Vacant District #1

Roger M. Poston District #2

Alphonso Bradley District #3

Mitchell Kirby District #4

Vacant District #5 AGENDA
FLORENCE COUNTY COUNCIL
REGULAR MEETING
CITY-COUNTY COMPLEX
180 N. IRBY STREET
COUNCIL CHAMBERS, ROOM 803
FLORENCE, SOUTH CAROLINA
THURSDAY, DECEMBER 13, 2012
9:00 A. M.

Russell W. Culberson District #6

Waymon Mumford District #7

James T. Schofield District #8

H. Morris Anderson District #9

- I. CALL TO ORDER: WAYMON MUMFORD, VICE CHAIRMAN
- II. <u>INVOCATION:</u> H. MORRIS ANDERSON, SECRETARY/CHAPLAIN
- III. PLEDGE OF ALLEGIANCE TO THE AMERICAN FLAG:
 MITCHELL KIRBY, MEMBER
- IV. WELCOME: WAYMON MUMFORD, VICE CHAIRMAN
- v. <u>ELECTION OF CHAIRMAN:</u>

D. MALLOY MCEACHIN, JR., PRESIDING

VI. MINUTES:

MINUTES OF THE NOVEMBER 15, 2012 REGULAR MEETING

i

Council Is Requested To Approve The Minutes Of The November 15, 2012 Regular Meeting Of County Council.

VII. PUBLIC HEARINGS:

[14]

Council will hold Public Hearing on the following:

A. ORDINANCE NO. 14-2012/13

An Ordinance Authorizing: (1) The Execution And Delivery Of A Fee In Lieu Of Tax And Incentive Agreement (The "Incentive Agreement") Between Florence County, South Carolina (The "County") And Honda Of South Carolina, Mfg., Inc., Acting For Itself And One Or More Affiliates Or Other Project Sponsors, (The "Company"), Pursuant To Which The County Shall Covenant To Accept Certain Negotiated Fees In Lieu Of *Ad Valorem* Taxes With Respect To The Expansion Of Certain Manufacturing Facilities Located In The County (The "Project"); (2) The Benefits Of A Multi-County Industrial Or Business Park To Be Made Available To The Company; And (3) Other Matters Relating Thereto.

B. ORDINANCE NO. 15-2012/13

An Ordinance To Amend The Florence County Comprehensive Plan Land Use Map For Properties In Florence County Located In The Town Of Pamplico On W. Sixth Avenue, More Specifically Shown On Tax Map Number 60001-01-021, From Residential Preservation And Rural Preservation To Suburban Development; And Other Matters Related Thereto.

VIII. <u>APPEARANCES:</u>

None Requested Prior To Publication Of The Agenda.

IX. <u>COMMITTEE REPORTS:</u>

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

Administration & Finance

(Council members Russell W. Culberson, Waymon Mumford and James T. Schofield)

November 17, 2011 Howe Springs Fire District GO Bond Issue March 22, 2012 Capital Project Sales Tax (CPST)

August 22, 2012 EMS/Countywide Emergency Services Study

Public Services & County Planning

(Council members James T. Schofield/Chair, Mitchell Kirby, and Roger M. Poston)

June 2008 Museum

October 2012 Flood Plain Maps

Justice & Public Safety

(Council members Waymon Mumford/Chair and Alphonso Bradley)

Litter

Education, Recreation, Health & Welfare

(Council members H. Morris Anderson/Chair and Alphonso Bradley)

April 19, 2012 Ordinance No. 24-2011/12 (Animal Adoption Policies)

Agriculture, Forestry, Military Affairs & Intergovernmental Relations (Council members Russell W. Culberson/Chair and Morris Anderson)

Ad Hoc City-County Conference Committee

(Council members Alphonso Bradley/Co-Chair, Waymon Mumford, and James Schofield.)

Ad Hoc Solid Waste Study Committee

(Councilmen Mitchell Kirby, James Schofield and Roger Poston.)

X. <u>RESOLUTIONS/PROCLAMATIONS:</u>

1. RESOLUTION NO. 13-2012/13

[15]

A Resolution To Create A Commission Pursuant To The Capital Project Sales Tax Act, South Carolina Code Annotated § 4-10-300, Et Seq.: To Provide For The Appointment, Composition, Duties And Responsibilities Of Such Commission And To Provide For Other Matters Relating Thereto.

2. **RESOLUTION NO. 14-2012/13**

[19]

A Resolution Consenting To An Extension Of The Investment Period And The Fee Term For QVC, Inc. Under Its Fee Agreement With Florence County Pursuant To Section 12-44-30(13), Code Of Laws Of South Carolina, 1976, As Amended (The "Code"), And Other Matters Related Thereto.

XI. ORDINANCES IN POSITION:

A. THIRD READING

1. ORDINANCE NO. 21-2011/12

[23]

Council Is Requested To Move This Item To The Inactive Agenda Pending Further Action By The Florence School District Three Board. An Ordinance To Declare As Surplus Real Property Owned By Florence County Located At 124 Epps Street, Lake City, South Carolina And Designated As Tax Map Number 80008-12-008: And To Authorize The Conveyance Thereof To Florence School District Three; And Other Matters Relating Thereto.

2. ORDINANCE NO. 13-2012/13

[29]

An Ordinance Authorizing (1) The Re-Documentation Of That Certain Lease Purchase Agreement Dated December 1, 1998, Between Florence County, South Carolina (The "County") And Honda Of South Carolina Mfg., Inc. (The "Company") Pertaining To The Company's Existing Manufacturing Facilities Located Within The County; (2) Extension Of The Period For Payment Of Fees In Lieu Of *Ad Valorem* Taxes With Respect To Assets Under Said Lease Purchase Agreement; And (3) Other Matters Relating Thereto.

3. ORDINANCE NO. 14-2012/13 (Public Hearing)

[70]

An Ordinance Authorizing: (1) The Execution And Delivery Of A Fee In Lieu Of Tax And Incentive Agreement (The "Incentive Agreement") Between Florence County, South Carolina (The "County") And Honda Of South Carolina, Mfg., Inc., Acting For Itself And One Or More Affiliates Or Other Project Sponsors, (The "Company"), Pursuant To Which The County Shall Covenant To Accept Certain Negotiated Fees In Lieu Of *Ad Valorem* Taxes With Respect To The Expansion Of Certain Manufacturing Facilities Located In The County (The "Project"); (2) The Benefits Of A Multi-County Industrial Or Business Park To Be Made Available To The Company; And (3) Other Matters Relating Thereto.

B. <u>SECOND READING</u>

1. ORDINANCE NO. 15-2012/13 (Public Hearing)

[106]

An Ordinance To Amend The Florence County Comprehensive Plan Land Use Map For Properties Property In Florence County Located In The Town Of Pamplico On W. Sixth Avenue, More Specifically Shown On Tax Map Number 60001-01-021, From Residential Preservation And Rural Preservation To Suburban Development; And Other Matters Related Thereto.

(Planning Commission approved 8-0)(Council District 2)

2. ORDINANCE NO. 16-2012/13

[114]

An Ordinance To Rezone Property Owned By Pamplico Rescue And Ambulance Service, Inc. Located At 191 West Sixth Avenue, Pamplico, As Shown On Florence County Tax Map No. 60001, Block 01, Parcel 021; Consisting Of Approximately 3.91 Acres From R-5, Multi-Family Residential District, RU-2, Rural Resource District And R-1, Single-Family Residential District To B-1, Limited Business District; And Other Matters Related Thereto.

(Planning Commission approved 8-0)(Council District 2)

3. ORDINANCE NO. 17-2012/13

[122]

An Ordinance To Authorize The Execution And Delivery Of Various Documents In Order To Fund A Portion Of The Costs Associated With Soil Remediation Of The Lake City Park Project; To Authorize The Execution And Delivery Of These Documents In Connection Therewith; And Other Matters Relating Thereto.

C. INTRODUCTION

1. ORDINANCE NO. 18-2012/13

[125]

An Ordinance To Amend The Florence County Comprehensive Plan Land Use Map For Property In Florence County Located At 306 E. Carolyn Avenue, Florence, More Specifically Shown On Tax Map Number 90095-01-019, From Commercial Growth And Preservation To Suburban Development; And Other Matters Related Thereto.

(Planning Commission approved 6-0)(Council District 8)

2. ORDINANCE NO. 19-2012/13

[133]

An Ordinance To Amend The Florence County Comprehensive Plan Land Use Map For Property In Florence County Located At 222 E. Carolyn Avenue, Florence, More Specifically Shown On Tax Map Number 90095-01-020, From Commercial Growth And Preservation To Suburban Development; And Other Matters Related Thereto. (*Planning Commission approved* 6-0)(Council District 8)

3. ORDINANCE NO. 20-2012/13

[141]

An Ordinance To Rezone Property Owned By Doulaveris Holdings, LLC Located At 306 East Carolyn Avenue, Florence, As Shown On Florence County Tax Map No. 90095, Block 01, Parcel 019; Consisting Of Approx. 0.518 Acres From B-3, General Commercial District To R-4, Multi-Family Residential District, Limited; And Other Matters Related Thereto. (*Planning Commission approved* 6-0)(Council District 8)

4. ORDINANCE NO. 21-2012/13

[149]

An Ordinance To Rezone Property Owned By James R. And Karen E. Kelly Located At 222 East Carolyn Avenue, Florence, As Shown On Florence County Tax Map No. 90095, Block 01, Parcel 020; Consisting Of Approx.. 0.262 Acres From B-3, General Commercial District To R-4, Multi-Family Residential District, Limited; And Other Matters Related Thereto.

(Planning Commission approved 6-0)(Council District 8)

5. ORDINANCE NO. 22-2012/13

[157]

An Ordinance To Amend The Florence County Code, Chapter 9.5, Drainage And Stormwater Management, Article 1. General, Division 2. General, Sec. 9.5-16. Finding Of Fact., Section (b)(2) And (c); And Other Matters Related Thereto.

(Planning Commission approved 6-0)

6. ORDINANCE NO. 23-2012/13

[164]

An Ordinance Authorizing The Execution And Delivery Of A Special Source Revenue Credit Agreement Between Florence County, South Carolina And QVC, Inc.

7. ORDINANCE NO. 24-2012/13

[179]

An Ordinance To Amend Florence County Code Chapter 27, Public Roads And Ways, To Establish Procedures For The Abandonment And Closure Of Public Roads And Right-Of-Ways, And Other Matters Relating Thereto.

8. ORDINANCE NO. 25-2012/13

[186]

An Ordinance To Amend Florence County Code Chapter 2 Administration, Article VI, Organization And Rules Of The Florence County Council, Section 2-248. Reading Of Ordinances, Resolutions And Appointments; Section 2-249. Revenue Measures To Be Referred To Committee On County Administration And Finances; And Other Matters Relating Thereto.

XII. APPOINTMENTS TO BOARDS & COMMISSIONS:

XIII. REPORTS TO COUNCIL:

A. <u>ADMINISTRATION</u>

1. MONTHLY FINANCIAL REPORTS

[189]

Monthly Financial Reports Were Provided To Council For Fiscal Year 2013 Through October 31, 2012 As An Item For The Record.

2. 2013 CALENDAR OF MEETING DATES AND HOLIDAYS

[195]

Approve The 2013 Calendar Of Meeting Dates And Holidays.

3. RFQ – CITY-COUNTY COMPLEX

[197]

Approve A Request For Qualifications For Architectural And Space Planning Services For The City-County Complex Building Renovations And Additional Space Needed For County Functions In The Future To Be Funded By The City-County Building Commission.

B. MUSEUM/GRANTS

GRANT APPLICATION

[198]

Approve The Submission Of A Grant Application For Funding In The Amount Of \$70,000 Under The Institute Of Museum And Library Services (IMLS) Fiscal Year 2013 Museums For America Grant Program To Provide For Two Interactive Touch Screen Exhibits For The New Florence County Museum.

C. PROCUREMENT

1. <u>DECLARATION OF SURPLUS PROPERTY</u>

[200]

Declare Various Equipment From The Emergency Medical Services Department As Surplus Property For Disposal Through Public Internet Auction Via GovDeals And/Or Destruction.

2. <u>DECLARATION OF SURPLUS PROPERTY</u>

[202]

Declare A 1979 Camelot Mobile Home As Surplus Property For Disposal Through Public Internet Auction Via GovDeals.

3. REVIEW PANEL APPOINTMENT

[203]

The Chairman Is Requested To Appoint A Member Of Council To Serve On The Review Panel For RFP #08-12/13 Shelving For Florence County Museum.

D. RECREATION/PROCUREMENT

AWARD OF BID #10-12/13

[204]

Approve The Award Of Bid #10-12/13 For Resurfacing Of Five (5) Tennis Courts At Ebenezer Park To Tennico Of Columbia, Inc., Columbia, SC In The Amount Of \$19,760 To Be Funded From A United States Tennis Association Grant And Previously Approved Council District 9 Infrastructure Funds. (2 Compliant Bids)

E. SHERIFF'S OFFICE/GRANTS

1. SC DEPARTMENT OF PUBLIC SAFETY JUSTICE ASSISTANCE

[207]

Approve The Submission Of A Grant Application In The Amount Of \$124,400 Under The South Carolina Department Of Public Safety Justice Assistance Grant (JAG) Program To Provide For The Personnel And Start-Up Costs For A Crime Scene/Forensic Investigator For The Florence County Sheriff's Office.

2. SC DEPARTMENT OF PUBLIC SAFETY JUSTICE ASSISTANCE [209]

Approve The Submission Of A Grant Application In The Amount Of \$132,234 Under The South Carolina Department Of Public Safety Justice Assistance (JAG) Grant Program To Provide For The Personnel And Start-Up Costs For A White Collar Crime/Identity Theft Investigator For The Florence County Sheriff's Office.

XIV. OTHER BUSINESS:

A. INFRASTRUCTURE

1. ENVIRONMENTAL DISCOVERY CENTER COMMITTEE

[211]

Approve The Expenditure Of Up To \$30,000 From Council Districts' Infrastructure/Utility Funding Allocations To Assist The Environmental Discovery Center Committee With The Expansion Of The Environmental Discovery Center At Lynches River County Park.

2. FRANCIS MARION RECREATION COMPLEX

[213]

Approve The Expenditure Of Up To \$30,000 From Council Districts 3, 6, And 7 Infrastructure / Utility Funding Allocations For Facility Improvements At Francis Marion Recreation Complex.

B. <u>UTILITY</u>

1. CITY OF JOHNSONVILLE

[214]

Approve The Expenditure Of Up To \$10,000 From Council District 2 Utility Funding Allocation To Assist The City Of Johnsonville With Its Blue-field Water Project.

2. W. HASKELL AVENUE

[216]

Approve The Expenditure Of Up To \$7,500 From Council District 3 Utility Funding Allocation To Pay For 220 Feet Of 24" Concrete Pipe, Concrete Blocks And Concrete For W. Haskell Avenue In Brookgreen Subdivision, Pending SCDOT Encroachment Permit.

XV. SPECIAL PRESENTATION:

RESOLUTION OF APPRECIATION AND RECOGNITION

[217]

Council Will Present Retiring County Councilman H. Morris Anderson With A Resolution Of Appreciation And Recognition.

XVI. EXECUTIVE SESSION:

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

- Personnel Matter
- Pending Real Property Contractual Matter(s)

XVII. INACTIVE AGENDA:

A. ORDINANCE NO. 24-2011/12

At its regular meeting of April 19, 2012, Council deferred second reading of this item and referred the item to the Committee on Education, Recreation, Health & Welfare For Further Review And Recommendation: An Ordinance To Amend Section 6-8. Animal Rescue Agency Adoption Policies Of The Florence County Code Of Ordinances.

B. ORDINANCE NO. 11-2012/13

At its regular meeting of November 15, 2012, Council took no action on this Ordinance. An Ordinance To Amend The Florence County Comprehensive Plan Land Use Map For Properties In Florence County Located In The Town Of Scranton On Church Street, More Specifically Shown On Tax Map Numbers 01941-01-003, 01941-01-004, 01941-01-005, 01941-01-007, On Railroad Avenue More Specifically Shown On Tax Map Number 00194-31-125 From Residential Growth And Preservation To Rural Preservation; And Other Matters Related Thereto.

(Planning Commission denied 6-1)(Council District 1)

C. ORDINANCE NO. 12-2012/13

At its regular meeting of November 15, 2012, Council took no action on this Ordinance. An Ordinance To Rezone Properties Owned By Caretha Green, Et Al. Located At 2224, 2225, 2226, 2228 Church Street And 2322 Railroad Avenue, Scranton As Shown On Florence County Tax Map No. 01941, Block 01, Parcels 003, 004, 005, And 007 And Florence County Tax Map No. 00194, Block 31, Parcel 125; Consisting Of 2.0 Acres From R-2, Single-Family Residential District To RU-1, Rural Community District; And Other Matters Related Thereto.

(Planning Commission denied 6-1)(Council District 1)

XVIII. ADJOURN:

FLORENCE COUNTY COUNCIL MEETING

December 13, 2012

AGENDA ITEM: Minutes

<u>DEPARTMENT</u>: County Council

ISSUE UNDER CONSIDERATION:

Council is requested to approve the minutes of the November 15, 2012 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, NOVEMBER 15, 2012 9:00 A.M., COUNCIL CHAMBERS ROOM 803, CITY-COUNTY COMPLEX, 180 N. IRBY STREET, FLORENCE, SOUTH CAROLINA

PRESENT:

Waymon Mumford, Vice-Chairman
H. Morris Anderson, Secretary-Chaplain
Mitchell Kirby, Council Member
Russell W. Culberson, Council Member
Alphonso Bradley, Council Member
James T. Schofield, Council Member
Roger M. Poston, Council Member
Suzanne S. King, Administrative Services Director
D. Malloy McEachin, Jr., County Attorney
Connie Y. Haselden, Clerk to Council

ALSO PRESENT:

Arthur C. Gregg, Jr., Public Works Director
Kevin V. Yokim, Finance Director
Joe Eason, Director of Parks & Recreation
Ryon Watkins, EMS Director
Jonathan B. Graham, III, Planning Director
Keith Lutcken, Lieutenant/Forensics Sheriff's Office
Barbara Coker, Administrative Manager Sheriff's Office
David Alford, Voter Registration & Elections Director
John Sweeney, Morning News
Tonya Brown, TV15 News Reporter

ABSENT:

K. G. Rusty Smith, Jr., Chairman

A notice of the regular meeting of the Florence County Council appeared in the November 14, 2012 edition of the <u>MORNING NEWS</u>. In compliance with the Freedom of Information Act, copies of the Meeting Agenda and Proposed Additions to the Agenda were provided to members of the media, members of the public requesting copies, and posted in the lobby of the City-County Complex, the Doctors Bruce and Lee Foundation Public Library and all branch libraries, and on the County's website (<u>www.florenceco.org</u>).

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

APPROVAL OF MINUTES:

Councilman Anderson made a motion Council Approve The Minutes Of The October 18, 2012 Regular Meeting Of County Council. Councilman Kirby seconded the motion, which was approved unanimously.

PUBLIC HEARINGS:

The Vice Chairman Opened The Public Hearings And The Clerk Published The Titles Of The Following:

ORDINANCE NO. 11-2012/13

An Ordinance To Amend The Florence County Comprehensive Plan Land Use Map For Properties In Florence County Located In The Town Of Scranton On Church Street, More Specifically Shown On Tax Map Numbers 01941-01-003, 01941-01-004, 01941-01-005, 01941-01-007, On Railroad Avenue More Specifically Shown On Tax Map Number 00194-31-125 From Residential Growth And Preservation To Rural Preservation; And Other Matters Related Thereto.

ORDINANCE NO. 13-2012/13

An Ordinance Authorizing (1) The Re-Documentation Of That Certain Lease Purchase Agreement Dated December 1, 1998, Between Florence County, South Carolina (The "County") And Honda Of South Carolina Mfg., Inc. (The "Company") Pertaining To The Company's Existing Manufacturing Facilities Located Within The County; (2) Extension Of The Period For Payment Of Fees In Lieu Of Ad Valorem Taxes With Respect To Assets Under Said Lease Purchase Agreement; And (3) Other Matters Relating Thereto.

APPEARANCES:

CHRISTMAS CARD WINNER

Florence County Parks & Recreation Department Director Joe Eason Announced That The Winner Of The 2012 Annual Christmas Card Contest Was Ayden Rodgers, a 4 Year-Old Student At McLaurin Elementary School. Mr. Eason presented Master Rodgers with a framed copy of his artwork and stated the original artwork would be placed with all the prior contest winners at the Drs. Bruce and Lee Foundation Public Library.

COMMITTEE REPORTS:

PUBLIC SERVICE & COUNTY PLANNING

Committee Chairman Schofield stated that the Committee had not met, but that he wanted to provide Council with an item of interest regarding the Florence County Museum. An action was taken by the City of Florence Design Review Board regarding the Henry Timrod Schoolhouse, which was owned by the Museum, and the Committee would be investigating and taking appropriate action for the project to move forward.

RESOLUTIONS/PROCLAMATIONS:

No Resolutions/Proclamations were presented.

ORDINANCES IN POSITION:

ORDINANCE NO. 21-2011/12 - THIRD READING DEFERRED

The Vice Chairman stated third reading of Ordinance No. 21-2011/12 would be deferred: An Ordinance To Declare As Surplus Real Property Owned By Florence County Located At 124 Epps Street, Lake City, South Carolina And Designated As Tax Map Number 80008-12-008: And To Authorize The Conveyance Thereof To Florence School District Three; And Other Matters Relating Thereto.

ORDINANCE NO. 27-2011/12 - THIRD READING

The Clerk published the title of Ordinance No. 27-2011/12: An Ordinance To Zone Property Located On Pisgah Road, Enterprise Drive, Florence Park Drive, Mechanicsville Road, Prosperity Way, Otis Way, Success Way And Cecil Road, Florence, SC, As Shown On Florence County Tax Map No. 00120, Block 01, Parcels 001-003, 022, 025, 034, 039-040, 052, 058-059, 061-063, 065, 073, 075, 077-082, 085-086, 088-090, 092-093; Florence County Tax Map No. 00145, Block 01, Parcels 076-077, 085-089, 093, 095, 100, 103-104; Consisting Of 773.14 Acres To B-6, Industrial District, Consistent With The Land Use Element And Map Of The Florence County Comprehensive Plan; And Other Matters Related Thereto, Councilman Anderson made a motion Council approve third reading of the Ordinance, Councilman Bradley seconded the motion, which was approved unanimously.

ORDINANCE NO. 08-2012/13 - THIRD READING

The Clerk published the title of Ordinance No. 08-2012/13: An Ordinance To Amend The Florence County Comprehensive Plan Land Use Map For Properties In Florence County Located On Pisgah Road, Enterprise Drive, Florence Park Drive, Mechanicsville Road, Prosperity Way, Otis Way, Success Way And Cecil Road, More Specifically Shown On Tax Map Numbers 00120, Block 1, Parcels 001-003, 022, 025, 034, 039-040, 052, 059, 061-063, 065, 073, 075, 077-082, 085-086, 088-090, 092-093; Florence County Tax Map No. 00145, Block 001, Parcels 076, 085-086, 089, 093, 095, 100, 103-104 To Industrial Growth And Preservation; And Other Matters Related Thereto. Councilman Bradley made a motion Council approve third reading of the Ordinance. Councilman Anderson seconded the motion, which was approved unanimously.

ORDINANCE NO. 09-2012/13 – THIRD READING

The Clerk published the title of Ordinance No. 09-2012/13: An Ordinance To Amend The Text Of The Florence County Comprehensive Plan Land Use Element To Include Zoning Districts R-3A (Single-Family Residential District) And R-5A (Multi-Family Residential District) In Sections: Single And Multi-Family Residential, Commercial Sales And Service, Future Land Use Designations And Objectives And Zoning Districts Interpretations; And Other Matters Related Thereto. Councilman Anderson made a motion Council approve third reading of the Ordinance. Councilman Bradley seconded the motion, which was approved unanimously.

ORDINANCE NO. 10-2012/13 - THIRD READING

The Clerk published the title of Ordinance No. 10-2012/13: An Ordinance To Amend The Florence County Code, Chapter 30, Zoning Ordinance, Section 30-1, Establishment Of Districts And Section 30-2, Purpose Of Districts To Include Zoning Districts R-3A (Single-Family Residential District) And R-5A (Multi-Family Residential District); And Other Matters Related Thereto. Councilman Bradley made a motion Council approve third reading of the Ordinance. Councilman Culberson seconded the motion, which was approved unanimously.

PUBLIC HEARINGS:

Ryan Johnson was the only speaker during the Public Hearing segment and Mr. Johnson spoke in opposition to Ordinance No. 11-2012/13.

There Being No Additional Signatures On The Sign-In Sheets, The Vice Chairman Closed The Public Hearing. (The Sign-In Sheets Are Attached And Incorporated by Reference.)

ORDINANCE NO. 11-2012/13 - SECOND READING

The Clerk published the title of Ordinance No. 11-2012/13: An Ordinance To Amend The Florence County Comprehensive Plan Land Use Map For Properties In Florence County Located In The Town Of Scranton On Church Street, More Specifically Shown On Tax Map Numbers 01941-01-003, 01941-01-004, 01941-01-005, 01941-01-007, On Railroad Avenue More Specifically Shown On Tax Map Number 00194-31-125 From Residential Growth And Preservation To Rural Preservation; And Other Matters Related Thereto. There being no motion made, Second Reading of Ordinance No. 11-2012/13 failed due to lack of a motion.

ORDINANCE NO. 12-2012/13 - SECOND READING

The Clerk published the title of Ordinance No. 12-2012/13: An Ordinance To Rezone Properties Owned By Caretha Green, Et Al. Located At 2224, 2225, 2226, 2228 Church Street And 2322 Railroad Avenue, Scranton As Shown On Florence County Tax Map No. 01941, Block 01, Parcels 003, 004, 005, And 007 And Florence County Tax Map No. 00194, Block 31, Parcel 125; Consisting Of 2.0 Acres From R-2, Single-Family Residential District To RU-1, Rural Community District; And Other Matters Related Thereto. There being no motion made, Second Reading of Ordinance No. 12-2012/13 failed due to lack of a motion.

ORDINANCE NO. 13-2012/13 - SECOND READING

The Clerk published the title of Ordinance No. 13-2012/13: An Ordinance Authorizing (1) The Re-Documentation Of That Certain Lease Purchase Agreement Dated December 1, 1998, Between Florence County, South Carolina (The "County") And Honda Of South Carolina Mfg., Inc. (The "Company") Pertaining To The Company's Existing Manufacturing Facilities Located Within The County; (2) Extension Of The Period For Payment Of Fees In Lieu Of Ad Valorem Taxes With Respect To Assets Under Said Lease Purchase Agreement; And (3) Other Matters Relating Thereto. Councilman Kirby made a motion Council approve second reading of the Ordinance. Councilman Culberson seconded the motion, which was approved unanimously.

ORDINANCE NO. 14-2012/13 - SECOND READING

The Clerk published the title of Ordinance No. 14-2012/13: An Ordinance Authorizing: (1) The Execution And Delivery Of A Fee In Lieu Of Tax And Incentive Agreement (The "Incentive Agreement") Between Florence County, South Carolina (The "County") And "Project Crescent," Honda of South Carolina, Mfg., Inc., Acting For Itself And One Or More Affiliates Or Other Project Sponsors, (The "Company"), Pursuant To Which The County Shall Covenant To Accept Certain Negotiated Fees In Lieu Of Ad Valorem Taxes With Respect To The Expansion Of Certain Manufacturing Facilities Located In The County (The "Project"); (2) The Benefits Of A Multi-County Industrial Park To Be Made Available To The Company; And (3) Other Matters Relating Thereto. Councilman Kirby made a motion Council approve second reading of the Ordinance. Councilman Culberson seconded the motion, which was approved unanimously.

ORDINANCE NO. 15-2012/13—INTRODUCED

The Clerk published the title and the Vice Chairman declared Ordinance No. 15-2012/13 introduced: An Ordinance To Amend The Florence County Comprehensive Plan Land Use Map For Properties In Florence County Located In The Town Of Pamplico On W. Sixth Avenue, More Specifically Shown On Tax Map Number 60001-01-021, From Residential Preservation And Rural Preservation To Suburban Development; And Other Matters Related Thereto.

ORDINANCE NO. 16-2012/13 - INTRODUCED

The Clerk published the title and the Vice Chairman declared Ordinance No. 16-2012/13 introduced: An Ordinance To Rezone Property Owned By Pamplico Rescue And Ambulance Service, Inc. Located At 191 West Sixth Avenue, Pamplico As Shown On Florence County Tax Map No. 60001, Block 01, Parcel 021; Consisting Of Approximately 3.91 Acres From R-5, Multi-Family Residential District, RU-2, Rural Resource District And R-1, Single-Family Residential District To B-1, Limited Business District; And Other Matters Related Thereto.

ORDINANCE NO. 17-2012/13 – INTRODUCED BY TITLE ONLY

The Clerk published the title and the Vice Chairman declared Ordinance No. 17-2012/13 introduced by Title Only: An Ordinance To Authorize The Execution And Delivery Of Various Documents In Order To Fund A Portion Of The Costs Associated With Soil Remediation Of The Lake City Park Project; To Authorize The Execution And Delivery Of These Documents In Connection Therewith; And Other Matters Relating Thereto.

APPOINTMENTS TO BOARDS AND COMMISSIONS:

Council Approved The Following Appointments/Re-Appointments To Various Boards & Commissions With Appropriate Expiration Terms:

- Accommodations Tax Advisory Commission: Shelby Kirby Seat 6
- Board of Assessment Appeals: Ted Walters District 1
- Economic Development Partnership: Stewart Altman District 1
- Florence County Museum Board: Gary Cooper District 1
- Florence City-County Historical Commission: Kent Daniels Seat 2
- Hannah-Salem-Friendfield Fire District: Lanney Ard and Randolph Bazen
- Planning Commission: Roger Kirby District 1
- Policy Commission on Recreation: Eric Sebnick District 1
- West Florence Rural Fire District: Charles T. Tolson Seat 1; Avery R. Hewitt Seat 2 (replacing James Richard Hewitt who resigned due to medical reasons); and, Howard S. Worrell Seat 3 (replacing Jason E, Smith who resigned due to leaving the department)

REPORTS TO COUNCIL:

COUNTY ATTORNEY

CITY OF FLORENCE

Councilman Culberson made a motion Council Approve The Agreement, And Termination Of Agreement And Lease Dated June 29, 1970 Between Florence County And The City Of Florence Regarding The City-County Complex. Councilman Schofield seconded the motion, which was approved unanimously.

SEVERANCE AGREEMENT

Councilman Anderson made a motion Council Accept The Severance Agreement Between Florence County And County Administrator Thomas B. Robinson Effective November 15, 2012. Councilman Bradley seconded the motion.

Councilman Schofield made the following comments: "Mr. Chairman and fellow Council members, my vote "no" is about the timing and the details of his dismissal. I don't want the public to be under any misunderstanding. For many months, we have been working ... we have been marking time due to the ineffective leadership at the administrative level. Though what I think the majority actions of this Council are probably going to be is not what I would have done at this time, I will work hard to make this transition successful. Why it didn't work (the man had impeccable credentials, as many of you have read) I will leave that to others to ponder the question, but Mr. Robinson lost the confidence of Council many months ago and could not recover from it. Specific examples are to include not being prepared for the Council meetings when members would ask him a question about a matter before the Council and his inability to work with most any of the department directors and some of the other elected officials in handling the day to day business of this County. We've got to hit the road running in January and December, taking action on many pressing issues and I pledge to the voters

of Florence County and my fellow Council members to work tirelessly to make this work and to always be vigilant to the taxpayers best interest, which is providing essential services, such as EMS, fire protection at a level that meets the needs of our citizens and promoting economic development with the associated quality of life issues that attract new industries, businesses and jobs to our community; for without the new jobs and workers, I know that we will not be able to protect the citizens from an ever escalating tax rate increase. So, to sum that up, I am definitely ... count me in that Mr. Robinson was not doing an adequate job and that surprised me greatly with his credentials, but ... I just can't support voting for this at this time."

Councilman Anderson stated that when Mr. Robinson was interviewed, he gave him a 5 star rating and was convinced that he was the man to take over as Administrator and would do an outstanding job. Councilman Anderson said he had no fault with his personality or him as a person but, as Councilman Schofield stated, he simply either could not or would not do the job.

The motion To Accept The Severance Agreement was approved with a 5 to 2 vote. Voting in the affirmative were Councilmen Culberson, Kirby, Mumford, Anderson and Bradley. Voting against the motion were Councilmen Schofield and Poston.

COUNTY ADMINISTRATOR

Councilman Anderson made a motion Council Authorize The County Attorney And Vice-Chairman Of County Council To Negotiate A Contract Of Employment Between The County And K. G. Rusty Smith, Jr. To Fill The Position Of County Administrator And To Further Authorize The Vice-Chairman To Execute The Contract Of Employment On Behalf Of The County. Councilman Bradley seconded the motion.

Councilman Schofield stated, "Mr. Robinson was not performing up to the level I expected, however the timing of this action is not something I can support or feel good about. I would have preferred for this action to have occurred in the new year when we have a newly elected Council. We could have just told Mr. Robinson that we would not be renewing his contract at the time, since he would have less than a year, and evaluated the candidates for the position, then hired someone to immediately take over, being that Mr. Smith or anybody else. Hiring Mr. Smith to be Administrator is not something I can support at this time. Mr. Smith has a long record of serving this County and other members of this Council felt it was worth giving him a try and I understand what you gentlemen are saying. What will be done will be done today, but when you serve on the Council sometimes you do not get the vote you want to. Your duty is to move forward hoping that those who have made the choice will be proven correct in their assessment. I pray they will be proven correct and I will do all that I can to make it work and move this County forward in a professional manner. Mr. Smith has his work cut out for him as does this Council in earning the trust of the public. I will do all that I can to see that this County is run professionally and for the benefit of the taxpayers. Council sets the policies of this County and it is up to the Administrator to see that they are carried out. I would just make a comment there; when Mr. Robinson said ... that Council wanted him to do our bidding, well quite frankly, that is exactly what he's supposed to do is the bidding. As

Council does by State law set the policy and it is up to the Administrator to carry them out. This will be a new style of work for Mr. Smith, not something he has been accustomed to over many years of setting and guiding the policies of this County and, for me for the most part, this County is in very good condition; he's done a good job. ... I know he cares greatly for the County and will give it his best. In January this Council will have new members and new leadership and I am hopeful that we can get on with the business of Florence County because we have been marking time too long."

Councilman Anderson stated, "When I was elected to this Council eight years ago, I had my doubts about Mr. Smith's ability. But having worked with him closely, I have found him to be greatly in favor of doing that which is best for Florence County and I know that there have been a lot of folks that have questioned his motives but if there is any 'hanky panky' going on, I have not seen it and I feel like that with his love, as James has said, for Florence County and his character trait that makes him want to do his very best, I feel like that he will make us all proud and I just want to say that and let you know that Rusty Smith will do a good job. I believe that with all my heart."

Councilman Mumford stated, "I can't think of anyone else that knows more about county government than Councilman Smith. You got to give him the credit there; he knows county government inside out. He also has a great love for this community and he has contributed so much to this County and this Council in the twenty plus years that he has served. I do believe that he will do an excellent job as Florence County Administrator."

The motion was approved with a 5 to 2 vote. Voting in the affirmative were Councilmen Culberson, Kirby, Mumford, Anderson and Bradley. Voting against the motion were Councilmen Schofield and Poston.

FINANCE

MONTHLY FINANCIAL REPORTS

Monthly Financial Reports Were Provided To Council For Fiscal Year 2013 Through September 30, 2012 As An Item For The Record.

PUBLIC WORKS/PROCUREMENT

AWARD OF BID #07-12/13

Councilman Kirby made a motion Council Approve Award Of Bid #07-12/13 For A Motorgrader To Blanchard Machinery Company, Florence, SC In The Amount Of \$228,131.64 To Be Funded From FY13 Departmental Funds. Councilman Culberson seconded the motion, which was approved unanimously.

SHERIFF'S OFFICE/PROCUREMENT

UPGRADE TO TELEPHONE SYSTEM AT LEC

Councilman Anderson made a motion Council Authorize An Upgrade To The Existing Telephone System At The Florence County Law Enforcement Center From The Current Vendor, TelCom System, Utilizing \$53,985.45 In FY13 Sheriff's Office Budgeted Funds. Councilman Culberson seconded the motion, which was approved unanimously.

OTHER BUSINESS:

INFRASTRUCTURE

LAKE CITY POLICE DEPARTMENT

Councilman Culberson made a motion Council Approve The Expenditure Of Up To \$10,000 From Council District 1 Infrastructure Funding Allocation To Assist The Lake City Police Department With The Establishment Of A Shooting Range; To Include Construction Of A Safe Target Area With Stands, A Shelter For Shooting, Secure Storage And Paved Access Areas. Councilman Anderson seconded the motion, which was approved unanimously.

NATIONAL CEMETERY PROPERTY

Councilman Schofield made a motion Council Authorize The County Attorney To Enter Into Negotiations To Purchase Properties Adjacent To The Florence National Cemetery Owned By Deborah Artis To Expand The Cemetery, In An Amount Not To Exceed \$150,000; Authorize The County Administrator To Execute An Option To Purchase Real Estate; And Approve The Expenditure From Council Districts' Infrastructure/Utility Funding Allocations As Indicated On The Approving Documentation. Councilman Anderson seconded the motion, which was approved unanimously.

ROAD SYSTEM MAINTENANCE FEE (RSMF)

L.E. CIRCLE

Councilman Culberson made a motion Council Approve The Expenditure Of Up To \$49,896 From Council District 6 RSMF Funding Allocation To Pay For Rock And Crushed Asphalt For L.E. Circle. Councilman Anderson seconded the motion, which was approved unanimously.

<u>UTILITY</u>

CITY OF LAKE CITY

Councilman Anderson made a motion Council Approve The Expenditure Of Up To \$10,000 From Council District 1 Utility Funding Allocation To Assist The City Of Lake City With The Replacement Of A Domestic Wastewater Flow Meter At The Nan Ya Plastics Facility. Councilman Culberson seconded the motion, which was approved unanimously.

The following were Additions to the Agenda:

MCLAURIN DRIVE

Councilman Anderson made a motion Council Approve The Expenditure Of Up To \$27,027 From Council District 9 RSMF Funding Allocation To Pay For Additional Crushed Asphalt For McLaurin Drive. Councilman Schofield seconded the motion, which was approved unanimously.

TOWN OF TIMMONSVILLE

Vice Chairman Mumford stated that Councilman Kirby would like to defer the request for the Town of Timmonsville to the December meeting.

FY13 EMPLOYEE CHRISTMAS BONUS

Councilman Anderson made a motion Council Authorize The FY13 Christmas Bonus For County Employees As Budgeted And Outlined In Section 8b. Of Ordinance No. 01-2012/13 (The Budget Ordinance). Councilman Kirby seconded the motion, which was approved unanimously. Vice Chairman Mumford stated that just for information, each employee would receive a \$100 Christmas Bonus. He stated he wished Council could have done more, but Council had to work with what was available. On behalf of Council, He Wished All Employees A Merry And A Safe And Blessed Christmas.

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

COUNCIL MEETING ADJOURNED AT 9:37 A.M.

H. MORRIS ANDERSON SECRETARY-CHAPLAIN CONNIE Y. HASELDEN CLERK TO COUNTY COUNCIL

PUBLIC HEARING

November 15, 2012

ORDINANCE NO. 11-2012/13

An Ordinance To Amend The Florence County Comprehensive Plan Land Use Map For Properties In Florence County Located In The Town Of Scranton On Church Street, More Specifically Shown On Tax Map Numbers 01941-01-003, 01941-01-004, 01941-01-005, 01941-01-007, On Railroad Avenue More Specifically Shown On Tax Map Number 00194-31-125 From Residential Growth And Preservation To Rural Preservation; And Other Matters Related Thereto.

NAME	ADDRESS	PHONE NUMBER
1. Ryan Johnson	2-17 mills+	- Scranton, S. C 93
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PUBLIC HEARING

November 15, 2012

ORDINANCE NO. 13-2012/13

An Ordinance Authorizing (1) The Re-Documentation Of That Certain Lease Purchase Agreement Dated December 1, 1998, Between Florence County, South Carolina (The "County") And Honda Of South Carolina Mfg., Inc. (The "Company") Pertaining To The Company's Existing Manufacturing Facilities Located Within The County; (2) Extension Of The Period For Payment Of Fees In Lieu Of Ad Valorem Taxes With Respect To Assets Under Said Lease Purchase Agreement; And (3) Other Matters Relating Thereto.

NAME	ADDRESS	PHONE NUMBER
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FLORENCE COUNTY COUNCIL

December 13, 2012

AGENDA ITEM: Public Hearings

DEPARTMENT: County Council

ISSUE UNDER CONSIDERATION:

Council will hold public hearing to receive public comment with regard to the following:

A. ORDINANCE NO. 14-2012/13

An Ordinance Authorizing: (1) The Execution And Delivery Of A Fee In Lieu Of Tax And Incentive Agreement (The "Incentive Agreement") Between Florence County, South Carolina (The "County") And Honda Of South Carolina, Mfg., Inc., Acting For Itself And One Or More Affiliates Or Other Project Sponsors, (The "Company"), Pursuant To Which The County Shall Covenant To Accept Certain Negotiated Fees In Lieu Of Ad Valorem Taxes With Respect To The Expansion Of Certain Manufacturing Facilities Located In The County (The "Project"); (2) The Benefits Of A Multi-County Industrial Or Business Park To Be Made Available To The Company; And (3) Other Matters Relating Thereto.

B. ORDINANCE NO. 15-2012/13

An Ordinance To Amend The Florence County Comprehensive Plan Land Use Map For Properties In Florence County Located In The Town Of Pamplico On W. Sixth Avenue, More Specifically Shown On Tax Map Number 60001-01-021, From Residential Preservation And Rural Preservation To Suburban Development; And Other Matters Related Thereto.

FLORENCE COUNTY COUNCIL MEETING

December 13, 2012

AGENDA ITEM: Resolution No.13-2012/13

DEPARTMENT: Administration

ISSUE UNDER CONSIDERATION:

(A Resolution To Create A Commission Pursuant To The Capital Project Sales Tax Act, South Carolina Code Annotated § 4-10-300, Et Seq.: To Provide For The Appointment, Composition, Duties And Responsibilities Of Such Commission And To Provide For Other Matters Relating Thereto.)

OPTIONS:

- 1. (Recommended) Approve Resolution No. 13-2012/13.
- 2. Provide An Alternate Directive.

<u>ATTACHMENTS:</u>

Resolution No. 13-2012/13.

Sponsor(s)

: County Council

Adopted:

: December 13, 2012

Committee Referral

Committee Consideration Date: N/A Committee Recommendation

: N/A

RESOLUTION NO. 13-2012/13

COUNCIL-ADMINISTRATOR FORM OF GOVERNMENT FOR FLORENCE COUNTY

(A Resolution To Create A Commission Pursuant To The Capital Project Sales Tax Act, South Carolina Code Annotated § 4-10-300, Et Seq.: To Provide For The Appointment, Composition, Duties And Responsibilities Of Such Commission And To Provide For Other Matters Relating Thereto.)

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

Section 1. Recitals and Legislative Findings.

As an incident to the adoption of this resolution, the County Council of Florence County, South Carolina, has made the following findings: The South Carolina General Assembly has enacted the Capital Project Sales Tax Act, pursuant to which the County governing body may impose a one percent sales and use tax by ordinance, subject to a referendum, within the County area for a specific purpose or purposes and for a limited amount of time to collect a limited amount of money. The County Council, as the governing body of Florence County, is authorized to create a commission subject to the provisions of Section 4-10-320, S.C. Code Ann., of the Capital Project Sales Tax Act for the purpose of considering proposals for funding capital projects within the County area and the formulation of a referendum question which is to appear on the ballot. The Florence County Council finds that the imposition of a capital project sales tax may generate revenues which may be used to fund or defray the costs of capital improvements within Florence County, including highways, roads, streets, bridges, public buildings and facilities and other public capital projects more completely described in Section 4-10-330, S.C. Code Ann., as amended. Council intends by the adoption of this resolution to create a commission as defined in Section 4-10-320, S.C. Code Ann., with such duties and responsibilities as are provided by law to consider proposals for funding capital projects within the County area and the formulation of a referendum question to appear on the ballot, if Council adopts an ordinance imposing a one percent sales and use tax, subject to a referendum, pursuant to the Capital Project Sales Tax Act.

Section 2. Creation of Commission; Appointment of Members.

- There is hereby created a commission in Florence County, South Carolina pursuant to the a) provisions of Section 4-10-320 of the Capital Project Sales Tax Act which shall consist of six members, all of whom must be residents of Florence County, South Carolina.
- The commission created under this resolution shall be appointed as follows: b)
 - 1) The Governing body of Florence County shall appoint three members of the commission.
 - 2) The municipalities in Florence County shall appoint three members of the commission who must be residents of incorporated municipalities of the County and who shall be selected according to the following mechanism:

- i. The total population of all incorporated municipalities within the County, as determined by the most recent United States census, must be divided by three, the result being an apportionate average.
- ii. The respective population of each municipality in the County must be divided by the apportionate average to determine an appointive index.
- iii. Each municipality in the County shall appoint a number of members to the commission equal to the whole number indicated in its appointive index; provided, however, that no single municipality may appoint more than two members to the commission.
- iv. When less than three members are selected to the commission in accordance with the prescribed appointive index method, the remaining member or members must be selected in a joint meeting of the commission appointees of the municipalities in the County. The member or members must be chosen from among the residents of the municipalities in the County that before this time have not provided a representative for the commission.
- v. In the event no municipality is entitled to appoint a member to the commission pursuant to the formula in sub-item (iii) of this subsection, the municipality with the highest appointive index must be deemed to have an appointive index of one.
- vi. If, within a thirty-day period following the adoption of this resolution, one or more of the municipalities in Florence County fails or refuses to appoint their proportionate number of members to the commission, the County governing body shall appoint an additional number of members equal to the number that any such municipality is entitled to appoint. Any vacancy on the commission must be filled in the manner of the original appointment.

Section 3. Duties and Responsibilities of Commission.

- 1) The Commission created by this resolution shall consider proposals for funding capital projects within the County Area. Such projects may include the following types of projects:
 - a) highways, roads, streets and bridges;
 - b) courthouses, administration buildings, civic centers, hospitals, emergency medical facilities, police stations, fire stations, jails, correctional facilities, detention facilities, libraries, coliseums, or any combination of these projects;
 - c) cultural, recreational or historic facilities, or any combination of these facilities;
 - d) water, sewer or water and sewer projects;
 - e) flood control projects and storm water management facilities;
 - f) beach access and beach renourishment;
 - g) jointly operated projects of the county, a municipality, special purpose district, and school district, or any combination of those entities, for the projects delineated in sub-items (a) through (f) of this item;
 - h) any combination of the projects described in subitems (a) through (g) of this item.
- 2) Any ordinance adopted by the Florence County Council pursuant to the Capital Project Sales Tax Act must specify:
 - a) The purpose for which the proceeds of the tax are to be used;

- b) The maximum time stated in terms of calendar or fiscal years or quarters, or a combination thereof, not to exceed seven years from the date of imposition, for which the tax may be imposed;
- c) The maximum cost of the project or facilities funded from proceeds of the tax and the maximum amount of net proceeds to be raised by the tax; and
- d) Any other condition precedent, as determined by the Commission, to the imposition of the sales and use tax authorized by this article or condition or restriction on the use of sales and use tax revenue collected pursuant to this article.
- 3) If the Florence County Council shall enact an ordinance for the imposition of a one percent sales and use tax, subject to a referendum in Florence County, the commission shall formulate the referendum question that is to appear on the ballot, which referendum shall be in substantial compliance with the provisions of Section 4-10-330 of the Capital Project Sales Tax Act, the terms and provisions of which are incorporated into and made a part of this resolution by reference.
- 4) If an ordinance is adopted by the Florence County Council to impose a one percent sales and use tax in Florence County pursuant to the provisions of the Capital Project Sales Tax Act, the County Voters Registration and Election Commission shall conduct a referendum on the question of imposing the sales and use tax in the area of the County that is to be subject to the tax.

Section 4. Effective Date.

This resolution shall be effective immediately upon its adoption.

ATTEST:	SIGNED:
Connie Y. Haselden, Council Clerk	Chairman
	COUNCIL VOTE: OPPOSED: ABSENT:

FLORENCE COUNTY COUNCIL MEETING

December 13, 2012

AGENDA ITEM: Resolution No. 14-2012/13

<u>DEPARTMENT</u>: County Council

ISSUE UNDER CONSIDERATION:

A Resolution Consenting To An Extension Of The Investment Period And The Fee Term For QVC, Inc. Under Its Fee Agreement With Florence County Pursuant To Section 12-44-30(13), Code Of Laws Of South Carolina, 1976, As Amended (The "Code"), And Other Matters Related Thereto.

OPTIONS:

- 1. (Recommended) Approve Resolution No. 14-2012/13.
- 2. Provide an alternate directive.

ATTACHMENTS:

Copy of Proposed Resolution No. 14-2012/13

Sponsor(s):

Economic Development

Adopted:

December 13, 2012

Committee Referral

N/A

Committee Consideration Date:

N/A

Committee Recommendation:

N/A

COUNCIL-ADMINISTRATOR FORM OF GOVERNMENT FOR FLORENCE COUNTY

RESOLUTION NO. 14-2012/13

(A Resolution Consenting To An Extension Of The Investment Period And The Fee Term For QVC, Inc. Under Its Fee Agreement With Florence County Pursuant To Section 12-44-30(13), Code Of Laws Of South Carolina, 1976, As Amended (The "Code"), And Other Matters Related Thereto.)

WHEREAS:

- 1. Pursuant to Title 12, Chapter 44 of the Code of Laws of South Carolina, 1976, as amended (the "Act"), Florence County, South Carolina (the "County") entered into a Fee Agreement with QVC, Inc. (the "Company") dated as of February 2, 2006 in order to provide, among other things, for the payment by the Company of fees in lieu of ad valorem taxes ("FILOT") with respect to the Company's qualifying investment in the "Project", as defined in such agreement (the "Fee Agreement"); and
- 2. The qualifying investment period with respect to the Project as provided in the Fee Agreement terminates on December 31, 2012, unless otherwise extended (the "Initial Investment Period"); and
- 3. The term of the Fee Agreement (the "Term") terminates on December 31, 2026 unless otherwise extended; and
- 4. Pursuant to Section 12-44-30(13) of the Act, the County may grant up to a five-year extension of the Initial Investment Period, provided that the minimum statutory investment required of the Company with respect to the Project pursuant to the Act has been met by the end of such period; and
- 5. Pursuant to Section 12-44-30(21) of the Act, the Term may be extended by an additional ten (10) years; and
- 6. The Company has invested within the Initial Investment Period in excess of \$100,000,000 which exceeds the minimum statutory investment requirement in the Project and has requested that the County (i) extend the Initial Investment Period by an additional five years so as to include additional investment in the Project under the terms of the Fee Agreement; and (ii) extend the Term by an additional ten years so that each Stage (as defined in the Fee Agreement) will be subject to FILOT payments for a period of thirty years.

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

Section 1. In accordance with Section 12-44-30(13) of the Act, the County hereby consents to an extension of the Initial Investment Period by five (5) years to December 31, 2017.

<u>Section 2.</u> In accordance with Section 12-44-30(21) of the Act, the County hereby consents to an extension of the Term by an additional ten years to December 31, 2036.

Section 3. The County Council hereby finds that the Project directly and indirectly substantially benefits the County, the taxing entities within the County and the citizens and residents of the County due to the investment created by the Company which contributes to the tax base and economic welfare of the County, and the County Council further finds that the extension of the Investment Period and the Term as provided herein will result in substantial public benefits to the County by enhancing the likelihood that additional investments will occur in the Project during the extended investment period.

<u>Section 4.</u> The Chairman of the County Council, for and on behalf of the County, is hereby authorized and directed to do any and all things necessary to effect the extension of the Investment Period and the Term under the Fee Agreement and the performance of all obligations of the County under and pursuant to the Fee Agreement.

<u>Section 5.</u> The provisions of this Resolution are hereby declared to be severable, and if any section, phrase, or provision 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 6. All orders, resolutions, ordinances, and parts thereof in conflict herewith are, to the extent of such conflict, hereby repealed, and this Resolution shall take effect and be in full force from and after its passage and approval.

	ATTEST:	SIGNED:
Connie Y. Haselden, Council Clerk Chairman	Connie Y. Haselden, Council Clerk	Chairman
COUNCIL VOTE: OPPOSED: ABSENT:		OPPOSED:

STATE OF SOUTH CAROLINA	
COUNTY OF FLORENCE	
I, the undersigned, Clerk to County Council") DO HEREBY CERTIFY:	uncil of Florence County, South Carolina ("County
County Council. The Resolution was read	ect, and verbatim copy of a Resolution adopted by the and received a favorable vote at the public meeting of 2012. At such meeting, a quorum of County Council at the meeting.
	es of the meeting of the County Council. The County formation Act, Chapter 4, Title 30 of the S.C. Code of gs of County Council.
The Resolution is now in full force and effe	ct.
IN WITNESS WHEREOF, I have hereunto	set my Hand and the Seal of Florence County Council,
South Carolina, as of this day of	, 2012,
	Clerk to Florence County Council
	Florence County, South Carolina

FLORENCE COUNTY COUNCIL MEETING

December 13, 2012

AGENDA ITEM: Third Reading - Ordinance No. 21-2011/12

DEPARTMENT: Procurement

ISSUE UNDER CONSIDERATION:

Council Is Requested To Move To The Inactive Agenda Pending Further Action By Florence School District 3, Ordinance No. 21-2011/12: An Ordinance To Declare As Surplus Real Property Owned By Florence County Located At 124 Epps Street, Lake City, South Carolina And Designated As Tax Map Number 80008-12-008: And to Authorize The Conveyance Thereof To Florence School District Three; And Other Matters Relating Thereto.

POINTS TO CONSIDER:

- 1. Florence County currently owns property located at 124 Epps Street, Lake City, South Carolina, Tax Map Number 80008-12-008, which formerly served as the old Lake City Health Department building.
- 2. The County has no future plans for the property and Florence School District Three has expressed an interest in the property.
- 3. Council can declare the property as surplus property and authorize the conveyance thereof to Florence School District Three.

OPTIONS:

- 1. (Recommended) Move Ordinance No. 21-2011/12 to the Inactive Agenda.
- 2. Provide an Alternate Directive.

ATTACHMENTS:

- 1. Ordinance No. 21-2011/12.
- 2. Correspondence from Dr. Keith Callicutt, Interim Superintendent and Yvonne E. Scott, Senior Director of Student Services dated December 2, 2011.
- 3. Proposed Deed conveying property to Florence School District Three.

First Reading/Introduction Committee Referral Committee Consideration Date Committee Recommendation Public Hearing Second Reading	: Procurement : March 15, 2012 : N/A : N/A : N/A : April 19, 2012 : April 19, 2012	I,
_	1 ,	
Third Reading		
Effective Date	: Immediately	

ORDINANCE NO. 21-2011/12

COUNCIL-ADMINISTRATOR FORM OF GOVERNMENT FOR FLORENCE COUNTY

(An Ordinance To Declare As Surplus Real Property Owned By Florence County Located At 124 Epps Street, Lake City, South Carolina And Designated As Tax Map Number 80008-12-008: And to Authorize The Conveyance Thereof To Florence School District Three; And Other Matters Relating Thereto.)

WHEREAS:

- 1. Florence County currently owns property located at 124 Epps Street, Lake City, South Carolina, Tax Map Number 80008-12-008, which formerly served as the old Lake City Health Department building; and
- 2. The County has no future plans for the property and Florence School District Three has expressed an interest in the property; and
- 3. Council can declare the property as surplus property and authorize the conveyance thereof to Florence School District Three.

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

- 1. Property designated as Tax Map Number 80008-12-008, located at 124 Epps Street, Lake City, South Carolina, formerly known as the old Lake City Health Department building, is hereby declared surplus.
- 2. The conveyance of the property to Florence School District Three is hereby authorized and the County Administrator is authorized to proceed with the execution of a Quitclaim Deed, prepared by the County Attorney.
- 3. Provisions in other Florence County ordinances in conflict with this Ordinance are hereby repealed.
- 4. 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	Chairman
	COUNCIL VOTE:
	OPPOSED:
Approved as to Form and Content	ABSENT:
D. Malloy McEachin, Jr., County Attorney	



FLORENCE COUNTY SCHOOL DISTRICT THREE

Post Office Drawer 1389 • 125 S. Blanding Street
Lake City, South Carolina 29560
Phone: (843) 374-8652 • Fax (843) 374-2946
www.florence3.k12.sc.us

December 2, 2011

County Councilman K.G. "Rusty" Smith P.O. Box 369 Lake City, South Carolina 29560

Re:

Building Acquisition

Dear Councilman Smith:

When given the opportunity to learn, people are empowered to contribute fully to the development of their lives, their communities, and their countries. Removing barriers to students' learning by focusing on the whole child is an integral part of the mission of Florence County School District Three (FCSD3), which is "to ensure all students are prepared for success". The district works with parents, businesses, community organizations, churches, county and governmental agencies and other organizations to change the lives of all students.

This letter is a request for your assistance in securing a building that can be used as a temporary shelter for students and families in the Florence County School District Three attendance zone. Securing a temporary shelter will enable families to focus on the resources available to them without the constant fear of worrying where they will sleep and of being harmed.

FCSD3 makes every effort to assist families within the FCSD3 attendance zones who are experiencing hardship due to circumstances beyond their control. Many of our families are homeless due to economic circumstances or as a result of losing their home in a fire. As the winter approaches, families are losing their homes to fire almost monthly. Recently, November 29, 2011, a family of ten lost their home to fire. They are now homeless and are in desperate need of temporary shelter. The family is displaced and the children have not attended school this week.

In order for children to be successful, FSD3 seeks to remove some of the barriers that would interfere with students being focused and attentive. We rely on contributions, monetary or otherwise, to assist in meeting the needs of our families.

We have always been able to come to you when situations occur that jeopardize the quality of life of the residents of this county. We are thankful for all the effort you put forth to help make a difference in the lives of others. We believe strongly that "It takes a village to raise a child".

Your immediate attention and consideration to our request is greatly needed and appreciated. Thank you in advance. You may contact me at (843) 374-8652 or vscott@florence3.k12.sc.us, if you have questions or concerns.

Sincerely,

Yvonne E. Scott

Senior Director of Student Services

Dr. V. Keith Callicutt, Interim Superintendent, FCSD3

cc: Senator Hugh K. Leatherman

Senator J. Yancey McGill

Sheila Knotts, Office of Superintendent Cynthia Grant, Office of Student Services

Title Not Certified By D. Malloy McEachin, Jr.

STATE OF SOUTH CAROLIN.	A)	TITLE TO REAL ESTATE
COUNTY OF FLORENCE)	QUIT CLAIM DEED
		Grantee's Address:

KNOW ALL MEN BY THESE PRESENTS, That Florence County, a political subdivision of the State of South Carolina, of the County of Florence, in the State of South Carolina, for and in consideration of the sum of Five Dollars and No/100 (\$5.00), the Grantor(s), in hand paid at and before the signing of these presents by Grantee(s) of the County in the State aforesaid, the receipt whereof is hereby acknowledged, has granted, bargained, sold and released and by these presents do grant, bargain, sell and release all our right, title and interest unto the said Florence School District Three, all our right title and interest to the herein below described property, to wit:

All that certain lot of land situate on the Western side of Epps Street, in the City of Lake City, County of Florence, State of South Carolina, being shown and designated as Lot No. 2 on a plat of the Anderson Heirs' property in Lake City, made by Ebert E. Floyd, Surveyor, November 7, 1958. Said lot of land, according to said plat, is described as follows: Beginning at a point in the Western margin of Epps Street 289.25 feet South of the intersection of Epps Street and John Street, thence running along said Epps Street S.41 degrees 45 minutes West 149.25 feet to al point; thence running N.45 degrees 14 minutes West 224.4 feet to a point; thence running No.44 degrees 55 minutes East 146 feet to a point; thence running South 46 degrees 04 minutes East 216.8 feet to Epps Street and the point of beginning; being bounded: North by lot of Dr. R. T. Whitehead, Jr.; East by Epps Street; South by land of Holloway and possibly other; and West by lot of C. J. Evans.

This being the same property conveyed to the grantor herein by Deed dated September 3, 1959 and recorded in Deed Book 194, at Page 264, in the Office of the Clerk of Court for Florence County.

Florence County TMS #80008-12-008

TOGETHER with all and singular, the rights, members, hereditaments and appurtenances to the said premises belonging or in anywise incident or appertaining.

TO HAVE AND TO HOLD all and singular the premises before mentioned unto the said Grantee, its heirs and assigns forever, so that neither the said Grantor or its heirs, nor any other person or persons, claiming under it, shall at any time hereafter, by any way or means, have claim or demand any right or title to the aforesaid premises or appurtenances, or any part or parcel thereof, forever.

WITNESS My Hand and Seal thi	is day of, 2012.
Signed, Sealed and Delivered In The Presence of	
	Chairman
	Florence County Council

FLORENCE COUNTY COUNCIL MEETING

December 13, 2012

AGENDA ITEM: Third Reading - Ordinance No. 13-2012/13

<u>DEPARTMENT</u>: Economic Development

ISSUE UNDER CONSIDERATION:

(An Ordinance Authorizing (1) The Re-Documentation Of That Certain Lease Purchase Agreement Dated December 1, 1998, Between Florence County, South Carolina (The "County") And Honda Of South Carolina Mfg., Inc. (The "Company") Pertaining To Company's Existing Manufacturing Facilities Located Within The County; (2) Extension Of The Period For Payment Of Fees In Lieu Of Ad Valorem Taxes With Respect To Assets Under Said Lease Purchase Agreement; And (3) Other Matters Relating Thereto.)

OPTIONS:

- 1. (Recommended) Approve Third Reading of Ordinance No. 13-2012/13.
- 2. Provide An Alternate Directive.

ATTACHMENT:

Ordinance No. 13-2012/13.

: Economic Development Sponsor(s) First Reading : October 18, 2012 Council Clerk, certify that this Committee Referral : N/A Committee Consideration Date Ordinance was advertised on : N/A Committee Recommendation for Public Hearing. : N/A Public Hearing : November 15, 2012 Second Reading : November 15, 2012 Third Reading : December 13, 2012 Effective Date : Immediately

ORDINANCE NO. 13-2012/13

COUNCIL-ADMINISTRATOR FORM OF GOVERNMENT FOR FLORENCE COUNTY

(An Ordinance Authorizing (1) The Re-Documentation Of That Certain Lease Purchase Agreement Dated December 1, 1998, Between Florence County, South Carolina (The "County") And Honda Of South Carolina Mfg., Inc. (The "Company") Pertaining To The Company's Existing Manufacturing Facilities Located Within The County; (2) Extension Of The Period For Payment Of Fees In Lieu Of Ad Valorem Taxes With Respect To Assets Under Said Lease Purchase Agreement; And (3) Other Matters Relating 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 the Code of Laws of South Carolina, 1976, as amended, through the date hereof (the "Code"), particularly Title 12, Chapter 44 (the "Negotiated FILOT Act") and Title 4, Chapter 1 of the Code (the "Multi-County Park Act" and together with the Negotiated FILOT Act, the "Act") and by Article VIH, Section 13 of the South Carolina Constitution: (i) to enter into agreements with certain investors to construct, operate, maintain, and improve certain projects through which the economic development of the State of South Carolina (the "State") will be promoted and trade developed by inducing manufacturing and commercial enterprises to locate, remain, and expand in the State and thus utilize and employ the manpower, agricultural products and natural resources of the State; (ii) to covenant with such investors to accept certain fee in lieu of ad valorem tax ("FILOT") payments, including, without limitation, negotiated FILOT payments, with respect to a project; and (iii) to create, in conjunction with one or more other counties, a multi-county industrial or business park in order to afford certain enhanced income tax credits to such investors; and
- 2. Honda of South Carolina Mfg., Inc., a corporation organized and existing under the laws of the State of South Carolina (the "Company") previously established certain facilities for the manufacture of all-terrain vehicles and other products in the County (the "Original Project"); and
- 3. By Ordinance No. 7-98/99 duly enacted by the Council on December 10, 1998, and in accordance with Title 4, Chapter 29 of the Code (the "Original FILOT Act") and the Multi-County Park Act, the County agreed to provide certain FILOT and multi-county park incentives to the Company in connection with the Original Project pursuant to that certain

- Lease Purchase Agreement between the County and the Company dated as of December 1, 1998 (the "Original Lease"); and
- 4. In order to defray the costs of acquiring the Original Project, the County issued its \$50,000,000 maximum principal amount Industrial Revenue Bonds, Series 1998 (Honda of South Carolina Mfg., Inc. Project) (the "Bonds") to the Company pursuant to the Original FILOT Act and the Lease, acquired title to the Original Project and leased the Original Project to the Company pursuant to the Lease; and
- 5. Pursuant to a First Amendment to Lease Purchase Agreement dated as of April 1, 2000, approved by Ordinance No. 30-99/2000 duly enacted by the Council on April 6, 2000, the County and the Company amended the Original Lease to include an expansion of the Original Project and to provide for the issuance of up to \$400,000,000 in Bonds to provide for the costs of expanding the Original Project; and
- 6. Pursuant to a Second Amendment to Lease Purchase Agreement dated as of March 11, 2002, approved by Resolution No. 13-2001/02 duly adopted by the Council on April 4, 2002 (such amendment, together with the Original Lease and all other amendments herein referred to as the "Lease"), the County and the Company amended the Original Lease to include the further expansion of the Original Project onto additional land (the Original Project, together with all expansions to date, herein referred to as the "Project"); and
- 7. Pursuant to Section 12-44-170(B) of the Negotiated FILOT Act, the County and the Company have determined to re-document the FILOT and other incentive arrangements specified in the Lease and, in connection therewith, the County will convey to the Company its right, title and interest in and to the Project; the Company will cancel all outstanding Bonds; and the parties will replace the Lease and related documents in their entirety with a Fee in Lieu of Tax and Incentive Agreement (the "Incentive Agreement"); and
- 8. Pursuant to Section 12-44-30(21) of the Negotiated FILOT Act, the County and the Company have determined to extend the payment period for the FILOT payments by ten years for each annual increment of investment in the Project; and
- 9. Pursuant to Section 12-44-50(A)(1)(c)(i) of the Negotiated FILOT Act, the County and the Company have determined that the fair market value of the real property subject to the FILOT arrangements provided for in the Incentive Agreement shall be determined by appraisal in the same manner as real property not subject to negotiated FILOT arrangements; and
- 10. Simultaneously with the replacement of the Lease and related documents by the Incentive Agreement, the County shall convey to the Company all assets comprising the Project currently titled in the County in accordance with the terms of the Lease; and
- 11. All such matters are to be undertaken in accordance with the terms and provisions of the Incentive Agreement now before this meeting.

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

Section 1. The County agrees to re-document the FILOT and other incentives set forth in the Lease and shall replace the Lease and related documents in their entirety with the Incentive Agreement and the Negotiated FILOT Act shall govern the negotiated FILOT arrangements pertaining thereto. In furtherance of such replacement, the parties agree that the Lease will be terminated; the County will convey to the Company its right, title, and interest in and to the assets comprising the Project; and the Company shall cancel those certain industrial development revenue bonds issued by the County to the Company to finance the Project in accordance with the Lease (the "Bonds") currently outstanding pursuant to the Lease. In addition, the period for payment of the negotiated FILOT with respect to the Project shall be extended for ten (10) years.

Section 2. The form, provisions, terms, and conditions of the Incentive Agreement presented to this meeting and filed with the Clerk to Council be and they are hereby approved, and all of the provisions, terms, and conditions thereof are hereby incorporated herein by reference as if the Incentive Agreement were set out in this Ordinance in its entirety. The Incentive Agreement 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 the Incentive Agreement now before this meeting.

Section 3. The Chairman of the Council is hereby authorized, empowered, and directed to execute the Incentive Agreement in the name and on behalf of the County; the Clerk to Council is hereby authorized and directed to attest the same; and the Chairman of the Council is further authorized, empowered, and directed to deliver the Incentive Agreement to the Company. The Chairman of the Council, and the Clerk to Council, for and on behalf of the County, are hereby each authorized, empowered, and directed to do any and all things necessary or proper to effect the performance of all obligations of the County under and pursuant to the Incentive Agreement, and to carry out the transactions contemplated thereby and by this Ordinance.

Section 4. The provisions of this Ordinance are hereby declared to be separable and if any section, phrase, or provision 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, orders, 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 upon adoption by the Council.

[EXECUTION PAGE TO FOLLOW]

ATTEST:

SIGNED:

Connie Y. Haselden Clerk to Council

Chairman

Florence County Council

COUNCIL VOTE: OPPOSED: ABSENT:

Approved as to Form & Content D. Malloy McEachin, Jr., County Attorney

FEE IN LIEU OF TAX AND INCENTIVE AGREEMENT

pertaining to the amendment and re-documentation of incentive arrangements set forth in that certain Lease Purchase Agreement dated as of December 1, 1998 between Florence County, South Carolina and Honda of South Carolina Mfg., Inc.

between

FLORENCE COUNTY, SOUTH CAROLINA

and

HONDA OF SOUTH CAROLINA MFG., INC.

Dated as of December 15, 2012

TABLE OF CONTENTS

			Page
ARTICLE I	DEFIN	IITIONS	2
Section 1.		Definitions	
Section 1.		References to Agreement	
ARTICLE II	REPR	ESENTATIONS AND WARRANTIES	7
Section 2.	01.	Representations and Warranties by County	7
Section 2.	02.	Representations and Warranties by the Company	8
ARTICLE III	RE-DO	OCUMENTATION	9
Section 3.		Replacement of Lease and Related Documents	
Section 3.	02.	Conveyance of Project by the County to the Company of	************
		Leased Property	9
ARTICLE IV	COVE	NANTS OF COUNTY	9
Section 4.	01.	Agreement to Accept Negotiated FILOT Payments	C)
Section 4.	02.	Multi-County Park Designation	9
Section 4.	03.	Commensurate Benefits	10
ARTICLE V	COVE	NANTS OF COMPANY	11
Section 5.0		Investment in Project.	
Section 5.0		Payment of Administration Expenses	17
Section 5.0		Use of Project for Lawful Activities	12
Section 5.0	04.	Maintenance of Existence	12
Section 5.0	05.	Records and Reports	14
ARTICLE VI	FEES]	N LIEU OF TAXES	15
Section 6.0			
Section 6.0		Payment of Fees in Lieu of Ad Valorem Taxes	
Section 6.	، سند ۷	Statutory Lien	19
ARTICLE VII	THIRE	PARTY ARRANGEMENTS	19
Section 7.0	01.	Conveyance of Liens and Interests; Assignment	19
Section 7.0	02.	Sponsors and Sponsor Affiliates	20
ARTICLE VIII	TERM	; TERMINATION	2.1
Section 8.0		Term	
Section 8.0		Termination	
		A WARRANGE VILLE CONTROL OF THE CONT	

TABLE OF CONTENTS

(continued)

		Page
ARTICLE IX EVE	NTS OF DEFAULT AND REMEDIES	21
Section 9.01.	Events of Default by Company	
Section 9.02.	Remedies on Event of Default by Company	
Section 9.03.	Defaulted Payments	22
Section 9.04.	Default by County	23
ARTICLE X MISO	CELLANEOUS	23
Section 10.01.	Rights and Remedies Cumulative	23
Section 10.02.	Successors and Assigns.	
Section 10.03.	Notices; Demands; Requests	23
Section 10.04.	Applicable Law	24
Section 10.05.	Entire Understanding	24
Section 10.06.	Applicable Law Entire Understanding Severability	24
Section 10.07.	Headings and Table of Contents; References	24
Section 10.08.	Multiple Counterparts	25
Section 10.09.	Multiple Counterparts Amendments	25
Section 10.10.	Waiver	25
Section 10.11.		
	Further Proceedings	•
EXHIBT A	LEGAL DESCRIPTION	A-1

FEE IN LIEU OF TAX AND INCENTIVE AGREEMENT

THIS FEE IN LIEU OF TAX AND INCENTIVE AGREEMENT (this "Agreement" dated as of December 15, 2012, between FLORENCE COUNTY, SOUTH CAROLINA (the "County"), a body politic and corporate and a political subdivision of the State of South Carolina, and HONDA OF SOUTH CAROLINA MFG., INC., a corporation organized and existing under the laws of the State of South Carolina, acting for itself, any affiliates or other project sponsors (the "Company");

WITNESSETH:

WHEREAS, the County, acting by and through its Council (the "Council"), is authorized and empowered under and pursuant to the provisions of the Code of Laws of South Carolina 1976, as amended through the date hereof (the "Code"), particularly Title 12, Chapter 44 of the Code (the "Negotiated FILOT Act") and Title 4, Chapter 1 of the Code (the "Multi-County Park Act") (collectively, the "Act") and by Article VIII, Section 13 of the South Carolina Constitution: (i) to enter into agreements with certain investors to construct, operate, maintain, and improve certain projects through which the economic development of the State of South Carolina (the "State") will be promoted and trade developed by inducing manufacturing and commercial enterprises to locate and remain in the State and thus utilize and employ the manpower, agricultural products, and natural resources of the State; (ii) to covenant with such investors to accept certain fee in lieu of ad valorem tax ("FILOT") payments, including, without limitation, negotiated FILOT payments, with respect to a project; and (iii) to create, in conjunction with one or more other counties, a multi-county industrial or business park in order to afford certain enhanced income tax credits to such investors; and

WHEREAS, the Company previously established certain facilities for the manufacture of all terrain vehicles and other products in the County (the "Original Project"); and

WHEREAS, by Ordinance No. 7-98/99 duly enacted by the Council on December 10, 1998, and in accordance with Title 4, Chapter 29 of the Code (the "Original FILOT Act") and the Multi-County Park Act, the County agreed to provide certain FILOT and multi-county park incentives to the Company in connection with the Original Project pursuant to that certain Lease Purchase Agreement between the County and the Company dated as of December 1, 1998 (the "Original Lease"); and

WHEREAS, in order to defray the costs of acquiring the Original Project, the County issued its \$50,000,000 maximum principal amount Industrial Revenue Bonds, Series 1998 (Honda of South Carolina Mfg., Inc. Project) (the "Bonds") to the Company pursuant to the Original FILOT Act and the Lease, acquired title to the Original Project and leased the Original Project to the Company pursuant to the Lease; and

WHEREAS, pursuant to a First Amendment to Lease Purchase Agreement dated as of April 1, 2000, approved by Ordinance No. 30-99/2000 duly enacted by the Council on April 6,

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2000, the County and the Company amended the Original Lease to include an expansion of the Original Project and to provide for the issuance of up to \$400,000,000 in Bonds to provide for the costs of expanding the Original Project; and

WHEREAS, pursuant to a Second Amendment to Lease Purchase Agreement dated as of March 11, 2002, approved by Resolution No. 13-2001/02 duly adopted by the Council on April 4, 2002 (such amendment, together with the Original Lease and all other amendments herein referred to as the "Lease"), the County and the Company amended the Original Lease to include the further expansion of the Original Project onto additional land (the Original Project, together with all expansions to date, herein referred to as the "Project"); and

WHEREAS, pursuant to Section 12-44-170(B) of the Negotiated FILOT Act, the County and the Company have determined to re-document the FILOT and other incentive arrangements specified in the Lease and, in connection therewith, the County will convey to the Company its right, title and interest in and to the Project; the Company will cancel all outstanding Bonds; and the parties will replace the Lease and related documents in their entirety with this Agreement; and

WHEREAS, pursuant to Section 12-44-30(21) of the Negotiated FILOT Act, the County and the Company have determined to extend the payment period for the FILOT payments by ten years for each annual increment of investment in the Project; and

WHEREAS, pursuant to Section 12-44-50(A)(I)(c)(i) of the Negotiated FILOT Act, the County and the Company have determined that the fair market value of the real property subject to the FILOT arrangements provided for in this Agreement shall be determined by appraisal in the same manner as real property not subject to negotiated FILOT arrangements; and

WHEREAS, the County has determined that it is in the best interest of the County to enter into this Agreement with the Company subject to the terms and conditions set forth herein.

NOW, THEREFORE, in consideration of the premises; the ongoing employment and investment by the Company at the Project, which contribute to the tax base and the economic welfare of the County; the respective representations and agreements hereinafter contained; and the sum of \$10.00 in hand, duly paid by the Company to the County, the receipt and sufficiency of which are hereby acknowledged, the County and the Company agree as follows:

ARTICLE I DEFINITIONS

Section 1.01. <u>Definitions</u>. In addition to the words and terms elsewhere defined in this Agreement, the following words and terms as used herein and in the preambles hereto shall have the following meanings unless the context or use indicates another or different meaning or intent.

"Act" shall mean, collectively, the Negotiated FILOT Act and the Multi-County Park Act.

"Administration Expenses" shall mean the reasonable and necessary expenses incurred by the County in the fulfillment of its obligations under this Agreement and in the implementation of its terms and provisions, including reasonable attorneys' fees at the hourly rates which are standard for the applicable legal services to the County, but excluding any expenses incurred by the County in defending either challenges to the incentives provided herein by third parties or suits brought by the Company or any other Co-Investor under Section 9.04 hereof; provided, however, that no such expense shall be considered an Administration Expense unless the County and the Company shall have first agreed, prior to the County incurring such expense, as to the maximum amount thereof or as to the basis for which such expenses will be incurred, and that the County shall have furnished to the Company, an itemized statement of all expenses incurred and provided, further, that nothing herein shall be construed as prohibiting the County from engaging the counsel of its choice for matters deemed necessary and prudent by the County.

"Affiliate" shall mean any corporation, limited liability company, partnership or other Person or entity which owns all or part of the Company or any other Co-Investor, as the case may be, or which is owned in whole or in part by the Company or any other Co-Investor, as the case may be, or by any partner, shareholder or owner of the Company or any other Co-Investor, as the case may be.

"Agreement" shall mean this Fee In Lieu of Tax Agreement as originally executed to replace and to amend and re-document the incentive arrangements set forth in the Lease, and as from time to time supplemented or amended as permitted herein.

"Assignment" shall mean that certain Assignment Agreement by and between the County and the Company in connection with the Project, dated as of December 1, 1998, as amended and restated as of April 1, 2000.

"Bonds" shall mean the \$50,000,000 maximum principal amount Florence County, South Carolina Industrial Revenue Bond (Honda of South Carolina Mfg., Inc. Project, Series 1998, and the \$400,000,000 maximum principal amount Florence County, South Carolina Industrial Revenue Bond (Honda of South Carolina Mfg., Inc. Project), Series 2000, in each case issued by the County to the Company in accordance with the provisions of the Lease and the Original FILOT Act.

"Code" shall mean the Code of Laws of South Carolina 1976, as amended through the date hereof, unless the context clearly requires otherwise.

"Co-Investor" shall mean any Sponsor or Sponsor Affiliate within the meaning of Sections 12-44-30(19) and (20) of the Negotiated FILOT Act, any Affiliate of the Company or of any such Sponsor or Sponsor Affiliate, any developer in a build-to-suit arrangement with respect to the Project, any lessor of equipment or other property comprising a part of the Project, and any

financing entity or other third party investing in or providing funds for the Project. The Company shall notify the County in writing of the identity of any Sponsor, Sponsor Affiliate or other Co-Investor and shall, to the extent the Company and any such Co-Investor intend to extend the benefits of the Negotiated FILOT to property owned by such Co-Investor pursuant to Section 7.02 hereof, comply with any additional notice requirements, or other applicable provisions, of the Negotiated FILOT Act. As of the date of original execution and delivery of this Agreement, the Company is the only Co-Investor.

"Company" shall mean Honda of South Carolina Mfg., Inc., a South Carolina corporation, and any surviving, resulting, or transferee entity in any merger, consolidation or transfer of assets permitted under **Sections 5.04** or **7.01** hereof or any other assignee hereunder which is designated by the Company and approved by the County.

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

"Council" shall mean the governing body of the County and its successors.

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

"Differential Payment" shall have the meaning specified in Section 6.01(c)(iv) hereof.

"Event of Default" shall mean an Event of Default, as set forth in Section 9.01 hereof.

"Existing Property" shall mean property previously subject to property taxes in South Carolina, which will not qualify for the Negotiated FILOT pursuant to Section 12-44-110 of the Negotiated FILOT Act, including without limitation property which has been subject to ad valorem taxes in the State prior to commencement of the Investment Period and property included in the Project as part of the repair, alteration, or modification of such previously taxed property; provided, however, that Existing Property shall not include: (a) the Land; (b) property acquired or constructed by or on behalf of the Company or any other Sponsor or Sponsor Affiliate during the Investment Period which has not been placed in service in this State prior to the commencement of the Investment Period notwithstanding that ad valorem taxes have heretofore been paid with respect to such property, or which has been placed in service in the State pursuant to an inducement agreement or other preliminary approval by the County, including the Inducement Resolution, prior to execution of this Agreement pursuant to Section 12-44-40(E) of the Negotiated FILOT Act, which property shall qualify as Negotiated FILOT Property; (c) property purchased by or on behalf of the Company or any other Sponsor or Sponsor Affiliate during the Investment Period in a transaction other than between any of the entities specified in Section 267(b) of the Internal Revenue Code, as defined under Chapter 6 of Title 12 of the Code as of the time of the transfer, to the extent that the Company or such other Sponsor or Sponsor Affiliate invests, or causes to be invested, at least an additional \$45,000,000 in the Project, exclusive of the property identified in this subsection (c); or (d) modifications which constitute an expansion of the real property portion of Existing Property, all as determined pursuant to Section 12-44-110 of the Negotiated FILOT Act.

"FILOT" shall mean fee in lieu of ad valorem property taxes.

"FILOT Payments" shall mean the FILOT payments to be made by the Company or any other Co-Investor with respect to the Project whether made as Negotiated FILOT Payments pursuant to the Negotiated FILOT Act or as FILOT payments pursuant to the Multi-County Park Act.

"Investment Period" shall mean the extended period specified in Section 4-29-67(C)(2) of the Original FILOT Act; i.e., the period commencing on March 6, 1997, and ending December 31, 2005.

"Land" shall mean the land upon which the Project has been or will be located, acquired, constructed and equipped, as described in **Exhibit A** attached hereto, as **Exhibit A** may be supplemented from time to time in accordance with the provisions hereof.

"Lease" shall mean that certain Lease Purchase Agreement by and between the County and the Company in connection with the Project, dated as of December 1, 1998, as amended by that certain First Amendment to Lease Purchase Agreement dated as of April 1, 2000 and by that certain Second Amendment to Lease Purchase Agreement dated as of March 11, 2002.

"Leased Property" shall have the meaning ascribed to it in the Lease.

"Minimum Statutory Investment Requirement" shall mean investment in the Project of not less than \$2,500,000, as required by Section 12-44-30(14) of the Negotiated FILOT Act, which investment amount shall be calculated in accordance with Section 12-44-130 of the Negotiated FILOT Act and Section 7.02 hereof in determining whether the Company or any other Sponsor or Sponsor Affiliate qualifies for Negotiated FILOT benefits hereunder.

"Multi-County Park" shall mean the multi-county industrial or business park established pursuant to the Multi-County Park Agreement, and any multi-county industrial or business park which now or hereafter includes the Project and which is designated by the County as such pursuant to any agreement which supersedes or replaces the initial Multi-County Park Agreement.

"Multi-County Park Act" shall mean Title 4, Chapter 1 of the Code, as amended through the date hereof.

"Multi-County Park Agreement" shall mean that certain Agreement Creating Regional Industrial Park between the County and Williamsburg County, South Carolina dated as of December 1, 1998, as amended, supplemented, or modified through the date hereof and as such agreement may be further amended, supplemented, or replaced from time to time, in each case to include the Project.

"Negotiated FILOT" or "Negotiated FILOT Payments" shall mean the FILOT payments due pursuant to Section 6.01 hereof with respect to that portion of the Project consisting of

Negotiated FILOT Property qualifying under the Negotiated FILOT Act for the negotiated assessment ratio and millage rate described in **Section 6.01(c)(ii)** hereof.

"Negotiated FILOT Act" shall mean Title 12, Chapter 44 of the Code, as amended through the date hereof.

"Negotiated FILOT Property" shall mean all property qualifying for the Negotiated FILOT as economic development property within the meaning of Section 12-44-30(6) of the Negotiated FILOT Act, including, without limitation, each item of real and tangible personal property comprising the Project which is placed in service during the Investment Period and which meets the requirements of Sections 12-44-30(6) and 12-44-40(C) of the Negotiated FILOT Act, together with all Replacement Property, but excluding any Non-Qualifying Property and any Released Property.

"Non-Qualifying Property" shall mean that portion of the facilities located on the Land which does not qualify as Negotiated FILOT Property, such Non-Qualifying Property to include: (i) Existing Property; (ii) except as to Replacement Property, property which the Company or any other Sponsor or Sponsor Affiliate places in service after the end of the Investment Period; and (iii) any other property which fails or ceases to qualify for Negotiated FILOT Payments under the Negotiated FILOT Act, including, without limitation, property as to which the Company or any other Sponsor or Sponsor Affiliate has terminated the Negotiated FILOT pursuant to Section 5.01(d)(iii) hereof.

"Original FILOT Act" shall mean Section 4-29-67 of the Code, as amended through the last date of execution and delivery of the Lease.

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

"Project" shall mean the Land and, to the extent placed in service by the Company or any Co-Investor during the Investment Period: (i) all buildings, structures, fixtures and other real property improvements now or hereafter constructed on the Land; and (ii) all machinery, equipment, furnishings and other personal property now or hereafter acquired by or on behalf of the Company or any Co-Investors for use on or about the Land, together with any Replacement Property.

"Property Tax Year" shall mean the annual period which is equal to the fiscal year of the Company or any other Co-Investor, as the case may be, e.g., with respect to the Company, the period ending on March 31 of each year; provided, however, that the Property Tax Year for the Company shall control for purposes of determining the Compliance Period and Investment Period.

"Released Property" shall include property which was initially Negotiated FILOT Property but which is scrapped, sold, disposed of, or released from this Agreement by the

Company or any other Sponsor or Sponsor Affiliate pursuant to Section 5.01(d) hereof and Section 12-44-50(B) of the Negotiated FILOT Act; which the Company or any other Sponsor or Sponsor Affiliate dedicates to the public use within the meaning of Section 12-6-3420(C) of the Code; or which is damaged, destroyed, or taken by process of eminent domain and not restored or replaced.

"Replacement Property" shall mean all property installed in or on the Land in substitution of, or as replacement for, any Negotiated FILOT Property which becomes Released Property, regardless of whether such property serves the same function as the property it replaces and regardless of whether more than one piece replaces a single piece of the Negotiated FILOT Property, but only to the extent that such property may be included in the calculation of the Negotiated FILOT pursuant to Section 6.01(e) hereof and Section 12-44-60 of the Negotiated FILOT Act.

"Sponsor" and "Sponsor Affiliate" shall mean an entity whose investment with respect to the Project will qualify for the Negotiated FILOT pursuant to **Section 7.02** hereof and Sections 12-44-30(19) or (20) and Section 12-44-130 of the Negotiated FILOT Act if the statutory investment requirements are met. Initially, the Company is the only Sponsor and there are no Sponsor Affiliates.

"State" shall mean the State of South Carolina.

"Term" shall mean the term of this Agreement, as set forth in Section 8.01 hereof.

"Transfer Provisions" shall mean the provisions of Section 12-44-120 of the Negotiated FILOT Act, as amended through the date hereof.

Section 1.02. <u>References to Agreement.</u> The words "hereof", "herein", "hereunder", and other words of similar import refer to this Agreement as a whole.

ARTICLE II REPRESENTATIONS AND WARRANTIES

- Section 2.01. <u>Representations and Warranties by County.</u> The County makes the following representations and warranties as the basis for the undertakings on its part herein contained:
 - (a) The County is a body politic and corporate and a political subdivision of the State and is authorized and empowered by the provisions of the Act to enter into the transactions contemplated by this Agreement and to carry out its obligations hereunder. By proper action by the Council, the County has duly authorized the execution and delivery of this Agreement and the Negotiated FILOT Payments as set forth herein, the inclusion and maintenance of the Project in the Multi-County Park, and any and all

actions reasonably necessary and appropriate to consummate the transactions contemplated hereby. The County has obtained all consents and approvals required to consummate the transactions contemplated by this Agreement or the Multi-County Park Agreement including, without limitation, the approval by Williamsburg County.

- (b) The County has determined that the Project will subserve the purposes of the Act and has made all other findings of fact required by the Act in connection with the undertaking of the arrangements set forth herein.
- (c) This Agreement has been duly authorized, executed and delivered on behalf of the County. The authorization, execution, and delivery of this Agreement and the performance by the County of its obligations hereunder will not, to the best knowledge of the County, conflict with or constitute a breach of, or a default under, any South Carolina law, court or administrative regulation, decree, order, provision of the Constitution or laws of the State relating to the establishment of the County or its affairs, or any material agreement, mortgage, lease, or other instrument to which the County is subject or by which it is bound, nor, to the best knowledge of the County, any existing law or the provisions of the Constitution of the State.
- (d) To the best knowledge of the County, no actions, suits, proceedings, inquiries, or investigations are pending or threatened against or affecting the County in any court or before any governmental authority or arbitration board or tribunal, any of which to the best knowledge of the County could materially adversely affect this Agreement or which could, in any way, adversely affect the validity or enforceability of this Agreement or the transactions contemplated hereby.
- Section 2.02. <u>Representations and Warranties by the Company.</u> The Company makes the following representations and warranties as the basis for the undertakings on its part herein contained:
 - (a) The Company is a corporation validly existing and in good standing under the laws of the State of South Carolina and authorized to do business in the State; has all requisite power to enter into this Agreement and to carry out its obligations hereunder; and by proper action has been duly authorized to execute and deliver this Agreement. The Company's fiscal year end is March 31 and the Company will notify the County of any changes in the fiscal year of the Company.
 - (b) The Company presently intends to operate the Project primarily for manufacturing and/or related activities.
 - (c) The agreements with the County with respect to the Negotiated FILOT and the Multi-County Park were factors in inducing the Company to locate the Project within the County and the State.

- (d) To the best knowledge of the Company, no actions, suits, proceedings, inquiries, or investigations are pending or threatened against or affecting the Company in any court or before any governmental authority or arbitration board or tribunal, which would materially adversely affect this Agreement or which would, in any way, adversely affect the validity or enforceability of this Agreement, or the transactions contemplated hereby.
 - (e) The Company is the sole owner of the Bonds.

ARTICLE III RE-DOCUMENTATION

Section 3.01. Replacement of Lease and Related Documents. The Company and the County hereby agree and acknowledge that, from and after the execution and delivery of this Agreement: (i) this Agreement shall replace the Lease, the Bonds, the Assignment in their entirety and as to all matters pertaining to the incentives applicable to the Project; and (ii) the Negotiated FILOT Act shall govern the Negotiated FILOT arrangements pertaining to the Project. In furtherance of such replacement, the parties agree that the Lease and Assignment are hereby terminated and that the Bonds are hereby canceled and the parties' obligations under each such instrument or agreement are deemed fully discharged.

Property. Simultaneously with the execution and delivery of this Agreement, the County has, by Deed and Bill of Sale, re-conveyed to the Company all assets comprising the Project and other Leased Property which are currently titled in the County pursuant to the terms of the Lease. The County covenants and agrees to take such further steps and to execute and deliver such further instruments, agreements or other documents as shall be reasonably required by the Company to evidence or confirm such conveyance.

ARTICLE IV COVENANTS OF COUNTY

Section 4.01. <u>Agreement to Accept Negotiated FILOT Payments.</u> The County hereby agrees to accept Negotiated FILOT Payments in accordance with **Section 6.01** hereof in lieu of *ad valorem* taxes with respect to that portion of the Project consisting of Negotiated FILOT Property until this Agreement expires or is sooner terminated.

Section 4.02. <u>Multi-County Park Designation</u>. The County will take all appropriate actions to insure that the Project will be included within the boundaries of the Multi-County Park, and that the Project will remain within the boundaries of the Multi-County Park pursuant to the provisions of the Multi-County Park Act and Article VIII, Section 13 of the State

Constitution on terms which provide, for all jobs created at the Project during the Investment Period, any additional jobs tax credits afforded by the laws of the State for projects located within multi-county industrial or business parks.

Section 4.03. Commensurate Benefits. The parties acknowledge the intent of this Agreement, in part, is to afford the Company and any other Sponsor or Sponsor Affiliate the benefits specified in this Article IV in consideration of the Company's decision to locate the Project within the County, and this Agreement has been entered into in reliance upon the enactment of the Act and the County's compliance with the requirements thereof. In the event that a court of competent jurisdiction holds that the Act is unconstitutional or this Agreement or the Multi-County Park Agreement or agreements similar in nature to this Agreement or the Multi-County Park Agreement are invalid or unenforceable in any material respect, or should the Company determine there is a reasonable doubt as to the validity or enforceability of this Agreement or the Multi-County Park Agreement in any material respect, then, at the request of the Company, the County agrees to use its best efforts to extend to the Company and any other Sponsor or Sponsor Affiliate the intended benefits of this Agreement, including, without limitation, the Negotiated FILOT, and agrees, if requested, to enter into a lease purchase agreement with the Company and any other Sponsor Or Sponsor Affiliate pursuant to Section 12-44-160; Title 4, Chapter 29 or Title 4, Chapter 12 of the Code, as applicable, or to take such other steps as may be appropriate to extend to the Company and any other Sponsor or Sponsor Affiliate the intended benefits of this Agreement. In furtherance of this covenant, the County also agrees that, in the event that, for any reason, the Multi-County Park is declared by a court of competent jurisdiction to be invalid or unenforceable in whole or in part, the Company and the County express their intentions that tax or FILOT payments be reformed so as to best afford the Company and any other Sponsor or Sponsor Affiliate benefits commensurate with, but not in excess of, those intended under this Agreement as then permitted by law, including without limitation any benefits afforded under Title 12, Chapter 6, Title 4, Chapter 1 and Title 4, Chapter 29 of the Code, as applicable, to the extent allowed by law. The Company acknowledges, if a court of competent jurisdiction determines that all or part of the Negotiated FILOT Act is unconstitutional or otherwise illegal, the Negotiated FILOT Act currently provides the Company and any other Sponsor or Sponsor Affiliate must transfer the Negotiated FILOT Property to the County pursuant to lease-purchase arrangements within 180 days following such determination in order for the Negotiated FILOT benefits to continue to apply. In such lease purchase agreement, the County, upon the conveyance of title to the Project to the County at the expense of the Company or such other Sponsor or Sponsor Affiliate, as the case may be, agrees to lease the Project to the Company or any such other Sponsor or Sponsor Affiliate, as the case may be. At the end of the term of any such lease purchase agreement, and upon payment of all outstanding obligations incurred under such lease purchase agreement, the Company or such other Sponsor or Sponsor Affiliate shall have the option to purchase its respective portion of the Project for Ten Dollars (\$10.00).

ARTICLE V COVENANTS OF COMPANY

Section 5.01. <u>Investment in Project.</u>

- (a) The County hereby agrees and acknowledges that the Company has met all investment and job creation requirements with respect to the Project heretofore required by the Lease and/or the Act or the Original FILOT Act and that the Company is currently in compliance with all requirements set forth in Lease, the Bonds and the Assignment.
- (b) Expenditures by Co-Investors shall, together with expenditures by the Company, count toward all investment requirements set forth in this Agreement, including, to the full extent permitted by the Negotiated FILOT Act, the Minimum Statutory Investment Requirement. Aggregate investment shall generally be determined without regard to depreciation or other diminution in value following placement in service at the Project by reference to the property returns of the Company and all Co-Investors filed with respect to the Project, including without limitation, each such entity's SCDOR PT-300 or such comparable forms as the Department of Revenue may provide in connection with projects under the Negotiated FILOT Act.
- (c) The Company and/or its designated Co-Investors shall retain title, or other property rights, to its respective portion of the Project throughout the Term of this Agreement, and the County hereby consents to any action by the Company or any Co-Investor to mortgage, lease, or encumber all or any portion of the Project, including, without limitation, in connection with any financing transactions.
- (d) The Company and each other Co-Investor shall have the right at any time and from time to time during the Term hereof to undertake any of the following:
 - (i) The Company and each other Co-Investor may, at its own expense, add to the Project all such real and personal property as the Company, or such Co-Investor, in its discretion deems useful or desirable, including, without limitation, Negotiated FILOT Property, without any limit as to the amount thereof.
 - (ii) Subject to the provisions of paragraphs (c)(iv), (e)(ii) and (g)(ii) of Section 6.01 hereof, in any instance when the Company or any other Co-Investor in its discretion determines any of its items included in the Project, including, without limitation, any Negotiated FILOT Property, have become inadequate, obsolete, worn out, unsuitable, undesirable, or unnecessary for operations at the Project, the Company, or such Co-Investor, may remove such items or portions of the Land from the Project and sell, trade in, exchange, or otherwise dispose of them as a whole or in part without the consent of the County.

- (iii) Subject to the provisions of paragraphs (c)(iv) and (d)(iv) of Section 6.01 hereof, the Company and each other Co-Investor may, at any time and in its discretion by written notice to the County, remove any Negotiated FILOT Property, real or personal, from the Negotiated FILOT arrangement set forth in this Agreement and retain such property for use as part of its operations in the County, and thereafter such property will be subject to ad valorem taxes or FILOT payments pursuant to the Multi-County Park Act, as the case may be; provided, that, any such notice requirement may be, but shall not be required to be, satisfied by property returns filed with respect to the Project, including without limitation, such entity's SCDOR PT-300 or such comparable forms, as the Department of Revenue may provide in connection with projects under the Negotiated FILOT Act.
- (iv) If the Company or any other Co-Investor sells, leases, or otherwise disposes of any portion of, or adds to, the Land, the Company, or such Co-Investor, shall comply with the provisions of Section 6.01(c)(iv) hereof and shall deliver to the County a new Exhibit A to this Agreement or schedules or supplements to Exhibit A; provided, that any requirement to provide such schedules or supplements to the County may be satisfied by property returns filed with respect to the Project, including without limitation, such entity's SCDOR PT-300 or such comparable forms, as the Department of Revenue may provide in connection with projects under the Negotiated FILOT Act.
- (v) All Negotiated FILOT Property sold or otherwise disposed of under this Section shall be deemed Released Property for purposes of this Agreement.
- Section 5.02. Payment of Administration Expenses. The Company will reimburse, or cause reimbursement to, the County from time to time for its Administration Expenses promptly upon written request therefor, but in no event later than sixty (60) days after receiving written notice from the County specifying the nature of such expense and requesting the payment of the same. The County acknowledges that it imposes no charges in the nature of impact fees or recurring fees in connection with the incentives authorized by this Agreement or the Project, and, aside from attorneys' fees described below, the County anticipates no out of pocket expenses in connection with the initial approval of this Agreement and the transactions authorized hereby. The parties understand that legal counsel to the County has estimated its fees and other expenses for review of this Agreement and all resolutions, ordinances, and other documentation related thereto at \$0.00.
- Section 5.03. <u>Use of Project for Lawful Activities.</u> During the Term of this Agreement, the Company and any other Co-Investor shall use the Project as the Company deems fit for any lawful purposes.
- Section 5.04. <u>Maintenance of Existence.</u> Except in the event the resulting, surviving, or transferee entity is the Company or an Affiliate of the Company, as to which such consolidation, merger, or transfer the County hereby preapproves and consents, unless the 12 NPCOL1:2914889.4-DOC-(ACL) 020951-00493

County shall provide prior consent or subsequent ratification, which consent or ratification shall not be unreasonably withheld, conditioned, or delayed, the Company covenants that it will maintain its separate existence and will not dissolve or consolidate with, merge into or transfer, or otherwise dispose of substantially all of its property to any other entity or permit one or more other entities to consolidate with or merge into it or purchase substantially all of its property unless:

- (a) the Company shall be the continuing business entity, or the business entity formed by such consolidation or into which the Company is merged or the entity which acquires by conveyance or transfer all or substantially all of the Company's assets shall (i) be an entity organized and existing under the laws of the United States of America or any state thereof or the District of Columbia and qualified to do business in the State; (ii) have a net worth equal to or greater than the net worth of the Company immediately preceding the date of such merger, consolidation or transfer; and (iii) expressly and unconditionally assumes, by written agreement supplemental hereto and acceptable to the County as to form and content, in its reasonable discretion, every payment obligation of the Company herein and the performance of every covenant of this Agreement on the part of the Company to be performed or observed;
- (b) immediately after giving effect to such transaction, no Event or Default, and no event, which, after notice or lapse of time or both, would become an Event of Default, shall have happened and be continuing; and
- (c) the Company shall have delivered to the County (i) a certificate of a duly authorized officer of the Company, accompanied by financial statements of the surviving company (if other than the Company) showing compliance with the net worth requirements specified in paragraph (a) above and (ii) an opinion of counsel for the Company and/or counsel to the transferee company, each stating that such consolidation, merger, conveyance or transfer and such supplement to this Agreement comply with this Section and that all conditions precedent herein provided for relating to such transaction have been complied with.

Upon any consolidation or merger or any conveyance or transfer of all or substantially all of the Company's assets in accordance with this Section, the successor entity formed by such consolidation or into which the Company is merged or to which such conveyance or transfer is made shall succeed to, and be substituted for, and may exercise every right and power of the Company under this Agreement with the same effect as if such successor entity had been named as the Company herein, and thereafter the Company shall be relieved of all obligations and covenants under this Agreement.

If a consolidation, merger or conveyance or transfer is made as permitted by this Section, the provisions of this Section shall continue in full force and effect and no further consolidation, merger or conveyance or transfer shall be made except in compliance with the provisions of this Section.

The Company acknowledges transfers of this Agreement or the Negotiated FILOT Property may cause the Negotiated FILOT Property to become ineligible for a Negotiated FILOT or result in penalties under the Act absent compliance by the Company with the Transfer Provisions.

- Section 5.05. Records and Reports. The Company and any other Co-Investor will each maintain such books and records with respect to the Project as will permit the identification of those portions of the Project it places in service in each Property Tax Year during the Investment Period, the amount of investment with respect thereto, and computations of all Negotiated FILOT Payments made by such entity hereunder and will comply with all reporting requirements of the State and the County applicable to Negotiated FILOT Property under the Negotiated FILOT Act, including without limitation the reports required by 12-44-90 of the Negotiated FILOT Act (collectively, "Filings"); provided, however, that the parties hereby waive in its entirety the requirement under Section 12-44-55 of the Negotiated FILOT Act for a recapitulation of the terms of this Agreement. In addition, the following records shall be provided to the County:
 - (a) Upon direction of the governing body of the County, a County official may request and obtain such financial books and records from the Company and any Sponsor or Sponsor Affiliate that support the FILOT returns of such Sponsor or Sponsor Affiliates as may be reasonably necessary to verify the calculations of the FILOT Payments by such Sponsor or Sponsor Affiliate. For purposes of this Agreement, the term "County official" shall include the administrator, auditor, assessor or treasurer of the County.
 - (b) The Company shall cause a copy of this Agreement, as well as a copy of the completed Form PT-443 required by the Department of Revenue, to be filed within thirty (30) days after the date of execution and delivery hereof with the County Auditor, the County Assessor and the County Treasurer of the County and of each other county which is a party to the Multi-County Park Agreement, and with the Department of Revenue and shall update such Form PT-443 from time to time to the extent that the information therein is no longer accurate.
 - (c) The County agrees to provide the Company with written notice of any failure to comply with the reporting requirements set forth in this **Section 5.05**. If the Company fails to comply with such reporting requirements within thirty (30) days following receipt of such notice, the County may elect to suspend the incentives hereunder for the year in which such failure occurs and such suspension shall be the County's sole remedy for such failure to comply with the reporting requirements.

Notwithstanding the foregoing and anything herein to the contrary, the Company and each other Co-Investor may, by clear, written designation, conspicuously marked, designate with respect to any Filings or other documents or information delivered to the County segments thereof that the Company or such other Co-Investor believes contain proprietary, confidential, or trade secret matters. To the extent permitted by law, the County shall comply with all

reasonable, written requests made by the Company and any other Co-Investor with respect to maintaining the confidentiality of such designated segments. Except to the extent required by law, the County shall not knowingly and voluntarily release information, which has been designated as confidential or proprietary by the Company or any other Co-Investor.

ARTICLE VI FEES IN LIEU OF TAXES

Section 6.01. Payment of Fees in Lieu of Ad Valorem Taxes.

- (a) In accordance with the Negotiated FILOT Act, the parties hereby agree, during the Term hereof, that there shall be due annually with respect to that portion of the Project constituting Negotiated FILOT Property, whether owned by the Company or by any other Sponsor or Sponsor Affiliate, a Negotiated FILOT calculated as set forth in this Section 6.01, at the places, in the manner and subject to the penalty assessments prescribed by the County or the Department of Revenue for ad valorem taxes. If the Company designates any Sponsor or Sponsor Affiliates, as the same shall have been consented to by the County, if required, pursuant to Section 7.02 hereof, the Company must notify the County in writing at the time of such designation as to whether such Sponsor or Sponsor Affiliate shall be primarily liable for the Negotiated FILOT Payments hereunder with respect to such other entity's portion of the Negotiated FILOT Property. Unless and until such additional notification is received, the Company shall be primarily liable for all Negotiated FILOT Payments with respect to such Negotiated FILOT Property.
- (b) With respect to any portion of the Project consisting of undeveloped land or Non-Qualifying Property, FILOT Payments shall be due in accordance with the Multi-County Park Act in amounts equal to the *ad valorem* taxes that would otherwise be due on such undeveloped land or Non-Qualifying Property taking into account all tax exemptions which would have applied had such property been subject to *ad valorem* taxes.
- (c) Subject to adjustment pursuant to the provisions of this **Section 6.01**, the Negotiated FILOT shall be calculated each year in accordance with the following provisions:
 - (i) To encourage the Company to remain in the County, the County agrees to extend the period for payment of the Negotiated FILOT shall be automatically extended for an additional ten (10) years as provided in Section 12-44-30(21) of the Negotiated FILOT Act. Accordingly, for each annual increment of investment in Negotiated FILOT Property during the Investment Period, the

annual Negotiated FILOT Payments shall be payable for a period of thirty (30) years.

- For the first twenty (20) years (including the period during which the Lease was in effect), the Negotiated FILOT shall be calculated as an approximately level fee (the "Flat Fee") in accordance with Section 12-44-50(A)(3) of the Negotiated FILOT Act, which Flat Fee, based upon a discount rate of 6.66%, yields the same net present value for the sum of the Negotiated FILOT equal to the standard, declining payment method authorized under Section 12-44-50(A)(1) and (2) of the Negotiated FILOT Act (the "Standard Fee"). Such calculations shall be based upon (1) an assessment ratio of 6%; (2) a millage rate equal to 215.2 mills with respect to all Negotiated FILOT Property located thereon, which rate shall remain fixed in accordance with Section 12-44-50(A)(1)(b)(i) of the Negotiated FILOT Act for the entire term of this Agreement; and (3) the fair market value of such Negotiated FILOT Property as determined in accordance with Section 12-44-50(A)(1)(c) of the Negotiated FILOT Act as set forth hereinbelow in this subparagraph (ii). For typical arm's length construction or acquisition, fair market value is determined with reference to the original income tax basis for any personal property less allowable depreciation (except depreciation due to extraordinary obsolescence). The County and the Company hereby elect to determine the fair market value of any real property by reference to original income tax basis without regard to depreciation or reassessment while the Flat Fee is in effect and thereafter by appraisal not more often than once every five years as permitted by said Section 12-44-50(A)(1)(c) of the Negotiated FILOT Act. Schedule A attached hereto sets forth projections of the annual Negotiated FILOT payments utilizing the Flat Fee calculation compared to the Standard Fee calculation (which calculations are exemplary in nature and not binding) based upon an assumed investment of approximately \$112,750,000.
- (iii) All such calculations shall take into account all deductions for depreciation or diminution in value allowed by the Code or by the tax laws generally, as well as tax exemptions which would have been applicable if such property were subject to ad valorem taxes, except the five-year exemption from County taxes allowed for certain manufacturing, distribution, corporate headquarters and research and development facilities pursuant to Section 3(g) of Article X of the Constitution of the State and Sections 12-37-220(B)(32) and (34) of the Code.
- (iv) For purposes of calculating the Negotiated FILOT Payments, the Negotiated FILOT Property shall not include any Released Property or Non-Qualifying Property; provided, however, that, for any property which becomes Released Property during the first twenty (20) years, there shall be due to the County with respect to any such property an amount equal to the excess of the amount which would have been paid under the Standard Fee calculation, if any,

over the Negotiated FILOT payments theretofore actually paid under the Flat Fee calculation, together with interest thereon as provided in Section 12-54-25(D) of the Code ("Differential Payments") except to the extent that Replacement Property is substituted therefor.

- (d) The Negotiated FILOT Payments are to be recalculated:
- (i) to reduce such payments in the event the Company or any other Sponsor or Sponsor Affiliate disposes of any part of the Negotiated FILOT Property within the meaning of Section 12-44-50(B) of the Negotiated FILOT Act and as provided in **Section 5.01(d)(ii)** hereof, by the amount applicable to the Released Property;
- (ii) to reduce such payments in the event that the Negotiated FILOT Property or any portion thereof is damaged or destroyed, lost or stolen, or the subject of condemnation proceedings or otherwise removed from the Project as a result of circumstances beyond the control of the Company or any other Sponsor or Sponsor Affiliate, as the case may be:
- (iii) to increase such payments in the event the Company or any Sponsor or Sponsor Affiliate adds any Negotiated FILOT Property (other than Replacement Property) to the Project; or
- (iv) to adjust such payments if the Company or any Sponsor or Sponsor Affiliate elects to convert any portion of the Negotiated FILOT Property from the Negotiated FILOT to ad valorem taxes or FILOT payments pursuant to the Multi-County Park Act, as the case may be, as permitted by Section 5.01(d)(iii).
- (e) Upon installation or placing in service of any Replacement Property for any Released Property, such Replacement Property shall become subject to Negotiated FILOT Payments to the fullest extent allowed by law, subject to the following rules:
 - (i) Such Replacement Property does not have to serve the same function as the Released Property it is replacing. Replacement Property is deemed to replace the oldest property subject to the Negotiated FILOT, whether real or personal, which is disposed of in the same Property Tax Year as the Replacement Property is placed in service. Replacement Property qualifies for Negotiated FILOT Payments up to the original income tax basis of the Released Property which it is replacing in the same Property Tax Year. More than one piece of property can replace a single piece of property. To the extent that the income tax basis of the Released Property which it is replacing, the excess amount is subject to payments equal to the ad valorem taxes which would have been paid on such property but for this Agreement. Replacement property is entitled to the Negotiated FILOT

Payments for the remaining portion of the thirty (30) year period applicable to the Released Property.

- (ii) The Company or any other Sponsor or Sponsor Affiliate shall maintain, or cause to be maintained, records sufficient to identify all Replacement Property it places in service, and the Negotiated FILOT Payments with respect thereto shall be calculated using the millage rate and assessment ratio provided on the property it is replacing.
- In the event that, for any reason, the Negotiated FILOT Act and/or the Negotiated FILOT or any portion thereof is, by a court of competent jurisdiction following allowable appeals, declared invalid or unenforceable in whole or in part, or the portion of the Project consisting of Negotiated FILOT Property is deemed not to be eligible for a Negotiated FILOT pursuant to the Act in whole or in part, the Company and the County express their intentions that such payments be reformed so as to afford the Company and any other Sponsor or Sponsor Affiliate benefits commensurate with those intended under this Agreement as then permitted by law, including without limitation any benefits afforded under Title 4, Chapter 12 and Title 4, Chapter 29 of the Code, as applicable, to the extent allowed by law. Absent the legal authorization to effect such reformation, the Company and the County agree that there shall be due hereunder with respect to the portion of the Negotiated FILOT Property affected by such circumstances ad valorem taxes and that, to the extent permitted by law, the Company and any other Sponsor or Sponsor Affiliate shall be entitled: (1) to enjoy the five-year exemption from ad valorem taxes (or fees in lieu of taxes) provided by Article X, Section 3 of the Constitution of the State, and any other exemption allowed by law; (2) to enjoy all allowable depreciation; and (3) to receive all other tax credits which would be due if the Company and any other Sponsor or Sponsor Affiliate were obligated to pay ad valorem taxes hereunder. To the extent that under such circumstances the Negotiated FILOT Payments hereunder are subject to retroactive adjustment, then there shall be due and payable from the Company and any other Sponsor or Sponsor Affiliate, as the case may be, with respect to its portion of the Negotiated FILOT Property in question an amount equal to the difference between the Negotiated FILOT Payments theretofore actually paid and the amount which would have been paid as ad valorem taxes, together with interest on such deficiency as provided in Section 12-54-25(D) of the Code (a "Deficiency Payment").

(g)

- (i) As noted in **Section 5.01(a)** hereof, the County acknowledges that the Company has met all statutory and contractual requirements regarding investment and job creation at the Project.
- (ii) In the event that investment in the Project subsequently falls below the Minimum Statutory Investment Requirement, without regard to depreciation, the Project shall thereafter be subject to *ad valorem* taxes, calculated as set forth in

paragraph (e) above, in accordance with Section 12-44-140(C) of the Negotiated FILOT Act.

- (iii) In accordance with the provisions of Sections 5.01(b) and 7.02 hereof, except for Existing Property, all property utilized by the Company or any other Co-Investor at the Project site and placed in service during the Investment Period, whether owned by the Company or any other Co-Investor outright or utilized by the Company or any other Co-Investor pursuant to any financing agreement or any lease or other arrangement with any Co-Investor and whether or not subject to this Agreement, shall be counted toward all investment obligations under this Agreement, including, to the extent permitted by law, investment obligations under the Negotiated FILOT Act.
- (h) Except as otherwise set forth in this Agreement or as otherwise required by the Act, any amounts due to the County under this **Section 6.01** as a Differential Payment or other retroactive payment shall be paid within one hundred eighty (180) days following receipt by the Company or any other Sponsor or Sponsor Affiliate of notice from the County that such a Deficiency Payment or other retroactive payment is due from such entity.

Section 6.02. <u>Statutory Lien.</u> The parties acknowledge the County's right to receive Negotiated FILOT Payments hereunder is entitled to and shall have a statutory lien with respect to the Project pursuant to Section 12-44-90(E) of the Negotiated FILOT Act and Title 12, Chapter 54 of the Code relating to the collection and enforcement of *ad valorem* property taxes.

ARTICLE VII THIRD PARTY ARRANGEMENTS

Section 7.01. Conveyance of Liens and Interests; Assignment. The County agrees that the Company and any Co-Investor may at any time (a) transfer all or any of its rights and interests hereunder or with respect to all or any part of the Project to any Person; or (b) enter into any lending, financing, leasing, security, or similar arrangement or succession of such arrangements with any financing entity or other Person with respect to this Agreement or all or any part of the Project, including without limitation any sale-leaseback, equipment lease, buildto-suit lease, synthetic lease, nordic lease, defeased tax benefit or transfer lease, assignment, sublease or similar arrangement or succession of such arrangements, regardless of the identity of the income tax owner of such portion of the Project, whereby the transferee in any such arrangement leases the portion of the Project in question to the Company or such Co-Investors or any of their respective Affiliates or operates such assets for the Company or such Co-Investors or any of their respective Affiliates or is leasing portion of the Project in question from the Company or such Co-Investors or any of their respective Affiliates. In order to preserve the benefits of the Negotiated FILOT hereunder with respect to any Negotiated FILOT Property so transferred: (i) except in connection with any transfer to any Co-Investors, an Affiliate of the 19 NPCOL1:2914889.4-DOC-(ACL) 020951-00493

Company or such Co-Investors, or transfers pursuant to clause (b) above (as to which such transfers the County hereby consents), the Company shall obtain the prior consent or subsequent ratification of the County which consent or subsequent ratification may be granted by the County, in its sole discretion; (ii) except when a financing entity which is the income tax owner of all or part of the Negotiated FILOT Property is the transferee pursuant to clause (b) above and such financing entity assumes in writing the obligations of the Company or such Co-Investors hereunder, or when the County consents in writing or when the transfer relates to Released Property pursuant to Section 5.01(d) hereof, no such transfer shall affect or reduce any of the obligations of the Company hereunder; (iii) to the extent the transferee or financing entity shall become obligated to make Negotiated FILOT payments hereunder, the transferee shall assume the then current basis of the Company or such Co-Investors (or prior transferee) in the Negotiated FILOT Property transferred; (iv) the Company or such Co-Investors, transferee or financing entity shall, within sixty (60) days thereof, furnish or cause to be furnished to the County and the Department of Revenue a true and complete copy of any such transfer agreement; and (v) the Company or such Co-Investors and the transferee shall comply with all other requirements of the Transfer Provisions.

Subject to County consent when required under this **Section 7.01**, and at the Company's or such Co-Investor's expense, the County agrees to take such further action or execute such further agreements, documents, and instruments as may be reasonably required to effectuate the assumption by any such transferee of all or part of the rights of the Company or such Co-Investors under this Agreement and/or any release of the Company pursuant to this **Section 7.01**.

The Company acknowledges such a transfer of an interest under this Agreement or in the Negotiated FILOT Property may cause all or part of the Negotiated FILOT Property to become ineligible for a Negotiated FILOT or result in penalties under the Act absent compliance by the Company or such Co-Investors with the Transfer Provisions.

Sponsors and Sponsor Affiliates. The Company may designate from Section 7.02. time to time other Sponsors or Sponsor Affiliates pursuant to the provisions of Sections 12-44-30(19) or (20), respectively, and Section 12-44-130 of the Negotiated FILOT Act, which Sponsors or Sponsor Affiliates shall be Persons who join with the Company and make investments with respect to the Project, or who participate in the financing of such investments, who agree to be bound by the terms and provisions of this Agreement and who shall be Affiliates of the Company or other Persons described in Section 7.01(b) hereof. All other Sponsors or Sponsor Affiliates who otherwise meet the requirements of Section 12-44-30 (19) or (20) and Section 12-44-130 of the Negotiated FILOT Act must be approved by Resolution of the Council. To the extent that a Sponsor or Sponsor Affiliate invests an amount equal to the Minimum Statutory Investment Requirement at the Project prior to the end of the Compliance Period the investment by such Sponsor or Sponsor Affiliate shall qualify for the Negotiated FILOT payable under Section 6.01 hereof (subject to the other conditions set forth therein) in accordance with Section 12-44-30(19) of the Negotiated FILOT Act. To the extent that the aggregate investment in the Project prior to the end of the Compliance Period by the Company, all Sponsors and Sponsor Affiliates and, to the extent provided by law, other Co-Investors, exceeds \$5,000,000 as provided in Section 12-44-30(19) of the Negotiated FILOT Act, all investment by such Sponsors and Sponsor Affiliates during the Investment Period shall qualify for the Negotiated FILOT pursuant to Section 6.01 of this Agreement (subject to the other conditions set forth therein) regardless of whether each such entity invested amounts equal to the Minimum Statutory Investment Requirement. The Company shall provide the County and the Department of Revenue with written notice of any Sponsor or Sponsor Affiliate designated pursuant to this Section 7.02 within ninety (90) days after the end of the calendar year during which any such Sponsor or Sponsor Affiliate has placed in service Negotiated FILOT Property to be used in connection with the Project, all in accordance with Section 12-44-130(B) of the Negotiated FILOT Act.

ARTICLE VIII TERM; TERMINATION

Section 8.01. <u>Term.</u> Unless sooner terminated pursuant to the terms and provisions herein contained, this Agreement shall be and remain in full force and effect for a term commencing on the date on which the Company executed the Original Lease and ending at midnight on the day the last Negotiated FILOT Payment is made hereunder.

Section 8.02. <u>Termination</u>. In addition to the rights of the County under Sections 6.01(g) and 9.02, the County and the Company may jointly agree to terminate this Agreement at any time, or the Company, may, at its option, unilaterally terminate this Agreement at any time, with respect to all, or a portion of, the Project in which event the Project, or such portion of the Project, shall be subject to ad valorem taxes from the date of termination. Notwithstanding termination of this Agreement, the County shall have the same rights to receive payment for any retroactive ad valorem taxes, Differential Payments, interest or penalties, and the same enforcement rights with respect to such obligations as it would have with respect to ad valorem taxes, and the County's rights arising under Section 6.01 prior to the time of such termination shall survive any such termination.

ARTICLE IX EVENTS OF DEFAULT AND REMEDIES

Section 9.01. Events of Default by Company. Any one or more of the following events (herein called an "Event of Default", or collectively "Events of Default") shall constitute an Event of Default by the Company or other Sponsor or Sponsor Affiliate (the "Defaulting Entity") but only with respect to such Defaulting Entity's rights, duties, and obligations contained herein:

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

(b) if default shall be made in the due performance of or compliance with any of the terms hereof, other than those referred to in the foregoing **paragraph** (a), and such default shall continue for ninety (90) days after the County shall have given the Defaulting Entity written notice of such default; provided, the County may, in its discretion, grant the Defaulting Entity a longer period of time as necessary to cure such default if the Defaulting Entity proceeds with due diligence to cure such default; provided however, that no Event of Default shall exist under this Agreement during any period when there is pending, before any judicial or administrative tribunal having jurisdiction, any proceeding in which the Defaulting Entity has contested in good faith the occurrence of such default.

Notwithstanding anything herein to the contrary, failure to meet any investment requirements set forth herein shall not be deemed to be an Event of Default under this Agreement, but may terminate certain benefits hereunder or obligate the Company or other Sponsor or Sponsor Affiliate, as the case may be, to make certain additional payments to the County, all as set forth in Section 6.01(g) hereof.

Section 9.02. <u>Remedies on Event of Default by Company</u>. Upon the occurrence of any Event of Default, the County may exercise any of the following remedies only as to the Defaulting Entity:

- (a) terminate this Agreement by delivery of written notice to the Defaulting Entity not less than sixty (60) days prior to the termination date specified therein;
- (b) have access to and inspect, examine, and make copies of the books and records of the Defaulting Entity pertaining to the construction, acquisition, or maintenance of the Project or calculation of the Negotiated FILOT pursuant hereto as provided in Section 5.05 hereof,
- (c) take whatever action at law or in equity as may appear necessary or desirable to collect the amount then due or enforce the County's rights hereunder, it being the express intent of the parties that the County, without limitation, shall have the same remedies available by law to collect Negotiated FILOT Payments as if they were delinquent ad valorem tax payments, including execution upon the lien referred to in Section 6.02 hereof.
- Section 9.03. <u>Defaulted Payments</u>. In the event the Company or any other Sponsor or Sponsor Affiliate should fail to make any of the payments required to be made by such entity under this Agreement, the item or installment so in default shall continue as an obligation of such entity until the amount in default shall have been fully paid. If any such default relates to its obligations to make Negotiated FILOT Payments hereunder, such entity shall pay the same with interest thereon at the rate per annum provided by the Code for late payment of *ad valorem* taxes together with any penalties provided by the Code for late payment of *ad valorem* taxes, all as provided in Section 12-44-90 of the Code.

Section 9.04. <u>Default by County.</u> Upon the default of the County in the performance of any of its obligations hereunder, the Company and any other Co-Investor may take whatever action at law or in equity as may appear necessary or desirable to enforce its rights under this Agreement, including without limitation a suit for *mandamus* or specific performance.

ARTICLE X MISCELLANEOUS

Section 10.01. Rights and Remedies Cumulative. Each right, power, and remedy of the County or of the Company or any other Sponsor or Sponsor Affiliate provided for in this Agreement shall be cumulative and concurrent and shall be in addition to every other right, power, or remedy provided for in this Agreement or now or hereafter existing at law or in equity, in any jurisdiction where such rights, powers, and remedies are sought to be enforced; and the exercise by the County or by the Company or any other Sponsor or Sponsor Affiliate of any one or more of the rights, powers, or remedies provided for in this Agreement or now or hereafter existing at law or in equity or by statute or otherwise shall not preclude the simultaneous or later exercise by the County or by the Company or such other Sponsor or Sponsor Affiliate of any or all such other rights, powers, or remedies.

Section 10.02. <u>Successors and Assigns</u>. The terms and provisions of this Agreement shall be binding upon and inure to the benefit of the parties hereto, any Sponsor or Sponsor Affiliates designated pursuant to **Section 7.02** hereof and their respective successors and assigns as permitted hereunder.

Section 10.03. <u>Notices: Demands: Requests.</u> All notices, demands, and requests to be given or made hereunder to or by the County or the Company shall be in writing and shall be deemed to be properly given or made if sent by United States first class mail, postage prepaid, or via facsimile transmission or reputable courier service, to the following persons and addresses or to such other persons and places as may be designated in writing from time to time by such party.

(a) if to the County:

Florence County, South Carolina Attn: Florence County Administrator 180 North Irby Street MSC-G Florence, South Carolina 29501 Fax: 843-665-3070

Telephone: 843-665-3035

with a copy (which shall not constitute notice) to:
Florence County Attorney, currently:
D. Malloy McEachin, Jr.
2117-C West Palmetto Street

Florence, South Carolina 29501

Fax: 843-665-0716

Telephone: 843-665-0135

(b) if to the Company:

Attn: President

Honda of South Carolina Mfg., Inc.

1111 Honda Way P.O. Box 489

Timmonsville, South Carolina 29161

Fax: 843-346-8000

Telephone: 843-346-8017

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

Nexsen Pruet, LLC April C. Lucas, Esquire P.O. Box 2426 1230 Main Street, Suite 700 Columbia, South Carolina 29201

Fax: 803-253-8277

Telephone: 803-540-2035

Section 10.04. <u>Applicable Law.</u> This Agreement shall be governed by and construed in accordance with the laws of the State. To the extent of any conflict between the provisions of this Agreement and the Act, the Act controls.

Section 10.05. <u>Entire Understanding</u>. This Agreement expresses the entire understanding and all agreements of the parties hereto with each other, and neither party hereto has made or shall be bound by any agreement or any representation to the other party which is not expressly set forth in this Agreement or in certificates delivered in connection with the execution and delivery hereof.

Section 10.06. <u>Severability</u>. In the event that any clause or provisions of this Agreement shall be held to be invalid by any court of competent jurisdiction, the invalidity of such clause or provision shall not affect any of the remaining provisions hereof.

Section 10.07. <u>Headings and Table of Contents: References.</u> The headings of the Agreement and any Table of Contents annexed hereto are for convenience of reference only and shall not define or limit the provisions hereof or affect the meaning or interpretation hereof. All references in this Agreement to particular articles or sections or paragraphs of this Agreement are references to the designated articles or sections or paragraphs of this Agreement.

Section 10.08. <u>Multiple Counterparts</u>. This Agreement may be executed in multiple counterparts, each of which shall be an original but all of which shall constitute but one and the same instrument.

Section 10.09. <u>Amendments.</u> Subject to the limitations set forth in Section 12-44-40(K)(2) of the Negotiated FILOT Act, this Agreement may be amended, or the rights and interest of the parties hereunder surrendered, only by a writing signed by both parties.

Section 10.10. <u>Waiver.</u> Either party may waive compliance by the other party with any term or condition of this Agreement only in a writing signed by the waiving party.

Section 10.11. <u>Further Proceedings.</u> To the extent additional proceedings are required by law, however, the County agrees to undertake all such steps as may be reasonably required or appropriate to effectuate the intent of this Agreement.

[Execution Pages to Follow]

IN WITNESS WHEREOF, the parties hereto, each after due authorization, have executed this Agreement to be effective as of the date first written above.

FLORENCE COUNTY, SOUTH CAROLINA

	By:
	Chairman, County Council
	Florence County, South Carolina
[SEAL]	
ATTEST:	
_	
Ву:	
Connie Y. Haselden, Clerk to Cou	inty Council
Florence County, South Carolina	
	HONDA OF SOUTH CAROLINA MFG., INC.
	By:
	7.7
	Title:

EXHIBIT A LEGAL DESCRIPTION

Fee in Lieu of Tax Agreement between Florence County, South Carolina and Honda of South Carolina Mfg., Inc. dated as of December 15, 2012

Project address: 1111 Honda Way, Timmonsville, South Carolina 29161

Consisting of the following property:

All that certain piece, parcel or tract of land situate in Florence County, South Carolina bounded and described as follows:

PARCEL #1

All those certain pieces, parcels, or tracts of land lying, being, and situate in the County of Florence, State of South Carolina, shown and designated as Tract 1 containing 389.69 acres, Tract 2A containing 31.00 acres, and Tract 2B containing 24.40 acres, more or less, as shown on plat for Honda of America Mfg., Inc., by Engineering Consultants, Inc., dated April 29, 1997, and recorded in Plat Book 64 at Page 172, in the Office of the Clerk of Court for Florence County. Reference being made to the aforementioned plat for a more thorough and complete description.

PARCEL#2

All that certain piece, parcel, or tract of land lying, being, and situate in the County of Florence, State of South Carolina, shown and designated as 30.87 acres on a plat for Honda of America Mfg., Inc., by Engineering Consultants, Inc., dated April 27, 1997, and recorded in Plat Book 64 at Page 170, in the Office of the Clerk of Court for Florence County. Reference being made to the aforementioned plat for a more thorough and complete description.

PARCEL#3

All that certain piece, parcel, or tract of land lying, being, and situate in the County of Florence, State of South Carolina, shown and designated as 31.12 acres on a plat for Honda of America Mfg., Inc., by Engineering Consultants, Inc., dated April 28, 1997, and recorded in Plat Book 64 at Page 171, in the Office of the Clerk of Court for Florence County. Reference being made to the aforementioned plat for a more thorough and complete description.

PARCEL#4

All that certain piece, parcel or tract of land, situate, lying and being in the County of Florence, State of South Carolina and shown as Tract 1 containing 73.76 acres on that certain plat prepared for Honda of South Carolina Mfg., Inc. and Florence County, South Carolina prepared by Engineering Consultants, Inc. dated March 11, 2002 and recorded in Plat Book 78, at page 360 in the Office of the Clerk of Court for Florence County.

TMS NO.: 35-04-001

PARCEL #5

All that certain piece, parcel or tract of land, situate, lying and being in the County of Florence, State of South Carolina and shown as Tract 2 containing 43.16 acres on that certain plat prepared for Honda of South Carolina Mfg., Inc. and Florence County, South Carolina prepared by Engineering Consultants, Inc. dated March 11, 2002 and recorded in Plat Book 78, at page 360 in the Office of the Clerk of Court for Florence County.



SCHEDULE A

PROJECT INDIGO

ESTIMATE AND COMPARISON OF SOUTH CARCLINA FROPERTY TAX OFTICES
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PHASE ONE

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PROJECT INDIGO WITS PAGE 4

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TOTAL PROPERTY		31,200,000	31 .20 0.000	
TIMES ASSESSMENT RATIO - FILOT		(0)06.	<u> </u>	
TIMES ASSESSMENT RATIO - STANE	DARID		CARL	
ASSESSED VALUE BEFORE DEPREC	CATION	1,872,000	3, 276.0 00	
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PATED	100 MARKET PROBABILIST PROBABLIST CO.			
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Mikago Raio	0.2462	r en		
5 Year Millinge Rate Inflation Factor			Transition .	
Taled Tex Rate	20,0689	e Personal		

	STANDARD	STANDARD	MET ! STL	STREEDARD	FILOT	1% FLAT	Marie 1
	PROPERTY	TAX 🏴	ROPERTY	#ILOT	FLAT	ML/LTI -	TCi
	Taxes	ABATEMENT	TAX	1850	- Page	COUNTY	COUNTY
YEAR 1	627.446	200,856	470,556	358,540	110,681	1.109	109,772
YEAR 2	549,896	176,059	373,637	314,225	110,661	1,100	109,777
YEAR 3	472,347	151,230	321,117	269,912	110.881	1.109	109,772
YEAR 4	394,767	126,421	266,395	225,99 6	110.881	1, 109	109,772
YEAR 5	317,249	\$01,572	215,675	161.204	110,861	1,109	109,777
YEAR	#2.085		42.089	24,051	110,881	1.109	109.772
YEAR 7	28.472		20,472	16,270	110,881	1.100	109,772
YEAR 8	14.855		14,855	B.48 9	110,851	t, 10 9	109,772
YEAR 9	12.379		12.379	7 <i>1</i> 074	110,B81	t,109	109,772
YEAR 10	12,379		12,379	7,074	110,881	1.109	109,772
YEAR 11	12,174		12,379	7,674	110,881	1,109	109,772
YEAR 12	12 .97 9		12,375	7,574	110.881	1. 10 9	109.772
YEAR 13	12.379	Carried desired and the carried and the carrie	12,379	7.974	110.661	1,100	109.772
YEAR 14	12.370		12,379	7,074	110,881	1,109	109.772
YEAR 15	12,370		12,379	7.074	130,801	1,109	109,772
YEAR 16	12,379		12,379	7.074	110,881	1,100	109,772
YEAR 17	12,379		12,379	7.074	110,861	1,100	109,772
YEAR 15	12.379		12,379	7,074	110,881	1.100	109,772
YEAR 19	12,379		12,379	7,074	110,881	1,109	109,772
YEAR 20	12,379		12,379	7.07:	140,681	1,108	109,772
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7	2,595,701	756,150	1,639,551	1.490,256	2,217,620	22,176	2.195,444
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PAGES FIVE ASSUMPTIONS: LAND & BUILDING Land Cost Bullding Ulimies TOTAL ř MACHINERY & EQUIPMENT On Sile 36,200,000 TOTAL 36.200,000 TOTAL PROPERTY 36,200,000 35.200.000 TIMES ASSESSMENT RATIO - FILOT DIX. TIMES ASSESSMENT RATIO - STANDARS) Water. ASSESSED VALUE BEFORE DEFRECIATION 2,172,000 RATES Discount Rate **6.6**6% Lescoom ruse: Milagoi Rate E Year Milagoi Rate Inflation Factor Abated Tax Rate: 0.2152

			7				
	STANDARD	STANDARD	MET / STO	STANDARD	FILENT	1% FLAT	NET
	PROPERTY	TAX	PROPERTY	Falcot	FLAT	MILKLIN-	TO
	TAXES	ABATEMENT	TAX		FEE	COUNTY	COUNTY
to A UNIX III. A			1000	80000 80000			A
YEAR 1	777,996	233.08	494, 917	415,999	127,679	1,277	126,400
YEAR 2	638,021	204,273	433.747	35 4,583	127,679	1,277	126,402
YEAR 3	548,043	175,466	372.570	313,166	127,679	1,277	126,402
YEAR 4	458,066	146,6 50	311,490	261.752	127,679	1.277	126,407
YEAR 5	366,089	117月150	260,239	210.336	127.679	1.277	126.400
YEAR 6	42,009	\$450. Fil	42,089	24,051	127,679	1,277	126.402
YEAR 7	28,472		28,472	16,270	127,679	1.277	126,402
YEAR 8	14.855	100 SEC.	14,855	8,489	127.679	1.277	126,402
YEAR 9	12.379		12,379	7.874	127.579	1.277	126,402
YEAR 10	12.379	\$20.15 \$2.50	12,379	7,074	127.679	1,277	126.402
YEAR 11	12,379	200	12,379	7,074	127.679	1,27	126.402
YEAR 12	12,379	200	12,379	7,074	127,679	1.277	126,402
YEAR 13	12,375	4846	12,379	7.074	127,579	1,277	126,402
YEAR 14	12,375	E605	12.379	7.074	127,679	7,277	126,407
YEAR 15	12,379		12,379	7.074	127.679	1,277	126.402
YEAR 16	12,379	-25	12,379	7.074	127,679	1,277	126,407
YEAR 17	12,379		12,379	7.074	127,679	1,277	
YEAR 16	12,379		12.379	7.074	127.679	1.277	126,402 126,402
YEAR 19	12,379		12,379	7.074	127.679	1.277	126,402
YEAR 20	12,370		12,379	7,07≠	127,679	1,277	
				ricerary was a series	434-1 55-3 10	TipE 2 1	126.400
TOTAL	2,974,184	877,320	2,0%6,850	1,699,534	2,553,56%	25,530	2,528,045
	2,430,981	ge-ywend.co.	1,889,597	1.369.132	1.369,127		Annual Control of the

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v	NET / STD PROPERTY TAX	STANDARD FILOT	FILOT FLAT FEE	TOTAL INVESTMENT
PHASE ONE	7.209.312	4,5 6 C,390	4,849,050	25,651, 9X 0
PHASE TWO	515,896	370,669	489,300	5,478. 50 0
PHASE THREE	913,253	704,664	1,008,140	13,200,000
PHASE FOUR	1,839,551	1,483,256	2,217,620	31,200,000
PHASE FIVE	2,096,850	1,699,534	2,553,560	36,2 00,000
TOTAL	12.574.689	8,840,515	11,117,701	11273040

	TOTAL NET / STD PROPERTY TAX	TOTAL ST ANDAR D FILOT	YOTAL FILOT FLAT FEE	1% FLAT MULTI- COUNTY	NET TO COUNTY
			\$1. '\$ \$20. '\$		
*	389,072	327,037	242,453	2,425	240,026
<u> 2</u>	443,63%	372.89	265,918	2,669	284,249
YEAR 3	594.560	499,702	317.325	3.173	314.157
YEAR 4	969,154	814,648	42 0,206	4.262	423,924
YEAR 5	1,359,447	1,142,573	55 5,885	5. 5 59	550.326
YEAR 6	1,328,988	1,003,317	555,88 5	5,559	550,326
YEAR 7	1.167,090	. 963,96 0	695,685	5.559	550,326
YEAR 8	960.50-	590,705	555,865	6.559	550,326
YEAR 9	693,074	463,305	555,885	5, 55 9	560,326
YEAR 10	455,215	250,122	555,865	5,550	550,326
YEAR 11	425,504	243,145	555,885	5,559	550,326
YEAR 12	460 A12	233,949	559.86 5	5,550	560,326
YEAR 13	406,936	222.53 9	555.885	5,559	550,326
YEAR 14	406,930	222.535	555,885	9.55Q	550,320
YEAR 15	406,936	232,535	555,885	5,559	550,320
YEAR 16	466,936	232,535	555.EE:	5,559	550,326
YEAR 17	406,835	232,635	555,8 55	5,559	550,326
YEAR 18	406,936	232 ,535	555.865	9 35. 8	550,326
YEAR 19	406.936	232,535	559,88 5	6,55 9	990,32¢
YEAR 20	406,936	232.535	555,88 5	£,55 9	550, 32 6
YEAR 21	49,517	28.295	313.432	3,134	310.296
YEAR 22	37,138	21,222	280.9 67	2.690	286.077
YEAR 23	24,758	14,148	238,560	2,386	236,175
YEAR 24	12,379	7,074	127,679	5.277	126,400
TOTAL	12,574,659	6,845,515	\$2. \$17.7 0%		11,008,524
		SECTION OF THE PROPERTY OF THE PROPERTY OF	HOLEVANIES CHARLES CONTRACTOR CONTRACTOR	A CONTRACTOR OF THE PROPERTY O	COMMUNICATION CONTRACTOR

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FLORENCE COUNTY COUNCIL MEETING

December 13, 2012

AGENDA ITEM: Third Reading - Ordinance No. 14-2012/13

<u>DEPARTMENT</u>: Economic Development

ISSUE UNDER CONSIDERATION:

(An Ordinance Authorizing: (1) The Execution And Delivery Of A Fee In Lieu Of Tax And Incentive Agreement (The "Incentive Agreement") Between Florence County, South Carolina (The "County") Honda Of South Carolina, Mfg., Inc., Acting For Itself And One Or More Affiliates Or Other Project Sponsors, (The "Company"), Pursuant To Which The County Shall Covenant To Accept Certain Negotiated Fees In Lieu Of Ad Valorem Taxes With Respect To The Expansion Of Certain Manufacturing Facilities Located In The County (The "Project"); (2) The Benefits Of A Multi-County Industrial Or Business Park To Be Made Available To The Company; And (3) Other Matters Relating Thereto.)

OPTIONS:

- 1. (Recommended) Approve Third Reading of Ordinance No. 14-2012/13.
- 2. Provide An Alternate Directive.

ATTACHMENT:

Ordinance No. 14-2012/13.

Sponsor(s) : Economic Development First Reading : October 18, 2012 Committee Referral : N/A Council Clerk, certify that this Committee Consideration Date : N/A Ordinance was advertised on Committee Recommendation : N/A for Public Hearing. Public Hearing : December 13, 2012 Second Reading November 15, 2012

: Immediately

: December 13, 2012

ORDINANCE NO. 14-2012/13

COUNCIL-ADMINISTRATOR FORM OF GOVERNMENT FOR FLORENCE COUNTY

(An Ordinance Authorizing: (1) The Execution And Delivery Of A Fee In Lieu Of Tax And Incentive Agreement (The "Incentive Agreement") Between Florence County, South Carolina (The "County") And Honda Of South Carolina Mfg., Inc., Acting For Itself And One Or More Affiliates Or Other Project Sponsors, (The "Company"), Pursuant To Which The County Shall Covenant To Accept Certain Negotiated Fees In Lieu Of Ad Valorem Taxes With Respect To The Expansion Of Certain Manufacturing Facilities Located In The County (The "Project"); (2) The Benefits Of A Multi-County Industrial Or Business Park To Be Made Available To The Company; And (3) Other Matters Relating Thereto.)

WHEREAS:

Third Reading

Effective Date

- 1. Florence County, South Carolina (the "County"), acting by and through its County Council (the "Council"), is authorized and empowered, under and pursuant to the provisions of the Code of Laws of South Carolina 1976, as amended through the date hereof (the "Code"), particularly Title 12, Chapter 44 thereof (the "Negotiated FILOT Act") and Title 4, Chapter 1 of the Code (the "Multi-County Park Act" and, together with the Negotiated FILOT Act, the "Act"), and by Article VIII, Section 13 of the South Carolina Constitution: (i) to enter into agreements with certain investors to construct, operate, maintain, and improve certain projects through which the economic development of the State of South Carolina (the "State") will be promoted and trade developed by inducing manufacturing and commercial enterprises to locate, remain and expand in the State and thus utilize and employ the manpower, agricultural products, and natural resources of the State; (ii) to covenant with such investors to accept certain fee in lieu of ad valorem tax ("FILOT") payments, including, without limitation, negotiated FILOT payments, with respect to a project; and (iii) to create, in conjunction with one or more other counties, a multi-county industrial or business park in order to afford certain enhanced income tax credits to such investors; and
- 2. Honda of South Carolina, Mfg., Inc., a company previously identified by the County as "Project Crescent," acting for itself and one or more affiliates or other project sponsors (the "Company"), proposes to invest in, or cause others to invest in, the expansion of certain manufacturing facilities in the County (the "Project"); and
- 3. The Company anticipates that, should its plans proceed as expected, it will invest, or cause to be invested, in the aggregate, between \$20,000,000 and \$45,000,000 in the Project and create or cause to be created between 120 and 500 jobs at the Project over a period of

- approximately eight years; and will invest at least \$2,500,000 in the Project by the end of the Compliance Period (defined below) as required by the Negotiated FILOT Act; and
- 4. On the basis of the information supplied to it by the Company, the County has determined, inter alia, that the Project would subserve the purposes of the Act and would be directly and substantially beneficial to the County, the taxing entities of the County and the citizens and residents of the County due to the investment made, or caused to be made, by the Company, which contributes to the tax base and the economic welfare of the County, and, accordingly, the County wishes to induce the Company to undertake the Project by offering a Negotiated FILOT as set forth herein; and
- 5. In accordance with such findings and determinations and in order to induce the Company to locate the Project in the County, the County adopted a Resolution on October 18, 2012 (the "Inducement Resolution"), whereby the County agreed to provide FILOT arrangements set forth in greater detail herein; and
- 6. The County and the Company have agreed to the specific terms and conditions of such arrangements as set forth in a Fee in Lieu of Tax and Incentive Agreement between the County and the Company (the "Incentive Agreement") the form of which is presented to this meeting, which Incentive Agreement is to be dated as of December 15, 2012 or such other date as the parties may agree; and
- 7. It appears that the Incentive Agreement now before this meeting is in appropriate form and is an appropriate instrument to be executed and delivered by the County for the purposes intended.

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

Section 1. The findings and determinations set forth in the Inducement Resolution are hereby ratified and confirmed, except as otherwise specifically modified by this Ordinance and the Incentive Agreement. In the event of any disparity or ambiguity, the terms of this Ordinance and the Incentive Agreement shall control. Capitalized terms used and not otherwise defined herein shall have the meanings ascribed thereto in the Incentive Agreement. As contemplated by Section 12-44-40(I) of the Code, the County makes the following findings and determinations:

- (a) The Project will constitute a "project" within the meaning of the Negotiated FILOT Act.
- (b) The Project, and the County's actions herein, will subserve the purposes of the Negotiated FILOT Act.
- (c) The Project is anticipated to benefit the general public welfare of the State and the County by providing services, employment, recreation, or other public benefits not otherwise adequately provided locally.
- (d) The Project gives rise to no pecuniary liability of the County or incorporated municipality or a charge against its general credit or taxing power.

- (e) The purposes to be accomplished by the Project are proper governmental and public purposes.
 - (f) The benefits of the Project are greater than the costs.
 - (g) The Project will have a substantial public benefit.
- Section 2. The County hereby agrees to enter into the Incentive Agreement with the Company, whereby the Company will agree to invest, or cause to be invested, an amount not less than the minimum investment required by the Negotiated FILOT Act with respect to the Project (the "Minimum Statutory Investment Requirement") during the period commencing with the date of the initial expenditure with respect to the Project, whether before or after the date of this Resolution, and ending on the fifth anniversary of the end of the property tax year in which the Company places in service the initial assets comprising the Project (the "Compliance Period"), and the County, under certain conditions to be set forth in the Incentive Agreement, will agree to accept negotiated fee in lieu of ad valorem tax ("Negotiated FILOT") payments with respect to the Project. To encourage the Company to increase its investment in the Project, in the event the Minimum Statutory Investment Requirement is satisfied by the end of the Compliance Period, the period for completion of the Project shall be automatically extended beyond the Compliance Period by five (5) years to the tenth anniversary of the end of the property tax year in which the initial property comprising the Project is placed in service (the Compliance Period, as so extended, referred to herein as the "Investment Period"), in order to also extend the benefits of the Negotiated FILOT to investment in the Project made during such period. The Incentive Agreement shall contain such additional terms and conditions as set forth hereinafter, and as shall be mutually satisfactory to the County and the Company.
- (b) Subject to the provisions of the Negotiated FILOT Act, the annual Negotiated FILOT payments shall commence with respect to the property tax year in which the first property comprising a part of the Project is placed in service and shall continue for a period of 30 years thereafter; provided that, if the Project is placed in service during more than one year, each year's investment during the Compliance Period, or if such period is extended as set forth in Section 2(a) hereof, during the Investment Period, shall be subject to the Negotiated FILOT for a period of 30 years.
- (c) The Negotiated FILOT shall be determined using: (1) an assessment ratio of 6%, (2) a millage rate which is the lower of (A) the cumulative property tax millage rate levied on behalf of all taxing entities within which the Project is located on June 30 of the year preceding the calendar year in which the Incentive Agreement is executed or (B) the cumulative property tax millage rate levied on behalf of all taxing entities within which the Project is located on June 30 of the calendar year in which the Incentive Agreement is executed, which millage rate shall remain fixed for the term of the Incentive Agreement; (3) the fair market value of the Project, determined in accordance with the Negotiated FILOT Act; and (4) and such other terms and conditions as are specified in the Incentive Agreement.
- Section 3. The County will take all acts to insure that the Project will be included, if not already included, and will remain, within the boundaries of a multi-county industrial or business park pursuant to the provisions of the Multi-County Park Act and Article VIII, Section 13 of the State Constitution on terms which provide for all jobs created at the Project during the Compliance Period, or if extended as set forth in Section 2(a) hereof, during the Investment

Period, any additional jobs creation tax credits afforded by the laws of the State for projects located within multi-county industrial or business parks.

Section 4. The form, provisions, terms, and conditions of the Incentive Agreement presented to this meeting and filed with the Clerk to Council be and they are hereby approved, and all of the provisions, terms, and conditions thereof are hereby incorporated herein by reference as if the Incentive Agreement were set out in this Ordinance in its entirety. The Incentive Agreement 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 the Incentive Agreement now before this meeting.

Section 5. The Chairman of the Council is hereby authorized, empowered, and directed to execute the Incentive Agreement in the name and on behalf of the County; the Clerk to Council is hereby authorized and directed to attest the same; and the Chairman of the Council is further authorized, empowered, and directed to deliver the Incentive Agreement to the Company. The Chairman of the Council, and the Clerk to Council, for and on behalf of the County, are hereby each authorized, empowered, and directed to do any and all things necessary or proper to effect the performance of all obligations of the County under and pursuant to the Incentive Agreement, and to carry out the transactions contemplated thereby and by this Ordinance.

Section 6. The provisions of this Ordinance are hereby declared to be separable and if any section, phrase, or provision 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 7. 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 from and after its passage and approval.

[End of Ordinance; execution page to follow.]

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SIGNED:

Connie Y. Haselden Clerk to Council

Chairman

Florence County Council

COUNCIL VOTE: OPPOSED: ABSENT:

Approved as to Form & Content D. Malloy McEachin, Jr., County Attorney

FEE IN LIEU OF TAX AGREEMENT

between

FLORENCE COUNTY, SOUTH CAROLINA

and

HONDA OF SOUTH CAROLINA MFG., INC.

Dated as of December 15, 2012

THIS FEE IN LIEU OF TAX AGREEMENT ("FEE AGREEMENT") SHALL CONSTITUTE AN INDUCEMENT AGREEMENT FOR PURPOSES OF THAT CERTAIN RESOLUTION ADOPTED BY COUNTY COUNCIL ON OCTOBER 18, 2012 AND SHALL ALSO CONSTITUTE THE FINAL FEE AGREEMENT FOR PURPOSES OF THAT CERTAIN ORDINANCE ENACTED BY COUNTY COUNCIL ON DECEMBER 13, 2012.

TABLE OF CONTENTS

		Page
ARTICLE I	DEFINITIONS	2
Section 1.01	1. Definitions	2
	2. References to Agreement	
ARTICLE II	REPRESENTATIONS AND WARRANTIES	7
Section 2.03	Representations and Warranties by County	
	2. Representations and Warranties by the Company	
ARTICLE III	COVENANTS OF COUNTY	8
Section 3.03	Agreement to Accept Negotiated FILOT Payments	8
Section 3.02		8
Section 3.03	3. Commensurate Benefits	8
ARTICLE IV	COVENANTS OF COMPANY	9
	1. Investment and Job Creation at Project.	
Section 4.02	M3357434C 1 3374507	11
Section 4.03	3. Use of Project for Lawful Activities	11
Section 4.04	4. Maintenance of Existence.	12
	5. Records and Reports	
ARTICLE V	FEES IN LIEU OF TAXES	14
Section 5.0	1. Payment of Fees in Lieu of Ad Valorem Taxes	14
	2. Statutory Lien	
ARTICLE VI	THIRD PARTY ARRANGEMENTS	18
Section 6.01	1. Conveyance of Liens and Interests; Assignment	18
Section 6.02		
ARTICLE VII	TERM; TERMINATION	20
Section 7.01	1. Term	20
Section 7.02	2. Termination	20
ARTICLE VIII	EVENTS OF DEFAULT AND REMEDIES	20
Section 8.01	1. Events of Default by Company	20
Section 8.02	2. Remedies on Event of Default by Company	21
Section 8.03	3. Defaulted Payments	21

TABLE OF CONTENTS (continued)

		Page
Section 8.04.	Default by County	21
ARTICLE IX M	ISCELLANEOUS	22
Section 9.01.	Rights and Remedies Cumulative	22
Section 9.02.	Successors and Assigns	22
Section 9.03.	Notices; Demands; Requests	22
Section 9.04.	Applicable Law	23
Section 9.05.	Entire Understanding	23
Section 9.06.	Severability	23
Section 9.07.	Headings and Table of Contents: References	23
Section 9.08.	Multiple CounterpartsAmendments	23
Section 9.09.	Amendments	23
Section 9.10.	Waiver Further Proceedings	23
Section 9.11.	Further Proceedings	23
EXHIBIT A LEGA	L DESCRIPTION	A-1

FEE IN LIEU OF TAX AGREEMENT

THIS FEE IN LIEU OF TAX AGREEMENT (this "Agreement") dated as of December 15, 2012, between FLORENCE COUNTY, SOUTH CAROLINA (the "County"), a body politic and corporate and a political subdivision of the State of South Carolina, and HONDA OF SOUTH CAROLINA MFG., INC., a corporation organized and existing under the laws of the State of South Carolina, acting for itself and for one or more affiliates or other project sponsors (the "Company");

WITNESSETH:

WHEREAS, the County, acting by and through its Council (the "Council"), is authorized and empowered under and pursuant to the provisions of the Code of Laws of South Carolina 1976, as amended through the date hereof (the "Code"), particularly Title 12, Chapter 44 of the Code (the "Negotiated FILOT Act") and Title 4, Chapter 1 of the Code (the "Multi-County Park Act") (collectively, the "Act") and by Article VIII, Section 13 of the South Carolina Constitution: (i) to enter into agreements with certain investors to construct, operate, maintain, and improve certain projects through which the economic development of the State of South Carolina (the "State") will be promoted and trade developed by inducing manufacturing and commercial enterprises to locate and remain in the State and thus utilize and employ the manpower, agricultural products, and natural resources of the State; (ii) to covenant with such investors to accept certain fee in lieu of ad valorem tax ("FILOT") payments, including, without limitation, negotiated FILOT payments, with respect to a project; and (iii) to create, in conjunction with one or more other counties, a multi-county industrial or business park in order to afford certain enhanced income tax credits to such investors; and

WHEREAS, the Company proposes to expand its existing manufacturing and related facilities in the County (the "Project"), and the Company anticipates that, should its plans proceed as expected, it will invest, or cause to be invested, in the aggregate, between \$20,000,000 and \$45,000,000 in the Project and create or cause to be created between 120 and 500 jobs at the Project over a period of approximately eight years; and

WHEREAS, the County has determined that the Project will subserve the purposes of the Act and has made certain findings pertaining thereto in accordance with the Act; and

WHEREAS, in accordance with such findings and determinations and in order to induce the Company to locate the Project in the County, the Council adopted a Resolution on October 18, 2012 (the "Inducement Resolution"), whereby the County agreed to provide FILOT and multi-county industrial or business park benefits, which are set forth in greater detail herein; and

WHEREAS, the County has determined that it is in the best interest of the County to enter into this Agreement with the Company, subject to the terms and conditions set forth herein and, by an Ordinance enacted by the Council on December 13, 2012, approved the form, terms and conditions of this Agreement and ratified all prior actions taken with respect to the Project.

NOW, THEREFORE, in consideration of the premises; the potential investment to be created, or caused to be created, by the Company which contribute to the tax base and the economic welfare of the County; the respective representations and agreements hereinafter contained; and the sum of \$10.00 in hand, duly paid by the Company to the County, the receipt and sufficiency of which are hereby acknowledged, the County and the Company agree as follows:

ARTICLE I

DEFINITIONS

Section 1.01. <u>Definitions</u>. In addition to the words and terms elsewhere defined in this Agreement, the following words and terms as used herein and in the preambles hereto shall have the following meanings unless the context or use indicates another or different meaning or intent.

"Act" shall mean, collectively, the Negotiated FILOT Act and the Multi-County Park Act.

"Administration Expenses" shall mean the reasonable and necessary expenses incurred by the County in the fulfillment of its obligations under this Agreement and in the implementation of its terms and provisions, including reasonable attorneys' fees at the hourly rates which are standard for the applicable legal services to the County, but excluding any expenses incurred by the County in defending either challenges to the incentives provided herein by third parties or suits brought by the Company or any other Co-Investor under Section 8.04 hereof; provided, however, that no such expense shall be considered an Administration Expense unless the County and the Company shall have first agreed, prior to the County incurring such expense, as to the maximum amount thereof or as to the basis for which such expenses will be incurred, and that the County shall have furnished to the Company, an itemized statement of all expenses incurred and provided, further, that nothing herein shall be construed as prohibiting the County from engaging the counsel of its choice for matters deemed necessary and prudent by the County.

"Affiliate" shall mean any corporation, limited liability company, partnership or other Person or entity which owns all or part of the Company or any other Co-Investor, as the case may be, or which is owned in whole or in part by the Company or any other Co-Investor, as the case may be, or by any partner, shareholder or owner of the Company or any other Co-Investor, as the case may be.

"Agreement" shall mean this Fee In Lieu of Tax Agreement as originally executed and from time to time supplemented or amended as permitted herein.

"Code" shall mean the Code of Laws of South Carolina 1976, as amended through the date hereof, unless the context clearly requires otherwise.

"Co-Investor" shall mean any Sponsor or Sponsor Affiliate within the meaning of Sections 12-44-30(19) and (20) of the Negotiated FILOT Act, any Affiliate of the Company or of

any such Sponsor or Sponsor Affiliate, any developer in a build-to-suit arrangement with respect to the Project, any lessor of equipment or other property comprising a part of the Project, and any financing entity or other third party investing in or providing funds for the Project. The Company shall notify the County in writing of the identity of any Sponsor, Sponsor Affiliate or other Co-Investor and shall, to the extent the Company and any such Co-Investor intend to extend the benefits of the Negotiated FILOT to property owned by such Co-Investor pursuant to Section 6.02 hereof, comply with any additional notice requirements, or other applicable provisions, of the Negotiated FILOT Act. As of the date of original execution and delivery of this Agreement, the Company is the only Co-Investor.

"Company" shall mean Honda of South Carolina Mfg., Inc., a South Carolina corporation, and any surviving, resulting, or transfere entity in any merger, consolidation or transfer of assets permitted under Sections 4.04 or 6.01 hereof or any other assignee hereunder which is designated by the Company and approved by the County.

"Compliance Period" shall mean the period commencing with the first day that Negotiated FILOT Property is purchased or acquired, whether before or after the date of this Agreement, and ending on the fifth anniversary of the end of the Property Tax Year in which the initial Negotiated FILOT Property comprising the Project is placed in service, all as specified in Section 12-44-30(13) of the Negotiated FILOT Act. The parties anticipate that the initial Negotiated FILOT Property comprising the Project will be placed in service in the Property Tax Year ending on March 31, 2013 and that, in such event, the Compliance Period will end on March 31, 2018.

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

"Council" shall mean the governing body of the County and its successors.

"Deficiency Payment" shall have the meaning specified in Section 5.01(e) hereof.

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

"Event of Default" shall mean an Event of Default, as set forth in Section 8.01 hereof.

"Existing Property" shall mean property previously subject to property taxes in South Carolina, which will not qualify for the Negotiated FILOT pursuant to Section 12-44-110 of the Negotiated FILOT Act, including without limitation property which has been subject to ad valorem taxes in the State prior to commencement of the Investment Period and property included in the Project as part of the repair, alteration, or modification of such previously taxed property; provided, however, that Existing Property shall not include: (a) the Land; (b) property acquired or constructed by or on behalf of the Company or any other Sponsor or Sponsor Affiliate during the Investment Period which has not been placed in service in this State prior to the commencement of the Investment Period notwithstanding that ad valorem taxes have heretofore been paid with respect to such property, or which has been placed in service in the

State pursuant to an inducement agreement or other preliminary approval by the County, including the Inducement Resolution, prior to execution of this Agreement pursuant to Section 12-44-40(E) of the Negotiated FILOT Act, which property shall qualify as Negotiated FILOT Property; (c) property purchased by or on behalf of the Company or any other Sponsor or Sponsor Affiliate during the Investment Period in a transaction other than between any of the entities specified in Section 267(b) of the Internal Revenue Code, as defined under Chapter 6 of Title 12 of the Code as of the time of the transfer, to the extent that the Company or such other Sponsor or Sponsor Affiliate invests, or causes to be invested, at least an additional \$45,000,000 in the Project, exclusive of the property identified in this subsection (c); or (d) modifications which constitute an expansion of the real property portion of Existing Property, all as determined pursuant to Section 12-44-110 of the Negotiated FILOT Act.

"FILOT" shall mean fee in lieu of ad valorem property taxes.

"FILOT Payments" shall mean the FILOT payments to be made by the Company or any other Co-Investor with respect to the Project whether made as Negotiated FILOT Payments pursuant to the Negotiated FILOT Act or as FILOT payments pursuant to the Multi-County Park Act.

"Inducement Resolution" shall mean the Resolution approved by the County on October 18, 2012 with respect to the Project.

"Investment Period" shall mean the period for completion of the Project, which shall be equal to the Compliance Period plus five years, provided, however, that there shall be no extension of the period for meeting the Minimum Statutory Investment Requirement beyond the Compliance Period, all determined as specified in Section 12-44-30(13) of the Negotiated FILOT Act. The parties anticipate that the Investment Period shall extend from the Property Tax Year ending March 31, 2013 through the Property Tax Year ending March 31, 2023.

"Land" shall mean the land upon which the Project has been or will be located, acquired, constructed and equipped, as described in **Exhibit A** attached hereto, as **Exhibit A** may be supplemented from time to time in accordance with the provisions hereof.

"Minimum Statutory Investment Requirement" shall mean investment in the Project of not less than \$2,500,000 during the Compliance Period, as required by Section 12-44-30(14) of the Negotiated FILOT Act, which investment amount shall be calculated in accordance with Section 12-44-130 of the Negotiated FILOT Act and Section 6.02 hereof in determining whether the Company or any other Sponsor or Sponsor Affiliate qualifies for Negotiated FILOT benefits hereunder.

"Multi-County Park" shall mean the multi-county industrial or business park established pursuant to the Multi-County Park Agreement, and any multi-county industrial or business park which now or hereafter includes the Project and which is designated by the County as such pursuant to any agreement which supersedes or replaces the initial Multi-County Park Agreement.

"Multi-County Park Act" shall mean Title 4, Chapter 1 of the Code, as amended through the date hereof.

"Multi-County Park Agreement" shall mean that certain Agreement Creating Regional Industrial Park between the County and Williamsburg County, South Carolina dated as of December 1, 1998, as amended, supplemented, or modified through the date hereof and as such agreement may be further amended, supplemented, or replaced from time to time, in each case to include the Project.

"Negotiated FILOT" or "Negotiated FILOT Payments" shall mean the FILOT payments due pursuant to Section 5.01 hereof with respect to that portion of the Project consisting of Negotiated FILOT Property qualifying under the Negotiated FILOT Act for the negotiated assessment ratio and millage rate described in Section 5.01(b)(ii) hereof.

"Negotiated FILOT Act" shall mean Title 12, Chapter 44 of the Code, as amended through the date hereof.

"Negotiated FILOT Property" shall mean all property qualifying for the Negotiated FILOT as economic development property within the meaning of Section 12-44-30(6) of the Negotiated FILOT Act, including, without limitation, each item of real and tangible personal property comprising the Project which is placed in service during the Investment Period and which meets the requirements of Sections 12-44-30(6) and 12-44-40(C) of the Negotiated FILOT Act, together with all Replacement Property, but excluding any Non-Qualifying Property, any Released Property and any property covered by a negotiated FILOT under the Prior FILOT Agreement.

"Non-Qualifying Property" shall mean that portion of the facilities located on the Land which does not qualify as Negotiated FILOT Property, such Non-Qualifying Property to include: (i) Existing Property; (ii) except as to Replacement Property, property which the Company or any other Sponsor or Sponsor Affiliate places in service after the end of the Investment Period; and (iii) any other property which fails or ceases to qualify for Negotiated FILOT Payments under the Negotiated FILOT Act, including, without limitation, property as to which the Company or any other Sponsor or Sponsor Affiliate has terminated the Negotiated FILOT pursuant to Section 4.01(e)(iii) hereof.

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

"Prior FILOT Agreement" shall mean that certain Lease Purchase Agreement between the County and the Company dated as of December 1, 1998, as heretofore amended and as amended and restated pursuant to a Fee In Lieu of Tax Agreement dated as of December 15, 2012, and any future amendments and supplements thereto.

"Project" shall mean the Land, except to the extent covered by the Prior FILOT

5 NPCOLI:2853865,7-AGR-(ACL) 020951-00493

Agreement, and, to the extent placed in service by the Company or any Co-Investor during the Investment Period: (i) all buildings, structures, fixtures and other real property improvements now or hereafter constructed on the Land; and (ii) all machinery, equipment, furnishings and other personal property now or hereafter acquired by or on behalf of the Company or any Co-Investors for use on or about the Land, together with any Replacement Property; provided, however, that the term "Project" for purposes of this Agreement shall exclude any property covered by a negotiated FILOT under the Prior FILOT Agreement.

"Property Tax Year" shall mean the annual period which is equal to the fiscal year of the Company or any other Co-Investor, as the case may be, e.g., with respect to the Company, the period ending on March 31 of each year; provided, however, that the Property Tax Year for the Company shall control for purposes of determining the Compliance Period and Investment Period.

"Released Property" shall include property which was initially Negotiated FILOT Property but which is scrapped, sold, disposed of, or released from this Agreement by the Company or any other Sponsor or Sponsor Affiliate pursuant to Section 4.01(e) hereof and Section 12-44-50(B) of the Negotiated FILOT Act; which the Company or any other Sponsor or Sponsor Affiliate dedicates to the public use within the meaning of Section 12-6-3420(C) of the Code; or which is damaged, destroyed, or taken by process of eminent domain and not restored or replaced.

"Replacement Property" shall mean all property installed in or on the Land in substitution of, or as replacement for, any Negotiated FILOT Property which becomes Released Property, regardless of whether such property serves the same function as the property it replaces and regardless of whether more than one piece replaces a single piece of the Negotiated FILOT Property, but only to the extent that such property may be included in the calculation of the Negotiated FILOT pursuant to Section 5.01(d) hereof and Section 12-44-60 of the Negotiated FILOT Act.

"Sponsor" and "Sponsor Affiliate" shall mean an entity whose investment with respect to the Project will qualify for the Negotiated FILOT pursuant to Section 6.02 hereof and Sections 12-44-30(19) or (20) and Section 12-44-130 of the Negotiated FILOT Act if the statutory investment requirements are met. Initially, the Company is the only Sponsor and there are no Sponsor Affiliates.

"State" shall mean the State of South Carolina.

"Term" shall mean the term of this Agreement, as set forth in Section 7.01 hereof.

"Transfer Provisions" shall mean the provisions of Section 12-44-120 of the Negotiated FILOT Act, as amended through the date hereof.

Section 1.02. References to Agreement. The words "hereof", "herein", "hereunder", and other words of similar import refer to this Agreement as a whole.

ARTICLE II

REPRESENTATIONS AND WARRANTIES

- Section 2.01. Representations and Warranties by County. The County makes the following representations and warranties as the basis for the undertakings on its part herein contained:
 - (a) The County is a body politic and corporate and a political subdivision of the State and is authorized and empowered by the provisions of the Act to enter into the transactions contemplated by this Agreement and to carry out its obligations hereunder. By proper action by the Council, the County has duly authorized the execution and delivery of this Agreement and the Negotiated FILOT Payments as set forth herein, the inclusion and maintenance of the Project in the Multi-County Park, and any and all actions reasonably necessary and appropriate to consummate the transactions contemplated hereby. The County has obtained all consents and approvals required to consummate the transactions contemplated by this Agreement or the Multi-County Park Agreement including, without limitation, the approval by Williamsburg County.
 - (b) The County has determined that the Project will subserve the purposes of the Act and has made all other findings of fact required by the Act in connection with the undertaking of the arrangements set forth herein.
 - (c) This Agreement has been duly authorized, executed and delivered on behalf of the County. The authorization, execution, and delivery of this Agreement and the performance by the County of its obligations hereunder will not, to the best knowledge of the County, conflict with or constitute a breach of, or a default under, any South Carolina law, court or administrative regulation, decree, order, provision of the Constitution or laws of the State relating to the establishment of the County or its affairs, or any material agreement, mortgage, lease, or other instrument to which the County is subject or by which it is bound, nor, to the best knowledge of the County, any existing law or the provisions of the Constitution of the State.
 - (d) To the best knowledge of the County, no actions, suits, proceedings, inquiries, or investigations are pending or threatened against or affecting the County in any court or before any governmental authority or arbitration board or tribunal, any of which to the best knowledge of the County could materially adversely affect this Agreement or which could, in any way, adversely affect the validity or enforceability of this Agreement or the transactions contemplated hereby.
- Section 2.02. Representations and Warranties by the Company. The Company makes the following representations and warranties as the basis for the undertakings on its part herein contained:

- (a) The Company is a corporation validly existing and in good standing under the laws of the State of South Carolina and authorized to do business in the State; has all requisite power to enter into this Agreement and to carry out its obligations hereunder; and by proper action has been duly authorized to execute and deliver this Agreement. The Company's fiscal year end is March 31 and the Company will notify the County of any changes in the fiscal year of the Company.
- (b) The Company presently intends to operate the Project primarily for manufacturing and/or related activities.
- (c) The agreements with the County with respect to the Negotiated FILOT and the Multi-County Park were factors in inducing the Company to locate the Project within the County and the State.
- (d) To the best knowledge of the Company, no actions, suits, proceedings, inquiries, or investigations are pending or threatened against or affecting the Company in any court or before any governmental authority or arbitration board or tribunal, which would materially adversely affect this Agreement or which would, in any way, adversely affect the validity or enforceability of this Agreement, or the transactions contemplated hereby.

ARTICLE III

COVENANTS OF COUNTY

- Section 3.01. Agreement to Accept Negotiated FILOT Payments. The County hereby agrees to accept Negotiated FILOT Payments in accordance with Section 5.01 hereof in lieu of ad valorem taxes with respect to that portion of the Project consisting of Negotiated FILOT Property until this Agreement expires or is sooner terminated.
- Section 3.02. Multi-County Park Designation. The County will take all appropriate actions to insure that the Project will be included within the boundaries of the Multi-County Park, and that the Project will remain within the boundaries of the Multi-County Park pursuant to the provisions of the Multi-County Park Act and Article VIII, Section 13 of the State Constitution on terms which provide, for all jobs created at the Project during the Investment Period, any additional jobs tax credits afforded by the laws of the State for projects located within multi-county industrial or business parks.
- Section 3.03. Commensurate Benefits. The parties acknowledge the intent of this Agreement, in part, is to afford the Company and any other Sponsor or Sponsor Affiliate the benefits specified in this Article III in consideration of the Company's decision to locate the Project within the County, and this Agreement has been entered into in reliance upon the enactment of the Act and the County's compliance with the requirements thereof. In the event that a court of competent jurisdiction holds that the Act is unconstitutional or this Agreement or the Multi-County Park Agreement or agreements similar in nature to this Agreement or the

Multi-County Park Agreement are invalid or unenforceable in any material respect, or should the Company determine there is a reasonable doubt as to the validity or enforceability of this Agreement or the Multi-County Park Agreement in any material respect, then, at the request of the Company, the County agrees to use its best efforts to extend to the Company and any other Sponsor or Sponsor Affiliate the intended benefits of this Agreement, including, without limitation, the Negotiated FILOT, and agrees, if requested, to enter into a lease purchase agreement with the Company and any other Sponsor or Sponsor Affiliate pursuant to Section 12-44-160; Title 4, Chapter 29 or Title 4, Chapter 12 of the Code, as applicable, or to take such other steps as may be appropriate to extend to the Company and any other Sponsor or Sponsor Affiliate the intended benefits of this Agreement. In furtherance of this covenant, the County also agrees that, in the event that, for any reason, the Multi-County Park is declared by a court of competent jurisdiction to be invalid or unenforceable in whole or in part, the Company and the County express their intentions that tax or FILOT payments be reformed so as to best afford the Company and any other Sponsor or Sponsor Affiliate benefits commensurate with, but not in excess of, those intended under this Agreement as then permitted by law, including without limitation any benefits afforded under Title 12, Chapter 6, Title 4, Chapter 1 and Title 4, Chapter 29 of the Code, as applicable, to the extent allowed by law. The Company acknowledges, if a court of competent jurisdiction determines that all or part of the Negotiated FILOT Act is unconstitutional or otherwise illegal, the Negotiated FILOT Act currently provides the Company and any other Sponsor or Sponsor Affiliate must transfer the Negotiated FILOT Property to the County pursuant to lease-purchase arrangements within 180 days following such determination in order for the Negotiated FILOT benefits to continue to apply. In such lease purchase agreement, the County, upon the conveyance of title to the Project to the County at the expense of the Company or such other Sponsor or Sponsor Affiliate, as the case may be, agrees to lease the Project to the Company or any such other Sponsor or Sponsor Affiliate, as the case may be. At the end of the term of any such lease purchase agreement, and upon payment of all outstanding obligations incurred under such lease purchase agreement, the Company or such other Sponsor or Sponsor Affiliate shall have the option to purchase its respective portion of the Project for Ten Dollars (\$10.00).

ARTICLE IV

COVENANTS OF COMPANY

Section 4.01. <u>Investment and Job Creation at Project.</u>

(a) The Company hereby agrees to acquire, construct, equip, or improve or cause to be acquired, constructed, equipped, or improved, the Project, as the same shall be determined from time to time by the Company in its sole discretion. The Company anticipates that it will invest an amount at least equal to the Minimum Statutory Investment Requirement and that the jobs to be created in connection with the Project will include temporary construction jobs, permanent fulltime and fulltime equivalent jobs and contract jobs. At this time, the Company is competing internally for several projects and, accordingly, the amount of investment and job creation cannot be predicted with

certainty. As required by Section 12-44-30(2) of the Negotiated FILOT Act, at least a portion of the Negotiated FILOT Property comprising the Project shall be placed in service no later than the end of the Property Tax Year which is three years from the year in which this Agreement is entered, *i.e.*, the Property Tax Year ending on March 31, 2016.

- (b) Expenditures by Co-Investors shall, together with expenditures by the Company, count toward all investment requirements set forth in this Agreement, including, to the full extent permitted by the Negotiated FILOT Act, the Minimum Statutory Investment Requirement. Aggregate investment shall generally be determined without regard to depreciation or other diminution in value following placement in service at the Project by reference to the property returns of the Company and all Co-Investors filed with respect to the Project, including without limitation, each such entity's SCDOR PT-300 or such comparable forms as the Department of Revenue may provide in connection with projects under the Negotiated FILOT Act.
- (c) To encourage the Company to continue to invest in the Project beyond the Compliance Period, the period for completion of the Project is hereby extended for five years beyond the Compliance Period. There shall be no extension, however, beyond the Compliance Period of the period for meeting the Minimum Statutory Investment Requirement.
- (d) The Company and/or its designated Co-Investors shall retain title, or other property rights, to its respective portion of the Project throughout the Term of this Agreement, and the County hereby consents to any action by the Company or any Co-Investor to mortgage, lease, or encumber all or any portion of the Project, including, without limitation, in connection with any financing transactions.
- (e) The Company and each other Co-Investor shall have the right at any time and from time to time during the Term hereof to undertake any of the following:
 - (i) The Company and each other Co-Investor may, at its own expense, add to the Project all such real and personal property as the Company, or such Co-Investor, in its discretion deems useful or desirable, including, without limitation, Negotiated FILOT Property, without any limit as to the amount thereof.
 - (ii) Subject to the provisions of paragraphs (c)(iv), (d) and (e)(ii) of Section 5.01 hereof, in any instance when the Company or any other Co-Investor in its discretion determines any of its items included in the Project, including, without limitation, any Negotiated FILOT Property, have become inadequate, obsolete, worn out, unsuitable, undesirable, or unnecessary for operations at the Project, the Company, or such Co-Investor, may remove such items or portions of the Land from the Project and sell, trade in, exchange, or otherwise dispose of them as a whole or in part without the consent of the County.

- (iii) Subject to the provisions of **Section 5.01(c)(iv)**, the Company and each other Co-Investor may, at any time and in its discretion by written notice to the County, remove any Negotiated FILOT Property, real or personal, from the Negotiated FILOT arrangement set forth in this Agreement and retain such property for use as part of its operations in the County, and thereafter such property will be subject to ad valorem taxes or FILOT payments pursuant to the Multi-County Park Act, as the case may be; provided, that, any such notice requirement may be, but shall not be required to be, satisfied by property returns filed with respect to the Project, including without limitation, such entity's SCDOR PT-300 or such comparable forms, as the Department of Revenue may provide in connection with projects under the Negotiated FILOT Act.
- (iv) If the Company or any other Co-Investor sells, leases, or otherwise disposes of any portion of, or adds to, the Land, the Company, or such Co-Investor, shall deliver to the County a new **Exhibit A** to this Agreement or schedules or supplements to **Exhibit A**; provided, that any requirement to provide such schedules or supplements to the County may be satisfied by property returns filed with respect to the Project, including without limitation, such entity's SCDOR PT-300 or such comparable forms, as the Department of Revenue may provide in connection with projects under the Negotiated FILOT Act.
- (v) All Negotiated FILOT Property sold or otherwise disposed of under this Section shall be deemed Released Property for purposes of this Agreement.

Section 4.02. Payment of Administration Expenses. The Company will reimburse, or cause reimbursement to, the County from time to time for its Administration Expenses promptly upon written request therefor, but in no event later than sixty (60) days after receiving written notice from the County specifying the nature of such expense and requesting the payment of the same. The County acknowledges that it imposes no charges in the nature of impact fees or recurring fees in connection with the incentives authorized by this Agreement or the Project, and, aside from attorneys' fees described below, the County anticipates no out of pocket expenses in connection with the initial approval of this Agreement and the transactions authorized hereby. The parties understand that legal counsel to the County has estimated its fees and other expenses for review of this Agreement, the Inducement Resolution, the Multi-County Park Agreement and all resolutions, ordinances, and other documentation related thereto at \$0.00.

Section 4.03. Use of Project for Lawful Activities. During the Term of this Agreement, the Company and any other Co-Investor shall use the Project as the Company deems fit for any lawful purposes.

Section 4.04. Maintenance of Existence. Except in the event the resulting, surviving, or transferee entity is the Company or an Affiliate of the Company, as to which such consolidation, merger, or transfer the County hereby preapproves and consents, unless the County shall provide prior consent or subsequent ratification, which consent or ratification shall

NPCOLI:2853865.7-AGR-(ACL) 020951-00493

not be unreasonably withheld, conditioned, or delayed, the Company covenants that it will maintain its separate existence and will not dissolve or consolidate with, merge into or transfer, or otherwise dispose of substantially all of its property to any other entity or permit one or more other entities to consolidate with or merge into it or purchase substantially all of its property unless:

- (a) the Company shall be the continuing business entity, or the business entity formed by such consolidation or into which the Company is merged or the entity which acquires by conveyance or transfer all or substantially all of the Company's assets shall (i) be an entity organized and existing under the laws of the United States of America or any state thereof or the District of Columbia and qualified to do business in the State; (ii) have a net worth equal to or greater than the net worth of the Company immediately preceding the date of such merger, consolidation or transfer; and (iii) expressly and unconditionally assumes, by written agreement supplemental hereto and acceptable to the County as to form and content, in its reasonable discretion, every payment obligation of the Company herein and the performance of every covenant of this Agreement on the part of the Company to be performed or observed;
- (b) immediately after giving effect to such transaction, no Event or Default, and no event, which, after notice or lapse of time or both, would become an Event of Default, shall have happened and be continuing; and
- (c) the Company shall have delivered to the County (i) a certificate of a duly authorized officer of the Company, accompanied by financial statements of the surviving company (if other than the Company) showing compliance with the net worth requirements specified in paragraph (a) above and (ii) an opinion of counsel for the Company and/or counsel to the transferee company, each stating that such consolidation, merger, conveyance or transfer and such supplement to this Agreement comply with this Section and that all conditions precedent herein provided for relating to such transaction have been complied with.

Upon any consolidation or merger or any conveyance or transfer of all or substantially all of the Company's assets in accordance with this Section, the successor entity formed by such consolidation or into which the Company is merged or to which such conveyance or transfer is made shall succeed to, and be substituted for, and may exercise every right and power of the Company under this Agreement with the same effect as if such successor entity had been named as the Company herein, and thereafter the Company shall be relieved of all obligations and covenants under this Agreement.

If a consolidation, merger or conveyance or transfer is made as permitted by this Section, the provisions of this Section shall continue in full force and effect and no further consolidation, merger or conveyance or transfer shall be made except in compliance with the provisions of this Section.

The Company acknowledges transfers of this Agreement or the Negotiated FILOT 12 NPCOL1:2853865.7-AGR-(ACL) 020951-00493

Property may cause the Negotiated FILOT Property to become ineligible for a Negotiated FILOT or result in penalties under the Act absent compliance by the Company with the Transfer Provisions.

- Section 4.05. Records and Reports. The Company and any other Co-Investor will each maintain such books and records with respect to the Project as will permit the identification of those portions of the Project it places in service in each Property Tax Year during the Investment Period, the amount of investment with respect thereto, and computations of all Negotiated FILOT Payments made by such entity hereunder and will comply with all reporting requirements of the State and the County applicable to Negotiated FILOT Property under the Negotiated FILOT Act, including without limitation the reports required by 12-44-90 of the Negotiated FILOT Act (collectively, "Filings"); provided, however, that the parties hereby waive in its entirety the requirement under Section 12-44-55 of the Negotiated FILOT Act for a recapitulation of the terms of this Agreement. In addition, the following records shall be provided to the County:
 - (a) Upon direction of the governing body of the County, a County official may request and obtain such financial books and records from the Company and any Sponsor or Sponsor Affiliate that support the FILOT returns of such Sponsor or Sponsor Affiliates as may be reasonably necessary to verify the calculations of the FILOT Payments by such Sponsor or Sponsor Affiliate. For purposes of this Agreement, the term "County official" shall include the administrator, auditor, assessor or treasurer of the County.
 - (b) The Company shall cause a copy of this Agreement, as well as a copy of the completed Form PT-443 required by the Department of Revenue, to be filed within thirty (30) days after the date of execution and delivery hereof with the County Auditor, the County Assessor and the County Treasurer of the County and of each other county which is a party to the Multi-County Park Agreement, and with the Department of Revenue and shall update such Form PT-443 from time to time to the extent that the information therein is no longer accurate.
 - (c) The County agrees to provide the Company with written notice of any failure to comply with the reporting requirements set forth in this **Section 4.05**. If the Company fails to comply with such reporting requirements within thirty (30) days following receipt of such notice, the County may elect to suspend the incentives hereunder for the year in which such failure occurs and such suspension shall be the County's sole remedy for such failure to comply with the reporting requirements.

Notwithstanding the foregoing and anything herein to the contrary, the Company and each other Co-Investor may, by clear, written designation, conspicuously marked, designate with respect to any Filings or other documents or information delivered to the County segments thereof that the Company or such other Co-Investor believes contain proprietary, confidential, or trade secret matters. To the extent permitted by law, the County shall comply with all reasonable, written requests made by the Company and any other Co-Investor with respect to

maintaining the confidentiality of such designated segments. Except to the extent required by law, the County shall not knowingly and voluntarily release information, which has been designated as confidential or proprietary by the Company or any other Co-Investor.

ARTICLE V

FEES IN LIEU OF TAXES

Section 5.01. Payment of Fees in Lieu of Ad Valorem Taxes.

- (a) In accordance with the Negotiated FILOT Act, the parties hereby agree, during the Term hereof, that there shall be due annually with respect to that portion of the Project constituting Negotiated FILOT Property, whether owned by the Company or by any other Sponsor or Sponsor Affiliate, a Negotiated FILOT calculated as set forth in this Section 5.01, at the places, in the manner and subject to the penalty assessments prescribed by the County or the Department of Revenue for ad valorem taxes. It is anticipated that the initial Negotiated FILOT Payment, which shall be due under current Code requirements on the January 15 following the year in which the County adds the initial Negotiated FILOT Property to its tax rolls, will be due on January 15, 2014. If the Company designates any Sponsor or Sponsor Affiliates, as the same shall have been consented to by the County, if required, pursuant to Section 6.02 hereof, the Company must notify the County in writing at the time of such designation as to whether such Sponsor or Sponsor Affiliate shall be primarily liable for the Negotiated FILOT Payments hereunder with respect to such other entity's portion of the Negotiated FILOT Property. Unless and until such additional notification is received, the Company shall be primarily liable for all Negotiated FILOT Payments with respect to such Negotiated FILOT Property.
- (b) Subject to adjustment pursuant to the provisions of this Section 5.01, the Negotiated FILOT shall be calculated each year in accordance with the following provisions:
 - (i) For each annual increment of investment in Negotiated FILOT Property during the Investment Period, the annual Negotiated FILOT Payments shall be payable for a period of thirty (30) years; provided that, if no Event of Default shall then exist, the period for payment of the Negotiated FILOT shall be automatically extended for an additional ten (10) years.
 - (ii) The Negotiated FILOT shall be calculated using (1) an assessment ratio of 6%; (2) a millage rate equal to 293.5 mills with respect to all Negotiated FILOT Property located thereon, which rate shall remain fixed in accordance with Section 12-44-50(A)(1)(b)(i) of the Negotiated FILOT Act for the entire term of this Agreement; and (3) the fair market value of such Negotiated FILOT Property as determined in accordance with Section 12-44-50(A)(1)(c) of the Negotiated FILOT Act as set forth hereinbelow in this subsection (ii). For typical arm's

length construction or acquisition, fair market value is determined with reference to the original income tax basis for any personal property less allowable depreciation (except depreciation due to extraordinary obsolescence). The County and the Company hereby elect to determine the fair market value of any real property by appraisal not more often than once every five years as permitted by said Section 12-44-50(A(1)(c) of the Negotiated FILOT Act.

- (iii) All such calculations shall take into account all deductions for depreciation or diminution in value allowed by the Code or by the tax laws generally, as well as tax exemptions which would have been applicable if such property were subject to *ad valorem* taxes, except the five-year exemption from County taxes allowed for certain manufacturing, distribution, corporate headquarters and research and development facilities pursuant to Section 3(g) of Article X of the Constitution of the State and Sections 12-37-220(B)(32) and (34) of the Code.
- (iv) For purposes of calculating the Negotiated FILOT Payments, the Negotiated FILOT Property shall not include any Released Property or Non-Qualifying Property.
- (c) The Negotiated FILOT Payments are to be recalculated:
- (i) to reduce such payments in the event the Company or any other Sponsor or Sponsor Affiliate disposes of any part of the Negotiated FILOT Property within the meaning of Section 12-44-50(B) of the Negotiated FILOT Act and as provided in **Section 4.01(e)(ii)** hereof, by the amount applicable to the Released Property;
- (ii) to reduce such payments in the event that the Negotiated FILOT Property or any portion thereof is damaged or destroyed, lost or stolen, or the subject of condemnation proceedings or otherwise removed from the Project as a result of circumstances beyond the control of the Company or any other Sponsor or Sponsor Affiliate, as the case may be;
- (iii) to increase such payments in the event the Company or any Sponsor or Sponsor Affiliate adds any Negotiated FILOT Property (other than Replacement Property) to the Project; or
- (iv) to adjust such payments if the Company or any Sponsor or Sponsor Affiliate elects to convert any portion of the Negotiated FILOT Property from the Negotiated FILOT to *ad valorem* taxes or FILOT payments pursuant to the Multi-County Park Act, as the case may be, as permitted by **Section 4.01(e)(iii)**.

- (d) Upon installation or placing in service of any Replacement Property for any Released Property, such Replacement Property shall become subject to Negotiated FILOT Payments to the fullest extent allowed by law, subject to the following rules:
 - (i) Such Replacement Property does not have to serve the same function as the Released Property it is replacing. Replacement Property is deemed to replace the oldest property subject to the Negotiated FILOT, whether real or personal, which is disposed of in the same Property Tax Year as the Replacement Property is placed in service. Replacement Property qualifies for Negotiated FILOT Payments up to the original income tax basis of the Released Property which it is replacing in the same Property Tax Year. More than one piece of property can replace a single piece of property. To the extent that the income tax basis of the Replacement Property exceeds the original income tax basis of the Released Property which it is replacing, the excess amount is subject to payments equal to the *ad valorem* taxes which would have been paid on such property but for this Agreement. Replacement property is entitled to the Negotiated FILOT Payments for the remaining portion of the thirty (30) year period applicable to the Released Property.
 - (ii) The Company or any other Sponsor or Sponsor Affiliate shall maintain, or cause to be maintained, records sufficient to identify all Replacement Property it places in service, and the Negotiated FILOT Payments with respect thereto shall be calculated using the millage rate and assessment ratio provided on the property it is replacing.
- In the event that, for any reason, the Negotiated FILOT Act and/or the (e) Negotiated FILOT or any portion thereof is, by a court of competent jurisdiction following allowable appeals, declared invalid or unenforceable in whole or in part, or the portion of the Project consisting of Negotiated FILOT Property is deemed not to be eligible for a Negotiated FILOT pursuant to the Act in whole or in part, the Company and the County express their intentions that such payments be reformed so as to afford the Company and any other Sponsor or Sponsor Affiliate benefits commensurate with those intended under this Agreement as then permitted by law, including without limitation any benefits afforded under Title 4, Chapter 12 and Title 4, Chapter 29 of the Code, as applicable, to the extent allowed by law. Absent the legal authorization to effect such reformation, the Company and the County agree that there shall be due hereunder with respect to the portion of the Negotiated FILOT Property affected by such circumstances ad valorem taxes and that, to the extent permitted by law, the Company and any other Sponsor or Sponsor Affiliate shall be entitled: (1) to enjoy the five-year exemption from ad valorem taxes (or fees in lieu of taxes) provided by Article X, Section 3 of the Constitution of the State, and any other exemption allowed by law; (2) to enjoy all allowable depreciation; and (3) to receive all other tax credits which would be due if the Company and any other Sponsor or Sponsor Affiliate were obligated to pay ad valorem taxes hereunder. To the extent that under such circumstances the Negotiated FILOT

Payments hereunder are subject to retroactive adjustment, then there shall be due and payable from the Company and any other Sponsor or Sponsor Affiliate, as the case may be, with respect to its portion of the Negotiated FILOT Property in question an amount equal to the difference between the Negotiated FILOT Payments theretofore actually paid and the amount which would have been paid as *ad valorem* taxes, together with interest on such deficiency as provided in Section 12-54-25(D) of the Code (a "Deficiency Payment").

(f)

- In the event that the investment in the Project is insufficient to satisfy the Minimum Statutory Investment Requirement by the end of the Compliance Period, then all Negotiated FILOT Payments shall revert retroactively to ad valorem taxes, calculated as set forth in paragraph (e) above, and a Deficiency Payment from each such owing entity shall be due and payable with respect to Negotiated FILOT Payments theretofore made. In the event that the aggregate investment in the Project does not exceed \$5,000,000 by the end of the Compliance Period, and any Sponsor or Sponsor Affiliate does not satisfy the Minimum Statutory Investment Requirement solely through its own direct investment in the Project, then the Negotiated FILOT Payments with respect to that portion of the Project owned by such Sponsor or Sponsor Affiliate shall revert retroactively to ad valorem taxes calculated as set forth in paragraph (e) above, and such Sponsor or Sponsor Affiliate shall owe a Deficiency Payment with respect to Negotiated FILOT Payments theretofore made as to such portion of the Project. To the extent necessary to collect a Deficiency Payment under this clause (i) due to failure to satisfy the Minimum Statutory Investment Requirement by the end of the Compliance Period, Section 12-44-140(D) of the Negotiated FILOT Act provides that any statute of limitations that might apply pursuant to Section 12-54-85 of the Code is suspended.
- (ii) In the event that investment in the Project satisfies the Minimum Statutory Investment Requirement by the end of the Compliance Period, but subsequently falls below the Minimum Statutory Investment Requirement, without regard to depreciation, the Project shall thereafter be subject to ad valorem taxes, calculated as set forth in paragraph (e) above, in accordance with Section 12-44-140(C) of the Negotiated FILOT Act.
- (iii) In accordance with the provisions of Sections 4.01(b) and 6.02 hereof, except for Existing Property, all property utilized by the Company or any other Co-Investor at the Project site and placed in service during the Investment Period, whether owned by the Company or any other Co-Investor outright or utilized by the Company or any other Co-Investor pursuant to any financing agreement or any lease or other arrangement with any Co-Investor and whether or not subject to this Agreement, shall be counted toward all investment obligations

under this Agreement, including, to the extent permitted by law, investment obligations under the Negotiated FILOT Act.

(g) Except as otherwise set forth in this Agreement or as otherwise required by the Act, any amounts due to the County under this **Section 5.01** as a Deficiency Payment or other retroactive payment shall be paid within one hundred eighty (180) days following receipt by the Company or any other Sponsor or Sponsor Affiliate of notice from the County that such a Deficiency Payment or other retroactive payment is due from such entity.

Section 5.02. Statutory Lien. The parties acknowledge the County's right to receive Negotiated FILOT Payments hereunder is entitled to and shall have a statutory lien with respect to the Project pursuant to Section 12-44-90(E) of the Negotiated FILOT Act and Title 12, Chapter 54 of the Code relating to the collection and enforcement of ad valorem property taxes.

ARTICLE VI

THIRD PARTY ARRANGEMENTS

Conveyance of Liens and Interests: Assignment. The County agrees Section 6.01. that the Company and any Co-Investor may at any time (a) transfer all or any of its rights and interests hereunder or with respect to all or any part of the Project to any Person; or (b) enter into any lending, financing, leasing, security, or similar arrangement or succession of such arrangements with any financing entity or other Person with respect to this Agreement or all or any part of the Project, including without limitation any sale-leaseback, equipment lease, buildto-suit lease, synthetic lease, nordic lease, defeased tax benefit or transfer lease, assignment, sublease or similar arrangement or succession of such arrangements, regardless of the identity of the income tax owner of such portion of the Project, whereby the transferee in any such arrangement leases the portion of the Project in question to the Company or such Co-Investors or any of their respective Affiliates or operates such assets for the Company or such Co-Investors or any of their respective Affiliates or is leasing a portion of the Project in question from the Company or such Co-Investors or any of their respective Affiliates. In order to preserve the benefits of the Negotiated FILOT hereunder with respect to any Negotiated FILOT Property so transferred: (i) except in connection with any transfer to any Co-Investors, an Affiliate of the Company or such Co-Investors, or transfers pursuant to clause (b) above (as to which such transfers the County hereby consents), the Company shall obtain the prior consent or subsequent ratification of the County which consent or subsequent ratification may be granted by the County, in its sole discretion; (ii) except when a financing entity which is the income tax owner of all or part of the Negotiated FILOT Property is the transferee pursuant to clause (b) above and such financing entity assumes in writing the obligations of the Company or such Co-Investors hereunder, or when the County consents in writing or when the transfer relates to Released Property pursuant to Section 4.01(e) hereof, no such transfer shall affect or reduce any of the obligations of the Company hereunder; (iii) to the extent the transferee or financing entity shall become obligated to make Negotiated FILOT payments hereunder, the transferee shall assume

the then current basis of the Company or such Co-Investors (or prior transferee) in the Negotiated FILOT Property transferred; (iv) the Company or such Co-Investors, transferee or financing entity shall, within sixty (60) days thereof, furnish or cause to be furnished to the County and the Department of Revenue a true and complete copy of any such transfer agreement; and (v) the Company or such Co-Investors and the transferee shall comply with all other requirements of the Transfer Provisions.

Subject to County consent when required under this **Section 6.01**, and at the Company's or such Co-Investor's expense, the County agrees to take such further action or execute such further agreements, documents, and instruments as may be reasonably required to effectuate the assumption by any such transferee of all or part of the rights of the Company or such Co-Investors under this Agreement and/or any release of the Company pursuant to this **Section 6.01**.

The Company acknowledges such a transfer of an interest under this Agreement or in the Negotiated FILOT Property may cause all or part of the Negotiated FILOT Property to become ineligible for a Negotiated FILOT or result in penalties under the Act absent compliance by the Company or such Co-Investors with the Transfer Provisions.

Sponsors and Sponsor Affiliates. The Company may designate from time to time other Sponsors or Sponsor Affiliates pursuant to the provisions of Sections 12-44-30(19) or (20), respectively, and Section 12-44-130 of the Negotiated FILOT Act, which Sponsors or Sponsor Affiliates shall be Persons who join with the Company and make investments with respect to the Project, or who participate in the financing of such investments, who agree to be bound by the terms and provisions of this Agreement and who shall be Affiliates of the Company or other Persons described in Section 6.01(b) hereof. All other Sponsors or Sponsor Affiliates who otherwise meet the requirements of Section 12-44-30 (19) or (20) and Section 12-44-130 of the Negotiated FILOT Act must be approved by Resolution of the Council. To the extent that a Sponsor or Sponsor Affiliate invests an amount equal to the Minimum Statutory Investment Requirement at the Project prior to the end of the Compliance Period the investment by such Sponsor or Sponsor Affiliate shall qualify for the Negotiated FILOT payable under Section 5.01 hereof (subject to the other conditions set forth therein) in accordance with Section 12-44-30(19) of the Negotiated FILOT Act. To the extent that the aggregate investment in the Project prior to the end of the Compliance Period by the Company, all Sponsors and Sponsor Affiliates and, to the extent provided by law, other Co-Investors, exceeds \$5,000,000 as provided in Section 12-44-30(19) of the Negotiated FILOT Act, all investment by such Sponsors and Sponsor Affiliates during the Investment Period shall qualify for the Negotiated FILOT pursuant to Section 5.01 of this Agreement (subject to the other conditions set forth therein) regardless of whether each such entity invested amounts equal to the Minimum Statutory Investment Requirement. The Company shall provide the County and the Department of Revenue with written notice of any Sponsor or Sponsor Affiliate designated pursuant to this Section 6.02 within ninety (90) days after the end of the calendar year during which any such Sponsor or Sponsor Affiliate has placed in service Negotiated FILOT Property to be used in connection with the Project, all in accordance with Section 12-44-130(B) of the Negotiated FILOT Act.

ARTICLE VII

TERM; TERMINATION

Section 7.01. Term. Unless sooner terminated pursuant to the terms and provisions herein contained, this Agreement shall be and remain in full force and effect for a term commencing on the date on which the Company executes this Agreement, and ending at midnight on the day the last Negotiated FILOT Payment is made hereunder.

Section 7.02. Termination. In addition to the rights of the County under Sections 5.01(f) and 8.02, the County and the Company may jointly agree to terminate this Agreement at any time, or the Company, may, at its option, unilaterally terminate this Agreement at any time, with respect to all, or a portion of, the Project in which event the Project, or such portion of the Project, shall be subject to ad valorem taxes from the date of termination. Notwithstanding termination of this Agreement, the County shall have the same rights to receive payment for any retroactive ad valorem taxes, Deficiency Payments, interest or penalties, and the same enforcement rights with respect to such obligations as it would have with respect to ad valorem taxes, and the County's rights arising under Section 5.01 prior to the time of such termination shall survive any such termination.

ARTICLE VIII

EVENTS OF DEFAULT AND REMEDIES

Section 8.01. Events of Default by Company. Any one or more of the following events (herein called an "Event of Default", or collectively "Events of Default") shall constitute an Event of Default by the Company or other Sponsor or Sponsor Affiliate (the "Defaulting Entity") but only with respect to such Defaulting Entity's rights, duties, and obligations contained herein:

- (a) if default shall be made in the due and punctual payment of any Negotiated FILOT Payments, which default shall not have been cured within thirty (30) days following receipt of written notice of such default from the County; or
- (b) if default shall be made in the due performance of or compliance with any of the terms hereof, other than those referred to in the foregoing paragraph (a), and such default shall continue for ninety (90) days after the County shall have given the Defaulting Entity written notice of such default; provided, the County may, in its discretion, grant the Defaulting Entity a longer period of time as necessary to cure such default if the Defaulting Entity proceeds with due diligence to cure such default; provided however, that no Event of Default shall exist under this Agreement during any period when there is pending, before any judicial or administrative tribunal having jurisdiction, any proceeding in which the Defaulting Entity has contested in good faith the occurrence of such default.

Notwithstanding anything herein to the contrary, failure to meet any investment requirements set forth herein shall not be deemed to be an Event of Default under this Agreement, but may terminate certain benefits hereunder or obligate the Company or other Sponsor or Sponsor Affiliate, as the case may be, to make certain additional payments to the County, all as set forth in Section 5.01(f) hereof.

- Section 8.02. Remedies on Event of Default by Company. Upon the occurrence of any Event of Default, the County may exercise any of the following remedies only as to the Defaulting Entity:
 - (a) terminate this Agreement by delivery of written notice to the Defaulting Entity not less than sixty (60) days prior to the termination date specified therein;
 - (b) have access to and inspect, examine, and make copies of the books and records of the Defaulting Entity pertaining to the construction, acquisition, or maintenance of the Project or calculation of the Negotiated FILOT pursuant hereto as provided in Section 4.05 hereof;
 - (c) take whatever action at law or in equity as may appear necessary or desirable to collect the amount then due or enforce the County's rights hereunder, it being the express intent of the parties that the County, without limitation, shall have the same remedies available by law to collect Negotiated FILOT Payments as if they were delinquent ad valorem tax payments, including execution upon the lien referred to in Section 5.02 hereof.
- Section 8.03. Defaulted Payments. In the event the Company or any other Sponsor or Sponsor Affiliate should fail to make any of the payments required to be made by such entity under this Agreement, the item or installment so in default shall continue as an obligation of such entity until the amount in default shall have been fully paid. If any such default relates to its obligations to make Negotiated FILOT Payments hereunder, such entity shall pay the same with interest thereon at the rate per annum provided by the Code for late payment of ad valorem taxes together with any penalties provided by the Code for late payment of ad valorem taxes, all as provided in Section 12-44-90 of the Code.
- Section 8.04. Default by County. Upon the default of the County in the performance of any of its obligations hereunder, the Company and any other Co-Investor may take whatever action at law or in equity as may appear necessary or desirable to enforce its rights under this Agreement, including without limitation a suit for *mandamus* or specific performance.

ARTICLE IX

MISCELLANEOUS

Section 9.01. Rights and Remedies Cumulative. Each right, power, and remedy of the County or of the Company or any other Sponsor or Sponsor Affiliate provided for in this Agreement shall be cumulative and concurrent and shall be in addition to every other right, power, or remedy provided for in this Agreement or now or hereafter existing at law or in equity, in any jurisdiction where such rights, powers, and remedies are sought to be enforced; and the exercise by the County or by the Company or any other Sponsor or Sponsor Affiliate of any one or more of the rights, powers, or remedies provided for in this Agreement or now or hereafter existing at law or in equity or by statute or otherwise shall not preclude the simultaneous or later exercise by the County or by the Company or such other Sponsor or Sponsor Affiliate of any or all such other rights, powers, or remedies.

Section 9.02. Successors and Assigns. The terms and provisions of this Agreement shall be binding upon and inure to the benefit of the parties hereto, any Sponsor or Sponsor Affiliates designated pursuant to Section 6.02 hereof and their respective successors and assigns as permitted hereunder.

Section 9.03. Notices: Demands: Requests. All notices, demands, and requests to be given or made hereunder to or by the County or the Company shall be in writing and shall be deemed to be properly given or made if sent by United States first class mail, postage prepaid, or via facsimile transmission or reputable courier service, to the following persons and addresses or to such other persons and places as may be designated in writing from time to time by such party.

(a) if to the County

Florence County, South Carolina Attn: Florence County Administrator 180 North Irby Street MSC-G Florence, South Carolina 29501 Fax: 843-665-3070

Telephone: 843-665-3035

with a copy (which shall not constitute notice) to:
Florence County Attorney, currently:
D. Malloy McEachin, Jr.
2117-C West Palmetto Street
Florence, South Carolina 29501
Fax: 843-665-0716

Telephone: 843-665-0135

(b) if to the Company:

Honda of South Carolina Mfg., Inc.

Attn: President 1111 Honda Way P.O. Box 489

Timmonsville, South Carolina 29161

Fax: 843-346-8000

Telephone: 843-346-8017

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

Nexsen Pruet, LLC
April C. Lucas, Esquire
P.O. Box 2426
1230 Main Street, Suite 700
Columbia, South Carolina 29201

Fax: 803-253-8277

Telephone: 803-540-2035

Section 9.04. Applicable Law. This Agreement shall be governed by and construed in accordance with the laws of the State. To the extent of any conflict between the provisions of this Agreement and the Act, the Act controls.

- Section 9.05. Entire Understanding. This Agreement expresses the entire understanding and all agreements of the parties hereto with each other, and neither party hereto has made or shall be bound by any agreement or any representation to the other party which is not expressly set forth in this Agreement or in certificates delivered in connection with the execution and delivery hereof.
- Section 9.06. Severability. In the event that any clause or provisions of this Agreement shall be held to be invalid by any court of competent jurisdiction, the invalidity of such clause or provision shall not affect any of the remaining provisions hereof.
- Section 9.07. Headings and Table of Contents: References. The headings of the Agreement and any Table of Contents annexed hereto are for convenience of reference only and shall not define or limit the provisions hereof or affect the meaning or interpretation hereof. All references in this Agreement to particular articles or sections or paragraphs of this Agreement are references to the designated articles or sections or paragraphs of this Agreement.
- <u>Section 9.08.</u> <u>Multiple Counterparts.</u> This Agreement may be executed in multiple counterparts, each of which shall be an original but all of which shall constitute but one and the same instrument.

Section 9.09. Amendments. Subject to the limitations set forth in Section 12-44-40(K)(2) of the Negotiated FILOT Act, this Agreement may be amended, or the rights and interest of the parties hereunder surrendered, only by a writing signed by both parties.

23

NPCOL1:2853865.7-AGR-(ACL) 020951-00493

Section 9.10. Waiver. Either party may waive compliance by the other party with any term or condition of this Agreement only in a writing signed by the waiving party.

Section 9.11. Further Proceedings. To the extent additional proceedings are required by law, however, the County agrees to undertake all such steps as may be reasonably required or appropriate to effectuate the intent of this Agreement.

[Execution Pages to Follow]



IN WITNESS WHEREOF, the parties hereto, each after due authorization, have executed this Agreement to be effective as of the date first written above.

FLORENCE COUNTY, SOUTH CAROLINA

Ву	
·	Chairman, County Council
	Florence County, South Carolina
[SEAL]	
ATTEST:	
Bv.	
Connie Y. Haselden, Clerk to County	Council
Florence County, South Carolina	Council
	INDA OF SOUTH CAROLINA MFG., INC.
	÷
By	
The state of the s	me:
Tit	le:

EXHIBIT A LEGAL DESCRIPTION

Fee In Lieu Of Tax Agreement between Florence County, South Carolina and t Crescent] dated as of December 15, 2012

Project address: 1111 Honda Way, Timmonsville, South Carolina 29161

Consisting of the following property:

All that certain piece, parcel or tract of land situate in Florence County, South Carolina bounded and described as follows:

PARCEL #1

All those certain pieces, parcels, or tracts of land lying, being, and situate in the County of Florence, State of South Carolina, shown and designated as Tract 1 containing 389.69 acres, Tract 2A containing 31.00 acres, and Tract 2B containing 24.40 acres, more or less, as shown on plat for Honda of America Mfg., Inc., by Engineering Consultants, Inc., dated April 29, 1997, and recorded in Plat Book 64 at Page 172, in the Office of the Clerk of Court for Florence County. Reference being made to the aforementioned plat for a more thorough and complete description.

PARCEL #2

All that certain piece, parcel, or tract of land lying, being, and situate in the County of Florence, State of South Carolina, shown and designated as 30.87 acres on a plat for Honda of America Mfg., Inc., by Engineering Consultants, Inc., dated April 27, 1997, and recorded in Plat Book 64 at Page 170, in the Office of the Clerk of Court for Florence County. Reference being made to the aforementioned plat for a more thorough and complete description.

PARCEL #3

All that certain piece, parcel, of tract of land lying, being, and situate in the County of Florence, State of South Carolina, shown and designated as 31.12 acres on a plat for Honda of America Mfg., Inc., by Engineering Consultants, Inc., dated April 28, 1997, and recorded in Plat Book 64 at Page 171, in the Office of the Clerk of Court for Florence County. Reference being made to the aforementioned plat for a more thorough and complete description.

PARCEL#4

All that certain piece, parcel or tract of land, situate, lying and being in the County of Florence, State of South Carolina and shown as Tract 1 containing 73.76 acres on that certain plat prepared for Honda of South Carolina Mfg., Inc. and Florence County, South Carolina prepared by

Exhibit A -1

NPCOL1:2853865.7-AGR-(ACL) 020951-00493

Engineering Consultants, Inc. dated March 11, 2002 and recorded in Plat Book 78, at page 360 in the Office of the Clerk of Court for Florence County.

TMS NO.: 35-04-001

PARCEL #5

All that certain piece, parcel or tract of land, situate, lying and being in the County of Florence, State of South Carolina and shown as Tract 2 containing 43.16 acres on that certain plat prepared for Honda of South Carolina Mfg., Inc. and Florence County, South Carolina prepared by Engineering Consultants, Inc. dated March 11, 2002 and recorded in Plat Book 78, at page 360 in the Office of the Clerk of Court for Florence County.

TMS No.: 035-04-029



Thursday, December 13, 2012

AGENDA ITEM: Ordinance No. 15-2012/13

Second Reading

<u>DEPARTMENT:</u> Planning and Building Inspections //

ISSUE UNDER CONSIDERATION:

[An Ordinance To Amend The Florence County Comprehensive Plan Land Use Map For Properties Property In Florence County Located At 191 W. Sixth Avenue, Pamplico, More Specifically Shown On Tax Map Number 60001-01-021, From Residential Preservation And Rural Preservation To Suburban Development; And Other Matters Related Thereto.] (Planning Commission approved 8-0: Council District 2)

POINTS TO CONSIDER:

- 1. The subject property's designations, as established by the Land Use Map of the Florence County Comprehensive Plan, are Residential Preservation and Rural Preservation.
- 2. The applicant is proposing to change the designation to Suburban Development to recognize substantial change and changing conditions or circumstances in a particular locality.

OPTIONS:

- 1. (Recommended) Approve as Presented.
- 2. Provide an Alternate Directive.

ATTACHMENTS:

- 1. Ordinance No. 15-2012/13
- 2. Resolution for PC#2012-18
- 3. Staff report for PC#2012-18
- 4. Location Map
- 5. Comprehensive Plan Land Use Map
- 6. Zoning Map
- 7. Aerial Map

Sponsor(s)
Planning Commission Consideration
Planning Commission Public Hearing
Planning Commission Action
First Reading/Introduction
Committee Referral
County Council Public Hearing
Second Reading
Third Reading
Effective Date

Planning Commission October 23, 2012 October 23, 2012 October 23, 2012 [Approved 8-0] November 15, 2012 N/A December 13, 2012 December 13, 2012

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

ORDINANCE NO. 15-2012/13

Immediately

COUNCIL-ADMINISTRATOR FORM OF GOVERNMENT FOR FLORENCE COUNTY

[An Ordinance To Amend The Florence County Comprehensive Plan Land Use Map For Properties-Property In Florence County Located At 191 W. Sixth Avenue, Pamplico, More Specifically Shown On Tax Map Number 60001-01-021, From Residential Preservation And Rural Preservation To Suburban Development; And Other Matters Related Thereto.]

WHEREAS:

- 1. The Florence County Council must be satisfied that this Zoning Atlas amendment will not be 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. The amendment procedure established in the Florence County Comprehensive Plan has been followed by the Florence County Planning Commission at a public hearing on October 23, 2012.

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

- 1. The Florence County Comprehensive Plan Land Use Map is hereby amended to change the designation for property in Florence County located at 191 W. Sixth Avenue, Pamplico, more specifically shown on Tax Map Number 60001-01-021, from Residential Preservation and Rural Preservation to Suburban Development. The parcel consists of approximately 3.91 acres.
- 2. Provisions in other Florence County ordinances in conflict with this Ordinance are hereby repealed.
- 3. 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	Florence County Council, Chairman
	COUNCIL VOTE: OPPOSED:
Approved as to Form and Content D. Mallov McFachin, Ir. County Attorney	ABSENT:

RESOLUTION FOR PC#2012-18 FLORENCE COUNTY PLANNING COMMISSION

[A Resolution Recommending A Comprehensive Plan Map Amendment To Change The Land Use Map Designation For Property In Florence County Located On W. Sixth Avenue In Pamplico, SC, More Specifically Shown On Tax Map Number 60001-01-021, From Residential Preservation And Rural Preservation To Suburban Development As Referenced On The Agenda Map.]

WHEREAS:

- 1. The subject property's designations as established by the Land Use Map of the Florence County Comprehensive Plan are Residential Preservation and Rural Preservation.
- 2. The applicant is proposing to change the designations to Suburban Development to recognize substantial change and changing conditions or circumstances in a particular locality.
- 3. Therefore, a change to the Comprehensive Plan Map Land Use Designation for this property is hereby recommended.

NOW THEREFORE BE IT RESOLVED BY THE FLORENCE COUNTY PLANNING COMMISSION DULY ASSEMBLED THAT:

1. A Resolution is hereby adopted to recommend that the Florence County Council vote to amend the Florence County Comprehensive Plan Map Land Use Designations for Property in Florence County Located on W. Sixth Avenue in Pamplico, SC, measuring approximately 3.9 acres from Residential Preservation and Rural Preservation to Suburban Development as referenced on the agenda map.

ATTEST:

Angela C. Thomas, Secretary III

17.12.

David Hobbs, Chairman

COMMISSION VOTE: 8-0

OPPOSED: None

ABSENT: C. Cunha

V. Talbert

STAFF REPORT TO THE

FLORENCE COUNTY PLANNING COMMISSION

October 23, 2012 PC#2012-18 ORDINANCE NO. 15-2012/13

Subject:

Comprehensive Plan Map Amendment to change the Land Use Map designations for property in Florence County located in the Town of Pamplico from Residential Preservation and Rural Preservation to

Suburban Development

Locations:

191 W. Sixth Avenue

Tax Map Numbers

60001, Block 01, Parcel 021

Council District(s):

2; County Council

Applicant:

Pamplico Rescue and Ambulance Service, Inc.

Land Area:

1 parcel, approximately 3.91 acres

Staff Analysis:

The property is currently designated as Residential Preservation and Rural Preservation according to the Comprehensive Plan Land Use map.

The applicant is proposing to change the designations to Suburban Development.

Staff's Justification/Reason for the proposed amendment is to recognize substantial change and changing conditions or circumstances in a particular locality.

Comprehensive Land Use Plan Map Designation:

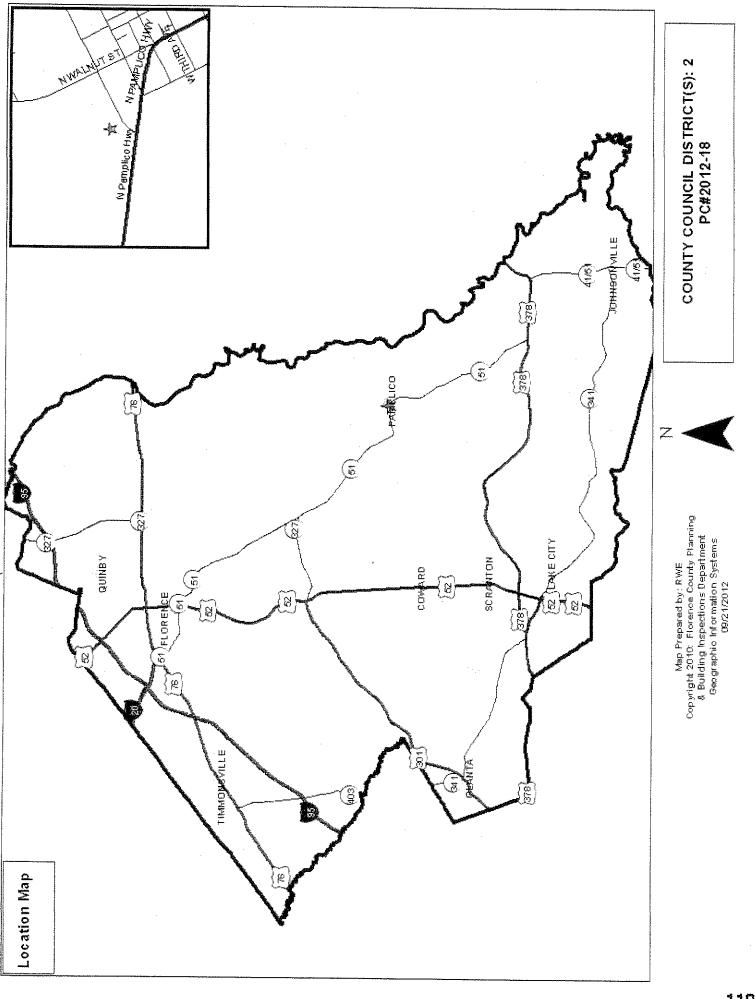
The proposal is to change the designation to Suburban Development. Suburban Development provides areas in suburban settings that are expected to have increasing community significance with opportunities for residential, commercial, and institutional uses that enhance the area as a whole.

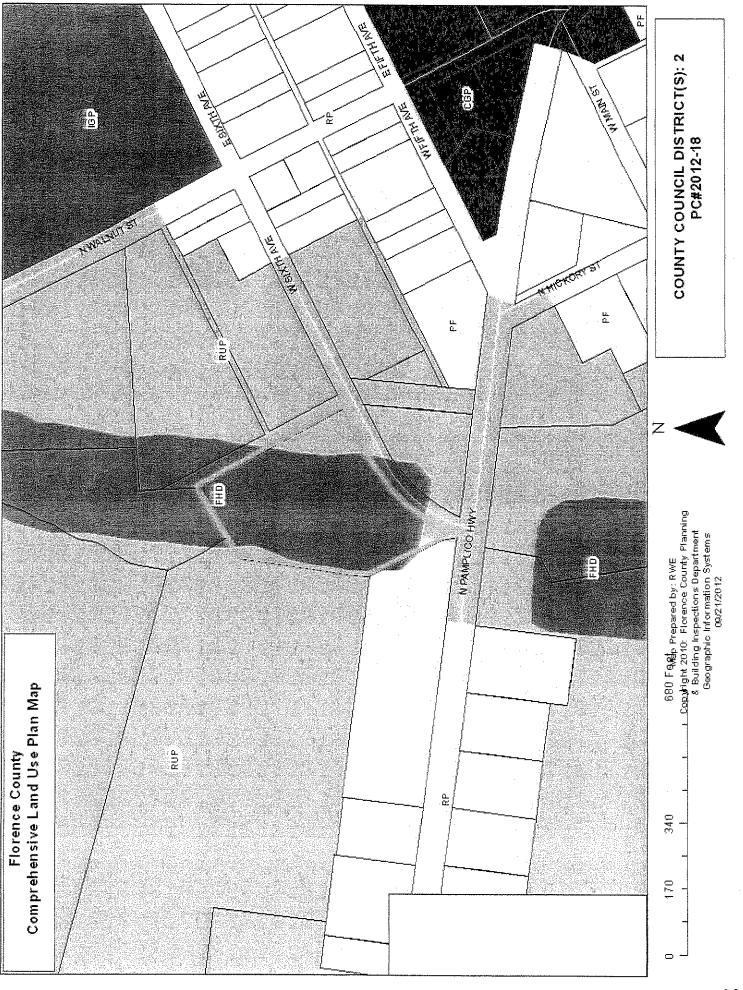
Florence County Planning Commission Action: October 23, 2012:

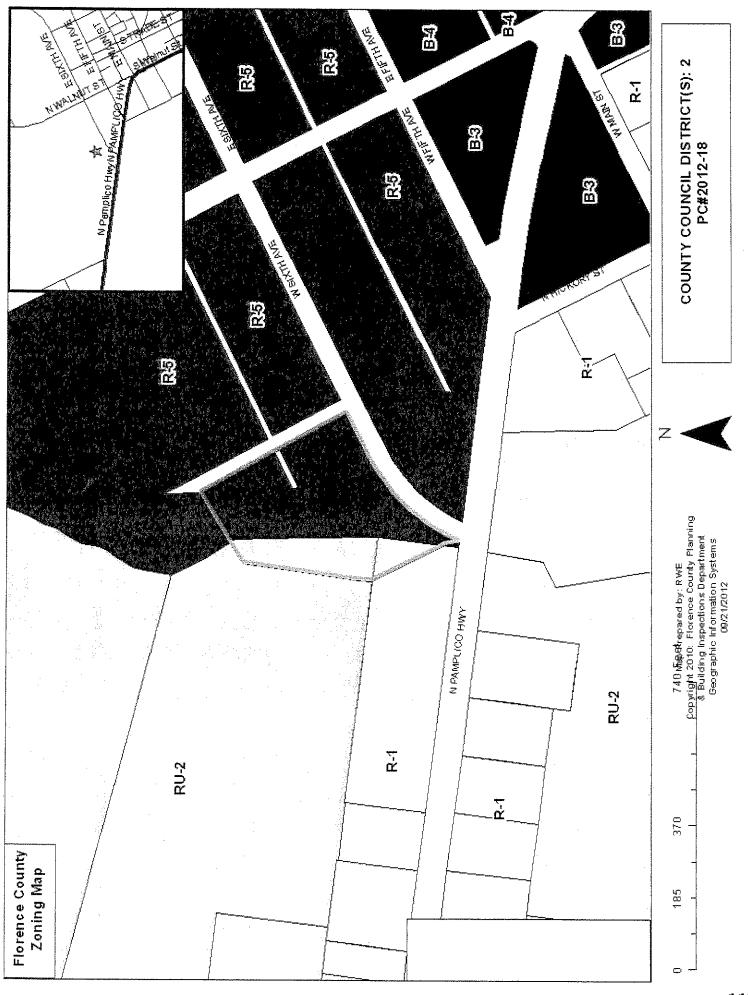
The eight Planning Commission members present voted unanimously to adopt a resolution recommending that County Council amend the Comprehensive Plan Land Use Map.

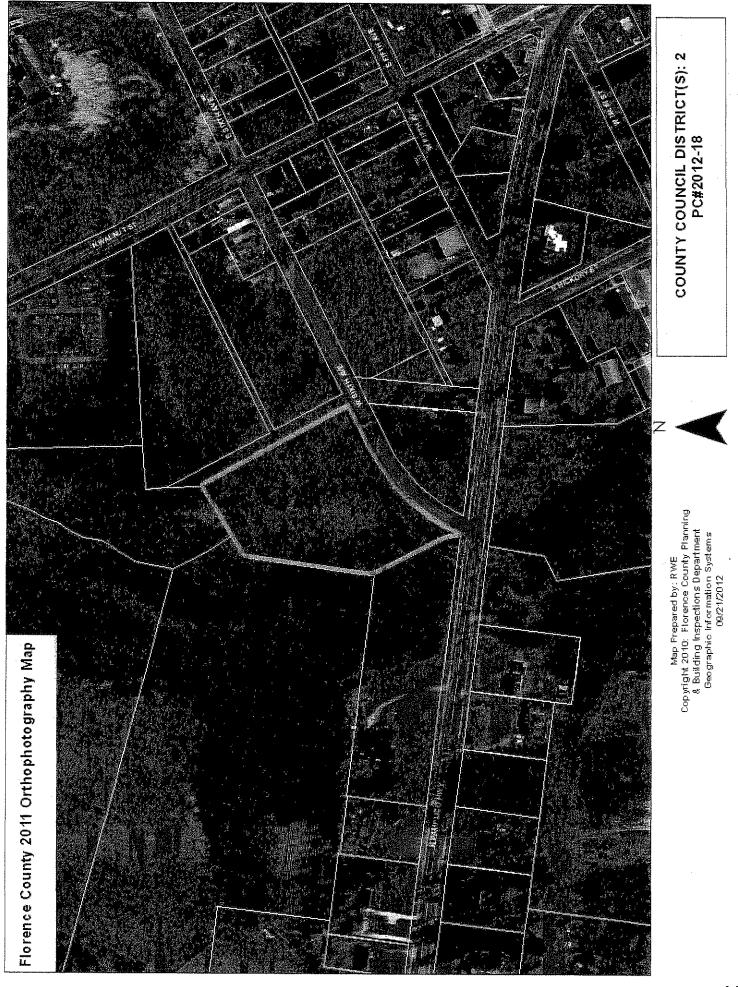
Florence County Planning Commission Recommendation:

Florence County Planning Commission recommends approval of the request to the Florence County Council for a Suburban Development land use designation to provide areas in suburban settings that are expected to have increasing community significance with opportunities for residential, commercial, and industrial uses that enhance the area as a whole.









Thursday, December 13, 2012

AGENDA ITEM: Ordinance No. 16-2012/13

Second Reading

<u>DEPARTMENT:</u> Planning and Building Inspections

ISSUE UNDER CONSIDERATION:

[An Ordinance To Rezone Property Owned By Pamplico Rescue And Ambulance Service, Inc. Located At 191 West Sixth Avenue, Pamplico, As Shown On Florence County Tax Map No. 60001, Block 01, Parcel 021; Consisting Of Approx. 3.91 Acres From R-5, Multi-Family Residential District, RU-2, Rural Resource District And R-1, Single-Family Residential District To B-1, Limited Business District; And Other Matters Related Thereto.]

(Planning Commission approved 8 to 0; Council District 2)

POINTS TO CONSIDER:

- 1. The subject property is currently zoned R-5, Multi-Family Residential District, RU-2, Rural Resource District and R-1, Single-Family Residential District.
- 2. Surrounding land uses consist of vacant land and single-family residential zoned R-1, Single-Family Residential District. R-5, Multi-Family Residential District and RU-2, Rural Resource District.
- 3. The Comprehensive Plan currently designates the subject property as Residential Preservation and Rural Preservation and currently the zoning amendment request does not comply.
- 4. The zoning designation of B-1, Limited Business District for the subject property will comply with the Comprehensive Plan with the approval of the land use amendment request to Suburban Development.

OPTIONS:

- 1. (Recommended) Approve As Presented.
- 2. Provide An Alternate Directive.

ATTACHMENTS:

- 1. Ordinance No. 16-2012/13
- 2. Staff report for PC#2012-20
- 3. Location Map
- 4. Comprehensive Plan Land Use Map
- 5. Zoning Map
- 6. Aerial Map

Sponsor(s)
Planning Commission Consideration
Planning Commission Public Hearing
Planning Commission Action
First Reading/Introduction
Committee Referral
County Council Public Hearing
Second Reading
Third Reading
Effective Date

Planning Commission October 23, 2012 October 23, 2012 October 23, 2012 [Approved:8to0] November 15, 2012 N/A N/A December 13, 2012 I, Council Clerk, certify that this Ordinance was advertised for Public Hearing on

ORDINANCE NO. 16-2012/13

Immediately

COUNCIL-ADMINISTRATOR FORM OF GOVERNMENT FOR FLORENCE COUNTY

[An Ordinance To Rezone Property Owned By Pamplico Rescue And Ambulance Service, Inc. Located At 191 West Sixth Avenue, Pamplico, As Shown On Florence County Tax Map No. 60001, Block 01, Parcel 021; Consisting Of Approx. 3.91 Acres From R-5, Multi-Family Residential District, RU-2, Rural Resource District And R-1, Single-Family Residential District To B-1, Limited Business District; And Other Matters Related Thereto.]

WHEREAS:

- 1. The Florence County Council must be satisfied that this Zoning Atlas amendment will not be 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 in general; and
- 2. The amendment procedure established in the Florence County Code, Chapter 30-Zoning Ordinance has been followed by the Florence County Planning Commission at a public hearing on October 23, 2012.

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

- 1. Property located at 191 West Sixth Avenue, Pamplico bearing Tax Map 60001, Block 01, Parcel 021 is hereby rezoned to B-1, Limited Business District.
- 2. Provisions in other Florence County ordinances in conflict with this Ordinance are hereby repealed.
- 3. 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	Florence County Council, Chairman
	COUNCIL VOTE: OPPOSED:
Approved as to Form and Content D. Mallov McEachin, Jr., County Attorney	ABSENT:

STAFF REPORT TO THE

FLORENCE COUNTY PLANNING COMMISSION

Tuesday, October 23, 2012 PC#2012-20 ORDINANCE NO. 16-2012/13

SUBJECT:

Rezoning request from R-5, Multi-Family Residential District, RU-2, Rural Resource District

and R-1, Single-Family Residential District to B-1,

Limited Business District.

LOCATION:

191 West Sixth Avenue

TAX MAP NUMBER:

60001, Block 01, Parcel 021

COUNCIL DISTRICT(S):

2; County Council

OWNER OF RECORD:

Pamplico Rescue and Ambulance Service, Inc.

APPLICANT:

Laura H. Walkup

LAND AREA:

Approximately 3.91 acres

WATER /SEWER AVAILABILITY:

Water and Sewer will be provided by DHEC

ADJACENT WATERWAYS/

BODIES OF WATER:

N/A

FLOOD ZONE:

Yes

STAFF ANALYSIS:

1. Existing Land Use and Zoning:

The subject property is currently vacant. The subject property is currently zoned R-5, Multi-Family Residential District, RU-2, Rural Resource District and R-1, Single-Family Residential District and located in the Town of Pamplico.

2. Proposed Land Use and Zoning:

The applicant wishes to develop the property for an EMS Station. The applicant proposes to rezone the property to B-1, Limited Business District.

3. Surrounding Land Use and Zoning:

North:

Vacant land/R-5/Town of Pamplico

South:

Vacant land/RU-2/Town of Pamplico

West:

Vacant/Single-family home/RU-2 and R-1/Town of Pamplico

East: Vacant land/R-5/Town of Pamplico

4. Transportation Access and Circulation:

Present accesses to the subject properties are by way of Pamplico Highway and West Sixth Avenue.

5. Traffic Review:

The rezoning of this property will not have an effect on traffic flow for the area.

6. Florence County Comprehensive Plan:

The subject property is currently located in a Residential and Rural Preservation area according to the Comprehensive Plan Land Use map. The applicant is proposing to rezone this property to B-1. The request for the zoning amendment to B-1 does not presently comply with the Comprehensive Plan Land Use map. However, staff is moving forward with the request to amend the land use designation to Suburban Development. When the amendment is approved for the land use designation change, the zoning amendment of the subject property from R-1, R-5 and RU-2 will be in compliance with the Comprehensive Plan Land Use map.

7. Chapter 30-Zoning Ordinance:

B-1, Limited Business District, This district is intended to accommodate office, institutional, and residential uses in areas whose character is changing, or where such a mix of uses is appropriate. It is designed for principally for use along major streets dominated by older houses in transition.

STAFF RECOMMENDATION:

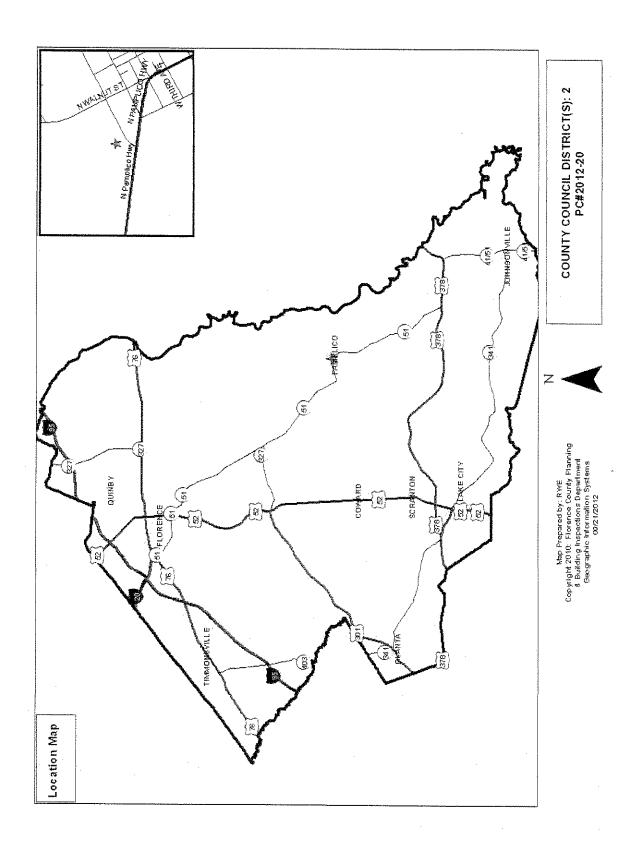
Staff recommends approval of the zoning amendment request based on the request being in compliance with the Land Use Map and Land Use Element of the Comprehensive Plan with the land use amendment request approval.

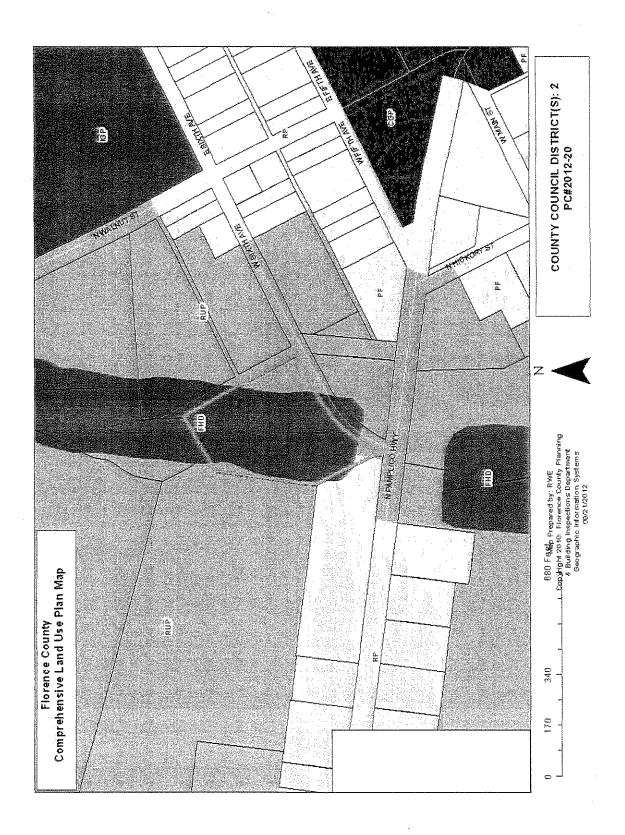
FLORENCE COUNTY PLANNING COMMISSION ACTION-TUESDAY, OCTOBER 23, 2012:

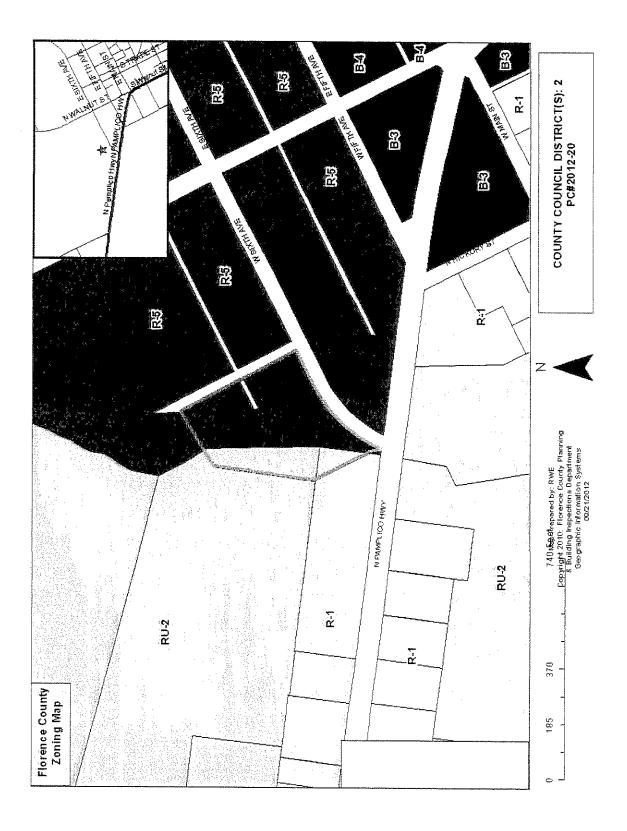
The eight Planning Commission members present approved the rezoning request unanimously based on the request being in compliance with the Land Use Map and Land Use Element of the Comprehensive Plan with the approval of the land use amendment request at the meeting held on October 23, 2012.

FLORENCE COUNTY PLANNING COMMISSION RECOMMENDATION:

The Planning Commission recommends approval of the zoning amendment request to Florence County Council based on the request being in compliance with the Land Use Map and Land Use Element of the Comprehensive Plan with the approval of the land use amendment request.









December 13, 2012

AGENDA ITEM: Second Reading - Ordinance No. 17-2012/13

DEPARTMENT: Finance

ISSUE UNDER CONSIDERATION:

(An Ordinance To Authorize The Execution and Delivery Of Various Documents In Order To Fund A Portion Of The Costs Associated With Soil Remediation Of The Lake City Park Project; To Authorize The Execution And Delivery Of These Documents In Connection Therewith; And Other Matters Relating Thereto.)

POINTS TO CONSIDER:

- 1. The Drs. Bruce and Lee Foundation have provided Florence County with a grant in the amount of \$2,500,000 in order to develop a community park in Lake City.
- 2. The grant terms require Florence County to secure additional funding for the park project in the form of grants.
- 3. The South Carolina Department of Health and Environmental Control (SCDHEC) is authorized to make loans through the South Carolina Brownfields Cleanup Revolving Fund Loan program to assist with removal actions required when entering into a Voluntary Cleanup Contract with SCDHEC.
- 4. The County entered into a Voluntary Cleanup Contract earlier this year for the properties which are to be developed for the park in Lake City.
- 5. The loan funds may be used for removal activities, including demolition and/or site preparation, which are part of the site cleanup.
- 6. The County will be eligible to have 25% of the amount borrowed, up to a maximum of \$100,000 converted into a grant.
- 7. The loan carries a 1% interest rate and is amortized over 10 years.

OPTIONS:

- 1. (Recommended) Approve as presented.
- 2. Provide An Alternate Directive.

ATTACHMENTS:

Ordinance #17-2012/13.

Sponsor(s) : Finance : November 15, 2012 First Reading I, Council Clerk, certify that this Committee Referral : N/A Ordinance was advertised on : N/A Committee Consideration Date Committee Recommendation : N/A for Public Hearing. : December 13, 2012 Second Reading Public Hearing Third Reading Effective Date

ORDINANCE NO. 17-2012/13

COUNCIL-ADMINISTRATOR FORM OF GOVERNMENT FOR FLORENCE COUNTY

(An Ordinance To Authorize The Execution And Delivery Of Various Documents In Order To Fund A Portion Of The Costs Associated With Soil Remediation Of The Lake City Park Project; To Authorize The Execution And Delivery Of These Documents In Connection Therewith; And Other Matters Relating Thereto.)

WHEREAS,

- 1. The County of Florence, South Carolina, a public body corporate and politic and a political subdivision organized and existing under the laws of the State of South Carolina (the "County"), proposes to fund a portion of the costs associated with soil remediation of the Lake City Park Project (the "Project") with a loan in the principal amount of \$500,000; and
- 2. The South Carolina Department of Health & Environmental Control (the "Lender") acting through its fund manager is authorized to make loans through the Catawba Regional Development Corporation ("CRDC") South Carolina Brownfields Cleanup Revolving Fund Loan (the "Fund"); and
- 3. CRDC has proposed terms relating to a loan from the Fund to the County which, if it receives final approval from the Lender, CRDC and the County, could provide financing for the Project; and
- 4. An outline of such proposed terms is attached hereto as Exhibit A; and
- 5. The security for the proposed borrowing is 2008 Lease Purchase Bond Proceeds and does not constitute a pledge of the full faith, credit and taxing power of the County; and
- 6. The Project serves a valid corporate and public purpose of the County; and
- 7. The County expects to receive a final proposal for the financing of the Project on the terms and conditions set forth in Exhibit A; and
- 8. County Council (the "County") has determined, and hereby determines, that it is in the County's best interest to accept the outline of the proposal of the Lender as shown on Exhibit A hereto; and
- 9. The County intends to enter into the Promissory Note (the "Note") and a Loan Agreement (the "Loan Agreement") (the Note and the Loan Agreement are hereinafter referred to as the "Loan Documents") between the Lender and the County. The Note and the Loan Agreement are in substantially the forms attached hereto as Exhibits B and C, respectively.

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

- 1. It is hereby declared that the recitals set forth in the preambles to this Ordinance are in all respects true and correct.
- 2. The Council hereby authorizes, ratifies, confirms and approves all actions heretofore taken with respect to this transaction.
- 3. The proposal of the Lender on the proposed terms and conditions attached hereto as Exhibit A is hereby approved and accepted.
- 4. The Note shall be in the principal amount of \$500,000.00, and shall bear interest and be payable as described in Exhibit A.
- 5. The County Administrator (the "Administrator") is hereby authorized and directed to execute and deliver the Loan Documents on behalf of the County in such form as he approves, with the advice of counsel, his execution being conclusive evidence of his approval; and the Clerk of Council is hereby authorized and directed to affix the corporate seal of the County to the Loan Documents and to attest the same.
- 6. The consummation of all transactions contemplated by the Loan Documents is hereby approved.
- 7. The County Administrator and all other appropriate officials of the County are hereby authorized to execute, deliver, and receive any other agreements and documents as may be required by the County or the Lender or CRDC in order to carry out, give effect to, and consummate the transactions contemplated by the Loan Documents.
- 8. This Ordinance shall be construed and interpreted in accordance with the laws of the State of South Carolina.
- 9. This Ordinance shall become effective immediately upon third reading by the Council.
- 10. The provisions of this Ordinance are hereby declared to be severable and if any section, phrase, or provision shall for any reason be declared by a court of competent jurisdiction to be invalid or unenforceable, that declaration shall not affect the validity of the remainder of the sections, phrases, and provisions hereunder.
- All orders, resolutions, and parts thereof in conflict herewith are, to the extent of the conflict, hereby repealed.

ATTEST:	SIGNED:
Connie Y. Haselden Clerk to Council	Chairman Florence County Council
Clerk to Council	COUNCIL VOTE:
	OPPOSED: ABSENT:
Approved as to Form & Content D. Malloy McEachin, Jr., County Attorney	

Thursday, December 13, 2012

AGENDA ITEM: Ordinance No. 18-2012/13

Introduction

<u>DEPARTMENT:</u> Planning and Building Inspections

ISSUE UNDER CONSIDERATION:

[An Ordinance To Amend The Florence County Comprehensive Plan Land Use Map For Property In Florence County Located At 306 E. Carolyn Avenue, Florence, More Specifically Shown On Tax Map Number 90095-01-019, From Commercial Growth And Preservation To Suburban Development; And Other Matters Related Thereto.] (Planning Commission approved 6-0: Council District 8)

POINTS TO CONSIDER:

- 1. The subject property's designation, as established by the Land Use Map of the Florence County Comprehensive Plan, is Commercial Growth and Preservation.
- 2. The applicant is proposing to change the designation to Suburban Development to recognize substantial change and changing conditions or circumstances in a particular locality.

OPTIONS:

- 1. (Recommended) Approve as Presented.
- 2. Provide an Alternate Directive.

ATTACHMENTS:

- 1. Ordinance No. 18-2012/13
- 2. Resolution for PC#2012-17
- 3. Staff report for PC#2012-17
- 4. Location Map
- 5. Comprehensive Land Use Plan Map
- 6. Zoning Map
- 7. Aerial Map

Sponsor(s)	: Planning Commission	I
Planning Commission Consideration	: November 27, 2012	Council Clerk, cer
Planning Commission Public Hearing	: November 27, 2012	Ordinance was ac
Planning Commission Action	: November 27, 2012 [Appr	oved 6-0] Public Hearing on
First Reading/Introduction	: December 13, 2012	
Committee Referral	: N/A	
County Council Public Hearing	<i>:</i>	
Second Reading	•	
Third Reading	;	
Effective Date	: Immediately	

ORDINANCE NO. 18-2012/13

Council Clerk, certify that this Ordinance was advertised for

COUNCIL-ADMINISTRATOR FORM OF GOVERNMENT FOR FLORENCE COUNTY

An Ordinance To Amend The Florence County Comprehensive Plan Land Use Map For Property In Florence County Located At 306 E. Carolyn Avenue, Florence, More Specifically Shown On Tax Map Number 90095-01-019, From Commercial Growth And Preservation To Suburban Development; And Other Matters Related Thereto.

WHEREAS:

- 1. The Florence County Council must be satisfied that this Zoning Atlas amendment will not be 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. The amendment procedure established in the Florence County Comprehensive Plan has been followed by the Florence County Planning Commission at a public hearing on November 27, 2012.

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

- 1. The Florence County Comprehensive Plan Land Use Map is hereby amended to change the designation for property in Florence County located at 306 E. Carolyn Avenue Florence, more specifically shown on Tax Map Number 90095-01-019, from Commercial Growth and Preservation to Suburban Development. The parcel consists of approximately .52 acres.
- 2. Provisions in other Florence County ordinances in conflict with this Ordinance are hereby repealed.
- 3. 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	Florence County Council, Chairman
	COUNCIL VOTE: OPPOSED:
Approved as to Form and Content D. Malloy McEachin, Jr., County Attorney	ABSENT:

RESOLUTION FOR PC#2012-17 FLORENCE COUNTY PLANNING COMMISSION

[A Resolution Recommending A Comprehensive Plan Map Amendment To Change The Land Use Map Designation For Property In Florence County Located At 306 E. Carolyn Avenue In Florence, SC, More Specifically Shown On Tax Map Number 90095-01-019, From Commercial Growth and Preservation To Suburban Development As Referenced On The Agenda Map.]

WHEREAS:

- 1. The subject property's designation as established by the Land Use Map of the Florence County Comprehensive Plan is Commercial Growth and Preservation.
- 2. The applicant is proposing to change the designation to Suburban Development to recognize substantial change and changing conditions or circumstances in a particular locality.
- 3. Therefore, a change to the Comprehensive Plan Map Land Use Designation for this property is hereby recommended.

NOW THEREFORE BE IT RESOLVED BY THE FLORENCE COUNTY PLANNING COMMISSION DULY ASSEMBLED THAT:

1. A Resolution is hereby adopted to recommend that the Florence County Council vote to amend the Florence County Comprehensive Plan Map Land Use Designation for Property in Florence County Located on Carolyn Avenue in Florence, SC, measuring approximately .52 acres from Commercial Growth and Preservation to Suburban Development as referenced on the agenda map.

ATTEST:

Debbie Gary, Secretary

SIGNED:

David Hobbs, Chairman

COMMISSION VOTE: 6-0

OPPOSED: HONE

ABSENT: C. Cunha

of type th

V. Talbert

STAFF REPORT TO THE

FLORENCE COUNTY PLANNING COMMISSION

November 27, 2012 PC#2012-17 ORDINANCE NO. 18-2012/13

Subject:

Comprehensive Plan Map Amendment to change the Land Use Map

designations for property in Florence County from Commercial Growth

and Preservation to Suburban Development

Locations:

306 E. Carolyn Avenue

Tax Map Numbers

90095, Block 01, Parcel 019

Council District(s):

8: County Council

Applicant:

Planning Commission

Land Area:

1 parcel, approximately .52 acres

Staff Analysis:

The property is currently designated Commercial Growth and Preservation according to the Comprehensive Plan Land Use map.

The applicant is proposing to change the designation to Suburban Development.

Staff's Justification/Reason for the proposed amendment is to recognize substantial change and changing conditions or circumstances in a particular locality.

Comprehensive Land Use Plan Map Designation:

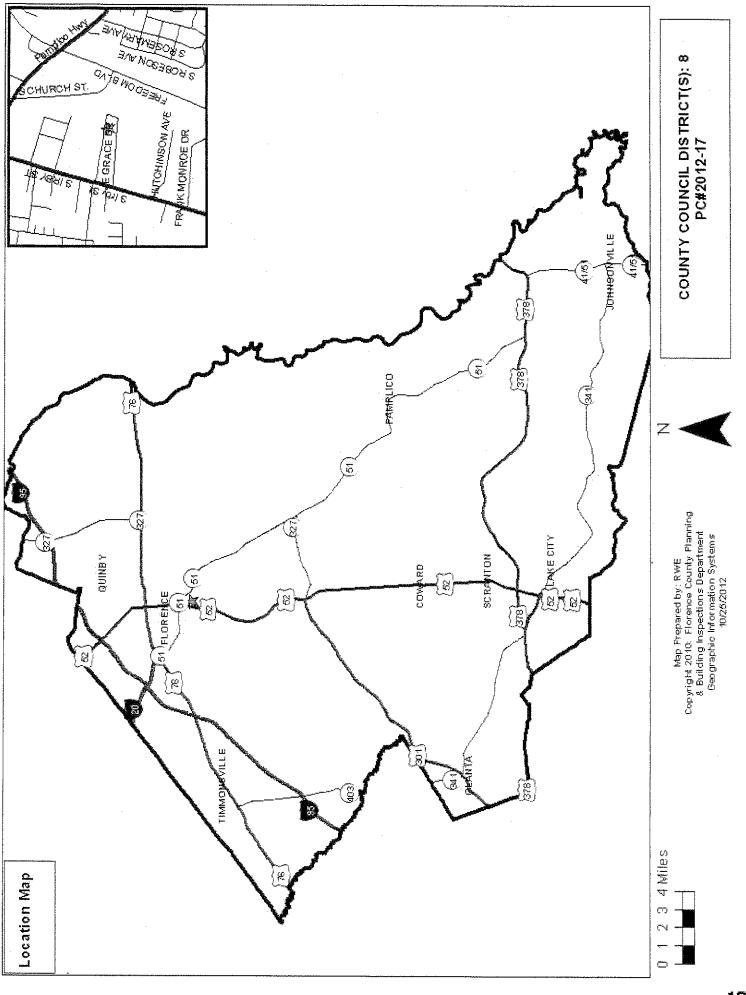
The proposal is to change the designation to Suburban Development. Suburban Development provides areas in suburban settings that are expected to have increasing community significance with opportunities for residential, commercial, and institutional uses that enhance the area as a whole.

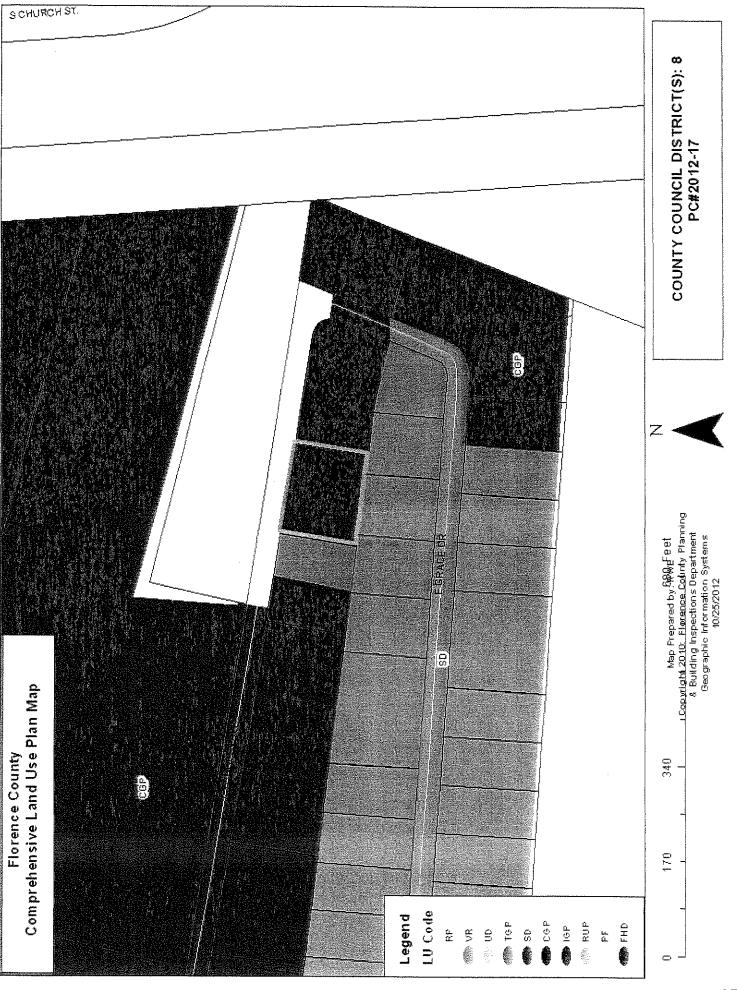
Florence County Planning Commission Action: November 27, 2012:

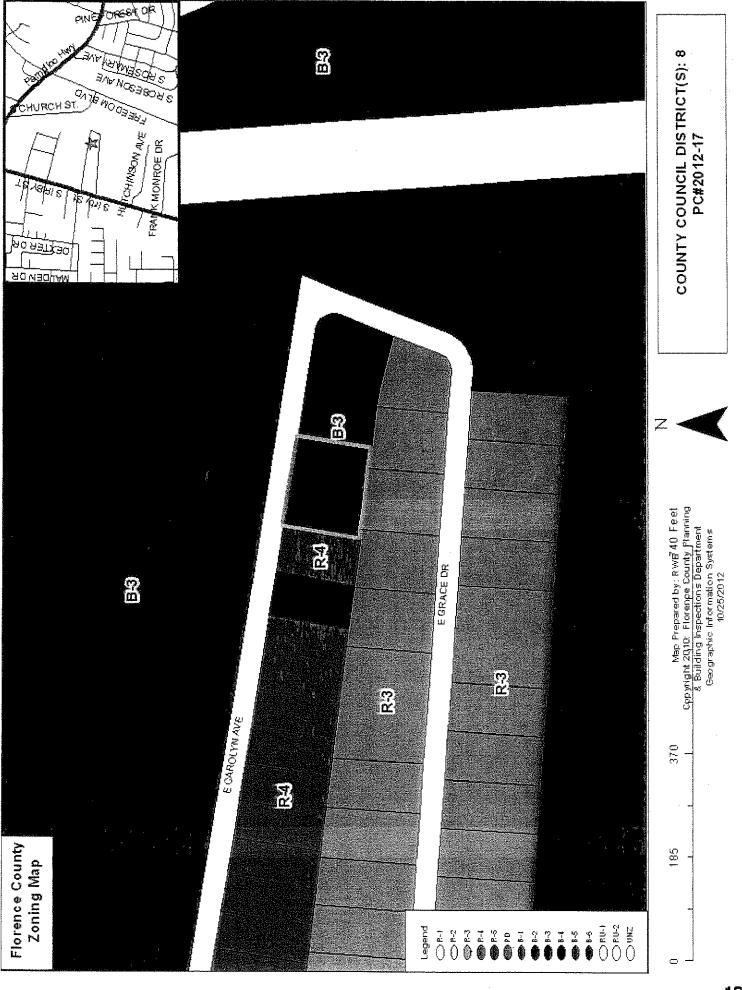
The six Planning Commission members present voted unanimously to adopt a resolution recommending that County Council amend the Comprehensive Plan Land Use Map.

Florence County Planning Commission Recommendation:

Florence County Planning Commission recommends approval of the request to the Florence County Council for a Suburban Development land use designation to provide areas in suburban settings that are expected to have increasing community significance with opportunities for residential, commercial, and industrial uses that enhance the area as a whole.









Thursday, December 13, 2012

AGENDA ITEM: Ordinance No. 19-2012/13

Introduction

<u>DEPARTMENT:</u> Planning and Building Inspections

ISSUE UNDER CONSIDERATION:

[An Ordinance To Amend The Florence County Comprehensive Plan Land Use Map For Property In Florence County Located At 222 E. Carolyn Avenue, Florence, More Specifically Shown On Tax Map Number 90095-01-020, From Commercial Growth And Preservation To Suburban Development; And Other Matters Related Thereto.] (Planning Commission approved 6-0: Council District 8)

POINTS TO CONSIDER:

- 1. The subject property's designation, as established by the Land Use Map of the Florence County Comprehensive Plan, is Commercial Growth and Preservation.
- 2. The applicant is proposing to change the designation to Suburban Development to recognize substantial change and changing conditions or circumstances in a particular locality.

OPTIONS:

- 1. (Recommended) Approve as Presented.
- 2. Provide an Alternate Directive.

ATTACHMENTS:

- 1. Ordinance No. 19-2012/13
- Resolution for PC#2012-21
- 3. Staff report for PC#2012-21
- 4. Location Map
- 5. Comprehensive Land Use Plan Map
- 6. Zoning Map
- 7. Aerial Map

Sponsor(s)
Planning Commission Consideration
Planning Commission Public Hearing
Planning Commission Action
First Reading/Introduction
Committee Referral
County Council Public Hearing
Second Reading
Third Reading
Effective Date

Planning Commission
November 27, 2012
N/A

L______,
Council Clerk, certify that this
Ordinance was advertised for
November 13, 2012
N/A

Immediately

ORDINANCE NO. 19-2012/13

COUNCIL-ADMINISTRATOR FORM OF GOVERNMENT FOR FLORENCE COUNTY

[An Ordinance To Amend The Florence County Comprehensive Plan Land Use Map For Property In Florence County Located At 222 E. Carolyn Avenue, Florence, More Specifically Shown On Tax Map Number 90095-01-020, From Commercial Growth And Preservation To Suburban Development; And Other Matters Related Thereto.]

WHEREAS:

- 1. The Florence County Council must be satisfied that this Zoning Atlas amendment will not be 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. The amendment procedure established in the Florence County Comprehensive Plan has been followed by the Florence County Planning Commission at a public hearing on November 27, 2012.

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

- 1. The Florence County Comprehensive Plan Land Use Map is hereby amended to change the designation for property in Florence County located at 222 E. Carolyn Avenue, Florence, more specifically shown on Tax Map Number 90095-01-020, from Commercial Growth and Preservation to Suburban Development. The parcel consists of approximately .25 acres.
- 2. Provisions in other Florence County ordinances in conflict with this Ordinance are hereby repealed.
- 3. 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	Florence County Council, Chairman			
	COUNCIL VOTE: OPPOSED:			
Approved as to Form and Content D. Malloy McEachin, Jr., County Attorney	ABSENT:			

RESOLUTION FOR PC#2012-21 FLORENCE COUNTY PLANNING COMMISSION

[A Resolution Recommending A Comprehensive Plan Map Amendment To Change The Land Use Map Designation For Property In Florence County Located At 222 E. Carolyn Avenue In Florence, SC, More Specifically Shown On Tax Map Number 90095-01-020, From Commercial Growth and Preservation To Suburban Development As Referenced On The Agenda Map.]

WHEREAS:

- 1. The subject property's designation as established by the Land Use Map of the Florence County Comprehensive Plan is Commercial Growth and Preservation.
- 2. The applicant is proposing to change the designation to Suburban Development to recognize substantial change and changing conditions or circumstances in a particular locality.
- 3. Therefore, a change to the Comprehensive Plan Map Land Use Designation for this property is hereby recommended.

NOW THEREFORE BE IT RESOLVED BY THE FLORENCE COUNTY PLANNING COMMISSION DULY ASSEMBLED THAT:

1. A Resolution is hereby adopted to recommend that the Florence County Council vote to amend the Florence County Comprehensive Plan Map Land Use Designation for Property in Florence County Located on Carolyn Avenue in Florence, SC, measuring approximately .25 acres from Commercial Growth and Preservation to Suburban Development as referenced on the agenda map.

ATTEST:

Debbie Gary, Secretary II

SIONED:

David Hobbs, Chairman

COMMISSION VOTE: 6-0

OPPOSED: NONE

ABSENT: C Cunka

V. Talbert

STAFF REPORT TO THE

FLORENCE COUNTY PLANNING COMMISSION

October 23, 2012 PC#2012-21 ORDINANCE NO. 19-2012/13

Subject:

Comprehensive Plan Map Amendment to change the Land Use Map

designations for property in Florence County from Commercial Growth

and Preservation to Suburban Development

Locations:

222 E. Carolyn Avenue

Tax Map Numbers

90095, Block 01, Parcel 020

Council District(s):

8; County Council

Applicant:

Planning Commission

Land Area:

1 parcel, approximately .25 acres

Staff Analysis:

The property is currently designated Commercial Growth and Preservation according to the Comprehensive Plan Land Use map.

The applicant is proposing to change the designation to Suburban Development.

Staff's Justification/Reason for the proposed amendment is to recognize substantial change and changing conditions or circumstances in a particular locality.

Comprehensive Land Use Plan Map Designation:

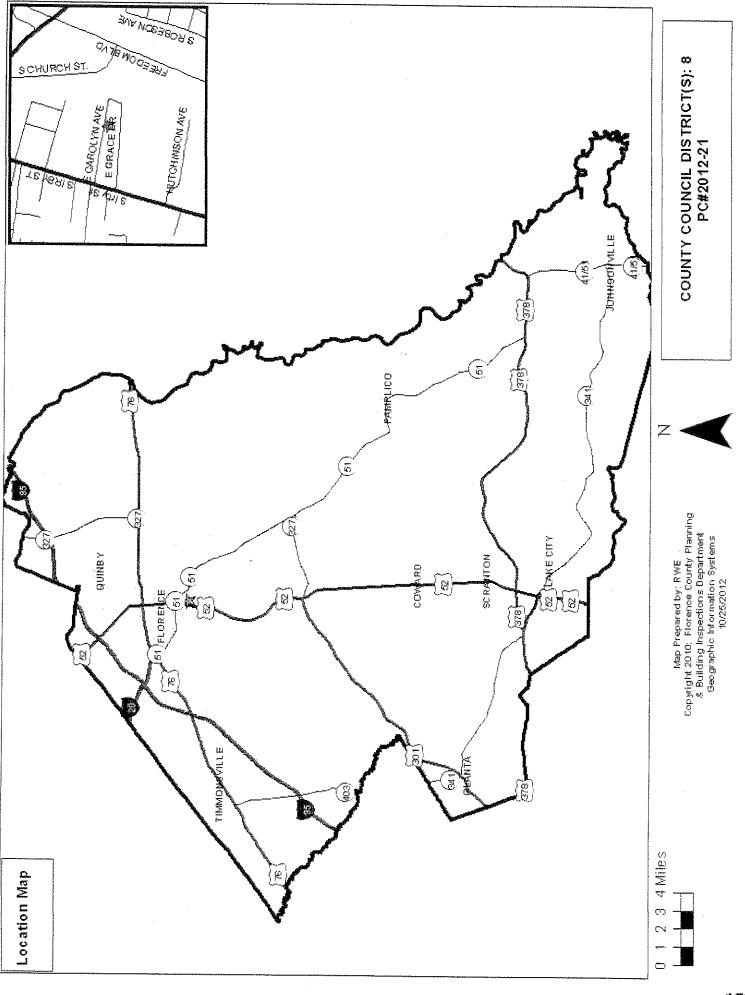
The proposal is to change the designation to Suburban Development. Suburban Development provides areas in suburban settings that are expected to have increasing community significance with opportunities for residential, commercial, and institutional uses that enhance the area as a whole.

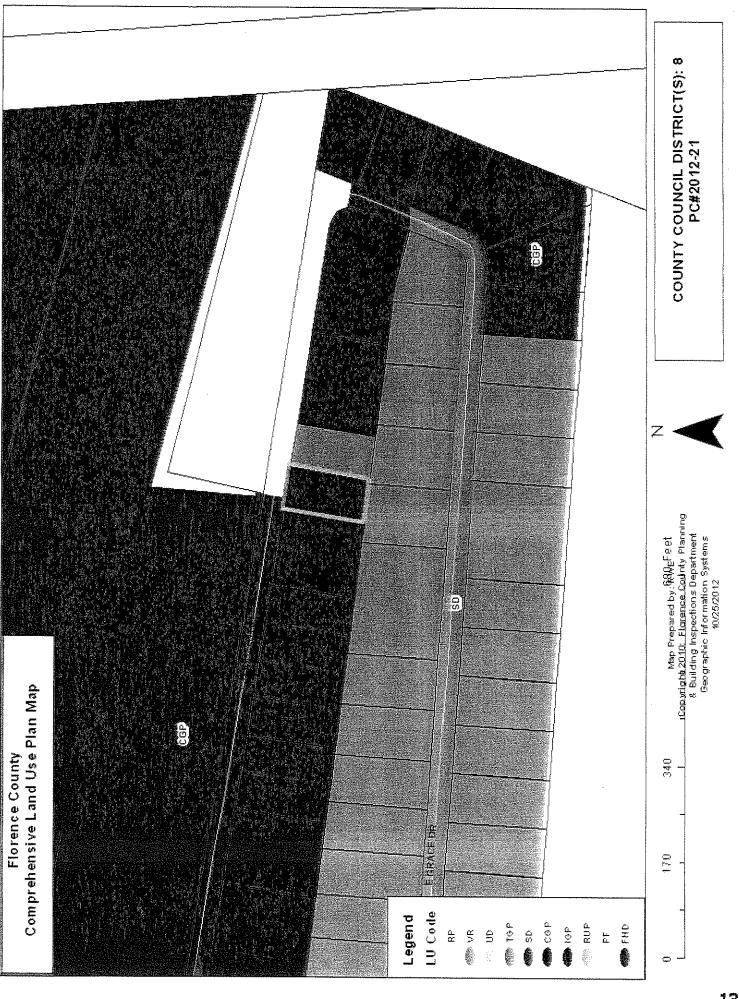
Florence County Planning Commission Action: November 27, 2012:

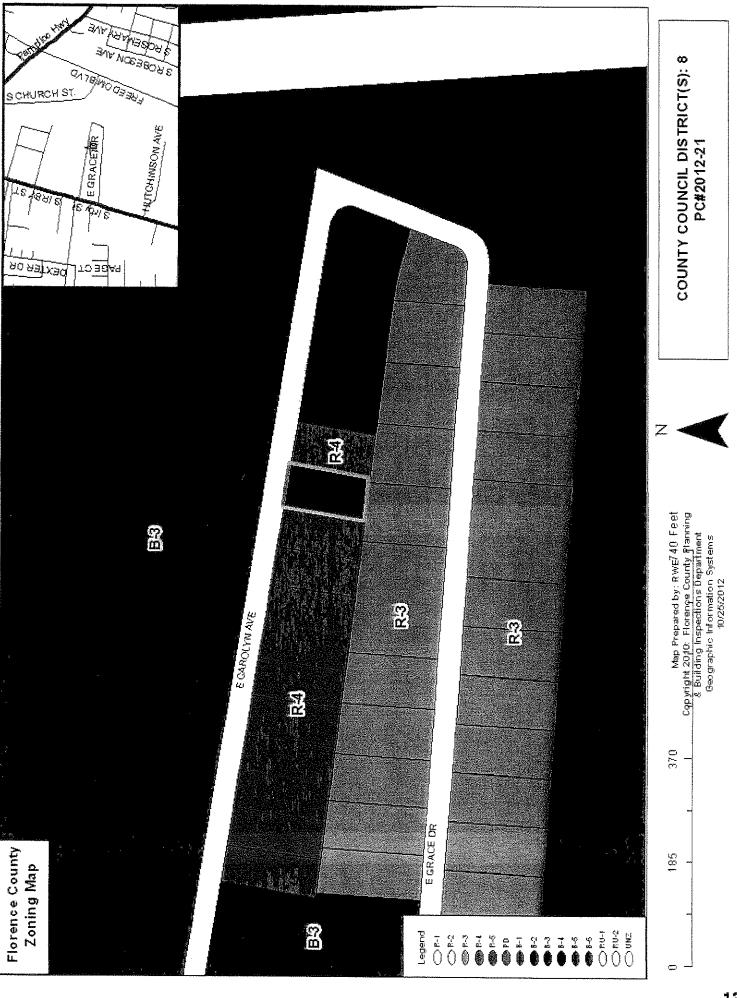
The six Planning Commission members present voted unanimously to adopt a resolution recommending that County Council amend the Comprehensive Plan Land Use Map.

Florence County Planning Commission Recommendation:

Florence County Planning Commission recommends approval of the request to the Florence County Council for a Suburban Development land use designation to provide areas in suburban settings that are expected to have increasing community significance with opportunities for residential, commercial, and industrial uses that enhance the area as a whole.









FLORENCE COUNTY COUNCIL MEETING

Thursday, December 13, 2012

AGENDA ITEM: Ordinance No. 20-2012/13

Introduction

<u>DEPARTMENT:</u> Planning and Building Inspections/

ISSUE UNDER CONSIDERATION:

[An Ordinance To Rezone Property Owned By Doulaveris Holdings, LLC. Located At 306 East Carolyn Avenue, Florence, As Shown On Florence County Tax Map No. 90095, Block 01, Parcel 019; Consisting Of Approx. 0.518 Acres From B-3, General Commercial District To R-4, Multi-Family Residential District, Limited; And Other Matters Related Thereto.] (Planning Commission approved 6 to 0; Council District 8)

POINTS TO CONSIDER:

1. The subject property is currently zoned B-3, General Commercial District.

- Surrounding land uses consist of a mixture of vacant land and single-family residential zoned B-3, General Commercial District, R-3, Single-Family Residential District and R-4, Multi-Family Residential District, Limited.
- 3. The Comprehensive Plan currently designates the subject property as Commercial Growth and Preservation and currently the zoning amendment request to R-4 does not comply.
- 4. The zoning designation of R-4, Multi-Family Residential District, Limited for the subject property will comply with the Comprehensive Plan with the approval of the land use amendment request to Suburban Development.

OPTIONS:

- 1. (Recommended) Approve As Presented.
- 2. Provide An Alternate Directive.

ATTACHMENTS:

- 1. Ordinance No. 20-2012/13
- 2. Staff report for PC#2012-19
- 3. Location Map
- 4. Comprehensive Plan Land Use Map
- 5. Zoning Map
- 6. Aerial Map

Sponsor(s)	:	Planning Commission	I,			
Planning Commission Consideration	:	November 27, 2012	Council	Clerk.	certify	that
Planning Commission Public Hearing	:	November 27, 2012		Ordina		was
Planning Commission Action	:	November 27, 2012[Approved:6to0]	advertise	d fo	or F	ublic
First Reading/Introduction	:	December 13, 2012	Hearing			-
Committee Referral	;	N/A	_			
County Council Public Hearing	:	N/A				
Second Reading	:					
Third Reading						
Effective Date	:	Immediately				
		•				

ORDINANCE NO. 20-2012/13

COUNCIL-ADMINISTRATOR FORM OF GOVERNMENT FOR FLORENCE COUNTY

[An Ordinance To Rezone Property Owned By Doulaveris Holdings, LLC. Located At 306 East Carolyn Avenue, Florence, As Shown On Florence County Tax Map No. 90095, Block 01, Parcel 019; Consisting Of Approx. 0.518 Acres From B-3, General Commercial District To R-4, Multi-Family Residential District, Limited; And Other Matters Related Thereto.

WHEREAS:

- 1. The Florence County Council must be satisfied that this Zoning Atlas amendment will not be 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 in general; and
- 2. The amendment procedure established in the Florence County Code, Chapter 30-Zoning Ordinance has been followed by the Florence County Planning Commission at a public hearing on November 27, 2012.

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

- 1. Property located at 306 East Carolyn Avenue, Florence, bearing Tax Map 90095, Block 01, Parcel 019 is hereby rezoned to R-4, Multi-Family Residential District, Limited.
- 2. Provisions in other Florence County ordinances in conflict with this Ordinance are hereby repealed.
- 3. 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	Florence County Council, Chairman
	COUNCIL VOTE: OPPOSED:
Approved as to Form and Content D. Mallov McEachin, Ir. County Attorney	ABSENT:

STAFF REPORT TO THE

FLORENCE COUNTY PLANNING COMMISSION

Tuesday, November 27, 2012 PC#2012-19

ORDINANCE NO. 20-2012/13

SUBJECT:

Rezoning request from B-3, General Commercial

District to R-4, Multi-Family Residential District.

Limited

LOCATION:

Property is located at 306 E. Carolyn Avenue,

Florence County

TAX MAP NUMBER:

90095, Block 01, Parcel 019

COUNCIL DISTRICT(S):

8; County Council

OWNER OF RECORD:

Doulaveris Holdings, LLC.

APPLICANT:

Doulaveris Holding, LLC,

LAND AREA:

0.518 Acres

WATER /SEWER AVAILABILITY:

These services are provided by the City of Florence.

ADJACENT WATERWAYS/

BODIES OF WATER:

There does not appear to be any waterway/body of

water adjacent to the property.

FLOOD ZONE:

The property is not located in a flood zone.

STAFF ANALYSIS:

1. Existing Land Use and Zoning:

The subject property is currently single-family residential and zoned B-3, General Commercial District.

2. Proposed Land Use and Zoning:

The proposal is to rezone the subject property to R-4, Multi-Family Residential District, Limited.

3. Surrounding Land Use and Zoning:

North: Vacant/B-3/City of Florence

South: South-Family Residential/R-3/Florence County West: Single-Family Residential/R-4/Florence County East: Single-Family Residential/B-3/Florence County

4. Transportation Access and Circulation:

Present access to the property is by way of Carolyn Avenue.

5. Traffic Review:

The rezoning of this property will not have an effect on traffic flow for the area.

6. Florence County Comprehensive Plan:

The subject property is currently located in a Commercial Growth and Preservation area according to the Comprehensive Plan Land Use map. The applicant is proposing to rezone this property to R-4. The request for the zoning amendment to R-4 does not presently comply with the Comprehensive Plan Land Use map. However, staff is moving forward with the request to amend the land use designation to Suburban Development. When the amendment is approved for the land use designation change, the zoning amendment of the subject property from B-3 to R-4 will be in compliance with the Comprehensive Plan Land Use map.

7. Chapter 30-Zoning Ordinance:

The intent of the R-4, Multi-Family Residential District, Limited is intended to promote and accommodate residential development consisting principally of single-family and two-family dwellings and related support uses.

STAFF RECOMMENDATION:

Staff recommends approval of the zoning amendment request based on the request being in compliance with the Land Use Map and Land Use Element of the Comprehensive Plan with the land use amendment request approval.

FLORENCE COUNTY PLANNING COMMISSION ACTION-TUESDAY, OCTOBER 23, 2012:

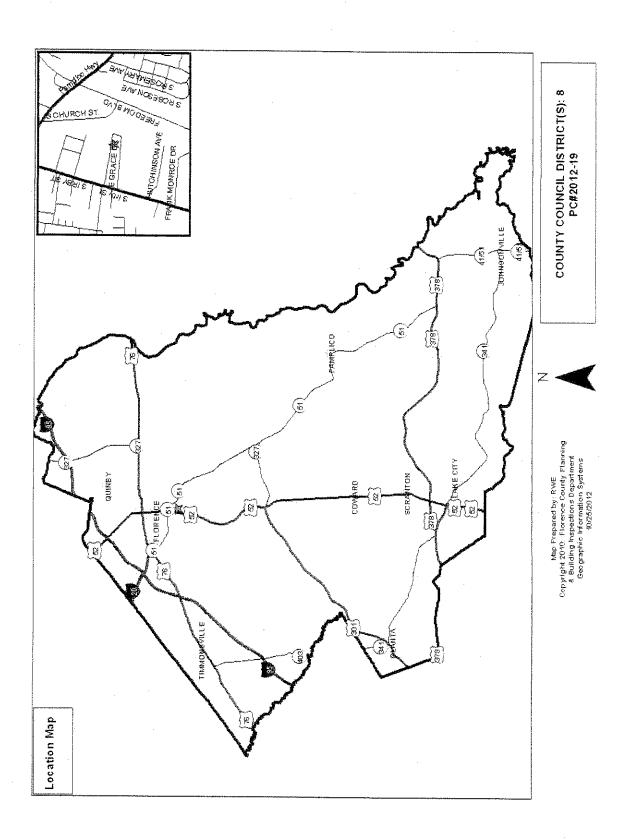
Planning Commission deferred request until the next regularly scheduled meeting.

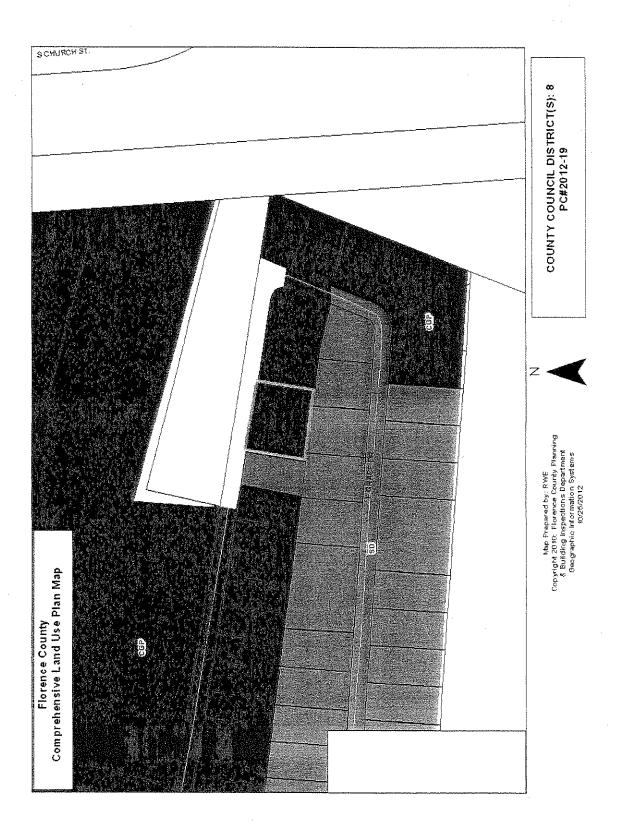
FLORENCE COUNTY PLANNING COMMISSION ACTION-TUESDAY, NOVEMBER 27, 2012:

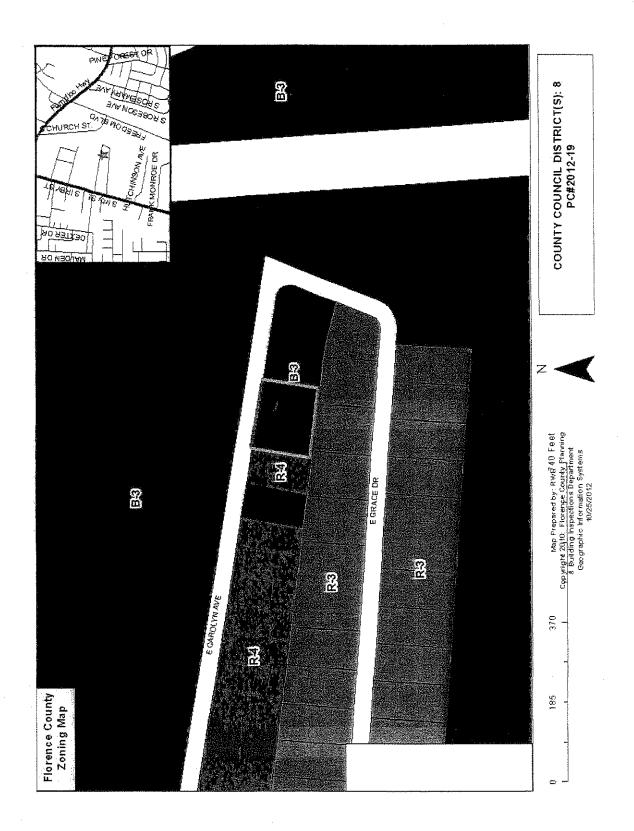
The six Planning Commission members present approved the zoning amendment request unanimously based on the request being in compliance with the Land Use Map and Land Use Element of the Comprehensive Plan with the approval of the land use amendment request at the meeting held on November 27, 2012.

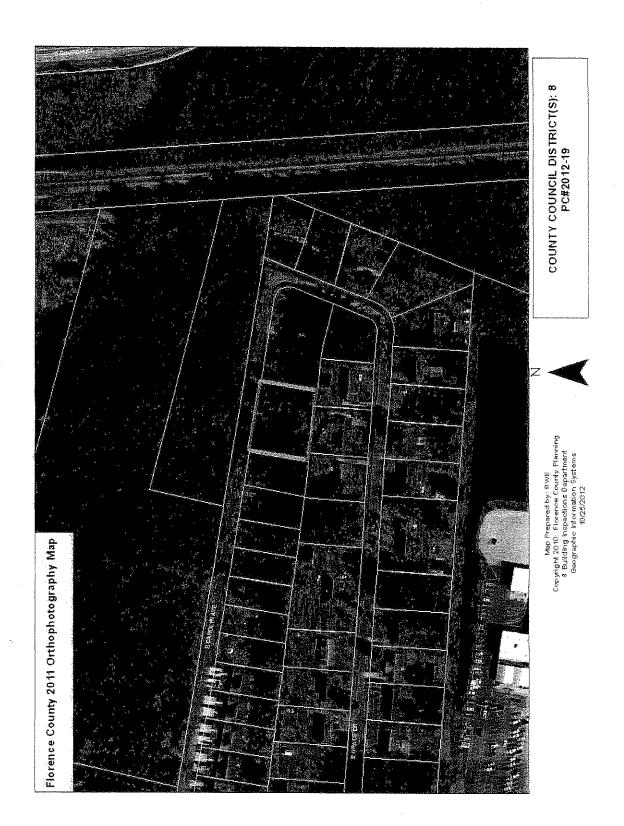
FLORENCE COUNTY PLANNING COMMISSION RECOMMENDATION:

The Planning Commission recommends approval of the zoning amendment request to Florence County Council based on the request being in compliance with the Land Use Map and Land Use Element of the Comprehensive Plan with the approval of the land use amendment request.









FLORENCE COUNTY COUNCIL MEETING

Thursday, December 13, 2012

AGENDA ITEM: Ordinance No. 21-2012/13

Introduction

<u>DEPARTMENT:</u> Planning and Building Inspections

ISSUE UNDER CONSIDERATION:

[An Ordinance To Rezone Property Owned By James R. And Karen E. Kelly Located At 222 East Carolyn Avenue, Florence, As Shown On Florence County Tax Map No. 90095, Block 01, Parcel 020; Consisting Of Approx. 0.262 Acres From B-3, General Commercial District To R-4, Multi-Family Residential District, Limited; And Other Matters Related Thereto.] (Planning Commission approved 6 to 0; Council District 8)

POINTS TO CONSIDER:

1. The subject property is currently zoned B-3, General Commercial District.

2. Surrounding land uses consist of vacant land zoned B-3, General Commercial District, R-3, Single-Family Residential District and R-4, Multi-Family Residential District, Limited.

3. The Comprehensive Plan currently designates the subject property as Commercial Growth and Preservation and currently the zoning amendment request to R-4 does not comply.

4. The zoning designation of R-4, Multi-Family Residential District, Limited for the subject property will comply with the Comprehensive Plan with the approval of the land use amendment request to Suburban Development.

OPTIONS:

- 1. (Recommended) Approve As Presented.
- 2. Provide An Alternate Directive.

ATTACHMENTS:

- 1. Ordinance No. 21-2012/13
- 2. Staff report for PC#2012-22
- 3. Location Map
- 4. Comprehensive Plan Land Use Map
- 5. Zoning Map
- 6. Aerial Map

Sponsor(s)
Planning Commission Consideration
Planning Commission Public Hearing
Planning Commission Action
First Reading/Introduction
Committee Referral
County Council Public Hearing
Second Reading
Third Reading
Effective Date

Planning Commission	Ι,
November 27, 2012	Council Clerk, certify that
November 27, 2012	this Ordinance was
November 27, 2012 [Approved: 6 to 0]	advertised for Public
December 13, 2012	Hearing
N/A	on .
N/A	

Immediately

ORDINANCE NO. 21-2012/13

COUNCIL-ADMINISTRATOR FORM OF GOVERNMENT FOR FLORENCE COUNTY

[An Ordinance To Rezone Property Owned By James R. And Karen E. Kelly Located At 222 East Carolyn Avenue, Florence, As Shown On Florence County Tax Map No. 90095, Block 01, Parcel 020; Consisting Of Approx. 0.262 Acres From B-3, General Commercial District To R-4, Multi-Family Residential District, Limited; And Other Matters Related Thereto.]

WHEREAS:

- 1. The Florence County Council must be satisfied that this Zoning Atlas amendment will not be 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 in general; and
- 2. The amendment procedure established in the Florence County Code, Chapter 30-Zoning Ordinance has been followed by the Florence County Planning Commission at a public hearing on November 27, 2012.

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

- 1. Property located at 222 East Carolyn Avenue, Florence, bearing Tax Map 90095, Block 01, Parcel 020 is hereby rezoned to R-4, Multi-Family Residential District, Limited.
- 2. Provisions in other Florence County ordinances in conflict with this Ordinance are hereby repealed.
- 3. 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	Florence County Council, Chairman
	COUNCIL VOTE: OPPOSED:
Approved as to Form and Content D. Malloy McEachin, Jr., County Attorney	ABSENT:

STAFF REPORT TO THE

FLORENCE COUNTY PLANNING COMMISSION

Tuesday, November 27, 2012 PC#2012-22

ORDINANCE NO. 21-2012/13

SUBJECT:

Rezoning request from B-3, General Commercial

District to R-4, Multi-Family Residential District,

Limited

LOCATION:

Property is located at 222 E. Carolyn Avenue,

Florence County

TAX MAP NUMBER:

90095, Block 01, Parcel 020

COUNCIL DISTRICT(S):

8; County Council

OWNER OF RECORD:

James R. & Karen E. Kelly

APPLICANT:

Florence County Planning Commission

LAND AREA:

0.262 acres

WATER /SEWER AVAILABILITY:

These services are provided by the City of Florence.

ADJACENT WATERWAYS/

BODIES OF WATER:

There does not appear to be any waterway/body of

water adjacent to the property.

FLOOD ZONE:

The property is not located in a flood zone.

STAFF ANALYSIS:

1. Existing Land Use and Zoning:

The subject property is currently single-family residential and zoned B-3, General Commercial District.

2. Proposed Land Use and Zoning:

The proposal is to rezone the subject property to R-4, Multi-Family Residential District, Limited.

3. Surrounding Land Use and Zoning:

North: Vacant/B-3/City of Florence South: Vacant/R-3/Florence County West: Vacant/R-4/Florence County East: Vacant//R-4/Florence County

4. Transportation Access and Circulation:

Present access to the property is by way of Carolyn Avenue.

5. Traffic Review:

The rezoning of this property will not have an effect on traffic flow for the area.

6. Florence County Comprehensive Plan:

The subject property is currently located in a Commercial Growth and Preservation area according to the Comprehensive Plan Land Use map. The applicant is proposing to rezone this property to R-4. The request for the zoning amendment to R-4 does not presently comply with the Comprehensive Plan Land Use map. However, staff is moving forward with the request to amend the land use designation to Suburban Development. When the amendment is approved for the land use designation change, the zoning amendment of the subject property from B-3 to R-4 will be in compliance with the Comprehensive Plan Land Use map.

7. Chapter 30-Zoning Ordinance:

The intent of the R-4, Multi-Family Residential District, Limited is intended to promote and accommodate residential development consisting principally of single-family and two-family dwelling, and related support uses.

STAFF RECOMMENDATION:

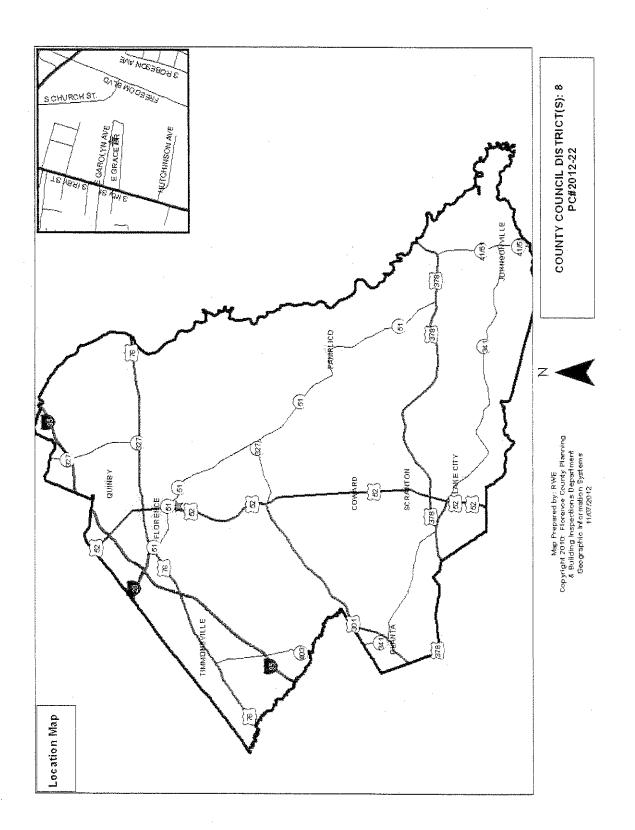
Staff recommends approval of the zoning amendment request based on the request being in compliance with the Land Use Map and Land Use Element of the Comprehensive Plan with the land use amendment request approval.

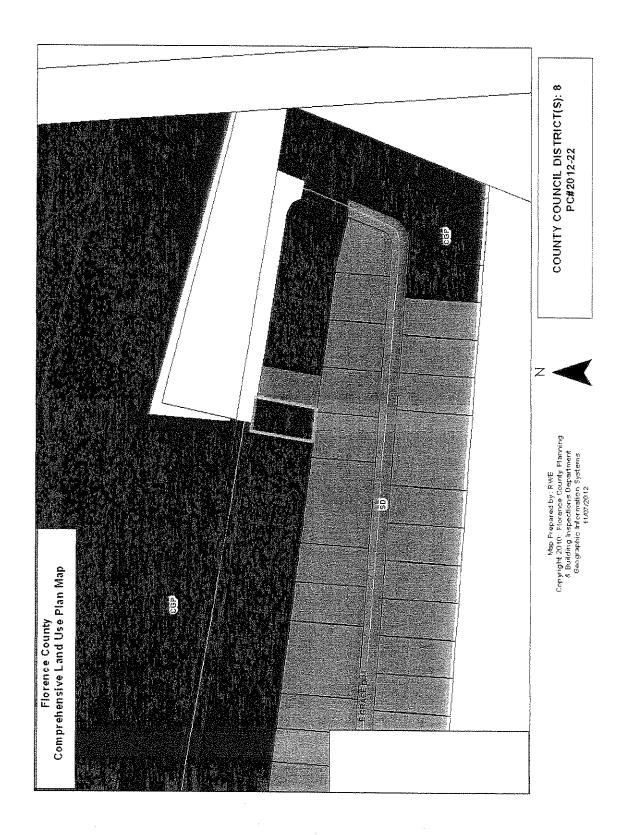
FLORENCE COUNTY PLANNING COMMISSION ACTION-TUESDAY, NOVEMBER 27, 2012:

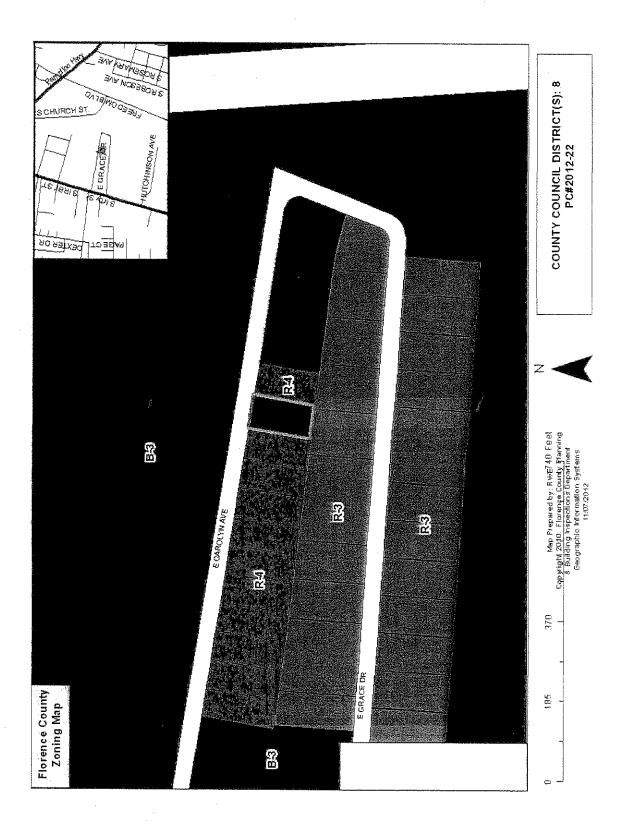
The six Planning Commission members present approved the zoning amendment request unanimously based on the request being in compliance with the Land Use Map and Land Use Element of the Comprehensive Plan with the approval of the land use amendment request at the meeting held on November 27, 2012.

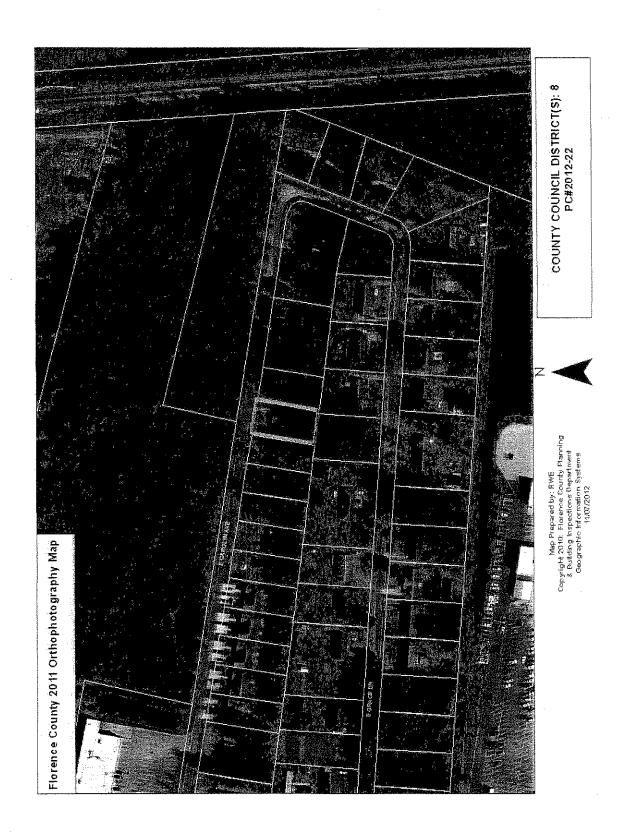
FLORENCE COUNTY PLANNING COMMISSION RECOMMENDATION:

The Planning Commission recommends approval of the zoning amendment request to Florence County Council based on the request being in compliance with the Land Use Map and Land Use Element of the Comprehensive Plan with the approval of the land use amendment request.









FLORENCE COUNTY COUNCIL MEETING

Thursday, December 13, 2012

AGENDA ITEM: Ordinance No. 22-2012/13

Introduction

DEPARTMENT: Engineering Department / //

ISSUE UNDER CONSIDERATION:

[An Ordinance To Amend The Florence County Code, Chapter 9.5, Drainage And Stormwater Management, Article 1. General, Division 2. General, Sec. 9.5-16. Finding Of Fact., Section (b)(2) and (c); And Other Matters Related Thereto.] (Planning Commission approved 6-0: All Council Districts)

POINTS TO CONSIDER:

- 1. Chapter 9.5 Drainage and Stormwater Management Ordinance was adopted August 16, 2007,
- 2. The Planning Commission and Engineering Department staff developed the amendments to make the Ordinance compliant with the new National Pollutant Discharge Elimination System (NPDES) general permit.

OPTIONS:

- 1. (Recommended) Approve as Presented.
- 2. Provide an Alternate Directive.

ATTACHMENTS:

- 1. Ordinance No. 22-2012/13 Existing w/Markup
- 2. Ordinance No. 22-2012/13 New Proposed
- 3. Staff report for PC#2012-23

Sponsor(s)
Planning Commission Consideration
Planning Commission Public Hearing
Planning Commission Action
First Reading/Introduction
Committee Referral
County Council Public Hearing
Second Reading
Third Reading
Effective Date

Engineering Department
November 27, 2012
November 27, 2012
November 27, 2012
November 27, 2012
N/A

Immediately

I,
Council Clerk, certify that this
Ordinance was advertised for
Public Hearing on
November 13, 2012
N/A

ORDINANCE NO. 22-2012/13

COUNCIL-ADMINISTRATOR FORM OF GOVERNMENT FOR FLORENCE COUNTY

[An Ordinance To Amend The Florence County Code, Chapter 9.5, Drainage And Stormwater Management, Article 1. General, Division 2. General, Sec. 9.5-16. Finding Of Fact., Section (b)(2) and (c); And Other Matters Related Thereto.

WHEREAS:

- 1. Chapter 9.5 Drainage and Stormwater Management was adopted into the Florence County Code of Ordinances on August 16, 2007; and
- 2. The South Carolina Department of Health and Environmental Control (SCDHEC) issued an update to the National Pollutant Discharge Elimination System (NPDES) General Permit for Stormwater Discharges from Construction Activities on October 15, 2012; and
- 3. The Florence County Code of Ordinances must be maintained as compliant with the current NPDES permit.

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

1. The Florence County Code, Chapter 9.5, Drainage and Stormwater Management, Article 1. General, Division 2. General, Sec. 9.5-16. Finding Of Fact., Section (b)(2) and (c) is hereby amended to read as follows:

Sec. 9.5-16. - Finding of fact.

- (a) The county council finds and declares that the matters set forth in the recitals hereof are in all respects correct.
- (b) The county is required by federal law [33 U.S.C 1342(p) and 40 CFR 122.261] to obtain a NPDES permit from the South Carolina Department of Health and Environmental Control (SCDHEC) for stormwater discharges from the Florence County Stormwater System. The NPDES permit requires the county to impose controls to reduce the discharge of pollutants in stormwater to the maximum extent practicable using management practices, control techniques and system, design and engineering methods, and such other provisions that are determined to be appropriate for the control of such pollutants. The permit should be in compliance with the following, except as modified by more stringent requirements of this chapter:

- (1) Standards of Stormwater Management and Sediment Reduction Regulation 72-305 "Permit Application and Approval Process" and 72-307 "Specific Design Criteria, Minimum Standards, and Specifications".
- (2) NPDES General Permit for Stormwater Discharges from Large and Small Construction Activities [Permit No. SCR100000].
- (3) NPDES General Permit for Stormwater Discharges from Regulated Small Municipal Separate Storm Sewer Systems (MS4s) [Permit. No. SCR03000].
- Additionally, certain facilities that discharge stormwater associated with an industrial activity, including land-disturbing activities, are required to obtain their own respective NPDES permits. Also, the South Carolina Stormwater Management and Sediment Reduction Act [S.C. Code 48-14-10 et seq.] requires the county to obtain a permit for certain land-disturbing activities.
- 2. Provisions in other Florence County Ordinances in conflict with this Ordinance are hereby repealed.
- 3. 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

Florence County Council, Chairman

COUNCIL VOTE: OPPOSED:

ABSENT:

Approved as to Form and Content

D. Malloy McEachin, Jr., County Attorney

Sponsor(s)
Planning Commission Consideration
Planning Commission Public Hearing
Planning Commission Action
First Reading/Introduction
Committee Referral
County Council Public Hearing
Second Reading
Third Reading
Effective Date

Engineering Department I, November 27, 2012 Council Clerk, certify that this November 27, 2012 Ordinance was advertised for November 27, 2012[Approved: 6-0] Public Hearing on ______. December 13, 2012 N/A

Immediately

ORDINANCE NO. 22-2012/13

COUNCIL-ADMINISTRATOR FORM OF GOVERNMENT FOR FLORENCE COUNTY

[An Ordinance To Amend The Florence County Code, Chapter 9.5, Drainage And Stormwater Management, Article 1. General, Division 2. General, Sec. 9.5-16. Finding Of Fact., Section (b)(2) and (c); And Other Matters Related Thereto.]

WHEREAS:

- 1. Chapter 9.5 Drainage and Stormwater Management was adopted into the Florence County Code of Ordinances on August 16, 2007; and
- 2. The South Carolina Department of Health and Environmental Control (SCDHEC) issued an update to the National Pollutant Discharge Elimination System (NPDES) General Permit for Stormwater Discharges from Construction Activities on October 15, 2012; and
- 3. The Florence County Code of Ordinances must be maintained as compliant with the current NPDES permit.

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

1. The Florence County Code, Chapter 9.5, Drainage and Stormwater Management, Article 1. General, Division 2. General, Sec. 9.5-16. Finding Of Fact., Section (b)(2) and (c) is hereby amended to read as follows:

Sec. 9.5-16. - Finding of fact.

- (a) The county council finds and declares that the matters set forth in the recitals hereof are in all respects correct.
- (b) The county is required by federal law [33 U.S.C 1342(p) and 40 CFR 122.261] to obtain a NPDES permit from the South Carolina Department of Health and Environmental Control (SCDHEC) for stormwater discharges from the Florence County Stormwater System. The NPDES permit requires the county to impose controls to reduce the discharge of pollutants in stormwater to the maximum extent practicable using management practices, control techniques and system, design and engineering methods, and such other provisions that are determined to be appropriate for the control of such pollutants. The permit should be in compliance with the following, except as modified by more stringent requirements of this chapter:

- (1) Standards of Stormwater Management and Sediment Reduction Regulation 72-305 "Permit Application and Approval Process" and 72-307 "Specific Design Criteria, Minimum Standards, and Specifications".
- (2) NPDES General Permit for Stormwater Discharges from Construction Activities [Permit No. SCR100000].
- (3) NPDES General Permit for Stormwater Discharges from Regulated Small Municipal Separate Storm Sewer Systems (MS4s) [Permit. No. SCR03000].
- Additionally, certain facilities that discharge stormwater associated with an industrial activity, including land-disturbing activities, are required to obtain their own respective NPDES permits. Also, the South Carolina Stormwater Management and Sediment Reduction Act [S.C. Code 48-14-10 et seq.] requires the county to obtain a permit for certain land-disturbing activities.
- 2. Provisions in other Florence County Ordinances in conflict with this Ordinance are hereby repealed.
- 3. 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

Florence County Council, Chairman

COUNCIL VOTE:

OPPOSED:

Approved as to Form and Content

ABSENT:

D. Malloy McEachin, Jr., County Attorney

STAFF REPORT TO THE

FLORENCE COUNTY PLANNING COMMISSION

Tuesday, November 27, 2012 PC#2012-23 ORDINANCE NO. 22-2012/13

SUBJECT:

Request for text amendments to the Florence County Code, Chapter 9.5,

Drainage and Stormwater Management, Section 9.5-16 (b), Finding of Fact, Purpose of the amendment is to update the current ordinance to be

compliant with the new NPDES General permit.

APPLICANT:

Florence County Engineering Department

STAFF ANALYSIS:

South Carolina Department of Health and Environmental Control (SCDHEC) issued an update to the National Pollutant Discharge Elimination System (NPDES) General Permit for Stormwater Discharges from Construction Activities on October 15, 2012.

Chapter 9.5 Drainage and Stormwater Management the Florence County Code of Ordinances will need to be amended in order to be in compliance with the revised NPDES permit.

The Florence County Code, Chapter 9.5, Drainage and Stormwater Management, Section 9.5-16 (b), The text amendments shall read as follows:

Sec. 9.5-16. - Finding of fact.

- a) The county council finds and declares that the matters set forth in the recitals hereof are in all respects correct.
- b) The county is required by federal law [33 U.S.C 1342(p) and 40 CFR 122.261] to obtain a NPDES permit from the South Carolina Department of Health and Environmental Control (SCDHEC) for stormwater discharges from the Florence County Stormwater System. The NPDES permit requires the county to impose controls to reduce the discharge of pollutants in stormwater to the maximum extent practicable using management practices, control techniques and system, design and engineering methods, and such other provisions that are determined to be appropriate for the control of such pollutants. The permit should be in compliance with the following, except as modified by more stringent requirements of this chapter:
 - Standards of Stormwater Management and Sediment Reduction Regulation 72-305
 "Permit Application and Approval Process" and 72-307 "Specific Design Criteria, Minimum Standards, and Specifications".
 - 2) NPDES General Permit for Stormwater Discharges from Large and Small Construction Activities [Permit No. SCR100000].

- 3) NPDES General Permit for Stormwater Discharges from Regulated Small Municipal Separate Storm Sewer Systems (MS4s) [Permit. No. SCR03000].
- <u>c</u>) Additionally, certain facilities that discharge stormwater associated with an industrial activity, including land-disturbing activities, are required to obtain their own respective NPDES permits. Also, the South Carolina Stormwater Management and Sediment Reduction Act [S.C. Code 48-14-10 et seq.] requires the county to obtain a permit for certain land-disturbing activities.

Florence County Planning Commission Action: November 27, 2012:

The six Planning Commission members present voted unanimously to adopt a resolution recommending that County Council amend the Drainage and Stormwater Management Ordinance.

Florence County Planning Commission Recommendation:

Florence County Planning Commission recommends approval of the request to Florence Council in order to keep County Ordinances current and accurate.

FLORENCE COUNTY COUNCIL MEETING

December 13, 2012

AGENDA ITEM: Introduction - Ordinance No. 23-2012/13

<u>DEPARTMENT</u>: County Council

ISSUE UNDER CONSIDERATION:

An Ordinance Authorizing The Execution And Delivery Of A Special Source Revenue Credit Agreement Between Florence County, South Carolina And QVC, Inc.

OPTIONS:

- 1. (Recommended) Introduce Ordinance No. 23-2012/13.
- 2. Provide an alternate directive.

ATTACHMENTS:

Copy Of Proposed Ordinance No. 23-2012/13 And Associated Agreement

Sponsor(s)	: Economic Development	
First Reading	: December 13, 2012	I,,
Committee Referral	: N/A	Council Clerk, certify that this
Committee Consideration Date	: N/A	Ordinance was advertised on
Committee Recommendation	: N/A	for Public Hearing.
Public Hearing	:	•
Second Reading	:	
Third Reading	;	
Effective Date	•	

ORDINANCE NO. 23-2012/13

COUNCIL-ADMINISTRATOR FORM OF GOVERNMENT FOR FLORENCE COUNTY

(An Ordinance Authorizing The Execution And Delivery Of A Special Source Revenue Credit Agreement Between Florence County, South Carolina And QVC, Inc.)

Be it ordained by the Council of Florence County, South Carolina:

Section 1. (a) The Council finds and determines that

- (1) QVC, Inc., a Delaware corporation ("QVC"), has established a distribution facility in Florence County (the "County"), representing a capital investment in land, buildings, and personal property in a total amount exceeding \$100,000,000 (the "Project");
- (2) The Project is currently located in a multi-county business or industrial park pursuant to S.C. Code Ann. 4-1-170 et seq. (the "MCBP Act"); and
- (3) QVC and the County entered into a Fee Agreement dated February 2, 2006 (the "Fee Agreement). Under the Fee Agreement, the County permitted QVC to pay a fee in lieu of taxes on with respect to QVC's qualified investments in the Project made during the five-year Investment Period (as defined in the Fee Agreement). On or about ______, 2012, the County extended the Investment Period by an additional five years. QVC may make additional investments in the County from time to time (collectively, the "Expansion Project") during the Investment Period under the Fee Agreement.
- (4) In order to encourage QVC to make such additional investments in the County, the County desires to provide QVC with a special source revenue credit pursuant to S.C. Code Ann. Section 4-29-68 and 4-1-175 of the MCBP Act upon the total investment in the Project reaching certain investment thresholds.
- (5) The purposes to be accomplished by the inducement of the Expansion Project are proper governmental and public purposes and the inducement of the Expansion Project within the State of South Carolina is of paramount importance and the benefits of the Expansion Project are greater than the cost, and the Project is anticipated to benefit the general public welfare of the County in that the proposed Expansion Project will increase the County's tax base, and will provide and/or maintain services, employment, and other public benefits not otherwise provided locally, and the Expansion Project will give rise to no pecuniary liability of the County,

or a charge against its general credit or taxing power.

(b) It is the purpose of this ordinance to more specifically provide for the inducements offered to QVC by authorizing and approving a Special Source Revenue Credit Agreement which provides for special source revenue credits against fee in lieu of tax payments generated by the Expansion Project.

Section 2. The Council Chair and the Council Secretary are authorized, empowered and directed, in the name of and on behalf of Florence County, to execute, acknowledge, and deliver a Special Source Revenue Credit Agreement by and between QVC and Florence County (the "Credit Agreement"). The Clerk to Council is authorized to attest the execution of the Credit Agreement by the County officials. The form of the Credit Agreement is attached to this ordinance as Exhibit A and all terms, provisions and conditions of the Credit Agreement are incorporated into this ordinance as if the Credit Agreement were set out in this ordinance in its entirety. By adoption of this ordinance, County Council approves the Credit Agreement and all of its terms, provisions and conditions. The Credit Agreement is to be in substantially the form as attached to this ordinance and hereby approved, or with such changes therein as the Council Chair and Council Secretary determine, upon advice of counsel, necessary and that do not materially change the matters contained in the form of the Credit Agreement.

Section 3. The Council Chair, Council Secretary, Clerk to Council, County Administrator, County Attorney and all other appropriate officials of the County are authorized to execute, deliver and receive any other agreements and documents as may be required in order to carry out, give effect to, and consummate the transactions contemplated by the Credit Agreement.

<u>Section 4.</u> To the extent this ordinance contains provisions that conflict with provisions contained elsewhere in the Florence County Code or other County ordinances, the provisions contained in this ordinance supersede all other provisions and this ordinance is controlling.

<u>Section 5.</u> If any section of this ordinance is, for any reason, determined to be void or invalid by a court of competent jurisdiction, it shall not affect the validity of any other section of this ordinance which is not itself void or invalid.

SIGNED:
Chairman Florence County Council
COUNCIL VOTE: OPPOSED: ABSENT:

D. Malloy McEachin, Jr., County Attorney

Exhibit A to Ordinance No. ____

Special Source Revenue Credit Agreement by and between QVC, Inc. and Florence County

See attached.

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SPECIAL SOURCE REVENUE CREDIT AGREEMENT

between

FLORENCE COUNTY, SOUTH CAROLINA

and

QVC, INC.

Dated as of January 1, 2013

1

Columbia: 1729955 v.6

SPECIAL SOURCE REVENUE CREDIT AGREEMENT

THIS SPECIAL SOURCE REVENUE CREDIT AGREEMENT, dated as of January 1, 2013 (the "Agreement"), between FLORENCE COUNTY, SOUTH CAROLINA, a body politic and corporate, and a political subdivision of the State of South Carolina (the "County"), and QVC, INC., a corporation organized and existing under the laws of the State of Delaware (the "Company").

WITNESSETH:

WHEREAS, the County, acting by and through its County Council (the "County Council") is authorized by Sections 4-1-175 and 4-29-68 of the Code of Laws of South Carolina 1976, as amended, to provide special source revenue credits for the purpose of defraying the cost of designing, acquiring, constructing, improving, or expanding the infrastructure serving the County and for improved and unimproved real estate and personal property, including machinery and equipment used in the operation of a manufacturing facility or commercial enterprise in order to enhance the economic development of the County; and

WHEREAS, the Company may invest additional capital over the next five (5) years in its distribution facility ("Facility") located in the County (the "Expansion Project"); and

WHEREAS, the County and Williamsburg County established a joint industrial and business park (the "Park") by entering into an Agreement for the Development of a Joint Industrial and Business Park, dated February 6, 2006, pursuant to the provisions of Article VIII, Section 13 of the South Carolina Constitution (the "Park Agreement"); and

WHEREAS, the Facility is included in the Park Agreement; and

WHEREAS, pursuant to the provisions of the Park Agreement, as amended, the Company's payments in lieu of taxes are distributed to Williamsburg County (the "Williamsburg Fee Payments") and to the County (the "Florence Fee Payments"); and

WHEREAS, the County has agreed to provide special source revenue credits against the Florence Fee Payments as further provided herein, subject to the terms and conditions below; and

WHEREAS, tl	he County	Council	has	duly	authorized	execution	and	delivery	of	this
Agreement by ordinance	ce duly enac	cted by th	e Co	unty (Council on		,	2012, foll	owi	ng a
public hearing held on		, 201	2, in	comr	oliance with	the terms o	f the	Act.		

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

ARTICLE I DEFINITIONS

The terms defined in this Article I shall for all purposes of this Agreement have the meanings herein specified, unless the context clearly otherwise requires. Except where the context otherwise requires, words importing the singular number shall include the plural number and *vice versa*.

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

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

"Company" shall mean QVC, Inc. and its successors and assigns.

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

"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.

"Company" shall mean QVC, Inc., a Delaware corporation.

"Event of Default" shall mean, with reference to this Agreement, any of the occurrences described in Section 5.01 hereof.

"Florence Fee Payments" shall mean payments in lieu of taxes allocated to and retained by the County with respect to the Expansion Project as provided by the Park Agreement.

"Infrastructure" shall mean the Expansion Project's infrastructure (whether located on or off the Property), and improved and unimproved real estate and personal property including machinery and equipment used in the operation of the Expansion Project, all as defined and permitted under the Act.

"Ordinance" shall mean the ordinance enacted by the County Council on ______, 2012, authorizing the execution and delivery of this Agreement.

"Park" shall mean the Joint Industrial and Business Park established pursuant to the terms of the Park Agreement.

"Park Agreement" shall mean the Agreement for the Development of a Joint Industrial and Business Park, dated February 6, 2006, between the County and Williamsburg County, as amended or supplemented.

"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.

"Special Source Revenue Credits" or "Credits" shall mean the credit to the Company's fee in lieu of tax payments in the amounts set forth in Section 3.02 hereof in accordance with the Act.

ARTICLE II REPRESENTATIONS AND WARRANTIES

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

- (a) The County is a body politic and corporate and a political subdivision of the State of South Carolina and is authorized and empowered by the provisions of the Act to enter into the transactions contemplated by this Agreement and to carry out its obligations hereunder. By proper action by the County Council, the County has been duly authorized to execute and deliver this Agreement, and any and all agreements collateral thereto.
- (b) The County desires to provide a special source revenue credit, as more particularly described in Section 3.02, against the fee-in-lieu of tax liability of the Company for the Expansion Project, the effect of which is to reimburse the Company, to the extent of the credit, for the cost to the Company for the acquisition and construction of the Infrastructure, all for the purpose of promoting the economic development of Florence County, South Carolina.
- <u>SECTION 2.02.</u> Representations by the Company. The Company makes the following representations and warranties as the basis for the undertakings on its part herein contained:
- (a) The Company is a corporation duly organized, validly existing, and in good standing, under the laws of the State of Delaware, has power to enter into this Agreement, and by proper company action has been duly authorized to execute and deliver this Agreement.
 - (b) The Company has invested in excess of \$100,000,000 in the County at the Facility.

SECTION 2.03. Covenants of County.

- (a) The County covenants that it will at all times maintain its corporate existence and it will comply with all valid acts, rules, regulations, orders, and directions of any legislative, executive, administrative, or judicial body applicable to this Agreement.
- (b) The County covenants that it will from time to time and at the expense of the Company execute and deliver such further instruments and take such further action as may be reasonable and as may be required to carry out the purpose of this Agreement; provided, however, that such instruments or actions shall never create or constitute an indebtedness of the County within the meaning of any state constitutional provision (other than the provisions of Article X, Section 14(10) of the South Carolina Constitution) or statutory limitation and shall never constitute or give rise to a pecuniary liability of the County or a charge against its general credit or taxing power or pledge the credit or taxing power of the State, or any other political subdivision of the State.

ARTICLE III SPECIAL SOURCE REVENUE CREDITS

SECTION 3.01. Payment of Costs of Infrastructure. The Company agrees to pay, or cause to be paid, all costs of the Infrastructure to be financed as and when due. The Company agrees to complete the acquisition and construction of the Infrastructure pursuant to the plans and specifications developed by the Company from time to time during the period commencing with the date hereof and ending on December 31, 2017. The plans and specifications for the Infrastructure may be modified from time to time as deemed necessary by the Company.

SECTION 3.02. Special Source Revenue Credits.

(a) The County hereby provides a credit equal to a percentage of the fee in lieu of tax payments derived from the Expansion Project commencing at the time that and for as long as the Total Capital Expenditures of the Company (without regard to depreciation) are as follows:

Total Capital Expenditures	Annual SSRC Percentage
Less than \$100,000,000	0%
Over \$100,000,000 up to \$125,000,000	10%
Over \$125,000,000 up to \$150,000,000	15%
Over \$150,000,000 up to \$160,000,000	30%
Over \$160,000,000	45%

"Total Capital Expenditures" shall mean the total gross costs as reported each year on the Company's PT-300 Property Return. The Credits shall be applied against the amount due by the Company to the County by deducting such amount from the property or fee in lieu of tax bill to the Company. For the avoidance of doubt, Total Capital Expenditures include all capital expenditures of the Company commencing with property tax year 2007.

For example, and by way of example only, if the Company's Total Capital Expenditures are \$125,000,000, the Company would be entitled to a credit of 10% against the fee in lieu of tax payments derived from \$25,000,000. If the Company's Total Capital Expenditures subsequently reach \$150,000,000, the Company would be entitled to a 15% credit against the fee in lieu of tax payments derived from \$50,000,000.

The Credits shall continue through December 31, 2036. Should, in any given year, the Total Capital Expenditures drop below \$100,000,000, there shall be no Credit until such time as the Total Capital Expenditures again reach a level where a Credit is applicable.

- (b) In case the foregoing paragraph is found to be invalid by a court of competent jurisdiction, the County agrees to provide the Company with a credit in an amount and for a term that is valid pursuant to such court ruling.
- BECOMING DUE HEREON ARE LIMITED OBLIGATIONS OF THE COUNTY AND ARE PROVIDED BY THE COUNTY SOLELY FROM THE FLORENCE FEE PAYMENTS DERIVED BY THE COUNTY FROM THE COMPANY PURSUANT TO THE PARK AGREEMENT, AND DO NOT AND SHALL NEVER CONSTITUTE AN INDEBTEDNESS OF THE COUNTY WITHIN THE MEANING OF ANY CONSTITUTIONAL PROVISION (OTHER THAN THE PROVISIONS OF ARTICLE X, SECTION 14(10) OF THE SOUTH CAROLINA CONSTITUTION) OR STATUTORY LIMITATION AND DO NOT AND SHALL NEVER CONSTITUTE OR GIVE RISE TO A PECUNIARY LIABILITY OF THE COUNTY OR A CHARGE AGAINST ITS GENERAL CREDIT OR TAXING POWER. THE FULL FAITH, CREDIT, AND TAXING POWER OF THE COUNTY ARE NOT PLEDGED FOR THE SPECIAL SOURCE REVENUE CREDITS.
- (d) No breach by the County of this Agreement shall result in the imposition of any pecuniary liability upon the County or any charge upon its general credit or against its taxing power. The liability of the County under this Agreement or of any warranty herein included or for any breach or default by the County of any of the foregoing shall be limited solely and exclusively to the Florence Fee Payments received from the Company. The County shall not be required to execute or perform any of its duties, obligations, powers, or covenants hereunder except to the extent of the Florence Fee Payments received from the Company.

ARTICLE IV CONDITIONS TO DELIVERY OF AGREEMENT; TITLE TO INFRASTRUCTURE

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

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

- (b) Such additional certificates (including appropriate no-litigation certificates and certified copies of ordinances, resolutions, or other proceedings adopted by the County), instruments or other documents as the Company may reasonably request.
- SECTION 4.02. Transfers of Expansion Project. The County hereby acknowledges that the Company may from time to time and in accordance with applicable law, sell, transfer, lease, convey, or grant the right to occupy and use the Expansion Project, in whole or in part, to others. No sale, lease, conveyance, or grant shall relieve the County from the County's obligations to provide Special Source Revenue Credits to the Company, or its assignee of such payments, under this Agreement, as long as the required Total Capital Expenditures are maintained by the Company or its assignee.

<u>SECTION 4.03.</u> Assignment by County. The County shall not attempt to assign, transfer, or convey its obligations to provide Special Source Revenue Credits hereunder to any other Person.

ARTICLE V DEFAULTS AND REMEDIES

SECTION 5.01. Events of Default. If either party shall fail duly and punctually to perform any material covenant, condition, agreement or provision contained in this Agreement on the part of such party to be performed, which failure shall continue for a period of 30 days after written notice by the other party specifying the failure and requesting that it be remedied is given to the defaulting party by registered mail, return receipt requested, such party shall be in default under this Agreement (an "Event of Default").

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

- (a) 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 Agreement;
 - (b) bring suit upon this Agreement;
- (c) by action or suit in equity require the County to account as if it were the trustee of an express trust for the Company;
- (d) exercise any or all rights and remedies in effect in the State of South Carolina, or other applicable law, as well as all other rights and remedies possessed by the Company; or
- (e) by action or suit in equity enjoin any acts or things which may be unlawful or in violation of its rights.

SECTION 5.03. Legal Proceedings by the County. Upon the happening and continuance of any Event of Default by the Company, then and in every such case the County in it discretion may (a) enforce its rights under Section 3.02(a) of this Agreement in case of a failure to meet the

investment requirement; or (b) in case of a failure to pay fee in lieu of tax payments or ad valorem taxes, enforce its rights as are provided by South Carolina law.

SECTION 5.04. Remedies Not Exclusive. No remedy in this Agreement conferred upon or reserved to the Company is intended to be exclusive of any other remedy or remedies, and each and every such remedy shall be cumulative and shall be in addition to every other remedy given under this Agreement or now or hereafter existing at law or in equity or by statute.

SECTION 5.05. Nonwaiver. No delay or omission of the Company to exercise any right or power accruing upon any default or Event of Default shall impair any such right or power or shall be construed to be a waiver of any such default or Event of Default, or an acquiescence therein; and every power and remedy given by this Article V to the Company may be exercised from time to time and as often as may be deemed expedient.

ARTICLE VI MISCELLANEOUS

<u>SECTION 6.01.</u> Successors and Assigns. All the covenants, stipulations, promises, and agreements in this Agreement contained, by or on behalf of, or for the benefit of, the County, shall bind or inure to the benefit of the successors of the County from time to time and any officer, board, commission, agency, or instrumentality to whom or to which any power or duty of the County, shall be transferred.

SECTION 6.02. Provisions of Agreement for Sole Benefit of County and Company. Except as in this Agreement otherwise specifically provided, nothing in this Agreement expressed or implied is intended or shall be construed to confer upon any Person other than the County and the Company any right, remedy, or claim under or by reason of this Agreement, this Agreement being intended to be for the sole and exclusive benefit of the County and the Company.

SECTION 6.03. Severability. In case any one or more of the provisions of this Agreement shall, for any reason, be held to be illegal or invalid, the illegality or invalidity shall not affect any other provision of this Agreement, and this Agreement and the Credits shall be construed and enforced as if the illegal or invalid provisions had not been contained herein or therein.

SECTION 6.04. No Liability for Personnel of County or Company. No covenant or agreement contained in this Agreement shall be deemed to be the covenant or agreement of any member, agent, or employee of the County or its governing body or the Company or any of its officers, employees, or agents in his individual capacity, and neither the members of the governing body of the County nor any official executing this Agreement shall be liable personally on the Credits or the Agreement or be subject to any personal liability or accountability by reason of the issuance thereof.

<u>SECTION 6.05.</u> Notices. All notices, certificates, requests, or other communications under this Agreement shall be sufficiently given and shall be deemed given, unless otherwise required by this Agreement, when (i) delivered or (ii) sent by facsimile and confirmed by United States first-class registered mail, postage prepaid, addressed as follows:

(a)	if to the County:	Florence County, South Carolina Attn: Florence County Administrator
	with a copy to:	
(b)	if to the Company:	QVC, INC. Attn:
	with a copy to:	Haynsworth Sinkler Boyd, P.A. Attn: Edward G. Kluiters 1201 Main Street, Suite 2200 Columbia, South Carolina 29201

The County and the Company may, by notice given under this Section 6.05, designate any further or different addresses to which subsequent notices, certificates, requests or other communications shall be sent.

SECTION 6.06. Applicable Law. The laws of the State of South Carolina shall govern the construction of this Agreement.

<u>SECTION 6.07.</u> Counterparts. This Agreement may be executed in any number of counterparts, each of which, when so executed and delivered, shall be an original; but such counterparts shall together constitute but one and the same instrument.

<u>SECTION 6.08.</u> Amendments. This Agreement may be amended only by written agreement of the parties hereto.

SECTION 6.09. Waiver. Either party may waive compliance by the other party with any term or condition of this Agreement only in a writing signed by the waiving party.

IN WITNESS WHEREOF, Florence County, South Carolina, has caused this Agreement to be executed by the Chairman of its County Council and its corporate seal to be hereunto affixed and attested by the Clerk of its County Council and QVC has caused this Agreement to be executed by its authorized officer, all as of the day and year first above written.

FLORENCE COUNTY, SOUTH CAROLINA

	Chair, County Council
(County seal)	
ATTEST:	
Connie Y. Haselden, Clerk to Council	
	QVC, INC.
	By:
	Name:
	Its:

Columbia: 1729955 v.6

EXHIBIT A

LEGAL DESCRIPTION

All those certain pieces, parcels or tracts of land situate, lying and being in the County of Florence, State of South Carolina containing 262.87 acres as shown and set forth on that certain Plat of the same prepared for Alliance Consulting Engineers, Inc. by Nesbitt Surveying Co., Inc. dated December 1, 2005 and recorded December 12, 2005 in Plat Book 88 at Page 47, Florence County Records. This property is shown on the aforementioned Plat to be divided into two Tracts, namely Tract 1 (containing 261.39 acres) and Tract 2 (containing 1.48 acres), both of which are conveyed hereby; and it is bounded generally on the Northwest by the right-of-way of State Road S21-343, also known as TV Road or North Irby Street; on the Northeast by the run of Black Creek; on the Southeast by the run of an unnamed creek; and on the Southwest by the centerline of the old roadbed of State Road S21-358 and the right-of-way of State Road S21-26, also known as East McIver Road, all as shown on the aforementioned Plat, to which further reference is craved for a more complete and accurate description.

This being the same property conveyed to the Grantor by Deed of Nell Montgomery Kuker, having been recorded August 16, 1974 in Deed Book A-142, page 843 in the office of the Clerk of Court for Florence County.

Tax Map Number 00174-01-005

December 13, 2012

AGENDA ITEM: Introduction - Ordinance No. 24-2012/13

<u>DEPARTMENT</u>: County Council

ISSUE UNDER CONSIDERATION:

(An Ordinance To Amend Florence County Code Chapter 27, Public Roads And Ways, To Establish Procedures For The Abandonment And Closure Of Public Roads And Right-Of-Ways, And Other Matters Relating Thereto.)

OPTIONS:

- 1. (Recommended) Introduce Ordinance No. 24-2012/13.
- 2. Provide An Alternate Directive.

ATTACHMENT:

Ordinance No. 24-2012/13.

Sponsor(s)	: County Council	
First-Reading/Introduction	: December 13, 2012	Ι,
Committee Referral	: N/A	Council Clerk, certify that this
Committee Consideration Date	: N/A	Ordinance was advertised for
Committee Recommendation	: N/A	Public Hearing on
Public Hearing		
Second Reading	:	
Third Reading	;	
Effective Date	: Immediately	

ORDINANCE NO. 24-2012/13

COUNCIL-ADMINISTRATOR FORM OF GOVERNMENT FOR FLORENCE COUNTY

(An Ordinance To Amend Florence County Code Chapter 27, Public Roads And Ways, To Establish Procedures For The Abandonment And Closure Of Public Roads And Right-Of-Ways, And Other Matters Relating Thereto.)

WHEREAS:

- 1. Currently, there are no policies and procedures relating to the abandonment and closure of public roads and right-of-ways outlined in the Florence County Code; and
- 2. To ensure clarity and consistency in the processing of requests for road abandonment and closure, Council seeks to establish the policies and procedures set forth herein.

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

- 1. Florence County Code, Chapter 27, Public Roads and Ways, is hereby amended with the insertion of the language attached hereto and incorporated by reference.
- 2. Provisions in other Florence County ordinances in conflict with this Ordinance are hereby repealed.
- 3. 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. Has	selden, Council Clerk	Chairman, Florence County Council COUNCIL VOTE: OPPOSED:
* *	Fachin, Jr., County Attorney	ABSENT:

Chapter 27 – Public Roads and Ways Article V – Abandonment and Closure of Public Roads and Right-of-Ways

Sec. 27-65. Purpose

The purpose of this article is to establish policies and procedures relating to the abandonment and or closure of public roads and right-of-ways with the County.

Sec. 27-66. Policies and procedures for road closure.

- 1. Submission of application for road closure.
 - a. An application for proposed road closure shall be submitted to the Florence County Public Works Department. The application must be accompanied by a \$250 non-refundable processing fee, made payable to Florence County Public Works Department and the application must be filled out completely and include:
 - i. Name, address and telephone number of the person making the request for closure.
 - ii. Specific portion of the roadway requested to be closed shown on a tax map or plat.
 - iii. Short statement of the reason why the closure is requested. The application shall be signed by the abutting property owners and owners of all property who use the road as their only means of ingress/egress to their property. THERE MUST BE 100% PARTICIPATION OF ALL ADJACENT PROPERTY OWNERS. Property owners who sign the application for road closure acknowledge that their participation will indicate their release and indemnification of the County from any duty to maintain the closed portion of the road.
 - b. After receiving the application for road closure, the Public Works Department, with input from the EMS, Planning and Emergency Management Departments, will review the application to verify all property owner signatures, visit the site and conduct a thorough investigation, adequate to determine the following:
 - i. Whether the road in question is or ever has been a county road;
 - ii. Whether the road is still in general public use;
 - iii. Whether the county has any documentation relating to the status of the road, such as a dedication of right-of-way, easement or deed;
 - iv. Whether the road is subject to a prescriptive easement;
 - v. Whether there is any other information that would assist County Council in determining whether the best interests of the county shall be served by consenting to the closure of the road or by not so consenting.
 - c. Following the investigation, the Public Works Department will submit to the County Administrator or his designee, copies of all the pertinent information used for the review. If the Public Works Department makes a recommendation to disapprove the application, the application will not be presented for Council consideration. If the Public Works Department

makes a recommendation approving the application for road closure, the County Administrator and/or his designee will further review the matter prior to Council consideration.

2. Decision to approve application for road abandonment and closure.

The County Administrator will determine if the matter should move forward for Council consideration. If the application is approved for Council consideration, the County Administrator will direct the Public Works Department to post, at least fifteen (15) days prior to the next Council meeting, a Notice of Public Hearing sign on the roadway proposed to be closed. Additionally, A Notice of Public Hearing will appear in a newspaper of general circulation at least fifteen (15) days prior to the next Council meeting. The sign and newspaper advertisement will give notice to the fact that, at the next County Council meeting, a public hearing will be held to receive all written and oral presentations in favor and opposition to the road closure.

3. Public hearing; Council vote.

- a. At the Public Hearing, members of the public will have the opportunity to appear and make comments in favor of, or in opposition to the proposed road closure. The person making the application for road closure will be afforded an opportunity to state his/her position. At the close of the public hearing, the County Council will discuss the application and vote on a Resolution to approve or disapprove the application for road abandonment and closure.
- b. If the Council votes to approve the application for road abandonment and closure, the County will cease maintenance of the specific portion of the road requested to be closed and relinquish its prescriptive use of the road. Any road that is closed will not be returned to the county maintenance system without approval by the majority of the County Council.
- c. The individuals requesting the abandonment of maintenance and closure of the road, at no cost to the county, must have a registered land surveyor survey the property to be abandoned. The survey must be prepared and approved and in a recordable form. The applicants shall state that the property owners release and indemnify the county from any duty to maintain the road. At the recommendation of the county engineer, the county administrator shall have the authority to act on an application that involves a dead-end road; County Council shall have the authority to approve the application under all other circumstances. If the application is approved, the county engineer may require the property owners to place an appropriate sign alongside or at the end of the road.
- d. If it is determined by the county's planning department and public works department that the right-of-way will not be utilized by the county for road purposes, county council may approve a quit-claim deed conveying the county's interest to the owners of the adjoining property. Unless the owners of the adjoining property agree to another division, each may acquire that portion of the right-of-way adjacent to his/her property on his/her side of the right-of-way's centerline. The grantee(s) of the quit-claim deed(s) shall be responsible for preparing the deed(s) prior to county council's consideration of the request. Upon approval and execution of the deed(s), the grantee(s) shall be responsible for recording the deed(s) in the office of the register of deeds and for returning a filed copy to the office of the county attorney. The county council may require the grantee(s) to pay up to the fair market value, as determined by the county assessor's office, in exchange for the conveyance of the right-of-

way. Upon recordation of the deed, the county assessor's office shall adjust the appraisal of the adjoining parcels to reflect the value of the additional property.

Sec. 27-67.

In the event that County Council resolves not to close a county road any person or organization wishing to close an existing public street, road, or highway in the county to public traffic shall petition a court of competent jurisdiction in accordance with Section 57-9-10, et. seq. of the State Code of Laws. The petition shall name the county as a respondent. It shall be the responsibility of the petitioner to physically close the roadway if a petition is successful.





FLORENCE COUNTY ROAD ABANDONMENT APPLICATION

APPLICANT:	
NAME	
ADDRESS	
PHONE: (HOME)	(WORK)
APPLICANT'S SIGNATURE	
PROPOSED ROAD ABANDONMENT:	
ROAD NAME	
COUNCIL DISTRICT	ROAD NUMBER
BRIEFLY DESCRIBE PORTION OF ROADWA	AY TO BE ABANDONED
REASON FOR ABANDONMENT:	
	a \$250 non-refundable processing fee - check or money order)
For Office Use Only (To be completed by Public V	Vorks Department)
Date Received:	Fee Paid:
Received By:	
Date review completed:	Reviewed by:
Date Sent to Administration:	

THERE MUST BE 100% PARTICIPATION OF ALL ADJACENT PROPERTY OWNERS AND ALL PROPERTY OWNERS MUST SIGN THE APPLICATION. YOUR PARTICIPATION RELEASES AND INDEMNIFIES THE COUNTY FROM ANY DUTY TO MAINTAIN THE ROAD.

NAME (print and sign)	
ADDRESS	
PHONE (HOME)	(WORK)
NAME (print and sign)	
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NAME (print and sign)	
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THOME (HOME)	(WORK)
NAME (print and sign)	
ADDRESS	
PHONE (HOME)	(WORK)
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December 13, 2012

AGENDA ITEM: Ordinance No. 25-2012/13

<u>DEPARTMENT</u>: County Council

ISSUE UNDER CONSIDERATION:

An Ordinance To Amend Florence County Code Chapter 2, Administration, Article VI, Organization And Rules Of The Florence County Council, Section 2-248. Reading Of Ordinances, Resolutions And Appointments; Section 2-249. Revenue Measures To Be Referred To Committee On County Administration And Finances; And Other Matters Related Thereto.

OPTIONS:

- 1. (Recommended) Introduce Ordinance No. 25-2012/13.
- 2. Provide an alternate directive.

ATTACHMENTS:

Copy Of Proposed Ordinance No. 25-2012/13

Sponsor(s)	: County Council	
First Reading/Introduction	: December 13, 2012	L .
Committee Referral	: N/A	Council Clerk, certify that this
Committee Consideration Date	: N/A	Ordinance was advertised for
Committee Recommendation	: N/A	Public Hearing on
Public Hearing	:	The state of the s
Second Reading		•
Third Reading	:	
Effective Date	: Immediately	

ORDINANCE NO. 25-2012/13

COUNCIL-ADMINISTRATOR FORM OF GOVERNMENT FOR FLORENCE COUNTY

(An Ordinance To Amend Florence County Code Chapter 2, Administration, Article VI, Organization And Rules Of The Florence County Council, Section 2-248. Reading Of Ordinances, Resolutions And Appointments; Section 2-249. Revenue Measures To Be Referred To Committee On County Administration And Finances; And Other Matters Related Thereto.)

WHEREAS:

The Florence County Council has determined that sections of the Code which relate to the referring of ordinances to a committee needed some clarification.

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

- 1. Florence County Code Chapter 2, Administration, Article VI, Organization and Rules of the Florence County Council, Division 2, Meetings of the Council, Section 248, Reading of ordinances, resolutions and appointments, Sub-section 5, Introduction and required readings of ordinances, is hereby deleted in its entirety and replaced with the following language:
 - (5) Required readings of ordinances.
 - (a) Introduction of ordinance. Any member of council may introduce an ordinance for first reading at any regular meeting of the Council, and no advance notice of such introductions shall be required. The introduction of an ordinance shall constitute first reading thereof, and no vote shall be taken, and no debate or amendment shall be in order. The ordinance shall be in order. The ordinance may be introduced by title only, provided that the full text of the ordinance shall be included in the Agenda for second reading thereof. If a majority of Council concurs, an ordinance shall be referred by the Chairman to an appropriate committee.
 - (b) Second reading. On the day of the second reading of an ordinance, complete typewritten or printed copies of the text of the ordinance shall be included in the Agenda. After the proposed ordinance has been published by the Clerk to Council, amendments shall be in order, but shall not be considered unless they are germane to the proposed ordinance. If on first reading an ordinance is referred to a committee, committee reports on a proposed ordinance shall be made at the next consecutive meeting following first reading. Should the committee report be postponed beyond the next consecutive meeting, second reading shall be deferred until the next consecutive

meeting of the council following the committee report unless a majority of council desires to give it a second reading. After all amendments and privileged motions have been disposed of, the question shall be the passage of the ordinance. Upon a decision in the affirmative, the ordinance shall take its place on the Agenda for third reading.

- (c) Third reading. Full debate and any germane amendments shall be in order on third reading. No ordinance, code or policy shall be passed unless at least a majority of those members of council present shall have voted for its approval or passage.
- 2. Florence County Code Chapter 2, Administration, Article VI, Organization and Rules of the Florence County Council, Division 2, Meetings of the Council, Section 249, Revenue measures to be referred to committee on county administration and finances is hereby amended to read as follows:

Sec. 2-249. - Revenue measures to be referred to committee on county administration and finances.

All ordinances levying a tax, or incurring indebtedness or otherwise affecting county revenue shall be referred to the committee on county administration and finance, which shall report thereon before the council shall vote for their passage, unless the ordinance originates from the committee on administration and finance.

- 3. Provisions in other Florence County ordinances in conflict with this Ordinance are hereby repealed.
- 4. If any provision of this Ordinance or the application thereof to any person or circumstance is held invalid, the validity 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. Hasel	lden, Council Clerk	Chairman	
		COUNCIL VOTE: OPPOSED:	
	Form and Content	ABSENT:	

December 13, 2012

AGENDA ITEM: Reports to Council

Monthly Financial Reports

DEPARTMENT: Administration

ISSUE UNDER CONSIDERATION:

Monthly Financial Reports Are Provided To Council For Fiscal Year 2013 Through October 31, 2012 As An Item For The Record.

ATTACHMENTS:

Copies of the monthly financial reports.

FLORENCE COUNTY GOVERNMENT GENERAL FUND REVENUE & EXPENDITURE REPORT FY13 7/1/12 TO 10/31/12

		YEAR-TO-DATE		
REVENUES	BUDGETED REVENUE	ACTUAL REVENUE	REMAINING BALANCE	PCT
Taxes	35,540,067	30,334,432	5,205,635	14.65%
Licenses & Permits	1,329,750	353,426	976,324	73.42%
Fines & Fees	3,240,000	850,739	2,389,261	73.74%
Intergovernmental	5,926,783	1,943,741	3,983,042	67.20%
Sales and Other Functional	5,418,050	1,474,335	3,943,715	72.79%
Miscellaneous	499,000	69,134	429,866	86.15%
Operating Transfers	(1,452,343)	-	(1,452,343)	100.00%
Use of Fund Balance	- 1	~		
TOTAL	50,501,307	35.025.806	15.475.501	30.64%

FLORENCE COUNTY GOVERNMENT GENERAL FUND REVENUE & EXPENDITURE REPORT FY13 7/1/12 TO 10/31/12

YEAR-TO-DATE

		BUDGETED EXPENDITURE	ACTUAL EXPENDITURE	REMAINING BALANCE	PCT
	EXPENDITURES				
10-411-401	County Council	352,229	88,501	263,728	74.87%
10-411-402	Administrator	618,172	166,570	451,602	73.05%
10-411-403	Clerk of Court	1,821,092	562,447	1,258,645	69.11%
10-411-404	Solicitor	1,051,131	311,374	739,757	70.38%
10-411-405	Judge of Probate	507,403	153,823	353,580	69.68%
10-411-406	Public Defender	771,702	203,115	568,587	73.68%
10-411-407	Magistrates	2,239,713	695,895	1,543,818	68.93%
10-411-409	Legal Services	79,650	26,833	52,817	66.31%
10-411-410	Voter Registration & Elections	572,617	202,039	370,578	64.72%
10-411-411	Finance	753,545	239,669	513,876	68.19%
10-411-412	Human Resources	345,813	103,771	242,042	69.99%
10-411-413	Procurement & Vehicle Maintenance	589,131	205,166	383,965	65.17%
10-411-414	Administrative Services	399,454	130,669	268,785	67.29%
10-411-415	Treasurer	1,224,670	393,247	831,423	67.89%
10-411-416	Auditor	465,256	136,393	328,863	70.68%
10-411-417	Tax Assessor	1,301,398	366,525	934,873	71.84%
10-411-418	Planning and Building	2,084,547	506,152	1,578,395	75.72%
10-411-419	Complex	1,186,224	412,377	773,847	65.24%
10-411-420	Facilities Management	735,247	204,848	530,399	72.14%
10-411-427	Information Technology	1,560,218	439,591	1,120,627	71.83%
10-411-446	Veteran's Affairs	148,551	44,883	103,668	69.79%
10-411-480	Senior Citizen Centers	327,008	41,714	285,294	87.24%
10-411-485	General Direct Assistance	217,996	130,083	87,914	40.33%
10-411-488	Contingency	999,010	90,250	908,760	90.97%
10-411-489	Employee Non-Departmental	399,502	216,995	182,507	45.68%
10-421-421	Sheriff's Office	15,422,473	5,144,578	10,277,895	66.64%
10-421-422	Emergency Management	2,466,321	729,965	1,736,356	70.40%
10-421-481	Rural Fire Departments	15,140	986	14,154	93.49%
10-451-423	EMS	4,411,492	1,369,136	3,042,356	68.96%
10-451-424	Rescue Squads	537,798	92,098	445,700	82.87%
10-451-425	Coroner	282,034	74,930	207,104	73.43%
10-451-441	Health Department	80,934	23,390	57,545	71.10%
10-451-442	Environmental Services	733,706	196,495	537,211	73.22%
10-451-485	Health Direct Assistance	14,502	2,052	12,450	85.85%
10-461-485	Welfare - MIAP & DSS	427,134	172,330	254,804	59.65%
10-471-451	Recreation	1,784,270	725,755	1,058,515	59.32%
10-471-455	County Library	3,569,732	1,101,771	2,467,961	69.14%
10-481-485	Literacy Council	4,515	-	4,515	100.00%

TOTAL

50,501,330

15,706,416

34,794,914

68.90%

Percent of Fiscal Year Remaining = 66.67%

FLORENCE COUNTY BUDGET REPORT - OTHER FUNDS CURRENT PERIOD: 7/1/12 TO 10/31/12

	BUDGETED	YEAR TO DATE	REMAINING		BUDGETED	YEAR TO DATE	REMAINING	
	EXPENDITURE	CURRENT	BALANCE	PCT	REVENUE	CURRENT	BALANCE	PCT
45 County Debt Service Fund	3,723,817	231,137	3,492,680	93,79%	3,723,817	3,343,668	380,149	10.21%
112 Economic Development Partnership Fund	436,079	124,323	311,756	71.49%	436,079	53,853	382,226	87.65%
123 Local Accommodations Tax Fund	2,508,780	981,497	1,527,283	60.88%	2,508,780	559,187	1,949,643	77.71%
124 Local Hospitality Tax Fund	738,955	197,275	541,680	73.30%	738,955	371,492	367,463	49.73%
131 District Utility Allocation Fund	2,000,000	21.13	1,978,869	98.94%	2,000,000	2,000,000		0.00%
132 District Infrastructure Allocation Fund	1,315,000	73,264	1,241,736	94.43%	1,315,000	1,000,000	315,000	23.95%
151 Law Library Fund	87,787	5,483	82,304	93.75%	87,787	10,107	77,680	88,49%
153 Road System Maintenance Fee Fund	3,098,767	736,384	2,362,383	76.24%	3,098,767	964,427	2,134,340	68.88%
154 Victim/Witness Assistance Fund	192,119	55,928	136,191	70,89%	192,119	47,218	144,901	75.42%
421 Landfill Fund	4,131,276	1,044,643	3,086,633	74.71%	4,131,276	303,231	3,828,045	92.66%
431 E911 System Fund	486,254	79,384	406,870	83.67%	486,254	132,423	353,831	72,77%
TOTALS:	18,718,834	3,550,449	15,168,385	81.03%	18,718,834	8,785,556	9,933,278	53.07%

Percent of Fiscal Year Remaining: 66.67%

331 Capital Project Sales Tax (Florence County Forward road projects) received and interest earned (See separate attachment for additional details.)

\$114,845,124

Florence County Council District Allocation Balances October 31, 2012

Council District #	Type of Allocation	Beginning Budget FY12	Commitments & Current Year Expenditures	Current Available Balances
1	Infrastructure	162,165.00	48,233.00	113 :932/00
	Paving	167,125.00	1112 437.00	54,688.00
	Utility	253,623.00	_	253,623.00
and the	In-Kind	19,800.00	21,00	19,779,00
2	Infrastructure	35,000:00	14,250.00	20,750.00
	Paving	201,465.00	3:564:00	197,901,00
	Utility	-51,364.00	983.00	50,381.00
	In-Kind	19,800.00	19 19 19 19 19 19 19 19 19 19 19 19 19 1	19,800.00
3	Infrastructure	35,000.00	21,250.00	13,750.00
	Paving ***	211,878,00		211,878,00
	Utility	106,697.00	35,983.00	70,714.00
	In-Kind	19,800.00		1,9,800:00
4	Infrastructure	17/8,581:00	14,833.00	163,698.00
	Paving 1	100,998.00	30,180.00	70:818:00
	Utility	75,586.00	25,000.00	50,586.00
	In-Kind	19,800.00	- 10 (10 mg/s) (19,800.00
5	Infrastructure	41,128.00	(17.00)	41,145.00
	Paving -	99:387.00		99,387.00
	Utility	25,549.00	<u>.</u>	25,549.00
	In-Kind	# M9.800.00	98.00	19,702.00
6	Infrastructure	264,268.00	10,233.00	254,035.00
	Paving	252,910.00	- 100 - 100	252,910.00
	Utility	343,770.00	24,007.00	319,763.00
	In-Kind	19,800.00	3,248,00	16;552,00
7	Infrastructure	62,347.00	2,883.00	59,464.00
	Paving	211,021.00	73.00 - 1.00 - 1.00 - 1.00 - 1.00 - 1.00 - 1.00 - 1.00 - 1.00 - 1.00 - 1.00 - 1.00 - 1.00 - 1.00 - 1.00 - 1.00	211,021.00
	Utility	299,978.00	-	299,978.00
187 (187)	In-Kind	19,800.00		19,800.00
8	Infrastructure	178,520.00	1,250.00	177,270.00
	Páving	7.8.485.00	75	778,485.00
	Utility	-38,702:00	(17.00)	38,719.00
	In-Kind	19,800.00		19,800,00
9	Infrastructure	75,081.00	10,233.00	64,848.00
	Paving	110,303.00	61:625.00	48,678.00
·	Utility	122,962.00		122,962.00
	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 October 31, 2012

EXPENDITURES	Project Budget	Design or Engineering	Right of Way	Construction	Total Expended	Balance Unexpended	Budget % Expended
Pine Needles Road Widening	\$ 17,876,768,00	\$ 770.297.09	59 6	7,224,967,80 \$ 14,229,979,96	\$ 16,165,244.85	\$ 1511,523,15	91.45%
US 76 Widening	3 31.64 621.00	4, KZ	\$ 3,720,921,00 \$ 7,709,025,38	\$ 244,703.70 \$ 3,562.76	\$ 0,441,737.02	9 69	12,35%
TV Road Widening	\$ 34,519,290.00	1,95	\$ 1,824,485.83	\$ 59,704.50	\$ 3,839,928.21	· 69	11.12%
SC 51 Widening	\$ 151533,817.00	\$ 2,190,938.88	15,545,72	\$ 5,625.00	\$ 2212,109.60	\$ 149,321,707,40	1,46%
US 301 Bypass Extension			53	- -		\$ 73,464,146.00	0.00%
	\$ 447,587,262.00	\$ 447,587,262.00 \$ 11,527,861.30 \$		8,494,946.41 \$ 14,543,635.38 \$ 34,566,443.09 \$ 413,020,818.91	\$ 34,566,443.09	\$ 413,020,818.91	7.72%

Received/Earned Balance To Be Balance % to Date Rcvd/Earned		\$ 7,475,110.85 \$ 40,629,986.59 77.60% \$ \$ 229,690,248.52 \$ \$ 20,309,751.48 91.88%.	
Revenue Budget	\$ 148,000,000.00	\$ \$ 250,000,000,00	
REVENUES	Capital Project Sales Tax	Sales Tax Interest Earnings Earned State SIB Fund Match	

NOTE 1: Revenue Received/Earned to Date is as of September 30, 2012, since capital project sales tax is received from the state on a quarterly basis.

NOTE 2: Merchant collection of sales tax will conclude on April 30, 2014, unless total collections, excluding interest, exceed \$148,000,000 prior to that date.

December 13, 2012

AGENDA ITEM: Reports to Council

DEPARTMENT: Administration

ISSUE UNDER CONSIDERATION

Approve The 2013 Calendar Of Meeting Dates And Holidays.

ATTACHMENTS:

Copy of proposed Schedule of "County Council Meeting Dates for 2013" and "Official County Holidays for 2013."

COUNTY COUNCIL MEETING DATES FOR 2013

MEETING DATES/TIMES	SCAC & NACo MEETING DATES and OTHER INFORMATION	<u>AGENDA ITEMS DUE</u> [CUTOFF DATES]
JANUARY 17 / 9:00 A.M.		JANUARY 4
FEBRUARY 21 / 9:00 A.M.	SCAC – MID-YEAR CONFERENCE, COLUMBIA, SC FEB 20-21, 2013	FEBRUARY 8
MARCH 21 / 9:00 A.M.	NACo – LEGISLATIVE CONFERENCE WASHINGTON, DC MAR 2 – 6, 2013	MARCH 8
APRIL 18 / 9:00 A.M.		APRIL 5
MAY 16 / 9:00 A.M.		MAY3
JUNE 20 / 9:00 A.M.		JUNE 7
JULY 18 / 9:00 A.M.	NACo ANNUAL CONFERENCE – FORT WORTH, TEXAS JULY 19-23, 2013	JULY 5
AUGUST 22 / 9:00 A.M.	SCAC ANNUAL CONFERENCE & SC INSTITUTE CLASSES HILTON HEAD MARRIOTT, HILTON HEAD ISLAND, SC: AUGUST 3-7, 2013	AUGUST 9
SEPTEMBER 19 / 6:00 P.M.	HELD AT THE LAKE CITY BEAN MARKET MUSEUM	SEPTEMBER 6
OCTOBER 17 / 9:00 A.M.	SCAC INSTITUTE OF GOVERNMENT AND COUNTY COUNCIL COALITION – COLUMBIA, SC	OCTOBER 4
NOVEMBER 21 / 9:00 A.M.		NOVEMBER 8
DECEMBER 12 / 9:00 A.M.	SCAC LEGISLATIVE CONFERENCE - CHARLESTON, SC	NOVEMBER 29

OFFICIAL COUNTY HOLIDAYS FOR 2013

OBSERVANCE OF DR. MARTIN LUTHER KING, JR.'S BIRTHDAY	MONDAY, JANUARY 21
GOOD FRIDAY	FRIDAY, MARCH 29
MEMORIAL DAY	MONDAY, MAY 27
INDEPENDENCE DAY	THURSDAY, JULY 4
LABOR DAY	MONDAY, SEPTEMBER 2
THANKSGIVING DAY AND THE DAY AFTER THANKSGIVING	THURSDAY AND FRIDAY NOVEMBER 28-29
CHRISTMAS	TUESDAY THRU THURSDAY, DECEMBER 24 – 26
NEW YEAR'S DAY	WEDNESDAY, JANUARY 1, 2014

FLORENCE COUNTY COUNCIL MEETING December 13, 2012

AGENDA ITEM: Reports to Council

<u>DEPARTMENT:</u> Administration

ISSUE UNDER CONSIDERATION:

Council Is Requested To Approve A Request For Qualifications For Architectural And Space Planning Services For The City-County Complex Building Renovations And Additional Space Needed For County Functions In The Future To Be Funded By The City-County Building Commission.

POINTS TO CONSIDER:

- 1) The City of Florence anticipates vacating the currently occupied space in the City-County Complex by July 1, 2013.
- 2) An analysis of the City-County Complex is necessary in order to determine how the space vacated by the City of Florence could best be utilized based on departmental needs and county functions.
- 3) The analysis will be funded by the City-County Building Commission.

OPTIONS:

- 1) (Recommended) Approve as presented.
- 2) Provide an Alternate Directive.

December 13, 2012

AGENDA ITEM: Reports to Council

DEPARTMENT: Florence County Museum

Grants Department

ISSUE UNDER CONSIDERATION:

Council Is Requested To Approve The Submission Of A Grant Application For Funding In The Amount Of \$70,000 Under The Institute of Museum and Library Services (IMLS) Fiscal Year 2013 Museums for America Grant Program To Provide For Two Interactive Touch Screen Exhibits For The New Florence County Museum.

POINTS TO CONSIDER:

- The Florence County Museum will submit an application for IMLS Grant program funding to provide two interactive touch screen exhibits for the new Florence County Museum.
- 2) There is a required local match 1:1.

FUNDING FACTORS:

- 1) \$140,000 = Total FY 2013 Institute of Museum and Library Services (IMLS) Museums for America funding requested to cover two interactive touch screen exhibits for the new Florence County Museum.
- 2) \$70,000 = required local match to be funded from already approved museum construction funds.

OPTIONS:

- 1) (Recommended) Approve as presented.
- 2) Provide an Alternate Directive.

ATTACHMENTS:

Letter of Recommendation from the Florence County Museum Director.

Florence County Museum South Carolina



November 29, 2012

Dear Florence County Council,

I am requesting permission to submit a grant proposal in the amount of \$70,000.00 to the Institute of Museum and Library Services for their Museums for America program to provide funds for two interactive touchscreen tables to aid in the exhibition and interpretation of Florence County and the Pee Dee region of South Carolina.

Regards,

AndreW R. Stout

Florence County Museum

Director

December 13, 2012

AGENDA ITEM: Report to Council

Declaration of Surplus Property

<u>DEPARTMENT</u>: Procurement Department

ISSUE UNDER CONSIDERATION:

Declaration of various equipment from the Emergency Medical Services Department as surplus property for disposal through public internet auction via GovDeals and/or destruction.

POINTS TO CONSIDER:

- 1. Attached listing of various equipment is recommended to be declared surplus by the using department.
- 2. The equipment has little value or is obsolete to the using department.
- 3. Disposal will not impact on-going operations.
- 4. Florence County Code requires County Council approval for disposal of surplus property.
- 5. Disposal by internet auction is efficient and requires significantly less staff time/coordination than other public offer methods.
- 6. Some items are to be destroyed due to the nature of their use.

FUNDING FACTORS:

\$0=Cost of disposal by internet auction via GovDeals is 7% of highest winning bid paid.

OPTIONS:

- 1. (Recommended) Approve as presented.
- 2. Provide alternate instructions.

ATTACHMENTS:

List of various equipment.

Florence County EMS Surplus Property List

(November 2012)

	ITEM NAME	ASSET #	SERIAL#	MODEL /Misc.
1.	Ferno – Washington Ambulance Cot	No Tag	L380712	
2.	"	No Tag	L380714	
3.	4	No Tag	L380719	
4.	"	03202	L238245	
5.	и	No Tag	L377280	
6.	II .	No Tag	L313410	
7.	H.	No Tag	L412166	
8.	и	No Tag	L376620	
9.	H	No Tag	L781489	
	Nitrous Oxide Mixing Valve (MDS Matrix)			
1.	u	No Tag	F/NTNX1913	To be destroyed, not auctioned
2.	11	No Tag	F/NTNX1914	To be destroyed, not auctioned
3.	И	No Tag	F/NTNX1915	To be destroyed, not auctioned
4.	Н	No Tag	F/NTNX1648	To be destroyed, not auctioned
5.	· · ·	No Tag	F/NTNX1649	To be destroyed, not auctioned
6.	u	No Tag	0105FNX2515	To be destroyed, not auctioned
7.	u	No Tag	0105FNX2531	To be destroyed, not auctioned
8.		-		
1.	Physio-Control Cardiac Monitor	2076	004076	LP-5
	(To be sold as one item with defibrillator described below)			
2.	Physio-Control Defibrillator	2043	09-00285-3	LP-5
	(to be sold as one item with cardiac monitor described above)		1	
3.	Approximately 12 Aluminum Nitrous Oxide Cylinders	N/A	N/A	To be destroyed, not auctioned
4.	One lot o	f miscellaneous E	MS equipment (1-2 pal	lets)

December 13, 2012

AGENDA ITEM: Report to Council

Declaration of Surplus Property

<u>DEPARTMENT</u>: Procurement Department

ISSUE UNDER CONSIDERATION:

Declaration Of A 1979 Camelot Mobile Home As Surplus Property For Disposal Through Public Internet Auction Via GovDeals.

POINTS TO CONSIDER:

- 1. The 1979 Camelot Mobile Home, Serial# GDWVGA017931186512 has little value or is obsolete to the using department.
- 2. Disposal will not impact on-going operations.
- 3. Florence County Code requires County Council approval for disposal of surplus property.
- 4. The mobile home, a former residence at Lynches River County Park, was conveyed by the State to the County in addition to the park property.
- 5. Disposal by internet auction is efficient and requires significantly less staff time/coordination than other public offer methods.

FUNDING FACTORS:

\$0=Cost of disposal by internet auction via GovDeals is 7% of highest winning bid paid.

OPTIONS:

- 1. (Recommended) Approve as presented.
- 2. Provide Alternate Directive.

December 13, 2012

AGENDA ITEM: Reports to Council

<u>**DEPARTMENT:**</u> Procurement Department

ISSUE UNDER CONSIDERATION:

Request the appointment of a Council member to serve on the review panel for RFP #08-12/13 Shelving for Florence Museum.

December 13, 2012

AGENDA ITEM: Reports to Council

Bid Award

<u>DEPARTMENT:</u> Florence County Recreation

Procurement

ISSUE UNDER CONSIDERATION:

Approve Award Of Bid #10-12/13 For Resurfacing Of Five (5) Tennis Courts At Ebenezer Park In The Amount Of \$19,760 To Be Funded From A United States Tennis Association Grant and previously approved Council District #9 Infrastructure Funds. (2 Compliant Bids).

POINTS TO CONSIDER:

1) Bid #10-12/13 was publicly offered.

2) Three (3) bids were received; two (2) bids were compliant.

- 3) Tennico of Columbia, Inc. Columbia, SC was the lowest compliant bidder for the resurfacing of five (5) tennis courts at Ebenezer Park in the amount of \$19,760.
- 4) The Recreation Director recommends the bid award.
- 5) The bid expires March 27, 2013.

FUNDING FACTORS:

1) \$19,760 = Total cost of the resurfacing of five (5) tennis courts at Ebenezer Park to be funded from a United States Tennis Association grant and previously approved Council District #9 Infrastructure Funds.

OPTIONS:

- 1) (Recommended) Approve as presented.
- 2) Provide An Alternate Directive.

ATTACHMENTS:

- 1) Bid Tabulation Sheet.
- 2) Letter of Recommendation from Recreation Director.

Department: Parks and Recreation	4		Bid Opening Date: 11-27-2012	te: 11-27-2012
Resurfacing of (5) Tennis Courts @ Ebenezer Park	enezer Park		Time: 11:00 AM	
Invitation to Bid # 10-12/13			Advertisment Da	Advertisment Dates: MN 11-4-12
			Invitation to Bid Bid Expiration I	Invitation to Bids Distributed: 4 Bid Expiration Date: March 27, 2013
Name of Bidder	Meet Specs	Base Bid	Total Bid	Total Bid w/Non-Local (+2%)
Tennico of Columbia, Inc. Columbia, SC	Yes	\$19,760.00	\$19,760.00	\$20,155.20
Howard B. Jones & Son, Inc. Lexington, SC	Yes	\$23,375.00	\$23,375.00	\$23,842.50
Recreational Ventures, Inc. D/B/A Court One Youngsville, NC	No Reference List	\$29,412.00	\$29,412.00	\$30,000.24

Notes: 2% Local Preference Florence County Code, Section 11-62



Memorandum

To: Suzanne King, Administrative Services Division Director

From Woe Eason, Parks and Recreation Director

Date: 11/30/2012

Re: Award of Bid #10-12/13

I have reviewed the bids to resurface the tennis courts at Ebenezer Park and recommend award to Tennico of Columbia, Inc. Tennico of Columbia, Inc. met all of the minimum qualifications and is capable of completing the desired work on the established timeline. Your assistance in in processing this information for Council on behalf of our Department is greatly appreciated.

December 13, 2012

AGENDA ITEM: Reports to Council

South Carolina Department of Public Safety

<u>DEPARTMENT:</u> Florence County Sheriff's Office

Grants Department

ISSUE UNDER CONSIDERATION:

Council is requested to approve the submission of a grant application in the amount of \$124,400 under the South Carolina Department of Public Safety Justice Assistance Grant (JAG) Program to provide for the personnel and start-up costs for a Crime Scene/Forensic Investigator for the Florence County Sheriff's Office.

POINTS TO CONSIDER:

- 1) The Florence County Sheriff's Office will submit an application requesting South Carolina Department of Public Safety Justice Assistance (JAG) Grant Program funds to provide for personnel and equipment for a Crime Scene/Forensics Investigator to focus on violent crimes and forensic crime scene investigations and aid in the successful prosecution and conviction of violent crime offenders.
- 2) If awarded, the grant funds will fund the personnel and startup cost for an Investigator for one year.
- 3) The application will need to be resubmitted for years two and three.
- 4) There is a 10% required local match funds.
- 5) The County will be required to maintain and fully fund the staff position at the end of the last period funded by the grant.

FUNDING FACTORS:

- 1) \$124,400 = Total personnel and start-up cost for a Crime Scene/Forensic Investigator as outlined under the South Carolina Department of Public Safety Justice Assistance (JAG) Grant Program application for FY14.
- 2) \$12,440 = required local match for FY14 to be funded in Florence County Sheriff's Office FY 14 departmental budget.
- 3) FY 15 and FY 16 required match is 10% of the total funding received estimated to be \$7,405 and \$7,553, respectively.

OPTIONS:

- 1) (Recommended) Approve as presented.
- 2) Provide an Alternate Directive.

ATTACHMENTS:

Letter of Recommendation from the Florence County Sheriff.



FLORENCE COUNTY SHERIFF'S OFFICE

Kenney Boone, Sheriff

November 29, 2012

K.G. "Rusty" Smith, Jr. County Administrator 180 North Irby Street Florence, South Carolina 29501

RE: SCDPS Grant Application (JAG)

Dear Mr. Smith: L

The Florence County Sheriff's Office would ask that Council approve the submission of a South Carolina Department of Public Safety Justice Assistance Grant to provide for personnel and equipment for a Crime Scene/Forensics Investigator in the amount of \$124,400. If awarded, this would fund a specialized Investigator to focus on violent crimes and forensics crime scene investigations and aid in the successful prosecution and conviction of violent crime offenders.

Thank you for supporting our efforts.

William K. Boone

Florence County Sheriff

WKB/bc

December 13, 2012

AGENDA ITEM: Reports to Council

South Carolina Department of Public Safety

<u>DEPARTMENT:</u> Florence County Sheriff's Office

Grants Department

ISSUE UNDER CONSIDERATION:

Council is requested to approve the submission of a grant application in the amount of \$132,234 under the South Carolina Department of Public Safety Justice Assistance (JAG) Grant Program to provide for the personnel and start-up costs for a White Collar Crime/Identity Theft Investigator for the Florence County Sheriff's Office.

POINTS TO CONSIDER:

- 1) The Florence County Sheriff's Office will submit an application requesting South Carolina Department of Public Safety JAG funds to provide for personnel and equipment for a White Collar Crime/Identity Theft Investigator whose main focus will be on identity theft and cybercrimes to include computer forensic reconstruction to help combat increasing crimes.
- 2) If awarded, the grant will fund the personnel and startup cost for an Investigator for one year.
- 3) The application will need to be resubmitted for years two and three.
- 4) There is a 10% required local match funds.
- 5) The County will be required to maintain and fully fund the staff position at the end of the last period funded by the grant.

FUNDING FACTORS:

- 1) \$132,234 = Total personnel and start-up cost for an White Collar Crime/Identity Theft Investigator as outlined under the South Carolina Department of Public Safety Justice Assistance Grant Program (JAG) application for FY14.
- 2) \$13,223 = required local match for FY14 to be funded in Florence County Sheriff's Office FY 14 departmental budget
- 3) FY 15 and FY 16 required match is 10% of the total funding received estimated to be \$8,531 and \$8,701, respectively.

OPTIONS:

- 1) (Recommended) Approve as presented.
- 2) Provide an Alternate Directive.

ATTACHMENTS:

Letter of Recommendation from the Florence County Sheriff.



FLORENCE COUNTY SHERIFF'S OFFICE

Kenney Boone, Sheriff

November 29, 2012

K.G. "Rusty" Smith, Jr. County Administrator 180 North Irby Street Florence, South Carolina 29501

RE: SCDPS Grant Application (JAG)

Dear Mr. Smith:

The Florence County Sheriff's Office would ask that Council approve the submission of a South Carolina Department of Public Safety Justice Assistance Grant to provide for personnel and equipment for a White Collar Crime / Identity Theft Investigator in the amount of \$132,234. If awarded, this would fund a specialized Investigator to focus on identity theft and cybercrimes to include computer forensic reconstruction to help combat increasing crimes.

Thank you for supporting our efforts.

7000

Sincerely

William K. Boone Florence County Sheriff

WKB/bc

Florence County Council Meeting December 13, 2012

AGENDA ITEM: Other Business Infrastructure/Utility Project Requested by Council District 9 DEPARTMENT: County Council ISSUE UNDER CONSIDERATION: Approve The Expenditure Of Up To \$30,000 From Council Districts' Infrastructure/Utility Funding Allocations (As Indicated Below) To Assist The Environmental Discovery Center Committee With The Expansion Of The Environmental Discovery Center at Lynches River County Park. **FUNDING SOURCE:** XXX Infrastructure _____ Road System Maintenance Fee XXX Utility Requested by Councilmember: H. Morris Anderson, District 9 Amount: § Signed: Roger M. Poston Alphonso Bradley Mitchell Kirby Amount: \$ Signed: ____ Russell W. Culberson Waymon Mumford James T. Schofield Amount: § Signed: H. Morris Anderson Date: **ATTACHMENTS:** Letter of Request from Sterling Sadler, Environmental Discovery Center Committee Chair 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

November 13, 2012

Dr. H. Morris Anderson 4250 Blitsgel Drive Florence, SC 29501

Dear Dr. Anderson:

I wanted to take a moment and thank you for your support of the Environmental Discovery Center at Lynches River County Park. The Center served as a focal point for the Park, welcoming nearly 1,000,000 students and guests since opening in 2007. The Committee has remained active during this time, participating in special events and advising staff on various matters concerning the Center's future.

While we are overwhelmed with the support and success of the facility to date, our work is not finished. The Committee would like to explore the possibility of expanding the facility (and possibly construct a stand-alone facility) to house animals native to our area. We have reason to think our work on a project of this nature would be supported by the Doctors Bruce and Lee Foundation and USDA Rural Development – two significant contributors to the Environmental Discovery Center – but seed money is needed to develop a master plan for such a facility.

As Chair of the Committee, I am respectfully requesting support from County Council in the amount of \$30,000 to assist with the expansion of the Environmental Discovery Center at Lynches River County Park.

On behalf of the Committee, thank you for previous support and consideration of this request. I am excited about the possibility of expanding our educational opportunities and look forward to hearing from you in the near future.

Sincerely,

Sterling Sadler, Chair

Environmental Discovery Center Committee

Florence County Council Meeting December 13, 2012

AGENDA ITEM: Other Business Infrastructure/Utility Project Council Districts 3, 6, and 7 DEPARTMENT: County Council **ISSUE UNDER CONSIDERATION:** Approve The Expenditure Of Up To \$30,000 From Council Districts 3, 6, and 7 Infrastructure/Utility Funding Allocations For Facility Improvements At Francis Marion Recreation Complex. **FUNDING SOURCE:** XXX Infrastructure _____ Road System Maintenance XXX Utility Requested by Councilmember: **Amount:** \$10.000 (1/U) \$10,000 (I/U)\$10,000 (I/U) Signed: Alphonso Bradley Russell W. Culberson Waymon Mumford District 3 District 6 District 7 Date: ATTACHMENTS: None 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 July 19, 2012

AGENDA ITEM:	Other Busine Utility Proje Requested b		
DEPARTMENT:	County Cou	ncil	
ISSUE UNDER CO Approve The Expend To Assist The City C	liture Of Up T	ON: To \$20,000 From Council District 2 With Its Blue-field Water Project.	Utility Funding Allocation
FUNDING SOURC	<u>E:</u>		
Infrastructur	re	Road System Maintenance	XXX Utility
Requested by Coun	cilmember:		
Signed: verbally ap Roger M. P		ature pending	
Date:			
ATTACHMENTS:			
Letter from City of Jo	ohnsonville		
I, Connie Y. Haselde County Council at the	n, Clerk to Co above-referen	ounty Council, certify this item was need meeting, at which a majority of	approved by the Florence members were present.
Connie Y. Haselden,	Clerk to Coun	ci]	



City of Johnsonville

Post Office Box 428 JOHNSONVILLE, SOUTH CAROLINA 29555 TELEPHONE (843) 386-2069 FAX (843) 386-2626

February 24th, 2012

Mr. Roger Poston Florence County Council District 2 2504 Big Swamp Road Pamplico, SC 29583

Re: City of Johnsonville/Blue-field Water Project

Dear Roger.

Thank you for your support of the City of Johnsonville and lower Florence County! As you're aware from our previous conversations, there are several areas in the rural part of the county that are in desperate need of clean, safe drinking water. One location near Johnsonville is called the Blue-field Community; a majority of the residents that live in Blue-field have shallow wells producing an un-clear and dangerous supply of water.

The City of Johnsonville currently has a small water line in the area, but it is inadequate to provide the amount of water necessary to fulfill the needs of the homes in this part of the county. The City is would like to apply for a grant through the SC Department of Commerce CDBG program that if awarded, will allow us to upgrade the current line, and expand additional lines to the entire Blue-field Community.

This is an excellent program, but requires the city to match the project at 10% of the cost. In this case, the matching portion is \$40,000 dollars. We would like to request your assistance in securing these funds at the county level in order for the city to continue to pursue this project to the benefit of lower Florence County.

Thank you again for your support of Johnsonville. We look forward to a prosperous partnership, and we appreciate your careful consideration of this request. If you have any questions, or require additional information, please contact me at (843) 386-2069. Thank you.

Sincerely,

Scott Tanner/Administrator

City of Johnsonville

awarded June 2012

December 13, 2012

AGENDA ITEM Other Business
Council District #3

<u>DEPARTMENT</u>: County Council

ISSUE UNDER CONSIDERATION:

FINDING SOURCE

Approval of the expenditure of up to \$7,500.00 from Council District #3 funding allocations to pay for 220 feet of 24"concrete pipe, concrete blocks and concrete for W. Haskell Avenue in Brookgreen Subdivision.

Cost could be increased pending SCDOT Encroachment Permit. W. Haskell Avenue is a State Road (S-21-767).

The cost estimate was prepared by Florence County Public Works.

Funding availability subject to confirmation by the Finance Department

Infrastructure
Road System Maintenance V Utility
SIGNED: ON SHE FEE
Date: Councilmember: Alphonso Bradley
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 nembers were present.
Connie Y. Haselden, Clerk to Council

December 13, 2012

AGENDA ITEM: Special Presentation

Presentation of A Resolution of Appreciation & Recognition

The Honorable H. Morris Anderson

<u>DEPARTMENT</u>: County Council

ISSUE UNDER CONSIDERATION:

A Resolution Of Appreciation And Recognition For The Honorable H. Morris Anderson In Honor Of His Distinguished Service To The Citizens Of Florence County.

PROPOSED ADDITIONS TO THE DECEMBER 13, 2012 AGENDA

DESCRIPTION (Requested by)	DATE REC'D	<u>ITEM</u>
REPORTS TO COUNCIL:		
EMS	12/11/12	Authorize The Addition Of Twelve (12) EMT/Paramedic Permanent Positions To Staff Two (2) Full-Time Twenty-Four (24) Hour Medic Units Consistent With The Pay Levels And Certifications Of Current Staff To Be Funded From FY13 Budgeted Funds.
Procurement	12/11/12	The Chairman Is Requested To Appoint A Member Of Council To Serve On The Review Panel For RFQ #12-12/13 Architectural And Space Planning Services For The City-County Complex.
OTHER BUSINESS:		
Council District 3	12/11/12	Approve The Expenditure Of Up To \$200 From Council District 3 Infrastructure Funding Allocation To Assist The Town Of Quinby With Replacing The Net On The Tennis Court At The Recreation Complex In Quinby.
EXECUTIVE SESSION:		
County Attorney	12/11/12	Legal Matters

Additions To Agenda December 13, 2012

AGENDA ITEM: Reports to Council

DEPARTMENT: Emergency Medical Services

ISSUE UNDER CONSIDERATION:

Authorize The Addition Of Twelve (12) EMT/Paramedic Permanent Positions To Staff Two (2) Full-Time Twenty-Four (24) Hour Medic Units Consistent With The Pay Levels And Certifications Of Current Staff To Be Funded From FY 13 Budgeted Funds.

POINTS TO CONSIDER:

- 1. Section 9.3C(5) of the Personnel Policy Manual requires Council authorization for the addition of a permanent, new position on the County payroll.
- 2. Staffing a full-time medic unit requires two (2) EMT/Paramedics per shift, with three (3) shifts required to cover a 24/48 work period.
- 3. There is funding available in the FY 13 budgeted funds to cover the cost of the additional personnel for six months; however, there will need to be additional funding budgeted for FY 14 to cover the estimated annualized cost of these personnel.

FUNDING FACTORS:

- 1. \$385,000 = Cost for twelve additional EMT/Paramedic permanent positions for six months to be funded from FY 13 budgeted funds.
- 2. \$770,000 = Estimated annualized cost for twelve (12) additional EMT/Paramedic permanent positions required to be funded in FY 14 budget.

OPTIONS:

- 1) (Recommended) Approve as presented.
- 2) Provide an Alternate Directive.

Additions To Agenda December 13, 2012

AGENDA ITEM: Reports to Council

<u>DEPARTMENT:</u> Procurement Department

ISSUE UNDER CONSIDERATION:

Request the appointment of a Council member to serve on the review panel for RFQ #12-12/13 Architectural and Space Planning Services for the City-County Complex.

Florence County Council Meeting December 13, 2012

Other Business

AGENDA ITEM:

The state of the s	Infrastructure Project Requested by Council District 3			
	requested by Council District 5			
DEPARTMENT:	County Council			
ISSUE UNDER CONSIDERATION: Approve The Expenditure Of Up To \$200 From Council District 3 Infrastructure Funding Allocation To Assist The Town Of Quinby With Replacing The Net On The Tennis Court At The Recreation Complex In Quinby.				
FUNDING SOURCE	<u>E:</u>			
XXX Infrastructure	Road System Maintenance Utility			
Requested by Counc	cilmember:			
Signed: verbally approved-signature pending Alphonso Bradley				
Date:				
ATTACHMENTS:				
Letter of request from Town of Quinby				
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				

80 Dogwood Lane P; O, Box 15056 Quinby, SC 29506 843.669.3031 Ernail: quinbytownhall@sc.rr.com



November 8, 2012

Dear Councilman Bradley,

Mayor Gregg has asked me to request your assistance with replacing the net on the tennis court at the recreation complex in Quinby. We appreciate your help.

Very Sincerely,

Cindy Munn Town Clerk

Town of Quinby

quinbytownhall@sc.rr.com

843-669-3031