



**RICHLAND COUNTY COUNCIL
REGULAR SESSION AGENDA**

**OCTOBER 18, 2011
6:00 PM**

CALL TO ORDER

HONORABLE PAUL LIVINGSTON, CHAIR

INVOCATION

THE HONORABLE GREG PEARCE

PLEDGE OF ALLEGIANCE

THE HONORABLE GREG PEARCE

Presentation Of Resolutions

1. a. Resolution honoring Judge William Womble, Judge Clevette Hudnell, and Judge Samuel Peay on their retirement and service to Richland County [LIVINGSTON]

Approval Of Minutes

2. Regular Session: October 4, 2011 [PAGES 9-19]

Adoption Of The Agenda

Report Of The Attorney For Executive Session Items

3. a. Personnel Matter
- b. Potential Litigation

Citizen's Input

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

Report Of The County Administrator

5. a. EECBG Update
- b. Eastover Water-Sewer Negotiations Update
- c. Business Services Reform Task Force Update

- d. 2012 Retreat: January 26-27, 2011
- e. Fire Ad Hoc Committee Update
- f. Regional Recreation Complex Ad Hoc Committee Update

Report Of The Clerk Of Council

Report Of The Chairman

Presentations

- 6. CMRTA Update

Open/Close Public Hearings

- 7. a. An Ordinance Amending Section 12 of the Fiscal Year 2011-2012 Annual Budget Ordinance
- b. An Ordinance Authorizing Certain Economic Incentives, including payment of a fee in lieu of property taxes and other related matters, pursuant to a fee agreement between Richland County, South Carolina, and Sensor Electronic Technology, Inc., pursuant to Title 12, Chapter 44, Code of Laws of South Carolina, 1976, as amended; and other related matters

Approval Of Consent Items

- 8. An Ordinance Amending Section 12 of the Fiscal Year 2011-2012 Annual Budget Ordinance
[THIRD READING] [PAGES 26-27]
- 9. 11-11MA
Dan Douglas
RU to GC (2.50 Acres)
Hwy. 76
01506-01-08 **[THIRD READING] [PAGE 29]**
- 10. 11-12MA
Edward Holcombe
PDD to GC (2.26 Acres)
1016 Rauch Metz Rd.
02505-02-09/14 **[THIRD READING] [PAGE 31]**
- 11. 11-13MA
Fred Gantt, III
RM-MD to LI (4.40 Acres)
Simmons St.
11115-01-01/02/03/04/05/06/07 **[THIRD READING] [PAGE 33]**
- 12. 11-16MA
Margaret Smith
RM-HD to NC (0.414 Acres)
6624 Shakespeare Rd.

14215-09-08 [**THIRD READING**] [**PAGE 35**]

13. 11-17MA
Josh Williamson
Margaret Grimsley
RM-MD to GC (1.0 Acres)
1840 Bluff Rd.
11115-05-05(p) [**THIRD READING**] [**PAGES 37-39**]
14. An Ordinance Amending the Richland County Code of Ordinances; Chapter 26, Land Development; Article VII, General Development, Site, and Performance Standards; Section 26-173, Off-Street Parking Standards; Subsection (D), Design of Parking Areas; Paragraph (4), Accessible Spaces; so as to comply with ADA Access Requirements [**THIRD READING**] [**PAGES 40-42**]
15. An Ordinance Authorizing Certain Economic Incentives, including payment of a fee in lieu of property taxes and other related matters, pursuant to a fee agreement between Richland County, South Carolina, and Sensor Electronic Technology, Inc., pursuant to Title 12, Chapter 44, Code of Laws of South Carolina, 1976, as amended; and other related matters [**THIRD READING**] [**PAGES 44-71**]
16. An Ordinance Authorizing (1) the execution and delivery of a fee in lieu of tax and incentive agreement between Richland County, South Carolina (the "County") and Pure Power Technologies, LLC, acting for itself, one or more affiliates or other project sponsors (the "Company"), in connection with the expansion of certain facilities in the County (the "Expansion Project"); (2) the County to covenant in such agreement to accept certain negotiated fees in lieu of ad valorem taxes with respect to the Expansion Project; (3) special source credits to reimburse the Company for a portion of certain costs incurred in connection with the Expansion Project; (4) the benefits of a multi-county park to be made available to the Company and the Expansion Project; and (5) other matters relating thereto [**SECOND READING**] [**PAGES 73-115**]

Third Reading Items

17. An Ordinance Amending the Richland County Code of Ordinances; Chapter 26, Land Development; Article X, Subdivision Regulations; so as to add a new section that permits private road subdivisions in the RU (Rural) Zoning Districts [**PAGES 117-122**]

Second Reading Items

18. An Ordinance Amending the Fiscal year 2011-2012 Neighborhood Improvement and Community Development Fund Annual Budgets to appropriate \$48,641 of Neighborhood Improvement Undesignated Fund Balance for transfer to the Community Development Fund for the CDBG and HOME administrative shortfall [**PAGES 124-126**]

Report Of Economic Development Committee

19. a. 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 related to Project Cyrus; and other related matters [**FIRST READING**] [**PAGES 128-130**]

- b. An Ordinance Authorizing a deed to Cohn & Cohn Investments, LLC, for approximately 4.94 acres of land, constituting a portion of Richland County TMS # 25800-04-01 [**FIRST READING**] [**PAGE 131**]

Report Of Rules And Appointments Committee

1. Notification Of Appointments

- 20. Midlands Workforce Development Board-5 appointments [3 applications were received] The following are recommended for appointment: [**PAGE 133**]
 - a) TANF Agency, Allen Carter (application included)-Richland County DSS [**PAGE 134**]
 - b) Vocational Education, Vann Gunter*-Midlands Technical College
 - c) Education, David Prigge*-Richland School District One, CATE
 - d) Community Action Agency, Julia Lawson (application included) Wateree Community Action Agency [**PAGE 135**]
 - e) Private Sector, Jeri Boysia*-Companion Property & Casualty Group; Dennis Hunter (application included)-Manpower Group [**PAGE 136**]

2. Discussion From Rules And Appointments Committee

- 21. When speaking during the citizen's input portion of council meetings, persons currently serving on Richland County Commissions of any kind are not allowed to use their title or the commission name unless they have received unanimous consent from the commission to do so [**MALINOWSKI**] [**PAGES 138-139**]
- 22. CMRTA Nominees for appointment:
 - a. Willis "Trip" Gregory, III [**LIVINGSTON**] [**PAGE 141**]
 - b. Jame "Mac" McCauley Bennett [**LIVINGSTON**] [**PAGE 142**]

Other Items

- 23. Caughman Property Feasibility Study [**PAGES 144-148**]
- 24. CMRTA IGA Ratification [**PAGES 150-169**]

Citizen's Input

- 25. Must Pertain to Items Not on the Agenda

Executive Session

Motion Period

Adjournment



Richland County Council Request of Action

Subject

- a. Resolution honoring Judge William Womble, Judge Clevette Hudnell, and Judge Samuel Peay on their retirement and service to Richland County [**LIVINGSTON**]

Richland County Council Request of Action

Subject

Regular Session: October 4, 2011 [**PAGES 9-19**]

MINUTES OF



RICHLAND COUNTY COUNCIL REGULAR SESSION TUESDAY, OCTOBER 4, 2011 6:00 p.m.

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:

Member	Gwendolyn Davis Kennedy
Member	Valerie Hutchinson
Member	Norman Jackson
Member	Bill Malinowski
Member	Jim Manning
Member	L. Gregory Pearce, Jr.
Member	Seth Rose
Member	Kelvin Washington
Absent	Paul Livingston
	Damon Jeter

OTHERS PRESENT – Milton Pope, Tony McDonald, Sparty Hammett, Roxanne Ancheta, Randy Cherry, Stephany Snowden, Tamara King, Melinda Edwards, Daniel Driggers, John Hixson, Dale Welch, Valeria Jackson, Nelson Lindsay, Andy Metts, Pam Davis, Larry Smith, Janet Claggett, Buddy Atkins, Bill Peters, David Hoops, Chris Eversmann, Sara Salley, Ray Peterson, Daniel Driggers, Nancy Stone Collum, Tiaa Rutherford, James Hayes, Paul Brawley, David Adams, Rodolfo Callwood, Wayne Richardson, Kecia Lara, Geo Price, Monique Walters, Michelle Onley

CALL TO ORDER

The meeting was called to order at 6:01 p.m.

INVOCATION

The Invocation was given by the Honorable Norman Jackson

PLEDGE OF ALLEGIANCE

The Pledge of Allegiance was led by the Honorable Norman Jackson

PRESENTATION OF RESOLUTIONS

Resolution recognizing Gadsden Elementary School for achieving the designation of the “National Blue Ribbon School” [WASHINGTON] – Mr. Washington presented a resolution to Gadsden Elementary School for achieving the designation of a “National Blue Ribbon School”.

National Community Planning Month Proclamation – Ms. Tiaa Rutherford presented a proclamation in honor of National Community Planning Month and invited Council to attend the Planning Conference on October 22nd.

APPROVAL OF MINUTES

Regular Session: September 20, 2011 – Ms. Hutchinson moved, seconded by Ms. Kennedy, to approve the minutes as submitted. The vote in favor was unanimous.

Zoning Public Hearing: September 27, 2011 – Mr. Washington moved, seconded by Ms. Hutchinson, to approve the minutes as submitted. The vote in favor was unanimous.

ADOPTION OF AGENDA

Mr. Rose moved, seconded by Mr. Washington, to request unanimous consent to add the bath salts ordinance to agenda for consideration. A discussion took place.

<u>For</u>	<u>Against</u>
Hutchinson	Malinowski
Pearce	Jackson
Dickerson	Manning
Rose	Kennedy
Washington	

The motion failed.

Mr. Pope stated that an Outside Counsel Executive Session needed to be added at the beginning of the meeting and that the Employee Grievance needed to reflect that they are items for action.

Mr. Malinowski stated that the TMS# on Item #15 needed to be corrected and the CMRTA Appointments needed to be added under Items for Discussion from Rules and Appointments Committee.

Mr. Washington moved, seconded by Mr. Malinowski, to adopt the agenda as amended. The vote in favor was unanimous.

REPORT OF THE COUNTY ATTORNEY FOR EXECUTIVE SESSION MATTERS

- a. **Potential Claim Update**
- b. **Department of Justice Update** – Mr. Smith stated that the Redistricting Plan has been submitted to the Department of Justice and they have 60 days (November 28) to respond.
- c. **SOB Update**
- d. **Project Atlas**
- e. **Project Cyrus**
- f. **Employee Grievances—4**

OUTSIDE LEGAL COUNSEL EXECUTIVE SESSION

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Council went into Executive Session at approximately 6:22 p.m. and came out at approximately 6:36 p.m.
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- a. **Project Atlas**
- b. **Project Cyrus**

CITIZENS' INPUT

Virginia Sanders and Edith Cunningham spoke in favor of Caughman Creek Property Purchase Agreement.

REPORT OF THE COUNTY ADMINISTRATOR

- a. **Smoking Ban Report—3rd Quarter 2011** – Mr. Pope stated that no complaints were received for this quarter.
- b. **Adult Services Report** – Mr. Pope per Council's directive the report from the COG and Recreation Commission regarding adult service was included in the agenda packet as information.
- c. **Eastover Water-Sewer Negotiations** –Mr. Pope stated that staff will meet with Town officials next week and will report back to Council.

- d. **Business Friendly Service Task Force Update** – Mr. Pope stated that the task force has met twice and will be holding a public forum on October 17.
- e. **Update from Legislative Delegation Meeting** – Mr. Pope stated that the Legislative Delegation met last week. Several Council members were present for the meeting. Legislation regarding the Assessor item was discussed and is slated to be pre-filed in the fall. Council will be updated as this item goes through the legislative process.
- f. **Employee Grievances—4** – This item was taken up during Executive Session.

REPORT OF THE CLERK OF COUNCIL

- a. **Recent Invitations Reminder** – Ms. Onley stated invitations for the Urban League Dinner on November 2nd and the MTC Oyster Roast on November 3rd had been forwarded to Council. She asked that Council members respond by October 7th, in order for her to RSVP their attendance at these events.

REPORT OF THE CHAIRMAN

- a. **NACo News—Joyce Dickerson Recognition** – Mr. Pearce recognized Ms. Dickerson for being included in the NACo News.

PUBLIC HEARINGS

- **An Ordinance Amending the Fiscal Year 2011-2012 General Fund Annual Budget to appropriate \$44,250 of General Fund Undesignated Fund Balance to the Sheriff's Department for the Laboratory Technician position previously funded by grant funds** – No one signed up to speak.
- **An Ordinance Amending the Fiscal Year 2011-2012 General Fund Annual Budget to appropriate \$71,250 of General Fund Undesignated Fund Balance to the Sheriff's Department for two Deputy Sheriff's Motorcycle Safety Education and Enforcement positions previously funded by grant funds** – No one signed up to speak.

APPROVAL OF CONSENT ITEMS

- **An Ordinance Amending the Fiscal Year 2011-2012 General Fund Annual Budget to appropriate \$44,250 of General Fund Undesignated Fund Balance to the Sheriff's Department for the Laboratory Technician position previously funded by grant funds [THIRD READING]**
- **An Ordinance Amending the Fiscal Year 2011-2012 General Fund Annual Budget to appropriate \$71,250 of General Fund Undesignated Fund**

Balance to the Sheriff's Department for two Deputy Sheriff's Motorcycle Safety Education and Enforcement positions previously funded by grant funds [THIRD READING]

- **An Ordinance Amending Section 12 of the Fiscal Year 2011-2012 Annual Budget Ordinance [SECOND READING]**
- **11-11MA, Dan Douglas, RU to GC (2.50 Acres), Hwy. 76, 01506-01-08 [SECOND READING]**
- **11-12MA, Edward Holcombe, PDD to GC (2.26 Acres), 1016 Rauch Metz Rd., 02505-02-09/14 [SECOND READING]**
- **11-13MA, Fred Gantt, III, RM-MD to LI (4.40 Acres), Simmons St., 11115-01-01/02/03/04/05/06/07 [SECOND READING]**
- **11-16MA, Margaret Smith, RM-HD to NC (0.414 Acres), 6624 Shakespeare Rd., 14215-09-08 [SECOND READING]**
- **11-17MA, Josh Williamson, Margaret Grimsley, RM-MD to GC (1.0 Acres), 1840 Bluff Rd., 11115-05-05(p) [SECOND READING]**
- **Valhalla Micro Surfacing Project**
- **North Paving Project-Wade Kelly Road Right-of-Way**
- **Condemnation of Private Property for Use as a Drainage Easement**
- **Petition to close Road/Portion of Beckham Swamp Road—Consent Order**
- **Annual Renewal of the Fleet Maintenance and Repair Contract**
- **C&D Disposal Services Contract**
- **HUD Grant for Neighborhood Improvement**
- **Emergency Services Radio Purchase**
- **Transfer of Position from Dentsville Magistrate to Administrative Magistrate**

Ms. Hutchinson moved, seconded by Ms. Dickerson, to approve the consent items. The vote in favor was unanimous.

THIRD READING

An Ordinance Authorizing the levying of Ad Valorem Property Taxes, which, together with the prior year's carryover and other state levies and any additional amount appropriated by the Richland County Council prior to July 1, 2011, will provide sufficient revenues for the operations of Richland County Government during the period from July 1, 2011 through June 30, 2012 – Mr. Manning moved, seconded by Ms. Kennedy, to approve this item as amended. The vote in favor was unanimous.

Mr. Malinowski moved, seconded by Ms. Hutchinson, to reconsider this item. The motion failed.

An Ordinance Amending the Richland County Code of Ordinances; Chapter 26, Land Development; Article X, Subdivision Regulations; so as to add a new section that permits private road subdivisions in the RU (Rural) Zoning Districts – Mr. Washington moved, seconded by Mr. Manning, to amend Sec.26-225(c)(2) to read: "The roadway shall have a minimum of right-of-way width of fifty (50) feet..." and Sec. 26-225(d)(2) to remove the hold harmless agreement. A discussion took place.

Mr. Washington moved to call for the question. The motion died for lack of a second.

Mr. Rose made a substitute motion, seconded by Mr. Manning, to defer this item until the October 18th Council meeting. The vote was in favor.

SECOND READING

An Ordinance Amending the Richland County Code of Ordinances; Chapter 26, Land Development; Article VII, General Development, Site, and Performance Standards; Section 26-173, Off-Street Parking Standards; Subsection (D), Design of Parking Areas; Paragraph (4), Accessible Spaces; so as to comply with ADA Access Requirements – Mr. Malinowski moved, seconded by Ms. Hutchinson, to approve this item as amended. The vote in favor was unanimous.

An Ordinance Authorizing Certain Economic Incentives, including payment of a fee in lieu of property taxes and other related matters, pursuant to a fee arrangement between Richland County, South Carolina, and Project Atlas, pursuant to Title 12, Chapter 44, Code of Laws of South Carolina, 1976, as amended; and other related matters – Ms. Hutchinson moved, seconded by Ms. Dickerson, to approve this item. The vote in favor was unanimous.

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 related matters – Mr.

Washington moved, seconded by Mr. Jackson, to approve this item. The vote in favor was unanimous.

REPORT OF DEVELOPMENT AND SERVICES COMMITTEE

Franklin Park and Albene Park Water Systems – Mr. Malinowski moved, seconded by Ms. Hutchinson, to approve the committee’s recommendation with the following amendment: that prior to the execution of the final transfer staff will report back to Council for approval. A discussion took place.

The vote was in favor.

Low Traffic Volume Road Paving Program – Mr. Washington moved, seconded by Mr. Jackson, to approve this item. A discussion took place.

Mr. Rose made a substitute motion, seconded by Ms. Kennedy, to defer this item until the November 1st Council meeting.

<u>For</u>	<u>Against</u>
Malinowski	Jackson
Hutchinson	Manning
Pearce	Washington
Dickerson	
Kennedy	

The vote was in favor.

REPORT OF ADMINISTRATION AND FINANCE COMMITTEE

Automatic Vehicle Locations Systems-Sheriff’s Department – Mr. Malinowski moved, seconded by Mr. Rose, to approve this item. The vote in favor was unanimous.

Construction Services/Airport Tree Obstruction Removal-Cherokee Inc. Contract – Mr. Malinowski moved, seconded by Mr. Jackson, to approve this item. The vote in favor was unanimous.

Professional Services/Airport Tree Obstruction Removal-LPA Group – Mr. Malinowski moved, seconded by Ms. Dickerson, to approve this item. The vote in favor was unanimous.

Emergency Supplies and Equipment Purchase Orders – Mr. Malinowski moved, seconded by Mr. Jackson, to approve this item.

Lobbyists’ Interaction with Council on Certain Matters – Mr. Manning moved, seconded by Mr. Jackson, to approve the committee’s recommendation. The vote in favor was unanimous.

Increase Detention Center Officer Starting Salaries – Mr. Malinowski moved, seconded by Mr. Jackson, to approve the committee's recommendation. The vote in favor was unanimous.

An Ordinance Amending the Fiscal Year 2011-2012 Neighborhood Improvement and Community Development Fund Annual Budgets to appropriate \$48,641 of Neighborhood Improvement Undesignated Fund Balance for transfer to the Community Development Fund for the CDBG and HOME administrative shortfall – Mr. Malinowski moved, seconded by Mr. Jackson, to approve this item. The vote was in favor.

Caughman Creek Property Purchase Agreement – Mr. Jackson moved, seconded by Ms. Dickerson, to authorize the Administrator to execute the contract. A discussion took place.

Ms. Dickerson moved, seconded by Ms. Kennedy, to call for the question.

<u>For</u>	<u>Against</u>
Malinowski	Hutchinson
Jackson	Pearce
Dickerson	Rose
Manning	
Kennedy	
Washington	

The vote was in favor.

Mr. Jackson moved, seconded by Ms. Kennedy, to reconsider this item. The motion failed.

REPORT OF ECONOMIC DEVELOPMENT COMMITTEE

Project Cyrus—Inducement Resolution – Mr. Washington stated that the committee recommended approval of this item. The vote in favor was unanimous.

Project Cyrs—Ordinance authorizing a Fee in Lieu of Tax Agreement between Richland County and Project Cyrus [FIRST READING BY TITLE ONLY] – Mr. Washington stated that the committee recommended approval of this item. The vote in favor was unanimous.

REPORT OF RULES AND APPOINTMENTS COMMITTEE

I. NOTIFICATION OF APPOINTMENTS

- a. **Accommodations Tax Committee—2** – Mr. Malinowski stated that the committee recommended re-advertising for these positions. The vote in favor was unanimous
- b. **Appearance Commission—2** – Mr. Malinowski stated that the committee recommended re-advertising for these positions. The vote in favor was unanimous
- c. **Board of Assessment Control—1** – Mr. Malinowski stated that the committee recommended re-advertising for this position. The vote in favor was unanimous
- d. **Board of Zoning Adjustments and Appeals—4** – Mr. Malinowski stated that the committee recommended re-advertising for these positions. The vote in favor was unanimous
- e. **Building Codes Board of Adjustments and Appeals—3** – Mr. Malinowski stated that the committee recommended re-advertising for these positions. The vote in favor was unanimous
- f. **Business Service Center Appeals Board—1** – Mr. Malinowski stated that the committee recommended re-advertising for this position. The vote in favor was unanimous
- g. **Community Relations Council—1** – Mr. Malinowski stated that the committee recommended appointing Sarah B. Watson. The vote in favor was unanimous
- h. **Hospitality Tax Committee—1** – Mr. Malinowski stated that the committee recommended re-advertising for this position.

Mr. Washington made a substitute motion, seconded by Mr. Jackson, to appoint Ms. Dorothy A. Sumter. The vote was in favor.

- i. **Internal Audit Committee—1** – Mr. Malinowski stated that the committee recommended re-advertising for this position. The vote in favor was unanimous
- j. **Music Festival Board—2** – Mr. Malinowski stated that the committee recommended re-advertising for these positions. The vote in favor was unanimous

II. DISCUSSION FROM RULES AND APPOINTMENTS

- a. **County Council will consider a rule change that states any Special Called Meeting will only have the item(s) the meeting was called for on the agenda. A complete agenda with Administrator, Attorney and Clerk of Council report will not be required nor will approval of previous meeting minutes or any citizens' input be on the agenda unless it relates to the matter the meeting is called for – Mr. Malinowski stated that the committee recommended approving the amended language.**

<u>For</u>	<u>Against</u>
Malinowski	Dickerson
Jackson	Manning
Hutchinson	
Pearce	
Rose	

The vote was in favor.

- b. **When speaking during the citizens' input portion of council meetings, persons currently serving on Richland County Commissions of any kind are not allowed to use their title or the commission name unless they have received unanimous consent from the commission to do so – Mr. Malinowski stated that this item was held in committee.**
- c. **CMRTA Board Appointments – Mr. Malinowski stated that the committee recommended that the three appointees from Richland County be as follows: (1) one Council member from a district that is primarily unincorporated and (2) two citizens from the unincorporated area. The vote in favor was unanimous.**

Mr. Malinowski stated that the committee recommended that the nominees for the CMRTA Board be submitted by Council members to the Administrator prior to the October 18th Council meeting. A discussion took place.

The vote in favor was unanimous.

OTHER ITEMS

Report of the Decker Center Space Allocation Committee – Mr. Manning stated that the committee recommended approval of the request to authorize the Boudreaux Group and Richland County Government (Procurement, Support Services, Administration and departments that have a stake in the design and remodeling) to negotiate the redesign,

renovation and retrofitting of Decker Center to make is as energy efficient as possible, and to conform to preexisting space to accommodate associated workflows within a predetermined structural footprint, and return to Council for approval of award of a contract. In addition, Mr. Manning stated that the committee recommended to grant staff the authority to negotiate further with the next highest qualified, if negotiations with the Boudreaux Group is unsuccessful, until a successful negotiation is reached.

CITIZEN'S INPUT

Mr. David Edmond spoke up to speak.

EXECUTIVE SESSION

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Council went into Executive Session at approximately 8:25 p.m. and came out at approximately 8:35 p.m.
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- a. **Potential Claim Update** – No action was taken.
- b. **SOB Update** – No action was taken.
- c. **Employee Grievances—4** – Mr. Malinowski moved, seconded by Ms. Hutchinson, to uphold the Administrator's recommendations. The vote in favor was unanimous.

MOTION PERIOD

Resolutions honoring Judge William Womble, Judge Clevette Hudnell, and Judge Samuel Peay on their retirement and service to Richland County [LIVINGSTON] – Mr. Malinowski moved to unanimously adopt resolutions honoring Judges Womble, Hudnell, and Peay on their retirement and service to Richland County. The vote in favor was unanimous.

Reexamine the Business License Fee, especially the Interstate Tax, to promote business recruitment to be competitive in the region – This item was referred to the Business Friendly Task Force.

Review the process of the DRT and the effect of it going through the Planning Commission as it did in the past for more transparency and giving the public and Council members more awareness of what is really happening in their district [JACKSON] – This item was referred to the D&S Committee.

That only vehicle registered as commercial vehicles will pay the commercial fee as it relates to the CMRTA fee [MALINOWSKI] – This item was referred to the A&F Committee.

ADJOURNMENT

The meeting adjourned at approximately 8:38 p.m.

Paul Livingston, Chair

Damon Jeter, Vice-Chair

Gwendolyn Davis Kennedy

Joyce Dickerson

Valerie Hutchinson

Norman Jackson

Bill Malinowski

Jim Manning

L. Gregory Pearce, Jr.

Seth Rose

Kelvin E. Washington, Sr.

The minutes were transcribed by Michelle M. Onley

Richland County Council Request of Action

Subject

- a. Personnel Matter
- b. Potential Litigation

Richland County Council Request of Action

Subject

For Items on the Agenda Not Requiring a Public Hearing

Richland County Council Request of Action

Subject

- a. EECBG Update
- b. Eastover Water-Sewer Negotiations Update
- c. Business Services Reform Task Force Update
- d. 2012 Retreat: January 26-27, 2011
- e. Fire Ad Hoc Committee Update
- f. Regional Recreation Complex Ad Hoc Committee Update

Richland County Council Request of Action

Subject

CMRTA Update

Richland County Council Request of Action

Subject

- a. An Ordinance Amending Section 12 of the Fiscal Year 2011-2012 Annual Budget Ordinance
- b. An Ordinance Authorizing Certain Economic Incentives, including payment of a fee in lieu of property taxes and other related matters, pursuant to a fee agreement between Richland County, South Carolina, and Sensor Electronic Technology, Inc., pursuant to Title 12, Chapter 44, Code of Laws of South Carolina, 1976, as amended; and other related matters

Richland County Council Request of Action

Subject

An Ordinance Amending Section 12 of the Fiscal Year 2011-2012 Annual Budget Ordinance [**THIRD READING**]
[**PAGES 26-27**]

Notes

First Reading: September 20, 2011
Second Reading: October 4, 2011
Third Reading:
Public Hearing: October 18, 2011

STATE OF SOUTH CAROLINA
COUNTY COUNCIL FOR RICHLAND COUNTY
ORDINANCE NO. __-11HR

AN ORDINANCE AMENDING SECTION 12 OF THE FISCAL YEAR 2011-2012
ANNUAL BUDGET ORDINANCE.

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. That the following change be made to the budget ordinance:

SECTION 12. Richland County hereby enacts the implementation of an Administrative Service Fee of up to \$15.00 per hour, to be collected by the Sheriff from parties who request special duty services, and which are authorized by the Sheriff for the duration of fiscal year 2011-2012 only. Funds collected by the Sheriff that are derived from the up to \$15.00 per hour administrative fee for special duty services shall be deposited directly into separate revenue accounts within the General Fund and Victim's Assistance Fund as follows: \$5 into the General Fund to cover administrative costs of operating the plan; \$5 into the General Fund to cover the rank structure increases for the Sheriff's Office; \$5 to be deposited into the Victim's Assistance program to cover additional program cost. This revenue will be to offset the cost of the additional use of petrol oil and lubricants, and for the cost of administrative management of special duty assignments. The Sheriff and Finance Director will assess the status of fees collected through the Special Duty Program prior to the end of fiscal year 2012. All excess funds collected for the administrative cost over cost incurred shall reflect as a designation of fund balance and shall be brought forward in the following fiscal year as budgeted fund balance. This automatic re-budgeting shall not require a supplemental budget ordinance. Continuation of the Special Duty Program and associated fees shall be evaluated each year during the budget process.

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

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

SECTION IV. Effective Date. This ordinance shall be enforced from and after July 1, 2011

RICHLAND COUNTY COUNCIL

BY: _____
Paul Livingston, Chair

ATTEST THIS THE ____ DAY

OF _____, 2011

Clerk of Council

RICHLAND COUNTY ATTORNEY'S OFFICE

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

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

Richland County Council Request of Action

Subject

11-11MA
Dan Douglas
RU to GC (2.50 Acres)
Hwy. 76
01506-01-08 [**THIRD READING**] [**PAGE 29**]

Notes

First Reading: September 27, 2011
Second Reading: October 4, 2011
Third Reading:
Public Hearing: September 27, 2011

STATE OF SOUTH CAROLINA
COUNTY COUNCIL OF RICHLAND COUNTY
ORDINANCE NO. ____-11HR

AN ORDINANCE OF THE COUNTY COUNCIL OF RICHLAND COUNTY, SOUTH CAROLINA, AMENDING THE ZONING MAP OF UNINCORPORATED RICHLAND COUNTY, SOUTH CAROLINA, TO CHANGE THE ZONING DESIGNATION FOR THE REAL PROPERTY DESCRIBED AS TMS # 01506-01-08 FROM RU (RURAL DISTRICT) TO GC (GENERAL COMMERCIAL DISTRICT); AND PROVIDING FOR SEVERABILITY AND AN EFFECTIVE DATE.

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

Section I. The Zoning Map of unincorporated Richland County is hereby amended to change the real property described as TMS # 01506-01-08 from RU (Rural District) zoning to GC (General Commercial District) zoning.

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

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

Section IV. Effective Date. This ordinance shall be effective from and after _____, 2011.

RICHLAND COUNTY COUNCIL

By: _____
Paul Livingston, Chair

Attest this _____ day of
_____, 2011.

Michelle M. Onley
Assistant Clerk of Council

Public Hearing: September 27, 2011
First Reading: September 27, 2011
Second Reading: October 4, 2011 (tentative)
Third Reading:

Richland County Council Request of Action

Subject

11-12MA
Edward Holcombe
PDD to GC (2.26 Acres)
1016 Rauch Metz Rd.
02505-02-09/14 **[THIRD READING] [PAGE 31]**

Notes

First Reading: September 27, 2011
Second Reading: October 4, 2011
Third Reading:
Public Hearing: September 27, 2011

STATE OF SOUTH CAROLINA
COUNTY COUNCIL OF RICHLAND COUNTY
ORDINANCE NO. ____-11HR

AN ORDINANCE OF THE COUNTY COUNCIL OF RICHLAND COUNTY, SOUTH CAROLINA, AMENDING THE ZONING MAP OF UNINCORPORATED RICHLAND COUNTY, SOUTH CAROLINA, TO CHANGE THE ZONING DESIGNATION FOR THE REAL PROPERTIES DESCRIBED AS TMS # 02505-02-09/14 FROM PDD (PLANNED DEVELOPMENT DISTRICT) TO GC (GENERAL COMMERCIAL DISTRICT); AND PROVIDING FOR SEVERABILITY AND AN EFFECTIVE DATE.

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

Section I. The Zoning Map of unincorporated Richland County is hereby amended to change the real properties described as TMS # 02505-02-09/14 from PDD (Planned Development District) zoning to GC (General Commercial District) zoning.

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

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

Section IV. Effective Date. This ordinance shall be effective from and after _____, 2011.

RICHLAND COUNTY COUNCIL

By: _____
Paul Livingston, Chair

Attest this _____ day of
_____, 2011.

Michelle M. Onley
Assistant Clerk of Council

Public Hearing: September 27, 2011
First Reading: September 27, 2011
Second Reading: October 4, 2011 (tentative)
Third Reading:

Richland County Council Request of Action

Subject

11-13MA
Fred Gantt, III
RM-MD to LI (4.40 Acres)
Simmons St.
11115-01-01/02/03/04/05/06/07 **[THIRD READING] [PAGE 33]**

Notes

First Reading: September 27, 2011
Second Reading: October 4, 2011
Third Reading:
Public Hearing: September 27, 2011

STATE OF SOUTH CAROLINA
COUNTY COUNCIL OF RICHLAND COUNTY
ORDINANCE NO. ___-11HR

AN ORDINANCE OF THE COUNTY COUNCIL OF RICHLAND COUNTY, SOUTH CAROLINA, AMENDING THE ZONING MAP OF UNINCORPORATED RICHLAND COUNTY, SOUTH CAROLINA, TO CHANGE THE ZONING DESIGNATION FOR THE REAL PROPERTIES DESCRIBED AS TMS # 11115-01-01/02/03/04/05/06/07 FROM RM-MD (RESIDENTIAL, MULTI-FAMILY – MEDIUM DENSITY DISTRICTS) TO LI (LIGHT INDUSTRIAL DISTRICTS); AND PROVIDING FOR SEVERABILITY AND AN EFFECTIVE DATE.

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

Section I. The Zoning Map of unincorporated Richland County is hereby amended to change the real properties described as TMS # 11115-01-01/02/03/04/05/06/07 from RM-MD (Residential, Multi-Family – Medium Density District) zoning to LI (Light Industrial District) zoning.

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

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

Section IV. Effective Date. This ordinance shall be effective from and after _____, 2011.

RICHLAND COUNTY COUNCIL

By: _____
Paul Livingston, Chair

Attest this _____ day of
_____, 2011.

Michelle M. Onley
Assistant Clerk of Council

Public Hearing: September 27, 2011
First Reading: September 27, 2011
Second Reading: October 4, 2011 (tentative)
Third Reading:

Richland County Council Request of Action

Subject

11-16MA
Margaret Smith
RM-HD to NC (0.414 Acres)
6624 Shakespeare Rd.
14215-09-08 [**THIRD READING**] [**PAGE 35**]

Notes

First Reading: September 27, 2011
Second Reading: October 4, 2011
Third Reading:
Public Hearing: September 27, 2011

STATE OF SOUTH CAROLINA
COUNTY COUNCIL OF RICHLAND COUNTY
ORDINANCE NO. ____-11HR

AN ORDINANCE OF THE COUNTY COUNCIL OF RICHLAND COUNTY, SOUTH CAROLINA, AMENDING THE ZONING MAP OF UNINCORPORATED RICHLAND COUNTY, SOUTH CAROLINA, TO CHANGE THE ZONING DESIGNATION FOR THE REAL PROPERTY DESCRIBED AS TMS # 14215-09-08 FROM RM-HD (RESIDENTIAL, MULTI-FAMILY – HIGH DENSITY DISTRICT) TO NC (NEIGHBORHOOD COMMERCIAL DISTRICT); AND PROVIDING FOR SEVERABILITY AND AN EFFECTIVE DATE.

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

Section I. The Zoning Map of unincorporated Richland County is hereby amended to change the real property described as TMS # 14215-09-08 from RM-HD (Residential, Multi-Family – High Density District) zoning to NC (Neighborhood Commercial District) zoning.

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

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

Section IV. Effective Date. This ordinance shall be effective from and after _____, 2011.

RICHLAND COUNTY COUNCIL

By: _____
Paul Livingston, Chair

Attest this _____ day of
_____, 2011.

Michelle M. Onley
Assistant Clerk of Council

Public Hearing: September 27, 2011
First Reading: September 27, 2011
Second Reading: October 4, 2011 (tentative)
Third Reading:

Richland County Council Request of Action

Subject

11-17MA
Josh Williamson
Margaret Grimsley
RM-MD to GC (1.0 Acres)
1840 Bluff Rd.
11115-05-05(p) **[THIRD READING] [PAGES 37-39]**

Notes

First Reading: September 27, 2011
Second Reading: October 4, 2011
Third Reading:
Public Hearing: September 27, 2011

STATE OF SOUTH CAROLINA
COUNTY COUNCIL OF RICHLAND COUNTY
ORDINANCE NO. ___-11HR

AN ORDINANCE OF THE COUNTY COUNCIL OF RICHLAND COUNTY, SOUTH CAROLINA, AMENDING THE ZONING MAP OF UNINCORPORATED RICHLAND COUNTY, SOUTH CAROLINA, TO CHANGE THE ZONING DESIGNATION FOR A PORTION OF THE REAL PROPERTY DESCRIBED AS TMS # 11115-05-05 FROM RM-MD (RESIDENTIAL, MULTI-FAMILY – MEDIUM DENSITY DISTRICT) TO GC (GENERAL COMMERCIAL DISTRICT); AND PROVIDING FOR SEVERABILITY AND AN EFFECTIVE DATE.

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

Section I. The Zoning Map of unincorporated Richland County is hereby amended to change a portion of the real property described as TMS # 11115-05-05 from RM-MD (Residential, Multi-Family – Medium Density District) zoning to GC (General Commercial District) zoning, (as further described in Exhibit A, which is attached hereto).

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

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

Section IV. Effective Date. This ordinance shall be effective from and after _____, 2011.

RICHLAND COUNTY COUNCIL

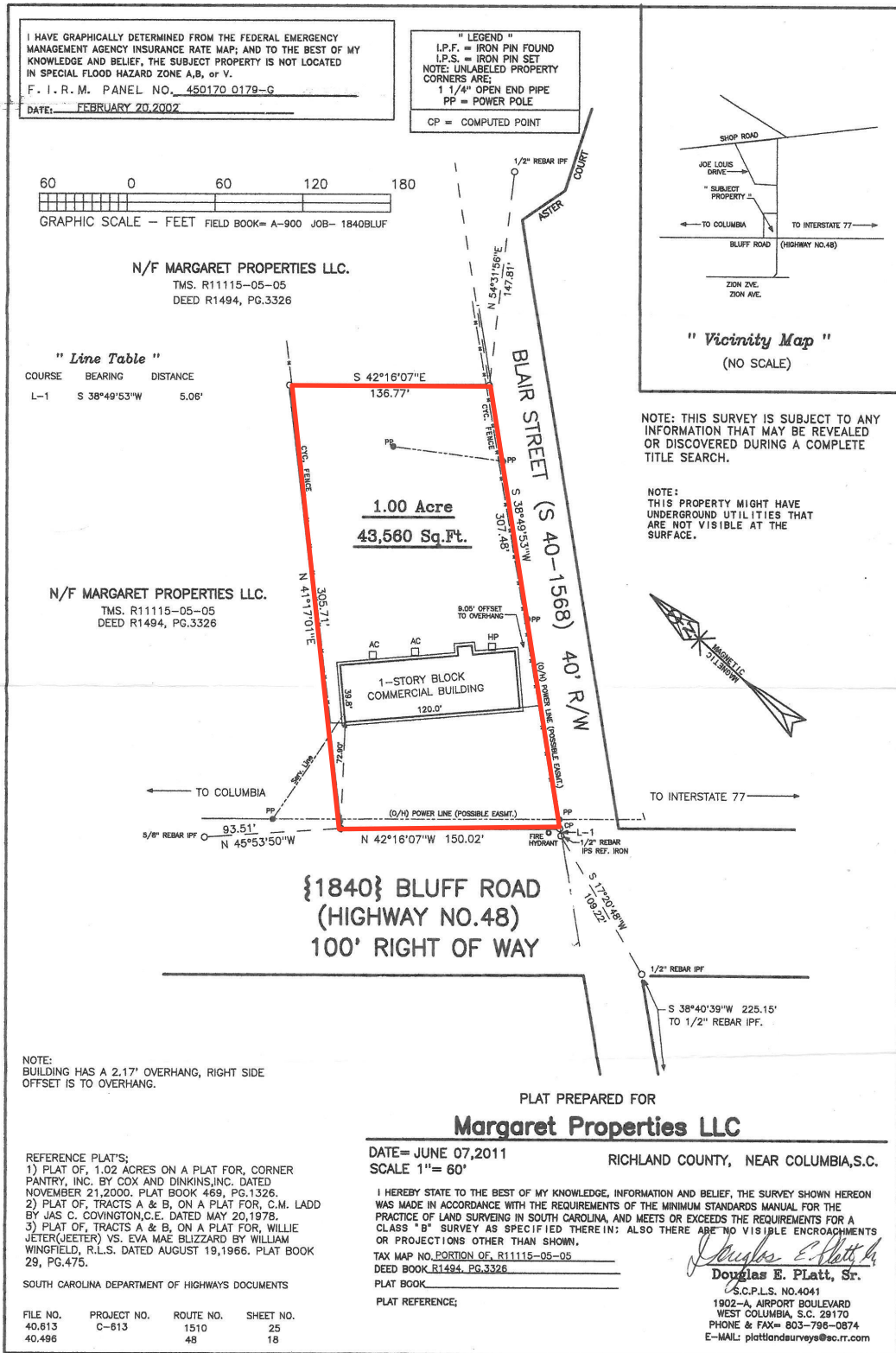
By: _____
Paul Livingston, Chair

Attest this _____ day of
_____, 2011.

Michelle M. Onley
Assistant Clerk of Council

Public Hearing: September 27, 2011
First Reading: September 27, 2011
Second Reading: October 4, 2011 (tentative)
Third Reading:

Exhibit A



Richland County Council Request of Action

Subject

An Ordinance Amending the Richland County Code of Ordinances; Chapter 26, Land Development; Article VII, General Development, Site, and Performance Standards; Section 26-173, Off-Street Parking Standards; Subsection (D), Design of Parking Areas; Paragraph (4), Accessible Spaces; so as to comply with ADA Access Requirements
[THIRD READING] [PAGES 40-42]

Notes

First Reading: September 27, 2011
Second Reading: October 4, 2011
Third Reading:
Public Hearing: September 27, 2011

STATE OF SOUTH CAROLINA
 COUNTY COUNCIL FOR RICHLAND COUNTY
 ORDINANCE NO. __-11HR

AN ORDINANCE AMENDING THE RICHLAND COUNTY CODE OF ORDINANCES; CHAPTER 26, LAND DEVELOPMENT; ARTICLE VII, GENERAL DEVELOPMENT, SITE, AND PERFORMANCE STANDARDS; SECTION 26-173, OFF-STREET PARKING STANDARDS; SUBSECTION (D), DESIGN OF PARKING AREAS; PARAGRAPH (4), ACCESSIBLE SPACES; SO AS TO COMPLY WITH ADA ACCESS REQUIREMENTS.

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

SECTION I. The Richland County Code of Ordinances, Chapter 26, Land Development; Article VII, General Development, Site, and Performance Standards; Section 26-173, Off-Street Parking Standards; Subsection (d), Design of Parking Areas; Paragraph (4), Accessible Spaces; is hereby amended to read as follows:

- (4) *Accessible spaces.* Where parking is provided, accessible parking spaces shall be provided in accordance with the requirements set forth in this subsection.
 - a. *Number of spaces.* The required number of accessible parking spaces shall be provided in accordance with the following table:

TABLE VII-2

<u>Total Parking Spaces Provided</u>	<u>Required Number of Accessible Spaces</u>
1 to 25	1
26 to 50	2
51 to 75	3
76 to 100	4
101 to 150	5
151 to 200	6
201 to 300	7
301 to 400	8
401 to 500	9
501 to 1,000	10
More than 1,000	10, plus one for each 100 over 1,000

<u>Total Number of Parking Spaces Provided (per lot)</u>	<u>(Column A) Total Minimum Number of Accessible Parking Spaces (60" and 90" aisles)</u>	<u>Van-Accessible Parking Spaces with minimum 96"-wide access aisle</u>	<u>Accessible Parking Spaces with minimum 60"-wide access aisle</u>
<u>1 - 25</u>	<u>1</u>	<u>1</u>	<u>0</u>
<u>26 - 50</u>	<u>2</u>	<u>1</u>	<u>1</u>

AMENDED 9-28-11!

<u>51 – 75</u>	<u>3</u>	<u>1</u>	<u>2</u>
<u>76 – 100</u>	<u>4</u>	<u>1</u>	<u>3</u>
<u>101 – 150</u>	<u>5</u>	<u>1</u>	<u>4</u>
<u>151 – 200</u>	<u>6</u>	<u>1</u>	<u>5</u>
<u>201 – 300</u>	<u>7</u>	<u>1</u>	<u>6</u>
<u>301 – 400</u>	<u>8</u>	<u>1</u>	<u>7</u>
<u>401 – 500</u>	<u>9</u>	<u>2</u>	<u>7</u>
<u>501 – 1,000</u>	<u>2% of total parking provided in each lot</u>	<u>1/8 of Column A*</u>	<u>7/8 of Column A**</u>
<u>1,001 and over</u>	<u>20, plus 1 for each 100 over 1,000</u>	<u>1/8 of Column A*</u>	<u>7/8 of Column A**</u>

* 1 out of every 8 accessible spaces
** 7 out of every 8 accessible spaces

- b. *Location.* Accessible parking spaces shall be located on the shortest accessible route of travel from adjacent parking to an accessible building entrance. In parking facilities that do not serve a particular building, accessible parking spaces shall be located on the shortest route to an accessible pedestrian entrance to the parking facility. Where buildings have multiple accessible entrances with adjacent parking, accessible parking spaces shall be dispersed and located near the accessible entrances.
- c. *Size of accessible spaces.* Accessible parking spaces shall be ninety-six (96) inches wide minimum and shall have an adjacent access aisle complying with subsection d. below.
- d. *Access aisle.* Parking access aisles shall be part of the accessible route to the building and shall be provided for all accessible spaces provided in a parking area. Two (2) parking spaces shall be permitted to share a common access aisle. Access aisles shall be marked so as to discourage parking in them.
 - 1. *Width.* ~~Access aisles serving accessible parking spaces shall be a minimum of ninety-six (96) inches wide~~ Van-accessible spaces require a minimum ninety-six (96)-inch wide access aisle. All other accessible spaces shall require a minimum be at least sixty (60)-inches wide access aisle.
 - 2. *Length.* Access aisles shall extend the full length of the parking spaces they serve.
- e. *Floor or ground surfaces and clearance.* Parking spaces and access aisles shall have surface slopes not steeper than ~~1:48~~ 1:50. Access aisles shall be at the same level of the parking spaces they serve.

- f. *Signage.* Accessible parking spaces shall be identified by signs including the International Symbol of Accessibility. Van-accessible spaces shall have a sign designating them as van-accessible.

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

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

SECTION IV. Effective Date. This ordinance shall be effective from and after _____, 2011.

RICHLAND COUNTY COUNCIL

BY: _____
Paul Livingston, Chair

ATTEST THIS THE _____ DAY
OF _____, 2011.

Michelle M. Onley
Assistant Clerk of Council

RICHLAND COUNTY ATTORNEY'S OFFICE

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

Public Hearing: September 27, 2011
First Reading: September 27, 2011
Second Reading: October 4, 2011 (tentative)
Third Reading:

Richland County Council Request of Action

Subject

An Ordinance Authorizing Certain Economic Incentives, including payment of a fee in lieu of property taxes and other related matters, pursuant to a fee agreement between Richland County, South Carolina, and Sensor Electronic Technology, Inc., pursuant to Title 12, Chapter 44, Code of Laws of South Carolina, 1976, as amended; and other related matters [**THIRD READING**] [**PAGES 44-71**]

Notes

First Reading: September 20, 2011

Second Reading: October 4, 2011

Third Reading:

Public Hearing: October 18, 2011

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

AN ORDINANCE AUTHORIZING CERTAIN ECONOMIC INCENTIVES, INCLUDING PAYMENT OF A FEE IN LIEU OF PROPERTY TAXES AND OTHER RELATED MATTERS, PURSUANT TO A FEE AGREEMENT BETWEEN RICHLAND COUNTY, SOUTH CAROLINA, AND SENSOR ELECTRONIC TECHNOLOGY, INC., PURSUANT TO TITLE 12, CHAPTER 44, CODE OF LAWS OF SOUTH CAROLINA, 1976, AS AMENDED; AND OTHER RELATED MATTERS.

WHEREAS, Richland County, South Carolina (“County”), acting by and through its County Council (“County Council”), is authorized and empowered under and pursuant to the provisions of the South Carolina Constitution (“Constitution”), the Code of Laws of South Carolina, 1976, as amended (“Code”), and the case law of the courts of the State of South Carolina, to offer and provide certain privileges, benefits, and incentives to prospective and existing industries as inducements for economic development within the County;

WHEREAS, the County is authorized and empowered under and pursuant to the provisions of Title 12, Chapter 44 of the Code (“Act”) to enter into certain agreements with any industry that constructs, operates, maintains, and improves certain properties (which constitute “projects” as defined in the Act) and to accept any grants for such projects;

WHEREAS, through employment of the powers granted by the Act, the County is empowered to promote the economic and industrial development of the State of South Carolina (“State”) and develop its trade by inducing manufacturing and commercial enterprises to locate and remain in the State and thus use and employ the manpower, agricultural products, and natural resources of the State and benefit the general public welfare of the County by providing services, employment, recreation, or other public benefits not otherwise adequately provided locally by providing for the exemption of such project from property taxes and for the payment of a fee in lieu of property taxes (a “fee agreement,” as defined in the Act);

WHEREAS, Sensor Electronic Technology, Inc., a New York corporation (the “Company”) is considering a high technology manufacturing facility investment to be located within the County (the “Project”), and has requested the County to provide certain inducements to the Company by entering into a fee agreement;

WHEREAS, the Project involves an anticipated investment by the Company of at least \$25,000,000 and the creation of at least one hundred fifty (150) new, full-time jobs over a period of five years from the last day of the property tax year during which the Project or a portion of the Project is first placed in service;

WHEREAS, the County, by proper action, identified the Project and indicated its intent to provide certain economic development incentives by proper resolution of the County Council (“Identification Resolution”);

WHEREAS, in connection with the economic development incentives hereby authorized, the County and the Company are prepared to enter into a fee agreement as set forth in the Act (“Fee Agreement”) pursuant to which the property comprising the Project will be exempted from property tax for a period of time during which the Company shall make certain payments to the County in lieu of property taxes (“FILOT Payments”); and

WHEREAS, the County has reviewed the Fee Agreement, a copy of the substantially final form of which is attached as Exhibit A and which is incorporated in this Ordinance, and determined that the same is appropriate in form and substance for execution by the County so long as the Fee Agreement includes the County Reporting Requirements, as shown on the attached Exhibit B.

NOW, THEREFORE, BE IT ORDAINED by the County Council of RICHLAND County, South Carolina, in meeting duly assembled:

Section 1. Findings and Determinations. It is hereby declared that the facts set forth in the recitals to this Ordinance are true and correct in all respects. It further is found, determined, and declared by the County Council, based on information provided by the Company, as follows:

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

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

(c) the purposes to be accomplished by the Project, including, without limitation, economic development, jobs creation, and expansion of the County’s tax base, are proper governmental and public purposes and the benefits of the Project are greater than the costs.

Section 2. Approval of Fee Agreement. The Fee Agreement is approved as follows:

(a) The form, terms, and provisions of the Fee Agreement presented to this meeting and filed with the Clerk to County Council (“Clerk”) are approved and all of the terms, provisions, and conditions of the Fee Agreement are incorporated by reference. The Chairman of the County Council (“Chairman”) and the Clerk are authorized, empowered, and directed to execute, acknowledge, and deliver the Fee Agreement in the name of the County. The Chairman and the Clerk are further authorized, empowered, and directed to cause the Fee Agreement to be delivered to the Company.

(b) The Fee Agreement to be executed on behalf of the County shall be in substantially the form now before the County Council and shall include only changes that are approved by the County officials executing the Fee Agreement. The County officials shall consult the attorney for the County (“County Attorney”) with respect to any changes to the Fee Agreement. The

execution of the Fee Agreement by County officials shall constitute conclusive evidence that they have approved all changes to or revisions of the Fee Agreement now before this meeting.

(c) If under the Fee Agreement or the Act any future actions of the Company (including, without limitation, the supplementation of the exhibits thereto and/or any assignments of the Project) require the approval of the County, such approval can be given on behalf of the County by the Chairman or the Richland County Administrator (“County Administrator”) upon affirmative resolution of the County Council to the extent permitted by law. The County officials shall consult the County Attorney with respect to such approval. The execution of a written approval by County officials shall constitute conclusive evidence that the County has approved the respective actions of the Company.

(d) The Fee Agreement shall provide that the Company will invest at least \$25,000,000 and create at least one hundred fifty (150) new, full-time jobs at the Project over a period of five years from the last day of the property tax year during which the Project or a portion of the Project is first placed in service.

(e) The Fee Agreement shall further provide that the County shall grant an infrastructure improvement or special source revenue credit to the Company in the amount of fifteen percent (15%) of the Company’s annual fee-in-lieu-of-tax payments for each of the first five (5) years of the term of the Project and that the County shall cause the Project to be or remain in a Multi-County Industrial Park.

Section 3. Execution of Document. The Chairman, the County Administrator, the Clerk, and the County Attorney are each authorized and directed to do all things reasonably necessary to effect the execution and delivery of the Fee Agreement and the County’s performance of its obligations under the Fee Agreement.

Section 4. Severability. The provisions of this Ordinance are declared to be separable. If any section, phrase, or provision shall be declared by a court of competent jurisdiction to be invalid or unenforceable for any reason, the remaining sections, phrases, and provisions of the Ordinance shall remain valid.

Section 5. Repeal of Conflicting Ordinances. All orders, resolutions, and other ordinances in conflict with this Ordinance are repealed to the extent of such conflict.

Section 6. Effective Date of Ordinance. This Ordinance shall take effect immediately upon third reading of the County Council.

RICHLAND COUNTY COUNCIL

By: _____
Paul Livingston, Chair

(SEAL)

Attest this _____ day of _____, 2011

Clerk of Council

RICHLAND COUNTY ATTORNEY'S OFFICE

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

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

**Exhibit A
[Form of]
Fee Agreement**

Exhibit B
County Reporting Requirements

I. Annually, throughout the length of the incentives, beginning with the property tax year in which the Fee Agreement takes effect, the Company shall submit, on or before January 31 of each year, to the Richland County Administrator's Office at the following address:

Richland County Administrator
Attn: Economic Development
Post Office Box 192
Columbia, South Carolina 29202

the following information:

- a. Name of company;
- b. Cumulative capital investment (less any removed investment) to date as a result of the Project;
- c. Cumulative ad valorem taxes (if any) and fee in lieu payments made in connection with the facility;
- d. Cumulative number of new jobs created to date as a result of the Project;
- e. List of all employees for reporting year by residential zip code only;
- f. Community Service Involvement

II. The Richland County Administrator's Office is entitled to request additional information from the Company, which the Company shall submit in no more than 30 days after notification of the request.

If the Company fails to provide any part of the information outlined in Items No. I and II, above, then the County is entitled to require the Company to return all incentives, or a dollar amount equal to the incentives, to the County. The Company is required to make any return or repayment to the County no more than 60 days after the date on which the Company should have provided the information outlined in Items No. I and II to the County.

STATE OF SOUTH CAROLINA)
)
COUNTY OF RICHLAND)

I, the undersigned, Clerk to County Council of Richland County (“County Council”), DO
HEREBY CERTIFY:

That the foregoing constitutes a true, correct and verbatim copy of an Ordinance adopted
by the County Council. The Ordinance was read and received a favorable vote at three public
meetings of the County Council on three separate days. At least one day passed between first and
second reading and at least seven days between second and third reading. At each meeting, a
quorum of the County Council was present and remained present throughout the meeting.

To the best of my knowledge, the County Council has not taken any action to repeal the
Ordinance.

IN WITNESS WHEREOF, I have hereunto set my Hand and the Seal of Richland
County Council, South Carolina, as of this _____ day of _____, 2011.

Clerk of County Council
Richland County, South Carolina

FEE AGREEMENT

by and between

RICHLAND COUNTY, SOUTH CAROLINA

and

SENSOR ELECTRONIC TECHNOLOGY, INC.

Effective as of _____, 2011

FEE AGREEMENT

SENSOR ELECTRONIC TECHNOLOGY, INC.

THIS FEE AGREEMENT (the “Fee Agreement”) is made and entered into effective as of the Commencement Date (as defined hereinafter) by and between RICHLAND COUNTY, SOUTH CAROLINA, a body politic and corporate and a political subdivision of the State of South Carolina (the “County”), and SENSOR ELECTRONIC TECHNOLOGY, INC. (the “Company”). The County and the Company are sometimes jointly referred to in this Fee Agreement as the “parties,” or severally referred to as a “party.”

WITNESSETH :

WHEREAS, the Act, as defined herein, empowers the several counties of the State of South Carolina to enter into a fee agreement with an industry as an optional method of providing fee in lieu of property tax benefits for a project; and

WHEREAS, the County is authorized to enter into this Fee Agreement by passage of a resolution and an ordinance that summarize the fee in lieu of property tax provisions to be incorporated in a fee agreement between the Company and the County; and

WHEREAS, the Company is considering an expanded manufacturing facility investment to be located within the County (the “Project”) and has requested the County to commit to provide certain inducements to the Company by entering into this Fee Agreement; and

WHEREAS, subject always to the Act, the parties desire to define the terms under which the Project will qualify for fee in lieu of property tax treatment.

NOW, THEREFORE, in consideration of the respective representations and agreements hereinafter contained and the mutual benefits to be derived by the parties, the receipt and adequacy of which are acknowledged by the parties, the County and the Company agree as follows:

1. DEFINITIONS

1.1. Specific Definitions

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

“Act” means the Fee in Lieu of Tax Simplification Act of 1997, S.C. Code § 12-44-10, *et seq.*, as amended.

“*Additional Payments*” shall have the meaning set forth in Section 4.3 of this Fee Agreement.

“*Administrative Expenses*” means the reasonable and necessary expenses incurred by the County in reviewing, implementing or amending this Fee Agreement and the Related Documents, including, without limitation, legal fees and expenses incurred by the County, but excluding the salaries and overhead of County personnel. Prior to an Event of Default, no expense shall be considered an Administrative Expense until the County has furnished to the Company a statement in writing indicating in reasonable detail the amount of such expense and the reason it has been or will be incurred. Expenses incurred in connection solely with a general taxpayer challenge to the validity of the Act shall not be deemed an Administrative Expense unless the Company requests the County to defend the suit on Company’s behalf.

“*Authorized Company Representative*” means any person or persons at the time authorized to act on behalf of the Company including, without limitation, the president, any vice president, the secretary, and the treasurer of the Company.

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

“*Commencement Date*” means the last day of the property tax year during which the Project or a portion of the Project is placed in service, as defined in the Act, except that this date must not be later than the last day of the property tax year that which is three years from the year in which the Company and the County entered into this Fee Agreement.

“*Company*” means Sensor Electronic Technology, Inc., a New York corporation, and any surviving, resulting or transferee limited liability company, corporation, partnership or other business entity in any merger, consolidation or transfer of assets permitted under this Fee Agreement.

“*Completion Date*” means December 31, 2016, or such earlier date as may be specified by the Company pursuant to Section 3.2 hereof, or such later date, if any, that the County approves in its discretion pursuant to the extension provisions of Section 12-44-30(13) or other applicable provisions of the Act.

“*Cost*” or “*Cost of the Project*” means the cost to the Company of acquiring the Project, by construction, purchase, or lease, and shall be deemed to include, whether incurred prior to or after the Commencement Date: (a) costs incurred for architects, engineers, designers, landscape architects, attorneys, estimators, and other Project consultants; (b) costs incurred for labor, materials and other expenses to contractors, builders and suppliers in connection with the acquisition, construction and installation of the Project; (c) Project financing costs, (d) the cost of contract bonds and insurance of all kinds that may be required or necessary during the course of acquisition, construction and installation of the Project; (e) the expenses of the Company for tests, borings, surveys, test and pilot operations, estimates, plans and specifications and preliminary investigations therefore, and for supervising construction, as well as for the performance of all other duties required by or reasonably necessary in connection with the acquisition, construction and installation of the Project; (f) other costs that the Company shall be

required to pay under the terms of any contract or contracts for the acquisition, construction and installation of the Project; (g) costs incurred by the Company for the acquisition and insuring of any interest in the land upon which the Project is located; (h) costs incurred for the Project by third parties on behalf of the Company; and (i) any sums required to reimburse the Company for advances made by it for any of the above items, or for any other work done and costs incurred by the Company which are for the acquisition of property of a character subject to the allowance for depreciation provided for under Section 167 of the Internal Revenue Code of 1986, as amended, and included in the Project, all whether or not reimbursed by the County or by third parties, all as reflected on the Company's property tax return Form PT-300, with all attachments and schedules thereto, as filed with the Department of Revenue.

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

“*County Council*” means the governing body of the County and its successors.

“*County Reporting Requirements*” means those requirements as set forth on *Exhibit A* attached hereto and made a part hereof.

“*Default*” means an event or condition, the occurrence of which would, after the passage of any time permitted for cure or the giving of notice or both, become an Event of Default as defined in Section 7.1 hereof.

“*Department of Revenue*” means the South Carolina Department of Revenue or its successor agency.

“*Equipment*” means all equipment, machinery, furnishings, and other personal property of Company that are made part of the Project by placing it in service in the County during the Project Period, and any other property described in *Exhibit C* attached hereto and made a part hereof, including all Replacement Property that is personal property of the Company.

“*Event of Default*” means any of those events set forth in Article 7 of this Fee Agreement.

“*Fair Market Value*” shall have the meaning set forth in Section 5.1(B) of this Fee Agreement.

“*Fee Agreement*” means this Fee Agreement as originally executed and from time to time supplemented or amended as permitted herein.

“*FILOT Payments*” shall have the meaning set forth in Section 5.1 of this Fee Agreement.

“*Independent Counsel*” means an attorney duly admitted to practice law in the State of South Carolina who does not represent either party to this Agreement.

“*Identification Resolution*” means the identification resolution passed by County Council in which County identified the Project and agreed to consider offering the economic development incentives provided for in this Fee Agreement.

“*Ordinance*” means the ordinance of the County Council that authorizes execution and delivery of this Fee Agreement and other applicable Related Documents by the County.

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

“*Project*” shall have the meaning set forth in the recitals hereof, as further defined herein, and shall specifically mean the Real Property and the Equipment.

“*Project Period*” means the five (5) year period beginning with the Commencement Date.

“*Real Property*” means the real property made part of the Project during the Project Period, including any leasehold improvements or other capital expenditures of the Company that qualify as economic development property under the Act, as more fully described in *Exhibit A* attached hereto, as from time to time supplemented by the Company, and all Replacement Property that is real property.

“*Related Documents*” means this Fee Agreement, the Ordinance, and any documents to which the County and/or the Company are parties that are reasonably required for the consummation of the transactions contemplated hereby or thereby.

“*Replacement Property*” means all property that is placed in service as a replacement for a portion of the Project, to the maximum extent permitted by the Act.

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

“*Term*” means the duration of this Fee Agreement.

1.2. References to Fee Agreement

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

2. REPRESENTATIONS AND WARRANTIES

2.1. Representations and Warranties by the County

The County warrants that:

(A) The County is a body politic and corporate and a political subdivision of the State of South Carolina and is authorized and empowered by the provisions of the Act to enter into the transactions contemplated by this Fee Agreement and to carry out the County's obligations hereunder. Based on representations of the Company, the Project constitutes or will constitute a "project" within the meaning of the Act. By proper action by County Council, the County has been duly authorized to execute and deliver this Fee Agreement;

(B) Prior to the delivery of this Fee Agreement, the County has adopted the Identification Resolution and enacted the Ordinance;

(C) The execution and delivery of this Fee Agreement and compliance by the County with the terms and conditions thereof will not constitute a material breach of, or a material default under any existing law, regulation, decree, or order, or any material agreement, mortgage, lease or other instrument to which the County is subject or by which it is bound; and

(D) To the best of its knowledge, no actions, suits, proceedings, inquiries or investigations are pending or threatened against or affecting the County in any court or before any governmental authority or arbitration board or tribunal that would materially adversely affect the validity or enforceability of this Fee Agreement.

2.2. Representations and Warranties by Company

The Company represents and warrants that:

(A) The Company is a corporation organized and in good standing under the laws of the State of New York, is authorized to transact business in the State of South Carolina, and has power to enter into this Fee Agreement, and, by proper action, has been duly authorized to execute and deliver this Fee Agreement;

(B) The execution and delivery of this Fee Agreement and compliance by the Company with the terms and conditions hereof will not constitute a material breach of, or a material default under, (i) any existing law, regulation, decree, or order, or (ii) any material term, condition, or provision of any corporate restriction or any agreement or instrument to which the Company is now a party or by which it is bound; and will not result in the creation or imposition of any lien, charge or encumbrance of any nature whatsoever upon any of the property or assets of the Company that would materially restrict the Company's ability to make any payments hereunder, other than as may be permitted by this Fee Agreement;

(C) No event has occurred and no condition exists with respect to the Company that would constitute an "Event of Default" as described in Section 7.1 hereof;

(D) The Company intends to operate the Project for the purposes permitted by this Fee Agreement or the Act or other purposes expressly agreed upon in writing by the parties;

(E) The execution of this Fee Agreement by the County and the Company has been instrumental in inducing the Company to expand its Facility in the County and in the State;

(F) To the best of its knowledge, no actions, suits, proceedings, inquiries or investigations are pending or threatened against or affecting the Company in any court or before any governmental authority or arbitration board or tribunal that would materially and adversely affect the validity or enforceability of this Fee Agreement; and

(G) The Project constitutes or will constitute a “project” within the meaning of the Act.

(H) The Company shall comply with the County Reporting Requirements.

3. CONSTRUCTION, ACQUISITION, AND PURCHASE OF PROJECT

3.1. Construction and Acquisition of Project

The Company shall construct and acquire the Project and shall do all other things deemed necessary by the Company in connection with the Project. The Company shall identify in writing, to the extent required by the Department of Revenue, any portion of the Project placed in service that is not then already adequately described in this Fee Agreement or supplements thereto as a portion of the Project. The Company shall maintain such records in connection with the construction or acquisition of the Project as are reasonably necessary to (i) permit ready identification thereof and (ii) confirm the date(s) on which the Project or portions of the Project were placed in service.

3.2. Completion Date

The Completion Date(s) shall be evidenced to the County by a written statement by an Authorized Company Representative certifying the Completion Date and stating that, to the best of his knowledge and information, the acquisition or construction of the Project, or a phase thereof, has been completed and placed in service as of the stated Completion Date and shall state the total cost as of the Completion Date. The certificate of completion may state that it is given without prejudice to any rights against third parties that exist at the date of such certificate or which may subsequently come into being.

3.3. Completion of the Project

The Company shall cause the Project to be completed and shall pay or cause to be paid all of the Cost of the Project, provided that this shall not be deemed to preclude financing of some or all of the Cost of the Project on such terms as the Company shall determine.

3.4. Amendments to Exhibits B and C

The Company may supplement *Exhibit B* and *Exhibit C* from time to time provided that the supplements are consistent with the terms of this Fee Agreement and the Act and notice of such supplement is given to the County in accordance with the notice provisions of this Fee Agreement.

3.5. Minimum Investment and Minimum Jobs Commitment

Before the Completion Date, the Company will invest at least Twenty-Five Million Dollars (\$25,000,000) in taxable property constituting part of the Project (the “Minimum Investment Threshold”) and create at least one hundred fifty (150) full-time jobs at the Project (the “Minimum Jobs Threshold”).

3.6. Licenses and Permits; Assistance in Obtaining

To the extent permitted by law, the County will use its reasonable best efforts to expedite all building and construction permit applications and will use its reasonable best efforts to assist the Company in securing all other state, county and local construction, environmental and other permits, approvals and consents which may be necessary or desirable in connection with the Project on a timely basis.

If any application is made to a governmental or other agency by the Company or the County for any permit, license, or approval to do or to perform certain things necessary for the proper performance of this Fee Agreement, the Company and the County shall execute, upon the request of the other party, such applications as may reasonably be requested or required.

4. TERM, FEES AND ADDITIONAL PAYMENTS

4.1. Term

Subject to the provisions herein, this Fee Agreement shall be and remain in full force and effect for a term (the “Term”) commencing on the Commencement Date, and, unless earlier terminated in accordance with this Fee Agreement, ending at midnight on December 31 of the twentieth (20th) year after the last year during which any portion of the Project is placed in service or the last FILOT Payment hereunder, whichever is later.

4.2. FILOT Payments

The Company shall pay to the County all amounts due and payable as FILOT Payments pursuant to Section 5.1 hereof. Unless otherwise expressly provided in the Act, returns for the FILOT Payments shall be filed and FILOT Payments shall be payable at the same time, and subject to the same penalty assessments, that *ad valorem* property tax returns and tax payments for the Project would otherwise be due and payable under applicable State law and regulations in the absence of this Fee Agreement.

4.3. Additional Payments

In addition to the Fee Payments and other amounts payable under Section 5.1, the Company shall pay, as “Additional Payments,” to or on behalf of the County any Administrative Expenses and any other amounts payable by the Company under this Agreement. Such Additional Payments shall be payable by the Company within thirty (30) calendar days of receipt

by the Company from the County of a statement in writing indicating in reasonable detail the amount of such Additional Payments and the reason they have been incurred.

4.4. Failure to Pay in a Timely Manner

If the Company fails to make in a timely manner any of the payments required in this Article 4, the item or installment so in default shall continue as an obligation of the Company until the amount in default shall have been fully paid, together with interest and penalties for which the Company is liable under applicable law thereon, along with Administrative Expenses, from the date the payment was due, at the rate per annum which is equal to the rate required by law for late payment of *ad valorem* taxes or, in the case of the FILOT Payments, an amount equal to any interest required by law for late payment of comparable *ad valorem* property taxes. In the event of any failure on the part of the Company to pay any such amounts, liabilities or obligations, the County shall have all rights, powers and remedies provided for herein, by law, equity or otherwise, including without limitation with respect to non-payment of FILOT Payments hereunder the imposition and enforcement of a lien against the Project for tax purposes, as provided in Section 12-44-90 of the Act and the collection of Administrative Expenses.

5. FILOT PAYMENTS AND TAX CREDITS

5.1. FILOT Payments; Calculation and Timing

(A) The parties acknowledge that during the Term of this Fee Agreement, the Project is exempt from *ad valorem* property taxes. However, in lieu of *ad valorem* property taxes, the Company shall make twenty (20) annual FILOT Payments for each portion of the Project placed in service each year during the Project Period.

(B) The amount of FILOT Payments due and payable shall be that which would be due in *ad valorem* property taxes if the Project were subject to *ad valorem* property taxes, but using (i) an assessment ratio of six percent (6%), (ii) a millage rate of 464.2 mills (which millage rate shall remain applicable and fixed throughout the Term of this Fee Agreement), and (iii) a fair market value of the Project to be determined according to the Act (the "Fair Market Value").

(C) Pursuant to Section 12-44-60 of the Act, the Company may elect to include Replacement Property as part of the Project to the maximum extent permitted by the Act.

(D) Any part of the Project subject to the fee payment may be disposed of, and the Fair Market Value of the Project used to calculate FILOT Payments shall be reduced by the Fair Market Value of the disposed property.

(E) If the Act, any portion of the Act, and/or the FILOT Payments are declared invalid or unenforceable, in whole or in part, for any reason, the Company and the County intend that this Fee Agreement be reformed so as to afford the Company with a benefit that is commensurate with the benefit provided under this Fee Agreement. If the Project is not eligible for FILOT Payments, the Company shall be entitled to receive (i) the five-year exemption from

ad valorem taxes (or fees in lieu of taxes) provided by South Carolina Constitution Article X, Section 3, and any other exemption allowed by law from time to time; (ii) all allowable depreciation, allowances and adjustments to Fair Market Value; and (iii) such other credits, abatements and exemptions from *ad valorem* taxes, as are allowed by law.

(F) If the Company does not meet the Minimum Investment Threshold and the Minimum Jobs Threshold as of the Completion Date, the Company prospectively loses the benefit of this Fee Agreement and the Project reverts to normal *ad valorem* taxation and the Company shall repay the County the full amount of the difference between the FILOT Payments and the amount of *ad valorem* property taxes that would have otherwise been due and payable by the Company if the Project were subject to *ad valorem* property taxes since the Commencement Date. The Company shall make any such repayment no later than ninety (90) days after the Completion Date.

5.2. Tax Deductions, Credits and Exemptions

Unless otherwise precluded by the Act, applicable law or judicial decision, the Company shall be entitled to all applicable federal, state and local investment tax credits, exemptions, allowances and deductions for depreciation and diminution in value, and other similar tax relief provisions relating to the Project. At the request of the Company, the County shall do all things as are reasonably necessary or proper to confirm and receive those benefits, provided the Company shall pay the expenses incurred in that undertaking.

5.3. Abating FILOT Payments

If the Project is damaged or destroyed, the subject of condemnation proceedings, or otherwise adversely impacted by theft, casualty, or other cause, and the damage, destruction, condemnation, or adverse impact reduces the Project's fair market value, the FILOT Payments shall be abated in the same manner as *ad valorem* property taxes would be abated if the Project were subject to *ad valorem* property taxes to the fullest extent allowed by the Act.

6. OTHER COVENANTS

6.1. Use of Project

The Company shall have the right during the Term of this Fee Agreement to use the Project, as a project, for any lawful purpose authorized by the Act. At the time of entering into this Fee Agreement, however, it is the intent of the Company to use the Project for the primary purpose of manufacturing and related activities.

6.2. Limitation of County's Liability

Anything herein to the contrary notwithstanding, any obligation the County may incur hereunder, including an obligation for the payment of money, shall not be deemed to constitute a debt or general obligation of the County but shall be payable solely and exclusively from the

revenues and receipts derived by the County from this Fee Agreement, and the Project gives rise to no pecuniary liability of the County or a charge against its general credit or taxing power.

6.3. *No Liability of County Personnel*

All covenants, agreements and obligations of the County contained herein shall be deemed to be covenants, agreements and obligations of the County and not of any member of the County Council or any officer, agent, servant or employee of the County in his individual capacity.

6.4. *Transfer of Project; Financing*

To the extent permitted by Section 12-44-120(A) of the Act, (a) an interest in this Fee Agreement and the Project, or (b) an equity interest or other interest in an entity with an interest in this Fee Agreement or the Project, or both, may be transferred to another entity at any time; provided that the Company shall not be released from its obligations without the County's prior written consent. Whenever consent of the County is required under the Act or this Fee Agreement for any of the foregoing transactions, such consent shall not be unreasonably withheld.

6.5. *Financing*

Financing, lending, security, sale-leaseback, assignments, leases, subleases, or similar arrangements are permitted in accordance with Sections 12-44-120(B) and (C) of the Act. The Company shall cause the County and the Department of Revenue to be notified of a financing-related transfer of the Fee Agreement or the Project within sixty (60) days of such transfer. Such notice shall be in writing and shall include the identity of each transferee and any other information required by the Department of Revenue with any appropriate returns.

6.6. *Leasing of Project*

The Company may at any time lease or sublease the Project or portions of the Project on such terms as the Company may determine in its sole discretion, provided that such terms are not inconsistent with this Fee Agreement. No lease or sublease shall reduce any of the obligations of the Company hereunder unless expressly approved in writing by the County.

6.7. *Filing of Annual Report of Investment in Project*

The Company shall provide to the County a copy of the annual return to the Department of Revenue or equivalent showing the investment of the Company in the Project (currently, Form PT-300S). The County shall accord this information the same degree of confidentiality as is required for the Department of Revenue. The Company shall also make all other filings required from time to time by Section 12-44-90 of the Act.

6.8 Waiver of Statutorily Required Recapitulation

Pursuant to Section 12-44-55(B) of the Act, the County and the Company and any Sponsors waive any and all compliance with any and all of the provisions, items, or requirements of Section 12-44-55.

6.9 Indemnification

(a) Company shall and agrees to indemnify and save the County, its County Council members, officers, employees or agents, present and future, and past County employees or agents who have worked on the Project and any documents or matters related to the Project (each, an “Indemnified Party”), harmless against and from all claims by or on behalf of any person, firm, or corporation arising from the conduct or management of, or from any work or thing done on the Project during the Term, and, Company, further, releases each Indemnified Party from and shall indemnify and save each Indemnified Party harmless against and from all claims arising during the Term from (i) any condition of the Project, (ii) any breach or default on the part of Company in the performance of any of its obligations under this Fee Agreement, (iii) any act of negligence of Company or any of its agents, contractors, servants, employees, or licensees, (iv) any act of negligence of any assignee or sublessee of Company, or of any agents, contractors, servants, employees, or licensees of any assignee or sublessee of Company, (v) any environmental violation, condition, or effect, or (vi) the administration by any Indemnified Party of this Fee Agreement or the performance by any Indemnified Party of the County’s obligations hereunder. Company shall indemnify and save each Indemnified Party harmless from and against all reasonable costs and expenses incurred in or in connection with any such claim arising as aforesaid or in connection with any action or proceeding brought thereon, and upon notice from the County or any other Indemnified Party, Company shall defend it in any such action, prosecution, or proceeding.

(b) Notwithstanding the fact that it is the intention of the parties that each Indemnified Party shall not incur pecuniary liability by reason of the terms of this Fee Agreement, or the undertakings required of the County hereunder, by reason of the performance of any act requested of it by the Company, or by reason of the operation of the Project by the Company, including all claims, liabilities, or losses arising in connection with the violation of any statutes or regulations pertaining to the foregoing, nevertheless, if an Indemnified Party should incur any such pecuniary liability, then in such event the Company shall indemnify and hold that Indemnified Party harmless against all claims by or on behalf of any person, firm, or corporation, arising out of the same, and all costs and expenses incurred in connection with any such claim or in connection with any action or proceeding brought thereon, and upon notice, the Company shall defend them in any such action or proceeding.

These indemnification covenants shall be considered included in and incorporated by reference in subsequent documents after the closing which the County is requested to sign, and any other indemnification covenants in any subsequent documents shall not be construed to reduce or limit the above indemnification covenants.

6.10 Infrastructure Improvement/Special Source Revenue Credit

In order to induce the Company to make further and additional investment in the County, and to reimburse the Company for the qualifying costs associated with such further and additional investment, the County shall provide the Company with an infrastructure improvement/special source revenue credit (the “SSRC”) of fifteen percent (15%) of the balance of any annual FILOT payments for the first five (5) years beginning in the first year of the FILOT arrangement.

6.11 Location of Project in Multi-County Industrial Park

The County shall establish a, or utilize an existing, joint county industrial or business park with another County under Section 13 of Article VIII of the Constitution of the State of South Carolina, as implemented by S.C. Code Ann. § 4-1-170 *et seq.*, and shall include the property comprising the Park within such joint county industrial or business park.

7. EVENTS OF DEFAULT AND REMEDIES

7.1 Events of Default by Company

Any one or more of the following events shall constitute an “Event of Default” by Company:

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

(B) if FILOT Payments, together with any interest or penalties thereon, shall not have been paid within the maximum time that would be permitted by law if the Project were subject to *ad valorem* property taxes;

(C) if the Company shall fail to perform or comply with any other terms of this Fee Agreement, other than those referred to in the foregoing Subsections (A) or (B), and such default shall (i) continue for thirty (30) calendar days after the County has given the Company written notice of such default, or (ii) in the case of any such default that can be cured, but cannot be cured with due diligence within such thirty (30) day period, if the Company shall fail to proceed promptly and with due diligence to cure the same within such additional period as may be necessary to complete the curing of the same with all due diligence not to exceed ninety (90) days;

(D) if the Company shall file a voluntary petition seeking an order for relief in bankruptcy; or shall be adjudicated insolvent; or shall file any petition or answer or commence a case seeking reorganization, composition, readjustment, liquidation or similar order for relief for itself under any present or future statute, law or regulation; or shall seek or consent to or acquiesce in the appointment of any trustee, receiver or liquidator of the Company or of the

Project; or shall make any general assignment for the benefit of creditors; or shall admit in writing its inability to pay its debts generally as they become due;

(E) if a petition shall be filed or a case shall be commenced against the Company seeking an order for relief in bankruptcy or any reorganization, composition, readjustment, liquidation or similar relief under any present or future statute, law or regulation, and shall remain undismissed or unstayed for an aggregate of ninety (90) days (whether or not consecutive); or if any trustee, receiver or liquidator of the Company or of all or any substantial part of its properties or of the Project shall be appointed without the consent or acquiescence of the Company and such appointment shall remain unvacated or unstayed for an aggregate of ninety (90) days (whether or not consecutive); or

(F) if any material representation or warranty made by the Company herein proves untrue in any material and adverse respect as of the date of making the representation or warranty.

7.2. Remedies on Event of Default by Company

Upon the occurrence of any Event of Default, the County, may, at its option, take any one or more of the following actions: (i) terminate this Fee Agreement by thirty (30) days notice in writing specifying the termination date; (ii) take whatever action at law or in equity as may appear necessary or desirable to collect the sums under Article 4 then due and thereafter to become due. In all events, if the Company fails to make Fee Payments due under Section 5.1, the County shall have the same enforcement, lien, and collection rights and remedies as it would have had for the non-payment of *ad valorem* taxes.

7.3. Default by County

Upon the failure of the County to perform any obligation it may have under this Fee Agreement or the Related Documents in a timely manner, or if no time for performance is specified, then within ninety (90) days following written notice thereof from the Company to the County, the Company may pursue any remedy permitted by this Fee Agreement or available by law or in equity, including, but not limited to, specific performance or suit for *mandamus*.

8. MISCELLANEOUS

8.1. Rights and Remedies Cumulative

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

8.2. Successors and Assigns

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

8.3. Notices; Demands; Requests

All notices, demands and requests to be given or made hereunder to or by the County or the Company shall be in writing and shall be deemed to be properly given or made if (a) personally delivered by any entity which provides written evidence of such delivery, or (b) sent by United States first class mail, postage prepaid (in which event notice shall be deemed to occur two (2) calendar days after the date postmarked), or (c) sent by United States registered or certified mail, return receipt requested, postage prepaid (in which event notice shall be deemed to occur on the date on which delivery was accepted or rejected by the recipient). Notices, demands and requests shall be addressed as follows or to such other places as may be designated in writing by such party by proper notice to the other party.

(a) As to the County:

Richland County
P.O. Box 192
Columbia, South Carolina 29202
Attention: County Administrator
Telephone: (803) 576-2054
Facsimile: (803) 576-2137

With a Copy to:

Parker Poe Adams & Berstein LLP
1201 Main Street, Suite 1450
Columbia, South Carolina 29201
Attn: Ray Jones, Esquire
Telephone: (803) 253-8924
Facsimile: (803) 255-8017

(b) As to the Company:

Sensor Electronic Technology, Inc.
1195 Atlas Road
Columbia, SC 29209
Attention: Tim Bettles
Telephone: (803) 647-9757
Facsimile: (803) 647-9770

With a Copy to:

McNair Law Firm, P.A.
Post Office Box 11390
Columbia, South Carolina 29211
Attention: Erik P. Doerring
Telephone: (803) 799-9800
Facsimile: (803) 753-3277

8.4. *Next Succeeding Business Day*

Unless otherwise expressly provided by applicable law, in any case in which the last date for action by or notice to a party falls on a Saturday, Sunday or date that is an official state or federal holiday in the place in which the address is located, then the action required or notice to be given may be made or given on the next succeeding business day with the same effect as if given as required by this Fee Agreement.

8.5. *Applicable Law; Entire Understanding*

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

8.6. *Severability*

If any material provision of this Fee Agreement shall be held to be invalid by any court of competent jurisdiction, the invalidity of such clause or provision shall not affect any of the remaining provisions hereof unless the effect thereof would render enforcement of the remaining provisions unconscionable.

8.7 *Execution Disclaimer*

Notwithstanding any other provision, the County is executing this Fee Agreement as statutory accommodation to assist the Company in achieving the intended benefits and purposes of the Act. The County has made no independent legal or factual investigation regarding the particulars of this transaction and it executes in reliance on representations by the Company that this document complies with all laws and regulations, particularly those pertinent to industrial development projects in South Carolina.

8.8. *Headings and Table of Contents; References*

The headings of the Fee Agreement and any Table of Contents or Index annexed hereto are for convenience of reference only and shall not define or limit the provisions hereof or affect the meaning or interpretation hereof. Unless otherwise clearly indicated by the context, all references in this Fee Agreement to particular Articles, Sections or Subsections are references to the designated Articles, Sections or Subsections of this Fee Agreement.

8.9. *Multiple Counterparts*

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

8.10. *Amendments*

This Fee Agreement may be amended only by a writing signed by all parties hereto.

8.11. *Waiver*

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

8.12. *NON-DISCLOSURE OF COMPANY INFORMATION*

The County, and County Council, acknowledges and understands that the Company utilizes confidential and proprietary “state-of-the-art” manufacturing processes and techniques and that any disclosure of any information relating to such processes and techniques and the economics thereof would result in substantial harm to the Company and could thereby have a significant detrimental impact on Company and its employees. Consequently, to the extent permitted by law, the County agrees to keep confidential, and to cause employees, agents and representatives of the County to keep confidential, the nature, description and type of the machinery, equipment, processes and techniques, and financial information relating thereto (“Confidential Information”), which may be obtained from the Company, its agents or representatives, except as may otherwise expressly be required by applicable law. The County, and County Council, shall not disclose and shall cause all employees, agents and representatives of the County not to disclose such Confidential Information to any person or entity other than in accordance with the terms of the Fee Agreement and as required by law.

IN WITNESS WHEREOF, the parties have executed this Fee Agreement effective as of the Commencement Date.

RICHLAND COUNTY COUNCIL

By: _____
Paul Livingston, Chair

(SEAL)

Attest this _____ day of
_____, 2011

Clerk of Council

**SENSOR ELECTRONIC TECHNOLOGY,
INC.**

By: _____

Name: _____

Title: _____

EXHIBIT A

COUNTY REPORTING REQUIREMENTS

I. Annually, throughout the length of the incentives, beginning with the property tax year in which the Fee Agreement takes effect, the Company shall submit, on or before January 31 of each year, to the Richland County Administrator's Office at the following address:

Richland County Administrator
Attn: Economic Development
Post Office Box 192
Columbia, South Carolina 29202

the following information:

- a. Name of company;
- b. Cumulative capital investment (less any removed investment) to date as a result of the project;
- c. Cumulative ad valorem taxes (if any) and fee in lieu payments made in connection with the facility;
- d. Cumulative number of new jobs created to date as a result of the project;
- e. List of all employees for reporting year by residential zip code only;
- f. Community Service Involvement, including Zip Codes of assisted organizations, which shall include a description of the company's financial and in-kind donations made to organizations in the County during the preceding year, as well as such other information as the company desires to share regarding its community activities.

II. The Richland County Administrator, or the Administrator's designee, is entitled to require the submission of additional information regarding the project or any of the items in section I, above, from the Company, which the Company shall submit in no more than 30 days after notification of the request.

If the Company fails to provide any part of the information outlined in Items No. I and II, above, then the Company shall return all incentives, or a dollar amount equal to the incentives, to the County. The Company is required to make any return or repayment to the County no more than 60 days after the date on which the Company should have provided the information outlined in Items No. I and II to the County.

EXHIBIT B

LEGAL DESCRIPTION OF REAL PROPERTY

EXHIBIT C

DESCRIPTION OF PERSONAL PROPERTY

All trade fixtures, furnishings, equipment, machinery, facilities and other personal property owned by Company that are purchased and used in connection with the Project.

Richland County Council Request of Action

Subject

An Ordinance Authorizing (1) the execution and delivery of a fee in lieu of tax and incentive agreement between Richland County, South Carolina (the "County") and Pure Power Technologies, LLC, acting for itself, one or more affiliates or other project sponsors (the "Company"), in connection with the expansion of certain facilities in the County (the "Expansion Project"); (2) the County to covenant in such agreement to accept certain negotiated fees in lieu of ad valorem taxes with respect to the Expansion Project; (3) special source credits to reimburse the Company for a portion of certain costs incurred in connection with the Expansion Project; (4) the benefits of a multi-county park to be made available to the Company and the Expansion Project; and (5) other matters relating thereto
[SECOND READING] [PAGES 73-115]

Notes

First Reading: October 4, 2011

Second Reading:

Third Reading:

Public Hearing:

**RICHLAND COUNTY
ORDINANCE**

AN ORDINANCE AUTHORIZING (1) THE EXECUTION AND DELIVERY OF A FEE IN LIEU OF TAX AND INCENTIVE AGREEMENT BETWEEN RICHLAND COUNTY, SOUTH CAROLINA (THE "COUNTY") AND PURE POWER TECHNOLOGIES, LLC, ACTING FOR ITSELF, ONE OR MORE AFFILIATES OR OTHER PROJECT SPONSORS (THE "COMPANY"), IN CONNECTION WITH THE EXPANSION OF CERTAIN FACILITIES IN THE COUNTY (THE "EXPANSION PROJECT"); (2) THE COUNTY TO COVENANT IN SUCH AGREEMENT TO ACCEPT CERTAIN NEGOTIATED FEES IN LIEU OF *AD VALOREM* TAXES WITH RESPECT TO THE EXPANSION PROJECT; (3) SPECIAL SOURCE CREDITS TO REIMBURSE THE COMPANY FOR A PORTION OF CERTAIN COSTS INCURRED IN CONNECTION WITH THE EXPANSION PROJECT; (4) THE BENEFITS OF A MULTI-COUNTY PARK TO BE MADE AVAILABLE TO THE COMPANY AND THE EXPANSION PROJECT; AND (5) OTHER MATTERS RELATING THERETO.

WHEREAS, Richland County, South Carolina (the "County"), acting by and through its County Council (the "Council"), is authorized and empowered under and pursuant to the provisions of the Code of Laws of South Carolina 1976, as amended through the date hereof (the "Code"), particularly Title 12, Chapter 44 of the Code (the "Negotiated FILOT Act") and Title 4, Chapter 1 of the Code (the "Multi-County Park Act" or, as to Section 4-1-175 thereof, and Section 4-29-68 of the Code by incorporation, the "Special Source Act") (collectively, the "Act") and by Article VIII, Section 13 of the South Carolina Constitution: (i) to enter into agreements with certain investors to construct, operate, maintain, and improve certain projects through which the economic development of the State of South Carolina (the "State") will be promoted and trade developed by inducing manufacturing and commercial enterprises to locate and remain in the State and thus utilize and employ the manpower, agricultural products, and natural resources of the State; (ii) to covenant with such investors to accept certain fee in lieu of *ad valorem* tax ("FILOT") payments, including, without limitation, negotiated FILOT payments, with respect to a project; (iii) to permit investors to claim special source revenue credits against their FILOT payments ("Special Source Credits") to reimburse such investors for certain expenditures including, without limitation, those incurred in connection with infrastructure serving the County and improved or unimproved real estate used in the operation of a manufacturing or commercial enterprise in order to enhance the economic development of the County ("Special Source Improvements"); and (iv) to create, in conjunction with one or more other counties, a multi-county industrial or business park ("Multi-County Park") in order to afford certain enhanced income tax credits to such investors and facilitate the grant of Special Source Credits; and

WHEREAS, Pure Power Technologies, LLC, a limited liability company existing under the laws of Delaware, and previously known to the County as Project Cyrus, acting for itself, one or more affiliates or other project sponsors (the "Company") proposes to establish and/or expand certain manufacturing, research and development, and related facilities at multiple sites in the

County (the “Expansion Project”), and the Company anticipates that, should its plans proceed as expected, it will invest, or cause to be invested, at least \$25,000,000 in the Expansion Project and will create, or cause to be created, at least 150 new jobs in the County, by the end of the Compliance Period (as defined below); and

WHEREAS, the County has determined, *inter alia*, that the Expansion Project would subserve the purposes of the Act and would be directly and substantially beneficial to the County, the taxing entities of the County and the citizens and residents of the County due to the jobs created, or caused to be created, and the investment made, or caused to be made, by the Company, which contribute to the tax base and the economic welfare of the County; and

WHEREAS, in accordance with such findings and determinations, and in order to induce the Company to undertake the Expansion Project in the County, the County adopted a resolution on October 4, 2011 (the “Inducement Resolution”) whereby the County agreed to provide FILOT, multi-county industrial or business park, and special source credit benefits and other incentives, which are set forth in greater detail herein and in the form of the Fee in Lieu of Tax and Incentive Agreement (the “Incentive Agreement”) presented to this meeting, which Incentive Agreement is to be dated, as of October 30, 2011, or such other date as may be agreed to by the parties; and

WHEREAS, it appears that the Incentive Agreement now before this meeting is in appropriate form and is an appropriate instrument to be executed and delivered by the County for the purposes intended.

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

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

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

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

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

Section 2.

(a) The County hereby agrees to enter into the Incentive Agreement, which Incentive Agreement shall be a fee agreement pursuant to the Negotiated FILOT Act, with the Company whereby the Company will agree (i) to invest, or cause to be invested, at least \$25,000,000 with respect to the Expansion Project (the “Minimum Contractual Investment Requirement”) during the period commencing with the date of the initial expenditure with respect to the Expansion Project, whether before or after the date of this Resolution, and ending on the fifth anniversary of the end of the property tax year in which the initial property comprising the Expansion Project is placed in service (the “Compliance Period”) and (ii) to create, or cause to be created, at least one hundred fifty (150) new jobs in the County during the period commencing on January 1, 2011 and ending at the expiration of the Compliance Period (the “Minimum Jobs Requirement”), and the County, under certain conditions to be set forth in the Incentive Agreement, will agree to accept negotiated fee in lieu of *ad valorem* tax payments with respect to the Expansion Project as set forth in **Section 2(c)** hereof (the “Expansion Project FILOT”). The Incentive Agreement shall contain such additional terms and conditions as set forth hereinafter, and as shall be mutually satisfactory to the County and the Company.

(b) Subject to the provisions of the Negotiated FILOT Act and the Incentive Agreement, the annual Expansion Project FILOT payments shall commence with respect to the property tax year in which the first Negotiated FILOT Property comprising a part of the Expansion Project is placed in service and shall continue for a period of twenty (20) years thereafter; provided that, if the Expansion Project is placed in service during more than one year, each year’s investment during the Compliance Period, or if such period is extended as set forth in the Incentive Agreement, during the Investment Period, shall be subject to the Expansion Project FILOT for a period of twenty (20) years.

(c) The Expansion Project FILOT shall be determined using: (1) an assessment ratio of 6%; (2) the lowest millage rate or rates allowed by the Negotiated FILOT Act, which, with respect to each portion of the Expansion Project, is the lower of (A) the cumulative property tax millage rate levied by, or on behalf of, all taxing entities within which such portion of the Expansion Project is located on June 30 of the year preceding the calendar year in which the Incentive Agreement is executed or (B) the cumulative property tax millage rate levied by, or on behalf of, all taxing entities within which such portion of the Expansion Project is located on June 30 of the calendar year in which the Incentive Agreement is executed, and which millage rate shall remain fixed for the term of the Expansion Project FILOT; (3) the fair market value of the Expansion Project, determined in accordance with the Negotiated FILOT Act; and (4) and such other terms and conditions as are specified in the Incentive Agreement.

Section 3. As an additional incentive to induce the Company to locate the Expansion Project within the County and as reimbursement for investment in certain Special Source Improvements, subject to the requirements of the Special Source Act, the County does hereby agree that the Company and each Co-Investor (each a "Claiming Entity") shall be entitled to receive, and the County shall provide, Special Source Credits in a maximum aggregate amount of \$500,000 (the "Aggregate Available Credits") and each Claiming Entity shall be entitled to receive Special Source Credits against each FILOT payment made by such Claiming Entity with respect to the Expansion Project, whether made pursuant to the Negotiated FILOT Act or the Multi-County Park Act, in an amount equal to fifty percent (50%) of each such FILOT Payment, for a period of up to five (5) years, commencing with the year for which the initial Negotiated FILOT payment is made under the Incentive Agreement, until the Aggregate Available Credits have been fully provided by the County. In accordance with the Special Source Act, the Special Source Credits authorized herein shall not, in the aggregate, exceed the aggregate cost of Special Source Improvements funded, or caused to be funded, from time to time in connection with the Expansion Project.

Section 4. The County will insure that the Expansion Project will be included, if not already included, and will remain, within the boundaries of a multi-county industrial or business park pursuant to the provisions of the Multi-County Park Act and Article VIII, Section 13 of the State Constitution on terms which provide for all jobs created at the Expansion Project during the period commencing on January 1, 2011 and ending at the expiration of the Compliance Period, or, if such period is extended as set forth in the Incentive Agreement, at the expiration of the Investment Period, any additional jobs creation tax credits afforded by the laws of the State for projects located within multi-county industrial or business parks and on terms which facilitate the Special Source Credits authorized by **Section 3** hereof.

Section 5. The County will use its best efforts to assist the Company in securing and processing grants and other funding for infrastructure and other qualifying expenditures in connection with the Expansion Project. The County and the Company are currently pursuing a grant from the State of \$250,000 to reimburse the Company for certain costs required for the Expansion Project.

Section 6. The provisions, terms, and conditions of the Incentive Agreement presented to this meeting and filed with the Clerk to Council, including, without limitation, the terms of each of the incentives set forth above, which are more fully described in the Incentive Agreement, are hereby approved, and all of the provisions, terms, and conditions thereof are hereby incorporated herein by reference as if the Incentive Agreement were set out in this Ordinance in its entirety. The Chair of the Council, or the Vice Chair of the Council in the event the Chair is absent, is hereby authorized, empowered, and directed to execute the Incentive Agreement in the name and on behalf of the County; the Clerk to the Council is hereby authorized and directed to attest the same; and the Chair of the Council, or the Vice Chair of the Council in the event the Chair is absent, is further authorized, empowered, and directed to deliver the Incentive Agreement to the Company.

Section 7. The Incentive Agreement is to be in substantially the form now before this meeting and hereby approved, or with such changes therein as shall not materially adversely affect the rights of the County thereunder and as shall be approved by the official or officials of

the County executing the same, upon advice of legal counsel to the County, their execution thereof to constitute conclusive evidence of their approval of any and all changes or revisions therein from the form of the Incentive Agreement now before this meeting.

Section 8. The Chair of the Council, or the Vice Chair of the Council in the event the Chair is absent, and the County Administrator, for and on behalf of the County, are hereby each authorized, empowered, and directed to do any and all things necessary or proper to effect the performance of all obligations of the County under and pursuant to the Incentive Agreement and to carry out the transactions contemplated thereby and by this Ordinance.

Section 9. The provisions of this Ordinance are hereby declared to be separable and if any section, phrase, or provision shall for any reason be declared by a court of competent jurisdiction to be invalid, unconstitutional, or unenforceable, such declaration shall not affect the validity of the remainder of the sections, phrases, and provisions hereunder.

Section 10. All orders, ordinances, resolutions, and parts thereof in conflict herewith are to the extent of such conflict hereby repealed. This Ordinance shall be effective upon adoption of the Council.

[End of Ordinance]

Enacted in meeting duly assembled _____, 2011.

RICHLAND COUNTY, SOUTH CAROLINA

Paul Livingston, Chair, County Council
Richland County, South Carolina

[SEAL]

Attest:

By: _____
Michielle Cannon Finch, Clerk to County Council
Richland County, South Carolina

First Reading: October 4, 2011
Second Reading: October 18, 2011
Public Hearing: _____, 2011
Third Reading: _____, 2011

FEE IN LIEU OF TAX AND INCENTIVE AGREEMENT

between

RICHLAND COUNTY, SOUTH CAROLINA

and

PURE POWER TECHNOLOGIES, LLC

Dated as of October 30, 2011

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FEE IN LIEU OF TAX AND INCENTIVE AGREEMENT

THIS FEE IN LIEU OF TAX AND INCENTIVE AGREEMENT (this "Agreement") dated as of October 30, 2011, between RICHLAND COUNTY, SOUTH CAROLINA (the "County"), a body politic and corporate and a political subdivision of the State of South Carolina, and PURE POWER TECHNOLOGIES, LLC, a limited liability company organized and existing under the laws of the State of Delaware, acting for itself, one or more affiliates or other project sponsors (the "Company");

WITNESSETH:

WHEREAS, the County, acting by and through its County Council (the "Council"), is authorized and empowered under and pursuant to the provisions of the Code of Laws of South Carolina 1976, as amended through the date hereof (the "Code"), particularly Title 12, Chapter 44 of the Code (the "Negotiated FILOT Act") and Title 4, Chapter 1 of the Code (the "Multi-County Park Act" or, as to Section 4-1-175 thereof, and Section 4-29-68 of the Code by incorporation, the "Special Source Act") (collectively, the "Act") and by Article VIII, Section 13 of the South Carolina Constitution: (i) to enter into agreements with certain investors to construct, operate, maintain, and improve certain projects through which the economic development of the State of South Carolina (the "State") will be promoted and trade developed by inducing manufacturing and commercial enterprises to locate and remain in the State and thus utilize and employ the manpower, agricultural products, and natural resources of the State; (ii) to covenant with such investors to accept certain fee in lieu of *ad valorem* tax ("FILOT") payments, including, without limitation, negotiated FILOT payments, with respect to a project; (iii) to permit investors to claim special source revenue credits against their FILOT payments ("Special Source Credits") to reimburse such investors for certain expenditures including, without limitation, those incurred in connection with infrastructure serving the County and improved or unimproved real estate used in the operation of a manufacturing or commercial enterprise in order to enhance the economic development of the County; and (iv) to create, in conjunction with one or more other counties, a multi-county industrial or business park in order to afford certain enhanced income tax credits to such investors and facilitate the grant of Special Source Credits; and

WHEREAS, the Company purposes to establish and/or expand certain manufacturing, research and development, and related facilities at multiple sites in the County (the "Expansion Project"), and the Company anticipates that, should its plans proceed as expected, it will invest, or cause to be invested, at least \$25,000,000 in the Expansion Project and will create, or cause to be created, at least 150 new jobs in the County, by the end of the Compliance Period (as defined below); and

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

WHEREAS, in accordance with such findings and determinations and in order to induce the Company to locate the Expansion Project in the County, the County Council adopted a

Resolution on October 4, 2011 (the “Inducement Resolution”), whereby the County agreed to provide FILOT, multi-county industrial or business park and Special Source Credits benefits, which are set forth in greater detail herein; and

WHEREAS, the County has determined it is in the best interest of the County to enter into this Agreement with the Company, subject to the terms and conditions set forth herein and, by an Ordinance enacted by the Council on November 1, 2011, approved the form, terms and conditions of this Agreement and ratified all prior actions taken with respect to the Expansion Project.

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

ARTICLE I

DEFINITIONS

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

“*Act*” shall mean, collectively, the Negotiated FILOT Act and the Multi-County Park Act, including, without limitation, the Special Source Act.

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

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

case may be, or by any partner, shareholder or owner of the Company or any other Co-Investor, as the case may be.

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

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

“*Co-Investor*” shall mean any Sponsor or Sponsor Affiliate within the meaning of Sections 12-44-30(19) and (20) of the Negotiated FILOT Act, any Affiliate of the Company or of any such Sponsor or Sponsor Affiliate, any developer in a build-to-suit arrangement with respect to the Expansion Project, any lessor of equipment or other property comprising a part of the Expansion Project, and any financing entity or other third party investing in or providing funds for the Expansion Project. The Company shall notify the County in writing of the identity of any Sponsor, Sponsor Affiliate or other Co-Investor and shall, to the extent the Company and any such Co-Investor intend to extend the benefits of the Negotiated FILOT to property owned by such Co-Investor pursuant to **Section 6.02** hereof, comply with any additional notice requirements, or other applicable provisions, of the Negotiated FILOT Act. As of the date of original execution and delivery of this Agreement, **[the Company and Navistar, Inc., a Delaware corporation, (“Navistar”) are the only Co-Investors]**.

“*Company*” shall mean Pure Power Technologies, LLC, a Delaware limited liability company, and any surviving, resulting, or transferee entity in any merger, consolidation or transfer of assets permitted under **Sections 4.05** or **6.01** hereof or any other assignee hereunder which is designated by the Company and approved by the County.

“*Compliance Period*” shall mean the period commencing with the first day that Negotiated FILOT Property is purchased or acquired, whether before or after the date of this Agreement, and ending on the fifth anniversary of the end of the Property Tax Year in which the initial Negotiated FILOT Property comprising the Expansion Project is placed in service, all as specified in Section 12-44-30(13) of the Negotiated FILOT Act. **[The parties anticipate that the initial Negotiated FILOT Property comprising the Expansion Project will be placed in service in the Property Tax Year ending on October 31, 2011 and that in such event, the Compliance Period will end on October 31, 2016].**

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

“*Council*” shall mean the governing body of the County and its successors.

“*Deficiency Payment*” shall have the meaning specified in **Section 5.01(e)** hereof.

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

“*Event of Default*” shall mean an Event of Default, as set forth in **Section 8.01** hereof.

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

“*Expansion Project*” shall mean: (i) **[the Land]** and all buildings, structures, fixtures and other real property improvements now or hereafter constructed on the Land; (ii) all machinery, equipment, furnishings and other personal property now or hereafter acquired by or on behalf of the Company or any Co-Investors for use on or about the Land; and (iii) any Replacement Property.

“*FILOT*” shall mean fee in lieu of *ad valorem* property taxes.

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

“*Inducement Resolution*” shall mean the Resolution approved by the County on October 4, 2011 between the County and the Company.

“*Investment Period*” shall mean the period for completion of the Expansion Project, which shall be initially equal to the Compliance Period; provided, however, that, the Company or any other Sponsor or Sponsor Affiliate may, prior to the end of the Compliance Period, apply to the County for up to a five-year extension to the Investment Period beyond the Compliance Period up to the tenth anniversary of the end of the Property Tax Year in which the initial Negotiated FILOT Property comprising the Expansion Project is placed in service, as permitted

by the Negotiated FILOT Act, and the County may approve of such extension, in its sole discretion; provided further that there shall be no extension of the period for meeting the Minimum Statutory Investment Requirement beyond the Compliance Period, all determined as specified in Section 12-44-30(13) of the Negotiated FILOT Act.

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

“*Minimum Contractual Investment Requirement*” shall mean investment of at least \$25,000,000 (without regard to depreciation, disposals, or other diminution in value) by the Company and all Co-Investors, in the aggregate in the Expansion Project during the period commencing with the date of the initial expenditure with respect to the Expansion Project, whether before or after the date of this Agreement, and ending at the end of the Compliance Period.

“*Minimum Jobs Requirement*” shall mean the creation of at least 150 new jobs (without regard to jobs maintained) in the County by the Company and all Co-Investors, in the aggregate, during the period commencing on January 1, 2011 and ending at the end of the Compliance Period.

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

“*Minimum Threshold Investment Requirement*” shall mean investment in or at the Expansion Project of at least [**\$5,000,000**] (without regard to depreciation, disposals, or other diminution in value) by the Company and all Co-Investors, in the aggregate during the period commencing with the date of the initial expenditure with respect to the Expansion Project, whether before or after the date of this Agreement, and ending at the end of the Compliance Period.

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

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

“*Multi-County Park Agreement*” shall mean that certain Master Agreement Governing

the I-77 Corridor Regional Industrial Park between the County and Fairfield County, South Carolina dated as of April 15, 2003, as amended, supplemented, or modified through the date hereof and as such agreement may be further amended, supplemented, or replaced from time to time.

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

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

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

“*Non-Qualifying Property*” shall mean that portion of the facilities located on the Land, which does not qualify as Negotiated FILOT Property, such Non-Qualifying Property to include: (i) Existing Property; (ii) except as to Replacement Property, property which the Company or any other Sponsor or Sponsor Affiliate places in service after the end of the Investment Period; and (iii) any other property which fails or ceases to qualify for Negotiated FILOT Payments under the Negotiated FILOT Act, including, without limitation, property as to which the Company or any other Sponsor or Sponsor Affiliate has terminated the Negotiated FILOT pursuant to **Section 4.02(e)(iii)** hereof.

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

“*Property Tax Year*” shall mean the annual period which is equal to the fiscal year of the Company or any other Co-Investor, as the case may be, *i.e.*, with respect to the Company, the period ending on October 31 of each year.

“*Released Property*” shall include property which was initially Negotiated FILOT Property but which is scrapped, sold, disposed of, or released from this Agreement by the Company or any other Sponsor or Sponsor Affiliate pursuant to **Section 4.02(e)** hereof and Section 12-44-50(B) of the Negotiated FILOT Act; which the Company or any other Sponsor or Sponsor Affiliate dedicates to the public use within the meaning of Section 12-6-3420(C) of the Code; or which is damaged, destroyed, or taken by process of eminent domain and not restored or replaced.

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

“*Special Source Act*” shall mean Section 4-1-175 of the Code, as amended through the date hereof.

“*Special Source Credits*” shall mean the special source revenue credits described in **Section 3.02** hereof.

“*Special Source Improvements*” shall mean, to the extent paid for by the Company or any Co-Investor, any infrastructure serving the economic development of the County and any improved and unimproved real property, buildings, structural components of buildings, fixtures or other real property improvements used in the operation of a manufacturing or commercial enterprise in order to enhance the economic development of the County, all as set forth in the Special Source Act. For purposes of this Agreement, Special Source Improvements shall initially be deemed to include, without limitation, all roadwork, water, sewer, drainage, power and utility facilities serving the Project, as well as the Land, the buildings, fixtures and other real property improvements on the Land, and any additions or improvements to any of the foregoing, whether paid for by the Company or any other Co-Investors directly or through lease payments. At the request of the Company, the County hereby agrees to hereafter consider inclusion of personal property, including machinery and equipment, as Special Source Improvements hereunder in accordance with Section 4-29-68(A)(2)(i) of the Code, which inclusion may be approved by a resolution of the Council.

“*Sponsor*” and “*Sponsor Affiliate*” shall mean an entity whose investment with respect to the Expansion Project will qualify for the Negotiated FILOT pursuant to **Section 6.02** hereof and Sections 12-44-30(19) or (20) and Section 12-44-130 of the Negotiated FILOT Act if the statutory investment requirements are met. Initially, [**the Company and Navistar are the only Sponsors or Sponsor Affiliates.**]

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

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

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

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

ARTICLE II

REPRESENTATIONS AND WARRANTIES

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

(a) The County is a body politic and corporate and a political subdivision of the State and is authorized and empowered by the provisions of the Act to enter into the transactions contemplated by this Agreement and to carry out its obligations hereunder. By proper action by the Council, the County has duly authorized the execution and delivery of this Agreement and the Negotiated FILOT Payments and Special Source Credits as set forth herein, the inclusion and maintenance of the Expansion Project in the Multi-County Park, and any and all actions reasonably necessary and appropriate to consummate the transactions contemplated hereby.

(b) The County has determined the Expansion Project will subserve the purposes of the Act and has made all other findings of fact required by the Act in connection with the undertaking of the arrangements set forth herein.

(c) This Agreement has been duly authorized, executed and delivered on behalf of the County. The authorization, execution, and delivery of this Agreement and the performance by the County of its obligations hereunder will not, to the best knowledge of the County, conflict with or constitute a breach of, or a default under, any South Carolina law, court or administrative regulation, decree, order, provision of the Constitution or laws of the State relating to the establishment of the County or its affairs, or any material agreement, mortgage, lease, or other instrument to which the County is subject or by which it is bound, nor, to the best knowledge of the County, any existing law or the provisions of the Constitution of the State.

(d) To the best knowledge of the County, no actions, suits, proceedings, inquiries, or investigations are pending or threatened against or affecting the County in any court or before any governmental authority or arbitration board or tribunal, any of which to the best knowledge of the County could materially adversely affect this Agreement or which could, in any way, adversely affect the validity or enforceability of this Agreement or the transactions contemplated hereby.

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

(a) The Company is a limited liability company validly existing and in good standing under the laws of the State of Delaware and authorized to do business in the State; has all requisite power to enter into this Agreement and to carry out its

obligations hereunder; and by proper action has been duly authorized to execute and deliver this Agreement. The Company's fiscal year end is October 31 and the Company will notify the County of any changes in the fiscal year of the Company.

(b) The Company presently intends to operate the Expansion Project as facilities primarily for manufacturing, research and development, and/or related activities.

(c) The agreements with the County with respect to the Negotiated FILOT, Special Source Credits and the Multi-County Park were factors in inducing the Company to locate the Expansion Project within the County and the State.

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

ARTICLE III

COVENANTS OF COUNTY

Section 3.01. Agreement to Accept Negotiated FILOT Payments. The County hereby agrees to accept Negotiated FILOT Payments in accordance with **Section 5.01** hereof in lieu of *ad valorem* taxes with respect to that portion of the Expansion Project consisting of Negotiated FILOT Property until this Agreement expires or is sooner terminated.

Section 3.02. Special Source Credits.

(a) The County, as an additional incentive to induce the Company to locate the Expansion Project within the County and as reimbursement for investment in certain Special Source Improvements, and subject to the requirements of the Special Source Act, does hereby agree that the Company and each Co-Investor (each a "Claiming Entity") shall be entitled to receive, and the County shall provide, Special Source Credits in a maximum aggregate amount of \$500,000 (the "Aggregate Available Credits") and each Claiming Entity shall be entitled to receive Special Source Credits against each FILOT Payment made by such Claiming Entity with respect to the Expansion Project in an amount equal to fifty percent (50%) of each such FILOT Payment, for a period of up to five (5) years, commencing with the year for which the initial Negotiated FILOT payment is made hereunder, until the Aggregate Available Credits have been fully provided by the County. In accordance with the Special Source Act, the Special Source Credits authorized herein shall not, in the aggregate, exceed the aggregate cost of Special Source Improvements funded from time to time in connection with the Expansion Project.

(b) The Special Source Credits shall be reflected by the County on each bill to a Claiming Entity for FILOT Payments due with respect to the Expansion Project, by reducing the total original FILOT Payment otherwise due by the amount of such Special Source Credits.

(c) THE SPECIAL SOURCE CREDITS AUTHORIZED HEREIN SHALL NOT CONSTITUTE A GENERAL OBLIGATION OF THE COUNTY, BUT SHALL BE A LIMITED OBLIGATION OF THE COUNTY PAYABLE SOLELY FROM THE FILOT PAYMENTS RECEIVED BY THE COUNTY HEREUNDER WITH RESPECT TO THE EXPANSION PROJECT.

Section 3.03. Multi-County Park Designation. The County hereby represents that Parcel I of the Land is presently included within the Multi-County Park. The County will take all acts to insure that the Expansion Project including, without limitation, Parcel II of the Land will be included within the boundaries of the Multi-County Park, if not already included, and that the Expansion Project, including without limitation, Parcel I and Parcel II of the Land, will remain within the boundaries of the Multi-County Park pursuant to the provisions of the Multi-County Park Act and Article VIII, Section 13 of the State Constitution on terms which provide for all jobs created at the Expansion Project from January 1, 2011, through the end of the Investment Period, any additional jobs tax credits afforded by the laws of the State for projects located within multi-county industrial or business parks and which facilitate the Special Source Credits set forth herein.

Section 3.04. Commensurate Benefits. The parties acknowledge the intent of this Agreement, in part, is to afford the Company and any other Co-Investor the benefits specified in this Article III in consideration of the Company's decision to locate the Expansion Project within the County, and this Agreement has been entered into in reliance upon the enactment of the Act and the County's compliance with the requirements thereof. In the event that a court of competent jurisdiction holds that the Act is unconstitutional or this Agreement or the Multi-County Park Agreement or agreements similar in nature to this Agreement or the Multi-County Park Agreement are invalid or unenforceable in any material respect, or should the Company determine there is a reasonable doubt as to the validity or enforceability of this Agreement or the Multi-County Park Agreement in any material respect, then at the request of the Company, the County agrees to use its best efforts to extend to the Company and any other Co-Investor the intended benefits of this Agreement, including, without limitation, the Negotiated FILOT and the Special Source Credits, and agrees, if requested, to enter into a lease purchase agreement with the Company and any other Co-Investor pursuant to Section 12-44-160; Title 4, Chapter 29 or Title 4, Chapter 12 of the Code, as applicable, or to take such other steps as may be appropriate to extend to the Company and any other Co-Investor the intended benefits of this Agreement. In furtherance of this covenant, the County also agrees that, in the event that, for any reason, the Multi-County Park is declared by a court of competent jurisdiction to be invalid or unenforceable in whole or in part, the Company and the County express their intentions that tax or FILOT payments be reformed so as to best afford the Company and any other Co-Investor benefits commensurate with, but not in excess of, those intended under this Agreement as then permitted

by law, including without limitation any benefits afforded under Title 12, Chapter 6, Title 4, Chapter 1 and Title 4, Chapter 29 of the Code, as applicable, to the extent allowed by law. The Company acknowledges, if a court of competent jurisdiction holds all or part of the Negotiated FILOT Act is unconstitutional or otherwise illegal, the Negotiated FILOT Act currently provides the Company and any other Co-Investor must transfer the Negotiated FILOT Property to the County pursuant to lease-purchase arrangements within 180 days following such determination in order for the Negotiated FILOT benefits to continue to apply. In such lease purchase agreement, the County, upon the conveyance of title to the Expansion Project to the County at the expense of the Company or such other Co-Investor, as the case may be, agrees to lease the Expansion Project to the Company or any such other Co-Investor, as the case may be. At the end of the term of any such lease purchase agreement, and upon payment of all outstanding obligations incurred under such lease purchase agreement, the Company or each other Co-Investor shall have the option to purchase its respective portion of the Expansion Project for Ten Dollars (\$10.00).

Section 3.05. Additional Commitment of the County. The County will use its best efforts to assist the Company and each other Co-Investor in securing and processing grants and other funding for the infrastructure and other qualifying expenditures in connection with the Expansion Project. The County and the Company are currently pursuing a grant from the South of \$250,000 to reimburse the Company for certain costs required for the Expansion Project.

ARTICLE IV

COVENANTS OF COMPANY

Section 4.01. Minimum Contractual Investment Requirement and Minimum Jobs Requirement. The Company agrees that it will comply with, or cause compliance with, the Minimum Contractual Investment Requirement and the Minimum Jobs Requirement, by the end of the Compliance Period.

Section 4.02. Investment in Expansion Project.

(a) The Company hereby agrees to acquire, construct, equip, or improve or cause to be acquired, constructed, equipped, or improved, the Expansion Project, as the same shall be determined from time to time by the Company in its sole discretion.. As required by Section 12-44-30(2) of the Negotiated FILOT Act, at least a portion of the Negotiated FILOT Property comprising the Expansion Project shall be placed in service no later than the end of the Property Tax Year which is three years from the year in which this Agreement is entered, *i.e.*, the Property Tax Year ending on October 31, 2014.

(b) Expenditures by Co-Investors shall, together with expenditures by the Company, count toward all investment requirements set forth in this Agreement, including the Minimum Contractual Investment Requirement, the Minimum Threshold Requirement, and, to the full extent permitted by the Negotiated FILOT Act, the Minimum Statutory Investment Requirement. Aggregate investment shall generally be

determined by reference to the property returns of the Company and all Co-Investors filed with respect to the Expansion Project, including without limitation, each such entity's SCDOR PT-300 or such comparable forms, as the Department of Revenue may provide in connection with projects under the Negotiated FILOT Act, without regard to depreciation.

(c) The Company or any other Sponsor or Sponsor Affiliate may, prior to the end of the Compliance Period, apply to the County for up to a five-year extension to the Investment Period beyond the Compliance Period, as permitted by the Negotiated FILOT Act, and the County may approve such extension in its sole discretion. There shall be no extension, however, beyond the Compliance Period of the period for meeting the Minimum Statutory Investment Requirement.

(d) The Company and/or its designated Co-Investors shall retain title, or other property rights, to its respective portion of the Expansion Project throughout the Term of this Agreement, and the Company and each Co-Investor shall have full right to mortgage, lease, or encumber all or any portion of the Expansion Project, including, without limitation, in connection with any financing transactions, without the consent of the County.

(e) The Company and each other Co-Investor shall have the right at any time and from time to time during the Term hereof to undertake any of the following:

(i) The Company and each other Co-Investor may, at its own expense, add to the Expansion Project all such real and personal property as the Company, or such Co-Investor, in its discretion deems useful or desirable, including, without limitation, Negotiated FILOT Property, without any limit as to the amount thereof.

(ii) Subject to the provisions of **Section 5.01(f)(ii)** hereof, in any instance when the Company or any other Co-Investor in its discretion determines any of its items included in the Expansion Project, including, without limitation, any Negotiated FILOT Property, have become inadequate, obsolete, worn out, unsuitable, undesirable, or unnecessary for operations at the Expansion Project, the Company, or such Co-Investor, may remove such items or portions of the Land from the Expansion Project and sell, trade in, exchange, or otherwise dispose of them as a whole or in part without the consent of the County.

(iii) The Company and each other Co-Investor may, at any time and in its discretion by written notice to the County, remove any Negotiated FILOT Property, real or personal, from the Negotiated FILOT arrangement set forth in this Agreement and retain such property for use as part of its operations in the County, and thereafter such property will be subject to *ad valorem* taxes or FILOT payments pursuant to the Multi-County Park Act, as

the case may be; provided, that, any such notice requirement may be, but shall not be required to be, satisfied by property returns filed with respect to the Expansion Project, including without limitation, such entity's SCDOR PT-300 or such comparable forms, as the Department of Revenue may provide in connection with projects under the Negotiated FILOT Act.

(iv) If the Company or any other Co-Investor sells, leases, or otherwise disposes of any portion of, or adds to, the Land, the Company, or such Co-Investor, shall deliver to the County a new **Exhibit A** to this Agreement or schedules or supplements to **Exhibit A**; provided, that any requirement to provide such schedules or supplements to the County may be satisfied by property returns filed with respect to the Expansion Project, including without limitation, such entity's SCDOR PT-300 or such comparable forms, as the Department of Revenue may provide in connection with projects under the Negotiated FILOT Act.

(v) All Negotiated FILOT Property sold or otherwise disposed of under this Section shall be deemed Released Property for purposes of this Agreement.

Section 4.03. Funding for Special Source Improvements. The Company agrees that it will provide, or cause Co-Investors to provide, funding for the Special Source Improvements related to the establishment of the Expansion Project.

Section 4.04. Failure to Comply with Minimum Contractual Investment Requirement and/or Minimum Jobs Requirement. If either or both of the Minimum Contractual Investment Requirement and the Minimum Jobs Requirement are not complied with by the end of the Compliance Period:

(a) the Company and each other Co-Investor shall continue to be eligible to take advantage of the Negotiated FILOT hereof, in the event that the Minimum Threshold Investment Requirement is nevertheless satisfied by the end of the Compliance Period; and

(b) the Company and each other Co-Investor shall no longer be eligible to prospectively claim the Special Source Credits beginning with the FILOT Payment due with respect to Expansion Project property placed in service as of the end of the first Property Tax Year following the Compliance Period; and

(c) the Company and each other Co-Investor shall repay, or cause repayment to, the County an amount equal to a portion of the Special Source Credits theretofore claimed by such entity based upon the highest degree of satisfaction of the Minimum Contractual Investment Requirement (without regard to depreciation, disposals, or other diminution in value) and the Minimum Jobs Requirement (without regard to jobs maintained) prior to the end of the Compliance Period (the "Repayment"). In calculating

any Repayment, the degree of satisfaction shall be measured against each of the Minimum Contractual Investment Requirement (\$25,000,000) and the Minimum Jobs Requirement (150 new jobs), and shall be weighted 50% investment / 50% jobs times aggregate the Special Source Credits theretofore received by such entity (the “Aggregate Received Credits”) and any such Repayment shall be calculated according to the following formula:

1. $\frac{\text{Actual Investment}}{\$25,000,000} \times 100 = \text{Investment Achievement Percentage [IAP]}$
2. $100\% - \text{IAP} = \text{Investment Alteration Factor [IAF]}$
3. $\frac{\text{Actual Employees Hired}}{150} \times 100 = \text{Employment Achievement Percentage [EAP]}$
4. $100\% - \text{EAP} = \text{Employment Alteration Factor [EAF]}$
5. $\frac{\text{IAF} + \text{EAF}}{2} = \text{Final Alteration Factor [FAF]}$
6. $\text{FAF} \times \text{Aggregate Received Credits} = \text{Repayment due to be paid to the County within one hundred eighty (180) days of the end of the Compliance Period.}$

As an example, assuming aggregate investment in the Expansion Project prior to the end of the Compliance Period totaled \$20,000,000 and the highest job creation levels in the County prior to the end of the Compliance Period totaled 130 new jobs, and that the Company had theretofore claimed Aggregate Received Credits of \$500,000, the Repayment would be calculated as follows:

1. $\frac{\$20,000,000}{\$25,000,000} \times 100 = 80.0\% \text{ [IAP]}$
2. $100\% - 80.0\% = 20.0\% \text{ [IAF]}$
3. $\frac{130}{150} \times 100 = 86.7\% \text{ [EAP]}$
4. $100\% - 86.7\% = 13.3\% \text{ [EAF]}$
5. $\frac{20.0\% + 13.3\%}{2} = 16.7\% \text{ [FAF]}$

6. $16.7\% \times \$500,000 = \text{Reimbursement Payment of } \$83,500.$

As an additional example, assuming aggregate investment in the Expansion Project prior to the end of the Compliance Period totaled \$40,000,000 and the highest job creation levels in the County prior to the end of the Compliance Period totaled 120 new jobs, and that the Company had theretofore claimed Aggregate Received Credits of \$500,000, the Repayment would be calculated as follows:

1. $\frac{\$40,000,000}{\$25,000,000} \times 100 = 160.0\% \text{ [IAP]}$
2. $100\% - 160.0\% = (-60.0\%) \text{ [IAF]}$
3. $\frac{120}{150} \times 100 = 80.0\% \text{ [EAP]}$
4. $100\% - 80\% = 20\% \text{ [EAF]}$
5. $\frac{(-60.0\%) + 20\%}{2} = (-40.0\%) \text{ [FAF]}$
6. $(-40.0\%) \times \$500,000 = \text{No Repayment due.}$

Section 4.05. Payment of Administration Expenses. The Company will reimburse, or cause reimbursement to, the County from time to time for its Administration Expenses promptly upon written request therefor, but in no event later than sixty (60) days after receiving written notice from the County specifying the nature of such expense and requesting the payment of the same. The County acknowledges it imposes no charges in the nature of impact fees or recurring fees in connection with the incentives authorized by this Agreement or the Expansion Project, and, aside from attorneys' fees set forth below, the County anticipates no out of pocket expenses in connection with the initial approval of this Agreement and the transactions authorized hereby. The parties understand that legal counsel to the County has estimated its fees and other expenses for review of this Agreement, the Inducement Resolution, the Multi-County Park Agreement and all resolutions, ordinances, and other documentation related thereto at [\$ _____] or less.

Section 4.06. Use of Expansion Project for Lawful Activities. During the Term of this Agreement, the Company and any other Co-Investor shall use the Expansion Project as it deems fit for any lawful purpose.

Section 4.07. Maintenance of Existence. Except in the event the resulting, surviving, or transferee entity is the Company or an Affiliate of the Company, as to which such

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

(a) the Company shall be the continuing business entity, or the business entity formed by such consolidation or into which the Company is merged or the entity which acquires by conveyance or transfer all or substantially all of the Company's assets shall (i) be an entity organized and existing under the laws of the United States of America or any state thereof or the District of Columbia and qualified to do business in the State; (ii) have a net worth equal to or greater than the net worth of the Company immediately preceding the date of such merger, consolidation or transfer; and (iii) expressly and unconditionally assume, by written agreement supplemental hereto and acceptable to the County as to form and content, in its reasonable discretion, every payment obligation of the Company herein and the performance of every covenant of this Agreement on the part of the Company to be performed or observed;

(b) immediately after giving effect to such transaction, no Event or Default, and no event, which, after notice or lapse of time or both, would become an Event of Default, shall have happened and be continuing; and

(c) the Company shall have delivered to the County (i) a certificate of a duly authorized officer of the Company, accompanied by financial statements of the surviving company (if other than the Company) showing compliance with the net worth requirements specified in paragraph (a) above and (ii) an opinion of counsel for the Company and/or counsel to the transferee company, each stating that such consolidation, merger, conveyance or transfer and such supplement to this Agreement comply with this Section and that all conditions precedent herein provided for relating to such transaction have been complied with.

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

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

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

Section 4.08. Records and Reports. The Company and any other Co-Investor will each maintain such books and records with respect to the Expansion Project as will permit the identification of those portions of the Expansion Project it places in service in each Property Tax Year during the Investment Period, the amount of investment with respect thereto, computations of all Negotiated FILOT Payments made by such entity hereunder and will comply with all reporting requirements of the State and the County applicable to Negotiated FILOT Property under the Negotiated FILOT Act, including without limitation the reports required by 12-44-90 of the Negotiated FILOT Act (collectively, "Filings"); provided, however, that the parties hereby waive in its entirety the requirement under Section 12-44-55 of the Negotiated FILOT Act for a recapitulation of the terms of this Agreement. In addition, the following records shall be provided to the County:

(a) Each year during the Term hereof, the Company and any other Co-Investor shall deliver to the County Auditor, the County Assessor, and the County Treasurer a copy of its most recent annual filings made with the Department of Revenue with respect to the Expansion Project at the same time as delivery thereof to the Department of Revenue.

(b) The Company shall cause a copy of this Agreement, as well as a copy of the completed Form PT-443 required by the Department of Revenue, to be filed within thirty (30) days after the date of execution and delivery hereof with the County Auditor, the County Assessor and the County Treasurer of the County and of each other county which is a party to the Multi-County Park Agreement, and with the Department of Revenue and shall update such Form PT-443 from time to time to the extent that the information therein is no longer accurate.

Notwithstanding any other provision of this Section, the Company and each other Co-Investor may, by clear, written designation, conspicuously marked, designate with respect to any Filings or other documents or information delivered to the County segments thereof that the Company or such other Co-Investor believes contain proprietary, confidential, or trade secret matters. To the extent permitted by law, the County shall comply with all reasonable, written requests made by the Company and any other Co-Investor with respect to maintaining the confidentiality of such designated segments. Except to the extent required by law, the County shall not knowingly and voluntarily release information, which has been designated as confidential or proprietary by the Company or any other Co-Investor.

ARTICLE V

FEES IN LIEU OF TAXES

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

(a) In accordance with the Negotiated FILOT Act, the parties hereby agree, during the Term hereof, that there shall be due annually with respect to that portion of the Expansion Project constituting Negotiated FILOT Property, whether owned by the Company or by any other Sponsor or Sponsor Affiliate, a Negotiated FILOT calculated as set forth in this **Section 5.01**, at the places, in the manner and subject to the penalty assessments prescribed by the County or the Department of Revenue for *ad valorem* taxes. It is anticipated that the initial Negotiated FILOT Payment, which shall be due under current Code requirements on the January 15 following the year in which the County adds the initial Negotiated FILOT Property to its tax rolls, will be due on January 15, 2013. If the Company designates any Sponsor or Sponsor Affiliates, as the same shall have been consented to by the County, if required, pursuant to **Section 6.02** hereof, the Company must notify the County in writing at the time of such designation as to whether such Sponsor or Sponsor Affiliate shall be primarily liable for the Negotiated FILOT Payments hereunder with respect to such other entity's portion of the Negotiated FILOT Property. Unless and until such additional notification is received, the Company shall be primarily liable for all Negotiated FILOT Payments with respect to such Negotiated FILOT Property.

(b) Subject to adjustment pursuant to the provisions of this **Section 5.01**, the Negotiated FILOT shall be calculated each year in accordance with the following provisions:

(i) For each annual increment of investment in Negotiated FILOT Property, the annual Negotiated FILOT Payments shall be payable for a period of twenty (20) years, and in the event the Department of Revenue or any other court or entity of competent jurisdiction determines that such period is not permitted by section 12-44-30(21) of the Negotiated FILOT Act, for a period of twenty (20) years or thirty (30) years. Accordingly, if such Negotiated FILOT Property is placed in service during more than one year, each year's investment during the Investment Period shall be subject to the Negotiated FILOT for a period of twenty (20) or thirty (30) years, as the case may be.

(ii) The Negotiated FILOT shall be calculated using (1) an assessment ratio of 6%; (2) the lowest millage rate or rates allowed by the Negotiated FILOT Act, which millage rate shall be (a) 464.2 mills with respect to Parcel I of the Land and all Negotiated FILOT Property located thereon, and (b) 402.9 mills with respect to Parcel II of the Land and all Negotiated FILOT Property located thereon, which rate shall be fixed in

accordance with Section 12-44-50(A)(1)(b)(i) of the Negotiated FILOT Act; and (3) the fair market value of such Negotiated FILOT Property as determined in accordance with Section 12-44-50(A)(1)(c) of the Negotiated FILOT Act, which, for typical arm's length construction or acquisition, uses the original income tax basis for any real property without regard to depreciation or reassessment and the original income tax basis for any personal property less allowable depreciation (except depreciation due to extraordinary obsolescence); **[provided, however, that the Company or any other Sponsor or Sponsor Affiliate and the County may agree at a later date to amend this Agreement as to Expansion Project property owned by such entity so as to determine the fair market value of any such real property in accordance any other method permitted by the Negotiated FILOT Act.]**

(iii) All such calculations shall take into account all deductions for depreciation or diminution in value allowed by the Code or by the tax laws generally, as well as tax exemptions which would have been applicable if such property were subject to *ad valorem* taxes, except the five-year exemption from County taxes allowed for certain manufacturing, distribution, corporate headquarters and research and development facilities pursuant to Section 3(g) of Article X of the Constitution of the State and Sections 12-37-220(B)(32) and (34) of the Code.

(iv) For purposes of calculating the Negotiated FILOT, the Negotiated FILOT Property shall not include any Released Property or Non-Qualifying Property.

(c) The Negotiated FILOT Payments are to be recalculated:

(i) to reduce such payments in the event the Company or any other Sponsor or Sponsor Affiliate disposes of any part of the Negotiated FILOT Property within the meaning of Section 12-44-50(B) of the Negotiated FILOT Act and as provided in **Section 4.02(e)(ii)** hereof, by the amount applicable to the Released Property;

(ii) to reduce such payments in the event that the Negotiated FILOT Property or any portion thereof is damaged or destroyed, lost or stolen, or the subject of condemnation proceedings or otherwise removed from the Expansion Project at a result of circumstances beyond the control of the Company or any other Sponsor or Sponsor Affiliate, as the case may be;

(iii) to increase such payments in the event the Company or any Sponsor or Sponsor Affiliate adds any Negotiated FILOT Property (other than Replacement Property) to the Expansion Project; or

(iv) to adjust such payments if the Company or any Sponsor or Sponsor Affiliate elects to convert any portion of the Negotiated FILOT Property from the Negotiated FILOT to *ad valorem* taxes or FILOT payments pursuant to the Multi-County Park Act, as the case may be, as permitted by **Section 4.02(e)(iii)**.

(d) Upon installation or placing in service of any Replacement Property for any Released Property, such Replacement Property shall become subject to Negotiated FILOT Payments to the fullest extent allowed by law, subject to the following rules:

(i) Such Replacement Property does not have to serve the same function as the Released Property it is replacing. Replacement Property is deemed to replace the oldest property subject to the Negotiated FILOT, whether real or personal, which is disposed of in the same Property Tax Year as the Replacement Property is placed in service. Replacement Property qualifies for Negotiated FILOT Payments up to the original income tax basis of the Released Property which it is replacing in the same Property Tax Year. More than one piece of property can replace a single piece of property. To the extent that the income tax basis of the Replacement Property exceeds the original income tax basis of the Released Property which it is replacing, the excess amount is subject to payments equal to the *ad valorem* taxes which would have been paid on such property but for this Agreement. Replacement property is entitled to the Negotiated FILOT Payments for the remaining portion of the twenty year period applicable to the Released Property.

(ii) The Company or any other Sponsor or Sponsor Affiliate shall maintain, or cause to be maintained, records sufficient to identify all Replacement Property it places in service, and the Negotiated FILOT Payments with respect thereto shall be calculated using the millage rate and assessment ratio provided on the property it is replacing.

(e) In the event that, for any reason, the Negotiated FILOT Act and/or the Negotiated FILOT or any portion thereof is, by a court of competent jurisdiction following allowable appeals, declared invalid or unenforceable in whole or in part, or the portion of the Expansion Project consisting of Negotiated FILOT Property is deemed not to be eligible for a Negotiated FILOT pursuant to the Act in whole or in part, the Company and the County express their intentions that such payments be reformed so as to afford the Company and any other Sponsor or Sponsor Affiliate benefits commensurate with those intended under this Agreement as then permitted by law, including without limitation any benefits afforded under Title 4, Chapter 12 and Title 4, Chapter 29 of the Code, as applicable, to the extent allowed by law. Absent the legal authorization to effect such reformation, the Company and the County agree that there

shall be due hereunder with respect to the portion of the Negotiated FILOT Property affected by such circumstances *ad valorem* taxes and that, to the extent permitted by law, the Company and any other Sponsor or Sponsor Affiliate shall be entitled: (1) to enjoy the five-year exemption from *ad valorem* taxes (or fees in lieu of taxes) provided by Article X, Section 3 of the Constitution of the State, and any other exemption allowed by law; (2) to enjoy all allowable depreciation; and (3) to receive all other tax credits which would be due if the Company and any other Sponsor or Sponsor Affiliate were obligated to pay *ad valorem* taxes hereunder. To the extent that under such circumstances the Negotiated FILOT Payments hereunder are subject to retroactive adjustment, then there shall be due and payable from the Company and any other Sponsor or Sponsor Affiliate, as the case may be, with respect to its portion of the Negotiated FILOT Property in question an amount equal to the difference between the Negotiated FILOT Payments theretofore actually paid and the amount which would have been paid as *ad valorem* taxes, together with interest on such deficiency as provided in Section 12-54-25(D) of the Code (a "Deficiency Payment").

(f)

(i) In the event that the investment in the Expansion Project is insufficient to satisfy the Minimum Statutory Investment Requirement by the end of the Compliance Period, then all Negotiated FILOT Payments shall revert retroactively to *ad valorem* taxes, calculated as set forth in paragraph (e) above, and a Deficiency Payment from each such owing entity shall be due and payable with respect to Negotiated FILOT Payments theretofore made. In the event that the aggregate investment in the Expansion Project does not exceed \$5,000,000 by the end of the Compliance Period and any Sponsor or Sponsor Affiliate does not satisfy the Minimum Statutory Investment Requirement solely through its own direct investment in the Expansion Project, then the Negotiated FILOT Payments with respect to that portion of the Expansion Project owned by such Sponsor or Sponsor Affiliate shall revert retroactively to *ad valorem* taxes calculated as set forth in paragraph (e) above, and such Sponsor or Sponsor Affiliate shall owe a Deficiency Payment with respect to Negotiated FILOT Payments theretofore made as to such portion of the Expansion Project. To the extent necessary to collect a Deficiency Payment under this clause (i) due to failure to satisfy the Minimum Statutory Investment Requirement by the end of the Compliance Period, Section 12-44-140(D) of the Negotiated FILOT Act provides that any statute of limitations that might apply pursuant to Section 12-54-85 of the Code is suspended.

(ii) In the event that investment in the Expansion Project based on an income tax basis without regard to depreciation satisfies the Minimum Statutory Investment Requirement by the end of the Compliance Period, but following the Compliance Period, subsequently falls below the Minimum

Statutory Investment Requirement, without regard to depreciation, the Expansion Project shall thereafter be subject to *ad valorem* taxes, calculated as set forth in paragraph (e) above., in accordance with Section 12-44-140(C) of the Negotiated FILOT Act.

(iii) If the Minimum Contractual Investment Requirement or the Minimum Jobs Requirement is not satisfied by the end of the Compliance Period, the County shall have only the rights set forth in **Section 4.04** hereof.

(iv) If the Minimum Threshold Investment Requirement is not satisfied by the end of the Compliance Period, the Negotiated FILOT shall terminate retroactively and prospectively.

(v) In accordance with the provisions of **Sections 4.02(b)** and **6.02** hereof, except for Existing Property, the fair market value of all property utilized by the Company or any other Co-Investor at the Expansion Project site, whether owned by the Company or any other Co-Investor outright or utilized by the Company or any other Co-Investor pursuant to any financing agreement or any lease or other arrangement with any Co-Investor and whether or not subject to this Agreement, shall be counted toward all investment obligations under this Agreement, including, to the extent permitted by law, investment obligations under the Act.

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

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

ARTICLE VI

THIRD PARTY ARRANGEMENTS

Section 6.01. Conveyance of Liens and Interests; Assignment. The County agrees that the Company and any Co-Investor may at any time (a) transfer all or any of its rights and interests hereunder or with respect to all or any part of the Expansion Project to any Person; or (b) enter into any lending, financing, leasing, security, or similar arrangement or succession of such arrangements with any financing entity or other Person with respect to this Agreement or all

or any part of the Expansion Project, including without limitation any sale-leaseback, equipment lease, build-to-suit lease, synthetic lease, nordic lease, defeased tax benefit or transfer lease, assignment, sublease or similar arrangement or succession of such arrangements, regardless of the identity of the income tax owner of such portion of the Expansion Project, whereby the transferee in any such arrangement leases the portion of the Expansion Project in question to the Company or such Co-Investors or any of their respective Affiliates or operates such assets for the Company or such Co-Investors or any of their respective Affiliates or is leasing portion of the Expansion Project in question from the Company or such Co-Investors or any of their respective Affiliates. In order to preserve the benefits of the Negotiated FILOT hereunder with respect to any Negotiated FILOT Property so transferred: (i) except in connection with any transfer to any Co-Investors, an Affiliate of the Company or such Co-Investors, or transfers pursuant to clause (b) above (as to which such transfers the County hereby consents), the Company shall obtain the prior consent or subsequent ratification of the County which consent or subsequent ratification may be granted by the County, in its sole discretion; (ii) except when a financing entity which is the income tax owner of all or part of the Negotiated FILOT Property is the transferee pursuant to clause (b) above and such financing entity assumes in writing the obligations of the Company or such Co-Investors hereunder, or when the County consents in writing or when the transfer relates to Released Property pursuant to **Section 4.02(e)** hereof, no such transfer shall affect or reduce any of the obligations of the Company hereunder; (iii) to the extent the transferee or financing entity shall become obligated to pay make Negotiated FILOT payments hereunder, the transferee shall assume the then current basis of the Company or such Co-Investors (or prior transferee) in the Negotiated FILOT Property transferred; (iv) the Company or such Co-Investors, transferee or financing entity shall, within sixty (60) days thereof, furnish or cause to be furnished to the County and the Department of Revenue a true and complete copy of any such transfer agreement; and (v) the Company or such Co-Investors and the transferee shall comply with all other requirements of the Transfer Provisions.

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

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

Section 6.02. Sponsors and Sponsor Affiliates. The Company may designate from time to time other Sponsors or Sponsor Affiliates pursuant to the provisions of Sections 12-44-30(19) or (20), respectively, and Section 12-44-130 of the Negotiated FILOT Act, which Sponsors or Sponsor Affiliates shall be Persons who join with the Company and make investments with respect to the Expansion Project, or who participate in the financing of such investments, who agree to be bound by the terms and provisions of this Agreement and who shall

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

ARTICLE VII

TERM; TERMINATION

Section 7.01. Term. Unless sooner terminated pursuant to the terms and provisions herein contained, this Agreement shall be and remain in full force and effect for a term commencing on the date on which the Company executes this Agreement, and ending at midnight on the later of (i) the day the last Negotiated FILOT Payment is made hereunder or (ii) the day the Special Source Credits have been fully provided by the County.

Section 7.02. Termination. In addition to the rights of the County under **Sections 5.01(f)** and **8.01**, the County and the Company may jointly agree to terminate this Agreement at any time, or the Company, may, at its option, unilaterally terminate this Agreement at any time, with respect to all, or a portion of, the Expansion Project in which event the Expansion Project, or such portion of the Expansion Project, shall be subject to *ad valorem* taxes from the date of termination. Notwithstanding termination of this Agreement, the County shall have the same rights to receive payment for any retroactive *ad valorem* taxes, Deficiency Payments, interest or penalties, and the same enforcement rights with respect to such obligations as it would have with respect to *ad valorem* taxes, and the County's rights arising under **Section 5.01** prior to the time of such termination shall survive any such termination.

ARTICLE VIII

EVENTS OF DEFAULT AND REMEDIES

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

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

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

Notwithstanding anything herein to the contrary, failure to meet any investment or job creation requirements set forth herein shall not be deemed to be an Event of Default under this Agreement, but may terminate certain benefits hereunder or obligate the Company or other Co-Investor, as the case may be, to make certain additional payments to the County, all as set forth in **Section 4.04** and **5.01(f)** hereof.

Section 8.02. Remedies on Event of Default. Upon the occurrence of any Event of Default, the County may exercise any of the following remedies only as to the Defaulting Entity:

(a) terminate this Agreement by delivery of written notice to the Defaulting Entity not less than sixty (60) days prior to the termination date specified therein;

(b) have access to and inspect, examine, and make copies of the books and , records of the Defaulting Entity pertaining to the construction, acquisition, or maintenance of the Expansion Project or calculation of the Negotiated FILOT pursuant hereto as provided in **Section 4.06** hereof;

(c) take whatever action at law or in equity as may appear necessary or desirable to collect the amount then due or enforce the County’s rights hereunder, it being the express intent of the parties that the County, without limitation, shall have the same remedies available by law to collect Negotiated FILOT Payments as if they were

delinquent *ad valorem* tax payments, including execution upon the lien referred to in **Section 5.02** hereof.

Section 8.03. Defaulted Payments. In the event the Company or any other Co-Investor should fail to make any of the payments required to be made by such entity under this Agreement, the item or installment so in default shall continue as an obligation of such entity until the amount in default shall have been fully paid. If any such default relates to its obligations to make Negotiated FILOT Payments hereunder, such entity shall pay the same with interest thereon at the rate per annum provided by the Code for late payment of *ad valorem* taxes together with any penalties provided by the Code for late payment of *ad valorem* taxes, all as provided in Section 12-44-90 of the Code.

Section 8.04. Default by County. Upon the default of the County in the performance of any of its obligations hereunder, the Company and any other Co-Investor may take whatever action at law or in equity as may appear necessary or desirable to enforce its rights under this Agreement, including without limitation a suit for *mandamus* or specific performance.

ARTICLE IX

MISCELLANEOUS

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

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

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

(a) if to the County:

Richland County Administrator
Attn: Richland County Administrator
2020 Hampton Street
Columbia, SC 29202
Fax: 803-

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

Parker Poe Adams & Bernstein, LLP
Attn: Ray E. Jones
P.O. Box 1509
Columbia, SC 29202
Fax: 803-

(b) if to Navistar:

Navistar, Inc.
Attn: Houman Kashanipour
4201 Winfield Road
Warrenville, Illinois 60555
Fax: -

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

Navistar, Inc.
Attn: Steve Covey, General Counsel
4201 Winfield Road
Warrenville, Illinois 60555
Fax:

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

Nexsen Pruet, LLC
Burnet R. Maybank, III, Esq.
Tushar V. Chikhliker, Esq.
P.O. Box 2426
1230 Main Street, Suite 700
Columbia, South Carolina 29201
Fax: 803-253-8277

(c) If to the Company:

Pure Power Technologies, LLC
Attn: David A. Benson

1410 Northpoint Boulevard
Blythewood, South Carolina 29016
Fax: -

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

Pure Power Technologies, LLC
Attn: Steve Covey, General Counsel
4201 Winfield Road
Warrenville, Illinois 60555
Fax: -

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

Nexsen Pruet, LLC
Burnet R. Maybank, III, Esq.
Tushar V. Chikhliker, Esq.
P.O. Box 2426
1230 Main Street, Suite 700
Columbia, South Carolina 29201
Fax: 803-253-8277

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

Section 9.05. Entire Understanding. This Agreement expresses the entire understanding and all agreements of the parties hereto with each other, and neither party hereto has made or shall be bound by any agreement or any representation to the other party which is not expressly set forth in this Agreement or in certificates delivered in connection with the execution and delivery hereof.

Section 9.06. Severability. In the event that any clause or provisions of this Agreement shall be held to be invalid by any court of competent jurisdiction, the invalidity of such clause or provision shall not affect any of the remaining provisions hereof.

Section 9.07. Headings and Table of Contents; References. The headings of the Agreement and any Table of Contents annexed hereto are for convenience of reference only and shall not define or limit the provisions hereof or affect the meaning or interpretation hereof. All references in this Agreement to particular articles or Sections or paragraphs of this Agreement are references to the designated articles or Sections or paragraphs of this Agreement.

Section 9.08. Multiple Counterparts. This Agreement may be executed in multiple counterparts, each of which shall be an original but all of which shall constitute but one and the same instrument.

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

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

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

[Execution Pages to Follow]

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

RICHLAND COUNTY, SOUTH CAROLINA

By: _____
Paul Livingston, Chairman, County Council
Richland County, South Carolina

[SEAL]

ATTEST:

By: _____
Michielle Cannon Finch, Clerk to County Council
Richland County, South Carolina

PURE POWER TECHNOLOGIES, LLC

By: _____
Name: _____
Title: _____

**EXHIBIT A
LEGAL DESCRIPTION**

PARCEL I:

All that certain piece, parcel or tract of land situate, lying and being in the County of Richland, State of South Carolina, more particularly described as follows:

Beginning at a point on the southern margin of the right-of-way of Northpoint Boulevard where it intersects with the western margin of the right-of-way of Community Road; thence running in a southeasterly direction for a distance of approximately 616.3 feet to a #4 Rebar at the Point of Beginning (POB-B), this #4 Rebar being a common corner of Parcel "B" and a parcel of property now or formerly of Keller Properties, Inc.; thence proceeding along an arc of a curve to the left having a radius of 6056.50 feet; an arc length of 270.38 feet; a chord bearing of S 30°42'38" E and a chord length of 270.33 feet to a #4 Rebar on the western margin of the right-of-way of Community Road; thence proceeding along Parcel "A" the following courses: a curve to the left having a radius of 50.00 feet; an arc length of 77.93 feet; a chord bearing of N76°38'30"W and a chord length 70.28 feet to a #4 Rebar; thence proceeding S58°42'22"W for a distance of 146.06 feet to a #4 Rebar; thence proceeding along an arc of a curve to the right having a radius of 800.00 feet; an arc length of 405.98 feet; a chord bearing of S73°14'46"W and a chord length of 401.64 feet to a #4 Rebar; thence proceeding N89°18'32"W for a distance of 197.20 feet to a #4 Rebar; thence proceeding along an arc of a curve to the left having a radius of 460.00 feet, an arc length of 86.99 feet, a chord bearing of S77°04'31"W a chord length of 170.96 feet to a #4 Rebar; thence proceeding S66°21'58"W for a distance of 103.97 feet to a #4 Rebar; thence proceeding along property now or formerly of T. Walter Brashier N08°44'56"W for a distance of 82.78 feet to a #4 Rebar; thence proceeding along reserved property and property now or formerly of Coca-Cola Bottling Company N66°21'53"E for a distance of 756.99 feet to a 2 ½" iron pipe; thence proceeding along property now or formerly of Keller Properties, Inc. S55°36'41"E for a distance of 163.06 feet to a 2" iron pipe; thence proceeding along property now or formerly of Keller Properties, Inc. N23°26'37"E for a distance of 209.45 feet to a #4 Rebar and Point of Beginning (POB-B), said parcel contains an area of 3.88 acres, more or less.

TOGETHER WITH

All that certain piece, parcel or tract of land situate, lying and being in the County of Richland, State of South Carolina, more particularly described as follows:

Beginning at a point on the southern margin of the right-of-way of Northpoint Boulevard where it intersects with the western margin of the right-of-way of Community Road; thence running in a southeasterly direction for a distance of approximately 616.3 feet to a #4 Rebar; thence proceeding along an arc of a curve to the left having a radius of 6056.50 feet; an arc length of 270.38 feet; a chord bearing of S30 42'38"E and a chord length of 270.33 feet to a #4 Rebar on the western margin of the right-of-way of Community Road, the Point of Beginning (POB-A); from said point of beginning, thence along the western margin of the right-of-way of Community

Exhibit A -1

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Item# 16

Attachment number 2
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Road the following courses to the creek; proceeding along a curve to the left having a radius of 6056.40 feet, a chord bearing and distance of S32°45'25"E, 162.27 feet, an arc length of 162.28 feet to a concrete monument; thence proceeding S33°02'31"E, 10.08 feet to a concrete monument at the point of curvature of a non-tangent curve; thence proceeding along a curve to the right having a radius of 5729.58 feet, a chord bearing and distance of S32°09'35"E, 258.44 feet, an arc length of 258.47 feet to a concrete monument; thence proceeding S31°05'41"E, 459.05 feet to a concrete monument at the point of curvature of a non-tangent curve; thence proceeding along a curve to the right having a radius of 883.73 feet, a chord bearing and distance of S14°05'35"E, 516.67 feet, an arc length of 524.32 feet to a concrete monument; thence proceeding S02°54'14"W, 301.76 feet to a concrete monument at the point of curvature of a non-tangent curve; thence proceeding along a curve to the left having a radius of 965.22 feet, a chord bearing and distance of S05°48'06"E, 302.00 feet, an arc length of 303.25 feet to a concrete monument; thence proceeding S03°54'31"E, 162.57 feet to a concrete monument; thence proceeding S24°45'08"E, 45.78 feet to a point in the center of the creek; thence following the creek centerline S54°53'30"W, 92.85 feet to a point; thence following the creek centerline S80°29'27"W, 42.27 feet to a point; thence following the creek centerline S77°11'27"W, 45.78 feet to a point; thence following the creek centerline S85°05'49"W, 34.67 feet to a point; thence following the creek centerline S35°45'15"W, 37.68 feet to a point; thence following the creek centerline N. 79°22'15"W, 23.49 feet to a point; thence following the creek centerline S56°18'52"W, 58.20 feet to a point; thence following the creek centerline S81°54'49"W, 47.17 feet to a point; thence following the creek centerline S84°56'19"W, 26.03 feet to a point; thence following the creek centerline S79°16'52"W, 33.49 feet to a point; thence following the creek centerline N76°36'20"W, 39.05 feet to a point; thence following the creek centerline N75°36'20"W, 23.30 feet to a point; thence following the creek centerline S22°45'02"W, 36.32 feet to a point; thence following the creek centerline N80°20'08"W, 23.26 feet to a point; thence following the creek centerline N01°08'00"E, 20.82 feet to a point; thence following the creek centerline N52°59'26"W, 44.15 feet to a point; thence following the creek centerline N23°36'16"W, 39.49 feet to a point; thence following creek centerline N55°36'57"W, 48.22 feet to a point; thence following the creek centerline S71°31'34"W, 38.67 feet to a point; thence following the creek centerline S19°14'48"E, 19.57 feet to a point; thence following the creek centerline S50°35'39"W, 30.67 feet to a point; thence following the creek centerline N30°28'21"W, 16.24 feet to a point; thence following the creek centerline N36°29'39"W, 33.63 feet to a point; thence following the creek centerline N76°19'46"W, 49.29 feet to a point; thence following the creek centerline S73°49'21"W 22.68 feet to a point; thence following the creek centerline S03°18'27"W, 37.42 feet to a point; thence following the creek centerline N77°39'36"W, 41.24 feet to a point; thence following the creek centerline N77°33'40"W, 41.48 feet to a point; thence following the creek centerline N27°56'03"W, 33.98 feet to a point; thence following the creek centerline N60°27'23"W, 33.10 feet to a point; thence following the creek centerline S32°16'34"W, 24.52 feet to a point; thence following the creek centerline S89°16'56"W, 15.72 feet to a point; thence following the creek centerline N45°13'18"W, 38.26 feet to a point; thence following the creek centerline N26°17'46"E, 25.62 feet to a point; thence following the creek centerline N09°35'24"W, 25.42 feet to a point; ;thence following the creek centerline N84°41'36"W 15.32 feet to a point; thence following the creek centerline N07°53'25"E, 41.75 feet to a point; thence following the creek centerline N32°48'04"W, 25.64 feet to a point; thence following the creek centerline N71°09'43"W, 43.35 feet to a point; thence

Exhibit A -2

NPCOL1:2559706.1-AGR-(SJV) 045392-00001

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following the creek centerline N10°59'52"W, 28.18 feet to a point; thence following the creek centerline N64°22'23"W, 21.10 feet to a point; thence following the creek centerline S61°33'26"W, 20.51 feet to a point, thence following the creek centerline N67°57'58"W, 19.33 feet to a point; thence following the creek centerline S87°51'09"W, 26.09 feet to a point; thence following the creek centerline S44°17'45"W, 42.36 feet to a point; thence following the creek centerline S85°30'34"W, 17.61 feet to a point; thence following the creek centerline N55°25'28"W, 25.30 feet to a point; thence following the creek centerline N09°20'09"W, 25.33 feet to a point; thence following the creek centerline N59°58'35"W, 51.28 feet to a point; thence following the creek centerline N29°43'27"W, 42.86 feet to a point; thence following the creek centerline N48°39'23"W, 60.79 feet to a point; thence following the creek centerline S78°10'45"W, 18.08 feet to a point; thence following the creek centerline N50°00'43"W, 29.92 feet to a point; thence following the creek centerline N10°37'24"W, 25.73 feet to a point; thence following the creek centerline N35°41'36"W, 25.40 feet to a point; thence following the creek centerline S78°12'03"W, 33.67 feet to a point; thence following the creek centerline N47°42'19"W, 23.71 feet to a point; thence following the creek centerline N51°00'09" W., 43.98 feet to a point; thence following the creek centerline N79°33'04"W, 43.89 feet to a point; thence following the creek centerline S36°46'14"W, 24.19 feet to a point; thence proceeding along property now or formerly of T. Walter Brashier N08°44'56"W, 1,493.05 feet to a #4 Rebar; thence along Parcel "B" the following courses: N66°21'58"E, for a distance of 103.97 feet to a #4 Rebar; thence proceeding along an arc of a curve to the right having a radius of 460.00 feet; an arc length of 86.99 feet, a chord bearing of N77°04'31"E a chord length of 170.96 feet to a #4 Rebar; thence proceeding S89°18'32"E for a distance of 197.20 feet to a #4 Rebar; thence proceeding along an arc of a curve to the left having a radius of 800.00 feet; an arc length of 405.98 feet; a chord bearing of N73°14'46"E and a chord length of 401.64 feet to a #4 Rebar; thence proceeding N58°42'22"E for a distance of 146.06 feet to a #4 Rebar; thence proceeding along a curve to the right having a radius of 50.00 feet, an arc length of 77.93 feet, a chord bearing of S76°38'30"E and a chord length of 70.28 feet to a #4 Rebar at the Point of Beginning (POB-A). Said parcel contains an area of 61.09 acres, more or less.

LESS HOWEVER: All that certain piece, parcel or tract of land situate, lying and being in the County of Richland, State of South Carolina, being shown and delineated as 1.46 acres on that certain survey title "Closing Survey for South Carolina Electric and Gas Company, Northpoint Industrial Park, 115/23kV Substation" prepared by Glenn Associates Surveying, Inc. dated August 9, 2006, and recorded in Book 1245, page 2240 in the Office of the Register of Deeds for Richland County, South Carolina, on October 27, 2006; said tract having such boundaries and measurements as shown on the Closing survey.

PARCEL II:

All that certain piece, parcel and tract of land situate, lying and being in the County of Richland, State of South Carolina, near the City of Columbia, located on Research Drive, containing 2.8658 acres, more or less, more fully shown on that certain Property Survey and Easement Map prepared for Carolina Park Associates by A & S of Columbia, Inc. dated March 17, 1998, last

Exhibit A -3

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revised March 24, 1998, and recorded in the Office of the Register of Deeds for Richland County in Book 29, page 447, also shown on that certain plat prepared for Katherine S. Milnor by Associated E & S, Inc. dated December 31, 1998, and recorded in the Office of the Register of Deeds for Richland County in Book 276, page 656. Reference to said plat is craved for a fuller description, with all measurements being a little more or less.

TOGETHER WITH

All of Katherine S. Milnor's right, title and interest in that certain non-exclusive, perpetual commercial easement more fully described in the Easement Agreement between Carolina Park Associates II and South Carolina Research Authority dated March 27, 1998, and recorded in the Office of the Richland County Register of Deeds in Book 32, page 389.

Exhibit A -4

NPCOL1:2559706.1-AGR-(SJM) 045392-00001

Item# 16

Attachment number 2
Page 37 of 37

Richland County Council Request of Action

Subject

An Ordinance Amending the Richland County Code of Ordinances; Chapter 26, Land Development; Article X, Subdivision Regulations; so as to add a new section that permits private road subdivisions in the RU (Rural) Zoning Districts [**PAGES 117-122**]

Notes

First Reading: July 26, 2011

Second Reading: September 6, 2011

Third Reading:

Public Hearing: July 26, 2011

STATE OF SOUTH CAROLINA
COUNTY COUNCIL FOR RICHLAND COUNTY
ORDINANCE NO. ___-11HR

AN ORDINANCE AMENDING THE RICHLAND COUNTY CODE OF ORDINANCES; CHAPTER 26, LAND DEVELOPMENT; ARTICLE X, SUBDIVISION REGULATIONS; SO AS TO ADD A NEW SECTION THAT PERMITS PRIVATE ROAD SUBDIVISIONS IN THE RU (RURAL) ZONING DISTRICTS.

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 26, Land Development; Article X, Subdivision Regulations; is hereby amended by the addition of a new section; to read as follows:

Sec. 26-225. Private road subdivisions.

- (a) Purpose. It is the intent and purpose of this section to furnish a means of subdividing property in the RU zoning district of the county without incurring the costs associated with major subdivisions.
- (b) Applicability. The provisions of this section shall only apply to the RU (Rural) zoning district.
- (c) Special requirements for private road subdivisions.
 - (1) Review. Subdivision of property for a private road subdivision is subject to the minor subdivision review procedure found at Sec. 26-54(c)(2). All Planning Department subdivision plan review fees shall be waived; provided, however, all fees charged by DHEC (and collected by the Richland County Public Works Department) shall be paid by the applicant.
 - (2) Roads. Roads within a private road subdivision shall be exempt from the road paving requirements of Sec. 26-181 of this chapter, but shall not be exempt from any other road design requirement. Roads within a private road subdivision shall not be eligible or accepted for county maintenance, which is otherwise provided pursuant to Section 21-5 of the Richland County Code of Ordinances, until they meet the road construction standards provided in Chapter 21 of the Richland County Code. The roadway shall have a minimum right-of-way width of sixty-six (66) feet and minimum twenty (20) foot wide passable surface, which meets the standards established and set forth by the county engineer. The subdivision documents shall include a conspicuous statement stating that

improvements to the roadway without the approval of the county engineer are prohibited.

(3) Sidewalks. Private road subdivisions shall be exempt from the sidewalk requirements of Sec. 26-179 of this chapter.

(4) Size of lots. Any and all lots created in a private road subdivision shall conform to the RU zoning district's requirements.

(5) Number of lots. An owner of land may subdivide a tract of land pursuant to this section provided that no more than seven (7) lots result from the subdivision.

(6) Number of dwelling units. Only one (1) dwelling unit shall be permitted on each lot.

(7) E-911 requirements. The road, and each lot, shall conform to the county's E-911 system addressing and posting requirements.

(d) Legal documents required. An applicant for a private road subdivision shall submit:

(1) The necessary legal documents that:

a. Clearly provide permanent access to each lot.

b. State that the county shall not be responsible for either construction or routine (i.e. recurring) maintenance of the private road.

c. Clearly state that the parcels created by this process shall not be divided again, except in full compliance with all regulations in effect at the time.

(2) A "Hold Harmless Agreement" as to Richland County.

All legal documents shall be provided in a form acceptable to the county legal department.

Secs. 26-226 – 26-250. Reserved.

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

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

SECTION IV. Effective Date. This ordinance shall be effective from and after _____, 2011.

RICHLAND COUNTY COUNCIL

BY: _____
Paul Livingston, Chair

Attest this the _____ day of
_____, 2011

Michelle M. Onley
Assistant Clerk of Council

RICHLAND COUNTY ATTORNEY'S OFFICE

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

Public Hearing: July 26, 2011
First Reading: July 26, 2011
Second Reading: September 6, 2011 (tentative)
Third Reading:

Section Two. Effective Date.

This Agreement shall be effective once signed by the parties or an authorized representative of the parties and once the requirements of the Richland County Code of Ordinances have been satisfied with respect to subject property, and the duties and obligations of the Applicant shall continue in full force and effect thereafter.

Section Three. Ingress and Egress to Subject Lots.

Applicant shall bear full responsibility for all costs and expenses for construction, maintenance, repair, provision or improvement of a private road or roads to or across the subject property or to any of the lots created by the subdivision process.

Section Four. Property Damage Liability/Indemnity.

(a) Applicant acknowledges that Richland County shall not be responsible to construct, maintain, repair, provide, improve, or maintain ingress or egress to the subject property or to any of the lots created by the subdivision process. In no event shall Richland County bear any costs or expenses of whatever nature in the construction, maintenance, repair, or provision of ingress or egress to or across the subject property or to any of the lots created by the subdivision process.

(b) Applicant further agrees to indemnify and to hold harmless Richland County, its employees, officers, agents, contractors, subcontractors, and successors and assigns from and against any and all liability, damages, losses, costs, expenses, demands, claims, suits, actions and causes of action as a result of the creation of lots pursuant to the this subdivision process, and the construction of any and all private roads to the subject property or to any of the lots created as a result of this subdivision process.

Section Five. Personal Injury and Property Damage Liability/Indemnity.

Any liability for personal injury or to any worker employed to construct, repair, maintain or otherwise work on any easement, right of way, access road, or way for ingress or egress to said property or lot(s) shall be borne solely by Applicant, and in no event shall Richland County be held liable for any injuries or for any transaction or occurrence in connection with any easement, right of way, access road, or way for ingress or egress to subject property or lot(s). Landowner agrees to indemnify and to hold harmless Richland County, its employees, successors and assigns from and against any and all liability for personal injury or property damage when such injury or damage shall be attributable to any construction, repair or maintenance undertaken pursuant to this Agreement.

Section Six. Miscellaneous.

(a) **Governing Laws/Disputes.**

Notwithstanding any other provision of this Agreement, any dispute concerning any question of fact or law arising under this Agreement which is not disposed of by agreement between the parties shall be decided by a court of competent jurisdiction of the State of South Carolina, in accordance with the laws of South Carolina.

(b) **Changes.**

Applicant is not authorized to make changes to this Agreement without prior written permission from Richland County. No agreement hereafter made between the parties shall be binding on either party unless reduced to writing and signed by an authorized officer of the party sought to be bound thereby.

(c) This Agreement may be executed in any number of counterparts, each of which shall be regarded as an original and all of which shall constitute one and the same instrument.

(d) The parties agree that should any provision, clause, term, paragraph or phrase of this agreement be rendered void or ineffective by the order of any court, then the remaining terms of the agreement will remain in full force and effect.

APPLICANT HAS READ THIS AGREEMENT, UNDERSTANDS IT AND AGREES TO BE BOUND BY ITS TERMS. NO MODIFICATIONS SHALL BE EFFECTIVE UNLESS IN WRITING SIGNED BY BOTH PARTIES.

IN WITNESS WHEREOF, the parties hereto have caused this agreement to be executed by their duly authorized and empowered officers or agents as of the date set forth above.

APPLICANT

WITNESSES:

Address: _____

RICHLAND COUNTY

WITNESSES:

By: _____

Its: _____

Richland County Council Request of Action

Subject

An Ordinance Amending the Fiscal year 2011-2012 Neighborhood Improvement and Community Development Fund Annual Budgets to appropriate \$48,641 of Neighborhood Improvement Undesignated Fund Balance for transfer to the Community Development Fund for the CDBG and HOME administrative shortfall **[PAGES 124-126]**

Notes

September 27, 2011 - The A&F Committee recommended that Council approve the request to transfer \$48,641 from Neighborhood Improvement to the Community Development Department. The vote was in favor.

First Reading: October 4, 2011

Second Reading:

Third Reading:

Public Hearing:

STATE OF SOUTH CAROLINA
COUNTY COUNCIL FOR RICHLAND COUNTY
ORDINANCE NO. __-11HR

AN ORDINANCE AMENDING THE FISCAL YEAR 2011-2012 NEIGHBORHOOD IMPROVEMENT AND COMMUNITY DEVELOPMENT FUND ANNUAL BUDGETS TO APPROPRIATE \$48,641 OF NEIGHBORHOOD IMPROVEMENT UNDESIGNATED FUND BALANCE FOR TRANSFER TO THE COMMUNITY DEVELOPMENT FUND FOR THE CDBG AND HOME ADMINISTRATIVE SHORTFALL.

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. That the amount of forty eight thousand six hundred and forty one dollars (\$48,641) be appropriated in the Neighborhood Improvement Fund and transferred to Community Development. Therefore, the Fiscal Year 2011-2012 Neighborhood Improvement and the Community Development Department Annual Budgets are hereby amended as follows:

NEIGHBORHOOD IMPROVEMENT - REVENUE

Revenue appropriated July 1, 2011 as amended:	\$ 896,169
Appropriation of Neighborhood Improvement undesignated fund balance:	<u>48,641</u>
Total Neighborhood Improvement Revenue as Amended:	\$ 944,810

NEIGHBORHOOD IMPROVEMENT - EXPENDITURES

Expenditures appropriated July 1, 2011 as amended:	\$ 896,169
Transfer Out to Community Development Fund:	<u>48,641</u>
Total Neighborhood Improvement Expenditures as Amended:	\$ 944,810

COMMUNITY DEVELOPMENT - REVENUE

Revenue appropriated July 1, 2011 as amended:	\$ 2,966,051
Transfer in from Neighborhood Improvement:	<u>48,641</u>
Total Community Development Fund Revenue as Amended:	\$ 3,014,692

COMMUNITY DEVELOPMENT - EXPENDITURES

Expenditures appropriated July 1, 2011 as amended:	\$ 2,966,051
Increase to Community Development Fund Expenditures:	<u>48,641</u>
Total Community Development Fund Expenditures as Amended:	\$ 3,014,692

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

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

SECTION IV. Effective Date. This ordinance shall be enforced from and after _____, 2010.

RICHLAND COUNTY COUNCIL

BY: _____
Paul Livingston, Chair

ATTEST THIS THE ____ DAY

OF _____, 2011

Michielle R. Cannon-Finch
Clerk of Council

RICHLAND COUNTY ATTORNEY'S OFFICE

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

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

Richland County Council Request of Action

Subject

- a. 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 related to Project Cyrus; and other related matters **[FIRST READING] [PAGES 128-130]**

- b. An Ordinance Authorizing a deed to Cohn & Cohn Investments, LLC, for approximately 4.94 acres of land, constituting a portion of Richland County TMS # 25800-04-01 **[FIRST READING] [PAGE 131]**

STATE OF SOUTH CAROLINA
COUNTY COUNCIL FOR RICHLAND COUNTY
ORDINANCE NO. []

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 RELATED TO PROJECT CYRUS; AND OTHER RELATED MATTERS.

WHEREAS, Richland County, South Carolina (“Richland”), and Fairfield County, South Carolina (“Fairfield”) (collectively, “Counties”), as authorized under Article VIII, Section 13(D) of the South Carolina Constitution and Section 4-1-170 of the Code of Laws of South Carolina, 1976, as amended (“Act”), have jointly developed the I-77 Corridor Regional Industrial Park (“Park”);

WHEREAS, the Counties have entered into separate agreements to reflect each new phase of expansion of the Park (“Phase Agreements”);

WHEREAS, on April 15, 2003, the Counties entered into an agreement entitled “Master Agreement Governing the I-77 Corridor Regional Industrial Park” (“Master Agreement”), the provisions of which replaced all existing Phase Agreements and now govern the operation of the Park; and

WHEREAS, Richland now desires to expand the boundaries of the Park to include property located in Richland and described on the attached Exhibit A (collectively, “Property”).

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

Section 1. Expansion of Park Boundaries. There is hereby authorized an expansion of the Park boundaries to include the Property. The County Council Chair, or the Vice Chair in the event the Chair is absent, the County Administrator and the Clerk to the County Council are hereby authorized to execute such documents and take such further actions as may be necessary to complete the expansion of the Park boundaries. Pursuant to the terms of the Master Agreement, the expansion shall be complete upon the adoption of this Ordinance by the Richland County Council and a companion ordinance by the Fairfield County Council.

Section 2. Savings Clause. If any portion of this Ordinance shall be deemed unlawful, unconstitutional or otherwise invalid, the validity and binding effect of the remaining portions shall not be affected thereby.

Section 3. General Repealer. Any prior ordinance, the terms of which are in conflict herewith, is, only to the extent of such conflict, hereby repealed.

Section 4. Effectiveness. This Ordinance shall be effective after third and final reading.

RICHLAND COUNTY COUNCIL

By: _____
Paul Livingston, Chair

(SEAL)

Attest this _____ day of
_____, 2011

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:

EXHIBIT A
LEGAL DESCRIPTION OF PROPERTY

(Approximately 2.8658 Acres)

All that certain piece, parcel and tract of land situate, lying and being in the County of Richland, State of South Carolina, near the City of Columbia, located on Research Drive, containing 2.8658 acres, more or less, more fully shown on that certain Property Survey and Easement Map prepared for Carolina Park Associates by A & S of Columbia, Inc. dated March 17, 1998, last revised March 24, 1998, and recorded in the Office of the Register of Deeds for Richland County in Book 29, page 447, also shown on that certain plat prepared for Katherine S. Milnor by Associated E & S, Inc. dated December 31, 1998, and recorded in the Office of the Register of Deeds for Richland County in Book 276, page 656. Reference to said plat is craved for a fuller description, with all measurements being a little more or less.

TOGETHER WITH

All of Katherine S. Milnor's right, title and interest in that certain non-exclusive, perpetual commercial easement more fully described in the Easement Agreement between Carolina Park Associates II and South Carolina Research Authority dated March 27, 1998, and recorded in the Office of the Richland County Register of Deeds in Book 32, page 389.

STATE OF SOUTH CAROLINA
COUNTY COUNCIL FOR RICHLAND COUNTY
ORDINANCE NO. ____ -11HR

AN ORDINANCE AUTHORIZING A DEED TO COHN & COHN INVESTMENTS, LLC, FOR APPROXIMATELY 4.94 ACRES OF LAND, CONSTITUTING A PORTION OF RICHLAND COUNTY TMS # 25800-04-01.

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

SECTION I. The County of Richland and its employees and agents are hereby authorized to grant a deed to COHN & COHN INVESTMENTS, LLC, for certain real property known as a portion of Richland County TMS# 25800-04-01 and consisting of approximately 4.94 acres, as specifically described in the Title To Real Estate, which is attached hereto and incorporated herein.

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

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

SECTION IV. Effective Date. This ordinance shall be enforced from and after _____, 2011.

RICHLAND COUNTY COUNCIL

By: _____
Paul Livingston, Chair

Attest this _____ day of _____, 2011.

Michelle Onley
Assistant Clerk of Council

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

Richland County Council Request of Action

Subject

Midlands Workforce Development Board-5 appointments [3 applications were received] The following are recommended for appointment: **[PAGE 133]**

- a)** TANF Agency, Allen Carter (application included)-Richland County DSS **[PAGE 134]**
- b)** Vocational Education, Vann Gunter*-Midlands Technical College
- c)** Education, David Prigge*-Richland School District One, CATE
- d)** Community Action Agency, Julia Lawson (application included) Wateree Community Action Agency **[PAGE 135]**
- e)** Private Sector, Jeri Boysia*-Companion Property & Casualty Group; Dennis Hunter (application included)-Manpower Group **[PAGE 136]**

Richland County appointments

September 2011

TANF agency

Replacing Garnell Cauley

Allen Carter (application included) – Richland CO DSS

Vocational Education

Vann Gunter

eligible for reappointment and willing – Midlands Technical College

Education

David Prigge

eligible for reappointment and willing – Richland School District One – CATE

Community Action Agency

Replacing JoAnne Richardson

Julia Lawson (application included) – Wateree Community Action Agency

Private Sector

Jeri Boysia

eligible for reappointment and willing – Companion Property & Casualty Group

Additional seat identified

Dennis Hunter (application included) – Manpower Group



APPLICATION FOR SERVICE ON RICHLAND COUNTY COMMITTEE, BOARD OR COMMISSION

Name: Allen Carter

Home Address: 6205 Briarwood Rd. Columbia, SC 29206

Office Address: 3220 Two Notch Rd. Columbia, SC 29204

Job Title and Employer: County Director, Richland County DSS

Telephone: (home) 803-315-1258 (work) 803-714-7373

Educational Background: BS, Appalachian State University

Professional Background: 31+ years with the Dept. of Social Services

Male Female Age: 18-25 26-50 Over 50

Name of Committee in which interested: Midlands Workforce Development Board

Reason for interest: The Midlands Workforce Development Board and DSS share a common goal of getting unemployed and under employed citizens into jobs paying a living wage.

Characteristics/Qualifications which would be an asset to Committee/Board/ Commission: I have worked with the same clientele as the Midlands Workforce Development Board for many years. I feel that my experience will be an asset.

Presently serve on any County Board/Commission/Committee? No

Any other information you wish to give? _____

Recommended by Council Member(s): _____

Applicant's Signature [Signature] Date 9/29/11

One form must be submitted for each committee on which you wish to serve.



APPLICATION FOR SERVICE ON RICHLAND COUNTY
COMMITTEE, BOARD OR COMMISSION

Name: Julia T. Lawson

Home Address: 4824 Smallwood Rd Apt. 82, Columbia, SC 29223

Office Address: 3220 Two Notch Rd, Columbia SC 29202

Job Title and Employer: Richland County Coordinator – Wateree Community Actions, Inc.

Telephone: (cell) (803) 464-5528 (work) (803) 786-4250 ext. 103

Educational Background: Attended CCTC and currently South University

Professional Background: _____

Male Female Age: 18-25 26-50 Over 50

Name of Committee in which interested: Midlands Workforce Development Board

Reason for interest: To partner with and become more aware of different programs offered in Richland County for our residents.

Characteristics/Qualifications which would be an asset to Committee/Board/ Commission: Coordinate Richland County locations with the LIHEAP/CSBG programs. I am able to provide the Board with updates with these programs to help better serve and inform our community.

Presently serve on any County Board/Commission/Committee? Parents and Students

Succeed Project (PASS)

Any other information you wish to give? _____

Recommended by Council Member(s): _____

Applicant's Signature Julia T. Lawson Date 9/29/2011

One form must be submitted for each committee on which you wish to serve.

Item# 20

Attachment number 1
Page 3 of 4



APPLICATION FOR SERVICE ON RICHLAND COUNTY COMMITTEE, BOARD OR COMMISSION

Name: Dennis R. Hunter

Home Address: 20 Top Flight Court Irmo SC 29063

Office Address: 1410 Colonial Life Blvd. Suite 270 Columbia SC 29210

Job Title and Employer: Branch Manager - Manpower

Telephone: (home) 803-546-1200 (work) 803-731-5469

Educational Background: Some College

Professional Background: Multi-Unit Management, Staffing

Male Female Age: 18-25 26-50 Over 50

Name of Committee in which interested: Midlands Workforce Development Board

Reason for interest: The opportunity to use my knowledge of employment and workforce trends to serve the community in which I live and work.

Characteristics/Qualifications which would be an asset to Committee/Board/ Commission: I am able to share resources and expertise in areas such as training, placement, community outreach and labor market information. Manpower has approximately 52 Regional Directors and Branch Managers across the country currently sitting on workforce boards. The ability to leverage best practices and trends with other WIB's is an added value.

Presently serve on any County Board/Commission/Committee? N/A

Any other information you wish to give? Current Board Member and Volunteer for Central Midlands Junior Achievement. Past Co-Chairman of Midlands Employer Council.

Recommended by Council Member(s): _____

Applicant's Signature [Signature] Date 10/10/2011

One form must be submitted for each committee on which you wish to serve.

Richland County Council Request of Action

Subject

When speaking during the citizen's input portion of council meetings, persons currently serving on Richland County Commissions of any kind are not allowed to use their title or the commission name unless they have received unanimous consent from the commission to do so **[MALINOWSKI] [PAGES 138-139]**

- 7) Report of County Administrator: The County Administrator shall make recommendations or announcements concerning county affairs; but no action shall be taken on any item without proper notice, except in case of extreme emergency.
- 8) Report of Clerk of Council: The Clerk of Council shall make announcements, if any, concerning county affairs.
- 8.5) Report of the Chair: The Chair of Council shall make announcements if any, concerning county affairs.
- 9) Presentations: The party requesting to make the presentation shall set forth 1) the name of the person, group, association or entity making the presentation, 2) the name and contact information for the presenter(s) of spokesperson(s) thereof, and 3) the substance of the presentation. Absent unusual circumstances, the request should be no more than one page in length and should be timely submitted (i.e., in advance of the agenda deadline for the meeting wherein the matter is intended to appear as a presentation "request") to the Clerk's Office. Presentations shall be limited to five (5) minutes per presentation, and shall be heard on the third Tuesday of the month. Presentations of time sensitive matters, as determined by the Chair or Vice-Chair in his absence, of Council may be heard at any regular or special called meeting of Council. All presentation, regardless of topic, shall be approved by the Chair before placement on any Council agenda. No presentation shall be heard which is not on the Council agenda prior to the start of the meeting. No more than three presentations will be allowed at each meeting. The purpose of this rule is so that Council may plan its meetings accordingly, given the variety of presentations and lengths thereof, and to assess the merits of a given presentation. Presentations shall not be used to request funding or resources support from the County.
- 10) Public Hearings: Each citizen who has "signed up" may speak to Council concerning an item for which there is a public hearing for up to 2 minutes; provided, however, the entire public hearing time for any one item shall not exceed 30 minutes. Any material that a citizen intends to present to Council, including audio and visual presentations, must be approved by the Clerk of Council prior to the meeting. Exceptions may be made with the consent of a simple majority of those Council members present. The Chair will request that in the event a citizen who has signed up to speak intends to speak, or does speak, on behalf of any group, association, community or anyone besides or in addition to himself or herself, that the speaker advise Council during his or her public hearing input of that fact, and name or identify anyone else for whom the citizen is speaking or represents.
- 11) Consent items: Items shall consist of those matters that do not require further discussion by Council that have been forwarded to Council by the unanimous vote of the Committee. Any member of Council can remove an item from the Consent Agenda prior to adoption of the agenda. The Chair has the discretion to place items on the Consent Agenda, if in the judgement of the Chair; those items are unlikely to be debated.
- 12) Third reading: final approval of Ordinances.
- 13) Second reading.

- 14) Requests by Council members: items may include those that were defeated (or deferred beyond 90 days) by committee and reintroduced by three Council Members' signatures.
- 15) Second Citizen Input: Any citizen who wishes to introduce an item for consideration not currently under Council's consideration or bring a concern to Council's attention may speak for no more than two minutes; provided, however, the entire second citizen input time shall not last longer than 30 minutes. Items for which a public hearing is required or has been scheduled cannot be addressed at this time. Exceptions may be made with the consent of a simple majority of those Council members present. The Chair will request that in the event a citizen who has signed up to speak intends to speak, or does speak, on behalf of any group, association, community or anyone besides or in addition to himself or herself, that the speaker advise Council during his or her citizen input of that fact, and name or identify anyone else for whom the citizen is speaking or represents.
- 16) Second County Attorney's Report of Executive Session items: The County Attorney shall report on the remaining Executive Session items. Council shall move to take action or to receive as information each item that has been discussed in executive session.
- 17) Motion period/Announcements: Any Council member may make an announcement or introduce an item (excluding resolutions) for referral to a Committee. However, any Council member wishing to make a motion during the "motion period" must have transmitted a written request to the Clerk's Office by the deadline for posting the agenda of a regularly scheduled meeting of Council in accordance with the South Carolina Freedom of Information Act (i.e., twenty-four hours prior to such meeting) so that the nature of the motion appears on the agenda. Motions for resolutions and ordinances may be referred to a Committee for further deliberation or, by unanimous consent, the resolution shall be deemed adopted or the ordinance may be sent forward for second reading. Further, any Council member may make a motion directing the county administrator to take action on a county-related matter; and upon approval of a majority of members present and voting, the county administrator shall act upon the directive given.

When referring an item to committee, a Council Member must specify the intent of his or her motion. The Council Member may:

- a) Refer an item to a committee for action.
- b) Refer an item to a committee for discussion.
- c) Refer an item to committee for the purpose of receiving information or an update from staff and/or legal.
- d) Refer an item to committee for a presentation.
- e) Any Council member may make a motion directing the county administrator to take action on a county-related matter; and upon approval of a majority of members present and voting, the county administrator shall act upon the directive given.

Richland County Council Request of Action

Subject

CMRTA Nominees for appointment:

- a. Willis "Trip" Gregory, III [**LIVINGSTON**] [**PAGE 141**]
- b. Jame "Mac" McCauley Bennett [**LIVINGSTON**] [**PAGE 142**]

Willis Gregory, III (Trip)
Senior Vice President of Human Resources
Palmetto Health
Columbia, SC

Trip graduated from Furman University with a BA in Business in 1970 and obtained an MS in Psychology from Francis Marion University in 1986. His work history includes a stint in finance as Controller for First Carolina Savings and Loan Association, Columbia, SC. In the mid 70s he moved into Human Resources Administration at McLeod Regional Medical Center, Florence, SC, where he spent the next thirteen years. In August, 1991, Trip was appointed Director of Human Resources for South Carolina Baptist Hospitals. Today he holds the office of Senior Vice President for Human Resources for Palmetto Health, a merger of Richland Memorial Hospital and Baptist Healthcare System of S.C .

His background is as a human resources generalist responsible for recruiting, retention, Total Rewards, occupational health, employee relations, labor relations, training, organizational development, policy development, internal staffing agency and a variety of other human resource related issues. He has a lifetime credential as a Senior Professional in Human Resources by the Society for Human Resource Management (SHRM).

He has recreated his HR service delivery system to become a nationally recognized model capable of impressive delivery turnaround. The Palmetto Health leadership team and HR are responsible for Palmetto Health being recognized by Modern Healthcare Magazine as a **100 Best Places to Work in Healthcare** award winner, four years in a row. Most recently Palmetto Health has been honored by the SC Chamber of Commerce as a **2010 Best Place to Work in South Carolina for the fourth year in a row**. In 2011, Trip was named Human Resources Professional of the Year by the SC Chamber of Commerce.

Trip serves on several community and statewide boards, including the SC Chamber of Commerce, Children Come First, an advocacy coalition for improving South Carolina's foster care system, SC Diversity Council, HR Advisory Committee of the Columbia Chamber of Commerce, Junior Achievement of Central South Carolina, Midlands Education and Business Alliance, (MEBA) and is a graduate of the Diversity Leadership Institute, an academy of the Richard W. Riley Institute of Government, Politics, and Public Leadership at Furman University.

Contact:

Willis Gregory, III
SVP – Human Resources
Palmetto Health
1301 Taylor St.
Columbia, SC 29202
Ofc. 803-296-5221
Fax 803-296-3363
trip.gregory@palmettohealth.org

James McCauley (Mac) Bennett

* * *

Since March 2005, Mac Bennett has served as President and Chief Executive Officer of United Way of the Midlands in Columbia, South Carolina.

Prior to that time he served as Executive Director of the Central Carolina Community Foundation in Columbia for 14 years. From 1980 to 1991, Bennett held a variety of positions with the University of South Carolina, including Executive Assistant to the President, Chief of Staff of the Byrnes International Center and Assistant Vice President for Administration.

Bennett is a founding director of the South Carolina Association of Nonprofit Organizations (SCANPO) and served as the first chairman of the organization's Board of Directors. Throughout his career, Bennett has been instrumental in efforts to improve training and education for people working in the nonprofit sector. He has served on the SC Department of Revenue's Exempt Organizations Advisory Committee and currently serves on the SC Secretary of State's Exempt Organizations Advisory Board.

Bennett has served on a variety of nonprofit boards during his career. He currently serves on the Board of Directors Richland School District Two Foundation, SCANPO and the S. C. Philharmonic Advisory Board. Bennett also serves on the Nord Family Foundation Board of Trustees. Bennett is active with his church as a Sunday School teacher and Elder.

Bennett holds a bachelor's degree in finance and management from the University of South Carolina. He is also a Certified Fund Raising Executive (CFRE) with the Association of Fund-Raising Professionals. He is married to Leslie Woods Bennett, and they have two children, Evans who works for Schlumberger in Louisiana and McCauley who is pursuing a graduate degree at the Savannah College for Arts and Design.

Richland County Council Request of Action

Subject

Caughman Property Feasibility Study [**PAGES 144-148**]

AGREEMENT OF PURCHASE AND SALE

THIS AGREEMENT made this _____ day of _____, 2011, by and between _____ (hereinafter "Seller"), whose address is _____, and **RICHLAND COUNTY, SOUTH CAROLINA** (hereinafter "Purchaser"), whose address is Attention: Milton Pope, County Administrator, 2020 Hampton Street, Room 4058, Columbia, South Carolina 29201.

In consideration of the mutual covenants contained herein, the parties agree as follows:

1. **Property.** Seller agrees to sell and transfer and Purchaser agrees to purchase and accept, upon the terms and conditions hereinafter set forth, that certain parcel of land, together with improvements thereon, situate, lying and being on Garners Ferry Road in (or near) the City of Columbia, Richland County, South Carolina, Richland County **EXHIBIT A** All that certain piece, parcel or lot of land with improvements thereon, situate. Lying and being near the City of Columbia, in the County of Richland, State of South Carolina, consisting of 44 Acres, subject to a proper survey. Said property is described and delineated in the Tax Map Books of Richland County on page 19011, in Block #2, as Lot 01 and a portion of Lot 2 and further described in a sketch which is attached to this contract., a copy of such map or sketch being attached hereto as Exhibit A and made a part hereof (the "Property").
2. Tax Map Parcel containing 44 acres, a copy of such map or sketch being attached hereto as Exhibit A and made a part hereof (the "Property").
3. **Purchase Price.** The purchase price shall be One Million Dollars (\$1,000,000.00) (the "Purchase Price") and shall be payable at closing by Purchases to Seller by bank wire transfer or by cashier's check or attorney escrow check.
4. **Feasibility Study.** Any provision hereof to the contrary notwithstanding, Purchaser shall have until _____ () days after the date hereof (the "Feasibility Period") to perform surveys appraisals and such other tests, evaluations and examinations of the Property as Purchaser may desire. In the event the results of Purchaser's tests, evaluations and analyses are not satisfactory to Purchaser in its sole discretion or if for any other reason Purchaser elects not to purchase the Property, Purchaser may on or before the last day of the Feasibility Period terminate this Agreement by written notice to Seller. In such event, this Agreement shall be deemed terminated, and Purchaser shall have no obligation to purchase the Property.

5. **Subject to County Council Approval.** This Agreement is being executed by the County Administrator subject to the condition that this Agreement and the appropriation of funds to close must be approved by Richland County Council.
6. **Title and Survey.** Seller shall satisfy all mortgage liens and all other liens on the Property at Closing. Seller will convey the Property by general warranty deed subject to easements and restrictions of record and matters of survey, provided that such are acceptable to Purchaser. If any of such matters are not acceptable to Purchaser, Purchaser may terminate this Agreement and receive a refund of any monies paid to Seller. Seller will furnish a recent and accurate survey.
7. **Closing.** Closing shall be held on a date to be determined by the parties, and shall take place at the offices of _____ or at such other place as the parties may otherwise agree.
8. **Closing Documents.** Seller shall execute and deliver the following to Purchaser at Closing:
 - (a) Deed. A general warranty deed, subject to easements and restrictions of record and matters of survey. The deed shall be in proper form for recording and shall be duly executed, witnessed and acknowledged.
 - (b) Affidavits, Residency Certificate, Tax Compliance Certificate. If applicable under law or if required by Purchaser's title insurance company, affidavits and indemnification agreements that there are no amounts owed for labor, materials or services respecting the Property and that there are no parties in possession except under current leases, any residency certificates pursuant to S.C. Code § 12-5-850 and Section 1445 of the U.S. Internal Revenue Code, and a current tax compliance certificate from the South Carolina Department of Revenue, if required under applicable law.
9. **Closing Costs, Taxes and Assessments.** Each of the parties shall pay its own attorney's fees arising from this transaction. Seller shall pay the transfer tax on the deed and any and all general and special assessments against the Property. Ad valorem taxes shall be prorated on a calendar year basis. If the current year tax amount is not available, the parties shall prorate based on an estimate and either party shall be entitled to seek an adjustment of the proration based on the actual tax amount no later than March 31 of the following year.
10. **Assigns.** This Agreement shall be binding upon and shall insure to the benefit of the parties hereto and their respective heirs, executors, administrators, legal representatives, successors and assigns.
11. **No Commissions.** Seller agrees to pay all commissions and brokerage fees.

12. **Entire Agreement.** It is understood and agreed that all understandings and agreements heretofore and between the parties hereto are merged in this Agreement, which alone fully and completely expresses their agreement, neither party relying upon any statement or representation not embodied in this Agreement, made by the other. The covenants and warranties contained herein shall survive the Closing.
13. **Modification.** This Agreement may not be modified or amended nor shall any of its provisions be waived except by a written instrument signed by Seller and Purchaser.
14. **Possession.** Possession of the Property will be delivered at Closing.
15. **Severability.** In the event any provision in this Agreement shall be held by a court of competent jurisdiction after final appeal (if any) to be illegal, unenforceable or contrary to public policy, then such provision shall be stricken and the remaining provisions of this Agreement shall continue in full force and effect.
16. **Seller** has the right to do a 1031 exchange related to this transaction.
17. **Paragraph Headings.** The paragraph headings contained herein are for convenience only, and should not be construed as limiting or altering the terms hereof.
18. **Governing Law.** This Agreement shall be construed and enforced according to the laws of the State of South Carolina.
19. **Notices.** All notices required or permitted to be given hereunder shall be in writing and either hand delivered or sent by certified mail, return receipt requested, to the party to be notified at its address set forth above. Notice by mail shall be effective on the date of receipt as evidenced by signed receipt.

IN WITNESS WHEREOF, this Agreement has been duly signed, sealed and delivered by the parties hereto the day and year first above written.

Witnesses:

SELLER

By: _____ (SEAL)

PURCHASER

RICHLAND COUNTY, SOUTH CAROLINA

By: _____ (SEAL)

J. Milton Pope
County Administrator

MINUTES FROM FY11-12 BUDGET

Richland County Council
Special Called
Thursday, May 26, 2011

Hospitality Tax: (Motion that Richland County use \$900,000 from the Hospitality Tax funds to purchase the proposed Caughman Pond property) – Mr. Jackson moved, seconded by Mr. Jeter, to approve \$900,000 for this item.

<u>For</u>	<u>Against</u>
Malinowski	Pearce
Jackson	Hutchinson
Jeter	Livingston
Dickerson	Rose
Manning	
Kennedy	
Washington	

The vote was in favor.

Richland County Council Request of Action

Subject

CMRTA IGA Ratification [**PAGES 150-169**]

Francenia B. Heizer

fheizer@mcnair.net
T (803) 799-9800
F (803) 933-1463

MEMORANDUM

To: The Honorable Paul Livingston, Richland County Council Chair
J. Milton Pope, Richland County Administrator

Cc: Larry A. Smith, Esquire, County Attorney
Roxanne Anchetta, Assistant to the County Administrator

From: Francenia B. Heizer, Esquire

Date: October 13, 2011

Subject: CMRTA/IGA

Attached is the most recent version of the IGA with changes from the last version bolded and underlined. These changes relate to the following:

1. Lexington County - As you will see in Section 6.01, the numbers have been completed for Lexington County, a provision has been included to re-calculate their contribution upon a service reduction, and a provision has been included that Lexington County will pay monthly. Also language has been added clarifying that the amount paid by Lexington will include a prorata share of overhead/administrative costs.

2. Financial Reporting Requirements – Section 7.03 has been changed to include a requirement that the quarterly report be received within thirty days of the end of the previous quarter, a requirement that a CPA firm participate in the design and preparation of the quarterly report, and an acknowledgement that compliance with the quarterly reporting is a pre-condition to receiving payment from the Counties and the City.

3. Funding in FY2011-2012 - The City of Columbia has added the following sentence at the end of Section 5.01: “The City’s second quarterly payment to the CMRTA shall be reduced by consulting fees and costs to be paid by the City to Wilbur Smith in the amount of Twenty-five Thousand One Hundred Thirty-six and no/100 (\$25,136.00) Dollars.”

Please let me know if you have any questions. I plan to attend the County Council meeting on the 18th to give an update on the CMRTA’s compliance with previously-imposed requirements and can be available to answer questions County Council may have regarding the IGA.

FBH:laf
Attachment

McNair Law Firm, P. A.
1221 Main Street
Suite 1800
Columbia, SC 29201

Mailing Address
Post Office Box 11390
Columbia, SC 29211

mcnair.net

**INTERGOVERNMENTAL AGREEMENT
RELATING TO
THE INTERIM FINANCING FOR THE
CENTRAL MIDLANDS REGIONAL TRANSIT AUTHORITY**

*Richland County, South Carolina
City of Columbia, South Carolina
Lexington County, South Carolina
The Central Midlands Regional Transit Authority*

This agreement (this “Agreement”) is made and entered into as of October 1, 2011, by and between Richland County, South Carolina (“Richland County”), a body politic and corporate with such government rights, privileges, and liabilities as other counties possess under the provisions of the general laws of the State of South Carolina (the “State”); the City of Columbia (the “City”), a body politic and corporate with such government rights, privileges, and liabilities as other municipalities possess under the provisions of the general laws of the State; Lexington County, South Carolina (“Lexington County”), a body politic and corporate with such government rights, privileges and liabilities as other counties possess under the provisions of the general laws of the State; and the Central Midlands Regional Transit Authority (the “CMRTA”), a regional transit authority created and existing pursuant to South Carolina Code Section 58-25-10, *et seq.*, which has as its members the City, Richland County, Lexington County, and various municipalities therein, and has been created to provide a public transportation system.

WITNESSETH:

WHEREAS, the initial funding for the operation of the CMRTA, which was established in 2002, was provided from a number of sources, including funds from South Carolina Electric & Gas Co. (“SCE&G”), a subsidiary of SCANA Corporation, payments from the City pursuant to an Agreement dated October 16, 2002, federal funds, and farebox revenues; and

WHEREAS, beginning in 2006, funding from SCE&G was decreased and in October 2009, the CMRTA received its final payment from SCE&G; and

WHEREAS, pursuant to a Memorandum of Understanding dated December 5, 2006, Richland County provided interim financing to replace a portion of the SCE&G funds; and

WHEREAS, pursuant to an Intergovernmental Agreement entered into in April 2009, Richland County and the City are providing interim financing through June 30, 2011; and

WHEREAS, pursuant to an Addendum to the Intergovernmental Agreement Relating to the Interim Financing for the Central Midlands Regional Transit Authority dated January 23, 2011, Lexington County is providing interim financing for limited services through June 30, 2011; and

WHEREAS, in an attempt to secure permanent financing for the CMRTA, a referendum was held in Richland County on November 2, 2010, but was unsuccessful; and

WHEREAS, without a long-term or interim funding source available to replace these lost revenues, the CMRTA will have to reduce public transit service within its service area by an estimated eighty (80%) percent, with a possible cessation of service as early as October 1, 2011; and

WHEREAS, Article VIII, Section 13 of the Constitution of the State provides that any county, incorporated municipality, or other political subdivision may agree with the State or with any other political subdivision for the financing of the costs thereof; and

WHEREAS, by appropriate legislative enactment of City Council, Richland County Council, Lexington County Council and the CMRTA, the parties have authorized the execution and delivery of this Agreement by its Richland County Council Chairman, Mayor of the City of Columbia, Lexington County Council Chairman, and Board Chairman of the CMRTA, respectively;

NOW THEREFORE, in consideration of the mutual agreements between the parties as set forth herein and other good and valuable consideration, the parties hereto do agree as follows:

SECTION 1

DEFINITIONS

1.01 Definitions. The terms defined in this Section shall for all purposes of this Agreement have the meanings herein specified. The term:

“2002 Agreement” shall mean the Agreement between the CMRTA and the City dated October 16, 2002.

“Board” shall mean board of directors of the CMRTA.

“City” shall mean the City of Columbia, South Carolina.

“City Council” shall mean the City Council of the City of Columbia, South Carolina.

“CMRTA” shall mean the Central Midlands Regional Transit Authority.

“Council” or “Councils” shall mean Richland County Council and Lexington County Council.

“County” or “Counties” shall mean Richland County and Lexington County.

“Forest Acres” shall mean the City of Forest Acres, South Carolina

“Lexington County” shall mean Lexington County, South Carolina.

“Lexington County Council” shall mean the County Council of Lexington County.

“Richland County” shall mean Richland County, South Carolina.

“Richland County Council” shall mean the County Council of Richland County.

“Service Area” shall mean the geographic area in which the CMRTA is currently providing transit services including the City of Columbia, the town of Forest Acres, portions of Richland County and limited portions of Lexington County, or such Service Area as may be amended from time to time.

SECTION 2

TERM; ANNUAL APPROPRIATIONS

2.01 Term of Agreement. This Agreement shall be in effect from on or about October 1, 2011, through June 30, 2013.

2.02 Annual Appropriation. All financial commitments made herein are intended to continue on an annual basis, subject to the right of each of the parties hereto to exercise their rights of non appropriation.

2.03. Ratification. All actions taken in connection with this agreement including the payment of funds from the period July 1, 2011, through September 30, 2011, are hereby approved, confirmed and ratified.

SECTION 3

REPRESENTATIONS AND WARRANTIES

3.01 Representations and Warranties of Richland County. Richland County represents and warrants that:

(a) the signatory parties hereto have full legal right, power, and authority to enter into this Agreement and carry out and consummate all other transactions contemplated by this Agreement.

(b) it has duly authorized the execution, delivery, and performance of its obligations under this Agreement and the taking of any and all actions as may be required on the part of Richland County to carry out, give effect to, and consummate the transactions contemplated by this Agreement.

(c) this Agreement constitutes a legal, valid, and binding obligation of Richland County, enforceable in accordance with its terms, subject to applicable bankruptcy, insolvency and similar laws affecting creditors' rights generally, and subject, as to enforceability, to general principles of equity regardless of whether enforcement is sought in a proceeding in equity or at law.

(d) there is no action, suit, proceeding, inquiry, or investigation at law or in equity before or by any court, public board, or body, pending or, to the best of the knowledge of Richland County, threatened against Richland County, which in any manner questions the validity of any proceedings taken by Richland County Council in connection with this Agreement or wherein any unfavorable decision, ruling, or finding could materially adversely affect the transactions contemplated by

this Agreement or which, in any way, would adversely affect the validity or enforceability of this Agreement (or of any other instrument required or contemplated for use in consummating the transactions contemplated hereby).

3.02 Representations and Warranties of the City. The City represents and warrants that:

(a) the signatory parties hereto have full legal right, power, and authority to enter into this Agreement and carry out and consummate all other transactions contemplated by this Agreement.

(b) it has duly authorized the execution, delivery, and performance of its obligations under this Agreement and the taking of any and all actions as may be required on the part of City to carry out, give effect to, and consummate the transactions contemplated by this Agreement.

(c) this Agreement constitutes a legal, valid, and binding obligation of the City, enforceable in accordance with its terms, subject to applicable bankruptcy, insolvency and similar laws affecting creditors' rights generally, and subject, as to enforceability, to general principles of equity regardless of whether enforcement is sought in a proceeding in equity or at law.

(d) there is no action, suit, proceeding, inquiry, or investigation at law or in equity before or by any court, public board, or body, pending or, to the best of the knowledge of the City, threatened against the City, which in any manner questions the validity of any proceedings taken by the City Council in connection with this Agreement or wherein any unfavorable decision, ruling, or finding could materially adversely affect the transactions contemplated by this Agreement or which, in any way, would adversely affect the validity or enforceability of this Agreement (or of any other instrument required or contemplated for use in consummating the transactions contemplated hereby).

3.03 Representations and Warranties of Lexington County. Lexington County represents and warrants that:

(a) the signatory parties hereto have full legal right, power, and authority to enter into this Agreement and carry out and consummate all other transactions contemplated by this Agreement.

(b) it has duly authorized the execution, delivery, and performance of its obligations under this Agreement and the taking of any and all actions as may be required on the part of Lexington County to carry out, give effect to, and consummate the transactions contemplated by this Agreement.

(c) this Agreement constitutes a legal, valid, and binding obligation of Lexington County, enforceable in accordance with its terms, subject to applicable bankruptcy, insolvency and similar laws affecting creditors' rights generally, and subject, as to enforceability, to general principles of equity regardless of whether enforcement is sought in a proceeding in equity or at law.

(d) there is no action, suit, proceeding, inquiry, or investigation at law or in equity before or by any court, public board, or body, pending or, to the best of the knowledge of Lexington County, threatened against Lexington County, which in any manner questions the validity of any proceedings taken by Lexington County Council in connection with this Agreement or wherein any unfavorable decision, ruling, or finding could materially adversely affect the transactions contemplated by this Agreement or which, in any way, would adversely affect the validity or enforceability of this Agreement (or of any other instrument required or contemplated for use in consummating the transactions contemplated hereby).

3.04 Representations and Warranties of the CMRTA. The CMRTA represents and warrants that:

(a) the signatory parties hereto have full legal right, power, and authority to enter into this Agreement and carry out and consummate all other transactions contemplated by this Agreement.

(b) it has duly authorized the execution, delivery, and performance of its obligations under this Agreement and the taking of any and all actions as may be required on the part of the CMRTA to carry out, give effect to, and consummate the transactions contemplated by this Agreement.

(c) this Agreement constitutes a legal obligation of the CMRTA, enforceable in accordance with its terms, subject to applicable bankruptcy, insolvency and similar laws affecting creditors' rights generally, and subject, as to enforceability, to general principles of equity regardless of whether enforcement is sought in a proceeding in equity or at law.

(d) there is no action, suit, proceeding, inquiry, or investigation at law or in equity before or by any court, public board, or body, pending or, to the best of the knowledge of the CMRTA, threatened against the CMRTA, nor to the best of the knowledge of the CMRTA is there any basis therefore, which in any manner questions the validity of any proceedings taken by the Board in connection with this Agreement or wherein any unfavorable decision, ruling, or finding could materially adversely affect the transactions contemplated by this Agreement or which, in any way, would adversely affect the validity or enforceability of this Agreement (or of any other instrument required or contemplated for use in consummating the transactions contemplated hereby).

SECTION 4

UNDERTAKINGS BY RICHLAND COUNTY

4.01 Funding in FY2011-2012. Richland County will, from its FY2011-2012 road maintenance and mass transit funds and existing fund balance or from any other legally available source, pay the amount of One Million Six Hundred Seventy Thousand Dollars (\$1,670,000) to the CMRTA pursuant to this Agreement. Richland County has provided funding in the amount of \$417,498 to the CMRTA for the months of July-September 2011. Beginning in the month of October 2011, the CMRTA will invoice Richland County for one-fourth of the amount provided for herein, which amount shall be paid by check or wire transfer within fifteen days of the receipt of the invoice. The final payment for fiscal year 2011-2012 will be made in April 2012.

4.02 Funding in 2012-2013. Subject to its right of non-appropriation, Richland County intends to provide funding in the approximate amount of One Million Six Hundred Seventy Thousand Dollars (\$1,670,000) from legally available funds for use by the CMRTA in fiscal year-2012-2013. This amount will be made available to the CMRTA on a quarterly basis as provided above.

SECTION 5

UNDERTAKINGS BY THE CITY

5.01. Funding in FY2011-2012. The City will, from its two percent (2%) increase in the franchise fee on services provided by SCE&G within the City limits, provide funding in the approximate amount of Three Million Eight Hundred Thousand Dollars (\$3,800,000) to the CMRTA pursuant to this Agreement. The City has provided funding in the amount of \$950,000 to the CMRTA for the months of July-September 2011. Beginning in the month of October 2011, the CMRTA will invoice the City for one-fourth of the amount provided for herein, which amount shall be paid by check or wire transfer within fifteen days of the receipt of the invoice. The final payment for fiscal year 2011-2012 will be made in April 2012. The CMRTA will pay for the services of Derrick Stubbs & Stith from the funding provided for herein. **The City's second quarterly payment to the CMRTA shall be reduced by consulting fees and costs to be paid by the City to Wilbur Smith in the amount of Twenty-five Thousand One Hundred Thirty-six and no/100 (\$25,136.00) Dollars.**

5.02 Funding in 2012-2013. Subject to its right of non-appropriation, the City intends to provide funding in the approximate amount of Three Million Eight Hundred Thousand Dollars (\$3,800,000) from its two percent (2%) increase in the franchise fee on services provided by SCE&G within the City limits for use by the CMRTA in fiscal year-2012-2013. This amount will be made available to the CMRTA on a quarterly basis as provided above.

5.03 Funding Pursuant to the 2002 Agreement. So long as the City makes all of the payments provided for in this Section, the City shall be deemed in compliance with the requirements of Section 4.02 of the 2002 Agreement.

SECTION 6

UNDERTAKINGS BY LEXINGTON COUNTY

6.01 Funding in FY2011-2012. Lexington County will, from legally available sources, pay to the CMRTA pursuant to this Agreement the amount needed to totally defray the costs of limited service within Lexington County and paratransit services utilized in Lexington **County to include a prorata share of overhead/administrative costs.** Lexington County has provided funding in the amount of \$25,200 to the CMRTA for the months of July-September 2011. **The CMRTA will invoice Lexington County the amount of \$8,400 per month beginning October 2011, which amount shall be paid by check or wire transfer within fifteen days of the receipt of the invoice. Lexington County is currently working with the CMRTA to re-design the limited services within Lexington County. Upon completion of that process, the amount to be paid by Lexington County shall be recalculated based upon the actual costs of providing such service. In order for service to continue in Lexington County, the financial contribution to be provided by Lexington County must be approved by each of the parties hereto upon the recalculation referenced herein. The final payment for fiscal year 2011-2012 will be made in June 2012.**

6.02 Funding in 2012-2013. Subject to its right of non-appropriation, Lexington County intends to provide funding in the amount necessary to totally defray the costs of limited service within Lexington County and paratransit services utilized in Lexington County from legally available funds for use by the CMRTA in fiscal year-2012-2013. This amount will be made available to the CMRTA on a **monthly** basis as provided above.

SECTION 7

UNDERTAKINGS BY THE CMRTA

7.01 Service Area. The CMRTA agrees that all funds paid pursuant to this Agreement by the City and Richland County will be used only for operations within or directly benefiting Richland County, the City and Forest Acres. The CMRTA agrees that all funds paid herein by Lexington County

will be used to pay the costs of limited services for operations within Lexington County. The CMRTA shall not be required to segregate funds paid by the City or Counties.

7.02. Reductions in Service. The CMRTA agrees not to reduce services within Richland County, the City, or Forest Acres or Lexington County without prior consent from the City or the respective County as hereinafter provided: Service reductions within the corporate limits of the City shall require approval from City Council; service reductions in the remaining areas of Richland County, including Forest Acres, shall require the approval from Richland County Council; and service reductions in Lexington County shall require approval of Lexington County Council. In the event reductions in service become necessary for financial reasons, each of the Counties and the City must cooperate with the CMRTA to make such reductions in service in the most effective and least disruptive manner possible. All route reductions must be in compliance with all federal requirements and in keeping with CMRTA guidelines.

7.03 Financial Reporting Requirements. Beginning in January 2012, the CMRTA shall, on a quarterly basis, no later than 30 days after the end of the previous quarter, provide to the Counties and the City a written financial report to include a statement of revenue and expenses, cumulative, year-to-date results as well as comparative information for corresponding periods of the prior year. The interim financial reports shall be designed and formatted with input from Derrick, Stubbs & Stith to provide accurate information on the current financial status and operations of the CMRTA. An independent certified public accounting firm shall participate in the preparation of the quarterly reports on terms agreed upon by the parties hereto. In addition, the CMRTA will, upon written request, provide access to all financial information to the Counties and the City.

The CMRTA acknowledges that payments to be made by the Counties and the City under this Agreement may be withheld in any quarter until the financial report for the previous quarter is provided to the Counties and the City.

The CMRTA will complete the engagement and fully cooperate with the Agreed Upon Procedures between the CMRTA and Derrick Stubbs & Stith dated August 18, 2011.

7.04 Veolia Contract. The CMRTA will negotiate an extension of its current contract with Veolia for a period of not to exceed December 31, 2012. The contract extension shall provide that the contract may be terminated upon 90 days written notice from the CMRTA to Veolia. The contract extension shall also provide that Veolia shall, at the option of the CMRTA, provide services of an Executive Director upon terms satisfactory to the CMRTA, at no additional cost or expense to the CMRTA.

7.05 Amendments to Board Structure and By-Laws. The CMRTA agrees to immediately pursue and secure amendments to the existing CMRTA Agreement and/or CMRTA Bylaws so as to limit voting membership on the CMRTA Board of Directors to jurisdictions within the Service Area. Voting membership on the Board will be structured as follows: Richland County – three members; the City – three members; Lexington County – one member; and the City of Forest Acres – one member. Non-member jurisdictions may continue their membership in the CMRTA as non-voting members, and appointees from such jurisdictions may serve on the CMRTA Board in an advisory capacity. Non-member jurisdictions may obtain voting membership by providing funding for service within that jurisdiction in an amount that is acceptable to the governing bodies of the other voting jurisdictions. The CMRTA agrees to secure said amendments no later than October 1, 2011, or as soon thereafter as practicable. Upon approval of this Agreement, each of the current Board members shall be deemed to have tendered his or her resignation effective October 1, 2011. Current Board members shall however continue to serve until a replacement Board member has been appointed. The provisions of this section shall not be applicable to appointments made by representatives of the Richland County Legislative Delegation.

7.06. Compliance. The CMRTA shall fully comply with the procedures and requirements set forth in South Carolina Code Section 58-25-70.

SECTION 8

MISCELLANEOUS

8.01 Binding Nature of Agreement. This Agreement shall inure to the benefit of and shall be binding in accordance with its terms upon the City Council, County Councils, the CMRTA, and their respective successors in office. All parties shall act reasonably, diligently and in good faith to address all issues that may arise during the implementation of the transactions that are the subject of this Agreement in a commercially reasonable manner so as to accomplish the intended purposes set forth herein, including entering into such other and further documents as are normally required for transactions of similar magnitude and complexity to appropriately address the duties and responsibilities of all parties.

8.02 Binding Obligation. The obligations of the City and each of the Counties to remit its respective payments pursuant to this Agreement are separate and independent obligations. The failure of the City, Richland County or Lexington County to remit its payments does not relieve either of the other parties to this Agreement from its obligation hereunder.

8.03. Default. The failure of any party to make a payment, to satisfy a condition, or to perform an obligation under this Agreement, which failure shall go uncorrected for a period of thirty days after written notice thereof, shall constitute a default as to such party.

8.04. Default Remedies. Any non-defaulting party hereto may seek an injunction or order of specific performance to collect all amounts then due and thereafter to become due from the defaulting party and to enforce all obligations of the defaulting party under this Agreement; provided, however, any remedies against Richland County, the City, or Lexington County shall be limited to recovery of its respective payments which are the subject of this Agreement.

8.05 No Personal Liability. No obligation or agreement contained herein shall be deemed to be an obligation or agreement of any present, past, or future member, officer, agent or employee of the City, Counties or the CMRTA in any way other than in his or her official capacity, and neither the members of the City Council, County Councils or the Board, nor any official executing this Agreement

shall be personally liable thereon or be subject to any personal liability or accountability by reason of the obligations or agreements of the City, Counties or the CMRTA contained in this Agreement.

8.06 Effect of Agreement. All obligations of the parties, each to the other, contained in any memorandum and any other document or based upon any other communications, other than the 2002 Agreement between the City and the CMRTA, prior to the execution of this Agreement have been satisfied or are superseded by this Agreement and are no longer valid and enforceable, provided this Agreement is properly executed and duly authorized by the parties.

8.07 Amendments. This Agreement may not be effectively amended, changed, modified, altered or terminated, except in accordance with the express provisions of this Agreement or with the written consent of all parties hereto.

8.08 Captions. The captions and headings of the paragraphs of this Agreement are for convenience only and are not to be used to interpret or define any or all of the provisions of this Agreement.

8.09 Sections; Headings. The sections, headings and other titles to paragraphs of this Agreement are inserted solely for the convenience of reference. None shall in any way define, limit, extend or aid in the construction of the scope, extent, meaning or intent of this Agreement.

8.10 Counterparts. This Agreement may be executed in any number of counterparts, each of which shall be regarded as an original and all of which shall constitute but one and the same instrument.

8.11 No Construction Against Drafter. The parties hereby acknowledge that they have reviewed this Agreement and concur that any rule of construction to the effect that ambiguities are to be resolved against the drafting party shall not apply in the interpretation of any provision of this Agreement.

8.12 Severability. 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.

8.13 Governing Law. This Agreement shall be deemed to be a contract made under the laws of the State and for all purposes shall be governed by and construed in accordance with the laws of the State, and by their signatures herein below, the parties consent to the exclusive jurisdiction of the courts of Richland County for resolution of any dispute arising hereunder.

8.14 Further Resolutions or Ordinances. To the extent required by the laws of the State, Richland County, the City, and Lexington County agree to adopt one or more resolutions or to enact one or more ordinances as necessary to effect the agreements provided for in this Agreement. The CMRTA further agrees to adopt one or more resolutions as necessary to effect the agreements provided for in this Agreement.

8.15 Notices. All notices or other communications hereunder shall be sufficiently given and shall be deemed given when mailed by U.S. Mail addressed as follows:

If to Richland County:
Richland County, South Carolina
Attn: County Administrator
2020 Hampton Street
Columbia, South Carolina 29202

With a copy to:
Richland County, South Carolina
Attn: County Attorney
2020 Hampton Street
Columbia, South Carolina 29202

If to the City:
City of Columbia, South Carolina
Attn: City Manager
P.O. Box 147
Columbia, South Carolina 29217

With a copy to:
City of Columbia, South Carolina
Attn: City Attorney
P.O. Box 667
Columbia, South Carolina 29201

If to Lexington County
Lexington County, South Carolina
Attn: County Administrator
212 S. Lake Drive
Lexington, South Carolina 29072

With a copy to:
Lexington County, South Carolina
Attn: County Attorney
140 E. Main Street
Lexington, South Carolina 29072

If to the CMRTA
Central Midlands Regional Transit Authority
Attn: Board Chair
P.O. Box 214
Columbia, South Carolina 29202

SECTION 9

THIRD PARTY BENEFICIARIES

9.01 No Third Party Beneficiaries. Nothing in this Agreement, express or implied, is intended to or shall confer upon any person, other than the parties hereto, any rights, benefits or remedies of any nature whatsoever under or by reason of this Agreement.

IN WITNESS WHEREOF, the parties hereto, each after due authorization, have executed this Agreement on the respective dates indicated below.

[Signature Pages Follow]

RICHLAND COUNTY, SOUTH CAROLINA

By: _____

Its: Chairman, Richland County Council

SEAL)

ATTEST:

By: _____

Its: Clerk to Richland County Council

Date: _____, 2011

CITY OF COLUMBIA, SOUTH CAROLINA

By: _____

Its: Mayor

SEAL)

ATTEST:

By: _____

Its: Clerk to Columbia City Council

Date: _____, 2011

LEXINGTON COUNTY, SOUTH CAROLINA

By: _____

Its: Chairman, Lexington County Council

SEAL)

ATTEST:

By: _____

Its: Clerk, Lexington County Council

Date: _____, 2011

CENTRAL MIDLANDS REGIONAL TRANSIT
AUTHORITY

By: _____

Its: Chairman, Board of Directors

SEAL)

ATTEST:

By: _____

Its: Secretary, Board of Directors

Date: _____, 2011

Richland County Council Request of Action

Subject

Must Pertain to Items Not on the Agenda