

K. G. "Rusty" Smith, Jr.  
District #1

Ken Ard  
District #2

Alphonso Bradley  
District #3

Mitchell Kirby  
District #4

Johnnie D. Rodgers, Jr.  
District #5

Russell W. Culberson  
District #6

Waymon Mumford  
District #7

James T. Schofield  
District #8

H. Morris Anderson  
District #9

**AGENDA**  
**FLORENCE COUNTY COUNCIL**  
**REGULAR MEETING**  
**COUNTY COUNCIL CHAMBERS, ROOM 803**  
**180 NORTH IRBY STREET**  
**FLORENCE, SOUTH CAROLINA**  
**THURSDAY, APRIL 15, 2010**  
**9:00 A. M.**

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**I.     CALL TO ORDER:                             K. G. RUSTY SMITH, JR., CHAIRMAN**

**II.    INVOCATION:       H. MORRIS ANDERSON, SECRETARY/CHAPLAIN**

**III.   PLEDGE OF ALLEGIANCE TO THE AMERICAN FLAG:**  
**WAYMON MUMFORD, VICE CHAIRMAN**

**IV.    WELCOME:                                 K. G. RUSTY SMITH, JR., CHAIRMAN**

**V.     MINUTES:**

**MINUTES OF THE MARCH 18, 2010 REGULAR MEETING** **[1]**  
Council Is Requested To Approve The Minutes Of The March 18, 2010  
Regular Meeting Of County Council.

**VI.    PUBLIC HEARINGS:**

None scheduled.

**VII.   APPEARANCES:**

None scheduled.

## **VIII. COMMITTEE REPORTS:**

(Items assigned to the Committees in italics. Revisions by Committee Chair requested.)

### **Administration & Finance**

(Council members K. G. “Rusty” Smith, Jr./Chair, Russell W. Culberson, Waymon Mumford and James T. Schofield)

*June 18, 2009*

*Ordinance No.35-2008/09 (Revisions to Procurement Section of County Code)*

### **Public Services & County Planning**

(Council members James T. Schofield/Chair, Mitchell Kirby, and Ken Ard)

*January 17, 2008*

*Zoning Ordinance Amendment (Was Ordinance No. 18-2007/08)*

*February 5, 2009*

*Voter Registration/Election Office Building*

### **Justice & Public Safety**

(Council members Waymon Mumford/Chair, Johnnie D. Rodgers, Jr. and Al Bradley)

### **Education, Recreation, Health & Welfare**

(Council members H. Morris Anderson/Chair, Johnnie D. Rodgers, Jr., and Al Bradley)

*October 16, 2008*

*Air Quality*

### **Agriculture, Forestry, Military Affairs & Intergovernmental Relations**

(Council members Russell W. Culberson/Chair, Morris Anderson and Ken Ard)

### **Ad Hoc Water Study Committee**

(Council members Ken Ard/Chair, Mitchell Kirby, Russell W. Culberson, and Johnnie D. Rodgers, Jr.)

### **City-County Conference Committee**

(Council members Alphonso Bradley/Co-Chair, Russell W. Culberson, and Johnnie D. Rodgers, Jr.)

**IX. PROCLAMATIONS:**

**PUBLIC SAFETY TELECOMMUNICATIONS WEEK**

**[12]**

A Proclamation Declaring The Week Of April 11 – 17, 2010 As Public Safety Telecommunications Week.

**X. RESOLUTIONS:**

**RESOLUTION NO. 23-2009/10**

**[14]**

A Resolution Approving The Financing Of The Cost Of Constructing And Equipping Additional Hospital Facilities And Of Refunding Certain Outstanding Indebtedness Benefitting McLeod Regional Medical Center Of The Pee Dee, Inc. Through The Issuance And Delivery Of Florence County, South Carolina, Hospital Revenue Bonds (McLeod Regional Medical Center Project), In One Or More Series, In An Aggregate Amount Not Exceeding \$215,000,000; Authorizing A Petition To The South Carolina State Budget And Control Board For Its Approval Of Such Undertaking Pursuant To Title 44, Chapter 7, Code Of Laws Of South Carolina 1976, As Amended; Approving An Intergovernmental Loan Agreement; Providing For Notice Of Such Approval; Providing For A Public Hearing To Be Held On The Question Of The Issuance Of Such Bonds; Providing For Publication Of Notice Of Such Hearing; And Providing For Other Matters Relating Thereto.

**XI. ORDINANCES IN POSITION:**

**A. THIRD READING**

**1. ORDINANCE NO. 21-2009/10**

**[31]**

An Ordinance Authorizing The Execution And Delivery Of A Fee In Lieu Of Tax Agreement By And Between Florence County, South Carolina And Wellman Plastics Recycling, With Respect To Certain Economic Development Property, Whereby Such Property Will Be Subject To Certain Payments In Lieu Of Taxes And Other Matters Related Thereto.

**2. ORDINANCE NO. 22-2009/10 – DEFERRAL**

**[57]**

An Ordinance Authorizing The Execution And Delivery Of A Fee In Lieu Of Tax Agreement By And Between Florence County, South Carolina, And J.P. Morgan Chase, With Respect To Certain Economic Development Property, Whereby Such Property Will Be Subject To Certain Payments In Lieu Of Taxes And Other Matters Related Thereto.

**3. ORDINANCE NO. 23-2009/10 – DEFERRAL** **[84]**

An Ordinance To Amend The Agreement For Development Of A Joint County Industrial Park Dated As Of December 1, 1998 Between Florence County, South Carolina And Williamsburg County, South Carolina To Include Additional Properties In The County As Part Of The Multi-County Industrial Or Business Park.

**4. ORDINANCE NO. 28-2009/10** **[94]**

An Ordinance Authorizing The Issuance And Sale Of Florence County, South Carolina, Special Source Revenue Bonds (H. J. Heinz, Monster, And MIT Projects), Series 2010, In The Principal Amount Of \$3,000,000; The Application Of The Proceeds Of Said Bonds To Reimburse The County For Expenditures Previously Made By The County With Respect To Economic Development Projects In The County; And Other Matters Relating Thereto.

**5. ORDINANCE NO. 29-2009/10** **[119]**

An Ordinance Accepting The Transfer By The City Of Florence To The Florence County Election Commission Of The Authority To Conduct The General Election And Associated Primaries And Runoffs Of The City Of Florence And Authorizing The Execution Of An Agreement Providing For Such Transfer And Other Matters Related Thereto.

**B. SECOND READING**

**ORDINANCE NO. 30-2009/10** **[133]**

An Ordinance To Zone Property Owned By KAT-ROX LLC, Located At Pamplico Highway And South Flanders Road, Florence County To PD 2010-01, Planned Development District Shown On Florence County Tax Map No. 90147, Block 03, Parcel 66, Consisting Of Approximately 22.08 Acres.

*(Planning Commission **approved** 9 – 0.) (Council District 5)*

**C. INTRODUCTION**

**1. ORDINANCE NO. 31-2009/10** **[148]**

An Ordinance To Declare As Surplus Real Property Owned By Florence County Located At 404 East Hampton Street, Olanta, South Carolina And Designated As Tax Map Number 04530-03-029; And To Authorize The Conveyance Or Public Sale Thereof, Including A First Right Of Refusal; And Other Matters Relating Thereto.



**2. ORDINANCE NO. 32-2009/10 – BY TITLE ONLY**

**[150]**

An Ordinance Authorizing The Execution And Delivery Of Not Exceeding \$215,000,000 Aggregate Principal Amount Hospital Revenue Bonds (McLeod Regional Medical Center Project) Of Florence County, South Carolina, From Time To Time, In One Or More Series, Pursuant To Article 11, Chapter 7, Title 44, Code Of Laws Of South Carolina 1976, As Amended, To Finance The Costs Of Constructing And Equipping An Expansion Of A Hospital Facility Owned And Operated By McLeod Regional Medical Facility Center Of The Pee Dee, Inc., And The Refunding Of Certain Outstanding Revenue Bonds Issued By Florence County On Behalf Of McLeod Regional Medical Center Of The Pee Dee, Inc.; The Entering Into Certain Covenants And Agreements And The Execution And Delivery Of Certain Instruments Relating To The Issuance Of The Aforesaid Bonds Including A Loan Agreement Or Loan Agreements Between Florence County And McLeod Regional Medical Center Of The Pee Dee, Inc., An Assignment By Florence County Of Its Rights Thereunder To The Trustee For Such Bonds, And A Trust Indenture Or Trust Indentures Between Florence County And The Trustee For Such Bonds; And Consenting To The Delivery Of Security Instruments Related To Such Bonds; And Other Matters Relating Thereto.

**3. ORDINANCE NO. 33-2009/10 – BY TITLE ONLY**

**[152]**

An Ordinance To Ratify FY10 Budget And Grant Resolutions Previously Authorized By Council And Other Matters Related Thereto.

**4. ORDINANCE NO. 01-2010/11 – BY TITLE ONLY**

**[154]**

An Ordinance To Provide For The Levy Of Taxes In Florence County For The Fiscal Year Beginning July 1, 2010 And Ending June 30, 2011; To Provide For The Appropriation Thereof; To Provide For Revenues For The Payment Thereof; And To Provide For Other Matters Related Thereto.

**XII. APPOINTMENTS TO BOARDS & COMMISSIONS:**

**XIII. REPORTS TO COUNCIL:**

**A. ADMINISTRATION**

**1. MONTHLY FINANCIAL REPORTS**

**[156]**

Monthly Financial Reports Were Provided To Council For Fiscal Year 2010 Through February 28, 2010 As An Item For The Record.

2. **REINSTATEMENT OF MEMORANDUM OF UNDERSTANDING** [162]

Authorize Addendum #2 To The Memorandum Of Understanding (MOU) With Turner's Auto Salvage To Provide For Final Removal Of Waste Tires Estimated To Cost \$9,500.00.

3. **SOUTH CAROLINA DEPARTMENT OF TRANSPORTATION** [166]

Accept Allocation From The South Carolina Department Of Transportation (SCDOT) Under The Florence County Transportation Committee (FCTC) C Funds Program, PCN #39865 In The Amount Of \$349,358 For The Construction And Paving Of Industrial Boulevard In Godley Morris Commerce Park.

**B. ECONOMIC DEVELOPMENT**

**GRANT AWARD SOUTH CAROLINA DEPARTMENT OF COMMERCE** [169]

Accept Grant Award #4-ED-09-004 In The Amount Of \$570,000 As Approved By The South Carolina Department Of Commerce Under The Business Development Section Of The Community Development Block Grant (CDBG) Program Approved For The McCall Farms Phase II Expansion Project.

**C. EMERGENCY MANAGEMENT**

1. **AUTHORIZATION TO PROCURE – FIRETRAX SOFTWARE UPGRADE** [171]

Authorize The Procurement Of FireTrax Software Upgrade For The Current Accountability Software Used By The Emergency Management Department From Bridgeway Solutions, The Only Authorized Dealer In South Carolina, In The Amount Of \$19,750.50 Utilizing 2009 Homeland Security Grant Funding.

2. **AUTHORIZATION TO PROCURE – DISPATCH PROTOCOL SOFTWARE** [174]

Authorize The Procurement Of Law Enforcement Dispatch Protocol Software From The Current Vendor, Medical Priorities, Inc., To Interface With Current Computer Aided Dispatch (CAD) Software Configuration For The Emergency Management Department Utilizing \$55,246.75 In FY10 Budgeted Funds.

**D. EMERGENCY MEDICAL SERVICES (EMS)**

**NON-EXCLUSIVE AMBULANCE FRANCHISES** [176]

Award Non-Exclusive Ambulance Franchises to Carolina MedCare, Inc., Carolina MedCare/Midlands, Strand Care, LLC, ParaBasic Ambulance Service, MedSouth Transportation, and Lakeside Medical Response, Inc.

## **E. PROCUREMENT**

### **AWARD OF BID #18-09/10**

**[190]**

Approve Award Of Bid #18-09/10 For A Mobile Mounted Generator For The Emergency Management Department To National Power Corporation, Raleigh, NC In The Amount Of \$27,561.68 To Be Funded From Budgeted FY10 Funds. *(4 compliant bids)*

## **F. RECREATION/PROCUREMENT**

### **1. AWARD BID #19-09/10**

**[193]**

Authorize The Award Of Bid #19-09/10 – Tour Events To PML Tours, Marlton, NJ For Various Trips To Be Funded By The Participants If The Minimum Participation Numbers Are Met. *(1 compliant bid)*

### **2. AWARD BID #21-09/10**

**[196]**

Approve The Award Of Bid #21-09/10 For A Tennis Facility At Ebenezer Park To Mimms Construction, Inc., Hartsville, SC In The Amount Of \$41,333 To Be Funded From Fund 315-441-431-000. *(4 compliant bids)*

## **XIV. OTHER BUSINESS:**

### **A. INFRASTRUCTURE**

#### **1. PEE DEE COMMUNITY ACTION PARTNERSHIP TRANSITIONAL SHELTER**

**[201]**

Approve The Expenditure Of Up To \$35,000.00 From Council Districts 3 and 7 Infrastructure Funding Allocations (\$17,500 From Each District) For The Pee Dee Community Action Partnership Transitional Shelter For Heating, Air, And Electrical Work At The Child Care Facility.

#### **2. ANNUAL AIR SHOW**

**[205]**

Approve The Expenditure Of Up To \$1,500.00 From Council District 6 Infrastructure Funding Allocation To Pay For 40 Feet Of 36” Double Wall Solid Pipe For Ditch Under Walkway At The Florence Regional Airport For The Annual Air Show.

#### **3. AMERICAN LEGION FIELD**

**[206]**

Approve The Expenditure Of Up To \$2,500.00 From Council Districts 6 and 7 Infrastructure Funding Allocations (\$1,250.00 from each district) For Completing Renovations Of The Umpire’s Facilities At American Legion Field To Meet Coastal Plains League Standards, pending the approval of matching funds by the City of Florence.

**4. CRIME WATCH SIGNS**

**[209]**

Approve The Expenditure Of Funds From Council District 7 Infrastructure Funding Allocation In An Amount Estimated At \$129.24 To Assist The Florence County Sheriff Office With The Purchase Of Neighborhood Crime Watch Signs To Be Placed Throughout The Community.

**5. RECLAIMING INTERSECTION - W. HAMPTON POINTE DRIVE & AMESBURY PT.**

**[210]**

Approve The Expenditure Of Up To \$13,901.00 From Council District 9 Infrastructure Funding Allocation To Pay For Reclaiming The Intersection Of W. Hampton Pointe Drive And Amesbury Pointe.

**B. ROAD SYSTEM MAINTENANCE FEE (RSMF)**

None submitted at the time of publication of the Agenda.

**C. UTILITY**

None submitted at the time of publication of the Agenda.

**XV. EXECUTIVE SESSION:**

Pursuant to Section 30-4-70 of the South Carolina Code of Laws 1976, as amended.

- Personnel Matter Regarding the Treasurer Office

**XVI. INACTIVE AGENDA:**

**ORDINANCE NO. 35-2008/09**

At its regular meeting of June 18, 2009, Council referred this Ordinance to the Committee on Administration & Finance: An Ordinance To Re-Establish And Revise Florence County Procurement Policies and Procedures As Chapter 25.5, Procurement, And To Delete All Conflicting Sections Of The Code; And Other Matters Relating Thereto.

**XVII. ADJOURN:**

# **FLORENCE COUNTY COUNCIL MEETING**

April 15, 2010

**AGENDA ITEM:** Minutes

**DEPARTMENT:** County Council

**ISSUE UNDER CONSIDERATION:**

Council is requested to approve the minutes of the March 18, 2010 regular meeting of County Council.

**OPTIONS:**

1. Approve minutes as presented.
2. Provide additional directive, should revisions be necessary.

**ATTACHMENTS:**

Copy of proposed Minutes.

**REGULAR MEETING OF THE FLORENCE COUNTY COUNCIL,  
THURSDAY, MARCH 18, 2010, 9:00 A.M., COUNCIL CHAMBERS  
ROOM 803, CITY-COUNTY COMPLEX, 180 N. IRBY STREET,  
FLORENCE, SOUTH CAROLINA**

**PRESENT:**

K. G. "Rusty" Smith, Jr., Chairman  
Waymon Mumford, Vice-Chairman  
H. Morris Anderson, Secretary-Chaplain  
Mitchell Kirby, Council Member  
Russell W. Culberson, Council Member  
Johnnie D. Rodgers, Jr., Council Member  
J. Ken Ard, Council Member  
Alphonso Bradley, Council Member  
James T. Schofield, Council Member  
Richard A. Starks, County Administrator  
James C. Rushton, III, County Attorney  
Connie Y. Haselden, Clerk to Council

**ALSO PRESENT:**

Carlie Gregg, Public Works Director  
Kevin V. Yokim, Finance Director  
Robert Franks, IT Director  
Ryon Watkins, EMS Director  
Kevin Griffin, Planning & Building Department Director  
Ray McBride, Library Director  
David Alford, Voter Recreation/Elections Director  
Connie Reel-Shearin, Clerk of Court  
Sheriff Kenney Boone  
Barbara Coker, Sheriff Office  
Chuck Tomlinson, Morning News Staff Writer

A notice of the regular meeting of the Florence County Council appeared in the March 17, 2010 edition of the **MORNING NEWS**. Copies of the agenda were faxed to members of the media and posted in the lobby of the City-County Complex, the Doctors Bruce and Lee Foundation Public Library, and on the County's website ([www.florenceco.org](http://www.florenceco.org)).

Chairman Smith called the meeting to order. Secretary-Chaplain Anderson provided the invocation and Vice Chairman Mumford led the Pledge of Allegiance to the American Flag. Chairman Smith welcomed everyone attending the meeting.

### **APPROVAL OF MINUTES:**

Councilman Rodgers made a motion Council approve the minutes of the February 18, 2010 regular meeting of County Council. Councilman Culberson seconded the motion, which was approved unanimously.

### **PUBLIC HEARINGS:**

The Clerk published the titles and the Chairman opened Public Hearings on the following:

#### **ORDINANCE NO. 28-2009/10**

An Ordinance Authorizing The Issuance And Sale Of Florence County, South Carolina, Special Source Revenue Bonds (H.J. Heinz, Monster, And MIT Projects), Series 2010, In The Principal Amount Of \$3,000,000; The Application Of The Proceeds Of Said Bonds To Reimburse The County For Expenditures Previously Made By The County With Respect To Economic Development Projects In The County; And Other Matters Relating Thereto.

#### **ORDINANCE NO. 29-2009/10**

An Ordinance Accepting The Transfer By The City Of Florence To The Florence County Election Commission Of The Authority To Conduct The General Election And Associated Primaries And Runoffs Of The City Of Florence And Authorizing The Execution Of An Agreement Providing For Such Transfer And Other Matters Related Thereto.

### **APPEARANCES:**

There were no Appearances requested prior to the deadline for submission of items for the Agenda.

### **COMMITTEE REPORTS:**

#### **COMMITTEE ON PUBLIC SERVICE & COUNTY PLANNING**

Committee Chairman Schofield reported the Florence County Museum Architects spent two (2) days in Florence and the meetings were well attended by the public.

#### **COMMITTEE ON EDUCATION, RECREATION, HEALTH & WELFARE**

Committee Chairman Anderson stated he just wanted to remind the public that three years ago Florence County did not have adequate facilities for animal control. However, due to the support of the Florence County Council, the County now had one of the finest facilities in the state. He expressed his appreciation to Council and public for support.

#### **CITY-COUNTY CONFERENCE COMMITTEE**

Committee Co-Chair Bradley expressed his appreciation to Council for its support of the paving of the walking trail at Iola Jones Park.

## **RESOLUTIONS:**

### **RESOLUTION NO. 20-2009/10**

The Chairman published the title of Resolution No. 20-2009/10: A Resolution Authorizing The Submission Of An Application To The Office of Senator Lindsey Graham For A FY2011 Appropriation Request For The Florence County IT Homeland Security Project. Councilman Mumford made a motion Council approve the Resolution as presented. Councilman Culberson seconded the motion, which was approved unanimously.

### **RESOLUTION NO. 21-2009/10**

The Chairman published the title of Resolution No. 21-2009/10: A Resolution Authorizing The Submission Of An Application To The State Of South Carolina Community Development Block Grant (CDBG) Program Under The Business Development Grant Program For Sewer And Road Improvements For McCall Farms. Councilman Kirby made a motion Council approve the Resolution as presented. Councilman Rodgers seconded the motion, which was approved unanimously.

### **RESOLUTION NO. 22-2009/10**

The Chairman published the title of Resolution No. 22-2009/10: A Resolution Authorizing The Submission Of An Application To The State of South Carolina Department Of Transportation (SC DOT) Under The Enhancement Outreach Grant Program For Sidewalk Improvements For Morris Street In Lake City. Councilman Rodgers made a motion Council approve the Resolution as presented. Councilman Culberson seconded the motion, which was approved unanimously.

## **ORDINANCES IN POSITION:**

### **ORDINANCE NO. 13-2009/10**

The Clerk published the title of Ordinance No. 13-2009/10: An Ordinance To Establish Policies And Procedures Related To The Abatement Of Unsafe Structures As Florence County Code, Chapter 21, Nuisances, Article II, Unsafe Structure Abatement And Other Matters Related Thereto. Councilman Schofield made a motion Council approve third reading of the Ordinance. Councilman Anderson seconded the motion, which was approved unanimously.

### **ORDINANCE NO. 21-2009/10 – THIRD READING DEFERRED**

The Chairman stated third reading of Ordinance No. 21-2009/10 was deferred at the request of the party requesting the Ordinance: An Ordinance Authorizing The Execution And Delivery Of A Fee In Lieu Of Tax Agreement By And Between Florence County, South Carolina And Wellman Plastics Recycling, With Respect To Certain Economic Development Property, Whereby Such Property Will Be Subject To Certain Payments In Lieu Of Taxes And Other Matters Related Thereto.



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**ORDINANCE NO. 23-2009/10 – THIRD READING DEFERRED**

The Chairman stated third reading of Ordinance No. 23-2009/10 was deferred at the request of the party requesting the Ordinance: An Ordinance To Amend The Agreement For Development Of A Joint County Industrial Park Dated As Of December 1, 1998 Between Florence County, South Carolina And Williamsburg County, South Carolina To Include Additional Properties In The County As Part Of The Multi-County Industrial Or Business Park.

**ORDINANCE NO. 26-2009/10 – THIRD READING**

The Clerk published the title of Ordinance No. 26-2009/10: An Ordinance To Rezone Property Owned By Cynthia Matthews Located At 3434 And 3508 James Turner Road, Florence County From R-1, Single-Family Residential District To RU-1, Rural Community District Shown On Florence County Tax Map No. 00127, Block 01, Parcel 072 Consisting Of Approximately 15.7 Acres. Councilman Rodgers made a motion Council approve third reading of the Ordinance. Councilman Culberson seconded the motion, which was approved unanimously.

**ORDINANCE NO. 27-2009/10 – THIRD READING**

The Clerk published the title of Ordinance No. 27-2009/10: An Ordinance To Rezone Property Owned By Pamela S. Truesdale Located At 3514 James Turner Road, Florence County From R-1, Single-Family Residential District To RU-1, Rural Community District Shown On Florence County Tax Map No. 00127, Block 01, Parcel 090 Consisting Of Approximately 4.81 Acres. Councilman Rodgers made a motion Council approve third reading of the Ordinance. Councilman Kirby seconded the motion, which was approved unanimously.

**PUBLIC HEARINGS:**

There were no signatures on the sign-in sheets for the public hearings. The Chairman closed the Public Hearings.

**ORDINANCE NO. 28-2009/10 – SECOND READING**

The Clerk published the title of Ordinance No. 28-2009/10: An Ordinance Authorizing The Issuance And Sale Of Florence County, South Carolina, Special Source Revenue Bonds (H.J. Heinz, Monster, And MIT Projects), Series 2010, In The Principal Amount Of \$3,000,000; The Application Of The Proceeds Of Said Bonds To Reimburse The County For Expenditures Previously Made By The County With Respect To Economic Development Projects In The County; And Other Matters Relating Thereto. Councilman Mumford made a motion Council approve second reading of the Ordinance. Councilman Culberson seconded the motion, which was approved unanimously.

#### **ORDINANCE NO. 29-2009/10 – SECOND READING**

The Clerk published the Title of Ordinance No. 29-2009/10: An Ordinance Accepting The Transfer By The City Of Florence To The Florence County Election Commission Of The Authority To Conduct The General Election And Associated Primaries And Runoffs Of The City Of Florence And Authorizing The Execution Of An Agreement Providing For Such Transfer And Other Matters Related Thereto. Councilman Anderson made a motion Council approve second reading of the Ordinance. Councilman Mumford seconded the motion, which was approved unanimously.

#### **ORDINANCE NO. 30-2009/10 – INTRODUCED**

The Clerk published the Title of Ordinance No. 30-2009/10 and the Chairman declared the Ordinance introduced: An Ordinance To Zone Property Owned By KAT-ROX LLC, Located At Pamplico Highway And South Flanders Road, Florence County To PD 2010-01, Planned Development District Shown On Florence County Tax Map No. 90147, Block 03, Parcel 66, Consisting Of Approximately 22.08 Acres.

#### **APPOINTMENTS TO BOARDS AND COMMISSIONS:**

##### **COMMISSION ON ALCOHOL & DRUG ABUSE**

Council unanimously approved the Re-Appointment Of Don Coker (Representing District 5) and Dawn Floyd (Representing At-Large Pharmacy Seat) to the Commission on Alcohol & Drug Abuse with appropriate expiration terms.

##### **PEE DEE REGIONAL AIRPORT AUTHORITY**

Council unanimously approved the submission of the nomination to the Governor of the re-appointment of Roy Burch to serve on the Pee Dee Regional Airport Authority.

##### **CONSTRUCTION BOARD OF ADJUSTMENTS AND APPEALS**

Council unanimously approved the appointments of Carolyn Mitchell (representing District 3) and Dean Strickland (representing District 6) to the Construction Board of Adjustments and Appeals, with appropriate expiration terms.

#### **REPORTS TO COUNCIL:**

##### **ADMINISTRATION**

##### **MONTHLY FINANCIAL REPORTS**

Monthly Financial Reports Were Provided To Council For Fiscal Year 2010 Through January 31, 2010 As An Item For The Record.

##### **S C DEPARTMENT OF TRANSPORTATION ENHANCEMENT GRANT**

Councilman Culberson made a motion Council Approve A Cash Match In An Amount Up To \$30,000 For A South Carolina Department Of Transportation Enhancement Grant For The Stabilization Of Red Doe Plantation Historic Structure Previously Approved By Council From Fund 61. Councilman Anderson seconded the motion, which was approved unanimously.

## **ECONOMIC DEVELOPMENT**

### **GRIST MILL, LLC – OPTION TO PURCHASE REAL ESTATE**

Councilman Kirby made a motion Council Authorize The County Council Chairman To Execute An Option To Purchase Real Estate For Property Owned By Grist Mill, LLC For The Development Of An Industrial Park In The Amount Of \$5,000. Councilman Rodgers seconded the motion. Councilman Schofield stated he was in favor of economic development in Florence County but expressed reservations/concerns regarding the amount of information provided to Council regarding this type of purchase prior to voting on the purchase. He requested that in the future additional information from Economic Development be provided to Council prior to taking a vote on matters such as this. The motion was approved unanimously.

## **PROCUREMENT**

### **DECLARATION OF SURPLUS PROPERTY**

Councilman Culberson made a motion Council Declare Seven (7) Vehicles And One (1) Pick Up As Surplus Property For Disposal Through Public Internet Auction Via GovDeals. Councilman Kirby seconded the motion, which was approved unanimously.

## **PUBLIC WORKS DEPARTMENT**

### **AWARD BID #16-09/10**

Councilman Culberson made a motion Council Approve The Award of Bid #16-09/10 For A Motorgrader To Blanchard Machinery Company, Florence, SC In The Amount Of \$221,189.40. Councilman Rodgers seconded the motion. At the request of Council, Public Works Director Carlie Gregg provided additional information on the selection process and an explanation of the bid specifications. Mr. Gregg stated one of the major reasons the County purchased CAT Motorgraders and other equipment was the availability of parts/service locally and another reason was that CAT equipment sold at a significantly higher rate on the re-sale market. The last ones sold yielded a return of up to two-thirds of the purchase price. Another reason the CAT Motorgrader was chosen over the competition was the layout of the equipment; controls on the CAT were much easier to operate than the competitor's model. The Department typically experiences less down time with the CAT Motorgraders and equipment than other brands. The Chairman suggested a "buy back clause" be included in the bid specs for heavy equipment. Members of Council commended Mr. Gregg and his staff for the excellent job they do in providing service to the citizens. Councilman Schofield stated he wanted people who had issues with specs that were written to present a complaint or issue to Council while the bid was still out, but much more in advance of a meeting than two days prior to the meeting. The motion to approve was approved unanimously.

## **SHERIFF OFFICE**

### **AWARD BID #10-09/10**

Councilman Culberson made a motion Council Approve The Award Of Bid #10-09/10 For The Replacement Of Security Ceiling Tiles At The Florence County Law Enforcement Center In The Amount Of \$28,145 To Preferred Construction Company, Inc., Columbia, SC To Be Funded From FY10 Departmental Funds. Councilman Rodgers seconded the motion, which was approved unanimously.

### **AWARD BID #11-09/10**

Councilman Rodgers made a motion Council Approve The Award Of Bid #11-09/10 For The Construction Of A Metal Storage Building At The Florence County Law Enforcement Center (LEC) To Tungsten Corporation, Conway, SC In The Amount Of \$25,300 To Be Funded From Proceeds From The Sale Of The Propane Tank At The LEC Previously Approved By Council. Councilman Mumford seconded the motion. Councilman Schofield expressed concerns that the low bid was not always the best bid, especially in cases where there was a large variance in the bid. Many vendors bid projects low then ask for change orders as the project progresses. The motion to approve was approved unanimously.

### **AWARD BID #15-09/10**

Councilman Rodgers made a motion Council Approve The Award Of Bid #15-09/10 For The Replacement Of The Existing Chillers At The Florence County Law Enforcement Center To Cayce Company, Florence, SC In The Amount Of \$417,700 To Be Funded From The Energy Efficiency Conservation Block Grant (EECBG) And Five Year Annual Maintenance In The Amount Of \$24,375 (\$4,875 Annually) To Be Funded In The Department's Annual Budget, Contingent Upon Execution Of A Final Contract. Councilman Culberson seconded the motion. Councilman Schofield abstained from voting stating Cayce Company conducts business with the company Mr. Schofield owns/operates. Chairman Smith expressed appreciation to Johnny Brown with the Pee Dee Regional Council of Governments for his assistance in obtaining the EECBG. The motion to approve was approved unanimously, with Councilman Schofield abstaining.

## **TOWN OF OLANTA**

Councilman Rodgers made a motion Council accept from the Town of Olanda three (3) M-4 rifles and thirty-six (36) boxes of ammunition in exchange for a \$2,500 credit against the inmate per diem balance outstanding. Councilman Culberson seconded the motion, which was approved unanimously.

## **OTHER BUSINESS:**

### **INFRASTRUCTURE FUND**

#### **TOWN OF PAMPLICO**

Councilman Ard made a motion Council Declare Vehicles #V0897 A 2004 Ford F150 And #V0943 A 2005 Crown Victoria As Surplus; Authorize The Sale Of The Vehicles To The Town Of Pamplico In The Amount Of \$5,200 (\$4,200 And \$1,000 Respectively); And Approve The Expenditure Of Up To \$5,200.00 From Council District 2 Infrastructure Funding Allocation For The Purchase Of The Vehicles For The Town Of Pamplico. Councilman Rodgers seconded the motion, which was approved unanimously.

#### **FLORENCE SCHOOL DISTRICT 2**

Councilman Ard made a motion Council Declare Two (2) Vehicles (V#0981 And V#0983) 2006 Chevy Impalas As Surplus; Authorize The Sale Of The Vehicles To Florence School District 2 In The Amount Of \$1,000 Each (\$2,000 Total); And Approve The Expenditure Of Up To \$2,000.00 From Council District 2 Infrastructure Funding Allocation For The Purchase Of The Vehicles For The School District. Councilman Rodgers seconded the motion, which was approved unanimously.

#### **SAVANNAH GROVE ATHLETIC PARK**

Councilman Anderson made a motion Council Approve The Expenditure Of Up To \$10,000.00 From Council Districts 3, 4, 5, And 9 Infrastructure Funding Allocations (\$2,500 From Each District) For The Installation Of Lighting In The Parking Area Of The Savannah Grove Athletic Park. Councilman Rodgers seconded the motion, which was approved unanimously.

#### **TIMMONSVILLE RESCUE SQUAD**

Councilman Kirby made a motion Council Approve The Expenditure Of Up To \$5,400.00 From Council District 4 Infrastructure Funding Allocation To Provide Assistance To The Timmonsville Rescue Squad With Replacing Air Conditioning At The Office. Councilman Rodgers seconded the motion, which was approved unanimously.

### **ROAD SYSTEM MAINTENANCE FEE (RSMF)**

#### **TRACES SUBDIVISION**

Councilman Anderson made a motion Council Approve The Expenditure Of Up To \$55,965.25 From Council District 9 RSMF Funding Allocation To Pay For Reclaiming And Resurfacing Traces Subdivision. Councilman Rodgers seconded the motion, which was approved unanimously.

**The following items were additions to the agenda:**

**AWARD OF BID #20-09/10**

Councilman Ard made a motion Council Approve The Award Of Bid #20-09/10 For Extrication Equipment For The Johnsonville Rescue Squad To Safe Industries, Piedmont, SC In The Amount Of \$18,360.00 To Be Funded From Budgeted FY10 Funds. Councilman Rodgers seconded the motion, which was approved unanimously.

**INFRASTRUCTURE – COWARD ATHLETIC PARK**

Councilman Rodgers made a motion Council Approve The Expenditure Of An Additional \$5,850.75 From Council District 5 Infrastructure Funding Allocation To Complete The Purchase Of A Portion Of Parcel 00192-03-007 For The Coward Athletic Park Previously Approved By Council, Based On Actual Acreage Having Been Confirmed By Land Survey. Councilman Kirby seconded the motion, which was approved unanimously.

**RSMF – LAKE CITY AREA**

Councilman Rodgers made a motion Council Approve The Expenditure Of Up To \$500.00 From Council District 1 RSMF Funding Allocation To Repair And Maintain Public Streets In The Lake City Area That Are In Desperate Need Of Maintenance. Councilman Kirby seconded the motion, which was approved unanimously.

**INFRASTRUCTURE – FRANCIS MARION RECREATION ATHLETIC PARK**

Councilman Culberson made a motion Council Approve The Expenditure From Council Districts 3, 6, And 7 Infrastructure Funding Allocations In A Total Amount Estimated At \$7,000 (Approximately \$2,333.33 From Each District) For The Purchase Of 38 – 6' X 10' Fence Panels To Reduce The Playing Area On The Dixie Boys Field From 300' To 200' To Accommodate For Girls Softball At Francis Marion Recreation Athletic Park. Councilman Mumford seconded the motion, which was approved unanimously.

**INFRASTRUCTURE – LAKE CITY COMMUNITY PARK**

Councilman Rodgers made a motion Council Approve The Expenditure Of Approximately \$1,800.00 From Council District 1 Infrastructure Funding Allocation For The Purchase And Installation Of A Permanent Commemorative Plaque To Be Installed At The Lake City Community Park Honoring Fallen Soldiers From The Lake City Area. Councilman Culberson seconded the motion, which was approved unanimously.

**COUNCILMAN ANDERSON**

Councilman Anderson provided photographs of a cat that lost its leg due to being caught in a steel trap and requested County Administrator Richard Starks check into the legality of the apparatus and location the trap was placed, near homes/residential areas.

**COUNCILMAN ARD**

Councilman Ard commended Council and staff for its past practice in being fiscally responsible. He stated he knew Council was facing another difficult budget year, but was optimistic that in spite of the economic condition of the State of South Carolina that Florence County would continue to weather the storm.

There being no further business to come before Council, Councilman Mumford made a motion to adjourn. Councilman Rodgers seconded the motion, which was approved unanimously.

**COUNCIL MEETING ADJOURNED AT 9:56 A.M.**

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**H. MORRIS ANDERSON**  
**SECRETARY-CHAPLAIN**

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**CONNIE Y. HASELDEN**  
**CLERK TO COUNTY COUNCIL**

## **FLORENCE COUNTY COUNCIL MEETING**

April 15, 2010

**AGENDA ITEM:** Proclamation  
Public Safety Telecommunications Week  
April 11 – 17, 2010

**DEPARTMENT:** Emergency Management – Central Dispatch

### **ISSUE UNDER CONSIDERATION:**

A Proclamation Declaring The Week Of April 11-17, 2010 As Public Safety Telecommunications Week.

### **POINTS TO CONSIDER:**

1. March 1992 – Florence County agreed to begin the process of building an E-9-1-1 system.
2. December 1994 – The E-9-1-1 Dispatch Center in Effingham became operational.
3. May 1995 – Florence County Council approved a plan to fund a county-wide centralized dispatch center.
4. June 1996 – Florence County Central Dispatch completed the consolidation of all emergency dispatch services.
5. November 2005 – Florence County Central Dispatch was recognized as the SC Communications Center of the year by the SC Chapter of NENA (National Emergency Number Association)
6. E-9-1-1 Telecommunicators have a very important role in the public safety equation. Every day people depend on the skill, expertise and commitment of the men and women who work in public safety telecommunications. These individuals help save lives by responding to emergency calls, dispatching emergency professionals and equipment and providing moral support to citizens in distress.
7. The term “9-1-1” is often associated with rapid emergency response, poise under pressure, aid and compassion in times of distress and critical decision-making within seconds. Many people don’t stop to think about these seemingly nameless, faceless individuals until they experience actual emergencies themselves. These professionals make the difference between life and death in many instances.

### **OPTIONS:**

1. *(Recommended)* Approve the Proclamation as presented.
2. Provide An Alternate Directive.

### **ATTACHMENTS:**

A copy of the proposed Proclamation.



## PROCLAMATION

### **TO DESIGNATE THE WEEK OF APRIL 11 – 17, 2010 AS NATIONAL PUBLIC SAFETY TELECOMMUNICATIONS WEEK**

**Whereas**, emergencies can occur at anytime that require law enforcement, fire or emergency medical services; and

**Whereas**, when an emergency occurs the prompt response of law enforcement, firefighters and paramedics is critical to the protection of life and preservation of property; and

**Whereas**, the safety of our law enforcement officers, firefighters and paramedics is dependent upon the quality and accuracy of information obtained from citizens who telephone the Florence County Central Dispatch center; and

**Whereas**, Public Safety Dispatchers are the first and most critical contact our citizens have with emergency services; and

**Whereas**, Public Safety Dispatchers are the single vital link for our law enforcement officers, firefighters and paramedics by monitoring their activities by radio, providing them information and ensuring their safety; and

**Whereas**, Public Safety Dispatchers of Florence County Central Dispatch have contributed substantially to the apprehension of criminals, suppression of fires, and treatment of patients; and

**Whereas**, each dispatcher has exhibited compassion, understanding and professionalism during the performance of his/her job in the past year.

**NOW, THEREFORE BE IT RESOLVED**, that the governing body of Florence County, the Florence County Council, proclaims the week of April 11-17, 2010 to be

### **NATIONAL TELECOMMUNICATIONS WEEK**

In Florence County, South Carolina, in honor of the men and women whose diligence and professionalism keep our county and citizens safe.

**DONE**, in meeting duly assembled this 15<sup>th</sup> day of April 2010.

**THE FLORENCE COUNTY COUNCIL:**

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**K.G. RUSTY SMITH, JR., CHAIRMAN**

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**WAYMON MUMFORD, VICE-CHAIRMAN**

# FLORENCE COUNTY COUNCIL MEETING

April 15, 2010

**AGENDA ITEM:** Approval of Resolution No. 23-2009/10

**DEPARTMENT:** Administration  
Finance

## **ISSUE UNDER CONSIDERATION:**

(A Resolution Approving The Financing Of The Cost Of Constructing And Equipping Additional Hospital Facilities And Of Refunding Certain Outstanding Indebtedness Benefitting McLeod Regional Medical Center Of The Pee Dee, Inc. Through The Issuance And Delivery Of Florence County, South Carolina, Hospital Revenue Bonds (McLeod Regional Medical Center Project), In One Or More Series, In An Aggregate Amount Not Exceeding \$215,000,000; Authorizing A Petition To The South Carolina State Budget And Control Board For Its Approval Of Such Undertaking Pursuant To Title 44, Chapter 7, Code Of Laws Of South Carolina 1976, As Amended; Providing For A Public Hearing To Be Held On The Question Of The Issuance Of Such Bonds; Providing For Publication Of Notice Of Such Hearing; And Providing For Other Matters Relating Thereto.)

## **POINTS TO CONSIDER:**

1. This Resolution approves the financing for construction and equipping of additional hospital facilities and the refunding of existing debt by McLeod Regional Medical Center through the issuance of Hospital Revenue Bonds.
2. In order for these bonds to be issued, state law requires Florence County to approve a Resolution authorizing this financing and the state law required petition to the Budget and Control Board.
3. By approving this Resolution, Florence County incurs no liability for the repayment of these bonds. These bonds will be repaid solely by McLeod.

## **FUNDING FACTORS:**

None

## **OPTIONS:**

1. *(Recommended)* Approve Resolution No. 23-2009/2010.
2. Provide An Alternate Directive.

## **ATTACHMENTS:**

1. Resolution No. 23-2009/10
2. Letter from S. Fulton Ervin, III, Senior Vice President of Finance and CFO, McLeod Health

Sponsor(s) : County Council  
Adopted : April 15, 2010  
Committee Referral : N/A  
Committee Consideration Date : N/A  
Committee Recommendation : N/A

**RESOLUTION NO. 23-2009/10**

**COUNCIL-ADMINISTRATOR FORM OF GOVERNMENT FOR FLORENCE COUNTY**

(A Resolution Approving The Financing Of The Cost Of Constructing And Equipping Additional Hospital Facilities And Of Refunding Certain Outstanding Indebtedness Benefitting McLeod Regional Medical Center Of The Pee Dee, Inc. Through The Issuance And Delivery Of Florence County, South Carolina, Hospital Revenue Bonds (McLeod Regional Medical Center Project), In One Or More Series, In An Aggregate Amount Not Exceeding \$215,000,000; Authorizing A Petition To The South Carolina State Budget And Control Board For Its Approval Of Such Undertaking Pursuant To Title 44, Chapter 7, Code Of Laws Of South Carolina 1976, As Amended; Approving An Intergovernmental Loan Agreement; Providing For Notice Of Such Approval; Providing For A Public Hearing To Be Held On The Question Of The Issuance Of Such Bonds; Providing For Publication Of Notice Of Such Hearing; And Providing For Other Matters Relating Thereto.)

**BE IT RESOLVED BY THE FLORENCE COUNTY COUNCIL, THE GOVERNING BODY OF FLORENCE COUNTY, SOUTH CAROLINA, IN MEETING DULY ASSEMBLED:**

**ARTICLE I**

**FINDINGS OF FACT**

**Section 1.01**

Incident to the adoption of this Resolution, the Florence County Council ("County Council"), the governing body of Florence County, South Carolina (the "County"), has made the following findings:

1. The Board of Trustees of McLeod Health (the "Hospital Board"), the governing body of McLeod Regional Medical Center of the Pee Dee, Inc., a general acute care public hospital (the "Hospital"), whose parent organization and sole shareholder is McLeod Health, has proposed that the County assist in financing the cost of the acquisition, construction, furnishing, and equipping of capital items included in McLeod Health's 2015 capital improvement plan, including (1) reconfiguration of patient rooms in the Hospital's Main Tower (the "Main Tower"); (2) general repairs and renovations to the exterior and interior of the Main Tower; (3) addition of a heart and vascular institute in the Main Tower, to include a cardiac day hospital and facilities incident to cardiac surgery and other procedures; (4) addition of orthopedic and sports medicine facilities to the McLeod Health and Fitness Center; (5) addition of two new ICU towers between the Main Tower and the Pavilion; (6) finish out of the eighth floor of the Pavilion; (7) two new parking garages; (8) addition of enclosed pedestrian corridors, concourses, stair towers, and other connectors linking primary facilities of the Main Campus and facilities (such as public toilets, retail and transition spaces, food service areas, and waiting rooms incident to such space); and (9) renovation and remodeling of lobbies and

patient registration areas (collectively, the "Projects"), and in refinancing certain outstanding revenue bonds issued by the County on behalf of the Hospital in an amount not to exceed \$100,000,000 in order to achieve a savings with respect to debt service on the County's \$79,790,000 Hospital Revenue Bonds (McLeod Regional Medical Center Project) Series 1998A (the "1998 Bonds") and the County's \$33,000,000 Hospital Revenue Bonds (McLeod Regional Medical Center Project) Series 2004B (the "2004 Bonds") (together, the 1998 Bonds and the 2004 Bonds, the "Prior Bonds") (the Projects and the refunding of the Prior Bonds may hereafter separately or collectively be referred to as the "Undertaking"), through the issuance and delivery of Hospital Revenue Bonds pursuant to the authorization of Title 44, Chapter 7, Article 11, Code of Laws of South Carolina 1976, as amended (the "Act").

2. The Hospital Board has advised County Council that the Undertaking would be aided by the assistance which the County might render through the issuance and delivery of Hospital Revenue Bonds, from time to time in one or more series, in the aggregate principal amount of not exceeding \$215,000,000 (the "Bonds") pursuant to the Act, a proposed ordinance (the "Bond Ordinance") to be adopted by County Council and a proposed Loan Agreement between the County and the Hospital Board, and other such documents as may be required for the issuance and sale of the Bonds.

3. County Council has agreed to finance the constructing and equipping of the Projects and the refunding of the Prior Bonds, subject to the conditions prescribed in the Bond Ordinance, and adopts this Resolution to (a) evidence its approval of the issuance and delivery of the Bonds as aforesaid; (b) authorize a Petition to the State Budget and Control Board ("State Board") setting forth the facts required by the Act; (c) call for a public hearing in connection with the issuance and delivery of the Bonds as required by Section 147(f) of the Internal Revenue Code of 1986; and (d) provide for required notice of such public hearing.

4. County Council has determined that there is a need for the Undertaking in the area in which it is to be located and that the financing of the cost of acquisition and construction of the Projects and refunding of the Prior Bonds (the "Financing") will subserve the purposes of the Act and that neither the Financing nor the Bonds will give rise to any pecuniary liability of the County or a charge against its general credit or taxing powers.

5. The Hospital Board has represented that it has received or that it will have received prior to the submission of the Petition authorized herein all necessary licensing with respect to the Projects by the Department of Health and Environmental Control of South Carolina as is required under Article 3, Chapter 7, Title 44 of the Code of Laws of South Carolina 1976, as amended.

6. The County is informed that all public facilities and utilities necessary for the operation of the Projects are available.

7. The estimated amount necessary to finance the cost of constructing and equipping the Projects and of refunding the Prior Bonds through the issuance of the Bonds does not exceed \$215,000,000.

8. The Hospital Board and the County will enter into a Loan Agreement (the "Loan Agreement") pursuant to which the County will lend the proceeds of the Bonds to the Hospital Board and under which the Hospital Board will unconditionally agree, *inter alia*, to :

(a) to complete the acquisition and construction of the Projects and to pay such costs thereof as are in excess of the proceeds of the Bonds,

(b) to pay the amounts necessary to provide the payments of principal of and interest on the Bonds, which will be dated and will mature in the amounts and bear interest at the rates set forth in the Ordinance to be adopted by County Council authorizing the issuance of the Bonds,

- (c) to operate and maintain the Projects in good repair at its own expense, and
- (d) to carry all proper insurance with respect to the Projects.

9. To the extent the County refunds the 1998 Bonds, a portion of the proceeds of which were used to defray the cost of acquisition of facilities of McLeod Heath located in Dillon County, with a portion of the proceeds of the Bonds, the County will enter into an Intergovernmental Loan Agreement with Dillon County as required by the Act.

10. County Council has determined that the Hospital is financially responsible and capable of fulfilling its obligations under the Loan Agreement, including the obligations to make the required payments thereunder, to operate, repair and maintain at its own expense the Projects and to discharge such other responsibilities as may be imposed under the Loan Agreement.

## ARTICLE II

### SUBMISSION OF PETITION

#### Section 2.01

The Petition in form substantially as attached hereto as Exhibit A shall be presented to the State Board to seek the approval required by the Act; said Petition shall be duly executed by either the Chairman, Vice Chairman or any acting Chairman of County Council, with such changes as shall be approved by the Chairman, Vice-Chairman, or any acting Chairman of County Council, including without limitation designation of the Projects to be included in the Financing and detailed description thereof, designation of Prior Bonds to be refunded, and any relevant details of the Financing (including without limitation credit enhancement) as are determined prior to the submission of the Petition.

## ARTICLE III

### PUBLIC HEARING

#### Section 3.01

Pursuant to Section 147(f) of the Internal Revenue Code of 1986, as amended, a public hearing shall be held in connection with the issuance and delivery of the Bonds by the County and the Financing. Such public hearing shall be held before final action by County Council authorizing the issuance and delivery of the Bonds and upon such date as shall be determined by the Chairman of County Council.

#### Section 3.02

Not less than fourteen (14) days prior to the hearing provided for in Section 3.01 hereof, the Chairman of County Council shall cause notice of such hearing to be published in the *Florence Morning News*, a newspaper of general circulation in the County. Such notice shall be in substantially the form attached hereto as Exhibit B.

## ARTICLE IV

### APPROVAL OF LOAN AGREEMENT

#### Section 4.01

To the extent the County refunds the 1998 Bonds with proceeds of the Bonds, the applicable Loan Agreement with respect to the Bonds (the "Loan Agreement") is hereby approved as an "intergovernmental loan agreement" and "subsidiary loan agreement" for purposes of Sections 44-7-1650 and 44-7-1660, respectively, of the Act.

#### Section 4.02

In accordance with Section 44-7-1690 of the Act, the Chairman of Council shall cause notice of such approval of the Loan Agreement by Council to be published in the *Florence Morning News*. Such notice shall be in substantially the form attached hereto as Exhibit C.

## ARTICLE V

### MISCELLANEOUS

#### Section 5.01

The Chairman of and the Clerk to County Council shall take any and all further action as may become necessary to effectuate the action herewith taken and herein authorized.

#### Section 5.02

This Resolution shall take effect immediately.

*[Signatures appear on the following page]*

**ADOPTED** this 15<sup>th</sup> day of April, 2010.

**FLORENCE COUNTY, SOUTH CAROLINA**

ATTEST:

\_\_\_\_\_  
Connie Y. Haselden, Council Clerk

\_\_\_\_\_  
K. G. Rusty Smith, Jr., Chairman

[SEAL]

COUNCIL VOTE:  
OPPOSED:  
ABSENT:

DRAFT

STATE OF SOUTH CAROLINA

COUNTY OF FLORENCE

TO THE STATE BUDGET AND CONTROL  
BOARD OF SOUTH CAROLINA

P E T I T I O N

The Petition of the Florence County Council (the "County Council"), the governing body of Florence County, South Carolina, respectfully shows:

1. The County Council is the governing body of Florence County, South Carolina (the "County") as established by law, and, as such, is the Governing Board referred to in Title 44, Chapter 7, Article 11, Code of Laws of South Carolina 1976, as amended (the "Act").

2. The Act authorizes and empowers the County, if it shall comply with the provisions set forth in the Act, to acquire or cause to be acquired land, buildings, equipment and other improvements deemed necessary, suitable and useful by any "hospital facility" (as defined in the Act) and to finance the cost of construction, acquisition and installation of the same through the issuance of Bonds payable from and secured by a pledge of the revenues to be derived from a financing agreement relating to such land, buildings, equipment and other improvements, and to issue Bonds to refinance or refund such outstanding Bonds.

3. McLeod Regional Medical Center (the "Hospital") is a general acute care public hospital facility owned and operated by McLeod Regional Medical Center of the Pee Dee, Inc., whose governing body is the Board of Trustees of McLeod Health (the "Hospital Board").

4. The County Council has agreed that the County will undertake to finance the cost of the acquisition, construction, furnishing, and equipping of capital items included in McLeod Health's 2015 capital improvement plan, including (1) reconfiguration of patient rooms in the Hospital's Main Tower (the "Main Tower"); (2) general repairs and renovations to the exterior and interior of the Main Tower; (3) addition of a heart and vascular institute in the Main Tower, to include a cardiac day hospital and facilities incident to cardiac surgery and other procedures; (4) addition of orthopedic and sports medicine facilities to the McLeod Health and Fitness Center; (5) addition of two new ICU towers between the Main Tower and the Pavilion; (6) finish out of the eighth floor of the Pavilion; (7) two new parking garages; (8) addition of enclosed pedestrian corridors, concourses, stair towers, and other connectors linking primary facilities of the Main Campus and facilities (such as public toilets, retail and transition spaces, food service areas, and waiting rooms incident to such space); and (9) renovation and remodeling of lobbies and patient registration areas (collectively, the "Projects"), and in refinancing certain outstanding revenue bonds issued by the County on behalf of the Hospital in an amount not to exceed \$100,000,000 in order to achieve a savings with respect to debt service on the County's 79,790,000 Hospital Revenue Bonds (McLeod Regional Medical Center Project) Series 1998A (the "1998 Bonds") and the County's \$33,000,000 Hospital Revenue Bonds (McLeod Regional Medical Center Project) Series 2004B (the "2004 Bonds") (together, the 1998 Bonds and the 2004 Bonds, the "Prior Bonds") (the Projects and the refunding of the Prior Bonds may hereafter separately or collectively be referred to as the "Undertaking"), through the issuance and delivery of



Hospital Facilities Revenue Bonds pursuant to the Act. In this connection County Council has agreed to issue not exceeding \$215,000,000 Florence County, South Carolina, Hospital Facilities Revenue Bonds (McLeod Regional Medical Center of the Pee Dee, Inc. Project) (the "Bonds") from time to time, in one or more series, pursuant to the Act, an ordinance (the "Bond Ordinance") to be adopted by County Council, a Loan Agreement between the County and the Hospital Board and other such documents as may be required for the issuance and sale of the Bonds.

5. The County Council is advised by the Hospital Board that the cost of the Projects and of refunding the Prior Bonds will be approximately \$215,000,000 and that, therefore, in order to finance the cost of constructing and equipping the Projects and refunding the Prior Bonds (the "Financing"), including the costs and charges incident to the issuance and delivery of the Bonds, it is necessary that County Council issue and deliver the Bonds in an aggregate amount not exceeding \$215,000,000.

6. For the reasons above set forth and hereinafter disclosed, the County Council has found that:

- (a) the Undertaking will subserve the purposes of the Act;
- (b) there is a need for the Projects in the area in which it is to be located;
- (c) the Hospital Board has represented that it has received all necessary licensing with respect to the Projects by the Department of Health and Environmental Control of South Carolina as is required under Article 3, Chapter 7, Title 44 of the Code of Laws of South Carolina 1976, as amended, and that the Prior Bonds were issued pursuant to and in accordance with the Act;
- (d) by reason of the Financing, no pecuniary liability will result to the County nor will there be a charge against its general credit or taxing powers;
- (e) the amount required to finance the cost of constructing and equipping the Projects and refunding of the Prior Bonds is approximately \$215,000,000;
- (f) the Hospital Board has provided for all public facilities, including utilities, necessary for the operation of the Projects;
- (g) the proposed Loan Agreement will unconditionally obligate the Hospital Board to pay an amount adequate to provide for the payments of the principal of and interest on the Bonds which will be dated and will mature in the amounts and bear interest at the rates set forth in the Bond Ordinance;
- (h) County Council has determined that the Hospital is financially responsible and capable of fulfilling its obligations under the Loan Agreement, including the obligations to make the required payments thereunder, to operate, repair and maintain at its own expense the Projects and to discharge such other responsibilities as may be reasonably imposed under the Loan Agreement; and
- (i) The Projects shall entail the following:
  - Acquisition, construction, furnishing, and equipping of capital items included in McLeod Health's 2015 capital improvement plan, including:

- (1) reconfiguration of patient rooms in the Hospital's Main Tower (the "Main Tower");
- (2) general repairs and renovations to the exterior and interior of the Main Tower;
- (3) addition of a heart and vascular institute in the Main Tower, to include a cardiac day hospital and facilities incident to cardiac surgery and other procedures;
- (4) addition of orthopedic and sports medicine facilities to the McLeod Health and Fitness Center;
- (5) addition of two new ICU towers between the Main Tower and the Pavilion;
- (6) finish out of the eighth floor of the Pavilion;
- (7) two new parking garages;
- (8) addition of enclosed pedestrian corridors, concourses, stair towers, and other connectors linking primary facilities of the Main Campus and facilities (such as public toilets, retail and transition spaces, food service areas, and waiting rooms incident to such space); and
- (9) renovation and remodeling of lobbies and patient registration areas.

7. The Loan Agreement will provide, among other things, the following:

- (a) to finance the cost of construction, acquisition and installation of the Projects and of refunding of the Prior Bonds; (b) the proceeds derived from the issuance and delivery of the Bonds will be used to pay the costs incident to constructing and equipping the Projects, refunding the Prior Bonds, and the issuance of the Bonds;
- (c) the Hospital Board shall complete the acquisition and construction of the Projects, refund the Prior Bonds, and pay such costs thereof as are in excess of the proceeds of the Bonds; and
- (d) no provision imposing any pecuniary liability upon the County or which would create a charge upon its general credit or taxing powers.

8. The County will assign to the Trustee for the Bonds (the "Trustee"), as security for the payment of the Bonds, substantially all of the right, title and interest of the County in and to the Loan Agreement except tax payments and certain payments to be made by way of indemnification and other related rights of the County. Neither the Bond Ordinance, the Loan Agreement nor the Assignment shall contain any provision imposing any pecuniary liability upon the County or which would create a charge upon its general credit or taxing power.

9. The County will issue and deliver the Bonds to the Trustee.

10. The Bonds will be issued by the County pursuant to the proposed Bond Ordinance which provides for the payment of the Bonds. The Bond Ordinance will impose upon the Hospital Board the obligation to pay, in addition to the moneys required for the payment of the principal of and interest on the Bonds, all other costs and expenses resulting from the Bond Ordinance and the issuance of the Bonds pursuant thereto and the transactions contemplated to take place in connection therewith.

11. The Loan Agreement, the Assignment, the Bond Ordinance and the Bonds will be substantially in the form heretofore used in the issuance of Hospital Facilities Revenue Bonds pursuant to the Act.

12. [Statement with respect to bond insurance, letter of credit, or other credit enhancement with respect to the Bonds, if applicable]

13. The Bonds will be "Qualified 501(c)(3) Bonds" under Section 145 of the Internal Revenue Code of 1986, as amended (the "Code"). Section 146(g)(2) of the Code excepts Qualified 501(c)(3) Bonds from the volume cap on private activity bonds imposed by Section 146 of the Code. Therefore no allocation of the South Carolina state ceiling is required for the Bonds.

Upon the basis of the foregoing, County Council respectfully prays:

That the State Budget and Control Board accept the filing of the Petition presented herewith; that it find that the proposed Financing is intended to promote the purposes of the Act and is reasonably anticipated to effect such result; and on the basis of such finding, that it approves the Financing including changes in any details of the Financing as finally consummated which do not materially affect the Financing and give published notice of its approval in the manner set forth in the Act.

Respectfully Submitted,

**FLORENCE COUNTY, SOUTH CAROLINA**

By: \_\_\_\_\_  
Chairman, Florence County Council

**NOTICE OF PUBLIC HEARING**

Notice is hereby given by Florence County, South Carolina (the "County") that a public hearing will be held relating to the proposed issuance and delivery by the County of not exceeding \$215,000,000 Hospital Revenue Bonds (McLeod Regional Medical Center Project) (the "Bonds") pursuant to the Hospital Revenue Bond Act of the State of South Carolina (the "Act"), which Bonds are to be issued to acquire, construct, furnish, and equip capital items included in McLeod Health's 2015 capital improvement plan, including (1) reconfiguration of patient rooms in the Hospital's Main Tower (the "Main Tower"); (2) general repairs and renovations to the exterior and interior of the Main Tower; (3) addition of a heart and vascular institute in the Main Tower, to include a cardiac day hospital and facilities incident to cardiac surgery and other procedures; (4) addition of orthopedic and sports medicine facilities to the McLeod Health and Fitness Center; (5) addition of two new ICU towers between the Main Tower and the Pavilion; (6) finish out of the eighth floor of the Pavilion; (7) two new parking garages; (8) addition of enclosed pedestrian corridors, concourses, stair towers, and other connectors linking primary facilities of the Main Campus and facilities (such as public toilets, retail and transition spaces, food service areas, and waiting rooms incident to such space); and (9) renovation and remodeling of lobbies and patient registration areas (collectively, the "Projects"), and refinance certain revenue bonds issued by the County on behalf of the Hospital and outstanding in the approximate principal amount of \$100,000,000. The Hospital is located at 555 East Cheves Street, in the City of Florence, South Carolina. McLeod Health and Fitness Center is located at 2437 Willwood Drive in Florence, South Carolina. The Projects (with the exception of addition of orthopedic and sports medicine facilities to the McLeod Health and Fitness Center) will be located at or adjacent to the Hospital's primary location. All projects will be located in the City of Florence, South Carolina. As required by the Act, the Bonds will not impose any pecuniary liability upon the County or constitute a charge upon the County's general credit or taxing power.

The hearing will be held in Room 803 of the City-County Complex, 180 North Irby Street, Florence, South Carolina, at 9 a.m., May 20, 2010. Any person interested in the issuance of the Bonds or the location or purpose of the Projects may appear and be heard. Other information and draft copies of the documents relating to the Bonds and the Projects may be inspected at the office of Florence County Council, Room 802 of the City-County Complex, Florence, South Carolina, during County business hours.

FLORENCE COUNTY, SOUTH CAROLINA

By: Chairman, Florence County Council

Publication Date:

April \_\_, 2010

NOTICE PURSUANT TO SECTION 44-7-1690,  
CODE OF LAWS OF SOUTH CAROLINA, 1976, AS AMENDED

Notice is hereby given that Florence County Council (the "Council"), the governing board of Florence County, South Carolina (the "County"), by Resolution adopted by Council on April 15, 2010, has approved the County's participation in the refinancing of the County's \$79,790,000 Hospital Revenue Bonds (McLeod Regional Medical Center Project) Series 1998A (the "Prior Bonds"), which prior Bonds were issued by the County for the benefit of McLeod Regional Medical Center of the Pee Dee, Inc., a South Carolina not-for-profit corporation (the "Corporation"). Because a portion of the improvements financed by the Prior Bonds are located in Dillon County (the "Dillon Facilities"), by such resolution Council also approved a Loan Agreement (the "Loan Agreement") among the County, the Corporation and Dillon County, South Carolina ("Dillon County") pursuant to which proceeds of bonds issued by the County pursuant to Title 44, Chapter 7, Article 11, Code of Laws of South Carolina, 1976, as amended (the "Act") will be made available to the Corporation to finance the refunding of the Prior Bonds. The Loan Agreement will constitute an "intergovernmental loan agreement" and a "subsidiary loan agreement" within the meaning of such terms in Sections 44-7-1650 and 44-7-1660, respectively, of the Act. To refund the Prior Bonds, to refund other indebtedness issued by the County for the benefit of the Hospital, and to finance the cost of certain improvements to the facilities of the Hospital, the County will issue its Hospital Revenue Bonds (McLeod Regional Medical Center Project) Series 2010 (the "Bonds") in a principal amount not exceeding \$215,000,000 pursuant to the Act. In accordance with Section 44-7-1660 of the Act, Council has previously found with respect to the Dillon Facilities:

- (a) There is a need for the Facilities in the area in which the Facilities are located.
- (b) The Corporation is financially responsible and capable of fulfilling its obligations under the Loan Agreement pursuant to which the proceeds of the Prior Bonds were made available to the Corporation, including the obligations to make the payments required thereunder, to operate, repair and maintain the Facilities at its own expense and to discharge such other responsibilities as may be imposed under such Loan Agreement.
- (c) Adequate provision has been made for the payment of the principal of and interest on the Prior Bonds and all necessary reserves therefore and for the operation, repair and maintenance of the Facilities have been or will be established.
- (d) The public facilities, including utilities, and public services necessary for the Facilities have been made available.
- (e) Council has given due consideration, upon the advice of counsel, to the impact, if any, of the Prior Bonds on the County's present or future financings.

The South Carolina Department of Health and Environmental Control ("DHEC") has previously issued a Certificate of Need with respect to the applicable portion of the Dillon Facilities; the remainder of the Dillon Facilities did not require Certificate of Need approval.

Approval by the Council includes approval of changes in the Loan Agreement which do not materially change the undertaking therein described.

Notice is further given that any interested party may at any time within twenty (20) days after the date of publication of this Notice, but not afterwards, challenge the action of the Council in approving the Loan Agreement.

FLORENCE COUNTY, SOUTH CAROLINA  
By: Chairman, Florence County Council

Publication Date:

April \_\_, 2010

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**STATE OF SOUTH CAROLINA**

**COUNTY OF FLORENCE**

I, the undersigned Clerk to the Florence County Council, governing body of Florence County, South Carolina, do hereby certify that the foregoing is a true, correct and verbatim copy of a Resolution duly adopted by the County Council, having been read at a duly called meeting of the County Council on April 15, 2010, at which a majority of members of said County Council were present and voted.

Such meeting was a regular meeting of the County Council, for which notice had been previously given pursuant to and in conformity with Chapter 4, Title 30 of the Code of Laws of South Carolina 1976, as amended (the "Freedom of Information Act").

The original of the Resolution is duly entered in the permanent records of County Council, in my custody as Clerk.

IN WITNESS WHEREOF, I have hereunto set my Hand and the Seal of Florence County, South Carolina, this \_\_\_\_ day of April, 2010.

(SEAL)

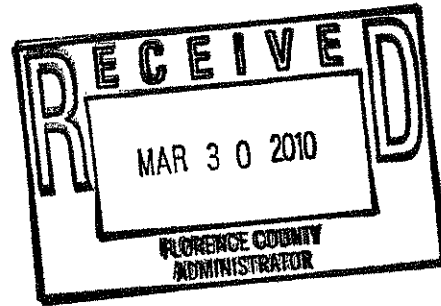
\_\_\_\_\_  
Clerk to Florence County Council, Florence County,  
South Carolina

# McLeod Health

## The Choice for Medical Excellence

March 30, 2010

Mr. Richard A. Starks  
County Administrator  
Florence County  
180 N. Irby Street, MSC-G  
Florence, SC 29501



Re: Request for Issuance by Florence County of Not Exceeding \$215,000,000 Hospital Revenue Bonds for the benefit of McLeod Regional Medical Center of the Pee Dee, Inc.

Dear Mr. Starks:

Further to communications between your office and Haynsworth Sinkler Boyd, P.A., bond counsel to McLeod Health, this letter is to request formally that Florence County (the "County") issue not exceeding \$215,000,000 of Hospital Revenue Bonds for the benefit of McLeod Regional Medical Center of the Pee Dee, Inc. (the "Hospital"). The proceeds of these bonds will be used to defray the costs of various improvements to the Hospital's main campus in Florence (which we have described on the enclosed attachment) and the possible refinancing (if market conditions are favorable) of the County's 1998A and 2004B Hospital Revenue Bonds, which were issued for the benefit of the Hospital. As with prior issues of such bonds for the Hospital, these bonds will not give rise to any obligation on the part of the County, and will be payable solely from the revenues of the Hospital.

Issuance of these bonds by the County will be authorized by an ordinance of County Council, and we propose first reading of that ordinance at Council's April 15, 2010 regular meeting, with second and third readings at Council's May 20 and June 17 regular meetings, and public hearing at the May 20 meeting. Also, Council would adopt a resolution at its April 15 meeting authorizing the required petition to the State Budget and Control Board, approving the financing for the purpose of a possible intergovernmental agreement with Dillon County relative to the refunding of the 1998A Bonds (which financed hospital facilities in both Florence and Dillon Counties), and calling for the May 20 public hearing.

It is anticipated that these bonds will be delivered to purchasers in mid-July, 2010.

555 East Cheves Street • P.O. Box 100551 • Florence, SC 29502-0551 • Phone (843) 777-2000 • [www.mcleodhealth.org](http://www.mcleodhealth.org)

*McLeod Regional Medical Center • McLeod Medical Center Darlington • McLeod Medical Center Dillon • McLeod Children's Hospital  
McLeod Centers Of Excellence • McLeod Ambulatory Surgery Center • McLeod Diabetes Center • McLeod Physician Associates  
McLeod Health & Fitness Center • McLeod Health Foundation • McLeod Center for Advanced Surgery  
McLeod Home Health • McLeod Hospice • McLeod Heart & Vascular Institute • McLeod Human Motion Specialists*

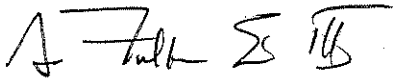


Mr. Richard A. Starks  
March 30, 2010  
Page 2

As with previous issues, the Hospital will pay all costs associated with the issuance of these bonds, including the County's reasonable attorney's fees.

Thank you for considering this request. Please do not hesitate to let me know if you have any questions.

Sincerely,



S. Fulton Ervin, III  
Senior Vice President of Finance & CFO

SFE/pps

Attachment

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## ATTACHMENT

The Projects shall entail the acquisition, construction, furnishing, and equipping of capital items included in McLeod Health's 2015 capital improvement plan, including:

- (1) reconfiguration of patient rooms in the Main Tower;
- (2) general repairs and renovations to the exterior and interior of the Main Tower;
- (3) addition of a heart and vascular institute in the Main Tower, to include a cardiac day hospital and facilities incident to cardiac surgery and other procedures;
- (4) addition of orthopedic and sports medicine facilities to the McLeod Health and Fitness Center;
- (5) addition of two new ICU towers between the Main Tower and the Pavilion;
- (6) finish out of eighth floor of the Pavilion;
- (7) two new parking garages;
- (8) addition of enclosed pedestrian corridors, concourses, stair towers, and other connectors linking primary facilities of the Main Campus and facilities (such as public toilets, retail and transition spaces, food service areas, and waiting rooms incident to such space); and
- (9) renovation and remodeling of lobbies and patient registration areas.

# FLORENCE COUNTY COUNCIL MEETING

April 15, 2010

**AGENDA ITEM:** Third Reading - Ordinance No. 21-2009/10

**DEPARTMENT:** Economic Development

## **ISSUE UNDER CONSIDERATION:**

(An Ordinance Authorizing The Execution And Delivery Of A Fee In Lieu Of Tax Agreement By And Between Florence County, South Carolina And Wellman Plastics Recycling, With Respect To Certain Economic Development Property, Whereby Such Property Will Be Subject To Certain Payments In Lieu Of Taxes And Other Matters Related Thereto.)

## **OPTIONS:**

1. *(Recommended)* Approve Third Reading of Ordinance No. 21-2009/10.
2. Provide an Alternate Directive

## **ATTACHMENTS:**

Ordinance No. 21-2009/10.

Sponsor(s) : Economic Development  
 First Reading/Introduction : November 19, 2009  
 Committee Referral : N/A  
 Committee Consideration Date : N/A  
 Committee Recommendation : N/A  
 Public Hearing : December 10, 2009  
 Second Reading : December 10, 2009  
 Third Reading : April 15, 2010  
 Effective Date : Immediately

I, \_\_\_\_\_,  
 Council Clerk, certify that this  
 Ordinance was advertised for  
 Public Hearing on \_\_\_\_\_.

## ORDINANCE NO. 21-2009/10

### COUNCIL-ADMINISTRATOR FORM OF GOVERNMENT FOR FLORENCE COUNTY

**(An Ordinance Authorizing The Execution And Delivery Of A Fee In Lieu Of Tax Agreement By And Between Florence County, South Carolina And Wellman Plastics Recycling, With Respect To Certain Economic Development Property, Whereby Such Property Will Be Subject To Certain Payments In Lieu Of Taxes And Other Matters Related Thereto.)**

#### WHEREAS:

1. Florence County, South Carolina (the "County"), acting by and through its County Council (the "County Council"), is authorized and empowered under and pursuant to the provisions of Title 12, Chapter 44, of the Code of Laws of South Carolina 1976, as amended (the "FILOT Act"), to enter into agreements with any industry or business whereby the industry or business would pay fees-in-lieu-of-taxes with respect to certain properties which constitute "economic development properties" as defined in the Act; through which powers the industrial development of the State of South Carolina (the "State") will be promoted and trade developed by inducing manufacturing and commercial enterprises to locate or remain in the State and thus utilize and employ the manpower, products and resources of the State and benefit the general public welfare of the County by providing services, employment, recreation or other public benefits not otherwise provided locally; and
2. The County is authorized and empowered, pursuant to Title 4, Chapter 1, of the Code of Laws of South Carolina 1976, as amended, to include property upon which a project is located in a multi-county park, with the appropriate consents and approvals of a partnering county, and by separate ordinance, the County has taken action to place the Project in a multi-county park in cooperation with Williamsburg County; and
3. Pursuant to the Act, and in order to induce certain investment in the County, the County did previously adopt Resolution No. 11-2009/10 dated as of November 19, 2009, authorizing an inducement and millage rate agreement (the "Inducement Agreement") for the benefit of the company identified as Wellman Plastics Recycling, with respect to the acquisition of certain land, the construction of certain buildings and improvements thereon, and installation of fixtures, machinery, equipment, and furnishings therein (collectively, the "Project") to constitute a manufacturing facility; and
4. The Project is anticipated to result in a taxable investment of at least \$3,000,000 and in the creation of at least 100 new fulltime jobs within five years, thereby providing significant economic benefits to the County and surrounding areas; and
5. The County has determined on the basis of the information supplied to it by Wellman Plastics Recycling that the Project is a "project" as defined in the Act and is eligible to become "economic development property" as that term is defined in the Act and that the Project would serve the purposes of the Act; and

6. Pursuant to the Inducement Agreement, the County has agreed to enter into a fee in lieu of tax agreement with Wellman Plastics Recycling, whereby the County would provide therein for a payment of fee in lieu of taxes by Wellman Plastics Recycling with respect to the Project pursuant to the FILOT Act (collectively, the "Fee Agreement"); and
7. Wellman Plastics Recycling has caused to be prepared and presented to this meeting the form of the Fee Agreement which contains the provision for a payment in lieu of taxes which the County proposes to execute and deliver; and
8. It appears that the Fee Agreement, now before this meeting, is in appropriate form and is an appropriate instrument to be approved, executed, and delivered by the County for the purposes intended.

**NOW THEREFORE BE IT ORDAINED BY THE FLORENCE COUNTY COUNCIL DULY ASSEMBLED THAT:**

**Section 1.** It is hereby found, determined and declared by the County Council as follows:

- (a) The Project constitutes a "project" as defined in the FILOT Act and will constitute "economic development property" as said term is referred to and defined in the FILOT Act, and the County's actions herein will subserve the purposes and in all respects conform to the provisions and requirements of the FILOT Act;
- (b) The terms and provision of the Inducement Agreement are hereby ratified and approved and incorporated herein and made a part hereof;
- (c) The Project will benefit the general public welfare of the County by providing services, employment, and other public benefits not otherwise provided locally;
- (d) The Project will give rise to no pecuniary liability of the county or any incorporated municipality or a charge against the general credit or taxing power of either;
- (e) The inducement of the location of the Project within the County and the State is of paramount importance;
- (f) The purposes to be accomplished by the Project, i.e., economic development, retention of jobs, and addition to the tax base of the County, are proper governmental and public purposes and the benefits of the Project are greater than the costs; and
- (g) Having evaluated the purposes to be accomplished by the Project as proper governmental and public purposes, the anticipated dollar amount and nature of the investment to be made, and the anticipated costs and benefits to the County, the County has determined that the Project is properly classified as economic development property.

**Section 2.** The forms, terms and provisions of the Fee Agreement presented to this meeting are hereby approved and all of the terms and provisions thereof are hereby incorporated herein by reference as if the Fee Agreement were set out in this Ordinance in its entirety. The Chairman of the County Council is hereby authorized, empowered and directed to execute, acknowledge and deliver the Fee Agreement in the name of and on behalf of the County, and thereupon to cause the Fee Agreement to be delivered to Wellman Plastics Recycling and cause a copy of the Fee Agreement to be delivered to the Florence County Auditor and Assessor. The Fee Agreement is to be in substantially the form now before this meeting and hereby approved, or with such minor changes therein as shall be approved by the officials of the County executing the same,

their execution thereof to constitute conclusive evidence of their approval of any and all changes or revisions therein from the form of Fee Agreement now before this meeting.

**Section 3.** The Chairman of the County Council, the County Administrator, and the Clerk to County Council, for and on behalf of the County, are hereby authorized and directed to do any and all things necessary to effect the execution and delivery of the Fee Agreement and the performance of all obligations of the County under and pursuant to the Fee Agreement.

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

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

ATTEST:

\_\_\_\_\_  
Connie Y. Haselden, Council Clerk

\_\_\_\_\_  
Approved as to Form and Content  
James C. Rushton, III, County Attorney

SIGNED:

\_\_\_\_\_  
K. G. Rusty Smith, Jr., Chairman

COUNCIL VOTE:

OPPOSED:

ABSENT:

FEE AGREEMENT

Between

FLORENCE COUNTY, SOUTH CAROLINA

and

WELLMAN PLASTICS RECYCLING

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

RECAPITULATION OF CONTENTS OF  
FEE AGREEMENT PURSUANT TO S.C. CODE §12-44-55(A)

The parties have agreed to waive this requirement pursuant to S.C. Code Ann. § 12-44-55(B).

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## FEE AGREEMENT

THIS FEE AGREEMENT (the "Fee Agreement") is made and entered into as of \_\_\_\_\_, by and between FLORENCE COUNTY, SOUTH CAROLINA (the "County"), a body politic and corporate and a political subdivision of the State of South Carolina (the "State"), acting by and through the Florence County Council (the "County Council") as the governing body of the County, and WELLMAN PLASTICS RECYCLING, a limited liability company organized and existing under the laws of the State of South Carolina (the "Company").

### RECITALS

1. Title 12, Chapter 44, Code of Laws of South Carolina, 1976, as amended (the "Act") authorizes the County (i) to induce industries to locate in the State; (ii) to encourage industries now located in the State to expand their investments and thus make use of and employ manpower, products, and other resources of the State; and (iii) to enter into a fee agreement with entities meeting the requirements of such Act, which identifies certain property of such entities as economic development property.

2. Pursuant to Section 12-44-40(H)(1) of the Act, the County finds that: (a) the Project (as defined herein) 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 any incorporated municipality and to no charge against its general credit or taxing power; (c) the purposes to be accomplished by the Project are proper governmental and public purposes; and (d) the benefits of the Project are greater than the costs.

3. The County Council has evaluated the Project based on all relevant criteria that include, but are not limited to, 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.

4. An Ordinance that the County Council adopted contemporaneously with the date of this Agreement (the "Fee Ordinance") authorizes the County and the Company to enter into a Fee Agreement that classifies the Project as Economic Development Property under the Act and provides for the payment of fees in lieu of taxes, all as further described herein.

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

### ARTICLE I

#### DEFINITIONS

Section 1.1 The terms that this Article defines shall for all purposes of this Fee Agreement have the meanings herein specified, unless the context clearly requires otherwise:

"Act" shall mean Title 12, Chapter 44, Code of Laws of South Carolina, 1976, as amended, and all future acts successor or supplemental thereto or amendatory thereof.

“Act Minimum Investment Requirement” shall mean an investment of at least \$2,500,000 by the Company and any Sponsors and Sponsor Affiliates of property eligible as economic development property under the Act, provided, however, that in the event of a reduction of the minimum investment level in Section 12-44-30(14) or any successor section by legislative action, then the Act Minimum Investment Requirement shall equal such reduced amount.

“Commencement Date” shall mean the last day of the property tax year during which the Project or the first Phase thereof is placed in service, which date must not be later than the last day of the property tax year which is three years from the year in which the County and the Company enter into this Fee Agreement.

“Company” shall mean Wellman Plastics Recycling 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 Company.

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

“County Council” shall mean the Florence County Council, the governing body of the County.

“Department” shall mean the South Carolina Department of Revenue.

“Diminution in Value” in respect of the Project or any Phase of the Project shall mean any reduction in the value using the original fair market value (without regard to depreciation) as determined in Step 1 of Section 4.1(a) of this Fee Agreement, of the items which constitute a part of the Project or such Phase and which are subject to FILOT payments which may be caused by (i) the Company’s removal and/or disposal of equipment pursuant to Section 4.6 of this Fee Agreement; (ii) a casualty to the Project, such Phase of the Project, or any part thereof, described in Section 4.7 of this Fee Agreement; or (iii) a condemnation of the Project, such Phase of the Project, or any part thereof, described in Section 4.8 of this Fee Agreement.

“Economic Development Property” shall mean those items of real and tangible personal property of the Project which are eligible for inclusion as economic development property under the Act, selected and identified by the Company in its annual filing of a SCDOR PT-300S or comparable form with the Department (as such filing may be amended from time to time) for each year within the Investment Period.

“Equipment” shall mean all of the machinery, equipment, furniture, office equipment, and fixtures, together with any and all additions, accessions, replacements, and substitutions thereto or therefor used or to be used in the County by the Company for the purposes described in Section 2.2(b) hereof, provided, however, that repairs, alterations, or modifications to personal property which is not economic development property or property subject to a fee in lieu of taxes prior to this Fee Agreement, are not eligible to become Economic Development Property, except for modifications which constitute an expansion of existing real property improvements.

"Event of Default" shall mean any event of default specified in Section 5.1 of this Fee Agreement.

"Exemption Period" shall mean the period beginning on the first day of the property tax year after the property tax year in which an applicable piece of Economic Development Property is placed in service and ending on the Termination Date. In case there are Phases of the Project, the Exemption Period applies to each year's investment made during the Investment Period.

"Fee," "Fee in Lieu of Taxes," "FILOT," or "Payments in Lieu of Taxes" shall mean the amount paid or to be paid in lieu of *ad valorem* property taxes as provided herein.

"Fee Agreement" shall mean this Fee Agreement.

"Fee Term" shall mean the period from the date of this Fee Agreement until the Termination Date.

"Improvements" shall mean all improvements to the Real Property, including buildings, building additions, roads, sewer lines, and infrastructure, together with any and all additions, fixtures, accessions, replacements, and substitutions thereto or therefor used or to be used in the County for the purposes described in Section 2.2(b) hereof; provided, however, that repairs, alterations, or modifications to real property which is not economic development property or property subject to a fee in lieu of taxes prior to this Fee Agreement, are not eligible to become Economic Development Property, except for modifications which constitute an expansion of existing real property improvements.

"Industrial Development Park" shall mean the industrial or business park developed by two or more counties as defined in Section 4-1-170 of the Code of Laws of South Carolina, 1976, as amended.

"Investment Period" shall mean the period beginning with the first day of any purchase or acquisition of Economic Development Property and ending five years after the Commencement Date, provided that the Company and the County may agree to a later date pursuant to Section 12-44-30(13) of the Act.

"MCIP Act" shall mean Title 4, Chapter 1, Sections 170 et seq. of the Code of Laws of South Carolina, 1976, as amended.

"Phase" or "Phases" in respect of the Project shall mean that the Equipment, Improvements, and/or Real Property of the Project are placed in service during more than one year in the Investment Period, and the word "Phase" shall therefore refer to the applicable portion of the Project placed in service in a given year in the Investment Period.

"Project" shall mean all the Equipment, Improvements, and/or Real Property located on the Real Property in the County and that the Company determines to be necessary, suitable, or useful for the purposes that Section 2.2(b) describes, and first placed in service in calendar year 2009 or thereafter. The Project shall not include any property which is ineligible for FILOT treatment pursuant to Section 12-44-110 of the Act.

"Real Property" shall mean real property that the Company uses or will use in the County for the purposes that Section 2.2(b) describes, and generally located on the land identified on Exhibit A hereto, together with all and singular the rights, members, hereditaments, and appurtenances belonging or in any way incident or appertaining thereto.

"Removed Components" shall mean the following types of components or Phases of the Project or portions thereof which are subject to FILOT payments, all of which the Company shall be entitled to remove from the Project with the result that the same shall no longer be subject to the terms of the Fee Agreement: (a) components or Phases of the Project or portions thereof which the Company, in its sole discretion, determines to be inadequate, obsolete, worn-out, uneconomic, damaged, unsuitable, undesirable, or unnecessary pursuant to Section 4.6 hereof or otherwise; or (b) components or Phases of the Project or portions thereof which the Company in its sole discretion, elects to be treated as removed pursuant to Section 4.7(c) or Section 4.8(b)(iii) of this Fee Agreement.

"Replacement Property" shall mean any property which is placed in service as a replacement for any item of Equipment, any Improvement, or any Real Property previously subject to this Fee Agreement regardless of whether such property serves the same functions as the property it is replacing and regardless of whether more than one piece of property replaces any item of Equipment, any Improvement, or any Real Property, to the fullest extent that the Act permits.

"Sponsor" shall mean an entity that joins with or is an affiliate of, the Company and that participates in the investment in, or financing of, the Project and which meets the requirements under the Act to be entitled to the benefits of this Agreement with respect to its participation in the Project.

"Termination Date" shall mean in case the entire Project is placed in service in one year, the end of the last day of the property tax year which is the 19th year following the first property tax year in which the entire Project is placed in service, or in case there are Phases of the Project, the Termination Date shall mean with respect to each Phase of the Project the end of the last day of the property tax year which is the 19th year following the first property tax year in which such Phase of the Project is placed in service, provided, that the intention of the parties is that the Company will make at least 20 annual FILOT payments under Article IV hereof with respect to each Phase of the Project and provided further, that if this Fee Agreement is terminated earlier in accordance with the terms hereof, the Termination Date is the date of such termination.

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 herein shall include not only investments made by the Company, but also to the fullest extent permitted by law, those investments made by or for the benefit of the Company in connection with the Project through federal, state, or local grants, to the extent such investments are subject to *ad valorem* taxes or FILOT payments by the Company.

## ARTICLE II

### REPRESENTATIONS, WARRANTIES, AND AGREEMENTS

Section 2.1 Representations, Warranties, and Agreements of the County. The County hereby represents, warrants, and agrees 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 hereunder. The County has duly authorized the execution and delivery of this Fee Agreement and any and all other agreements described herein or therein and has obtained all consents from third parties and taken all actions necessary or that the law requires to fulfill its obligations hereunder.

(b) Based upon representations by the Company, the Project constitutes a "project" within the meaning of the Act, and the County is a County that the Act authorizes to enter into fee in lieu of tax agreements with companies that satisfy the Act Minimum Investment Requirement within the County.

(c) The County has agreed that each item of real and tangible personal property comprising the Project which is eligible to be economic development property under the Act and that the Company selects shall be considered Economic Development Property and is thereby exempt from *ad valorem* taxation in South Carolina.

(d) The millage rate in Section 4.1 hereof is 360.8 mills, the millage rate in effect with respect to the location of the proposed Project on June 30, 2009, as provided under Section 12-44-50(A)(1)(d) of the Act.

(e) The County will not be in default in any of its obligations (contractual or otherwise), including any violation of its statutory debt limit, as a result of entering into and performing under this Fee Agreement and/or as a result of creating an Industrial Development Park encompassing the Project.

(f) The County will take all reasonable action to include the Project in an Industrial Development Park.

Section 2.2 Representations, Warranties, and Agreements of the Company. The Company hereby represents, warrants, and agrees as follows:

(a) The Company is in good standing under the laws of the State of South Carolina, is duly authorized to transact business in the State of South Carolina, has power to enter into this Fee Agreement, and has duly authorized the execution and delivery of this Fee Agreement.

(b) The Company intends to operate the Project as a "project" within the meaning of the Act as in effect on the date hereof. The Company intends to operate the Project

as a molding facility, and for such other purposes that the Act permits as the Company may deem appropriate.

(c) The Company will use commercially reasonable efforts to ensure that its investment in Economic Development Property of the Project will exceed the Act Minimum Investment Requirement.

### ARTICLE III

#### COMMENCEMENT AND COMPLETION OF THE PROJECT

Section 3.1 The Project. The Company intends to invest in Equipment, Improvements, and/or Real Property, which together comprise the Project and which are anticipated to create at least the Act Minimum Investment Requirement in eligible Economic Development Property investment subject to Payments in Lieu of Taxes in the County.

The parties hereto agree that, to the extent that applicable law allows or is revised or construed to allow the benefits of the Act, in the form of Payments-in-Lieu-of-Taxes to be made under Article IV hereof, to be applicable to leased assets including, but not limited to a building and/or personal property to be installed in the buildings and leased to but not purchased by the Company from one or more Sponsors under any form of lease, then such property shall, at the election of the Company, be subject to Payments-in-Lieu-of-Taxes to the same extent as the Company's assets covered by this Fee Agreement, subject, at all times, to the requirement of such applicable law. The parties hereto further agree that this Fee Agreement may be interpreted or modified as may be necessary or appropriate in order to give proper application of this Fee Agreement to such tangible property without such construction or modification constituting an amendment to this Fee Agreement, and thus not requiring any additional action by the County Council. The County Administrator, after consulting with the County Attorney, shall be and hereby is authorized to make such modifications, if any, as may be necessary or appropriate in connection therewith. Such leased property shall constitute a part of the Project for all purposes of this Agreement, including removal, replacement, and termination, and such Sponsor shall be deemed to be a party to this Agreement provided, however, that no Sponsor shall be liable for any payments pursuant to Section 4.2(b) hereof, which shall remain the Company's liability. To the extent the provisions of the Act are held to be inapplicable to the property owned by the County (as improved by Tenant), the County hereby agrees that this Agreement shall be construed to provide for a fees in lieu of taxes pursuant to Section 4-12-10 et seq. of the Code of Laws of South Carolina, 1976, as amended (the "Little Fee Statute") upon the same terms as described in this Agreement, and the inducement agreement and inducement resolution adopted in connection with this Agreement shall constitute the inducement documents pursuant to the Little Fee Statute.

Pursuant to the Act and subject to Section 4.2 hereof, the Company and the County hereby agree that the Company shall identify annually those assets which are eligible for FILOT payments under the Act and which the Company selects for such treatment by listing such assets in its annual PT-300S form (or comparable form) to be filed with the Department (as such may be amended from time to time) and that by listing such assets, such assets shall automatically become Economic Development Property and therefore be exempt from all *ad valorem* taxation during the Exemption Period. Anything contained in this Fee Agreement to the contrary

notwithstanding, the Company shall not be obligated to complete the acquisition of the Project. However, if the Company does not meet the Act Minimum Investment Requirement, this Fee Agreement shall be terminated as provided in Section 4.2 hereof.

Section 3.2 Diligent Completion. The Company agrees to use its reasonable efforts to cause the completion of the Project as soon as practicable, but in any event on or prior to the end of the Investment Period.

Section 3.3 Filings and Reports.

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

(b) The Company shall cause the filing of a copy of this Fee Agreement, as well as a copy of the completed Form PT-443 of the Department, to be filed with the County Auditor and the County Assessor of the County and any partner county, when the Project is placed in a joint county industrial and business park, and the Department within 30 days after the date of execution and delivery hereof by all parties hereto.

ARTICLE IV

PAYMENTS IN LIEU OF TAXES

Section 4.1 Negotiated Payments.

(a) Pursuant to Section 12-44-50 of the Act, the Company is required to make payments in lieu of *ad valorem* taxes to the County with respect to the Economic Development Property. Inasmuch as the Company anticipates an initial investment of sums sufficient for the Project to qualify for a fee in lieu of tax arrangement under Section 12-44-50(A)(1) of the Act, the County and the Company have negotiated the amount of the Payments in Lieu of Taxes in accordance therewith. The Company shall make payments in lieu of *ad valorem* taxes on all Economic Development Property which comprises the Project and is placed in service, as follows: the Company shall make payments in lieu of *ad valorem* taxes during the Exemption Period with respect to the Economic Development Property or, if there are Phases of the Economic Development Property, with respect to each Phase of the Economic Development Property, said payments to be made annually and to be due and payable and subject to penalty assessments on the same dates and in the same manner as prescribed by the County for *ad valorem* taxes. The determination of the amount of such annual Payments in Lieu of Taxes shall be in accordance with the following procedure (subject, in any event, to the procedures that the Act requires):

- Step 1: Determine the fair market value of the Economic Development Property (or Phase of the Economic Development Property) placed in service during the Exemption Period using original income tax basis for State income tax purposes for any Real Property and Improvements without regard to depreciation (provided, the fair market value of real

property, as the Act defines such term, that the Company obtains by construction or purchase in an arms length transaction is equal to the original income tax basis, and otherwise, the determination of the fair market value is by appraisal) and original income tax basis for State income tax purposes for any personal property less depreciation for each year allowable for property tax purposes, except that no extraordinary obsolescence shall be allowable. The fair market value of the Real Property for the first year of the Fee Term remains the fair market value of the Real Property for the life of the Fee Term. The determination of these values shall take into account all applicable property tax exemptions that State law would allow to the Company if the property were taxable, except those exemptions that Section 12-44-50(A)(2) of the Act specifically disallows.

Step 2: Apply an assessment ratio of six percent (6%) to the fair market value in Step 1 to establish the taxable value of the Economic Development Property (or each Phase of the Economic Development Property) in the year it is placed in service and in each of the 19 years thereafter or such longer period of years in which the Act permits the Company to make annual fee payments.

Step 3: Use a fixed millage rate equal to the millage rate in effect on June 30, 2009, which is 360.8 mills, as Section 12-44-50(A)(1)(d) of the Act provides, during the Exemption Period against the taxable value to determine the amount of the Payments in Lieu of Taxes due during the Exemption Period on the payment dates that the County prescribes for such payments or such longer period of years in which the Act permits the Company to make annual fee payments.

(b) In the event that a final order of a court of competent jurisdiction or an agreement of the parties determines that the calculation of the minimum Payment in Lieu of Taxes applicable to this transaction is to be other than by the procedure herein, the payment shall be reset at the minimum permitted level so determined.

In the event that a final order of a court of competent jurisdiction from which no further appeal is allowable declares the Act and/or the herein-described Payments in Lieu of Taxes invalid or unenforceable, in whole or in part, for any reason, the parties express their intentions to reform such payments so as to effectuate most closely the intent thereof and so as to afford the Company with the benefits to be derived herefrom, the intention of the County being to offer the Company a strong inducement to locate the Project in the County. If the Economic Development Property is deemed to be subject to *ad valorem* taxation, this Fee Agreement shall terminate, and the Company shall pay the County regular *ad valorem* taxes from the date of termination, but with appropriate reductions equivalent to all tax exemptions which are afforded to the Company. Any amount determined to be due and owing to the County from the Company, with respect to a year or years for which the Company previously remitted Payments in Lieu of Taxes to the County hereunder, shall (i) take into account all applicable tax exemptions to which the Company would be entitled if the Economic Development Property was not and had not been



Economic Development Property under the Act; and (ii) be reduced by the total amount of Payments in Lieu of Taxes the Company had made with respect to the Project pursuant to the terms hereof. Notwithstanding anything contained herein to the contrary, neither the Company nor any successor in title or interest shall be required to pay FILOT payments and *ad valorem* taxes for the same property over the same period in question.

Section 4.2 Failure to Achieve Act Minimum Investment Requirement.

(a) In the event that the cost of the Economic Development Property (without regard to depreciation) that the Company acquires does not reach the Act Minimum Investment Requirement by the end of the Investment Period, this Fee Agreement shall terminate as to such entity failing to meet the minimum investment level. In such event, the Company shall pay the County an amount (the "Additional Payment") pursuant to the Act which is equal to the excess, if any, of (i) the total amount of *ad valorem* taxes as would result from taxes levied on the Project by the County, municipality or municipalities, school district or school districts, and other political units as if the items of property comprising the Economic Development Property were not Economic Development Property, but with appropriate reductions equivalent to all tax exemptions and abatements to which the Company would be entitled in such a case, through and including the end of the Investment Period, over (ii) the total amount of FILOT payments the Company has made with respect to the Economic Development Property through and including the end of the Investment Period. Any amounts determined to be owing pursuant to the foregoing sentence shall be subject to the minimum amount of interest that the Act may require.

(b) The remedies stated herein shall be the County's sole remedies for the Company's failure to meet any required investment or job creation level.

Section 4.3 Payments in Lieu of Taxes on Replacement Property. If the Company elects to replace any Removed Components and to substitute such Removed Components with Replacement Property as a part of the Economic Development Property, or the Company otherwise utilizes Replacement Property, then, pursuant and subject to Section 12-44-60 of the Act, the Company shall make statutory payments in lieu of *ad valorem* taxes with regard to such Replacement Property in accordance with the following:

(i) Replacement Property does not have to serve the same function as the Economic Development Property it is replacing. Replacement Property is deemed to replace the oldest Economic Development Property subject to the Fee, whether real or personal, which is disposed of in the same property tax year in which the Replacement Property is placed in service. Replacement Property qualifies as Economic Development Property only to the extent of the original income tax basis of Economic Development Property which is being disposed of in the same property tax year. More than one piece of property can replace a single piece of Economic Development Property. To the extent that the income tax basis of the Replacement Property exceeds the original income tax basis of the Economic Development Property which it is replacing, the excess amount is subject to annual payments calculated as if the exemption for Economic Development Property were not allowable. Replacement Property is

entitled to treatment under the Fee Agreement for the period of time remaining during the Exemption Period for the Economic Development Property which it is replacing; and

(ii) The new Replacement Property which qualifies for the Fee shall be recorded using its income tax basis, and the calculation of the Fee shall utilize the millage rate and assessment ratio in effect with regard to the original property subject to the Fee.

Section 4.4 Reductions in Payments of Taxes Upon Removal, Condemnation, or Casualty. In the event of a Diminution in Value of the Economic Development Property or any Phase of the Economic Development Property, the Payment in Lieu of Taxes with regard to the Economic Development Property or that Phase of the Economic Development Property shall be reduced in the same proportion as the amount of such Diminution in Value bears to the original fair market value of the Economic Development Property or that Phase of the Economic Development Property as determined pursuant to Step 1 of Section 4.1(a) hereof; *provided, however*, that if at any time subsequent to the end of the Investment Period, the total value of the Project based on the original income tax basis of the Equipment, Real Property, and Improvements contained therein, without deduction for depreciation, is less than the Act Minimum Investment Requirement, beginning with the first payment thereafter due hereunder and continuing until the end of the Fee Term, the Company shall no longer be entitled to the incentive provided in Section 4.1, and the Company shall therefore commence to pay regular *ad valorem* taxes on the Economic Development Property part of the Project. However, the Company will not be required to make any retroactive payment.

Section 4.5 Place and Allocation of Payments in Lieu of Taxes. The Company shall make the above-described Payments in Lieu of Taxes directly to the County in accordance with applicable law.

Section 4.6 Removal of Equipment. Subject, always, to the other terms and provisions hereof, the Company shall be entitled to remove and dispose of components or Phases of the Project from the Project in its sole discretion with the result that said components or Phases shall no longer be considered a part of the Project and, to the extent such constitute Economic Development Property, shall no longer be subject to the terms of this Fee Agreement to the fullest extent allowed by the Act, as amended. Economic Development Property is disposed of only when it is scrapped or sold or it is removed from the Project. If it is removed from the Project, it is subject to *ad valorem* property taxes to the extent the Property remains in the State and is otherwise subject to *ad valorem* property taxes.

Section 4.7 Damage or Destruction of Economic Development Property.

(a) Election to Terminate. In the event the Economic Development Property is damaged by fire, explosion, or any other casualty, the Company shall be entitled to terminate this Fee Agreement. The Company shall only be required to make FILOT payments as to all or any part of the tax year in which the damage or casualty occurs to the extent property subject to *ad valorem* taxes would otherwise have been subject to such taxes under the same circumstances for the period in question.

(b) Election to Rebuild. In the event the Economic Development Property is damaged by fire, explosion, or any other casualty, and if the Company does not elect to terminate this Fee Agreement, the Company may commence to restore the Economic Development Property with such reductions or enlargements in the scope of the Economic Development Property, changes, alterations, and modifications (including the substitution and addition of other property) as may be desired by the Company. All such restorations and replacements shall be considered, to the fullest extent permitted by law and this Fee Agreement, substitutions of the destroyed portions of the Economic Development Property and shall be considered part of the Economic Development Property for all purposes hereof, including, but not limited to, any amounts due by the Company to the County under Section 4.1 hereof.

(c) Election to Remove. In the event the Company elects not to terminate this Fee Agreement pursuant to subsection (a) and elects not to rebuild pursuant to subsection (b), the damaged portions of the Economic Development Property shall be treated as Removed Components.

#### Section 4.8 Condemnation.

(a) Complete Taking. If at any time during the Fee Term title to or temporary use of the Economic Development Property should become vested in a public or quasi-public authority by virtue of the exercise of a taking by condemnation, inverse condemnation, or the right of eminent domain; 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 Company, the Company 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. The Company shall only be required to make FILOT payments as to all or any part of the tax year in which the taking occurs to the extent property subject to *ad valorem* taxes would otherwise have been subject to such taxes under the same circumstances for the period in question.

(b) Partial Taking. In the event of a partial taking of the Economic Development Property or a transfer in lieu thereof, the Company may elect: (i) to terminate this Fee Agreement; (ii) subject to the Act and the terms and provisions of this Fee Agreement, to repair and restore the Economic Development Property, with such reductions or enlargements in the scope of the Economic Development Property, changes, alterations, and modifications (including the substitution and addition of other property) as the Company may desire, and all such changes, alterations, and modifications shall be considered as substitutions of the taken parts of the Economic Development Property; or (iii) to treat the portions of the Economic Development Property so taken as Removed Components.

(c) The Company shall only be required to make FILOT payments as to all or any part of the tax year in which the taking occurs to the extent property subject to *ad valorem* taxes would otherwise have been subject to such taxes under the same circumstances for the period in question.

Section 4.9 Confidentiality/Limitation on Access to Project. The County acknowledges and understands that the Company utilizes confidential and proprietary processes

and materials, services, equipment, trade secrets, and techniques (herein "Confidential Information") and that any disclosure of Confidential Information concerning the Company's operations may result in substantial harm to the Company and could thereby have a significant detrimental impact on the Company's employees and also upon the County. The Company acknowledges that the County is subject to the Freedom of Information Act, and, as a result, must disclose certain documents and information on request absent an exemption. For these reasons, the Company shall clearly label all Confidential Information it delivers to the County "Confidential Information." Therefore, the County agrees that, except as required by law, neither the County nor any employee, agent, or contractor of the County shall (i) request or be entitled to receive any such Confidential Information, or (ii) disclose or otherwise divulge any such Confidential Information to any other person, firm, governmental body or agency, or any other entity unless specifically required to do so by law; provided, however, that the County shall have no less rights concerning information relating to the Project and the Company than concerning any other property or property taxpayer in the County, and, provided further, that the confidentiality of such confidential or proprietary information is clearly disclosed to the County in writing as previously described. Prior to disclosing any Confidential Information, subject to the requirements of law, the Company may require the execution of reasonable, individual, confidentiality and non-disclosure agreements by any officers, employees, or agents of the County or any supporting or cooperating governmental agencies who would gather, receive, or review such information. In the event that the County is required to disclose any Confidential Information obtained from the Company to any third party, the County agrees to provide the Company with as much advance notice as possible of such requirement before making such disclosure, and to cooperate reasonably with any attempts by the Company to obtain judicial or other relief from such disclosure requirement.

Section 4.10 Assignment. With the prior written consent of the County or a subsequent written ratification by the County, which consent or ratification the County will not unreasonably withhold unless Section 12-44-120 of the Act or any successor provision expressly does not require consent, and in accordance with the Act, the Company may assign this Fee Agreement in whole or in part. The Company agrees to notify the County and the Department of the identity of such transferee within 60 days of the transfer. In case of a transfer, the transferee assumes the transferor's basis in the Project for purposes of calculating the Fee. No approval is required for transfers to sponsor affiliates or other financing related transfers, as defined in the Act.

Section 4.11 No Double Payment; Future Changes in Legislation.

(a) Notwithstanding anything contained herein to the contrary, and except as expressly required by law, neither the Company nor any Sponsor shall ever be required to make a Payment in Lieu of Taxes in addition to a regular property tax payment in the same year over the same piece of property, nor shall the Company or any Sponsor be required to make a Payment in Lieu of Taxes on property in cases where, absent this Fee Agreement, property taxes would otherwise not be due on such property.

In case there is any legislation enacted which provides for more favorable treatment for property to qualify as, or for the calculation of the fee related to, Economic Development Property under Sections 4.4, 4.6, 4.7, 4.8, or the calculation of the Investment Period, the County

agrees to give expedient and full consideration to such legislation, with a view to allow for such more favorable treatment or calculation.

Section 4.12 Administration Expenses.

(a) Each party shall be responsible for its own attorneys' fees incurred in connection with this Agreement and any other agreements or instruments entered into pursuant to the matters detailed herein.

**ARTICLE V**

**DEFAULT**

Section 5.1 Events of Default. The following shall be "Events of Default" under this Fee Agreement, and the term "Events of Default" shall mean, whenever used with reference to this Fee Agreement, any one or more of the following occurrences:

(a) Failure by the Company to make the Payments in Lieu of Taxes described in Section 4.1 hereof, which failure shall not have been cured within 30 days following receipt of written notice thereof from the County; *provided, however*, that the Company shall be entitled to all redemption rights granted by applicable statutes; or

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

(c) Failure by the Company to perform any of the terms, conditions, obligations, or covenants hereunder (other than those under (a) above), which failure shall continue for a period of 30 days after written notice from the County to the Company specifying such failure and requesting that it be remedied, unless the Company shall have instituted corrective action within such time period and is diligently pursuing such action until the default is corrected, in which case the 30-day period shall be extended to cover such additional period during which the Company is diligently pursuing corrective action; or

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

(e) Failure by the County to perform any of the terms, conditions, obligations, or covenants hereunder, which failure shall continue for a period of 30 days after written notice from the Company to the County specifying such failure and requesting that it be remedied, unless the County shall have instituted corrective action within such time period and is diligently pursuing such action until the default is corrected, in which case the 30-day period shall be extended to cover such additional period during which the County is diligently pursuing corrective action.

Section 5.2 Remedies on Default.

(a) Whenever any Event of Default by the Company shall have occurred and shall be continuing, the County may take any one or more of the following remedial actions:

- (i) terminate the Fee Agreement; or
- (ii) take whatever action at law or in equity may appear necessary or desirable to collect the amounts due hereunder. In no event shall the Company be liable to the County or otherwise for monetary damages resulting from the Company's failure to meet the Act Minimum Investment Requirement, other than as expressly set forth herein.
- (iii) other actions afforded by law.

(b) Whenever any Event of Default by the County shall have occurred or shall be continuing, the Company may take one or more of the following actions:

- (i) bring an action for specific enforcement;
- (ii) terminate the Fee Agreement;
- (iii) withhold so much of the payment as is in dispute with the County until such dispute is fully and finally resolved; or
- (iv) 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 5.3 Reimbursement of Legal Fees and Expenses and Other Expenses. Upon the occurrence of an Event of Default hereunder, should a party be required to employ attorneys or incur other reasonable expenses for the collection of payments due hereunder or for the enforcement of performance or observance of any obligation or agreement, the successful party shall be entitled, within 30 days of demand therefor, to reimbursement of the reasonable fees of such attorneys and such other reasonable expenses so incurred.

Section 5.4 No Waiver. No failure or delay on the part of any party hereto in exercising any right, power, or remedy hereunder shall operate as a waiver thereof, nor shall any single or partial exercise of any such right, power, or remedy preclude any other or further exercise thereof or the exercise of any other right, power, or remedy hereunder. No waiver of any provision hereof shall be effective unless the same shall be in writing and signed by the waiving party hereto.

## ARTICLE VI

### MISCELLANEOUS

Section 6.1 Notices. Any notice, election, demand, request, or other communication to be provided under this Fee Agreement shall be effective when delivered to the party named below or when deposited with the United States Postal Service, certified mail, return receipt requested, postage prepaid, addressed as follows (or addressed to such other address as any party shall have previously furnished in writing to the other party), except where the terms hereof require receipt rather than sending of any notice, in which case such provision shall control:

#### **IF TO THE COMPANY:**

WELLMAN PLASTICS RECYCLING  
Attn: Dal Avant  
Post Office Box 188  
Johnsonville, SC 29555

#### **WITH A COPY TO:**

#### **IF TO THE COUNTY:**

Florence County, South Carolina  
Attn: County Administrator  
180 N. Irby Street  
MSC-G  
Florence, SC 29501

Section 6.2 Binding Effect. This Fee Agreement and each document contemplated hereby or related hereto shall be binding upon and inure to the benefit of the Company, the County, and their respective successors and assigns. In the event of the dissolution of the County or the consolidation of any part of the County with any other political subdivision or the transfer of any rights of the County to any other such political subdivision, all of the covenants, stipulations, promises, and agreements of this Fee Agreement shall bind and inure to the benefit of the successors of the County from time to time and any entity, officer, board, commission, agency, or instrumentality to whom or to which any power or duty of the County has been transferred.

Section 6.3 Counterparts. This Fee Agreement may be executed in any number of counterparts, and all of the counterparts taken together shall be deemed to constitute one and the same instrument.

Section 6.4 Governing Law. This Fee Agreement and all documents executed in connection herewith shall be construed in accordance with and governed by the laws of the State of South Carolina.

Section 6.5 Headings. The headings of the articles and sections of this Fee Agreement are inserted for convenience only and shall not be deemed to constitute a part of this Fee Agreement.

Section 6.6 Amendments. The provisions of this Fee Agreement may only be modified or amended in writing by any agreement or agreements entered into between the parties.

Section 6.7 Further Assurance. From time to time, and at the expense of the Company, to the extent any expense is incurred, the County agrees to execute and deliver to the Company such additional instruments as the Company may reasonably request and as are authorized by law and reasonably within the purposes and scope of the Act and Fee Agreement to effectuate the purposes of this Fee Agreement.

Section 6.8 Invalidity; Change in Laws. In the event that the inclusion of property as Economic Development Property or any other issue is unclear under this Fee Agreement, the County hereby expresses its intention that the interpretation of this Fee Agreement shall be 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 hereof. If any provision of this Fee Agreement is declared illegal, invalid, or unenforceable for any reason, the remaining provisions hereof shall be unimpaired, and such illegal, invalid, or unenforceable provision shall be reformed to effectuate most closely the legal, valid, and enforceable intent thereof and so as to afford the Company with the maximum benefits to be derived herefrom, it being the intention of the County to offer the Company the strongest inducement possible, within the provisions of the Act, to locate the Project in the County. In case a change in the Act or South Carolina laws eliminates or reduces any of the restrictions or limitations applicable to the Company and the Fee incentive, the parties agree that the County will give expedient and full consideration to reformation of this Fee Agreement, with a view toward providing the Company with the benefits of such change in the Act or South Carolina laws.

The County agrees that in case the FILOT incentive described herein is found to be invalid or otherwise does not provide the Company with the economic benefit it is intended to receive from the County as an inducement to locate in the County, the savings lost as a result of such invalidity will be considered a special source revenue credit or infrastructure improvement credit to the Company to the maximum extent permitted by law, and the County will provide a special source revenue credit or infrastructure improvement credit against all FILOT payments or fee payments made or to be made by the Company equal to the amount that the Company would have saved if the FILOT had been valid, to the maximum extent permitted by law.

Section 6.9 Force Majeure. The Company shall not be responsible for any delays or non-performance caused in whole or in part, directly or indirectly, by strikes, accidents, freight embargoes, 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 Company's reasonable control.

Section 6.10 Termination by Company. The Company is authorized to terminate this Fee Agreement at any time with respect to all or part of the Project upon providing the County with 30 days' notice; *provided, however*, that (i) any monetary obligations existing hereunder and due and owing at the time of termination to a party hereto; and (ii) any provisions which are intended to survive termination shall survive such termination. In the year following such termination, all property shall be subject to ad valorem taxation or such other taxation or fee in lieu of taxation that would apply absent this agreement. The Company's obligation to make fee in lieu of tax payments under this Fee Agreement shall terminate in the year following the year of such termination pursuant to this section.

Section 6.11 Entire Understanding. This Fee Agreement expresses the entire understanding and all agreements of the parties hereto with each other, and neither party hereto has made or shall be bound by any agreement or any representation to the other party which is not expressly set forth in this Fee Agreement or in certificates delivered in connection with the execution and delivery hereof.

Section 6.12 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 6.13 Business Day. In the event that any action, payment, or notice is, by the terms of this Fee Agreement, required to be taken, made, or given on any day which is a Saturday, Sunday, or legal holiday in the jurisdiction in which the person obligated to act is domiciled, such action, payment, or notice may be taken, made, or given on the following business day with the same effect as if given as required hereby, and no interest shall accrue in the interim.

Section 6.14 Limitation of Liability. Anything herein to the contrary notwithstanding, any financial obligation the County may incur hereunder, including for the payment of money shall not be deemed to constitute a pecuniary liability or a debt or general obligation of the County; provided, however, that nothing herein shall prevent the Company from enforcing its rights hereunder by suit for *mandamus* or specific performance.

(Signature Page Follows)

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

**FLORENCE COUNTY, SOUTH CAROLINA**

Signature: \_\_\_\_\_  
Name: K.G. Rusty Smith, Jr.  
Title: Chairman of County Council

ATTEST:

Signature: \_\_\_\_\_  
Name: Connie Y. Haselden  
Title: Clerk to County Council

**WELLMAN PLASTICS RECYCLING**

Signature: \_\_\_\_\_  
Name: Dal Avant  
Title: Vice President - Administration

**EXHIBIT A**  
**LEGAL DESCRIPTION**

DRAFT

## EXHIBIT A

## FLORENCE COUNTY PROPERTY DESCRIPTION

<u>Tax Notice Name/Description</u>	<u>Map Block Parcel</u>	<u>Property Identification</u>	<u>Tract Acres</u>
60108-14-000	439-05-001	Original Plant Site	182.06
60108-14-000 includes the following additional parcels :			
Lynch River Boundaries	439-05-002	Poston Tract	51.21
Lynch River Boundaries	440-05-013	McPhatter Tract	78.99
Complex D Buildings, B Warehouses and Perimeter Guard Road.	440-05-014	Perimeter Road	144.50
MRD Facility	440-05-060	Material Recovery Areas	16.50
Energy Plant Facilities	440-05-061	Energy Plant Facilities	5.67
PET Expansion Facilities	440-05-082	PET Recoveries	42.93
Wellman - Off Highway #51	432-05-033	Off State Highway #51	22.00
Wellman Heights parcels:			
Railroad Track Area (Adjacent)	431-05-003	Railroad Track Area (Adjacent)	14.00
Safety Building Area	431-05-007	Safety Building Area	1.50
Resource Center Building Area	431-05-008	Resource Center Building Area	1.50
Purchasing Building Area	431-05-009	Purchasing Building Area	1.50
Raw Material Procurement Area	431-05-010	Raw Material Procurement Area	2.00
Joye House and Lot	431-05-011	Joye House and Lot	3.70
Matthew House and Lot	431-05-012	Matthew House and Lot	1.00
Common Area -Wellman Heights	431-05-009	Common Area -Wellman Heights	
		Total Acres	<u>569.04</u>

# FLORENCE COUNTY COUNCIL MEETING

April 15, 2010

**AGENDA ITEM:** Third Reading - Ordinance No. 22-2009/10 - Deferred

**DEPARTMENT:** Economic Development

## **ISSUE UNDER CONSIDERATION:**

(An Ordinance Authorizing The Execution And Delivery Of A Fee In Lieu Of Tax Agreement By And Between Florence County, South Carolina, And J. P. Morgan Chase, With Respect To Certain Economic Development Property, Whereby Such Property Will Be Subject To Certain Payments In Lieu Of Taxes And Other Matters Related Thereto.)

## **POINTS TO CONSIDER:**

Representatives of J. P. Morgan Chase have requested that this item be deferred.

## **OPTIONS:**

1. *(Recommended)* Defer Third Reading of Ordinance No. 22-2009/10.
2. Provide an Alternate Directive

## **ATTACHMENTS:**

Ordinance No. 22-2009/10.

Sponsor(s) : Economic Development  
 First Reading/Introduction : November 19, 2009  
 Committee Referral : N/A  
 Committee Consideration Date : N/A  
 Committee Recommendation : N/A  
 Second Reading : December 10, 2009  
 Public Hearing : December 10, 2009  
 Third Reading :  
 Effective Date : Immediately

I, \_\_\_\_\_,  
 Council Clerk, certify that this  
 Ordinance was advertised for  
 Public Hearing on \_\_\_\_\_.

## ORDINANCE NO. 22-2009/10

### COUNCIL-ADMINISTRATOR FORM OF GOVERNMENT FOR FLORENCE COUNTY

**(An Ordinance Authorizing The Execution And Delivery Of A Fee In Lieu Of Tax Agreement By And Between Florence County, South Carolina, And J. P. Morgan Chase, With Respect To Certain Economic Development Property, Whereby Such Property Will Be Subject To Certain Payments In Lieu Of Taxes And Other Matters Related Thereto.)**

#### WHEREAS:

1. Florence County, South Carolina (the "County"), acting by and through its County Council (the "County Council"), is authorized and empowered under and pursuant to the provisions of Title 12, Chapter 44, of the Code of Laws of South Carolina 1976, as amended (the "FILOT Act"), to enter into agreements with any industry or business whereby the industry or business would pay fees-in-lieu-of-taxes with respect to certain properties which constitute "economic development properties" as defined in the Act; through which powers the industrial development of the State of South Carolina (the "State") will be promoted and trade developed by inducing manufacturing and commercial enterprises to locate or remain in the State and thus utilize and employ the manpower, products and resources of the State and benefit the general public welfare of the County by providing services, employment, recreation or other public benefits not otherwise provided locally; and
2. The County is authorized and empowered, pursuant to Title 4, Chapter 1, of the Code of Laws of South Carolina 1976, as amended, to include property upon which a project is located in a multi-county park, with the appropriate consents and approvals of a partnering county, and by separate ordinance, the County has taken action to place the Project in a multi-county park in cooperation with Williamsburg County; and
3. Pursuant to the Act, and in order to induce certain investment in the County, the County did previously adopt Resolution No. 12-2009/10 dated as of November 19, 2009, authorizing an inducement and millage rate agreement (the "Inducement Agreement") for the benefit of the company identified as J. P. Morgan Chase, with respect to the acquisition of certain land, the construction of certain buildings and improvements thereon, and installation of fixtures, machinery, equipment, and furnishings therein (collectively, the "Project") to constitute a manufacturing facility; and
4. The Project is anticipated to result in a taxable investment of at least \$2,500,000 and in the creation of at least 250 additional fulltime jobs within five years, thereby providing significant economic benefits to the County and surrounding areas; and
5. The County has determined on the basis of the information supplied to it by J. P. Morgan Chase that the Project is a "project" as defined in the Act and is eligible to become "economic development property" as

that term is defined in the Act and that the Project would serve the purposes of the Act; and

6. Pursuant to the Inducement Agreement, the County has agreed to enter into a fee in lieu of tax agreement with J. P. Morgan Chase, whereby the County would provide therein for a payment of fee in lieu of taxes by J. P. Morgan Chase with respect to the Project pursuant to the FILOT Act (collectively, the "Fee Agreement"); and
7. J. P. Morgan Chase has caused to be prepared and presented to this meeting the form of the Fee Agreement which contains the provision for a payment in lieu of taxes which the County proposes to execute and deliver; and
8. It appears that the Fee Agreement, now before this meeting, is in appropriate form and is an appropriate instrument to be approved, executed, and delivered by the County for the purposes intended.

**NOW THEREFORE BE IT ORDAINED BY THE FLORENCE COUNTY COUNCIL DULY ASSEMBLED THAT:**

**Section 1.** It is hereby found, determined and declared by the County Council as follows:

- (a) The Project constitutes a "project" as defined in the FILOT Act and will constitute "economic development property" as said term is referred to and defined in the FILOT Act, and the County's actions herein will subserve the purposes and in all respects conform to the provisions and requirements of the FILOT Act;
- (b) The terms and provision of the Inducement Agreement are hereby ratified and approved and incorporated herein and made a part hereof;
- (c) The Project will benefit the general public welfare of the County by providing services, employment, and other public benefits not otherwise provided locally;
- (d) The Project will give rise to no pecuniary liability of the county or any incorporated municipality or a charge against the general credit or taxing power of either;
- (e) The inducement of the location of the Project within the County and the State is of paramount importance;
- (f) The purposes to be accomplished by the Project, i.e., economic development, retention of jobs, and addition to the tax base of the County, are proper governmental and public purposes and the benefits of the Project are greater than the costs; and
- (g) Having evaluated the purposes to be accomplished by the Project as proper governmental and public purposes, the anticipated dollar amount and nature of the investment to be made, and the anticipated costs and benefits to the County, the County has determined that the Project is properly classified as economic development property.

**Section 2.** The forms, terms and provisions of the Fee Agreement presented to this meeting are hereby approved and all of the terms and provisions thereof are hereby incorporated herein by reference as if the Fee Agreement were set out in this Ordinance in its entirety. The Chairman of the County Council is hereby authorized, empowered and directed to execute, acknowledge and deliver the Fee Agreement in the name of and on behalf of the County, and thereupon to cause the Fee Agreement to be delivered to J. P. Morgan Chase and cause a copy of the Fee Agreement to be delivered to the Florence County Auditor and Assessor. The Fee

Agreement is to be in substantially the form now before this meeting and hereby approved, or with such minor changes therein as shall be approved by the officials of the County executing the same, their execution thereof to constitute conclusive evidence of their approval of any and all changes or revisions therein from the form of Fee Agreement now before this meeting.

**Section 3.** The Chairman of the County Council, the County Administrator, and the Clerk to County Council, for and on behalf of the County, are hereby authorized and directed to do any and all things necessary to effect the execution and delivery of the Fee Agreement and the performance of all obligations of the County under and pursuant to the Fee Agreement.

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

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

ATTEST:

\_\_\_\_\_  
Connie Y. Haselden, Council Clerk

\_\_\_\_\_  
Approved as to Form and Content  
James C. Rushton, III, County Attorney

SIGNED:

\_\_\_\_\_  
K. G. Rusty Smith, Jr., Chairman

COUNCIL VOTE:

OPPOSED:

ABSENT:



FEE AGREEMENT

Between

FLORENCE COUNTY, SOUTH CAROLINA

and

J. P. MORGAN CHASE

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

RECAPITULATION OF CONTENTS OF  
FEE AGREEMENT PURSUANT TO S.C. CODE §12-44-55(A)

The parties have agreed to waive this requirement pursuant to S.C. Code Ann. § 12-44-55(B).

DRAFT

## FEE AGREEMENT

THIS FEE AGREEMENT (the "Fee Agreement") is made and entered into as of \_\_\_\_\_, by and between FLORENCE COUNTY, SOUTH CAROLINA (the "County"), a body politic and corporate and a political subdivision of the State of South Carolina (the "State"), acting by and through the Florence County Council (the "County Council") as the governing body of the County, and J. P. MORGAN CHASE, a limited liability company organized and existing under the laws of the State of South Carolina (the "Company").

### RECITALS

1. Title 12, Chapter 44, Code of Laws of South Carolina, 1976, as amended (the "Act") authorizes the County (i) to induce industries to locate in the State; (ii) to encourage industries now located in the State to expand their investments and thus make use of and employ manpower, products, and other resources of the State; and (iii) to enter into a fee agreement with entities meeting the requirements of such Act, which identifies certain property of such entities as economic development property.

2. Pursuant to Section 12-44-40(H)(1) of the Act, the County finds that: (a) the Project (as defined herein) 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 any incorporated municipality and to no charge against its general credit or taxing power; (c) the purposes to be accomplished by the Project are proper governmental and public purposes; and (d) the benefits of the Project are greater than the costs.

3. The County Council has evaluated the Project based on all relevant criteria that include, but are not limited to, 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.

4. An Ordinance that the County Council adopted contemporaneously with the date of this Agreement (the "Fee Ordinance") authorizes the County and the Company to enter into a Fee Agreement that classifies the Project as Economic Development Property under the Act and provides for the payment of fees in lieu of taxes, all as further described herein.

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

### ARTICLE I

#### DEFINITIONS

Section 1.1 The terms that this Article defines shall for all purposes of this Fee Agreement have the meanings herein specified, unless the context clearly requires otherwise:

"Act" shall mean Title 12, Chapter 44, Code of Laws of South Carolina, 1976, as amended, and all future acts successor or supplemental thereto or amendatory thereof.

"Act Minimum Investment Requirement" shall mean an investment of at least \$2,500,000 by the Company and any Sponsors and Sponsor Affiliates of property eligible as economic development property under the Act, provided, however, that in the event of a reduction of the minimum investment level in Section 12-44-30(14) or any successor section by legislative action, then the Act Minimum Investment Requirement shall equal such reduced amount.

"Commencement Date" shall mean the last day of the property tax year during which the Project or the first Phase thereof is placed in service, which date must not be later than the last day of the property tax year which is three years from the year in which the County and the Company enter into this Fee Agreement.

"Company" shall mean J. P. Morgan Chase 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 Company.

"County" shall mean Florence County, South Carolina, a body politic and corporate and a political subdivision of the State of South Carolina, its successors and assigns, acting by and through the County Council as the governing body of the County.

"County Council" shall mean the Florence County Council, the governing body of the County.

"Department" shall mean the South Carolina Department of Revenue.

"Diminution in Value" in respect of the Project or any Phase of the Project shall mean any reduction in the value using the original fair market value (without regard to depreciation) as determined in Step 1 of Section 4.1(a) of this Fee Agreement, of the items which constitute a part of the Project or such Phase and which are subject to FILOT payments which may be caused by (i) the Company's removal and/or disposal of equipment pursuant to Section 4.6 of this Fee Agreement; (ii) a casualty to the Project, such Phase of the Project, or any part thereof, described in Section 4.7 of this Fee Agreement; or (iii) a condemnation of the Project, such Phase of the Project, or any part thereof, described in Section 4.8 of this Fee Agreement.

"Economic Development Property" shall mean those items of real and tangible personal property of the Project which are eligible for inclusion as economic development property under the Act, selected and identified by the Company in its annual filing of a SCDOR PT-300S or comparable form with the Department (as such filing may be amended from time to time) for each year within the Investment Period.

"Equipment" shall mean all of the machinery, equipment, furniture, office equipment, and fixtures, together with any and all additions, accessions, replacements, and substitutions thereto or therefor used or to be used in the County by the Company for the purposes described in Section 2.2(b) hereof, provided, however, that repairs, alterations, or modifications to personal property which is not economic development property or property subject to a fee in lieu of taxes prior to this Fee Agreement, are not eligible to become Economic Development Property, except for modifications which constitute an expansion of existing real property improvements.

"Event of Default" shall mean any event of default specified in Section 5.1 of this Fee Agreement.

"Exemption Period" shall mean the period beginning on the first day of the property tax year after the property tax year in which an applicable piece of Economic Development Property is placed in service and ending on the Termination Date. In case there are Phases of the Project, the Exemption Period applies to each year's investment made during the Investment Period.

"Fee," "Fee in Lieu of Taxes," "FILOT," or "Payments in Lieu of Taxes" shall mean the amount paid or to be paid in lieu of *ad valorem* property taxes as provided herein.

"Fee Agreement" shall mean this Fee Agreement.

"Fee Term" shall mean the period from the date of this Fee Agreement until the Termination Date.

"Improvements" shall mean all improvements to the Real Property, including buildings, building additions, roads, sewer lines, and infrastructure, together with any and all additions, fixtures, accessions, replacements, and substitutions thereto or therefor used or to be used in the County for the purposes described in Section 2.2(b) hereof; provided, however, that repairs, alterations, or modifications to real property which is not economic development property or property subject to a fee in lieu of taxes prior to this Fee Agreement, are not eligible to become Economic Development Property, except for modifications which constitute an expansion of existing real property improvements.

"Industrial Development Park" shall mean the industrial or business park developed by two or more counties as defined in Section 4-1-170 of the Code of Laws of South Carolina, 1976, as amended.

"Investment Period" shall mean the period beginning with the first day of any purchase or acquisition of Economic Development Property and ending five years after the Commencement Date, provided that the Company and the County may agree to a later date pursuant to Section 12-44-30(13) of the Act.

"MCIP Act" shall mean Title 4, Chapter 1, Sections 170 et seq. of the Code of Laws of South Carolina, 1976, as amended.

"Phase" or "Phases" in respect of the Project shall mean that the Equipment, Improvements, and/or Real Property of the Project are placed in service during more than one year in the Investment Period, and the word "Phase" shall therefore refer to the applicable portion of the Project placed in service in a given year in the Investment Period.

"Project" shall mean all the Equipment, Improvements, and/or Real Property located on the Real Property in the County and that the Company determines to be necessary, suitable, or useful for the purposes that Section 2.2(b) describes, and first placed in service in calendar year 2009 or thereafter. The Project shall not include any property which is ineligible for FILOT treatment pursuant to Section 12-44-110 of the Act.

"Real Property" shall mean real property that the Company uses or will use in the County for the purposes that Section 2.2(b) describes, and generally located on the land identified on Exhibit A hereto, together with all and singular the rights, members, hereditaments, and appurtenances belonging or in any way incident or appertaining thereto.

"Removed Components" shall mean the following types of components or Phases of the Project or portions thereof which are subject to FILOT payments, all of which the Company shall be entitled to remove from the Project with the result that the same shall no longer be subject to the terms of the Fee Agreement: (a) components or Phases of the Project or portions thereof which the Company, in its sole discretion, determines to be inadequate, obsolete, worn-out, uneconomic, damaged, unsuitable, undesirable, or unnecessary pursuant to Section 4.6 hereof or otherwise; or (b) components or Phases of the Project or portions thereof which the Company in its sole discretion, elects to be treated as removed pursuant to Section 4.7(c) or Section 4.8(b)(iii) of this Fee Agreement.

"Replacement Property" shall mean any property which is placed in service as a replacement for any item of Equipment, any Improvement, or any Real Property previously subject to this Fee Agreement regardless of whether such property serves the same functions as the property it is replacing and regardless of whether more than one piece of property replaces any item of Equipment, any Improvement, or any Real Property, to the fullest extent that the Act permits.

"Sponsor" shall mean an entity that joins with or is an affiliate of, the Company and that participates in the investment in, or financing of, the Project and which meets the requirements under the Act to be entitled to the benefits of this Agreement with respect to its participation in the Project.

"Termination Date" shall mean in case the entire Project is placed in service in one year, the end of the last day of the property tax year which is the 19th year following the first property tax year in which the entire Project is placed in service, or in case there are Phases of the Project, the Termination Date shall mean with respect to each Phase of the Project the end of the last day of the property tax year which is the 19th year following the first property tax year in which such Phase of the Project is placed in service, provided, that the intention of the parties is that the Company will make at least 20 annual FILOT payments under Article IV hereof with respect to each Phase of the Project and provided further, that if this Fee Agreement is terminated earlier in accordance with the terms hereof, the Termination Date is the date of such termination.

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 herein shall include not only investments made by the Company, but also to the fullest extent permitted by law, those investments made by or for the benefit of the Company in connection with the Project through federal, state, or local grants, to the extent such investments are subject to *ad valorem* taxes or FILOT payments by the Company.

## ARTICLE II

### REPRESENTATIONS, WARRANTIES, AND AGREEMENTS

Section 2.1 Representations, Warranties, and Agreements of the County. The County hereby represents, warrants, and agrees 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 hereunder. The County has duly authorized the execution and delivery of this Fee Agreement and any and all other agreements described herein or therein and has obtained all consents from third parties and taken all actions necessary or that the law requires to fulfill its obligations hereunder.

(b) Based upon representations by the Company, the Project constitutes a "project" within the meaning of the Act, and the County is a County that the Act authorizes to enter into fee in lieu of tax agreements with companies that satisfy the Act Minimum Investment Requirement within the County.

(c) The County has agreed that each item of real and tangible personal property comprising the Project which is eligible to be economic development property under the Act and that the Company selects shall be considered Economic Development Property and is thereby exempt from *ad valorem* taxation in South Carolina.

(d) The millage rate in Section 4.1 hereof is 272.5 mills, the millage rate in effect with respect to the location of the proposed Project on June 30, 2009, as provided under Section 12-44-50(A)(1)(d) of the Act.

(e) The County will not be in default in any of its obligations (contractual or otherwise), including any violation of its statutory debt limit, as a result of entering into and performing under this Fee Agreement and/or as a result of creating an Industrial Development Park encompassing the Project.

(f) The County will take all reasonable action to include the Project in an Industrial Development Park.

Section 2.2 Representations, Warranties, and Agreements of the Company. The Company hereby represents, warrants, and agrees as follows:

(a) The Company is in good standing under the laws of the State of South Carolina, is duly authorized to transact business in the State of South Carolina, has power to enter into this Fee Agreement, and has duly authorized the execution and delivery of this Fee Agreement.

(b) The Company intends to operate the Project as a "project" within the meaning of the Act as in effect on the date hereof. The Company intends to operate the Project

as a molding facility, and for such other purposes that the Act permits as the Company may deem appropriate.

(c) The Company will use commercially reasonable efforts to ensure that its investment in Economic Development Property of the Project will exceed the Act Minimum Investment Requirement.

### ARTICLE III

#### COMMENCEMENT AND COMPLETION OF THE PROJECT

Section 3.1 The Project. The Company intends to invest in Equipment, Improvements, and/or Real Property, which together comprise the Project and which are anticipated to create at least the Act Minimum Investment Requirement in eligible Economic Development Property investment subject to Payments in Lieu of Taxes in the County.

The parties hereto agree that, to the extent that applicable law allows or is revised or construed to allow the benefits of the Act, in the form of Payments-in-Lieu-of-Taxes to be made under Article IV hereof, to be applicable to leased assets including, but not limited to a building and/or personal property to be installed in the buildings and leased to but not purchased by the Company from one or more Sponsors under any form of lease, then such property shall, at the election of the Company, be subject to Payments-in-Lieu-of-Taxes to the same extent as the Company's assets covered by this Fee Agreement, subject, at all times, to the requirement of such applicable law. The parties hereto further agree that this Fee Agreement may be interpreted or modified as may be necessary or appropriate in order to give proper application of this Fee Agreement to such tangible property without such construction or modification constituting an amendment to this Fee Agreement, and thus not requiring any additional action by the County Council. The County Administrator, after consulting with the County Attorney, shall be and hereby is authorized to make such modifications, if any, as may be necessary or appropriate in connection therewith. Such leased property shall constitute a part of the Project for all purposes of this Agreement, including removal, replacement, and termination, and such Sponsor shall be deemed to be a party to this Agreement provided, however, that no Sponsor shall be liable for any payments pursuant to Section 4.2(b) hereof, which shall remain the Company's liability. To the extent the provisions of the Act are held to be inapplicable to the property owned by the County (as improved by Tenant), the County hereby agrees that this Agreement shall be construed to provide for a fees in lieu of taxes pursuant to Section 4-12-10 et seq. of the Code of Laws of South Carolina, 1976, as amended (the "Little Fee Statute") upon the same terms as described in this Agreement, and the inducement agreement and inducement resolution adopted in connection with this Agreement shall constitute the inducement documents pursuant to the Little Fee Statute.

Pursuant to the Act and subject to Section 4.2 hereof, the Company and the County hereby agree that the Company shall identify annually those assets which are eligible for FILOT payments under the Act and which the Company selects for such treatment by listing such assets in its annual PT-300S form (or comparable form) to be filed with the Department (as such may be amended from time to time) and that by listing such assets, such assets shall automatically become Economic Development Property and therefore be exempt from all *ad valorem* taxation during the Exemption Period. Anything contained in this Fee Agreement to the contrary



notwithstanding, the Company shall not be obligated to complete the acquisition of the Project. However, if the Company does not meet the Act Minimum Investment Requirement, this Fee Agreement shall be terminated as provided in Section 4.2 hereof.

Section 3.2 Diligent Completion. The Company agrees to use its reasonable efforts to cause the completion of the Project as soon as practicable, but in any event on or prior to the end of the Investment Period.

Section 3.3 Filings and Reports.

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

(b) The Company shall cause the filing of a copy of this Fee Agreement, as well as a copy of the completed Form PT-443 of the Department, to be filed with the County Auditor and the County Assessor of the County and any partner county, when the Project is placed in a joint county industrial and business park, and the Department within 30 days after the date of execution and delivery hereof by all parties hereto.

**ARTICLE IV**

**PAYMENTS IN LIEU OF TAXES**

Section 4.1 Negotiated Payments.

(a) Pursuant to Section 12-44-50 of the Act, the Company is required to make payments in lieu of *ad valorem* taxes to the County with respect to the Economic Development Property. Inasmuch as the Company anticipates an initial investment of sums sufficient for the Project to qualify for a fee in lieu of tax arrangement under Section 12-44-50(A)(1) of the Act, the County and the Company have negotiated the amount of the Payments in Lieu of Taxes in accordance therewith. The Company shall make payments in lieu of *ad valorem* taxes on all Economic Development Property which comprises the Project and is placed in service, as follows: the Company shall make payments in lieu of *ad valorem* taxes during the Exemption Period with respect to the Economic Development Property or, if there are Phases of the Economic Development Property, with respect to each Phase of the Economic Development Property, said payments to be made annually and to be due and payable and subject to penalty assessments on the same dates and in the same manner as prescribed by the County for *ad valorem* taxes. The determination of the amount of such annual Payments in Lieu of Taxes shall be in accordance with the following procedure (subject, in any event, to the procedures that the Act requires):

- Step 1: Determine the fair market value of the Economic Development Property (or Phase of the Economic Development Property) placed in service during the Exemption Period using original income tax basis for State income tax purposes for any Real Property and Improvements without regard to depreciation (provided, the fair market value of real

property, as the Act defines such term, that the Company obtains by construction or purchase in an arms length transaction is equal to the original income tax basis, and otherwise, the determination of the fair market value is by appraisal) and original income tax basis for State income tax purposes for any personal property less depreciation for each year allowable for property tax purposes, except that no extraordinary obsolescence shall be allowable. The fair market value of the Real Property for the first year of the Fee Term remains the fair market value of the Real Property for the life of the Fee Term. The determination of these values shall take into account all applicable property tax exemptions that State law would allow to the Company if the property were taxable, except those exemptions that Section 12-44-50(A)(2) of the Act specifically disallows.

Step 2: Apply an assessment ratio of six percent (6%) to the fair market value in Step 1 to establish the taxable value of the Economic Development Property (or each Phase of the Economic Development Property) in the year it is placed in service and in each of the 19 years thereafter or such longer period of years in which the Act permits the Company to make annual fee payments.

Step 3: Use a fixed millage rate equal to the millage rate in effect on June 30, 2009, which is 272.5 mills, as Section 12-44-50(A)(1)(d) of the Act provides, during the Exemption Period against the taxable value to determine the amount of the Payments in Lieu of Taxes due during the Exemption Period on the payment dates that the County prescribes for such payments or such longer period of years in which the Act permits the Company to make annual fee payments.

(b) In the event that a final order of a court of competent jurisdiction or an agreement of the parties determines that the calculation of the minimum Payment in Lieu of Taxes applicable to this transaction is to be other than by the procedure herein, the payment shall be reset at the minimum permitted level so determined.

In the event that a final order of a court of competent jurisdiction from which no further appeal is allowable declares the Act and/or the herein-described Payments in Lieu of Taxes invalid or unenforceable, in whole or in part, for any reason, the parties express their intentions to reform such payments so as to effectuate most closely the intent thereof and so as to afford the Company with the benefits to be derived herefrom, the intention of the County being to offer the Company a strong inducement to locate the Project in the County. If the Economic Development Property is deemed to be subject to *ad valorem* taxation, this Fee Agreement shall terminate, and the Company shall pay the County regular *ad valorem* taxes from the date of termination, but with appropriate reductions equivalent to all tax exemptions which are afforded to the Company. Any amount determined to be due and owing to the County from the Company, with respect to a year or years for which the Company previously remitted Payments in Lieu of Taxes to the County hereunder, shall (i) take into account all applicable tax exemptions to which the Company would be entitled if the Economic Development Property was not and had not been

Economic Development Property under the Act; and (ii) be reduced by the total amount of Payments in Lieu of Taxes the Company had made with respect to the Project pursuant to the terms hereof. Notwithstanding anything contained herein to the contrary, neither the Company nor any successor in title or interest shall be required to pay FILOT payments and *ad valorem* taxes for the same property over the same period in question.

Section 4.2 Failure to Achieve Act Minimum Investment Requirement.

(a) In the event that the cost of the Economic Development Property (without regard to depreciation) that the Company acquires does not reach the Act Minimum Investment Requirement by the end of the Investment Period, this Fee Agreement shall terminate as to such entity failing to meet the minimum investment level. In such event, the Company shall pay the County an amount (the "Additional Payment") pursuant to the Act which is equal to the excess, if any, of (i) the total amount of *ad valorem* taxes as would result from taxes levied on the Project by the County, municipality or municipalities, school district or school districts, and other political units as if the items of property comprising the Economic Development Property were not Economic Development Property, but with appropriate reductions equivalent to all tax exemptions and abatements to which the Company would be entitled in such a case, through and including the end of the Investment Period, over (ii) the total amount of FILOT payments the Company has made with respect to the Economic Development Property through and including the end of the Investment Period. Any amounts determined to be owing pursuant to the foregoing sentence shall be subject to the minimum amount of interest that the Act may require.

(b) The remedies stated herein shall be the County's sole remedies for the Company's failure to meet any required investment or job creation level.

Section 4.3 Payments in Lieu of Taxes on Replacement Property. If the Company elects to replace any Removed Components and to substitute such Removed Components with Replacement Property as a part of the Economic Development Property, or the Company otherwise utilizes Replacement Property, then, pursuant and subject to Section 12-44-60 of the Act, the Company shall make statutory payments in lieu of *ad valorem* taxes with regard to such Replacement Property in accordance with the following:

(i) Replacement Property does not have to serve the same function as the Economic Development Property it is replacing. Replacement Property is deemed to replace the oldest Economic Development Property subject to the Fee, whether real or personal, which is disposed of in the same property tax year in which the Replacement Property is placed in service. Replacement Property qualifies as Economic Development Property only to the extent of the original income tax basis of Economic Development Property which is being disposed of in the same property tax year. More than one piece of property can replace a single piece of Economic Development Property. To the extent that the income tax basis of the Replacement Property exceeds the original income tax basis of the Economic Development Property which it is replacing, the excess amount is subject to annual payments calculated as if the exemption for Economic Development Property were not allowable. Replacement Property is

entitled to treatment under the Fee Agreement for the period of time remaining during the Exemption Period for the Economic Development Property which it is replacing; and

(ii) The new Replacement Property which qualifies for the Fee shall be recorded using its income tax basis, and the calculation of the Fee shall utilize the millage rate and assessment ratio in effect with regard to the original property subject to the Fee.

Section 4.4 Reductions in Payments of Taxes Upon Removal, Condemnation, or Casualty. In the event of a Diminution in Value of the Economic Development Property or any Phase of the Economic Development Property, the Payment in Lieu of Taxes with regard to the Economic Development Property or that Phase of the Economic Development Property shall be reduced in the same proportion as the amount of such Diminution in Value bears to the original fair market value of the Economic Development Property or that Phase of the Economic Development Property as determined pursuant to Step 1 of Section 4.1(a) hereof; *provided, however*, that if at any time subsequent to the end of the Investment Period, the total value of the Project based on the original income tax basis of the Equipment, Real Property, and Improvements contained therein, without deduction for depreciation, is less than the Act Minimum Investment Requirement, beginning with the first payment thereafter due hereunder and continuing until the end of the Fee Term, the Company shall no longer be entitled to the incentive provided in Section 4.1, and the Company shall therefore commence to pay regular *ad valorem* taxes on the Economic Development Property part of the Project. However, the Company will not be required to make any retroactive payment.

Section 4.5 Place and Allocation of Payments in Lieu of Taxes. The Company shall make the above-described Payments in Lieu of Taxes directly to the County in accordance with applicable law.

Section 4.6 Removal of Equipment. Subject, always, to the other terms and provisions hereof, the Company shall be entitled to remove and dispose of components or Phases of the Project from the Project in its sole discretion with the result that said components or Phases shall no longer be considered a part of the Project and, to the extent such constitute Economic Development Property, shall no longer be subject to the terms of this Fee Agreement to the fullest extent allowed by the Act, as amended. Economic Development Property is disposed of only when it is scrapped or sold or it is removed from the Project. If it is removed from the Project, it is subject to *ad valorem* property taxes to the extent the Property remains in the State and is otherwise subject to *ad valorem* property taxes.

Section 4.7 Damage or Destruction of Economic Development Property.

(a) Election to Terminate. In the event the Economic Development Property is damaged by fire, explosion, or any other casualty, the Company shall be entitled to terminate this Fee Agreement. The Company shall only be required to make FILOT payments as to all or any part of the tax year in which the damage or casualty occurs to the extent property subject to *ad valorem* taxes would otherwise have been subject to such taxes under the same circumstances for the period in question.

(b) Election to Rebuild. In the event the Economic Development Property is damaged by fire, explosion, or any other casualty, and if the Company does not elect to terminate this Fee Agreement, the Company may commence to restore the Economic Development Property with such reductions or enlargements in the scope of the Economic Development Property, changes, alterations, and modifications (including the substitution and addition of other property) as may be desired by the Company. All such restorations and replacements shall be considered, to the fullest extent permitted by law and this Fee Agreement, substitutions of the destroyed portions of the Economic Development Property and shall be considered part of the Economic Development Property for all purposes hereof, including, but not limited to, any amounts due by the Company to the County under Section 4.1 hereof.

(c) Election to Remove. In the event the Company elects not to terminate this Fee Agreement pursuant to subsection (a) and elects not to rebuild pursuant to subsection (b), the damaged portions of the Economic Development Property shall be treated as Removed Components.

#### Section 4.8    Condemnation.

(a) Complete Taking. If at any time during the Fee Term title to or temporary use of the Economic Development Property should become vested in a public or quasi-public authority by virtue of the exercise of a taking by condemnation, inverse condemnation, or the right of eminent domain; 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 Company, the Company 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. The Company shall only be required to make FILOT payments as to all or any part of the tax year in which the taking occurs to the extent property subject to *ad valorem* taxes would otherwise have been subject to such taxes under the same circumstances for the period in question.

(b) Partial Taking. In the event of a partial taking of the Economic Development Property or a transfer in lieu thereof, the Company may elect: (i) to terminate this Fee Agreement; (ii) subject to the Act and the terms and provisions of this Fee Agreement, to repair and restore the Economic Development Property, with such reductions or enlargements in the scope of the Economic Development Property, changes, alterations, and modifications (including the substitution and addition of other property) as the Company may desire, and all such changes, alterations, and modifications shall be considered as substitutions of the taken parts of the Economic Development Property; or (iii) to treat the portions of the Economic Development Property so taken as Removed Components.

(c) The Company shall only be required to make FILOT payments as to all or any part of the tax year in which the taking occurs to the extent property subject to *ad valorem* taxes would otherwise have been subject to such taxes under the same circumstances for the period in question.

Section 4.9    Confidentiality/Limitation on Access to Project. The County acknowledges and understands that the Company utilizes confidential and proprietary processes

and materials, services, equipment, trade secrets, and techniques (herein "Confidential Information") and that any disclosure of Confidential Information concerning the Company's operations may result in substantial harm to the Company and could thereby have a significant detrimental impact on the Company's employees and also upon the County. The Company acknowledges that the County is subject to the Freedom of Information Act, and, as a result, must disclose certain documents and information on request absent an exemption. For these reasons, the Company shall clearly label all Confidential Information it delivers to the County "Confidential Information." Therefore, the County agrees that, except as required by law, neither the County nor any employee, agent, or contractor of the County shall (i) request or be entitled to receive any such Confidential Information, or (ii) disclose or otherwise divulge any such Confidential Information to any other person, firm, governmental body or agency, or any other entity unless specifically required to do so by law; provided, however, that the County shall have no less rights concerning information relating to the Project and the Company than concerning any other property or property taxpayer in the County, and, provided further, that the confidentiality of such confidential or proprietary information is clearly disclosed to the County in writing as previously described. Prior to disclosing any Confidential Information, subject to the requirements of law, the Company may require the execution of reasonable, individual, confidentiality and non-disclosure agreements by any officers, employees, or agents of the County or any supporting or cooperating governmental agencies who would gather, receive, or review such information. In the event that the County is required to disclose any Confidential Information obtained from the Company to any third party, the County agrees to provide the Company with as much advance notice as possible of such requirement before making such disclosure, and to cooperate reasonably with any attempts by the Company to obtain judicial or other relief from such disclosure requirement.

Section 4.10 Assignment. With the prior written consent of the County or a subsequent written ratification by the County, which consent or ratification the County will not unreasonably withhold unless Section 12-44-120 of the Act or any successor provision expressly does not require consent, and in accordance with the Act, the Company may assign this Fee Agreement in whole or in part. The Company agrees to notify the County and the Department of the identity of such transferee within 60 days of the transfer. In case of a transfer, the transferee assumes the transferor's basis in the Project for purposes of calculating the Fee. No approval is required for transfers to sponsor affiliates or other financing related transfers, as defined in the Act.

Section 4.11 No Double Payment; Future Changes in Legislation.

(a) Notwithstanding anything contained herein to the contrary, and except as expressly required by law, neither the Company nor any Sponsor shall ever be required to make a Payment in Lieu of Taxes in addition to a regular property tax payment in the same year over the same piece of property, nor shall the Company or any Sponsor be required to make a Payment in Lieu of Taxes on property in cases where, absent this Fee Agreement, property taxes would otherwise not be due on such property.

In case there is any legislation enacted which provides for more favorable treatment for property to qualify as, or for the calculation of the fee related to, Economic Development Property under Sections 4.4, 4.6, 4.7, 4.8, or the calculation of the Investment Period, the County

agrees to give expedient and full consideration to such legislation, with a view to allow for such more favorable treatment or calculation.

Section 4.12 Administration Expenses.

(a) Each party shall be responsible for its own attorneys' fees incurred in connection with this Agreement and any other agreements or instruments entered into pursuant to the matters detailed herein.

**ARTICLE V**

**DEFAULT**

Section 5.1 Events of Default. The following shall be "Events of Default" under this Fee Agreement, and the term "Events of Default" shall mean, whenever used with reference to this Fee Agreement, any one or more of the following occurrences:

(a) Failure by the Company to make the Payments in Lieu of Taxes described in Section 4.1 hereof, which failure shall not have been cured within 30 days following receipt of written notice thereof from the County; *provided, however*, that the Company shall be entitled to all redemption rights granted by applicable statutes; or

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

(c) Failure by the Company to perform any of the terms, conditions, obligations, or covenants hereunder (other than those under (a) above), which failure shall continue for a period of 30 days after written notice from the County to the Company specifying such failure and requesting that it be remedied, unless the Company shall have instituted corrective action within such time period and is diligently pursuing such action until the default is corrected, in which case the 30-day period shall be extended to cover such additional period during which the Company is diligently pursuing corrective action; or

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

(e) Failure by the County to perform any of the terms, conditions, obligations, or covenants hereunder, which failure shall continue for a period of 30 days after written notice from the Company to the County specifying such failure and requesting that it be remedied, unless the County shall have instituted corrective action within such time period and is diligently pursuing such action until the default is corrected, in which case the 30-day period shall be extended to cover such additional period during which the County is diligently pursuing corrective action.

Section 5.2 Remedies on Default.

(a) Whenever any Event of Default by the Company shall have occurred and shall be continuing, the County may take any one or more of the following remedial actions:

- (i) terminate the Fee Agreement; or
- (ii) take whatever action at law or in equity may appear necessary or desirable to collect the amounts due hereunder. In no event shall the Company be liable to the County or otherwise for monetary damages resulting from the Company's failure to meet the Act Minimum Investment Requirement, other than as expressly set forth herein.
- (iii) other actions afforded by law.

(b) Whenever any Event of Default by the County shall have occurred or shall be continuing, the Company may take one or more of the following actions:

- (i) bring an action for specific enforcement;
- (ii) terminate the Fee Agreement;
- (iii) withhold so much of the payment as is in dispute with the County until such dispute is fully and finally resolved; or
- (iv) 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 5.3 Reimbursement of Legal Fees and Expenses and Other Expenses. Upon the occurrence of an Event of Default hereunder, should a party be required to employ attorneys or incur other reasonable expenses for the collection of payments due hereunder or for the enforcement of performance or observance of any obligation or agreement, the successful party shall be entitled, within 30 days of demand therefor, to reimbursement of the reasonable fees of such attorneys and such other reasonable expenses so incurred.

Section 5.4 No Waiver. No failure or delay on the part of any party hereto in exercising any right, power, or remedy hereunder shall operate as a waiver thereof, nor shall any single or partial exercise of any such right, power, or remedy preclude any other or further exercise thereof or the exercise of any other right, power, or remedy hereunder. No waiver of any provision hereof shall be effective unless the same shall be in writing and signed by the waiving party hereto.



## ARTICLE VI

### MISCELLANEOUS

Section 6.1 Notices. Any notice, election, demand, request, or other communication to be provided under this Fee Agreement shall be effective when delivered to the party named below or when deposited with the United States Postal Service, certified mail, return receipt requested, postage prepaid, addressed as follows (or addressed to such other address as any party shall have previously furnished in writing to the other party), except where the terms hereof require receipt rather than sending of any notice, in which case such provision shall control:

**IF TO THE COMPANY:**

J. P. MORGAN CHASE

**WITH A COPY TO:**

**IF TO THE COUNTY:**

Florence County, South Carolina  
Attn: County Administrator  
180 N. Irby Street  
MSC-G  
Florence, SC 29501

Section 6.2 Binding Effect. This Fee Agreement and each document contemplated hereby or related hereto shall be binding upon and inure to the benefit of the Company, the County, and their respective successors and assigns. In the event of the dissolution of the County or the consolidation of any part of the County with any other political subdivision or the transfer of any rights of the County to any other such political subdivision, all of the covenants, stipulations, promises, and agreements of this Fee Agreement shall bind and inure to the benefit of the successors of the County from time to time and any entity, officer, board, commission, agency, or instrumentality to whom or to which any power or duty of the County has been transferred.

Section 6.3 Counterparts. This Fee Agreement may be executed in any number of counterparts, and all of the counterparts taken together shall be deemed to constitute one and the same instrument.

Section 6.4 Governing Law. This Fee Agreement and all documents executed in connection herewith shall be construed in accordance with and governed by the laws of the State of South Carolina.

Section 6.5 Headings. The headings of the articles and sections of this Fee Agreement are inserted for convenience only and shall not be deemed to constitute a part of this Fee Agreement.

Section 6.6 Amendments. The provisions of this Fee Agreement may only be modified or amended in writing by any agreement or agreements entered into between the parties.

Section 6.7 Further Assurance. From time to time, and at the expense of the Company, to the extent any expense is incurred, the County agrees to execute and deliver to the Company such additional instruments as the Company may reasonably request and as are authorized by law and reasonably within the purposes and scope of the Act and Fee Agreement to effectuate the purposes of this Fee Agreement.

Section 6.8 Invalidity; Change in Laws. In the event that the inclusion of property as Economic Development Property or any other issue is unclear under this Fee Agreement, the County hereby expresses its intention that the interpretation of this Fee Agreement shall be 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 hereof. If any provision of this Fee Agreement is declared illegal, invalid, or unenforceable for any reason, the remaining provisions hereof shall be unimpaired, and such illegal, invalid, or unenforceable provision shall be reformed to effectuate most closely the legal, valid, and enforceable intent thereof and so as to afford the Company with the maximum benefits to be derived herefrom, it being the intention of the County to offer the Company the strongest inducement possible, within the provisions of the Act, to locate the Project in the County. In case a change in the Act or South Carolina laws eliminates or reduces any of the restrictions or limitations applicable to the Company and the Fee incentive, the parties agree that the County will give expedient and full consideration to reformation of this Fee Agreement, with a view toward providing the Company with the benefits of such change in the Act or South Carolina laws.

The County agrees that in case the FILOT incentive described herein is found to be invalid or otherwise does not provide the Company with the economic benefit it is intended to receive from the County as an inducement to locate in the County, the savings lost as a result of such invalidity will be considered a special source revenue credit or infrastructure improvement credit to the Company to the maximum extent permitted by law, and the County will provide a special source revenue credit or infrastructure improvement credit against all FILOT payments or fee payments made or to be made by the Company equal to the amount that the Company would have saved if the FILOT had been valid, to the maximum extent permitted by law.

Section 6.9 Force Majeure. The Company shall not be responsible for any delays or non-performance caused in whole or in part, directly or indirectly, by strikes, accidents, freight embargoes, 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 Company's reasonable control.

Section 6.10 Termination by Company. The Company is authorized to terminate this Fee Agreement at any time with respect to all or part of the Project upon providing the County with 30 days' notice; *provided, however*, that (i) any monetary obligations existing hereunder and due and owing at the time of termination to a party hereto; and (ii) any provisions which are intended to survive termination shall survive such termination. In the year following such termination, all property shall be subject to ad valorem taxation or such other taxation or fee in lieu of taxation that would apply absent this agreement. The Company's obligation to make fee in lieu of tax payments under this Fee Agreement shall terminate in the year following the year of such termination pursuant to this section.

Section 6.11 Entire Understanding. This Fee Agreement expresses the entire understanding and all agreements of the parties hereto with each other, and neither party hereto has made or shall be bound by any agreement or any representation to the other party which is not expressly set forth in this Fee Agreement or in certificates delivered in connection with the execution and delivery hereof.

Section 6.12 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 6.13 Business Day. In the event that any action, payment, or notice is, by the terms of this Fee Agreement, required to be taken, made, or given on any day which is a Saturday, Sunday, or legal holiday in the jurisdiction in which the person obligated to act is domiciled, such action, payment, or notice may be taken, made, or given on the following business day with the same effect as if given as required hereby, and no interest shall accrue in the interim.

Section 6.14 Limitation of Liability. Anything herein to the contrary notwithstanding, any financial obligation the County may incur hereunder, including for the payment of money shall not be deemed to constitute a pecuniary liability or a debt or general obligation of the County; provided, however, that nothing herein shall prevent the Company from enforcing its rights hereunder by suit for *mandamus* or specific performance.

(Signature Page Follows)

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

**FLORENCE COUNTY, SOUTH CAROLINA**

Signature: \_\_\_\_\_

Name: K.G. Rusty Smith, Jr.

Title: Chairman of County Council

ATTEST:

Signature: \_\_\_\_\_

Name: Connie Y. Haselden

Title: Clerk to County Council

**J. P. MORGAN CHASE**

Signature: \_\_\_\_\_

Name:

Title:

**EXHIBIT A**  
**LEGAL DESCRIPTION**

DRAFT

### DESCRIPTION OF PREMISES

That certain tract of land in Florence County, South Carolina, being shown and designated as 16.528 acres at 2210 Enterprise Drive, Florence, SC on a Survey prepared for Holmes Smith, LLC, Lepercq Corporate Income Fund, L.P. and First American Title Insurance Company by Power Engineering Company, Inc. dated June 15, 1998, last revised June 25, 1998 (the "Plat"), said Plat being incorporated herein by reference, said property being more particularly described as follows:

Commencing at a 5/8" rod found at the intersection of the southern right of way of Range Way and the eastern right of way of Enterprise Drive, said rod being the point of beginning; thence run along southern right of way of Range Way S54°52'49"E for a distance of 325.18 feet to an iron pin set; thence continuing along said right of way along a curve to the left, having a length of 363.28 feet, a radius of 996.63 feet and being subtended by a chord of S65°19'22"E for a distance of 361.27 feet to an iron pin found; thence turn and run along property now or formerly Fleet Mortgage Co. for the following 12 courses: 1) S21°34'56"W, 574.44 feet to an iron pin found; 2) S68°18'50"E, 10.25 feet to an iron pin found; 3) S36°53'00"W, 381.14 feet to an iron pin found; 4) N64°42'26"W, 394.89 feet to an iron pin set; 5) N36°52'45"E, 67.24 feet to an iron pin set; 6) N69°54'00"W, 131.15 feet to an iron pin set; 7) N64°42'26"W, 97.90 feet to an iron pin set; 8) N31°10'21"W, 12.41 feet to an iron pin set; 9) N53°07'22"W, 59.80 feet to an iron pin set; 10) N20°29'15"W, 121.84 feet to an iron pin set; 11) N43°07'22"W, 38.66 feet to an iron pin set; 12) N08°07'23"W, 28.67 feet to an iron pin set; thence turn and run along the eastern right of way of Enterprise Drive, along a curve to the left, having a length of 762.23 feet, a radius of 10057.33 feet and being subtended by a chord of N37°06'03"E for a distance of 762.05 feet to an iron pin set; thence continuing along said right of way N34°55'47"W for a distance of 56.47 feet to the point of beginning.

TOGETHER WITH non-exclusive perpetual storm drainage easements over and across Drainage Retention Easement area as herein after described and a strip of land 36 feet in width bounded on the north by Range Way, extending in a southeastern direction from the aforesaid 16.528 acres to the Drainage Retention Easement area, the Drainage Retention Easement area being more particularly described as follows:

Commencing at a 5/8" rod found on the southern right of way of Range Way, approximately 1083 feet southeast of the intersection of Range Way and Enterprise Drive, said rod being the point of beginning. Thence continuing along the southern right of way of Range Way N82°48'56"E for a distance of 234.94 feet to an iron pin found; thence turn and run along property now or formerly Fleet Mortgage Co. and the western edge of a 40 foot wide South Carolina Pipeline Gas Easement for the following 3 courses: 1) S06°49'30"W, 88.82 feet to an iron pin set; 2) S00°48'33"E, 97.49 feet to an iron pin set; 3) S18°44'20"W, 74.43 feet to an iron pin found; thence turn and run along property now or formerly Fleet Mortgage Co. for the following 2 courses: 1) S82°50'40"W, 169.75 feet to an iron pin found; 2) N07°15'33"W, 249.92 feet to the point of beginning, containing 1.192 acres more or less.

TOGETHER WITH a non-exclusive perpetual easement for ingress and egress over and across the Access Easement area shown on the Plat and being more particularly described as follows:

Commencing at a #5 rebar set on the eastern right of way of Enterprise Drive, approximately 818 feet southwest of the intersection of Enterprise Drive and Range Way, said rebar being the point of beginning. Thence turn and run along property now or formerly Holmes Smith LLC for the following 8 courses: 1) S08°07'23"E, 28.67 feet to an iron pin set; 2) S43°07'22"E, 38.66 feet to an iron pin set; 3) S20°29'15"E, 121.84 feet to an iron pin set; 4) S53°07'22"E, 59.80 feet to an iron pin set; 5) S31°10'21"E, 12.41 feet to an iron pin set; 6) S64°42'26"E, 97.90 feet to an iron pin set; 7) S69°54'00"E, 131.15 feet to an iron pin set; 8) S36°52'45"E, 67.24 feet to an iron pin set; thence turn and run along property now or formerly Fleet Mortgage for the following 3 courses: 1) N62°42'26"W, 237.74 feet to an iron pin found; 2) N53°09'10"W, 182.20 feet to an iron pin found; 3) N08°26'22"W, 61.76 feet to an iron pin set. Thence turn and run along the eastern right of way of Enterprise Drive along a curve to the left, having a length of 111.59 feet, a radius of 10057.33 feet and being subtended by a chord of N39°35'24"E for a distance of 111.59 feet to the point of beginning, containing 0.794 acres more or less.

DERIVATION: This being the same property conveyed to R. Solomon Florence Interest, LLC by Lexington Florence LLC by deed dated January 22, 2002, recorded in the Office of the Register of Deeds for Florence County on January 28, 2002, in Book A-666 at page 126.

TMS #00120-01-082

# **FLORENCE COUNTY COUNCIL MEETING**

April 15, 2010

**AGENDA ITEM:** Third Reading - Ordinance No. 23-2009/10 - Deferred

**DEPARTMENT:** Economic Development

## **ISSUE UNDER CONSIDERATION:**

(An Ordinance To Amend The Agreement For Development Of A Joint County Industrial Park Dated As Of December 1, 1998 Between Florence County, South Carolina And Williamsburg County, South Carolina To Include Additional Properties In The County As Part Of The Multi-County Industrial Or Business Park. )

## **POINTS TO CONSIDER:**

Additional property in Williamsburg County included.

## **OPTIONS:**

1. *(Recommended)* Defer Third Reading of Ordinance No. 23-2009/10.
2. Provide an Alternate Directive

## **ATTACHMENTS:**

Ordinance No. 23-2009/10.



Sponsor(s) : Economic Development  
 First Reading/Introduction : November 19, 2009  
 Committee Referral : N/A  
 Committee Consideration Date : N/A  
 Committee Recommendation : N/A  
 Second Reading : December 10, 2009  
 Public Hearing : December 10, 2009  
 Third Reading :  
 Effective Date : Immediately

I, \_\_\_\_\_,  
 Council Clerk, certify that this  
 Ordinance was advertised for  
 Public Hearing on \_\_\_\_\_.

## ORDINANCE NO. 23-2009/10

### COUNCIL-ADMINISTRATOR FORM OF GOVERNMENT FOR FLORENCE COUNTY

**(An Ordinance To Amend The Agreement For Development Of A Joint County Industrial Park Dated As Of December 1, 1998 Between Florence County, South Carolina And Williamsburg County, South Carolina To Include Additional Properties In The County As Part Of The Multi-County Industrial Or Business Park. )**

#### WHEREAS:

1. Florence County, South Carolina, a political subdivision of the State of South Carolina (the "County"), acting by and through its County Council (the "Council"), and Williamsburg County, South Carolina, a political subdivision of the State of South Carolina ("Williamsburg County"), acting by and through its County Council, are authorized pursuant to Article VIII, Section 13 of the Constitution of the State of South Carolina and Title 4, Chapter 1 of the Code of Laws of the State of South Carolina 1976, as amended, (the "Code"), specifically Section 4-1-170 thereof, to develop jointly an industrial or business park with other counties within the geographical boundaries of one or more member counties; and
2. The County and Williamsburg County entered into that certain Agreement for Development for Joint County Industrial Park dated as of December 1, 1998, (the "Agreement"); and
3. The County and Williamsburg County, having determined that an enlargement of the boundaries of the Joint County Industrial Park would promote economic development and thus provide additional employment and investment within said counties, have agreed to enter into an Amendment of the Agreement for Development for Multi-County Industrial or Business Park (the "Amendment") to enlarge the boundaries of the Joint County Industrial Park by including certain properties located in the County.

#### NOW THEREFORE BE IT ORDAINED BY THE FLORENCE COUNTY COUNCIL DULY ASSEMBLED THAT:

1. The provisions, terms, and conditions of the Amendment presented to this meeting and filed with the Clerk to the Council are hereby approved, and all of the provisions, terms and conditions thereof are hereby incorporate herein by reference as if the Amendment were set out in this Ordinance in its entirety. The Chairman of the Council is hereby authorized, empowered, and directed to execute and deliver the Amendment in the name and on behalf of the County; the Clerk to the Council is hereby

authorized, empowered, and directed to attest the same; and the Chairman of the Council is further authorized, empowered, and directed to deliver the Amendment to Williamsburg County. The Amendment is to be in substantially the form now before this meeting and hereby approved, or with such changes therein as shall not materially adversely affect the rights of the County thereunder and as shall be approved by the officials of the County executing the same, their execution thereof to constitute conclusive evidence of their approval of any and all changes or revisions therein from the form of Amendment now before this meeting.

2. All orders, resolutions, ordinances, and parts thereof in conflict herewith are, to the extent of such conflict, hereby repealed and this Ordinance shall take effect and be in full force immediately upon public hearing and third reading of the Council.

ATTEST:

\_\_\_\_\_  
Connie Y. Haselden, Council Clerk

SIGNED:

\_\_\_\_\_  
K. G. Rusty Smith, Jr., Chairman

\_\_\_\_\_  
Approved as to Form and Content  
James C. Rushton, III, County Attorney

COUNCIL VOTE:  
OPPOSED:  
ABSENT:

FIFTH AMENDMENT TO AGREEMENT FOR DEVELOPMENT  
FOR JOINT COUNTY INDUSTRIAL PARK

This Fifth Amendment to Agreement for Development for Joint Industrial Park dated December 1, 1998, between Florence County, South Carolina ("Florence County") and Williamsburg County, South Carolina ("Williamsburg County"), each a body politic and political subdivisions of the State of South Carolina (collectively the "Counties").

**WITNESSETH:**

**WHEREAS**, under the authorization of the Counties pursuant to Article VIII, Section 13 of the Constitution of the State of South Carolina and Title 4, Chapter 1 of the Code of Laws of the State of South Carolina 1976, as amended (the "Code"), specifically Section 4-1-170 thereof; and, pursuant to that certain Agreement for Development for Joint County Industrial Park (the "Agreement") dated as of December 1, 1998, the Counties agreed to develop a multi-county industrial or business park (the "Park"), a portion of which is located in Florence County as described in Exhibit A to that Agreement (the "Florence Property"), and a portion of which is located in Williamsburg County as described in Exhibit B to that Agreement (the "Williamsburg Property"); and

**WHEREAS**, an Amendment to Agreement for Development for Joint County Industrial Park (the "First Amendment to Agreement") dated September 28, 2006, amended Exhibit A to the Agreement by adding additional property as described in Exhibit A-1 to the First Amendment to Agreement enlarged the boundaries of the Park; and

**WHEREAS**, pursuant to Ordinance No. 23-2009/10 adopted by Florence County Council on \_\_\_\_\_, and Ordinance No. \_\_\_\_\_ adopted by Williamsburg County Council on \_\_\_\_\_ (collectively, the "Enabling Ordinances"), the Counties have determined that it is in the best interest of the Counties to enlarge the boundaries of the Park as authorized by Section 3 of the Agreement in order to promote economic development and thus provide additional employment opportunities within said Counties.

**NOW, THEREFORE**, in consideration of the mutual agreement, representations and benefits contained in this Agreement and for other good and valuable consideration, the adequacy of which is hereby acknowledged, the Parties hereby agree as follows:

Section 1. Exhibit A to the Agreement which describes the boundaries of the Park with regard to the Florence Property, is amended by adding additional property described on Exhibit A-5 attached hereto.

Section 2. The Agreement as to the property set forth in Exhibit A-5 attached hereto, may not be terminated by either Party for a period of twenty (20) years following the effective date of this Amendment.

Section 3. Except as expressly amended or modified herein, the remaining terms and conditions of the Agreement shall remain in full force and effect.

**IN WITNESS THEREOF**, the parties hereto, each after due authorization, have executed this Fifth Amendment to Agreement for Development for Joint County Industrial Park to be effective as of \_\_\_\_\_.

FLORENCE COUNTY, SOUTH CAROLINA

(SEAL)

\_\_\_\_\_  
Chairman, Florence County Council

ATTEST:

By: \_\_\_\_\_  
Clerk to County Council  
Florence County, South Carolina

WILLIAMSBURG COUNTY, SOUTH CAROLINA

(SEAL)

\_\_\_\_\_  
Chairman, Williamsburg County Council

ATTEST:

By: \_\_\_\_\_  
Clerk to County Council  
Williamsburg County, South Carolina

DRAFT

**LAND DESCRIPTION**  
**FLORENCE COUNTY**

DRAFT

Exhibit A-5 to MCP Agreement and Fifth Amended MCP Agreement

### DESCRIPTION OF PREMISES

That certain tract of land in Florence County, South Carolina, being shown and designated as 16.528 acres at 2210 Enterprise Drive, Florence, SC on a Survey prepared for Holmes Smith, LLC, Lepercq Corporate Income Fund, L.P. and First American Title Insurance Company by Power Engineering Company, Inc. dated June 15, 1998, last revised June 25, 1998 (the "Plat"), said Plat being incorporated herein by reference, said property being more particularly described as follows:

Commencing at a 5/8" rod found at the intersection of the southern right of way of Range Way and the eastern right of way of Enterprise Drive, said rod being the point of beginning; thence run along southern right of way of Range Way S54°52'49"E for a distance of 325.18 feet to an iron pin set; thence continuing along said right of way along a curve to the left, having a length of 363.28 feet, a radius of 996.63 feet and being subtended by a chord of S65°19'22"E for a distance of 361.27 feet to an iron pin found; thence turn and run along property now or formerly Fleet Mortgage Co. for the following 12 courses: 1) S21°34'56"W, 574.44 feet to an iron pin found; 2) S68°18'50"E, 10.25 feet to an iron pin found; 3) S36°53'00"W, 381.14 feet to an iron pin found; 4) N64°42'26"W, 394.89 feet to an iron pin set; 5) N36°52'45"E, 67.24 feet to an iron pin set; 6) N69°54'00"W, 131.15 feet to an iron pin set; 7) N64°42'26"W, 97.90 feet to an iron pin set; 8) N31°10'21"W, 12.41 feet to an iron pin set; 9) N53°07'22"W, 59.80 feet to an iron pin set; 10) N20°29'15"W, 121.84 feet to an iron pin set; 11) N43°07'22"W, 38.66 feet to an iron pin set; 12) N08°07'23"W, 28.67 feet to an iron pin set; thence turn and run along the eastern right of way of Enterprise Drive, along a curve to the left, having a length of 762.23 feet, a radius of 10057.33 feet and being subtended by a chord of N37°06'03"E for a distance of 762.05 feet to an iron pin set; thence continuing along said right of way N34°55'47"W for a distance of 56.47 feet to the point of beginning.

TOGETHER WITH non-exclusive perpetual storm drainage easements over and across Drainage Retention Easement area as hereinafter described and a strip of land 36 feet in width bounded on the north by Range Way, extending in a southeastern direction from the aforesaid 16.528 acres to the Drainage Retention Easement area, the Drainage Retention Easement area being more particularly described as follows:

Commencing at a 5/8" rod found on the southern right of way of Range Way, approximately 1083 feet southeast of the intersection of Range Way and Enterprise Drive, said rod being the point of beginning. Thence continuing along the southern right of way of Range Way N82°48'56"E for a distance of 234.94 feet to an iron pin found; thence turn and run along property now or formerly Fleet Mortgage Co. and the western edge of a 40 foot wide South Carolina Pipeline Gas Easement for the following 3 courses: 1) S06°49'30"W, 88.82 feet to an iron pin set; 2) S00°48'33"E, 97.49 feet to an iron pin set; 3) S18°44'20"W, 74.43 feet to an iron pin found; thence turn and run along property now or formerly Fleet Mortgage Co. for the following 2 courses: 1) S82°50'40"W, 169.75 feet to an iron pin found; 2) N07°15'33"W, 249.92 feet to the point of beginning, containing 1.192 acres more or less.

TOGETHER WITH a non-exclusive perpetual easement for ingress and egress over and across the Access Easement area shown on the Plat and being more particularly described as follows:

Commencing at a #5 rebar set on the eastern right of way of Enterprise Drive, approximately 818 feet southwest of the intersection of Enterprise Drive and Range Way, said rebar being the point of beginning. Thence turn and run along property now or formerly Holmes Smith LLC for the following 8 courses: 1) S08°07'23"E, 28.67 feet to an iron pin set; 2) S43°07'22"E, 38.66 feet to an iron pin set; 3) S20°29'15"E, 121.84 feet to an iron pin set; 4) S53°07'22"E, 59.80 feet to an iron pin set; 5) S31°10'21"E, 12.41 feet to an iron pin set; 6) S64°42'26"E, 97.90 feet to an iron pin set; 7) S69°54'00"E, 131.15 feet to an iron pin set; 8) S36°52'45"E, 67.24 feet to an iron pin set; thence turn and run along property now or formerly Fleet Mortgage for the following 3 courses: 1) N62°42'26"W, 237.74 feet to an iron pin found; 2) N53°09'10"W, 182.20 feet to an iron pin found; 3) N08°26'22"W, 61.76 feet to an iron pin set. Thence turn and run along the eastern right of way of Enterprise Drive along a curve to the left, having a length of 111.59 feet, a radius of 10057.33 feet and being subtended by a chord of N39°35'24"E for a distance of 111.59 feet to the point of beginning, containing 0.794 acres more or less.

DERIVATION: This being the same property conveyed to R. Solomon Florence Interest, LLC by Lexington Florence LLC by deed dated January 22, 2002, recorded in the Office of the Register of Deeds for Florence County on January 28, 2002, in Book A-666 at page 126.

TMS #00120-01-082

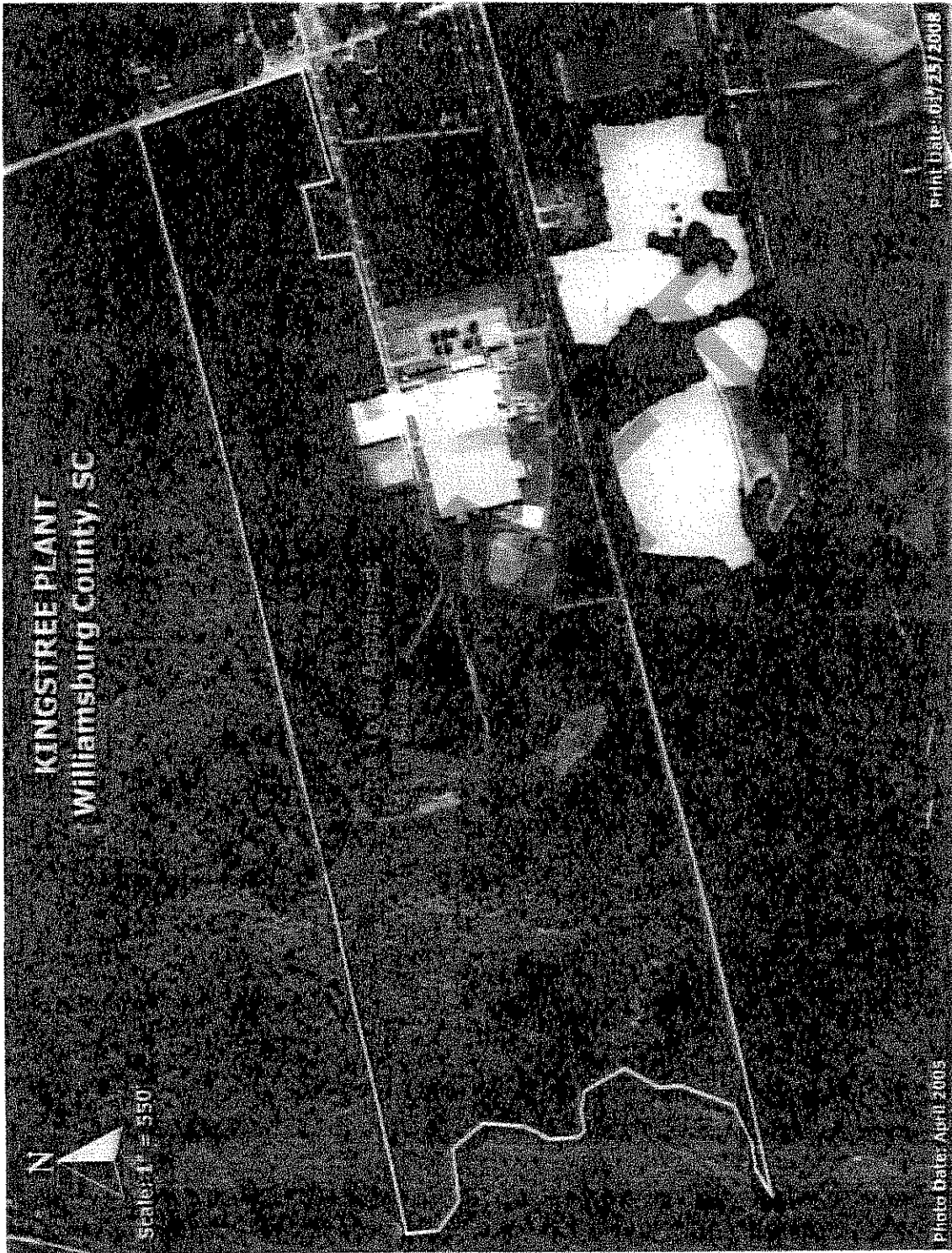
**EXHIBIT B**  
**LAND DESCRIPTION**  
**Williamsburg County**  
**(Williamsburg County/Florence County**  
**Multi-County Industrial Park))**

**ALL THAT CERTAIN piece, parcel, or tract of land depicted on the drawing attached hereto as Exhibit "A," consisting of approximately 43.56 acres. Tax map numbers are 45-177-038; 45-177-037; 45-177-040; and 45-177-039.**

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EXHIBIT A



# FLORENCE COUNTY COUNCIL MEETING

April 15, 2010

**AGENDA ITEM:** Third Reading - Ordinance No. 28-2009/10

**DEPARTMENT:** Finance

## **ISSUE UNDER CONSIDERATION:**

(An Ordinance Authorizing The Issuance And Sale Of A Florence County, South Carolina, Special Source Revenue Bonds (H.J. Heinz, Monster, and MIT Projects), Series 2010, In The Principal Amount Of \$3,000,000; The Application Of The Proceeds Of Said Bonds To Reimburse The County For Expenditures Previously Made By The County With Respect To Economic Development Projects In The County; And Other Matters Relating Thereto.)

## **POINTS TO CONSIDER:**

1. Florence County gave cash incentives to H.J. Heinz, Monster, and MIT in the amounts of \$2,000,000, \$414,135, and \$1,645,000, respectively, to defray the cost of each company's land, building, and infrastructure cost. One third of the incentive given to MIT is being funded by the General Fund.
2. Florence County could be reimbursed for the incentives from the fee in lieu of tax payments from these companies. However, these companies' first fee-in-lieu of tax payments will not be due until January 15, 2011 and it would take most of the first few years of fee payments for Florence County to be reimbursed for these incentives.
3. Therefore, to improve the County's and other political subdivisions' cash flows, a Special Source Revenue Bond (SSRB) will be issued in the amount of \$3,000,000 and the County will be reimbursed for these incentives from the proceeds of this bond.
4. This bond will be repaid from the fee in lieu of tax payments from these three companies. This Ordinance provides for the issuance of these bonds.

## **FUNDING FACTORS:**

As noted above the principal and interest payments on these bonds will be funded entirely from the fee in lieu of tax payments from these companies and will not require the appropriation of any County funds.

## **OPTIONS:**

1. *(Recommended)* Approve Third Reading of Ordinance No. 28-2009/10.
2. Provide An Alternate Directive.

## **ATTACHMENT:**

Ordinance No. 28-2009/10

Sponsor(s) : County Council  
First Reading : February 18, 2010  
Committee Referral : N/A  
Committee Consideration Date : N/A  
Committee Recommendation : N/A  
Second Reading : March 18, 2010  
Public Hearing : March 18, 2010  
Third Reading : April 15, 2010  
Effective Date : April 15, 2010

I, \_\_\_\_\_,  
Council Clerk, certify that this  
Ordinance was advertised for  
Public Hearing on \_\_\_\_\_.

**ORDINANCE NO. 28-2009/10**

**COUNCIL-ADMINISTRATOR FORM OF GOVERNMENT FOR FLORENCE COUNTY**

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**AN ORDINANCE**

**AUTHORIZING THE ISSUANCE AND SALE OF A FLORENCE COUNTY, SOUTH CAROLINA, SPECIAL SOURCE REVENUE BOND (H.J. HEINZ, MONSTER, AND MIT PROJECT), SERIES 2010, IN THE PRINCIPAL AMOUNT OF \$3,000,000; THE APPLICATION OF THE PROCEEDS OF SAID BOND TO REIMBURSE THE COUNTY FOR EXPENDITURES PREVIOUSLY MADE BY THE COUNTY WITH RESPECT TO ECONOMIC DEVELOPMENT PROJECTS IN THE COUNTY; AND OTHER MATTERS RELATING THERETO.**

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EXHIBIT A –	FLORENCE-WILLIAMSBURG JOINT INDUSTRIAL AND BUSINESS PARK AGREEMENT WITH RESPECT TO H.J. HEINZ PROJECT
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EXHIBIT E –	FORM OF BOND

NOW THEREFORE BE IT ORDAINED BY THE FLORENCE COUNTY COUNCIL DULY ASSEMBLED THAT:

## ARTICLE I

### FINDINGS OF FACT

#### Section 1.01 Recitals and Statements of Purpose.

As an incident to the enactment of this Ordinance, the County Council (the "Council"), the governing body of Florence County, South Carolina (the "County"), has made the following findings:

(A) The several counties in the State of South Carolina (the "State") are empowered pursuant to Title 4, Chapters 1 and 29, Code of Laws of South Carolina 1976, as amended (collectively, the "Act"), to defray the cost of acquisition and construction of infrastructure serving the counties, including improved or unimproved real estate used or to be used in the operation of a manufacturing or commercial enterprise, in order to enhance the economic development of such counties through the issuance of revenue bonds payable solely from all or a specifically described part of the payments in lieu of taxes received and retained by the counties under certain provisions of the Act, Chapter 12 of Title 4 of the Code of Laws of South Carolina 1976, as amended, and/or Section 13 of Article VIII of the South Carolina Constitution.

(B) Pursuant to Section 4-1-170 of the Act and Article VIII, Section 13 of the South Carolina Constitution, the County has established certain joint county industrial and business parks pursuant to agreements with Williamsburg County, as more fully described herein (each a "Multi-County Park"; together, the "Multi-County Parks").

(C) Pursuant to the provisions of the Act and in furtherance of the purposes thereof, Council has previously authorized the expenditure of the following amounts with respect to economic development projects in the County in calendar years 2009-10: \$3,000,000 to reimburse the County for expenditures previously made to defray the costs of acquiring certain economic development property in the County by H.J. Heinz Financing Company and BNP Parabas Leasing Corporation (the "Heinz Project"), which Heinz Project represents a \$105 Million investment that is expected to create 350 jobs in the County; Monster Worldwide South Carolina and Red Rock Pee Dee, LLC (the "Monster Project"), which Monster Project represents a \$28 Million investment that is expected to create 750 jobs in the County; and MIT-RCF, LLC (the "MIT Project"), which MIT Project represents a \$5 Million investment that is expected to create 120 jobs in the County (together, "Projects"). Such expenditures were made by the County in the form of three separate grants: (1) \$2,000,000 for the purchase of real property and infrastructure, design, planning, and construction costs with respect to the Heinz Project (the "Heinz Grant") (2) \$414,135 for the purchase of real property and infrastructure, design, planning, training, and construction costs with respect to the Monster Project, as well as the cost of *ad valorem* taxes with respect to temporary office space related to the Monster Project (the "Monster Grant"); and (3) \$548,333 for the upfit of the Lake City Spec Building in the Godley-Morris Industrial Park, in which the MIT Project is located (the "MIT Grant") (together, "Grants"). Council has found and determined that the Grants were made to induce manufacturing and commercial enterprises to locate in the County and thereby increase the County's tax base and have a beneficial effect upon the economy of the County and areas adjacent thereto by providing employment not otherwise provided in the County.

(D) Each of the Projects is located in a Multi-County Park.

(E) Pursuant to Section 4-1-175 of the Act, the County has determined to issue a \$3,000,000 principal amount revenue bond, payable from revenues of the Multi-County Parks relating to the Projects, and from such revenues relating to property of Roche Carolina Inc. included in a separate Multi-County Park (the "Roche Property"), which may be received and retained by the Florence County Treasurer, in order to reimburse the County for its expenditures with respect to the Grants, to pay interest on such bond for a period not to exceed one (1) year from the date of delivery of said bond, and to pay costs of issuance thereof.

## ARTICLE II

### DEFINITIONS, CONSTRUCTION AND INTERPRETATIONS

#### Section 2.01 Defined Terms.

The terms defined in this Article II shall for all purposes of this Ordinance have the meanings herein specified, unless the context clearly otherwise requires.

**"Act"** shall mean, collectively, Title 4, Chapters 1 and 29 Code of Laws of South Carolina, 1976, as amended, and all future acts amendatory thereof.

**"Administrator"** shall mean the County Administrator or any acting or interim County Administrator of the County.

**"Annual Debt Service Requirement"** shall have the meaning provided for such term in Section 7.02(d) hereof.

**"Bond"** shall mean the Florence County, South Carolina, Special Source Revenue Bond (H.J. Heinz, Monster, and MIT Project), Series 2010, in the principal amount of \$3,000,000, the proceeds of which will be disbursed as provided for herein.

**"Bond Counsel"** shall mean an attorney or firm of attorneys nationally recognized on the subject of municipal bonds and reasonably acceptable to the County.

**"Bondholder"** or **"Holder"** or **"Owner"** or similar term means, when used with respect to the Bond, any person who shall be registered as the owner of the Bond outstanding.

**"Bond Register"** shall have the meaning specified in Section 3.03 hereof.

**"Bond Registrar"** shall mean the Treasurer of the County.

**"Code"** shall mean the Internal Revenue Code of 1986, as amended.

**"Cost"** shall mean the cost of any sums required to reimburse the County for advances made by it with respect to the Grants.

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

**"Debt Service Fund"** shall mean the fund of that name created under Section 7.02 hereof.

**"Default"** shall mean an event or condition, the occurrence of which with the lapse of time or notice or both, become an Event of Default under Section 9.01 hereof.

**"Event of Default"** shall mean, with reference to this Ordinance, any of the occurrences described in Section 9.01 hereof.

**"FILOT Revenues"** shall mean the payments in-lieu-of taxes relating to the Projects and the Roche Property received by the Treasurer pursuant to the Park Agreements.

**"Multi-County Fees"** shall mean the fee payable by the County to the respective partner counties and any successors thereto under the Park Agreements with respect to FILOT Revenues received from properties located in the County.

**"Net FILOT Revenues"** shall mean the FILOT Revenues remaining after (i) any applicable special source revenue credits; (ii) payment of the Multi-County Fees; and (iii) any amounts allocated to the Florence County Economic Development Partnership.

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

**"Park Agreements"** shall mean (i) the Second Amendment to the Agreement for Development for Joint County Industrial Park dated as of June 19, 2008 between the County and Williamsburg County relating to the Heinz Project, which is attached hereto as Exhibit A; (ii) the Third Amendment to the Agreement for Development of Joint County Industrial Park dated as of June 26, 2008 between the County and Williamsburg County, as amended, relating to the Monster Project, a copy of which is attached hereto as Exhibit B; (iii) Fourth Amendment to the Agreement for Development for Joint County Industrial Park dated as of December 7, 2009 between the County and Williamsburg County relating to the MIT Project, which is attached hereto as Exhibit C, and (iv) the Agreement for Development for Joint County Industrial Park dated as of December 22, 1999 between the County and Marion County relating to the Roche Property, which is attached hereto as Exhibit D, as any of the agreements referred to in (i), (ii), (iii), or (iv) may be further modified, supplemented or amended from time to time; and (v) such other agreements entered in to by the County and any partner county pursuant to Section 4-1-170 of the Act, or any successor provision, which the County, in its discretion, may hereafter determine to include in this definition of "Park Agreements" for purposes of adding additional security to the Bond.

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

**"Pledged Revenues"** shall mean the Net FILOT Revenues.

**"Projects"** shall have the meaning specified in Section 1.01(C) hereof.

**"Purchaser"** shall mean the financial institution selected pursuant to Section 8.01 hereof.

**"Registered Owner"** shall mean the Person or Persons in whose name or names the Bond shall be registered on the Bond Register.

**"Revenue Fund"** shall mean the fund of that name created under Section 7.01 hereof.

**"Roche Property"** shall have the meaning specified in Section 1.01(E) hereof.



**"State"** shall mean the State of South Carolina.

**"Treasurer"** shall mean the Florence County Treasurer or the acting or interim County Treasurer of the County.

Section 2.02 Interpretations.

In this Ordinance, unless the context otherwise requires:

(A) Articles, Sections and paragraphs referred to by number shall mean the corresponding Articles, Sections and paragraphs of this Ordinance.

(B) Words of the masculine gender shall be deemed and construed to include correlative words of the feminine and neuter genders. Words importing the singular number shall include the plural number and vice versa, and words importing persons shall include firms, associations, partnerships (including limited partnerships), trusts, corporations, or other legal entities, including public bodies, as well as natural persons.

(C) The terms "hereby", "hereof", "hereto", "herein", "hereunder", and any similar terms, as used in this Ordinance refer to this Ordinance or Sections or paragraphs of this Ordinance and the term "hereafter" shall mean any date after the date of adoption of this Ordinance.

(D) References to the payment of principal of Bond shall be deemed to include payment of principal both at maturity and by mandatory redemption pursuant to any sinking fund payment obligations.

(E) Unless the context shall clearly indicate otherwise, all accounting terms used herein without definition shall be interpreted in accordance with generally accepted accounting principles.

**ARTICLE III**

**DESCRIPTION, AUTHORIZATION, MANNER OF EXECUTION,  
REGISTRATION AND TRANSFER OF BOND**

Section 3.01 Authorization and Details of Bond.

The Bond shall be designated as the "Florence County, South Carolina, Special Source Revenue Bond (H.J. Heinz, Monster, and MIT Project), Series 2010" and shall be dated as of the date of its original issuance and delivery and shall be issued as a single certificate in the principal amount of \$3,000,000. The Bond shall bear interest from the date of delivery thereof, and interest thereon shall be payable on the anniversary of such date of delivery (the "Bond Payment Date"). Principal of the Bond shall be payable on each Bond Payment Date in such amounts and for such term as shall be determined by the Chairman in consultation with the County Administrator and County Finance Director, provided, however, that the final maturity of the Bond shall not occur more than 15 years from the dated date thereof.

The Bond shall be prepayable at the option of the County in whole but not in part, without penalty, upon fifteen (15) days prior written notice, on any Bond Payment Date. Any partial prepayments shall be applied to the Bond in the inverse order of maturity or otherwise as the Registered Owner shall determine in its sole discretion. The Council by majority vote, in consultation with the County Administrator and County Finance Director, is authorized to establish alternate prepayment provisions,

including without limitation a prepayment premium and limitations on prepayment, with respect to the Bond.

The Bond shall be issued in substantially the form as set forth in Exhibit E attached hereto, with necessary appropriate variations, omissions and insertions as permitted or required by this Ordinance.

The installments of principal, premium, if any, and interest on the Bond shall be payable to the Registered Owner thereof or its assigns by check or draft (via first class mail) or wire transfer of collected funds to such Person at his orders last appearing on the Bond Register. All payments of principal and interest on the Bond shall be payable in any lawful money of the United States of America which at the time of payment is legal tender for the payment of public and private debts.

#### Section 3.02    Execution of Bond.

The Bond shall be executed on behalf of the County by the manual or facsimile signature of the Chairman or Vice-Chairman of the Council and its corporate seal shall be impressed, imprinted, engraved or otherwise affixed or reproduced thereunto and attested to by the manual or facsimile signature of the Clerk to Council. If any of the officers who shall have signed or sealed the Bond shall cease to be such officer of the County before the Bond so signed and sealed shall have been actually delivered by the County, the Bond nevertheless may be issued and delivered with the same force and effect as though the person or persons who signed or sealed the Bond had not ceased to be such officer or officers of the County; and also the Bond may be signed and sealed on behalf of the County by those persons who, at the actual date of the execution of the Bond, shall be the proper officers of the County, although at the date of the Bond any such person shall not have been such officer of the County.

#### Section 3.03    Negotiability, Registration and Transfer.

The Treasurer shall maintain on behalf of the County, as Bond Registrar, a register to record the names and addresses of the last known Registered Owners of the Bond known as the Bond Register. Upon surrender of the Bond for transfer thereof by the Registered Owner, in person or by his attorney duly authorized in writing, together with a written instrument of transfer in form satisfactory to the Bond Registrar, including the address to which payment of the Bond is to be directed and at which presentment is to be made, duly executed by the Registered Owner or his attorney duly authorized in writing, and upon payment by such Registered Owner of a sum sufficient to cover any governmental tax or charge required to be paid, the Bond shall be reissued at the same interest rate to the transferee with a notation as to the principal amount outstanding as of the date of such transfer.

The County may deem and treat the Registered Owner of the Bond as the absolute owner of such Bond for the purpose of receiving any payment on the Bond and for all other purposes of this Ordinance, whether such Bond shall be overdue or not, and the County shall not be affected by any notice to the contrary. Payment of, or on account of, the principal and interest on the Bond shall be made to such Registered Owner or upon his written order. All such payments shall be valid and effectual to satisfy and discharge the liability upon the Bond to the extent of the sum or sums so paid.

Notwithstanding anything herein to the contrary, absent the prior written consent of the County to appropriate modifications of the Bond and this Ordinance, the Bond may be assigned or transferred by the Purchaser or any subsequent Registered Owner only in whole but not in part.

Section 3.04 Limited Obligation of the County.

The Bond shall be a limited obligation of the County, the principal and interest on which shall be secured by, and payable by the County solely out of, the Pledged Revenues. THE BOND AND THE INTEREST THEREON DO NOT AND SHALL NEVER CONSTITUTE AN INDEBTEDNESS OF THE COUNTY WITHIN THE MEANING OF ANY STATE CONSTITUTIONAL PROVISION OR STATUTORY LIMITATION AND DO NOT AND SHALL NEVER CONSTITUTE OR GIVE RISE TO A PECUNIARY LIABILITY OF THE COUNTY, OTHER THAN THE PLEDGED REVENUES, OR A CHARGE AGAINST ITS GENERAL CREDIT OR TAXING POWERS.

No breach by the County of this Ordinance or of any provision or condition hereof or in the Bond or of any agreement contained herein or in the Bond shall result in the imposition of any pecuniary liability upon the County, other than from the Pledged Revenues, or any charge upon its general credit or against its taxing power. The liability of the County under this Ordinance and the Bond or any provision or condition hereof or thereof or of any agreement herein or in the Bond contained or of any warranty herein or in the Bond included or for any breach or default by the County of any of the foregoing shall be limited solely and exclusively to the applicable property pledged herein. The County shall not be required to execute or perform any of its duties, obligations, powers or covenants hereunder or under the Bond except to the extent of the Pledged Revenues pledged thereto and available therefor.

THE PROVISIONS OF THIS SECTION 3.04 SHALL CONTROL EVERY OTHER PROVISION OF THIS ORDINANCE, ANYTHING IN SUCH OTHER PROVISIONS TO THE CONTRARY NOTWITHSTANDING.

**ARTICLE IV**

**USE OF NET PROCEEDS OF THE BOND**

Section 4.01 Reimbursement of County General Fund for Expenditures.

Upon the issuance of the Bond, the Purchaser shall remit the net sales proceeds of the Bond to the County for deposit as directed by the authorized officer of the County. The County may use such proceeds: (i) to reimburse itself for expenditures with respect to the Grants; (ii) to pay interest on the Bond for a period not to exceed one (1) year from the date of delivery thereof; and (iii) to pay costs of issuance associated with the Bond.

**ARTICLE V**

**REPRESENTATIONS AND COVENANTS OF THE COUNTY**

Section 5.01 Representations of County.

The County represents and warrants that:

- (a) The County is a body politic and corporate and a political subdivision of the State.
- (b) The County has full power, authority and legal right under the Constitution and laws of the State, including the Act, to: (i) to issue the Bond and to use the proceeds thereof to defray the cost of acquiring, by construction and purchase, the Projects; (ii) enact this Ordinance and execute and deliver

the Bond; and (iii) perform and observe all of the County's obligations under this Ordinance and the Bond.

(c) The County has held a public hearing with respect to the issuance of the Bond and will duly authorize the issuance of the Bond by the enactment of this Ordinance.

(d) This Ordinance and the Bond constitute the legal, valid and binding obligations of the County.

(e) To the best of the County's knowledge, the execution and delivery of the Bond, the enactment of this Ordinance, and performance by the County of its obligations hereunder and thereunder, do not and will not: (i) conflict with, or result in the violation or breach of, or constitute a Default or Event of Default or require any consent under, or create any lien, charge or encumbrance under the provisions of (x) the Constitution of the State or any law, rule or regulation of any governmental authority, or (y) any agreement; (ii) call into question the creation, organization or existence of the County or its governing body or the power of the County to enter into the transactions contemplated hereby; or (iii) result in any suit, action of decree wherein an unfavorable decision, ruling or finding would adversely affect the transactions contemplated hereby or would affect the validity, or adversely affect the enforceability, of this Ordinance and the Bond or any other agreement or instrument to which the County is a party.

(f) The Park Agreements are in full force and effect and are legal, valid and binding and enforceable against the County and each of the partner counties thereto.

#### Section 5.02 Pledge and Security Interest.

The Bond shall be payable solely from and shall be secured by a pledge of and lien upon all of the County's right, title and interest in the Pledged Revenues. Such pledge and lien constitutes a first and prior pledge of and lien upon and security interest in the Pledged Revenues, subject to the provisions of Article VI hereof. Said pledge, lien and security interest shall at no time be impaired directly or indirectly by the County, and, subject to the provisions of said Article VI, the County's right, title and interest in the Pledged Revenues shall not otherwise be pledged and, except as expressly provided herein, no person shall have any rights with respect thereto.

#### Section 5.03 Amendments to Park Agreements or this Ordinance.

For the term of the Bond or until otherwise paid, the County, without the prior written consent of the Registered Owner or as may otherwise be expressly provided herein, shall not agree to:

- (i) amend, modify or terminate any of the Park Agreements;
- (ii) a reduction in the rate or amount of fees in lieu of taxes otherwise currently payable by all fee (tax) payers whose properties are currently subject to the Park Agreements, so as to diminish the amount of FILOT Revenues otherwise receivable pursuant to the Park Agreements; provided, however, nothing herein shall be construed to limit the ability of the County to hereafter (a) add additional properties to any of the Park Agreements ("Additional Park Businesses") or (b) provide any fee in lieu of tax incentives, including infrastructure credits, pursuant to the Act, (1) to any Additional Park Businesses or (2) with respect to additional investment made after such date by businesses currently subject to any of the Park Agreements; or

(iii) amend, modify or terminate this Ordinance, except as may be (a) required in accordance with the provisions of Section 6.01 hereof and (b) necessary in order to enable the County, at its discretion, to add any additional security to the pledge and lien securing the Bond (including without limitation Net FILOT Revenues receivable with respect to any joint county industrial or park agreement established by the County with a partner county pursuant to Section 4-1-170 of the Act, other than the agreements set forth in Exhibits A, B, C, and D hereto).

## ARTICLE VI

### ADDITIONAL BONDS

#### Section 6.01 Additional Bonds.

Notwithstanding anything in this Ordinance to the contrary, the County shall be hereafter entitled to issue from time to time, in addition to the Bond, additional bonds payable from the Net FILOT Revenues, provided that (a) prior to any such issuance, the County demonstrates, to the Registered Owner's reasonable satisfaction, that Net FILOT Revenues for the preceding fiscal year of the County, as adjusted to reflect any additional annual Net FILOT Revenues as may reasonably be expected to be received by the County as a result of (i) any additional investment by industries or businesses since such fiscal year or (ii) any subsequent pledge by the County of amounts receivable pursuant to any joint county industrial or business park agreement established by the County with a partner county pursuant to Section 4-1-170 of the Act, other than the agreements set forth in Exhibits A, B, C, and D hereto, were sufficient to pay the Annual Debt Service Requirement on the Bond for such fiscal year plus the maximum annual debt service on the proposed issuance of additional bonds (net of any capitalized interest) at a rate of 1.35 times coverage; (b) the lien upon the Net FILOT Revenues securing such additional bonds is expressly stated to be equal in all respects (pari passu) to the lien established under this Ordinance with respect to the Bond; (c) the applicable provisions of this Ordinance, including without limitation Article VII hereof, are amended by enactment of ordinance of the Council to appropriately reflect the issuance of such additional bond and the parity first lien status, all to the reasonable satisfaction of the Registered Owner; and (d) nothing in this Ordinance shall be construed to prevent the issuance of bonds by the County secured by Net FILOT Revenues on a basis which is expressly stated to be junior and subordinate to the lien upon the Net FILOT Revenues securing the Bond and any such additional parity first lien bonds.

## ARTICLE VII

### FLOW OF FUNDS

#### Section 7.01 Revenue Fund.

The Treasurer shall create a special fund of the County to be designated as the "Florence County Series 2010 Special Source Revenue Bond (H.J. Heinz, Monster, and MIT Project) Revenue Fund" (the "Revenue Fund"), wherein all Net FILOT Revenues shall be deposited when received by the Treasurer and disbursed as follows:

(a) Unless the Treasurer shall have received notice from the County in accordance with paragraph (b) below, and provided that no Event of Default shall have occurred and be continuing, annual amounts received as Net FILOT Revenues shall be disbursed by the Treasurer as follows:

(1) The Treasurer shall first determine the County's pro-rata share, based on the proportion the County's millage rate bears to the total millage rate, of Net FILOT Revenues received, without regard to any required funding of the Debt Service Fund (the "County Pro-Rata Share").

(2) From the County Pro-Rata Share, the Treasurer shall then fund the Debt Service Fund in the manner provided in Section 7.02 hereof, to the extent available.

(3) If the County Pro-Rata Share has been sufficient to enable the Treasurer to meet the required funding of the Debt Service Fund in accordance with said Section 7.02, the Treasurer shall then (A) pay to the County the amount determined pursuant to subparagraph (1) above, less the amount the Treasurer has deposited in the Debt Service Fund, and (B) distribute the remaining amount, if any, among the remaining applicable taxing entities (other than the County) (the "Applicable Non-County Taxing Entities") in the same proportion as each such Applicable Non-County Taxing Entity's millage rate bears to the total millage rate of all Applicable Non-County Taxing Entities.

(4) In the event the amount paid into the Debt Service Fund pursuant to subparagraph (2) above is not sufficient to meet the required funding obligation in accordance with said Section 7.02, the Treasurer shall fund the deficiency in the Debt Service Fund from the amount of Pledged Revenues otherwise allocable to the Applicable Non-County Taxing Entities, on a pro-rata basis, based on the proportion each such Applicable Non-County Taxing Entity's millage rate bears to the total millage rate of all Applicable Non-County Taxing Entities. After such funding of the deficiency amount, the Treasurer shall distribute the remaining pro-rata allocable amounts to the Applicable Non-County Taxing Entities, based on the proportion each such Applicable Non-County Taxing Entity's millage rate bears to the total millage rate of all Applicable Non-County Taxing Entities.

(b) If the County shall have notified the Treasurer by the fifteenth day of the month next preceding a Bond Payment Date as to the same, annual amounts received by the Treasurer as Net FILOT Revenues shall be applied first to fund the Debt Service Fund in the manner provided in Section 7.02 hereof, and thereafter, except upon the occurrence and continuance of an Event of Default, any remaining balance after such funding of the Debt Service Fund shall be divided by the Treasurer pro-rata among all applicable taxing entities in the County in the same proportion as each such taxing entity's millage rate bears to the total millage rate.

The Treasurer may direct the investment and reinvestment of amounts on deposit in the Revenue Fund in any investments which are authorized for funds of political subdivisions under the laws of the State.

#### Section 7.02 Debt Service Fund.

(a) The Treasurer shall establish a special fund of the County to be designated as the "Florence County Series 2010 Special Source Revenue Bond (H.J. Heinz, Monster, and MIT Project) Debt Service Fund" (the "Debt Service Fund"). The Debt Service Fund shall be maintained by the Treasurer as a segregated account held in trust for the Registered Owner of the Bond. Moneys on deposit in the Debt Service Fund shall be used and applied solely to the payment of the principal of and interest on the Bond, all in accordance with the provisions of this Ordinance.

(b) Any amount of sale proceeds of the Bond designated pursuant to Section 4.01(b) hereof as capitalized interest shall be deposited by the Treasurer in the Debt Service Fund and used to offset any

payments of interest on the Bond required to be paid therefrom pursuant to the remaining provisions of this Section.

(c) Not later than March 1 of each year, commencing March 1, 2011, the Treasurer shall fund the Debt Service Fund from amounts in the Revenue Fund in an amount sufficient to pay the scheduled payments of principal of and/or accrued interest on the Bond on the succeeding Bond Payment Date(s) preceding March 1 of the following year (the "Annual Debt Service Requirement"). Such funding shall be reduced by the amount capitalized interest directed by the County to be funded by proceeds of the Bond deposited in the Revenue Fund or Debt Service Fund.

(d) In addition to payment of the Annual Debt Service Requirement, the Treasurer shall at any time, as necessary, fund the Debt Service Fund from amounts in the Revenue Fund to fund amounts sufficient to pay the principal of and accrued interest on the Bond payable as a result of any prepayment (except pursuant to the provision of Section 4.01(c) hereof) or acceleration of the Bond.

(e) The Treasurer may direct the investment and reinvestment of amounts on deposit in the Debt Service Fund in any investments which are authorized for funds of political subdivisions under the laws of the State.

## **ARTICLE VIII**

### **SALE OF THE BOND**

#### Section 8.01 Sale of the Bond.

Bids for the sale of the Bond shall be solicited by the County Administrator from one or more financial institutions as the County Administrator, in consultation with the County Finance Director, shall determine. The County Administrator shall award the Bond to the financial institution offering to purchase the Bond upon terms deemed by the County Administrator, in his sole discretion, to be in the best interests of the County.

## **ARTICLE IX**

### **DEFAULTS AND REMEDIES**

#### Section 9.01 Events of Default; Acceleration; Waiver.

Each of the following events is hereby declared an Event of Default:

(i) default shall be made in the due and punctual payment of any installment of the principal of the Bond; or

(ii) default shall be made in the due and punctual payment of any installment of interest on the Bond; or

(iii) the County shall fail duly and punctually to perform any covenant, condition, agreement or provision contained in this Ordinance on the part of the County to be performed, other than as referred to in the subsections (i) and (ii) of this Section 9.01, which failure shall continue for a period of 30 days after written notice by the Registered Owner specifying such

failure and requesting that it be remedied is given to the County by first-class mail, unless the Registered Owner shall agree in writing to an extension of time prior to its expiration; provided, however, if the failure stated in the notice cannot be corrected within the applicable period, the Registered Owner shall not unreasonably withhold its consent to an extension of such time if corrective action is instituted by the County within the applicable period and diligently pursued until the Default is corrected; or

(iv) any representation or warranty made by the County under this Ordinance or any documents or information delivered to any Registered Owner was, when made, untrue or materially misleading; or

(v) the County shall (i) apply for or consent to the appointment of a receiver, trustee, liquidator or custodian of the County or any of their respective properties or assets, (ii) fail or admit in writing the inability of the County to pay the County's debts generally as they become due, (iii) make a general assignment for the benefit of its creditors or have an order for relief entered against the County in any proceeding under the federal bankruptcy code or (iv) file a voluntary petition in bankruptcy, or a petition or an answer seeking an arrangement with creditors, or take advantage of any bankruptcy, reorganization, insolvency, readjustment of debt, dissolution or liquidation law or statute or an answer admitting the material allegations of a petition filed against the County in any proceeding under any such law, or if corporate action should be taken by the County for the purpose of effecting any of the foregoing.

#### Section 9.02 Legal Proceedings by the Purchaser.

Upon the happening and continuance of any Event of Default, then and in every such case the Registered Owner in its discretion may:

- (a) accelerate all amounts due on the Bond;
- (b) by mandamus, or other suit, action or proceeding at law or in equity, enforce all of its rights and require the County to carry out any agreements with or for its benefit and to perform its or their duties under the Act and this Ordinance;
- (c) bring suit upon the Bond;
- (d) by action or suit in equity require the County to account for the Pledged Revenues as if it were the trustee of an express trust for the Registered Owner; or
- (e) by action or suit in equity enjoin any acts or things which may be unlawful or in violation of its rights.

#### Section 9.03 Remedies Not Exclusive.

No remedy in this Ordinance conferred upon or reserved to the Purchaser or to the Registered Owner of the Bond is intended to be exclusive of any other remedy or remedies, and each and every such remedy shall be cumulative and shall be in addition to every other remedy given under this Ordinance or now or hereafter existing at law or in equity or by statute.



Section 9.04 Nonwaiver.

No delay or omission of the Purchaser or of the Registered Owner of the Bond to exercise any right or power accruing upon any Default or Event of Default shall impair any such right or power or shall be construed to be a waiver of any such Default or Event of Default, or an acquiescence therein.

Section 9.05 Application of Moneys Upon Event of Default.

Any moneys received by the Registered Owner upon enforcement of its rights hereunder shall be applied as follows: first, to the reasonable costs associated with such enforcement proceedings and second, to the amounts due under the Bond in such order as elected by the Registered Owner.

## ARTICLE X

### MISCELLANEOUS

Section 10.01 State Law Continuing Disclosure; Remedies.

(a) The County covenants to comply with the requirements of Section 11-1-85 of the South Carolina Code of Laws 1976, as amended, by filing with a central repository for availability in the secondary bond market when requested:

(i) an annual independent audit, within thirty (30) days of the County's receipt of the audit; and

(ii) event specific information within thirty (30) days of an event adversely affecting more than five percent of the Net FILOT Revenues.

(b) The County specifically reserves the right to amend the above covenant in order to reflect any applicable change, or repeal, in law, including without limitation said Section 11-1-85, without the consent of the Registered Owner of the Bond.

(c) The only remedy for failure by the County to comply with the covenants set forth in Section 10.01(a) above shall be an action for specific performance of such covenants; and failure to comply with such covenants shall not constitute a Default or an Event of Default under this Ordinance. However, any Registered Owner may take such actions as may be necessary and appropriate, including seeking mandamus or specific performance by court order, to cause the County to comply with its obligations under this Section 10.01.

Section 10.02 Severability.

If any one or more of the covenants or agreements provided in this Ordinance on the part of the County or any fiduciary to be performed should be contrary to law, then such covenant or covenants or agreement or agreements shall be deemed severable from the remaining covenants and agreements, and shall in no way affect the validity of the other provisions of this Ordinance.

Section 10.03 Ordinance to Constitute Contract.

In consideration of the purchase and acceptance of the Bond by those who shall purchase and hold the same from time to time, the provisions of this Ordinance shall be deemed to be and shall constitute a

contract between the County and the Holders from time to time of the Bond, and such provisions are covenants and agreements with such Holders which the County hereby determined to be necessary and desirable for the security and payment thereof.

ATTEST:

SIGNED:

\_\_\_\_\_  
Connie Y. Haselden, Council Clerk

\_\_\_\_\_  
K. G. Rusty Smith, Jr., Chairman

COUNCIL VOTE:

OPPOSED:

ABSENT:

\_\_\_\_\_  
Approved as to Form  
James C. Rushton, III, County Attorney

DRAFT

SECOND AMENDMENT TO FLORENCE-WILLIAMSBURG JOINT INDUSTRIAL  
AND BUSINESS PARK AGREEMENT  
DATED JUNE 19, 2008  
[HEINZ PROJECT]

DRAFT

THIRD AMENDMENT TO FLORENCE-WILLIAMSBURG JOINT INDUSTRIAL  
AND BUSINESS PARK AGREEMENT  
DATED JUNE 26, 2008  
[MONSTER PROJECT]

DRAFT

FOURTH AMENDMENT TO FLORENCE-WILLIAMSBURG JOINT INDUSTRIAL  
AND BUSINESS PARK AGREEMENT  
DATED DECEMBER 7, 2009  
*[MIT PROJECT]*

DRAFT

FLORENCE-MARION JOINT INDUSTRIAL AND BUSINESS PARK AGREEMENT  
DATED DECEMBER 22, 1999  
[ROCHE PROPERTY]

DRAFT

FORM OF BOND

**FLORENCE COUNTY, SOUTH CAROLINA  
SPECIAL SOURCE REVENUE BOND  
(H.J. HEINZ, MONSTER, AND MIT PROJECT)  
SERIES 2010**

No. \_\_\_\_

\$3,000,000

**KNOW ALL MEN BY THESE PRESENTS** that **FLORENCE COUNTY, SOUTH CAROLINA** (hereinafter called the "County"), a body politic and corporate and a political subdivision of the State of South Carolina (the "State"), for value received promises to pay, but only from the Pledged Revenues and as hereinafter provided, to the order of

\_\_\_\_\_  
(hereinafter, together with its successors and assigns, called the "Payee") at its principal office in \_\_\_\_\_ (or at such other office of the Payee as the Payee shall direct) the principal sum of

**THREE MILLION DOLLARS (\$3,000,000)**

, and in like manner to pay interest on the unpaid principal amount hereof from time to time outstanding from the date of delivery of this Bond until \_\_\_\_\_, 20\_\_, or earlier upon prior redemption hereof, at the rate per annum described below, such principal to be payable on \_\_\_\_\_ of the years and in the respective amounts, as follows:

Interest hereon shall be payable each \_\_\_\_\_, commencing \_\_\_\_\_.  
All unpaid principal and accrued interest hereon shall be due and payable on \_\_\_\_\_.

This Bond shall bear interest at the rate of \_\_\_\_\_ (\_\_\_\_%) per annum.

If any installment of principal or interest is not paid on or before its due date, such unpaid installment shall bear interest from its due date until fully paid at the rate hereunder.

Interest on this Bond is payable by check or draft or wire transfer of collected funds of the United States of America, which at the respective times of payment is legal tender for the payment of public and private debts. The final installment of the principal of and interest on this Bond shall be paid upon presentation and surrender hereof to the County, at the office of the County Treasurer or at such other address designated by such Bond Register pursuant to the terms of the Ordinance (hereinafter defined). All other installments of principal and interest hereon shall be paid by check or draft (via first class mail) or wire transfer of collected funds to the registered owner at his address last appearing on the Bond Register (hereinafter defined).

This Bond is issued by the County for the purpose of defraying costs related to the Projects, as defined in the Ordinance, paying certain interest hereon during completion of the Projects, and paying costs of issuance hereof. This Bond is authorized to be issued and is issued under, pursuant to and in full compliance with the Constitution and statutes of the State of South Carolina, including particularly Section 4-1-175, Code of Laws of South Carolina 1976, as amended. This Bond is also authorized to be issued and is issued under and pursuant to an Ordinance of Florence County Council duly enacted on \_\_\_\_\_ (the "Ordinance").

The Ordinance contains provisions defining terms, including the properties comprising the Projects to be financed with the proceeds of this Bond; sets forth the revenues pledged for the payment of the principal of and interest on this Bond; sets forth the nature, extent and manner of enforcement of the security of this Bond and of such pledge, and the relative rights and remedies of the registered owner hereof with respect thereto; sets forth the terms and conditions upon which this Bond is issued and sets forth the rights, duties and obligations of the County thereunder. Reference is hereby made to the Ordinance for all of the provisions of which any registered owner of this Bond by the acceptance hereof thereby assents. The provisions of the Act and the Ordinance shall be a contract with the registered owner of this Bond.

This Bond and the interest thereon are special obligations of the County payable solely from, and secured equally and ratably by a pledge of and lien upon, the Pledged Revenues (as such term is defined in the Ordinance) derived by the County under the Ordinance which are pledged to the payment thereof. **THIS BOND, INCLUDING INTEREST THEREON, IS PAYABLE SOLELY FROM THE PLEDGED REVENUES HERETOFORE MENTIONED AND THE COUNTY IS UNDER NO OBLIGATION TO PAY THE SAME EXCEPT FROM SUCH SOURCES. THIS BOND SHALL NOT CONSTITUTE A DEBT OF THE COUNTY, NOR A CHARGE, LIEN OR ENCUMBRANCE, LEGAL OR EQUITABLE, UPON ANY PROPERTY OF THE COUNTY, OR ON ANY INCOME, RECEIPTS OR REVENUES THEREOF, OTHER THAN THE AFORESAID PLEDGED REVENUES PLEDGED THERETO. NO RECOURSE SHALL BE HAD FOR THE PAYMENT OF THIS BOND OR THE INTEREST THEREON AGAINST THE GENERAL FUND OF THE COUNTY AND NEITHER THE CREDIT NOR THE TAXING POWER OF THE COUNTY SHALL BE DEEMED TO BE PLEDGED THERETO. THE FULL FAITH, CREDIT AND TAXING POWERS OF THE COUNTY ARE NOT PLEDGED TO THE PAYMENT OF THE PRINCIPAL OF OR INTEREST ON THIS BOND.**

This Bond is transferable, as provided in the Ordinance, only upon the books of the County kept for that purpose at the principal office of the Registrar (as defined in the Ordinance) by the registered owner in person or by his duly authorized attorney upon surrender of this Bond together with a written instrument of transfer satisfactory to the Bond Registrar duly executed by the registered owner or his duly authorized attorney. Thereupon a new fully registered Bond shall be issued to the transferee in exchange



therefor as provided in the Ordinance. The County and the Bond Registrar may deem and treat the person in whose name this Bond is registered as the absolute owner hereof for the purpose of receiving payment of or on account of the principal or redemption, premium, if any, hereof and interest due hereon and for all other purposes.

If any payment of principal of or interest on this Bond falls due on a day which is not a Saturday or Sunday or legal holiday or a day on which banking institutions in the State of South Carolina are authorized or required by law to close (a "Business Day"), then such due date shall be extended to the next succeeding Business Day, and interest shall be payable in respect of such extension.

At its option, the County may prepay all or a portion of the principal of this Bond, without penalty, on any Bond Payment Date upon fifteen (15) days prior written notice. All partial prepayments of principal hereof shall be applied in the inverse order of scheduled maturities hereof, or in such other order as the registered owner hereof shall determine in its sole discretion.

Under the laws of the State of South Carolina, the principal of, premium, if any and interest on this Bond are exempt from any and all State, county, municipal and other taxation under the laws of the State of South Carolina except estate and transfer taxes and certain franchise fees.

Any registered owner of this Bond shall have the right to institute any suit, action or proceeding for the enforcement of the Ordinance or this Bond as provided in the Ordinance. In certain events, on the conditions, in the manner and with the effect set forth in the Ordinance, the outstanding principal balance of this Bond may be declared due and payable before the stated maturity thereof, together with interest accrued hereon.

It is hereby certified, recited and declared that all acts, conditions and things required by the Constitution and statutes of the State to exist, to happen and to be performed precedent to and in the issuance of this Bond, do exist, have happened, and have been performed in due time, form and manner as required by law; that this Bond does not exceed any constitutional or statutory limitation of indebtedness; and that provision has been made for the payment of the principal of and interest on this Bond, as provided in the Ordinance.

IN WITNESS WHEREOF, Florence County, South Carolina, has caused this Bond to be executed in its name by the manual signature of the Chairman of the County Council and attested by the manual signature of its Clerk to County Council under the seal of the County impressed, imprinted or reproduced hereon, all as of the \_\_\_\_ date of \_\_\_\_\_, 2010.

FLORENCE COUNTY, SOUTH CAROLINA

\_\_\_\_\_  
Chairman  
Florence County Council

(SEAL)

ATTEST:

\_\_\_\_\_  
Clerk to County Council  
Florence County, South Carolina

**STATE OF SOUTH CAROLINA**

**COUNTY OF FLORENCE**

I, the undersigned, Clerk to Florence County Council ("County Council"), the governing body of Florence County, South Carolina, **DO HEREBY CERTIFY:**

That the foregoing constitutes a true, correct and verbatim copy of an Ordinance adopted by the County Council on April 15, 2010. The Ordinance was read at three public meetings of the County Council on three separate days, February 18, 2010, March 18, 2010, and April 15, 2010. An interval of at least seven days occurred between second and third readings of the Ordinance. At each such meeting, a quorum of the County Council was present and remained present throughout the meeting.

All meetings were regular meetings of the County Council, for which notice had been previously given pursuant to and in conformity with Chapter 4, Title 30 of the Code of Laws of South Carolina 1976, as amended (the "Freedom of Information Act").

The original of the Ordinance is duly entered in the permanent records of County Council, in my custody as Clerk.

The Ordinance is now of full force and effect, and has not been modified, amended or repealed.

**IN WITNESS WHEREOF**, I have hereunto set my Hand and the Seal of Florence County, South Carolina, this \_\_\_\_ day of April, 2010.

(SEAL)

\_\_\_\_\_  
Clerk to County Council  
Florence County, South Carolina

First Reading: February 18, 2010  
Second Reading: March 18, 2010  
Third Reading: April 15, 2010  
Public Hearing: March 18, 2010

# **FLORENCE COUNTY COUNCIL MEETING**

April 15, 2010

**AGENDA ITEM:** Third Reading - Ordinance No. 29-2009/10

**DEPARTMENT:** County Council

## **ISSUE UNDER CONSIDERATION:**

**(An Ordinance Accepting The Transfer By The City Of Florence To The Florence County Election Commission Of The Authority To Conduct The General Election And Associated Primaries And Runoffs Of The City Of Florence And Authorizing The Execution Of An Agreement Providing For Such Transfer And Other Matters Related Thereto.)**

## **OPTIONS:**

1. *(Recommended)* Approve Third Reading of Ordinance No. 29-2009/10.
2. Provide alternate directive.

## **ATTACHMENTS:**

1. Ordinance No. 29-2009/10.
2. Election Authority Agreement.
3. Minutes from the February 2, 2010 Special Meeting of the Florence County Elections and Voter Registration Commission.
4. City of Florence Ordinance No. 2010-04.

Sponsor(s) : County Council  
 First Reading/Introduction : February 18, 2010  
 Committee Referral : N/A  
 Committee Consideration Date : N/A  
 Committee Recommendation : N/A  
 Second Reading : March 18, 2010  
 Public Hearing : March 18, 2010  
 Third Reading : April 15, 2010  
 Effective Date : Immediately

I, \_\_\_\_\_,  
 Council Clerk, certify that this  
 Ordinance was advertised for  
 Public Hearing on \_\_\_\_\_.

## ORDINANCE NO. 29-2009/10

### COUNCIL-ADMINISTRATOR FORM OF GOVERNMENT FOR FLORENCE COUNTY

**(An Ordinance Accepting The Transfer By The City Of Florence To The Florence County Election Commission Of The Authority To Conduct The General Election And Associated Primaries And Runoffs Of The City Of Florence And Authorizing The Execution Of An Agreement Providing For Such Transfer And Other Matters Related Thereto.)**

#### WHEREAS:

1. The Florence County Council (the "Council"), the governing body of Florence County, South Carolina (the "County"), finds that the facts set forth in this ordinance exist, and that the statements made with respect thereto are true and correct; and
2. Section 5-15-145 of the South Carolina Code of Laws, 1976, as amended (the "Enabling Act"), provides that a municipality may transfer the authority for conducting municipal elections to the county election commission, which is authorized by the Enabling Act to conduct municipal elections; and
3. The Enabling Act provides, as a condition of the transfer by a municipality to a county election commission of the authority to conduct a municipal election, that the governing bodies of the municipality and the county must agree to the terms of the transfer and enact ordinances embodying the terms of that agreement, with the municipal ordinance stating what authority is being transferred and the county ordinance accepting such authority; and
4. The City of Florence ("the City") has expressed a desire to transfer complete authority to conduct its general elections and associated primaries and runoffs of the City to the Florence County Election Commission; and
5. Council desires to accept the authority from the City in accordance with the Enabling Act and finds the conduct of the general elections and associated primaries and runoffs for the City by the Florence County Voter Registration/Elections Commission will serve a valid public purpose within the authority of the County acting by and through the Election Commission.

**NOW THEREFORE BE IT ORDAINED BY THE FLORENCE COUNTY COUNCIL DULY ASSEMBLED THAT:**

1. Council accepts the transfer by the City to the Election Commission of the authority to conduct the City's general elections and associated primaries and runoffs. The scope of such authority shall be as set forth in the Election Authority Agreement (the "Agreement") between the City and the County, such Agreement being attached hereto as "Exhibit A." The Florence County Election Commission shall also be authorized to resolve any protests concerning any contested matters or any other protests associated with the general elections or primaries.
2. The City of Florence agrees to reimburse the County for any and all costs related to the City's general elections and associated primaries and runoffs.
3. The Chairman of Council is authorized to execute the Agreement, which shall be in substantially the form as attached hereto as "Exhibit A," on behalf of the County.
4. The Election Commission is hereby directed to conduct the City's general elections and associated primaries and runoffs.
5. Provisions in other Florence County ordinances in conflict with this Ordinance are hereby repealed.
6. If any provision of this Ordinance or the application thereof to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of the Ordinance which can be given effect with the invalid provision or application and to this end, the provisions of this Ordinance is severable.

ATTEST:

\_\_\_\_\_  
Connie Y. Haselden, Council Clerk

\_\_\_\_\_  
Approved as to Form and Content  
James C. Rushton, III, County Attorney

SIGNED:

\_\_\_\_\_  
K. G. Rusty Smith, Jr., Chairman

COUNCIL VOTE:

OPPOSED:

ABSENT:

## Exhibit A

STATE OF SOUTH CAROLINA )  
COUNTY OF FLORENCE ) **ELECTION AUTHORITY AGREEMENT**

This ELECTION AUTHORITY AGREEMENT made as of this \_\_\_\_ day of \_\_\_\_\_, 2010, by and between FLORENCE COUNTY, SOUTH CAROLINA (the "County") and the CITY OF FLORENCE, SOUTH CAROLINA (the "City").

### WITNESSETH:

**Section 1. Transfer and Acceptance of Authority to Conduct General Elections and associated primaries and runoffs of the City of Florence.** Pursuant to the authority contained in Section 5-15-145 of the Code of Laws of South Carolina, 1976, as amended (the "Enabling Act"), and an ordinance adopted by the City Council of the City, the City hereby transfers the authority to conduct the City's general elections and associated primaries and runoffs to the County, which shall act by and through the Florence County Voter Registration and Elections Commission (the "Election Commission"). The County hereby accepts such authority pursuant to the Enabling Act and an ordinance duly adopted by the County Council of the County.

**Section 2. Obligations of County: Scope of Authority Transferred.** The County hereby agrees to conduct the City's general elections and associated primaries and runoffs in accordance with applicable state and federal law, including without limitation the provisions regarding municipal elections contained in Chapter 15 of Title 5 of the Code of Laws of South Carolina, as amended. Acting through the Election Commission, the County shall discharge all functions with respect to the conduct of the aforementioned elections, including obtaining and utilizing of voter registration's lists; the preparation of ballots and other voting materials; the receipt, processing and counting of absentee ballots; the preparation and administration of voting places; the appointment and coordination of poll managers; the supervision of the election; and the counting of votes and the report of the votes to the City Council of the City or an appointed authority representing the City government. The County shall be responsible for the certification of election results or any contest. The County shall also be responsible for the satisfaction of any legal requirements for the said elections, including without limitation any advertisements or clearances required by law. The City agrees to reimburse the County for any and all costs related to the City's general elections and associated primaries and runoffs.

**Section 3. Warranties.** Both the City and the County warrant and represent that each has, as required by the Enabling Act, adopted an ordinance authorizing this agreement, as well as the transfer or acceptance of the authority to conduct the City's general elections and associated primaries and runoffs. The City warrants that it has taken all steps required by law, including advertisement, for the holding of said elections.

**Section 4. Payment of County's Expenses.** The City hereby agrees to pay, upon demand of the County, any and all expenses incurred by the County in connection with the County's conduct of the

City's general elections and associated primaries and runoffs, including and without limitation any costs or attorney's fees which may be incurred by the County in the event of a proceeding contesting the aforementioned elections or the conduct thereof, or any litigation arising out of the same.

IN WITNESS WHEREOF, the City and the County has each caused this instrument to be signed in their names by their duly authorized officers as of the date first hereinabove written.

CITY OF FLORENCE, SOUTH CAROLINA

Attest:

By: \_\_\_\_\_  
Stephen J. Wukela, Mayor

\_\_\_\_\_  
David N. Williams  
City Manager

FLORENCE COUNTY, SOUTH CAROLINA

Attest:

By: \_\_\_\_\_  
K.G. Rusty Smith, Jr., Chairman

\_\_\_\_\_  
Richard A. Starks  
County Administrator

MINUTES  
FLORENCE COUNTY ELECTIONS  
&  
VOTER REGISTRATION COMMISSION  
SPECIAL MEETING  
FEBRUARY 2, 2010 - 10AM  
ELECTIONS CENTRAL FACILITY

**DRAFT**

COMMISSIONERS PRESENT: James Tanner, Rudy Hughes, Jay Jordan, Quincy Kennedy, Harriet Smith, Russell Barrett Absent: Tony Whitlock

Visitors Present: Spencer Scott, Steven Wekula Jr., John Wekula, Julian Young, Glenn Willis, Tommy Phillips, Jon-Mark Craddock, Jim Peterson, Jim Rushton

- I. Call to order, roll call: Chairman Tanner
- II. Pledge and Prayer: David Alford
- III. Public Comments: Introduction of visitors
- IV. All present were given a copy of the election ordinance of the City of Florence proposing a request for the Florence County Election Commission to permanently manage the City Primary and General Election as an inclusive part of the statewide primary and general election ballot.(enclosed)
- V. Attorney Peterson reviewed the ordinance and explained its intent.
- VI. The Commission asked logistical questions regarding the ordinance and various visitors were included in the discussion of the implementation of the ordinance. State Law 7-13-1040 addressing primaries and voters stand prominent.
- VII. A motion was made by Jay Jordan, Sec. Russell Barrett Unanimous vote: The motion: The Florence County Election Commission to conduct the City of Florence primary and general election, pending County Council approval, leaving in abeyance the means of conducting the said primary.



- VIII. A motion to close was made by Rudy Hughes, Sec. Russell Barrett:  
Unanimous.

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Rudy Hughes, Vice Chair

-----  
Jay Jordan, Secretary

DRAFT

ORDINANCE NO. 2010- 04  
(As Amended on February 8, 2010)

AN ORDINANCE TO AMEND SECTION 2-20 OF THE CITY CODE IN ORDER TO CODIFY THE COMPLETE PROCESS FOR THE HOLDING OF THE MUNICIPAL ELECTIONS IN 2010 AND SUBSEQUENT YEARS FOR THE OCCUPANCY OF THE OFFICE OF MAYOR AND CITY COUNCIL AND FOR ESTABLISHING CERTAIN TIMES FOR THE FILING OF NOMINATION PETITIONS, HOLDING PRIMARIES OR CONVENTIONS, THE ENTRY OF CANDIDATES FOR NOMINATIONS IN MUNICIPAL PARTY PRIMARY ELECTIONS OR CONVENTIONS AND THE TIME FOR CLOSING OF ENTRIES AND TO TRANSFER THE POWERS, DUTIES, AND RESPONSIBILITIES FOR CONDUCTING MUNICIPAL ELECTIONS TO THE FLORENCE COUNTY ELECTION COMMISSION PURSUANT TO §5-15-145 OF THE SOUTH CAROLINA CODE OF LAWS

WHEREAS, Section 5-15-70 of the Code of Laws of South Carolina, 1976, as amended, requires that certain times be established by Ordinance for the conduction of Municipal Elections; and

WHEREAS, it is the desire of Council to pass an ordinance which continues our present method of elections as established in §2-20, but to eliminate the past practice of passing a separate ordinance for each election cycle, thereby eliminating any appearance that the mayor or council members up for election are involved in setting the rules for an election process; and

WHEREAS, Section 5-15-145 of the Code of Laws of South Carolina, 1976, as amended, specifically provides for the transfer of the powers, duties, and responsibilities for conducting municipal elections to the county election commission.

NOW, THEREFORE, BE IT ORDAINED by the City Council of the City of Florence at a meeting duly assembled and by the authority thereof, as follows:

1. Section 2-20 of the City Code is hereby amended to read as follows:

Sec. 2-20. Composition of governing body; election of members, term of office, filling vacancies.

(a) *Composition.* The governing body of the city shall henceforth by a city council composed of seven (7) members, one of whom shall be mayor, and all of whom shall be residents of the city.

(b) *Method of election.* The mayor and three (3) council members shall be elected at large and three (3) council members shall be elected from the districts shown on the map on file in the office of the municipal clerk as Districts I, II and III. The three (3) council members elected from districts must reside in the district they represent both at the time of

qualifying for election and during their term of office.

(c) *Election dates.* Regular elections shall be held on the first Tuesday following the first Monday in November in each even numbered year.

(1) On the first Tuesday following the first Monday in November, 2008, a mayor and two (2) council members will be elected at large, and thereafter an election for a mayor and two (2) council members at large shall be held on the first Tuesday following the first Monday in November in every fourth year. On the first Tuesday following the first Monday in November, 2010, one (1) council member will be elected at large and three (3) council members will be elected from the districts, and thereafter an election for one (1) council member at large and three (3) council members from the districts shall be held on the first Tuesday following the first Monday in November in every fourth year. The regular election shall be held on the dates prescribed above during voting hours beginning at 7:00 a.m. and concluding at 7:00 p.m.

(2) In the event of a tie vote for any office, a runoff election shall be held pursuant to section 5-15-125 of the South Carolina Code of Laws two (2) weeks following the election in which the tie vote occurred.

(d) *Nomination and election schedule.* Nominations of candidates may be by political party or by petition. The beginning and ending dates for nomination and election events held in each municipal, primary, and general election year shall be in accord with the following schedule:

(1) Beginning date for candidates filing statements of intention of candidacy, along with their Statement of Economic Interest with the chairman of the respective Florence County political party for nominations by convention or primary: twelve o'clock noon, March 16.

(2) Closing date for filing statements of intention of candidacy, along with their Statement of Economic Interest with the chairman of the respective Florence

County political party for nominations by convention or primary, twelve o'clock noon, March 30. By noon, on the tenth (10<sup>th</sup>) day following the deadline for filing statements by candidates, the County Chairman of the respective political party shall file with the Florence County Election Commission written certification of the name and office sought of all candidates to be placed on the ballot of that political party and their individual statement of intention of candidacy and verification by the political party County Chairman that each candidate certified meets or will meet by the time of the General Election the qualification for office for which the candidate has filed.

(3) Party conventions, if party nomination by convention: any day in the second full week of June.

(4) Political party primaries for nominating candidates shall be held at the regular polling places and conducted by the Florence County Election Commission in conjunction with the County and Statewide Primaries on the second Tuesday in June of each general election year during voting hours beginning at 7:00 a.m. and concluding at 7:00 p.m.

(5) Primary runoffs, if necessary: the Tuesday two weeks after the primary or the last runoff until candidate is chosen.

(6) Published notice by city of general election: at least sixty (60) days prior to election day, and a second notice shall be given no later than two weeks after the first notice.

(7) Closing date for petition candidates to file petitions, along with a Statement of Economic Interest, with the county election commission: twelve o'clock noon, on July 15 or, if July 15 falls on Saturday or Sunday, by twelve o'clock noon on the following Monday. The petition must bear the signatures of at least five (5%) percent of the electors qualified to vote for the office being sought.

(8) Last day for county election commission to validate petitions of petition candidates: twelve o'clock noon, on August 15 or, if August 15 falls on Saturday or Sunday, by twelve o'clock noon on the following Monday.

(9) Closing date for parties to file certification of party nominees with the county election commission: twelve o'clock noon, on August 15 or, if August 15 falls on Saturday or Sunday, by twelve o'clock noon on the following Monday.

(10) Election day: first Tuesday after first Monday in November in each even numbered year.

When any date prescribed herein falls on a Saturday, Sunday, or legal holiday, the determination of whether an alternate date is required or permitted shall be made in accord with the general law of the state, but the selection of an alternate date shall not change the time of day requirements provided for herein.

(c) *Publication of Notice.* No later than March 1 of each municipal general election year, the municipal clerk shall cause to be published, in a newspaper of general circulation in the city, a schedule identifying the specific date for that year for the events contained in subsection (d) of this section. Said notice will specifically identify the offices scheduled for election during that particular year, and it shall contain the following language in all capital letters and bold print:

**NOTICE TO CANDIDATES AND POLITICAL ORGANIZATIONS: STATE STATUTES REGULATING CAMPAIGN PRACTICES APPLY TO MUNICIPAL ELECTIONS, AND FAILURE TO FILE STATEMENTS OF ECONOMIC INTEREST AT THE TIME OF FILING FOR NOMINATION AND OF FILING FOR ELECTION WILL RESULT IN DISQUALIFICATION.**

(f) *Special elections.* The above provisions shall not apply to a special election which may be required to fill the unexpired term of the mayor or any member of council because of resignation, death, disqualification, or any other cause requiring a special election to fill a vacant office of the mayor or any member of city council.

(g) *Election Commission.* Pursuant to the provisions of §5-15-145 of the Code of Laws of South Carolina, 1976, as amended, it is ordained by the City Council of the City

of Florence that all authority for the conducting of primary and general municipal elections is hereby transferred to the Florence County Election Commission in the following particulars:

- (1) The Florence County Election Commission shall advertise municipal elections, prepare and distribute ballots and election materials, appoint managers of election for each polling place, and otherwise supervise and conduct all municipal elections within the City of Florence.
- (2) Immediately upon the closing of the polls at any municipal election in the City of Florence, the Florence County Election Commission shall begin to count and continuously count the votes cast for each candidate for Mayor and Council Member, canvas the vote, and publicly display the unofficial results.
- (3) The Florence County Election Commission shall thereafter certify the results of the elections and transmit the certified results to the Florence City Council or an appointed authority representing the City Government as soon as practical following the certification.
- (4) The Florence County Election Commission shall accept statements of intention of candidacy from political parties after filing closes.
- (5) The Florence County Election Commission shall utilize an automated election system and computer counting with the count publicly conducted.
- (6) Political party primaries for nominating candidates shall be held at the regular polling places and conducted by the Florence County Election Commission in conjunction with the County and Statewide Primaries on the second Tuesday in June, during voting hours beginning at 7:00a.m. and concluding at 7:00 p.m.
- (7) The Florence County Election Commission shall determine the validity of any challenged or provisional ballots in accordance with §7-13-830 of the S. C. Code of Laws, 1976, as amended, for the primaries and the general election at the meetings specified in either §7-17-510 or §7-17-10, as applicable.

(8) The Florence County Election Commission shall hear and decide protests and certify the results of municipal general elections.

(9) The results of any political party primary will be declared by the party for which the primary is being conducted, and protest of results in primaries will be heard and decided by the respective political party for the primary involved pursuant to the provisions §5-15-80 of the S. C. Code of Laws, 1976, as amended.

(h) *Filing fee.* Any filing fee for candidates filing to run in political primaries for the offices of Mayor and City Council shall be collected by the political parties and paid over to the city to help offset the cost of the primaries.

(i) *Determining Results of the General Election.* During the years involving the election of the mayor and two at large council seat, the person receiving the highest number of votes for mayor shall be declared elected, and the two persons receiving the highest numbers of votes for the two (2) at-large council seats shall be declared elected. During the years involving the election of one (1) council member at large and three (3) council members from the districts, the person receiving the highest number of votes for the District 1 council seat, the person receiving the highest number of votes for the District 2 council seat, the person receiving the highest number of votes for the District 3 council seat, and the person receiving the highest number of votes for the at-large council seat, shall be declared elected. In the event of a tie, a runoff election shall be held two weeks following the General Election pursuant to §5-15-125 of the S. C. Code of Laws, 1976, as amended.

(j) *Reapportionment.* The city council shall within a reasonable period of time after each federal census reapportion the districts shown on the map, if necessary, after the census information is available to council in accordance with law.

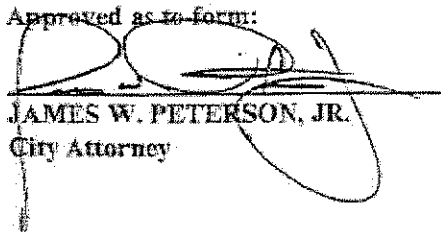
(k) *Terms.* The mayor and council members shall be elected for terms of four (4) years.

(l) *Filling vacancies.* Pursuant to §5-7-200 of the S. C. Code of Laws, 1976, as amended, if any vacancy occurs in the office of mayor or city council, and such vacancy be for an unexpired term of one hundred eighty (180) days or more, it shall be filled for the remainder of the unexpired term by a special election, but in case the vacancy is for a period of less than one hundred eighty (180) days, it shall be filled for the remainder of the unexpired term by an appointment made by a majority of council.

2. This ordinance shall become effective immediately upon its approval and adoption by the City Council of the City of Florence.

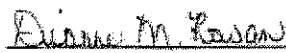
ADOPTED THIS 8th DAY OF February, 2010.

Approved as to form:

  
JAMES W. PETERSON, JR.  
City Attorney

  
STEPHEN J. WUKELA  
Mayor

Attest:

  
DIANNE M. ROWAN  
Municipal Clerk

APPROVED ON FIRST READING AT A  
MEETING OF FLORENCE CITY COUNCIL  
DATE 1-11-2010  
ADOPTED ON SECOND READING  
DATE 2-8-2010  
COPY TO Mr. David Clifford; Jim Peterson



**FLORENCE COUNTY COUNCIL MEETING**  
**Thursday, April 15, 2010**

**AGENDA ITEM:** Ordinance No. 30-2009/10  
Second Reading

**DEPARTMENT:** Planning and Building Inspections

**ISSUE UNDER CONSIDERATION:**

[An Ordinance To Zone Property Owned By KAT-ROX LLC., Located At Pamplico Highway And South Flanders Road, Florence County To PD 2010-01, Planned Development District Shown On Florence County Tax Map 90147, Block 03, Parcel 66, Consisting Of Approx. 22.08 Acres.] *(Planning Commission approved 9-0; Council District 5)*

**POINTS TO CONSIDER:**

1. The property is located in Council District 5.
2. The subject property is currently unzoned.
3. The property is currently cut timberland.
4. The property is surrounded by single-family residential, commercial properties and vacant land.
5. The applicant wishes to develop the site for a townhome subdivision.
6. The subject property is presently designated as a Residential Preservation area with a small portion in the southwest corner in a Rural Preservation area.
7. Therefore, the applicant's request to zone this property to PD will comply with the Land Use Element of the Comprehensive Plan Land Use Map.

**OPTIONS:**

1. *(Recommended)* Approve as Presented.
2. Provide An Alternate Directive.

**ATTACHMENTS:**

**Copies of the following are attached:**

1. Ordinance No.30-2009/10
2. Staff report for PC#2010-01
3. Vicinity map
4. Location map
5. Comprehensive Land Use Plan map
6. Zoning map
7. Aerial photograph
8. PD-2010-01-SITE PLAN
9. PD-2010-01-SIGNAGE
10. Comprehensive Plan information
11. Zoning Ordinance information

Sponsor(s)	: Planning Commission	I, _____,
Planning Commission Consideration	: February 23, 2010	Council Clerk, certify that this
Planning Commission Public Hearing	: February 23, 2010	Ordinance was advertised for
Planning Commission Recommendation	: February 23, 2010 [Approved 9-0]	Public Hearing on _____.
First Reading/Introduction	: March 18, 2010	
Committee Referral	: N/A	
Second Reading	: April 15, 2010	
Third Reading	: May 20, 2010	
Effective Date	: Immediately	

# **ORDINANCE NO. 30-2009/10**

**[An Ordinance To Zone Property Owned By KAT-ROX LLC., Located At Pamplico Highway And South Flanders Road, Florence County To PD 2010-01, Planned Development District Shown On Florence County Tax Map 90147, Block 03, Parcel 66 Consisting Of Approx. 22.08 Acres.]**

## **WHEREAS:**

1. Section 30-291 of the Florence County Code establishes that Florence County Council must be satisfied that applications for amendments to the Zoning Atlas of Florence County are not injurious from a public health, safety and general welfare outlook and the effect of the change will not negatively impact the immediate environs or the County generally; and
2. Section 30-297 of the Florence County Code republished January 2008, provides a procedure for amending the official Zoning Map of the County of Florence; and
3. The procedure has been followed by the Florence County Planning Commission at a public hearing on February 23, 2010.

## **NOW THEREFORE BE IT ORDAINED BY THE FLORENCE COUNTY COUNCIL DULY ASSEMBLED THAT:**

1. Property located at Pamplico Hwy and South Flanders Rd. bearing Tax Map 90147, Block 03, Parcel 66, approximately 22.08 acres is hereby zoned to PD 2010-01, Planned Development District.

The Planned Development zoning shall be subject to the following requirements:

### Allowed Uses (NAICS):

Townhomes (81411)

### Residential Density:

9.75 Per acre

### Minimum Setback Requirements:

25 Feet Front

0 and 5 Feet Side (Alternating as shown on PD-2010-01 SITE PLAN)

15 Feet Rear

### Impervious surface ratio:

50%

### Floor area ratio:

55%

Building Heights:

Maximum building height of 38 feet

Water and sewer:

Pump station and force main to be conveyed to City of Florence.

Water mains (6" and 8") water lines to be conveyed to the City of Florence.

All other water and sewer improvements to remain private.

Storm water

Storm water system shall remain private

Site Plan:

Per exhibit PD-2010-01-SITE PLAN

Signage:

Per exhibit PD-2010-01-SIGNAGE

Off-street parking and loading spaces shall comply with the requirements of Sections 30-28 and 30-29, as applicable for the various uses proposed for the PD, and the requirements of Article VI of Chapter 30- Zoning Ordinance of the Florence County Code.

Buffer areas are not required for internal use. The southern property line will utilize a 25 foot wide type A buffer. The eastern property line will utilize a 20 foot wide type C buffer. The western property line will utilize a 20 foot wide type B buffer. The northern property line will utilize a 25 foot wide type C buffer. Buffer areas shall be required for peripheral uses only, and shall be provided in accordance with the minimum requirements for adjacent uses prescribed by Article IV of Chapter 30- Zoning Ordinance of the Florence County Code.

The streets shall remain private and meet the design and construction standards promulgated for public streets; further provided that an acceptable maintenance plan be submitted to and approved by the planning commission prior to permitting.

Landscaping and open space requirements shall comply with the provisions of Article IV of Chapter 30- Zoning Ordinance of the Florence County Code.

2. Public improvements and/or "common" amenities or infrastructure proposed and established herein shall be installed in accord with the development schedule. Where proposed or requirement improvements have not been completed by the applicant/developer prior to the scheduled target date and certified by the zoning administrator, the applicant/developer may provide financial guarantees to ensure the proper installation of such required improvements. The nature and duration of the guarantees shall be structured to achieve this goal without adding unnecessary costs to the developer. See PD-2010-01-SITE PLAN for detail.
3. Official copies of PD-2010-01 PLANNED DEVELOPMENT DISTRICT, PD-2010-01-SITE PLAN and PD-2010-01-SIGNAGE shall be kept on file in the Florence County Planning office. Any zoning requirements not directly addressed in these documents shall comply with the R-3 Single-Family Residential District.
4. Provisions in other Florence County ordinances in conflict with this Ordinance are hereby repealed.
5. If any provision of this Ordinance or the application thereof to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of the Ordinance which can be given effect without the invalid provision or application and to this end, the provisions of this

Ordinance are severable.

ATTEST:

\_\_\_\_\_  
Connie Y. Haselden, Council Clerk

\_\_\_\_\_  
Approved as to Form and Content  
James C. Rushton, III, County Attorney

SIGNED:

\_\_\_\_\_  
K. G. Rusty Smith, Jr., Chairman

COUNCIL VOTE:

OPPOSED:

ABSENT:

DRAFT

**STAFF REPORT  
TO THE  
FLORENCE COUNTY PLANNING COMMISSION  
February 23, 2010  
PC#2010-01  
ORDINANCE NO. 30-2009/10**

**Subject:** Zoning request to PD, (PD-2010-01) Planned Development from unzoned.

**Location:** Property located at the end of South Flanders Road and Pamplico Hwy

**Tax Map Number:** 90147, Block 03, Parcel 066

**Council District(s):** 5, County Council

**Owner of Record:** KAT-ROX LLC.

**Applicant:** Aubrey Richardson

**Land Area:** Approximately 22.08 acres

**Existing Land Use and Zoning:**

The subject property is currently undeveloped timberland. The property is currently unzoned.

**Proposed Land Use and Zoning:**

The applicant proposes to zone the subject property to PD, Planned Development to facilitate a Townhome development.

The intent of the Planned Development District is to encourage flexibility in the development of land in order to promote its most appropriate use; and to do so in a manner that will enhance public health, safety, morals, and general welfare.

Within the PD, regulations adapted to unified planning and development are intended to accomplish the purpose of zoning and other applicable regulations to an equivalent or higher degree than where such regulations are designed to control unscheduled development on individual lots or tracts, promote economical and efficient land use, provide an improved level of amenities, foster a harmonious variety of uses, encourage creative design, and produce a better environment.

In view of the substantial public advantage of "planned development", it is the intent of these regulations to promote and encourage or require development in this form where appropriate in character, timing, and location, particularly in large undeveloped tracts.

**Surrounding Land Use and Zoning:**

North: Residential / Unzoned/ Florence County  
South: Undeveloped farm land / Unzoned/Florence County  
East: Residential / Unzoned/ Florence County  
West: Residential / Unzoned/ Florence County

**Florence County Comprehensive Plan:**

The majority of the subject property is located in a Residential Preservation area with a small portion in the southwest corner in a Rural Preservation area according to the Comprehensive Plan Land Use Map. While the applicant has requested to zone this property as Planned Development (PD), this request does comply with both land use designations.

Residential Preservation is intended to protect and sustain existing low density single-family residential areas, including property values and amenities, and provide for the growth of suburban or developing rural areas consisting of single-family homes and their accessory uses. (Zoning Districts Permitted: R-1, R-2, PD) Rural Preservation is intended to provide areas for rural uses, including single-family homes and corresponding accessory uses, as well as agrarian uses, typically in an undeveloped and/or agricultural setting. (Zoning Districts Permitted: RU-1, RU-2, PD)

**Staff Analysis:**

Access and Circulation - Emergency access to the property will be by way of South Flanders Ave. and Pamplico Hwy.

Water and Sewer Availability - These services will be provided by the City of Florence Public Works.

Adjacent Waterways/Bodies of Water/Flood Zone - There does not appear to be any waterway/body of water adjacent to the property. The property is not located in a flood zone.

Background - This project was originally approved as a commercial condominium project. The applicant is requesting to change the zoning of the property from unzoned to PD, Planned Development District to restrict the property to townhome use only.

Traffic Review - The proposed change in zoning should have little effect on the traffic flow along Claussen Road, however the entrance onto Pamplico Hwy. may cause an increase in traffic flow.

**Technical Review Meeting Action: February 8, 2010**

The Technical Review Committee recommended approval of the PD, Planned Development zoning ordinance.

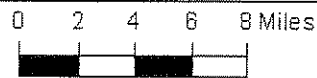
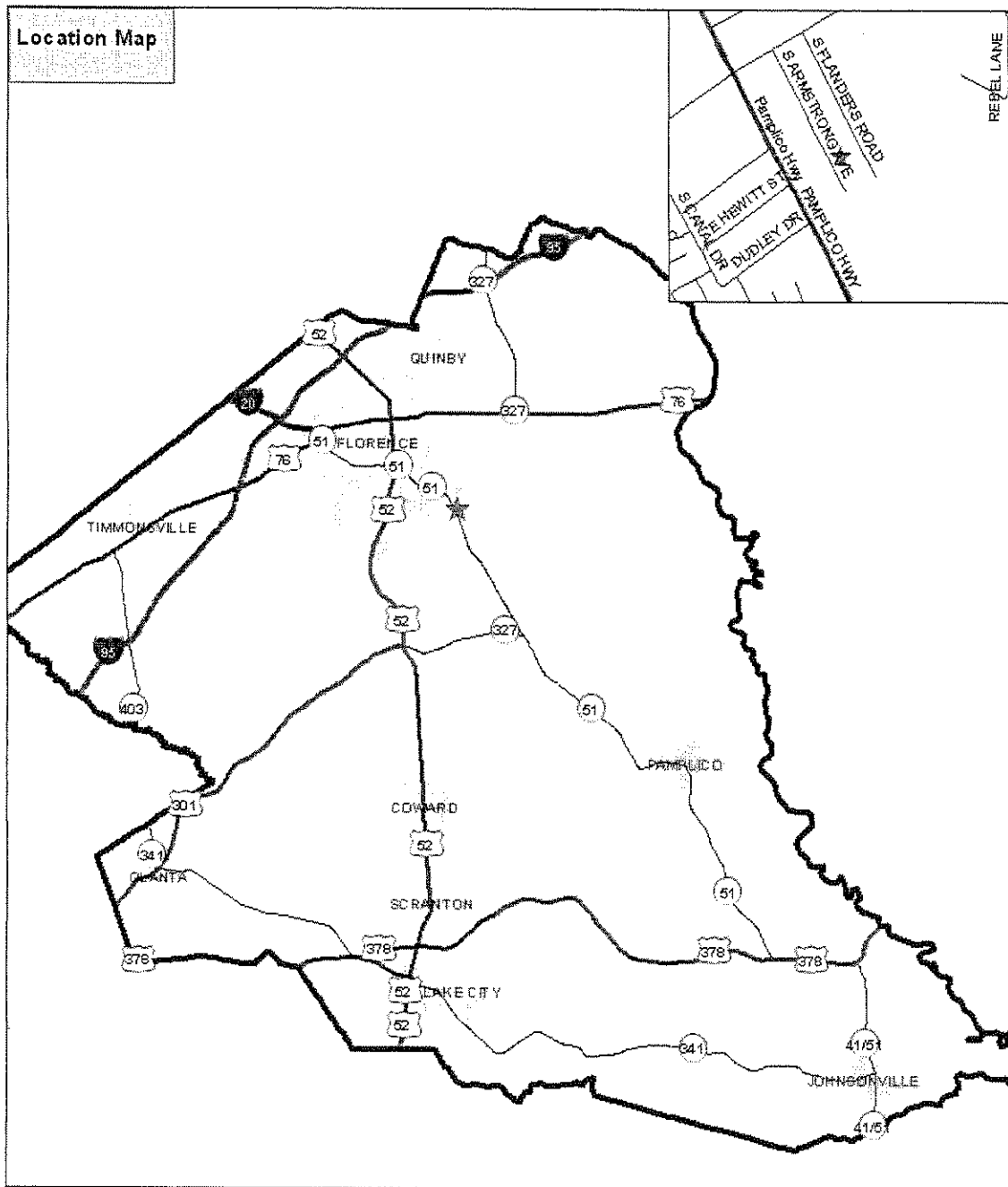
**Florence County Planning Commission Action: February 23, 2010**

The nine Planning Commission members present approved the zoning request unanimously at the meeting held on February 23, 2010.

**Florence County Planning Commission Recommendation:**

The Planning Commission recommends approval of the zoning request by Florence County Council based on the request being in compliance with the Comprehensive Plan Land Use Map.



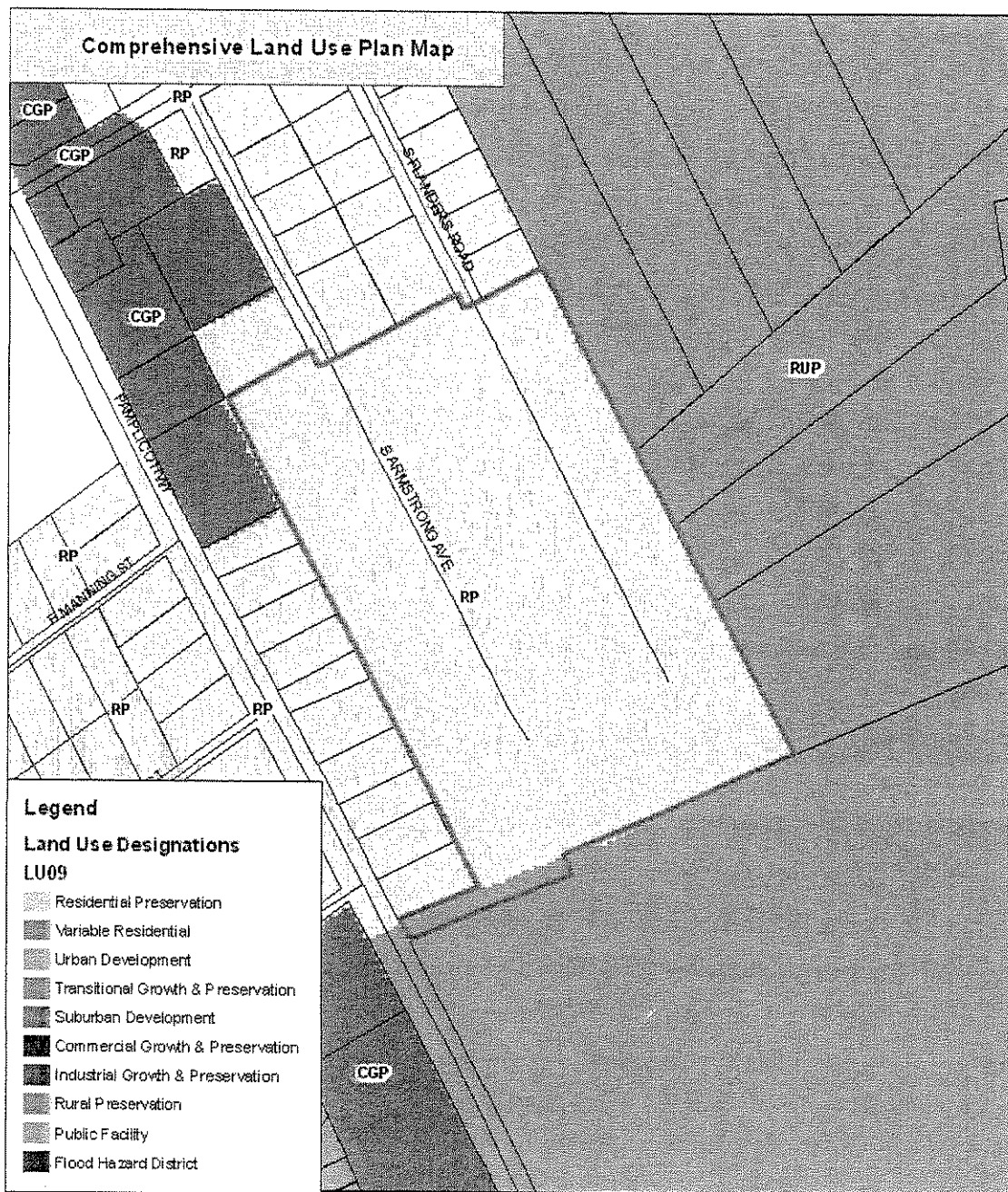


Map Prepared by: RWE  
 Copyright 2007: Florence County/Municipal Planning  
 & Building Inspections Department  
 Geographic Information Systems  
 2007



**COUNTY COUNCIL DISTRICT(S): 5**  
**PC#2010-01**





Map Prepared by: RWE  
 Copyright 2007: Florence County/Municipal Planning  
 & Building Inspections Department  
 Geographic Information Systems  
 2007

**COUNTY COUNCIL DISTRICT(S): 5**  
**PC#2010-01**



**Florence County 2008 Orthophotography Map**

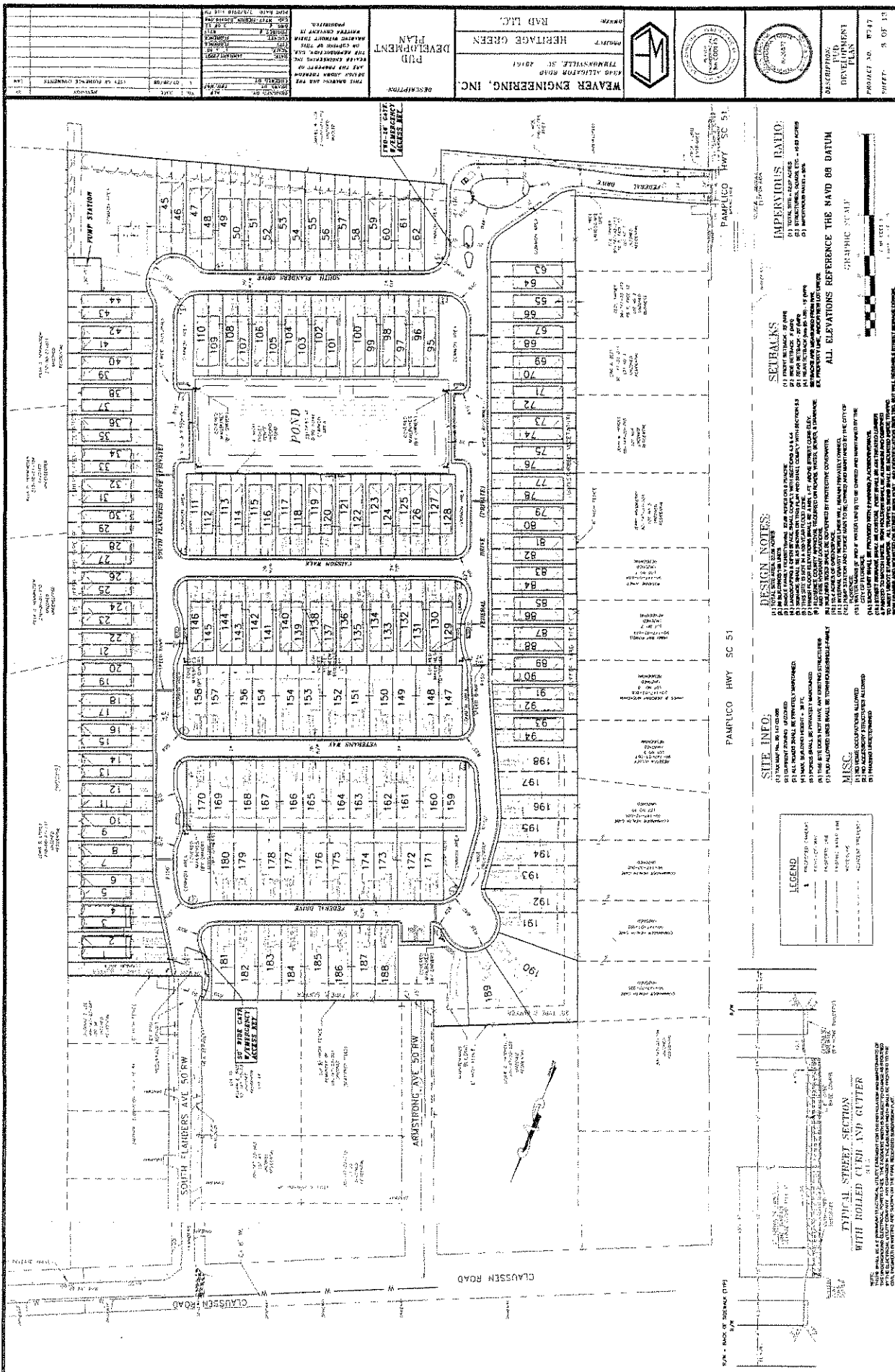


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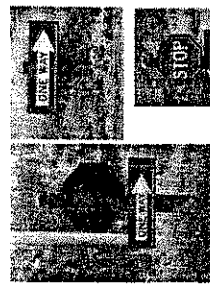
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& Building Inspections Department  
Geographic Information Systems  
2007



**COUNTY COUNCIL DISTRICT(S): 5**  
**PC#2010-01**



## Typical Street Signs & Lights



Stand Alone Sims



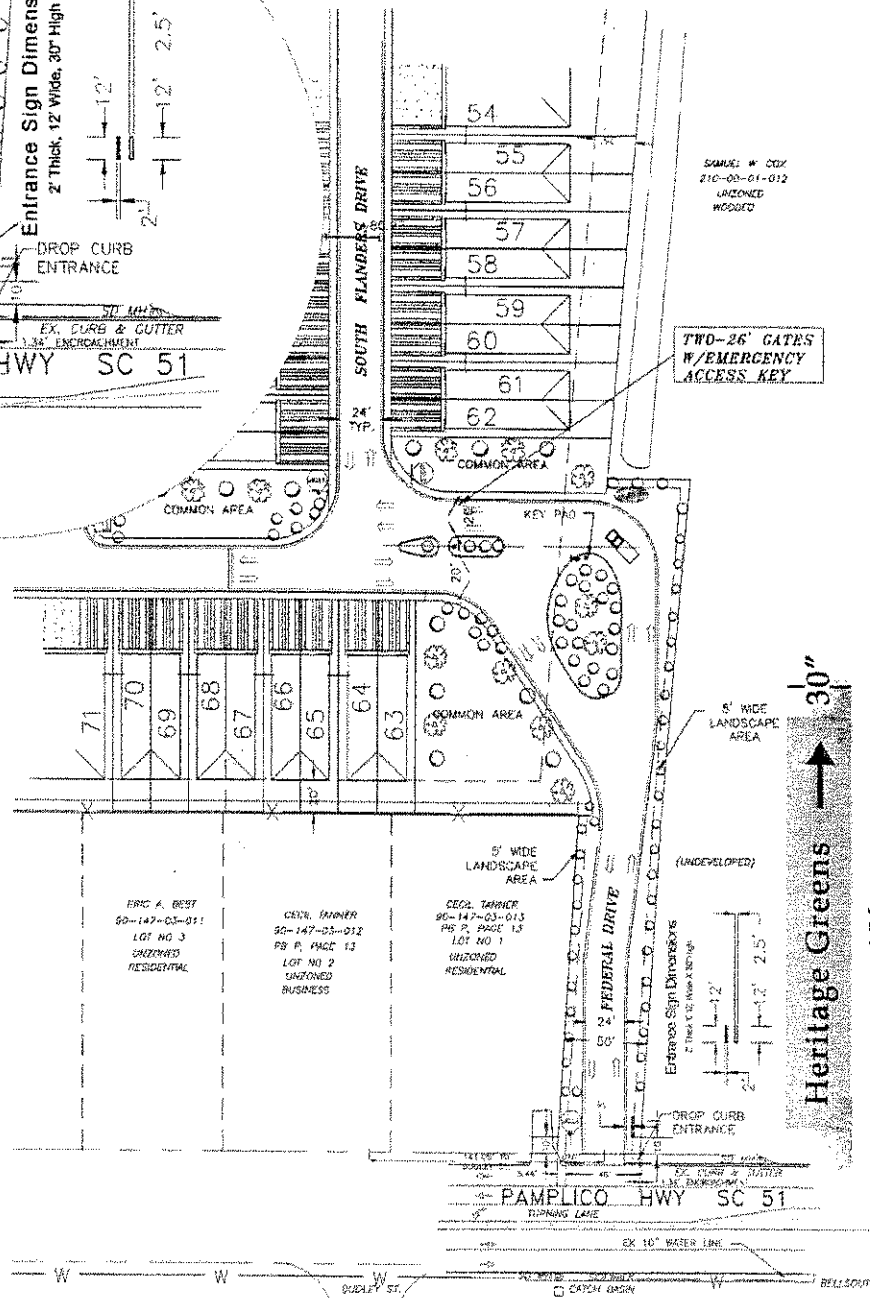
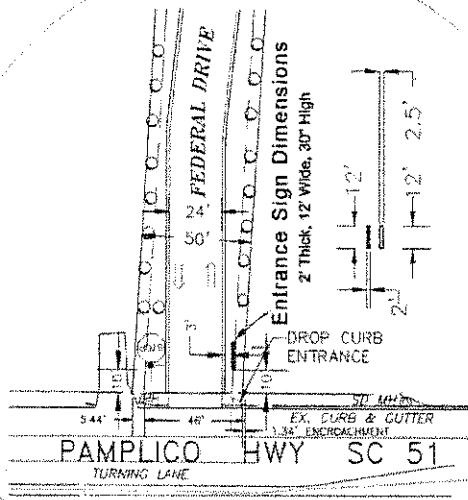
## Street Light



Engineer's Symbol  
Stop - Light  
Combination



Engineer's Symbol  
Light - Security Camera  
Combination



### 12 Illustration of Entrance Sign

# Comprehensive Land Use Plan Designations

1. **Residential Preservation (RP)** - Protect and sustain existing low density single-family residential areas, including property values and amenities, and provide for the growth of suburban or developing rural areas consisting of single-family homes and their accessory uses.  
(Zoning Districts Permitted: R-1, R-2, PD)
  
2. **Rural Preservation (RUP)** - Provide areas for rural uses, including single-family homes and corresponding accessory uses, as well as agrarian uses, typically in an undeveloped and/or agricultural setting. (Zoning Districts Permitted: RU-1, RU-2, PD)

## **Chapter 30- Zoning Ordinance Attachment**

### **PD, Planned Development District**

The intent of the Planned Development District is to encourage flexibility in the development of land in order to promote its most appropriate use; and to do so in a manner that will enhance public health, safety, morals, and general welfare.

Within the PD, regulations adapted to unified planning and development are intended to accomplish the purpose of zoning and other applicable regulations to an equivalent or higher degree than where such regulations are designed to control unscheduled development on individual lots or tracts, promote economical and efficient land use, provide an improved level of amenities, foster a harmonious variety of uses, encourage creative design, and produce a better environment.

In view of the substantial public advantage of “planned development”, it is the intent of these regulations to promote and encourage or require development in this form where appropriate in character, timing, and location, particularly in large undeveloped tracts.



# FLORENCE COUNTY COUNCIL MEETING

April 15, 2010

**AGENDA ITEM:** Introduction - Ordinance No. 31-2009/10

**DEPARTMENT:** Procurement

## **ISSUE UNDER CONSIDERATION:**

(An Ordinance To Declare As Surplus Real Property Owned By Florence County Located At 404 East Hampton Street, Olanta, South Carolina And Designated As Tax Map Number 04530-03-029; And to Authorize The Conveyance Or Public Sale Thereof, Including a First Right Of Refusal; And Other Matters Relating Thereto.)

## **POINTS TO CONSIDER:**

1. Florence County currently owns property located at 404 East Hampton Street, Olanta, South Carolina, Tax Map Number 04530-03-029, which formerly served as the Olanta Public Library Branch.
2. The County has no future plans for the property and The Town of Olanta has a possible interest in obtaining the property.
3. Council can declare the property as surplus property and authorize the conveyance thereof to the Town of Olanta or disposal of the property by publicly offered sealed bid.

## **OPTIONS:**

1. *(Recommended)* Introduce Ordinance No. 31-2009/10.
2. Provide an Alternate Directive.

## **ATTACHMENTS:**

Ordinance No. 31-2009/10.



Sponsor(s) : Procurement  
 First Reading/Introduction : April 15, 2010  
 Committee Referral : N/A  
 Committee Consideration Date : N/A  
 Committee Recommendation : N/A  
 Public Hearing :  
 Second Reading :  
 Third Reading :  
 Effective Date : Immediately

I, \_\_\_\_\_,  
 Council Clerk, certify that this  
 Ordinance was advertised for  
 Public Hearing on \_\_\_\_\_.

# **ORDINANCE NO. 31-2009/10**

## **COUNCIL-ADMINISTRATOR FORM OF GOVERNMENT FOR FLORENCE COUNTY**

**(An Ordinance To Declare As Surplus Real Property Owned By Florence County Located At 404 East Hampton Street, Olanta, South Carolina And Designated As Tax Map Number 04530-03-029: And to Authorize The Conveyance Or Public Sale Thereof, Including a First Right Of Refusal; And Other Matters Relating Thereto.)**

### **WHEREAS:**

1. Florence County currently owns property located at 404 East Hampton Street, Olanta, South Carolina, Tax Map Number 04530-03-029, which formerly served as the Olanta Public Library Branch; and
2. The County has no future plans for the property and The Town of Olanta has a possible interest in obtaining the property; and
3. Council can declare the property as surplus property and authorize the conveyance thereof to the Town of Olanta or disposal of the property by publicly offered sealed bid.

### **NOW THEREFORE BE IT ORDAINED BY THE FLORENCE COUNTY COUNCIL DULY ASSEMBLED THAT:**

1. Property designated as Tax Map Number 04530-03-029, formerly known as the Olanta Public Library Branch, is hereby declared surplus.
2. The Town of Olanta is granted a first right of refusal for ninety (90) days after the approval of this ordinance to accept conveyance of the property, except that if the Town of Olanta does not exercise its first right of refusal, the property is to be disposed of by publicly offered sealed bid.
3. In the event the property is disposed of by a publicly offered sealed bid, the property will be sold by quitclaim deed and all closing and associated costs for the transfer of title shall be paid by the buyer.
4. The disposal of said property is hereby authorized as noted above and the County Administrator is authorized to proceed with the execution of a Quitclaim Deed, prepared by the County Attorney.
5. Provisions in other Florence County ordinances in conflict with this Ordinance are hereby repealed.
6. If any provision of this Ordinance or the application thereof to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of the Ordinance which can be given effect without the invalid provision or application and to this end, the provisions of this Ordinance are severable.

ATTEST:

SIGNED:

\_\_\_\_\_  
 Connie Y. Haselden, Council Clerk

\_\_\_\_\_  
 K. G. Rusty Smith, Jr., Chairman

COUNCIL VOTE:

OPPOSED:

ABSENT:

\_\_\_\_\_  
 Approved as to Form and Content  
 James C. Rushton, III, County Attorney

# FLORENCE COUNTY COUNCIL MEETING

April 15, 2010

**AGENDA ITEM:** Introduction of Ordinance No. 32-2009/10 by title only

**DEPARTMENT:** Administration  
Finance

## **ISSUE UNDER CONSIDERATION:**

(An Ordinance Authorizing The Execution And Delivery Of Not Exceeding \$215,000,000 Aggregate Principal Amount Hospital Revenue Bonds (McLeod Regional Medical Center Project) Of Florence County, South Carolina, From Time To Time, In One Or More Series, Pursuant To Article 11, Chapter 7, Title 44, Code Of Laws Of South Carolina 1976, As Amended, To Finance The Costs Of Constructing And Equipping An Expansion Of A Hospital Facility Owned And Operated By McLeod Regional Medical Facility Center Of The Pee Dee, Inc., And The Refunding Of Certain Outstanding Revenue Bonds Issued By Florence County On Behalf Of McLeod Regional Medical Center Of The Pee Dee, Inc.; The Entering Into Certain Covenants And Agreements And The Execution And Delivery Of Certain Instruments Relating To The Issuance Of The Aforesaid Bonds Including A Loan Agreement Or Loan Agreements Between Florence County And McLeod Regional Medical Center Of The Pee Dee, Inc., An Assignment By Florence County Of Its Rights Thereunder To The Trustee For Such Bonds, And A Trust Indenture Or Trust Indentures Between Florence County And The Trustee For Such Bonds; And Consenting To The Delivery Of Security Instruments Related To Such Bonds; And Other Matters Relating Thereto.)

## **POINTS TO CONSIDER:**

1. This Ordinance provides for the issuance of Hospital Revenue Bonds by McLeod Regional Medical Center.
2. In order for these bonds to be issued, state law requires Florence County to adopt an Ordinance approving the issuance of these bonds.
3. By approving this Ordinance, Florence County incurs no liability for the repayment of these bonds. These bonds will be repaid solely by McLeod.

## **FUNDING FACTORS:**

NONE

## **OPTIONS:**

1. *(Recommended)* Introduce Ordinance No. 32-2009/2010 by title only.
2. Provide An Alternate Directive.

## **ATTACHMENTS:**

1. Ordinance No. 32-2009/10
2. Letter from S. Fulton Ervin, III, Senior Vice President of Finance and CFO, McLeod Health

Sponsor(s) : County Council  
First Reading : April 15, 2010  
Committee Referral : N/A  
Committee Consideration Date : N/A  
Committee Recommendation : N/A  
Public Hearing : May 20, 2010  
Second Reading : May 20, 2010  
Third Reading : June 17, 2010  
Effective Date : June 17, 2010

I, \_\_\_\_\_,  
Council Clerk, certify that this  
Ordinance was advertised for  
Public Hearing on \_\_\_\_\_.

## ORDINANCE NO. 32-2009/10

### COUNCIL-ADMINISTRATOR FORM OF GOVERNMENT FOR FLORENCE COUNTY

An Ordinance Authorizing The Execution And Delivery Of Not Exceeding \$215,000,000 Aggregate Principal Amount Hospital Revenue Bonds (McLeod Regional Medical Center Project) Of Florence County, South Carolina, From Time To Time, In One Or More Series, Pursuant To Article 11, Chapter 7, Title 44, Code Of Laws Of South Carolina 1976, As Amended, To Finance The Costs Of Constructing And Equipping An Expansion Of A Hospital Facility Owned And Operated By McLeod Regional Medical Facility Center Of The Pee Dee, Inc., And The Refunding Of Certain Outstanding Revenue Bonds Issued By Florence County On Behalf Of McLeod Regional Medical Center Of The Pee Dee, Inc.; The Entering Into Certain Covenants And Agreements And The Execution And Delivery Of Certain Instruments Relating To The Issuance Of The Aforesaid Bonds Including A Loan Agreement Or Loan Agreements Between Florence County And McLeod Regional Medical Center Of The Pee Dee, Inc., An Assignment By Florence County Of Its Rights Thereunder To The Trustee For Such Bonds, And A Trust Indenture Or Trust Indentures Between Florence County And The Trustee For Such Bonds; And Consenting To The Delivery Of Security Instruments Related To Such Bonds; And Other Matters Relating Thereto.

# FLORENCE COUNTY COUNCIL MEETING

April 15, 2010

**AGENDA ITEM:** Introduction of Ordinance No. 33-2009/10 by title only

**DEPARTMENT:** Finance

**ISSUE UNDER CONSIDERATION:**

(An Ordinance To Ratify FY10 Budget And Grant Council Actions Previously Authorized By Council And Other Matters Related Thereto.)

**POINTS TO CONSIDER:**

1. There have been grants received during the year that need to be formally appropriated by Council.
2. At its regular meeting on November 19, 2009, Florence County Council allocated \$106,975 to the Florence County Sheriff's Office for five (5) additional patrol deputy slots.

**FUNDING FACTORS:**

1. County Council has previously accepted the various grant agreements. This Ordinance approves the formal appropriation for the related grant expenditures.
2. The allocation to the Florence County Sheriff's Office in the amount of \$106,975 is being funded from General Fund balance.

**OPTIONS:**

1. *(Recommended)* Introduce Ordinance No. 33-2009/10 by title only.
2. Provide An Alternate Directive

**ATTACHMENT:**

1. Ordinance No. 33-2009/2010, Title Only

Sponsor(s) : County Council  
Introduction : April 15, 2010  
Committee Referral : N/A  
Committee Consideration Date : N/A  
Committee Recommendation : N/A  
Public Hearing : May 20, 2010  
Second Reading : May 20, 2010  
Third Reading : June 17, 2010  
Effective Date : June 17, 2010

I, \_\_\_\_\_,  
Council Clerk, certify that the  
ad for a Public Hearing on this  
Ordinance ran on: \_\_\_\_\_.

**ORDINANCE NO. 33-2009/2010**

**COUNCIL-ADMINISTRATOR FORM OF GOVERNMENT FOR FLORENCE COUNTY**

**[AN ORDINANCE TO RATIFY FY10 BUDGET AND GRANT COUNCIL ACTIONS  
AUTHORIZED BY COUNCIL AND OTHER MATTERS RELATED THERETO.]**

DRAFT

# FLORENCE COUNTY COUNCIL MEETING

April 15, 2010

**AGENDA ITEM:** Introduction of Ordinance No. 01-2010/11 by title only

**DEPARTMENT:** Administration  
Finance

## **ISSUE UNDER CONSIDERATION:**

(An Ordinance To Provide For The Levy Of Taxes In Florence County For The Fiscal Year Beginning July 1, 2010 And Ending June 30, 2011; To Provide For The Appropriation Thereof; To provide For Revenues For The Payment Thereof; And To provide For Other Matters Related Thereto.)

## **POINTS TO CONSIDER:**

1. Ordinance No. 01-2010/11 is the budget ordinance for next fiscal year.
2. Decisions at the State level have cut the State Local Government Fund revenue to the Florence County General Fund by another \$900,000 and increased State health insurance premiums by another \$414,000. The combined total negatively impacts the General Fund by an additional \$1,300,000 annually, in addition to the \$2,000,000 negative impact from the same measures in the prior year.
3. Ordinance No. 1-2010/11 addresses this negative impact by cutting the expenditure portion of the budget by 2% from FY10 amended budget levels.

## **FUNDING FACTORS:**

NONE

## **OPTIONS:**

1. *(Recommended)* Introduce Ordinance No. 01-2010/2011 by title only.
2. Provide An Alternate Directive.

## **ATTACHMENTS:**

1. Ordinance No. 01-2010/11, Title Only

Sponsor(s) : County Council  
Introduction : April 15, 2010  
Committee Referral : N/A  
Committee Consideration Date : N/A  
Committee Recommendation : N/A  
Public Hearing : May 20, 2010  
Second Reading : May 20, 2010  
Third Reading : June 17, 2010  
Effective Date : July 1, 2010

I, \_\_\_\_\_,  
Council Clerk, certify that the  
ad for a Public Hearing on this  
Ordinance ran on: \_\_\_\_\_.

**ORDINANCE NO. 01-2010/11**

**COUNCIL-ADMINISTRATOR FORM OF GOVERNMENT FOR FLORENCE COUNTY**

**[AN ORDINANCE TO PROVIDE FOR THE LEVY OF TAXES IN FLORENCE COUNTY FOR THE FISCAL YEAR BEGINNING JULY 1, 2010 AND ENDING JUNE 30, 2011; TO PROVIDE FOR THE APPROPRIATION THEREOF; TO PROVIDE FOR REVENUES FOR THE PAYMENT THEREOF; AND TO PROVIDE FOR OTHER MATTERS RELATED THERETO.]**

DRAFT



## **FLORENCE COUNTY COUNCIL MEETING**

April 15, 2010

**AGENDA ITEM:** Reports to Council  
Monthly Financial Reports

**DEPARTMENT:** Administration

**ISSUE UNDER CONSIDERATION:**

Monthly financial reports are provided to Council for fiscal year 2010 through February 28, 2010 as an item for the record.

**ATTACHMENTS:**

Copies of the monthly financial reports.



**FLORENCE COUNTY GOVERNMENT  
GENERAL FUND  
REVENUE & EXPENDITURE REPORT FY10  
7/1/09 TO 02/28/10**

		YEAR-TO-DATE		REMAINING BALANCE	PCT
EXPENDITURES		BUDGETED EXPENDITURE	ACTUAL EXPENDITURE		
10-411-401	County Council	354,866	224,857	130,009	36.64%
10-411-402	Administrator	628,254	425,928	202,326	32.20%
10-411-403	Clerk of Court	1,838,967	1,169,990	668,977	36.38%
10-411-404	Solicitor	968,098	647,522	320,576	33.11%
10-411-405	Judge of Probate	511,408	314,489	196,919	38.51%
10-411-406	Public Defender	738,626	478,570	260,056	35.21%
10-411-407	Magistrates	2,149,906	1,317,784	832,122	38.71%
10-411-409	Legal Services	84,150	32,760	51,390	61.07%
10-411-410	Voter Registration & Elections	480,098	240,784	239,314	49.85%
10-411-411	Finance	770,270	490,437	279,833	36.33%
10-411-412	Human Resources	1,271,773	853,358	418,415	32.90%
10-411-413	Procurement & Vehicle Maintenance	1,265,462	675,094	590,368	46.65%
10-411-414	Administrative Services	392,654	248,259	144,395	36.77%
10-411-415	Treasurer	1,211,893	749,052	462,841	38.19%
10-411-416	Auditor	481,640	303,105	178,535	37.07%
10-411-417	Tax Assessor	1,237,707	766,164	471,543	38.10%
10-411-418	Planning and Building	2,049,378	1,337,088	712,290	34.76%
10-411-419	Complex	1,247,869	761,985	485,884	38.94%
10-411-420	Facilities Management	906,594	603,362	303,232	33.45%
10-411-427	Information Technology	1,280,888	889,174	391,714	30.58%
10-411-446	Veteran's Affairs	153,066	96,405	56,661	37.02%
10-411-480	Senior Citizen Centers	337,053	190,953	146,100	43.35%
10-411-485	General Direct Assistance	209,242	116,402	92,840	44.37%
10-411-488	Contingency	920,029	810,552	109,477	11.90%
10-411-489	Employee Tort & Blanket Bond	215,742	215,457	285	0.13%
10-421-421	Sheriff's Office	14,527,411	9,558,512	4,968,899	34.20%
10-421-422	Emergency Management	2,419,760	1,583,697	836,063	34.55%
10-421-481	Rural Fire Departments	14,850	2,480	12,370	83.30%
10-451-423	EMS	4,214,054	2,612,244	1,601,810	38.01%
10-451-424	Rescue Squads	436,524	245,325	191,199	43.80%
10-451-425	Coroner	263,858	163,859	99,999	37.90%
10-451-441	Health Department	85,140	56,547	28,593	33.58%
10-451-442	Environmental Services	711,559	366,327	345,232	48.52%
10-451-485	Health Direct Assistance	15,742	5,126	10,616	67.44%
10-461-485	Welfare - MIAP & DSS	463,777	324,889	138,888	29.95%
10-471-451	Recreation	1,698,445	1,156,773	541,672	31.89%
10-471-455	County Library	3,591,064	2,265,857	1,325,207	36.90%
10-471-485	Museum Commission	9,900	4,950	4,950	50.00%
10-481-485	Literacy Council	4,901	2,451	2,451	50.00%
TOTAL		50,162,618	32,308,568	17,854,050	35.59%

Ideal Remaining % = 33.33%

**FLORENCE COUNTY GOVERNMENT  
GENERAL FUND  
REVENUE & EXPENDITURE REPORT FY10  
7/1/09 TO 02/28/10**

	BUDGETED	YEAR-TO-DATE ACTUAL	REMAINING	
	REVENUE	REVENUE	BALANCE	PCT
<b>REVENUES</b>				
Taxes	32,031,860	29,064,120	2,967,740	9.26%
Licenses & Permits	1,522,800	395,314	1,127,486	74.04%
Fines & Fees	3,485,600	2,054,245	1,431,355	41.06%
Intergovernmental	7,162,442	3,268,936	3,893,506	54.36%
Sales and Other Functional	5,180,350	3,299,740	1,880,610	36.30%
Miscellaneous	1,362,250	254,906	1,107,344	81.29%
Operating Transfers	(3,141,056)	-	(3,141,056)	100.00%
Use of Fund Balance	1,740,000	-	1,740,000	100.00%
<b>TOTAL</b>	<b>49,344,246</b>	<b>38,337,260</b>	<b>11,006,986</b>	<b>22.31%</b>

**FLORENCE COUNTY**  
**BUDGET REPORT - OTHER FUNDS**  
**CURRENT PERIOD: 7/1/2009 TO 02/28/10**

	BUDGETED EXPENDITURE	YEAR TO DATE CURRENT	REMAINING BALANCE	PCT	BUDGETED REVENUE	YEAR TO DATE CURRENT	REMAINING BALANCE	PCT
45 County Debt Service Fund	3,769,173	1,207,410	2,561,763	67.97%	3,769,173	3,775,029	-	0.00%
112 Economic Development Partnership Fund	455,400	293,577	161,823	35.53%	455,400	47,030	408,370	89.67%
123 Local Accommodations Tax Fund	2,752,153	1,049,691	1,702,462	61.86%	2,752,153	689,559	2,062,594	74.94%
124 Local Hospitality Tax Fund	694,271	147,146	547,125	78.81%	694,271	675,365	18,906	2.72%
131 District Utility Allocation Fund	2,668,150	171,777	2,496,373	93.56%	2,668,150	42,418	2,625,732	98.41%
132 District Infrastructure Allocation Fund	1,771,836	245,583	1,526,253	86.14%	1,771,836	-	1,771,836	100.00%
151 Law Library Fund	89,100	18,876	70,224	78.81%	89,100	28,321	60,779	68.21%
153 Road System Maintenance Fee Fund	3,337,117	1,593,077	1,744,040	52.26%	3,337,117	1,191,938	2,145,179	64.28%
154 Victim/Witness Assistance Fund	364,568	225,136	139,432	38.25%	364,568	150,928	213,640	58.60%
421 Landfill Fund	4,344,219	2,623,049	1,721,170	39.62%	4,344,219	2,054,904	2,289,315	52.70%
431 E911 System Fund	685,170	437,711	247,459	36.12%	685,170	257,890	427,280	62.36%
TOTALS:	20,931,157	8,013,035	12,918,123	61.72%	20,931,157	8,913,381	12,023,632	57.44%

**IDEAL REMAINING PERCENT: 33.33%**

331 Capital Project Sales Tax Fund (Florence County Forward road projects)

Sales taxes received and interest reported from inception through quarter ended December 31, 2009      \$ 51,810,777

(Sales taxes are received directly by South Carolina Department of Revenue and are remitted to Florence County on a quarterly basis.)

**Florence County Council  
District Allocation Balances  
February 28, 2010**

<b>Council District #</b>	<b>Type of Allocation</b>	<b>Beginning Budget FY10</b>	<b>Commitments &amp; Current Year Expenditures</b>	<b>Current Available Balances</b>
<b>1</b>	Infrastructure	273,795.96	101,868.62	171,927.34
	Paving	50,962.00	19,653.38	31,308.62
	Utility	335,216.45	94,451.84	240,764.61
	In-Kind	19,800.00	1,314.75	18,485.25
<b>2</b>	Infrastructure	86,353.87	65,522.04	20,831.83
	Paving	123,801.75	108,906.87	14,894.88
	Utility	133,423.72	29,955.72	103,468.00
	In-Kind	19,800.00	1,862.40	17,937.60
<b>3</b>	Infrastructure	145,255.12	70,572.83	74,682.29
	Paving	445,940.82	419,025.85	26,914.97
	Utility	299,259.29	40,527.75	258,731.54
	In-Kind	19,800.00	3,872.00	15,928.00
<b>4</b>	Infrastructure	300,362.28	43,261.94	255,765.34
	Paving	157,851.86	22,943.38	134,908.48
	Utility	127,300.47	34,003.00	93,297.47
	In-Kind	19,800.00	190.09	19,609.91
<b>5</b>	Infrastructure	114,239.51	71,034.38	41,870.13
	Paving	71,493.35	71,453.27	40.08
	Utility	226,658.48	68,966.33	157,692.15
	In-Kind	19,800.00	1,154.00	18,646.00
<b>6</b>	Infrastructure	279,166.47	14,945.52	264,220.95
	Paving	196,497.87	-	196,497.87
	Utility	291,869.95	12,269.00	279,600.95
	In-Kind	19,800.00	-	19,800.00
<b>7</b>	Infrastructure	133,600.52	65,311.89	68,288.63
	Paving	315,436.06	130,793.06	184,643.00
	Utility	362,021.45	57,185.65	304,835.80
	In-Kind	19,800.00	-	19,800.00
<b>8</b>	Infrastructure	309,294.44	233,057.08	76,237.36
	Paving	289,746.80	289,746.80	-
	Utility	345,982.15	198,293.20	147,688.95
	In-Kind	19,800.00	-	19,800.00
<b>9</b>	Infrastructure	100,044.68	61,868.90	38,175.78
	Paving	155,723.13	33,959.13	121,764.00
	Utility	307,233.93	38,358.02	268,875.91
	In-Kind	19,800.00	-	19,800.00

Infrastructure funds to be used for capital projects or equipment purchases. (See guidelines)  
Paving funds to be used for paving or rocking roads. See guidelines in County code.  
Utility funds to be used for water, sewer, stormwater, and any infrastructure fund projects.  
In-Kind funds to be used for projects completed by the Public Works Department.

# FLORENCE COUNTY FORWARD CAPITAL PROJECT SALES TAX

As of February 28, 2010

EXPENDITURES	Project Budget	Design or Engineering	Right of Way	Construction	Total Completed to Date	Balance	% Balance Remaining
Pine Needles Road Widening	\$ 17,676,768.00	\$ 666,822.18	\$ 1,224,957.80	\$ 6,291,386.37	\$ 8,183,166.35	\$ 9,493,601.65	53.71%
US 378 Widening	\$ 138,751,620.00	\$ 2,017,909.08	\$ 52,281.40	\$ 4,337.97	\$ 2,074,528.45	\$ 136,677,091.55	98.50%
US 76 Widening	\$ 31,641,621.00	\$ 1,142,317.49	\$ 3,857.80	\$ 2,562.16	\$ 1,148,737.45	\$ 30,492,883.55	96.37%
TV Road Widening	\$ 34,519,290.00	\$ 479,001.71	\$ -	\$ 855.00	\$ 479,856.71	\$ 34,039,433.29	98.61%
SC 51 Widening	\$ 151,533,817.00	\$ 425,162.11	\$ -	\$ 38.75	\$ 425,200.86	\$ 151,108,616.14	99.72%
US 301 Bypass Extension	\$ 73,464,146.00	\$ -	\$ -	\$ -	\$ -	\$ 73,464,146.00	100.00%
	\$ 447,587,262.00	\$ 4,731,212.57	\$ 1,281,097.00	\$ 6,299,180.25	\$ 12,311,489.82	\$ 435,275,772.18	97.25%

REVENUES	Project Budget	Received/Earned to Date	Balance	% Balance Remaining
Capital Project Sales Tax	\$ 148,000,000.00	\$ 49,196,577.81	\$ 98,803,422.19	66.76%
Earned State Match	\$ 250,000,000.00	\$ 103,621,553.12	\$ 146,378,446.88	58.55%
Interest Earnings	\$ -	\$ 2,614,198.75		
	\$ 398,000,000.00	\$ 155,432,329.68	\$ 245,181,869.07	

NOTE: Revenue Received/Earned to Date is as of December 31, 2009, since capital project sales tax is received from the state on a quarterly basis.

# **FLORENCE COUNTY COUNCIL MEETING**

April 15, 2010

**AGENDA ITEM:** Request for Reinstatement of MOU

**DEPARTMENT:** Administration

## **ISSUE UNDER CONSIDERATION:**

Authorizing Addendum #2 To The Memorandum Of Understanding (MOU) With Turner's Auto Salvage To Provide For Final Removal Of Waste Tires Estimated To Cost \$9,500.

## **POINTS TO CONSIDER:**

1. MOUs between the County and several other vendors initiated in 2005 provided for cleanup of used tires.
2. The MOU with Turner's Auto Salvage remains active and in force.
3. Although over two thirds of the tires were removed, Turner's Auto Salvage has been unable to complete the final removal until now.
4. This project will allow for the final removal and recycling of the remaining waste tires at Turner's Auto Salvage, eliminating health concerns imposed by the availability of a breeding ground for mosquitoes.
5. The project cost is estimated at \$9,500 which will be funded from Fund 421-441-432-400.
6. The \$200 one-time trailer drop fee will be paid by Turner's Auto Salvage as part of this new Addendum #2 to the original MOU.
7. The County Administrator is directed to proceed with MOU Addendum #2 and the project.

## **OPTIONS:**

1. *(Recommended)* Approve as presented.
2. Provide an Alternate Directive.

## **ATTACHMENTS:**

1. Copy of MOU between Turner's Auto Salvage and Florence County
2. Copy of Addendum #1
3. Copy of proposed Addendum #2



## FLORENCE COUNTY

This Memorandum of Understanding (MUO) establishes an agreement between Turner's Auto Salvage (Automobile Dismantler or A/D) and Florence County.

This agreement is effective when signed by an authorized agent for the County and for the A/D.

Under this MUO, Florence County will provide services to remove tires to be recycled through a blanket purchase agreement issued to an approved vendor.

County Responsibilities – Florence County will:

- a) provide a qualified vendor as determined under its procurement codes.
- b) have vendor remove approximately 3,600 tires from the A/D's site (up to 4 trailer loads) for recycling purposes.
- c) make available funds to cover the expense of the tire removal, with exception of the initial \$200 trailer drop charge.

A/D Responsibilities – Turner's Auto Salvage will:

- a) provide the fee of \$200 to Florence County to cover the initial trailer drop fee prior to the placement of vendor's trailer on the yard of the A/D.
- b) complete the required DHEC Form 1 for dismantled tires and provide the County with this completed document with each load processed.
- c) understand and agree that any failure to comply with these terms will result in immediate termination of the MUO and will revert financial responsibility to the A/D.

  
Turner's Auto Salvage

3-21-05 Date

  
Florence County

3-21-05 Date



## FLORENCE COUNTY

This Memorandum of Understanding (MUO) is an addendum to an agreement established between Turner's Auto Salvage (Automobile Dismantler or A/D) and Florence County on March 21, 2005.

This agreement is effective when signed by an authorized agent for the County and for the A/D.

Under this addendum to the original MUO, Florence County will continue to provide services to remove tires to be recycled through a blanket purchase agreement issued to an approved vendor.

County Responsibilities – Florence County will continue to do a), b) and c) as stated in the original MUO and d) as the addendum to the original agreement:

- a) provide a qualified vendor as determined under its procurement codes.
- b) have vendor remove approximately 3,600 tires from the A/D's site (up to 4 trailer loads) for recycling purposes.
- c) make available funds to cover the expense of the tire removal, with exception of the initial \$200 trailer drop charge.
- d) make funds available to cover the expense of the tire removal, with exception of the initial \$200 trailer drop charge for requested trailer number 2.

A/D Responsibilities – Turner's Auto Salvage will continue to do a), b) and c) as stated in the original MUO and d) as the addendum to the original agreement:

- a) provide the fee of \$200 to Florence County to cover the initial trailer drop fee prior to the placement of vendor's trailer on the yard of the A/D.
- b) complete the required DHEC Form 1 for dismantled tires and provide the County with this completed document with each load processed.
- c) understand and agree that any failure to comply with these terms will result in immediate termination of the MUO and will revert financial responsibility to the A/D.
- d) provide the fee of \$200 to Florence County to cover the initial trailer drop fee prior to the placement of vendor's trailer number 2 on the yard of the A/D.

  
Turner's Auto Salvage

4-26-05 Date

  
Florence County

4/26/05 Date



COUNTY OF FLORENCE

Turner Auto Salvage

)  
)  
)  
**Memorandum Of Understanding – Addendum #2**

This Memorandum of Understanding Addendum #2 (MOUA) to an Agreement established between Turner Auto Salvage, 4634 West Palmetto Street, Timmons ville, South Carolina (Automobile Dismantler or A/D) and Florence County (County) on March 21, 2005 (Agreement), is effective when signed by the authorized agent for the County and for the A/D. This MOUA, all associated Addendum, and the Agreement shall terminate in 180 days from the earliest signing date entered below.

Under this MOUA to the original MOU, Florence County will provide a final one-time service to remove the remaining stockpile of tires (at 4634 West Palmetto Street Timmons ville, South Carolina) to be recycled through an approved vendor.

**County Responsibilities:**

As stated in the original MOU, Florence County will complete action with the removal of tires on site as verified by the County Public Works Director on March 29, 2010, excluding the concluded first Addendum to the original agreement, and will:

- a) Provide a qualified vendor.
- b) Make allowances for lack of any records, due to the lapse in years in project progression.
- c) Authorize vendor to remove approximately 30 tons of tires from the A/D's site for recycling purposes.
- d) Make available funds to cover the expense of the tire removal, with exception of the required one-time \$200 trailer drop charge to complete the continuation of the project.
- e) No longer accept requests for tire removal from Turner Auto Salvage as a condition of this MOUA, once the MOUA expires.

**A/D Responsibilities:**

Turner's Auto Salvage:

- a) Will complete all requirements timely to continue and conclude the project within the term of this MOUA, and applicable additional requirements in the original MOU.
- b) Acknowledges expiration of MOUA #1 to the original MOU, said MOUA #1 having been completed.
- c) Acknowledges and agrees in perpetuity that this will be the final request to the County for assistance in removal of stockpile tires.
- d) Will adhere rigorously to State Code Section 44-96-170, (K)(3), and will be fully responsible for continuing compliance thereto and timely and proper recycling of all waste tires hereafter.
- e) Will provide the fee of \$200 to Florence County to cover the initial trailer drop fee prior to the placement of vendor's trailer on the yard of the A/D.
- f) Will complete the required DHEC Form 1 for dismantled tires and provide the County with this completed document with each load processed, with exception as noted in County's responsibilities item (b).
- g) Understands and agrees that any failure to comply with these terms will result in immediate termination of the MOU and all amendments thereto, causing all financial responsibility to revert to the A/D.

\_\_\_\_\_  
Russell Turner, for Turner's Auto Salvage

\_\_\_\_\_  
Richard A. Starks, Florence County Administrator

\_\_\_\_\_  
Date

\_\_\_\_\_  
Date

# FLORENCE COUNTY COUNCIL MEETING

April 15, 2010

**AGENDA ITEM:** Reports to Council

**DEPARTMENT:** Administration  
Grants Department

## **ISSUE UNDER CONSIDERATION:**

Accept allocation from the South Carolina Department of Transportation (SCDOT) under the Florence County Transportation Committee (FCTC) C funds program, PCN #39865 in the amount of \$349,358 for the construction and paving of Industrial Boulevard in Godley Morris Commerce Park.

## **POINTS TO CONSIDER:**

1. The South Carolina Department of Transportation under the C Funds Program, PCN#39865 has allocated \$349,358 for the construction and paving of Industrial Boulevard in Godley Morris Commerce Park
2. Acceptance of the grant includes authorization of appropriate general ledger accounts within the Grant Fund to account for the grant.

## **OPTIONS:**

1. *(Recommended)* Approve as presented.
2. Provide an Alternate Directive.

## **ATTACHMENTS:**

Letter from Florence County Transportation Committee dated March 19, 2010.



South Carolina  
Department of Transportation

MAR 23 RECD

cc: K. Starks  
C. Gregg

March 19, 2010

Ms. Kathy Nephew  
Florence County  
180 N. Irby Street, MSC-G  
Florence, South Carolina 29501

Dear Ms. Nephew:

I am pleased to inform you that the Florence County Transportation Committee (CTC) has requested the South Carolina Department of Transportation (SCDOT) to budget CTC funds for a construction and paving project in Florence County.

The CTC has allocated \$349,358.00 to Florence County under local paving project C PCN 39865. This project is identified as the construction and paving of county road Industrial Boulevard (2<sup>nd</sup> phase) in Florence County. Please note that the Project Control Number (PCN) shown above will identify this project in our records and should be included on all correspondence.

Florence County will have full responsibility for the construction, maintenance, and inspection of this project. The County is expected to comply with the requirements set forth in S.C. Code of Laws, Section 12-28-2740 (Supp. 1996), Paragraph I, regarding construction specifications and bidding procedures.

SCDOT will reimburse funds for eligible project costs up to the amount budgeted by the CTC, based upon the County's submission of the signed Request for Payment Invoice (form enclosed). The Request for Payment Invoice of eligible contract expenditures must be accompanied by detailed documentation of the charges. This documentation may be in the form of a canceled check, contractor's invoice, supplier's invoice, an engineer's pay estimate, or a statement of direct expenses, if county personnel accomplish the work. Each invoice shall be certified true and correct by a duly authorized representative of the county. By submission of the payment request, the agent is certifying that the work and/or materials for which the payment is requested has been incorporated into the above referenced project; that the project has been administered and constructed in accordance with SC Consolidated Procurement code and with the requirements of S.C. Code Section 12-28-2740 (Supp. 1996); all work has been inspected and accepted by the County; and that the funds requested will be applied to the purposes for which they are requested.



Post Office Box 191  
Columbia, South Carolina 29202-0191

Phone: (803) 737-2314  
TTY: (803) 737-3870

AN EQUAL OPPORTUNITY  
AFFIRMATIVE ACTION EMPLOYER

Ms. Kathy Nephew

Page 2

March 19, 2010

Attached is a list of required documentation to be submitted to the C Program Administration Office at the first request for reimbursement. If any of these requirements are not applicable to the project, then please so indicate on the attached checklist.

If you have any questions or concerns, please contact me at 803-737-4832 for assistance.

Sincerely,



Batina Feaster  
Program Coordinator  
C Program Administration

BF:cg  
Enclosures

# **FLORENCE COUNTY COUNCIL MEETING**

April 15, 2010

**AGENDA ITEM:** Reports to Council  
Grant Award South Carolina Department of Commerce

**DEPARTMENT:** Florence County Economic Development  
Grants Department

## **ISSUES UNDER CONSIDERATION:**

Accept Grant Award #4-ED-09-004 In The Amount Of \$570,000 As Approved By The South Carolina Department Of Commerce Under The Business Development Section Of The Community Development Block Grant (CDBG) Program Approved For The McCall Farms Phase II Expansion Project.

## **POINTS TO CONSIDER:**

1. Florence County Economic Development will utilize the South Carolina Department of Commerce CDBG Grant to assist with Phase II of the McCall Farms Expansion project.
2. McCall Farms is in the process of an anticipated \$30.5 million capital investment in Florence County, which will create 65 new jobs. The grant funds will be used to pay for sewer facilities, street improvements and associated costs to complete the Phase II expansion.
3. Acceptance of the grant includes authorization for the County Administrator to execute the Performance Agreement with the South Carolina Department of Commerce.

## **FUNDING FACTORS:**

1. \$579,976 = Total costs for the McCall Farms Phase II expansion as outlined under the South Carolina Department of Commerce Community Development Block Grant (CDBG) program.
2. \$57,000 = Required 10% match to be provided by Florence County as a fee in lieu.
3. \$9,976 – Other leveraging amount will be provided by McCall Farms.

## **OPTIONS:**

1. *(Recommended)* Approve as presented.
2. Provide an Alternative Directive.

## **ATTACHMENTS:**

Grant Award from the South Carolina Department of Commerce.

DEPARTMENT OF COMMERCE  
Grants Administration  
1201 Main Street, Suite 1600  
Columbia, South Carolina 29202

GRANT AWARD

Grantee: Florence County

Date of Award: March 22, 2010

Grant Title: McCall Farms Phase II Expansion

Category: Business Development

Grant Period: 3/2010 - 3/2012

Award Amount: \$570,000

Grant Number: 4-ED-09-004

In accordance with the provisions of Title I of the Housing and Community Development Act of 1974 (P.L. 93-383), as amended and on the basis of the grant application submitted, Grants Administration hereby awards funds to the above named Grantee, in the amount shown above, for the activities specified in the application and within the purposes and categories authorized. The acceptance of this award creates a contract between the State of South Carolina and the Grantee legally binding the Grantee to carry out the activities set forth in the approved grant application in accordance with the terms and conditions of the Grant Agreement. Contracts to be paid in whole or in part with funds from this grant must be submitted to Grants Administration for approval prior to execution. The special conditions for this grant, if any, are as follows:

See attached Special Condition(s) for Community Development Block Grant (CDBG)# 4-ED-09-004.

This contract shall become effective, as of the date of award, upon return of two copies of this grant award which have been signed in the space provided below. Both copies must have original signatures and must be returned within 15 days from the date above.



Bonnie Ammons  
Assistant Director, Federal Programs

ACCEPTANCE FOR THE GRANTEE:



Signature of Official with authority to execute this contract

3/26/10  
Date

Richard A. Starks, County Administrator

Typed Name and Title of Authorized Official

ATTEST:



Signature of Elected City or County Council Member



Signature of Elected City or County Council Member

CFDA NO: 14.228

# FLORENCE COUNTY COUNCIL MEETING

April 15, 2010

**AGENDA ITEM:** Reports to Council

**DEPARTMENT:** Emergency Management  
Procurement Department

## **ISSUE UNDER CONSIDERATION:**

Authorization to procure the FireTrax software upgrade for the current accountability software used by the Emergency Management Department from Bridgeway Solutions, the only authorized dealer in South Carolina, in the amount of \$19,750.50 utilizing 2009 Homeland Security Grant funding.

## **POINTS TO CONSIDER:**

1. The current software system was purchased in 2004 with grant funds provided by the Department of Homeland Security.
2. The upgrade to the Emergency Management Department's current FireTrax accountability system software will be used to scan bar codes on personnel tags to maintain personnel accountability on emergency scenes.
3. Bridgeway Solutions is the only authorized dealer for Salamander Solutions Technologies; the company who manufactures the FireTrax software system.

## **FUNDING FACTORS:**

1. The total cost of the upgrade is \$19,750.50.
2. The funding to cover the software upgrade is the 2009 Homeland Security Grant (9SHSP11).

## **OPTIONS:**

1. *(Recommended)* Approve as presented.
2. Provide An Alternate Directive.

## **ATTACHMENTS:**

1. Sole Source Justification Form.
2. Letter from manufacturer concerning authorized dealers in South Carolina.



## SOLE SOURCE JUSTIFICATION

Based upon the following determination, the proposed procurement action described below is requested pursuant to the authority of the current Florence County Code.

This department, Emergency Management, proposes to procure

3PDA Accountability devices from Bridgeway Solutions

based on the following: (check all that apply)

- ☒ Item 1: Sole Source request is for the original manufacturer or provider; there are no regional distributors. (Attach the manufacturers written certification that no regional distributors exist.) Item 4 must also be checked
- ☐ Item 2: Sole Source request is for the only area distributor of the original manufacturer or provider. (Attach the manufacturers - not the distributor's -written certification that identifies all regional distributors.) Item 4 must also be checked
- ☐ Item 3: The parts/equipment are not interchangeable with similar parts of another manufacturer. (Explain below or in separate memorandum.)
- ☒ Item 4: This is the only known item or service that will meet the specialized needs of this department or perform the intended function. (Explain below or in separate memorandum describing basis for standardization request)
- ☐ Item 5: The parts/equipment is required for trial basis or testing.
- ☐ Item 6: None of the above apply. A detailed explanation and justification for this sole source request is contained below or in the attached memorandum.

This equipment is being purchased to operate on  
our Salamander software system. This system  
is produced and serviced by Bridgeway Solutions who  
is the sole distributor for SC. We currently have  
over \$82,000 invested in our Salamander Accountability  
system and these items are add on to our  
current system.

3/26/10  
Date

Windy Rivers  
Department Head

\_\_\_\_\_  
Date

\_\_\_\_\_  
Procurement Dir. or County Administrator





October 30, 2009

Re. Bridgeway Solutions, Inc.

To Whom It May Concern,

This is to verify that Bridgeway Solutions, Inc. is both an Authorized Dealer and Certified Regional Technical Center for Salamander Technologies, Inc. Bridgeway Solutions, Inc. is the only South Carolina dealer that can sell, install, train, and technically support our interTRAX® Resource Accountability systems.

If you have any questions or concerns, please don't hesitate to contact me.

Sincerely,

Russell L. Miller  
President

THE STANDARD IN ACCOUNTABILITY

122 West State Street Traversa City, Michigan 49684 FX 231-932-1606 PH 231-932-4347 [www.salamandertechnologies.com](http://www.salamandertechnologies.com)

# FLORENCE COUNTY COUNCIL MEETING

April 15, 2010

**AGENDA ITEM:** Reports to Council

**DEPARTMENT:** Emergency Management  
Procurement Department

## **ISSUE UNDER CONSIDERATION:**

Authorization To Procure Law Enforcement Dispatch Protocol Software From The Current Vendor, Medical Priorities, Inc., To Interface With Current Computer Aided Dispatch (CAD) Software Configuration For The Emergency Management Department Utilizing \$55,246.75 In FY 10 Budgeted Funds.

## **POINTS TO CONSIDER:**

1. Medical Priorities, Inc. is the provider of the medical dispatch protocol software and fire protocol software that is being used in conjunction with the CAD software currently in use in the Florence County E-911 center.
2. The Law Enforcement Dispatch Protocol Software is an add-on module that interfaces with the current CAD software configuration.
3. The software was budgeted in the FY 10 E-911 Budget.

## **FUNDING FACTORS:**

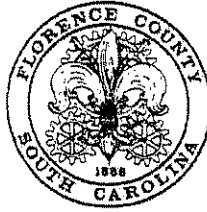
1. The total cost of the module is \$55,246.75.
2. The funding to cover the software module is budgeted in FY 10 E-911 System funds.

## **OPTIONS:**

1. *(Recommended)* Approve as presented.
2. Provide An Alternate Directive.

## **ATTACHMENTS:**

Letter of Request from Emergency Management Director dated March 15, 2010.



**FLORENCE COUNTY**  
**Emergency Management**

**March 15, 2010**

Subject: Sole Source Justification

Florence County Central Dispatch /E-911 request to purchase the "Emergency Police Dispatch Protocol" software system from Medical Priorities, Inc., as a sole source vendor.

We wish to purchase the software system from Medical Priorities, Inc., because we are currently using the "Emergency Medical Dispatch Protocol" software which we purchased from them in 2001 and the "Emergency Fire Dispatch Protocol" software system which we purchased from them in 2007.

All three of these systems are designed to be fully integrated and will operate using the same dispatch protocols. This will allow us to dispatch our law enforcement officers using the same protocol system which is currently being used by Central Dispatch and our county's medical and fire responders. This purchase will complete the standardization of our dispatch protocol system which we began in 2001.

Purchase of another software system will not allow us to integrate with the two dispatch protocol systems currently in operation within the county.

Dusty Owens  
Director  
Emergency Management Department

## **FLORENCE COUNTY COUNCIL MEETING**

Item for Meeting on: April 15, 2010

**AGENDA ITEM:** Applications for Non-Exclusive, Ambulance Franchises

**DEPARTMENT:** EMS

**ISSUE UNDER CONSIDERATION:** Consider awarding non-exclusive ambulance franchises to Carolina MedCare, Inc., Carolina MedCare / Midlands, Strand Care, ParaBasic Ambulance Service, MedSouth Transportation, and Lakeside Medical Response, Inc.

### **POINTS TO CONSIDER:**

1. (A) Carolina MedCare, Inc. is owned by Ryan Finklea and is based in Florence, SC.  
(B) Carolina MedCare / Midlands is owned by Ryan Finklea and is based in Sumter, SC.  
(C) Strand Care, LLC is owned by Ryan Finklea and is based in Myrtle Beach, SC.  
(D) ParaBasic Ambulance Service is owned by Michael and Stephanie Ostrander and is based in Andrews, SC.  
(E) MedSouth Transportation is owned by Derrick Williams and is based in Darlington, SC.  
(F) Lakeside Medical Response, Inc. is owned by Shameeka and James McDuffie and is based in Florence, SC.
2. Applicants have submitted appropriate applications along with required supporting documentation.
3. The EMS Director has reviewed the application packets and determined that they are compliant with Chapter 5 of the Florence County Code.

### **FUNDING FACTORS:**

1. None

### **OPTIONS:**

1. *(Recommended)* ... Award a non-exclusive, ambulance franchise to Carolina MedCare, Inc., Carolina MedCare / Midlands, Strand Care, LLC, ParaBasic Ambulance Service, MedSouth Transportation, and Lakeside Medical Response, Inc.
2. Take No Action or Provide An Alternate Directive

### **ATTACHMENTS:**

1. Letters of intent from businesses to operate private ambulance services in Florence County.
2. Memo to County Administrator from EMS Director regarding the matter.

Date: February 24, 2010

Ryon A. Watkins, Director  
Florence County EMS  
527 South Church Street  
Florence, S.C. 29506

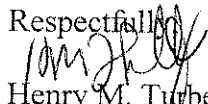
Reference: Non-exclusive non-emergency ambulance service in Florence County

Dear Sir,

Please accept this letter as our formal request for a non-exclusive non-emergency ambulance franchise for Florence County. Enclosed you will find the completed application along with the appropriate DHEC permit for Carolina MedCare Inc.

The owner of Carolina MedCare Inc. is Ryan Finklea and can be reached at the address below.

If there are any further questions please do not hesitate to call.

Respectfully,  
  
Henry M. Turbeville, Jr.  
Carolina MedCare Inc.  
1935 Second Loop Road  
Florence, S.C. 29505  
843-495-7329

HMT/s

# South Carolina



South Carolina Department of Health and Environmental Control  
This is to Certify that a License is hereby granted by the  
South Carolina Department of Health and Environmental Control  
to CAROLINA MEDCARE, INC.

To conduct and maintain an Ambulance Service in the premises located  
at 1935 Second Loop Road, Florence, SC 29502

County of Florence

This License shall expire June 30, 20 11, and is subject to the provisions of The Emergency Medical  
Services Act Section 44-61-10 et. seq. of the 1976 code, and regulations promulgated thereto. This license shall not be  
assignable or transferable and shall be subject to revocation at any time by the S. C. Department of Health and Environ-  
mental Control for failure to comply with the laws of the State of South Carolina or the rules and regulations of the South  
Carolina Department of Health and Environmental Control issued thereunder.

In Witness Whereof, we have hereunto set out hand and seal of the State this 22 day of June, 20 09.



License Number: 103  
License Category: Basic

By: Wm W. Smith

By: C. Earl Hunter

Date: February 24, 2010

Ryon A. Watkins, Director  
Florence County EMS  
527 South Church Street  
Florence, S.C. 29506

Reference: Non-exclusive non-emergency ambulance service in Florence County

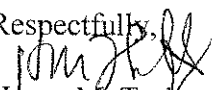
Dear Sir,

Please accept this letter as our formal request for a non-exclusive non-emergency ambulance franchise for Florence County. Enclosed you will find the completed application along with the appropriate DHEC permit for Carolina MedCare/Midlands.

The owner of Carolina MedCare/Midlands is Ryan Finklea and can be reached at the address below.

If there are any further questions please do not hesitate to call.

Respectfully,

  
Henry M. Turbeville, Jr.  
Carolina MedCare Inc.  
1935 Second Loop Road  
Florence, S.C. 29505  
843-495-7329

# South Carolina



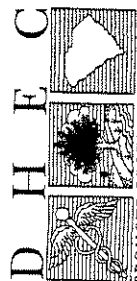
South Carolina Department of Health and Environmental Control  
This is to Certify that a License is hereby granted by the  
South Carolina Department of Health and Environmental Control  
to CAROLINA MEDCARE / MIDLANDS

To conduct and maintain an Ambulance Service in the premises located  
at 771 East Liberty St., Sumter, SC 29150

County of Sumter

This License shall expire March 31, 2012, and is subject to the provisions of The Emergency Medical Services Act Section 44-61-10 et. seq. of the 1976 code, and regulations promulgated thereto. This license shall not be assignable or transferable and shall be subject to revocation at any time by the S. C. Department of Health and Environmental Control for failure to comply with the laws of the State of South Carolina or the rules and regulations of the South Carolina Department of Health and Environmental Control issued thereunder.

In Witness Whereof, we have hereunto set out hand and seal of the State this 23 day of February, 2010.



License Number: 199

License Category: Basic

By: Wm W. Smith

By: C. Earl Hunter



Date: February 24, 2010

Ryon A. Watkins, Director  
Florence County EMS  
527 South Church Street  
Florence, S.C. 29506

Reference: Non-exclusive non-emergency ambulance service in Florence County

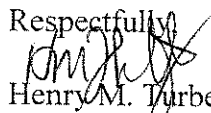
Dear Sir,

Please accept this letter as our formal request for a non-exclusive non-emergency ambulance franchise for Florence County. Enclosed you will find the completed application along with the appropriate DHEC permit for Strand Care, LLC.

The owner of Strand Care, LLC is Ryan Finklea and can be reached at the address below.

If there are any further questions please do not hesitate to call.

Respectfully,

  
Henry M. Turbeville, Jr.  
Carolina MedCare Inc.  
1935 Second Loop Road  
Florence, S.C. 29505  
843-495-7329

HMT/s

# South Carolina



South Carolina Department of Health and Environmental Control  
This is to Certify that a License is hereby granted by the  
South Carolina Department of Health and Environmental Control

to Strand Care, LLC

To conduct and maintain an Ambulance Service in the premises located

at 179 Prather Park Dr., Unit A, Myrtle Beach

County of Horry

This License shall expire June 30th, 20 10, and is subject to the provisions of The Emergency Medical Services Act Section 44-61-10 et. seq. of the 1976 code, and regulations promulgated thereto. This license shall not be assignable or transferable and shall be subject to revocation at any time by the S. C. Department of Health and Environmental Control for failure to comply with the laws of the State of South Carolina or the rules and regulations of the South Carolina Department of Health and Environmental Control issued thereunder.

In Witness Whereof, we have hereunto set out hand and seal of the State this 13th day of June, 20 08.



License number: 200  
License category: Basic

By: Ann W. Smith

By: C. Earl Hunter



## ParaBasic Ambulance Service

"Member of the American Ambulance Association & The SC EMS Association"

(Mailing Address) PO BOX 5, ANDREWS SC 29510

7582 Georgetown Highway, Andrews SC 29510

204 Short Street • Kingstree SC 29556

1580-3 Hwy 9 • Longs, SC 29568

Toll-Free 1-888-257-8648 (ALS-UNIT) • Fax 843.264.2604 • Email: [PARABASIC@PARABASIC.NET](mailto:PARABASIC@PARABASIC.NET)

[WWW.PARABASIC.NET](http://WWW.PARABASIC.NET)

*"When you need an ambulance in an emergency, call 911. For everything else, call ParaBasic."*

---

March 8, 2010

Ryon Watkins  
Director  
Florence County Emergency Medical Services  
527 S. Church Street  
Florence, SC 29506

Dear Mr. Watkins:

In compliance with Sec. 5-5 Franchise Application; Length of Franchise, ParaBasic Ambulance Service would like to announce its intent to provide non-emergency ambulance service in Florence County. A copy of our South Carolina DHEC License is attached.

**NAME:** Michael & Stephanie Ostrander  
**DATE:** 3/8/10  
**POSITION:** Owners  
**ORGANIZATION:** ParaBasic Ambulance Service  
**ADDRESS:** 7582 Georgetown Hwy.  
**MAILING ADDRESS:** P.O. Box 5  
**CITY/STATE/ZIP:** Andrews, SC 29510  
**PHONE:** 843-264-2911  
**FAX:** 843-264-2604  
**E-MAIL:** [mostrander@parabasic.net](mailto:mostrander@parabasic.net)  
[sostrander@parabasic.net](mailto:sostrander@parabasic.net)

Sincerely,

Michael Ostrander  
Owner  
rc  
Enclosure

Rec'd  
3/10/10  
[Signature]

# South Carolina



South Carolina Department of Health and Environmental Control  
This is to Certify that a License is hereby granted by the  
South Carolina Department of Health and Environmental Control

to ParaBasic, Inc.

To conduct and maintain an Ambulance Service in the premises located

at 238 Dawson Lake Rd., Georgetown

County of Georgetown

This License shall expire Dec. 31st, 2010, and is subject to the provisions of The Emergency Medical Services Act Section 44-61-10 et. seq. of the 1976 code, and regulations promulgated thereto. This license shall not be assignable or transferable and shall be subject to revocation at any time by the S. C. Department of Health and Environmental Control for failure to comply with the laws of the State of South Carolina or the rules and regulations of the South Carolina Department of Health and Environmental Control issued thereunder.

In Witness Whereof, we have hereunto set out hand and seal of the State this 9th day of December, 2008.



License number: 122  
License category: Basic

By: Ann W. Smith

By: C. Earl Hunter

**MEDSOUTH TRANSPORTATION**

**1136 Timmons ville Hwy.**

**Darlington, S. C. 29532**

**Office: (843) 398-4449**

**Fax: (843) 398-5058**

March 2, 2010

Mr. Ryon A. Watkins, Director  
527 S. Church St.  
Florence, S.C. 29506

Dear Mr. Watkins,

My name is Derrick Williams, owner of Medsouth Transportation. I am requesting at this time to obtain a franchise from Florence County. I reside in Darlington County. However, on occasion we respond to calls in Florence County.

Enclosed is a copy of our DHEC Ambulance License as well as our Certificate of Liability of Insurance.

Thank you in advance.

Sincerely,



Derrick Williams

Medsouth Transportation 1136 Timmons ville Hwy. Darlington, S.C. 29532

*Rec'd  
3-9-10  
B. Williams*

# South Carolina

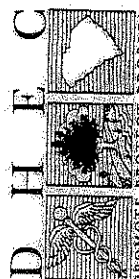


South Carolina Department of Health and Environmental Control  
This is to Certify that a License is hereby granted by the  
South Carolina Department of Health and Environmental Control

to MedSouth  
To conduct and maintain an Ambulance Service in the premises located  
at 1037 Timmonsville Hwy., Darlington  
County of Darlington

This License shall expire Dec. 31st, 2010, and is subject to the provisions of The Emergency Medical Services Act Section 44-61-10 et. seq. of the 1976 code, and regulations promulgated thereto. This license shall not be assignable or transferable and shall be subject to revocation at any time by the S.C. Department of Health and Environmental Control for failure to comply with the laws of the State of South Carolina or the rules and regulations of the South Carolina Department of Health and Environmental Control issued thereunder.

In Witness Whereof, we have hereunto set out hand and seal of the State this 9th day of December, 2008.



License number: 214  
License Category: Basic

By: Wm W. Amst

By: C. Earl Hunter



February 25, 2010

Mr. Ryon A. Watkins  
Director of Florence County EMS  
527 S. Church Street  
Florence, South Carolina 29506

Dear Mr. Ryon Watkins:

This letter is to inform you that I, Shameeka McDuffie and James McDuffie operate a private Ambulance service in the Florence County. The place of business is located at 202 3<sup>rd</sup> Loop Road, Suite A. Mr. James McDuffie and I are the sole owners of Lakeside Medical Response, Inc. Our DHEC License number is 234. In addition, our contact information is as followed: Mrs. Shameeka McDuffie, 843 629-7133 (O) and 843 260-0922 ( C ). Mr. James McDuffie, 843 629-7133 (O) and 843 453-2321 ( C ).

If you are in need of further assistance, please contact me at your earliest convenience.

Sincerely,

Shameeka McDuffie  
CEO

cc: James McDuffie, CEO

*Rec'd  
3-2-10  
BWB*

# South Carolina



South Carolina Department of Health and Environmental Control  
This is to Certify that a License is hereby granted by the  
South Carolina Department of Health and Environmental Control

to Lakeside Medical Response, Inc.

To conduct and maintain an Ambulance Service in the premises located

at 202 Third Loop Rd., Suite A, Florence

County of Florence

This License shall expire Dec. 31st, 2010, and is subject to the provisions of The Emergency Medical Services Act Section 44-61-10 et. seq. of the 1976 code, and regulations promulgated thereto. This license shall not be assignable or transferable and shall be subject to revocation at any time by the S.C. Department of Health and Environmental Control for failure to comply with the laws of the State of South Carolina or the rules and regulations of the South Carolina Department of Health and Environmental Control issued thereunder.

In Witness Whereof, we have hereunto set out hand and seal of the State this 16th day of December, 2008.

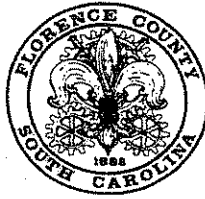


License number: 234  
License category: Basic

By: Ann W. Smith

By: C. Earl Hunter





**FLORENCE COUNTY**  
**Emergency Medical Services**

**Ryon A. Watkins**  
**Director**

**R. David Exum**  
**Operations & Training**

To: Richard Starks  
County Administrator

From: Ryon Watkins (RAW)  
EMS Director

Date: March 30, 2010

Subject: Ambulance Franchise Applications

Enclosed please find documents from Carolina MedCare, Inc.; Carolina MedCare / Midlands; StrandCare, LLC; ParaBasic Ambulance Service, MedSouth Transportation; and Lakeside Medical Response, Inc. Said companies are applying for non-exclusive ambulance franchises in Florence County.

I have reviewed the documents and concluded that all of the requests are compliant with the requirements of Chapter 5 of the Florence County Code (Ambulance Service).

As far as I am concerned, the matter is ready for review / approval by the county council.

Please contact me if you have questions regarding this matter.

Enclosures: Letters of intent from private ambulance companies (6)  
Copies of DHEC Ambulance Provider Licenses (6)  
Fact sheet / agenda item for County Council meeting on April 15, 2010

# FLORENCE COUNTY COUNCIL MEETING

April 15, 2010

**AGENDA ITEM:** Reports to Council  
Bid Award

**DEPARTMENT:** Procurement Department

## **ISSUE UNDER CONSIDERATION:**

Approve award of Bid # 18-09/10 for a mobile mounted generator for the Emergency Management Department to National Power Corporation, Raleigh, NC in the amount of \$27,561.68 to be funded from budgeted FY10 funds (*4 Compliant Bids*).

## **POINTS TO CONSIDER:**

- 1) Bid #18-09/10 was publicly offered.
- 2) Seven (7) bids were received; four (4) bids were compliant.
- 3) National Power Corporation, Raleigh, NC was the lowest compliant bidder for the mobile mounted generator.
- 4) The Emergency Management Director recommends the award.
- 5) The bid expires May 4, 2010.

## **FUNDING FACTORS:**

- 1) \$27,561.68 = Total cost of the mobile mounted generator for the Emergency Management Department to be funded from budgeted FY 10 funds.

## **OPTIONS:**

- 1) (*Recommended*) Approve as presented.
- 2) Provide An Alternate Directive.

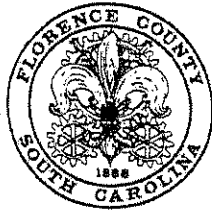
## **ATTACHMENTS:**

- 1) Bid Tabulation Sheet.
- 2) Memo of recommendation from Emergency Management Director.

Dept: Emergency Management Department Mobile (Trailer) Mounted Generator 50KW Invitation-to-Bid #18-09/10			Bid Opening Date: Time: March 16, 2010 11:00 AM Advertised Date: MN-2/24/10 SCBO-2/25/10 Invitations to Bids Distributed: 7 Bid Expiration Date: 5/4/2010		
Name of Bidder	Base Bid	Bid Security	Meets Bid Requirements	Total Bid	Total Non-Local (+2%)
National Power Corporation Raleigh, NC	\$27,561.68	Generac Yes	Yes	\$27,561.68	\$28,112.91
Power Systems, Inc. Lexington, SC	\$29,571.48	Baldor Yes	Yes	\$29,571.48	\$30,162.90
Blanchard Machinery Florence, SC	\$30,346.88	Caterpillar Yes	Yes	\$30,346.88	
Nixon Power Services Co. Charlotte, NC	\$31,869.72	Kohler Yes	Yes	\$31,869.72	\$32,507.11
Generator Services, Inc. W. Columbia, SC	\$34,186.32	?? No	No	\$34,186.32	\$34,870.04
Dougherty Equipment Co. Ladson, SC	\$35,491.41	Wacker Neuson Yes	No	\$35,491.41	\$38,330.72
Cummins Atlantic Loris, SC	\$37,060.81	Cummins No	Yes	\$37,060.81	\$37,802.02

Notes:

2% Local Preference Florence County Code, Section 11-62



**FLORENCE COUNTY**  
**Emergency Management**

April 5, 2010

Subject: Bid Number 18-09/10

After a review of all bid packages submitted related to bid number 18-09/10, I recommend that the bid be awarded to the lowest responsive bidder, National Power Corp., of Raleigh, NC, in the amount of \$27,561.68.

Dusty Owens  
Director  
Emergency Management Department

# FLORENCE COUNTY COUNCIL MEETING

April 15, 2010

**AGENDA ITEM:** Reports to Council  
Bid Award

**DEPARTMENT:** Recreation  
Procurement Department

## **ISSUE UNDER CONSIDERATION:**

Authorize The Award Of Bid #19-09/10 - Tour Events To PML Tours, Marlton, NJ For Various Trips To Be Funded By The Participants If The Minimum Participation Numbers Are Met (*One Compliant Bidder*).

## **POINTS TO CONSIDER:**

- 1) Bid #19-09/10 was publicly offered.
- 2) One (1) compliant bid was received.
- 3) PML Tours, Marlton, NJ was the lowest compliant bidder for the Hawaiian Cruise, Bahamas Cruise, Winston Salem, NC trip, and Savannah, GA trip.
- 4) The Recreation Director recommends this award.
- 5) The bid expires May 10, 2010.
- 6) The Recreation Department coordinates trips for citizens interested in trips to various locations.
- 7) Participants pay all costs associated with the trips.

## **FUNDING FACTORS:**

- 1) \$0 = Total cost to the County.

## **OPTIONS:**

- 1) (*Recommended*) Approve as presented.
- 2) Provide An Alternate Directive.

## **ATTACHMENTS:**

- 1) Bid Tabulation Sheet.
- 2) March 31, 2010 Recommendation Letter from the Recreation Director.





## FLORENCE COUNTY

Recreation

# Memorandum

**To:** Mazie Abraham, Procurement Director  
**From:** Joe Eason, Parks and Recreation Director  
**Date:** 3/31/2010  
**Re:** Invitation to Bid #19-09/10

---

My staff and I have reviewed the bid received to coordinate travel to various destinations and recommend awarding the bid to PML Tours of Marlton, New Jersey. The company has coordinated similar overnight travel for the County in the past and is qualified for these tours. Your assistance in processing this information for Council on behalf of our Department is greatly appreciated.

# FLORENCE COUNTY COUNCIL MEETING

April 15, 2010

**AGENDA ITEM:** Reports to Council  
Bid Award

**DEPARTMENT:** Recreation Department  
Procurement Department

## **ISSUE UNDER CONSIDERATION:**

Approve Award Of Bid # 21-09/10 For A Tennis Facility At Ebenezer Park To Mimms Construction, Inc., Hartsville, SC In The Amount Of \$41,333 To Be Funded From Fund 315-441-431-000. (4 Compliant Bids)

## **POINTS TO CONSIDER:**

- 1) Bid #21-09/10 was publicly offered.
- 2) Four (4) bids were received; four (4) bids were compliant.
- 3) Mimms Construction, Inc., Hartsville, SC was the lowest compliant bidder for the tennis facility at Ebenezer Park.
- 4) The Recreation Director and Facility Manager recommends the award.
- 5) The bid expires May 10, 2010.

## **FUNDING FACTORS:**

- 1) \$41,333 = Total cost of the tennis facility at Ebenezer Park to be funded from Fund 315-441-431-000.

## **OPTIONS:**

- 1) *(Recommended)* Approve as presented.
- 2) Provide An Alternate Directive.

## **ATTACHMENTS:**

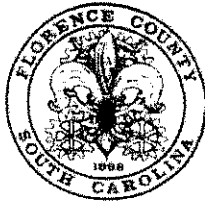
- 1) Bid Tabulation Sheet.
- 2) Memo of recommendation from Recreation Director.
- 3) Memo of recommendation from Facilities Manager.



Dept: Parks & Recreation Tennis Facility Invitation-to-Bid #21-09/10		Bid Opening Date: Time: March 23, 2010 11:30 AM		Advertised Date: Invitations to Bids Distributed: Bid Expiration Date: MN-3/7/10 SCBO-3/11/10 7 5/10/2010	
Name of Bidder	Base Bid	Bid Security	Meets Bid Requirements	Total Bid	Total Non-Local (+2%)
Mimms Construction, Inc. Hartsville, SC	\$41,333.00	Yes		\$41,333.00	
Carolina Construction, Inc. Cheraw, SC	\$59,200.00	Yes		\$59,200.00	
Whitewater Const. & Consulting Co N. Charleston, SC	\$59,999.00	Yes		\$59,999.00	
Pendergraft Construction Co. Lake City, SC	\$80,820.00	Yes		\$80,820.00	

**Notes:**

2% Local Preference Florence County Code, Section 11-62



## FLORENCE COUNTY

Recreation

# Memorandum

To: Mazie Abraham, Procurement Director  
From: Joe Eason, Parks and Recreation Director  
Date: 3/30/2010  
Re: Recommendation of Mimms Construction, Inc.

---

I have reviewed the bids for Bid #21-09/10 for the Tennis Facility for Ebenezer Park and my recommendation is to award the bid to the low responsive bidder, Mimms Construction, Inc. in the amount of \$41,333.00. Your assistance in processing this recommendation is greatly appreciated.

**AUTHORIZATION/INSTRUCTION TO PROCURMENT DEPARTMENT  
FOR BID PROCESS**

Project: CONSTRUCTION OF TENNIS FACILITY EBENEZER PARK  
 Budget: \_\_\_\_\_  
 Funding Source: \_\_\_\_\_  
 Department: P&D

1. I request that the Procurement Department bid the attached requisition according to the generic specifications attached.

Joseph Udon Date 3/5/10  
 Department Head Signature \_\_\_\_\_ Date \_\_\_\_\_

2. I have reviewed the attached bid package, confirmed accuracy of goods, services, or construction project being requested, authorize the attached specifications be used and request that the Procurement Department proceed with the bid advertisement and procurement. (If there are changes necessary to the bid package, please proceed to Step 3.)

Joseph Udon Date 3/5/10  
 Department Head \_\_\_\_\_ Date \_\_\_\_\_  
[Signature] Date 5/5/10  
 Facilities Manager (if required)\* \_\_\_\_\_ Date \_\_\_\_\_

3. I have reviewed the bid package and have indicated necessary changes to the attached bid documents.

Department Head \_\_\_\_\_ Date \_\_\_\_\_  
 Facilities Manager (if required)\* \_\_\_\_\_ Date \_\_\_\_\_

4. I have reviewed the bids and recommend that the bid be awarded to:  
MINNUS CONSTRUCTION, INC. in the amount of \_\_\_\_\_

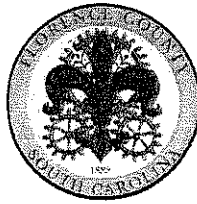
5. 41,333.00 I have attached a letter of recommendation.

Joseph Udon Date 3/29/10  
 Department Head \_\_\_\_\_ Date \_\_\_\_\_

6. I request that the Procurement Department execute the attached contract for the above approved project, goods or services. I have reviewed and agree with the terms and conditions.

Department Head \_\_\_\_\_ Date \_\_\_\_\_

\* Bids involving construction projects of new or existing county facilities



**FLORENCE COUNTY**  
Facilities Management

William Hargrove  
Facilities Manager

**MEMORANDUM**

To: Mazie Abraham, Interim Procurement Director  
From: Bill Hargrove, Facilities Manager  
Date: March 31, 2010  
Re: Recommendation on Awarding Bid #21-09/10

---

My recommendation for Bid #21-09/10, Tennis Building Construction, is that it be awarded to the responsive bidder, Mimms Construction, Inc., in the amount of \$41,330.00.

The commercial license is current and adequate for the construction proposed and the reference checks were positive.

If you have any questions, please contact me.

WJH

Florence County Council Meeting  
April 15, 2010

**AGENDA ITEM:** Other Business  
Infrastructure Project  
Council Districts 3 and 7

**DEPARTMENT:** County Council

**ISSUE UNDER CONSIDERATION:**

Approve The Expenditure Of Up To \$35,000.00 From Council Districts 3 And 7 Infrastructure Funding Allocations (\$17,500.00 From Each District) For The Pee Dee Community Action Partnership Transitional Shelter For Heating, Air, And Electrical Work At The Child Care Facility.

**FUNDING SOURCE:**

XXX Infrastructure                      \_\_\_\_\_ Road System Maintenance Fee                      \_\_\_\_\_ Utility

**Requested by Councilmember:**

**Amount:** \$17,500.00

**Amount:** \$17,500.00

**Signed:** verbally approved – signature pending  
Alphonso Bradley

**Signed:** verbally approved – signature pending  
Waymon Mumford

**ATTACHMENTS:**

1. Request from the Pee Dee Community Action Partnership Transitional Shelter and attached quotes.

---

I, Connie Y. Haselden, Clerk to County Council, certify this item was approved by the Florence County Council at the above-referenced meeting, at which a majority of members were present.

---

Connie Y. Haselden, Clerk to Council

PEE DEE COMMUNITY ACTION PARTNERSHIP

# *Transitional Shelter*

411 South Jarrott Street  
Florence, South Carolina 29506

Office No.: (843) 678-3410

Fax No.: (843) 678-3412

Walter Fleming, Jr.  
Executive Director

Rev. Mack T. Hines  
Shelter Manager

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March 16, 2010

Council Waymon Mumford  
Florence County Council  
180 North Irby Street  
Florence, SC 29501

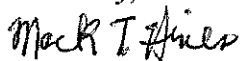
Dear Councilman Mumford:

*This is a correspondence requesting your financial assistance to help the Pee Dee Transitional Shelter augment the budget to assist with mechanical (heating, air) and electrical work for our child-care center.*

We are engaged in planning for our child care facility located across the street from the shelter. This will ensure that our homeless children will be kept in a safe environment while their parent are going to school, working, or engaged in some entity that will lead to self-sufficiency. We need to have heating, air, and electrical work done which will equal \$34,877.95. The electrical work will cost \$19,200.00. The heating and air will cost \$15,677.95.

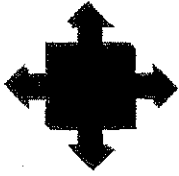
*You have been generous to us in the past and I hope you can help in this worthwhile project.*

Yours truly,



Mack T. Hines

# SO-Quote



General Wholesale Distributors, LLC  
PO Box 16359  
Greenville, SC 29606 USA  
(864) 277-9900

Page: 1  
Quote Number: 0000469719  
Salesperson: 08  
Customer: CASH\_1401  
Customer PO: CASH

Sold To	Ship To
CASH-CHARLESTON 944 D ROCHELLE AVE. Charleston, SC 29407 USA	CASH-CHARLESTON 944 D ROCHELLE AVE. Charleston, SC 29407 USA

Contact: Derrick Hodge

*Trans Equipment*

Quote	Expiration	Ship Via	F.O.B	Terms
3/16/2010	4/16/2010	PICK UP	Destination	Net Last Day Following Month
Item	Ordered	UOM	Unit Price	Amount
1 4TWZ0048A1000A 4T XL20i SPLT HP 208/230/1 R-410A	1.00	Each	6,544.00	6,544.00
2 4TEE3C07A1000A 49MBTUH.COM. V/S AH 208/230/1 R-410A	1.00	Each	2,626.67	2,626.67
3 BAYHTR1415BRKC 11.53/15.36 KW HTR 208/230/1 W/CIRCUIT BREAKER	1.00	Each	254.13	254.13
4 TCONT803AS32DA XL COMP-CTRL HP/AC PROG 3H/2C	1.00	Each	426.57	426.57
5 BAYACHP024A 24 VOLT WIRING HARNESS	1.00	Each	35.62	35.62

*2,000<sup>00</sup> ductwork*

*3,800<sup>00</sup> Labor*

Quote Amount: 9,886.99  
Discount: 0.00  
Freight: 0.00  
Sales Tax: 790.96

APPROVED BY:

*[Signature]*

Total: USD 10,677.95

*TOTAL 15,677.95*

# Cooper Electric Co., Inc.

P.O. Box 569

Florence, South Carolina 29503

[843]661-5450 Phone

[843]661-6414 Fax

## Estimate

<b>Date:</b>	March 16, 2010	<b>Job:</b>	Daycare
<b>Company:</b>	Linton /Mckenzie Const.	<b>Location:</b>	Florence, SC
<b>Attn:</b>	Zack	<b>Reference#:</b>	COO314556
	3305 Whipporwill Rd.		
	Effingham, SC		
<b>Fax#:</b>			

Item	Quantity	Description	Unit Price
		Install Electrical Per Drawing At Day Care Please Note Changes In Building Construction And Cost Because Of Materials Such As Copper Original Quote Has Gone Beyond Traditional 30 Days Wire Cost Has Risen Dramatically Estimate For Day Care Note: I Will Have To Include An Increase For Copper Conductors At A Later Date	\$19,200.00
		JOB ESTIMATE .....	\$19,200.00
<u>3/16/2010</u> Date		<i>James Cooper</i> Contractor Signature	<b>Total:</b>  JOB ESTIMATE
			\$19,200.00



# FLORENCE COUNTY COUNCIL MEETING

April 1, 2010

**AGENDA ITEM:** Other Business  
Council District #6

**DEPARTMENT:** County Council

**ISSUE UNDER CONSIDERATION:**

Approval of the expenditure of up to \$1500.00 from Council District #6 funding allocations to pay for 40 feet of 36" Double Wall Solid Pipe for ditch under walkway at the Florence Regional Airport for the Air Show.

The cost estimate was prepared by Florence County Public Works.

Public Works is not verifying the amount in any Funding Source.

**FUNDING SOURCE:**

☒ Infrastructure  
☐ Road System Maintenance  
☐ Utility

**SIGNED:**

  
Requested by Councilmember: Russell Culbertson

Date: 4-1-2010

**ATTACHMENTS:**

---

I, Connie Y. Haselden, Clerk to County Council, certify this item was approved by the Florence County Council at the above-referenced meeting, at which a majority of members were present.

---

Connie Y. Haselden, Clerk to Council

Florence County Council Meeting  
April 15, 2010

**AGENDA ITEM:** Other Business  
Infrastructure Project  
Council Districts 6 and 7

**DEPARTMENT:** County Council

**ISSUE UNDER CONSIDERATION:**

Approve The Expenditure Of Up To \$2,500.00 From Council Districts 6 and 7 Infrastructure Funding Allocations (\$1,250.00 from each district) For Completing Renovations Of The Umpire's Facilities At American Legion Field To Meet Coastal Plains League Standards, pending the approval of matching funds by the City of Florence.

**FUNDING SOURCE:**

XXX Infrastructure                      \_\_\_\_\_ Road System Maintenance Fee                      \_\_\_\_\_ Utility

**Requested by Councilmember:**

**Amount:** \$1,250.00

**Amount:** \$1,250.00

**Signed:** verbally approved – signature pending  
Russell W. Culberson

**Signed:** verbally approved – signature pending  
Waymon Mumford

**ATTACHMENTS:**

1. Request from the Florence City-County Stadium Commission

---

I, Connie Y. Haselden, Clerk to County Council, certify this item was approved by the Florence County Council at the above-referenced meeting, at which a majority of members were present.

---

Connie Y. Haselden, Clerk to Council

**FLORENCE CITY-COUNTY STADIUM COMMISSION**

**Post Office Box 13863**

**Florence, SC 29504**

**Councilman Russell Culbertson  
Councilman Waymon Mumford  
Florence County Council  
City-County Complex  
180 North Irby Street MSC-H  
Florence, SC 29501**

**Dear Councilmen:**

The Stadium Commission has been notified by the Coastal Plains League that the umpires' facilities at American Legion Field are not up to League standards and must be improved prior to the opening of the Florence RedWolves season in June. The umpires belong to a minor league umpires association who supplies umpires for league games. The Coastal Plains League is negotiating a new contract with the umpires association and must assure that association the corrections to all sites cited for needed improvements must be accomplished by the opening date of the season. Several teams were notified of needed improvements. Our only improvement needed is the dressing area for umpires.

We have explored different possibilities including renting a portable unit with room for meetings, restrooms, and a shower. They are difficult to find and the setup and removal fees are quite substantial. Also, such rentals would have to be repeated each year.

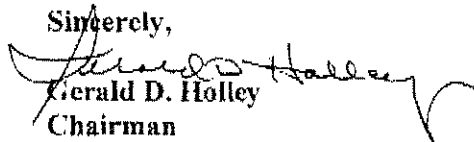
We have decided that removing a washer and dryer out of the current room used by umpires to provide adequate space and renovating this room would be more practical. It would be a one-time expenditure.

We received a cost estimate of \$5000 for completing the renovation of the room. Since the County of Florence and City of Florence share equally in capital improvements to Legion Field, we will make this same request to the City Council. The County's share, therefore, would be \$2500.

County Council's past support of American Legion Field has been critical to the success of programs operating in that facility. Currently, there is one high school team, one college team, and one summer league collegiate team that call Legion Field home. The field is used every month of the year except December and January. The Florence RedWolves have been an excellent tenant and their operations have made it easier and more cost effective to accommodate high school and college teams.

Your continued support will be appreciated.

Sincerely,

  
Gerald D. Holley  
Chairman

Florence County Council Meeting  
April 15, 2010

**AGENDA ITEM:** Other Business  
Infrastructure Project  
Council District 7

**DEPARTMENT:** County Council

**ISSUE UNDER CONSIDERATION:**

Approve The Expenditure Of Funds From Council District 7 Infrastructure Funding Allocation In An Amount Estimated At \$129.24 To Assist The Florence County Sheriff Office With The Purchase Of Neighborhood Crime Watch Signs To Be Placed Throughout The Community.

**FUNDING SOURCE:**

XXX Infrastructure  
\_\_\_\_\_ Road System Maintenance  
\_\_\_\_\_ Utility

**Signed:** \_\_\_\_\_ verbally approved – signature pending

**Requested by Councilmember:** Waymon Mumford

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

**ATTACHMENTS:**

---

I, Connie Y. Haselden, Clerk to County Council, certify this item was approved by the Florence County Council at the above-referenced meeting, at which a majority of members were present.

---

Connie Y. Haselden, Clerk to Council



# FLORENCE COUNTY COUNCIL MEETING

April 15, 2010

**AGENDA ITEM:** Other Business  
Council District #9

**DEPARTMENT:** County Council

**ISSUE UNDER CONSIDERATION:**

Approval of the expenditure of up to \$13,901.00 from Council District #9 funding allocations to pay for reclaiming the intersection of W. Hampton Point Drive and Ames Bury Pt.

The cost estimate was prepared by Florence County Public Works.

Public Works is not verifying the amount in any Funding Source.

**FUNDING SOURCE:**

☒ Infrastructure  
☐ Road System Maintenance  
☐ Utility

**SIGNED:**

  
Requested by Councilmember: Dr. Morris Anderson

Date: 4/1/10

**ATTACHMENTS:**

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I, Connie Y. Haselden, Clerk to County Council, certify this item was approved by the Florence County Council at the above-referenced meeting, at which a majority of members were present.

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Connie Y. Haselden, Clerk to Council