County wishes to induce the Company to continue to invest in the County and, to assist the Company in paying the cost of certain Infrastructure at the Project, the County, by Ordinance No. [], dated May 20, 2014, authorized the grant of Infrastructure Credits to the Company against the FILOT payments due with respect to the Project;

WHEREAS, as authorized by Section 12-44-40(K) of the Act and Section 11.7 of the Fee Agreement, the Company and the County desire to amend the Fee Agreement to provide the terms and conditions of the Infrastructure Credits;

NOW, THEREFORE, in consideration of the mutual covenants contained herein and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the County and the Company agree as follows:

1. Amendment to Fee Agreement. Section 5.1 of the Fee Agreement is amended by inserting the following as subsection (e):

(e) To assist the Company in paying for the cost of certain Infrastructure serving the Project, the County shall grant an Infrastructure Credit against the Company's Payments-in-Lieu-of-Taxes with respect to the Project for property tax year 2014 (for which payment is anticipated to be due in January of 2015). The Infrastructure Credit is equal to the amount of the deficiency payment, as certified by the South Carolina Department of Revenue, that is due for property tax years [2012 and 2013] with respect to the Company's real and personal property invested by the Company in calendar years [2009 through 2012] and located at the Project but not subject to the Fee Agreement. The amount of the Infrastructure Credit shall not exceed [\$].

2. Remainder of Agreement. Except as described in this Amendment's section 1, the Fee Agreement remains unchanged and in full force.

3. Covenant Not to Seek Refund. The Company covenants not to seek a refund from the County for any over payment of *ad valorem* property taxes or fees-in-lieu of *ad valorem* property taxes on certain real estate, identified by TMS Nos. 19000-05-04, 19000-05-09 and 19000-05-10, for property tax years 2003 through and including 2013.

4. Severability. If a court of competent jurisdiction holds that any term, provision, or any portion of this Amendment is invalid or unenforceable, the remainder of this Amendment is not affected and remains in full force and effect, and each term and provision of this Amendment is valid and enforceable to the fullest extent permitted by the law.

5. Governance. This Agreement is governed by and construed in accordance with the laws of the State.

6. Multiple Counterparts. This Agreement may be executed in multiple counterparts, each of which is an original but all of which constitute but one and the same instrument.

7. Amendments. This Agreement may be amended, or the rights and interest of the parties hereunder surrendered, only by a writing signed by both parties.

IN WITNESS WHEREOF, the County has executed this First Amendment to Fee Agreement by causing its name to be hereunto subscribed by the Chairman of the County Council for the County and attested by the Clerk to the County Council, and the Company has executed this First Amendment to Fee Agreement by causing its corporate name to be hereunto subscribed by its authorized representative, all being done as of the day and year first written above.

RICHLAND COUNTY, SOUTH CAROLINA

By: _____
Norman Jackson, Chairman
Richland County Council

(SEAL)

ATTEST:

By: _____
Michele Onley, Clerk to County Council of
Richland County, South Carolina

AMERICAN ITALIAN PASTA COMPANY

By: _____
Name: _____
Its: _____

Richland County Council Request of Action

Subject

Authorizing the Conversion and Extension of a 1995 Fee in Lieu of Ad Valorem Taxes arrangement by and between Richland County, South Carolina and American Italian Pasta Company; and other matters related thereto **[PAGES 172-205]**

Notes

First Reading: April 15, 2014

Second Reading:

Third Reading:

Public Hearing:

STATE OF SOUTH CAROLINA
COUNTY COUNCIL FOR RICHLAND COUNTY
ORDINANCE NO. _____

**AUTHORIZING THE CONVERSION AND EXTENSION OF A
1995 FEE IN LIEU OF *AD VALOREM* TAXES ARRANGEMENT
BY AND BETWEEN RICHLAND COUNTY, SOUTH CAROLINA
AND AMERICAN ITALIAN PASTA COMPANY; AND OTHER
MATTERS RELATED THERETO.**

WHEREAS, Richland County, South Carolina (“County”), acting by and through its County Council (“County Council”), as authorized and empowered under the provisions of Title 4, Chapter 29, Code of Laws of South Carolina, 1976, as amended (“Original Fee Act”), entered into a Lease Agreement with American Italian Pasta Company (“Company”), dated as of December 29, 1995, as corrected by the Corrective Lease Agreement dated as of December 29, 1995, (collectively, “1995 Lease”), pursuant to which (i) the Company invested in excess of \$30,000,000 in real and personal property in the County for the purpose of acquiring and constructing a manufacturing facility in the County (“Project”) and (ii) the County provided the Company with fee-in-lieu of *ad valorem* taxes (“FILOT”) benefits with respect to the Project (“Original Fee”);

WHEREAS, FILOT arrangements entered into pursuant to the Original Fee Act required that a county hold title to all of the assets subject to FILOT;

WHEREAS, title transfer FILOT arrangements under the Original Fee Act proved difficult to administer and can create business difficulties for companies seeking to grant security interests in assets subject to title transfer FILOT arrangements;

WHEREAS, the General Assembly, recognizing such difficulties, passed a new FILOT act, Title 12, Chapter 44, Code of Laws of South Carolina 1976, as amended (“Simplified Fee Act”) in 1997 that permits the granting of FILOT benefits without the need for a county to hold title to all of the assets subject to a FILOT arrangement;

WHEREAS, under Section 12-44-170 of the Simplified Fee Act, a company with an existing FILOT arrangement entered into pursuant to the Original Fee Act, is permitted, under certain conditions, to “convert” from an original title transfer FILOT arrangement to a non-title transfer FILOT arrangement;

WHEREAS, as provided under Section 12-44-170 under the Simplified Fee Act, the Company desires to and has elected to transfer the Project from the Original Fee to a FILOT arrangement under the Simple Fee Act (“Conversion”) subject to the following conditions: (i) a continuation of the same fee payments required under the 1995 Lease; (ii) a continuation of the same fee in lieu of tax payments only for the time required for payments under the 1995 Lease; (iii) a carryover of minimum investment or employment requirements of the Original Fee to the new FILOT; and (iv) the entering into of appropriate agreements and amendments between the Company and the County continuing the provisions and limitations of the 1995 Lease;

WHEREAS, pursuant to section 12-44-30(21) of the Simplified Fee Act, a company may apply to the applicable county prior to the expiration of the FILOT arrangement for an extension of the term of the FILOT arrangement for up to ten years and the applicable county council may approve the requested extension by resolution on a finding of substantial public benefit;

WHEREAS, because the FILOT arrangement between the County and the Company has not yet expired, the Company further desires to and has applied to the County for an extension of the term of its FILOT arrangement with the County for ten years; and

WHEREAS, the Company requests the County (i) consent to the Conversion, (ii) approve the extension of the term of its FILOT arrangement, and (iii) execute a simplified fee agreement, the substantially final form of which is attached as Exhibit A (“Agreement”), to (A) achieve the Conversion, (B) cancel, terminate or amend certain documents and financing transactions by and between the Company and the County relating to the Original Fee, including the 1995 Lease; and (C) extend the term of the FILOT arrangement.

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

Section 1. *Consent to Conversion; Authorization to Execute and Deliver Agreement.* The County approves the Conversion and the appropriate cancellation, termination or amendment of any documents, including the 1995 Lease, or financing transactions relating to the Original Fee as may be appropriate to effect the Transfer. The Chairman of County Council, or the Vice-Chairman in the absence of the Chairman, are authorized and directed to execute the Agreement in the name of and on behalf of the County, subject to any revisions as are not materially adverse to the County as may be approved by the Chairman on receipt of advice from counsel to the County, and the Clerk to Council is hereby authorized and directed to attest the Agreement; and the Chairman is hereby further authorized and directed to deliver the Amendment to the Company.

Section 2. *Approval of Extension.* Based on representations by the Company to the County, the County finds that the substantial investment by the Company in the County and the potential for additional investment by the Company in the future provides a substantial public benefit and the County hereby approves the extension of the FILOT arrangement between the County and Company for ten years.

Section 3. *Further Assurances.* The Chairman and the County Administrator are hereby authorized and directed to take whatever further action and execute whatever further documents as may be necessary or appropriate to effect the intent of this Ordinance.

Section 4. *Severability.* If any portion of this Ordinance is deemed unlawful, unconstitutional or otherwise invalid, the validity and binding effect of the remaining portions shall not be affected thereby.

Section 5. *General Repealer.* All ordinances, resolutions, and parts thereof in conflict herewith are, to the extent of such conflict, hereby repealed.

This Ordinance takes effect and is in full force only after the County Council has approved it following three readings and a public hearing.

RICHLAND COUNTY, SOUTH CAROLINA

Norman Jackson, Chair
Richland County Council

(SEAL)
ATTEST:

Michelle Onley, Clerk to Council
Richland County Council

READINGS:

First Reading: April 15, 2014
Second Reading:
Third Reading:
Public Hearing:

EXHIBIT A
FORM OF
SIMPLIFIED FEE AGREEMENT

CONVERSION AND FEE-IN-LIEU OF *AD VALOREM* TAXES AGREEMENT

CONVERTING AND TRANSFERRING THE PROPERTY SUBJECT TO AN EXISTING FEE-IN-LIEU OF PROPERTY TAXES ARRANGEMENT UNDER TITLE 4, CHAPTER 29 OF THE SOUTH CAROLINA CODE, 1976 AS AMENDED TO A FEE-IN-LIEU OF PROPERTY TAXES ARRANGEMENT UNDER TITLE 12, CHAPTER 44, OF THE SOUTH CAROLINA CODE, AS AMENDED

BETWEEN

RICHLAND COUNTY, SOUTH CAROLINA

AND

AMERICAN ITALIAN PASTA COMPANY

DATED AS OF MAY [], 2014

PREPARED BY:

**PARKER POE ADAMS & BERNSTEIN LLP
1201 MAIN STREET, SUITE 1450 (29201)
POST OFFICE BOX 1509
COLUMBIA, SOUTH CAROLINA 29202-1509
(803) 255-8000**

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CONVERSION AND FEE-IN-LIEU OF *AD VALOREM* TAXES AGREEMENT

This CONVERSION AND FEE-IN-LIEU OF *AD VALOREM* TAXES AGREEMENT (“Fee Agreement”) is effective as of May [], 2014, by and between Richland County, South Carolina (“County”), a body politic and corporate and a political subdivision of the State of South Carolina (“State”), acting by and through the Richland County Council (“County Council”) as the governing body of the County, and American Italian Pasta Company, a corporation duly organized and existing under the laws of the State of Delaware (“Company,” together with the County, “Parties,” each, a “Party”).

WITNESSETH:

(a) The County and pursuant to the provisions of Title 4, Chapter 29 Code of Laws of South Carolina, 1976, as amended (“Original Fee Act”), and Title 12, Chapter 44 Code of Laws of South Carolina, 1976, as amended (“Simple Fee Act”) (i) to enter into fee-in-lieu of *ad valorem* taxes (“FILOT”) arrangements with qualifying industry to encourage investment in projects constituting economic development property through which the industrial development of the State of South Carolina will be promoted by inducing new and existing manufacturing and commercial enterprises to locate and remain in the State and thus utilize and employ manpower and other resources of the State; and (ii) to covenant with such industry to accept certain FILOT payments with respect to such investment;

(b) Pursuant to the Original Fee Act, the County entered into a Lease Agreement with the Company, dated as of December 29, 1995, as corrected by the Corrective Lease Agreement dated as of December 29, 1995, (collectively, “1995 Lease”), pursuant to which (i) the Company invested in excess of \$30,000,000 in real and personal property in the County for the purpose of acquiring and constructing a manufacturing facility in the County, and (ii) the County provided the Company FILOT benefits with respect to the Project, as defined below (“Original Fee”);

(c) The Original Fee arrangement entered into pursuant to the Original Fee Act required that the County hold title to all of the Project assets subject to the FILOT incentive;

(d) Under the Simple Fee Act, the County may provide FILOT incentives with respect to the Project without the need for the County to hold title to the Project assets subject to the FILOT incentive;

(e) Because the Company has an existing FILOT arrangement with the County, Section 12-44-170 of the Simple Fee Act permits the Company to “convert” from a title transfer FILOT arrangement under the Original Fee Act to a non-title transfer FILOT arrangement under the Simple Fee Act;

(f) The Company elected to transfer the Project from the Original Fee to a FILOT arrangement under the Simple Fee Act (“Conversion”) subject to the following conditions: (i) a continuation of the same fee payments required under the 1995 Lease; (ii) a continuation of the same fee in lieu of tax payments only for the time required for payments under the 1995 Lease; (iii) a carryover of minimum investment or employment requirements of the Original Fee to the FILOT arrangement under the Simple Fee Act; and (iv) the entering into of this Fee Agreement which continues the provisions and limitations of the 1995 Lease;

(g) The County, by Ordinance No. [], dated May [], 2014 (“Fee Ordinance”), consented to the Conversion and authorized to the execution of this Fee Agreement with the Company to (i) achieve the Conversion, and (ii) cancel, terminate or amend certain documents and financing transactions by and between the Company and the County relating to the Original Fee, including the 1995 Lease;

(h) Pursuant to section 12-44-30(21) of the Simple Fee Act, because the Company's FILOT arrangement with the County had not expired, the Company applied to the County for an extension of the term of the FILOT arrangement for ten years; and

(i) Based on representations by the Company, the County, by the Fee Ordinance, (i) determined that, because of the substantial investment by the Company in the County and the potential for additional investment by the Company in the County in the future, the extension of the Company's FILOT arrangement provides a substantial public benefit, and (ii) authorized the execution of this Fee Agreement to extend the Company's FILOT arrangement for ten years.

NOW, THEREFORE, AND IN CONSIDERATION of the respective representations and agreements hereinafter contained, the parties hereto agree as follows, with the understanding that no obligation of the County described herein shall create a pecuniary liability or charge upon its general credit or taxing powers, but shall be payable solely out of the sources of payment described herein and shall not under any circumstances be deemed to constitute a general obligation to the County:

ARTICLE I DEFINITIONS

Section 1.1. Terms. The terms defined in this Article shall for all purposes of this Fee Agreement have the meaning herein specified, unless the context clearly requires otherwise.

“Bonds” means the Richland County, South Carolina, Industrial Development Revenue Bonds (American Italian Pasta Company Project) Series 1995.

“Chairman” shall mean the Chairman of County Council.

“Clerk of County Council” shall mean the Clerk to County Council.

“Code” shall mean the Code of Laws of South Carolina, 1976, as amended.

“County Administrator” shall mean the County Administrator of the County.

“Diminution of Value” in respect of any Phase of the Project shall mean any reduction in the value based on original fair market value as determined in Step 1 of Section 3.1(a) of this Fee Agreement, of the items which constitute a part of the Phase which may be caused by (i) the Company's removal of equipment pursuant to Section 3.6 of this Fee Agreement, (ii) a casualty to the Phase of the Project, or any part thereof, described in Section 3.7 of this Fee Agreement or (iii) a condemnation to the Phase of the Project, or any part thereof, described in Section 3.8 of this Fee Agreement.

“Economic Development Property” shall mean all items of real and tangible personal property comprising the Project which are eligible for inclusion as economic development property under Section 12-44-170(B) of the Simple Fee Act, and which are identified by the Company in connection with their annual filing of a SCDOR PT-300 or comparable forms with the South Carolina Department of Revenue and Taxation (as such filing may be amended from time to time) for each year within the Investment Period. Title to all Economic Development Property shall at all times remain vested in the Company, as the case may be, except as maybe necessary to take advantage of the effect of section 12-44-160.

“Equipment” shall mean all of the machinery, equipment, furniture and fixtures, together with any and all additions, accessions, replacements and substitutions thereto or therefore acquired by the Sponsor during the Investment Period.

“Event of Default” shall mean any Event of Default specified in Section 3.13 of this Fee Agreement.

“Facilities” means the Project and any non-FILOT assets to which the County holds title pursuant to the Original Fee.

“Fee Payment” means the payments in lieu of taxes which the Company is obligated to pay to the County pursuant to this Fee Agreement.

“Fee Term” or “Term” shall mean the period from the date of delivery of this Fee Agreement until the last Phase Termination Date unless sooner terminated.

“Improvements” means improvements, together with any and all additions, accessions, replacements and substitutions thereto acquired by the Company during the Investment Period.

“Inducement Agreement” shall mean that certain Inducement Agreement executed between the County and the Company dated December 29, 1994, as amended, supplemented or corrected.

“Inducement Resolution” shall mean that certain resolution adopted by the County Council on September 6, 1994.

“Investment Period” shall mean the period commencing 60 days prior to the date of the Inducement Resolution and ending on December 21, 2000, the date reflected in the 1995 Lease as the termination date of the “Project Acquisition Period”(as such term is defined in the 1995 Lease.)

“Phase” or “Phases” in respect of the Project shall mean for each year of the Investment Period the Equipment, Improvements and Real Property, if any, placed in service during such year.

“Phase Termination Date” shall mean with respect to each Phase of the Project the day 30 years after the last day of the property tax year in which each such Phase of the Project became subject to the terms of the Original Fee. Anything contained herein to the contrary notwithstanding, the last Phase Termination Date shall be December 31, 2030. The Phase Termination Date includes an extension applied for by the Company and authorized by the County under Section 12-44-30(21) following the Conversion.

“Project” shall mean the Equipment, Improvements, and Real Property, together with the acquisition, construction, installation, design and engineering thereof, in phases.

“Real Property” shall mean real property, together with all and singular the rights, members, hereditaments and appurtenances belonging or in any way incident or appertaining thereto acquired or constructed by the Company during the Investment Period.

“Removed Components” shall mean the following types of components or Phases of the Project or portions thereof, all of which the Company shall be entitled to remove from the Project with the result that the same shall no longer be subject to the terms of the Fee Agreement: (a) components or Phases of the Project or portions thereof which the Company, in its sole discretion, determines to be inadequate, obsolete, worn-out, uneconomic, damaged, unsuitable, undesirable or unnecessary; or (b) components or

Phases of the Project or portions thereof which the Company in its sole discretion, elects to remove pursuant to Section 3.7(c) or Section 3.8(b)(iii) of this Fee Agreement.

“Replacement Property” shall mean any property which is placed in service as a replacement for any item of Equipment which is scrapped or sold by the Company and treated as a Removed Component under Section 3.6 hereof regardless of whether such property serves the same function as the property it is replacing and regardless of whether more than one piece of property replaces any item of Equipment or any Improvement.

Any reference to any agreement or document in this Article I or otherwise in this Fee Agreement shall be deemed to include any and all amendments, supplements, addenda, and modifications to such agreement or document.

ARTICLE II REPRESENTATIONS AND WARRANTIES

Section 2.1. *Representations of the County.* The County hereby represents and warrants to the Company as follows:

(a) The County is a body politic and corporate and a political subdivision of the State which acts through the County Council as its governing body and by the provisions of the Simple Fee Act is authorized and empowered to enter into the transactions contemplated by this Fee Agreement and to carry out its obligations hereunder. The County has duly authorized the execution and delivery of this Fee Agreement and any and all other agreements described herein or therein.

(b) By due corporate action, the County has agreed that, subject to compliance with applicable laws, the items of real and tangible personal property comprising the Project subject to the FILOT arrangement provided in the 1995 Lease shall be considered Economic Development Property under the Simple Fee Act.

(c) In order to maintain the FILOT benefits the Company presently enjoys with respect to the Project, the County approves the transfer of the Project to this Fee Agreement pursuant to the terms of Section 12-44-170 of the Simple Fee Act.

Section 2.2. *Representations of the Company.* The Company hereby represents and warrants to the County as follows:

(a) The Company is duly organized and in good standing under the laws of the State of Delaware, is qualified to do business in the State of South Carolina, and has power to enter into this Fee Agreement.

(b) The Company’s execution and delivery of this Fee Agreement and its compliance with the provisions hereof will not result in a material default, not waived or cured, under any material company restriction or any material agreement or instrument to which the Company is now a party or by which it is bound.

(c) The Company intends to continue operating the Project as a pasta manufacturing facility, and for such other purposes permitted under the Act, as the Company may deem appropriate.

(d) The availability of the payment in lieu of taxes with regard to the Economic Development Property induced the Company to undertake the Project in the County.

(e) The Company has already achieved the minimum investment threshold required by the Simple Fee Act and will maintain the minimum investment through the Fee Term.

ARTICLE III TERMINATION OF ORIGINAL FEE

Section 3.1. *Termination of 1995 Lease; Purchase and Conveyance of Project; Transfer and Conversion of Project.*

(a) Pursuant to Section 11.1 of the 1995 Lease, the Company elects to terminate the 1995 Lease. The County acknowledges the Company's exercise of its option to terminate the 1995 Lease and waives the 30 day notice provision of Section 11.1.

(b) Pursuant to Section 11.2 of the 1995 Lease, the Company elects to purchase the Facilities from the County for \$1.00. The County acknowledges the Company's exercise of its option to purchase the Facilities and certifies the purchase price is \$1.00. The County acknowledges there are (i) no outstanding Lease Rentals, as defined in Section 4.4 of the 1995 Lease, due to the County with respect to the Facilities; (ii) no outstanding payments-in-lieu of *ad valorem* taxes payable pursuant to Section 4.6 of the 1995 Lease with respect to the Project; (iii) no outstanding *ad valorem* taxes payable with respect to the Project; and (iv) no additional amounts due to the County under the 1995 Lease or otherwise.

(c) On receipt of the purchase price, the County shall deliver to the Company documents conveying to the Company good and marketable title to the Facilities, subject to the following: (i) those liens and encumbrances (if any) to which title to the Facilities was subject when conveyed to the County; (ii) those liens and encumbrances created by the Company or to the creation or suffering of which the Company consented; (iii) those liens and encumbrances resulting from the failure of the Company to perform or observe any of the agreements on its part contained in the 1995 Lease; and (iv) Permitted Encumbrances, as defined in the 1995 Lease. The form of a Quitclaim Deed for purposes of conveying title to the real property portion of the Project is attached hereto as Exhibit A. The form of a Bill of Sale for purposes of conveying title to the personal property portion of the Project is attached hereto as Exhibit B.

(d) Pursuant to Section 12-44-170(B) of the Simple Fee Act, the Company elects and the County consents to the transfer of the portion of Project constituting Economic Development Property under the 1995 Lease to a FILOT arrangement under the Simple Fee Act as provided in this Fee Agreement. The Parties agree that the portion of the Project constituting Economic Development Property under the 1995 Lease shall be converted and considered automatically Economic Development Property under the Simple Fee Act and this Fee Agreement. This Fee Agreement continues the same FILOT payments required under the 1995 Lease; this Agreement continues the same FILOT payments only for the time required for the FILOT payments under the 1995 Lease; and the minimum investment requirements of the 1995 Lease have been met by the Company. The Parties agree this Fee Agreement constitutes an "appropriate agreement" between the County and the Company to continue the provisions and limitations of the 1995 Lease.

Section 3.2. *Discharge of Bonds; Prepayment of Lease Rentals.*

(a) Pursuant to Section 9.8 of the 1995 Lease, the Company hereby instructs and requests the County to effectuate a prepayment of the Bonds in whole. Such prepayment shall be deemed to occur on the date of this Agreement.

(b) Pursuant to Section 9.9 of the 1995 Lease, the Company shall effectuate a prepayment of all Lease Rentals due under the 1995 Lease. Prepayment is deemed to occur on the date of this Fee Agreement. The Parties acknowledge and consent to such prepayment occurring on a date other than a Lease Rental payment date, as described in Section 4.4 of the 1995 Lease.

(c) The Parties acknowledge that the Bonds were issued pursuant to the requirements of the Original Fee Act. The purchase of the Bonds by the Company did not generate any actual proceeds of the Bonds. The County has not paid actual funds to the Company to satisfy the principal and interest payments on the Bonds as such obligations were offset by the Company's responsibility to pay Lease Rentals under the 1995 Lease (the Lease Rentals being equal to the principal and interest payments). Because the Company has been both the sole holder of the Bonds, and the party responsible for making Lease Rental payments to provide funds for the payment of principal and interest on the Bonds, rather than actually exchanging funds, the Parties have deemed satisfied their respective responsibilities to pay principal and interest on the Bonds and to pay Lease Rentals under the 1995 Lease. The Parties will likewise deem the Bonds and Lease Rentals prepaid in order to discharge the Bonds. Upon the deemed prepayment in whole of the Bonds, the Parties agree that the Bonds shall be fully discharged and no longer outstanding.

Section 3.3. *Termination of Ancillary Agreements.*

(a) The Parties entered into an Inducement Agreement effective December 29, 1994, as amended, as required under the Original Fee Act and as a precursor to the 1995 Lease. The Inducement Agreement is hereby terminated with such termination to be effective on the date of this Fee Agreement.

(b) The Parties entered into additional agreements in order to facilitate and effect the Original Fee. The additional agreements are hereby terminated with such termination to be effective on the date of this Fee Agreement.

ARTICLE IV FEE PAYMENTS

Section 4.1. *Negotiated Payments.*

(a) The Company shall make Fee Payments on all Economic Development Property comprising each Phase of the Project.

(b) The annual Fee Payment due on each Phase is calculated as follows (subject, in any event, to the required procedures under the Act and to Sections 4.2 and 4.4 of this Fee Agreement):

Step 1: Determine the fair market value of the Phase of the Project by using original income tax basis for State income tax purposes for any real property (provided, if real property is constructed for the Project or is purchased in an arms length transaction, fair market value is deemed to equal the original income tax basis, otherwise, the Department of Revenue and Taxation will determine fair market value by appraisal) and original income tax basis for State income tax purposes less depreciation for each year allowable to the Company, for any personal property as determined in accordance with Title 12 of the Code, as amended and in effect on December 31 of the year in which each Phase becomes subject to Original Fee, except that no extraordinary obsolescence shall be allowable but taking into account all applicable property tax exemptions which would be allowed to the Company, as the case may be, under State law, if the property were taxable, except those exemptions specifically

disallowed under Section 12-44-50(A)(2) of the Act, as amended and in effect on December 31 of the year in which each Phase becomes subject to the Original Fee.

Step 2: As set forth under the 1995 Lease, apply an assessment ratio of 6% to the fair market value as determined for each year in Step 1 to establish the taxable value of each Phase.

Step 3: As set forth under the 1995 Lease, apply a millage rate of 239.1 (which millage rate shall be a fixed rate for the Fee Term).

The Fee Payment is due on each Phase until the applicable Phase Termination Date, which Phase Termination Date the County and the Company, following Conversion, agreed to extend for 10 years pursuant to Section 12-44-30(21) of the Simple Fee Act. The annual Fee Payment is due on the payment dates prescribed by the County for such payments.

In the event that it is determined by a final order of a court of competent jurisdiction or by agreement of the Parties that the minimum payment in lieu of taxes applicable to this transaction is to be calculated differently than described above, the payment shall be reset at the minimum permitted level so determined.

(b) In the event that the Simple Fee Act or the above-described Fee Payments are declared invalid or unenforceable, in whole or in part, for any reason, the parties express their intentions that this Fee Agreement be reformed so as to most closely effectuate the legal, valid, and enforceable intent thereof and so as to afford the Company with the benefits to be derived hereunder, it being the intention of the County and the Company to continue the FILOT benefits as provided under the Original Fee. In addition, if so requested by the Company and assuming such an arrangement would preserve the Company's FILOT benefits, the County would favorably consider invoking the provisions of Section 12-44-160 of the Simple Fee Act in order to convert this Fee Agreement to a lease arrangement as provided under Section 4-12-30 of the Code.

(c) If the Project is deemed to be subject to *ad valorem* taxation, then the Company shall pay to the County an amount equal to the *ad valorem* taxes that would be levied on the Project by the County, municipalities, school districts, and other political units as if the Project had not been Economic Development Property under the Simple Fee Act. In such event, any amount determined to be due and owing to the County from the Company, with respect to a year or years for which FILOT payments have been previously remitted by the Company to the County under this Fee Agreement or the 1995 Lease, shall be reduced by the total amount of FILOT payments made by the Company with respect to the Project pursuant to the terms of this Fee Agreement or the 1995 Lease, and further reduced by any abatements provided by law.

Section 4.2. Fee Payments on Replacement Property. If the Company elects to replace any Removed Components and to substitute such Removed Components with Replacement Property as a part of the Project, then, pursuant and subject to Section 12-44-60 of the Simple Fee Act, the Company shall make statutory Fee Payments with regard to such Replacement Property as follows:

(a) To the extent that the original income tax basis of the Replacement Property ("Replacement Value") is less than or equal to the original income tax basis of the Removed Components ("Original Value") the amount of the Fee Payments to be made by the Company with respect to such Replacement Property shall be calculated in accordance with Section 3.1 hereof; provided, however, in making such calculations, the original cost to be used in Step 1 of Section 3.1 shall be equal to the lesser of (x) the Replacement Value or (y) the Original

Value, and the Company shall make annual Fee Payments with respect to the Replacement Property until the Phase Termination Date of the oldest Removed Components disposed of in the same property tax year as the Replacement Property is placed in service; and

- (b) To the extent that the Replacement Value exceeds the Original Value of the Removed Components (“Excess Value”), the Company shall pay to the County, with respect to the Excess Value, an amount equal the *ad valorem* taxes that would be due if the Replacement Property were not Economic Development Property.

Section 4.3. [Reserved]

Section 4.4. *Reductions in Payments of Taxes Upon Removal, Condemnation or Casualty.* In the event of a Diminution in Value of any Phase of the Project, the Fee Payment with regard to that Phase of the Project shall be reduced in the same proportion as the amount of such Diminution in Value bears to the original fair market value of that Phase of the Project as determined pursuant to Step 1 of Section 3.1 hereof.

Section 4.5. *Place and Allocation of Fee Payments.* The Company shall make the Fee Payments directly to the County in accordance with applicable law.

Section 4.6. *Removal of Equipment.* The Company is entitled to remove the following types of components or Phases of the Project from the Project with the result that said components or Phases (the “Removed Components”) are no longer be considered a part of the Project and are no longer subject to the terms of this Fee Agreement: (a) components or Phases of the Project or portions thereof which the Company, in its sole discretion, determines to be inadequate, obsolete, uneconomic, worn-out, damaged, unsuitable, undesirable or unnecessary; or (b) components or Phases of the Project or portions thereof which the Company, in its sole discretion, elects to remove pursuant to Section 4.7(c) or Section 4.8(b)(iii) hereof.

Section 4.7. *Damage or Destruction of Project.*

(a) *Election to Terminate.* If the Project is damaged by fire, explosion, or any other casualty, the Company is entitled to terminate this Agreement.

(b) *Election to Rebuild.* If the Project is damaged by fire, explosion, or any other casualty, and the Company does not elect to terminate this Agreement, then the Company may, in its sole discretion, commence to restore the Project with such reductions or enlargements in the scope of the Project, changes, alterations and modifications (including the substitution and addition of other property) as may be desired by the Company. All such restorations and replacements shall be considered part of the Project for all purposes hereof, including, but not limited to any amounts due by the Company to the County under Section 3.1 hereof.

(c) *Election to Remove.* In the event the Company elects not to terminate this Agreement pursuant to subsection (a) and elects not to rebuild pursuant to subsection (b), the damaged portions of the Project are deemed to be Removed Components.

Section 4.8. *Condemnation.*

(a) *Complete Taking.* If at any time during the Fee Term title to or temporary use of the entire Project should become vested in a public or quasi-public authority by virtue of the exercise of a taking by

condemnation, inverse condemnation or the right of eminent domain, or by voluntary transfer under threat of such taking, or if title to a portion of the Project is taken and renders continued occupancy of the Project commercially infeasible in the judgment of the Company, then the Company may terminate this Fee Agreement as of the time of vesting of title by sending written notice to the County within a reasonable period of time following such vesting.

(b) *Partial Taking.* In the event of a partial taking of the Project or transfer in lieu thereof, the Company may elect: (i) to terminate this Fee Agreement; (ii) to repair and restore the Project, with such reductions or enlargements in the scope of the Project, changes, alterations and modifications (including the substitution and addition of other property) as may be desired by the Company; or (iii) to treat the portions of the Project so taken as Removed Components.

Section 4.9. *Maintenance of Existence.* The Company agrees (i) that it shall not take any action which will materially impair the maintenance of its corporate existence and (ii) that it will maintain its good standing under all applicable provisions of State law. Notwithstanding the foregoing, any changes in the Company's corporate existence that result from internal restructuring or reorganization of the Company, or its parent are specifically authorized hereunder. Likewise, benefits granted to the Company under this Fee Agreement shall, in the event of any such restructuring or reorganization, be transferred to the successor entity under the provisions of Section 4.12 hereof.

Section 4.10. *Indemnification Covenants.* (a) Except as provided in paragraph (b) below, the Company shall indemnify and save the County, its past, present, and future employees, elected officials, officers and agents (each, an "Indemnified Party") harmless against and from all claims by or on behalf of any person arising from the County's execution of this Fee Agreement, performance of the County's obligations under this Fee Agreement or the administration of its duties pursuant to this Fee Agreement, or otherwise by virtue of the County having entered into this Fee Agreement. If such a claim is made against any Indemnified Party, then subject to the provisions of (b) below, the Company shall defend the Indemnified Party in any action or proceeding.

(b) Notwithstanding anything herein to the contrary, the Company is not required to indemnify any Indemnified Party against any claim or liability (i) occasioned by the acts of that Indemnified Party which are unrelated to the execution of this Fee Agreement, performance of the County's obligations under this Fee Agreement, or the administration of its duties under this Fee Agreement, or otherwise by virtue of the County having entered into this Fee Agreement; (ii) resulting from that Indemnified Party's own negligence, bad faith, fraud, deceit, or willful misconduct.

(c) An Indemnified Party may not avail itself of the indemnification provided in this Section unless it provides the Company with prompt notice, reasonable under the circumstances, of the existence or threat of any claim or liability, including, without limitation, copies of any citations, orders, fines, charges, remediation requests, or other claims or threats of claims, in order to afford the Company notice, reasonable under the circumstances, within which to defend or otherwise respond to a claim.

(d) Following this notice, the Company shall resist or defend against any claim or demand, action or proceeding, at its expense, using counsel of its choice. The Company is entitled to manage and control the defense of or response to any claim, charge, lawsuit, regulatory proceeding or other action, for itself and the Indemnified Party; provided the Company is not entitled to settle any matter at the separate expense or liability of any Indemnified Party without the consent of that Indemnified Party. To the extent any Indemnified Party desires to use separate counsel for any reason, other than a conflict of interest, that Indemnified Party is responsible for its independent legal fees.

Section 4.11. Confidentiality/Limitation on Access to Project. The County acknowledges and understands that the Company utilizes confidential and proprietary “state-of-the-art” manufacturing equipment and techniques and that a disclosure of any information relating to such equipment or techniques, including but not limited to disclosures of financial or other information concerning the Company’s operations would result in substantial harm to the Company and could thereby have a significant detrimental impact on the Company’s employees and also on the County. Therefore, the Company and the County agree that, in addition to what may be permitted by law and pursuant to the County’s police powers, the County and its authorized agents shall be entitled to inspect the Project or any property associated therewith. Such rights of examination shall be exercised upon such necessary terms and conditions as the Company may prescribe, which conditions shall be deemed to include, but not be limited to, those necessary to protect the Company’s confidential and proprietary information that may be subject to disclosure upon such examination. Prior to disclosing any confidential or proprietary information or allowing inspections of the Project or any property associated therewith, the Company may require the execution of reasonable, individual, confidentiality and non-disclosure agreements by any officers, employees or agents of the County or any supporting or cooperating governmental agencies who would gather, receive or review such information or conduct or review the results of any inspections.

Section 4.12. Transfer and Subletting. This Fee Agreement may be assigned in whole or in part and the Project may be subleased as a whole or in part by the Company so long as such assignment or sublease is made with County consent, which may be granted or ratified by resolution of the County Council. The Company shall be permitted to assign this Fee Agreement to any of its affiliates, if any.

ARTICLE V DEFAULT

Section 5.1. Events of Default. The following shall be “Events of Default” under this Fee Agreement, and the term “Events of Default” shall mean, whenever used with reference to this Fee Agreement, any one or more of the following occurrences:

(a) Failure by the Company as the case may be, to make, upon levy, the Fee Payments described in this Fee Agreement; provided, however, that the Company, as the case may be, shall be entitled to all redemption rights granted by applicable statutes; or

(b) Failure a Party to perform any of the other material terms, conditions, obligations or covenants of the Party hereunder, which failure shall continue for a period of ninety (90) days after written notice from the non-defaulting Party specifying such failure and requesting that it be remedied; or

Section 5.2. Remedies on Default. Whenever any Event of Default shall have occurred and shall be continuing, the Parties shall have the option to take any one or more of the following remedial actions:

(a) Terminate the Fee Agreement; or

(b) Take whatever action at law or in equity that may appear necessary or desirable to collect the other amounts due and thereafter to become due or to enforce performance and observance of any obligation, agreement or covenant of the parties under this Fee Agreement.

Section 5.3. Remedies Not Exclusive. No remedy conferred upon or reserved to the Parties under this Fee Agreement is intended to be exclusive of any other available remedy or remedies, but each and every remedy shall be cumulative and shall be in addition to every other lawful remedy now or hereafter existing. No delay or omission to exercise any right or power accruing upon any continuing default

hereunder shall impair any such right or power or shall be construed to be a waiver thereof, but any such right and power may be exercised from time to time and as often as may be deemed expedient.

**ARTICLE VI
MISCELLANEOUS**

Section 6.1. Notices. Any notice, election, demand, request or other communication to be provided under this Fee Agreement shall be effective when delivered to the party named below or when deposited with the United States Postal Service, certified mail, return receipt requested, postage prepaid, addressed as follows (or addressed to such other address as any party shall have previously furnished in writing to the other party), except where the terms hereof require receipt rather than sending of any notice, in which case such provision shall control:

AS TO THE COUNTY: Richland County, South Carolina
Director of Economic Development
2020 Hampton Street (29204)
Post Office Box 192
Columbia, South Carolina 29202

WITH A COPY TO: Parker Poe Adams & Bernstein LLP
Attn: Ray E. Jones, Esq.
1201 Main Street, Suite 1450
Columbia, South Carolina 29201

AS TO THE COMPANY: American Italian Pasta Company
Attn: Dwayne Bolling
Manager, Finance
ConAgra Foods, Inc.
Property Tax Group
5645 N. 90th St., MS 90-185
Omaha, NE 68134

WITH COPIES TO: Nelson Mullins Riley & Scarborough
Attn: John von Lehe, Esq. or Jennifer Davis, Esq.
Liberty Center, Suite 600
151 Meeting Street
Charleston, South Carolina 29401

Section 6.2. Administrative Expenses. The Company shall reimburse the County for its reasonable costs, including attorneys' fees and costs, incurred in the negotiation and approval of this Fee Agreement, exclusive of normal County overhead, including costs and salaries related to administrative, staff employees and similar costs and fees, as they shall become due, but in no event later than the date which is the earlier of any payment date expressly provided for in this Fee Agreement or the date which is 45 days after receiving written notice from the County, accompanied by such supporting documentation as may be necessary to evidence the County's right to receive such payment, specifying the nature of such expense and requesting payment of same. The costs reimbursable under this Section are not to exceed \$8,500 in the aggregate.

Section 6.3 Filings. The Company shall notify the South Carolina Department of Revenue, as required by section 12-44-90 of the Act, of the execution of this Fee Agreement. The Company shall deliver a copy of the notification to the County Auditor, County Assessor and County Treasurer.

Section 6.4 Binding Effect. This Fee Agreement is binding, in accordance with its terms, on and inures to the benefit of the Company and the County and their respective successors and assigns. In the event of the dissolution of the County or the consolidation of any part of the County with any other political subdivision or the transfer of any rights of the County to any other such political subdivision, all of the covenants, stipulations, promises and agreements of this Fee Agreement shall bind and inure to the benefit of the successors of the County from time to time and any entity, officer, board, commission, agency or instrumentality to whom or to which any power or duty of the County has been transferred.

Section 6.5 Counterparts. This Fee Agreement may be executed in any number of counterparts, and all of the counterparts taken together shall be deemed to constitute one and the same instrument.

Section 6.6 Governing Law. This Fee Agreement and all documents executed in connection herewith shall be construed in accordance with and governed by the laws of the State, exclusive of the conflict of law provisions which would refer the governance of this Fee Agreement to another jurisdiction.

Section 6.7 Headings. The headings of the articles and sections of this Fee Agreement are inserted for convenience only and shall not be deemed to constitute a part of this Fee Agreement.

Section 6.8 Amendments. The provisions of this Fee Agreement may only be modified or amended in writing by an agreement or agreements entered into between the parties.

Section 6.9 Further Assurance. From time to time the County agrees to execute and deliver to the Company such additional instruments as the Company may reasonably request to effectuate the purposes of this Fee Agreement.

Section 6.10 Severability. If any provision of this Fee Agreement is declared illegal, invalid or unenforceable for any reason, the remaining provisions hereof shall be unimpaired and such illegal, invalid or unenforceable provision shall be reformed so as to most closely effectuate the legal, valid and enforceable intent thereof and so as to afford the Company with the maximum benefits to be derived herefrom, it being the intention of the County to continue the FILOT benefits as provided under the Original Fee.

Section 6.11 Limited Obligation. ANY OBLIGATION OF THE COUNTY CREATED BY OR ARISING OUT OF THIS FEE AGREEMENT SHALL BE A LIMITED OBLIGATION OF THE COUNTY, PAYABLE BY THE COUNTY SOLELY FROM THE PROCEEDS DERIVED UNDER THIS FEE AGREEMENT AND SHALL NOT UNDER ANY CIRCUMSTANCES BE DEEMED TO CONSTITUTE A GENERAL OBLIGATION OF THE COUNTY WITHIN THE MEANING OF ANY CONSTITUTIONAL OR STATUTORY LIMITATION.

Section 6.12 Force Majeure. Company shall not be responsible for any delays or non-performance caused in whole or in part, directly or indirectly, by strikes, accidents, freight embargoes, fire, floods, inability to obtain materials, conditions arising from government orders or regulations, war or national emergency, acts of God, and any other cause, similar or dissimilar, beyond Company's reasonable control.

Section 6.13. Waiver of Recapitulation Requirements. As permitted under Section 12-44-55 of the Code, the Company and the County hereby waive application of any and all of the recapitulation requirements set forth in Section 12-44-55 of the Code.

[Remainder of Page Intentionally Left Blank]
[Signature Page Follows.]

IN WITNESS WHEREOF, the County, acting by and through the County Council, has caused this Fee Agreement to be executed in its name and behalf by the County Council Chairman to be attested by the Clerk to County Council; and the Company has caused this Fee Agreement to be executed by its duly authorized officers, all as of the day and year first above written.

RICHLAND COUNTY, SOUTH CAROLINA

Norman Jackson, Chair of County Council

Attest:

Michelle Onley, Clerk to County Council

AMERICAN ITALIAN PASTA COMPANY

By:
Its:

EXHIBIT A
FORM OF QUIT-CLAIM DEED

STATE OF SOUTH CAROLINA)
)
COUNTY OF RICHLAND)

**DEED TO TITLE
TO REAL ESTATE**

KNOW ALL MEN BY THESE PRESENTS, that **RICHLAND COUNTY, SOUTH CAROLINA**, a body corporate and politic and a political subdivision of the State of South Carolina (“Grantor”), for and in consideration of ONE DOLLAR (\$1.00) has granted, bargained, sold and released, and by these presents does grant, bargain, sell and release unto **AMERICAN ITALIAN PASTA COMPANY**, a corporation organized under the laws of the State of Delaware (“Grantee”), the following real property and improvements to real property including buildings, structures, and other improvements constructed on and annexed to the property (“Property”):

See Attachment A attached hereto and incorporated herein.

This conveyance is specifically made subject to any and all restrictions, easements, covenants, conditions, and rights of way of record in the Register of Deeds Office for Richland County, South Carolina and subject to any of the same, which might appear from an inspection of the premises.

Grantee’s Address: American Italian Pasta Company
 Attn: Dwayne Bolling
 Manager, Finance
 ConAgra Foods, Inc.
 Property Tax Group
 5645 N. 90th St., MS 90-185
 Omaha, NE 68134

Together with all and singular the rights, members, hereditaments and appurtenances to said Improvements belonging or in any wise incident or appertaining; to have and to hold all and singular the Improvements before mentioned unto the Grantee, and Grantee's successors and assigns, forever.

Grantor has taken no action to affect title to the Property. Otherwise, Grantor makes no warranty, express, implied or otherwise as to its title, if any, to the Property or the condition of the Property, which is conveyed AS IS, WHERE IS, without representation or warranty of any kind.

[Signature Page Follows]

WITNESS the Grantor's hand and seal as of this ____ day of _____, 2014.

SIGNED, sealed and delivered in the presence of:

WITNESSES:

RICHLAND COUNTY, SOUTH CAROLINA

By: _____
Norman Jackson
Chairman, County Council

STATE OF SOUTH CAROLINA)
)
COUNTY OF RICHLAND)

ACKNOWLEDGMENT

I, _____, Notary Public for the State of South Carolina, do hereby certify that the above-named Richland County, South Carolina by and through Norman Jackson, its Chairman of County Council as attested by Michelle Onley, Clerk to County Council, personally appeared before me this day and acknowledged the due execution of the foregoing instrument.

Witness my hand an official seal this the _____ day of May, 2014.

Notary Public _____
My Commission Expires: _____

ATTACHMENT A

All that certain piece, parcel and tract of land situate lying and being in Richland County, State of South Carolina, containing 60.0 acres, more or less, and more particularly shown as Parcel B on that certain plat prepared for American Italian Pasta Company by B.P. Barber & Associates, Inc. dated September 20, 1994 and recorded October 7, 1994 in the office of the Richland County RMC in Plat Book 55, page 4834. Reference to said plat is craved for a fuller description, with all measurements being a little more or less.

LESS AND EXCEPTING:

All that certain piece, parcel and tract of land situate, lying and being in Richland County, State of South Carolina containing 6.144 acres, more or less, more particularly described on that certain plat prepared for the Lanter Company by B.P. Barber & associates dated April 3, 1995 and recorded in the office of the Richland County RMC in Plat Book 56, page 964. Reference to said plat is craved for a fuller description , with all measurements being a little more or less.

DERIVATION: This being the same property conveyed to Richland County, South Carolina by American Italian Pasta Company by Quit-Claim Deed dated December 29, 1995 and recorded December 29, 1995 in the office of the Richland County RMC in Deed Book 1295, page 251, by Corrective Quit-Claim Deed dated December, 1995 and recorded May 1, 1996 in the office of the Richland County RMC in Deed Book 1314, page 122, and Corrective Quit-Claim Deed dated February 11, 2000 and recorded February 29, 2000 in Deed Book 388, Page 528.

STATE OF SOUTH CAROLINA)
)
 COUNTY OF RICHLAND)

AFFIDAVIT

PERSONALLY appeared before me the undersigned, who being duly sworn, deposes and says:

1. I have read the information on this affidavit and I understand such information.

2. The property being transferred is located at [] South Carolina, bearing TMS No., was transferred by Richland County, South Carolina to American Italian Pasta Company on May [], 2014.

3. Check one of the following: The deed is
 - (a) __ subject to the deed recording fee as transfer for consideration paid or to be paid in money or money's worth
 - (b) __ subject to the deed recording fee as a transfer between a corporation, a partnership, or other entity and a stockholder, partner, or owner of the entity, or is a transfer to a trust or as a distribution to a trust beneficiary.
 - (c) X exempt from the deed recording fee because (See Information): Exemption 1. **(If exempt, skip items 4-7 and go to item 8.)**

4. Check one of the following if either item 3(a) or item 3(b) above has been checked (See Information):
 - (a) __ The fee is computed on the consideration paid or to be paid in money or money's worth.
 - (b) __ The fee is computed on the fair market value of the realty which is \$ _____.
 - (c) __ The fee is computed on the fair market value of the realty as established for property tax purposes which is _____.

5. Check Yes __ or No X to the following: A lien or encumbrance existed on the land, tenement, or realty before the transfer and remained on the land, tenement, or realty after the transfer. If "Yes," the amount of the outstanding balance of this lien or encumbrance is: _____.

6. The deed recording fee is computed as follows:
 - (a) Place the amount listed in item 4 above here: \$ _____ 0.00
 - (b) Place the amount listed in item 5 above here: \$ _____ 0.00
 (If no amount is listed, place zero here.)
 - (c) Subtract Line 6(b) from Line 6(a): \$ _____ 0.00

7. The deed recording fee due is based on the amount listed on Line 6(c) above and the deed recording fee due is: \$ 0.00.

8. As required by Code Section 12-24-70, I state that I am a responsible person who was connected with the transaction as Buyer.

9. I understand that a person required to furnish this affidavit who willfully furnishes a false or fraudulent affidavit is guilty of a misdemeanor and, upon conviction, must be fined not more than one thousand dollars or imprisoned not more than one year, or both.

SWORN to before me this ____ day
of _____, 2014.

Notary Public for _____
My commission expires: _____

INFORMATION

Except as provided in this paragraph, the term "value" means "the consideration paid or to be paid in money or money's worth for the realty." Consideration paid or to be paid in money's worth includes, but is not limited to, other realty, personal property, stocks, bonds, partnership interest and other intangible property, the forgiveness or cancellation of a debt, the assumption of a debt, and the surrendering of any right. The fair market value of the consideration must be used in calculating the consideration paid in money's worth. Taxpayers may elect to use the fair market value of the realty being transferred in determining fair market value of the consideration. In the case of realty transferred between a corporation, a partnership, or other entity and a stockholder, partner, or owner of the entity, and in the case of realty transferred to a trust or as a distribution to a trust beneficiary, "value" means the realty's fair market value. A deduction from value is allowed for the amount of any lien or encumbrance existing on the land, tenement, or realty before the transfer and remaining on the land, tenement, or realty after the transfer. Taxpayers may elect to use the fair market value for property tax purposes in determining fair market value under the provisions of the law.

Exempted from the fee are deeds:

- (1) transferring realty in which the value of the realty, as defined in Code Section 12-24-30, is equal to or less than one hundred dollars;
- (2) transferring realty to the federal government or to a state, its agencies and departments, and its political subdivisions, including school districts;
- (3) that are otherwise exempted under the laws and Constitution of this State or of the United States;
- (4) transferring realty in which no gain or loss is recognized by reason of Section 1041 of the Internal Revenue Code as defined in Section 12-6-40(A);
- (5) transferring realty in order to partition realty as long as no consideration is paid for the transfer other than the interest in the realty that are being exchanged in order to partition the realty;
- (6) transferring an individual grave space at a cemetery owned by a cemetery company licensed under Chapter 55 of Title 39;
- (7) that constitute a contract for the sale of timber to be cut;
- (8) transferring realty to a corporation, partnership, or a trust in order to become, or as, a stockholder, partner or trust beneficiary of the entity provided no consideration is paid for the transfer other than stock in the corporation, interest in the partnership, beneficiary interest in the trust, or the increase in value in such stock or interest held by the grantor. However, the transfer of realty from a corporation, a partnership, or a trust to a stockholder, partner, or trust beneficiary of the entity is subject to the fee even if the realty is transferred to another corporation, a partnership, or trust;
- (9) transferring realty from a family partnership to a partner or from a family trust to a beneficiary, provided no

consideration is paid for the transfer other than a reduction in the grantee's interest in the partnership or trust. A "family trust" is a trust, in which the beneficiaries are all members of the same family. The beneficiaries of a family trust may also include charitable entities. "Family" means the grantor and the grantor's spouse, parents, grandparents, sisters, brothers, children, stepchildren, and the spouses and lineal descendants of any the above. A "charitable entity" means an entity which may receive deductible contributions under Section 170 of the Internal Revenue Code as defined in Section 12-6-40(A).

(10) transferring realty in a statutory merger or consolidation from a constituent corporation to the continuing or new corporation;

(11) transferring realty in a merger or consolidation from a constituent partnership to the continuing or new partnership; and,

(12) that constitute a corrective deed or a quitclaim deed used to confirm title already vested in the grantee, provided that no consideration of any kind is paid or is to be paid under the corrective or quitclaim deed.

EXHIBIT B
FORM OF BILL OF SALE

STATE OF SOUTH CAROLINA)
)
COUNTY OF RICHLAND)

BILL OF SALE

THIS BILL OF SALE (“Bill of Sale”) is given as of the ___ day of May, 2014, by RICHLAND COUNTY, SOUTH CAROLINA, a body politic and corporate and a political subdivision of the State of South Carolina (“County”), to AMERICAN ITALIAN PASTA COMPANY, a corporation duly organized under the laws of the State of Delaware (“Company”). All terms used by not defined herein have the meaning given in the Conversion and Fee-in-Lieu of *Ad Valorem* Taxes Agreement dated May [], 2014 between the County and the Company (“Fee Agreement”).

RECITALS:

On December 29, 1995, the Company and the County entered into a fee-in-lieu of taxes arrangement (“Original Fee”) pursuant to Title 4, Chapter 29 of the South Carolina Code of Laws, as amended (“Code”). In connection therewith, the Company (i) transferred to the County its Project in the County, consisting, in relevant part, of real and personal property (“Property”) and (ii) entered into a Lease Agreement dated as of December 29, 1995 (filed in Deed Book 1295, Page 223 in the Register of Deeds Office for the County), as corrected by the Corrective Lease Agreement dated as of December 29, 1995 (filed in Deed Book 1314, Page 127 in the Register of Deeds Office for the County) (collectively, the “1995 Lease”), with the County pursuant to which the County leased the Project to the Company and which 1995 Lease provided for fee-in-lieu of taxes treatment for the Project.

Pursuant to Section 12-44-170 of the Code, the Company and the County desire to convert from the Original Fee to a fee-in-lieu of taxes arrangement provided for by Title 12, Chapter 44 of the Code (“Simple Fee Act”). In connection therewith, the County desires to reconvey the Property to the Company and to convert the 1995 Lease to a fee agreement authorized by the Simple Fee Act.

Pursuant to an ordinance enacted on May [], 2014 (“Fee Ordinance”), the County Council of Richland County, South Carolina authorized the conversion of the Original into fee-in-lieu of taxes arrangement provided for by the Simple Fee Act (“Simple Fee Arrangement”), including without limitation, the above-described reconveyance of title to the Company, termination of the 1995 Lease and execution of the Fee Agreement.

NOW, THEREFORE, FOR VALUABLE CONSIDERATION, the receipt and sufficiency of which are hereby acknowledged, the County does hereby grant, bargain, sell, transfer, and convey to the Company all of the property and assets held by it whether real or personal, in connection with the Original Fee, including all machinery, equipment, fixtures, goods, furniture and office equipment and other personal property now or hereafter located on or acquired in connection with the construction of improvements on the land described on Attachment A which would be subject to South Carolina property taxes but for the Simple Fee Arrangement, including but not limited to, the property described on Attachment A-1 attached hereto, together with any and all additions, accessions, replacements and substitutions thereto or therefor.

The County represents and warrants that it is the true and lawful owner of the property described herein; that it has full power, right and lawful authority to execute and deliver this Bill of Sale.

[Signature Page Follows]

IN WITNESS WHEREOF, the undersigned has executed this Bill of Sale as of the date first above written.

RICHLAND COUNTY, SOUTH CAROLINA

Norman Jackson
Chair, County Council

Attest:

Michelle Onley
Clerk to County Council

ATTACHMENT A

All that certain piece, parcel and tract of land situate lying and being in Richland County, State of South Carolina, containing 60.0 acres, more or less, and more particularly shown as Parcel B on that certain plat prepared for American Italian Pasta Company by B.P. Barber & Associates, Inc. dated September 20, 1994 and recorded October 7, 1994 in the office of the Richland County RMC in Plat Book 55, page 4834. Reference to said plat is craved for a fuller description, with all measurements being a little more or less.

LESS AND EXCEPTING:

All that certain piece, parcel and tract of land situate, lying and being in Richland County, State of South Carolina containing 6.144 acres, more or less, more particularly described on that certain plat prepared for the Lanter Company by B.P. Barber & associates dated April 3, 1995 and recorded in the office of the Richland County RMC in Plat Book 56, page 964. Reference to said plat is craved for a fuller description , with all measurements being a little more or less.

DERIVATION: This being the same property conveyed to Richland County, South Carolina by American Italian Pasta Company by Quit-Claim Deed dated December 29, 1995 and recorded December 29, 1995 in the office of the Richland County RMC in Deed Book 1295, page 251, by Corrective Quit-Claim Deed dated December, 1995 and recorded May 1, 1996 in the office of the Richland County RMC in Deed Book 1314, page 122, and Corrective Quit-Claim Deed dated February 11, 2000 and recorded February 29, 2000 in Deed Book 388, Page 528.

ATTACHMENT A-1

All machinery, equipment, fixtures, goods, furniture, office equipment, and all other personal property and fixtures located on, or acquired in connection with, the construction of improvements on the land described in Attachment A.

Richland County Council Request of Action

Subject

An Ordinance Amending the Richland County Code of Ordinances; Chapter 26, Land Development; Article VII, General Development, Site, and Performance Standards; Section 26-177, Lighting Standards; Subsection (b), Standards; Paragraph (1); Subparagraph h; so as to delete reference to pole color **[PAGES 206-208]**

Notes

First Reading: April 22, 2014

Second Reading:

Third Reading:

Public Hearing: April 22, 2014

AMENDED

STATE OF SOUTH CAROLINA
COUNTY COUNCIL FOR RICHLAND COUNTY
ORDINANCE NO. ____-14HR

AN ORDINANCE AMENDING THE RICHLAND COUNTY CODE OF ORDINANCES; CHAPTER 26, LAND DEVELOPMENT; ARTICLE VII, GENERAL DEVELOPMENT, SITE, AND PERFORMANCE STANDARDS; SECTION 26-177, LIGHTING STANDARDS; SUBSECTION (B), STANDARDS; PARAGRAPH (1); SUBPARAGRAPH H; SO AS TO DELETE REFERENCE TO POLE COLOR.

Pursuant to the authority granted by the Constitution and the General Assembly of the State of South Carolina, BE IT ENACTED BY THE RICHLAND COUNTY COUNCIL:

SECTION I. The Richland County Code of Ordinances, Chapter 26, Land Development; Article VII, General development, Site, and Performance Standards; Section 26-177, Lighting Standards; Subsection (b), Standards; Paragraph (1); Subparagraph h.; is hereby deleted in its entirety.

~~h. — All poles must be silver, grey, or black. New poles proposed to be located within an approved development that is at least seventy-five percent (75%) developed may be of the same color as the majority of the existing poles. In addition, historic structures and/or historic sites may use pole colors that are consistent with the era of the structure and/or site.~~

SECTION II. Severability. If any section, subsection, or clause of this ordinance shall be deemed to be unconstitutional or otherwise invalid, the validity of the remaining sections, subsections, and clauses shall not be affected thereby.

SECTION III. Conflicting Ordinances Repealed. All ordinances or parts of ordinances in conflict with the provisions of this ordinance are hereby repealed.

SECTION IV. Effective Date. This ordinance shall be enforced from and after _____, 2014.

RICHLAND COUNTY COUNCIL

BY: _____
Norman Jackson, Chair

ATTEST THIS THE ____ DAY

OF _____, 2014

Michelle Onley
Clerk of Council

AMENDED

RICHLAND COUNTY ATTORNEY'S OFFICE

Approved As To LEGAL Form Only
No Opinion Rendered As To Content

Public Hearing: April 22, 2014
First Reading: April 22, 2014
Second Reading: May 6, 2014 (tentative)
Third Reading:

Richland County Council Request of Action

Subject

An Ordinance Amending the Richland County Code of Ordinances, Chapter 26, Land Development; Article II, Rules of Construction; Definitions; and Article V, Zoning Districts and District Standards; Section 26-141, Table of Permitted Uses, Permitted Uses with Special Requirements, and Special Exceptions; Subsection (f), Table of Permitted Uses, Permitted Uses with Special Requirements, and Special Exceptions; so as to only allow shipping containers as an accessory use in the RU (Rural), GC (General Commercial District), M-1 (Light Industrial District), LI (Light Industrial) and HI (Heavy Industrial) Zoning Districts **[PAGES 209-212]**

Notes

First Reading: April 22, 2014

Second Reading:

Third Reading:

Public Hearing: April 22, 2014

AMENDED

STATE OF SOUTH CAROLINA
COUNTY COUNCIL FOR RICHLAND COUNTY
ORDINANCE NO. ___-14HR

AN ORDINANCE AMENDING THE RICHLAND COUNTY CODE OF ORDINANCES, CHAPTER 26, LAND DEVELOPMENT; ARTICLE II, RULES OF CONSTRUCTION; DEFINITIONS; AND ARTICLE V, ZONING DISTRICTS AND DISTRICT STANDARDS; SECTION 26-141, TABLE OF PERMITTED USES, PERMITTED USES WITH SPECIAL REQUIREMENTS, AND SPECIAL EXCEPTIONS; SUBSECTION (F), TABLE OF PERMITTED USES, PERMITTED USES WITH SPECIAL REQUIREMENTS, AND SPECIAL EXCEPTIONS; SO AS TO ONLY ALLOW SHIPPING CONTAINERS AS AN ACCESSORY USE IN THE RU (RURAL), GC (GENERAL COMMERCIAL DISTRICT), M-1 (LIGHT INDUSTRIAL DISTRICT), LI (LIGHT INDUSTRIAL) AND HI (HEAVY INDUSTRIAL) ZONING DISTRICTS.

Pursuant to the authority granted by the Constitution and the General Assembly of the State of South Carolina, BE IT ENACTED BY THE RICHLAND COUNTY COUNCIL:

SECTION I. The Richland County Code of Ordinances, Chapter 26, Land Development; Article II, Rules of Construction; Definitions; Section 26-22, Definitions; is hereby amended to add a definition of “Shipping Container” in appropriate chronological order; to read as follows:

Shipping container. A structure originally, specifically or formally designed for or used in the packing, shipping, movement or transportation of freight, articles, goods or commodities, designed for or capable of being mounted or moved on a rail car and/or designed for or capable of being mounted on a chassis or bogie for movement by truck or trailer or loaded on a ship.

SECTION II. The Richland County Code of Ordinances, Chapter 26, Land Development; Article V, Zoning Districts And District Standards; Section 26-141, Table of Permitted Uses, Permitted Uses with Special Requirements, and Special Exceptions; Subsection (f), Table of Permitted Uses, Permitted Uses with Special Requirements, and Special Exceptions; “Other Uses” of Table 26-V-2.; is hereby amended to read as follows:

(ORDINANCE CONTINUES ON NEXT PAGE)

AMENDED

USE TYPES	TROS	RU	RR	RS-E	RS-LD	RS-MD	RS-HD	MH	RM-MD	RM-HD	OI	NC	RC	GC	M-1	LI	HI
Other Uses																	
Buildings, High Rise, 4 or 5 Stories										SR	SR			SR			
Buildings, High Rise, 6 or More Stories										SE	SE			SE			
Sexually Oriented Businesses														SR			SR
<u>Shipping Containers used as an Accessory Structure</u>		<u>SR</u>												<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>

AMENDED

SECTION III. The Richland County Code of Ordinances; Chapter 26, Land Development; Article VI, Supplemental Use Standards; Section 26-151, Permitted Uses with Special Requirements; Subsection (b), Permitted Uses with Special Requirements Listed by Zoning District; is hereby amended by the insertion of a new paragraph to read as Paragraph “(66) Shipping Containers”, the existing Paragraph (66) is renumbered to read as Paragraph (67), and all remaining paragraphs are renumbered in appropriate chronological order.

SECTION IV. The Richland County Code of Ordinances; Chapter 26, Land Development; Article VI, Supplemental Use Standards; Section 26-151, Permitted Uses with Special Requirements; Subsection (c), Standards; is hereby amended by the insertion of a new paragraph to read as Paragraph “(66) Shipping Containers”, the existing Paragraph (66) is renumbered to read as Paragraph (67), and all remaining paragraphs are renumbered in appropriate chronological order.

(66) Shipping containers.

a. Use districts: Rural District.

b. A minimum lot size of one (1) acre is required.

c. Shipping containers shall be exempt from the screening requirements of Section 26-176 (h).

SECTION V. The Richland County Code of Ordinances, Chapter 26, Land Development; Article VII, General Development, Site, and Performance Standards; Section 26-176, Landscaping Standards; Subsection (h), Screening for Loading Areas, Trash Collection Areas, Outdoor Storage Display Areas, and Utility Service Areas; is hereby amended to read as follows:

(h) *Screening for loading areas, trash collection areas, outdoor storage display areas, shipping containers, and utility service areas.* All loading areas, trash collection areas (including dumpsters), outdoor storage display areas, shipping containers, and utility service areas visible from a public road or adjacent property line shall be screened from such adjacent road or property unless already screened by an intervening building or buffer transition yard. Landscaping shall not interfere with the access and operation of any such structure or facility. Screen types include:

- (1) *Hedge.* A continuous hedge of evergreen and/or densely twigged deciduous shrubs planted in a five (5) foot strip spaced a maximum of five (5) feet apart or a row of evergreen trees planted no more than eight (8) feet apart. The shrubs shall be planted at a minimum height of forty-eight (48) inches and the hedge shall exceed the height of the receptacle by at least six (6) inches at the plants’ maturity.
- (2) *Fence or wall.* A fence or wall that that matches the height of the receptacle and with the finished side of the fence facing the abutting road

AMENDED

or property. Fences longer than twenty-five (25) linear feet shall be landscaped with trees and/or shrubs planted in a minimum five (5) foot planting area, except around access areas, spaced no farther than eight (8) feet apart in order to screen at least fifty percent (50%) of the fence or wall.

SECTION VI. Severability. If any section, subsection, or clause of this ordinance shall be deemed to be unconstitutional or otherwise invalid, the validity of the remaining sections, subsections, and clauses shall not be affected thereby.

SECTION VII. Conflicting Ordinances Repealed. All ordinances or parts of ordinances in conflict with the provisions of this ordinance are hereby repealed.

SECTION VIII. Effective Date. This ordinance shall be enforced from and after _____, 2014.

RICHLAND COUNTY COUNCIL

BY: _____
Norman Jackson, Chair

ATTEST THIS THE ____ DAY

OF _____, 2014

Michelle Onley
Clerk of Council

RICHLAND COUNTY ATTORNEY'S OFFICE

Approved As To LEGAL Form Only
No Opinion Rendered As To Content

Public Hearing: April 22, 2014
First Reading: April 22, 2014
Second Reading: May 6, 2014 (tentative)
Third Reading:

Richland County Council Request of Action

Subject

An Ordinance to raise revenue, make appropriations, and adopt a budget for Richland County, South Carolina for Fiscal Year beginning July 1, 2014 and ending June 30, 2015 **[FIRST READING BY TITLE ONLY] [PAGES 214-215]**

Notes

First Reading:
Second Reading:
Third Reading:
Public Hearing:

**STATE OF SOUTH CAROLINA
COUNTY COUNCIL FOR RICHLAND COUNTY
ORDINANCE NO. ___-14HR**

**AN ORDINANCE TO RAISE REVENUE, MAKE
APPROPRIATIONS, AND ADOPT A BUDGET FOR RICHLAND
COUNTY, SOUTH CAROLINA FOR FISCAL YEAR BEGINNING
JULY 1, 2014 AND ENDING JUNE 30, 2015.**

Richland County Council Request of Action

Subject

An Ordinance Authorizing the levying of ad valorem property taxes, which, together with the prior year's carryover and other State levies and any additional amount appropriated by the Richland County Council prior to July 1, 2014, will provide sufficient revenues for the operations of Richland County Government during the period from July 1, 2014, through June 30, 2015 **[FIRST READING BY TITLE ONLY] [PAGES 216-217]**

Notes

First Reading:

Second Reading:

Third Reading:

Public Hearing:

**STATE OF SOUTH CAROLINA
COUNTY COUNCIL FOR RICHLAND COUNTY
ORDINANCE NO. ___-14HR**

AN ORDINANCE AUTHORIZING THE LEVYING OF AD VALOREM PROPERTY TAXES, WHICH, TOGETHER WITH THE PRIOR YEAR'S CARRYOVER AND OTHER STATE LEVIES AND ANY ADDITIONAL AMOUNT APPROPRIATED BY THE RICHLAND COUNTY COUNCIL PRIOR TO JULY 1, 2014, WILL PROVIDE SUFFICIENT REVENUES FOR THE OPERATIONS OF RICHLAND COUNTY GOVERNMENT DURING THE PERIOD FROM JULY 1, 2014, THROUGH JUNE 30, 2015.

Richland County Council Request of Action

Subject

An Ordinance Amending the Richland County Code of Ordinances, Chapter 2, Administration; Article X, Purchasing by adding Division 9, Prompt Payment Requirements [**PAGES 218-221**]

STATE OF SOUTH CAROLINA
COUNTY COUNCIL FOR RICHLAND COUNTY
ORDINANCE NO. ____-14HR

AN ORDINANCE AMENDING THE RICHLAND COUNTY CODE OF ORDINANCES, CHAPTER 2, ADMINISTRATION; ARTICLE X, PURCHASING BY ADDING DIVISION 9, PROMPT PAYMENT REQUIREMENTS.

WHEREAS, Richland County Council desires to amend the Richland County Code of Ordinances, Chapter 2, Administration; Article X, Purchasing by adding Prompt Payment Requirements which it will do concurrently with third reading of this ordinance.

NOW THEREFORE, pursuant to the authority granted by the Constitution and the General Assembly of the State of South Carolina, BE IT ENACTED BY THE COUNTY COUNCIL FOR RICHLAND COUNTY:

SECTION I. The Richland County Code of Ordinances, Chapter 2, Administration; Article X, Purchasing is hereby amended to add Division 9, Prompt Payment Requirements, to read as follows:

DIVISION 9: PROMPT PAYMENT REQUIREMENTS

Section 2-648. Prompt Payment Required.

(1). *Right of County prime contractor and subcontractor to prompt payment.*

(a) Performance by a prime contractor in accordance with the provisions of its Richland County contract entitles prime contractor to payment from the County in a prompt manner. Provided there are no bona fide disputes relating to the adequacy of performance by the contractor, the County shall pay contractor no later than 30 days after receipt of a proper invoice from the contractor that summarizes the services provided or goods delivered to County by contractor and the cost of same. For each thirty-day interval that payment from the County is late, contractor shall be entitled to interest penalty payments from the County equal to 5% of the late balance, This late penalty fee payment shall be in addition to the payment of the undisputed original balance due by the County.

(b) Performance by a subcontractor in accordance with the provisions of its subcontract agreement with County's prime contractor while providing goods or services on behalf of Richland County entitles subcontractor to payment from the prime contractor in a prompt manner. Provided there are no bona fide disputes relating to the adequacy of performance by the subcontractor, the prime contractor shall pay subcontractor no later than seven days after prime contractor has received payment from the County for the goods or services that subcontractor has properly invoiced prime contractor for by summarizing the

goods or services delivered on behalf of the County through the prime contractor. Alternatively, in instances where, through no fault of subcontractor, prime contractor has not been paid by the County for goods or services rendered by subcontractor, and more than thirty-seven days have lapsed since prime contractor received a proper invoice from subcontractor, the prime contractor shall authorize the County to pay subcontractor's undisputed invoice directly and to then deduct subcontractor's payment portion from prime contractor's account receivables due under its contract with the County. For each thirty-day interval beyond thirty-seven days that payment to subcontractor is late, subcontractor shall be entitled to an interest penalty fee equal to 5% of the late balance. This late penalty fee shall be in addition to the payment of the undisputed original balance due by the prime contractor, and shall be payable by either the prime contractor or the County depending upon which party is responsible for the late payment under these terms.

(c) The County shall place language establishing these prompt payment terms as described above in (a) and (b) in any County bid solicitation and resulting contract awarded under County Ordinance, Chapter 2, Administration, Article X, Purchasing, § 2-591 and in each instance wherein the County determines to apply the provisions of County Ordinance, Chapter 2, Administration, Article X, Purchasing, Division 7 to a solicitation. In addition, each prime contractor shall be required to include similar prompt payment flow-down provisions for each tier of subcontractors that perform services or provide goods on behalf of the County through the prime contractor or a subcontractor.

(d) Any prevailing party that makes a final written demand for payment and late penalty fees to the responsible party pursuant to this Ordinance and fails to receive payment in full within 30 days, and subsequently takes legal recourse to enforce these prompt payment provisions, shall also be entitled to the award of reasonable attorneys' fees by a court of competent jurisdiction.

(2). Grounds on which County, prime contractor, or subcontractor may withhold application and certification for payment; contract terms unaffected.

Nothing in this Ordinance prevents the County, the contractor, or a subcontractor from withholding application and certification for payment because of the following: unsatisfactory job progress, defective construction not remedied, disputed work, third party claims filed or reasonable evidence that claim will be filed, failure of contractor or subcontractor to make timely payments for labor, equipment, and materials, damage to County, contractor, or another subcontractor, reasonable evidence that contract or subcontract cannot be completed for the unpaid balance of the contract or subcontract sum, or a reasonable amount for retainage.

Nothing in this Ordinance requires that payments due a contractor from the County be paid any more frequently than as set forth in the construction

documents, nor shall anything in this Ordinance affect the terms of any agreement between the County and any lender.

(3). *Failure of contractor or subcontractor to make timely payments.*

In addition to the interest on late payments provided in Section 1, if any contractor or subcontractor makes late payments more than three times during the course of a contract, unless sufficient justification is made to the County and the County determines not to count the payment as late, the County can withhold the amount of the late payment due from the contractor to the subcontractor or to the lower tier subcontractor and make such late payment directly to the subcontractor or the lower tier subcontractor.

SECTION II. Severability. If any section, subsection, or clause of this ordinance shall be deemed to be unconstitutional or otherwise invalid, the validity of the remaining sections, subsections, and clauses shall not be affected thereby.

SECTION III. Conflicting Ordinances Repealed. All ordinances or parts of ordinances in conflict with the provisions of this ordinance are hereby repealed.

SECTION IV. Effective Date. This ordinance shall be effective from and after _____, 2014.

RICHLAND COUNTY COUNCIL

BY: _____
Norman Jackson, Chair

Attest this _____ day of _____, 2014.

Michelle Onley, Interim Clerk of Council

RICHLAND COUNTY ATTORNEY'S OFFICE

Approved As To LEGAL Form Only.
No Opinion Rendered As To Content.

First Reading:
Second Reading:
Third Reading:
Public Hearing:

Richland County Council Request of Action

Subject

An Ordinance Amending the Richland County Code of Ordinances; Chapter 2, Administration; Article V, County Departments; Division 2, Public Works; Section 2-197, Use of County Equipment by Private Parties and During Public Emergencies; and Chapter 21, Roads, Highways and Bridges; Article I, in general; Section 21-4, Drainage on Private Property; and Section 21-16; so as to broaden the circumstances under which the County may perform emergency maintenance [**PAGES 222-226**]

Notes

April 22, 2014 - The Committee recommended the establishment of a new Drainage Improvement Program to address drainage and localized flooding problems for both existing and future development in Richland County with the understanding that citizens are to pay for the cost of materials. Staff is to review the responsibilities of property owners.

AMENDED

STATE OF SOUTH CAROLINA
COUNTY COUNCIL FOR RICHLAND COUNTY
ORDINANCE NO. ___-14HR

AN ORDINANCE AMENDING THE RICHLAND COUNTY CODE OF ORDINANCES; CHAPTER 2, ADMINISTRATION; ARTICLE V, COUNTY DEPARTMENTS; DIVISION 2, PUBLIC WORKS; SECTION 2-197, USE OF COUNTY EQUIPMENT BY PRIVATE PARTIES AND DURING PUBLIC EMERGENCIES; AND CHAPTER 21, ROADS, HIGHWAYS AND BRIDGES; ARTICLE I, IN GENERAL; SECTION 21-4, DRAINAGE ON PRIVATE PROPERTY; AND SECTION 21-16; SO AS TO BROADEN THE CIRCUMSTANCES UNDER WHICH THE COUNTY MAY PERFORM EMERGENCY MAINTENANCE.

NOW, THEREFORE, pursuant to the authority granted by the Constitution and the General Assembly of the State of South Carolina, BE IT ENACTED BY THE RICHLAND COUNTY COUNCIL:

SECTION I. The Richland County Code of Ordinances, Chapter 2, Administration; Article V, County Departments; Division 2, Public Works; Section 2-197, Use of County Equipment by Private Parties and During Emergencies; is hereby amended to read as follows:

Sec. 2-197. Use of county equipment by private parties and during public emergencies.

(a) *Use and operation of county equipment.* Only authorized employees of the county shall be allowed to use and operate equipment owned by the county. No such equipment may be used at any time on private property or for private purposes except for public emergencies as hereinafter defined and as duly authorized by the director of public works and/or the county administrator.

(b) *Public emergency.* A public emergency is hereby defined as a flood (as defined under Section 26-22 of this Code of Ordinances), earthquake, tornado, hurricane, ~~commercial~~ plane crash, ~~passenger~~ train wreck, vehicular wrecks involving five (5) or more vehicles and/or ten (10) or more persons, ~~forest~~ fires and other occurrences, natural or man-made, where the public health is threatened or the potential of extensive damage to private property exists and immediate, emergency steps are necessary to protect life, ~~and~~ health, the environment, and prevent substantial property loss.

(c) *Records.* In the event of such public emergency, the department of public works must, as soon thereafter as possible, make a record of the nature of the emergency, the property and/or owner involved, the operator of the equipment, the names of county employees utilized, the date(s) thereof, and the manhours involved.

(d) *Reimbursement.* The director of public works and/or the county administrator may apply for reimbursement for the services rendered by county employees and equipment where the private party either had or has insurance available for such services or where federal or state funds are available, such as disaster aid.

AMENDED

(e) *Violation.* The failure to comply with this section shall be grounds for suspension, removal or termination.

SECTION II. The Richland County Code of Ordinances, Chapter 21, Roads, Highways and Bridges; Article I, In General; Section 21-4, Drainage on Private Property; is hereby amended to read as follows:

Sec. 21-4. Drainage on private property.

(a) Drainage improvements and/or maintenance will be undertaken by county forces on private property only:

- (1) When the drainage system involved has been designed, approved and constructed in accordance with the county's Stormwater Management, Erosion and Sediment Control Regulations (§§ 26-202, 26-203) and accepted by the county, or
- (2) When there is a clear and substantial public interest served in doing so and drainage easements are granted to the county on all of the property involved. Improvements and/or maintenance with an estimated material cost in the amount of five thousand dollars (\$5,000.00) or less may be approved by the county administrator. Drainage improvements and/or maintenance in excess of five thousand dollars (\$5,000.00) in material costs shall be reviewed and approved by County Council. For the purpose of this section, a public interest is defined as:
 - a. The correction of a serious health hazard or environmental concern, as designated by county or state ~~health~~ officials, affecting multiple residences ~~and beyond the responsibility of an individual property owner.~~
 - b. The correction of a malfunction or inadequacy of the drainage system within the right-of-way of a publicly maintained street or road.
 - c. The correction of drainage problems associated with projects constructed by the county.
 - d. The maintenance of the structural integrity of the existing drainage infrastructure of the county.
 - e. The improvement of drainage for the benefit of the community. To benefit the community, drainage improvements must eliminate flooding that directly affects a minimum of four (4) residences and/or businesses situated on individual lots or inundates a public road.
 - f. However, correction of minor ditch erosion problems on private property will not be considered a substantial public interest.

AMENDED

~~Note: Correction of minor ditch erosion problems on private property will not be considered a substantial public interest.~~

~~(3) Emergency maintenance and/or improvements of private drainage facilities, including natural resources (such as streams), may be undertaken when the following conditions exist and the requirements of Subsection (a) (2), above, cannot be met:~~

- ~~a. The correction of a serious health or environmental hazard, as designated by county or state officials, affecting a single residence and beyond the ability of an individual property owner to resolve.~~
- ~~b. Improvements and/or maintenance that eliminate flooding of less than four (4) residences and/or businesses.~~
- ~~c. Improvements and/or maintenance of an existing drainage facility, failure of which may result in property damage to downstream properties or potential loss of life.~~
- ~~d. The provision of emergency maintenance will not create a maintenance responsibility for Richland County. A temporary right-of-entry will be required of the property owner, covering only the time which the emergency maintenance is performed.~~

~~Improvements and/or maintenance with an estimated material cost in the amount of five thousand dollars (\$5,000.00) or less may be approved by the county administrator. Drainage improvements and/or maintenance in excess of five thousand dollars (\$5,000.00) in material costs shall be reviewed and approved by County Council.~~

~~(b) Construction materials must be furnished by the property owner or others prior to the County undertaking any drainage improvement and/or maintenance under subsection (a) (3), above.~~

~~(bc) Easements or temporary rights-of-way ~~will~~ must be obtained for any existing or proposed drainage facilities on private property before any work is performed thereon by county forces. Easements for maintenance of drainage facilities constructed without the county's approval of plans or inspections will not be accepted unless the property owners execute a hold harmless agreement and release the county from all claims resulting from deficiencies of the facilities.~~

~~(ed) Except where the county has accepted an easement for maintenance of drainage facilities on private property as provided herein, maintenance is the responsibility of the property owner.~~

AMENDED

SECTION III. The Richland County Code of Ordinances, Chapter 21, Roads, Highways and Bridges; Article I, In General; Section 21-16, Work on Private Property; is hereby amended to read as follows:

Sec. 21-16. Work on private property.

The county department of public works is prohibited from performing any work on private property not specifically authorized under the provisions of this ~~section~~ Article except in emergency situations involving public health or safety and authorized, in writing, by the county administrator.

SECTION IV. Severability. If any section, subsection, or clause of this ordinance shall be deemed to be unconstitutional or otherwise invalid, the validity of the remaining sections, subsections, and clauses shall not be affected thereby.

SECTION V. Conflicting Ordinances Repealed. All ordinances or parts of ordinances in conflict with the provisions of this ordinance are hereby repealed.

SECTION VI. Effective Date. This ordinance shall be enforced from and after _____, 2014.

RICHLAND COUNTY COUNCIL

BY: _____
Norman Jackson, Chair

ATTEST THIS THE _____ DAY
OF _____, 2014

Michelle Onley
Clerk of Council

RICHLAND COUNTY ATTORNEY'S OFFICE

Approved As To LEGAL Form Only
No Opinion Rendered As To Content

First Reading: May 6, 2014 (tentative)
Public Hearing:
Second Reading:
Third Reading:

Richland County Council Request of Action

Subject

Motion related to County Attorney's Representation of the Board of Elections and Voter Registration [**PAGES 227-229**]

Notes

April 22, 2014 - The Committee recommended approval of this motion that requests that the County Administrator initiate an immediate review and assessment of how much time Richland County is providing legal assistance to the Election Commission. Should the Administrator determine that the County Attorney's commitment of time is excessive to the extent that his duties to Richland County government are being significantly compromised, the Election Commission will either be held financially responsible for this time or they will be asked to employ outside legal counsel.

Richland County Council Request of Action

Subject: Motion related to County Attorney's Representation of the Board of Elections and Voter Registration

A. Purpose

County Council is requested, per the motion of Mr. Pearce, Mr. Rose, and Mr. Malinowski, to direct the County Administrator to investigate the amount of time the County Attorney's Office is spending providing legal assistance to the Election Commission and decide whether such time is interfering with that Office's duties to Richland County government.

B. Background / Discussion

At the March 18, 2014, Council meeting, Mr. Pearce, Mr. Rose and Mr. Malinowski made the following motion:

Without any statutory requirement to do so, the Richland County Attorney's Office has been providing advice and counsel to the Richland County Election Commission at no cost for an undetermined length of time. During the past year there has been a notable increase in the amount of time the County Attorney's office has been committing to Election Commission issues. This motion requests that the County Administrator initiate an immediate review and assessment of how much time Richland County is providing legal assistance to the Election Commission. Should the Administrator determine that the County Attorney's commitment of time is excessive to the extent that his duties to Richland County government are being significantly compromised, the Election Commission will either be held financially responsible for this time or they will be asked to employ outside legal counsel.

At this time, staff is requesting direction from Council with regards to this motion.

C. Legislative / Chronological History

Motion by Mr. Pearce, Mr. Rose, Mr. Malinowski (March 18, 2014)

D. Financial Impact

None associated with the motion.

E. Alternatives

1. Approve the motion and direct staff as appropriate.
2. Do not approve the motion.

F. Recommendation

Recommended by: Mr. Pearce Department: Council
 Mr. Rose
 Mr. Malinowski

Date: April 3, 2014

G. Reviews

(Please replace the appropriate box with a ✓ and then support your recommendation in the Comments section before routing on. Thank you!)

Please be specific in your recommendation. While “Council Discretion” may be appropriate at times, it is recommended that Staff provide Council with a professional recommendation of approval or denial, and justification for that recommendation, as often as possible.

Finance

Reviewed by: Daniel Driggers

Date: 4/7/14

Recommend Council approval

Recommend Council denial

Comments regarding recommendation:

Legal

Reviewed by: Elizabeth McLean

Date: 4/7/14

Recommend Council approval

Recommend Council denial

Comments regarding recommendation: Policy decision left to Council’s discretion.

Administration

Reviewed by: Tony McDonald

Date: 4/8/14

Recommend Council approval

Recommend Council denial

Comments regarding recommendation: Recommend that the County Administrator be given the directive to proceed with a review of the legal assistance provided to the Office of Elections and Voter Registration as proposed by the motion above.

Richland County Council Request of Action

Subject

Potential Yard Waste Management Options [**PAGES 230-235**]

Notes

April 22, 2014 - The Committee approved Administration's recommendation to continue to, in the short-term, dispose of curbside yard waste in landfills and continue to grind wood waste into mulch/compost; expand as opportunities come along even to include some clean yard waste. Staff is to develop a strategic long-term solid waste management plan that has an economically viable and practical integrated yard waste management component. This could include feasible public-private partnerships.

Richland County Council Request of Action

Subject: Potential Yard Waste Management Options

A. Purpose

County Council is requested to provide Administration with direction regarding Council's preference on managing yard waste collected at curbside.

B. Background / Discussion

- Richland County through its curbside collection contractors has picked up yard waste countywide since January of 1986. The service was provided to select areas of the county at least ten (10) years prior to that date.
- All curbside collected yard waste has been disposed of in various landfills since the program was initiated. In recent years most of the yard waste from Service Areas 1 & 2 has been delivered to the County's Class Two Landfill off Monticello Road. The yard waste from the other 6 Services Areas has been delivered to the Pine Hill Class Two Landfill (Waste Management) or L&L Class Two Landfill (Waste Industries) both located off Screaming Eagle Road.
- For calendar year 2013, nine thousand (9,000) tons (31% of all collected yard waste) of curbside yard waste was disposed of in our county Class Two Landfill. Twenty thousand (20,000) tons (69%) was disposed of in the L&L Class Two Landfill. Thus the total curbside yard waste generation for 2013 was 29,000 tons.
- On November 5, 2013, Council decided to allow yard waste to be placed at curbside loose, bagged or containerized. At that time Council directed staff to investigate the potential for composting yard waste.
- Composting of yard waste in and of itself is a fairly simple process which can generate a useful product. Composting is good for the environment and it saves landfill space. However, there are many complex issues that have to be evaluated and resolved before the county should fully engage in a program to expand our existing compost operation to include yard waste. The more critical issues are as follows:

1. Contamination – The County (via a consultant) conducted a year-long evaluation of landfill operations (2011-2012) which included a waste stream analysis. It was extraordinarily clear during that study that curbside yard waste, as it came off the collection trucks, was wholly unsuitable for composting. It typically contained plastic bags, plastic toys, other plastics, metal and construction/demolition debris. The plastics and metal, if not removed, make yard waste unsuitable for composting from both a processing perspective and from an end product perspective. For compost purposes, plastic of any form in compost makes it virtually impossible to even give away. Due to logistics and labor costs there are no practical/economical ways to remove contamination at the end point. The general consensus in the industry is that yard waste must be cleaned at the point of generation/collection to be considered as a suitable feedstock for composting.

Even if contaminants are removed, our yard waste, by contract, can have brush and limbs mixed with pine straw and leaves. From a processing standpoint the limbs and brush would require us to add a grinding step to the process. Grinding the mixture adds \$3-\$5 per ton to the cost of processing. Without the brush and limbs, processing consists of piling the leaves and pine straw in windrows to begin the composting process. To avoid the extra processing costs Council would have to require citizens to separate brush/limbs from leaves/pine straw and require separate collection by the hauler which would likely necessitate a contract modification with increased hauling costs.

2. Logistics – Since 69% of the yard waste collected countywide is closer to the Screaming Eagle Road landfills, neither of which for various reasons would be inclined to compost, that portion of yard waste would have to be transported to our county landfill where we already have a composting/wood chipping operation in place. This would likely require a revision to some hauler contracts to offset their added transportation costs. An alternative could be to establish a compost site in the southern part of the county perhaps as part of a broader plan to re-locate the Lower Richland Drop-Off Center currently on Garners Ferry to a safer more functional facility with enhanced services e.g., providing a fee based disposal option for contractors and a composting/wood chipping operation for suitable wood waste and some suitable yard waste.
3. Feedstock Concerns – The ease of composting is a direct function of the type and quality of feedstock one utilizes. Uncontaminated leaves are an excellent feedstock that composts in a reasonably short time frame and generates a good product. On the other hand pine straw poses significant problems and we have large quantities of pine straw in our waste stream. Due to chemical characteristics pine straw does not break down easily. However that can be offset a degree by mixing in chemicals or other feedstock to enhance the decomposition.

The residents of Richland County typically generate about 30,000 tons of yard waste per year. We currently take another 10,000 tons or more of wood waste at the landfill which is being ground into mulch. Perhaps that much more wood waste could be collected at the Lower Richland Drop-Off Center if we had an expanded drop-off center site.

In the long term some consideration might be given to assessing the feasibility of developing sources of putrescible waste for mixing with clean yard waste to improve the composting potential. This would require significant planning, coordination, the certainty of having an end user, and most importantly, the commitment to make it work.

4. End user – Prior to engaging in a major composting program, the county must identify guaranteed end users. Compost/mulch sites are substantially regulated by the state (SCDHEC). The law does not provide opportunity to stockpile unlimited quantities of feedstock or mulch/compost. In fact, the state permit requires that we predetermine how the entire operation will function which forces us to pre-determine how much feedstock and product we will ever have on site. If the quantity of feedstock or product exceeds predetermined levels, we would be subject to enforcement (with fines). It is critical an end user is always ready to take the products we generate.

Potential users are Support Services, citizens, landscapers, and in some instances, industrial buyers (wood chips for boiler fuel). In terms of volume, Support Services would be minimal. The probability of citizens outside the north central part of county coming to the Landfill for compost or mulch, even at no charge, is not anticipated to be significant. Landscapers within 10-15 minutes of the Landfill might purchase limited quantities if the price is noticeably lower than the market. Industrial buyers would only be interested in clean properly sized wood chips for fuel. I would not recommend the county intrude too far into the market place.

5. Economic Highlights – Part of the discussion on yard waste management must be about the cost analysis. Our landfill space is very expensive. When we dispose of curbside yard waste in the County, we consume landfill capacity; therefore, we do not have that capacity to sell to commercial users at \$18.50 per ton. At L&L Landfill, we pay L&L

\$8.25 per ton which is extraordinarily inexpensive. We cannot dispose of yard waste at our landfill for a cost remotely approaching the L&L figure even if we disregard the lost revenue associated with lost capacity.

The economics of large scale composting vary greatly depending on a variety of factors. Without getting into an in depth discussion, the County's cost to compost curbside yard waste *if it were clean* would likely range between \$8 and \$12 per ton which would necessarily include adding up to 6-10 permanent positions and several pieces of equipment if we operated two sites. It is estimated that cleaning the yard waste at curbside or the drop point could cost an additional \$5 - \$8 per ton. If we have to grind the yard waste due to being mixed with wood debris, we add another \$3 - \$5 per ton. Overall our costs would be projected to be in the range of \$16 - \$25 per ton, and I would suggest it would be close to the \$25 typically, and there would be a major upfront investment for equipment. Mulching wood waste has an added cost of about \$5 per ton, and we current manage the mulch generated at the landfill with existing staff. We likely could manage mulch at a new Lower Richland Drop-Off Center with exiting staff. However, neither the landfill nor Lower Richland could manage compost sites adequately without adding several new positions.

- Richland County secured a Composting/Wood Chipping Registration (Permit) from SCDHEC in August of 2009. We began to accumulate trees, stumps, limbs, brush and general land clearing debris in the fall of 2012 as feedstock for mulching and compost. Since startup we have generated over 10,000 cubic yards of quality mulch part of which has now decomposed into compost. Due to the Council-approved Vulcan Soils Project, we currently are limited in our ability to store this type of wood feedstock. After the Project is completed (estimated mid-summer 2014), we will have approximately 8 acres available under our SCDHEC permit to process wood waste or yard waste into mulch or compost. We will be able to divert virtually all brush and wood waste along with certain clean loads of leaves coming to our landfill to the permitted mulch/compost area. If yard waste was clean we might have the ability to compost some of the curbside yard waste currently coming to our facility in the permitted area, but the site is not adequate to take the remaining 69% currently delivered to L&L Landfill.

C. Legislative / Chronological History

This is a request with no legislative history but surfaced as a discussion during the hauler contract discussions with Council over much of 2013.

D. Financial Impact

The actual financial impact is not easily calculated due to the complexity of the variables and the potential pathways. However, some estimates are laid out above in the Background / Discussion section.

E. Alternatives

Provide guidance to staff on the alternative(s) Council wishes to pursue:

1. In the short-term:
 - a) Continue to dispose of curbside yard waste in landfills based on the litany of factors noted above but largely centered on economic factors. It would be expensive to generate the end product and we do not have a known end user for the entire product potentially to be generated
 - b) Continue to grind wood waste into mulch/compost; expand as opportunities come along even to include some clean yard waste. We can generate product for the LF, Support Services, and the citizens.

2. Develop a strategic long-term solid waste management plan that has an economically viable and practical integrated yard waste management component. This could include feasible public-private partnerships.
3. Notwithstanding the economic impact, potential citizen push back and stormwater concerns along with not having identified end users of all the product to be generated, we could compost all or some of the curbside yard waste generated provided one of the following happens:
 - a) Revise the Solid Waste Ordinance to require residents to place clean leaves and pine straw at curbside – no contamination including plastic bags. Brush and limbs can be allowed understanding our processing costs will increase due to grinding.
 - b) Via contract, clean and debag yard waste at curbside before it is loaded into the collection trucks. This may have significant added cost.
 - c) Once offloaded, manually clean the curbside yard waste currently coming to the LF. This necessitates hiring several employees and thus significant added cost.

Phase in yard waste composting in the southern portion of the county after we evaluate re-locating the Lower Richland Drop-Off Center to a site that offers opportunity to compost.

F. Recommendation

It is recommended that Council choose Alternative 1 and 2.

Recommended by: **Rudy Curtis** Department: **Solid Waste & Recycling** Date: 4/4/14

G. Reviews

(Please replace the appropriate box with a ✓ and then support your recommendation in the Comments section before routing on. Thank you!)

Please be specific in your recommendation. While “Council Discretion” may be appropriate at times, it is recommended that Staff provide Council with a professional recommendation of approval or denial, and justification for that recommendation, as often as possible.

Finance

Reviewed by: Daniel Driggers Date: 4/10/14
 ✓ Recommend Council approval Recommend Council denial
 Comments regarding recommendation:

The Finance Department agrees with the recommendation for Council to approve alternatives 1 and 2: to continue the use of landfills for the disposal of yard waste in the short term and to develop a long-term waste management plan. While the information presented offers a number of possible alternatives to the County’s current yard waste disposal methods and related cost estimates, it also points out a number of obstacles and “unknowns” which precludes us from performing a detailed financial analysis at this point. However, the costs and concerns included in this ROA clearly indicate that the implementation of any kind of composting program for yard waste would require additional funding by the County for both the initial investment and on an ongoing basis. The development of a long-term, comprehensive waste management plan, which would no doubt seek to maximize the efficiency of all of the County’s waste management services, will provide the required information for a full-scale analysis of costs and overall financial feasibility.

Legal

Reviewed by: Elizabeth McLean Date: 4/11/14

Recommend Council approval

Recommend Council denial

Comments regarding recommendation: Policy decision left to Council's discretion.

Administration

Reviewed by: Warren Harley

Date:

Recommend Council approval

Recommend Council denial

Comments regarding recommendation:

Administration recommends that County Council approve alternatives 1&2. This gives us an opportunity to evaluate all of the options available to Richland County.

Richland County Council Request of Action

Subject

Small Local Business Enterprise Program Design Model and Projected Budget Approval [**PAGES 236-258**]

Notes

April 22, 2014 - The Committee recommended approval to implement the proposed SLBE program model and funding of five FTE positions for the Small Local Business Enterprise Program in FY14.

Richland County Council Request of Action

Subject: Small Local Business Enterprise Program Design Model and Projected Budget Approval

A. Purpose

County Council is requested to approve a program design model and budget for the Small Local Business Enterprise (SLBE) division for countywide and Transportation Penny Tax generated projects and contracts.

B. Background / Discussion

The primary objectives of the program are to:

- Utilize a race- and gender-neutral procurement tool to increase the capacity of small and local businesses, including Minority/Women/Disadvantaged Business Enterprises (M/W/DBEs);
- Promote equal opportunity for businesses in construction, architectural, professional, engineering and commodities industries by entering into contracts or engaging in business relationships solely with businesses that have demonstrated equal treatment of vendors, suppliers, subcontractors or commercial customers in their solicitations, selection, and hiring practices;
- Provide additional avenues for the development of broad-based competition for County contracts from the growing pool of small and locally-based businesses;
- Establish new, locally-based sources of supply which promotes economic development.

The general responsibilities associated with administering the program include, but are not limited to:

- Providing general program oversight, management and support;
- Preparing progress, performance and annual reports of goals;
- Certifying SLBEs, Emerging SLBEs and joint ventures;
- Form Goal Setting Committee(s) to establish and apply Affirmative Procurement Initiatives (APIs) when needed;
- Conducting contract compliance verifications;
- Managing contract specification reviews, oversight and close-outs;
- Determining whether graduation and/or suspension provisions of SLBE, Emerging SLBE firms and joint ventures have been met;
- Marketing, community outreach and developing community partnerships;
- Budget and cost monitoring and control.

In designing a model for the program, a Program Needs Assessment was completed which included performing a staffing analysis, projecting personnel and operating costs, and developing a proposed overall budget. In evaluating the program's needs, the City of Columbia, SCDOT, Charleston County, City of Charlotte, City of Durham, City of Houston, and the City of San Diego were consulted during the study to learn how their programs were structured and

staffed. In this evaluation five (5) positions were identified as most vital to the operations of the SLBE program. These positions will report to the Assistant Director of the SLBE division.

Each position's pay rates will be proportional with the percent of work completed through the Penny Tax and the amount completed countywide which is estimated to be allocated at a rate of 75% from the Transportation Penny Tax fund and 25% from the General Fund. These positions may be eliminated when total projected revenues from the Transportation Penny program have been collected and expended in roughly 21 years.

A brief description of each position is provided below as well as the number of staff persons needed in each category. These positions are also illustrated in the SLBE organization chart, which is attached as Appendix 1:

- **Certification Specialist (1-2):** Responsible for reviewing and processing applications for primes and subcontractors; examining, evaluating, and investigating program eligibility; conducting site visits to verify program eligibility and confirming eligibility of industries that work with other businesses or firms. Recommendations for certification or denial will be made by the incumbent however the Assistant Director will make final determination of eligibility and whether certification ultimately will be granted. The outcome of a classification study conducted by HRD has established a pay range between \$32,152 and \$51,298 per year.
- **Contracts and Compliance Specialist (1-2):** Responsible for ensuring federal, state and local laws, regulations and ordinances governing contracts are complied with. This individual will ensure policies, procedures and regulations are being practiced in accordance with the provisions of the scope of services within the contract. This individual will also monitor performance and other related activities of primes and subcontractors to ensure each participant remains eligible for involvement in the program. Recommendations to graduate, suspend or terminate participants from the program will be made to the Assistant Director who will make the final determination whether program criteria for advancement from the program have been satisfied. This individual may also assist with contract development, administration, tracking, analysis, monitoring and communicating performance. The outcome of a classification study conducted by HRD has established a pay range between \$39,062 and \$62,420 per year.

Shortly after the program has been fully implemented, in FY 15 a subsequent determination will be made when the additional positions will need to be brought in to the program. The positions outlined below have not undergone a classification study so the pay amounts are purely estimates only. They include the following:

- **Procurement Specialist (1):** Responsible for developing schedules for final construction plan submittals, project advertisements, addendums, mandatory pre-bid meetings, and

bid openings. Develops proposals for individual project bids and provides final engineering cost estimates prior to project advertisement. Conducts bid openings, analysis of bid tabulations and makes recommendations to the Assistant Director for awards and rejections. Produces standard specifications for proposals to ensure SLBE requirements for individual projects and oversight procedures for compliance are adhered to.

- **Program Specialist / Intake Coordinator (1):** As the first point of contact, the incumbent is responsible for providing administrative support to the program, including intake and coordination of certification applications; communicating with and responding to questions from potential applicants and the public; monitoring and updating the bidder registration system; maintaining schedule for outreach meetings and workshops in conjunction with the PDT and providing assistance as needed; responding to information requests; conducting basic research and storing and integrating information from existing files and databases to a new system.

Prior to implementing the program, it is recommended one Certification Specialist and one Contracts and Compliance Specialist be hired immediately. In the first few months after the program launches staffing levels will build as the program fully develops and its needs expand at which time a second Certification or Contracts and Compliance Specialist, a Procurement Specialist and a Program Assistant. Council is also requested to approve hiring these positions as well; however, these positions are not as critical as the other two requested and could be filled after July 1, 2014.

The program will be continuously and closely monitored after implementation to verify all positions adequately cover the needs of the program. Adjustments will be made as needed to ensure the program's operations function in a high quality, efficient and streamlined manner. It is therefore recommended funding for all estimated personnel costs be approved and encumbered *now* as part of the division's FY15 budget request. When program need dictate the need for additional staff, the vacant positions and associated personnel costs will have already been approved and the positions can be filled as quickly as possible. Administration and Council will be updated of any anticipated changes in program needs at the earliest time possible.

The program is projected to launch in July 2014 and assumes the program design and proposed budget have received Council approval, the necessary resources are available and accessible as requested, and the two requested employees are in place prior to implementation. Although firm estimates are not available on the prospective number of SLBEs that will participate in the program, gauging from the level of public interest in the Penny Tax initiative, upcoming projects scheduled to begin in summer 2014, and from discussions with and inquiries from small business owners, the interest is predicted to be moderate to high.

C. Legislative / Chronological History

- On February 18, 2014 County Council approved the Retreat Directive for staff to provide Council a program design model and present a proposed budget.
- At the Council Retreat held on January 23, 2014 Council was provided an update on the status of the program.
- On December 30, 2013 the SLBE program was added as a second division to the Procurement Office.
- Ordinance No. 049-13HR was approved on September 17, 2013 (attached as Appendix 2).

D. Financial Impact

All program-related costs will be allocated from both the Transportation Penny Tax Fund and the General Fund based on the division of the work in each area. The program as well as operating costs provided in Table 1 is *estimate only* since this is a newly-developed program.

The initial one-time purchase of vehicles, computers and related equipment, and office supplies required for staff will be higher in the first year than in subsequent years when these items will be maintained. The Certification and Contracts and Compliance Specialist positions have been identified as most critical and time sensitive to implementation. However, the Procurement Specialist and Program Specialist positions will be classified by HRD in the near future.

To provide Council a realistic sense of what the personnel costs would be for the positions that have not undergone a classification study, similar positions from the municipalities mentioned earlier were reviewed, as well as research from the National Occupational Employment and Wage Estimates from the Bureau of Labor statistics salaries. However because each particular program design and its needs are unique, and because the variables associated with determining pay ranges vary so widely, the information reviewed could only be applied in a general manner. After the classification analysis for the Procurement and Program Specialist positions have been completed and concrete pay ranges for each have been determined, the budget will be updated accordingly.

When the classifications have been completed and the pay ranges have been defined, the information will be presented to Council in a progress report update.

Table 1. SLBE Program Budget

Line Description	FY15
Estimated Personnel Costs	\$382,151
Estimated Operating Costs	\$109,000
Total Estimated Program Costs	\$ 491,151

E. Alternatives

1. Approve the request to implement the proposed SLBE program model and projected budget for the remainder of FY14 and authorize two staff persons to be immediately hired in FY 14 prior to implementation. The personnel budget for the remaining three positions will be

approved and encumbered as part of this request to allow the additional three staff positions to be hired in FY15. Approval of five positions is being requested.

2. Do not approve the request to implement the proposed SLBE program model and projected budget for the remainder of FY14 and FY 15.

If this Alternative is selected, the program will not be implementable. All associated program expenditures and proposed positions are critical to the development, implementation, and administration of the program.

F. Recommendation

It is recommended Council approve the request to implement the proposed SLBE program model and projected budget for the remainder of FY14 and authorize two staff persons to be immediately hired in FY 14 prior to implementation. The personnel budget for the remaining three positions will be approved and encumbered as part of this request to allow the additional three staff positions to be hired in FY15. Approval of five positions is being recommended.

Recommended by: Justine Jones Department: Procurement Date: 4/7/14

G. Reviews

Finance

Reviewed by: Daniel Driggers Date: 4/18/14
 Recommend Council approval Recommend Council denial
Comments regarding recommendation: Recommendation supports Administration's comments below

Human Resources

Reviewed by: Dwight Hanna Date:
 Recommend Council approval Recommend Council denial
 County Council discretion
Comments regarding recommendation: It appears that Council has already approved and/or agreed to this project. Upon review, there are different individuals designated for approvals. Some approval authorizations are designated to Procurement Director, and Assistant Procurement Director [and] appropriate Contracting Officer. Human Resources recommends the County clearly designates who has approval authority. Human Resources has not participated in the staffing analysis and assessment to determine the appropriate number or type positions needed for this project. Human Resources involvement has been limited to classification of jobs based on information provided from the Procurement Department.

Legal

Reviewed by: Elizabeth McLean Date: 4/18/14
 Recommend Council approval Recommend Council denial
Comments regarding recommendation: Policy decision left to Council's discretion.

Administration

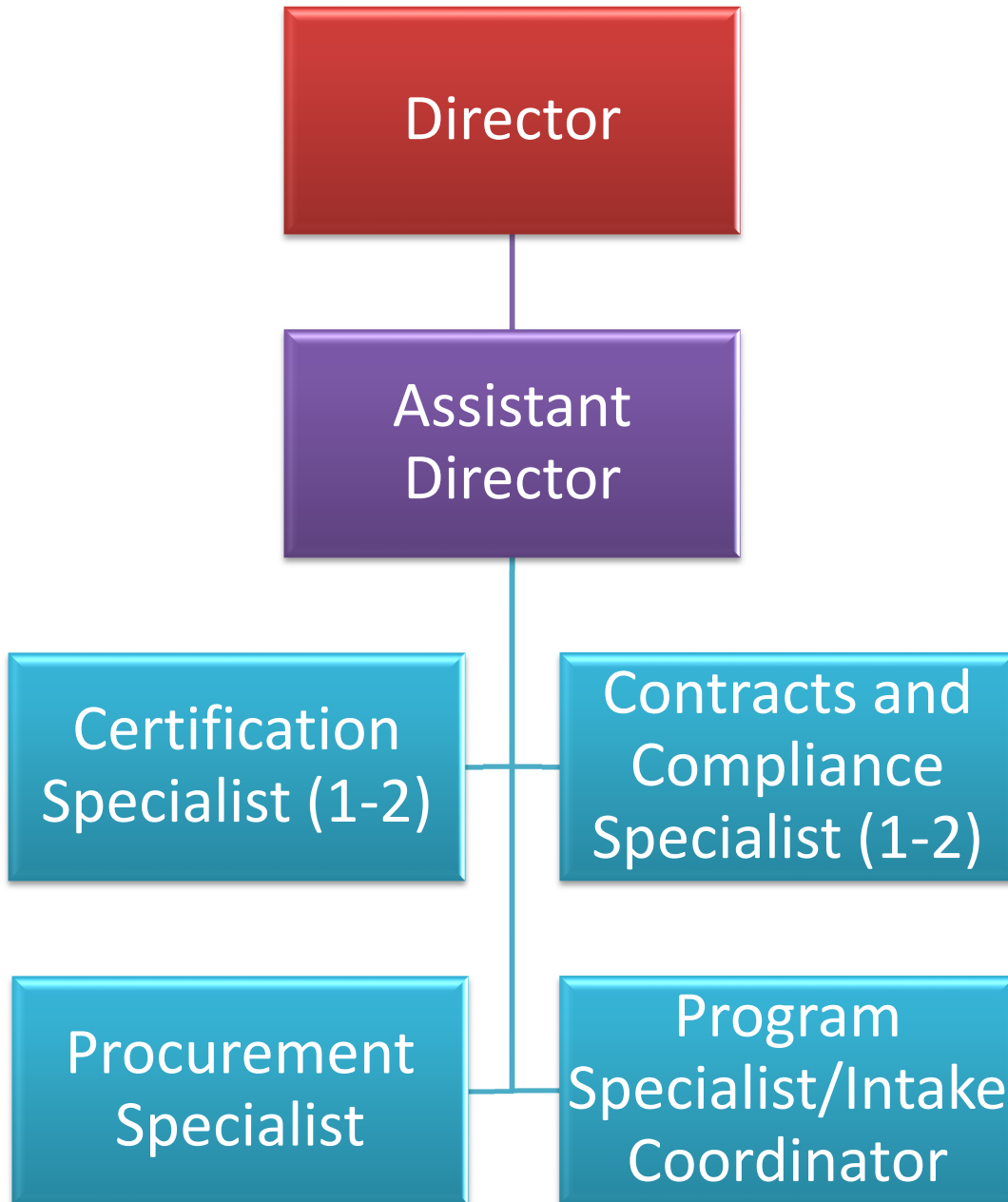
Reviewed by: Roxanne Ancheta Date: April 18, 2014
 Recommend Council approval Recommend Council denial

Comments regarding recommendation: It is recommended that Council approve the request to implement the proposed SLBE program model as outlined above. It is also recommended that Council immediately approve the creation and hiring of one (1) Certification Specialist, and one (1) Contracts and Compliance Specialist. A budget amendment will be required. Council may choose to approve the remaining three (3) proposed new positions at this time, or wait to see how the program progresses, and determine staffing needs at a later date. This portion of the request (remaining 3 positions) is a policy decision of Council.

**Small Local Business Enterprise (SLBE)
Program Organization Chart**

FYs14/15

Appendix 1



Appendix 2

STATE OF SOUTH CAROLINA
COUNTY COUNCIL FOR RICHLAND COUNTY
ORDINANCE NO. 049-13HR

AN ORDINANCE AMENDING THE RICHLAND COUNTY CODE OF ORDINANCES, CHAPTER 2, ADMINISTRATION; ARTICLE X, PURCHASING; BY ADDING A NEW DIVISION ENTITLED 7, SMALL LOCAL BUSINESS ENTERPRISE PROCUREMENT REQUIREMENTS; AND AMENDING CHAPTER 2, ADMINISTRATION; ARTICLE XI, INQUIRIES AND INVESTIGATIONS; SO AS TO RENUMBER THE PARAGRAPHS THEREIN.

Pursuant to the authority granted by the Constitution and the General Assembly of the State of South Carolina, BE IT ENACTED BY THE COUNTY COUNCIL FOR RICHLAND COUNTY:

SECTION I. The Richland County Code of Ordinances; Chapter 2, Administration; Article XI, Inquiries and Investigation; Section 2-639, Short title; is hereby renumbered to read as Section 2-647, and all remaining paragraphs in Article XI are renumbered in appropriate chronological order.

SECTION II. The Richland County Code of Ordinances, Chapter 2, Administration; Article X, Purchasing; is hereby amended by the creation of a new Division, to read as follows:

DIVISION 7. SMALL LOCAL BUSINESS ENTERPRISE PROCUREMENT REQUIREMENTS

Sec. 2-639. General Provisions.

(a) *Purpose*

The purpose of this division is to provide a race- and gender-neutral procurement tool for the County to use in its efforts to ensure that all segments of its local business community have a reasonable and significant opportunity to participate in County contracts for construction, architectural & engineering services, professional services, non-professional services, and commodities. The Small Local Business Enterprise (“SLBE”) Program also furthers the County’s public interest to foster effective broad-based competition from all segments of the vendor community, including, but not limited to, minority business enterprises, small business enterprises, and local business enterprises. This policy is, in part, intended to further the County’s compelling interest in ensuring that it is neither an active nor passive participant in private sector marketplace discrimination, and in promoting equal opportunity for all segments of the contracting community to participate in County contracts. Moreover, the SLBE Program provides additional avenues for the development of new capacity and new sources of competition for County contracts from the growing pool of small and locally based businesses.

(b) *Scope and Limitations*

This SLBE Program may be applied by the County on a contract-by-contract basis to the maximum practicable extent permissible under federal and state law.

(c) *Definitions*

Affirmative Procurement Initiatives – refers to any procurement tool to enhance contracting opportunities for SLBE firms including: bonding / insurance waivers, bid incentives, price preferences, sheltered market, mandatory subcontracting, competitive business development demonstration projects, and SLBE evaluation preference points in the scoring of proposal evaluations.

Award – the final selection of a bidder or offeror for a specified prime contract or subcontract dollar amount. Awards are made by the County to prime contractors or vendors or by prime contractors or vendors to subcontractors or sub-vendors, usually pursuant to an open invitation to bid (“ITB”) or request for proposal (“RFP”) process. (Contract awards are to be distinguished from contract payments in that they only reflect the anticipated dollar amounts instead of actual dollar amounts that are to be paid to a bidder or offeror under an awarded contract.)

Bid Incentives – additional inducements or enhancements in the bidding process that are designed to increase the chances for the selection of SLBE firms in competition with other firms. These bid incentives may be applied to all solicitations, contracts, and letter agreements for the purchase of Architectural & Engineering services, Construction, Professional Services, Non-professional Services, and Commodities including change orders and amendments.

Centralized Bidder Registration System (“CBR”) -- a web-based software application used by the County of Richland to track and monitor SLBE availability and utilization (i.e., “Spend” or “Payments”) on County contracts.

County – refers to the County of Richland, South Carolina.

Commercially Useful Function – an SLBE performs a commercially useful function when it is responsible for execution of the work of the contract and is carrying out its responsibilities by actually performing, managing, and supervising the work involved. To perform a commercially useful function, the SLBE must also be responsible, with respect to materials and supplies used on the contract, for negotiating price, determining quantity and quality, ordering the material, and installing (where applicable) and paying for the material itself. To determine whether an SLBE is performing a commercially useful function, an evaluation must be performed of the amount of work subcontracted, normal industry practices, whether the amount the SLBE firm is to be paid under the contract is commensurate with the work it is actually performing and the SLBE credit claimed for its performance of the work, and other relevant factors. Specifically, an SLBE does not perform a commercially useful function if its role is limited to that of an extra participant in a transaction, contract, or project through which funds are passed in order to obtain the appearance of meaningful and useful SLBE participation, when in similar transactions in which SLBE firms do not participate, there is no such role performed.

Emerging SLBE – an emerging firm that meets all of the qualifications of a Small Local Business Enterprise, and that is less than five years old, but has no more than five full-time employees and annual gross sales as averaged over the life of the firm that are less than \$1 million.

Goal – a non-mandatory annual aspirational percentage goal for SLBE contract participation is established each year for Architectural & Engineering services, Construction, Professional Services, Non-professional Services, and Commodities contracts. Mandatory percentage goals for SLBE subcontract participation may be established on a contract-by-contract basis by either the Director of Procurement or a Goal Setting Committee.

Goal Setting Committee – a committee established by the Director of Procurement for the County (including a representative of the Procurement Department and a representative of the end-user agency) and chaired by the Director of Procurement that establishes SLBE Program goals and selects appropriate SLBE Affirmative Procurement Initiatives to be applied to each contract for the County based upon industry categories, vendor availability, and project-specific characteristics. The Director of Procurement may establish as many as five separate Goal Setting Committees (i.e., one for each industry category).

Good Faith Efforts – documentation of the Bidder’s intent to comply with SLBE Program goals and procedures, including, but not limited to the following: (1) documentation within a bid submission or proposal reflecting the Bidder’s commitment to comply with SLBE Program goals as established by the Director of Procurement or a Goal Setting Committee for a particular contract; or (2) documentation of efforts made towards achieving the SLBE Program goals (e.g., timely advertisements in appropriate trade publications and publications of wide general circulation; timely posting of SLBE subcontract opportunities on the County web site; solicitations of bids from all qualified SLBE firms listed in the County’s SLBE Directory of certified SLBE firms; correspondence from qualified SLBE firms documenting their unavailability to perform SLBE contracts; documentation of efforts to subdivide work into smaller quantities for subcontracting purposes to SLBE firms; documentation of efforts to assist SLBE firms with obtaining financing, bonding, or insurance required by the bidder; and documentation of consultations with trade associations and consultants that represent the interests of small and local businesses in order to identify qualified and available SLBE subcontractors.)

Graduation – An SLBE firm permanently graduates from the County’s SLBE program when it meets the criteria for graduation set forth in this policy.

Independently Owned, Managed, and Operated – ownership of an SLBE firm must be direct, independent, and by individuals only. Business firms that are owned by other businesses or by the principals or owners of other businesses that cannot themselves qualify under the SLBE eligibility requirements shall not be eligible to participate in the SLBE program. Moreover, the day-to-day management of the SLBE firm must be direct and independent of the influence of any other businesses that cannot themselves qualify under the SLBE eligibility requirements.

Industry Categories – procurement groupings for County contracts for purposes of the administration of Affirmative Procurement Initiatives shall be inclusive of Architectural &

Engineering, Construction, Professional Services, and Non-professional Services, and Commodities procurements. Industry Categories may also be referred to as “business categories.”

Joint Venture - an association of two or more persons or businesses carrying out a single business enterprise for which purpose they combine their capital, efforts, skills, knowledge and/or property. Joint ventures must be established by written agreement.

Local Business Enterprise (“LBE”) - a firm having a Principal Place of Business or a Significant Employment Presence in Richland County, South Carolina. This definition is subsumed within the definition of Small Local Business Enterprise.

Non-professional Services – non-construction, non-architectural, and non-engineering services that are other than Professional Services, and such “other” services that do not require any license or highly specialized training and credentials to perform.

Points – the quantitative assignment of value for specific evaluation criteria in the selection process.

Prime Contractor – The vendor or contractor to whom a purchase order or contract is awarded by the County for purposes of providing goods or services to the County.

Principal Place of Business – a location wherein a firm maintains a company headquarters or a physical office and through which it obtains no less than fifty percent of its overall customers or sales dollars, or through which no less than twenty-five percent of its employees are located and domiciled in the County of Richland and/or Richland County.

Professional Services – any non-construction and non-architectural & engineering services that require highly specialized training and / or licensed credentials to perform, such as legal, accounting, scientific, technical, insurance, investment management, medical, or real estate services.

Responsive - a firm’s bid or proposal conforms in all material respects to the invitation to bid or request for proposal and shall include compliance with SLBE Program requirements.

Sheltered Market – An Affirmative Procurement Initiative designed to set aside a County contract bid for bidding exclusively among SLBE firms.

Significant Employee Presence – no less than twenty-five percent of a firm’s total number of full and part-time employees are domiciled in Richland County.

Small Local Business Enterprise (“SLBE”) – an independently owned firm that is not dominant in its industry, and that satisfies all requirements of being both a “*Small Business Enterprise*” and a “*Local Business Enterprise*.”

SLBE Plan Execution Certification (SLBE Form – C) - The form certifying the general contractor’s intent to use a SLBE subcontractor, verifying that an agreement has been executed between the prime and the SLBE.

SLBE Directory - A listing of the small local businesses that have been certified by the Procurement Department for participation in the SLBE Program.

SLBE Certification/Re-certification Application (SLBE Form – R) – This form shall be completed by Small Local Business Enterprises (SLBEs) when applying for and/or recertifying SLBE status for participation in the County’s Small Local Business Enterprise Program. This form shall be completed every two years by certified Small Local Business Enterprises by the anniversary date of their original certification.

SLBE Schedule for Subcontractor Participation (SLBE Form – S) – This form must be completed by all non-SLBE firms that subcontract to SLBE firms. A form must be submitted for each SLBE subcontractor. This form(s) must be reviewed and approved by the Director of Procurement before contract award.

SLBE Unavailability Certification (SLBE Form – U) - This form demonstrates a bidder's unsuccessful good faith effort to meet the small, local participation requirements of the contract. This form will only be considered after proper completion of the outreach and compliance efforts and methods used to notify and inform SLBE firms of contracting opportunities have been fully exhausted.

Small Business Enterprise (“SBE”) a small business enterprise is any for-profit enterprise as defined by South Carolina Code of Laws, Title 33, Chapter 31 that is not a broker, that is independently owned and operated, that is not a subsidiary of another business, and that is not dominant in its field of operation; and that also meets the following size standard limitations: (1) the SBE must have no more than fifty full-time employees; and (2) the SBE and must have annual gross revenues within its largest primary NAICS commodity code as averaged over its most recent past three fiscal years of not more than \$10 million for construction firms, specialty trade contractors, and manufacturing firms; not more than \$5 million for architectural firms; not more than \$3 million for professional services firms (e.g., scientific, real estate, insurance, accounting, legal, etc.); not more than \$2.5 million for engineering firms; and not more than \$2 million for wholesale operations, retail firms, and all other services firms (e.g., truck transportation, administrative support services, repair and maintenance services). If a business has not existed for 3 years, the employment and gross sales limits described above shall be applied based upon the annual averages over the course of the existence of the business not to exceed the three years. Once the gross annual receipts of a business exceed the gross sales average limits, it should no longer be eligible to benefit as an SLBE firm and should be graduated from the program. The size standards in number of employees and annual gross revenue dollars should be reviewed annually and adjusted periodically to meet economic changes. Joint ventures must be certified on a bid-by-bid basis. The joint venture shall not be subject to the average gross receipts and employee limits imposed by this section. However, each individual business participating in the joint venture must be certified by the Procurement Department as an SBE. *This definition is subsumed within the definition of Small Local Business Enterprises.*

Small Local Business Enterprise (“SLBE”) – A Local Business Enterprise that is also a Small Business Enterprise.]

Spend Dollars – dollars actually paid to prime and / or subcontractors and vendors for County contracted goods and/or services.

Subcontractor – any vendor or contractor that is providing goods or services to a Prime Contractor in furtherance of the Prime Contractor’s performance under a contract or purchase order with the County.

Suspension – the temporary stoppage of a SLBE firm’s participation in the County’s contracting process under the SLBE Program for a finite period of time due to the cumulative contract payments the SLBE received during a fiscal year.

Sec. 2-640. Program Objectives and General Responsibilities.

(a) To meet the objectives of this Program, the County is committed to:

1. Increasing the participation of Small Local Business Enterprises (“SLBEs”) in County contracting, and, to the extent possible, ameliorating through race- and gender-neutral means, any disparities in the participation of minority business enterprises or women business enterprises on County contracts.
2. Regular evaluation regarding the progress of the Program using accumulated availability and utilization data to determine specific program provisions that require modification, expansion, and/or curtailment;
3. Establishing one or more Goal Setting Committee(s) (“GSCs”) to provide guidance on the implementation of the rules under this Policy;
4. Continuous review and advice of the GSC in administering the policy and goals herein. The County’s Director of Procurement shall determine the size of each GSC that is to be chaired by the Procurement Director. The Procurement Director shall also appoint the remaining members of the GSC from the County’s procurement personnel and other County departments affected by this Program; and
5. Providing accountability and accuracy in setting goals and in reporting program results through the implementation of a mandatory centralized bidder registration process capable of identifying with specificity the universe of firms that are available and interested in bidding on and /or performing on County contracts, and of providing the means of tracking actual County bids, contract awards, and prime contract and subcontract payments to registered bidders on the basis of firm ownership status, commodity or sub-industry codes, firm location, and firm size. Accordingly, Prime Contractors and Subcontractors will be required to register and input data into the CBR or other related forms and systems as a condition of engaging in business with the County.

(b) At a minimum, the Procurement Director shall:

1. Report to the County Administrator and the County Council on at least an annual basis as to the County’s progress towards satisfying SLBE program objectives;

2. Formulate Program waivers, improvements and adjustments to the GSC goal-setting methodology and other Program functions;
3. Have substantive input in a contract specification review process to be undertaken in advance of the issuance of County's RFPs and bid solicitations to ensure that contract bid specifications are not unnecessarily restrictive and unduly burdensome to small, local, minority-owned, and other businesses;
4. Receive and analyze external and internal information including statistical data and anecdotal testimonies it deems appropriate to effectively accomplish its duties; and
5. Monitor and support the implementation of the rules under this Program, and where appropriate, make recommendations to the County Administrator for approval of changes to established size standards for SLBE firms, and provide notice of all approved changes to the County Council.

(c) At a minimum, each Goal Setting Committee shall:

1. Meet as often as it deems necessary to accomplish its duties but not less than twice annually;
2. Develop the SLBE goal setting methodology to be implemented by the Director of Procurement on a contract-by-contract basis; and
3. Monitor and support the implementation of the rules under this Program policy.

Sec. 2-641. Eligibility for the SLBE Program.

(a) For the purpose of this program, a firm will be certified as a Small and Local Business Enterprise (*SLBE*) with the Procurement Department upon its submission of a completed certification form (*SLBE Form-R*), supporting documentation, and a signed affidavit stating that it meets all of the *SLBE* eligibility criteria as set forth below:

1. It is an independently owned and operated for-profit business concern as defined by South Carolina Code of Laws, Title 33, Chapter 31 that is not a broker, that is not a subsidiary of another business, that is not dominant in its field of operation; whose owners are actively involved in day-to-day management and control of the business, and that also is performing a commercially useful function;
2. It meets size standard eligibility requirements for Small Business Enterprises as defined below:
 - a. Construction firms, specialty trade firms, and manufacturing firms have not employed more than 50 full-time persons at any time during the last three years, and the gross annual revenues of the business for its largest primary NAICS code have not exceeded an average of \$7 million in its most recently completed 3 fiscal years;

- b. Architectural business firms have not employed more than 50 persons at any time during the last three years, and the gross annual revenues of the business for its largest primary NAICS code have not exceeded an average of \$3 million in its most recently completed 3 fiscal years;
- c. Professional services business firms have not employed more than 50 persons at any time during the last three years, and the gross annual revenues of the business for its largest primary NAICS code have not exceeded an average of \$3 million in its most recently completed 3 fiscal years;
- d. Engineering business firms , have not employed more than 50 persons at any time during the last three years, and the gross annual revenues of the business for its largest primary NAICS code have not exceeded an average of \$2.5 million in its most recently completed 3 fiscal years;
- e. Wholesale operations, retail firms, and all other services business firms have not employed more than 50 persons at any time during the last three years, and the gross annual revenues of the business for its largest primary NAICS code have not exceeded an average of \$2 million in its most recently completed 3 fiscal years; and

If a business has not existed for 3 years, the employment and gross revenue limits described above shall be applied based upon the annual averages not to exceed three years.

Once the gross annual revenues of a business exceed the three-year average gross annual revenue limits, it should no longer be eligible to benefit as an SLBE firm and should be permanently graduated from the program. The size standards in number of employees and annual gross revenue dollars should be reviewed annually and adjusted periodically to meet changes in market conditions. Joint ventures must be certified on a bid-by-bid basis. The joint venture itself shall not be subject to the size standard limitations imposed by this section. However, each individual business participating in the joint venture must be certified by the Procurement Department as an SLBE in order for the joint venture to receive the benefits of the SLBE program.

This definition is subsumed within the definition of Small Local Business Enterprises.

- 3. The firm is a Local Business Enterprise as defined by this Policy with a principal place of business or significant employment presence in Richland County, SC as defined herein;
- 4. The firm has been established for at least one year or the managing principals of the business each have at least three years of relevant experience prior to forming or joining the business; and
- 5. In the year preceding the date of the initial certification application, the applicant has not received more than \$1,000,000 in County contract payments as a result of contract awards from the County achieved through an open competitive bidding process.

(b) Upon receipt of SLBE certification or re-certification applications, the Director of Procurement or designated Procurement Department staff shall review all enclosed forms affidavits and documentation to make a prima facie determination as to whether the applicant satisfies the SLBE eligibility requirements as set forth in this policy. Applicants determined ineligible to participate as a SLBE shall receive a letter from the Director of Procurement stating the basis for the denial of eligibility. Applicants determined ineligible shall not be eligible to submit a new application for one year after the date of the notice of denial of eligibility.

(c) Applicants determined eligible to participate in the SLBE program shall submit a completed re-certification form (SLBE-R) every two years to the Procurement Department for review and continued certification. However, upon application for re-certification, an SLBE firm must be an independently owned and operated business concern, and maintain a Principal Place of Business or Significant Employment Presence in the County of Richland in accordance with this Section 2-641 of Division 7, "Eligibility for the SLBE Program," of this Policy. To qualify for recertification, an SLBE's maximum employment numbers and annual gross revenues average for the three fiscal years immediately preceding the application for recertification shall not exceed the size standard eligibility requirements.

(d) In the course of considering the certification or re-certification status of any SLBE firm, the Director of Procurement or his or her designees shall periodically conduct audits and inspect the office, job site, records, and documents of the firm, and shall interview the firm's employees, subcontractors, and vendors as reasonably necessary to ensure that all eligibility standards are satisfied and that the integrity of the SLBE Program is maintained.

(e) For purposes of this Program, a firm will be certified as an *Emerging SLBE* by the Procurement Department upon its submission of a completed certification form (SLBE Form-R), supporting documentation, and a signed affidavit stating that it meets all of the Emerging SLBE eligibility criteria as set forth below:

1. The firm complies with SLBE criteria as specified above in Sec. 2-641 (a)(1) and (a)(3);
2. The firm has been in existence for less than five years;
3. The firm has no more than five full-time employees; and
4. The firm's annual gross revenues as averaged over the life of the firm are less than \$1 million.

Sec. 2-642. Graduation and Suspension Criteria.

(a) A bidder may not count towards its SLBE or Emerging SLBE participation the amount subcontracted to an SLBE or Emerging SLBE firm that has graduated or been suspended from the program as follows:

1. An SLBE firm shall be permanently graduated from the SLBE Program after it has received a cumulative total of \$5 million of County-funded prime contract or subcontract payments in at least five separate contracts since its initial certification as an SLBE firm;

2. An SLBE firm shall be permanently graduated from the SLBE program after its three fiscal year average gross sales exceeds the size standard eligibility requirements;
 3. An SLBE firm shall be temporarily suspended by the Director of Procurement for the balance of any fiscal year after it has received a cumulative total of \$1.5 million in payments as a prime contractor and / or subcontractor for that fiscal year; provided, however, that the SLBE firm shall be eligible to participate in Affirmative Procurement Initiatives in the following fiscal year so long as the firm has not yet satisfied the graduation criteria;
 4. An SLBE firm may have its SLBE eligibility permanently revoked by the Director of Procurement if it fails to perform a Commercially Useful Function under a contract, or if it allows its SLBE status to be fraudulently used for the benefit of a non-SLBE firm or the owners of a non-SLBE firm so as to provide the non-SLBE firm or firm owners benefits from Affirmative Procurement Initiatives for which the non-SLBE firm and its owners would not otherwise be entitled;
 5. An Emerging SLBE firm shall be permanently graduated from Emerging SLBE status after it has received a cumulative total of \$2.5 million of County-funded prime contracts or subcontract payments in at least five separate contracts since its initial certification as an Emerging SLBE firm;
 6. An Emerging SLBE firm shall be permanently graduated from Emerging SLBE status once its three-year average annual gross sales exceeds \$2 million; and
 7. An Emerging SLBE firm shall be temporarily suspended from Emerging SLBE status by the Director of Procurement for the balance of any fiscal year after it has received a cumulative total of \$750,000 in payments as a prime contractor and / or subcontractor for that fiscal year; provided, however, that the Emerging SLBE firm shall be eligible to continue participating in Affirmative Procurement Initiatives as an SLBE firm for the remainder of the fiscal year, and may also participate in Affirmative Procurement Initiatives as an Emerging SLBE firm in the following fiscal year so long as the firm has not yet satisfied the graduation criteria for such status.
- (b) The Director of Procurement shall provide written notice to the SLBE firm or Emerging SLBE firm upon graduation or suspension from the SLBE program, and such notice shall clearly state the reasons for such graduation or suspension.

Sec. 2-643. Appeals.

A business concern that is denied eligibility as an SLBE or as an Emerging SLBE, or who has its eligibility revoked, or who has been denied a waiver request can appeal the decision to the County Administrator. A written notice of appeal must be received by the County Administrator within 15 days of the date of the decision. Upon receipt of a timely notice of appeal and request for hearing, the Director of Procurement, or designee (other than the Director of Procurement), shall also participate in a hearing conducted by the County Administrator or the County Administrator's designee soon as practicable. The decision of the County Administrator, or designee, shall be the final decision of the County.

Sec. 2-644. Affirmative Procurement Initiatives for Enhancing SLBE and Emerging SLBE Contract Participation.

(a) The County in conjunction with the appropriate Contract Officer and the Director of Procurement may utilize the following Affirmative Procurement Initiatives in promoting the award of County contracts to SLBEs or Emerging SLBEs.

1. *Bonding and Insurance Waiver:* The County, at its discretion, may waive or reduce the bonding, or insurance requirements depending on the type of contract and whether the County determines that the bonding and or insurance requirements would deny the SLBE or Emerging SLBE an opportunity to perform the contract which the SLBE or Emerging SLBE has shown itself otherwise capable of performing.

2. *Price Preferences:* The County may award a contract to a SLBE or Emerging SLBE which submits a bid within 10% (inclusive) of a low bid by a non-SLBE. However, this price preference would not apply if the award to the SLBE would result in a total contract cost that is, on an annual basis, more than \$25,000 higher than the low bid; nor would it apply on a contract in which the total contract cost would exceed the County’s budgeted price for the contract.

3. *Evaluation Preferences:* The County may reserve up to 20% of the total points available for evaluation purposes for respondents to an RFP to firms that are certified as SLBE or Emerging SLBE firms, or to joint ventures that have SLBE and/or Emerging SLBE partners

a. For Architectural & Engineering, Professional Services, Other Services, and design / build or CM at risk contracts that are awarded based on evaluation criteria, there shall be SLBE or Emerging SLBE participation criterion for all contracts let at predetermined percentage of the total points awarded. The determination will be made using the suggested model outlined in the “Point Evaluation Table” below:

POINT EVALUATION TABLE

10 Points for SLBE Participation	20 Points for SLBE Participation
> 51% = 10 points	> 51% = 20 points
> 45% = 7 points	> 45% = 17 points
> 40% = 6 points	> 40% = 16 points
> 35% = 5 points	> 35% = 14 points
> 30% = 4 points	> 30% = 12 points
> 25% = 3 points	> 25% = 10 points
> 20% = 2 points	> 20% = 8 points
> 15% = 1 points	> 15% = 6 points
	> 10% = 4 points

Contractors may be evaluated on their SLBE or Emerging SLBE participation by utilizing the following schedule, which is most often used by Architectural & Engineering:

Points Awarded		% of Participation Criteria
5.0	51-100	Proposals by registered SLBE owned and/or controlled firms
4.0	36 – 50	Majority prime with registered SLBE participation
3.0	30 – 35	Majority prime with registered SLBE participation
2.0	24 – 29	Majority prime with registered SLBE participation
0	0 – 23	Less than the goal for registered SLBE participation

4. *Mandatory Subcontracting:*

a. The Goal Selection Committee may, on a contract-by-contract basis, at its discretion, require that a predetermined percentage of a specific contract, up to 40%, be subcontracted to eligible SLBEs or to eligible Emerging SLBEs, provided however, that if the prime contractor is a certified SLBE or Emerging SLBE, then the prime contractor shall be able to count the dollar value of the work performed by its own forces towards satisfaction of the Mandatory Subcontracting goal for that contract.

b. An SLBE or Emerging SLBE prime contractor may not subcontract more than 49% of the contract value to a non-SLBE.

c. A prospective bidder on a County contract shall submit at the time of bid SLBE – Form S providing the name of the SLBE or Emerging SLBE subcontractor or subcontractors and describing both the percentage of subcontracting by the SLBE or Emerging SLBE, and the work to be performed by the SLBE or Emerging SLBE. A bidder may request a full or partial waiver of this mandatory subcontracting requirement from the Director of Procurement for good cause by submitting the SLBE Unavailability Certification form to the Director of Procurement at the time of bid. Under no circumstances shall a waiver of a mandatory subcontracting requirement be granted without submission of adequate documentation of Good Faith Efforts by the bidder and careful review by the Director of Procurement. The Director of Procurement shall base his or her determination on a waiver request on the following criteria:

(1) Whether the requestor of the waiver has made Good Faith Efforts to subcontract with qualified and available SLBEs or Emerging SLBEs;

(2) Whether subcontracting would be inappropriate and/or not provide a “Commercially Useful Function” under the circumstances of the contract; and

(3) Whether there are no certified SLBE or Emerging SLBE firms that are qualified and available to provide the goods or services required.

d. In the absence of a waiver granted by the Director of Procurement, failure of a Prime Contractor to commit in its bid or proposal to satisfying the mandatory SLBE subcontracting goal shall render its bid or proposal non-responsive.

e. In the absence of a waiver granted by the Director of Procurement, failure of a Prime Contractor to attain a mandatory subcontracting goal for SLBE participation in the performance of its awarded contract shall be grounds for termination of existing contracts with the County, debarment from performing future County contracts, and / or any other remedies available under the terms of its contract with the County or under the law.

f. A Prime Contractor is required to notify and obtain written approval from the Director of Procurement in advance of any reduction in subcontract scope, termination, or substitution for a designated SLBE or Emerging SLBE Subcontractor. Failure to do so shall constitute a material breach of its contract with the County.

5. *Sheltered Market:*

a. The Director of Procurement and the appropriate County Contracting Officer may select certain contracts which have a contract value of \$250,000 or less for award to a SLBE or a joint venture with a SLBE through the Sheltered Market program. Similarly, the Director of Procurement and the appropriate County Contracting Officer may select certain contracts that have a value of \$50,000 or less for award to an Emerging SLBE firm through the Sheltered Market program.

b. In determining whether a particular contract is eligible for the Sheltered Market Program, the County's Contracting Officer and Director of Procurement shall consider: whether there are at least three SLBEs or Emerging SLBEs that are available and capable to participate in the Sheltered Market Program for that contract; the degree of underutilization of the SLBE and Emerging SLBE prime contractors in the specific industry categories; and the extent to which the County's SLBE and Emerging SLBE prime contractor utilization goals are being achieved.

c. If a responsive and responsible bid or response is not received for a contract that has been designated for the Sheltered Market Program or the apparent low bid is determined in the Procurement Director's discretion to be too high in price, the contract shall be removed from the Sheltered Market Program for purposes of rebidding.

6. *Competitive Business Development Demonstration Project:*

a. With the concurrence of the Director of Procurement, the appropriate County Contracting Officer may reserve certain contracts for placement into a Competitive Business Development Demonstration Project ("CBD Demonstration Project") wherein those contracts require the purchase of goods or services from an industry that routinely has too few sources of bidders to provide meaningful or sufficient competition for such County contracts. The purpose for the placement of a contract into the CBD Demonstration Project shall be to encourage the development of new capacity within an industry to competitively bid on the future supply of specialized goods or services to the County.

b. Contracts reserved for CBD Demonstration Projects shall be subject to a Request for Proposals process whereby the selected firm will be required to be a joint venture between an established firm or experts in that relevant industry and an SLBE firm. The scope of work for the selected joint venture shall include teaching a hands-on curriculum to SLBE firms that have expressed an interest in diversifying into the relevant industry, in addition to performing the customary functions of the contract. This curriculum shall include both administrative skills (e.g. cost estimating, bidding, staffing, project management) and technical skills (e.g., hands-on demonstration of how to perform necessary tasks in the field) required to qualify for future County contracts and to successfully compete in the industry.

c. The Director of Procurement shall be required to select SLBE candidate firms for participation on such CBD Demonstration Projects on the basis of an assessment of their current capabilities and their likely success in diversifying into the new relevant industry once given technical assistance, training, and an opportunity to develop a performance track record in the industry.

Sec. 2-645. SLBE Program Performance Review.

(a) The Director of Procurement or designee shall monitor the implementation of this Policy and the progress of this Program. On at least an annual basis, the Director of Procurement or designee shall report to the County Administrator and County Council on the progress of achieving the goals established for awards to certified SLBE and Emerging SLBE firms, reporting both dollars awarded and expended. In addition, the Director of Procurement or designee shall report on the progress in achieving the stated Program Objectives, including, but not limited to, enhancing competition, establishing and building new business capacity, and removing barriers to and eliminating disparities in the utilization of available minority business enterprises and women business enterprises on County contracts.

(b) The County shall periodically review the SLBE Program to determine whether the various contracting procedures used to enhance SLBE contract participation need to be adjusted or used more or less aggressively in future years to achieve the stated Program Objectives. The County Council shall conduct a public hearing at least once every two years in order to solicit public comments on the Program.

Sec. 2-646. Conflicts.

To the extent language in this Division conflicts with other language in Article X, the language in this Division controls only with respect to contracts wherein the Small Local Business Enterprise Program is being applied by the Director of Procurement. In all other respects, prior language in this Article shall remain in full force and effect.

SECTION III. Severability. If any section, subsection, or clause of this ordinance shall be deemed to be unconstitutional or otherwise invalid, the validity of the remaining sections, subsections, and clauses shall not be affected thereby.

SECTION IV. Conflicting Ordinances Repealed. All ordinances or parts of ordinances in conflict with the provisions of this ordinance are hereby repealed.

SECTION V. Effective Date. This ordinance shall be effective from and after September 17, 2013.

RICHLAND COUNTY COUNCIL

BY: _____
Kelvin E. Washington, Sr., Chair

Attest this _____ day of
_____, 2013.

Michelle Onley
Clerk of Council

RICHLAND COUNTY ATTORNEY'S OFFICE

Approved As To LEGAL Form Only.
No Opinion Rendered As To Content.

First Reading: May 21, 2013
Second Reading: July 2, 2013
Third Reading: September 17, 2013
Public Hearing: June 18, 2013

Richland County Council Request of Action

Subject

- a. Authorizing an Amendment to the Master Agreement Governing the I-77 Corridor Regional Industrial Park by and between Richland County, South Carolina, and Fairfield County, South Carolina, to expand the boundaries of the park to include certain real property located in Richland County; and other related matters **[FIRST READING BY TITLE ONLY] [PAGE 260]**
- b. An Ordinance Authorizing a deed to the City of Columbia for certain water lines to serve the JTEKT Koyo Expansion in Northeast Business Park; Richland County TMS #14900-01-16 (p) & 15005-01-02 (p) **[FIRST READING] [PAGES 261-266]**
- c. An Ordinance Authorizing pursuant to Title 4, Chapter 1, Section 170; Title 4, Chapter 1, Section 175; and Title 4, Chapter 29, Section 68 of the Code of Laws of South Carolina, 1976, as amended, the execution and delivery of a Special Source Revenue Credit Agreement relating to Project Cesium; and matters relating thereto **[FIRST READING BY TITLE ONLY] [PAGE 267]**
- d. Resolution Authorizing the amendment of the restrictive covenants for the Richland Northeast Industrial Park **[PAGES 269-272]**
- e. Economic Development Office Lease Agreement **[PAGES 273-310]**

AUTHORIZING AN AMENDMENT TO THE MASTER AGREEMENT GOVERNING THE I-77 CORRIDOR REGIONAL INDUSTRIAL PARK BY AND BETWEEN RICHLAND COUNTY, SOUTH CAROLINA, AND FAIRFIELD COUNTY, SOUTH CAROLINA, TO EXPAND THE BOUNDARIES OF THE PARK TO INCLUDE CERTAIN REAL PROPERTY LOCATED IN RICHLAND COUNTY; AND OTHER RELATED MATTERS.

STATE OF SOUTH CAROLINA
COUNTY COUNCIL FOR RICHLAND COUNTY
ORDINANCE NO. _____-14HR

AN ORDINANCE AUTHORIZING A DEED TO THE CITY OF COLUMBIA FOR CERTAIN WATER LINES TO SERVE THE JTEKT KOYO EXPANSION IN NORTHEAST BUSINESS PARK; RICHLAND COUNTY TMS #14900-01-16 (P) & 15005-01-02 (P).

Pursuant to the authority granted by the Constitution of the State of South Carolina and the General Assembly of the State of South Carolina, BE IT ENACTED BY RICHLAND COUNTY COUNCIL:

SECTION I. The County of Richland and its employees and agents are hereby authorized to grant a deed to certain water lines to The City of Columbia, as specifically described in the attached Deed to Water Lines for JTEKT KOYO EXPANSION IN NORTHEAST BUSINESS PARK; 1006 NORTHPOINT BLVD.; Richland County TMS #14900-01-16 & 15005-01-02 (portion); CF#324-13, which is attached hereto and incorporated herein.

SECTION II. Severability. If any section, subsection, or clause of this ordinance shall be deemed unconstitutional or otherwise invalid, the validity of the remaining sections, subsections, and clauses shall not be affected thereby.

SECTION III. Conflicting Ordinances. All ordinances or parts of ordinances in conflict with the provisions of this ordinance are hereby repealed.

SECTION IV. Effective Date. This ordinance shall be enforced from and after _____.

RICHLAND COUNTY COUNCIL

By: _____
Norman Jackson, Chair

Attest this _____ day of _____, 2014.

Michelle Onley
Interim Clerk of Council

First Reading:
Second Reading:
Public Hearing:
Third Reading:

ATTORNEY CERTIFICATION

I, _____, an attorney licensed to practice in the State of _____ do hereby certify that I supervised the execution of the attached Deed to Water Lines for JTEKT KOYO Expansion – Northeast Business Park with KOYO Corporation of U.S.A. as Grantor and the City of Columbia, as Grantee, this _____ day of _____, 20_____.

State Bar Number: _____

STATE OF SOUTH CAROLINA)
COUNTY OF RICHLAND)

DEED TO WATER LINES FOR JTEKT
KOYO EXPANSION IN NORTHEAST
BUSINESS PARK; 1006 NORTHPOINT
BOULEVARD; RICHLAND COUNTY
TMS#14900-01-16 & TMS#15005-01-02
(PORTION); CF#324-13

RICHLAND COUNTY

&

KOYO CORPORATION OF U.S.A.

to

CITY OF COLUMBIA

FOR VALUE RECEIVED, RICHLAND COUNTY of Columbia, South Carolina and KOYO CORPORATION OF U.S.A. of Blythewood, South Carolina (also hereinafter singularly and collectively referred to as "Grantor") do hereby bargain, sell, transfer and convey unto the City of Columbia (also hereinafter referred to as "Grantee"), its successors and assigns, all of Grantor's rights, title and interests in and to the below described water lines:

All those certain water lines, the same being 6" and 8" in diameter, including valves, valve boxes, fire hydrants, lead lines to fire hydrants (including 6"DIP), meter boxes, service lines to meter boxes and easement boundaries, and all components to complete the system.

All metes, courses, bounds and measured distances described herein are approximate. The precise metes, courses, bounds and measured distances are more particularly described and shown on City File #324-13, which is incorporated herein by specific reference thereto.

An 8" water line beginning at a 8" x 24" saddle tap and tied to an existing 24" City of Columbia water line (CIP Project #WM3928 & WM3871; CF# 250-176), located on the subject property at a point one hundred sixty-six (166) feet northeast of the easternmost/northeastern building corner of "JTEKT KOYO BEARING USA BUILDING EXPANSION"; thence therefrom in a southwesterly direction along the subject property, for a distance of thirty-three (33) feet to a 22.5° bend, located on the subject property at a point one hundred thirty-nine (139) feet northeast of the easternmost/northeastern building corner of "JTEKT KOYO BEARING USA BUILDING EXPANSION"; thence turning and extending therefrom in a southwesterly direction along the subject property, for a distance of twenty-seven (27) feet to a 22.5° bend, located on the subject property at a point one hundred twenty (120) feet northeast of the easternmost/northeastern building corner of "JTEKT KOYO BEARING USA BUILDING EXPANSION"; thence turning and extending therefrom in a southwesterly direction along the subject property and northwest of the "JTEKT KOYO BEARING USA BUILDING EXPANSION", for a distance of two hundred eighty-eight (288) feet to a 22.5° bend, located on the subject property at a point one hundred eighty-five (185) feet northeast of the northwestern building corner of "JTEKT KOYO BEARING USA BUILDING EXPANSION"; thence turning and extending therefrom in a southwesterly direction along the subject property, for a distance of thirty-eight (38) feet to a 22.5° bend, located on the subject property at a point one hundred ninety-five (195) feet northeast of the northernmost/northwestern internal building corner of "JTEKT KOYO BEARING USA BUILDING EXPANSION"; thence turning and extending therefrom in a southwesterly direction along the subject property, for a distance of one hundred sixty-eight (168) feet to a 45° bend, located on the subject property at a point twenty-three (23) feet northwest of the northwestern building corner of "JTEKT KOYO BEARING USA BUILDING EXPANSION"; thence turning and extending therefrom in a southwesterly direction along the subject property, for a distance of two hundred eighty-eight (388) feet to a 22.5° bend, located on the subject property at a point ninety-three (93) feet northwest of the southwestern building corner of "JTEKT KOYO BEARING USA BUILDING EXPANSION"; thence turning and extending therefrom in a southwesterly direction along the

APPROVED BY *JEM* 3/14/14
CITY OF COLUMBIA
LEGAL DEPT.

subject property, for a distance of one hundred twenty-four (124) feet to a 45° bend, located on the subject property at a point ninety-nine (99) feet northwest of the southwestern building corner of "JTEKT KOYO BEARING USA BUILDING EXPANSION"; thence turning and extending therefrom in a northwesterly direction along the subject property, for a distance of six (6) feet to a 8" x 12" saddle tap and tie to an existing 12" City of Columbia water line (CF#172-21), located in the outer perimeter of the northeastern right-of-way of Northpoint Court (County Road) at a point one hundred seven (107) feet northwest of the southwestern building corner of "JTEKT KOYO BEARING USA BUILDING EXPANSION"; thence terminating.

Also, a 6" water line beginning at an 8" x 6" tee, located on the aforescribed 8" water line on the subject property at a point ninety-five (95) feet north of the easternmost/northeastern building corner of "JTEKT KOYO BEARING USA BUILDING EXPANSION"; thence extending therefrom in a southeasterly direction along the subject property, for a distance of one hundred seventy-one (171) feet to a fire hydrant, located on the subject property at a point eighty-three (83) feet southeast of the easternmost/northeastern building corner of "JTEKT KOYO BEARING USA BUILDING EXPANSION"; thence terminating.

Also, a 6" water line beginning at a 6" x 12" saddle tap and tie to an existing 12" City of Columbia water line (CF# 220-08), located on the subject property at a point approximately one hundred thirty (130) feet northeast/more easterly of the southernmost/southeastern building corner of "JTEKT KOYO BEARING USA BUILDING EXPANSION"; thence extending therefrom in a northwesterly direction along the subject property, for a distance of ten (10) feet to a 45° bend, located on the subject property at a point approximately one hundred thirty-five (135) feet northeast of the southernmost/southeastern building corner of "JTEKT KOYO BEARING USA BUILDING EXPANSION"; thence turning and extending therefrom in a northwesterly/more westerly direction along the subject property, for a distance of twenty-eight and four tenths (28.4) feet to a fire hydrant, located on the subject property at a point seventy-four (74) feet northeast of the easternmost/southeastern building corner of "JTEKT KOYO BEARING USA BUILDING EXPANSION"; thence terminating.

Be all measurements a little more or less.

The Grantor hereby agrees to be responsible for repairs of all damage to water lines, sanitary sewer lines, curb cocks, meter boxes, all fittings and fire hydrants hereby conveyed which arise out of the operation of any equipment or vehicles under control of the Grantor, its contractor, agent or any other party acting on behalf of the Grantor in connection with the initial installation of streets, paving, curbs and gutters, drainage, sewer, utility lines, final grading or improvements in development of property served by said lines, and the Grantor shall either effect necessary repairs or reimburse the City for the cost of repairs at the option of the City.

This conveyance also includes an exclusive easement on all water lines and appurtenances heretofore described for the purpose of ingress, egress, operation, reconstruction and maintenance of said water lines. The Grantor hereby agrees to that no future construction (including, but not limited to, buildings, paving, pipe lines or other utilities) will be allowed within the limits of this easement without prior approval of the City Engineer. Also, granted herein is an easement for access, ingress and egress along the entrance drives, private roadways and private driveways for the operation, maintenance, extension of services, reconstruction and repair of the water lines and appurtenances for this development.

This conveyance also includes all water line easements shown on a set of record drawings for JTEKT KOYO EXPANSION 2012 in Richland County and in the town of Blythewood, South Carolina, dated March 7, 2014, last revised March 14, 2014, prepared for KOYO CORPORATION OF U.S.A., prepared by Carlisle Associates, Inc., Eugene J. Resch, S.C.P.E. 13353 and being on file in the office of the Department of Utilities and Engineering, City of Columbia, South Carolina under City file reference #324-13.

These water lines are more clearly shown and delineated shown on a set of record drawings for JTEKT KOYO EXPANSION 2012 in Richland County and in the town of Blythewood, South Carolina, dated March 7, 2014, last revised March 14, 2014, prepared for KOYO CORPORATION OF U.S.A., prepared by Carlisle Associates, Inc., Eugene J. Resch, S.C.P.E. 13353 and being on file in the office of the Department of Utilities and Engineering, City of Columbia, South Carolina under City file reference #324-13.

TO HAVE AND TO HOLD the aforesaid rights to the Grantee, its successors and assigns, as aforesaid, forever.

And the Grantor does hereby bind the Grantor and Grantor's successors and assigns to warrant and forever defend all and singular the said premises unto the Grantee, its successors and assigns against the Grantor and Grantor's successors and assigns and against every person whomsoever lawfully claiming, or to claim, the same or any part thereof.

And Grantor warrants that Grantor is the lawful owner of said property and has the right to convey same; and that the property is free and clear of any and all mortgages, liens and encumbrances, except those set-forth hereinabove.

WITNESS the hand and seal of the Grantor by the undersigned this _____ day _____, 20____.

WITNESSES:

RICHLAND COUNTY

(1st Witness Signature)

By: _____
(Signature)

Name: _____
(Print Name)

(2nd Witness Signature)

Title: _____
(Print Title)

STATE OF SOUTH CAROLINA
COUNTY OF _____)

ACKNOWLEDGMENT

The foregoing instrument was acknowledged before me this _____ day of _____, 20____, by _____
(Name and Title of Officer)

of _____ on behalf of the within-named Grantor.
(City and State)

Notary Public for the State of South Carolina
My Commission Expires: _____

CITY OF COLUMBIA
DEPARTMENT OF UTILITIES & ENGINEERING
RECORD DRAWING (AS BUILT) CERTIFICATION

ENGINEER'S CERTIFICATION

THESE RECORD DRAWINGS ARE A COMPILED REPRESENTATION OF THE CONSTRUCTED PROJECT. I HEREBY CERTIFY THAT TO THE BEST OF MY KNOWLEDGE AND BELIEF, BASED ON OBSERVATIONS DURING CONSTRUCTION, MY ASSESSMENT OF THE COMPLETED WORK AND REVIEW OF THE "AS-BUILT" SURVEY, THE PROJECT INCLUDING...

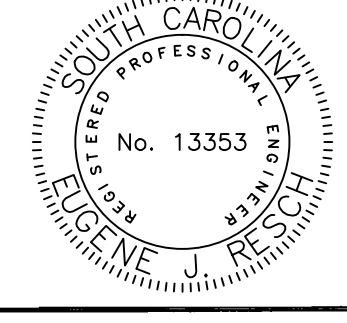
Water Mains Sewer Force Mains
 Sanitary Sewer System Lift Station/Pump Station
 Storm Drainage System Reclaimed Water Mains
 Storms

WAS COMPLETED BY THE CONTRACTOR IN ACCORDANCE WITH THE INTENT OF THE PERMITS, APPROVED PLANS AND SPECIFICATIONS

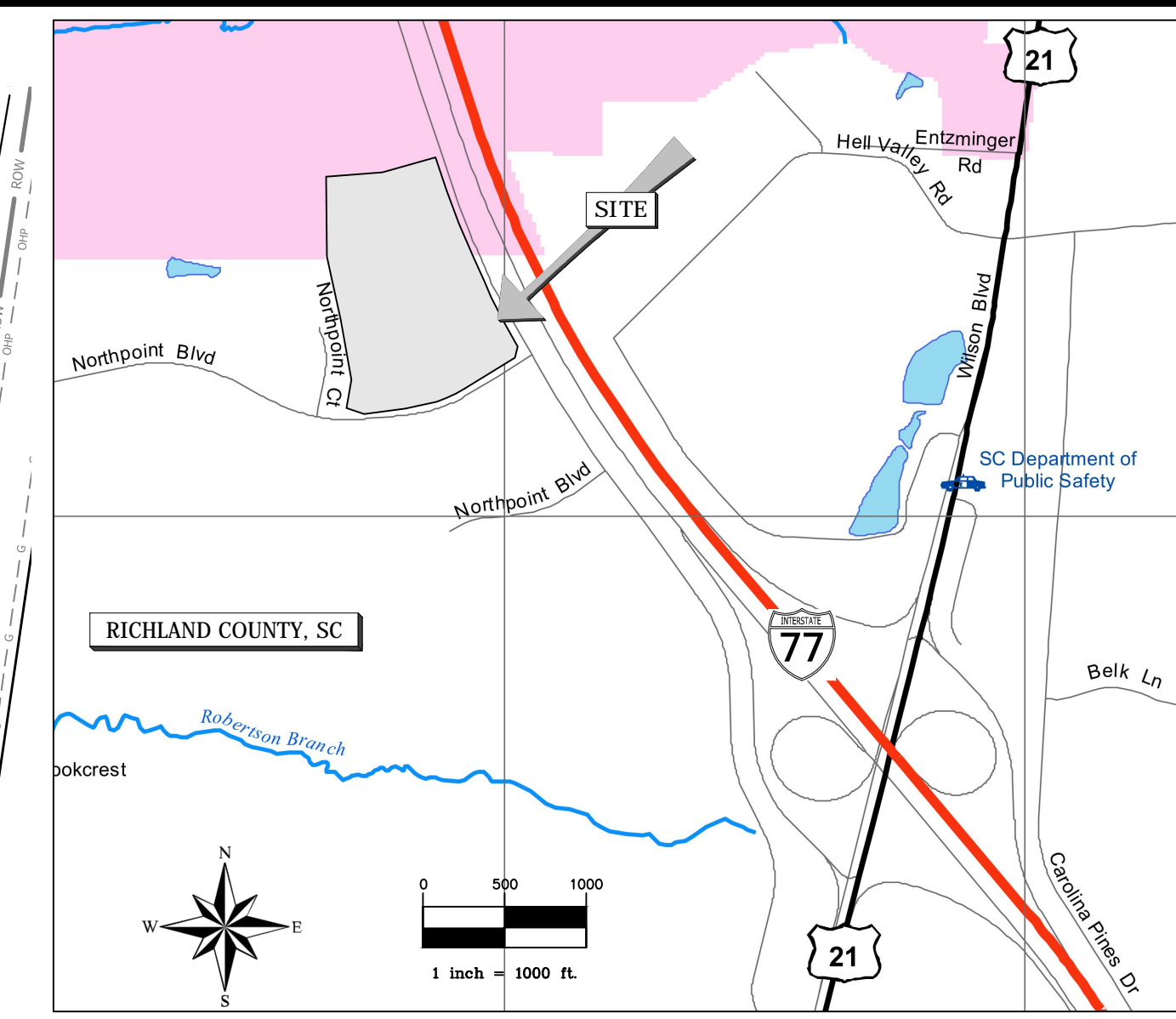
ENGINEER'S SIGNATURE & DATE: EUGENE J. RESCH, P.E. Date: 3/14/14
 NAME: EUGENE J. RESCH, P.E.
 SOUTH CAROLINA LICENSE NO: 13353 (AFFIX SEAL HERE)

INFORMATION PROVIDED BY:
GENERAL CONTRACTOR
 Name: MB KAHN CONSTRUCTION
 Address: P.O. BOX 1179, COLUMBIA, SC 29202
 Phone #: (803) 227-1271
 S.C. License Number: 11072

SURVEYOR
 Name: DERRICK PLUMBING INC.
 Address: 2226 RIDGE ROAD, LEESVILLE, SC 29070
 Phone #: (803) 559-2827
 S.C. License Number: 11707



- NOTES:
- SITE BOUNDARY AND TOPOGRAPHY SURVEY PREPARED BY ASSOCIATED E & S, INC., DATED SEPT. 20, 2012, (803) 791-1550.
 - EXISTING PROPERTY LOCATED IN RICHLAND COUNTY, TAX MAP # R14900-01-16 AND PORTION OF R15005-01-02, AND IS ZONED "M-1".
 - PROPERTY ADDRESS IS: 1006 NORTHPOINT BLVD, BLYTHEWOOD, SC 29016. THE PROPERTY IS LOCATED IN RICHLAND COUNTY.
 - TMS#14900-01-16 IS SUBJECT TO NORTHPOINT INDUSTRIAL PARK COVENANTS. THE NEW PARCEL TMS 15005-01-02 IS NOT SUBJECT TO COVENANTS.
 - THE WATER SYSTEM PROVIDER IS CITY OF COLUMBIA.
 - THE SEWER SYSTEM PROVIDER IS CITY OF COLUMBIA.
 - THERE IS A 15' EXCLUSIVE CITY OF COLUMBIA WATER EASEMENT ON ALL MAIN LINES.
 - ALL ELEVATIONS ARE REFERENCED TO MEAN SEA LEVEL.

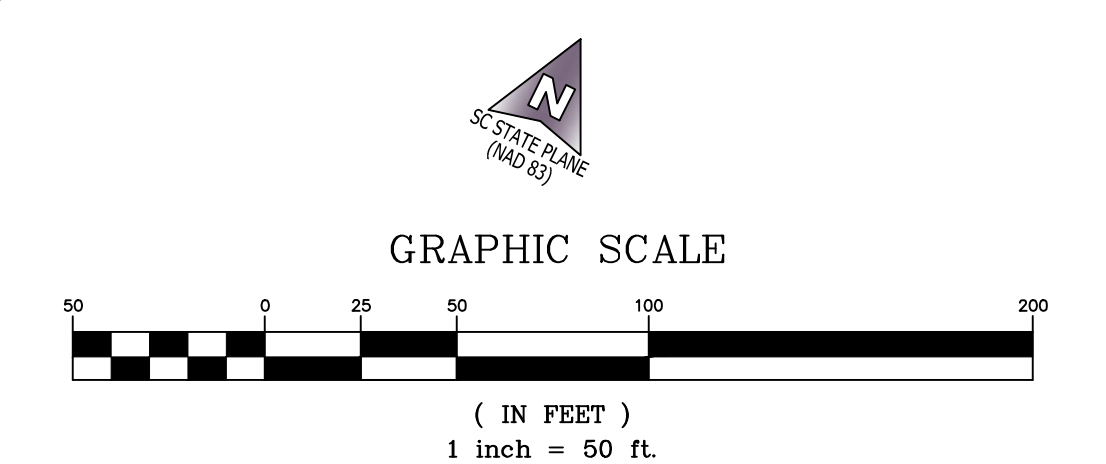
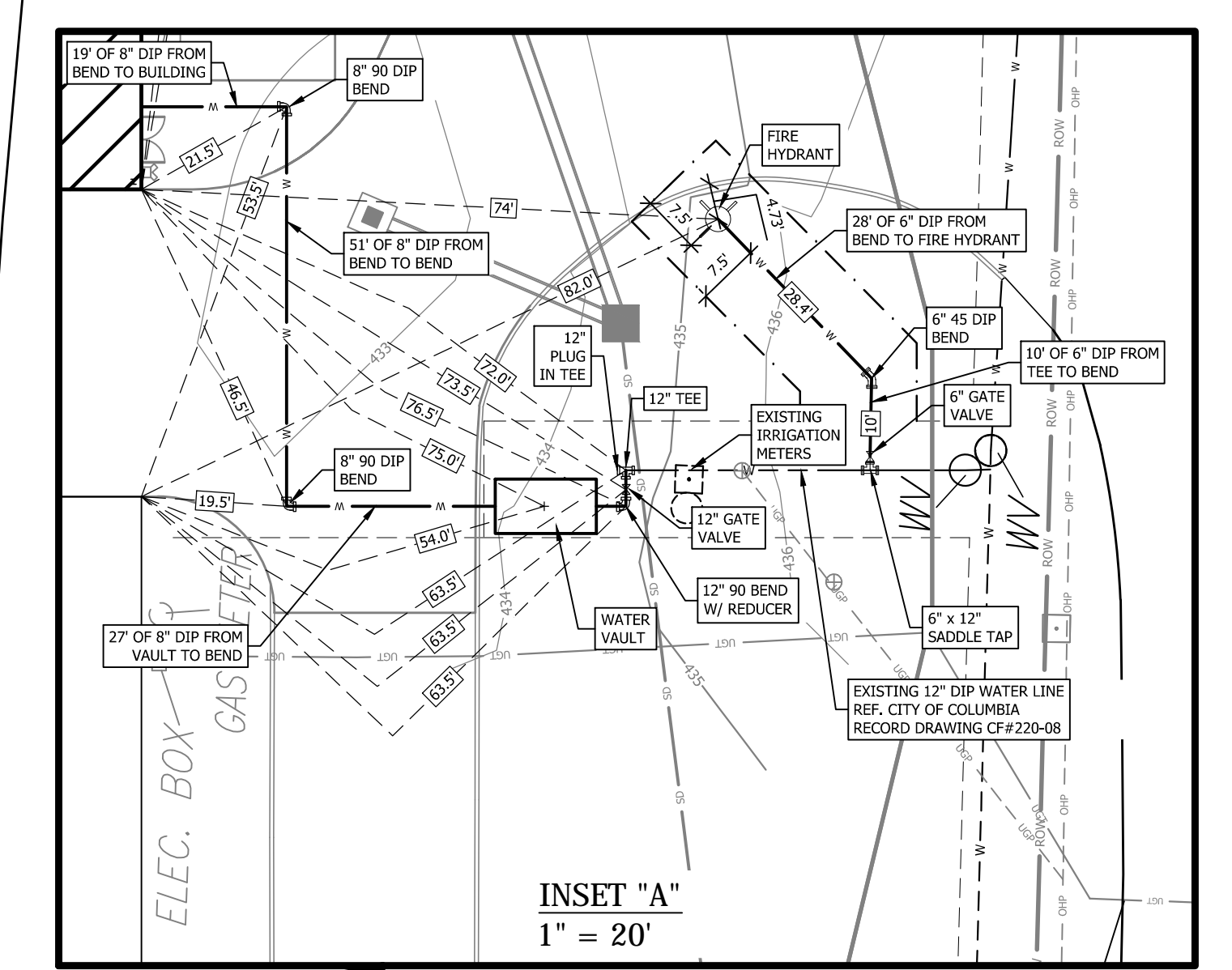
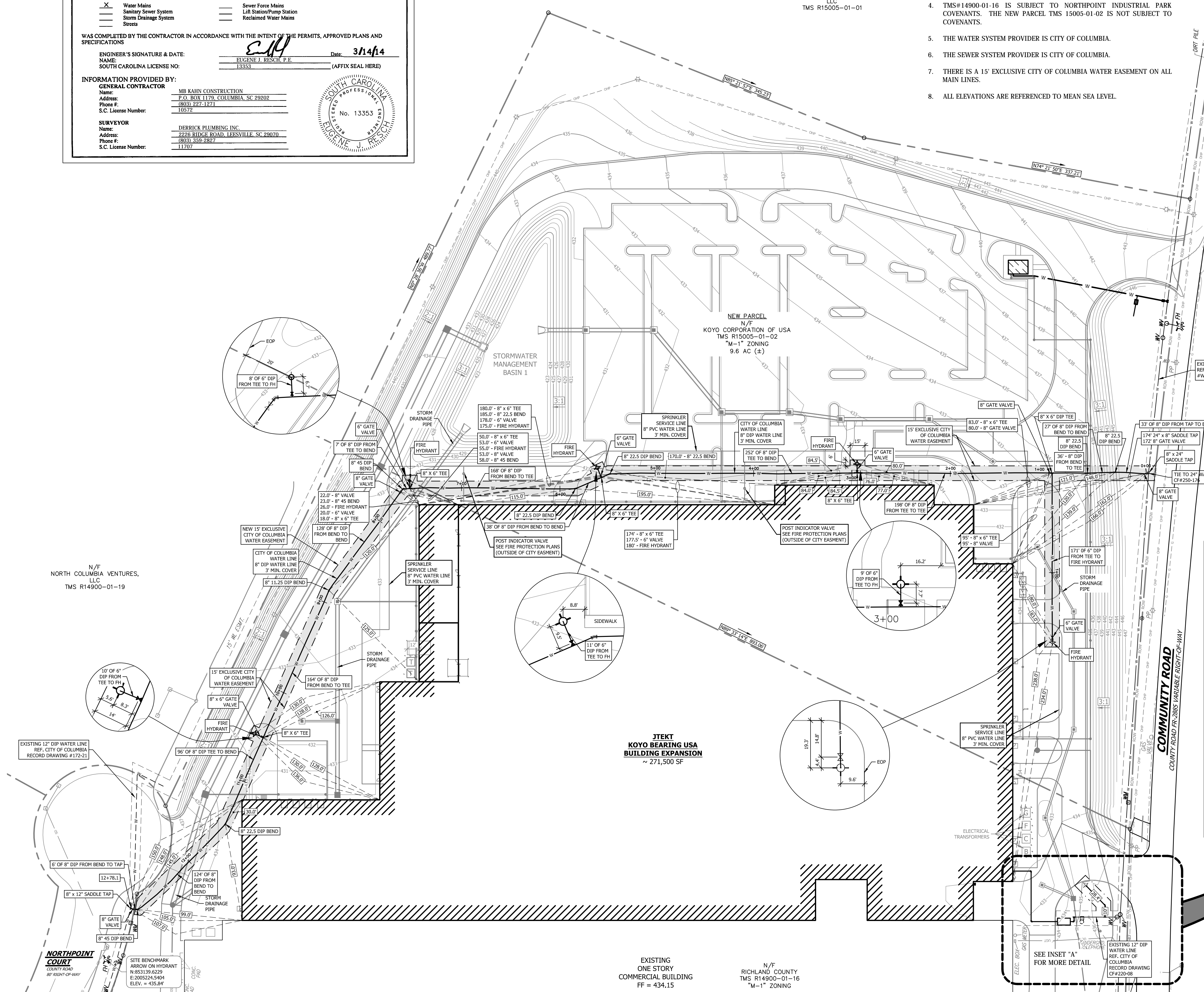


PROJECT OWNER:
 KOYO CORPORATION OF USA
 1006 NORTHPOINT BLVD
 BLYTHEWOOD, SC 29076
 PHONE: (803) 691-4624
 FAX: (803) 691-4655
 ATTN: LEON "BUTCH" HARRIS
 LEON.HARRIS@JTEK.COM

ENGINEER:
 CARLISLE ASSOCIATES INC.
 1015 GERVAIS STREET
 COLUMBIA, SC 29211-1528
 PHONE: (803) 252-3232
 FAX: (803) 799-9054
 ATTN: MR. GENE RESCH, PE
 GRESCH@CARLISLEASSOCIATES.COM

GENERAL CONTRACTOR:
 MB KAHN CONSTRUCTION
 P.O. BOX 1179
 COLUMBIA, SC 29202
 PHONE: (803) 227-1271
 ATTN: KEVIN MORRIS
 KMORRIS@MBKAHN.COM

INSTALLER INFORMATION:
 DERRICK PLUMBING INC.
 2226 RIDGE ROAD
 LEESVILLE, SC 29070



LOCATION	DATE	BY	APP.
	3/14/14	KRB	KJB
3	3/13/14	KRB	KJB
2	3/7/14	KRB	KJB
1	3/7/14	KRB	KJB

REVISIONS

APPROVALS

PROJECT MANAGER: ZANDERS
 ARCHITECT OF RECORD: SUTTON
 SITE ENGINEERING: RESCH
 STRUCTURAL ENGINEERING: WHITE
 MECHANICAL ENGINEERING: HODGES
 ELECTRICAL ENGINEERING: SPIERS

DRAWN: KRB
 DESIGNED: EJR
 CHECKED: EJR

CARLISLE ASSOCIATES

ARCHITECTS ENGINEERS

1015 GERVAIS STREET
 COLUMBIA, SOUTH CAROLINA 29201
 803-252-3232

JTEK KOYO EXPANSION 2012

PROJECT TITLE
SHEET TITLE

WATER RECORD DRAWING

FILE NAME: K118 Cplan.dwg
 DATE: 3/7/14

RECORD DRAWINGS

SUBCONTRACTOR: _____ Date: _____
 Signature: _____
 GENERAL CONTRACTOR: _____ Date: _____
 Signature: _____
 GENERAL CONTRACTOR SHALL VERIFY SUBCONTRACTORS SIGNATURE IF APPLICABLE

SHEET NUMBER
C400
 CF #324-13
 OF SHEETS

AN ORDINANCE AUTHORIZING PURSUANT TO TITLE 4, CHAPTER 1, SECTION 170; TITLE 4, CHAPTER 1, SECTION 175; AND TITLE 4, CHAPTER 29, SECTION 68 OF THE CODE OF LAWS OF SOUTH CAROLINA, 1976, AS AMENDED, THE EXECUTION AND DELIVERY OF A SPECIAL SOURCE REVENUE CREDIT AGREEMENT RELATING TO PROJECT CESIUM; AND MATTERS RELATING THERETO.

~#4852-2833-2826 v.1~4/28/14~

[This instrument serves to amend restrictive covenants filed in the Office of the Register of Deeds for Richland County in Book D492 at Page 27 and should be indexed accordingly.]

AMENDMENT TO COVENANTS AND RESTRICTIONS

THIS Amendment to Covenants and Restrictions for Richland Northeast Industrial Park is entered into to be effective as of the 13th day of May 2014, by the County Council for Richland County and serves to amend the covenants and restrictions filed in the Office of the Register of Deeds for Richland County in Book D 492, at page 27 and should be indexed accordingly.

WITNESSETH:

WHEREAS, County Council for of Richland County (the "Grantor"), has made and executed certain "Covenants and Restrictions" (the "Restrictions") for the Richland Northeast Industrial Park dated September 27, 1978 and filed in the Office of the Register of Deeds for Richland County in Book D492 at Page 27; and

WHEREAS, the Restrictions apply to the area in the County of Richland, in the State of South Carolina, consisting or to consist of approximately three hundred nine (309) acres and known as Richland Northeast Industrial Park (the "Property"); and

WHEREAS, Section 3 of the Restrictions provides that the Property subject to the Restrictions may only be used for "an industrial operation" and shall not be used for:

- a. truck terminal or storage facility;
- b. scrap yard storage;
- c. automotive repair and garage facilities
- d. Building material storage and lumberyard, coal, or wood yard, and stone or monument works
- e. Auto wrecking, salvage yards, used material yards, storage of baling or waste or scrap paper, rags, scrap metals, bottles or junk
- f. Bag cleaning
- g. Boiler and tank works
- h. Central mixing plant for asphalt, mortar, plaster or concrete
- i. Any quarrying operation; and

WHEREAS, Richland County hereby desires to waive and release in excess of 148 acres of the Property more particularly described as TMS numbers: R25800-04-20; R25800-04-13; R2580007-10; R25800-07-12; R25800-04-12; R25800-07-13; R25800-07-14; R25800-04-21; R25800-04-17; R25800-07-11; R25800-04-01; R25800-04-15; R25809-02-42; R25800-07-09; R25700-04-04; R25700-04-06; R25700-03-08; R25700-04-03; R25700-03-07; R25700-04-05;

R25700-04-01; R25700-03-04; R25700-03-05; R25700-03-02; and, R25700-03-03, as shown on Exhibit A attached hereto and made a part hereof, from being subject to said Restrictions; and

WHEREAS, pursuant to Section 15 of the Restrictions, the Grantor has the right to release or amend all or any portion of the Restrictions.

NOW, THEREFORE, pursuant to the authority provided in Section 15, the Grantor hereby amends the Restrictions as follows:

1. Section 3 of the Restrictions is amended as necessary to provide that in excess of 148 acres of the Property, more particularly described as TMS numbers: R25800-04-20; R25800-04-13; R2580007-10; R25800-07-12; R25800-04-12; R25800-07-13; R25800-07-14; R25800-04-21; R25800-04-17; R25800-07-11; R25800-04-01; R25800-04-15; R25809-02-42; R25800-07-09; R25700-04-04; R25700-04-06; R25700-03-08; R25700-04-03; R25700-03-07; R25700-04-05; R25700-04-01; R25700-03-04; R25700-03-05; R25700-03-02; and, R25700-03-03, as shown on Exhibit A, shall not be subject to said Restrictions, but shall be subject to the Richland County Zoning Ordinance.

2. Except as amended herein, the balance of the Restrictions shall remain in full force and effect.

IN WITNESS THEREOF, the undersigned has caused this instrument to be executed this ____ day of _____, 2014.

WITNESSES:

COUNTY COUNCIL FOR RICHLAND
COUNTY

By: _____
Print Name: _____
Its: _____

STATE OF SOUTH CAROLINA

ACKNOWLEDGEMENT

COUNTY OF RICHLAND

I, _____, do hereby certify that _____, the
_____ of County Council for Richland County, personally appeared
before me this day and acknowledged the due execution of the foregoing instrument.

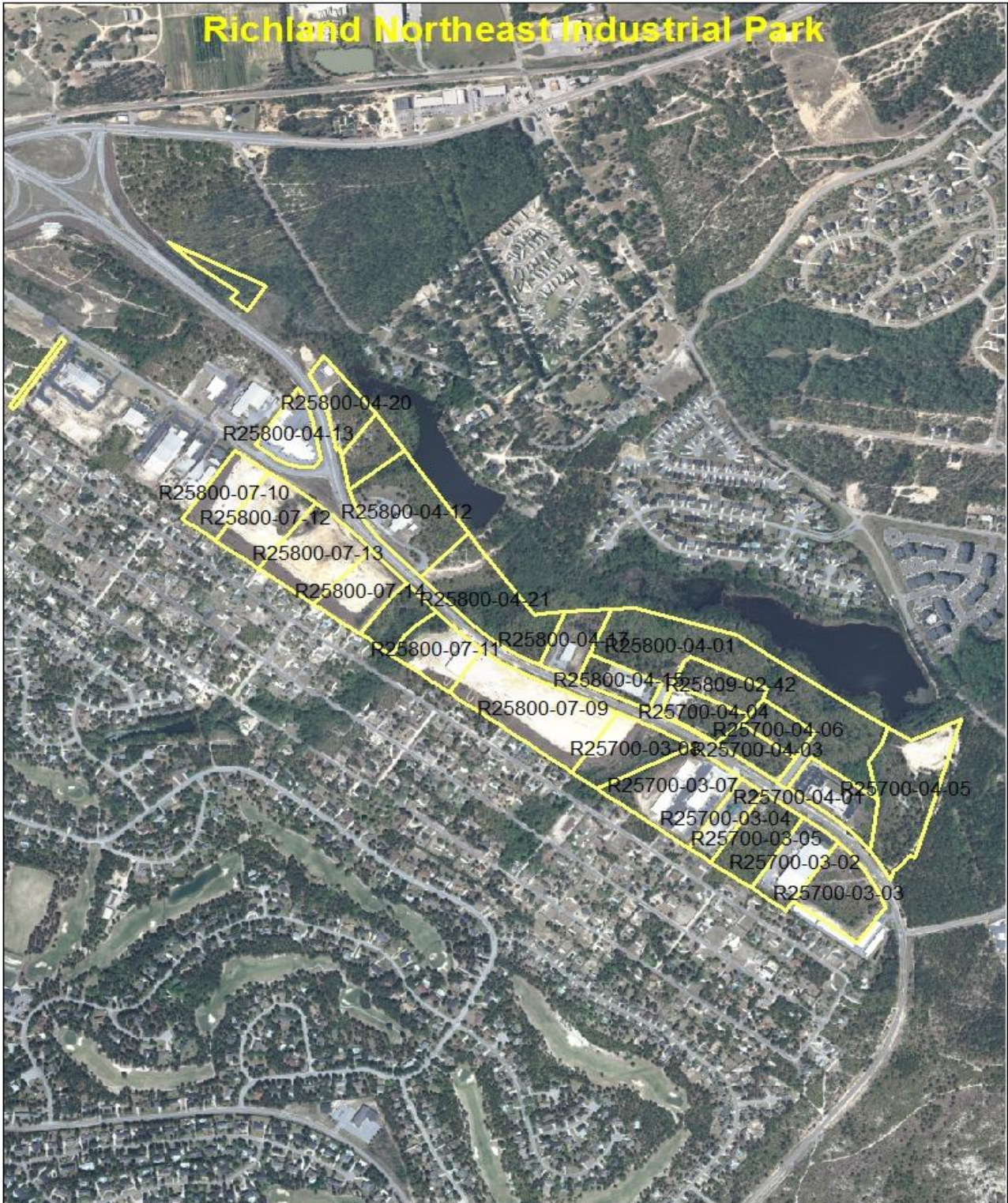
Witness my hand and seal this _____ day of _____, 2014.

Notary Public for South Carolina

My Commission expires: _____

Exhibit A

Tax Map Numbers that Shall No
Longer be Subject to Restrictions



Lease Agreement

between

U.S. REIF/MJW Capitol Center Fee, LLC,
a Delaware limited liability company

AND

RICHLAND COUNTY ECONOMIC DEVELOPMENT OFFICE,
a _____

AT
CAPITOL CENTER
COLUMBIA, SOUTH CAROLINA

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Exhibit “G-1” - Subordination, Non-Disturbance and Attornment Agreement Form

Exhibit “G-2” – Estoppel Certificate Form

LEASE AGREEMENT

This Lease Agreement (“Lease”) is entered into as of May ____, 2014 (the “Effective Date”), by and between **U.S. REIF/MJW Capitol Center Fee, LLC**, a Delaware limited liability company (“Landlord”), and **Richland County Economic Development Office**, a [REDACTED] (“Tenant”). In consideration of the mutual covenants set forth herein, Landlord and Tenant agree as follows:

1. **Terms and Definitions.** The following definitions and terms apply to this Lease (other words are defined elsewhere in the text of this Lease):

(a) **“Tenant’s Current Address”:**

Richland County Economic Development Office
1201 Main Street
Suite 600
Columbia, SC 29201

(b) **“Premises”:** Suite 910 on the ninth (9th) floor in the Capitol Center building (the “Building”) located on land with an address of 1201 Main Street, Columbia, South Carolina 29201 (the “Land”).

(c) **“Rentable Area of Premises”:** 1,994 rentable square feet (“RSF”)

(d) **“Rentable Area of Building”:** 466,000 RSF

(e) **“Pro-rata Share”:** Tenant’s pro-rata share is zero point four three percent (0.43%) which is determined by dividing the Rentable Area of Premises by the Rentable Area of Building.

(f) **“Term”:** a period of five (5) years beginning on the Commencement Date and expiring at 6 o’clock PM local time on the Expiration Date.

(g) **“Commencement Date”:** Subject to and upon the terms and conditions set forth herein, the Commencement Date of this Lease shall be the earlier of (i) the date Tenant takes possession of all or any portion of the Premises for the purpose of conducting Tenant’s business; or (ii) the later of August 1, 2014 or the “Substantial Completion Date” as defined and provided in the Workletter, attached hereto as Exhibit “D”, as adjusted for Tenant Delay, as defined and provided in the Workletter.

(h) **“Expiration Date”:** 6:00 p.m.local time on the date which is the day before the fifth (5th) anniversary of the Commencement Date, provided that if the Commencement Date is not the first (1st) day of a calendar month, the Term shall be adjusted with the Term (and the first lease year) to also include the partial month period from the Commencement Date to the first (1st) day of the first (1st) full calendar month following the Commencement Date and the Expiration Date being the day before the five (5) year anniversary of such first (1st) day of the first (1st) full calendar month following the Commencement Date..

(i) **“Base Rent”:** The Base Rent shall be as follows:

<u>Period</u>	<u>Annual Base Rent</u>	<u>Monthly Base Rent (1)</u>	<u>PSF</u>
First Lease Year	\$37,886.04	\$3,157.17	\$19.00
Second Lease Year	\$38,883.00	\$3,240.25	\$19.50
Third Lease Year	\$39,879.96	\$3,323.33	\$20.00
Fourth Lease Year	\$40,877.04	\$3,406.42	\$20.50
Fifth Lease Year	\$41,874.00	\$3,489.50	\$21.00

(1) The Monthly Base Rent otherwise due and payable for the following three (3) months of the Term shall be abated: Month 1, 13 and 25.

(j) “**Base Year**”: Calendar year 2014.

(k) “**Initial Improvements**”: the improvements, if any, to be made to the Premises in accordance with the Workletter attached hereto as Exhibit “D” (the “Workletter”).

(l) “**Security Deposit**”: None.

(m) “**Guarantor**”: None.

(n) “**Parking Spaces**”: Available, pursuant to separate agreement between Tenant and a third party for the City owned and operated garage adjacent to the Building.

(o) “**Tenant’s Broker**” is: None.

(p) “**Landlord’s Broker**” is: Colliers International South Carolina, Inc..

(q) “**Laws**” shall mean any and all laws, ordinances, rules, regulations and building and other codes of any governmental or quasi-governmental entity or authority (“**Governmental Authority**”) applicable to the subject matter hereof, including, without limitation, all Laws relating to disabilities, health, safety or the environment.

(r) “**Project**” shall mean the Building, Land, any areas designated by Landlord from time to time for the common use of all tenants and occupants of the Building (“**Common Areas**”), including, but not limited to, any parking facility for the Building designated by Landlord from time to time, walkways, greenspace, plaza and common areas, and related equipment, fixtures and improvements.

(s) “**Building Standard**”: The quantity and quality of materials, finishes and workmanship from time to time specified by Landlord for use throughout the Building. “**Above Standard**” means all improvements, fixtures, materials, finishes and workmanship which exceed Building Standard in terms of quantity or quality (or both), including but not limited to Supplemental HVAC Equipment, defined below; water heaters, instant hot faucets, garbage disposals, dishwashers, stoves, microwaves, refrigerators, ice machines, coffee machines, washing machines, dryers or other appliances; and sinks, sink fixtures, sink drain lines, appliance drain lines, water source plumbing, ground fault interrupters, dedicated outlets or other similar plumbing and/or electrical fixtures or items.

(t) “**Building Systems**”: The mechanical, electrical, plumbing, sanitary, sprinkler, heating, ventilation and air conditioning (“**HVAC**”), security, life-safety, elevator and other service systems or facilities of the Building up to the point of connection of localized distribution to the Premises.

2. **Premises.** Subject to and in accordance with the provisions hereof, Landlord leases to Tenant and Tenant leases from Landlord the Premises as designated on **Exhibit “A”**. The Rentable Area of the Premises and Building for all purposes shall be as set forth in Section 1(c) and 1(d), respectively. The Rentable Area of the Premises includes a pro-rata portion of all Common Areas. Tenant agrees that, except as expressly stated herein and in the Workletter, if any, attached to this Lease, no representations or warranties relating to the condition of the Project or the Premises and no promises to alter, repair or improve the Premises have been made by Landlord. Except as otherwise expressly provided in this Lease or any Workletter attached hereto, Tenant agrees to accept the Premises in their current “**AS IS, WHERE IS**” condition and acknowledges that **LANDLORD MAKES NO WARRANTIES, EXPRESSED OR IMPLIED, INCLUDING, BUT NOT LIMITED TO, IMPLIED WARRANTIES OF MERCHANTABILITY, HABITABILITY AND/OR FITNESS FOR A PARTICULAR PURPOSE, IN CONNECTION WITH THE PREMISES OR THE INITIAL IMPROVEMENTS.** Upon Tenant’s taking possession for the purposes of conducting business, the Premises, including all Initial Improvements shall be deemed accepted by Tenant. Tenant shall also have the non-exclusive right, subject to the terms hereof, to use the Common Areas of the Project. Tenant acknowledges that the Project is or may become an integrated commercial real estate project including the Building, the Land and other buildings, Common Areas and land. Landlord reserves the right, in its sole discretion, at any time and from time to time, to include the Building within a project and/or to expand and/or reduce the amount of Land and/or improvements of which the Building, the Common Areas, or Project consists; to alter, relocate, reconfigure and/or reduce the Common Areas, as long as the

Premises remain reasonably accessible; and to temporarily suspend access to portions of the Common Areas, if Landlord determines, in its sole discretion, that such suspension is necessary to perform its repair or maintenance obligations under this or any other agreement or to comply with any applicable Laws, as long as the Premises remain reasonably accessible.

3. **Authorized Use.** Tenant shall use the Premises solely for general business office purposes, consistent with the uses of first class office buildings, and for no other purpose.

4. **Term.** This Lease shall constitute a legally binding and enforceable agreement between Landlord and Tenant as of the Effective Date. The Term of this Lease is stated in Section 1(f), and the Commencement Date shall be determined as provided in Section 1(g). Landlord and Tenant shall confirm the Commencement Date and Expiration Date in writing within thirty (30) days after the actual Commencement Date pursuant to the form acknowledgement attached as **Exhibit "E"**.

5. **Rental Payment.** Commencing on the Commencement Date, Tenant agrees to pay Rent (defined below) in monthly installments on or before the first day of each calendar month during the Term, in lawful money of the United States of America to the following address or to such other address as Landlord may designate from time to time in writing: U.S. REIF/MJW Capitol Center Fee, LLC, PO Box 809353, Chicago, IL 60680-9353; provided, however, that the first full monthly installment of Base Rent shall be paid in advance on the date of Tenant's execution of this Lease and shall be applied to the second full monthly installment of Base Rent due hereunder, as the first full monthly installment of Base Rent is to be abated. Tenant agrees to timely pay all Base Rent and additional rent and all other sums of money which become due and payable by Tenant to Landlord hereunder (collectively "**Rent**"), without abatement (unless an abatement is specifically provided for in this Lease), demand, offset, deduction or counterclaim. If Tenant fails to pay part or all of the Rent within five (5) days after it is due, Tenant shall also pay (i) interest at the Default Rate, defined below, on the unpaid Rent, plus (ii) a late charge equal to five percent (5%) of the unpaid Rent or the maximum then allowed by law, whichever is less. If the Term does not begin on the first day or end on the last day of a calendar month, the installment of Rent for that partial month shall be prorated.

6. **Rent.** Tenant shall pay to Landlord as the base rent for the Premises (the "**Base Rent**") the amount set forth in Section 1, subject to adjustment as hereinafter provided. Nothing contained herein shall be construed at any time so as to reduce the Base Rent payable hereunder below the amount set forth above. Base Rent shall be adjusted in accordance with the following provisions (any such adjustment is a "**Base Rent Adjustment**"). Base Rent includes a component attributable to the actual Operating Expenses (defined below) for the Base Year specified in Subsection 1(j) (the actual Operating Expenses for the Base Year shall be defined as the "**Base Operating Expenses**"). Prior to January 1 of each year in the Term, Landlord shall provide Tenant with an estimate of Operating Expenses for the next calendar year in the Term (each such calendar year being, an "**Operating Period**"). If Operating Expenses during any Operating Period, as estimated by Landlord, exceed Base Operating Expenses, Tenant shall pay Base Rent for such Operating Period equal to the Base Rent set forth above adjusted upward by an amount equal to the product of (i) the difference between Operating Expenses for such Operating Period and the Base Operating Expenses, multiplied by (ii) the Pro-rata Share. Any calculation involving a partial calendar year shall be pro ratably adjusted so that Operating Expenses for such partial year are compared to a like period for the Base Year.

7. **Operating Expenses.** (a) **Definition of Operating Expenses.** "**Operating Expenses**", as used herein, shall mean all expenses, costs and disbursements of every kind and nature relating to or incurred or paid during any Operating Period in connection with the ownership, operation, repair and maintenance of the Project, including, but not limited to, wages and salaries of all employees directly engaged in the operation, maintenance or security of the Project, including taxes, insurance and benefits relating thereto; the cost of all labor, supplies, equipment, materials and tools used in the operation and maintenance of the Project; management fees; the cost of all legal and accounting expenses incurred in connection with the management and operation of the Project; the cost of all utilities for the Project, including, but not limited to, the cost of HVAC, water, sewer, waste disposal, gas, and electricity; the cost of all maintenance and service agreements for the Project, including but not limited to, security service, window cleaning, elevator maintenance and janitorial service; the cost of all insurance relating to the Project and Landlord's personal property used in connection therewith, plus the cost of all deductible payments made by Landlord in connection therewith; Taxes (defined below); the cost of all license and permit fees; the cost of repairs, refurbishing, restoration and general maintenance; a reasonable amortization charge on account of any capital expenditure incurred in an effort (i) to comply with any Laws, or (ii) to reduce in the Operating Expenses of the

Project; and, all other items constituting operating and maintenance costs in connection with the Project according to generally accepted accounting principles. Except as specifically provided in the immediately preceding sentence, Operating Expenses shall not include the following: (i) depreciation, (ii) leasing commissions, (iii) repairs and restorations paid for by the proceeds of any insurance policy, (iv) construction of improvements of a capital nature, (v) income and franchise taxes other than that portion, if any, of income and franchise taxes which may hereafter be assessed and paid in lieu of or as a substitute in whole or in part for Taxes, or (vi) costs of utilities directly charged to and reimbursed by Tenant or other tenants. “**Taxes**” as used herein means all ad valorem taxes, personal property taxes, and all other taxes, assessments, and all other similar charges, if any, which are levied, assessed, or imposed upon or become due and payable in connection with, or a lien upon, the Project or any portion thereof or facilities used in connection therewith, and all taxes of whatsoever nature that are imposed in substitution for or in lieu of any of the taxes, assessments, or other charges included in this definition of Taxes; but excluding, however, taxes and assessments attributable to the personal property of tenants and paid by such tenants as a separate charge. If a rental tax, gross receipts tax or sales tax on Rent is imposed on Landlord by any Governmental Authority, Tenant shall, as additional rent, reimburse Landlord, at the same time as each monthly payment of Rent is due, an amount equal to all such taxes Landlord is required to pay by reason of the Rent paid hereunder. If less than ninety-five percent (95%) of the Rentable Area of the Building is actually occupied during any Operating Period, Operating Expenses shall be the amount that such Operating Expenses would have been for such Operating Period had ninety-five (95%) of the Rentable Area of the Building been occupied during all such Operating Period, as determined by Landlord.

(b) Base Rent Adjustment. Landlord shall, within one hundred twenty (120) days after the end of each Operating Period, furnish Tenant with a statement of the Operating Expenses during such year and a computation of the Base Rent Adjustment (“**Expense Statement**”). Failure of Landlord to provide such statement within such time period shall not be a waiver of Landlord’s right to collect any Base Rent Adjustment. If such statement shows that the actual amount Tenant owes is more than the estimated Base Rent Adjustment paid by Tenant, Tenant shall pay the difference within fifteen (15) days after Tenant’s receipt of the Expense Statement. If the Expense Statement shows that Tenant paid more than the actual amount owed, Tenant shall receive a credit therefor. The credit shall be applied to future monthly payments attributable to the Base Rent Adjustment, or if this Lease has expired, such amount shall be refunded to Tenant. Unless adjusted as a result of an audit by Tenant conducted pursuant to the express terms of this Lease, the Operating Expenses and Base Rent Adjustment set forth in the Expense Statement shall be binding upon Tenant. Provided, however, that in the event that the Term of this Lease expires, or is terminated pursuant to the terms of this Lease, on a date other than December 31, then, at the option of Landlord, Landlord may, either prior to the date on which the Term expires, or within thirty (30) days thereafter, elect to provide Tenant with a revised estimate of the Operating Expenses for the Operating Period in which such expiration or termination date occurs and the Base Rent Adjustment that will be due from Tenant for such Operating Period, which estimated Base Rent Adjustment shall be prorated to reflect the portion of such Operating Period that is contained within the Term of the Lease (the “**Final Estimated Base Rent Adjustment**”). In the event that Landlord elects to deliver such Final Estimated Base Rent Adjustment to Tenant, then (i) Tenant shall pay the prorated Base Rent Adjustment reflected in the Final Estimated Base Rent Adjustment within fifteen (15) days after Tenant’s receipt of such estimate; (ii) the estimated amount of the Base Rent Adjustment for the final Operating Period shall be binding upon Landlord and Tenant; and (iii) Landlord shall not thereafter seek from Tenant any additional Base Rent Adjustment if the actual Operating Expenses for such Operating Period are greater than those reflected in the Final Estimated Base Rent Adjustment, nor shall Landlord have any obligation to refund to Tenant any excess funds paid by Tenant to Landlord should the actual Operating Expenses for such Operating Period be less than those reflected in the Final Estimated Base Rent Adjustment. In the event that Landlord elects not to provide Tenant with a Final Estimated Base Rent Adjustment, then it shall be presumed that Landlord will provide Tenant with an Expense Statement within one hundred twenty (120) days after the end of the final Operating Period contained in the Term, as provided above, and the Base Rent Adjustment shown in such Expense Statement shall be due from Tenant to Landlord within fifteen (15) days after Tenant’s receipt of such statement.

(c) Tenant’s Audit. Tenant shall have the right to have Landlord’s books and records pertaining to Operating Expenses for each Operating Period reviewed, copied (provided Landlord is reimbursed for the cost of such copies) and audited (“**Tenant’s Audit**”), provided that: (a) such right shall not be exercised more than once during any calendar year; (b) if Tenant elects to conduct Tenant’s Audit, Tenant shall provide Landlord with written notice thereof (“**Tenant’s Audit Notice**”) no later than thirty (30) days following Tenant’s receipt of the Expense Statement for the year to which Tenant’s Audit will apply; (c) Tenant shall have no right to conduct Tenant’s Audit if an uncured Default by Tenant exists either at the time of Landlord’s receipt of Tenant’s Audit Notice or at any time during Tenant’s Audit; (d) no subtenant shall have any right to conduct an audit and no assignee shall conduct an audit for any period during which such assignee was not in possession of the Premises; (e) conducting Tenant’s

Audit shall not relieve Tenant from the obligation to timely pay Base Rent or the Base Rent Adjustment, pending the outcome of such audit; (f) Tenant's right to conduct such audit for any calendar year shall expire thirty (30) days following Tenant's receipt of the Expense Statement for such year, and if Landlord has not received Tenant's Audit Notice within such thirty (30) day period, Tenant shall have waived its right to conduct Tenant's Audit for such calendar year; provided, however, that with respect to any audit of Operating Expenses for the Base Year, Tenant's right to conduct an audit for such year shall expire the earlier of sixty (60) days following Tenant's receipt of the Expense Statement for the Base Year or sixty (60) days following Tenant's receipt of the first Expense Statement forwarded by Landlord to Tenant for any Operating Period during the Term; (g) Tenant's Audit shall be conducted by a Certified Public Accountant whose compensation is not contingent upon the results of Tenant's Audit or the amount of any refund received by Tenant, and who is not employed by or otherwise affiliated with Tenant, except to the extent that such accountant has been engaged by Tenant to conduct Tenant's Audit; (h) Tenant's Audit shall be conducted at Landlord's office where the records of the year in question are maintained by Landlord, during Landlord's normal business hours; (i) Tenant's Audit shall be completed within thirty (30) days after the date of Tenant's Audit Notice, and a complete copy of the results thereof shall be delivered to Landlord within sixty (60) days after the date of Tenant's Audit Notice; and (j) Tenant's Audit shall be conducted at Tenant's sole cost and expense. If Tenant's Audit is completed and submitted to Landlord in accordance with the requirements of this Section and such audit demonstrates to Landlord's reasonable satisfaction that Landlord has overstated the Operating Expenses for the year audited by more than five percent (5%), Landlord shall reimburse Tenant for any overpayment of Tenant's Pro-Rata Share of such increase in Operating Expenses, as well as Tenant's actual, reasonable cost incurred in conducting Tenant's Audit (not to exceed \$2,500.00), within thirty (30) days after Landlord's receipt of documentation reasonably acceptable to Landlord reflecting the amount of such overpayment and the cost of Tenant's Audit.

(d) Confidentiality. Tenant hereby agrees to keep the results of Tenant's Audit confidential and to require the auditor conducting Tenant's Audit, including its employees and each of their respective attorneys and advisors, to keep the results of Tenant's Audit in strictest confidence. In particular, but without limitation, Tenant agrees that: (a) Tenant shall not disclose the results of Tenant's Audit to any past, current or prospective tenant of the Building; and (b) Tenant shall require that its auditors, attorneys and anyone associated with such parties shall not disclose the results of Tenant's Audit to any past, current or prospective tenant of the Building; provided, however, that Landlord hereby agrees that nothing in items (a) or (b) of this subparagraph shall preclude Tenant from disclosing the results of Tenant's Audit in any judicial or quasi-judicial proceeding, or pursuant to court order or discovery request, or to any current or prospective assignee or subtenant of Tenant, or to any agent, representative or employee of Landlord who or which request the same. If required by Landlord, Tenant shall execute Landlord's then-current confidentiality agreement reflecting the terms of this Section as a condition precedent to Tenant's right to conduct Tenant's Audit.

8. Intentionally Omitted.

9. Initial Improvements. The construction of any Initial Improvements to the Premises shall be undertaken in accordance with the terms and conditions of this Lease and if applicable, the terms set forth in the Workletter attached hereto and incorporated herein. The Initial Improvements are to be constructed by Landlord, pursuant to terms set forth in the form of Workletter attached hereto as **Exhibit "D"**.

10. Maintenance and Repair. Landlord shall only be required to make such improvements, repairs or replacements as may be necessary for normal maintenance of the Building Systems serving the Premises, the exterior and the structural portions of the Building and Common Areas. Subject to the terms of Section 7, the maintenance and repairs to be performed by Landlord hereunder shall be at Landlord's expense, unless the need for such maintenance or repairs was caused by the negligence or willful misconduct of Tenant, its employees, agents, contractors or invitees, in which event Tenant shall reimburse Landlord for the cost of such maintenance or repairs, plus a construction oversight fee for Landlord in an amount equal to ten percent (10%) of the cost and expense of such maintenance or repairs; such fee shall not apply to the Initial Improvements. Except to the extent that Landlord is obligated to restore and repair the Premises pursuant to Section 23, Tenant, at its sole cost, shall maintain and repair the Premises and otherwise keep the Premises in good order and repair. Any repair or maintenance by Tenant shall be undertaken in accordance with the provisions and requirements of Section 16. Landlord is not responsible for replacing and/or repairing Tenant's fixtures or Above Standard improvements, or fixtures. Except as expressly provided in this Lease, Tenant shall accept the Premises including any existing appliances and Above Standard fixtures in their "**AS IS, WHERE IS**" condition as of the Effective Date.

11. **Services.** Landlord shall furnish Tenant during Tenant's occupancy of the Premises the following services: (i) cleaning and janitorial services (defined in **Exhibit "B"**), (ii) hot and cold domestic water at those points of supply provided for general office use of tenants in the Building, (iii) electricity for normal, Building Standard office uses subject to Section 12, (iv) elevator service at the times and frequency reasonably required for normal business use of the Premises, (v) lamp and ballast replacement for Building Standard light fixtures, (vi) HVAC service between 7:30 a.m. and 7:00 p.m. on Monday through Friday and between 8:00 a.m. and 12:00 p.m. on Saturday ("**Building Standard Hours**"), except on New Year's Day, Memorial Day, July 4, Labor Day, Thanksgiving Day, Christmas Day and other holidays observed by a majority of the tenants of the Building ("**Holidays**"). If any Holiday falls on a weekend, the Building may observe the Holiday on the preceding Friday or the succeeding Monday. Tenant may periodically request, and Landlord shall furnish HVAC service on days and at times other than those referred to in clause (vi) above provided Tenant requests such service in accordance with the Project Rules, defined below, then in effect, and agrees to reimburse Landlord for this service at the then existing rate being charged in the Building. If Tenant utilizes services provided by Landlord hereunder in either quantity and/or quality exceeding the quantity and/or quantity customarily utilized by normal office uses of comparable premises in the Building, then Landlord may separately meter or otherwise monitor Tenant's use of such services, and charge Tenant a reasonable amount for such excess usage; such amount shall constitute additional Rent due hereunder within fifteen (15) days of Tenant's receipt of Landlord's statement for such excess. Landlord shall not be liable for any damages directly or indirectly resulting from, nor shall any Rent be abated by reason of, the installation, use or interruption of use of any equipment in connection with furnishing any of the foregoing services, or failure to furnish or delay in furnishing any such service when such failure or delay is caused by accident or any occurrence or condition beyond the reasonable control of Landlord. The failure to furnish any such services shall not be construed as an eviction of Tenant or relieve Tenant from any of its obligations under this Lease unless such failure substantially handicaps or impedes the normal use of the Premises by Tenant and unless within a reasonable time after Landlord's receipt of written notice from Tenant setting forth a description of the services not so furnished, Landlord fails to commence curing any such failure or thereafter fails to continue the curing thereof with appropriate diligence under the circumstances until cured.

12. **Electrical Usage.** Landlord shall supply sufficient electrical capacity to a panel box located in the core of each floor for lighting and for Tenant's office equipment to the extent that the total demand load at one hundred percent (100%) capacity of such lighting and equipment does not exceed six (6) watts per RSF in the Premises ("**Electrical Design Load**"). If Tenant utilizes any portion of the Premises on a regular basis beyond Building Standard Hours or in any manner in excess of the Electrical Design Load, Landlord shall have the right to separately meter such space and charge Tenant for all excess usage; additionally, Landlord shall have the right, at Tenant's expense, to separately meter any Above Standard fixture(s) in the Premises, such as water heaters and vending machines, and to charge Tenant for the electricity consumed by such fixture(s). If separate metering is not practical, Landlord may reasonably estimate such excess usage and charge Tenant a reasonable hourly rate. Tenant shall pay to Landlord the cost of all electricity consumed in excess of six (6) watts per RSF in the Premises for the number of hours in the Building Standard Hours for the relevant period, plus any actual accounting expenses incurred by Landlord in connection with the metering or calculation thereof. Tenant shall pay the cost of installing, maintaining, repairing and replacing all such meters. In the event that the level of occupancy of the Premises, or any machinery or equipment located in the Premises, creates unusual demands on the HVAC system serving the Premises, then Tenant may install, and Landlord may require that Tenant install, its own supplemental HVAC unit(s) ("**Supplemental HVAC Equipment**") in the Premises, and in either event the installation, maintenance and removal of the Supplemental HVAC Equipment shall be governed by the terms of **Exhibit "F"** attached hereto and incorporated herein by this reference.

13. **Communication Lines.** Subject to Building design limits and its existing, or then existing, capacity, Tenant may install, maintain, replace, remove or use communications or computer wires and cables which service the Premises ("**Lines**"), provided: (a) Tenant shall obtain Landlord's prior written consent, and shall use contractors approved in writing by Landlord, (b) all such Lines shall be plenum rated and neatly bundled, labeled and attached to beams and not to suspended ceiling grids, (c) any such installation, maintenance, replacement, removal or use shall comply with all Laws applicable thereto, including, but not limited to the National Electric Code, and shall not interfere with any then existing Lines at the Building, and (d) Tenant shall pay all costs and expenses in connection therewith. Landlord reserves the right to require Tenant to remove any Lines located in or serving the Premises which violate this Lease or represent a dangerous or potentially dangerous condition, within three (3) business days after written notice. Tenant shall remove all Lines upon termination or expiration of this Lease. Any Lines that Landlord expressly permits to remain at the expiration or termination of this Lease shall become the property of Landlord without payment of any type. Under no circumstances shall any Line problems be deemed an actual or

constructive eviction of Tenant, render Landlord liable to Tenant for abatement of Rent, or relieve Tenant from performance of Tenant's obligations under this Lease.

14. **Prohibited Use.** Tenant shall not do or permit anything to be done within the Project nor bring, keep or permit anything to be brought or kept therein, which is prohibited by any Laws now in force or hereafter enacted or promulgated, or which is prohibited by any insurance policy or which may increase the existing rate or otherwise affect any insurance which Landlord carries on the Project. Tenant shall not do or permit anything to be done in or about the Premises which will in any way obstruct or interfere with the rights of other tenants, or injure or annoy them or use or allow the Premises to be used for any unlawful or objectionable purpose. Tenant shall not commit or suffer to be committed any waste to, in or about the Premises or Project.

15. **Legal Requirements; Project Rules.** Tenant shall comply with, and shall indemnify, defend (with counsel reasonably acceptable to Landlord) and hold Landlord and its directors, officers, partners, members, shareholders, employees and agents harmless from any and all obligations, claims, administrative proceedings, judgments, damages, fines, penalties, costs, and liabilities, including reasonable attorneys' fees (collectively, "**Costs**") incurred by Landlord as a result of the failure by Tenant, its employees, agents or contractors to comply with all Laws relating to the use, condition or occupancy of the Premises now or hereafter enacted, and the Project Rules, defined below. Tenant shall cause its employees, agents and contractors to comply with, and shall use reasonable efforts to cause its invitees to comply with, all Laws applicable to Project. Tenant shall not cause or permit the use, generation, storage, release or disposal in or about the Premises or the Project of any substances, materials or wastes subject to regulation under any Laws from time to time in effect concerning flammable, explosive, hazardous, petroleum, toxic or radioactive materials, unless Tenant shall have received Landlord's prior written consent, which consent Landlord may withhold or revoke at any time in its sole discretion. Tenant shall comply with, and cause its employees, agents and contractors to comply with, and shall use its reasonable efforts to cause its invitees to comply with, the rules and regulations of the Project adopted by Landlord from time to time for the safety, care and cleanliness of the Premises and the Project ("**Project Rules**"). In the event of any conflict between this Lease and the Project Rules, the provisions of this Lease shall control. Landlord shall not have any liability to Tenant for any failure of any other tenants to comply with the Project Rules. The Project Rules in effect as of the Effective Date are attached hereto as **Exhibit "C"**. In the event that any Governmental Authority, ordinance or other Law applicable to the Project requires either Landlord or Tenant to establish and implement a transportation management plan designed to reduce the number of single-occupancy vehicles being used by employees and other permitted occupants of the Building for commuting to and from the Building, then Tenant shall cooperate with Landlord in establishing and implementing such plan.

16. **Alterations, Additions and Improvements.** (a) Tenant shall not permit, make or allow to be made any construction, alterations, physical additions or improvements in or to the Premises or placement of any signs in the Premises which are visible from outside the Premises (collectively, "**Tenant Work**"), without obtaining the prior written consent of Landlord which may be withheld in Landlord's sole discretion. Notwithstanding the foregoing, Landlord will not unreasonably withhold its consent to Tenant Work that: (i) is non-structural and does not adversely affect any Building Systems or improvements, (ii) is not visible from the exterior of the Premises, (iii) does not affect the exterior of the Building or any Common Areas, (iv) does not violate any provision of this Lease, (v) does not violate any Laws, and (vi) will not interfere with the use and occupancy of any other portion of the Project by any other tenant or occupant of the Project. Tenant's plans and specifications and all contractors, subcontractors, vendors, architects and engineers (collectively, "**Outside Contractors**") shall be subject to Landlord's prior written approval. If requested by Landlord, Tenant shall execute a Workletter for any such Tenant Work substantially in the form then used by Landlord for construction performed by tenants of the Building. Tenant shall pay Landlord a construction oversight fee in an amount equal to ten percent (10%) of the cost and expense of any Tenant Work whether undertaken by Landlord or Tenant; provided, however, that such fee shall not apply to construction of any Initial Improvements. Landlord may hire outside consultants to review such documents and information furnished to Landlord, and Tenant shall reimburse Landlord for the cost thereof, including reasonable attorneys' fees, upon demand. Neither review nor approval by Landlord of any plans or specifications shall constitute a representation or warranty by Landlord that such documents either (i) are complete or suitable for their intended purpose, or (ii) comply with applicable Laws, it being expressly agreed by Tenant that Landlord assumes no responsibility or liability whatsoever to Tenant or any other person or entity for such completeness, suitability or compliance. Tenant shall furnish any documents and information reasonably requested by Landlord, including "as-built" drawings (both in paper and in electronic format acceptable to Landlord) after completion of such Tenant Work. Landlord may impose such conditions on Tenant Work as are reasonably appropriate, including without limitation, compliance with any construction rules adopted by Landlord from time to time, requiring Tenant to

furnish Landlord with security for the payment of all costs to be incurred in connection with such Tenant Work, insurance covering Landlord against liabilities which may arise out of such work, plans and specifications, and permits for such Tenant Work. Any and all Tenant Work shall become the property of Landlord upon completion and shall be surrendered to Landlord upon the termination or expiration of this Lease for any reason, unless Landlord shall require removal or restoration by Tenant. Tenant shall not allow any liens to be filed against the Premises or the Project in connection with any Tenant Work. If any liens are filed, Tenant shall cause the same to be released within five (5) days after Tenant's receipt of written notice of the filing of such lien by bonding or other method acceptable to Landlord. All Outside Contractors shall maintain insurance in amounts and types required by, and in compliance with, Section 20. ACORD 25 (or its equivalent) certificates of insurance evidencing such coverage shall be provided to Landlord prior to commencement of any Tenant Work. All Outside Contractors shall perform all work in a good and workmanlike manner, in compliance with all Laws and all applicable Project Rules and Building construction rules. No Tenant Work shall be unreasonably disruptive to other tenants. Prior to final completion of any Tenant Work, Landlord shall prepare and submit to Tenant a punch list of items to be completed, and Tenant shall diligently complete all such punch list items.

(b) Per South Carolina law, by Tenant giving formal notice to the persons or entities providing labor or materials in connection with Tenant Work that Landlord will not be responsible for payment therefor, Tenant will prevent a mechanic's lien from validly attaching to the Property. Accordingly, in connection with any and all Tenant Work at the Property, Tenant is required to post a large and conspicuous notice on the Premises that the Landlord shall not be responsible for any payments for materials and labor furnished to Tenant. Tenant shall otherwise comply with the provisions of Section 29-5-80, of the Code of Laws of South Carolina, 1976, as amended, and shall protect Landlord from liability relative to any mechanic liens which may result from the Tenant Work.

17. **Tenant's Equipment.** Except for personal computers, facsimile machines, copiers and other similar office equipment, Tenant shall not install within the Premises any fixtures, equipment or other improvements until the plans and location thereof have been approved by Landlord. The location, weight and supporting devices for any libraries, central filing areas, safes and other heavy equipment shall in all cases be approved by Landlord prior to initial installation or any relocation. Landlord may prohibit any article, equipment or any other item that may exceed the load capacity of the Building from being brought into the Building.

18. **Taxes on Tenant's Property.** Tenant shall pay all ad valorem and similar taxes or assessments levied upon all equipment, fixtures, furniture and other property placed by Tenant in the Premises and all license and other fees or taxes imposed on Tenant's business. If any improvements installed or placed in the Project by, or at the expense of, Tenant result in Landlord being required to pay higher Taxes with respect to the Project than would have been payable otherwise, Tenant shall pay to Landlord, within fifteen (15) days after demand, the amount by which such excess Taxes are reasonably attributable to Tenant.

19. **Access.** Landlord shall have the right to enter the Premises at all reasonable times in order to inspect the condition, show the Premises, determine if Tenant is performing its obligations hereunder, perform the services or make the repairs that Landlord is obligated or elects to perform hereunder, make repairs to adjoining space, cure any Defaults of Tenant hereunder that Landlord elects to cure, and remove from the Premises any improvements or property placed therein in violation of this Lease. Except in the case of an emergency or to perform routine services hereunder, Landlord shall use reasonable efforts to provide Tenant prior notice of such access.

20. **Tenant's Insurance.** At all times during the Term of this Lease, Tenant will carry and maintain, at its expense with insurance companies reasonably acceptable to Landlord that are rated no less than A, Class X, by A.M. Best Company in A.M. Best's Key Rating Guide: (i) a commercial general liability insurance policy, including insurance against assumed or contractual liability under this Lease, for liability arising out of the ownership, use, occupancy or maintenance of the Premises and all areas appurtenant thereto, including any portion of the Common Areas used by Tenant, to afford protection with respect to bodily injury, death or property damage (including loss of use) of not less than not less than \$2,000,000 in the aggregate and per occurrence combined single limit; (ii) an all-risks property and casualty insurance (special form building and personal property coverage) policy, including theft coverage, written at replacement cost value with replacement cost endorsements and on a no coinsurance basis, covering all of the Tenant's property; (iii) a worker's compensation insurance policy with applicable statutory limits and the Employer's Liability insurance shall have limits of not less than \$500,000 per each accident or illness, (iv) automobile liability insurance of not less than \$1,000,000 in the aggregate and per accident combined single limit for all owned, leased/hired or non-owned vehicles, (v) an excess/umbrella liability policy "following form" of not less than Two Million Dollars (\$2,000,000), including a "drop down" feature in case the limits of the primary policy

are exhausted, and (vi) if Tenant will serve or sell alcohol at the Project, a liquor liability insurance policy with minimum coverage of One Million Dollars (\$1,000,000). Landlord may also require all Outside Contractors to provide in addition to the insurance coverages referenced above such other insurance in amounts and types and with such companies as may be reasonably requested by Landlord, including, without limitation, construction all risk/builder's risks (including loss of revenue) insurance, professional errors and omissions liability insurance, and insurance covering such contractor's equipment and tools. Each insurance policy required to be maintained hereunder by Tenant shall include an "Additional Insured Endorsement" in favor of U.S. REIF/MJW Capitol Center Fee, LLC, its affiliated companies, as well as M & J Wilkow Properties, LLC and their employees, officers, directors and agents and any other designees of Landlord and shall be primary. An ACORD 25 certificate of such insurance in a form reasonably satisfactory to Landlord, or certified copies of the policies, shall be furnished to Landlord on or before the earlier of the Commencement Date or ten (10) days after execution of the Lease, reflecting the limits and endorsements required herein, and renewal ACORD 25 certificates or certified copies of renewal policies shall be delivered to Landlord at least ten (10) days prior to the expiration date of any policy. Each policy shall require notice of nonrenewal to Landlord and shall further provide that it may not be altered or canceled without thirty (30) days prior notice to Landlord. Landlord agrees to cooperate with Tenant to the extent reasonably requested by Tenant to enable Tenant to obtain such insurance. Landlord shall have the right to require increased limits if, in Landlord's reasonable judgment, such increase is necessary.

21. **Landlord's Insurance.** Landlord shall maintain, during the Term of this Lease, (i) a commercial general liability insurance policy of not less than One Million Dollars (\$1,000,000) each occurrence/Two Million Dollars (\$2,000,000) aggregate; and (ii) an all-risk property and casualty insurance policy, including theft coverage, written at full replacement cost value and with replacement cost endorsement, covering the Project, including the Building and the Initial Improvements, and all personal property, fixtures and improvements therein belonging to Landlord; and (iii) an excess liability policy "following form" of not less than Four Million Dollars (\$4,000,000), including a "drop down" feature in case the limits of the primary policy are exhausted. Landlord shall not be obligated to insure any property of Tenant.

22. **Waiver of Subrogation; Mutual Waiver of Liability.** All policies of property insurance required to be carried by either party hereunder shall include a waiver by the insurer of all right of subrogation against the other party in connection with any loss or damage thereby insured against. Any additional premium for such waiver shall be paid by the primary insured. To the full extent permitted by law, Landlord and Tenant each waive all rights of recovery against the other (and any officers, directors, partners, employees, agents and representatives of the other), and agree to release the other from liability, for loss or damage to the extent such loss or damage is covered by valid and collectible insurance in effect covering the party seeking recovery at the time of such loss or damage or would be covered by the insurance required to be maintained under this Lease by the party seeking recovery. If the release of either party, as set forth above, should contravene any law with respect to exculpatory agreements, the liability of the party in question shall be deemed not released but shall be secondary to the liability of the other's insurer.

23. **Casualty.** If the Premises or the Project is damaged or destroyed, in whole or in part, by fire or other casualty at any time during the Term and if, after such damage or destruction, Tenant is not able to use the portion of the Premises not damaged or destroyed to substantially the same extent and for substantially the same purpose as Tenant used the Premises prior thereto, and within forty-five (45) days after Landlord's receipt of written notice from Tenant describing such damage or destruction Landlord provides notice to Tenant that the Premises cannot be repaired or rebuilt to the condition which existed immediately prior to such destruction or casualty within two hundred seventy (270) days following the date of such destruction or casualty, then Landlord or Tenant may by written notice to the other within thirty (30) days following such notice by Landlord terminate this Lease. Unless such damage or destruction is the result of the negligence or willful misconduct of Tenant or its employees, agents, contractors or invitees, the Rent shall be abated for the period and proportionately to the extent that after such damage or destruction Tenant is not able to use the portion of the Premises damaged or destroyed to substantially the same extent and for substantially the same purposes as Tenant used the Premises prior thereto. If this Lease is not terminated pursuant to the foregoing, Landlord shall restore or replace the damaged or destroyed portions of the Premises or Project, and this Lease shall continue in full force and effect in accordance with the terms hereof except for the abatement of Rent referred to above, if applicable, and except that the Term shall be extended by a length of time equal to the period beginning on the date of such damage or destruction and ending upon completion of such restoration or replacement. Landlord shall restore or replace the damaged or destroyed portions of the Premises or Project within a reasonable time, subject to Force Majeure Events and the availability of insurance proceeds. If either party elects to terminate this Lease as provided in this Section, this Lease shall terminate on the date which is thirty (30) days following the date of the notice of termination. Landlord shall not be obligated to repair any damage

to Tenant's inventory, trade fixtures or other personal property. If the Premises or any portion of the Project are damaged or destroyed by fire or other casualty caused by the willful misconduct of Tenant, its employees, agents, contractors, or invitees, then any repair or restoration of the Premises by Landlord pursuant to the terms of this Section shall be at Tenant's sole cost and expense. Notwithstanding anything in this Section to the contrary, Landlord shall have no obligation to repair or restore the Premises or the Project on account of damage resulting from any casualty which occurs during the last twelve (12) months of the Term.

24. **Condemnation.** If more than fifty percent (50%) of the Premises or if a substantial portion of the Building is taken by the power of eminent domain, then either Landlord or Tenant shall have the right to terminate this Lease by written notice to the other within thirty (30) days after the date of taking; provided, however, that a condition to the exercise by Tenant of such right to terminate shall be that the portion of the Premises or Building taken shall be of such extent and nature as to substantially impair Tenant's use of the Premises or the balance of the Premises remaining and Landlord is unwilling or unable to provide reasonable replacement space within the Project. In the event of any taking, Landlord shall be entitled to any and all compensation and awards with respect thereto, except for an award, if any, specified by the condemning authority for any claim made by Tenant for property that Tenant has the right to remove upon termination of this Lease. Tenant shall have no claim against Landlord for the value of any unexpired portion of the Term. In the event of a partial taking of the Premises which does not result in a termination of this Lease, the Rent shall be equitably reduced as to the square footage so taken.

25. **Waiver of Claims.** Except for the willful misconduct or gross negligence of Landlord, its employees, agents or contractors, Landlord shall not be liable to Tenant for damage to person or property caused by defects in the HVAC, electrical, plumbing, elevator or other apparatus or systems, or by water discharged from sprinkler systems, if any, in the Building, nor shall Landlord be liable to Tenant for the theft or loss of any property of Tenant whether from the Premises or any part of the Building or Project, including the loss of trade secrets or other confidential information. Landlord agrees to make commercially reasonable efforts to protect Tenant from interference or disturbance by third persons, including other tenants; however, Landlord shall not be liable for any such interference, disturbance or breach, whether caused by another tenant or tenants or by Landlord or any other person, nor shall Tenant be relieved from any obligation under this Lease because of such interference, disturbance or breach. Landlord may comply with voluntary controls or guidelines promulgated by any governmental entity relating to the use or conservation of energy, water, gas, light or electricity or the reduction of automobile or other emissions without creating any liability of Landlord to Tenant under this Lease, provided that the Premises are not thereby rendered untenable. In no event shall Landlord or its directors, officers, shareholders, partners, members, employees, or agents be liable in any manner for incidental, consequential or punitive damages, loss of profits, or business interruption. The waivers in this Section shall survive the expiration or earlier termination of this Lease.

26. **Indemnity.** (a) Except for claims, rights of recovery and causes of action covered by the waiver of subrogation contained in Section 22 or waived in Section 25, Landlord shall indemnify and hold harmless Tenant and its agents, directors, officers, shareholders, partners, members, employees and invitees, from all claims, losses, costs, damages, or expenses (including reasonable attorneys' fees) in connection with any injury to, including death of, any person or damage to any property arising, wholly or in part, out of any action, omission, or neglect of Landlord or its directors, officers, shareholders, partners, members, employees, agents, invitees, or guests, or any parties contracting with such party relating to the Project. If Tenant shall without fault on its part, be made a party to any action commenced by or against Landlord, Landlord shall protect and hold Tenant harmless and shall pay all costs, expenses, including reasonable attorneys' fees in connection therewith.

(b) Except for claims, rights of recovery and causes of action covered by the waiver of subrogation, Tenant shall indemnify and hold harmless Landlord and its agents, directors, officers, shareholders, partners, members, employees and invitees, from all claims, losses, costs, damages, or expenses (including reasonable attorneys' fees) in connection with any injury to, including death of, any person or damage to any property arising, wholly or in part, out of any action, omission, or neglect of Tenant or its Outside Contractors, directors, officers, shareholders, members, partners, employees, agents, invitees, or guests, or any parties contracting with such party relating to the Project. If Landlord shall without fault on its part, be made a party to any action commenced by or against Tenant, Tenant shall protect and hold Landlord harmless and shall pay all costs, expenses, including reasonable attorneys' fees in connection therewith.

(c) Landlord's and Tenant's obligations under this Section shall not be limited by the amount or types of insurance maintained or required to be maintained under this Lease. The obligations under this Section shall survive the expiration or earlier termination of this Lease.

27. **Non-Waiver**. No consent or waiver, express or implied, by Landlord to any breach by Tenant of any of its obligations under this Lease shall be construed as or constitute a consent or waiver to any other breach by Tenant. Neither the acceptance by Landlord of any Rent or other payment, whether or not any Default by Tenant is then known to Landlord, nor any custom or practice followed in connection with this Lease shall constitute a waiver of any of Tenant's obligations under this Lease. Failure by Landlord to complain of any act or omission by Tenant or to declare that a Default has occurred, irrespective of how long such failure may continue, shall not be deemed to be a waiver by Landlord of any of its rights hereunder. Time is of the essence with respect to the performance of every obligation of Tenant in which time of performance is a factor. No payment by Tenant or receipt by Landlord of an amount less than the Rent due shall be deemed to be other than a partial payment of the Rent, nor shall any endorsement or statement of any check or any letter accompanying any check or payment as Rent be deemed an accord and satisfaction. Landlord may accept such check or payment without prejudice to its right to recover the balance of such Rent or pursue any other right or remedy. Except for the execution and delivery of a written agreement expressly accepting surrender of the Premises, no act taken or failed to be taken by Landlord shall be deemed an acceptance of surrender of the Premises.

28. **Quiet Possession**. Provided Tenant has performed all its obligations, Tenant shall peaceably and quietly hold and enjoy the Premises for the Term, subject to the provisions of this Lease.

29. **Notices**. Each notice required or permitted to be given hereunder shall be in writing and may be personally delivered, sent via nationally recognized overnight courier or via U.S. Postal Service, postage prepaid, registered or certified mail, return receipt requested, addressed in each case at the address provided. Any such notice or demand shall be deemed given on the earliest of (a) on the date which is two (2) business days after deposit in an official U.S. Postal Service receptacle if delivered via the United States Postal Service; (b) on the first business day after deposit with an overnight air courier service with instructions to deliver on the next business day; or (c) on the date of actual delivery. If a party refuses to accept a notice or demand, the notice or demand will be deemed to have been delivered on the date tendered, but rejected. Prior to the Commencement Date, the address for notices to Tenant shall be the address set forth in Section 1; after the Commencement Date, the address for Tenant shall be the Premises. If a notice or demand is sent via U.S. Postal Service or overnight courier service and that service has a labor strike or work stoppage or catastrophic event during the period that such notice or demand is in their possession then such notice or demand shall not be deemed received until actual delivery. Any notices to Landlord shall be addressed and given to Landlord at both of the following addresses:

c/o M & J Wilkow Properties, LLC
Attn: Property Manager, Capitol Center
1201 Main Street, Suite 230
Columbia, South Carolina 29201

c/o M & J Wilkow Properties, LLC
Attn: Asset Manager, Capitol Center
180 North Michigan Avenue, Suite 200
Chicago, Illinois 60601

30. **Landlord's Failure to Perform**. If Landlord fails to perform any of its obligations hereunder, Landlord shall not be in default and Tenant shall not have any rights or remedies growing out of such failure unless Tenant gives Landlord written notice setting forth in reasonable detail the nature and extent of such failure and such failure is not cured within thirty (30) days following Landlord's receipt of such notice or such longer period as may otherwise be provided herein. If such failure cannot reasonably be cured within thirty (30) days, the length for curing shall be extended as reasonably required. In no event shall Tenant's remedies for an alleged or actual failure of Landlord to perform its obligations under this Lease include the termination of this Lease.

31. **Tenant's Failure to Perform**. If Tenant fails to perform any of its obligations hereunder, in addition to the other rights of Landlord, Landlord shall have the right, but not the obligation, to perform all or any part of Tenant's obligations. Upon receipt of a demand therefor, Tenant shall reimburse Landlord for the cost of performing such obligations, plus interest thereon at the Default Rate, defined below.

32. **Default**. (a) "**Default**" means the occurrence of any one or more of the following: (i) failure of Tenant to pay when due any Rent or other amount required to be paid hereunder, if such failure continues for more than five (5) days after Tenant's receipt of written notice thereof from Landlord; (ii) failure of Tenant, after ten (10) days written notice, or such other notice period specified in this Lease, to observe and fully perform all of Tenant's obligations hereunder, other than payment of Rent which is covered above, provided that if Tenant is diligently undertaking to cure such failure within such ten (10) day period and such failure cannot reasonably be cured within such ten (10) day period, Tenant shall have up to twenty (20) days after said notice to cure such failure before the

failure shall constitute a "Default" provided that Tenant is diligently prosecuting the cure to completion within such twenty (20) day period; (iii) the adjudication of Tenant to be bankrupt; (iv) the filing by Tenant of a voluntary petition in bankruptcy or other similar proceedings; (v) the making by Tenant of a general assignment for the benefit of its creditors; (vi) the appointment of a receiver of Tenant's interests in the Premises; (vii) any involuntary proceedings instituted against Tenant under any bankruptcy or similar laws, unless such is dismissed or stayed within sixty (60) days thereafter; (viii) if the Tenant is an individual or if the Tenant is controlled by a single individual, the death or incapacity of such individual; (ix) the filing of a voluntary petition in bankruptcy or other similar proceeding by any Guarantor of Tenant's obligations hereunder, or if such Guarantor is an individual or controlled by a single individual, the death or incapacity of such individual; (x) vacancy of the Premises for more than twenty (20) consecutive days; (xi) Tenant shall fail to discharge any lien placed upon the Premises in violation of Sections 16 hereof within twenty (20) days after any such lien or encumbrance is filed against the Premises; (xii) failure by Tenant to timely execute, acknowledge and deliver forthwith, a subordination and attornment agreement or an estoppel certificate or statement as required by Section 41 hereof; (xiii) the misrepresentation by Tenant of, or failure of Tenant to disclose, a material fact in any document, financial statement, or other instrument delivered or disclosed to Landlord in connection with this Lease; or (xiv) the manifestation of a definite and unequivocal intent by a Tenant party hereto that it will not render its performance under this Lease when the time fixed for performance arrives. Notwithstanding any applicable notice and cure period provided above, Landlord shall not, with respect to any Default hereunder, be required to provide any applicable notice and an opportunity to cure more than two (2) times during the Term, and upon a subsequent occurrence of any Default hereunder Tenant shall not be entitled to notice or an opportunity to cure, and Landlord may, at its option, immediately declare a Default and exercise its rights and remedies.

(b) Upon the occurrence of a Default, Landlord may, at its option and without waiving any other rights available herein, at law, or in equity, require Tenant to pay Rent by (a) wire transfer of funds to an account designated by Landlord; or (b) direct draft from Tenant's account through bank draft, ACH transfer, or other equivalent funds transfer to Landlord's designated account. Execution of this Lease by Tenant and Landlord shall be evidence of Landlord's authorization to debit Tenant's account as set forth herein. Tenant shall provide all necessary information and execute any additional documents requested by Landlord to facilitate payment of Rent by the method designated by Landlord. Tenant's failure to provide such information or documents within five (5) days after written notice by Landlord shall constitute a Default hereunder.

(c) If a Default occurs, then or at any time thereafter while such Default continues, Landlord, at its option, may, without waiving any other rights available herein, at law, or in equity, either terminate this Lease or terminate Tenant's right to possession without terminating this Lease. In either event, Landlord may, without additional notice and without court proceedings, reenter and repossess the Premises, and remove all persons and property therefrom using such force as may be necessary, and Tenant hereby waives any claim arising by reason thereof or by reason of issuance of any distress warrant and agrees to hold Landlord harmless from any such claims. If Landlord elects to terminate this Lease, it may treat the Default as an entire breach of this Lease and Tenant immediately shall become liable to Landlord for damages for the entire breach in an amount equal to the total Rent and all other payments due for the balance of the Term discounted at the rate of six percent (6%) per annum to the then present value, less the fair rental value of the Premises for the balance of the Term (taking into account, among other factors, the probability of reletting the Premises for all or part of the remainder of the Term, and the anticipated duration of the period the Premises will be unoccupied prior to reletting) similarly discounted to present value, plus the cost of repossessing, remodeling and re-renting the Premises and all unpaid Rent through the date of such termination. If Landlord elects to terminate Tenant's right to possession of the Premises without terminating this Lease, Landlord may rent the Premises or any part thereof for the account of Tenant to any person for such rent and for such terms and other conditions as Landlord deems practical, and Tenant shall be liable to Landlord for the amount, if any, by which the total Rent and all other payments herein provided for the unexpired balance of the Term exceed the net amount, if any, received by Landlord from such re-renting, being the gross amount so received less the cost of repossession, re-renting, remodeling and other expenses relating thereto; Tenant shall be and remain liable for such net amount even after an eviction of Tenant from the Premises, should an eviction of Tenant from the Premises occur. Such sums shall be immediately due and payable by Tenant upon demand. In no event shall Tenant be entitled to any rents received by Landlord. If a Default occurs or in case of any holding over or possession by Tenant of the Premises after the expiration or termination of this Lease, Tenant shall reimburse Landlord on demand for all costs incurred by Landlord in connection therewith including, but not limited to, reasonable attorneys' fees, court costs and related costs plus interest thereon at the Default Rate, defined below. Actions by Landlord to collect amounts due from Tenant as provided in this Section may be brought at any time, and from time to time, on one or more occasions, without the necessity of Landlord's waiting until the termination of this Lease. The remedies

expressed herein are cumulative and not exclusive, and the election by Landlord to terminate Tenant's right to possession without terminating this Lease shall not deprive Landlord of the right, and Landlord shall have the continuing right, to terminate this Lease.

33. **Surrender.** On the last day of the Term, or upon the earlier termination hereof, Tenant shall peaceably and quietly surrender the Premises to Landlord, in good order, repair and, excepting only reasonable wear and tear resulting from normal use. The Premises shall be surrendered free of all items of Tenant's personal property, and otherwise in the condition required by the terms of this Lease, and the Premises shall be free and clear of any and all liens or encumbrances of any type.

34. **Holding Over.** If Tenant does not surrender possession of the Premises at the end of the Term or upon earlier termination of this Lease, at the election of Landlord, such occupancy shall be a tenancy from month to month at a rental in an amount equal to two hundred percent (200%) of the last monthly Rent due hereunder, inclusive of Base Rent and all additional rent payable by Tenant hereunder, and upon all the terms hereof applicable to a month to month tenancy. Tenant shall also pay to Landlord all damages sustained by Landlord resulting from retention of possession by Tenant, including the loss of any proposed subsequent tenant. The preceding provisions of this Section 34 shall not be construed as consent for Tenant to hold over.

35. **Removal of Tenant's Property.** Prior to the expiration or earlier termination of the Term, Tenant shall, at Tenant's expense, remove all of Tenant's removable trade fixtures and other items of personal property from the Premises. Tenant shall be responsible for any damage to the Premises or Project resulting from removal of any personal property, including Lines, of Tenant. If Tenant does not remove its property prior to termination, then, in addition to its other remedies at law or in equity, Landlord shall have the right to consider the property abandoned and such property may be removed by Landlord, at Tenant's expense, or at Landlord's option become its property, and Tenant shall have no further rights relating thereto or for reimbursement therefor.

36. **Landlord's Lien.** In addition to and cumulative of Landlord's statutory lien, Tenant hereby grants to Landlord a security interest in and to all furniture, furnishings, fixtures, equipment, merchandise and other property placed in the Premises by Tenant to secure the performance of Tenant's obligations under this Lease. At Landlord's request, Tenant shall execute and cause or permit to be filed in the appropriate public records all documents required to perfect such security interest pursuant to the terms of the Uniform Commercial Code in effect in the state where the Project is located.

37. **Interest.** All amounts payable by Tenant to Landlord under this Lease, if not paid when due, shall bear interest from the date due until paid at a rate equal to the lesser of five percent (5%) per annum in excess of the U.S. prime rate of interest quoted in the money rates column of the Wall Street Journal on the date of the applicable Default, or the then maximum lawful rate ("Default Rate").

38. **Assignment and Subletting.** (a) Landlord shall have the right to transfer and assign in whole or in part, by operation of law or otherwise, its rights and obligations hereunder whenever Landlord, in its sole judgment, deems it appropriate without any liability to Tenant, and Tenant shall attorn to any party to which Landlord transfers its rights and obligations hereunder or the Building. Any sale, conveyance or transfer of the Building or Project will operate to release Landlord from liability from and after the effective date of such sale, conveyance, transfer or assignment upon all of the covenants, terms and conditions of this Lease, express or implied, except for those liabilities that arose prior to the effective date of such sale, conveyance, transfer or assignment. After such effective date, Tenant will look solely to Landlord's successor in interest in and to this Lease.

(b) Tenant shall not assign, transfer, mortgage, pledge or otherwise encumber this Lease, or any interest herein, and shall not sublet the Premises or any part thereof, or any right or privilege appurtenant thereto, or permit any other party to occupy or use the Premises, or any portion thereof, without the prior written consent of Landlord, which consent shall not be unreasonably withheld. The Landlord's consent shall not be considered unreasonably withheld if: (i) the proposed subtenant's or assignee's financial responsibility does not meet the same criteria Landlord uses to select comparable Building tenants; (ii) the proposed subtenant's or assignee's business is not suitable for the Building considering the business of the other tenants and the Building's prestige; or (iii) the proposed use is inconsistent with the use permitted by Section 3. Whether or not Landlord consents to any proposed assignment or subletting of any portion of the Premises, Tenant shall timely pay Landlord's review and processing fee of \$750.00 ("**Sublease/Assignment Processing Fee**") in addition to any reasonable professional fees (including, without limitation, legal, architectural, engineering, and consulting fees) incurred by Landlord in connection with

such proposed assignment or subletting (“**Sublease/Assignment Professional Fees**”). The Sublease/Assignment Processing Fee shall be paid by Tenant simultaneously with each request by Tenant to assign or sublease any portion of the Premises. The Sublease/Assignment Professional Fees shall, at Landlord’s option, be paid by Tenant (a) prior to Landlord’s denial or execution of a consent to the proposed assignment or subletting or (b) within ten (10) days of Tenant’s receipt of an invoice from Landlord for such fees.

(c) A “Change in Control” of Tenant shall be deemed for purposes of this Lease to constitute an assignment of this Lease by Tenant which shall require the consent of Landlord and entitle Landlord to exercise its options as provided hereunder. As used in this Section, a “**Change in Control**” shall be deemed to have occurred when: (x) any person, after the date hereof, acquires directly or indirectly the Beneficial Ownership (as defined in Section 13(d) of the Securities Exchange Act of 1934, as amended) of any voting interests or equity interests of Tenant and immediately after such acquisition such person is, directly or indirectly, the Beneficial Owner of voting or equity interests representing fifty percent (50%) or more of the total voting interest or equity interest of all of the then-outstanding equity interests or voting interests of Tenant; (y) the stockholders, partners, members or other equity holders of Tenant shall approve a merger, consolidation, recapitalization, or reorganization of Tenant, or consummation of any such transaction if equity holder approval is not sought or obtained; or (z) the stockholders, partners, members or other equity holders of Tenant shall approve a plan of complete liquidation of Tenant or an agreement for the sale or disposition by Tenant of all or a substantial portion of Tenant’s assets (i.e., 50% or more of the total assets of Tenant).

(d) If Tenant desires to assign this Lease or sublease the Premises, Tenant shall provide Landlord notice in writing at least sixty (60) days in advance of the date on which Tenant desires such assignment or sublease to take effect. Tenant’s notice shall include (A) the name and address of the proposed subtenant or assignee; (B) the nature of the proposed subtenant’s or assignee’s business it will operate in the Premises; (C) the terms of the proposed sublease or assignment; and (D) reasonable financial information so that Landlord can evaluate the proposed subtenant or assignee. Landlord shall, within thirty (30) days after receiving such information, give notice to the Tenant to (i) permit or deny the proposed sublease or assignment or (ii) terminate this Lease as to the space so affected as of the date specified in Tenant’s notice (and as to option (ii) only, Tenant will be relieved of all further obligations hereunder as to the terminated space). If Landlord does not give notice within the thirty (30) day period, then Landlord shall be deemed to have consented to the sublease or assignment upon the terms provided in Tenant’s notice.

(e) Notwithstanding an assignment or subletting (i) subleases and assignments by Tenant shall be subject to the terms of this Lease; (ii) Tenant shall remain liable for all of the obligations of Tenant under this Lease; (iii) consent to one sublease or assignment does not waive the consent requirement for future assignments or subleases; and (iv) consideration received by Tenant from an assignment or sublease that exceeds the amount Tenant must pay Landlord hereunder, excluding reasonable leasing commissions paid by Tenant, payments attributable to the amortization of the cost of improvements made to the Premises at Tenant’s cost for the assignee or sublessee, and other reasonable, out-of-pocket costs paid by Tenant directly related to Tenant’s obtaining an assignee or sublessee, shall also be paid to Landlord. Tenant shall pay such amount to Landlord at the beginning of each calendar month. Landlord shall have the right to audit Tenant’s books and records to verify the accuracy of the payments under this Section.

(f) If the proposed sublessee or assignee is approved by Landlord and Tenant fails to enter into the sublease or assignment with the approved sublessee or assignee within ninety (90) days after the date Tenant submitted its proposal to Landlord, then Landlord’s approval shall expire, and Tenant must comply again with the conditions of this Section. Notwithstanding the giving by Landlord of its consent to any sublease or assignment with respect to the Premises, no sublessee or assignee may exercise any renewal options, expansion options, rights of first refusal or similar rights except in accordance with a separate written agreement entered into directly between the Landlord and such sublessee or assignee provided Tenant continues to be liable for the performance of all obligations hereunder, as increased or otherwise affected by the exercise of such rights. Tenant may not exercise any renewal options, expansion options, rights of first refusal or similar rights under this Lease if Tenant has assigned all of its interest in this Lease.

39. **Merger of Estates.** The voluntary or other surrender of this Lease by Tenant or a mutual cancellation hereof, shall not work a merger, but shall, at the option of Landlord, terminate all or any existing subleases or subtenancies, or may, at the option of Landlord, operate as an assignment to Landlord of Tenant’s interest in such subleases or subtenancies.

40. **Limitation of Liability.** Notwithstanding anything herein to the contrary, Tenant's sole and exclusive remedy for the failure of Landlord to perform any of its obligations shall be to proceed against the interests of Landlord in and to the Building. Therefore, Tenant hereby agrees that no personal or corporate liability of any kind or character whatsoever now attaches or at any time hereafter under any condition shall attach to Landlord for payment or performance of any obligations hereunder, including, without limitation, any Landlord indemnity obligations under Section 26. The obligations under this Section shall survive the expiration or earlier termination of this Lease.

41. **Subordination.** The rights and interests of Tenant under this Lease and in and to the Premises shall be subject and subordinate to all easements and recorded restrictions, covenants, and agreements pertaining to the Project, or any part thereof, and to all deeds of trust, mortgages, and other security instruments and to all renewals, modifications, consolidations, replacements and extensions thereof (the "**Security Documents**") heretofore or hereafter executed by Landlord covering the Premises, the Building or any part of the Project, to the same extent as if the Security Documents had been executed, delivered and recorded prior to the execution of this Lease. After Tenant's receipt of a notice from Landlord that it has entered into one or more Security Documents, then, during the term of such Security Documents, Tenant shall deliver to the holder or holders of all Security Documents a copy of all notices to Landlord and shall grant to such holder or holders the right to cure all defaults, if any, of Landlord hereunder within the same time period provided in this Lease for curing such defaults by Landlord and, except with the prior written consent of the holder or holders of the Security Documents, shall not surrender or terminate this Lease except pursuant to a right to terminate expressly set forth in this Lease and shall attorn to any holder of any Security Documents or its successor in interest by foreclosure or otherwise. The provisions of this subsection shall be self-operative and shall not require further agreement by Tenant; however, at the request of Landlord, Tenant, upon not less than ten (10) days prior written notice, shall execute such document, the form of which is attached hereto as **Exhibit "G-1"**, as may be required by the holder of any Security Documents subordinating this Lease to any such Security Documents and agreeing to attorn to and recognize the holder of the Security Documents in foreclosure as Tenant's landlord under this Lease as may be requested in writing by Landlord from time to time (which ten [10] day period is not subject to any notice or cure periods otherwise provided under this Lease). Further, at any time and from time to time upon not less than ten (10) days' prior notice (which ten [10] day period is not subject to any notice or cure periods otherwise provided under this Lease) by Landlord, Tenant shall execute, acknowledge and deliver to the Landlord a written estoppel certificate certifying: (i) the Rentable Area of the Premises; (ii) the Commencement Date and Expiration Date of this Lease; (iii) the Base Rent, Base Rent Adjustment and expense stop; (iv) that this Lease is unmodified and in full force and effect, or if there have been modifications, that the same is in full force and effect as modified and stating the modifications; (v) whether or not the Landlord is in default in the keeping, observance or performance of any covenant, agreement, term, provision or condition of this Lease and, if so, specifying each such default; (vi) that Tenant has unconditionally accepted and occupied the Premises; (vii) that all requirements of the Lease have been complied with and no charges, set-offs or other credits exist against any rentals; (viii) that Tenant has not assigned, pledged, sublet, or otherwise transferred any interest in this Lease; and (ix) such other matters as Landlord may reasonably request, it being intended that any such statement may be relied upon by any prospective purchaser, mortgagee or assignee of any mortgage of the Building or the Project or of the Landlord's interest therein. Unless otherwise required by Landlord's Mortgagee or a prospective purchaser or mortgagee of the Building, the initial form of estoppel certificate to be signed by Tenant is attached hereto as **Exhibit "G-2"**.

42. **Legal Interpretation.** This Lease shall be interpreted and enforced in accordance with the laws of the state where the Project is located. The determination that any provision of this Lease is invalid, void, illegal, or unenforceable shall not affect or invalidate the remainder. All obligations of Tenant requiring any performance after the expiration of the Term shall survive the expiration or earlier termination of this Lease and shall be fully enforceable in accordance with those provisions pertaining thereto. If Tenant consists of two or more parties, then all such parties shall be jointly and severally liable for all obligations of Tenant hereunder.

43. **Use of Names and Signage.** Tenant shall not have the right to use the name of the Project or Building except in connection with Tenant's address, and then such terms cannot be emphasized or displayed with more prominence than the rest of such address. Landlord shall have the right to change the name of the Building or Project whenever Landlord in its sole judgment deems appropriate without any consent of or liability to Tenant. Any signage of Tenant within its Premises is subject to the prior written approval of Landlord which shall not be unreasonably withheld, conditioned or delayed; provided in all cases, Tenant shall be solely responsible for all costs and expenses relating to any such signage, including, without limitation, design, installation, any operating costs,

maintenance, cleaning, repair and removal. Tenant shall be obligated to pay the cost and expense of repairing any damage associated with the removal of any such signage. Tenant shall have no right to place any signage outside the Premises, on the exterior of the Building or elsewhere in the Project.

44. **Relocation.** Landlord reserves the right to relocate the Premises to reasonably comparable space within the Project. Landlord will give Tenant written notice of its intention to relocate the Premises, and Tenant will complete such relocation within sixty (60) days after receipt of such notice. Upon relocation, this Lease will be amended by deleting the description of the original Premises and substituting for it a description of such new space. Landlord agrees to reimburse Tenant for its actual reasonable moving costs within the Project, the reasonable costs of reprinting reasonable quantities of stationery, and the costs of rewiring for telephone and computers comparable to the original Premises.

45. **Brokerage Fees.** Tenant warrants and represents that it has had no dealings with any broker in connection with the negotiation or execution of this Lease other than Tenant's Broker. Tenant's Broker represents Tenant's interests in connection with this transaction and shall be paid by Landlord for its services pursuant to a separate, written agreement fully executed by Tenant's Broker and Landlord prior to full execution of this Lease. Landlord's Broker represents Landlord's interests in connection with this transaction and shall be paid by Landlord for its services pursuant to a separate, written agreement fully executed by Landlord's Broker and Landlord prior to full execution of this Lease. Except as expressly provided above, Landlord will not be responsible for, and Tenant will indemnify, defend, and hold Landlord harmless from and against, any brokerage or leasing commission or finder's fee claimed by any party in connection with this Lease.

46. **Successors and Assigns.** This Lease shall be binding upon and inure to the benefit of Landlord and its successors and assigns, and Tenant and its permitted successors and assigns.

47. **Force Majeure.** Except for the payment of Rent or any other sum due hereunder, each party hereto shall be excused for the period of any delay and shall not be deemed in default with respect to the performance of any of its obligations when prevented from so doing by a cause beyond such party's reasonable control, including labor disputes, government regulations, fire or casualty, acts of terrorism, inability to obtain any materials or services, or acts of God (collectively, "**Force Majeure Events**").

48. **Rooftop Antenna.** Tenant shall have no right to place any microwave, satellite or other type of antenna on the roof or exterior of the Building without the prior written consent of Landlord which may be withheld or conditioned in Landlord's sole and absolute discretion. Landlord expressly reserves the right to charge a fee relating to each such device. Tenant acknowledges that Landlord currently is under contract with Omni-Tek, Inc. for management and leasing of the roof of the Building.

49. **Attorneys' Fees.** If Tenant fails to pay any Rent or other sum due under this Lease, and such sum is thereafter collected by or through an attorney at law, then, in addition to such sums, Tenant shall also pay Landlord's reasonable attorneys' fees and other reasonable costs and expenses incurred in such collection. If Landlord and Tenant litigate any provision of this Lease or the subject matter hereof, the unsuccessful party will pay to the successful party all costs and expenses, including reasonable attorneys' fees and expenses and court costs, incurred by the successful party, including any cost incurred by the successful party on appeal; provided, however that a recovery of attorneys' fees by Landlord under this sentence shall include, but shall not duplicate, the recovery by Landlord of its reasonable attorneys' fees and other reasonable costs and expenses of collection permitted under the first sentence of this Section.

50. **Tenant Certification.** Tenant certifies that, as of the Effective Date hereof: (i) neither it nor its officers, directors, or controlling owners is listed as a "Specifically Designated National or Blocked Person" ("SDN") on the SDN list maintained and updated from time to time on the United States Treasury Department's website (the "**SDN List**"), or is otherwise a banned or blocked person, entity, or nation pursuant to any law, order, rule or regulation that is enforced or administered by the Office of Foreign Assets Control ("**OFAC**"), or is otherwise named by any Executive Order, the United States Department of Justice, or the United States Treasury Department as a terrorist; (ii) neither it nor its officers, directors, or controlling owners, is acting, directly or indirectly, for or on behalf of any person, group, entity, or nation that is listed on the SDN List or is otherwise named by any Executive Order, the United States Department of Justice, or the United States Treasury Department as a terrorist, SDN or other banned or blocked person, entity, nation, or transaction pursuant to any law, order, rule or regulation that is enforced or administered by the OFAC; (iii) neither it nor its officers, directors, or controlling

owners is engaged in this transaction, directly or indirectly on behalf of, or instigating or facilitating this transaction, directly or indirectly on behalf of, any such person, group, entity, or nation; (iv) neither it nor its officers, directors, or controlling owners is in violation of Presidential Executive Order 13224, the USA PATRIOT Act, the Bank Secrecy Act, the Money Laundering Control Act, or any regulations promulgated pursuant thereto (collectively, "Anti-Terrorism Laws"); and (v) neither it nor its officers, directors, or controlling owners is an entity with whom Landlord is prohibited from transacting business under any of the Anti-Terrorism Laws. Tenant further certifies that, during the Term of this Lease (and any extensions thereof), Tenant will not violate any of the Anti-Terrorism Laws, and it will not do business with any entity that violates any of the Anti-Terrorism Laws. Upon the request of Landlord from time to time during the Term (and any extensions thereof), Tenant shall execute and return to Landlord a certificate stating that Tenant is then in compliance with the provisions of this section of the Lease. Tenant shall indemnify, defend (with counsel reasonably acceptable to Landlord), and hold Landlord and its directors, officers, partners, members, shareholders, employees, and agents harmless from any and all obligations, claims, administrative proceedings, judgments, damages, fines, penalties, costs, and liabilities, including reasonable attorneys' fees and costs, incurred by Landlord or its directors, officers, partners, members, shareholders, employees, or agents as a result of the breach of the foregoing certification. Moreover, to the extent any provision of this section of the Lease is breached during the Term of this Lease (and any extensions thereof), Landlord may, at its sole option, immediately terminate this Lease without payment or obligation to Tenant.

51. Intentionally Omitted.

52. **No Recordation.** Neither this Lease nor a short memorandum of lease may be recorded unless done so at the written request of Landlord.

53. **Entire Agreement.** No oral statements or prior written material not specifically incorporated herein shall be of any force or effect. Tenant agrees that in entering into this Lease and accepting the Premises, it relies solely upon the representations and agreements contained in this Lease, the exhibits attached hereto and the written agreements, if any, executed contemporaneously herewith. This agreement, including the Exhibits which are attached hereto and a part hereof, constitutes the entire agreement of the parties and shall in no way be conditioned, modified or supplemented except by a written agreement executed by both parties.

WITNESS WHEREOF, this Lease is executed and, except as otherwise expressly provided herein, all provisions shall be effective, as of the Effective Date.

LANDLORD:

TENANT:

U.S. REIF/MJW CAPITOL CENTER FEE, LLC

**RICHLAND COUNTY ECONOMIC
DEVELOPMENT OFFICE**

By: Capitol Center Manager, LLC, its manager
By: U.S. REIF/MJW Capitol Center Venture, LLC, its manager
By: M & J/Capitol Investors, LLC, its manager
By: Capitol Investors Manager Corporation, its manager

By: _____
Marc R. Wilkow
President

By: _____
Name: _____
Title: _____

EXHIBIT "A"
FLOOR PLAN

EXHIBIT "B"
CLEANING AND JANITORIAL SERVICES

- NIGHTLY
CLEANING*
1. Empty all waste receptacles, clean as necessary.
 2. Vacuum all carpeted traffic areas and other areas as needed.
 3. Dust furniture, files, fixtures, etc.
 4. Damp wipe and polish all glass furniture tops.
 5. Remove finger marks and smudges from vertical surfaces.
 6. Clean all water coolers.
 7. Sweep all private stairways nightly, vacuum if carpeted.
 8. Damp mop spillage in office and public areas as required.

- WEEKLY
CLEANING*
1. Twice weekly, detail vacuum all rugs and carpeted areas.
 2. Once weekly, dust all cleared surfaces of furniture, files, fixtures, etc.

- WASH ROOMS
(NIGHTLY)*
1. Damp mop, rinse and dry floors nightly.
 2. Scrub floors as necessary.
 3. Clean all mirrors, bright work and enameled surfaces nightly.
 4. Wash and disinfect all fixtures.
 5. Damp wipe and disinfect all partitions, tile walls, etc.
 6. Empty and sanitize all receptacles.
 7. Fill toilet tissue, soap, towel, and sanitary napkin dispensers.
 8. Clean flushometers and other metal work.
 9. Wash and polish all wall partitions, tile walls and enamel surfaces from trim to floor monthly.
 10. Vacuum all louvers, ventilating grilles and dust light fixtures monthly.

- FLOORS*
1. Ceramic tile, marble and terrazzo floors to be swept nightly and washed or scrubbed as necessary.
 2. Vinyl floors and bases to be swept nightly.
 3. Tile floors to be waxed and buffed monthly.
 4. All carpeted areas and rugs to be detailed vacuumed twice weekly and all carpeted traffic areas and other areas as needed to be vacuumed nightly.
 5. Carpet shampooing will be performed at Tenant's request and billed to Tenant.

- GLASS*
1. Clean inside of all perimeter windows as needed, but not more frequently than once every eighteen (18) months.
 2. Clean outside of all perimeter windows as needed, but not more frequently than once every eighteen (18) months.
 3. Clean glass entrance doors and adjacent glass panels nightly.

- HIGH DUSTING
(QUARTERLY)*
1. Dust and wipe clean all closet shelving when empty.
 2. Dust all picture frames, charts, graphs, etc.
 3. Dust clean all vertical surfaces.
 4. Damp dust all ceiling air conditioning diffusers.
 5. Dust the exterior surfaces of lighting fixtures.

- DAY SERVICE*
1. Check men's washrooms for toilet tissue replacement.
 2. Check ladies' washrooms for toilet tissue and sanitary napkin replacements.
 3. Supply toilet tissue, soap and towels in men's and ladies' washrooms.

Neither Landlord nor the janitorial company will be responsible for removing items from surfaces in order to dust them. It is understood that while dusting is completed nightly in the common areas, it is only completed in the Premises once a week and on no particular day. In addition, neither Landlord nor the janitorial company will be responsible for moving, dusting or cleaning any computer, copier, printer or other office equipment. Notwithstanding anything herein to the contrary, it is understood that no services of the character provided for in this Exhibit shall be performed on Saturdays, Sundays or Holidays.

EXHIBIT "C"
PROJECT RULES AND REGULATIONS

1. No smoking shall be permitted within any portion of the Building or within twenty (20) feet of the Building's exterior doors, including tenant spaces and common areas.

2. Landlord may provide and maintain a directory for all tenants of the Building. No signs, advertisements or notices visible to the general public shall be permitted within the Project without the prior written consent of Landlord. Landlord shall have the right to remove any such sign, placard, picture, advertisement, name or notice placed in violation of this rule without notice to and at the expense of the applicable tenant.

3. Sidewalks, doorways, vestibules, halls, stairways and other similar areas shall not be obstructed by tenants or used by any tenant for any purpose other than ingress and egress to and from the leased premises and for going from one to another part of the Building. At no time shall any tenant permit its employees, agents, contractors or invitees to loiter in common areas or elsewhere in or about the Building or Project.

4. Corridor doors, when not in use, shall be kept closed.

5. Plumbing fixtures and appliances shall be used only for the purposes for which designed, and no sweepings, rubbish, rags, food or other unsuitable material shall be thrown or placed therein. Every tenant shall be responsible for ensuring that its employees, agents, contractors and invitees utilize Common Area restrooms in accordance with generally accepted practices of health, cleanliness and decency.

6. Landlord shall provide all locks for doors into each tenant's leased area, and no tenant shall place any additional lock or locks on any door in its leased area without Landlord's prior written consent. Two keys for each lock on the doors in each tenant's leased area shall be furnished by Landlord. Additional keys shall be made available to tenants at the cost of the tenant requesting such keys. No tenant shall have any duplicate keys made except by Landlord. All keys shall be returned to Landlord at the expiration or earlier termination of the applicable lease.

7. A tenant may use microwave ovens and coffee brewers in kitchen or break areas. Except as expressly authorized by Landlord in writing, no other appliances or other devices are permitted for cooking or heating of food or beverages in the Building. No portable heaters, space heaters or any other type of supplemental heating device or equipment shall be permitted in the Building. All tenants shall notify their employees that such heaters are not permitted.

8. All tenants will refer all contractors, subcontractors, contractors' representatives and installation technicians who are to perform any work within the Building to Landlord before the performance of any work. This provision shall apply to all work performed in the Building including, but not limited to installation of telephone and communication equipment, medical type equipment, electrical devices and attachments, and any and all installations of every nature affecting floors, walls, woodwork, trim, windows, ceilings, equipment and any other physical portion of the Building.

9. Movement in or out of the Building of furniture or office equipment, or dispatch or receipt by a tenant of any heavy equipment, bulky material or merchandise which require the use of elevators, stairways, lobby areas or loading dock areas, shall be restricted to hours designated by Landlord. A tenant must seek Landlord's prior approval by providing in writing a detailed listing of any such activity. If approved by Landlord, such activity shall be performed in the manner stated by Landlord.

10. All deliveries to or from the Building shall be made only at such times, in the manner and through the areas, entrances and exits designated by Landlord.

11. No portion of any tenant's leased area shall at any time be used for sleeping or lodging quarters. No birds, animals or pets of any type, with the exception of guide dogs accompanying visually impaired persons, shall be brought into or kept in, on or about any tenant's leased area.

12. No tenant shall make or permit any loud or improper noises in the Building or otherwise interfere in any way with other tenants or persons having business with them.

13. Each tenant shall endeavor to keep its leased area neat and clean. Nothing shall be swept or thrown into the corridors, halls, elevator shafts, stairways or other common areas, nor shall tenants place any trash receptacles in these areas.

14. No tenant shall employ any person for the purpose of cleaning other than the authorized cleaning and maintenance personnel for the Building unless otherwise approved in writing by Landlord. The work of cleaning personnel shall not be hindered by a tenant after 5:30 PM local time, and such cleaning work may be done at any time when the offices are vacant. Exterior windows and common areas may be cleaned at any time.

15. To insure orderly operation of the Building, Landlord reserves the right to approve all concessionaires, vending machine operators or other distributors of cold drinks, coffee, food or other concessions, water, towels or newspapers. No tenant shall install a vending machine in the Building without obtaining Landlord's prior written approval, which shall not be unreasonably withheld; provided, however, any vending machine installed in the Building shall not exceed the weight load capacity of the floor where such machine is to be installed; and, Landlord reserves the right to require that such vending machine be separately metered in accordance with this Lease, and that such vending machine be equipped with an automatic device that reduces the power consumption of such machine during non-peak hours of use of such machine.

16. Landlord shall not be responsible to tenants, their agents, contractors, employees or invitees for any loss of money, jewelry or other personal property from the leased premises or public areas or for any damages to any property therein from any cause whatsoever whether such loss or damage occurs when an area is locked against entry or not.

17. All tenants shall exercise reasonable precautions in protection of their personal property from loss or damage by keeping doors to unattended areas locked. Tenants shall also report any thefts or losses to the Building Manager and security personnel as soon as reasonably possible after discovery and shall also notify the Building Manager and security personnel of the presence of any persons whose conduct is suspicious or causes a disturbance. The tenant shall be responsible for notifying appropriate law enforcement agencies of any theft or loss of any property of tenant or its employees, agents, contractors, or invitees.

18. All tenants, their employees, agents, contractors and invitees may be called upon to show suitable identification and sign a building register when entering or leaving the Building at any and all times designated by Landlord from time to time, and all tenants shall cooperate fully with Building personnel in complying with such requirements.

19. No tenant shall solicit from or circulate advertising material among other tenants of the Building except through the regular use of the U.S. Postal Service. A tenant shall notify the Building Manager or the Building personnel promptly if it comes to its attention that any unauthorized persons are soliciting from or causing annoyance to tenants, their employees, guests or invitees.

20. Landlord reserves the right to deny entrance to the Building or remove any person or persons from the Building in any case where the conduct of such person or persons involves a hazard or nuisance to any tenant of the Building or to the public or in the event of other emergency, riot, civil commotion or similar disturbance involving risk to the Building, tenants or the general public.

21. Unless expressly authorized by Landlord in writing, no tenant shall tamper with or attempt to adjust temperature control thermostats in the Building. Upon request, Landlord shall adjust thermostats as required to maintain the Building Standard temperature.

22. All requests for overtime air conditioning or heating must be submitted in writing to the Building management office by noon on the day desired for weekday requests, by noon Friday for weekend requests, and by noon on the preceding business day for Holiday requests.

23. Tenants shall only utilize the termite and pest extermination service designated or approved by Landlord.

24. No tenant shall install, operate or maintain in its leased premises or in any other area of the Building, any electrical equipment which does not bear the U/L (Underwriters Laboratories) seal of approval, or which would overload the electrical system or any part thereof beyond its capacity for proper, efficient and safe operation as determined by Landlord, taking into consideration the overall electrical system and the present and future requirements therefor in the Building.

25. Each tenant shall observe Landlord's reasonable rules with respect to maintaining standard window coverings at all windows in its leased premises so that the Building presents a uniform exterior appearance. Each tenant shall ensure that to the extent reasonably practical, window coverings are closed on all windows in its leased premises while they are exposed to the direct rays of the sun.

26. Bicycles and other vehicles are not permitted inside or on the walkways outside the Building, except in those areas specifically designated by Landlord for such purposes and except as may be needed or used by a physically handicapped person.

27. Landlord reserves the right to rescind any of these rules and regulations and to make such other and further rules and regulations as in its judgment shall from time to time be needful for the safety, protection, care and cleanliness of the Building, the operation thereof, the preservation of good order therein and the protection and comfort of the tenants and their agents, employees and invitees, which rules and regulations, when made and written notice thereof is given to a tenant, shall be binding upon it in like manner as if originally herein prescribed.

**EXHIBIT “D”
WORKLETTER
(CONSTRUCTION BY LANDLORD)**

This Workletter is dated of even date with, and supplements the Lease to which this Workletter is attached and governs the construction of the Tenant Improvements to the Premises. All capitalized terms appearing in this Workletter shall have the same meaning as those appearing in the Lease, except as expressly modified herein.

1. Initial Improvements

- a. The design and construction of the tenant improvements (the “**Initial Improvements**”) shown in the “**Final Plans**” (as defined below) shall be at the expense of Landlord.
- b. The base, shell and core (i) of the Premises, and (ii) the Building were constructed previous to the initial occupancy thereof (collectively, the “**Base, Shell and Core**”). Subsequently, the Premises were improved with various tenant improvements suitable for the use by previous occupants of the Premises (collectively, the “**Existing Improvements**”). Except for the construction of the Initial Improvements as described in this Workletter and latent defects, Tenant shall accept possession of the Premises for the Term in an “as is, where is” condition. It is expressly understood that, other than as set forth in this Workletter, Landlord shall have no responsibility or obligation to perform other work with respect to the Base, Shell and Core or with respect to the Existing Improvements. Tenant has had sufficient opportunity to investigate and inspect the physical condition of the Premises and the Common Areas.

2. Tenant Plans

- a. Landlord shall cause to be prepared and delivered to Tenant, for Tenant’s written approval, the following proposed drawings for the Initial Improvements to the Premises, in accordance with the Space Plan attached hereto as Appendix “D-1” and sufficient in form as is required for submission of such plans for a building permit and for bidding construction (collectively “**Tenant Improvement Plans**”):
 1. architectural drawings (consisting of floor construction plan, ceiling lighting and layout, power and telephone plan);
 2. mechanical drawings (consisting of HVAC, electrical, telephone, and plumbing);
and
 3. finish schedule (consisting of wall finishes, floor finishes, and miscellaneous details).
- b. Within five (5) business days after Tenant receives the Tenant Improvement Plans, Tenant shall approve the Tenant Improvement Plans or provide comments regarding any objections to the Tenant Improvement Plans. Landlord shall then diligently revise the Tenant Improvement Plans to address all of Tenant’s comments. After such plans are finalized to the parties mutual satisfaction, these Landlord-approved and Tenant-approved Tenant Improvement Plans shall thereafter be known as the “**Final Plans.**” Immediately after finalization, Landlord shall solicit bids for the contemplated Initial Improvement work for the purpose of selecting a contractor to perform and supervise the performance of the Initial Improvements to the Premises.
- c. Landlord shall not without Tenant’s prior written approval make any changes to the Final Plans, except that immaterial changes may be made without Tenant’s prior approval, provided that Landlord provides Tenant with prior written notice of any such change. Immaterial changes are modifications which: (i) will not affect the cost of demolition of the improvements within the Premises at the end of the Term; and (ii) do not affect the Building structure or safety, or Building systems, or the exterior appearance of the Building or require penetrations into the roof, floor decks, or exterior walls and (iii) comply with applicable laws; and (iv) do

not and will not interfere with the contemplated business operations of Tenant nor reduce the RSF of the Premises.

3. **Construction of Initial Improvements**

- a. Upon the full execution of the Lease and the approval by both parties of the Final Plans, Landlord shall proceed with the selection of the Contractor and the construction of the Initial Improvements to the Premises in accordance with the Final Plans.
- b. If Tenant requests Landlord to perform additional work to the Premises outside the scope of the Final Plans, then such work shall be performed by Landlord at Tenant's expense. Prior to commencing any such work requested by Tenant, Landlord will submit to Tenant written estimates of the cost of any such work. If Tenant fails to approve any such estimate within ten (10) days, then the same shall be deemed disapproved in all respects by Tenant, and Landlord shall not be authorized to proceed thereon.
- c. Within five (5) business days of being notified of "Substantial Completion Date" (as herein defined), Tenant shall provide Landlord with a punch list of items requiring completion and/or correction with regard to the Initial Improvements to the Premises ("**Punch List**"). Landlord shall complete the Punch List as soon as reasonably practicable after the Commencement Date. If the Punch List consists only of items which would not materially impair Tenant's ability to conduct its business operations within the Premises, then, in such event, the Initial Improvements to the Premises shall be deemed to be substantially complete and Tenant will accept possession of the Premises, (the date on which Initial Improvements to the Premises are substantially complete is referred to herein as the "**Substantial Completion Date**"). Upon the Substantial Completion Date, the Initial Improvements to the Premises shall be deemed to be satisfactorily completed except to the extent noted in the Punch List and except for latent defects. Tenant's sole and exclusive remedy for any defects in materials and/or workmanship shall be for the repair of such defects, or the replacement of the portion of the modifications to the Premises and Initial Improvements to the Expansion Space affected by such defects, under the aforementioned warranties, and Landlord shall not be responsible for any defect of any nature in the modifications to the Premises and Initial Improvements to the Expansion Space. Landlord makes no warranties, expressed or implied, including but not limited to implied warranties of merchantability and fitness for a particular purpose, in connection with the modifications to the Premises and Initial Improvements to the Expansion Space. Tenant's sole remedy for breach of any applicable warranty shall be the remedy set forth in this Section. Tenant agrees that no other remedy, including without limitation incidental or consequential damages for lost profits, injury to person or property, or any other incidental or consequential loss, shall be available to Tenant.

4. **Selection of Contractor.** Subject to the terms of this Workletter, Landlord, with input from Tenant, shall have the right to select the contractor for the Initial Improvements to the Premises.

5. **Commencement Date.** For purposes of determining the Commencement Date pursuant to the Lease, the date designated as the Substantial Completion Date shall be accelerated on a day-for-day basis for each day of "Tenant Delay", (as defined below). For example, if the Substantial Completion Date actually occurs on August 16 of a given year, but there were fifteen (15) days of Tenant Delay, then Substantial Completion Date will be deemed to have occurred on August 1 of such year.

6. **Tenant Delay.** The term "**Tenant Delay**" shall mean each day that Substantial Completion Date is delayed by any of the following:

- a. Tenant's failure to respond, within reasonable time periods prescribed by Landlord, to a request for information necessary for the completion of the Tenant Plans or the Final Plans; or
- b. Changes by Tenant to the Final Plans; or
- c. Requirements by Tenant for materials, finishes or installations which are not Building Standard; or
- d. Any interference by Tenant or its agents or contractors with the construction of the Initial Improvements to the Premises; or
- e. Changes to the Base, Shell or Core of the Building required by the Final Plans; or

- h. Tenant's failure to act in good faith with respect to the construction of the Initial Improvements to the Premises; or
- i. Any other cause defined under the Lease or this Workletter as a Tenant Delay

The parties hereto have executed this Workletter as of the date first above written.

LANDLORD:

TENANT:

U.S. REIF/MJW CAPITOL CENTER FEE, LLC

**RICHLAND COUNTY ECONOMIC
DEVELOPMENT OFFICE**

By: U.S. REIF/MJW Capitol Center Venture, LLC,
its manager

By: M & J/Capitol Investors, LLC, its manager

By: Capitol Investors Manager Corporation,
its manager

By: _____
Marc R. Wilkow
President

By: _____
Name: _____
Title: _____

**APPENDIX “D-1” TO WORKLETTER
SPACE PLAN**

EXHIBIT "E"
CERTIFICATE CONFIRMING TERM

This Certificate Confirming Term is attached to and made a part of the Lease dated _____, by and between **U.S. REIF/MJW Capitol Center Fee, LLC**, as Landlord, and _____, as Tenant.

The undersigned hereby agree and confirm that the Commencement Date and Expiration Date, are revised as stated below:

The Commencement Date as defined in Section 1(g) of the Lease is _____, and the Expiration Date as defined in Section 1(h) of the Lease is _____.

Landlord:

Tenant:

U.S. REIF/MJW CAPITOL CENTER FEE, LLC

- By: Capitol Center Manager, LLC, its manager
- By: U.S. REIF/MJW Capitol Center Venture, LLC, its manager
- By: M & J/Capitol Investors, LLC, its manager
- By: Capitol Investors Manager Corporation, its manager

By: _____
Marc R. Wilkow
President

By: _____
Name: _____
Title: _____

EXHIBIT "F"
SUPPLEMENTAL HVAC EQUIPMENT

The provisions of this Exhibit shall govern the installation, maintenance and removal of all Supplemental HVAC Equipment installed in the Premises. The installation of Supplemental HVAC Equipment in the Premises shall be at Tenant's sole expense, and shall include the installation of a submeter to monitor the electricity used by the Supplemental HVAC Equipment. Prior to installing any Supplemental HVAC Equipment in the Premises, Tenant shall provide Landlord with plans and specifications for same and obtain Landlord's written approval, which shall not be unreasonable withheld or delayed. Upon receiving such approval, Tenant shall install the Supplemental HVAC Equipment in compliance with Laws, including all building, electrical, and safety codes, applicable to the Project. Prior to installing the Supplemental HVAC Equipment, Tenant shall obtain any permits or licenses that may be required in order to install and operate such equipment, and Tenant shall timely deliver copies of same to Landlord. In no event shall Tenant's installation of the Supplemental HVAC Equipment damage the Premises or the Building, or interfere with the maintenance of the Building, or any system currently serving the Building, and Tenant shall pay to Landlord upon demand the cost of repairing any damage to the Building caused by such installation. Tenant shall notify Landlord upon completion of the installation of the Supplemental HVAC Equipment, and Landlord shall have five (5) business days after installation of the Supplemental HVAC Equipment during which to inspect its installation. Tenant shall not commence operation of the Supplemental HVAC Equipment until Landlord has approved its installation. Tenant shall be solely liable for any damages or injury arising out of the installation of the Supplemental HVAC Equipment, and Tenant's indemnity of Landlord contained in Section 26 shall specifically apply to the installation, operation, maintenance and removal of the Supplemental HVAC Equipment. During the Term of this Lease, as the same may be extended from time to time, Tenant shall be solely responsible for maintaining the Supplemental HVAC Equipment at Tenant's sole expense, and Tenant shall reimburse Landlord for all electricity consumed by the Supplemental HVAC Equipment, as additional Rent due hereunder, within fifteen (15) days after Tenant's receipt of Landlord's invoice for same. Upon the expiration or earlier termination of this Lease, Tenant shall remove the Supplemental HVAC Equipment from the Premises, and repair all damage to the Premises or the Building caused by the installation or removal of such equipment.

EXHIBIT "G-1"

FORM OF

SUBORDINATION, NONDISTURBANCE AND ATTORNMENMENT AGREEMENT

This SUBORDINATION, NONDISTURBANCE AND ATTORNMENMENT AGREEMENT (this "Agreement") is made and entered into as of this ____ day of _____, 200__, by and among (A) U.S. BANK NATIONAL ASSOCIATION, a national banking association ("Administrative Bank"), as administrative bank and lead arranger, and as a bank (together with any other lender that may now or hereafter acquire an interest in the Loan (as hereinafter defined), individually referred to as a "Bank" and collectively referred to as the "Banks"), having a principal place of business at U.S. Bank National Association, One Post Office Square, 29th Floor, Boston, Massachusetts 02109, Attention: Real Estate Banking Division, (B) U.S. REIF/MJW CAPITOL CENTER FEE, LLC, a Delaware limited liability company (together with its successors and assigns, the "Landlord"), having a principal place of business at _____, _____, _____, and (C) _____ (together with its successors and assigns, the "Tenant"), having a principal place of business at _____, _____, _____, _____.

Recitals:

A. Landlord and Tenant have entered into that certain [INSERT NAME OF LEASE] dated _____, 20__ [, as affected by a certain INSERT IDENTITY OF LEASE AMENDMENT(S) DATED [_____] ([as so amended and] as may be [further] amended, restated or modified from time to time the "Lease"), concerning certain premises known as _____ located in the City of Columbia, County of Richland, State of South Carolina (the "Premises"), located on the land as described in Exhibit "A" attached hereto and made a part hereof.

B. As security for an acquisition loan from Banks to Landlord in the original principal amount of _____ AND NO/100 DOLLARS (\$ _____ .00) (the "Loan"), Landlord [is conveying/has conveyed] to Administrative Bank, on behalf of Banks, a lien and security interest in the Land together with the improvements thereon, under a certain Mortgage, Assignment of Leases and Rents, Security Agreement and Fixture Filing, dated _____ [, recorded with the _____ Land Records in _____ INSERT RECORDING INFORMATION] (as now or hereafter increased, amended, modified, supplemented, consolidated, replaced, substituted, extended and/or renewed, the "Mortgage").

C. Banks have required the execution of this Agreement as a condition to making the Loan.

D. Administrative Bank, Landlord and Tenant have agreed to the following with respect to their mutual rights and obligations pursuant to and under the Lease and the Mortgage.

NOW, THEREFORE, the parties hereby agree as follows:

1. Subordination. All of Tenant's right, title and interest in and to the Premises, the Lease and all rights, remedies and options of Tenant under the Lease are and shall remain unconditionally subject and subordinate to the Mortgage and the lien thereof, to all the terms, conditions and provisions of the Mortgage, to each and every advance made or hereafter made under the Mortgage, and to all increases, amendments, modifications, supplements, consolidations, replacements, substitutions, extensions and renewals of the Mortgage so that at all times the Mortgage shall be and remain a lien on the Land and the Premises prior and superior to the Lease for all purposes.

2. Non-Disturbance. Provided that: (i) the Lease is then in full force and effect; and (ii) Tenant is not then in default under the Lease beyond any applicable grace or cure periods provided in the Lease, then the Lease shall not be extinguished or terminated by an action or proceeding to foreclose or otherwise enforce the Mortgage or by a conveyance in lieu of foreclosure, but rather, the Lease shall continue in full force and effect and the owner of the Land and Premises following a foreclosure sale or conveyance in lieu of foreclosure ("New Owner") shall recognize and accept Tenant as tenant under the Lease.

3. Attornment. Upon Tenant's receipt of notice that Administrative Bank or any other party has become the New Owner, Tenant will attorn to and recognize such New Owner as its substitute landlord under the Lease. Tenant's attornment to and recognition of New Owner pursuant to this Agreement will be effective and self-operative immediately upon Tenant's receipt of such notice without the execution or delivery of any further instrument. Upon New Owner's request, Tenant will execute and deliver an instrument acknowledging Tenant's attornment to and recognition of New Owner.

4. New Owner. New Owner will be bound, as the landlord, to Tenant under all covenants and conditions of the Lease for the remainder of the term of the Lease and any renewal or extension thereof pursuant to the terms of the Lease, except that New Owner:

(a) will not be bound by any provision of the Lease restricting the use of any properties owned by New Owner, other than the Land and the Premises;

(b) will not be bound by any amendment, supplement or other modification of the Lease which was not consented to in writing by Bank;

(c) will not be liable for any act, omission, or breach by any landlord under the Lease which occurs prior to the date New Owner acquires title to and possession of the Land and the Premises, nor subject to any right of set-off or defense which Tenant may have against any prior landlord;

(d) will not be liable for the return of any security deposit given by Tenant to Landlord except to the extent actually received by New Owner;

(e) will not be liable under any covenant or warranty in the Lease with regard to the construction of improvements on the Land and/or the Premises, nor for any delays in completion of construction, nor for any implied warranty relating to the construction on the Land and/or the Premises;

(f) will, upon any sale or other transfer by New Owner of its interest in the Land and the Premises, automatically be released and discharged from all liability thereafter accruing under the Lease; and

(g) will not be bound by any provision in the Lease relating to Tenant's options to expand the Premises to include additional Rentable Area (as that term may be defined by the Lease), and nor will New Owner's refusal to be bound by such provisions or to fulfill the obligations created thereunder, constitute an Event of Default (as that term may be defined by the Lease), serve as grounds for Tenant to terminate the Lease, or subject New Owner to any damages for termination.

Tenant shall look only to the estate and property of New Owner in the Land and the Premises for the satisfaction of Tenant's remedies for the collection of a judgment (or other judicial process) requiring the payment of money in the event of any default by New Owner as the landlord under the Lease, and no other property or assets of New Owner shall be subject to levy, execution or other enforcement procedure for the satisfaction of Tenant's remedies under or with respect to the Lease.

5. Tenant's Representations. Tenant hereby represents and warrants to Administrative Bank, on behalf of Banks, that as of the date hereof (i) Tenant is the owner and holder of the tenant's interest under the Lease, (ii) the Lease has not been modified or amended except as set forth on **Exhibit "B"** attached hereto, (iii) the Lease is in full force and effect, (iv) neither Tenant nor, to Tenant's knowledge, Landlord is in default under any of the terms, covenants or provisions of the Lease and Tenant knows of no event which but for the passage of time or the giving of notice or both would constitute an event of default by Tenant or Landlord under the Lease, (v) neither Tenant nor Landlord has commenced any action or given or received any notice for the purpose of terminating the Lease, (vi) all rents, additional rents and other sums due and payable under the Lease have been paid in full and no rents, additional rents or other sums payable under the Lease have been paid for more than one (1) month in advance of the due dates thereof, and (vii) there are no offsets or defenses to the payment of the rents, additional rents, or other sums payable under the Lease.

6. Estoppel Certificates. Whenever reasonably requested by Administrative Bank, Landlord and Tenant from time to time shall severally execute and deliver to Administrative Bank within fifteen (15) business days of

such request, and without charge to Administrative Bank, an estoppel certificate setting forth whatever information Administrative Bank may require to confirm the current status of the Lease including, without limitation, a confirmation that the Lease is and remains in full force and effect.

7. Payments to Administrative Bank. Tenant acknowledges that it has notice that the Landlord's interest under the Lease and the rent and all other sums due thereunder have been assigned to Administrative Bank as part of the security for the indebtedness secured by the Mortgage. In the event that Administrative Bank notifies Tenant of any Event of Default under the Mortgage and demands that Tenant pay rent and all other sums due under the Lease to Administrative Bank, Tenant agrees that it shall pay rent and all other sums due under the Lease directly to Administrative Bank without notice to or the consent of Landlord and without any obligation on the part of Tenant to determine whether or not the Mortgage is in fact in default.

8. Miscellaneous. (a) Notices. Any notice required or permitted to be given by any party under the terms of this Agreement shall be deemed to have been given on the date the same is deposited in the United States Mail registered or certified, return receipt requested, postage prepaid, or deposited with Federal Express, Airborne or another reputable overnight courier, addressed to the party to which the notice is to be given at the address set forth below, or at any other address specified in a notice given by such party to the others not less than ten (10) days prior to the effective date of the address change:

If to Bank: U.S. Bank, National Association
One Post Office Square, 29th Floor
Boston, Massachusetts 02109
Attn: Real Estate Banking Division

With a copy to: Nutter, McClennen & Fish, LLP
World Trade Center West
155 Seaport Boulevard
Boston, MA 02210-2604
Attn: Beth H. Mitchell, Esq.

If to Landlord:

With a copy to:

If to Tenant:

With a copy to:

b. Notice of Default. Tenant will provide to Administrative Bank each notice of default by Landlord, as and when it provides such notice to Landlord, and Administrative Bank will have the right, but not the obligation, to cure any such default within 15 days after the expiration of the time provided in the Lease to Landlord to cure such default, provided that if Administrative Bank, acting with diligence, cannot cure such default within such 15-day period, Administrative Bank's commencement of a remedy within such 15-day period will be sufficient so long as a cure is effected within a reasonable time. Tenant agrees not to exercise any of its remedies in connection with any default notice to Landlord until the expiration of the cure period provided to Administrative Bank by this Agreement, and Tenant agrees to accept any cure from Administrative Bank as if made by Landlord. Notwithstanding the foregoing, unless Administrative Bank otherwise agrees in writing to assume any obligations of Landlord under the Lease, Landlord shall remain solely liable to perform Landlord's obligations under the Lease, both before and after Administrative Bank's exercise of any right or remedy under this Agreement.

c. No Advance Rent. Tenant will not pay the rent or any other sums due under the Lease more than one (1) month in advance, except upon the prior written consent of Administrative Bank.

d. Insurance and Condemnation Proceeds. Notwithstanding any provision of the Lease to the contrary, the Mortgage and the other documents executed in connection with the Loan shall control the application of insurance or condemnation proceeds and the restoration of the Land or the Premises in the event of a casualty loss or a taking.

e. Assignment of Rents. Landlord and Tenant acknowledge that Administrative Bank is entitled, pursuant to an Assignment of Leases and Rents executed by Landlord in favor of Administrative Bank, to receive and collect all rent payable under the Lease directly from Tenant. Tenant agrees to pay all of said rent directly to Administrative Bank upon receipt of a written request from Administrative Bank. Until Tenant receives such request from Bank, Tenant will pay all of said rent to Landlord in accordance with the provisions of the Lease. Upon Tenant's receipt of such request, Tenant will not be required to determine whether Landlord is in default under the Loan or the Mortgage.

f. No Modification or Termination. Neither Landlord nor Tenant will cancel or terminate the Lease or amend, modify, supplement, or in any manner alter any of its terms without the prior written consent of Administrative Bank.

g. No Other Subordination. Neither Landlord nor Tenant will, during the term of the Mortgage, permit the Lease to become subordinate to the lien of any mortgage or security instrument in favor of any person or entity other than Administrative Bank.

h. Successors and Assigns. This Agreement will be binding upon and will inure to the benefit of the parties hereto and their respective heirs, executors, administrators, personal representatives, successors and assigns, including any New Owner.

i. Governing Law. This Agreement and the Lease will be governed by and construed and interpreted in accordance with the internal laws of the Commonwealth of Massachusetts.

j. Counterparts. This Agreement may be signed in counterparts and each counterpart shall be effective as an original when counterparts have been signed by all parties.

IN WITNESS WHEREOF, this Subordination, Non-Disturbance and Attornment Agreement has been duly executed under seal as of the day and year first above written.

ADMINISTRATIVE BANK:

U.S. BANK NATIONAL ASSOCIATION

By: _____
Name: _____
Title: _____

STATE/Commonwealth of _____)

County of _____)

On this ___ day of _____, 20___, before me, the undersigned notary public, personally appeared _____, proved to me through satisfactory evidence of identification, which was _____, to be the person whose name is signed on the preceding or attached document, and acknowledged to me that (he) (she) signed it voluntarily for its stated purpose, as _____ for _____.

(AFFIX SEAL)

Notary Public

LANDLORD:

_____, a _____

By: _____

Name: _____

Title: _____

STATE/Commonwealth of _____)

County of _____)

On this ___ day of _____, 20___, before me, the undersigned notary public, personally appeared _____, proved to me through satisfactory evidence of identification, which was _____, to be the person whose name is signed on the preceding or attached document, and acknowledged to me that (he) (she) signed it voluntarily for its stated purpose, as _____ for _____.

(AFFIX SEAL)

Notary Public

My commission expires:

TENANT:

_____, a _____

By: _____

Name: _____

Title: _____

STATE OF _____)

County/Commonwealth of _____)

I HEREBY CERTIFY that on this day before me, an officer duly qualified to take acknowledgments, personally appeared _____ and who personally acknowledged themselves to be the _____ of _____ and who executed the foregoing instrument and who acknowledged before me that they executed the same freely and voluntarily and for the purposes therein expressed, made by virtue of a resolution of its Board of Directors.

WITNESS my hand and official seal.

Signature

(Seal)

EXHIBIT "G-2"

TENANT ESTOPPEL FORM

U.S. REIF/MJW Capitol Center Fee, LLC
c/o M & J Wilkow Properties, LLC
Attn: Marc R. Wilkow, President
180 North Michigan Avenue, Suite 200
Chicago, Illinois 60601

Re: 1201 Main Street, Columbia, South Carolina

Gentlemen:

The undersigned as Tenant hereby certifies to U.S. REIF/MJW Capitol Center Fee, LLC and its successors or assigns (collectively, "Landlord") and to U.S. Bank, National Association, together with any lender that now or hereafter may acquire an interest in the subject property (collectively, "Lender") that:

- (a) It is a Tenant of a portion of the captioned property under a certain lease (the "Lease") as follows:

Landlord:
Tenant:
Lease Dated:
Amendment(s) Dated (if any):
Current Monthly Base Rent:
Current CAM or Operating Expense Charges:
Current Base Stop:
Square Footage:
Lease Commencement Date:
Original term (or current option period, if applicable) expires:
Option Periods:
Security Deposit and/or Lease Deposit (if any): \$
Lease Guaranty:
Outstanding Tenant Improvement Allowance (if any): \$
Outstanding Leasing Commission (if any): \$

(b) All rentals payable under the Lease have been paid through _____, 20__; and except for _____, no rent has been paid more than thirty (30) days in advance of its due date. There is no unexpired free rental, except for _____.

(c) That attached hereto as Exhibit A is a true and complete copy of the Lease and all amendments thereto. Please attach a complete copy of the Lease and all amendments thereto.

(d) The Lease sets forth the entire agreement between the Landlord and Tenant, is in full force and effect in accordance with its terms and has not, in any way, been amended or modified in any manner (except as reflected herein). The guaranty of the Lease, if any, is in full force and effect.

(e) Tenant has unconditionally accepted and currently occupies the leased premises, is paying rent under the Lease without claim or right of set-off, or claims of any default by the Landlord, and is now conducting business on the premises.

(f) All improvements and alterations to the leased premises or the real property to be performed or furnished by Landlord according to the Lease have been completed to the satisfaction of Tenant. All sums required to be paid by Landlord to Tenant pursuant to the Lease (including, without limitation, any tenant allowance or rebate) have been paid in full except as noted in (a) above, and all other conditions precedent to the commencement of the term of the Lease or the obligations of Tenant under the Lease have been satisfied.

(g) There exists no default by either party to the Lease, or other grounds for ceasing or reducing the payment of rental, or for cancellation or termination of the Lease in any manner. No event has occurred which, with the giving of notice or passage of time, or both, would result in a default by either party under the Lease.

(h) All requirements of the Lease have been complied with and no charges, defenses, set-offs or other credits exist against the rentals.

(i) The Lease contains, and Tenant has, no outstanding options or rights of first refusal to purchase the leased premises or any part of the real property of which the leased premises are a part.

(j) Landlord has not agreed to assume the obligations of Tenant under any other lease in connection with Tenant entering into the Lease.

(k) Tenant has not assigned, pledged, mortgaged, sublet, encumbered or otherwise transferred any of its interest under the Lease and has received no notice of any assignment, mortgage or encumbrance of the Lease by Landlord.

(l) Tenant is not entitled to any rebate, concession, special allowance, rights of first refusal, expansion options, renewal options or other benefits except as stated in the Lease.

(m) Tenant has not filed, and is not subject of, any proceeding for bankruptcy reorganization, receivership, insolvency or similar proceedings and no such proceeding is contemplated by Tenant.

(n) The individual executing this Tenant Estoppel Certificate has the authority to do so on behalf of Tenant and to bind Tenant to the terms thereof.

(o) Except as set forth in the Lease as amended, Tenant does not have and has not exercised any rights or options to terminate or cancel the Lease or to reduce or extend the terms thereof or to enlarge, reduce or otherwise change the Leased Premises.

(p) Tenant is not using the Leased Premises or any part of the Property in a manner which is not in compliance with all laws, or which would result in the presence of, use, generation, manufacture, storage, treatment, disposal, discharge or release on or from the Property of any substances or compounds prohibited or regulated under any federal, state or municipal laws pertaining to health or the environment in violation of applicable laws. There are no regulatory actions or other claims pending or threatened against Tenant or against the Leased Premises arising out of the presence of such substances on the Leased Premises.

Tenant understands that Landlord and Lender are relying on the above representations in connection with the purchase of, and loan/mortgage on, the above referenced building and does hereby warrant and affirm to and for the benefit of Landlord, Lender and their successors and assigns, that each of the foregoing representations is true, correct and complete as of the date hereof and that the person signing this certification on behalf of Tenant is a duly authorized signatory for Tenant. This certification may not be changed, waived or discharged orally, but only by a written agreement executed by Landlord, Lender and Tenant.

Date: _____

By: _____
Name: _____
Title: _____

Richland County Council Request of Action

Subject

REPORT OF THE TRANSPORTATION AD HOC COMMITTEE: **[PAGES 312-315]**

- a. Committee recommendation to separate out Greenways from the Program Development Team RFQ and Contract **[ACTION]**
- b. Committee recommendation to have staff contact SCDOT in attempts to partner with them on their summer resurfacing contracts to include bike lanes and sidewalks on Transportation Penny funded bike/pedestrian projects **[ACTION]**
- c. Committee recommendation to have staff take the draft resurfacing list included in the agenda and work with individual Council members to finalize a resurfacing contract for 2014 **[ACTION]**
- d. Resolution Designating PDT Solicitation as Significant Purchase **[ACTION] [PAGES 316-317]**

2. Motion to break out Greenway Project Management from the Program Development Team

Discussion Point:

During the last Full Council Meeting Mr. Washington made a motion to break out Greenway Project Management as a separate contract from the Program Development Team. Chairman Jackson directed that this be brought before the Ad Hoc Transportation Committee for review and recommendations. The current plan calls for the Program Development Team to manage all projects within the program for up to five years. This would equate to roughly half of the \$736 million in projects if the program is programmed into a 10 year cycle. Within the program there are 15 Greenway Projects that total \$20.9 million in identified project funding. Below is a current status of the Greenway Projects.

Number	Project Name	Type	Budgeted Cost	Status
1	Crane Creek	Greenways	\$1,541,816	Undeveloped
2	Crane Creek	Greenways	\$460,315	Undeveloped
3	Crane Creek	Greenways	\$793,908	Undeveloped
4	Gills Creek A	Greenways	\$2,246,160	Conceptual Plans developed
5	Gills Creek B	Greenways	\$2,785,897	Conceptual Plans developed
6	Smith/Rocky Branch	Greenways	\$431,183	Undeveloped
7	Smith/Rocky Branch	Greenways	\$1,415,316	Undeveloped
8	Smith/Rocky Branch	Greenways	\$901,122	Undeveloped
9	Three Rivers Greenway Extension*	Greenways	\$7,902,242	Plans 95% Complete
10	Lincoln Tunnel Greenway	Greenways	\$892,739	Plans 95% Complete
11	Dutchman Blvd Connector	Greenways	\$105,196	Undeveloped



12	Columbia Mall Greenway	Greenways	\$648,456	Undeveloped
13	Polo/Windsor Lake Connector	Greenways	\$385,545	Undeveloped
14	Gills Creek North Greenway	Greenways	\$344,667	Undeveloped
15	Woodbury/Old Leesburg Connector	Greenways	\$116,217	Undeveloped
		Total:	\$20,970,779	

As you can see above, two projects that total \$8.8 million are close to completion and could be put out for bid for construction within the next 12 months. This would align with the April 2013 Council approved ranking criteria for Greenways in that criteria #1 gives priority to Greenways where existing concept plans or designs are complete. If done this would equate to 42% of the Greenways under construction potentially in the next 12 months, and the bulk of the remaining Greenways falling outside of the five year window for construction if the program is implemented over a 10 year cycle.

Action Item:

Does the Committee want staff to direct the outside Counsel producing the Transportation Penny solicitations to break out the Greenways from the overall program? This would mean three RFQ's would be on the agenda for May 6th. One RFQ would be as currently structured and the other two would break out the Greenways in the event full Council approved this revision.

OUTCOME: Committee recommendation was to break out the Greenways from the Program Development Team RFQ and for full Council to take up this item on May 6th.

3. Opportunity to partner with SCDOT on bikeways and sidewalks

Discussion Point:

Included in the Program are 87 bikeway projects totaling \$22 million and 56 sidewalks totaling \$26.8 million. SCDOT has indicated their intention to resurface two roads in the near future that are included in our list of bikeways and sidewalks projects. These two are: Trenholm Road with \$123,919 in identified funding for bikeways and Clemson Road with \$2.6 million in total identified funding for bikeways and sidewalks. Staff could contact SCDOT and start discussions to partner with them on these two projects to have these sidewalks and bikeways included in their resurfacing contract. This could provide a savings to both parties by having one Contractor perform all of this work together.

Action Item:



Does the Committee approve of staff contacting SCDOT to work towards adding these bikeway and sidewalk projects into their resurfacing contract?

OUTCOME: Committee recommendation was to direct Transportation staff to contact SCDOT to partner on these projects. The Committee also recommended that Transportation Staff contact SCDOT about Safe Routes to School Program for sidewalks, and work up estimate to extend planned sidewalks on Bluff Road from Rosewood Drive to Whaley Street with the intent to inquire about CTC funding for this additional sidewalk.

4. 2014 Resurfacing Contract

Discussion Point:

Included in the Transportation Program is \$40 million in local resurfacing. To our knowledge no countywide resurfacing has been initiated since 2007. The plan for the overall program is to include a pavement inventory and management task within the Program Development Team contract. We asked Public Works and Planning to provide a list of potential roads for resurfacing this year based on their knowledge of existing conditions. This is in an effort to potentially resurface some roads this year ahead of the execution of the Program Development Team contract. That list is in tabular format below and is estimated to cost roughly \$3.2 million. If approved, staff would work up a complete cost estimate for these roads and take steps to execute a paving contract this summer.

Road	District	Subdivision	Type of Road
South Royal Tower Drive	1	Friarsgate	Asphalt
Muskrat Run	1	Highway 6	Asphalt
Silver Fox Lane	1	Lost Creek	Asphalt
Cheryse Court	1	Johnson Marina	Asphalt
Murray Point Lane	1	Johnson Marina	Asphalt
Brookview Lane	1	Shady Grove	Asphalt
St. Albans Road	1	Friarsgate	Asphalt
St. Stephens East	1	Friarsgate	Asphalt
St. Stephens West	1	Friarsgate	Asphalt
Concord Place Road	1	Concord Place	Asphalt
Sweet Thorne Road	1	Heatherstone	Asphalt

Chevelston Rd	2	chartwell	Asphalt
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Trader Mill Rd	7	Olde Springs	Concrete
Baker House Road	7	Olde Springs	Concrete
Great North Road	7	Olde Springs	Concrete



Halton Court	7	Olde Springs	Concrete
Firebridge Road	7	Olde Springs	Concrete Portion
S. Shields Road	7	Olde Springs	Concrete Portion
Gale River Rd	7	Olde Springs	Concrete
Blakesmoor Road	7	Olde Springs	Concrete
Finn Court	7	Olde Springs	Concrete
Calley Court	7	Olde Springs	Concrete
Windmill Orchard	7	Windmill Orchard	Asphalt
Windridge Road	7	Windmill Orchard	Asphalt
Harvest Hill Avenue	7	Woodfield Park	Asphalt
Pine Ridge Road East	7	Forest Acres	Asphalt

Harrington Drive	8	North Springs	Asphalt
Splendora Drive	8	North Springs	Asphalt
Arcola Drive	8	Green Springs	Asphalt
Inway Dr	8	Green Springs	Asphalt
Constable Lane	8	Green Springs	Asphalt
Hibernia Street	8	Green Springs	Asphalt
Oak Brook Dr	8	Wildewood	Asphalt

American Italian Way	10	Industrial Park	Asphalt
Southern Drive	10	Bluff Rd	Asphalt
Quaker Road	10	Old Percival	Asphalt
Sagemont Drive	10	Weston Acres	Asphalt

13.03	\$3,257,575.76
Length in Miles	Cost Estimate

Action Item:

Does the Committee approve moving forward with a 2014 resurfacing contract? If so, do they approve the roads included in this list?

OUTCOME: Committee recommendation was to direct Transportation staff to contact individual Council members about this preliminary list and ask for additional input. If additional county roads are identified Transportation and Public Works staff will inspect their overall condition and bring back to Council for a final list for approval.

RESOLUTION

WHEREAS, on May 6, 2014, the County Council (the "Council") of Richland County, South Carolina (the "County") duly enacted an ordinance entitled: AN ORDINANCE AMENDING THE RICHLAND COUNTY CODE OF ORDINANCES, CHAPTER 2, ADMINISTRATION; ARTICLE X, PURCHASING BY ADDING SECTION 2-591 TO AUTHORIZE COUNTY COUNCIL TO DETERMINE WHICH PURCHASING DECISIONS REGARDING PURCHASING MADE EXCLUSIVELY WITH MONIES RAISED THROUGH THE PENNY TAX ARE OF SUCH COUNTY WIDE SIGNIFICANCE THAT COUNTY COUNCIL HAS THE AUTHORITY TO MAKE THE FINAL AND CONCLUSIVE DETERMINATION TO WHOM TO AWARD THE CONTRACTS (the "Ordinance"); and

WHEREAS, the Ordinance establishes a category of procurements relating only to the penny sales tax approved pursuant to a successful referendum held on November 6, 2012 which are of such County-wide significant that Council should make the final and conclusive determination to whom to award the contract;

WHEREAS, the County is undertaking a solicitation in the form of a request for qualifications (RFQ) for a project development team (PDT), which will assist the County in the development, oversight, management, and implementation of major infrastructure projects to be funded with the penny sales tax; and

WHEREAS, the Council finds and determines that the role of the PDT will be of critical importance in the success of the transportation improvements to be implemented throughout the County and funded with the penny sales tax; and

WHEREAS, the Council finds and determines that the selection of the PDT is of such County-wide significance that Council should have the authority to make the final and conclusive determination to whom to award the contract.

Pursuant to the authority by the Constitution of the State of South Carolina and the General Assembly of the State of South Carolina, BE IT RESOLVED BY RICHLAND COUNTY COUNCIL:

Section 1. The solicitation in the form of a RFQ for a PDT is a procurement to be funded solely from the penny sales tax and is of such great County-wide significance that the solicitation, the RFQ, the evaluation, and award process contemplated therein should be governed by the provisions of Section 2-591 which was added to the Richland County Code of Ordinances, Chapter 2, Administration; Article X, Purchasing by the Ordinance.

Section 2. The RFQ, substantially in the form presented to the Council at the meeting during which the Resolution was adopted, should be released and published as soon as practicable after the approval of this Resolution.

Section 3. This Resolution shall be in full force and effect from and after its adoption as provided by law.

Adopted in a meeting duly assembled this ____ day of May, 2014.

RICHLAND COUNTY, SOUTH CAROLINA

By: _____
Norman Jackson, Chairman
Richland County Council

(SEAL)

ATTEST THIS ____ DAY OF

_____, 2014:

Interim Clerk to Council

RICHLAND COUNTY ATTORNEY'S OFFICE

Approved As To LEGAL Form Only
No Opinion Rendered As To Content

Richland County Council Request of Action

Subject

REPORT OF THE HOSPITALITY TAX FEASIBILITY STUDY AD HOC COMMITTEE:

- a. Hospitality Tax Feasibility Studies
- b. Project Limited Money
- c. Hospitality Tax Fund Update

Richland County Council Request of Action

Subject

REPORT OF THE DIRT ROAD COMMITTEE:

- a. Package B Bid results **[ACTION]** **[PAGES 320-322]**
- b. Dirt Road Paving Project Development Process **[ACTION]** **[PAGE 323]**
- c. Additional Dirt Road Paving Public Outreach **[UPDATE]**
- d. Dirt Road Paving Ordinance **[ACTION]**

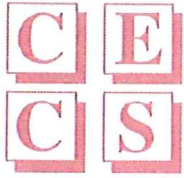
Notes

Package B Bid Results: Recommendation from staff is to award this contract to Lane Construction for \$975,232.05.

Dirt Road Paving Project Development Process: The Committee approved this process and directed staff to implement the \$45 million in dirt road paving funded by the Transportation Penny into a 5-year program.

Additional Dirt Road Paving Public Outreach: The Committee recommended this action.

Dirt Road Paving Ordinance: The Committee recommended that the Transportation Department manage the Dirt Road Paving Program.



Civil Engineering Consulting Services, Inc.

*Transportation and Forensic Engineering
Environmental Planning • Consulting Management*

April 25, 2014

Rob Perry, PE
Director of Transportation
Richland County
2020 Hampton Street
Columbia, SC 29204

Bid Review and award summary for Low Volume Paving Richland County RC-593-C-2014

Mr. Perry,

CECS is pleased to provide you with the bid tabulation review information requested as a result of the bid opening conducted on April 24, 2014 at the Richland County Administration Building. CECS has been asked to review the bids and to provide Richland County with a summary and options for proceeding forward.

There were four bids received for the project. Based upon our review of the submittals, prices and other required forms, it is our recommendation to award the project to Lane Construction. The Bid Certification sheet is attached to this letter for your reference. Lane submitted a bid that is within 6% of the engineer's estimate, and appears to have included all the necessary components for an award. In addition, the pricing submitted by Lane for surface alternate #1 appears to be very advantageous to the County. It would be our recommendation that the county strongly consider this alternative after the initial award to Lane.

We also continue to see reluctance for contractors to bid the Graded Aggregate Base Course option. It is our intention to interview the contractors and determine if there are any adjustments to the plans that may make this a more competitive alternative.

The result of the bids submitted is as follows:

		% above estimate
Engineer's Estimate	\$897,650.5	--
Lane Construction	\$950,009.10	5.8%
Sox and Sons	\$1,101,231.30	22.6%
CR Jackson	\$1,397,844.00	55.7%
Cherokee Inc	\$1,426,119.40	58.8%

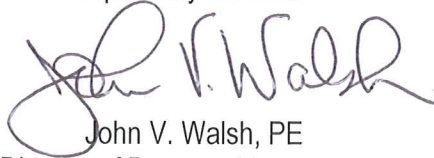
The County appears to have several options available going forward, should it be determined that an award is in the best interest of the County:

- 1) Proceed with the award of the Contract to Lane Construction Company with surface alternate #2.
- 2) Proceed with the award of the Contract to Lane amend the contract to utilize the prices submitted for the Asphalt Surface alternate #1 (Recommended)

CECS will assist the County in implementing any decision rendered concerning the above.

We are available and ready to serve as a resource to Richland County in its endeavors to deliver services to its citizens. Please advise if you need any additional information in this regard to this bid certification and award recommendation.

Respectfully Submitted:

A handwritten signature in black ink, appearing to read "John V. Walsh". The signature is fluid and cursive, with a large initial "J" and "W".

John V. Walsh, PE
Director of Program Management
Civil Engineering Consulting Services

Bid Certification
RC-593-C-2014 Roadway improvements to 10 Roads in Richland County
Richland County, South Carolina
April 25, 2014

Company Name	Bid Bond	Certificate of Familiarity	Listing of subcontractors	DBE Committal sheet	DBE	Statement of Assurance, Compliance and Non-Colusion	Drug Free Wrokplace Certification	MBE/WBE declaration	Solicitation, Offers and Awards Form	Acknowledgment of Amendment/Addendum	Bid Amount - Surface Alternate 1	Basis for Award	Percent above engineer's estimate
					Percentage							Bid Amount - Surface Alternate 2	
Lane Construction	yes	yes	yes	yes	17.60%	yes	yes	N/A	yes	yes	\$975,232.05	\$950,009.10	5.8%
Sox and Sons	yes	yes	yes	yes	21.50%	yes	yes	N/A	yes	only addendum #1	\$1,152,938.45	\$1,101,231.30	22.6%
CR Jackson	yes	yes	yes	yes	0	yes	yes	N/A	yes	yes	\$1,494,952.55	\$1,397,844.00	55.7%
Cherokee, Inc	yes	yes	yes	yes	0	yes	yes	N/A	yes	yes	\$1,504,310.70	\$1,426,119.40	58.8%

Civil Engineering Consulting Services Representative

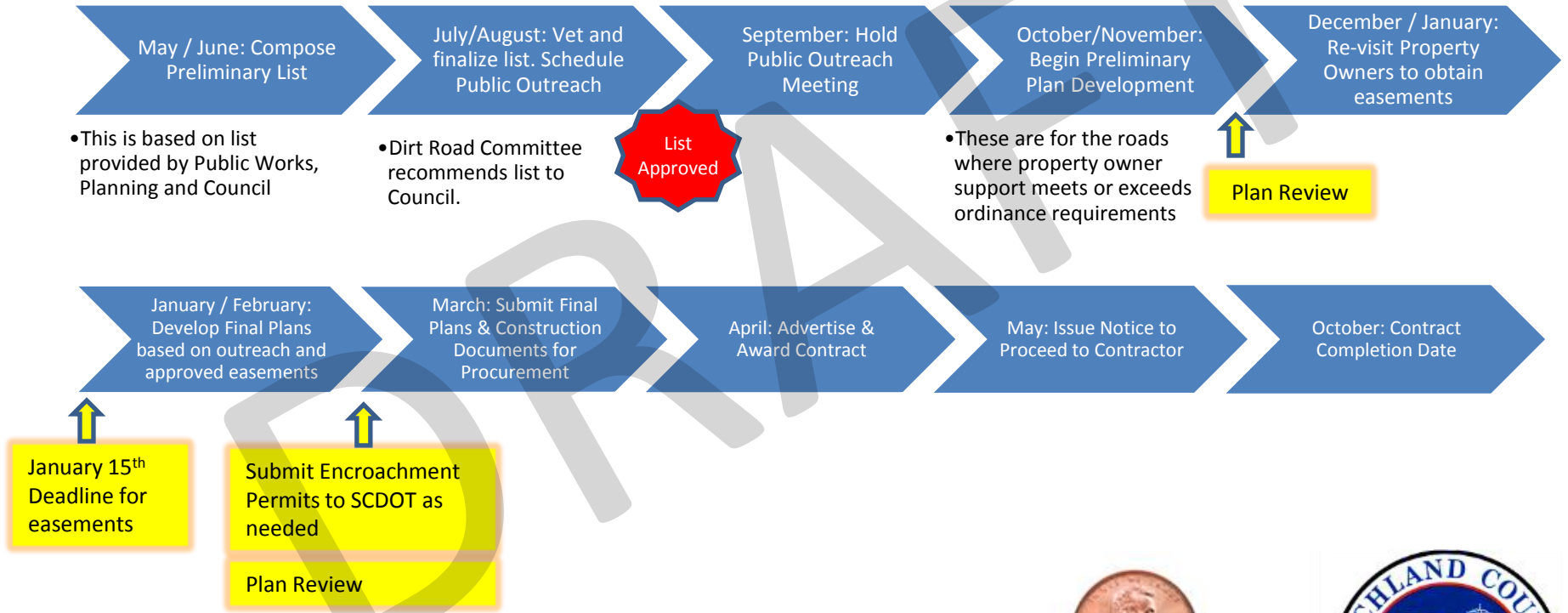
John V. Walsh

Richland County Representative

Graded Aggregate Base Course	Engineers Estimate	No bids received using
Cement Modified Earth Base Course	Engineers Estimate	
	Surface Alt #1	Surface Alt #2
	\$ 973,319.50	\$ 897,650.50

Program Development Process

Dirt Road Paving



Richland County
TRANSPORTATION PENNY



Richland County Council Request of Action

Subject

REPORT OF THE JAIL AD HOC COMMITTEE:

- a. Alvin S. Glenn Detention Center Management and Operations Study

Richland County Council Request of Action

Subject

Haile Gold Mine Mitigation Comments [**PAGES 326-327**]

**Richland County Comments on the Draft Environmental Impact Statement
Haile Gold Mine SAC 1992-24122-41A**

1. Richland County (County) does not object to the issuance of the 404 Permit to the Haile Gold Mine, Inc. (HGM) by the U.S. Army Corps of Engineers (USACE).

The County's comments are intended to improve the overall project and its benefits to the State and Richland County, specifically the benefits which accrue from the two proposed mitigation properties in the County, Cook's Mountain and a portion of Goodwill Plantation. The County is of the opinion these properties can provide significant direct and indirect economic development benefits to Richland County from ecological and heritage-based tourism similar to those derived from the Congaree National Park. However, the proposed HGM Mitigation Plan (Mitigation Plan) fails to provide such benefits as evidenced by the lack of any quantifiable economic benefits in the Draft Environmental Impact Statement (DEIS) to any county other than Lancaster. Refer to comment three (3) below. The County is requesting the USACE require the applicant to amend the proposed Mitigation Plan to realize and improve such economic benefits.

2. Compensatory Mitigation Issues

The County **objects** to the proposed Mitigation Plan dated July 9, 2013 found in the DEIS, Appendix B. It is the County's opinion the proposed preservation only Mitigation Plan is inconsistent with the requirements and goals of 33 CFR Part 332, Compensatory Mitigation for Losses of Aquatic Resources, the National Environmental Policy Act, the Clean Water Act, and the Charleston District USACE Standard Operating Procedure (SOP) for mitigation.

While 33 CFR §332.3, (h), (2) allows for a "preservation-only mitigation" waiver by the District Engineer under certain circumstances, we are of the opinion a waiver is not merited. Whether or not preservation is a priority in any given watershed, restoration or enhancement activities should not be excluded in any "preservation only" plan on Cook's Mountain and Goodwill Plantation.

Based on our first-hand knowledge of the proposed mitigation properties in Richland County, numerous restoration and enhancement opportunities exist on these two properties. In order to be consistent with 33 CFR §332.3, (h), (2) and prior-issued 404 Permits which meet the Charleston District's SOP, it is our opinion the USACE should include these potential restoration and enhancement activities in the proposed landscape-scale Mitigation Plan for review by the USACE, SCDHEC and the mitigation commenting agencies prior to the issuance of the 404 Permit. The County is requesting the USACE explicitly provide the regulatory basis for the "preservation only" waiver and whether or not any restoration and enhancement activities were assessed under the proposed Mitigation Plan. Please also provide specific documentation of whether the applicant, the USACE or the South Carolina Department of Natural Resources

(SCDNR) conducted any restoration and enhancement assessment on Cook's Mountain and Goodwill Plantation, including any SOP impact and mitigation compensation calculations.

3. Socioeconomic Issues

Data on the economic effects (output, labor and employment) in the DEIS are insufficient to determine the direct and indirect benefits from the mine development and operation to each individual County (Lancaster, York, Kershaw and Richland Counties) in the regional economic analysis. These composite data are also insufficient to determine the direct and indirect economic effects (if any) associated with the portion of the proposed landscape-scale Mitigation Plan in Richland County (Cook's Mountain and Goodwill Plantation). In order to determine any economic benefits to Richland County, the County is requesting specific information on the economic effects (output, labor and employment) in each of the four counties be included in the regional analysis.

4. Environmental Justice Issues

It is the opinion of the County that the USACE and the proposed landscape-scale Mitigation Plan, especially the Richland County portion, fail to meet the requirements of Executive Order 12898 and EPA's Interim Guidance concerning benefits to Environmental Justice (EJ) communities. In fact, the DEIS states "the extent to which these direct and regional economic benefits would affect minority and low-income populations in the Project area is unknown." The USACE should quantify the benefits to the EJ communities in the four-county regional study area as required by Executive Order 12898 and EPA's Interim Guidance. In addition, the proposed Mitigation Plan should be amended to provide benefits to the study area, particularly to Richland County's EJ communities near the Cook's Mountain and Goodwill Plantation mitigation sites.

Richland County Council Request of Action

Subject

SLBE Schedule of Size Standard Eligibility Requirements [**PAGE 329**]

Richland County, South Carolina
SLBE SCHEDULE OF SIZE STANDARD ELIGIBILITY REQUIREMENTS

1. Small Business Enterprise (“SBE”)

A Small Business Enterprise, as defined by section 2-639 of the Richland County Code of Ordinances, shall have the following size limitations:

- a. The SBE must not have employed more than **fifty (50)** full-time employees at any one time during the last three years; and
- b. The SBE must have annual gross revenues within its largest primary NAICS commodity code as averaged over its most recent past three fiscal years of not more than **\$7 million** for construction firms, specialty trade contractors, and manufacturing firms; not more than **\$3 million** for architectural firms; not more than **\$3 million** for professional services firms (e.g., scientific, real estate, insurance, accounting, legal, etc.); not more than **\$2.5 million** for engineering firms; and not more than **\$2 million** for wholesale operations, retail firms, and all other services firms (e.g., truck transportation, administrative support services, repair and maintenance services).
- c. If a business has not existed for 3 years, the employment and gross sales limits described above shall be applied based upon the annual averages over the course of the existence of the business not to exceed the three years. Once the gross annual receipts of a business exceed the gross sales average limits, it should no longer be eligible to benefit as an SLBE firm and should be graduated from the program.

2. Eligibility for the SLBE Program

To meet the size standard requirements for the SLBE Program, per section 2-641(a)(2) of the Richland County Code of Ordinances, a firm must comply with the size standards outlined in section 1 above.

ADOPTED THIS _____ day of _____, 2014.

Norman Jackson, Chair
Richland County Council

Attest: _____
Michelle Onley
Interim Clerk of Council

Richland County Council Request of Action

Subject

- a. With a growing aging population and growing county service needs. I move to develop "Richland County Commission on Aging" **[WASHINGTON]**
- b. I move to fund the SC Philharmonic at \$25,000 using FY14 Hospitality Tax funds **[PEARCE]**
- c. Move to initiate the competitive procurement process for the County's recycling services **[WASHINGTON]**
- d. As cost savings measure my motion is to "Consolidate all printing and mailing operation countywide and put the operations under the Public Information Office". This motion is to be taken up at budget time. **[WASHINGTON]**

Richland County Council Request of Action

Subject

Must Pertain to Items Not on the Agenda