

# **RICHLAND COUNTY**

## **COUNTY COUNCIL AGENDA**



**TUESDAY, JUNE 20, 2017**

**6 P.M.**

**COUNCIL CHAMBERS**

# RICHLAND COUNTY COUNCIL 2017-2018



**VICE CHAIR**  
Bill Malinowski  
District 1



**CHAIR**  
Joyce Dickerson  
District 2



Yvonne McBride  
District 3



Paul Livingston  
District 4



Seth Rose  
District 5



Greg Pearce  
District 6



Gwendolyn Kennedy  
District 7



Jim Manning  
District 8



Calvin "Chip" Jackson  
District 9



Dalhi Myers  
District 10



Norman Jackson  
District 11



Richland County Council  
Regular Session  
June 20, 2017 – 6:00 PM  
Council Chambers  
2020 Hampton Street, Columbia, SC 29201

1. **CALL TO ORDER** The Honorable Joyce Dickerson,  
Chair, Richland County Council
2. **INVOCATION** The Honorable Dalhi Myers
3. **PLEDGE OF ALLEGIANCE** The Honorable Dalhi Myers
4. **APPROVAL OF MINUTES** The Honorable Joyce Dickerson
  - a. Regular Session: June 6, 2017 [PAGES 8-22]
5. **ADOPTION OF AGENDA** The Honorable Joyce Dickerson
6. **PRESENTATION OF RESOLUTION AND PROCLAMATION**
  - a. Resolution recognizing New Light Beulah Baptist Church's 150 Years of Service to the Community The Honorable Norman Jackson
  - b. Safety Week Proclamation The Honorable Joyce Dickerson
  - c. Henry Robert's "Safety Star of the Year 2017" The Honorable Joyce Dickerson
7. **PRESENTATIONS**
  - a. Palmetto Health
  - b. SC Association of Counties Safety Award
8. **REPORT OF THE COUNTY ATTORNEY FOR EXECUTIVE SESSION ITEMS** \*Items requiring outside  
counsel or a consultant. Larry Smith, County Attorney

- a. Palmetto Health Affiliation Agreement
- b. Potential Property Acquisition: Contractual Matter
- c. Potential Property Purchases (2): Contractual Matter
- d. Status Update: Program Bonding
- e. Financial Audit: Contractual Matter
- f. Introduction of Financial Advisor

9. **CITIZENS' INPUT**

For Items on the Agenda Not Requiring a Public Hearing

10. **REPORT OF THE COUNTY ADMINISTRATOR**

Gerald Seals, County Administrator

- a. Financial Audit: Contractual Matter

11. **REPORT OF THE CLERK OF COUNCIL**

Kimberly Roberts, Assistant Clerk  
to Council

- a. Korean War Recognition Ceremony, June 24, 11:00 AM, Dorn VA Medical Center
- b. County Council Workshop, June 27, 11:00 AM – 2:00 PM, Columbia Museum of Art
- c. BUDGET REMINDER: Budget Public Hearing, July 11, 5:00 PM
- d. July Meeting Schedule: July 11 – Special Called Meeting; July 25 – Committees and Zoning Public Hearing
- e. BUDGET REMINDER: Third Reading of Second Year of Biennium Budget I: FY 2019 Budget Ordinance, July 13, 6:00 PM

12. **REPORT OF THE CHAIR**

The Honorable Joyce Dickerson

- a. Summit Update
- b. NOBO Conference Update

13. **OPEN/CLOSE PUBLIC HEARINGS**

The Honorable Joyce Dickerson

- a. An Ordinance Authorizing the Execution and delivery of a Fee in Lieu of Tax Agreement by and between

Richland County and Hengshi USA Windpower Materials Corporation (Project Feng) (the “Company”) the execution and delivery of an Infrastructure Finance Agreement by and between Richland County and the Company; the execution and delivery of such documents as may be necessary to effect the intent of this ordinance; and other matters related thereto

14. **APPROVAL OF CONSENT ITEMS**

The Honorable Joyce Dickerson

- a. 17-012MA  
Matt Mungo  
RU to RS-MD (65.4 Acres)  
North Pines Road  
TMS # R14800-04-18 [THIRD READING] [PAGES 23-25]
- b. An Ordinance authorizing deed to the City of Columbia for certain water lines to serve the Ballentine Branch Library, Dutch Fork Road; Richland County TMS # 03303-01-06 & 02 (portion) [SECOND READING] [PAGES 26-29]

15. **ORDINANCES – SECOND READING**

The Honorable Joyce Dickerson

- a. An Ordinance Amending the Fiscal Year 2016-2017 General Fund Annual Budget to appropriate Four Hundred Thirty Three Thousand Nine Hundred Eighty Eight Dollars (\$433,988) to increase funding to the Board of Voter Registration & Elections Department so as to credit received reimbursement amounts for cost of conducting elections [PAGES 30-33]
- b. An Ordinance Authorizing the lease of certain property from the County of Richland to Frank’s Express Car Wash of N. E., Inc. pursuant to S. C. Code Ann. 4-9-30(2) [PAGES 34-37]

16. **REPORT OF THE ECONOMIC DEVELOPMENT COMMITTEE**

The Honorable Paul Livingston

- a. An Ordinance Authorizing the Execution and delivery of a Fee in Lieu of Tax Agreement by and between Richland County and Hengshi USA Windpower Materials Corporation (Project Feng) (the “Company”) the execution and delivery of an Infrastructure Finance Agreement by and between Richland County and the Company; the execution and delivery of such documents as may be necessary to effect the intent of

this ordinance; and other matters related thereto  
[THIRD READING] [PAGES 38-88]

- b. Committing to negotiate a Fee-in-Lieu of ad valorem taxes agreement between Richland County and Hengshi USA Materials Corporation; identifying the project; and other matters related thereto [PAGES 89-90]
- c. Authorizing the expansion of the boundaries of the I-77 Corridor Regional Industrial Park jointly developed with Fairfield County to include certain property located in Richland County; the execution and delivery of an Infrastructure Credit Agreement to provide for infrastructure credits to 209 Stoneridge, LLC; and other related matters [PAGES 91-107]
- d. An Ordinance Authorizing, the execution and delivery of a Fee-in-Lieu of taxes and Special Source Revenue Credit Agreement between Richland County, South Carolina and Project Aegis (the “Company”) in connection with the Company’s project in Richland County (the “Project”); the execution and delivery of one or more grant agreements relating to the Project; the provision by the County of certain infrastructure in support of the Project; and matters relating thereto [PAGE 108]
- e. An Ordinance Authorizing, the conveyance of certain real property by the County in connection with Project Aegis; and matters relating thereto [PAGE 109]

17. **REPORT OF THE TRANSPORTATION AD HOC COMMITTEE**

The Honorable Jim Manning

- a. Program Intern Introductions
- b. Mitigation Bank: Excess credit sales [PAGES 110-130]
- c. Decker Boulevard Neighborhood Improvement Project: Executive Summary [PAGES 131-135]
- d. Clemson Road Widening Project: Right-of-Way Acquisition

18. **OTHER ITEMS**

The Honorable Joyce Dickerson

- a. Council FY2017 Donations [PAGES 136-137]

b. Council Chambers Renovation [PAGES 138-140]

19. **SECOND CITIZENS' INPUT**

Must Pertain to Richland County Matters Not on the Agenda

20. **SECOND COUNTY ATTORNEY'S REPORT OF EXECUTIVE SESSION ITEMS**

Larry Smith, County Attorney

21. **MOTION PERIOD/ANNOUNCEMENTS**

a. Resolution recognizing Robert Harris as Hand Middle School's "Teacher of the Year"

The Honorable Dalhi Myers

b. Move that Council direct the legal department to work with the Coroner to develop an Ordinance for Council consideration that addresses Richland County having to bear the costs of burial of out of county residents who are sent to hospice programs within a Richland County with no prior arrangements made for these expenses.

The Honorable Greg Pearce

(Additional motions may be received by the Clerk of Council's Office up to 24 hours prior to the Council meeting. Such motions will be distributed as "24-Hour Motions" to Council members)

22. **ADJOURN**







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## Richland County Council

REGULAR SESSION  
June 6, 2017 – 6:00 PM  
Council Chambers

COUNCIL MEMBERS PRESENT: Joyce Dickerson, Chair; Bill Malinowski, Vice Chair; Calvin “Chip” Jackson; Norman Jackson; Gwendolyn Davis-Kennedy; Paul Livingston; Jim Manning; Yvonne McBride; Dalhi Myers; Greg Pearce; and Seth Rose

OTHERS PRESENT: Beverly Harris, Jamelle Ellis, Brandon Madden, Sandra Yudice, Michelle Onley, Gerald Seals, Larry Smith, Ismail Ozbek, Tracy Hegler, Brad Farrar, Kimberly Williams-Roberts, Chris Eversmann, Jeff Ruble, Roger Sears, Lillian McBride, Tony Edwards, Shawn Salley, and Pam Davis

**CALL TO ORDER** – Ms. Dickerson called the meeting to order at approximately 6:00 PM.

**INVOCATION** – The invocation was led by the Honorable Joyce Dickerson.

**PLEDGE OF ALLEGIANCE** – The Pledge of Allegiance was led by the Honorable Joyce Dickerson.

### **APPROVAL OF MINUTES**

- a. Regular Session: May 16, 2017 – Mr. Malinowski moved, seconded by Ms. Myers, to approve the minutes as distributed. The vote in favor was unanimous.
- b. Zoning Public Hearing: May 23, 2017 – Ms. Myers moved, seconded by Ms. Kennedy, to approve the minutes as distributed. The vote in favor was unanimous.

### **ADOPTION OF AGENDA**

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

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

- a. Clemson Road & Sparkleberry Lane Intersection Improvement Project: Right-of-Way Acquisition
- b. Clemson Road Widening Project: Right-of-Way Acquisition
- c. North Main Street Contract
- d. Contractual Matter: USC

- e. Richland County lost millions of dollars by not collecting taxes on (SOB) for the past five years. I [Councilman N. Jackson] move that the Legal Department along with Administration explore recovering the funds from Sexual Oriented Businesses directly
- f. Potential Sale of Property
- g. Sale of County Property
- h. Employee Recruitment Status

*Council went into Executive Session at approximately 6:06 PM and came out at approximately 6:19 PM.*

**CITIZENS INPUT: For Items on the Agenda Not Requiring a Public Hearing** – Mr. Daryl Nations signed up to speak regarding Item 11.g. “Hangar Leases....”

**REPORT OF THE COUNTY ADMINISTRATOR**

- a. An Ordinance Amending the Elections & Voter Registration Budget – Mr. Seals stated this item is in reference to amending the Elections & Voter Registration budget. There was erroneous information provided to Council at the September 20, 2016 Council meeting. The information provided by staff stated that the Elections & Voter Registration budget would be overrun by approximately \$400,000. A written apology, as well as a public apology, has been conveyed to the Elections & Voter Registration Department.

The recommendation is to correct the erroneous information through a budget amendment. The budget amendment is listed as Item 12(a) on the agenda.

- b. Employee Recruitment Status – Mr. Seals stated there are several employee issues that will be discussed in Executive Session.

Mr. Pearce inquired if a department has an overrun should that be brought to Council’s attention so an adjustment can be made via a budget amendment.

Mr. Seals stated there are two answers to the inquiry. If there is an overrun from departments that report to the County Administrator, those are corrected without bringing them to Council. If it is not correctable then it will be brought to Council for further action.

**REPORT OF THE CLERK OF COUNCIL**

- a. BUDGET REMINDER: June 8, FY17-18 Budget 3<sup>rd</sup> Reading, 6:00 PM – Ms. Onley reminded Council of the upcoming budget 3<sup>rd</sup> reading on Thursday, June 8<sup>th</sup> at 6:00 PM.
- b. Moving Forward Together Youth Summit: June 12 & 13, 8:30 AM – 5:00 PM, Convention Center – Ms. Onley invited Council to attend the upcoming Moving Forward Together Youth Summit that has been spearheaded by Chairwoman Joyce Dickerson.
- c. 53<sup>rd</sup> Annual Community Relations Council Luncheon & Award Presentations, June 14, 12:00 noon, Convention Center – Ms. Onley stated the annual Community Relations Council Luncheon & Award Presentation is scheduled for June 14<sup>th</sup> at 12:00 noon at the Convention Center. The Council has a tabled reserved for those that wish to attend.

Regular Session

June 6, 2017

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- d. County Council Workshop, June 27, 11:00 AM – 2:00 PM, Columbia Museum of Art – Ms. Onley stated there is a County Council Workshop scheduled for June 27<sup>th</sup> at 11:00 AM at the Columbia Museum of Art.

**REPORT OF THE CHAIR**

- a. OSBO Office Status – Ms. Dickerson stated she has been getting updates from the County Administrator. He is proceeding as outlined.
- b. Budget Motions List – Ms. Dickerson stated a number of Council members have requested a budget motions list.

Mr. Pearce stated the budget summaries forwarded to Council by Dr. Yudice would in effect represent a motions list. Council members that have individual motions could make a motion within the defined categories at 3<sup>rd</sup> Reading.

Ms. Dickerson requested that Administration ensure the Clerk’s Office has a copy of the referenced budget summaries.

- c. Quarterly Meeting with Lexington County – Ms. Dickerson stated the meeting with the Lexington County Administrator, Council Chair and Vice Chair will continue.

**APPROVAL OF CONSENT ITEMS**

- a. 17-012MA, Matt Mungo, RU to RS-MD (65.4 Acres), North Pines Road, TMS # R14800-04-18 [SECOND READING]
- b. Petition to Close Portion of Appleton Lane
- c. Petition to Close Portion of Jilda Drive near Olga Road
- d. An Ordinance authorizing deed to the City of Columbia for certain water lines to serve the Ballentine Branch Library, Dutch Fork Road; Richland County TMS # 03303-01-06 & 02 (portion) [FIRST READING]
- e. Richland County lost millions of dollars by not collecting taxes on (SOB) for the past five years. I [Councilman N. Jackson] move that the Legal Department along with Administration explore recovering the funds from Sexual Oriented Businesses directly
- f. Award of the Broad River Wastewater Treatment Facility UV Disinfection System 2017 Project
- g. Sale of County Property

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

**ORDINANCES – FIRST READING**

- a. An Ordinance Amending the Fiscal Year 2016-2017 General Fund Annual Budget to appropriate Four Hundred Thirty Three Thousand Nine Hundred Eighty-Eight Dollars (\$433,988) to increase funding to the Board of Voter Registration & Elections Department so as to credit received reimbursement amounts for cost of conducting elections – Mr. N. Jackson moved, seconded by Ms. Myers, to approve this item.

Mr. Malinowski inquired if the Board of Voter Registration & Elections Department was shorted approximately \$434,000 last year.

Mr. Seals responded in the affirmative.

Mr. Malinowski further inquired if the \$126,000 in the additional budget amendment summary total was included in the \$433,988.

Mr. Seals responded in the negative.

Mr. Malinowski requested a line item budget and explanation regarding this item prior to 2<sup>nd</sup> Reading.

<u>FOR</u>	<u>AGAINST</u>
Pearce	Malinowski
Rose	
C. Jackson	
N. Jackson	
Dickerson	
Livingston	
Kennedy	
Myers	
Manning	
McBride	

The vote was in favor.

#### **REPORT OF THE DEVELOPMENT AND SERVICES COMMITTEE**

- a. Require that all municipal utility service providers must request consent and approval from Richland County Council prior to extending or accepting water and sewer infrastructure within the unincorporated boundaries of Richland County – Mr. C. Jackson moved, seconded by Mr. Rose, to table this item.

Mr. Malinowski inquired why this item is being tabled.

Mr. C. Jackson stated after reviewing the item and hearing from the community, there is an opportunity to improve the language and provide clarification before the item is voted on. This will also give the community an opportunity to weigh in on the matter.

Mr. Malinowski stated there is a State law that allows Richland County to move forward in this manner. He is simply asking that we follow the law.

Mr. Malinowski further stated he does not think holding someone hostage to receive water service by making them sign an agreement that says if you receive our water service you must agree to annexation in the future is business friendly. It is also not business friendly to charge people that are not within the City of Columbia as much as 3 times the amount for the same water.

Mr. Malinowski made a substitute motion to proceed with the committee's recommendation. The motion dies for lack of a second.

Ms. Myers stated she supported the motion in committee, and still supports it. She does not think there is any harm in allowing time to flesh it out so the parties being impacted understand the County is not

swooping in to do them any harm or to make it more difficult to do business. It will be helpful to have more time to allow for discussion and to clarify what needs to be done upon implementation.

Mr. Malinowski stated the City of Columbia was given notice over a year ago.

Mr. Smith stated there was a letter sent April 14, 2015 by the former County Administrator regarding this matter. Mr. Seals sent a subsequent letter on December 16, 2016.

Mr. C. Jackson stated he also supported the initial motion in committee. Since the matter has not been acted on in 2 ½ years, he does not see the harm in waiting a few more weeks. Also, he does not want the public being confused with annexation vs. the conversation of approval.

Ms. Kennedy stated her concern is being held hostage by the water situation.

Mr. N. Jackson made a substitute motion, seconded by Ms. Kennedy, to defer the item until the June 20<sup>th</sup> Council meeting to receive input from the community.

Mr. Manning stated he was unclear why the motion would not be to send the item back to committee when more input is being sought.

Mr. C. Jackson stated he would accept a friendly amendment to his motion to table.

Ms. Dickerson rules the friendly amendment out of order.

**FOR**  
N. Jackson  
Malinowski  
Dickerson  
Kennedy

**AGAINST**  
Pearce  
Rose  
C. Jackson  
Livingston  
Myers  
Manning  
McBride

The substitute motion failed.

**FOR**  
Pearce  
Rose  
C. Jackson  
Livingston  
McBride

**AGAINST**  
N. Jackson  
Malinowski  
Dickerson  
Kennedy  
Myers  
Manning

The motion to table this item failed.

Mr. Manning moved, seconded by Mr. C. Jackson, to refer this item back to the D&S Committee.

**FOR**  
Pearce  
Rose  
C. Jackson  
N. Jackson  
Dickerson  
Livingston  
Kennedy  
Myers  
Manning  
McBride

**AGAINST**  
Malinowski

The vote was in favor of referring this item back to the D&S Committee.

**REPORT OF THE ADMINISTRATION AND FINANCE COMMITTEE**

- a. Hangar Leases: In November of last year, I [Councilman Pearce] made a motion for the County Legal Department to review the standard Hamilton-Owens Airport hangar lease. Legal has now completed its review, and it is now appropriate for Council to move toward finalizing any revisions or changes to the model agreement. As such, I [Councilman Pearce] move that this matter be forwarded to the appropriate committee of Council and then on to full Council to consider the standard lease – Mr. Pearce stated these leases have been under discussion for quite some time. The Airport Commission took the matter up and sent the matter forward to County Council. In November, the recommendations of the Airport Commission were sent to the Legal Department for review. The Legal Department reported out their recommendations at the May A&F Committee meeting.

There is one point of contention with the tenants is the issue of access to the hangars. The current lease reads “reasonable access” and the tenants want varying degrees of prior notice.

Mr. Farrar and Mr. Eversmann are available to address any questions regarding this matter.

Mr. Farrar stated this began with a rewrite of the “dated” hangar lease. During the process, there were various meetings of the Airport Commission and the tenants. Eventually, a meeting was held with an attorney, Mr. Hodge, who represents a number of the tenants. The majority of the issues were resolved with the exception of the access issues. A number of leases were reviewed in this regard.

The County lease reads as follows: “The lessor, Richland County, shall have the right to inspect the leased premise at reasonable times.” Reasonable times takes out evenings and weekends and only applies to normal business hours.

There was not a lot about notification in the leases reviewed. The notice piece is, as understood by Legal, is that the inspectors would include the Fire Marshal does not give notice because they want to inspect what is there.

Mr. Eversmann stated if the airport does receive notice of inspections a good faith effort is made to inform the tenants of the inspections by placing the notice on the bulletin board in the airport. Mr. Eversmann further stated that access would be given by Airport staff or FOB (Fixed Base Operator – Eagle Aviation) staff via a master key.

Mr. Manning inquired if there was a log kept.

Mr. Eversmann stated there is not a log kept per se. The notice of the fire marshal visits and maintenance requests are documented.

Mr. Malinowski inquired with the exception of the fire marshal inspection why would the hangars be accessed and by whom.

Mr. Eversmann stated the FOB enter the hangars routinely to pull the aircraft out and then return the aircraft after they have been flown. In addition, the FOB periodically inspects the hangar for compliance with the hangar lease agreement.

Mr. Eversmann stated the industry standard regarding notification is reasonable or no notification at all.

Mr. N. Jackson requested clarification on what is allowed to be housed in the hangar.

Mr. Eversmann stated the minimum is an aircraft. Extraneous items are allowed as long as there is an aircraft stored in the facility.

Ms. Myers inquired if anyone lives in these hangars.

Mr. Eversmann stated no one should live in these hangars.

Ms. Myers inquired if there were occasions when reasonable notice has not been provided.

Mr. Eversmann stated the fire inspection would be posted at least 7 days in advance.

Ms. Myers inquired if tenants have claimed things were disrupted in their hangars and is there a provision for negotiating with those tenants.

Mr. Eversmann stated since he became Airport Manager in 2010 if someone reported something being misplaced or stolen from their hangar, his first question has always been has the Columbia Police Department been notified and a police report taken to document the incident.

Mr. Eversmann stated the only reason Facilities and Grounds personnel enters the hangars is to respond to a maintenance request.

Mr. Manning stated it seems the fire inspections should be the ones without notice, but it appears there is a week's notice for fire inspections and no notice for County staff to enter the hangars.

Mr. Eversmann stated the only reason County staff would enter the hangar would be in response to a maintenance request initiated by the tenant or airport staff. There are a select number of vendors that assist with maintenance (i.e. bi-fold door repair and security system repair). There is a log of the maintenance request received that is maintained.

Mr. Rose moved, seconded by Mr. Livingston, to call for the question.



**FOR**  
Pearce  
Rose  
C. Jackson  
N. Jackson  
Malinowski  
Dickerson  
Livingston  
Kennedy  
Myers  
Manning  
McBride

**AGAINST**

The vote in favor was unanimous to fall for the question.

Mr. Pearce stated the committee's recommendation was to approve the lease as distributed.

**FOR**  
Pearce  
Rose  
C. Jackson  
Dickerson  
Livingston  
Kennedy  
Myers  
McBride

**AGAINST**  
N. Jackson  
Malinowski  
Manning

The vote was in favor of the committee's recommendation to approve the lease as published.

**REPORT OF THE ECONOMIC DEVELOPMENT COMMITTEE**

- a. Committing to Negotiate a Fee-in-Lieu of Ad Valorem Taxes Agreement between Richland County and Project Flag: Identifying the project; and other matters related thereto – Mr. Livingston stated the committee recommended approval of this item. The vote in favor was unanimous.

**FOR**  
Pearce  
Rose  
C. Jackson  
N. Jackson  
Malinowski  
Dickerson  
Livingston  
Kennedy  
Myers  
Manning  
McBride

**AGAINST**

The vote in favor was unanimous.

**POINT OF PERSONAL PRIVILEGE** – Mr. Pearce recognized the new Voter Registration and Election Director was in the audience.

## **REPORT OF THE RULES AND APPOINTMENTS COMMITTEE**

### **I. NOTIFICATION OF VACANCIES**

- a. Accommodations Tax – 5 (One applicant must have a background in the Cultural Industry; Three applicants must have a background in the Hospitality Industry; One is an at-large seat) – Mr. Malinowski stated the committee recommended advertising for the vacancies.
- b. Hospitality Tax – 3 (Two applicants must be from the Restaurant Industry; the other is an at-large seat) – Mr. Malinowski stated the committee recommended advertising for the vacancies.
- c. Internal Audit – 1 (Applicant must be a CPA) – Mr. Malinowski stated the committee recommended advertising for the vacancy.
- d. Business Service Center Appeals Board – 1 (Applicant must be an attorney) – Mr. Malinowski stated the committee recommended advertising for the vacancy.
- e. Board of Assessment Appeals – 2 – Mr. Malinowski stated the committee recommended advertising for the vacancies.
- f. Richland Memorial Hospital Board of Trustees – 1 – Mr. Malinowski stated the committee recommended advertising for the vacancy.
- g. Central Midlands Council of Governments (CMCOG) – 1 – Mr. Malinowski stated the committee recommended advertising for the vacancies.
- h. Building Codes Board of Appeals – 2 (One applicant must be from Architecture Industry & one from the Contractor Industry) – Mr. Malinowski stated the committee recommended advertising for the vacancies.
- i. Employee Grievance Committee – 1 (Applicant must be a Richland County employee) -- Mr. Malinowski stated the committee recommended advertising for the vacancy.
- j. Procurement Review Panel – 2 (One applicant must be from the public procurement arena & one applicant must be from the consumer industry) – Mr. Malinowski stated the committee recommended advertising for the vacancies.
- k. Community Relations Council – 4 – Mr. Malinowski stated the committee recommended advertising for the vacancies.
- l. Transportation Penny Advisory Committee – 5 – Mr. Malinowski stated the committee recommended advertising for the vacancies.

**FOR**  
Pearce  
Rose  
C. Jackson  
N. Jackson  
Malinowski  
Dickerson  
Livingston  
Kennedy  
Myers  
Manning  
McBride

**AGAINST**

The vote in favor of advertising for the vacancies was unanimous.

**II. NOTIFICATION OF APPOINTMENTS**

- a. River Alliance – 1 – Mr. Malinowski stated the committee recommended appointing Mr. Jonathan M. Harvey to the River Alliance.

**FOR**  
Pearce  
Rose  
C. Jackson  
N. Jackson  
Malinowski  
Dickerson  
Livingston  
Kennedy  
Myers  
Manning  
McBride

**AGAINST**

The vote in favor of appointing Mr. Jonathan M. Harvey was unanimous.

- b. Township Auditorium Board – 2 – Mr. Malinowski stated the committee recommended appointing Mr. Vince Ford to the Township Auditorium Board and to re-advertise for the remaining vacancy.

**FOR**  
Pearce  
Rose  
C. Jackson  
N. Jackson  
Malinowski  
Dickerson  
Livingston  
Kennedy  
Myers  
Manning  
McBride

**AGAINST**

The vote in favor of appointing Mr. Vince Ford and re-advertise for the remaining vacancy was unanimous.

**REPORT OF THE BLUE RIBBON AD HOC COMMITTEE**

- a. Mobile Home Replacement Vendor Approval – Mr. Pearce stated the committee recommended approval of the mobile home demolition and replacement vendor selection process.

**FOR**

Pearce  
Rose  
C. Jackson  
N. Jackson  
Malinowski  
Dickerson  
Livingston  
Kennedy  
Myers  
Manning  
McBride

**AGAINST**

The vote in favor was unanimous.

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

**REPORT OF THE TRANSPORTATION AD HOC COMMITTEE**

- a. Clemson Road Widening Project: Right-of-Way Acquisition – Mr. Manning stated the committee recommended approval of the settlement agreement lease and give First Reading to the Ordinance for Lease of the Premises.

**FOR**

Pearce  
Rose  
C. Jackson  
N. Jackson  
Malinowski  
Dickerson  
Livingston  
Kennedy  
Myers  
Manning  
McBride

**AGAINST**

The vote in favor was unanimous.

- b. Clemson Road and Sparkleberry Lane Intersection Improvement Project: Right-of-Way Acquisition – Mr. Manning moved to move forward as discussed in Executive Session.

**FOR**

Pearce  
Rose  
C. Jackson  
N. Jackson  
Malinowski  
Dickerson  
Livingston  
Kennedy  
Myers  
Manning  
McBride

**AGAINST**

The vote in favor was unanimous.

- c. Gills Creek A Greenway Project: Executive Summary – Mr. Manning stated the committee recommended approval of the Executive Summary.

Mr. Pearce offered the following friendly amendment to the motion: (1) to request a binding, legal agreement with the City of Columbia for long-term maintenance and security; and (2) to request a legal agreement be made available to any homeowner organization wanting assurance that the route of the greenway will not be moved to the east bank of the Gills Creek.

Mr. Rose requested clarification that if the legal agreement with the City of Columbia for maintenance and security is not executed then the money will not be allocated and the project will not go forward.

Mr. Pearce stated he would hate for this project to be designed and then find out there is no money for security and maintenance.

**FOR**

Pearce  
Rose  
C. Jackson  
N. Jackson  
Malinowski  
Dickerson  
Kennedy  
Myers  
Manning  
McBride

**AGAINST**

The vote in favor was unanimous.

Mr. Manning moved, seconded by Mr. Malinowski, to reconsider this item. The motion for reconsideration failed.

**OTHER ITEMS**

- a. FY17 – District 1 Hospitality Tax Allocations – Mr. Malinowski moved, seconded by Mr. Manning, to approve this item.

- b. FY17 – District 10 Hospitality Tax Allocations – Mr. Malinowski moved, seconded by Mr. Manning, to approve this item.

<b><u>FOR</u></b>	<b><u>AGAINST</u></b>
Pearce	
Rose	
C. Jackson	
N. Jackson	
Malinowski	
Dickerson	
Kennedy	
Myers	
Manning	
McBride	

The vote in favor was unanimous.

**CITIZENS’ INPUT: Must Pertain to Richland County Matters Not on the Agenda** – The citizen chose not to speak at this time.

**EXECUTIVE SESSION**

*Council went into Executive Session at approximately 7:39 PM and came out at approximately 8:30 PM.*

- a. North Main Street Contract – Mr. Manning moved, seconded by Ms. Kennedy, to proceed as discussed in Executive Session. The vote in favor was unanimous.
- b. Potential Sale of Property – Mr. Malinowski moved, seconded by Ms. Kennedy, to direct staff to proceed as discussed in Executive Session. The vote in favor was unanimous.
- c. Employee Recruitment Status – Mr. Manning moved, seconded by Mr. Livingston, to schedule a Special Called meeting for June 8<sup>th</sup> at 4:30 PM. The vote was in favor.

**MOTION PERIOD**

- a. I move to direct staff to immediately make efforts to acquire property along Rabbit Run in conjunction with the Southeast Richland Neighborhood Project, a Transportation Program Project. This acquisition whether through eminent domain action will provide an opportunity to made immediate drainage improvements. Currently, County residents residing in neighbors such as Alexander Pointe suffer flooding and road closures during heavy rain events. Furthermore, I request this item to be routed to the next Transportation Ad Hoc Committee for consideration so that it may be acted on by Council before summer recess. [N. JACKSON] – This item was referred to the Transportation Ad Hoc Committee.
- b. I move that staff abide by Council rules and have motion items on the proper committee agenda at the proper time with backup materials and an impartial opinion. If staff is unable to carry out the necessary tasks/duties then Council should consider hiring additional staff [N. JACKSON] – This item was referred to the Rules & Appointments Committee.
- c. I move that the old practice of listing items that have not been completed in all standing committees once again be listed as “Items Pending Action”. This will hopefully prevent items from “disappearing” that have

not had complete action taken by staff/Council [MALINOWSKI] – This item was referred to the Rules & Appointments Committee.

- d. A resolution recognizing New Light Beulah Baptist Church 150 years of service to the community [N. JACKSON] – Mr. Pearce moved, seconded by Mr. Malinowski, to adopt a resolution recognizing New Light Beulah Baptist Church’s 150 years of service to the community. The vote in favor was unanimous.
- e. Resolution honoring Richland County Military personnel who gave their lives in the Korean War. These veterans will be recognized at the VA Hospital’s June 24<sup>th</sup> ceremony [MANNING] – Mr. Manning moved, seconded by Mr. N. Jackson, to adopt a resolution honoring the Richland County Military personnel who gave their lives in the Korean War. The vote in favor was unanimous.

**ADJOURNMENT** – The meeting was adjourned at approximately 8:35 PM.

X

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Joyce Dickerson  
Chairwoman

X

---

Bill Malinowski  
Vice Chair

X

---

Calvin "Chip" Jackson  
District Nine

X

---

Norman Jackson  
District Eleven

X

---

Gwendolyn Kennedy  
District Seven

X

---

Paul Livingston  
District Four

X

---

Jim Manning  
District Eight

X

---

Yvonne McBride  
District Three

X

---

Dalhi Myers  
District Ten

X

---

Greg Pearce  
District Six

X

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Seth Rose  
District Five

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



## Richland County Council Request of Action

**Subject:**

17-012MA  
Matt Mungo  
RU to RS-MD (65.4 Acres)  
North Pines Road  
TMS# R14800-04-18

First Reading: May 23, 2017  
Second Reading: June 6, 2017  
Third Reading:  
Public Hearing: May 23, 2017

STATE OF SOUTH CAROLINA  
COUNTY COUNCIL OF RICHLAND COUNTY  
ORDINANCE NO. \_\_\_\_-17HR

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 # 14800-04-18 FROM RU (RURAL DISTRICT) TO RS-MD (RESIDENTIAL SINGLE-FAMILY MEDIUM DENSITY DISTRICT); AND PROVIDING FOR SEVERABILITY AND AN EFFECTIVE DATE.

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

Section I. The Zoning Map of unincorporated Richland County is hereby amended to change the real property described as TMS # 14800-04-18 from RU (Rural District) zoning to RS-MD (Residential Single-Family Medium Density District) zoning.

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

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

Section IV. Effective Date. This ordinance shall be effective from and after June 20, 2017.

RICHLAND COUNTY COUNCIL

By: \_\_\_\_\_  
Joyce Dickerson, Chair

Attest this \_\_\_\_\_ day of  
\_\_\_\_\_, 2017.

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

RICHLAND COUNTY ATTORNEY'S OFFICE

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

Public Hearing: May 23, 2017  
First Reading: May 23, 2017  
Second Reading: June 6, 2017  
Third Reading: June 20, 2017

## Richland County Council Request of Action

**Subject:**

An Ordinance authorizing deed to the City of Columbia for certain water lines to serve the Ballentine Branch Library, Dutch Fork Road; Richland County TMS# 03303-01-06 & 02 (portion)

First Reading: June 6, 2017

Second Reading:

Third Reading:

Public Hearing:



# RICHLAND COUNTY GOVERNMENT

Office of the County Administrator

## REQUEST OF ACTION SUMMARY SHEET

Agenda Item No.: 4d Meeting Date: May 23, 2017

To: Seth Rose, Chair, Development and Services Committee  
From: Elizabeth McLean, Assistant County Attorney  
Department: County Legal Department

**Item Subject Title:** An Ordinance authorizing deed to the City of Columbia water lines for Ballentine Branch Library Dutch Fork Road; Richland County TMS#03303-01-06 & 02 (Portion); CF#336-15

**Action Taken by** None.

**Committee previously:**

- Options:**
1. Consider the request and recommend that Council provide first reading of the ordinance.
  2. Consider the motion and do not recommend that Council provide first reading of the ordinance.

**Motion Requested** Staff recommends Council approval of the ordinance

**Today:**

**Staff Recommendation:** Approve motion request.

**Impact of Action:** Operating Budget: Not applicable.

Capital Budget: Not applicable.

**Funding** There is no apparent financial impact associated with this request.

**Amount/Source:**

**Requested by:** County Legal Department

**Staff Representative:** Larry Smith, County Attorney

**Outside Representative:** None.

**List of Attachments:**

1. Detailed Request of Action
2. Draft Ordinance

5/15/17  
Date Submitted

Brandon Madden  
Approved by the County Administrator's Office

1  
Council District



## **REQUEST OF ACTION**

**Subject:** An Ordinance authorizing deed to the City of Columbia water lines for Ballentine Branch Library Dutch Fork Road; Richland County TMS#03303-01-06 & 02 (Portion); CF#336-

15

### **A. Purpose**

County Council is requested to consider An Ordinance authorizing deed to the City of Columbia water lines for Ballentine Branch Library Dutch Fork Road; Richland County

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

County Council authorized the purchase of the referenced property for the purpose of a new location of Richland Library in the community of Ballentine. Richland Library has built a new library on the property. Water meters have been purchased from the City of Columbia, who is supplying water service, for the project. The City requires that a deed be executed conveying the water lines including valves, valve boxes, fire hydrants, meter boxes, service lines to meter boxes and easement boundaries leading to fire hydrant lines and all components to complete the system.

This transfer is typical of all projects serviced by the City of Columbia Water Department and is a requirement for the Library to receive a Certificate of Occupancy and open to the public.

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

There is no legislative / chronological history associated with this request.

### **D. Alternatives**

1. Consider the request and recommend that Council provide first reading of the ordinance.
2. Consider the motion and do not recommend that Council provide first reading of the ordinance.

### **E. Final Recommendation**

Staff recommends Council approval of the ordinance.

STATE OF SOUTH CAROLINA  
COUNTY COUNCIL FOR RICHLAND COUNTY  
ORDINANCE NO. \_\_\_\_\_-17HR

AN ORDINANCE AUTHORIZING DEED TO THE CITY OF COLUMBIA FOR CERTAIN WATER LINES TO SERVE THE BALLENTINE BRANCH LIBRARY DUTCH FORK ROAD; RICHLAND COUNTY TMS #03303-01-06 & 02 (PORTION).

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

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 BALLENTINE BRANCH LIBRARY DUTCH FORK ROAD; RICHLAND COUNTY TMS#03303-01-06 & 02 (PORTION); CF#336-15, which is attached hereto and incorporated herein.

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

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

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

RICHLAND COUNTY COUNCIL

By: \_\_\_\_\_  
Joyce Dickerson, Chair

Attest this \_\_\_\_\_ day of  
\_\_\_\_\_, 2017.

\_\_\_\_\_  
Michelle Onley  
Assistant Clerk of Council

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

## Richland County Council Request of Action

**Subject:**

An Ordinance Amending the Fiscal Year 2016-2017 General Fund Annual Budget to appropriate Four Hundred Thirty Three Thousand Nine Hundred Eighty Eight Dollars (\$433,988) to increase funding to the Board of Voter Registration & Elections Department so as to credit received reimbursement amounts for cost of conducting elections

First Reading: June 6, 2017

Second Reading:

Third Reading:

Public Hearing:



STATE OF SOUTH CAROLINA  
COUNTY COUNCIL FOR RICHLAND COUNTY  
ORDINANCE NO. \_\_\_17HR

AN ORDINANCE AMENDING THE FISCAL YEAR 2016-2017 GENERAL FUND ANNUAL BUDGET TO APPROPRIATE FOUR HUNDRED THIRTY THREE THOUSAND NINE HUNDRED EIGHTY EIGHT DOLLARS (\$433,988) TO INCREASE FUNDING TO THE BOARD OF VOTER REGISTRATION & ELECTIONS DEPARTMENT SO AS TO CREDIT RECEIVED REIMBURSEMENT AMOUNTS FOR COST OF CONDUCTING ELECTIONS.

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

SECTION I. Approval to cover all Elections and Voter Registration Department expenses related to the State Elections Commission: 2016 Statewide Primary Elections, 2016 General Election. Including expenses related to the City of Columbia: 2017 District IV Special Election. Therefore, the Fiscal Year 2016-2017 General Fund Annual Budget is hereby amended as follows:

REVENUE

Revenue appropriated July 1, 2016 as amended:	\$ 1,384,770
Appropriation of Reimbursement Balance:	\$ <u>433,988</u>
Total Reimbursed amount as Amended:	\$ 1,818,758

EXPENDITURES

Expenditures appropriated July 1, 2016 as amended:	\$ 1,384,770
Increase to Board of Voter Registration Department Budget:	\$ <u>433,988</u>
Total General Fund Expenditures as Amended:	\$ 1,818,758

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

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

SECTION IV. Effective Date. This ordinance shall be enforced from and after \_\_\_\_\_, 2017.

RICHLAND COUNTY COUNCIL

BY: \_\_\_\_\_  
Sandra Dickerson, Chair

ATTEST THIS THE \_\_\_\_ DAY

OF \_\_\_\_\_, 2017

\_\_\_\_\_  
Michelle Onley  
Clerk of Council

RICHLANDCOUNTYATTORNEY'S OFFICE

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

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

**Board of Elections & Voter Registration Budget Report - June 16, 2017**

<b>Key</b>	<b>Expenditure</b>	<b>Budget</b>	<b>Actual</b>	<b>Encumbrance</b>	<b>Balance</b>
511100	Salaries and Wages	\$749,652.00	\$662,395.23	\$0.00	\$87,256.77
511200	Overtime	\$11,000.00	\$22,984.77	\$0.00	(\$11,984.77)
511300	RC Part-time Wages	\$155,500.00	\$138,537.03	\$0.00	\$16,962.97
511400	Per Diem - Board/Baliff	\$8,000.00	\$6,243.11	\$0.00	\$1,756.89
511800	Temporary employment agency	\$35,700.00	\$545,755.90	\$0.00	(\$510,055.90)
512200	FICA Employer's Share	\$71,287.87	\$67,541.90	\$0.00	\$3,745.97
513100	SC Regular Retirement	\$90,837.21	\$116,710.96	\$0.00	(\$25,873.75)
513200	SC Police Retirement	\$0.00	\$1,927.87	\$0.00	(\$1,927.87)
521000	Office Supplies	\$37,014.59	\$23,072.26	\$2,064.66	\$11,877.67
521300	Copy Machines	\$5,020.00	\$4,518.40	\$379.62	\$121.98
521400	Membership and Dues	\$1,000.00	\$520.00	\$560.00	(\$80.00)
521500	Travel	\$300.00	\$0.00	\$0.00	\$300.00
521600	Oil & Lubricants	\$952.36	\$777.84	\$0.00	\$174.52
521700	Repairs - Vehicles	\$3,107.26	\$2,849.52	\$0.00	\$257.74
521900	Automotive - NonContract	\$1,000.00	\$0.00	\$1,000.00	\$0.00
522100	Telephone Service	\$1,400.00	\$705.01	\$266.99	\$428.00
525300	Voting Machines	\$4,863.00	\$4,495.76	\$665.97	(\$298.73)
526100	Advertising	\$8,300.00	\$7,994.23	\$57.69	\$248.08
526200	Beepers/Cell Phones/Pagers	\$3,500.00	\$2,683.69	\$772.31	\$44.00
526300	Rent	\$890.00	\$683.00	\$46.00	\$161.00
526400	Employee Training	\$3,770.64	\$2,327.87	\$415.00	\$1,027.77
526500	Professional Services	\$84,707.00	\$125,804.25	\$4,305.44	(\$45,402.69)
526501	Temporary Employment Agency	\$229.90	\$0.00	\$0.00	\$229.90
529500	Non-Capital Assets Under \$5000	\$0.00	\$0.00	\$0.00	\$0.00
529999	Prior Year Expense Credits	\$0.00	\$0.00	\$0.00	\$0.00
531200	Machines & Other Equipment	\$0.00	\$0.00	\$0.00	\$0.00
547100	Program Maintenance & Licens	\$106,739.10	\$106,739.10	\$0.00	\$0.00
	<b>Total</b>	<b>\$1,384,770.93</b>	<b>(\$1,845,267.70)</b>	<b>\$10,533.68</b>	<b>(\$471,030.45)</b>
	<b>Total Budget Amendment Amount</b>				<b>\$433,988.00</b>
	<b>Remaining Balance</b>				<b>(\$37,042.45)</b>

## Richland County Council Request of Action

**Subject:**

An Ordinance Authorizing the lease of certain property from the County of Richland to Frank's Express Car Wash of N. E., Inc. pursuant to S. C. Code Ann. 4-9-30(2)

First Reading: June 6, 2017

Second Reading:

Third Reading:

Public Hearing:

**ORDINANCE NO. \_\_\_\_\_**

**AN ORDINANCE**

**AN ORDINANCE AUTHORIZING  
THE LEASE OF CERTAIN PROPERTY  
FROM THE COUNTY OF RICHLAND TO  
FRANK'S EXPRESS CAR WASH OF N.E., INC.  
PURSUANT TO S.C. CODE ANN. 4-9-30(2)**

**WHEREAS**, Richland County, South Carolina ("Richland County") is a political subdivision of the State of South Carolina.

**WHEREAS**, Frank's Express Car Wash of N.E., Inc. ("Frank's Car Wash") is a business corporation duly incorporated in the State of South Carolina and authorized to transact business in the State of South Carolina.

**WHEREAS**, Michael E. Hutchins ("Mr. Hutchins") is the President and Chief Executive Officer of Frank's Car Wash and owns, in fee simple absolute, all that certain real property together with any improvement thereon, identified as Richland County Tax Map No. R25608-01-38, whereupon Frank's Car Wash currently operates a car wash business, commonly known as Frank's Express Car Wash, with a physical address of 120 Clemson Road, located at or near the intersection of Clemson Road (S-40-52) and Sparkleberry Lane (S-2033), in the County of Richland, South Carolina (hereinafter, the "Real Property").

**WHEREAS**, Richland County is currently engaged in an intersection improvement project at the intersection of Clemson Road (S-40-52) and Sparkleberry Lane (S-2033), SCDOT ID P029311, RPP Project No. 0295 (hereinafter, the "Project") that necessitates right-of-way acquisition of the Real Property.

**WHEREAS**, in lieu of condemnation and for purposes of settlement to avoid the cost, uncertainty, and risk of litigation, Richland County has agreed to purchase and Mr. Hutchins has agreed to sell the Real Property, subject to the terms and conditions set forth in that certain Purchase and Sale Agreement and Settlement approved by Richland County Council contemporaneously with the enacting of this Ordinance.

**WHEREAS**, as part of the aforesaid Purchase and Sale Agreement and Settlement, Richland County has agreed to lease back the Real Property to Frank's Car Wash for a certain period of time, subject to the term and conditions set forth in that certain Lease Agreement, attached as Exhibit D to the aforesaid Purchase and Sale Agreement and Settlement (hereinafter, the "Lease Agreement"), approved by Richland County Council contemporaneously with the enacting of this Ordinance.

**WHEREAS**, S.C. Code Ann. § 4-9-30(2) authorizes Richland County to lease property owned by Richland County.

**WHEREAS**, S.C. Code Ann. § 4-9-120 authorizes Richland County Council to adopt an ordinance after reading said ordinance at three (3) public meetings of the Richland County Council on three separate days with an interval not less than seven (7) days between the second and third readings.

**WHEREAS**, S.C. Code Ann. § 4-9-130 authorizes Richland County to lease real property owned by Richland County by enacting an ordinance upon proper public notice and public hearing.

**WHEREAS**, Richland County declares ~~finds~~ that the Lease Agreement is in the best interests of Richland County inasmuch as it fosters a settlement in lieu of Richland County commencing a condemnation action to acquire the Real Property for purposes of the Project thereby avoiding the costs, uncertainty, and risks of litigation.

**WHEREAS**, Richland County further declares that improving the transportation infrastructure in Richland County, including, without limitation, those improvements to be constructed as part of the Project, is essential to improving roadway safety for drivers and passengers traversing in or through Richland County and enhancing both present and future economic development and prosperity.

**NOW, THEREFORE BE IT RESOLVED BY THE RICHLAND COUNTY COUNCIL IN A PUBLIC MEETING DULY ASSEMBLED:**

**SECTION 1.** Based upon the foregoing findings, Richland County finds it appropriate and in the best interests of Richland County to enact this ordinance for the purpose of authorizing the execution of the Lease Agreement between Richland County and Frank's Car Wash of N.E., Inc., as is more fully and completely set forth in the Lease Agreement, which is attached hereto and incorporated herein as if set forth verbatim.

**SECTION 2.** This Ordinance was introduced and read at three (3) public meetings of the Richland County Council on three (3) separate days with an interval of not less than seven (7) days.

**SECTION 3.** This Ordinance becomes effective and is duly enacted upon third and final reading of the Richland County Council.

**SECTION 4.** The Richland County Administrator is authorized by this Ordinance to execute the Lease Agreement not earlier than the third and final reading of this Ordinance by the Richland County Council.

**SECTION 5.** If any section, phrase, sentence, or portion of the Ordinance or Lease Agreement is, for any reason, held, deemed, or considered to be invalid, illegal, unenforceable, then such section, phrase, sentence, or portion thereof shall be deemed separate, distinct, and an independent provision and shall not affect the remaining portion thereof.

**SECTION 6.** All ordinances or parts of ordinances in conflict with the provisions of this ordinance are hereby repealed.

Adopted this \_\_\_\_\_ day of \_\_\_\_\_, 2017.

COUNTY COUNCIL OF RICHLAND COUNTY

By: \_\_\_\_\_  
Honorable Joyce Dickerson, Chairwoman

APPROVED AS TO FORM

\_\_\_\_\_  
Larry Smith, Esq.  
Attorney for Richland County

ATTEST:

\_\_\_\_\_  
Clerk of Council

First Reading: \_\_\_\_\_, 2017  
Second Reading: \_\_\_\_\_, 2017  
Public Hearing: \_\_\_\_\_, 2017  
Third and Final Reading: \_\_\_\_\_, 2017

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

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

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

**WHEREAS,** pursuant to the FILOT Act, and in order to induce certain investment in the County, the County identified a company or companies known to the County at the time as Project Feng and now known as Hengshi USA Wind Power Materials Corporation (collectively, the “Company”), with respect to the Company’s acquisition, construction, and installation of land, buildings (excluding the Existing Building as that term is defined below), improvements, fixtures, machinery, equipment, furnishings and other real and/or tangible personal property, to constitute a manufacturing facility in the County (the “Project”), at an existing building currently located at the proposed Project site (the “Existing Building”), as more particularly identified in Exhibit A, and committed to negotiating a fee in lieu of taxes and other incentive arrangements with the Company; and

**WHEREAS,** the County has determined on the basis of the information supplied to it by the Company that the Project would be a “project” and “economic development property” as such terms are defined in the FILOT Act and that the Project would serve the purposes of the FILOT



Act; and

**WHEREAS**, the County and Fairfield County have established a joint county industrial and business park (the “Park”) by entering into a Master Agreement Governing the I-77 Corridor Regional Industrial Park between the County and Fairfield County, South Carolina, dated as of April 15, 2003, as amended (the “Park Agreement”), in which the property associated with the Project is or will become located, and the County desires to cause the parcel(s) upon which the Existing Building and the Project are located to be or continue to be located in the Park or such other multi-county industrial and business park so as to afford the Company the benefits of the Infrastructure Credit Act and Multi-County Park Act as provided herein; and

**WHEREAS**, the County hereby desires to enter into: (a) a Fee in Lieu of Tax Agreement with the Company (the “FILOT Agreement”), whereby the County would provide therein for a payment of fee in lieu of taxes by the Company to the County with respect to the Project; and (b) an Infrastructure Finance Agreement with the Company (the “Infrastructure Agreement”, and together with the FILOT Agreement, the “Agreements”) whereby the County would provide therein for certain infrastructure credits in respect of qualifying Infrastructure with respect to the Project to be claimed by the Company against their payments in lieu of taxes with respect to the Project, and with respect to the Existing Building and any other property acquired by the Company in connection therewith as shall not be eligible to be subject to the FILOT Agreement, pursuant to Section 4-1-175 of the Multi-County Park Act;

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

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

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

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

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

(b) Reserved;

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

(d) The Project gives rise to no pecuniary liability of the County or

incorporated municipality or a charge against its general credit or taxing power;

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

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

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

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

Section 4. The provisions of this Ordinance are hereby declared to be separable and if any section, phrase or provisions shall for any reason be declared by a court of competent jurisdiction to be invalid or unenforceable, such declaration shall not affect the validity of the remainder of the sections, phrases and provisions hereunder.

Section 5. All ordinances, resolutions, and parts thereof in conflict herewith are, to the extent of such conflict, hereby repealed. This Ordinance shall take effect and be in full force from and after its passage by the County Council.

Section 6. This ordinance is effective upon third reading.

[Signature Pages to Follow.]

This Ordinance is effective as of the \_\_\_\_ day of \_\_\_\_\_, 20\_\_.

**RICHLAND COUNTY, SOUTH CAROLINA**

(SEAL)

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

Chair, Richland County Council

Attest:

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

Economic Development Committee:	March 28, 2017
First Reading:	April 4, 2017
Second Reading:	May 2, 2017
Third Reading and Public Hearing:	June 20, 2017

**Exhibit A**  
**Description of Project Site**

TMS No. R16305-02-07  
TMS No. R16305-02-01

**STATE OF SOUTH CAROLINA**

**COUNTY OF RICHLAND**

I, the undersigned Clerk to County Council of Richland County, South Carolina, do hereby certify that attached hereto is a true, accurate and complete copy of an ordinance which was given reading, and received approval, by the County Council at its meetings of \_\_\_\_\_, 20\_\_, \_\_\_\_\_, 20\_\_ and \_\_\_\_\_, 20\_\_, at which meetings a quorum of members of County Council were present and voted, and an original of which ordinance is filed in the permanent records of the County Council.

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

Dated: \_\_\_\_\_, 20\_\_

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**FEE IN LIEU OF TAX AGREEMENT**

between

**RICHLAND COUNTY, SOUTH CAROLINA,**

and

**HENGSHI USA WIND POWER MATERIALS CORPORATION**

\_\_\_\_\_  
Dated as of \_\_\_\_\_  
\_\_\_\_\_

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## FEE IN LIEU OF TAX AGREEMENT

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

### WITNESSETH:

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

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

**WHEREAS**, the Company anticipates the Project will consist of an aggregate investment in Economic Development Property, as defined below, in the County of \$6,622,700 and the creation of 48 new, full-time jobs in connection therewith, all during the Investment Period, as defined below; and

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

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

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

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

## **ARTICLE I**

### **DEFINITIONS**

#### Section 1.01 Definitions.

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

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

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

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

**“Company”** shall mean Hengshi USA Wind Power Materials Corporation, a South Carolina corporation and any surviving, resulting or transferee entity in any merger, consolidation or transfer of assets permitted in **Section 7.03** hereof; or any other person or entity which may succeed to the rights and duties of the Company hereunder in accordance with all applicable provisions hereof.

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

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

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

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

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

**“Default”** shall mean an event or condition, the occurrence of which would, with the lapse of time or the giving of notice or both, become an Event of Default as defined in **Section 9.01** hereof.

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

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

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

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

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

**“Improvements”** shall mean those buildings, structures and fixtures on the Land as are constructed, installed or acquired by the Company and intended to be included as a part of the Project, to the extent such buildings, structures, and fixtures qualify as Economic Development Property under the FILOT Act.

**“Indemnified Party”** shall have the meaning ascribed to it by **Section 7.04** of this Agreement.

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

**“Infrastructure Agreement”** shall mean the Infrastructure Finance Agreement between the County and the Company dated as of the date hereof.

**“Investment Period”** shall mean the period beginning with the first day of any purchase or acquisition of Economic Development Property and ending five (5) years from the last day of the property tax year during which the first Project Increment is placed into service, provided that the Company and the County may agree to a later date pursuant to Section 12-44-30(13) of the Act.

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

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

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

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

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

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

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

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

**“Project Millage Rate”** shall mean, for purposes of **Section 5.02(b)** hereof, the millage rate in effect for all taxing entities at the site of the Project as of June 30, 2016, which is understood by the parties hereto to be 528.2 mills.

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

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

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

**“Taxable Facilities”** shall mean the Land together with the existing building in the County on the Land.

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

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

Section 1.02 References to Agreement.

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

[End of Article I]

## ARTICLE II

### REPRESENTATIONS AND COVENANTS

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

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

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

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

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

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

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

#### Section 2.02 Representations and Covenants by the Company.

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

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

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

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

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

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

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

(g) The Company anticipates that it will invest, or cause to be invested, in the aggregate approximately \$6,622,700 in the Project and create, or cause to be created, in the aggregate approximately 48 new, full-time jobs in respect of the Project, all by the end of the Investment Period.

[End of Article II]

## ARTICLE III

### ACQUISITION OF PROJECT

#### Section 3.01 Acquisition of Project.

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

(b) The County acknowledges and agrees that the Company may include one or more Sponsor Affiliates, now existing or to be formed in the future, which control, are controlled by, or are under common control with, the Company, consistent with **Section 8.02** hereof.

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

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

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

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

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

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

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

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



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

[End of Article III]

## ARTICLE IV

### AGREEMENT TERM AND PAYMENT PROVISIONS

#### Section 4.01 Term.

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

#### Section 4.02 Additional Payments.

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

The Company hereby expressly agrees to pay to the County as an Additional Payment the reasonable expenses incurred by the County in the negotiation, approval and implementation of the terms and provisions of this Agreement and the Infrastructure Agreement, including reasonable attorneys' fees.

[End of Article IV]

## ARTICLE V

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

#### Section 5.01 Modification of Project.

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

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

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

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

#### Section 5.02 Payments in Lieu of Taxes.

(a) In accordance with the provisions of Section 12-44-50 of the FILOT Act, during the Term of this Agreement the Company shall make with respect to the Project annual FILOT Payments in the amounts set forth in this Section at the times and places, and in the same manner and subject to the same penalty assessments as prescribed by the County or the Department for *ad valorem* taxes. Such annual FILOT Payments shall be made on or before each January 15 of each year during the term of this Agreement, commencing with the January 15<sup>th</sup> of the second (2<sup>nd</sup>) year

following the first year in which any component of the Project is first placed in service. Subject to the provisions of the Act, each annual FILOT Payment shall be equal to the Project Increment Payment with respect to each Project Increment, including, subject to the provisions of the Act, Replacement Property for the Project originally included in such Project Increment, calculated as set forth in **Section 5.02(b)** hereof, for each of thirty (30) consecutive years (except to the extent that any portion of such Project Increment ceases to qualify for a negotiated fee in lieu of taxes under the Act) commencing with the year following the year in which the respective Project Increments are placed in service.

(b) Each Project Increment Payment shall be calculated as if *ad valorem* taxes would be due with respect to the applicable Project Increment if the same were taxable, but, subject to the provisions of Section 12-44-110 of the Act, using the following formula: each such Project Increment Payment shall be in an amount equal to the product which would result from multiplying the Project Millage Rate by an assessment ratio of six percent (6.0%) of the fair market value of the portion of the Project included within such Project Increment. Such fair market value shall be that determined by the Department on the basis provided in Section 12-44-50(A) of the FILOT Act, and shall, subject to the provisions of the Act, include all Replacement Property and deductions for depreciation or diminution in value allowed by the Act or by the tax laws generally, and shall be subject to any reductions provided herein under **Sections 5.01** and **6.01** hereof, and include all applicable *ad valorem* tax exemptions except the exemption allowed pursuant to Section 3(g) of Article X of the State Constitution and the exemptions allowed pursuant to Section 12-37-220(B) (32) and (34) of the Code. Notwithstanding the foregoing, the fair market value established for real property comprising the Project shall remain fixed for the Term.

(c) In the event that the FILOT Act and/or the above-described payments in lieu of taxes or any portion thereof, are declared invalid or unenforceable, in whole or in part, for any reason, the Company and the County express their intentions that such payments be reformed (including without limitation, to the extent permitted by law, through the provision by the County of infrastructure credits to the Company pursuant to Section 4-1-175 of the Multi-County Park Act and/or Section 12-44-70 of the FILOT Act) so as to afford the Company a benefit similar to that which it receives under this Agreement to the extent then permitted by law. Absent the legal authorization to effect such reformation, the Company and the County agree that there shall be due hereunder with respect to the portion of the Project affected by such circumstances *ad valorem* taxes and that, in such event, the Company shall be entitled, to the extent permitted by law, (1) to enjoy the five-year exemption from *ad valorem* taxes (or fees in lieu of taxes) provided by South Carolina Constitution Article X, Section 3, and any other exemption allowed by law from time to time; (2) to enjoy all allowable depreciation; and (3) to receive all other tax credits which would be due if the Company were obligated to pay *ad valorem* taxes hereunder.

(d) In the event the Company invests less than \$2,500,000 in Economic Development Property in the aggregate during the Investment Period, this Agreement terminates and the Project is immediately subject to *ad valorem* tax both prospectively and retroactively to the first year which FILOT Payments were to have been made with respect to the Project. The Company shall make payment to the County, within ninety (90) days after the termination pursuant to this Section, of the difference between (i) the FILOT Payments actually made and (ii) the total retroactive amount of *ad valorem* tax which would have been due by the Company with respect to the Project, but allowing for appropriate exemptions and abatements to which the Company would have been

entitled if the Project were not economic development property, plus interest in the manner as provided in Section 12-54-25 of the Code, or any successor provision.

(e) In the event the Company's investment in Economic Development Property is less than \$2,500,000, without regard to depreciation, during the Term, the Company this Agreement terminates immediately and the Project is immediately subject to *ad valroem* tax.

[End of Article V]

## ARTICLE VI

### CASUALTY; CONDEMNATION

#### Section 6.01 FILOT Payments in the Event of Damage and Destruction or Condemnation.

In the event that the Project is damaged or destroyed or the subject of condemnation proceedings, which damage, destruction and/or condemnation would substantially impair the operating ability of the Project, the parties hereto agree that the FILOT Payments required pursuant to **Section 5.02** hereof shall be abated in the same manner and in the same proportion as with *ad valorem* taxes, subject in all events to the provisions of **Section 5.02** hereof.

[End of Article VI]

## ARTICLE VII

### PARTICULAR COVENANTS AND AGREEMENTS

#### Section 7.01 Rights to Inspect.

The Company agrees that the County and its authorized agents shall have the right at all reasonable times and upon prior reasonable notice to enter upon and examine and inspect the Project. The County and its authorized agents shall also be permitted, at all reasonable times and upon prior reasonable notice, to have access to examine and inspect the Company's State property tax returns, as filed. The aforesaid rights of examination and inspection shall be exercised only upon such reasonable and necessary terms and conditions as the Company shall prescribe, which conditions shall be deemed to include, but not be limited to, those necessary to protect the Company's trade secrets and proprietary rights. Prior to the exercise of any right to inspect the Project or the above-referenced records of the Project, the County, at the request of the Company, shall cause its agents to sign a nondisclosure statement substantially in the form shown on Exhibit B attached hereto. In no way shall this requirement of a nondisclosure statement be deemed to apply to or restrict the rights of the United States Government and the State or its political subdivisions in the legitimate exercise of their respective sovereign duties and powers.

#### Section 7.02 Limitation of County's Liability.

Anything herein to the contrary notwithstanding, any financial obligation the County may incur hereunder (it being understood that the performance by the County of its obligations to accept FILOT Payments with respect to the Project is not a financial obligation of the County within the meaning of this Section but it should be considered as the obligation which the County has to perform hereunder), including for the payment of money shall not be deemed to constitute a pecuniary liability or a debt or general obligation of the County; provided, however, that nothing herein shall prevent the Company from enforcing its rights hereunder by suit for *mandamus* or specific performance.

#### Section 7.03 Mergers, Reorganizations and Equity Transfers.

The Company acknowledges that any mergers, reorganizations or consolidations of the Company may cause the Project to become ineligible for negotiated fees in lieu of taxes under the FILOT Act absent compliance by the Company with the Transfer Provisions; provided that, to the extent provided by Section 12-44-120 of the FILOT Act or any successor provision, any financing arrangements entered into by the Company with respect to the Project and any security interests granted by the Company in connection therewith shall not be construed as a transfer for purposes of the Transfer Provisions. Notwithstanding anything in this Agreement to the contrary, it is not intended in this Agreement that the County shall impose transfer restrictions with respect to the Company or the Project as are any more restrictive than the Transfer Provisions.

The County recognizes and agrees that the Company may, at its sole discretion, choose not to proceed with the Project or, at any time, reduce or cease operations and vacate the Taxable Facilities, and the County hereby waives any legal claims or actions they may have against the

Company based on same, except as set forth in **Section 5.02** herein; provided that on a cessation of operations or in the event the Company vacates the Taxable Facilities, the County may unilaterally terminate this Agreement and the Infrastructure Agreement and cease the provision of the Infrastructure Credit and the acceptance of FILOT Payments with respect to the Project. The Company and County intend that this Agreement shall be assignable by the Company consistent with Article 8 of this Agreement, and that such consent not to be unreasonably withheld by the County, as long as the Company is not in default under this Agreement.

#### Section 7.04 Indemnification

(a) Except as provided in paragraph (d) below, the Company shall indemnify and save the County, its employees, elected officials, officers and agents (each, an “Indemnified Party”) harmless against and from all liability or claims arising from the County’s execution of this Agreement or the Infrastructure Agreement, performance of the County’s obligations under this Agreement or the administration of its duties pursuant to this Agreement or the Infrastructure Agreement, or otherwise by virtue of the County having entered into this Agreement or the Infrastructure Agreement.

(b) The County is entitled to use counsel of its choice and the Sponsor shall reimburse, as Additional Payments, the County for all of its costs, including attorneys’ fees, incurred in connection with the response to or defense against such liability or claims as described in paragraph (a) above. The County shall provide a statement of the costs incurred in the response or defense, and the Company shall pay the County within 30 days of receipt of the statement. The Company may request reasonable documentation evidencing the costs shown on the statement. However, the County is not required to provide any documentation which may be privileged or confidential to evidence the costs.

(c) The County may request the Company to resist or defend against any claim on behalf of an Indemnified Party. On such request, the Sponsor shall resist or defend against such claim on behalf of the Indemnified Party, at the Sponsor’s expense. The Sponsor is entitled to use counsel of its choice, manage and control the defense of or response to such claim for the Indemnified Party; provided the Sponsor is not entitled to settle any such claim without the consent of that Indemnified Party.

(d) Notwithstanding anything herein to the contrary, the Company is not required to indemnify any Indemnified Party against or reimburse the County for costs arising from any claim or liability (i) occasioned by the acts of that Indemnified Party, which are unrelated to the execution of this Agreement or the Infrastructure Agreement, performance of the County’s obligations under this Agreement or the Infrastructure Agreement, or the administration of its duties under this Agreement or the Infrastructure Agreement, or otherwise by virtue of the County having entered into this Agreement or the Infrastructure Agreement; or (ii) resulting from that Indemnified Party’s own negligence, bad faith, fraud, deceit, or willful misconduct.

(e) An Indemnified Party may not avail itself of the indemnification or reimbursement of costs provided in this Section unless it provides the Company with prompt notice, reasonable under the circumstances, of the existence or threat of any claim or liability, including, without



limitation, copies of any citations, orders, fines, charges, remediation requests, or other claims or threats of claims, in order to afford the Company notice, reasonable under the circumstances, within which to defend or otherwise respond to a claim.

Section 7.05 Qualification in State.

The Company warrants that it is duly qualified to do business in the State, and covenants that it will continue to be so qualified so long as it operates any portion of the Project.

Section 7.06 No Liability of County's Personnel.

All covenants, stipulations, promises, agreements and obligations of the County contained herein shall be deemed to be covenants, stipulations, promises, agreements and obligations of the County and shall be binding upon any member of the County Council or any officer, agent, servant or employee of the County only in his or her official capacity and not in his or her individual capacity, and no recourse shall be had for the payment of any moneys hereunder against any member of the governing body of the County or any officer, agent, servants or employee of the County and no recourse shall be had against any member of the County Council or any officer, agent, servant or employee of the County for the performance of any of the covenants and agreements of the County herein contained or for any claims based thereon except solely in their official capacity.

Section 7.07 Other Tax Matters.

Subject to the limitations expressly set forth in **Section 5.02(b)** hereof, the Company shall be entitled to all state and federal investment tax credits, allowances for depreciation and other similar tax provisions allowable by applicable federal or State law with respect to the Project, to the extent allowed or otherwise not prohibited by the FILOT Act.

Section 7.08 Multi-County Park.

In the event for any reason that the Multi-County Park Agreement shall be terminated prior to the end of the Term, the County agrees that it will, pursuant to the Multi-County Park Act, and to the extent permitted by law, cause the Project to be included in a duly authorized, executed and delivered successor joint county industrial park agreement with an adjoining State county pursuant to the Multi-County Park Act, which successor agreement shall contain a termination date occurring no earlier than the termination date of this Agreement.

[End of Article VII]

## ARTICLE VIII

### ASSIGNMENT OF THIS AGREEMENT; SPONSORS AND SPONSOR AFFILIATES

#### Section 8.01 Assignment.

The Company may assign or otherwise transfer any of its rights and interest hereunder to an assignee or lessee, as the case may be, in compliance with the Transfer Provisions, including the requirement that any such assignment or lease shall be subject to the written consent of the County. In these regards, the County agrees that such consent shall not be unreasonably withheld, conditioned or delayed. The County hereby consents to any transfers by the Company to any affiliate of the Company at any time on receipt by the County of documentation evidencing that such proposed transferee is an affiliate of the Company. For such purposes, “affiliate” shall mean any person or entity directly or indirectly controlling, controlled by or under common control with the Company. Further, the County agrees that, to the extent permitted by Section 12-44-120(B) of the Act, or any successor provision, any financing arrangements entered into by the Company with respect to the Project and any security interests granted by the Company in connection therewith shall not be construed as a transfer for purposes of requiring consent to the same on the part of the County.

#### Section 8.02 Sponsors and Sponsor Affiliates.

The Company may designate from time to time additional Sponsors or any Sponsor Affiliates pursuant to the provisions of Sections 12-44-30(19) or (20), respectively, and Section 12-44-130 of the FILOT Act. To the extent permitted by the FILOT Act (and specifically Section 12-44-130 thereof), the investment by such additional Sponsor or any Sponsor Affiliate shall qualify for the FILOT Payments payable under **Section 5.02** hereof (subject to the other conditions set forth therein). The Company shall provide the County and the Department with written notice of any additional Sponsor or Sponsor Affiliate designated pursuant to this **Section 8.02** within ninety (90) days after the end of the calendar year during which any such Sponsor or Sponsor Affiliate has placed in service assets to be used in connection with the Project, all in accordance with Section 12-44-130(B) of the FILOT Act.

[End of Article VIII]

## ARTICLE IX

### EVENTS OF DEFAULT AND REMEDIES

#### Section 9.01 Events of Default.

Any one or more of the following events (herein called an “Event of Default”, or collectively “Events of Default”) shall constitute an Event of Default by the Company:

(a) if default shall be made in the due and punctual payment of any FILOT Payments, which default shall not have been cured within thirty (30) days following receipt of written notice thereof from the County;

(b) if default shall be made by the Company in the due performance of or compliance with any of the material terms of this Agreement, including payment, other than those referred to in the foregoing paragraph (a), and such default shall (i) continue for ninety (90) days after the County shall have given the Company written notice of such default, or (ii) in the case of any such default which can be cured but which cannot with due diligence be cured within such 90-day period, if the Company shall fail to proceed promptly to cure the same and thereafter prosecute the curing of such default with due diligence, it being intended in connection with the default not susceptible of being cured with due diligence within ninety (90) days that the time of the Company within which to cure the same shall be extended for such period as may be necessary to complete the curing of the same with all due diligence; or

(c) if any material representation or warranty made by the Company herein or any statement, certificate or indemnification furnished or delivered by the Company in connection with the execution and delivery of this Agreement, proves untrue in any material respect as of the date of the issuance or making thereof or knowingly violated or breached, as the case may be.

Notwithstanding anything in this Agreement to the contrary, a failure by the Company to invest any dollar amount in the Project or to create any specified number of jobs in respect thereto, as the same may be recited herein, shall not in itself constitute an Event of Default under this Agreement.

#### Section 9.02 Remedies on Event of Default.

Upon the occurrence of any Event of Default, the County may: (i) terminate this Agreement by provision of thirty (30) days’ notice to the Company in writing specifying the termination date; (ii) upon providing, at the Company’s request, but subject in all events to the necessary exercise by the County of its sovereign duties and powers, a signed nondisclosure statement substantially in the form attached as Exhibit B hereto, have access to and inspect, examine and make copies of, the books, records and accounts of the Company pertaining to the Project; or (iii) take whatever action at law or in equity as may appear necessary or desirable to collect any FILOT Payments and Additional Payments then due or to enforce observance or performance of any covenant condition or agreement of the Company under this Agreement, including without limitation enforcement of a statutory lien on the Project for any non-payment of FILOT Payments hereunder.

Section 9.03 Collection of FILOT Payments.

In addition to all other remedies herein provided, the nonpayment of FILOT Payments shall constitute a lien for tax purposes as provided in Section 12-44-90 of the FILOT Act. In this regard, and notwithstanding anything in this Agreement to the contrary, the County may exercise the remedies provided by general law (including, without limitation, Title 12, Chapter 49, of the Code) relating to the enforced collection of *ad valorem* taxes to collect any FILOT Payments due hereunder.

Section 9.04 County Event of Default.

Any of the following events shall constitute an event of default by the County (“County Event of Default”):

- (a) A representation or warranty made by the County which is deemed materially incorrect when deemed made; or
- (b) Failure by the County to perform any of the terms, conditions, obligations, or covenants hereunder, which failure shall continue for a period of 30 days after written notice from the Company to the County specifying such failure and requesting that it be remedied, unless the County shall have instituted corrective action within such time period and is diligently pursuing such action until the default is corrected, in which case the 30-day period shall be extended to cover such additional period during which the County is diligently pursuing corrective action; or
- (c) Whenever any County Event of Default shall have occurred or shall be continuing, the Company may take one or more of the following actions:
  - (i) bring an action for specific enforcement;
  - (ii) terminate the Fee Agreement; or
  - (iii) in case of a materially incorrect representation or warranty, take such action as is appropriate, including legal action, to recover its damages, to the extent allowed by law.

[End of Article IX]

## ARTICLE X

### MISCELLANEOUS

#### Section 10.01 Termination.

(a) At any time prior to the stated expiration of the Term of this Agreement the Company may, by written notice to the County, terminate this Agreement, in whole or in part, effective immediately on giving such notice or on such date as may be specified in the notice; provided that such termination shall not be effective until such time as the Company shall have made payment to the County of all applicable payments payable under this Agreement as of such time, including without limitation pursuant to Sections 5.02(d) and (g) hereof. Upon termination, and subject to any provisions herein which shall by their express terms be deemed to survive any termination of this Agreement, the Company shall no longer be entitled to the benefit of the fee in lieu of payments provided herein and the property constituting the Project with respect to which this Agreement has been terminated, shall thereafter be subject to the *ad valorem* tax treatment required by law and, except as may be expressly provided herein, in no event shall the Company be required to repay to the County the amount of any tax benefit previously received hereunder.

(b) If, at the time the Company delivers written notice to the County, the Company has not achieved the minimum investment at the Project as described in **Section 5.02(d)**, then the provisions of **Section 5.02(d)** govern.

#### Section 10.02 Rights and Remedies Cumulative.

Each right, power and remedy of the County or of the Company provided for in this Agreement shall be cumulative and concurrent and shall be in addition to every other right, power or remedy provided for in this Agreement or now or hereafter existing at law or in equity, in any jurisdiction where such rights, powers and remedies are sought to be enforced, and the exercise by the County or by the Company of any one or more of the rights, powers or remedies provided for in this Agreement or now or hereafter existing at law or in equity or by statute or otherwise shall not preclude the simultaneous or later exercise by the County or by the Company of any or all such other rights, powers or remedies.

#### Section 10.03 Successors and Assigns.

The terms and provisions of this Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective successors and assigns.

#### Section 10.04 Notices; Demands; Requests.

All notices, demands and requests to be given or made hereunder to or by the County or the Company, shall be in writing, and shall be deemed to be properly given or made if sent by United States certified first class mail, return receipt requested, postage prepaid and addressed as follows or at such other places as may be designated in writing by such party.

(a) As to the County:

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

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

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

(b) As to the Company:

Hengshi USA Wind Power Materials Corporation  
1400 Atlas Rd.  
Columbia, SC 29209

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

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

Section 10.05 Applicable Law; Entire Understanding.

This Agreement shall be governed exclusively by the provisions hereof and by the applicable laws of the State. This Agreement expresses the entire understanding and all agreements of the parties hereto with each other, and neither party hereto has made or shall be bound by any agreement or any representation to the other party which is not expressly set forth in this Agreement or in certificates delivered in connection with the execution and delivery hereof.

Section 10.06 Severability.

In the event that any clause or provisions of this Agreement shall be held to be invalid by any court of competent jurisdiction, such clause or provisions shall be reformed to provide as near as practicable the legal effect intended by the parties hereto, and the invalidity of such clause or provision shall not affect any of the remaining provisions hereof.

Section 10.07 Headings and Table of Contents; References.

The headings of this Agreement and any Table of Contents or Index annexed hereto are for convenience of reference only and shall not define or limit the provisions hereof or affect the meaning or interpretation hereof. All references in this Agreement to particular Articles or Sections or subdivisions of this Agreement are references to the designated Articles or Sections or subdivision of this Agreement.

Section 10.08 Multiple Counterparts.

This Agreement may be executed in multiple counterparts, each of which shall be an original but all of which shall constitute but one and the same instrument.

Section 10.09 Amendments.

This Agreement may be amended only by a writing signed by all of the parties.

Section 10.10 Waiver.

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

Section 10.11 Business Day.

In the event that any action, payment or notice is, by the terms of this Agreement, required to be taken, made or given on any day which is a Saturday, Sunday or a legal holiday in the jurisdiction in which the person obligated to act is domiciled, such action, payment or notice may be taken, made or given on the following business day with the same effect as if given as required hereby, and no interest shall accrue in the interim.

[End of Article X]

**IN WITNESS WHEREOF**, Richland County, South Carolina, has executed this Agreement by causing its name to be hereunto ascribed by the Chairman of County Council and to be attested to by the Clerk of its County Council, and Hengshi USA Wind Power Materials Corporation have executed this Agreement by their authorized officer(s), all being done as of the day and year first above written.

**RICHLAND COUNTY, SOUTH CAROLINA**

(SEAL)

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

Chairman, Richland County Council

ATTEST:

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

Clerk to Richland County Council

[Signature Page 1 – Fee in Lieu of Tax Agreement]



**HENGSHI USA WIND POWER  
MATERIALS CORPORATION**

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

[Signature Page 2 – Fee in Lieu of Tax Agreement]

EXHIBIT A

All that certain piece, parcel or lot of land situate, lying and being in the City of Columbia, County of Richland, State of South Carolina, and being more fully shown and delineated as **Parcel E**, containing 7.117 acres, on an ALTA/NSPS Land Title Survey prepared for 1416 Atlas, LLC, 1424 Atlas, LLC and 1440 Atlas, LLC by URS Corporation, dated December 3, 2014, revised February 11, 2015, last revised June 13, 2016, said tract having the following metes and bounds to wit:

COMMENCING AT A 5/8" REBAR AT THE INTERSECTION OF THE EASTERN RIGHT-OF-WAY OF ATLAS ROAD (S-40-50) AND THE NORTHERN RIGHT-OF-WAY OF RICHARD STREET (S-40-1180) THENCE PROCEEDING ALONG THE EASTERN RIGHT-OF-WAY OF ATLAS ROAD IN A DIRECTION OF N42°53'18"E A DISTANCE OF 306.28' TO A 5/8" REBAR W/ CAP, AND THENCE S70°37'00"E FOR A DISTANCE OF 225.76' TO A MAGNAIL, THIS BEING THE POINT OF BEGINNING.

THENCE TURNING AND PROCEEDING ALONG PARCELS B & D THE FOLLOWING COURSES AND DISTANCES: IN A DIRECTION OF S70°36'20"E A DISTANCE OF 218.82' TO A MAGNAIL; THENCE S70°35'18"E A DISTANCE OF 541.74' TO A "X" IN CONCRETE AND THEN S20°17'57"W A DISTANCE OF 411.58' TO A "X" IN CONCRETE;

THENCE TURNING AND PROCEEDING ALONG THE NORTHERN RIGHT-OF-WAY OF RICHARD STREET THE FOLLOWING COURSES AND DISTANCES: IN A DIRECTION OF N70°11'15"W A DISTANCE OF 621.86' TO A 5/8" REBAR, THENCE ALONG A CURVE TO THE RIGHT HAVING A CHORD BEARING OF N63°48'11"W FOR A CHORD DISTANCE OF 139.05' (SAID CURVE HAVING AN ARC LENGTH OF 139.10' AND A RADIUS OF 1397.57') TO A "X" IN CONCRETE;

THENCE TURNING AND PROCEEDING ALONG PARCEL A IN A DIRECTION OF N20°14'25"E FOR A DISTANCE OF 390.73' TO A MAGNAIL, THIS BEING THE POINT OF BEGINNING. THIS PARCEL CONTAINS 7.117 ACRES OR 310,003 SQUARE FEET.

This being the same property conveyed to 1440 Atlas, LLC by deed of 1400 Atlas Properties, LLC dated February 16, 2015 and recorded February 20, 2015 in Book 2006, page 3661.

TMS: 16305-02-07

EXHIBIT B

**FORM OF NON-DISCLOSURE STATEMENT**

I, \_\_\_\_\_, \_\_\_\_\_ of Richland County, South Carolina, acknowledge and understand that \_\_\_\_\_[PROJECT FENG]\_\_\_\_\_ (collectively, “Company”) utilizes confidential and proprietary “state-of-the-art” processes and techniques. Consequently, to the extent permitted by law, I agree to keep confidential the nature, description and type of the machinery, equipment, processes and techniques, as well as financial statements of the Company, which I observe. I agree that I shall not disclose the nature, description or type of such machinery, equipment, processes or techniques, or the information contained in such financial statements of the Company, to any person or entity other than in accordance with the terms of the Fee in Lieu of Tax Agreement between Company and Richland County, South Carolina, dated as of \_\_\_\_\_, \_\_\_\_\_, or as may be required by the laws of the State of South Carolina including, but not limited to, the South Carolina Freedom of Information Act.

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

Date: \_\_\_\_\_

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**INFRASTRUCTURE FINANCE AGREEMENT**

between

**RICHLAND COUNTY, SOUTH CAROLINA,**

and

**HENGSHI USA WIND POWER MATERIALS CORPORATION**

Dated as of \_\_\_\_\_

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## INFRASTRUCTURE FINANCE AGREEMENT

**THIS INFRASTRUCTURE FINANCE AGREEMENT**, dated as of \_\_\_\_\_ (the "Agreement"), between **RICHLAND COUNTY, SOUTH CAROLINA**, a body politic and corporate and a political subdivision of the State of South Carolina (the "County"), and **HENGSHI USA WIND POWER MATERIALS CORPORATION** a corporation organized and existing under the laws of the State of South Carolina (the "Company").

### WITNESSETH:

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

**WHEREAS**, the Company intends to establish a manufacturing facility in an existing building in the County ("Existing Building") on the land described in Exhibit A hereto (the "Land" together with the Existing Building, the "Taxable Facilities"); and

**WHEREAS**, the Company has represented that its intends to invest approximately \$11,637,700 in the County, consisting of \$5,015,000 in the Taxable Facilities and \$6,622,700 in Economic Development Property ,as defined below, and create approximately 48 new, full-time, jobs, in connection with the Project, as defined below, all during Investment Period, as defined below; and

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

**WHEREAS**, pursuant to the provisions of the Park Agreement, the Company is obligated to make or cause to be made payments in lieu of taxes in the total amount equivalent to the *ad*

*valorem* property taxes that would have been due and payable but for the location of the Taxable Facilities and the Project within the Park; and

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

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

**WHEREAS**, the County Council has duly authorized execution and delivery of this Agreement by ordinance duly enacted by the County Council on June 20, 2017 following conducting a public hearing on June 20, 2017;

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

## **ARTICLE I**

### **DEFINITIONS**

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

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

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

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

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

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

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

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

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

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

“*Infrastructure Credits*” shall mean credits against the Company’s Fee Payments described in Section 3.02.

“*Investment Period*” shall mean the period beginning with the first day of any purchase or acquisition of Economic Development Property and ending five (5) years from the last day of the property tax year during which the date which the first Project Increment is placed into service.

“*Investment Requirement*” shall mean the aggregate investment of \$11,637,700 in the County, consisting of \$5,015,000 in the Taxable Facilities and \$6,622,700 in Economic Development Property.

“*Jobs Requirement*” shall mean the aggregate creation of 48 new, full-time jobs in connection with the Project.

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

“*Multi-County Park Act*” shall mean Title 4, Chapter 1, Code of Laws of South Carolina 1976, as amended, and all future acts amendatory thereto.

“*Ordinance*” shall mean the ordinance enacted by the County Council on June 20, 2017 authorizing the execution and delivery of this Agreement.

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

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

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

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

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

“*Taxable Facilities*” shall have the meaning set forth in the recitals to this Agreement.

## ARTICLE II

### REPRESENTATIONS AND WARRANTIES

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

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

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

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

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

(e) To the best knowledge of the County, there is no action, suit, proceeding, inquiry, or investigation, at law or in equity, or before or by any court, public body, or public board which is pending or threatened challenging the creation, organization or existence of the County or its governing body or the power of the County to enter into the transactions contemplated hereby or wherein an unfavorable decision, ruling or finding would adversely affect the transactions



contemplated hereby or would affect the validity, or adversely affect the enforceability, of this Agreement, or any other agreement or instrument to which the County is a party and which is to be used in connection with or is contemplated by this Agreement, nor to the best of the knowledge of the County, is there any basis therefor.

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

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

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

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

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

SECTION 2.03. Covenants of the County.

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

(b) In the event of any early termination of the Park Agreement prior to the date necessary to afford the Company the full benefit of the Infrastructure Credits hereunder (the "Final Benefits Date"), the County agrees it will use its best efforts to cause the Project and the Taxable Facilities, pursuant to Section 4-1-170 of the Multi-County Park Act or any successor provision, to be included in a duly authorized, executed and delivered successor joint county industrial park

agreement with an adjoining South Carolina county, which successor agreement shall contain a termination date occurring no earlier than the Final Benefits Date.

(c) The County covenants that it will from time to time, at the request and expense of the Company, execute and deliver such further instruments and take such further action as may be reasonable and as may be required to carry out the purpose of this Agreement; provided, however, that such instruments or actions shall never create or constitute a general obligation or an indebtedness of the County within the meaning of any State constitutional provision (other than the provisions of Article X, Section 14(10) of the South Carolina Constitution) or statutory limitation and shall never constitute or give rise to a pecuniary liability of the County or a charge against its general credit or taxing power or pledge the full faith, credit or taxing power of the State, or any other political subdivision of the State.

### **ARTICLE III**

#### **INFRASTRUCTURE CREDITS**

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

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

##### SECTION 3.02. Infrastructure Credits.

(a) In order to reimburse the Company for a portion of the Cost of the Infrastructure with respect to the Project, the County shall provide a 25% Infrastructure Credit against the Company's first (1<sup>st</sup>) through fifth (5<sup>th</sup>) Fee Payments with respect to the Project. The total amount of the Infrastructure Credit shall not exceed the total amount of eligible expenditures (as set forth in S.C. Code § 4-29-68(A)(2)) made by the Company.

(b) In addition to the above, in order to reimburse the Company for a portion of the Cost of Infrastructure with respect to the Taxable Facilities, the County shall provide a 41% Infrastructure Credit against the Company's Fee Payments with respect to the Taxable Facilities. The Company shall receive the Infrastructure Credit described in this Section for a period of 30 years, commencing with the first year that a Fee Payment is due with respect to the Project under the Fee Agreement.

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

(d) In the event that the Company fails to meet the Investment Requirement and Jobs Requirement by and through the end of the Investment Period, the Company shall be obligated to repay a prorated portion of the Infrastructure Credits provided hereof with respect to the Project and the Taxable Facilities, with such prorated portion to be calculated by determining the average

achievement percentage of the Investment Requirement and Jobs Requirement as of the last day of the initial Investment Period.

For example, and by way of example only, if the Company has invested \$9,000,000 and has created 36 new, full time jobs as of the last day of the initial Investment Period, the Company's pro rata repayment obligation would be calculated as follows:

*Investment Achievement Percentage = \$9,000,000/\$11,637,700 = 77.34%.*

*Jobs Achievement Percentage = 36/48 = 75%*

*Overall Achievement Percentage = (77.34% + 75%) / 2 = 76.17%*

*Prorated Repayment Amount = 100% - 76.17% = 23.83% of Infrastructure Credits received*

In calculating the each achievement percentage, only the investment made or new jobs achieved up to the Investment Requirement and the Jobs Requirement will be counted.

Additionally, if the Company does not meet the Investment Requirement and Jobs Requirement by and through the end of the Investment Period, the Infrastructure Credit with respect to the Project as described in Section 3.02(a) shall terminate and the Infrastructure Credit with respect to the Taxable Facilities as described in Section 3.02(b) above shall be prospectively reduced to 25%.

The Company shall repay any amount determined to be owed to the County under this Section within ninety (90) days after receipt by the County of written notice of the repayment amount. If the repayment amount is not timely paid, such repayment amount shall accrue interest as provided in Section 12-54-25 of the Code, or any successor provision.

(e) THIS AGREEMENT AND THE INFRASTRUCTURE CREDITS BECOMING DUE HEREUNDER ARE LIMITED OBLIGATIONS OF THE COUNTY PROVIDED BY THE COUNTY SOLELY FROM THE FEE PAYMENTS RECEIVED BY THE COUNTY FOR THE PROJECT PURSUANT TO THE PARK AGREEMENT, AND DO NOT AND SHALL NEVER CONSTITUTE A GENERAL OBLIGATION OR AN INDEBTEDNESS OF THE COUNTY WITHIN THE MEANING OF ANY CONSTITUTIONAL PROVISION (OTHER THAN THE PROVISIONS OF ARTICLE X, SECTION 14(10) OF THE SOUTH CAROLINA CONSTITUTION) OR STATUTORY LIMITATION AND DO NOT AND SHALL NEVER CONSTITUTE OR GIVE RISE TO A PECUNIARY LIABILITY OF THE COUNTY OR A CHARGE AGAINST ITS GENERAL CREDIT OR TAXING POWER. THE FULL FAITH, CREDIT, AND TAXING POWER OF THE COUNTY ARE NOT PLEDGED FOR THE INFRASTRUCTURE CREDITS.

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

## ARTICLE IV

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

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

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

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

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

SECTION 4.02. Transfers of Project; Assignment of Interest in this Agreement by the Company. Subject to the provisions of Section 4.01 hereof, the County hereby acknowledges that the Company may from time to time and in accordance with the Fee Agreement and applicable law, sell, transfer, lease, convey, or grant the right to occupy and use the Taxable Facilities and the Project, in whole or in part, or assign its interest in this Agreement, to others; provided, however, that any transfer by the Company of any of its interest in this Agreement to any other Person shall require the prior written consent of the County, which shall not be unreasonably withheld.

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

## ARTICLE V

### DEFAULTS AND REMEDIES

SECTION 5.01. Events of Default. Other than as specifically described in Sections 5.02(d) and 5.02(e) of the Fee Agreement with respect to a failure to reach certain investment or Section 7.03 of the Fee Agreement with respect to a cessation of operations or vacation of the Taxable Facilities, if the County or either Company shall fail duly and punctually to perform any other covenant, condition, agreement or provision contained in this Agreement on its part to be performed, which failure shall continue for a period of thirty (30) days after written notice by the County or either Company, respectively, specifying the failure and requesting that it be remedied is given to the County by a Company, or to the Company by the County, by first-class mail, the County or the Company, respectively, shall be in default under this Agreement (an “Event of Default”).

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

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

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

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

## **ARTICLE VI**

### **MISCELLANEOUS**

SECTION 6.01. Termination. Subject to Sections 5.01 and 5.02 above, this Agreement shall terminate on the date upon which all Infrastructure Credits provided for in Section 3.02(a) and Section 3.02(b) hereof have been credited to the Company; provided, however, that this Agreement will not terminate unless the repayment amount as described and calculated in Section 3.02(d) has been paid by the Company.

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

SECTION 6.03. Provisions of Agreement for Sole Benefit of the County and the Company. Except as in this Agreement otherwise specifically provided, nothing in this Agreement expressed or implied is intended or shall be construed to confer upon any Person other than the County and the

Company any right, remedy, or claim under or by reason of this Agreement, this Agreement being intended to be for the sole and exclusive benefit of the County and the Company.

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

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

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

- (a) if to the County:           Richland County  
  Attn: Director, Economic Development  
  Administration Building  
  2020 Hampton Street, Room 4058  
  Columbia, South Carolina 29202

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

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

- (b) if to the Company       Hengshi USA Wind Power Materials Corporation  
  1440 Atlas Road  
  Columbia, SC 29209

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

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

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

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

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

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

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

[Signature pages to follow]

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

**RICHLAND COUNTY, SOUTH CAROLINA**

(SEAL)

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

Chairman, Richland County Council

**ATTEST:**

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

*[Signature page 1 to Infrastructure Finance Agreement]*



**HENGSHI USA WIND POWER  
MATERIALS CORPORATION**

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

*[Signature page 2 to Infrastructure Finance Agreement]*

**EXHIBIT A**

**REAL PROPERTY DESCRIPTION**

All that certain piece, parcel or lot of land situate, lying and being in the City of Columbia, County of Richland, State of South Carolina, and being more fully shown and delineated as **Parcel E**, containing 7.117 acres, on an ALTA/NSPS Land Title Survey prepared for 1416 Atlas, LLC, 1424 Atlas, LLC and 1440 Atlas, LLC by URS Corporation, dated December 3, 2014, revised February 11, 2015, last revised June 13, 2016, said tract having the following metes and bounds to wit:

COMMENCING AT A 5/8" REBAR AT THE INTERSECTION OF THE EASTERN RIGHT-OF-WAY OF ATLAS ROAD (S-40-50) AND THE NORTHERN RIGHT-OF-WAY OF RICHARD STREET (S-40-1180) THENCE PROCEEDING ALONG THE EASTERN RIGHT-OF-WAY OF ATLAS ROAD IN A DIRECTION OF N42°53'18"E A DISTANCE OF 306.28' TO A 5/8" REBAR W/ CAP, AND THENCE S70°37'00"E FOR A DISTANCE OF 225.76' TO A MAGNAIL, THIS BEING THE POINT OF BEGINNING.

THENCE TURNING AND PROCEEDING ALONG PARCELS B & D THE FOLLOWING COURSES AND DISTANCES: IN A DIRECTION OF S70°36'20"E A DISTANCE OF 218.82' TO A MAGNAIL; THENCE S70°35'18"E A DISTANCE OF 541.74' TO A "X" IN CONCRETE AND THEN S20°17'57"W A DISTANCE OF 411.58' TO A "X" IN CONCRETE;

THENCE TURNING AND PROCEEDING ALONG THE NORTHERN RIGHT-OF-WAY OF RICHARD STREET THE FOLLOWING COURSES AND DISTANCES: IN A DIRECTION OF N70°11'15"W A DISTANCE OF 621.86' TO A 5/8" REBAR, THENCE ALONG A CURVE TO THE RIGHT HAVING A CHORD BEARING OF N63°48'11"W FOR A CHORD DISTANCE OF 139.05' (SAID CURVE HAVING AN ARC LENGTH OF 139.10' AND A RADIUS OF 1397.57') TO A "X" IN CONCRETE;

THENCE TURNING AND PROCEEDING ALONG PARCEL A IN A DIRECTION OF N20°14'25"E FOR A DISTANCE OF 390.73' TO A MAGNAIL, THIS BEING THE POINT OF BEGINNING. THIS PARCEL CONTAINS 7.117 ACRES OR 310,003 SQUARE FEET.

This being the same property conveyed to 1440 Atlas, LLC by deed of 1400 Atlas Properties, LLC dated February 16, 2015 and recorded February 20, 2015 in Book 2006, page 3661.

TMS: 16305-02-07

SOUTH CAROLINA

)

)

RICHLAND COUNTY

)

**A RESOLUTION**

**COMMITTING TO NEGOTIATE A FEE-IN-LIEU OF AD VALOREM TAXES AGREEMENT BETWEEN RICHLAND COUNTY AND HENGSHI USA WINDPOWER MATERIALS CORPORATION; IDENTIFYING THE PROJECT; AND OTHER MATTERS RELATED THERETO**

WHEREAS, Richland County, South Carolina (“County”), acting by and through its County Council (“County Council”) is authorized pursuant to the provisions of Title 12, Chapter 44, Code of Laws of South Carolina, 1976, as amended (“Act”) to encourage manufacturing and commercial enterprises to locate in the State or to encourage manufacturing and commercial enterprises now located in the State to expand their investments and thus make use of and employ the manpower, products, and other resources of the State by entering into an agreement with a sponsor, as defined in the Act, that provides for the payment of a fee-in-lieu of *ad valorem* tax (“FILOT Payments”) with respect to economic development property, as defined in the Act;

WHEREAS, Hengshi USA Windpower Materials Corporation, formerly known to the County as Project Feng (the “Company”), desires to invest capital in the County in order to establish a fiberglass manufacturing and supply facility in the County (the “Project”);

WHEREAS, the Project is anticipated to result in an investment of approximately \$11,637,700 in the County and create approximately 48 new, full-time, jobs, in connection with the Project; and

WHEREAS, as an inducement to Company has requested that the County negotiate an agreement (“Agreement”), which provides for FILOT Payments with respect to the portion of the Project which constitutes economic development property, as defined in the Act.

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

**Section 1.** This Resolution is an inducement resolution for this Project for purposes of the Act.

**Section 2.** County Council agrees to enter into the Agreement, which provides for FILOT Payments with respect to the portion of the Project which constitutes economic development property. The further details of the FILOT Payments and the agreement will be prescribed by subsequent ordinance of the County to be adopted in accordance with South Carolina law and the rules and procedures of the County.

**Section 3.** County Council confirms that the Project was identified and reflected on April 4, 2017, and adopting this Resolution permits expenditures made in connection with the Project before the date of this Resolution to qualify as economic development property, subject to the terms and conditions of the Agreement and the Act.

**Section 4.** This Resolution is effective after its approval by the County Council.

RESOLVED: June 20, 2017

RICHLAND COUNTY, SOUTH CAROLINA

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Chair, Richland County Council

(SEAL)  
ATTEST:

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Michelle Onley  
Clerk to County Council

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

**AUTHORIZING THE EXPANSION OF THE BOUNDARIES OF THE I-77 CORRIDOR REGIONAL INDUSTRIAL PARK JOINTLY DEVELOPED WITH FAIRFIELD COUNTY TO INCLUDE CERTAIN PROPERTY LOCATED IN RICHLAND COUNTY; THE EXECUTION AND DELIVERY OF AN INFRASTRUCTURE CREDIT AGREEMENT TO PROVIDE FOR INFRASTRUCTURE CREDITS TO 209 STONERIDGE, LLC; AND OTHER RELATED MATTERS.**

WHEREAS, Richland County (“County”), acting by and through its County Council (“County Council”), is authorized pursuant to the provisions of Article VIII, Section 13(D) of the South Carolina Constitution and the provisions of Title 4, Chapter 1 of the Code of Laws of South Carolina, 1976, as amended (collectively, “Act”), to (i) develop a multicounty park with counties having contiguous borders with the County; and (ii) include property in the multicounty park which inclusion under the terms of the Act (A) makes such property exempt from *ad valorem* property taxes, and (B) changes the character of the annual receipts from such property to fees-in-lieu of *ad valorem* property taxes in an amount equal to the *ad valorem* taxes that would have been due and payable but for the location of the property in such multicounty park (“Fee Payments”);

WHEREAS, the County is further authorized by Section 4-1-175 of the Act, to grant credits against Fee Payments (“Infrastructure Credit”) to pay costs of designing, acquiring, constructing, improving or expanding (i) infrastructure serving a project or the County, and (ii) improved and unimproved real estate and personal property used in the operation of a manufacturing facility or commercial (collectively, “Infrastructure”);

WHEREAS, pursuant to the authority provided in the Act, the County has previously developed with Fairfield County, South Carolina, the I-77 Corridor Regional Industrial Park (“Park”) and executed the Master Agreement Governing the I-77 Corridor Regional Industrial Park, dated April 15, 2003 (“Park Agreement”), which governs the operation of the Park;

WHEREAS, 209 Stoneridge, LLC (“Company”) desires to rehabilitate an abandoned building within the County (“Project”), consisting of taxable investments in real and personal property of not less than \$1,200,000.

WHEREAS, at the Company’s request, the County desires to expand the boundaries of the Park and amend the Park Agreement to include the real and personal property relating to the Project (“Property”) in the Park; and

WHEREAS, the County further desires to enter into an Infrastructure Credit Agreement between the County and the Company, the substantially final form of which is attached as Exhibit A (“Agreement”), to provide Infrastructure Credits against certain of the Company’s Fee Payments with respect to the Project for the purpose of assisting in paying the costs of certain Infrastructure.

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

**Section 1. Statutory Findings.** Based on representations made by the Company to the County, the County finds that the Project and the Infrastructure will enhance the economic development of the County.

**Section 2. *Expansion of the Park Boundaries, Inclusion of Property.*** The expansion of the Park boundaries and an amendment to the Park Agreement to include the Property in the Park is authorized. The Chairman of County Council (“Chairman”), is authorized to execute such documents and take such further actions as may be necessary to complete the expansion of the Park boundaries and the amendment to the Park Agreement. Pursuant to the terms of the Park Agreement, the expansion of the Park’s boundaries to include the Property is complete on the adoption of this Ordinance by County Council and a companion approving ordinance by the Fairfield County Council.

**Section 3. *Approval of Infrastructure Credit; Authorization to Execute and Deliver Agreement.*** The Infrastructure Credits, as more particularly set forth in the Agreement, against the Company’s Fee Payments with respect to the Project are approved. The form, terms and provisions of the Agreement that is before this meeting are approved and all of the Agreement’s terms are incorporated in this Ordinance by reference as if the Agreement was set out in this Ordinance in its entirety. The Chairman is authorized and directed to execute the Agreement 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 Agreement and to deliver the Agreement to the Company.

**Section 4. *Further Assurances.*** The County Council confirms the authority of the Chairman, the County Administrator, the Director of Economic Development and the Clerk to County Council, and various other County officials and staff, acting at the direction of the Chairman, the County Administrator, the Director of Economic Development or Clerk to County Council, as appropriate, to take whatever further action and to negotiate, execute and deliver whatever further documents as may be appropriate to effect the intent of this Ordinance and the incentives offered to the Company under this Ordinance and the Fee Agreement.

**Section 5. *Savings Clause.*** The provisions of this Ordinance are separable. If any part of this Ordinance is, for any reason, unenforceable then the validity of the remainder of this Ordinance is unaffected.

**Section 6. *General Repealer.*** Any prior ordinance, resolution or order, the terms of which are in conflict with this Ordinance, is, only to the extent of that conflict, repealed.

**Section 7. *Effectiveness.*** This Ordinance is effective after its third reading and public hearing.

RICHLAND COUNTY, SOUTH CAROLINA

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Joyce Dickerson  
Chair, Richland County Council

(SEAL)  
ATTEST:

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Clerk of Council, Richland County Council

First Reading: June 20, 2017  
Second Reading:  
Public Hearing:  
Third Reading:

**EXHIBIT A**  
**FORM OF AGREEMENT**



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**INFRASTRUCTURE CREDIT AGREEMENT**

**by and between**

**RICHLAND COUNTY, SOUTH CAROLINA**

**and**

**209 STONERIDGE, LLC**

**Effective as of: [DATE]**

## INFRASTRUCTURE CREDIT AGREEMENT

This INFRASTRUCTURE CREDIT AGREEMENT, effective as of [DATE] (“Agreement”), is by and between RICHLAND COUNTY, SOUTH CAROLINA, a body politic and corporate, and a political subdivision of the State of South Carolina (“County”), and 209 STONERIDGE, LLC, a South Carolina limited liability company (“Company” together with the County, “Parties,” each, a “Party”).

### W I T N E S S E T H :

WHEREAS, the County, acting by and through its County Council (“County Council”), is authorized and empowered under and pursuant to the provisions of Article VIII, Section 13(D) of the South Carolina Constitution and the provisions of Title 4, Chapter 1 of the Code of Laws of South Carolina, 1976, as amended (collectively, “Act”), to (i) develop multicounty parks with counties having contiguous borders with the County; and (ii) include property in the multicounty park which inclusion under the terms of the Act (A) makes such property exempt from *ad valorem* property taxes, and (B) changes the character of the annual receipts from such property to fees-in-lieu of *ad valorem* property taxes in an amount equal to the *ad valorem* taxes that would have been due and payable but for the location of the property in such multicounty park (“Fee Payments”)

WHEREAS, the County is further authorized by Section 4-1-175 of the Act, to grant credits against Fee Payments (“Infrastructure Credit”) to pay costs of designing, acquiring, constructing, improving or expanding (i) infrastructure serving a project or the County and (ii) improved and unimproved real estate and personal property used in the operation of a commercial enterprise or manufacturing facility (collectively, “Infrastructure”);

WHEREAS, pursuant to the authority provided in the Act, the County has previously developed with Fairfield County, South Carolina, the I-77 Corridor Regional Industrial (“Park”) and executed the Master Agreement Governing the I-77 Corridor Regional Industrial Park, dated April 15, 2003 (“Park Agreement”), which governs the operation of the Park;

WHEREAS, the Company has committed to rehabilitate an abandoned building in the County (“Project”) on property more particularly identified by Exhibit A (“Land”), consisting of taxable investment in real and personal property of not less than \$1,200,000;

WHEREAS, by an ordinance enacted on [DATE] (“Ordinance”), the County authorized the expansion of the boundaries of the Park and an amendment to the Park Agreement to include the Land and other real and personal property relating to the Project (collectively and together with the Land, “Property”) in the Park; and

WHEREAS, pursuant to the Ordinance, the County further authorized the execution and delivery of this Agreement to provide Infrastructure Credits against the Company’s Fee Payments with respect to the Project for the purpose of assisting in paying the costs of certain Infrastructure, subject to the terms and conditions below.

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

### ARTICLE I REPRESENTATIONS

**Section 1.1. *Representations by the County.*** The County represents to the Company as follows:

(a) The County is a body politic and corporate and a political subdivision of the State of South Carolina;

(b) The County is authorized and empowered by the provisions of the Act to enter into and carry out its obligations under this Agreement;

(c) The County has duly authorized and approved the execution and delivery of this Agreement by adoption of the Ordinance in accordance with the procedural requirements of the Act and any other applicable state law;

(d) The County is not in default of any of its obligations (contractual or otherwise) as a result of entering into and performing its obligations under this Agreement;

(e) The County has approved the inclusion of the Property in the Park; and

(f) Based on representations made by the Company to the County, the County has determined the Project and the Infrastructure will enhance the economic development of the County. Therefore, the County is entering into this Agreement for the purpose of promoting the economic development of the County.

**Section 1.2. Representations by the Company.** The Company represents to the County as follows:

(a) The Company is in good standing under the laws of the State of Florida, has power to conduct business in the State of South Carolina and enter into this Agreement, and by proper company action has authorized the officials signing this Agreement to execute and deliver it;

(b) The Company will use commercially reasonable efforts to achieve the Investment Commitment, as defined below, at the Project; and

(c) The Company's execution and delivery of this Agreement, and its compliance with the provisions of this Agreement do not result in a default under any agreement or instrument to which the Company is now a party or by which it is bound.

## **ARTICLE II INFRASTRUCTURE CREDITS**

**Section 2.1. Investment Commitment.** The Company shall invest not less than \$1,200,000 in taxable property at the Project ("Investment Commitment") by the Certification Date, as defined below. The Company shall certify to the County achievement of the Investment Commitment by no later than December 31, 2022 ("Certification Date"), by providing documentation to the County sufficient to reflect achievement of the Investment Commitment. If the Company fails to achieve and certify the Investment Commitment by the Certification Date, the County may terminate this Agreement and, on termination, the Company is no longer entitled to any further benefits under this Agreement.

### **Section 2.2. Infrastructure Credits.**

(a) To assist in paying for costs of Infrastructure, the County shall provide an Infrastructure Credit against certain of the Company's Fee Payments due with respect to the Project. The term, amount and calculation of the Infrastructure Credit is described in Exhibit B.

(b) For each property tax year in which the Company is entitled to an Infrastructure Credit

("Credit Term"), the County shall prepare and issue the Company's annual bill with respect to the Project net of the Infrastructure Credit set forth in Section 2.2(a) ("Net Fee Payment"). Following receipt of the bill, the Company shall timely remit the Net Fee Payment to the County in accordance with applicable law.

(c) THIS AGREEMENT AND THE INFRASTRUCTURE CREDITS PROVIDED BY THIS AGREEMENT ARE LIMITED OBLIGATIONS OF THE COUNTY. THE SOURCE OF THE INFRASTRUCTURE CREDITS ARE DERIVED SOLELY FROM AND TO THE EXTENT OF THE FEE PAYMENTS MADE BY THE COMPANY TO THE COUNTY PURSUANT TO THE ACT AND THE PARK AGREEMENT. THE INFRASTRUCTURE CREDITS DO NOT AND SHALL NOT CONSTITUTE A GENERAL OBLIGATION OF THE COUNTY OR ANY MUNICIPALITY WITHIN THE MEANING OF ANY CONSTITUTIONAL OR STATUTORY LIMITATION AND DO NOT AND SHALL NOT CONSTITUTE OR GIVE RISE TO A PECUNIARY LIABILITY OF THE COUNTY OR ANY MUNICIPALITY OR A CHARGE AGAINST THE GENERAL CREDIT OR TAXING POWER. THE FULL FAITH, CREDIT, AND TAXING POWER OF THE COUNTY OR ANY MUNICIPALITY ARE NOT PLEDGED FOR THE PROVISION OF THE INFRASTRUCTURE CREDITS.

**Section 2.3. Clawback.** If the Company fails to meet the Investment Commitment by the Certification Date, the Company shall repay a portion of the Infrastructure Credits received. The portion of the Infrastructure Credit to be repaid is based on the amount by which the Company failed to achieve the Investment Commitment and is calculated as follows:

**Repayment Amount = Total Received x Clawback Percentage**

**Clawback Percentage = 100% - Investment Achievement Percentage**

**Investment Achievement Percentage = Actual Investment Achieved / Investment Commitment**

*For example, and by way of example only, if the Company had received \$100,000 in Infrastructure Credits, had an Investment Commitment of \$1,200,000, and had only invested \$900,000 by the Certification Date, the Repayment Amount would be calculated as follows:*

*Investment Achievement Percentage = \$900,000/\$1,200,000 = 75%*

*Clawback Percentage = 100% - 75% = 25%*

*Repayment Amount = \$100,000 x 25% = \$25,000*

The Company shall pay the portion of the Infrastructure Credit to be repaid pursuant to this Section 2.3 within 30 days of receipt of a written statement setting forth the Repayment Amount. If not timely paid, the Repayment Amount is subject to the minimum amount of interest that the law may permit with respect to delinquent *ad valorem* tax payments. Any such amount shall be subject to the minimum amount of interest that the Act may require. The repayment obligation arising under this Section survives termination of the Agreement.

**Section 2.4. Cumulative Infrastructure Credit.** The cumulative dollar amount expended by the Company on Infrastructure shall equal or exceed the cumulative dollar amount of all the Infrastructure Credits received by the Company.

**ARTICLE III  
DEFAULTS AND REMEDIES**

**Section 3.1. *Events of Default.*** The following are “Events of Default” under this Fee Agreement:

(a) Failure by the Company to make a Net Fee Payment, which failure has not been cured within 30 days following receipt of written notice from the County specifying the delinquency in payment and requesting that it be remedied;

(b) A representation or warranty made by the Company which is deemed materially incorrect when deemed made;

(c) Failure by the Company to perform any of the terms, conditions, obligations, or covenants under this Agreement (other than those described in Section 2.1 and under (a) above), which failure has not been cured within 30 days after written notice from the County to the Company specifying such failure and requesting that it be remedied, unless the Company has instituted corrective action within the 30-day period and is diligently pursuing corrective action until the default is corrected, in which case the 30-day period is extended to include the period during which the Company is diligently pursuing corrective action;

(d) A representation or warranty made by the County which is deemed materially incorrect when deemed made; or

(e) Failure by the County to perform any of the terms, conditions, obligations, or covenants hereunder, which failure has not been cured within 30 days after written notice from the Company to the County specifying such failure and requesting that it be remedied, unless the County has instituted corrective action within the 30-day period and is diligently pursuing corrective action until the default is corrected, in which case the 30-day period is extended to include the period during which the County is diligently pursuing corrective action.

**Section 3.2. *Remedies on Default.***

(a) If an Event of Default by the Company, has occurred and is continuing, then the County may take any one or more of the following remedial actions:

(i) terminate the Agreement; or

(ii) take whatever action at law or in equity may appear necessary or desirable to collect amounts due or otherwise remedy the Event of Default or recover its damages.

(b) If an Event of Default by the County has occurred and is continuing, the Company may take one or more of the following actions:

(i) bring an action for specific enforcement;

(ii) terminate the Agreement; or

(iii) in case of a materially incorrect representation or warranty, take such action as is appropriate, including legal action, to recover its damages, to the extent allowed by law.

**Section 3.3. *Reimbursement of Legal Fees and Other Expenses.*** On the occurrence of an Event

of Default, if a party is required to employ attorneys or incur other reasonable expenses for the collection of payments due under this Agreement or for the enforcement of performance or observance of any obligation or agreement, the prevailing party is entitled to seek reimbursement of the reasonable fees of such attorneys and such other reasonable expenses so incurred.

**Section 3.4. Remedies Not Exclusive.** No remedy described in this Agreement is intended to be exclusive of any other remedy or remedies, and each and every such remedy is cumulative and in addition to every other remedy given under this Agreement or existing at law or in equity or by statute.

**Section 3.5. Nonwaiver.** A delay or omission by the Company or County to exercise any right or power accruing on an Event of Default does not waive such right or power and is not deemed to be a waiver or acquiescence of the Event of Default. Every power and remedy given to the Company or County by this Agreement may be exercised from time to time and as often as may be deemed expedient.

#### **ARTICLE IV MISCELLANEOUS**

**Section 4.1. Examination of Records; Confidentiality.**

(a) The County and its authorized agents, at any reasonable time on prior notice, may enter and examine the Project and have access to and examine the Company's books and records relating to the Project for the purpose of (i) identifying the Project; (ii) confirming achievement of the Investment Commitment; and (iii) permitting the County to carry out its duties and obligations in its sovereign capacity (such as, without limitation, for such routine health and safety purposes as would be applied to any other manufacturing or commercial facility in the County).

(b) The County acknowledges that the Company may utilize confidential and proprietary processes and materials, services, equipment, trade secrets, and techniques ("Confidential Information") and that disclosure of the Confidential Information would result in substantial economic harm to the Company. The Company may clearly label any Confidential Information delivered to the County pursuant to this Agreement as "Confidential Information." Except as required by law, the County, or any employee, agent, or contractor of the County, shall not disclose or otherwise divulge any labeled Confidential Information to any other person, firm, governmental body or agency. The Company acknowledges that the County is subject to the South Carolina Freedom of Information Act, and, as a result, must disclose certain documents and information on request, absent an exemption. If the County is required to disclose any Confidential Information to a third party, the County shall provide the Company with as much advance notice as is reasonably possible of such disclosure requirement prior to making such disclosure, and to cooperate reasonably with any attempts by the Company to obtain judicial or other relief from such disclosure requirement.

**Section 4.2. Assignment.** The Company may assign or otherwise transfer any of its rights and interest in this Agreement on prior written consent of the County, which may be given by resolution, and which consent will not be unreasonably withheld.

**Section 4.3. Provisions of Agreement for Sole Benefit of County and Company.** Except as otherwise specifically provided in this Agreement, nothing in this Agreement expressed or implied confers on any person or entity other than the County and the Company any right, remedy, or claim under or by reason of this Agreement, this Agreement being intended to be for the sole and exclusive benefit of the County and the Company.

**Section 4.4. Severability.** If any provision of this Agreement is declared illegal, invalid, or

unenforceable for any reason, the remaining provisions of this Agreement are unimpaired, and the Parties shall reform such illegal, invalid, or unenforceable provision to effectuate most closely the legal, valid, and enforceable intent of this Agreement.

**Section 4.5. *Limitation of Liability.***

(a) The County is not liable to the Company for any costs, expenses, losses, damages, claims or actions in connection with this Agreement, except from amounts received by the County from the Company under this Agreement.

(b) All covenants, stipulations, promises, agreements and obligations of the County contained in this Agreement are covenants, stipulations, promises, agreements and obligations of the County and are binding on members of the County Council or any elected official, officer, agent, servant or employee of the County only in his or her official capacity and not in his or her individual capacity, and no recourse for the payment of any moneys or performance of any of the covenants and agreements under this Agreement or for any claims based on the Agreement may be had against any member County Council or any elected official, officer, agent, servant or employee of the County except solely in their official capacity.

**Section 4.6. *Indemnification Covenant.***

(a) Except as provided in paragraph (d) below, the Company shall indemnify and save the County, its employees, elected officials, officers and agents (each, an "Indemnified Party") harmless against and from all liability or claims arising from the County's execution of this Agreement, performance of the County's obligations under this Agreement or the administration of its duties pursuant to this Agreement, or otherwise by virtue of the County having entered into this Agreement.

(b) The County is entitled to use counsel of its choice and the Company shall reimburse the County for all of its costs, including attorneys' fees, incurred in connection with the response to or defense against such liability or claims as described in paragraph (a) above. The County shall provide a statement of the costs incurred in the response or defense, and the Company shall pay the County within 30 days of receipt of the statement. The Company may request reasonable documentation evidencing the costs shown on the statement. However, the County is not required to provide any documentation which may be privileged or confidential to evidence the costs.

(c) The County may request the Company to resist or defend against any claim on behalf of an Indemnified Party. On such request, the Company shall resist or defend against such claim on behalf of the Indemnified Party, at the Company's expense. The Company is entitled to use counsel of its choice, manage and control the defense of or response to such claim for the Indemnified Party; provided the Company is not entitled to settle any such claim without the consent of that Indemnified Party.

(d) Notwithstanding anything herein to the contrary, the Company is not required to indemnify any Indemnified Party against or reimburse the County for costs arising from any claim or liability (i) occasioned by the acts of that Indemnified Party, which are unrelated to the execution of this Agreement, performance of the County's obligations under this Agreement, or the administration of its duties under this Agreement, or otherwise by virtue of the County having entered into this Agreement; or (ii) resulting from that Indemnified Party's own negligence, bad faith, fraud, deceit, or willful misconduct.

(e) An Indemnified Party may not avail itself of the indemnification or reimbursement of costs provided in this Section unless it provides the Company with prompt notice, reasonable under the circumstances, of the existence or threat of any claim or liability, including, without limitation, copies of





approval and implementation of the terms and provisions of this Agreement, including reasonable attorney's fees. Administration Expenses does not include any costs, expenses, including attorney's fees, incurred by the County (i) in defending challenges to the Fee Payments or Infrastructure Credits brought by third parties or the Company or its affiliates and related entities, or (ii) in connection with matters arising at the request of the Company outside of the immediate scope of this Agreement, including amendments to the terms of this Agreement. The payment by the Company of the County's Administration Expenses shall not be construed as prohibiting the County from engaging, at its discretion, the counsel of the County's choice.

**Section 4.9. Entire Agreement.** This Agreement expresses the entire understanding and all agreements of the Parties with each other, and neither Party is bound by any agreement or any representation to the other Party which is not expressly set forth in this Agreement or in certificates delivered in connection with the execution and delivery of this Agreement.

**Section 4.10 Agreement to Sign Other Documents.** From time to time, and at the expense of the Company, to the extent any expense is incurred, the County agrees to execute and deliver to the Company such additional instruments as the Company may reasonably request and as are authorized by law and reasonably within the purposes and scope of the Act and this Agreement to effectuate the purposes of this Agreement.

**Section 4.11. Agreement's Construction.** Each Party and its counsel have reviewed this Agreement and any rule of construction to the effect that ambiguities are to be resolved against a drafting party does not apply in the interpretation of this Agreement or any amendments or exhibits to this Agreement.

**Section 4.12. Applicable Law.** South Carolina law, exclusive of its conflicts of law provisions that would refer the governance of this Agreement to the laws of another jurisdiction, governs this Agreement and all documents executed in connection with this Agreement.

**Section 4.13. Counterparts.** This Agreement may be executed in any number of counterparts, and all of the counterparts together constitute one and the same instrument.

**Section 4.14. Amendments.** This Agreement may be amended only by written agreement of the parties hereto.

**Section 4.15. Waiver.** Either Party may waive compliance by the other Party with any term or condition of this Agreement but the waiver is valid only if it is in a writing signed by the waiving Party.

**Section 4.16. Termination.** Unless first terminated under any other provision of this Agreement, this Agreement terminates on the expiration of the Credit Term and payment by the Company of any outstanding Net Fee Payment due on the Project pursuant to the terms of this Agreement.

**Section 4.17. Business Day.** If any action, payment, or notice is, by the terms of this Agreement, required to be taken, made, or given on any day which is a Saturday, Sunday, or legal holiday in the jurisdiction in which the Party obligated to act is situated, such action, payment, or notice may be taken, made, or given on the following business day with the same effect as if taken, made or given as required under this Agreement, and no interest will accrue in the interim.

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

IN WITNESS WHEREOF, Richland County, South Carolina, has caused this Agreement to be executed by the appropriate officials of the County and its corporate seal to be affixed and attested, effective the day and year first above written.

**RICHLAND COUNTY, SOUTH CAROLINA**

---

Joyce Dickerson  
Chair, Richland County Council

(SEAL)  
ATTEST:

---

Clerk to Council, Richland County Council

*[SIGNATURE PAGE 1 TO INFRASTRUCTURE CREDIT AGREEMENT]*

IN WITNESS WHEREOF, 209 Stoneridge, LLC, has caused this Agreement to be executed by its authorized officers, effective the day and year first above written.

**209 STONERIDGE, LLC**

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Its: \_\_\_\_\_

*[SIGNATURE PAGE 2 TO INFRASTRUCTURE CREDIT AGREEMENT]*

**EXHIBIT A**  
**LAND DESCRIPTION**

All that certain piece, parcel or lot of land, with improvements thereon, if any, situate, lying and being in the County of Richland, State of South Carolina, being shown and delineated as Tract 33, containing 39,996.34 square feet, as fully shown on a map prepared for Greystone Office Building, A Limited Partnership, by W.L. Stephens, Jr., PE & LS, dated November 29, 1977, and recorded in the Register of Deeds Office in Richland County in Plat Book Y, at Page 720; said property being further shown and designated as 0.92 acre, more or less, on that certain plat prepared for Harborway Properties, LLC by Cox and Dinkins, Inc. dated April 7, 2010 and recorded in the Register of Deeds Office in Richland County in Plat Book 2141, at Page 2939; reference being made to said latter plat for a more complete and accurate description of said property.

This being the same property conveyed by deed from Harborway Properties, LLC unto Branch Banking and Trust Company and recorded on August 29, 2016, at the Richland County ROD in Book R 2141 at Page 2940; and being the same property conveyed to SBMUNICUST % LB ASHLEY LLC by Tax Deed dated March 17, 2017, and recorded on March 20, 2017, at the Richland County ROD in Book R 2195 at Page 1129.

TMS No. 07212-03-06.

**EXHIBIT B**  
**DESCRIPTION OF INFRASTRUCTURE CREDIT**

25% of the Fee Payments per year for five (5) years.

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

AN ORDINANCE AUTHORIZING, THE EXECUTION AND DELIVERY OF A FEE-IN-LIEU OF TAXES AND SPECIAL SOURCE REVENUE CREDIT AGREEMENT BETWEEN RICHLAND COUNTY, SOUTH CAROLINA AND PROJECT AEGIS (“THE COMPANY”) IN CONNECTION WITH THE COMPANY’S PROJECT IN RICHLAND COUNTY (THE “PROJECT”); THE EXECUTION AND DELIVERY OF ONE OR MORE GRANT AGREEMENTS RELATING TO THE PROJECT; THE PROVISION BY THE COUNTY OF CERTAIN INFRASTRUCTURE IN SUPPORT OF THE PROJECT; AND MATTERS RELATING THERETO.

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

AN ORDINANCE AUTHORIZING, THE CONVEYANCE OF CERTAIN REAL PROPERTY  
BY THE COUNTY IN CONNECTION WITH PROJECT AEGIS; AND MATTERS  
RELATING THERETO.



## 6. Mitigation Bank: Excess credit sales

Discussion Point:

Included in your agenda you will find two requests for sale of mitigation bank credits from the Mill Creek Mitigation Bank. This bank was established with Transportation Program funding in order to provide mitigation credits necessary to acquire construction permits for transportation projects. The contract the County holds with mitigation bankers also allows the County to sell excess credits, and retain 92% of the sale value. Funding from previous credit sales has been credited back to the Transportation Program as the Program wholly funded this mitigation bank.

<u>Project Name</u>	<u>Richland County Share</u>
Killian Lakes Development	\$105,625.20
One Eleven Apartments	\$35,328.00

Recommendation:

Staff respectfully requests the Committee to concur with these credit sales and forward to full Council for consideration.



MITIGATION CREDIT SALES AGREEMENT SUMMARY

<u>Project:</u>	Killian Lakes Development
<u>Buyer:</u>	Edward Rose Development Company, LLC
<u>Buyer's USACE 404 Permit #</u>	SAC-2007-00984
<u>Price Per Wetland Credit:</u>	\$20,000
<u>Price Per Stream Credit:</u>	\$200
<u>Wetland Credits:</u>	0.00
<u>Stream Credits:</u>	574.05 (287.025 restoration/enhancement credits; 287.025 preservation credits)
<u>Credit Gross Proceeds:</u>	\$114,810.00
<u>Richland County Share:</u>	\$105,625.20 (92% of \$114,810)
<u>MCMH Share:</u>	\$9,184.80 (8% of \$114,810)

AGREEMENT FOR PURCHASE AND SALE OF STREAM  
AND/OR WETLAND MITIGATION CREDITS

THIS AGREEMENT FOR PURCHASE AND SALE OF STREAM AND/OR WETLAND CREDITS (this "Agreement") is dated this \_\_\_\_ day of \_\_\_\_\_, 2017 by and between MILL CREEK MITIGATION HOLDINGS LLC, a Delaware limited liability company, and the owner and operator of a stream and wetland mitigation bank commonly known as the Mill Creek Mitigation Bank ("Seller"), and Edward Rose Development Company, LLC, a Michigan limited liability company ("Purchaser").

RECITALS

A. The Mill Creek Mitigation Bank (the "Bank") was approved and is being operated pursuant to that certain Final Mitigation Banking Instrument: Mill Creek Mitigation Bank, dated December 22, 2015, United States Army Corps of Engineers - Charleston District (the "Corps") permit number SAC-2014-00222 (the "MBI");

B. Pursuant to the MBI, the Bank may offer wetland and stream credits for sale as compensation for unavoidable adverse impacts to, or for the loss of, among other things, jurisdictional waters of the United States, including wetlands and streams, and other natural habitats and ecosystems, located within that certain geographical service area more particularly depicted on the attached **Exhibit A** (the "Service Area");

C. Purchaser desires to procure compensatory mitigation in connection with the project known as "Killian Lakes Development" pursuant to USACE Charleston District permit SAC-2007-00984;

D. Purchaser desires to purchase from Seller, and Seller desires to sell to Purchaser, wetland and/or stream mitigation credits pursuant to the terms and conditions set forth herein.

AGREEMENT

In consideration of the foregoing and the mutual promises, covenants, agreements and obligations of the parties contained in this Agreement, the adequacy and sufficiency of which are hereby acknowledged, and intending to be legally bound hereby, Seller and Purchaser agree as follows:

**1. Recitals.** The recitals to this Agreement are herein incorporated by reference and made an integral part hereof.

**2. Sale of Credits.** Seller hereby sells to Purchaser, and Purchaser hereby purchases from Seller (a) TWO HUNDRED AND EIGHT-SEVEN and 25/1000 (287.025) stream restoration/enhancement mitigation credits and TWO HUNDRED AND EIGHT-SEVEN and 25/1000 (287.025) stream preservation mitigation credits (the "Stream Credits") and (b) ZERO AND 00/100 (0.00) wetland mitigation credits (the "Wetland Credits," and together with the Stream Credits, the "Credits") from the Bank based on the terms and conditions contained herein.

Upon execution of this Agreement, Seller shall provide Purchaser with an invoice for the Purchase Price (as defined in Section 3 below) and Purchaser shall remit payment within 14 days of receipt of such invoice. Upon receipt of such payment, Seller will file the documentation with the Corps necessary to transfer the Credits to Purchaser in accordance with Corps policies and procedures and the terms of this Agreement.

**3. Purchase Price.** The purchase price for the (a) Stream Credits shall be TWO HUNDRED and 00/100 Dollars (\$200.00) for each Stream Credit, for a total purchase price for the Stream Credits of ONE HUNDRED FOURTEEN THOUSAND EIGHT HUNDRED TEN and 00/100 Dollars (\$114,810.00); and (b) Wetland Credits shall be ZERO and 00/100 Dollars (\$0.00) for each Wetland Credit, for a total purchase price for the Wetland Credits of ZERO and 00/100 (\$0.00), for a grand total purchase price for the Stream Credits and the Wetland Credits of ONE HUNDRED FOURTEEN THOUSAND EIGHT HUNDRED TEN and 00/100 Dollars (\$114,810.00) (the "Purchase Price"). Upon payment of the Purchase Price in full, neither Purchaser, nor its successors, assignees or designees shall be liable for the payment to Seller of any other consideration or fee in connection with the sale of the Credits.

**4. Delivery of Credits.** Upon receipt of the Purchase Price, Seller shall:

(a) notify the Corps of the completion of the sale using such documentation as required by the Corps, with a copy delivered to Purchaser; and

(b) deliver to Purchaser a bill of sale for the Credits in substantially the same form as Exhibit B attached hereto.

**5. Representations, Warranties and Covenants.** Seller hereby warrants and represents to, and covenants with, Purchaser as follows:

(c) Seller expressly represents, warrants, and covenants the matters set forth as Recitals A and B.

(d) Seller has a sufficient number of credits in the Bank to consummate the transactions contemplated herein.

(e) Seller has full power and authority to convey the Credits to Purchaser and to consummate the transactions contemplated herein.

(f) Seller shall deliver the Credits to Purchaser free and clear of any liens, security interests or other encumbrances.

(g) There is no pending or threatened action or proceeding affecting Seller before any court, governmental agency, or arbitrator that would adversely affect Seller's ability to comply with its obligations hereunder.

(h) Seller hereby covenants and agrees with Purchaser that Seller shall not sell any number of credits in the Bank that would prevent the consummation of the transactions contemplated herein.

(i) Seller shall be solely responsible, at its sole cost and expense, for compliance with the requirements of this Agreement and with all statutes, regulations, and other requirements applicable to the operation, management, and maintenance of the Bank.

(j) That the execution and delivery of this Agreement on behalf of Seller has been duly authorized and such execution and delivery shall constitute the valid and binding agreement of Seller and is enforceable in accordance with its terms.

(k) All of Seller's representations, warranties, and covenants herein shall survive the termination of this Agreement and the delivery of the bill or bills of sale pursuant to this Agreement.

## **6. Miscellaneous**

(a) Notices. Any notice, demand or request which is required or permitted hereunder shall be deemed effective when hand delivered, sent by a receipted overnight delivery service, or mailed, via certified mail, to the following addresses:

Seller: Mill Creek Mitigation Holdings LLC  
Six Concourse Parkway, Suite 2140  
Atlanta, Georgia

### **With a copy to:**

The Lyme Timber Company LP  
General Counsel  
23 South Main Street, 3<sup>rd</sup> Floor  
Hanover, NH 03755

Purchaser: Edward Rose Development Company, LLC  
38525 WOODWARD  
BLOOMFIELD HILLS MI 48303  
ATTN: RICHARD GLENNON, PROPERTY MANAGER

With a copy to:

38525 WOODWARD AVE  
BLOOMFIELD HILLS, MI 48303  
ATTN: LEGAL DEPT.

The parties may change the address for notices by delivery of a change of address to the other party in accordance with the requirements set forth above.

(b) Brokerage Commission. Seller and Purchaser each warrant to the other that no broker, agent, salesman or similar person is entitled to a commission or other fee in connection with this transaction. In the event any claims arise for commissions, fees, or other compensation in connection with this transaction, the party causing such claims or through whom such claims are made shall indemnify, defend, and hold harmless the other party for any loss or damage incurred by such party because of such claim. The foregoing indemnification shall survive the cancellation, termination or consummation of this Agreement.

(c) Entire Agreement; Modification. This Agreement constitutes the entire agreement between the parties with respect to the subject matter hereof and neither Party shall be bound by representations except as set forth in this Agreement. There are no other agreements or understandings, written or oral, between the parties with regard to the subject matter of this Agreement. This Agreement shall not be modified or amended except by a written document executed by both parties.

(d) Governing Law. The validity, interpretation, and performance of this Agreement shall be governed by and construed in accordance with the laws of the State of South Carolina, with the proper venue being Richland County, except to the extent that any applicable federal law or regulation shall supersede South Carolina law in relation to the matters set forth in this Agreement.

(e) Compliance with Applicable Laws. Both parties shall comply with all applicable federal, state, and local laws, rules, regulations, and orders in the conduct of their obligations hereunder.

(f) Severability. The provisions of this Agreement shall be deemed severable

and, if any term herein shall be held invalid, illegal, or unenforceable, the remainder of this Agreement shall continue to be effective and binding on the parties.

(g) Additional Assurances. Both of the parties agree to execute and deliver any other document or documents that may be requested from time to time by the other party necessary to perform such party's obligations under this Agreement.

(h) Attorney's Fees. If legal action is commenced by either party to enforce its rights under this Agreement, the substantially prevailing party in such action shall be entitled to recover reasonable costs incurred by it, including, but not limited to, reasonable attorneys' fees and costs, in addition to any other relief granted.

(i) Nature of Credits. The sale and conveyance of the Credits pursuant to this Agreement shall not constitute the conveyance or transfer of any right, interest, or ownership of real property or the Bank, nor shall such conveyance impose upon Purchaser any obligation, duty, or liability arising from or incident to ownership of an interest in real property.

(k) Assignability. Neither party hereto may assign its rights and obligations hereunder to any third party entity without the prior written consent of the other, which may be withheld in the other party's sole discretion.

(l) Counterparts. This Agreement may be executed in counterparts, each of which shall constitute an original, and all of which shall together constitute one and the same Agreement. Signed signature pages may be transmitted by facsimile or email and any such signature or electronic signature shall have the same legal effect as an original.

(m) Confidentiality. Purchaser and Seller agree to maintain, in strictest confidence, the terms of this Agreement and any and all communications between the parties. This Section shall not apply to any information which: (i) was known to receiving party prior to it being disclosed to such party hereunder and can be so demonstrated by written documentation; (ii) was in the public domain by publication when received by receiving party or later came into the public domain by publication through no fault of receiving party; (iii) was disclosed to receiving party, free of confidentiality obligations, by a third party who (to the knowledge of receiving party) is not under obligations of secrecy concerning the information and/or materials; or (iv) was independently developed by receiving party without reference to the information. In the event legal process requires or requests disclosure by receiving party, its agents, representatives and/or employees of any of the information, if legally permissible to do so, receiving party shall give prompt notice of such process immediately to the other party so that the other party may either

seek an appropriate protective order and/or waive compliance by receiving party with the provisions of this Section.

WITNESS the following authorized signatures:

SELLER: MILL CREEK MITIGATION HOLDINGS LLC

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

Printed:

Its:

PURCHASER: EDWARD ROSE DEVELOPMENT COMPANY, LLC

By: Don Cucco

Printed:

Its:

DON CUCCO  
DIRECTOR OF CONSTRUCTION

EXHIBIT A

[Attach map of Service Area]



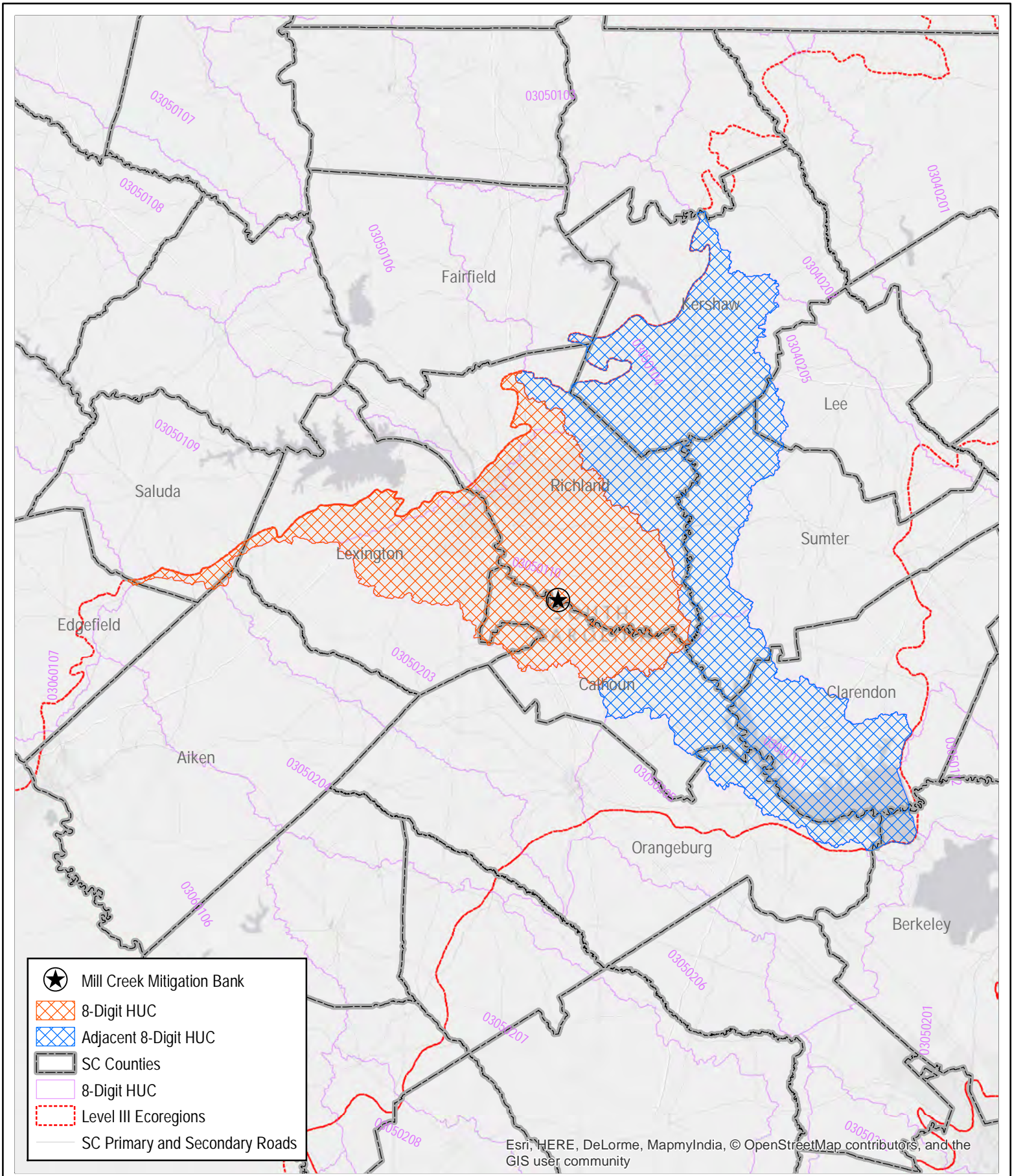


EXHIBIT B

BILL OF SALE

THIS BILL OF SALE is made as of the \_\_\_\_ day of \_\_\_\_\_, 2016, by MILL CREEK MITIGATION HOLDINGS LLC, a Delaware limited liability company ("Seller"), and \_\_\_\_\_, a \_\_\_\_\_ ("Purchaser").

Seller and Purchaser have entered into that certain Agreement for Purchase and Sale of Stream and Wetland Mitigation Credits dated \_\_\_\_\_, 2016 (the "Agreement"), the terms of which are incorporated herein by reference and made a part hereof, with respect to the sale by Seller and the purchase by Purchaser of Stream Credits and Wetland Credits (each as defined in the Agreement) held in Seller's Mill Creek Mitigation Bank, Richland County, South Carolina.

In consideration of the Purchase Price (as defined in the Agreement) and other good and valuable consideration, the receipt and sufficiency of which are mutually acknowledged, Seller hereby sells, transfers, assigns, conveys, delivers, and sets over to Purchaser, its successors, or assigns, \_\_\_\_\_ and \_\_\_/100 Stream Credits and \_\_\_\_\_ and \_\_\_/100 Wetland Credits, to have and hold all such Stream Credits and Wetland Credits, forever. Witness the following authorized signature:

Mill Creek Mitigation Holdings LLC

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

Printed:

Its:

MITIGATION CREDIT SALES AGREEMENT SUMMARY

<u>Project:</u>	One Eleven Apartments
<u>Buyer:</u>	One Eleven Apartments, LLC
<u>Buyer's USACE 404 Permit #</u>	SAC 2014-00834-6F
<u>Price Per Wetland Credit:</u>	\$20,000
<u>Price Per Stream Credit:</u>	\$200
<u>Wetland Credits:</u>	0.00
<u>Stream Credits:</u>	192 (81.00 restoration/enhancement credits; 111 preservation credits)
<u>Credit Gross Proceeds:</u>	\$38,400.00
<u>Richland County Share:</u>	\$35,328.00 (92% of \$38,400)
<u>MCMH Share:</u>	\$3,072.00 (8% of \$38,400)



AGREEMENT FOR PURCHASE AND SALE OF STREAM  
AND/OR WETLAND MITIGATION CREDITS

THIS AGREEMENT FOR PURCHASE AND SALE OF STREAM AND/OR WETLAND CREDITS (this "Agreement") is dated this 6<sup>th</sup> day of February, 2017 by and between MILL CREEK MITIGATION HOLDINGS LLC, a Delaware limited liability company, and the owner and operator of a stream and wetland mitigation bank commonly known as the Mill Creek Mitigation Bank ("Seller"), and One Eleven Apartments, LLC, a South Carolina limited liability company ("Purchaser").

RECITALS

A. The Mill Creek Mitigation Bank (the "Bank") was approved and is being operated pursuant to that certain Final Mitigation Banking Instrument: Mill Creek Mitigation Bank, dated December 22, 2015, United States Army Corps of Engineers - Charleston District (the "Corps") permit number SAC-2014-00222 (the "MBI");

B. Pursuant to the MBI, the Bank may offer wetland and stream credits for sale as compensation for unavoidable adverse impacts to, or for the loss of, among other things, jurisdictional waters of the United States, including wetlands and streams, and other natural habitats and ecosystems, located within that certain geographical service area more particularly depicted on the attached Exhibit A (the "Service Area");

C. Purchaser desires to procure compensatory mitigation in connection with the project known as "One Eleven Apartments" pursuant to USACE Charleston District permit SAC 2014-00834-6F;

D. Purchaser desires to purchase from Seller, and Seller desires to sell to Purchaser, wetland and/or stream mitigation credits pursuant to the terms and conditions set forth herein.

AGREEMENT

In consideration of the foregoing and the mutual promises, covenants, agreements and obligations of the parties contained in this Agreement, the adequacy and sufficiency of which are hereby acknowledged, and intending to be legally bound hereby, Seller and Purchaser agree as follows:

**1. Recitals.** The recitals to this Agreement are herein incorporated by reference and made an integral part hereof.

**2. Sale of Credits.** Seller hereby sells to Purchaser, and Purchaser hereby purchases from Seller (a) EIGHTY-ONE and 00/100 (81.00) stream restoration/enhancement mitigation credits and ONE HUNDRED AND ELEVEN and 00/100 (111.00) stream preservation mitigation credits (the "Stream Credits") and (b) ZERO AND 00/100 (0.00) wetland mitigation credits (the "Wetland Credits," and together with the Stream Credits, the "Credits") from the Bank based on the terms and conditions contained herein.

Upon execution of this Agreement, Seller shall provide Purchaser with an invoice for the Purchase Price (as defined in Section 3 below) and Purchaser shall remit payment within 14 days of receipt of such invoice. Upon receipt of such payment, Seller will file the documentation with the Corps necessary to transfer the Credits to Purchaser in accordance with Corps policies and procedures and the terms of this Agreement.

**3. Purchase Price.** The purchase price for the (a) Stream Credits shall be TWO HUNDRED and 00/100 Dollars (\$200.00) for each Stream Credit, for a total purchase price for the Stream Credits of THIRTY-EIGHT THOUSAND FOUR HUNDRED and 00/100 Dollars (\$38,400.00); and (b) Wetland Credits shall be ZERO and 00/100 Dollars (\$0.00) for each Wetland Credit, for a total purchase price for the Wetland Credits of ZERO and 00/100 (\$0.00), for a grand total purchase price for the Stream Credits and the Wetland Credits of THIRTY-EIGHT THOUSAND FOUR HUNDRED and 00/100 Dollars (\$38,400.00) (the "Purchase Price"). Upon payment of the Purchase Price in full, neither Purchaser, nor its successors, assignees or designees shall be liable for the payment to Seller of any other consideration or fee in connection with the sale of the Credits.

**4. Delivery of Credits.** Upon receipt of the Purchase Price, Seller shall:

- (a) notify the Corps of the completion of the sale using such documentation as required by the Corps, with a copy delivered to Purchaser; and
- (b) deliver to Purchaser a bill of sale for the Credits in substantially the same form as Exhibit B attached hereto.

**5. Representations, Warranties and Covenants.** Seller hereby warrants and represents to, and covenants with, Purchaser as follows:

- (c) Seller expressly represents, warrants, and covenants the matters set forth as Recitals A and B.
- (d) Seller has a sufficient number of credits in the Bank to consummate the transactions contemplated herein.

(e) Seller has full power and authority to convey the Credits to Purchaser and to consummate the transactions contemplated herein.

(f) Seller shall deliver the Credits to Purchaser free and clear of any liens, security interests or other encumbrances.

(g) There is no pending or threatened action or proceeding affecting Seller before any court, governmental agency, or arbitrator that would adversely affect Seller's ability to comply with its obligations hereunder.

(h) Seller hereby covenants and agrees with Purchaser that Seller shall not sell any number of credits in the Bank that would prevent the consummation of the transactions contemplated herein.

(i) Seller shall be solely responsible, at its sole cost and expense, for compliance with the requirements of this Agreement and with all statutes, regulations, and other requirements applicable to the operation, management, and maintenance of the Bank.

(j) That the execution and delivery of this Agreement on behalf of Seller has been duly authorized and such execution and delivery shall constitute the valid and binding agreement of Seller and is enforceable in accordance with its terms.

(k) All of Seller's representations, warranties, and covenants herein shall survive the termination of this Agreement and the delivery of the bill or bills of sale pursuant to this Agreement.

**6. Miscellaneous**

(a) Notices. Any notice, demand or request which is required or permitted hereunder shall be deemed effective when hand delivered, sent by a receipted overnight delivery service, or mailed, via certified mail, to the following addresses:

Seller: Mill Creek Mitigation Holdings LLC  
Six Concourse Parkway, Suite 2140  
Atlanta, Georgia

**With a copy to:**

The Lyme Timber Company LP  
General Counsel  
23 South Main Street, 3<sup>rd</sup> Floor  
Hanover, NH 03755

Purchaser: One Eleven Apartments, LLC  
Attn: Hunter Gibson  
10 S. Academy St, Ste 360  
Greenville, SC 29601

**With a copy to:**

Robert Beach  
955 East Main St, Ste E#52  
Lexington, SC 29072

The parties may change the address for notices by delivery of a change of address to the other party in accordance with the requirements set forth above.

(b) Brokerage Commission. Seller and Purchaser each warrant to the other that no broker, agent, salesman or similar person is entitled to a commission or other fee in connection with this transaction. In the event any claims arise for commissions, fees, or other compensation in connection with this transaction, the party causing such claims or through whom such claims are made shall indemnify, defend, and hold harmless the other party for any loss or damage incurred by such party because of such claim. The foregoing indemnification shall survive the cancellation, termination or consummation of this Agreement.

(c) Entire Agreement; Modification. This Agreement constitutes the entire agreement between the parties with respect to the subject matter hereof and neither Party shall be bound by representations except as set forth in this Agreement. There are no other agreements or understandings, written or oral, between the parties with regard to the subject matter of this Agreement. This Agreement shall not be modified or amended except by a written document executed by both parties.

(d) Governing Law. The validity, interpretation, and performance of this Agreement shall be governed by and construed in accordance with the laws of the State of South Carolina, with the proper venue being Richland County, except to the extent that any applicable federal law or regulation shall supersede South Carolina law in relation to the matters set forth in this Agreement.

(e) Compliance with Applicable Laws. Both parties shall comply with all applicable federal, state, and local laws, rules, regulations, and orders in the conduct of their obligations hereunder.

(f) Severability. The provisions of this Agreement shall be deemed severable

and, if any term herein shall be held invalid, illegal, or unenforceable, the remainder of this Agreement shall continue to be effective and binding on the parties.

(g) Additional Assurances. Both of the parties agree to execute and deliver any other document or documents that may be requested from time to time by the other party necessary to perform such party's obligations under this Agreement.

(h) Attorney's Fees. If legal action is commenced by either party to enforce its rights under this Agreement, the substantially prevailing party in such action shall be entitled to recover reasonable costs incurred by it, including, but not limited to, reasonable attorneys' fees and costs, in addition to any other relief granted.

(i) Nature of Credits. The sale and conveyance of the Credits pursuant to this Agreement shall not constitute the conveyance or transfer of any right, interest, or ownership of real property or the Bank, nor shall such conveyance impose upon Purchaser any obligation, duty, or liability arising from or incident to ownership of an interest in real property.

(k) Assignability. Neither party hereto may assign its rights and obligations hereunder to any third party entity without the prior written consent of the other, which may be withheld in the other party's sole discretion.

(l) Counterparts. This Agreement may be executed in counterparts, each of which shall constitute an original, and all of which shall together constitute one and the same Agreement. Signed signature pages may be transmitted by facsimile or email and any such signature or electronic signature shall have the same legal effect as an original.

(m) Confidentiality. Purchaser and Seller agree to maintain, in strictest confidence, the terms of this Agreement and any and all communications between the parties. This Section shall not apply to any information which: (i) was known to receiving party prior to it being disclosed to such party hereunder and can be so demonstrated by written documentation; (ii) was in the public domain by publication when received by receiving party or later came into the public domain by publication through no fault of receiving party; (iii) was disclosed to receiving party, free of confidentiality obligations, by a third party who (to the knowledge of receiving party) is not under obligations of secrecy concerning the information and/or materials; or (iv) was independently developed by receiving party without reference to the information. In the event legal process requires or requests disclosure by receiving party, its agents, representatives and/or employees of any of the information, if legally permissible to do so, receiving party shall give prompt notice of such process immediately to the other party so that the other party may either



seek an appropriate protective order and/or waive compliance by receiving party with the provisions of this Section.

WITNESS the following authorized signatures:

SELLER: MILL CREEK MITIGATION HOLDINGS LLC

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

Printed:

Its:

PURCHASER: ONE ELEVEN APARTMENTS, LLC

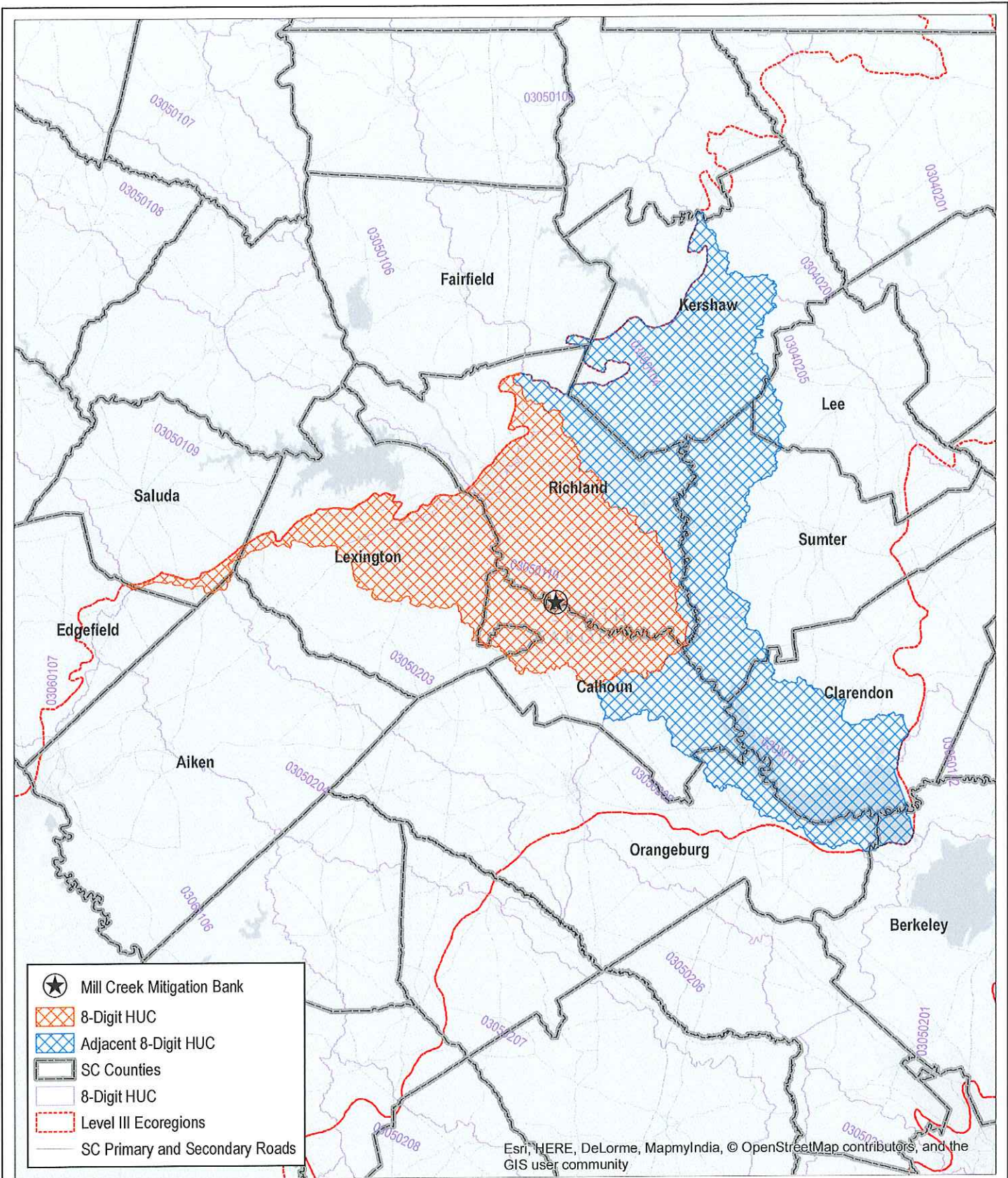
By: B. Hunter Gibson

Printed: B. Hunter Gibson

Its: Authorized Member

EXHIBIT A

[Attach map of Service Area]



**Figure 16: Service Area Map**  
 Mill Creek Mitigation Bank  
 Richland County, South Carolina  
 Source: ESRI, USGS, EPA  
 Date: July 2016

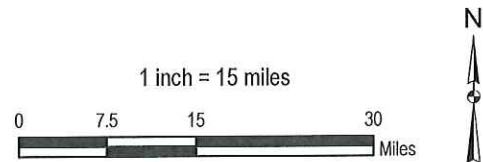


EXHIBIT B

BILL OF SALE

THIS BILL OF SALE is made as of the \_\_\_\_ day of \_\_\_\_\_, 2016, by MILL CREEK MITIGATION HOLDINGS LLC, a Delaware limited liability company ("Seller"), and \_\_\_\_\_, a \_\_\_\_\_ ("Purchaser").

Seller and Purchaser have entered into that certain Agreement for Purchase and Sale of Stream and Wetland Mitigation Credits dated \_\_\_\_\_, 2016 (the "Agreement"), the terms of which are incorporated herein by reference and made a part hereof, with respect to the sale by Seller and the purchase by Purchaser of Stream Credits and Wetland Credits (each as defined in the Agreement) held in Seller's Mill Creek Mitigation Bank, Richland County, South Carolina.

In consideration of the Purchase Price (as defined in the Agreement) and other good and valuable consideration, the receipt and sufficiency of which are mutually acknowledged, Seller hereby sells, transfers, assigns, conveys, delivers, and sets over to Purchaser, its successors, or assigns, \_\_\_\_\_ and \_\_\_\_/100 Stream Credits and \_\_\_\_\_ and \_\_\_\_/100 Wetland Credits, to have and hold all such Stream Credits and Wetland Credits, forever. Witness the following authorized signature:

Mill Creek Mitigation Holdings LLC

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

Printed:

Its:



## 7. Decker Boulevard Neighborhood Improvement Project: Executive Summary

### Discussion Point:

Included in your agenda you will find an executive summary for the Decker Boulevard/Woodfield Park Neighborhood Improvement Project. This project is one of several Neighborhood Improvement Projects included in the Transportation Program. The total budget for this project is \$12.3 million, and due to its size the program produces a preliminary concept report to support a public input meeting which then leads to an executive summary report with recommendations for design of the project. The public meeting was held February 9, 2017, and based on public comment the executive summary recommends:

1. Decker Blvd Streetscape from Trenholm Rd to Brookfield Rd

The streetscape includes non-continuous planted medians, street trees, lighting\*, sidewalk improvements with ADA accommodations, undergrounding of communication lines and taller power lines on one side of the roadway.

2. Decker Blvd Streetscape from Brookfield Rd to Percival Rd

The streetscape includes street trees, lighting\* and sidewalk improvements with ADA accommodations. This section does not include undergrounding of utilities or planted medians.

3. Intersection Improvements at Decker Blvd and Trenholm Rd, O'Neil Ct, Brookfield Rd, Faraway Dr, and Percival Rd

The intersection improvements include adding mast arms at the Decker/Trenholm intersection, signal timing and pedestrian improvements such as pedestrian control system, ADA accommodations and high visibility cross walks.

4. Sidewalk improvements along Brookfield Rd

The sidewalk improvements include widening the existing sidewalk on the south side from Decker Blvd to Richland Northeast High School and adding a new sidewalk along the north side of Brookfield Road from Decker Blvd to Richland Northeast High School. The improvements also include adding lighting\*.

5. Pedestrian Connector from Chatsworth Rd to Brookfield Rd



The pedestrian connector includes a shared-use path from the dead end of Chatsworth Rd to Brookfield Rd to tie to the proposed Brookfield Rd sidewalk.

6. Sidewalk Improvements along Faraway Dr

The sidewalk improvement includes providing a continuous sidewalk on the north side of Faraway Dr from Decker Blvd to Larchmont Dr.

Recommendation:

Staff recommends approval of this executive summary, and for it to be routed to full Council for consideration.



# TRANSPORTATION PROGRAM

## EXECUTIVE SUMMARY

Date: 6/1/17

To: Rob Perry, PE  
Director of Transportation

From: David Beaty, PE  
Program Manager

**RE: Decker Boulevard/Woodfield Park Neighborhood Improvement Project –  
Public Meeting Summary with Recommendations**

The Decker Boulevard/Woodfield Park Neighborhood Improvement Project (Decker/Woodfield NIP) is one of seven Neighborhood Improvement Projects included in the 2012 Referendum. The total budgeted amount was \$12.3 million. The Richland County Transportation Program has conducted one public meeting for the Decker/Woodfield NIP as well as completed conceptual studies. The program has also met with the South Carolina Department of Transportation (SCDOT) and Richland School District 2. This Executive Summary will provide an overview of the public meeting and offer recommendations to advance the project.

### **February 9, 2017 Public Meeting**

The Richland County Transportation Program held a public meeting for the Decker/Woodfield NIP on Thursday, February 9, 2017 from 5:00 to 7:00 p.m. at the Decker Center, located at 2500 Decker Boulevard. The meeting was conducted with an informal, open house format with project displays and Richland County Transportation Program representatives on hand to answer questions. Upon entering the meeting, individuals were provided a handout and a comment card. After reviewing the project displays, the attendees were encouraged to provide comments on the project as well as rank various improvements within the neighborhood plan. There were 76 people in attendance for the meeting.

The project displays provided an aerial overview map and typical sections of the proposed improvements for the neighborhood. The proposed improvements included Decker Blvd Streetscape, Brookfield Rd Streetscape, Intersection Improvements, Sidewalk Improvements, Pedestrian Connectors and Bike Routes. The streetscapes included components such as lighting, sidewalks, bike lanes, utility undergrounding, trees and planted medians.

A total of 89 comments were received during the comment period. The following lists the improvements in order of preference with one being the preferred.

1. Decker Blvd Streetscape (Trenholm to Brookfield)
2. Decker Blvd Streetscape (Brookfield to Percival)
3. Intersection Improvements
4. Brookfield Rd Streetscape
5. Sidewalks
6. Pedestrian Connectors
7. Bike Routes

Fourteen comments were received concerning undergrounding of utilities with the comments split equally between undergrounding and not undergrounding. Nine comments were received concerning planted medians. The comments were split approximately equally, four in favor of planted medians and five requesting unplanted medians. Numerous comments were received in opposition to the Carriage House Road Pedestrian Connector. Improving safety near schools was also mentioned several times.

### **Recommendations**

As a result of the comments received from the public meeting, coordination with project stakeholders as well as consideration of safety, project impacts, and available funding, a number of recommendations are offered.

Based on conceptual cost estimates, the following improvements approximately sum to the project budget and are recommended for further design studies:

1. Decker Blvd Streetscape from Trenholm Rd to Brookfield Rd  
The streetscape includes non-continuous planted medians, street trees, lighting\*, sidewalk improvements with ADA accommodations, undergrounding of communication lines and taller power lines on one side of the roadway.
2. Decker Blvd Streetscape from Brookfield Rd to Percival Rd  
The streetscape includes street trees, lighting\* and sidewalk improvements with ADA accommodations. This section does not include undergrounding of utilities or planted medians.
3. Intersection Improvements at Decker Blvd and Trenholm Rd, O'Neil Ct, Brookfield Rd, Faraway Dr, and Percival Rd  
The intersection improvements include adding mast arms at the Decker/Trenholm intersection, signal timing and pedestrian improvements such as pedestrian control system, ADA accommodations and high visibility cross walks.
4. Sidewalk improvements along Brookfield Rd  
The sidewalk improvements include widening the existing sidewalk on the south side from Decker Blvd to Richland Northeast High School and adding a new sidewalk along the north side of Brookfield Road



from Decker Blvd to Richland Northeast High School. The improvements also include adding lighting\*.

5. Pedestrian Connector from Chatsworth Rd to Brookfield Rd

The pedestrian connector includes a shared-use path from the dead end of Chatsworth Rd to Brookfield Rd to tie to the proposed Brookfield Rd sidewalk.

6. Sidewalk Improvements along Faraway Dr

The sidewalk improvement includes providing a continuous sidewalk on the north side of Faraway Dr from Decker Blvd to Larchmont Dr.

\*Note: The lighting assumes Richland County will lease lighting from SCE&G. The approximate monthly lease will be \$8,300 per month for lighting along Decker Blvd and Brookfield Rd. SCE&G requires a 15-year Lighting Agreement.

As the design is progressed, the viability of one or more of the recommended improvements listed above may alter and/or the improvement cost may increase or decrease. Therefore, the following studies and improvements are recommended to be progressed into the design phase, resulting in potential changes to the recommendations.

1. Decker Blvd Streetscape from Brookfield Rd to Percival Rd

Further studies are recommended to evaluate the inclusion of undergrounding of communication lines and taller power lines on one side of the roadway.

2. Decker Blvd and Brookfield Rd Lighting

Further studies are recommended to evaluate reducing the lighting monthly lease amount along Decker Blvd and Brookfield Rd.

3. Sidewalk Improvements along Hunt Club Rd

The sidewalk improvement includes adding sidewalk along the south side of Hunt Club Rd from O'Neil Ct to Chatsworth Rd.

4. Pedestrian Connector from Trenholm Rd to Decker Blvd

The pedestrian connector includes a shared-use path from Trenholm Rd to Decker Blvd behind Dent Middle School.



# RICHLAND COUNTY GOVERNMENT

Office of the County Administrator

## REQUEST OF ACTION

**Subject:** FY17 – Approval of Council Donations

### A. Purpose

County Council is being requested to approve donations made through individual council discretionary accounts.

### B. Background / Discussion

The State of South Carolina adopted the following budget proviso for Fiscal Year 2016 – 2017 (FY17):

#### 113.6. (AS-TREAS: Transparency-Political Subdivision Appropriation of Funds)

(A) A political subdivision receiving aid from the Local Government Fund may not:

- (1) appropriate money to any entity unless that appropriation appears as a separate and distinct line item in the political subdivision's budget or in an amendment to the political subdivision's budget; or
- (2) except in cases of emergency or unforeseen circumstances, donate funds to a non-profit organization unless the amounts donated are appropriated on a separate and distinct line item in the political subdivision's budget or an amendment to the political subdivision's budget, that includes the names of the entities to which the donations are being made. In cases of emergencies or unforeseen circumstances, a political subdivision may donate funds to a non-profit organization if the amount and purpose of the proposed donation and the nature of the emergency or unforeseen circumstances necessitating the donation are announced in open session at a public meeting held by the governing body of the political subdivision and the funds are not delivered to the organization for five days following the announced intent to make the donation; or
- (3) accept any funds from nongovernmental and inter-governmental organizations as defined in Agenda 21, adopted by the United Nations in 1992 at its Conference on Environment and Development, accredited and enlisted by the United Nations to assist in the implementation of its policies relative to Agenda 21 around the world without posting the following on the political subdivision's website for ten days:
  - (a) a full and detailed list of the funding program, including a designation that the funding program is associated with Agenda 21,
  - (b) the amount of funds involved,

(c) every mandate or requirement or action that will result from the grant or funding program's implementation.

(B) A political subdivision receiving aid from the Local Government Fund may not appropriate money to any entity without the requirement that the entity provides at the end of the fiscal year a detailed description of the purposes for which the money was used.

Finance has reviewed FY17 expenditures through June 5, 2017 that are donations that were not approved by the entire Council:

<b>Council Member</b>	<b>Post Date</b>	<b>Description</b>	<b>Amount</b>
N.Jackson	7/27/2016	Pinewood Lake Park Foundation	\$2,129.70
Joyce Dickerson	08/31/2016	Blue Ribbon Schools	\$1,000.00
Paul Livingston	11/22/2016	Black Men of Greater Columbia	\$750.00
Greg Pearce	4/26/2017	Mental Health Recovery Center, Inc.	\$500.00
Greg Pearce	5/24/2017	Columbia Rowing Club, Inc.	\$500.00
Jim Manning	4/5/2017	Richland County CASA, Inc.	\$250.00
Dalhi Myers	10/5/2016	SC State Fair	\$200.00
Jim Manning	3/14/2017	Township Foundation Membership	\$100.00
<b>Total</b>			<b>\$5,429</b>

The State of South Carolina has mandated that donations be approved by the governing body and appear in the budget; however, these donations were made through individual council discretionary accounts.

There is no financial impact associated with this request as the payments have already been made.

**C. Legislative / Chronological History**

None.

**D. Alternatives**

1. Approve this recommendation to comply with State Law.
2. Do not approve and fail to be in compliance with State Law.

**E. Final Recommendation**

The aforementioned donations are the only ones that have been identified by Finance as being paid outside of full-Council approval. Therefore, it is recommended that Council formally approve the donations as required.



# RICHLAND COUNTY GOVERNMENT

Office of the County Administrator

## REQUEST OF ACTION

**Subject:** Council Chambers Renovation

### A. Purpose

County Council is requested to authorize the construction contract with Solid Structures and a project contingency. This contract will allow for the renovation of the chambers to include ADA accessibility, larger Ante room, improved technology and better audio/visual components.

### B. Background / Discussion

Richland County Council desires to renovate the existing 3,000 square foot Council Chambers to create a more modern environment that addresses improved ADA accessibility, updated Audio/Visual integration, and additional space in the Ante Room. The intent of this renovation was that the entire space would be completely demolished back to the existing perimeter walls allowing for construction of a new layout that would better support Council meeting functions. Some of the features of the new design will include:

- New dais layout that provides at minimum a 30” deep work surface
- Full ADA accessibility around the dais
- Ante room that provides space for 11 Council members, Clerk of Council and any staff making presentations. In addition a space to lay out food and beverages.
- Two private, ADA accessible restrooms directly off the anteroom
- The public seating capacity should be within 120-150 people
- Two individual podiums, one for the public and the other for County staff
- 3 large monitors for public viewing of the agenda and any presentation material
- The ability to handle electronic voting and display for the public
- All new lighting to include LED as well as accent lighting on Council members to allow better visibility on the video feed
- Complete overhaul of HVAC diffusers and electrical system
- New millwork creating a more executive feel to the space
- New furniture behind the dais and in the well

Council Chambers is the center of government for Richland County, and thus should function and look like the center of government. There are many items in Council Chambers that are long past their useful life, and thus need to be replaced. Technology in particular is very outdated, space is extremely limited and the current flow of individuals with disabilities is hindered. This renovation project will address all of these concerns, plus provide Council Chambers with a fresh, up to date look.

The project was solicited following Richland County Procurement policy. We received 2 bids. The bid tab is attached showing the base bid and allowances, along with bid alternate

#1. This bid alternate is for adding some additional millwork throughout the chambers. While it is not a necessity, it would provide an improved aesthetic value. At this time the bid alternate has not be accepted and is not included in the requested amount.

Richland County has worked with Solid Structures in the recent past as they performed the renovation of the new Coroner’s Facility. They provided very quality work and were always responsive to any request by the County. This positive experience on the Coroner’s Facility speaks highly to their professionalism and ability to provide a product that they stand behind.

The lowest most responsive bid for this renovation was for \$828,441. There are a few allowances that will be included under the contractor’s responsibility. In addition, a construction contingency will be needed to account for any unforeseen conditions during the construction. Please see the following table for a breakdown on the total request. The total request of this ROA is \$1,246,785

Council Chambers Renovation Budget Overview	
Base Bid	\$828,441
Audio/Visual Allowance	\$235,000
Furniture Allowance	\$60,000
Signage Allowance	\$10,000
Contingency	\$113,344
<b>Total Request</b>	<b>\$1,246,785</b>

**C. Legislative / Chronological History**

This item does not have a Legislative history as this is the first time it has been presented to Council for consideration.

**D. Alternatives**

1. Approve the request to authorize a contract with Solid Structures for \$1,133,441. Also approve a project contingency amount of \$113,344 which brings the total request to \$1,246,785.
2. Do not approve the request to authorize a contract with Solid Structures or the requested contingency amount.

**E. Final Recommendation**

It is recommended that Council approve the request to authorize a contract with Solid Structures for \$1,133,441 and a project contingency of \$113,344.



# RICHLAND COUNTY GOVERNMENT CERTIFIED BID TABULATION

<b>SOLICITATION NUMBER :</b> RC-074-B-2017		<b>PROJECT NAME:</b> Council Chambers Renovation		<b>DATE ISSUED:</b> 5/5/17		<b>RECEIPT DATE:</b> 6/7/17		<b>TIME OPEN:</b> 2:00PM	
<b>DEPARTMENT:</b> Capital Projects			<b>REQUISITION #:</b>			<b>CONTRACT#:</b>		<b>PURCHASE ORDER #:</b>	
<b>POINT OF CONTACT:</b>			<b>T:</b> <b>F:</b> <b>EMAIL:</b>			<b>NUMBER OF ADDENDUM ISSUED:</b>		<b>APPARENT LOW BIDDER</b>	
ITEM	MINIMUM DESCRIPTION	UI	QTY	(\$)	COMPANY: <i>solid structures</i>	COMPANY: <i>LPA</i>	COMPANY:	COMPANY:	
1	<i>base bid + allowance</i>			(\$)	<i>\$ 828,441</i>	<i>\$ 1,097,000</i>			
2	<i>add alternate #1</i>			(\$)	<i>\$ 17,586.00</i>	<i>\$ 16,700</i>			
3				(\$)					
4				(\$)					
5				(\$)					
6				(\$)					
7				(\$)					
8				(\$)					
<b>SHIPPING</b>									
<b>TAX</b>									
<b>GRAND TOTAL</b>									
<b>DELIVERY CALENDAR DAYS</b>									
<b>WARRANTY</b>									
<b>GUARANTEE</b>									
<b>NAME AND TITLE OF CERTIFYING OFFICIAL</b> Jennifer Wladischkin, Assistant Director/Manager					<b>NAME AND TITLE OF ASSISTANT</b> <i>Christopher Beard, Project Manager</i>				
<b>SIGNATURE</b> <i>Jennifer Wladischkin</i>					<b>SIGNATURE</b> <i>Christopher Beard</i>				
<b>DATE:</b> 6/7/17					<b>DATE:</b> <i>6/7/16</i>				

2017 JUN -7 PM 2:00  
 PROJECT IDENT 0011  
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