



**RICHLAND COUNTY COUNCIL
SPECIAL CALLED MEETING AGENDA**

**JULY 23, 2013
7:30 PM**

CALL TO ORDER HONORABLE KELVIN E. WASHINGTON, SR., CHAIR

INVOCATION THE HONORABLE BILL MALINOWSKI

PLEDGE OF ALLEGIANCE THE HONORABLE BILL MALINOWSKI

Presentation Of Resolutions

1. a. 2013 National Aviation Week Proclamation

Approval Of Minutes

2. Regular Session: July 16, 2013 [PAGES 6-15]

Adoption Of The Agenda

Report Of The Attorney For Executive Session Items

3. a. City of Columbia Election Fee Agreement [PAGES 17-24]

Citizen's Input

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

Report Of The County Administrator

Report Of The Clerk Of Council

Report Of The Chairman

Third Reading Items

5. Small Local Business Enterprise ("SLBE") Program [PAGES 26-86]

Second Reading Items

6. An Ordinance Establishing a Temporary Moratorium on the approval of any special exception requests to establish a special congregate facility within the unincorporated areas of Richland County [PAGES 87-89]

Report Of Development And Services Committee

7.
 - a. Bagging Yard Debris in Solid Waste Collection Service Areas 2 and 6
 - b. Exploration of Water and/or Sewer Service Expansion in Unincorporated Richland County
 - c. To Adopt and Codify the 2011 Edition of the National Electrical Code and the 2012 Editions of the International Residential, Building, Plumbing, Mechanical, Fire and Property Maintenance Codes respectively
 - d. Amend Section 6-84, Boarded-up Structures, so as to include commercial structures; and change the name of the "Unsafe Housing Division" to the "Unsafe Structures Division"
 - e. Termination of the Restrictive Covenants for the Private Driveway Subdivision - Murray Lancaster Estates
 - f. Acquisition of Unclaimed Land within Undeveloped Right of Ways for Devils Ditch Maintenance Access and Enhancement
 - g. Codify Maintenance Regulations

Report Of Administration And Finance Committee

8.
 - a. Adoption of Americans with Disabilities Act Policy
 - b. Grant Application Approval for Crane Creek Management Plan Implementation for Public Works Department
 - c. Owens Field Trail Improvement Project for Conservation Department
 - d. Request for Bond Ordinance Approval in Accordance with Capital Project Recommendation of Richland County Administrator
 - e. Richland County Sheriff's Department Freedom Award Resolution

- f. Consent Agenda Deferral Policy
- g. Request to Add School Resource Officer Positions

Other Items

- 9. City of Columbia Election Fee Agreement [**ACTION**] [**PAGES 17-24**]
- 10. Report of the Hospitality Tax Review Committee: [**PAGES 93-117**]
 - a. Olive Branch Network of SC Funding Request
 - b. Review Current Hospitality Tax Guidelines
 - 1. Allowing Expenditures such as venue fees or rentals, transportation or accommodations, salaries, food or beverages, and staging or fencing
 - 2. Allowing the Town of Eastover and Town of Irmo to apply for Hospitality funds as the County collects Hospitality Tax in these areas
- 11. Report of the Caughman Pond/Pinewood Lake Ad Hoc Committee[**PAGE 119**]
- 12. Report of the Dirt Road Committee: [**PAGE 121**]
 - a. Update on Engineering Contract
 - b. Update on Paving Projects

Citizen's Input

- 13. Must Pertain to Items Not on the Agenda

Executive Session

Motion Period

- 14. a. A Resolution honoring Josiah Washington on representing Richland County with his participation on Jeopardy and for speaking on behalf of the Richland Library at the Budget Public Hearing [**JACKSON**]

Adjournment



Special Accommodations and Interpreter Services

Citizens may be present during any of the County's meetings. If requested, the agenda and backup materials will be made available in alternative formats to persons with a disability, as required by Section 202 of the Americans with Disabilities Act of 1990 (42 U.S.C. Sec. 12132), as amended and the federal rules and regulations adopted in implementation thereof.

Any person who requires a disability-related modification or accommodation, including auxiliary aids or services, in order to participate in the public meeting may request such modification, accommodation, aid or service by contacting the Clerk of Council's office either in person at 2020 Hampton Street, Columbia, SC, by telephone at (803) 576-2061, or TDD at 803-576-2045 no later than 24 hours prior to the scheduled meeting.

Richland County Council Request of Action

Subject

- a. 2013 National Aviation Week Proclamation

Richland County Council Request of Action

Subject

Regular Session: July 16, 2013 [**PAGES 6-15**]



**MINUTES OF
RICHLAND COUNTY COUNCIL
REGULAR SESSION
JULY 16, 2013
6:00 PM**

In accordance with the Freedom of Information Act, a copy of the agenda was sent to radio and TV stations, newspapers, persons requesting notification, and was posted on the bulletin board located in the lobby of the County Administration Building.

MEMBERS PRESENT:

Chair	Kelvin E. Washington, Sr.
Vice Chair	Greg Pearce
Member	Joyce Dickerson
Member	Julie-Ann Dixon
Member	Norman Jackson
Member	Damon Jeter
Member	Bill Malinowski
Member	Jim Manning
Member	Paul Livingston
Member	Seth Rose
Member	Torrey Rush

OTHERS PRESENT – Tony McDonald, Roxanne Ancheta, Warren Harley, Brad Farrar, Justine Jones, Amelia Linder, John Hixon, Geo Price, Tracy Hegler, Dwight Hanna, Sara Salley, Nelson Lindsay, Dale Welch, David Hoops, Chris Eversmann, Lauren Holm, Nancy Stone-Collum, Justin Martin, Rodolfo Callwood, Ismail Ozbek, Monique Walters, Michelle Onley

CALL TO ORDER

The meeting was called to order at approximately 6:02 p.m.

INVOCATION

The Invocation was given by the Honorable Jim Manning

PLEDGE OF ALLEGIANCE

The Pledge of Allegiance was led by the Honorable Jim Manning

PRESENTATION OF RESOLUTIONS

- a. **Resolution Honoring Anna Wimberly, Richland School District Two Bus Driver, for her heroic action and judgment on keeping the children safe until assistance arrived [DIXON]** – Ms. Dixon presented Ms. Wimberly with a resolution honoring her heroic actions.
- b. **Resolution Honoring the Richland County Wellness Program and the impact it has on the lives and wellbeing of County staff and the citizens of Richland County [DIXON]** – Ms. Dixon and Mr. Hanna honored the employees that have participated in the County's Wellness Program. A resolution will be forthcoming.
- c. **2013 National Aviation Week Proclamation** – This item was deferred until the July 23rd Special Called meeting.

APPROVAL OF MINUTES

Regular Session: July 2, 2013 – Mr. Pearce moved, seconded by Mr. Rose, to approve the minutes as distributed. The vote in favor was unanimous.

ADOPTION OF THE AGENDA

Mr. Manning moved, seconded by Mr. Rush, to approve the agenda as distributed. The vote in favor was unanimous.

REPORT OF THE ATTORNEY FOR EXECUTIVE SESSION ITEMS

- a. **City of Columbia Election Fee Agreement** – This item was deferred until the July 23rd Special Called meeting.
- b. **Richland Library Referendum** – No action was taken.
- c. **Sewer System RFP Inquiry**

CITIZENS INPUT

No one signed up to speak.

REPORT OF THE COUNTY ADMINISTRATOR

- a. **Richland County Coroner's Office: International Association of Coroners & Medical Examiners Accreditation** – Mr. McDonald stated that the Coroner's Office was been recently accredited by the International Association of Coroners and Medical Examiners.

- b. **SCSPE Engineer of the Year Award** – Mr. McDonald congratulated Ismail Ozbek on being awarded the SCSPE Engineer of the Year.
- c. **Introduction of New Employees** – Mr. McDonald welcomed Mr. Warren Harley, Assistant County Administrator and Ms. Beverly Harris, Public Information Director to Richland County Administration.
- d. **Sewer System RFP Inquiry** – This item was taken up during Executive Session.

REPORT OF THE CLERK OF COUNCIL

- a. **Reminder: Special Called Meeting, July 23rd – Immediately Following Zoning Public Hearing** – Ms. Onley reminded Council of the July 23rd Special Called meeting immediately following the Zoning Public Hearing.

REPORT OF THE CHAIR

No report was given.

PRESENTATIONS

Jackie McKie – Mr. Rush stated that Ms. McKie heads a feeding program for children during the Summer months.

OPEN/CLOSE PUBLIC HEARINGS

- a. **Ordinance Authorizing the Execution and Delivery of a Fee and Special Source Credit Agreement by and among Richland County, South Carolina, Dayton Rogers of South Carolina, LLC and LBE Two, LLC providing for a payment of a Fee in Lieu of Taxes and other matters related thereto** – No one signed up to speak.
- b. **Authorizing the Execution and Delivery of a Fee in Lieu of Tax Agreement by and among Richland County, South Carolina, a sponsor and a sponsor affiliate collectively known as Project Sweetbay, to provide for Fee-in-Lieu of Ad Valorem Taxes; and other related matters** – No one signed up to speak.
- c. **Ordinance Authorizing the Execution and Delivery of a Fee Agreement by and between Richland County, South Carolina and Intertape Polymer Corp. providing for a payment of a Fee in Lieu of Taxes and other matters related thereto** – No one signed up to speak.
- d. **An Ordinance Authorizing the Issuance and Sale of not to exceed \$250,000,000 General Obligation Bonds and \$50,000,000 General Obligation Bond Anticipation Notes, in one or more series, in one or more years, with appropriate series designations, of Richland County, South Carolina; fixing the form and details of the bond and the notes; delegating to the County Administrator certain authority**

related to the bonds and the notes; providing for the payment of the bonds and the notes and the disposition of the proceeds thereof; and other matters relating thereto – No one signed up to speak.

APPROVAL OF CONSENT ITEMS

- ❖ 13-20MA, John Champoux, RU to RS-LD (6.75 Acres), Knollside Drive, 20500-06-18/21 & 20500-04-21 [THIRD READING]
- ❖ 13-22MA, Terry Harris, 7950 Bluff Rd., RU to RC (12.79 Acres), 32400-02-25 [THIRD READING]

Ms. Dickerson moved, seconded by Mr. Jackson, to approve the Consent Items. The vote in favor was unanimous.

THIRD READING

An Ordinance Authorizing the Issuance and Sale of not to exceed \$250,000,000 General Obligation Bonds and \$50,000,000 General Obligation Bond Anticipation Notes, in one or more series, in one or more years, with appropriate series designations, of Richland County, South Carolina; fixing the form and details of the bond and the notes; delegating to the County Administrator certain authority related to the bonds and the notes; providing for the payment of the bonds and the notes and the disposition of the proceeds thereof; and other matters relating thereto – Mr. Jackson moved, seconded by Ms. Dickerson, to approve this item. The vote was in favor.

Ordinance Authorizing the Execution and Delivery of a Fee and Special Source Credit Agreement by and among Richland County, South Carolina, Dayton Rogers of South Carolina, LLC and LBE Two, LLC providing for a payment of a Fee in Lieu of Taxes and other matters related thereto – Mr. Livingston moved, seconded by Mr. Rose, to approve this item. A discussion took place.

The vote in favor was unanimous.

Small Local Business Enterprise (“SLBE”) – Ms. Dickerson moved, seconded by Mr. Rush, to defer this item until the July 23rd Special Called meeting. The vote in favor was unanimous.

Ordinance Authorizing the Execution and Delivery of a Fee Agreement by and between Richland County, South Carolina and Intertape Polymer Corp. providing for a payment of a Fee in Lieu of Taxes and other matters related thereto – Mr. Pearce moved, seconded by Mr. Jackson, to approve this item. A discussion took place.

The vote was in favor.

Authorizing the Execution and Delivery of a Fee in Lieu of Tax Agreement by and among Richland County, South Carolina, a sponsor and sponsor affiliate collectively known as Project Sweetbay, to provide for Fee-in-Lieu of Ad Valorem Taxes; and other related matters – Mr. Pearce moved, seconded by Ms. Dickerson, to approve this item. A discussion took place.

The vote in favor was unanimous.

SECOND READING

Authorizing an Amendment to the Master Agreement Governing the I-77 Corridor Regional Industrial Park by and between Richland County, South Carolina, and Fairfield County, South Carolina, to expand the boundaries of the park to include certain real property located in Richland County; and other related matters – Mr. Jackson moved, seconded by Mr. Livingston, to approve this item. The vote in favor was unanimous.

REPORT OF ECONOMIC DEVELOPMENT COMMITTEE

A Resolution to state the commitment of Richland County to enter into a Fee-in-Lieu of Tax Agreement with Mars Petcare US, Inc., and CLF Columbia LLC; to provide the general terms of the Fee-in-Lieu of Tax Agreement; to identify the “Project” for purposes of the Fee-in-Lieu of Tax Simplification Act; and to provide for other matters related thereto – Mr. Livingston stated that the committee recommended approval. The vote in favor was unanimous.

Approval of Central SC Alliance Member Marketing Grant – Mr. Livingston stated that the committee recommended approval. The vote in favor was unanimous.

Motion to approve an additional \$82,000 in Hospitality Tax for the Palmetto Capital City Classic – Mr. Jeter made a motion, seconded by Mr. Rush, to approve an additional \$35,000. A discussion took place.

Mr. Jackson made a substitute motion, seconded by Ms. Dickerson, to approve an additional \$82,000. A discussion took place.

Mr. Pearce made a second substitute motion, seconded by Mr. Manning, to approve an additional \$47,000.

<u>For</u>	<u>Against</u>
Malinowski	Dixon
Rose	Jackson
Pearce	Washington
Livingston	Dickerson
Rush	Jeter
Manning	

The vote was in favor of the second substitute motion.

REPORT OF THE RULES AND APPOINTMENTS COMMITTEE

I. NOTIFICATION OF VACANCIES

- a. **Airport Commission—1** – Mr. Malinowski stated that the committee recommended advertising for this vacancy. The vote in favor was unanimous.

II. NOTIFICATION OF APPOINTMENTS

- a. **Accommodations Tax Committee—3 (Lodging, Hospitality and Cultural)** – Mr. Malinowski stated that the committee recommended appointing Mr. Thomas E. Holloway to the cultural position and re-advertise for the Lodging and Hospitality vacancies. The vote in favor was unanimous.
- b. **Board of Assessment Appeals—1** – Mr. Malinowski stated that the committee recommended appointing Mr. Eric John Grant for this position. The vote in favor was unanimous.
- c. **Community Relations Council—2** – This item was held in committee.
- d. **East Richland Public Service Commission—1** – This item was held in committee.
- e. **Employee Grievance Committee—4** – Mr. Malinowski stated that the committee recommended re-advertising for these vacancies. The vote in favor was unanimous.
- f. **Hospitality Tax Committee—2** – This item was held in committee.
- g. **Midlands Workforce Development Board—8** – This item was held in committee.

III. DISCUSSION FROM RULES AND APPOINTMENTS COMMITTEE

- a. **All applicants for Richland County Boards, Commissions, or Committees will be telephonically notified within 48 hours of Council's decision relating to that appointment and a follow up letter will be mailed within 5 work days to same** – Mr. Malinowski stated that the committee recommended that the applicants be notified within 48 hours of Council's decision for appointment and that immediately following the appointment the vote will be reconsidered to clinch the vote. The vote in favor was unanimous.
- b. **Community Relations Council** – This item was tabled in committee.

OTHER ITEMS

Report of the Hospitality Tax Review Committee:

- a. **Discussion of Items Referred During Budget Process**
- b. **Working Definition of Tourist/Tourism** -- Mr. Jackson moved, seconded by Ms. Dixon, to adopt the State's definition for "tourist". A discussion took place.

Mr. Pearce moved, seconded by Mr. Rose, to direct staff to draft a letter to the Legislative Delegation requesting that they clarify the definition for "tourist". A discussion took place.

Mr. Pearce withdrew his motion.

The motion to adopt the State's definition for "tourist" was withdrawn.

- c. **\$44M in Tourism-Related Projects**
- d. **Review of May 13, 2013 Hospitality Tax Committee Memo**
 1. **Review Current Hospitality Tax Guidelines**
- e. **Development of Criteria to Measure Accountability for Oversight Purposes**
- f. **Feasibility Studies for Proposed Projects** – Mr. Manning stated that the committee recommended approving the feasibility studies.

Mr. Pearce moved, seconded by Ms. Dickerson, to call for the question. The vote was in favor.

The vote in favor of accepting the committee's recommendation was unanimous.

Report of the Decker Ad Hoc Committee:

- a. **Decker Demolition Contract Award** – Mr. Manning stated that the committee recommended awarding the demolition contract to NEO Corporation. A discussion took place.

The vote in favor was unanimous.

Mr. Pearce moved, seconded by Mr. Rose, to reconsider this item. The motion failed.

CITIZENS' INPUT

No one signed up to speak.

POINT OF PERSONAL PRIVILEGE – Ms. Dixon recognized that a group of students from South University were in the audience.

EXECUTIVE SESSION

=====
Council went into Executive Session at approximately 7:42 p.m. and came out at approximately 7:57 p.m.
=====

- a. **Sewer System RFP Inquiry** – Mr. Manning moved, seconded by Mr. Pearce, to modify the Water/Sewer RFP to include the option of private management. The vote in favor was unanimous.

MOTION PERIOD

- a. **Move for unanimous consent on a motion supporting a Resolution honoring EAA Chapter 242 housed at Hamilton-Owens Airport for their completion of 100,000 flights in the Young Eagles program. This program provides flight experiences for young people to introduce them to flying [PEARCE, ROSE and RUSH]** – Mr. Pearce moved, seconded by Mr. Manning, to adopt a resolution honoring EAA Chapter 242 for their completion of 100,000 flights in the Young Eagles program. The vote in favor was unanimous.
- b. **Develop a plan to eliminate the septic and storm drainage problems in the suburbs and complete and tie into the city sewer and storm water systems [JACKSON]** – This item was referred to the D&S Committee.
- c. **I move to have staff evaluate the special exception conditions for special congregate facilities, found in Section 26-152 (d) (26) of the Land Development Code, to ensure that these conditions minimize potential land use conflicts and also to ensure that there are adequate services for the cliental within the vicinity of the facility. The evaluation should at minimum address: (1) Maximum occupancy; (2) Distance from residential districts, schools, and parks; and (3) Provisions for a management and security plan. Location considerations, including proximity to: (a) Professional services, such as doctor’s offices and legal services; (b) Grocery stores; (c) Job development centers; and (d) Providers services often utilized by the cliental, (i.e., medical clinics, food banks, public transportation). I also move to place a moratorium on any special exception requests to establish a special congregate facility until the evaluation is complete [MALINOWSKI]** – Mr. Malinowski moved, seconded by Mr. Manning, to give First Reading by Title only to an ordinance entitled “An Ordinance Establishing a Temporary Moratorium on the approval of any special exception requests to establish a special congregate facility within the unincorporated areas of Richland County.” A discussion took place.

The vote in favor was unanimous.

ADJOURNMENT

The meeting adjourned at approximately 8:10 p.m.

Kelvin E. Washington, Sr., Chair

L. Gregory Pearce, Jr., Vice-Chair

Joyce Dickerson

Julie-Ann Dixon

Norman Jackson

Damon Jeter

Paul Livingston

Bill Malinowski

Jim Manning

Seth Rose

Torrey Rush

The minutes were transcribed by Michelle M. Onley

Richland County Council Request of Action

Subject

- a. City of Columbia Election Fee Agreement [**PAGES 17-24**]

STATE OF SOUTH CAROLINA) FEE AGREEMENT
) BETWEEN RICHLAND COUNTY AND THE
) CITY OF COLUMBIA
 COUNTY OF RICHLAND) (Election Costs)

This Intergovernmental Agreement (“Agreement”) is entered into this ____ day of _____, 2012 by and between Richland County, South Carolina (the “County”) and the City of Columbia, South Carolina (the “City”).

WHEREAS, the County, through its Richland County Board of Elections and Voter Registration, conducts elections for the City; and,

WHEREAS, the County and City wish to enter into a Fee Agreement for the conduct of such elections;

NOW, THEREFORE, for and in consideration of the mutual covenants contained herein, the parties hereto agree as follows:

1. The County, through its Richland County Board of Elections and Voter Registration, shall conduct elections for the City. The City shall pay for all legitimate election expenses including, but not limited to, clerk and manager pay, paper ballot expenses, mailing costs, office supplies, rent for polling places, and County employee overtime, if necessary. The City also agrees to pay the County attorney’s fees and associated costs for any City primary, general election or special election related lawsuit or appeal in which the County or the Richland County Board of Elections and Voter Registration is a named defendant, if the lawsuit or appeal results from an act or omission of the City or relates to the City’s election process. Richland County agrees to pay the City attorney’s fees and associated costs for any City primary, general election or special election related lawsuit or appeal in which the City is a named defendant, if the lawsuit or appeal results from an act or omission of the County or relates to the County’s election process. Except as heretofore provided, the County and/or City will each bear their own attorney’s fees and associated costs for any City primary, general election or special election related lawsuit or appeal.

2. The County will, before each election and within a reasonable time to allow the City appropriate time for the budgetary process, provide an itemized estimate of expenses for such election. After the election, the County will invoice the City for all actual expenses incurred. Personnel expenses for County employees under this section shall be compiled at the hourly rate of the amount budgeted in the Annual County Budget, or at an overtime rate as applicable.

3. The City shall reimburse the County within 30 days of receipt of the invoice from the County.

4. The term of this Agreement shall be for a period of five (5) years commencing on the date of execution, and for such extension of time and upon such terms as may be mutually agreed upon.

5. The County or the City may terminate this agreement with thirty (30) days written notice to the other party.

6. In the event either party shall fail to comply with its obligations set forth in the Agreement, and such default shall continue for a period of thirty (30) days after written notice of default has been provided by the other party, then the complaining party shall be entitled to pursue any and all remedies provided under South Carolina law and/or terminate this Agreement.

7. The failure of either party to insist upon the strict performance of any provision of this Agreement shall not be deemed to be a waiver of the right to insist upon strict performance of such provisions or of any other provision of this Agreement at any time. Waiver of any breach of this Agreement by either party shall not constitute waiver of subsequent breach.

8. If any provision of this Agreement or any obligation or agreement contained herein is determined by a court of competent jurisdiction to be invalid or unenforceable, that determination shall not affect any other provision, obligation or agreement, each of which shall be construed and enforced as if the invalid or unenforceable portion were not contained herein. That invalidity or unenforceability shall not affect any valid and enforceable application thereof, and each such provision, obligation, or agreement shall be deemed to be effective, operative, made, entered into, or taken in the manner and to the full extent permitted by law.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement, in duplicate original, the day and year first above written.

WITNESSES:

Tony McDonald, Administrator
on behalf of RICHLAND COUNTY

WITNESSES:

Teresa B. Wilson, City Manager
on behalf of CITY OF COLUMBIA

STATE OF SOUTH CAROLINA) FEE AGREEMENT
) BETWEEN RICHLAND COUNTY AND THE
) CITY OF COLUMBIA
COUNTY OF RICHLAND) (Election Costs)

This Intergovernmental Agreement (“Agreement”) is entered into this ____ day of _____, 20123 by and between Richland County, South Carolina (the “County”) and the City of Columbia, South Carolina (the “City”).

WHEREAS, the ~~County, through its Richland County~~ Board of Elections and Voter Registration ~~of Richland County; from time to time~~ conducts elections for the City ~~as requested by the City~~; and

WHEREAS, the County pursuant to S.C.Code Ann. Section 7-27-405 is responsible for providing the annual budget for the Board of Elections and Voter Registration of Richland County; and

WHEREAS, the County and City wish to enter into a Fee Agreement for the conduct of such elections ~~and the costs the County incurs as a result of the Board of Elections and Voter Registration of Richland County conducting elections for the City~~;

NOW, THEREFORE, for and in consideration of the mutual covenants contained herein, the parties hereto agree as follows:

1. ~~For any election~~ ~~the County, through its~~ Board of Elections and Voter Registration of Richland County; shall conduct ~~elections~~ for the City; ~~the City shall pay to the County for~~ all legitimate election expenses including, but not limited to, clerk and manager pay, paper ballot expenses, mailing costs, office supplies, rent for polling places, and County employee overtime, if necessary. ~~The City also agrees to pay the County attorney’s fees and associated costs for any City primary, general election or special election related lawsuit or appeal in which the County~~

~~or the Richland County Board of Elections and Voter Registration is a named defendant, if the lawsuit or appeal results from an act or omission of the City or relates to the City's election process. Richland County agrees to pay the City attorney's fees and associated costs for any City primary, general election or special election related lawsuit or appeal in which the City is a named defendant, if the lawsuit or appeal results from an act or omission of the County or relates to the County's election process. Except as heretofore provided, the County and/or City will each~~
The parties shall bear their own attorney's fees and costs associated with carrying out the terms of this agreement. ~~for any City primary, general election or special election related lawsuit or appeal.~~

2. The County will, before each election and within a reasonable time to allow the City appropriate time for the budgetary process, provide an itemized estimate of expenses for such election. After the election, the County will invoice the City for all actual expenses incurred. Personnel expenses for County employees under this section shall be compiled at the hourly rate of the amount budgeted in the Annual County Budget, or at an overtime rate as applicable.

3. The City shall reimburse the County within 30 days of receipt of the invoice from the County.

4. The term of this Agreement shall be for a period of five (5) years commencing on the date of execution, and for such extension of time and upon such terms as may be mutually agreed upon.

5. The County or the City may terminate this agreement with thirty (30) days written notice to the other party.

6. In the event either party shall fail to comply with its obligations set forth in the Agreement, and such default shall continue for a period of thirty (30) days after written notice of

default has been provided by the other party, then the complaining party shall be entitled to pursue any and all remedies provided under South Carolina law and/or terminate this Agreement.

7. The failure of either party to insist upon the strict performance of any provision of this Agreement shall not be deemed to be a waiver of the right to insist upon strict performance of such provisions or of any other provision of this Agreement at any time. Waiver of any breach of this Agreement by either party shall not constitute waiver of subsequent breach.

8. If any provision of this Agreement or any obligation or agreement contained herein is determined by a court of competent jurisdiction to be invalid or unenforceable, that determination shall not affect any other provision, obligation or agreement, each of which shall be construed and enforced as if the invalid or unenforceable portion were not contained herein. That invalidity or unenforceability shall not affect any valid and enforceable application thereof, and each such provision, obligation, or agreement shall be deemed to be effective, operative, made, entered into, or taken in the manner and to the full extent permitted by law.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement, in duplicate original, the day and year first above written.

WITNESSES:

W. Anthony McDonald, Administrator
on behalf of RICHLAND COUNTY

WITNESSES:

Teresa B. Wilson, City Manager
on behalf of CITY OF COLUMBIA

STATE OF SOUTH CAROLINA) FEE AGREEMENT
) BETWEEN RICHLAND COUNTY AND THE
) CITY OF COLUMBIA
COUNTY OF RICHLAND) (Election Costs)

This Intergovernmental Agreement (“Agreement”) is entered into this ____ day of _____, 2013 by and between Richland County, South Carolina (the “County”) and the City of Columbia, South Carolina (the “City”).

WHEREAS, the Board of Elections and Voter Registration of Richland County from time to time conducts elections for the City as requested by the City; and

WHEREAS, the County pursuant to S.C.Code Ann. Section 7-27-405 is responsible for providing the annual budget for the Board of Elections and Voter Registration of Richland County; and

WHEREAS, the County and City wish to enter into a Fee Agreement for the conduct of such elections and the costs the County incurs as a result of the Board of Elections and Voter Registration of Richland County conducting elections for the City;

NOW, THEREFORE, for and in consideration of the mutual covenants contained herein, the parties hereto agree as follows:

1. For any election the Board of Elections and Voter Registration of Richland County shall conduct for the City, the City shall pay to the County all legitimate election expenses including, but not limited to, clerk and manager pay, paper ballot expenses, mailing costs, office supplies, rent for polling places, and County employee overtime, if necessary. The parties shall bear their own attorney’s fees and costs associated with carrying out the terms of this agreement.
2. The County will, before each election and within a reasonable time to allow the City appropriate time for the budgetary process, provide an itemized estimate of expenses for such

election. After the election, the County will invoice the City for all actual expenses incurred. Personnel expenses for County employees under this section shall be compiled at the hourly rate of the amount budgeted in the Annual County Budget, or at an overtime rate as applicable.

3. The City shall reimburse the County within 30 days of receipt of the invoice from the County.

4. The term of this Agreement shall be for a period of five (5) years commencing on the date of execution, and for such extension of time and upon such terms as may be mutually agreed upon.

5. The County or the City may terminate this agreement with thirty (30) days written notice to the other party.

6. In the event either party shall fail to comply with its obligations set forth in the Agreement, and such default shall continue for a period of thirty (30) days after written notice of default has been provided by the other party, then the complaining party shall be entitled to pursue any and all remedies provided under South Carolina law and/or terminate this Agreement.

7. The failure of either party to insist upon the strict performance of any provision of this Agreement shall not be deemed to be a waiver of the right to insist upon strict performance of such provisions or of any other provision of this Agreement at any time. Waiver of any breach of this Agreement by either party shall not constitute waiver of subsequent breach.

8. If any provision of this Agreement or any obligation or agreement contained herein is determined by a court of competent jurisdiction to be invalid or unenforceable, that determination shall not affect any other provision, obligation or agreement, each of which shall be construed and enforced as if the invalid or unenforceable portion were not contained herein. That invalidity or unenforceability shall not affect any valid and enforceable application thereof,

and each such provision, obligation, or agreement shall be deemed to be effective, operative, made, entered into, or taken in the manner and to the full extent permitted by law.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement, in duplicate original, the day and year first above written.

WITNESSES:

W. Anthony McDonald, Administrator
on behalf of RICHLAND COUNTY

WITNESSES:

Teresa B. Wilson, City Manager
on behalf of CITY OF COLUMBIA

Richland County Council Request of Action

Subject

For Items on the Agenda Not Requiring a Public Hearing

Richland County Council Request of Action

Subject

Small Local Business Enterprise ("SLBE") Program [**PAGES 26-86**]

Notes

First Reading: May 21, 2013

Second Reading: July 2, 2013

Third Reading:

Public Hearing: June 18, 2013

STATE OF SOUTH CAROLINA
COUNTY COUNCIL FOR RICHLAND COUNTY
ORDINANCE NO. ___-13HR

AN ORDINANCE AMENDING THE RICHLAND COUNTY CODE OF ORDINANCES, CHAPTER 2, ADMINISTRATION; ARTICLE X, PURCHASING; BY ADDING A NEW DIVISION ENTITLED 7, SMALL LOCAL BUSINESS ENTERPRISE PROCUREMENT REQUIREMENTS; AND AMENDING CHAPTER 2, ADMINISTRATION; ARTICLE XI, INQUIRIES AND INVESTIGATIONS; SO AS TO RENUMBER THE PARAGRAPHS THEREIN.

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

SECTION I. The Richland County Code of Ordinances; Chapter 2, Administration; Article XI, Inquiries and Investigation; Section 2-639, Short title; is hereby renumbered to read as Section 2-647, and all remaining paragraphs in Article XI are renumbered in appropriate chronological order.

SECTION II. The Richland County Code of Ordinances, Chapter 2, Administration; Article X, Purchasing; is hereby amended by the creation of a new Division, to read as follows:

DIVISION 7. SMALL LOCAL BUSINESS ENTERPRISE PROCUREMENT
REQUIREMENTS

Sec. 2-639. General Provisions.

(a) *Purpose*

The purpose of this division is to provide a race- and gender-neutral procurement tool for the County to use in its efforts to ensure that all segments of its local business community have a reasonable and significant opportunity to participate in County contracts for construction, architectural & engineering services, professional services, non-professional services, and commodities. The Small Local Business Enterprise (“SLBE”) Program also furthers the County’s public interest to foster effective broad-based competition from all segments of the vendor community, including, but not limited to, minority business enterprises, small business enterprises, and local business enterprises. This policy is, in part, intended to further the County’s compelling interest in ensuring that it is neither an active nor passive participant in private sector marketplace discrimination, and in promoting equal opportunity for all segments of the contracting community to participate in County contracts. Moreover, the SLBE Program provides additional avenues for the development of new capacity and new sources of

competition for County contracts from the growing pool of small and locally based businesses.

(b) *Scope and Limitations*

This SLBE Program may be applied by the County on a contract-by-contract basis to the maximum practicable extent permissible under federal and state law.

(c) *Definitions*

Affirmative Procurement Initiatives – refers to any procurement tool to enhance contracting opportunities for SLBE firms including: bonding / insurance waivers, bid incentives, price preferences, sheltered market, mandatory subcontracting, competitive business development demonstration projects, and SLBE evaluation preference points in the scoring of proposal evaluations.

Award – the final selection of a bidder or offeror for a specified prime contract or subcontract dollar amount. Awards are made by the County to prime contractors or vendors or by prime contractors or vendors to subcontractors or sub-vendors, usually pursuant to an open invitation to bid (“ITB”) or request for proposal (“RFP”) process. (Contract awards are to be distinguished from contract payments in that they only reflect the anticipated dollar amounts instead of actual dollar amounts that are to be paid to a bidder or offeror under an awarded contract.)

Bid Incentives – additional inducements or enhancements in the bidding process that are designed to increase the chances for the selection of SLBE firms in competition with other firms. These bid incentives may be applied to all solicitations, contracts, and letter agreements for the purchase of Architectural & Engineering services, Construction, Professional Services, Non-professional Services, and Commodities including change orders and amendments.

Centralized Bidder Registration System (“CBR”) -- a web-based software application used by the County of Richland to track and monitor SLBE availability and utilization (i.e., “Spend” or “Payments”) on County contracts.

County – refers to the County of Richland, South Carolina.

Commercially Useful Function – an SLBE performs a commercially useful function when it is responsible for execution of the work of the contract and is carrying out its responsibilities by actually performing, managing, and supervising the work involved. To perform a commercially useful function, the SLBE must also be responsible, with respect to materials and supplies used on the contract, for negotiating price, determining quantity and quality, ordering the material, and installing (where applicable) and paying for the material itself. To determine whether an SLBE is performing a commercially useful function, an

evaluation must be performed of the amount of work subcontracted, normal industry practices, whether the amount the SLBE firm is to be paid under the contract is commensurate with the work it is actually performing and the SLBE credit claimed for its performance of the work, and other relevant factors. Specifically, an SLBE does not perform a commercially useful function if its role is limited to that of an extra participant in a transaction, contract, or project through which funds are passed in order to obtain the appearance of meaningful and useful SLBE participation, when in similar transactions in which SLBE firms do not participate, there is no such role performed.

Emerging SLBE – an emerging firm that meets all of the qualifications of a Small Local Business Enterprise, and that is less than five years old, but has no more than five full-time employees and annual gross sales as averaged over the life of the firm that are less than \$1 million.

Goal – a non-mandatory annual aspirational percentage goal for SLBE contract participation is established each year for Architectural & Engineering services, Construction, Professional Services, Non-professional Services, and Commodities contracts. Mandatory percentage goals for SLBE subcontract participation may be established on a contract-by-contract basis by either the Director of Procurement or a Goal Setting Committee.

Goal Setting Committee – a committee established by the Director of Procurement for the County (including a representative of the Procurement Department and a representative of the end-user agency) and chaired by the Director of Procurement that establishes SLBE Program goals and selects appropriate SLBE Affirmative Procurement Initiatives to be applied to each contract for the County based upon industry categories, vendor availability, and project-specific characteristics. The Director of Procurement may establish as many as five separate Goal Setting Committees (i.e., one for each industry category).

Good Faith Efforts – documentation of the Bidder's intent to comply with SLBE Program goals and procedures, including, but not limited to the following: (1) documentation within a bid submission or proposal reflecting the Bidder's commitment to comply with SLBE Program goals as established by the Director of Procurement or a Goal Setting Committee for a particular contract; or (2) documentation of efforts made towards achieving the SLBE Program goals (e.g., timely advertisements in appropriate trade publications and publications of wide general circulation; timely posting of SLBE subcontract opportunities on the County web site; solicitations of bids from all qualified SLBE firms listed in the County's SLBE Directory of certified SLBE firms; correspondence from qualified SLBE firms documenting their unavailability to perform SLBE contracts; documentation of efforts to subdivide work into smaller quantities for subcontracting purposes to SLBE firms; documentation of efforts to assist SLBE firms with obtaining financing, bonding, or insurance required by the bidder; and documentation of consultations with trade associations and consultants that

represent the interests of small and local businesses in order to identify qualified and available SLBE subcontractors.)

Graduation – An SLBE firm permanently graduates from the County’s SLBE program when it meets the criteria for graduation set forth in this policy.

Independently Owned, Managed, and Operated – ownership of an SLBE firm must be direct, independent, and by individuals only. Business firms that are owned by other businesses or by the principals or owners of other businesses that cannot themselves qualify under the SLBE eligibility requirements shall not be eligible to participate in the SLBE program. Moreover, the day-to-day management of the SLBE firm must be direct and independent of the influence of any other businesses that cannot themselves qualify under the SLBE eligibility requirements.

Industry Categories – procurement groupings for County contracts for purposes of the administration of Affirmative Procurement Initiatives shall be inclusive of Architectural & Engineering, Construction, Professional Services, and Non-professional Services, and Commodities procurements. Industry Categories may also be referred to as “business categories.”

Joint Venture - an association of two or more persons or businesses carrying out a single business enterprise for which purpose they combine their capital, efforts, skills, knowledge and/or property. Joint ventures must be established by written agreement.

Local Business Enterprise (“LBE”) - a firm having a Principal Place of Business or a Significant Employment Presence in Richland County, South Carolina. This definition is subsumed within the definition of Small Local Business Enterprise.

Non-professional Services – non-construction, non-architectural, and non-engineering services that are other than Professional Services, and such “other” services that do not require any license or highly specialized training and credentials to perform.

Points – the quantitative assignment of value for specific evaluation criteria in the selection process.

Prime Contractor – The vendor or contractor to whom a purchase order or contract is awarded by the County for purposes of providing goods or services to the County.

Principal Place of Business – a location wherein a firm maintains a company headquarters or a physical office and through which it obtains no less than fifty percent of its overall customers or sales dollars, or through which no less than

twenty-five percent of its employees are located and domiciled in the County of Richland and/or Richland County.

Professional Services – any non-construction and non-architectural & engineering services that require highly specialized training and / or licensed credentials to perform, such as legal, accounting, scientific, technical, insurance, investment management, medical, or real estate services.

Responsive - a firm's bid or proposal conforms in all material respects to the invitation to bid or request for proposal and shall include compliance with SLBE Program requirements.

Sheltered Market – An Affirmative Procurement Initiative designed to set aside a County contract bid for bidding exclusively among SLBE firms.

Significant Employee Presence – no less than twenty-five percent of a firm's total number of full and part-time employees are domiciled in Richland County.

Small Local Business Enterprise (“SLBE”) – an independently owned firm that is not dominant in its industry, and that satisfies all requirements of being both a “*Small Business Enterprise*” and a “*Local Business Enterprise.*”

SLBE Plan Execution Certification (SLBE Form – C) - The form certifying the general contractor's intent to use a SLBE subcontractor, verifying that an agreement has been executed between the prime and the SLBE.

SLBE Directory - A listing of the small local businesses that have been certified by the Procurement Department for participation in the SLBE Program.

SLBE Certification/Re-certification Application (SLBE Form – R) – This form shall be completed by Small Local Business Enterprises (SLBEs) when applying for and/or recertifying SLBE status for participation in the County's Small Local Business Enterprise Program. This form shall be completed every two years by certified Small Local Business Enterprises by the anniversary date of their original certification.

SLBE Schedule for Subcontractor Participation (SLBE Form – S) – This form must be completed by all non-SLBE firms that subcontract to SLBE firms. A form must be submitted for each SLBE subcontractor. This form(s) must be reviewed and approved by the Director of Procurement before contract award.

SLBE Unavailability Certification (SLBE Form – U) - This form demonstrates a bidder's unsuccessful good faith effort to meet the small, local participation requirements of the contract. This form will only be considered after proper completion of the outreach and compliance efforts and methods used to notify and inform SLBE firms of contracting opportunities have been fully exhausted.

Small Business Enterprise (“SBE”) a small business enterprise is any for-profit enterprise as defined by South Carolina Code of Laws, Title 33, Chapter 31 that is not a broker, that is independently owned and operated, that is not a subsidiary of another business, and that is not dominant in its field of operation; and that also meets the following size standard limitations: (1) the SBE must have no more than ~~ten~~ **fifty** full-time employees; and (2) the SBE must have annual gross revenues within its largest primary NAICS commodity code as averaged over its most recent past three fiscal years of not more than \$10 million for construction firms, specialty trade contractors, and manufacturing firms; not more than \$5 million for architectural firms; not more than \$3 million for professional services firms (e.g., scientific, real estate, insurance, accounting, legal, etc.); not more than \$2.5 million for **engineering firms**; and not more than \$2 million for wholesale operations, retail firms, and all other services firms (e.g., truck transportation, administrative support services, repair and maintenance services). If a business has not existed for 3 years, the employment and gross sales limits described above shall be applied based upon the annual averages over the course of the existence of the business not to exceed the three years. Once the gross annual receipts of a business exceed the gross sales average limits, it should no longer be eligible to benefit as an SLBE firm and should be graduated from the program. The size standards in number of employees and annual gross revenue dollars should be reviewed annually and adjusted periodically to meet economic changes. Joint ventures must be certified on a bid-by-bid basis. The joint venture shall not be subject to the average gross receipts and employee limits imposed by this section. However, each individual business participating in the joint venture must be certified by the Procurement Department as an SBE. *This definition is subsumed within the definition of Small Local Business Enterprises.*

~~***[** Note: See State of Maryland’s alternative definition of Small Business Enterprise (“SBE”) below in bold italic text:***~~

~~***(1) — Any for-profit enterprise as defined in Maryland Code of Regulations, Title 2, Division 2, Chapter 3, Subchapter 8; that is that is not a broker, that is independently owned and operated; that is not a subsidiary of another business; and that is not dominant in its field of operation; and***~~

~~***(2) — That satisfies the following size requirements:***~~

~~***a. — Wholesale operations of the business did not employ more than 50 persons, and the gross sales of the business did not exceed an average of \$2,000,000 in its most recently completed 3 fiscal years;***~~

~~***b. — Manufacturing operations of the business did not employ more than 100 persons, and the gross sales of the business did not exceed an average of \$2,000,000 in its most recently completed 3 fiscal years;***~~

~~e. — Service operations of the business did not employ more than 100 persons, and the gross sales of the business did not exceed an average of \$2 million in its most recently completed 3 fiscal years; and~~

~~d. — Construction operations of the business did not employ more than 50 persons, and the gross sales of the business did not exceed an average of \$7,000,000 in its most recently completed 3 fiscal years.~~

~~If a business has not existed for 3 years, the employment and gross sales limits described above shall be applied based upon the annual averages over the course of the existence of the business.~~

~~This definition is subsumed within the definition of Small Local Business Enterprises.]~~

a.

Small Local Business Enterprise (“SLBE”) – A Local Business Enterprise that is also a Small Business Enterprise.]

Spend Dollars – dollars actually paid to prime and / or subcontractors and vendors for County contracted goods and/or services.

Subcontractor – any vendor or contractor that is providing goods or services to a Prime Contractor in furtherance of the Prime Contractor’s performance under a contract or purchase order with the County.

Suspension – the temporary stoppage of a SLBE firm’s participation in the County’s contracting process under the SLBE Program for a finite period of time due to the cumulative contract payments the SLBE received during a fiscal year.

Sec. 2-640. Program Objectives and General Responsibilities.

(a) To meet the objectives of this Program, the County is committed to:

1. Increasing the participation of Small Local Business Enterprises (“SLBEs”) in County contracting, and, to the extent possible, ameliorating through race- and gender-neutral means, any disparities in the participation of minority business enterprises or women business enterprises on County contracts.
 2. Regular evaluation regarding the progress of the Program using accumulated availability and utilization data to determine specific program provisions that require modification, expansion, and/or curtailment;
 3. Establishing one or more Goal Setting Committee(s) (“GSCs”) to provide guidance on the implementation of the rules under this Policy;
 4. Continuous review and advice of the GSC in administering the policy and goals herein. The County’s Director of Procurement shall determine the size of each GSC that is to be chaired by the Procurement Director. The Procurement Director shall also appoint the remaining members of the GSC from the County’s procurement personnel and other County departments affected by this Program; and
 5. Providing accountability and accuracy in setting goals and in reporting program results through the implementation of a mandatory centralized bidder registration process capable of identifying with specificity the universe of firms that are available and interested in bidding on and /or performing on County contracts, and of providing the means of tracking actual County bids, contract awards, and prime contract and subcontract payments to registered bidders on the basis of firm ownership status, commodity or sub-industry codes, firm location, and firm size. Accordingly, Prime Contractors and Subcontractors will be required to register and input data into the CBR or other related forms and systems as a condition of engaging in business with the County.
- (b) At a minimum, the Procurement Director shall:
1. Report to the County Administrator and the County Council on at least an annual basis as to the County’s progress towards satisfying SLBE program objectives;
 2. Formulate Program waivers, improvements and adjustments to the GSC goal-setting methodology and other Program functions;
 3. Have substantive input in a contract specification review process to be undertaken in advance of the issuance of County’s RFPs and bid solicitations to ensure that contract bid specifications are not unnecessarily restrictive and unduly burdensome to small, local, minority-owned, and other businesses;

4. Receive and analyze external and internal information including statistical data and anecdotal testimonies it deems appropriate to effectively accomplish its duties; and

5. Monitor and support the implementation of the rules under this Program, and where appropriate, make recommendations to the County Administrator for approval of changes to established size standards for SLBE firms, and provide notice of all approved changes to the County Council.

(c) At a minimum, each Goal Setting Committee shall:

1. Meet as often as it deems necessary to accomplish its duties but not less than twice annually;

2. Develop the SLBE goal setting methodology to be implemented by the Director of Procurement on a contract-by-contract basis; and

3. Monitor and support the implementation of the rules under this Program policy.

Sec. 2-641. Eligibility for the SLBE Program.

(a) For the purpose of this program, a firm will be certified as a Small and Local Business Enterprise (SLBE) with the Procurement Department upon its submission of a completed certification form (SLBE Form-R), supporting documentation, and a signed affidavit stating that it meets all of the SLBE eligibility criteria as set forth below:

1. It is an independently owned and operated for-profit business concern as defined by South Carolina Code of Laws, Title 33, Chapter 31 that is not a broker, that is not a subsidiary of another business, that is not dominant in its field of operation; whose owners are actively involved in day-to-day management and control of the business, and that also is performing a commercially useful function;

2. It meets size standard eligibility requirements for Small Business Enterprises as defined below;

~~***/**Note: See State of Maryland's alternative definition of Small Business Enterprise ("SBE") size standards below in bold italic text:***~~

~~***2. That satisfies the following size requirements:***~~

~~a. Wholesale operations of the business did not employ more than 50 persons, and the gross sales of the business did not exceed an average of \$2,000,000 in its most recently completed 3 fiscal years;~~

~~b. Manufacturing operations of the business did not employ more than 100 persons, and the gross sales of the business did not exceed an average of \$2,000,000 in its most recently completed 3 fiscal years;~~

~~c. Service operations of the business did not employ more than 100 persons, and the gross sales of the business did not exceed an average of \$2 million in its most recently completed 3 fiscal years; and~~

~~d. Construction operations of the business did not employ more than 50 persons, and the gross sales of the business did not exceed an average of \$7,000,000 in its most recently completed 3 fiscal years.~~

~~If a business has not existed for 3 years, the employment and gross sales limits described above shall be applied based upon the annual averages over the course of the existence of the business.~~

~~This definition is subsumed within the definition of Small Local Business Enterprises.]~~

a. Construction firms, specialty trade firms, and manufacturing firms have not employed more than 50 full-time persons at any time during the last three years, and the gross annual revenues of the business for its largest primary NAICS code have not exceeded an average of \$10 million in its most recently completed 3 fiscal years;

b. Architectural business firms have not employed more than 50 persons at any time during the last three years, and the gross annual revenues of the business for its largest primary NAICS code have not exceeded an average of \$5 million in its most recently completed 3 fiscal years;

c. Professional services business firms have not employed more than 50 persons at any time during the last three years, and the gross annual revenues of the business for its largest primary NAICS code have not exceeded an average of \$3 million in its most recently completed 3 fiscal years;

d. Engineering business firms , have not employed more than 50 persons at any time during the last three years, and the gross annual revenues of the business for its largest primary NAICS code have not exceeded an average of \$2.5 million in its most recently completed 3 fiscal years;

e. Wholesale operations, retail firms, and all other services business firms have not employed more than 50 persons at any time during the last three years, and the gross annual revenues of the business for its largest primary NAICS code have not exceeded an average of \$2 million in its most recently completed 3 fiscal years; and

\$3 million

A few may be a higher size standard, but none above \$3 million or 50 employees.

If a business has not existed for 3 years, the employment and gross revenue limits described above shall be applied based upon the annual averages over the course of the existence of the business not to exceed the three years.

Once the gross annual revenues of a business exceed the three-year average gross annual revenue limits, it should no longer be eligible to benefit as an SLBE firm and should be permanently graduated from the program. The size standards in number of employees and annual gross revenue dollars should be reviewed annually and adjusted periodically to meet changes in market conditions. Joint ventures must be certified on a bid-by-bid basis. The joint venture itself shall not be subject to the size standard limitations imposed by this section. However, each individual business participating in the joint venture must be certified by the Procurement Department as an SLBE in order for the joint venture to receive the benefits of the SLBE program.

This definition is subsumed within the definition of Small Local Business Enterprises.

3. The firm is a Local Business Enterprise as defined by this Policy with a principal place of business or significant employment presence in Richland County, SC as defined herein;

4. The firm has been established for at least one year or the managing principals of the business each have at least three years of relevant experience prior to forming or joining the business; and

5. In the year preceding the date of the initial certification application, the applicant has not received more than \$1,000,000 in County contract payments as a result of contract awards from the County achieved through an open competitive bidding process.

(b) Upon receipt of SLBE certification or re-certification applications, the Director of Procurement or designated Procurement Department staff shall review all enclosed forms affidavits and documentation to make a prima facie determination as to whether the applicant satisfies the SLBE eligibility requirements as set forth in this policy. Applicants determined ineligible to participate as a SLBE shall receive a letter from the Director of Procurement stating the basis for the denial of eligibility. Applicants determined ineligible shall not be eligible to submit a new application for one year after the date of the notice of denial of eligibility.

(c) Applicants determined eligible to participate in the SLBE program shall submit a completed re-certification form (SLBE-R) every two years to the Procurement Department for review and continued certification. However, upon application for re-certification, an SLBE firm must be an independently owned and operated business concern, and maintain a Principal Place of Business or Significant Employment Presence in the County of Richland in accordance with this Section 2-641 of Division 7, "Eligibility for the SLBE Program," of this Policy. To qualify for recertification, an SLBE's maximum employment numbers and annual gross revenues average for the three fiscal years immediately preceding the application for recertification shall not exceed the size standard eligibility requirements.

(d) In the course of considering the certification or re-certification status of any SLBE firm, the Director of Procurement or his or her designees shall periodically conduct audits and inspect the office, job site, records, and documents of the firm, and shall interview the firm's employees, subcontractors, and vendors as reasonably necessary to ensure that all eligibility standards are satisfied and that the integrity of the SLBE Program is maintained.

(e) For purposes of this Program, a firm will be certified as an *Emerging SLBE* by the Procurement Department upon its submission of a completed certification form (SLBE Form-R), supporting documentation, and a signed affidavit stating that it meets all of the Emerging SLBE eligibility criteria as set forth below:

1. The firm complies with all SLBE criteria as specified above in Sec. 2-641 (a) through (d);
2. The firm has been in existence for less than five years;
3. The firm has no more than five full-time employees; and
4. The firm's annual gross revenues as averaged over the life of the firm are less than \$1 million.

Sec. 2-642. Graduation and Suspension Criteria.

(a) A bidder may not count towards its SLBE or Emerging SLBE participation the amount subcontracted to an SLBE or Emerging SLBE firm that has graduated or been suspended from the program as follows:

1. An SLBE firm shall be permanently graduated from the SLBE Program after it has received a cumulative total of \$5 million of County-funded prime contract or subcontract payments in at least five separate contracts since its initial certification as an SLBE firm;
2. An SLBE firm shall be permanently graduated from the SLBE program after its three fiscal year average gross sales exceeds the size standard eligibility requirements;
3. An SLBE firm shall be temporarily suspended by the Director of Procurement for the balance of any fiscal year after it has received a cumulative total of \$1.5 million in payments as a prime contractor and / or subcontractor for that fiscal year; provided, however, that the SLBE firm shall be eligible to participate in Affirmative Procurement Initiatives in the following fiscal year so long as the firm has not yet satisfied the graduation criteria;
4. An SLBE firm may have its SLBE eligibility permanently revoked by the Director of Procurement if it fails to perform a Commercially Useful Function under a contract, or if it allows its SLBE status to be fraudulently used for the benefit of a non-SLBE firm or the owners of a non-SLBE firm so as to provide the non-SLBE firm or firm owners benefits from Affirmative Procurement Initiatives for which the non-SLBE firm and its owners would not otherwise be entitled;
5. An Emerging SLBE firm shall be permanently graduated from Emerging SLBE status after it has received a cumulative total of \$2.5 million of County-

funded prime contracts or subcontract payments in at least five separate contracts since its initial certification as an Emerging SLBE firm;

6. An Emerging SLBE firm shall be permanently graduated from Emerging SLBE status once its three-year average annual gross sales exceeds \$2 million; and

7. An Emerging SLBE firm shall be temporarily suspended from Emerging SLBE status by the Director of Procurement for the balance of any fiscal year after it has received a cumulative total of \$750,000 in payments as a prime contractor and / or subcontractor for that fiscal year; provided, however, that the Emerging SLBE firm shall be eligible to continue participating in Affirmative Procurement Initiatives as an SLBE firm for the remainder of the fiscal year, and may also participate in Affirmative Procurement Initiatives as an Emerging SLBE firm in the following fiscal year so long as the firm has not yet satisfied the graduation criteria for such status.

(b) The Director of Procurement shall provide written notice to the SLBE firm or Emerging SLBE firm upon graduation or suspension from the SLBE program, and such notice shall clearly state the reasons for such graduation or suspension.

Sec. 2-643. Appeals.

A business concern that is denied eligibility as an SLBE or as an Emerging SLBE, or who has its eligibility revoked, or who has been denied a waiver request can appeal the decision to the County Administrator. A written notice of appeal must be received by the County Administrator within 15 days of the date of the decision. Upon receipt of a timely notice of appeal and request for hearing, the Director of Procurement, or designee (other than the Director of Procurement), shall also participate in a hearing conducted by the County Administrator or the County Administrator's designee soon as practicable. The decision of the County Administrator, or designee, shall be the final decision of the County.

Sec. 2-644. Affirmative Procurement Initiatives for Enhancing SLBE and Emerging SLBE Contract Participation.

(a) The County in conjunction with the appropriate Contract Officer and the Director of Procurement may utilize the following Affirmative Procurement Initiatives in promoting the award of County contracts to SLBEs or Emerging SLBEs.

1. *Bonding and Insurance Waiver:* The County, at its discretion, may waive or reduce the bonding, or insurance requirements depending on the type of contract and whether the County determines that the bonding and or insurance requirements would deny the SLBE or Emerging SLBE an opportunity to perform

the contract which the SLBE or Emerging SLBE has shown itself otherwise capable of performing.

2. *Price Preferences:* The County may award a contract to a SLBE or Emerging SLBE which submits a bid within 10% (inclusive) of a low bid by a non-SLBE. However, this price preference would not apply if the award to the SLBE would result in a total contract cost that is, on an annual basis, more than \$25,000 higher than the low bid; nor would it apply on a contract in which the total contract cost would exceed the County’s budgeted price for the contract.

3. *Evaluation Preferences:* The County may reserve up to 20% of the total points available for evaluation purposes for respondents to an RFP to firms that are certified as SLBE or Emerging SLBE firms, or to joint ventures that have SLBE and/or Emerging SLBE partners

a. For Architectural & Engineering, Professional Services, Other Services, and design / build or CM at risk contracts that are awarded based on evaluation criteria, there shall be SLBE or Emerging SLBE participation criterion for all contracts let at predetermined percentage of the total points awarded. The determination will be made using the suggested model outlined in the “Point Evaluation Table” below:

POINT EVALUATION TABLE

10 Points for SLBE Participation	20 Points for SLBE Participation
> 51% = 10 points	> 51% = 20 points
> 45% = 7 points	> 45% = 17 points
> 40% = 6 points	> 40% = 16 points
> 35% = 5 points	> 35% = 14 points
> 30% = 4 points	> 30% = 12 points
> 25% = 3 points	> 25% = 10 points
> 20% = 2 points	> 20% = 8 points
> 15% = 1 points	> 15% = 6 points
	> 10% = 4 points

Contractors may be evaluated on their SLBE or Emerging SLBE participation by utilizing the following schedule, which is most often used by Architectural & Engineering:

Points Awarded	% of Participation Criteria
5.0 51-100	Proposals by registered SLBE owned and/or controlled firms
4.0 36 – 50	Majority prime with registered SLBE participation

3.0	30 – 35	Majority prime with registered SLBE participation
2.0	24 – 29	Majority prime with registered SLBE participation
0	0 – 23	Less than the goal for registered SLBE participation

4. *Mandatory Subcontracting:*

a. The Goal Selection Committee may, on a contract-by-contract basis, at its discretion, require that a predetermined percentage of a specific contract, up to 40%, be subcontracted to eligible SLBEs or to eligible Emerging SLBEs, provided however, that if the prime contractor is a certified SLBE or Emerging SLBE, then the prime contractor shall be able to count the dollar value of the work performed by its own forces towards satisfaction of the Mandatory Subcontracting goal for that contract.

b. An SLBE or Emerging SLBE prime contractor may not subcontract more than 49% of the contract value to a non-SLBE.

c. A prospective bidder on a County contract shall submit at the time of bid SLBE – Form S providing the name of the SLBE or Emerging SLBE subcontractor or subcontractors and describing both the percentage of subcontracting by the SLBE or Emerging SLBE, and the work to be performed by the SLBE or Emerging SLBE. A bidder may request a full or partial waiver of this mandatory subcontracting requirement from the Director of Procurement for good cause by submitting the SLBE Unavailability Certification form to the Director of Procurement at the time of bid. Under no circumstances shall a waiver of a mandatory subcontracting requirement be granted without submission of adequate documentation of Good Faith Efforts by the bidder and careful review by the Director of Procurement. The Director of Procurement shall base his or her determination on a waiver request on the following criteria:

(1) Whether the requestor of the waiver has made Good Faith Efforts to subcontract with qualified and available SLBEs or Emerging SLBEs;

(2) Whether subcontracting would be inappropriate and/or not provide a “Commercially Useful Function” under the circumstances of the contract; and

(3) Whether there are no certified SLBE or Emerging SLBE firms that are qualified and available to provide the goods or services required.

d. In the absence of a waiver granted by the Director of Procurement, failure of a Prime Contractor to commit in its bid or proposal to satisfying the mandatory SLBE subcontracting goal shall render its bid or proposal non-responsive.

e. In the absence of a waiver granted by the Director of Procurement, failure of a Prime Contractor to attain a mandatory subcontracting goal for SLBE participation in the performance of its awarded contract shall be grounds for termination of existing contracts with the County, debarment from performing future County contracts, and / or any other remedies available under the terms of its contract with the County or under the law.

f. A Prime Contractor is required to notify and obtain written approval from the Director of Procurement in advance of any reduction in subcontract scope, termination, or substitution for a designated SLBE or Emerging SLBE Subcontractor. Failure to do so shall constitute a material breach of its contract with the County.

5. *Sheltered Market:*

a. The Director of Procurement and the appropriate County Contracting Officer may select certain contracts which have a contract value of \$250,000 or less for award to a SLBE or a joint venture with a SLBE through the Sheltered Market program. Similarly, the Director of Procurement and the appropriate County Contracting Officer may select certain contracts that have a value of \$50,000 or less for award to an Emerging SLBE firm through the Sheltered Market program.

b. In determining whether a particular contract is eligible for the Sheltered Market Program, the County's Contracting Officer and Director of Procurement shall consider: whether there are at least three SLBEs or Emerging SLBEs that are available and capable to participate in the Sheltered Market Program for that contract; the degree of underutilization of the SLBE and Emerging SLBE prime contractors in the specific industry categories; and the extent to which the County's SLBE and Emerging SLBE prime contractor utilization goals are being achieved.

c. If a responsive and responsible bid or response is not received for a contract that has been designated for the Sheltered Market Program or the apparent low bid is determined in the Procurement Director's discretion to be too high in price, the contract shall be removed from the Sheltered Market Program for purposes of rebidding.

6. *Competitive Business Development Demonstration Project:*

a. With the concurrence of the Director of Procurement, the appropriate County Contracting Officer may reserve certain contracts for placement into a Competitive Business Development Demonstration Project ("CBD Demonstration Project") wherein those contracts require the purchase of goods or services from

an industry that routinely has too few sources of bidders to provide meaningful or sufficient competition for such County contracts. The purpose for the placement of a contract into the CBD Demonstration Project shall be to encourage the development of new capacity within an industry to competitively bid on the future supply of specialized goods or services to the County.

b. Contracts reserved for CBD Demonstration Projects shall be subject to a Request for Proposals process whereby the selected firm will be required to be a joint venture between an established firm or experts in that relevant industry and an SLBE firm. The scope of work for the selected joint venture shall include teaching a hands-on curriculum to SLBE firms that have expressed an interest in diversifying into the relevant industry, in addition to performing the customary functions of the contract. This curriculum shall include both administrative skills (e.g. cost estimating, bidding, staffing, project management) and technical skills (e.g., hands-on demonstration of how to perform necessary tasks in the field) required to qualify for future County contracts and to successfully compete in the industry.

c. The Director of Procurement shall be required to select SLBE candidate firms for participation on such CBD Demonstration Projects on the basis of an assessment of their current capabilities and their likely success in diversifying into the new relevant industry once given technical assistance, training, and an opportunity to develop a performance track record in the industry.

Sec. 2-645. SLBE Program Performance Review.

(a) The Director of Procurement or designee shall monitor the implementation of this Policy and the progress of this Program. On at least an annual basis, the Director of Procurement or designee shall report to the County Administrator and County Council on the progress of achieving the goals established for awards to certified SLBE and Emerging SLBE firms, reporting both dollars awarded and expended. In addition, the Director of Procurement or designee shall report on the progress in achieving the stated Program Objectives, including, but not limited to, enhancing competition, establishing and building new business capacity, and removing barriers to and eliminating disparities in the utilization of available minority business enterprises and women business enterprises on County contracts.

(b) The County shall periodically review the SLBE Program to determine whether the various contracting procedures used to enhance SLBE contract participation need to be adjusted or used more or less aggressively in future years to achieve the stated Program Objectives. The County Council shall conduct a public hearing at least once every two years in order to solicit public comments on the Program.

Sec. 2-646. Conflicts.

To the extent language in this Division conflicts with other language in Article X, the language in this Division controls only with respect to contracts wherein the Small Local Business Enterprise Program is being applied by the Director of Procurement. In all other respects, prior language in this Article shall remain in full force and effect.

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

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

SECTION V. Effective Date. This ordinance shall be effective from and after _____, 2013.

RICHLAND COUNTY COUNCIL

BY: _____
Kelvin E. Washington, Sr., Chair

Attest this _____ day of _____, 2013.

Michelle Onley
Clerk of Council

RICHLAND COUNTY ATTORNEY'S OFFICE

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

First Reading:
Second Reading:
Third Reading:

DRAFT

SMALL LOCAL BUSINESS ENTERPRISE (“SLBE”) PROGRAM
[An Ordinance to Amend Article X of the Richland County, SC Code by adding a
new Division 7 as follows]

(7-2-13 Draft)

DIVISION 7. SMALL LOCAL BUSINESS ENTERPRISE PROCUREMENT REQUIREMENTS

Sec. 2-639. General Provisions.

(a) *Purpose*

The purpose of this division is to provide a race- and gender-neutral procurement tool for the County to use in its efforts to ensure that all segments of its local business community have a reasonable and significant opportunity to participate in County contracts for construction, architectural & engineering services, professional services, non-professional services, and commodities. The Small Local Business Enterprise (“SLBE”) Program also furthers the County’s public interest to foster effective broad-based competition from all segments of the vendor community, including, but not limited to, minority business enterprises, small business enterprises, and local business enterprises. This policy is, in part, intended to further the County’s compelling interest in ensuring that it is neither an active nor passive participant in private sector marketplace discrimination, and in promoting equal opportunity for all segments of the contracting community to participate in County contracts. Moreover, the SLBE Program provides additional avenues for the development of new capacity and new sources of competition for County contracts from the growing pool of small and locally based businesses.

(b) *Scope and Limitations*

This SLBE Program may be applied by the County on a contract-by-contract basis to the maximum practicable extent permissible under federal and state law.

(c) *Definitions*

Affirmative Procurement Initiatives – refers to any procurement tool to enhance contracting opportunities for SLBE firms including: bonding / insurance waivers, bid incentives, price preferences, sheltered market, mandatory subcontracting, competitive business development demonstration projects, and SLBE evaluation preference points in the scoring of proposal evaluations.

Award – the final selection of a bidder or offeror for a specified prime contract or subcontract dollar amount. Awards are made by the County to prime contractors or vendors or by prime contractors or vendors to subcontractors or sub-vendors, usually pursuant to an open invitation to bid (“ITB”) or request for proposal (“RFP”) process.

(Contract awards are to be distinguished from contract payments in that they only reflect the anticipated dollar amounts instead of actual dollar amounts that are to be paid to a bidder or offeror under an awarded contract.)

Bid Incentives – additional inducements or enhancements in the bidding process that are designed to increase the chances for the selection of SLBE firms in competition with other firms. These bid incentives may be applied to all solicitations, contracts, and letter agreements for the purchase of Architectural & Engineering services, Construction, Professional Services, Non-professional Services, and Commodities including change orders and amendments.

Centralized Bidder Registration System (“CBR”) -- a web-based software application used by the County of Richland to track and monitor SLBE availability and utilization (i.e., “Spend” or “Payments”) on County contracts.

County – refers to the County of Richland, South Carolina.

Commercially Useful Function – an SLBE performs a commercially useful function when it is responsible for execution of the work of the contract and is carrying out its responsibilities by actually performing, managing, and supervising the work involved. To perform a commercially useful function, the SLBE must also be responsible, with respect to materials and supplies used on the contract, for negotiating price, determining quantity and quality, ordering the material, and installing (where applicable) and paying for the material itself. To determine whether an SLBE is performing a commercially useful function, an evaluation must be performed of the amount of work subcontracted, normal industry practices, whether the amount the SLBE firm is to be paid under the contract is commensurate with the work it is actually performing and the SLBE credit claimed for its performance of the work, and other relevant factors. Specifically, an SLBE does not perform a commercially useful function if its role is limited to that of an extra participant in a transaction, contract, or project through which funds are passed in order to obtain the appearance of meaningful and useful SLBE participation, when in similar transactions in which SLBE firms do not participate, there is no such role performed.

Emerging SLBE – an emerging firm that meets all of the qualifications of a Small Local Business Enterprise, and that is less than five years old, but has no more than five full-time employees and annual gross sales as averaged over the life of the firm that are less than \$1 million.

Goal – a non-mandatory annual aspirational percentage goal for SLBE contract participation is established each year for Architectural & Engineering services, Construction, Professional Services, Non-professional Services, and Commodities contracts. Mandatory percentage goals for SLBE subcontract participation may be established on a contract-by-contract basis by either the Director of Procurement or a Goal Setting Committee.

Goal Setting Committee – a committee established by the Director of Procurement for the County (including a representative of the Purchasing Department and a representative of the end-user agency) and chaired by the Director of Procurement that establishes SLBE Program goals and selects appropriate SLBE Affirmative Procurement Initiatives to be applied to each contract for the County based upon industry categories, vendor availability, and project-specific characteristics. The Director of Procurement may establish as many as five separate Goal Setting Committees (i.e., one for each industry category).

Good Faith Efforts – documentation of the Bidder’s intent to comply with SLBE Program goals and procedures, including, but not limited to the following: (1) documentation within a bid submission or proposal reflecting the Bidder’s commitment to comply with SLBE Program goals as established by the Director of Procurement or a Goal Setting Committee for a particular contract; or (2) documentation of efforts made towards achieving the SLBE Program goals (e.g., timely advertisements in appropriate trade publications and publications of wide general circulation; timely posting of SLBE subcontract opportunities on the County web site; solicitations of bids from all qualified SLBE firms listed in the County’s SLBE Directory of certified SLBE firms; correspondence from qualified SLBE firms documenting their unavailability to perform SLBE contracts; documentation of efforts to subdivide work into smaller quantities for subcontracting purposes to SLBE firms; documentation of efforts to assist SLBE firms with obtaining financing, bonding, or insurance required by the bidder; and documentation of consultations with trade associations and consultants that represent the interests of small and local businesses in order to identify qualified and available SLBE subcontractors.)

Graduation – An SLBE firm permanently graduates from the County’s SLBE program when it meets the criteria for graduation set forth in this policy.

Independently Owned, Managed, and Operated – ownership of an SLBE firm must be direct, independent, and by individuals only. Business firms that are owned by other businesses or by the principals or owners of other businesses that cannot themselves qualify under the SLBE eligibility requirements shall not be eligible to participate in the SLBE program. Moreover, the day-to-day management of the SLBE firm must be direct and independent of the influence of any other businesses that cannot themselves qualify under the SLBE eligibility requirements.

Industry Categories – procurement groupings for County contracts for purposes of the administration of Affirmative Procurement Initiatives shall be inclusive of Architectural & Engineering, Construction, Professional Services, and Non-professional Services, and Commodities procurements. Industry Categories may also be referred to as “business categories.”

Joint Venture - an association of two or more persons or businesses carrying out a single business enterprise for which purpose they combine their capital, efforts, skills, knowledge and/or property. Joint ventures must be established by written agreement.

Local Business Enterprise (“LBE”) - a firm having a Principal Place of Business or a Significant Employment Presence in Richland County, South Carolina. This definition is subsumed within the definition of Small Local Business Enterprise.

Non-professional Services – non-construction, non-architectural, and non-engineering services that are other than Professional Services, and such “other” services that do not require any license or highly specialized training and credentials to perform.

Points – the quantitative assignment of value for specific evaluation criteria in the selection process.

Prime Contractor – The vendor or contractor to whom a purchase order or contract is awarded by the County for purposes of providing goods or services to the County.

Principal Place of Business – a location wherein a firm maintains a company headquarters or a physical office and through which it obtains no less than fifty percent of its overall customers or sales dollars, or through which no less than twenty-five percent of its employees are located and domiciled in the County of Richland and/or Richland County.

Professional Services – any non-construction and non-architectural & engineering services that require highly specialized training and / or licensed credentials to perform, such as legal, accounting, scientific, technical, insurance, investment management, medical, or real estate services.

Responsive - a firm’s bid or proposal conforms in all material respects to the invitation to bid or request for proposal and shall include compliance with SLBE Program requirements.

Sheltered Market – An Affirmative Procurement Initiative designed to set aside a County contract bid for bidding exclusively among SLBE firms.

Significant Employee Presence – no less than twenty-five percent of a firm’s total number of full and part-time employees are domiciled in Richland County.

Small Local Business Enterprise (“SLBE”) – an independently owned firm that is not dominant in its industry, and that satisfies all requirements of being both a “Small Business Enterprise” and a “Local Business Enterprise.”

SLBE Plan Execution Certification (SLBE Form – C) - The form certifying the general contractor’s intent to use a SLBE subcontractor, verifying that an agreement has been executed between the prime and the SLBE.

SLBE Directory - A listing of the small local businesses that have been certified by the Purchasing Department for participation in the SLBE Program.

SLBE Certification/Re-certification Application (SLBE Form – R) – This form shall be completed by Small Local Business Enterprises (SLBEs) when applying for and/or recertifying SLBE status for participation in the County’s Small Local Business Enterprise Program. This form shall be completed every two years by certified Small Local Business Enterprises by the anniversary date of their original certification.

SLBE Schedule for Subcontractor Participation (SLBE Form – S) – This form must be completed by all non-SLBE firms that subcontract to SLBE firms. A form must be submitted for each SLBE subcontractor. This form(s) must be reviewed and approved by the Director of Purchasing before contract award.

SLBE Unavailability Certification (SLBE Form – U) - This form demonstrates a bidder's unsuccessful good faith effort to meet the small, local participation requirements of the contract. This form will only be considered after proper completion of the outreach and compliance efforts and methods used to notify and inform SLBE firms of contracting opportunities have been fully exhausted.

Small Business Enterprise (“SBE”) a small business enterprise is any for-profit enterprise as defined by South Carolina Code of Laws, Title 33, Chapter 31 that is not a broker, that is independently owned and operated, that is not a subsidiary of another business, and that is not dominant in its field of operation; and that also meets the following size standard limitations: (1) the SBE must have no more than ~~ten~~ **fifty** full-time employees; and (2) the SBE must have annual gross revenues within its largest primary NAICS commodity code as averaged over its most recent past three fiscal years of not more than \$10 million for construction firms, specialty trade contractors, and manufacturing firms; not more than \$5 million for architectural firms; not more than \$3 million for professional services firms (e.g., scientific, real estate, insurance, accounting, legal, etc.); not more than \$2.5 million for **engineering firms**; and not more than \$2 million for wholesale operations, retail firms, and all other services firms (e.g., truck transportation, administrative support services, repair and maintenance services). If a business has not existed for 3 years, the employment and gross sales limits described above shall be applied based upon the annual averages over the course of the existence of the business not to exceed the three years. Once the gross annual receipts of a business exceed the gross sales average limits, it should no longer be eligible to benefit as an SLBE firm and should be graduated from the program. The size standards in number of employees and annual gross revenue dollars should be reviewed annually and adjusted periodically to meet economic changes. Joint ventures must be certified on a bid-by-bid basis. The joint venture shall not be subject to the average gross receipts and employee limits imposed by this section. However, each individual business participating in the joint venture must be certified by the Procurement Department as an SBE.

~~[** Note: See State of Maryland’s alternative definition of Small Business Enterprise (“SBE”) below in bold italic text:~~

~~(1) — Any for-profit enterprise as defined in Maryland Code of Regulations, Title 2, Division 2, Chapter 3, Subchapter 8; that is that is not a broker, that is independently owned and operated; that is not a subsidiary of another business; and that is not dominant in its field of operation; and~~

~~(2) — That satisfies the following size requirements:~~

~~a. — Wholesale operations of the business did not employ more than 50 persons, and the gross sales of the business did not exceed an average of \$2,000,000 in its most recently completed 3 fiscal years;~~

~~b. — Manufacturing operations of the business did not employ more than 100 persons, and the gross sales of the business did not exceed an average of \$2,000,000 in its most recently completed 3 fiscal years;~~

~~c. — Service operations of the business did not employ more than 100 persons, and the gross sales of the business did not exceed an average of \$2 million in its most recently completed 3 fiscal years; and~~

~~d. — Construction operations of the business did not employ more than 50 persons, and the gross sales of the business did not exceed an average of \$7,000,000 in its most recently completed 3 fiscal years.~~

~~If a business has not existed for 3 years, the employment and gross sales limits described above shall be applied based upon the annual averages over the course of the existence of the business.~~

~~This definition is subsumed within the definition of Small Local Business Enterprises.]~~

a.

~~This definition is subsumed within the definition of Small Local Business Enterprises.~~

~~Small Local Business Enterprise (“SLBE”) – A Local Business Enterprise that is also a Small Business Enterprise.]~~

~~Spend Dollars – dollars actually paid to prime and / or subcontractors and vendors for County contracted goods and/or services.~~

Subcontractor – any vendor or contractor that is providing goods or services to a Prime Contractor in furtherance of the Prime Contractor’s performance under a contract or purchase order with the County.

Suspension – the temporary stoppage of a SLBE firm’s participation in the County’s contracting process under the SLBE Program for a finite period of time due to the cumulative contract payments the SLBE received during a fiscal year.

Sec. 2-640. Program Objectives and General Responsibilities.

(a) To meet the objectives of this Program, the County is committed to:

1. Increasing the participation of Small Local Business Enterprises (“SLBEs”) in County contracting, and, to the extent possible, ameliorating through race- and gender-neutral means, any disparities in the participation of minority business enterprises or women business enterprises on County contracts.
2. Regular evaluation regarding the progress of the Program using accumulated availability and utilization data to determine specific program provisions that require modification, expansion, and/or curtailment;
3. Establishing one or more Goal Setting Committee(s) (“GSCs”) to provide guidance on the implementation of the rules under this Policy;
4. Continuous review and advice of the GSC in administering the policy and goals herein. The County’s Director of Procurement shall determine the size of each GSC that is to be chaired by the Purchasing Director. The Purchasing Director shall also appoint the remaining members of the GSC from the County’s procurement personnel and other County departments affected by this Program; and
5. Providing accountability and accuracy in setting goals and in reporting program results through the implementation of a mandatory centralized bidder registration process capable of identifying with specificity the universe of firms that are available and interested in bidding on and /or performing on County contracts, and of providing the means of tracking actual County bids, contract awards, and prime contract and subcontract payments to registered bidders on the basis of firm ownership status, commodity or sub-industry codes, firm location, and firm size. Accordingly, Prime Contractors and Subcontractors will be required to register and input data into the CBR or other related forms and systems as a condition of engaging in business with the County.

(b) At a minimum, the Procurement Director shall:

1. Report to the County Administrator and the County Council on at least an annual basis as to the County’s progress towards satisfying SLBE program objectives;

2. Formulate Program waivers, improvements and adjustments to the GSC goal-setting methodology and other Program functions;
3. Have substantive input in a contract specification review process to be undertaken in advance of the issuance of County's RFPs and bid solicitations to ensure that contract bid specifications are not unnecessarily restrictive and unduly burdensome to small, local, minority-owned, and other businesses;
4. Receive and analyze external and internal information including statistical data and anecdotal testimonies it deems appropriate to effectively accomplish its duties; and
5. Monitor and support the implementation of the rules under this Program, and where appropriate, make recommendations to the County Administrator for approval of changes to established size standards for SLBE firms, and provide notice of all approved changes to the County Council.

(c) At a minimum, each Goal Setting Committee shall:

1. Meet as often as it deems necessary to accomplish its duties but not less than twice annually;
2. Develop the SLBE goal setting methodology to be implemented by the Director of Procurement on a contract-by-contract basis; and
3. Monitor and support the implementation of the rules under this Program policy.

Sec. 2-641. Eligibility for the SLBE Program.

(a) For the purpose of this program, a firm will be certified as a Small and Local Business Enterprise (SLBE) with the Purchasing Department upon its submission of a completed certification form (SLBE Form-R), supporting documentation, and a signed affidavit stating that it meets all of the SLBE eligibility criteria as set forth below:

1. It is an independently owned and operated for-profit business concern as defined by South Carolina Code of Laws, Title 33, Chapter 31 that is not a broker, that is not a subsidiary of another business, that is not dominant in its field of operation; whose owners are actively involved in day-to-day management and control of the business, and that also is performing a commercially useful function;
2. It meets size standard eligibility requirements for Small Business Enterprises as defined below;

~~*****Note: See State of Maryland's alternative definition of Small Business Enterprise ("SBE") size standards below in bold italic text:***~~

~~2. That satisfies the following size requirements:~~

~~a. Wholesale operations of the business did not employ more than 50 persons, and the gross sales of the business did not exceed an average of \$2,000,000 in its most recently completed 3 fiscal years;~~

~~b. Manufacturing operations of the business did not employ more than 100 persons, and the gross sales of the business did not exceed an average of \$2,000,000 in its most recently completed 3 fiscal years;~~

~~c. Service operations of the business did not employ more than 100 persons, and the gross sales of the business did not exceed an average of \$2 million in its most recently completed 3 fiscal years; and~~

~~d. Construction operations of the business did not employ more than 50 persons, and the gross sales of the business did not exceed an average of \$7,000,000 in its most recently completed 3 fiscal years.~~

~~If a business has not existed for 3 years, the employment and gross sales limits described above shall be applied based upon the annual averages over the course of the existence of the business.~~

~~This definition is subsumed within the definition of Small Local Business Enterprises.]~~

a. Construction firms, specialty trade firms, and manufacturing firms have not employed more than 50 full-time persons at any time during the last three years, and the gross annual revenues of the business for its largest primary NAICS code have not exceeded an average of \$10 million in its most recently completed 3 fiscal years;

b. Architectural business firms have not employed more than 50 persons at any time during the last three years, and the gross annual revenues of the business for its largest primary NAICS code have not exceeded an average of \$5 million in its most recently completed 3 fiscal years;

c. Professional services business firms have not employed more than 50 persons at any time during the last three years, and the gross annual revenues of the business for its largest

primary NAICS code have not exceeded an average of \$3 million in its most recently completed 3 fiscal years;

- d. Engineering business firms , have not employed more than 50 persons at any time during the last three years, and the gross annual revenues of the business for its largest primary NAICS code have not exceeded an average of \$2.5 million in its most recently completed 3 fiscal years;
- e. Wholesale operations, retail firms, and all other services business firms have not employed more than 50 persons at any time during the last three years, and the gross annual revenues of the business for its largest primary NAICS code have not exceeded an average of \$2 million in its most recently completed 3 fiscal years; and

\$3 million

A few may be a higher size standard, but none above \$3 million or 50 employees.

If a business has not existed for 3 years, the employment and gross revenue limits described above shall be applied based upon the annual averages over the course of the existence of the business not to exceed the three years.

Once the gross annual revenues of a business exceed the three-year average gross annual revenue limits, it should no longer be eligible to benefit as an SLBE firm and should be permanently graduated from the program. The size standards in number of employees and annual gross revenue dollars should be reviewed annually and adjusted periodically to meet changes in market conditions. Joint ventures must be certified on a bid-by-bid basis. The joint venture itself shall not be subject to the size standard limitations imposed by this section. However, each individual business participating in the joint venture must be certified by the Procurement Department as an SLBE in order for the joint venture to receive the benefits of the SLBE program.

This definition is subsumed within the definition of Small Local Business Enterprises.

3. The firm is a Local Business Enterprise as defined by this Policy with a principal place of business or significant employment presence in Richland County, SC as defined herein;
4. The firm has been established for at least one year or the managing principals of the business each have at least three years of relevant experience prior to forming or joining the business; and
5. In the year preceding the date of the initial certification application, the applicant has not received more than \$1,000,000 in County contract payments as a result of contract awards from the County achieved through an open competitive bidding process.

(b) Upon receipt of SLBE certification or re-certification applications, the Director of Procurement or designated Procurement Department staff shall review all enclosed forms affidavits and documentation to make a prima facie determination as to whether the applicant satisfies the SLBE eligibility requirements as set forth in this policy. Applicants determined ineligible to participate as a SLBE shall receive a letter from the Director of Procurement stating the basis for the denial of eligibility. Applicants determined ineligible shall not be eligible to submit a new application for one year after the date of the notice of denial of eligibility.

(c) Applicants determined eligible to participate in the SLBE program shall submit a completed re-certification form (SLBE-R) every two years to the Procurement Department for review and continued certification. However, upon application for re-certification, an SLBE firm must be an independently owned and operated business concern, and maintain a Principal Place of Business or Significant Employment Presence in the County of Richland in accordance with this Section 2-641 of Division 7, "Eligibility for the SLBE Program," of this Policy. To qualify for recertification, an SLBE's maximum employment numbers and annual gross revenues average for the three fiscal years immediately preceding the application for recertification shall not exceed the size standard eligibility requirements.

(d) In the course of considering the certification or re-certification status of any SLBE firm, the Director of Procurement or his or her designees shall periodically conduct audits and inspect the office, job site, records, and documents of the firm, and shall interview the firm's employees, subcontractors, and vendors as reasonably necessary to ensure that all eligibility standards are satisfied and that the integrity of the SLBE Program is maintained.

(e) For purposes of this Program, a firm will be certified as an *Emerging SLBE* by the Purchasing Department upon its submission of a completed certification

form (SLBE Form-R), supporting documentation, and a signed affidavit stating that it meets all of the Emerging SLBE eligibility criteria as set forth below:

1. The firm complies with all SLBE criteria as specified above in Sec. 2-641 (a) through (d);
2. The firm has been in existence for less than five years;
3. The firm has no more than five full-time employees; and
4. The firm's annual gross revenues as averaged over the life of the firm are less than \$1 million.

Sec. 2-642. Graduation and Suspension Criteria.

(a) A bidder may not count towards its SLBE or Emerging SLBE participation the amount subcontracted to an SLBE or Emerging SLBE firm that has graduated or been suspended from the program as follows:

1. An SLBE firm shall be permanently graduated from the SLBE Program after it has received a cumulative total of \$5 million of County-funded prime contract or subcontract payments in at least five separate contracts since its initial certification as an SLBE firm;
2. An SLBE firm shall be permanently graduated from the SLBE program after its three fiscal year average gross sales exceeds the size standard eligibility requirements;
3. An SLBE firm shall be temporarily suspended by the Director of Procurement for the balance of any fiscal year after it has received a cumulative total of \$1.5 million in payments as a prime contractor and / or subcontractor for that fiscal year; provided, however, that the SLBE firm shall be eligible to participate in Affirmative Procurement Initiatives in the following fiscal year so long as the firm has not yet satisfied the graduation criteria;
4. An SLBE firm may have its SLBE eligibility permanently revoked by the Director of Procurement if it fails to perform a Commercially Useful Function under a contract, or if it allows its SLBE status to be fraudulently used for the benefit of a non-SLBE firm or the owners of a non-SLBE firm so as to provide the non-SLBE firm or firm owners benefits from Affirmative Procurement Initiatives for which the non-SLBE firm and its owners would not otherwise be entitled;
5. An Emerging SLBE firm shall be permanently graduated from Emerging SLBE status after it has received a cumulative total of \$2.5 million of County-funded prime contracts or subcontract payments in at least five separate contracts since its initial certification as an Emerging SLBE firm;

6. An Emerging SLBE firm shall be permanently graduated from Emerging SLBE status once its three-year average annual gross sales exceeds \$2 million; and
7. An Emerging SLBE firm shall be temporarily suspended from Emerging SLBE status by the Director of Procurement for the balance of any fiscal year after it has received a cumulative total of \$750,000 in payments as a prime contractor and / or subcontractor for that fiscal year; provided, however, that the Emerging SLBE firm shall be eligible to continue participating in Affirmative Procurement Initiatives as an SLBE firm for the remainder of the fiscal year, and may also participate in Affirmative Procurement Initiatives as an Emerging SLBE firm in the following fiscal year so long as the firm has not yet satisfied the graduation criteria for such status.

(b) The Director of Procurement shall provide written notice to the SLBE firm or Emerging SLBE firm upon graduation or suspension from the SLBE program, and such notice shall clearly state the reasons for such graduation or suspension.

Sec. 2-643. Appeals.

A business concern that is denied eligibility as an SLBE or as an Emerging SLBE, or who has its eligibility revoked, or who has been denied a waiver request can appeal the decision to the County Administrator. A written notice of appeal must be received by the County Administrator within 15 days of the date of the decision. Upon receipt of a timely notice of appeal and request for hearing, the Director of Procurement, or designee (other than the Director of Procurement), shall also participate in a hearing conducted by the County Administrator or the County Administrator's designee soon as practicable. The decision of the County Administrator, or designee, shall be the final decision of the County.

Sec. 2-644. Affirmative Procurement Initiatives for Enhancing SLBE and Emerging SLBE Contract Participation.

(a) The County in conjunction with the appropriate Contract Officer and the Director of Procurement may utilize the following Affirmative Procurement Initiatives in promoting the award of County contracts to SLBEs or Emerging SLBEs.

1. **Bonding and Insurance Waiver:** The County, at its discretion, may waive or reduce the bonding, or insurance requirements depending on the type of contract and whether the County determines that the bonding and or insurance requirements would deny the SLBE or Emerging SLBE an opportunity to perform the contract which the SLBE or Emerging SLBE has shown itself otherwise capable of performing.

2. **Price Preferences:** The County may award a contract to a SLBE or Emerging SLBE which submits a bid within 10% (inclusive) of a low bid by a non-SLBE. However, this price preference would not apply if the award to the SLBE would result in a total contract cost that is, on an annual basis, more than \$25,000 higher than the low

bid; nor would it apply on a contract in which the total contract cost would exceed the County's budgeted price for the contract.

3. ***Evaluation Preferences:*** The County may reserve up to 20% of the total points available for evaluation purposes for respondents to an RFP to firms that are certified as SLBE or Emerging SLBE firms, or to joint ventures that have SLBE and/or Emerging SLBE partners (see EXHIBITS 1 and 2 regarding professional services contracts and architectural & engineering contracts, respectively).

4. ***Mandatory Subcontracting:***

a. The Goal Selection Committee may, on a contract-by-contract basis, at its discretion, require that a predetermined percentage of a specific contract, up to 40%, be subcontracted to eligible SLBEs or to eligible Emerging SLBEs, provided however, that if the prime contractor is a certified SLBE or Emerging SLBE, then the prime contractor shall be able to count the dollar value of the work performed by its own forces towards satisfaction of the Mandatory Subcontracting goal for that contract.

b. An SLBE or Emerging SLBE prime contractor may not subcontract more than 49% of the contract value to a non-SLBE.

c. A prospective bidder on a County contract shall submit at the time of bid SLBE – Form S providing the name of the SLBE or Emerging SLBE subcontractor or subcontractors and describing both the percentage of subcontracting by the SLBE or Emerging SLBE, and the work to be performed by the SLBE or Emerging SLBE. A bidder may request a full or partial waiver of this mandatory subcontracting requirement from the Director of Procurement for good cause by submitting the SLBE Unavailability Certification form to the Director of Procurement at the time of bid. Under no circumstances shall a waiver of a mandatory subcontracting requirement be granted without submission of adequate documentation of Good Faith Efforts by the bidder and careful review by the Director of Procurement. The Director of Procurement shall base his or her determination on a waiver request on the following criteria:

- (1) Whether the requestor of the waiver has made Good Faith Efforts to subcontract with qualified and available SLBEs or Emerging SLBEs;
- (2) Whether subcontracting would be inappropriate and/or not provide a "Commercially Useful Function" under the circumstances of the contract; and
- (3) Whether there are no certified SLBE or Emerging SLBE firms that are qualified and available to provide the goods or services required.

d. In the absence of a waiver granted by the Director of Procurement, failure of a Prime Contractor to commit in its bid or proposal to satisfying the mandatory SLBE subcontracting goal shall render its bid or proposal non-responsive.

e. In the absence of a waiver granted by the Director of Procurement, failure of a Prime Contractor to attain a mandatory subcontracting goal for SLBE participation in the performance of its awarded contract shall be grounds for termination of existing contracts with the County, debarment from performing future County contracts, and / or any other remedies available under the terms of its contract with the County or under the law.

f. A Prime Contractor is required to notify and obtain written approval from the Director of Procurement in advance of any reduction in subcontract scope, termination, or substitution for a designated SLBE or Emerging SLBE Subcontractor. Failure to do so shall constitute a material breach of its contract with the County.

5. ***Sheltered Market:***

a. The Director of Procurement and the appropriate County Contracting Officer may select certain contracts which have a contract value of \$250,000 or less for award to a SLBE or a joint venture with a SLBE through the Sheltered Market program. Similarly, the Director of Procurement and the appropriate County Contracting Officer may select certain contracts that have a value of \$50,000 or less for award to an Emerging SLBE firm through the Sheltered Market program.

b. In determining whether a particular contract is eligible for the Sheltered Market Program, the County's Contracting Officer and Director of Procurement shall consider: whether there are at least three SLBEs or Emerging SLBEs that are available and capable to participate in the Sheltered Market Program for that contract; the degree of underutilization of the SLBE and Emerging SLBE prime contractors in the specific industry categories; and the extent to which the County's SLBE and Emerging SLBE prime contractor utilization goals are being achieved.

c. If a responsive and responsible bid or response is not received for a contract that has been designated for the Sheltered Market Program or the apparent low bid is determined in the Procurement Director's discretion to be too high in price, the contract shall be removed from the Sheltered Market Program for purposes of rebidding.

6. ***Competitive Business Development Demonstration Project:***

a. With the concurrence of the Director of Procurement, the appropriate County Contracting Officer may reserve certain contracts for placement into a Competitive Business Development Demonstration Project ("CBD Demonstration Project") wherein those contracts require the purchase of goods or services from an industry that routinely has too few sources of bidders to provide meaningful or sufficient competition for such County contracts. The purpose for the placement of a contract into the CBD Demonstration Project shall be to encourage the development of new capacity within an industry to competitively bid on the future supply of specialized goods or services to the County.

b. Contracts reserved for CBD Demonstration Projects shall be subject to a Request for Proposals process whereby the selected firm will be required to be a joint venture between an established firm or experts in that relevant industry and an SLBE firm. The scope of work for the selected joint venture shall include teaching a hands-on curriculum to SLBE firms that have expressed an interest in diversifying into the relevant industry, in addition to performing the customary functions of the contract. This curriculum shall include both administrative skills (e.g. cost estimating, bidding, staffing, project management) and technical skills (e.g., hands-on demonstration of how to perform necessary tasks in the field) required to qualify for future County contracts and to successfully compete in the industry.

c. The Director of Procurement shall be required to select SLBE candidate firms for participation on such CBD Demonstration Projects on the basis of an assessment of their current capabilities and their likely success in diversifying into the new relevant industry once given technical assistance, training, and an opportunity to develop a performance track record in the industry.

Sec. 2-645. SLBE Program Performance Review.

(a) The Director of Procurement or designee shall monitor the implementation of this Policy and the progress of this Program. On at least an annual basis, the Director of Procurement or designee shall report to the County Administrator and County Council on the progress of achieving the goals established for awards to certified SLBE and Emerging SLBE firms, reporting both dollars awarded and expended. In addition, the Director of Procurement or designee shall report on the progress in achieving the stated Program Objectives, including, but not limited to, enhancing competition, establishing and building new business capacity, and removing barriers to and eliminating disparities in the utilization of available minority business enterprises and women business enterprises on County contracts.

(b) The County shall periodically review the SLBE Program to determine whether the various contracting procedures used to enhance SLBE contract participation need to be adjusted or used more or less aggressively in future years to achieve the stated Program Objectives. The County Council shall conduct a public hearing at least once every two years in order to solicit public comments on the Program.

Sec. 2-646. Conflicts.

To the extent language in this Division conflicts with other language in Article X, the language in this Division controls only with respect to contracts wherein the Small Local Business Enterprise Program is being applied by the Director of Procurement. In all other respects, prior language in this Article shall remain in full force and effect.

SMALL, LOCAL BUSINESS ENTERPRISE PROGRAM EXHIBITS

For Architectural & Engineering, Professional Services, Other Services, and design / build or CM at risk contracts that are awarded based on evaluation criteria, there shall be SLBE or Emerging SLBE participation criterion for all contracts let at predetermined percentage of the total points awarded. The determination will be made using the suggested model outlined in the “Point Evaluation Table” (EXHIBIT 1) below:

EXHIBIT 1

Point Evaluation Table

10 POINTS FOR SLBE PARTICIPATION

- > 51% = 10 points
- > 45% = 7 points
- > 40% = 6 points
- > 35% = 5 points
- > 30% = 4 points
- > 25% = 3 points
- > 20% = 2 points
- > 15% = 1 points

20 POINTS FOR SLBE PARTICIPATION

- > 51% = 20 points
- > 45% = 17 points
- > 40% = 16 points
- > 35% = 14 points
- > 30% = 12 points
- > 25% = 10 points
- > 20% = 8 points
- > 15% = 6 points
- > 10% = 4 points

Contractors may be evaluated on their SLBE or Emerging SLBE participation by utilizing the following sample schedule (EXHIBIT 2) which is most often used by Architectural & Engineering:

EXHIBIT 2

Points Awarded

5.0 51-100

4.0 36 – 50

% of Participation Criteria

Proposals by registered SLBE owned and/or controlled firms

Majority prime with registered SLBE participation

3.0	30 – 35	Majority prime with registered SLBE participation
2.0	24 – 29	Majority prime with registered SLBE participation
0	0 – 23	Less than the goal for registered SLBE participation

DRAFT

SMALL LOCAL BUSINESS ENTERPRISE (“SLBE”) PROGRAM
[An Ordinance to Amend Article X of the Richland County, SC Code by adding a
new Division 7 as follows]

(7-2-13 Draft)

DIVISION 7. SMALL LOCAL BUSINESS ENTERPRISE PROCUREMENT REQUIREMENTS

Sec. 2-639. General Provisions.

(a) *Purpose*

The purpose of this division is to provide a race- and gender-neutral procurement tool for the County to use in its efforts to ensure that all segments of its local business community have a reasonable and significant opportunity to participate in County contracts for construction, architectural & engineering services, professional services, non-professional services, and commodities. The Small Local Business Enterprise (“SLBE”) Program also furthers the County’s public interest to foster effective broad-based competition from all segments of the vendor community, including, but not limited to, minority business enterprises, small business enterprises, and local business enterprises. This policy is, in part, intended to further the County’s compelling interest in ensuring that it is neither an active nor passive participant in private sector marketplace discrimination, and in promoting equal opportunity for all segments of the contracting community to participate in County contracts. Moreover, the SLBE Program provides additional avenues for the development of new capacity and new sources of competition for County contracts from the growing pool of small and locally based businesses.

(b) *Scope and Limitations*

This SLBE Program may be applied by the County on a contract-by-contract basis to the maximum practicable extent permissible under federal and state law.

(c) *Definitions*

Affirmative Procurement Initiatives – refers to any procurement tool to enhance contracting opportunities for SLBE firms including: bonding / insurance waivers, bid incentives, price preferences, sheltered market, mandatory subcontracting, competitive business development demonstration projects, and SLBE evaluation preference points in the scoring of proposal evaluations.

Award – the final selection of a bidder or offeror for a specified prime contract or subcontract dollar amount. Awards are made by the County to prime contractors or vendors or by prime contractors or vendors to subcontractors or sub-vendors, usually pursuant to an open invitation to bid (“ITB”) or request for proposal (“RFP”) process.

(Contract awards are to be distinguished from contract payments in that they only reflect the anticipated dollar amounts instead of actual dollar amounts that are to be paid to a bidder or offeror under an awarded contract.)

Bid Incentives – additional inducements or enhancements in the bidding process that are designed to increase the chances for the selection of SLBE firms in competition with other firms. These bid incentives may be applied to all solicitations, contracts, and letter agreements for the purchase of Architectural & Engineering services, Construction, Professional Services, Non-professional Services, and Commodities including change orders and amendments.

Centralized Bidder Registration System (“CBR”) -- a web-based software application used by the County of Richland to track and monitor SLBE availability and utilization (i.e., “Spend” or “Payments”) on County contracts.

County – refers to the County of Richland, South Carolina.

Commercially Useful Function – an SLBE performs a commercially useful function when it is responsible for execution of the work of the contract and is carrying out its responsibilities by actually performing, managing, and supervising the work involved. To perform a commercially useful function, the SLBE must also be responsible, with respect to materials and supplies used on the contract, for negotiating price, determining quantity and quality, ordering the material, and installing (where applicable) and paying for the material itself. To determine whether an SLBE is performing a commercially useful function, an evaluation must be performed of the amount of work subcontracted, normal industry practices, whether the amount the SLBE firm is to be paid under the contract is commensurate with the work it is actually performing and the SLBE credit claimed for its performance of the work, and other relevant factors. Specifically, an SLBE does not perform a commercially useful function if its role is limited to that of an extra participant in a transaction, contract, or project through which funds are passed in order to obtain the appearance of meaningful and useful SLBE participation, when in similar transactions in which SLBE firms do not participate, there is no such role performed.

Emerging SLBE – an emerging firm that meets all of the qualifications of a Small Local Business Enterprise, and that is less than five years old, but has no more than five full-time employees and annual gross sales as averaged over the life of the firm that are less than \$1 million.

Goal – a non-mandatory annual aspirational percentage goal for SLBE contract participation is established each year for Architectural & Engineering services, Construction, Professional Services, Non-professional Services, and Commodities contracts. Mandatory percentage goals for SLBE subcontract participation may be established on a contract-by-contract basis by either the Director of Procurement or a Goal Setting Committee.

Goal Setting Committee – a committee established by the Director of Procurement for the County (including a representative of the Purchasing Department and a representative of the end-user agency) and chaired by the Director of Procurement that establishes SLBE Program goals and selects appropriate SLBE Affirmative Procurement Initiatives to be applied to each contract for the County based upon industry categories, vendor availability, and project-specific characteristics. The Director of Procurement may establish as many as five separate Goal Setting Committees (i.e., one for each industry category).

Good Faith Efforts – documentation of the Bidder’s intent to comply with SLBE Program goals and procedures, including, but not limited to the following: (1) documentation within a bid submission or proposal reflecting the Bidder’s commitment to comply with SLBE Program goals as established by the Director of Procurement or a Goal Setting Committee for a particular contract; or (2) documentation of efforts made towards achieving the SLBE Program goals (e.g., timely advertisements in appropriate trade publications and publications of wide general circulation; timely posting of SLBE subcontract opportunities on the County web site; solicitations of bids from all qualified SLBE firms listed in the County’s SLBE Directory of certified SLBE firms; correspondence from qualified SLBE firms documenting their unavailability to perform SLBE contracts; documentation of efforts to subdivide work into smaller quantities for subcontracting purposes to SLBE firms; documentation of efforts to assist SLBE firms with obtaining financing, bonding, or insurance required by the bidder; and documentation of consultations with trade associations and consultants that represent the interests of small and local businesses in order to identify qualified and available SLBE subcontractors.)

Graduation – An SLBE firm permanently graduates from the County’s SLBE program when it meets the criteria for graduation set forth in this policy.

Independently Owned, Managed, and Operated – ownership of an SLBE firm must be direct, independent, and by individuals only. Business firms that are owned by other businesses or by the principals or owners of other businesses that cannot themselves qualify under the SLBE eligibility requirements shall not be eligible to participate in the SLBE program. Moreover, the day-to-day management of the SLBE firm must be direct and independent of the influence of any other businesses that cannot themselves qualify under the SLBE eligibility requirements.

Industry Categories – procurement groupings for County contracts for purposes of the administration of Affirmative Procurement Initiatives shall be inclusive of Architectural & Engineering, Construction, Professional Services, and Non-professional Services, and Commodities procurements. Industry Categories may also be referred to as “business categories.”

Joint Venture - an association of two or more persons or businesses carrying out a single business enterprise for which purpose they combine their capital, efforts, skills, knowledge and/or property. Joint ventures must be established by written agreement.

Local Business Enterprise (“LBE”) - a firm having a Principal Place of Business or a Significant Employment Presence in Richland County, South Carolina. This definition is subsumed within the definition of Small Local Business Enterprise.

Non-professional Services – non-construction, non-architectural, and non-engineering services that are other than Professional Services, and such “other” services that do not require any license or highly specialized training and credentials to perform.

Points – the quantitative assignment of value for specific evaluation criteria in the selection process.

Prime Contractor – The vendor or contractor to whom a purchase order or contract is awarded by the County for purposes of providing goods or services to the County.

Principal Place of Business – a location wherein a firm maintains a company headquarters or a physical office and through which it obtains no less than fifty percent of its overall customers or sales dollars, or through which no less than twenty-five percent of its employees are located and domiciled in the County of Richland and/or Richland County.

Professional Services – any non-construction and non-architectural & engineering services that require highly specialized training and / or licensed credentials to perform, such as legal, accounting, scientific, technical, insurance, investment management, medical, or real estate services.

Responsive - a firm’s bid or proposal conforms in all material respects to the invitation to bid or request for proposal and shall include compliance with SLBE Program requirements.

Sheltered Market – An Affirmative Procurement Initiative designed to set aside a County contract bid for bidding exclusively among SLBE firms.

Significant Employee Presence – no less than twenty-five percent of a firm’s total number of full and part-time employees are domiciled in Richland County.

Small Local Business Enterprise (“SLBE”) – an independently owned firm that is not dominant in its industry, and that satisfies all requirements of being both a “Small Business Enterprise” and a “Local Business Enterprise.”

SLBE Plan Execution Certification (SLBE Form – C) - The form certifying the general contractor’s intent to use a SLBE subcontractor, verifying that an agreement has been executed between the prime and the SLBE.

SLBE Directory - A listing of the small local businesses that have been certified by the Purchasing Department for participation in the SLBE Program.

SLBE Certification/Re-certification Application (SLBE Form – R) – This form shall be completed by Small Local Business Enterprises (SLBEs) when applying for and/or recertifying SLBE status for participation in the County’s Small Local Business Enterprise Program. This form shall be completed every two years by certified Small Local Business Enterprises by the anniversary date of their original certification.

SLBE Schedule for Subcontractor Participation (SLBE Form – S) – This form must be completed by all non-SLBE firms that subcontract to SLBE firms. A form must be submitted for each SLBE subcontractor. This form(s) must be reviewed and approved by the Director of Purchasing before contract award.

SLBE Unavailability Certification (SLBE Form – U) - This form demonstrates a bidder's unsuccessful good faith effort to meet the small, local participation requirements of the contract. This form will only be considered after proper completion of the outreach and compliance efforts and methods used to notify and inform SLBE firms of contracting opportunities have been fully exhausted.

Small Business Enterprise (“SBE”) a small business enterprise is any for-profit enterprise as defined by South Carolina Code of Laws, Title 33, Chapter 31 that is not a broker, that is independently owned and operated, that is not a subsidiary of another business, and that is not dominant in its field of operation; and that also meets the following size standard limitations: (1) the SBE must have no more than fifty full-time employees; and (2) the SBE must have annual gross revenues within its largest primary NAICS commodity code as averaged over its most recent past three fiscal years of not more than \$10 million for construction firms, specialty trade contractors, and manufacturing firms; not more than \$5 million for architectural firms; not more than \$3 million for professional services firms (e.g., scientific, real estate, insurance, accounting, legal, etc.); not more than \$2.5 million for engineering firms; and not more than \$2 million for wholesale operations, retail firms, and all other services firms (e.g., truck transportation, administrative support services, repair and maintenance services). If a business has not existed for 3 years, the employment and gross sales limits described above shall be applied based upon the annual averages over the course of the existence of the business not to exceed the three years. Once the gross annual receipts of a business exceed the gross sales average limits, it should no longer be eligible to benefit as an SLBE firm and should be graduated from the program. The size standards in number of employees and annual gross revenue dollars should be reviewed annually and adjusted periodically to meet economic changes. Joint ventures must be certified on a bid-by-bid basis. The joint venture shall not be subject to the average gross receipts and employee limits imposed by this section. However, each individual business participating in the joint venture must be certified by the Procurement Department as an SBE. ***This definition is subsumed within the definition of Small Local Business Enterprises.***

Small Local Business Enterprise (“SLBE”) – A Local Business Enterprise that is also a Small Business Enterprise.

Spend Dollars – dollars actually paid to prime and / or subcontractors and vendors for County contracted goods and/or services.

Subcontractor – any vendor or contractor that is providing goods or services to a Prime Contractor in furtherance of the Prime Contractor’s performance under a contract or purchase order with the County.

Suspension – the temporary stoppage of a SLBE firm’s participation in the County’s contracting process under the SLBE Program for a finite period of time due to the cumulative contract payments the SLBE received during a fiscal year.

Sec. 2-640. Program Objectives and General Responsibilities.

(a) To meet the objectives of this Program, the County is committed to:

1. Increasing the participation of Small Local Business Enterprises (“SLBEs”) in County contracting, and, to the extent possible, ameliorating through race- and gender-neutral means, any disparities in the participation of minority business enterprises or women business enterprises on County contracts.
2. Regular evaluation regarding the progress of the Program using accumulated availability and utilization data to determine specific program provisions that require modification, expansion, and/or curtailment;
3. Establishing one or more Goal Setting Committee(s) (“GSCs”) to provide guidance on the implementation of the rules under this Policy;
4. Continuous review and advice of the GSC in administering the policy and goals herein. The County’s Director of Procurement shall determine the size of each GSC that is to be chaired by the Purchasing Director. The Purchasing Director shall also appoint the remaining members of the GSC from the County’s procurement personnel and other County departments affected by this Program; and
5. Providing accountability and accuracy in setting goals and in reporting program results through the implementation of a mandatory centralized bidder registration process capable of identifying with specificity the universe of firms that are available and interested in bidding on and /or performing on County contracts, and of providing the means of tracking actual County bids, contract awards, and prime contract and subcontract payments to registered bidders on the basis of firm ownership status, commodity or sub-industry codes, firm location, and firm size. Accordingly, Prime Contractors and Subcontractors will be required to register and input data into the CBR or other related forms and systems as a condition of engaging in business with the County.

(b) At a minimum, the Procurement Director shall:

1. Report to the County Administrator and the County Council on at least an annual basis as to the County's progress towards satisfying SLBE program objectives;
2. Formulate Program waivers, improvements and adjustments to the GSC goal-setting methodology and other Program functions;
3. Have substantive input in a contract specification review process to be undertaken in advance of the issuance of County's RFPs and bid solicitations to ensure that contract bid specifications are not unnecessarily restrictive and unduly burdensome to small, local, minority-owned, and other businesses;
4. Receive and analyze external and internal information including statistical data and anecdotal testimonies it deems appropriate to effectively accomplish its duties; and
5. Monitor and support the implementation of the rules under this Program, and where appropriate, make recommendations to the County Administrator for approval of changes to established size standards for SLBE firms, and provide notice of all approved changes to the County Council.

(c) At a minimum, each Goal Setting Committee shall:

1. Meet as often as it deems necessary to accomplish its duties but not less than twice annually;
2. Develop the SLBE goal setting methodology to be implemented by the Director of Procurement on a contract-by-contract basis; and
3. Monitor and support the implementation of the rules under this Program policy.

Sec. 2-641. Eligibility for the SLBE Program.

(a) For the purpose of this program, a firm will be certified as a Small and Local Business Enterprise (*SLBE*) with the Purchasing Department upon its submission of a completed certification form (SLBE Form-R), supporting documentation, and a signed affidavit stating that it meets all of the SLBE eligibility criteria as set forth below:

1. It is an independently owned and operated for-profit business concern as defined by South Carolina Code of Laws, Title 33, Chapter 31 that is not a broker, that is not a subsidiary of another business, that is not dominant in its field of operation; whose owners are actively involved in day-to-day management and control of the business, and that also is performing a commercially useful function;

2. It meets size standard eligibility requirements for Small Business Enterprises as defined below;

- a. Construction firms, specialty trade firms, and manufacturing firms have not employed more than 50 full-time persons at any time during the last three years, and the gross annual revenues of the business for its largest primary NAICS code have not exceeded an average of \$10 million in its most recently completed 3 fiscal years;
- b. Architectural business firms have not employed more than 50 persons at any time during the last three years, and the gross annual revenues of the business for its largest primary NAICS code have not exceeded an average of \$5 million in its most recently completed 3 fiscal years;
- c. Professional services business firms have not employed more than 50 persons at any time during the last three years, and the gross annual revenues of the business for its largest primary NAICS code have not exceeded an average of \$3 million in its most recently completed 3 fiscal years;
- d. Engineering business firms , have not employed more than 50 persons at any time during the last three years, and the gross annual revenues of the business for its largest primary NAICS code have not exceeded an average of \$2.5 million in its most recently completed 3 fiscal years; and
- e. Wholesale operations, retail firms, and all other services business firms have not employed more than 50 persons at any time during the last three years, and the gross annual revenues of the business for its largest primary NAICS code have not exceeded an average of \$2 million in its most recently completed 3 fiscal years.

If a business has not existed for 3 years, the employment and gross revenue limits described above shall be applied based upon the annual averages not to exceed three years.

Once the gross annual revenues of a business exceed the three-year average gross annual revenue limits, it should no longer be eligible to benefit as an SLBE firm and should be permanently graduated from the program. The size standards in number of employees and annual gross revenue dollars should be reviewed annually and adjusted periodically to meet changes in market conditions. Joint ventures must be certified on a bid-by-bid basis. The joint venture itself shall not be subject to the size standard limitations imposed by this section. However, each individual business participating in the joint venture must be certified by the Procurement Department as an SLBE in order for the joint venture to receive the benefits of the SLBE program. ***This definition is subsumed within the definition of Small Local Business Enterprises.***

3. The firm is a Local Business Enterprise as defined by this Policy with a principal place of business or significant employment presence in Richland County, SC as defined herein;

4. The firm has been established for at least one year or the managing principals of the business each have at least three years of relevant experience prior to forming or joining the business; and

5. In the year preceding the date of the initial certification application, the applicant has not received more than \$1,000,000 in County contract payments as a result of contract awards from the County achieved through an open competitive bidding process.

(b) Upon receipt of SLBE certification or re-certification applications, the Director of Procurement or designated Procurement Department staff shall review all enclosed forms affidavits and documentation to make a prima facie determination as to whether the applicant satisfies the SLBE eligibility requirements as set forth in this policy. Applicants determined ineligible to participate as a SLBE shall receive a letter from the Director of Procurement stating the basis for the denial of eligibility. Applicants determined ineligible shall not be eligible to submit a new application for one year after the date of the notice of denial of eligibility.

(c) Applicants determined eligible to participate in the SLBE program shall submit a completed re-certification form (SLBE-R) every two years to the Procurement Department for review and continued certification. However, upon application for re-certification, an SLBE firm must be an independently owned and operated business concern, and maintain a Principal Place of Business or Significant Employment Presence in the County of Richland in accordance with this Section 2-641 of Division 7, "Eligibility for the SLBE Program," of this Policy. To qualify for recertification, an SLBE's maximum employment numbers and annual gross revenues average for the three fiscal years immediately preceding the application for recertification shall not exceed the size standard eligibility requirements.

(d) In the course of considering the certification or re-certification status of any SLBE firm, the Director of Procurement or his or her designees shall periodically conduct audits and inspect the office, job site, records, and documents of the firm, and shall interview the firm's employees, subcontractors, and vendors as reasonably necessary to ensure that all eligibility standards are satisfied and that the integrity of the SLBE Program is maintained.

(e) For purposes of this Program, a firm will be certified as an *Emerging SLBE* by the Purchasing Department upon its submission of a completed certification form (SLBE Form-R), supporting documentation, and a signed affidavit stating that it meets all of the Emerging SLBE eligibility criteria as set forth below:

1. The firm complies with all SLBE criteria as specified above in Sec. 2-641 (a) through (d);
2. The firm has been in existence for less than five years;
3. The firm has no more than five full-time employees; and
4. The firm's annual gross revenues as averaged over the life of the firm are less than \$1 million.

Sec. 2-642. Graduation and Suspension Criteria.

(a) A bidder may not count towards its SLBE or Emerging SLBE participation the amount subcontracted to an SLBE or Emerging SLBE firm that has graduated or been suspended from the program as follows:

1. An SLBE firm shall be permanently graduated from the SLBE Program after it has received a cumulative total of \$5 million of County-funded prime contract or subcontract payments in at least five separate contracts since its initial certification as an SLBE firm;
2. An SLBE firm shall be permanently graduated from the SLBE program after its three fiscal year average gross sales exceeds the size standard eligibility requirements;
3. An SLBE firm shall be temporarily suspended by the Director of Procurement for the balance of any fiscal year after it has received a cumulative total of \$1.5 million in payments as a prime contractor and / or subcontractor for that fiscal year; provided, however, that the SLBE firm shall be eligible to participate in Affirmative Procurement Initiatives in the following fiscal year so long as the firm has not yet satisfied the graduation criteria;
4. An SLBE firm may have its SLBE eligibility permanently revoked by the Director of Procurement if it fails to perform a Commercially Useful Function under a contract, or if it allows its SLBE status to be fraudulently used for the benefit of a non-SLBE firm or the owners of a non-SLBE firm so as to provide the non-SLBE firm or firm owners benefits from Affirmative Procurement Initiatives for which the non-SLBE firm and its owners would not otherwise be entitled;
5. An Emerging SLBE firm shall be permanently graduated from Emerging SLBE status after it has received a cumulative total of \$2.5 million of County-funded prime contracts or subcontract payments in at least five separate contracts since its initial certification as an Emerging SLBE firm;
6. An Emerging SLBE firm shall be permanently graduated from Emerging SLBE status once its three-year average annual gross sales exceeds \$2 million; and

7. An Emerging SLBE firm shall be temporarily suspended from Emerging SLBE status by the Director of Procurement for the balance of any fiscal year after it has received a cumulative total of \$750,000 in payments as a prime contractor and / or subcontractor for that fiscal year; provided, however, that the Emerging SLBE firm shall be eligible to continue participating in Affirmative Procurement Initiatives as an SLBE firm for the remainder of the fiscal year, and may also participate in Affirmative Procurement Initiatives as an Emerging SLBE firm in the following fiscal year so long as the firm has not yet satisfied the graduation criteria for such status.

(b) The Director of Procurement shall provide written notice to the SLBE firm or Emerging SLBE firm upon graduation or suspension from the SLBE program, and such notice shall clearly state the reasons for such graduation or suspension.

Sec. 2-643. Appeals.

A business concern that is denied eligibility as an SLBE or as an Emerging SLBE, or who has its eligibility revoked, or who has been denied a waiver request can appeal the decision to the County Administrator. A written notice of appeal must be received by the County Administrator within 15 days of the date of the decision. Upon receipt of a timely notice of appeal and request for hearing, the Director of Procurement, or designee (other than the Director of Procurement), shall also participate in a hearing conducted by the County Administrator or the County Administrator's designee soon as practicable. The decision of the County Administrator, or designee, shall be the final decision of the County.

Sec. 2-644. Affirmative Procurement Initiatives for Enhancing SLBE and Emerging SLBE Contract Participation.

(a) The County in conjunction with the appropriate Contract Officer and the Director of Procurement may utilize the following Affirmative Procurement Initiatives in promoting the award of County contracts to SLBEs or Emerging SLBEs.

1. **Bonding and Insurance Waiver:** The County, at its discretion, may waive or reduce the bonding, or insurance requirements depending on the type of contract and whether the County determines that the bonding and or insurance requirements would deny the SLBE or Emerging SLBE an opportunity to perform the contract which the SLBE or Emerging SLBE has shown itself otherwise capable of performing.

2. **Price Preferences:** The County may award a contract to a SLBE or Emerging SLBE which submits a bid within 10% (inclusive) of a low bid by a non-SLBE. However, this price preference would not apply if the award to the SLBE would result in a total contract cost that is, on an annual basis, more than \$25,000 higher than the low bid; nor would it apply on a contract in which the total contract cost would exceed the County's budgeted price for the contract.

3. ***Evaluation Preferences:*** The County may reserve up to 20% of the total points available for evaluation purposes for respondents to an RFP to firms that are certified as SLBE or Emerging SLBE firms, or to joint ventures that have SLBE and/or Emerging SLBE partners (see EXHIBITS 1 and 2 regarding professional services contracts and architectural & engineering contracts, respectively).

4. ***Mandatory Subcontracting:***

a. The Goal Selection Committee may, on a contract-by-contract basis, at its discretion, require that a predetermined percentage of a specific contract, up to 40%, be subcontracted to eligible SLBEs or to eligible Emerging SLBEs, provided however, that if the prime contractor is a certified SLBE or Emerging SLBE, then the prime contractor shall be able to count the dollar value of the work performed by its own forces towards satisfaction of the Mandatory Subcontracting goal for that contract.

b. An SLBE or Emerging SLBE prime contractor may not subcontract more than 49% of the contract value to a non-SLBE.

c. A prospective bidder on a County contract shall submit at the time of bid SLBE – Form S providing the name of the SLBE or Emerging SLBE subcontractor or subcontractors and describing both the percentage of subcontracting by the SLBE or Emerging SLBE, and the work to be performed by the SLBE or Emerging SLBE. A bidder may request a full or partial waiver of this mandatory subcontracting requirement from the Director of Procurement for good cause by submitting the SLBE Unavailability Certification form to the Director of Procurement at the time of bid. Under no circumstances shall a waiver of a mandatory subcontracting requirement be granted without submission of adequate documentation of Good Faith Efforts by the bidder and careful review by the Director of Procurement. The Director of Procurement shall base his or her determination on a waiver request on the following criteria:

(1) Whether the requestor of the waiver has made Good Faith Efforts to subcontract with qualified and available SLBEs or Emerging SLBEs;

(2) Whether subcontracting would be inappropriate and/or not provide a “Commercially Useful Function” under the circumstances of the contract; and

(3) Whether there are no certified SLBE or Emerging SLBE firms that are qualified and available to provide the goods or services required.

d. In the absence of a waiver granted by the Director of Procurement, failure of a Prime Contractor to commit in its bid or proposal to satisfying the mandatory SLBE subcontracting goal shall render its bid or proposal non-responsive.

e. In the absence of a waiver granted by the Director of Procurement, failure of a Prime Contractor to attain a mandatory subcontracting goal for SLBE participation in the performance of its awarded contract shall be grounds for termination of existing contracts

with the County, debarment from performing future County contracts, and / or any other remedies available under the terms of its contract with the County or under the law.

f. A Prime Contractor is required to notify and obtain written approval from the Director of Procurement in advance of any reduction in subcontract scope, termination, or substitution for a designated SLBE or Emerging SLBE Subcontractor. Failure to do so shall constitute a material breach of its contract with the County.

5. ***Sheltered Market:***

a. The Director of Procurement and the appropriate County Contracting Officer may select certain contracts which have a contract value of \$250,000 or less for award to a SLBE or a joint venture with a SLBE through the Sheltered Market program. Similarly, the Director of Procurement and the appropriate County Contracting Officer may select certain contracts that have a value of \$50,000 or less for award to an Emerging SLBE firm through the Sheltered Market program.

b. In determining whether a particular contract is eligible for the Sheltered Market Program, the County's Contracting Officer and Director of Procurement shall consider: whether there are at least three SLBEs or Emerging SLBEs that are available and capable to participate in the Sheltered Market Program for that contract; the degree of underutilization of the SLBE and Emerging SLBE prime contractors in the specific industry categories; and the extent to which the County's SLBE and Emerging SLBE prime contractor utilization goals are being achieved.

c. If a responsive and responsible bid or response is not received for a contract that has been designated for the Sheltered Market Program or the apparent low bid is determined in the Procurement Director's discretion to be too high in price, the contract shall be removed from the Sheltered Market Program for purposes of rebidding.

6. ***Competitive Business Development Demonstration Project:***

a. With the concurrence of the Director of Procurement, the appropriate County Contracting Officer may reserve certain contracts for placement into a Competitive Business Development Demonstration Project ("CBD Demonstration Project") wherein those contracts require the purchase of goods or services from an industry that routinely has too few sources of bidders to provide meaningful or sufficient competition for such County contracts. The purpose for the placement of a contract into the CBD Demonstration Project shall be to encourage the development of new capacity within an industry to competitively bid on the future supply of specialized goods or services to the County.

b. Contracts reserved for CBD Demonstration Projects shall be subject to a Request for Proposals process whereby the selected firm will be required to be a joint venture between an established firm or experts in that relevant industry and an SLBE firm. The scope of work for the selected joint venture shall include teaching a hands-on curriculum

to SLBE firms that have expressed an interest in diversifying into the relevant industry, in addition to performing the customary functions of the contract. This curriculum shall include both administrative skills (e.g. cost estimating, bidding, staffing, project management) and technical skills (e.g., hands-on demonstration of how to perform necessary tasks in the field) required to qualify for future County contracts and to successfully compete in the industry.

c. The Director of Procurement shall be required to select SLBE candidate firms for participation on such CBD Demonstration Projects on the basis of an assessment of their current capabilities and their likely success in diversifying into the new relevant industry once given technical assistance, training, and an opportunity to develop a performance track record in the industry.

Sec. 2-645. SLBE Program Performance Review.

(a) The Director of Procurement or designee shall monitor the implementation of this Policy and the progress of this Program. On at least an annual basis, the Director of Procurement or designee shall report to the County Administrator and County Council on the progress of achieving the goals established for awards to certified SLBE and Emerging SLBE firms, reporting both dollars awarded and expended. In addition, the Director of Procurement or designee shall report on the progress in achieving the stated Program Objectives, including, but not limited to, enhancing competition, establishing and building new business capacity, and removing barriers to and eliminating disparities in the utilization of available minority business enterprises and women business enterprises on County contracts.

(b) The County shall periodically review the SLBE Program to determine whether the various contracting procedures used to enhance SLBE contract participation need to be adjusted or used more or less aggressively in future years to achieve the stated Program Objectives. The County Council shall conduct a public hearing at least once every two years in order to solicit public comments on the Program.

Sec. 2-646. Conflicts.

To the extent language in this Division conflicts with other language in Article X, the language in this Division controls only with respect to contracts wherein the Small Local Business Enterprise Program is being applied by the Director of Procurement. In all other respects, prior language in this Article shall remain in full force and effect.

SMALL, LOCAL BUSINESS ENTERPRISE PROGRAM EXHIBITS

For Architectural & Engineering, Professional Services, Other Services, and design / build or CM at risk contracts that are awarded based on evaluation criteria, there shall be SLBE or Emerging SLBE participation criterion for all contracts let at predetermined

percentage of the total points awarded. The determination will be made using the suggested model outlined in the “Point Evaluation Table” (EXHIBIT 1) below:

EXHIBIT 1

Point Evaluation Table

10 POINTS FOR SLBE PARTICIPATION

- > 51% = 10 points
- > 45% = 7 points
- > 40% = 6 points
- > 35% = 5 points
- > 30% = 4 points
- > 25% = 3 points
- > 20% = 2 points
- > 15% = 1 points

20 POINTS FOR SLBE PARTICIPATION

- > 51% = 20 points
- > 45% = 17 points
- > 40% = 16 points
- > 35% = 14 points
- > 30% = 12 points
- > 25% = 10 points
- > 20% = 8 points
- > 15% = 6 points
- > 10% = 4 points

Contractors may be evaluated on their SLBE or Emerging SLBE participation by utilizing the following sample schedule (EXHIBIT 2) which is most often used by Architectural & Engineering:

EXHIBIT 2

Points Awarded

5.0 51-100

4.0 36 – 50

3.0 30 – 35

% of Participation Criteria

Proposals by registered SLBE owned and/or controlled firms

Majority prime with registered SLBE participation

Majority prime with registered SLBE participation

2.0	24 – 29	Majority prime with registered SLBE participation
0	0 – 23	Less than the goal for registered SLBE participation

DRAFT

CHARLESTON COUNTY'S SBE

To certify Small Business Enterprises for contracting and procurement opportunities in the areas of:

- Construction
- Architecture and engineering
- Professional services
- Goods and supplies
- Other services

ELIGIBILITY CRITERIA

To be certified as an SBE, your business will:

1. Have an annual gross sales volume not exceeding \$7.5 million (averaged over the previous three years)
2. Be actively managed and controlled on a day-to-day basis by the owner(s)
3. Have been in operation for at least one year
4. Be current on any applicable business license(s) and on any Charleston County taxes and fees

WHAT CERTIFICATION CAN MEAN TO YOUR SMALL BUSINESS

1. Mandatory quote from SBE on procurements between \$5,000 and \$25,000
2. Mandatory SBE subcontractors on projects of \$25,000 and above
3. Technical and financial referrals
4. Workshops, seminars and training programs to assist business owners in the competition process

Following are Councilman Malinowski's comments relating to the SLBE:

1. Principal Place of Business definition—To only have a 25% requirement for employees residing in Richland County seems quite low. I would like to see efforts made to increase this number since the funding for these projects is coming from within Richland County. Since no less than 50% of a company's income must come from within the county then the employee base should also. Attention should also be given to possibly changing the word "domiciled" to an actual resident. The nuclear plant in Fairfield County is employing a huge number of people who are "domiciled" in the area for the duration of the project, but many are from out of state and spend the bulk of their paychecks where they actually claim residence.
2. Small Business Enterprise definition—Possibly consider a wording change here from "full-time" employees. As I stated in the work session, you can have a couple full-time employees and a much greater number of "part-time" employees in order to beat the system in this area.
3. Small Local Business Enterprise definition—It mentions about the possible establishment of another position, Director of Procurement. This seems like it would take additional funds away from the overall projects that are to be done. If we are hiring an overall Director, then that person needs to figure out how to run all of this without spending more money on staff positions that only take money away. If we put this in here, that's like giving the green light to this position. Remove it and see what happens as we move forward.
4. Section 2-640 (c) 1. It states they will meet as often as necessary but not less than twice annually. Specific dates need to be placed here because, as with many matters, time will slip by and all of a sudden they realize they haven't met and call for two meetings in the same month to satisfy the requirement. We also need to state what the annual year is they are meeting twice in—fiscal year or calendar year—this eliminates any confusion.
5. Section 2-641, 2. This entire section from 2. (a) through (k) is a redundancy and is located in previous pages. After the words, "That satisfy the following size requirements" we need to say "According to the definition in Section 2-639". That covers it without the redundancy and eliminates 2 pages of an already overly lengthy document.
6. Section 2-641, (5)(d). The words used are "shall periodically" conduct audits. We need specific dates for accountability purposes.
7. Section 2-641, (5)(e). Number 1 of this portion refers to a previous section, but number 3 and 4 of this section have conflicting numbers. In number 3 it says no more than 5 full time employees, but the reference section says 50. Number 4 says less than one million dollars, but the referred to section states other million dollar amounts that exceed this one million based on the specific operation.
8. Section 2-644, 6 (c). What will the cost be to Richland County to conduct all this training and other items referred to in this section? Why should the taxpayer incur this cost? If they are not qualified the county can offer training at a cost to the contracting company if they want to get in on these projects. If it is decided we must go forward with this training, then specifics of what the county will provide and a maximum dollar cost should be put here.

9. Section 2-645 (a). States on at least an annual basis. Need a specific date the annual covers.
10. Section 2-645 (b). States the county council shall conduct a public hearing at least once every two years in order to solicit public comments on the Program. I have seen too many items in the past go for too long a period of time prior to them being acted on. Need specific dates that these two year hearings must take place within.
11. Why are there two point tables in Exhibit 1, 10 and 20, for SLBE participation? Explain.
12. In Exhibit 2 there are rather large spreads for the numbers next to the points awarded, explain these spreads.

The following are Councilman Jackson's comments relating to the SLBE

4. Mandatory Subcontracting

a. The Global Selection may, on a contract-by-contract basis, at its discretion require that a predetermined percentage of a specific contract, (if the prime contractor is a SLBE, then his participation shall be counted toward the 40% maximum goal) up to 40% be subcontracted to eligible SLBEs or to emerging SLBEs.

Reason:

If the SLBE is a prime and have to sub 40% then they will not have much.

h. Service operations of the business did not employ more than 50 persons and the gross sales of the business did not exceed an average of:
\$5 million for architectural, engineering and for all other services.

Reason:

If cut to \$2.5 million then it affects firms that are on the verge to expand

The following are Councilman Rush's comments relating to the SLBE:

1. In the section for construction limits for SLBE the "Maximum should be \$5 million" not \$10 Million that was proposed.
2. It should be mandatory that SLBE, if they receive a prime contract, would still have to use the services of other SLBE as a subcontractor.

Suggested changes provided by Procurement Director:

Page 13 – Clean Version

d. In the absence of a waiver granted by the Director of Procurement, failure of a Prime Contractor to commit in its bid or proposal to satisfying the mandatory SLBE subcontracting goal shall render its bid or proposal non-responsive.

e. In the absence of a waiver granted by the Director of Procurement, failure of a Prime Contractor to attain a mandatory subcontracting goal for SLBE participation in the performance of its awarded contract shall be grounds for termination of existing contracts with the County, debarment from performing future County contracts, and / or any other remedies available under the terms of its contract with the County or under the law.

f. A Prime Contractor is required to notify and obtain written approval from the Director of Procurement in advance of any reduction in subcontract scope, termination, or substitution for a designated SLBE or Emerging SLBE Subcontractor. Failure to do so shall constitute a material breach of its contract with the County.

5. ***Sheltered Market:***

a. The Director of Procurement and the appropriate County ~~Contracting Officer~~ **Contracting Officer Representative** may select certain contracts which have a contract value of \$250,000 or less for award to a SLBE or a joint venture with a SLBE through the Sheltered Market program. Similarly, the Director of Procurement and the appropriate County ~~Contracting Officer~~ **Contracting Officer Representative** may select certain contracts that have a value of \$50,000 or less for award to an Emerging SLBE firm through the Sheltered Market program.

b. In determining whether a particular contract is eligible for the Sheltered Market Program, the County's ~~Contracting Officer~~ **Contracting Officer Representative** and Director of Procurement shall consider: whether there are at least three SLBEs or Emerging SLBEs that are available and capable to participate in the Sheltered Market Program for that contract; the degree of underutilization of the SLBE and Emerging SLBE prime contractors in the specific industry categories; and the extent to which the County's SLBE and Emerging SLBE prime contractor utilization goals are being achieved.

c. If a responsive and responsible bid or response is not received for a contract that has been designated for the Sheltered Market Program or the apparent low bid is determined in the Procurement Director's discretion to be too high in price, the contract shall be removed from the Sheltered Market Program for purposes of rebidding.

6. ***Competitive Business Development Demonstration Project:***

a. With the concurrence of the Director of Procurement, the appropriate County ~~Contracting Officer~~ **Contracting Officer Representative** may reserve certain contracts for placement into a Competitive Business Development Demonstration Project ("CBD Demonstration Project") wherein those contracts require the purchase of goods or services from an industry that routinely has too few sources of bidders to provide

Richland County Council Request of Action

Subject

An Ordinance Establishing a Temporary Moratorium on the approval of any special exception requests to establish a special congregate facility within the unincorporated areas of Richland County **[PAGES 87-89]**

Notes

First Reading: July 16, 2013

Second Reading:

Third Reading:

Public Hearing:

STATE OF SOUTH CAROLINA
COUNTY COUNCIL FOR RICHLAND COUNTY
ORDINANCE NO. ___-13HR

AN ORDINANCE ESTABLISHING A TEMPORARY MORATORIUM ON THE APPROVAL OF ANY SPECIAL EXCEPTION REQUESTS TO ESTABLISH A SPECIAL CONGREGATE FACILITY WITHIN THE UNINCORPORATED AREAS OF RICHLAND COUNTY.

WHEREAS, Richland County Council has asked staff to evaluate the special exception conditions for special congregate facilities under Section 26-152 (d) (26) of the Richland County Code of Ordinances; and

WHEREAS, it is important to ensure that the special exception conditions minimize potential land use conflicts, as well as ensuring that there are adequate services for the cliental within the vicinity of the facility; and

WHEREAS, the evaluation should at a minimum address maximum occupancy; the distance from residential districts, schools, and parks; and provisions for a management and security plan; and

WHEREAS, the evaluation should also include location considerations, including proximity to professional services (such as doctor's offices and legal services), grocery stores, job development centers, and providers of services often used by the cliental (i.e. medical clinics, food banks, and public transportation);

WHEREAS, due to the above, it would benefit the public health, safety and welfare of the County by studying and possibly augmenting the conditions for approving a special exception for special congregate facilities; and

WHEREAS, it is appropriate that during such period of review by Richland County Council of such conditions, the *status quo* be maintained so that the perceived problems will not increase or grow more difficult to evaluate and resolve; and

WHEREAS, a moratorium will permit time for further study into the conditions for approving a special exception for special congregate facilities and creation of any necessary amendments to the County's Land Development Code;

NOW THEREFORE, BE IT ORDAINED BY THE COUNTY COUNCIL OF RICHLAND COUNTY THAT:

SECTION I. Richland County Council hereby declares a moratorium on the approval or denial of any special exception requests to establish a special congregate facility within the unincorporated areas of Richland County.

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

SECTION III. Conflicting Ordinances Repealed. All ordinances or parts of ordinances in conflict with the provisions of this Ordinance are superseded during the time this Ordinance is effective.

SECTION IV. Effective Date. This Ordinance shall be effective immediately upon adoption by Richland County Council.

SECTION V. Expiration. This Ordinance shall expire ninety (90) days following the date of adoption of this Ordinance, or until rescinded by Richland County Council, whichever is earlier.

RICHLAND COUNTY COUNCIL

BY: _____
Kelvin E. Washington, Sr., Chair

Attest this the _____ day of
_____, 2013

Michelle Onley
Clerk of Council

RICHLAND COUNTY ATTORNEY'S OFFICE

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

First Reading: July 16, 2013
Second Reading: July 23, 2013 (tentative)
Public Hearing:
Third Reading:

Richland County Council Request of Action

Subject

- a. Bagging Yard Debris in Solid Waste Collection Service Areas 2 and 6
- b. Exploration of Water and/or Sewer Service Expansion in Unincorporated Richland County
- c. To Adopt and Codify the 2011 Edition of the National Electrical Code and the 2012 Editions of the International Residential, Building, Plumbing, Mechanical, Fire and Property Maintenance Codes respectively
- d. Amend Section 6-84, Boarded-up Structures, so as to include commercial structures; and change the name of the "Unsafe Housing Division" to the "Unsafe Structures Division"
- e. Termination of the Restrictive Covenants for the Private Driveway Subdivision - Murray Lancaster Estates
- f. Acquisition of Unclaimed Land within Undeveloped Right of Ways for Devils Ditch Maintenance Access and Enhancement
- g. Codify Maintenance Regulations

Richland County Council Request of Action

Subject

- a. Adoption of Americans with Disabilities Act Policy
- b. Grant Application Approval for Crane Creek Management Plan Implementation for Public Works Department
- c. Owens Field Trail Improvement Project for Conservation Department
- d. Request for Bond Ordinance Approval in Accordance with Capital Project Recommendation of Richland County Administrator
- e. Richland County Sheriff's Department Freedom Award Resolution
- f. Consent Agenda Deferral Policy
- g. Request to Add School Resource Officer Positions

Richland County Council Request of Action

Subject

City of Columbia Election Fee Agreement [**ACTION**] [**PAGES 17-24**]

Richland County Council Request of Action

Subject

Report of the Hospitality Tax Review Committee: **[PAGES 93-117]**

- a. Olive Branch Network of SC Funding Request
- b. Review Current Hospitality Tax Guidelines
 1. Allowing Expenditures such as venue fees or rentals, transportation or accommodations, salaries, food or beverages, and staging or fencing
 2. Allowing the Town of Eastover and Town of Irmo to apply for Hospitality funds as the County collects Hospitality Tax in these areas

Notes

The Hospitality Tax Review Committee Conference Call

July 18, 2013, 4pm

Attending Committee Members: Jeter, Rush, Manning, Jackson, and Pearce

Also on the call were Council Members Dickerson and Washington

The following recommendations were made:

a. Olive Branch Network of SC Funding Request

The Committee forwarded this item to Council without a recommendation.

b. Review Current Hospitality Tax Guidelines

1. Allowing expenditures such as venue fees or rentals, transportation or accommodations, salaries, food or beverages, and staging or fencing.

The Committee recommended the addition of the following items as allowable expenses beginning in FY14: venue fees or rentals, transportation or accommodations, food or beverages, and staging or fencing. Salaries were **not** recommended as an allowable expense. The Legal Department will forward an email to Council regarding this item in advance of the Special Called Meeting. Note that the County currently allows County Promotion grantees to submit portions of marketing salaries as an eligible expenditure under the marketing category.

2. Allowing the Town of Eastover and Town of Irmo to apply for Hospitality funds as the County collects Hospitality Tax in these areas.

The Committee recommended allowing the Town of Eastover and the Town of Irmo to apply for Hospitality Tax funds as a direct recipient without the use of a 501 c 3 organization as a sponsor / applicant.

RICHLAND COUNTY COUNCIL



HOSPITALITY TAX REVIEW COMMITTEE

Damon Jeter
District 3

Greg Pearce
District 6

Torrey Rush
District 7

Jim Manning
District 8

Norman Jackson
District 11

AMENDED

July 18, 2013

4:00 PM

Conference Call

- I. Call to Order**
- II. Olive Branch Network of SC Funding Request [PAGES 2-18]**
- III. Review Current Hospitality Tax Guidelines [PAGES 19-24]**
 - a. Allowing Expenditures such as venue fees or rentals, transportation or accommodations, salaries, food or beverages, and staging or fencing**
 - b. Allowing the Town of Eastover and Town of Irmo to apply for Hospitality funds as the County collects Hospitality Tax in these areas.**
- IV. Adjournment**

****Special Accommodations & Interpreter Services****

Citizens may be present during any of the County's meetings. If requested, the agenda and backup materials will be made available in alternative formats to persons with a disability, as required by Section 202 of the Americans with Disabilities Act of 1990 (42 U.S.C. Sec. 12132), as amended and the federal rules and regulations adopted in implementation thereof.

Any person who requires a disability-related modification or accommodation, including auxiliary aids or services, in order to participate in the public meeting may request such modification, accommodation, aid or service by contacting the Clerk of Council's office either in person at 2020 Hampton Street, Columbia, SC, by telephone at (803) 576-2061, or TDD at (803) 576-2045 no later than 24 hours prior to the scheduled meeting.



HOSPITALITY TAX COUNTY PROMOTIONS APPLICATION
Funding for FY14 (July 1, 2013 – June 30, 2014) Due: February 22, 2013

INCORPORATION DATE: 2007 FEDERAL ID: 20-8965423

ORGANIZATION: Olive Branch Network of South Carolina

MISSION STATEMENT: To promote the positives aspects of the greater North East Community and beyond.

CONTACT: Thomas J. Simuel/Travis Mobley TITLE: Board Chair/Executive Director

ORGANIZATION STREET ADDRESS: 1805 Clemson Rd #291750, 29229

ORGANIZATION MAILING ADDRESS: P.O . Box 291750, Columbia SC 29229

PHONE: 803-235-6224/864-347-1590 EMAIL: tsimuel32@aol.com/tmobley@rocketmail.com

PROJECT TITLE: Greater North East Summer Jam Concert Series

TOTAL AMOUNT REQUESTED: \$100,000.00 TOTAL PROJECT COST: \$300,000.00

PROJECT START DATE: July 2014 PROJECT END DATE: August 2014

PROJECTED FULL ATTENDANCE: 8,000-9500.00 PROJECTED NUMBER OF TOURISTS: 2700.00

PROJECTED MEALS CONSUMED: PROJECTED OVERNIGHT STAYS: 1.5

DESCRIPTION OF HOW YOUR ORGANIZATION DETERMINED THE NUMBERS ABOVE (also indicate the numbers of meals and room stays estimated in unincorporated Richland County): We compared similar attendance numbers of high profile performers and concluded that a third of the participants will be traveling for at least four hours from their home. Also, we estimated that the cost to implement a high quality, high performance concert in North East Columbia to be estimated at three hundred thousand dollars. The initial one hundred thousand dollars commitment from the county will assist in the initial costs and in leveraging commitments from the local area business and the corporate community. A top quality act will cost in excess over a hundred thousand dollars and depending on how the contract is structured it can also include a portion of ticket sales going to the artist. We estimate that next summer will be the date set for the concert. Ticket sales and similar "large" scale concerts in the Columbia area have garnered at least eight thousands attendees. By scheduling the concert strategically (day of the week, time) the possibility of visitors staying for a longer period of time in the area increases. The North East area of Columbia offers some great shopping and quality eateries. We estimate that a third of the total participants will be those that have traveled for greater than four hours. We examined similar costs for outdoor concerts of high rated performers and targeted towards the lower end of a top notch performer. For example we are aiming for the least expensive artist that's available among the most widely known performers.

PROGRAM LOCATIONS: Please list the street address of all program locations that will be funded through H-Tax grant funds. Please indicate if program or project will be held on County property. 900 Clemson Road. Columbia SC 29229

PROJECT DESCRIPTION (You may attach one (1) additional sheet):

The goal of the event is to promote a first class production that will include a broad swath of the community to plan and implement a large scale event that will be launch on an annual basis with decesing public monies as the years progress. The committee members will serve for two years with change happening every two years to ensure a diverse group continues to represent the community and to ensure the needed expertise from the community in utilized in a constructive and accountable manner. By initiating our efforts a year out we will allow the appropriate time to ensure that the appropriate coordination and communication with other stakeholders are optimized. The annual Greater Columbia NE concert series will be an annual event that brings a diverse group of entertainers to the North East area of Columbia to showcase the cultural, business and community support in the unincorporated area of North East Columbia.

The Olive Branch Network of South Carolina in partnership with the North East Committee for a Better Columbia will convene an outdoor summer concert series in North East Columbia. The committee will be responsible for planning and implementing a large outdoor concert in North East Columbia. The committee will consist of a cross-section of the community in North East Columbia to ensure that a successful event is implemented. The committee will consist of lay people and those that have expertise in the area of public relations, advertisement, promotions, volunteer coordinator, event planning, attorney, public safety and security personal. Olive Branch will be the convener to insure that the process include as many sectors of the community that reflects its diversity. The committee will reach out to the area business, including restaurants, hotels and entertainment centers to gauge the best time, date and promotional strategy to implement for the event. Professional services will be contracted for some professional services. Once the committee convenes and finalize the preliminary plans garnering financial support from the larger community will begin. Corporate sponsorships will be aggressively pursued in the fall of 2013. The committee will also maintain a website that will allow sponsors to promote their product as well as volunteers that can sign on to the site to be part of the event. The website pertaining to this exact event, along with the committee will act as the focal point for information, marketing, recruitment, fundraising, and promotion and ticket sales. The internet site wills sale space to local business to promote their business as well as advertisement during the day of the event. The event will also give business an opportunity to advertise during the day of the event.

ECONOMIC IMPACT AND COST BENEFIT

Provide project income and expenses for the last two years for the project you are requesting H-Tax funds as well as the projections for FY14. This section must be completed even if you did not apply for County H-Tax funds in the past.

These figures should be for the full project/event budget, not just the grant portion.	FY 11-12 July 2011 – June 2012	FY 12-13 July 2012 – June 2013	Projected FY 13-14 July 2013 – June 2014
Total Income (sponsors, grants, ticket sales, food sales, etc.)	00.00 n/a	00.00	350,000.00
Total Expenses (rentals, marketing, supplies, contracts, etc.)	00.00 n/a	00.00	300,000.00
Net Proceeds (Income – Expenses)	00.00 n/a	00.00	50,000.00

FOR NEW EVENTS, PROVIDE EVIDENCE OF SUCCESS FOR SIMILAR PROGRAMS/EVENTS: (Leave blank if this is not a new event/program) A Similar concert for high profile artist has been tremendously successful. According to attendance of the most recent large concert in Columbia it was attended by 9,000 people. A marquee artist will help drive ticket sales and are able to attract people from a larger geographic area.

HOW WILL YOUR ORGANIZATION USE INCOME, IF ANY, GENERATED BY THIS PROGRAM/EVENT?
Once all expenses are satisfied the remaining balance will be utilized to leverage additional dollars in future years in to duplicate the same plan to host another successful event.

BENEFIT TO TOURISM AND COMMUNITY

BENEFIT TO TOURISM (How does it promote and highlight unincorporated Richland County’s historic and cultural venues, recreational facilities and events, and the uniqueness and flavor of the local community.) The benefit to tourism in the short and long-term can be very beneficial. Local residents that live in Columbia but not in the north east will be more likely to come to the area and spend money, especially those that wouldn’t ordinarily visit the area. A large part of Columbia is segmented. People that live in specific areas of the county rarely visit other areas unless they have something to offer their community don’t or can’t offer. Visitors that live more than a one-hundred mile radius definitely would have to have a good reason to visit. The NE Columbia is rising. Increased traffic coming to NE Columbia via I-77 and I-20 would benefit those restaurants, gas stations, night clubs, bars, clubs, movie theaters, shopping malls, hotels and groceries within five to seven miles of the event. The proposed location would be Clemson Extension that is used for various cultural events like the NE Flea Market and the annual Sparkleberry Fair which attract thousands of people each year. And the visibility of the location across from Village at Sandhill will highlight the visibility of the event along Clemson Road and benefit the business located directly across the street.

BENEFIT TO COMMUNITY IN WHICH PROJECT WILL BE HELD: The increased people traffic will generate more activity to the northeast and Sandhill area that will require additional personal to work longer hours at neighboring restaurants, eateries, hotels and shopping malls. The increase notoriety will also add attraction to the area as a place not just for good shopping and eating but a place that’s worthy of attracting some of the nation’s biggest performers.

MANAGEMENT CAPABILITY TO MAKE THIS PROJECT SUCCESSFUL:
The committee will consist of a veteran promoter, Aundrai Holloman that has been in the promotion business for over twenty years. Holloman is currently the Executive Director of the Township Auditorium in downtown Columbia. He has been intricately involved in the entire promotion process from contract negotiation to post activities involving both indoor and outdoor events. The committee will also consist of a veteran public relations expert, a professional event planner, a security expert, an accountant and an attorney. The expertise of the committee, with in depth guidance from the promoter will be heavily relied on to ensure a successful event.

OUTLINE PROJECT MARKETING PLAN (Include how you plan to reach tourists and work with local restaurants. Also include tracking mechanism used to determine tourist attendance):

The ad hoc internet/website that will be created specifically for the event will be one aspect of marketing to assist in tracking ticket sales. Also, creating packages with local restaurants and hotels will be explored to highlight the additional assets in the community. Radio will be very important to our marketing strategy. Over half of concert attendees hear about an event via radio. We will target not only the local radio stations, but also those that are popular within other markets within a 100 mile radius. Television will be used on a limited basis. If possible the artist will be available for interviews with local affiliates to highlight their personal story as well as to promote the event. If at all possible, pre-concert activities will be implemented to highlight the upcoming event that will include pre-concert signing ceremony with our local stakeholders and contest winners of complimentary tickets. Print media will be utilize with local print outlets highlighting the event and for a full feature story of the targeted artist along with promotional materials, including billboards, flyers and posters, distributed in targeted areas near the venue site and beyond. Internet Promotion will include Facebook promotional page, the entertainer's page, MySpace blasts, promoter's email blast, Jambase banner ads? A professional marking personal will be contracted to ensure that the broad range of promotional options are implemented aggressively and broadly.

REQUIRED ATTACHMENTS: Attachments **MUST** be submitted along with proposal. Incomplete applications will not be evaluated.

- Budget and expense justification (See budget form below)
- Letter from IRS confirming nonprofit status and proof of registration with the SC Secretary of State's Office
- List of organization's current Board Members/Directors
- Organization's most recent audited financial statement or 990 tax return

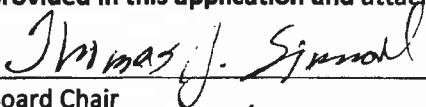
Optional Attachments

- One (1) additional page for project description
- One (1) additional page for budget narrative/justification

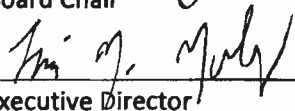
STATEMENT OF ASSURANCES

Upon grant application acceptance and funding award, applicant agrees that financial records, support documents, statistical records and all other records pertinent to Hospitality Tax funding shall be retained for a period of three years. All procurement transactions, regardless of whether negotiated or advertised and without regard to dollar value, shall be conducted in a matter so as to provide maximum open free competition. The funding recipient shall establish safeguards to prohibit employees from using their positions for a purpose that has the appearance of being motivated by a desire for private gain for themselves and others. All expenditures must have adequate documentation. All accounting records and supporting documentation shall be available for inspection by Richland County upon request. No person, on the basis of race, color, or national origin, should be excluded from participation in, be denied the benefit of or be otherwise subjected to discrimination under the program or activity funding in whole or in part by Hospitality Tax funds. Employment made by or resulting from Hospitality Tax funding shall not discriminate against any employee or applicant on the basis of handicap, age, race, color, religion, sex, or national origin. None of the funds, materials, property, or services provided directly or indirectly under Hospitality Tax funding shall be used for any partisan political activity, or to further the election or defeat of any candidate for public office. The applicant hereby certifies that the information submitted as part of this application is accurate and reliable. Any change and/or variation must be reported immediately, otherwise, funding may be withheld.

Providing signature of the Executive Director and Board Chair of the organization verifies accuracy of the information provided in this application and attachments as well as agreeing to the assurances written above.


Board Chair

7/12/13
Date


Executive Director

July 12, 2013
Date

HOSPITALITY TAX GRANT BUDGET FORM

List the expenses for your project below. Add expense categories in the blank lines below, if needed.

Expense Category	County H-Tax Request	Other Sources	Total
Advertising/Marketing/Promotion/Billboards	7500.00	8,500.00	16,000.00
Advertising/Marketing Related Salary	6500.00	8,500.00	23,500.00
Advertising/Marketing Related Contractors	5500.00	9,500.00	15,000.00
Municipal Services/Security	6500.00	15,500.00	21,500.00
Entertainment/Speakers/Guest Artists/Instructors	74000.00	80,000.00	154,000.00
Event Rentals		26500.00	26500.00
Supplies		2000.00	2000.00
Consultants/Contractors		25000.00	25000.00
Event Signage (directional, non-promotional)		5500.00	5500.00
Travel		3500.00	3500.00
Food		2500.00	2500.00
Insurance		2800.00	2800.00
Contingency		3500.00	3500.00
Total	\$100,000.00	198,300.00	301,300.00

List the income sources for your program or project below. Include the amount requested in this application.

Income Source	Amount	Pending/Received
FY14 Richland County H-Tax Request	100,000.00	Requesting
Gold Corporate Sponsorships	125,000.00	Requesting
Silver Corporate Sponsorships	50,000.00	Requesting
Bronze Corporate Sponsorships	25,000.00	Requesting
Individual(s)	1,300.00	Received
	301,300.00	

Provide a detailed narrative/justification of expenses in the H-Tax Grant Request expense column. Add (1) additional sheet, if needed.

See Attachment

See Attached Sheet

APPLICATION CHECKLIST

This sheet is not part of the application, but a tool to assist you in preparing your application.

Required Elements:

- Completed application form - Incomplete applications will not be evaluated. Answers such as N/A or See Attached are not appropriate. Please do not use font sizes lower than 10 point.
- Answer each question and make sure each point in the guidelines is addressed.
- Board Chair signed and dated the application
- Executive Director signed and dated the application – please note in the signature line if your organization does not have an executive director (all volunteer organization).
- Fill out the budget form and make sure your budget justification has enough detail.
- Letter from IRS confirming nonprofit status and proof of registration with the SC Secretary of State
- Attach list of current Board of Directors
- Attach most recent audited financial statement or most recent 990 tax form
- Attach additional **one-page** project description (**OPTIONAL**)
- Attach additional **one-page** budget narrative/justification (**OPTIONAL**)

Application Packet

- Made a copy to keep on file (applicant organization)
- Submit one original and 6 copies of the application (total of 7)
- Secured each application with a staple, paper clip or binder clip. No report folders or binders, please

REMINDERS

The Application deadline is 5:00 pm Friday, **February 22, 2013**. **Late applications will NOT be accepted.** Richland County does NOT accept applications sent via fax or email.

Mail Application to:

Richland County Administrator's Office
Attn: Sara Salley
PO Box 192
Columbia, SC 29202

Hand Deliver Application to:

Richland County Administrator's Office
Attn: Sara Salley
2020 Hampton Street, Suite 4069
Columbia, SC 29204

QUESTIONS

Call 803.576.2069 or email salleys@rcgov.us if you have any questions concerning the application process or the H-Tax County Promotions grant program.

Budget Narrative for NE Jam Festival Series

Marketing/Promotions/Billboards-\$7500.00

To ensure a successful event this portion will assist in coverage of billboards, internet marketing materials and radio spots

Marketing related compensation-\$6500.00

A professional marketing expert will be consulted to implement the our marketing plan to make sure that an aggressive well implemented plan is conducted

Marketed Related Contractors-\$5500.00

This amount will assist in covering any auxiliary cost that may be associated with the marketing of the event. This will assist with the cost of other professionals associated with the implementation of the marketing plan. This may include the use of a graphic artist or other professionals that the consultant may deem appropriate.

Municipal Services/Security-\$6500.00

This requested amount will assist in covering the cost for professional security forces and materials to assist with sanitary equipment and maintenance needs.

Compensation for Artist-\$7400.00

This amount will assist in covering the portion required to secure a top notch artist. A prestige artist can cost in excess of \$150,000. The bulk of the budget is the cost associated with the securing an artist.

DESCRIPTION OF HOW YOUR ORGANIZATION DETERMINED THE NUMBERS ABOVE (also indicate the numbers of meals and room stays estimated in unincorporated Richland County): We compared similar attendance numbers of high profile performers and concluded that a third of the participants will be traveling for at least four hours from their home. Also, we estimated that the cost to implement a high quality, high performance concert in North East Columbia to be estimated at three hundred thousand dollars. The initial one hundred thousand dollars commitment from the county will assist in the initial costs and in leveraging commitments from the local area business and the corporate community. A top quality act will cost in excess over a hundred thousand dollars and depending on how the contract is structured it can also include a portion of ticket sales going to the artist. We estimate that next summer will be the date set for the concert. Ticket sales and similar "large" scale concerts in the Columbia area have garnered at least eight thousands attendees. By scheduling the concert strategically (day of the week, time) the possibility of visitors staying for a longer period of time in the area increases. The North East area of Columbia offers some great shopping and quality eateries. We estimate that a third of the total participants will be those that have traveled for greater than four hours. We examined similar costs for outdoor concerts of high rated performers and targeted towards the lower end of a top notch performer. For example we are aiming for the least expensive artist that's available among the most widely known performers. A third of the participants are estimated to buy, eat and stay near the concert venue. The hotels in North East Columbia have enough beds available to accommodate the influx of people to the area. Contact and communication with the north east hospitality committee will be consulted to ensure that the timing maximizes the best possible outcome for all involved.

Form **990-N**
Department of the Treasury
Internal Revenue Service

Electronic Notice (e-Postcard)
for Tax-Exempt Organizations not Required To File Form 990 or
990-EZ

OMB No. 1545-2085

2012

Open to Public Inspection

A For the 2012 calendar year, or tax year beginning 1/1/2012, and ending 12/31/2012.

B Check if applicable

Terminated, Out of Business

Gross receipts are normally \$50,000 or less

C Name of organization: OLIVE BRANCH YOUTH NETWORK OF SOUTH CAROLINA INC
d/b/a:

7139A Mapleleaf Drive
Spartanburg, SC, US, 29303

D Employer Identification Number
20-8965423

E Website:

F Name of Principal Officer: Travis Mobley

7139A Mapleleaf Drive
Spartanburg, SC, US, 29303

Privacy Act and Paperwork Reduction Act Notice. We ask for the information on this form to carry out the Internal Revenue laws of the United States. You are required to give us the information. We need it to ensure that you are complying with these laws.

The organization is not required to provide the information requested on a form that is subject to the Paperwork Reduction Act unless the form displays a valid OMB control number. Books or records relating to a form or its instructions must be retained as long as their contents may become material in the administration of any Internal Revenue law. The rules governing the confidentiality of the Form 990-N is covered in Code section 6104.

The time needed to complete and file this form and related schedules will vary depending on individual circumstances. The estimated average times is 15 minutes.

Note: This image is provided for your records only. Do NOT mail this page to the IRS. The IRS will not accept this filing via paper. You must file your Form 990-N (e-Postcard) electronically.

IRS DEPARTMENT OF THE TREASURY
INTERNAL REVENUE SERVICE
P.O. BOX 9003
HOLTSVILLE NY 11742-9003

Date of this notice: 05-10-2007

Employer Identification Number:
20-8965423

Form: SS-4

Number of this notice: CP 575 F

OLIVE BRANCH YOUTH NETWORK OF SOUTH
% TRAVIS MOBLEY
7139A MAPLELEAF DR
SPARTANBURG SC 29303

For assistance you may call us at:
1-800-829-4933

IF YOU WRITE, ATTACH THE
STUB OF THIS NOTICE.

WE ASSIGNED YOU AN EMPLOYER IDENTIFICATION NUMBER

Thank you for applying for an Employer Identification Number (EIN). We assigned you EIN 20-8965423. This EIN will identify your business account, tax returns, and documents, even if you have no employees. Please keep this notice in your permanent records.

When filing tax documents, please use the label we provided. If this isn't possible, it is very important that you use your EIN and complete name and address exactly as shown above on all federal tax forms, payments and related correspondence. Any variation may cause a delay in processing, result in incorrect information in your account or even cause you to be assigned more than one EIN. If the information isn't correct as shown above, please correct it using tear off stub from this notice and return it to us so we can correct your account.

To receive a ruling or a determination letter recognizing your organization as tax exempt, you should complete Form 1023 or Form 1024, Application for Recognition of Exemption and send to:

Internal Revenue Service
PO Box 192
Covington, KY 41012-0192

Publication 557, Tax Exempt for Your Organization, is available at most IRS offices or you can download this Publication from our Web site at www.irs.gov. This Publication has details on how you can apply.

IMPORTANT REMINDERS:

- * Keep a copy of this notice in your permanent records.
- * Use this EIN and your name exactly as they appear above on all your federal tax forms.
- * Refer to this EIN on your tax related correspondence and documents.

If you have questions, you can call or write to us at the phone number or address at the top of the first page of this notice. If you write, please tear off the stub at the end of this notice and send it along with your letter. Thank you for your cooperation.

The State of South Carolina

Office of Secretary of State Mark Hammond

Certificate of Existence, Non-Profit Corporation

I, Mark Hammond, Secretary of State of South Carolina Hereby certify that:

OLIVE BRANCH YOUTH NETWORK OF SOUTH CAROLINA, INC. THE, a Non-Profit Corporation duly organized under the laws of the State of South Carolina on May 11th, 2007, has as of the date hereof filed as a non-profit corporation for religious, educational, social, fraternal, charitable, or other eleemosynary purpose, and has paid all fees, taxes and penalties owed to the Secretary of State, that the Secretary of State has not mailed notice to the company that it is subject to being dissolved by administrative action pursuant to section 33-31-1404 of the South Carolina code and that the non-profit corporation has not filed articles of dissolution as of the date hereof.

Given under my Hand and the Great Seal of the State of South Carolina this 24th day of May, 2007.


Mark Hammond, Secretary of State



Exempt Organizations Select Check

[Exempt Organizations Select Check Home](#)

Organizations Eligible to Receive Tax-Deductible Contributions (Pub. 78 data) - Search Results

The following list includes tax-exempt organizations that are eligible to receive tax-deductible contributions. Click on the "Deductibility Status" column for an explanation of limitations on the deductibility of contributions made to different types of tax-exempt organizations.

Results are sorted by EIN. To sort results by another category, click on the icon next to the column heading for that category. Clicking on that icon a second time will reverse the sort order. Click on a column heading for an explanation of information in that column.

1-1 of 1 results

Results Per Page: 25 OK

« Prev | 1-1 | Next »

EIN	Legal Name (Doing Business As)	City	State	Country	Deductibility Status
20-8965423	Olive Branch Youth Network of South Carolina Inc.	Spartanburg	SC	United States	PC

[Return to Search](#)

« Prev | 1-1 | Next »

**Deductibility Status**

In general, an individual who itemizes deductions may deduct contributions to most charitable organizations up to 50% of his or her adjusted gross income computed without regard to net operating loss carrybacks. Individuals generally may deduct charitable contributions to other organizations up to 30% of their adjusted gross income (computed without regard to net operating loss carrybacks). These limitations (and organizational status) are indicated as follows:

Code	Type of organization and use of contribution.	Deductibility Limitation
PC	A public charity.	50%

[Close]

Additional clarification provided to staff – Olive Branch Youth Network of SC

- 1. The projected meals consumed field was left blank. How many meals do you expect attendees will consume in area restaurants due to your event? Please show how you determined the number provided.**

The projected meals consumed is based on at least 40% of the participants that attend the event will patronize an eatery within a five miles radius of the event. That amounts to approximately another 3200 meals purchased on the day of the event and the next day. We multiplied an attendance of about eight thousand people and at least forty percent of those are estimated to eat at a restaurant within a five miles radius. We will look to strategically place the event either on day, either a Thursday-Saturday, that will increase the next day potential of visitors eating at local restaurants.

- 2. Is this a one-time concert or a series? You all mention series in the project description, but the rest of the grant reads like this is a one-day event.**

It is called a series because the goal is to have it yearly. It's not in the immediate plans to do it over a "series" of days, but over a "series" of years.

- 3. Will there be opening acts? Can you elaborate more on what will go on at the actual event?**

The day will consist of utilizing some free local talent that is talented and looking for opportunities for increased exposure to showcase the communities' talents that reside in the area. The use of local talent will be utilized as a precursor to the main performer. Also, we will invite vendors that will be there to showcase their services, products, materials. These events will lead to a culmination of our main attraction for the event.

- 4. On the budget narrative, sanitary equipment and maintenance needs are not eligible expenditures**

Ok. We will adjust the budget to reflect that change.

- 5. Under compensation for artists, you list that the \$7,400 (which I think is a typo and should be \$74,000). Please define what you mean when you say "The bulk of the budget is the cost associated with the securing an artist." Please note that the artist fee is an eligible expenditure. If other expenses are coming out of that \$74,000, please list them.**

Yes. It was a typo. The number is 74,000.00. We researched the cost of a high end artist like Mary J. Bilge and consulted with professionals that have been in the business for years and concluded that artist cost would be big part of the budget. By the "bulk of the cost" I literally meant that amount would be utilized to assist & secure the expenses related to obtaining an artist for their services.

- 6. Seeing that you all filed the 990-N post card, can you please send a balance sheet or other type of financial statement that shows your financial status?**

Balance sheet for the organization is attached.

7. **Event Date Clarification – The date listed on the application is July – August 2014, which is actually FY15. Will your expenditures happen in the FY14 timeframe (July 1, 2013 – June 30, 2014) for marketing and securing performers?**

Staff is waiting for explanation from the organization and assumes that expenditures for marketing the event and securing performers will occur prior to the end of FY14.

8. **Missing list of organization board of directors.**
List is attached

The Olive Branch of South Carolina

Assets

Petty Cash	1100
Accounts Receivable	2000
Investments	0
Other	0
Total current	0
Long Term Assets	
Property and equipment, net	\$3000
Total Assets	<u>\$6100</u>

Liabilities and net assets

Accounts Payable	0
Notes Payable, current	0
Consulting fees	850
Long-term liabilities	
Notes payable	0
Total Liabilities	<u>\$850</u>

Net Assets

Unrestricted	
Temporarily restricted	
Permanently restricted	0
Total net assets	0
Total Liabilities and Net Assets	<u>\$5250</u>

List of Board Members for Olive Branch

Chair

Thomas J. Simuel

Racyinda Velyn

Warren Wilkes

Antoinio Mack

Kym Mitchell



GUIDELINES FOR RICHLAND COUNTY PROMOTIONS HOSPITALITY TAX FUND FY 2014 (July 1, 2013 – June 30, 2014) Due Date: February 22, 2013

County Promotion Grants are funded through Hospitality Tax (H-Tax) revenues collected in **unincorporated** Richland County as well as incorporated municipal areas of the Town of Irmo which lie in Richland County and the entire incorporated municipal area of the Town of Eastover. These funds may be used for tourism related events and programs in Richland County, with a priority of funding projects in those areas where H-Tax funds are collected. Please pay close attention to grant guidelines as they explain organization and program eligibility as well as funding priorities.

On May 6, 2003, Richland County Council passed an ordinance establishing a two-percent (2%) H-Tax on all prepared food and beverages sold in the unincorporated areas of Richland County. The proceeds from this tax are to be used for the dedicated purpose of promoting tourism in Richland County. The County Promotions program is a competitive grants program that provides H-Tax funds to eligible organizations.

On January 10, 2012, Richland County Council voted to make the following changes to the County Promotions H-Tax program:

1. **Request Additional Information to Determine Tourism Impact, Health of Organization and Capacity of the Organization** - Questions will be added to the H-Tax application that deal with project income, event/program history and community impact.
2. **Maximize the Amount of County Promotion Funds**
 - a) H-Tax funds will be distributed once a year during the budget process. There will not be a second round of applications as in previous years.
 - b) Applicants will provide 50% match in cash or in-kind products/services for their project.
 - c) Eligible expenditures are restricted to the following categories:
 - Advertising/Promotions/Marketing (expenditures needed to get tourist to the event)
 - Security/Emergency Services
 - Entertainment/Speakers/Guest Artist Instructor
3. **Strengthen Measures to Ensure that Organizations are Held Responsible for Spending County Tax Funds** – Statement of assurances will be added to the application.
4. **Edit the Scoring Matrix** – The scoring matrix will be updated to help the H-Tax Committee prepare stronger recommendations for tourism projects.

ALLOCATION REQUIREMENTS

During FY13, Richland County awarded just over \$315,300 in grants through the County Promotions process. The amount available for FY14 grants is subject to change through County's budget process.

June 12, 2009, Richland County Council amended the Hospitality Tax Ordinance to state:

*For the amounts distributed under the County Promotions program, funds will be distributed with a goal of seventy-five percent (75%) dedicated to **organizations and projects that generate tourism in the unincorporated areas of Richland County and in municipal areas where Hospitality Tax revenues are collected by the county.** These shall include:*

- a. *Organizations that are physically located in the areas where the county collects Hospitality Tax revenues, provided the organization also sponsors projects or events within those areas;*
- b. *Organizations that are not physically located in the areas where the county collects Hospitality Tax Revenues; however, the organization sponsors projects or events within those areas; and*
- c. *Regional marketing organizations whose primary mission is to bring tourists to the region, including the areas where the county collects Hospitality Tax Revenues.*

25% of County promotions funds will be allocated to organizations and projects in the incorporated areas of Richland County.

COUNTY PROMOTIONS GRANT PROCESS

To be considered for funding, an application must be received by the published funding deadline (February 22, 2013). Once all applications for H-Tax County Promotions Grant funds are received by Richland County and eligibility is verified, they will be forwarded to the Hospitality Tax Advisory Committee for review.

Eligible applicants will be required to deliver a four (4) to five (5) minute **presentation** on their program to the Committee in March. The date will be announced as soon as possible.

The Committee will review and score each application based on the evaluation measures described below. Applications will be ranked based on the scores and the Committee will determine funding recommendations. The Committee will submit its funding recommendations to the county for review by County Council. County Council makes all funding decisions; however, the Council relies heavily on the recommendations of the Committee. Funding of all projects is entirely dependent upon H-Tax funds being received by Richland County.

COUNTY PROMOTIONS GRANT TIMELINE

Request for applications:	January – February 22, 2013
Application due date:	February 22, 2013, 5:00 PM
H-Tax Committee meeting & applicant presentations:	End of March 2013, TBD
County budget process:	April – June 2013
Grant award notifications:	June 2013
Grant Period:	July 1, 2013 – June 30, 2014 (if awarded)
Mid-Year Reports:	Due by January 31, 2014 (if awarded)
Final Reports:	Due by July 31, 2014 (if awarded)

There is only one deadline for H-Tax grants for FY14.

ORGANIZATION ELIGIBILITY REQUIREMENTS

- Applicant organizations must have been in existence for at least one (1) year prior to requesting funds and provide their federal employer identification number as registered with the IRS.
- Applicants must provide proof of their non-profit status and fall into one of the following categories:
 - Organizations exempt from federal income tax under Section 501(C)(3) of the Internal Revenue Code and whose primary goal is to attract additional visitors through tourism promotion. The letter of exemption from the Internal Revenue Service must accompany your proposal.
 - Destination Marketing Organizations, which are recognized non-profit organizations charged with the responsibility of marketing tourism for their specific municipalities, counties or regions, such as Chambers of Commerce, Convention and Visitors Bureaus and Regional Tourism Commissions.
- Richland County will not award H-Tax funds to individuals, fraternal organizations, religious organizations, or organizations that support and/or endorse political campaigns.

CRITERIA FOR PROJECT ELIGIBILITY

As required by the Hospitality Tax Ordinance, projects to be funded by Hospitality Tax funds must result in **the attraction of tourists to Richland County.**

Per South Carolina Code of Laws SECTION 6-1-730, projects must fall under one of the following to qualify for H-Tax funds:

- (A) The revenue generated by the hospitality tax must be used exclusively for the following purposes:
 - (1) tourism-related buildings including, but not limited to, civic centers, coliseums, and aquariums;
 - (2) tourism-related cultural, recreational, or historic facilities;
 - (3) beach access and re-nourishment;
 - (4) highways, roads, streets, and bridges providing access to tourist destinations;
 - (5) advertisements and promotions related to tourism development; or
 - (6) water and sewer infrastructure to serve tourism-related demand.

(B)(1) In a county in which at least nine hundred thousand dollars in accommodations taxes is collected annually pursuant to Section 12-36-920, the revenues of the hospitality tax authorized in this article may be used for the operation and maintenance of those items provided in (A)(1) through (6) including police, fire protection, emergency medical services, and emergency-preparedness operations directly attendant to those facilities.

(2) In a county in which less than nine hundred thousand dollars in accommodations taxes is collected annually pursuant to Section 12-36-920, an amount not to exceed fifty percent of the revenue in the preceding fiscal year of the local accommodations tax authorized pursuant to this article may be used for the additional purposes provided in item (1) of this subsection. **(Richland County collects less than \$900,000 in A-Tax.)**

Priority will be given to projects that demonstrate a benefit to **unincorporated** Richland County or regional marketing efforts that draw tourists to the area, especially those areas where Richland County collects Hospitality Tax (Unincorporated Richland County, Town of Eastover and the Richland County portions of the Town of Irmo).

If you are not sure if your program or organization is located in incorporated or unincorporated Richland County, please call the Grants Office for assistance at 803.576.2069.

Each application/proposed project will be reviewed individually to determine the potential impact it will have for tourism in unincorporated Richland County.

FUNDING PRIORITIES/ELIGIBLE EXPENDITURES

Priority will be given to projects that:

- Promote dining at restaurants, cafeterias, and other eating and drinking establishments where Richland County collects Hospitality Tax (Unincorporated Richland County, Town of Eastover and the Richland County portions of the Town of Irmo);
- Generate overnight stay in **unincorporated** Richland County's lodging facilities; and
- Promote and highlight **unincorporated** Richland County's historic and cultural venues, recreational facilities and events, and the uniqueness and flavor of the local community.

Funds will be distributed with a goal of **seventy-five percent (75%) dedicated to organizations and projects that generate tourism in the unincorporated areas of Richland County and in municipal areas where Hospitality Tax revenues are collected by the county** (Unincorporated Richland County, Town of Eastover and the Richland County portions of the Town of Irmo). Richland County does not receive H-Tax revenue from incorporated areas.

County Promotions grant funds must be used for tourism related expenses in the following categories only:

- **Advertising/Promotions/Marketing** (including designing, printing, postage for items mailed to attract tourist). At least 70% of marketing expenses must be paid to advertise outside of Richland County.
- **Security/Emergency Services** (Fire Marshalls, police, sheriff deputies, etc.)
- **Entertainment/Speakers/Guest Artist Instructor** - Entertainment expenses should be no more than 50% of the total requested amount of the grant.

Some of the expenditures not eligible are: Rent or venue fees, items given to tourists once they are here (tee shirts, cups, trophies...etc.), insurance or licenses, invoices outside the funding year, salaries (other than previously mentioned), transportation or accommodations, food or beverages, decorations, staging or fencing.

All grant funds must be expended by the recipient organization. Re-granting or sub-granting of funds is not allowed. Expenditures must be consistent with the application budget. Only goods and services that comply with the Hospitality Tax Guidelines and State Law are permitted. Project or event vendors will not be paid directly by Richland County.

MEAL AND OVERNIGHT JUSTIFICATION

In this section of the application, Richland County wants the applicant to estimate the number of meals that will be consumed in restaurants and overnight stays in the **unincorporated** areas of the County. Take the following items into consideration when making your estimations and provide a justification explaining how you came up with this number.

- How many people will attend your event?
- Of these, how many live in the incorporated areas of Richland County? These attendees will more likely eat at home or in restaurants closer to where they live. Richland County does not collect H-Tax in the City of Columbia, Forest Acres, Arcadia Lakes or Blythewood.
- How many of these people live in the unincorporated areas? Only a small portion of these may actually eat out. Many will eat at home.
- How many tourists are attending your event? How many hotel rooms are booked for your event? These are the people who will eat meals out.
- Estimate hotel room nights will be booked due to your event. Are these rooms located in the unincorporated areas of the County? How will you track this number? # rooms x # nights = estimated room nights booked

BUDGET

The budget should reflect in financial terms the actual costs of achieving the objectives of the project(s) you propose in your application. A budget form is provided for you as part of the application.

The project expenses section may or may not contain all of the listed "Budget Categories," depending on the size and type of project you propose. Under project income, list known and anticipated funding sources, including any that are pending. Be sure to include the Richland County requests in this list. Also include the value of any in-kind contributions and mark as in-kind.

Hospitality Tax Grant funds can account for up to **50%** of the total cost of the program/event you are applying for. Applicants must provide 50% of the total cost of the project as either in-kind or cash match.

Budget Narrative/Justification (H-Tax Grant Funds Only) - Please include a detailed description for each category included in the budget. For example:

- Marketing/Advertising – \$5,000 for 6 billboards located in Charleston, Greenville, Aiken, Myrtle Beach and Rock Hill. \$1,000 for TV ads on WIS. \$2,500 radio ads on Clear Channel
- Security/Emergency Services: \$100 fire marshal, \$300 RC Sheriff's Deputies
- Entertainment: \$9,000 for 3 bands

Budget tips:

- Budgets **MUST** be entered on the budget form provided and **MUST** include a justification for H-Tax expenditures. This tells Richland County how you plan to spend grant funds.
- **Grant funds should be used for tourism marketing first above any other expense. See the FUNDING PRIORITIES/ELIGIBLE EXPENDITURES section above for more information.**
- Be as detailed as possible in your budget justification. This information will be compared to your payment requests. Items in your payment requests must appear in your application budget.
- Signage and banners used at your event, directional signage, programs, volunteer t-shirts, and other items handed out at your event do not count as marketing expenses.

STATEMENT OF ASSURANCES

By signing and submitting the H-Tax County Promotions application, your organization is agreeing to the following Statement of Assurances:

- Upon grant application acceptance and funding award, applicant agrees that financial records, support documents, statistical records and all other records pertinent to Hospitality Tax funding shall be retained for a period of three years.
- All procurement transactions, regardless of whether negotiated or advertised and without regard to dollar value, shall be conducted in a manner so as to provide maximum open free competition.
- The funding recipient shall establish safeguards to prohibit employees from using their positions for a purpose that has the appearance of being motivated by a desire for private gain for themselves and others.
- All expenditures must have adequate documentation.

- All accounting records and supporting documentation shall be available for inspection by Richland County upon request.
- No person, on the basis of race, color, or national origin, should be excluded from participation in, be denied the benefit of or be otherwise subjected to discrimination under the program or activity funding in whole or in part by Hospitality Tax funds.
- Employment made by or resulting from Hospitality Tax funding shall not discriminate against any employee or applicant on the basis of handicap, age, race, color, religion, sex, or national origin.
- None of the funds, materials, property, or services provided directly or indirectly under Hospitality Tax funding shall be used for any partisan political activity, or to further the election or defeat of any candidate for public office.
- The applicant hereby certifies that the information submitted as part of this application is accurate and reliable.
- Any change and/or variation must be reported immediately, otherwise, funding may be withheld.

APPLICATION EVALUATION

The Committee will use the following evaluation criteria to evaluate applications and proposed projects. The individual factors are important in project evaluation, as they are an indication of the degree to which the proposed project will contribute to the tourism in Richland County. Please ensure that you review these factors and include the elements in your application. These factors, with their corresponding point values, are:

Project Design and Benefit to Community:

55 points maximum

Benefit to Tourism (20) - Does the project promote tourism in the areas of the County in which Richland County H-Taxes are collected? Will it promote a positive image for the County? Will it attract visitors, build new audiences and encourage tourism expansion in the areas of the County in which Richland County H-Taxes are collected? Will it increase awareness of the County's amenities, history, facilities, and natural environment in the areas of the County in which Richland County H-Taxes are collected?

Reliable Tracking Mechanism and Marketing Plan (15) – How will visitors and tourists would be tracked? (surveys, wristbands, ticketing, and etc.) Are these methods viable? Does the marketing plan describe how the organization will reach tourists? Are at least 70% of the ads or other marketing expenses targeted outside the Columbia/Richland County area?

Is the expected number of tourists in line with the organization's marketing plan?

Benefit to Community (10) - How will this project benefit the citizens of Richland County? Will the project benefit unincorporated Richland County? Who will attend the event? How many visitors will the event serve? A visitor is defined by someone who travels at least 50 miles to attend the event.

Community Support and Partnerships (10) - Does the project have broad-based community appeal or support? What is the evidence of need for this project in the County? What kind and degree of partnership does the project exhibit? Does it exhibit volunteer involvement or inter-jurisdictional, corporate, business, and/or civic support?

Economic Impact and Accountability

45 points maximum

Budget (5) – Are all expenses that are to be paid with H-Tax funds eligible expenses? Did the budget and justification provide enough detail to show how funds will be spent? Does the applicant provide 50% in cash or in-kind match?

Expected H-Tax Revenue Generated (15) - What are the projected direct and indirect dollar expenditures by visitors/tourists? What is the estimated number of meals consumed? Are any overnight stays anticipated? Will this program drive business to those businesses that pay collect and remit Richland County H-Tax in the unincorporated areas of the County as well as Eastover and Richland portions of Irmo?

Reasonable Cost/Benefit Ratio (15) - Does the benefit of the project (i.e. number of tourists estimated; expected revenue generated) exceed the cost of the project? Is this project "worth" its cost?

Management Capability (10) - Does the applicant organization demonstrate an ability to successfully complete the project through effective business practices in the areas of finance, administration, marketing, and production? If this organization has received County Hospitality Tax funding previously, was the project successful?

APPLICATION PACKAGE

In order to be considered for funding, applicants must submit a **complete** application package for the H-Tax County Promotions grant program. Incomplete applications will not be considered. Complete applications include:

- Completed and signed application form (<http://www.rcgov.us/Business/Hospitality.asp>). Answer all questions and complete each section. N/A and See Attached are not valid responses.
- If your organization does not have an Executive Director, please note this in the signature area.
- Required Attachments:
 - Letter from IRS confirming nonprofit status and proof of registration with the SC Secretary of State's Office
 - List of the organization's current Board Members/Directors
 - Organization's most recent audited financial statement or 990 Tax form
 - Additional one (1) page project description (**OPTIONAL**)
 - Additional one (1) page budget justification (**OPTIONAL**)

Attachments MUST be submitted along with the proposal. Incomplete applications will not be evaluated. County Council approved a motion in May 2011 that stated that late and incomplete applications will not be sent to the grant committees for review.

Applicants must provide six (6) copies of the complete application package plus one (1) original (7 packages total). Please submit only the required elements secured with a binder clip. Folders, report covers and binders will be discarded.

Applications are due by 5:00 p.m. on February 22, 2013. Emailed or faxed applications will not be accepted. Due dates are not post mark dates. **Applications must be received by 5:00 pm or they will not be considered for funding.**

Mail Application to:

Richland County Administrator's Office
Attn: Sara Salley
PO Box 192
Columbia, SC 29202

Hand Deliver Application to:

Richland County Administrator's Office
Attn: Sara Salley
2020 Hampton Street, Suite 4069
Columbia, SC 29204

AWARD NOTIFICATION

The Grants Manager will notify all applicant organizations of the funding outcome in writing in June 2012. Awards will be available for reimbursement beginning July 1, 2013. Final reports for the previous fiscal year, if applicable, must be received before payments are released.

REPORTING AND GRANT ACKNOWLEDGEMENT REQUIREMENTS

At the completion of the grant funded project, Richland County requires grantees to complete a mid-year and/or final report for H-Tax County Promotions funds.

Grantees must acknowledge the receipt of H-Tax County Promotions funding by including the Richland County Government logo, or by listing "Richland County Government" on all program/project advertising, marketing and promotional materials. Examples of this must be included in your final report.

FREEDOM OF INFORMATION ACT NOTICE

Please be advised that all materials submitted for H-Tax County Promotions grant funding are subject to disclosure based on the Freedom of Information Act (FOIA).

CONTACT

Sara Salley, Grants Manager, PO Box 192, Columbia, SC 29202, 803.576.2069, Salleys@rcgov.us

Richland County Council Request of Action

Subject

Report of the Caughman Pond/Pinewood Lake Ad Hoc Committee[**PAGE 119**]

Richland County Council

County Administration Building
2020 Hampton Street
P.O. Box 192
Columbia, SC 29202



Phone: (803) 576-2061
Fax: (803) 576-2136

CAUGHMAN POND/PINEWOOD LAKE AD HOC COMMITTEE

Bill Malinowski
District 1

Norman Jackson, Chair
District 11

Greg Pearce
District 6

**Fourth Floor Conference Room
2020 Hampton Street
July 23, 2013
4:30 PM**

1. **Call to Order**
2. **Prioritization of Phase I Construction Projects**
3. **Adjourn**

Richland County Council Request of Action

Subject

Report of the Dirt Road Committee: **[PAGE 121]**

- a. Update on Engineering Contract
- b. Update on Paving Projects

RICHLAND COUNTY COUNCIL



DIRT ROAD COMMITTEE

Kelvin Washington Torrey Rush Julie Ann Dixon-Chair Norman Jackson Bill Malinowski

July 23, 2013

Administration Conference Room

3:30 PM

- I. Call to Order**
- II. Update on Engineering Contract**
- III. Update on Paving Projects**
- IV. Adjournment**

Richland County Council Request of Action

Subject

a. A Resolution honoring Josiah Washington on representing Richland County with his participation on Jeopardy and for speaking on behalf of the Richland Library at the Budget Public Hearing **[JACKSON]**

Richland County Council Request of Action

Subject

Must Pertain to Items Not on the Agenda