

RICHLAND COUNTY

REGULAR SESSION

AGENDA



TUESDAY OCTOBER 15, 2024

6:00 PM

COUNCIL CHAMBERS

Richland County Council 2024



Derrek Pugh
District 2
Vice Chair



Jason Branham
District 1



Gretchen D. Barron
District 7



Yvonne McBride
District 3



Paul Livingston
District 4



Allison Terracio
District 5



Don Weaver
District 6



Overture E. Walker
District 8



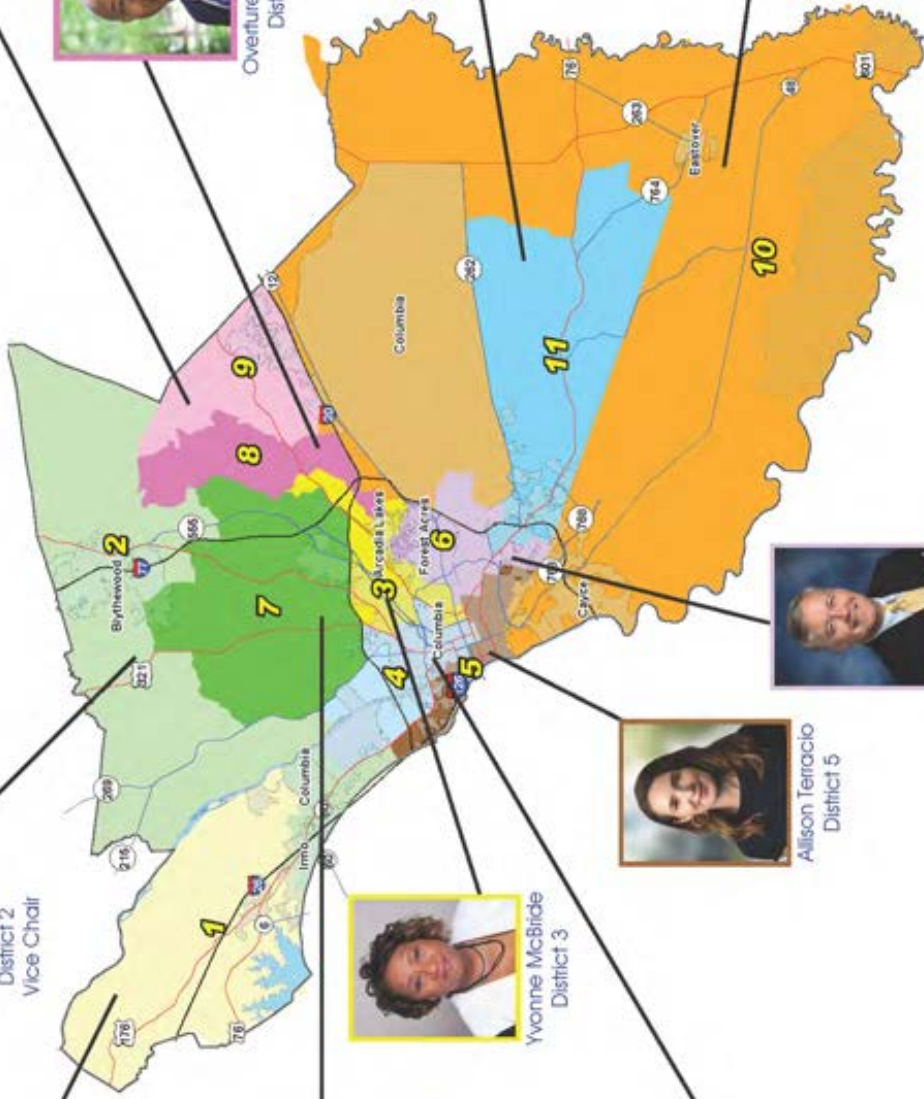
Chakisse Newton
District 11



Cheryl D. English
District 10



Jessica Mackey
District 9
Chair





**Richland County
Regular Session**

AGENDA

October 15, 2024 - 6:00 PM
Council Chambers
2020 Hampton Street, Columbia, SC 29204

1. **CALL TO ORDER**

The Honorable Jesica Mackey, Chair
Richland County Council

 - a. ROLL CALL
2. **INVOCATION**

The Honorable Overture Walker
3. **PLEDGE OF ALLEGIANCE**

The Honorable Overture Walker
4. **PRESENTATION OF PROCLAMATION**
 - a. A Proclamation Recognizing October as Fire Prevention Month in Richland County

The Honorable Jesica Mackey
The Honorable Jason Branham
The Honorable Derrek Pugh
The Honorable Paul Livingston
The Honorable Don Weaver
The Honorable Gretchen Barron
The Honorable Overture Walker
The Honorable Cheryl English
The Honorable Chakisse Newton
5. **APPROVAL OF MINUTES**

The Honorable Jesica Mackey

 - a. October 1, 2024 **[PAGES 9-33]**
6. **ADOPTION OF AGENDA**

The Honorable Jesica Mackey
7. **REPORT OF THE ATTORNEY FOR EXECUTIVE SESSION ITEMS**

Patrick Wright,
County Attorney

After Council returns to open session, council may take action on any item, including any subsection of any section, listed on an executive session agenda or discussed in an executive session during a properly noticed meeting.

 - a. Legal update: Randolph v. Richland County [Pursuant to S.C. Code Sect. 30-4-70 (a)(2)]

- b. Property Inquiry - Capital Projects: Columbia Place Mall [Pursuant to SC Code of Laws, Sec. 30-4-70(a)(2)]
- c. Fire Services Agreement between the City of Columbia and Richland County [Pursuant to SC Code of Laws, Sec.30-4-70(a)(2)]

8. CITIZEN'S INPUT

The Honorable Jesica Mackey

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

9. CITIZEN'S INPUT

The Honorable Jesica Mackey

- a. Must Pertain to Richland County Matters Not on the Agenda (Items for which a public hearing is required or a public hearing has been scheduled cannot be addressed at this time.)

**10. REPORT OF THE COUNTY ADMINISTRATOR
[PAGES 34-35]**

Leonardo Brown,
County Administrator

a. UPDATES FOR CONSIDERATION

- 1. Soil and Water Conservation District – Annual Report
- 2. Independent Accountant’s Report – Transportation Sales and Use Tax for the Fiscal Year Ended June 30, 2023 **[PAGE 36]**
- 3. Comprehensive Plan Update **[PAGES 37-40]**
- 4. South Carolina Association of Counties: Fall Advocacy Meeting, Institute of Government, and Awards - October 16-17, 2024
- 5. General Updates

b. ADMINISTRATOR’S NOMINATION: (Items in this section require action that may prejudice the County’s interest in a discernable way (i.e. time-sensitive, exigent, or of immediate importance))

- 1. Midlands Workforce Development Board - Local Workforce Development Area Subsequent Designation Petition **[PAGES 41-57]**

2. Construction Contract Approval -
Olympia Magistrate [\[PAGES 58-104\]](#)

3. Construction Contract Approval -
Pontiac Magistrate [\[PAGES 105-151\]](#)

4. New Employee Probationary Period
[\[PAGES 152-154\]](#)

11. REPORT OF THE CLERK OF COUNCIL

Anette Kirylo,
Clerk of Council

a. Proposed 2025 Council Meeting Schedule
[\[PAGES 155-156\]](#)

b. Transportation Penny Town Halls

12. REPORT OF THE CHAIR

The Honorable Jessica Mackey

13. APPROVAL OF CONSENT ITEMS

The Honorable Jessica Mackey

a. Case #24-007MA
Gunil G. Kim
R3 to GC (.24 Acres)
105 Weir Road
TMS #R19902-02-07 [District 7]
[THIRD READING] [\[PAGES 157-158\]](#)

b. Case #24-019MA
Bonnie Joshi
HM to RT (5.17 Acres)
E/S Windsorwood Court
TMS #R32400-06-23 [District 10]
[THIRD READING] [\[PAGES 159-160\]](#)

c. Case #24-022MA
Kevin Meetze
PD to RT (3.17 Acres)
1925 Kennerly Road
TMS #R04200-06-13 [District 1]
[THIRD READING] [\[PAGES 161-162\]](#)

d. Case #24-023MA
Madison Pickrel
GC to R5 (21.07 Acres)
E/S Northeastern Freeway
TMS #R17003-01-04 [District 7]
[THIRD READING] [\[PAGES 163-164\]](#)

e. Case #24-025MA
Mike Crandall
INS to GC (1.3 Acres)
1765 Dutch Fork Road
TMS #R02408-01-04 [District 1]
[THIRD READING] [\[PAGES 165-166\]](#)

f. Case #24-029MA
Lindsay S. Van Slambrook, Esq. GC to
MU3 (2.36 Acres)
1335 Garner Lane
TMS #R07406-01-05 [District 4]
[THIRD READING] [PAGES 167-168]

g. Case #24-031MA
Pastor Levern McKenny
R2 to MU1
438 Rabon Road
TMS #R17209-01-06 [District 7]
[THIRD READING] [PAGES 169-170]

14. SECOND READING ITEMS

The Honorable Jessica Mackey

a. An Ordinance authorizing the execution and delivery of an amendment to the infrastructure credit agreement by and between Richland County, South Carolina, and Gable Oaks Housing Associates LP; and other related matters [PAGES 171-179]

b. An Ordinance Authorizing a deed to the City of Columbia to waterlines running under and along the dirt road paving project at Summer Haven Drive from Haven Circle to Dead End; Richland County TMS #01312-02-02 & 03, 01312-03-03 & 04, & 01315-01-07 (portion); CF #354-47 [PAGES 180-197]

The Honorable Jessica Mackey

15. OTHER ITEMS

a. FY25 - District 2 Hospitality Tax Allocations
[PAGES 198-199]

1. Blythewood Historical Society - \$10,000

2. Auntie Karen Foundation - \$3,000

16. EXECUTIVE SESSION

After Council returns to open session, council may take action on any item, including any subsection of any section, listed on an executive session agenda or discussed in an executive session during a properly noticed meeting.

Patrick Wright,
County Attorney

17. MOTION PERIOD

The Honorable Allison Terracio

a. For the purpose of preserving the historical character of the Olympia neighborhood, I move to within 12 months create a neighborhood character overlay in tandem with an update to the neighborhood plan for the Olympia neighborhood. During this time a moratorium on new construction, rezoning, demolition, and substantial rehabilitation (50% or more of lot area, building square footage, change in use) will be in place.

18. ADJOURNMENT

The Honorable Jessica Mackey



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
Regular Session
MINUTES
October 1, 2024 – 6:00 PM
Council Chambers
2020 Hampton Street, Columbia, SC 29204

COUNCIL MEMBERS PRESENT: Derrek Pugh, Vice-Chair; Jason Branham, Derrek Pugh, Paul Livingston, Allison Terracio, Don Weaver, Gretchen Barron, Overture Walker, Cheryl English, and Chakisse Newton

NOT PRESENT: Jesica Mackey

OTHERS PRESENT: Leonardo Brown, Anette Kirylo, Stacey Hamm, Susan O’Cain, Patrick Wright, Judy Carter, Jackie Hancock, Jennifer Wladischkin, Lori Thomas, Thomas Gilbert, Ashiya Myers, Aric Jensen, Kyle Holsclaw, Michael Maloney, Tamar Black, Kenny Bowen, Synithia Williams, Sandra Haynes, Ashley Fullerton, Michelle Onley, Angela Weathersby, Peter Cevallos, Syndi Castelluccio, Jeff Ruble, Hayden Davis, Michael Byrd, and Geo Price

1. **CALL TO ORDER** – Vice-Chair Derrek Pugh called the meeting to order at approximately 6:00 PM.
Vice Chair Pugh stated that he would be leading the meeting today because Chair Mackey is away on business.
2. **INVOCATION** – The Invocation was led by Pastor Ed Stewart, New Creation Baptist Church.
3. **PLEDGE OF ALLEGIANCE** – The Pledge of Allegiance was led by the Honorable Overture Walker.
4. **APPROVAL OF MINUTES**
 - a. Regular Session: September 17, 2024 – Mr. Walker moved to approve the minutes as distributed, seconded by Ms. English.
In Favor: Branham, Pugh, McBride, Livingston, Terracio, Weaver, Barron, Walker, English, and Newton
Not Present: Mackey
The vote in favor was unanimous.
 - b. Zoning Public Hearing: September 24, 2024 – Mr. Walker moved to approve the minutes as distributed, seconded by Ms. English.
In Favor: Branham, Pugh, McBride, Livingston, Terracio, Weaver, Barron, Walker, English, and Newton
Not Present: Mackey
The vote in favor was unanimous.
5. **ADOPTION OF AGENDA** – County Attorney Patrick Wright requested to amend Item 9(b)(3) to read “State of Disaster Declaration and Emergency Ordinance.” Both items concern Hurricane Helene.
Ms. McBride moved to adopt the agenda as amended, seconded by Ms. English.
In Favor: Branham, Pugh, McBride, Livingston, Terracio, Weaver, Barron, Walker, English, and Newton
Not Present: Mackey
The vote in favor was unanimous.

6. **REPORT OF THE ATTORNEY FOR EXECUTIVE SESSION (Pursuant to SC Code 30-4-70)** – County Attorney Patrick Wright noted the following item was eligible for Executive Session:

- a. Personnel Matter – Grievance Reviews and Recommendations [Pursuant to SC Code of Laws, Sec. 30-4-70(a)(1)]
- b. Property Inquiry – 1221 Gregg Street, Columbia, SC 29201, TMS #R11406-16-16, TMS #R11406-16-17 [Pursuant to SC Code of Laws, Sec. 30-4-70(a)(2)]
- c. Legal Advice: Clerk of Court/Judicial Center [Pursuant to SC Code of Laws, Sec. 30-4-70(a)(2)]
- d. Fire Services Agreement between the City of Columbia and Richland County

7. **CITIZENS' INPUT**

- a. For Items on the Agenda Not Requiring a Public Hearing – No one signed up to speak.

8. **CITIZENS' INPUT**

- a. Must Pertain to Richland County Matters Not on the Agenda (Items for which a public hearing is required or a public hearing has been scheduled cannot be addressed at this time)
 1. Kimberly Jones, 9 Mountain Laurel Court, Columbia, SC 29223 – Lack of ADA Compliant sidewalks in Richland County

9. **REPORT OF THE COUNTY ADMINISTRATOR**

- a. Updates for Consideration:
 1. *General Updates* – Mr. Leonardo Brown, County Administrator, reiterated that Council has approved a strategic plan with six goals. Two goals focus on fostering good governance and being fiscally responsible. There are upcoming Transportation Town Halls wherein the Public Works/Transportation Director Michael Maloney will communicate details of the County's process.
 2. *FEMA Assistance*—Mr. Brown encouraged residents who have experienced damage to report it at (803) 576-3439 or ombudsman@richlandcountysc.gov. This will assist the County with its damage assessment.

Ms. Barron and Ms. English thanked staff and the Sheriff's Department for their hard work in response to the storm and the subsequent cleanup.
 3. *Comprehensive Plan Update* – Mr. Brown stated that Community Planning & Development, GIS, and Communications staff participated in an introductory meeting with Nealon Planning on Monday, September 23, 2024. Staff reviewed the project schedule, and the team was given guidance on the needs of the advisory committee and stakeholder groups. There will be bi-monthly updates with Nealon Planning, and staff is currently working with Nealon to take them on a tour around Richland County in late October to familiarize them with the current growth trends. The next two meetings with Nealon Planning will focus on finalizing the project schedule and community engagement.

Ms. Newton thanked staff for attending her town hall meeting and discussing the Comprehensive Plan. She encouraged residents to participate in the process.
- b. Administrator's Nomination: (Items in this section require action that may prejudice the County's interest in a discernible way [i.e., time-sensitive, exigent, or of immediate importance])
 1. *Resolution Approving the 2024 Assessment Roll for the Village at Sandhill Improvement District* – Mr. Walker moved to approve this item, seconded by Mr. Livingston.

In Favor: Branham, Pugh, McBride, Livingston, Terracio, Weaver, Barron, Walker, English, and Newton
Not Present: Mackey

The vote in favor was unanimous.

Ms. Newton moved to reconsider this item, seconded by Ms. Barron.

Opposed: Branham, Pugh, McBride, Livingston, Terracio, Weaver, Barron, Walker, English, and Newton
Not Present: Mackey

The motion for reconsideration failed.
 2. *Department of Public Works – Airport – Approval of FAA Standards Assessment Project, FAA/State Grants Award* – Ms. Barron moved to approve this item, seconded by Ms. Terracio.

In Favor: Branham, Pugh, McBride, Livingston, Terracio, Weaver, Barron, Walker, English, and Newton

Not Present: Mackey

The vote in favor was unanimous.

Ms. English moved to reconsider this item, seconded by Ms. Barron.

Opposed: Branham, Pugh, McBride, Livingston, Terracio, Weaver, Barron, Walker, English, and Newton

Not Present: Mackey

The motion for reconsideration failed.

3. *State of Disaster Declaration and Emergency Ordinance {Ordinance #035-24HR}* – Mr. Brown indicated with the storm hitting the County last week, the County offices being closed on Friday, and many individuals being without power, there was no opportunity for Council to hold an emergency meeting during the weather-related events.

Mr. Wright stated that the Richland County Code of Ordinances, Chapter 2, Administration; Article V, County Departments; Division 5, Emergency Services; Section 2-139(3)(e) gives the Chair the authority to declare a state of disaster. The State of Disaster Declaration reads, in part, as follows: “As the impact of Hurricane Helene continues in South Carolina, Richland County has implemented emergency planning for anticipated problems and is preparing for emergency actions that may be needed. The effects of Hurricane Helene that may endanger lives and property in Richland County include wind damage, tornadoes, flash flooding, long-term flooding, downed trees and power lines, and other emergency situations. Richland County has opened the Emergency Operations Center and has implemented the Emergency Operations Plan. Activities are underway to respond to the conditions created by the storm and the flooding associated with rain from areas north of Richland County that will move through Richland County, creating additional flooding.” This declaration allows the County to do certain things in an emergency, which are listed in the declaration and remain in effect until emergency conditions associated with the storm have subsided and emergency activities in Richland County are no longer necessary to protect the life and property of the citizens.

Council is being requested to adopt “An Emergency Ordinance declaring that a localized State of Emergency exists within the County of Richland and authorizing the appropriate actions to be taken in connection therewith.” The emergency ordinance is in reference to Hurricane Helene, which made landfall on September 26, 2024. In accordance with Section 5-7-250(d) of the South Carolina Code of Laws and Section 2.31 of the Code of Ordinances for Richland County, Richland County Council hereby declares that a localized emergency exists and hereby ratifies the County Council Chair’s issuance of a State of Disaster Declaration. The ordinance shall remain in effect for sixty (60) days from passage unless sooner terminated by Resolution of County Council.

Mr. Walker moved to approve the emergency ordinance, seconded by Ms. Terracio.

Ms. Newton stated, for clarification, the State of Disaster Declaration is separate and apart from the expedited list for federal disasters that was submitted.

Mr. Brown responded that the disaster declaration process is unrelated to the expedited process discussed at the state level. Several other counties that do not have disaster declarations. Based on the County’s assessment of what is going on, this is something we would typically do.

In Favor: Branham, Pugh, McBride, Livingston, Terracio, Weaver, Barron, Walker, English, and Newton

Not Present: Mackey

The vote in favor was unanimous.

Ms. Terracio moved to reconsider this item, seconded by Ms. McBride.

Opposed: Branham, Pugh, McBride, Livingston, Terracio, Weaver, Barron, Walker, English, and Newton

Not Present: Mackey

The motion for reconsideration failed.

10. **REPORT OF THE CLERK OF COUNCIL**

- a. Transportation Penny Town Halls – The Clerk of Council, Anette Kirylo, noted that several town hall meetings have been scheduled to keep the community informed. The meetings are as follows:
 1. Districts 3 and 7 Town Hall – October 7, 6:00-7:30 PM, Parklane Adult Activity Center
 2. District 5 Town Hall – October 10, 6:00-7:30 PM, Dreher High School
 3. Districts 10 and 11 Town Hall – October 14, 6:00-7:30 PM, Sheriff’s Substation – Lower Richland Boulevard
 4. Transportation Penny Referendum Public Hearing – October 15, 3:30 PM, Council Chambers
 5. District 1 Town Hall – October 21, 6:00-7:30 PM, Friarsgate Park
 6. Districts 8 and 9 Town Hall – October 23, 6:00-7:30 PM, R2i2 Conference Center

Ms. Barron stated that she and Vice-Chair Pugh had to reschedule the town hall last week due to impending weather and again this week for the same reason. She believes it is important to note that the town hall is critically important; however, the safety of the residents is just as important. We want to plan and make decisions with the individuals attending the town hall in mind.

11. **REPORT OF THE CHAIR** – No report was given.

12. **APPROVAL OF CONSENT ITEMS**

- a. Case #24-007MA, Gunil G. Kim, R3 to GC (.24 Acres), 105 Weir Road, TMS #R19902-02-07 {District 7} [SECOND READING]
- b. Case #24-019MA, Bonnie Joshi, HM to RT (5.17 Acres), E/S Windsorwood Court, TMS #R32400-06-23 {District 10} [SECOND READING]
- c. Case #24-022MA, Kevin Meetze, PD to RT (3.17 Acres), 1925 Kennerly Road, TMS #R04200-06-13 {District 1} [SECOND READING]
- d. Case #24-023MA, Madison Pickrel, GC to R5 (21.07 Acres), E/S Northeastern Freeway, TMS #R17003-01-04 {District 7} [SECOND READING]
- e. Case #24-025MA, Mike Crandall, INS to GC (1.3 Acres), 1765 Dutch Fork Road, TMS #R02408-01-01 {District 1} [SECOND READING]
- f. Case #24-029MA, Lindsay S. Van Slambrook, Esq., GC to MU3 (2.36 Acres), 1335 Garner Lane, TMS #R07406-01-05 {District 4} [SECOND READING]
- g. Case #031MA, Pastor Levern McKenny, R2 to MU1, 438 Rabon Road, TMS #R17209-01-06 {District 7} [SECOND READING]
- h. Operational Services – Upper Ballentine Fire Station Architectural Services
- i. Department of Public Works – Solid Waste & Recycling Division – Roll-Off Container Hauling Services Agreement
- j. Department of Public Works – Solid Waste & Recycling Division – Mobile Waste Shredder Purchase
- k. Department of Public Works – Engineering Division – Hobart Road Realignment Project Award

Ms. Newton moved to approve Items 12(a) – 12(k), seconded by Ms. Terracio.

In Favor: Branham, Pugh, McBride, Livingston, Terracio, Weaver, Barron, Walker, English, and Newton

Not Present: Mackey

The vote in favor was unanimous.

Ms. Newton moved to reconsider Items 12(h) – 12(k), seconded by Ms. Terracio.

Opposed: Branham, Pugh, McBride, Livingston, Terracio, Weaver, Barron, Walker, English, and Newton

Not Present: Mackey

The vote in favor was unanimous.

13. **THIRD READING ITEMS**

- a. An Ordinance authorizing the levying of ad valorem property taxes which, together with the prior year's carryover and other State levies and any additional amount appropriated by the Richland County Council prior to July 1, 2024, will provide sufficient revenues for the operation of Richland County Government during the period from July 1, 2024, through June 30, 2025 {Ordinance #034-24HR} – Mr. Livingston moved to approve this item, seconded by Ms. Newton.

In Favor: Branham, Pugh, McBride, Livingston, Terracio, Weaver, Barron, Walker, English, and Newton

Not Present: Mackey

The vote in favor was unanimous.

Ms. Barron moved to reconsider this item, seconded by Ms. English.

Opposed: Branham, Pugh, McBride, Livingston, Terracio, Weaver, Barron, Walker, English, and Newton

Not Present: Mackey

The motion for reconsideration failed.

14. REPORT OF THE ECONOMIC DEVELOPMENT COMMITTEE

- a. A Resolution approving the assignment of the public infrastructure credit agreement by and between Catawba Apartments, LLC and Richland County, South Carolina; authorizing the County's execution and delivery of an assignment and assumption of public infrastructure credit agreement in connection with such assignment; and authorizing other matters related thereto – Mr. Livingston stated the committee recommended approval of the resolution.

In Favor: Branham, Pugh, McBride, Livingston, Terracio, Weaver, Barron, Walker, English, and Newton

Not Present: Mackey

The vote in favor was unanimous.

Ms. English moved to reconsider this item, seconded by Mr. Branham.

In Favor: Branham, Pugh, McBride, Livingston, Terracio, Weaver, Barron, Walker, English, and Newton

Not Present: Mackey

The motion for reconsideration failed.

- b. An Ordinance authorizing the execution and delivery of an amendment to the infrastructure credit agreement by and between Richland County, South Carolina, and Gable Oaks Housing Associates LP; and other related matters [FIRST READING] – Mr. Livingston stated the committee recommended approval of this item.

Mr. Branham requested additional information regarding the need for the amendment.

Mr. Jeff Ruble, Economic Development Director, stated approximately two years ago, we had a developer who wanted to purchase and make improvements to the Gable Oaks Community. At the time, they were looking to do a 45-year loan that gave them a special tax break. We set up a 90% tax break based on the 45-year loan. The program went away, so the financing did not occur like it was supposed to, which forced us back to the negotiating table. We reduced the tax break from 45 years to 10 years.

Ms. McBride indicated she would be voting against the item tonight because she has additional questions.

Ms. Terracio asked if there would be an impact on the affordable housing units once the tax break expires.

Mr. Ruble replied that he did not believe there would be an impact.

In Favor: Branham, Pugh, Livingston, Terracio, Weaver, Barron, Walker, English, and Newton

Opposed: McBride

Not Present: Mackey

The vote was in favor.

15. REPORT OF THE OFFICE OF SMALL BUSINESS OPPORTUNITY AD HOC COMMITTEE

- a. Disparity Study Report [EXECUTIVE SESSION] – Mr. Pugh reported the disparity study report was discussed in Executive Session at the Office of Small Business Opportunity Ad Hoc Committee meeting.

16. REPORT OF THE STRATEGIC PLANNING AD HOC COMMITTEE

- a. Public Private Partnership Update – Mr. Livingston, on behalf of Ms. Mackey, reported the P3 Focus Group has met and is continuing to follow the P3 Roadmap. The P3 Focus Group is dealing with the board composition, organizational structure, potential focus areas, what role we want the private sector to engage in, and the process for naming and branding the P3.

17. REPORT OF THE TRANSPORTATION AD HOC COMMITTEE

- a. An Ordinance Authorizing a deed to the City of Columbia to waterlines running under and along the dirt road paving project at Summer Haven Drive from Haven Circle to Dead End; Richland County TMS #01312-02-02 & 03, 01312-03-03 & 04, & 01315-01-07 (portion); CF #354-47 [FIRST READING] – Mr. Walker stated the committee recommended approval of this item.

In Favor: Branham, Pugh, McBride, Livingston, Terracio, Weaver, Barron, Walker, English, and Newton

Not Present: Mackey

The vote in favor was unanimous.

- b. 2024 Needs Assessment – Project Name Clarification – Mr. Walker stated the committee recommended approval of this item.
 In Favor: Branham, Pugh, McBride, Livingston, Terracio, Weaver, Barron, Walker, English, and Newton
 Not Present: Mackey
 The vote in favor was unanimous.
- c. Percival Road Sidewalk Award of Construction – Mr. Walker stated the committee recommended approval of this item.
 In Favor: Branham, Pugh, McBride, Livingston, Terracio, Weaver, Barron, Walker, English, and Newton
 Not Present: Mackey
 The vote in favor was unanimous.
 Mr. Walker moved to reconsider Items 17(b) and (c), seconded by Ms. Newton.
 Opposed: Branham, Pugh, McBride, Livingston, Terracio, Weaver, Barron, Walker, English, and Newton
 The motion for reconsideration failed.

18. **REPORT OF THE DETENTION CENTER AD HOC COMMITTEE**

- a. Alvin S. Glenn Detention Center – Status Update
 - 1. Recruitment and Retention Updates
 - 2. Infrastructure Updates
 - 3. Security Updates
 - 4. Other Updates

Mr. Pugh reported that the committee discussed recruitment/retention and infrastructure and security updates.
 Mr. Brown noted that a Job Fair for Detention Center positions will be held on October 25th at the facility, located at 201 John Mark Dial Drive.

- b. New Detention Center Facility/Expansion
 - 1. Security Needs
 - 2. Capacity Needs
 - 3. Resource and Infrastructure Needs
 - 4. General Space Needs
 - 5. Stakeholder Committee

Mr. Pugh stated further discussion was had on the Detention Center's security, capacity, resource and infrastructure, and general space needs. In addition, there was a discussion about establishing a stakeholder committee.

19. **OTHER ITEMS**

- a. FY25 – District 1 Hospitality Tax Allocations (South Carolina Ballet - \$10,000; SC Philharmonic Orchestra - \$10,000; Harbison Theatre at Midlands Tech - \$10,000)
- b. FY25 – District 3 – Hospitality Tax Allocations (Greater Waverly Foundation - \$7,000; Pink & Green Comm. Service Foundation - \$12,000)
- c. FY25 – District 4 Hospitality Tax Allocations (Columbia Music Fest Association - \$5,000; South Carolina Ballet - \$5,000; Cottontown Art Crawl - \$3,000)
- d. FY25 – District 5 – Hospitality Tax Allocations (Shandon Hollywood-Rose Hill - \$3,000; Historic Columbia Foundation - \$15,000)
- e. FY25 – District 9 – Hospitality Tax Allocations (South Carolina Ballet - \$5,000)
- f. A Resolution to appoint and commission Oscar Nazario as a Code Enforcement Officer for the proper security, general welfare, and convenience of Richland County
- g. A Resolution to appoint and commission Milmetria Davis as a Code Enforcement Officer for the proper security, general welfare, and convenience of Richland County

Ms. Newton moved to approve Items 19(a) – 19 (g), seconded by Ms. Terracio.

In Favor: Branham, Pugh, McBride, Livingston, Terracio, Weaver, Barron, Walker, English, and Newton

Not Present: Mackey

The vote in favor was unanimous.

Ms. Terracio moved to reconsider Items 19(a) – 19(g), seconded by Ms. English.

Opposed: Branham, Pugh, McBride, Livingston, Terracio, Barron, Weaver, Walker, English, and Newton

Not Present: Mackey

The motion for reconsideration failed.

20. **EXECUTIVE SESSION**

Ms. Barron moved to go into Executive Session, seconded by Mr. Branham.

In Favor: Branham, Pugh, McBride, Livingston, Terracio, Weaver, Barron, Walker, English, and Newton

Not Present: Mackey

The vote in favor was unanimous.

***Council went into Executive Session at approximately 6:49 PM
and came out at approximately 7:09 PM***

Ms. Terracio moved to come out of Executive Session, seconded by Mr. Weaver.

In Favor: Branham, Pugh, McBride, Livingston, Terracio, Weaver, Barron, Walker, English, and Newton

Not Present: Mackey

The vote in favor was unanimous.

Mr. Pugh indicated Council entered into Executive Session to receive legal advice. No action was taken in Executive Session.

- a. Personnel Matter – Grievance Reviews and Recommendations [Pursuant to SC Code of Laws, Sec. 30-4-70(a)(1)] – Ms. Newton moved to approve the Grievance Committee recommendations, as presented in Executive Session, for Grievance #s OS1146; AC8346, AC2846, and OS5356, seconded by Ms. Barron.

In Favor: Branham, Pugh, McBride, Livingston, Terracio, Weaver, Barron, Walker, English, and Newton

Not Present: Mackey

The vote in favor was unanimous.

Ms. Newton moved to reconsider this item, seconded by Ms. Terracio.

Opposed: Branham, Pugh, McBride, Livingston, Terracio, Weaver, Barron, Walker, English, and Newton

Not Present: Mackey

The motion for reconsideration failed.

- b. Property Inquiry – 1221 Gregg Street, Columbia, SC 29201, TMS #R11406-16-16, TMS #R11406-016-17[Pursuant to SC Code of Laws, Sec. 30-4-70(a)(2)] – Ms. Barron moved to authorize the County Administrator to execute the property agreement, as presented in Executive Session, seconded by Ms. Terracio.

In Favor: Branham, Pugh, McBride, Livingston, Terracio, Weaver, Barron, Walker, English, and Newton

Not Present: Mackey

The vote in favor was unanimous.

Ms. Barron moved to reconsider this item, seconded by Ms. English.

Opposed: Branham, Pugh, McBride, Livingston, Terracio, Weaver, Barron, Walker, English, and Newton

Not Present: Mackey

The motion for reconsideration failed.

- c. Legal Advice: Clerk of Court/Judicial Center [Pursuant to SC Code of Laws, Sec. 30-4-70(a)(2)] – No action was taken.

d. Fire Services Agreement between the City of Columbia and Richland County – No action was taken.

21. **MOTION PERIOD** – There were no motions submitted.

22. **ADJOURNMENT** – Ms. Newton moved to adjourn the meeting, seconded by Ms. Barron.

In Favor: Branham, Pugh, McBride, Livingston, Terracio, Weaver, Barron, Walker, English, and Newton

Not Present: Mackey

The vote in favor was unanimous.

The meeting adjourned at approximately 7:12 PM.

RICHLAND COUNTY COUNCIL
STATE OF DISASTER DECLARATION

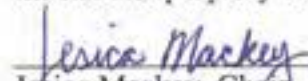
SEPTEMBER 30, 2024

As the impact of Hurricane Helene continues in South Carolina, Richland County has implemented emergency planning for anticipated problems and is preparing for emergency actions that may be needed. The effects of Hurricane Helene that may endanger lives and property in Richland County include wind damage, tornados, flash flooding, long-term flooding, downed trees and power lines, and other emergency situations. Richland County has opened the Emergency Operations Center and has implemented the Emergency Operations Plan. Activities are underway to respond to the conditions created by the storm and the flooding associated with rain from areas north of Richland County that will move through Richland County creating additional flooding.

Therefore, I, Jessica Mackey, Chair of Richland County Council, hereby declare a State of Disaster in accordance with the Richland County Code of Ordinances, Chapter 2, Administration; Article V, County Departments; Division 5, Emergency Services; Section 2-139 (3) (e), today, effective immediately, due to impacts beginning September 26, 2024.


1. Suspend existing laws and regulations prescribing the procedures for conduct of county or municipal business if strict compliance with the provisions of any statutes, order, rule or regulation would in any way prevent, hinder, or delay necessary action in coping with the emergency.
2. Utilize all available resources of county and municipal government as reasonably necessary to cope with the impact of Hurricane Helene.
3. Transfer the direction, personnel, or functions of county and municipal departments and agencies or units thereof for purposes of facilitating or performing emergency services as necessary or desirable.
4. Compel performance by government officials and employees of the duties and functions assigned in the county emergency plan.
5. Contract, requisition and compensate for goods and services from private sources.
6. Direct evacuations of all or part of the population from any stricken or threatened area within the county or municipality if such action is deemed necessary for the preservation of life or other disaster mitigation, response, or recovery.
7. Prescribe routes, modes of transportation, and destinations in connection with evacuations.
8. Control ingress and egress to and from a disaster area, the movement of persons within the area, and the occupancy of premises therein.
9. Suspend or limit the sale, dispensing, or transportation of alcoholic beverages, firearms, explosives, and combustibles.
10. Make provisions for the availability and use of temporary housing.
11. Suspend or limit non-emergency activities and prohibit public assemblies.
12. Implement curfews during declared disaster events.

This declaration shall remain in force until emergency conditions associated with the storm have subsided and the emergency activities in Richland County are no longer necessary to protect the life and property of our citizens.



Jessica Mackey, Chair
Richland County Council District 9

ATTEST THIS 30th DAY OF SEPTEMBER, 2024.



Anette Aquino Kirylo
Richland County Clerk of Council

STATE OF SOUTH CAROLINA
COUNTY COUNCIL FOR RICHLAND COUNTY
ORDINANCE NO. 035-24HR

AN EMERGENCY ORDINANCE DECLARING THAT A LOCALIZED STATE OF EMERGENCY EXISTS WITHIN THE COUNTY OF RICHLAND AND AUTHORIZING THE APPROPRIATE ACTIONS TO BE TAKEN IN CONNECTION THEREWITH.

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 THE RICHLAND COUNTY COUNCIL:

SECTION I.

WHEREAS, Richland County Council is empowered by Section 5-7-250(d) of the South Carolina Code of Laws and Section 2-31 of the Code of Ordinances of Richland County to adopt emergency ordinances to meet public emergencies affecting life, health, safety or the property of the people; and

WHEREAS, pursuant to Section 5-7-250(d), such emergency ordinance shall be enacted by the affirmative vote of at least two-thirds of the members of council present, is effective immediately upon its enactment without regard to any reading, public hearing, publication requirements, or public notice requirements, and shall expire automatically as of the sixty-first day following the date of enactment; and

WHEREAS, Hurricane Helene made landfall in South Carolina on or about September 26, 2024 and significantly impacted Richland County causing wind damage, tornados, flash flooding, long term flooding, downed trees and power lines, and other emergency situations, all of which may endanger lives and property and whose aftermath continues to impact Richland County; and

WHEREAS, Richland County Council found it necessary to enact an emergency ordinance as a result of its determination that a localized emergency exists within Richland County regarding Hurricane Helene and directed that certain measures be taken to address that emergency; and

WHEREAS, Actions may need to be taken including, but not limited to: directing an evacuation of affected areas, implementing Emergency Shelter Activation, requesting assistance from the State Emergency Management Division, the implementation of Emergency Procurement policies to purchase necessary equipment and supplies to deal with this emergency, and other actions authorized by the county code of ordinances.

NOW, THEREFORE, by the power and authority granted to the Richland County Council by the Constitution of the State of South Carolina and the powers granted to the County by the General Assembly of the State, the following is hereby ordained and enacted:

1. **DECLARATION OF STATE OF EMERGENCY:** In accordance with Sections 5-7-250(d) of the South Carolina Code of Laws and Section 2.31 of the Code of Ordinances for Richland County, Richland County Council hereby declares that a localized emergency exists and hereby authorizes the County Council Chair to issue an Emergency Disaster Declaration.
2. **TERMINATION/EXPIRATION:** This Ordinance shall remain in effect for sixty (60) days from passage unless sooner terminated by Resolution of County Council.

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

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

SECTION IV. Effective Date. This ordinance shall be effective from and after October 1, 2024.

RICHLAND COUNTY COUNCIL

By: _____
 Jessica Mackey, Chair

ATTEST THIS THE 1st DAY

OF October, 2024.

Anette Kirylo
Clerk of Council

RICHLAND COUNTY ATTORNEY'S OFFICE

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

**STATE OF SOUTH CAROLINA
COUNTY COUNCIL FOR RICHLAND COUNTY
ORDINANCE NO. 034-24HR**

AN ORDINANCE AUTHORIZING THE LEVYING OF AD VALOREM PROPERTY TAXES, WHICH, TOGETHER WITH THE PRIOR YEAR’S CARRYOVER AND OTHER STATE LEVIES AND ANY ADDITIONAL AMOUNT APPROPRIATED BY THE RICHLAND COUNTY COUNCIL PRIOR TO JULY 1, 2024, WILL PROVIDE SUFFICIENT REVENUES FOR THE OPERATIONS OF RICHLAND COUNTY GOVERNMENT DURING THE PERIOD FROM JULY 1, 2024, THROUGH JUNE 30, 2025.

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 THE COUNTY COUNCIL FOR RICHLAND COUNTY:

SECTION 1. That a tax for the General Fund to cover the period from July 1, 2024 to June 30, 2025, both inclusive, is hereby levied upon all taxable property in Richland County, in a sufficient number of mills not to exceed sixty one (61) to be determined from the assessment of the property herein.

SECTION 2. That the additional taxes, besides that noted above in Section 1, to cover the period of July 1, 2024 to June 30, 2025, both inclusive, are hereby levied upon all taxable property in Richland County for the funds:

<u>NAME</u>	<u>MILLS</u>
General Fund Debt Service	10.0
Solid Waste – Landfill	3.7
Capital Replacement	3.5
Library	15.7
Mental Health	1.3
Riverbanks Zoo	0.6
Conservation Commission	0.5
Neighborhood Redevelopment	0.5

SECTION 3. That the additional taxes, besides that noted in Section 1 and 2, to cover the period from July 1, 2024 to June 30, 2025, both inclusive, are hereby levied upon all taxable property located within each of the following respective Special Tax Districts in Richland County for the following Funds:

<u>NAME</u>	<u>MILLS</u>
Fire Service – Operations	21.1
Fire Service – Debt Service	0.5
School District One – Operations	251.3
School District One – Debt Service	55.0
School District Two – Operations	311.1
School District Two – Debt Service	96.0
Recreation Commission – Operations	13.6
Recreation Commission – Debt Service	0.5
Midlands Technical College – Operations	3.7
Midlands Technical College – Capital	1.0
Midlands Technical College – Debt Service	1.0
Riverbanks Zoo – Debt Service	1.2
Stormwater Management	3.2
East Richland Public Service District – Debt Service	4.8

SECTION 4. Conflicting Ordinances Repealed. All Ordinances or parts of Ordinances in conflict with the provisions of this Ordinance are hereby repealed.

SECTION 5. Separability. 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 6. Effective Date. This Ordinance shall become effective October 1, 2024.

RICHLAND COUNTY COUNCIL

BY: Jessica Mackey, Chair

ATTEST THIS THE 1st DAY

OF October, 2024.

Anette Kirylo
Clerk of Council

RICHLAND COUNTY ATTORNEY'S OFFICE

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

First Reading: May 9, 2024
Public Hearing: May 23, 2024
Second Reading: June 4, 2024
Third Reading: October 1, 2024

STATE OF SOUTH CAROLINA)
)
COUNTY OF RICHLAND)

A RESOLUTION

Resolution # 2024-1001-001

APPROVING THE ASSIGNMENT OF THE PUBLIC INFRASTRUCTURE CREDIT AGREEMENT BY AND BETWEEN CATAWBA APARTMENTS, LLC AND RICHLAND COUNTY, SOUTH CAROLINA; AUTHORIZING THE COUNTY'S EXECUTION AND DELIVERY OF AN ASSIGNMENT AND ASSUMPTION OF PUBLIC INFRASTRUCTURE CREDIT AGREEMENT IN CONNECTION WITH SUCH ASSIGNMENT; AND AUTHORIZING OTHER MATTERS RELATED THERETO.

WHEREAS, Richland County, South Carolina (the "County"), acting by and through its County Council ("County Council"), 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, the "Act"), as well as by an Ordinance duly enacted by the County Council on May 18, 2021, did previously enter into that certain Public Infrastructure Credit Agreement, effective as of May 18, 2021 (the "Credit Agreement"), with Catawba Apartments, LLC, a Delaware limited liability company ("Catawba Apartments"), pursuant to which Catawba Apartments committed to, among other things, make certain taxable investment in real and personal property in the County to establish market rate housing in the County (here and hereinafter, and as further defined in the Credit Agreement, the "Project") and the County agreed, among other things, to grant certain Public Infrastructure Credits (as defined in the Credit Agreement) to Catawba Apartments to pay the costs of designing, acquiring, constructing, improving and expanding certain Company Public Infrastructure (as defined in the Credit Agreement) in connection with the Project;

WHEREAS, Catawba Apartments desires to assign to Columbia SC Student Housing DST, a Delaware statutory trust (the "Company") and the Company desires to assume all of Catawba Apartments' rights, title, interest and obligations in connection with the acquisition, development and construction of the Project, including Catawba Apartments' right, title, interest and obligations under the Credit Agreement ("Assignment");

WHEREAS, pursuant to Section 4.2 of the Credit Agreement, Catawba Apartments may assign or otherwise transfer any of its rights and interest in the Credit Agreement under certain conditions set forth therein including, but not limited to, the prior written consent of the County, which such consent may be given by resolution;

WHEREAS, in satisfaction of such conditions, and upon request by Catawba Apartments and the Company, the County desires to approve the Assignment, and as further evidence of such approval, to execute and deliver an Assignment and Assumption of Public Infrastructure Credit Agreement with Catawba Apartments and the Company, the substantially final form of which is attached hereto as Exhibit A (the "Assignment and Assumption Agreement");

WHEREAS, for operational purposes, the Company desires to lease the Project to its affiliate, Columbia SC Student Housing LeaseCo, L.L.C., a Delaware limited liability company (the "Master Tenant") under a Master Lease to be entered by the Company and the Master Tenant, and the Company and Master Tenant have requested the County's consent to such lease arrangement as evidence of the compliance of such lease arrangement with the Credit Agreement and the Act; and

WHEREAS, it appears that the Assignment and Assumption Agreement now before this meeting is in appropriate form and is an appropriate instrument to be executed and delivered by the County for the purposes intended.

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

Section 1. Approval of Credit Agreement Assignment. The County hereby approves the Assignment and acknowledges that, to the extent required by the Credit Agreement, this Resolution is an official consent to the Credit Agreement Assignment for purposes of Section 4.2 of the Credit Agreement. This Assignment is effective as of the delivery of an executed Assignment and Assumption Agreement, which such Assignment and Assumption Agreement is to be substantially in the form attached hereto as Exhibit A and hereby approved, or with such revisions thereto as are not materially adverse to the County and as shall be approved by the officials of the County executing the same.

Section 2. Approval of Master Tenant. The County hereby consents to the above-referenced lease arrangement between the Company and Master Tenant and acknowledges the compliance of such lease arrangement with the provisions of the Credit Agreement and the Act.

Section 3. Authorization. The County Council authorizes the Chairman of the County Council, the County Administrator for and on behalf of the County, to take whatever further actions as may be reasonably necessary and prudent to effect this Resolution.

Section 4. Severability. Should any part, provision, or term of this Resolution be deemed unconstitutional or otherwise unenforceable by any court of competent jurisdiction, such finding or determination shall not affect the rest and remainder of the Resolution or any part, provision or term thereof, all of which is hereby deemed separable.

Section 5. Repealer Clause. All orders, resolutions, or any parts of either, in conflict with this Resolution are, to the extent of that conflict, repealed. This Resolution is effective and remains in effect as of its adoption by the County Council.

[End of Resolution]

APPROVED AND ADOPTED IN A MEETING THIS 1ST DAY OF OCTOBER, 2024.

RICHLAND COUNTY, SOUTH CAROLINA

Chair
Richland County Council

Clerk to Council
Richland County Council

RICHLAND COUNTY ATTORNEY'S OFFICE

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

EXHIBIT A

Form of Assignment and Assumption of Public Infrastructure Credit Agreement

See attached.

**ASSIGNMENT AND ASSUMPTION
OF PUBLIC INFRASTRUCTURE CREDIT AGREEMENT**

THIS ASSIGNMENT AND ASSUMPTION OF PUBLIC INFRASTRUCTURE CREDIT AGREEMENT (this “Assignment and Assumption Agreement”) is made and entered into to be effective as of [____], 2024 (the “Effective Date”), by and among **CATAWBA APARTMENTS, LLC**, a Delaware limited liability company (“Assignor”), **COLUMBIA SC STUDENT HOUSING DST**, a Delaware statutory trust (“Assignee”), and **RICHLAND COUNTY, SOUTH CAROLINA**, a body politic and corporate and political subdivision of the State of South Carolina (the “County”).

W I T N E S S E T H:

WHEREAS, the County, acting by and through its County Council (“County Council”), 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, the “Act”), as well as by an Ordinance duly enacted by the County Council on May 18, 2021, did previously enter into that certain Public Infrastructure Credit Agreement, effective as of May 18, 2021 (the “Credit Agreement”), with Assignor pursuant to which Assignor committed to, among other things, make certain taxable investment in real and personal property in the County to establish market rate housing in the County (here and hereinafter, and as further defined in the Credit Agreement, the “Project”) and the County agreed, among other things, to grant certain Public Infrastructure Credits (as defined in the Credit Agreement) to Assignor to pay the costs of designing, acquiring, constructing, improving and expanding certain Company Public Infrastructure (as defined in the Credit Agreement) in connection with the Project; and

WHEREAS, pursuant to that certain Purchase and Sale Agreement, dated as of [____], 2024, by and between Assignor and Assignee (as amended, restated, supplemented, or otherwise modified from time to time, the “PSA”), Assignee agreed to purchase from Assignor, and Assignor agreed to sell to Assignee, certain real property located in the County, including, without limitation, the Project; and

WHEREAS, pursuant to Section 4.2 of the Credit Agreement, Assignor may assign or otherwise transfer any of its rights and interest in the Credit Agreement under certain conditions set forth therein including, but not limited to, the prior written consent of the County, which such consent was granted by the County by a Resolution of the County Council dated [October 1], 2024 (the “Resolution”); and

WHEREAS, for operational purposes, Assignee does lease, or shall lease, the Project to its affiliate Columbia SC Student Housing LeaseCo, L.L.C., a Delaware limited liability company (“Master Tenant”) under that certain Master Lease dated _____, 2024, and Assignee and Master Tenant obtained the County’s consent to such lease arrangement in the Resolution as evidence of the compliance of such lease arrangement with the Credit Agreement and the Act.

NOW, THEREFORE, in consideration of TEN AND NO/100 DOLLARS (\$10.00) and other good and valuable consideration, the receipt, adequacy and sufficiency of which are hereby acknowledged, the parties hereto agree as follows:

1. Credit Agreement Assignment. Assignor does hereby assign, and Assignee does hereby assume, all of Assignor’s obligations, rights, title, and interest in, to, and under the Credit Agreement as of the Effective Date (the “Credit Agreement Assignment”).
2. Acknowledgement of the County. The County hereby confirms its approval of the Credit Agreement Assignment and the above-referenced lease arrangement between Assignee and Master Tenant

as set forth in the Resolution, to be effective as of the Effective Date. The County hereby acknowledges that the Credit Agreement, and all of Assignor's obligations, rights, title, and interest in, to, and under the Credit Agreement have been transferred to and assumed by Assignee as of the Effective Date and subject to the terms of the Credit Agreement agrees to grant Public Infrastructure Credits to Assignee with respect to the Project, including, but not limited to, the Property for the Credit Term (as such terms are defined in the Credit Agreement) and up to an amount equal to the Company Public Infrastructure costs collectively invested by Assignor, all as set forth in greater detail in the Credit Agreement.

3. Mutual Indemnities. Assignor agrees to indemnify, defend and hold Assignee, its affiliates, successors and assigns, harmless from and against any and all claims, actions, charges, fees and expenses (including, without limitation, reasonable attorneys' fees and court costs) and liabilities (collectively, "Claims") that result directly from the failure of Assignor to perform its obligations under, or to observe the covenants and conditions in, the Credit Agreement, provided that any such obligation accrued and that such failure occurred prior to the Effective Date. Assignee agrees to indemnify, defend and hold Assignor, its affiliates, successors and assigns, harmless from and against any and all Claims that: (a) result directly from the failure of Assignee to perform its obligations under, or to observe the covenants and conditions in, the Credit Agreement, provided that any such obligation accrued and that such failure occurred on or after the Effective Date; or (b) arise from any modification or amendment to the Credit Agreement on or after the Effective Date.

4. Representations and Warranties by Assignor and County. Assignor hereby represents and warrants to Assignee that, to the best of Assignor's knowledge, Assignor is not in default under the Credit Agreement as of the Effective Date. The County hereby represents that, to the best of the County's knowledge, Assignor is not in default under the Credit Agreement.

5. Notices. From and after the Effective Date, the parties hereto agree that the address to be utilized with respect to Assignee under Section 4.7 of the Credit Agreement shall hereafter be as follows:

Columbia SC Student Housing DST
Attn: Asset Manager
2901 Butterfield Road
Oak Brook, Illinois 60523

with a copy to: The Inland Real Estate Group, LLC
Law Department
Attn: General Counsel
2901 Butterfield Road
Oak Brook, Illinois 60523

6. Amendment. This Assignment and Assumption Agreement may be amended, modified or supplemented, and any provision hereof may be waived, only by written agreement of the parties hereto.

7. Governing Law. This Assignment and Assumption Agreement shall be construed and enforced in accordance with, and the rights of the parties shall be governed by, the laws of the State of South Carolina.

8. Successors and Assigns. This Assignment and Assumption Agreement shall be binding upon and inure to the benefit of Assignor and Assignee and their respective successors and assigns. This Assignment and Assumption Agreement is not intended and shall not be deemed to confer upon or give any person, except the parties hereto and their respective successors and permitted assigns, any remedy, claim, liability,

reimbursement, cause of action or other right under or by reason of this Assignment and Assumption Agreement.

9. Severability. In the event that any clause or provisions of this Assignment and Assumption Agreement shall be held to be invalid by any court of competent jurisdiction, the invalidity of such clause or provision shall not affect the remaining provisions hereof.

10. Counterparts; Electronic Signature. This Assignment and Assumption Agreement may be executed in two or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument and shall become binding when one or more of the counterparts have been signed by each of the parties and delivered to the other party. Signature pages may be delivered with original signatures or by photostatic reproduction, telephonic facsimile transmission, email or other electronic transmission or other similar means whereby each original signature has been reproduced (including pdf or any electronic signature complying with the U.S. federal ESIGN Act of 2000, e.g. www.docuSign.com), and all reproduced signatures shall be deemed “electronic signatures” and equivalent to an original signature for all purposes.

11. County Expenses. Assignor and Assignee shall reimburse the County for reasonable and necessary expenses, including, reasonable and necessary attorneys' fees, related to the assignment of the Credit Agreement from Assignor to Assignee, including reviewing this Assignment and Assumption Agreement and related documents, in an amount not to exceed \$1,000. Assignor and Assignee shall reimburse the County no more than thirty (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.

[SIGNATURE PAGE TO FOLLOW]

IN WITNESS WHEREOF, Assignor, Assignee, and the County have caused this Assignment and Assumption of Public Infrastructure Credit Agreement to be executed as of the Effective Date.

COUNTY:

Richland County, South Carolina, a body politic and corporate and political subdivision of the State of South Carolina

Chair
Richland County Council

ATTEST:

Clerk to Council
Richland County Council

RICHLAND COUNTY ATTORNEY'S OFFICE

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

ASSIGNOR:

CATAWBA APARTMENTS, LLC, a Delaware limited liability company

By: _____

Name: _____

Title: _____

ASSIGNEE:

**COLUMBIA SC STUDENT HOUSING
EXCHANGE, L.L.C.**, a Delaware statutory trust

By: Inland Private Capital Corporation,
a Delaware corporation, its sole member

By: _____

Name: _____

Title: _____



STATE OF SOUTH CAROLINA
COUNTY OF RICHLAND

RESOLUTION

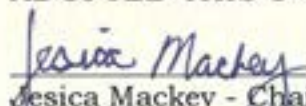
**A RESOLUTION TO APPOINT AND COMMISSION
OSCAR NAZARIO AS CODE ENFORCEMENT OFFICER
FOR THE PROPER SECURITY, GENERAL WELFARE,
AND CONVENIENCE OF RICHLAND COUNTY**

WHEREAS, the Richland County Council, in the exercise of its general police power, is empowered to protect the health and safety of the residents of Richland County; and

WHEREAS, the Richland County Council is further authorized by Section 4-9-145 of the Code of Laws of South Carolina 1976, as amended, to appoint and commission as many code enforcement officers as may be necessary for the proper security, general welfare, and convenience of the County;

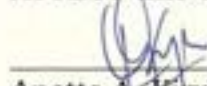
NOW, THEREFORE, BE IT RESOLVED THAT: Oscar Nazario is hereby appointed and commissioned a Code Enforcement Officer of Richland County for the purpose of providing for the proper security, general welfare, and convenience of the County, replete with all the powers and duties conferred by law upon constables in addition to such duties as may be imposed upon them by the governing body of this County, including the enforcement of the County's public works regulations and the refuse control management regulations and the use of an ordinance summons, and with all the powers and duties conferred pursuant to the provisions of Section 4-9-145 of the Code of Laws of South Carolina 1976, as amended. Provided, however, Oscar Nazario shall not perform any custodial arrests in the exercise of their duties as code enforcement officer. This appointment shall remain in effect only until such time as Oscar Nazario is no longer employed by Richland County to enforce the County's public works and refuse control management regulations.

ADOPTED THIS 1st DAY OF October, 2024.



Jessica Mackey - Chair
Richland County Council District 9

ATTEST this 1st day of October, 2024



Anette A. Kirylo
Richland County Clerk to Council





STATE OF SOUTH CAROLINA
COUNTY OF RICHLAND

RESOLUTION

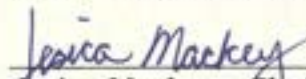
**A RESOLUTION TO APPOINT AND COMMISSION
MILMETRIA DAVIS AS CODE ENFORCEMENT OFFICER
FOR THE PROPER SECURITY, GENERAL WELFARE,
AND CONVENIENCE OF RICHLAND COUNTY**

WHEREAS, the Richland County Council, in the exercise of its general police power, is empowered to protect the health and safety of the residents of Richland County; and

WHEREAS, the Richland County Council is further authorized by Section 4-9-145 of the Code of Laws of South Carolina 1976, as amended, to appoint and commission as many code enforcement officers as may be necessary for the proper security, general welfare, and convenience of the County;

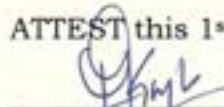
NOW, THEREFORE, BE IT RESOLVED THAT, Milmetria Davis is hereby appointed and commissioned a Code Enforcement Officer of Richland County for the purpose of providing for the proper security, general welfare, and convenience of the County, replete with all the powers and duties conferred by law upon constables in addition to such duties as may be imposed upon them by the governing body of this County, including the enforcement of the County's public works regulations and the refuse control management regulations and the use of an ordinance summons, and with all the powers and duties conferred pursuant to the provisions of Section 4-9-145 of the Code of Laws of South Carolina 1976, as amended. Provided, however, Milmetria Davis shall not perform any custodial arrests in the exercise of their duties as code enforcement officer. This appointment shall remain in effect only until such time as Milmetria Davis is no longer employed by Richland County to enforce the County's public works and refuse control management regulations.

ADOPTED THIS 1st DAY OF October, 2024.



Jessica Mackey - Chair
Richland County Council District 9

ATTEST this 1st day of October, 2024



Anette A. Kirylo
Richland County Clerk to Council





Report of the County Administrator

Regular Session - October 15, 2024

ITEMS FOR EXECUTIVE SESSION:

PROPERTY INQUIRY – CAPITAL PROJECTS: COLUMBIA PLACE MALL

FIRE SERVICES AGREEMENT BETWEEN THE CITY OF COLUMBIA AND RICHLAND COUNTY

UPDATES FOR CONSIDERATION:

SOIL AND WATER CONSERVATION DISTRICT – ANNUAL REPORT

INDEPENDENT ACCOUNTANT’S REPORT – TRANSPORTATION SALES AND USE TAX FOR THE FISCAL YEAR ENDED JUNE 30, 2023

COMPREHENSIVE PLAN UPDATE

SOUTH CAROLINA ASSOCIATION OF COUNTIES: FALL ADVOCACY MEETING, INSTITUTE OF GOVERNMENT, & AWARDS - OCTOBER 16 – 17, 2024

- County Council Chair Jessica Mackey and County Administrator Leonardo Brown will serve as panelists during the Institute of Government *Level I: Strategic Planning* course to be held on Wednesday, October 16, 2024 at 1PM

GENERAL UPDATES

ADMINISTRATOR’S NOMINATION:

Items in this section require action that may prejudice the County’s interest in a discernable way (i.e. time sensitive, exigent, or of immediate importance)

MIDLANDS WORKFORCE DEVELOPMENT BOARD – LOCAL WORKFORCE DEVELOPMENT AREA SUBSEQUENT DESIGNATION PETITION: The petition must be used by any entity requesting subsequent designation as a Local Workforce Development Area pursuant to Public Law 113-128, the South Carolina Workforce Innovation and Opportunity Act (WIOA).

CONSTRUCTION CONTRACT APPROVAL - OLYMPIA MAGISTRATE: The Chief Magistrate requests approval of the contract for the construction of the Olympia Magistrate with a Richland County Sheriff’s Substation at a gross maximum price of \$4,468,440 to be located at 3650 Bluff Road.

CONSTRUCTION CONTRACT APPROVAL - PONTIAC MAGISTRATE: The Chief Magistrate requests approval of the contract for the construction of the Pontiac Magistrate at a gross maximum price of \$2,511,860 to be located on Clemson Road between 683 and 703 Clemson Road.

NEW EMPLOYEE PROBATIONARY PERIOD: Staff requests Council approval to change the new employee probationary period from twelve months to an introductory period of six months (180 days) effective November 1, 2024.

ATTACHMENTS:

1. Independent Accountant's Report – Transportation Sales and Use Tax for the Fiscal Year Ended June 30, 2023
2. Informational Briefing - Comprehensive Plan Update
3. Midlands Workforce Development Board – Local Workforce Development Area Subsequent Designation Petition
4. Agenda Briefing: Construction Contract Approval - Olympia Magistrate
5. Agenda Briefing: Construction Contract Approval - Pontiac Magistrate
6. Agenda Briefing: New Employee Probationary Period

INDEPENDENT ACCOUNTANT'S REPORT

To the County Council of
Richland County, South Carolina
Columbia, South Carolina

We have examined **Richland County, South Carolina's** (the "County") assertion that the County expended the proceeds from its local transportation sales and use tax in compliance with the requirements of South Carolina Department of Revenue, Revenue Ruling #22-2, and the South Carolina Code of Laws, Chapter 37, Title 4, for the fiscal year ended June 30, 2023. Management of the County is responsible for its assertion. Our responsibility is to express an opinion on the County's compliance with the specified requirements associated with the use of its local transportation sales and use tax based on our examination.

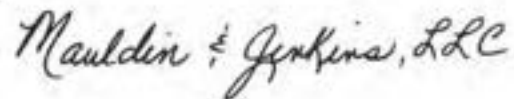
Our examination was conducted in accordance with attestation standards established by the American Institute of Certified Public Accountants. Those standards require that we plan and perform the examination to obtain reasonable assurance about whether the County complied, in all material respects, with the specified requirements associated with the use of its local transportation sales and use tax based on our examination. An examination involves performing procedures to obtain evidence about whether the County complied with the specified requirements associated with the use of its local transportation sales and use tax. The nature, timing, and extent of the procedures selected depend on our judgement, including an assessment of the risks of material noncompliance associated with the use of its local sales and use transportation tax, whether due to fraud or error. We believe that the evidence we obtained is sufficient and appropriate to provide a reasonable basis for our opinion.

We are required to be independent and to meet our other ethical responsibilities in accordance with relevant ethical requirements relating to the engagement.

Our examination does not provide a legal determination on the County's compliance with South Carolina Department of Revenue, Revenue Ruling #22-2 and the South Carolina Code of Laws, Chapter 37, Title 4.

In our opinion, the County complied, in all material respects, with the requirements of South Carolina Department of Revenue, Revenue Ruling #22-2, and the South Carolina Code of Laws, Chapter 37, Title 4, relating to its expenditures of its local transportation sales and use tax for the fiscal year ended June 30, 2023.

This report is intended solely for the information and use of Richland County, South Carolina and is not intended to be and should not be used by anyone other than this specified party.



Columbia, South Carolina
September 26, 2024



Project Update

Prepared by:	Synithia Williams	Title:	Director
Department:	Community Planning & Development	Division:	
Date Prepared:	October 4, 2024	Meeting Date:	October 15, 2024
Approved for Consideration:	Assistant County Administrator	Aric A Jensen, AICP	
Committee:	Regular Session		
Council Initiative/Project:	Comprehensive Plan Update		

EXECUTIVE SUMMARY (NARRATIVE STATUS):

The Comprehensive Planning team met on Thursday, October 3, 2024 and finalized plans for the engagement strategy, which include three large public forums during each phase of the project, and a combination of in-person and online/virtual activities to gain public feedback.

Community Planning and Development has finalized the needs for Advisory Committee Members and will forward a letter to Council for recommendations. The goal is to have members selected by the end of October so the first Advisory Committee meeting can take place during the 2nd or 3rd week of November.

Nealon Planning is developing an independent project website for the Comprehensive Plan that is linked to the County’s website. This will allow for a more dynamic experience than is currently possible with the County’s web format. The goal is to have the site live in November.

Nealon Planning continues to request data from the County and other agencies around the Midlands.

The tentative date for the County-wide tour with Nealon Planning is October 30, 2024, but this date has conflicts with some members of the consulting team. Nealon will poll the group for other potential dates.

KEY ACCOMPLISHMENTS/MILESTONES

Identified the needs for the Advisory Group. October 3, 2024

CRITICAL ISSUES:

None applicable

TOP RISKS/CONCERNS:

- A delay in appointing members to the Advisory Committee may delay the first introductory meeting which will in turn delay the project.

PENDING ACTIONS/DELIVERABLES AND ANTICIPATED COMPLETION DATES:

- Select Advisory Committee members;
- Finalize the date for the County tour with Nealon Planning.

ATTACHMENT:

1. Advisory Committee Recommendation Letter

**RICHLAND COUNTY GOVERNMENT
COMMUNITY PLANNING & DEVELOPMENT**

2020 Hampton Street, Columbia, SC 29204
T 803-929-6000 | TDD 803-576-2045
richlandcountysc.gov

Attachment 1



October 7, 2024

RE: Citizen Advisory Committee for 2025 Comprehensive Plan Update

Dear Council members,

The South Carolina Local Government Comprehensive Planning Enabling Act of 1994 requires that each local government in the state of South Carolina establish a comprehensive plan that includes all elements considered "critical, necessary, and desirable" to guide development and redevelopment in its area of jurisdiction. According to Section 6-29-510, "The local planning commission shall review the comprehensive plan or elements of it as often as necessary, but not less than once every five years, to determine whether changes in the amount, kind, or direction of development of the area or other reasons make it desirable to make additions or amendments to the plan."

The current Richland County Comprehensive Plan was adopted in March 2015. In order to remain in compliance with state legislation, the plan must be reviewed and updated by December 2025. Major updates to the land use and priority investment elements are necessary to ensure that development in the county is consistent with the community's vision.

The selected consultant for the 2025 Comprehensive Plan Update, Nealon Planning, has requested the formation of an Advisory Committee to assist with the implementation process. This committee will play a crucial role in providing guidance to both the consultant and staff, particularly regarding citizen outreach efforts across the County. The committee's insights will help ensure a comprehensive, inclusive, and transparent process for the 2025 Comprehensive Plan Update.

The Advisory Committee's responsibilities will include:

- Act as a liaison to the community about the project – Listen, and help raise awareness of the project and community outreach opportunities;
- Provide insight and expertise on local conditions and issues;
- Brainstorm ideas and concepts with the Consultant Team;
- Review and comment on draft plan ideas, recommendations, and work products (maps, presentations, reports, etc.) to ensure clarity and accessibility;
- Develop recommendations that reflect the community's needs and priorities.

The ideal size of the committee should be approximately 12 members. A chair and vice chair are recommended. Staff is requesting that each Council member nominate at least one (1) representative and one (1) alternate from their districts to serve on the Committee. Attached is the Advisory Committee Guidance to take into consideration when selecting a nominee along with the Advisory Committee Charge and Time Commitment information.

Please provide the name and contact information for each of your nominees by October 31st.

Sincerely,

Synthia Williams
Director of Community Planning and Development

Advisory Committee Guidance

The Advisory Committee should consist of representatives from community organizations, interest groups, and institutions with local knowledge and expertise in topics related to one or more plan elements. Those appointed to the committee should represent differing points of view and experiences, and should be reflective of the diversity of the community. Typically, the committee does not include staff. (Stakeholder interviews will allow for input from municipal/county departments.)

The following are examples of the types of people and interests that could be represented:

- Long-time residents (consider 30+ years)
- Newcomers (has lived in Richland County for less than 5 or 10 years)
- Seasonal / student population
- Landowners (large parcels)
- Pro-growth
- No growth
- Environmentalists
- Business / merchants' associations
- Economic development
- Real estate / development
- Culture / history
- Institutions
- Major employers
- Community health and well-being

Advisory Committee | Charge and Time Commitment

Charge: Under South Carolina state law, the role of the Planning Commission is to review the Comprehensive Plan and make a recommendation to the County Council, and the role of the County Council is to review and adopt the document. As a result, the Advisory Committee (AC) has a function that is different from these roles and complements them. Committee members have four key responsibilities:

1. To serve as a sounding board for the project, providing feedback to the project team on draft plan content as well as information to be shared by the project team in soliciting input from the public.
2. To serve as a community ambassador for the community planning process, working to publicize opportunities for public participation in the process, and engage other community stakeholders in this work.
3. To become knowledgeable about the plan, and help share accurate information about it, the issues it addresses, and the solutions it proposes.
4. To serve as a champion for all that is good about the plan, highlighting the vision it advances and the benefits it will bring.

Time Commitment: The Committee will meet about four times over a ten-month period. These meetings will be in person unless a virtual option is more practical for some meetings. Because of the limited number of meetings, it is important that Committee members make a special effort to attend all the meetings. The Advisory Committee will be invited to attend community meetings within their respective districts. The members of this committee may also be invited to attend community meetings in other districts. Working with the project team, the County staff will make every effort to share information with the Committee in a timely manner.

State of South Carolina
Workforce Innovation and Opportunity Act

Local Workforce Development Area Subsequent Designation Petition

This Petition must be used by any entity requesting subsequent designation as a Local Workforce Development Area pursuant to Public Law 113-128, the Workforce Innovation and Opportunity Act (WIOA).

Section I. Petitioning Jurisdiction(s)

A. Designation as a Workforce Development Area is requested for the following county(ies).

- Richland _____
- Lexington _____
- Fairfield _____
- _____
- _____
- _____
- _____
- _____

B. Specify the name of the proposed Workforce Development Area.

Midlands _____

C. List the names of the chief elected officials (CEOs) representing the units of general local government on whose behalf this petition is being submitted.

<u>County</u>	<u>Name</u>
Richland	Jesica Mackey
Lexington	Beth Carrigg
Fairfield	Douglas Pauley

D. List the name, title, mailing address, telephone number, fax number and e-mail address of the primary contact person regarding this petition.

Name:	Tammy Beagen
Title:	Director
Mailing Address:	100 Executive Center Drive
	Suite 218
	Columbia, SC 29210
Telephone Number:	(803) 744-1670 x303
Fax Number:	n/a
E-Mail Address:	tbeagen@midlandsworkforce.org

Section II. Consortium Agreement

If the local area includes more than one unit of general local government, the chief elected officials must negotiate a consortium agreement in order to establish a workforce development area to deliver WIOA funded services. Such agreement must be included as an attachment to this subsequent designation petition.

Section III. Existing Workforce Area

A. In the tables below, provide the final WIOA performance data for each of the last two (2) consecutive years.

Program Year 2023 (July 1, 2023 – June 30, 2024)							
Performance Measure		Employment Rate Q2	Employment Rate Q4	Median Earnings	Credential Rate	Measurable Skill Gains	Overall Program Score
Title I Adult	Goal	77.1	79	\$6600	54.5	55.2	111.1
	Actual	79.1	76.5	\$8526	64.8	59.5	
	% of Goal	102.6	96.8	129.2	118.9	107.8	
Title I DW	Goal	82.8	83.7	\$8258	66.2	57.1	108.0
	Actual	87.5	85.7	\$8728	77.8	62.1	
	% of Goal	105.7	102.4	105.7	117.5	108.8	
Title I Youth	Goal	82.6	78.9	\$4241	65.0	52.8	111.2
	Actual	75.2	80.0	\$6007	66.7	63.1	
	% of Goal	91.0	101.4	141.6	102.6	119.5	
Overall Indicator Score		99.8	100.2	125.5	113.0	112.0	

Program Year 2022 (July 1, 2022 – June 30, 2023)							
Performance Measure		Employment Rate Q2	Employment Rate Q4	Median Earnings	Credential Rate	Measurable Skill Gains	Overall Program Score
Title I Adult	Goal	77.1	79.0	\$6600	54.5	55.2	109.1
	Actual	75.5	76.4	\$7182	67.5	65.3	
	% of Goal	97.9	96.7	108.8	123.9	118.3	
Title I DW	Goal	85.8	83.7	\$8258	66.2	57.1	108.4
	Actual	76.3	80.3	\$9143	59.6	87.5	
	% of Goal	92.1	95.9	110.7	90.0	153.2	
Title I Youth	Goal	82.6	78.9	\$4241	65.0	52.8	115.2
	Actual	80.3	83.4	\$6496	54.7	71.7	
	% of Goal	97.2	105.7	153.2	84.2	135.8	
Overall Indicator Score		95.8	99.5	124.2	99.3	135.8	

For each measure, the US Department of Labor defines performance as follows:

- Meets performance =
 - Individual Indicator Score—50% of goal for each individual measure
 - Overall Indicator Score—90% of goal for overall individual measure
 - Overall Program Score—90% of goal for overall program performance
- Does not meet performance =
 - Individual Indicator Score—less than 50% of goal for an individual measure
 - Overall Indicator Score—less than 90% of overall individual measure
 - Overall Program Score—less than 90% of overall program performance

If any measure was not met in either program year, address the reasons, corrective action measures taken, and current status.

N/A

B. Address fiscal integrity regarding funds provided under WIOA.

Has the Secretary made a formal determination, during either of the last 2 consecutive years, that WIOA funds provided to the area were misexpended due to willful disregard of the requirements of the provision involved, gross negligence, or failure to comply with accepted standards of administration?

No

Section IV. Local Board Information

Using Attachment A, provide a list of local board members, to include composition categories and contact information.

Section V. Grant Recipient/Fiscal Agent

Using Attachment B, designate the grant recipient/fiscal agent for the area. Signature of the lead official is required. Signatures of each chief elected official are also required. The use of electronic signatures is permissible.

Section VI. Public Comment

Attach documentation that public input was solicited and provide all comments received.

Section VII. Assurances and Signatures

A. Assurances

The chief elected officials (CEOs) making this designation request assure the following:

- They are duly authorized to participate by and on behalf of the governing bodies of the counties specified and documentation of this authorization can be provided;
- They will comply with the requirements of the Act, all federal regulations implementing the Act, any revisions or amendments thereto, state issued instructions, and any and all applicable federal, state or local rules and regulations; and,
- They accept liability for any misuse of grant funds.

B. Signatures—The use of electronic signatures is permissible.

I/We, the undersigned chief elected official(s) of the petitioning county(ies), do hereby submit this formal designation petition under the conditions delineated herein and with the assurances specified herein.

<u>County</u>	<u>Signature</u>	<u>Date</u>
Richland	_____	_____
Lexington	_____	_____
Fairfield	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____

Submit Petition to WorkforceSupport@dew.sc.gov by 5:00 p.m., October 31, 2024.

WIOA Local Workforce Development Board Membership

Total Seats 24 Seats Occupied 24 Seats Vacant 0

Business (per Section 107(b)(2)(A))				
No.	Name	Affiliation and Title	Contact Phone and Email	Address
1	Jimmy Burroughs	Fairfield Property, Realtor	(803) 936-3870 cwinnsboro@truvista.net	3531 US Hwy 321 N Winnsboro, SC 29180
2	Danielle Diaz	Apex Tool Group, HR Manager	(800) 845-5629 Danielle.diaz@apextoolgroup.com	670 Industrial Drive Lexington, SC 29072
3	Jennifer Hathcock	Hitachi Rail, HR Manager	(803) 532-4432 Jennifer.hathcock@hitachirail.com	645 Russell St Batesburg-Leesville, SC 29006
4	Carl Kennedy	Element TV Company, LP, Vice President	(803) 815-1400 Carl.K@elementtv.com	PO Box 581 Winnsboro, SC 29180
5	Michelle Kershaw	Humanitics, LLC, Owner	(803) 546-6659 Monk3300@gmail.com	4210 Handelwood Court Columbia, SC 29206
6	Cecilia Kusnirak	Global Tissue Group, Human Resources Manager	(304) 886-7751 barnwellissueapplications@gmail.com	239 Battery Creek Dr Gaston, SC 29053
7	Laura McKinney	First Community Bank, Community Development Officer	(803) 951-0570 lmckinney@firstcommunitysc.com	2830 Sunset Blvd West Columbia, SC 29169
8	Kevin McNerney	Colite, Executive Vice President	(803) 212-8569 kmcnerney@colite.com	5 Technology Circle Columbia, SC 29205
9	Ritchie Monteith	Blanchard Machinery, Training and Development Manager	(803) 718-2403 jmonteith@blanchardmachinery.com	3151 Charleston Hwy West Columbia, SC 29172
10	Reggie Murphy	Keller Williams Realty, Broker in Charge	(803) 348-1699 regmurph@bellsouth.net	701 Cornhill Rd Columbia, SC 29210
11	Harry Plexico, Jr	Intertape Polymer Group, Plant Management	(803) 348-7404 hplexico@hotmail.com	PO Box 654 White Rock, SC 29177
12	Michael Ray	Training Concepts, Sr Account Manager	(803) 765-9070 Michael@trainingconcepts.com	250 Berryhill Rd Ste 502 Columbia, SC 29210
13	Sheena Thompson	Mark Anthony Brewing, People Operations Business Partner	(803) 917-9184 sthompson@markanthony.com	3160 Shop Road Columbia, SC 29209
14	Jami Turner	Lexington Medical Center, Assistant Director Business Partner	(803) 791-2357 jturner@lexhealth.org	2720 Sunset Blvd West Columbia, SC 29169

Not Less Than 20% (per Section 107(b)(2)(B))				
No.	Name	Affiliation and Title	Contact Phone and Email	Address
1	Ben Mauldin	SC Youth Advocate, Transportation Coordinator	(803) 779-5500 benimauldin@gmail.com	140 Stoneridge Dr Suite 350 Columbia, SC 29210
2	Tim Miller	Walker White, Program Director (Apprenticeship)	(803) 691-0918 tmiller@walker-white.com	7402 Fairfield Road Columbia, SC 29203
3	David Prigge	Lexington/Richland School District Five Career & Technical Education Director	(803) 735-3332 dprigge@lexrich5.org	6671 St Andrews Rd Columbia, SC 29212
4	Laura Reeder	SC Teachers Association, Member Associate	(803) 767-8684 Lfreeder@gmail.com	111 Huffstetler Street Columbia, SC 29210
5	Debra Stripling	Communication Workers Association 3706, President	(803) 807-0083 debracstripling@bellsouth.net	PO Box 2508 West Columbia, SC 29171

Education & Training (per Section 107(b)(2)(C))				
No.	Name	Affiliation and Title	Contact Phone and Email	Address
1	Bobby Cunningham	Richland County School District Two Adult Education Director	(803) 736-8787 bcunningham@richland2.org	750 Old Clemson Rd Columbia, SC 29229
2	Lauren Holland	Midlands Technical College, Vice Provost for Corp & Cont. Education	(803) 691-3880 HollandL@midlandstech.edu	PO Box 2408 Columbia, SC 29202

Governmental, Economic, and Community Development (per Section 107(b)(2)(D))				
No.	Name	Affiliation and Title	Contact Phone and Email	Address
1	Donna Earley	SC Commission for the Blind, Administrative Coordinator	(803) 898-1049 Donna.earley@sccb.sc.gov	1430 Confederate Avenue Columbia, SC 29201
2	Jeff Ruble	Richland County Director, Economic Development	(803) 576-1368 Ruble.jeffrey@richlandcountysc.gov	1201 Main St Ste 910 Columbia, SC 29201
3	Fabian Zalewa	SC Dept of Employment & Workforce Area Manager	(803) 737-4365 fzalewa@dew.sc.gov	PO Box 995 Columbia SC 29202

Others as Chief-Elected Officials Determine Appropriate (per Section 107(b)(2)(E))				
No.	Name	Affiliation and Title	Contact Phone and Email	Address
1				
2				
3				

Denote multiple representation with an asterisk (*).

Total Number of Seats Filled	24
Number of Seats Filled Representing Business	14
Percentage of Seats Filled Representing Business	58.3%
Number of Seats Filled Representing Not Less than 20%	5
Percentage of Seats Filled Representing Not Less than 20%	20.8%
Number of Seats Filled Representing Education & Training	2
Number of Seats Filled Representing Gov't, Economic & Comm. Dev.	3
Number of Seats Filled Representing Others by Chief Elected Officials	0

Midlands Local Workforce Development Area

Designation of Grant Recipient/Fiscal Agent

The Chief Elected Officials of the Midlands Local Workforce Development Area hereby designate Central Midlands Council of Governments as the grant recipient and fiscal agent pursuant to the Workforce Innovation and Opportunity Act (WIOA).

While WIOA permits the local Chief Elected Officials (CEOs) to designate an entity to serve on their behalf as grant recipient and fiscal agent, the CEOs understand that this designation does not relieve them of their liability for any misuse of grant funds. The use of electronic signatures is permissible.

County	Authorized Signature	Date
<u>Richland</u>	_____	_____
<u>Lexington</u>	_____	_____
<u>Fairfield</u>	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____

As the authorized signatory official of Central Midlands Council of Governments, I accept the responsibilities as WIOA grant recipient and fiscal agent for the Midlands Workforce Development Area.

D. Britt Poole, Executive Director _____

Name and Title	Signature	Date
----------------	-----------	------

MIDLANDS WORKFORCE DEVELOPMENT AREA INTERLOCAL CONSORTIUM AGREEMENT

This Agreement is mutually reached among the following parties: Elected Officials of Fairfield, Lexington and Richland Counties; Midlands Workforce Development Board; and Central Midlands Council of Governments.

WHEREAS, the State of South Carolina Workforce Development Board, pursuant to Public Law 113-128, the Workforce Innovation and Opportunity Act (WIOA), has designated the Midlands Workforce Development Area (MWDA) to include Fairfield, Lexington and Richland Counties; and

WHEREAS, the Midlands Workforce Development Area has a local Workforce Development Board, the Midlands Workforce Development Board (hereinafter, MWDB) established in accordance with WIOA criteria at section 107 (b) (1) (2) (3) (4) (5) (6) of the Workforce Innovation and Opportunity Act of 2014;

Now, therefore, the respective county councils, the MWDB and the Central Midlands Council of Governments (hereinafter, CMCOG) enter into the following agreement for the provision of programs and services authorized by WIOA;

1. **Purpose.** MWDB, a workforce development planning entity, will implement and carry out the provisions of the Workforce Innovation and Opportunity Act for Fairfield, Lexington, and Richland counties and such other workforce initiatives as may result from cooperative and collaborative relationships fostered by MWDB in carrying out its responsibilities for workforce development in the Midlands Workforce Development Area.

2. **Consortium Structure.** The parties to this agreement concur to an equitable delineation of responsibility, duty, and partnership with regard to the implementation and execution of WIOA. This partnership includes selection of the fiscal agent and administrative entity for the purposes of oversight, management, and operation of Adult, Dislocated Worker, and Youth activities, as well as the One-Stop delivery system.

3. **Designation of Chief Local Elected Official (CLEO).** The CLEO is the Chief Local Elected Official selected among the consortium of Local Elected Officials and represents the Local Elected Officials in the Workforce Development Area. The CLEO shall be a rotating position, serving a term of one (1) year, to be filled by a consortium member County Council Chair on a rotating basis. The service order for CLEO shall be by alphabetical order of the county name. To avoid any conflict of interest (actual or perceived), the CLEO shall not serve as the highest ranking officer on any Board or other entity that governs the fiscal agent or service delivery provider(s). The CLEO shall be the designated authority to execute documents, agreements, transactions, make decisions and execute time sensitive issues.

4. **Fiscal Agent.** All funds allocated by the Governor to any of the MWDA counties, under the Workforce Innovation and Opportunity Act shall be received by CMCOG as the fiscal agent of the grant recipient and disbursed as provided in Attachment A to this agreement and in accordance with state and federal WIOA requirements and conditions.
5. **Administrative Entity.** CMCOG will serve as Administrative Entity and carry out the functions described in Attachment A to the agreement.
6. **Liability.** In accordance with WIOA the Local Elected Officials of the Consortium counties retain financial liability for the MWDA even when designating the Administrative Entity as the fiscal agent for WIOA funds. Fiscal responsibilities will be allocated among the Consortium counties based on the ratio of funds received each year through the Act.
7. **Board Appointment.** The parties to this agreement shall establish and maintain a Local Workforce Development Board in accordance with federal and state guidelines. The WDB shall be comprised of the mandatory partners and maintain a majority of membership by business representatives from the private sector, as identified in WIOA. Appointments to the board will be conducted by the respective counties in accordance with the accepted processes and guidelines generally followed for board, commission or other service positions. To maintain consistency and effectiveness of leadership, the service term of seats on the board shall expire on a staggered or alternating basis.
8. **Amendments.** This interlocal consortium agreement is dynamic in nature, and can be modified or amended, if the need arises and the respective signatories agree.
9. **Duration.** Subject to its execution by all parties, the agreement shall become effective and continue indefinitely; unless it is amended or terminated under the terms of this document.
10. **Termination.** Any County that is part of this agreement may withdraw from it rendering it null and void by giving 180 calendar days written notice prior to the end of the then existing program year. The same conditions for termination of the agreement shall apply to CMCOG and the MWDB.

Signed for and on behalf of:

FAIRFIELD COUNTY

By: _____
Its: Chairman

Date: _____

LEXINGTON COUNTY

By: _____
Its: Chairman

Date: _____

RICHLAND COUNTY

By: _____
Its: Chairman

Date: _____

MIDLANDS WORKFORCE DEVELOPMENT BOARD

By: _____
Its: Chairman

Date: _____

CENTRAL MIDLANDS COUNCIL OF GOVERNMENTS

By: _____
Its: Executive Director

Date: _____

ATTACHMENT A

ROLES AND RESPONSIBILITIES

CHIEF LOCAL ELECTED OFFICIALS (CLEO), MWDB, FISCAL AGENT AND ADMINISTRATIVE ENTITY

I. Role of Midlands Workforce Area Chief Elected Officials (CLEOs)

CLEOs shall be responsible for:

- A. **Fiscal Liability:** In accordance with WIOA, the Local Elected Officials of the Consortium counties retain financial liability for the MWDA (even when designating the Administrative Entity as the fiscal agent for) WIOA funds. Fiscal responsibilities will be allocated among the Consortium counties based on the ratio of funds received each year through the Act (**Ref. Item 6**).
- B. **Local Grant Recipient/Fiscal Agent Selection:** All funds allocated by the Governor to any of the MWDA counties, under the Workforce Innovation and Opportunity Act shall be received by CMCOG as the fiscal agent of the grant recipient and disbursed as provided in Attachment A to this agreement and in accordance with state and federal WIOA requirements and conditions (**Ref Items 4, 5**).
- C. **Appointment of MWDB members:** The MWDB will be comprised of membership in Accordance with WIOA Sec. 107, and compliance with criteria established by the Governor, and State Workforce Development Board (SWDB).

Appointments to the board will be conducted by the respective counties in accordance with the accepted processes and guidelines generally followed for board, commission or other service positions. To maintain consistency and effectiveness of leadership, the service term of seats on the board shall expire on a staggered or alternating basis (**Ref Item 7**).
- D. **Designation of Chief Elected Official (CLEO).** The CLEO is the Chief Local Elected Official selected among the consortium of Local Elected Officials and representing the Local Elected Officials in the Workforce Development Area. The CLEO shall be a rotating position, serving a term of one (1) year, to be filled by a consortium member County Council Chair on a rotating basis. The service order for CLEO shall be by alphabetical order of the county name. To avoid any conflict of interest (actual or perceived), the CLEO shall not serve as the highest ranking officer on any Board or other entity that governs the fiscal agent or service delivery provider(s). The CLEO shall be the designated authority to execute documents, agreements, transactions, make decisions and execute time sensitive issues (**Ref. Item 3**).

II. Role of the MWDB

MWDB (in partnership with CLEO) shall be responsible for:

- A. Approving policies and providing oversight of WIOA-funded and other workforce-funded activities in the three-county workforce development area;
- B. Providing oversight of the day-to-day operation of the Workforce Development system, and ensure that all activities comply with the provisions of the Act, MWDB policies and directives, federal state and county regulations to include:
 - 1. Implementing Board workforce system policies and directives;
 - 2. Maintaining a management information system;
 - 3. Providing monthly programmatic and financial reports;
 - 4. Implementing customer grievance procedures as established by MWDB and CMCOG;
 - 5. Implementing Board approved procedures to ensure appropriate conduct and performance of programs and services;
 - 6. Conducting monitoring and providing technical assistance to promote and enhance optimal performance; and
 - 7. Providing technical assistance to service providers as required.
- C. Developing and modifying the five-year local workforce development plan and conducting oversight of the One-Stop system, WIOA-funded Adult, Dislocated Worker, and Youth employment and training activities;
- D. Selecting of Director and staff to serve the MWDB in compliance with the Administrative Entities policies and applicable available to work criteria, as well as within the means of MWDB budget. Additionally, this shall include determination of staff location, movement, replacement and/or termination of the staff that serve under the periphery of the MWDB Staff within the policies and criteria of the Administrative Entity;
- E. Coordinating workforce development activities with economic development strategies and cultivating employer linkages by promoting private sector involvement in the workforce development system through effective connecting, brokering, leveraging and partnership-building activities;
- F. Selecting operators and providers of WIOA services in the MWDA in accordance with the provisions of WIOA sections inclusive of One-Stop Operators, Youth providers, eligible providers of training services and eligible providers of career services;
- G. Developing a budget for the purpose of carrying out Board activities including an annual budget and any required modifications thereto for the Administrative Entity's

MWDB staff, in accordance with WIOA section 107(d)(12) (A); and forwarding this budget to the CMCOG Board for adoption;

- H. Ensuring that all contracts with service providers establish clear goals and obligations in unambiguous terms;
- I. Negotiating and reaching agreement on local performance measures with the chief elected officials and the Governor;
- J. Designate and maintain standing committees for planning, operation, management, etc., in accordance with WIOA that include:
 - 1. Operation and management of the One-Stop delivery system;
 - 2. Youth services;
 - 3. Services to individuals with disabilities.
- K. Scheduling and staffing all board and committee meetings; and
- L. Attending federal, state and local meetings, conferences and training as needed.

III. Role of the Administrative Entity and Fiscal Agent: Central Midlands Council of Governments

- A. Support activities of the MWDB and carry out WIOA grant requirements and policy directives, including:
 - 1. Staying abreast of and keeping MWDB apprised of federal and state policy directives and pending changes;
 - 2. Providing information regarding anticipated and pending legislation;
 - 3. Ensuring compliance with federal, state and local directives, as required by WIOA; and
 - 4. Attending federal, state and local meetings, conferences and training as needed
- B. Utilization of contracting system which includes:
 - 1. Employing an MWDB-approved system for the award and monitoring of contracts with eligible service providers, said contracts containing acceptable standards for ensuring accountability and ensuring the CMCOG Executive Director's approval, by signature, as designated agent for MWDB, of each MWDB contract;
 - 2. Acting with due diligence to monitor the implementation of the contracts, including carrying out appropriate fiscal monitoring activities (including audits) at regular intervals;
 - 3. Taking prompt and appropriate corrective action upon notice of violations of the Act or the implementing of regulations with all contracts;

4. Ensuring that all contracts for services approved by MWDB are competitively procured in accordance with CMCOG requirements; and
 5. Implementing contract type, terms, and specifications as approved by MWDB.
-
- C. Ensure the appropriate use and management of the funds provided under WIOA subtitle B for the activities and system and for workforce development activities, ensure the appropriate use, management, and investment of funds to maximize performance outcomes under section 116 (ref: WIOA sec 107 (d))
 - D. Receipt and accountability for all Workforce Innovation & Opportunity Act funds;
 - E. Establishment and maintenance of a financial management system;
 - F. Providing monthly financial reports;
 - G. Establishment and maintenance of procurement and contracting system;
 - H. Processing payment and reimbursements authorized by duly enacted board-approved policies;
 - I. Monitoring and reporting as required to the MWDB, local elected officials, state, CMCOG, and US Department of Labor; and
 - J. Engaging and selecting an auditor to audit all funds as required by the Act.



Agenda Briefing

Prepared by:	Lori Thomas	Title:	Assistant County Administrator
Department:	Administration	Division:	
Date Prepared:	September 20, 2024	Meeting Date:	October 15, 2024
Legal Review	Patrick Wright via email	Date:	October 2, 2024
Budget Review	Maddison Wilkerson via email	Date:	September 25, 2024
Finance Review	Stacey Hamm via email	Date:	September 25, 2024
Approved for consideration:	County Administrator	Leonardo Brown, MBA, CPM	
Meeting/Committee	Regular Session		
Subject	Construction Contract Approval for the Olympia Magistrate at 3650 Bluff Road		

RECOMMENDED/REQUESTED ACTION:

The Chief Magistrate requests approval of the contract for the construction of the Olympia Magistrate with a Richland County Sheriff's Substation at a gross maximum price of \$4,468,440 to be located at 3650 Bluff Road.

Request for Council Reconsideration: Yes

FIDUCIARY:

Are funds allocated in the department's current fiscal year budget?	<input type="checkbox"/>	Yes	<input checked="" type="checkbox"/>	No
If not, is a budget amendment necessary?	<input type="checkbox"/>	Yes	<input checked="" type="checkbox"/>	No

ADDITIONAL FISCAL/BUDGETARY MATTERS TO CONSIDER:

Funding was previously approved and allocated for Magistrate facility construction/improvements. Currently available for these projects is \$7,314,149. The cost of this facility is still available from these funds.

Applicable fund, cost center, and spend category:

Fund: 1301
Cost Center: 9950
Spend Category: Construction
Project: Olympia Magistrate Office
Loan: General Obligation Bonds 2020A

OFFICE OF PROCUREMENT & CONTRACTING FEEDBACK:

In 2017, a Request for Qualifications RC-035-Q-2017 was issued for a Design-Build team to provide design, management and construction services for various magistrate renovations and new builds, as part of the County's efforts to house all magistrate's in County-owned facilities. GMK Associates was awarded the first two projects- Hopkins and Upper Township magistrate's offices as the immediate result of the RFQ. This request continues work with the selected team in pursuit of the endeavor.

COUNTY ATTORNEY'S OFFICE FEEDBACK/POSSIBLE AREA(S) OF LEGAL EXPOSURE:

There are no legal concerns regarding this matter.

REGULATORY COMPLIANCE:

Not applicable.

MOTION OF ORIGIN:

Mr. Walker moved to approve the priority list proposed by the Chief Magistrate for improvements and/or relocation of County Magistrate facilities in the following order: Olympia, Pontiac, Lykeland, Dentsville, Waverly, and Eastover, seconded by Ms. English.

Council Member	The Honorable Overture Walker, District 8
Meeting	Regular Session
Date	February 6, 2024

STRATEGIC & GENERATIVE DISCUSSION:

On February 6, 2024, Council gave unanimous approval to the County Magistrate Offices Improvement Priority List. This approval was given relative to funding of \$ 7,314,149 that remains in previously allocated funds for the construction and/or improvement of Magistrate facilities.

The Chief Magistrate's office previously had a standard design developed for all new magistrate facilities; however, this design is proprietary with the recommended vendor. While costs will be similar, costs between facilities may vary based upon the requirements of specific geographic locations. At the Olympia facility, a Richland County Sheriff's Substation will also be constructed adjacent to the Magistrate's office.

This facility will be located centrally in the Olympia magistrate area to provide services to the residents in the area. The land for this facility was provided by the Columbia Empowerment Zone which will provide multi-family living, senior assisted living, medical facilities, and a community marketplace.

The Magistrate's office requests approval of the contract with GMK for \$4,468,440 for the construction of this facility.

ASSOCIATED STRATEGIC GOAL, OBJECTIVE, AND INITIATIVE:

Goal: Plan for Growth through Inclusive and Equitable Infrastructure

Objective: Create excellent facilities

ADDITIONAL COMMENTS FOR CONSIDERATION:

Not applicable.

ATTACHMENTS:

1. Contract for the Construction of the Bluff Road Magistrate Office
2. Location Map
3. Minutes from February 6, 2024 Council meeting.



AIA[®] Document A141[®] – 2014

Standard Form of Agreement Between Owner and Design-Builder

GMP VERSION

AGREEMENT made as of the Nineteenth day of September in the year Two-Thousand
Twenty-Four.

(In words, indicate day, month and year.)

BETWEEN the Owner:

(Name, legal status, address and other information)

Richland County Administration
2020 Hampton Street, Suite 4069
P.O. Box 192
Columbia, SC 29201
(803) 576-2050
Email: adminoffice@richlandcountysc.gov

and the Design-Builder:

(Name, legal status, address and other information)

GMK Associates Design-Build Division, Inc.
1201 Main Street, Suite 2100
Columbia, SC 29201
Office Ph: (803) 256-0000

for the following Project:

(Name, location and detailed description)

New Richland County Magistrate's Office
Bluff Road Facility with Sheriff Substation
Columbia, SC

The Owner and Design-Builder agree as follows.

ADDITIONS AND DELETIONS:

The author of this document has added information needed for its completion. The author may also have revised the text of the original AIA standard form. An *Additions and Deletions Report* that notes added information as well as revisions to the standard form text is available from the author and should be reviewed. A vertical line in the left margin of this document indicates where the author has added necessary information and where the author has added to or deleted from the original AIA text.

This document has important legal consequences. Consultation with an attorney is encouraged with respect to its completion or modification.

Consultation with an attorney is also encouraged with respect to professional licensing requirements in the jurisdiction where the Project is located.

init.

AIA Document A141 – 2014. Copyright © 2004 and 2014. All rights reserved. "The American Institute of Architects," "American Institute of Architects," "AIA," the AIA Logo, and "AIA Contract Documents" are trademarks of The American Institute of Architects. This document was produced at 11:49:17 ET on 05/19/2024 under Order No. 2114450827 which expires on 01/03/2025, is not for resale, is licensed for one-time use only, and may only be used in accordance with the AIA Contract Documents[®] Terms of Service. To report copyright violations, e-mail docinfo@aiacontracts.com.

User Notes:

(1834644090)

TABLE OF ARTICLES

- 1 GENERAL PROVISIONS
- 2 COMPENSATION AND PROGRESS PAYMENTS
- 3 GENERAL REQUIREMENTS OF THE WORK OF THE DESIGN-BUILD CONTRACT
- 4 WORK PRIOR TO EXECUTION OF THE DESIGN-BUILD AMENDMENT
- 5 WORK FOLLOWING EXECUTION OF THE DESIGN-BUILD AMENDMENT
- 6 CHANGES IN THE WORK
- 7 OWNER'S RESPONSIBILITIES
- 8 TIME
- 9 PAYMENT APPLICATIONS AND PROJECT COMPLETION
- 10 PROTECTION OF PERSONS AND PROPERTY
- 11 UNCOVERING AND CORRECTION OF WORK
- 12 COPYRIGHTS AND LICENSES
- 13 TERMINATION OR SUSPENSION
- 14 CLAIMS AND DISPUTE RESOLUTION
- 15 MISCELLANEOUS PROVISIONS
- 16 SCOPE OF THE AGREEMENT

TABLE OF EXHIBITS

- A DESIGN-BUILD AMENDMENT
- B INSURANCE AND BONDS
- C SUSTAINABLE PROJECTS *[Not Used]*

ARTICLE 1 GENERAL PROVISIONS

§ 1.1 Project Criteria *[Section not Used]*

§ 1.2 Project Team

§ 1.2.1 The Owner identifies the following representative in accordance with Section 7.1.1
(List name, address and other information.)

TBD

§ 1.2.2 The persons or entities, in addition to the Owner's representative, who are required to review the Design-Builder's Submittals are as follows:
(List name, address and other information.)

init.

(11)

§ 1.2.3 The Owner will retain the following consultants and separate contractors:
(List discipline, scope of work, and, if known, identify by name and address.)

§ 1.2.4 The Design-Builder identifies the following representative in accordance with Section 3.1.2:
(List name, address and other information.)

Ryan S. McCormick, PE
Director, Design-Build Division
GMK Associates Design-Build Division, Inc.
1201 Main Street, Suite 2100
Columbia, SC 29201
Email: RSMcCormick@gmka.com
Ofc: (803) 255-0355
Cell: (803) 269-4229

§ 1.2.5 Neither the Owner's nor the Design-Builder's representative shall be changed without ten (10) days' written notice to the other party.

§ 1.3 Binding Dispute Resolution

For any Claim subject to, but not resolved by, mediation pursuant to Section 14.3, the method of binding dispute resolution shall be the following:

(Check the appropriate box. If the Owner and Design-Builder do not select a method of binding dispute resolution below, or do not subsequently agree in writing to a binding dispute resolution other than litigation, Claims will be resolved by litigation in a court of competent jurisdiction.)

- Arbitration pursuant to Section 14.4.
- Litigation in a court of competent jurisdiction where the project is located.
- Other: *(Specify)*

§ 1.4 Definitions

§ 1.4.1 **Design-Build Documents.** The Design-Build Documents consist of this Agreement between Owner and Design-Builder and its attached Exhibits (hereinafter, the "Agreement"); other documents listed in this Agreement; and Modifications issued after execution of this Agreement. A Modification is (1) a written Amendment to the Contract signed by both parties, including the Design-Build Amendment, (2) a Change Order, or (3) a Change Directive.

§ 1.4.2 **The Contract.** The Design-Build Documents form the Contract. The Contract represents the entire and integrated Agreement between the parties and supersedes prior negotiations, representations or agreements, either written or oral. The Contract may be amended or modified only by a Modification. The Design-Build Documents shall not be construed to create a contractual relationship of any kind between any persons or entities other than the Owner and the Design-Builder.

§ 1.4.3 **The Work.** The term "Work" means the Design, Construction and related services required to fulfill the Design-Builder's obligations under the Design-Build Documents, whether completed or partially completed, and includes all labor, materials, equipment and services provided or to be provided by the Design-Builder. The Work may constitute the whole or a part of the Project.

init.

§ 1.4.4 **The Project.** The Project is the total Design and Construction of which the Work performed under the Design-Build Documents may be the whole or a part, and may include design and construction by the Owner and by separate contractors.

§ 1.4.5 **Instruments of Service.** Instruments of Service are representations, in any medium of expression now known or later developed, of the tangible and intangible creative work performed by the Design-Builder, Contractor(s), Architect, and Consultant(s) under their respective agreements. Instruments of Service may include, without limitation, studies, surveys, models, sketches, drawings, specifications, digital models and other similar materials.

§ 1.4.6 **Submittal.** A Submittal is any submission to the Owner for review and approval demonstrating how the Design-Builder proposes to conform to the Design-Build Documents for those portions of the Work for which the Design-Build Documents require Submittals. Submittals include, but are not limited to, shop drawings, product data, and samples. Submittals are not Design-Build Documents unless incorporated into a Modification.

§ 1.4.7 **Owner.** The Owner is the person or entity identified as such in the Agreement and is referred to throughout the Design-Build Documents as if singular in number. The term "Owner" means the Owner or the Owner's authorized representative.

§ 1.4.8 **Design-Builder.** The Design-Builder is the person or entity identified as such in the Agreement and is referred to throughout the Design-Build Documents as if singular in number. The term "Design-Builder" means the Design-Builder or the Design-Builder's authorized representative.

§ 1.4.9 **Consultant.** A Consultant is a person or entity providing professional services for the Design-Builder for all or a portion of the Work, and is referred to throughout the Design-Build Documents as if singular in number. To the extent required by the relevant jurisdiction, the Consultant shall be lawfully licensed to provide the required professional services.

§ 1.4.10 **Architect.** The Architect is a person or entity providing design services for the Design-Builder for all or a portion of the Work, and is lawfully licensed to practice architecture in the applicable jurisdiction. The Architect is referred to throughout the Design-Build Documents as if singular in number.

§ 1.4.11 **Contractor.** A Contractor is a person or entity performing all or a portion of the construction, required in connection with the Work, for the Design-Builder. The Contractor shall be lawfully licensed, if required in the jurisdiction where the Project is located. The Contractor is referred to throughout the Design-Build Documents as if singular in number and means a Contractor or an authorized representative of the Contractor.

§ 1.4.12 **Confidential Information.** Confidential Information is information containing confidential or business proprietary information that is clearly marked as "confidential."

§ 1.4.13 **Contract Time.** Unless otherwise provided, Contract Time is the period of time, including authorized adjustments, as set forth in the Design-Build Amendment for Substantial Completion of the Work.

§ 1.4.14 **Day.** The term "day" as used in the Design-Build Documents shall mean calendar day unless otherwise specifically defined.

§ 1.4.15 **Contract Sum.** The Contract Sum is the amount to be paid to the Design-Builder for performance of the Work after execution of the Design-Build Amendment, as identified in Article A.1 of the Design-Build Amendment.

ARTICLE 2 COMPENSATION AND PROGRESS PAYMENTS

§ 2.1 **[Section Not Used] Compensation for Work Performed Prior To Execution of Design-Build Amendment**

§ 2.2 **Contract Sum and Payment for Work Performed After Execution of Design-Build Amendment**

For the Design-Builder's performance of the Work after execution of the Design-Build Amendment, the Owner shall pay to the Design-Builder the Contract Sum in current funds as agreed in the Design-Build Amendment.

Init.

AIA Document A141 – 2014. Copyright © 2004 and 2014. All rights reserved. "The American Institute of Architects," "American Institute of Architects," "AIA," the AIA Logo, and "AIA Contract Documents" are trademarks of The American Institute of Architects. This document was produced at 11:48:17 ET on 09/15/2024 under Order No.2114450827 which expires on 01/03/2025. It is not for resale, is licensed for one-time use only, and may only be used in accordance with the AIA Contract Documents® Terms of Service. To report copyright violations, e-mail docinfo@aiacontracts.com.

User Notes:

(1934844090)

ARTICLE 3 GENERAL REQUIREMENTS OF THE WORK OF THE DESIGN-BUILD CONTRACT

§ 3.1 General

§ 3.1.1 The Design-Builder shall comply with any applicable licensing requirements in the jurisdiction where the Project is located.

§ 3.1.2 The Design-Builder shall designate in writing a representative who is authorized to act on the Design-Builder's behalf with respect to the Project.

§ 3.1.3 The Design-Builder shall perform the Work in accordance with the Design-Build Documents. The Design-Builder shall not be relieved of the obligation to perform the Work in accordance with the Design-Build Documents by the activities, tests, inspections or approvals of the Owner.

§ 3.1.3.1 The Design-Builder shall perform the Work in compliance with applicable laws, statutes, ordinances, codes, rules and regulations, or lawful orders of public authorities. If the Design-Builder performs Work contrary to applicable laws, statutes, ordinances, codes, rules and regulations, and lawful orders of public authorities, the Design-Builder shall assume responsibility for such Work and shall bear the costs attributable to correction.

§ 3.1.3.2 Neither the Design-Builder nor any Contractor, Consultant, or Architect shall be obligated to perform any act which they believe will violate any applicable laws, statutes, ordinances, codes, rules and regulations, or lawful orders of public authorities. If the Design-Builder determines that implementation of any instruction received from the Owner, including those in the Owner's Criteria, would cause a violation of any applicable laws, statutes, ordinances, codes, rules and regulations, or lawful orders of public authorities, the Design-Builder shall notify the Owner in writing. Upon verification by the Owner that a change to the Owner's Criteria is required to remedy the violation, the Owner and the Design-Builder shall execute a Modification in accordance with Article 6.

§ 3.1.4 The Design-Builder shall be responsible to the Owner for acts and omissions of the Design-Builder's employees, Architect, Consultants, Contractors, and their agents and employees, and other persons or entities performing portions of the Work.

§ 3.1.5 General Consultation. The Design-Builder shall schedule and conduct periodic meetings with the Owner to review matters such as procedures, progress, coordination, and scheduling of the Work.

§ 3.1.6 When applicable law requires that services be performed by licensed professionals, the Design-Builder shall provide those services through qualified, licensed professionals.

§ 3.1.7 The Design-Builder, with the assistance of the Architect and Owner, shall prepare and file documents required to obtain necessary approvals of governmental authorities having jurisdiction over the Project.

§ 3.1.8 Progress Reports

§ 3.1.8.1 The Design-Builder shall keep the Owner informed of the progress and quality of the Work. On a monthly basis, or otherwise as agreed to by the Owner and Design-Builder, the Design-Builder shall submit written progress reports to the Owner.

§ 3.1.9 Design-Builder's Schedules

§ 3.1.9.1 The Design-Builder shall prepare and submit for the Owner's information a Schedule for the Work. The Schedule, including the time required for Design and Construction, shall not exceed time limits current under the Design-Build Documents, shall be revised at appropriate intervals as required by the conditions of the Work and Project, shall be related to the entire Project to the extent required by the Design-Build Documents, shall provide for expeditious and practicable execution of the Work, and shall include allowances for periods of time required for the Owner's review and for approval of submissions by authorities having jurisdiction over the Project.

§ 3.1.9.2 The Design-Builder shall perform the Work in general accordance with the most recent Schedules submitted to the Owner.

§ 3.1.10 **Certifications.** Upon the Owner's written request, the Design-Builder shall obtain from the Architect, Consultants, and Contractors, and furnish to the Owner, certifications with respect to the documents and services provided by the Architect, Consultants, and Contractors (a) that, to the best of their knowledge, information and belief, the documents or services to which the certifications relate (i) are consistent with the Design-Build Documents, except to the extent specifically identified in the certificate, and (ii) comply with applicable laws, statutes, ordinances, codes, rules and regulations, or lawful orders of public authorities governing the design of the Project; and (b) that the Owner and its consultants shall be entitled to rely upon the accuracy of the representations and statements contained in the certifications. The Design-Builder's Architect, Consultants, and Contractors shall not be required to execute certificates or consents that would require knowledge, services or responsibilities beyond the scope of their services.

§ 3.1.11 **Design-Builder's Submittals**

§ 3.1.11.1 The Owner's review and approval shall not unreasonably be delayed or withheld. The submission of Submittals shall (1) be coordinated with the Design-Builder's Schedule provided in Section 3.1.9.1, (2) allow the Owner reasonable time to review Submittals, and (3) reflect the progress of the Work.

§ 3.1.11.2 By providing Submittals the Design-Builder represents to the Owner that it has (1) reviewed and approved them, (2) determined and verified materials, field measurements and field construction criteria related thereto, or will do so and (3) checked and coordinated the information contained within such Submittals with the requirements of the Work and of the Design-Build Documents.

§ 3.1.11.3 The Design-Builder shall perform no portion of the Work for which the Design-Build Documents require Submittals until the Owner has approved the respective Submittal.

§ 3.1.11.4 The Work shall be in accordance with approved Submittals except that the Design-Builder shall not be relieved of its responsibility to perform the Work consistent with the requirements of the Design-Build Documents. The Work may deviate from the Design-Build Documents only if the Design-Builder has notified the Owner in writing of a deviation from the Design-Build Documents at the time of the Submittal and a Modification is executed authorizing the identified deviation. The Design-Builder shall not be relieved of responsibility for errors or omissions in Submittals by the Owner's approval of the Submittals.

§ 3.1.11.5 All professional design services or certifications to be provided by the Design-Builder, including all drawings, calculations, specifications, certifications, shop drawings and other Submittals, shall contain the signature and seal of the licensed design professional preparing them. Submittals related to the Work designed or certified by the licensed design professionals, if prepared by others, shall bear the licensed design professional's written approval. The Owner and its consultants shall be entitled to rely upon the adequacy, accuracy and completeness of the services, certifications or approvals performed by such design professionals.

§ 3.1.12 **Warranty.** The Design-Builder warrants to the Owner that materials and equipment furnished under the Contract will be of good quality and new unless the Design-Build Documents require or permit otherwise. The Design-Builder further warrants that the Work will conform to the requirements of the Design-Build Documents and will be free from defects, except for those inherent in the quality of the Work or otherwise expressly permitted by the Design-Build Documents. Work, materials, or equipment not conforming to these requirements may be considered defective. The Design-Builder's warranty excludes remedy for damage or defect caused by abuse, alterations to the Work not executed by the Design-Builder, improper or insufficient maintenance, improper operation, or normal wear and tear and normal usage. If required by the Owner, the Design-Builder shall furnish satisfactory evidence as to the kind and quality of materials and equipment.

§ 3.1.13 **Royalties, Patents and Copyrights**

§ 3.1.13.1 The Design-Builder shall pay all royalties and license fees.

§ 3.1.13.2 The Design-Builder shall defend suits or claims for infringement of copyrights and patent rights and shall hold the Owner and its separate contractors and consultants harmless from loss on account thereof, but shall not be responsible for such defense or loss when a particular design, process or product of a particular manufacturer or manufacturers is required by the Owner, or where the copyright violations are required in the Owner's Criteria.

init.

AIA Document A141 - 2014. Copyright © 2004 and 2014. All rights reserved. "The American Institute of Architects," "American Institute of Architects," "AIA," the AIA Logo, and "AIA Contract Documents" are trademarks of The American Institute of Architects. This document was produced at 11:48:17 ET on 09/19/2024 under Order No. 3114450827 which expires on 01/03/2025. It is not for resale, is licensed for one-time use only, and may only be used in accordance with the AIA Contract Documents® Terms of Service. To report copyright violations, e-mail docinfo@aiacontracts.com.

User Note:

(1934644080)

However, if the Design-Builder has reason to believe that the design, process or product required in the Owner's Criteria is an infringement of a copyright or a patent, the Design-Builder shall be responsible for such loss unless such information is promptly furnished to the Owner. If the Owner receives notice from a patent or copyright owner of an alleged violation of a patent or copyright, attributable to the Design-Builder, the Owner shall give prompt written notice to the Design-Builder.

§ 3.1.14 Indemnification

§ 3.1.14.1 To the fullest extent permitted by law, the Design-Builder shall indemnify and hold harmless the Owner, including the Owner's agents and employees, from and against claims, damages, losses and expenses, including but not limited to attorneys' fees, arising out of or resulting from performance of the Work, but only to the extent caused by the willful or negligent acts or omissions of the Design-Builder, Architect, a Consultant, a Contractor, or anyone directly or indirectly employed by them or anyone for whose acts they may be liable. Such obligation shall not be construed to negate, abridge, or reduce other rights or obligations of indemnity that would otherwise exist as to a party or person described in this Section 3.1.14.

§ 3.1.14.2 The indemnification obligation under this Section 3.1.14 shall not be limited by a limitation on amount or type of damages, compensation, or benefits payable by or for Design-Builder, Architect, a Consultant, a Contractor, or anyone directly or indirectly employed by them, under workers' compensation acts, disability benefit acts or other employee benefit acts.

§ 3.1.15 Contingent Assignment of Agreements

§ 3.1.15.1 Each agreement for a portion of the Work is assigned by the Design-Builder to the Owner, provided that

- .1 assignment is effective only after termination of the Contract by the Owner for cause, pursuant to Sections 13.1.4 or 13.2.2, and only for those agreements that the Owner accepts by written notification to the Design-Builder and the Architect, Consultants, and Contractors whose agreements are accepted for assignment; and
- .2 assignment is subject to the prior rights of the surety, if any, obligated under bond relating to the Contract.

When the Owner accepts the assignment of an agreement, the Owner assumes the Design-Builder's rights and obligations under the agreement.

§ 3.1.16 Design-Builder's Insurance and Bonds. The Design-Builder shall purchase and maintain insurance and provide bonds as set forth in Exhibit B.

ARTICLE 4 [Article Not Used] WORK PRIOR TO EXECUTION OF THE DESIGN-BUILD AMENDMENT

ARTICLE 5 WORK FOLLOWING EXECUTION OF THE DESIGN-BUILD AMENDMENT

§ 5.1 Design Services

§ 5.1.1 Upon the execution of the Design-Build Amendment, the Design-Builder shall commence Design Services for the Work.

§ 5.1.2 Design-Builder's Design Responsibilities

§ 5.1.2.1 The Design-Builder, and its Architect, Interior Designer, and other Consultants, shall perform Design Services consistent with professional skill and care. When applicable law requires that services be performed by licensed professionals, the Design-Builder shall provide those services through the performance of qualified persons or entities duly licensed to practice their professions.

§ 5.1.2.2 The Design-Builder shall coordinate its Design Services with those services provided by the Owner. The Design-Builder shall be entitled to rely on the accuracy and completeness of services and information furnished by the Owner. The Design-Builder shall provide prompt written notice to the Owner if the Design-Builder becomes aware of any error, omission, or inconsistency in such services or information.

Init.

§ 5.1.2.3 The Design-Builder shall coordinate information provided by the Owner with information and data developed by the Design-Builder in the performance of its Design Services.

§ 5.1.2.1 The Design-Builder may provide Additional Services not otherwise designated in the Design-Build Documents, after execution of this Agreement, without invalidating this Agreement. Upon recognizing the need to perform Additional Services that may arise after execution of this Agreement, the Design-Builder shall notify the Owner. The Design-Builder, however, shall not proceed to provide such services until the Design-Builder receives the Owner's written authorization. Except for services due to the fault of the Design-Builder, any Additional Services provided in accordance with this Section, shall entitle the Design-Builder compensation in an equitable manner as authorized by the Owner.

§ 5.1.3 Construction Document Preparation

§ 5.1.3.1 The Design-Builder shall carefully study and compare the Project Criteria Documents, materials and other information provided by the Owner, shall take field measurements of any existing conditions related to the Work, shall observe and conditions at the site affecting the Work, and report promptly to the Owner any errors, inconsistencies, or omissions discovered.

§ 5.1.3.2 The Design-Builder shall provide to the Owner, for the Owner's written approval, Design Documents sufficient to establish the size, quality, and character of the Project; its architectural, structural, mechanical and electrical systems; and the materials and such other elements of the Project to the extent required by the Project Criteria Documents. Deviations, if any, from the Project Criteria Documents, shall be disclosed in writing.

§ 5.1.3.3 Upon the Owner's approved of the Design Documents, the Design-Builder shall prepare Construction Documents for the Project. The Construction Documents shall set forth, in detail, the requirements for construction of the Project. The Construction Documents shall include Drawings and Specifications that establish the quality levels of materials and systems required. Deviations, in any, from the Design Documents shall be disclosed to the Owner in writing. Construction Documents may include drawings, specifications, and other documents and electronic data setting forth in detail the requirements for construction of the Work, and shall:

- .1 be consistent with the approved Project Criteria Documents;
- .2 provide information for the use of those in the building trades; and
- .3 include documents customarily required for regulatory agency approvals.

§ 5.1.3.4 The Design-Builder shall meet with the Owner periodically to review progress of the Construction Documents.

§ 5.1.3.5 The Design-Builder shall not commence construction of the Work prior the Owner's authorization of the Construction Documents.

§ 5.1.3.6 The Design-Builder shall provide the Construction Documents to the Owner for the Owner's review and approval. If the Owner discovers any deviations between the Construction Documents and the Design-Build Documents, the Owner shall promptly notify the Design-Builder of such deviations in writing. The Construction Documents shall modify the Design-Build Documents unless the Owner and Design-Builder execute a Modification. The failure of the Owner to discover any such deviations shall not relieve the Design-Builder of the obligation to perform the Work in accordance with the Design-Build Documents.

§ 5.1.3.7 Upon the Owner's written approval of the Construction Documents, the Design-Builder, with the assistance of the Architect and Owner, shall prepare and file documents required to obtain necessary approvals of governmental authorities having jurisdiction over the Project.

init.

AIA Document A141 - 2014. Copyright © 2004 and 2014. All rights reserved. "The American Institute of Architects," "American Institute of Architects," "AIA," the AIA Logo, and "AIA Contract Documents" are trademarks of The American Institute of Architects. This document was produced at 11:48:17 ET on 08/18/2024 under Order No.2114450627 which expires on 01/03/2025, is not for resale, is licensed for one-time use only, and may only be used in accordance with the AIA Contract Documents® Terms of Service. To report copyright violations, e-mail docinfo@aiacontracts.com.

User Notes:

(1934844080)

§ 5.2 Construction

§ 5.2.1 **Commencement.** Except as permitted in Section 5.2.2, Construction shall not commence prior to execution of the Design-Build Amendment.

§ 5.2.2 If the Owner and Design-Builder agree in writing, Construction may proceed prior to the execution of the Design-Build Amendment. However, such authorization shall not waive the Owner's right to reject the Design-Builder's Proposal.

§ 5.2.3 The Design-Builder shall supervise and direct the Work, using the Design-Builder's best skill and attention. The Design-Builder shall be solely responsible for, and have control over, construction means, methods, techniques, sequences and procedures, and for coordinating all portions of the Work under the Contract, unless the Design-Build Documents give other specific instructions concerning these matters.

§ 5.2.4 The Design-Builder shall be responsible for inspection of portions of Work already performed to determine that such portions are in proper condition to receive subsequent Work.

§ 5.3 Labor and Materials

§ 5.3.1 Unless otherwise provided in the Design-Build Documents, the Design-Builder shall provide, or cause to be provided, and pay for labor, materials, equipment, tools, construction equipment and machinery, water, heat, utilities prior to permanent power, transportation, and other facilities and services, necessary for proper execution and completion of the Work, whether temporary or permanent, and whether or not incorporated or to be incorporated in the Work.

§ 5.3.2 When a material or system is specified in the Design-Build Documents, the Design-Builder may make substitutions only in accordance with Article 6.

§ 5.3.3 The Design-Builder shall enforce strict discipline and good order among the Design-Builder's employees and other persons carrying out the Work. The Design-Builder shall not permit employment of unfit persons or persons not properly skilled in tasks assigned to them.

§ 5.4 Taxes

The Design-Builder shall pay sales, consumer, use and similar taxes, for the Work provided by the Design-Builder, that are legally enacted when the Design-Build Amendment is executed, whether or not yet effective or merely scheduled to go into effect.

§ 5.5 Permits, Fees, Notices and Compliance with Laws

§ 5.5.1 Unless otherwise provided in the Design-Build Documents, the Design-Builder shall secure and pay for the Building Permit as well as any other permits, fees, licenses, and inspections by government agencies, necessary for proper execution of the Work and Substantial Completion of the Project.

§ 5.5.2 The Design-Builder shall comply with and give notices required by applicable laws, statutes, ordinances, codes, rules and regulations, and lawful orders of public authorities, applicable to performance of the Work.

§ 5.5.3 **Concealed or Unknown Conditions.** If the Design-Builder encounters conditions at the site that are (1) subsurface or otherwise concealed physical conditions that differ materially from those indicated in the Design-Build Construction Documents or (2) unknown physical conditions of an unusual nature that differ materially from those ordinarily found to exist and generally recognized as inherent in construction activities of the character provided for in the Design-Build Construction Documents, the Design-Builder shall promptly provide notice to the Owner before conditions are disturbed and in no event later than Twenty-One (21) days after first observance of the conditions. The Owner shall promptly investigate such conditions and, if the Owner determines that they differ materially and cause an increase or decrease in the Design-Builder's cost of, or time required for, performance of any part of the Work, shall recommend an equitable adjustment in the Contract Sum or Contract Time, or both. If the Owner determines that the conditions at the site are not materially different from those indicated in the Design-Build Construction Documents and that no change in the terms of the Contract is justified, the Owner shall promptly notify the Design-Builder in writing, stating the reasons. If the Design-Builder disputes the Owner's determination or recommendation, the Design-Builder may proceed as provided in Article 14.

init.

AIA Document A141 - 2014. Copyright © 2004 and 2014. All rights reserved. "The American Institute of Architects," "American Institute of Architects," "AIA," the AIA Logo, and "AIA Contract Documents" are trademarks of The American Institute of Architects. This document was produced at 11:49:17 ET on 08/19/2024 under Order No.2114450827 which expires on 01/03/2025, is not for resale, is licensed for one-time use only, and may only be used in accordance with the AIA Contract Documents® Terms of Service. To report copyright violations, e-mail docinfo@aiccontracts.com.

User Notes:

(1934844080)

§ 5.5.4 If, in the course of the Work, the Design-Builder encounters human remains, or recognizes the existence of burial markers, archaeological sites, or wetlands, not indicated in the Design-Build Construction Documents, the Design-Builder shall immediately suspend any operations that would affect them and shall notify the Owner. Upon receipt of such notice, the Owner shall promptly take any action necessary to obtain governmental authorization required to resume the operations. The Design-Builder shall continue to suspend such operations until otherwise instructed by the Owner but shall continue with all other operations that do not affect those remains or features. Requests for adjustments in the Contract Sum and Contract Time arising from the existence of such remains or features may be made as provided in Article 14.

§ 5.6 Allowances

§ 5.6.1 The Design-Builder shall include in the Contract Sum all Allowances stated in the Design-Build Documents. Items covered by Allowances shall be supplied for such amounts, and by such persons or entities as the Owner may direct, but the Design-Builder shall not be required to employ persons or entities to whom the Design-Builder has reasonable objection.

§ 5.6.2 Unless otherwise provided in the Design-Build Documents,

- .1 Allowances shall cover the cost to the Design-Builder of materials and equipment delivered at the site, unloading and handling, labor, installation costs, and all required taxes, less applicable trade discounts;
- .2 the Design-Builder's costs for site supervision, overhead, profit, and other expenses contemplated for stated Allowance amounts, shall be included in the Contract Sum but not in the Allowances; and
- .3 whenever costs are more than or less than Allowances, the Contract Sum shall be adjusted accordingly by Change Order. The amount of the Change Order shall reflect (1) the difference between actual costs and the Allowances under Section 5.6.2.1 and (2) changes in Design-Builder's costs under Section 5.6.2.2.

§ 5.6.3 The Owner shall make selections of materials and equipment with reasonable promptness for Allowances requiring Owner selection.

§ 5.7 Key Personnel, Contractors and Suppliers

§ 5.7.1 The Design-Builder shall not employ personnel, or contract with Contractors or Suppliers to whom the Owner has made reasonable and timely objection. The Design-Builder shall not be required to contract with anyone to whom the Design-Builder has made reasonable and timely objection.

§ 5.7.2 If the Design-Builder changes any of the personnel, Contractors or suppliers identified in the Design-Build Amendment, the Design-Builder shall notify the Owner and provide the name and qualifications of the new personnel, Contractor or supplier. The Owner may reply within Fourteen (14) days to the Design-Builder in writing, stating (1) whether the Owner has reasonable objection to the proposed personnel, Contractor or supplier or (2) that the Owner requires additional time to review. Failure of the Owner to reply within the Fourteen (14) -day period shall constitute notice of no reasonable objection.

§ 5.7.3 [Section Not Used]

§ 5.7.3.1 [Section Not Used]

§ 5.8 Documents and Submittals at the Site

The Design-Builder shall maintain at the site for the Owner one copy of the Design-Build Documents and a current set of the Design-Build Construction Documents, in good order and marked currently to indicate field changes and selections made during construction, and one copy of approved Submittals. The Design-Builder shall deliver these items to the Owner in accordance with Section 9.10.2 as a record of the Work as constructed.

§ 5.9 Use of Site

The Design-Builder shall confine operations at the site to areas permitted by applicable laws, statutes, ordinances, codes, rules and regulations, lawful orders of public authorities, and the Design-Build Documents, and shall not unreasonably encumber the site with materials or equipment.

init.

AIA Document A141 – 2014. Copyright © 2004 and 2014. All rights reserved. "The American Institute of Architects," "American Institute of Architects," "AIA," the AIA Logo, and "AIA Contract Documents" are trademarks of The American Institute of Architects. This document was produced at 11:49:17 ET on 09/19/2024 under Order No.2114450827 which expires on 01/03/2025, is not for resale, is licensed for one-time use only, and may only be used in accordance with the AIA Contract Documents® Terms of Service. To report copyright violations, e-mail docinfo@aiaccontracts.com.

User Notes:

(1834644090)

10

§ 5.10 Cutting and Patching

The Design-Builder shall not cut, patch or otherwise alter fully or partially completed construction by the Owner or a separate contractor except with written consent of the Owner and of such separate contractor; such consent shall not be unreasonably withheld. The Design-Builder shall not unreasonably withhold from the Owner or a separate contractor the Design-Builder's consent to cutting or otherwise altering the Work.

§ 5.11 Cleaning Up

§ 5.11.1 The Design-Builder shall keep the premises and surrounding area free from accumulation of waste materials or rubbish caused by operations under the Contract. At completion of the Work, the Design-Builder shall remove waste materials, rubbish, the Design-Builder's tools, construction equipment, machinery and surplus materials from and about the Project.

§ 5.11.2 If the Design-Builder fails to clean up as provided in the Design-Build Documents, the Owner may do so and Owner shall be entitled to reimbursement from the Design-Builder.

§ 5.12 Access to Work

The Design-Builder shall provide the Owner and its separate contractors and consultants access to the Work in preparation and progress wherever located. The Design-Builder shall notify the Owner regarding Project safety criteria and programs, which the Owner, and its contractors and consultants, shall comply with while at the site.

§ 5.13 Construction by Owner or by Separate Contractors

§ 5.13.1 Owner's Right to Perform Construction and to Award Separate Contracts

§ 5.13.1.1 The Owner reserves the right to perform construction or operations related to the Project with the Owner's own forces; and to award separate contracts in connection with other portions of the Project, or other construction or operations on the site, under terms and conditions identical or substantially similar to this Contract, including those terms and conditions related to insurance and waiver of subrogation. The Owner shall notify the Design-Builder promptly after execution of any separate contract. If the Design-Builder claims that delay or additional cost is involved because of such action by the Owner, the Design-Builder shall make a Claim as provided in Article 14.

§ 5.13.1.2 When separate contracts are awarded for different portions of the Project or other construction or operations on the site, the term "Design-Builder" in the Design-Build Documents in each case shall mean the individual or entity that executes each separate agreement with the Owner.

§ 5.13.1.3 The Owner shall provide for coordination of the activities of the Owner's own forces, and of each separate contractor, with the Work of the Design-Builder, who shall cooperate with them. The Design-Builder shall participate with other separate contractors and the Owner in reviewing their construction schedules. The Design-Builder shall make any revisions to the construction schedule deemed necessary after a joint review and mutual agreement. The construction schedules shall then constitute the schedules to be used by the Design-Builder, separate contractors and the Owner until subsequently revised.

§ 5.13.1.4 Unless otherwise provided in the Design-Build Documents, when the Owner performs construction or operations related to the Project with the Owner's own forces or separate contractors, the Owner shall be deemed to be subject to the same obligations, and to have the same rights, that apply to the Design-Builder under the Contract.

§ 5.14 Mutual Responsibility

§ 5.14.1 The Design-Builder shall afford the Owner and separate contractors reasonable opportunity for introduction and storage of their materials and equipment and performance of their activities, and shall connect and coordinate the Design-Builder's construction and operations with theirs as required by the Design-Build Documents.

§ 5.14.2 If part of the Design-Builder's Work depends upon construction or operations by the Owner or a separate contractor, the Design-Builder shall, prior to proceeding with that portion of the Work, prepare a written report to the Owner, identifying apparent discrepancies or defects in the construction or operations by the Owner or separate contractor that would render it unsuitable for proper execution and results of the Design-Builder's Work. Failure of the Design-Builder to report shall constitute an acknowledgment that the Owner's or separate contractor's completed or partially completed construction is fit and proper to receive the Design-Builder's Work, except as to defects not then reasonably discoverable.

Init.

§ 5.14.3 The Design-Builder shall reimburse the Owner for costs the Owner incurs that are payable to a separate contractor because of the Design-Builder's delays, improperly timed activities or defective construction. The Owner shall be responsible to the Design-Builder for costs the Design-Builder incurs because of a separate contractor's delays, improperly timed activities, damage to the Work or defective construction.

§ 5.14.4 The Design-Builder shall promptly remedy damage the Design-Builder wrongfully causes to completed or partially completed construction or to property of the Owner or separate contractors as provided in Section 10.2.5.

§ 5.14.5 The Owner and each separate contractor shall have the same responsibilities for cutting and patching the Work as the Design-Builder has with respect to the construction of the Owner or separate contractors in Section 5.10.

§ 5.15 Owner's Right to Clean Up

If a dispute arises among the Design-Builder, separate contractors and the Owner as to the responsibility under their respective contracts for maintaining the premises and surrounding area free from waste materials and rubbish, the Owner may clean up and will allocate the cost among those responsible.

ARTICLE 6 CHANGES IN THE WORK

§ 6.1 General

§ 6.1.1 Changes in the Work may be accomplished after execution of the Contract, and without invalidating the Contract, by Change Order or Change Directive, subject to the limitations stated in this Article 6 and elsewhere in the Design-Build Documents.

§ 6.1.2 A Change Order shall be based upon agreement between the Owner and Design-Builder. The Owner may issue a Change Directive without agreement by the Design-Builder.

§ 6.1.3 Changes in the Work shall be performed under applicable provisions of the Design-Build Documents, and the Design-Builder shall proceed promptly, unless otherwise provided in the Change Order or Change Directive.

§ 6.2 Change Orders

A Change Order is a written instrument signed by the Owner and Design-Builder stating their agreement upon all of the following:

- .1 The change in the Work;
- .2 The amount of the adjustment, if any, in the Contract Sum; and
- .3 The extent of the adjustment, if any, in the Contract Time.

§ 6.3 Change Directives

§ 6.3.1 A Change Directive is a written order signed by the Owner directing a change in the Work prior to agreement on adjustment, if any, in the Contract Sum or, if prior to execution of the Design-Build Amendment, the adjustment in the Design-Builder's compensation, or Contract Time. The Owner may by Change Directive, without invalidating the Contract, order changes in the Work within the general scope of the Contract consisting of additions, deletions or other revisions, the Contract Sum, and Contract Time being adjusted accordingly.

§ 6.3.2 A Change Directive shall be used in the absence of total agreement on the terms of a Change Order.

§ 6.3.3 If the Change Directive provides for an adjustment to the Contract Sum, the adjustment shall be based on one of the following methods:

- .1 Mutual acceptance of a lump sum properly itemized and supported by sufficient substantiating data to permit evaluation;
- .2 Unit prices stated in the Design-Build Documents or subsequently agreed upon;
- .3 Cost to be determined in a manner agreed upon by the parties and a mutually acceptable fixed or percentage fee; or
- .4 As provided in Section 6.3.7.

§ 6.3.4 [Section Not Used]

Init.

§ 6.3.5 Upon receipt of a Change Directive, the Design-Builder shall promptly proceed with the change in the Work involved and advise the Owner of the Design-Builder's agreement or disagreement with the method, if any, provided in the Change Directive for determining the proposed adjustment in the Contract Sum, or Contract Time.

§ 6.3.6 A Change Directive signed by the Design-Builder indicates the Design-Builder's agreement therewith, including adjustment in Contract Sum, and Contract Time or the method for determining them. Such agreement shall be effective immediately and shall be recorded as a Change Order.

§ 6.3.7 If the Design-Builder does not respond promptly or disagrees with the method for adjustment in the Contract Sum, the Owner shall determine the method and the adjustment on the basis of reasonable expenditures and savings of those performing the Work attributable to the change, including, in case of an increase, an amount for overhead and profit as set forth in the Agreement, or if no such amount is set forth in the Agreement, a reasonable amount. In such case, and also under Section 6.3.3.3, the Design-Builder shall keep and present, in such form as the Owner may prescribe, an itemized accounting together with appropriate supporting data. Unless otherwise provided in the Design-Build Documents, costs for the purposes of this Section 6.3.7 shall be limited to the following:

- .1 Additional costs of professional services;
- .2 Costs of labor, including social security, unemployment insurance, fringe benefits required by agreement or custom, and workers' compensation insurance;
- .3 Costs of materials, supplies and equipment, including cost of transportation, whether incorporated or consumed;
- .4 Rental costs of machinery and equipment, exclusive of hand tools, whether rented from the Design-Builder or others;
- .5 Costs of premiums for all bonds and insurance, permit fees, and sales, use or similar taxes related to the Work; and
- .6 Additional costs of supervision and field office personnel directly attributable to the change.

§ 6.3.8 The amount of credit to be allowed by the Design-Builder to the Owner for a deletion or change that results in a net decrease in the Contract Sum, shall be actual net cost. When both additions and credits covering related Work or substitutions are involved in a change, the allowance for overhead and profit shall be figured on the basis of net increase, if any, with respect to that change.

§ 6.3.9 Pending final determination of the total cost of a Change Directive to the Owner, the Design-Builder may request payment for Work completed under the Change Directive in Applications for Payment. The Owner will make an interim determination for purposes of certification for payment for those costs deemed to be reasonably justified. The Owner's interim determination of cost shall adjust the Contract Sum, on the same basis as a Change Order, subject to the right of Design-Builder to disagree and assert a Claim in accordance with Article 14.

§ 6.3.10 When the Owner and Design-Builder agree with a determination concerning the adjustments in the Contract Sum and Contract Time, or otherwise reach agreement upon the adjustments, such agreement shall be effective immediately and the Owner and Design-Builder shall execute a Change Order. Change Orders may be issued for all or any part of a Change Directive.

ARTICLE 7 OWNER'S RESPONSIBILITIES

§ 7.1 General

§ 7.1.1 The Owner shall designate in writing a representative who shall have express authority to bind the Owner with respect to all Project matters requiring the Owner's approval or authorization.

§ 7.1.2 The Owner shall render decisions in a timely manner and in accordance with the Design-Builder's Schedule agreed to by the Owner. The Owner shall furnish to the Design-Builder, within Fifteen (15) days after receipt of a written request, information necessary and relevant for the Design-Builder to evaluate, give notice of or enforce mechanic's lien rights. Such information shall include a correct statement of the record legal title to the property on which the Project is located, usually referred to as the site, and the Owner's interest therein.

§ 7.2 Information and Services Required of the Owner

§ 7.2.1 The Owner shall furnish information or services required of the Owner by the Design-Build Documents with reasonable promptness.

init.

AIA Document A141 – 2014. Copyright © 2004 and 2014. All rights reserved. "The American Institute of Architects," "American Institute of Architects," "AIA," the AIA Logo, and "AIA Contract Documents" are trademarks of The American Institute of Architects. This document was produced at 11:49:17 ET on 08/19/2024 under Order No. 2114450827 which expires on 01/03/2025, is not for resale, is licensed for one-time use only, and may only be used in accordance with the AIA Contract Documents' Terms of Service. To report copyright violations, e-mail docinfo@aiaccontracts.com.

User Notes:

(1034644090)

13

§ 7.2.2 The Owner shall provide, to the extent under the Owner's control and if not required by the Design-Build Documents to be provided by the Design-Builder, the results and reports of prior tests, inspections or investigations conducted for the Project involving structural or mechanical systems; chemical, air and water pollution; hazardous materials; or environmental and subsurface conditions and information regarding the presence of pollutants at the Project site. The Owner shall also provide surveys describing physical characteristics, legal limitations and utility locations for the site of the Project, and a legal description of the site under the Owner's control.

§ 7.2.2.1 The Owner shall furnish surveys to describe physical characteristics, legal limitations, and utility locations for the Site of the Project, and a written legal description of the Site. The surveys and legal information shall include, as applicable, graded and lines of streets, alleys, pavements, and adjoining property and structures; designated wetlands; adjacent drainage; rights-of-ways, restrictions, easements, encroachments, zoning, deed restrictions, boundaries, and contours of the Site; locations, dimensions, and necessary data with respect to existing buildings; other improvements and trees; and information concerning available utility services and lines, both public and private, above and below-grade, including inverts and depths. All information on the survey shall be referenced to a Project Benchmark.

§ 7.2.3 The Owner shall promptly obtain easements, zoning variances, and legal authorizations or entitlements regarding site utilization where essential to the execution of the Project.

§ 7.2.4 The Owner shall cooperate with the Design-Builder in securing Building and other Permits, Licenses and Inspections.

§ 7.2.5 The services, information, surveys and reports required to be provided by the Owner under this Agreement, shall be furnished at the Owner's expense, and except as otherwise specifically provided in this Agreement or elsewhere in the Design-Build Documents or to the extent the Owner advises the Design-Builder to the contrary in writing, the Design-Builder shall be entitled to rely upon the accuracy and completeness thereof. In no event shall the Design-Builder be relieved of its responsibility to exercise proper precautions relating to the safe performance of the Work.

§ 7.2.6 If the Owner observes or otherwise becomes aware of a fault or defect in the Work or non-conformity with the Design-Build Documents, the Owner shall give prompt written notice thereof to the Design-Builder.

§ 7.2.7 Prior to, or after, the execution of the Design-Build Amendment, the Design-Builder may request in writing that the Owner provide reasonable evidence that the Owner has made financial arrangements to fulfill the Owner's obligations under the Design-Build Documents. Thereafter, the Design-Builder may only request such evidence if (1) the Owner fails to make payments to the Design-Builder as the Design-Build Documents require; (2) a change in the Work materially changes the Contract Sum; or (3) the Design-Builder identifies in writing a reasonable concern regarding the Owner's ability to make payment when due. The Owner shall furnish such evidence as a condition precedent to commencement or continuation of the Work or the portion of the Work affected by a material change. After the Owner furnishes the evidence, the Owner shall not materially vary such financial arrangements without prior notice to the Design-Builder.

§ 7.2.8 Except as otherwise provided in the Design-Build Documents or when direct communications have been specially authorized, the Owner shall communicate through the Design-Builder with persons or entities employed or retained by the Design-Builder.

§ 7.2.9 Unless required by the Design-Build Documents to be provided by the Design-Builder, the Owner shall, upon request from the Design-Builder, furnish the services of geotechnical engineers or other consultants for investigation of subsurface, air and water conditions when such services are reasonably necessary to properly carry out the Design Services furnished by the Design-Builder. In such event, the Design-Builder shall specify the services required. Such services may include, but are not limited to, test borings, test pits, determinations of soil bearing values, percolation tests, evaluations of hazardous materials, ground corrosion and resistivity tests, and necessary operations for anticipating subsoil conditions. The services of geotechnical engineer(s) or other consultants shall include preparation and submission of all appropriate reports and professional recommendations.

§ 7.2.9.1 The Owner shall provide, and pay for, 3rd Party Special Inspections as required per IBC Chapter 17.

Int.

§ 7.2.10 The Owner shall purchase and maintain Insurance as set forth in Exhibit B.

§ 6.2.11 The Owner shall be responsible for the costs of permanent Utility Services for the Facility. The Design-Builder shall be responsible for the Costs of temporary Utility Services.

§ 7.3 Submittals

§ 7.3.1 The Owner shall review and approve or take other appropriate action on Submittals. Review of Submittals is not conducted for the purpose of determining the accuracy and completeness of other details, such as dimensions and quantities; or for substantiating instructions for installation or performance of equipment or systems; or for determining that the Submittals are in conformance with the Design-Build Construction Documents, all of which remain the responsibility of the Design-Builder as required by the Design-Build Documents. The Owner's action will be taken with reasonable promptness while allowing sufficient time in the Owner's judgment to permit adequate review. The Owner's review of Submittals shall not relieve the Design-Builder of the obligations under Sections 3.1.11, 3.1.12, and 5.2.3. The Owner's review shall not constitute approval of safety precautions or, unless otherwise specifically stated by the Owner, of any construction means, methods, techniques, sequences or procedures. The Owner's approval of a specific item shall not indicate approval of an assembly of which the item is a component.

§ 7.3.2 Upon review of the Submittals required by the Design-Build Documents, the Owner shall notify the Design-Builder of any non-conformance with the Design-Build Construction Documents the Owner discovers.

§ 7.4 Visits to the site by the Owner shall not be construed to create an obligation on the part of the Owner to make on-site inspections to check the quality or quantity of the Work. The Owner shall neither have control over or charge of, nor be responsible for, the construction means, methods, techniques, sequences or procedures, or for the safety precautions and programs in connection with the Work, because these are solely the Design-Builder's rights and responsibilities under the Design-Build Documents.

§ 7.5 The Owner shall not be responsible for the Design-Builder's failure to perform the Work in accordance with the requirements of the Design-Build Documents. The Owner shall not have control over or charge of, and will not be responsible for acts or omissions of the Design-Builder, Architect, Consultants, Contractors, or their agents or employees, or any other persons or entities performing portions of the Work for the Design-Builder.

§ 7.6 The Owner has the authority to reject Work that does not conform to the Design-Build Documents. The Owner shall have authority to require inspection or testing of the Work in accordance with Section 15.5.2, whether or not such Work is fabricated, installed or completed. However, neither this authority of the Owner nor a decision made in good faith either to exercise or not to exercise such authority shall give rise to a duty or responsibility of the Owner to the Design-Builder, the Architect, Consultants, Contractors, material and equipment suppliers, their agents or employees, or other persons or entities performing portions of the Work.

§ 7.7 [Section Not Used]

§ 7.8 Owner's Right to Stop Work

If the Design-Builder fails to correct Work which is not in accordance with the requirements of the Design-Build Documents as required by Section 11.2 or persistently fails to carry out Work in accordance with the Design-Build Documents, the Owner may issue a written order to the Design-Builder to stop the Work, or any portion thereof, until the cause for such order has been eliminated; however, the right of the Owner to stop the Work shall not give rise to a duty on the part of the Owner to exercise this right for the benefit of the Design-Builder or any other person or entity, except to the extent required by Section 5.13.1.3.

§ 7.9 Owner's Right to Carry Out the Work

If the Design-Builder defaults or neglects to carry out the Work in accordance with the Design-Build Documents and fails within a ten (10)-day period after receipt of written notice from the Owner to commence and continue correction of such default or neglect with diligence and promptness, the Owner may, without prejudice to other remedies the Owner may have, correct such deficiencies. In such case, an appropriate Change Order shall be issued deducting from payments then or thereafter due the Design-Builder the reasonable cost of correcting such deficiencies. If payments then or thereafter due the Design-Builder are not sufficient to cover such amounts, the Design-Builder shall pay the difference to the Owner.

ARTICLE 8 TIME

§ 8.1 Progress and Completion

§ 8.1.1 Time limits stated in the Design-Build Documents are of the essence of the Contract. By executing the Design-Build Amendment the Design-Builder confirms that the Contract Time is a reasonable period for performing the Work.

§ 8.1.2 The Design-Builder shall not, except by agreement of the Owner in writing, commence the Work prior to the effective date of Insurance, other than property Insurance, required by this Contract. The Contract Time shall not be adjusted as a result of the Design-Builder's failure to obtain Insurance required under this Contract.

§ 8.1.3 The Design-Builder shall proceed expeditiously with adequate forces and shall achieve Substantial Completion within the Contract Time.

§ 8.2 Delays and Extensions of Time

§ 8.2.1 If the Design-Builder is delayed at any time in the commencement or progress of the Work by an act or neglect of the Owner or of a consultant or separate contractor employed by the Owner; or by changes ordered in the Work by the Owner; or by labor disputes, fire, unusual delay in deliveries, unavoidable casualties or other causes beyond the Design-Builder's control; or by delay authorized by the Owner pending mediation and binding dispute resolution or by other causes that the Owner determines may justify delay, then the Contract Time shall be extended by Change Order for such reasonable time as the Owner may determine.

§ 8.2.2 Claims relating to time shall be made in accordance with applicable provisions of Article 14.

§ 8.2.3 This Section 8.2 does not preclude recovery of damages for delay by either party under other provisions of the Design-Build Documents.

ARTICLE 9 PAYMENT APPLICATIONS AND PROJECT COMPLETION

§ 9.1 Contract Sum

The Contract Sum is stated in the Design-Build Amendment.

§ 9.2 Schedule of Values

Where the Contract Sum is based on a Stipulated Sum or Guaranteed Maximum Price, the Design-Builder, prior to the first Application for Payment after execution of the Design-Build Amendment shall submit to the Owner a Schedule of Values allocating the entire Contract Sum to the various portions of the Work and prepared in such form and supported by such data to substantiate its accuracy as the Owner may require. This schedule, unless objected to by the Owner, shall be used as a basis for reviewing the Design-Builder's Applications for Payment.

§ 9.3 Applications for Payment

§ 9.3.1 For each Progress Payment, the Design-Builder shall submit to the Owner an itemized Application for Payment for completed portions of the Work. The application shall be notarized, if required, and supported by data substantiating the Design-Builder's right to payment as the Owner may require, such as copies of requisitions from the Architect, Consultants, Contractors, and material suppliers, and shall reflect retainage if provided for in the Design-Build Documents.

§ 9.3.1.1 As provided in Section 6.3.9, Applications for Payment may include requests for payment on account of changes in the Work that have been properly authorized by Change Directives, or by interim determinations of the Owner, but not yet included in Change Orders.

§ 9.3.1.2 Applications for Payment shall not include requests for payment for portions of the Work for which the Design-Builder does not intend to pay the Architect, Consultant, Contractor, material supplier, or other persons or entities providing services or work for the Design-Builder, unless such Work has been performed by others whom the Design-Builder intends to pay.

§ 9.3.2 Unless otherwise provided in the Design-Build Documents, payments shall be made for services provided as well as materials and equipment delivered and suitably stored at the site for subsequent incorporation in the Work. If approved in advance by the Owner, payment may similarly be made for materials and equipment suitably stored off the site at a location agreed upon in writing. Payment for materials and equipment stored on or off the site shall be

AIA Document A141 – 2014. Copyright © 2004 and 2014. All rights reserved. "The American Institute of Architects," "American Institute of Architects," "AIA," the AIA Logo, and "AIA Contract Documents" are trademarks of The American Institute of Architects. This document was produced at 11:49:17 ET on 09/19/2024 under Order No.2114450827 which expires on 01/03/2025, is not for resale, is licensed for one-time use only, and may only be used in accordance with the AIA Contract Documents® Terms of Service. To report copyright violations, e-mail docinfo@aiacontracts.com.
User Notes:

conditioned upon compliance by the Design-Builder with procedures satisfactory to the Owner to establish the Owner's title to such materials and equipment or otherwise protect the Owner's interest, and shall include the costs of applicable insurance, storage and transportation to the site for such materials and equipment stored off the site.

§ 9.3.3 The Design-Builder warrants that title to all Work, other than Instruments of Service, covered by an Application for Payment will pass to the Owner no later than the time of payment. The Design-Builder further warrants that, upon submittal of an Application for Payment, all Work for which Certificates for Payment have been previously issued and payments received from the Owner shall, to the best of the Design-Builder's knowledge, information and belief, be free and clear of liens, claims, security interests or encumbrances in favor of the Design-Builder, Architect, Consultants, Contractors, material suppliers, or other persons or entities entitled to make a claim by reason of having provided labor, materials and equipment relating to the Work.

§ 9.5 Decisions to Withhold Certification

§ 9.5.1 The Owner may withhold a Certificate for Payment in whole or in part to the extent reasonably necessary to protect the Owner due to the Owner's determination that the Work has not progressed to the point indicated in the Design-Builder's Application for Payment, or the quality of the Work is not in accordance with the Design-Build Documents. If the Owner is unable to certify payment in the amount of the Application, the Owner will notify the Design-Builder as provided in Section 9.4. If the Design-Builder and Owner cannot agree on a revised amount, the Owner will promptly issue a Certificate for Payment for the amount that the Owner deems to be due and owing. The Owner may also withhold a Certificate for Payment or, because of subsequently discovered evidence, may nullify the whole or a part of a Certificate for Payment previously issued to such extent as may be necessary to protect the Owner from loss for which the Design-Builder is responsible because of

- .1 defective Work, including Design and Construction, not remedied;
- .2 third party claims filed or reasonable evidence indicating probable filing of such claims unless security acceptable to the Owner is provided by the Design-Builder;
- .3 failure of the Design-Builder to make payments properly to the Architect, Consultants, Contractors or others, for services, labor, materials or equipment;
- .4 reasonable evidence that the Work cannot be completed for the unpaid balance of the Contract Sum;
- .5 damage to the Owner or a separate contractor;
- .6 reasonable evidence that the Work will not be completed within the Contract Time, and that the unpaid balance would not be adequate to cover actual or liquidated damages for the anticipated delay; or
- .7 repeated failure to carry out the Work in accordance with the Design-Build Documents.

§ 9.5.2 When the above reasons for withholding certification are removed, certification will be made for amounts previously withheld.

§ 9.5.3 If the Owner withholds certification for payment under Section 9.5.1.3, the Owner may, at its sole option, issue joint checks to the Design-Builder and to the Architect or any Consultants, Contractor, material or equipment suppliers, or other persons or entities providing services or work for the Design-Builder to whom the Design-Builder failed to make payment for Work properly performed or material or equipment suitably delivered.

§ 9.6 Progress Payments

§ 9.6.1 After the Owner has issued a Certificate for Payment, the Owner shall make payment in the manner and within the time provided in the Design-Build Documents.

§ 9.6.2 The Design-Builder shall pay each Architect, Consultant, Contractor, and other person or entity providing services or work for the Design-Builder after receipt of payment from the Owner the amount to which the Architect, Consultant, Contractor, and other person or entity providing services or work for the Design-Builder is entitled. The Design-Builder shall, by appropriate agreement with each Architect, Consultant, Contractor, and other person or entity providing services or work for the Design-Builder, require each Architect, Consultant, Contractor, and other person or entity providing services or work for the Design-Builder to make payments to subconsultants and subcontractors in a similar manner.

§ 9.6.3 [Section Not Used]

init.

AIA Document A141 – 2014. Copyright © 2004 and 2014. All rights reserved. "The American Institute of Architects," "American Institute of Architects," "AIA," the AIA Logo, and "AIA Contract Documents" are trademarks of The American Institute of Architects. This document was produced at 11:49:17 ET on 09/19/2024 under Order No. 2114450827 which expires on 01/03/2025. It is not for resale. It is licensed for one-time use only, and may only be used in accordance with the AIA Contract Documents® Terms of Service. To report copyright violations, e-mail doctrinfo@aiacontracts.com.

User Notes:

(1934644090)

17

§ 9.6.4 The Owner shall have no obligation to pay or to see to the payment of money to a Consultant or Contractor, except as may otherwise be required by law.

§ 9.6.5 Design-Builder payments to material and equipment suppliers shall be treated in a manner similar to that provided in Sections 9.6.2 and 9.6.4.

§ 9.6.6 A Certificate for Payment, a Progress Payment, or partial or entire use or occupancy of the Project by the Owner shall not constitute acceptance of Work not in accordance with the Design-Build Documents.

§ 9.6.7 Unless the Design-Builder provides the Owner with a payment bond in the full penal sum of the Contract Sum, payments received by the Design-Builder for Work properly performed by the Architect, Consultants, Contractors and other person or entity providing services or work for the Design-Builder, shall be held by the Design-Builder for the Architect and those Consultants, Contractors, or other person or entity providing services or work for the Design-Builder, for which payment was made by the Owner. Nothing contained herein shall require money to be placed in a separate account and not commingled with money of the Design-Builder, shall create any fiduciary liability or tort liability on the part of the Design-Builder for breach of trust or shall entitle any person or entity to an award of punitive damages against the Design-Builder for breach of the requirements of this provision.

§ 9.7 Failure of Payment

If the Owner does not issue a Certificate for Payment, through no fault of the Design-Builder, within the time required by the Design-Build Documents, then the Design-Builder may, upon seven (7) additional days' written notice to the Owner, stop the Work until payment of the amount owing has been received. The Contract Time shall be extended appropriately and the Contract Sum shall be increased by the amount of the Design-Builder's reasonable costs of shut-down, delay and start-up, plus interest as provided for in the Design-Build Documents.

§ 9.7.1 Unless otherwise agreed, payments of Applications for Payment shall be made monthly in proportion to the progress of the Work performed. Payments are due and payable within thirty (30) days of the submission of the Application for Payment. Amounts unpaid Sixty (60) days after the Application for Payment date shall bear interest at the rate entered below, or in the absence thereof at the legal rate prevailing from time to time at the principal place of business of the Design-Builder.

(Insert rate of monthly or annual interest agreed upon.)

Bank of America Prime Rate Plus One percent (1.0 %)

§ 9.8 Substantial Completion

§ 9.8.1 Substantial Completion is the stage in the progress of the Work when the Work or designated portion thereof is sufficiently complete in accordance with the Design-Build Documents so that the Owner can occupy or utilize the Work for its intended use.

§ 9.8.1.1 Upon receipt of the Certificate of Occupancy from the Local Authority (temporary or final), the building shall be deemed substantially complete.

§ 9.8.2 When the Design-Builder considers that the Work, or a portion thereof which the Owner agrees to accept separately, is substantially complete, the Design-Builder shall prepare and submit to the Owner a comprehensive list of items to be completed or corrected prior to final payment. Failure to include an item on such list does not alter the responsibility of the Design-Builder to complete all Work in accordance with the Design-Build Documents.

§ 9.8.3 Upon receipt of the Design-Builder's list, the Owner shall make an inspection to determine whether the Work or designated portion thereof is substantially complete. If the Owner's inspection discloses any item, whether or not included on the Design-Builder's list, which is not sufficiently complete in accordance with the Design-Build Documents so that the Owner can occupy or utilize the Work or designated portion thereof for its intended use, the Design-Builder shall, before issuance of the Certificate of Substantial Completion, complete or correct such item upon notification by the Owner. In such case, the Design-Builder shall then submit a request for another inspection by the Owner to determine Substantial Completion.

init.

AIA Document A141 - 2014. Copyright © 2004 and 2014. All rights reserved. "The American Institute of Architects," "American Institute of Architects," "AIA," the AIA Logo, and "AIA Contract Documents" are trademarks of The American Institute of Architects. This document was produced at 11:48:17 ET on 09/19/2024 under Order No.2114450827 which expires on 01/03/2025, is not for resale, is licensed for one-time use only, and may only be used in accordance with the AIA Contract Documents® Terms of Service. To report copyright violations, e-mail docinfo@aiacontracts.com.

User Notes:

(1534844090)

18

§ 9.8.4 Prior to issuance of the Certificate of Substantial Completion under Section 9.8.5, the Owner and Design-Builder shall discuss and then determine the parties' obligations to obtain and maintain property Insurance following issuance of the Certificate of Substantial Completion.

§ 9.8.5 When the Work or designated portion thereof is substantially complete, the Design-Builder will prepare for the Owner's signature a Certificate of Substantial Completion that shall, upon the Owner's signature, establish the date of Substantial Completion; establish responsibilities of the Owner and Design-Builder for security, maintenance, heat, utilities, damage to the Work and insurance; and fix the time within which the Design-Builder shall finish all items on the list accompanying the Certificate. Warranties required by the Design-Build Documents shall commence on the date of Substantial Completion of the Work or designated portion thereof unless otherwise provided in the Certificate of Substantial Completion.

§ 9.8.6 The Certificate of Substantial Completion shall be submitted by the Design-Builder to the Owner for written acceptance of responsibilities assigned to it in the Certificate. Upon the Owner's acceptance, and consent of surety, if any, the Owner shall make payment of retainage applying to the Work or designated portion thereof. Payment shall be adjusted for Work that is incomplete or not in accordance with the requirements of the Design-Build Documents.

§ 9.9 Partial Occupancy or Use

§ 9.9.1 The Owner may occupy or use any completed or partially completed portion of the Work at any stage when such portion is designated by separate agreement with the Design-Builder, provided such occupancy or use is consented to, by endorsement or otherwise, by the insurer providing property insurance and authorized by public authorities having jurisdiction over the Project. Such partial occupancy or use may commence whether or not the portion is substantially complete, provided the Owner and Design-Builder have accepted in writing the responsibilities assigned to each of them for payments, retainage, if any, security, maintenance, heat, utilities, damage to the Work and insurance, and have agreed in writing concerning the period for correction of the Work and commencement of warranties required by the Design-Build Documents. When the Design-Builder considers a portion substantially complete, the Design-Builder shall prepare and submit a list to the Owner as provided under Section 9.8.2. Consent of the Design-Builder to partial occupancy or use shall not be unreasonably withheld. The stage of the progress of the Work shall be determined by written agreement between the Owner and Design-Builder.

§ 9.9.2 Immediately prior to such partial occupancy or use, the Owner and Design-Builder shall jointly inspect the area to be occupied or portion of the Work to be used in order to determine and record the condition of the Work.

§ 9.9.3 Unless otherwise agreed upon, partial occupancy or use of a portion or portions of the Work shall not constitute acceptance of Work not complying with the requirements of the Design-Build Documents.

§ 9.10 Final Completion and Final Payment

§ 9.10.1 Upon receipt of the Design-Builder's written notice that the Work is ready for final inspection and acceptance and upon receipt of a final Application for Payment, the Owner will promptly make such inspection. When the Owner finds the Work acceptable under the Design-Build Documents and the Contract fully performed, the Owner will, subject to Section 9.10.2, promptly issue a final Certificate for Payment.

§ 9.10.2 Neither final payment nor any remaining retained percentage shall become due until the Design-Builder submits to the Owner (1) an affidavit that payrolls, bills for materials and equipment, and other indebtedness connected with the Work, for which the Owner or the Owner's property might be responsible or encumbered, (less amounts withheld by Owner) have been paid or otherwise satisfied, (2) a certificate evidencing that Insurance required by the Design-Build Documents to remain in force after final payment is currently in effect, (3) a written statement that the Design-Builder knows of no substantial reason that the Insurance will not be renewable to cover the period required by the Design-Build Documents, (4) consent of surety, if any, to final payment, (5) as-constructed record copy of the Design-Build Construction Documents marked to indicate field changes and selections made during Construction, (6) manufacturer's warranties, product data, and maintenance and operations manuals, and (7) if required by the Owner, other data establishing payment or satisfaction of obligations, such as receipts, or releases and waivers of liens, claims, security interests, or encumbrances, arising out of the Contract, to the extent and in such form as may be designated by the Owner. If an Architect, a Consultant, or a Contractor, or other person or entity providing services or work for the Design-Builder, refuses to furnish a release or waiver required by the Owner, the Design-Builder may furnish a bond satisfactory to the Owner to indemnify the Owner against such liens, claims, security interests, or encumbrances. If such liens, claims, security interests, or encumbrances remains unsatisfied after

payments are made, the Design-Builder shall refund to the Owner all money that the Owner may be compelled to pay in discharging such liens, claims, security interests, or encumbrances, including all costs and reasonable attorneys' fees.

§ 9.10.3 If, after Substantial Completion of the Work, final completion thereof is materially delayed through no fault of the Design-Builder or by issuance of Change Orders affecting final completion, the Owner shall, upon application by the Design-Builder, and without terminating the Contract, make payment of the balance due for that portion of the Work fully completed and accepted. If the remaining balance for Work not fully completed or corrected is less than retainage stipulated in the Design-Build Documents, and if bonds have been furnished, the written consent of surety to payment of the balance due for that portion of the Work fully completed and accepted shall be submitted by the Design-Builder to the Owner prior to issuance of payment. Such payment shall be made under terms and conditions governing final payment, except that it shall not constitute a waiver of claims.

§ 9.10.4 The making of final payment shall constitute a waiver of Claims by the Owner except those arising from

- .1 liens, Claims, security interests or encumbrances arising out of the Contract and unsettled;
- .2 failure of the Work to comply with the requirements of the Design-Build Documents; or
- .3 terms of special warranties required by the Design-Build Documents.

§ 9.10.5 Acceptance of final payment by the Design-Builder shall constitute a waiver of claims by the Design-Builder except those previously made in writing and identified by the Design-Builder as unsettled at the time of final Application for Payment.

ARTICLE 10 PROTECTION OF PERSONS AND PROPERTY

§ 10.1 Safety Precautions and Programs

The Design-Builder shall be responsible for initiating, maintaining and supervising all safety precautions and programs in connection with the performance of the Contract.

§ 10.2 Safety of Persons and Property

§ 10.2.1 The Design-Builder shall be responsible for precautions for the safety of, and reasonable protection to prevent damage, injury or loss to

- .1 employees on the Work and other persons who may be affected thereby;
- .2 the Work and materials and equipment to be incorporated therein, whether in storage on or off the site, under care, custody or control of the Design-Builder or the Architect, Consultants, or Contractors, or other person or entity providing services or work for the Design-Builder; and
- .3 other property at the site or adjacent thereto, such as trees, shrubs, lawns, walks, pavements, roadways, or structures and utilities not designated for removal, relocation or replacement in the course of construction.

§ 10.2.2 The Design-Builder shall comply with, and give notices required by, applicable laws, statutes, ordinances, codes, rules and regulations, and lawful orders of public authorities, bearing on safety of persons or property, or their protection from damage, injury or loss.

§ 10.2.3 The Design-Builder shall implement, erect, and maintain, as required by existing conditions and performance of the Contract, reasonable safeguards for safety and protection, including posting danger signs and other warnings against hazards, promulgating safety regulations, and notify owners and users of adjacent sites and utilities of the safeguards and protections.

§ 10.2.4 When use or storage of explosives or other hazardous materials or equipment, or unusual methods, are necessary for execution of the Work, the Design-Builder shall exercise utmost care, and carry on such activities under supervision of properly qualified personnel.

§ 10.2.5 The Design-Builder shall promptly remedy damage and loss (other than damage or loss insured under property insurance required by the Design-Build Documents) to property referred to in Sections 10.2.1.2 and 10.2.1.3, caused in whole or in part by the Design-Builder, the Architect, a Consultant, a Contractor, or anyone directly or indirectly employed by any of them, or by anyone for whose acts they may be liable and for which the Design-Builder is responsible under Sections 10.2.1.2 and 10.2.1.3; except damage or loss attributable to acts or omissions of the Owner, or anyone directly or indirectly employed by the Owner, or by anyone for whose acts the Owner may be liable,

init.

AIA Document A141 – 2014. Copyright © 2004 and 2014. All rights reserved. "The American Institute of Architects," "American Institute of Architects," "AIA," the AIA Logo, and "AIA Contract Documents" are trademarks of The American Institute of Architects. This document was produced at 11:49:17 ET on 09/19/2024 under Order No.2114450827 which expires on 01/03/2025, is not for resale, is licensed for one-time use only, and may only be used in accordance with the AIA Contract Documents® Terms of Service. To report copyright violations, e-mail docinfo@aiacontracts.com.

User Notes:

(1834644080)

20

and not attributable to the fault or negligence of the Design-Builder. The foregoing obligations of the Design-Builder are in addition to the Design-Builder's obligations under Section 3.1.14.

§ 10.2.6 The Design-Builder shall designate a responsible member of the Design-Builder's organization, at the site, whose duty shall be the prevention of accidents. This person shall be the Design-Builder's Site Superintendent unless otherwise designated by the Design-Builder in writing to the Owner.

§ 10.2.7 The Design-Builder shall not permit any part of the construction or site to be loaded so as to cause damage or create an unsafe condition.

§ 10.2.8 **Injury or Damage to Person or Property.** If the Owner or Design-Builder suffers injury or damage to person or property because of an act or omission of the other, or of others for whose acts such party is legally responsible, written notice of the injury or damage, whether or not insured, shall be given to the other party within a reasonable time not exceeding twenty-one (21) days after discovery. The notice shall provide sufficient detail to enable the other party to investigate the matter.

§ 10.3 Hazardous Materials

§ 10.3.1 The Design-Builder is responsible for compliance with any requirements included in the Design-Build Documents regarding hazardous materials. If the Design-Builder encounters a hazardous material or substance not addressed in the Design-Build Documents and if reasonable precautions will be inadequate to prevent foreseeable bodily injury or death to persons resulting from a material or substance, including but not limited to asbestos or polychlorinated biphenyl (PCB), encountered on the site by the Design-Builder, the Design-Builder shall, upon recognizing the condition, immediately stop Work in the affected area and report the condition to the Owner in writing.

§ 10.3.2 Upon receipt of the Design-Builder's written notice, the Owner shall obtain the services of a licensed laboratory to verify the presence or absence of the material or substance reported by the Design-Builder and, in the event such material or substance is found to be present, to cause it to be rendered harmless. Unless otherwise required by the Design-Build Documents, the Owner shall furnish in writing to the Design-Builder the names and qualifications of persons or entities who are to perform tests verifying the presence or absence of such material or substance or who are to perform the task of removal or safe containment of such material or substance. The Design-Builder will promptly reply to the Owner in writing stating whether or not the Design-Builder has reasonable objection to the persons or entities proposed by the Owner. If the Design-Builder has an objection to a person or entity proposed by the Owner, the Owner shall propose another to whom the Design-Builder has no reasonable objection. When the material or substance has been rendered harmless, Work in the affected area shall resume upon written agreement of the Owner and Design-Builder. By Change Order, the Contract Time shall be extended appropriately and the Contract Sum shall be increased in the amount of the Design-Builder's reasonable additional costs of shut-down, delay and start-up.

§ 10.3.4 The Owner shall not be responsible under this Section 10.3 for materials or substances the Design-Builder brings to the site unless such materials or substances are required by the Owner. The Owner shall be responsible for materials or substances required by the Owner, except to the extent of the Design-Builder's fault or negligence in the use and handling of such materials or substances.

§ 10.3.5 The Design-Builder shall indemnify the Owner for the cost and expense the Owner incurs (1) for remediation of a material or substance the Design-Builder brings to the site and negligently handles, or (2) where the Design-Builder fails to perform its obligations under Section 10.3.1, except to the extent that the cost and expense are due to the Owner's fault or negligence.

§ 10.3.6 If, without negligence on the part of the Design-Builder, the Design-Builder is held liable by a government agency for the cost of remediation of a hazardous material or substance solely by reason of performing Work as required by the Design-Build Documents, the Owner shall indemnify the Design-Builder for all cost and expense thereby incurred.

§ 10.4 Emergencies

In an emergency affecting safety of persons or property, the Design-Builder shall act, at the Design-Builder's discretion, to prevent threatened damage, injury or loss.

init.

AIA Document A141 – 2014. Copyright © 2004 and 2014. All rights reserved. "The American Institute of Architects," "American Institute of Architects," "AIA," the AIA Logo, and "AIA Contract Documents" are trademarks of The American Institute of Architects. This document was produced at 11:48:17 ET on 09/19/2024 under Order No.2114450827 which expires on 01/03/2025. It is not for resale, is licensed for one-time use only, and may only be used in accordance with the AIA Contract Documents' Terms of Service. To report copyright violations, e-mail docinfo@aiacontracts.com.

User Notes:

(1934644090)

21

ARTICLE 11 UNCOVERING AND CORRECTION OF WORK

§ 11.1 Uncovering of Work

The Owner may request to examine a portion of the Work that the Design-Builder has covered to determine if the Work has been performed in accordance with the Design-Build Documents. If such Work is in accordance with the Design-Build Documents, the Owner and Design-Builder shall execute a Change Order to adjust the Contract Time and Contract Sum, as appropriate. If such Work is not in accordance with the Design-Build Documents, the costs of uncovering and correcting the Work shall be at the Design-Builder's expense and the Design-Builder shall not be entitled to a change in the Contract Time unless the condition was caused by the Owner or a separate contractor in which event the Owner shall be responsible for payment of such costs and the Contract Time will be adjusted as appropriate.

§ 11.2 Correction of Work

§ 11.2.1 **Before or After Substantial Completion.** The Design-Builder shall promptly correct Work rejected by the Owner or failing to conform to the requirements of the Design-Build Documents, whether discovered before or after Substantial Completion and whether or not fabricated, installed or completed. Costs of correcting such rejected Work, including additional testing and inspections, the cost of uncovering and replacement, and compensation for any design consultant employed by the Owner whose expenses and compensation were made necessary thereby, shall be at the Design-Builder's expense.

§ 11.2.2 After Substantial Completion

§ 11.2.2.1 In addition to the Design-Builder's obligations under Section 3.1.12, if, within one (1) year after the date of Substantial Completion of the Work or designated portion thereof or after the date for commencement of warranties established under Section 9.9.1, or by terms of an applicable special warranty required by the Design-Build Documents, any of the Work is found not to be in accordance with the requirements of the Design-Build Documents, the Design-Builder shall correct it promptly after receipt of written notice from the Owner to do so unless the Owner has previously given the Design-Builder a written acceptance of such condition. The Owner shall give such notice promptly after discovery of the condition. During the one (1)-year period for correction of the Work, if the Owner fails to notify the Design-Builder and give the Design-Builder an opportunity to make the correction, the Owner waives the rights to require correction by the Design-Builder and to make a claim for breach of warranty. If the Design-Builder fails to correct nonconforming Work within a reasonable time during that period after receipt of notice from the Owner, the Owner may correct it in accordance with Section 7.9.

§ 11.2.2.2 The one (1) -year period for correction of Work shall be extended with respect to portions of Work first performed after Substantial Completion by the period of time between Substantial Completion and the actual completion of that portion of the Work.

§ 11.2.2.3 The one (1) -year period for correction of Work shall not be extended by corrective Work performed by the Design-Builder pursuant to this Section 11.2.

§ 11.2.3 The Design-Builder shall remove from the site portions of the Work that are not in accordance with the requirements of the Design-Build Documents and are neither corrected by the Design-Builder nor accepted by the Owner.

§ 11.2.4 The Design-Builder shall bear the cost of correcting destroyed or damaged construction of the Owner or separate contractors, whether completed or partially completed, caused by the Design-Builder's correction or removal of Work that is not in accordance with the requirements of the Design-Build Documents.

§ 11.2.5 Nothing contained in this Section 11.2 shall be construed to establish a period of limitation with respect to other obligations the Design-Builder has under the Design-Build Documents. Establishment of the one (1) -year period for correction of Work as described in Section 11.2.2 relates only to the specific obligation of the Design-Builder to correct the Work, and has no relationship to the time within which the obligation to comply with the Design-Build Documents may be sought to be enforced, nor to the time within which proceedings may be commenced to establish the Design-Builder's liability with respect to the Design-Builder's obligations other than specifically to correct the Work.

init.

AIA Document A141 – 2014. Copyright © 2004 and 2014. All rights reserved. "The American Institute of Architects," "American Institute of Architects," "AIA," the AIA Logo, and "AIA Contract Documents" are trademarks of The American Institute of Architects. This document was produced at 11:49:17 ET on 09/18/2024 under Order No.2114450827 which expires on 01/03/2025. It is not for resale, is licensed for one-time use only, and may only be used in accordance with the AIA Contract Documents' Terms of Service. To report copyright violations, e-mail docinfo@aiaccontracts.com.

User Notes:

{1604644090}

22

§ 11.3 Acceptance of Nonconforming Work

If the Owner prefers to accept Work that is not in accordance with the requirements of the Design-Build Documents, the Owner may do so instead of requiring its removal and correction, in which case the Contract Sum will be reduced as appropriate and equitable. Such adjustment shall be affected whether or not final payment has been made.

ARTICLE 12 COPYRIGHTS AND LICENSES

§ 12.1 Drawings, specifications, and other documents furnished by the Design-Builder, including those in electronic form, are Instruments of Service. The Design-Builder, and the Architect, Consultants, Contractors, and any other person or entity providing services or work for any of them, shall be deemed the authors and owners of their respective Instruments of Service, including the Drawings and Specifications, and shall retain all common law, statutory and other reserved rights, including copyrights. Submission or distribution of Instruments of Service to meet official regulatory requirements, or for similar purposes in connection with the Project, is not to be construed as publication in derogation of the reserved rights of the Design-Builder and the Architect, Consultants, and Contractors, and any other person or entity providing services or work for any of them.

§ 12.2 The Design-Builder and the Owner warrant that in transmitting Instruments of Service, or any other information, the transmitting party is the copyright owner of such information or has permission from the copyright owner to transmit such information for its use on the Project.

§ 12.3 Upon execution of the Agreement, the Design-Builder grants to the Owner a limited, irrevocable and non-exclusive license to use the Instruments of Service solely and exclusively for purposes of constructing, using, maintaining, altering and adding to the Project, provided that the Owner substantially performs its obligations, including prompt payment of all sums when due, under the Design-Build Documents. The license granted under this section permits the Owner to authorize the Design-Builder and its Consultants, Contractors, and Materials and Equipment Suppliers, as well as the Owner's consultants and separate contractors to use and reproduce applicable portions of the Instruments of Service solely and exclusively for use in performing services or construction for the Project, including further development of the Instruments of Service. If the Design-Builder rightfully terminates this Agreement for cause as provided in Section 13.1.4 or 13.2.1 the license granted in this Section 12.3 shall terminate.

§ 12.3.1 The Design-Builder shall obtain non-exclusive licenses from the Architect, Consultants, and Contractors, that will allow the Design-Builder to satisfy its obligations to the Owner under this Article 12. The Design-Builder's licenses from the Architect and its Consultants and Contractors shall also allow the Owner, in the event this Agreement is terminated for any reason other than the default of the Owner or in the event the Design-Builder's Architect, Consultants, or Contractors terminate their agreements with the Design-Builder for cause, to obtain a limited, irrevocable and non-exclusive license solely and exclusively for purposes of constructing, using, maintaining, altering and adding to the Project, provided that the Owner (1) agrees to pay to the Architect, Consultant or Contractor all amounts due.

§ 12.3.2 In the event the Owner alters the Instruments of Service without the author's written authorization or uses the Instruments of Service without retaining the authors of the Instruments of Service, the Owner releases the Design-Builder, Architect, Consultants, Contractors and any other person or entity providing services or work for any of them, from all claims and causes of action arising from or related to such uses. The terms of this Section 12.3.2 shall not apply if the Owner rightfully terminates this Agreement for cause under Sections 13.1.4 or 13.2.2.

§ 12.3.3 Except of the licenses granted in this Article 12, no other licenses or rights shall be deemed granted or implied under this Agreement. The Owner shall not otherwise assign, delegate, sub-license, pledge, or otherwise transfer any license granted herein to another party without prior written agreement of the Design-Builder. Any unauthorized reproduction or use of the Instruments of Service by the Owner or others shall be at the Owner's sole risk and expense and without liability to the Design-Builder, and the Architect, Consultants, Contractors, and any other person or entity providing services or work for any of them.

ARTICLE 13 TERMINATION OR SUSPENSION

§ 13.1 ~~Section Not Used~~ Termination or Suspension Prior to Execution of the Design-Build Amendment

§ 13.2 Termination or Suspension Following Execution of the Design-Build Amendment

init.

§ 13.2.1 Termination by the Design-Builder

§ 13.2.1.1 The Design-Builder may terminate the Contract if the Work is stopped for a period of thirty (30) consecutive days through no act or fault of the Design-Builder, the Architect, a Consultant, or a Contractor, or their agents or employees, or any other persons or entities performing portions of the Work under direct or indirect contract with the Design-Builder, for any of the following reasons:

- .1 Issuance of an order of a court or other public authority having jurisdiction that requires all Work to be stopped;
- .2 An act of government, such as a declaration of national emergency that requires all Work to be stopped;
- .3 Because the Owner has not issued a Certificate for Payment and has not notified the Design-Builder of the reason for withholding certification as provided in Section 9.5.1, or because the Owner has not made payment on a Certificate for Payment within the time stated in the Design-Build Documents; or
- .4 The Owner has failed to furnish to the Design-Builder promptly, upon the Design-Builder's request, reasonable evidence as required by Section 7.2.7.

§ 13.2.1.2 The Design-Builder may terminate the Contract if, through no act or fault of the Design-Builder, the Architect, a Consultant, a Contractor, or their agents or employees or any other persons or entities performing portions of the Work under direct or indirect contract with the Design-Builder, repeated suspensions, delays or interruptions of the entire Work by the Owner as described in Section 13.2.3 constitute in the aggregate more than One-Hundred (100%)-percent of the total number of days scheduled for completion, or One-Hundred and Twenty (120) days in any 365-day period, whichever is less.

§ 13.2.1.3 If one of the reasons described in Section 13.2.1.1 or 13.2.1.2 exists, the Design-Builder may, upon seven (7) days' written notice to the Owner, terminate the Contract and recover from the Owner payment for Work executed, including reasonable overhead and profit, costs incurred by reason of such termination, and damages.

§ 13.2.1.4 If the Work is stopped for a period of sixty (60) consecutive days through no act or fault of the Design-Builder or any other persons or entities performing portions of the Work under contract with the Design-Builder because the Owner has repeatedly failed to fulfill the Owner's obligations under the Design-Build Documents with respect to matters important to the progress of the Work, the Design-Builder may, upon seven (7) additional days' written notice to the Owner, terminate the Contract and recover from the Owner as provided in Section 13.2.1.3.

§ 13.2.2 Termination by the Owner For Cause

§ 13.2.2.1 The Owner may terminate the Contract if the Design-Builder

- .1 ~~Section Not Used~~
- .2 repeatedly refuses or fails to supply an Architect, or enough properly skilled Consultants, Contractors, or workers or proper materials;
- .3 fails to make payment to the Architect, Consultants, or Contractors for services, materials or labor in accordance with their respective agreements with the Design-Builder;
- .4 repeatedly disregards applicable laws, statutes, ordinances, codes, rules and regulations, or lawful orders of a public authority; or
- .5 is otherwise guilty of substantial breach of a provision of the Design-Build Documents.

§ 13.2.2.2 When any of the above reasons exist, the Owner may without prejudice to any other rights or remedies of the Owner and after giving the Design-Builder and the Design-Builder's surety, if any, seven (7) days' written notice, terminate employment of the Design-Builder and may, subject to any prior rights of the surety:

- .1 Exclude the Design-Builder from the site and take possession of all materials, equipment, tools, and construction equipment and machinery thereon owned by the Design-Builder;
- .2 Accept assignment of the Architect, Consultant and Contractor agreements pursuant to Section 3.1.15; and
- .3 Finish the Work by whatever reasonable method the Owner may deem expedient. Upon written request of the Design-Builder, the Owner shall furnish to the Design-Builder a detailed accounting of the costs incurred by the Owner in finishing the Work.

§ 13.2.2.3 When the Owner terminates the Contract for one of the reasons stated in Section 13.2.2.1, the Design-Builder shall not be entitled to receive further payment until the Work is finished.

Init.

§ 13.2.2.4 If the unpaid balance of the Contract Sum exceeds costs of finishing the Work and other damages incurred by the Owner and not expressly waived, such excess shall be paid to the Design-Builder. If such costs and damages exceed the unpaid balance, the Design-Builder shall pay the difference to the Owner. The obligation for such payments shall survive termination of the Contract.

§ 13.2.3 Suspension by the Owner for Convenience

§ 13.2.3.1 The Owner may, without cause, order the Design-Builder in writing to suspend, delay or interrupt the Work in whole or in part for such period of time as the Owner may determine.

§ 13.2.3.2 The Contract Sum and Contract Time shall be adjusted for increases in the cost and time caused by suspension, delay or interruption as described in Section 13.2.3.1. Adjustment of the Contract Sum shall include profit. No adjustment shall be made to the extent

- .1 that performance is, was or would have been so suspended, delayed or interrupted by another cause for which the Design-Builder is responsible; or
- .2 that an equitable adjustment is made or denied under another provision of the Contract.

§ 13.2.4 Termination by the Owner for Convenience

§ 13.2.4.1 The Owner may, at any time, terminate the Contract for the Owner's convenience and without cause.

§ 13.2.4.2 Upon receipt of written notice from the Owner of such termination for the Owner's convenience, the Design-Builder shall

- .1 cease operations as directed by the Owner in the notice;
- .2 take actions necessary, or that the Owner may direct, for the protection and preservation of the Work; and,
- .3 except for Work directed to be performed prior to the effective date of termination stated in the notice, terminate all existing Project agreements, including agreements with the Architect, Consultants, Contractors, and purchase orders, and enter into no further Project agreements and purchase orders.

§ 13.2.4.3 In case of such termination for the Owner's convenience, the Design-Builder shall be entitled to receive payment for Work executed, and costs incurred by reason of such termination, along with reasonable overhead and profit on the Work not executed.

ARTICLE 14 CLAIMS AND DISPUTE RESOLUTION

§ 14.1 Claims

§ 14.1.1 Definition. A Claim is a demand or assertion by one of the parties seeking, as a matter of right, payment of money, or other relief with respect to the terms of the Contract. The term "Claim" also includes other disputes and matters in question between the Owner and Design-Builder arising out of or relating to the Contract. The responsibility to substantiate Claims shall rest with the party making the Claim.

§ 14.1.2 Time Limits on Claims. The Owner and Design-Builder shall commence all claims and causes of action, whether in contract, tort, breach of warranty or otherwise, against the other, arising out of or related to the Contract in accordance with the requirements of the binding dispute resolution method selected in Section 1.3, within the time period specified by applicable law, but in any case not more than nine (9) years after the date of Substantial Completion of the Work. The Owner and Design-Builder waive all claims and causes of action not commenced in accordance with this Section 14.1.2.

§ 14.1.3 Notice of Claims

§ 14.1.3.1 Prior To Final Payment. Prior to Final Payment, Claims by either the Owner or Design-Builder must be initiated by written notice to the other party within twenty-one (21) days after occurrence of the event giving rise to such Claim or within twenty-one (21) days after the claimant first recognizes the condition giving rise to the Claim, whichever is later.

§ 14.1.3.2 Claims Arising After Final Payment. After Final Payment, Claims by either the Owner or Design-Builder that have not otherwise been waived pursuant to Sections 9.10.4 or 9.10.5, must be initiated by prompt written notice to the other party. The notice requirement in Section 14.1.3.1 and the Initial Decision requirement as a condition precedent to mediation in Section 14.2.1 shall not apply.

Init.

§ 14.1.4 **Continuing Contract Performance.** Pending final resolution of a Claim, except as otherwise agreed in writing or as provided in Section 9.7 and Article 13, the Design-Builder shall proceed diligently with performance of the Contract and the Owner shall continue to make payments in accordance with the Design-Build Documents.

§ 14.1.5 **Claims for Additional Cost.** If the Design-Builder intends to make a Claim for an increase in the Contract Sum, written notice as provided herein shall be given before proceeding to execute the portion of the Work that relates to the Claim. Prior notice is not required for Claims relating to an emergency endangering life or property arising under Section 10.4.

§ 14.1.6 **Claims for Additional Time**

§ 14.1.6.1 If the Design-Builder intends to make a Claim for an increase in the Contract Time, written notice as provided herein shall be given. The Design-Builder's Claim shall include an estimate of cost and of probable effect of delay on progress of the Work. In the case of a continuing delay, only one Claim is necessary.

§ 14.1.6.2 If adverse weather conditions are the basis for a Claim for additional time, such Claim shall be documented by data substantiating that weather conditions were abnormal for the period of time, could not have been reasonably anticipated, and had an adverse effect on the scheduled construction.

§ 14.1.7 **Claims for Consequential Damages**

The Design-Builder and Owner waive Claims against each other for consequential damages arising out of or relating to this Contract. This mutual waiver includes

- .1 damages incurred by the Owner for rental expenses, for losses of use, income, profit, financing, business and reputation, and for loss of management or employee productivity or of the services of such persons; and
- .2 damages incurred by the Design-Builder for principal office expenses including the compensation of personnel stationed there, for losses of financing, business and reputation, and for loss of profit except anticipated profit arising directly from the Work.

This mutual waiver is applicable, without limitation, to all consequential damages due to either party's termination in accordance with Article 13. Nothing contained in this Section 14.1.7 shall be deemed to preclude an award of liquidated damages, when applicable, in accordance with the requirements of the Design-Build Documents.

§ 14.2 **Initial Decision**

§ 14.2.1 An initial decision shall be required as a condition precedent to mediation of all Claims between the Owner and Design-Builder initiated prior to the date final payment is due, excluding those arising under Sections 10.3 and 10.4 of the Agreement and Sections B.3.2.9 and B.3.2.10 of Exhibit B to this Agreement, unless thirty (30) days have passed after the Claim has been initiated with no decision having been rendered. Unless otherwise mutually agreed in writing, the Owner shall render the initial decision on Claims.

§ 14.2.2 **Procedure**

§ 14.2.2.1 **Claims Initiated by the Owner.** If the Owner initiates a Claim, the Design-Builder shall provide a written response to Owner within ten (10) days after receipt of the notice required under Section 14.1.3.1. Thereafter, the Owner shall render an initial decision within ten (10) days of receiving the Design-Builder's response: (1) withdrawing the Claim in whole or in part, (2) approving the Claim in whole or in part, or (3) suggesting a compromise.

§ 14.2.2.2 **Claims Initiated by the Design-Builder.** If the Design-Builder initiates a Claim, the Owner will take one or more of the following actions within ten (10) days after receipt of the notice required under Section 14.1.3.1: (1) request additional supporting data, (2) render an initial decision rejecting the Claim in whole or in part, (3) render an initial decision approving the Claim, (4) suggest a compromise or (5) indicate that it is unable to render an initial decision because the Owner lacks sufficient information to evaluate the merits of the Claim.

§ 14.2.3 In evaluating Claims, the Owner may, but shall not be obligated to, consult with or seek information from persons with special knowledge or expertise who may assist the Owner in rendering a decision. The retention of such persons shall be at the Owner's expense.

init.

§ 14.2.4 If the Owner requests the Design-Builder to provide a response to a Claim or to furnish additional supporting data, the Design-Builder shall respond, within ten (10) days after receipt of such request, and shall either (1) provide a response on the requested supporting data, (2) advise the Owner when the response or supporting data will be furnished or (3) advise the Owner that no supporting data will be furnished. Upon receipt of the response or supporting data, if any, the Owner will either reject or approve the Claim in whole or in part.

§ 14.2.5 The Owner's initial decision shall (1) be in writing; (2) state the reasons therefor; and (3) identify any change in the Contract Sum or Contract Time or both. The initial decision shall be final and binding on the parties but subject to mediation and, if the parties fail to resolve their dispute through mediation, to binding dispute resolution.

§ 14.2.6 Either party may file for mediation of an initial decision at any time, subject to the terms of Section 14.2.6.1.

§ 14.2.6.1 Either party may, within thirty (30) days from the date of an initial decision, demand in writing that the other party file for mediation within sixty (60) days of the initial decision. If such a demand is made and the party receiving the demand fails to file for mediation within the time required, then both parties waive their rights to mediate or pursue binding dispute resolution proceedings with respect to the initial decision.

§ 14.2.7 In the event of a Claim against the Design-Builder, the Owner may, but is not obligated to, notify the surety, if any, of the nature and amount of the Claim. If the Claim relates to a possibility of a Design-Builder's default, the Owner may, but is not obligated to, notify the surety and request the surety's assistance in resolving the controversy.

§ 14.2.8 If a Claim relates to or is the subject of a mechanic's lien, the party asserting such Claim may proceed in accordance with applicable law to comply with the lien notice or filing deadlines.

§ 14.3 Mediation

§ 14.3.1 Claims, disputes, or other matters in controversy arising out of or related to the Contract, except those waived as provided for in Sections 9.10.4, 9.10.5, and 14.1.7, shall be subject to mediation as a condition precedent to binding dispute resolution.

§ 14.3.2 The parties shall endeavor to resolve their Claims by mediation. A request for mediation shall be made in writing, delivered to the other party to the Contract, and filed with the person or entity administering the mediation. The request may be made concurrently with the filing of binding dispute resolution proceedings but, in such event, mediation shall proceed in advance of binding dispute resolution proceedings, which shall be stayed pending mediation for a period of sixty (60) days from the date of filing, unless stayed for a longer period by agreement of the parties or court order.

§ 14.3.3 The parties shall share the mediator's fee and any filing fees equally. The mediation shall be held in the place where the Project is located, unless another location is mutually agreed upon. Agreements reached in mediation shall be enforceable as settlement agreements in any court having jurisdiction.

ARTICLE 15 MISCELLANEOUS PROVISIONS

§ 15.1 Governing Law

The Contract shall be governed by the law of the State of South Carolina.

§ 15.2 Successors and Assigns

§ 15.2.1 The Owner and Design-Builder, respectively, bind themselves, their partners, successors, assigns and legal representatives to the covenants, agreements and obligations contained in the Design-Build Documents. Except as provided in Section 15.2.2, neither party to the Contract shall assign the Contract as a whole without written consent of the other. If either party attempts to make such an assignment without such consent, that party shall nevertheless remain legally responsible for all obligations under the Contract.

§ 15.2.2 The Owner may, without consent of the Design-Builder, assign the Contract to a lender providing construction financing for the Project, if the lender assumes the Owner's rights and obligations under the Design-Build Documents. The Design-Builder shall execute all consents reasonably required to facilitate such assignment.

Init.

AIA Document A141 – 2014, Copyright © 2004 and 2014. All rights reserved. "The American Institute of Architects," "American Institute of Architects," "AIA," the AIA Logo, and "AIA Contract Documents" are trademarks of The American Institute of Architects. This document was produced at 11:48:17 ET on 09/19/2024 under Order No.2114450827 which expires on 01/03/2025, is not for resale, is licensed for one-time use only, and may only be used in accordance with the AIA Contract Documents' Terms of Service. To report copyright violations, e-mail docinfo@aiacontracts.com.
User Notes:

(1634644090)

27

§ 15.2.3 If the Owner requests the Design-Builder, Architect, Consultants, or Contractors to execute certificates, other than those required by the Design-Build Documents, the Owner shall submit the proposed language of such certificates for review at least fourteen (14) days prior to the requested dates of execution. If the Owner requests the Design-Builder, Architect, Consultants, or Contractors to execute consents reasonably required to facilitate assignment to a lender, the Design-Builder, Architect, Consultants, or Contractors shall execute all such consents that are consistent with this Agreement, provided the proposed consent is submitted to them for review at least fourteen (14) days prior to execution. The Design-Builder, Architect, Consultants, and Contractors shall not be required to execute certificates or consents that would require knowledge, services or responsibilities beyond the scope of their services.

§ 15.3 Written Notice

Written notice shall be deemed to have been duly served if delivered in person to the individual, to a member of the firm or entity, or to an officer of the corporation for which it was intended; or if delivered at, or sent by registered or certified mail or by courier service providing proof of delivery to, the last business address known to the party giving notice.

§ 15.4 Rights and Remedies

§ 15.4.1 Duties and obligations imposed by the Design-Build Documents, and rights and remedies available thereunder, shall be in addition to and not a limitation of duties, obligations, rights and remedies otherwise imposed or available by law.

§ 15.4.2 No action or failure to act by the Owner or Design-Builder shall constitute a waiver of a right or duty afforded them under the Contract, nor shall such action or failure to act constitute approval of or acquiescence in a breach thereunder, except as may be specifically agreed in writing.

§ 15.5 Tests and Inspections

§ 15.5.1 Tests, inspections and approvals of portions of the Work shall be made as required by the Design-Build Documents and by applicable laws, statutes, ordinances, codes, rules and regulations or lawful orders of public authorities. Unless otherwise provided, the Design-Builder shall make arrangements for such tests, inspections and approvals with an independent testing laboratory or entity acceptable to the Owner, or with the appropriate public authority, and shall bear all related costs of tests, inspections and approvals. The Design-Builder shall give the Owner timely notice of when and where tests and inspections are to be made so that the Owner may be present for such procedures. The Owner shall bear costs of (1) tests, inspections or approvals that do not become requirements until after bids are received or negotiations concluded, and (2) tests, inspections or approvals where building codes or applicable laws or regulations prohibit the Owner from delegating their cost to the Design-Builder (ex., IBC Chapter 17 Inspections).

§ 15.5.2 If the Owner determines that portions of the Work require additional testing, inspection or approval not included under Section 15.5.1, the Owner will instruct the Design-Builder to make arrangements for such additional testing, inspection or approval by an entity acceptable to the Owner, and the Design-Builder shall give timely notice to the Owner of when and where tests and inspections are to be made so that the Owner may be present for such procedures. Such costs, except as provided in Section 15.5.3, shall be at the Owner's expense.

§ 15.5.3 If such procedures for testing, inspection or approval under Sections 15.5.1 and 15.5.2 reveal failure of the portions of the Work to comply with requirements established by the Design-Build Documents, all costs made necessary by such failure shall be at the Design-Builder's expense.

§ 15.5.4 Required certificates of testing, inspection or approval shall, unless otherwise required by the Design-Build Documents, be secured by the Design-Builder, and promptly delivered to the Owner.

§ 15.5.5 If the Owner is to observe tests, inspections or approvals required by the Design-Build Documents, the Owner will do so promptly and, where practicable, at the normal place of testing.

§ 15.5.6 Tests or inspections conducted pursuant to the Design-Build Documents shall be made promptly to avoid unreasonable delay in the Work.

Int.

AIA Document A141 - 2014. Copyright © 2004 and 2014. All rights reserved. "The American Institute of Architects," "American Institute of Architects," "AIA," the AIA Logo, and "AIA Contract Documents" are trademarks of The American Institute of Architects. This document was produced at 11:48:17 ET on 09/18/2024 under Order No. 2114450827 which expires on 01/03/2025, is not for resale, is licensed for one-time use only, and may only be used in accordance with the AIA Contract Documents® Terms of Service. To report copyright violations, e-mail docinfo@aiacontracts.com.

User Notes:

(1924844090)

28

§ 15.6 Confidential Information

If the Owner or Design-Builder transmits Confidential Information, the transmission of such Confidential Information constitutes a warranty to the party receiving such Confidential Information that the transmitting party is authorized to transmit the Confidential Information. If a party receives Confidential Information, the receiving party shall keep the Confidential Information strictly confidential and shall not disclose it to any other person or entity except as set forth in Section 15.6.1.

§ 15.6.1 A party receiving Confidential Information may disclose the Confidential Information as required by law or court order, including a subpoena or other form of compulsory legal process issued by a court or governmental entity. A party receiving Confidential Information may also disclose the Confidential Information to its employees, consultants or contractors in order to perform services or work solely and exclusively for the Project, provided those employees, consultants and contractors are subject to the restrictions on the disclosure and use of Confidential Information as set forth in this Contract.

§ 15.7 Capitalization

Terms capitalized in the Contract include those that are (1) specifically defined, (2) the titles of numbered articles or (3) the titles of other documents published by the American Institute of Architects.

§ 15.8 Interpretation

§ 15.8.1 In the interest of brevity the Design-Build Documents frequently omit modifying words such as "all" and "any" and articles such as "the" and "an," but the fact that a modifier or an article is absent from one statement and appears in another is not intended to affect the interpretation of either statement.

§ 15.8.2 Unless otherwise stated in the Design-Build Documents, words which have well-known technical or construction industry meanings are used in the Design-Build Documents in accordance with such recognized meanings.

§ 15.9 Force Majeure

§ 15.9.1 Non-fulfillment, delay or omission by the Design-Builder as regards to any and all of the obligations of this Agreement will not be considered breach of the Agreement, nor will it entail any liability when it is the result of Force Majeure. Force Majeure will be understood to comprise any extraordinary event, unforeseen, or if foreseen, an inevitable event, such as labor disputes, fire, public health emergencies, insurrection, war, natural disasters, the prohibition of a government to not supply goods, damages caused by extraterritorial laws, embargoes and blockades imposed by third countries, among others, that may occur or remain in force after the execution of this Agreement or the Design-Build Amendment, which may impede the partial or total fulfillment by the Design-Builder of the obligations pursuant to this Agreement.

ARTICLE 16 SCOPE OF THE AGREEMENT

§ 16.1 This Agreement is comprised of the following documents listed below:

- .1 AIA Document A141™-2014, Standard Form of Agreement Between Owner and Design-Builder
- .2 AIA Document A141™-2014, Exhibit A, Design-Build Amendment, if executed
- .3 AIA Document A141™-2014, Exhibit B, Insurance and Bonds
- .4 [Section Not Used] AIA Document A141™-2014, Exhibit C, Sustainable Projects, if completed
- .5 [Section Not Used] AIA Document E203™-2013, Building Information Modeling and Digital Data Exhibit, if completed, or the following:

N/A

- .6 Other:

N/A

init.

This Agreement entered into as of the day and year first written above.

Richland County

GMK Associates Design-Build Division, Inc.

OWNER (Signature)

DESIGN-BUILDER (Signature)

(Printed name and title)

(Printed name and title)

(Date Signed)

(Date Signed)

[Handwritten Signature]
JEFFREY L BAKER
CHAIRMAN
9/19/24

Richland County Attorney's Office

[Handwritten Signature]

Approved As To LEGAL Form Only.

No Opinion Rendered As To Content.

init.

AIA Document A141[®] – 2014 Exhibit A

Design-Build Amendment

GMP VERSION

This Amendment is incorporated into the accompanying AIA Document A141™-2014, Standard Form of Agreement Between Owner and Design-Builder, dated the Nineteenth day of September in the year Two-Thousand, Twenty-Four (the "Agreement")
(In words, indicate day, month and year.)

for the following PROJECT:
(Name and location or address)

New Richland County Magistrate's Office
Bluff Road Facility with Sheriff Substation
Columbia, SC

THE OWNER:
(Name, legal status and address)

Richland County Administration
2020 Hampton Street, Suite 4069
P.O. Box 192
Columbia, SC 29201
(803) 576-2050
Email: adminoffice@richlandcountysc.gov

THE DESIGN-BUILDER:
(Name, legal status and address)

GMK Associates DB Division, Inc.
1201 Main Street, Suite 2100
Columbia, SC 29201
Office Ph: (803) 256-0000

The Owner and Design-Builder hereby amend the Agreement as follows.

TABLE OF ARTICLES

- A.1 CONTRACT SUM**
- A.2 CONTRACT TIME**
- A.3 INFORMATION UPON WHICH AMENDMENT IS BASED**
- A.4 DESIGN-BUILDER'S PERSONNEL, CONTRACTORS AND SUPPLIERS**
- A.5 COST OF THE WORK**

ARTICLE A.1 CONTRACT SUM

§ A.1.1 The Owner shall pay the Design-Builder the Contract Sum in current funds for the Design-Builder's performance of the Contract after the execution of this Amendment. The

ADDITIONS AND DELETIONS:

The author of this document has added information needed for its completion. The author may also have revised the text of the original AIA standard form. An Additions and Deletions Report that notes added information as well as revisions to the standard form text is available from the author and should be reviewed. A vertical line in the left margin of this document indicates where the author has added necessary information and where the author has added to or deleted from the original AIA text.

This document has important legal consequences. Consultation with an attorney is encouraged with respect to its completion or modification.

Consultation with an attorney is also encouraged with respect to professional licensing requirements in the jurisdiction where the Project is located.

init.

AIA Document A141 – 2014 Exhibit A. Copyright © 2004 and 2014. All rights reserved. "The American Institute of Architects," "American Institute of Architects," "AIA," the AIA Logo, and "AIA Contract Documents" are trademarks of The American Institute of Architects. This document was produced at 13:34:49 ET on 09/18/2024 under Order No.2114450627 which expires on 01/03/2025. It is not for resale, is licensed for one-time use only, and may only be used in accordance with the AIA Contract Documents' Terms of Service. To report copyright violations, e-mail docinfo@aiacontracts.com.

User Notes:

(138946781)

Contract Sum shall be one of the following and shall not include compensation the Owner paid the Design-Builder for Work performed prior to execution of this Amendment:

(Check the appropriate box.)

- [X] Stipulated Sum, in accordance with Section A.1.2 below
- [] Cost of the Work plus the Design-Builder's Fee, in accordance with Section A.1.3 below *(N/A)*
- [] Cost of the Work plus the Design-Builder's Fee with a Guaranteed Maximum Price, in accordance with Section A.1.4 below *(N/A)*

(Based on the selection above, complete Section A.1.2, A.1.3 or A.1.4 below.)

§ A.1.2 Stipulated Sum

§ A.1.2.1 The Stipulated Sum for Design Services and Construction, subject to authorized adjustments as provided in the Design-Build Documents, are as follows:

§ A.1.2.1.1 Design Services. For the Design-Builder's performance of the Work as described in Section 5.1 of the Agreement, the Owner shall pay the Design-Builder in current funds the amount of: Two-Hundred, Sixty-Three Thousand, Five-Hundred Dollars and Zero Cents (\$263,500), per the attached Conceptual Budget Summary dated September 10, 2024.

§ A.1.2.1.1.1 The Design Services to be performed shall be commenced upon the execution of this Agreement and, subject to the authorized adjustments and to delays not caused by the Design-Builder, shall be completed in a Four (4) month duration.

§ A.1.2.1.2 Construction. The Stipulated Sum for Construction shall be (\$), per the GMP Construction Cost Budget Summary dated .

The Proposed Construction Costs, including Design/Construction Contingency, for the Scope of Work are Four-Million, Two-Hundred, Four Thousand, Nine-Hundred, Forty Dollars (\$4,204,940).

The Stipulated Sum for Construction will be issued via a future Construction Cost Amendment after sufficient Design Services have been completed to solicit Pricing from Subcontractors and Vendors to establish a Final Guaranteed Maximum Price for the Project.

§ A.1.2.2 The Stipulated Sum for Construction is guaranteed by the Design-Builder not to exceed the above-stated amount, subject to additions and deductions by changes in the work as provided in the Final IPDM Construction Documents. Such maximum sum is referred to in the Design-Build Documents as the Guaranteed Maximum Price. Reasonably expected costs which would cause the Guaranteed Maximum Price to be exceeded shall be paid by the Design-Builder without reimbursement by the Owner.

§ A.1.2.3 The Stipulated Sum will be converted to a Lump-Sum Price after Final Buyout of the project and will be incorporated into this Agreement by Amendment.

§ A.1.2.4 The Stipulated Sum is based upon the following alternates, if any, which are described in the Design-Build Documents and are hereby accepted by the Owner:

(State the numbers or other identification of accepted alternates. If the Owner is permitted to accept other alternates subsequent to the execution of this Amendment, attach a schedule of such other alternates showing the change in Stipulated Sum for each and the deadline by which the alternate must be accepted.)

init.

§ A.1.2.5 Unit prices, if any:
(Identify item, state the unit price, and state any applicable quantity limitations.)

Item	Units and Limitations	Price per Unit (\$0.00)
------	-----------------------	-------------------------

§ A.1.2.6 Allowances, if any, are as follows:
(Identify and state the amounts of any allowances, and state whether they include labor, materials, or both)

Allowance	Amount (\$ 0.00)	Included Items
-----------	------------------	----------------

§ A.1.2.7 Assumptions or qualifications, if any, on which the Stipulated Sum is based, are as follows:

See attached Conceptual Budget Summary dated April 23, 2024

§ A.1.3 **[Section Not Used]** Cost of the Work Plus Design-Builder's Fee

§ A.1.4 **[Section Not Used]** Cost of the Work Plus Design-Builder's Fee With a Guaranteed Maximum Price

§ A.1.5 Payments

§ A.1.5.1 Progress Payments

§ A.1.5.1.1 Based upon Applications for Payment submitted to the Owner by the Design-Builder, the Owner shall make Progress Payments on account of the Contract Sum to the Design-Builder as provided below and elsewhere in the Design-Build Documents.

§ A.1.5.1.2 The period covered by each Application for Payment shall be one calendar month ending on the last day of the month, or as follows:

Per A.1.5.1.3.

§ A.1.5.1.3 Provided that an Application for Payment is received not later than the First (1st) day of the month, the Owner shall make payment of the certified amount to the Design-Builder not later than the First (1st) day of the following month. If an Application for Payment is received by the Owner after the application date fixed above, payment shall be made by the Owner not later than Thirty (30) days after the Owner receives the Application for Payment.
(Federal, state or local laws may require payment within a certain period of time.)

§ A.1.5.1.4 **[Section Not Used]**

§ A.1.5.1.5 With each Application for Payment where the Contract Sum is based upon a Stipulated Sum, the Design-Builder shall submit the most recent Schedule of Values in accordance with the Design-Build Documents. The Schedule of Values shall allocate the entire Contract Sum among the various portions of the Work. Compensation for Design Services, if any, shall be shown separately. The Schedule of Values shall be prepared in such form and supported by such data to substantiate its accuracy as the Owner may require. This Schedule of Values, unless objected to by the Owner, shall be used as a basis for reviewing the Design-Builder's Applications for Payment.

§ A.1.5.1.6 In taking action on the Design-Builder's Applications for Payment, the Owner shall be entitled to rely on the accuracy and completeness of the information furnished by the Design-Builder and shall not be deemed to have made a detailed examination, audit or arithmetic verification of the documentation submitted in accordance with Section A.1.5.1.5, or other supporting data; to have made exhaustive or continuous on-site inspections; or to have made examinations to ascertain how or for what purposes the Design-Builder has used amounts previously paid. Such examinations, audits and verifications, if required by the Owner, will be performed by the Owner's auditors acting in the sole interest of the Owner.

init.

§ A.1.5.1.7 Except with the Owner's prior approval, the Design-Builder shall not make advance payments to suppliers for materials or equipment which have not been delivered and stored at the site.

§ A.1.5.1.8 In the event that the Owner's Lender engages the services of an independent inspection service for the payment application approval process, the Design-Builder has the right to provide reasonable objection to the firm or individual selected to perform the inspection services.

§ A.1.5.2 Progress Payments—Stipulated Sum

§ A.1.5.2.1 Applications for Payment where the Contract Sum is based upon a Stipulated Sum shall indicate the percentage of completion of each portion of the Work as of the end of the period covered by the Application for Payment.

§ A.1.5.2.2 Subject to other provisions of the Design-Build Documents, the amount of each Progress Payment related to Construction Schedule of Value items shall be computed as follows:

- .1 Take that portion of the Contract Sum properly allocable to completed Work as determined by multiplying the percentage completion of each portion of the Work by the share of the Contract Sum allocated to that portion of the Work in the Schedule of Values, less Retainage of Ten percent (10%) on the Work. Pending final determination of cost to the Owner of Changes in the Work, amounts not in dispute shall be included as provided in Section 6.3.9 of the Agreement;
- .2 Add that portion of the Contract Sum properly allocable to materials and equipment delivered and suitably stored at the site for subsequent incorporation in the completed construction (or, if approved in advance by the Owner, suitably stored off the site at a location agreed upon in writing), less Retainage of Ten percent (10%);
- .3 Subtract the aggregate of previous payments made by the Owner; and
- .4 Subtract amounts, if any, the Owner has withheld or nullified, as provided in Section 9.5 of the Agreement.
- .5 Retainage does not apply to Compensation for Design Services.

§ A.1.5.2.3 The Progress Payment amount determined in accordance with Section A.1.5.2.2 shall be further modified under the following circumstances:

- .1 Add, upon Substantial Completion of the Work, a sum sufficient to increase the total payments to the full amount of the Contract Sum, less such amounts as the Owner shall determine for incomplete Work, Retainage applicable to such work and unsettled claims; and
(Section 9.8.6 of the Agreement discusses release of applicable retainage upon Substantial Completion of Work.)
- .2 Add, if final completion of the Work is thereafter materially delayed through no fault of the Design-Builder, any additional amounts payable in accordance with Section 9.10.3 of the Agreement.

§ A.1.5.2.4 Reduction or limitation of Retainage, if any, shall be as follows:

(If it is intended, prior to Substantial Completion of the entire Work, to reduce or limit the retainage resulting from the percentages inserted in Sections A.1.5.2.2.1 and A.1.5.2.2.2 above, and this is not explained elsewhere in the Design-Build Documents, insert provisions here for such reduction or limitation.)

Upon the Owners written approval, the Design-Builder may reduce Retainage to Five-Percent (5%) after Fifty-Percent (50%) completion of the Project.

§ A.1.5.3 [Section Not Used] Progress Payments—Cost of the Work Plus a Fee

§ A.1.5.4 [Section Not

Used] Progress Payments—Cost of the Work Plus a Fee with a Guaranteed Maximum Price

§ A.1.5.5 Final Payment

§ A.1.5.5.1 Final payment, constituting the entire unpaid balance of the Contract Sum, shall be made by the Owner to the Design-Builder not later than Thirty (30) days after the Design-Builder has fully performed the Contract and the requirements of Section 9.10 of the Agreement have been satisfied, except for the Design-Builder's responsibility to correct non-conforming Work discovered after final payment or to satisfy other requirements, if any, which extend beyond final payment.

Int.

§ A.1.5.5.2 [Section Not Used]

ARTICLE A.2 CONTRACT TIME

§ A.2.1 Contract Time, as defined in the Agreement at Section 1.4.13, is the period of time, including authorized adjustments, for Substantial Completion of the Work.

§ A.2.2 The Design-Builder shall achieve Substantial Completion of the Work not later than () days from the date of this Amendment, or as follows:

(Insert number of calendar days. Alternatively, a calendar date may be used when coordinated with the date of commencement. If appropriate, insert requirements for earlier Substantial Completion of certain portions of the Work.)

The Construction Duration to achieve Substantial Completion of the Work will be established via a future Construction Amendment after sufficient Design Services have been completed to solicit Pricing from Subcontractors and Vendors to develop a Final Guaranteed Maximum Price for the Project.

Portion of Work	Substantial Completion Date
N/A	

, subject to adjustments of the Contract Time as provided in the Design-Build Documents.
(Insert provisions, if any, for liquidated damages relating to failure to achieve Substantial Completion on time or for bonus payments for early completion of the Work.)

None

ARTICLE A.3 INFORMATION UPON WHICH AMENDMENT IS BASED

§ A.3.1 The Contract Sum and Contract Time set forth in this Amendment are based on the following:

§ A.3.1.1 The Supplementary and other Conditions of the Contract:

Document	Title	Date	Pages

§ A.3.1.2 The Specifications:
(Either list the specifications here or refer to an exhibit attached to this Amendment.)

Section	Title	Date	Pages
N/A			

§ A.3.1.3 The Drawings:
(Either list the drawings here or refer to an exhibit attached to this Amendment.)

Number	Title	Date
N/A		

§ A.3.1.4 [Section Not Used] The Sustainability Plan, if any:

§ A.3.1.5 [Section Not Used]

Init.

§ A.3.1.6 Design-Builder's assumptions and clarifications:

§ A.3.1.7 Deviations from the Owner's Criteria as adjusted by a Modification:

N/A

§ A.3.1.8 To the extent the Design-Builder shall be required to submit any additional Submittals to the Owner for review, indicate any such submissions below:

ARTICLE A.4 DESIGN-BUILDER'S PERSONNEL, CONTRACTORS AND SUPPLIERS

§ A.4.1 The Design-Builder's key personnel are identified below:

(Identify name, title and contact information.)

.1 Superintendent

TBD

.2 Project Manager

TBD

.3 Others

§ A.4.2 The Design-Builder shall retain the following Consultants, Contractors and suppliers, identified below:
(List name, discipline, address and other information.)

GMK Architects, GMK Engineering, GMK Interiors.

ARTICLE A.5 MISCELLANEOUS PROVISIONS

§ A.5.1 Relationship of the Parties

The Design-Builder accepts the relationship of trust and confidence established by this Agreement and covenants with the Owner to exercise the Design-Builder's skill and judgment in furthering the interests of the Owner; to furnish efficient construction administration, management services and supervision; to furnish at all times an adequate supply of workers and materials; and to perform the Work in an expeditious and economical manner consistent with the Owner's interests.

This Amendment to the Agreement entered into as of the day and year first written above.

Init.

AIA Document A141 – 2014 Exhibit A. Copyright © 2004 and 2014. All rights reserved. "The American Institute of Architects," "American Institute of Architects," "AIA," the AIA Logo, and "AIA Contract Documents" are trademarks of The American Institute of Architects. This document was produced at 13:34:48 ET on 09/18/2024 under Order No.2114450827 which expires on 01/03/2025, is not for resale, is licensed for one-time use only, and may only be used in accordance with the AIA Contract Documents® Terms of Service. To report copyright violations, e-mail docinfo@aiacontracts.com.

User Notes:

(1399467881)

6

Richland County

GMK Associates Design-Build Division, Inc.

OWNER (Signature)

(Printed name and title)

(Date)

DESIGN-BUILDER (Signature)

JEFFREY L BAKER
(Printed name and title) CHAIRMAN

(Date)

9/19/24

Richland County Attorney's Office

Approved As To LEGAL Form Only.

No Opinion Rendered As To Content.

init.

AIA Document A141 – 2014 Exhibit A. Copyright © 2004 and 2014. All rights reserved. "The American Institute of Architects," "American Institute of Architects," "AIA," the AIA Logo, and "AIA Contract Documents" are trademarks of The American Institute of Architects. This document was produced at 13:34:49 ET on 09/18/2024 under Order No.2114450627 which expires on 01/03/2025, is not for resale, is licensed for one-time use only, and may only be used in accordance with the AIA Contract Documents® Terms of Service. To report copyright violations, e-mail docinfo@aiacontracts.com.

User Notes:

(1306467881)

Richland County
New Magistrate Facility
with Sheriff Substation
Bluff Road Site (The Station at Congaree Pointe)
Conceptual Budget Summary Update

September 10, 2024

New Construction Area = 4,830 sf + 3,030 sf = 7,860 sf

Sitework Allowance (Similar Scope of Hopkins Facility):	\$386,330
Sitework Allowance (additional for Sheriff Substation):	\$151,500
New Magistrate Building Construction (Hopkins Facility):	\$1,892,465
New Sheriff Substation Building Construction (3,030 sf):	\$984,750
Collaborative Exterior Aesthetic Upgrades for The Station at Congaree Pointe:	\$541,500
Include Exterior Signage (Letters), Security, Cameras, etc.:	\$97,290
Construction Costs Sub-Total:	\$4,053,835
Design Fees (6.5%):	\$263,500
Design/Construction Contingency (3.5%):	\$151,105
Design & Construction Costs:	\$4,468,440



AIA Document A141 – 2014 Exhibit B

Insurance and Bonds

GMP VERSION

for the following PROJECT:
(Name and location or address)

New Richland County Magistrate's Office
Bluff Road Facility with Sheriff Substation
Columbia, SC

THE OWNER:
(Name, legal status and address)

Richland County Administration
2020 Hampton Street, Suite 4069
P.O. Box 192
Columbia, SC 29201
(803) 576-2050
Email: adminoffice@richlandcountysc.gov

THE DESIGN-BUILDER:
(Name, legal status and address)

GMK Associates DB Division, Inc.
1201 Main Street, Suite 2100
Columbia, SC 29201
Office Ph: (803) 256-0000

THE AGREEMENT

This Insurance Exhibit is part of the accompanying agreement for the Project, between the Owner and the Design-Builder (hereinafter, the Agreement), dated the Nineteenth day of September in the year Two-Thousand, Twenty-Four.
(In words, indicate day, month and year.)

TABLE OF ARTICLES

- B.1 GENERAL
- B.2 DESIGN BUILDER'S INSURANCE AND BONDS
- B.3 OWNER'S INSURANCE
- B.4 SPECIAL TERMS AND CONDITIONS

ARTICLE B.1 GENERAL

The Owner and Design-Builder shall purchase and maintain insurance and provide bonds as set forth in this Exhibit B. Where a provision in this Exhibit conflicts with a provision in the Agreement into which this Exhibit is incorporated, the provision in this Exhibit will prevail.

ADDITIONS AND DELETIONS:

The author of this document has added information needed for its completion. The author may also have revised the text of the original AIA standard form. An Additions and Deletions Report that notes added information as well as revisions to the standard form text is available from the author and should be reviewed. A vertical line in the left margin of this document indicates where the author has added necessary information and where the author has added to or deleted from the original AIA text.

This document has important legal consequences. Consultation with an attorney is encouraged with respect to its completion or modification.

Init.

ARTICLE B.2 DESIGN BUILDER'S INSURANCE AND BONDS

§ B.2.1 The Design-Builder shall purchase and maintain the following types and limits of insurance from a company, or companies, lawfully authorized to do business in the jurisdiction where the Project is located. Each insurer shall have a Best rating of A, VII or higher. All deductibles and retentions for the policies are to be paid by Design-Builder. The Design-Builder shall maintain the required insurance until the expiration of the period for correction of Work as set forth in Section 11.2.2.1 of the Agreement, unless a different duration is stated below:

(If the Design-Builder is required to maintain insurance for a duration other than the expiration of the period for correction of Work, state the duration.)

§ B.2.1.1 Commercial General Liability with policy limits of not less than One Million Dollars (\$1,000,000) for each occurrence and Two Million Dollars (\$2,000,000) in the aggregate providing coverage for claims including

- .1 damages because of bodily injury, sickness or disease, including occupational sickness or disease, and death of any person;
- .2 personal injury;
- .3 damages because of injury to or destruction of tangible property;
- .4 bodily injury or property damage arising out of completed operations; and
- .5 contractual liability applicable to the Design-Builder's obligations under Section 3.1.14 of the Agreement.

The policy shall provide that this policy is primary over any other Owner insurance or self-insurance, even if the policy asserts it is excess, secondary or contingent.

§ B.2.1.2 Business Automobile Liability covering vehicles owned by the Design-Builder and non-owned vehicles used by the Design-Builder with policy limits of not less than One Million Dollars (\$1,000,000) per claim and One Million Dollars (\$1,000,000) in the aggregate for bodily injury, death of any person, and property damage arising out of the ownership, maintenance and use of those motor vehicles specified in this Section B.2.1.2, along with any other statutorily required automobile coverage.

§ B.2.1.3 The Design-Builder may achieve the required limits and coverage for Commercial General Liability and Automobile Liability through a combination of primary and excess liability insurance, provided such primary and excess insurance policies result in the same or greater coverage as those required under Sections B.2.1.1 and B.2.1.2.

§ B.2.1.4 Workers' Compensation at statutory limits of the State of South Carolina. "Other States" coverage is not sufficient.

§ B.2.1.5 Employers' Liability with policy limits as provided below:

at statutory limits of the State of South Carolina.

§ B.2.1.6 Professional Liability covering negligent acts, errors and omissions in the performance of professional services, with policy limits of not less than (\$) per claim and (\$) in the aggregate.

§ B.2.1.7 Pollution Liability covering performance of the Work, with policy limits of not less than (\$) per claim and (\$) in the aggregate.

§ B.2.1.7.1 The Design-Builder will obtain a combined Professional Liability and Pollution Liability policy to satisfy the requirements set forth in Sections B.2.1.6 and B.2.1.7, with combined policy limits that are not less than Two Million Dollars (\$2,000,000) per claim and Five Million Dollars (\$5,000,000) in the aggregate.

§ B.2.1.8 The Design-Builder shall provide written notification to the Owner of the cancellation or expiration of any insurance required by this Article B.2. The Design-Builder shall provide such written notice within five (5) business days of the date the Design-Builder is first aware of the cancellation or expiration, or is first aware that the cancellation or expiration is threatened or otherwise may occur, whichever comes first.

§ B.2.1.9 Additional Insured Obligations. Upon request, the Owner may be included as additional insureds on the Design-Builder's primary and excess insurance policies for Commercial General Liability, Business Automobile

init.

AIA Document A141 – 2014 Exhibit B. Copyright © 2004 and 2014. All rights reserved. "The American Institute of Architects," "American Institute of Architects," "AIA," the AIA Logo, and "AIA Contract Documents" are trademarks of The American Institute of Architects. This document was produced at 15:31:35 ET on 05/18/2024 under Order No.2114450827 which expires on 01/03/2025, is not for resale, is licensed for one-time use only, and may only be used in accordance with the AIA Contract Documents' Terms of Service. To report copyright violations, e-mail docinfo@aiacontracts.com.

User Notes:

Liability and Pollution Liability. The additional insured coverage shall be primary and non-contributory to any of the Owner's insurance policies. The additional insured coverage shall apply to both ongoing operations and completed operations. The policy limits applicable to the additional insureds shall be the same amount applicable to the named insured or, if the policy provides otherwise, policy limits not less than the amounts required under this Agreement.

§ B.2.1.10 Certificates of Insurance. The Design-Builder shall provide certificates of insurance acceptable to the Owner evidencing compliance with the requirements in this Article B.2: (1) prior to commencement of the Work; (2) upon renewal or replacement of each required policy of insurance; and (3) upon Owner's written request. An additional certificate evidencing continuation of liability coverage, including coverage for completed operations, shall be submitted with the final Application for Payment as required by Section 9.10.2 of the Agreement and thereafter upon renewal or replacement of such coverage until the expiration of the time required by Section B.2.1. The certificates will show the Owner and its consultants and contractors as additional insureds on the Design-Builder's primary and excess insurance policies for Commercial General Liability, Automobile Liability, and Pollution Liability. Information concerning reduction of coverage on account of revised limits, claims paid under the General Aggregate or both, shall be furnished by the Design-Builder with reasonable promptness.

§ B.2.2 Performance Bond and Payment Bond

If requested by the Owner, the Design-Builder shall provide surety bonds as follows:
(Specify type and penal sum of bonds.)

Type	Penal Sum (\$0.00)
None	\$0.00

§ B.2.2.1 If requested, the cost of the Performance and Payment Bonds will be paid by the Owner.

§ B.2.2.2 Upon the request of any person or entity appearing to be a potential beneficiary of bonds covering payment of obligations arising under the Agreement, the Design-Builder shall promptly furnish a copy of the bonds or shall permit a copy to be made.

ARTICLE B.3 OWNER'S INSURANCE

§ B.3.1 Owner's Liability Insurance

The Owner shall be responsible for purchasing and maintaining the Owner's usual liability insurance.

§ B.3.2 Property Insurance

§ B.3.2.1 Unless otherwise provided, at the time of execution of the Design-Build Amendment, the Owner shall purchase and maintain, in a company or companies lawfully authorized to do business in the jurisdiction where the Project is located, property insurance written on a builder's risk "all-risk" or equivalent policy form in the amount of the initial Contract Sum, plus the value of subsequent Modifications and cost of materials supplied or installed by others, comprising the total value for the entire Project at the site on a replacement cost basis without optional deductibles. If any construction that is part of the Work shall commence prior to execution of the Design-Build Amendment, the Owner shall, prior to commencement of construction, purchase and maintain property insurance as described above in an amount sufficient to cover the total value of the Work at the site on a replacement cost basis without optional deductibles. The insurance required under this section shall include interests of the Owner, Design-Builder, Architect, Consultants, Contractors, and Subcontractors in the Project. The property insurance shall be maintained, unless otherwise provided in the Design-Build Documents or otherwise agreed in writing by all persons and entities who are beneficiaries of the insurance, until the Owner has issued a Certificate of Substantial Completion in accordance with Section 9.8 of the Agreement. Unless the parties agree otherwise, upon issuance of a Certificate of Substantial Completion, the Owner shall replace the insurance policy required under this Section B.3.2 with another property insurance policy written for the total value of the Project that shall remain in effect until expiration of the period for correction of the Work set forth in Section 11.2.2 of the Agreement.

§ B.3.2.1.1 The insurance required under Section B.3.2.1 shall include, without limitation, insurance against the perils of fire (with extended coverage) and physical loss or damage including, without duplication of coverage, theft, vandalism, malicious mischief, collapse, earthquake, flood, windstorm, falsework, testing and startup, temporary buildings and debris removal, including demolition occasioned by enforcement of any applicable legal requirements,

init.

and shall cover reasonable compensation for the Design-Builder's services and expenses required as a result of such insured loss.

§ B.3.2.1.2 If the insurance required under Section B.3.2.1 requires deductibles, the Owner shall pay costs not covered because of such deductibles.

§ B.3.2.1.3 The insurance required under Section B.3.2.1 shall cover portions of the Work stored off the site, and also portions of the Work in transit.

§ B.3.2.1.4 Partial occupancy or use in accordance with Section 9.9 of the Agreement shall not commence until the insurance company or companies providing the insurance required under Section B.3.2.1 have consented to such partial occupancy or use by endorsement or otherwise. The Owner and the Design-Builder shall take reasonable steps to obtain consent of the insurance company or companies and shall, without mutual written consent, take no action with respect to partial occupancy or use that would cause cancellation, lapse or reduction of insurance.

§ B.3.2.2 **Boiler and Machinery Insurance.** As applicable, the Owner shall purchase and maintain boiler and machinery insurance, which shall specifically cover commissioning, testing, or breakdown of equipment required by the Work, if not covered by the insurance required in Section B.3.2.1. This insurance shall include the interests of the Owner, Design-Builder, Architect, Consultants, Contractor and Subcontractors in the Work, and the Owner and Design-Builder shall be named insureds.

§ B.3.2.3 If the Owner does not intend to purchase the insurance required under Sections B.3.2.1 and B.3.2.2 with all of the coverages in the amounts described above, the Owner shall inform the Design-Builder in writing prior to any construction that is part of the Work. The Design-Builder may then obtain insurance that will protect the interests of the Owner, Design-Builder, Architect, Consultants, Contractors, and Subcontractors in the Work. The cost of the insurance shall be charged to the Owner by an appropriate Change Order. If the Owner does not provide written notice, and the Design-Builder is damaged by the failure or neglect of the Owner to purchase or maintain insurance as described above, the Owner shall bear all reasonable costs and damages attributable thereto.

§ B.3.2.4 **Loss of Use Insurance.** At the Owner's option, the Owner may purchase and maintain insurance to insure the Owner against loss of use of the Owner's property due to fire or other hazards, however caused. The Owner waives all rights of action against the Design-Builder for loss of use of the Owner's property, including consequential losses due to fire or other hazards covered under the property insurance required under this Exhibit B to the Agreement.

§ B.3.2.5 If during the Project construction period the Owner insures properties, real or personal or both, at or adjacent to the site by property insurance under policies separate from those insuring the Project, or if after final payment property insurance is to be provided on the completed Project through a policy or policies other than those insuring the Project during the construction period, the Owner shall waive all rights in accordance with the terms of Section B.3.2.7 for damages caused by fire or other causes of loss covered by this separate property insurance. All separate policies shall provide this waiver of subrogation by endorsement or otherwise.

§ B.3.2.6 Before an exposure to loss may occur, the Owner shall file with the Design-Builder a copy of each policy that includes insurance coverages required by this Section B.3.2. Each policy shall contain all generally applicable conditions, definitions, exclusions and endorsements related to this Project. The Owner shall provide written notification to the Design-Builder of the cancellation or expiration of any insurance required by this Article B.3. The Owner shall provide such written notice within five (5) business days of the date the Owner is first aware of the cancellation or expiration, or is first aware that the cancellation or expiration is threatened or otherwise may occur, whichever comes first.

§ B.3.2.7 **Waivers of Subrogation.** The Owner and Design-Builder waive all rights against (1) each other and any of their consultants, subconsultants, contractors and subcontractors, agents and employees, each of the other, and (2) any separate contractors described in Section 5.13 of the Agreement, if any, and any of their subcontractors, sub-subcontractors, agents and employees, for damages caused by fire or other causes of loss to the extent covered by property insurance obtained pursuant to Section B.3.2 or other property insurance applicable to the Work and completed construction, except such rights as they have to proceeds of such insurance held by the Owner as fiduciary. The Owner or Design-Builder, as appropriate, shall require of the separate contractors described in Section 5.13 of the Agreement, if any, and the subcontractors, sub-subcontractors, agents and employees of any of them, by appropriate

agreements, written where legally required for validity, similar waivers each in favor of the other parties enumerated herein. The policies shall provide such waivers of subrogation by endorsement or otherwise. A waiver of subrogation shall be effective as to a person or entity even though that person or entity would otherwise have a duty of indemnification, contractual or otherwise, did not pay the insurance premium directly or indirectly, and whether or not the person or entity had an insurable interest in the property damaged.

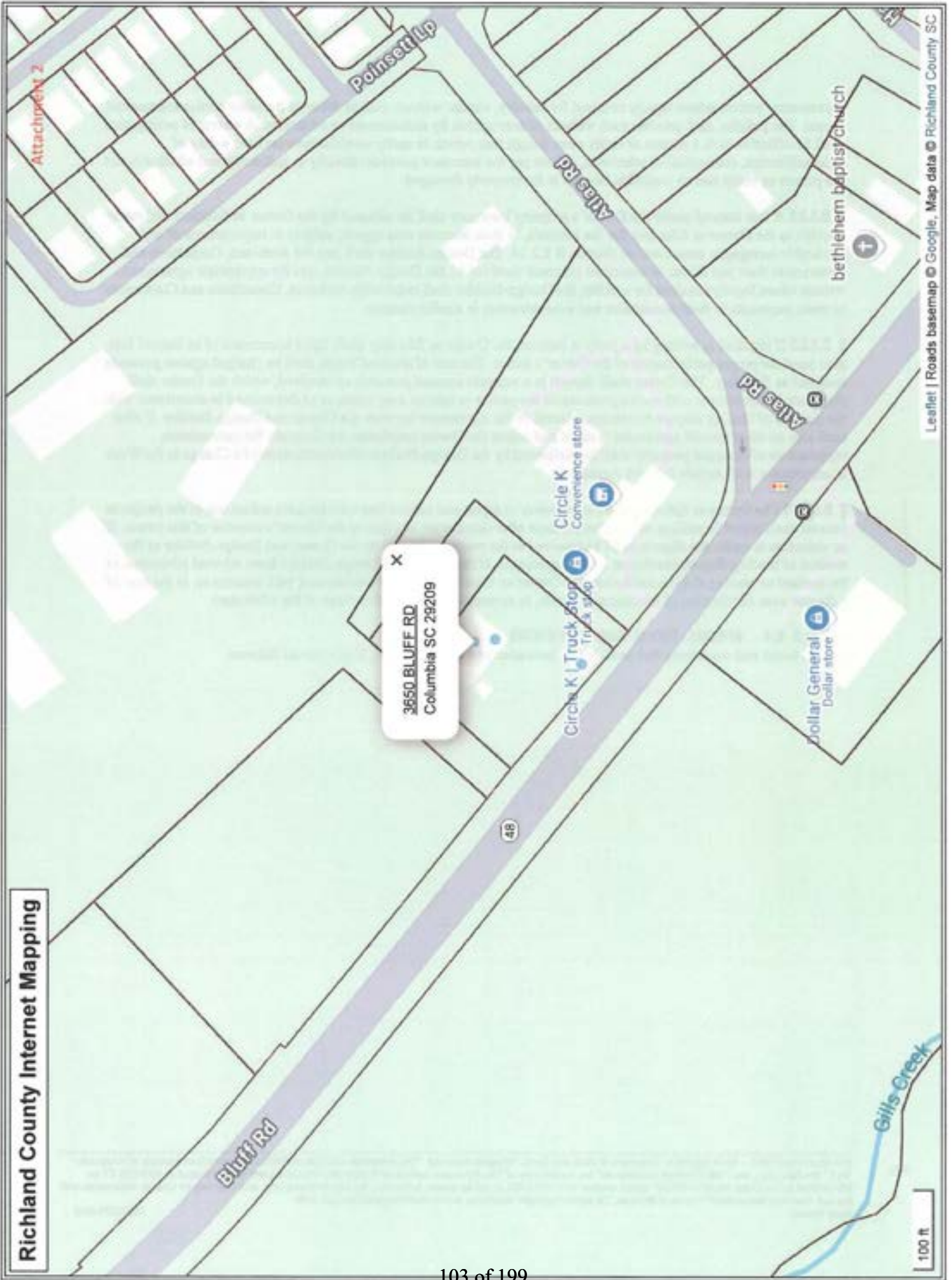
§ B.3.2.8 A loss insured under the Owner's property insurance shall be adjusted by the Owner as fiduciary and made payable to the Owner as fiduciary for the insureds, as their interests may appear, subject to requirements of any applicable mortgagee clause and of Section B.3.2.10. The Design-Builder shall pay the Architect, Consultants and Contractors their just shares of insurance proceeds received by the Design-Builder, and by appropriate agreements, written where legally required for validity, the Design-Builder shall require the Architect, Consultants and Contractors to make payments to their consultants and subcontractors in similar manner.

§ B.3.2.9 If required in writing by a party in interest, the Owner as fiduciary shall, upon occurrence of an insured loss, give bond for proper performance of the Owner's duties. The cost of required bonds shall be charged against proceeds received as fiduciary. The Owner shall deposit in a separate account proceeds so received, which the Owner shall distribute in accordance with such agreement as the parties in interest may reach, or as determined in accordance with the method of binding dispute resolution selected in the Agreement between the Owner and Design-Builder. If after such loss no other special agreement is made and unless the Owner terminates the Contract for convenience, replacement of damaged property shall be performed by the Design-Builder after notification of a Change in the Work in accordance with Article 6 of the Agreement.

§ B.3.2.10 The Owner as fiduciary shall have power to adjust and settle a loss with insurers unless one of the parties in interest shall object in writing within five (5) days after occurrence of a loss to the Owner's exercise of this power. If an objection is made, the dispute shall be resolved in the manner selected by the Owner and Design-Builder as the method of binding dispute resolution in the Agreement. If the Owner and Design-Builder have selected arbitration as the method of binding dispute resolution, the Owner as fiduciary shall make settlement with insurers or, in the case of a dispute over distribution of insurance proceeds, in accordance with the directions of the arbitrators.

ARTICLE B.4 SPECIAL TERMS AND CONDITIONS

Special terms and conditions that modify this Insurance and Bonds Exhibit, if any, are as follows:



3. **Chief Magistrate – County Magistrate Offices Improvement Priority List** – Mr. Brown stated a previous version of Council communicated to staff that for the Magistrate's Office to move forward with the decisions on the funding provided, they had to produce a priority list. Through a few iterations of Chief Magistrates, we are now at the point where a priority list is being provided. Staff is requesting approval of the priority list as proposed by Chief Magistrate Valerie Stroman for the County Magistrate facility improvements in the following order:

- a. *Olympia Magistrate*
- b. *Pontiac Magistrate*
- c. *Lykesland Magistrate*
- d. *Dentsville Magistrate*
- e. *Waverly Magistrate*
- f. *Eastover Magistrate*

Mr. Brown noted there was \$8M allocated to improve and/or relocate Magistrate facilities within their specific jurisdictions. The current available funding is \$7,314,149.

Mr. Walker moved to approve the priority list proposed by the Chief Magistrate for improvements and/or relocation of County Magistrate facilities in the following order: Olympia, Pontiac, Lykeland, Dentsville, Waverly, and Eastover, seconded by Ms. English.

Mr. Livingston inquired if the county leased or owned the properties listed.

Judge Simons stated all the facilities listed except the Eastover Magistrate's Office are leased. He noted the Eastover Magistrate is in dire need of improvements.

Mr. Livingston inquired if their goal is still to own as many Magistrate facilities as possible.

Judge Simons responded that the original plan was to get all of the Magistrates out of rental properties and into county-owned facilities. He indicated the Dutch Fork Magistrate is not on the list but is also in bad shape.

Mr. Walker said it was his understanding there was a previous priority list, and the Pontiac Magistrate was #1 on the list.

Judge Simons maintained there has never been a priority list. When we initially started looking at the Magistrate's Offices, we submitted a list, but the list changed. He indicated the Olympia Magistrate's lease is up for renewal soon, which is why they wanted to go ahead and get them into another facility and not renew their lease. The Pontiac and Dentsville Magistrate Offices are currently being housed at Central Court.

Mr. Weaver inquired if the \$7.3M has already been allocated.

Mr. Brown responded that the funding was specifically allocated to relocate and improve the Magistrate offices.

For clarification, Mr. Weaver stated that the County will build six Magistrate facilities for \$7.3M.

Judge Simons replied the \$7.3M will not build all six facilities. We will construct as many as possible, and then they will have to come back to Council for additional funding.

Mr. Weaver said he assumed we would utilize a standard plan for the facilities and not redesign each one.

Judge Simons responded that was their plan.

Ms. Barron inquired as to how the priority list was created and ranked.

Judge Simons stated there are many different factors. One is being able to find a piece of property within the district. Another is the needs of the facilities. There was no favoritism given.

Mr. Pugh noted there are some health issues at the Dutch Fork Magistrate's Office.

In Favor: Branham, Pugh, McBride, Livingston, Terracio, Weaver, Barron, Walker, Mackey, English, and Newton

The vote in favor was unanimous.

Ms. Newton moved to reconsider Items 10(b)(1), 10(b)(2), and 10(b)(3), seconded by Ms. Terracio.

Opposed: Branham, Pugh, McBride, Livingston, Terracio, Weaver, Barron, Walker, Mackey, English, and Newton

The motion for reconsideration failed.

11. **REPORT OF THE CLERK OF COUNCIL** – No report was given.

**RICHLAND COUNTY
ADMINISTRATION**

2020 Hampton Street, Suite 4069
Columbia, SC 29204
803-576-2050

Report of the County Administrator Attachment 5



Agenda Briefing

Prepared by:	Lori Thomas	Title:	Assistant County Administrator
Department:	Administration	Division:	
Date Prepared:	September 20, 2024	Meeting Date:	October 15, 2024
Legal Review	Patrick Wright via email	Date:	October 2, 2024
Budget Review	Maddison Wilkerson via email	Date:	September 25, 2024
Finance Review	Stacey Hamm via email	Date:	September 25, 2024
Approved for consideration:	County Administrator	Leonardo Brown, MBA, CPM	
Meeting/Committee	Regular Session		
Subject	Construction Contract Approval for the Pontiac Magistrate on Clemson Road		

RECOMMENDED/REQUESTED ACTION:

The Chief Magistrate requests approval of the contract for the construction of the Pontiac Magistrate at a gross maximum price of \$2,511,860 to be located on Clemson Road between 683 and 703 Clemson Road.

Request for Council Reconsideration: Yes

FIDUCIARY:

Are funds allocated in the department's current fiscal year budget?	<input type="checkbox"/>	Yes	<input checked="" type="checkbox"/>	No
If not, is a budget amendment necessary?	<input type="checkbox"/>	Yes	<input checked="" type="checkbox"/>	No

ADDITIONAL FISCAL/BUDGETARY MATTERS TO CONSIDER:

Funding was previously approved and allocated for Magistrate facility construction/improvements. Currently available for these projects is \$7,314,149. The cost of this facility is still available from these funds.

Applicable fund, cost center, and spend category:

Fund: 1301
Cost Center: 9950
Spend Category: Construction
Project: Pontiac Magistrate Office
Loan: General Obligation Bonds 2020A

OFFICE OF PROCUREMENT & CONTRACTING FEEDBACK:

In 2017, a Request for Qualifications RC-035-Q-2017 was issued for a Design-Build team to provide design, management and construction services for various magistrate renovations and new builds, as part of the County's efforts to house all magistrate's in County-owned facilities. GMK Associates was awarded the first two projects- Hopkins and Upper Township magistrate's offices as the immediate result of the RFQ. This request continues work with the selected team in pursuit of the endeavor.

COUNTY ATTORNEY'S OFFICE FEEDBACK/POSSIBLE AREA(S) OF LEGAL EXPOSURE:

There are no legal concerns regarding this matter.

REGULATORY COMPLIANCE:

Not applicable.

MOTION OF ORIGIN:

Mr. Walker moved to approve the priority list proposed by the Chief Magistrate for improvements and/or relocation of County Magistrate facilities in the following order: Olympia, Pontiac, Lykeland, Dentsville, Waverly, and Eastover, seconded by Ms. English.

Council Member	The Honorable Overture Walker, District 8
Meeting	Regular Session
Date	February 6, 2024

STRATEGIC & GENERATIVE DISCUSSION:

On February 6, 2024, Council gave unanimous approval to the County Magistrate Offices Improvement Priority List. This approval was given relative to funding of \$7,314,149 that remains in previously allocated funds for the construction and/or improvement of Magistrate facilities.

The Chief Magistrate's office previously had a standard design developed for all new magistrate facilities; however, this design is proprietary with the recommended vendor. While costs will be similar, costs between facilities may vary based upon the requirements of specific geographic locations.

This facility will be located along Clemson Road, a primary artery in the Pontiac magistrate area, to provide services to the residents in the area. The land for this facility is owned by Richland County.

The Magistrate's office requests approval of the contract with GM K for \$2,511,860 for the construction of this facility.

ASSOCIATED STRATEGIC GOAL, OBJECTIVE, AND INTIATIVE:

Goal: Plan for Growth through Inclusive and Equitable Infrastructure

Objective: Create excellent facilities

ADDITIONAL COMMENTS FOR CONSIDERATION:

Not applicable.

ATTACHMENTS:

1. Contract for the Construction of the Clemson Road Magistrate Office
2. Location Map
3. Minutes from February 6, 2024 Council meeting.

AIA Document A141' - 2014

Standard Form of Agreement Between Owner and Design-Builder

GMP VERSION

AGREEMENT made as of the Nineteenth day of September in the year Two-Thousand, Twenty-Four,
(In words, indicate day, month and year.)

BETWEEN the Owner:
(Name, legal status, address and other information)

Richland County Administration
2020 Hampton Street, Suite 4069
P.O. Box 192
Columbia, SC 29201
(803) 576-2050
Email: adminoffice@richlandcountysc.gov

and the Design-Builder:
(Name, legal status, address and other information)

GMK Associates Design-Build Division, Inc.
1201 Main Street, Suite 2100
Columbia, SC 29201
Office Ph: (803) 256-0000

for the following Project:
(Name, location and detailed description)

New Richland County Magistrate's Office
Clemson Road Facility
Columbia, SC

The Owner and **Design-Builder** agree as follows.

ADDITIONS AND DELETIONS:

The author of this document has added information needed for its completion. The author may also have revised the text of the original AIA standard form. An Additions and Deletions Report that notes added information as well as revisions to the standard form text is available from the author and should be reviewed. A vertical line in the left margin of this document indicates where the author has added necessary information and where the author has added to or deleted from the original AIA text.

This document has important legal consequences. Consultation with an attorney is encouraged with respect to its completion or modification.

Consultation with an attorney is also encouraged with respect to professional licensing requirements in the jurisdiction where the Project is located.

Inil

AIA Document A141-2014. Copyright © 2004 and 2014. All rights reserved. "The American Institute of Architects," "AIA," the AIA Logo, and "AIA Contract Documents" are trademarks of The American Institute of Architects. This document was produced at 11:47:37 ET on 09/19/2024 under Order No. 2114450827 which expires on 01/03/2025, is not for resale, is licensed for one-time use only, and may only be used in accordance with the AIA Contract Documents Terms of Service. To report copyright violations, e-mail docinfo@alacontracts.com.

UNT Nola&:

(843928182)

TABLE OF ARTICLES

1	GENERAL PROVISIONS
2	COMPENSATION AND PROGRESS PAYMENTS
3	GENERAL REQUIREMENTS OF THE WORK OF THE DESIGN-BUILD CONTRACT
4	WORK PRIOR TO EXECUTION OF THE DESIGN-BUILD AMENDMENT
5	WORK FOUOWING EXECUTION OF THE DESIGN-BUILD AMENDMENT
8	CHANGES IN THE WORK
7	OWNER'S RESPONSIBILITIES
8	TIME
9	PAYMENT APPLICATIONS AND PROJECT COMPLETION
10	PROTECTION OF PERSONS AND PROPERTY
11	UNCOVERING AND CORRECTION OF WORK
12	COPYRIGHTS AND LICENSES
13	TERMINATION OR SUSPENSION
14	CLAIMS AND DISPUTE RESOLUTION
15	MISCELLANEOUS PROVISIONS
16	SCOPE OF THE AGREEMENT

TABLE OF EXHIBITS

A	DESIGN-BUILD AMENDMENT
B	INSURANCE AND BONDS
C	SUSTAINABLE PROJECTS [Not Used]

ARTICLE 1 GENERAL PROVISIONS

§ 1.1 Project Criteria [Section not Used]

§ 1.2 Project Team

§ 1.2.1 The Owner identifies the following representative in accordance with Section 7.1.1:
(List name, address and other information.)

TBD

§ 1.2.2 The persons or entities, in addition to the Owner's representative, who are required to review the Design-Builder's Submittals are as follows:
(List name, address and other information.)

Init.

TBD

§ 1.2.3 The Owner will retain the following consultants and separate contractors:
(List discipline, scope of work and, if known, identify by name and address.)

§ 1.2.4 The Design-Builder identifies the following representative in accordance with Section 3.1.2:
(List name, address and other information.)

Ryan S. McConnick, PE
Director, Design-Build Division
GMK Associates Design-Build Division, Inc.
1201 Main Street, Suite 2100
Columbia, SC 29201
Email: RMcCormick@gmka.com
Ofc: (803) 255-0335
Cell: (803) 269-4229

§ 1.2.5 Neither the Owner's nor the Design-Builder's representative shall be changed without ten (10) days' written notice to the other party.

§ 1.3 Binding Dispute Resolution

For any Claim subject to, but not resolved by, mediation pursuant to Section 14.3, the method of binding dispute resolution shall be the following:

(Check the appropriate box. If the Owner and Design-Builder do not select a method of binding dispute resolution below, or do not subsequently agree in writing to a binding dispute resolution other than litigation, Claims will be resolved by litigation in a court of competent jurisdiction.)

- Arbitration pursuant to Section 14.4.
- Litigation in a court of competent jurisdiction where the project is located.
- Other: (Specify)

§ 1.4 Definitions

§ 1.4.1 Design-Build Documents. The Design-Build Documents consist of this Agreement between Owner and Design-Builder and its attached Exhibits (hereinafter, the "Agreement"); other documents listed in this Agreement; and Modifications issued after execution of this Agreement. A Modification is (1) a written Amendment to the Contract signed by both parties, including the Design-Build Amendment, (2) a Change Order, or (3) a Change Directive.

§ 1.4.2 The Contract. The Design-Build Documents form the Contract. The Contract represents the entire and integrated Agreement between the parties and supersedes prior negotiations, representations or agreements, either written or oral. The Contract may be amended or modified only by a Modification. The Design-Build Documents shall not be construed to create a contractual relationship of any kind between any persons or entities other than the Owner and the Design-Builder.

§ 1.4.3 The Work. The term "Work" means the Design, Construction and related services required to fulfill the Design-Builder's obligations under the Design-Build Documents, whether completed or partially completed, and includes all labor, materials, equipment and services provided or to be provided by the Design-Builder. The Work may constitute the whole or a part of the Project.

Init.

AIA Document A141 - 2014. Copyright © 2004 and 2014. All rights reserved. "The American Institute of Architects," "AIA," "The AIA Logo," and "AIA Contract Documents" are trademarks of The American Institute of Architects. This document was produced at 11:47:37 ET on 09/19/2024 under Order No. 2114450827 which expires on 01/03/2025, is not for resale, is licensed for one-time use only, and may only be used in accordance with the AIA Contract Documents' Terms of Service. To report copyright violations, e-mail docinfo@alacontracts.com.
User Role:

(643928182)

3

§ U. 4 The Project. The Project is the total Design and Construction of which the Work performed wider the Design-Build Documents may be the whole or a part, and may include design and construction by the Owner and by separate contractors.

§ 1.4.5 Instruments of Service. Instruments of Service are representations, in any medium of expression now known or later developed, of the tangible and intangible creative work performed by the Design-Builder, Contractor(s), Architect, and Consultant(s) under their respective agreements. Instruments of Service may include, without limitation, studies, surveys, models, sketches, drawings, specifications, digital models and other similar materials.

§ 1.4.6 Submittal. A Submittal is any submission to the Owner for review and approval demonstrating how the Design-Builder proposes to conform to the Design-Build Documents for those portions of the Work for which the Design-Build Documents require Submittals. Submittals include, but are not limited to, shop drawings, product data, and samples. Submittals are not Design-Build Documents unless incorporated into a Modification.

§ U. 7 Owner. The Owner is the person or entity identified as such in the Agreement and is referred to throughout the Design-Build Documents as if singular in number. The term "Owner" means the Owner or the Owner's authorized representative.

§ 1.4.8 Design-Builder. The Design-Builder is the person or entity identified as such in the Agreement and is referred to throughout the Design-Build Documents as if singular in number. The term "Design-Builder" means the Design-Builder or the Design-Builder's authorized representative.

§ 1.4.9 Consultant. A Consultant is a person or entity providing professional services for the Design-Builder for all or a portion of the Work, and is referred to throughout the Design-Build Documents as if singular in number. To the extent required by the relevant jurisdiction, the Consultant shall be lawfully licensed to provide the required professional services.

§ 1.4.10 Architect. The Architect is a person or entity providing design services for the Design-Builder for all or a portion of the Work, and is lawfully licensed to practice architecture in the applicable jurisdiction. The Architect is referred to throughout the Design-Build Documents as if singular in number.

§ 1.4.11 Contractor. A Contractor is a person or entity performing all or a portion of the construction, required in connection with the Work, for the Design-Builder. The Contractor shall be lawfully licensed, if required in the jurisdiction where the Project is located. The Contractor is referred to throughout the Design-Build Documents as if singular in number and means a Contractor or an authorized representative of the Contractor.

§ 1.4.12 Confidential Information. Confidential Information is information containing confidential or business proprietary information that is clearly marked as "confidential."

§ 1.4.13 Contract Time. Unless otherwise provided, Contract Time is the period of time, including authorized adjustments, as set forth in the Design-Build Amendment for Substantial Completion of the Work.

§ 1.4.14 Day. The term "day" as used in the Design-Build Documents shall mean calendar day unless otherwise specifically defined.

§ 1.4.15 Contract Sum. The Contract Sum is the amount to be paid to the Design-Builder for performance of the Work after execution of the Design-Build Amendment, as identified in Article A.1 of the Design-Build Amendment.

ARTICLE 2 COMPENSATION AND PROGRESS PAYMENTS

§ 2.1 (Section Not Used) Compensation for Work Performed Prior To Execution of Design-Build Amendment

§ 2.2 Contract Sum and Payment for Work Performed After Execution of Design-Build Amendment
For the Design-Builder's performance of the Work after execution of the Design-Build Amendment, the Owner shall pay to the Design-Builder the Contract Sum in current funds as agreed in the Design-Build Amendment

Init.

ARTICLE 3 GENERAL REQUIREMENTS OF THE WORK OF THE DESIGN-BUILD CONTRACT

§ 3.1 General

§ 3.1.1 The Design-Builder shall comply with any applicable licensing requirements in the jurisdiction where the Project is located.

§ 3.1.2 The Design-Builder shall designate in writing a representative who is authorized to act on the Design-Builder's behalf with respect to the Project.

§ 3.1.3 The Design-Builder shall perform the Work in accordance with the Design-Build Documents. The Design-Builder shall not be relieved of the obligation to perform the Work in accordance with the Design-Build Documents by the activities, tests, inspections or approvals of the Owner.

§ 3.1.3.1 The Design-Builder shall perform the Work in compliance with applicable laws, statutes, ordinances, codes, rules and regulations, or lawful orders of public authorities. If the Design-Builder performs Work contrary to applicable laws, statutes, ordinances, codes, rules and regulations, and lawful orders of public authorities, the Design-Builder shall assume responsibility for such Work and shall bear the costs attributable to correction.

§ 3.1.3.2 Neither the Design-Builder nor any Contractor, Consultant, or Architect shall be obligated to perform any act which they believe will violate any applicable laws, statutes, ordinances, codes, rules and regulations, or lawful orders of public authorities. If the Design-Builder determines that implementation of any instruction received from the Owner, including those in the Owner's Criteria, would cause a violation of any applicable laws, statutes, ordinances, codes, rules and regulations, or lawful orders of public authorities, the Design-Builder shall notify the Owner in writing. Upon verification by the Owner that a change to the Owner's Criteria is required to remedy the violation, the Owner and the Design-Builder shall execute a Modification in accordance with Article 6.

§ 3.1.4 The Design-Builder shall be responsible to the Owner for acts and omissions of the Design-Builder's employees, Architect, Consultants, Contractors, and their agents and employees, and other persons or entities performing portions of the Work.

§ 3.1.5 General Consultation. The Design-Builder shall schedule and conduct periodic meetings with the Owner to review matters such as procedures, progress, coordination, and scheduling of the Work.

§ 3.1.6 When applicable law requires that services be performed by licensed professionals, the Design-Builder shall provide those services through qualified, licensed professionals.

§ 3.1.7 The Design-Builder, with the assistance of the Architect and Owner, shall prepare and file documents required to obtain necessary approvals of governmental authorities having jurisdiction over the Project.

§ 3.1.8 Progress Reports

§ 3.1.8.1 The Design-Builder shall keep the Owner informed of the progress and quality of the Work. On a monthly basis, or otherwise as agreed to by the Owner and Design-Builder, the Design-Builder shall submit written progress reports to the Owner.

§ 3.1.9 Design-Builder's Schedules

§ 3.1.9.1 The Design-Builder shall prepare and submit for the Owner's information a Schedule for the Work. The Schedule, including the time required for Design and Construction, shall not exceed time limits current under the Design-Build Documents, shall be revised at appropriate intervals as required by the conditions of the Work and Project, shall be related to the entire Project to the extent required by the Design-Build Documents, shall provide for expeditious and practicable execution of the Work, and shall include allowances for periods of time required for the Owner's review and for approval of submissions by authorities having jurisdiction over the Project

Init.

S

§ 3.1.9.2 The Design-Builder shall perform the Work in general accordance with the most recent Schedules submitted to the Owner.

§ 3.1.10 Certifications. Upon the Owner's written request, the Design-Builder shall obtain from the Architect, Consultants, and Contractors, and furnish to the Owner, certifications with respect to the documents and services provided by the Architect, Consultants, and Contractors (a) that, to the best of their knowledge, information and belief, the documents or services to which the certifications relate (i) are consistent with the Design-Build Documents, except to the extent specifically identified in the certificate, and (ii) comply with applicable laws, statutes, ordinances, codes, rules and regulations, or lawful orders of public authorities governing the design of the Project; and (b) that the Owner and its consultants shall be entitled to rely upon the accuracy of the representations and statements contained in the certifications. The Design-Builder's Architect, Consultants, and Contractors shall not be required to execute certificates or consents that would require knowledge, services or responsibilities beyond the scope of their services.

§ 3.1.11 Design-Builder's Submittals

§ 3.1.11.1 The Owner's review and approval shall not unreasonably be delayed or withheld. The submission of Submittals shall (1) be coordinated with the Design-Builder's Schedule provided in Section 3.1.9.1, (2) allow the Owner reasonable time to review Submittals, and (3) reflect the progress of the Work.

§ 3.1.11.2 By providing Submittals the Design-Builder represents to the Owner that it has (1) reviewed and approved them, (2) determined and verified materials, field measurements and field construction criteria related thereto, or will do so and (3) checked and coordinated the information contained within such Submittals with the requirements of the Work and of the Design-Build Documents.

§ 3.1.11.3 The Design-Builder shall perform no portion of the Work for which the Design-Build Documents require Submittals until the Owner has approved the respective Submittal.

§ 3.1.11.4 The Work shall be in accordance with approved Submittals except that the Design-Builder shall not be relieved of its responsibility to perform the Work consistent with the requirements of the Design-Build Documents. The Work may deviate from the Design-Build Documents only if the Design-Builder has notified the Owner in writing of a deviation from the Design-Build Documents at the time of the Submittal and a Modification is executed authorizing the identified deviation. The Design-Builder shall not be relieved of responsibility for errors or omissions in Submittals by the Owner's approval of the Submittals.

§ 3.1.11.5 All professional design services or certifications to be provided by the Design-Builder, including all drawings, calculations, specifications, certifications, shop drawings and other Submittals, shall contain the signature and seal of the licensed design professional preparing them. Submittals related to the Work designed or certified by the licensed design professionals, if prepared by others, shall bear the licensed design professional's written approval. The Owner and its consultants shall be entitled to rely upon the adequacy, accuracy and completeness of the services, certifications or approvals performed by such design professionals.

§ 3.1.12 Warranty. The Design-Builder warrants to the Owner that materials and equipment furnished under the Contract will be of good quality and new unless the Design-Build Documents require or permit otherwise. The Design-Builder further warrants that the Work will conform to the requirements of the Design-Build Documents and will be free from defects, except for those inherent in the quality of the Work or otherwise expressly permitted by the Design-Build Documents. Work, materials, or equipment not conforming to these requirements may be considered defective. The Design-Builder's warranty excludes remedy for damage or defect caused by abuse, alterations to the Work not executed by the Design-Builder, improper or insufficient maintenance, improper operation, or normal wear and tear and normal usage. If required by the Owner, the Design-Builder shall furnish satisfactory evidence as to the kind and quality of materials and equipment.

§ 3.1.13 Royalties, Patents and Copyrights

§ 3.1.13.1 The Design-Builder shall pay all royalties and license fees.

§ 3.1.13.2 The Design-Builder shall defend suits or claims for infringement of copyrights and patent rights and shall hold the Owner and its separate contractors and consultants harmless from loss on account thereof, but shall not be responsible for such defense or loss when a particular design, process or product of a particular manufacturer or manufacturer is required by the Owner, or where the copyright violations are required in the Owner's Criteria.

AIA Document A141 - 2014. Copyright © 2004 and 2014. All rights reserved. "The American Institute of Architects." "American Institute of Architects," "AIA," the AIA Logo, and "AIA Contract Documents" are trademarks of The American Institute of Architects. This document was produced at 11:47:37 ET on 09/19/2024 under Order No. 211-4-450827 which expires on 01/03/2025. Is not for resale, is licensed for one-time use only, and may only be used in accordance with the AIA Contract Documents' Terms of Service. To report copyright violations, e-mail info@aiacontracts.com.

User Notes:

(843928182)

However, if the Design-Builder has reason to believe that the design, process or product required in the Owner's Criteria is an infringement of a copyright or a patent, the Design-Builder shall be responsible for such loss unless such information is promptly furnished to the Owner. If the Owner receives notice from a patent or copyright owner of an alleged violation of a patent or copyright, attributable to the Design-Builder, the Owner shall give prompt written notice to the Design-Builder.

§ 3.1.14 Indemnification

§ 3.1.14.1 To the fullest extent permitted by law, the Design-Builder shall indemnify and hold harmless the Owner, including the Owner's agents and employees, from and against claims, damages, losses and expenses, including but not limited to attorneys' fees, arising out of or resulting from performance of the Work, but only to the extent caused by the willful or negligent acts or omissions of the Design-Builder, Architect, a Consultant, a Contractor, or anyone directly or indirectly employed by them or anyone for whose acts they may be liable. Such obligation shall not be construed to negate, abridge, or reduce other rights or obligations of indemnity that would otherwise exist as to a party or person described in this Section 3.1.14.

§ 3.1.14.2 The indemnification obligation under this Section 3.1.14 shall not be limited by a limitation on amount or type of damages, compensation, or benefits payable by or for Design-Builder, Architect, a Consultant, a Contractor, or anyone directly or indirectly employed by them, under workers' compensation acts, disability benefit acts or other employee benefit acts.

§ 3.1.15 Contingent Assignment of Agreements

- § 3.1.15.1 Each agreement for a portion of the Work is assigned by the Design-Builder to the Owner, provided that
- .1 assignment is effective only after termination of the Contract by the Owner for cause, pursuant to Sections 13.1.4 or 13.2.2, and only for those agreements that the Owner accepts by written notification to the Design-Builder and the Architect, Consultants, and Contractors whose agreements are accepted for assignment; and
 - .2 assignment is subject to the prior rights of the surety, if any, obligated under bond relating to the Contract

When the Owner accepts the assignment of an agreement, the Owner assumes the Design-Builder's rights and obligations under the agreement.

§ 3.1.16 Design-Builder's Insurance and Bonds. The Design-Builder shall purchase and maintain insurance and provide bonds as set forth in Exhibit B.

ARTICLE 4 [Article Not Used] WORK PRIOR TO EXECUTION OF THE DESIGN-BUILD AMENDMENT

ARTICLE 5 WORK FOLLOWING EXECUTION OF THE DESIGN-BUILD AMENDMENT

§ 5.1 Design Services

§ 5.1.1 Upon the execution of the Design-Build Amendment, the Design-Builder shall commence Design Services for the Work.

§ 5.1.2 Design-Builder's Design Responsibilities

§ 5.1.2.1 The Design-Builder, and its Architect, Interior Designer, and other Consultants, shall perform Design Services consistent with professional skill and care. When applicable law requires that services be performed by licensed professionals, the Design-Builder shall provide those services through the performance of qualified persons or entities duly licensed to practice their professions.

§ 5.1.1.2 The Design-Builder shall coordinate its Design Services with those services provided by the Owner. The Design-Builder shall be entitled to rely on the accuracy and completeness of services and information furnished by the Owner. The Design-Builder shall provide prompt written notice to the Owner if the Design-Builder becomes aware of any error, omission, or inconsistency in such services or information.

Inf.

§ 5.1.2.3 The Design-Builder shall coordinate information provided by the Owner with information and data developed by the Design-Builder in the performance of its Design Services.

§ 5.1.2.1 The Design-Builder may provide Additional Services not otherwise designated in the Design-Build Documents, after execution of this Agreement, without invalidating this Agreement. Upon recognizing the need to perform Additional Services that may arise after execution of this Agreement, the Design-Builder shall notify the Owner. The Design-Builder, however, shall not proceed to provide such services until the Design-Builder receives the Owner's written authorization. Except for services due to the fault of the Design-Builder, any Additional Services provided in accordance with this Section, shall entitle the Design-Builder compensation in an equitable manner as authorized by the Owner.

§ 5.1.3 Construction Document Preparation

§ 5.1.3.1 The Design-Builder shall carefully study and compare the Project Criteria Documents, materials and other information provided by the Owner, shall take field measurements of any existing conditions related to the Work, shall observe and conditions at the site affecting the Work, and report promptly to the Owner any errors, inconsistencies, or omissions discovered.

§ 5.1.3.2 The Design-Builder shall provide to the Owner, for the Owner's written approval, Design Documents sufficient to establish the size, quality, and character of the Project; its architectural, structural, mechanical and electrical systems; and the materials and such other elements of the Project to the extent required by the Project Criteria Documents. Deviations, if any, from the Project Criteria Documents, shall be disclosed in writing.

§ 5.1.3.3 Upon the Owner's approval of the Design Documents, the Design-Builder shall prepare Construction Documents for the Project. The Construction Documents shall set forth, in detail, the requirements for construction of the Project. The Construction Documents shall include Drawings and Specifications that establish the quality levels of materials and systems required. Deviations, in any, from the Design Documents shall be disclosed to the Owner in writing. Construction Documents may include drawings, specifications, and other documents and electronic data setting forth in detail the requirements for construction of the Work, and shall:

- .1 be consistent with the approved Project Criteria Documents;
- .2 provide information for the use of those in the building trades; and
- .3 include documents customarily required for regulatory agency approvals.

§ 5.1.3.4 The Design-Builder shall meet with the Owner periodically to review progress of the Construction Documents.

§ 5.1.3.5 The Design-Builder shall not commence construction of the Work prior the Owner's authorization of the Construction Documents.

§ 5.1.3.6 The Design-Builder shall provide the Construction Documents to the Owner for the Owner's review and approval. If the Owner discovers any deviations between the Construction Documents and the Design-Build Documents, the Owner shall promptly notify the Design-Builder of such deviations in writing. The Construction Documents shall modify the Design-Build Documents unless the Owner and Design-Builder execute a Modification. The failure of the Owner to discover any such deviations shall not relieve the Design-Builder of the obligation to perform the Work in accordance with the Design-Build Documents.

§ 5.1.3.7 Upon the Owner's written approval of the Construction Documents, the Design-Builder, with the assistance of the Architect and Owner, shall prepare and file documents required to obtain necessary approvals of governmental authorities having jurisdiction over the Project

§ 5.2 Construction

§ 5.2.1 Commencement, Except as permitted in Section 5.2.2, Construction shall not commence prior to execution of the Design-Build Amendment.

§ 5.2.2 If the Owner and Design-Builder agree in writing, Construction may proceed prior to the execution of the Design-Build Amendment. However, such authorization shall not waive the Owner's right to reject the Design-Builder's Proposal.

§ 5.2.3 The Design-Builder shall supervise and direct the Work, using the Design-Builder's best skill and attention. The Design-Builder shall be solely responsible for, and have control over, construction means, methods, techniques, sequences and procedures, and for coordinating all portions of the Work under the Contract, unless the Design-Build Documents give other specific instructions concerning these matters.

§ 5.2.4 The Design-Builder shall be responsible for inspection of portions of Work already performed to determine that such portions are in proper condition to receive subsequent Work.

§ 5.3 Labor and Materials

§ 5.3.1 Unless otherwise provided in the Design-Build Documents, the Design-Builder shall provide, or cause to be provided, and pay for labor, materials, equipment, tools, construction equipment and machinery, water, heat, utilities prior to permanent power, transportation, and other facilities and services, necessary for proper execution and completion of the Work, whether temporary or permanent, and whether or not incorporated or to be incorporated in the Work.

§ 5.3.2 When a material or system is specified in the Design-Build Documents, the Design-Builder may make substitutions only in accordance with Article 6.

§ 5.3.3 The Design-Builder shall enforce strict discipline and good order among the Design-Builder's employees and other persons carrying out the Work. The Design-Builder shall not permit employment of unfit persons or persons not properly skilled in tasks assigned to them.

§ 5A Taxes

The Design-Builder shall pay sales, consumer, use and similar taxes, for the Work provided by the Design-Builder, that are legally enacted when the Design-Build Amendment is executed, whether or not yet effective or merely scheduled to go into effect.

§ 5.5 Permits, Fees, Notices and Compliance with Laws

§ 5.5.1 Unless otherwise provided in the Design-Build Documents, the Design-Builder shall secure and pay for the Building Permit as well as any other permits, fees, licenses, and inspections by government agencies, necessary for proper execution of the Work and Substantial Completion of the Project.

§ 5.5.2 The Design-Builder shall comply with and give notices required by applicable laws, statutes, ordinances, codes, rules and regulations, and lawful orders of public authorities, applicable to performance of the Work.

§ 5.5.3 Concealed or Unknown Conditions. If the Design-Builder encounters conditions at the site that are (1) subsurface or otherwise concealed physical conditions that differ materially from those indicated in the Design-Build Construction Documents or (2) unknown physical conditions of an unusual nature that differ materially from those ordinarily found to exist and generally recognized as inherent in construction activities of the character provided for in the Design-Build Construction Documents, the Design-Builder shall promptly provide notice to the Owner before conditions are disturbed and in no event later than Twenty-One (21) days after first observance of the conditions. The Owner shall promptly investigate such conditions and, if the Owner determines that they differ materially and cause an increase or decrease in the Design-Builder's cost of, or time required for, performance of any part of the Work, shall recommend an equitable adjustment in the Contract Sum or Contract Time, or both. If the Owner determines that the conditions at the site are not materially different from those indicated in the Design-Build Construction Documents and that no change in the terms of the Contract is justified, the Owner shall promptly notify the Design-Builder in writing, stating the reasons. If the Design-Builder disputes the Owner's determination or recommendation, the Design-Builder may proceed as provided in Article 14.

§ 5.5.4 [f, in the course of the Work, the Design-Builder encounters human remains, or recognizes the existence of burial markers, archaeological sites, or wetlands, not indicated in the Design-Build Construction Documents, the Design-Builder shall immediately suspend any operations that would affect them and shall notify the Owner. Upon receipt of such notice, the Owner shall promptly take any action necessary to obtain governmental authorization required to resume the operations. The Design-Builder shall continue to suspend such operations until otherwise instructed by the Owner but shall continue with all other operations that do not affect those remains or features. Requests for adjustments in the Contract Sum and Contract Time arising from the existence of such remains or features may be made as provided in Article 14.

§ 5.6 Allowances

§ 5.6.1 The Design-Builder shall include in the Contract Sum all Allowances stated in the Design-Build Documents. Items covered by Allowances shall be supplied for such amounts, and by such persons or entities as the Owner may direct, but the Design-Builder, shall not be required to employ persons or entities to whom the Design-Builder has reasonable objection.

§ 5.6.2 Unless otherwise provided in the Design-Build Documents,

- 1 Allowances shall cover the cost to the Design-Builder of materials and equipment delivered at the site, unloading and handling, labor, installation costs, and all required taxes, less applicable trade discounts;
- 2 the Design-Builder's costs for site supervision, overhead, profit, and other expenses contemplated for stated Allowance amounts, shall be included in the Contract Sum but not in the Allowances; and
- 3 whenever costs are more than or less than Allowances, the Contract Sum shall be adjusted accordingly by Change Order. The amount of the Change Order shall reflect (1) the difference between actual costs and the Allowances under Section 5.6.2.1 and (2) changes in Design-Builder's costs under Section 5.6.2.2.

§ 5.6.3 The Owner shall make selections of materials and equipment with reasonable promptness for Allowances requiring Owner selection.

§ 5.7 Key Personnel, Contractors and Suppliers

§ 5.7.1 The Design-Builder shall not employ personnel, or contract with Contractors or Suppliers to whom the Owner has made reasonable and timely objection. The Design-Builder shall not be required to contract with anyone to whom the Design-Builder has made reasonable and timely objection.

§ 5.7.2 If the Design-Builder changes any of the personnel, Contractors or suppliers identified in the Design-Build Amendment, the Design-Builder shall notify the Owner and provide the name and qualifications of the new personnel, Contractor or supplier. The Owner may reply within Fourteen (14) days to the Design-Builder in writing, stating (1) whether the Owner has reasonable objection to the proposed personnel, Contractor or supplier or (2) that the Owner requires additional time to review. Failure of the Owner to reply within the Fourteen (14) -day period shall constitute notice of no reasonable objection.

§ 5.7.3 [Section Not Used]

§ 5.7.3.1 [Section Not Used]

§ 5.8 Documents and Submittals at the Site

The Design-Builder shall maintain at the site for the Owner one copy of the Design-Build Documents and a current set of the Design-Build Construction Documents, in good order and marked currently to indicate field changes and selections made during construction, and one copy of approved Submittals. The Design-Builder shall deliver these items to the Owner in accordance with Section 9.10.2 as a record of the Work as constructed

§ 5.9 Use of Site

The Design-Builder shall confine operations at the site to areas permitted by applicable laws, statutes, ordinances, codes, rules and regulations, lawful orders of public authorities, and the Design-Build Documents, and shall not unreasonably encumber the site with materials or equipment.

§ 5.10 Cutting and Patching

The Design-Builder shall not cut, patch or otherwise alter fully or partially completed construction by the Owner or a separate contractor except with written consent of the Owner and of such separate contractor; such consent shall not be unreasonably withheld. The Design-Builder shall not unreasonably withhold from the Owner or a separate contractor the Design-Builder's consent to cutting or otherwise altering the Work.

§ 5.11 Cleaning Up

§ 5.11.1 The Design-Builder shall keep the premises and surrounding area free from accumulation of waste materials or rubbish caused by operations under the Contract. At completion of the Work, the Design-Builder shall remove waste materials, rubbish, the Design-Builder's tools, construction equipment, machinery and surplus materials from and about the Project.

§ 5.11.2 If the Design-Builder fails to clean up as provided in the Design-Build Documents, the Owner may do so and the Owner shall be entitled to reimbursement from the Design-Builder.

§ 5.12 Access to Work

The Design-Builder shall provide the Owner and its separate contractors and consultants access to the Work in preparation and progress wherever located. The Design-Builder shall notify the Owner regarding Project safety criteria and programs, which the Owner, and its contractors and consultants, shall comply with while at the site.

§ 5.13 Construction by Owner or by Separate Contractors

§ 5.13.1 Owner's Right to Perform Construction and to Award Separate Contracts

§ 5.13.1.1 The Owner reserves the right to perform construction or operations related to the Project with the Owner's own forces; and to award separate contracts in connection with other portions of the Project, or other construction or operations on the site, under terms and conditions identical or substantially similar to this Contract, including those terms and conditions related to insurance and waiver of subrogation. The Owner shall notify the Design-Builder promptly after execution of any separate contract. If the Design-Builder claims that delay or additional cost is involved because of such action by the Owner, the Design-Builder shall make a Claim as provided in Article 14.

§ 5.13.1.2 When separate contracts are awarded for different portions of the Project or other construction or operations on the site, the term "Design-Builder" in the Design-Build Documents in each case shall mean the individual or entity that executes each separate agreement with the Owner.

§ 5.13.1.3 The Owner shall provide for coordination of the activities of the Owner's own forces, and of each separate contractor, with the Work of the Design-Builder, who shall cooperate with them. The Design-Builder shall participate with other separate contractors and the Owner in reviewing their construction schedules. The Design-Builder shall make any revisions to the construction schedule deemed necessary after a joint review and mutual agreement. The construction schedules shall then constitute the schedules to be used by the Design-Builder, separate contractors and the Owner until subsequently revised.

§ 5.13.U Unless otherwise provided in the Design-Build Documents, when the Owner performs construction or operations related to the Project with the Owner's own forces or separate contractors, the Owner shall be deemed to be subject to the same obligations, and to have the same rights, that apply to the Design-Builder under the Contract.

§ 5.14 Mutual Responsibility

§ 5.14.1 The Design-Builder shall afford the Owner and separate contractors reasonable opportunity for introduction and storage of their materials and equipment and performance of their activities, and shall connect and coordinate the Design-Builder's construction and operations with theirs as required by the Design-Build Documents.

§ 5.14.2 If part of the Design-Builder's Work depends upon construction or operations by the Owner or a separate contractor, the Design-Builder shall, prior to proceeding with that portion of the Work, prepare a written report to the Owner, identifying apparent discrepancies or defects in the construction or operations by the Owner or separate contractor that would render it unsuitable for proper execution and results of the Design-Builder's Work. Failure of the Design-Builder to report shall constitute an acknowledgment that the Owner's or separate contractor's completed or partially completed construction is fit and proper to receive the Design-Builder's Work, except as to defects not then reasonably discoverable.

§ 5.1.4.3 The Design-Builder shall reimburse the Owner for costs the Owner incurs that are payable to a separate contractor because of the Design-Builder's delays, improperly timed activities or defective construction. The Owner shall be responsible to the Design-Builder for costs the Design-Builder incurs because of a separate contractor's delays, improperly timed activities, damage to the Work or defective construction.

§ 5.1.4.4 The Design-Builder shall promptly remedy damage the Design-Builder wrongfully causes to completed or partially completed construction or to property of the Owner or separate contractors as provided in Section 10.2.5.

§ 5.1.4.5 The Owner and each separate contractor shall have the same responsibilities for cutting and patching the Work as the Design-Builder has with respect to the construction of the Owner or separate contractors in Section 5.10.

§ 5.15 Owner's Right to Clean Up

If a dispute arises among the Design-Builder, separate contractors and the Owner as to the responsibility under their respective contracts for maintaining the premises and surrounding area free from waste materials and rubbish, the Owner may clean up and will allocate the cost among those responsible.

ARTICLE 6 CHANGES IN THE WORK

§ 6.1 General

§ 6.1.1 Changes in the Work may be accomplished after execution of the Contract, and without invalidating the Contract, by Change Order or Change Directive, subject to the limitations stated in this Article 6 and elsewhere in the Design-Build Documents.

§ 6.1.2 A Change Order shall be based upon agreement between the Owner and Design-Builder. The Owner may issue a Change Directive without agreement by the Design-Builder.

§ 6.1.3 Changes in the Work shall be performed under applicable provisions of the Design-Build Documents, and the Design-Builder shall proceed promptly, unless otherwise provided in the Change Order or Change Directive.

§ 6.2 Change Orders

A Change Order is a written instrument signed by the Owner and Design-Builder stating their agreement upon all of the following:

- 1 The change in the Work;
- 2 The amount of the adjustment, if any, in the Contract Sum; and
- 3 The extent of the adjustment, if any, in the Contract Time.

§ 6.3 Change Directives

§ 6.3.1 A Change Directive is a written order signed by the Owner directing a change in the Work prior to agreement on adjustment, if any, in the Contract Sum or, if prior to execution of the Design-Build Amendment, the adjustment in the Design-Builder's compensation or Contract Time. The Owner may by Change Directive, without invalidating the Contract, order changes in the Work within the general scope of the Contract consisting of additions, deletions or other revisions, the Contract Sum, and Contract Time being adjusted accordingly.

§ 6.3.2 A Change Directive shall be used in the absence of total agreement on the terms of a Change Order.

§ 6.3.3 If the Change Directive provides for an adjustment to the Contract Sum, the adjustment shall be based on one of the following methods:

- 1 Mutual acceptance of a lump sum properly itemized and supported by sufficient substantiating data to permit evaluation;
- 2 Unit prices stated in the Design-Build Documents or subsequently agreed upon;
- 3 Cost to be determined in a manner agreed upon by the parties and a mutually acceptable fixed or percentage fee; or
- 4 As provided in Section 6.3.7.

I 6.3.4 (Section Not Used)

§ 6.3.5 Upon receipt of a Change Directive, the Design-Builder shall promptly proceed with the change in the Work involved and advise the Owner of the Design-Builder's agreement or disagreement with the method, if any, provided in the Change Directive for determining the proposed adjustment in the Contract Sum, or Contract Time.

§ 6.3.6 A Change Directive signed by the Design-Builder indicates the Design-Builder's agreement therewith, including adjustment in Contract Sum, and Contract Time or the method for determining them. Such agreement shall be effective immediately and shall be recorded as a Change Order.

§ 6.3.7 If the Design-Builder does not respond promptly or disagrees with the method for adjustment in the Contract Sum, the Owner shall determine the method and the adjustment on the basis of reasonable expenditures and savings of those performing the Work attributable to the change, including, in case of an increase, an amount for overhead and profit as set forth in the Agreement, or if no such amount is set forth in the Agreement, a reasonable amount. In such case, and also under Section 6.3.3.3, the Design-Builder shall keep and present, in such form as the Owner may prescribe, an itemized accounting together with appropriate supporting data. Unless otherwise provided in the Design-Build Documents, costs for the purposes of this Section 6.3.7 shall be limited to the following:

1. Additional costs of professional services;
2. Costs of labor, including social security, unemployment insurance, fringe benefits required by agreement or custom, and workers' compensation insurance;
3. Costs of materials, supplies and equipment, including cost of transportation, whether incorporated or consumed;
4. Rental costs of machinery and equipment, exclusive of hand tools, whether rented from the Design-Builder or others;
5. Costs of premiums for all bonds and insurance, permit fees, and sales, use or similar taxes related to the Work; and
6. Additional costs of supervision and field office personnel directly attributable to the change.

§ 6.3.8 The amount of credit to be allowed by the Design-Builder to the Owner for a deletion or change that results in a net decrease in the Contract Sum, shall be actual net cost. When both additions and credits covering related Work or substitutions are involved in a change, the allowance for overhead and profit shall be figured on the basis of net increase, if any, with respect to that change.

§ 6.3.9 Pending final determination of the total cost of a Change Directive to the Owner, the Design-Builder may request payment for Work completed under the Change Directive in Applications for Payment. The Owner will make an interim determination for purposes of certification for payment for those costs deemed to be reasonably justified. The Owner's interim determination of cost shall adjust the Contract Sum, on the same basis as a Change Order, subject to the right of Design-Builder to disagree and assert a Claim in accordance with Article 14.

§ 6.3.10 When the Owner and Design-Builder agree with a determination concerning the adjustments in the Contract Sum and Contract Time, or otherwise reach agreement upon the adjustments, such agreement shall be effective immediately and the Owner and Design-Builder shall execute a Change Order. Change Orders may be issued for all or any part of a Change Directive.

ARTICLE 7 OWNER'S RESPONSIBILITIES

§ 7.1 General

§ 7.1.1 The Owner shall designate in writing a representative who shall have express authority to bind the Owner with respect to all Project matters requiring the Owner's approval or authorization.

§ 7.1.2 The Owner shall render decisions in a timely manner and in accordance with the Design-Builder's Schedule agreed to by the Owner. The Owner shall furnish to the Design-Builder, within Fifteen (15) days after receipt of a written request, information necessary and relevant for the Design-Builder to evaluate, give notice of or enforce mechanic's lien rights. Such information shall include a correct statement of the record legal title to the property on which the Project is located, usually referred to as the site, and the Owner's interest therein.

§ 7.2 Information and Services Required of the Owner

§ 7.2.1 The Owner shall furnish information or services required of the Owner by the Design-Build Documents with reasonable promptness.

init.

§ 7.2.2 The Owner shall provide, to the extent under the Owner's control and if not required by the Design-Build Documents to be provided by the Design-Builder, the results and reports of prior tests, inspections or investigations conducted for the Project involving structural or mechanical systems; chemical, air and water pollution; hazardous materials; or environmental and subsurface conditions and information regarding the presence of pollutants at the Project site. The Owner shall also provide surveys describing physical characteristics, legal limitations and utility locations for the site of the Project, and a legal description of the site under the Owner's control.

§ 7.2.2.1 The Owner shall furnish surveys to describe physical characteristics, legal limitations, and utility locations for the Site of the Project, and a written legal description of the Site. The surveys and legal information shall include, as applicable, graded and lines of streets, alleys, pavements, and adjoining property and structures; designated wetlands; adjacent drainage; rights-of-ways, restrictions, easements, encroachments, zoning, deed restrictions, boundaries, and contours of the Site; locations, dimensions, and necessary data with respect to existing buildings; other improvements and trees; and information concerning available utility services and lines, both public and private, above and below-grade, including inverts and depths. All information on the survey shall be referenced to a Project Benchmark.

§ 7.2.3 The Owner shall promptly obtain easements, zoning variances, and legal authorizations or entitlements regarding site utilization where essential to the execution of the Project.

§ 7.2.4 The Owner shall cooperate with the Design-Builder in securing Building and other Permits, Licenses and Inspections.

§ 7.2.5 The services, information, surveys and reports required to be provided by the Owner under this Agreement, shall be furnished at the Owner's expense, and except as otherwise specifically provided in this Agreement or elsewhere in the Design-Build Documents or to the extent the Owner advises the Design-Builder to the contrary in writing, the Design-Builder shall be entitled to rely upon the accuracy and completeness thereof. In no event shall the Design-Builder be relieved of its responsibility to exercise proper precautions relating to the safe performance of the Work.

§ 7.2.6 If the Owner observes or otherwise becomes aware of a fault or defect in the Work or non-conformity with the Design-Build Documents, the Owner shall give prompt written notice thereof to the Design-Builder.

§ 7.2.7 Prior to, or after, the execution of the Design-Build Amendment, the Design-Builder may request in writing that the Owner provide reasonable evidence that the Owner has made financial arrangements to fulfill the Owner's obligations under the Design-Build Documents. Thereafter, the Design-Builder may only request such evidence if (1) the Owner fails to make payments to the Design-Builder as the Design-Build Documents require; (2) a change in the Work materially changes the Contract Sum; or (3) the Design-Builder identifies in writing a reasonable concern regarding the Owner's ability to make payment when due. The Owner shall furnish such evidence as a condition precedent to commencement or continuation of the Work or the portion of the Work affected by a material change. After the Owner furnishes the evidence, the Owner shall not materially vary such financial arrangements without prior notice to the Design-Builder.

§ 7.2.8 Except as otherwise provided in the Design-Build Documents or when direct communications have been specially authorized, the Owner shall communicate through the Design-Builder with persons or entities employed or retained by the Design-Builder.

§ 7.2.9 Unless required by the Design-Build Documents to be provided by the Design-Builder, the Owner shall, upon request from the Design-Builder, furnish the services of geotechnical engineers or other consultants for investigation of subsurface, air and water conditions when such services are reasonably necessary to properly carry out the Design Services furnished by the Design-Builder. In such event, the Design-Builder shall specify the services required. Such services may include, but are not limited to, test borings, test pits, determinations of soil bearing values, percolation tests, evaluations of hazardous materials, ground corrosion and resistivity tests, and necessary operations for anticipating subsoil conditions. The services of geotechnical engineer(s) or other consultants shall include preparation and submission of all appropriate reports and professional recommendations.

§ 7.2.9.1 The Owner shall provide, and pay for, 3rd Party Special Inspections as required per IBC Chapter 17.

§ 7.2.10 The Owner shall purchase and maintain Insurance as set forth in Exhibit B.

§ 6.2.11 The Owner shall be responsible for the costs of permanent Utility Services for the Facility. The Design-Builder shall be responsible for the Costs of temporary Utility Services.

I 7.3 Submittals

§ 7.3.1 The Owner shall review and approve or take other appropriate action on Submittals. Review of Submittals is not conducted for the purpose of determining the accuracy and completeness of other details, such as dimensions and quantities; or for substantiating instructions for installation or performance of equipment or systems; or for determining that the Submittals are in conformance with the Design-Build Construction Documents, all of which remain the responsibility of the Design-Builder as required by the Design-Build Documents. The Owner's action will be taken with reasonable promptness while allowing sufficient time in the Owner's judgment to permit adequate review. The Owner's review of Submittals shall not relieve the Design-Builder of the obligations under Sections 3.1.11, 3.1.12, and 5.2.3. The Owner's review shall not constitute approval of safety precautions or, unless otherwise specifically stated by the Owner, of any construction means, methods, techniques, sequences or procedures. The Owner's approval of a specific item shall not indicate approval of an assembly of which the item is a component.

§ 7.3.2 Upon review of the Submittals required by the Design-Build Documents, the Owner shall notify the Design-Builder of any non-conformance with the Design-Build Construction Documents the Owner discovers.

§ 7.4 Visits to the site by the Owner shall not be construed to create an obligation on the part of the Owner to make on-site inspections to check the quality or quantity of the Work. The Owner shall neither have control over or charge of, nor be responsible for, the construction means, methods, techniques, sequences or procedures, or for the safety precautions and programs in connection with the Work, because these are solely the Design-Builder's rights and responsibilities under the Design-Build Documents.

§ 7.5 The Owner shall not be responsible for the Design-Builder's failure to perform the Work in accordance with the requirements of the Design-Build Documents. The Owner shall not have control over or charge of, and will not be responsible for acts or omissions of the Design-Builder, Architect, Consultants, Contractors, or their agents or employees, or any other persons or entities performing portions of the Work for the Design-Builder.

§ 7.6 The Owner has the authority to reject Work that does not conform to the Design-Build Documents. The Owner shall have authority to require inspection or testing of the Work in accordance with Section 15.5.2, whether or not such Work is fabricated, installed or completed. However, neither this authority of the Owner nor a decision made in good faith either to exercise or not to exercise such authority shall give rise to a duty or responsibility of the Owner to the Design-Builder, the Architect, Consultants, Contractors, material and equipment suppliers, their agents or employees, or other persons or entities performing portions of the Work.

§ 7.7 [Section Not Used]

§ 7.8 Owner's Right to Stop Work

If the Design-Builder fails to correct Work which is not in accordance with the requirements of the Design-Build Documents as required by Section 11.2 or persistently fails to carry out Work in accordance with the Design-Build Documents, the Owner may issue a written order to the Design-Builder to stop the Work, or any portion thereof, until the cause for such order has been eliminated; however, the right of the Owner to stop the Work shall not give rise to a duty on the part of the Owner to exercise this right for the benefit of the Design-Builder or any other person or entity, except to the extent required by Section 5.13.1.3.

§ 7.9 Owner's Right to Carry Out the Work

If the Design-Builder defaults or neglects to carry out the Work in accordance with the Design-Build Documents and fails within a ten (10)-day period after receipt of written notice from the Owner to commence and continue correction of such default or neglect with diligence and promptness, the Owner may, without prejudice to other remedies the Owner may have, correct such deficiencies. In such case, an appropriate Change Order shall be issued deducting from payments then or thereafter due the Design-Builder the reasonable cost of correcting such deficiencies. If payments then or thereafter due the Design-Builder are not sufficient to cover such amounts, the Design-Builder shall pay the difference to the Owner.

ARTICLE 8 TIME

§ 8.1 Progress and Completion

§ 8.1.1 Time limits stated in the Design-Build Documents are of the essence of the Contract. By executing the Design-Build Amendment the Design-Builder confirms that the Contract Time is a reasonable period for performing the Work.

§ 8.1.2 The Design-Builder shall not, except by agreement of the Owner in writing, commence the Work prior to the effective date of insurance, other than property insurance, required by this Contract. The Contract Time shall not be adjusted as a result of the Design-Builder's failure to obtain insurance required under this Contract.

§ 8.1.3 The Design-Builder shall proceed expeditiously with adequate forces and shall achieve Substantial Completion within the Contract Time.

§ 8.2 Delays and Extensions of Time

§ 8.2.1 If the Design-Builder is delayed at any time in the commencement or progress of the Work by an act or neglect of the Owner or of a consultant or separate contractor employed by the Owner; or by changes ordered in the Work by the Owner; or by labor disputes, fire, unusual delay in deliveries, unavoidable casualties or other causes beyond the Design-Builder's control; or by delay authorized by the Owner pending mediation and binding dispute resolution or by other causes that the Owner determines may justify delay, then the Contract Time shall be extended by Change Order for such reasonable time as the Owner may determine.

§ 8.2.2 Claims relating to time shall be made in accordance with applicable provisions of Article 14.

§ 8.2.3 This Section 8.2 does not preclude recovery of damages for delay by either party under other provisions of the Design-Build Documents.

ARTICLE 9 PAYMENT APPLICATIONS AND PROJECT COMPLETION

§ 9.1 Contract Sum

The Contract Sum is stated in the Design-Build Amendment.

§ 9.2 Schedule of Values

Where the Contract Sum is based on a Stipulated Sum or Guaranteed Maximum Price, the Design-Builder, prior to the first Application for Payment after execution of the Design-Build Amendment shall submit to the Owner a Schedule of Values allocating the entire Contract Sum to the various portions of the Work and prepared in such form and supported by such data to substantiate its accuracy as the Owner may require. This schedule, unless objected to by the Owner, shall be used as a basis for reviewing the Design-Builder's Applications for Payment.

§ 9.3 Applications for Payment

§ 9.3.1 For each Progress Payment, the Design-Builder shall submit to the Owner an itemized Application for Payment for completed portions of the Work. The application shall be notarized, if required, and supported by data substantiating the Design-Builder's right to payment as the Owner may require, such as copies of requisitions from the Architect, Consultants, Contractors, and material suppliers, and shall reflect retainage if provided for in the Design-Build Documents.

§ 9.3.1.1 As provided in Section 6.3.9, Applications for Payment may include requests for payment on account of changes in the Work that have been properly authorized by Change Directives, or by interim determinations of the Owner, but not yet included in Change Orders.

§ 9.3.1.2 Applications for Payment shall not include requests for payment for portions of the Work for which the Design-Builder does not intend to pay the Architect, Consultant, Contractor, material supplier, or other persons or entities providing services or work for the Design-Builder, unless such Work has been performed by others whom the Design-Builder intends to pay.

§ 9.3.2 Unless otherwise provided in the Design-Build Documents, payments shall be made for services provided as well as materials and equipment delivered and suitably stored at the site for subsequent incorporation in the Work. If approved in advance by the Owner, payment may similarly be made for materials and equipment suitably stored off the site at a location agreed upon in writing. Payment for materials and equipment stored on or off the site shall be

conditioned upon compliance by the Design-Builder with procedures satisfactory to the Owner to establish the Owner's title to such materials and equipment or otherwise protect the Owner's interest, and shall include the costs of applicable insurance, storage and transportation to the site for such materials and equipment stored off the site.

§ 9.3.3 The Design-Builder warrants that title to all Work, other than Instruments of Service, covered by an Application for Payment will pass to the Owner no later than the time of payment. The Design-Builder further warrants that, upon submittal of an Application for Payment, all Work for which Certificates for Payment have been previously issued and payments received from the Owner shall, to the best of the Design-Builder's knowledge, information and belief, be free and clear of liens, claims, security interests or encumbrances in favor of the Design-Builder, Architect, Consultants, Contractors, material suppliers, or other persons or entities entitled to make a claim by reason of having provided labor, materials and equipment relating to the Work.

§ 9.5 Decisions to Withhold Certification

§ 9.5.1 The Owner may withhold a Certificate for Payment in whole or in part to the extent reasonably necessary to protect the Owner due to the Owner's determination that the Work has not progressed to the point indicated in the Design-Builder's Application for Payment, or the quality of the Work is not in accordance with the Design-Build Documents. If the Owner is unable to certify payment in the amount of the Application, the Owner will notify the Design-Builder as provided in Section 9.4. If the Design-Builder and Owner cannot agree on a revised amount, the Owner will promptly issue a Certificate for Payment for the amount that the Owner deems to be due and owing. The Owner may also withhold a Certificate for Payment or, because of subsequently discovered evidence, may nullify the whole or a part of a Certificate for Payment previously issued to such extent as may be necessary to protect the Owner from loss for which the Design-Builder is responsible because of

- 1 defective Work, including Design and Construction, not remedied;
- 2 third party claims filed or reasonable evidence indicating probable filing of such claims unless security acceptable to the Owner is provided by the Design-Builder;
- 3 failure of the Design-Builder to make payments properly to the Architect, Consultants, Contractors or others, for services, labor, materials or equipment;
- 4 reasonable evidence that the Work cannot be completed for the unpaid balance of the Contract Sum;
- 5 damage to the Owner or a separate contractor;
- 6 reasonable evidence that the Work will not be completed within the Contract Time, and that the unpaid balance would not be adequate to cover actual or liquidated damages for the anticipated delay; or
- 7 repeated failure to carry out the Work in accordance with the Design-Build Documents.

§ 9.5.2 When the above reasons for withholding certification are removed, certification will be made for amounts previously withheld.

§ 9.5.3 If the Owner withholds certification for payment under Section 9.5.1.3, the Owner may, at its sole option, issue joint checks to the Design-Builder and to the Architect or any Consultants, Contractor, material or equipment suppliers, or other persons or entities providing services or work for the Design-Builder to whom the Design-Builder failed to make payment for Work properly performed or material or equipment suitably delivered.

§ 9.6 Progress Payments

§ 9.6.1 After the Owner has issued a Certificate for Payment, the Owner shall make payment in the manner and within the time provided in the Design-Build Documents.

§ 9.6.2 The Design-Builder shall pay each Architect, Consultant, Contractor, and other person or entity providing services or work for the Design-Builder after receipt of payment from the Owner the amount to which the Architect, Consultant, Contractor, and other person or entity providing services or work for the Design-Builder is entitled. The Design-Builder shall, by appropriate agreement with each Architect, Consultant, Contractor, and other person or entity providing services or work for the Design-Builder, require each Architect, Consultant, Contractor, and other person or entity providing services or work for the Design-Builder to make payments to subconsultants and subcontractors in a similar manner.

§ 9.6.3 [Section Not Used]

§ 9.6.4 The Owner shall have no obligation to pay or to see to the payment of money to a Consultant or Contractor, except as may otherwise be required by law.

§ 9.6.5 Design-Builder payments to material and equipment suppliers shall be treated in a manner similar to that provided in Sections 9.6.2 and 9.6.4.

§ 9.6.6 A Certificate for Payment, a Progress Payment, or partial or entire use or occupancy of the Project by the Owner shall not constitute acceptance of Work not in accordance with the Design-Build Documents.

§ 9.6.7 Unless the Design-Builder provides the Owner with a payment bond in the full penal sum of the Contract Sum, payments received by the Design-Builder for Work properly performed by the Architect, Consultants, Contractors and other person or entity providing services or work for the Design-Builder, shall be held by the Design-Builder for the Architect and those Consultants, Contractors, or other person or entity providing services or work for the Design-Builder, for which payment was made by the Owner. Nothing contained herein shall require money to be placed in a separate account and not commingled with money of the Design-Builder, shall create any fiduciary liability or tort liability on the part of the Design-Builder for breach of trust or shall entitle any person or entity to an award of punitive damages against the Design-Builder for breach of the requirements of this provision.

§ 9.7 Failure of Payment

If the Owner does not issue a Certificate for Payment, through no fault of the Design-Builder, within the time required by the Design-Build Documents, then the Design-Builder may, upon seven (7) additional days' written notice to the Owner, stop the Work until payment of the amount owing has been received. The Contract Time shall be extended appropriately and the Contract Sum shall be increased by the amount of the Design-Builder's reasonable costs of shut-down, delay and start-up, plus interest as provided for in the Design-Build Documents.

§ 9.7.1 Unless otherwise agreed, payments of Applications for Payment shall be made monthly in proportion to the progress of the Work performed. Payments are due and payable within thirty (30) days of the submission of the Application for Payment. Amounts unpaid Sixty (60) days after the Application for Payment date shall bear interest at the rate entered below, or in the absence thereof at the legal rate prevailing from time to time at the principal place of business of the Design-Builder.

(Insert rate of monthly or annual interest agreed upon.)

Bank of America Prime Rate Plus One percent (1.0 %)

§ 9.8 Substantial Completion

§ 9.8.1 Substantial Completion is the stage in the progress of the Work when the Work or designated portion thereof is sufficiently complete in accordance with the Design-Build Documents so that the Owner can occupy or utilize the Work for its intended use.

§ 9.8.1.1 Upon receipt of the Certificate of Occupancy from the Local Authority (temporary or final), the building shall be deemed substantially complete.

§ 9.8.2 When the Design-Builder considers that the Work, or a portion thereof which the Owner agrees to accept separately, is substantially complete, the Design-Builder shall prepare and submit to the Owner a comprehensive list of items to be completed or corrected prior to final payment. Failure to include an item on such list does not alter the responsibility of the Design-Builder to complete all Work in accordance with the Design-Build Documents.

§ 9.8.3 Upon receipt of the Design-Builder's list, the Owner shall make an inspection to determine whether the Work or designated portion thereof is substantially complete. If the Owner's inspection discloses any item, whether or not included on the Design-Builder's list, which is not sufficiently complete in accordance with the Design-Build Documents so that the Owner can occupy or utilize the Work or designated portion thereof for its intended use, the Design-Builder shall, before issuance of the Certificate of Substantial Completion, complete or correct such item upon notification by the Owner. In such case, the Design-Builder shall then submit a request for another inspection by the Owner to determine Substantial Completion.

§ 9.8.4 Prior to issuance of the Certificate of Substantial Completion under Section 9.8.5, the Owner and Design-Builder shall discuss and then determine the parties' obligations to obtain and maintain property insurance following issuance of the Certificate of Substantial Completion.

§ 9.8.5 When the Work or designated portion thereof is substantially complete, the Design-Builder will prepare for the Owner's signature a Certificate of Substantial Completion that shall, upon the Owner's signature, establish the date of Substantial Completion; establish responsibilities of the Owner and Design-Builder for security, maintenance, heat, utilities, damage to the Work and insurance; and fix the time within which the Design-Builder shall finish all items on the list accompanying the Certificate. Warranties required by the Design-Build Documents shall commence on the date of Substantial Completion of the Work or designated portion thereof unless otherwise provided in the Certificate of Substantial Completion.

§ 9.8.6 The Certificate of Substantial Completion shall be submitted by the Design-Builder to the Owner for written acceptance of responsibilities assigned to it in the Certificate. Upon the Owner's acceptance, and consent of surety, if any, the Owner shall make payment of retainage applying to the Work or designated portion thereof. Payment shall be adjusted for Work that is incomplete or not in accordance with the requirements of the Design-Build Documents.

§ 9.9 Partial Occupancy or Use

§ 9.9.1 The Owner may occupy or use any completed or partially completed portion of the Work at any stage when such portion is designated by separate agreement with the Design-Builder, provided such occupancy or use is consented to, by endorsement or otherwise, by the insurer providing property insurance and authorized by public authorities having jurisdiction over the Project. Such partial occupancy or use may commence whether or not the portion is substantially complete, provided the Owner and Design-Builder have accepted in writing the responsibilities assigned to each of them for payments, retainage, if any, security, maintenance, heat, utilities, damage to the Work and insurance, and have agreed in writing concerning the period for correction of the Work and commencement of warranties required by the Design-Build Documents. When the Design-Builder considers a portion substantially complete, the Design-Builder shall prepare and submit a list to the Owner as provided under Section 9.8.2. Consent of the Design-Builder to partial occupancy or use shall not be unreasonably withheld. The stage of the progress of the Work shall be determined by written agreement between the Owner and Design-Builder.

§ 9.9.2 Immediately prior to such partial occupancy or use, the Owner and Design-Builder shall jointly inspect the area to be occupied or portion of the Work to be used in order to determine and record the condition of the Work.

§ 9.9.3 Unless otherwise agreed upon, partial occupancy or use of a portion or portions of the Work shall not constitute acceptance of Work not complying with the requirements of the Design-Build Documents.

§ 9.10 Final Completion and Final Payment

§ 9.10.1 Upon receipt of the Design-Builder's written notice that the Work is ready for final inspection and acceptance and upon receipt of a final Application for Payment, the Owner will promptly make such inspection. When the Owner finds the Work acceptable under the Design-Build Documents and the Contract fully performed, the Owner will, subject to Section 9.10.2, promptly issue a final Certificate for Payment.

§ 9.10.2 Neither final payment nor any remaining retained percentage shall become due until the Design-Builder submits to the Owner (1) an affidavit that payrolls, bills for materials and equipment, and other indebtedness connected with the Work, for which the Owner or the Owner's property might be responsible or encumbered, (less amounts withheld by Owner) have been paid or otherwise satisfied, (2) a certificate evidencing that insurance required by the Design-Build Documents to remain in force after final payment is currently in effect, (3) a written statement that the Design-Builder knows of no substantial reason that the insurance will not be renewable to cover the period required by the Design-Build Documents, (4) consent of surety, if any, to final payment, (5) as-constructed record copy of the Design-Build Construction Documents marked to indicate field changes and selections made during Construction, (6) manufacturer's warranties, product data, and maintenance and operations manuals, and (7) if required by the Owner, other data establishing payment or satisfaction of obligations, such as receipts, or releases and waivers of liens, claims, security interests, or encumbrances, arising out of the Contract, to the extent and in such form as may be designated by the Owner. If an Architect, a Consultant, or a Contractor, or other person or entity providing services or work for the Design-Builder, refuses to furnish a release or waiver required by the Owner, the Design-Builder may furnish a bond satisfactory to the Owner to indemnify the Owner against such liens, claims, security interests, or encumbrances. If such liens, claims, security interests, or encumbrances remains unsatisfied after

payments are made, the Design-Builder shall refund to the Owner all money that the Owner may be compelled to pay in discharging such liens, claims, security interests, or encumbrances, including all costs and reasonable attorneys' fees.

§ 9.10.3 If, after Substantial Completion of the Work, final completion thereof is materially delayed through no fault of the Design-Builder or by issuance of Change Orders affecting final completion, the Owner shall, upon application by the Design-Builder, and without terminating the Contract, make payment of the balance due for that portion of the Work fully completed and accepted. If the remaining balance for Work not fully completed or corrected is less than retainage stipulated in the Design-Build Documents, and if bonds have been furnished, the written consent of surety to payment of the balance due for that portion of the Work fully completed and accepted shall be submitted by the Design-Builder to the Owner prior to issuance of payment. Such payment shall be made under terms and conditions governing final payment, except that it shall not constitute a waiver of claims.

§ 9.10.4 The making of final payment shall constitute a waiver of Claims by the Owner except those arising from

- .1 liens, Claims, security interests or encumbrances arising out of the Contract and unsettled;
- .2 failure of the Work to comply with the requirements of the Design-Build Documents; or
- .3 terms of special warranties required by the Design-Build Documents.

§ 9.10.5 Acceptance of final payment by the Design-Builder shall constitute a waiver of claims by the Design-Builder except those previously made in writing and identified by the Design-Builder as unsettled at the time of final Application for Payment.

ARTICLE 10 PROTECTION OF PERSONS AND PROPERTY

§ 10.1 Safety Precautions and Programs

The Design-Builder shall be responsible for initiating, maintaining and supervising all safety precautions and programs in connection with the performance of the Contract.

§ 10.2 Safety of Persons and Property

§ 10.2.1 The Design-Builder shall be responsible for precautions for the safety of, and reasonable protection to prevent damage, injury or loss to

- .1 employees on the Work and other persons who may be affected thereby;
- .2 the Work and materials and equipment to be incorporated therein, whether in storage on or off the site, under care, custody or control of the Design-Builder or the Architect, Consultants, or Contractors, or other person or entity providing services or work for the Design-Builder; and
- .3 other property at the site or adjacent thereto, such as trees, shrubs, lawns, walks, pavements, roadways, or structures and utilities not designated for removal, relocation or replacement in the course of construction.

§ 10.2.2 The Design-Builder shall comply with, and give notices required by, applicable laws, statutes, ordinances, codes, rules and regulations, and lawful orders of public authorities, bearing on safety of persons or property, or their protection from damage, injury or loss.

§ 10.2.3 The Design-Builder shall implement, erect, and maintain, as required by existing conditions and performance of the Contract, reasonable safeguards for safety and protection, including posting danger signs and other warnings against hazards, promulgating safety regulations, and notify owners and users of adjacent sites and utilities of the safeguards and protections.

§ 10.2.4 When use or storage of explosives or other hazardous materials or equipment, or unusual methods, are necessary for execution of the Work, the Design-Builder shall exercise utmost care, and carry on such activities under supervision of properly qualified personnel.

§ 10.2.5 The Design-Builder shall promptly remedy damage and loss (other than damage or loss insured under property insurance required by the Design-Build Documents) to property referred to in Sections 10.2.1.2 and 10.2.1.3, caused in whole or in part by the Design-Builder, the Architect, a Consultant, a Contractor, or anyone directly or indirectly employed by any of them, or by anyone for whose acts they may be liable and for which the Design-Builder is responsible under Sections 10.2.1.2 and 10.2.1.3; except damage or loss attributable to acts or omissions of the Owner, or anyone directly or indirectly employed by the Owner, or by anyone for whose acts the Owner may be liable,

Int.

AIA Document A141-2014. Copyright © 2004 and 2014. All rights reserved. "The American Institute of Architects," "American Institute of Architects," "AIA," the AIA Logo, and "AIA Contract Documents" are trademarks of The American Institute of Architects. This document was produced at 11:47:37 ET on 09/10/2024 under Order No. 2114450827 which expires on 01/03/2025, is not for resale, is licensed for one-time use only, and may only be used in accordance with the AIA Contract Documents' Terms of Service. To report copyright violations, e-mail docinfo@aiccontracts.com.
User Note:

(843928182)

20

and not attributable to the fault or negligence of the Design-Builder. The foregoing obligations of the Design-Builder are in addition to the Design-Builder's obligations under Section 3.1.14.

§ 10.2.8 The Design-Builder shall designate a responsible member of the Design-Builder's organization, at the site, whose duty shall be the prevention of accidents. This person shall be the Design-Builder's Site Superintendent unless otherwise designated by the Design-Builder in writing to the Owner.

§ 10.2.7 The Design-Builder shall not permit any part of the construction or site to be loaded so as to cause damage or create an unsafe condition.

§ 10.2.8 Injury or Damage to Person or Property. If the Owner or Design-Builder suffers injury or damage to person or property because of an act or omission of the other, or of others for whose acts such party is legally responsible, written notice of the injury or damage, whether or not insured, shall be given to the other party within a reasonable time not exceeding twenty-one (21) days after discovery. The notice shall provide sufficient detail to enable the other party to investigate the matter.

§ 10.3 Hazardous Materials

§ 10.3.1 The Design-Builder is responsible for compliance with any requirements included in the Design-Build Documents regarding hazardous materials. If the Design-Builder encounters a hazardous material or substance not addressed in the Design-Build Documents and if reasonable precautions will be inadequate to prevent foreseeable bodily injury or death to persons resulting from a material or substance, including but not limited to asbestos or polychlorinated biphenyl (PCB), encountered on the site by the Design-Builder, the Design-Builder shall, upon recognizing the condition, immediately stop Work in the affected area and report the condition to the Owner in writing.

§ 10.3.2 Upon receipt of the Design-Builder's written notice, the Owner shall obtain the services of a licensed laboratory to verify the presence or absence of the material or substance reported by the Design-Builder and, in the event such material or substance is found to be present, to cause it to be rendered harmless. Unless otherwise required by the Design-Build Documents, the Owner shall furnish in writing to the Design-Builder the names and qualifications of persons or entities who are to perform tests verifying the presence or absence of such material or substance or who are to perform the task of removal or safe containment of such material or substance. The Design-Builder will promptly reply to the Owner in writing stating whether or not the Design-Builder has reasonable objection to the persons or entities proposed by the Owner. If the Design-Builder has an objection to a person or entity proposed by the Owner, the Owner shall propose another to whom the Design-Builder has no reasonable objection. When the material or substance has been rendered harmless, Work in the affected area shall resume upon written agreement of the Owner and Design-Builder. By Change Order, the Contract Time shall be extended appropriately and the Contract Sum shall be increased in the amount of the Design-Builder's reasonable additional costs of shut-down, delay and start-up.

§ 10.3.A The Owner shall not be responsible under this Section 10.3 for materials or substances the Design-Builder brings to the site unless such materials or substances are required by the Owner. The Owner shall be responsible for materials or substances required by the Owner, except to the extent of the Design-Builder's fault or negligence in the use and handling of such materials or substances.

§ 10.3.5 The Design-Builder shall indemnify the Owner for the cost and expense the Owner incurs (1) for remediation of a material or substance the Design-Builder brings to the site and negligently handles, or (2) where the Design-Builder fails to perform its obligations under Section 10.3.1, except to the extent that the cost and expense are due to the Owner's fault or negligence.

§ 10.3.6 It: without negligence on the part of the Design-Builder, the Design-Builder is held liable by a government agency for the cost of remediation of a hazardous material or substance solely by reason of performing Work as required by the Design-Build Documents, the Owner shall indemnify the Design-Builder for all cost and expense thereby incurred.

§ 10.4 Emergencies

In an emergency affecting safety of persons or property, the Design-Builder shall act, at the Design-Builder's discretion, to prevent threatened damage, injury or loss.

int.

ARTICLE 11 UNCOVERING AND CORRECTION OF WORK

§ 11.1 Uncovering of Work

The Owner may request to examine a portion of the Work that the Design-Builder has covered to determine if the Work has been performed in accordance with the Design-Build Documents. If such Work is in accordance with the Design-Build Documents, the Owner and Design-Builder shall execute a Change Order to adjust the Contract Time and Contract Sum, as appropriate. If such Work is not in accordance with the Design-Build Documents, the costs of uncovering and correcting the Work shall be at the Design-Builder's expense and the Design-Builder shall not be entitled to a change in the Contract Time unless the condition was caused by the Owner or a separate contractor in which event the Owner shall be responsible for payment of such costs and the Contract Time will be adjusted as appropriate.

§ 11.2 Correction of Work

§ 11.2.1 Before or After Substantial Completion. The Design-Builder shall promptly correct Work rejected by the Owner or failing to conform to the requirements of the Design-Build Documents, whether discovered before or after Substantial Completion and whether or not fabricated, installed or completed. Costs of correcting such rejected Work, including additional testing and inspections, the cost of uncovering and replacement, and compensation for any design consultant employed by the Owner whose expenses and compensation were made necessary thereby, shall be at the Design-Builder's expense.

§ 11.2.2 After Substantial Completion

§ 11.2.2.1 In addition to the Design-Builder's obligations under Section 3.1.12, if, within one (1) year after the date of Substantial Completion of the Work or designated portion thereof or after the date for commencement of warranties established under Section 9.9.1, or by terms of an applicable special warranty required by the Design-Build Documents, any of the Work is found not to be in accordance with the requirements of the Design-Build Documents, the Design-Builder shall correct it promptly after receipt of written notice from the Owner to do so unless the Owner has previously given the Design-Builder a written acceptance of such condition. The Owner shall give such notice promptly after discovery of the condition. During the one (1)-year period for correction of the Work, if the Owner fails to notify the Design-Builder and give the Design-Builder an opportunity to make the correction, the Owner waives the rights to require correction by the Design-Builder and to make a claim for breach of warranty. If the Design-Builder fails to correct nonconforming Work within a reasonable time during that period after receipt of notice from the Owner, the Owner may correct it in accordance with Section 7.9.

§ 11.2.2.2 The one (1)-year period for correction of Work shall be extended with respect to portions of Work first performed after Substantial Completion by the period of time between Substantial Completion and the actual completion of that portion of the Work.

§ 11.2.2.3 The one (1)-year period for correction of Work shall not be extended by corrective Work performed by the Design-Builder pursuant to this Section 11.2.

§ 11.2.3 The Design-Builder shall remove from the site portions of the Work that are not in accordance with the requirements of the Design-Build Documents and are neither corrected by the Design-Builder nor accepted by the Owner.

§ 11.2.4 The Design-Builder shall bear the cost of correcting destroyed or damaged construction of the Owner or separate contractors, whether completed or partially completed, caused by the Design-Builder's correction or removal of Work that is not in accordance with the requirements of the Design-Build Documents.

§ 11.2.5 Nothing contained in this Section 11.2 shall be construed to establish a period of limitation with respect to other obligations the Design-Builder has under the Design-Build Documents. Establishment of the one (1)-year period for correction of Work as described in Section 11.2.2 relates only to the specific obligation of the Design-Builder to correct the Work, and has no relationship to the time within which the obligation to comply with the Design-Build Documents may be sought to be enforced, nor to the time within which proceedings may be commenced to establish the Design-Builder's liability with respect to the Design-Builder's obligations other than specifically to correct the Work.

Int.

§ 11.3 Acceptance of Nonconforming Work

If the Owner prefers to accept Work that is not in accordance with the requirements of the Design-Build Documents, the Owner may do so instead of requiring its removal and correction, in which case the Contract Sum will be reduced as appropriate and equitable. Such adjustment shall be affected whether or not final payment has been made.

ARTICLE 12 COPYRIGHTS AND LICENSES

§ 12.1 Drawings, specifications, and other documents furnished by the Design-Builder, including those in electronic form, are Instruments of Service. The Design-Builder, and the Architect, Consultants, Contractors, and any other person or entity providing services or work for any of them, shall be deemed the authors and owners of their respective Instruments of Service, including the Drawings and Specifications, and shall retain all common law, statutory and other reserved rights, including copyrights. Submission or distribution of Instruments of Service to meet official regulatory requirements, or for similar purposes in connection with the Project, is not to be construed as publication in derogation of the reserved rights of the Design-Builder and the Architect, Consultants, and Contractors, and any other person or entity providing services or work for any of them.

§ 12.2 The Design-Builder and the Owner warrant that in transmitting Instruments of Service, or any other information, the transmitting party is the copyright owner of such information or has permission from the copyright owner to transmit such information for its use on the Project.

§ 12.3 Upon execution of the Agreement, the Design-Builder grants to the Owner a limited, irrevocable and non-exclusive license to use the Instruments of Service solely and exclusively for purposes of constructing, using, maintaining, altering and adding to the Project, provided that the Owner substantially performs its obligations, including prompt payment of all sums when due, under the Design-Build Documents. The license granted under this section permits the Owner to authorize the Design-Builder and its Consultants, Contractors, and Materials and Equipment Suppliers, as well as the Owner's consultants and separate contractors to use and reproduce applicable portions of the Instruments of Service solely and exclusively for use in performing services or construction for the Project, including further development of the Instruments of Service. If the Design-Builder rightfully terminates this Agreement for cause as provided in Section 13.1.4 or 13.2.1 the license granted in this Section 12.3 shall terminate.

§ 12.3.1 The Design-Builder shall obtain non-exclusive licenses from the Architect, Consultants, and Contractors, that will allow the Design-Builder to satisfy its obligations to the Owner under this Article 12. The Design-Builder's licenses from the Architect and its Consultants and Contractors shall also allow the Owner, in the event this Agreement is terminated for any reason other than the default of the Owner or in the event the Design-Builder's Architect, Consultants, or Contractors terminate their agreements with the Design-Builder for cause, to obtain a limited, irrevocable and non-exclusive license solely and exclusively for purposes of constructing, using, maintaining, altering and adding to the Project, provided that the Owner (1) agrees to pay to the Architect, Consultant or Contractor all amounts due.

§ 12.3.2 In the event the Owner alters the Instruments of Service without the author's written authorization or uses the Instruments of Service without retaining the authors of the Instruments of Service, the Owner releases the Design-Builder, Architect, Consultants, Contractors and any other person or entity providing services or work for any of them, from all claims and causes of action arising from or related to such uses. The terms of this Section 12.3.2 shall not apply if the Owner rightfully terminates this Agreement for cause under Sections 13.1.4 or 13.2.2.

§ 12.3.3 Except of the licenses granted in this Article 12, no other licenses or rights shall be deemed granted or implied under this Agreement. The Owner shall not otherwise assign, delegate, sub-license, pledge, or otherwise transfer any license granted herein to another party without prior written agreement of the Design-Builder. Any unauthorized reproduction or use of the Instruments of Service by the Owner or others shall be at the Owner's sole risk and expense and without liability to the Design-Builder, and the Architect, Consultants, Contractors, and any other person or entity providing services or work for any of them.

ARTICLE 13 TERMINATION OR SUSPENSION

§ 13.1 [Section Not Used] Termination or Suspension Prior to Execution of the Design-Build Amendment

§ 13.2 Termination or Suspension Following Execution of the Design-Build Amendment

Int.

§ 13.2.1 Termination by the Design-Builder

§ 13.2.1.1 The Design-Builder may terminate the Contract if the Work is stopped for a period of thirty (30) consecutive days through no act or fault of the Design-Builder, the Architect, a Consultant, or a Contractor, or their agents or employees, or any other persons or entities performing portions of the Work under direct or indirect contract with the Design-Builder, for any of the following reasons:

- 1 Issuance of an order of a court or other public authority having jurisdiction that requires all Work to be stopped;
- 2 An act of government, such as a declaration of national emergency that requires all Work to be stopped;
- 3 Because the Owner has not issued a Certificate for Payment and has not notified the Design-Builder of the reason for withholding certification as provided in Section 9.5.1, or because the Owner has not made payment on a Certificate for Payment within the time stated in the Design-Build Documents; or
- 4 The Owner has failed to furnish to the Design-Builder promptly, upon the Design-Builder's request, reasonable evidence as required by Section 7.2.7.

§ 13.2.1.2 The Design-Builder may terminate the Contract if, through no act or fault of the Design-Builder, the Architect, a Consultant, a Contractor, or their agents or employees or any other persons or entities performing portions of the Work under direct or indirect contract with the Design-Builder, repeated suspensions, delays or interruptions of the entire Work by the Owner as described in Section 13.2.3 constitute in the aggregate more than One-Hundred (100%)-percent of the total number of days scheduled for completion. or One-Hundred and Twenty (120) days in any 365-day period, whichever is less.

§ 13.2.1.3 If one of the reasons described in Section 13.2.1.1 or 13.2.1.2 exists, the Design-Builder may, upon seven (7) days' written notice to the Owner, terminate the Contract and recover from the Owner payment for Work executed, including reasonable overhead and profit, costs incurred by reason of such termination, and damages.

§ 13.2.1.4 If the Work is stopped for a period of sixty (60) consecutive days through no act or fault of the Design-Builder or any other persons or entities performing portions of the Work under contract with the Design-Builder because the Owner has repeatedly failed to fulfill the Owner's obligations under the Design-Build Documents with respect to matters important to the progress of the Work, the Design-Builder may, upon seven (7) additional days' written notice to the Owner, terminate the Contract and recover from the Owner as provided in Section 13.2.1.3.

§ 13.2.2 Termination by the Owner For cause

§ 13.2.2.1 The Owner may terminate the Contract if the Design-Builder

- 1 [Section Not Used]
- 2 repeatedly refuses or fails to supply an Architect, or enough properly skilled Consultants, Contractors, or workers or proper materials;
- 3 fails to make payment to the Architect, Consultants, or Contractors for services, materials or labor in accordance with their respective agreements with the Design-Builder;
- 4 repeatedly disregards applicable laws, statutes, ordinances, codes, rules and regulations, or lawful orders of a public authority; or
- 5 is otherwise guilty of substantial breach of a provision of the Design-Build Documents.

§ 13.2.2.2 When any of the above reasons exist, the Owner may without prejudice to any other rights or remedies of the Owner and after giving the Design-Builder and the Design-Builder's surety, if any, seven (7) days' written notice, terminate employment of the Design-Builder and may, subject to any prior rights of the surety:

- 1 Exclude the Design-Builder from the site and take possession of all materials, equipment, tools, and construction equipment and machinery thereon owned by the Design-Builder;
- 2 Accept assignment of the Architect, Consultant and Contractor agreements pursuant to Section 3.1.15; and
- 3 Finish the Work by whatever reasonable method the Owner may deem expedient. Upon written request of the Design-Builder, the Owner shall furnish to the Design-Builder a detailed accounting of the costs incurred by the Owner in finishing the Work.

§ 13.2.2.3 When the Owner terminates the Contract for one of the reasons stated in Section 13.2.2.1, the Design-Builder shall not be entitled to receive further payment until the Work is finished.

§ 13.2.2.4 If the unpaid balance of the Contract Sum exceeds costs of finishing the Work and other damages incurred by the Owner and not expressly waived, such excess shall be paid to the Design-Builder. If such costs and damages exceed the unpaid balance, the Design-Builder shall pay the difference to the Owner. The obligation for such payments shall survive termination of the Contract.

§ 13.2.3 Suspension by the Owner for Convenience

§ 13.2.3.1 The Owner may, without cause, order the Design-Builder in writing to suspend, delay or interrupt the Work in whole or in part for such period of time as the Owner may determine.

§ 13.2.3.2 The Contract Sum and Contract Time shall be adjusted for increases in the cost and time caused by suspension, delay or interruption as described in Section 13.2.3.1. Adjustment of the Contract Sum shall include profit. No adjustment shall be made to the extent

- 1 that performance is, was or would have been so suspended, delayed or interrupted by another cause for which the Design-Builder is responsible; or
- 2 that an equitable adjustment is made or denied under another provision of the Contract.

§ 13.2.4 Termination by the Owner for Convenience

§ 13.2.4.1 The Owner may, at any time, terminate the Contract for the Owner's convenience and without cause.

§ 13.2.4.2 Upon receipt of written notice from the Owner of such termination for the Owner's convenience, the Design-Builder shall

- 1 cease operations as directed by the Owner in the notice;
- 2 take actions necessary, or that the Owner may direct, for the protection and preservation of the Work; and,
- 3 except for Work directed to be performed prior to the effective date of termination stated in the notice, terminate all existing Project agreements, including agreements with the Architect, Consultants, Contractors, and purchase orders, and enter into no further Project agreements and purchase orders.

§ 13.2.4.3 In case of such termination for the Owner's convenience, the Design-Builder shall be entitled to receive payment for Work executed, and costs incurred by reason of such termination, along with reasonable overhead and profit on the Work not executed.

ARTICLE 14 CLAIMS AND DISPUTE RESOLUTION

§ 14.1 Claims

§ 14.1.1 Definition. A Claim is a demand or assertion by one of the parties seeking, as a matter of right, payment of money, or other relief with respect to the terms of the Contract. The term "Claim" also includes other disputes and matters in question between the Owner and Design-Builder arising out of or relating to the Contract. The responsibility to substantiate Claims shall rest with the party making the Claim.

§ 14.1.2 Time Limits on Claims. The Owner and Design-Builder shall commence all claims and causes of action, whether in contract, tort, breach of warranty or otherwise, against the other, arising out of or related to the Contract in accordance with the requirements of the binding dispute resolution method selected in Section 1.3, within the time period specified by applicable law, but in any case not more than nine (9) years after the date of Substantial Completion of the Work. The Owner and Design-Builder waive all claims and causes of action not commenced in accordance with this Section 14.1.2.

§ 14.1.3 Notice of Claims

§ 14.1.3.1 Prior To Final Payment Prior to Final Payment, Claims by either the Owner or Design-Builder must be initiated by written notice to the other party within twenty-one (21) days after occurrence of the event giving rise to such Claim or within twenty-one (21) days after the claimant first recognizes the condition giving rise to the Claim, whichever is later.

§ 14.1.3.2 Claims Arising After Final Payment After Final Payment, Claims by either the Owner or Design-Builder that have not otherwise been waived pursuant to Sections 9.10.4 or 9.10.5, must be initiated by prompt written notice to the other party. The notice requirement in Section 14.1.3.1 and the Initial Decision requirement as a condition precedent to mediation in Section 14.2.1 shall not apply.

§ 14.1.4 Continuing Contract Performance. Pending final resolution of a Claim, except as otherwise agreed in writing or as provided in Section 9.7 and Article 13, the Design-Builder shall proceed diligently with performance of the Contract and the Owner shall continue to make payments in accordance with the Design-Build Documents.

§ 14.1.5 Claims for Additional Cost. If the Design-Builder intends to make a Claim for an increase in the Contract Sum, written notice as provided herein shall be given before proceeding to execute the portion of the Work that relates to the Claim. Prior notice is not required for Claims relating to an emergency endangering life or property arising under Section 10.4.

§ 14.1.6 Claims for Additional Time

§ 14.1.6.1 If the Design-Builder intends to make a Claim for an increase in the Contract Time, written notice as provided herein shall be given. The Design-Builder's Claim shall include an estimate of cost and of probable effect of delay on progress of the Work. In the case of a continuing delay, only one Claim is necessary.

§ 14.1.6.2 If adverse weather conditions are the basis for a Claim for additional time, such Claim shall be documented by data substantiating that weather conditions were abnormal for the period of time, could not have been reasonably anticipated, and had an adverse effect on the scheduled construction.

§ 14.1.7 Claims for Consequential Damages

The Design-Builder and Owner waive Claims against each other for consequential damages arising out of or relating to this Contract. This mutual waiver includes

1. damages incurred by the Owner for rental expenses, for losses of use, income, profit, financing, business and reputation, and for loss of management or employee productivity or of the services of such persons; and
2. damages incurred by the Design-Builder for principal office expenses including the compensation of personnel stationed there, for losses of financing, business and reputation, and for loss of profit except anticipated profit arising directly from the Work.

This mutual waiver is applicable, without limitation, to all consequential damages due to either party's termination in accordance with Article 13. Nothing contained in this Section 14.1.7 shall be deemed to preclude an award of liquidated damages, when applicable, in accordance with the requirements of the Design-Build Documents.

§ 14.2 Initial Decision

§ 14.2.1 An initial decision shall be required as a condition precedent to mediation of all Claims between the Owner and Design-Builder initiated prior to the date final payment is due, excluding those arising under Sections 10.3 and 10.4 of the Agreement and Sections B.3.2.9 and B.3.2.10 of Exhibit B to this Agreement, unless thirty (30) days have passed after the Claim has been initiated with no decision having been rendered. Unless otherwise mutually agreed in writing, the Owner shall render the initial decision on Claims.

§ 14.2.2 Procedure

§ 14.2.2.1 Claims Initiated by the Owner. If the Owner initiates a Claim, the Design-Builder shall provide a written response to Owner within ten (10) days after receipt of the notice required under Section 14.1.3.1. Thereafter, the Owner shall render an initial decision within ten (10) days of receiving the Design-Builder's response: (1) withdrawing the Claim in whole or in part, (2) approving the Claim in whole or in part, or (3) suggesting a compromise.

§ 14.2.2.2 Claims Initiated by the Design-Builder. If the Design-Builder initiates a Claim, the Owner will take one or more of the following actions within ten (10) days after receipt of the notice required under Section 14.1.3.1: (1) request additional supporting data, (2) render an initial decision rejecting the Claim in whole or in part, (3) render an initial decision approving the Claim, (4) suggest a compromise or (5) indicate that it is unable to render an initial decision because the Owner lacks sufficient information to evaluate the merits of the Claim.

§ 14.2.3 In evaluating Claims, the Owner may, but shall not be obligated to, consult with or seek information from persons with special knowledge or expertise who may assist the Owner in rendering a decision. The retention of such persons shall be at the Owner's expense.

§ 14.2.4 If the Owner requests the Design-Builder to provide a response to a Claim or to furnish additional supporting data, the Design-Builder shall respond, within ten (10) days after receipt of such request, and shall either (1) provide a response on the requested supporting data, (2) advise the Owner when the response or supporting data will be furnished or (3) advise the Owner that no supporting data will be furnished. Upon receipt of the response or supporting data, if any, the Owner will either reject or approve the Claim in whole or in part.

§ 14.2.5 The Owner's initial decision shall (1) be in writing; (2) state the reasons therefor; and (3) identify any change in the Contract Sum or Contract Time or both. The initial decision shall be final and binding on the parties but subject to mediation and, if the parties fail to resolve their dispute through mediation, to binding dispute resolution.

§ 14.2.6 Either party may file for mediation of an initial decision at any time, subject to the terms of Section 14.2.6.1.

§ 14.2.6.1 Either party may, within thirty (30) days from the date of an initial decision, demand in writing that the other party file for mediation within sixty (60) days of the initial decision. If such a demand is made and the party receiving the demand fails to file for mediation within the time required, then both parties waive their rights to mediate or pursue binding dispute resolution proceedings with respect to the initial decision.

§ 14.2.7 In the event of a Claim against the Design-Builder, the Owner may, but is not obligated to, notify the surety, if any, of the nature and amount of the Claim. If the Claim relates to a possibility of a Design-Builder's default, the Owner may, but is not obligated to, notify the surety and request the surety's assistance in resolving the controversy.

§ 14.2.8 If a Claim relates to or is the subject of a mechanic's lien, the party asserting such Claim may proceed in accordance with applicable law to comply with the lien notice or filing deadlines.

§ 14.3 Mediation

§ 14.3.1 Claims, disputes, or other matters in controversy arising out of or related to the Contract, except those waived as provided for in Sections 9.10.4, 9.10.5, and 14.1.7, shall be subject to mediation as a condition precedent to binding dispute resolution.

§ 14.3.2 The parties shall endeavor to resolve their Claims by mediation. A request for mediation shall be made in writing, delivered to the other party to the Contract, and filed with the person or entity administering the mediation. The request may be made concurrently with the filing of binding dispute resolution proceedings but, in such event, mediation shall proceed in advance of binding dispute resolution proceedings, which shall be stayed pending mediation for a period of sixty (60) days from the date of filing, unless stayed for a longer period by agreement of the parties or court order.

§ 14.3.3 The parties shall share the mediator's fee and any filing fees equally. The mediation shall be held in the place where the Project is located, unless another location is mutually agreed upon. Agreements reached in mediation shall be enforceable as settlement agreements in any court having jurisdiction.

ARTICLE 15 MISCELLANEOUS PROVISIONS

§ 15.1 Governing Law

The Contract shall be governed by the law of the State of n, tb.

§ 15.2 Successors and Assigns

§ 15.2.1 The Owner and Design-Builder, respectively, bind themselves, their partners, successors, assigns and legal representatives to the covenants, agreements and obligations contained in the Design-Build Documents. Except as provided in Section 15.2.2, neither party to the Contract shall assign the Contract as a whole without written consent of the other. If either party attempts to make such an assignment without such consent, that party shall nevertheless remain legally responsible for all obligations under the Contract.

§ 15.2.2 The Owner may, without consent of the Design-Builder, assign the Contract to a lender providing construction financing for the Project, if the lender assumes the Owner's rights and obligations under the Design-Build Documents. The Design-Builder shall execute all consents reasonably required to facilitate such assignment.

Int.

§ 15.2.3 If the Owner requests the Design-Builder, Architect, Consultants, or Contractors to execute certificates, other than those required by the Design-Build Documents, the Owner shall submit the proposed language of such certificates for review at least fourteen (14) days prior to the requested dates of execution. If the Owner requests the Design-Builder, Architect, Consultants, or Contractors to execute consents reasonably required to facilitate assignment to a lender, the Design-Builder, Architect, Consultants, or Contractors shall execute all such consents that are consistent with this Agreement, provided the proposed consent is submitted to them for review at least fourteen (14) days prior to execution. The Design-Builder, Architect, Consultants, and Contractors shall not be required to execute certificates or consents that would require knowledge, services or responsibilities beyond the scope of their services.

§ 15.3 Written Notice

Written notice shall be deemed to have been duly served if delivered in person to the individual, to a member of the firm or entity, or to an officer of the corporation for which it was intended; or if delivered at, or sent by registered or certified mail or by courier service providing proof of delivery to, the last business address known to the party giving notice.

§ 15.4 Rights and Remedies

§ 15.4.1 Duties and obligations imposed by the Design-Build Documents, and rights and remedies available thereunder, shall be in addition to and not a limitation of duties, obligations, rights and remedies otherwise imposed or available by law.

§ 15.4.2 No action or failure to act by the Owner or Design-Builder shall constitute a waiver of a right or duty afforded them under the Contract, nor shall such action or failure to act constitute approval or acquiescence in a breach thereunder, except as may be specifically agreed in writing.

§ 15.5 Tests and Inspections

§ 15.5.1 Tests, inspections and approvals of portions of the Work shall be made as required by the Design-Build Documents and by applicable laws, statutes, ordinances, codes, rules and regulations or lawful orders of public authorities. Unless otherwise provided, the Design-Builder shall make arrangements for such tests, inspections and approvals with an independent testing laboratory or entity acceptable to the Owner, or with the appropriate public authority, and shall bear all related costs of tests, inspections and approvals. The Design-Builder shall give the Owner timely notice of when and where tests and inspections are to be made so that the Owner may be present for such procedures. The Owner shall bear costs of (1) tests, inspections or approvals that do not become requirements until after bids are received or negotiations concluded, and (2) tests, inspections or approvals where building codes or applicable laws or regulations prohibit the Owner from delegating their cost to the Design-Builder (ex., MC Chapter 17 Inspections).

§ 15.5.2 If the Owner determines that portions of the Work require additional testing, inspection or approval not included under Section 15.5.1, the Owner will instruct the Design-Builder to make arrangements for such additional testing, inspection or approval by an entity acceptable to the Owner, and the Design-Builder shall give timely notice to the Owner of when and where tests and inspections are to be made so that the Owner may be present for such procedures. Such costs, except as provided in Section 15.5.3, shall be at the Owner's expense.

§ 15.5.3 If such procedures for testing, inspection or approval under Sections 15.5.1 and 15.5.2 reveal failure of the portions of the Work to comply with requirements established by the Design-Build Documents, all costs made necessary by such failure shall be at the Design-Builder's expense.

§ 15.5.4 Required certificates of testing, inspection or approval shall, unless otherwise required by the Design-Build Documents, be secured by the Design-Builder, and promptly delivered to the Owner.

§ 15.5.5 If the Owner is to observe tests, inspections or approvals required by the Design-Build Documents, the Owner will do so promptly and, where practicable, at the normal place of testing.

§ 15.5.6 Tests or inspections conducted pursuant to the Design-Build Documents shall be made promptly to avoid unreasonable delay in the Work.

Init.

AIA Contract Documents A141-2014. Copyright © 2004 and 2014. All rights reserved. "The American Institute of Architects: American Institute of Architects." AIA, the AIA Logo, and "AIA Contract Documents" are trademarks of The American Institute of Architects. This document was produced at 11:47:37 ET on 09/19/2024 under Order No. 2114450827, which expires on 01/03/2025, is not for resale, is licensed for one-time use only, and may only be used in accordance with the AIA Contract Documents Terms of Service. To report copyright violations, e-mail docinfo@alacontracts.com.
User Note:

(843928182)

28

§ 15.6 Confidential Information

If the Owner or Design-Builder transmits Confidential Information, the transmission of such Confidential Information constitutes a warranty to the party receiving such Confidential Information that the transmitting party is authorized to transmit the Confidential Information. If a party receives Confidential Information, the receiving party shall keep the Confidential Information strictly confidential and shall not disclose it to any other person or entity except as set forth in Section 15.6.1.

§ 15.6.1 A party receiving Confidential Information may disclose the Confidential Information as required by law or court order, including a subpoena or other form of compulsory legal process issued by a court or governmental entity. A party receiving Confidential Information may also disclose the Confidential Information to its employees, consultants or contractors in order to perform services or work solely and exclusively for the Project, provided those employees, consultants and contractors are subject to the restrictions on the disclosure and use of Confidential Information as set forth in this Contract.

§ 15.7 Capitalization

Terms capitalized in the Contract include those that are (1) specifically defined, (2) the titles of numbered articles or (3) the titles of other documents published by the American Institute of Architects.

§ 15.8 Interpretation

§ 15.8.1 In the interest of brevity the Design-Build Documents frequently omit modifying words such as "all" and "any" and articles such as "the" and "an," but the fact that a modifier or an article is absent from one statement and appears in another is not intended to affect the interpretation of either statement.

§ 15.8.2 Unless otherwise stated in the Design-Build Documents, words which have well-known technical or construction industry meanings are used in the Design-Build Documents in accordance with such recognized meanings.

§ 15.9 Force Majeure

§ 15.9.1 Non-fulfillment, delay or omission by the Design-Builder as regards to any and all of the obligations of this Agreement will not be considered breach of the Agreement, nor will it entail any liability when it is the result of Force Majeure. Force Majeure will be understood to comprise any extraordinary event, unforeseen, or if foreseen, an inevitable event, such as labor disputes, fire, public health emergencies, insurrection, war, natural disasters, the prohibition of a government to not supply goods, damages caused by extrajurisdictional laws, embargoes and blockades imposed by third countries, among others, that may occur or remain in force after the execution of this Agreement or the Design-Build Amendment, which may impede the partial or total fulfillment by the Design-Builder of the obligations pursuant to this Agreement

ARTICLE 16 SCOPE OF THE AGREEMENT

§ 16.1 This Agreement is comprised of the following documents listed below:

- .1 AIA Document A141™, 2014, Standard Form of Agreement Between Owner and Design-Builder
- .2 AIA Document A141™, 2014, Exhibit A, Design-Build Amendment, if executed
- .3 AIA Document A141™, 2014, Exhibit B, Insurance and Bonds
- .4 [Section Not Used] AIA Document A141™, 2014, Exhibit C, Sustainable Projects, if completed
- .5 [Section Not Used] AIA Document E203™, 2013, Building Information Modeling and Digital Data Exchange, if completed, or the following:

N/A

- .8 Other:

N/A

Int.

This Agreement entered into as of the day and year first written above.

Richland County

GMK Associates Design-Build Division, Inc.

OWNER (Signature)

(Printed name and title)

(Date Signed)

(Printed name and title) a, . 6

(Date Sign

Yickell f

Richland County Attorney's Office

Elizabeth A. Mc

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

Int.

AIA Document A 141 - 2014. Copyright © 2004 and 2014. All rights reserved. "The American Institute of Architects." "American Institute of Architects," "AIA," the AIA Logo, and "AIA Contract Documents" are trademarks of The American Institute of Architects. This document was produced at 11:47:37 ET on 09/19/2024 under Order No. 211+450827 which expires on 01/03/2025, is not for resale, is licensed for one-time use only, and may only be used in accordance with the AIA Contract Documents Terms of Service. To report copyright violations, e-mail dodnfo@alacontractdocs.com.
U r Noll &: (843928182)

30

AIA Document A14f - 2014 Exhibit A

Design-Build Amendment

GMP VERSION

This Amendment is incorporated into the accompanying AIA Document A14FM...2014, Standard Form of Agreement Between Owner and Design-Builder, dated the Nineteenth day of September in the year Two-Thousand, Twenty-Four (the "Agreement")
(In words, indicate day, month and year.)

for the following PROJECT:
(Name and location or address)

New Richland County Magistrate's Office
Clemson Road Facility
Columbia, SC

THE OWNER:
(Name, legal status and address)

Richland County Administration
2020 Hampton Street, Suite 4069
P.O. Box 192
Columbia, SC 29201
(803) 576-2050
Email: adminoffice@rkblandcoantysc.gov

THE DESIGN-BUILDER:
(Name, legal status and address)

GMK Associates DB Division, Inc.
1201 Main Street, Suite 2100
Columbia, SC 29201
Office Pb: (803) 256-0000

The Owner and Design-Builder hereby amend the Agreement as follows.

TABLE OF ARTICLES

- A.1 CONTRACT SUM
- A.2 CONTRACT TIME
- A.3 INFORMATION UPON WHICH AMENDMENT IS BASED
- A.4 DESIGN-BUILDER'S PERSONNEL, CONTRACTORS AND SUPPLIERS
- A.5 COST OF THE WORK

ARTICLE A.1 CONTRACT SUM

§ A.1.1 The Owner shall pay the Design-Builder the Contract Sum in current funds for the Design-Builder's performance of the Contract after the execution of this Amendment. The

ADDITIONS AND DELETIONS:

The author of this document has added information needed for its completion. The author may also have revised the text of the original AIA standard form. An *Additions and Deletions Report* that notes added information as well as revisions to the standard form text is available from the author and should be reviewed. A vertical line in the left margin of this document indicates where the author has added necessary information and where the author has added to or deleted from the original AIA text.

This document has important legal consequences. Consultation with an attorney is encouraged with respect to its completion or modification.

Consultation with an attorney is also encouraged with respect to professional licensing requirements in the jurisdiction where the Project is located.

Init.

AIA Document A141 - 2014 Exhibit A Copyright ©2004 and 2014. All rights reserved. "The American Institute of Architects," "American Institute of Architects," "AIA," the AIA Logo, and "AIA Contract Documents" are trademarks of The American Institute of Architects. This document was produced at 13:36:05 ET on 09/18/2024 under Order No. 211445082711. It expires on 01/03/2025, is not for resale, is licensed for on-time use only, and may only be used in accordance with the AIA Contract Documents' Terms of Service. To report copyright violations, email doctrino@aiacontracts.com.
User Notes: (1163420463)

Contract Sum shall be one of the following and shall not include compensation the Owner paid the Design-Builder for Work performed prior to execution of this Amendment:
(Check the appropriate box.)

- Stipulated Sum, in accordance with Section A.1.2 below
- Cost of the Work plus the Design-Builder's Fee, in accordance with Section A.1.3 below [N/A]
- Cost of the Work plus the Design-Builder's Fee with a Guaranteed Maximum Price, in accordance with Section A.1.4 below [N/A]

(Based on the selection above, complete Section A.1.2, A.1.3 or A.1.4 below.)

§ A.1.2 Stipulated Sum

§ A.1.2.1 The Stipulated Sum for Design Services and Construction, subject to authorized adjustments as provided in the Design-Build Documents, are as follows:

§ A.1.2.1.1 Design Services. For the Design-Builder's performance of the Work as described in Section 5.1 of the Agreement, the Owner shall pay the Design-Builder in current funds the amount of: One-Hundred, Forty-Eight Thousand, One-Hundred, Twenty-Five Dollars and Zero Cents (\$148,125), per the attached Conceptual Budget Summary dated April 23, 2024.

§ A.1.2.1.1.1 The Design Services to be performed shall be commenced upon the execution of this Agreement and, subject to the authorized adjustments and to delays not caused by the Design-Builder, shall be completed in a Four (4) month duration.

§ A.1.2.1.2 Construction. The Stipulated Sum for Construction shall be (\$), per the GMP Construction Cost Budget Summary dated .

The Proposed Construction Costs, including Design/Construction Contingency, for the Scope of Work are Two-Million, Three-Hundred, Sixty-Three Thousand, Seven-Hundred, Thirty-Five Dollars (\$2,363,735).

The Stipulated Sum for Construction will be issued via a future Construction Cost Amendment after sufficient Design Services have been completed to solicit Pricing from Subcontractors and Vendors to establish a final Guaranteed Maximum Price for the Project.

§ A.1.2.2 The Stipulated Sum for Construction is guaranteed by the Design-Builder not to exceed the above-stated amount, subject to additions and deductions by changes in the work as provided in the Final IPDM Construction Documents. Such maximum sum is referred to in the Design-Build Documents as the Guaranteed Maximum Price. Reasonably expected costs which would cause the Guaranteed Maximum Price to be exceeded shall be paid by the Design-Builder without reimbursement by the Owner.

§ A.1.2.3 The Stipulated Sum will be converted to a Lump-Sum Price after Final Buyout of the project and will be incorporated into this Agreement by Amendment.

§ A.1.2.4 The Stipulated Sum is based upon the following alternates, if any, which are described in the Design-Build Documents and are hereby accepted by the Owner:
(State the numbers or other identification of accepted alternates. If the Owner is permitted to accept other alternates subsequent to the execution of this Amendment, attach a schedule of such other alternates showing the change in Stipulated Sum for each and the deadline by which the alternate must be accepted)

Int.

I

§ A.1.2.5 Unit prices, if any:
(Identify item, state the unit price, and state any applicable quantity limitations.)

Item	Units and Limitations	Price per Unit (\$0.00)
------	-----------------------	-------------------------

§ A.1.2.6 Allowances, if any, are as follows:
(Identify and state the amounts of any allowances, and state whether they include labor, materials, or both)

Allowance	Amount (\$ 0.00)	Included Items
-----------	------------------	----------------

§ A.1.2.7 Assumptions or qualifications, if any, on which the Stipulated Sum is based, are as follows:

See attached Conceptual Budget Summary dated April 23, 2024.

§ A.1.3 **[Section Not Used]** Cost of the Work Plus Design-Builder's Fee

§ A.U **[Section Not Used]** Cost of the Work Plus Design-Builder's Fee With a Guaranteed Maximum Price

§ A.1.5 Payments

§ A.1.5.1 Progress Payments

§ A.1.5.1.1 Based upon Applications for Payment submitted to the Owner by the Design-Builder, the Owner shall make Progress Payments on account of the Contract Sum to the Design-Builder as provided below and elsewhere in the Design-Build Documents.

§ A.1.5.1.2 The period covered by each Application for Payment shall be one calendar month ending on the last day of the month, or as follows:

Per A.1.5.1.3.

§ A.1.5.1.3 Provided that an Application for Payment is received not later than the First (1st) day of the month, the Owner shall make payment of the certified amount to the Design-Builder not later than the First (1st) day of the following month. If an Application for Payment is received by the Owner after the application date fixed above, payment shall be made by the Owner not later than Thirty (30) days after the Owner receives the Application for Payment *(Federal, state or local laws may require payment within a certain period of time.)*

§ A.1.5.1.4 **[Section Not Used]**

§ A.1.5.1.5 With each Application for Payment where the Contract Sum is based upon a Stipulated Sum, the Design-Builder shall submit the most recent Schedule of Values in accordance with the Design-Build Documents. The Schedule of Values shall allocate the entire Contract Sum among the various portions of the Work. Compensation for Design Services, if any, shall be shown separately. The Schedule of Values shall be prepared in such form and supported by such data to substantiate its accuracy as the Owner may require. This Schedule of Values, unless objected to by the Owner, shall be used as a basis for reviewing the Design-Builder's Applications for Payment

§ A.1.5.1.6 In taking action on the Design-Builder's Applications for Payment, the Owner shall be entitled to rely on the accuracy and completeness of the information furnished by the Design-Builder and shall not be deemed to have made a detailed examination, audit or arithmetic verification of the documentation submitted in accordance with Section A.1.5.1.5, or other supporting data; to have made exhaustive or continuous on-site inspections; or to have made examinations to ascertain how or for what purposes the Design-Builder has used amounts previously paid. Such examinations, audits and verifications, if required by the Owner, will be performed by the Owner's auditors acting in the sole interest of the Owner.

§ A.1.5.1.7 Except with the Owner's prior approval, the Design-Builder shall not make advance payments to suppliers for materials or equipment which have not been delivered and stored at the site.

§ A.1.5.1.8 In the event that the Owner's Lender engages the services of an independent inspection service for the payment application approval process, the Design-Builder has the right to provide reasonable objection to the firm or individual selected to perform the inspection services.

§ A.1.5.2 Progress Payments-Stipulated Sum

§ A.1.5.2.1 Applications for Payment where the Contract Sum is based upon a Stipulated Sum shall indicate the percentage of completion of each portion of the Work as of the end of the period covered by the Application for Payment.

§ A.1.5.2.2 Subject to other provisions of the Design-Build Documents, the amount of each Progress Payment related to Construction Schedule of Value items shall be computed as follows:

- 1 Take that portion of the Contract Sum properly allocable to completed Work as determined by multiplying the percentage completion of each portion of the Work by the share of the Contract Sum allocated to that portion of the Work in the Schedule of Values, less Retainage of Ten percent (10%) on the Work. Pending final determination of cost to the Owner of Changes in the Work, amounts not in dispute shall be included as provided in Section 6.3.9 of the Agreement;
- 2 Add that portion of the Contract Sum properly allocable to materials and equipment delivered and suitably stored at the site for subsequent incorporation in the completed construction (or, if approved in advance by the Owner, suitably stored off the site at a location agreed upon in writing), less Retainage of Ten percent (10%);
- 3 Subtract the aggregate of previous payments made by the Owner; and
- 4 Subtract amounts, if any, the Owner has withheld or nullified, as provided in Section 9.5 of the Agreement
- 5 Retainage does not apply to Compensation for Design Services.

§ A.1.5.2.3 The Progress Payment amount determined in accordance with Section A.1.5.2.2 shall be further modified under the following circumstances:

- 1 Add, upon Substantial Completion of the Work, a sum sufficient to increase the total payments to the full amount of the Contract Sum, less such amounts as the Owner shall determine for incomplete Work, Retainage applicable to such work and unsettled claims; and
(Section 9.8.6 of the Agreement discusses release of applicable retainage upon Substantial Completion of Work.)
- 2 Add, if final completion of the Work is thereafter materially delayed through no fault of the Design-Builder, any additional amounts payable in accordance with Section 9.10.3 of the Agreement

§ A.1.5.2.4 Reduction or limitation of Retainage, if any, shall be as follows:
(If it is intended, prior to Substantial Completion of the entire Work, to reduce or limit the retainage resulting from the percentages inserted in Sections A.1.5.2.2.J and A.1.5.2.2.2 above, and this is not explained elsewhere in the Design-Build Documents, insert provisions herefor such reduction or limitation.)

Upon the Owners written approval, the Design-Builder may reduce Retainage to Five-Percent (5%) after Fifty-Percent (50%) completion of the Project.

§ A.1.5.3 **[Section Not Used]** Progress Payments-Cost of the Work Plus a Fee

§ A.1.5.4 **[Section Not Used]** Progress Payments-Cost of the Work Plus a Fee with a Guaranteed Maximum Price

§ A.1.5.5 Final Payment

§ A.1.5.5.1 Final payment, constituting the entire unpaid balance of the Contract Sum, shall be made by the Owner to the Design-Builder not later than Thirty (30) days after the Design-Builder has fully performed the Contract and the requirements of Section 9.10 of the Agreement have been satisfied, except for the Design-Builder's responsibility to correct non-conforming Work discovered after final payment or to satisfy other requirements, if any, which extend beyond final payment.

int.

AIA Document A141 - 2014 Exhibit A. Copyright © 2004 and 2014. All rights reserved. "The American Institute of Architects," "American Institute of Architects," "AIA," the AIA Logo, and "AIA Contract Documents" are trademarks of The American Institute of Architects. This document was produced at 13:36:05 ET on 09/18/2024 under Order No. 2114450827 which expires on 01/03/2025, is not for resale, is licensed for online use only, and may only be used in accordance with the AIA Contract Documents Terms of Service. To report copyright violations, e-mail docinfo@aiccontracts.com.

User Notes:

(1163420463)

4

§ A.1.5.5.2 [Section Not Used]

ARTICLE A.2 CONTRACT TIME

§ A.2.1 Contract Time, as defined in the Agreement at Section 1.4.13, is the period of time, including authorized adjustments, for Substantial Completion of the Work.

§ A.2.2 The Design-Builder shall achieve Substantial Completion of the Work not later than () days from the date of this Amendment, or as follows:

(Insert number of calendar days. Alternatively, a calendar date may be used when coordinated with the date of commencement. If appropriate, insert requirements for earlier Substantial Completion of certain portions of the Work.)

The Construction Duration to achieve Substantial Completion of the Work will be established via a future Construction Amendment after sufficient Design Services have been completed to solicit Pricing from Subcontractors and Vendors to develop a Final Guaranteed Maximum Price for the Project.

Portion of Work	Substantial Completion Date
N/A	

, subject to adjustments of the Contract Time as provided in the Design-Build Documents.

(Insert provisions, if any, for liquidated damages relating to failure to achieve Substantial Completion on time or for bonus payments for early completion of the Work.)

None

ARTICLE A.3 INFORMATION UPON WHICH AMENDMENT IS BASED

I A.3.1 The Contract Sum and Contract Time set forth in this Amendment are based on the following:

§ A.3.1.1 The Supplementary and other Conditions of the Contract

Document	Title	Date	Pages

§ A.3.1.2 The Specifications:

(Either list the specifications here or refer to an exhibit attached to this Amendment)

Section	Title	Date	Page
N/A			

§ A.3.1.3 The Drawings:

(Either list the drawings here or refer to an exhibit attached to this Amendment)

Number	Title	Date
N/A		

§ A.3.1.4 [Section Not Used] The Sustainability Plan, if any:

§ A.3.1.5 [Section Not Used]

§ A.3.1.8 Design-Builder's assumptions and clarifications:

§ A.3.1.7 Deviations from the Owner's Criteria as adjusted by a Modification:

N/A

§ A.3.1.8 To the extent the Design-Builder shall be required to submit any additional Submittals to the Owner for review, indicate any such submissions below:

ARTICLE A.4 DESIGN-BUILDER'S PERSONNEL, CONTRACTORS AND SUPPLIERS

§ A.4.1 The Design-Builder's key personnel are identified below:

(Identify name, title and contact information.)

.1 Superintendent

TBD

.2 Project Manager

TBD

.3 Others

§ A.4.2 The Design-Builder shall retain the following Consultants, Contractors and suppliers, identified below:
(List name, discipline, address and other information.)

GMK Architects, GMK Engineering, GMK Interiors.

ARTICLE A.5 MISCELLANEOUS PROVISIONS

§ A.5.1 Relationship of the Parties

The Design-Builder accepts the relationship of trust and confidence established by this Agreement and covenants with the Owner to exercise the Design-Builder's skill and judgment in furthering the interests of the Owner; to furnish efficient construction administration, management services and supervision; to furnish at all times an adequate supply of workers and materials; and to perform the Work in an expeditious and economical manner consistent with the Owner's interests.

This Amendment to the Agreement entered into as of the day and year first written above.

Int.

AIA Document A141-2014. Copyright © 2004 and 2014. All rights reserved. "The American Institute of Architects," "American Institute of Architects," "AIA," the AIA Logo, and "AIA contract Documents" are trademarks of The American Institute of Architects. This document was produced at 13:36:05 ET on 09/18/2024 under Order No. 2114450827 which expires on 01/03/2025. It is not for resale, is licensed for one-time use only, and may only be used in accordance with the AIA Contract Documents Terms of Service. To report copyright violations, email docinfo@alacontracts.com. User No: 811.

6

(1163420463)

Richland County

GMK Associates Design-Build Division, Inc.

OWNER (Signature)

(Printed name and title)

(Date)

[Handwritten Signature]

DESIGN-BUILDER (Signature)

t.J}iH-(f 4)/ L a
(Printed name and title)

1ft., 12, 'f
(Date)

C-wiBdT
As To LEGAL Form Only.
No Opinion Rendered As To COntmll

Richland County

New Magistrate Facility

Clemson Road, Columbia, SC

Conceptual Budget Summary

April 23, 2024

New Construction Area = 4,830 sf

Sitework Allowance (Similar Scope of Hopkins Facility):	\$386,330
New Building Construction (based on Hopkins Facility):	\$1,892,465
Construction Costs Sub-Total:	<u>\$2,278,795</u>
Design Fees (6.5%):	\$148,125
Design/Construction Contingency (3.5%):	\$84,940
Design & Construction Costs:	<u><u>\$2,511,860</u></u>

NOTES:

- *Building Design and Sitework Scopes to be similar to Hopkins Facility.
- *Conceptual Budget Costs have been escalated from Hopkins Magistrate Facility actual Construction Costs.
- *Per *Engineering News Record* Cost Data, Escalation from April 2018 to January 2024 has been approximately +40%.
- *Conceptual Budget Costs have also been escalated through 2025.

AIA Document A14f-2014 Exhibit B

Insurance and Bonds

GMP VERSION

for the following PROJECT:
(Name and location or address)

New Richland County Magistrate's Office
Clemson Road Facility
Columbia, SC

THE OWNER:
(Name, legal status and address)

Richland County Administration
2020 Hampton Street, Suite 4069
P.O. Box 192
Columbia, SC 29201
(803) 576-2050
Email: adminofike@ricb.jandcountysc.gov

THE DESIGN-BUILDER:
(Name, legal status and address)

GMK Associates DB Division, Inc.
1201 Main Street, Suite 2100
Columbia, SC 29201
Office Pb: (803) 256-0000

THE AGREEMENT

This Insurance Exhibit is part of the accompanying agreement for the Project, between the Owner and the Design-Builder (hereinafter, the Agreement), dated the Nineteenth day of September in the year Two-Thousand, Twenty-Four.
(In words, indicate day, month and year.)

TABLE OF ARTICLES

- B.1 GENERAL
- B.2 DESIGN BUILDER'S INSURANCE AND BONDS
- B.3 OWNER'S INSURANCE
- B.4 SPECIAL TERMS AND CONDITIONS

ARTICLE B.1 GENERAL

The Owner and Design-Builder shall purchase and maintain insurance and provide bonds as set forth in this Exhibit B. Where a provision in this Exhibit conflicts with a provision in the Agreement into which this Exhibit is incorporated, the provision in this Exhibit will prevail.

ADDITIONS AND DELETIONS:

The author of this document has added information needed for its completion. The author may also have revised the text of the original AIA standard form. An Additions and Deletions Report that notes added information as well as revisions to the standard form text is available from the author and should be reviewed. A vertical line in the left margin of this document indicates where the author has added necessary information and where the author has added to or deleted from the original AIA text.

This document has important legal consequences. Consultation with an attorney is encouraged with respect to its completion or modification.

Int.

AIA Document A14f-2014 Exhibit B, Copyright © 2004 and 2014. All rights reserved. "The American Institute of Architects," "American Institute of Architects," "AIA," the AIA Logo, and "AIA Contract Documents" are trademarks of The American Institute of Architects. This document was produced at 12:40:57 ET on 09/11/2024 under Order No. 211-4450827 which expires on 01/03/2025. It is not for resale, is licensed for one-time use only, and may only be used in accordance with the AIA Contract Documents' Terms of Service. To report copyright violations, e-mail cladinfo@aiccontract18.com.
UNR Num.:

(1299003215)

1

ARTICLE B.2 DESIGN BUILDER'S INSURANCE AND BONDS

§ B.2.1 The Design-Builder shall purchase and maintain the following types and limits of insurance from a company, or companies, lawfully authorized to do business in the jurisdiction where the Project is located. Each insurer shall have a Best rating of A, VII or higher. All deductibles and retentions for the policies are to be paid by Design-Builder. The Design-Builder shall maintain the required insurance until the expiration of the period for correction of Work as set forth in Section 11.2.2.1 of the Agreement, unless a different duration is stated below:
(If the Design-Builder is required to maintain insurance for a duration other than the expiration of the period/or correction of Work, state the duration.)

§ B.2.1.1 Commercial General Liability with policy limits of not less than One Million Dollars (\$1,000,000) for each occurrence and Two Million Dollars (\$2,000,000) in the aggregate providing coverage for claims including

- 1 damages because of bodily injury, sickness or disease, including occupational sickness or disease, and death of any person;
- 2 personal injury;
- 3 damages because of injury to or destruction of tangible property;
- 4 bodily injury or property damage arising out of completed operations; and
- 5 contractual liability applicable to the Design-Builder's obligations under Section 3.1.14 of the Agreement.

The policy shall provide that this policy is primary over any other Owner insurance or self-insurance, even if the policy asserts it is excess, secondary or contingent.

§ B.2.1.2 Business Automobile Liability covering vehicles owned by the Design-Builder and non-owned vehicles used by the Design-Builder with policy limits of not less than One Million Dollars (\$1,000,000) per claim and One Million Dollars (\$1,000,000) in the aggregate for bodily injury, death of any person, and property damage arising out of the ownership, maintenance and use of those motor vehicles specified in this Section B.2.1.2, along with any other statutorily required automobile coverage.

§ 8.2.1.3 The Design-Builder may achieve the required limits and coverage for Commercial General Liability and Automobile Liability through a combination of primary and excess liability insurance, provided such primary and excess insurance policies result in the same or greater coverage as those required under Sections B.2.1.1 and B.2.1.2.

§ 8.2.1.4 Workers' Compensation at statutory limits of the State of South Carolina. "Other States" coverage is not sufficient.

§ 8.2.1.5 Employers' Liability with policy limits as provided below:

at statutory limits of the State of South Carolina.

§ B.2.1.6 Professional Liability covering negligent acts, errors and omissions in the performance of professional services, with policy limits of not less than (\$) per claim and (\$) in the aggregate.

§ B.2.1.7 Pollution Liability covering performance of the Work, with policy limits of not less than (\$) per claim and (\$) in the aggregate.

§ B.2.1.7.1 The Design-Builder will obtain a combined Professional Liability and Pollution Liability policy to satisfy the requirements set forth in Sections B.2.1.6 and B.2.1.7, with combined policy limits that are not less than Two Million Dollars (\$2,000,000) per claim and Five Million Dollars (\$5,000,000) in the aggregate.

§ B.2.1.8 The Design-Builder shall provide written notification to the Owner of the cancellation or expiration of any insurance required by this Article B.2. The Design-Builder shall provide such written notice within five (5) business days of the date the Design-Builder is first aware of the cancellation or expiration, or is first aware that the cancellation or expiration is threatened or otherwise may occur, whichever comes first.

§ B.2.1.9 Additional Insured Obligations. Upon request, the Owner may be included as additional insureds on the Design-Builder's primary and excess insurance policies for Commercial General Liability, Business Automobile

init.

AIA Document A141 - 2014 Exhibit 8. Copyright © 2004 and 2014. All rights reserved. "The American Institute of Architects" and "American Institute of Architects" are trademarks of The American Institute of Architects. "AIA" and "The AIA Logo" are trademarks of The American Institute of Architects. This document was produced at 12:40:57 ET on 09/18/2024 under Order No. 2114450827 which expires on 01/03/2025. Is not for resale, is licensed for one-time use only, and may only be used in accordance with the AIA Contract Documents' Terms of Service. To report copyright violations, email doanfo@alaconline.com.
U_ , Notu:

(1299003215)

Liability and Pollution Liability. The additional insured coverage shall be primary and non-contributory to any of the Owner's insurance policies. The additional insured coverage shall apply to both ongoing operations and completed operations. The policy limits applicable to the additional insureds shall be the same amount applicable to the named insured or, if the policy provides otherwise, policy limits not less than the amounts required under this Agreement

§ B.2.1.10 Certificates of Insurance. The Design-Builder shall provide certificates of insurance acceptable to the Owner evidencing compliance with the requirements in this Article B.2: (1) prior to commencement of the Work; (2) upon renewal or replacement of each required policy of insurance; and (3) upon Owner's written request. An additional certificate evidencing continuation of liability coverage, including coverage for completed operations, shall be submitted with the final Application for Payment as required by Section 9.10.2 of the Agreement and thereafter upon renewal or replacement of such coverage until the expiration of the time required by Section B.2.1. The certificates will show the Owner and its consultants and contractors as additional insureds on the Design-Builder's primary and excess insurance policies for Commercial General Liability, Automobile Liability, and Pollution Liability. Information concerning reduction of coverage on account of revised limits, claims paid under the General Aggregate or both, shall be furnished by the Design-Builder with reasonable promptness.

§ B.2.2 Performance Bond and Payment Bond

If requested by the Owner, the Design-Builder shall provide surety bonds as follows:
(Specify type and penal sum of bonds.)

Type	Penal Sum (\$0.00)
None	\$0.00

§ B.2.2.1 If requested, the cost of the Performance and Payment Bonds will be paid by the Owner.

§ B.2.2.2 Upon the request of any person or entity appearing to be a potential beneficiary of bonds covering payment of obligations arising under the Agreement, the Design-Builder shall promptly furnish a copy of the bonds or shall permit a copy to be made.

ARTICLE B.3 OWNER'S INSURANCE

§ 8.3.1 Owner's Liability Insurance

The Owner shall be responsible for purchasing and maintaining the Owner's usual liability insurance.

§ B.3.2 Property Insurance

§ B.3.2.1 Unless otherwise provided, at the time of execution of the Design-Build Amendment, the Owner shall purchase and maintain, in a company or companies lawfully authorized to do business in the jurisdiction where the Project is located, property insurance written on a builder's risk "all-risk" or equivalent policy form in the amount of the initial Contract Sum, plus the value of subsequent Modifications and cost of materials supplied or installed by others, comprising the total value for the entire Project at the site on a replacement cost basis without optional deductibles. If any construction that is part of the Work shall commence prior to execution of the Design-Build Amendment, the Owner shall, prior to commencement of construction, purchase and maintain property insurance as described above in an amount sufficient to cover the total value of the Work at the site on a replacement cost basis without optional deductibles. The insurance required under this section shall include interests of the Owner, Design-Builder, Architect, Consultants, Contractors, and Subcontractors in the Project. The property insurance shall be maintained, unless otherwise provided in the Design-Build Documents or otherwise agreed in writing by all persons and entities who are beneficiaries of the insurance, until the Owner has issued a Certificate of Substantial Completion in accordance with Section 9.8 of the Agreement. Unless the parties agree otherwise, upon issuance of a Certificate of Substantial Completion, the Owner shall replace the insurance policy required under this Section B.3.2 with another property insurance policy written for the total value of the Project that shall remain in effect until expiration of the period for correction of the Work set forth in Section 11.2.2 of the Agreement.

§ B.3.2.1.1 The insurance required under Section B.3.2.1 shall include, without limitation, insurance against the perils of fire (with extended coverage) and physical loss or damage including, without duplication of coverage, theft, vandalism, malicious mischief, collapse, earthquake, flood, windstorm, falsework, testing and startup, temporary buildings and debris removal, including demolition occasioned by enforcement of any applicable legal requirements,

Init.

AIA Document A141 - 2014 Exhibit B. Copyright © 2004 and 2014. All rights reserved. "The American Institute of Architects," "American Institute of Architects," "AIA," the AIA Logo, and "AIA Contract Documents" are trademarks of the American Institute of Architects. This document was produced at 12:40:57 ET on 09/18/2024 under Order No. 2114-4501127 which expires on 01/03/2025, & not for resale, is licensed for one-time use only, and may only be used in accordance with the AIA Contract Documents' Terms of Service. To report copyright violation, email doctrn@aia.org.
User Not...

(1299003215)

and shall cover reasonable compensation for the Design-Builder's services and expenses required as a result of such insured loss.

§ B.3.2.1.2 If the insurance required under Section B.3.2.1 requires deductibles, the Owner shall pay costs not covered because of such deductibles.

§ B.3.2.1.3 The insurance required under Section B.3.2.1 shall cover portions of the Work stored off the site, and also portions of the Work in transit.

§ B.3.2.1.4 Partial occupancy or use in accordance with Section 9.9 of the Agreement shall not commence until the insurance company or companies providing the insurance required under Section B.3.2.1 have consented to such partial occupancy or use by endorsement or otherwise. The Owner and the Design-Builder shall take reasonable steps to obtain consent of the insurance company or companies and shall, without mutual written consent, take no action with respect to partial occupancy or use that would cause cancellation, lapse or reduction of insurance,

§ 8.3.2.2 Boiler and Machinery Insurance. As applicable, the Owner shall purchase and maintain boiler and machinery insurance, which shall specifically cover commissioning, testing, or breakdown of equipment required by the Work, if not covered by the insurance required in Section B.3.2.1. This insurance shall include the interests of the Owner, Design-Builder, Architect, Consultants, Contractor and Subcontractors in the Work, and the Owner and Design-Builder shall be named insureds.

§ B.3.2.3 If the Owner does not intend to purchase the insurance required under Sections B.3.2.1 and B.3.2.2 with all of the coverages in the amounts described above, the Owner shall inform the Design-Builder in writing prior to any construction that is part of the Work. The Design-Builder may then obtain insurance that will protect the interests of the Owner, Design-Builder, Architect, Consultants, Contractors, and Subcontractors in the Work. The cost of the insurance shall be charged to the Owner by an appropriate Change Order. If the Owner does not provide written notice, and the Design-Builder is damaged by the failure or neglect of the Owner to purchase or maintain insurance as described above, the Owner shall bear all reasonable costs and damages attributable thereto.

§ B.3.2.4 Loss of Use Insurance. At the Owner's option, the Owner may purchase and maintain insurance to insure the Owner against loss of use of the Owner's property due to fire or other hazards, however caused. The Owner waives all rights of action against the Design-Builder for loss of use of the Owner's property, including consequential losses due to fire or other hazards covered under the property insurance required under this Exhibit B to the Agreement.

§ B.3.2.5 If during the Project construction period the Owner insures properties, real or personal or both, at or adjacent to the site by property insurance under policies separate from those insuring the Project, or if after final payment property insurance is to be provided on the completed Project through a policy or policies other than those insuring the Project during the construction period, the Owner shall waive all rights in accordance with the terms of Section B.3.2.7 for damages caused by fire or other causes of loss covered by this separate property insurance. All separate policies shall provide this waiver of subrogation by endorsement or otherwise.

§ B.3.2.6 Before an exposure to loss may occur, the Owner shall file with the Design-Builder a copy of each policy that includes insurance coverages required by this Section B.3.2. Each policy shall contain all generally applicable conditions, definitions, exclusions and endorsements related to this Project. The Owner shall provide written notification to the Design-Builder of the cancellation or expiration of any insurance required by this Article B.3. The Owner shall provide such written notice within five (5) business days of the date the Owner is first aware of the cancellation or expiration, or is first aware that the cancellation or expiration is threatened or otherwise may occur, whichever comes first.

§ 8.3.2.7 Waivers of Subrogation. The Owner and Design-Builder waive all rights against (1) each other and any of their consultants, subconsultants, contractors and subcontractors, agents and employees, each of the other, and (2) any separate contractors described in Section 5.13 of the Agreement, if any, and any of their subcontractors, sub-subcontractors, agents and employees, for damages caused by fire or other causes of loss to the extent covered by property insurance obtained pursuant to Section B.3.2 or other property insurance applicable to the Work and completed construction, except such rights as they have to proceeds of such insurance held by the Owner as fiduciary. The Owner or Design-Builder, as appropriate, shall require of the separate contractors described in Section 5.13 of the Agreement, if any, and the subcontractors, sub-subcontractors, agents and employees of any of them, by appropriate

Int.

AIA Document A141 - 2014 Exhibit B. Copyright © 2004 and 2014. All rights reserved. "The American Institute of Architects," "AIA," the AIA Logo, and "AIA Contract Documents" are trademarks of The American Institute of Architects. This document was produced at 12:40:57 ET on 09/18/2024 under Order No. 2114450827 which expires on 01/03/2025, is not for resale, is licensed for one-time use only, and may only be used in accordance with the AIA contract Documents Terms and Service. To report copyright violations, e-mail docinfo@aiaccontracts.com.

Unr Note.:

{1299003215}

agreements, written where legally required for validity, similar waivers each in favor of the other parties enumerated herein. The policies shall provide such waivers of subrogation by endorsement or otherwise. A waiver of subrogation shall be effective as to a person or entity even though that person or entity would otherwise have a duty of indemnification, contractual or otherwise, did not pay the insurance premium directly or indirectly, and whether or not the person or entity had an insurable interest in the property damaged.

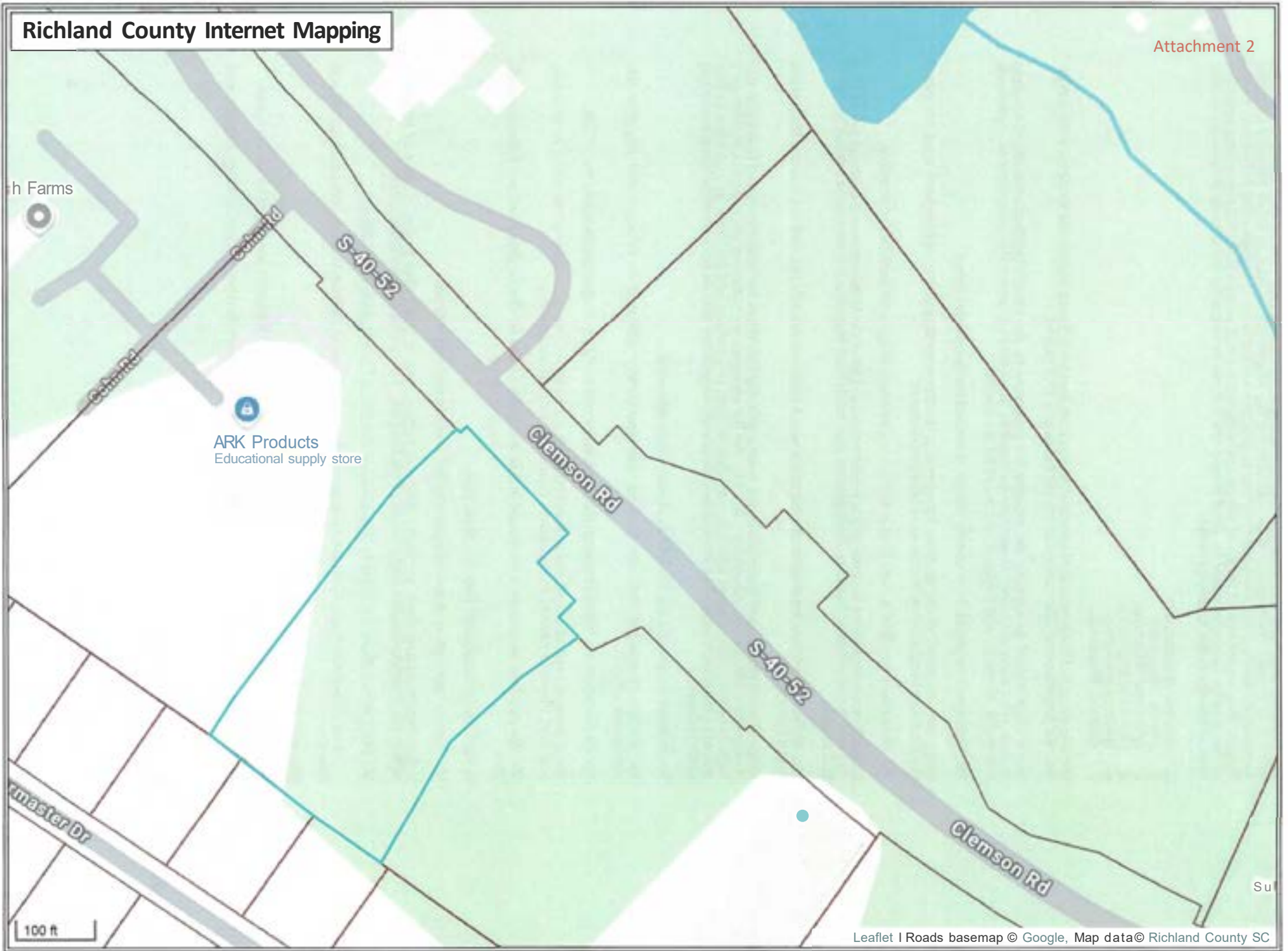
§ B.3.2.8 A loss insured under the Owner's property insurance shall be adjusted by the Owner as fiduciary and made payable to the Owner as fiduciary for the insureds, as their interests may appear, subject to requirements of any applicable mortgagee clause and of Section B.3.2.10. The Design-Builder shall pay the Architect, Consultants and Contractors their just shares of insurance proceeds received by the Design-Builder, and by appropriate agreements, written where legally required for validity, the Design-Builder shall require the Architect, Consultants and Contractors to make payments to their consultants and subcontractors in similar manner.

§ B.3.2.9 If required in writing by a party in interest, the Owner as fiduciary shall, upon occurrence of an insured loss, give bond for proper performance of the Owner's duties. The cost of required bonds shall be charged against proceeds received as fiduciary. The Owner shall deposit in a separate account proceeds so received, which the Owner shall distribute in accordance with such agreement as the parties in interest may reach, or as determined in accordance with the method of binding dispute resolution selected in the Agreement between the Owner and Design-Builder. If after such loss no other special agreement is made and unless the Owner terminates the Contract for convenience, replacement of damaged property shall be performed by the Design-Builder after notification of a Change in the Work in accordance with Article 6 of the Agreement

§ B.3.2.10 The Owner as fiduciary shall have power to adjust and settle a loss with insurers unless one of the parties in interest shall object in writing within five (5) days after occurrence of a loss to the Owner's exercise of this power. If an objection is made, the dispute shall be resolved in the manner selected by the Owner and Design-Builder as the method of binding dispute resolution in the Agreement. If the Owner and Design-Builder have selected arbitration as the method of binding dispute resolution, the Owner as fiduciary shall make settlement with insurers or, in the case of a dispute over distribution of insurance proceeds, in accordance with the directions of the arbitrators.

ARTICLE 8.4 SPECIAL TERMS AND CONDITIONS

Special terms and conditions that modify this Insurance and Bonds Exhibit, if any, are as follows:



3. **Chief Magistrate - County Magistrate Offices Improvement Priority List** - Mr. Brown stated a previous version of Council communicated to staff that for the Magistrate's Office to move forward with the decisions on the funding provided, they had to produce a priority list. Through a few iterations of Chief Magistrates, we are now at the point where a priority list is being provided. Staff is requesting approval of the priority list as proposed by Chief Magistrate Valerie Stroman for the County Magistrate facility improvements in the following order:

- a Olympia Magistrate
- b Pontiac Magistrate
- c Lykes and Magistrate
- d Dentsville Magistrate
- e Waverly Magistrate
- f Eastover Magistrate

Mr. Brown noted there was \$8M allocated to improve and/or relocate Magistrate facilities within their specific jurisdictions. The current available funding is \$7,314,149.

Mr. Walker moved to approve the priority list proposed by the Chief Magistrate for improvements and/or relocation of County Magistrate facilities in the following order: Olympia, Pontiac, Lykeland, Dentsville, Waverly, and Eastover, seconded by Ms. English.

Mr. Livingston inquired if the county leased or owned the properties listed.

Judge Simons stated all the facilities listed except the Eastover Magistrate's Office are leased. He noted the Eastover Magistrate is in dire need of improvements.

Mr. Livingston inquired if their goal is still to own as many Magistrate facilities as possible.

Judge Simons responded that the original plan was to get all of the Magistrates out of rental properties and into county-owned facilities. He indicated the Dutch Fork Magistrate is not on the list but is also in bad shape.

Mr. Walker said it was his understanding there was a previous priority list, and the Pontiac Magistrate was #1 on the list.

Judge Simons maintained there has never been a priority list. When we initially started looking at the Magistrate's Offices, we submitted a list, but the list changed. He indicated the Olympia Magistrate's lease is up for renewal soon, which is why they wanted to go ahead and get them into another facility and not renew their lease. The Pontiac and Dentsville Magistrate Offices are currently being housed at Central Court.

Mr. Weaver inquired if the \$7.3M has already been allocated.

Mr. Brown responded that the funding was specifically allocated to relocate and improve the Magistrate offices.

For clarification, Mr. Weaver stated that the County will build six Magistrate facilities for \$7.3M.

Judge Simons replied the \$7.3M will not build all six facilities. We will construct as many as possible, and then they will have to come back to Council for additional funding.

Mr. Weaver said he assumed we would utilize a standard plan for the facilities and not redesign each one.

Judge Simons responded that was their plan.

Ms. Barron inquired as to how the priority list was created and ranked.

Judge Simons stated there are many different factors. One is being able to find a piece of property within the district. Another is the needs of the facilities. There was no favoritism given.

Mr. Pugh noted there are some health issues at the Dutch Fork Magistrate's Office.

In Favor: Branham, Pugh, McBride, Livingston, Terracio, Weaver, Barron, Walker, Mackey, English, and Newton

The vote in favor was unanimous.

Ms. Newton moved to reconsider Items 10(b)(1), 10(b)(2), and 10(b)(3), seconded by Ms. Terracio.

Opposed: Branham, Pugh, McBride, Livingston, Terracio, Weaver, Barron, Walker, Mackey, English, and Newton

The motion for reconsideration failed.

11. **REPORT OF THE CLERK OF COUNCIL** - No report was given.

**RICHLAND COUNTY
ADMINISTRATION**

2020 Hampton Street, Suite 4069
Columbia, SC 29204
803-576-2050

Report of the County Administrator Attachment 6



Agenda Briefing

Prepared by:	Lori Thomas	Title:	Assistant County Administrator
Department:	Administration	Division:	
Date Prepared:	September 24, 2024	Meeting Date:	October 15, 2024
Legal Review	Patrick Wright via email	Date:	September 26, 2024
Budget Review	Maddison Wilkerson via email	Date:	September 25, 2024
Finance Review	Stacey Hamm via email	Date:	September 25, 2024
Approved for consideration:	County Administrator		Leonardo Brown, MBA, CPM
Meeting/Committee	Regular Session		
Subject	New Employee Probationary Period		

RECOMMENDED/REQUESTED ACTION:

Staff requests Council approval to change the new employee probationary period from twelve months to an introductory period of six months (180 days) effective November 1, 2024.

Request for Council Reconsideration: [g] Yes

FIDUCIARY:

Are funds allocated in the department's current fiscal year budget?	<input checked="" type="checkbox"/>	Yes	<input type="checkbox"/>	No
If not, is a budget amendment necessary?	<input type="checkbox"/>	Yes	<input checked="" type="checkbox"/>	No

ADDITIONAL FISCAL/BUDGETARY MATTERS TO CONSIDER:

There is no anticipated fiscal impact.

OFFICE OF PROCUREMENT & CONTRACTING FEEDBACK:

Not applicable.

COUNTY ATTORNEY'S OFFICE FEEDBACK/POSSIBLE AREA(S) OF LEGAL EXPOSURE:

There are no legal concerns regarding this matter.

REGULATORY COMPLIANCE:

While there is no requirement to reduce the County's new employee probationary period, the probationary period for the State of South Carolina, Richland County School Districts, and most other private employers is six months (180 days). Staff believe this provides enough time to allow the employee and the County to ensure a good fit for the employee in the organization as well as the ability to adapt to and perform the work required to be successful in his/her new position. The modification would also ensure the employee's ability to be considered for annual step increases in a manner that would not exceed that of an annual increase initially.

MOTION OF ORIGIN:

There is no associated Council motion of origin.

STRATEGIC & GENERATIVE DISCUSSION:

Staff requests to modify the current policy related to employee probationary period from one (1) year to an introductory period of 180 days. Society for Human Resource Management (SHRM) suggests the most common time frame for a new hire probation period, or introductory period, is 60 to 90 days; however, employers can set any time frame desired to fully evaluate if an employee fits the organization's culture and can do the job. In state and local government in South Carolina, the most common introductory period is 180 days. The modification still allows supervisors sufficient time to evaluate an employee and allows the employee time to determine if the job and organization are a good fit.

Additionally, staff recommends changing this period from a "probationary period" to an "Introductory period." The use of the phrase "probationary period" can convey the expectation of special or expanded employment rights that were not intended by the company. Using the phrase "introductory period" eliminates any confusion according to Society for Human Resource Management.

While this modification was initially planned to take place with the recommendation of a new Employee Handbook Resolution, staff feels implementing this process now will allow the County to address employees who are currently on a one-year probationary period as an employee may be employed for up to 27 months before being eligible for and receiving a step increase. Under the proposed new introductory period, employees will be eligible a step increase in no more than 18 months.

ASSOCIATED STRATEGIC GOAL, OBJECTIVE, AND INTIATIVE:

Goal: Establish operational excellence

Objective: Address employee related matters to create a more desirable workplace

Initiative: Implement a County Council-approved step-based compensation plan.

ATTACHMENTS:

- 1 Current and Proposed Policy

Current Policy

The Probationary Period

All new employees (except temporaries) are considered to be on probation for the first twelve months. This period is a continuation of the selection process and is a time in which the new employee should make extra effort to demonstrate that he/she is well suited for his/her job.

If the Department Head concludes at any time during the probation period that the new employee is not well suited for the position, the employee may be terminated or may be placed on extended probation if approved by the County Administrator.

The probationary period ends successfully when the Department Head, not sooner than one year after the employee was hired, evaluates the new employee in writing and authorizes taking him/her off of his/her initial probationary status.

A newly promoted employee does not serve a promotional probation period on his/her new position.

Recommended Policy

Introductory Period

Each new Richland County employee shall be subject to a 180-day introductory period.

The supervisor shall conduct periodic evaluations on the Introductory employee's performance. With the approval of the County Administrator, the supervisor may request an extension to the introductory period due to the position being particularly difficult, highly technical, or the employee's time on board was delayed by injury or illness. Human Resources will be apprised of any extension to the Introductory period for any employee.

At any time during the introductory period, the department or employee may choose to initiate a "no fault" separation which will not adversely affect the employee's personnel records. However, nothing in this section shall limit or restrict the "at-will" employment status of an employee. Richland County retains the right to terminate the employee at any time, either during or after the introductory period for any reason or no reason, and no right to employment for a specific period of time shall be implied by the introductory period.

New employees shall not be eligible for paid vacation time or sick leave nor shall they receive pay for accumulated vacation or sick leave if their employment is terminated for any reason during the introductory period. The employee shall be credited for vacation time and sick time accumulation from the date of employment upon successful completion of the introductory period.

SPECIAL NOTE: THE INTRODUCTORY PERIOD IS NOT TO BE CONSTRUED AS A MINIMUM GUARANTEE OF EMPLOYMENT. ALL EMPLOYEES OF THE COUNTY ARE EMPLOYED "AT-WILL" WHICH MEANS THAT BOTH THE EMPLOYEE AND THE COUNTY CAN TERMINATE THE EMPLOYMENT RELATIONSHIP AT ANY TIME, WITH OR WITHOUT NOTICE.

2025 COUNCIL MEETING DATES



MONTH/DATE	MEETING TYPE/TIME
JANUARY:	
7	SWEARING-IN CEREMONY – 3:00 PM
7	REGULAR SESSION – 6:00 PM
16-17	COUNCIL STRATEGIC FORUM
FEBRUARY:	
4	REGULAR SESSION – 6:00 PM
11	SPECIAL CALLED – 6:00 PM
25	COMMITTEES – 5:00 PM
25	ZONING PUBLIC HEARING – 7:00 PM
MARCH:	
4	REGULAR SESSION – 6:00 PM
18	REGULAR SESSION – 6:00 PM
25	COMMITTEES – 5:00 PM
25	ZONING PUBLIC HEARING – 7:00 PM
APRIL:	
1	REGULAR SESSION – 6:00 PM
15	REGULAR SESSION – 6:00 PM
22	COMMITTEES – 5:00 PM
22	ZONING PUBLIC HEARING – 7:00 PM
MAY:	
6	REGULAR SESSION – 6:00 PM (FY24-25 BUDGET – 1 ST READING)
8	BUDGET WORK SESSION: ENTERPRISE FUND AND COST ALLOCATION PLAN – 3:00 PM
13	BUDGET WORK SESSION: GENERAL FUND – 3:00 PM
13	SPECIAL CALLED – 6:00 PM
15	BUDGET WORK SESSION: GRANTS AND SPECIAL REVENUE – 3:00 PM
20	COMMITTEES – 5:00 PM
20	ZONING PUBLIC HEARING – 7:00 PM
22	SPECIAL CALLED – 6:00 PM (FY24-25 BUDGET – PUBLIC HEARING)
JUNE:	
3	REGULAR SESSION – 6:00 PM
5	SPECIAL CALLED – 6:00 PM (FY24-25 BUDGET - 2 ND READING)
17	REGULAR SESSION – 6:00 PM (FY24-25 BUDGET – 3 RD READING)
24	COMMITTEES – 5:00 PM
24	ZONING PUBLIC HEARING – 7:00 PM

JULY:	
1	SPECIAL CALLED – 6:00 PM
15	REGULAR SESSION – 6:00 PM
22	COMMITTEES – 5:00 PM
22	ZONING PUBLIC HEARING – 7:00 PM
AUGUST 26	SPECIAL CALLED – 6:00 PM
SEPTEMBER:	
9	SPECIAL CALLED – 6:00 PM
16	REGULAR SESSION – 6:00 PM
23	COMMITTEES – 5:00 PM
23	ZONING PUBLIC HEARING – 7:00 PM
OCTOBER:	
7	REGULAR SESSION – 6:00 PM
21	REGULAR SESSION – 6:00 PM
28	COMMITTEES – 5:00 PM
28	ZONING PUBLIC HEARING – 7:00 PM
NOVEMBER:	
4	REGULAR SESSION – 6:00 PM
18	REGULAR SESSION – 6:00 PM
20	COMMITTEES – 5:00 PM
20	ZONING PUBLIC HEARING – 7:00 PM
DECEMBER:	
2	REGULAR SESSION – 6:00 PM
9	SPECIAL CALLED – 6:00 PM
16	COMMITTEES – 5:00 PM
16	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 on the first Monday of each month. Please contact the Planning Department at (803) 576-2190 or planningcommission@rcgov.us for further information.

Visit our Website at www.richlandcountysc.gov for updated information.

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

Richland County Council Request for Action

Subject:

Case #24-007MA
Gunil G. Kim
R3 to GC (.24 Acres)
105 Weir Road
TMS #R19902-02-07 [District 7]

Notes:

First Reading: September 24, 2024
Second Reading: October 1, 2024
Third Reading: October 15, 2024 {Tentative}
Public Hearing: September 24, 2024

STATE OF SOUTH CAROLINA
COUNTY COUNCIL OF RICHLAND COUNTY
ORDINANCE NO. ____-24HR

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 # R19902-02-07 FROM RESIDENTIAL THREE DISTRICT (R3) TO GENERAL COMMERCIAL DISTRICT (GC); 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 # R19902-02-07 from Residential Three District (R3) to General Commercial District (GC).

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 _____, 2024.

RICHLAND COUNTY COUNCIL

By: _____
Jesica Mackey, Chair

Attest this _____ day of
_____, 2024

Anette A. Kirylo
Clerk of Council

RICHLAND COUNTY ATTORNEY’S OFFICE

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

Public Hearing: September 24, 2024
First Reading: September 24, 2024
Second Reading: October 1, 2024
Third Reading: October 15, 2024

Richland County Council Request for Action

Subject:

Case #24-019MA
Bonnie Joshi
HM to RT (5.17 Acres)
E/S Windsorwood Court
TMS #R32400-06-23 [District 10]

Notes:

First Reading: September 24, 2024
Second Reading: October 1, 2024
Third Reading: October 15, 2024 {Tentative}
Public Hearing: September 24, 2024

STATE OF SOUTH CAROLINA
COUNTY COUNCIL OF RICHLAND COUNTY
ORDINANCE NO. ____-24HR

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 # R32400-06-23 FROM HOMESTEAD DISTRICT (HM) TO RESIDENTIAL TRANSITION DISTRICT (RT); 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 # R32400-06-23 from Homestead District (HM) to Residential Transition District (RT).

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 _____, 2024.

RICHLAND COUNTY COUNCIL

By: _____
Jesica Mackey, Chair

Attest this _____ day of
_____, 2024

Anette A. Kirylo
Clerk of Council

RICHLAND COUNTY ATTORNEY'S OFFICE

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

Public Hearing: September 24, 2024
First Reading: September 24, 2024
Second Reading: October 1, 2024
Third Reading: October 15, 2024

Richland County Council Request for Action

Subject:

Case #24-022MA
Kevin Meetze
PD to RT (3.17 Acres)
1925 Kennerly Road
TMS #R04200-06-13 [District 1]

Notes:

First Reading: September 24, 2024
Second Reading: October 1, 2024
Third Reading: October 15, 2024 {Tentative}
Public Hearing: September 24, 2024

STATE OF SOUTH CAROLINA
COUNTY COUNCIL OF RICHLAND COUNTY
ORDINANCE NO. ____-24HR

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 # R04200-06-13 FROM PLANNED DEVELOPMENT DISTRICT (PDD) TO RESIDENTIAL TRANSITION DISTRICT (RT); 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 # R04200-06-13 from Planned Development District (PDD) to Residential Transition District (RT).

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 _____, 2024.

RICHLAND COUNTY COUNCIL

By: _____
Jesica Mackey, Chair

Attest this _____ day of
_____, 2024

Anette A. Kirylo
Clerk of Council

RICHLAND COUNTY ATTORNEY'S OFFICE

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

Public Hearing: September 24, 2024
First Reading: September 24, 2024
Second Reading: October 1, 2024
Third Reading: October 15, 2024

Richland County Council Request for Action

Subject:

Case #24-023MA
Madison Pickrel
GC to R5 (21.07 Acres)
E/S Northeastern Freeway
TMS #R17003-01-04 [District 7]

Notes:

First Reading: September 24, 2024
Second Reading: October 1, 2024
Third Reading: October 15, 2024 {Tentative}
Public Hearing: September 24, 2024

STATE OF SOUTH CAROLINA
COUNTY COUNCIL OF RICHLAND COUNTY
ORDINANCE NO. ____-24HR

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 # R17003-01-04 FROM GENERAL COMMERCIAL DISTRICT (GC) TO RESIDENTIAL FIVE DISTRICT (R5); 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 # R17003-01-04 from General Commercial District (GC) to Residential Five District (R5).

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 _____, 2024.

RICHLAND COUNTY COUNCIL

By: _____
Jesica Mackey, Chair

Attest this _____ day of
_____, 2024

Anette A. Kirylo
Clerk of Council

RICHLAND COUNTY ATTORNEY'S OFFICE

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

Public Hearing: September 24, 2024
First Reading: September 24, 2024
Second Reading: October 1, 2024
Third Reading: October 15, 2024

Richland County Council Request for Action

Subject:

Case #24-025MA
Mike Crandall
INS to GC (1.3 Acres)
1765 Dutch Fork Road
TMS #R02408-01-04 [District 1]

Notes:

First Reading: September 24, 2024
Second Reading: October 1, 2024
Third Reading: October 15, 2024
Public Hearing: September 24, 2024

STATE OF SOUTH CAROLINA
COUNTY COUNCIL OF RICHLAND COUNTY
ORDINANCE NO. ____-24HR

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 # R02408-01-04 FROM INSTITUTIONAL DISTRICT (INS) TO GENERAL COMMERCIAL DISTRICT (GC); 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 # R02408-01-04 from Institutional District (INS) to General Commercial District (GC).

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 _____, 2024.

RICHLAND COUNTY COUNCIL

By: _____
Jesica Mackey, Chair

Attest this _____ day of
_____, 2024

Anette A. Kirylo
Clerk of Council

RICHLAND COUNTY ATTORNEY'S OFFICE

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

Public Hearing: September 24, 2024
First Reading: September 24, 2024
Second Reading: October 1, 2024
Third Reading: October 15, 2024

Richland County Council Request for Action

Subject:

Case #24-029MA
Lindsay S. Van Slambrook, Esq.
GC to MU3 (2.36 Acres)
1335 Garner Lane
TMS #R07406-01-05 [District 4]

Notes:

First Reading: September 24, 2024
Second Reading: October 1, 2024
Third Reading: October 15, 2024 {Tentative}
Public Hearing: September 24, 2024

STATE OF SOUTH CAROLINA
COUNTY COUNCIL OF RICHLAND COUNTY
ORDINANCE NO. ____-24HR

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 # R07406-01-05 FROM GENERAL COMMERCIAL DISTRICT (GC) TO COMMUNITY MIXED USE DISTRICT (MU3); 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 # R07406-01-05 from General Commercial District (GC) to Community Mixed Use District (MU3).

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 _____, 2024.

RICHLAND COUNTY COUNCIL

By: _____
Jesica Mackey, Chair

Attest this _____ day of
_____, 2024

Anette A. Kirylo
Clerk of Council

RICHLAND COUNTY ATTORNEY'S OFFICE

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

Public Hearing: September 24, 2024
First Reading: September 24, 2024
Second Reading: October 1, 2024
Third Reading: October 15, 2024

Richland County Council Request for Action

Subject:

Case #24-031MA
Pastor Levern McKenny
R2 to MU1
438 Rabon Road
TMS #R17209-01-06 [District 7]

Notes:

First Reading: September 24, 2024
Second Reading: October 1, 2024
Third Reading: October 15, 2024 {Tentative}
Public Hearing: September 24, 2024

STATE OF SOUTH CAROLINA
COUNTY COUNCIL OF RICHLAND COUNTY
ORDINANCE NO. ____-24HR

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 # R17209-01-06 FROM RESIDENTIAL TWO DISTRICT (R2) TO NEIGHBORHOOD MIXED USE DISTRICT (MU1); 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 # R17209-01-06 from Residential Two District (R2) to Neighborhood Mixed Use District (MU1).

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 _____, 2024.

RICHLAND COUNTY COUNCIL

By: _____
Jesica Mackey, Chair

Attest this _____ day of
_____, 2024

Anette A. Kirylo
Clerk of Council

RICHLAND COUNTY ATTORNEY'S OFFICE

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

Public Hearing: September 24, 2024
First Reading: September 24, 2024
Second Reading: October 1, 2024
Third Reading: October 15, 2024

Richland County Council Request for Action

Subject:

An Ordinance authorizing the execution and delivery of an amendment to the infrastructure credit agreement by and between Richland County, South Carolina, and Gable Oaks Housing Associates LP; and other related matters

Notes:

First Reading: October 1, 2024

Second Reading:

Third Reading:

Public Hearing:

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

**AUTHORIZING THE EXECUTION AND DELIVERY OF AN
AMENDMENT TO THE INFRASTRUCTURE CREDIT AGREEMENT BY
AND BETWEEN RICHLAND COUNTY, SOUTH CAROLINA, AND
GABLE OAKS HOUSING ASSOCIATES LP; AND OTHER RELATED
MATTERS.**

WHEREAS, Richland County, South Carolina (“County”), acting by and through its County Council (“County Council”) entered into an Infrastructure Credit Agreement effective as of January 1, 2021 (“Agreement”), with Gable Oaks Housing Associates LP (“Company”) pursuant to the provisions of Title 4, Chapter 1 of the Code of Laws of South Carolina, 1976, as amended (“Act”);

WHEREAS, pursuant to the Agreement the Company committed to (i) acquire and substantially rehabilitate an affordable housing project in the County known as Gable Oaks Apartments (“Project”) consisting of a total investment of greater than \$20,000,000, of which \$6,000,000 was to be expended to rehabilitated and improve the Project (“Company Commitment”) on or before December 31, 2024 (“Certification Date”) and (ii)(A) operate the Project as an affordable housing project, (B) maintain the Project in a safe and secure condition for the residents, and (C) promptly address any code violations;

WHEREAS, based on the Company’s commitments and as authorized under the Act, the County located the project in the I-77 Corridor Regional Industrial Park jointly developed with Fairfield County, South Carolina and agreed to provide credits (“Infrastructure Credits”) against the Company’s fee payments with respect to the Project;

WHEREAS, the Company notified the County that it would not fully-achieve the Company Commitment by the Certification Date and does not presently expect to fully-achieve the Company Commitment due to a change in the Company’s expectations that it would finance the rehabilitation and improvements to the Project through the use of low-income housing tax credits; provided, however, the Company has at all times met its other commitments to (i) operate the Project as an affordable housing project, (ii) maintain the Project in a safe and secure condition for the residents, and (iii) promptly address any code violations; and

WHEREAS, the County and the Company have negotiated a reduction in the term of the Infrastructure Credits and desire to enter into an amendment to the Agreement (“Amendment”), the substantially final form of which is attached hereto as Exhibit A, to memorialize the modification to the term of the Infrastructure Credit;

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

Section 1. *Authorization to Execute and Deliver Amendment.* The reduction of the term of the Infrastructure Credit is hereby approved and the form, terms and provisions of the Amendment is approved. All of the Amendment’s terms and conditions are incorporated in this Ordinance by reference. The Chair of County Council (“Chair”) is authorized and directed to execute the Amendment in the name of and on behalf of the County, subject to the approval of any revisions or changes as are not materially adverse to the County by the County Administrator and counsel to the County, and the Clerk to County Council is hereby authorized and directed to attest the Amendment and to deliver the Amendment to the Company.

Section 2. *Further Assurances.* County Council confirms the authority of the Chair, the County Administrator, the Director of Economic Development, the Clerk to County Council, and various other County officials and staff, acting at the direction of the Chair, the County Administrator, the Director of Economic Development, as appropriate, to take whatever further action and to negotiate, execute and

deliver whatever further documents as may be appropriate to effect this Ordinance and the Amendment.

Section 3. *Savings Clause.* The provisions of this Ordinance are separable. If any part of this Ordinance is, for any reason, unenforceable then the validity of the remainder of this Ordinance is unaffected.

Section 4. *General Repealer.* Any prior ordinance, resolution, or order, the terms of which are in conflict with this Ordinance, is, only to the extent of that conflict, repealed.

Section 5. *Effectiveness.* This Ordinance is effective after its third reading and public hearing.

RICHLAND COUNTY, SOUTH CAROLINA

Chair, Richland County Council

(SEAL)
ATTEST:

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 1, 2024
Second Reading: October 15, 2024
Public Hearing:
Third Reading:

EXHIBIT A
FORM OF AMENDMENT

**FIRST AMENDMENT TO
INFRASTRUCTURE CREDIT AGREEMENT**

This **FIRST AMENDMENT TO INFRASTRUCTURE CREDIT AGREEMENT** (this “*Amendment*”) is made and entered into as of the ____ day of _____, 2024, by and between **RICHLAND COUNTY, SOUTH CAROLINA** (“*County*”), a body politic and corporate and political subdivision of the State of South Carolina (“*State*”), acting through the County Council of the County (“*County Council*”) as the governing body of the County, and **GABLE OAKS HOUSING ASSOCIATES LP**, a South Carolina limited partnership (“*Company*”). Capitalized terms used but not defined herein shall have the meanings ascribed to them in the Agreement (as that term is defined below).

WITNESSETH:

WHEREAS, the Company and the County entered into that certain Infrastructure Credit Agreement effective as of January 1, 2021 (the “*Agreement*”) pursuant to which the Company committed to acquire and substantially rehabilitate an affordable housing project in the County known as Gable Oaks Apartments (“*Project*”) consisting of a total investment of greater than \$20,000,000, of which \$6,000,000 was to be expended to rehabilitate and improve the Project on or before December 31, 2024 (“*Certification Date*”);

WHEREAS, the Company further committed to operate the Project in compliance with the Low Income Rental Restrictions, maintain the Project in a safe and secure condition for the residents and promptly address any Code Violations;

WHEREAS, based on the Company’s commitments, the County agreed to provide an Infrastructure Credit against certain of the Company’s Fee Payments due with respect to the Project for the Credit Term in an amount equal to 90% of the Company’s annual Fee Payment due with respect to the Project;

WHEREAS, the Company notified the County that it would not achieve the Company Commitment by the Certification Date and does not presently expect to achieve the Company Commitment due to a change in the Company’s expectations that it would finance the rehabilitation and improvements to the Project through the use of low-income housing tax credits;

WHEREAS, under the terms of the Agreement, the County has the right to terminate the Agreement if the Company fails to certify the Company Commitment by the Certification Date and on termination of the Agreement the Company would no longer be entitled to any further benefit under the Agreement including the receipt of the Infrastructure Credit;

WHEREAS, because the Company has met its other commitments to operate the Project in compliance with the Low Income Rental Restrictions, maintain the Project in a safe and secure condition for the residents and promptly address any Code Violations, the County has determined not to terminate the Agreement but rather to reduce the Credit Term;

WHEREAS, the County and the Company are entering into this Amendment to modify the Agreement to memorialize the reduced Credit Term; and

WHEREAS, the County has approved this Amendment by Ordinance enacted by its County Council as of [], 2024.

NOW, THEREFORE, the County and the Company hereby agree as follows:

1. Exhibit B, as referenced in Section 2.2 of the Agreement is amended by restating the **“DESCRIPTION OF INFRASTRUCTURE CREDIT”** in its entirety as follows:

Notwithstanding the Company’s failure to achieve the Company Commitment by the Certification Date, the Company is entitled to an Infrastructure Credit equal to 90% of the annual Fee Payment due with respect to the Project for a period of 10 years commencing with the first Fee Payment due with respect to the Project, which was property tax year 2021.

2. Except as modified by this Amendment, the Agreement remains in full force and effect. The parties agree that the Infrastructure Credit as modified by this Amendment shall supersede any other agreement between the parties with respect to the Infrastructure Credit.

3. Prior to the expiration of the Credit Term, the Company may request an extension of the Credit Term. The County, acting in its sole discretion, may extend the Credit Term by resolution adopted by County Council on a finding of substantial public benefit.

4. This Amendment shall be construed and enforced in accordance with, and the rights of the parties shall be governed by, the laws of the State of South Carolina.

5. The Company represents that the execution, delivery and performance by the individual or entity signing this Amendment on behalf of the Company has been duly authorized and approved by all requisite action on the part of the Company.

6. This Amendment may be executed in two or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument and shall become binding when one or more of the counterparts have been signed by each of the parties and delivered to the other party.

7. This Amendment is effective as of the date first written above.

[SIGNATURE PAGES TO FOLLOW]

IN WITNESS WHEREOF, the parties hereto have caused this Amendment to be executed as of the date first written above.

RICHLAND COUNTY, SOUTH CAROLINA

By: _____
Name: _____
Title: _____

ATTEST:

Clerk to County Council

RICHLAND COUNTY ATTORNEY'S OFFICE

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

GABLE OAKS HOUSING ASSOCIATES LP
a South Carolina limited partnership

By: Rhett Realty LLC,
its General Partner

By: Wishrock Housing Partners LLC,
its Sole Member

By: _____
Name:
Title:

Richland County Council Request for Action

Subject:

An Ordinance Authorizing a deed to the City of Columbia to waterlines running under and along the dirt road paving project at Summer Haven Drive from Haven Circle to Dead End; Richland County TMS #01312-02-02 & 03, 01312-03-03 & 04, & 01315-01-07 (portion); CF #354-47

Notes:

September 24, 2024 – The Transportation Ad Hoc Committee recommends Council approve the attached ordinance which acts to convey certain waterlines and components (as well as a permanent exclusive easement with respect thereto) constructed by Richland County as part of the Summer Haven Drive-Dirt Road Paving Package “N” located within county-owned right-of-way to the City of Columbia for purposes of operating and maintaining said waterlines and related component parts to deliver water utility services to adjacent property owners.

First Reading: October 1, 2024

Second Reading:

Third Reading:

Public Hearing:



Agenda Briefing

Prepared by:	Michael Maloney, PE	Title:	Director
Department:	Transportation	Division:	
Date Prepared:	August 28, 2024	Meeting Date:	September 24, 2024
Legal Review	Elizabeth McLean via email	Date:	September 17, 2024
Budget Review	Maddison Wilkerson via email	Date:	September 11, 2024
Finance Review	Stacey Hamm via email	Date:	September 16, 2024
Approved for consideration:	Assistant County Administrator	John M. Thompson, Ph.D., MBA, CPM, SCEM	
Meeting/Committee	Transportation Ad Hoc		
Subject	Summer Haven Drive - Watermain Easement Transfer to City of Columbia		

RECOMMENDED/REQUESTED ACTION:

Staff recommends County Council approve the attached ordinance which acts to convey certain waterlines and related components (as well as a permanent exclusive easement with respect thereto) constructed by Richland County as part of the Summer Haven Drive- Dirt Road Paving Package “N” located within county-owned right-of-way to the City of Columbia for purposes of operating and maintaining said waterlines and related component parts to deliver water utility services to adjacent property owners.

Request for Council Reconsideration: Yes

FIDUCIARY:

Are funds allocated in the department’s current fiscal year budget?	<input checked="" type="checkbox"/>	Yes	<input type="checkbox"/>	No
If not, is a budget amendment necessary?	<input type="checkbox"/>	Yes	<input type="checkbox"/>	No

ADDITIONAL FISCAL/BUDGETARY MATTERS TO CONSIDER:

There is no anticipated fiscal/budgetary impact.

Applicable fund, cost center, and spend category: not applicable.

OFFICE OF PROCUREMENT & CONTRACTING FEEDBACK:

Not applicable.

COUNTY ATTORNEY’S OFFICE FEEDBACK/POSSIBLE AREA(S) OF LEGAL EXPOSURE:

There are no legal concerns regarding this matter.

REGULATORY COMPLIANCE:

Not applicable.

MOTION OF ORIGIN:

There is no associated Council motion of origin.

STRATEGIC & GENERATIVE DISCUSSION:

Richland County Transportation recommends that County Council approve the attached ordinance which acts to convey certain waterlines and related components (as well as a permanent exclusive easement with respect thereto) constructed by Richland County as part of the Summer Haven Drive Dirt Road Paving Project located within county-owned right-of-way to the City of Columbia for purposes of operating and maintaining said waterlines and related component parts to deliver water utility services to adjacent property owners.

Please note that pursuant to Sections 2-28 and 2-29 of the Richland County Code of Ordinances, the attached ordinance requires three readings and a public hearing for approval and enactment by County Council.

ASSOCIATED STRATEGIC GOAL, OBJECTIVE, AND INTIATIVE:

Goal: Plan for Growth through Inclusive and Equitable Infrastructure

ATTACHMENTS:

1. Attachment to Ordinance (Summer Haven)
2. 2024-02-04 DRAFT County Ord. re City of Cola Waterline Deed 2.0
3. 2024-07-11 Memo. Re Summer Haven Drive-08-19-2024

**ATTACHMENT TO
RICHLAND COUNTY COUNCIL
ORDINANCE NO. ____ - ____**

STATE OF SOUTH CAROLINA)

COUNTY OF RICHLAND)

DEED TO WATER LINES FOR DIRT ROAD PAVING ALONG SUMMER HAVEN DRIVE FROM HAVEN CIRCLE TO DEAD END; RICHLAND COUNTY TMS #01312-02-02 & 03, 01312-03-03 & 04, 01316-01-07 (PORTION); CF #354-47

RICHLAND COUNTY, SOUTH CAROLINA

JOSHUA RENNEBAUM

ROYCE WAYNE RICHMOND, JR.

ROBERT M. LEBARON, JR. AND

JENNA MARIE LEBARON

SAMUEL D. MATHIAS AND

LISA C. MATHIAS

to

CITY OF COLUMBIA

FOR VALUE RECEIVED, Richland County, South Carolina of Columbia, South Carolina, Joshua Rennebaum, of Chapin South Carolina, Royce Wayne Richmond, Jr. of Chapin, South Carolina, Robert M. Lebaron, Jr. of Chapin, South Carolina, Jenna Marie Lebaron of Chapin, South Carolina, Samuel D. Mathias of Chapin, South Carolina and Lisa C. Mathias of Chapin, South Carolina (also hereinafter singularly and collectively referred to as "Grantor") do hereby bargain, sell, transfer and convey unto the City of Columbia (also hereinafter referred to as "Grantee"), its successors and assigns, all of Grantor's rights, title and interests in and to the below described water lines:

All those certain water lines, the same being 4" and 6" in diameter including valves, valve boxes, fire hydrants, meter boxes, service lines to meter boxes and easement boundaries, lead lines to fire hydrants (including 6" DIP), and all components to complete the system and more clearly shown on City File #354-47.

All metes, courses, bounds and measured distances described herein are approximate. The precise metes, courses, bounds and measured distances are more particularly described and shown on City File #354-47, which is incorporated herein by specific reference thereto.

A 6" water line beginning at a 6" x 6" tee and tie to an existing 6" City of Columbia water line (The Havens at Lake Murray Subdivision; CF #270-23) located in the outer perimeter of the northwestern right-of-way of Haven Circle (County Road; Variable Width R/W), forty-five and two tenths (45.2) feet southwest of the easternmost property corner of TMS #01312-10-06, n/f Smith; thence extending therefrom in a southeasterly direction crossing Haven Circle, TMS #01312-02-03, n/f Rennebaum and along the outer perimeter of the northwestern right-of-way of Summer Haven Drive (County Road, Variable Width R/W), for a distance of forty-five and three tenths (45.3) feet to a 45° bend located in the outer perimeter of the northwestern right-of-way of Summer Haven Drive, twenty-seven and six tenths (27.6) feet northwest of the northernmost property corner of TMS #01312-03-02, n/f Hair; thence turning and extending therefrom in a northeasterly direction

APPROVED AS TO FORM

Legal Department City of Columbia, SC

11/02/2023

crossing the northwestern right-of-way of Summer Haven Drive, TMS #01312-02-02, n/f Richmond and along the outer perimeter of the northwestern right-of-way of Summer Haven Drive, for a distance of four hundred twenty-eight and eight tenths (428.8) feet to a 45° bend located in the outer perimeter of the northwestern right-of-way of Summer Haven Drive, twenty-seven and seven tenths (27.7) feet southwest of the northernmost/northwestern property corner of TMS #01316-01-01, n/f Miller; thence turning and extending therefrom in a southeasterly direction along Summer Haven Drive, for a distance of three and one tenth (3.1) feet to a 45° bend located in the northwestern right-of-way of Summer Haven Drive, twenty-four and nine tenths (24.9) feet southwest of the northernmost/northwestern property corner of said TMS #01316-01-01; thence turning and extending therefrom in a southeasterly direction along Summer Haven Drive, for a distance of seventeen and one tenth (17.1) feet to a fire hydrant located in the outer perimeter of the southeastern right-of-way of Summer Haven Drive, twenty-four (24) feet southwest of the innermost northwestern property corner of said TMS #01316-01-01; thence terminating.

Also, a 4" water line beginning at a 6" x 6" x 4" tee on the aforescribed 6" water line located in the outer perimeter of the southeastern right-of-way of Summer Haven Drive, twenty-four and six tenths (24.6) feet southwest of the innermost northwestern property corner of TMS #01316-01-01; thence extending therefrom in a northeasterly direction along the outer perimeter of the southeastern right-of-way of Summer Haven Drive, for a distance of eighteen and one tenth (18.1) feet to a 4" cap located in the outer perimeter of the southeastern right-of-way of Summer Haven Drive, seven and seven tenths (7.7) feet west of the innermost northwestern property corner of said TMS #01316-01-01; thence terminating.

Be all measurements a little more or less.

The Grantor hereby agrees to be responsible for repairs of all damage to water lines, sanitary sewer lines, curb cocks, meter boxes, all fittings and fire hydrants hereby conveyed which arise out of the operation of any equipment or vehicles under control of the Grantor, Grantor's contractor, agent, or any other party acting on behalf of Grantor in connection with the initial installation of streets, paving, curbs and gutters, storm drainage lines, sanitary sewer lines, utility lines, final grading or improvements in development of property served by said water lines, and the Grantor shall either effect necessary repairs or reimburse the City for the cost of repairs at the option of the City.

This conveyance also includes an exclusive easement on all water lines and appurtenances heretofore described and as shown on the herein-referenced record drawings for the purpose of access, ingress, egress, construction, operation, reconstruction and maintenance of said water lines. The Grantor hereby agrees that no future construction (including, but not limited to, buildings, paving, pipe lines or other utilities) will be allowed within the limits of this easement without prior approval of the City Engineer. Also, granted herein is an easement for access, ingress and egress along the entrance drives, private alleyways, driveways and common areas for the construction, operation, maintenance, repair, reconstruction and extension of services on the water lines and appurtenances for this development.

This conveyance also includes all water line easements shown on a set of record drawings for Dirt Road Paving along Summer Haven Drive from Haven Circle to Dead End, in Richland County and near the Town of Irmo, SC, dated August 7, 2023, last revised October 5, 2023, prepared for Richland County Transportation Penny Project, prepared by Chao & Associates, Inc., Gerald A. Lee, S.C.P.E. #21629 and being on file in the Office of the Department of Engineering, City of Columbia, South Carolina under file reference #354-47.

These water lines are more clearly shown and delineated on a set of record drawings for Dirt Road Paving along Summer Haven Drive from Haven Circle to Dead

End, in Richland County and near the town of Irmo, SC, dated August 7, 2023, last revised October 5, 2023, prepared for Richland County Transportation Penny Project, prepared by Chao & Associates, Inc., Gerald A. Lee, S.C.P.E. #21629 and being on file in the Office of the Department of Engineering, City of Columbia, South Carolina under file reference #354-47.

TS

(THE REMAINDER OF THIS PAGE INTENTIONALLY LEFT BLANK)

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

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

And Grantor warrants that Grantor is the lawful owner of said property and has the right to convey same; and that the property is free and clear of any and all mortgages, liens and encumbrances of whatsoever kind or nature, except those set-forth hereinabove.

WITNESS the hand and seal of the Grantor by the undersigned this ____ day _____, 20__.

WITNESSES:

RICHLAND COUNTY, SOUTH CAROLINA

(1st Witness Signature)

By: _____
(Signature)

(2nd Witness Signature)

Name: _____
(Print Name)

Title: _____
(Print Title)

STATE OF _____)

ACKNOWLEDGMENT

COUNTY OF _____)

The foregoing instrument was acknowledged before me this _____ day of _____, 20__, by _____
(Name and Title of Officer)
of _____
(City and State) on behalf of the within named Grantor.

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

Attorney Certification

I, _____, an attorney licensed to practice in the State of _____ do hereby certify that I supervised the execution of the attached Deed to Water Lines for Dirt Road Paving along Summer Haven Drive from Haven Circle to Dead End with Richland County, South Carolina, as Grantor and the City of Columbia, as Grantee this ____ day of _____, 20__.

State Bar Number: _____

WITNESS the hand and seal of the Grantor this 6 day of March, 2024

WITNESSES:

[Signature]
(1st Witness Signature)

[Signature]
JOSHUA RENNEBAUM

[Signature]
(2nd Witness Signature)



STATE OF _____) ACKNOWLEDGEMENT
COUNTY OF _____)

The foregoing instrument was acknowledged before me this 6th day of March, 2024 by the within-named Grantor.

[Signature]
(Notary's Signature)

NOTARY PUBLIC FOR: South Carolina
(State)

MY COMMISSION EXPIRES: 02/04/2029
(Date)

Attorney Certification

I, Andrew J. D'Antoni, an attorney licensed to practice in the State of South Carolina do hereby certify that I supervised the execution of the attached Deed to Water Lines for Dirt Road Paving along Summer Haven Drive from Haven Circle to Dead End, with Joshua Rennebaum as Grantor and the City of Columbia, as Grantee this 6th day of March, 2024

[Signature] State Bar Number: 100919

WITNESS the hand and seal of the Grantor this 15th day of March, 2024

WITNESSES:

[Signature]
(1st Witness Signature)

R. Wayne Richmond
ROYCE WAYNE RICHMOND, JR.

[Signature]
(2nd Witness Signature)

STATE OF) ACKNOWLEDGEMENT

COUNTY OF)

The foregoing instrument was acknowledged before me this 15th day of March, 2024 by the within-named Grantor.

Elizabeth Matur
(Notary's Signature)

NOTARY PUBLIC FOR: South Carolina
(State)

MY COMMISSION EXPIRES: 02/04/2029
(Date)



Attorney Certification

I, Andrew J. D'Antoni, an attorney licensed to practice in the State of South Carolina, do hereby certify that I supervised the execution of the attached Deed to Water Lines for Dirt Road Paving along Summer Haven Drive from Haven Circle to Dead End, with Royce Wayne Richmond, Jr. as Grantor and the City of Columbia, as Grantee this 15th day of March, 2024

[Signature] State Bar Number: 100919

WITNESS the hand and seal of the Grantor this 15th day of March, 2024

WITNESSES:
[Signature]
(1st Witness Signature)
[Signature]
(2nd Witness Signature)

[Signature]
ROBERT M. LEBARON, JR.

STATE OF _____) ACKNOWLEDGEMENT
COUNTY OF _____)

The foregoing instrument was acknowledged before me this 15th day of March, 2024 by the within-named Grantor.

[Signature]
(Notary's Signature)
NOTARY PUBLIC FOR: South Carolina
(State)
MY COMMISSION EXPIRES: 02/04/2029
(Date)



Andrew J. DiAntoni
South Carolina
I, Andrew J. DiAntoni, an attorney licensed to practice in the State of South Carolina do hereby certify that I supervised the execution of the attached Deed to Water Lines for Dirt Road Paving along Summer Haven Drive from Haven Circle to Dead End, with Robert M. Lebaron, Jr. as Grantor and the City of Columbia, as Grantee this 15th day of March, 2024
[Signature] State Bar Number: 100919

WITNESS the hand and seal of the Grantor this 15 day of March, 2024

WITNESSES:

[Signature]
(1st Witness Signature)

Jenna Marie Lebaron
JENNA MARIE LEBARON

[Signature]
(2nd Witness Signature)

STATE OF _____) ACKNOWLEDGEMENT
COUNTY OF _____)

The foregoing instrument was acknowledged before me this 15th day of March, 2024 by the within-named Grantor.

Elizabeth Maturo
(Notary's Signature)
NOTARY PUBLIC FOR: South Carolina
(State)

MY COMMISSION EXPIRES: 02/09/2029
(Date)



Attorney Certification

I, Andrew J. D'Antoni, an attorney licensed to practice in the State of South Carolina do hereby certify that I supervised the execution of the attached Deed to Water Lines for Dirt Road Paving along Summer Haven Drive from Haven Circle to Dead End, with Jenna Marie Lebaron as Grantor and the City of Columbia, as Grantee this 15th day of March, 2024

[Signature] State Bar Number: 100919

WITNESS the hand and seal of the Grantor this 6th day of March, 2024

WITNESSES:

[Signature]
(1st Witness Signature)

Samuel D Mathias
SAMUEL D. MATHIAS

[Signature]
(2nd Witness Signature)

STATE OF _____) ACKNOWLEDGEMENT
COUNTY OF _____)

The foregoing instrument was acknowledged before me this 6th day of March, 2024 by the within-named Grantor.

Elizabeth Maturro
(Notary's Signature)

NOTARY PUBLIC FOR: South Carolina
(State)

MY COMMISSION EXPIRES: 02/04/2029
(Date)



Attorney Certification

I, Andrea J-D'Antoni an attorney licensed to practice in the State of South Carolina do hereby certify that I supervised the execution of the attached Deed to Water Lines for Dirt Road Paving along Summer Haven Drive from Haven Circle to Dead End, with Samuel D. Mathias as Grantor and the City of Columbia, as Grantee this 6th day of March, 2024

[Signature] State Bar Number: 100919

WITNESS the hand and seal of the Grantor this 6th day of March, 2024

WITNESSES:
[Signature]
(1st Witness Signature)
[Signature]
(2nd Witness Signature)

Lisa C Mathias
LISA C. MATHIAS

STATE OF) ACKNOWLEDGEMENT
COUNTY OF)

The foregoing instrument was acknowledged before me this 6th day of March, 2024 by the within-named Grantor.

Elizabeth Mattus
(Notary's Signature)

NOTARY PUBLIC FOR: South Carolina
(State)

MY COMMISSION EXPIRES: 02/04/2029
(Date)



Attorney Certification

I, Andrew J. D'Antoni, an attorney licensed to practice in the State of South Carolina do hereby certify that I supervised the execution of the attached Deed to Water Lines for Dirt Road Paving along Summer Haven Drive from Haven Circle to Dead End, with Lisa C. Mathias as Grantor and the City of Columbia, as Grantee this 6th day of March, 2024

[Signature] State Bar Number: 100919

**STATE OF SOUTH CAROLINA
COUNTY COUNCIL FOR RICHLAND COUNTY
ORDINANCE NO. ___-24HR**

AN ORDINANCE AUTHORIZING A DEED TO THE CITY OF COLUMBIA TO WATERLINES RUNNING UNDER AND ALONG THE DIRT ROAD PAVING PROJECT AT SUMMER HAVEN DRIVE FROM HAVEN CIRCLE TO DEAD END; RICHLAND COUNTY TMS # 01312-02-02 & 03, 01312-03-03 & 04, & 01316-01-07 (PORTION); CF #354-47.

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

SECTION I. The County of Richland and its employees and agents are hereby authorized to grant a deed to certain water lines to The City of Columbia, as specifically described in the attached DEED TO WATER LINES FOR DIRT ROAD PAVING ALONG SUMMER HAVEN DRIVE FROM HAVEN CIRCLE TO DEAD END; RICHLAND COUNTY TMS #01312-02-02 & 03, 01312-03-03 & 04, 01316-01-07 (PORTION); CF #354-47, which is attached hereto and incorporated herein by this reference.

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

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

SECTION IV. Effective Date. This ordinance shall be enforced from and after _____, 2024.

RICHLAND COUNTY COUNCIL

By: _____
Jesica Mackey, Chair

Attest this ___ Day of _____, 2024

Clerk of Council

First Reading: _____ 2024
Second Reading: _____ 2024
Public Hearing: _____ 2024
Third Reading: _____ 2024

**[Transfer of Waterline Easement to City of Columbia for Summer Haven Dr- Dirt Rd
Paving Package “N”**

The purpose of this memorandum is to advise all reviewing departments about a recommended action proposed by the Transportation Department for submission to County Council for approval. The subject of this proposed recommended action is the enactment of a county ordinance for purposes of authorizing the Transportation Department to execute the waterline deed attached to the proposed ordinances on behalf of Richland County conveying to the City of Columbia certain waterlines and related components and a permanent exclusive easement with respect thereto located on and within county-owned right-of-way at Summer Haven Drive.

This memorandum sets forth the proposed recommended action, the specific motion requested, fiscal impact (if any), and justification for the recommended action. Attached to this memorandum is the City of Columbia waterline deed, as well as a proposed ordinance authorizing Transportation Department to execute said deed on behalf of Richland County. If you have any questions, please direct them to the undersigned.

I. Recommended Action by County Council

Richland County Transportation recommends that County Council approve the attached ordinance which acts to convey certain waterlines and related components (as well as a permanent exclusive easement with respect thereto) constructed by Richland County as part of the Summer Haven Drive Dirt Road Paving Project and located within county-owned right-of-way to the City of Columbia for purposes of operating and maintaining said waterlines and related component parts to deliver water utility services to adjacent property owners.

Please note that pursuant to Sections 2-28 and 2-29 of the Richland County Code of Ordinances, the attached ordinance requires three readings and a public hearing for approval and enactment by County Council.

II. Motion Requested

Move to approve the attached ordinance transferring all right, title, and interest Richland County may have in and to certain waterlines and related components to the City of Columbia and further conveying to the City of Columbia a permanent and exclusive easement on and over county-maintained right-of-way for purposes of operating and maintaining said waterlines and related components.

III. Fiscal Impact:

Executing the attached waterline deed will result in no additional fiscal impact on Richland County.

IV. Discussion/Justification:

As part of the Summer Haven Drive Dirt Road Paving (the “Project”), a Richland County Transportation Penny project, the contractor installed new waterlines and related components

located within the county-maintained Summer Haven Drive right-of-way. These waterlines and related components are more clearly shown and delineated on a set of record drawings for “Dirt Road Paving along Summer Haven Drive from Haven Circle to Dead End, in Richland County, SC,” dated August 7, 2023, last revised October 5, 2023, prepared for Richland County Transportation Penny Project, prepared by Chao & Associates, Inc., Gerald A. Lee, S.C.P.E. #21629 and being on file in the Office of the Department of Engineering, City of Columbia, South Carolina under file reference #354-47.

Because Richland County managed the design and construction of the Project, the waterlines and related components installed within the county-maintained right-of-way are considered county-owned property by the City of Columbia. Accordingly, the City of Columbia requires that all right, title, and interest that Richland County may have in and to the waterlines and related components installed as part of the Project be conveyed by deed to the City of Columbia. Further, because portions of the waterlines and related components are located in and upon county-maintained right-of-way, the City of Columbia requires an exclusive easement for access, construction, operation, and maintenance with respect to said waterlines and related components.

The City of Columbia requires the aforesaid conveyances for the purpose of operating and maintaining the aforesaid waterlines and related components to deliver water utility services to adjacent property owners. The City of Columbia’s Legal Department drafted the attached waterline deed with respect to the Project. As of the date of this writing, all adjacent property owners along Summer Haven Drive have executed the attached waterline deed.

Also attached is a proposed county ordinance authorizing Richland County Transportation to execute the attached waterline deed on behalf of the county following approval and enactment of the ordinance by County Council. The approval and enactment by County Council of the attached ordinance will complete the request by the City of Columbia’s Legal Department for the transfer of the property rights to the water lines and the related easement from Richland County to the City of Columbia, once the deed has been executed on behalf of Richland County and delivered to the City of Columbia’s Legal Department.

ATTACHMENT:

1. Draft Ordinance with attachment of a copy of City of Columbia Waterline Deed (executed by all impacted adjacent property owner grantors).

Michael J. Maloney, P.E.
Director of Public Works
Richland County Government
maloney.michael@richlandcountysc.gov
Office 803-576-2401

400 Powell Road
Columbia, SC 29203
richlandcountysc.gov



REQUEST OF ACTION

Subject: FY25 - District 2 Hospitality Tax Allocations

A. Purpose

County Council is being requested to approve a total allocation of **\$13,000** for District 2.

B. Background / Discussion

For the 2024 - 2025 Fiscal Year, County Council approved designating the Hospitality Discretionary account funding totaling \$82,425.00 for each district Council member. The details of these motions are listed below:

Motion List (3rd reading) for FY17: Hospitality Tax discretionary account guidelines are as follows: (a) Establish a H-Tax discretionary account for each Council District; (b) Fund the account at the amount of \$164,850.00; (c) Council members will recommend Agencies to be funded by their allocation. Agencies and projects 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. This would only require one vote.

Motion List (3rd reading) for FY25, Regular Council Meeting – June 18, 2024: Establish Hospitality Tax discretionary accounts for each district in FY25 at the amount of \$82,425. Move that up to \$300,000 of unallocated district specific H-Tax funding for FY23-24 be carried over and added to any additional funding for FY24-25.

Pursuant to Budget Memorandum 2017-1 and the third reading of the budget for FY25 each district Council member was approved \$82,425.00 to allocate funds to Hospitality Tax eligible organizations of their own discretion. As it relates to this request, District 2 H-Tax discretionary account breakdown and its potential impact is listed below:

Initial Discretionary Account Funding	\$ 82,425	
FY2024 Remaining	\$ 51,625	
	Blythewood Historical Society	\$ 10,000
	Auntie Karen Foundation	\$ 3,000
Total Allocation	\$ 13,000	
FY25 Approved Allocations YTD	\$ 5,000	
Remaining FY2025 Balance	\$116,050	

C. Legislative / Chronological History

- 3rd Reading of the Budget – June 8, 2017
- Regular Session - May 15, 2018
- 3rd Reading of the Budget FY19- June 21, 2018
- 3rd Reading of the Budget FY20- June 10, 2019
- 3rd Reading of the Budget FY21- June 11, 2020
- 3rd Reading of the Budget FY22- June 10, 2021
- 3rd Reading of the Budget FY23- June 7, 2022
- 3rd Reading of the Budget FY24- June 6, 2023
- 3rd Reading of the Budget FY25- June 18, 2024

D. Alternatives

1. Consider the request and approve the allocation.
2. Consider the request and do not approve the allocation.

E. Final Recommendation

Staff does not have a recommendation regarding this as it is a financial policy decision of County Council. The funding is available to cover the request. Staff will proceed as directed.