



## **Richland County Council**

**Regular Session  
November 01, 2016 - 6:00 PM  
Council Chambers**

### **Call to Order**

- 1** The Honorable Torrey Rush

### **Invocation**

- 2** The Honorable Bill Malinowski

### **Pledge of Allegiance**

- 3** The Honorable Bill Malinowski

### **Approval of Minutes**

- 4** Regular Session: October 18, 2016 [PAGES 7-18]
- 5** Zoning Public Hearing: October 25, 2016 [PAGES 19-20]

### **Adoption of Agenda**

**6**

### **Report of the Attorney for Executive Session Items**

**7**

### **Citizen's Input**

- 8** For Items on the Agenda Not Requiring a Public Hearing

### **Report of the County Administrator**



## Richland County Council

### Report of the Clerk of Council

- 9
  - a. REMINDER: Columbia Urban League Dinner, Thursday, November 3rd, 6:00 PM - Columbia Metropolitan Convention Center
  - b. REMINDER: VC Summer Tour, Wednesday, November 9th, 10:00 AM, Jenkinsville, SC
  - c. EngenuitySC "Ignite", Wednesday, November 16th, 5:15 PM, Bull Street Commons
  - d. 2017 County Council Meeting Schedule [ACTION] [PAGES 21-22]

### Report of the Chair

- 10
  - a. Personnel Matter
  - b. FY17 - District 10 H-Tax Allocations [PAGES 23-24]

### Open/Close Public Hearings

- 11 Authorizing the expansion of the boundaries of the I-77 Corridor Regional INDUSTRIAL Park jointly developed with Fairfield County to include certain property located in Richland County; the execution and delivery of a credit agreement to provide for special source revenue credits to [Project Alimex]; and other related matters

### Approval of Consent Items

- 12
  - 16-028MA  
Desta Nelson  
RU to NC (1.68 Acres)  
4000 Leesburg Road  
25000-01-04A(p) [SECOND READING] [PAGES 25-26]
- 13
  - 16-030MA  
Arthur Bush  
RU to OI (17 Acres)  
424 Lee Road  
20300-02-45 [SECOND READING] [PAGES 27-28]



## **Richland County Council**

- 14** Emergency Services Department: Fire Hose and Equipment Purchase [PAGES 29-32]
- 15** Conservation Department: Acceptance of Donated Property [PAGES 33-36]
- 16** Building Inspections: Intergovernmental Agreement between Richland County and the Town of Eastover [PAGES 37-44]
- 17** Department of Public Works – Dawson Pond Dam Repair Project [PAGES 45-59]
- 18** Professional Services / Airport Work Authorization 10 [PAGES 60-66]
- 19** Public Defender’s Office: Approval of New Attorney I Positions [PAGES 67-70]
- 20** Solicitor’s Office: Approval of Body Worn Camera Grant Award [PAGES 71-75]
- 21** Intergovernmental Agreement with the City of Columbia [PAGES 76-80]
- 22** Community Development: Approval of Additional County Positions [PAGES 81-91]

### **Third Reading Items**

- 23** An Ordinance Authorizing the execution and delivery of a fee in lieu of tax agreement by and between Richland County and China Jushi USA Corporation (Project Giant) (the "Company"); the execution and delivery of an infrastructure finance agreement by and between Richland County and the Company; the execution and delivery of such documents as may be necessary to effect the intent of this ordinance; and other matters related thereto [PAGES 92-162]
- 24** 16-023MA  
Debbie Nix  
RS-MD to OI (3.17 Acres)  
806 Universal Drive  
19106-06-01 [PAGES 163-164]
- 25** 16-026MA  
David Tuttle  
M-1/RS-LD to PDD (33.88 Acres)



## **Richland County Council**

Roseberry Lane  
22807-01-04 [PAGES 165-167]

### **Second Reading Items**

- 26** Authorizing the expansion of the boundaries of the I-77 Corridor Regional Industrial Park jointly developed with Fairfield County to include certain property located in Richland County; the execution and delivery of a credit agreement to provide for special source revenue credits to [Project Alimex]; and other related matters [PAGES 168-185]
- 27** An Ordinance Amending the Richland County Code of Ordinances; Chapter 26, Land Development; so as to change the uses of “Restaurants, Cafeterias” and “Restaurants, Full Service (Dine-In)” from permitted to ones with special requirements; and to add a new use of “Restaurants, Limited Service (Dine-In)” with special requirements [PAGES 186-194]

### **Report of Development & Services Committee**

- 28** Emergency Services Department – Hazard Mitigation Plan [PAGES 195-198]
- 29** Planning Department: Selection of Consultant for the Rewrite of the Richland County Land Development Code and Zoning Regulations [PAGES 199-201]

### **Report of the Economic Development Committee**

- 30** An Ordinance Authorizing the First Amendment of that certain fee agreement by and between Richland County, South Carolina and Sensor Electronic Technology, Inc., relating to, without limitation, extension of the completion date to allow for continuing and further investment in the project and other related matters [FIRST READING] [PAGES 202-211]

### **Report of Rules & Appointments Committee**

#### **Notification of Appointments**

- 31** Employee Grievance - 1 [PAGES 212-214]
  - a. Barbara C. White
- 32** Central Midlands Regional Transit Authority Board - 1 [PAGES 215-219]



## **Richland County Council**

a. Almateen Benton

b. Roger Leaks, Jr.

### **Report of the DSS Facility Ad Hoc Committee**

**33** a. HVAC Replacement at DSS Facility [PAGES 220-225]

### **Report of the Office of Small Business Opportunity Ad Hoc Committee**

**34** An Ordinance Amending the Richland County Code of Ordinances, Chapter 2, Administration; so as to remove the Division of Procurement known as the Office of Small Business Opportunity [FIRST READING] [PAGES 226-227]

### **Other Items**

**35** Curbside Collection Hauler Contracts For Areas 3 & 6 [PAGES 228-289]

**36** In support of the issuance by the South Carolina Jobs Economic Development Authority of its Economic Development Revenue Bonds (Green Midlands, LLC Project), in one or more series, pursuant to the provisions of Title 41, Chapter 43, of the Code of Laws of South Carolina 1976, as amended, in the aggregate principal amount of not exceeding \$13,875,000 [PAGES 290-294]

### **Citizen's Input**

**37** Must Pertain to Items Not on the Agenda

### **Executive Session**

### **Motion Period**

**38** a. Move that Council explore the potential construction of a new Richland County Judicial Center. [LIVINGSTON, MANNING, PEARCE, ROSE and DICKERSON]

### **Adjournment**



## Richland County Council



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

## SOUTH CAROLINA

### REGULAR SESSION MEETING

October 18, 2016  
6:00 PM  
County Council Chambers

*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*

#### CALL TO ORDER

Mr. Rush called the meeting to order at approximately 6:01 PM

#### INVOCATION

The Invocation was led by the Honorable Dalhi Myers

#### PLEDGE OF ALLEGIANCE

The Pledge of Allegiance was led by the Honorable Dalhi Myers

#### PRESENTATION OF RESOLUTION

**Resolution Designating October 2016 as Community Planning Month in Richland County [RUSH]** – Mr. Pearce presented a resolution to Mr. Stephen Gilchrist and Ms. Hegler designating October 2016 as Community Planning Month in Richland County

**Resolution Recognizing “End Childhood Hunger SC Week”** – Mr. Rush presented a resolution recognizing the week of October 22 – 29 as “End Childhood Hunger SC Week” in Richland County.

#### APPROVAL OF MINUTES

- a. **May 17, 2016 (Deferred at June 7, 2016 Council Meeting)** – Mr. Pearce moved, seconded by Mr. Livingston, to approve the minutes as distributed. The vote in favor was unanimous.
- b. **Regular Session: October 4, 2016** – Mr. Manning moved, seconded by Ms. Dixon, to approve the minutes as distributed. The vote in favor was unanimous.

#### ADOPTION OF AGENDA

Ms. Dixon moved, seconded by Mr. Malinowski, to adopt the agenda as published. The vote in favor was unanimous.



#### Committee Members Present

Torrey Rush, Chair  
Greg Pearce, Vice Chair  
Joyce Dickerson  
Julie-Ann Dixon  
Norman Jackson  
Damon Jeter  
Paul Livingston  
Bill Malinowski  
Jim Manning  
Dalhi Myers  
Seth Rose

#### Others Present:

Gerald Seals  
Kimberly Roberts  
Daniel Driggers  
Kevin Bronson  
Michelle Onley  
Tracy Hegler  
Jeff Ruble  
Quinton Epps  
Geo Price  
Brandon Madden  
Larry Smith  
Brad Farrar  
Christy Swofford  
Ismail Ozbek  
Dwight Hanna  
Beverly Harris  
Laura Renwick  
Rob Perry  
Janelle Ellis  
Donald Woodward  
Cheryl Johnson  
Latoisha Green

## **REPORT OF THE ATTORNEY FOR EXECUTIVE SESSION**

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

- a. Employee Grievance**
- b. Item #24: "An Agreement by and between Richland County and the University of South Carolina whereby the County and USC desire to agree herein for the prepayment by USC to County of the estimated future County net parking revenue payments"**

## **CITIZENS' INPUT (For Items on the Agenda Not Requiring a Public Hearing)**

Mr. Pearce moved, seconded by Ms. Dickerson, to waive the rules and allow the citizens to speak to Item #21: "An Ordinance Amending the Fiscal Year 2016-2017 General Fund Annual Budget to appropriate Seven Hundred Sixteen Thousand Four Hundred Forty Six Dollars (\$716,446) to fund officer safety equipment and service agreement – body worn cameras", which will require a public hearing. The vote in favor was unanimous.

Mr. E. C. Nelson, Mr. Simeon Miles, Ms. Diane Wiley, Mr. Wilbert Lewis, Mr. Seth Stoughton, Ms. Katie Bolden, and Mr. Lavar Jones spoke in favor of the item.

## **REPORT OF THE COUNTY ADMINISTRATOR**

- a. Recognition of Transportation Program Interns** – The interns for the Transportation Program introduced themselves to County Council.
- b. Employee Grievance** – This item was taken up in Executive Session.

## **REPORT OF THE CLERK OF COUNCIL**

- a. Midlands Technical College Oyster Roast & Shrimp Boil, October 27, 6:00 p.m., MTC Northeast Campus** – Ms. Onley reminded Council of the upcoming Midlands Technical College Oyster Roast & Shrimp Boil on October 27<sup>th</sup>.

**POINT OF PERSONAL PRIVILEGE** – Ms. Dixon thanked Council and Richland County employees for wearing pink and/or purple in honor of Breast Cancer Awareness Month and Domestic Violence Awareness Month.

## **REPORT OF THE CHAIR**

- a. Customer Service Competition** – Mr. Rush stated the Ombudsman's Office has requested Council judge a Customer Service Competition among County Departments. Mr. Manning, Ms. Myers, Ms. Dickerson and Ms. Dixon volunteered to judge the competition.



### OPEN/CLOSE PUBLIC HEARINGS

- **An Ordinance Amending the Fiscal Year 2016-2017 General Fund Annual Budget to appropriate Thirty Eight Thousand Seven Hundred Forty Dollars (\$38,740) to increase funding to the Board of Voter Registration & Elections Department to cover the cost of legal bill(s) – No one signed up to speak.**

### APPROVAL OF CONSENT ITEMS

- **16-024MA, Mark Taylor, RU to GC (14 Acres), 219 Rabon Road, 19903-06-01 [THIRD READING]**
- **16-025MA, Ashley Chason, RU to GC (1.2 Acres), 1640 Dutch Fork Rd., 02412-01-04 [THIRD READING]**
- **An Ordinance Authorizing deed to the City of Columbia for certain water lines to serve the Decker Center; Richland County TMS # 16911-03-09 [SECOND READING]**

Mr. Pearce moved, seconded by Mr. Manning, to approve the consent items. The vote in favor was unanimous.

### THIRD READING

**16-023MA, Debbie Nix, RS-MD to OI (3.17 Acres), 806 Universal Drive, 19106-06-01** – Mr. Jackson stated at the Zoning Public Hearing he requested the Zoning Administrator to contact the applicant to arrange a meeting to discuss the re-zoning.

Mr. Jackson moved, seconded by Ms. Dixon, to defer until a meeting can be held with the applicant. The vote in favor was unanimous.

**16-026MA, David Tuttle, M-1/RS-LD to PDD (33.88 Acres), Roseberry Lane, 22807-01-04** – Mr. Malinowski requested input from the Conservation Commission on this re-zoning prior to going forward with Third Reading.

Ms. Dixon moved, seconded by Mr. Jackson, to defer until the November 1<sup>st</sup> Council meeting. The vote in favor was unanimous.

**An Ordinance Amending the Richland County Code of Ordinances; Chapter 26, Land Development; so as to add duets as a use in the RM-MD and RM-HD Zoning Districts with Special Requirements** – Mr. Livingston moved, seconded by Ms. Dixon, to approve this item.

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Regular Session Meeting  
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<u>FOR</u>	<u>AGAINST</u>
Rose	
Malinowski	
Dixon	
Jackson	
Pearce	
Rush	
Livingston	
Dickerson	
Myers	
Manning	

The vote in favor was unanimous.

**An Ordinance Amending the Fiscal Year 2016-2017 General Fund Annual Budget to appropriate Thirty Eight Thousand Seven Hundred Forty Six Dollars (\$38,740) to increase funding to the Board of Voter Registration & Elections Department to cover the costs of legal bill(s)** – Mr. Pearce moved, seconded by Ms. Dixon, to approve this item.

Mr. Pearce inquired what the status of the additional attorney’s fees.

Mr. Smith stated at the last hearing Judge Strickland indicated his intent to award additional attorney’s fees and costs for the hearing, but to date the County has not been informed of an Order being issued regarding the amount he intends to award. At this time Council can potentially do two (2) things: wait until an Order from the Court is received or approve the item tonight.

<u>FOR</u>	<u>AGAINST</u>
Rose	Malinowski
Dixon	Rush
Jackson	
Pearce	
Livingston	
Dickerson	
Myers	
Manning	
Jeter	

The vote was in favor.

Mr. Pearce moved, seconded by Ms. Dixon, to reconsider this item. The motion failed.

**SECOND READING**

**An Ordinance Amending the Fiscal Year 2016-2017 General Fund Annual Budget to appropriate Seven Hundred Sixteen Thousand Four Hundred Forty Six Dollars (\$716,446) to fund officer safety**

**equipment and service agreement – born worn cameras** – Mr. Pearce moved, seconded by Ms. Dixon, to approve this item.

Mr. Pearce stated the proceeds from the sale of the parking garage to USC would reimburse the General Fund for the upfront costs of purchasing the body cameras, which was brought up on First Reading.

Ms. Myers reiterated her concern with protecting citizens' 4<sup>th</sup> Amendment rights.

Mr. Livingston reiterated the County's exploration of reimbursement from the State for the costs of the cameras. Additionally, he reminded Council this matter will need to be addressed during the budget process for the upcoming years.

Ms. Myers requested clarification regarding the contract being in the County's name and not the Sheriff's Department.

Mr. Seals stated the contract will be with County government for a 5-year period.

Mr. Rose inquired if the Sheriff's Department was aware of what other local law enforcement agencies are doing to implement the body camera program.

Deputy Chief Cowan stated many of the other agencies have cameras in place.

Mr. Rush requested clarification on the exact amount needed to implement the body camera program.

Mr. Seals stated the first year, start-up costs is \$646,000. Deputy Chief Cowan stated the exact figure \$646,428.

Mr. Pearce amended his motion to include the new total provided by the Sheriff's Department and Administration.

The vote in favor was unanimous.

## **REPORT OF THE ADMINISTRATION AND FINANCE COMMITTEE**

**Future Management of the Pinewood Lake Property** – Mr. Pearce stated the committee recommended approval to allow the Conservation Commission to manage Pinewood Lake.

Mr. Jackson stated in the documentation it referenced moving the Conservation Commission to the Pinewood Lake property, specifically the house on the property. The house is not commercialized and designed to be used as an office.

Mr. Seals stated operationally, if approved, the Conservation Commission will not move to this location. It will continue to be in the Administration building. Any equipment needs will be addressed during the upcoming budget process.

Mr. Malinowski requested an updated proposal before the next meeting.

Mr. Malinowski made a substitute motion, seconded by Mr. Livingston, to defer this item.

<u>FOR</u>	<u>AGAINST</u>
Malinowski	Rose
Livingston	Dixon
Dickerson	Pearce
	Rush
	Myers
	Manning
	Jeter

The substitute motion failed.

Mr. Seals stated he will forward an email to Council within 36 hours with operational clarity on this item.

<u>FOR</u>	<u>AGAINST</u>
Rose	
Malinowski	
Dixon	
Jackson	
Pearce	
Rush	
Livingston	
Dickerson	
Myers	
Manning	
Jeter	

The vote in favor was unanimous.

Mr. Rose moved, seconded by Ms. Dixon, for reconsideration of this item. The motion failed.

### **REPORT OF ECONOMIC DEVELOPMENT COMMITTEE**

**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 Haven Campus Communities – Columbia, LLC, and other related matters [FIRST READING]** – Mr. Livingston stated the committee recommended approval of this item.

Mr. Malinowski inquired if the developers had received millions of dollars in tax incentives.

Mr. Livingston stated he was not aware of any incentives from the County.

Mr. Ruble stated any incentives would have come from the City of Columbia and he was not privy to the details on the incentives.

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Mr. Pearce stated this was before Council previously and was denied on a vote of 6-3. Due to parliamentary procedures implemented it has been placed before Council for a new vote. He further stated with the large influx of the student housing community, the County's non-supported student housing projects are going to suffer.

Mr. Jeter stated he had requested during the committee meeting a fiscal impact report regarding this project and inquired if the report was ever developed.

Mr. Seals stated it had not, but that staff could provide the report before Second Reading of this item.

Mr. Livingston stated the Economic Development discussed why Richland County was not getting projects like Charleston and Greenville is receiving. The conclusion was because Richland County was not utilizing the resources available (i.e. USC, Benedict College, Allen University, Engenuity, etc.) After speaking with Mayor Benjamin, it was determined to look at increasing student housing from a private prospective.

Mr. Malinowski stated this item will set a precedent wherein taxpayers will have to pay twice for incentives for the developers.

<b><u>FOR</u></b>	<b><u>AGAINST</u></b>
Jackson	Rose
Rush	Malinowski
Livingston	Dixon
Manning	Pearce
Jeter	Dickerson

A discussion took place regarding Ms. Myers wishing to abstain from voting on this item. Mr. Rush ruled that Ms. Myers could not abstain from voting; therefore, Ms. Myers voted against this item.

<b><u>FOR</u></b>	<b><u>AGAINST</u></b>
Jackson	Rose
Rush	Malinowski
Livingston	Dixon
Manning	Pearce
Jeter	Dickerson
	Myers

The motion failed.

Mr. Pearce moved, seconded by Mr. Malinowski, to reconsider this item. The motion failed.

**An Agreement by and between Richland County and the University of South Carolina whereby the County and USC desire to agree herein for the prepayment by USC to County of the estimated future County net parking revenue payments** – This item was taken up during Executive Session.

**Authorizing the expansion of the boundaries of the I-77 Corridor Regional Industrial Park jointly developed with Fairfield County to include certain property located in Richland County; the**

**execution and delivery of a credit agreement to provide for special source revenue credits to [Project Alimex]; and other related matters [FIRST READING]** – Mr. Livingston stated the committee recommended approval of this item.

Mr. Malinowski requested all of the pertinent information for this item be provided prior to Second Reading and clarification if the 22 jobs offered will be filled with Midland residents or if they will be transferring employees from an existing location.

The vote was in favor.

**A Resolution consenting to and ratifying the assignment by University Residences Columbia, LLC to Trea Greene Crossing, LLC of certain property tax incentive agreements and other matters related thereto** – Mr. Livingston stated the committee recommended approval of this item.

**FOR**                      **AGAINST**

Rose  
Malinowski  
Dixon  
Jackson  
Pearce  
Rush  
Livingston  
Dickerson  
Myers  
Manning  
Jeter

The vote in favor was unanimous.

**REPORT OF THE TRANSPORTATION AS HOC COMMITTEE**

**a. Sidewalk Package S-3 (Sheltered Market): Construction Award** – Mr. Livingston stated the committee recommended approval of this item.

**FOR**                      **AGAINST**

Rose  
Malinowski  
Dixon  
Jackson  
Pearce  
Rush  
Livingston  
Dickerson  
Myers  
Manning  
Jeter

The vote in favor was unanimous.

- b. Sidewalk Package S-5 (Sheltered Market): Construction Award** – Mr. Livingston stated the committee recommended approval of this item.

<u><b>FOR</b></u>	<u><b>AGAINST</b></u>
Rose	
Malinowski	
Dixon	
Jackson	
Pearce	
Rush	
Livingston	
Dickerson	
Myers	
Manning	
Jeter	

The vote in favor was unanimous.

- c. Bluff Road Phase I Widening Project: Construction Award** – Mr. Livingston stated the committee recommended approval of this item.

<u><b>FOR</b></u>	<u><b>AGAINST</b></u>
Rose	
Malinowski	
Dixon	
Jackson	
Pearce	
Rush	
Livingston	
Dickerson	
Myers	
Manning	
Jeter	

The vote in favor was unanimous.

- d. Shop Road Phase I Extension Project: Construction Award** – Mr. Livingston stated the committee recommended deferral of this item. The vote in favor was unanimous.

- e. Mitigation Bank Excess Credit Sales**
  - 1. SCDOT: I-20 Widening Project**
  - 2. SCDOT: I-77 Widening Project**
  - 3. SCDOT: Hardscrabble Road Widening Project**
  - 4. JR Lex II, LLC: Dollar General**

**5. Big Red Box, LLC: Pineview Drive Site**

Mr. Livingston stated the committee recommended approval of this item.

Mr. Pearce reiterated for the public's benefit that the funds to purchase this property were provided by the taxpayers. This land is now being utilized as a mitigation bank and the County is now selling these credits and will eventually be able to offset the purchase price.

Ms. Myers stated she feels the credits should be utilized to provide development for the Lower Richland area.

Ms. Myers requested a friendly amendment to table the discussion of where the proceeds to go. The motion died for lack of a second.

<u>FOR</u>	<u>AGAINST</u>
Rose	Myers
Malinowski	
Dixon	
Jackson	
Pearce	
Rush	
Livingston	
Dickerson	
Manning	
Jeter	

The vote in favor was unanimous.

Mr. Malinowski moved, seconded by Mr. Livingston, to reconsider this item.

**CITIZENS' INPUT  
(Must Pertain to Items Not on the Agenda)**

Mr. Toney Forrester continued his "story" from previous Council meetings.

**EXECUTIVE SESSION**

*Council went into Executive Session at approximately 8:02 p.m.  
and came out at approximately 8:16 p.m.*

- a. **Employee Grievance** – Council upheld the Administrator's recommendation.
- b. **An Agreement by and between Richland County and the University of South Carolina whereby the County and USC desire to agree herein for the prepayment by USC to County of the estimated future County net parking revenue payments** – Mr. Livingston stated the committee recommended approval of this item. The vote in favor was unanimous.



### MOTION PERIOD

- a. **Move to pass a resolution in honor of the life of the late Richland County Conservation Commission member Ann Furr [ROSE]** – Mr. Pearce moved, seconded by Ms. Dixon, to approve this item. The vote in favor was unanimous.
- b. **In his letter of October 4, 2016 addressed to Chairman Rush and copied to Council members Senator John Scott, Chairman of the Richland County Legislative delegation cites a 1989 Attorney General's "opinion" which concludes: "...since the Board of Election and Registration is a county office, McCormick County would have the same responsibility for providing legal advice or paying for legal representation for the Board as it would for any other county agency or office." I move that the Richland County Attorney's office review this opinion and provide recommendations to County Council as the feasibility of challenging this "opinion" via legal action [PEARCE, RUSH, MALINOWSKI, and DICKERSON]** – This item was referred to the County Attorney's Office.
- c. **I move to direct the County Attorney to engage the services of an attorney associated with the October 1997 Weaver vs. Richland County Recreation Commission to advise Council as to the legal actions available to determine if Act 397 Section 4. (Codified as Section 6-11-2971) of 1998 "cured" the taxing authority question found in the decision of the Supreme Court in the Weaver case [PEARCE]** – This item was referred to the County Attorney's Office.
- d. **Resolution honoring Greg Sinkler of Lower Richland an employee of SCE&G and his crew who went above and beyond tirelessly 20 hours daily helping the citizens of Lower Richland during and after Hurricane Matthew restoring power in an expeditious manner. With the work he performed his presence was requested in the Low Country to help our State [JACKSON]** – Mr. Pearce moved, seconded by Ms. Dixon, to approve this item. The vote in favor was unanimous. The vote in favor was unanimous.
- e. **Motion to explore the reopening of Wild Cat Road a 12 mile length of road from Leesburg Road to Percival Road improving the Level of Service (LOS) on Garners Ferry Road, I-77 and I-20 to Northeast Columbia. Note: In 2013 the Garrison Commander supported the reopening if the entire length was secured with protective fence. Additionally a minimum of two bridges were designed in the reopening so as not to affect the flow of traffic on Fort Jackson. The reopening would also provide multiple access to the National Cemetery and access to McCrady McEntire Airbase and Shaw Air Force Base [JACKSON and DIXON]** – This item was referred to the D&S Committee.
- f. **Resolution in support of the 70<sup>th</sup> anniversary of the Southern Negro Youth Council [LIVINGSTON, JETER, DIXON, ROSE, JACKSON, MANNING, PEARCE and MYERS]** – Mr. Livingston moved, seconded by Ms. Dixon, to approve this item. The vote in favor was unanimous.

**ADJOURNMENT**

The meeting adjourned at approximately 8:19 PM.

\_\_\_\_\_  
Torrey Rush, Chair

\_\_\_\_\_  
Greg Pearce, Vice-Chair

\_\_\_\_\_  
Joyce Dickerson

\_\_\_\_\_  
Julie-Ann Dixon

\_\_\_\_\_  
Norman Jackson

\_\_\_\_\_  
Damon Jeter

\_\_\_\_\_  
Paul Livingston

\_\_\_\_\_  
Bill Malinowski

\_\_\_\_\_  
Jim Manning

\_\_\_\_\_  
Dalhi Myers

\_\_\_\_\_  
Seth Rose

The Minutes were transcribed by Michelle M. Onley, Deputy Clerk of Council

# RICHLAND COUNTY COUNCIL

## SOUTH CAROLINA

### ZONING PUBLIC HEARING

October 25, 2016  
7:00 PM  
County Council Chambers

*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*

#### CALL TO ORDER

Mr. Rush called the meeting to order at approximately 7:00 PM

#### ADDITIONS/DELETIONS TO THE AGENDA

Ms. Hegler stated there were no deletions or additions to the agenda. The only change is the Planning Commission's recommendation on Case # 106-031MA. The correct recommendation should be disapproval.

#### ADOPTION OF THE AGENDA

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

#### MAP AMENDMENTS

##### **16-028MA, Desta Nelson, RU to NC (1.68 Acres), 4000 Leesburg Road, 25000-01-04A(p) [FIRST READING]**

Mr. Rush opened the floor to the public hearing.

No one signed up to speak.

The floor to the public hearing was closed.

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

##### **16-023MA, Debbie Nix, RS-MD to OI (3.17 Acres), 806 Universal Drive, 19106-06-01 [FIRST READING]**

Mr. Rush moved, seconded by Ms. Dixon, to defer the public hearing and the item until the November Zoning Public Hearing. The vote in favor was unanimous.



#### Committee Members Present

Torrey Rush, Chair  
Greg Pearce, Vice Chair  
Joyce Dickerson  
Julie-Ann Dixon  
Norman Jackson  
Paul Livingston  
Bill Malinowski  
Jim Manning  
Dalhi Myers

#### Others Present:

Tracy Hegler  
Michelle Onley  
Tommy DeLage  
Geo Price  
Gerald Seals  
Daniel Driggers  
Janelle Ellis  
Kevin Bronson

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**16-030MA, Arthur Bush, RU to OI (17 Acres), 424 Lee Road, 20300-02-45 [FIRST READING]**

Mr. Rush opened the floor to the public hearing.

Mr. Arthur Bush, Mr. Jesse DeBerry, and Bishop Vincent Collins spoke in favor of this item.

The floor to the public hearing was closed.

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

**16-031MA, Bernice Shealy, RS-LD to OI (2.29 Acres), 1025 Ellett Road, 01410-01-15 [FIRST READING]**

Mr. Rush opened the floor to the public hearing.

Mr. Wayne Duncan spoke in opposition of this item.

The floor to the public hearing was closed.

Mr. Malinowski moved, seconded by Ms. Dixon, to deny the re-zoning request. The vote in favor was unanimous.

**ADJOURNMENT**

The meeting adjourned at approximately 7:09 PM

The Minutes were transcribed by Michelle M. Onley, Deputy Clerk of Council

# 2017 COUNCIL MEETING DATES



MONTH/DATE	MEETING TYPE/TIME
<b>JANUARY:</b>	
10	SPECIAL CALLED – 4:45 PM
10	COMMITTEES – 5:00 PM
<b>FEBRUARY:</b>	
7	REGULAR SESSION – 6:00 PM
21	REGULAR SESSION – 6:00 PM
28	COMMITTEES – 5:00 PM
28	ZONING PUBLIC HEARING – 7:00 PM
<b>MARCH:</b>	
7	REGULAR SESSION – 6:00 PM
21	REGULAR SESSION – 6:00 PM
28	COMMITTEES – 5:00 PM
28	ZONING PUBLIC HEARING – 7:00 PM
<b>APRIL:</b>	
4	REGULAR SESSION – 6:00 PM
18	REGULAR SESSION – 6:00 PM
25	COMMITTEES – 5:00 PM
25	ZONING PUBLIC HEARING – 7:00 PM
<b>MAY:</b>	
2	REGULAR SESSION – 6:00 PM
16	REGULAR SESSION – 6:00 PM
23	COMMITTEES – 5:00 PM
23	ZONING PUBLIC HEARING – 7:00 PM
<b>JUNE:</b>	
6	REGULAR SESSION – 6:00 PM
20	REGULAR SESSION – 6:00 PM
27	COMMITTEES – 5:00 PM
27	ZONING PUBLIC HEARING – 7:00 PM

<b>JULY: (Please note there may be a Special Called Meeting this month due to Council's August Break)</b>	
11	SPECIAL CALLED – 6:00 PM
25	COMMITTEES – 5:00 PM
25	ZONING PUBLIC HEARING – 7:00 PM
<b>AUGUST – COUNCIL RECESS</b>	
<b>SEPTEMBER:</b>	
12	SPECIAL CALLED – 6:00 PM
19	REGULAR SESSION – 6:00 PM
26	COMMITTEES – 5:00 PM
26	ZONING PUBLIC HEARING – 7:00 PM
<b>OCTOBER:</b>	
3	REGULAR SESSION – 6:00 PM
17	REGULAR SESSION – 6:00 PM
24	COMMITTEES – 5:00 PM
24	ZONING PUBLIC HEARING – 7:00 PM
<b>NOVEMBER:</b>	
7	REGULAR SESSION – 6:00 PM
14	REGULAR SESSION – 6:00 PM
16	COMMITTEES – 5:00 PM
16	ZONING PUBLIC HEARING – 7:00 PM
<b>DECEMBER:</b>	
5	REGULAR SESSION – 6:00 PM
12	REGULAR SESSION – 6:00 PM
19	COMMITTEES – 5:00 PM
19	ZONING PUBLIC HEARING – 7:00 PM

☀ Meeting Dates are subject to change and/or additional dates may be added.

☀ Please note that items for the Zoning Public Hearing must go before the Planning Commission. The Planning Commission meets the first Mondays of each month. Contact Suzie Haynes at (803) 576-2176 for further information.

Visit our Website at [www.rcgov.us](http://www.rcgov.us) for updated information.

For more information, please contact the Clerk of Council's Office at (803) 576-2060.

# Richland County Council Request of Action

**Subject:** FY17 - District 10 H-Tax Allocations

**A. Purpose**

Richland County Council Services District 10 Council Member requests County Council to approve the allocations and amounts of six – entities.

**B. Background / Discussion**

Based on Council’s approval of item #55a on the motion list during the FY17 budget process, “Item # 55a: Hospitality Tax (Amend the H-Tax budget guidelines to include):

- (a) Establish a h-tax discretionary account for each Council District;
- (b) Fund the account at the amount of \$164,395.45;
- (c) Council members will recommend Agencies to be funded by their allocation. All Agency and project must meet all of the requirements in order to be eligible to receive H-Tax funds;
- (d) All Council recommendation for appropriations of allocations to Agencies after the beginning of the fiscal year will still be required to be taken back to Council for approval by the full Council prior to the commitment of funding.”

As stated in the motion, this would be an allocation of funds already appropriated therefore would only require one vote.

Pursuant to Motion 56 of FY17 Motion list (3<sup>rd</sup> reading) each district Council member was approved \$164,395.45 to allocate funds to Hospitality Tax eligible organizations of their own discretion.

There is no financial impact the County since the full amount was already appropriated. The request is to allocate to the following organizations as requested by Council woman Myers:

SERCO	- \$30,000
Town of Eastover	- \$30,000
Kingville Festival	- \$30,000
National Association of Minority Contractors National Conference	- \$10,000
Lower Richland Sweet Potato Festival	- \$30,000
Columbia World Affairs Council Annual Dinner	<u>- \$ 7,500</u>
	<b>\$137,500</b>

**C. Legislative / Chronological History**

These are Council Member requests. Therefore, there is no Legislative history.

**D. Alternatives**

1. Approve the allocations as recommended.
2. Do not approve the recommended allocations.

**E. Final Recommendation**

Staff recommends that Council approve the allocation based on Councilwoman Myers recommendation.



## Richland County Council Request of Action

**Subject:**

16-028MA  
Desta Nelson  
RU to NC (1.68 Acres)  
4000 Leesburg Road  
25000-01-04A(p)

First Reading: October 25, 2016

Second Reading:

Third Reading:

Public Hearing: October 25, 2016

STATE OF SOUTH CAROLINA  
COUNTY COUNCIL OF RICHLAND COUNTY  
ORDINANCE NO. \_\_\_\_-16HR

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 # 25000-01-04A (PORTION OF) FROM RU (RURAL 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 # 25000-01-04A (portion of) from RU (Rural District) zoning 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 \_\_\_\_\_, 2016.

RICHLAND COUNTY COUNCIL

By: \_\_\_\_\_  
Torrey Rush, Chair

Attest this \_\_\_\_\_ day of  
\_\_\_\_\_, 2016.

\_\_\_\_\_  
Michelle M. Onley  
Deputy Clerk of Council

Public Hearing:                   October 25, 2016  
First Reading:                   October 25, 2016  
Second Reading:                November 1, 2016 (tentative)  
Third Reading:                 November 15, 2016 (tentative)

## Richland County Council Request of Action

**Subject:**

16-030MA  
Arthur Bush  
RU to OI (17 Acres)  
424 Lee Road  
20300-02-45

First Reading: October 25, 2016

Second Reading:

Third Reading:

Public Hearing: October 25, 2016

STATE OF SOUTH CAROLINA  
COUNTY COUNCIL OF RICHLAND COUNTY  
ORDINANCE NO. \_\_\_\_-16HR

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 # 20300-02-45 FROM RU (RURAL DENSITY DISTRICT) TO OI (OFFICE & 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 # 20300-02-45 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 \_\_\_\_\_, 2016.

RICHLAND COUNTY COUNCIL

By: \_\_\_\_\_  
Torrey Rush, Chair

Attest this \_\_\_\_\_ day of  
\_\_\_\_\_, 2016.

\_\_\_\_\_  
Michelle M. Onley  
Deputy Clerk of Council

Public Hearing:                   October 25, 2016  
First Reading:                   October 25, 2016  
Second Reading:                November 1, 2016 (tentative)  
Third Reading:                 November 15, 2016 (tentative)

# Richland County Council Request of Action

**Subject:**

Emergency Services Department: Fire Hose and Equipment Purchase

# Richland County Council Request of Action

**Subject:** Emergency Services Department: Fire Hose and Equipment Purchase

**A. Purpose**

The purpose of this report is to obtain Council approval to purchase hose and equipment that is needed for the new fire trucks recently received. Funding will come from the fire bond.

**B. Background / Discussion**

Richland County received 11 pumpers, four rescue trucks and an aerial (ladder) truck. Hose and equipment is needed to upgrade or replace older unusable equipment. The awards for two vendors exceed \$100,000 so Council's approval is needed.

Eight vendors responded to the hose bid. Three of the vendors submitted partial bids or bid hoses that did not meet flow and friction requirements.

The following vendor bids were accepted for 1 ¾ inch, 2 ½ inch, 5 inch and 6 inch hoses;

**HOSE**

<b>Wally's Fire</b>	<b>\$111,332.00</b>
Nafeco	\$112,957.67
Technology Intl.	\$117,506.00
Safe Ind.	\$118,716.00
A&A Fire Supply	\$127,358.94

\*Non Responsive Bidders – (Submitted partial bids or did not meet specs for flow requirements)

Dana Safety	\$103,275.00
Newton's	\$103,766.51
Tactical Fire	\$107,141.75

**Wally's Fire Equipment Company is the lowest, responsible and responsive bidder.**

<b>Total Hose Cost</b>	<b>\$111,332.00</b>
------------------------	---------------------

## EQUIPMENT

Equipment to replace or update older firefighting equipment is needed. Examples are nozzles and couplers, axes, pike poles, fire extinguishers, sledge hammers, bolt cutters, chain saw, rescue saw, lift bags, etc.

Six vendors responded to the bid request for equipment. Each vendor was a responsive and responsible bidder on at least one piece of equipment. One vendor's award exceeds \$100,000 so Council's approval is needed.

The following vendors will be awarded purchase orders for the following amounts:

<b>Vendor</b>	<b>Equipment Provided</b>	<b>Cost</b>
Municipal Emergency Services	All technical heavy rescue & crash extrication equipment to equip 4 new rescue trucks.	\$119,516.15
Newton's Fire	Firefighting rescue hydraulic hose, rescue saws, crash air rescue bags, and supplied air systems to equip 4 new rescue trucks.	\$ 37,901.52
Safe Indt.	Firefighting equipment to equip 11 new fire engines. I.e. Water moving appliances & firefighting nozzles.	\$ 30,158.00
Wally's	Ladder belts, rescue saws, crash bags, jacks & rescue stokes baskets to equip 4 rescue trucks.	\$ 23,046.44
Dana Safety	Large firefighting approved "Light Box" flash lights to equip 11 new fire engines and 4 rescue trucks.	\$ 2,422.74
Nafeco	Additional personal protective equipment for technical rescue & extrication equipment to equip 4 new rescue trucks. I.e. Helmets & gloves.	\$ 2,138.79
<b>Total</b>		<b>\$215,183.64</b>

This purchase was planned and funding is included in the fire bond account. No other funds are needed. Fire Bond 11790000

Hose Purchase	\$111,332.00
Equipment Purchase	\$215,183.64
-----	
TOTAL	\$326,515.64

**C. Legislative / Chronological History**

- 03/10/16 Final Specifications reviewed
- 05/05/16 Request for bids published
- 06/02/16 Bid closed for Equipment
- 06/15/16 Bids closed for Hose
- 09/08/16 Recommendation for award sent to Council

**D. Alternatives**

1. Approve the request to award the bids for the purchase of the Hose and Equipment to be placed on the new fire trucks. This will assist in having the proper equipment on each truck so firefighters have the equipment when responding to a fire call. New reliable equipment also improves firefighter safety. Not approving the purchases will result in the trucks not having the functional firefighting equipment needed for the mission.
2. Do not award the bids and the trucks will not have the proper functioning equipment. There are no apparent advantages for this alternative. Some of the disadvantages of this alternative are as follows:
  - Not awarding the bids and selecting different vendors will delay the purchase and may increase the cost.
  - Not awarding the bids and re-initiating the purchasing process will delay the purchase of the equipment and possibly increase the cost.
  - Not awarding the bids and attempting to re-use older equipment may create equipment shortages due to broken, unusable or unsafe equipment.

**E. Recommendation**

It is recommended that Council award bids for the hose and equipment to the vendors identified in the total amount of \$326,515.64 so that the needed equipment is placed on the new trucks and available for firefighting.



# Richland County Council Request of Action

**Subject:**

Conservation Department: Acceptance of Donated Property

## Richland County Council Request of Action

**Subject:** Conservation Department: Approval of Donation of Three Parcels for Conservation

### **A. Purpose**

County Council is requested to approve the donation of three small parcels of land for conservation and recreation purposes in the Longtown vicinity adjacent to a large county-owned parcel.

### **B. Background / Discussion**

In 2010, Richland County Conservation Commission (RCCC) accepted a donation from The Mungo Company of 236 acres, TMN 17500-03-67, which falls in Council Districts 2 and 7. The conservation values of the land include forested wetlands and protection of Roberts Branch, a major tributary of Crane Creek. Recreation opportunities exist for neighborhood hiking trails and outdoor classrooms. Both Longleaf Middle School and Sandlapper Elementary School are within easy walking distance of the property.

The Mungo Company has offered to donate three parcels within TMN 17500-03-42 that total five (5) acres and abut the large Richland County-owned tract. The Mungo Company has also agreed to provide a title opinion, general warranty deeds and recording of deeds. Both parcels #1 and 2 face Longreen Parkway and Spring Park Drive while #3 is on Longtown Road (see attached map). Parcel #1 is high ground with loblolly and longleaf pine predominant. This tract could provide parking for accessing a trail system and is separated from the neighbors by a tall retaining wall. Parcels #2 and #3 have wetlands, hardwood trees, and provide a welcome green buffer. Adding these parcels will eliminate difficult to distinguish property boundaries and provide road frontage to the county's larger parcel.

At their August 15, 2016 meeting, RCCC voted unanimously to accept the parcels since they adjoin and enhance the benefit of the large conservation property, protect more wetlands, and provide potential access for future nature-based recreation opportunities. Access to trails, greenways, and other nature-based recreational opportunities generally increases property values, economic benefits and quality of life for residents.

### **C. Legislative / Chronological History**

This is a staff and RCCC-initiated request; therefore, there is no legislative history.

### **D. Financial Impact**

Property taxes on the entire parcel amounted to \$20.97 taxes in 2015 so impact on county tax revenue is minimal. This property would be maintained as is and become a part of the larger conservation property. No additional expenditures will be required as long term operation and maintenance needs will be minimal as long as the properties are maintained in their current state. If plans are developed for future nature-based recreation opportunities such as trails or greenways, funding for their development as well as their long-term operation and maintenance will be secured from grants or other sources before implementation of the plans.

The property is offered as a donated for Conservation. The cost to the County would be

- the forgone taxes that are estimated to be immaterial
- any future cost for maintenance and upkeep
- any future cost for development for other uses

**E. Alternatives**

1. Approve the donation of five (5) acres adjacent to county-owned conservation land. The additional acreage will simplify boundaries, enhance the large tract, conserve additional acreage, and provide an easy access point for the development of future nature-based recreation opportunities such as trail building. There are no disadvantages.
2. Do not approve the donation of five (5) acres adjacent to county-owned conservation land. This would not conserve additional acreage or provide an easy access point for future nature-based recreation opportunities such as trail building.

**F. Final Recommendation**

It is recommended Council approve the donation of five acres in three parcels from The Mungo Company for conservation and recreation purposes. Council approval will allow conservation of these additional sensitive properties and provide an easy access point to the large county-owned tract for future nature-based recreation opportunities.

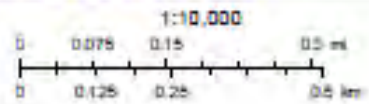
Attachment

Longtown Outparcels R17500-03-42



September 8, 2016

- Parcels
- Streams



Richland County  
Richland County E-Group

Map  
Copyright 2015

## Richland County Council Request of Action

**Subject:**

Building Inspections: Intergovernmental Agreement between Richland County and the Town of Eastover

## **Richland County Council Request of Action**

**Subject:** Building Inspections: Intergovernmental Agreement between Richland County and the Town of Eastover

### **A. Purpose**

In an effort to help the Town of Eastover during their search or training of a Certified Building Official, County Council is requested to approve an Intergovernmental Agreement which will allow the County to partner with the Town of Eastover, so that the County's Building Codes & Inspections Department can provide the service of required building code inspections and plan reviews for all residential and commercial buildings for the purpose of renovations, repairs, additions and new construction for the Town of Eastover for the purpose of providing code compliance for construction.

### **B. Background / Discussion**

Eastover does not have a Building Official that is trained in the Inspections required and are in need of assistance with reviews and inspections.

On approximately September 8, 2016 a request was made by the Mayor of Eastover to utilize Richland County's plan review and inspection services.

County Council approved a similar agreement with the Town of Eastover last year that has expired due to their being without a Building Official.

The Town of Eastover and Richland County Councils recognize the positive influence this project will have on the quality of life for residents of Eastover, and desire to provide essential services through inspections and plan review on all residential and commercial projects. If approved, Richland County will provide all Residential and Commercial Plan reviews, and Permitting and Inspections for residential and commercial projects only. The Town of Eastover will issue the zoning permit and all approvals needed for the project to move forward, at which time a LLR approved contractor will submit plans and apply for a permit to be issued by the Richland County Department of Building Codes & Inspections (hereinafter Department) and pay fees as established by County Council.

The proposed Agreement will continue in force for twelve (12) months, unless terminated sooner in writing by either party or upon the Town of Eastover's employment of its own Certified Building Official or upon the County's inability to provide said inspection services. This agreement may also be extended by written request prior to September 30, 2017 of the Town of Eastover Mayor or the Richland County Administrator.

The services for inspections and plan reviews will be handled by licensed County inspectors and plans examiners, as required by the South Carolina Department of Labor, Licensing and Regulation. The Building Official of Richland County shall interpret provisions of the applicable Building Code(s).

The fee for all inspections and re-inspections of newly-permitted projects are currently required by the County's most recent fee schedule, as adopted by the Richland County Council.

All existing permitted projects that have been previously issued by the Town of Eastover will be billed at \$31.59 for each required residential inspection and at \$52.66 for each required commercial inspection.

Funds to be collected will be minimal, as the construction in the Town of Eastover for residential and commercial projects are low. Approximately two or three inspection requests are estimated per week and will be handled by a certified inspector that carries both residential and commercial certifications.

Example of fees: The cost of a permit and plan review on a \$50,000 commercial building would be \$479.26 for the permit and \$91.06 for plan review. And for a residential building the permit fee would be \$210.52 and \$10.53 for plan review. This does not include permit fees for commercial subcontractors that would also be involved with the project and would require permits or re-inspection fees as needed.

**C. Legislative / Chronological History:**

- On approximately July 6, 2015 a request was made by the Mayor of Eastover to utilize Richland County's to provide plan review and inspections for residential and commercial construction for a six month period.
- In 2012 an agreement was made for a term of five (5) years from the date of execution or until sooner terminated by either party upon such party giving six months written notice to the other party of its intent to terminate this agreement. The County provided building permitting, plan review and inspection.

**D. Alternatives:**

1. Approve the request to provide building code service to the Town of Eastover. This will allow Eastover to be assured quality inspections and plan review for residential and commercial occupied structures trained and certified. Our inspections time is next day and plan review depending on complexity from 1 day to 1 week.
2. Do not approve services to Eastover and require them to seek other alternatives. Alternative measures would be a private sector inspections company. Depending on their workload and or qualifications as to quality of work/inspections/reviews could be good or bad. Time frame for inspections could be from 1 day to 3 days.
3. To make an agreement with Eastover to handle their inspections and plans reviews permanently. This will allow the quality inspections and reviews for the citizens of Eastover to be ongoing. This will save Eastover the cost of training an Individual in all areas of construction for residential and commercial which will take years to do.

**E. Final Recommendation:**

Department of Inspections currently recommends to County Council to approve the agreement in an effort to provide quality inspections, plan reviews for residential and commercial construction for the Town of Eastover.

STATE OF SOUTH CAROLINA ) INTERGOVERNMENTAL AGREEMENT  
 ) BETWEEN THE TOWN OF EASTOVER,  
 ) SOUTH CAROLINA; AND RICHLAND  
COUNTY OF RICHLAND ) COUNTY, SOUTH CAROLINA

THIS INTERGOVERNMENTAL AGREEMENT is made and entered into, in duplicate, this \_\_\_\_ day of \_\_\_\_\_, 2016, by and between the Town of Eastover and the County of Richland, South Carolina.

WHEREAS, it is the desire of the Town of Eastover to partner with Richland County in the provision of required building code permitting, inspection and plan review of residential and commercial buildings within the Town of Eastover for the purpose of providing code compliance for construction; and

WHEREAS, the Town of Eastover and Richland County Councils recognize the positive influence this project will have on the quality of life for residents of the Town of Eastover, and desire to provide essential services through inspections and plan review; and

WHEREAS, the Town of Eastover agrees that Richland County shall recoup costs for permitting, inspections and plan review as indicated below;

NOW, THEREFORE, in consideration of the services and agreement described herein, the parties hereto agree as follows:

1. Richland County agrees to provide building services, including permitting, plan review and inspections, within the Town limits of Eastover. The Town of Eastover agrees that in order to recoup the costs associated with the services provided under this Agreement, Richland County shall collect fees for such services as set out on the Richland County Fee Schedule, which is attached as Exhibit A. Richland County agrees that such fees shall be the same as those required for all similar building services within the unincorporated areas of Richland County.
2. The parties hereto agree that all permitting and communication with contractors and builders shall go through the Richland County Building and Inspections Department.
3. The Town of Eastover and Richland County agree that services for inspections and plan review will be handled by state licensed inspectors and plans examiners, as required by South Carolina LLR.
4. The Town of Eastover agrees that Richland County shall enforce within the Town limits of Eastover, the current edition of the Building Codes as adopted by the County and all other building codes adopted in Chapter 6 of the Richland County Code of Ordinances. All building code interpretations shall be made by the County Building Official. Building code interpretations of the Building Official of Richland County may be appealed to the Richland County Building Code Board of Appeals. In the event that an appeal is taken to circuit court based on the Board's decision, the Town



of Eastover agrees to pay the costs and expenses of legal counsel for the Board's defense and for the time any employee is required to testify during the appeal.

5. The County services provided pursuant to this Agreement shall be limited to building permitting, plan review and inspection services only. This agreement does not contemplate zoning or flood services, and such agreement for zoning services, if any, shall be negotiated and entered into separately.
6. This Agreement shall have a term of twelve (12) months from the date of execution or until sooner terminated by either party upon such party giving six months written notice to the other party of its intent to terminate this agreement. This Agreement may be amended, modified or changed only upon the written agreement between the County Council for Richland County and the Town Council for Eastover. Notwithstanding the above, this agreement may be extended upon the same terms by written agreement of the Town Mayor and County Administrator, provided Town makes a written request prior to September 30, 2017 to the Richland County Administrator.

IN WITNESS WHEREOF WE THE UNDERSIGNED have this \_\_\_\_\_ day of \_\_\_\_\_, 2016, set our hand and seal hereon.

TOWN OF EASTOVER:

WITNESSES:

\_\_\_\_\_  
Mayor

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

RICHLAND COUNTY:

WITNESSES:

\_\_\_\_\_  
Chair of County Council

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

EXHIBIT A

**RICHLAND COUNTY FEE SCHEDULE**

Permit fees for each category of work will be calculated on a per-building basis and shall be based on the total contract price or total value of work to be done or the per square foot values, for construction, as reported in the international codes council building safety journal for building valuation data, with one and two family dwellings calculates as follows: Average \$57.92 (less than 2,500 square feet of heated area); Best \$73.72 (2,500 square feet or more of heated area). The following dollar value and schedule will be used in calculating permit fees for each category of work to be performed.

- (1) Commercial construction and renovation:** Building, plumbing, gas, mechanical, roofing, sign, pool, barrier, storage, decks, building and fire protection, hood and/or fire suppression, electrical, communications, Security, sound and telephone systems:

TOTAL VALUE	FEE
Up to - \$5000.00	\$52.66
\$5000.01 - \$100,000	\$52.66 for the first \$5000.00 plus \$9.48 per \$1000.00 or fraction thereof
\$100,000.01 - \$1,000,000	\$953.26 for the first \$100,000 plus \$4.21 for each additional \$1000.00 or fraction thereof
\$1,000,000.01 - \$5,000,000	\$4,742.26 for the first \$1,000,000 plus \$3.16 for each additional \$1000.00 or fraction thereof
Over \$5,000,000	\$17,382.26 for the first \$5,000,000 plus \$2.10 for each additional \$1000.00 or fraction thereof

- (2) One and two-family dwelling construction and renovation and townhouses:** Building, plumbing, gas, mechanical, electrical, roofing, pool, barrier, deck, storage. Townhomes include fire protection communications, security, sound and telephone systems due to firewalls:

TOTAL VALUE	FEE
Up to - \$5000.00	\$21.07
Over \$5000	\$21.07 for the first \$5,000 & \$4.21 for each additional \$1000.00 or fraction thereof

- (3) Construction Trailer permits:** \$52.66
- (4) Demolition permits:**
- A) Residential Storage or garage detached \$26.33
  - B) One story residence \$52.66
  - C) Two story residence \$78.99
  - D) Commercial Building \$157.97
  - E) Three-story or more \$210.62 plus \$26.33 per story (Basement counts as a story)

(5) Land **development/Zoning Permits:** (one and two family only)

Detached garage and/or storage building:	\$5.27
Single Family dwelling under \$10,000	\$5.27
Single family dwelling \$10,000 or more	\$10.53
Two Family dwellings	\$15.80

(6) **Moving Permit:** (SEE NOTE:) \$52.66

**NOTE:** All structures, modular units and mobile homes moved within or into Richland County require zoning, building, and may require plan approvals prior to moving and relocation. All permits shall be obtained and fees paid prior to any move. All structures and modular units are classified as new construction for code compliance and are permitted as new construction. Permit shall be good for a maximum of 120 days from date of issuance and structure or modular unit completed and final inspections made with certificate of occupancy issued.

(7) **Miscellaneous/additional fees:**

(A) **Re-Inspection:** The fee for re-inspections resulting from work not being ready for inspection or being disapproved after the first re-inspection, shall be \$31.59 and \$52.66 for each additional re-inspection.

(B) **Commencing work without a permit:**

Where work requiring a permit is started prior to obtaining the permit, the applicable fee shall be double the amount of the usual permit fee.

(C) **Inspections:** Where no fee is indicated, or the inspection is not required: Residential \$26.33; Commercial \$52.66

(D) **Plan review fee:** (Plan review fees shall be paid in advance for commercial projects, to include townhouses.)

Residential: One and Two Family construction \$10.53

Commercial Construction & Townhouses: 19 % of permit fee.

**Note:** Percent (%) of permit fee is based on total construction cost.

(E) **Structures located within the floodplain:** Elevation certificates and inspections checklist fee of \$52.66 shall be required for new construction, additions, renovations, fences, pools, storage buildings and similar structures.

(F) **Electrical, Plumbing, Gas and HVAC Subcontractors:** Permits are not required for new construction, additions and remodeling work for residential property permitted by a licensed builder provided that the subcontractors are licensed with South Carolina division of LLR, have business license with Richland County, and are listed on the building permit application. Any subcontractor changes shall be reported before new subcontractor's work commences.

(G) Permit Transfer fee: \$5.27

(H) Permit Refund fee: (less inspections made.) \$10.53

(I)	Appeal of Building Official's decision:	\$26.33
(J)	Manufactured home set up or de-title fee:	\$142.18
(k)	Residential Metal buildings or contract price	\$15.26 sq. ft.
(L)	Open decks or open porches or contract price	\$15.26 sq. ft.
(M)	Pole buildings based on contract price	\$7.90 sq. ft.
(N)	Garages attached/detached no room over, storage building, and screen porches:	\$28.96 sq. ft.
(O)	Residential Boarded Structure fee:	\$26.33
(P)	Mix Use and Commercial Boarded fee:	\$52.66

**Section 6-51. Elimination of a permit fee for sub-contractor provided a South Carolina licensed general or residential contractor has already secured a single family residential permit and paid the fee.**

(a)Notwithstanding any other provision of this chapter, when a licensed contractor secures a building permit for the construction of a building or structure, and appropriate permit fee prescribed by the building permit fee schedule will be paid by the contractor. Subcontractor(s) performing work for a licensed contractor will obtain permit(s) for their respective appurtenances, and pay a fee, except for a single family residence. Trade application will display the contractor's name and building permit number so that all permits relating to the same construction can be assimilated. Under extenuating circumstances, the Building Official shall have the authority to adjust the building permit fee.

# Richland County Council Request of Action

**Subject:**

Department of Public Works – Dawson Pond Dam Repair Project

## **Richland County Council Request of Action**

**Subject:** Department of Public Works – Dawson Pond Dam Repair Project

### **A. Purpose**

County Council is requested to award the construction contract for the Dawson Pond Dam Repair Project (project) to Corley Construction, LLC in the amount of \$297,556.75. The funding for this project will come from the Roads & Drainage Budget.

### **B. Background / Discussion**

County Council directed staff to request an Attorney General's opinion on the potential liability that the County may assume if repairs are made to privately owned dams prior to proceeding with the repair of the Dawson Pond dam on March 1, 2016. On March 8, 2016, the County's Legal Department requested an opinion on the appropriateness of a county performing "[e]mergency work on private property with a stated public benefit or purpose."

In a letter dated September 23, 2016 (several weeks after Council Memorandum 8-3), the County received a response to its request, wherein the Attorney General affirmed a series of opinions generally prohibiting the use of public funds in support of a purely private effort. However, in light of the unique facts of this situation, including the presence of an easement in favor of Richland County that touches or concerns areas embraced by the pond area, County staff recommends moving forward with repairing the dam.

Dawson Pond, located in County Council District 2 at the intersection of Dawson Creek Road and Wilson Boulevard, was created by damming a portion of Rice Creek. Attached are maps which provide an aerial view of Dawson Pond. This area experienced a heavy rain event on the night of August 6, 2013. As a result, a portion of the existing dam (a "community" or "private" dam) failed and Wilson Boulevard flooded. As a point of reference, there is an existing plat stating that, if the pond was not there, then the County would have a permanent easement over the existing creek for maintenance – see attached deed and plat. Subsequently, County staff relayed to a willingness to explore repair options in light of the nexus to a County easement in the general repair area.

As detailed in the attached Council Memorandum 8-3, there were a number of mitigating factors that contributed to the delay of proceeding with the dam repair project, including the October 2015 flooding event. Subsequently, discussion ensued about the merits of alternative methodologies for financing dam repairs throughout the county, i.e., special taxing districts might be a more viable repair alternative since it would potentially facilitate "community" partnerships based on equity. Special taxing districts have since been successful deployed by the County.

However, as a matter of practicality staff recommends moving forward with this project as an exceptional repair in light of a County nexus to the repair footprint based on an easement to that area in favor of the County.

Staff is requesting that Council approve the award of the construction contract for the project to Corley Construction, LLC in the amount of \$297,556.75.

### **C. Legislative / Chronological History**

- Request for Proposal for the repair project was advertised December 2013
- The project design contract was awarded to Chao & Associates in April 2014
- Chao completed their preliminary design in August 2014 and work has begun to obtain a permit from the Army Corps. Of Engineers and access easements from the neighboring citizens
- The contract for the construction repairs for this project was advertised September 16, 2015
- The pre-bid and bid opening was held October 4, 2015
- The bid closed on October 13, 2016
- County Council directed staff to request an Attorney General's opinion on the potential liability that the County may assume if repairs are made to privately owned dams prior to proceeding with the repair of the Dawson Pond dam on March 1, 2016.
- Council Memorandum 8-3 was sent to County Council recommending to proceed with repairing the Dawson Pond dam
- The contract for the construction repairs for this project was re-advertised on September 16, 2016
- Attorney General Opinion dated September 23, 2016, received
- A pre-bid conference was held on October 4, 2016
- The solicitation for bids closed on October 13, 2016
- Corley Construction, LLC was the lowest responsive, responsible bidder, at a total of \$258,745.00. Adding a 15% contingency to this amount brings the total to \$297,556.75.

### **D. Alternatives**

1. County Council is requested to proceed with repairing the Dawson Pond dam in light of a general public interest in a County easement incident to the dam repair area, and award the construction contract for the Dawson Pond Dam Repair Project to Corley Construction, LLC in the amount of \$297,556.75.
2. Do not proceed with repairing the Dawson Pond dam in light of a general public interest in a County easement incident to the dam repair area, and do not award the construction contract for the Dawson Pond Dam Repair Project to Corley Construction, LLC in the amount of \$297,556.75.

### **E. Final Recommendation**

It is recommended that Council proceed with repairing the Dawson Pond dam in light of a general public interest in a County easement incident to the dam repair area, and award the construction contract for the Dawson Pond Dam Repair Project to Corley Construction, LLC in the amount of \$297,556.75. The funding for this project will come from the Roads & Drainage Budget.

THE STATE OF SOUTH CAROLINA )  
 )  
COUNTY OF RICHLAND )

C.R.

**EASEMENT AND RIGHT-OF-WAY DEED**  
*For Subdivision Drainage*

THIS INDENTURE made this the 8th day of December, 1999,  
by and between RTL GRADING, of the County and State aforesaid, Party of the First Part,  
and the County Council of Richland County, the governing body 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, as shown on plat feet in width, over and across the lands hereinafter described for the purpose  
of constructing, maintaining and/or improving a drainage system for conveyance of stormwater runoff across, through and under the  
lands hereinafter described, together with the right to excavate and refill ditches and/or trenches, and the further right to remove trees,  
bushes, undergrowth, crops and/or other obstructions interfering with the construction, maintenance and/or improvement of said  
drainage system:

**DESCRIPTION**

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 and acknowledges that said drainage system was designed and constructed by the Party  
of the First Part; that the drainage system will tend to collect surface waters into artificial channels and cast same on the lands  
adjoining said rights-of-way in concentrated form; 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 adequately pipe and ditch the lands adjoining said rights-of-way;  
and it is therefore agreed as one of the material considerations and inducements for acceptance of said drainage system by the Party  
of the Second Part, that the Party of the First part does hereby assume all risks of loss, damage, destruction or claims, of every kind,  
present or future, suffered by Party of the First Part, .....i.t.a..... heirs, assigns or successors in title resulting from the collection  
of surface water and casting of same onto said lands.

Richland County REC  
2000030438 John G Morris



Book 00405-0052  
2/00/03/38 09/02/2006 09:43:09 P2  
Easement  
Fee: \$0.00 County Tax: \$0.00 State Tax: \$0.00

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

It is understood and agreed that the Party of the First Part shall guarantee the herein described drainage system for a period of one year from the date of this Easement and Right-of-Way Deed and shall make any and all repairs as become necessary in the sole judgement of the Party of the Second Part or their representative.

And the Party of the Second Part, their successors in office, agree to maintain and repair said drainage system in a reasonably good and workmanlike manner thereafter.

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

SIGNED, SEALED AND DELIVERED  
IN THE PRESENCE OF:

John E. Beal

[Signature]  
As to Party of the First Part

Lisa M. Stewart

[Signature]  
As to Party of the Second Part

Richland County Attorney's Office

[Signature]  
Approved As To LEGAL Form Only.  
... Opinion, Rendered As To Content.

PARTY OF THE FIRST PART

RTL Grading, Inc

By [Signature] for RTL Grading

PARTY OF THE SECOND PART

By [Signature]

County Administrator

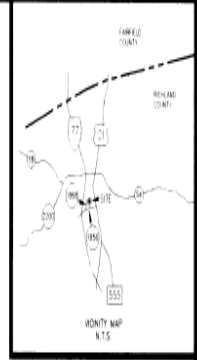
**Exhibit A**  
**Real Property Description**

**ALL those certain drainage easements situate, lying and being County of Richland, State of South Carolina, shown and designated on a Plat of Dawson's Creek Subdivision, prepared for RTL Grading, Inc., by J. H. Walker & Associates, dated October 31, 1998 and recorded in the office of the Register of Deeds for Richland County in Book 247 at Page 566 and having the metes and bounds as shown thereon.**

247-566

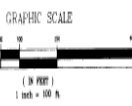
- LEGEND**
- = WATER METER
  - = POWER POLE
  - = STONE GRAN LINE
  - = SANDSTRY MOWER LINE
  - = OVERHEAD ELECTRIC LINE
  - = UNDERGROUND ELECTRIC LINE
  - = WIRE FENCE
  - = WOOD FENCE
  - = CHAIN LINK FENCE
  - = SET
  - = 400
  - = # 10040 (2)
  - = STONE GRAN HANDLE
  - = SAND STRIP HANDLE
  - = CATCH BASIN
  - = FIRE HYDRANT

CHAIN	LENGTH	BEARING	ADJACENT	BEARING	CHAIN
1	48.97	S 72° 00' 00" W	101.12	S 82° 30' 00" E	48.98
2	70.11	S 75° 00' 00" W	150.23	S 84° 30' 00" E	119.09
3	18.81	S 75° 00' 00" W	34.66	S 84° 30' 00" E	18.82
4	18.79	S 75° 00' 00" W	34.71	S 84° 30' 00" E	18.80
5	75.78	S 75° 00' 00" W	145.52	S 84° 30' 00" E	145.53
6	13.91	S 75° 00' 00" W	26.82	S 84° 30' 00" E	13.92
7	33.35	S 75° 00' 00" W	63.70	S 84° 30' 00" E	33.36
8	17.48	S 75° 00' 00" W	33.91	S 84° 30' 00" E	17.49
9	30.00	S 75° 00' 00" W	57.00	S 84° 30' 00" E	30.01
10	41.00	S 75° 00' 00" W	77.00	S 84° 30' 00" E	41.01
11	33.35	S 75° 00' 00" W	63.70	S 84° 30' 00" E	33.36
12	17.48	S 75° 00' 00" W	33.91	S 84° 30' 00" E	17.49
13	18.81	S 75° 00' 00" W	34.66	S 84° 30' 00" E	18.82
14	18.79	S 75° 00' 00" W	34.71	S 84° 30' 00" E	18.80
15	75.78	S 75° 00' 00" W	145.52	S 84° 30' 00" E	145.53
16	13.91	S 75° 00' 00" W	26.82	S 84° 30' 00" E	13.92
17	33.35	S 75° 00' 00" W	63.70	S 84° 30' 00" E	33.36
18	17.48	S 75° 00' 00" W	33.91	S 84° 30' 00" E	17.49
19	30.00	S 75° 00' 00" W	57.00	S 84° 30' 00" E	30.01
20	41.00	S 75° 00' 00" W	77.00	S 84° 30' 00" E	41.01
21	33.35	S 75° 00' 00" W	63.70	S 84° 30' 00" E	33.36
22	17.48	S 75° 00' 00" W	33.91	S 84° 30' 00" E	17.49
23	18.81	S 75° 00' 00" W	34.66	S 84° 30' 00" E	18.82
24	18.79	S 75° 00' 00" W	34.71	S 84° 30' 00" E	18.80
25	75.78	S 75° 00' 00" W	145.52	S 84° 30' 00" E	145.53
26	13.91	S 75° 00' 00" W	26.82	S 84° 30' 00" E	13.92
27	33.35	S 75° 00' 00" W	63.70	S 84° 30' 00" E	33.36
28	17.48	S 75° 00' 00" W	33.91	S 84° 30' 00" E	17.49
29	30.00	S 75° 00' 00" W	57.00	S 84° 30' 00" E	30.01
30	41.00	S 75° 00' 00" W	77.00	S 84° 30' 00" E	41.01



PROPERTY & ZONING  
 EXISTING USE OF PROPERTY: C-1  
 PROPOSED USE OF PROPERTY: RESIDENTIAL  
 ROW ACREAGE = 2.11 AC.  
 RESIDENTIAL ACREAGE = 2.04 AC.  
 TOTAL ACREAGE = 3.38 AC.  
 OWNER: R.T. SHAW, INC.  
 P.O. BOX 605  
 RAYLENSVILLE, NC 28781

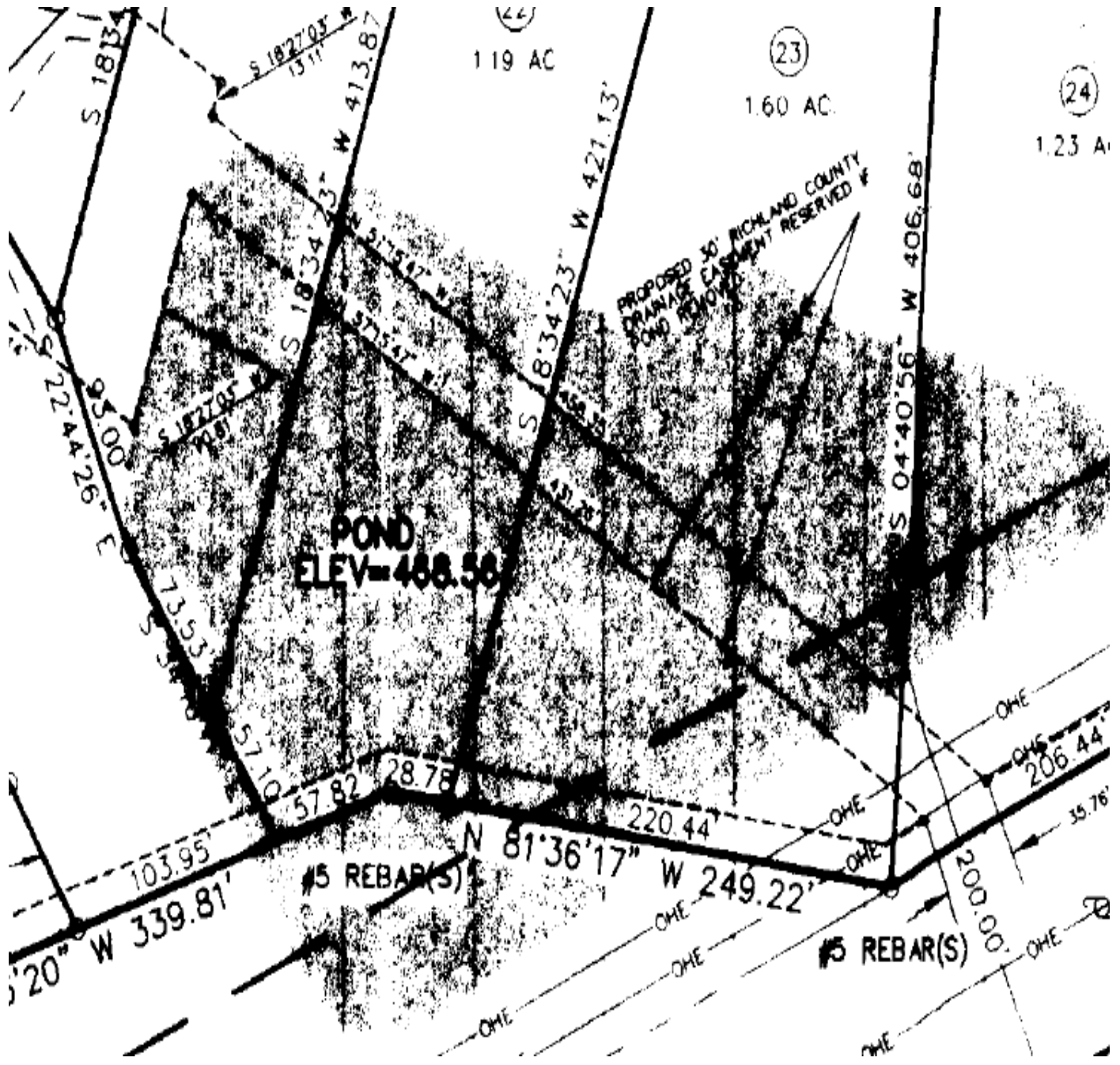
LINE	LENGTH	BEARING
1	1.74	S 70° 00' 00" E
2	10.00	S 77° 00' 00" E
3	17.70	S 70° 00' 00" E
4	10.00	S 77° 00' 00" E
5	10.00	S 77° 00' 00" E
6	10.00	S 77° 00' 00" E
7	10.00	S 77° 00' 00" E
8	10.00	S 77° 00' 00" E
9	10.00	S 77° 00' 00" E
10	10.00	S 77° 00' 00" E



NOTICE  
 THE HEREIN SHOWN IS SUBJECT TO ANY AND ALL EXISTING RESTRICTIONS, EASEMENTS AND/OR RIGHTS-OF-WAY OF RECORD.  
 APPROVED FOR RECORDING  
 RECORDER: [Signature]  
 DATE: 25 Nov 99  
 PW: [Signature]  
 PL: [Signature]  
 PLS: [Signature]  
 I HEREBY CERTIFY THAT I HAVE CONSULTED THE FEDERAL BUREAU OF INVESTIGATION FILES AND HAVE SEARCHED AND FOUND THAT THE ABOVE DESCRIBED IS NOT LOCATED IN A SPECIAL PLATD RECORD AREA FOR THIS PLATD. PASTORALISM © DATED JANUARY 18, 1994.

SUBDIVISION REVIEW EXTENDED FINAL PLAT Date: 25 Nov 99 Pl: [Signature] PLS: [Signature]	PREPARED FOR: <b>RTL GRADING</b>
	DESCRIPTION: <b>DAWSON'S CREEK SUBDIVISION</b> NEAR RAYLENSVILLE, ROWLAND COUNTY, NORTH CAROLINA
DATE: OCTOBER 01, 1998	APP # 87-102/PH/00000000
TAX MAP # 15000-05-019	
THE SAME BEING SHOWN ON A PLAT OF THE STATE OF NORTH CAROLINA PREPARED BY JAC. C. CONWAY, C.E., DATED MARCH 08, 1998, AND RECORDED IN THE REC. OFFICE FOR ROWLAND COUNTY IN PLAT BOOK W 47 PAGE 110.	
I HEREBY CERTIFY THAT THE PLAN SHOWN AND DESCRIBED HEREIN IS A TRUE AND CORRECT SURVEY TO THE ACCURACY REQUIRED BY THE ROWLAND COUNTY SUBDIVISION REGULATIONS AND THE MONUMENTS SHOWN HAVE BEEN PLACED TO THE SPECIFICATIONS SET FORTH IN THOSE REGULATIONS.	
I HEREBY STATE THAT TO THE BEST OF MY KNOWLEDGE, INFORMATION, AND BELIEF, THE SURVEY SHOWN HEREIN WAS MADE IN ACCORDANCE WITH THE REQUIREMENTS OF THE ROWLAND COUNTY SUBDIVISION REGULATIONS AND THE MONUMENTS SHOWN HAVE BEEN PLACED TO EXCESS THE REQUIREMENTS FOR A CLASS "B" SURVEY AS SPECIFIED THEREIN. ALSO, THERE ARE NO HIDDEN ENCUMBRANCES OR PROJECTIONS OTHER THAN SHOWN.	
[Signature]	DATE: [Signature]

J. H. WALKER & ASSOCIATES  
 100 SOUTH BROAD STREET  
 RAYLENSVILLE, NC 28781  
 PHONE: (704) 455-0702



# Richland County Map



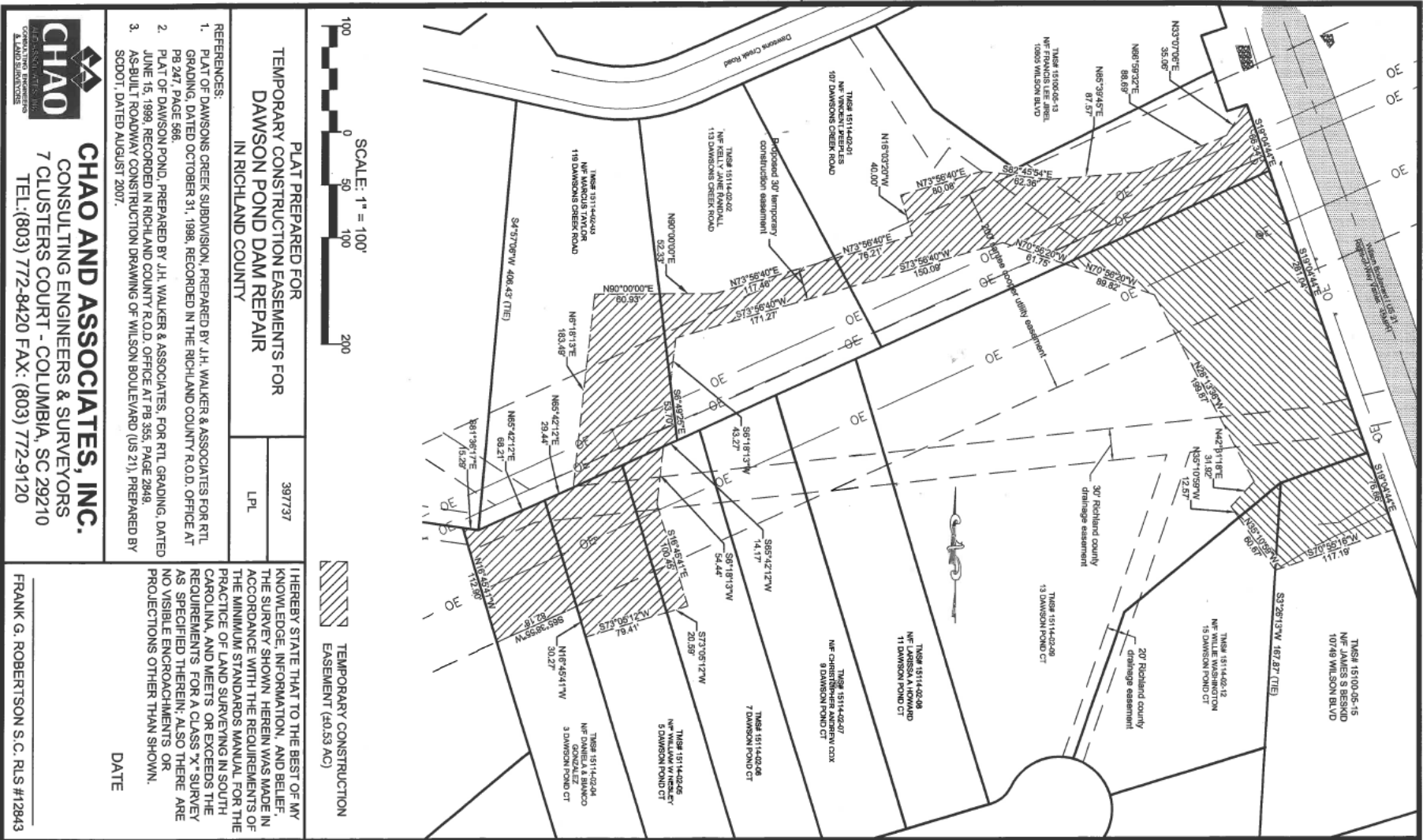
COPYRIGHT 2009, RICHLAND COUNTY GIS



DISCLAIMER: THIS IS A PRODUCT OF THE RICHLAND COUNTY GIS DEPARTMENT. THE DATA DEPICTED HERE HAVE BEEN DEVELOPED WITH EXTENSIVE COOPERATION FROM OTHER COUNTY DEPARTMENTS, AS WELL AS OTHER FEDERAL, STATE AND LOCAL GOVERNMENTS AGENCIES. RICHLAND COUNTY EXPRESSLY DISCLAIMS RESPONSIBILITY FOR DAMAGES OR LIABILITY THAT MAY ARISE FROM THE USE OF THIS MAP.



**Map illustrating the temporary easements for this project**



SCALE: 1" = 100'  
 0 50 100 200

**PLAT PREPARED FOR  
 TEMPORARY CONSTRUCTION EASEMENTS FOR  
 DAWSON POND DAM REPAIR  
 IN RICHLAND COUNTY**

397737	LPL
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- REFERENCES:
1. PLAT OF DAWSONS CREEK SUBDIVISION, PREPARED BY J.H. WALKER & ASSOCIATES FOR RTL GRADING, DATED OCTOBER 31, 1998, RECORDED IN THE RICHLAND COUNTY R.O.D. OFFICE AT PB 247, PAGE 568.
  2. PLAT OF DAWSON POND, PREPARED BY J.H. WALKER & ASSOCIATES, FOR RTL GRADING, DATED JUNE 15, 1999, RECORDED IN RICHLAND COUNTY R.O.D. OFFICE AT PB 355, PAGE 2849.
  3. AS-BUILT ROADWAY CONSTRUCTION DRAWING OF WILSON BOULEVARD (US 21), PREPARED BY SCDDOT, DATED AUGUST 2007.

 TEMPORARY CONSTRUCTION EASEMENT (±0.53 AC)

I HEREBY STATE THAT TO THE BEST OF MY KNOWLEDGE, INFORMATION, AND BELIEF, THE SURVEY SHOWN, HEREIN WAS MADE IN ACCORDANCE WITH THE REQUIREMENTS OF THE MINIMUM STANDARDS MANUAL FOR THE PRACTICE OF LAND SURVEYING IN SOUTH CAROLINA, AND MEETS OR EXCEEDS THE REQUIREMENTS FOR A CLASS "X" SURVEY AS SPECIFIED THEREIN; ALSO THERE ARE NO VISIBLE ENCROACHMENTS OR PROJECTIONS OTHER THAN SHOWN.

DATE



**CHAO AND ASSOCIATES, INC.**  
 CONSULTING ENGINEERS & SURVEYORS  
 7 CLUSTERS COURT - COLUMBIA, SC 29210  
 TEL: (803) 772-8420 FAX: (803) 772-9120

FRANK G. ROBERTSON S.C. RLS #12843

# BID TABULATION

## PROJECT: Dawson Pond Dam Repair

Richland County Public  
Works RC-PWE-101-  
1516

				Corley Construction, LLC 366 Firetower Road		Armstrong Contractors, LLC PO Box 291053 Columbia, SC 29229		Johnson & Lesley Construction 3201 Girardeau Avenue		Richardson Construction Co. 6806 Monticello Road	
ITEM	ITEM	UNI	QUANTIT	UNIT	TOTAL	UNIT	TOTAL	UNIT	TOTAL	UNIT	TOTAL
1	MOBILIZATION	LS	1	\$2,500.00	\$2,500.00	\$10,000.00	\$10,000.00	\$17,000.00	\$17,000.00	\$60,000.00	\$60,000.00
2	CLEARING & GRUBBING (ON-SITE)	AC	1	\$12,000.00	\$12,000.00	\$5,500.00	\$5,500.00	\$18,000.00	\$18,000.00	\$20,000.00	\$20,000.00
3	MISCELLANEOUS SITE DEMOLITION	LS	1	\$4,000.00	\$4,000.00	\$3,500.00	\$3,500.00	\$8,000.00	\$8,000.00	\$10,000.00	\$10,000.00
4	REMOVE & STOCKPILE EXISTING DAM EMBANKMENT (INCLUDES EXCESS FOR CLAY	CY	4,770	\$6.00	\$28,620.00	\$10.00	\$47,700.00	\$8.00	\$38,160.00	\$10.00	\$47,700.00
5	CONSTRUCT NEW DAM EMBANKMENT (IMPORT CLAY	CY	3,225	\$20.00	\$64,500.00	\$35.00	\$112,875.00	\$31.00	\$99,975.00	\$24.00	\$77,400.00
6	CONSTRUCT NEW DAM EMBANKMENT (REUSE	CY	3,825	\$11.00	\$42,075.00	\$10.00	\$38,250.00	\$10.00	\$38,250.00	\$12.00	\$45,900.00
7	HAUL-OFF EXCESS MATERIAL	CY	2,700	\$9.00	\$24,300.00	\$10.00	\$27,000.00	\$11.00	\$29,700.00	\$10.00	\$27,000.00
8	SILT FENCING	LF	2,000	\$5.00	\$10,000.00	\$5.50	\$11,000.00	\$5.00	\$10,000.00	\$10.00	\$20,000.00
9	GRAVEL CONSTRUCTION ENTRANCE	EA	1	\$2,500.00	\$2,500.00	\$2,750.00	\$2,750.00	\$3,000.00	\$3,000.00	\$8,000.00	\$8,000.00
10	TURF REINFORCMENT MATTING	SY	1,000	\$6.00	\$6,000.00	\$8.80	\$8,800.00	\$3.00	\$3,000.00	\$12.00	\$12,000.00
11	RIP RAP APRON	LS	1	\$4,300.00	\$4,300.00	\$3,850.00	\$3,850.00	\$10,000.00	\$10,000.00	\$8,000.00	\$8,000.00
12	GRASSING (HYDROSEEDING)	AC	2.5	\$2,500.00	\$6,250.00	\$2,750.00	\$6,875.00	\$2,000.00	\$5,000.00	\$3,000.00	\$7,500.00
13	36" RCP	LF	50	\$200.00	\$10,000.00	\$50.00	\$2,500.00	\$135.00	\$6,750.00	\$200.00	\$10,000.00
14	30" RCP	LF	40	\$190.00	\$7,600.00	\$45.00	\$1,800.00	\$125.00	\$5,000.00	\$200.00	\$8,000.00
15	18" RCP (TEMPORARY)	LF	36	\$100.00	\$3,600.00	\$35.00	\$1,260.00	\$50.00	\$1,800.00	\$200.00	\$7,200.00
16	6" SLOTTED PVC TOE DRAIN	LF	450	\$10.00	\$4,500.00	\$12.00	\$5,400.00	\$43.00	\$19,350.00	\$30.00	\$13,500.00
17	OUTLET CONTROL STRUCTURE - PRIMARY SPILLWAY	EA	2	\$7,000.00	\$14,000.00	\$9,900.00	\$19,800.00	\$10,000.00	\$20,000.00	\$25,000.00	\$50,000.00
18	CONCRETE LINED SPILLWAY - AUXILLIARY SPILLWAY	EA	2	\$5,000.00	\$10,000.00	\$5,500.00	\$11,000.00	\$6,250.00	\$12,500.00	\$18,000.00	\$36,000.00
19	WETLAND REPAIR (APPROXIMATED SEDIMENT	CY	200	\$10.00	\$2,000.00	\$33.00	\$6,600.00	\$20.00	\$4,000.00	\$100.00	\$20,000.00
<b>Total of Base Bid</b>					<b>\$258,745.00</b>		<b>\$326,460.00</b>		<b>\$349,485.00</b>		<b>\$488,200.00</b>



October 13, 2016

Ms. Allison Steele  
Richland County Public Works  
400 Powell Road  
Columbia, South Carolina 29223

RE: Dawson Pond Dam Repair, Contract Award Recommendation  
Richland County, South Carolina

Ms. Steele,

We have reviewed and tabulated the bids that were received on October 13, 2016 for the referenced project. Enclosed is a copy of the bid tabulation form. Four bids were received and opened. Corley Construction, LLC was the low bidder with a bid amount of \$258,745.00.

Corley Construction, LLC provided a responsive bid package, with acknowledgement of Addendum 1. Accordingly, we recommend that this project be awarded to Corley Construction, LLC.

We look forward to proceeding with this important project. Please let us know if you have any questions or if we might provide additional information. It is our pleasure to be of service to Richland County.

Sincerely,

A handwritten signature in green ink that reads "Justin Smith".

Justin Smith, P.E., LEED AP  
Chao and Associates, Inc.

Encl. Bid Tabulation







# RICHLAND COUNTY GOVERNMENT

Office of the County Administrator

## COUNCIL MEMORANDUM 8-3

**Date:** August 30, 2016  
**To:** County Council  
**From:** Gerald Seals, Interim County Administrator  
**Subject:** The Dawsons Pond Promise

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As promised in an August 29, 2016 email titled “3 years Dawsons Pond Blythewood,” I have been debriefed on the “Dawson Promise.”

Dawson Pond, located in County Council District 2 at the intersection of Dawson Creek Road and Wilson Boulevard, was created by damming a portion of Rice Creek. Attached are maps which provide an aerial view of Dawson Pond. This area experienced a heavy rain event on the night of August 6, 2013. As a result, a portion of the existing dam (a “community” or “private” dam) failed and Wilson Boulevard flooded. Subsequently, County staff promised the homeowners that the government of Richland County would repair the dam. The “Dawson Promise” was not reduced to writing but was well communicated and understood by the community and County staff as a promise made by the County.

Subsequently, during the stress of the October 2015 floods, administration developed “cold feet,” second-guessing itself as a result of concerns about the precedent that repairing the dam would establish. Discussion ensued about the merits of alternative methodologies for financing dam repairs throughout the county, i.e., special taxing districts might be a more viable repair alternative since it would potentially facilitate “community” partnerships based on equity. Special taxing districts have since been successfully deployed by the County. It was the apparent conclusion of administration, that such methodologies as the special taxing districts have merit since their utilization would not tax County financing, would secure equity partnerships, and would not “slip” the government of Richland County into the “business” of community/private dam construction and repair.

County Council discussed Dawson Pond in executive session at its March 1, 2016 Council meeting and directed the Legal Department to request an Attorney General’s opinion relative to the possible assumption of liability on behalf of the County for making repairs or performing work on privately owned property. The County’s Legal Department has requested the opinion and is awaiting a response. It appears that County Council took no action to “stay” the “Dawson Promise.

The following “bullet” points respond to the questions from Councilman Malinowski.

- Correspondence between staff and the homeowners tend to affirm the existence of the “Dawson Promise.”
- That staff solicited bids and planned to present Council with a request to award a contract to a vendor to complete the dam repairs in November 2015 with the funding for the project coming from the County’s Roads & Drainage Budget tends to affirm the existence of the “Dawson Promise.”
- Administration rationalized the flooding event of October 2015 provided reason to delay any action toward implementing the “Dawson Promise.”
- Because the noted damages to the dam occurred prior to the October 2015 flooding event, federal financial assistance for the repair of the dam is not a viable funding option.

The practical result of this internal reflection by staff was a “standing promise” without follow-up, status reporting, or action thereon. The community now requests a status report and that the government of Richland County take action on the “Dawson Promise.”

County records reveal a November 2015 winning bid of \$299,520.00 by Armstrong Contractors to perform the repairs to the dam. During an August 30, 2016 phone query and a follow up email, Armstrong Contractors affirmed its November 2015 bid is expired. Re-bidding is now needed because the Armstrong Contractors November 2015 bid is expired. The following schedule applies:

Item	Completion Date Not to Exceed
Re-bid dam repair project	September 16, 2016
Close bid for dam repair project	October 17, 2016
Review bids and recommend vendor	October 20, 2016
Present recommended vendor to the A&F Committee for their consideration	October 25, 2016
Present A&F Committee’s recommendation to Council for their consideration	November 15, 2016

The question before the County is, “Should the County honor the ‘Dawson Promise?’” Acknowledging that an opinion from the Attorney General is pending, it is questionable that any opinion from the Attorney General would vitiate the fact that the government of Richland County is the source of the “Dawson Promise.” To achieve said vitiation, the Attorney General would need to declare the “Dawson Promise” illegal, a conclusion that would probably need to be affirmed judicially.

As a matter of practicality (and subject to a contrary conclusion by County Attorney Smith) to not honor the “Dawson Promise” requires County Council to override the “Dawson Promise.” Honoring the “Dawson Promise” is, I believe, the prudent course of action. However, this recommendation to honor the “Dawson Promise” should be considered a “narrow” recommended corrective action and not be construed as a policy recommendation that the County get into the business of repair and maintenance of private facilities. The policy regarding the role of the government of Richland County with regard to “private” facilities such as this dam remains and can only be addressed by County Council. Accordingly, I have directed staff to place all measures attendant to honoring the “Dawson Promise” on the agenda of County Council for award action.

As a matter of courtesy the inquirers from the community will be notified that the matter has been placed on the Council's November 15, 2016 agenda for consideration.

No later than December 16, 2016, staff will identify approaches that County Council may consider as it deliberates the role of the government of Richland County in the repair and maintenance of privately owned dams.

Attached is a draft letter that will be mailed to the residents of Dawson Creek on September 5, 2016.

In the Spirit of Excellence,

A handwritten signature in dark ink, appearing to read 'Gerald Seals', with a large, stylized initial 'G'.

Gerald Seals  
Interim County Administrator

# Richland County Council Request of Action

**Subject:**

Professional Services / Airport Work Authorization 10

# Richland County Council Request of Action

**Subject:** Professional Services / Airport Work Authorization 10

**A. Purpose**

County Council is requested to approve a Work Authorization (WA) for professional services with WK Dickson & Company, Inc of Columbia, SC for design services for an airfield lighting signage project at the Jim Hamilton – LB Owens Airport (CUB).

**B. Background / Discussion**

The Jim Hamilton – LB Owens Airport (CUB), despite being a busy General Aviation (GA) reliever Airport which serves a large municipal area, does not have airfield lighted directional signs. This is a glaring deficiency which we will now be able to address.

Though long identified as an airport need in our Airport Capital Improvement Plan (ACIP), the project has been crowded out by much larger projects (obstruction clearing, fencing, and land acquisition). Installation of these signs will facilitate safe and efficient nighttime movement by aircraft on the airfield.

Work Authorization 10 (WA 10) provides the necessary survey, design, and bidding services for this project in anticipation of construction during the next Federal fiscal year (FY).

However, due to the late finalization of the grant due to the last-minute rejection of a neighboring property land acquisition offer, the typical 90% Federal funding level will not initially be met.

Additionally, due to the questionable availability of the usual 5% State funding (as well as the availability of sufficient local funds), we request that approval be granted with only the availability of Federal and Local funds at this time. We anticipate ultimately being able to obtain both State funding as well as reimbursement of Federal funds up to the 90% project cost level.

A copy of the consultant’s Work Authorization amendment is contained as an enclosure to this request.

The funding for this project will be provided by grant and local funds as follows:

Federal (FAA)	\$ 75,600	AIP Grant
Local (RC)	<u>\$ 42,100</u>	Included in the FY17 airport budget
Total	\$117,700	

Federal funds have been issued in AIP Grant 3-45-0017-022-2016. Local funds are included in the current FY airport capital budget.

**C. Legislative / Chronological History**

The following prior actions by Richland County Council and Administration relate to this request:

February 2011     Airport Master Plan approved  
June 2012         Master Agreement with WK Dickson & Company, Incorporated awarded

**D. Alternatives**

The alternatives available to County Council follow:

1. Approve the request to authorize executing Work Authorization 10 for the professional services described herein and further described in detail in the enclosure to this document. This will permit the enhancement airport safety and compliance with FAA-recommended airfield design standards.
2. Do not approve the request to authorize executing this Work Authorization.

**E. Final Recommendation**

It is recommended that Council approve the request to authorize executing Work Authorization 10 to be performed by the staff of WK Dickson & Company, Incorporated.

Council approval of this recommendation will result in the following:

1. WK Dickson & Company, Inc. of Columbia, SC will be authorized to perform professional services relative to the design for an airfield lighting signage project at the Jim Hamilton – LB Owens Airport (CUB).
2. Authorize the use of Federal AIP grant funds in the amount of \$75,600 and County funds in an amount of \$42,100 for a total of \$117,700 allocated to WK Dickson & Company, Inc. for the design services. The County funds being authorized were included in the Airport Department’s approved FY-17 budget.

**WORK AUTHORIZATION NO. 10**

**September 1, 2016**

**FOR:  
BASIC CONTRACT FOR PROFESSIONAL SERVICES  
AIRFIELD LIGHTED SIGNAGE  
DESIGN THROUGH BIDDING PHASE SERVICES**

**PROJECT OVERVIEW**

Work Authorization No. 10 is for the Design through Bidding Phase services for the design of Airfield Lighted Signage at the Jim Hamilton – L.B. Owens Airport (CUB).

The OWNER requests that the CONSULTANT provide the professional land surveying and professional engineering services necessary to complete the Plans and Specifications for this project (Design Phase) and prepare and conduct a Bid Opening (Bid Phase services) and recommendation of award.

**SCOPE OF SERVICES**

The OWNER wishes the ENGINEER to provide Design through Bidding services to prepare for the future construction of Airfield Signage for Runway 13-31, Taxiway Signage for Taxiway "A" and Taxiways "A-1" through "A-5" at the Jim Hamilton – L.B. Owens Airport (CUB).

**I. BASIC SERVICES**

**A. Project Development**

The CONSULTANT to provide, at a minimum, the following elements:

- Perform Preliminary Engineering
- Develop Project Formulation
- Prepare necessary scopes and Task Orders
- Project Set-up and Administration
- Coordinate periodically with the FAA and SCAC
- Attend Monthly County Airport Commission Meetings, as requested
- Assist with Quarterly Reporting to the FAA
- On the County's behalf, prepare and submit a "Pre" and "Final" Grant Application to the Federal Aviation Authority (FAA) and the South Carolina Aviation Commission (SCAC)
- "Other" Administrative tasks to administer the grants, as deemed necessary
- Submit required Grant Close-Out Documentation

**B. Design**

The CONSULTANT to prepare the following elements:

- Engineering Plans
- Cost Estimate(s)
- Engineering Report
- Contract Documents and Specifications
  - Existing Electrical System Demolition
  - New LED Taxiway Guidance Signage
  - New LED Runway Guidance Signage
  - New Lighting and Signage circuits in conduit
  - New Duct-Banks and Junction Can Plazas
  - Vault Modifications, including new Regulators and a new Lighting Control Panel, as required

**C. Bidding**

The CONSULTANT to prepare the following elements:

- "Issued for Bid" Plan Distribution
- Plan Room Coordination
- Prepare for, Attend and Conduct Pre-Bid Meeting
- Address all Requests for Information (RFIs)
- Issue Addenda as necessary
- Prepare for, Attend and Conduct Bid Opening, Review Bids, perform Bid Results Analysis and Review
- Determine Lowest Responsive and Responsible Bidder. Make Recommendation of Award to the Sponsor

**II. SPECIAL SERVICES**

**A. Field Surveys**

Surveying services are listed below:

- Field locate, map, identify and compile an inventory of the Electrical vault, all existing Runway Edge Lights, Taxiway Edge Lights, NAVAIDS and Signage
- Survey all outlet locations and conduits
- Locate and Map Pavement edge locations
- Prepare site planimetric survey and prepare base-mapping



This WORK AUTHORIZATION authorizes the ENGINEER to provide the professional services described. The schedule of services to be provided and fees include:

**COMPENSATION**

**I. BASIC SERVICES**

A. Project Development Phase	Lump Sum	\$15,800.00
B. Design	Lump Sum	\$71,200.00
C. Bidding	Lump Sum	\$14,200.00
	<b>Basic Services Subtotal</b>	<b>\$101,200.00</b>

**II. SPECIAL SERVICES**

A. Field Surveys	Lump Sum	\$16,500.00
	<b>Special Services Subtotal</b>	<b>\$16,500.00</b>

**WORK AUTHORIZATION No. 10 TOTAL** **\$117,700.00**

**ADDITIONAL WORK**


Any additional work required but not contained in the above scope of services will be paid for in accordance with the following rate schedule and will be subject to prior approval by the OWNER.

This work is eligible for participation by the Federal Aviation Administration (FAA) and the South Carolina Aeronautics Commission (SCAC). Grant assistance is included in this WORK AUTHORIZATION.

Requested by:

Accepted by:

\_\_\_\_\_  
Gerald Seals  
Interim County Administrator  
Richland County, South Carolina

  
\_\_\_\_\_  
Terry A. Macaluso, PE  
Vice President  
W. K. Dickson & Co., Inc.

\_\_\_\_\_  
Date

  
\_\_\_\_\_  
Date

**W.K. DICKSON & CO., INC.**  
**2016 RATE SCHEDULE**

**LABOR**

**2016**

Principal	\$ 205.00/hr.
Senior Project Manager	\$ 180.00/hr.
Project Manager	\$ 156.00/hr.
Senior Technical Manager	\$ 180.00/hr.
Technical Manager	\$ 156.00/hr.
Senior Project Engineer	\$ 146.00/hr.
Project Engineer	\$ 128.00/hr.
Senior Scientist	\$ 125.00/hr.
Scientist	\$ 110.00/hr.
Landscape Architect	\$ 170.00/hr.
Senior Planner	\$ 160.00/hr.
Planner	\$ 115.00/hr.
Senior Designer	\$ 115.00/hr.
Designer	\$ 102.00/hr.
Senior Technician	\$ 105.00/hr.
Technician	\$ 86.00/hr.
Senior GIS Analyst	\$ 125.00/hr.
GIS Analyst	\$ 105.00/hr.
GIS Technician	\$ 90.00/hr.
Field Survey Party	\$ 128.00/hr.
Professional Land Surveyor	\$ 150.00/hr.
Senior Construction Observer	\$ 125.00/hr.
Construction Observer	\$ 97.00/hr.
Administrative Assistant	\$ 65.00/hr.

**EXPENSES**

Reproduction:	
♦ Xerox	Cost
♦ Blacklines	Cost
♦ Mylars	Cost
♦ Sepias	Cost
Mileage	IRS Rate (currently \$0.54/mile)
Telephone, Postage	Cost
Travel (Meals/Lodging)	Cost
Subconsultants	Cost + 10%

**Note:** The above rates are effective January 1, 2016. WK Dickson reserves the right to revise to reflect inflationary increases.

Revised 12-21-15

# Richland County Council Request of Action

**Subject:**

Public Defender's Office: Approval of Four (4) New Attorney I Positions

## Richland County Council Request of Action

**Subject:** Public Defender's Office: Approval of New Attorney I Positions

### **A. Purpose**

County Council is requested to authorize five (5) additional Attorney I positions for the Public Defender. Four of the positions will be utilized in the Richland County's Public Defender Office and the remaining position will be utilized in the Public Defender's Kershaw County Office.

### **B. Background / Discussion**

The County's Public Defender's Office adjudicates approximately 10,000 cases a year. Processing this amount of cases requires a staffing level of approximately 46 attorneys, pursuant to the National Advisory Commission on Criminal Justice Standard.

The Richland County office currently has 29 full-time attorneys, and authorized by County Council to employ up to 33 attorneys. Council approval of four additional attorneys would increase the maximum our staffing capacity for attorneys to 37.

Kershaw County employees of the Public Defender are employees of Richland County since Richland County is the Administering County for the Public Defender. Kershaw County currently has three (3) Public Defenders, County Council having most recently approved an addition of one (1) Public Defender in 2014.

An evaluation of the needs of the operation in Kershaw County conducted by the Public Defender early on revealed the need for no fewer than four (4) attorneys to staff that office at an even minimally satisfactory level. I have lobbied Kershaw County Council consistently since my appointment as Circuit Public Defender in 2008 to increase funding sufficiently to expand the operation there. In 2014 Kershaw County Council approved an increase in the amount of \$50,000 for the operation of the Public Defender office there enabling the addition of another position there. Again this year Kershaw County has approved an additional \$50,000.00 in funding for the Public Defender, which enables the office to hire another attorney – expanding to four (4) the number of attorneys in that office.

The addition of another attorney's position in Kershaw County will enable the office to reduce its caseloads, currently running between 300 and 400 active charges per attorney, to a level which is more in line with national standards. This will both enhance the service to our clients in Kershaw County, and assist in reducing the backlog of cases in that jurisdiction.

This additional position involves no expenditure of Richland County funding. Richland County is fully reimbursed for the costs of all positions in Kershaw County with Kershaw County funds, and State funding allocated to Kershaw County.

Failure to staff at a minimally adequate level may impact the quality of services, the reliability of results, and ultimately costs, both direct and tangential, to the county.

There is no financial impact associated with this request. The positions will be paid for by an increase in State funding for this office (FY 2017 State Budget, Section 61 – The Office of Indigent Defense) in the amount of \$520,514.93 for the Richland County Public Defender Office and. Also, this line item increase is an annually recurring increase.

<b>Funding Source</b>	<b>Richland County Public Defender Office</b>	<b>Kershaw County Public Defender Office</b>
State	\$520,514.93	\$83,521.13
Kershaw County	\$0	\$50,000.00
<b>Total</b>	<b>\$520,514.93</b>	<b>\$133,521.13</b>

Any additional funding – be it for staff or other expenses in this office – will be taken up during the County’s budget process for FY18.

The request is a funding decision and is within Council Discretion. Approval of the positions would not require any additional funding by the County and is not an assessment of the departmental need as the County’s Human Resources department has not conducted any staffing assessments relative to the Public Defender’s Office.

The funding needed for the additional four positions would be absorbed through the annual recurring State and Kershaw County funds received by the office. Council approval of this request would require a budget amendment which includes three Council readings and a public hearing.

**C. Legislative / Chronological History**

There is no legislative history associated with this request.

**D. Alternatives**

1. Approve the request to authorize five (5) additional Attorney I positions for the Public Defender. Four of the positions will be utilized in the Richland County’s Public Defender Office and the remaining position will be utilized in the Public Defender’s Kershaw County Office. Approval of this alternative will enable the office there to pursue its goal of attaining minimum adequate staffing, thereby assisting the office in providing the best quality, constitutionally mandated, representation to indigent clients, while also reducing the backlog of cases on the criminal docket with the attendant lessening of associated costs to Richland County.
2. Approve the request to authorize a different number of additional Attorney I positions for the Public Defender than the recommended number of positions to be utilized in the Richland County’s Public Defender Office the Public Defender’s Kershaw County Office. Approval of this alternative, depending on the number of positions authorized may enable the office there to pursue its goal of attaining minimum adequate staffing, thereby assisting the office in providing the best quality, constitutionally mandated, representation to indigent clients, while also reducing the backlog of cases on the criminal docket with the attendant lessening of associated costs to Richland County. If this alternative is selected and the

Council authorizes more than four positions, then the County may have to commit additional recurring funding to cover any positions more than four.

3. Do not approve the request. This alternative may impact the ability of the Richland County Office to deliver vitally necessary services to the citizens of the County as provided by the Public Defender's Office.

**E. Final Recommendation**

I recommend that County Council approve this request, and authorize the addition of four (4) Attorney I positions in the Richland County Public Defender's office, thereby raising the total authorized attorney positions to thirty-seven (37), and authorize the addition of one Attorney I position in Kershaw County Public Defender's office to be paid for with Kershaw County and State funds.

# Richland County Council Request of Action

**Subject:**

Solicitor's Office: Approval of Body Worn Camera Grant Award

## Richland County Council Request of Action

**Subject:** Solicitor's Office: Approval of Body Worn Camera Cash Award

### **A. Purpose**

County Council is requested to approve a one-time Cash Award allocation from the South Carolina Public Safety Coordinating Council to the Solicitor's Office from the Body Worn Cameras fund in the amount of \$144,416. The funds are designated for the purchase of equipment, storage and/or maintenance of Body Worn Camera video evidence used in the prosecution of criminal cases.

### **B. Background / Discussion**

This funding is being provided pursuant to SC Code of Laws Section 23-1-240, the South Carolina Public Safety Coordinating Council (SCPSCC) has been given oversight of the funding and disbursement of the Body Worn Cameras (BWC) Fund. The legislation states that the SCPSCC "...shall oversee the fund...and disburse the funds in a fair and equitable manner, taking into consideration priorities in funding". In accordance with the above, the Solicitor's Office has been awarded this Cash Award funding to be used for the purchase of associated storage and maintenance of Body Worn Camera video evidence. We do not anticipate requesting any future funds for "maintenance". These funds are not for body cameras purchases. These funds are to assist this office in purchasing software to allow for redaction of the body camera videos and transcription fees to comply with Rule 5 of criminal procedures.

### **C. Legislative / Chronological History**

SC Code of Laws Section 23-1-240 (E)1 states a 'Body-Worn Cameras Fund' is established within the Department of Public Safety for the purpose of assisting state and local law enforcement agencies, the Attorney General's office, solicitors' offices, and public defenders' offices in implementing the provisions of this section, including, but not limited to, the initial purchase, maintenance, and replacement of body-worn cameras and ongoing costs related to the maintenance and storage of data recorded by body-worn cameras. The Public Safety Coordinating Council shall oversee the fund, and shall, within one hundred eighty days of the effective date of this act, establish a process for the application for and disbursement of monies to state and local law enforcement agencies, the Attorney General's office, solicitors' offices, and public defenders' offices. The Public Safety Coordinating Council shall disburse the funds in a fair and equitable manner, taking into consideration priorities in funding.

### **D. Alternatives**

1. Approve the request to ensure that the proper storage and maintenance of Body Worn Camera video evidence is maintained and readily available for the prosecution of video evidence in criminal cases. ...
2. Do not approve would result in forfeiting the funds and not being able to adequately prosecute criminal cases with video evidence.

### **E. Final Recommendation**

It is recommended that Council approve the request to accept the Body Worn Camera Cash Award to the Solicitor's Office in the amount of \$144, 416.



SOUTH CAROLINA DEPARTMENT OF PUBLIC SAFETY  
OFFICE OF HIGHWAY SAFETY AND JUSTICE PROGRAMS  
P. O. BOX 1993  
BLYTHEWOOD, SOUTH CAROLINA 29016

**BODY-WORN CAMERAS FUND**

**CASH AWARD**

Award Recipient: Fifth Circuit Solicitor's Office

Date of Award: August 1, 2016

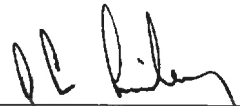
Amount of Award: **\$144,416**

Pursuant to the SC Code of Laws, §23-1-240, the South Carolina Public Safety Coordinating Council (SCPSCC) has been given oversight of the funding and disbursement of the "Body-Worn Cameras (BWC) Fund." The legislation states that the SCPSCC "...shall oversee the fund...and disburse the funds in a fair and equitable manner, taking into consideration priorities in funding." In accordance with the above, your agency is being awarded funding to be used for the purchase of body-worn cameras, and/or associated storage/maintenance.

**This agreement shall become effective as of the Date of Award, contingent upon the return of this form to the Office of Highway Safety and Justice Programs, signed by the Chief/Sheriff/Director (Official Authorized to Sign) in the space provided below. This award must be returned to the Office of Highway Safety and Justice Programs within 30 days of the Date of Award above.**



\_\_\_\_\_  
Ed Harmon, Assistant Director/  
Justice Programs Administrator  
Office of Highway Safety and Justice Programs



\_\_\_\_\_  
Phil Riley, Director  
Office of Highway Safety and Justice Programs

**ACCEPTANCE OF FUNDING**



\_\_\_\_\_  
Signature of Official Authorized to Sign

**This award is subject to the attached conditions.**



# South Carolina Department of Public Safety

Office of Highway Safety and Justice Programs

August 2, 2016

The Honorable Daniel E. Johnson  
Fifth Circuit Solicitor's Office  
1701 Main Street, 3rd Floor  
Columbia, SC 29201

Dear Solicitor Johnson:

As indicated in an earlier communication from my office dated July 19, 2016, enclosed please find a Cash Award document relative to funding that your agency is receiving for the purchase of body-worn cameras, storage, and/or maintenance. Also enclosed is a document outlining conditions associated with the receipt and use of these funds.

Please sign the Cash Award document, which affirms your acceptance of the award and your understanding of and agreement to abide by the conditions for receiving and using the award, and return the document to the address below within 30 days of receipt of this communication and the attached documents.

SC Department of Public Safety  
Office of Highway Safety and Justice Programs  
P.O. Box 1993  
Blythewood, SC 29016  
ATTN: Mr. Craig Luccy

Thank you for your prompt attention to this matter. Should you have any questions or concerns, please do not hesitate to contact Mr. Luccy at 803-897-7789, or by e-mail at [craigluccy@scdps.gov](mailto:craigluccy@scdps.gov). Congratulations on your agency's award.

Sincerely,

Phil Riley  
Director

Cc: Craig Luccy  
Joyce McCarty  
Ed Harmon

**BODY-WORN CAMERAS FUND  
CASH AWARD CONDITIONS**

AWARDED AGENCY: Fifth Circuit Solicitor's Office

AWARD DATE: August 1, 2016

AUTHORIZED SIGNATURE ON THE BODY-WORN CAMERAS FUND CASH AWARD DOCUMENT IS INDICATIVE OF THE AWARDED AGENCY UNDERSTANDING AND AGREEING TO THE STATED CONDITIONS BELOW.

\* \* \* \* \*

- 1) This award is contingent upon approval and availability of funds from the state funding source.
- 2) The signed BWC Cash Award document must be sent to the Office of Highway Safety and Justice Programs (OHSJP) within 30 days of the Date of Award specified on the Cash Award document.
- 3) Please note that your agency's assigned SC Enterprise Information System (SCEIS) vendor number is needed in order to process and issue a check to your agency for the awarded amount. This vendor number may be provided to Mr. Craig Luccy of the OHSJP at 803-896-7789, or by e-mail at [craigluccy@scdps.gov](mailto:craigluccy@scdps.gov). If your agency does not currently have an assigned SCEIS vendor number, you may contact Mr. Luccy at the phone number or e-mail address above for assistance in establishing this vendor number.
- 4) Documentation of purchases for equipment, storage, and/or maintenance, whether initial purchase or reimbursement, must be submitted, after all items have been ordered, received, and paid, to the OHSJP as soon as possible. Documentation should demonstrate clearly that any and all procurement procedures operative within your agency have been followed.
- 5) Funds awarded to the agency may only be used for the intended purpose (i.e., purchase of body-worn camera equipment, maintenance, and/or storage) of the award. Funds awarded are subject to audit by the awarding agency.

\* \* \* \* \*

**FOR OHSJP USE ONLY**

\* \* \* \* \*

NO.	ASSIGNED TO	CLEARED BY	DATE	NO.	ASSIGNED TO	CLEARED BY	DATE
2	SA			4	SA		
3	SA						

# Richland County Council Request of Action

**Subject:**

Intergovernmental Agreement with the City of Columbia

## Richland County Council Request of Action

**Subject:** Intergovernmental Agreement with the City of Columbia

**A. Purpose**

At the May 3, 2016 Council meeting, Council approved the release of funds, in an amount up to \$62,400, being held in the Stormwater fund balance to be allocated for the dredging of silt from Lake Katherine. Any use of these funds for a collaborative effort to dredge the Lake must be done pursuant to an intergovernmental agreement between the parties involved.

Pursuant to the abovementioned motion, Council is being requested to approve an intergovernmental agreement with the City of Columbia.

**B. Background / Discussion**

At the April 5, 2016 Council meeting, Mr. Pearce brought forth the following motion:

“I move that Council approve the release of funds being held in the Stormwater fund balance previously allocated for the dredging of silt from Lake Katherine. The City of Columbia has agreed to fund the balance of this project.”

On 9/9/13, a Consent Decree (CD) was issued by the United States on behalf of the US Environmental Protection Agent (EPA) to the City of Columbia (City) for Clean Water Act Violations – see attached excerpt of CD.

Pursuant to the CD, a civil penalty of \$476,400 was paid by the City to the EPA and SC Department of Health and Environmental Control (DHEC).

EPA and DHEC each received half of the civil penalty or \$238,200.

DHEC is delegated by EPA to implement the compliance and enforcement of the Clean Water Act in SC. Given this information, and pursuant to the Pollution Control Act (see attached SC State Code), half of the civil penalty received by DHEC is allocated to the State of South Carolina’s budget and the remaining half is allocated to the County where the violation occurred.

Subsequently, the \$119,100 that was paid to the County and received on 8/18/14 has been restricted to Stormwater’s Fund balance.

In 2004, Wilber Smith Associates conducted a sediment deposit and mitigation study of Lake Katherine for the City of Columbia. In the report for the study, data was provided regarding the sediment load summary for the County and a cost estimate for the sediment removal from Lake Katherine.

At the May 3, 2016 Council meeting, Council approved the release of funds, in an amount up to \$62,400, being held in the Stormwater fund balance to be allocated for the

dredging of silt from Lake Katherine. Any use of these funds for a collaborative effort to dredge the Lake must be done pursuant to an intergovernmental agreement between the parties involved.

Pursuant to the abovementioned motion, Council is being requested to approve an intergovernmental agreement with the City of Columbia.

The financial impact of this request to the County is \$62,400, which is available in the Stormwater fund balance.

### **C. Legislative / Chronological History**

- April 5, 2016 – Motion was made by Mr. Pearce at Council Meeting
- September 9, 2013 – a Consent Decree (CD) was issued by the United States on behalf of the US Environmental Protection Agent (EPA) to the City of Columbia (City) for Clean Water Act Violations
- May 3, 2016 - Council approved the release of funds, in an amount up to \$62,400, being held in the Stormwater fund balance to be allocated for the dredging of silt from Lake Katherine. Any use of these funds for a collaborative effort to dredge the Lake must be done pursuant to an intergovernmental agreement between the parties involved.

### **D. Alternatives**

1. Approve the intergovernmental agreement with the City of Columbia relative to partially funding the dredging of Lake Katherine. Per this agreement, the City shall be responsible for this project and the County's sole responsibility is to provide to the City \$62,400 for partially funding this project.
2. Do not approve the intergovernmental agreement with the City of Columbia relative to partially funding the dredging of Lake Katherine. Per this agreement, the City shall be responsible for this project and the County's sole responsibility is to provide to the City \$62,400 for partially funding this project.

### **E. Final Recommendation**

This request of action is pursuant to the May 3, 2016 Council directive to have an intergovernmental agreement between the County and City of Columbia prior to any funds for this project being released. This action was reflective of Staff's recommendation. Accordingly, staff has drafted the attached intergovernmental agreement for Council's review and action. The Council recommended funding amount is available in the Stormwater's fund balance.



6. The parties hereby acknowledge that they have reviewed this Agreement and concur that any rule of construction to the effect that ambiguities are to be resolved against the drafting party shall not apply in the interpretation of any provision of this Agreement.

7. If any provision of this Agreement or any obligation or agreement contained herein is determined by a court of competent jurisdiction to be invalid or unenforceable, that determination shall not affect any other provision, obligation or agreement, each of which shall be construed and enforced as if the invalid or unenforceable portion were not contained herein. That invalidity or unenforceability shall not affect any valid and enforceable application thereof, and each such provision, obligation, or agreement shall be deemed to be effective, operative, made, entered into, or taken in the manner and to the full extent permitted by law.

8. This Agreement may be executed in several counterparts, all or any of such shall be regarded for all purposes as one original and shall constitute and be but one and the same instrument.

9. This Agreement represents the entire and integrated agreement between the County and the City and supersedes and replaces all terms and conditions of any prior agreements, arrangements, negotiations, or representations, written or oral, with respect to the Project. The parties agree that this Agreement does not create any third party beneficiaries, is for the benefit only for the parties herein, and that the Agreement may not be assigned in whole or in part.

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

RICHLAND COUNTY, SOUTH CAROLINA

By: \_\_\_\_\_

Printed Name: Gerald Seals

Title: Interim County Administrator

City of Columbia, South Carolina

By: \_\_\_\_\_

Printed Name: Teresa Wilson

Title: City Manager



# Richland County Council Request of Action

**Subject:**

Community Development: Approval of Additional County Positions

## Richland County Council Request of Action

**Subject:** Community Development: Approval of County Positions for CDBG-DR Grant Funds

### **A. Purpose**

County Council is being requested to authorize the approval of six County positions to provide daily implementation, compliance and management of the Community Development Block Grant Disaster Recovery (CDBG-DR) grant funds.

### **B. Background**

During the County's FY17 budgetary process, Council approved the acceptance of the CDBG-DR grant funding and authorized four essential positions related to the management of the grant funds, including an assistant program manager of the CDBG-DR Program, two case managers and an accounting manager. These positions were initially requested to assist at the grant's onset.

Council is requested to approve the hiring of six additional staff members to cover the remaining needs of the CDBG-DR grant for up to six year grant period. These grant funded positions were included in the CDBG-DR Action Plan, which was approved by Council and submitted to HUD in September 2016 – see attached relevant excerpt from the approved Action plan.

All six County positions will be vetted through the normal Human Resource Department (HRD) process. The six positions may be for the duration of the grant but will not exceed the grant period, which is expected to be three years, but is allowed to be up to six years by HUD. The positions will be advertised and filled as temporary grant-funded positions. Prior to employment, all employees for the positions will be required to sign the HRD document that notifies them of the positions' temporary status. No County funds are required to match the \$23.5 million CDBG-DR grant.

The County's Community Development Department will manage the CDBG-DR grant funds. County staff has met with federal officials on many occasions since the beginning of the calendar year to discuss the implementation of the CDBG-DR program. The discussions from those meetings coupled with requirements in the Federal Register (footnote) are the basis for which these positions are strategically proposed. County staff has completed an assessment of current staffing abilities and the need for additional positions to meet all of the federal compliance standards that are extant. HUD officials have reviewed the staffing plan (attached) and have generally agreed with the plan. HUD officials have advised County staff that appropriate mechanisms are essential to successful implementation from its perspective. County staff will work diligently to invest as much of the funds into the community as possible. However, it is important to properly staff the organization to meet the needs of the grant and the grantor. Staff believes this plan accomplishes all of that. Thus, Council approval of these positions will amend the Community Development's departmental budget to include the six additional positions.

Additional details regarding the positions are outlined in the table below:

Office Location	Position(s)	Need
Community Development Department	Housing Program Manager; Grant Accountant; Inspector	To manage federal compliance standards of the housing program.
Procurement Department	Procurement Specialist	To manage procurement operations to meet federal compliance standards.
Public Information Department	Public Information Specialist	To manage federal compliance standards for public notification.
? County council?	Program Auditor	To manage compliance of federal financial reporting standards and to serve as an independent auditor and report directly to the County Council.

Please note that this request is consistent with HUD’s recommendation for hiring additional administrative staff during the grant’s life (up to six years or 2023). The County has selected an anticipated timeline of expenditures no later than January 2020, or three years from the grant agreement signature date.

**C. Relevant Legislative History**

June 9, 2016 – Council approved the following motion:

To accept the Federal Award of the Community Development Block Grant – Disaster Recovery [CDBG-DR] of \$23.5 million from HUD and approval to fund essential tasks related to the implementation and management of the grant. To include approval for development of the CDBG-DR Action plan and approval of essential positions related to startup and management of grant: Asst. Program Manager of CDBG-DR Program, Case managers 2 county positions, 1 Accounting Manager. All positions are funded with CDBG-DR grant money and will end when responsibilities and funding related to the grant have been closed out. This grant does not contain a match requirement. The County will only fill the positions necessary and the majority of the funding will go toward flood repair.

September 13, 2016 – Council approved the adoption of the Richland County Community Development Block Grant Disaster Recovery (CDBG-DR) Action Plan.

**D. Alternatives**

1. Approve the request to authorize six (6) County positions (Housing Program Manager; Grant Accountant; Program Auditor; PIO Specialist; Procurement Specialist; and Inspector) for the operations and management of the CDBG-DR grant. Council approval of this alternative will facilitate the hiring of temporary grant-funded County staff to assist in the administration of the CDBR-DR grant funds. Approval of this alternative would result in \$933,414 being allocated for the salaries/fringes for these six (6) grant-funded positions over a three year period.
2. Do not approve the request to authorize six (6) County positions (Housing Program Manager; Grant Accountant; Program Auditor; PIO Specialist; Procurement Specialist; and Inspector) for the operations and management of the CDBG-DR grant. The non-hiring of

these essential personnel could cause a disruption in the next phase of the CDBG-DR grant and adversely impact the implementation of the programs for the citizens.

**E. Final Recommendation**

Approve the hiring of six positions to cover the remaining needs of the CDBG-DR grant for up to, but not to exceed, the six year grant period. These positions are included in the CDBG-DR Action Plan, which was approved by Council and submitted to HUD in September 2016 – see attached relevant excerpt from the approved Action Plan.



The County has identified the departments responsible for functions of the CDBG-DR program:

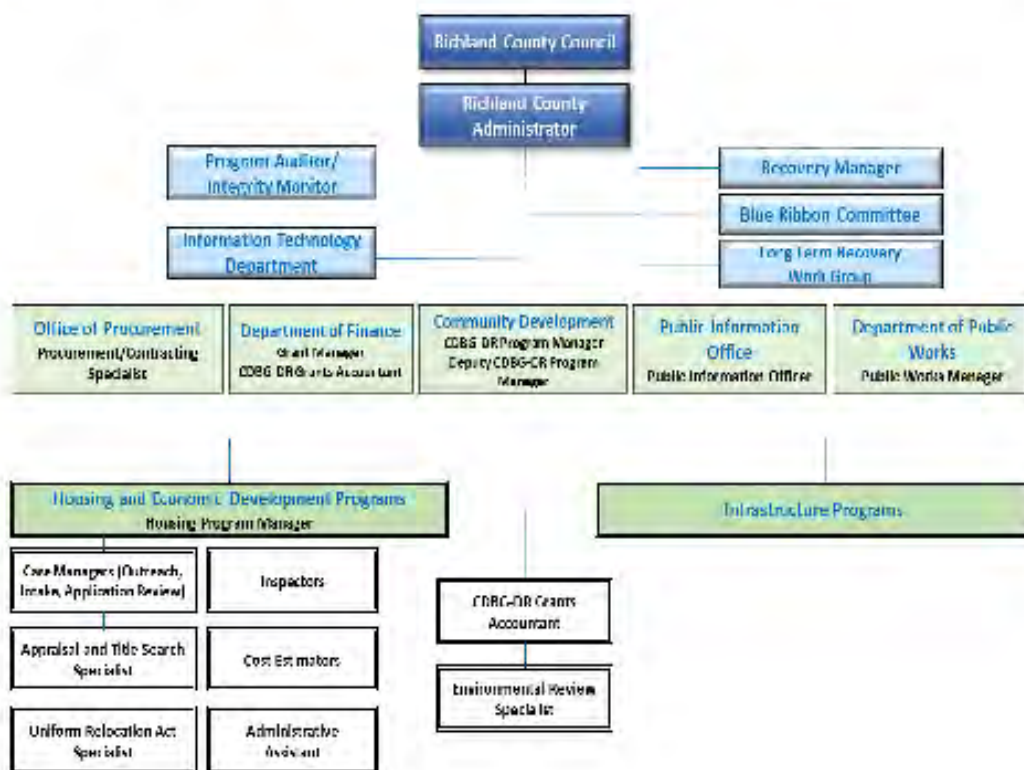
County Department or Office	Responsibility
Office of the County Administrator	General oversight of CDBG-DR program delivery. Coordination of all departments in the delivery of the CDBG-DR programs. The Independent Auditor will report directly to the County Administrator.
Office of Emergency Management	Liaison between FEMA and Richland County in determining preliminary damage estimates; information will be used to determine unmet need and DOB analysis; also used to connect affected citizens to resources.
Information Technology Department	Maintains IFAS; supports technology needs of County departments.
Public Information Office	Maintains comprehensive communications strategy for program activities including the disaster recovery website <a href="http://rcgov.us/floodrecovery">http://rcgov.us/floodrecovery</a> .
Department of Finance	Implements financial controls and sound financial management practices to ensure financial compliance and timely expenditure of funds.
Office of Procurement & Contracting	Manages contracts for professional services and construction to ensure compliance with procurement and contractual obligations.
Public Works Department	Manages program activities for infrastructure projects including damage estimates; advises on appropriate resilience and sustainability measures that would potentially mitigate and/or prevent future flooding.
Department of Community Development	Responsible department for CDBG-DR funding. Coordinates departments in delivery of CDBG-DR programs, including program design and quality control functions. Provides general oversight and management for all housing and economic development programs, including DRGR maintenance, internal monitoring, case management, eligibility certification, and environmental compliance.

### 5.9 Staffing

Although the County has existing staff resources, it will also maximize use of the resources available through its partners. There are organizations in the community that have been critical to the response process. These organizations already have resources in place that could be tailored to meet needs under the County's CDBG-DR programs. As the County is developing its staffing model, it will consider all options and determine what the most reasonable staffing model looks like in relation to the program activities it will undertake.



The County's staffing model will be flexible to accommodate the needs associated with program activities. As the programs get underway, the County will make the appropriate adjustments to accommodate the work load. The organizational chart in this section shows the various functions that will be associated with program activities.



Note that the Housing Program Manager position is specifically called out in this organizational chart. Program Management functions for Economic Development and Infrastructure will be handled by the CDBG-DR Program Manager and the Public Works Manager, respectively.

The County has existing staff members who will fulfill the roles of:

- Information Technology Specialist
- Procurement/Contracting Specialist
- CDBG-DR Program Manager
- Public Information Officer
- Public Works Manager
- Case Manager
- Inspector





The County has hired the following position in support of the planning and implementation:

*Deputy Program Manager for CDBG-DR, within the Department of Community Development.*

The County expects to hire the following positions:

- **Independent Auditor** – will be hired through the County and accountable to the County Administrator
- **Grant Manager** – will be hired through the Department of Finance or contracted through existing consultant
- **CDBG-DR Accountant** – will be hired through the Department of Community Development or contracted through existing consultant
- **Housing Program Manager** – will be hired through the Department of Community Development or contracted through existing consultant
- **Case Managers** – will be in addition to existing staff members to augment capacity as needed, contracted through existing consultant
- **Appraisal and Title Search Specialists** – will be contracted out depending on program activity needs
- **Uniform Relocation Act Specialist** – will be contracted out through existing consultant as needed, depending on program activity requirements
- **Inspectors** – will be in addition to existing staff members to augment capacity as needed, contracted through existing consultant
- **Cost Estimators** – will be contracted out through existing consultant
- **Environmental Review Specialist** – will be contracted out through existing consultant
- **Administrative Assistant** – will be hired through the County Department of Community Development.

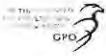
### 5.10 Internal and Interagency Coordination

Several departments within Richland County will share in the implementation responsibilities for the CDBG-DR grant, as described above in the Capacity section. However, the County Administrator's Office will be ultimately responsible for ensuring internal and interagency coordination and communication among the various departments. Coordination has already begun as evidenced by the response phase immediately after the floods in October 2015. As the programs evolve, it may be necessary to expand the responsibilities under any given department.

As a part of this process, department leaders have been informed of the types of responsibilities they will be tasked with under the grant. To the greatest extent possible, the County will standardize its processes and program templates so that each department is well versed in the logistics associated with each program activity. The County will develop a simplified work-flow of activities based upon the setup of each program to be codified in the policies and procedures manuals for each program. Upon program startup, department managers will establish timelines and milestones that will be communicated to each department head.

In addition to the interdepartmental cooperation that has already resulted in deployment of resources to affected citizens, the County has established both the Richland County Disaster Recovery Working Group (Working Group) and the Blue Ribbon Advisory Committee (Advisory Committee) to open communication channels and relationships that will support implementation of recovery activities. Both of these groups, more fully described below, will continue to provide critical services in development and implementation of CDBG-DR programs.





Dated: June 9, 2016.

**Brian P. Fitzmaurice,**  
Director, Division of Community Assistance,  
Office of Special Needs Assistance Programs.

**TITLE V, FEDERAL SURPLUS PROPERTY  
PROGRAM FEDERAL REGISTER REPORT  
FOR 06/17/2016**

**Suitable/Available Properties**

*Building*

Alabama

Gadsden Federal Building and Courthouse

600 Broad Street

Gadsden AL 35901

Landholding Agency: GSA

Property Number: 54201620018

Status: Excess

GSA Number: 4-G-AL-0805-AA

Comments: 105+ yrs. old; 17,488 sq. ft.; office & courthouse; listed on the national historic register; access must be coordinated, contact GSA for more information.

Historic Hannah Houses

157 and 159 N Conception Street

Mobile AL 36603

Landholding Agency: GSA

Property Number: 54201620020

Status: Excess

GSA Number: 4-G-AL-0817AAA

Comments: 163+ yrs. old; 8,868 sq. ft.; office; residential; vacant 120+ mos.; rehabilitation work needed; contact GSA for more information.

Maryland

Chapel Naval Station (Facility No. 127NS)

55 Eucalyptus Road

Annapolis MD 21402

Landholding Agency: Navy

Property Number: 77201620019

Status: Underutilized

Comments: off-site removal only; 68+ yrs. old; 2,062 sq. ft.; storage; 60+ mos. vacant; repairs needed; no future agency need; contact Navy for more information.

Massachusetts

Shed

1 Little Harbor Road

Falmouth MA 02543

Landholding Agency: Coast Guard

Property Number: 88201620003

Status: Excess

Comments: off-site removal only; 20+ yrs.

old; 240 sq. ft. each; shed; requires maintenance; contact Coast Guard for more information.

North Carolina

Bryson City Federal Building and Courthouse

50 Main Street

Bryson City NC 28713

Landholding Agency: GSA

Property Number: 54201620019

Status: Excess

GSA Number: 4-G-NC-0838-AA

Comments: 54+ yrs. old; 34,156 sq. ft.; office & courthouse; access must be coordinated; lease expires less than 6 mos.; sits on 1.3 acres of land; contact GSA for more information.

Virginia

Bldg. 27267

Bldg. 27267; MCB-4

Martine Corps Base

Quantico VA 22134

Landholding Agency: Navy

Property Number: 77201620020

Status: Unutilized

Comments: off-site removal only; 13+ yrs. old; 713 sq. ft.; storage; no future agency need; contact Navy for more information.

Washington

Wenatchee Federal Building

301 Yakima Street

Wenatchee WA 98001

Landholding Agency: GSA

Property Number: 54201620012

Status: Excess

GSA Number: 9-G-WA-1286

Directions: The property is leased to governmental tenants and will continue to be leased 24 months from the date of sale with the option, to renew for a 5-year term.

Comments: 104,414 sf 4 story office building with full basement and mechanical penthouse constructed in 1973 on a 2.7-acre lot with 129 parking spaces; contact GSA for more information.

N Border Housing at the Laurie

LOPE

27107 Highway 395 North

Laurier WA 99146

Landholding Agency: GSA

Property Number: 54201620022

Status: Excess

GSA Number: 9-G-WA-1297-AA

Comments: off-site removal only; 80+ yrs. old; 1,970 sq. ft.; due to size/+yrs. relocation extremely difficult; storage; 144+ mos. vacant; contacts GSA for more information.

South Border Housing at the Laurie

LOPE

27107 Highway 395 North

Laurier WA 99146

Landholding Agency: GSA

Property Number: 54201620023

Status: Excess

GSA Number: 9-G-WA-1297-AB

Comments: off-site removal only; 80+ yrs. old; 2,200 sq. ft.; due to size/+yrs. relocation extremely difficult storage; 144+ mos. vacant; contact GSA for more information.

**Unsuitable Properties**

*Building*

Maryland

Mini Mart/Package Store

(Facility #178NS)180 Kinkaid Road

Annapolis MD 21402

Landholding Agency: Navy

Property Number: 77201620018

Status: Underutilized

Comments: documented deficiencies: documentation provided represents a clear threat to personal physical safety; structural damages; hit by a vehicle 02/11/11.

Reasons: Extensive deterioration

Massachusetts

*3 Buildings*

1 Little Harbor Rd.

Falmouth MA 02543

Landholding Agency: Coast Guard

Property Number: 88201620002

Status: Excess

Directions: Aids to Navigation Bldg.;

Engineering Bldg., Supply Bldg.

Comments: public access denied and no alternative method to gain access without compromising national security.

Reasons: Secured Area

[FR Doc. 2016-14058 Filed 6-16-16; 8:45 am]

**BILLING CODE 4210-67-P**

**DEPARTMENT OF HOUSING AND  
URBAN DEVELOPMENT**

[Docket No. FR-5938-N-01]

**Allocations, Common Application,  
Waivers, and Alternative Requirements  
for Community Development Block  
Grant Disaster Recovery Grantees**

**AGENCY:** Office of the Assistant Secretary for Community Planning and Development, HUD.

**ACTION:** Notice.

**SUMMARY:** This notice allocates \$299 million in Community Development Block Grant disaster recovery (CDBG-DR) funds appropriated by the Transportation, Housing and Urban Development, and Related Agencies Appropriations Act of 2016 for the purpose of assisting long-term recovery in South Carolina and Texas. This notice describes applicable waivers and alternative requirements, relevant statutory provisions for grants provided under this notice, the grant award process, criteria for plan approval, and eligible disaster recovery activities. The waivers, alternative requirements, and other provisions of this notice reflect the Department's commitment to expediting recovery, increasing the resilience of impacted communities and ensuring transparency in the use of Federal disaster recovery funds.

**DATES:** *Effective Date:* June 22, 2016.

**FOR FURTHER INFORMATION CONTACT:** Stanley Gimont, Director, Office of Block Grant Assistance, Department of Housing and Urban Development, 451 7th Street SW., Room 7286, Washington, DC 20410, telephone number 202-708-3587. Persons with hearing or speech impairments may access this number via TTY by calling the Federal Relay Service at 800-877-8339. Facsimile inquiries may be sent to Mr. Gimont at 202-401-2044. (Except for the "800" number, these telephone numbers are not toll-free.) Email inquiries may be sent to [disaster\\_recovery@hud.gov](mailto:disaster_recovery@hud.gov).

**SUPPLEMENTARY INFORMATION:**

**Table of Contents**

- I. Allocations
- II. Use of Funds
- III. Management and Oversight of Funds
- IV. Authority To Grant Waivers



- V. Overview of Grant Process
- VI. Applicable Rules, Statutes, Waivers, and Alternative Requirements
  - A. Grant Administration
  - B. Housing and Related Floodplain Issues
  - C. Infrastructure
  - D. Economic Revitalization
  - E. Certifications and Collection of Information
- VII. Duration of Funding
- VIII. Catalog of Federal Domestic Assistance
- IX. Finding of No Significant Impact
- Appendix A: Allocation Methodology

**I. Allocations**

Section 420 of the Transportation, Housing and Urban Development, and Related Agencies Appropriations Act, 2016 (Pub. L. 114–113, approved December 18, 2015) (Appropriations

Act) makes available \$300 million in Community Development Block Grant (CDBG) funds for necessary expenses related to disaster relief, long-term recovery, restoration of infrastructure and housing, and economic revitalization in the most impacted and distressed areas resulting from a major disaster declared in 2015, pursuant to the Robert T. Stafford Disaster Relief and Emergency Assistance Act of 1974 (42 U.S.C. 5121 *et seq.*), related to the consequences of Hurricane Joaquin and adjacent storm systems, Hurricane Patricia, and other flood events. The Appropriations Act provides \$1 million of these funds for the Department’s management and oversight of funded

disaster recovery grants. The law provides that grants shall be awarded directly to a State or unit of general local government (UGLG) at the discretion of the Secretary. Unless noted otherwise, the term “grantee” refers to the State or UGLG receiving a direct award from HUD under this notice. To comply with statutory direction that funds be used for disaster-related expenses in the most impacted and distressed areas, HUD allocates funds using the best available data that cover all of the eligible affected areas.

Based on a review of the impacts from these disasters, and estimates of unmet need, HUD is making the following allocations:

TABLE 1—ALLOCATIONS UNDER PUBLIC LAW 114–113

Disaster No.	State	Grantee	Allocation	Minimum amount that must be expended for recovery in the HUD-identified “most impacted” areas identified
4241 .....	South Carolina .....	Lexington County (Urban County).	\$16,332,000	(\$16,332,000) Lexington County Urban County jurisdiction.
4241 .....	South Carolina .....	Columbia .....	19,989,000	(19,989,000) City of Columbia.
4241 .....	South Carolina .....	Richland County (Urban County).	23,516,000	(23,516,000) Richland County Urban County jurisdiction.
4241 .....	South Carolina .....	State of South Carolina ...	96,827,000	(65,494,200) Charleston, Dorchester, Florence, Georgetown, Horry, Lexington, Richland, Sumter, Williamsburg.
4223, 4245 .....	Texas .....	Houston .....	66,560,000	(66,560,000) City of Houston.
4223, 4245 .....	Texas .....	San Marcos .....	25,080,000	(25,080,000) City of San Marcos.
4223, 4245 .....	Texas .....	State of Texas .....	50,696,000	(22,228,800) Harris, Hays, Hidalgo, Travis.
Total .....	.....	.....	299,000,000	

Table 1 also shows the HUD-identified “most impacted and distressed” areas impacted by the disasters that did not receive a direct award. At least 80 percent of the total funds provided within each State under this notice must address unmet needs within the HUD-identified “most impacted and distressed” areas, as identified in the last column in Table 1. A State may determine where the remaining 20 percent may be spent by identifying areas it deems as “most impacted and distressed.” A detailed explanation of HUD’s allocation methodology is provided at Appendix A.

Each grantee receiving an allocation under this notice must submit an initial action plan for disaster recovery, or “action plan,” no later than 90 days after the effective date of this notice. HUD will only approve action plans that meet the specific requirements identified in this notice under section VI, “Applicable Rules, Statutes, Waivers, and Alternative Requirements.”

**II. Use of Funds**

The Appropriations Act requires that prior to the obligation of funds a grantee shall submit a plan detailing the proposed use of all funds, including criteria for eligibility, and how the use of these funds will address long-term recovery, restoration of infrastructure, and housing and economic revitalization in the most impacted and distressed areas. Thus, an action plan for disaster recovery must describe uses and activities that: (1) Are authorized under title I of the Housing and Community Development Act of 1974 (HCD Act) or allowed by a waiver or alternative requirement published in this notice, and (2) respond to a disaster-related impact. To inform the plan, grantees must conduct an assessment of community impacts and unmet needs to guide the development and prioritization of planned recovery activities.

Additionally, as provided for in the HCD Act, funds may be used as a matching requirement, share, or contribution for any other Federal program when used to carry out an

eligible CDBG–DR activity. This includes programs or activities administered by the Federal Emergency Management Agency (FEMA) and the U.S. Army Corps of Engineers (USACE), among other Federal sources. In accordance with Public Law 105–276, grantees are advised that not more than \$250,000 may be used for the non-Federal cost-share of any project funded by the Secretary of the Army through USACE. Additionally, CDBG–DR funds cannot supplant, and may not be used for activities reimbursable by or for which funds are made available by FEMA or USACE.

**III. Management and Oversight of Funds**

Consistent with 2 CFR 200.205 of the Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards (Uniform Requirements), HUD will evaluate the risks posed by grantees before they receive Federal awards. HUD believes there is merit in establishing an assessment method similar to the method employed under a prior CDBG–DR appropriation



(Disaster Relief Appropriations Act, 2013 (Pub. L. 113–2)). Therefore, this notice requires grantees to submit documentation required by paragraphs (1) through (8) below (“Risk Analysis Documentation”) in advance of signing a grant agreement that will allow the Department to ensure that grantees can adequately manage and oversee the CDBG–DR award.

The grant terms of the award will reflect HUD’s risk assessment of the grantee and will require the grantee to adhere to the description of its grant oversight and implementation plan submitted in response to this notice (as described in paragraph 8 of section III of this notice). HUD will also institute an annual risk analysis as well as on-site monitoring of grantee management to further guide oversight of these funds.

Each grantee must submit Risk Analysis Documentation to demonstrate in advance of signing a grant agreement that it has in place proficient controls, procedures, and management capacity. This includes demonstrating financial controls, procurement processes, and adequate procedures to prevent any duplication of benefits as defined by section 312 of the Stafford Act. The grantee must also demonstrate that it can effectively manage the funds, ensure timely expenditure of funds, maintain a comprehensive Web site regarding all disaster recovery activities assisted with these funds, and ensure timely communication of application status to applicants for disaster recovery assistance. Grantees must also demonstrate adequate capacity to manage the funds and address any capacity needs. In order to demonstrate proficient controls, procedures, and management capacity, each grantee must submit the following Risk Analysis Documentation to the grantee’s designated HUD representative within 30 days of the effective date of this notice, or with the grantee’s submission of its action plan, whichever date is earlier.

1. *Financial Controls.* A grantee has in place proficient financial controls if each of the following criteria is satisfied:

a. The grantee’s most recent single audit and annual financial statement indicates that the grantee has no material weaknesses, deficiencies, or concerns that HUD considers to be relevant to the financial management of the CDBG program. If the single audit or annual financial statement identified weaknesses or deficiencies, the grantee must provide documentation showing how those weaknesses have been removed or are being addressed; and

b. The grantee has assessed its financial standards and has completed

the HUD monitoring guide for financial standards (Pub. L. 114–113, Guide for Review of Financial Management (the Financial Management Guide)). The grantee’s standards must conform to the requirements of the Financial Management Guide. The grantee must identify which sections of its financial standards address each of the questions in the guide and which personnel or unit are responsible for each item.

2. *Procurement.* A grantee has in place a proficient procurement process if:

a. For local governments: The grantee will follow the specific applicable procurement standards identified in 2 CFR 200.318 through 200.326 (subject to 2 CFR 200.110, as applicable). The grantee must provide a copy of its procurement standards and indicate the sections of its procurement standards that incorporate these provisions. The procedures should also indicate which personnel or unit are responsible for each item; or

b. For States: The grantee has adopted 2 CFR 200.318 through 200.326 (subject to 2 CFR 200.110, as applicable), or the effect of the grantee’s procurement process/standards are equivalent to the effect of procurements under 2 CFR 200.318 through 200.326, meaning that the process/standards operate in a manner providing fair and open competition. The grantee must provide its procurement standards and indicate how the sections of its procurement standards align with the provisions of 2 CFR 200.318 through 200.326, so that HUD may evaluate the overall effect of the grantee’s procurement standards. The procedures should also indicate which personnel or unit are responsible for the task. Guidance on the procurement rules applicable to States is provided in paragraph A.22, section VI, of this notice.

3. *Duplication of benefits.* A grantee has adequate procedures to prevent the duplication of benefits when it provides HUD a uniform prevention of duplication of benefits procedure wherein the grantee identifies its processes for each of the following: (1) Verifying all sources of disaster assistance received by the grantee or applicant, as applicable; (2) determining an applicant’s unmet need(s) before awarding assistance; and (3) ensuring beneficiaries agree to repay the assistance if they later receive other disaster assistance for the same purpose. Grantee procedures shall provide that prior to the award of assistance, the grantee will use the best, most recent available data from FEMA, the Small Business Administration (SBA), insurers, and other sources of funding to

prevent the duplication of benefits. The procedures should also indicate which personnel or unit is responsible for the task. Departmental guidance to assist in preventing a duplication of benefits is provided in a notice published in the **Federal Register** at 76 FR 71060 (November 16, 2011) and in paragraph A.21, section VI, of this notice.

4. *Timely expenditures.* A grantee has adequate procedures to determine timely expenditures if a grantee provides procedures to HUD that indicate how the grantee will track expenditures each month, how it will monitor expenditures of its recipients, how it will reprogram funds in a timely manner for activities that are stalled, and how it will project expenditures to provide for the expenditure of all CDBG–DR funds within the period provided for in paragraph A.24 of section VI of this notice. The procedures should also indicate which personnel or unit is responsible for the task.

5. *Management of funds.* A grantee has adequate procedures to effectively manage funds if its procedures indicate how the grantee will verify the accuracy of information provided by applicants; if it provides a monitoring policy indicating how and why monitoring is conducted, the frequency of monitoring, and which items are monitored; and if it demonstrates that it has an internal auditor and includes a document signed by the internal auditor that describes his or her role in detecting fraud, waste, and abuse.

6. *Comprehensive disaster recovery Web site.* A grantee has adequate procedures to maintain a comprehensive Web site regarding all disaster recovery activities if its procedures indicate that the grantee will have a separate page dedicated to its disaster recovery that will contain links to all action plans, action plan amendments, performance reports, citizen participation requirements, contracts and activity/program information for activities described in the action plan. The procedures should also indicate the frequency of Web site updates and which personnel or unit is responsible for the task.

7. *Timely information on application status.* A grantee has adequate procedures to inform applicants of the status of their applications for recovery assistance, at all phases, if its procedures indicate methods for communication (*i.e.*, Web site, telephone, case managers, letters, etc.), ensure the accessibility and privacy of individualized information for all applicants, indicate the frequency of applicant status updates and identify



which personnel or unit is responsible for the task.

8. *Preaward Implementation Plan.* In order to assess risk as described in 2 CFR 200.205(b) and (c), the grantee will submit an implementation plan to the Department. The plan must describe the grantee's capacity to carry out the recovery and how it will address any capacity gaps. HUD will determine a plan is adequate to reduce risk if, at a minimum:

a. *Capacity Assessment.* The grantee has conducted an assessment of its capacity to carry out recovery efforts, and has developed a timeline with milestones describing when and how the grantee will address all capacity gaps that are identified.

b. *Staffing.* The plan shows that the grantee has assessed staff capacity and identified personnel that will be in place for purposes of case management in proportion to the applicant population; program managers who will be assigned responsibility for each primary recovery area (*i.e.*, housing, economic revitalization, and infrastructure); and staff responsible for procurement/contract management, environmental compliance and compliance with applicable requirements, as well as staff responsible for monitoring and quality assurance, and financial management. An adequate plan will also provide for an internal audit function with responsible audit staff reporting independently to the chief officer or board of the governing body of any designated administering entity.

c. *Internal and Interagency Coordination.* The grantee's plan describes, in the plan, how it will ensure effective communication between different departments and divisions within the grantee's organizational structure that are involved in CDBG-DR-funded recovery efforts between its lead agency and subrecipients responsible for implementing the grantee's action plan, and with other local and regional planning efforts to ensure consistency.

d. *Technical Assistance.* The grantee's implementation plan describes its plan for the procurement and provision of technical assistance for any personnel that the grantee does not employ at the time of action plan submission, and to fill gaps in knowledge or technical expertise required for successful and timely recovery implementation where identified in the capacity assessment.

e. *Accountability.* The grantee's plan identifies the principal lead agency responsible for implementation of the jurisdiction's CDBG-DR award and indicates that the head of that agency

will report directly to the chief executive officer of the jurisdiction.

9. *Certification of Accuracy of Risk Analysis Documentation.* The grantee must submit a certification to the accuracy of its Risk Analysis Documentation submissions as required by section VI.E.44 of this notice.

Additionally, this notice requires grantees to submit to the Department a projection of expenditures and outcomes as part of its action plan for approval. Any subsequent changes, updates or revision of the projections will require the grantee to amend its action plan to reflect the new projections. This will enable HUD, the public, and the grantee to track planned versus actual performance. For more information on the projection requirements, see paragraph A.1.i of section VI of this notice.

In addition, grantees must enter expected completion dates for each activity in HUD's Disaster Recovery Grant Reporting (DRGR) system. When target dates are not met or are extended, grantees are required to explain the reason for the delay in the Quarterly Performance Report (QPR) activity narrative. For additional guidance on DRGR system reporting requirements, see paragraph A.2 under section VI of this notice. More information on the timely expenditure of funds is included in paragraphs A.24-27 under section VI of this notice.

Other reporting, procedural, and monitoring requirements are discussed under "Grant Administration" in section VI of this notice. The Department will institute risk analysis and on-site monitoring of grantee management to guide oversight of these funds.

#### IV. Authority To Grant Waivers

The Appropriations Act authorizes the Secretary to waive or specify alternative requirements for any provision of any statute or regulation that the Secretary administers in connection with the obligation by the Secretary, or use by the recipient, of these funds, except for requirements related to fair housing, nondiscrimination, labor standards, and the environment (including, but not limited to, requirements concerning lead-based paint). Waivers and alternative requirements are based upon a determination by the Secretary that good cause exists and that the waiver or alternative requirement is not inconsistent with the overall purposes of title 1 of the HCD Act. Regulatory waiver authority is also provided by 24 CFR 5.110, 91.600, and 570.5. Grantees

may request such waivers, as described in Section VI of this notice.

#### V. Overview of Grant Process

To begin expenditure of CDBG-DR funds, the following expedited steps are necessary:

- Grantee adopts citizen participation plan for disaster recovery in accordance with the requirements of paragraph A.3 of section VI of this notice.

- Grantee consults with stakeholders, including required consultation with affected, local governments and public housing authorities (as identified in section VI of this notice).

- Within 30 days of the effective date of this notice (or when the grantee submits its action plan, whichever is earlier), the grantee submits the required documentation in its Risk Analysis Documentation in order to demonstrate proficient controls, procedures, and management capacity, as described in section III of this notice.

- Grantee publishes its action plan for disaster recovery on the grantee's required disaster recovery Web site for no less than 14 calendar days to solicit public comment.

- Grantee responds to public comment and submits its action plan (which includes Standard Form 424 (SF-424) and certifications) to HUD no later than 90 days after the date of this notice.

- HUD expedites review (allotted 60 days from date of receipt) and approves the action plan according to criteria identified in this notice.

- HUD sends an action plan approval letter, grant conditions, and grant agreement to the grantee. If the action plan is not approved, a letter will be sent identifying its deficiencies; the grantee must then resubmit the action plan within 45 days of the notification letter.

- Grantee signs and returns the fully executed grant agreement.

- Grantee ensures that the final HUD-approved action plan is posted on its official Web site.

- HUD establishes the grantee's line of credit.

- Grantee requests and receives DRGR system access (if the grantee does not already have DRGR access).

- If it has not already done so, grantee enters the activities from its published action plan into the DRGR system and submits its DRGR action plan to HUD (funds can be drawn from the line of credit only for activities that are established in the DRGR system).

- The grantee may draw down funds from the line of credit after the Responsible Entity completes applicable environmental review(s) pursuant to 24

## Richland County Council Request of Action

**Subject:**

An Ordinance Authorizing the execution and delivery of a fee in lieu of tax agreement by and between Richland County and China Jushi USA Corporation (Project Giant) (the "Company"); the execution and delivery of an infrastructure finance agreement by and between Richland County and the Company; the execution and delivery of such documents as may be necessary to effect the intent of this ordinance; and other matters related thereto

FIRST READING: September 13, 2016

SECOND READING: September 20, 2016

THIRD READING: November 1, 2016 {Tentative}

PUBLIC HEARING: September 20, 2016



STATE OF SOUTH CAROLINA  
COUNTY COUNCIL FOR RICHLAND COUNTY  
ORDINANCE NO. \_\_\_\_\_

AN ORDINANCE AUTHORIZING THE EXECUTION AND DELIVERY OF A FEE IN LIEU OF TAX AGREEMENT BY AND BETWEEN RICHLAND COUNTY AND CHINA JUSHI USA CORPORATION (PROJECT GIANT) (THE “COMPANY”); THE EXECUTION AND DELIVERY OF AN INFRASTRUCTURE FINANCE AGREEMENT BY AND BETWEEN RICHLAND COUNTY AND THE COMPANY; THE EXECUTION AND DELIVERY OF SUCH DOCUMENTS AS MAY BE NECESSARY TO EFFECT THE INTENT OF THIS ORDINANCE; AND OTHER MATTERS RELATED THERETO.

**WHEREAS, RICHLAND COUNTY, SOUTH CAROLINA** (the “County”), acting by and through its County Council (the “County Council”), is authorized and empowered under and pursuant to the provisions of Title 12, Chapter 44 (the “FILOT Act”), Title 4, Chapter 1 (the “Multi-County Park Act”), and Title 4, Chapter 29, of the Code of Laws of South Carolina 1976, as amended (the “Infrastructure Credit Act”), to enter into agreements with industry whereby the industry would pay fees-in-lieu-of taxes with respect to qualified industrial projects; to issue special source revenue bonds, or in the alternative, to provide credits against payment in lieu of taxes for reimbursement in respect of investment in certain infrastructure serving the County or the project, including improved or unimproved real estate used in the manufacturing or industrial enterprise (collectively, “Infrastructure”); through all such powers the industrial development of the State of South Carolina (the “State”) will be promoted and trade developed by inducing manufacturing and commercial enterprises to locate or remain in the State and thus utilize and employ the manpower, products and resources of the State and benefit the general public welfare of the County by providing services, employment, recreation or other public benefits not otherwise adequately provided locally; and

**WHEREAS**, pursuant to the FILOT Act, and in order to induce certain investment in the County, the County, by a Memorandum of Understanding dated May 28, 2016 (the “MOU”), identified a company or companies known to the County at that time as Project Giant and now known as China Jushi USA Corporation (collectively, the “Company”), with respect to the Company’s acquisition, construction, and installation of land, buildings, improvements, fixtures, machinery, equipment, furnishings and other real and/or tangible personal property to constitute a manufacturing facility in the County (the “Project”) and committed to negotiating a fee in lieu of taxes and other incentive arrangements with the Company; and

**WHEREAS**, by the provisions of the MOU, the County identified the Project for purposes of satisfying the FILOT Act;

**WHEREAS**, the County and Fairfield County have established a joint county industrial and business park (the “Park”) by entering into a Master Agreement Governing the I-77 Corridor Regional Industrial Park between the County and Fairfield County, South Carolina, dated as of

April 15, 2003, as amended, (the “Park Agreement”), in which the property associated with the Project is located, and the County desires to cause the Project to continue to be located in the Park or such other multi-county industrial and business park so as to afford the Company the benefits of the Infrastructure Credit Act and Multi-County Park Act as provided herein; and

**WHEREAS**, pursuant to the MOU, the County has agreed to enter into: (a) a Fee in Lieu of Tax Agreement with the Company (the “FILOT Agreement”), whereby the County would provide therein for a payment of fees in lieu of taxes by the Company to the County with respect to the Project; and (b) an Infrastructure Finance Agreement with the Company (the “Infrastructure Agreement”, and together with the FILOT Agreement, the “Agreements”) whereby the County would provide therein for certain infrastructure credits in respect of qualifying Infrastructure with respect to the Project to be claimed by the Company against their payments in lieu of taxes with respect to the Project pursuant to Section 4-1-175 of the Multi-County Park Act;

**WHEREAS**, the forms of the FILOT Agreement and the Infrastructure Agreement, which the County proposes to execute and deliver, have been prepared and presented to County Council; and

**WHEREAS**, it appears that the documents above referred to, which are now before this meeting, are in appropriate form and are appropriate instruments to be executed and delivered or approved by the County for the purposes intended;

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

Section 1. Based on information supplied to it by the Company, it is hereby found, determined and declared by the County Council, as follows:

(a) The Project will constitute a “project” and “economic development property” as said terms are referred to and defined in the FILOT Act, and the County’s actions herein will subserve the purposes and in all respects conform to the provisions and requirements of the FILOT Act;

(b) The terms and provisions of the MOU are incorporated herein and made a part hereof;

(c) The Project is anticipated to benefit the general public welfare of the County by providing services, employment, recreation or other public benefits not otherwise adequately provided locally;

(d) The Project gives rise to no pecuniary liability of the County or incorporated municipality or a charge against its general credit or taxing power;

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

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

Section 2. The form, terms and provisions of the Agreements presented to this meeting are hereby approved and all of the terms and provisions thereof are hereby incorporated herein by reference as if the Agreements were set out in this Ordinance in their entirety. The Chair, or in his absence, the Vice Chair, are hereby authorized, empowered and directed to execute, acknowledge and deliver the Agreements in the name of and on behalf of the County, and the Clerk to County Council is hereby authorized and directed to attest the same, and thereupon to cause the Agreements to be delivered to the Company. The Agreements are to be in substantially the forms now before this meeting and hereby approved, with such changes not materially adverse to the County as shall be approved by the Chair (or Vice Chair in his absence), upon advice of counsel, the execution thereof to constitute conclusive evidence of their approval of any and all changes or revisions therein from the forms of Agreements now before this meeting.

Section 3. The Chair (or Vice Chair in his absence), the Clerk to County Council, the County Administrator, are to take such actions and to execute such other documents as may be necessary to effectuate the purposes of this ordinance.

Section 4. The provisions of this Ordinance are hereby declared to be separable and if any section, phrase or provisions 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 5. All ordinances, resolutions, and parts thereof in conflict herewith are, to the extent of such conflict, hereby repealed. This Ordinance shall take effect and be in full force from and after its passage by the County Council.

Section 6. This ordinance is effective upon third reading.

[Signature Pages to Follow.]

This Ordinance is effective as of the 4<sup>th</sup> day of October, 2016

**RICHLAND COUNTY, SOUTH CAROLINA**

(SEAL)

By: \_\_\_\_\_

Chairman, Richland County Council

Attest:

By: \_\_\_\_\_  
Clerk to Richland County Council

Economic Development Committee: September 6, 2016

First Reading: September 13, 2016

Second Reading and Public Hearing: September 20, 2016

Third Reading: October 4, 2016



**STATE OF SOUTH CAROLINA**

**COUNTY OF RICHLAND**

I, the undersigned Clerk to County Council of Richland County, South Carolina, do hereby certify that attached hereto is a true, accurate and complete copy of an ordinance which was given reading, and received approval, by the County Council at its meetings of \_\_\_\_\_, 2016, \_\_\_\_\_, 2016 and \_\_\_\_\_, 2016, at which meetings a quorum of members of County Council were present and voted, and an original of which ordinance is filed in the permanent records of the County Council.

\_\_\_\_\_  
Clerk, County Council of Richland County

Dated: \_\_\_\_\_, 2016

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**INFRASTRUCTURE FINANCE AGREEMENT**

between

**RICHLAND COUNTY, SOUTH CAROLINA,**

and

**CHINA JUSHI USA CORPORATION**

Dated as of October 5, 2016

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## INFRASTRUCTURE FINANCE AGREEMENT

**THIS INFRASTRUCTURE FINANCE AGREEMENT**, dated as of October 5, 2016 (the “Agreement”), between **RICHLAND COUNTY, SOUTH CAROLINA**, a body politic and corporate and a political subdivision of the State of South Carolina (the “County”), and **CHINA JUSHI USA CORPORATION** a corporation organized and existing under the laws of the State of South Carolina (the “Company”).

### WITNESSETH:

**WHEREAS**, the County, acting by and through its County Council (the “County Council”) is authorized by Section 4-1-175 of the Code of Laws of South Carolina 1976, as amended (the “Infrastructure Credit Act”), to provide infrastructure credit financing, secured by and payable solely from revenues of the County derived from payments in lieu of taxes pursuant to Article VIII, Section 13 of the South Carolina Constitution, for the purpose of defraying the cost of designing, acquiring, constructing, improving, or expanding the infrastructure serving the County or a project and for improved and unimproved real estate and personal property used in the operation of a manufacturing facility or commercial enterprise in order to enhance the economic development of the County, all within the meaning of Section 4-29-68 of the Code of Laws of South Carolina 1976, as amended (the “Infrastructure”); and

**WHEREAS**, the Company intends to establish a manufacturing facility in the County (the “Project”) on the land described in Exhibit A hereto (the “Land”); and

**WHEREAS**, the Company has represented that its intends to invest approximately \$400,000,000 and create at least 800 new, full-time, jobs with respect to the Project, all by December 31, 2024 (the “Investment Period”); and

**WHEREAS**, the County and Fairfield County have established a joint county industrial and business park (the “Park”) by entering into a Master Agreement Governing the I-77 Corridor Regional Industrial Park between the County and Fairfield County, South Carolina, dated as of April 15, 2003, as amended to include the Land (the “Park Agreement”), pursuant to the provisions of Article VIII, Section 13 of the South Carolina Constitution and Title 4, Chapter 1 Code of Laws of South Carolina 1976 (collectively, the “Multi-County Park Act”), as amended, and have designated the Land as being included within the Park, and the County desires to cause the Project to continue to be located in the Park or such other multi-county industrial and business park so as to afford the Company the benefits of the Infrastructure Credit Act and the Multi-County Park Act as provided herein; and

**WHEREAS**, pursuant to the provisions of the Park Agreement, the Company is obligated to make or cause to be made payments in lieu of taxes in the total amount equivalent to the *ad valorem* property taxes that would have been due and payable but for the location of the Project within the Park; and

**WHEREAS**, in connection with the Project, the County and the Company has entered into a Fee in Lieu of Tax Agreement of even date herewith providing for certain payments in lieu of taxes by the Company, as provided therein; and

**WHEREAS**, pursuant to the Infrastructure Credit Act, the County has agreed to provide certain credits to the Company in respect of the Company's investment in the Infrastructure with respect to the Project, and is delivering this Agreement in furtherance thereof; and

**WHEREAS**, the County Council has duly authorized execution and delivery of this Agreement by ordinance duly enacted by the County Council on October 4, 2016, following conducting a public hearing on September 20, 2016;

**NOW, THEREFORE**, in consideration of the respective representations and agreements hereinafter contained, the County and the Company agree as follows:

## **ARTICLE I**

### **DEFINITIONS**

The terms defined in this Article I shall for all purposes of this Agreement have the meanings herein specified, unless the context clearly otherwise requires. Except where the context otherwise requires, words importing the singular number shall include the plural number and *vice versa*. Terms used but not defined herein shall have the meaning given those terms in the Fee Agreement.

"*Act*" shall mean Title 4, Chapter 1, Code of Laws of South Carolina 1976, as amended, and all future acts amendatory thereto.

"*Agreement*" shall mean this Agreement, as the same may be amended, modified or supplemented in accordance with the terms hereof.

"*Company*" shall have the meaning set forth with respect to such term in the recitals to this Agreement.

"*Cost of the Infrastructure*" shall mean to extent permitted by law, the cost of acquiring, by construction and purchase, the Infrastructure and shall be deemed to include, whether incurred prior to or after the date of this Agreement: (a) obligations incurred for labor, materials, and other expenses to builders and materialmen in connection with the acquisition, construction, and installation of the Infrastructure; (b) the cost of design and engineering of the Infrastructure; (c) the cost of construction bonds and of insurance of all kinds that may be required or necessary during the course of construction and installation of the Infrastructure, which is not paid by the contractor or contractors or otherwise provided for; (d) the expenses for test borings, surveys, test and pilot operations, estimates, plans and specifications and preliminary investigations therefor, and for supervising construction, as well as for the performance of all other duties required by or reasonably necessary in connection with the acquisition, construction, and installation of the Infrastructure; (e) all other costs which shall be required under the terms of any contract for the acquisition, construction, and installation of the Infrastructure; and (f) all legal, accounting and related costs properly capitalizable to the cost of the Infrastructure.

“*County*” shall mean Richland County, South Carolina, a body politic and corporate and a political subdivision of the State of South Carolina and its successors and assigns.

“*Fee Agreement*” shall mean the Fee in Lieu of Tax Agreement dated as of even date herewith between the County and the Company, as the same may be amended or supplemented.

“*Fee Payments*” shall mean the payments in lieu of taxes made by the Company with respect to the Project under the Fee Agreement and/or by virtue of the Project’s location in (a) the Park or (b) in any joint county industrial park created by the County and a partner county pursuant to a successor agreement to the Park Agreement qualifying under Section 4-1-170 of the Act or any successor provision.

“*FILOT Act*” shall mean Title 12, Section 44, of the Code.

“*Infrastructure*” shall mean infrastructure serving the County and improved or unimproved real estate and personal property, including machinery and equipment, used in the operation of the Project, within the meaning of Section 4-29-68, Code of Laws of South Carolina 1976, as amended.

“*Infrastructure Credits*” shall mean the Special Source Revenue Credits pursuant to the Act and as set forth herein.

“*Investment Period*” shall have the meaning set forth with respect to such term in the recitals to this Agreement.

“*Investment Requirement*” shall mean the aggregate investment of \$400,000,000 at the Project, which may include expenditures by Third Parties, as permitted by Section 3.01(b) of the Fee Agreement.

“*Jobs Requirement*” shall mean the aggregate creation of 800 new, full-time jobs in connection with the Project, which may include certain Badge Personnel, as permitted in Section 5.02(g) of the Fee Agreement.

“*Land*” shall have the meaning set forth with respect to such term in the recitals to this Agreement.

“*Ordinance*” shall mean the ordinance enacted by the County Council on October 4, 2016, authorizing the execution and delivery of this Agreement.

“*Park Agreement*” shall mean the Master Agreement Governing the I-77 Corridor Regional Industrial Park between the County and Fairfield County, South Carolina, dated as of April 15, 2003, as amended to include the Land.

“*Park*” shall mean (i) the joint county industrial park established pursuant to the terms of the Park Agreement and (ii) any joint county industrial park created pursuant to a successor park agreement delivered by the County and a partner county in accordance with Section 4-1-170 of the Act, or any successor provision, with respect to the Project.

“*Person*” shall mean an individual, a corporation, a partnership, an association, a joint stock company, a trust, any unincorporated organization, or a government or political subdivision.

“*Project*” shall mean the “Project” as defined in the Fee Agreement.

“*State*” shall mean the State of South Carolina.

## ARTICLE II

### REPRESENTATIONS AND WARRANTIES

SECTION 2.01. Representations by the County. The County makes the following representations and covenants as the basis for the undertakings on its part herein contained:

(a) The County is a body politic and corporate and a political subdivision of the State and is authorized and empowered by the provisions of the Act to enter into the transactions contemplated by this Agreement and to carry out its obligations hereunder. By proper action by the County Council, the County has been duly authorized to execute and deliver this Agreement and any and all agreements collateral thereto.

(b) The County proposes to provide the Infrastructure Credits to offset a portion of the Cost of the Infrastructure to the Company for the purpose of promoting economic development of the County.

(c) To the best knowledge of the County, the County is not in violation of any of the provisions of the laws of the State, where any such default would affect the validity or enforceability of this Agreement.

(d) To the best knowledge of the County, the authorization, execution and delivery of this Agreement, the enactment of the Ordinance, and performance of the transactions contemplated hereby and thereby do not and will not, to the best knowledge of the County, conflict with, or result in the violation or breach of, or constitute a default or require any consent under, or create any lien, charge or encumbrance under the provisions of (i) the Constitution of the State or any law, rule, or regulation of any governmental authority, (ii) any agreement to which the County is a party, or (iii) any judgment, order, or decree to which the County is a party or by which it is bound.

(e) To the best knowledge of the County, there is no action, suit, proceeding, inquiry, or investigation, at law or in equity, or before or by any court, public body, or public board which is pending or threatened challenging the creation, organization or existence of the County or its governing body or the power of the County to enter into the transactions contemplated hereby or wherein an unfavorable decision, ruling or finding would adversely affect the transactions contemplated hereby or would affect the validity, or adversely affect the enforceability, of this Agreement, or any other agreement or instrument to which the County is a party and which is to be used in connection with or is contemplated by this Agreement, nor to the best of the knowledge of the County, is there any basis therefor.

SECTION 2.02. Representations and Covenants by the Company. The Company makes the following representations and warranties as the basis for the undertakings on its part herein contained:

(a) The Company is a corporation duly organized, validly existing, and in good standing under the laws of the State of South Carolina, has power to enter into this Agreement and to carry out its obligations hereunder, and by proper corporate action has been duly authorized to execute and deliver this Agreement.

(b) Neither the execution and delivery of this Agreement, the consummation of the transactions contemplated hereby, nor the fulfillment of or compliance with the terms and conditions of this Agreement, will result in a material breach of any of the terms, conditions, or provisions of any corporate restriction or any agreement or instrument to which the Company is now a party or by which it is bound, or will constitute a default under any of the foregoing, or result in the creation or imposition of any lien, charge, or encumbrance of any nature whatsoever upon any of the property or assets of the Company, other than as may be created or permitted by this Agreement.

(c) The Company shall use commercially reasonable efforts to meet the Investment Requirement and the Jobs Requirement during the Investment Period.

(e) To the best knowledge of the Company, there is no action, suit, proceeding, inquiry, or investigation, at law or in equity, or before or by any court, public body, or public board which is pending or threatened challenging the power of the Company to enter into the transactions contemplated hereby or wherein an unfavorable decision, ruling or finding would adversely affect the transactions contemplated hereby or would affect the validity, or adversely affect the enforceability, of this Agreement, or any other agreement or instrument to which the Company is a party and which is to be used in connection with or is contemplated by this Agreement, nor to the best of the knowledge of the Company is there any basis therefore.

SECTION 2.03. Covenants of the County.

(a) To the best of its ability, the County will at all times maintain its corporate existence and will use its best efforts to maintain, preserve, and renew all its rights, powers and privileges; and it will comply with all valid acts, rules, regulations, orders, and directions of any legislative, executive, administrative, or judicial body applicable to this Agreement.

(b) In the event of any early termination of the Park Agreement prior to the date necessary to afford the Company the full benefit of the Infrastructure Credits hereunder (the "Final Benefits Date"), the County agrees it will use its best efforts to cause the Project, pursuant to Section 4-1-170 of the Act or any successor provision, to be included in a duly authorized, executed and delivered successor joint county industrial park agreement with an adjoining South Carolina county, which successor agreement shall contain a termination date occurring no earlier than the Final Benefits Date.

(c) The County covenants that it will from time to time, at the request and expense of the Company, execute and deliver such further instruments and take such further action as may be reasonable and as may be required to carry out the purpose of this Agreement; provided, however,

that such instruments or actions shall never create or constitute a general obligation or an indebtedness of the County within the meaning of any State constitutional provision (other than the provisions of Article X, Section 14(10) of the South Carolina Constitution) or statutory limitation and shall never constitute or give rise to a pecuniary liability of the County or a charge against its general credit or taxing power or pledge the full faith, credit or taxing power of the State, or any other political subdivision of the State.

### **ARTICLE III**

#### **INFRASTRUCTURE CREDITS**

##### SECTION 3.01. Payment of Costs of Infrastructure.

The Company shall be responsible for payment of all Costs of the Infrastructure with respect to the Project as and when due.

##### SECTION 3.02. Infrastructure Credits.

(a) In order to reimburse the Company for a portion of the Cost of the Infrastructure with respect to the Project, commencing with the initial Fee Payment payable by the Company with respect to the Project after the Project is first placed in service, unless otherwise delayed pursuant to the terms of this section, the County shall provide Infrastructure Credits comprised of (i) a 63% Infrastructure Credit to be applied against the Company's Fee Payments on the Project for the first (1<sup>st</sup>) and second (2<sup>nd</sup>) year of the Fee Agreement, and (ii) a 53% Infrastructure Credit to be applied against the Company's Fee Payments on the Project for the third (3<sup>rd</sup>), fourth (4<sup>th</sup>), and fifth (5<sup>th</sup>) year of the Fee Agreement; (iii) a 43% Infrastructure Credit to be applied against the Company's Fee Payments on the Project for the sixth (6<sup>th</sup>) and seventh (7<sup>th</sup>) year of the Fee Agreement; (iv) a 33% Infrastructure Credit to be applied against the Company's Fee Payments for the Project for the eighth (8<sup>th</sup>), ninth (9<sup>th</sup>), and tenth (10<sup>th</sup>) year of the Fee Agreement; and a 25% Infrastructure Credit to be applied against the Company's Fee Payments on the Project for the eleventh (11<sup>th</sup>), twelfth (12<sup>th</sup>), thirteenth (13<sup>th</sup>), fourteenth (14<sup>th</sup>), and fifteenth (15<sup>th</sup>) year of the Fee Agreement; provided, however that the Company can, by providing written notice to the County, delay for up to two (2) years the year in which the Infrastructure Credit shall begin to apply. The total amount of the Infrastructure Credit shall not exceed the total amount of eligible expenditures (as set forth in S.C. Code § 4-29-68(A)(2)) made by the Company.

(b) The Company shall be responsible for providing the County, prior to receipt of any Infrastructure Credit, with all documentation and certification reasonably deemed necessary by the County to establish the Costs of the Infrastructure with respect to the Project incurred by the Company, and the investment made by the Company to that date.

(c) THIS AGREEMENT AND THE INFRASTRUCTURE CREDITS BECOMING DUE HEREUNDER ARE LIMITED OBLIGATIONS OF THE COUNTY PROVIDED BY THE COUNTY SOLELY FROM THE FEE PAYMENTS RECEIVED BY THE COUNTY FOR THE PROJECT PURSUANT TO THE PARK AGREEMENT, AND DO NOT AND SHALL NEVER CONSTITUTE A GENERAL OBLIGATION OR AN INDEBTEDNESS OF THE COUNTY



WITHIN THE MEANING OF ANY CONSTITUTIONAL PROVISION (OTHER THAN THE PROVISIONS OF ARTICLE X, SECTION 14(10) OF THE SOUTH CAROLINA CONSTITUTION) OR STATUTORY LIMITATION AND DO NOT AND SHALL NEVER CONSTITUTE OR GIVE RISE TO A PECUNIARY LIABILITY OF THE COUNTY OR A CHARGE AGAINST ITS GENERAL CREDIT OR TAXING POWER. THE FULL FAITH, CREDIT, AND TAXING POWER OF THE COUNTY ARE NOT PLEDGED FOR THE INFRASTRUCTURE CREDITS.

(d) No breach by the County of this Agreement shall result in the imposition of any pecuniary liability upon the County or any charge upon its general credit or against its taxing power. The liability of the County under this Agreement or of any warranty herein included or for any breach or default by the County of any of the foregoing shall be limited solely and exclusively to the Fee Payments for the Project in the Park. The County shall not be required to execute or perform any of its duties, obligations, powers, or covenants hereunder except to the extent of the Fee Payments.

#### **ARTICLE IV**

##### **CONDITIONS TO DELIVERY OF AGREEMENT; TITLE TO PROJECT**

SECTION 4.01. Documents to be Provided by County. Prior to or simultaneously with the execution and delivery of this Agreement, the County shall provide to the Company:

(a) A copy of the Ordinance, duly certified by the Clerk of the County Council to have been duly enacted by the County and to be in full force and effect on the date of such certification; and

(b) A copy of the Park Agreement, duly certified by the Clerk of the County Council to have been duly enacted by the County and to be in full force and effect on the date of such certification; and

(c) Such additional related certificates, instruments or other documents as the Company may reasonably request in a form and substance acceptable to the Company and the County.

SECTION 4.02. Transfers of Project; Assignment of Interest in this Agreement by the Company. Subject to the provisions of Section 4.01 hereof, the County hereby acknowledges that the Company may from time to time and in accordance with the Fee Agreement and applicable law, sell, transfer, lease, convey, or grant the right to occupy and use the Project, in whole or in part, or assign its interest in this Agreement, to others; provided, however, that any transfer by the Company of any of its interest in this Agreement to any other Person shall require the prior written consent of the County, which shall not be unreasonably withheld. No such sale, lease, conveyance, grant or assignment shall relieve the County from the County's obligations to provide Infrastructure Credits to the Company or any assignee of the same, under this Agreement as long as such assignee is qualified to receive the Infrastructure Credits under the Act.

SECTION 4.03. Assignment by County. The County shall not assign, transfer, or convey its obligations to provide Infrastructure Credits hereunder to any other Person, except as may be required by South Carolina law.

## **ARTICLE V**

### **DEFAULTS AND REMEDIES**

SECTION 5.01. Events of Default. Other than as specifically described in Section 5.02(d) of the Fee Agreement with respect to a failure to reach certain investment and job creation requirements, if the County or either Company shall fail duly and punctually to perform any other covenant, condition, agreement or provision contained in this Agreement on its part to be performed, which failure shall continue for a period of thirty (30) days after written notice by the County or either Company, respectively, specifying the failure and requesting that it be remedied is given to the County by a Company, or to the Company by the County, by first-class mail, the County or the Company, respectively, shall be in default under this Agreement (an “Event of Default”).

SECTION 5.02. Remedies and Legal Proceedings by the Company or the County. Upon the happening and continuance of any Event of Default, then and in every such case the Company or the County, as the case may be, in their discretion may:

- (a) by mandamus, or other suit, action, or proceeding at law or in equity, enforce all of its or their rights and require the other party to carry out any agreements with or for its benefit and to perform its or their duties under the Act and this Agreement;
- (b) bring suit upon this Agreement;
- (c) exercise any or all rights and remedies provided by applicable laws of the State; or
- (d) by action or suit in equity enjoin any acts or things which may be unlawful or in violation of its rights.

SECTION 5.03. Remedies Not Exclusive. Other than as specifically described in Section 5.02(d) of the Fee Agreement with respect to a failure to reach certain investment and job creation requirements, no remedy in this Agreement conferred upon or reserved to the County or the Company hereunder is intended to be exclusive of any other remedy or remedies, and each and every such remedy shall be cumulative and shall be in addition to every other remedy given under this Agreement or now or hereafter existing at law or in equity or by statute.

SECTION 5.04. Nonwaiver. No delay or omission of the County or the Company to exercise any right or power accruing upon any default or Event of Default shall impair any such right or power or shall be construed to be a waiver of any such default or Event of Default, or an acquiescence therein; and every power and remedy given by this Article V to any party may be exercised from time to time and as often as may be deemed expedient.

## ARTICLE VI

### MISCELLANEOUS

SECTION 6.01. Termination. Subject to Sections 5.01 and 5.02 above, this Agreement shall terminate on the date upon which all Infrastructure Credits provided for in Section 3.02(a) hereof have been credited to the Company.

SECTION 6.02. Successors and Assigns. All the covenants, stipulations, promises, and agreements in this Agreement contained, by or on behalf of, or for the benefit of, the County, shall bind or inure to the benefit of the successors of the County from time to time and any officer, board, commission, agency, or instrumentality to whom or to which any power or duty of the County, shall be transferred.

SECTION 6.03. Provisions of Agreement for Sole Benefit of the County and the Company. Except as in this Agreement otherwise specifically provided, nothing in this Agreement expressed or implied is intended or shall be construed to confer upon any Person other than the County and the Company any right, remedy, or claim under or by reason of this Agreement, this Agreement being intended to be for the sole and exclusive benefit of the County and the Company.

SECTION 6.04. Severability. In case any one or more of the provisions of this Agreement shall, for any reason, be held to be illegal or invalid, the illegality or invalidity shall not affect any other provision of this Agreement, and this Agreement and the Infrastructure Credits shall be construed and enforced as if the illegal or invalid provisions had not been contained herein or therein.

SECTION 6.05. No Liability for Personnel of the County or the Company. No covenant or agreement contained in this Agreement shall be deemed to be the covenant or agreement of any member, agent, or employee of the County or its governing body or the Company or any of its officers, employees, or agents in his individual capacity, and neither the members of the governing body of the County nor any official executing this Agreement shall be liable personally on the Infrastructure Credits or this Agreement or be subject to any personal liability of accountability by reason of the issuance thereof.

SECTION 6.06. Notices. All notices, certificates, requests, or other communications under this Agreement shall be sufficiently given and shall be deemed given, unless otherwise required by this Agreement, when (i) delivered or (ii) sent by facsimile and confirmed by United States certified mail, return-receipt requested, restricted delivery, postage prepaid, addressed as follows:

- (a) if to the County:

Richland County  
Attn: Director, Economic Development Department  
Administration Building  
2020 Hampton Street, Room 4058  
Columbia, South Carolina 29202

with a copy to: (which shall not constitute notice to the County)

Parker Poe Adams & Bernstein LLP  
Attn: Ray E. Jones, Esq.  
1221 Main Street, Suite 1100  
Columbia, South Carolina 29201

(b) if to the Company CHINA JUSHI USA CORPORATION

\_\_\_\_\_  
\_\_\_\_\_

with a copy to (which shall not constitute notice to the Company):

Haynsworth Sinkler Boyd, P.A.  
Attn: Frank T. Davis III, Esq.  
ONE North Main, 2<sup>nd</sup> Floor  
Greenville, South Carolina 29601

A duplicate copy of each notice, certificate, request or other communication given under this Agreement to the County or the Company shall also be given to the others. The County and the Company may, by notice given under this Section 6.06, designate any further or different addresses to which subsequent notices, certificates, requests or other communications shall be sent.

SECTION 6.07. Applicable Law. The laws of the State of South Carolina shall govern the construction of this Agreement.

SECTION 6.08. Counterparts. This Agreement may be executed in any number of counterparts, each of which, when so executed and delivered, shall be an original; but such counterparts shall together constitute but one and the same instrument.

SECTION 6.09. Amendments. This Agreement may be amended only by written agreement of the parties hereto.

SECTION 6.10. Waiver. Either party may waive compliance by the other party with any term or condition of this Agreement only in a writing signed by the waiving party.

[Signature pages to follow]

**IN WITNESS WHEREOF**, Richland County, South Carolina, has caused this Agreement to be executed by the Chairman of County Council and its corporate seal to be hereunto affixed and attested by the Clerk of County Council and CHINA JUSHI USA CORPORATION have caused this Agreement to be executed by their respective authorized officers, all as of the day and year first above written.

**RICHLAND COUNTY, SOUTH CAROLINA**

(SEAL)

By: \_\_\_\_\_

Chairman, Richland County Council,

**ATTEST:**

\_\_\_\_\_  
Clerk to Richland County Council

*[Signature page 1 to Infrastructure Finance Agreement]*

**CHINA JUSHI USA CORPORATION**

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

*[Signature page 2 to Infrastructure Finance Agreement]*

**EXHIBIT A**

**REAL PROPERTY DESCRIPTION**

All those certain pieces, parcels or tracts of land with all improvements thereon, situate, lying and being in Richland County, South Carolina, being shown, delineated, and depicted as Parcel A (containing approximately 109.004 acres), Parcel B (containing 37.005 acres) and Parcel C (containing 50.502 acres) as shown on that certain plat of survey entitled, SOUTH CAROLINA RESEARCH AUTHORITY BOUNDARY SURVEY, dated May 22, 2009, last revised July 28,2009, prepared by Jack H. Locklair, Jr., S.C.P.S. No. 12842 of BP Barber, recorded in the Office of the Register of Deeds of Richland County on July 31, 2009, in book1543,page 3669. Reference to said plat of survey is craved for a more complete description, with all measurements being a little more or less.

---

**FEE IN LIEU OF TAX AGREEMENT**

财产税减免协议

Between 由

**RICHLAND COUNTY, SOUTH CAROLINA,**

南卡罗来纳州，里奇兰县

and 以及

**CHINA JUSHI USA CORPORATION**

巨石美国股份有限公司

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Dated as of October 5, 2016

2016 年 10 月 5 日

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## FEE IN LIEU OF TAX AGREEMENT

### 财产税减免协议

**THIS FEE IN LIEU OF TAX AGREEMENT** (this “Agreement”) made and entered into as of October 5, 2016 by and between **RICHLAND COUNTY, SOUTH CAROLINA** (the “County”), a body politic and corporate and a political subdivision of the State of South Carolina, and **CHINA JUSHI USA CORPORATION**, a corporation duly organized and existing under the laws of the State of South Carolina (the “Company”).

本财产税减免协议（简称“协议”）由南卡罗来纳州里奇兰县郡（简称“县郡”），政治及法人实体和南卡州政府分支机构与巨石美国股份有限公司根据南卡州法律成立及运营的公司（简称“公司”）于2016年10月5日签订。

### WITNESSETH:

#### 序言

**WHEREAS**, Chapter 44 of Title 12 (the “FILOT Act”) and Chapter 1 of Title 4 (the “Multi-County Park Act”), Code of Laws of South Carolina 1976, as amended, empowers the several counties of the State of South Carolina to enter into agreements with industry whereby the industry would pay fees in lieu of *ad valorem* taxes with respect to qualified economic development property; through which powers the industrial development of the State of South Carolina will be promoted and trade developed by inducing manufacturing and commercial enterprises to locate or remain in the State of South Carolina and thus utilize and employ the manpower, products and resources of the State and benefit the general public welfare of the County by providing services, employment, recreation or other public benefits not otherwise adequately provided locally; and

鉴于，南卡州1976年修订版法典第44章第12条（简称“财产税减免法案”）和第1章第4条（简称“多县园区法案”）授权南卡州数个县郡与工业企业签订协议，对于符合要求的经济开发区财产，企业将支付财产税替代从价税，以此吸引制造业和商业企业落户南卡州或持续在南卡州运行，以雇佣州内劳动力，使用州内的产品和资源，通过企业提供的服务、就业岗位、娱乐以及其它本地供应不充足的公共服务为大众谋求福利，进而推动南卡州工业的发展，促进贸易往来。

**WHEREAS**, the Company desires to provide for the acquisition, construction and installation of land, improvements, fixtures, machinery, equipment, furnishings and/or other real and/or tangible personal property to constitute a manufacturing facility in the County (the “Project”); and

鉴于，公司计划在县郡内购买土地、建设厂房、安装机械设备，配备动产和/或不动产以建造一座生产工厂（简称“项目”）；并

**WHEREAS**, the Company anticipates the Project will consist of an aggregate investment in the County of approximately \$400,000,000 and the creation of approximately 800 new, full-time jobs in connection therewith, all by December 31, 2024; and

鉴于，公司预计项目总投资约 4 亿美元并新增约 800 个全职就业岗位，于 2024 年 12 月 31 日前完成；并

**WHEREAS**, in accordance with the FILOT Act and the Multi-County Park Act, the County has agreed to execute and deliver this Agreement with the Company in order to provide for payments in lieu of tax with respect to the Project by the Company; and

鉴于，依照财产税减免法案和多县园区法案，县郡同意与公司签订并执行本协议以使公司缴纳财产税；并

**WHEREAS**, in connection with the above, the County and the Company agree that the requirements of Section 12-44-55(A) of the Act are hereby waived; and

鉴于，与上述相关，县郡和公司同意豁免法案第 12-44-55(A)章条的要求；并

**WHEREAS**, pursuant to the authority of Section 4-1-170 of the Multi-County Park Act and Article VIII, Section 13 of the South Carolina Constitution, the County will include the Project (or ensure that the Project will remain included (if already included)) in a joint county industrial and business park established pursuant to written agreement with Fairfield County, South Carolina such that the Project will receive the benefits of the Multi-County Park Act;

鉴于，根据多县郡园区法案第 4-1-170 章及南卡州宪法第 13 节第 8 条的授权，县郡将本项目纳入据县郡与南卡州 Fairfield 签订的书面协议建立的工业与商业园区内（或确保项目继续纳入（如果项目已经纳入））以使项目享受多县郡园区法案的各项优惠政策。

**NOW, THEREFORE**, in consideration of the respective representations and agreements hereinafter contained, the County and the Company agree as follows:

因此，基于如下各自的陈述及协议，县郡与公司达成如下一致：

**ARTICLE I**  
**第一章**  
**DEFINITIONS**  
**定义**

Section 1.01 Definitions.

第 1.01 节定义

In addition to the words and terms elsewhere defined in this Agreement, the following words and terms as used herein and in the preambles hereto shall have the following meanings unless the context or use indicates another or different meaning or intent.

除了在本协议中定义的词汇和术语以外，本协议正文和序言中的词汇和术语定义如下，除非文意另有其它或不同所指。

**“Additional Payments”** shall have the meaning provided in **Section 4.02** hereof.

“其它费用” 见第 4.02 节定义。

**“Agreement”** shall mean this agreement as originally executed and from time to time supplemented or amended as permitted herein.

“协议” 指本协议最初签订的版本及之后补充或修订的版本。

**“Code”** shall mean the Code of Laws of South Carolina 1976, as amended.

“法令” 指南卡州 1976 年修订的法令。

**“Company”** shall mean CHINA JUSHI USA CORPORATION a South Carolina corporation and any surviving, resulting or transferee entity in any merger, consolidation or transfer of assets permitted in **Section 6.04** hereof; or any other person or entity which may succeed to the rights and duties of the Company hereunder in accordance with all applicable provisions hereof.

“公司” 指位于南卡的企业巨石美国股份有限公司及依据 6.04.节允许的情况，因并购、合并或资产转移而尚存、由此产生或受让实体；或任何根据本协议条款规定继承公司权利和义务的其他人员或实体；

**“County”** shall mean Richland County, South Carolina, a body politic and corporate and a political subdivision of the State, and its successors and assigns.



“县郡”指南卡罗来纳州里奇兰县，是州政府的政治分支机构，以及其继任者和受让人。

“**County Assessor**” shall mean the Richland County Assessor, or the holder of any successor position.

“县郡评估师”指里奇兰县郡评估员，或者继任岗位人员。

“**County Auditor**” shall mean the Richland County Auditor, or the holder of any successor position.

“县郡审计师”指里奇兰县郡审计师，或者继任岗位人员。

“**County Council**” shall mean the governing body of the County and its constituent members and their respective successors, or any successor body.

“县郡议会”指县郡理事机构及其成员以及其继任者和继任机构

“**County Treasurer**” shall mean the Richland County Treasurer, or the holder of any successor position.

“县郡财务负责人”指里奇兰县郡的财务负责人，或者岗位继任者。

“**Default**” shall mean an event or condition, the occurrence of which would, with the lapse of time or the giving of notice or both, become an Event of Default as defined in **Section 8.01** hereof.

“**违约**”是指一个事件或条件，其发生、超过规定时间或发出通知，或两者兼而有之，构成第 8.01 节定义的违约事件。

“**Department**” shall mean the South Carolina Department of Revenue, or any successor agency.

“部门”指南卡罗来纳州税务部，或任何继任机构。

“**Economic Development Property**” shall have the meaning set forth in Section 12-44-30(6) of the FILOT Act.

“**经济发展区财产**”应与财产税减免法案第 12-44-30（6）节的释义一致；

“**Equipment**” shall mean all machinery, equipment, furnishings and other personal property which is installed or utilized by the Company on or in connection with the Land and intended to be included as a part of the Project.

“**设备**”指公司在土地上或与土地相关的公司安装或使用的所有机器、设备、家具及其他动产，并且都将作为本项目的一部分。

“**FILOT Act**” shall mean Chapter 44 of Title 12 of the Code, and all future acts amendatory thereof.

“**财产税减免法案**”指法令的 44 章 12 条以及未来所有修订的内容。

“**FILOT Payments**” shall mean the payments in lieu of taxes which the Company is obligated to pay to the County pursuant to **Section 5.02** hereof.

“**财产税支付**”指公司根据第 5.02 节有义务支付县郡的财产税；

**“Improvements”** shall mean those buildings, structures and fixtures on the Land as are constructed, installed or acquired by the Company and intended to be included as a part of the Project.

“改良”指项目在土地上建造、安装或购买的建筑物、结构件或装置，将作为项目的一部分；。

**“Indemnified Party”** shall have the meaning ascribed to it by **Section 6.05** of this Agreement.

“赔偿方”定义见协议第 6.05 节

**“Independent Counsel”** shall mean an attorney duly admitted to practice law in any state of the United States.

“独立律师”指美国任何州都承认的执业律师。

**“Investment Period”** shall mean the period beginning with the first day of any purchase or acquisition of Economic Development Property and ending December 31, 2024, provided that the Company and the County may agree to a later date pursuant to Section 12-44-30(13) of the Act.

“投资期间”自经济发展区财产购置的第一天起算截止至 2024 年 12 月 31 日，双方或可根据法案第 12-44-30（13）节规定双方或可延长期限；

**“Land”** shall mean real property that the Company uses or will use in the County, initially consisting of the land identified on Exhibit A hereto, together with all and singular the rights, members, hereditaments, and appurtenances belonging or in any way incident or appertaining thereto, and any improvements located thereon.

“土地”是指公司使用或将要使用的县郡土地，包括附件 A 描述地块，以及，其该在地块拥有的权利、成员、继承财产和地块上的附属设施和改良物。

**“Multi-County Park”** shall mean the joint county industrial and business park established pursuant to the terms of the Multi-County Park Agreement, or to any joint county industrial and business park established pursuant to a successor park agreement.

“多县园区”指根据多县园区协议条款创建联合多县工业及商业园区，或根据园区继任协议建立的联合县郡工业及商业园。

**“Multi-County Park Act”** shall mean Chapter 1 of Title 4 of the Code, and all future acts amendatory thereof.

“多县园区法案”指法案第一章第一条，以及未来所有修订的法案。

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

“多县园区协议”指示县郡与南卡州 Fairfield 县郡与 2003 年 4 月 15 日签订的关于“I-77 区域走廊工业园区的主协议，该主协议经过修订已将该地块纳入在内。

**“Person”** shall mean and include any individual, association, limited liability company or partnership, trust, unincorporated organization, corporation, partnership, joint venture, or government or agency or political subdivision thereof.

- “人员”是指个人、法人团体、有限责任公司、合作关系、股份公司、信托、非公司组织、公司、合作关系、合资公司、政府或代理或政治分支机构。

**“Project”** shall mean (i) the Land and improvements thereto, (ii) the Improvements, (iii) the Equipment, (iv) the Replacement Property, (v) any other personal property to the extent acquired hereafter and intended to be included as a part of the Project which becomes so attached, integrated or affixed to any item described in the foregoing clauses that it cannot be removed without impairing the operating utility of such item as originally designed or damaging such item, and (vi) to the extent not covered by the foregoing, anything qualifying as a Project under Section 12-44-30(16) of the Act.

“项目财产”指 (i) 土地及其改良物 (ii) 改良物 (iii) 设备 (iv) 重置财产 (v) 因下述原因购置的其它作为项目一部分的动产，此类动产将作为上述条款所列项的一部分或附属于项目，并且其移除将影响该项设计的功能或者对其造成损害；(vi) 任何未符合上述条件，但是符合法案 12-44-30(16) 节对项目的要求。

**“Project Increment Payment”** shall be the payment described in **Section 5.02(b)** hereof.

“项目增加财产税支付”指在第 5.02 节中描述的财产税。

**“Project Increments”** shall mean those increments of the Project which are completed and fit for their intended use as prescribed by Section 12-37-670 of the Code.

“项目增加财产”根据法案第 12-37-670 节描述，已经完成并达到预计使用要求的项目财产。

**“Project Millage Rate”** shall mean, for purposes of **Section 5.02(b)** hereof, the millage rate in effect for all taxing entities at the site of the Project as of June 30, 2015, which is understood by the parties hereto to be 453.1 mills.

“项目厘计税率”指根据 5.02 (b) 项目税体的厘计税率，各方于 2015 年 6 月 30 日达成 453.1 的厘计税率。

**“Replacement Property”** shall mean all property installed on the Land or in the buildings, improvements and personal property theretofore constituting part of the Project to the extent that Section 12-44-60 of the FILOT Act permits such property to be included in the Project as replacement property.

“重置财产”指所有土地或建筑物中的所有财产、改良物或者动产，构成项目的一部分，并且根据法案第 12-44-60 节允许将其作为重置财产纳入本项目。

**“Sponsor”** and **“Sponsor Affiliate”** shall mean an entity whose investment with respect to the Project will qualify for the negotiated FILOT pursuant to **Sections 2.02(g)** and **8.02** hereof and Sections 12-44-30(19) or (20) and Section 12-44-130 of the FILOT Act if the statutory investment requirements are met. Initially, the Company is the only Sponsor, and there are no Sponsor Affiliates.

“发起人”及“发起人附属公司”是指实体，该实体的投资符合根据 2.02(h) 节、8.02 节以及如果达到法定投资额符合财产税减免法案第 12-44-30(19) 或 (20) 以及第 12-44-130 节要求的财产税减免。最初公司为唯一发起人，且没有发起人附属公司。

“**State**” shall mean the State of South Carolina.

“州”指南卡罗来纳州

“**Term**” shall mean the duration of this Agreement as set forth in **Section 4.01** hereof.

“期限”指第 4.01 节确定的协议期间。

“**Transfer Provisions**” shall mean the provisions of Section 12-44-120 of the FILOT Act, as amended or supplemented from time to time, concerning, among other things, the necessity of obtaining County consent to certain transfers.

“**转移条款**”指 FILOT 法案第 12-44-120 节就某些转移需要得到县郡的同意的规定，包括其后续的修改及补充；

#### Section 1.02 References to Agreement.

##### 第 1.02 节协议参考

The words “hereof”, “herein”, “hereunder” and other words of similar import refer to this Agreement as a whole.

词语“本协议中”、“本协议的”及“本协议项下”以及其它类似含义的词语是指作为整体的本协议；

[End of Article I]

## ARTICLE II

### 第二章

#### REPRESENTATIONS AND COVENANTS

#### 陈述与承诺

##### Section 2.01 Representations and Covenants of the County.

##### 第 2.01 节县郡陈述及承诺

The County Council makes the following representations and covenants, on behalf of itself and on behalf of the County, as the basis for the undertakings of the County herein contained:

县郡议会代表其自身和县郡做出以下陈述和承诺，作为本协议项下各承诺的基础：

(a) The County is a body politic and corporate and a political subdivision of the State and is authorized and empowered by the provisions of the FILOT Act to enter into the transactions contemplated by this Agreement and to carry out its obligations hereunder. As represented by the Company, the Project constitutes and will constitute Economic Development Property and a “project” within the meaning of the FILOT Act. The County has been duly authorized to execute and deliver this Agreement, all for the purpose of promoting the industrial development, developing the trade, and utilizing and employing the manpower, agricultural products and natural resources of the State.

(a) 县郡是政治团体和法团是南卡州的政治分支机构，根据财产税减免法案的授权实施本协议项下的各项交易并承担相应义务。根据公司陈述，项目可构成或将构成经济发展区的财产，并符合成为 FILOT 法案中对“项目”的释意。县郡已获得授权签署并执行本协议，以促进工业和贸易发展，充分利用本地劳动力、农产品及自然资源。

(b) To the best of its knowledge, the County is not in default under any of the provisions of the laws of the State whereby any such default would adversely affect the execution and delivery of this Agreement or adversely affect its validity or enforceability; to the best of its knowledge, the authorization, execution and delivery of this Agreement, and the performance by the County of its obligations hereunder will not conflict with or constitute a breach of, or a default under, any existing law, court or administrative regulation, decree, order or any provision of the Constitution or laws of the State relating to the establishment of the County or its affairs.

(b) 就县郡所知，县郡并未未履行任何有可能影响本协议签署和交付或对本协议的有效性和可执行造成负面影响的州法律条款；就县郡所知，本协议的授权、执行和交付以及县郡义务的履行并不会与现行法律、判决、行政法规、法令或与南卡州关于县郡建立及县郡内部事务的宪法或法律相冲突，或构成违反或不履行上述。

(c) To the best of its knowledge, no actions, suits, proceedings, inquiries or investigations are pending or threatened against or affecting the County in any court or before any governmental authority or arbitration board or tribunal, any of which involve challenge or affect the County’s ability to execute this Agreement or perform its obligations hereunder.

(c) 就县郡所知，县郡未面临任何未决的会对县郡执行此协议或履行此协议项下的各项义务造成影响的任何法院、政府机构、仲裁委员会针对县郡采取的行动、诉讼、法律程序、质询或调查。

(d) The representations with respect to the Project made by the Company have been instrumental in inducing the County to enter into this Agreement and the Infrastructure Agreement and offer the incentives included in each.

(d) 公司对本项目的陈述对促使县郡签订此协议及基础设施协议并提供两个协议项下的优惠起到了积极作用；

(e) The Land has been placed in the Multi-County Park, and the County will cause the Project to continue to be located in the Multi-County Park or such other multi-county industrial and business park so as to afford the Company the benefits of the Multi-County Park Act, and Title 4, Chapter 29, of the Code of Laws of South Carolina 1976, as amended.

(e) 该地块已纳入多县园区，县郡将促使本项目继续位于多县工业园或其它多县工业和商业园之内，以使公司享受多县园区法案和南卡州 1976 年修订版法典第 4 章第 29 节的优惠政策。

## Section 2.2 Representations and Covenants by the Company.

### 第 2.02 节公司成述和承诺

The Company makes the following representations and covenants as the basis for the undertakings on its part herein contained:

公司代表其自身和县郡做出以下陈述和承诺，作为本协议项下各承诺的基础：

(a) The Company is a corporation, validly existing and in good standing, under the laws of the State of South Carolina. The Company has power to enter into this Agreement, and by proper action has been duly authorized to execute and deliver this Agreement.

公司为依南卡州法律有效续存、享有良好商誉的法律主体。公司有能力签订此协议并履行此协议项下的义务，并经过合理的公司授权签订并交付此协议。

(b) This Agreement constitutes a valid and binding commitment of the Company and the authorization, execution and delivery of this Agreement and the performance by the Company of its obligations hereunder will not conflict with or constitute a breach of, or a default under, (i) any existing law, court or administrative regulation, decree, or order, or (ii) any material agreement, mortgage, lease or other instrument, to which the Company is subject or by which it or its properties are bound which would have a material adverse affect on Company's ability to perform its obligations hereunder. The Company has obtained, or will obtain or cause to be obtained in due course, all governmental and third party consents, licenses and permits deemed by Company to be necessary or desirable for the acquisition, construction and operation of the Project as contemplated hereby, and will maintain all such consents, permits and licenses in full force and effect.

(b) 本协议构成公司有效和约束力的，承诺本协议的授权、签订和交付以及公司义务的履行，不会与以下内容相矛盾或构成违约或失责 (i) 任何现有法律、法律或行政法

规、政令或法令，或 (ii) 任何对公司或其财产具有约束力的且对公司履行本协议项下各项义务有实质性不利影响的材料协议、抵押、租赁文件或其它文件。公司已获得或将要获得或促使将在一定时期内获得，公司认为与项目购买、建造和项目运营所需或适宜的所有政府或第三方的同意书、许可证及执照，并保持所有同意书、许可证及执照具有完全效力。

(c) No event has occurred and no condition currently exists with respect to the Company which would constitute a Default or an “Event of Default” as defined herein.

(c )公司未构成本协议定义的违约或“违约事件”并且不存在构成违约或“违约事件”的必要条件。

(d )The Company intends to operate the Project as a manufacturing facility in the County and for such other purposes permitted under the Act as the Company may deem appropriate. The Project will constitute Economic Development Property and a “project” within the meaning of the FILOT Act.

(d ) 公司预计该项目将作为生产工厂运行或将其做为公司认为合理的法案允许的其它目的。该项目构成经济开发区财产，并符合财产税法案“项目”的释义。

(e )The execution and delivery of this Agreement by the County has been instrumental in inducing the Company to locate the Project in the County and in the State.

(e )县郡对本协议的签订和交付在吸引公司将本项目落户于本州本县郡内起到了积极的作用；

(f ) To the best of the Company’s knowledge, no actions, suits, proceedings, inquiries or investigations are pending or threatened against or affecting the Company in any court or before any governmental authority or arbitration board or tribunal, any of which involve the possibility of any material and adverse effect upon the transactions contemplated by this Agreement or the Company’s performance of its obligations hereunder or which would materially adversely affect the validity or enforceability of this Agreement or any agreement or instrument to which the Company is a party and which is used or contemplated for use in the consummation of the transactions contemplated hereby or thereby.

(f ) 就公司所知，目前没有针对公司的未决的法院、政府机构、仲裁议会或特别法庭的行动、诉讼、程序、质询或调查，或受到任何上述威胁，对本协议项下各项交易，或对公司履行本协议的各项义务，产生实质性的不利影响，或对本协议或其它公司为一方的完成本协议项下各项交易相关的其它协议或文件的有效性和可执行造成负面影响；

(g) The Company anticipates that it will invest, or cause to be invested, in the aggregate approximately \$400,000,000 in the Project and create, or cause to be created, in the aggregate approximately 800 new, full-time jobs in respect of the Project, all by the end of the Investment Period.

(g ) 公司预计该项目将于投资期届满之日投资或促使投资累计 4 亿美元，新增或促使新增 800 个全职岗位。

[End of Article II]

**ARTICLE III**  
**ACQUISITION OF PROJECT**

**第三节**  
**项目收购**

Section 3.01 Acquisition of Project.

第 3.01 节项目收购

(a) The Company hereby agrees to acquire the Project by installing, constructing and purchasing the same during the Investment Period.

(a) 公司同意在投资期内通过安装、建造、购买从而完成本项目。

(b) The County acknowledges and agrees that the Company may, at its option, cause all or a part of the Project to be constructed and/or acquired by a third party in a build to suit arrangement, and/or by one or more Equipment lessors (the “ThirdParties”). In addition, the Company may include one or more Sponsor Affiliates, now existing or to be formed in the future, which control, are controlled by, or are under common control with, the Company, consistent with Section 7.02 hereof. The investment requirements shall apply to the Company, the Sponsor Affiliates on an aggregate basis, and all expenditures by a Third Party which are reportable by such Third Party on its South Carolina property tax return with respect to the Project shall count towards the investment requirements applicable to the Company, but in no event shall a Third Party receive the benefits of this Agreement or the Infrastructure Finance Agreement unless such Third Party joins as a Sponsor Affiliate in accordance with Section 7.02 hereof.

(b) 政府方知晓并同意，公司可以选择，将此所有或者部分项目以承建方式交由第三方进行建设或者购置，和/或由一个或多个设备出租人进行出租（简称“第三方”）。此外，公司可包括一个或多个当前已经存在或准备将来成立的实体，这些实体可能控制公司或被公司控制或由公司参与控制，与第 7.02 章节一致。公司投资额以发起人附属公司的累计投资为基础，申请南卡州财产税返还的所有第三方的支出，均可计算在投资额中，但是第三方无法享受本协议或基础设施协议的优惠，符合第 7.02 章节发起人附属公司的除外。



(c) Each year during the term of the Agreement, the Company shall deliver to the County Auditor, County Assessor and County Treasurer a copy of its most recent annual filings made with the Department with respect to the Project, not later than thirty (30) days following delivery thereof to the Department.

(c) 在协议期内，公司每年需在向南卡州税务部提交最近一年的项目年度财务报告后的 30 天内，将该报告递交县郡审计师、评估师和财务负责人。

(d) The Company shall cause a copy of this Agreement, as well as a copy of the completed form PT-443 of the Department, to be filed with the County Auditor, the County Assessor, the County Treasurer and the Department, as well as with the Fairfield County Auditor and Assessor, within thirty (30) days after the date of execution and delivery hereof.

(d) 在本协议签订和交付后 30 天内，公司需将本协议副本以及填写完整的南卡州税务部门的 PT-443 表递交县郡审计师、评估师、财务负责人以及南卡税务部提交同时报告费尔菲尔德县郡审计师和评估师。

### Section 3.02 Records and Reports, Non-Disclosure.

#### 第 3.02 节记录和报告，保密

The Company agrees to maintain complete books and records accounting for the acquisition, financing, construction and operation of the Project. Such books and records shall:

公司同意保存完整的项目购买、融资、建造、运营的会计账册。此类账册应：

(a) permit ready identification of the various Project Increments and components thereof;

(a) 可确认各类项目财产增量及其构成；

(b) confirm the dates on which each Project Increment was placed in service; and

(b) 确认各项目财产增量投入使用的日期

(c) include copies of all filings made by the Company with the County Auditor or the Department with respect to property placed in service as part of the Project.

(c) 包括公司向县郡审计师或南卡税务部递交的与项目投入使用的财产相关的文件副本。

Notwithstanding any other provision of this Agreement, the Company may designate any filings or reports, or segments thereof, delivered to the County pursuant to the provisions of this Agreement that the Company believes contain proprietary, confidential or trade secret matters as confidential. Except as required by law or any court of competent jurisdiction, the County Council, the County, its officers and employees shall not knowingly disclose any such designated and clearly marked (as “confidential”) confidential information, without the prior written authorization of the Company. In connection therewith, the County, at the reasonable request of the Company, shall cause its agents to sign a non-disclosure statement substantially in the form shown on Exhibit B attached hereto.

即使本协议中有其他相反规定，公司仍可将根据本协议条款递交给县郡的公司认为包含专有、机密或商业秘密的报告和文件指定为机密文件。除非法律或具有管辖权的法庭要求，县郡议会、县郡、以及其官员和员工，未经公司书面授权，不得故意泄露公司指定的明确表明机密的信息。与此相关，在公司的合理要求下，县郡应促使其代理签署保密申明，保密申明格式见附件 B。

The County shall use its best efforts to notify the Company in the event of the County's receipt of any Freedom of Information Act request concerning the aforesaid confidential information and, to the extent permitted by law, will not respond to such request until such time as the Company has reviewed the request and taken any action authorized by law to prevent its disclosure. If the Company fails to act to prevent any disclosure of such information under the South Carolina Freedom of Information Act within ten (10) days after Company's receipt of notice of such request, the County may provide such information as in its judgment is required to comply with such law and the County will have no liability to the Company in connection therewith.

若公司收到与上述保密信息有关的信息自由法案的要求，县郡应尽最大努力通知公司并且在法律允许的范围内不回应此要求，直至公司已经审阅该要求并且采取法律允许的措施阻止此公开。如果公司在收到此通知十（10）天内没有依据南卡信息自由法阻止信息公开，县郡可根据其判断提供上述信息以满足法律要求，县郡无需因此承担责任。

[End of Article III]

## ARTICLE IV

### 第四章

#### AGREEMENT TERM AND PAYMENT PROVISIONS

#### 协议期限及付款条款

##### Section 4.01 Term.

##### 第 4.01 节期限

Subject to the terms and provisions herein contained, with respect to each Project Increment, this Agreement shall be and remain in full force and effect for a term commencing on the date hereof, and ending at midnight on December 31 of the year which is the twenty-ninth (29<sup>th</sup>) year following the first year in which each Project Increment is placed in service, unless sooner terminated as herein permitted; provided that, if at the expiration of the Term payment of all FILOT Payments under **Section 5.02** hereof relating to the operation of the Project during the Term have not been made, the Term shall expire on such later date as such payments shall have been made in full or so provided for; provided, further, that such extension of the Term shall not increase the number of FILOT payments for which the Company qualifies under **Section 5.02** hereof.

根据本协议条款，就每一项目财产增量，自本协议签订之日起生效直至项目财产增量投入使用的第一年之后的第 29 年的 12 月 31 日 0 时终止，除非允许提前终止；如果协议终止日，第 5.02 节项下与项目运行有关的财产税尚未全部支付，则协议将在财产税全部支付后终止。另外，协议延期不会增加符合第 5.02 章的财产税的金额。

##### Section 4.02 Additional Payments.

##### 第 4.02 节其它付款

In addition to the Company's obligation under **Section 5.02** hereof to make FILOT Payments to the County and related amounts, the Company shall pay to the County, following receipt of such supporting documentation as may be necessary to evidence the County's right to receive payment, all other amounts, liabilities and obligations which the Company expressly assumes or agrees to pay under this Agreement (all such other amounts, liabilities and obligations hereinafter collectively called "Additional Payments"). In the event of any failure on the part of the Company to pay any Additional Payments, the County shall have all rights, powers and remedies provided for herein or by law or equity or otherwise.

除根据 5.02 节公司有义务向县郡缴纳财产税及其它相关费用外，同时在收到县郡的文件证明县郡有权利收取后，公司应承担并同意支付本协议下公司明确愿意承担或支付的其它付款、责任和义务，（上述所有其它付款、责任和义务如下统称为“其它付款”

)。若公司未能支付所有其它付款，县郡享有本协议或法律或衡平法或其它提供所有权利、权力及补救措施；

Each party shall be required to pay its own respective costs and expenses associated with the negotiation and implementation of this Agreement and all other agreements and documents associated therewith.

与本协议及其相关协议和文件的谈判和实施有关的成本和费用，分别由各自承担。

[End of Article IV]

## ARTICLE V

### 第五章

#### MODIFICATION OF PROJECT; PAYMENTS IN LIEU OF TAXES

#### 项目变更

#### 财产税支付

##### Section 5.01 Modification of Project.

##### 第 5.01 节 项目变更

The Company shall have the right at any time and from time to time during the Term hereof to undertake any of the following:

公司有权在本协议有效期内随时采取如下行动：

(i) The Company may replace or renovate any portion of the Project and, in connection therewith, to the extent permitted by the FILOT Act, install Replacement Property in the Project subject to Section 12-44-60 of the FILOT Act. If the Company elects to install Replacement Property, then the calculation of FILOT payments on the Replacement Property shall be made in accordance with **Section 5.02(b)** below but using the original income tax basis of the Economic Development Property which the Replacement Property is replacing. To the extent that the income tax basis of the Replacement Property exceeds the fair market value of the Economic Development Property which it is replacing, the portion of such Replacement Property allocable to the excess amount is subject to *ad valorem* taxation; provided, however, that as long as any Replacement Property is placed in service during the Investment Period, the entire Replacement Property shall be subject to FILOT payments..

(i) 公司可在财产税法允许的范围内，替换或更新项目的任意部分，根据财产税法第 12-44-60 条安装重置财产，重置财产的财产税应根据如下第 5.02 (b) 计算，计算时应以被置换经济开发区财产的原所得税纳税基准。重置财产的所得税基准高于被置换经济开发区财产的公允市场价值的，超出部分需征收从价税，但在投资期限内重置财产应全部按照财产税减免征收。

(ii) Notwithstanding anything in this Agreement to the contrary, the Company shall be entitled in its discretion from time to time to delete or remove any portions of the Project, or to add any (non-Project) property as may be used in conjunction with the Project or otherwise. In any instance where the Company in its discretion determines that any items of Equipment have become inadequate, obsolete, worn out, unsuitable, undesirable or unnecessary for operations at the Project, the Company may remove such items of Equipment and sell, trade-in, exchange or otherwise dispose of them (as a whole or in part) without the consent of the County.

(ii) 即使本协议有相反的规定，公司可以随时自行删除或移除项目的部分财产，或增加与项目相关的产权（非项目本身）。在公司确定某些设备对于项目运营已经不合格、废旧、磨损、不合适、多余或闲置的情况下，公司可以不经县郡同意移除、出售、折价处理、交换或处理这些设备。

Notwithstanding anything herein to the contrary, and subject in all events to the terms and provisions of **Section 5.02** hereof, the FILOT Payments required under **Section 5.02** hereof shall, to the extent permitted by law, be reduced at such time to the extent that such payments are attributable to any of the Equipment, Improvements or Replacement Property which is removed or otherwise deleted from the Project and the Company shall not be required to repay any portion of the tax benefit received prior to such event.

即使本协议有相反的规定，根据第 5.02 节的条款和规定，在所有情况下，在法律允许的程度内，任何设备、改进或重置财产从项目中移除或删除后，可减少据第 5.02 章节所支付的财产税，并且不要求公司返还在上述事件之前获得的税收优惠；

### Section 5.02 Payments in Lieu of Taxes.

#### 第 5.02 节财产税支付

(a) In accordance with the provisions of Section 12-44-50 of the FILOT Act, during the Term of this Agreement the Company shall make with respect to the Project annual FILOT Payments in the amounts set forth in this Section at the times and places, and in the same manner and subject to the same penalty assessments as prescribed by the County or the Department for *ad valorem* taxes. Such annual FILOT Payments shall be made on or before each January 15 of each year during the term of this Agreement, commencing with the January 15<sup>th</sup> of the second (2<sup>nd</sup>) year following the first year in which any component of the Project is first placed in service. Subject to the provisions of the Act, each annual FILOT Payment shall be equal to the Project Increment Payment with respect to each Project Increment, including, subject to the provisions of the Act, Replacement Property for the Project originally included in such Project Increment, calculated as set forth in **Section 5.02(b)** hereof, for each of thirty (30) consecutive years (except to the extent that any portion of such Project Increment ceases to qualify for a negotiated fee in lieu of taxes under the Act) commencing with the year following the year in which the respective Project Increments are placed in service.

(a) 根据财产税减免法案第 12-44-50 条的规定，本协议期内公司需根据本章节列明的金额、时间、地点和方式支付本项目减免后的年度财产税，财产税缴纳及罚金评估与县郡或税务部门对于从价税的要求一致。协议期内减免后的财产税应在每年 1 月 15 日之前支付，自项目的任何财产投入使用的第二年起 1 月 15 日开始起算。依据法案规定，每年财产税的金额与各项新增财产总计应支付金额一致，包括列入本项目财产的重置财产，具体计算见第 5.02 (b) 章，自财产投入使用后的连续三十 (30) 年（该项财产不再符合财产税减免要求的除外）

(b) Each Project Increment Payment shall be calculated as if *ad valorem* taxes would be due with respect to the applicable Project Increment if the same were taxable, but, subject to the provisions of Section 12-44-110 of the Act, using the following formula: each such Project

Increment Payment shall be in an amount equal to the product which would result from multiplying the Project Millage Rate of 453.1 by an assessment ratio of four percent (4.0%) of the fair market value of the portion of the Project included within such Project Increment. Such fair market value shall be that determined by the Department on the basis provided in Section 12-44-50(A) of the FILOT Act, and shall, subject to the provisions of the Act, include all Replacement Property and deductions for depreciation or diminution in value allowed by the Act or by the tax laws generally, and shall be subject to any reductions provided herein under **Sections 5.01 and 6.01** hereof, and include all applicable *ad valorem* tax exemptions except the exemption allowed pursuant to Section 3(g) of Article X of the South Carolina Constitution and the exemptions allowed pursuant to Section 12-37-220(B) (32) and (34) of the Code. Notwithstanding the foregoing, the fair market value established for real property comprising the Project shall remain fixed for the Term.

(b) 在计算每项新增财产税时应视为在充分尊重适用项目增值的前提下同样征税，但依据法案 12-44-110 条规定采用以下公式：每项新增财产缴纳的财产税为该项财产的市场公允价值乘以评估比率（4%）再乘以项目厘计税率 453.1。市场公允价值由南卡税务部依据财产税减免法案第 12-44-50（A）条确定，并应该根据法案规定，包含重置财产并减去折旧或法案或税法允许计提的折旧或减值，同时扣除 5.01 节和 6.01 节提到的扣除项，以及所有可适用的从价税减免，南卡州宪法第 10 条第 3 节（g）条款以及法令第 12-37-220(B) (32) 和 (34) 节规定的减免除外。尽管存在前述规定，项目建立的不动产的公允价在固定期限内保持不变。

(c) In the event that the FILOT Act and/or the above-described payments in lieu of taxes or any portion thereof, are declared invalid or unenforceable, in whole or in part, for any reason, the Company and the County express their intentions that such payments be reformed (including without limitation, to the extent permitted by law, through the provision by the County of infrastructure credits to the Company pursuant to Section 4-1-175 and/or Section 12-44-70 of the FILOT Act) so as to afford the Company no less or more than the same benefit it receives under this Agreement to the extent then permitted by law. Absent the legal authorization to effect such reformation, the Company and the County agree that there shall be due hereunder with respect to the portion of the Project affected by such circumstances *ad valorem* taxes and that, in such event, the Company shall be entitled, to the extent permitted by law, (1) to enjoy the five-year exemption from *ad valorem* taxes (or fees in lieu of taxes) provided by South Carolina Constitution Article X, Section 3, and any other exemption allowed by law from time to time; (2) to enjoy all allowable depreciation; and (3) to receive all other tax credits which would be due if the Company were obligated to pay *ad valorem* taxes hereunder.

(c) 若因任何原因财产税法案和/或上述财产税减免被宣布部分或全部无效或不可实施，公司和县郡表明更改财产税支付，在法律允许的范围内给予公司最大补贴（包括但不限于在法律允许的范围内，根据财产税减免法案第 4-1-175 节和/或第 12-44-70 节县郡向公司提供基础设施补贴），以使得公司享受与此协议一致的补贴。未经合法授权促使变更生效，公司及县郡同意，就受上述因素影响的财产，在法律允许的情况下，公司享有（1）根据南卡州法典第十章第 3 节减免五年从价税（或财产税）以及法律允许的其它减免；（2）准予记列折旧额以及（3）若公司需缴纳从价税则享受其它税收抵免；

(d) Subject to the provision of 2.02(g) hereof, if by the end of the Investment Period, the Company has not (i) invested or caused to be invested \$400 million in the Project

(“Minimum Investment”) and (ii) created at least 800 new,full-time jobs at the Project (“Minimum Jobs”), then the Company may be required to reimburse the County for a percentage of the Land Value based on the formula below. (For purposes of this Section, the value of the Land is set at \$25,000 per acre for a total value, based on a total of approximately 197 acres, of \$4,925,000 (“LandValue”).)

$$\frac{\text{Actual Investment}}{\$400 \text{ Million}} \times 100 = \text{Investment Achievement Percentage}$$

$$\frac{\text{Actual Job Creation}}{800 \text{ Jobs}} \times 100 = \text{Job Achievement Percentage}$$

$$\frac{(\text{Investment Achievement Percentage}) + (\text{Job Achievement Percentage})}{2} = \text{Overall Achievement Percentage}$$

$$100\% - (\text{Overall Achievement Percentage}) = \text{Reimbursement Factor}$$

For example:

$$\frac{\$288 \text{ Million Actual Investment}}{\$400 \text{ Million}} \times 100 = 72\%$$

$$\frac{835 \text{ Actual Job Creation}}{800 \text{ Jobs}} \times 100 = 104\%$$

$$\frac{72 + 104}{2} = 88\%$$

$$100\% - 88\% = 12\% \text{ (Reimbursement Factor)}$$

$$\$4,925,000 \text{ (Land Value)} \times 12\% = \$591,000 \text{ (Reimbursement Payment)}$$



根据第 2.02 节 (g) 的规定, 若在投资期结束之前, 公司未能 (i)为本项目投资或促成投资 4 亿美元 (最低投资额) (ii)创造至少 800 个项目相关的新增全职就业岗位 (最低就业岗位); 则公司须按照以下计算公式向县郡偿还部分土地价值 (此段的目的在于, 土地价格为 25000 美元每公顷, 项目用地约 197 公顷合计 4, 925,000 美元 (“土地价值”)):

$$\begin{array}{rcll} \text{实际投资额} & & & \text{投资额} \\ 4 \text{ 亿美元} & \times & 100 & = \text{完成比率} \end{array}$$

$$\begin{array}{rcll} \text{实际创造就业岗位数} & & & \text{就业岗位} \\ 800 & \times & 100 & = \text{完成比率} \end{array}$$

$$\begin{array}{rcll} (\text{投资额完成比率}) + (\text{就业岗位完成比率}) & & & \text{整体} \\ 2 & & & = \text{完成比率} \end{array}$$

$$100\% - (\text{整体完成比率}) = \text{偿还比率}$$

举例:

$$\begin{array}{rcll} 2.8 \text{ 亿美元实际投资} & & & \\ 4 \text{ 亿美元} & \times & 100 & = 72\% \end{array}$$

$$\begin{array}{rcll} 835 \text{ 实际就业人数} & & & \\ 800 \text{ 个工作岗位} & \times & 100 & = 104\% \end{array}$$

$$\begin{array}{rcll} 72\% + 104\% & & & \\ 2 & & & = 88\% \end{array}$$

$$100\% - 88\% = 12\% \text{ (偿还比率)}$$

$$\$4925000 \text{ (土地价值)} \times 12\% = \$591000 \text{ 偿还支付金额}$$

The parties acknowledge that there may be personnel located at the Project who will not be direct employees of the Company. This personnel may include full-time employees of

suppliers or employees of various companies providing services to the Project (e.g., security personnel, maintenance personnel) (collectively “Badge Personnel”). The Badge Personnel shall be deemed Company employees and shall count towards any minimum job requirements for purposes of this Agreement; provided, however, that for such counting purposes, Badge Personnel shall not exceed 12% of the total number of employees.

各方承认可能会有一些项目现场人员并非是公司雇员，包括供应商的员工或者各种为该项目提供服务的各种公司的的员工（如安保、维护人员等）（统称“挂牌人员”）；挂牌人员在本协议，仍将算做投资项目所创造的新就业岗位，但此类挂牌人员人数不应超过总员工的 **12%**。

(e) Up to \$20 million of the Company’s investment in the Project can be comprised of property tax-exempt pollution control equipment for purposes of the reimbursement formula set forth in this subsection. If and to the extent that the Company invests more than \$20 million in such property tax-exempt pollution control equipment, such additional investment shall not be counted as part of the Company’s investment for purposes of such reimbursement formula.

(e) 在公司的总投资中，价值不超过 2000 万美元免征财产税的污染控制设备可用于此计算公式。但如果公司投资多于 2000 万美元在免征财产税的污染控制设备上，在进行赔偿计算时，超出部分的投资额在将不能算作公司的投资额。

(f) The Company shall make any reimbursement payment to become owing under this subsection to the County at the time the Company makes its FILOT payment to the County for the 2025 property tax year.

(f) 对于按本节规定产生的偿还支付，公司应在 2025 年财产税年支付财产税时进行支付。

(g) If the Company fails to invest or cause to be invested at least \$250,000,000 and to create at least 250 new jobs at the Project by the end of the Investment Period, then 1) the Company shall be required to pay to the County an amount equal to the Land Value provided the land is not returned to the County, and 2) the applicable assessment ratio shall be increased from 4% to 6%.

(g) 如果公司在 2024 年 12 月 31 日前未能达到 2.5 亿美元投资并创造 250 个新的就业岗位，1) 如果土地未偿还县郡，则公司将须偿还县郡与土地价值相同的金额，2) 评估比率将从 4% 增长至 6%。

(h) In the event the Company invests less than \$2,500,000 in the Project in the aggregate during the Investment Period, this Agreement terminates and the Project is immediately subject to ad valorem tax both prospectively and retroactively to the first year which FILOT Payments were to have been made with respect to the Project. The Company shall make payment to the County, within ninety (90) days after the termination pursuant to this Section, of the difference between (i) the FILOT Payments actually made and (ii) the total retroactive amount of ad valorem tax which would have been due by the Company with respect to the Project, but allowing for appropriate exemptions and abatements to which the Company would have been entitled if the Project were not economic development property, plus interest in the manner as provided in Section 12-54-25 of the Code, or any successor provision.

(h) 若在投资期内项目累计投资未能达到 250 万美元，本协议立即终止并将征收从价税，同时将追溯至本项目缴纳财产税的第一年。根据本章节协议终止后的 90 天内，公司应向县郡缴纳下列两项的差额 (i) 实际缴纳的财产税 (ii) 本项目应缴纳的总的可以追溯的从价税，但是应以法典第 12-54-25 节或后续条款规定的方式扣除本项目如不被视为经济开发区财产可享受的合理的减免及利息。

[End of Article V]

**ARTICLE VI**  
**第六章**  
**CASUALTY; CONDEMNATION**  
**损毁；征用**

Section 6.01 FILOT Payments in the Event of Damage and Destruction or Condemnation.

第 6.01 节损坏、损毁或征用情况下财产税的缴纳

In the event that the Project is damaged or destroyed or the subject of condemnation proceedings, which damage, destruction and/or condemnation would substantially impair the operating ability of the Project, the parties hereto agree that the FILOT Payments required pursuant to **Section 5.02** hereof shall be abated in the same manner and in the same proportion as with *ad valorem* taxes, subject in all events to the provisions of **Section 5.02** hereof.

项目受到损坏、破坏或被征用，该损坏、破坏或征用阻碍了项目的运营，各方同意 5.02 节规定的财产税减免费用可相应的比照从价税可减少的幅度相应减少。

[End of Article VI]

**ARTICLE VII**  
**PARTICULAR COVENANTS AND AGREEMENTS**

特别条款和协定

Section 7.01 Rights to Inspect.

第 7.01 节检查权

The Company agrees that the County and its authorized agents shall have the right at all reasonable times and upon prior reasonable notice to enter upon and examine and inspect the Project. The County and its authorized agents shall also be permitted, at all reasonable times and upon prior reasonable notice, to have access to examine and inspect the Company's South Carolina property tax returns, as filed. The aforesaid rights of examination and inspection shall be exercised only upon such reasonable and necessary terms and conditions as the Company shall prescribe, which conditions shall be deemed to include, but not be limited to, those necessary to protect the Company's trade secrets and proprietary rights. Prior to the exercise of any right to inspect the Project or the above-referenced records of the Project, the County, at the request of the Company, shall cause its agents to sign a nondisclosure statement substantially in the form shown on Exhibit B attached hereto. In no way shall this requirement of a nondisclosure statement be deemed to apply to or restrict the rights of the United States Government and the State or its political subdivisions in the legitimate exercise of their respective sovereign duties and powers.

公司同意县郡及其授权的机构有权提前合理的时间通知后，在任何合理的时间，调查并视察项目，同时允许县郡及其授权机构提前合理的时间通知后，在任何合理的时间调查并检查公司的财产税纳税申报文档。上述调查和检查权的行使需在公司规定的合理且必要的条件和条款下，应包括但不限于为保护公司商业机密和所有权所采取的必须的措施。。在对本项目或上述与本项目相关的档案材料行使审查权之前县郡需根据公司要求促使其机构签署附件 B 中的保密协议。签署保密协议不应被认为对美国政府机构以及州或其政治分支机构合法行使职责构成限制。

Section 7.02 Limitation of County's Liability.

第 7.02 节县郡的有限责任

Anything herein to the contrary notwithstanding, any financial obligation the County may incur hereunder (it being understood that the performance by the County of its obligations to provide the FILOT benefit to the Company is not a financial obligation of the County within the meaning of this Section but it should be considered as the obligation which the county has to performance hereunder ), including for the payment of money shall not be deemed to constitute a pecuniary liability or a debt or general obligation of the County; provided, however, that nothing herein shall prevent the Company from enforcing its rights hereunder by suit for *mandamus* or specific performance.

即使本合同中有任何与此相反的条款，本协议项下县郡承担的任何财务义务（根据此章节的释意县郡向公司提供财产税减免不视为县郡的财务义务而是县郡应按本协议履行的义务），包括款项的支付不应视为构成县郡金钱上的法律责任或债务或一般义务；但本节内容不能阻碍公司通过诉讼申请训令或强制行使其权利。

Section 7.03 Mergers, Reorganizations and Equity Transfers.

第 7.03 节 兼并、重组及股权转让

The Company acknowledges that any mergers, reorganizations or consolidations of the Company may cause the Project to become ineligible for negotiated fees in lieu of taxes under the FILOT Act absent compliance by the Company with the Transfer Provisions; provided that, to the extent provided by Section 12-44-120 of the FILOT Act or any successor provision, any financing arrangements entered into by the Company with respect to the Project and any security interests granted by the Company in connection therewith shall not be construed as a transfer for purposes of the Transfer Provisions. Notwithstanding anything in this Agreement to the contrary, it is not intended in this Agreement that the County shall impose transfer restrictions with respect to the Company or the Project as are any more restrictive than the Transfer Provisions.

公司知晓任何的并购、重组及合并或因公司未遵守没有转让条款而使项目不满足财产税法中确定的财产税；根据财产税减免法案第 12-44-120 节及其后续规定，公司签订的本项目的资金安排协议及担保权益不应视为以转让为目的。即使本协议中有相反规定，县郡对公司或本项目的转让限制不应比转让条款中有更严苛。

The County recognizes and agrees that the Company may, at its sole discretion, choose not to proceed with the Project or, at any time, reduce or cease Operations and vacate the Facility and the Land, and the County hereby waive any legal claims or actions they may have against the Company based on same, except as set forth in Section 5.02 herein. The Company and County intend that this Agreement shall be assignable by the Company consistent with Article 8 of this Agreement, and that such consent not to be withheld by the County as long as the Company is not in default under this Agreement.

县郡承认并同意公司可以自行决定不推进本项目或在任何时间减少或停止运行并清空工厂和土地。而县郡据此放弃对对公司采取任何法律索赔或诉讼，但不包括第 5.02 章节规定的偿还责任。公司和县郡同意公司可根据本协议第 8 条转让本协议，如果公司没有构成对本协议的违约，县郡不得拒绝。

Section 7.04 Indemnification.

第 7.04 节 赔偿

- (a) Except as provided in paragraph (d) below, the Company shall indemnify and save the County, its employees, elected officials, officers and agents (each, an “Indemnified Party”) harmless against and from all liability or claims arising from the

County's execution of this Agreement or the Infrastructure Agreement, performance of the County's obligations under this Agreement or the Infrastructure Agreement, the administration of its duties pursuant to this Agreement or the Infrastructure Agreement, or otherwise by virtue of the County having entered into this Agreement or the Infrastructure Agreement (collectively, "Covered Claim"), provided, however, that the Company's indemnification obligation shall only extend to those liabilities or claims resulting from a direct and specific challenge to the validity or legality of this Agreement or the Infrastructure Agreement or the ordinances authorizing such agreements and not to agreements of this type generally, and shall further not include any costs of compliance with the South Carolina Freedom of Information Act. To the extent any payment ("Claim Payment") is due from the County pursuant to (i) a final, non-appealable court order or decision relating to a Covered Claim brought against the County, or (ii) the settlement of any Covered Claim brought against the County, provided the settlement is consented to by the Company, which consent shall not be unreasonably withheld, the parties shall negotiate in good faith a reduction of the benefits provided under this Agreement or the Infrastructure Agreement in order to provide the County a full reimbursement of any Claim Payment, and provided further that such reduction in benefits under this Agreement and the Infrastructure Agreement shall not exceed an amount equal to 5% of the total benefits conferred to and claimed by the Company pursuant to this Agreement and the Infrastructure Agreement and shall constitute the sole source of reimbursement for any Covered Claim.

(a) 除下述第 d 段描述外，县郡，其员工，选举官员，行政人员或其代理（每方简称“被赔偿方”）因执行本协议或基础设施协议，履行此协议或基础设施协议的义务，根据此协议或基础设施协议的条款行使其职责，或者因县郡签订此协议或基础设施协议而产生的责任或索赔（统称“涵盖的索赔”），公司应当赔偿被赔偿方并免除其责任。但是公司的赔偿义务仅限于因质疑此协议或基础设施协议或授权上述协议条例的有效性和合法性而直接产生的具体的责任或索赔，不包括此类型的其它文件，并且应符合南卡州信息自由法案产生的任何费用也不包括在内。根据如下县郡应支付的任何赔偿（简称“赔偿支付”）（i）就上述涵盖的投诉将县郡拆至法院，法院作出最终，不可上诉的法庭命令或决定，或者（ii）针对县郡的涵盖的投诉庭外和解，但是庭外和解必须由公司同意，公司不得无理由拒绝，协议方将真诚谈判降低此协议的优惠条件，基础设施协议将不会超过等于公司根据本协议授予并索赔的总利益的 5%，基础设施协议应成为任何有偿索赔的唯一偿还来源。

(b) The Company shall further reimburse the County for all of its costs, including attorneys' fees, incurred in connection with the response to or defense against such liability or claims as described in paragraph (a) above in an aggregate amount not to exceed \$75,000. The County shall provide a statement of the costs incurred in the response or defense, and the Company shall pay the County within 30 days of receipt of the statement. The Company may request reasonable documentation evidencing the costs shown on the statement. However, the County is not required to provide any documentation which may be privileged or confidential to evidence the costs.

(b) 县郡在对上述责任或回复做出反应或辩护的见上述段落 (a) 描述, 与之相关的各项费用包括律师费, 县郡可以向公司报销。县郡应出示反应或辩护费用清单, 公司在收到费用清单后 30 天内支付县郡。公司或要求县郡就费用提供合理的证据, 县郡应有特权可以不透露的或为机密文件的, 县郡可以不出具; 。

(c) The County may request the Company to resist or defend against any Covered Claim on behalf of an Indemnified Party. On such request, the Company shall resist or defend against such Covered Claim on behalf of the Indemnified Party, at the Company's expense. The Company is entitled to use counsel of its choice, manage and control the defense of or response to such claim for the Indemnified Party; provided the Company is not entitled to settle any such claim without the consent of that Indemnified Party. The Company shall have a right to resist or defend any Covered Claim in order to avoid a default judgment in any situation where the County fails to resist or defend any Covered Claim.

(c) 县郡或要求公司代表被赔偿方对投诉进行反抗或辩护, 收到要求之后, 公司应代表被赔偿方进行反抗或辩护, 费用由公司承担。公司有权自行选择律师, 并且帮助赔偿方管理和控制此辩护及反应; 若未经赔偿方同意, 公司无权解决上述索赔;

(d) Notwithstanding anything herein to the contrary, the Company is not required to indemnify any Indemnified Party against or reimburse the County for costs arising from any Covered Claim or liability (i) occasioned by the acts of that Indemnified Party, which are unrelated to the execution of this Agreement, performance of the County's obligations under this Agreement, or the administration of its duties under this Agreement, or otherwise by virtue of the County having entered into this Agreement; or (ii) resulting from that Indemnified Party's own negligence, bad faith, fraud, deceit, or willful misconduct.

(d) 即使本协议有任何相反规定, 以下情况下, 公司无需赔偿任何被赔偿方或支付县郡因诉讼或债务而产生的费用, (i) 与本协议的执行以及县郡履行本协议各项义务或职务无关的其它事件引发; 或者 (ii) 因为赔偿方自身失责、失信、造假、欺瞒或渎职引发的。

(e) An Indemnified Party may not avail itself of the indemnification or reimbursement of costs 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.

(e) 除非被赔偿方将已经存在的投诉或债务, 或面临投诉或债务威胁的情况, 包括但是不限于任何引用、政令、罚款和补救要求的副本或其它申诉或申诉威胁以当时情况下合理的方式告知公司, 否则被赔偿方无权根据此章节要求赔偿或报销费用;

## Section 7.05 Qualification in State.

### 第 7.05 节州内的资质



The Company warrants that it is duly qualified to do business in the State, and covenants that it will continue to be so qualified so long as it operates any portion of the Project.

公司保证在州内具有经营业务的资质，并承诺会在项目运营中具备合格资质。

#### Section 7.06 No Liability of County's Personnel.

##### 第 7.06 节县郡员工免责

All covenants, stipulations, promises, agreements and obligations of the County contained herein shall be deemed to be covenants, stipulations, promises, agreements and obligations of the County and shall be binding upon any member of the County Council or any officer, agent, servant or employee of the County only in his or her official capacity and not in his or her individual capacity, and no recourse shall be had for the payment of any moneys hereunder against any member of the governing body of the County or any officer, agent, servants or employee of the County and no recourse shall be had against any member of the County Council or any officer, agent, servant or employee of the County for the performance of any of the covenants and agreements of the County herein contained or for any claims based thereon except solely in their official capacity.

本协议县郡的所有契约、约定、承诺、协议以及义务应视为县郡的契约、约定、承诺、协议和义务，应当只对县郡议会成员、官员、代理人、县郡员工的官方身份具有约束力，对其个人身份无约束力。并且不应向任何县议会成员、官员、代理人、县郡员工追索费用，任何因协议履行产生的索赔不应向县议会成员、官员、代理人、县郡员工追索，纯粹因其官方职务而产生的除外。

#### Section 7.07 Other Tax Matters.

##### 第 7.07 节其它税务事宜

Subject to the limitations expressly set forth in **Section 5.02(b)** hereof, the Company shall be entitled to all state and federal investment tax credits, allowances for depreciation and other similar tax provisions allowable by applicable federal or State law with respect to the Project, to the extent allowed or otherwise not prohibited by the FILOT Act.

根据第 **5.02 (b)** 节规定的限定，公司将享受所有州和联邦投资税收抵免、折旧津贴以及联邦和州适用法律允许的与本项目相关的其它类似税收规定，应在被允许或者财产税减免法案未禁止的范围内。

#### Section 7.08 Multi-County Park.

##### 第 7.08 节多县园区

In the event for any reason that the Multi-County Park Agreement shall be terminated prior to the Original Termination Date, the County agrees that it will, pursuant to the Multi-County Park Act, and to the extent permitted by law, cause the Project to be included in a duly authorized, executed and delivered successor joint county industrial park agreement with an adjoining South Carolina county pursuant to the Multi-County Park Act, which successor agreement shall contain a termination date occurring no earlier than the termination date of this Agreement.

如果多县园区协议在原定终止日前终止，县郡同意将根据多县园区法案，将公司纳入与其它与南卡州其它临近县郡创建的，合法授权、执行及交付的后续多县郡工业园区内，后续协议的终止日期应不早于本协议终止日。

[End of Article VII]

## ARTICLE VIII

### 第七章

#### ASSIGNMENT OF THIS AGREEMENT; SPONSORS AND SPONSOR AFFILIATES

本协议的转让；  
发起人及发起人附属公司

##### Section 8.01 Assignment .

##### 第 8.01 节转让

The Company may assign or otherwise transfer any of its rights and interest hereunder to an assignee or lessee, as the case may be, in compliance with the Transfer Provisions, including the requirement that any such assignment or lease shall be subject to the written consent of the County. In these regards, the County agrees that such consent shall not be unreasonably withheld, conditioned or delayed. The County hereby consents to any transfers by the Company to any affiliate of the Company at any time. For such purposes, “affiliate” shall mean any person or entity directly or indirectly controlling, controlled by or under common control with the Company. Further, the County agrees that, to the extent permitted by Section 12-44-120(B) of the Act, or any successor provision, any financing arrangements entered into by the Company with respect to the Project and any security interests granted by the Company in connection therewith shall not be construed as a transfer for purposes of requiring consent to the same on the part of the County.

公司可将本协议的权利或利益转让或转移至受让人或承租人，是具体情况而定，但须符合转让条款的规定，包括：此类转让或出租需取得县郡的书面同意，县郡同意此类转让或转移不得被无理拒绝、附带条件或延迟。县郡特此同意公司随时转移至任何附属公司。出于以上目的，“附属公司”直接或间接控制公司或被公司控制或由公司参与控制的任何个人或单位。另外，县郡同意，根据法案 12-44-120（B）条款及其后续规定，任何公司签订的资金协议或担保权益不能被理解为出于转让的目的，因而无需县郡批准同意。

##### Section 8.02 Sponsors and Sponsor Affiliates.

##### 第 8.02 节发起人及发起人附属公司

The Company may designate from time to time additional Sponsors or any Sponsor Affiliates pursuant to the provisions of Sections 12-44-30(19) or (20), respectively, and Section 12-44-130 of the FILOT Act. The County agrees that companies affiliated with the Company and qualifying as Sponsor Affiliates will be aggregated into this Agreement with the County and utilize the same incentives as provided herein and their investment and job creation will count towards the investment and jobs committed to by the Company for all purposes, which Sponsors or Sponsor

Affiliates shall be persons who join with the Company and make investments with respect to the Project, or who participate in the financing of such investments, who agree to be bound by the terms and provisions of this Agreement, and who shall be direct affiliates of the Company or other persons described in **Section 8.01** hereof. All additional Sponsors or any Sponsor Affiliates must otherwise meet the requirements of said Section 12-44-30(19) or (20) and Section 12-44-130 of the FILOT Act and be approved by a resolution of the County Council. To the extent permitted by the FILOT Act (and specifically Section 12-44-130 thereof), the investment by such additional Sponsor or any Sponsor Affiliate shall qualify for the FILOT Payments payable under **Section 5.02** hereof (subject to the other conditions set forth therein). The Company shall provide the County and the Department with written notice of any additional Sponsor or Sponsor Affiliate designated pursuant to this **Section 8.02** within ninety (90) days after the end of the calendar year during which any such Sponsor or Sponsor Affiliate has placed in service assets to be used in connection with the Project, all in accordance with Section 12-44-130(B) of the FILOT Act.

公司可随时指定其他另外的发起人或发起人附属公司，根据 12-44-30(19) 条或 (20)和财产税减免法案 12-44-130 条的规定。县郡同意与公司相关的符合发起人附属公司的将合并纳入与县郡签订的此协议，并且享受本协议的各项优惠措施，其投资额和新增就业岗位数也将算作公司承诺的投资额和就业岗位数，发起人或发起人附属公司需与公司一起对项目进行投资或参与项目融资，并同意接受本协议条款的约束，应为公司的直接附属公司或 7.01 节描述的其他个人。所有发起人或发起人附属公司需满足 12-44-30(19) 条或 (20)和财产税减免法案第 12-44-130 条，并且县郡议会以决议形式批准通过。根据财产税减免法案（特别是第 12-33-130 条）规定，上述发起人或发起人附属公司的投资满足第 5.02 节中应付财产税支付要求。（取决于本协议规定的其它条件）。公司应在上述发起人或发起人附属公司与本项目相关的资产开始投入使用的第一个自然年结束的九十（90）天内，将根据财产税减免法案第 12-44-130（B）条指定的发起人和发起人附属公司书面通知县郡和南卡税务部。

[End of Article VIII]

## ARTICLE IX

### 第八章

#### EVENTS OF DEFAULT AND REMEDIES

#### 违约事件及补救措施

##### Section 9.01 Events of Default.

##### 第 9.01 节违约事件

Any one or more of the following events (herein called an “Event of Default”, or collectively “Events of Default”) shall constitute an Event of Default by the Company:

以下任何一个或多个事件（简称“违约事件”，或统称“违约事件”）将会构成公司违约：

(a) if default shall be made in the due and punctual payment of any FILOT Payments, which default shall not have been cured within thirty (30) days following receipt of written notice thereof from the County;

(a) 若财产税到期未支付，并且在收到县郡书面通知之后三十(30)天内仍未支付。

(b) if default shall be made by the Company in the due performance of or compliance with any of the material terms of this Agreement, including payment, other than those referred to in the foregoing paragraph (a), and such default shall (i) continue for ninety (90) days after the County shall have given the Company written notice of such default, or (ii) in the case of any such default which can be cured but which cannot with due diligence be cured within such 90-day period, if the Company shall fail to proceed promptly to cure the same and thereafter prosecute the curing of such default with due diligence, it being intended in connection with the default not susceptible of being cured with due diligence within ninety (90) days that the time of the Company within which to cure the same shall be extended for such period as may be necessary to complete the curing of the same with all due diligence; or

(b) 如果公司在按时履行或遵守本协议实质性条款方面违约，包括付款，除了上段(a)提到的之外,此类违约应为 (i) 县郡就该违约出具书面通知书后 90 内持续存在，或 (ii)

任何此类违约时可以被解决但无法在 90 日内通过尽职调查解决，如果公司无法迅速的解决，随后起诉这种违约的补救和调查，在公司开始的与违约相关的尽职调查的 90 日将会被延长到该尽职调查完成补救的时期。

(c) if any material representation or warranty made by the Company herein or any statement, certificate or indemnification furnished or delivered by the Company in connection with the execution and delivery of this Agreement, proves untrue in any material respect as of the date of the issuance or making thereof or knowingly violated or breached, as the case may be.

(c) 如果本协议中公司的任何实质性的陈述和保证，或公司提供的与本协议签订与交付有关的任何声明、证明或赔偿，在签发之日或之后存在实质性错误或已存在侵权或违约行为，具体视情况而定。

(d) Notwithstanding anything in this Agreement to the contrary, a failure by the Company to invest any dollar amount in the Project or to create any specified number of jobs in respect thereto, as the same may be recited herein, shall not in itself constitute an Event of Default under this Agreement.

(d) 即使本协议有相反规定，如公司对项目的投资额或创造的岗位数没有达到规定的要求，其自身并不构成本协议的违约事件。

## Section 9.02 Remedies on Event of Default.

### 第 9.02 节 违约事件的补救措施

Upon the occurrence of any Event of Default, the County may: (i) terminate this Agreement by provision of thirty (30) days' notice to the Company in writing specifying the termination date; (ii) upon providing, at the Company's request, but subject in all events to the necessary exercise by the County of its sovereign duties and powers, a signed nondisclosure statement substantially in the form attached as Exhibit B hereto, have access to and inspect, examine and make copies of, the books, records and accounts of the Company pertaining to the Project; or (iii) take whatever action at law or in equity as may appear necessary or desirable to collect any FILOT Payments and Additional Payments then due or to enforce observance or performance of any covenant condition or agreement of the Company under this Agreement, including without limitation enforcement of a statutory lien on the Project for any non-payment of FILOT Payments hereunder.

若发生任何违约事件县郡可以：(i) 按规定提前三十（30）天给公司出具书面通知，注明协议终止日期；(ii) 应公司要求，为行使县郡的职责，按附件 B 的格式向公司提供保密声明，获得、调查或检查或复印公司与本项目相关的账簿、记录和财务明细；或 (iii) 采用必要的法律或衡平措施收取到期应付财产税以及其它额外款项，以促使公司履行本协议条款，包括但不限于未支付的财产税执行法定留置权。

## Section 9.03 Collection of FILOT Payments.

### 第 9.03 节 财产税的收取

In addition to all other remedies herein provided, the nonpayment of FILOT Payments shall constitute a lien for tax purposes as provided in Section 12-44-90 of the FILOT Act. In this regard, and notwithstanding anything in this Agreement to the contrary, the County may exercise the remedies provided by general law (including, without limitation, Title 12, Chapter 49, of the Code) relating to the enforced collection of *ad valorem* taxes to collect any FILOT Payments due hereunder.

除上述补救措施外，根据财产税减免法案第 12-44-90 条，未支付财产税将构成税收留置权。据此，即使本协议中有其它相反规定，公司或可以行使与征收从价税有关的普通法提供的补救措施征收到期财产税。

#### Section 9.04 County Event of Default.

##### 县郡违约

Any of the following events shall constitute an event of default by the County (“County Event of Default”):

如下任何事件将构成县郡的违约事件（简称“县郡违约事件”）

- (a) A representation or warranty made by the County which is deemed materially incorrect when deemed made; or

县郡所做的任何陈述或保证，在县郡作出时被认为存在实质性的错误。

- (b) Failure by the County to perform any of the terms, conditions, obligations, or covenants hereunder, which failure shall continue for a period of 30 days after written notice from the Company to the County specifying such failure and requesting that it be remedied, unless the County shall have instituted corrective action within such time period and is diligently pursuing such action until the default is corrected, in which case the 30-day period shall be extended to cover such additional period during which the County is diligently pursuing corrective action; or

县郡未履行本协议的条款、条件、义务或协议，且在收到公司的书面通知向县郡列明违约事件并要求县郡采取补救措施的 30 天后该违约事件仍未解决，除非县郡已经在 30 天内采取纠正措施并且勤勉地执行上述纠正措施直至纠正违约行为，在上述情况下可以延长原定 30 天的期限，将县郡采取纠正措施的时间包括在内。

- (c) Whenever any County Event of Default shall have occurred or shall be continuing, the Company may take one or more of the following actions:

当发生县郡违约事件或县郡违约事件持续存在，公司或可以采取下列一项或多项措施：

- (i) bring an action for specific enforcement;  
就具体某项的实施提起诉讼；

(ii) terminate the Fee Agreement; or

终止协议；或

(iii) in case of a materially incorrect representation or warranty, take such action as is appropriate, including legal action, to recover its damages, to the extent allowed by law.

如果某项陈述或保证存在实质性的错误，公司可以在法律允许的程度内，采取合理的措施，包括：法律诉讼，挽回损失。

[End of Article IX]



ARTICLE X  
第九章  
MISCELLANEOUS  
其他

Section 10.01 Termination.

第 10.01 节终止

(a) At any time prior to the stated expiration of the Term of this Agreement the Company may, by written notice to the County, terminate this Agreement, in whole or in part, effective immediately on giving such notice or on such date as may be specified in the notice; provided that such termination shall not be effective until such time as the Company shall have made payment to the County of all applicable payments payable under this Agreement as of such time, including without limitation pursuant to Sections 5.02(d) and (g) hereof. Upon termination, and subject to any provisions herein which shall by their express terms be deemed to survive any termination of this Agreement, the Company shall no longer be entitled to the benefit of the fee in lieu of payments provided herein and the property constituting the Project with respect to which this Agreement has been terminated, shall thereafter be subject to the *ad valorem* tax treatment required by law and, except as may be expressly provided herein, in no event shall the Company be required to repay to the County the amount of any tax benefit previously received hereunder.

(a) 公司可以在本协议终止期前的任何时间内书面通知县郡，终止或部分终止，立即或于通知注明的时间终止本协议；上述终止在公司没有付清至当前日本协议第 5.02 (d) 及 (g) 章节规定的财产税前不会生效。一旦终止，根据明确表示本协议终止后继续有效的条款的规定，公司将不再享受本协议的财产税优惠，项目财产应依法缴纳从价税，除非本协议另有规定，在任何情况下不应要求公司应偿还县郡已经获得的税收优惠。

(b) If, at the time the Company delivers written notice to the County, the Company has not achieved the Minimum Investment or Minimum Jobs at the Project, then the provisions of **Section 5.02(d)** govern.

(b) 若在公司书面通知县郡时，项目仍未达到最低投资额或最低就业岗位要求，第 5.02 节(d)条的规定将生效。

Section 10.02 Rights and Remedies Cumulative.

第 10.02 节累计权利和补救措施

Each right, power and remedy of the County or of the Company provided for in this Agreement shall be cumulative and concurrent and shall be in addition to every other right, power or remedy provided for in this Agreement or now or hereafter existing at law or in equity, in any jurisdiction where such rights, powers and remedies are sought to be enforced, and the exercise by the County or by the Company of any one or more of the rights, powers or remedies provided for

in this Agreement or now or hereafter existing at law or in equity or by statute or otherwise shall not preclude the simultaneous or later exercise by the County or by the Company of any or all such other rights, powers or remedies.

本协议规定的县郡及公司的权利、权力和补救措施，应为累积的同步的，并且为本协议或法律或衡平法赋予的权利或补救措施的补充，县郡或公司在任何管辖区执行或行使本协议项下或者法律或衡平法提供的或法定的一项或多项权利应不排除县郡或公司同时或之后行使任何或所有有其它权利、权力或补救。

### Section 10.03 Successors and Assigns.

#### 第 10.03 节转让和续存条款

The terms and provisions of this Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective successors and assigns.

本协议的条款及规定对协议双方及其继承人和受让人应具有约束力并符合其利益。

### Section 10.04 Notices; Demands; Requests.

#### 第 10.04 节通知、需求、请求

All notices, demands and requests to be given or made hereunder to or by the County or the Company, shall be in writing, and shall be deemed to be properly given or made if sent by United States certified first class mail, return receipt requested, postage prepaid and addressed as follows or at such other places as may be designated in writing by such party.

县郡或公司有关本协议的任何通知、需求、请求应该形成书面文件充分送达，并通过美国一类挂号信确认，需提供回执、指定收件人、邮资预付。收件人地址如下或由另一方书面指定其它收件地址：

(a) As to the County:

至县郡

Richland County

Attn: Director, Economic Development

Administration Building

2020 Hampton Street, Room 4058

Columbia, South Carolina 29202

with a copy to (which shall not constitute notice to the County):  
抄送至（不构成对县郡的通知）

Parker Poe Adams & Bernstein LLP  
Attn: Ray E. Jones, Esq.  
1221 Main Street, Suite 1100  
Columbia, South Carolina 29201

(b) As to the Company:  
至公司

CHINA JUSHI USA CORPORATION

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with a copy to (which shall not constitute notice to the Company):  
抄送至（不构成对公司的通知）

HaynsworthSinkler Boyd, P.A.  
Attn: Frank T. Davis III, Esq.  
ONE North Main, 2<sup>nd</sup> Floor  
Greenville, South Carolina 29601

Section 10.05 Applicable Law; Entire Understanding.

第 10.05 节适用法律；完整协议

This Agreement shall be governed exclusively by the provisions hereof and by the applicable laws of the State. This Agreement expresses the entire understanding and all agreements of the parties hereto with each other, and neither party hereto has made or shall be bound by any

agreement or any representation to the other party which is not expressly set forth in this Agreement or in certificates delivered in connection with the execution and delivery hereof.

本协议将受协议条款以及州法律的专门管辖。本协议包含各方全部意思表示及所有协议，对本协议或与本协议签订或交付相关的证书中未明确作出的协议或陈述，双方均不受其约束。

#### Section 10.06 Severability.

##### 第 10.06 条可分割性

In the event that any clause or provisions of this Agreement shall be held to be invalid by any court of competent jurisdiction, such clause or provisions shall be reformed to provide as near as practicable the legal effect intended by the parties hereto, and the invalidity of such clause or provision shall not affect any of the remaining provisions hereof.

如果本协议的某个或数个条款因任何原因无效、非法或者不可执行，其他条款的有效性、合法性或可执行性不会因此收到影响或削弱。

#### Section 10.07 Headings and Table of Contents; References.

##### 第 10.07 节标题、目录；参考

The headings of this Agreement and any Table of Contents or Index annexed hereto are for convenience of reference only and shall not define or limit the provisions hereof or affect the meaning or interpretation hereof. All references in this Agreement to particular Articles or Sections or subdivisions of this Agreement are references to the designated Articles or Sections or subdivision of this Agreement.

本协议的标题、目录或索引仅以方便使用为目的，不应以任何方式影响条款的含义。本协议中所有参考都是对特定章、节、分段的参考。

#### Section 10.08 Multiple Counterparts.

##### 第 10.08 节副本

This Agreement may be executed in multiple counterparts, each of which shall be an original but all of which shall constitute but one and the same instrument.

本协议可签署多份副本，每份都应是原件，各副本被视为共同构成同一份文件具有同等法律效力。

Section 10.09 Amendments.

第 10.09 节修订

This Agreement may be amended only by a writing signed by all of the parties.  
本协议或由各方书面同意后方可修改。

Section 10.10 Waiver.

第 10.10 节弃权

Either party may waive compliance by the other party with any term or condition of this Agreement only in a writing signed by the waiving party.

只有通过书面签字任何一方才可以放弃要求其他方遵守本协议的任何条款

Section 10.11 Business Day.

第 10.11 节工作日

In the event that any action, payment or notice is, by the terms of this Agreement, required to be taken, made or given on any day which is a Saturday, Sunday or a legal holiday in the jurisdiction in which the person obligated to act is domiciled, such action, payment or notice may be taken, made or given on the following business day with the same effect as if given as required hereby, and no interest shall accrue in the interim.

如果要求本协议中的行动、付款或通知在周六、周日或法定节假日，则可在一个工作日执执行、采取和支付具有同等效力，且无需支付利息。

[End of Article X]

**IN WITNESS WHEREOF**, Richland County, South Carolina, has executed this Agreement by causing its name to be hereunto ascribed by the Chairman of County Council and to be attested to by the Clerk of its County Council, and CHINA JUSHI USA CORPORATION have executed this Agreement by their authorized officer(s), all being done as of the day and year first above written.

以兹证明，南卡州里奇兰县郡已安排县郡议会主席签署该协议并且由县郡议会书记员加盖公章并见证，巨石美国股份有限公司已安排其授权管理人员代表公司于本协议最上面所列日期年份签署。

**RICHLAND COUNTY, SOUTH CAROLINA**  
南卡罗来纳州里奇兰县郡

(SEAL)  
公章

By: \_\_\_\_\_  
至

Chairman, Richland County Council  
里奇兰县郡议会议会主席

ATTEST:  
见证

By: \_\_\_\_\_

由  
Clerk to Richland County Council  
里奇兰县郡书记

**CHINA JUSHI USA CORPORATION**

巨石美国股份有限公司

(SEAL)

公章

至

姓名

职务

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

[Signature Page 2 – Fee in Lieu of Tax Agreement]

## EXHIBIT A

### [Description of Land]

All those certain pieces, parcels or tracts of land with all improvements thereon, situate, lying and being in Richland County, South Carolina, being shown, delineated, and depicted as Parcel A (containing approximately 109.004 acres), Parcel B (containing 37.005 acres) and Parcel C (containing 50.502 acres) as shown on that certain plat of survey entitled, SOUTH CAROLINA RESEARCH AUTHORITY BOUNDARY SURVEY, dated May 22, 2009, last revised July 28, 2009, prepared by Jack H. Locklair, Jr., S.C.P.S. No. 12842 of BP Barber, recorded in the Office of the Register of Deeds of Richland County on July 31, 2009, in book 1543, page 3669. Reference to said plat of survey is craved for a more complete description, with all measurements being a little more or less.

### 附件 A

#### **地块法律描述**

根据名为南卡调查机构边界勘测的某个地块勘测报告，该勘测报告由BP Barber公司的Jack H. Locklair编号 Jr., S.C.P.S. No. 12842，于2009年5月22日准备，并且于2009年7月28日修改，于2009年7月31日记录在第1543本第3669页，由南卡州里奇兰德县契约登记册办公室保管。据勘测报告上显示包括位于南卡州里奇兰县郡的地块A (包括约109.004 公顷)，地块B (包括约37.005公顷) 以及地块C(包括约50.502公顷)以及其改良物。希望得到上述测量地块的资料，以形成更完整的描述，包括所有大致的尺寸。



EXHIBIT B

**FORM OF NON-DISCLOSURE STATEMENT**

I, \_\_\_\_\_, \_\_\_\_\_ of Richland County, South Carolina, acknowledge and understand that \_\_\_\_\_ (collectively, “Company”) utilizes confidential and proprietary “state-of-the-art” processes and techniques and that any disclosure of any information relating to such processes and techniques could result in substantial harm to Company and could thereby have a significant detrimental impact on Company and their employees. Consequently, to the extent permitted by law, I agree to keep confidential the nature, description and type of the machinery, equipment, processes and techniques, as well as financial statements of the Company, which I observe. I agree that I shall not disclose the nature, description or type of such machinery, equipment, processes or techniques, or the information contained in such financial statements of the Company, to any person or entity other than in accordance with the terms of the Fee in Lieu of Tax Agreement between Company and Richland County, South Carolina, dated as of \_\_\_\_\_, \_\_\_\_\_, or as may be required by the laws of the State of South Carolina including, but not limited to, the South Carolina Freedom of Information Act.

By: \_\_\_\_\_

Date: \_\_\_\_\_

附件 B

**保密申明样本**

本人 \_\_\_\_\_, \_\_\_\_\_ 知道并了解 \_\_\_\_\_, \_\_\_\_\_ (统称为“公司”) 使用机密的专有的“一流”生产工艺和技术, 泄露与生产流程及技术有关的任何信息将对公司造成巨大损害, 进而对公司及其员工造成极为有害的影响。因此, 在法律允许的范围内, 本人同意就机器、设备、流程及技术的性质、描述以及类型, 以及本人查阅的财务报告保密。本人同意不向与南卡州里奇兰县郡于 \_\_\_\_\_ 签订财产税减免协议的方以外的其它个人或实体不泄露公司财务报告中涉及的机器、设备、流程及技

术的性质、描述以及类型或其它信息，或者除非南卡州法律要求透露，包括但是不限于南卡州信息自由法。

By 签字人:\_\_\_\_\_

Date 日期:\_\_\_\_\_

## Richland County Council Request of Action

**Subject:**

16-023MA  
Debbie Nix  
RS-MD to OI (3.17 Acres)  
806 Universal Drive  
19106-06-01

First Reading:	September 27, 2016
Second Reading:	October 4, 2016
Third Reading:	November 1, 2016 {Tentative}
Public Hearing:	September 27, 2016

STATE OF SOUTH CAROLINA  
COUNTY COUNCIL OF RICHLAND COUNTY  
ORDINANCE NO. \_\_\_\_-16HR

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 # 19106-06-01 FROM RS-MD (RESIDENTIAL SINGLE FAMILY MEDIUM-DENSITY 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 # 19106-06-01 from RS-MD (Residential Single Family Medium-Density 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 \_\_\_\_\_, 2016.

RICHLAND COUNTY COUNCIL

By: \_\_\_\_\_  
Torrey Rush, Chair

Attest this \_\_\_\_\_ day of  
\_\_\_\_\_, 2016.

\_\_\_\_\_  
Michelle M. Onley  
Deputy Clerk of Council

Public Hearing: September 27, 2016  
First Reading: September 27, 2016  
Second Reading: October 4, 2016 (tentative)  
Third Reading:

## Richland County Council Request of Action

**Subject:**

16-026MA  
David Tuttle  
M-1/RS-LD to PDD (33.88 Acres)  
Roseberry Lane  
22807-01-04

First Reading:	September 27, 2016
Second Reading:	October 4, 2016
Third Reading:	November 1, 2016 {Tentative}
Public Hearing:	September 27, 2016

STATE OF SOUTH CAROLINA  
COUNTY COUNCIL OF RICHLAND COUNTY  
ORDINANCE NO. \_\_\_-16HR

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 # 22807-01-04 FROM M-1/RS-LD (LIGHT INDUSTRIAL AND RESIDENTIAL SINGLE FAMILY LOW DENSITY DISTRICTS) TO PDD (PLANNED DEVELOPMENT 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 # 22807-01-04 from M-a/RS-LD (Light Industrial and Residential Single Family Low Density Districts) zoning to PDD (Planned Development 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 \_\_\_\_\_, 2016.

RICHLAND COUNTY COUNCIL

By: \_\_\_\_\_  
Torrey Rush, Chair

Attest this \_\_\_\_\_ day of  
\_\_\_\_\_, 2016.

\_\_\_\_\_  
Michelle M. Onley  
Deputy Clerk of Council

Public Hearing:                   September 27, 2016  
First Reading:                   September 27, 2016

Second Reading:  
Third Reading:

October 4, 2016 (tentative)

**TMS# 21800-05-18 →**

## Richland County Council Request of Action

**Subject:**

Authorizing the expansion of the boundaries of the I-77 Corridor Regional Industrial Park jointly developed with Fairfield County to include certain property located in Richland County; the execution and delivery of a credit agreement to provide for special source revenue credits to [Project Alimex]; and other related matters

FIRST READING: October 18, 2016

SECOND READING: November 1, 2016 {Tentative}

THIRD READING: November 15, 2016 {Tentative}

PUBLIC HEARING:



STATE OF SOUTH CAROLINA  
COUNTY COUNCIL FOR RICHLAND COUNTY  
ORDINANCE NO. \_\_\_\_\_

**AUTHORIZING THE EXPANSION OF THE BOUNDARIES OF THE I-77 CORRIDOR REGIONAL INDUSTRIAL PARK JOINTLY DEVELOPED WITH FAIRFIELD COUNTY TO INCLUDE CERTAIN PROPERTY LOCATED IN RICHLAND COUNTY; THE EXECUTION AND DELIVERY OF A CREDIT AGREEMENT TO PROVIDE FOR SPECIAL SOURCE REVENUE CREDITS TO [PROJECT ALIMEX]; AND OTHER RELATED MATTERS.**

WHEREAS, Richland County (“County”), acting by and through its County Council (“County Council”), is authorized and empowered under and pursuant to the provisions of Article VIII, Section 13(D) of the South Carolina Constitution and the provisions of Title 4, Chapter 1 of the Code of Laws of South Carolina, 1976, as amended (collectively, “Act”), to (i) develop a multi-county industrial park with counties having contiguous borders with the County; and (ii) include within the boundaries of the multi-county industrial park the property of eligible companies 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 is further authorized by Section 4-1-175 of the Act, to grant credits to a company located in a multi-county industrial park against the company’s Fee Payments (“Infrastructure Credit”) to assist the company in paying (i) for the cost of designing, acquiring, constructing, improving or expanding infrastructure serving the company’s project or the County, and (ii) for improved and unimproved real estate and personal property used in the operation of a manufacturing facility or commercial enterprise in order to enhance the economic development of the County ((i) and (ii) collectively, “Infrastructure”);

WHEREAS, pursuant to the authority provided in the Act, the County has previously developed with Fairfield County, South Carolina, the I-77 Corridor Regional Industrial Park (“Park”) and executed the “Master Agreement Governing the I-77 Corridor Regional Industrial Park” dated April 15, 2003 (“Park Agreement”), which governs to operation of the Park;

WHEREAS, [Project Alimex] (“Company”) has agreed to lease a facility in which it will install machinery, equipment, and other personal property within the County (the “Project”) on property more particularly identified in Exhibit A (together with the Project, “Property”), resulting in capital investments in taxable real and personal property at the Project of at least \$2,000,000, along with the creation of 22 new full-time jobs;

WHEREAS, the Project is expected to provide significant economic benefits to the County and surrounding areas;

WHEREAS, at the Company’s request, the County desires to offer, as a reimbursement to the Company for its expenditures on Infrastructure benefitting the County and the Project, an Infrastructure Credit against the Company’s Fee Payments on the Project, the terms and conditions of which are more particularly described in the Infrastructure Credit Agreement between the County and the Company, the form of which is attached as Exhibit B (“Agreement”); and

WHEREAS, to effect the Infrastructure Credit, the County desires to expand the boundaries of the Park and amend the Park Agreement to include the Property in the Park;

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

**Section 1. *Expansion of the Park Boundaries, Inclusion of Property.*** There is hereby authorized an expansion of the Park boundaries and an amendment to the Park Agreement to include the Property in the Park. The County Council Chair (“Chair”), or the Vice Chair in the event the Chair is absent, the County Administrator and the Clerk to the County Council are hereby authorized to execute such documents and take such further actions as may be necessary to complete the expansion of the Park boundaries. Pursuant to the terms of the Park Agreement, the expansion of the Park’s boundaries to include the Property is complete on the adoption of this Ordinance by County Council and approving ordinance by Fairfield County Council.

**Section 2. *Approval of Infrastructure Credit.*** The is hereby authorized an Infrastructure Credit against the Company’s Fee Payments with respect to the Project as a reimbursement to the Company for its qualifying Infrastructure expenditures. The form and terms of the Agreement that is before this meeting are approved and all of the Agreement’s terms are incorporated in this Ordinance by reference as if the Agreement was set out in this Ordinance in its entirety.

**Section 3. *Authorization to Execute Agreement.*** The Chair is authorized and directed to execute the Credit Agreement, subject to any revisions, which are not materially adverse to the County, as may be approved by the County Administrator or the County’s Director of Economic Development following receipt of advice from counsel to the County, and the Clerk of the County Council is authorized and directed to attest the Agreement.

**Section 4. *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 5. *Savings Clause.*** The provisions of this Ordinance are separable. If any part of this Ordinance is, for any reason, unenforceable then the validity of the remainder of this Ordinance is unaffected.

**Section 6. *General Repealer.*** Any prior ordinance, resolution or order, the terms of which are in conflict with this Ordinance, is, only to the extent of that conflict, repealed.

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

RICHLAND COUNTY, SOUTH CAROLINA

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Chair, Richland County Council

(SEAL)  
ATTEST:

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Clerk of Council, Richland County Council

First Reading:      October 18, 2016  
Second Reading:   November 1, 2016  
Public Hearing:     November 1, 2016  
Third Reading:     November 15, 2016

**EXHIBIT A**  
**PROPERTY**

**EXHIBIT B**

**FORM OF  
AGREEMENT**

INFRASTRUCTURE CREDIT AGREEMENT

by and between

RICHLAND COUNTY, SOUTH CAROLINA

and

[PROJECT ALIMEX]

Effective as of: November 15, 2016

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## INFRASTRUCTURE CREDIT AGREEMENT

This INFRASTRUCTURE CREDIT AGREEMENT, effective as of November 15, 2016 (“Agreement”), is by and between RICHLAND COUNTY, SOUTH CAROLINA, a body politic and corporate, and a political subdivision of the State of South Carolina (“County”), and [PROJECT ALIMEX], a ~~H~~-[Nevada corporation](#) (“Company” together with the County, “Parties,” each, a “Party”).

### WITNESSETH:

WHEREAS, the County, acting by and through its County Council (“County Council”), is authorized and empowered under and pursuant to the provisions of Article VIII, Section 13(D) of the South Carolina Constitution and the provisions of Title 4, Chapter 1 of the Code of Laws of South Carolina, 1976, as amended (collectively, “Act”), to (i) develop a multi-county industrial park with counties having contiguous borders with the County; and (ii) include within the boundaries of the multi-county industrial park the property of qualifying companies which inclusion under the terms of the Act (A) makes such property exempt from *ad valorem* property taxes, and (B) changes the character of the annual receipts from such property to fees-in-lieu of *ad valorem* property taxes in an amount equal to the *ad valorem* taxes that would have been due and payable but for the location of the property in such multi-county industrial park (“Fee Payments”)

WHEREAS, the County is further authorized by Section 4-1-175 of the Act, to grant credits to a company against the company’s Fee Payments generated from the company’s property located in a multi-county park (“Infrastructure Credit”) to reimburse the company for its expenditures in paying the cost of designing, acquiring, constructing, improving or expanding (i) infrastructure serving the company’s project or the County and (ii) improved and unimproved real estate and personal property used in the operation of a commercial or manufacturing facility in order to enhance the economic development of the County (“Infrastructure”);

WHEREAS, pursuant to the authority provided in the Act, the County has previously developed with Fairfield County, South Carolina, the I-77 Corridor Regional Industrial Park (“Park”) and executed the “Master Agreement Governing the I-77 Corridor Regional Industrial Park” dated April 15, 2003 (“Park Agreement”), which governs to operation of the Park;

WHEREAS, the Company has agreed to lease a facility and install machinery, equipment and other personal property within the County (“Project”) on property more particularly ~~described on~~ [identified by Exhibit A](#) (collectively, “Property”), resulting in capital investments in taxable real and personal property at the Project of at least \$2,000,000 and the creation of 22 new full-time jobs;

WHEREAS, pursuant to the County’s Ordinance No. [ ] (“Ordinance”), the County authorized the expansion of the boundaries of the Park and an amendment to the Park Agreement to include the Property and other real and personal property relating to the Project in the Park; and

WHEREAS, pursuant to the Ordinance, the County further authorized the execution and delivery of this Agreement and agreed to provide Infrastructure Credits for a period of 5 years against the Company’s Fee Payments on the Project for the purpose of reimbursing the Company for its expenditures on Infrastructure, subject to the terms and conditions below.

NOW, THEREFORE, in consideration of the respective representations and agreements hereinafter contained, the County and the Company agree as follows:

**ARTICLE I  
REPRESENTATIONS**

SECTION 1.01. Representations by the County. The County represents to the Company as follows:

- (a) The County is a body politic and corporate and a political subdivision of the State of South Carolina;
- (b) The County is authorized and empowered by the provisions of the Act to enter into and carry out its obligations under this Agreement;
- (c) The County has approved this Agreement by adoption of the Ordinance in accordance with the procedural requirements of the Act and any other applicable state law;
- (d) The County has approved the inclusion of the Project and the Property in the Park; and
- (e) Based on representations made by the Company to the County, the County has determined the Project will provide significant economic benefits to the County. Therefore, the County is entering into this Agreement for the purpose of promoting the economic development of the County.

SECTION 1.02. Representations by the Company. The Company represents to the County as follows:

- (a) The Company is a ~~H~~ corporation duly organized, validly existing, and in good standing, under the laws of the State of ~~H~~ Nevada, has power to conduct business in the State of South Carolina and enter into this Agreement, and by proper company action has authorized the officials signing this Agreement to execute and deliver it; and
- (b) The Company will use commercially reasonable efforts to achieves the Investment Commitment, each as defined below, at the Project.

**ARTICLE II  
INFRASTRUCTURE CREDITS**

SECTION 2.01. Investment Commitment. The Company shall invest at least \$2,000,000 in taxable property at the Project (“Investment Commitment”) by the Certification Date, as defined below. The Company shall certify to the County achievement of the Investment Commitment by no later than November 15, ~~2018~~ 2021 (“Certification Date”), by providing documentation to the County sufficient to reflect achievement of the Investment Commitment. If the Company fails to achieve and certify the Investment Commitment by the Certification Date, the County may terminate this Agreement and, on termination, the Company is no longer entitled to any further benefits under this Agreement.

SECTION 2.02. Jobs Commitment. The Company shall create 22 additional new, full-time jobs in the County (“Jobs Commitment”), by providing documentation to the County sufficient to reflect achievement of the Jobs Commitment on or before the Certification Date. If the Company fails to achieve and certify the Jobs Commitment by the Certification Date, the County may terminate this Agreement and, on termination, the Company is no longer entitled to any further benefits under this Agreement.

SECTION 2.03. Infrastructure Credits.

- (a) Commencing with the first Fee Payment due on the Project, which is expected to be January, ~~2017~~ 2018, and ending with the Fee Payment due four years following the first Fee Payment, which is expected to be January, ~~2021~~ (“Credit ~~2022~~ (“Credit Term”), the County shall provide an annual Infrastructure Credit to the Company’s annual Fee Payments with respect to the Project. The Company



will receive an Infrastructure Credit of forty-five percent (45%) in years one and two, and an Infrastructure Credit of forty percent (40%) in years three, four, and five.

(b) For each year of the Credit Term, the County shall prepare and issue the Company's annual bill with respect to the Project net of the Infrastructure Credit set forth in Section 2.03(a) ("Net Fee Payment"). Following receipt of the bill, the Company shall timely remit the Net Fee Payment to the County in accordance with applicable law.

(c) THIS AGREEMENT AND THE INFRASTRUCTURE CREDITS BECOMING DUE HEREON ARE LIMITED OBLIGATIONS OF THE COUNTY PAYABLE BY THE COUNTY SOLELY FROM THE FEE PAYMENTS DERIVED BY THE COUNTY FROM THE COMPANY PURSUANT TO THE PARK AGREEMENT, AND DO NOT AND SHALL NOT CONSTITUTE A GENERAL OBLIGATION OF THE COUNTY OR ANY MUNICIPALITY WITHIN THE MEANING OF ANY CONSTITUTIONAL OR STATUTORY LIMITATION AND DO NOT AND SHALL NOT CONSTITUTE OR GIVE RISE TO A PECUNIARY LIABILITY OF THE COUNTY OR ANY MUNICIPALITY OR A CHARGE AGAINST THE GENERAL CREDIT OR TAXING POWER. THE FULL FAITH, CREDIT, AND TAXING POWER OF NEITHER THE COUNTY NOR ANY MUNICIPALITY ARE PLEDGED FOR THE INFRASTRUCTURE CREDITS.

(d) No breach by the County of this Agreement shall result in the imposition of any pecuniary liability upon the County or any charge upon its general credit or against its taxing power. The liability of the County under this Agreement or for any breach or default by the County of any of the foregoing shall be limited solely and exclusively to the Fee Payments received from the Company. The County shall not be required to provide the Infrastructure Credits except with respect to the Fee Payments received from the Company.

SECTION 2.04 [Reserved.]

SECTION 2.05. Clawback. In the event that the Company fails to meet the Investment Commitment or Jobs Commitment by the end of the Credit Term, the Company shall be obligated to repay a portion of the Infrastructure Credits, calculated as follows:

$$\text{Repayment Amount} = \text{Total Received} \times \text{Clawback Percentage}$$

$$\text{Clawback Percentage} = 100\% - \text{Overall Achievement Percentage}$$

$$\text{Overall Achievement Percentage} = (\text{Investment Achievement Percentage} + \text{Jobs Achievement Percentage}) / 2$$

$$\text{Investment Achievement Percentage} = \text{Actual Investment Achieved} / \$2,000,000$$

$$\text{Jobs Achievement Percentage} = \text{Actual New, Full-Time Jobs Created} / 22$$

*For example, and by way of example only, if the Company had received \$100,000 in credits had invested \$1,500,000 and created 18 jobs by the end of the Credit Term, the Repayment Amount would be calculated as follows:*

$$\text{Jobs Achievement Percentage} = 18/22 = \del{80}82\%$$

$$\text{Investment Achievement Percentage} = \$1,500,000/\$2,000,000 = 75\%$$

$$\text{Overall Achievement Percentage} = (\del{80}82\% + \del{70}\%)/2 - 75\%/2 = \del{75}78.5\%$$

$$\text{Clawback Percentage} = 100\% - \del{75}78.5\% = \del{25}21.5\%$$

$$\text{Repayment Amount} = \$100,000 \times \del{25}21.5\% = \del{\$25,000}21,500$$

Any amount owing pursuant to Section 3.03 shall be paid within 30 days of the end of the Credit Term, and any such amount shall be subject to the minimum amount of interest that the Act may require.

SECTION 2.06. Filings. To assist the County in administering the Infrastructure Credits, the Company shall, for the Credit Term, prepare and file a separate schedule to the SCDOR PT-100, PT-300 or comparable forms for the property comprising the Project.

SECTION 2.07 Cumulative Infrastructure Credit. The cumulative dollar amount expended by the Company on Infrastructure shall equal or exceed the cumulative dollar amount of all the Infrastructure Credits received by the Company.

### **ARTICLE III DEFAULTS AND REMEDIES**

SECTION 3.01. Events of Default. If any Party fails duly and punctually to perform any material covenant, condition, agreement or provision contained in this Agreement on the part of such Party to be performed, which, except as otherwise provided in this Agreement, failure shall continue for a period of 30 days after written notice by the other Party specifying the failure and requesting that it be remedied and which notice is given to the defaulting Party by first-class mail, then such Party is in default under this Agreement (“Event of Default”).

SECTION 3.02. Legal Proceedings by Company and County. On the happening of any Event of Default by a Party, then and in every such case the other Party, in its discretion may:

- (1) terminate this Agreement;
- (2) by mandamus, or other suit, action, or proceeding at law or in equity, enforce all of its rights and require the defaulting Party to perform its duties under the Act and this Agreement;
- (3) bring suit upon this Agreement;
- (4) exercise any or all rights and remedies in effect in the State of South Carolina, or other applicable law; or
- (5) by action or suit in equity enjoin any acts or things which may be unlawful or in violation of its rights.

SECTION 3.03. Remedies Not Exclusive. No remedy in this Agreement conferred upon or reserved either to the Company or County is intended to be exclusive of any other remedy or remedies, and each and every such remedy shall be cumulative and shall be in addition to every other remedy given under this Agreement or now or hereafter existing at law or in equity or by statute.

SECTION 3.04. Nonwaiver. No delay or omission of the Company or County to exercise any right or power accruing upon any default or Event of Default shall impair any such right or power or shall be construed to be a waiver of any such default or Event of Default, or an acquiescence therein; and every power and remedy given by this Article IV to the Company or County may be exercised from time to time and as often as may be deemed expedient.

**ARTICLE IV  
MISCELLANEOUS**

SECTION 4.01. Examination of Records; Confidentiality.

(a) The Company agrees that the County and its authorized agents shall have the right at all reasonable times and on prior reasonable notice to enter and examine the Project and to have access to and examine all the Company's books and records pertaining to the Project. The Company may prescribe reasonable and necessary terms and conditions of the County's right to examination and inspection of the Project and the Company's books and records pertaining to the Project. The terms and conditions of the Company may include those necessary to protect the Company's confidentiality and proprietary rights.

(b) The County, and County Council, acknowledge and understand that the Company may have and maintain at the Project certain confidential and proprietary information, including but not limited to financial, sales or other information concerning the Company's operations ("Confidential Information") and that any disclosure of the Confidential Information 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, except as required by law, the County, and County Council, agrees to keep confidential, and to cause employees, agents and representatives of the County to keep confidential, the Confidential Information which may be obtained from the Company, its agents or representatives. The County, and County Council, shall not disclose and shall cause all employees, agents and representatives of the County not to disclose the Confidential Information to any person other than in accordance with the terms of this Agreement.

SECTION 4.02. Successors and Assigns. Upon written consent of the County, the Company may assign or otherwise transfer any of its rights and interest hereunder to an assignee or lessee, as the case may be. In this regard, the County agrees that such consent shall not be unreasonably withheld, conditioned or delayed.

SECTION 4.03. Provisions of Agreement for Sole Benefit of County and Company. Except as in this Agreement otherwise specifically provided, nothing in this Agreement expressed or implied is intended or shall be construed to confer upon any person other than the County and the Company any right, remedy, or claim under or by reason of this Agreement, this Agreement being intended to be for the sole and exclusive benefit of the County and the Company.

SECTION 4.04. Severability. In case any one or more of the provisions of this Agreement shall, for any reason, be held to be illegal or invalid, the illegality or invalidity shall not affect any other provision of this Agreement, and this Agreement and the Infrastructure Credits shall be construed and enforced as if the illegal or invalid provisions had not been contained herein or therein.

SECTION 4.05. No Liability for Personnel of County or Company. No covenant or agreement contained in this Agreement is deemed to be a covenant or agreement of any member, agent, or employee of the County or its governing body or the Company or any of its officers, employees, or agents in an individual capacity, and neither the members of the governing body of the County nor any official executing this Agreement is liable personally on the Credits or the Agreement or subject to any personal liability or accountability by reason of the issuance thereof.

SECTION 4.06. Indemnification Covenant.

(a) Except as provided in paragraph (d) below, the Company shall indemnify and save the County, its employees, elected officials, officers and agents (each, an "Indemnified Party") harmless against and from all liability or claims arising from the County's execution of this Agreement, performance of the County's

obligations under this Agreement or the administration of its duties pursuant to this Agreement, or otherwise by virtue of the County having entered into this Agreement.

(b) The Company shall further reimburse the County for all of its costs, including attorneys' fees, incurred in connection with the response to or defense against such liability or claims as described in paragraph (a) above. The County shall provide a statement of the costs incurred in the response or defense, and the Company shall pay the County within 30 days of receipt of the statement. The Company may request reasonable documentation evidencing the costs shown on the statement. However, the County is not required to provide any documentation which may be privileged or confidential to evidence the costs.

(c) The County may request the Company to resist or defend against any claim on behalf of an Indemnified Party. On such request, the Company shall resist or defend against such claim on behalf of the Indemnified Party, at the Company's expense. The Company is entitled to use counsel of its choice, manage and control the defense of or response to such claim for the Indemnified Party; provided the Company is not entitled to settle any such claim without the consent of that Indemnified Party.

(d) Notwithstanding anything herein to the contrary, the Company is not required to indemnify any Indemnified Party against or reimburse the County for costs arising from any claim or liability (i) occasioned by the acts of that Indemnified Party, which are unrelated to the execution of this Agreement, performance of the County's obligations under this Agreement, or the administration of its duties under this Agreement, or otherwise by virtue of the County having entered into this Agreement; or (ii) resulting from that Indemnified Party's own negligence, bad faith, fraud, deceit, or willful misconduct.

(e) An Indemnified Party may not avail itself of the indemnification or reimbursement of costs 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.

SECTION 4.07. Notices. All notices, certificates, requests, or other communications under this Agreement are sufficiently given and are deemed given, unless otherwise required by this Agreement, when (i) delivered or (ii) sent by facsimile and confirmed by United States first-class registered mail, postage prepaid, addressed as follows:

(a) if to the County:   Richland County, South Carolina  
Attn: Director of Economic Development  
2020 Hampton Street  
Columbia, South Carolina 29204  
Phone: 803.576.2043  
Fax: 803.576.2137

with a copy to   Parker Poe Adams & Bernstein LLP  
(does not constitute notice):   Attn: Ray E. Jones  
1201 Main Street, Suite 1450 (29201)  
Post Office Box 1509  
Columbia, South Carolina 29202  
Phone: 803.255.8000  
Fax: 803.255.8017

(b) if to the Company: [Project Alimex]  
[]

The County and the Company may, by notice given under this Section, designate any further or different addresses to which subsequent notices, certificates, requests or other communications shall be sent.

SECTION 4.08. Administrative Fees.

(a) The Company shall reimburse the County for reasonable expenses, including, reasonable attorneys' fees, related to (i) review and negotiation of this Agreement, (ii) review and negotiation of any other documents related to the Project, or (iii) the Project, in an amount not to exceed \$5,000.00

SECTION 4.09. Merger. This Agreement constitutes the entire agreement among the parties to it with respect to the matters contemplated in it, and it is understood and agreed that all undertakings, negotiations, representations, promises, inducements and agreements heretofore had among these parties are merged herein.

SECTION 4.10 Agreement to Sign Other Documents. The County agrees that it will from time to time and at the expense of the Company execute and deliver such further instruments and take such further action as may be reasonable and as may be required to carry out the purpose of this Agreement; provided, however, that such instruments or actions shall never create or constitute an indebtedness of the County within the meaning of any state constitutional provision (other than the provisions of Article X, Section 14(10) of the South Carolina Constitution) or statutory limitation and shall never constitute or give rise to a pecuniary liability of the County or a charge against its general credit or taxing power or pledge the credit or taxing power of the State of South Carolina, or any other political subdivision of the State of South Carolina.

SECTION 4.11. Agreement's Construction. The Parties agree that each Party and its counsel have reviewed and revised this Agreement and that any rule of construction to the effect that ambiguities are to be resolved against a drafting party does not apply in the interpretation of this Agreement or any amendments or exhibits to this Agreement.

SECTION 4.12. Applicable Law. South Carolina law, exclusive of its conflicts of law provisions that would refer the governance of this Agreement to the laws of another jurisdiction, governs this Agreement.

SECTION 4.13. Counterparts. This Agreement may be executed in any number of counterparts, each of which, when so executed and delivered, shall be an original; but such counterparts shall together constitute but one and the same instrument.

SECTION 4.14. Amendments. This Agreement may be amended only by written agreement of the parties hereto.

SECTION 4.15. Waiver. Either Party may waive compliance by the other Party with any term or condition of this Agreement but the waiver is valid only if it is in a writing signed by the waiving Party.

SECTION 4.16. Termination. Unless first terminated under any other provision of this Agreement,

this Agreement terminates on the expiration of the Credit Term and payment by the Company of any outstanding Net Fee Payment due on the Project pursuant to the terms of this Agreement.

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

IN WITNESS WHEREOF, Richland County, South Carolina, has caused this Agreement to be executed by the appropriate officials of the County and its corporate seal to be hereunto affixed and attested, effective the day and year first above written.

**RICHLAND COUNTY, SOUTH CAROLINA**

---

Chair, Richland County Council

*(SEAL)*  
ATTEST:

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Clerk to Council, Richland County Council

*[REMAINDER OF PAGE INTENTIONALLY BLANK]*

IN WITNESS WHEREOF, [Project Alimex], has caused this Agreement to be executed by its authorized officers, effective the day and year first above written.

**[PROJECT ALIMEX]**

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Its: \_\_\_\_\_

*[REMAINDER OF PAGE INTENTIONALLY BLANK]*



**EXHIBIT A**  
**~~DESCRIPTION OF~~ PROPERTY**

[195 Shop Grove Drive, Unit-A](#)  
[Columbia, SC 29209](#)

## Richland County Council Request of Action

**Subject:**

An Ordinance Amending the Richland County Code of Ordinances; Chapter 26, Land Development; so as to change the uses of “Restaurants, Cafeterias” and “Restaurants, Full Service (Dine-In)”; from permitted to ones with special requirements; and to add a new use of “Restaurants, Limited Service (Dine-In)” with special requirements

First Reading:           October 4, 2016 [Tentative]  
Second Reading:  
Third Reading:  
Public Hearing:           May 24, 2016

STATE OF SOUTH CAROLINA  
COUNTY COUNCIL FOR RICHLAND COUNTY  
ORDINANCE NO. \_\_\_\_-16HR

AN ORDINANCE AMENDING THE RICHLAND COUNTY CODE OF ORDINANCES; CHAPTER 26, LAND DEVELOPMENT; SO AS TO CHANGE THE USES OF “RESTAURANTS, CAFETERIAS” AND “RESTAURANTS, FULL SERVICE (DINE-IN)” FROM PERMITTED TO ONES WITH SPECIAL REQUIREMENTS; AND TO ADD A NEW USE OF “RESTAURANTS, LIMITED SERVICE (DINE-IN)” WITH SPECIAL REQUIREMENTS.

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 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; “Retail Trade and Food Services” of Table 26-V-2.; is hereby amended to read as follows:

(ORDINANCE CONTINUES ON NEXT PAGE)

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
<b>Retail Trade and Food Services</b>																	
Antique Stores (See Also Used Merchandise Shops and Pawn Shops)											P	P	P	P	P		
Appliance Stores														P	P		
Art Dealers											P	P	P	P	P		
Arts and Crafts Supply Stores												P	P	P	P		
Auction Houses													P	P	P	P	
Automotive Parts and Accessories Stores													P	P	P	P	
Bakeries, Retail												P	P	P	P	P	
Bars and Other Drinking Places											SE	SE	SR	SR	SR	SR	
Bicycle Sales and Repair												P	P	P	P	P	
Boat and RV Dealers, New and Used														P	P	P	
Book, Periodical, and Music Stores											P	P	P	P	P		
Building Supply Sales with Outside Storage													P	P	P	P	P
Building Supply Sales without Outside Storage													P	P	P	P	P
Camera and Photographic Sales and Service												P	P	P	P		
Candle Shops												P	P	P	P		
Candy Stores (Confectionery, Nuts, Etc.)												P	P	P	P		
Caterers, No On Site Consumption											P	P	P	P	P	P	
Cigar Bars												SR		SR	SR	SR	
Clothing, Shoe, and Accessories Stores												P	P	P	P		
Coin, Stamp, or Similar Collectibles Shops												P	P	P	P		
Computer and Software Stores												P	P	P	P		

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
Convenience Stores (with Gasoline Pumps)												P	P	P	P	P	P
Convenience Stores (without Gasoline Pumps)												P	P	P	P	P	P
Cosmetics, Beauty Supplies, and Perfume Stores												P	P	P	P		
Department, Variety or General Merchandise Stores												P	P	P	P		
Direct Selling Establishments, Not Otherwise Listed														P	P	P	
Drugstores, Pharmacies, with Drive-Thru											P		P	P	P	P	
Drugstores, Pharmacies, without Drive-Thru											P	P	P	P	P	P	
Electronic Shopping and Mail Order Houses														P	P	P	P
Fabric and Piece Goods Stores												P	P	P	P		
Flea Markets, Indoor													P	P	P	P	
Flea Markets, Outdoor													P	P	P	P	
Floor Covering Stores													P	P	P		
Florists												P	P	P	P		
Food Service Contractors												P	P	P	P		
Food Stores, Specialty, Not Otherwise Listed												P	P	P	P		
Formal Wear and Costume Rental												P	P	P	P		
Fruit and Vegetable Markets												P	P	P	P	P	
Fuel Sales (Non- Automotive)															SR		SR
Furniture and Home Furnishings													P	P	P		

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
Garden Centers, Farm Supplies, or Retail Nurseries												P	P	P	P		
Gift, Novelty, Souvenir, or Card Shops												P	P	P	P		
Grocery/Food Stores (Not Including Convenience Stores)												P	P	P	P		
Hardware Stores												P	P	P	P		
Health and Personal Care Stores, Not Otherwise Listed												P	P	P	P		
Hobby, Toy, and Game Stores												P	P	P	P		
Home Centers														P	P		
Home Furnishing Stores, Not Otherwise Listed												P	P	P	P		
Jewelry, Luggage, and Leather Goods (May Include Repair)												P	P	P	P		
Liquor Stores												P	P	P	P		
Manufactured Home Sales														SR	SR	SR	
Meat Markets												P	P	P	P		
Miscellaneous Retail Sales – Where Not Listed Elsewhere, and Where All Sales and Services are Conducted within an Enclosed Building												P	P	P	P		
Motor Vehicle Sales – Car and Truck – New and Used													P	P	P	P	
Motorcycle Dealers, New and Used													P	P	P	P	
Musical Instrument and Supplies Stores (May Include Instrument Repair)												P	P	P	P		
News Dealers and Newsstands												P	P	P	P		
Office Supplies and Stationery Stores											P	P	P	P	P		

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
Optical Goods Stores											P	P	P	P	P		
Outdoor Power Equipment Stores													P	P	P		
Paint, Wallpaper, and Window Treatment Sales												P	P	P	P		
Pawnshops														P	P		
Pet and Pet Supplies Stores												P	P	P	P		
Record, Video Tape, and Disc Stores												P	P	P	P		
Restaurants, Cafeterias											<u>PSR</u>	<u>PSR</u>	<u>PSR</u>	<u>PSR</u>	<u>PSR</u>	<u>PSR</u>	
Restaurants, Full Service (Dine-In Only)											<u>PSR</u>	<u>PSR</u>	<u>PSR</u>	<u>PSR</u>	<u>PSR</u>	<u>PSR</u>	
<u>Restaurants, Limited Service (Dine-In)</u>											<u>SR</u>	<u>SR</u>	<u>SR</u>	<u>SR</u>	<u>SR</u>	<u>SR</u>	
Restaurants, Limited Service (Delivery, Carry Out <u>Only</u> )											P	P	P	P	P	P	
Restaurants, Limited Service (Drive-Thru)													P	P	P	P	
Restaurants, Snack and Nonalcoholic Beverage Stores											P	P	P	P	P	P	
Service Stations, Gasoline													P	P	P	P	
Sporting Goods Stores												P	P	P	P		
Television, Radio or Electronic Sales													P	P	P		
Tire Sales													P	P	P		
Tobacco Stores												P	P	P	P		
Truck Stops														P	P	P	P
Used Merchandise Stores												P	P	P	P		
Video Tape and Disc Rental												P	P	P	P		
Warehouse Clubs and Superstores														P	P		

SECTION II. 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 “(64) Restaurants, Cafeterias; Restaurants, Full Service (Dine-In Only); Restaurants, Limited Service (Dine-In) – OI, NC, RC, GC, M-1, LI”, the existing Paragraph (64) is renumbered to read as Paragraph (65), and all remaining paragraphs are renumbered in appropriate chronological order.

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 (c), Standards; is hereby amended by the insertion of a new paragraph to read as Paragraph “(64) Restaurants, Cafeterias; Restaurants, Full Service (Dine-In Only); Restaurants, Limited Service (Dine-In)”, the existing Paragraph (64) is renumbered to read as Paragraph (65), and all remaining paragraphs are renumbered in appropriate chronological order.

- (64) Restaurants, Cafeterias; Restaurants, Full Service (Dine-In Only); Restaurants, Limited Service (Dine-In)
  - a. Use districts: Office and Institutional; Neighborhood Commercial; Rural Commercial; General Commercial; M-1 Light Industrial; LI Light Industrial.
  - b. As a regular and substantial source of business to the licensed establishment, meals shall be served upon the demand of guests and patrons during the normal “mealtimes” which occur when the licensed business establishment is open to the public and that an adequate supply of food is present on the licensed premises to meet such demand.
  - c. Seating for Full Service (Dine-In Only) Restaurants must be provided for at least twenty (20) patrons.
  - d. Seating for Limited Service (Dine-In) Restaurants must be provided for at least twelve (12) patrons.
  - e. Tables and booths must be of adequate height and size to accommodate full food service in accordance with the number of chairs found at the table/booth.
  - f. The bar area shall not cover more than twenty-five (25) percent of floor area, excluding the kitchen, storage area(s), serving areas and offices.
  - g. A full floor plan of the restaurant shall be provided to the Zoning Administrator.
  - h. Alcoholic beverages shall not be sold or dispensed unless the kitchen is open and prepared food items from the menu are available to patrons.



- i. The stage area for entertainment shall not exceed one-hundred (100) square feet or ten (10) percent of the total floor area (excluding the kitchen, storage area(s), serving areas and offices), whichever is greater.
- j. The area devoted to dancing shall not exceed 250 square feet or ten percent of total floor area (excluding the kitchen, storage area(s), serving areas and offices), whichever is greater.
- k. Admission/cover charges prior to entrance are prohibited.
- l. The restaurant must be equipped with a kitchen that is primarily utilized for the cooking, preparation and serving of meals.
- m. The restaurant must have readily available to its guests and patrons either “menus” with the listings of the various meals offered for service or a listing of available meals and foods, posted in a conspicuous place readily discernible by the guest or patrons.
- n. The restaurant must prepare for service to customers meals at least once each day the business establishment chooses to be open.
- o. Any advertisement for the establishment must be in conjunction with the primary business activity.
- p. Dancing poles within the establishment are prohibited.
- q. The following definitions shall be used in conjunction with this paragraph:
  - 1. “Meal” means an assortment of various prepared foods which shall be available to guests on the licensed premises during the normal “mealtimes” which occur when the licensed business establishment is open to the public. Sandwiches, boiled eggs, sausages and other snacks prepared off the licensed premises but sold thereon, shall not constitute a meal.
  - 2. “Kitchen” means a separate and distinct area of the business establishment that is used solely for the preparation, serving and disposal of solid foods that make up meals. Such area must be adequately equipped for the cooking and serving of solid foods, and the storage of same, and must include at least twenty-one cubic feet of refrigerated space for food and a stove/oven.

**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 \_\_\_\_\_, 2016.

RICHLAND COUNTY COUNCIL

BY: \_\_\_\_\_  
Torrey Rush, Chair

ATTEST THIS THE \_\_\_\_\_ DAY

OF \_\_\_\_\_, 2016

\_\_\_\_\_  
S. Monique McDaniels  
Clerk of Council

RICHLAND COUNTY ATTORNEY'S OFFICE

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

Public Hearing:        March 22, 2016 (tentative)  
First Reading:        March 22, 2016 (tentative)  
Second Reading:  
Third Reading:

# Richland County Council Request of Action

**Subject:**

Emergency Services Department – Hazard Mitigation Plan

# Richland County Council Request of Action

**Subject:** Emergency Services Department – Hazard Mitigation Plan

**A. Purpose**

The purpose of this report is for Council to adopt a resolution to approve the “All Natural Hazards Risk Assessment and Mitigation Plan” for Richland County and the Central Midlands Region of South Carolina.

**B. Background / Discussion**

Every five years, Richland County works with the four midlands counties and the Central Midlands Region of South Carolina to review, update and approve a joint “All Natural Hazards Risk and Mitigation Plan” (Hazard Mitigation Plan). Each county must have a plan and update it every five years. We must update our plan in 2016. The updated plan can be accessed at [www.cmcog.org](http://www.cmcog.org).

It is important to have an up-to-date plan to address the threat natural hazards pose to people and property. Undertaking mitigation hazards before a disaster reduces the potential for harm to our citizens and property, and potentially saves tax dollars. Our hazard mitigation plan is required by FEMA and is a condition to receiving hazard mitigation grant funds. Central Midlands assisted the four midlands counties in preparing the joint plan. Central Midlands submitted the updated plan to FEMA for approval and the public comment period has ended. The plan provides awareness that revising and updating the plan is critical for active and effective mitigation and that Richland County’s ability to monitor and record data is critical to updating our plan.

There is no cost to the County to approve the plan. However, because the Plan is required by FEMA as a condition to receive hazard mitigation grants, failure to approve the plan may cost Richland County hazard mitigation funds.

**C. Legislative / Chronological History**

10/01/2011	The current All Natural Hazards Risk Assessment and Mitigation Plan was approved by County Council through a resolution.
10/04/2015	Flood Impacted Richland County. Current Plan was used to obtain Hazard Mitigation Grants for Disaster Recovery.
12/10/2015	Process started by Central Midlands to update the joint Plan.
06/10/2016	Plan submitted to FEMA for approval.
08/11/2016	FEMA approved the Plan.
08/12/2016	Public comment period opened.
08/30/2016	Public Meeting held.
08/31/2016	Public Comment period closed.
09/06/2016	Plan submitted for adoption by Richland County Council

**D. Alternatives**

1. Accept and adopt the updated joint Central Midlands Plan (Plan) by approving the Resolution. By approving the Resolution and subsequently adopting the Central Midlands Plan, the County will be qualified to receive future Hazard Mitigation Funds, including but not limited to the Hazard Mitigation Grant Program (HMGP) funds. Not approving this

Resolution would adversely impact the ability of the County to pursue this type of funding in the future, including the HGMP funding the County is currently pursuing to assist in the October 2015 flood recovery efforts.

2. Do not accept and adopt the updated joint Central Midlands Plan (Plan) by approving the Resolution. There are no apparent advantages to Council approving this alternative.

However, some of the disadvantages of this alternative are as follows:

- If we do not accept the Central Midlands plan, Richland County could make changes and re-submit the current Plan to FEMA . This process will take at least another six months.
- Creating a separate Richland County Plan and submitting it to FEMA for approval will require extensive work and will take up to one year to complete.
- Resubmitting the current Plan to FEMA without providing updates will result in an out-of-date Plan.
- Not submitting a Plan to FEMA will increase our vulnerability to natural disaster and make us ineligible for Hazard Mitigation funds.

#### **E. Final Recommendation**

It is recommended that Council approve the Central Midlands Plan with updates and adopt it by County Council Resolution so Richland County will continue to be eligible for Hazard Mitigation funds. The plan and draft Resolution is attached for review.

DRAFT RESOLUTION

**All Natural Hazards Mitigation Plan Adoption Resolution Resolution # \_\_\_\_\_  
Adopting the All Natural Hazards Risk Assessment and Mitigation Plan for the  
Central Midlands Region of South Carolina**

Whereas, Richland County recognizes the threat that natural hazards pose to people and property; and

Whereas, undertaking hazard mitigation actions before disasters occur will reduce the potential for harm to people and property and save taxpayer dollars; and

Whereas, an adopted all hazards mitigation plan is required as a condition of future grant funding of mitigation projects; and

Whereas, Richland County participated jointly in the planning process with the other units of government in the Central Midlands region of South Carolina to prepare an all hazards mitigation plan;

Whereas, Richland County is aware that revision and updating of the plan is critical for active and effective hazard mitigation and that Richland County will monitor and record hazard related data and events that can be used to update the all natural hazards mitigation plan;

Now, therefore, be it resolved, that the Richland County Council hereby adopts the All Natural Hazards Risk Assessment and Mitigation Plan for the Central Midlands Region in its entirety as an official plan and will undertake annual recording of hazard events, their impact duration and cost.

Be it further resolved, that the Central Midlands Council of Governments, accepting the All Natural Hazards Risk Assessment and Mitigation Plan from the Central Midlands Regional Risk Assessment and Hazard Mitigation Committee, will submit on behalf of the participating counties and municipalities the adopted All Natural Hazards Plan to the Federal Emergency Management Agency officials for final review and approval.

Date \_\_\_\_\_

Certifying Official Signature of County Council Chairman

# Richland County Council Request of Action

**Subject:**

Planning Department: Selection of Consultant for the Rewrite of the Richland County Land Development Code and Zoning Regulations

## Richland County Council Request of Action

**Subject:** Planning Department: Selection of Consultant for the Rewrite of the Richland County Land Development Code and Zoning Regulations

### **A. Purpose**

County Council is requested to approve Clarion Associates as the consultant for the rewrite of the Land Development Code and Zoning Regulations at a total cost not to exceed \$250,960.00 to be paid by the Planning Department.

### **B. Background / Discussion**

On March 17, 2015, Richland County Council approved and adopted the updated “2014 Richland County Comprehensive Plan” (the “Plan”). The Plan provides policy direction to the County on future growth. The Future Land Use Map serves as a guide for growth and does not change the current zoning of the area. The Future Land Use Map is used in guiding decision making in determining whether rezoning requests are in accordance with the goals for future growth. This new Plan outlines the broad, long-range vision for growth in Richland County and introduces new land uses that preserve the unique rural, suburban and urban areas within the County.

The Land Development Code and Zoning Regulations (the “Code”) (adopted in 2006) provides regulations promoting the vision of the Comprehensive Plan for Richland County. It serves the general purpose of guiding development in accordance with existing and future needs and promoting the public health, safety, morals, convenience, order, appearance, prosperity and general welfare, but very specifically provides standards for land development.

The County’s codes and regulations are not consistent with the vision of the newly updated Comprehensive Plan. Thus, the legal instrument regulating growth in Richland County will not yield the long range vision of the Comprehensive Plan.

This flaw can be corrected through a rewrite of the Code, which is often done after the adoption of a new Comprehensive Plan, and might include some of the following strategies:

- realignment of zoning districts with approved Comprehensive Plan land uses;
- redefining Rural;
- redefining Suburban;
- aligning transit and transportation infrastructure with density;
- incentivizing preferred zoning;
- increasing zoning fees to reflect actual costs;
- redefining densities;
- redefining necessity and analysis of variances;
- reanalyzing rules for rezoning;
- providing better direction for PIA’s; and/or
- analyzing preference for sprawling commercial strips vs. node based commercial.

After its retreat in 2015, and concurrent with the Comprehensive Plan’s adoption, County Council directed staff to rewrite the County’s Code.



The County's Procurement process for consulting services was followed in proposing the selection of Clarion Associates to assist the Planning Department in rewriting the Code. As a major benefit, Clarion Associates were also the County's consultant in updating the Comprehensive Plan, so they are very familiar with the County and the vision produced by the Plan.

The cost for the consultant is \$250,960.00, which will be funded through the Planning Department's approved FY 17 budget.

### **C. Legislative / Chronological History**

- County Council adopted the current Comprehensive Plan on March 17, 2015.
- The last Land Development Code and Zoning Regulation adoption occurred in July 2005.

### **D. Alternatives**

1. Approve Clarion Associates as the consultant and expenditure in an amount not to exceed \$250,960.00, which will allow for the rewrite of the County's Land Development Code and Zoning Regulations. Rewriting the Code will have the benefit of turning the Comprehensive Plan's long-range vision for the County into policy. Additionally, hiring consultants to do the work has the advantage of bringing outside expertise and knowledge to such a complex project. It would also more efficiently get the job done by consultants dedicated to doing this work versus Richland County staff adding this to their normal job responsibilities.
2. Do not approve Clarion Associates as the consultant and expenditure in an amount not to exceed \$250,960.00, but still proceed with the rewrite of the County's Land Development Code and Zoning Regulations. While rewriting the Code will have the benefit of turning the Comprehensive Plan's vision into policy, doing so in-house would take longer and run the risk of overlooking best practices learned in other jurisdictions.
3. Do not approve the rewrite of the County's Land Development Code and Zoning Regulations. Choosing this alternative would leave the County enforcing its current regulations, which are not consistent with the vision of the newly updated Comprehensive Plan. Thus, the legal instrument regulating growth in Richland County will not yield the long range vision of the Comprehensive Plan.

### **E. Recommendation**

It is recommended that Council approve Clarion Associates as the consultant and expenditure in an amount not to exceed \$250,960.00, which will allow for the rewrite of the County's Land Development Code and Zoning Regulations. Council approval of this alternative will enable the County to fulfill the vision of the newly adopted Comprehensive Plan by establishing policy and regulations more consistent with the County's long-range goals for growth and development.

**STATE OF SOUTH CAROLINA  
COUNTY COUNCIL FOR RICHLAND COUNTY  
ORDINANCE NO. \_\_\_\_\_**

**AN ORDINANCE AUTHORIZING THE FIRST AMENDMENT OF THAT CERTAIN FEE AGREEMENT BY AND BETWEEN RICHLAND COUNTY, SOUTH CAROLINA AND SENSOR ELECTRONIC TECHNOLOGY, INC., RELATING TO, WITHOUT LIMITATION, EXTENSION OF THE COMPLETION DATE TO ALLOW FOR CONTINUING AND FURTHER INVESTMENT IN THE PROJECT AND OTHER RELATED MATTERS.**

WHEREAS, Richland County, South Carolina (the "County"), acting by and through its County Council (the "County Council"), is authorized and empowered under and pursuant to the provisions of the South Carolina Constitution (the "Constitution"), the Code of Laws of South Carolina, 1976, as amended (the "Code"), and the case law of the courts of the State of South Carolina, to offer and provide certain privileges, benefits, and incentives to prospective industries as inducements for economic development within the County; and

WHEREAS, the County is authorized and empowered under and pursuant to the provisions of Title 12, Chapter 44 of the Code (the "Act") to enter into certain agreements with any industry that constructs, operates, maintains, and improves certain properties (which constitute "projects" as defined in the Act); and

WHEREAS, through employment of the powers granted by the Act, the County is empowered to promote the economic and industrial development of the State of South Carolina (the "State") and develop its trade by inducing manufacturing and commercial enterprises to locate and remain in the State and thus use and employ the manpower, agricultural products, and natural resources of the State and benefit the general public welfare of the County by providing services, employment, recreation, or other public benefits not otherwise adequately provided locally by providing for the exemption of such project from property taxes and for the payment of a fee in lieu of property taxes (a "fee agreement," as defined in the Act); and

WHEREAS, Sensor Electronic Technology, Inc., a corporation organized and existing under the laws of the State of New York (the "Company"), operates a manufacturing facility located in the County (as defined in the Fee Agreement, as that term is defined below, the "Project"); and

WHEREAS, the County and the Company entered into that certain Fee Agreement, effective as of December 31, 2011 (the "Fee Agreement") by which there was created a fee-in-lieu-of-tax arrangement with respect to certain property owned by the Company and located at the Project; and

WHEREAS, pursuant to the Fee Agreement, the Company committed to invest at least \$25 million (the "Minimum Investment Threshold") and create at least 150 full-time jobs (the "Minimum Jobs Threshold") at the Project by December 31, 2016 (the "Completion Date"); and

WHEREAS, as of the date hereof, the Company has invested at least \$7.3 million in the Project and created 40 full-time jobs; and

WHEREAS, the laws of the State of South Carolina and the Fee Agreement allow an extension of the Completion Date prior to the expiration of the initial five-year period in which to add further and additional investment to a project; and

WHEREAS, the Company continues to operate the Project under the Fee Agreement and has requested the County amend the Fee Agreement to authorize the reduction in the Minimum Investment Threshold, the elimination of the Minimum Jobs Threshold and the Special Source Revenue Credit (“SSRC”), and the extension of the Completion Date by one year to complete the investment in the Project (the “Completion Date Extension”, and collectively with the reduction in the Minimum Investment Threshold and the elimination of the Minimum Jobs Threshold and SSRC, the “Incentives”); and

WHEREAS, the County and the Company now desire to amend the Fee Agreement to memorialize such agreements; and

WHEREAS, all capitalized terms not specifically defined herein, shall have the meaning as defined in the Fee Agreement, and if not defined therein shall have the meaning as defined in the Act; and

WHEREAS, the County Council has caused to be prepared and presented to this meeting the form of the First Amendment of Fee Agreement (the “Amendment”) by and between the County and the Company memorializing the Incentives; and

WHEREAS, the County desires to authorize the Incentives, and it appears that the Amendment now before this meeting is an appropriate instrument to be executed and delivered by the County for the purposes intended.

NOW, THEREFORE, BE IT ORDAINED BY THE COUNTY COUNCIL OF RICHLAND COUNTY, SOUTH CAROLINA, IN MEETING DULY ASSEMBLED:

Section 1. Statutory Findings and Determinations. The County hereby finds and determines that the Incentives would directly and substantially benefit the general public welfare of the County by inducing the Company to make further investment in the County, thereby providing for the creation of jobs and employment in the County, the increase of the ad valorem tax base of the County, and service, employment or other public benefits not otherwise provided locally; that the Incentives gives rise to no pecuniary liability of the County or incorporated municipality or a charge against the general credit or taxing power of either; 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 the Project which is located in the County and State are of paramount importance and the benefits of the Incentives will be greater than the costs; and

Section 2. Extension of the Completion Date. The Completion Date for investments under Sections 1.1, 3.2, 3.5, and 5.1(F) of the Fee Agreement shall be extended until December 31, 2017, pursuant to Section 12-44-30(13) of the Act, and all other sections of the Fee Agreement shall otherwise be revised to allow for such extension of the Completion Date.

Section 3. Reduction of the Minimum Investment Threshold. The Minimum Investment Threshold in the Project required of the Company under Sections 3.5 and 5.1(F) of the Fee Agreement shall be reduced to \$12.5 million.

Section 4. Reduction of the Minimum Jobs Threshold. The Minimum Jobs Threshold in the Project required of the Company under Sections 3.5 and 5.1(F) of the Fee Agreement shall be deleted in its entirety.

Section 5. Elimination of SSRC. The SSRC provided by the County to the Company under Section 6.10 of the Fee Agreement shall be deleted in its entirety.

Section 6. Approval of Amendment. The Amendment is approved as follows:

(a) The form, terms, and provisions of the Amendment presented to this meeting and filed with the Clerk to County Council (the "Clerk") are approved and all of the terms, provisions, and conditions of the Amendment are incorporated by reference. The Chairman of the County Council (the "Chairman") and the Clerk are authorized, empowered, and directed to execute, acknowledge, and deliver the Amendment in the name of the County. The Chairman and the Clerk are further authorized, empowered, and directed to cause the Amendment to be delivered to the Company.

(b) The Amendment to be executed on behalf of the County shall be in substantially the form now before the County Council and shall include only changes that are approved by the County officials executing the Amendment. The County officials shall first consult counsel to the County (the "County Attorney") with respect to any changes to the Amendment. The execution of the Amendment by the County officials shall constitute conclusive evidence that they have approved all changes to or revisions of the Amendment now before this meeting.

(c) If under the Amendment or the Act any future actions of the Company (including, without limitation, the supplementation of the exhibits thereto and/or any assignments of the Project) require the approval of the County, such approval can be given on behalf of the County by the Chairman or the Richland County Administrator (the "County Administrator") upon affirmative resolution of the County Council to the extent permitted by law. The County officials shall first consult the County Attorney with respect to such approval. The execution of a written approval by County officials shall constitute conclusive evidence that the County has approved the respective actions of the Company.

Section 7. Execution of Document. The Chairman, the County Administrator, and the Clerk are each authorized and directed to do all things reasonably necessary to effect the

execution and delivery of the Amendment and the County's performance of its obligations under the Amendment.

Section 8. Severability. The provisions of this Ordinance are declared to be separable. If any section, phrase, or provision shall be declared by a court of competent jurisdiction to be invalid or unenforceable for any reason, the remaining sections, phrases, and provisions of the Ordinance shall remain valid.

Section 9. Repeal of Conflicting Ordinances. All orders, resolutions, and other ordinances in conflict with this Ordinance are repealed to the extent of such conflict.

Section 10. Effective Date of Ordinance. This Ordinance shall take effect immediately upon third reading of the County Council.

[signatures on following page]

RICHLAND COUNTY, SOUTH CAROLINA

By: \_\_\_\_\_  
Chair, Richland County Council

(SEAL)

Attest this \_\_\_\_ day of \_\_\_\_\_, 2016

\_\_\_\_\_  
Deputy Clerk of Council, Richland County Council

RICHLAND COUNTY ATTORNEY'S OFFICE

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

First Reading:           October 18, 2016  
Second Reading:       November 1, 2016  
Public Hearing:           November 1, 2016  
Third Reading:          November 15, 2016

STATE OF SOUTH CAROLINA            )  
  )  
COUNTY OF RICHLAND                )

I, the undersigned, Clerk to County Council of Richland County (“County Council”), DO HEREBY CERTIFY:

That the foregoing constitutes a true, correct and verbatim copy of an Ordinance adopted by the County Council. The Ordinance was read and received a favorable vote at three public meetings of the County Council on three separate days. At least one day passed between first and second reading and at least seven days between second and third reading. At each meeting, a quorum of the County Council was present and remained present throughout the meeting.

To the best of my knowledge, the County Council has not taken any action to repeal the Ordinance.

IN WITNESS WHEREOF, I have hereunto set my Hand and the Seal of Richland County Council, South Carolina, as of this \_\_\_\_day of\_\_\_\_\_, 2016.

\_\_\_\_\_  
Deputy Clerk of Council  
Richland County, South Carolina

## FIRST AMENDMENT OF FEE AGREEMENT

This First Amendment of Fee Agreement (the "Amendment") is made and entered into as of \_\_\_\_\_, 2016 by and between RICHLAND COUNTY, SOUTH CAROLINA (the "County"), a body politic and corporate and a political subdivision of the State of South Carolina and SENSOR ELECTRONIC TECHNOLOGY, INC. (the "Company").

WHEREAS, all capitalized terms not specifically defined herein shall have the meaning as defined in the Fee Agreement (as that term is defined below), and if not defined therein shall have the meaning as defined in Title 12, Chapter 44 of the Code of Laws of South Carolina 1976, as amended (the "Act"); and

WHEREAS, the Company operates a manufacturing facility located in the County (as defined in the Fee Agreement, the "Project"); and

WHEREAS, the County and Company executed and entered into that certain Fee Agreement effective as of December 31, 2011 (the "Fee Agreement"), a copy of which is attached hereto as Exhibit A, by which there was created a fee-in-lieu-of-tax arrangement with respect to real and personal property owned by the Company and located at the Project; and

WHEREAS, pursuant to the Fee Agreement, the Company committed to invest at least \$25 million (the "Minimum Investment Threshold") and create at least 150 full-time jobs (the "Minimum Jobs Threshold") at the Project by December 31, 2016 (the "Completion Date"); and

WHEREAS, the Company continues to operate the Project under the Fee Agreement and has requested the County to amend the Fee Agreement to authorize the reduction in the Minimum Investment Threshold, the elimination of the Minimum Jobs Threshold and the Special Source Revenue Credit ("SSRC"), and the extension of the Completion Date by one year to complete the investment in the Project; and

WHEREAS, the laws of the State of South Carolina and Section 8.10 of the Fee Agreement permit the parties to amend the Fee Agreement.

NOW, THEREFORE, in consideration of the mutual covenants contained herein and other good and valuable consideration, the receipt of which is hereby acknowledged, the County and the Company agree as follows:

1. Extension of the Completion Date. The Completion Date for investments under Sections 1.1, 3.2, 3.5, and 5.1(F) of the Fee Agreement shall be extended until December 31, 2017, pursuant to Section 12-44-30(13) of the Act, and all other sections of the Fee Agreement shall otherwise be revised to allow for such extension of the Completion Date.
2. Reduction of the Minimum Investment Threshold. The Minimum Investment Threshold in the Project required of the Company under Sections 3.5 and 5.1(F) of the Fee Agreement shall be reduced to \$12.5 million.



3. Reduction of the Minimum Jobs Threshold. The Minimum Jobs Threshold in the Project required of the Company under Sections 3.5 and 5.1(F) of the Fee Agreement shall be deleted in its entirety.
4. Elimination of SSRC. The SSRC provided by the County to the Company under Section 6.10 of the Fee Agreement shall be deleted in its entirety.
5. County Expenses. The Company shall reimburse the County for reasonably and necessary expenses, including, reasonable and necessary attorneys' fees, related to reviewing and negotiation of the Amendment and related documents, in an amount not to exceed \$1,500. The Company shall reimburse the County no more than 30 days after receiving an invoice from the County, or its agents, in which the amount and the general nature of the expense is provided.
6. Severability. If any term, provision, or any portion of this Amendment shall to any extent and for any reason be held by a court of competent jurisdiction to be invalid or unenforceable, the remainder of this agreement shall not be affected thereby and shall nevertheless remain in full force and effect, and each term and/or provision of this agreement shall be valid and enforceable to the fullest extent permitted by the law.

IN WITNESS WHEREOF, the County has executed this Amendment 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 Amendment 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: \_\_\_\_\_  
Torrey Rush, Chairman, County Council of  
Richland County, South Carolina

(SEAL)

ATTEST:

By: \_\_\_\_\_  
Clerk to County Council of Richland County,  
South Carolina

**SENSOR ELECTRONIC TECHNOLOGY, INC.**

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Its: \_\_\_\_\_

EXHIBIT A

Fee Agreement



+

**APPLICATION FOR SERVICE ON RICHLAND COUNTY  
COMMITTEE, BOARD OR COMMISSION**

**Applicant must reside in Richland County.**

Name: Barbara C. White

Home Address: 109 Hartwood Circle Columbia SC 29212

Telephone: (home) 803-422-1840 (work) 803-576-2261

Office Address: 2020 Hampton St Columbia SC 29204

Email Address:

whiteb@rcgov.us

—  
Educational Background: BA Columbia College

Professional Background: \_\_\_\_\_

Male      Female      Age: 18-25      26-50      Over 50

Name of Committee in which interested: Employee Grievance

Reason for interest: Interest is to provide an objective ear without any preconceived opinion.

Your characteristics/qualifications, which would be an asset to Committee, Board or Commission:

Ability to make sound unbiased decision after being presented with facts.

Presently serve on any County Committee, Board or Commission? Employee Grievance committee for the past two years (?): Employee Grievance Committee

Any other information you wish to give? \_\_\_\_\_

Recommended by Council Member(s): Bill Malinowski

Hours willing to commit each month: Hours committed to work is determined on a case by case basis.

**CONFLICT OF INTEREST POLICY**

It is the policy of Richland County to require disclosure of any personal or financial interest that may be influenced by decisions of the Committee, Board or Commission for which any citizen applies for membership.

Such conflict of interest does not preclude service but shall be disclosed before appointment. The Clerk of Council shall be notified of any change on an annual basis and members of all Committees, Boards or Commissions shall be required to abstain from voting or influencing through discussion or debate, or any other way, decisions of the Committee, Board or Commission affecting those personal and financial interests.

All statements so filed shall be signed and verified by the filer. The verification shall state that the filer has used all reasonable diligence in its preparation, and that to the best of his or her knowledge, it is true and complete.

Any person who willfully files a false or incomplete statement of disclosure or no change of condition, or who willfully fails to make any filing required by this article, shall be subject to such discipline, including censure and disqualification from the Committee, Board or Commission, by majority vote of the council.

*Have you been convicted or pled no contest of a crime other than minor traffic violations; checking yes does not automatically preclude you from consideration for appointment.*

*Yes* \_\_\_\_\_ *No*   X  \_\_\_\_\_

**STATEMENT OF FINANCIAL OR PERSONAL INTERESTS**

Do you have any financial or personal interest in any business or corporation (profit or not-for-profit) that could be potentially affected by the actions of the Committee, Board or Commission?

Yes \_\_\_\_\_ No   X  \_\_\_\_\_

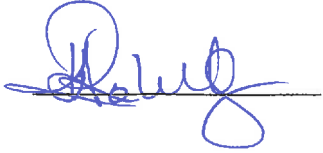
If so, describe: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

  /s/ Barbara C White   \_\_\_\_\_   Sept. 30, 2016   \_\_\_\_\_  
Applicant's Signature Date

**Return to:  
Clerk of Council, Post Office Box 192, Columbia, SC 29202.  
For information, call 576-2060.**

**One form must be submitted for each Committee, Board or Commission on which you wish to serve.**

**Applications are current for one year.**

<b>Staff Use Only</b>		
Date Received: <u>9-30-16</u>	Received by:	
Date Sent to Council: _____		
Status of Application:	<input type="checkbox"/> Approved	<input type="checkbox"/> Denied <input type="checkbox"/> On file



**APPLICATION FOR SERVICE ON RICHLAND COUNTY  
COMMITTEE, BOARD OR COMMISSION**

**Applicant must reside in Richland County.**

Name: Almateen Benton

Home Address: 232 Cordova Dr, Columbia, SC 29203

Telephone: (home) 803-786-1864 (work) 803-606-5664

Office Address: \_\_\_\_\_

Email Address:  
bentalsc@aol.com

Educational Background: Bachelor Degree in Social Studies, Accounting

Professional Background: Business Owner

Male Female Age: 18-25 26-50 Over 50

Name of Committee in which interested: Central Midlands Regional Transit Authority (CMRTA)

Reason for interest: To make a contribution to my community.

Your characteristics/qualifications, which would be an asset to Committee, Board or  
Commission:

Lived in the Community for many years, owned a business in the city and work as a  
Relocation Consultant.

Presently serve on any County Committee, Board or Commission? No

Any other information you wish to give? \_\_\_\_\_

Recommended by Council Member(s): John Furgess, Robert Morris

Hours willing to commit each month: 4

**CONFLICT OF INTEREST POLICY**

It is the policy of Richland County to require disclosure of any personal or financial interest that may be influenced by decisions of the Committee, Board or Commission for which any citizen applies for membership.

Such conflict of interest does not preclude service but shall be disclosed before appointment. The Clerk of Council shall be notified of any change on an annual basis and members of all Committees, Boards or Commissions shall be required to abstain from voting or influencing through discussion or debate, or any other way, decisions of the Committee, Board or Commission affecting those personal and financial interests.

All statements so filed shall be signed and verified by the filer. The verification shall state that the filer has used all reasonable diligence in its preparation, and that to the best of his or her knowledge, it is true and complete.

Any person who willfully files a false or incomplete statement of disclosure or no change of condition, or who willfully fails to make any filing required by this article, shall be subject to such discipline, including censure and disqualification from the Committee, Board or Commission, by majority vote of the council.

*Have you been convicted or pled no contest of a crime other than minor traffic violations; checking yes does not automatically preclude you from consideration for appointment.*

Yes \_\_\_\_\_ No  \_\_\_\_\_

**STATEMENT OF FINANCIAL OR PERSONAL INTERESTS**

Do you have any financial or personal interest in any business or corporation (profit or not-for-profit) that could be potentially affected by the actions of the Committee, Board or Commission?

Yes \_\_\_\_\_ No  \_\_\_\_\_

If so, describe: \_\_\_\_\_

\_\_\_\_\_

  
Applicant's Signature


10/3/2016  
Date

**Return to:  
Clerk of Council, Post Office Box 192, Columbia, SC 29202.  
For information, call 576-2060.**

**One form must be submitted for each Committee, Board or Commission on which you wish to serve.**



**Applications are current for one year.**

<b>Staff Use Only</b>	
Date Received: <u>10-3-16</u>	Received by: <u></u>
Date Sent to Council: _____	
Status of Application:	<input type="checkbox"/> Approved <input type="checkbox"/> Denied <input type="checkbox"/> On file



APPLICATION FOR SERVICE ON RICHLAND COUNTY COMMITTEE, BOARD OR COMMISSION

Applicant must reside in Richland County.

Name: Roger Leaks, Jr

Home Address: 4519 Robney Drive

Telephone: (home) (803) 776-6835 (work) (803) 414-4175

Office Address: - Same as above -

Email Address: RogerLeaks@hotmail.com

Educational Background: BS Chemistry

Professional Background: Business owner/military/private ind

Male [X] Female [ ] Age: 18-25 [ ] 26-50 [ ] Over 50 [X]

Name of Committee in which interested: CMRT

Reason for interest: To serve as Rep on CMRT Board.

To make system the best possible for the citizens of

Your characteristics/qualifications, which would be an asset to Committee, Board or Commission: Richland Co

Commission: Former DHEC Board member; Former CMRPC member

Small business owner, understand Mgt principles

retired US Army Colonel Org skills + Mgt skills

Presently serve on any County Committee, Board or Commission? No

Any other information you wish to give? willing to serve

Recommended by Council Member(s): Norman Jackson + Dalhi Myers

Hours willing to commit each month: Number needed to complete mission

CONFLICT OF INTEREST POLICY

It is the policy of Richland County to require disclosure of any personal or financial interest that may be influenced by decisions of the Committee, Board or Commission for which any citizen applies for membership.

Such conflict of interest does not preclude service but shall be disclosed before appointment. The Clerk of Council shall be notified of any change on an annual basis and members of all Committees, Boards or Commissions shall be required to abstain from voting or influencing through discussion or debate, or any other way, decisions of the Committee, Board or Commission affecting those personal and financial interests.

All statements so filed shall be signed and verified by the filer. The verification shall state that the filer has used all reasonable diligence in its preparation, and that to the best of his or her knowledge, it is true and complete.

Any person who willfully files a false or incomplete statement of disclosure or no change of condition, or who willfully fails to make any filing required by this article, shall be subject to such discipline, including censure and disqualification from the Committee, Board or Commission, by majority vote of the council.

*Have you been convicted or pled no contest of a crime other than minor traffic violations; checking yes does not automatically preclude you from consideration for appointment.*

Yes \_\_\_\_\_ No  \_\_\_\_\_

**STATEMENT OF FINANCIAL OR PERSONAL INTERESTS**

Do you have any financial or personal interest in any business or corporation (profit or not-for-profit) that could be potentially affected by the actions of the Committee, Board or Commission?

Yes \_\_\_\_\_ No  \_\_\_\_\_

If so, describe: NA  
\_\_\_\_\_  
\_\_\_\_\_

Roger Leaks  
Applicant's Signature

21 oct 2016  
Date

**Return to:  
Clerk of Council, Post Office Box 192, Columbia, SC 29202.  
For information, call 576-2060.**

**One form must be submitted for each Committee, Board or Commission on which you wish to serve.**

**Applications are current for one year.**

<b>Staff Use Only</b>	
Date Received: _____	Received by: _____
Date Sent to Council: _____	
Status of Application: <input type="checkbox"/> Approved	<input checked="" type="checkbox"/> Denied <input type="checkbox"/> On file



# RICHLAND COUNTY GOVERNMENT

Office of the County Administrator

Gregory Pearce  
District 6

Torrey Rush (Chair)  
District 7

Julie Ann Dixon  
District 9

## **DSS Facility Ad Hoc Committee Actions Report Tuesday, October 25<sup>th</sup>, 2016 2:00PM**

### **Brief Meeting Overview**

The DSS Facility Ad Hoc Committee met on last Tuesday, October 25, 2016 at 2 p.m. to consider the replacement of the DSS HVAC Rooftop Units and the installation of a dedicated HVAC Unit for the facility's IT server room.

County staff advertised a solicitation to replace the HVAC units at the facility. Four Mechanical Contractors: Cullum Services, Hoffman & Hoffman, Hoyt's Heating & AC, and Johnson Controls, Inc. submitted proposals to Procurement. The submittals were distributed to the evaluation team, who reviewed and scored them. Upon the completion of the review, staff recommended to award the construction contract for the replacement of 11 Rooftop HVAC Units and the installation of one 3 ton split system at the DSS facility to Johnson Controls, Inc. in the amount of \$129,329.00, which includes \$16,869.00 (15%) in contingency. Staff's recommendation is attached.

Johnson Controls, Inc. is a qualified contractor to perform the entire scope as designed. They have sufficient personnel available to perform the work in one weekend, minimizing any interruption of the DSS facility operations. They are located on Woodcross Drive in Columbia, SC, and are actively licensed with the Department of Labor, Licensing, and Regulation as a Mechanical Contractor.

### **DSS Facility Ad Hoc Committee's Recommendation**

The Committee recommended that Council award the construction contract for the replacement of 11 Rooftop HVAC Units and the installation of one 3 ton split system at the DSS facility to Johnson Controls, Inc. in the amount of \$129,329.00, which includes \$16,869.00 (15%) in contingency.



**Department of Support Services**  
Administration, Fleet, Central Services, Facilities and Grounds  
**Memorandum**  
John A. Hixon, Sr. Director

Date: October 24, 2016

To: Mr. Gerald Seals, Interim County Administrator

From: Bill Peters, Deputy Director (Interim) , Department of Support Services

Subject: DSS HVAC Replacement

Good day, sir.

We are in receipt of the evaluation scores for the DSS HVAC Replacement Project, as compiled and forwarded to our department by the Office of Procurement and Contracting. After reviewing the information, it is the recommendation of the Department of Support Services that Johnson Controls, Inc. be awarded the contract for the value listed in their proposal, as their proposal was the most responsive to the solicitation requirements.

Thank you for your consideration.

A handwritten signature in blue ink, appearing to read "Bill Peters", is written over a faint circular stamp.

Bill Peters  
Deputy Director (Interim)  
Department of Support Services

Cc: Mr. John Hixon, Director, Department of Support Services  
Ms. Christy Swofford, Assistant Director, Office of Procurement and Contracting

## Richland County Council Request of Action

**Subject:** Replacement of the DSS HVAC Rooftop Units and the installation of a dedicated HVAC Unit for the IT server room

### **A. Purpose**

County Council is requested to award the contract for the replacement of 11 Rooftop HVAC units, ranging in size from 3 tons to 7.5 tons, and the installation of a new 3 ton HVAC rooftop split system dedicated to the IT server room at the DSS facility to Johnson Controls, Inc. in the amount of \$129,329.00. \$112,460.00 will cover the proposed contract amount, leaving \$16,869.00 (15%) in contingency to address any unforeseen issues in this replacement project. *(As with all contingencies on construction projects, any request for a change order will be reviewed by the Project Manager and multiple layers of the Support Services and Procurement department personnel to ensure the necessity and value of the request before any approvals are granted, denied, or other options suggested.)*

### **B. Background / Discussion**

During the servicing of the HVAC rooftop units at the end of heating cycle earlier this year, it was discovered that the heat exchangers had ruptured, possibly allowing some carbon monoxide (CO) into the supply air, causing a life safety concern. The replacement of the heat exchangers was investigated, but was determined to be impractical due to the age of the units, over 15 years, and the cost to perform the work. The best course of action was to replace the units with new units that will be more energy efficient (with a higher SEER rating- Seasonal Energy Efficiency Ratio), thus also reducing the overall energy consumption for the facility. It is anticipated that these new units will also qualify for SCE&G's EnergyWise rebate program, potentially leading to a \$5,000+ rebate, which is not included as part of the project cost. Additionally, by installing new units, the overall repair cost for the HVAC units will be reduced for the near future as the units have a full one year warranty.

The IT server room located at this facility is conditioned with an existing HVAC unit that is designed to serve normal office space and its associated heat load. The equipment in the server room routinely overwhelms the supply air, allowing the temperature in the room to reach 90+ degrees, affecting the operations of the computer and phone equipment. The installation of a three ton dedicated HVAC unit will allow the room to be cooled independently from the rest of the building, thus allowing the room to remain within operational temperatures, and reducing the risk of damaging expensive computer equipment.

The DSS facility has been approved for an extensive renovation, which included some items that were identified and contained within Capital Improvement Plan (CIP). The replacement of the HVAC units is identified as part of the renovation; however, this work cannot be delayed due to the life safety issues associated with these units.

Procurement advertised a solicitation to replace the HVAC units at the DSS facility. Four Mechanical Contractors: Cullum Services, Hoffman & Hoffman, Hoyt's Heating & AC, and Johnson Controls, Inc. submitted proposals to Procurement. The submittals were distributed to the evaluation team, who reviewed and scored them. Procurement then reviewed the scores and provided a recommendation.

The Support Services and Procurement Departments have reviewed Johnson Controls, Inc.'s bid and determined that the company is a qualified contractor to perform the entire scope as designed. They have sufficient personnel available to perform the work in one weekend, minimizing any interruption of the DSS facility operations. They are located on Woodcross Drive in Columbia, SC, and are actively licensed with the Department of Labor, Licensing, and Regulation as a Mechanical Contractor.

**C. Legislative / Chronological History**

- The County discovered the heat exchangers on 11 HVAC units were ruptured in March 2016.
- Support Services investigated the cost to replace only the heat exchangers and it was determined impractical.
- The County solicited on 9/15/16 to have Mechanical Contractors provide a bid to replace the existing 11 damaged units and to install a new dedicated HVAC unit for the IT server room.
- The four bids were received on or before 9/29/16 and were reviewed, evaluated and scored by an evaluation team.
- Evaluations were submitted to Procurement by 10/11/16. Procurement provided a recommendation on 10/18/16
- Johnson Controls, Inc. was the lowest responsive, responsible bidder, at a total of \$112,460.00. Adding a 15% contingency to this amount brings the total to \$129,329.00.

**D. Alternatives**

1. Award the construction contract for the replacement of 11 Rooftop HVAC Units and the installation of one 3 ton split system at the DSS facility to Johnson Controls, Inc. in the amount of \$129,329.00, which includes \$16,869.00 (15%) in contingency.
2. Do not award the construction contract for the replacement of 11 Rooftop HVAC Units and the installation of one 3 ton split system at the DSS facility to Johnson Controls, Inc. in the amount of \$129,329.00, which includes \$16,869.00 (15%) in contingency.

**E. Final Recommendation**

It is recommended that Council proceed with awarding the construction contract for the replacement of 11 Rooftop HVAC Units and the installation of one 3 ton split system at the DSS facility to Johnson Controls, Inc. in the amount of \$129,329.00.





2 of 3

- a) **RTU # 1-**  
Is currently a 7.5 ton gas package unit  
Trane- Model # YCD090A3LOAA SN # D06142923D
- b) **RTU # 3-**  
Is currently a 5 ton gas package unit  
Trane- Model # YCD060A3LOAA SN # D08143231D
- c) **RTU # 4-**  
Is currently a 5 ton gas package unit  
Trane- Model # YDC060A3LOAA SN # D08143223D
- d) **RTU # 5-**



- Is currently a 3 ton gas package unit  
Trane- Model # YCD036A3LOAA SN # D06142923D
- e) RTU # 6-**  
Is currently a 5 ton gas package unit  
Trane- Model # YCD060A3LOAA SN # D08143235D
- f) RTU # 7-**  
Is currently a 7.5 ton gas package unit  
Trane- Model # YCD090A3LOAA SN # D03143397D
- g) RTU # 8-**  
Is currently a 7.5 ton gas package unit  
Trane- Model # YCD090A3LOAA SN # D06143190D
- h) RTU # 9-**  
Is currently a 7.5 ton gas package unit  
Trane- Model # YCD090A3LOAA SN # D03143393D
- i) RTU # 10-**  
Is currently a 7.5 ton gas package unit  
Trane- Model # YCD090A3LOAA SN # Unknown
- j) RTU # 11-**  
Is currently a 7.5 ton gas package unit  
Trane- Model # YCD090A3LOAA SN # D03143394D
- k) RTU #13-**  
Is currently a 7.5 ton gas package unit  
Trane- Model # YCD090A3LOAA SN # D03143396D
- l) Additional Unit-**  
3 ton mini split system to service the Information Technology Room  
(IT)

## Richland County Council Request of Action

**Subject:**

An Ordinance Amending the Richland County Code of Ordinances, Chapter 2, Administration; so as to remove the Division of Procurement known as the Office of Small Business Opportunity

First Reading: November 1, 2016 {Tentative}

Second Reading:

Third Reading:

Public Hearing:

STATE OF SOUTH CAROLINA  
COUNTY COUNCIL FOR RICHLAND COUNTY  
ORDINANCE NO. \_\_\_\_-16HR

AN ORDINANCE AMENDING THE RICHLAND COUNTY CODE OF ORDINANCES, CHAPTER 2, ADMINISTRATION; SO AS TO REMOVE THE DIVISION OF PROCUREMENT KNOWN AS THE OFFICE OF SMALL BUSINESS OPPORTUNITY.

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 III, Administrative Offices and Officers; Division 9, Office of Procurement; Section 2-153.5; is hereby deleted.

SECTION II. The Richland County Code of Ordinances, Chapter 2, Administration; Article X, Purchasing; Division 7, Small Business Enterprise Procurement Requirements; Section 2-639; General Provisions; sub-paragraph (c); is hereby amended by the addition of the following definition, which shall be placed in appropriate alphabetical order:

*Office of Small Business Opportunity.* The office which shall manage and administer the SLBE Program (see Section 2-639 et. seq.) and shall undertake other functions and duties as assigned by the county administrator or county council.

SECTION III. The Richland County Code of Ordinances, Chapter 2, Administration; Article X, Purchasing; Division 7, Small Business Enterprise Procurement Requirements; shall be amended by replacing each reference of the “director of procurement” to the “director of the Office of Small Business Opportunity.”

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 effective from and after \_\_\_\_\_, 2016.

RICHLAND COUNTY COUNCIL

BY: \_\_\_\_\_  
Torrey Rush, Chair

Attest this \_\_\_\_\_ day of \_\_\_\_\_, 2016.

\_\_\_\_\_  
Michelle Onley  
Deputy 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**  
Solid Waste & Recycling Department  
1070 Caughman Road North  
Columbia, South Carolina 29203  
Voice: (803) 576-2440 Facsimile (803) 576-2495



DATE: October 26, 2016  
To: Richland County Council  
CC: Gerald Seals, Interim County Administrator  
From: Rudy Curtis, Interim Director Solid Waste & Recycling   
Subject: Curbside Collection Hauler Contracts For Areas 3 & 6

On October 4, 2016 County Council approved the recommendation of staff to negotiate the costs for providing curbside collection service for Service Areas 3 and 6. That recommendation included a provision to bring the negotiated contracts directly back to Council for award. Staff has completed the negotiations for both contracts.

Staff hereby requests that Council authorize the award of the negotiated curbside collection contracts for Service Area 3 to Capital Waste Services and Service Area 6 to Allwaste Services. If approved, please reconsider the matter so that staff may execute the contracts immediately.

Exhibit A is included showing comparative curbside contract data.

The two proposed contracts are attached as Exhibits B & C.

**Exhibit A**

**CONTRACT PERIODS AND ANNUAL VALUE**

<b>Haulers</b>		<b>Service Area</b>	<b>Contract End Date</b>	<b>Current Annual Contract Value*</b>	<b>Current Monthly Rate</b>	<b>January 2017 Monthly Rate</b>
Allwaste Services		<b>1</b>	31-Dec-19	\$4,641,120	\$21.32	\$22.07
Waste Industries		<b>2</b>	31-Dec-17	\$2,174,340	\$18.64	\$19.29
(Capital Waste Services)	<b>Proposed</b>	<b>3</b>	31-Dec-21	\$3,546,900	\$20.32	\$20.32 (Proposed)
Waste Industries		<b>4</b>	31-Dec-19	\$4,943,640	\$21.43	\$22.07
Capital Waste Services		<b>5A</b>	31-Dec-18	\$2,862,000	\$19.92	\$20.62
Johnson's Garbage Service		<b>5B</b>	31-Dec-18	\$433,200	\$21.23	\$21.97
(Allwaste Services)	Proposed	<b>6</b>	31-Dec-21	\$2,318,820	\$18.10	\$19.65 (Proposed)
Johnson's Garbage Service		<b>7</b>	31-Dec-18	\$1,544,100	\$21.23	\$21.97
*Based on July 2016 Payments						

### SERVICE AREA #3 COLLECTIONS AGREEMENT AND CONTRACT

This Agreement and Contract hereinafter "Contract," is made and entered into this \_\_\_\_\_ day of \_\_\_\_\_, 2016, by and between Richland County, 2020 Hampton Street, Columbia, South Carolina, 29204-1002, hereinafter referred to as "County", and Capital Waste Services LLC whose address is 911 Lady Street, Suite D, Columbia, South Carolina hereinafter referred to as "Contractor". This Contract shall become effective January 1, 2017. This Contract shall supersede any other contracts or extensions thereof for curbside collections in Service Area #3.

#### WITNESSETH

WHEREAS, the Contractor has represented to the County that it is qualified to perform as a Contractor for collection and transportation, and based upon Contractor's representations, the County wishes to engage Contractor to perform the work described herein;

NOW THEREFORE, for and in consideration of their mutual benefit, the parties hereto agree as follows:

#### 1. DEFINITIONS

A. "Confidential Information" as used in this Contract shall mean any and all technical and non-technical information and proprietary information of the County (whether oral or written), scientific, trade, or business information possessed, obtained by, developed for, or given to Contractor which is treated by County as confidential or proprietary including, without limitation, research materials, formulations, techniques, methodology, assay systems, formula, procedures, tests, equipment, data, reports, know-how, sources of supply, patent positioning, relationships with contractors and employees, business plans and business developments, Information concerning the existence, scope or activities of any research, development, manufacturing, marketing, or other projects of County, and any other confidential information about or belonging to County's suppliers, licensors, licensees, partners, affiliates, customers, potential customers, or others.

"Confidential Information" does not include information which (a) was known to Contractor at the time it was disclosed, other than by previous disclosure by County, as evidenced by Contractor's written records at the time of disclosure; (b) is lawfully and in good faith made available to Contractor by a third party who did not derive it, directly or indirectly, from County.

B. "Contracting Officer (CO)" shall be the person occupying the position of the Director of Procurement and who has authority to act on the behalf of the County to make binding decisions with respect to this Contract.

C. "Contracting Officer's Representative (COR)" is an individual, appointed in writing, to monitor and administer the Contract and Contractor performance during the life of this Contract.

D. "Contractor" or "Prime Contractor" hereinafter will be referred to as "Capital Waste Services LLC."

E. "Contractor's Employee" as used in this Contract, means any officer, partner, employee, or agent of the Contractor.

F. "Person," as used in this Contract, means a firm, company, entity, corporation, partnership, or business association of any kind, trust, joint-stock company, or individual.

- G. "Prime contract" as used in this Contract, means the Contract between County and Contractor.
- H. "Subcontract," as used in this Contract, means an agreement or contractual action entered into by the Contractor with sub-contractor or any third party for the purpose of obtaining services as agreed under this Contract.
- I. "Subcontractor," as used in this Contract, (1) means any third party, person, firm, company, entity, corporation, partnership, or business association of any kind, trust, joint-stock company, or individual other than the Contractor, who offers to furnish or furnishes any supplies, materials, equipment, construction or services of any kind under this Contract or a subcontract entered into in connection with Contractor and the Contract with the County and (2) includes any third party, person, firm, company, entity, corporation, partnership, or business association of any kind, trust, joint-stock company, or individual who offers to furnish or furnishes services to the Contractor or a higher tier Subcontractor.

All references to days in this Contract mean calendar days.

All references to "shall", "must", and "will" are to be interpreted as mandatory language.

## 2. ACTS, LAWS, ORDINANCES AND REGULATIONS

The Contractor will comply with all applicable federal, state and local acts, laws, ordinances and regulations, including but not limited to, the acts and standards listed below as they relate to solid waste collection and transportation services in Service Area #3 provided under this Contract:

Age Discrimination in Employment Act of 1967

Americans with Disabilities Act (ADA)

Disabled and Vietnam veteran employment

Disadvantaged Business Enterprise (DBE) Program

Environmental Protection Agency Regulations

Equal Employment Opportunity

Fair Labor Standards Act

Occupational Safety and Health Administration (OSHA)

Payments to Contractors, Subcontractors, and Suppliers, SC Code 29-6-10 et al.

SC Department of Health and Environmental Control (DHEC) Regulations

SC Drug Free Workplace Act

SC Illegal Immigration and Reform Act

US Citizenship and Immigration Service Employment Eligibility Verification Program

## 3. FINANCIAL INTEREST

No official or employee of the County shall participate personally through decision, approval, disapproval, recommendation, the rendering of advice, investigation, or otherwise in a proceeding, application, request for a ruling or other determination, contract, grant cooperative agreement, claim, controversy, or

other particular matter in which these funds are used, where to his/her knowledge he/she or her/his immediate family, partners, organization, other than a public office in which he/she is serving as an officer, director, trustee, partner, or employee or any person or organization with which he/she is negotiating or has any arrangement concerning prospective employment, has a financial interest.

4. AFFIRMATIVE ACTION

The Contractor shall take affirmative action in complying with all Federal, State and local requirements concerning fair employment, employment of the handicapped, and concerning the treatment of all employees, without regard or discrimination by reasons of race, color, sex, religion, gender, gender identity, national origin and/or physical handicap.

5. AMENDMENTS

All amendments to and interpretations of this Contract shall be in writing and signed by each party. Any amendments or interpretations that are not in writing and signed by each party shall not legally bind the County and or its agents.

6. ANTI-KICKBACK PROCEDURES

A. Definitions specific to Section 6 of this Contract:

"General Contractor/Vendor" means a person who has entered into a contract with the County.

"General Contractor/Vendor employee" means any officer, partner, employee or agent of a Prime Contractor.

"Kickback" means any money, fee, commission, credit, gift, gratuity, thing of value, or compensation of any kind, which is provided directly or indirectly to any Prime Contractor / General Contractor employee, subcontractor, or subcontractor employee for the purpose of improperly obtaining or rewarding favorable treatment in connection with a contract or in connection with a subcontract relating to a contract.

"Person" means a corporation, partnership or business association of any kind, trust, joint-stock company, or individual.

"Prime contract" means a contract or contractual action entered into by the County for the purpose of obtaining goods, supplies, materials, equipment, vehicles, construction or services of any kind.

"Subcontract" means a contract or contractual action entered into by a General Contractor or subcontractor for the purpose of obtaining supplies, materials, equipment, or services of any kind under a prime contract.

"Subcontractor" means (1) any person, other than the General Contractor/Vendor, who offers to furnish or furnishes any supplies, materials, equipment, or services of any kind under a Prime Contractor/Vendor a subcontract entered into in connection with such prime contract, and (2) includes any person who offers to furnish or furnishes general supplies to the Prime Contractor or a higher tier subcontractor.

B. The Contactor shall comply with the Anti-Kickback Act of 1986 (41 U.S.C. 51-58), which prohibits any person from:

- 1) Providing or attempting to provide or offering to provide any kickback;



- 2) Soliciting, accepting, or attempting to accept any kickback; or
- 3) Including, directly or indirectly, the amount of *any* kickback in the contract price charged by a General Contractor to the County or in the contract price charged by a subcontractor to a General Contractor or higher tier subcontractor.

C. Requirements:

- 1) The Contractor shall have in place and follow reasonable procedures designed to prevent and detect possible violations described in 6.B above in its own operations and direct business relationships.
- 2) When the Contractor has reasonable grounds to believe that a violation described in paragraph 6.B may have occurred, the Contractor shall promptly report in writing the possible violation. Such reports shall be made to the CO and the County Attorney.
- 3) The Contractor shall cooperate fully with any Federal agency investigating a possible violation described in 6.B.
- 4) The CO may:
  - a) Offset the amount of the kickback against any monies owed by the County under the prime contract, and/or
  - b) Direct that the General Contractor/Vendor to withhold from sums owed a subcontractor under the prime contract the amount of the kickback. The CO may order that monies withheld under 6.C.4.b be paid over to the County unless the County has already offset those monies under 6.C.4.a. In either case, the General Contractor shall notify the CO and the County Attorney when the monies are withheld.
- 5) The Contractor agrees to incorporate the substance of 6.C.5, including this paragraph but excepting 6.C.1, in all subcontracts under this Contract which exceed \$50,000.

7. ASSIGNMENT OF AGREEMENT AND CONTRACT

This Agreement and Contract shall not be assigned or reassigned in any manner, including but not limited to by sale of stock or sale of company or sale of any controlling interest, given through inheritance, co-ownership or as a gift, divided, sublet, or transferred without prior written approval of Richland County Council.

8. AUDIT AND RECORDS

- A. As used in Section 8, "records" includes books, documents, accounting procedures and practices, and other data, regardless of type and regardless of whether such items are in written form, in the form of computer data, or in any other form.
- B. Cost or pricing data. If the Contractor has been required to submit cost or pricing data in connection with the pricing of any modification to this Contract, the CO, or an authorized representative, in order to evaluate the accuracy, completeness, and currency of the cost or pricing data, shall have the right to examine and audit all of the Contractor's records, including computations and projections, related to:
  - 1) The proposal for the modification;
  - 2) The discussions conducted on the proposal(s), including those related to negotiating;
  - 3) Pricing of the modification; or
  - 4) Performance of the modification.
- C. Availability. The Contractor shall make available at its office at all reasonable times the materials described in paragraph 8.B of this Contract, for examination, audit, or reproduction, until 3 years

after final payment under this Contract, except as provided herein:

- 1) If this Contract is completely or partially terminated, the records relating to the work terminated shall be made available for 3 years after any resulting final termination settlement.
- 2) Records pertaining to appeals under the Disputes clause or to litigation or the settlement of claims arising under or relating to the performance of this Contract shall be made available until disposition of such appeals, litigation, or claims.

D. The Contractor shall insert a clause containing all the provisions of this paragraph, including this paragraph, 8.D, in all subcontracts.

#### 9. CONTRACT ADMINISTRATION

The CO has the authority to act on the behalf of the County to make binding decisions with respect to this Contract. Questions or problems arising from this Contract shall be directed to the Director of Procurement, 2020 Hampton Street, Suite 3064, Columbia, South Carolina 29204 or assigned representative.

#### 10. COVENANTS AGAINST CONTINGENT FEES

The Contractor warrants that no person or selling agency has been employed or retained to secure this Contract upon an agreement or understanding for a commission, percentage, brokerage, or contingent fee, excepting bona fide employees or bona fide established commercial or selling agencies maintained by the Contractor for the purpose of securing business.

#### 11. DRUG FREE WORKPLACE ACT

The Contractor and the County agree to comply with the requirements set forth in Title 44, Code of Laws of South Carolina, 1976, Chapter 107, and that it shall apply to all procurement actions involving an award for FIFTY THOUSAND dollars, (\$50,000.00) or more. The Contractor is required to execute a statement certifying that they understand and are in full compliance with the Drug Free Workplace Act. Failure to comply with this requirement shall result in termination of this Contract.

#### 12. EQUAL EMPLOYMENT OPPORTUNITY

Contractor agrees not to discriminate against any employee or applicant on the basis of age, race, color, religion, sex, or national origin. Contractor will provide information and submit reports on employment as County requests. Failure to comply may result in termination of this Contract.

#### 13. FORCE MAJEURE

The Contractor shall not be liable for any excess costs if the failure to perform arises out of cause beyond the control and without the fault or negligence of the Contractor. Such causes may include, but are not restricted to acts of God or of the public enemy, acts of the Government in its sovereign or contractual capacity, fires, floods, epidemics, quarantine restrictions, strikes, freight embargoes and unusually severe weather. In every case the failure to perform must be beyond the control of both the Contractor and subcontractor and without fault or negligence of either of them. If a party asserts force majeure as an excuse for failure to perform the party's obligation, then the nonperforming party must (1) take reasonable steps to minimize delay or damages caused by foreseeable events, (2) substantially fulfill all non-excused obligations, and (3) ensure that the other party was timely notified of the likelihood or actual occurrence of an event described herein.

#### 14. GUARANTEE

Contractor shall guarantee all vehicles and equipment utilized for this Contract and being furnished for a period of not less than the Contract term, after the final inspection and approval of the vehicles and

equipment, will be maintained operational, safe and in good working conditions for the duration of the contract. When defects and faulty vehicles and equipment are discovered during the guaranteed period, the Contractor shall immediately proceed at own expense to repair or replace the same, together with damages to all vehicles and equipment that may have been damaged as a result of omission and/or workmanship.

#### 15. IMPROPER INFLUENCE

Soliciting of special interest groups or appointed and elected officials with the intent to influence contract awards or to overturn decisions of the CO is hereby prohibited. Violation of this provision may result in suspension or debarment.

#### 16. INDEMNIFICATION

Contractor shall indemnify and hold harmless the County and the County's agents and employees from and against any and all damages, losses and expenses, including but not limited to attorney's fees, arising out of, or resulting from negligent performance of the work defined herein, but only to the extent caused or contributed to by the negligent acts or omissions of Contractor, its subcontractors and consultants, anyone directly or indirectly employed by them or anyone for whose acts they may be liable, regardless of whether or not such claim, damages, loss or expense is caused in part by a party indemnified hereunder.

#### 17. INSURANCE

Contractor shall be responsible for any damages resulting from its activities. Prior to starting work hereunder, Contractor, at its own expense, shall obtain and maintain, throughout the duration of this Agreement, all such insurance as required by the laws of the State of South Carolina, and minimally the below listed insurance. A breach of the insurance requirements shall be material.

Such insurance shall be issued by a company or companies authorized to do business in the State of South Carolina and Richland County, and must have a Best Rating of A-, VII or higher. Insurance Services Office (ISO) forms are acceptable; alternative standards require the written consent of the County. The County shall have the right to refuse or approve carriers. This agreement sets forth minimum coverages and limits and is not to be construed in any way as a limitation of liability for Contractor.

If permitted by the County to subcontract, Contractor must require these same insurance provisions of its Subcontractors or insure its Subcontractors under its own policies. Failure of Contractor or its subcontractors to maintain insurance coverage shall not relieve Contractor of its contractual obligation or responsibility hereunder.

##### A. Commercial General Liability Insurance

Contractor shall provide a commercial general liability policy with a \$2,000,000 (two million dollars) general aggregate and minimum limits of \$1,000,000.00 (one million dollars) per occurrence for bodily injury and property damage, personal and advertising injury and products /completed operations.

The policy shall also include:

1. contractual liability for this location or blanket contractual liability;
2. a waiver of subrogation against the County its officials, employees, leased and temporary employees and volunteers;
3. a provision that policy is primary to all other insurance or self-insurance even if the policy asserts it is secondary, excess or contingent;

4. the County, its officials, employees, temporary and leased workers and volunteers endorsed as additional insured;
5. severability of interest;

**B. Umbrella Liability Insurance**

Contractor shall provide an umbrella policy for \$5,000,000 (five million dollars) per occurrence that provides coverage at least as broad as the liability policies.

**C. Business Auto Coverage:**

Contractor shall provide a business auto policy that has at least the per occurrence combined single limit of \$1,000,000 (one million dollars). The business liability coverage should include coverage for hired and non-owned autos. Physical damage coverage is at the option of Contractor. The policy shall also include:

1. contractual liability;
2. a waiver of subrogation against the County, its officials, employees, leased and temporary employees and volunteers;
3. a provision that the policy is primary to all other insurance or self-insurance.
4. endorsement CA 9948 (an ISO form) or a comparable endorsement providing for cleanup and expense cost for pollution.

**D. Workers Compensation and Employers Liability Insurance:**

Contractor shall provide a workers compensation policy that specifies South Carolina coverage and an employer's liability policy with limits of per accident/per disease is required. "Other States" only is unacceptable. The policy shall waive subrogation against the County, its officials, employees, temporary and leased workers and volunteers.

**E. Cancellation, Non-renewal, Reduction in Coverage and Material Change:**

Contractor shall provide the County thirty (30) calendar days' notice in writing of any cancellation, non-renewal or reduction in coverage or any other material policy change.

**F. Certificates of Insurance**

Contractor shall furnish the County at the below address with certified copies of certificates of insurance within ten (10) calendar days of date of the notice to proceed:

Richland County Government, Attn: Procurement, PO Box 192, Columbia, SC 29202.

Richland County Government shall be named on the policies as certificate holder. The County shall be an additional insured. Certificates shall 1) state the insurance applies to work performed by or behalf of the Contractor 2) shall state any retention and identify each insurer and 3) incorporate by reference this contract's provisions. Contractor shall ask its insurance broker(s) to include a statement on the certificate that the broker(s) will give the County notice of a material change in or cancelation of a policy.

**18. LICENSES, PERMITS AND CERTIFICATES**

The Contractor at their own expense shall secure all licenses, permits, variances and certificates required for and in connection with any and all parts of the work to be performed under the provisions of this Contract.

**19. NON-APPROPRIATIONS**

This Contract shall be subject to cancellation without damages or further obligations when funds are not

appropriated or otherwise made available to support continuation of performance in a subsequent fiscal period or appropriated year.

## 20. NOTICES

Unless otherwise provided herein, all notices or other communications required or permitted to be given under this Contract shall be in writing and shall be deemed to have been duly given if delivered personally in hand and signed for or sent by certified mail, return receipt requested, postage prepaid, and addressed to the appropriate party at the following address or to any other person at any other address as may be designated in writing by the parties:

Parties must acknowledge by signature the receipt of any notice delivered in person by either party;  
Date of notice shall be the date of delivery or date signed for on certified registered mail by the U.S. mail;  
and;

Either party may change its address by written notice within ten calendar days to the other.

County: *Richland County Office of Procurement and Contracting, 2020 Hampton Street, Third Floor, Suite 3064, Columbia, SC 29204-1002*

Contractor: *Capital Waste Services LLC, 911 Lady Street Columbia South Carolina 29201*

## 21. OTHER WORK

The County shall have the right to perform or have performed work other than the services performed exclusively by Contractor under this Contract, as it may desire while Contractor is performing work. The Contractor shall perform its work in a manner that enables completion of other work without hindrance or interference (or shall properly connect and coordinate its work with that of others when required). Any claim of interference due to other work must be made to County within ten (10) calendar days of its occurrence or it is deemed waived.

## 22. OWNERSHIP

Except for the County's proprietary software and materials, and the proprietary Operating System Software, all original data, spatial data, aspatial data plans, drawings, images, material, documentation (including electronic files or documents), and application software generated and prepared by or exclusively for the County pursuant to any agreement shall belong to the County. Contractor shall not sell, give, loan nor in any other way provide such to another person or organization, nor otherwise utilize any commercially valuable data, images, or developments created specifically by or for the County under this Contract, without the written consent of the CO. Any external requests to procure these data or materials must be forwarded to the County.

## 23. PERFORMANCE BONDS

The Contractor shall deposit with the CO within ten (10) days after execution of the Contract, a performance bond issued by a surety company licensed to conduct business in South Carolina in the principal sum of one hundred (100) percent of the cost to the County of the annual contract. The surety on such bond shall be a duly authorized surety company; bonds shall be countersigned by a duly authorized agent in South Carolina and such surety must be satisfactory to the County.

Attorneys-in-fact who sign bonds must file with the bond a certified and effectively dated power of attorney.

The performance bond must be in the amount of the Contract for one year and shall be a one-year bond renewed and adjusted each year to then current annual amount of the contract.

Cancellation or lapse of the performance bond shall be considered a material breach of the contract.

**24. PERFORMANCE TIMELINE**

The period of the Contract is not to exceed December 31, 2021, commencing January 1, 2017, unless Contract is terminated sooner by its own terms or is extended or renewed. This Contract may be extended where appropriate by written agreement of the County and the Contractor.

**25. PERMITS**

The Contractor will comply with "all applicable federal, state and local laws, regulations requiring permits" and agrees to at a minimum comply with:

The Contractor shall obtain all permits or licenses required in connection with the work, give all notices, pay all fees, etc., to ensure compliance with law and shall deliver all proof of compliance to the County upon final acceptance of the work.

Contractor shall report to the County any aspect of noncompliance with the specifications or requirements of the Contract.

If Contractor cannot procure necessary permits, County may terminate the Contract without liability.

**26. PUBLICITY RELEASES:**

Contractor agrees not to refer to award of this Contract in commercial advertising in such manner as to state or imply that the products or services provided are endorsed or preferred by the County.

**27. QUALIFICATIONS;**

Contractor must be regularly established in the business called for, and who by executing this Contract certifies that it is financially capable and responsible; is reliable and has the ability and experience, to include, the facility and personnel directly employed or supervised by them, to complete this Contract. Contractor certifies that it is able to render prompt and satisfactory service in the volume called for under this Contract.

County may make such investigation, as it deems necessary to determine the ability of the Contractor to perform the work. The Contractor shall furnish to the County all such information and data as the County may request, including, if requested, a detailed list of the equipment which the Contractor proposes to use, and a detailed description of the method and program of the work he proposes to follow. The County reserves the right to terminate, if at any time throughout the term of this Contract the evidence submitted by, or investigation of, the Contractor fails to meet all requirements as stipulated or satisfy the County that the Contractor is properly qualified to carry out the obligations of the Contract and to complete the work agreed on therein.

**28. RESPONSIBILITY**

The Contractor certifies that it has fully acquainted itself with conditions relating to Service Area #3 and the scope, specifications, and restrictions attending the execution of the work under the conditions of this Contract. The failure or omission of the Contractor to acquaint itself with existing conditions shall in no way relieve the Contractor of any obligation with respect to the offer and any subsequent Contract.

**A. General Standards**

The Contractor has represented that it can provide the following minimum general criteria to indicate "Responsibility":

- Contractor must demonstrate an understanding of the scope and specifications of the services; County's needs and approach to the services;
- Contractor must possess and demonstrate character, integrity, reputation, judgment, experience, efficiency, ability, capacity, capability, skills, personnel, equipment, financial and logistical resources while providing the required services;
- Contractor must produce the required services in a timely manner;
- The Contractor proposes to perform the work at a fair and reasonable cost;

**B. Mandatory Minimum Responsibility Requirements:**

The Contractor must:

- 1) Have necessary administrative, logistical, financial, production, personnel, construction, technical equipment and facilities to perform the Contract;
- 2) Comply with the required proposed delivery and performance schedule, taking into consideration all existing commercial and governmental business commitments;
- 3) Have satisfactory performance record;
- 4) Have the necessary organization, experience, accounting and operational controls, and technical skills, or the ability to obtain them (including, as appropriate, such elements as production control procedures, property control systems, quality control and assurance measures, and safety programs applicable to materials to be produced or services to be performed by the prospective contractor and subcontractors).

**C. Contractors Responsibility**

Contractor must ensure the following:

- 1) *Resources.* The Contractor agrees that it will have sufficient resources to perform the Contract. The County may require acceptable evidence of the prospective contractor's ability to obtain and maintain required resources.
- 2) *Satisfactory performance.* Failure to meet the requirements of the Contract is a material breach and the Contract may be terminated.
- 3) Contractor will have throughout the term of the Contract, personnel with the level of expertise, management, technical capability, skills, knowledge, and abilities in collecting and transporting residential solid waste in Service Area #3.
- 4) The Contractor must maintain throughout the term of the Contract legal qualifications to conduct business in South Carolina and the County. (i.e., license, certifications and credentials.)

- 5) The Contractor will maintain financial resources to perform the requirements of the Contract throughout the term of the contract.

**29. SECURITY - COUNTY'S RULES:**

In consideration of the security responsibility of the County, the CO or designee reserves the right to observe Contractor's operations and inspect collections in Service Area #3 and related areas.

Upon written request Contractor will provide the names of employees and criminal background record checks to the County. Criminal background record checks may be conducted by the County in addition to the checks of the Contractor.

The County requires Contractor's employees, Contractors, and sub-Contractors to wear clothing with the company's identification and name of the employee, at the Contractor's sole expense.

Contractor's employees must have a valid photo identification card issued by the state and require it to be on their person at all times while on the job. Employees not previously screened will not be allowed to work.

Failure to comply with the requirements of this section will result in a fifty dollar (\$50) fine per employee per day once a written warning has been issued and opportunity to comply has been provided.

**30. SEVERABILITY:**

If any term or provision of this Contract shall be found to be illegal or unenforceable, notwithstanding any such legality or enforceability, the remainder of said Contract shall remain in full force and effect, and such term or provision shall be deemed to be deleted and severable there from.

**31. SOUTH CAROLINA/RICHLAND COUNTY LAW CLAUSE:**

The Contractor must comply with the laws of South Carolina, and the ordinances of Richland County, and agrees to subject itself to the jurisdiction and process of the courts of the State of South Carolina, specifically the South Carolina Court of Common Pleas Fifth Judicial Circuit in Richland County, as to all matters and disputes arising or to arise under the Contract and the performance thereof, including any questions as to the liability of taxes, licenses or fees levied by the State or County.

**32. STATEMENT OF COMPLIANCES AND ASSURANCES**

Contractor shall certify in writing, that it complies with all applicable federal and state laws/regulations and County ordinances.

A. Contractor(s) shall provide with each bid, a written assurance of non-collusion and understanding and acceptance of any and all provisions stated in this contract.

B. A statement of Compliance and Assurance, along with other statements and certification shall be provided to Contractors and be part of each Contract.

**33. SUBCONTRACTS:**

Contractor shall not subcontract work hereunder without the prior written consent of the County, and any such subcontract without consent of the County shall be null and void. If Contractor proposes to subcontract any of the work hereunder, it shall submit to the County the name of each proposed subcontractor(s), with the proposed scope of work, which its subcontractor is to undertake. The County shall have the right to reject any subcontractor which it considers unable or unsuitable to perform the required work. Contractor shall not enter into any cost reimbursable contracts with any proposed subcontractor without County's prior written authorization.



Contractor agrees it shall be responsible for the acts and omissions of its subcontractors, their agents, representatives, and persons either directly or indirectly employed by them as it is for the acts and omissions of persons directly employed by Contractor.

Neither this provision, this Contract, the County's authorization of Contractor's agreement with subcontractors, County's inspection of subcontractor's facilities, equipment or work, nor any other action taken by the County in relation to subcontractors shall create any contractual relationship between any subcontractor and the County. Contractor shall include in each of its subcontracts a provision embodying the substance of this section and shall exhibit a copy thereof to the County before commencement of any work by subcontractor. Contractor's violation of this provision shall be grounds for the County's termination of this Contract for default, without notice or opportunity for cure.

In addition, Contractor indemnifies and holds the County harmless from and against any claims (threatened, alleged, or actual) made by any subcontractor (of any tier) for compensation, damages, or otherwise, including any cost incurred by the County to investigate, defend, or settle any such claim.

#### 34. TAXPAYER IDENTIFICATION

##### A. Definitions

"Common parent" as used in this provision, means that corporate entity that owns or controls an affiliated group of corporations that files its federal income tax returns on a consolidated basis, and of which the Contractor is a member.

"Taxpayer Identification Number (TIN)" as used in this provision means the number required by the Internal Revenue Service (IRS) to be used by the Contractor in reporting income tax and other returns. The TIN may be either a Social Security Number or an Employer Identification Number.

B. All contractors must submit the information required in paragraphs 34.D, 34.E and 34.F of this Section to comply with debt collection requirements, reporting requirements of, and implementing regulations issued by the IRS. If the resulting contract is subject to the payment reporting requirements of the State of South Carolina, failure or refusal by the Contractor to furnish the information may result in a thirty-one (31) percent reduction of payments otherwise due under the contract.

C. The TIN may be used by the County to collect and report on any delinquent amounts arising out of the Contractor's relationship with the County. If the resulting contract is subject to the payment reporting requirements of the IRS, the TIN provided hereunder may be matched with IRS records to verify the accuracy of the Contractor's TIN.

##### D. Taxpayer Identification Number (TIN).

- TIN \_\_\_\_\_
- TIN has been applied for.
- TIN is not required because:
- Contractor is an agency or instrumentality of a foreign government;
- Contractor is an agency or instrumentality of the Federal Government.

##### E. Type of organization.

- Sole proprietorship;
- Partnership;
- Corporate entity (not tax-exempt);

- o Corporate entity (tax-exempt);
- o Government entity (Federal, State, or local);
- o Other \_\_\_\_\_

F. *Common parent.*

- o Contractor is not owned or controlled by a common parent as defined in paragraph (1) of this provision.
- o Name and TIN of common parent:
- o Name \_\_\_\_\_
- o TIN \_\_\_\_\_

35. **TERMINATION:**

The County shall have the right to terminate this Contract at will without cause in whole or in part for its convenience at any time during the course of performance by giving thirty (30) calendar days written or telegraphic notice. Upon receipt of any termination notice, Contractor shall immediately discontinue services on that date.

If the Contractor defaults, the County may send notice to cure, such notice shall provide that unless the default condition is cured within fifteen (15) calendar days after receipt of the cure notice, the County may terminate the Contract for default.

Contractor shall be paid the actual written approved costs incurred during the performance hereunder to the time specified in the termination notice, not previously reimbursed by the County to the extent such costs are actual, reasonable, and verifiable costs and have been incurred by the County prior to termination. In no event shall such costs include unabsorbed overhead or anticipatory profit.

36. **SALE OF BUSINESS**

The Contractor shall provide written notice to the County Administrator at least forty-five (45) days prior to the potential sale of Capital Waste Services LLC during the term on this contract. Failure to provide such written notice shall result in a fine of Twenty-Five Thousand Dollars (\$25,000) which may be deducted from the payments due the Contractor for services rendered.

37. **CONTRACT DOCUMENTS**

The Contract documents, which comprise the entire Contract, consist of the following:

- A. This Contract
- B. EXHIBIT "A" - SCOPE OF SERVICES AND REQUIREMENTS, SERVICE AREA #3
- C. The county solicitation package and the Capital Waste Services LLC submittal

This Contract, including any attachments, exhibits, specifications, scope of work, negotiated results and amendments hereto, represents the entire understanding and constitutes the entire Contract between County and Contractor. It supersedes prior contemporaneous communications, representations, or contracts, whether oral or written, with respect to the subject matter thereof and has been induced by no representations, statements, or agreements other than those herein expressed.

CONTRACTOR AND COUNTY ACKNOWLEDGE THAT THEY HAVE READ THIS CONTRACT, UNDERSTAND IT AND AGREE TO BE BOUND BY ITS TERMS. NO MODIFICATIONS SHALL BE

EFFECTIVE UNLESS IN WRITING SIGN BY BOTH PARTIES.

IN WITNESS WHEREOF, the parties hereto have caused this Contract to be executed by their duly authorized and empowered officers or agents as of the date set forth above. This Contract shall become effective January 1, 2017.

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

NOT USED

Capital Waste Services LLC

Print/Type Name of Agent:

Title of Agent:

Authorized Agent Signature:

Date:

Print/Type Name of Attestor:

Signature of Attestor:

Date:

SEAL

*(Must be notarized by a Notary Public)*

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RICHLAND COUNTY, SOUTH CAROLINA

Print/Type Name of Agent:

Title of Agent:

Authorized Agent Signature:

Date:

Print/Type Name of Attestor:

Signature of Attestor:

Date:

SEAL

*(Must be notarized by a Notary Public)*

## EXHIBIT "A"

### SCOPE OF SERVICES AND REQUIREMENTS – SERVICE AREA #3

#### 1. REQUIREMENTS AND STANDARDS

The County grants to Contractor the exclusive right and obligation to provide residential and approved small business curbside collection service within the area defined as Service Area #3 to include transportation to the designated disposal facility. The Contractor shall not be responsible for disposal costs associated with this Contract.

Contractor shall collect listed solid waste from residential dwelling units, to include duplexes, triplexes, and quadraplexes, and any groups of houses or mobile homes located on a single lot or contiguous lots owned by one person, which has less than six (6) dwelling units. Housing complexes and mobile home courts having six (6) or more dwelling units, apartments, hotels, motels, and rooming houses are commercial establishments and are not eligible for curbside collection under this Contract. Condominiums and townhouses may be considered either residential or commercial for solid waste collection depending upon the decision of management of the housing complex and the County.

Except as provided otherwise herein, commercial establishments are responsible for storage, collection, and disposal of solid waste generated by their activities. These businesses may negotiate with any company providing such services but shall not be collected with the waste collected under this Contract. Small business whose solid waste disposal requirements can be handled by no more than two (2) county issued garbage roll carts per week may be considered for residential type solid waste curbside collection service by the County pursuant to County ordinance and if approved by the County shall be collected under the terms of this Contract by the Contractor.

#### 2. SERVICES

Curbside collection shall be from the edge of the nearest public road to the resident or approved small business receiving the service. Where a Formal Waiver of Liability with Indemnification and Hold Harmless agreement is established, collection may be required on a private road. Residences on corner lots may receive the service from the front or side street but not both. Said collections shall begin and end consistent with the governing ordinance (currently 7:00 AM to 7:30 PM) on collection days with No Service on Saturdays or Sundays, except in time of an emergency as determined by the County, following certain holidays or special circumstances as shall be determined by the COR. The express written permission of the COR shall be obtained for any service provided outside the normal service hours. Special consideration will be given for yard waste collection from November 1<sup>st</sup> to December 31<sup>st</sup> and from March 15<sup>th</sup> to May 15<sup>th</sup>. Requested extensions for yard waste collections otherwise shall be granted at the sole discretion of the COR.

- A. Contractor shall provide the following curbside service to each eligible dwelling unit and any approved small business consistent with the following provisions:
- 1) Household type Garbage/Trash shall be collected once each week using roll carts designated by the COR.
  - 2) Recyclables shall be collected every other week using roll carts designated by the COR.
  - 3) Yard waste shall be collected once each week in unlimited quantities either bagged, containerized or loose.

- 4) Bulk item collection by appointment.
  - 5) Regular collection services shall be on Monday through Friday except as approved otherwise by the COR typically during an emergency or following a holiday;
  - 6) Neither household garbage/trash nor commercial garbage/trash may be mixed with yard waste or recyclables and must be picked up separately; Yard waste may not be mixed with recyclables. Yard waste shall not be collected from the county-issued garbage roll carts or the county-issued recycle roll carts unless authorized in writing by the COR.
  - 7) Excess garbage/trash beyond that which can be placed in the roll cart shall be collected when placed in plastic bags or other County-approved containers adjacent to the roll carts on collection days. Should the frequency of excess garbage/trash being placed outside the roll cart become more than an occasional occurrence for a resident, the Contractor may, with supporting documentation, request additional compensation from the COR. The COR will determine the proper remedy which may be to require the one generating the garbage/trash to cease the practice or require the generator to pay for additional roll cart service whereby the Contractor can be paid for the additional roll cart service.
- B. Yard Waste shall be collected by the Contractor pursuant to the following provisions: For purposes of this Contract yard waste is defined as grass clippings, loose leaves, pine straw, small clippings, limbs, sticks and brush generated from routine yard maintenance. Brush is bulky trimming and pruning waste generated from routine tree and shrubbery maintenance.
- 1) Yard waste shall be collected in unlimited quantities once each week when bagged, containerized or loose. Limbs and sticks not exceeding four (4) inches in diameter or four (4) feet in length generated from routine yard maintenance shall be collected in unlimited quantities when placed at curbside.
  - 2) Collection services shall be on a Monday through Friday except as approved otherwise by the COR typically during an emergency or following a holiday;
  - 3) Yard waste may not be mixed with household garbage/trash, small business garbage/trash or recyclables and must be picked up separately. Yard waste shall be collected in unlimited quantities provided the items are placed in stacks or piles at the curb. Effort should be made to remove as much residual yard waste as practical which includes raking.
- C. Recyclables shall be collected pursuant to the following conditions:
- 1) Recyclables will be collected once every two weeks on a schedule approved by the COR;
  - 2) Recyclables, yard waste and household garbage/trash shall not be comingled and shall be picked up separately;
  - 3) Recyclables shall be collected using roll carts designated by the COR.
- D. Collection of bulk items by appointments for residents and approved small businesses shall be performed as follows:
- 1) There are no limits to the number of bulk item appointments or the quantities as long as the items come from a location eligible for curbside service.
  - 2) Bulk items shall be collected by appointment when placed adjacent to the curb.
  - 3) Large appliances such as refrigerators and freezers shall be collected only if doors have been removed by the citizen prior to placement at the curb by the citizen;
  - 4) Bulk items include but are not limited to, in-door and out-door furniture, large appliances, mattresses, box springs, and playground equipment if disassembled.
  - 5) All bulk items shall be transported to the County designated disposal or recycling facility.
  - 6) Contractors shall not charge households for any appointment.
- E. Other

- 1) Due to terrain contours, drainage ditches and other permanent features, the distance between the roll cart parking area and the edge of the roadway may vary. However, the Contractor shall ensure that roll carts are not left on roadways, in driveways or in a position that would restrict access to mailboxes. In case of a dispute between the Contractor and a customer about the location for placement of the roll cart, the COR shall render a decision, which shall be final.
  
- 2) The Contractor shall not be required to collect the following types of solid waste under the terms of this Contract:
  - a) Industrial and commercial waste, except as provided herein for approved small businesses;
  - b) Regulated hazardous materials;
  - c) Construction and demolition materials except, small and incidental materials generated in the normal upkeep of a household by the occupant which can easily fit into the garbage roll cart; Remodeling debris is not deemed incidental.
  - d) Dirt, rocks, bricks, concrete blocks, etc.;
  - e) Limbs, tree trunks and stumps from a tree removal. Incidental debris from a tree removal shall be collected.
  - f) Waste from tree pruning where the pruned limbs exceed four (4) feet in length and/or four (4) inches in diameter when placed at curbside for removal.
  - g) Dead animals,
  - h) Tires, batteries, metal items, electronics waste, vehicle parts, used oil, oil filters, oil-based paint, and any other product considered to be petroleum, oil or lubricant related and other items as determined by the COR.
  
- 3) The Contractor shall request, in writing, permission to make any changes to a curbside collection schedule for garbage/trash, recyclables or yard waste at least four (4) weeks in advance of the proposed implementation date. The Contractor shall provide at least two (2) written notices of any COR approved change to a curbside collection schedule (at Contractor's expense) to each affected resident or approved small business no later than fourteen (14) business days prior to any change(s). The contractor must have received written authorization from the COR prior to giving written notice of a schedule change to the resident or approved small business. The COR is not obligated to grant such requests if deemed not to be in the best interests of the county.

Schedules shall be adhered to throughout the year, except for the following designated holidays

January	New Year's Day
May	Memorial Day
July	Independence Day
September	Labor Day
November	Thanksgiving Day
December	Christmas Day

During a holiday week, collections scheduled on the holiday and on days following the holiday will be shifted forward one day.

- 4) Contractor shall not charge fees or seek payment from residential customers or approved

small businesses for any services provided through this Contract and further agrees not to sell roll cart collection service to anyone within the unincorporated county while providing services for the County under this contract. A Contractor found to have violated this provision shall be subject to a \$5,000 fine and/or potential termination of this contract.

- 5) When the County incorporates radio frequency identification (RFID) technology into the County's roll carts, the County will equip each collection vehicle approved for exclusive use under this Contract with the necessary hardware to administer the program and the cost for such will be paid by the County. The Contractor hereby agrees to maintain all such equipment at full operational status whether repairs or replacement is required through the term of this Contract and any renegotiated contract in the future. The Contractor shall take all measures practical to ensure the equipment remains fully operational at all times. Failure to maintain the equipment at fully operational status may subject the Contractor to a \$1,000 fine per week following one (1) written warning and shall be considered a breach of contract. The Contractor shall enter daily routing into the RFID software as directed by the COR. The hauler hereby agrees to utilize the software and hardware to the extent necessary to meet the county's needs and to equally share the monthly service charges with the County including mobile data uploading. Any supplemental hardware or software requested by the Contractor to manage the Contractor's operation shall be secured from the county's RFID vendor and at the Contractor's expense. Such supplemental equipment and software shall remain the property of the Contractor. All hardware and software purchased by the county shall remain the property of the county during the contract period and shall be removed and returned in good working condition to the county within ten (10) business days of the end of the Contract or any extensions to the Contract. The replacement costs of any returned equipment found to be damaged may be withheld from the final Contractor payment for curbside services performed.
- 6) The County will provide service tags to the Contractor for the purpose of tagging any piles, containers or items which were not picked up for non-compliance consistent with the provisions of the Contract. The service tags must be fully completed by the Contractor, attached to the pile, container or item describing the reason for non-compliance and a carbon copy delivered to the COR on a schedule determined by the COR.

### 3. PAYMENTS

Payments to Contractor shall be determined in the following manner:

- A. By multiplying the number of eligible household garbage roll carts and approved small business garbage roll carts in Service Area #3 by the Unit Collection Rate per household garbage roll cart or small business garbage roll cart as established below;
- B. The number of eligible household garbage roll carts and approved small business garbage roll carts in Service Area #3 shall be adjusted monthly by the COR to account for additions and deletions of eligible households and small businesses, i.e., new homes, new mobile home sites, annexations, homes removed from service, etc.;
- C. Temporarily vacant dwelling units will not be deducted from the number of eligible household garbage roll carts. Payments to the Contractor each month shall be based on the revised number of eligible household garbage roll carts and approved small business garbage roll carts determined at the beginning of that month;
- D. The County will deduct performance fines and repairs and replacements costs for damages to roll carts from pay when determined by the County to be the fault of the Contractor;



- E. Payment will not be made for collection, transportation and disposal services other than County approved services;
- F. The County will not pay for collection, transportation or disposal of garbage/trash, yard waste, bulk items or recyclables that is determined by the County not to be from eligible households or approved small businesses;
- H. Payment will typically be made to the Contractor by the 15th of the month following the latest billing cycle.

County agrees to pay Contractor the below fees for collection and transportation of household and approved small business garbage/trash, residential yard waste, bulk items and residential recyclables for Service Area #3:

The Unit Collection Rate below shall cover garbage/trash, recycling, bulk items and yard waste collection services.

<b>Service Area #3</b>	
<b>Unit Collection Rate</b> – Monthly hauler charge per garbage roll cart to provide curbside service for garbage, recyclables, yard waste and bulk item collections.	\$20.32
<b>Backyard Service Rate</b> – Calculated rate to be paid to the hauler to provide backyard service for garbage and recyclables along with curbside service for yard waste and bulk items.	1.8 times the <b>Unit Collection Rate</b>
<b>Annual Consumer Price Index (CPI) Adjustment</b>	Percentage Adjustment, up or down, to the <b>Unit Collection Rate</b> effective January 1 of each calendar year based on the Bureau of Labor Statistics published CPI-U All Items, December to December Unadjusted.
<b>Fuel Base Rate* is \$3.80 per gallon</b> <b>Monthly Fuel Adjustment</b>	Diesel fuel pricing for the Monthly Fuel Adjustment Schedule shall be the price published at the US Energy Information Administration website ( <a href="http://www.eia.gov/dnav/pet/pet_pri_gnd_dcus_r1z_w.htm">http://www.eia.gov/dnav/pet/pet_pri_gnd_dcus_r1z_w.htm</a> ) for the billing month.
<b>Monthly Fuel Adjustment Schedule</b>	
For each ten (10) cent per gallon increase in diesel fuel price when over the Base Fuel Rate, the Monthly Fuel Adjustment will be to increase the Unit Collection Rate by 1.0% accordingly up to \$5.25 per gallon. When there is decrease in diesel fuel prices within the range above, the Monthly Fuel Adjustment shall be calculated (decreased) in an equivalent manner to what the increase in Monthly Fuel Adjustment was calculated.	
For every ten (10) cent increase in diesel fuel price when the fuel is over \$5.25 per gallon, the Monthly Fuel Adjustment will increase the Unit Collection Rate by 0.25% as appropriate. When there is decrease in diesel fuel prices above \$5.25, the Monthly Fuel Adjustment shall be calculated (decreased) in an equivalent manner to what the increase in Monthly Fuel Adjustment was calculated.	

**\*If an alternative fuel is used by the Contractor, a similar schedule will be developed as necessary.**

Collection and transportation will be in accordance with the minimum requirements described herein:

Curbside Collection of garbage/trash	Collection shall be once per week from a county roll cart typically 96 gallons or less. Garbage/trash shall be transported to the county designated disposal facility.
Excess MSW beyond that which can be placed in the garbage/trash roll cart shall be collected if packed in plastic bags or other county approved container and placed alongside the roll cart on the scheduled collection day	
Recyclables Collection Schedule	Collection shall be once every other week. Recyclables shall be transported to the county designated recycling facility.
Recyclables Container	Typically 96 gallon roll cart or other county provided container
Yard Waste Schedule	Collection and transport shall be once per week
Yard Waste Containment & Quantities	Collection shall be in unlimited quantities when bagged, containerized or loose. Debris shall be raked as needed to remove small debris.
Bulk Items Collection	By appointment only; establish an appointment time with the resident within two (2) business days of notification of a request for an appointment by the county.

#### 4. CONTRACTOR'S ADMINISTRATIVE RESPONSIBILITIES

The Contractor is required to have a Richland County Business License within ten (10) calendar days of receipt of the Notice to Proceed.

The Contractor shall maintain a telephone or answering service, which is operational during normal working hours, 7:00 AM to 7:30 PM, five (5) days a week. Calls from the COR or COR's representative shall be responded to within 4 hours of receipt of the call. Valid complaints shall be resolved within 24 hours (one business day) following notification by the COR.

The Contractor shall be fully responsible for the work and conduct of their employees and subcontractors and shall display the name of each Contractor/subcontractor employee and Capital Waste Services LLC so that customers are fully informed about their authorized solid waste Contractor. Identification of the Contractor shall be displayed on all employees, subcontractors, and collection vehicles, to include, correspondence, statements, bills, and receipts that are used in the normal conduct of business. The Contractor shall record and maintain an independent file for each complaint received. The file shall contain identification of complainant, address, nature of the complaint, and action taken. Upon receipt of a complaint, the Contractor shall immediately provide notification to COR and if such complaint is found to be justified, the Contractor shall report back within twenty-four (24) hours of the corrective action taken.

The Contractor shall not employ anyone under the age of eighteen (18) for operation of solid waste collection vehicles or use' in the collection of solid waste under this Contract. .

All personnel employed by the Contractor or any representative of the Contractor who will be

operating motor vehicles in performance of this Contract must have a valid South Carolina driver's license including a commercial drivers' license (CDL) and must have a previous and current safe driving record.

The Contractor shall comply with Local, State and Federal Regulations, Acts and Policies to include: Safety, Health and Environmental Protection, Clean Air and Water Act, Hazardous Material Identification and Material Safety Data, Permits and Responsibilities, Protection of Existing Vegetation, Structures, Equipment, Utilities and Improvements; Accident Prevention, Hazard Warning Labels; OSHA General Industry, Construction, Safety and Health Standards; Wetlands Regulations; Primary and Secondary Ambient Air Quality Standards; Emission Standards for Hazardous Air Pollutants; Regulation on Fuels and Fuel Additives; Noise Control Laws; Fire Prevention, Traffic Regulations; Motor Vehicle Regulations, and Transportation of Concealed Weapons Laws.

Contractor shall comply with the Department of Health and Environmental Control Regulation 61-107.5, SWM: Collection, Temporary Storage and Transportation of Municipal Solid Waste. The Contractor shall comply with the Richland County Code of Ordinances, Chapter 12, regarding solid waste management.

The Contractor shall submit to the COR a list of all employees who will be performing under this contract, including any subcontractors employees, no less than fourteen (14) business days prior to commencement of this Contract. The list shall be updated within three (3) days after personnel changes are made during the Contract period. Employees shall be identified by their full name, driver's license number, collection vehicle number(s) and Service Area(s) and routes normally assigned. Employees must have a current, valid, acceptable and verifiable means of picture identification.

The Contractor shall furnish all equipment, labor, supervision, quality control, materials, and administration and shall accomplish all tasks required to provide curbside collection for Service Area #3 in compliance with the specifications and scope of service of this Contract and all applicable laws, regulations, codes, policies and other publications cited herein.

While engaged under this Contract, the Contractor shall not solicit funds or support for any activity or event unless authorized in writing by the COR.

5. CONTRACTOR

A. CONTRACT MANAGER OR ALTERNATE

The Contractor shall provide a Contract Manager who shall be responsible for the day to day performance of the work. The name of this person and an alternate(s) who shall act for the Contractor when the Contract Manager is absent shall be submitted no later than ten (10) calendar days prior to commencing the contract. The Contractor's representative(s) shall be empowered with sufficient authority to enable the representative to meet conditions which arise in the day-to-day operations without delay and make on the spot decisions.

The Contract Manager or alternate shall be available within one (1) hour of notification, Monday through Friday, except for Legal holidays.

The Contract Manager or alternate shall respond to requests to meet within twenty-four (24) hours during off duty hours.

**B. OTHER PERSONNEL**

The Contractor shall furnish supervisory, administrative, and direct labor personnel to accomplish all tasks required by this Contract. The Contractor shall not employ any person who is an employee of Richland County Government, if the employment of that person would reasonably create the appearance of a conflict of interest for the Contractor, the County or its employees.

**C. DRESS**

The Contractor shall ensure that its employees maintain the company identification, name and employee name on a company uniform in a manner that it's identifiable and in a bright and light color.

**D. QUALITY CONTROL**

Contractor shall provide quality control measures adequate to ensure personnel and equipment safety; production control to maintain scheduled work; data requirements and other tasks are accomplished in compliance with the specifications, publications, regulations and codes required by the contract.

A Quality Control Plan shall be submitted to the County thirty (30) calendar days prior to commencing the contract. The Quality Control Plan is subject to approval by the County. Any changes to a previously approved Quality Control Plan must be submitted to the COR and re-approved prior to its implementation.

The Plan shall include quality control methods to ensure that the quality of performance is maintained at an acceptable level involving a comprehensive breakdown of the types and frequencies of performance evaluations to be conducted to include number of collection vehicles used per dwelling unit, methods for managing yard waste in peak season, back up plans for workforce shortages, backup plans for shortages of collection vehicles, collection vehicle maintenance inspections, methods for correcting deficiencies, and methods for precluding recurrence of substandard work when discovered internally and/or as documented by the COR relative to per capita valid complaints and per capita fines.

**E. RECORDS**

The Contractor shall maintain records of all Quality Control inspections conducted and the actions taken as a result of such inspections. These records shall be made available to the COR for review, upon request.

**F. SAFETY REQUIREMENTS**

The Contractor shall maintain a safe and healthy work place and shall comply with all pertinent provisions of general safety requirements of State and Federal agencies, together with related additions, modifications or new editions in effect or issued during the course of this Contract.

Contractor must have a Safety Manual available for review at all times throughout the Contract period and must provide an electronic copy of the current and up-to-date Safety Manual to the County Safety Officer on request.

The Contractor shall maintain an accurate record of and shall report to the COR and all proper authority, by telephone and in writing immediately of occurrence, all accidents resulting in death, traumatic injury, occupational disease, or damage to property, materials, supplies and equipment

incidents related to work performed under this contract.

**G. VEHICLE IDENTIFICATION**

Vehicles used in performance of this Contract shall have the name of the Contractor and vehicles shall be maintained in satisfactory mechanical condition and shall present a clean and safe appearance.

**H. VEHICLE REGISTRATION**

The Contractor shall ensure that all vehicles to be used in the performance of this Contract meet the license and inspection laws of the State of South Carolina.

**I. GASOLINE AND OIL SPILL CONTROL**

The Contractor shall immediately report gasoline and oil spills of any size to the COR and the required authorities. The Contractor shall immediately clean up oil and fuel spillage caused by the Contractor while performing services under this Contract. If spill occurs on a concrete or asphalt surface, the Contractor shall use an absorbent material on the spill, clean up the area, and dispose of the material in accordance with the law. If the spill occurs on a natural ground, the Contractor shall remove (or have removed) the contaminated soil and replace it with clean and uncontaminated soil. All contaminated soil and absorbents shall be disposed in accordance with applicable law.

**J. CONTINGENCY PLAN**

The Contractor may be subject to the provisions of the SC Contingency Plan for Spills and Releases of Oil & Hazardous Substances if fuel is stored on site. The Contractor shall furnish a site specific Contingency Plan to the COR with the proposal if applicable. This plan shall outline the Contractor's efforts to prevent and control spills and outline response procedures should a spill occur during the Contract period.

Prior to initiation of this Contract, the Contractor shall develop and deliver to the County a Spill Notification and Cleanup Plan to address small fuel spills originating from vehicular accidents or other causes that occur during the execution of the services associated with this Contract. The Plan shall address proper reporting of the spill to SCDHEC Emergency Response at 1-888-481-0125, cleanup procedures and disposal procedures. These cleanup and disposal procedures must be consistent with SCDHEC requirements.

Contractor shall furnish and maintain all vehicles in a workable condition and available for use in performing under this Contract. Contractor's vehicles (Including power-driven carts) shall not be operated on private roads unless authorized by the County in writing. The Contractor shall not leave collection trucks unattended during scheduled work hours. At least one authorized, certified and licensed person shall attend the vehicle controls while vehicle is in service.

Contractor shall furnish and maintain all equipment in a safe, workable condition and available for use in performing under this contract. Any equipment, which is unsafe or incapable of satisfactorily performing work, as described in this Contract shall not be used. All vehicles used in collection and transportation shall be kept in a sanitary condition and shall be so constructed as to prevent spillage or release of the contents in any manner. The body of the vehicle shall be wholly enclosed. No washing, maintenance, or repairs of vehicles or equipment will be allowed on residential areas under this Contract except emergency repairs necessary to allow removal of equipment. Equipment shall not be left unattended or left overnight in the residential areas.

The Contractor shall provide communication equipment as necessary to perform the services of this Contract. This includes two-way radios or other paging systems for communication with employees, and live telephone answering service. Recording devices are prohibited. Vehicle mounted radio equipment shall conform to all applicable Federal regulations and standards.

**K. DISASTER SUPPORT PLAN**

The Contractor must provide a Disaster Support Plan for providing collection and transportation services in the event of a natural disaster and/or periods of emergency declared by the County and the State of South Carolina. The Contractor must provide in the Plan how it will assist the County in providing the collection and transportation services.

**6. SCOPE AND REQUIREMENTS**

Except for the physically handicapped or other County approved circumstance, roll carts should be placed at curbside no later than 7:00 AM on day of collection. Residents should remove carts from curbside on the same day by 7:30 PM. The Contractor shall perform curbside collection no earlier than 7:00 A.M. and not later than 7:30 P.M. on the day of collection without prior authorization by the COR. Requests for authorization should be made no later than 4:30 P.M. on the day of collection. Authorization shall be at the discretion of the COR.

Residents living on a private road more than 300 feet off public roads may request the Contractor to drive up the private road to provide collection to each resident owning any portion of the road provided the owner(s) of the road sign(s) a Formal Waiver of Liability with Indemnification and Hold Harmless terms and conditions agreeing to indemnify and hold harmless, Richland County, its employees, and/or any third party solid waste Contractors engaged by the County, from any cost, or claims for any damages to the road, alleys or driveway (save and excepting any damage caused by the willful acts or gross negligence of the County, its employees, and/or any third party solid waste Contractors).

Residents in subdivisions where a majority of the homeowners opt to have backyard solid waste collection service may receive such service by the payment of an additional fee, the amount of which is set in the bid schedule. In these subdivisions, the Contractor shall collect and remove household garbage/trash from the backyard of the residence one time each week and the recycling roll carts will be picked up from the backyard one time every two weeks. Such collection shall be performed by transporting each roll cart to the collection truck and returning to the location it was found. However, the Contractor will only collect yard waste and bulk items at curbside as described earlier in this Contract.

Special services shall be provided to any household in which there is no one living who is capable of rolling the garbage/trash and recycling roll carts to and from the curb and such service shall be provided at the Unit Collection Rate. Recycling carts will be removed from the backyard of these residences once every two weeks. The COR shall make the determination if this special service is justified and the COR shall notify the Contractor in writing of those addresses for which special service has been approved. At those addresses, backyard collection of household waste shall be provided on a once a week basis with the collection made on the regular day of collection as designated.

Placement of household waste, recyclables and yard waste at the curbside is the responsibility of the customer except as provided otherwise herein.

The County will repair carts damaged through negligence of the Contractor, with costs deducted from monthly payments due the Contractor consistent with Section 6.F below. Carts that are worn through normal use as a result of being emptied will be repaired or replaced at County expense.

The Contractor is responsible for picking up, sweeping, raking and cleaning any debris and litter spilled during handling and emptying of household garbage roll carts, recycling roll carts, yard waste and bulk items.

Roll carts shall be returned to their original position from which they were removed, but shall not be left in roadways, in driveways or blocking access to a garage or mailbox.

The Contractor shall perform work in a neat and quiet manner and clean up all municipal solid waste, yard waste, or recyclables spilled in collection under any circumstances.

#### A. EQUIPMENT REQUIREMENTS

The vehicles utilized for the collection and transportation services shall have leak-proof bodies of easily cleanable construction. Vehicles shall be operated in a manner that contents do not spill or drip on to the streets or alleys or otherwise create a nuisance. Vehicles found to be leaking or spilling on public roads during the execution of this Contract will be considered to be in violation of Richland County Code of Ordinances, Chapter 12.

A list of vehicles to be used in the performance of this Contract shall be provided to the COR on demand.

The Contractor and COR shall schedule an inspection of the Contractor's vehicles twenty-one (21) calendar days prior to the effective start date of the Contract unless approved otherwise by the COR;

The Contractor and COR shall schedule inspections of the Contractor's vehicles annually or more often as deemed necessary by the COR during the term of the Contract;

Prior to the effective start date of the Contract all vehicles utilized by Contractor to perform collection and transport shall not, at the time of the inspection, be older than five (5) years and/or have more than 50,000 actual miles of use. The COR may provide written approval to the Contractor for the use of vehicles not meeting the five years criteria, if a County inspection determines that the vehicle(s) meets all safety and maintenance requirements;

A vehicle which fails the County's inspection and is determined by the COR to be unsafe and not meeting the maintenance requirements for the required service will not be allowed to provide any of the services of this Contract or any other County contract. Each time a vehicle is removed from service by the COR due to being deemed unsafe and not meeting the maintenance requirements, the Contractor may be subject to liquidated damages as set forth in Section 6.E.7 of this Exhibit A.

#### B. TRANSPORTATION OF SOLID WASTE:

The Contractor shall obtain a Solid Waste Management Permit at the Richland County Solid Waste & Recycling Department office for the annual fee of \$10.00 if delivering waste to the Richland County Class Two Landfill. A decal for each vehicle used for handling solid waste shall also be obtained at cost of \$2.00 per decal. The permit and decals shall be issued only after the Contractor has demonstrated that the equipment to be used meets the minimum requirements for the proper collection and transportation of solid waste. Each vehicle used for hauling solid waste shall display a

decal clearly to the scale house. The decal will be used to identify the truck for tracking purposes by the County.

Vehicles used in the collection and transportation of solid waste shall be kept in a sanitary condition and shall be controlled as to prevent leakage and release of solid waste in transit. The body of the vehicle shall be wholly enclosed or shall at all times, while in transit, be kept covered with an adequate cover provided with eyelets and rope for tying down, or other approved methods which will prevent littering and spillage.

The cleanup of any leakage of hydraulics, oil, juices, leachate or other fluids is the responsibility of the Contractor or Contractor's representative.

The Contractor shall equip each vehicle to be used to dump roll carts with manufactured dumping devices authorized by the COR. Improvised or homemade dumping devices shall not be permitted.

The dumping cycle for handling the roll carts shall be no faster than eight (8) seconds. Each time a vehicle is found to have dump cycle less than eight (8) seconds, the Contractor will be assessed a fine of one hundred (\$100) dollars which will be deducted for the monthly payment for curbside collection service.

The Contractor shall guarantee the condition and sufficiency of vehicles and other equipment available and that equipment breakdowns shall not cause deviation from the announced collection schedule.

County representatives may inspect collection vehicles at any reasonable time and the correction of deficiencies so noted shall be the responsibility of the Contractor.

**C. DISPOSAL OF SOLID WASTE**

It shall be unlawful for the Contractor to dump, or cause to be dumped, any solid waste, bulk items, recyclables and yard waste anywhere in the County except at approved locations designated by the County.

The Contractor shall not be charged a tipping fee for residential waste delivered to a county designated waste management facility provided the waste was collected and transported pursuant to this Contract.

**D. REGULATION AND ASSURANCES:**

The Contractor shall comply with all laws, ordinances, rules, and regulations of the state, county, and governing bodies having jurisdiction over the collection, transportation and disposal of solid waste.

**E. PERFORMANCE**

The performance of the Contractor vitally affects the health and welfare of the citizens of the County and the provisions of this Contract are to be strictly adhered to by the Contractor. The breach of any of the terms and conditions of the Contract on the part of the Contractor may be grounds for the termination. The county, upon such termination, may re-let the work to other parties or to undertake directly the performance of said work.

Failure to comply with the terms of the Contract by the Contractor because of major disaster,



epidemic, or other great emergency within the County through no fault of the Contactor shall not constitute a breach of contract.

Time limits and requirements are the essence of the contract; and should the Contractor fail to perform or complete the work required to be done at the time set forth, it is mutually understood and agreed that the public may suffer damages and that such damages, from the nature of the situations, will be extremely difficult to remediate. The amounts set forth hereinafter are the liquidated damages for such breach of contract. The County will assess such liquidated damages and deduct said amount from payments due the Contractor. The following multiple offense escalation fines shall be applicable to the term of each contract.

- 1) Fines for early collection start (typically prior to 7:00 AM) and unauthorized late collection (typically after 7:30 PM) on the scheduled day of collection:
  - first offense - \$250.00
  - second offense - \$500.00
  - third offense - \$1,000.00
  - fourth offense - Termination of Contract
- 2) Fines for misrepresenting to the COR that collections were completed per the schedule
  - First offense - \$250.00
  - Second offense - \$500.00
  - Third offense - \$1,000.00
  - Fourth offense - Termination of this Contract
- 3) Failure to maintain the collection schedule and failing to request a variance by 4:30 P.M. of the scheduled collection day from the COR shall be a fine of fifty (\$50) dollars per dwelling unit not collected on the scheduled day. Each day following the scheduled collection day that the dwelling has not been serviced shall be deemed a separate offense and subject to an additional \$50 fine.
- 4) Failure to report uncompleted route:
  - First offense - \$250.00
  - Second offence - \$500.00
  - Third offense - \$1,000.00This fine is in addition to E.3 above.
- 5) Failure to remedy within twenty-four (24) hours after notification of a complaint which is found to be justified by the COR will be fifty (\$50) dollars for each complaint for each day in which the complaint is not resolved.
- 6) Failure to immediately pick up, clean and or remove leaking or spilling solid waste and vehicle fluids leakage will be one hundred (\$100) dollars for each occurrence per day.
- 7) Failure to maintain a vehicle in accordance with the specifications after one (1) warning by the COR will be one hundred (\$100.00) dollars fine per truck per day. If a vehicle is banned from the county for failed maintenance and is brought back into the county without written authorization from the COR, the COR may fine the Contractor \$1,000 for each separate occurrence.
- 8) Mixing commercial, industrial or other local governments' recyclables, garbage/trash and yard waste with the County authorized household recyclables, garbage/trash and yard waste or mixing recyclables, garbage/trash and yard waste within the collection area shall result in the following

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INITIALS: COUNTY \_\_\_\_\_ <CWS> \_\_\_\_\_

finer:

- First offense - \$1,000.00
- Second offense - \$2,000.00
- Third offense - \$5,000.00
- Fourth offense - Termination of this Contract

- 9) The COR shall notify the Contractor in writing when it's determined that the assessment of liquidated damages is justified.
- 10) The County will deduct the amount of the liquidated damages from payment which is due to Contractor or which thereafter becomes due.
- 11) If the Contractor fails to provide the services specified herein for a period of five (5) consecutive working days or fails to operate in a satisfactory manner for a similar period, the County may at its option after written notice to the Contractor has been provided, contract the collection services for the area to a separate company and expenses incurred by the County, in so doing, will be deducted from compensation due to the Contractor hereunder.
- 12) If the Contractor is unable for any cause to resume performance at the end of fourteen (14) calendar days, all liability of the County under this Contract to the Contractor shall cease, and the County shall be free to negotiate with other Contractors for the operation of said collection services. Such operation with another contractor shall not release the Contractor herein of its liability to the County for such breach of this Contract. In the event that another contract is so negotiated with a new contractor or other contractors, third part liability of the Contractor herein shall terminate insofar as same arises from tortuous conduct in operation of collection service.

#### F. DAMAGED ROLL CARTS REPLACEMENT PRORATED SCHEDULE

Roll carts for which the COR has determined to have been damaged by the Contractor will have the following prorated replacement schedule:

- 1) For carts in service 3 years or less, the Contractor will pay 100% of the County's cost of replacing the cart.
- 2) For carts in service more than 3 year and up to 9 years, the Contractor will pay 50% of the County's cost of replacing the cart.
- 3) For carts in service more than 9 years, the Contractor will pay none of the County's cost of replacing the cart.

#### G. CONTRACTOR'S QUALIFICATIONS

Contractor is and will continue being an "Equal Opportunity Employer"; must maintain a good reputation in public relations concerning its services and a good history of compliance with applicable laws, ordinances and governmental regulations dealing with environmental issues. The County reserves the right to make a final determination of a Contractor's ability to provide in a dependable and quality fashion the services required by the Contract.

The County further reserves the right to negotiate changes in the Contract where the County finds that it is in the best interest of the citizens of the County to do so and the said changes are mutually agreed to by the County and the Contractor. The Contract shall be subject to modification after the award thereof upon mutual agreement of the County and the successful Contractor where:

- 1) Where changes in the Contract or the method of collecting, handling or disposal of solid waste are required by an applicable law, ordinance or governmental regulation;

- 2) Where it can be demonstrated that such changes will significantly reduce the costs to the County or quality of services afforded under the Contract;
- 3) Where significant improvements in technology warrant such changes;
- 4) Where there are significant changes in the availability, capacity or location of an approved disposal facility to be used under the provisions of the Contract; or
- 5) If the County deems such changes necessary to properly promote the health, safety and welfare of those benefiting from or affected by services rendered under the Contract;
- 6) The level of, nature of or need for services contemplated by the Contract has materially changed.

## SERVICE AREA #6 COLLECTIONS AGREEMENT AND CONTRACT

This Agreement and Contract hereinafter "Contract," is made and entered into this \_\_\_\_ day of \_\_\_\_\_, 2016, by and between Richland County, 2020 Hampton Street, Columbia, South Carolina, 29204-1002, hereinafter referred to as "County", and Allwaste Services Inc. whose address is 227 Glassmaster Road, Lexington, South Carolina hereinafter referred to as "Contractor". This Contract shall become effective January 1, 2017. This Contract shall supersede any other contracts or extensions thereof for curbside collections in Service Area #6.

### WITNESSETH

WHEREAS, the Contractor has represented to the County that it is qualified to perform as a Contractor for collection and transportation, and based upon Contractor's representations, the County wishes to engage Contractor to perform the work described herein;

NOW THEREFORE, for and in consideration of their mutual benefit, the parties hereto agree as follows:

#### 1. DEFINITIONS

A. "Confidential Information" as used in this Contract shall mean any and all technical and non-technical information and proprietary information of the County (whether oral or written), scientific, trade, or business information possessed, obtained by, developed for, or given to Contractor which is treated by County as confidential or proprietary including, without limitation, research materials, formulations, techniques, methodology, assay systems, formula, procedures, tests, equipment, data, reports, know-how, sources of supply, patent positioning, relationships with contractors and employees, business plans and business developments, Information concerning the existence, scope or activities of any research, development, manufacturing, marketing, or other projects of County, and any other confidential information about or belonging to County's suppliers, licensors, licensees, partners, affiliates, customers, potential customers, or others.

"Confidential Information" does not include information which (a) was known to Contractor at the time it was disclosed, other than by previous disclosure by County, as evidenced by Contractor's written records at the time of disclosure; (b) is lawfully and in good faith made available to Contractor by a third party who did not derive it, directly or indirectly, from County.

B. "Contracting Officer (CO)" shall be the person occupying the position of the Director of Procurement and who has authority to act on the behalf of the County to make binding decisions with respect to this Contract.

C. "Contracting Officer's Representative (COR)" is an individual, appointed in writing, to monitor and administer the Contract and Contractor performance during the life of this Contract.

D. "Contractor" or "Prime Contractor" hereinafter will be referred to as "Allwaste Services Inc."

E. "Contractor's Employee" as used in this Contract, means any officer, partner, employee, or agent of the Contractor.

F. "Person," as used in this Contract, means a firm, company, entity, corporation, partnership, or business association of any kind, trust, joint-stock company, or individual.

- G. "Prime contract" as used in this Contract, means the Contract between County and Contractor.
- H. "Subcontract," as used in this Contract, means an agreement or contractual action entered into by the Contractor with sub-contractor or any third party for the purpose of obtaining services as agreed under this Contract.
- I. "Subcontractor," as used in this Contract, (1) means any third party, person, firm, company, entity, corporation, partnership, or business association of any kind, trust, joint-stock company, or individual other than the Contractor, who offers to furnish or furnishes any supplies, materials, equipment, construction or services of any kind under this Contract or a subcontract entered into in connection with Contractor and the Contract with the County and (2) includes any third party, person, firm, company, entity, corporation, partnership, or business association of any kind, trust, joint-stock company, or individual who offers to furnish or furnishes services to the Contractor or a higher tier Subcontractor.

All references to days in this Contract mean calendar days.

All references to "shall", "must", and "will" are to be interpreted as mandatory language.

**2. ACTS, LAWS, ORDINANCES AND REGULATIONS**

The Contractor will comply with all applicable federal, state and local acts, laws, ordinances and regulations, including but not limited to, the acts and standards listed below as they relate to solid waste collection and transportation services in Service Area #6 provided under this Contract:

- Age Discrimination in Employment Act of 1967
- Americans with Disabilities Act (ADA)
- Disabled and Vietnam veteran employment
- Disadvantaged Business Enterprise (DBE) Program
- Environmental Protection Agency Regulations
- Equal Employment Opportunity
- Fair Labor Standards Act
- Occupational Safety and Health Administration (OSHA)
- Payments to Contractors, Subcontractors, and Suppliers, SC Code 29-6-10 et al.
- SC Department of Health and Environmental Control (DHEC) Regulations
- SC Drug Free Workplace Act
- SC Illegal Immigration and Reform Act
- US Citizenship and Immigration Service Employment Eligibility Verification Program

**3. FINANCIAL INTEREST**

No official or employee of the County shall participate personally through decision, approval, disapproval, recommendation, the rendering of advice, investigation, or otherwise in a proceeding, application, request for a ruling or other determination, contract, grant cooperative agreement, claim, controversy, or

other particular matter in which these funds are used, where to his/her knowledge he/she or her/his immediate family, partners, organization, other than a public office in which he/she is serving as an officer, director, trustee, partner, or employee or any person or organization with which he/she is negotiating or has any arrangement concerning prospective employment, has a financial interest.

4. AFFIRMATIVE ACTION

The Contractor shall take affirmative action in complying with all Federal, State and local requirements concerning fair employment, employment of the handicapped, and concerning the treatment of all employees, without regard or discrimination by reasons of race, color, sex, religion, gender, gender identity, national origin and/or physical handicap.

5. AMENDMENTS

All amendments to and interpretations of this Contract shall be in writing and signed by each party. Any amendments or interpretations that are not in writing and signed by each party shall not legally bind the County and or its agents.

6. ANTI-KICKBACK PROCEDURES

A. Definitions specific to Section 6 of this Contract:

"General Contractor/Vendor" means a person who has entered into a contract with the County.

"General Contractor/Vendor employee" means any officer, partner, employee or agent of a Prime Contractor.

"Kickback" means any money, fee, commission, credit, gift, gratuity, thing of value, or compensation of any kind, which is provided directly or indirectly to any Prime Contractor / General Contractor employee, subcontractor, or subcontractor employee for the purpose of improperly obtaining or rewarding favorable treatment in connection with a contract or in connection with a subcontract relating to a contract.

"Person" means a corporation, partnership or business association of any kind, trust, joint-stock company, or individual.

"Prime contract" means a contract or contractual action entered into by the County for the purpose of obtaining goods, supplies, materials, equipment, vehicles, construction or services of any kind.

"Subcontract" means a contract or contractual action entered into by a General Contractor or subcontractor for the purpose of obtaining supplies, materials, equipment, or services of any kind under a prime contract.

"Subcontractor" means (1) any person, other than the General Contractor/Vendor, who offers to furnish or furnishes any supplies, materials, equipment, or services of any kind under a Prime Contractor/Vendor a subcontract entered into in connection with such prime contract, and (2) includes any person who offers to furnish or furnishes general supplies to the Prime Contractor or a higher tier subcontractor.

B. The Contactor shall comply with the Anti-Kickback Act of 1986 (41 U.S.C. 51-58), which prohibits any person from:

- 1) Providing or attempting to provide or offering to provide any kickback;

- 2) Soliciting, accepting, or attempting to accept any kickback; or
- 3) Including, directly or indirectly, the amount of *any* kickback in the contract price charged by a General Contractor to the County or in the contract price charged by a subcontractor to a General Contractor or higher tier subcontractor.

C. Requirements:

- 1) The Contractor shall have in place and follow reasonable procedures designed to prevent and detect possible violations described in 6.B above in its own operations and direct business relationships.
- 2) When the Contractor has reasonable grounds to believe that a violation described in paragraph 6.B may have occurred, the Contractor shall promptly report in writing the possible violation. Such reports shall be made to the CO and the County Attorney.
- 3) The Contractor shall cooperate fully with any Federal agency investigating a possible violation described in 6.B.
- 4) The CO may:
  - a) Offset the amount of the kickback against any monies owed by the County under the prime contract, and/or
  - b) Direct that the General Contractor/Vendor to withhold from sums owed a subcontractor under the prime contract the amount of the kickback. The CO may order that monies withheld under 6.C.4.b be paid over to the County unless the County has already offset those monies under 6.C.4.a. In either case, the General Contractor shall notify the CO and the County Attorney when the monies are withheld.
- 5) The Contractor agrees to incorporate the substance of 6.C.5, including this paragraph but excepting 6.C.1, in all subcontracts under this Contract which exceed \$50,000.

7. ASSIGNMENT OF AGREEMENT AND CONTRACT

This Agreement and Contract shall not be assigned or reassigned in any manner, including but not limited to by sale of stock or sale of company or sale of any controlling interest, given through inheritance, co-ownership or as a gift, divided, sublet, or transferred without prior written approval of Richland County Council.

8. AUDIT AND RECORDS

A. As used in Section 8, "records" includes books, documents, accounting procedures and practices, and other data, regardless of type and regardless of whether such items are in written form, in the form of computer data, or in any other form.

B. Cost or pricing data. If the Contractor has been required to submit cost or pricing data in connection with the pricing of any modification to this Contract, the CO, or an authorized representative, in order to evaluate the accuracy, completeness, and currency of the cost or pricing data, shall have the right to examine and audit all of the Contractor's records, including computations and projections, related to:

- 1) The proposal for the modification;
- 2) The discussions conducted on the proposal(s), including those related to negotiating;
- 3) Pricing of the modification; or
- 4) Performance of the modification.

C. Availability. The Contractor shall make available at its office at all reasonable times the materials described in paragraph 8.B of this Contract, for examination, audit, or reproduction, until 3 years

after final payment under this Contract, except as provided herein:

- 1) If this Contract is completely or partially terminated, the records relating to the work terminated shall be made available for 3 years after any resulting final termination settlement.
- 2) Records pertaining to appeals under the Disputes clause or to litigation or the settlement of claims arising under or relating to the performance of this Contract shall be made available until disposition of such appeals, litigation, or claims.

D. The Contractor shall insert a clause containing all the provisions of this paragraph, including this paragraph, 8.D, in all subcontracts.

#### 9. CONTRACT ADMINISTRATION

The CO has the authority to act on the behalf of the County to make binding decisions with respect to this Contract. Questions or problems arising from this Contract shall be directed to the Director of Procurement, 2020 Hampton Street, Suite 3064, Columbia, South Carolina 29204 or assigned representative.

#### 10. COVENANTS AGAINST CONTINGENT FEES

The Contractor warrants that no person or selling agency has been employed or retained to secure this Contract upon an agreement or understanding for a commission, percentage, brokerage, or contingent fee, excepting bona fide employees or bona fide established commercial or selling agencies maintained by the Contractor for the purpose of securing business.

#### 11. DRUG FREE WORKPLACE ACT

The Contractor and the County agree to comply with the requirements set forth in Title 44, Code of Laws of South Carolina, 1976, Chapter 107, and that it shall apply to all procurement actions involving an award for FIFTY THOUSAND dollars, (\$50,000.00) or more. The Contractor is required to execute a statement certifying that they understand and are in full compliance with the Drug Free Workplace Act. Failure to comply with this requirement shall result in termination of this Contract.

#### 12. EQUAL EMPLOYMENT OPPORTUNITY

Contractor agrees not to discriminate against any employee or applicant on the basis of age, race, color, religion, sex, or national origin. Contractor will provide information and submit reports on employment as County requests. Failure to comply may result in termination of this Contract.

#### 13. FORCE MAJEURE

The Contractor shall not be liable for any excess costs if the failure to perform arises out of cause beyond the control and without the fault or negligence of the Contractor. Such causes may include, but are not restricted to acts of God or of the public enemy, acts of the Government in its sovereign or contractual capacity, fires, floods, epidemics, quarantine restrictions, strikes, freight embargoes and unusually severe weather. In every case the failure to perform must be beyond the control of both the Contractor and subcontractor and without fault or negligence of either of them. If a party asserts force majeure as an excuse for failure to perform the party's obligation, then the nonperforming party must (1) take reasonable steps to minimize delay or damages caused by foreseeable events, (2) substantially fulfill all non-excused obligations, and (3) ensure that the other party was timely notified of the likelihood or actual occurrence of an event described herein.

#### 14. GUARANTEE

Contractor shall guarantee all vehicles and equipment utilized for this Contract and being furnished for a period of not less than the Contract term, after the final inspection and approval of the vehicles and



equipment, will be maintained operational, safe and in good working conditions for the duration of the contract. When defects and faulty vehicles and equipment are discovered during the guaranteed period, the Contractor shall immediately proceed at own expense to repair or replace the same, together with damages to all vehicles and equipment that may have been damaged as a result of omission and/or workmanship.

#### 15. IMPROPER INFLUENCE

Soliciting of special interest groups or appointed and elected officials with the intent to influence contract awards or to overturn decisions of the CO is hereby prohibited. Violation of this provision may result in suspension or debarment.

#### 16. INDEMNIFICATION

Contractor shall indemnify and hold harmless the County and the County's agents and employees from and against any and all damages, losses and expenses, including but not limited to attorney's fees, arising out of, or resulting from negligent performance of the work defined herein, but only to the extent caused or contributed to by the negligent acts or omissions of Contractor, its subcontractors and consultants, anyone directly or indirectly employed by them or anyone for whose acts they may be liable, regardless of whether or not such claim, damages, loss or expense is caused in part by a party indemnified hereunder.

#### 17. INSURANCE

Contractor shall be responsible for any damages resulting from its activities. Prior to starting work hereunder, Contractor, at its own expense, shall obtain and maintain, throughout the duration of this Agreement, all such insurance as required by the laws of the State of South Carolina, and minimally the below listed insurance. A breach of the insurance requirements shall be material.

Such insurance shall be issued by a company or companies authorized to do business in the State of South Carolina and Richland County, and must have a Best Rating of A-, VII or higher. Insurance Services Office (ISO) forms are acceptable; alternative standards require the written consent of the County. The County shall have the right to refuse or approve carriers. This agreement sets forth minimum coverages and limits and is not to be construed in any way as a limitation of liability for Contractor.

If permitted by the County to subcontract, Contractor must require these same insurance provisions of its Subcontractors or insure its Subcontractors under its own policies. Failure of Contractor or its subcontractors to maintain insurance coverage shall not relieve Contractor of its contractual obligation or responsibility hereunder.

##### A. Commercial General Liability Insurance

Contractor shall provide a commercial general liability policy with a \$2,000,000 (two million dollars) general aggregate and minimum limits of \$1,000,000.00 (one million dollars) per occurrence for bodily injury and property damage, personal and advertising injury and products /completed operations.

The policy shall also include:

1. contractual liability for this location or blanket contractual liability;
2. a waiver of subrogation against the County its officials, employees, leased and temporary employees and volunteers;
3. a provision that policy is primary to all other insurance or self-insurance even if the policy asserts it is secondary, excess or contingent;

4. the County, its officials, employees, temporary and leased workers and volunteers endorsed as additional insured;
5. severability of interest;

**B. Umbrella Liability Insurance**

Contractor shall provide an umbrella policy for \$5,000,000 (five million dollars) per occurrence that provides coverage at least as broad as the liability policies.

**C. Business Auto Coverage:**

Contractor shall provide a business auto policy that has at least the per occurrence combined single limit of \$1,000,000 (one million dollars). The business liability coverage should include coverage for hired and non-owned autos. Physical damage coverage is at the option of Contractor. The policy shall also include:

1. contractual liability;
2. a waiver of subrogation against the County, its officials, employees, leased and temporary employees and volunteers;
3. a provision that the policy is primary to all other insurance or self-insurance.
4. endorsement CA 9948 (an ISO form) or a comparable endorsement providing for cleanup and expense cost for pollution.

**D. Workers Compensation and Employers Liability Insurance:**

Contractor shall provide a workers compensation policy that specifies South Carolina coverage and an employer's liability policy with limits of per accident/per disease is required. "Other States" only is unacceptable. The policy shall waive subrogation against the County, its officials, employees, temporary and leased workers and volunteers.

**E. Cancellation, Non-renewal, Reduction in Coverage and Material Change:**

Contractor shall provide the County thirty (30) calendar days' notice in writing of any cancellation, non-renewal or reduction in coverage or any other material policy change.

**F. Certificates of Insurance**

Contractor shall furnish the County at the below address with certified copies of certificates of insurance within ten (10) calendar days of date of the notice to proceed:

Richland County Government, Attn: Procurement, PO Box 192, Columbia, SC 29202.

Richland County Government shall be named on the policies as certificate holder. The County shall be an additional insured. Certificates shall 1) state the insurance applies to work performed by or behalf of the Contractor 2) shall state any retention and identify each insurer and 3) incorporate by reference this contract's provisions. Contractor shall ask its insurance broker(s) to include a statement on the certificate that the broker(s) will give the County notice of a material change in or cancelation of a policy.

**18. LICENSES, PERMITS AND CERTIFICATES**

The Contractor at their own expense shall secure all licenses, permits, variances and certificates required for and in connection with any and all parts of the work to be performed under the provisions of this Contract.

19. NON-APPROPRIATIONS

This Contract shall be subject to cancellation without damages or further obligations when funds are not appropriated or otherwise made available to support continuation of performance in a subsequent fiscal period or appropriated year.

20. NOTICES

Unless otherwise provided herein, all notices or other communications required or permitted to be given under this Contract shall be in writing and shall be deemed to have been duly given if delivered personally in hand and signed for or sent by certified mail, return receipt requested, postage prepaid, and addressed to the appropriate party at the following address or to any other person at any other address as may be designated in writing by the parties:

Parties must acknowledge by signature the receipt of any notice delivered in person by either party; Date of notice shall be the date of delivery or date signed for on certified registered mail by the U.S. mail; and;

Either party may change its address by written notice within ten calendar days to the other.

County: *Richland County Office of Procurement and Contracting, 2020 Hampton Street, Third Floor, Suite 3064, Columbia, SC 29204-1002*

Contractor: *Allwaste Services Inc., 227Glassmaster Road, Lexington South Carolina 29072*

21. OTHER WORK

The County shall have the right to perform or have performed work other than the services performed exclusively by Contractor under this Contract, as it may desire while Contractor is performing work. The Contractor shall perform its work in a manner that enables completion of other work without hindrance or interference (or shall properly connect and coordinate its work with that of others when required). Any claim of interference due to other work must be made to County within ten (10) calendar days of its occurrence or it is deemed waived.

22. OWNERSHIP

Except for the County's proprietary software and materials, and the proprietary Operating System Software, all original data, spatial data, aspatial data plans, drawings, images, material, documentation (including electronic files or documents), and application software generated and prepared by or exclusively for the County pursuant to any agreement shall belong to the County. Contractor shall not sell, give, loan nor in any other way provide such to another person or organization, nor otherwise utilize any commercially valuable data, images, or developments created specifically by or for the County under this Contract, without the written consent of the CO. Any external requests to procure these data or materials must be forwarded to the County.

23. PERFORMANCE BONDS

The Contractor shall deposit with the CO within ten (10) days after execution of the Contract, a performance bond issued by a surety company licensed to conduct business in South Carolina in the principal sum of twenty-five (25) percent of the cost to the County of the annual contract. The surety on such bond shall be a duly authorized surety company; bonds shall be countersigned by a duly authorized agent in South Carolina and such surety must be satisfactory to the County.

Attorneys-in-fact who sign bonds must file with the bond a certified and effectively dated power of

attorney.

The performance bond must be in the amount of the Contract for one year and shall be a one-year bond renewed and adjusted each year to then current annual amount of the contract.

Cancellation or lapse of the performance bond shall be considered a material breach of the contract.

#### 24. PERFORMANCE TIMELINE

The period of the Contract is not to exceed December 31, 2021, commencing January 1, 2017, unless Contract is terminated sooner by its own terms or is extended or renewed. This Contract may be extended where appropriate by written agreement of the County and the Contractor.

#### 25. PERMITS

The Contractor will comply with "all applicable federal, state and local laws, regulations requiring permits" and agrees to at a minimum comply with:

The Contractor shall obtain all permits or licenses required in connection with the work, give all notices, pay all fees, etc., to ensure compliance with law and shall deliver all proof of compliance to the County upon final acceptance of the work.

Contractor shall report to the County any aspect of noncompliance with the specifications or requirements of the Contract.

If Contractor cannot procure necessary permits, County may terminate the Contract without liability.

#### 26. PUBLICITY RELEASES:

Contractor agrees not to refer to award of this Contract in commercial advertising in such manner as to state or imply that the products or services provided are endorsed or preferred by the County.

#### 27. QUALIFICATIONS;

Contractor must be regularly established in the business called for, and who by executing this Contract certifies that it is financially capable and responsible; is reliable and has the ability and experience, to include, the facility and personnel directly employed or supervised by them, to complete this Contract. Contractor certifies that it is able to render prompt and satisfactory service in the volume called for under this Contract.

County may make such investigation, as it deems necessary to determine the ability of the Contractor to perform the work. The Contractor shall furnish to the County all such information and data as the County may request, including, if requested, a detailed list of the equipment which the Contractor proposes to use, and a detailed description of the method and program of the work he proposes to follow. The County reserves the right to terminate, if at any time throughout the term of this Contract the evidence submitted by, or investigation of, the Contractor fails to meet all requirements as stipulated or satisfy the County that the Contractor is properly qualified to carry out the obligations of the Contract and to complete the work agreed on therein.

#### 28. RESPONSIBILITY

The Contractor certifies that it has fully acquainted itself with conditions relating to Service Area #6 and the scope, specifications, and restrictions attending the execution of the work under the conditions of this Contract. The failure or omission of the Contractor to acquaint itself with existing conditions shall in no

way relieve the Contractor of any obligation with respect to the offer and any subsequent Contract.

**A. General Standards**

The Contractor has represented that it can provide the following minimum general criteria to indicate "Responsibility":

- Contractor must demonstrate an understanding of the scope and specifications of the services; County's needs and approach to the services;
- Contractor must possess and demonstrate character, integrity, reputation, judgment, experience, efficiency, ability, capacity, capability, skills, personnel, equipment, financial and logistical resources while providing the required services;
- Contractor must produce the required services in a timely manner;
- The Contractor proposes to perform the work at a fair and reasonable cost;

**B. Mandatory Minimum Responsibility Requirements:**

The Contractor must:

- 1) Have necessary administrative, logistical, financial, production, personnel, construction, technical equipment and facilities to perform the Contract;
- 2) Comply with the required proposed delivery and performance schedule, taking into consideration all existing commercial and governmental business commitments;
- 3) Have satisfactory performance record;
- 4) Have the necessary organization, experience, accounting and operational controls, and technical skills, or the ability to obtain them (including, as appropriate, such elements as production control procedures, property control systems, quality control and assurance measures, and safety programs applicable to materials to be produced or services to be performed by the prospective contractor and subcontractors).

**C. Contractors Responsibility**

Contractor must ensure the following:

- 1) *Resources.* The Contractor agrees that it will have sufficient resources to perform the Contract. The County may require acceptable evidence of the prospective contractor's ability to obtain and maintain required resources.
- 2) *Satisfactory performance.* Failure to meet the requirements of the Contract is a material breach and the Contract may be terminated.
- 3) Contractor will have throughout the term of the Contract, personnel with the level of expertise, management, technical capability, skills, knowledge, and abilities in collecting and transporting residential solid waste in Service Area #6.
- 4) The Contractor must maintain throughout the term of the Contract legal qualifications to conduct

business in South Carolina and the County. (i.e., license, certifications and credentials.)

- 5) The Contractor will maintain financial resources to perform the requirements of the Contract throughout the term of the contract.

**29. SECURITY - COUNTY'S RULES:**

In consideration of the security responsibility of the County, the CO or designee reserves the right to observe Contractor's operations and inspect collections in Service Area #6 and related areas.

Upon written request Contractor will provide the names of employees and criminal background record checks to the County. Criminal background record checks may be conducted by the County in addition to the checks of the Contractor.

The County requires Contractor's employees, Contractors, and sub-Contractors to wear clothing with the company's identification and name of the employee, at the Contractor's sole expense.

Contractor's employees must have a valid photo identification card issued by the state and require it to be on their person at all times while on the job. Employees not previously screened will not be allowed to work.

Failure to comply with the requirements of this section will result in a fifty dollar (\$50) fine per employee per day once a written warning has been issued and opportunity to comply has been provided.

**30. SEVERABILITY:**

If any term or provision of this Contract shall be found to be illegal or unenforceable, notwithstanding any such legality or enforceability, the remainder of said Contract shall remain in full force and effect, and such term or provision shall be deemed to be deleted and severable there from.

**31. SOUTH CAROLINA/RICHLAND COUNTY LAW CLAUSE:**

The Contractor must comply with the laws of South Carolina, and the ordinances of Richland County, and agrees to subject itself to the jurisdiction and process of the courts of the State of South Carolina, specifically the South Carolina Court of Common Pleas Fifth Judicial Circuit in Richland County, as to all matters and disputes arising or to arise under the Contract and the performance thereof, including any questions as to the liability of taxes, licenses or fees levied by the State or County.

**32. STATEMENT OF COMPLIANCES AND ASSURANCES**

Contractor shall certify in writing, that it complies with all applicable federal and state laws/regulations and County ordinances.

- A. Contractor(s) shall provide with each bid, a written assurance of non-collusion and understanding and acceptance of any and all provisions stated in this contract.
- B. A statement of Compliance and Assurance, along with other statements and certification shall be provided to Contractors and be part of each Contract.

**33. SUBCONTRACTS:**

Contractor shall not subcontract work hereunder without the prior written consent of the County, and any such subcontract without consent of the County shall be null and void. If Contractor proposes to subcontract any of the work hereunder, it shall submit to the County the name of each proposed subcontractor(s), with the proposed scope of work, which its subcontractor is to undertake. The County shall have the right to reject any subcontractor which it considers unable or unsuitable to perform the

required work. Contractor shall not enter into any cost reimbursable contracts with any proposed subcontractor without County's prior written authorization.

Contractor agrees it shall be responsible for the acts and omissions of its subcontractors, their agents, representatives, and persons either directly or indirectly employed by them as it is for the acts and omissions of persons directly employed by Contractor.

Neither this provision, this Contract, the County's authorization of Contractor's agreement with subcontractors, County's inspection of subcontractor's facilities, equipment or work, nor any other action taken by the County in relation to subcontractors shall create any contractual relationship between any subcontractor and the County. Contractor shall include in each of its subcontracts a provision embodying the substance of this section and shall exhibit a copy thereof to the County before commencement of any work by subcontractor. Contractor's violation of this provision shall be grounds for the County's termination of this Contract for default, without notice or opportunity for cure.

In addition, Contractor indemnifies and holds the County harmless from and against any claims (threatened, alleged, or actual) made by any subcontractor (of any tier) for compensation, damages, or otherwise, including any cost incurred by the County to investigate, defend, or settle any such claim.

#### 34. TAXPAYER IDENTIFICATION

##### A. Definitions

"Common parent" as used in this provision, means that corporate entity that owns or controls an affiliated group of corporations that files its federal income tax returns on a consolidated basis, and of which the Contractor is a member.

"Taxpayer Identification Number (TIN)" as used in this provision means the number required by the Internal Revenue Service (IRS) to be used by the Contractor in reporting income tax and other returns. The TIN may be either a Social Security Number or an Employer Identification Number.

B. All contractors must submit the information required in paragraphs 34.D, 34.E and 34.F of this Section to comply with debt collection requirements, reporting requirements of, and implementing regulations issued by the IRS. If the resulting contract is subject to the payment reporting requirements of the State of South Carolina, failure or refusal by the Contractor to furnish the information may result in a thirty-one (31) percent reduction of payments otherwise due under the contract.

C. The TIN may be used by the County to collect and report on any delinquent amounts arising out of the Contractor's relationship with the County. If the resulting contract is subject to the payment reporting requirements of the IRS, the TIN provided hereunder may be matched with IRS records to verify the accuracy of the Contractor's TIN.

##### D. Taxpayer Identification Number (TIN).

- TIN \_\_\_\_\_
- TIN has been applied for.
- TIN is not required because:
- Contractor is an agency or instrumentality of a foreign government;
- Contractor is an agency or instrumentality of the Federal Government.

- E. Type of organization.
- o Sole proprietorship;
  - o Partnership;
  - o Corporate entity (not tax-exempt);
  - o Corporate entity (tax-exempt);
  - o Government entity (Federal, State, or local);
  - o Other \_\_\_\_\_

- F. *Common parent.*
- o Contractor is not owned or controlled by a common parent as defined in paragraph (1) of this provision.
  - o Name and TIN of common parent:
  - o Name \_\_\_\_\_
  - o TIN \_\_\_\_\_

35. TERMINATION:

The County shall have the right to terminate this Contract at will without cause in whole or in part for its convenience at any time during the course of performance by giving thirty (30) calendar days written or telegraphic notice. Upon receipt of any termination notice, Contractor shall immediately discontinue services on that date.

If the Contractor defaults, the County may send notice to cure, such notice shall provide that unless the default condition is cured within fifteen (15) calendar days after receipt of the cure notice, the County may terminate the Contract for default.

Contractor shall be paid the actual written approved costs incurred during the performance hereunder to the time specified in the termination notice, not previously reimbursed by the County to the extent such costs are actual, reasonable, and verifiable costs and have been incurred by the County prior to termination. In no event shall such costs include unabsorbed overhead or anticipatory profit.

36. SALE OF BUSINESS

The Contractor shall provide written notice to the County Administrator at least forty-five (45) days prior to the potential sale of Allwaste Services Inc. during the term on this contract. Failure to provide such written notice shall result in a fine of Twenty-Five Thousand Dollars (\$25,000) which may be deducted from the payments due the Contractor for services rendered.

37. CONTRACT DOCUMENTS

The Contract documents, which comprise the entire Contract, consist of the following:

- A. This Contract
- B. EXHIBIT "A" - SCOPE OF SERVICES AND REQUIREMENTS, SERVICE AREA #6
- C. The county solicitation package and the Allwaste Services Inc. submittal

This Contract, including any attachments, exhibits, specifications, scope of work, negotiated results and amendments hereto, represents the entire understanding and constitutes the entire Contract between County and Contractor. It supersedes prior contemporaneous communications, representations, or contracts, whether oral or written, with respect to the subject matter thereof and has been induced by no representations, statements, or agreements other than those herein expressed.



CONTRACTOR AND COUNTY ACKNOWLEDGE THAT THEY HAVE READ THIS CONTRACT, UNDERSTAND IT AND AGREE TO BE BOUND BY ITS TERMS. NO MODIFICATIONS SHALL BE EFFECTIVE UNLESS IN WRITING SIGN BY BOTH PARTIES.

IN WITNESS WHEREOF, the parties hereto have caused this Contract to be executed by their duly authorized and empowered officers or agents as of the date set forth above. This Contract shall become effective January 1, 2017.

\_\_\_\_\_  
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\_\_\_\_\_  
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\_\_\_\_\_  
\_\_\_\_\_

NOT USED

Allwaste Services Inc.

Print/Type Name of Agent:

Title of Agent:

Authorized Agent Signature:

Date:

Print/Type Name of Attestor:

Signature of Attestor:

Date:

SEAL

*(Must be notarized by a Notary Public)*

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RICHLAND COUNTY, SOUTH CAROLINA

Print/Type Name of Agent:

Title of Agent:

Authorized Agent Signature:

Date:

Print/Type Name of Attestor:

Signature of Attestor:

Date:

SEAL

*(Must be notarized by a Notary Public)*

## EXHIBIT "A"

### SCOPE OF SERVICES AND REQUIREMENTS – SERVICE AREA #6

#### 1. REQUIREMENTS AND STANDARDS

The County grants to Contractor the exclusive right and obligation to provide residential and approved small business curbside collection service within the area defined as Service Area #6 to include transportation to the designated disposal facility. The Contractor shall not be responsible for disposal costs associated with this Contract.

Contractor shall collect listed solid waste from residential dwelling units, to include duplexes, triplexes, and quadraplexes, and any groups of houses or mobile homes located on a single lot or contiguous lots owned by one person, which has less than six (6) dwelling units. Housing complexes and mobile home courts having six (6) or more dwelling units, apartments, hotels, motels, and rooming houses are commercial establishments and are not eligible for curbside collection under this Contract. Condominiums and townhouses may be considered either residential or commercial for solid waste collection depending upon the decision of management of the housing complex and the County.

Except as provided otherwise herein, commercial establishments are responsible for storage, collection, and disposal of solid waste generated by their activities. These businesses may negotiate with any company providing such services but shall not be collected with the waste collected under this Contract. Small business whose solid waste disposal requirements can be handled by no more than two (2) county issued garbage roll carts per week may be considered for residential type solid waste curbside collection service by the County pursuant to County ordinance and if approved by the County shall be collected under the terms of this Contract by the Contractor.

#### 2. SERVICES

Curbside collection shall be from the edge of the nearest public road to the resident or approved small business receiving the service. Where a Formal Waiver of Liability with Indemnification and Hold Harmless agreement is established, collection may be required on a private road. Residences on corner lots may receive the service from the front or side street but not both. Said collections shall begin and end consistent with the governing ordinance (currently 7:00 AM to 7:30 PM) on collection days with No Service on Saturdays or Sundays, except in time of an emergency as determined by the County, following certain holidays or special circumstances as shall be determined by the COR. The express written permission of the COR shall be obtained for any service provided outside the normal service hours. Special consideration will be given for yard waste collection from November 1<sup>st</sup> to December 31<sup>st</sup> and from March 15<sup>th</sup> to May 15<sup>th</sup>. Requested extensions for yard waste collections otherwise shall be granted at the sole discretion of the COR.

- A. Contractor shall provide the following curbside service to each eligible dwelling unit and any approved small business consistent with the following provisions:
- 1) Household type Garbage/Trash shall be collected once each week using roll carts designated by the COR.
  - 2) Recyclables shall be collected every other week using roll carts designated by the COR.
  - 3) Yard waste shall be collected once each week in unlimited quantities either bagged, containerized or loose.

- 4) Bulk item collection by appointment.
  - 5) Regular collection services shall be on Monday through Friday except as approved otherwise by the COR typically during an emergency or following a holiday;
  - 6) Neither household garbage/trash nor commercial garbage/trash may be mixed with yard waste or recyclables and must be picked up separately; Yard waste may not be mixed with recyclables. Yard waste shall not be collected from the county-issued garbage roll carts or the county-issued recycle roll carts unless authorized in writing by the COR.
  - 7) Excess garbage/trash beyond that which can be placed in the roll cart shall be collected when placed in plastic bags or other County-approved containers adjacent to the roll carts on collection days. Should the frequency of excess garbage/trash being placed outside the roll cart become more than an occasional occurrence for a resident, the Contractor may, with supporting documentation, request additional compensation from the COR. The COR will determine the proper remedy which may be to require the one generating the garbage/trash to cease the practice or require the generator to pay for additional roll cart service whereby the Contractor can be paid for the additional roll cart service.
- B. Yard Waste shall be collected by the Contractor pursuant to the following provisions: For purposes of this Contract yard waste is defined as grass clippings, loose leaves, pine straw, small clippings, limbs, sticks and brush generated from routine yard maintenance. Brush is bulky trimming and pruning waste generated from routine tree and shrubbery maintenance.
- 1) Yard waste shall be collected in unlimited quantities once each week when bagged, containerized or loose. Limbs and sticks not exceeding four (4) inches in diameter or four (4) feet in length generated from routine yard maintenance shall be collected in unlimited quantities when placed at curbside.
  - 2) Collection services shall be on a Monday through Friday except as approved otherwise by the COR typically during an emergency or following a holiday;
  - 3) Yard waste may not be mixed with household garbage/trash, small business garbage/trash or recyclables and must be picked up separately. Yard waste shall be collected in unlimited quantities provided the items are placed in stacks or piles at the curb. Effort should be made to remove as much residual yard waste as practical which includes raking.
- C. Recyclables shall be collected pursuant to the following conditions:
- 1) Recyclables will be collected once every two weeks on a schedule approved by the COR;
  - 2) Recyclables, yard waste and household garbage/trash shall not be comingled and shall be picked up separately;
  - 3) Recyclables shall be collected using roll carts designated by the COR.
- D. Collection of bulk items by appointments for residents and approved small businesses shall be performed as follows:
- 1) There are no limits to the number of bulk item appointments or the quantities as long as the items come from a location eligible for curbside service.
  - 2) Bulk items shall be collected by appointment when placed adjacent to the curb.
  - 3) Large appliances such as refrigerators and freezers shall be collected only if doors have been removed by the citizen prior to placement at the curb by the citizen;
  - 4) Bulk items include but are not limited to, in-door and out-door furniture, large appliances, mattresses, box springs, and playground equipment if disassembled.
  - 5) All bulk items shall be transported to the County designated disposal or recycling facility.
  - 6) Contractors shall not charge households for any appointment.
- E. Other

- 1) Due to terrain contours, drainage ditches and other permanent features, the distance between the roll cart parking area and the edge of the roadway may vary. However, the Contractor shall ensure that roll carts are not left on roadways, in driveways or in a position that would restrict access to mailboxes. In case of a dispute between the Contractor and a customer about the location for placement of the roll cart, the COR shall render a decision, which shall be final.
  
- 2) The Contractor shall not be required to collect the following types of solid waste under the terms of this Contract:
  - a) Industrial and commercial waste, except as provided herein for approved small businesses;
  - b) Regulated hazardous materials;
  - c) Construction and demolition materials except, small and incidental materials generated in the normal upkeep of a household by the occupant which can easily fit into the garbage roll cart; Remodeling debris is not deemed incidental.
  - d) Dirt, rocks, bricks, concrete blocks, etc.;
  - e) Limbs, tree trunks and stumps from a tree removal. Incidental debris from a tree removal shall be collected.
  - f) Waste from tree pruning where the pruned limbs exceed four (4) feet in length and/or four (4) inches in diameter when placed at curbside for removal.
  - g) Dead animals,
  - h) Tires, batteries, metal items, electronics waste, vehicle parts, used oil, oil filters, oil-based paint, and any other product considered to be petroleum, oil or lubricant related and other items as determined by the COR.
  
- 3) The Contractor shall request, in writing, permission to make any changes to a curbside collection schedule for garbage/trash, recyclables or yard waste at least four (4) weeks in advance of the proposed implementation date. The Contractor shall provide at least two (2) written notices of any COR approved change to a curbside collection schedule (at Contractor's expense) to each affected resident or approved small business no later than fourteen (14) business days prior to any change(s). The contractor must have received written authorization from the COR prior to giving written notice of a schedule change to the resident or approved small business. The COR is not obligated to grant such requests if deemed not to be in the best interests of the county.

Schedules shall be adhered to throughout the year, except for the following designated holidays

January	New Year's Day
May	Memorial Day
July	Independence Day
September	Labor Day
November	Thanksgiving Day
December	Christmas Day

During a holiday week, collections scheduled on the holiday and on days following the holiday will be shifted forward one day.

- 4) Contractor shall not charge fees or seek payment from residential customers or approved

small businesses for any services provided through this Contract and further agrees not to sell roll cart collection service to anyone within the unincorporated county while providing services for the County under this contract. A Contractor found to have violated this provision shall be subject to a \$5,000 fine and/or potential termination of this contract.

- 5) When the County incorporates radio frequency identification (RFID) technology into the County's roll carts, the County will equip each collection vehicle approved for exclusive use under this Contract with the necessary hardware to administer the program and the cost for such will be paid by the County. The Contractor hereby agrees to maintain all such equipment at full operational status whether repairs or replacement is required through the term of this Contract and any renegotiated contract in the future. The Contractor shall take all measures practical to ensure the equipment remains fully operational at all times. Failure to maintain the equipment at fully operational status may subject the Contractor to a \$1,000 fine per week following one (1) written warning and shall be considered a breach of contract. The Contractor shall enter daily routing into the RFID software as directed by the COR. The hauler hereby agrees to utilize the software and hardware to the extent necessary to meet the county's needs and to equally share the monthly service charges with the County including mobile data uploading. Any supplemental hardware or software requested by the Contractor to manage the Contractor's operation shall be secured from the county's RFID vendor and at the Contractor's expense. Such supplemental equipment and software shall remain the property of the Contractor. All hardware and software purchased by the county shall remain the property of the county during the contract period and shall be removed and returned in good working condition to the county within ten (10) business days of the end of the Contract or any extensions to the Contract. The replacement costs of any returned equipment found to be damaged may be withheld from the final Contractor payment for curbside services performed.
- 6) The County will provide service tags to the Contractor for the purpose of tagging any piles, containers or items which were not picked up for non-compliance consistent with the provisions of the Contract. The service tags must be fully completed by the Contractor, attached to the pile, container or item describing the reason for non-compliance and a carbon copy delivered to the COR on a schedule determined by the COR.

### 3. PAYMENTS

Payments to Contractor shall be determined in the following manner:

- A. By multiplying the number of eligible household garbage roll carts and approved small business garbage roll carts in Service Area #6 by the Unit Collection Rate per household garbage roll cart or small business garbage roll cart as established below;
- B. The number of eligible household garbage roll carts and approved small business garbage roll carts in Service Area #6 shall be adjusted monthly by the COR to account for additions and deletions of eligible households and small businesses, i.e., new homes, new mobile home sites, annexations, homes removed from service, etc.;
- C. Temporarily vacant dwelling units will not be deducted from the number of eligible household garbage roll carts. Payments to the Contractor each month shall be based on the revised number of eligible household garbage roll carts and approved small business garbage roll carts determined at the beginning of that month;
- D. The County will deduct performance fines and repairs and replacements costs for damages to roll carts from pay when determined by the County to be the fault of the Contractor;

- E. Payment will not be made for collection, transportation and disposal services other than County approved services;
- F. The County will not pay for collection, transportation or disposal of garbage/trash, yard waste, bulk items or recyclables that is determined by the County not to be from eligible households or approved small businesses;
- H. Payment will typically be made to the Contractor by the 15th of the month following the latest billing cycle.

County agrees to pay Contractor the below fees for collection and transportation of household and approved small business garbage/trash, residential yard waste, bulk items and residential recyclables for Service Area #6:

The Unit Collection Rate below shall cover garbage/trash, recycling, bulk items and yard waste collection services.

<b>Service Area #6</b>	
<b>Unit Collection Rate</b> – Monthly hauler charge per garbage roll cart to provide curbside service for garbage, recyclables, yard waste and bulk item collections.	\$19.65
<b>Backyard Service Rate</b> – Calculated rate to be paid to the hauler to provide backyard service for garbage and recyclables along with curbside service for yard waste and bulk items.	1.8 times the <b>Unit Collection Rate</b>
<b>Annual Consumer Price Index (CPI) Adjustment</b>	Percentage Adjustment, up or down, to the <b>Unit Collection Rate</b> effective January 1 of each calendar year based on the Bureau of Labor Statistics published CPI-U All Items, December to December Unadjusted.
<b>Fuel Base Rate* is \$3.80 per gallon</b> <b>Monthly Fuel Adjustment</b>	Diesel fuel pricing for the Monthly Fuel Adjustment Schedule shall be the price published at the US Energy Information Administration website ( <a href="http://www.eia.gov/dnav/pet/pet_pri_gnd_dcus_r1z_w.htm">http://www.eia.gov/dnav/pet/pet_pri_gnd_dcus_r1z_w.htm</a> ) for the billing month.
<b>Monthly Fuel Adjustment Schedule</b>	
For each ten (10) cent per gallon increase in diesel fuel price when over the Base Fuel Rate, the Monthly Fuel Adjustment will be to increase the Unit Collection Rate by 1.0% accordingly up to \$5.25 per gallon. When there is decrease in diesel fuel prices within the range above, the Monthly Fuel Adjustment shall be calculated (decreased) in an equivalent manner to what the increase in Monthly Fuel Adjustment was calculated.	
For every ten (10) cent increase in diesel fuel price when the fuel is over \$5.25 per gallon, the Monthly Fuel Adjustment will increase the Unit Collection Rate by 0.25% as appropriate. When there is decrease in diesel fuel prices above \$5.25, the Monthly Fuel Adjustment shall be calculated (decreased) in an equivalent manner to what the increase in Monthly Fuel Adjustment was calculated.	

**\*If an alternative fuel is used by the Contractor, a similar schedule will be developed as necessary.**

Collection and transportation will be in accordance with the minimum requirements described herein:

Curbside Collection of garbage/trash	Collection shall be once per week from a county roll cart typically 96 gallons or less. Garbage/trash shall be transported to the county designated disposal facility.
Excess MSW beyond that which can be placed in the garbage/trash roll cart shall be collected if packed in plastic bags or other county approved container and placed alongside the roll cart on the scheduled collection day	
Recyclables Collection Schedule	Collection shall be once every other week. Recyclables shall be transported to the county designated recycling facility.
Recyclables Container	Typically 96 gallon roll cart or other county provided container
Yard Waste Schedule	Collection and transport shall be once per week
Yard Waste Containment & Quantities	Collection shall be in unlimited quantities when bagged, containerized or loose. Debris shall be raked as needed to remove small debris.
Bulk Items Collection	By appointment only; establish an appointment time with the resident within two (2) business days of notification of a request for an appointment by the county.

4. CONTRACTOR'S ADMINISTRATIVE RESPONSIBILITIES

The Contractor is required to have a Richland County Business License within ten (10) calendar days of receipt of the Notice to Proceed.

The Contractor shall maintain a telephone or answering service, which is operational during normal working hours, 7:00 AM to 7:30 PM, five (5) days a week. Calls from the COR or COR's representative shall be responded to within 4 hours of receipt of the call. Valid complaints shall be resolved within 24 hours (one business day) following notification by the COR.

The Contractor shall be fully responsible for the work and conduct of their employees and subcontractors and shall display the name of each Contractor/subcontractor employee and Allwaste Services Inc. so that customers are fully informed about their authorized solid waste Contractor. Identification of the Contractor shall be displayed on all employees, subcontractors, and collection vehicles, to include, correspondence, statements, bills, and receipts that are used in the normal conduct of business. The Contractor shall record and maintain an independent file for each complaint received. The file shall contain identification of complainant, address, nature of the complaint, and action taken. Upon receipt of a complaint, the Contractor shall immediately provide notification to COR and if such complaint is found to be justified, the Contractor shall report back within twenty-four (24) hours of the corrective action taken.

The Contractor shall not employ anyone under the age of eighteen (18) for operation of solid waste collection vehicles or use in the collection of solid waste under this Contract.

All personnel employed by the Contractor or any representative of the Contractor who will be



operating motor vehicles in performance of this Contract must have a valid South Carolina driver's license including a commercial drivers' license (CDL) and must have a previous and current safe driving record.

The Contractor shall comply with Local, State and Federal Regulations, Acts and Policies to include: Safety, Health and Environmental Protection, Clean Air and Water Act, Hazardous Material Identification and Material Safety Data, Permits and Responsibilities, Protection of Existing Vegetation, Structures, Equipment, Utilities and Improvements; Accident Prevention, Hazard Warning Labels; OSHA General Industry, Construction, Safety and Health Standards; Wetlands Regulations; Primary and Secondary Ambient Air Quality Standards; Emission Standards for Hazardous Air Pollutants; Regulation on Fuels and Fuel Additives; Noise Control Laws; Fire Prevention, Traffic Regulations; Motor Vehicle Regulations, and Transportation of Concealed Weapons Laws.

Contractor shall comply with the Department of Health and Environmental Control Regulation 61-107.5, SWM: Collection, Temporary Storage and Transportation of Municipal Solid Waste. The Contractor shall comply with the Richland County Code of Ordinances, Chapter 12, regarding solid waste management.

The Contractor shall submit to the COR a list of all employees who will be performing under this contract, including any subcontractors employees, no less than fourteen (14) business days prior to commencement of this Contract. The list shall be updated within three (3) days after personnel changes are made during the Contract period. Employees shall be identified by their full name, driver's license number, collection vehicle number(s) and Service Area(s) and routes normally assigned. Employees must have a current, valid, acceptable and verifiable means of picture identification.

The Contractor shall furnish all equipment, labor, supervision, quality control, materials, and administration and shall accomplish all tasks required to provide curbside collection for Service Area #6 in compliance with the specifications and scope of service of this Contract and all applicable laws, regulations, codes, policies and other publications cited herein.

While engaged under this Contract, the Contractor shall not solicit funds or support for any activity or event unless authorized in writing by the COR.

## 5. CONTRACTOR

### A. CONTRACT MANAGER OR ALTERNATE

The Contractor shall provide a Contract Manager who shall be responsible for the day to day performance of the work. The name of this person and an alternate(s) who shall act for the Contractor when the Contract Manager is absent shall be submitted no later than ten (10) calendar days prior to commencing the contract. The Contractor's representative(s) shall be empowered with sufficient authority to enable the representative to meet conditions which arise in the day-to-day operations without delay and make on the spot decisions.

The Contract Manager or alternate shall be available within one (1) hour of notification, Monday through Friday, except for Legal holidays.

The Contract Manager or alternate shall respond to requests to meet within twenty-four (24) hours during off duty hours.

**B. OTHER PERSONNEL**

The Contractor shall furnish supervisory, administrative, and direct labor personnel to accomplish all tasks required by this Contract. The Contractor shall not employ any person who is an employee of Richland County Government, if the employment of that person would reasonably create the appearance of a conflict of interest for the Contractor, the County or its employees.

**C. DRESS**

The Contractor shall ensure that its employees maintain the company identification, name and employee name on a company uniform in a manner that it's identifiable and in a bright and light color.

**D. QUALITY CONTROL**

Contractor shall provide quality control measures adequate to ensure personnel and equipment safety; production control to maintain scheduled work; data requirements and other tasks are accomplished in compliance with the specifications, publications, regulations and codes required by the contract.

A Quality Control Plan shall be submitted to the County thirty (30) calendar days prior to commencing the contract. The Quality Control Plan is subject to approval by the County. Any changes to a previously approved Quality Control Plan must be submitted to the COR and re-approved prior to its implementation.

The Plan shall include quality control methods to ensure that the quality of performance is maintained at an acceptable level involving a comprehensive breakdown of the types and frequencies of performance evaluations to be conducted to include number of collection vehicles used per dwelling unit, methods for managing yard waste in peak season, back up plans for workforce shortages, backup plans for shortages of collection vehicles, collection vehicle maintenance inspections, methods for correcting deficiencies, and methods for precluding recurrence of substandard work when discovered internally and/or as documented by the COR relative to per capita valid complaints and per capita fines.

**E. RECORDS**

The Contractor shall maintain records of all Quality Control inspections conducted and the actions taken as a result of such inspections. These records shall be made available to the COR for review, upon request.

**F. SAFETY REQUIREMENTS**

The Contractor shall maintain a safe and healthy work place and shall comply with all pertinent provisions of general safety requirements of State and Federal agencies, together with related additions, modifications or new editions in effect or issued during the course of this Contract.

Contractor must have a Safety Manual available for review at all times throughout the Contract period and must provide an electronic copy of the current and up-to-date Safety Manual to the County Safety Officer on request.

The Contractor shall maintain an accurate record of and shall report to the COR and all proper authority, by telephone and in writing immediately of occurrence, all accidents resulting in death, traumatic injury, occupational disease, or damage to property, materials, supplies and equipment

incidents related to work performed under this contract.

**G. VEHICLE IDENTIFICATION**

Vehicles used in performance of this Contract shall have the name of the Contractor and vehicles shall be maintained in satisfactory mechanical condition and shall present a clean and safe appearance.

**H. VEHICLE REGISTRATION**

The Contractor shall ensure that all vehicles to be used in the performance of this Contract meet the license and inspection laws of the State of South Carolina.

**I. GASOLINE AND OIL SPILL CONTROL**

The Contractor shall immediately report gasoline and oil spills of any size to the COR and the required authorities. The Contractor shall immediately clean up oil and fuel spillage caused by the Contractor while performing services under this Contract. If spill occurs on a concrete or asphalt surface, the Contractor shall use an absorbent material on the spill, clean up the area, and dispose of the material in accordance with the law. If the spill occurs on a natural ground, the Contractor shall remove (or have removed) the contaminated soil and replace it with clean and uncontaminated soil. All contaminated soil and absorbents shall be disposed in accordance with applicable law.

**J. CONTINGENCY PLAN**

The Contractor may be subject to the provisions of the SC Contingency Plan for Spills and Releases of Oil & Hazardous Substances if fuel is stored on site. The Contractor shall furnish a site specific Contingency Plan to the COR with the proposal if applicable. This plan shall outline the Contractor's efforts to prevent and control spills and outline response procedures should a spill occur during the Contract period.

Prior to initiation of this Contract, the Contractor shall develop and deliver to the County a Spill Notification and Cleanup Plan to address small fuel spills originating from vehicular accidents or other causes that occur during the execution of the services associated with this Contract. The Plan shall address proper reporting of the spill to SCDHEC Emergency Response at 1-888-481-0125, cleanup procedures and disposal procedures. These cleanup and disposal procedures must be consistent with SCDHEC requirements.

Contractor shall furnish and maintain all vehicles in a workable condition and available for use in performing under this Contract. Contractor's vehicles (including power-driven carts) shall not be operated on private roads unless authorized by the County in writing. The Contractor shall not leave collection trucks unattended during scheduled work hours. At least one authorized, certified and licensed person shall attend the vehicle controls while vehicle is in service.

Contractor shall furnish and maintain all equipment in a safe, workable condition and available for use in performing under this contract. Any equipment, which is unsafe or incapable of satisfactorily performing work, as described in this Contract shall not be used. All vehicles used in collection and transportation shall be kept in a sanitary condition and shall be so constructed as to prevent spillage or release of the contents in any manner. The body of the vehicle shall be wholly enclosed. No washing, maintenance, or repairs of vehicles or equipment will be allowed on residential areas under this Contract except emergency repairs necessary to allow removal of equipment. Equipment shall not be left unattended or left overnight in the residential areas.

The Contractor shall provide communication equipment as necessary to perform the services of this Contract. This includes two-way radios or other paging systems for communication with employees, and live telephone answering service. Recording devices are prohibited. Vehicle mounted radio equipment shall conform to all applicable Federal regulations and standards.

**K. DISASTER SUPPORT PLAN**

The Contractor must provide a Disaster Support Plan for providing collection and transportation services in the event of a natural disaster and/or periods of emergency declared by the County and the State of South Carolina. The Contractor must provide in the Plan how it will assist the County in providing the collection and transportation services.

**6. SCOPE AND REQUIREMENTS**

Except for the physically handicapped or other County approved circumstance, roll carts should be placed at curbside no later than 7:00 AM on day of collection. Residents should remove carts from curbside on the same day by 7:30 PM. The Contractor shall perform curbside collection no earlier than 7:00 A.M. and not later than 7:30 P.M. on the day of collection without prior authorization by the COR. Requests for authorization should be made no later than 4:30 P.M. on the day of collection. Authorization shall be at the discretion of the COR.

Residents living on a private road more than 300 feet off public roads may request the Contractor to drive up the private road to provide collection to each resident owning any portion of the road provided the owner(s) of the road sign(s) a Formal Waiver of Liability with Indemnification and Hold Harmless terms and conditions agreeing to indemnify and hold harmless, Richland County, its employees, and/or any third party solid waste Contractors engaged by the County, from any cost, or claims for any damages to the road, alleys or driveway (save and excepting any damage caused by the willful acts or gross negligence of the County, its employees, and/or any third party solid waste Contractors).

Residents in subdivisions where a majority of the homeowners opt to have backyard solid waste collection service may receive such service by the payment of an additional fee, the amount of which is set in the bid schedule. In these subdivisions, the Contractor shall collect and remove household garbage/trash from the backyard of the residence one time each week and the recycling roll carts will be picked up from the backyard one time every two weeks. Such collection shall be performed by transporting each roll cart to the collection truck and returning to the location it was found. However, the Contractor will only collect yard waste and bulk items at curbside as described earlier in this Contract.

Special services shall be provided to any household in which there is no one living who is capable of rolling the garbage/trash and recycling roll carts to and from the curb and such service shall be provided at the Unit Collection Rate. Recycling carts will be removed from the backyard of these residences once every two weeks. The COR shall make the determination if this special service is justified and the COR shall notify the Contractor in writing of those addresses for which special service has been approved. At those addresses, backyard collection of household waste shall be provided on a once a week basis with the collection made on the regular day of collection as designated.

Placement of household waste, recyclables and yard waste at the curbside is the responsibility of the customer except as provided otherwise herein.

The County will repair carts damaged through negligence of the Contractor, with costs deducted from monthly payments due the Contractor consistent with Section 6.F below. Carts that are worn through normal use as a result of being emptied will be repaired or replaced at County expense.

The Contractor is responsible for picking up, sweeping, raking and cleaning any debris and litter spilled during handling and emptying of household garbage roll carts, recycling roll carts, yard waste and bulk items.

Roll carts shall be returned to their original position from which they were removed, but shall not be left in roadways, in driveways or blocking access to a garage or mailbox.

The Contractor shall perform work in a neat and quiet manner and clean up all municipal solid waste, yard waste, or recyclables spilled in collection under any circumstances.

#### A. EQUIPMENT REQUIREMENTS

The vehicles utilized for the collection and transportation services shall have leak-proof bodies of easily cleanable construction. Vehicles shall be operated in a manner that contents do not spill or drip on to the streets or alleys or otherwise create a nuisance. Vehicles found to be leaking or spilling on public roads during the execution of this Contract will be considered to be in violation of Richland County Code of Ordinances, Chapter 12.

A list of vehicles to be used in the performance of this Contract shall be provided to the COR on demand.

The Contractor and COR shall schedule an inspection of the Contractor's vehicles twenty-one (21) calendar days prior to the effective start date of the Contract unless approved otherwise by the COR;

The Contractor and COR shall schedule inspections of the Contractor's vehicles annually or more often as deemed necessary by the COR during the term of the Contract;

Prior to the effective start date of the Contract all vehicles utilized by Contractor to perform collection and transport shall not, at the time of the inspection, be older than five (5) years and/or have more than 50,000 actual miles of use. The COR may provide written approval to the Contractor for the use of vehicles not meeting the five years criteria, if a County inspection determines that the vehicle(s) meets all safety and maintenance requirements;

A vehicle which fails the County's inspection and is determined by the COR to be unsafe and not meeting the maintenance requirements for the required service will not be allowed to provide any of the services of this Contract or any other County contract. Each time a vehicle is removed from service by the COR due to being deemed unsafe and not meeting the maintenance requirements, the Contractor may be subject to liquidated damages as set forth in Section 6.E.7 of this Exhibit A.

#### B. TRANSPORTATION OF SOLID WASTE:

The Contractor shall obtain a Solid Waste Management Permit at the Richland County Solid Waste & Recycling Department office for the annual fee of \$10.00 if delivering waste to the Richland County Class Two Landfill. A decal for each vehicle used for handling solid waste shall also be obtained at cost of \$2.00 per decal. The permit and decals shall be issued only after the Contractor has demonstrated that the equipment to be used meets the minimum requirements for the proper

collection and transportation of solid waste. Each vehicle used for hauling solid waste shall display a decal clearly to the scale house. The decal will be used to identify the truck for tracking purposes by the County.

Vehicles used in the collection and transportation of solid waste shall be kept in a sanitary condition and shall be controlled as to prevent leakage and release of solid waste in transit. The body of the vehicle shall be wholly enclosed or shall at all times, while in transit, be kept covered with an adequate cover provided with eyelets and rope for tying down, or other approved methods which will prevent littering and spillage.

The cleanup of any leakage of hydraulics, oil, juices, leachate or other fluids is the responsibility of the Contractor or Contractor's representative.

The Contractor shall equip each vehicle to be used to dump roll carts with manufactured dumping devices authorized by the COR. Improvised or homemade dumping devices shall not be permitted.

The dumping cycle for handling the roll carts shall be no faster than eight (8) seconds. Each time a vehicle is found to have dump cycle less than eight (8) seconds, the Contractor will be assessed a fine of one hundred (\$100) dollars which will be deducted for the monthly payment for curbside collection service.

The Contractor shall guarantee the condition and sufficiency of vehicles and other equipment available and that equipment breakdowns shall not cause deviation from the announced collection schedule.

County representatives may inspect collection vehicles at any reasonable time and the correction of deficiencies so noted shall be the responsibility of the Contractor.

**C. DISPOSAL OF SOLID WASTE**

It shall be unlawful for the Contractor to dump, or cause to be dumped, any solid waste, bulk items, recyclables and yard waste anywhere in the County except at approved locations designated by the County.

The Contractor shall not be charged a tipping fee for residential waste delivered to a county designated waste management facility provided the waste was collected and transported pursuant to this Contract.

**D. REGULATION AND ASSURANCES:**

The Contractor shall comply with all laws, ordinances, rules, and regulations of the state, county, and governing bodies having jurisdiction over the collection, transportation and disposal of solid waste.

**E. PERFORMANCE**

The performance of the Contractor vitally affects the health and welfare of the citizens of the County and the provisions of this Contract are to be strictly adhered to by the Contractor. The breach of any of the terms and conditions of the Contract on the part of the Contractor may be grounds for the termination. The county, upon such termination, may re-let the work to other parties or to undertake directly the performance of said work.

Failure to comply with the terms of the Contract by the Contractor because of major disaster,

epidemic, or other great emergency within the County through no fault of the Contactor shall not constitute a breach of contract.

Time limits and requirements are the essence of the contract; and should the Contractor fail to perform or complete the work required to be done at the time set forth, it is mutually understood and agreed that the public may suffer damages and that such damages, from the nature of the situations, will be extremely difficult to remediate. The amounts set forth hereinafter are the liquidated damages for such breach of contract. The County will assess such liquidated damages and deduct said amount from payments due the Contractor. The following multiple offense escalation fines shall be applicable to the term of each contract.

- 1) Fines for early collection start (typically prior to 7:00 AM) and unauthorized late collection (typically after 7:30 PM) on the scheduled day of collection:
  - first offense - \$250.00
  - second offense - \$500.00
  - third offense - \$1,000.00
  - fourth offense - Termination of Contract
- 2) Fines for misrepresenting to the COR that collections were completed per the schedule
  - First offense - \$250.00
  - Second offense - \$500.00
  - Third offense - \$1,000.00
  - Fourth offense - Termination of this Contract
- 3) Failure to maintain the collection schedule and failing to request a variance by 4:30 P.M. of the scheduled collection day from the COR shall be a fine of fifty (\$50) dollars per dwelling unit not collected on the scheduled day. Each day following the scheduled collection day that the dwelling has not been serviced shall be deemed a separate offense and subject to an additional \$50 fine.
- 4) Failure to report uncompleted route:
  - First offense - \$250.00
  - Second offence - \$500.00
  - Third offense - \$1,000.00This fine is in addition to E.3 above.
- 5) Failure to remedy within twenty-four (24) hours after notification of a complaint which is found to be justified by the COR will be fifty (\$50) dollars for each complaint for each day in which the complaint is not resolved.
- 6) Failure to immediately pick up, clean and or remove leaking or spilling solid waste and vehicle fluids leakage will be one hundred (\$100) dollars for each occurrence per day.
- 7) Failure to maintain a vehicle in accordance with the specifications after one (1) warning by the COR will be one hundred (\$100.00) dollars fine per truck per day. If a vehicle is banned from the county for failed maintenance and is brought back into the county without written authorization from the COR, the COR may fine the Contractor \$1,000 for each separate occurrence.
- 8) Mixing commercial, industrial or other local governments' recyclables, garbage/trash and yard waste with the County authorized household recyclables, garbage/trash and yard waste or mixing

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INITIALS: COUNTY \_\_\_\_\_ <ASI> \_\_\_\_\_

recyclables, garbage/trash and yard waste within the collection area shall result in the following fines:

- First offense - \$1,000.00
- Second offense - \$2,000.00
- Third offense – \$5,000.00
- Fourth offense - Termination of this Contract

- 9) The COR shall notify the Contractor in writing when it's determined that the assessment of liquidated damages is justified.
- 10) The County will deduct the amount of the liquidated damages from payment which is due to Contractor or which thereafter becomes due.
- 11) If the Contractor fails to provide the services specified herein for a period of five (5) consecutive working days or fails to operate in a satisfactory manner for a similar period, the County may at its option after written notice to the Contractor has been provided, contract the collection services for the area to a separate company and expenses incurred by the County, in so doing, will be deducted from compensation due to the Contractor hereunder.
- 12) If the Contractor is unable for any cause to resume performance at the end of fourteen (14) calendar days, all liability of the County under this Contract to the Contractor shall cease, and the County shall be free to negotiate with other Contractors for the operation of said collection services. Such operation with another contractor shall not release the Contractor herein of its liability to the County for such breach of this Contract. In the event that another contract is so negotiated with a new contractor or other contractors, third part liability of the Contractor herein shall terminate insofar as same arises from tortuous conduct in operation of collection service.

**F. DAMAGED ROLL CARTS REPLACEMENT PRORATED SCHEDULE**

Roll carts for which the COR has determined to have been damaged by the Contractor will have the following prorated replacement schedule:

- 1) For carts in service 3 years or less, the Contractor will pay 100% of the County's cost of replacing the cart.
- 2) For carts in service more than 3 year and up to 9 years, the Contractor will pay 50% of the County's cost of replacing the cart.
- 3) For carts in service more than 9 years, the Contractor will pay none of the County's cost of replacing the cart.

**G. CONTRACTOR'S QUALIFICATIONS**

Contractor is and will continue being an "Equal Opportunity Employer"; must maintain a good reputation in public relations concerning its services and a good history of compliance with applicable laws, ordinances and governmental regulations dealing with environmental issues. The County reserves the right to make a final determination of a Contractor's ability to provide in a dependable and quality fashion the services required by the Contract.

The County further reserves the right to negotiate changes in the Contract where the County finds that it is in the best interest of the citizens of the County to do so and the said changes are mutually agreed to by the County and the Contractor. The Contract shall be subject to modification after the award thereof upon mutual agreement of the County and the successful Contractor where:

- 1) Where changes in the Contract or the method of collecting, handling or disposal of solid waste



- are required by an applicable law, ordinance or governmental regulation;
- 2) Where it can be demonstrated that such changes will significantly reduce the costs to the County or quality of services afforded under the Contract;
  - 3) Where significant improvements in technology warrant such changes;
  - 4) Where there are significant changes in the availability, capacity or location of an approved disposal facility to be used under the provisions of the Contract; or
  - 5) If the County deems such changes necessary to properly promote the health, safety and welfare of those benefiting from or affected by services rendered under the Contract;
  - 6) The level of, nature of or need for services contemplated by the Contract has materially changed.

## Richland County Council Request of Action

Dated October 21, 2016

Subject: GREEN MIDLANDS, LLC PROJECT – SC JEDA BONDS

### A. Purpose

County Council is requested to hold a joint public hearing with the South Carolina Jobs-Economic Development Authority (JEDA) in connection with JEDA's issuance of its not exceeding \$13,875,000 Economic Development Revenue Bonds (GREEN Midlands, LLC Project), in one or more series, (the "Bonds") to benefit GREEN Midlands, LLC, the sole member of which is Greenville Renewable Energy Education Charter School. County Council is also requested to adopt a resolution supporting the bond issuance as required by Title 41, Chapter 43 of the Code of Laws of South Carolina 1976, as amended (the "Enabling Act").

### B. Background / Discussion

The Enabling Act authorizes JEDA to utilize any of its program funds to establish loan programs to reduce the cost of capital to business enterprises meeting the eligibility requirements of Section 41-43-150 and for other purposes described in Section 41-43-160 thereof, and thus provide maximum opportunities for the creation and retention of jobs and improvement of the standard of living of the citizens of the State of South Carolina. The Enabling Act further provides that JEDA may issue bonds upon receipt of a certified resolution by the County in which the project is located supporting the project and evidence of a public hearing held not less than fifteen days after publication of notice in a newspaper of general circulation in the county in which the project is located.

GREEN Midlands, LLC (the "Borrower"), whose sole member is Greenville Renewable Energy Education Charter School, a South Carolina nonprofit corporation and an organization described in Section 501(c)(3) of the Internal Revenue Code of 1986 (the "School"), which exists to own a charter school. The Borrower has requested that JEDA issue its revenue bonds in the aggregate principal amount of not exceeding \$13,875,000. The proceeds of such bonds will be used to defray the cost of (i) purchasing, constructing, renovating and equipping of a facility located at 7820 Broad River Road, Irmo, South Carolina (the "Project") to be owned by the Borrower and operated by the School to be located within Richland County, South Carolina (the "County"); and (ii) paying certain costs of issuance associated with the Bonds.

A draft resolution in support of the Project located in Richland County is submitted with this request for action.

### C. Financial Impact

No funds from Richland County are requested. There will be no pledge of the credit of the County, JEDA or any other governmental entity with respect to the Bonds.

### D. Alternatives

1. Approve Richland County's support of the issuance of bonds by JEDA for the GREEN Midlands, LLC Project as required by the Enabling Act.
2. Do not approve Richland County's support of the issuance of bonds by JEDA for the GREEN Midlands, LLC Project as required by the Enabling Act.

**E. Recommendation**

It is recommended that County Council support the issuance of bonds by JEDA for the GREEN Midlands, LLC Project as required by the Enabling Act.

Recommended by: Kathleen C. McKinney, Haynsworth Sinkler Boyd, P.A., Bond Counsel  
Date: 10/24/16

**F. Approvals**

**Finance**

Approved by: \_\_\_\_\_ Date: \_\_\_\_\_  
Comments: \_\_\_\_\_

**Procurement**

Approved by: \_\_\_\_\_ Date: \_\_\_\_\_  
Comments: \_\_\_\_\_

**Grants**

Approved by: \_\_\_\_\_ Date: \_\_\_\_\_  
Comments: \_\_\_\_\_

**Legal**

Approved by: \_\_\_\_\_ Date: \_\_\_\_\_  
Comments: \_\_\_\_\_

**Administration**

Approved by: \_\_\_\_\_ Date: \_\_\_\_\_  
Comments: \_\_\_\_\_

## RESOLUTION

**IN SUPPORT OF THE ISSUANCE BY THE SOUTH CAROLINA JOBS-ECONOMIC DEVELOPMENT AUTHORITY OF ITS ECONOMIC DEVELOPMENT REVENUE BONDS (GREEN MIDLANDS, LLC PROJECT), IN ONE OR MORE SERIES, PURSUANT TO THE PROVISIONS OF TITLE 41, CHAPTER 43, OF THE CODE OF LAWS OF SOUTH CAROLINA 1976, AS AMENDED, IN THE AGGREGATE PRINCIPAL AMOUNT OF NOT EXCEEDING \$13,875,000.**

**WHEREAS**, the South Carolina Jobs-Economic Development Authority (the “*Issuer*”) is authorized and empowered under and pursuant to the provisions of Title 41, Chapter 43, of the Code of Laws of South Carolina 1976, as amended (the “*Act*”), to utilize any of its program funds to establish loan programs for the purpose of reducing the cost of capital to business enterprises which meet the eligibility requirements of Section 41-43-150 of the Act and for other purposes described in Section 41-43-160 of the Act and thus provide maximum opportunities for the creation and retention of jobs and improvement of the standard of living of the citizens of the State of South Carolina; and

**WHEREAS**, the Issuer is further authorized by Section 41-43-110 of the Act to issue revenue bonds, payable by the Issuer solely from a revenue producing source and secured by a pledge of said revenues, to defray the cost a business enterprise as defined in the Act; and

**WHEREAS**, the Issuer proposes, subject to such approval of the State Fiscal Accountability Authority of South Carolina and the County Council of Richland County (the “*County Council*”) as may be required by law, to issue not exceeding \$13,875,000 aggregate principal amount of its Economic Development Revenue Bonds (GREEN Midlands, LLC Project), in one or more series (the “*Bonds*”) in order to defray the cost of (i) purchasing, constructing, renovating and equipping of a facility located at 7820 Broad River Road, Irmo, South Carolina (the “*Project*”) to be owned by the GREEN Midlands, LLC (the “*Borrower*”), whose sole member is Greenville Renewable Energy Education Charter School, a South Carolina nonprofit corporation and an organization described in Section 501(c)(3) of the Internal Revenue Code of 1986 (the “*School*”) and operated by the School to be located within Richland County, South Carolina (the “*County*”); and (ii) paying certain costs of issuance associated with the Bonds; and

**WHEREAS**, the Borrower is projecting that the assistance of the Issuer by the issuance of the Bonds will result in the creation or maintenance of employment for those engaged in construction of the facilities of which the Project is an essential and necessary part, by creating employment for approximately 24 people within 12 months when the Project is placed in full operation and approximately 30 people within 24 months when the Project is placed in full operation, with a resulting alleviation of unemployment and a substantial increase in payrolls and other public benefits incident to the conduct of such businesses not otherwise provided locally, and the number of jobs resulting from the assistance authorized herein bears a reasonable relationship to the principal amount of the Bonds;

**WHEREAS**, the County Council and the Issuer have on this date jointly held a public hearing, duly noticed by publication in a newspaper having general circulation in the County, not less than 15 days prior to the date hereof, at which all interested persons have been given a reasonable opportunity to express their views;

**NOW, THEREFORE, BE IT RESOLVED** by the County Council of the County, as follows:

**SECTION 1.** It is hereby found, determined and declared that the Project is anticipated to benefit the general public welfare of the County by providing services, employment, recreation, or other public benefits not otherwise provided locally.

**SECTION 2.** The Project will not give rise to any pecuniary liability of the County or a charge against its general credit or taxing power.

**SECTION 3.** The amount of bonds required to finance the Project is set forth above.

**SECTION 4.** Based on information provided by the Borrower, the documents to be delivered by the Borrower and the Issuer with respect to the Bonds will provide among other things, (i) for the amount necessary in each year to pay the principal of and interest on the Bonds, (ii) whether reserve funds of any nature will be established with respect to the retirement of the Bonds and the maintenance of the Project (and, if any such reserve funds are to be established, the amount necessary to be paid each year into such funds), and (iii) that the Borrower shall maintain the Project and carry all proper insurance with respect thereto.

**SECTION 5.** The County Council supports the Issuer in its determination to issue the Bonds to defray the costs related to the Project.

**SECTION 6.** All orders and resolutions and parts thereof in conflict herewith are to the extent of such conflict hereby repealed, and this resolution shall take effect and be in full force from and after its adoption.

Adopted this \_\_\_ day of November, 2016.

**RICHLAND COUNTY,  
SOUTH CAROLINA**

By: \_\_\_\_\_  
Chairman, County Council

ATTEST:

\_\_\_\_\_  
Clerk to County Council

**STATE OF SOUTH CAROLINA**

**COUNTY OF RICHLAND**

I, the undersigned Clerk of the County Council of Richland County, South Carolina, do hereby certify that the foregoing is a true, correct and verbatim copy of a Resolution duly adopted at a meeting of said County Council held on November \_\_\_\_, 2016, at which meeting a quorum was at all times present.

**WITNESS MY HAND** this \_\_\_\_ day of November, 2016.

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Clerk to County Council of  
Richland County, South Carolina