

RICHLAND COUNTY
COUNTY COUNCIL AGENDA



Tuesday, DECEMBER 07, 2021

6:00 PM

COUNCIL CHAMBERS

RICHLAND COUNTY COUNCIL 2021



Bill Malinowski
District 1
2018-2022



Derrek Pugh
District 2
2020-2024



Yvonne McBride
District 3
2020-2024



Paul Livingston
District 4
2018-2022



Allison Terracio
District 5
2018-2022



Joe Walker III
District 6
2018-2022



Gretchen Barron
District 7
2020-2024



Overture Walker
District 8
2020-2024



Jessica Mackey
District 9
2020-2024



Cheryl English
District 10
2020-2024



Chakisse Newton
District 11
2018-2022





Richland County Council

Regular Session
December 07, 2021 - 6:00 PM
Council Chambers
2020 Hampton Street, Columbia, SC 29201

1. **CALL TO ORDER**

The Honorable Paul Livingston, Chair
Richland County Council

a. ROLL CALL

2. **INVOCATION**

The Honorable Chakisse Newton

3. **PLEDGE OF ALLEGIANCE**

The Honorable Chakisse Newton

4. **APPROVAL OF MINUTES**

The Honorable Paul Livingston

a. Regular Session: November 16, 2021 [**PAGES 9-16**]

b. Zoning Public Hearing: November 18, 2021 [**PAGES 17-20**]

c. Special Called Meeting: November 18, 2021 [**PAGES 21-22**]

5. **ADOPTION OF AGENDA**

The Honorable Paul Livingston

6. **REPORT OF THE ATTORNEY FOR EXECUTIVE SESSION ITEMS**

Patrick Wright,
County Attorney

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

7. **CITIZEN'S INPUT**

The Honorable Paul Livingston

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

8. CITIZEN'S INPUT

The Honorable Paul Livingston

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

9. REPORT OF THE COUNTY ADMINISTRATOR [PAGES 23-30]

Leonardo Brown,
County Administrator

- a. COVID-19 Update

- b. Project Updates

10. REPORT OF THE DEPUTY CLERK OF COUNCIL

Michelle Onley,
Deputy Clerk of Council

- a. 2022 Retreat Location Update

11. REPORT OF THE CHAIR

The Honorable Paul Livingston

- a. County Administrator Evaluation

- b. Redistricting Update

12. OPEN / CLOSE PUBLIC HEARINGS

The Honorable Paul Livingston

- a. Ordinance authorizing Quit-Claim deed of Olympia Alleyway to contiguous landowner (Mr. Outlaw – 726 Maryland Street)
- b. Authorizing the execution and delivery of a fee-in-lieu of ad valorem taxes and incentive agreement, and amendment of that certain existing fee-in-lieu of ad valorem agreement, by and between Richland County, South Carolina and Project Tide; to provide for payments of fees-in-lieu of taxes; authorizing certain infrastructure credits; and other related matters
- c. Authorizing the execution and delivery of a fee-in-lieu of ad valorem taxes agreement by and between Richland County, South Carolina and Tri-County Electric Cooperative, Inc., to provide for payment of a fee-in-lieu of taxes; and other related matters

13. APPROVAL OF CONSENT ITEMS

The Honorable Paul Livingston

- a. Ordinance authorizing Quit-Claim deed of Olympia Alleyway to contiguous landowner (Mr. Outlaw – 726 Maryland Street) [SECOND READING] [PAGES 30-46]
- b. 21-028MA
Matt Rains
HI to RS-MD (113.2 Acres & 8.32 Acres)
Farrow Road
TMS # R17600-02-32 & 46 [SECOND READING] [PAGES 47-48]
- c. Acceptance of an Unnamed Street into the County Road Maintenance System (CRMS) [PAGES 49-52]
- d. Emergency Services Department – EMS Supplies [PAGES 53-56]
- e. Department of Public Works – Knollwood Drive & Planters Drive Drainage Improvements – Contract Award Recommendation [PAGES 57-66]
- f. Palmetto Pride Litter Crew Grant [PAGES 67-69]

14. THIRD READING ITEMS

- a. Authorizing the execution and delivery of a fee-in-lieu of ad valorem taxes and incentive agreement, and amendment of that certain existing fee-in-lieu of ad valorem agreement, by and between Richland County, South Carolina and Project Tide; to provide for payments of fees-in-lieu of taxes; authorizing certain infrastructure credits; and other related matters [PAGES 70-110]
- b. Authorizing the execution and delivery of a fee-in-lieu of ad valorem taxes agreement by and between Richland County, South Carolina and Tri-County Electric Cooperative, Inc., to provide for payment of a fee-in-lieu of taxes; and other related matters [PAGES 111-144]

15. REPORT OF ADMINISTRATION & FINANCE COMMITTEE

The Honorable Bill Malinowski

- a. Department of Public Works – Solid Waste & Recycling Division - Residential Curbside Collection Services, Area 3 – Contract Award recommendation [PAGES 145-149]
- b. Department of Public Works – Solid Waste & Recycling Division - Residential Curbside Collection Services, Area 6 – Contract Award recommendation [PAGES 150-162]

16. REPORT OF ECONOMIC DEVELOPMENT COMMITTEE

The Honorable Yvonne McBride

- a. A Resolution (1) Approving the assignment to CA Student Living Station Columbia, LLC of all the rights, interests, and obligations of Blue Atlantic Columbia, LLC ("Blue Atlantic") under that certain credit agreement between Blue Atlantic and Richland County, South Carolina ("Credit Agreement"), (2) Authorizing the County's execution and delivery of an assignment and assumption of credit agreement in connection with such assignment; and (3) Authorizing other matters related thereto [PAGES 163-175]
- b. Committing to negotiate a fee-in-lieu of ad valorem taxes agreement between Richland County and Project Wheat; identifying the project; and other matters related thereto [PAGES 176-177]
- c. Authorizing the execution and delivery of a fee-in-lieu of ad valorem taxes agreement by and between Richland County, South Carolina and Project Wheat to provide for payment of a fee-in-lieu of taxes; and other related matters [FIRST READING] [PAGES 178-209]

17. REPORT OF THE TRANSPORTATION AD HOC COMMITTEE

The Honorable Overture Walker

- a. Mitigation Credit Sales - Quick Trip Store in Lexington County [PAGES 210-224]
- b. Mitigation Credit Sales - Amick Farms Rail Upgrade in Saluda County [PAGES 225-238]

18. OTHER ITEMS

The Honorable Paul Livingston

- a. FY22 - District 2 Hospitality Tax Allocations [PAGES 239-240]
- b. FY22 - District 8 Hospitality Tax Allocations [PAGES 241-242]
- c. FY22 - District 9 Hospitality Tax Allocations [PAGES 243-244]
- d. A Resolution to appoint and commission Franklin Bell as a Code Enforcement Officer for the proper security, general welfare, and convenience of Richland County [PAGE 245]
- e. A Resolution to appoint and commission Cinnamon Hairston as a Code Enforcement Officer for the proper security, general welfare, and convenience of Richland County [PAGE 246]

19. EXECUTIVE SESSION

Patrick Wright,
County Attorney

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

20. MOTION PERIOD

a. Amending "Fireworks" Ordinance [**PAGE 247**]

The Honorable Derrek Pugh

b. Request the Business License Ordinance be reviewed and changed to address items that are allowed by state law but are not being done by Richland County and resulting in large amounts of money not being collected. I will provide additional information to Assistant Administrator Jensen for review and handling prior to it getting to a committee

The Honorable Bill Malinowski

21. ADJOURNMENT



Special Accommodations and Interpreter Services Citizens may be present during any of the County's meetings. If requested, the agenda and backup materials will be made available in alternative formats to persons with a disability, as required by Section 202 of the Americans with Disabilities Act of 1990 (42 U.S.C. Sec. 12132), as amended and the federal rules and regulations adopted in implementation thereof. Any person who requires a disability-related modification or accommodation, including auxiliary aids or services, in order to participate in the public meeting may request such modification, accommodation, aid or service by contacting the Clerk of Council's office either in person at 2020 Hampton Street, Columbia, SC, by telephone at (803) 576-2061, or TDD at 803-576-2045 no later than 24 hours prior to the scheduled meeting.



Richland County Council
Regular Session
November 16, 2021 – 6:00 PM
Council Chambers
2020 Hampton Street, Columbia, SC 29201

COUNCIL MEMBERS PRESENT: Paul Livingston Chair, Bill Malinowski, Derrek Pugh, Allison Terracio, Joe Walker, Gretchen Barron, Overture Walker, Jesica Mackey, Cheryl English, and Chakisse Newton

OTHERS PRESENT: Kyle Holsclaw, Michelle Onley, Tamar Black, Dale Welch, Justin Landy, Leonardo Brown, John Thompson, Aric Jensen, Zachary Cavanaugh, Patrick Wright, Lori Thomas, Beverly Harris, Angela Weathersby, , Geo Price, Stacey Hamm, Judy Carter, Sandra Haynes, Sierra Flynn, Dwight Hanna, Michael Byrd, Shane Kitchens, Steven Gaither, Jeff Ruble and Brian Crooks

1. **CALL TO ORDER** – Mr. Livingston called the meeting to order at approximately 6:00 PM.

2. **INVOCATION** – The Invocation was led by the Honorable Bill Malinowski

3. **PLEDGE OF ALLEGIANCE** – The pledge of Allegiance was led by the Honorable Bill Malinowski

4. **APPROVAL OF MINUTES**

a. **Special Called Meeting: November 6, 2021** – Ms. Barron moved, seconded by Ms. Mackey, to approve the minutes as distributed.

Ms. Newton noted on Item #14 it indicates she made the motion, but also states she was not present. She requested the Clerk's Office to review the recording and verify the vote and motion.

In Favor: Malinowski, Pugh, Livingston, Terracio, J. Walker, Barron, O. Walker, Mackey, English and Newton

Not Present: McBride

The vote in favor was unanimous.

5. **ADOPTION OF AGENDA** – Mr. J. Walker moved, seconded by Ms. Barron, to adopt the agenda as published.

In Favor: Malinowski, Pugh, Livingston, Terracio, J. Walker, Barron, O. Walker, Mackey, English and Newton

Not Present: McBride

The vote in favor was unanimous.

6. **REPORT OF THE ACTING COUNTY ATTORNEY FOR EXECUTIVE SESSION ITEMS** – Mr. Wright stated the following items qualified for Executive Session:

a. **William Coggins, individually, and on behalf of all others similarly situated vs. Richland County Council and Gerald Seals – Civil Action No. 2018-CP-40-2985 – Legal Advice [Pursuant to SC Code of Laws § 30-4-**

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70(a)(2)

b. County Administrator Evaluation

c. Clerk to Council Search

7. CITIZENS' INPUT

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

8. CITIZENS' INPUT

- a. Must Pertain to Richland County Matters Not on the Agenda (Items for which a public hearing is required or a public hearing has been scheduled cannot be addressed at this time)** – Mr. David Oberly spoke regarding the mask mandate and the road maintenance fee.

9. REPORT OF THE COUNTY ADMINISTRATOR – No report was given.

POINT OF PERSONAL PRIVILEGE – Ms. Newton noted there is a COVID vaccination event in partnership with PRISMA Health and Representative Jermain Johnson at the Sheriff's Substation on Lower Richland Boulevard on Saturday, November 20th, 11:00 AM – 2:00 PM. In addition, the non-profit Carolina for All is going to be giving away Thanksgiving food baskets.

10. REPORT OF THE INTERIM CLERK OF COUNCIL

a. Proposed Council Retreat Locations

1. Charleston/N. Charleston (Embassy Suites – Downtown Charleston)
2. Greenville (Madren Conference Center – Clemson)

Ms. Onley gave an update on the retreat locations.

Ms. Barron inquired if the Madren Center was the closest location in the Greenville area.

Ms. Onley responded the Madren Center is the location we have used in the past when holding the Council Retreat in the Upstate; therefore, we contacted them first.

Ms. Barron inquired if Council needs to take action on this item at tonight's meeting.

Ms. Onley responded we need to choose a location as soon as possible, so staff can begin the planning process.

Ms. Mackey requested the information in writing.

Mr. Malinowski noted we need to inquire if there is the ability for recording, if we will be allowed to utilize in-house services or contract the services.

Ms. Onley responded, it is her understanding, we will have contract the livestreaming services.

Mr. Malinowski requested the costs for contracting out these services.

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

12. APPROVAL OF CONSENT ITEMS

- a. 21-033MA, Charles Eleazer, RU to GC (3.23 Acres), S/E Rauch Metz Road, TMS # R02500-07-36 [THIRD**

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READING]

- b. **Ordinance Authorizing Quit-Claim Deed of Olympia Alleyways to contiguous landowner (Mr. Outlaw – 726 Maryland Street) [SECOND READING]**

Ms. Newton moved, seconded by Ms. Barron, to approve the Consent Items.

In Favor: Malinowski, Pugh, Livingston, Terracio, J. Walker, Barron, O. Walker, Mackey, English and Newton

Not Present: McBride

The vote in favor was unanimous.

13. **THIRD READING ITEMS**

- a. **An Ordinance making certain changes to Article I, Chapter 16 of the Code of Ordinances of Richland County relating to business licensing and regulation** – Ms. Newton moved, seconded by Ms. Mackey, to approve this item.

Mr. Malinowski stated, for clarification, we are only approving the State requirements, the remainder of the ordinance content is unchanged.

Mr. Cavanaugh responded in the affirmative.

In Favor: Malinowski, Pugh, Livingston, Terracio, J. Walker, Barron, O. Walker, Mackey, English and Newton

Not Present: McBride

The vote in favor was unanimous.

- b. **An Ordinance Amending the Richland County Code of Ordinances, so as to adopt the Richland County Land Development Code Rewrite; and to replace Chapter 26, Land Development** – Mr. J. Walker moved, seconded by Ms. Barron, to approve this item.

Mr. J. Walker inquired if the amended ordinance removes the moratorium re-zoning language.

Mr. Price responded, until December 1, 2021, anyone can request a re-zoning under the current zoning designations. After December 1, 2021, they can request a re-zoning utilizing the new Land Development Code. The term “moratorium” has been removed from the ordinance.

Ms. Newton stated, in her area, there is constant conflict between the Comprehensive Plan and zoning recommendations. She requested to “pause” re-zonings in District 11.

Ms. Newton made a substitute motion, seconded by Ms. Barron, to adopt the ordinance, but to “pause” re-zonings in District 11 until the remapping process is complete, to allow for conflicts in the Comprehensive Plan to be addressed.

Mr. Malinowski noted Council was told they could send their comments/questions about the Land Development Code Rewrite to staff, but he has not been provided any feedback to his questions.

Ms. Terracio inquired if Council will be voting on re-zoning requests that were already in the que at the December Zoning Public Hearing.

Mr. Price responded there are re-zoning requests in the que that will come before Council in December and February.

Ms. Terracio inquired if Council will be voting on re-zoning requests utilizing the new zoning designations in February, March and April.

Mr. Price responded in the affirmative. He noted the approved re-zonings will not take effect prior to the remapping process being approved.

Mr. Malinowski inquired how the maps will be created.

Mr. Price responded staff will essentially do conceptual mapping for Richland County. During that time, staff will meet with each Councilmember to look specifically at their respective district.

Ms. Barron inquired how the changes are being communicated to the citizens.

Mr. Price responded, once the text is in place, there will be a mail-out informing citizens of the new zoning designation for their property. During this time, staff will have numerous meetings within the communities. In addition, if Councilmembers identify specific areas to meet with, staff will be conduct meetings in those areas.

Ms. Barron inquired, if we are going to be implementing the new code for those applying for re-zonings, how will this be communicated to the citizens.

Mr. Price responded staff will reach out to those citizens that previously inquired about re-zoning. In addition, when individuals come in to inquire about re-zoning, staff can explain the new zoning designations. Staff will also place information on the County's website.

Ms. Mackey inquired if there are any staff/legal concerns regarding Ms. Newton's motion singling out District 11.

Mr. Wright responded, in order to do a variance, there has be an articulable reason. Then, it is up to Council to decide if they accept the reason for the variance.

In Favor: Pugh, Terracio, Barron, Mackey, English and Newton

Opposed: Malinowski, Livingston, J. Walker and O. Walker

Not Present: McBride

The vote was in favor.

14. **SECOND READING**

- a. **Authorizing the execution and delivery of a fee-in-lieu of ad valorem taxes and incentive agreement by and between Richland County, South Carolina and Carolina Pines Industrial I, LLC to provide for payment of a fee-in-lieu of taxes; authorizing certain infrastructure credits; and other related matters** – Ms. Newton moved, seconded by Ms. Barron, to approve this item.

Mr. Malinowski noted in the Economic Development documents it states, "The Chair, the County Administrator and the Clerk to County Council are each authorized to execute such documents and take such further actions as may be necessary to complete the expansion..." He believes any changes need to be brought back to Council.

Ms. Terracio inquired about the normal process.

Mr. Livingston responded usually what is executed is what Council approves.

Mr. Ruble responded these are form documents that were vetted between outside counsel and the County's legal counsel. The documents are used with most economic development projects. He noted Ms. Emily Luther

responded via email to Mr. Malinowski today, but it may have been too late for him to have seen the response prior to the meeting.

In Favor: Pugh, Livingston, Terracio, J. Walker, Barron, O. Walker, Mackey, English and Newton

Opposed: Malinowski

Not Present: McBride

The vote was in favor.

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

- a. **Authorizing, approving, ratifying and consenting to the partial assignment and assumption of an infrastructure credit and incentive agreement from NL Ventures XI Northpoint, LLC to MTP – 1410 Northpoint Blvd., LLC and other related matters** – Mr. O. Walker stated last year Council consented to the transfer of incentives from PPT Real Estate Enterprises to a third-party group, NL Ventures. This resolution similarly provides Council’s consent to the transfer of incentive benefits related to an infrastructure credit from NL Venture to a long-term owner property associated with SomeraRoad, a national real estate investment group. The committee recommended approval of this item.

In Favor: Malinowski, Pugh, Livingston, Terracio, J. Walker, Barron, O. Walker, Mackey, English and Newton

Not Present: McBride

The vote in favor was unanimous.

- b. **Consenting to and ratifying the partial assignment and assumption of a fee-in-lieu of tax and incentive agreement from NL Ventures XI Northpoint, LLC to MTP – 1410 Northpoint Blvd., LLC; and other related matters** – Mr. O. Walker stated the committee recommended approval of this item.

In Favor: Malinowski, Pugh, Livingston, Terracio, J. Walker, Barron, O. Walker, Mackey, English and Newton

Not Present: McBride

The vote in favor was unanimous.

16. **REPORT OF THE RULES & APPOINTMENTS COMMITTEE**

- a. **All County Council contracts and agreements adopted by a majority vote of full Council will require a majority vote of full Council to amend and/or change [NOTE: This motion should be taken up as soon as possible, and not be addressed with the overall Council Rules update.] [LIVINGSTON – July 13, 2021]** – Mr. Malinowski stated the committee recommended approval of this item.

Mr. Malinowski noted one item allowed by Robert’s Rules is plurality votes. If a Councilmember makes a motion indicating plurality vote is what they are looking for, a substitute motion could be made for a majority vote.

Mr. Malinowski made a substitute motion to not amend the rules.

The substitute motion died for lack of a second.

Mr. Livingston noted, Council can make a motion to hire someone, which would require a majority vote. In turn, Council could dismiss someone with a minority vote by offering three (3) options.

In Favor: Pugh, Livingston, Terracio, J. Walker, Barron, O. Walker, Mackey, English and Newton

Opposed: Malinowski

Not Present: McBride

The vote was in favor.

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

- a. **Mental Health Check-In Program for Richland County Sheriff's Department** – Ms. Barron stated we have the State and National Sheriff here in Richland County, which allows him to be privy to a proactive Mental Health Check-In Program for the deputies. The committee is recommending to fund the program through 2026, in the amount of \$16,250, out of ARP funding. After 2026, funding will be found to continue the program. Mr. Malinowski inquired if the deputies will be mandated to participate in the program.

Chief Polis responded deputies would be mandated to participate as a part of their employment.

Mr. Malinowski inquired as to what will happen to the results (i.e. will it be used to demote/dismiss an individual).

Chief Polis responded the goal of the program is to provide resources for the deputies to ensure they are mentally sound to perform their job duties. They are attempting to prevent officer suicides.

Mr. Malinowski inquired if the program has been started, and Council is approving it after the fact.

Chief Polis responded the Sheriff's Department has not started the program. The letter in the agenda packet, was a letter they received early on outlining the program.

Mr. Malinowski inquired who the referrals will be made to, and for what.

Chief Polis responded, if an officer speaks with a clinician, and the clinician feels the officer needs a referral for follow-up, the clinician will make the referral.

Ms. Terracio noted, in addition to reducing the number of officer suicides, she feels this program will generally help officers with being a functioning human being.

Mr. Malinowski inquired if the deputies have been provided with the National Suicide Prevention Lifeline number.

Chief Polis responded in the affirmative.

In Favor: Malinowski, Pugh, Livingston, Terracio, J. Walker, Barron, O. Walker, Mackey, English and Newton

Not Present: McBride

The vote in favor was unanimous.

- b. **COVID-19 Pandemic Small Business Relief Grant Program** – Ms. Barron stated Council has approved this program. Staff is recommending implementation of the program. She stated the committee recommended approval of 120 businesses at \$15,000 each.

Mr. Malinowski noted the briefing document states, "At least 70% of every grant must be expended for activities that benefit low-to-moderate persons...The remaining 10% may be used to eliminate slum or blight conditions." He inquired where the other 20% is going.

Mr. Brown responded that is the minimum amounts.

In Favor: Malinowski, Pugh, Livingston, Terracio, J. Walker, Barron, O. Walker, Mackey, English and Newton

Not Present: McBride

The vote in favor was unanimous.

- c. **CBDG-CV Public Service Grants** – Ms. Barron stated the program is already in place, and staff is recommending to utilize these funds for the non-profit community. The committee recommended approval of this item.

Mr. Malinowski inquired if Council will be provided a list of applicants, or will this be done through CDBG.

Mr. Brown responded Council will not have to approve the applicants.

Ms. Barron noted the evaluation panel will be extended to include the community stakeholders.

In Favor: Malinowski, Pugh, Livingston, Terracio, J. Walker, Barron, O. Walker, Mackey, English and Newton

Not Present: McBride

The vote in favor was unanimous.

Ms. Barron moved, seconded by Ms. Newton, to reconsider Items 17(a) – (c).

Opposed: Malinowski, Pugh, Livingston, Terracio, J. Walker, Barron, O. Walker, Mackey, English and Newton

Not Present: McBride

The motion for reconsideration failed.

18. **REPORT OF THE EMPLOYEE EVALUATION AND OVERSIGHT AD HOC COMMITTEE**

- a. **County Administrator Evaluation** – This item was taken up in Executive Session.
- b. **Clerk to Council Search** – This item was taken up in Executive Session.

19. **EXECUTIVE SESSION**

Mr. Pugh moved, seconded by Ms. Newton, to go into Executive Session.

Mr. Malinowski inquired why Council needs to go into Executive Session regarding the Coggins case since it has already been reported in the newspaper.

Mr. Wright responded in order for him to give any legal advice it would need to be discussed in Executive Session.

In Favor: Pugh, Livingston, Terracio, Barron, O. Walker, Mackey, English and Newton

Opposed: Malinowski and J. Walker

Not Present: McBride

The vote was in favor.

***Council went into Executive Session at approximately 6:57 PM
and came out at approximately 7:34 PM***

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Mr. J. Walker moved, seconded by Mr. Malinowski, to come out of Executive Session.

In Favor: Malinowski, Pugh, Livingston, Terracio, J. Walker, Barron, O. Walker, English and Newton

Not Present: McBride

The vote in favor was unanimous.

- a. **William Coggins, individually, and on behalf of all other similarly situated, V. Richland County Council and Gerald Seals – Civil Action No. 2018-CP-40-2985 – Legal Advice [Pursant to SC Code of Laws § 30-4-70(a)(2)]** – No action was taken.
- b. **County Administrator Evaluation** – Proceed as discussed in Executive Session.
- c. **Clerk to Council Search** – Mr. J. Walker moved, seconded by Ms. Terracio, to authorize the Chair to extend, and enter into, contract negotiations with Candidate #2.

In Favor: Pugh, Livingston, Terracio, J. Walker, O. Walker, English and Newton

Abstain: Malinowski and Barron

Not Present: McBride

Mr. Malinowski stated, for the record, he abstained from the vote because Council never approved the advertising for the Clerk's position. Therefore, anything coming after that would not have been proper.

The vote in favor was unanimous.

20. **MOTIONS PERIOD**

- a. **Move to invite the Richland County Conservation Commission to present the Lower Richland Tourism plan to Council [NEWTON and ENGLISH]** – This item was referred to the D&S Committee.
- b. **Proclaiming January 17, 2022 Racial Justice Week in Richland County [LIVINGSTON and McBRIDE]** – Mr. Malinowski moved, seconded by Mr. Livingston, to adopt the resolution.

In Favor: Malinowski, Pugh, Livingston, Terracio, J. Walker, Barron, O. Walker, Mackey, English and Newton

Not Present: McBride

The vote in favor was unanimous.

21. **ADJOURNMENT** – The meeting adjourned at approximately 7:42 PM



Richland County Council
Zoning Public Hearing
November 18, 2021 – 7:00 PM
Council Chambers
2020 Hampton Street, Columbia, SC 29201

COUNCIL MEMBERS PRESENT: Paul Livingston, Chair; Yvonne McBride, Vice-chair, Bill Malinowski, Derrek Pugh, Gretchen Barron, Overture Walker, Jessica Mackey, Cheryl English and Chakisse Newton

OTHERS PRESENT: Michelle Onley, Geo Price, Tina Davis, Tommy DeLage, Tamar Black, Justin Landy, Patrick Wright, Leonardo Brown and Steven Gaither

II. **CALL TO ORDER** – Mr. Livingston called the meeting to order at approximately 7:00 PM.

III. **ADDITIONS/DELETIONS TO THE AGENDA** – There were no additions or deletions.

IV. **ADOPTION OF AGENDA** – Ms. Barron moved, seconded by Ms. Newton, to adopt the agenda as published.

In Favor: Malinowski, Pugh, McBride, Livingston, Barron, O. Walker, Mackey, English and Newton

Not Present: Terracio and J. Walker

The vote in favor was unanimous.

MAP AMENDMENTS

V.

1. *Case # 21-028 MA*
Matt Rains
HI to RS-MD (113.2 Acres & 8.32 Acres)
Farrow Road
TMS# R17600-02-32 & 46 [FIRST READING]

Mr. Livingston opened the floor to the public hearing

Mr. Matt Rains and Mr. Tombo Milliken spoke in favor of the re-zoning request.

Ms. Judy Hart spoke in opposition of the re-zoning request.

The floor to the public hearing was closed.

Mr. Pugh moved, seconded by Mr. O. Walker, for discussion.

Mr. Pugh moved, seconded by Mr. Malinowski, to approve the re-zoning request.

In Favor: Malinowski, Livingston, O. Walker, Mackey, English and Newton

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November 18, 2021**

Opposed: Pugh, McBride and Barron

Not Present: Terracio and J. Walker

The vote was in favor.

2. *Case # 21-029 MA*
Scott Morrison
RU to RS-LD (1.77 Acres & 22.33 Acres)
Johnson Marina Road
TMS# R01514-01-01 & R02502-02-07 FIRST READING]

Mr. Livingston opened the floor to the public hearing

Mr. Josh Rabon and Mr. Phillip Reames spoke in favor of the re-zoning request.

Ms. Erin Cawood, Mr. Vernon Davis, Mr. William Yaun, Ms. Kim Murphy and Mr. Mike Sloan spoke in opposition of the re-zoning request.

The floor to the public hearing was closed.

Mr. Malinowski moved, seconded by Ms. McBride, to deny the re-zoning request.

In Favor: Malinowski, Pugh, McBride, Barron, O. Walker, Mackey, English and Newton

Opposed: Livingston

Not Present: Terracio and J. Walker

The vote was in favor.

3. *Case # 21-030 MA*
Bruce Gleaton
RS-E to RU (2.99 Acres)
742 Sharpe Road
TMS# R14402-04-05 [FIRST READING]

Mr. Livingston opened the floor to the public hearing

No one signed up to speak.

The floor to the public hearing was closed.

Ms. Barron moved, seconded by Mr. Malinowski, to defer this item until the December Zoning Public Hearing to allow time to hold a Town Hall regarding the re-zoning.

In Favor: Malinowski, Pugh, McBride, Livingston, Barron, O. Walker, Mackey, English and Newton

Not Present: Terracio and J. Walker

The vote in favor was unanimous.

4. *Case # 21-032 MA*
Melinda Kelley
RU to LI (5.5 Acres)

*7501 Fairfield Road
TMS# R12002-01-28 [FIRST READING]*

Mr. Livingston opened the floor to the public hearing

Ms. Melinda Kelly and Mr. Kevin Corley spoke in favor of the re-zoning request.

The floor to the public hearing was closed.

Ms. Barron moved, seconded by Ms. Newton, to defer this item until the December Zoning Public Hearing to allow time to hold a Town Hall regarding the re-zoning.

In Favor: Malinowski, Pugh, McBride, Livingston, Barron, O. Walker, Mackey, English and Newton

Not Present: Terracio and J. Walker

The vote in favor was unanimous.

5. *Case # 21-036 MA
Ann Altman Morris
RU to RS-HD (9.52 Acres & 12.37 Acres)
1307 & 1309 Farming Creek Road
TMS# R03210-01-73 & R032056-01-06 [FIRST READING]*

Mr. Livingston opened the floor to the public hearing

The applicant, Ann Altman Morris, spoke regarding the re-zoning request.

The floor to the public hearing was closed.

Mr. Malinowski moved, seconded by Ms. Mackey, to deny the re-zoning request.

Ms. Newton stated, it is her understanding, if the re-zoning is denied, the applicant could not come back for a year.

Mr. Price responded the applicant is not eligible to come back for the same zoning for a year, but they apply for a different zoning.

In Favor: Malinowski, Pugh, McBride, Livingston, Barron, O. Walker, Mackey, English and Newton

Not Present: Terracio and J. Walker

The vote in favor was unanimous.

6. *Case # 21-038MA
Jatin Patel
RU to GC (32.21 Acres)
S/S Killian Road
TMS # R14600-03-05 [FIRST READING]*

Mr. Livingston opened the floor to the public hearing

The applicant, Jatin Patel, spoke in favor of the re-zoning request.

Mr. Marion Smyrl spoke in opposition to the re-zoning request.

**Zoning Public Hearing
November 18, 2021**

-3-

The floor to the public hearing was closed.

Ms. Barron moved, seconded by Mr. Malinowski, to defer this item until the December Zoning Public Hearing to allow time to hold a Town Hall meeting.

In Favor: Malinowski, Pugh, McBride, Livingston, Barron, O. Walker, Mackey, English and Newton

Not Present: Terracio and J. Walker

The vote in favor was unanimous.

VI. **ADJOURNMENT** – The meeting adjourned at approximately 8:17 PM.



Richland County Council
Special Called Meeting
November 18, 2021 – Immediately Following Zoning Public Hearing
Council Chambers
2020 Hampton Street, Columbia, SC 29201

COMMITTEE MEMBERS PRESENT: Paul Livingston Chair, Yvonne McBride Vice-Chair, Derrek Pugh, Gretchen Barron, Overture Walker, Jessica Mackey, Cheryl English, and Chakisse Newton

OTHERS PRESENT: Kyle Holsclaw, Michelle Onley, Tamar Black, Ashiya Myers, Paul Harris, Justin Landy, Dale Welch, Judy Carter, Lori Thomas, Randy Pruitt, Stacey Hamm, Leonardo Brown, and Patrick Wright

1. **CALL TO ORDER** – Mr. Livingston called the meeting to order at approximately 7:56PM.
2. **ADOPTION OF AGENDA** – Ms. Barron moved, seconded by Ms. McBride to adopt the agenda.

In Favor: Pugh, McBride, Livingston, Barron, O. Walker, Mackey, English and Newton.

Not Present: Malinowski, Terracio and J. Walker

The vote in favor passed.

3. **2022 Council Retreat Location** - Ms. Mackey moved, seconded by Ms. English, to move forward with the dates of January 26-29, 2022, with the Hyatt in Greenville, SC being the first choice, and the Westin in Greenville, SC the second choice.

Mr. Livingston inquired about the two options.

Ms. Mackey responded she wanted to give the Clerk’s Office an option in the event they are unable to book the first location.

In Favor: Pugh, McBride, Livingston, Barron, O. Walker, Mackey, English and Newton

Not Present: Malinowski, Terracio and J. Walker

The vote in favor was unanimous.

4. **Clerk to Council Employment Agreement** – Ms. Newton moved, seconded by Ms. Barron, to reconsider the motion to extend the offer to candidate two for the Clerk to Council position.

Opposed Pugh, McBride, Livingston, Barron, O. Walker, Mackey, English and Newton.

Not Present: Malinowski, Terracio and J. Walker

**Special Called Meeting
November 18, 2021**

The vote for reconsideration failed.

Mr. O. Walker moved, seconded by Ms. Newton, to extend the employment agreement.

In Favor: Pugh, McBride, Livingston, Barron, O. Walker, Mackey, English and Newton.

Not Present: Malinowski, Terracio and J. Walker

The vote in favor was unanimous.

5. **ADJOURNMENT** – The meeting adjourned at approximately 8:01PM



Report of the County Administrator

Regular Session Meeting – December 07, 2021

CORONAVIRUS UPDATE:

1. COVID 19 Statistical Data for Current Reporting Period

*Incidence Rate for current reporting period is at 134.9 per 100,000 keeping

Richland County's Level of Incidence to the Moderate Tier (51-200), for confirmed cases

*Percent Positive is 2.7% for current reporting period

52.9% of Richland County residents eligible to be vaccinated have completed their vaccination

207,241/391,862

*With vaccines now available for kids 5-11 eligible population changed from 353,173 to 391,862

50.1% of South Carolina residents eligible to be vaccinated have completed their vaccination

2,432,961/4,856,250

*With vaccines now available for kids 5-11 eligible population changed from 4,296,148 to 4,856,250

2. Emergency Rental Assistance Program Statistics

Submitted U.S. Treasury forms requesting additional funds as all of our funds have been exhausted.

Submitted request to the State ERA Program to request voluntary reallocation of funds from their program. Participated in a Zoom meeting with the State to discuss the request.

3. COVID-19 Vaccine Incentive Program

Richland County Council approved a recommendation from the COVID- 19 Ad Hoc committee to distribute up to 250 \$100 gift cards to recipients of their first doses of the vaccine who were Richland County residents at events in numerous Council districts. There have been two events with the following results:

- October 30, 2021 The Meeting Place Church with MUSC – Councilperson McBride
 - 54 first time vaccinations with incentives distributed and eight booster vaccines.

- November 20, 2021 Lower Richland High School with PRISMA – Councilperson Newton
 - 94 first time vaccinations with incentives distributed – 77 adults and 47 pediatric doses; 30 booster vaccines

A holiday event is planned for Sunday, December 5, 2021 from 3 pm until 6 pm at Killian park, 1424 Marthan Road, Blythewood where MUSC will administer vaccines. The County will provide \$100 incentive gift cards to residents who get their first dose of vaccine on a first come, first served basis. There are 102 gift cards remaining for the pilot program.

PROJECT UPDATES:

1. Strategic Planning Process

Richland County is currently in the process of completing its Strategic Planning effort led by Baker Tilly. The project kicked off in September 2021 and will be complete in December 2021. Following is an update on the progress of the project.

- The Strategic Planning Retreat, an all-day event led by Baker Tilly, was held November 15, 2021 at the Graduate Inn at USC, 1619 Pendleton Street. Baker Tilly will send a draft document for review by the Strategic Planning Committee on or before December 7, 2021. Recommendations by the Committee will be presented to Council on December 14, 2021.
- The priorities of the Council as discussed are as follows:
 - Good Governance
 - Economic Development
 - Budget/Fiscal Responsibility
 - Positive Public Perception
 - Engaged Community
 - Operational Excellence
 - Planning for Growth
- Baker Tilly has been engaged to lead the next phase of the Strategic Planning process at the annual Council Retreat in January 2022.

2. Public Safety Complex

Progress continues on the project as work groups for both the 911 Center and the Forensics Lab meet with architects to discuss space needs and design for the facility. Program details are reaching the final phase so that design work can commence.

On Wednesday, November 10, 2021, the project team and members of Administration performed a walk-thru wearing appropriate safety attire.

As per Council instructions at the June 15, 2021 meeting in to “immediately move forward, as expeditiously as possible, with the 911 Center as discussed in Executive Session,” Administration has authorized and Procurement posted the Notice of Intent to Award the RC-461-P-2022 Construction Manager at Risk for Consolidated Public Safety Complex to MB Kahn Construction on November 19, 2021. This notice was based upon an evaluation of eight submissions for the project. Contract negotiations will begin following the required 10-day posting period for the Intent to Award. The construction manager at risk will work with the architect to efficiently move the project forward on an aggressive timetable by securing subcontractors, materials, and supplies as soon as design services permit as opposed to waiting until design is complete. This firm will also perform outreach and conduct community meetings to promote this project and encourage the inclusion of qualified small, local, and minority owned businesses and subcontractors that may have an interest in working on this project. This type agreement will also be based upon an agreed upon Guaranteed Maximum Price. Under this condition, the County’s risk to fluctuations in market labor and material prices are minimized.

Council unanimously approved third reading to the general obligation bond ordinance for this project on November 16, 2021. Staff plans to issue this debt in in early 2022.

3. Department of Social Services (DSS) Relocation

Received a letter of support from Representative Kirkman Finlay III. He has requested financial support for this project from the State's allocation of SLFRF dollars.

ATTACHMENTS:

1. COVID-19 Statistical Data
2. Letter of Support from Representative Kirkman Finlay III for DSS project

Number of Tests

34,646

Select Date Range
to Filter Page Values

11/14/2021

11/29/2021

Percent Positive

2.7%

Rate of COVID-19 Tests Performed per 10,000 population, by County



Type of COVID-19 Tests Being Performed

	Negative	Positive	Grand Total
Antibody (Serology)	126	48	174
Antigen	5,070	162	5,232
Unknown	1		1
Viral (Molecular)	28,456	783	29,239
Grand Total	33,653	993	34,646

1.2% of all COVID-19 diagnostic testing has occurred at the Public Health Laboratory

Note: This table represents volume of tests received and not distinct individuals tested. Individuals may have multiple tests.

*Unknown Test Types refer to tests with an unrecognized test type. As we continue to investigate unknown test types they will be reassigned as more information becomes available.

Moving 7 Day Average Percent Positive of COVID-19 Tests

Note: Tooltips Display Percent Positive for the current day and moving 7 day average. Percent Positive is calculated using the Test/Test method.

- Count Viral (Molecular) Test over Test
- Positive PCR for Test over Test
- MOVING AVG TEST over TEST



Tests	Cases	Hospitalizations	Deaths
1,262,256	70,268	1,766	787

Two Week Cumulative Incidence Rate

The Two-Week Cumulative Incidence Rate includes new (confirmed & probable) cases reported in the past two weeks (11/16/2021 - 11/29/2021) per 100,000 people. The rate describes recent incidence of COVID-19 infection to capture the potential burden of currently ill people who may be infectious and/or accessing healthcare.

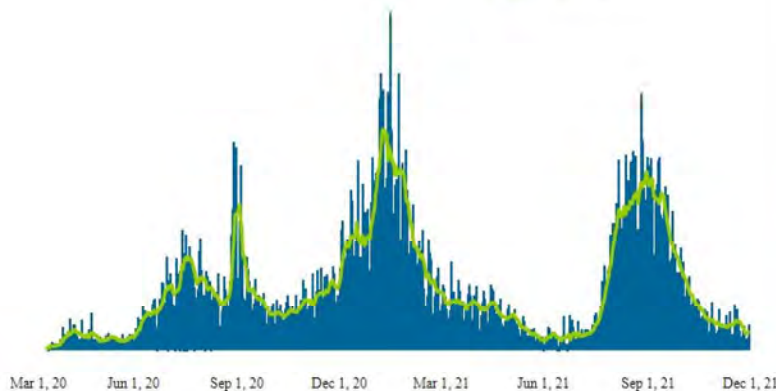
Select a county to display county-specific information
Click the county again to return to the full state map



COVID-19 Cases per Day

County Displayed: Richland

- Count of Confirmed Cases
- Count of Probable Cases
- Moving Average 7 day



7-Day Moving Average of reported COVID-19 Cases, by Public Health Region



Low; 0-50

Moderate; 51-200

High; >200

Recovery Estimate South Carolina

92.9%



House of Representatives

State of South Carolina

Kirkman Finlay III

District No. 75 - Richland County
P. O. Box 11684
Columbia, SC 29211

532-A Blatt Building
Columbia, SC 29201

Tel. (803) 212-6943

Committees:

Ways and Means

November 12, 2021

Mr. Leonardo Brown, County Administrator
Richland County Government
2020 Hampton Street
Columbia, South Carolina 29202

RE: Letter of Support for Richland County Family Services Center

Dear Administrator Brown:

Like many communities throughout the nation, the effects of the COVID-19 pandemic have hit Richland County devastatingly hard. As a resident of Richland County, I recognize that Richland County Government works diligently to aid citizens who are considered most vulnerable and in critical need of human and social services. The COVID-19 pandemic has increased the demand for many essential human services; therefore escalating the importance of planning and implementing capacity-building opportunities for agencies that address human service needs.

Richland County currently operates a facility on Two Notch Road, which houses the South Carolina Department of Social Services. Due to a lack of capacity within the facility and no viable means for expansion, there was visible strain on the County's ability to provide services during the peak of the COVID-19 pandemic. As a solution to this deficiency, County leadership and I strongly support the following proposal: **A joint County and State investment in the retrofitting of a county-owned building to develop a new Richland County Family Services Center.**

The objective of the proposed facility is to consolidate the entirety of the County Department of Social Services, providing services including Child Well-Being Services, Child Protective Services, Foster Care, Adoption, Family-Centered Community Support Services, Family Engagement Services, Health Care Provider Support, Safe Haven for Babies Services, Adult Protective Services, SNAP (Supplemental Nutrition Assistance Program)/TANF (Temporary Assistance for Needy Families, Employer Services/Workforce Development, SC Voucher/Child and Child Support, Department of Health and

Human Services and potentially co-locating Department of Mental Health, and WellPartners Dental and Vision Services to provide seamless services to the most vulnerable citizens in our community.

The proposed Family Services Center building is currently owned by the County, and offers many positive attributes. The building is in a Qualified Census Tract (QCT), which aligns with requirements for SLFRF eligibility and it is geographically located to increase regional and local access. Based upon recent state data, Richland County currently provides Medicaid assistance to 20% of its countywide population. Each of these points is relevant to the potentiality of this project impacting efforts to improve the social determinants of health for more than 400,000 citizens in Richland County. While there are many advantages to the potential location, the construction would require addressing many structural issues surrounding ADA building compliance and adequate parking. With estimated costs of retrofitting the proposed Family Services Center reaching \$30 million dollars and recognizing that the County has many other infrastructure and public asset needs that would qualify for American Rescue Plan State and Local Fiscal Recovery Funds received by the County (SLFRF) funds, I have requested that the SC Legislature supplement the County investment of SLFRF funds to facilitate the execution of this project by investing \$10 million dollars from the State allocation of SLFR funds to assist with construction and ongoing operation of this facility.

The anticipated use for the building is compliant with the U.S. Treasury American Rescue Plan Act statute, State and Local Fiscal Recovery Funds Award Terms and Conditions, and the Treasury's Interim Final Rule for use of funds. The Treasury Interim Final Rule lists eligible uses for SLFRF dollars when responding to the public health emergency or its negative economic impacts. A recipient may use funds to address the social determinants of health in communities disproportionately affected by the negative public health and economic effects of the COVID-19 public health emergency.

It is my sincere belief that this project will lay a solid foundation from which both health and human services agencies from the County and State can work collaboratively to address the immediate impacts, exacerbated by the COVID-19 public health emergency, to the health and vitality of some the state's most vulnerable communities and ensure that the agencies have adequate resources to build greater resiliency to endure and recover from future public health and economic shocks.

Sincerely,



Kirkman Finlay III

Thank you very much!

Richland County Council Request for Action

Subject:

An Ordinance authorizing a quit claim deed to Marvin Outlaw for a parcel of land located in Richland County, known as the Olympia Alleyways; specifically the land abutting the rear property line of TMS #08814-02-01 (726 Maryland Street)

Notes:

October 26, 2021 – The D&S Committee recommended Council approve granting a quit claim deed to Mr. Outlaw for the Olympia alleyway contiguous to his property at 726 Maryland Street.

First Reading: November 9, 2021

Second Reading: November 16, 2021

Third Reading: December 7, 2021 {Tentative}

Public Hearing: December 7, 2021

**RICHLAND COUNTY
ADMINISTRATION**

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



Agenda Briefing

Prepared by:	Elizabeth McLean, Esq.		Title:	Deputy County Attorney	
Department:	County Attorney's Office	Division:			
Date Prepared:	October 05, 2021	Meeting Date:	October 26, 2021		
Budget Review	James Hayes via email		Date:	October 13, 2021	
Finance Review	Stacey Hamm via email		Date:	October 19, 2021	
Approved for consideration:	County Administrator	Leonardo Brown, MBA, CPM			
Committee	Development & Services				
Subject:	Ordinance authorizing Quit-Claim deed of Olympia Alleyway to contiguous landowner (Mr. Outlaw – 726 Maryland Street)				

STAFF'S RECOMMENDED ACTION:

Approve an ordinance granting a quit-claim deed to Mr. Marvin Outlaw for the Olympia alleyway contiguous to his property at 726 Maryland Street.

Request for Council Reconsideration: Yes

FIDUCIARY:

Are funds allocated in the department's current fiscal year budget?	<input type="checkbox"/>	Yes	<input checked="" type="checkbox"/>	No
If no, is a budget amendment necessary?	<input type="checkbox"/>	Yes	<input checked="" type="checkbox"/>	No

ADDITIONAL FISCAL/BUDGETARY MATTERS TO CONSIDER:

None known.

REGULATORY COMPLIANCE:

None applicable.

MOTION OF ORIGIN:

There is no associated Council motion of origin.

Council Member	
Meeting	
Date	

STRATEGIC & GENERATIVE DISCUSSION:

The County Attorney's Office received a request from the attorney for Mr. Marvin Outlaw, who owns the property at 726 Maryland Street in Olympia, to have the County grant him a quit-claim deed for the alleyway behind his property.

As a general history of this issue, the county passed an ordinance in 1982 (1003-82HR, see attached) whereby the homeowners of property contiguous to any alleyway could petition the county for a quit-claim deed to ½ of the depth of the alleyway abutting their property. The ordinance outlines the specific reasons for council's actions. The county, over the years, has quit-claimed many alleyways to contiguous property owners. Approval of the request means there are no potential claims for maintenance or liability on the quit-claimed portion.

ADDITIONAL COMMENTS FOR CONSIDERATION:

None.

ATTACHMENTS:

1. Proposed Ordinance
2. Request from Marvin Outlaw, via letter from S. R. Anderson (including Ord 1003-82HR -Olympia Alleyway Ord)

STATE OF SOUTH CAROLINA
COUNTY COUNCIL FOR RICHLAND COUNTY
ORDINANCE NO. _____-21HR

AN ORDINANCE AUTHORIZING A QUIT CLAIM DEED TO MARVIN OUTLAW FOR A PARCEL OF LAND LOCATED IN RICHLAND COUNTY, KNOWN AS THE OLYMPIA ALLEYWAYS; SPECIFICALLY THE LAND ABBUTTING THE REAR PROPERTY LINE OF TMS#08814-02-01 (726 MARYLAND STREET).

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

SECTION I. The County of Richland and its employees and agents are hereby authorized to grant a quit claim deed to MARVIN OUTLAW FOR A PARCEL OF LAND LOCATED IN RICHLAND COUNTY, KNOWN AS THE OLYMPIA ALLEYWAYS; SPECIFICALLY THE LAND ABBUTTING THE REAR PROPERTY LINE OF TMS#08814-02-01 (726 MARYLAND STREET), as specifically described in the deed entitled "Quit Claim Deed", 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 _____, 2021.

RICHLAND COUNTY COUNCIL

By: _____
Paul Livingston, Chair

Attest this _____ day of _____, 2021.

Michelle Onley
Interim Clerk of Council

RICHLAND COUNTY ATTORNEY'S OFFICE

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

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

LAW OFFICE OF S. R. ANDERSON
ATTORNEY AT LAW
2008 MARION STREET, SUITE J
POST OFFICE BOX 12188
COLUMBIA, SOUTH CAROLINA 29211-2188

S. R. ANDERSON

(803) 252-2828
FAX (803) 254-1935
EMAIL sraatlaw@bellsouth.net

September 24, 2021

Richland County Council
2020 Hampton Street
Columbia, SC 29201

RE: Marvin Outlaw
TMS #: 08814-02-01
762 Maryland Street
Columbia, SC 29201

Dear Sir:

I represent Marvin Outlaw with regards to the above referenced property.

I enclose the following:

1. Deed into Mr. Outlaw regarding the property known as 762 Maryland Street
2. Plat showing 762 Maryland Street with 10 foot alleyway
3. In accordance with ordinance 1003-85 Mr. Outlaw desires that County Council grant him a Quitclaim Deed as to half of the alleyway which abuts his property. I think a Quitclaim Deed has already been granted to Mr. Outlaw's neighbor on the back side of his property conveying to him half of the alleyway.

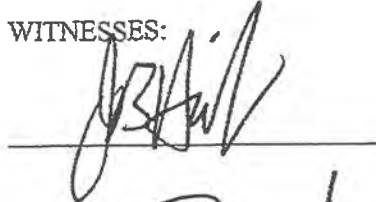
Sincerely,

S.R. Anderson

SRA/rabi
Enc
CC: Client

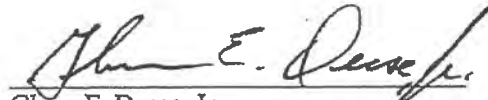
WITNESS Grantor's hand and seal this 9th day of ~~June~~ July, 2008.

WITNESSES:




Myrtle D. Deese





Glenn E. Deese, Jr.

STATE OF SOUTH CAROLINA)
)
COUNTY OF RICHLAND)

I, a Notary Public for South Carolina, do hereby certify that Myrtle D. Deese and Glenn E. Deese, Jr., personally appeared before me this day and acknowledged the due execution of the foregoing instrument.

Witness my hand and official seal this 9th day of ~~June~~ July, 2008.



(SEAL)
Notary Public for South Carolina
My commission expires: 10/9/16

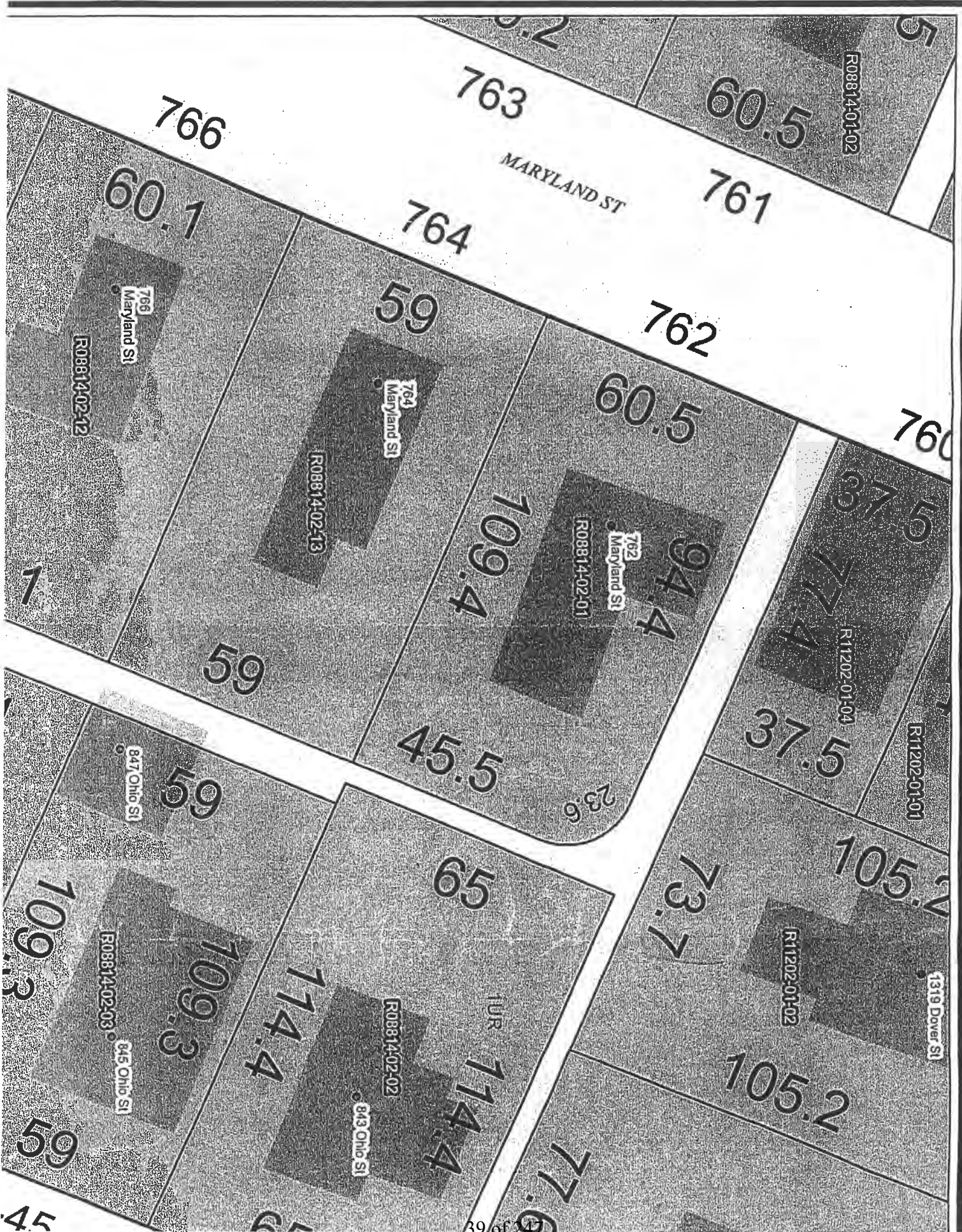
EXHIBIT A

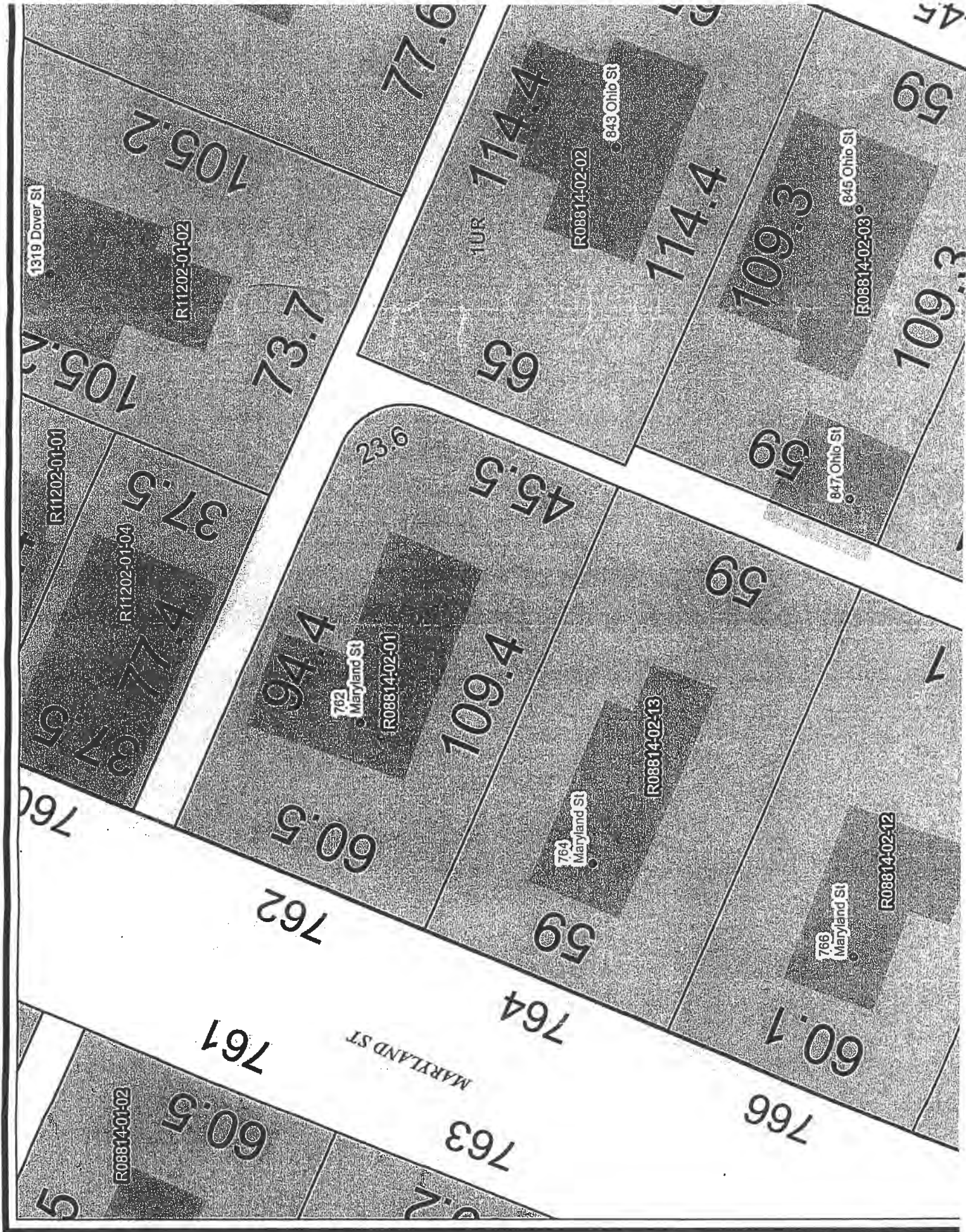
All that certain piece, parcel or lot of land, with the improvements thereon situate, lying and being on the eastern side of Maryland (formerly Seventh) Street, south of Berkeley Street or Avenue, south of the City of Columbia, in the County of Richland, State of South Carolina, said lot being shown and designated as Lot No. Four (4) in Block No. twenty-seven (27) on drawing No. 1 of map showing property of Ebert Realty Company and also showing property of Pacific Mills, said drawing made by Tomlinson Engineering Company, dated October, 1939 (with title of drawing changed to include property of Ebert Realty Company on July 15, 1940) said drawing No. 1 being recorded in the Office of the Register of Deeds for Richland County in Plat Book I at Page 76 and being bounded as follows: On the North by an alleyway ten feet wide as shown on said drawing, on which it measures to curve at the northeast side of this lot ninety-four and 4/10 (94.4') feet; on the East by an alleyway ten feet wide, as shown on said drawing on which it measures to curve at northeast side of this lot forty-five and 5/10 (45.5') feet; on the South by Lot No. 5 in said lock No. 27, as shown on said drawing, on which it measures one hundred nine and 4/10 (109.4') feet; and on the West by Maryland (formerly Seventh) Street, as shown on said drawing, on which it measures sixty and 5/10 (60.5') feet. Also known as 762 Maryland Street, Columbia, South Carolina.

This being the same property conveyed to Myrtle D. Deese by Deed of Distribution of the Estate of Glenn E. Deese, Sr. (1998-ES-32-00162) dated June 13, 1998 and recorded June 22, 1998 in the Office of the Register of Deeds for Richland County in Book 102 at Page 892. This being the same property conveyed to Glenn E. Deese, Sr. and Glenn E. Deese, Jr. by deed of Lexington State Bank recorded October 1, 1990 in the Office of the Register of Deeds for Richland County in Book 999 at Page 319.

TMS# 08814-02-01.

Myrtle D. Deese
 1431 Paul Street
 Columbia, SC 29201
 803-737-2282





Richland County Council Request of Action

Subject: Quit Claim Deeds for Vacant Property Located in the Olympia Neighborhood

A. Purpose

Council is requested to approve the ordinance(s) authorizing quit claim deeds involving two (2) pieces of vacant land in the Olympia Neighborhood in Columbia, SC.

B. Background / Discussion

In the early 1900's, several mills were established in the area of Columbia now known as the Olympia area. There were several large tracts of land which these mills controlled. Eventually, these tracts were cut up, streets established and home lots were surveyed out. When the home lots were cut out, an alleyway, 10 foot wide, was also established along the rear, and in some cases, the side property line of these lots. These alleyways are vacant and not used by the County.

In 1982, the County passed a County ordinance authorizing County landowners to apply to the County for quit claim deeds in the Olympia community – see attached ordinance (Exhibit B).

Historically, once the County received a request from a property owner in the Olympia community regarding a vacant alleyway, the County would contact the property owner and all the property owners bordering the vacant alleyway regarding their interest in receiving half of the vacant land that abuts their property.

If the property owners wanted a portion of the alleyway that borders their property, the County would give the property owner 50% of the vacant land. The remaining 50% of the vacant land would be given to the adjacent property owner. If the property owner did not have an interest in receiving the vacant land, the ownership of the entire portion of the vacant land would be deeded over to the adjacent property owner.

In August 2015, William Short requested that the County quit claim the vacant land bordering his property at 735 Maryland St. (R11203-12-13) – see red portion in the attached map.

On September 28, 2015, staff mailed letters to the property owners whose property bordered Mr. Short's property regarding their interest in receiving 50% of the vacant land. After 30 days of the date of the letter, property owner (Shelby King) contacted the County and requested to receive 50% of the vacant land bordering her property at 638 Kentucky St. (R11203-12-17). Quit claim deeds were already in place for the vacant land at the properties located at 1206 Whitney St. (R11203-12-15) & 1208 Whitney St. (R11203-12-14) – see attached deeds. Please note that the attached deeds reflect the transfer of the ownership of the lots, not the dates the deeds were recorded.

At this time, staff is requesting that Council to approve the ordinance(s) authorizing quit claim deeds for Mr. Short and Ms. King to receive 50%, or 5ft., of the vacant land that borders his property with the property owned by Shelby King.

The ordinance is attached. (Exhibit A)

C. Legislative / Chronological History

This is a staff-initiated request in response to William Short's request to claim the vacant land bordering his property at 735 Maryland St.

D. Financial Impact

There is no significant financial impact associated with this request. If the quit claim deeds are approved by Council, then the vacant land will be placed back on the County's tax rolls.

The average taxable value of the lots in the Olympia community is currently \$8,000, and the lot value of the parcels referenced in this ROA is \$8,000. Given that the County does mass appraisals and these lots have the same utility as the others and the vacant alleyway does not adversely affect the value of these lots, it is anticipated that there would not be any value increase to any of the properties. Therefore, if the quit claim deeds are approved, there would be no increase in the amount of taxes collected by the County.

Alternatives

1. Approve the request to approve the ordinance(s) authorizing the quit claim deeds.
2. Do not approve the request to approve the ordinance(s) authorizing the quit claim deeds.

E. Recommendation

It is recommended that Council approve the ordinance(s) authorizing the quit claim deeds. By doing so, this property will be placed back on the tax rolls.

Recommended by: Administration

Department: Richland County Council

Date: November 2, 2015

F. Reviews

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

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

Finance

Reviewed by: Daniel Driggers

Date: 12/9/15

Recommend Council approval

Recommend Council denial

Comments regarding recommendation:

Assessor

Reviewed by: Liz McDonald

Date: 12/15/15

Recommend Council approval

Recommend Council denial

Comments regarding recommendation:

Legal

Reviewed by: Elizabeth McLean

Date: 1/7/16

Recommend Council approval

Recommend Council denial

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

Administration

Reviewed by: Roxanne Ancheta

Date: January 7, 2016

Recommend Council approval

Recommend Council denial

Comments regarding recommendation: It is recommended that Council approve the ordinance(s) authorizing the quit claim deeds. By doing so, this property will be placed back on the tax rolls.

Exhibit A

STATE OF SOUTH CAROLINA
COUNTY COUNCIL FOR RICHLAND COUNTY
ORDINANCE NO. ____-16HR

AN ORDINANCE AUTHORIZING QUIT CLAIM DEEDS TO SHELBY KING AND WILLIAM SHORT FOR PARCELS OF LAND LOCATED IN RICHLAND COUNTY, KNOWN AS THE OLYMPIA ALLEYWAYS, AND ABBUTTING TMS#11203-12-17 AND 11203-12-13.

NOW THEREFORE, 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 quit claim deeds to Shelby P. King and William M. Short for certain abandon alleyways in the Olympia neighborhood, as specifically described in two deeds entitled "Quit Claim Deed", which are 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 _____, 2016.

RICHLAND COUNTY COUNCIL

By: _____
Torrey Rush, Chair

Attest this _____ day of _____, 2016.

S. Monique McDaniels
Clerk of Council

RICHLAND COUNTY ATTORNEY'S OFFICE

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

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

Exhibit B

STATE OF SOUTH CAROLINA
COUNTY COUNCIL FOR RICHLAND COUNTY
ORDINANCE NO. 1983-82HR

AN ORDINANCE AUTHORIZING CERTAIN RICHLAND COUNTY LANDOWNERS TO APPLY TO THE COUNTY GOVERNMENT FOR QUIT CLAIM DEEDS IN THE OLYMPIA COMMUNITY.

Whereas, certain alleyways in the so-called Olympia community of Richland County have been abandoned by their owners, have become overgrown and unused by the general public, and since Richland County has determined that the alleys cannot be used for any legitimate public purpose.

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

SECTION I. Purpose and Intent.

In order to resolve the current confusion in the Olympia community of Richland County as to the ownership and proper use on the number of alleys that run between and behind the residences of the Olympia community, and to recruit the participation of the land owners of the Olympia community in eliminating a public eye sore and nuisance, this ordinance is enacted.

SECTION II. Procedure for Application for Quit Claim Deeds.

Any person who holds fee simple title to any residential lot in the so-called Olympia community of Richland County, may apply to the Office of the Richland County Administrator for a quit-claim deed, whereby the County shall convey any interest it may have to the applicant; provided that no property owner may apply for an interest in an alley greater than one-half (1/2) of the depth of the alley contiguous to his/her lot.

SECTION III. Legal Status of Olympia Alleys.

Richland County does not claim a fee simple interest in any of the Olympia alleys, but, since, the alleys have been abandoned by their owners and have fallen into general public use, the County could claim some interest by law or equity, in such alleys.

The enactment of this ordinance is not designed to assert title on the part of Richland County, but merely to expedite the conveyance of whatever interest the County may have, if any.

SECTION IV. Severability. If any section, subsection, or clause of this ordinance shall be deemed to be unconstitutional or otherwise invalid, the validity of the remaining sections, subsections, and

clauses shall not be affected thereby.

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

SECTION VI. Effective Date. This ordinance shall be enforced from and after December 15, 1982.

RICHLAND COUNTY COUNCIL

BY: 
John V. Green, Chairman

ATTEST this the 13th day of
April, 1983
1982.


CLERK OF COUNCIL



CKP File No.: 13-0078 OUTLAW
Loan Number: 155723 L36
Borrower(s): Marvin Outlaw
Property Address: 762 Maryland Street, Columbia, SC 29201

Mortgagee: Palmetto Citizens Federal Credit Union
Date of Mortgage: March 5, 2013

EXHIBIT "A"
Legal Description

All that certain piece, parcel or lot of land, with the improvements thereon, situate, lying and being in the County of Richland, State of South Carolina, being shown and designated as Lot 4, Block 27, on a plat of property of Ebert Realty Company and Pacific Mills, prepared by Tomlinson Engineering Company, dated October 1939, and recorded in the Office of the RMC/ROD for Richland County in Plat/Record Book I at Page 76; said lot having such boundaries and measurements as shown thereon, all being a little more or less.

This being the identical property conveyed to Marvin Outlaw by Deed of Myrtle D. Reese and Glenn E. Deese, Jr., dated July 9, 2008, and recorded , in Record Book 1470, Page 2079, Richland County records.

Richland County Tax Map Number: 08814-02-01

Richland County Council Request for Action

Subject:

21-028MA
Matt Rains
HI to RS-MD (113.2 Acres & 8.32 Acres)
Farrow Road
TMS # R17600-02-32 & 46

Notes:

First Reading: November 18, 2021
Second Reading: December 7, 2021 {Tentative}
Third Reading: December 14, 2021 {Tentative}
Public Hearing: November 18, 2021

STATE OF SOUTH CAROLINA
COUNTY COUNCIL OF RICHLAND COUNTY
ORDINANCE NO. ____-21HR

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 # R17600-02-32 AND 46 FROM HEAVY INDUSTRIAL DISTRICT (HI) TO RESIDENTIAL SINGLE-FAMILY MEDIUM DENSITY DISTRICT (RS-MD); 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 # R17600-02-32 AND 46 from Heavy Industrial District (HI) to Residential Single-Family Medium Density District (RS-MD).

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 _____, 2021.

RICHLAND COUNTY COUNCIL

By: _____
Paul Livingston, Chair

Attest this _____ day of
_____, 2021.

Michelle M. Onley
Interim Clerk of Council

RICHLAND COUNTY ATTORNEY'S OFFICE

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

Public Hearing: November 18, 2021
First Reading: November 18, 2021
Second Reading: December 7, 2021
Third Reading: December 14, 2021

Richland County Council Request for Action

Subject:

Acceptance of an Unnamed Street into the County Road Maintenance System (CRMS)

Notes:

November 18, 2021 – The D&S Committee recommended Council approve the conditional, future acceptance of “Unnamed Street” (a.k.a. “Club House Drive”) into the County Road Maintenance System (CRMS) once the street is brought up to County standards by the current owners (the neighborhood Homeowners’ Association (HOA)).

**RICHLAND COUNTY
ADMINISTRATION**

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



Agenda Briefing

Prepared by:	Shirani Fuller, PE		Title:	Assistant County Engineer	
Department:	Public Works	Division:	Engineering		
Date Prepared:	October 27, 2021	Meeting Date:	November 18, 2021		
Legal Review	Elizabeth McLean via email		Date:	November 02, 2021	
Budget/Finance Review	Stacey Hamm via email		Date:	November 02, 2021	
Approved for consideration:	Assistant County Administrator	John M. Thompson, Ph.D., MBA, CPM, SCCEM			
Committee	Development & Services				
Subject:	Commitment for conditional, future acceptance of an unnamed street into the County Road Maintenance System (CRMS)				

STAFF’S RECOMMENDED ACTION:

Staff recommends approval of the conditional, future acceptance of “Unnamed Street” (a.k.a. “Club House Drive”) into the County Road Maintenance System (CRMS) once the street is brought up to County standards by the current owners (the neighborhood Homeowners’ Association (HOA)).

Request for Council Reconsideration: Yes

FIDUCIARY:

Are funds allocated in the department’s current fiscal year budget?	<input type="checkbox"/>	Yes	<input checked="" type="checkbox"/>	No
If no, is a budget amendment necessary?	<input type="checkbox"/>	Yes	<input checked="" type="checkbox"/>	No

ADDITIONAL FISCAL/BUDGETARY MATTERS TO CONSIDER:

Richland County will not contribute any construction funding to this project. Future maintenance activity will be borne by the Roads & Drainage Maintenance (RDM) Division and their annual operating budget.

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

None.

REGULATORY COMPLIANCE:

Recommendations contained herein are consistent with Chapter 21 of the Richland County *Code of Ordinances*.

MOTION OF ORIGIN:

There is no associated Council motion of origin.

Council Member	
Meeting	
Date	

STRATEGIC & GENERATIVE DISCUSSION:

Per Section 21-6 of the Richland County Code of Ordinances, only subdivision roads with individually owned lots that front directly on the street right-of-way will be accepted into the CRMS. It is the discretion of the County Council to accept a roadway with special conditions as to any particular non-conforming aspect.

The Unnamed Street in question is 715 Linear Feet (LF) and is used as an entrance road to the Oakridge Hunt Club subdivision. Excluding this entrance way, all other roads (11,655 LF) in the subdivision are currently in the CRMS. There are 96 homes in the subdivision whose roads were accepted by the County in May 1997. A location map is contained in Attachment A.

The HOA will be responsible for bringing this road up to County standards as contained in the Land Development Manual. This will require at a minimum:

- Correction of any identified base material failures;
- Milling of existing asphalt surface;
- Placement of 3" of new asphalt surface;
- Establishing 50' Right-of-Way (ROW) to deed to the County; and
- Addressing drainage within this ROW.

An engineering firm will be hired by the HOA and submit plans to the County for approval prior to any work being performed. The County will provide inspection to ensure work is completed to standard.

The Department of Public Works staff does not object to accepting this street into the CRMS once it is brought up to County standards.

ADDITIONAL COMMENTS FOR CONSIDERATION:

The County Engineering staff judges the absence of developed neighborhood lots fronting this short unnamed street in question to be a minor non-conformance and believe that the advantages of additional, reliable neighborhood access by service and emergency response vehicles to outweigh this.

ATTACHMENTS:

1. Location Map



Richland County & Woolpert

Legend

- Other
- County Paved
- - - County Unpaved
- Private / Other
- SCDOT
- Interstate
- Proposed
- None
- Residential Complex

Oakridge Hunt Club Entrance

Unnamed St above is the entrance to Oakridge Hunt Club.
It runs between Gamers Ferry Rd & Fox Run Dr.

1 inch = 200 feet



DISCLAIMER: This is a product of the Richland County Public Works Department. The data depicted here have been developed with extensive cooperation from other county departments, as well as other federal, state and local governments agencies. Reasonable efforts have been made to ensure the accuracy of this map. Richland County expressly disclaims responsibility for damages or liability that may arise from the use of this map.

PROPRIETARY INFORMATION: Any resale of this information is prohibited, except in accordance with a licensing agreement.

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Richland County Public Works
400 Powell Rd.
Columbia, SC 29203



Richland County Council Request for Action

Subject:

Emergency Services Department – EMS Supplies

Notes:

November 18, 2021 – The A&F Committee recommended Council approve purchase orders to Boundtree Medical for \$206,871.95, Medline Medical for \$108,173.33, and Henry Schein \$137,080.77.



Agenda Briefing

Prepared by:	Michael A. Byrd		Title:	Director
Department:	Emergency Services	Division:		
Date Prepared:	October 05, 2021	Meeting Date:	November 18, 2021	
Legal Review	Elizabeth McLean via email		Date:	November 08, 2021
Budget/Finance Review	Stacey Hamm via email		Date:	November 01, 2021
Approved for consideration:	Assistant County Administrator	John M. Thompson, Ph.D., MBA, CPM, SCCEM		
Committee	Administration & Finance			
Subject:	Approval of Purchase Orders for Medical Equipment and Supplies			

STAFF'S RECOMMENDED ACTION:

Staff recommends approval to award purchase orders for supplies and services needed for the operations of the Emergency Services Department. Funds are available in the 2021-2022 budget. No additional funds are needed.

Request for Council Reconsideration: Yes

FIDUCIARY:

Are funds allocated in the department's current fiscal year budget?	<input checked="" type="checkbox"/>	Yes	<input type="checkbox"/>	No
If no, is a budget amendment necessary?	<input type="checkbox"/>	Yes	<input type="checkbox"/>	No

ADDITIONAL FISCAL/BUDGETARY MATTERS TO CONSIDER:

Funding is included in the 2021 / 2022 budget. No additional funds are needed. It is recommended that Council approve purchase orders to Boundtree Medical for \$191,548.10, Medline Medical for \$100,160.49, and Nashville Medical for \$126,926.64.

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

None.

REGULATORY COMPLIANCE:

None applicable.

MOTION OF ORIGIN:

There is no associated Council motion of origin.

Council Member	
Meeting	
Date	

STRATEGIC & GENERATIVE DISCUSSION:

The Emergency Services Department (ESD) requests approval to award purchase orders to Boundtree Medical, Medline Medical, and Henry Schein Medical for medical supplies. The amount of the purchase orders exceed \$100,000; therefore, Council’s approval is necessary.

ESD uses vendors to supply mission critical products and services used by first responders to save lives during emergency response operations. A disruption in the supply chain will impact the scope of practice for responders and cause issues in the administration of best-practice protocols. Supplies and services not available on state contract are bid out for the best pricing. EMS uses hundreds of different medical items that are secured through competitive bidding. The best individual price per item was selected from each of the vendors submitting a bid. Three vendors submitted the lowest prices on individual items and will be awarded bids exceeding \$100,000; therefore, Council’s approval is necessary.

Because we do not know exactly how many of an individual item will be needed, the amount of individual items for the year are estimates. The exact amount of yearly supplies purchased will be determined by call volume, type of call, and circumstance. The exact amounts for each vendor increase or decrease. For example, the pandemic required more PPE supplies than we purchased the previous year. Many items have a short shelf life and are not ordered until in-house inventories reach predetermined levels. However, other items such as PPE have to be ordered well in advance because of availability. Not having purchase orders in place could jeopardize inventories of critical supplies.

Council has approved supply purchase orders in previous years. Once approved, no other action is required from Council. Upon approval, Procurement will issue the purchase orders.

The vendors exceeding \$100,000 during the year are:

VENDOR	TYPE	ESTIMATED AMOUNT
Boundtree Medical	Medical Equipment and Supplies	\$191,548.10
Medline Medical	Medical Equipment and Supplies	\$100,160.49
Henry Schein	Medical Equipment and Supplies	\$126,926.64

ADDITIONAL COMMENTS FOR CONSIDERATION:

ALL VENDORS RECEIVING AN AWARD FOR EQUIPMENT AND SUPPLIES BASED ON THE BIDS RECEIVED:

<u>Boundtree</u>	Total:	\$ 206,871.95
Awarded Items	Tax:	\$ 15,323.85
	Subtotal:	\$ 191,548.10
<u>Medline</u>	Total:	\$ 108,173.33
Awarded Items	Tax:	\$ 8,012.84
	Subtotal:	\$ 100,160.49
<u>Henry Schein</u>	Total:	\$ 137,080.77
Awarded Items	Tax:	\$ 10,154.13
	Subtotal:	\$ 126,926.64
<u>Alpha Vets</u>	Total:	\$ 11,755.80
Awarded Items	Tax:	\$ 870.80
	Subtotal:	\$ 10,885.00
<u>Bay Promo</u>	Total:	\$ 324.00
Awarded Items	Tax:	\$ 24.00
	Subtotal:	\$ 300.00
<u>Life Assist</u>	Total:	\$ 93,270.42
Awarded Items	Tax:	\$ 6,908.92
	Subtotal:	\$ 86,361.50
<u>Quadmed</u>	Total:	\$ 22,872.78
Awarded Items	Tax:	\$ 1,694.28
	Subtotal:	\$ 21,178.50

ATTACHMENTS:

1. List of equipment and supplies (*This will be emailed separately as shrinking the text to fit a 11x17 sheet of paper renders the text illegible.*)

Richland County Council Request for Action

Subject:

Department of Public Works – Knollwood Drive & Planters Drive Drainage Improvements – Contract Award Recommendation

Notes:

November 18, 2021 – The A&F Committee recommended Council to award construction of the Knollwood & Planters Drainage Improvements (RC-466-B-2022) to Cherokee Construction



Agenda Briefing

Prepared by:	Jennifer Wladischkin	Title:	Manager
Department:	Finance	Division:	Procurement
Date Prepared:	November 02, 2021	Meeting Date:	November 18, 2021
Legal Review	Elizabeth McLean via email	Date:	November 03, 2021
Budget/Finance Review	Stacey Hamm via email	Date:	November 08, 2021
Approved for consideration:	Assistant County Administrator	John M. Thompson, Ph.D., MBA, CPM, SCCEM	
Committee	Administration & Finance		
Subject:	Contract Award Recommendation, Knollwood & Planters Drainage Improvements		

STAFF'S RECOMMENDED ACTION:

Staff is seeking approval from County Council to award construction of the Knollwood & Planters Drainage Improvements (RC-466-B-2022) to Cherokee Construction.

Request for Council Reconsideration: Yes

FIDUCIARY:

Are funds allocated in the department's current fiscal year budget?	<input checked="" type="checkbox"/>	Yes	<input type="checkbox"/>	No
If no, is a budget amendment necessary?	<input type="checkbox"/>	Yes	<input checked="" type="checkbox"/>	No

ADDITIONAL FISCAL/BUDGETARY MATTERS TO CONSIDER:

This project is budgeted in the Stormwater Management Division's Capital Construction Account 1208302200-532200. The lowest, responsive, responsible bid was \$575,091.20. Staff recommends the project budget include a 10% contingency of \$57,509.12 for unforeseen issues which may arise during construction. The contingency will not be included in the contract amount and will only be used with the approval of the County. The current bid is less than 1% higher than the engineer's estimate, there are enough funds in the Stormwater budget to cover the additional amount.

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

None.

REGULATORY COMPLIANCE:

Non-applicable

MOTION OF ORIGIN:

There is no associated Council motion of origin.

Council Member	
Meeting	
Date	

STRATEGIC & GENERATIVE DISCUSSION:

The Stormwater Management Division previously received a Hazard Mitigation Grant to acquire and demolish homes along Knollwood Drive and Planters Drive. The homes were located in the floodplain of a tributary of Reeder Point Branch and experienced repetitive localized flooding. Once the homes were removed, the Stormwater Division worked with a consultant, the LandPlan Group, to design a floodplain restoration plan that will address flooding concerns while redeveloping the vacant lots with a storm water best management practice that would fit the aesthetic of the residential neighborhood. The completed design included removing the failing concrete lined channel and replacing the concrete with a vegetated reinforced permanent matting and Flexterra hydroseed mulch to increase stabilization. The west and east overbank will be revitalized into a pocket park that will provide green space in the residential subdivision and additional flood storage to reduce the 100-year water surface elevation. The Stormwater Division will maintain the restored area after construction.

A Request for Bid (RFB) was advertised by Procurement on September 23, 2021 and closed on October 25, 2021. Five (5) contractors responded to the RFB. The submittals were reviewed by Procurement and the engineers from LandPlan Group South. The recommendation is to award to contractor (Cherokee Construction) who is the lowest responsive responsible bidder deemed most advantageous to the County.

If awarded, the contractor (Cherokee Construction) will begin work for an estimated 180 days and the deliverable will be a Pocket Park that addresses flooding issues in the existing area.

The strategic initiative for this project is to restore the area where houses were acquired and demolished using a HMGP grant into a green space that fits the aesthetic of the neighborhood while also addressing citizen flooding concerns. This project will help area residents with localized flooding issues and adjust the FEMA flood base elevation in this area. If denied, the remaining residents will continue to experience localized flood during most storm events. The nine properties that were purchased and demolished by Richland County will not be utilized for the purpose of addressing localized flooding and remain as vacant lots.

These properties were acquired by Richland County with the purpose of alleviating flooding and restoring the floodplain. An additional alternative is to not complete the project, leave the vacant lots as is and repair the failing concrete in the existing channel. This alternative does not lower base flood elevations or restore floodplain.

On July 11, 2017 Council approved the Blue Ribbon Committee's recommendation to acquire and demolish properties with HMGP funds (Project: 4286-0023 Richland County Resident Acquisition and Demolition (S-009)). (See Council minutes attachments)

ADDITIONAL COMMENTS FOR CONSIDERATION:

None.

ATTACHMENTS:

1. Council Special Called Meeting held dated 7/11/17
2. Approved Council Special Called Meeting minutes dated 7/25/17
3. Engineers drawing of proposed pocket park.
4. Bid tabulation

and have used the \$63 million and the other half do not get anything. In moving forward, as is recommended, we need to stipulate that each particular project does not exceed the current estimate.

Mr. Manning accepted Mr. Malinowski’s friendly amendment to stipulate that each project not exceed the current estimate.

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

The vote in favor was unanimous.

REPORT OF THE BLUE RIBBON AD HOC COMMITTEE

- a. Approval for submitting full applications for HMGP 4286-DR funding, with the 25% local match – Mr. Pearce stated the committee recommended approval of the full application submission and the local funding match recommendations.

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

The vote in favor was unanimous.

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

- b. Approval for the CDBG-DR Action Plan update and revision – Mr. Pearce stated the committee recommended approval of the update and revision of the County’s CDBG-DR Action Plan.

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. N. Jackson, to reconsider this item. The motion for reconsideration failed.

OTHER ITEMS

- a. To establish and create a Special Tax District within Richland County, South Carolina, to be known as the "Lake Dogwood Special Tax District"; to define the nature and level of services to be rendered therein; to authorize the imposition of ad valorem taxes and user service charges therein, which shall be imposed solely within the Special Tax District; to establish a commission for the tax district and provide the terms therefore; and all other matters related thereto – Mr. N. Jackson moved, seconded by Mr. Malinowski, to approve this item.

Mr. Pearce inquired if the referendum has already been held.

Mr. N. Jackson responded in the affirmative.

Mr. Pearce inquired if Council is now required to establish the tax district.

Mr. Smith stated as Council recalls they passed an ordinance authorizing these communities to conduct a referendum to establish these special tax districts. Procedurally it has to come to County Council for the referendum results to be ratified.

Mr. Pearce stated the concerns they expressed would have to be directed to the HOA.

Ms. Myers inquired if there were any guidelines established for the vote of the HOA and the manner in which it has to be taken. She stated some of the concerns voiced tonight were a little disturbing and she wanted to ensure the process that was followed by the HOA gave all of the interested parties the right, the opportunity and the notice to be heard.

Mr. Smith stated he was not familiar with this particular tax district, so he cannot speak to what was done in this case. The attorney for the HOA is present and may be able to address these questions.

Mr. C. D. Rose with the law firm of Pope Flynn. The referendum was properly noticed in accordance with State law. It was held and the vote was overwhelming in favor of the creation of the tax district. He further pointed out there were two things before Council. The first is a resolution that certifies the



Richland County Council
SPECIAL CALLED MEETING
July 25, 2017
Immediately Following A&F Committee
Council Chambers

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

OTHERS PRESENT: Gerald Seals, Brandon Madden, Jamelle Ellis, Tracy Hegler, Beverly Harris, Sandra Yudice, Tony Edwards, Michelle Onley, Jeff Ruble, Roger Sears, James Hayes Valeria Jackson, Elizabeth McLean, Kevin Bronson, Lillian McBride, and Kimberly Willams-Roberts

CALL TO ORDER – Ms. Dickerson called the meeting to order at approximately 6:42 PM.

APPROVAL OF MINUTES

- a. **Special Called Meeting: July 11, 2017** – Ms. Myers moved, seconded by Ms. Kennedy, to approve the minutes as distributed. The vote in favor was unanimous.

ADOPTION OF AGENDA – Mr. Pearce moved, seconded by Mr. C. Jackson, to request unanimous consent to add the following item to the agenda: “Sprinkler Head Replacements Phase 1-3 at Alvin S. Glenn Detention Center”, which was taken up in the A&F Committee.

In favor: Pearce, Rose, C. Jackson, Livingston, Kennedy, Myers, Manning, McBride
Opposed: Malinowski, Dickerson

Ms. McLean requested to add the following item under the Report of the County Attorney for Executive Session Items: “Property Sale Purchase for the Library at 1101 Washington Street”. The potential exigent circumstance is that it is time sensitive and Council does not meet in August.

Mr. Livingston moved, seconded by Mr. Malinowski, to add the “Property Sale Purchase for the Library at 1101 Washington Street” to the agenda.

Mr. Malinowski inquired as to why this is time sensitive.

Ms. McLean stated it is a sale of property, with a potential contract, the library has been working on for approximately 5 years that is very important to them.

Mr. Manning inquired if the exigent circumstances is because there is a contract or because of the whole nature of the item.

Ms. McLean stated it is because there is a contract and Council does not meet for another month.

PLANTERS ROAD

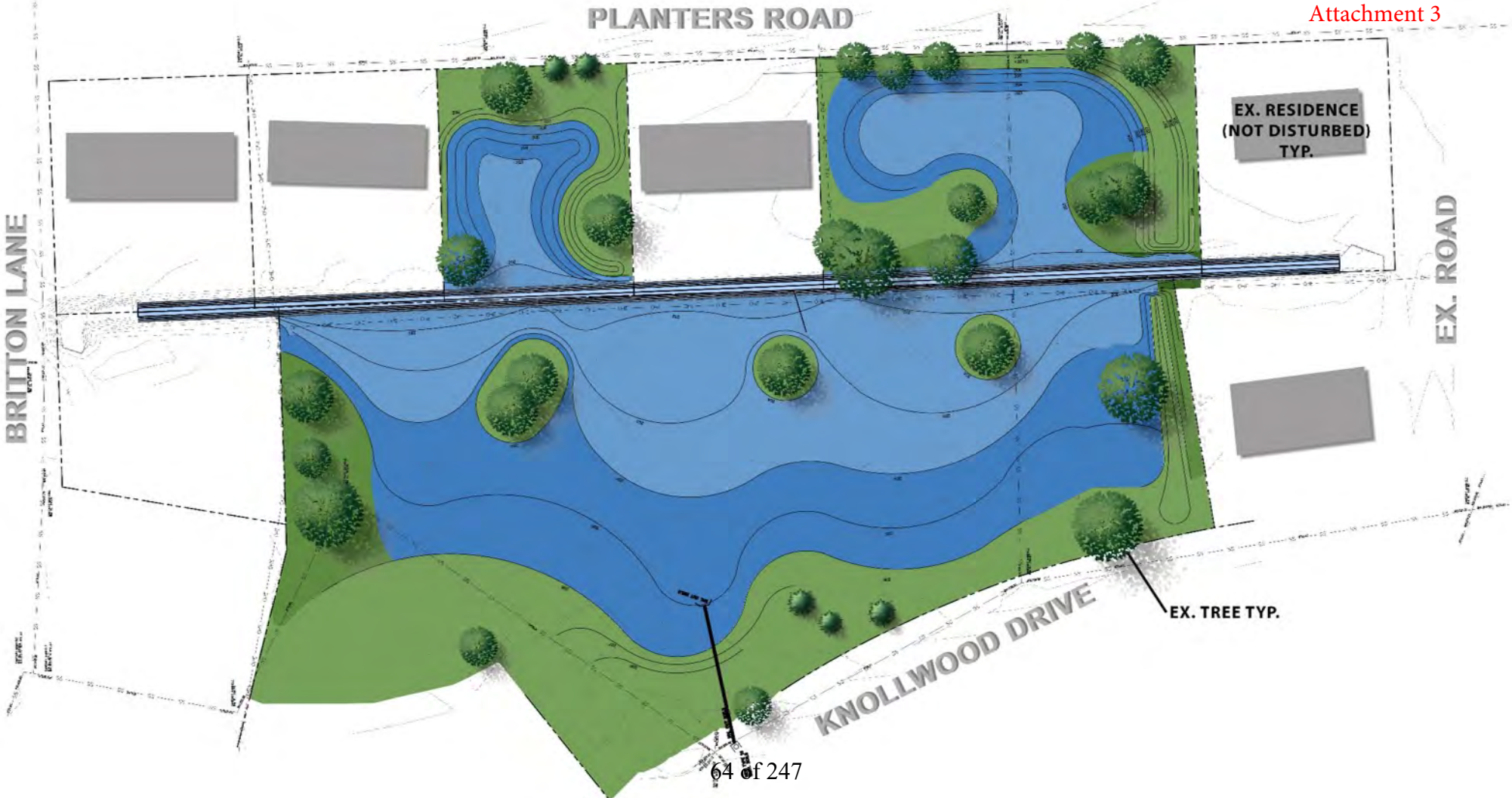
BRITTON LANE

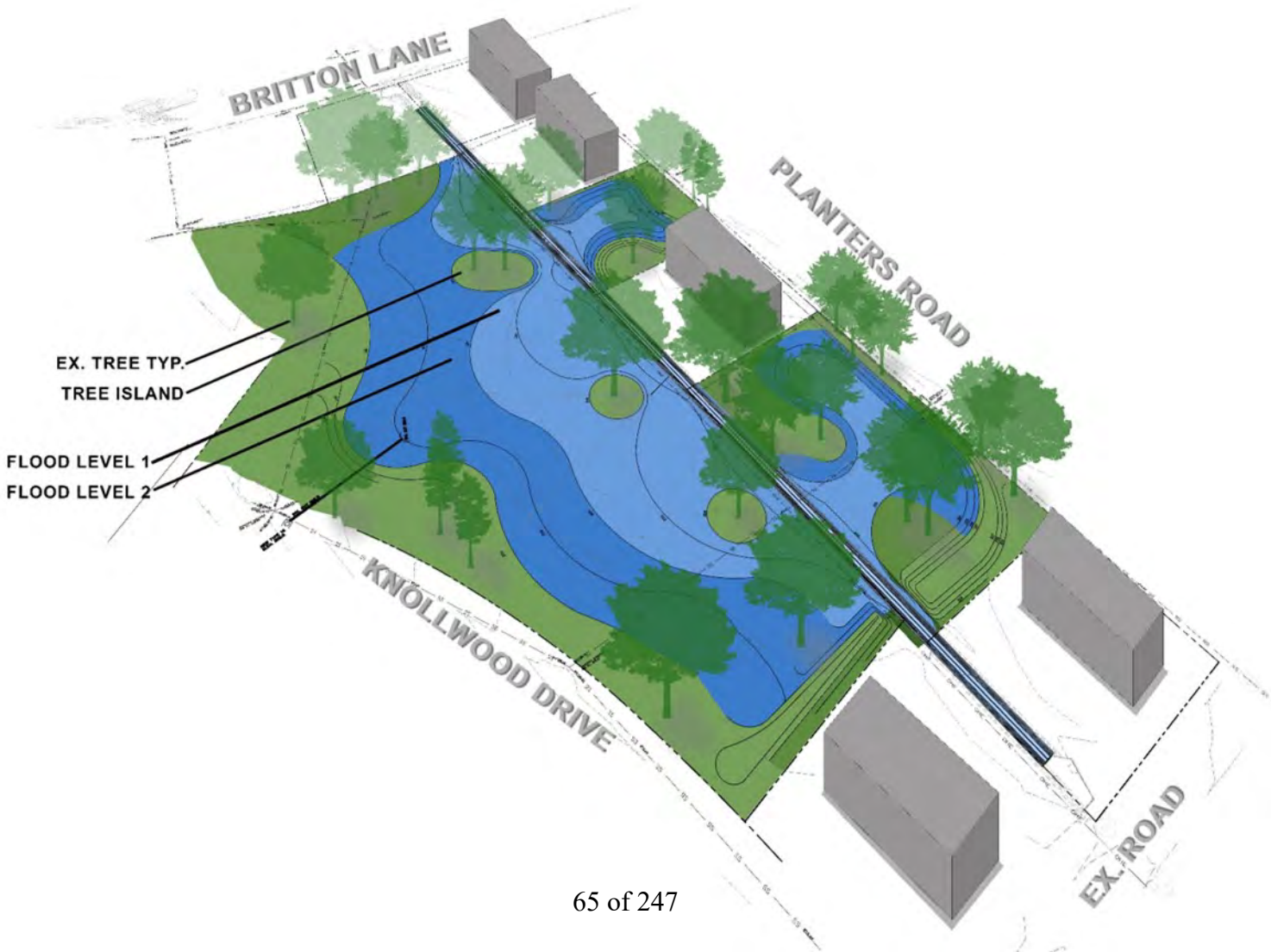
EX. ROAD

EX. RESIDENCE
(NOT DISTURBED)
TYP.

EX. TREE TYP.

KNOLLWOOD DRIVE





RC-466-B-2022 Knollwood & Planters Drainage Improvements

	Cherokee, Inc.	Corley Construction Company, LLC	L - J, Inc.	Lindlers construction	Wiley Easton Construction Co., Inc.
Total Cost	\$ 575,091.2	\$ 1,278,942.04	\$ 1,034,595.7	\$ 594,596.0	\$ 871,345.012

Richland County Council Request for Action

Subject:

Palmetto Pride Litter Crew Grant

Notes:

November 18, 2021 – The A&F Committee recommended Council approve staff applying for, and accepting upon award, the Palmetto Litter Crew Grant.



Agenda Briefing

Prepared by:	Steven A. Gaither		Title:	Grant Manager
Department:	Budget & Grants Management	Division:	Grants Management	
Date Prepared:	November 01, 2021	Meeting Date:	November 18, 2021	
Legal Review	Elizabeth McLean via email		Date:	November 08, 2021
Budget/Finance Review	Stacey Hamm via email		Date:	November 08, 2021
Approved for consideration:	Assistant County Administrator	Lori J. Thomas, MBA, CGFO		
Committee	Administration & Finance			
Subject:	Grant Application for Richland County – Palmetto Pride Litter Crew Grant			

STAFF’S RECOMMENDED ACTION:

Staff recommends approval to apply for, and accept upon award, the Palmetto Litter Crew Grant.

Request for Council Reconsideration: Yes

FIDUCIARY:

Are funds allocated in the department’s current fiscal year budget?	<input type="checkbox"/>	Yes	<input checked="" type="checkbox"/>	No
If no, is a budget amendment necessary?	<input type="checkbox"/>	Yes	<input checked="" type="checkbox"/>	No

ADDITIONAL FISCAL/BUDGETARY MATTERS TO CONSIDER:

If awarded, the grant may provide up to an additional \$25,000 which would be allocated to the Special Services budget. There is a zero dollar (\$0) match.

The grant will be for one year with a targeted start date of January 01, 2022. Funds will be dispensed bi-annually dependent upon submitted and approved activities and reports.

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

None.

REGULATORY COMPLIANCE:

None applicable.

MOTION OF ORIGIN:

There is no associated Council motion of origin.

Council Member	
Meeting	
Date	

STRATEGIC & GENERATIVE DISCUSSION:

PalmettoPride is South Carolina’s anti-litter and beautification organization created by the legislature to reduce litter. In alignment with its initiatives, the organization has announced a new, competitive, “Litter Crew” grant. The grant will award up to \$25,000 to municipalities and counties to pay for litter removal crews. The grant will also allow for the purchase of necessary items to achieve the County’s litter removal project outcomes and goals, but it will not fund recurring expenses.

Litter removal and blight remediation remain key initiatives for members of the County Council. As such, Richland County will apply for the grant to enhance its existing efforts. The intent of the application and grant is to address the County’s 11 Council districts as the start of a more holistic approach to the County’s beautification efforts.

Should funds be awarded, the County will conduct at least one (1) litter removal/blight remediation project in each of its 11 Council districts. Staff will work with each member of Council to identify an area within his/her district. The program will:

1. Cover longer stretches of highways/blighted areas;
2. Address some back roads in the rural parts of the County in desperate need of litter removal. Rural areas are often used for the improper disposal of garbage, old tires, beverage cans, old mattresses, etc.; and,
3. Create an outreach team to assist and encourage HOAs, churches, and other community organizations to create community-based challenges to remove litter. The HOA, team, church, or other community organization that collects the most litter will win the “Golden Garbage Bin” trophy. Such challenges help to develop a sense of community.

The additional funding will assist the County by expanding its litter program into underserved communities and into those communities overdue for blight remediation.

ADDITIONAL COMMENTS FOR CONSIDERATION:

None.

ATTACHMENTS:

Richland County Council Request for Action

Subject:

Authorizing the execution and delivery of a fee-in-lieu of ad valorem taxes and incentive agreement, and amendment of that certain existing fee-in-lieu of ad valorem agreement, by and between Richland County, South Carolina and Project Tide; to provide for payments of fees-in-lieu of taxes; authorizing certain infrastructure credits; and other related matters

Notes:

First Reading: October 5, 2021
Second Reading: October 19, 2021
Third Reading: December 7, 2021 {Tentative}
Public Hearing: December 7, 2021

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

AUTHORIZING THE EXECUTION AND DELIVERY OF A FEE-IN-LIEU OF *AD VALOREM* TAXES AND INCENTIVE AGREEMENT, AND AMENDMENT OF THAT CERTAIN EXISTING FEE-IN-LIEU OF *AD VALOREM* AGREEMENT, BY AND BETWEEN RICHLAND COUNTY, SOUTH CAROLINA AND PROJECT TIDE; TO PROVIDE FOR PAYMENTS OF FEES-IN-LIEU OF TAXES; AUTHORIZING CERTAIN INFRASTRUCTURE CREDITS; AND OTHER RELATED MATTERS.

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 (the “Code”), as amended (the “Simplification Act”), Title 4, Chapter 12 of the Code (the “Chapter 12 Act”) and Title 4, Chapter 29 of the Code (the “Chapter 29 Act”, and together with the Simplification Act and the Chapter 12 Act the “Acts”) to encourage manufacturing and commercial enterprises to locate in the State of South Carolina (“South Carolina” or “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 Acts, 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 Acts;

WHEREAS, pursuant to Article VIII, Section 13 of the South Carolina Constitution and Title 4, Section 1, Code of Laws of South Carolina, 1976, as amended (collectively, “MCIP Act”), the County is authorized to jointly develop multicounty parks with counties having contiguous borders with the County and, in the County’s discretion, include property within the boundaries of such multicounty parks. Under the authority provided in the MCIP Act, the County has created a multicounty park with Fairfield County, South Carolina more particularly known as the I-77 Corridor Regional Industrial Park (“Park”);

WHEREAS, the County is authorized and empowered under and pursuant to the provisions of the Simplification Act to enter into and amend certain agreements with any industry that constructs, operates, maintains, and improves certain properties (which constitute “projects” as defined in the Simplification Act);

WHEREAS, pursuant to the Acts and MCIP Act, the County is authorized to provide credits (“Infrastructure Credits”) against FILOT Payments derived from economic development property 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 (“Infrastructure”);

WHEREAS, Project Tide (the “Sponsor”) owns and operates a manufacturing facility (the “Facility”) located in the County;

WHEREAS, the Sponsor desires to expand the Facility consisting of anticipated taxable investment in real and personal property of not less than \$40,000,000 and the creation of not less than 100 new full-time jobs (“Project”);

WHEREAS, at the request of the Sponsor and as an inducement to locate the Project in the County, the County desires to enter into a Fee-in-Lieu of *Ad Valorem* Taxes and Incentive Agreement with the Sponsor, as sponsor, the substantially final form of which is attached as Exhibit A (“Fee Agreement”), pursuant to

which the County will provide certain incentives to the Sponsor with respect to the Project, including (i) providing for FILOT Payments, to be calculated as set forth in the Fee Agreement, with respect to the portion of the Project which constitutes economic development property; and (ii) providing Infrastructure Credits, as described in the Fee Agreement, to assist in paying the costs of certain Infrastructure;

WHEREAS, the County and Sponsor are parties to an existing Inducement and Millage Rate Agreement dated November 14, 2000 (the “Inducement Agreement”) and related Lease Agreement, dated December 15, 2000 (the “Lease Agreement”)(collectively, the “Existing FILOT Agreement”); and

WHEREAS, as an inducement to maintain investment at the Facility, the County and Sponsor desire to amend certain provisions of the Existing Fee Agreement in order to extend the term thereof (the “Existing FILOT Agreement Term Extension”) by entering into a First Amendment to Inducement and Millage Rate Agreement and Lease Agreement between the County and Sponsor, the substantially final form of which is attached as Exhibit B (“First Amendment to Inducement and Millage Rate Agreement and Lease Agreement”).

NOW, THEREFORE, BE IT ORDAINED BY THE COUNTY COUNCIL OF RICHLAND COUNTY, SOUTH CAROLINA, IN MEETING DULY ASSEMBLED:

Section 1. Statutory Findings. Based on information supplied to the County by the Sponsor, County Council evaluated the Project based on relevant criteria including, the purposes the Project is to accomplish, the anticipated dollar amount and nature of the investment and the anticipated costs and benefits to the County, and hereby finds:

(a) 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;

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

(c) The purposes to be accomplished by the Project are proper governmental and public purposes and the benefits of the Project are greater than the costs;

(d) The Facility and the Project, including the Fee Agreement and First Amendment to Fee Agreement, will directly and substantially benefit the general public welfare of the County by providing the retention of jobs and employment; the increase of the ad valorem tax base; and other public benefits.

Section 2. Approval of Incentives; Authorization to Execute and Fee Agreement. The incentives as described in this Ordinance (“Ordinance”), and as more particularly set forth in the Fee Agreement, with respect to the Project are hereby approved. The form, terms and provisions of the Fee Agreement that is before this meeting are approved and all of the Fee Agreement’s terms and conditions are incorporated in this Ordinance by reference. The Chair of County Council (“Chair”) is authorized and directed to execute the Fee Agreement in the name of and on behalf of the County at such time as is requested by the Sponsor, but no later than December 31, 2025, 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 Fee Agreement and to deliver the Fee Agreement to the Sponsor.

Section 3. Inclusion within the Park. The expansion of the Park boundaries to include the Project, and the Facility to the extent any portion is not already included in the Park, is authorized and approved. The Chair, the County Administrator and the Clerk to County Council are each authorized to execute such

documents and take such further actions as may be necessary to complete the expansion of the Park boundaries. Pursuant to the terms of the agreement governing the Park (“Park Agreement”), any necessary expansion of the Park’s boundaries and the amendment to the Park Agreement is complete on adoption of this Ordinance by County Council and delivery of written notice to Fairfield County of the inclusion of the Project in the Park.

Section 4. *Approval of Existing FILOT Agreement Term Extension; Authorization to Execute and Deliver First Amendment to Inducement and Millage Rate Agreement and Lease Agreement.* The Existing FILOT Agreement Term Extension as described in this Ordinance, and as more particularly set forth in the First Amendment to Inducement and Millage Rate and Lease Agreement with respect to the Facility, is hereby approved. The form, terms and provisions of the First Amendment to Inducement and Millage Rate and Lease Agreement that is before this meeting is approved and all of the terms and conditions of the First Amendment to Inducement and Millage Rate and Lease Agreement are incorporated in this Ordinance by reference. The Chair is authorized and directed to execute the First Amendment to Inducement and Millage Rate and Lease 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 First Amendment to Inducement and Millage Rate and Lease Agreement and to deliver the First Amendment to Inducement and Millage Rate and Lease Agreement to the Sponsor.

Section 5. *Further Assurances.* The County Council confirms the authority of the Chair, the County Administrator, the Director of Economic Development, the Clerk to County Council, and various other County officials and staff, acting at the direction of the Chair, the County Administrator, or the the Director of Economic Development, as appropriate, to take whatever further action and for the Chair, the County Administrator, and the Director of Economic Development to negotiate, execute and deliver whatever further documents, and for the Clerk to County Council to attest the same, as may be appropriate to effect this Ordinance and the incentives offered to the Sponsor under this Ordinance, the Fee Agreement, and First Amendment to Fee Agreement.

Section 6. *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 7. *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 8. *Effectiveness.* This Ordinance is effective after its third reading and public hearing.

RICHLAND COUNTY, SOUTH CAROLINA

Chair, Richland County Council

(SEAL)
ATTEST:

Clerk of Council, Richland County Council

First Reading: October 5, 2021
Second Reading: October 19, 2021
Public Hearing: December 7, 2021
Third Reading: December 7, 2021

EXHIBIT A
FORM OF FEE AGREEMENT

FEE-IN-LIEU OF *AD VALOREM* TAXES AND INCENTIVE AGREEMENT

BETWEEN

PROJECT TIDE

AND

RICHLAND COUNTY, SOUTH CAROLINA

EFFECTIVE AS OF DECEMBER 31, 2021

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SUMMARY OF CONTENTS OF

FEE AGREEMENT

The parties have agreed to waive the requirement to recapitulate the contents of this Fee Agreement pursuant to Section 12-44-55 of the Code (as defined herein). However, the parties have agreed to include a summary of the key provisions of this Fee Agreement for the convenience of the parties. This summary is included for convenience only and is not to be construed as a part of the terms and conditions of this Fee Agreement.

PROVISION	BRIEF DESCRIPTION	SECTION REFERENCE
Sponsor Name	Project Tide	
Project Location		
Tax Map No.		
FILOT		
<ul style="list-style-type: none"> • Phase Exemption Period 	30 years	
<ul style="list-style-type: none"> • Contract Minimum Investment Requirement 	\$40,000,000	
<ul style="list-style-type: none"> • Contract Minimum Jobs Requirement 	100	
<ul style="list-style-type: none"> • Investment Period 	5 years	
<ul style="list-style-type: none"> • Assessment Ratio 	6%	
<ul style="list-style-type: none"> • Millage Rate 	0.4753	
<ul style="list-style-type: none"> • Fixed or Five-Year Adjustable Millage 	Fixed	
<ul style="list-style-type: none"> • Claw Back Information 	N/A	
Multicounty Park	I-77 Corridor Regional Industrial Park	
Infrastructure Credit		
<ul style="list-style-type: none"> • Brief Description 	23%	
<ul style="list-style-type: none"> • Credit Term 	10 years	
<ul style="list-style-type: none"> • Claw Back Information 	Percentage clawback of SSRC based on actual investment and job creation, compared with contract minimum investment and jobs, within 5-year investment period	
Other Information		

FEE-IN-LIEU OF AD VALOREM TAXES AGREEMENT

THIS FEE-IN-LIEU OF *AD VALOREM* TAXES AGREEMENT (“*Fee Agreement*”) is entered into, effective, as of December 31, 2021, between Richland County, South Carolina (“*County*”), a body politic and corporate and a political subdivision of the State of South Carolina (“*State*”), acting through the Richland County Council (“*County Council*”) as the governing body of the County, and PROJECT TIDE, a limited liability company organized and existing under the laws of the State of South Carolina (“*Sponsor*”).

WITNESSETH:

(a) Title 12, Chapter 44, (“*Act*”) of the Code of Laws of South Carolina, 1976, as amended (“*Code*”), authorizes the County to induce manufacturing and commercial enterprises to locate in the State or to encourage manufacturing and commercial enterprises currently 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*”) with respect to Economic Development Property, as defined below;

(b) Sections 4-1-175 and 12-44-70 of the Code authorize the County to provide credits (“*Infrastructure Credit*”) against payments in lieu of taxes for the purpose of defraying of the cost of designing, acquiring, constructing, improving, or expanding (i) the infrastructure serving the County or a project and (ii) for improved and unimproved real estate, and personal property, including machinery and equipment, used in the operation of a manufacturing facility or commercial enterprise (collectively, “*Infrastructure*”);

(c) The Sponsor has committed to expand a manufacturing facility (“*Facility*”) in the County, consisting of taxable investment in real and personal property of not less than \$40,000,000 and the creation of 100 new, full-time jobs;

(d) By an ordinance enacted on [December 7, 2021], County Council authorized the County to enter into this Fee Agreement with the Sponsor to provide for a FILOT and the other incentives as more particularly described in this Fee Agreement to induce the Sponsor to expand its Facility in the County.

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

ARTICLE I DEFINITIONS

Section 1.1. Terms. The defined terms used in this Fee Agreement have the meaning given below, unless the context clearly requires otherwise.

“*Act*” means Title 12, Chapter 44 of the Code, and all future acts successor or supplemental thereto or amendatory of this Fee Agreement.

“*Act Minimum Investment Requirement*” means an investment of at least \$2,500,000 in the Project within five years of the Commencement Date.

“*Administration Expenses*” means the reasonable expenses incurred by the County in the negotiation, approval and implementation of the terms and provisions of this Fee Agreement, including reasonable attorney’s and consultant’s fees of \$5,000. Administration Expenses does not include any costs, expenses, including attorney’s fees, incurred by the County (i) in defending challenges to the

FILOT Payments, Infrastructure Credits or other incentives provided by this Fee Agreement brought by third parties or the Sponsor or its affiliates and related entities, or (ii) in connection with matters arising at the request of the Sponsor outside of the immediate scope of this Fee Agreement, including amendments to the terms of this Fee Agreement.

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

“**Commencement Date**” means the last day of the property tax year during which Economic Development Property is placed in service. The Commencement Date shall not be later than the last day of the property tax year which is three years from the year in which the County and the Sponsor enter into this Fee Agreement. For purposes of this Fee Agreement, the Commencement Date is expected to be December 31, 2021.

“**Contract Minimum Investment Requirement**” means a taxable investment in real and personal property at the Project of not less than \$40,000,000.

“**Contract Minimum Jobs Requirement**” means not less than 100 full-time, jobs created by the Sponsor in the County in connection with the Project.

“**County**” means Richland County, South Carolina, a body politic and corporate and a political subdivision of the State, its successors and assigns, acting by and through the County Council as the governing body of the County.

“**County Council**” means the Richland County Council, the governing body of the County.

“**Credit Term**” means the years during the Fee Term in which the Infrastructure Credit is applicable, as described in Exhibit C.

“**Department**” means the South Carolina Department of Revenue.

“**Diminution in Value**” means a reduction in the fair market value of Economic Development Property, as determined in Section 4.1(a)(i) of this Fee Agreement, which may be caused by (i) the removal or disposal of components of the Project pursuant to Section 4.3 of this Fee Agreement; (ii) a casualty as described in Section 4.4 of this Fee Agreement; or (iii) a condemnation as described in Section 4.5 of this Fee Agreement.

“**Economic Development Property**” means those items of real and tangible personal property of the Project placed in service not later than the end of the Investment Period that (i) satisfy the conditions of classification as economic development property under the Act, and (ii) are identified by the Sponsor in its annual filing of a PT-300S or comparable form with the Department (as such filing may be amended from time to time).

“**Equipment**” means all of the machinery, equipment, furniture, office equipment, and fixtures, together with any and all additions, accessions, replacements, and substitutions.

“**Event of Default**” means any event of default specified in Section 7.1 of this Fee Agreement.

“**Fee Agreement**” means this Fee-In-Lieu Of *Ad Valorem* Taxes and Incentive Agreement.

“**Fee Term**” means the period from the effective date of this Fee Agreement until the Final Termination Date.

“FILOT Payments” means the amount paid or to be paid in lieu of *ad valorem* property taxes as provided in Section 4.1.

“Final Phase” means the Economic Development Property placed in service during the last year of the Investment Period.

“Final Termination Date” means the date on which the last FILOT Payment with respect to the Final Phase is made, or such earlier date as the Fee Agreement is terminated in accordance with the terms of this Fee Agreement. Assuming the Phase Termination Date for the Final Phase is December 31, 2055, the Final Termination Date is expected to be January 15, 2057, which is the due date of the last FILOT Payment with respect to the Final Phase.

“Improvements” means all improvements to the Real Property, including buildings, building additions, roads, sewer lines, and infrastructure, together with all additions, fixtures, accessions, replacements, and substitutions.

“Infrastructure” means (i) the infrastructure serving the County or the Project, (ii) improved and unimproved real estate, and personal property, including machinery and equipment, used in the operation of a manufacturing or commercial enterprise, or (iii) such other items as may be described in or permitted under Section 4-29-68 of the Code.

“Infrastructure Credit” means the credit provided to the Sponsor pursuant to Section 12-44-70 of the Act or Section 4-1-175 of the MCIP Act and Section 5.1 of this Fee Agreement, with respect to the Infrastructure. Infrastructure Credits are to be used for the payment of Infrastructure constituting real property, improvements and infrastructure before any use for the payment of Infrastructure constituting personal property, notwithstanding any presumptions to the contrary in the MCIP Act or otherwise.

“Investment Period” means the period beginning with the first day of any purchase or acquisition of Economic Development Property and ending five years after the Commencement Date, as may be extended pursuant to Section 12-44-30(13) of the Act. For purposes of this Fee Agreement, the Investment Period, unless so extended, is expected to end on December 31, 2026.

“MCIP Act” means Article VIII, Section 13(D) of the Constitution of the State of South Carolina, and Sections 4-1-170, 4-1-172, 4-1-175, and 4-29-68 of the Code.

“Multicounty Park” means the multicounty industrial or business park governed by the Amended and Restated Agreement Governing the I-77 Corridor Regional Industrial Park, dated as of September 1, 2018, between the County and Fairfield County, South Carolina, as may be amended.

“Net FILOT Payment” means the FILOT Payment net of the Infrastructure Credit.

“Phase” means the Economic Development Property placed in service during a particular year of the Investment Period.

“Phase Exemption Period” means, with respect to each Phase, the period beginning with the property tax year the Phase is placed in service during the Investment Period and ending on the Phase Termination Date.

“Phase Termination Date” means, with respect to each Phase, the last day of the property tax year which is the 29th year following the first property tax year in which the Phase is placed in service.

“**Project**” means all the Equipment, Improvements, and Real Property in the County that the Sponsor determines to be necessary, suitable, or useful by the Sponsor in connection with its investment in the County.

“**Real Property**” means real property that the Sponsor uses or will use in the County for the purposes that Section 2.2(b) describes, and initially consists of the land identified on Exhibit A of this Fee Agreement.

“**Removed Components**” means Economic Development Property which the Sponsor, in its sole discretion, (a) determines to be inadequate, obsolete, worn-out, uneconomic, damaged, unsuitable, undesirable, or unnecessary pursuant to Section 4.3 of this Fee Agreement or otherwise; or (b) elects to be treated as removed pursuant to Section 4.4(c) or Section 4.5(b)(iii) of this Fee Agreement.

“**Replacement Property**” means any property which is placed in service as a replacement for any Removed Component regardless of whether the Replacement Property serves the same functions as the Removed Component it is replacing and regardless of whether more than one piece of Replacement Property replaces a single Removed Component.

“**Sponsor**” means PROJECT TIDE and any surviving, resulting, or transferee entity in any merger, consolidation, or transfer of assets; or any other person or entity which may succeed to the rights and duties of the Sponsor under this Fee Agreement.

“**Sponsor Affiliate**” means an entity that participates in the investment or job creation at the Project and, following receipt of the County’s approval pursuant to Section 9.1 of this Fee Agreement, joins this Fee Agreement by delivering a Joinder Agreement, the form of which is attached as Exhibit B to this Fee Agreement.

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

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

The term “investment” or “invest” as used in this Fee Agreement includes not only investments made by the Sponsor, but also to the fullest extent permitted by law, those investments made by or for the benefit of the Sponsor in connection with the Project through federal, state, or local grants, to the extent such investments are or, but for the terms of this Fee Agreement, would be subject to *ad valorem* taxes to be paid by the Sponsor.

ARTICLE II REPRESENTATIONS AND WARRANTIES

Section 2.1. Representations and Warranties of the County. The County represents and warrants as follows:

(a) The County is a body politic and corporate and a political subdivision of the State and acts through the County Council as its governing body. The Act authorizes and empowers the County to enter into the transactions that this Fee Agreement contemplates and to carry out its obligations under this Fee Agreement. The County has duly authorized the execution and delivery of this Fee Agreement and all other documents, certificates or other agreements contemplated in this Fee Agreement and has obtained all consents from third parties and taken all actions necessary or that the law requires to fulfill its obligations under this Fee Agreement.

(b) Based on representations by the Sponsor, County Council evaluated the Project based on all relevant criteria including the purposes the Project is to accomplish, the anticipated dollar amount and nature of the investment resulting from the Project, and the anticipated costs and benefits to the County and following the evaluation, the County determined that (i) 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; (ii) the Project gives rise to no pecuniary liability of the County or any incorporated municipality and to no charge against the County's general credit or taxing power; (iii) the purposes to be accomplished by the Project are proper governmental and public purposes; and (iv) the benefits of the Project are greater than the costs.

(c) The County identified the Project, as a "project" on October 5, 2021 by adopting an Inducement Resolution, as defined in the Act on October 5, 2021.

(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 Fee Agreement.

(e) The County has located or will take all reasonable action to locate the Project in the Multicounty Park.

Section 2.2. Representations and Warranties of the Sponsor. The Sponsor represents and warrants as follows:

(a) The Sponsor is in good standing under the laws of the state of its organization, is duly authorized to transact business in the State (or will obtain such authority prior to commencing business in the State), has power to enter into this Fee Agreement, and has duly authorized the execution and delivery of this Fee Agreement.

(b) The Sponsor intends to operate the Project as a manufacturing facility and for such other purposes that the Act permits as the Sponsor may deem appropriate.

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

(d) The Sponsor will use commercially reasonable efforts to achieve the Contract Minimum Investment Requirement and the Contract Minimum Jobs Requirement.

(e) The execution and delivery of this Fee Agreement by the County and the availability of the FILOT and other incentives provided by this Fee Agreement has been instrumental in inducing the Sponsor to locate the Project in the County.

(f) The Sponsor has retained legal counsel to confirm, or has had a reasonable opportunity to consult legal counsel to confirm, its eligibility for the FILOT and other incentives granted by this Fee Agreement and has not relied on the County, its officials, employees or legal representatives with respect to any question of eligibility or applicability of the FILOT and other incentives granted by this Fee Agreement.

ARTICLE III THE PROJECT

Section 3.1. The Project. The Sponsor intends and expects to (i) construct or acquire the Project and (ii) meet the Contract Minimum Investment Requirement and the Contract Minimum Jobs

Requirement within the Investment Period. The Sponsor anticipates that the first Phase of the Project will be placed in service during the calendar year ending December 31, 2021. Notwithstanding anything contained in this Fee Agreement to the contrary, the Sponsor is not obligated to complete the acquisition of the Project. However, if the Contract Minimum Investment Requirement is not met, the benefits provided to the Sponsor, or Sponsor Affiliate, if any, pursuant to this Fee Agreement may be reduced, modified or terminated as provided in this Fee Agreement.

Section 3.2 *Leased Property.* To the extent that State law allows or is revised or construed to permit leased assets including a building, or personal property to be installed in a building, to constitute Economic Development Property, then any property leased by the Sponsor is, at the election of the Sponsor, deemed to be Economic Development Property for purposes of this Fee Agreement, subject, at all times, to the requirements of State law and this Fee Agreement with respect to property comprising Economic Development Property.

Section 3.3. *Filings and Reports.*

(a) On or before January 31 of each year during the term of this Fee Agreement, commencing January 31, 2022, the Sponsor shall deliver to the Economic Development Director of the County with respect to the Sponsor and all Sponsor Affiliates, if any, the information required by the terms of the County's Resolution dated December 12, 2017, which is attached hereto as Exhibit C, as may be amended by subsequent resolution.

(b) The Sponsor shall file a copy of this Fee Agreement and a completed PT-443 with the Economic Development Director and the Department and the Auditor, Treasurer and Assessor of the County and partner county to the Multicounty Park.

(c) On request by the County Administrator or the Economic Development Director, the Sponsor shall remit to the Economic Development Director records accounting for the acquisition, financing, construction, and operation of the Project which records (i) permit ready identification of all Economic Development Property; (ii) confirm the dates that the Economic Development Property or Phase was placed in service; and (iii) include copies of all filings made in accordance with this Section.

**ARTICLE IV
FILOT PAYMENTS**

Section 4.1. *FILOT Payments.*

(a) The FILOT Payment due with respect to each Phase through the Phase Termination Date is calculated as follows:

- (i) The fair market value of the Phase calculated as set forth in the Act (for the Real Property portion of the Phase, the County and the Sponsor have elected to use the fair market value established in the first year of the Phase Exemption Period), multiplied by
- (ii) An assessment ratio of six percent (6%), multiplied by
- (iii) A fixed millage rate equal to 0.4753 , which is the cumulative millage rate levied by or on behalf of all the taxing entities within which the Project is located as of June 30, 2021.

The calculation of the FILOT Payment must allow all applicable property tax exemptions except those excluded pursuant to Section 12-44-50(A)(2) of the Act. The Sponsor acknowledges that (i) the calculation of the annual FILOT Payment is a function of the Department and is wholly dependent on the Sponsor timely submitting the correct annual property tax returns to the Department, (ii) the County has no responsibility for the submission of returns or the calculation of the annual FILOT Payment, and (iii) failure by the Sponsor to submit the correct annual property tax return could lead to a loss of all or a portion of the FILOT and other incentives provided by this Fee Agreement.

(b) If a final order of a court of competent jurisdiction from which no further appeal is allowable declares the FILOT Payments invalid or unenforceable, in whole or in part, for any reason, the parties shall negotiate the reformation of the calculation of the FILOT Payments to most closely afford the Sponsor with the intended benefits of this Fee Agreement. If such order has the effect of subjecting the Economic Development Property to *ad valorem* taxation, this Fee Agreement shall terminate, and the Sponsor shall owe the County regular *ad valorem* taxes from the date of termination, in accordance with Section 4.7.

Section 4.2. FILOT Payments on Replacement Property. If the Sponsor elects to place Replacement Property in service, then, pursuant and subject to the provisions of Section 12-44-60 of the Act, the Sponsor shall make the following payments to the County with respect to the Replacement Property for the remainder of the Phase Exemption Period applicable to the Removed Component of the Replacement Property:

(a) FILOT Payments, calculated in accordance with Section 4.1, on the Replacement Property to the extent of the original income tax basis of the Removed Component the Replacement Property is deemed to replace.

(b) Regular *ad valorem* tax payments to the extent the income tax basis of the Replacement Property exceeds the original income tax basis of the Removed Component the Replacement Property is deemed to replace.

Section 4.3. Removal of Components of the Project. Subject to the other terms and provisions of this Fee Agreement, the Sponsor is entitled to remove and dispose of components of the Project in its sole discretion. Components of the Project are deemed removed when scrapped, sold or otherwise removed from the Project. If the components removed from the Project are Economic Development Property, then the Economic Development Property is a Removed Component, no longer subject to this Fee Agreement and is subject to *ad valorem* property taxes to the extent the Removed Component remains in the State and is otherwise subject to *ad valorem* property taxes.

Section 4.4. Damage or Destruction of Economic Development Property.

(a) *Election to Terminate.* If Economic Development Property is damaged by fire, explosion, or any other casualty, then the Sponsor may terminate this Fee Agreement. For the property tax year corresponding to the year in which the damage or casualty occurs, the Sponsor is obligated to make FILOT Payments with respect to the damaged Economic Development Property only to the extent property subject to *ad valorem* taxes would have been subject to *ad valorem* taxes under the same circumstances for the period in question.

(b) *Election to Restore and Replace.* If Economic Development Property is damaged by fire, explosion, or any other casualty, and the Sponsor does not elect to terminate this Fee Agreement, then the Sponsor may restore and replace the Economic Development Property. All restorations and replacements made pursuant to this subsection (b) are deemed, to the fullest extent permitted by law and this Fee Agreement, to be Replacement Property.

(c) *Election to Remove.* If Economic Development Property is damaged by fire, explosion, or any other casualty, and the Sponsor elects not to terminate this Fee Agreement pursuant to subsection (a) and elects not to restore or replace pursuant to subsection (b), then the damaged portions of the Economic Development Property are deemed Removed Components.

Section 4.5. Condemnation.

(a) *Complete Taking.* If at any time during the Fee Term title to or temporary use of the Economic Development Property is vested in a public or quasi-public authority by virtue of the exercise of a taking by condemnation, inverse condemnation, or the right of eminent domain; by voluntary transfer under threat of such taking; or by a taking of title to a portion of the Economic Development Property which renders continued use or occupancy of the Economic Development Property commercially unfeasible in the judgment of the Sponsor, the Sponsor shall have the option to terminate this Fee Agreement by sending written notice to the County within a reasonable period of time following such vesting.

(b) *Partial Taking.* In the event of a partial taking of the Economic Development Property or a transfer in lieu, the Sponsor may elect: (i) to terminate this Fee Agreement; (ii) to restore and replace the Economic Development Property, with such restorations and replacements deemed, to the fullest extent permitted by law and this Fee Agreement, to be Replacement Property; or (iii) to treat the portions of the Economic Development Property so taken as Removed Components.

(c) In the year in which the taking occurs, the Sponsor is obligated to make FILOT Payments with respect to the Economic Development Property so taken only to the extent property subject to *ad valorem* taxes would have been subject to taxes under the same circumstances for the period in question.

Section 4.6. Calculating FILOT Payments on Diminution in Value. If there is a Diminution in Value, the FILOT Payments due with respect to the Economic Development Property or Phase so diminished shall be calculated by substituting the diminished value of the Economic Development Property or Phase for the original fair market value in Section 4.1(a)(i) of this Fee Agreement.

Section 4.7. Payment of Ad Valorem Taxes. If Economic Development Property becomes subject to *ad valorem* taxes as imposed by law pursuant to the terms of this Fee Agreement or the Act, then the calculation of the *ad valorem* taxes due with respect to the Economic Development Property in a particular property tax year shall: (i) include the property tax reductions that would have applied to the Economic Development Property if it were not Economic Development Property; and (ii) include a credit for FILOT Payments the Sponsor has made with respect to the Economic Development Property.

Section 4.8. Place of FILOT Payments. All FILOT Payments shall be made directly to the County in accordance with applicable law.

**ARTICLE V
ADDITIONAL INCENTIVES**

Section 5.1. Infrastructure Credits. To assist in paying for costs of Infrastructure, the Sponsor is entitled to claim an Infrastructure Credit to reduce certain FILOT Payments due and owing from the Sponsor to the County under this Fee Agreement. The term, amount and calculation of the Infrastructure Credit is described in Exhibit D. In no event may the Sponsor's aggregate Infrastructure Credit claimed pursuant to this Section exceed the aggregate expenditures by the Sponsor on Infrastructure.

For each property tax year in which the Infrastructure Credit is applicable ("**Credit Term**"), the County shall prepare and issue the annual bills with respect to the Project showing the Net FILOT Payment, calculated in accordance with Exhibit D. Following receipt of the bill, the Sponsor shall timely remit the Net FILOT Payment to the County in accordance with applicable law.

**ARTICLE VI
CLAW BACK**

Section 6.1. Claw Back. If the Sponsor fails to perform its obligations under this Fee Agreement as described in Exhibit E, then the Sponsor is subject to the claw backs as described in Exhibit E. Any amount that may be due from the Sponsor to the County as calculated in accordance with or described in Exhibit E is due within 30 days of receipt of a written statement from the County. If not timely paid, the amount due from the Sponsor to the County is subject to the minimum amount of interest that the law may permit with respect to delinquent *ad valorem* tax payments. The repayment obligation arising under this Section and Exhibit E survives termination of this Fee Agreement.

**ARTICLE VII
DEFAULT**

Section 7.1. Events of Default. The following are "Events of Default" under this Fee Agreement:

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

(b) Failure to timely pay any amount, except FILOT Payments, due under this Fee Agreement;

(c) A Cessation of Operations. For purposes of this Fee Agreement, a "**Cessation of Operations**" means a publicly announced closure of the Facility, a layoff of a majority of the employees working at the Facility, or a substantial reduction in production that continues for a period of twelve (12) months;

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

(e) Failure by the Sponsor to perform any of the terms, conditions, obligations, or covenants under this Fee Agreement (other than those under (a), above), which failure has not been cured within 30 days after written notice from the County to the Sponsor specifying such failure and requesting that it be remedied, unless the Sponsor 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 Sponsor is diligently pursuing corrective action;

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

(g) 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 Sponsor 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 7.2. Remedies on Default.

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

(i) terminate this Fee 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 Sponsor may take any one or more of the following actions:

(i) bring an action for specific enforcement;

(ii) terminate this 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.

Section 7.3. 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 Fee 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 7.4. Remedies Not Exclusive. No remedy described in this Fee 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 Fee Agreement or existing at law or in equity or by statute.

**ARTICLE VIII
PARTICULAR RIGHTS AND COVENANTS**

Section 8.1. Right to Inspect. The County and its authorized agents, at any reasonable time on prior written notice (which may be given by email), may enter and examine and inspect the Project for the purposes of 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).

Section 8.2. Confidentiality. The County acknowledges that the Sponsor may utilize confidential and proprietary processes and materials, services, equipment, trade secrets, and techniques (“*Confidential*

Information”) and that disclosure of the Confidential Information could result in substantial economic harm to the Sponsor. The Sponsor may clearly label any Confidential Information delivered to the County pursuant to this Fee 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 Sponsor 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 will use its best efforts to provide the Sponsor 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 Sponsor to obtain judicial or other relief from such disclosure requirement.

Section 8.3. Indemnification Covenants.

(a) Except as provided in paragraph (d) below, the Sponsor 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 Fee Agreement, performance of the County’s obligations under this Fee Agreement or the administration of its duties pursuant to this Fee Agreement, or otherwise by virtue of the County having entered into this Fee Agreement.

(b) The County is entitled to use counsel of its choice and the Sponsor 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 Sponsor shall pay the County within 30 days of receipt of the statement. The Sponsor 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 Sponsor 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 in this Section or this Fee Agreement to the contrary, the Sponsor 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 Fee Agreement, performance of the County’s obligations under this Fee Agreement, or the administration of its duties under this Fee Agreement, or otherwise by virtue of the County having entered into this Fee Agreement; 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 Sponsor 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 Sponsor notice, reasonable under the circumstances, within which to defend or otherwise respond to a claim.

Section 8.4. No Liability of County Personnel. All covenants, stipulations, promises, agreements and obligations of the County contained in this Fee Agreement 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 under this Fee Agreement may be had against any member of County Council or any elected or appointed official, officer, agent, servant or employee of the County and no recourse for the payment of any moneys or performance of any of the covenants and agreements under this Fee Agreement or for any claims based on this Fee Agreement may be had against any member of County Council or any elected or appointed official, officer, agent, servant or employee of the County except solely in their official capacity.

Section 8.5. *Limitation of Liability.* The County is not liable to the Sponsor for any costs, expenses, losses, damages, claims or actions in connection with this Fee Agreement, except from amounts received by the County from the Sponsor under this Fee Agreement. Notwithstanding anything in this Fee Agreement to the contrary, any financial obligation the County may incur under this Fee Agreement is deemed not to constitute a pecuniary liability or a debt or general obligation of the County.

Section 8.6. *Assignment.* The Sponsor may assign this Fee Agreement in whole or in part with the prior written consent of the County or a subsequent written ratification by the County, which may be done by resolution, and which consent or ratification the County will not unreasonably withhold. The Sponsor agrees to notify the County and the Department of the identity of the proposed transferee within 60 days of the transfer. In case of a transfer, the transferee assumes the transferor's basis in the Economic Development Property for purposes of calculating the FILOT Payments.

Section 8.7. *No Double Payment; Future Changes in Legislation.* Notwithstanding anything contained in this Fee Agreement to the contrary, and except as expressly required by law, the Sponsor is not required to make a FILOT Payment in addition to a regular *ad valorem* property tax payment in the same year with respect to the same piece of Economic Development Property. The Sponsor is not required to make a FILOT Payment on Economic Development Property in cases where, absent this Fee Agreement, *ad valorem* property taxes would otherwise not be due on such property.

Section 8.8. *Administration Expenses.* The Sponsor will reimburse, or cause reimbursement to, the County for Administration Expenses in the amount of \$5,000. The Sponsor will reimburse the County for its Administration Expenses on receipt of a written request from the County or at the County's direction, which request shall include a statement of the amount and nature of the Administration Expense. The Sponsor shall pay the Administration Expense as set forth in the written request no later than 60 days following receipt of the written request from the County. The County does not impose a charge in the nature of impact fees or recurring fees in connection with the incentives authorized by this Fee Agreement. The payment by the Sponsor 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.

ARTICLE IX SPONSOR AFFILIATES

Section 9.1. *Sponsor Affiliates.* The Sponsor may designate Sponsor Affiliates from time to time, including at the time of execution of this Fee Agreement, pursuant to and subject to the provisions of Section 12-44-130 of the Act. To designate a Sponsor Affiliate, the Sponsor must deliver written notice to the Economic Development Director identifying the Sponsor Affiliate and requesting the County's approval of the Sponsor Affiliate. Except with respect to a Sponsor Affiliate designated at the time of execution of this Fee Agreement, which may be approved in the County Council ordinance authorizing the execution and delivery of this Fee Agreement, approval of the Sponsor Affiliate may be given by the County Administrator delivering written notice to the Sponsor and Sponsor Affiliate following receipt by the County Administrator of a recommendation from the Economic Development Committee of County Council to allow the Sponsor Affiliate to join in the investment at the Project. The Sponsor Affiliate's joining in the investment at the Project will be effective on delivery of a Joinder Agreement, the form of which is attached as Exhibit B, executed by the Sponsor Affiliate to the County.

Section 9.2. Primary Responsibility. Notwithstanding the addition of a Sponsor Affiliate, the Sponsor acknowledges that it has the primary responsibility for the duties and obligations of the Sponsor and any Sponsor Affiliate under this Fee Agreement, including the payment of FILOT Payments or any other amount due to or for the benefit of the County under this Fee Agreement. For purposes of this Fee Agreement, “primary responsibility” means that if the Sponsor Affiliate fails to make any FILOT Payment or remit any other amount due under this Fee Agreement, the Sponsor shall make such FILOT Payments or remit such other amounts on behalf of the Sponsor Affiliate.

**ARTICLE X
MISCELLANEOUS**

Section 10.1. Notices. Any notice, election, demand, request, or other communication to be provided under this Fee Agreement is effective when delivered to the party named below or when deposited with the United States Postal Service, certified mail, return receipt requested, postage prepaid, addressed as follows (or addressed to such other address as any party shall have previously furnished in writing to the other party), except where the terms of this Fee Agreement require receipt rather than sending of any notice, in which case such provision shall control:

IF TO THE SPONSOR:

WITH A COPY TO (does not constitute notice):

Burr & Forman LLP
Attn: Erik P. Doerring
1221 Main Street, Suite 1800
Columbia, South Carolina 29201

IF TO THE COUNTY:

Richland County, South Carolina
Attn: Richland County Economic Development Director
2020 Hampton Street
Columbia, South Carolina 29204

WITH A COPY TO (does not constitute notice):

Parker Poe Adams & Bernstein LLP
Attn: Ray E. Jones
1221 Main Street, Suite 1100 (29201)
Post Office Box 1509
Columbia, South Carolina 29202-1509

Section 10.2. Provisions of Agreement for Sole Benefit of County and Sponsor. Except as otherwise specifically provided in this Fee Agreement, nothing in this Fee Agreement expressed or implied confers on any person or entity other than the County and the Sponsor any right, remedy, or claim under or by reason of this Fee Agreement, this Fee Agreement being intended to be for the sole and exclusive benefit of the County and the Sponsor.

Section 10.3. Counterparts. This Fee Agreement may be executed in any number of counterparts, and all of the counterparts together constitute one and the same instrument.

Section 10.4. Governing Law. South Carolina law, exclusive of its conflicts of law provisions that would refer the governance of this Fee Agreement to the laws of another jurisdiction, governs this Fee Agreement and all documents executed in connection with this Fee Agreement.

Section 10.5. Headings. The headings of the articles and sections of this Fee Agreement are inserted for convenience only and do not constitute a part of this Fee Agreement.

Section 10.6. Amendments. This Fee Agreement may be amended only by written agreement of the parties to this Fee Agreement.

Section 10.7. Agreement to Sign Other Documents. From time to time, and at the expense of the Sponsor, to the extent any expense is incurred, the County agrees to execute and deliver to the Sponsor such additional instruments as the Sponsor may reasonably request and as are authorized by law and reasonably within the purposes and scope of the Act and this Fee Agreement to effectuate the purposes of this Fee Agreement.

Section 10.8. Interpretation; Invalidity; Change in Laws.

(a) If the inclusion of property as Economic Development Property or any other issue is unclear under this Fee Agreement, then the parties intend that the interpretation of this Fee Agreement be done in a manner that provides for the broadest inclusion of property under the terms of this Fee Agreement and the maximum incentive permissible under the Act, to the extent not inconsistent with any of the explicit terms of this Fee Agreement.

(b) If any provision of this Fee Agreement is declared illegal, invalid, or unenforceable for any reason, the remaining provisions of this Fee 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 Fee Agreement so as to afford the Sponsor with the maximum benefits to be derived under this Fee Agreement, it being the intention of the County to offer the Sponsor the strongest inducement possible, within the provisions of the Act, to locate the Project in the County.

(c) The County agrees that in case the FILOT incentive described in this Fee Agreement is found to be invalid and the Sponsor does not realize the economic benefit it is intended to receive from the County under this Fee Agreement as an inducement to locate in the County, the County agrees to negotiate with the Sponsor to provide a special source revenue or Infrastructure Credit to the Sponsor (in addition to the Infrastructure Credit explicitly provided for above) to the maximum extent permitted by law, to allow the Sponsor to recoup all or a portion of the loss of the economic benefit resulting from such invalidity.

Section 10.9. Force Majeure. The Sponsor is not responsible for any delays or non-performance caused in whole or in part, directly or indirectly, by strikes, accidents, freight embargoes, fires, floods, inability to obtain materials, conditions arising from governmental orders or regulations, war or national emergency, acts of God, and any other cause, similar or dissimilar, beyond the Sponsor's reasonable control.

Section 10.10. Termination; Termination by Sponsor.

(a) Unless first terminated under any other provision of this Fee Agreement, this Fee Agreement terminates on the Final Termination Date.

(b) The Sponsor is authorized to terminate this Fee Agreement at any time with respect to all or part of the Project on providing the County with 30 days' notice.

(c) Any monetary obligations due and owing at the time of termination and any provisions which are intended to survive termination, survive such termination.

(d) In the year following termination, all Economic Development Property is subject to *ad valorem* taxation or such other taxation or payment in lieu of taxation that would apply absent this Fee Agreement. The Sponsor's obligation to make FILOT Payments under this Fee Agreement terminates to the extent of and in the year following the year the Sponsor terminates this Fee Agreement pursuant to this Section.

Section 10.11. *Entire Agreement.* This Fee Agreement expresses the entire understanding and all agreements of the parties, and neither party is bound by any agreement or any representation to the other party which is not expressly set forth in this Fee Agreement or in certificates delivered in connection with the execution and delivery of this Fee Agreement.

Section 10.12. *Waiver.* Either party may waive compliance by the other party with any term or condition of this Fee Agreement only in a writing signed by the waiving party.

Section 10.13. *Business Day.* If any action, payment, or notice is, by the terms of this Fee Agreement, required to be taken, made, or given on any 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 Fee Agreement, and no interest will accrue in the interim.

Section 10.14. *Agreement's Construction.* Each party and its counsel have reviewed this Fee 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 Fee Agreement or any amendments or exhibits to this Fee Agreement.

[Signature pages follow]

IN WITNESS WHEREOF, the County, acting by and through the County Council, has caused this Fee Agreement to be executed in its name and on its behalf by the Chair of County Council and to be attested by the Clerk of the County Council; and the Sponsor has caused this Fee Agreement to be executed by its duly authorized officer, all as of the day and year first above written.

RICHLAND COUNTY, SOUTH CAROLINA

(SEAL)

By: _____
County Council Chair
Richland County, South Carolina

ATTEST:

By: _____
Clerk to County Council
Richland County, South Carolina

[Signature Page 1 to Fee in Lieu of Ad Valorem Taxes and Incentive Agreement]

PROJECT TITLE

By: _____
Its: _____

[Signature Page 2 to Fee in Lieu of Ad Valorem Taxes and Incentive Agreement]

**EXHIBIT A
PROPERTY DESCRIPTION**

ALL REAL AND TANGIBLE PERSONAL PROPERTY ASSOCIATED WITH THE PROJECT

EXHIBIT B (see Section 9.1)
FORM OF JOINDER AGREEMENT

Reference is hereby made to the Fee-in-Lieu of *Ad Valorem* Taxes Agreement, effective [DATE] (“Fee Agreement”), between Richland County, South Carolina (“County”) and [COMPANY] (“Sponsor”).

1. Joinder to Fee Agreement.

[_____], a [STATE] [corporation]/[limited liability company]/[limited partnership] authorized to conduct business in the State of South Carolina, hereby (a) joins as a party to, and agrees to be bound by and subject to all of the terms and conditions of, the Fee Agreement as if it were a Sponsor [except the following: _____]; (b) shall receive the benefits as provided under the Fee Agreement with respect to the Economic Development Property placed in service by the Sponsor Affiliate as if it were a Sponsor [except the following _____]; (c) acknowledges and agrees that (i) according to the Fee Agreement, the undersigned has been designated as a Sponsor Affiliate by the Sponsor for purposes of the Project; and (ii) the undersigned qualifies or will qualify as a Sponsor Affiliate under the Fee Agreement and Section 12-44-30(20) and Section 12-44-130 of the Act.

2. Capitalized Terms.

Each capitalized term used, but not defined, in this Joinder Agreement has the meaning of that term set forth in the Fee Agreement.

3. Representations of the Sponsor Affiliate.

The Sponsor Affiliate represents and warrants to the County as follows:

(a) The Sponsor Affiliate is in good standing under the laws of the state of its organization, is duly authorized to transact business in the State (or will obtain such authority prior to commencing business in the State), has power to enter into this Joinder Agreement, and has duly authorized the execution and delivery of this Joinder Agreement.

(b) The Sponsor Affiliate’s execution and delivery of this Joinder Agreement, and its compliance with the provisions of this Joinder Agreement, do not result in a default, not waived or cured, under any agreement or instrument to which the Sponsor Affiliate is now a party or by which it is bound.

(c) The execution and delivery of this Joinder Agreement and the availability of the FILOT and other incentives provided by this Joinder Agreement has been instrumental in inducing the Sponsor Affiliate to join with the Sponsor in the Project in the County.

4. Governing Law.

This Joinder Agreement is governed by and construed according to the laws, without regard to principles of choice of law, of the State of South Carolina.

5. Notice.

Notices under Section 10.1 of the Fee Agreement shall be sent to:

[_____]

IN WITNESS WHEREOF, the undersigned has executed this Joinder Agreement to be effective as of the date set forth below.

Date

Name of Entity
By: _____
Its: _____

IN WITNESS WHEREOF, the County acknowledges it has consented to the addition of the above-named entity as a Sponsor Affiliate under the Fee Agreement effective as of the date set forth above.

RICHLAND COUNTY, SOUTH CAROLINA

By: _____
Its: _____

EXHIBIT C (see Section 3.3)
RICHLAND COUNTY RESOLUTION REQUIRING CERTAIN ACCOUNTABILITY PRACTICES CONCERNING
ECONOMIC DEVELOPMENT PROJECTS IN THE COUNTY

**A RESOLUTION TO AMEND THE DECEMBER 21, 2010,
RESOLUTION REQUIRING CERTAIN ACCOUNTABILITY
PRACTICES CONCERNING ECONOMIC DEVELOPMENT
PROJECTS IN RICHLAND COUNTY**

WHEREAS, Richland County Council adopted a resolution dated as of December 21, 2010 (“Prior Resolution”), which requires companies receiving economic development incentives from Richland County, South Carolina (“County”) to submit annual reports to the Richland County Economic Development Office; and

WHEREAS, the County desires to make the form of the annual reports submitted by such companies uniform in order to make the substantive information contained in the annual reports more easily tracked and documented by the Richland County Economic Development Office.

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

Section 1. The County affirms that each company awarded an incentive by the County in exchange for the location or expansion of a facility or facilities within the County shall submit an annual report to the Richland County Economic Development Office by January 31 of each year throughout the term of the incentives.

Section 2. The Richland County Economic Development Office is authorized to create (and from time to time, if necessary, amend or recreate) and make available the form of the annual report; however, such form, shall require, at a minimum, the following information:

- a. Name of company;
- b. Cumulative capital investment (less any removed investment) to date as a result of the project;
- c. Net jobs created to date as a result of the project;

Section 3. A copy of the then-current form of the annual report may be obtained from the following address. The annual report shall likewise be submitted to the following address by the required date.

Richland County Economic Development Office
Attention: Kim Mann
1201 Main Street, Suite 910
Columbia, SC 29201

Section 4. This Resolution amends the Prior Resolution and sets forth the County’s requirements with respect to the annual reports to be submitted by each company awarded an incentive by the County as described in Section 1.

Section 5. The substance of this Resolution shall be incorporated into the agreement between the County and each company with respect to the incentives granted by the County to the company.

Section 6. In the event that any company shall fail to submit an annual report, or any portion thereof, such company may be required to return all incentives, or a dollar amount equal thereof, to the County. Such incentives, or the dollar amount equal thereto, shall be paid to the County within 60 days after the date upon which the information was originally due.

RESOLVED: December 12 2017

RICHLAND COUNTY, SOUTH CAROLINA


Chair, Richland County Council

(SEAL)
ATTEST:



Clerk to County Council

EXHIBIT D (see Section 5.1)
DESCRIPTION OF INFRASTRUCTURE CREDIT

**23% OF THE FILOT PAYMENTS FOR EACH OF THE FIRST TEN (10) PROPERTY TAX YEARS OF THE FEE
TERM**

EXHIBIT E (see Section 6.1)
DESCRIPTION OF CLAW BACK

Repayment Amount = Total Received x Claw Back Percentage

Claw Back Percentage = 100% - Overall Achievement Percentage

Overall Achievement Percentage = (Investment Achievement Percentage + Jobs Achievement Percentage) / 2

Investment Achievement Percentage = Actual Investment Achieved / Contract Minimum Investment Requirement [may not exceed 100%]

Jobs Achievement Percentage = Actual New, Full-Time Jobs Created / Contract Minimum Jobs Requirement [may not exceed 100%]

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

For example, and by way of example only, if the County granted \$1,000,000 in Infrastructure Credits, and \$30,000,000 had been invested at the Project and 75 jobs had been created by the end of the Investment Period, the Repayment Amount would be calculated as follows:

Jobs Achievement Percentage = 75/100= 75%

Investment Achievement Percentage = \$30,000,000/\$40,000,000 = 75%

Overall Achievement Percentage = (75% + 75%)/2 = 75%

Claw Back Percentage = 100% - 75% = 25%

Repayment Amount = \$1,000,000 x 25% = \$250,000

The Sponsor shall pay any amounts described in or calculated pursuant to this Exhibit E within 30 days of receipt of a written statement from the County. If not timely paid by the Sponsor, the amount due is subject to the minimum amount of interest that the law may permit with respect to delinquent *ad valorem* tax payments. The repayment obligation described in this Exhibit E survives termination of this Fee Agreement.

EXHIBIT B

**FORM OF FIRST AMENDMENT TO
INDUCEMENT AND MILLAGE RATE AGREEMENT AND LEASE AGREEMENT**

FIRST AMENDMENT TO INDUCEMENT AND MILLAGE RATE AGREEMENT
AND LEASE AGREEMENT

THIS FIRST AMENDMENT TO INDUCEMENT AND MILLAGE RATE AGREEMENT AND LEASE AGREEMENT (this “Amendment”), dated as of _____, 2021, is made and entered into by and between RICHLAND COUNTY, SOUTH CAROLINA, a public body corporate and a political subdivision of the State of South Carolina (the “County”), and PROJECT TIDE, a limit liability company organized and existing under the laws of the State of South Carolina (the “Company”). All capitalized terms used herein without definition shall have the same meanings herein as such terms are defined in the Fee Agreement (hereinafter defined).

RECITALS

WHEREAS, the County and the Company entered into an Inducement and Millage Rate Agreement dated November 14, 2000 (the “Inducement Agreement”);

WHEREAS, the County and the Company entered into a related Lease Agreement, dated December 15, 2000 (the “Lease Agreement”); and

WHEREAS, the County and the Company desire to amend certain provisions of the Inducement Agreement and Lease Agreement to extend the terms thereof.

NOW, THEREFORE, in consideration of the foregoing premises and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto hereby agree as follows:

ARTICLE I
AMENDMENTS

Section 1.1. Section 4.02 of the Inducement Agreement is deleted and replaced with the following:

“SECTION 4.02

(a) The County agrees that from and after the date that any part of the Project is placed in service and titled in the County:

(i) the fee on such part shall be calculated on the basis of an assessment ratio of 6%;

(ii) the fee on such part shall be payable in 30 annual installments on the due date which would otherwise be applicable for ad valorem property taxes for each part of the Project, with the first such installment for each such part of the Project being due on the date when, but for this Agreement, taxes would have been paid with respect to such part of the Project; and

(iii) the fee on such part shall be calculated on the basis of the millage rate provided in Section 4.04 of this Agreement.

(b) The County also agrees as follows:

(i) any property included in the Project, title to which is transferred to the County, will be subject, before being placed in service, to an annual fee payment as provided in Section 4-12-20 of the FILOT Act;

(ii) any undeveloped land included in the Project (except such land which is not subject to property taxes, or any other payment of a fee-in-lieu of taxes in connection with a lease agreement or other arrangement with the County or other or similar governmental entity), title to which is transferred to the County, will be subject, before being placed in service, to an annual fee payment as provided in Section 4-12-20 of the FILOT Act; and

(iii) payments under the foregoing clauses (i) and (ii) shall not be considered part of the maximum periods contemplated under Section 4-12-30(C) of the FILOT Act.”

Section 1.2. Section 4.03 of the Lease Agreement is deleted and replaced with the following:

“SECTION 4.03 Lease Term. The County agrees to deliver to the Company sole and exclusive possession of each item of the Facilities on the same date that title to each such item vests in the County pursuant to Section 3.4, and to grant the Company such sole and exclusive possession of each such item for the term beginning on such vesting date and continuing until the end of the 30 years after the 31st day of December in the year of such vesting date; provided that the maximum term hereof shall not be later than December 31, 2037. The Company shall have sole and exclusive possession of the Facilities during the term hereof. This Agreement shall terminate with respect to the Facilities or any part thereof upon the earliest to occur of (a) payment of the final installment of Payments in Lieu-of-Taxes pursuant to Section 4.5(b) hereof, or (b) exercise by the Company of its option to purchase and terminate pursuant to Section 11.1 hereof.”

Section 1.3. Section 4.05(c)(iii) of the Lease Agreement is deleted and replaced with the following:

“(iii) Any property placed in service as part of the Project during the Project Acquisition Period shall be included in the calculation of payments pursuant to paragraphs (c)(i) and (ii) above for a period not exceeding 30 years following the year in which such property was placed in service. Replacement Property shall be included (using its income tax basis) in the calculation of payments pursuant to paragraphs (c)(i) and (ii) above, but only up to the original income tax basis of property which is being disposed of in the same property tax year. Replacement Property is deemed to replace the oldest property subject to the fee which is disposed of in the same property tax year that the Replacement Property is placed in service. More than one piece of property can replace a single piece of property. Replacement Property does not have to serve the same function as the property it is replacing. To the extent that the income tax basis of the Replacement Property exceeds the original income tax basis of the property which it is replacing, the excess amount shall represent a Non-Filot Asset and be subject to payments as provided in subsection (a) above. Replacement Property is entitled to the fee payment pursuant to this paragraph (c) for the period of time remaining on the 30-year fee period for the property which it is replacing.”

Section 1.4. The Inducement Agreement and Lease Agreement are otherwise amended throughout to reflect a term of 30 years for each year of the investment period during which property is placed in service for South Carolina property tax purposes.

ARTICLE II
MISCELLANEOUS

Section 2.1. This Amendment shall be effective from the date first above written.

Section 2.2. Except as specifically amended hereby, the Inducement Agreement and Lease Agreement shall continue in full force and effect in accordance with its terms.

Section 2.3. This Amendment shall be governed by South Carolina law.

This Amendment may be executed in any number of counterparts, each of which shall be an original and all of which together shall constitute but one and the same instrument.

[Signature Pages Follow]

IN WITNESS WHEREOF, the parties hereto have caused this Amendment to be duly executed and delivered by their respective duly authorized officers as of the date first above written.

RICHLAND COUNTY, SOUTH CAROLINA

(SEAL)

By: _____
County Council Chair
Richland County, South Carolina

ATTEST:

By: _____
Clerk to County Council
Richland County, South Carolina

WITNESSES:

[Signature Page of the County]

[Signature Page of the Company Follows]

PROJECT TIDE

[SEAL]

ATTEST:

By: _____

WITNESSES:

[Signature Page of the Company]

Richland County Council Request for Action

Subject:

Authorizing the execution and delivery of a fee-in-lieu of ad valorem taxes agreement by and between Richland County, South Carolina and Tri-County Electric Cooperative, Inc., to provide for payment of a fee-in-lieu of taxes; and other related matters

Notes:

First Reading: September 14, 2021

Second Reading: September 21, 2021

Third Reading: December 7, 2021 {Tentative}

Public Hearing: December 7, 2021

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

AUTHORIZING THE EXECUTION AND DELIVERY OF A FEE-IN-LIEU OF *AD VALOREM* TAXES AGREEMENT BY AND BETWEEN RICHLAND COUNTY, SOUTH CAROLINA AND TRI-COUNTY ELECTRIC COOPERATIVE, INC., TO PROVIDE FOR PAYMENT OF A FEE-IN-LIEU OF TAXES; AND OTHER RELATED MATTERS.

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 (“FILOT Act”), to encourage manufacturing and commercial enterprises to locate in the State of South Carolina (“South Carolina” or “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 FILOT 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 FILOT Act;

WHEREAS, pursuant to Article VIII, Section 13 of the South Carolina Constitution and Title 4, Section 1, Code of Laws of South Carolina, 1976, as amended (collectively, “MCIP Act”), the County is authorized to jointly develop multicounty parks with counties having contiguous borders with the County and, in the County’s discretion, include property within the boundaries of such multicounty parks. Under the authority provided in the MCIP Act, the County has created a multicounty park with Fairfield County more particularly known as I-77 Corridor Regional Industrial Park (“Park”);

WHEREAS, Tri-County Electric Cooperative, Inc. (“Sponsor”), desires to establish and expand broadband and electric distribution infrastructure in the County (“Project”) consisting of taxable investment in real and personal property of not less than \$8,500,000; and

WHEREAS, at the request of the Sponsor and as an inducement to locate the Project in the County, the County desires to enter into a Fee-in-Lieu of *Ad Valorem* Taxes Agreement with the Sponsor, as sponsor, the final form of which is attached as Exhibit A (“Fee Agreement”), pursuant to which the County will provide certain incentives to the Sponsor with respect to the Project, including (1) providing for FILOT Payments, to be calculated as set forth in the Fee Agreement, with respect to the portion of the Project which constitutes economic development property, and (2) locating the Project in the Park.

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

Section 1. Statutory Findings. Based on information supplied to the County by the Sponsor, County Council evaluated the Project based on relevant criteria including, the purposes the Project is to accomplish, the anticipated dollar amount and nature of the investment, and the anticipated costs and benefits to the County, and hereby finds:

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

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

(c) The purposes to be accomplished by the Project are proper governmental and public purposes and the benefits of the Project are greater than the costs.

Section 2. *Approval of Incentives; Authorization to Execute and Deliver Fee Agreement.* The incentives as described in this Ordinance (“Ordinance”), and as more particularly set forth in the Fee Agreement, with respect to the Project are hereby approved. The form, terms and provisions of the Fee Agreement that is before this meeting are approved and all of the Fee Agreement’s terms and conditions are incorporated in this Ordinance by reference. The Chair of County Council (“Chair”) is authorized and directed to execute the Fee 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 Fee Agreement and to deliver the Fee Agreement to the Sponsor.

Section 3. *Inclusion within the Park.* The expansion of the Park boundaries to include the Project is authorized and approved. The Chair, the County Administrator and the Clerk to County Council are each authorized to execute such documents and take such further actions as may be necessary to complete the expansion of the Park boundaries. Pursuant to the terms of the agreement governing the Park (“Park Agreement”), the expansion of the Park’s boundaries and the amendment to the Park Agreement is complete on adoption of this Ordinance by County Council and an approving companion ordinance by the Fairfield County Council.

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

Chair, Richland County Council

(SEAL)
ATTEST:

Clerk of Council, Richland County Council

First Reading: September 14, 2021
Second Reading: September 21, 2021
Public Hearing: December 7, 2021
Third Reading: December 7, 2021

EXHIBIT A
FORM OF FEE AGREEMENT

FEE-IN-LIEU OF *AD VALOREM* TAXES AGREEMENT

BETWEEN

TRI-COUNTY ELECTRIC COOPERATIVE, INC.

AND

RICHLAND COUNTY, SOUTH CAROLINA

EFFECTIVE AS OF []

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**SUMMARY OF CONTENTS OF
FEE AGREEMENT**

The parties have agreed to waive the requirement to recapitulate the contents of this Fee Agreement pursuant to Section 12-44-55 of the Code (as defined herein). However, the parties have agreed to include a summary of the key provisions of this Fee Agreement for the convenience of the parties. This summary is included for convenience only and is not to be construed as a part of the terms and conditions of this Fee Agreement.

PROVISION	BRIEF DESCRIPTION	SECTION REFERENCE
Sponsor Name	Tri-County Electric Cooperative, Inc.	
Project Location	Multiple – See Exhibit A	
Tax Map No.	Multiple – See Exhibit A	
FILOT		
• Phase Exemption Period	30 years	
• Contract Minimum Investment Requirement	\$8,500,000	
• Investment Period	5 years (10 years if extended in accordance with Fee Agreement)	
• Assessment Ratio	Fixed 6%	
• Millage Rate	Multiple – See Exhibit B	
• Fixed or Five-Year Adjustable Millage	Fixed	
• Claw Back Information	Applicable only if Act Minimum Investment Requirement not met by end of Investment Period	
Other Information		

FEE-IN-LIEU OF AD VALOREM TAXES AGREEMENT

THIS FEE-IN-LIEU OF *AD VALOREM* TAXES AGREEMENT (“*Fee Agreement*”) is entered into, effective, as of [DATE], between Richland County, South Carolina (“*County*”), a body politic and corporate and a political subdivision of the State of South Carolina (“*State*”), acting through the Richland County Council (“*County Council*”) as the governing body of the County, and Tri-County Electric Cooperative, Inc., a corporation organized and existing under the laws of the State of South Carolina (“*Sponsor*”).

WITNESSETH:

(a) Title 12, Chapter 44, (“*Act*”) of the Code of Laws of South Carolina, 1976, as amended (“*Code*”), authorizes the County to induce manufacturing and commercial enterprises to locate in the State or to encourage manufacturing and commercial enterprises currently 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*”) with respect to Economic Development Property, as defined below;

(b) The Sponsor has committed to establish new and expand its existing commercial enterprise (“*Facility*” or “*Facilities*”) in the County, consisting of taxable investment in real and personal property of not less than \$8,500,000;

(c) By an ordinance enacted on [December 7, 2021], County Council authorized the County to enter into this Fee Agreement with the Sponsor to provide for a FILOT to induce the Sponsor to locate new and expand its existing Facilities in the County.

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

ARTICLE I DEFINITIONS

Section 1.1. Terms. The defined terms used in this Fee Agreement have the meaning given below, unless the context clearly requires otherwise.

“*Act*” means Title 12, Chapter 44 of the Code, and all future acts successor or supplemental thereto or amendatory of this Fee Agreement.

“*Act Minimum Investment Requirement*” means an investment of at least \$2,500,000 in the Project within five years of the Commencement Date.

“*Administration Expenses*” means the reasonable expenses incurred by the County in the negotiation, approval and implementation of the terms and provisions of this Fee Agreement, including reasonable attorney’s and consultant’s fees. Administration Expenses does not include any costs, expenses, including attorney’s fees, incurred by the County (i) in defending challenges to the FILOT Payments provided by this Fee Agreement brought by third parties or the Sponsor or its affiliates and related entities, or (ii) in connection with matters arising at the request of the Sponsor outside of the immediate scope of this Fee Agreement, including amendments to the terms of this Fee Agreement.

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

“**Commencement Date**” means the last day of the property tax year during which Economic Development Property is placed in service. The Commencement Date shall not be later than the last day of the property tax year which is three years from the year in which the County and the Sponsor enter into this Fee Agreement. For purposes of this Fee Agreement, the Commencement Date is expected to be December 31, 2024.

“**Contract Minimum Investment Requirement**” means a taxable investment in real and personal property at the Project of not less than \$8,500,000.

“**County**” means Richland County, South Carolina, a body politic and corporate and a political subdivision of the State, its successors and assigns, acting by and through the County Council as the governing body of the County.

“**County Council**” means the Richland County Council, the governing body of the County.

“**Department**” means the South Carolina Department of Revenue.

“**Diminution in Value**” means a reduction in the fair market value of Economic Development Property, as determined in Section 4.1(a)(i) of this Fee Agreement, which may be caused by (i) the removal or disposal of components of the Project pursuant to Section 4.3 of this Fee Agreement; (ii) a casualty as described in Section 4.4 of this Fee Agreement; or (iii) a condemnation as described in Section 4.5 of this Fee Agreement.

“**Economic Development Property**” means those items of real and tangible personal property of the Project placed in service not later than the end of the Investment Period that (i) satisfy the conditions of classification as economic development property under the Act, and (ii) are identified by the Sponsor in its annual filing of a PT-300T or comparable form with the Department (as such filing may be amended from time to time).

“**Equipment**” means all of the machinery, equipment, furniture, office equipment, and fixtures, together with any and all additions, accessions, replacements, and substitutions.

“**Event of Default**” means any event of default specified in Section 7.1 of this Fee Agreement.

“**Fee Agreement**” means this Fee-In-Lieu Of *Ad Valorem* Taxes Agreement.

“**Fee Term**” means the period from the effective date of this Fee Agreement until the Final Termination Date.

“**FILOT Payments**” means the amount paid or to be paid in lieu of *ad valorem* property taxes as provided in Section 4.1.

“**Final Phase**” means the Economic Development Property placed in service during the last year of the Investment Period.

“**Final Termination Date**” means the date on which the last FILOT Payment with respect to the Final Phase is made, or such earlier date as the Fee Agreement is terminated in accordance with the terms of this Fee Agreement. Assuming the Phase Termination Date for the Final Phase is December 31, 2055, the Final Termination Date is expected to be January 15, 2057, which is the due date of the last FILOT Payment with respect to the Final Phase.

“Improvements” means all improvements to the Real Property, including buildings, building additions, roads, sewer lines, and infrastructure, together with all additions, fixtures, accessions, replacements, and substitutions.

“Infrastructure” means (i) the infrastructure serving the County or the Project, (ii) improved and unimproved real estate, and personal property, including machinery and equipment, used in the operation of a manufacturing or commercial enterprise, or (iii) such other items as may be described in or permitted under Section 4-29-68 of the Code.

“Investment Period” means the period beginning with the first day of any purchase or acquisition of Economic Development Property and ending five years after the Commencement Date, as may be extended pursuant to Section 12-44-30(13) of Act. For purposes of this Fee Agreement, the Investment Period unless so extended, is expected to end on December 31, 2026.

“MCIP Act” mean Article VIII, Section 13(d) of the Constitution of the State of South Carolina, and Sections 4-1-170, 4-1-172, 4-1-175, and 4-29-68 of the Code.

“Multicounty Park” means the multicounty industrial or business park governed by the Amended and Restated Agreement Governing the I-77 Corridor Regional Industrial Park dated as of September 1, 2018, between the County and Fairfield County, South Carolina.

“Phase” means the Economic Development Property placed in service during a particular year of the Investment Period.

“Phase Exemption Period” means, with respect to each Phase, the period beginning with the property tax year the Phase is placed in service during the Investment Period and ending on the Phase Termination Date.

“Phase Termination Date” means, with respect to each Phase, the last day of the property tax year which is the 29th year following the first property tax year for which the Phase is placed in service.

“Project” means all the Equipment, Improvements, and Real Property in the County that the Sponsor determines to be necessary, suitable, or useful by the Sponsor in connection with its investment in the County.

“Property Tax Year” means the annual period which is equal to the fiscal year of the Company, *i.e.*, with respect to the Company, the annual period ending on December 31 of each year.

“Real Property” means real property that the Sponsor uses or will use in the County for the purposes that Section 2.2(b) describes, and initially consists of the land identified on Exhibit A of this Fee Agreement.

“Removed Components” means Economic Development Property which the Sponsor, in its sole discretion, (a) determines to be inadequate, obsolete, worn-out, uneconomic, damaged, unsuitable, undesirable, or unnecessary pursuant to Section 4.3 of this Fee Agreement or otherwise; or (b) elects to be treated as removed pursuant to Section 4.4(c) or Section 4.5(b)(iii) of this Fee Agreement.

“Replacement Property” means any property which is placed in service as a replacement for any Removed Component regardless of whether the Replacement Property serves the same functions as the Removed Component it is replacing and regardless of whether more than one piece of Replacement Property replaces a single Removed Component.

“*Sponsor*” means Tri-County Electric Cooperative, Inc. and any surviving, resulting, or transferee entity in any merger, consolidation, or transfer of assets; or any other person or entity which may succeed to the rights and duties of the Sponsor under this Fee Agreement.

“*Sponsor Affiliate*” means an entity that participates in the investment at the Project and, following receipt of the County’s approval pursuant to Section 9.1 of this Fee Agreement, joins this Fee Agreement by delivering a Joinder Agreement, the form of which is attached as Exhibit C to this Fee Agreement.

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

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

The term “investment” or “invest” as used in this Fee Agreement includes not only investments made by the Sponsor, but also to the fullest extent permitted by law, those investments made by or for the benefit of the Sponsor in connection with the Project through federal, state, or local grants, to the extent such investments are or, but for the terms of this Fee Agreement, would be subject to *ad valorem* taxes to be paid by the Sponsor.

ARTICLE II REPRESENTATIONS AND WARRANTIES

Section 2.1. *Representations and Warranties of the County.* The County represents and warrants as follows:

(a) The County is a body politic and corporate and a political subdivision of the State and acts through the County Council as its governing body. The Act authorizes and empowers the County to enter into the transactions that this Fee Agreement contemplates and to carry out its obligations under this Fee Agreement. The County has duly authorized the execution and delivery of this Fee Agreement and all other documents, certificates or other agreements contemplated in this Fee Agreement and has obtained all consents from third parties and taken all actions necessary or that the law requires to fulfill its obligations under this Fee Agreement.

(b) Based on representations by the Sponsor, County Council evaluated the Project based on all relevant criteria including the purposes the Project is to accomplish, the anticipated dollar amount and nature of the investment resulting from the Project, and the anticipated costs and benefits to the County and following the evaluation, the County determined that (i) 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; (ii) the Project gives rise to no pecuniary liability of the County or any incorporated municipality and to no charge against the County’s general credit or taxing power; (iii) the purposes to be accomplished by the Project are proper governmental and public purposes; and (iv) the benefits of the Project are greater than the costs.

(c) The County identified the Project, as a “project” on September 14, 2021, by adopting an Inducement Resolution, as defined in the Act on September 14, 2021.

(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 Fee Agreement.

(e) The County has located or will take all reasonable actions to locate the Project in the Multicounty Park.

Section 2.2. Representations and Warranties of the Sponsor. The Sponsor represents and warrants as follows:

(a) The Sponsor is in good standing under the laws of the state of its organization, is duly authorized to transact business in the State (or will obtain such authority prior to commencing business in the State), has power to enter into this Fee Agreement, and has duly authorized the execution and delivery of this Fee Agreement.

(b) The Sponsor intends to operate the Project as electric and broadband distribution facilities primarily to provide services to its members, and for such other purposes that the Act permits as the Sponsor may deem appropriate.

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

(d) The Sponsor will use commercially reasonable efforts to achieve the Contract Minimum Investment Requirement.

(e) The execution and delivery of this Fee Agreement by the County and the availability of the FILOT and other incentives provided by this Fee Agreement has been instrumental in inducing the Sponsor to locate the Project in the County.

(f) The Sponsor has retained legal counsel to confirm, or has had a reasonable opportunity to consult legal counsel to confirm, its eligibility for the FILOT and other incentives granted by this Fee Agreement and has not relied on the County, its officials, employees or legal representatives with respect to any question of eligibility or applicability of the FILOT and other incentives granted by this Fee Agreement.

ARTICLE III THE PROJECT

Section 3.1. The Project. The Sponsor intends and expects to (i) construct or acquire the Project and (ii) meet the Contract Minimum Investment Requirement within the Investment Period. The Sponsor anticipates that the first Phase of the Project will be placed in service during the calendar year ending December 31, 2021. Notwithstanding anything contained in this Fee Agreement to the contrary, the Sponsor is not obligated to complete the acquisition of the Project. However, if the Contract Minimum Investment Requirement is not met, the benefits provided to the Sponsor, or Sponsor Affiliate, if any, pursuant to this Fee Agreement may be reduced, modified or terminated as provided in this Fee Agreement.

Section 3.2 Leased Property. To the extent that State law allows or is revised or construed to permit leased assets including a building, or personal property to be installed in a building, to constitute Economic Development Property, then any property leased by the Sponsor is, at the election of the Sponsor, deemed to be Economic Development Property for purposes of this Fee Agreement, subject, at all times, to the requirements of State law and this Fee Agreement with respect to property comprising Economic Development Property.

Section 3.3. Filings and Reports.

(a) On or before January 31 of each year during the term of this Fee Agreement, commencing in January 31, 2022, the Sponsor shall deliver to the Economic Development Director of the County with respect to the Sponsor and all Sponsor Affiliates, if any, the information required by the terms of the County's Resolution dated December 12, 2017, which is attached hereto as Exhibit D, as may be amended by subsequent resolution.

(b) The Sponsor shall file a copy of this Fee Agreement and a completed PT-443 with the Economic Development Director and the Department and the Auditor, Treasurer and Assessor of the County and the partner county to the Multicounty Park.

(c) On request by the County Administrator or the Economic Development Director, the Sponsor shall remit to the Economic Development Director records accounting for the acquisition, financing, construction, and operation of the Project which records (i) permit ready identification of all Economic Development Property; (ii) confirm the dates that the Economic Development Property or Phase was placed in service; and (iii) include copies of all filings made in accordance with this Section.

**ARTICLE IV
FILOT PAYMENTS**

Section 4.1. FILOT Payments.

(a) The FILOT Payment due with respect to each Phase through the Phase Termination Date is calculated as follows:

- (i) The fair market value of the Phase calculated as set forth in the Act (for the Real Property portion of the Phase, the County and the Sponsor have elected to use the fair market value established in the first year of the Phase Exemption Period), multiplied by
- (ii) An assessment ratio of six percent (6%), multiplied by
- (iii) A fixed millage rate equal to the applicable millage indicated on Exhibit B, which is the cumulative millage rate levied by or on behalf of all the taxing entities within which the Project is located as of June 30, 2020.

The calculation of the FILOT Payment must allow all applicable property tax exemptions except those excluded pursuant to Section 12-44-50(A)(2) of the Act. The Sponsor acknowledges that (i) the calculation of the annual FILOT Payment is a function of the Department and is wholly dependent on the Sponsor timely submitting the correct annual property tax returns to the Department, (ii) the County has no responsibility for the submission of returns or the calculation of the annual FILOT Payment, and (iii) failure by the Sponsor to submit the correct annual property tax return could lead to a loss of all or a portion of the FILOT and other incentives provided by this Fee Agreement.

(b) If a final order of a court of competent jurisdiction from which no further appeal is allowable declares the FILOT Payments invalid or unenforceable, in whole or in part, for any reason, the parties shall negotiate the reformation of the calculation of the FILOT Payments to most closely afford the Sponsor with the intended benefits of this Fee Agreement. If such order has the effect of subjecting the Economic Development Property to *ad valorem* taxation, this Fee Agreement shall terminate, and the

Sponsor shall owe the County regular *ad valorem* taxes from the date of termination, in accordance with Section 4.7.

Section 4.2. *FILOT Payments on Replacement Property.* If the Sponsor elects to place Replacement Property in service, then, pursuant and subject to the provisions of Section 12-44-60 of the Act, the Sponsor shall make the following payments to the County with respect to the Replacement Property for the remainder of the Phase Exemption Period applicable to the Removed Component of the Replacement Property:

(a) FILOT Payments, calculated in accordance with Section 4.1, on the Replacement Property to the extent of the original income tax basis of the Removed Component the Replacement Property is deemed to replace.

(b) Regular *ad valorem* tax payments to the extent the income tax basis of the Replacement Property exceeds the original income tax basis of the Removed Component the Replacement Property is deemed to replace.

Section 4.3. *Removal of Components of the Project.* Subject to the other terms and provisions of this Fee Agreement, the Sponsor is entitled to remove and dispose of components of the Project in its sole discretion. Components of the Project are deemed removed when scrapped, sold or otherwise removed from the Project. If the components removed from the Project are Economic Development Property, then the Economic Development Property is a Removed Component, no longer subject to this Fee Agreement and is subject to *ad valorem* property taxes to the extent the Removed Component remains in the State and is otherwise subject to *ad valorem* property taxes.

Section 4.4. *Damage or Destruction of Economic Development Property.*

(a) *Election to Terminate.* If Economic Development Property is damaged by fire, explosion, or any other casualty, then the Sponsor may terminate this Fee Agreement. For the property tax year corresponding to the year in which the damage or casualty occurs, the Sponsor is obligated to make FILOT Payments with respect to the damaged Economic Development Property only to the extent property subject to *ad valorem* taxes would have been subject to *ad valorem* taxes under the same circumstances for the period in question.

(b) *Election to Restore and Replace.* If Economic Development Property is damaged by fire, explosion, or any other casualty, and the Sponsor does not elect to terminate this Fee Agreement, then the Sponsor may restore and replace the Economic Development Property. All restorations and replacements made pursuant to this subsection (b) are deemed, to the fullest extent permitted by law and this Fee Agreement, to be Replacement Property.

(c) *Election to Remove.* If Economic Development Property is damaged by fire, explosion, or any other casualty, and the Sponsor elects not to terminate this Fee Agreement pursuant to subsection (a) and elects not to restore or replace pursuant to subsection (b), then the damaged portions of the Economic Development Property are deemed Removed Components.

Section 4.5. *Condemnation.*

(a) *Complete Taking.* If at any time during the Fee Term title to or temporary use of the Economic Development Property is vested in a public or quasi-public authority by virtue of the exercise of a taking by condemnation, inverse condemnation, or the right of eminent domain; by voluntary transfer under threat of such taking; or by a taking of title to a portion of the Economic Development Property which

renders continued use or occupancy of the Economic Development Property commercially unfeasible in the judgment of the Sponsor, the Sponsor shall have the option to terminate this Fee Agreement by sending written notice to the County within a reasonable period of time following such vesting.

(b) *Partial Taking.* In the event of a partial taking of the Economic Development Property or a transfer in lieu, the Sponsor may elect: (i) to terminate this Fee Agreement; (ii) to restore and replace the Economic Development Property, with such restorations and replacements deemed, to the fullest extent permitted by law and this Fee Agreement, to be Replacement Property; or (iii) to treat the portions of the Economic Development Property so taken as Removed Components.

(c) In the year in which the taking occurs, the Sponsor is obligated to make FILOT Payments with respect to the Economic Development Property so taken only to the extent property subject to *ad valorem* taxes would have been subject to taxes under the same circumstances for the period in question.

Section 4.6. Calculating FILOT Payments on Diminution in Value. If there is a Diminution in Value, the FILOT Payments due with respect to the Economic Development Property or Phase so diminished shall be calculated by substituting the diminished value of the Economic Development Property or Phase for the original fair market value in Section 4.1(a)(i) of this Fee Agreement.

Section 4.7. Payment of Ad Valorem Taxes. If Economic Development Property becomes subject to *ad valorem* taxes as imposed by law pursuant to the terms of this Fee Agreement or the Act, then the calculation of the *ad valorem* taxes due with respect to the Economic Development Property in a particular property tax year shall: (i) include the property tax reductions that would have applied to the Economic Development Property if it were not Economic Development Property; and (ii) include a credit for FILOT Payments the Sponsor has made with respect to the Economic Development Property.

Section 4.8. Place of FILOT Payments. All FILOT Payments shall be made directly to the County in accordance with applicable law.

**ARTICLE V
RESERVED**

**ARTICLE VI
RESERVED**

**ARTICLE VII
DEFAULT**

Section 7.1. Events of Default. The following are “Events of Default” under this Fee Agreement:

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

(b) Failure to timely pay any amount, except FILOT Payments, due under this Fee Agreement;

(c) A Cessation of Operations. For purposes of this Fee Agreement, a “*Cessation of Operations*” means a publicly announced closure of the Facility, a layoff of a majority of the employees working at the Facility, or a substantial reduction in production that continues for a period of twelve (12) months;

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

(e) Failure by the Sponsor to perform any of the terms, conditions, obligations, or covenants under this Fee Agreement (other than those under (a), above), which failure has not been cured within 30 days after written notice from the County to the Sponsor specifying such failure and requesting that it be remedied, unless the Sponsor 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 Sponsor is diligently pursuing corrective action;

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

(g) 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 Sponsor 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 7.2. Remedies on Default.

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

(i) terminate this Fee 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 Sponsor may take any one or more of the following actions:

(i) bring an action for specific enforcement;

(ii) terminate this 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.

Section 7.3. 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 Fee 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 7.4. Remedies Not Exclusive. No remedy described in this Fee 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 Fee Agreement or existing at law or in equity or by statute.

ARTICLE VIII PARTICULAR RIGHTS AND COVENANTS

Section 8.1. *Right to Inspect.* The County and its authorized agents, at any reasonable time on prior written notice (which may be given by email), may enter and examine and inspect the Project for the purposes of 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).

Section 8.2. *Confidentiality.* The County acknowledges that the Sponsor may utilize confidential and proprietary processes and materials, services, equipment, trade secrets, and techniques (“***Confidential Information***”) and that disclosure of the Confidential Information could result in substantial economic harm to the Sponsor. The Sponsor may clearly label any Confidential Information delivered to the County pursuant to this Fee 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 Sponsor 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 will use its best efforts to provide the Sponsor 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 Sponsor to obtain judicial or other relief from such disclosure requirement.

Section 8.3. *Indemnification Covenants.*

(a) Except as provided in paragraph (d) below, the Sponsor 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 Fee Agreement, performance of the County’s obligations under this Fee Agreement or the administration of its duties pursuant to this Fee Agreement, or otherwise by virtue of the County having entered into this Fee Agreement.

(b) The County is entitled to use counsel of its choice and the Sponsor 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 Sponsor shall pay the County within 30 days of receipt of the statement. The Sponsor 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 Sponsor 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 in this Section or this Fee Agreement to the contrary, the Sponsor 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 Fee Agreement, performance of the County's obligations under this Fee Agreement, or the administration of its duties under this Fee Agreement, or otherwise by virtue of the County having entered into this Fee Agreement; 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 Sponsor 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 Sponsor notice, reasonable under the circumstances, within which to defend or otherwise respond to a claim.

Section 8.4. No Liability of County Personnel. All covenants, stipulations, promises, agreements and obligations of the County contained in this Fee Agreement 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 under this Fee Agreement may be had against any member of County Council or any elected or appointed official, officer, agent, servant or employee of the County and no recourse for the payment of any moneys or performance of any of the covenants and agreements under this Fee Agreement or for any claims based on this Fee Agreement may be had against any member of County Council or any elected or appointed official, officer, agent, servant or employee of the County except solely in their official capacity.

Section 8.5. Limitation of Liability. The County is not liable to the Sponsor for any costs, expenses, losses, damages, claims or actions in connection with this Fee Agreement, except from amounts received by the County from the Sponsor under this Fee Agreement. Notwithstanding anything in this Fee Agreement to the contrary, any financial obligation the County may incur under this Fee Agreement is deemed not to constitute a pecuniary liability or a debt or general obligation of the County.

Section 8.6. Assignment. The Sponsor may assign this Fee Agreement in whole or in part with the prior written consent of the County or a subsequent written ratification by the County, which may be done by resolution, and which consent or ratification the County will not unreasonably withhold. The Sponsor agrees to notify the County and the Department of the identity of the proposed transferee within 60 days of the transfer. In case of a transfer, the transferee assumes the transferor's basis in the Economic Development Property for purposes of calculating the FILOT Payments.

Section 8.7. No Double Payment; Future Changes in Legislation. Notwithstanding anything contained in this Fee Agreement to the contrary, and except as expressly required by law, the Sponsor is not required to make a FILOT Payment in addition to a regular *ad valorem* property tax payment in the same year with respect to the same piece of Economic Development Property. The Sponsor is not required to make a FILOT Payment on Economic Development Property in cases where, absent this Fee Agreement, *ad valorem* property taxes would otherwise not be due on such property.

Section 8.8. Administration Expenses. The Sponsor will reimburse, or cause reimbursement to, the County for Administration Expenses in an amount not to exceed \$5,000. The Sponsor will reimburse the County for its Administration Expenses on receipt of a written request from the County or at the County's direction, which request shall include a statement of the amount and nature of the Administration Expense. The Sponsor shall pay the Administration Expense as set forth in the written request no later than 60 days following receipt of the written request from the County. The County does not impose a charge in the nature of impact fees or recurring fees in connection with the incentives authorized by this Fee Agreement. The payment by the Sponsor 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.

ARTICLE IX SPONSOR AFFILIATES

Section 9.1. *Sponsor Affiliates.* The Sponsor may designate Sponsor Affiliates from time to time, including at the time of execution of this Fee Agreement, pursuant to and subject to the provisions of Section 12-44-130 of the Act. To designate a Sponsor Affiliate, the Sponsor must deliver written notice to the Economic Development Director identifying the Sponsor Affiliate and requesting the County's approval of the Sponsor Affiliate. Except with respect to a Sponsor Affiliate designated at the time of execution of this Fee Agreement, which may be approved in the County Council ordinance authorizing the execution and delivery of this Fee Agreement, approval of the Sponsor Affiliate may be given by the County Administrator delivering written notice to the Sponsor and Sponsor Affiliate following receipt by the County Administrator of a recommendation from the Economic Development Committee of County Council to allow the Sponsor Affiliate to join in the investment at the Project. The Sponsor Affiliate's joining in the investment at the Project will be effective on delivery of a Joinder Agreement, the form of which is attached as Exhibit C, executed by the Sponsor Affiliate to the County.

Section 9.2. *Primary Responsibility.* Notwithstanding the addition of a Sponsor Affiliate, the Sponsor acknowledges that it has the primary responsibility for the duties and obligations of the Sponsor and any Sponsor Affiliate under this Fee Agreement, including the payment of FILOT Payments or any other amount due to or for the benefit of the County under this Fee Agreement. For purposes of this Fee Agreement, "primary responsibility" means that if the Sponsor Affiliate fails to make any FILOT Payment or remit any other amount due under this Fee Agreement, the Sponsor shall make such FILOT Payments or remit such other amounts on behalf of the Sponsor Affiliate.

ARTICLE X MISCELLANEOUS

Section 10.1. *Notices.* Any notice, election, demand, request, or other communication to be provided under this Fee Agreement is effective when delivered to the party named below or when deposited with the United States Postal Service, certified mail, return receipt requested, postage prepaid, addressed as follows (or addressed to such other address as any party shall have previously furnished in writing to the other party), except where the terms of this Fee Agreement require receipt rather than sending of any notice, in which case such provision shall control:

IF TO THE SPONSOR:

Tri-County Electric Cooperative, Inc.
Attn: Chad T. Lowder, CEO
Post Office Box 217
Matthews, South Carolina 29135

WITH A COPY TO (does not constitute notice):

Nexsen Pruet, LLC
Attn: Burnet R. Maybank III
Andrew W. Saleeby
1230 Main Street, Suite 700 (29201)
Post Office Box 2426
Columbia, South Carolina 29202

Phone: (803) 253-8220

IF TO THE COUNTY:

Richland County, South Carolina
Attn: Richland County Economic Development Director
2020 Hampton Street
Columbia, South Carolina 29204

WITH A COPY TO (does not constitute notice):

Parker Poe Adams & Bernstein LLP
Attn: Ray E. Jones
1221 Main Street, Suite 1100 (29201)
Post Office Box 1509
Columbia, South Carolina 29202-1509

Section 10.2. Provisions of Agreement for Sole Benefit of County and Sponsor. Except as otherwise specifically provided in this Fee Agreement, nothing in this Fee Agreement expressed or implied confers on any person or entity other than the County and the Sponsor any right, remedy, or claim under or by reason of this Fee Agreement, this Fee Agreement being intended to be for the sole and exclusive benefit of the County and the Sponsor.

Section 10.3. Counterparts. This Fee Agreement may be executed in any number of counterparts, and all of the counterparts together constitute one and the same instrument.

Section 10.4. Governing Law. South Carolina law, exclusive of its conflicts of law provisions that would refer the governance of this Fee Agreement to the laws of another jurisdiction, governs this Fee Agreement and all documents executed in connection with this Fee Agreement.

Section 10.5. Headings. The headings of the articles and sections of this Fee Agreement are inserted for convenience only and do not constitute a part of this Fee Agreement.

Section 10.6. Amendments. This Fee Agreement may be amended only by written agreement of the parties to this Fee Agreement.

Section 10.7. Agreement to Sign Other Documents. From time to time, and at the expense of the Sponsor, to the extent any expense is incurred, the County agrees to execute and deliver to the Sponsor such additional instruments as the Sponsor may reasonably request and as are authorized by law and reasonably within the purposes and scope of the Act and this Fee Agreement to effectuate the purposes of this Fee Agreement.

Section 10.8. Interpretation; Invalidity; Change in Laws.

(a) If the inclusion of property as Economic Development Property or any other issue is unclear under this Fee Agreement, then the parties intend that the interpretation of this Fee Agreement be done in a manner that provides for the broadest inclusion of property under the terms of this Fee Agreement and the maximum incentive permissible under the Act, to the extent not inconsistent with any of the explicit terms of this Fee Agreement.

(b) If any provision of this Fee Agreement is declared illegal, invalid, or unenforceable for any reason, the remaining provisions of this Fee 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 Fee Agreement so as to afford the Sponsor with the maximum benefits to be derived under this Fee Agreement, it being the intention of the County to offer the Sponsor the strongest inducement possible, within the provisions of the Act, to locate the Project in the County.

(c) The County agrees that in case the FILOT incentive described in this Fee Agreement is found to be invalid and the Sponsor does not realize the economic benefit it is intended to receive from the County under this Fee Agreement as an inducement to locate in the County, the County agrees to negotiate with the Sponsor to provide a special source revenue or Infrastructure Credit to the Sponsor to the maximum extent permitted by law, to allow the Sponsor to recoup all or a portion of the loss of the economic benefit resulting from such invalidity.

Section 10.9. Force Majeure. The Sponsor is not responsible for any delays or non-performance caused in whole or in part, directly or indirectly, by strikes, accidents, freight embargoes, fires, floods, inability to obtain materials, conditions arising from governmental orders or regulations, war or national emergency, acts of God, national or global pandemics, and any other cause, similar or dissimilar, beyond the Sponsor's reasonable control.

Section 10.10. Termination; Termination by Sponsor.

(a) Unless first terminated under any other provision of this Fee Agreement, this Fee Agreement terminates on the Final Termination Date.

(b) The Sponsor is authorized to terminate this Fee Agreement at any time with respect to all or part of the Project on providing the County with 30 days' notice.

(c) Any monetary obligations due and owing at the time of termination and any provisions which are intended to survive termination, survive such termination.

(d) In the year following termination, all Economic Development Property is subject to *ad valorem* taxation or such other taxation or payment in lieu of taxation that would apply absent this Fee Agreement. The Sponsor's obligation to make FILOT Payments under this Fee Agreement terminates to the extent of and in the year following the year the Sponsor terminates this Fee Agreement pursuant to this Section.

Section 10.11. Entire Agreement. This Fee Agreement expresses the entire understanding and all agreements of the parties, and neither party is bound by any agreement or any representation to the other party which is not expressly set forth in this Fee Agreement or in certificates delivered in connection with the execution and delivery of this Fee Agreement.

Section 10.12. Waiver. Either party may waive compliance by the other party with any term or condition of this Fee Agreement only in a writing signed by the waiving party.

Section 10.13. Business Day. If any action, payment, or notice is, by the terms of this Fee Agreement, required to be taken, made, or given on any 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 Fee Agreement, and no interest will accrue in the interim.

Section 10.14. Agreement's Construction. Each party and its counsel have reviewed this Fee 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 Fee Agreement or any amendments or exhibits to this Fee Agreement.

[Signature pages follow]

IN WITNESS WHEREOF, the County, acting by and through the County Council, has caused this Fee Agreement to be executed in its name and on its behalf by the Chair of County Council and to be attested by the Clerk of the County Council; and the Sponsor has caused this Fee Agreement to be executed by its duly authorized officer, all as of the day and year first above written.

RICHLAND COUNTY, SOUTH CAROLINA

(SEAL)

By: _____
County Council Chair
Richland County, South Carolina

ATTEST:

By: _____
Clerk to County Council
Richland County, South Carolina

[Signature Page 1 to Fee in Lieu of Ad Valorem Taxes Agreement]

TRI-COUNTY ELECTRIC COOPERATIVE, INC.

By: _____
Its: _____

[Signature Page 2 to Fee in Lieu of Ad Valorem Taxes Agreement]

EXHIBIT A
PROPERTY DESCRIPTION

COOP LAND ITEM NOS. 1 & 2:

“A certain tract of land described in a certain deed, dated May 24, 1978, by Anne H. Bostic, as grantor to the Mortgagor, as grantee, and recorded on May 24, 1978, in the office of the Clerk of Court of Richland County, in the State of South Carolina, in Deed Book 462, on page 753.”

And

“A certain tract of land described in a certain deed, dated May 24, 1978, by Annie C. Scott, as grantor to the Mortgagor, as grantee, and recorded on May 24, 1978, in the Office of the Clerk of Court of Richland County, in the State of South Carolina, in Deed Book 462, on page 756.”

No. of Acres: 6.319

Improvements: Richland District Office and Richland Substation

County Tax District: Richland 1

County Tax Map No.: 35200-09-31

COOP LAND ITEM NO. 3:

‘A certain piece, parcel, or lot of land in Richland County, containing .99977 acre described in a certain deed dated March 8, 1988, by Richland County School District No.1, formerly Lower Richland School District No. 5, as grantor and recorded on March 23, 1988, in the Office of the Clerk of Court at Richland County, in the State of South Carolina in Deed Book 881 on page 256.”

No. of Acres: .99977

Improvements: Hopkins Substation

County Tax District: Richland 1 County Tax Map

No. 24400-04-03

COOP LAND ITEM NO. 4 :

“A certain piece, parcel, or tract of land with any improvements thereon in Richland County, South Carolina containing 1.60 acres described in a deed dated February 6, 2000, by William Weston, III, M.D., Shannon Nelson Weston, M.D. and Henrietta Weston Wilcox, as grantors and recorded on March 13, 2000 in the Office of the Clerk of Court at Richland County, in the State of South Carolina in Deed Book 391 on Page 2262.”

No. of Acres: 1.60

Improvements: New Eastover Substation

County Tax District: Richland 1

County Tax Map No.: 32600-04-001 (portion of)

Tri-County Electric Cooperative, Inc. Easements or Rights-of-Way

All recorded and unrecorded easements, whether in gross or appurtenant, including but not limited to utility easements, party easements, private easements, prescriptive easements, easements by necessity, easements by condemnation, and contractual easements and rights-of-way located within Richland County upon or under which Tri-County Electric Cooperative, Inc. has located or intends to locate real property improvements or personal property, including, but not limited to all roadwork, water, sewer, drainage, power and utility facilities, as well as the Land, the buildings, fixtures and other real property improvements on the Land, and the utility property, broadband property, machinery and equipment and other personal property, and any additions or improvements to any of the foregoing, whether paid for by the Company directly, through lease payments, or acquired by contract.

EXHIBIT B
APPLICABLE MILLAGE RATES

The millage rate to be applied in accordance with Section 5.01(b)(ii) of this Agreement shall be as follows for each parcel of real property, and all business personal property located thereon in the following County tax district:

- Richland County Tax District 1LR 475.30 Mills
- Richland County Tax District 2ER 584.50 Mills

There shall be applied an additional millage rate to real and business personal property located within municipal limits equal to the millage in effect for such municipality on June 30, 2020.

EXHIBIT C (see Section 9.1)
FORM OF JOINDER AGREEMENT

Reference is hereby made to the Fee-in-Lieu of *Ad Valorem* Taxes Agreement, effective [DATE] (“Fee Agreement”), between Richland County, South Carolina (“County”) and [COMPANY] (“Sponsor”).

1. Joinder to Fee Agreement.

[_____], a [STATE] [corporation]/[limited liability company]/[limited partnership] authorized to conduct business in the State of South Carolina, hereby (a) joins as a party to, and agrees to be bound by and subject to all of the terms and conditions of, the Fee Agreement as if it were a Sponsor [except the following: _____]; (b) shall receive the benefits as provided under the Fee Agreement with respect to the Economic Development Property placed in service by the Sponsor Affiliate as if it were a Sponsor [except the following _____]; (c) acknowledges and agrees that (i) according to the Fee Agreement, the undersigned has been designated as a Sponsor Affiliate by the Sponsor for purposes of the Project; and (ii) the undersigned qualifies or will qualify as a Sponsor Affiliate under the Fee Agreement and Section 12-44-30(20) and Section 12-44-130 of the Act.

2. Capitalized Terms.

Each capitalized term used, but not defined, in this Joinder Agreement has the meaning of that term set forth in the Fee Agreement.

3. Representations of the Sponsor Affiliate.

The Sponsor Affiliate represents and warrants to the County as follows:

(a) The Sponsor Affiliate is in good standing under the laws of the state of its organization, is duly authorized to transact business in the State (or will obtain such authority prior to commencing business in the State), has power to enter into this Joinder Agreement, and has duly authorized the execution and delivery of this Joinder Agreement.

(b) The Sponsor Affiliate’s execution and delivery of this Joinder Agreement, and its compliance with the provisions of this Joinder Agreement, do not result in a default, not waived or cured, under any agreement or instrument to which the Sponsor Affiliate is now a party or by which it is bound.

(c) The execution and delivery of this Joinder Agreement and the availability of the FILOT and other incentives provided by this Joinder Agreement has been instrumental in inducing the Sponsor Affiliate to join with the Sponsor in the Project in the County.

4. Governing Law.

This Joinder Agreement is governed by and construed according to the laws, without regard to principles of choice of law, of the State of South Carolina.

5. Notice.

Notices under Section 10.1 of the Fee Agreement shall be sent to:

[_____]

IN WITNESS WHEREOF, the undersigned has executed this Joinder Agreement to be effective as of the date set forth below.

Date

Name of Entity
By: _____
Its: _____

IN WITNESS WHEREOF, the County acknowledges it has consented to the addition of the above-named entity as a Sponsor Affiliate under the Fee Agreement effective as of the date set forth above.

RICHLAND COUNTY, SOUTH CAROLINA

By: _____
Its: _____

EXHIBIT D (see Section 3.3)
RICHLAND COUNTY RESOLUTION REQUIRING CERTAIN ACCOUNTABILITY PRACTICES CONCERNING
ECONOMIC DEVELOPMENT PROJECTS IN THE COUNTY

**A RESOLUTION TO AMEND THE DECEMBER 21, 2010,
RESOLUTION REQUIRING CERTAIN ACCOUNTABILITY
PRACTICES CONCERNING ECONOMIC DEVELOPMENT
PROJECTS IN RICHLAND COUNTY**

WHEREAS, Richland County Council adopted a resolution dated as of December 21, 2010 (“Prior Resolution”), which requires companies receiving economic development incentives from Richland County, South Carolina (“County”) to submit annual reports to the Richland County Economic Development Office; and

WHEREAS, the County desires to make the form of the annual reports submitted by such companies uniform in order to make the substantive information contained in the annual reports more easily tracked and documented by the Richland County Economic Development Office.

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

Section 1. The County affirms that each company awarded an incentive by the County in exchange for the location or expansion of a facility or facilities within the County shall submit an annual report to the Richland County Economic Development Office by January 31 of each year throughout the term of the incentives.

Section 2. The Richland County Economic Development Office is authorized to create (and from time to time, if necessary, amend or recreate) and make available the form of the annual report; however, such form, shall require, at a minimum, the following information:

- a. Name of company;
- b. Cumulative capital investment (less any removed investment) to date as a result of the project;
- c. Net jobs created to date as a result of the project;

Section 3. A copy of the then-current form of the annual report may be obtained from the following address. The annual report shall likewise be submitted to the following address by the required date.

Richland County Economic Development Office
Attention: Kim Mann
1201 Main Street, Suite 910
Columbia, SC 29201

Section 4. This Resolution amends the Prior Resolution and sets forth the County’s requirements with respect to the annual reports to be submitted by each company awarded an incentive by the County as described in Section 1.

Section 5. The substance of this Resolution shall be incorporated into the agreement between the County and each company with respect to the incentives granted by the County to the company.


Section 6. In the event that any company shall fail to submit an annual report, or any portion thereof, such company may be required to return all incentives, or a dollar amount equal thereof, to the County. Such incentives, or the dollar amount equal thereto, shall be paid to the County within 60 days after the date upon which the information was originally due.

RESOLVED: December 12 2017

RICHLAND COUNTY, SOUTH CAROLINA


Chair, Richland County Council

(SEAL)
ATTEST:


Clerk to County Council

Richland County Council Request for Action

Subject:

Department of Public Works – Solid Waste & Recycling Division – Residential Curbside Collection Services, Area 3 – Contract Award recommendation

Notes:

November 18, 2021 – The A&F Committee recommended Council deny the contract award.



Agenda Briefing

Prepared by:	John Ansell	Title:	Manager
Department:	Public Works	Division:	Solid Waste
Contributor:	Jennifer Wladischkin	Title:	Manager
Department:	Finance	Division:	Procurement
Date Prepared:	October 07, 2021	Meeting Date:	October 26, 2021
Legal Review	Elizbaeth McLean via email		Date: October 12, 2021
Budget Review	James Hayes via email		Date: October 18, 2021
Finance Review	Stacey Hamm via email		Date: October 12, 2021
Approved for consideration:	Assistant County Administrator	John M. Thompson, Ph.D., MBA, CPM, SCCEM	
Committee	Administration & Finance		
Subject:	Residential Curbside Collection Services, Area 3 – Contract Award recommendation		

STAFF’S RECOMMENDED ACTION:

The staff of the Department of Public Works recommends the award of a contract for residential curbside solid waste collection services in Area 3 (Northeastern Richland County – bound to the north by the Fairfield County line, to the west by Farrow Road and Interstate – 77, to the south by West Beltline Blvd and to the east by Two Notch Road, Hardscrabble Road, and the Kershaw County line) to Coastal Waste & Recycling.

Request for Council Reconsideration: Yes

FIDUCIARY:

Are funds allocated in the department’s current fiscal year budget?	<input checked="" type="checkbox"/>	Yes	<input type="checkbox"/>	No
If no, is a budget amendment necessary?	<input type="checkbox"/>	Yes	<input type="checkbox"/>	No

ADDITIONAL FISCAL/BUDGETARY MATTERS TO CONSIDER:

Revenue to cover the Residential Curbside Collection Program is generated by a fee paid annually by residential (and some small business) customers throughout unincorporated Richland County. This standard, countywide fee is based on the total program cost in all eight service areas. Funds for this program are contained in the 2101365006-527200 account of the Solid Waste & Recycling Division budget. An annual curbside collection program fee increase is not anticipated based on the results of rate negotiations with Coastal Waste & Recycling (however, to-be-determined Consumer Price Index (CPI) adjustments in the other collection areas could affect this fee in FY-23).

Additionally, an increase in collection complaints has placed a strain on the Solid Waste & Recycling Division staff, requiring the employment of temporary employees and use of overtime.

The Office of Budget and Grants Management has expressed concern regarding the Solid Waste budget expenditures remaining in line with its revenues. The fee for Area 3 will rise from \$4,164,398 to \$4,306,210 with the new contract. This is \$142,812 more than our current pricing for Area 3. However, based on the current CPI of 5.3%, this could end up being \$77,901 less than the existing contract fee at startup.

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

None.

REGULATORY COMPLIANCE:

Curbside collection services are consistent with the South Carolina Solid Waste Policy and Management Act.

MOTION OF ORIGIN:

There is no associated Council motion of origin; however, various staff recommendations regarding solid waste collection services were presented to County Council during a work session and subsequent meetings in June and July 2021. County Council approved these recommendations and to issue RFPs during their regular meeting of July 20, 2021.

Council Member	
Meeting	
Date	

STRATEGIC & GENERATIVE DISCUSSION:

Contracts for residential curbside solid waste collection services in Areas 1, 3, and 6 expire in early 2022. Additionally, we have experienced a significant increase in customer service complaints in many of our collection service areas. In response, the staff of the Solid Waste & Recycling Division, working with the County Procurement staff, issued a Request for Proposal (RFP) for residential curbside solid waste collection services in Area 3. These collection services cover the following:

- Municipal Solid Waste (Household Garbage) Weekly
- Yardwaste Weekly
- Recycling Biweekly
- Bulk Items / White Goods By appointment

The goal of this procurement is to continue to provide, on behalf of residential and small business customers in unincorporated Richland County, dependable solid waste collection services at a reasonable price.

The proposal review committee evaluated four criteria:

- Background and Experience
- Approach to services to be provided
- Performance history
- Proposed equipment lists

This committee consisted of four independent evaluator staff members who are all familiar with the collections process.

Unit price consideration was applied by Procurement staff following review and ranking by the review committee.

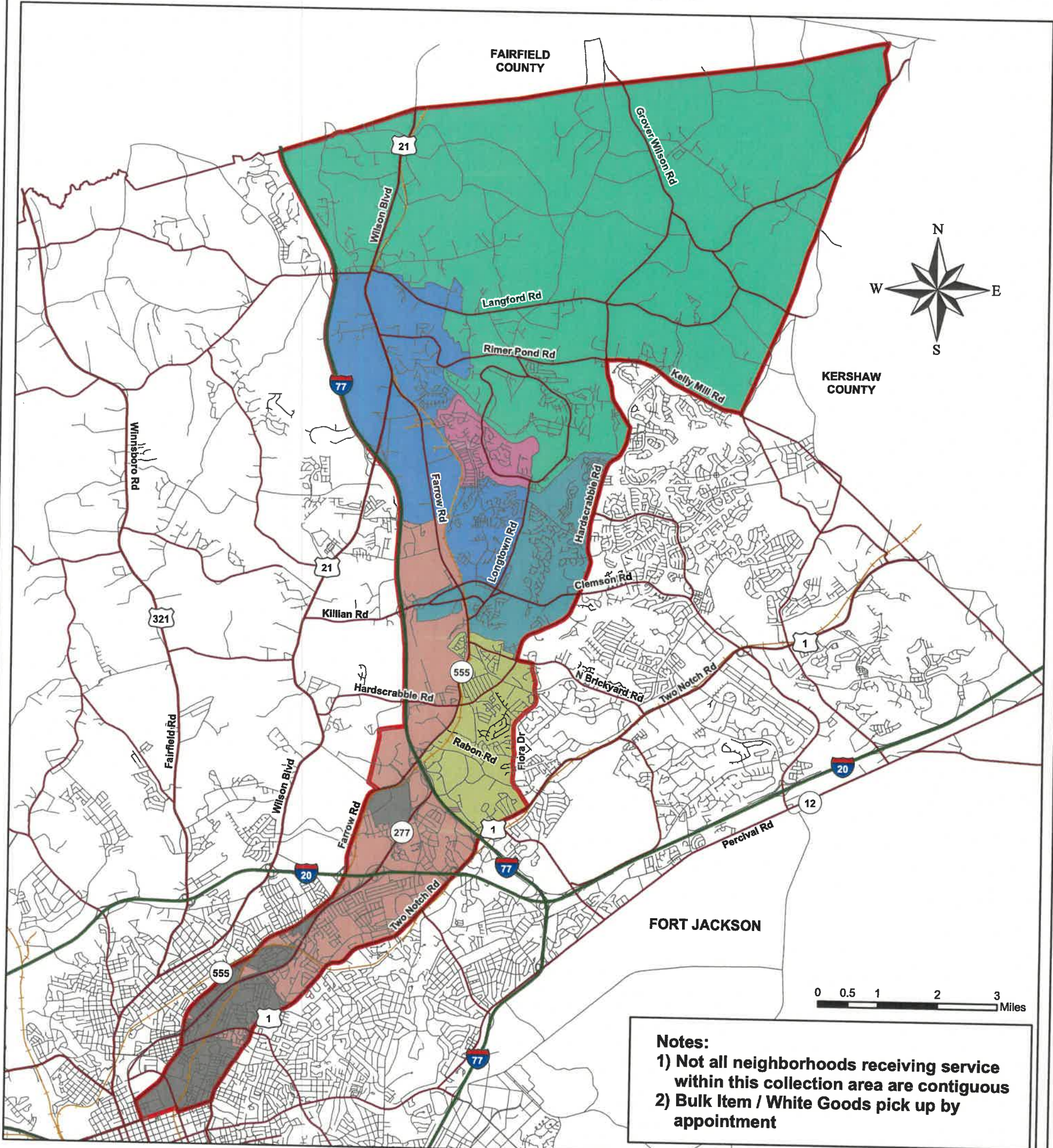
ADDITIONAL COMMENTS FOR CONSIDERATION:

The Proposal Review Committee staff members evaluated proposals from three firms that responded to the RFP. Coastal Waste & Recycling scored the highest of these firms, while addressing all of the required information and services in the RFP. Richland County engaged in negotiations with Coastal Waste & Recycling in order to secure the most economical unit cost.









ATTACHMENTS:

1. Collection Area 3 map

Richland County Department of Public Works Solid Waste & Recycling Division Residential / Small Business Curbside Collection Program Collection Area 3



Notes:
 1) Not all neighborhoods receiving service within this collection area are contiguous
 2) Bulk Item / White Goods pick up by appointment

Legend		Collection Days*	
	Collection Area Boundary		Monday / Monday B
	No Collection - Municipality or Federal Land		Tuesday / Tuesday B
			Wednesday / Wednesday B
			Thursday / Thursday B
			Thursday / Friday A
			Friday / Friday B



PUBLIC WORKS

* Yard Waste is Same Day as Garbage
 Recycling is Every Other Week A or B

JULY 2021

Richland County Council Request for Action

Subject:

Department of Public Works – Solid Waste & Recycling Division – Residential Curbside Collection Services, Area 6 – Contract Award recommendations

Notes:

November 18, 2021 – The A&F Committee recommended Council deny the contract award and rebid the Area 6 Solid Waste & Recycling Collection Services Contract.



Agenda Briefing

Prepared by:	John Ansell	Title:	Manager
Department:	Public Works	Division:	Solid Waste
Contributor:	Jennifer Wladischkin	Title:	Manager
Department:	Finance	Division:	Procurement
Date Prepared:	October 07, 2021	Meeting Date:	October 26, 2021
Legal Review	Elizabeth McLean via email		Date: October 12, 2021
Budget Review	James Hayes via email		Date: October 18, 2021
Finance Review	Stacey Hamm via email		Date: October 12, 2021
Approved for consideration:	Assistant County Administrator	John M. Thompson, Ph.D., MBA, CPM, SCCEM	
Committee	Administration & Finance		
Subject:	Residential Curbside Collection Services, Area 6 – Contract Award recommendation		

STAFF’S RECOMMENDED ACTION:

Staff recommends the award of a contract for residential curbside solid waste collection services in Area 6 to Waste Management, Incorporated. The Area 6 is Lower Richland County – bound to the west by Interstate 77, to the north by Leesburg Road, to the south by Garners Ferry Road, and east by the Wateree River.

Request for Council Reconsideration: Yes

FIDUCIARY:

Are funds allocated in the department’s current fiscal year budget?	<input checked="" type="checkbox"/>	Yes	<input type="checkbox"/>	No
If no, is a budget amendment necessary?	<input type="checkbox"/>	Yes	<input type="checkbox"/>	No

ADDITIONAL FISCAL/BUDGETARY MATTERS TO CONSIDER:

Revenue to cover the Residential Curbside Collection Program is generated by a fee paid annually by residential (and some small business) customers throughout unincorporated Richland County. This standard, countywide fee is based on the total program cost in all eight service areas. Funds for this program are contained in the 2101365006-527200 account of the Solid Waste & Recycling Division budget. An annual curbside collection program fee increase is not anticipated based on the results of rate negotiations with Waste Management (however, to-be-determined Consumer Price Index (CPI) adjustments in the other collection areas could affect this fee in FY-23).

Additionally, an increase in collection complaints has placed a strain on the Solid Waste & Recycling Division staff, requiring the employment of temporary employees and use of overtime.

The Office of Budget and Grants Management has expressed concern regarding the Solid Waste budget expenditures remaining in line with its revenues. However, the Waste Management fee for Area 6 will lower from \$2,203,237.80 down to \$2,018,853.36 with the new contract. This is \$184,384 less than our current pricing for Area 6. Further, based on the current CPI of 5.3%, this could end up being \$301,156 less than the existing contract fee at startup.

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

None.

REGULATORY COMPLIANCE:

Curbside collection services are consistent with the South Carolina Solid Waste Policy and Management Act.

MOTION OF ORIGIN:

There is no associated Council motion of origin; however, various staff recommendations regarding solid waste collection services were presented to County Council during a work session and subsequent meetings in June and July 2021. County Council approved these recommendations and to issue RFPs during their regular meeting of July 20, 2021.

Council Member	
Meeting	
Date	

STRATEGIC & GENERATIVE DISCUSSION:

Contracts for residential curbside solid waste collection services in Areas 1, 3, and 6 expire in early 2022. Additionally, we have experienced a significant increase in customer service complaints in many of our collection service areas. In response, the staff of the Solid Waste & Recycling Division, working with the County Procurement staff, issued a Request for Proposal (RFP) for residential curbside solid waste collection services in Area 6. These collection services cover the following:

- Municipal Solid Waste (Household Garbage) Weekly
- Yardwaste Weekly
- Recycling Biweekly
- Bulk Items / White Goods By appointment

The goal of this procurement is to continue to provide, on behalf of residential and small business customers in unincorporated Richland County, dependable solid waste collection services at a reasonable price.

The proposal review committee evaluated four criteria:

- Background and Experience
- Approach to services to be provided
- Performance history
- Proposed equipment lists

This committee consisted of four independent evaluator staff members who are all familiar with the collections process.

Unit price consideration was applied by Procurement staff following review and ranking by the review committee.

ADDITIONAL COMMENTS FOR CONSIDERATION:

The Proposal Review Committee staff members evaluated proposals from four firms that responded to the RFP. Waste Management, Incorporated scored the highest of these firms, while addressing all of the required information and services in the RFP. Richland County engaged in negotiations with Waste Management, Incorporated in order to secure the most economical unit cost.

Though Waste Management, Incorporated has experienced customer service problems in the wake of the Pandemic, their recent performance has demonstrated improvement. A copy of their Service Improvement Plan for this service area is attached to this agenda briefing.

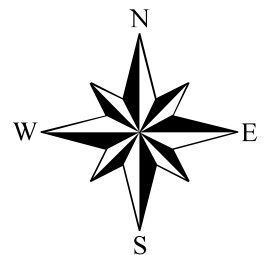
ATTACHMENTS:

1. Collection Area 6 map
2. Service Improvement Plan

Richland County Department of Public Works Solid Waste & Recycling Division Residential / Small Business Curbside Collection Program

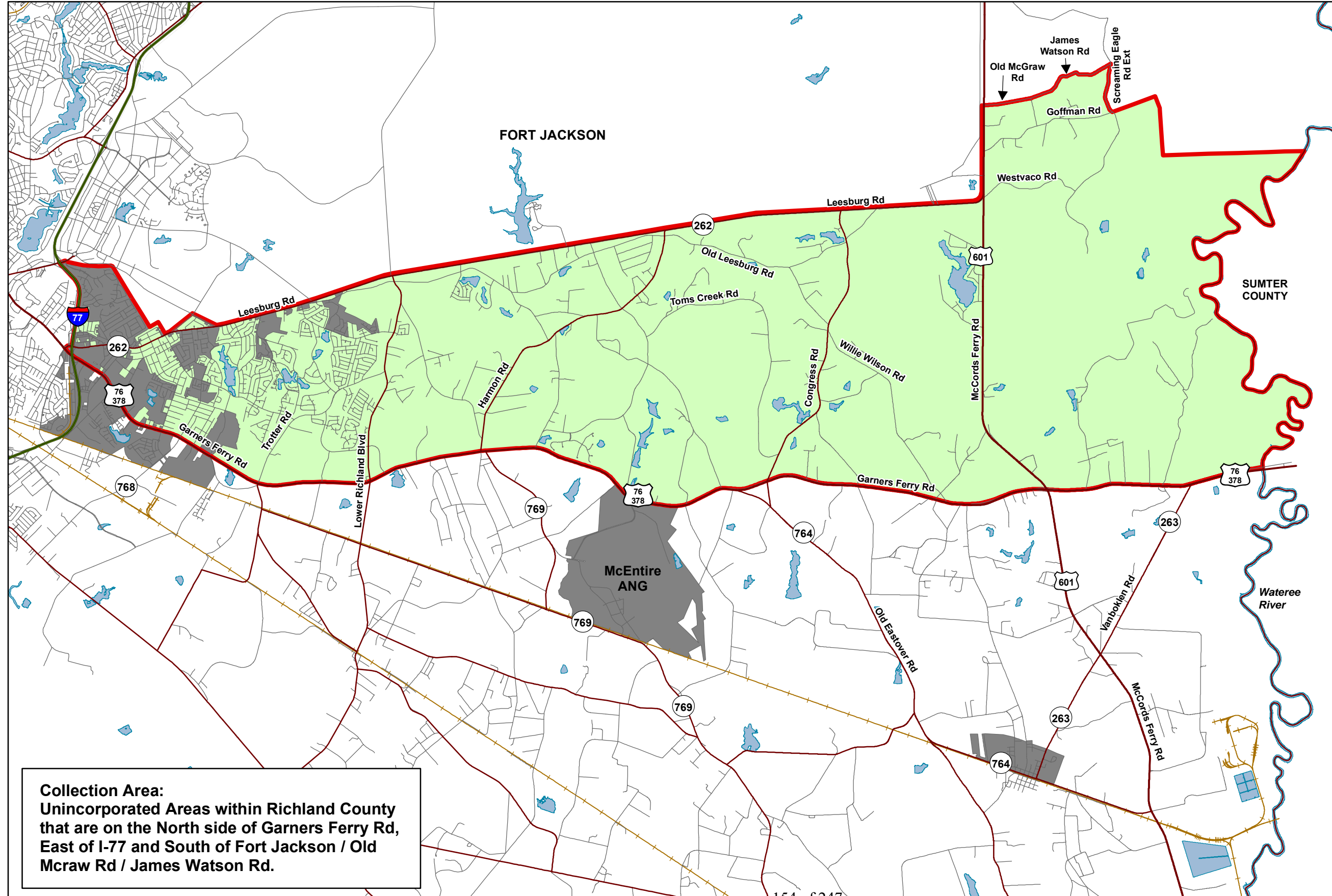
Collection Area 6

- Legend**
- Collection Area Boundary
 - Collection Area
 - No Collection - Municipality or Federal Land



PUBLIC WORKS

SEPTEMBER 2021



Collection Area:
Unincorporated Areas within Richland County that are on the North side of Garners Ferry Rd, East of I-77 and South of Fort Jackson / Old Mcraw Rd / James Watson Rd.

Waste Management detailed, comprehensive assurance plan for Richland County Area #6.

The offerings we provide to our customers clearly differentiate our company from our competitors and demonstrate the value, service, and sustainability solutions we will provide to Richland County if awarded this contract. Our programs meet Richland County's goals through service optimization and cost reduction. As summarized in this response, we offer:

- • Dedication of a new employee, upon award, to the constant evaluation and communication of FleetMind for day-to-day operations of your curbside collection
- • 24/7/365 customer service with back door phone and cell numbers.
- • State-of-the-art technology that increases economic and environmental efficiencies
- • Local operations resources – including trucks, equipment, and drivers – with an extensive national research and development network to drive efficiencies.

We have the expertise and background to help you. We are well positioned to streamline best practices and provide you with each item outlined in the Scope of Services issued for Area 6.

Your Waste Management Richland County service team will include:

Public Sector Services

- • Mindy Spires, Public Sector Sales Representative

Operations

- • Jeff Harvey, District Manager
- • Rick Andrews, Operations Manager/Contract Route Manager
- • Joel Pack, Area Safety Manager
- • Nick Wyrick, Contract Route Manager
- • **To be hired (after award): A FleetMind Dedicated Employee**
- • Deja Clark, Richland County Dedicated Bulk Item Customer Liaison

Team Resumés and Richland County Responsibilities:

Mindy Spires-Miller: Public Sector Sales Representative

Mindy Spires-Miller will serve Richland County by overseeing Waste Management's implementation of the new Agreement. She will make sure all your needs and expectations are met. Mindy has served as the Public Sector Account Manager for Richland County since 2005. In addition to contract management, Mindy is a strong community citizen and will oversee support and contribution activities to cultivate partnerships through participation in causes and events.

Mindy will oversee the efforts of Waste Management's team to verify that obligations, such as reporting, service verification, and customer outreach, are delivered per the contract, law, and company policy. She maintains knowledge about legislation, regulations, and local ordinances regarding Waste Management's delivery of services. Mindy will oversee all aspects of this agreement and will work collaboratively with your staff to design and implement new services and programs in accordance with contractual requirements, changes in law, and your direction.

Jeff Harvey: District Manager

As a District Manager, Jeff Harvey oversees the day-to-day operations of the District, including oversight of employees in our Columbia Hauling District. Jeff provides leadership support to front-line managers for safety, operational, and service performance while also diagnosing and improving processes and procedures. Jeff is responsible for the District's overall service and budget performance. Jeff will interact with Richland County staff to maximize customer satisfaction and improve service efficiency and the daily quality of contract services. During the implementation of services, Jeff will oversee the completion of all operational tasks.

Rick Andrews: Operations Manager

Rick Andrews is the Operations Manager for the Columbia Hauling District. In this position, Rick oversees daily collection services, drivers, and operational performance. Rick manages District personnel needs, including selection, coaching, and training drivers. Rick is also responsible for equipment utilization and managing all equipment needs, including cart and container inventory.

Rick will manage the operational implementation and ongoing quality of all Richland County collection programs and services, and oversee ongoing staffing, and equipment needs. Rick will work with Richland County's staff and our operations team to address special service requests or resolve unique customer requests or concerns (e.g. special event collections, scheduling needs, etc.).

Joel Pack: Area Safety Manager

Responsible for developing district-specific safety plans, Joel Pack, Area Safety Manager, works hand-in-hand with our regional districts to develop safety programs for our people, equipment, and facilities. Joel Pack has served in this capacity for WM since 1996. Joel confirms all sites are fully compliant with both OSHA and Corporate safety requirements, administering safety rules and conducting safety site assessments.

Route Managers

Two of our Route Managers will work closely with Richland County's drivers, assisting with morning launches, ensuring each vehicle is properly inspected at the beginning and conclusion of each route and monitoring drivers throughout their collection routes with a focus on safety and customer service. Route Managers will work closely with Richland County during the implementation of new services, helping to develop and test new collection routes, and proactively addressing customers' unique site requirements and service requests.

Key Personnel Contacts and Addresses

Tracy Shrader	Vice President, South Atlantic Area	(704) 544-0554	tshrader@wm.com	13850 Ballantyne Corporate Place, Suite 225 Charlotte, NC 28277
Brandon Shaw	General Manager, South Atlantic Area	(678) 809-3522	bshaw2@wm.com	300 Colonial Center Parkway Suite 230 Roswell, GA 30076
Eric Wakefield	South Atlantic Collection Operations Director	(609) 381-6119	kwakefield@wm.com	13850 Ballantyne Corporate Place, Suite 225 Charlotte, NC 28277
Mike Holbrook	South Atlantic Area Director	(336) 531-334	mholbroo@wm.com	3303 N. Glenn Ave. Winston-Salem, NC 27105
Mindy Spires-Miller	Public Sector Area Sales Representative	(843) 557-7777 156 of 247	mmille17@wm.com	1452 Waterway Court, Mount

				Pleasant, SC 29464
Bob Peeler	Senior Manager, Govt. Affairs/ Community Relations	(803) 413-0072	bpeeler@wm.com	125 Scarlet Oak Way Lexington, SC 29072
Jeff Harvey	Senior District Manager	(803) 608-8891	jharve11@wm.com	1045 Highway Church Road Elgin, SC 29045
Rick Andrews	Senior Route Manager	(803) 609-0978	dandrew7@wm.com	1045 Highway Church Road Elgin, SC 29045
Nick Wirick	Route Manager	(141) 963-1169	nwirick@wm.com	1045 Highway Church Road Elgin, SC 29045
Djaris Clark	Operations Specialist	(803) 419-2731	dclark23@wm.com	1047 Highway Church Road Elgin, SC 29045
Brenda Adamson	Operations Specialist	(803) 419-2731	badamson@wm.com	1047 Highway Church Road Elgin,

3) DETAILED COLLECTIONS OPERATIONS PLAN

Utilizing the FleetMind System®

WM will utilize the FleetMind System® to monitor its collection operations for Richland County. The system is currently installed on our current fleet and will be installed on our new equipment if an alternate is chosen. We will set up our routes daily and ensure our drivers are logged on when they leave our yard. The routes will be activated by the Route Manager after the routes are launched in the morning. This will also be monitored by our operations specialist to ensure none of the trucks have been missed.

The Waste Management Columbia Hauling District services the Columbia Metro Area covering commercial, industrial, and residential services. We service the area out of our location at 1929 Rush Road in Elgin, SC. We currently run 72 routes out of this location with 156 employees.

WM will set up each route in FleetMind so that it has a geo fence around the route. Each route will be sequenced so that it enables the driver to follow the most efficient route and let them know if they get outside of the zone they are running. This will also enable us to utilize the technology in the event we have a driver who is unfamiliar with the route.

Dedicated Team of Professionals

Waste Management will have a dedicated team that will manage and be responsible for collection operations of each Area serviced. This will consist of a Senior Route Manager Rick Andrews over the Richland County operations focusing on Area 6 and an additional Route Manager who will be primarily responsible for Area 6. They will report to the District Manager Jeff Harvey who will oversee the entire operation. Both will have the ability to cross over to another Richland County Area, if awarded to Waste Management, as needed to handle

service issues that may arise. They will be responsible for the collection operations daily and spending time in the field to ensure routes are being completed. They will also be responsible for ensuring operational issues such as missed pick-ups are checked and resolved finding the root cause to prevent reoccurrence within 24 hours. They will be responsible for an afternoon update for the status of the routes to Richland County Solid Waste Staff. Added communication with not only consist of email to Richland County Solid Waste, but also include back up data for the County.

We have a dedicated Area 6 route manager who works with our Fleetmind personnel to monitor the routes ensuring all customers are serviced. We also have the ability to respond to any issues that arise same day. Our dedicated Area 6 route manager can go to any areas to resolve issues with service collection within 24 hours with the goal being same day and to identify the root cause of the issue to prevent its reoccurrence. The route manager will be spending time in the field checking on areas to ensure service is being provided. He will also be in contact with our dedicated fleet mind operations specialist to check any areas they identify that may be of concern. If they find an issue they can redirect resources there same day. Managers meet with route drivers to go over issues they identify to prevent reoccurrence.

We are setting up geo zones in fleet mind and putting our routing into the system so that it will not only be a bread crumb to show where they have been, but be able to guide the driver through the route to ensure no streets are missed. This project is ongoing and we anticipate having it complete in the 4th quarter.

The goal of this is to prevent any calls from coming into the county by resolving them on pick up day. When we do a get a call same day, we have a satellite truck that can be sent when the call comes in to check and see if it was a late set or to recover the customer the day we receive the call.

Our operations specialist is scheduling all bulk pickups with 48 hours of notification with follow up to the county. Any delays in bulk pick up are communicated to the residents for rescheduling and then followed up with the county with a new date. They will close the loop and email the county once the pickup is complete.

WM will continue to improve our staffing including the ongoing hiring of 5 additional drivers.

We also are scheduling training classes with Fleetmind to come in and help us enhance our teams use of the system.

There will be two operations specialists that will be responsible for monitoring and answering email communications that are received from the County. They will oversee Deja Clark, our Richland County Dedicated Bulk Item Customer Liaison. Deja will manage and handle scheduling of all bulk/white goods pickups and will report out to the Route Managers once the requested schedule is set within 24 to 48 hours. Once processed and tickets are created, she will respond to the County with the scheduled pickup date for validation and confirmation. If there needs to be a reschedule due to operations, they will simultaneously communicate that to the customer(s), and notify the County of the new scheduled date. Communication will be sent to the County acknowledging the service date in order for the County to close the loop in their system. Upon written award, WM will hire a FleetMind-dedicated employee solely committed to the FleetMind System® in Richland County.

This will allow for better communication between Richland County and WM. All other Route Managers and Operations team members will have FleetMind on their computers and monitor it daily to coordinate with the managers to watch for any areas of concern or do not show service being performed.

They will use FleetMind to monitor any potential misses and or late set-outs resulting in Valid or Invalid complaints, while researching any alerts from the County to coordinate with the managers to identify what the issue was and coordinate with the County to correct the issue so that it does not reoccur. All WM employees servicing Richland County, including drivers, will be trained per the Richland County Scope of Services specifications. WM has an established quality control plan in place to monitor our own employees' performance aimed at maximizing customer satisfaction. Additionally, we acknowledge Richland County has the right to monitor our staff performance, truck conditions, and level of service for Area #6.

Richland County Residential Yard debris Services

Length, and potential cart tags for carts and or piles that are non-compliant with Richland County Solid Waste Collection Ordinances. We would discuss and seek staff approval prior to any submission requesting changes. We would have our satellite trucks on standby for the first couple of weeks to be able to respond quickly when there are customers that need reminders.

Additionally, WM has one of the best maintenance programs in the industry. Waste Management will supply enough vehicles to service the contracts in Richland County daily. We will have an adequate number of spare vehicles to utilize when our trucks need repaired. We also have national agreement with truck rental companies to provide us assets when we have a need due to a major repair.

We will have enough vehicles to handle increases during high volume months for yard waste, typically mid-March through mid-May and November through December. Additional temporary staff can be added as well if we need further assistance during those increased volume periods. We also could draw other assets and employees from neighboring districts temporarily to assist when the need arises.

Despite the many challenges the COVID-19 pandemic has presented, we continue to provide essential services to communities while protecting the health and safety of our employees. In response to the pandemic, we developed a comprehensive response plan that includes:

- Equipping our frontline workers with personal protective equipment and instituting thorough cleaning, sterilizing, and social distancing procedures
- Shifting more than 19,000 employees to work from home without compromising customer service or operations
- Establishing a website detailing our response plan, with information and resources for customers (wm.com/us/en/COVID19)

Alternate Proposed Collection Vehicles for Richland County

TYPE OF VEHICLE: FRONT LOADER WITH CUROTTO-CAN AUTOMATED SYSTEM

Materials Collected

Recycling, Garbage, Bulk Items (by appointment only), Yard Debris

Crew Size

1 driver

Service Procedures

See following pages for information on Curotto-Can Automated System.

Type of Fuel

Compressed Natural Gas (CNG) trucks only



Alternate Equipment Listing for Richland County – Area 6

MAKE	MODEL	YEAR	DESCRIPTION	BODY MAKE	BODY MODEL	YEAR	CAPACITY
PETERBILT	520	2020	FEL Curotto	HEIL	HALFPACK40	2020	40 Yd
PETERBILT	520	2020	FEL Curotto	HEIL	HALFPACK40	2020	40 Yd
PETERBILT	520	2022	FEL Curotto	HEIL	HALFPACK40	2022	40 Yd
PETERBILT	520	2022	FEL Curotto	HEIL	HALFPACK40	2022	40 Yd
PETERBILT	520	2022	FEL Curotto	HEIL	HALFPACK40	2022	40 Yd
PETERBILT	520	2022	FEL Curotto	HEIL	HALFPACK40	2022	40 Yd
PETERBILT	520	2022	FEL Curotto	HEIL	HALFPACK40	2022	40 Yd
PETERBILT	348	2017	SREL	LOADMASTER	SXL31	2017	31 Yd
PETERBILT	348	2017	SREL160 of 247	LOADMASTER	SXL31	2017	31 Yd

PETERBILT	348	2017	SREL	LOADMASTER	SXL31	2017	31 Yd
PETERBILT	348	2017	SREL	LOADMASTER	SXL31	2017	31 Yd
PETERBILT	348	2017	SREL	LOADMASTER	SXL31	2017	31 Yd
PETERBILT	348	2017	SREL	LOADMASTER	SXL31	2017	31 Yd
Chevrolet	C2500 HD	2015	Support	PARKAN	RD3106YD	2015	3 Yd

Recommended Educational Program for Conversion from Rear Load Curbside Service to Automated.

In Conjunction with Richland County and those residents affected by the conversion mentioned above, WM will partner with Richland County to reach out in many social media facets to let residents in Richland County Area #6 know of the changes related to curbside collection. This educational piece will include where to place the cart curbside no less than three (3) to five (5) feet away from any objects such as fences, cars, mail boxes.

Flyers should be produced and distributed in Grocery Stores most frequented in Area #6, while the use of Richland County Web Site, Richland County Area #6 Schools, and news paper and news broadcast should be included. This process of education needs to be no less than a 4-week period prior to changes in service.

Please see internal Flyer as a demonstration of what could possibly be used for the residents in area #6.



- Please have trash cart at curb the night before collection day
 - All trash must be bagged – no loose trash in cart
- Please place carts within 3 feet of curb and 5 feet from cars or mailboxes
 - Lid opening must face street

WHEREAS, it appears that the Assignment and Assumption Agreement and the Estoppel Certificate now before this meeting are in appropriate form and are each an appropriate instrument to be executed and delivered by the County for the purposes stated therein.

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

Section 1. Approval of Assignment. The County hereby approves the Assignment as of the Transfer Date, subject to completion of the Transfer, and acknowledges that, to the extent required by the Credit Agreement, this Resolution is an official consent to the Assignment for purposes of Section 5.01 of the Credit Agreement. The Assignment will be effective as of the Transfer Date, following delivery of an executed Assignment and Assumption Agreement, which such Assignment and Assumption Agreement is to be substantially in the form attached hereto as Exhibit A and hereby approved, or with such revisions thereto as are not materially adverse to the County and as shall be approved by the officials of the County executing the same.

Section 2. Authorization. The County Council authorizes the Chairman of the County Council and the County Administrator, for and on behalf of the County, to take whatever further actions as may be reasonably necessary and prudent to effect this Resolution and facilitate the Transfer and Assignment, including execution of the Estoppel Certificate in the form attached hereto as Exhibit B, which is hereby approved, or with such revisions thereto as are not materially adverse to the County and shall be approved by the officials of the County executing the same.

Section 3. Severability. Should any part, provision, or term of this Resolution be deemed unconstitutional or otherwise unenforceable by any court of competent jurisdiction, such finding or determination shall not affect the rest and remainder of the Resolution or any part, provision or term thereof, all of which is hereby deemed separable.

Section 4. Repealer Clause. All orders, resolutions, or any parts of either, in conflict with this Resolution are, to the extent of that conflict, repealed. This Resolution is effective and remains in effect as of its adoption by the County Council.

[End of Resolution]

APPROVED AND ADOPTED IN A MEETING THIS 7TH DAY OF DECEMBER, 2021.

RICHLAND COUNTY, SOUTH CAROLINA

Chairman
Richland County Council

Clerk to Council
Richland County Council

EXHIBIT A

Form of Assignment and Assumption of Credit Agreement

See attached.

**ASSIGNMENT AND ASSUMPTION
OF CREDIT AGREEMENT**

THIS ASSIGNMENT AND ASSUMPTION OF CREDIT AGREEMENT (this “Assignment and Assumption Agreement”) is made and entered into to be effective as of the Transfer Date (as defined below), by and among Blue Atlantic Columbia, LLC, a Delaware limited liability company (“Assignor”), CA Student Living Station Columbia LLC, a Delaware limited liability company (“Assignee”), and Richland County, South Carolina, a body politic and corporate, and a political subdivision of the State of South Carolina (the “County”).

WITNESSETH:

WHEREAS, the County, acting by and through its County Council (“County Council”), under and pursuant to the provisions of Article VIII, Section 13(D) of the South Carolina Constitution and the provisions of Title 4, Chapter 1 of the Code of Laws of South Carolina, 1976, as amended (collectively, the “Act”), as well as by an Ordinance duly enacted by the County Council on December 9, 2014, did previously enter into that certain Credit Agreement, dated as of December 9, 2014 (the “Credit Agreement”), with Assignor pursuant to which Assignor committed to, among other things, make certain taxable investment in real and personal property in the County to establish a student housing facility in the County (here and hereinafter, and as further defined in the Credit Agreement, the “Facility”) and the County agreed, among other things, to grant certain Credit (as defined in the Credit Agreement) to Assignor to pay the costs of designing, acquiring, constructing, improving and expanding certain Infrastructure (as defined in the Credit Agreement) in connection with the Site and the Facility (as such terms are defined in the Credit Agreement); and

WHEREAS, pursuant to one or more transactions involving Assignor and Assignee, Assignor has conveyed, effective as of the earliest closing of such transaction(s) (the “Transfer Date”), which is expected to be on or about December 22, 2021, all of Assignor’s right, title, and interest in and to the Site and the Facility to Assignee (the “Transfer”) and, as such, Assignor desires to assign to Assignee, and Assignee desires to assume from Assignor, effective as of the Transfer Date, all of Assignor’s obligations, rights, title, and interest in, to, and under the Credit Agreement (the “Assignment”); and

WHEREAS, pursuant to Section 5.01 of the Credit Agreement, Assignor may assign or otherwise transfer any of its rights and interest in the Credit Agreement under certain conditions set forth therein including, but not limited to, the prior written consent of the County, which such consent was granted by the County by a Resolution of the County Council dated December 7, 2021 (the “Resolution”); and

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

1. Transfer, Assignment and Assumption. Assignor and Assignee each acknowledge and represent that, pursuant to the Transfer, and effective as of the Transfer Date, all of Assignor’s rights, title, and interest in and to the Site and the Facility have been transferred to Assignee and its successors and assigns, absolutely and forever, and, in connection therewith, Assignor does hereby assign, and Assignee does hereby assume, all of Assignor’s obligations, rights, title, and interest in, to, and under the Credit Agreement as of the Transfer Date. Notwithstanding anything to the contrary in this Assignment and Assumption Agreement or the Credit Agreement, Assignor shall be solely responsible for any fees owed to the County pursuant to Section 5.09 of the Credit Agreement, if any. Furthermore, Assignor hereby acknowledges and agrees that it will promptly and using commercially reasonable efforts, at its sole cost and expense, execute and deliver any such further instruments or take any further action as may be reasonably

requested by Assignee to carry out the purpose of this Assignment and for Assignee to receive the benefit of the Credit.

2. Acknowledgement of the County. The County hereby re-acknowledges and re-confirms its approval of the Assignment as set forth in the Resolution, to be effective as of the Transfer Date. The County hereby re-acknowledges that the Site, the Facility, the Credit Agreement, and all of Assignor's obligations, rights, title, and interest in, to, and under the Site, the Facility, and the Credit Agreement have been transferred to and assumed by Assignee as of the Transfer Date. The County further re-acknowledges and re-confirms it shall grant the Credit to Assignee with respect to the Site and the Facility for the remaining portion of the Credit Term (as defined in the Credit Agreement) and the amount of the Credit remaining under the Credit Agreement as of the Transfer Date.

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

4. Representations and Warranties by Assignor and County. Assignor hereby represents and warrants to Assignee that, to the best of Assignor's knowledge, Assignor is not in default under the Credit Agreement and that all obligations of Assignor under the Credit Agreement, including, but not limited to, the Investment Commitment (as defined in the Credit Agreement) have been satisfied as of the Transfer Date. The County hereby represents that (i) all obligations of Assignor under the Credit Agreement, including, but not limited to, the Investment Commitment (as defined in the Credit Agreement) have been satisfied as of the Transfer Date, and (ii) to the best of the County's knowledge, Assignor is not in default under the Credit Agreement.

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

CA Student Living Station Columbia LLC
One Prudential Plaza
130 E. Randolph St, Suite 210
Chicago, IL 60601
Attention: Mike Hung & James Reiland
Email: mhung@ca-ventures.com & jreiland@ca-ventures.com

With a Copy To: Polsinelli PC
150 N. Riverside, Suite 3000
Chicago, Illinois 60606
Attention: Eric G. Greenfield, Patrick J. Elder & Robert J. Bello
Email: egreenfield@polsinelli.com, pelder@polsinelli.com & rbello@polsinelli.com

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

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

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

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

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

[SIGNATURE PAGE TO FOLLOW]

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

COUNTY:

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

Chairman
Richland County Council

ATTEST:

Clerk to Council
Richland County Council

[Signature Page to Assignment and Assumption of Credit Agreement]

ASSIGNOR:

Blue Atlantic Columbia, LLC, a Delaware limited liability company

By: _____

Name: _____

Title: _____

[Signature Page to Assignment and Assumption of Credit Agreement]

ASSIGNEE:

CA Student Living Station Columbia LLC, a
Delaware limited liability company

By: _____
Name: _____
Title: _____

[Signature Page to Assignment and Assumption of Credit Agreement]

EXHIBIT B

Form of Estoppel Certificate

See attached.

ESTOPPEL CERTIFICATE

The undersigned, **RICHLAND COUNTY, SOUTH CAROLINA** (the "County"), hereby certifies to **CIBC BANK USA**, an Illinois state chartered bank, and its successors and assigns, as administrative agent for itself and certain other lenders ("Agent"), with respect to that certain Credit Agreement ("Agreement") dated December 9, 2014 by and between the County and Blue Atlantic Columbia, LLC, as assigned to _____, a Delaware limited liability company ("Owner"), by that certain Assignment and Assumption Agreement dated as of the date hereof, as follows:

1. County Warranties. The County represents and warrants that as of the date hereof, (i) it does not know of any default under the Agreement; (ii) the Agreement has not been amended; (iii) except for the Net Fee Payment due and payable on January 15, 2021, no sums are currently due under the Agreement by Owner; and (iv) the Agreement is in full force and effect.

2. Mortgagee Notice. Agent, whose address is CIBC Bank USA, 120 S. LaSalle Street, Chicago, Illinois 60603, Attention: Michael Styler, does hereby certify that it is the holder of a first lien mortgage encumbering the property described on Exhibit A attached hereto (the "Parcel"). If any notice of default shall be given by the County to the Owner or its assignee, a copy thereof shall be delivered to Agent by the Owner, and the Agent shall have all rights of Owner or its assignee to cure such default pursuant to the Agreement. Failure to deliver a copy of such notice to Agent shall in no way affect the validity of the notice of default as it respects Owner..

3. Collateral Assignment. The County hereby acknowledges that Owner has collaterally assigned to Agent all of Owner's rights under the Agreement and has consented to such collateral assignment to Agent by adoption by County Council of a Resolution dated December 7, 2021. . Further, in the event of a foreclosure, deed-in-lieu or similar enforcement action by Agent, the County also hereby consents to (i) the assignment of the Agreement to Agent (or its nominee) without further action by the County and to recognize Agent (or its nominee) as the "Owner" thereunder pursuant to the terms of such assignment, and (ii) the assignment of the Agreement by Agent (or its nominee) to a third party (without further action by the County) which may acquire the property from Agent (or its nominee) and to recognize such third party as the "Owner" thereunder pursuant to the terms of such assignment; provided, however, that in each case, the County shall be provided written notice of such foreclosure, deed-in-lieu, or similar enforcement action and assignment and that such consent does not confer on Agent (or its nominee) or its assignee any rights or benefits in addition to that which Owner is entitled to under the Agreement.

[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK]

The County has executed this Estoppel Certificate as of the date first above written.

COUNTY:

RICHLAND COUNTY, SOUTH CAROLINA

By: _____

Name: _____

Title: _____

RESOLVED: December 7, 2021

RICHLAND COUNTY, SOUTH CAROLINA

Chair, Richland County Council

(SEAL)
ATTEST:

Clerk to County Council

Richland County Council Request for Action

Subject:

Authorizing the execution and delivery of a fee-in-lieu of ad valorem taxes agreement by and between Richland County, South Carolina and Project Wheat to provide for payment of a fee-in-lieu of taxes; and other related matters

Notes:

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

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

AUTHORIZING THE EXECUTION AND DELIVERY OF A FEE-IN-LIEU OF *AD VALOREM* TAXES AGREEMENT BY AND BETWEEN RICHLAND COUNTY, SOUTH CAROLINA AND PROJECT WHEAT TO PROVIDE FOR PAYMENT OF A FEE-IN-LIEU OF TAXES; AND OTHER RELATED MATTERS.

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 (“FILOT Act”), to encourage manufacturing and commercial enterprises to locate in the State of South Carolina (“South Carolina” or “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 FILOT 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 FILOT Act;

WHEREAS, pursuant to Article VIII, Section 13 of the South Carolina Constitution and Title 4, Section 1, Code of Laws of South Carolina, 1976, as amended (collectively, “MCIP Act”), the County is authorized to jointly develop multicounty parks with counties having contiguous borders with the County and, in the County’s discretion, include property within the boundaries of such multicounty parks. Under the authority provided in the MCIP Act, the County has created a multicounty park with Fairfield County, South Carolina more particularly known as the I-77 Corridor Regional Industrial Park (“Park”);

WHEREAS, Project Wheat, (“Sponsor”), desires to expand certain manufacturing and related facilities in the County (“Project”) consisting of taxable investment in real and personal property of not less than \$5,000,000; and

WHEREAS, at the request of the Sponsor and as an inducement to locate the Project in the County, the County desires to enter into a Fee-in-Lieu of *Ad Valorem* Taxes Agreement with the Sponsor, as sponsor, the final form of which is attached as Exhibit A (“Fee Agreement”), pursuant to which the County will provide certain incentives to the Sponsor with respect to the Project, including (1) providing for FILOT Payments, to be calculated as set forth in the Fee Agreement, with respect to the portion of the Project which constitutes economic development property; and (2) locating the Project in the Park.

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

Section 1. Statutory Findings. Based on information supplied to the County by the Sponsor, County Council evaluated the Project based on relevant criteria including, the purposes the Project is to accomplish, the anticipated dollar amount and nature of the investment, , and the anticipated costs and benefits to the County, and hereby finds:

(a) 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;

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

(c) The purposes to be accomplished by the Project are proper governmental and public purposes and the benefits of the Project are greater than the costs.

Section 2. *Approval of Incentives; Authorization to Execute and Deliver Fee Agreement.* The incentives as described in this Ordinance (“Ordinance”), and as more particularly set forth in the Fee Agreement, with respect to the Project are hereby approved. The form, terms and provisions of the Fee Agreement that is before this meeting are approved and all of the Fee Agreement’s terms and conditions are incorporated in this Ordinance by reference. The Chair of County Council (“Chair”) is authorized and directed to execute the Fee 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 Fee Agreement and to deliver the Fee Agreement to the Sponsor.

Section 3. *Inclusion within the Park.* The expansion of the Park boundaries to include the Project, to the extent not already so included, is authorized and approved. The Chair, the County Administrator and the Clerk to County Council are each authorized to execute such documents and take such further actions as may be necessary to complete the expansion of the Park boundaries. Pursuant to the terms of the agreement governing the Park (“Park Agreement”), the expansion of the Park’s boundaries and the amendment to the Park Agreement is complete on adoption of this Ordinance by County Council and an approving companion ordinance by the Fairfield County Council.

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

Chair, Richland County Council

(SEAL)
ATTEST:

Clerk of Council, Richland County Council

First Reading: December 7, 2021
Second Reading:
Public Hearing:
Third Reading:

EXHIBIT A
FORM OF FEE AGREEMENT

FEE-IN-LIEU OF *AD VALOREM* TAXES AGREEMENT

BETWEEN

PROJECT WHEAT

AND

RICHLAND COUNTY, SOUTH CAROLINA

EFFECTIVE AS OF DECEMBER ____, 2021

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- Exhibit A – Description of Property
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**SUMMARY OF CONTENTS OF
FEE AGREEMENT**

The parties have agreed to waive the requirement to recapitulate the contents of this Fee Agreement pursuant to Section 12-44-55 of the Code (as defined herein). However, the parties have agreed to include a summary of the key provisions of this Fee Agreement for the convenience of the parties. This summary is included for convenience only and is not to be construed as a part of the terms and conditions of this Fee Agreement.

PROVISION	BRIEF DESCRIPTION	SECTION REFERENCE
Sponsor Name	PROJECT WHEAT	
Project Location		
Tax Map No.		
FILOT		
• Phase Exemption Period	30 years	
• Contract Minimum Investment Requirement	\$5,000,000	
• [Contract Minimum Jobs Requirement]		
• Investment Period	5 years	
• Assessment Ratio	6%	
• Millage Rate	580.3 mills (lowest allowable)	
• Fixed or Five-Year Adjustable Millage	Fixed	
• Claw Back Information	Terminate and claw back if investment does not reach Act Minimum Investment Requirement	
Multicounty Park	I-77 Corridor Regional Industrial Park	
Other Information	N/A	
•		
•		
•		

FEE-IN-LIEU OF AD VALOREM TAXES AGREEMENT

THIS FEE-IN-LIEU OF *AD VALOREM* TAXES AGREEMENT (“*Fee Agreement*”) is entered into, effective, as of December ____, 2021, between Richland County, South Carolina (“*County*”), a body politic and corporate and a political subdivision of the State of South Carolina (“*State*”), acting through the Richland County Council (“*County Council*”) as the governing body of the County, and PROJECT WHEAT, a corporation organized and existing under the laws of the State of _____ (“*Sponsor*”).

WITNESSETH:

(a) Title 12, Chapter 44, (“*Act*”) of the Code of Laws of South Carolina, 1976, as amended (“*Code*”), authorizes the County to induce manufacturing and commercial enterprises to locate in the State or to encourage manufacturing and commercial enterprises currently 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*”) with respect to Economic Development Property, as defined below;

(b) The Sponsor has committed to expand certain manufacturing and related facilities (“*Facility*”) in the County, consisting of taxable investment in real and personal property of not less than \$5,000,000;

(d) By an ordinance enacted on [], 2022, County Council authorized the County to enter into this Fee Agreement with the Sponsor to provide for a FILOT as an inducement for the Sponsor to expand its Facility in the County.

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

**ARTICLE I
DEFINITIONS**

Section 1.1. Terms. The defined terms used in this Fee Agreement have the meaning given below, unless the context clearly requires otherwise.

“*Act*” means Title 12, Chapter 44 of the Code, as amended.

“*Act Minimum Investment Requirement*” means an investment of at least \$2,500,000 in the Project on or before the date that is five years from the Commencement Date, as set forth in Section 12-44-30(14) of the Act, which investment amount shall be calculated in accordance with, and subject to, Section 12-44-130 of the Act.

“*Administration Expenses*” means the reasonable expenses incurred by the County in the negotiation, approval and implementation of the terms and provisions of this Fee Agreement, including reasonable attorney’s and consultant’s fees. Administration Expenses does not include any costs, expenses, including attorney’s fees, incurred by the County (i) in defending challenges to the FILOT Payments provided by this Fee Agreement brought by third parties or the Sponsor or its affiliates and related entities, or (ii) in connection with matters arising at the request of the Sponsor outside of the immediate scope of this Fee Agreement, including amendments to the terms of this Fee Agreement.

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

“*Commencement Date*” means the last day of the property tax year during which the initial Economic Development Property comprising the Project is placed in service. The Commencement Date

shall not be later than the last day of the property tax year which is three years from the year in which the County and the Sponsor enter into this Fee Agreement. For purposes of this Fee Agreement, the Commencement Date shall be no later than December 31, 2024, though the Sponsor presently anticipates that the Commencement Date will be December 31, 2021..

“Contract Minimum Investment Requirement” means a taxable investment in real and personal property at the Project of not less than \$5,000,000 within the Investment Period.

“County” means Richland County, South Carolina, a body politic and corporate and a political subdivision of the State, its successors and assigns, acting by and through the County Council as the governing body of the County.

“County Council” means the Richland County Council, the governing body of the County.

“Department” means the South Carolina Department of Revenue.

“Diminution in Value” means a reduction in the fair market value of Economic Development Property, as determined in Section 4.1(a)(i) of this Fee Agreement, which may be caused by (i) the removal or disposal of components of the Project pursuant to Section 4.3 of this Fee Agreement; (ii) a casualty as described in Section 4.4 of this Fee Agreement; or (iii) a condemnation as described in Section 4.5 of this Fee Agreement.

“Economic Development Property” means those items of real and tangible personal property of the Project placed in service within the Investment Period that (i) satisfy the conditions of classification as economic development property under the Act, and (ii) are identified by the Sponsor in its annual filing of a PT-300S or comparable form with the Department (as such filing may be amended from time to time).

“Equipment” means all of the machinery, equipment, furniture, office equipment, and fixtures, together with any and all additions, accessions, replacements, and substitutions now or hereafter acquired for use on or about the Land.

“Event of Default” means any event of default specified in Section 7.1 of this Fee Agreement.

“Fee Agreement” means this Fee-In-Lieu of *Ad Valorem* Taxes Agreement, as originally executed and as may be supplement or amended as permitted herein.

“Fee Term” means the period from the effective date of this Fee Agreement until the Final Termination Date.

“FILOT Payments” means the amount paid or to be paid in lieu of *ad valorem* property taxes as provided in Section 4.1 of this Fee Agreement.

“Final Phase” means the Economic Development Property placed in service during the last year of the Investment Period.

“Final Termination Date” means the date on which the last FILOT Payment with respect to the Final Phase is made, or such earlier date as the Fee Agreement is terminated in accordance with the terms of this Fee Agreement. Assuming the Phase Termination Date for the Final Phase is December 31, 2055, the Final Termination Date is expected to be January 15, 2057, which is the due date of the last FILOT Payment with respect to the Final Phase.

“Improvements” means all improvements now or hereafter constructed on the Real Property, including buildings, building additions, roads, sewer lines, and infrastructure, together with all additions, fixtures, accessions, replacements, and substitutions.

“Investment Period” means the period beginning with the first day of any purchase or acquisition of Economic Development Property and ending five years after the Commencement Date, as may be extended pursuant to Section 12-44-30(13) of the Act. For purposes of this Fee Agreement, the Investment Period, unless so extended, is expected to end on December 31, 2026.

“MCIP Act” means Article VIII, Section 13(D) of the Constitution of the State of South Carolina, and Sections 4-1-170, 4-1-172, 4-1-175, and 4-29-68 of the Code.

“Multicounty Park” means the I-77 Corridor Regional Industrial Park governed by the Amended and Restated Master Agreement Governing the I-77 Corridor Regional Industrial Park, dated as of September 1, 2018, between the County and Fairfield County, South Carolina, as may be amended.

“Phase” means the Economic Development Property placed in service during a particular year of the Investment Period.

“Phase Exemption Period” means, with respect to each Phase, the period beginning with the property tax year the Phase is placed in service during the Investment Period and ending on the Phase Termination Date.

“Phase Termination Date” means, with respect to each Phase, the last day of the property tax year which is the 29th year following the first property tax year in which the Phase is placed in service.

“Project” means all the Equipment, Improvements, Real Property in the County that the Sponsor determines to be necessary, suitable, or useful by the Sponsor in connection with its investment in the County, only, with the exception of Replacement Property, to the extent placed in service in the Investment Period

“South Carolina Freedom of Information Act” shall mean Title 30, Chapter 4 of the Code.

“Removed Components” means Economic Development Property which the Sponsor, in its sole discretion, (a) determines to be inadequate, obsolete, worn-out, uneconomic, damaged, unsuitable, undesirable, or unnecessary pursuant to Section 4.3 of this Fee Agreement or otherwise; or (b) elects to be treated as removed pursuant to Section 4.4(c) or Section 4.5(b)(iii) of this Fee Agreement.

“Replacement Property” means any property which is placed in service as a replacement for any Removed Component regardless of whether the Replacement Property serves the same functions as the Removed Component it is replacing and regardless of whether more than one piece of Replacement Property replaces a single Removed Component.

“Sponsor” means Project Wheat and any surviving, resulting, or transferee entity in any merger, consolidation, or transfer of assets; or any other person or entity which may succeed to the rights and duties of the Sponsor under this Fee Agreement.

“Sponsor Affiliate” means an entity that participates in the investment at the Project and, following receipt of the County’s approval pursuant to Section 9.1 of this Fee Agreement, joins this Fee Agreement by delivering a Joinder Agreement, the form of which is attached as Exhibit B to this Fee Agreement.

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

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

The term “investment” or “invest” as used in this Fee Agreement includes not only investments made by the Sponsor, but also to the fullest extent permitted by law, those investments made by or for the benefit of the Sponsor in connection with the Project through federal, state, or local grants, to the extent such investments are or, but for the terms of this Fee Agreement, would be subject to *ad valorem* taxes to be paid by the Sponsor.

ARTICLE II REPRESENTATIONS AND WARRANTIES

Section 2.1. *Representations and Warranties of the County.* The County represents and warrants as follows:

(a) The County is a body politic and corporate and a political subdivision of the State and acts through the County Council as its governing body. The Act authorizes and empowers the County to enter into the transactions that this Fee Agreement contemplates and to carry out its obligations under this Fee Agreement. The County has duly authorized the execution and delivery of this Fee Agreement and all other documents, certificates or other agreements contemplated in this Fee Agreement and has obtained all consents from third parties and taken all actions necessary or that the law requires to fulfill its obligations under this Fee Agreement.

(b) Based on representations by the Sponsor, County Council evaluated the Project based on all relevant criteria including the purposes the Project is to accomplish, the anticipated dollar amount and nature of the investment resulting from the Project, and the anticipated costs and benefits to the County and following the evaluation, the County determined that (i) 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; (ii) the Project gives rise to no pecuniary liability of the County or any incorporated municipality and to no charge against the County’s general credit or taxing power; (iii) the purposes to be accomplished by the Project are proper governmental and public purposes; and (iv) the benefits of the Project are greater than the costs.

(c) The County identified the Project, as a “project” on December 7, 2021, by adopting an Inducement Resolution, as defined in the Act on December 7, 2021.

(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 Fee Agreement.

(e) The County has located, or will take all reasonable action to locate, the Project in the Multicounty Park.

Section 2.2. *Representations and Warranties of the Sponsor.* The Sponsor represents and warrants as follows:

(a) The Sponsor is in good standing under the laws of the state of its organization, is duly authorized to transact business in the State (or will obtain such authority prior to commencing business in the State), has power to enter into this Fee Agreement, and has duly authorized the execution and delivery of this Fee Agreement.

(b) The Sponsor intends to operate the Project as a _____ and for such other purposes that the Act permits as the Sponsor may deem appropriate.

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

(d) The Sponsor will use commercially reasonable efforts to achieve the Contract Minimum Investment Requirement.

(e) The execution and delivery of this Fee Agreement by the County and the availability of the FILOT and other incentives provided by this Fee Agreement has been an inducement for the Sponsor to locate the Project in the County.

(f) The Sponsor has retained legal counsel to confirm, or has had a reasonable opportunity to consult legal counsel to confirm, its eligibility for the FILOT and other incentives granted by this Fee Agreement and has not relied on the County, its officials, employees or legal representatives with respect to any question of eligibility or applicability of the FILOT and other incentives granted by this Fee Agreement.

ARTICLE III THE PROJECT

Section 3.1. *The Project.* The Sponsor intends and expects to (i) construct or acquire the Project and (ii) meet the Contract Minimum Investment Requirement within the Investment Period. The Sponsor anticipates that the first Phase of the Project will be placed in service during the calendar year ending December 31, 2021. Notwithstanding anything contained in this Fee Agreement to the contrary, the Sponsor is not obligated to complete the acquisition of the Project. However, if the Contract Minimum Investment Requirement is not met, the benefits provided to the Sponsor, or Sponsor Affiliate, if any, pursuant to this Fee Agreement may be reduced, modified or terminated as provided in this Fee Agreement.

Section 3.2 *Leased Property.* To the extent that State law allows or is revised or construed to permit leased assets including a building, or personal property to be installed in a building, to constitute Economic Development Property, then any property leased by the Sponsor is, at the election of the Sponsor, deemed to be Economic Development Property for purposes of this Fee Agreement, subject, at all times, to the requirements of State law and this Fee Agreement with respect to property comprising Economic Development Property.

Section 3.3. *Filings and Reports.*

(a) On or before January 31 of each year during the term of this Fee Agreement, commencing the first January 31 following the Commencement Date, the Sponsor shall deliver to the Economic Development Director of the County, pursuant to the instructions set forth in **Section 10.1** of this Fee Agreement, with respect to the Sponsor and all Sponsor Affiliates, if any, the information required by the terms of the County's Resolution dated December 12, 2017, which is attached hereto as Exhibit C, as may be amended by subsequent resolution.

(b) The Sponsor shall file a copy of this Fee Agreement and a completed PT-443 with the Economic Development Director and the Department and the Auditor, Treasurer and Assessor of the County and partner county to the Multicounty Park.

(c) On request by the County Administrator or the Economic Development Director, the Sponsor shall remit to the Economic Development Director records accounting for the acquisition, financing, construction, and operation of the Project which records (i) permit ready identification of all Economic Development Property; (ii) confirm the dates that the Economic Development Property or Phase was placed in service; and (iii) include copies of all filings made in accordance with this Section.

ARTICLE IV FILOT PAYMENTS

Section 4.1. *FILOT Payments.*

(a) The FILOT Payment due with respect to each Phase through the Phase Termination Date is calculated as follows:

- (i) The fair market value of the Phase calculated as set forth in the Act (for the Real Property and Improvements portion of the Phase, the County and the Sponsor have elected to use the fair market value established in the first year of the Phase Exemption Period), multiplied by
- (ii) An assessment ratio of six percent (6%%), multiplied by
- (iii) A fixed millage rate] equal to 580.3 mills, which is the cumulative millage rate levied by or on behalf of all the taxing entities within which the Project is located as of June 30, 20__.

The calculation of the FILOT Payment must allow all applicable property tax exemptions except those excluded pursuant to Section 12-44-50(A)(2) of the Act. The Sponsor acknowledges that (i) the calculation of the annual FILOT Payment is a function of the Department and is wholly dependent on the Sponsor timely submitting the correct annual property tax returns to the Department, (ii) the County has no responsibility for the submission of returns or the calculation of the annual FILOT Payment, and (iii) failure by the Sponsor to submit the correct annual property tax return could lead to a loss of all or a portion of the FILOT and other incentives provided by this Fee Agreement.

(b) If a final order of a court of competent jurisdiction from which no further appeal is allowable declares the FILOT Payments invalid or unenforceable, in whole or in part, for any reason, the parties shall negotiate the reformation of the calculation of the FILOT Payments to most closely afford the Sponsor with the intended benefits of this Fee Agreement. If such order has the effect of subjecting the Economic Development Property to *ad valorem* taxation, this Fee Agreement shall terminate, and the Sponsor shall owe the County regular *ad valorem* taxes from the date of termination, in accordance with Section 4.7 of this Fee Agreement.

Section 4.2. *FILOT Payments on Replacement Property.* If the Sponsor elects to place Replacement Property in service, then, pursuant and subject to the provisions of Section 12-44-60 of the Act, the Sponsor shall make the following payments to the County with respect to the Replacement Property for the remainder of the Phase Exemption Period applicable to the Removed Component of the Replacement Property:

(a) FILOT Payments, calculated in accordance with Section 4.1 of this Fee Agreement, on the Replacement Property to the extent of the original income tax basis of the Removed Component the Replacement Property is deemed to replace.

(b) Regular *ad valorem* tax payments to the extent the income tax basis of the Replacement Property exceeds the original income tax basis of the Removed Component the Replacement Property is deemed to replace

Section 4.3. Removal of Components of the Project. Subject to the other terms and provisions of this Fee Agreement, the Sponsor is entitled to remove and dispose of components of the Project in its sole discretion. Components of the Project are deemed removed when scrapped, sold or otherwise removed from the Project. If the components removed from the Project are Economic Development Property, then the Economic Development Property is a Removed Component, no longer subject to this Fee Agreement and is subject to *ad valorem* property taxes to the extent the Removed Component remains in the State and is otherwise subject to *ad valorem* property taxes.

Section 4.4. Damage or Destruction of Economic Development Property.

(a) *Election to Terminate.* If Economic Development Property is damaged by fire, explosion, or any other casualty, then the Sponsor may terminate this Fee Agreement. For the tax year corresponding to the property tax year in which the damage or casualty occurs, the Sponsor is obligated to make FILOT Payments with respect to the damaged Economic Development Property only to the extent property subject to *ad valorem* taxes would have been subject to *ad valorem* taxes under the same circumstances for the period in question.

(b) *Election to Restore and Replace.* If Economic Development Property is damaged by fire, explosion, or any other casualty, and the Sponsor does not elect to terminate this Fee Agreement, then the Sponsor may restore and replace the Economic Development Property. All restorations and replacements made pursuant to this subsection (b) are deemed, to the fullest extent permitted by law and this Fee Agreement, to be Replacement Property.

(c) *Election to Remove.* If Economic Development Property is damaged by fire, explosion, or any other casualty, and the Sponsor elects not to terminate this Fee Agreement pursuant to subsection (a) and elects not to restore or replace pursuant to subsection (b), then the damaged portions of the Economic Development Property are deemed Removed Components.

Section 4.5. Condemnation.

(a) *Complete Taking.* If at any time during the Fee Term title to or temporary use of the Economic Development Property is vested in a public or quasi-public authority by virtue of the exercise of a taking by condemnation, inverse condemnation, or the right of eminent domain; by voluntary transfer under threat of such taking; or by a taking of title to a portion of the Economic Development Property which renders continued use or occupancy of the Economic Development Property commercially unfeasible in the judgment of the Sponsor, the Sponsor shall have the option to terminate this Fee Agreement by sending written notice to the County within a reasonable period of time following such vesting.

(b) *Partial Taking.* In the event of a partial taking of the Economic Development Property or a transfer in lieu, the Sponsor may elect: (i) to terminate this Fee Agreement; (ii) to restore and replace the Economic Development Property, with such restorations and replacements deemed, to the fullest extent permitted by law and this Fee Agreement, to be Replacement Property; or (iii) to treat the portions of the Economic Development Property so taken as Removed Components.

(c) In the year in which the taking occurs, the Sponsor is obligated to make FILOT Payments with respect to the Economic Development Property so taken only to the extent property subject to *ad valorem* taxes would have been subject to taxes under the same circumstances for the period in question.

Section 4.6. Calculating FILOT Payments on Diminution in Value. If there is a Diminution in Value, the FILOT Payments due with respect to the Economic Development Property or Phase so diminished shall be calculated by substituting the diminished value of the Economic Development Property or Phase for the original fair market value in Section 4.1(a)(i) of this Fee Agreement.

Section 4.7. Payment of Ad Valorem Taxes. If Economic Development Property becomes subject to *ad valorem* taxes as imposed by law pursuant to the terms of this Fee Agreement or the Act, then the calculation of the *ad valorem* taxes due with respect to the Economic Development Property for a particular tax year shall: (i) include the property tax reductions that would have applied to the Economic Development Property if it were not Economic Development Property; and (ii) include a credit for FILOT Payments the Sponsor has made with respect to the Economic Development Property.

Section 4.8. Place of FILOT Payments. All FILOT Payments shall be made directly to the County in accordance with applicable law.

**ARTICLE V
RESERVED**

**ARTICLE VI
CLAW BACK**

Section 6.1. *Claw Back* If the Sponsor fails to achieve the Act Minimum Investment Requirement by the end of the Investment Period, without regard to any extension permitted by this Fee Agreement or the Act, then this Fee Agreement shall immediately terminate and the Sponsor shall make payments as required by the Act.

**ARTICLE VII
DEFAULT**

Section 7.1. *Events of Default*. The following are “Events of Default” under this Fee Agreement:

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

(b) Failure to timely pay any amount, except FILOT Payments, due under this Fee Agreement which failure has not been cured within 30 days following receipt of written notice from the County specifying the delinquency in such payment and requesting that it be remedied;

(c) A Cessation of Operations. For purposes of this Fee Agreement, a “*Cessation of Operations*” means a publicly announced closure of the Facility made by the Sponsor or a complete cessation of production at the Facility that continues for a period of twelve (12) consecutive months;

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

(e) Failure by the Sponsor to perform any of the terms, conditions, obligations, or covenants under this Fee Agreement (other than those under (a), above), which failure has not been cured within 30 days after written notice from the County to the Sponsor specifying such failure and requesting that it be remedied, unless the Sponsor 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 Sponsor is diligently pursuing corrective action;

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

(g) 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 Sponsor 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 7.2. *Remedies on Default*.

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

(i) terminate this Fee 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 Sponsor may take any one or more of the following actions:

(i) bring an action for specific enforcement;

(ii) terminate this 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.

Section 7.3. 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 Fee 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 7.4. Remedies Not Exclusive. No remedy described in this Fee 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 Fee Agreement or existing at law or in equity or by statute.

ARTICLE VIII PARTICULAR RIGHTS AND COVENANTS

Section 8.1. Right to Inspect. The County and its authorized agents, at any reasonable time on prior written notice (which may be given by email), may enter and examine and inspect the Project for the purposes of 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).

Section 8.2. Confidentiality. The County acknowledges that the Sponsor may utilize confidential and proprietary processes and materials, services, equipment, trade secrets, and techniques (“**Confidential Information**”) and that disclosure of the Confidential Information could result in substantial economic harm to the Sponsor. The Sponsor may clearly label any Confidential Information delivered to the County pursuant to this Fee 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 Sponsor 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 will use its best efforts to provide the Sponsor 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 Sponsor to obtain judicial or other relief from such disclosure requirement.

Section 8.3. Indemnification Covenants.

(a) Except as provided in paragraph (d) below, the Sponsor 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 Fee Agreement, performance of the County’s obligations under this Fee Agreement or the administration of its duties pursuant to this Fee Agreement, or otherwise by virtue of the County having entered into this Fee Agreement.

(b) The County is entitled to use counsel of its choice and the Sponsor 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 costs incurred in the response or defense, and the Sponsor shall pay the County within 30 days of receipt of the statement. The Sponsor may request reasonable documentation evidencing the costs shown on the statement. However, the County is not required to provide any such documentation which may be privileged or confidential to evidence the costs.

(c) The County may request the Sponsor 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 claim without the consent of that Indemnified Party.

(d) Notwithstanding anything in this Section or this Fee Agreement to the contrary, the Sponsor is not required to indemnify any Indemnified Party against or reimburse any Indemnified Party for costs arising from any claim or liability (i) occasioned by the acts of any Indemnified Party, which are unrelated to the execution of this Fee Agreement, performance of the County’s obligations under this Fee Agreement, or the administration of its duties under this Fee Agreement, or otherwise by virtue of the County having entered into this Fee Agreement; or (ii) resulting from any 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 Sponsor 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 Sponsor notice, reasonable under the circumstances, within which to defend or otherwise respond to a claim.

(f) The obligations under this Section 8.3 shall survive termination of this Fee Agreement.

Section 8.4. No Liability of County Personnel. All covenants, stipulations, promises, agreements and obligations of the County contained in this Fee Agreement 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 under this Fee Agreement may be had against any member of County Council or any elected or appointed official, officer, agent, servant or employee of the County and no recourse for the payment of any moneys or performance of any of the covenants and agreements under this Fee Agreement or for any claims based on this Fee Agreement may be had against any member of County Council or any elected or appointed official, officer, agent, servant or employee of the County except solely in their official capacity.

Section 8.5. Limitation of Liability. The County is not liable to the Sponsor for any costs, expenses, losses, damages, claims or actions in connection with this Fee Agreement, except from amounts received by the County from the Sponsor under this Fee Agreement. Notwithstanding anything in this Fee

Agreement to the contrary, any financial obligation the County may incur under this Fee Agreement is deemed not to constitute a pecuniary liability or a debt or general obligation of the County.

Section 8.6. Assignment. The Sponsor may assign this Fee Agreement in whole or in part with the prior written consent of the County or a subsequent written ratification by the County, which may be done by resolution, and which consent or ratification the County will not unreasonably withhold. The Sponsor agrees to notify the County and the Department of the identity of the proposed transferee within 60 days of the transfer. In case of a transfer, the transferee assumes the transferor's basis in the Economic Development Property for purposes of calculating the FILOT Payments.

Section 8.7. No Double Payment; Future Changes in Legislation. Notwithstanding anything contained in this Fee Agreement to the contrary, and except as expressly required by law, the Sponsor is not required to make a FILOT Payment in addition to a regular *ad valorem* property tax payment in the same year with respect to the same piece of Economic Development Property. The Sponsor is not required to make a FILOT Payment on Economic Development Property in cases where, absent this Fee Agreement, *ad valorem* property taxes would otherwise not be due on such property.

Section 8.8. Administration Expenses. The Sponsor will reimburse, or cause reimbursement to, the County for Administration Expenses in the amount of \$3,500. The Sponsor will reimburse the County for its Administration Expenses on receipt of a written request from the County or at the County's direction, which request shall include a statement of the amount and nature of the Administration Expense. The Sponsor shall pay the Administration Expense as set forth in the written request no later than 60 days following receipt of the written request from the County. The County does not impose a charge in the nature of impact fees or recurring fees in connection with the incentives authorized by this Fee Agreement. The payment by the Sponsor 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.

ARTICLE IX SPONSOR AFFILIATES

Section 9.1. Sponsor Affiliates. The Sponsor may designate Sponsor Affiliates from time to time, including at the time of execution of this Fee Agreement, pursuant to and subject to the provisions of Section 12-44-130 of the Act. To designate a Sponsor Affiliate, the Sponsor must deliver written notice to the Economic Development Director identifying the Sponsor Affiliate and requesting the County's approval of the Sponsor Affiliate. Except with respect to a Sponsor Affiliate designated at the time of execution of this Fee Agreement, which may be approved in the County Council ordinance authorizing the execution and delivery of this Fee Agreement, approval of the Sponsor Affiliate may be given by the County Administrator delivering written notice to the Sponsor and Sponsor Affiliate following receipt by the County Administrator of a recommendation from the Economic Development Committee of County Council to allow the Sponsor Affiliate to join in the investment at the Project. The Sponsor Affiliate's joining in the investment at the Project will be effective on delivery of a Joinder Agreement, the form of which is attached as Exhibit B, executed by the Sponsor Affiliate to the County.

Section 9.2. Primary Responsibility. Notwithstanding the addition of a Sponsor Affiliate, the Sponsor acknowledges that it has the primary responsibility for the duties and obligations of the Sponsor and any Sponsor Affiliate under this Fee Agreement, including the payment of FILOT Payments or any other amount due to or for the benefit of the County under this Fee Agreement. For purposes of this Fee Agreement, "primary responsibility" means that if the Sponsor Affiliate fails to make any FILOT Payment or remit any other amount due under this Fee Agreement, the Sponsor shall make such FILOT Payments or remit such other amounts on behalf of the Sponsor Affiliate.

ARTICLE X

MISCELLANEOUS

Section 10.1. Notices. Any notice, election, demand, request, or other communication to be provided under this Fee Agreement is effective when delivered to the party named below or when deposited with the United States Postal Service, certified mail, return receipt requested, postage prepaid, addressed as follows (or addressed to such other address as any party shall have previously furnished in writing to the other party), except where the terms of this Fee Agreement require receipt rather than sending of any notice, in which case such provision shall control:

IF TO THE SPONSOR:

□

WITH A COPY TO (does not constitute notice):

Nexsen Pruet, LLC
Attn: Tushar V. Chikhliker
1230 Main Street, Suite 700 (29201)
Post Office Drawer 2426
Columbia, South Carolina 29202

IF TO THE COUNTY:

Richland County, South Carolina
Attn: Richland County Economic Development Director
2020 Hampton Street
Columbia, South Carolina 29204

WITH A COPY TO (does not constitute notice):

Parker Poe Adams & Bernstein LLP
Attn: Ray E. Jones
1221 Main Street, Suite 1100 (29201)
Post Office Box 1509
Columbia, South Carolina 29202-1509

Section 10.2. Provisions of Agreement for Sole Benefit of County and Sponsor. Except as otherwise specifically provided in this Fee Agreement, nothing in this Fee Agreement expressed or implied confers on any person or entity other than the County and the Sponsor any right, remedy, or claim under or by reason of this Fee Agreement, this Fee Agreement being intended to be for the sole and exclusive benefit of the County and the Sponsor.

Section 10.3. Counterparts. This Fee Agreement may be executed in any number of counterparts, and all of the counterparts together constitute one and the same instrument.

Section 10.4. Governing Law. South Carolina law, exclusive of its conflicts of law provisions that would refer the governance of this Fee Agreement to the laws of another jurisdiction, governs this Fee Agreement and all documents executed in connection with this Fee Agreement.

Section 10.5. Headings. The headings of the articles and sections of this Fee Agreement are inserted for convenience only and do not constitute a part of this Fee Agreement.

Section 10.6. Amendments. This Fee Agreement may be amended only by written agreement of the parties to this Fee Agreement.

Section 10.7. Agreement to Sign Other Documents. From time to time, and at the expense of the Sponsor, to the extent any expense is incurred, the County agrees to execute and deliver to the Sponsor such additional instruments as the Sponsor may reasonably request and as are authorized by law and reasonably within the purposes and scope of the Act and this Fee Agreement to effectuate the purposes of this Fee Agreement.

Section 10.8. Interpretation; Invalidity; Change in Laws.

(a) If the inclusion of property as Economic Development Property or any other issue is unclear under this Fee Agreement, then the parties intend that the interpretation of this Fee Agreement be done in a manner that provides for the broadest inclusion of property under the terms of this Fee Agreement and the maximum incentive permissible under the Act, to the extent not inconsistent with any of the explicit terms of this Fee Agreement.

(b) If any provision of this Fee Agreement is declared illegal, invalid, or unenforceable for any reason, the remaining provisions of this Fee 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 Fee Agreement so as to afford the Sponsor with the maximum benefits to be derived under this Fee Agreement, it being the intention of the County to offer the Sponsor the strongest inducement possible, within the provisions of the Act, to locate the Project in the County.

(c) The County agrees that in case the FILOT incentive described in this Fee Agreement is found to be invalid and the Sponsor does not realize the economic benefit it is intended to receive from the County under this Fee Agreement as an inducement to locate or expand in the County, the County agrees to negotiate with the Sponsor to provide a special source revenue or infrastructure credit to the Sponsor to the maximum extent permitted by law, to allow the Sponsor to recoup all or a portion of the loss of the economic benefit resulting from such invalidity.

Section 10.9. Force Majeure. The Sponsor is not responsible for any delays or non-performance caused in whole or in part, directly or indirectly, by strikes, accidents, freight embargoes, fires, floods, inability to obtain materials, conditions arising from governmental orders or regulations, war or national emergency, acts of God, and any other cause, similar or dissimilar, beyond the Sponsor's reasonable control.

Section 10.10. Termination; Termination by Sponsor.

(a) Unless first terminated under any other provision of this Fee Agreement, this Fee Agreement terminates on the Final Termination Date.

(b) The Sponsor is authorized to terminate this Fee Agreement at any time with respect to all or part of the Project on providing the County with 30 days' notice.

(c) Any monetary obligations due and owing at the time of termination and any provisions which are expressly stated in the Fee Agreement to survive termination, shall survive such termination.

(d) In the year following termination, all Economic Development Property is subject to *ad valorem* taxation or such other taxation or payment in lieu of taxation that would apply absent this Fee Agreement. The Sponsor's obligation to make FILOT Payments under this Fee Agreement terminates to the extent of and in the year following the year the Sponsor terminates this Fee Agreement pursuant to this Section.

Section 10.11. *Entire Agreement.* This Fee Agreement expresses the entire understanding and all agreements of the parties, and neither party is bound by any agreement or any representation to the other party which is not expressly set forth in this Fee Agreement or in certificates delivered in connection with the execution and delivery of this Fee Agreement.

Section 10.12. *Waiver.* Either party may waive compliance by the other party with any term or condition of this Fee Agreement only in a writing signed by the waiving party.

Section 10.13. *Business Day.* If any action, payment, or notice is, by the terms of this Fee Agreement, required to be taken, made, or given on any 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 Fee Agreement, and no interest will accrue in the interim.

Section 10.14. *Agreement's Construction.* Each party and its counsel have reviewed this Fee 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 Fee Agreement or any amendments or exhibits to this Fee Agreement.

[Signature pages follow]

IN WITNESS WHEREOF, the County, acting by and through the County Council, has caused this Fee Agreement to be executed in its name and on its behalf by the Chair of County Council and to be attested by the Clerk of the County Council; and the Sponsor has caused this Fee Agreement to be executed by its duly authorized officer, all as of the day and year first above written.

RICHLAND COUNTY, SOUTH CAROLINA

(SEAL)

By: _____
County Council Chair
Richland County, South Carolina

ATTEST:

By: _____
Clerk to County Council
Richland County, South Carolina

[Signature Page 1 to Fee in Lieu of Ad Valorem Taxes Agreement]

PROJECT WHEAT

By: _____
Its: _____

[Signature Page 2 to Fee in Lieu of Ad Valorem Taxes Agreement]

EXHIBIT A
PROPERTY DESCRIPTION

EXHIBIT B (see Section 9.1)
FORM OF JOINDER AGREEMENT

Reference is hereby made to the Fee-in-Lieu of *Ad Valorem* Taxes Agreement, effective [DATE] (“Fee Agreement”), between Richland County, South Carolina (“County”) and PROJECT WHEAT (“Sponsor”).

1. Joinder to Fee Agreement.

[_____], a [STATE] [corporation]/[limited liability company]/[limited partnership] authorized to conduct business in the State of South Carolina, hereby (a) joins as a party to, and agrees to be bound by and subject to all of the terms and conditions of, the Fee Agreement as if it were a Sponsor [except the following: _____]; (b) shall receive the benefits as provided under the Fee Agreement with respect to the Economic Development Property placed in service by the Sponsor Affiliate as if it were a Sponsor [except the following _____]; (c) acknowledges and agrees that (i) according to the Fee Agreement, the undersigned has been designated as a Sponsor Affiliate by the Sponsor for purposes of the Project; and (ii) the undersigned qualifies or will qualify as a Sponsor Affiliate under the Fee Agreement and Section 12-44-30(20) and Section 12-44-130 of the Act.

2. Capitalized Terms.

Each capitalized term used, but not defined, in this Joinder Agreement has the meaning of that term set forth in the Fee Agreement.

3. Representations of the Sponsor Affiliate.

The Sponsor Affiliate represents and warrants to the County as follows:

(a) The Sponsor Affiliate is in good standing under the laws of the state of its organization, is duly authorized to transact business in the State (or will obtain such authority prior to commencing business in the State), has power to enter into this Joinder Agreement, and has duly authorized the execution and delivery of this Joinder Agreement.

(b) The Sponsor Affiliate’s execution and delivery of this Joinder Agreement, and its compliance with the provisions of this Joinder Agreement, do not result in a default, not waived or cured, under any agreement or instrument to which the Sponsor Affiliate is now a party or by which it is bound.

(c) The execution and delivery of this Joinder Agreement and the availability of the FILOT and other incentives provided by this Joinder Agreement has been instrumental in inducing the Sponsor Affiliate to join with the Sponsor in the Project in the County.

4. Governing Law.

This Joinder Agreement is governed by and construed according to the laws, without regard to principles of choice of law, of the State of South Carolina.

5. Notice.

Notices under Section 10.1 of the Fee Agreement shall be sent to:

[_____]

IN WITNESS WHEREOF, the undersigned has executed this Joinder Agreement to be effective as of the date set forth below.

Date

PROJECT WHEAT
By: _____
Its: _____

IN WITNESS WHEREOF, the County acknowledges it has consented to the addition of the above-named entity as a Sponsor Affiliate under the Fee Agreement effective as of the date set forth above.

RICHLAND COUNTY, SOUTH CAROLINA

By: _____
Its: _____

EXHIBIT C (see Section 3.3)
RICHLAND COUNTY RESOLUTION REQUIRING CERTAIN ACCOUNTABILITY PRACTICES CONCERNING
ECONOMIC DEVELOPMENT PROJECTS IN THE COUNTY

**A RESOLUTION TO AMEND THE DECEMBER 21, 2010,
RESOLUTION REQUIRING CERTAIN ACCOUNTABILITY
PRACTICES CONCERNING ECONOMIC DEVELOPMENT
PROJECTS IN RICHLAND COUNTY**

WHEREAS, Richland County Council adopted a resolution dated as of December 21, 2010 (“Prior Resolution”), which requires companies receiving economic development incentives from Richland County, South Carolina (“County”) to submit annual reports to the Richland County Economic Development Office; and

WHEREAS, the County desires to make the form of the annual reports submitted by such companies uniform in order to make the substantive information contained in the annual reports more easily tracked and documented by the Richland County Economic Development Office.

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

Section 1. The County affirms that each company awarded an incentive by the County in exchange for the location or expansion of a facility or facilities within the County shall submit an annual report to the Richland County Economic Development Office by January 31 of each year throughout the term of the incentives.

Section 2. The Richland County Economic Development Office is authorized to create (and from time to time, if necessary, amend or recreate) and make available the form of the annual report; however, such form, shall require, at a minimum, the following information:

- a. Name of company;
- b. Cumulative capital investment (less any removed investment) to date as a result of the project;
- c. Net jobs created to date as a result of the project;

Section 3. A copy of the then-current form of the annual report may be obtained from the following address. The annual report shall likewise be submitted to the following address by the required date.

Richland County Economic Development Office
Attention: Kim Mann
1201 Main Street, Suite 910
Columbia, SC 29201

Section 4. This Resolution amends the Prior Resolution and sets forth the County’s requirements with respect to the annual reports to be submitted by each company awarded an incentive by the County as described in Section 1.

Section 5. The substance of this Resolution shall be incorporated into the agreement between the County and each company with respect to the incentives granted by the County to the company.


Section 6. In the event that any company shall fail to submit an annual report, or any portion thereof, such company may be required to return all incentives, or a dollar amount equal thereof, to the County. Such incentives, or the dollar amount equal thereto, shall be paid to the County within 60 days after the date upon which the information was originally due.

RESOLVED: December 12 2017

RICHLAND COUNTY, SOUTH CAROLINA


Chair, Richland County Council

(SEAL)
ATTEST:


Clerk to County Council

Richland County Council Request for Action

Subject:

Mitigation Credit Sales - Quick Trip Store in Lexington County

Notes:

November 18, 2021 – The Transportation Ad Hoc Committee recommended Council approve the sale of the mitigation credits. The approval is time sensitive as the buyer has requested notice of approval as soon as possible due to Army Corps of Engineers permitting constraints.

**RICHLAND COUNTY
ADMINISTRATION**

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



Agenda Briefing

Prepared by:	Michael Maloney	Title:	Interim Director
Department:	Transportation	Division:	
Date Prepared:	November 04, 2021	Meeting Date:	November 18, 2021
Legal Review	Elizabeth McLean via email	Date:	November 15, 2021
Budget/Finance Review	Stacey Hamm via email	Date:	November 04, 2021
Approved for consideration:	Assistant County Administrator	John M. Thompson, Ph.D., MBA, CPM, SCCEM	
Committee	Transportation Ad Hoc		
Subject:	Mitigation Credit Sales – Quick Trip Store in Lexington County		

STAFF’S RECOMMENDED ACTION:

Staff respectfully requests the Committee concur with these credit sales and forward to full Council for consideration. This approval is time sensitive as the buyer has requested notice of approval as soon as possible due to Army Corps of Engineers permitting constraints.

Request for Council Reconsideration: Yes

FIDUCIARY:

Are funds allocated in the department’s current fiscal year budget?	<input type="checkbox"/>	Yes	<input checked="" type="checkbox"/>	No
If no, is a budget amendment necessary?	<input type="checkbox"/>	Yes	<input checked="" type="checkbox"/>	No

ADDITIONAL FISCAL/BUDGETARY MATTERS TO CONSIDER:

This mitigation credit sale will generate \$131,972.09 which will be credited to the Transportation Penny Program.

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

None.

REGULATORY COMPLIANCE:

None applicable.

MOTION OF ORIGIN:

There is no associated Council motion of origin.

Council Member	
Meeting	
Date	

STRATEGIC & GENERATIVE DISCUSSION:

Staff requests approval for the sale of mitigation bank credits from the Mill Creek Mitigation Bank to Quick Trip Corporation for an Army Corps of Engineers (ACE) 404 Permit to facilitate the construction of a new Quick Trip store in Lexington County. The applicant is requesting 2.21 wetland and 900.00 stream mitigation credits to fulfill the permitting requirements.

The mitigation bank was established with Transportation Program funding in order to provide mitigation credits necessary to acquire construction permits for transportation and other projects. Construction for projects with water resource impacts need mitigation credits to obtain permits. It is more cost effective when mitigation credits are available. As surplus mitigation credits are sold, the price for credits utilized for County projects is reduced. The requested mitigation credit sales provide for the acquisition of construction permits required for transportation and other projects as well as to replenish funds spent on the creation of the mitigation credits.

The mitigation bankers were notified by email of the County's desire to participate in this sale subject to final approval by County Council at the 100% level on October 6, 2021. When the sales are completed, if approved by County Council, the funds will be added to the Transportation Program account.

If the County Council does not approve the requested sales of its surplus mitigation credits, the County portion of the mitigation credit sales will drop from \$131,972.09 to \$31,082.09 for a difference of \$100,890.00 to the Transportation Program. The County Council has approved surplus mitigation credit sales on many occasions. The last two (2) mitigation credit sales approvals were completed by County Council at the Regular Session County Council Meeting on October 5, 2021 (minutes not available at this time) and the Regular Session County Council meeting on April 6, 2020. All related County Council actions since 2014 are not included in the attachments for brevity.

ADDITIONAL COMMENTS FOR CONSIDERATION:

None

ATTACHMENTS:

1. MCMB Credit Sale Checklist
2. MCMB Quick Trip Sales Agreement
3. County Council Regular Session, April 6, 2021 – Minutes

MITIGATION SURPLUS CREDIT SALES AGREEMENT SUMMARY

<u>Project:</u>	QuikTrip Project Store 1182
<u>Location:</u>	Lexington County, SC
<u>8-Digit HUC Watershed Code</u>	03050109 (Saluda River)
<u>Buyer:</u>	QuikTrip Corporation
<u>Buyer's USACE 404 Permit #:</u>	SAC 2020-01380
<u>Price Per Wetland Credit:</u>	\$12,500
<u>Price Per Stream Credit:</u>	\$125
<u>Wetland Credits:</u>	2.21 credits (1.11 restoration/enhancement & 1.10 preservation)
<u>Stream Credits:</u>	900.00 credits (450.00 restoration/enhancement & 450 preservation)
<u>Credit Proceeds:</u>	\$140,125.00
<u>Richland County Credit Share:</u>	\$128,915.00 (92% of \$140,125.00)
<u>MCMH Credit Share:</u>	\$11,210.00 (8% of \$140,125.00)
<u>Fee for Out of Primary Service Area Sale:</u>	\$15,285.47
<u>Richland County Fee Share:</u>	\$3,057.09 (20% of \$15,285.47)
<u>MCMH Fee Share:</u>	\$12,228.38 (80% of \$15,285.47)
<u>Gross Proceeds (Inclusive of Fee for Out of Primary Service Area Sale:</u>	\$155,410.47
<u>Richland County Proceeds Share:</u>	\$131,972.09
<u>MCMH Proceeds Share:</u>	\$23,438.38

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 27th day of September, 2021, 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 QUIKTRIP CORPORATION, an Oklahoma corporation ("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 inside, and under certain circumstances, outside that certain geographical service area more particularly depicted on the attached **Exhibit A** (the "Service Area");

C. Pursuant to applicable Corps policies, to the extent that Bank credits are sold as compensation for unavoidable adverse impacts to jurisdictional waters located outside the Service Area and outside the 8-digit Hydrological Unit Code watershed in which the Bank is located (the "Bank's Watershed"), Seller is required by the Corps to commit incremental acres of wetlands per wetland mitigation credit, and incremental linear feet of stream per stream mitigation credit, in excess of that required if such wetland mitigation credits and stream mitigation credits, as applicable, were sold inside the Service Area and inside the Bank's Watershed;

D. Purchaser may purchase wetland and stream mitigation credits from the Bank as compensation for unavoidable adverse impacts to jurisdictional waters of the United States for Purchaser's projects located outside the Bank's Watershed upon Purchaser receiving Corps approval;

E. Purchaser desires to procure compensatory mitigation in connection with the project known as "Project Store 1182" pursuant to USACE Charleston District permit SAC-2020-

01380 (the “Permitted Project”), which is located outside the Service Area and outside the Bank’s Watershed; and,

F. 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) FOUR HUNDRED FIFTY and 00/100 (0.00) stream enhancement mitigation credits and FOUR HUNDRED FIFTY and 00/100 stream preservation mitigation credits (the "Stream Credits") and (b) ONE and 11/100 (1.11) freshwater wetland enhancement/restoration mitigation credit and ONE and 10/100 (1.10) freshwater wetland preservation 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 4 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. Fee for Out of Primary Service Area Credit Sales. Purchaser agrees to pay a fee (the “Adjacent 8-digit HUC”) to compensate Seller for the incremental wetland acreage and stream linear footage that must be deducted from the Bank’s ledger to compensate for use of the Bank’s credits to compensate for the Permitted Project’s unavoidable adverse impacts occurring outside the Service Area and outside the Bank’s Watershed. The Adjacent 8-digit HUC Fee shall be calculated as the sum of (a) 0.2224370 Wetland Credit, which represents the functional acre of wetlands deducted from the Bank’s ledger due to the Permitted Project’s location outside the Bank’s Watershed, multiplied by the per-wetland-credit price defined in Section 4 below, and (b) 51.1836735 Stream Credit, which represents the functional linear feet of stream deducted from

the Bank's ledger due to the Permitted Project's location outside the Bank's Watershed, multiplied by the per-stream-credit price defined in Section 4 below. For avoidance of doubt, Purchaser's use of the Credits from the Bank to offset Purchaser's unavoidable impacts occurring outside of the Bank's Watershed is expressly conditioned upon approval by the Corps of the use of such Credits, and Seller makes no representation, warranty, or covenant that the use of such Credits will be acceptable to the Corps absent such Corps approval.

4. Purchase Price. The purchase price for the (a) Stream Credits shall be ONE HUNDRED TWENTY-FIVE and 00/100 Dollars (\$125.00) for each Stream Credit, for a total purchase price for the Stream Credits of ONE HUNDRED TWELVE THOUSAND FIVE HUNDRED and 00/100 (\$112,500.00); (b) Wetland Credits shall be TWELVE THOUSAND FIVE HUNDRED and 00/100 Dollars (\$12,500.00) for each Wetland Credit, for a total purchase price for the Wetland Credits of TWENTY-SEVEN THOUSAND SIX HUNDRED TWENTY-FIVE and 00/100 (\$27,625.00); and, (c) Adjacent 8-digit HUC Fee of FIFTEEN THOUSAND TWO HUNDRED EIGHTY-FIVE AND 47/100 (\$15,285.47), for a grand total purchase price for the Stream Credits and the Wetland Credits of ONE HUNDRED FIFTY-FIVE THOUSAND FOUR HUNDRED TEN and 47/100 (\$155,410.47) (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.

5. 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.

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

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

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

(e) 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.

(f) 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.

(g) 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.

(h) 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.

(i) 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.

7. 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
3414 Peachtree Road NE, STE 990
Atlanta, Georgia 30326

With a copy to:

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

Purchaser: QuikTrip Corporation
Attention: Justin Coons
4705 South 129th East Avenue
Tulsa, OK 74134

With a copy to:

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.


(j) 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.

(k) 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.

(l) 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: Charles B. Thompson
Its: Authorized Representative

PURCHASER: QUIKTRIP CORPORATION


By: 
Printed: Justin H. Coors
Its: Authorized Representative

EXHIBIT A

[Attach map of Service Area]

EXHIBIT B

BILL OF SALE

THIS BILL OF SALE is made as of the ____ day of _____, 2021, by MILL CREEK MITIGATION HOLDINGS LLC, a Delaware limited liability company ("Seller"), and QUIKTRIP CORPORATION, an Oklahoma corporation ("Purchaser").

Seller and Purchaser have entered into that certain Agreement for Purchase and Sale of Stream and Wetland Mitigation Credits dated _____, 2021 (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.

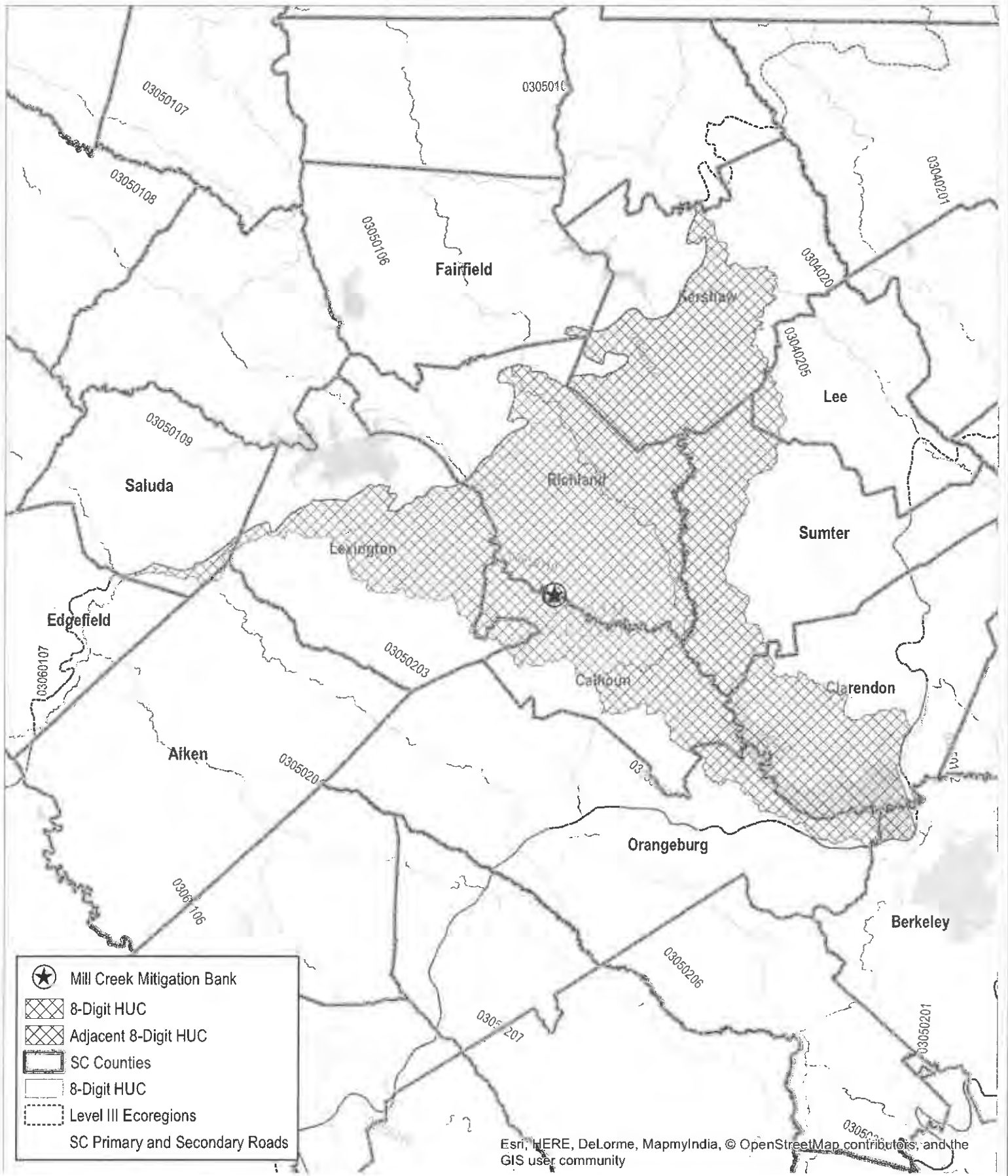
In consideration of the Purchase Price (as defined in the Agreement) and other good and valuable consideration, the receipt and sufficiency of which are mutually acknowledged, Seller hereby sells, transfers, assigns, conveys, delivers, and sets over to Purchaser, its successors, or assigns, NINE HUNDRED and 00/100 Stream Credits and TWO and 21/1000 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:



licenses without the license being considered expired.

Mr. Malinowski inquired if their business license was in order with Richland County.

Ms. Wladischkin responded in the affirmative.

In Favor: Pugh, McBride, Livingston, Terracio, Barron, O. Walker, Mackey, and English.

Opposed: Malinowski and J. Walker

No Present: Newton

The vote was in favor.

- b. Mitigation Bank Credit Sale – Mr. O. Walker stated the committee recommended to approve the credit sale.

Ms. English inquired where the funds received will go.

Mr. Niermeier responded the funds will go back into the Penny Tax account. The money is for the whole of the program, and is also used to pay back the initial expenses of buying the land and the cost of the partnership with Mill Creek Mitigation Bank.

In Favor: Malinowski, Pugh, McBride, Livingston, Terracio, O. Walker, Mackey, and English.

Opposed: J. Walker

Not Present: Newton

The vote was in favor.

Mr. O. Walker moved, seconded by Ms. McBride, to reconsider items 18 (a) and (b).

In Favor: Malinowski and J. Walker

Opposed: Pugh, McBride, Livingston, Terracio, Barron, O. Walker, Mackey, and English.

Not Present: Newton

The motion for reconsideration failed.

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

- a. Detainee Phone System – Ms. Terracio stated the committee agreed the rate should be \$0.10/minute. Any money, after the cost of providing the service, should be kept within the Detention Center budget in order to create training and enrichment programs for detainees.

Mr. Myers stated the Jail Management System was also a part of the recommendation. The phone company gives a Technology Grant, which basically comes out of the commission. They are going to pay for the detention center to have a new Jail Management System.

Richland County Council Request for Action

Subject:

Mitigation Credit Sales - Amick Farms Rail Upgrade in Saluda County

Notes:

November 18, 2021 – The Transportation Ad Hoc Committee recommended Council approve the mitigation credit sales. The approval is time sensitive as the buyer has requested notice of approval as soon as possible due to Army Corps of Engineers permitting constraints.



Agenda Briefing

Prepared by:	Michael Maloney	Title:	Interim Director
Department:	Transportation	Division:	
Date Prepared:	November 04, 2021	Meeting Date:	November 18, 2021
Legal Review	Elizabeth McLean via email	Date:	November 04, 2021
Budget/Finance Review	Stacey Hamm via email	Date:	November 04, 2021
Approved for consideration:	Assistant County Administrator	John M. Thompson, Ph.D., MBA, CPM, SCCEM	
Committee	Transportation Ad Hoc		
Subject:	Mitigation Credit Sales – Amick Farms rail upgrade in Saluda County		

STAFF’S RECOMMENDED ACTION:

Staff respectfully requests the Committee concur with these credit sales and forward to full Council for consideration. This approval is time sensitive as the buyer has requested notice of approval as soon as possible due to Army Corps of Engineers permitting constraints.

Request for Council Reconsideration: Yes

FIDUCIARY:

Are funds allocated in the department’s current fiscal year budget?	<input type="checkbox"/>	Yes	<input checked="" type="checkbox"/>	No
If no, is a budget amendment necessary?	<input type="checkbox"/>	Yes	<input checked="" type="checkbox"/>	No

ADDITIONAL FISCAL/BUDGETARY MATTERS TO CONSIDER:

This mitigation credit sale will generate \$51,750.00 which will be credited to the Transportation Penny Program.

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

None.

REGULATORY COMPLIANCE:

None applicable.

MOTION OF ORIGIN:

There is no associated Council motion of origin.

Council Member	
Meeting	
Date	

STRATEGIC & GENERATIVE DISCUSSION:

Staff requests approval for the sale of mitigation bank credits from the Mill Creek Mitigation Bank to Amick Farms, LLC for an Army Corps of Engineers (ACE) 404 Permit to facilitate the construction of a rail road upgrade for Amick Farms in Saluda County. The applicant is requesting 4.5 wetland and 0.00 stream mitigation credits to fulfill the permitting requirements.

The mitigation bank was established with Transportation Program funding in order to provide mitigation credits necessary to acquire construction permits for transportation and other projects. Construction for projects with water resource impacts need mitigation credits to obtain permits. It is more cost effective when mitigation credits are available. As surplus mitigation credits are sold, the price for credits utilized for County projects is reduced. The requested mitigation credit sales provide for the acquisition of construction permits required for transportation and other projects as well as to replenish funds spent on the creation of the mitigation credits.

The mitigation bankers were notified by email of the County's desire to participate in this sale subject to final approval by County Council at the 100% level on October 6, 2021. When the sales are completed, if approved by County Council, the funds will be added to the Transportation Program account.

If the County Council does not approve the requested sales of its surplus mitigation credits, the County portion of the mitigation credit sales will drop from \$51,750.00 to \$11,250.00 for a difference of \$40,500.00 to the Transportation Program. The County Council has approved surplus mitigation credit sales on many occasions. The last two (2) mitigation credit sales approvals were completed by County Council at the Regular Session County Council Meeting on October 5, 2021 (minutes not available at this time) and the Regular Session County Council meeting on April 6, 2020. All related County Council actions since 2014 are not included in the attachments for brevity

ADDITIONAL COMMENTS FOR CONSIDERATION:

None.

ATTACHMENTS:

1. MCMB Credit Sale Checklist
2. MCMB Sales Agreement
3. County Council Regular Session, April 6, 2021 – Minutes

MITIGATION SURPLUS CREDIT SALES AGREEMENT SUMMARY

<u>Project:</u>	Amick Farms Rail
<u>Location:</u>	Saluda County, SC
<u>8-Digit HUC Watershed Code</u>	03050109 (Saluda River)
<u>Buyer:</u>	Amick Farms, LLC
<u>Buyer's USACE 404 Permit #:</u>	SAC-2021-00445
<u>Price Per Wetland Credit:</u>	\$12,500
<u>Price Per Stream Credit:</u>	N/A
<u>Wetland Credits:</u>	4.5 credits (2.25 restoration/enhancement & 2.25 preservation)
<u>Stream Credits:</u>	0.00 credits
<u>Credit Proceeds:</u>	\$56,250.00
<u>Richland County Credit Share:</u>	\$51,750.00 (92% of \$56,250.00)
<u>MCMH Credit Share:</u>	\$4,500.00 (8% of \$56,250.00)
<u>Fee for Out of Primary Service Area Sale:</u>	\$0.00
<u>Richland County Fee Share:</u>	\$0.00
<u>MCMH Fee Share:</u>	\$0.00
<u>Gross Proceeds (Inclusive of Fee for Out of Primary Service Area Sale):</u>	\$56,250.00
<u>Richland County Proceeds Share:</u>	\$51,750.00
<u>MCMH Proceeds Share:</u>	\$4,500.00

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 5th day of October, 2021 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 Amick Farms, LLC, a ~~South Carolina~~ Delaware ~~corporation~~ ("Purchaser").

company

Delaware

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 "Amick Farm Rail Project" pursuant to USACE Charleston District permit SAC-2021-00445;

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) ZERO and 00/100 (0.00) stream mitigation credits (the "Stream Credits") and (b) TWO and 25/100 (2.25) freshwater wetland enhancement/restoration mitigation credits and TWO and 25/100 (2.25) freshwater wetland preservation 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 10 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 ZERO and 00/100 Dollars (\$0.00); and (b) Wetland Credits shall be TWELVE THOUSAND FIVE HUNDRED and 00/100 Dollars (\$12,500.00) for each Wetland Credit, for a total purchase price for the Wetland Credits of FIFTY-SIX THOUSAND TWO HUNDRED FIFTY and 00/100 (\$56,250.00), for a grand total purchase price for the Stream Credits and the Wetland Credits of FIFTY-SIX THOUSAND TWO HUNDRED FIFTY and 00/100 (\$56,250.00) (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:

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

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

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

(e) 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.

(f) 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.

(g) 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.

(h) 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.

(i) 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
3414 Peachtree Road NE, STE 990
Atlanta, Georgia 30326

With a copy to:

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

Purchaser: Amick Farms, LLC
Attention: Marcus Miller
2079 Batesburg Highway
Batesburg, SC 29070
803-532-1400

With a copy to:

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.

(j) 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.

(k) 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.

(l) 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:


Charles B. Thompson
Authorized Representative

PURCHASER: AMICK FARMS, LLC

By:

Printed:

Its:

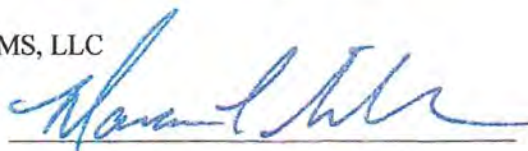

MARCUS L MILLER
VP & CFO

EXHIBIT A

[Attach map of Service Area]

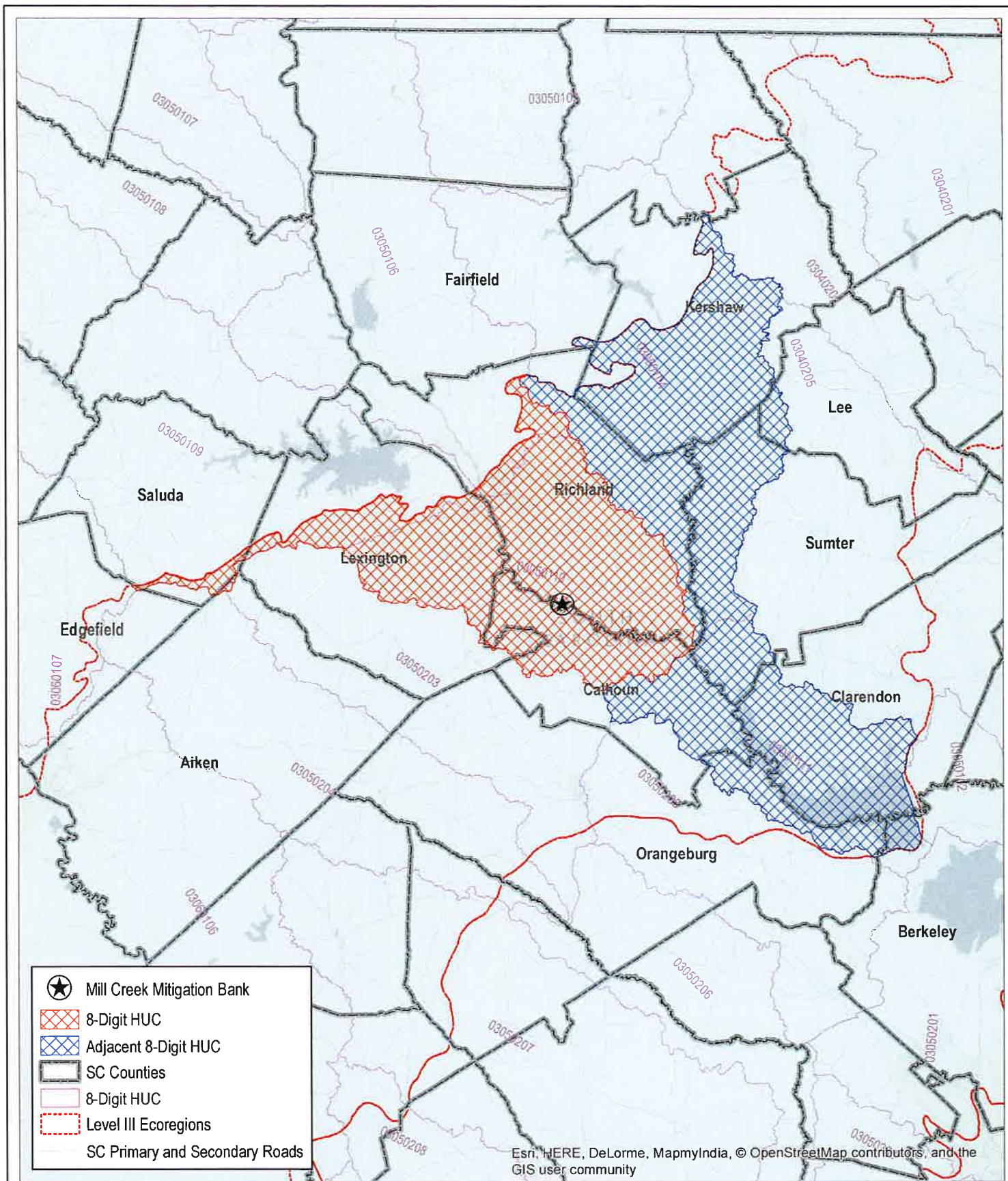


Figure 16: Service Area Map
Mill Creek Mitigation Bank
Richland County, South Carolina
Source: ESRI, USGS, EPA
Date: July 2016

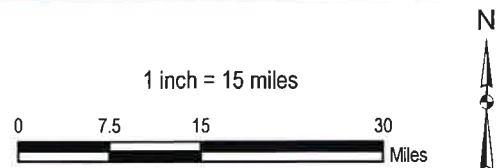


EXHIBIT B

BILL OF SALE

THIS BILL OF SALE is made as of the ____ day of _____, 2021, by MILL CREEK MITIGATION HOLDINGS LLC, a Delaware limited liability company ("Seller"), and Amick Farms, LLC, a South Carolina limited liability corporation ("Purchaser").

Seller and Purchaser have entered into that certain Agreement for Purchase and Sale of Stream and Wetland Mitigation Credits dated _____, 2021 (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, ZERO and 00/100 Stream Credits and FOUR and 50/100 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:

licenses without the license being considered expired.

Mr. Malinowski inquired if their business license was in order with Richland County.

Ms. Wladischkin responded in the affirmative.

In Favor: Pugh, McBride, Livingston, Terracio, Barron, O. Walker, Mackey, and English.

Opposed: Malinowski and J. Walker

No Present: Newton

The vote was in favor.

- b. Mitigation Bank Credit Sale – Mr. O. Walker stated the committee recommended to approve the credit sale.

Ms. English inquired where the funds received will go.

Mr. Niermeier responded the funds will go back into the Penny Tax account. The money is for the whole of the program, and is also used to pay back the initial expenses of buying the land and the cost of the partnership with Mill Creek Mitigation Bank.

In Favor: Malinowski, Pugh, McBride, Livingston, Terracio, O. Walker, Mackey, and English.

Opposed: J. Walker

Not Present: Newton

The vote was in favor.

Mr. O. Walker moved, seconded by Ms. McBride, to reconsider items 18 (a) and (b).

In Favor: Malinowski and J. Walker

Opposed: Pugh, McBride, Livingston, Terracio, Barron, O. Walker, Mackey, and English.

Not Present: Newton

The motion for reconsideration failed.

20. REPORT OF THE DETENTION CENTER AD HOC COMMITTEE

- a. Detainee Phone System – Ms. Terracio stated the committee agreed the rate should be \$0.10/minute. Any money, after the cost of providing the service, should be kept within the Detention Center budget in order to create training and enrichment programs for detainees.

Mr. Myers stated the Jail Management System was also a part of the recommendation. The phone company gives a Technology Grant, which basically comes out of the commission. They are going to pay for the detention center to have a new Jail Management System.



REQUEST OF ACTION

Subject: FY22 - District 2 Hospitality Tax Allocations

A. Purpose

County Council is being requested to approve a total allocation of **\$5,000** for District 2.

B. Background / Discussion

For the 2021 - 2022 Fiscal Year, County Council approved designating the Hospitality Discretionary account funding totaling \$82,425.00 for each district Council member. The details of these motions are listed below:

Motion List (3rd reading) for FY17: Hospitality Tax discretionary account guidelines are as follows: (a) Establish a H-Tax discretionary account for each Council District; (b) Fund the account at the amount of \$164,850.00; (c) Council members will recommend Agencies to be funded by their allocation. Agencies and projects must meet all of the requirements in order to be eligible to receive H-Tax funds; (d) All Council recommendation for appropriations of allocations to Agencies after the beginning of the fiscal year will still be required to be taken back to Council for approval by the full Council prior to the commitment of funding. This would only require one vote.

Motion List (3rd reading) for FY22, Special Called Meeting – June 10, 2021: Establish Hospitality Tax discretionary accounts for each district in FY22 at the amount of \$82,425. Move that all unallocated district specific H-Tax funding for FY20-21 be carried over and added to any additional funding for FY21-22.

Pursuant to Budget Memorandum 2017-1 and the third reading of the budget for FY22 each district Council member was approved \$82,425.00 to allocate funds to Hospitality Tax eligible organizations of their own discretion. As it relates to this request, District 2 H-Tax discretionary account breakdown and its potential impact is listed below:

Initial Discretionary Account Funding	\$ 82,425
FY2021 Remaining	\$0
FY2022 Allocations	\$22,500
ColaJazz Foundation	\$ 5,000
Total Allocation	\$ 5,000
Remaining Balance	\$54,425

C. Legislative / Chronological History

- 3rd Reading of the Budget – June 8, 2017
- Regular Session - May 15, 2018
- 3rd Reading of Budget FY19 June 21 ,2018
- 3rd Reading of the Budget FY20 June 10, 2019
- 3rd Reading of the Budget FY21 June 11, 2020

D. Alternatives

1. Consider the request and approve the allocation.
2. Consider the request and do not approve the allocation.

E. Final Recommendation

Staff does not have a recommendation regarding this as it is a financial policy decision of County Council. The funding is available to cover the request. Staff will proceed as directed.



REQUEST OF ACTION

Subject: FY22 - District 8 Hospitality Tax Allocations

A. Purpose

County Council is being requested to approve a total allocation of **\$5,000** for District 8.

B. Background / Discussion

For the 2021 - 2022 Fiscal Year, County Council approved designating the Hospitality Discretionary account funding totaling \$82,425.00 for each district Council member. The details of these motions are listed below:

Motion List (3rd reading) for FY17: Hospitality Tax discretionary account guidelines are as follows: (a) Establish a H-Tax discretionary account for each Council District; (b) Fund the account at the amount of \$164,850.00; (c) Council members will recommend Agencies to be funded by their allocation. Agencies and projects must meet all of the requirements in order to be eligible to receive H-Tax funds; (d) All Council recommendation for appropriations of allocations to Agencies after the beginning of the fiscal year will still be required to be taken back to Council for approval by the full Council prior to the commitment of funding. This would only require one vote.

Motion List (3rd reading) for FY22, Special Called Meeting – June 10, 2021: Establish Hospitality Tax discretionary accounts for each district in FY22 at the amount of \$82,425. Move that all unallocated district specific H-Tax funding for FY20-21 be carried over and added to any additional funding for FY21-22.

Pursuant to Budget Memorandum 2017-1 and the third reading of the budget for FY22 each district Council member was approved \$82,425.00 to allocate funds to Hospitality Tax eligible organizations of their own discretion. As it relates to this request, District 8 H-Tax discretionary account breakdown and its potential impact is listed below:

Initial Discretionary Account Funding	\$ 82,425
FY2021 Remaining	\$ 22,275
Ridgeview Basketball Bash	\$ 5,000
Total Allocation	\$ 5,000
Remaining Balance	\$ 99,700

C. Legislative / Chronological History

- 3rd Reading of the Budget – June 8, 2017
- Regular Session - May 15, 2018
- 3rd Reading of Budget FY19 June 21 ,2018
- 3rd Reading of the Budget FY20 June 10, 2019
- 3rd Reading of the Budget FY21 June 11, 2020

D. Alternatives

1. Consider the request and approve the allocation.
2. Consider the request and do not approve the allocation.

E. Final Recommendation

Staff does not have a recommendation regarding this as it is a financial policy decision of County Council. The funding is available to cover the request. Staff will proceed as directed.



REQUEST OF ACTION

Subject: FY22 - District 9 Hospitality Tax Allocations

A. Purpose

County Council is being requested to approve a total allocation of **\$5,000** for District 9.

B. Background / Discussion

For the 2021 - 2022 Fiscal Year, County Council approved designating the Hospitality Discretionary account funding totaling \$82,425.00 for each district Council member. The details of these motions are listed below:

Motion List (3rd reading) for FY17: Hospitality Tax discretionary account guidelines are as follows: (a) Establish a H-Tax discretionary account for each Council District; (b) Fund the account at the amount of \$164,850.00; (c) Council members will recommend Agencies to be funded by their allocation. Agencies and projects must meet all of the requirements in order to be eligible to receive H-Tax funds; (d) All Council recommendation for appropriations of allocations to Agencies after the beginning of the fiscal year will still be required to be taken back to Council for approval by the full Council prior to the commitment of funding. This would only require one vote.

Motion List (3rd reading) for FY22, Special Called Meeting – June 10, 2021: Establish Hospitality Tax discretionary accounts for each district in FY22 at the amount of \$82,425. Move that all unallocated district specific H-Tax funding for FY20-21 be carried over and added to any additional funding for FY21-22.

Pursuant to Budget Memorandum 2017-1 and the third reading of the budget for FY22 each district Council member was approved \$82,425.00 to allocate funds to Hospitality Tax eligible organizations of their own discretion. As it relates to this request, District 9 H-Tax discretionary account breakdown and its potential impact is listed below:

Initial Discretionary Account Funding	\$ 82,425
FY2021 Remaining	\$115,475
FY2022 Allocations	\$ 10,000
Ridgeview High Basketball Bash	\$ 5,000
Total Allocation	\$ 5,000
Remaining Balance	\$182,900

C. Legislative / Chronological History

- 3rd Reading of the Budget – June 8, 2017
- Regular Session - May 15, 2018
- 3rd Reading of Budget FY19 June 21 ,2018
- 3rd Reading of the Budget FY20 June 10, 2019
- 3rd Reading of the Budget FY21 June 11, 2020

D. Alternatives

1. Consider the request and approve the allocation.

2. Consider the request and do not approve the allocation.

E. Final Recommendation

Staff does not have a recommendation regarding this as it is a financial policy decision of County Council. The funding is available to cover the request. Staff will proceed as directed.

STATE OF SOUTH CAROLINA)
)
COUNTY OF RICHLAND)

**A RESOLUTION OF THE
RICHLAND COUNTY COUNCIL**

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

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

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

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

ADOPTED THIS THE th DAY OF DECEMBER, 2021.

Paul Livingston, Chair
Richland County Council

Attest: _____
Michelle Onley
Interim Clerk of Council

STATE OF SOUTH CAROLINA)
)
COUNTY OF RICHLAND)

**A RESOLUTION OF THE
RICHLAND COUNTY COUNCIL**

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

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

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

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

ADOPTED THIS THE th DAY OF DECEMBER 2021.

Paul Livingston, Chair
Richland County Council

Attest: _____
Michelle Onley
Interim Clerk of Council

- a. It shall be unlawful for any person to use, discharge, shoot or ignite any fireworks or similar explosives within Richland County between the hours of 10:00 p.m. and 9:00 a.m., except as provided in section (re: flares) below or as authorized pursuant to section (re: public exhibitions) below. This provision shall not prohibit the discharge or lighting of sparklers or similar pyrotechnic products which generate no appreciable noise, at any hour.
 1. An exception shall be granted for the hours to be extended on the Fourth of July and New Year's Eve such that the discharge of fireworks shall be prohibited after the hours of 12:30 a.m. on July 5 and January 1, respectively.
- b. *Discharge restrictions.* It shall be unlawful to:
 1. Negligently, recklessly or intentionally direct the discharge of fireworks towards any structure, animal, or person.
 2. Intentionally detonate fireworks upon the land of another without express prior consent;
 3. Offer for sale or to sell permissible fireworks to children under the age of fourteen (14) years unless accompanied by a parent; or
 4. To explode or ignite fireworks within six hundred (600) feet of any church, hospital, or public school;
 5. To ignite or discharge any permissible fireworks within or throw the same from any motor vehicle;
 6. To place or throw any ignited fireworks into or at any motor vehicle.
- c. *Authority to seize devices.* The fire or law enforcement official shall seize, take, remove, or cause to be removed all stocks of fireworks or explosives held in violation of this section.
- d. Any violation of this section is punishable by up to thirty (30) day and/or a fine not to exceed one hundred dollars (\$100). Each violation of this section may be punished as a separate offense.
- e. The fire official may issue a permit authorizing the use of fireworks or a public display of fireworks or similar explosives. The fire official may, in his or her discretion, grant or refuse to grant the permit, or may grant the same subject to the restrictions and limitations of this ordinance as well as any other restrictions or limitations as her or she deem to be in the interest of public safety in connection with such display or exhibit.
- f. Nothing in this article shall be read to prohibit the use of flares or similar devices necessary for the safe operation of railroads, buses, trucks or other vehicles within the county.