

Council Members

District 1: John Thomas, *Chairman*
District 2: Ron L. Charlton
District 3: Everett Carolina
District 4: Lillie Jean Johnson, *Vice Chair*
District 5: Raymond L. Newton
District 6: Steve Goggans
District 7: Louis R. Morant

**County Administrator**

Sel Hemingway

County Attorney

Wesley P. Bryant

Clerk to Council

Theresa E. Floyd

October 8, 2019

5:30 PM

County Council Chambers

GEORGETOWN COUNTY COUNCIL
County Council Chambers, 129 Screven Street,
Suite 213, Georgetown, SC 29440

AGENDA

- 1. INVOCATION**
- 2. PLEDGE OF ALLEGIANCE**
- 3. APPROVAL OF AGENDA**
- 4. PUBLIC COMMENT**
- 5. APPROVAL OF MINUTES**
 - 5.a Regular Council Session - September 24, 2019**
- 6. CONSENT AGENDA**
 - 6.a Procurement #18-043, Hagley West Drainage Improvements - Change Order 4**
 - 6.b Procurement #19-057, Three (3) John Deere 1570 Terrain Cut Mower for Capital Equipment Replacement Plan**
 - 6.c Bid #19-034, Non Engineered Road Repair, Resurfacing, Sealing and Marking, IDIQ**
 - 6.d Contract #17-078-DC, Local Funded Comprehensive Roadway Design & Engineering, Task Order #1 IDIQ**
- 7. PUBLIC HEARINGS**
 - 7.a ORDINANCE NO. 19-18 - AN ORDINANCE AUTHORIZING (1) THE EXECUTION AND DELIVERY OF A FEE IN LIEU OF TAX AND INCENTIVE AGREEMENT BY AND BETWEEN GEORGETOWN COUNTY, SOUTH CAROLINA (THE "COUNTY") AND A COMPANY IDENTIFIED FOR THE TIME BEING AS PROJECT EAGLE, ACTING FOR ITSELF, ONE OR MORE AFFILIATES, AND/OR OTHER PROJECT SPONSORS (THE "COMPANY"), WITH RESPECT TO THE**

ESTABLISHMENT AND/OR EXPANSION OF OF CERTAIN FACILITIES IN THE COUNTY (COLLECTIVELY, THE “PROJECT”); (2) THE BENEFITS OF A MULTI-COUNTY INDUSTRIAL OR BUSINESS PARK TO BE MADE AVAILABLE TO THE COMPANY AND THE PROJECT; AND (3) OTHER MATTERS RELATING THERETO.

- 7.b ORDINANCE NO. 19-19 - AN ORDINANCE TO ESTABLISH A JOINT COUNTY INDUSTRIAL AND BUSINESS PARK PURSUANT TO SECTION 4-1-170 OF THE SOUTH CAROLINA CODE OF LAWS 1976, AS AMENDED, TO BE KNOWN AS THE GEORGETOWN COUNTY PROJECT EAGLE JOINT COUNTY INDUSTRIAL AND BUSINESS PARK (THE “PARK”), IN CONJUNCTION WITH HORRY COUNTY, SUCH PARK TO BE GEOGRAPHICALLY LOCATED IN GEORGETOWN COUNTY; TO AUTHORIZE THE EXECUTION AND DELIVERY OF A WRITTEN PARK AGREEMENT WITH HORRY COUNTY AS TO THE REQUIREMENT OF PAYMENTS OF FEE IN LIEU OF AD VALOREM TAXES WITH RESPECT TO PARK PROPERTY AND THE SHARING OF THE REVENUES AND EXPENSES OF THE PARK; TO PROVIDE FOR THE DISTRIBUTION OF REVENUES FROM THE PARK WITHIN GEORGETOWN COUNTY; AND OTHER MATTERS RELATED THERETO.**

8. APPOINTMENTS TO BOARDS AND COMMISSIONS

9. RESOLUTIONS / PROCLAMATIONS

- 9.a Resolution No. 19-21 - To Adopt the UPDATED 2019 Hazard Mitigation Plan**
- 9.b Resolution No. 19-22 - Supporting the Enactment of Legislation Against Hate Crimes in South Carolina.**

10. THIRD READING OF ORDINANCES

11. SECOND READING OF ORDINANCES

- 11.a Ordinance No. 19-21 - An Ordinance to authorize the expenditure of surplus Capital Project Sales Tax funds authorized under the Capital Project Sales Tax Act (S.C. Code Ann. Section 4-10-340, et seq.) previously collected pursuant to a majority vote on a referendum ordered by Georgetown County Ordinance 2014-28 held on November 4, 2014; further to designate the projects for which the surplus proceeds may be used; and to provide for other matters relating thereto.**
- 11.b ORDINANCE NO. 19-22 - AN ORDINANCE TO AMEND ORDINANCE 2007-06, “GEORGETOWN COUNTY ANIMAL CONTROL ORDINANCE”, REGARDING THE STERILIZATION OF ANIMALS BEFORE RELEASE.**
- 11.c ORDINANCE NO. 19-23 - AN ORDINANCE AUTHORIZING THE ISSUANCE AND SALE OF GENERAL OBLIGATION BONDS OF GEORGETOWN COUNTY, SOUTH CAROLINA, SERIES 2019, OR SUCH OTHER APPROPRIATE SERIES DESIGNATION, IN THE PRINCIPAL AMOUNT OF NOT EXCEEDING \$10,000,000;**

**FIXING THE FORM AND DETAILS OF THE BONDS;
AUTHORIZING THE COUNTY ADMINISTRATOR TO
DETERMINE CERTAIN MATTERS RELATING TO THE BONDS;
PROVIDING FOR THE PAYMENT OF THE BONDS AND THE
DISPOSITION OF THE PROCEEDS THEREOF; AND OTHER
MATTERS RELATING THERETO.**

12. FIRST READING OF ORDINANCES

- 12.a Ordinance No. 19-24 - To amend the signage requirements for Building C located in the Pawleys Plaza Planned Development (PD) located at 10225 Ocean Highway in Pawleys Island.**
- 12.b ORDINANCE No. 19-25 - AN ORDINANCE SETTING THE BASE SALARIES FOR ELECTED OFFICIALS OF GEORGETOWN COUNTY, AND FURTHER REPEALING AND REPLACING ORDINANCE NO: 2005-45**
- 12.c Ordinance No. 19-26 - An amendment of Article XIII, Tree Regulations, of the Zoning Ordinance regarding trees in road right-of-way.**
- 12.d Ordinance No. 19-27 - Amendment of the FY 2019/2020 Budget Ordinance.**

13. COUNCIL BRIEFING AND COMMITTEE REPORTS

14. BIDS

15. REPORTS TO COUNCIL

- 15.a Intergovernmental Agreement for Development of Multi-County Industrial Business Park**

16. DEFERRED OR PREVIOUSLY SUSPENDED ISSUES

- 16.a Ordinance No. 2017-23 – To Amend the Pawleys Plantation Planned Development to change the land use designation for two parcels along Green Wing Teal Lane from Open Space to Single Family in order to allow an additional two single family lots to the PD (County Council deferred action on 10/24/17)**
- 16.b ORDINANCE NO. 19-18 - AN ORDINANCE AUTHORIZING (1) THE EXECUTION AND DELIVERY OF A FEE IN LIEU OF TAX AND INCENTIVE AGREEMENT BY AND BETWEEN GEORGETOWN COUNTY, SOUTH CAROLINA (THE "COUNTY") AND A COMPANY IDENTIFIED FOR THE TIME BEING AS PROJECT EAGLE, ACTING FOR ITSELF, ONE OR MORE AFFILIATES, AND/OR OTHER PROJECT SPONSORS (THE "COMPANY"), WITH RESPECT TO THE ESTABLISHMENT AND/OR EXPANSION OF OF CERTAIN FACILITIES IN THE COUNTY (COLLECTIVELY, THE "PROJECT"); (2) THE BENEFITS OF A MULTI-COUNTY INDUSTRIAL OR BUSINESS PARK TO BE MADE AVAILABLE TO THE COMPANY AND THE PROJECT; AND (3) OTHER MATTERS RELATING THERETO.**
- 16.c ORDINANCE NO. 19-19 - AN ORDINANCE TO ESTABLISH A**

**JOINT COUNTY INDUSTRIAL AND BUSINESS PARK
PURSUANT TO SECTION 4-1-170 OF THE SOUTH CAROLINA
CODE OF LAWS 1976, AS AMENDED, TO BE KNOWN AS THE
GEORGETOWN COUNTY PROJECT EAGLE JOINT COUNTY
INDUSTRIAL AND BUSINESS PARK (THE "PARK"), IN
CONJUNCTION WITH HORRY COUNTY, SUCH PARK TO BE
GEOGRAPHICALLY LOCATED IN GEORGETOWN COUNTY;
TO AUTHORIZE THE EXECUTION AND DELIVERY OF A
WRITTEN PARK AGREEMENT WITH HORRY COUNTY AS TO
THE REQUIREMENT OF PAYMENTS OF FEE IN LIEU OF AD
VALOREM TAXES WITH RESPECT TO PARK PROPERTY AND
THE SHARING OF THE REVENUES AND EXPENSES OF THE
PARK; TO PROVIDE FOR THE DISTRIBUTION OF REVENUES
FROM THE PARK WITHIN GEORGETOWN COUNTY; AND
OTHER MATTERS RELATED THERETO.**

- 16.d Ordinance No. 19-20 - An Ordinance to authorize Georgetown
County to lease a portion of a tract of property owned by
Georgetown County, designated as Tax Map No. 04-0406-001-01-
00, to JB's Celebration Park Inc. for the purposes of constructing
a Celebration Park for general public access.**

17. LEGAL BRIEFING / EXECUTIVE SESSION

18. OPEN SESSION

19. ADJOURNMENT

Item Number: 5.a
Meeting Date: 10/8/2019
Item Type: APPROVAL OF MINUTES

AGENDA REQUEST FORM
GEORGETOWN COUNTY COUNCIL



DEPARTMENT: County Council

ISSUE UNDER CONSIDERATION:

Regular Council Session - September 24, 2019

CURRENT STATUS:

Pending

POINTS TO CONSIDER:

n/a

FINANCIAL IMPACT:

n/a

OPTIONS:

1. Approval of minutes as submitted.
2. Offer amendments.

STAFF RECOMMENDATIONS:

Recommendation for approval of minutes as submitted.

ATTACHMENTS:

Description	Type
□ DRAFT - Minutes 9/24/19	Backup Material

Georgetown County Council held a Regular Council Session on Tuesday, September 24, 2019, at 5:30 PM in County Council Chambers located in the historic Georgetown County Courthouse, 129 Screven Street, Georgetown, South Carolina.

Present:	Everett Carolina	Louis R. Morant
	Ron L. Charlton	Raymond L. Newton
	Steve Goggans	John W. Thomas
	Lillie Jean Johnson	
Staff:	Wesley P. Bryant	Sel Hemingway
	Theresa E. Floyd	Jackie Broach-Akers

Other staff members, members of the public, and representatives of the media were also present. In accordance with the Freedom of Information Act, a copy of the agenda was sent to newspapers, television, and radio stations, citizens of the County, Department Heads, and posted on the bulletin board located outside of Council Chambers in the historic Courthouse.

Chairman John Thomas called the meeting to order. Councilmember Ron Charlton gave an invocation, and all joined in the pledge of allegiance.

Chairman John Thomas welcomed recently elected Councilmember Raymond Newton, and announced for the record, that following certification of the results of the special election for Council District 5, Mr. Newton was sworn into office on September 13, 2019.

APPROVAL OF AGENDA:

Councilmember Ron Charlton made a motion to approve the meeting agenda. Councilmember Everett Carolina seconded the motion. Chairman John Thomas called for discussion on the motion, and there was none.

In Favor:	Everett Carolina	Louis R. Morant
	Ron L. Charlton	Raymond L. Newton
	Steve Goggans	John W. Thomas
	Lillie Jean Johnson	

PUBLIC COMMENTS:

Wesley Gibson

Mr. Gibson, speaking on behalf of *Citizens for Progress*, asked County Council to carefully study and thoroughly review each application for the position of county administrator, as this is the most important position in county government. He asked that County Council take adequate time to move through the selection process. Effort has gone into opening the process up to a national search, and this should not be done just as a formality. Georgetown County needs a leader that will work hard to solve the problems in Georgetown County. He said County Council needs to hire someone who will keep each department head accountable. The individual should be hired based on “what” they know, and not “who” they know. Mr. Gibson said he trusted that County Council would make the right decision in this matter.

Marilyn Hemingway

Ms. Hemingway said she was present to give acknowledgement and express appreciation to the Georgetown County Library System, Georgetown County School District, Georgetown Museum, and

Georgetown County Chamber of Commerce for their participation in the dedication of the Bossley-Tubman historical marker. All have been great partners in this effort. Ms. Hemingway also advised County Council that the Gullah Geechee Chamber of Commerce will host its first inaugural Environmental Energy Conference on Saturday October 26th providing education on renewable energy, climate change, and environmental justice. She hoped Georgetown County would be involved in this effort, and asked those who were interested in participating to reach out to her. Regarding a separate matter, Ms. Hemingway stated that County Council should keep the process of hiring a county administrator open, transparent, and involve citizens in the process.

Marvin Neal

Mr. Neal stated that Georgetown County government greatly needs of a “breath of fresh air”. County Council should be mindful of this as they go through the process of hiring the next county administrator. County council is charged with conducting a process that is fair throughout. He asked that Council not make any premature decisions, and forfeit an opportunity to make the “right” decision. Mr. Neal said that county employees deserve better. Employees deserve fair compensation and benefits at all levels, not just for those at the “top”. He said racial discrimination currently exists within the county ranks. Of the 52 directors and department heads in Georgetown County government, only three are black. These problems cannot be fixed if we maintain the same mindset. He asked County Council to utilize its Justice Committee, to be fair about the process, and fair to the people of Georgetown County. Change is necessary.

MINUTES:

Regular Council Session – September 10, 2019

Councilmember Ron Charlton moved to approve the minutes of the regular council meeting held on September 10, 2019. Councilmember Everett Carolina seconded the motion. Chairman John Thomas called for discussion on the motion, and there was none.

In Favor:	Everett Carolina	Lillie Jean Johnson
	Ron L. Charlton	Louis R. Morant
	Steve Goggans	John W. Thomas

Abstained: Raymond L. Newton

CONSENT AGENDA:

The following reports were included on the Consent Agenda, and therefore approved previously during the meeting:

County Council authorized acceptance of USDA Rural Development Community Facility Grant Funding in the amount of \$47,500 to be utilized for a pumper truck and communications equipment at the Santee/Sampit Fire Sub-station, and agreed to the responsibilities and administrative requirements of the grant via adoption of Resolution No. 19-14.

County Council authorized acceptance of USDA Rural Development Community Facility Grant Funding in the amount of \$47,600 to be utilized for a pumper truck and communications equipment at the Plantersville Fire Sub-station, and agreed to responsibilities and administrative requirements of the grant via adoption of Resolution No. 19-15.

County Council authorized acceptance of USDA Rural Development Community Facility Grant Funding in the amount of \$47,400 to be utilized for a fire pumper truck and communications equipment for the Yauhannah Fire Sub-station, and agreed to responsibilities and administrative requirements of the grant via adoption of Resolution No. 19-16.

County Council authorized acceptance of USDA Rural Development Community Facility Grant Funding in the amount of \$34,900 to be utilized for a fire pumper truck and communications equipment at the Rose Hill Fire Sub-station, and agreed to responsibilities and administrative requirements of the grant via adoption of Resolution No. 19-17.

County Council authorized acceptance of USDA Rural Development Grant Funding in the amount of \$50,000 to be utilized for personal fire protection equipment at the Big Dam Swamp Fire Station, and agreed to responsibilities and administrative requirements of the grant via adoption of Resolution No. 19-18.

County Council authorized acceptance of USDA Rural Development Grant Funding in the amount of \$30,500 to be utilized for personal fire protection equipment at the Yauhannah Fire Sub-station, and agreed to responsibilities and administrative requirements of the grant via adoption of Resolution No. 19-19.

PUBLIC HEARING:

Ordinance No. 19-16

Chairman John Thomas opened the floor to receive public comments pertaining to Ordinance No. 19-16, an ordinance to repeal, replace, and create certain fees payable to the Probate Court of Georgetown County for the issuance of marriage licenses, as mandated by State Statute. No individual came forward to speak in favor, or against the ordinance, and the public hearing was closed.

RESOLUTIONS / PROCLAMATIONS:

Resolution No. 19-20

Councilmember Everett Carolina moved for the adoption of Resolution No. 19-20, a resolution confirming certain matters in conjunction with the issuance of \$28,015,000 Principal Amount Installment Purchase Refunding Revenue Bonds (Georgetown County Project), Series 2019, by SCAGO Public Facilities Corporation for Georgetown Refunding Revenue Bonds (Georgetown County Project), Series 2019, By SCAGO Public Facilities Corporation for Georgetown County, and Providing for Related Matters. Councilmember Louis Morant seconded the motion. There was no discussion.

In Favor:	Everett Carolina	Louis R. Morant
	Ron L. Charlton	Raymond L. Newton
	Steve Goggans	John W. Thomas
	Lillie Jean Johnson	

ORDINANCES-Third Reading

Ordinance No. 19-16

Councilmember Louis Morant moved for third reading approval of Ordinance No. 19-16, titled "an Ordinance to Repeal, Replace and Create Those Certain Fees Payable to the Probate Court of Georgetown County for the Issuance of Marriage Licenses, as Mandated by Statute". The motion was seconded by Councilmember Steve Goggans. The Chairman called for discussion on the motion, and there was none.

In Favor:	Everett Carolina	Louis R. Morant
	Ron L. Charlton	Raymond L. Newton
	Steve Goggans	John W. Thomas
	Lillie Jean Johnson	

Ordinance No. 19-17

Councilmember Steve Goggans made a motion for third reading approval of Ordinance No. 19-17, an Amendment to the County's Flood Damage Prevention Ordinance dealing with "temperature-controlled" prohibition for areas underneath a structure in the flood zone. Councilmember Everett Carolina seconded the motion. Chairman John Thomas called for discussion. No discussion occurred.

In Favor:	Everett Carolina	Louis R. Morant
	Ron L. Charlton	Raymond L. Newton
	Steve Goggans	John W. Thomas
	Lillie Jean Johnson	

ORDINANCES-Second Reading:

Ordinance No. 19-18

Councilmember Ron Charlton moved for second reading approval of Ordinance No. 19-18, an Ordinance Authorizing (1) the Execution and Delivery of a Fee In Lieu of Tax and Incentive Agreement by and Between Georgetown County, South Carolina (THE "COUNTY") and a Company Identified for the Time Being as Project Eagle, acting for Itself, One or More affiliates, And/Or, Other Project Sponsors (THE "COMPANY"), with Respect to the Establishment and/or Expansion of a Certain Facilities in the County (Collectively, THE "PROJECT"); (2) The Benefits of a Multi-County Industrial Park to be Made Available to the Company and the Project, and (3) Other Matters Relating Thereto. Councilmember Everett Carolina seconded the motion. Chairman Thomas called for discussion.

Councilmember Charlton moved to amend Ordinance No. 19-18 to incorporate proposed text, as the ordinance was introduced by title only. Councilmember Carolina seconded the motion. No discussion followed.

In Favor:	Everett Carolina	Louis R. Morant
	Ron L. Charlton	Raymond L. Newton
	Steve Goggans	John W. Thomas
	Lillie Jean Johnson	

The vote on the main motion was as follows:

In Favor:	Everett Carolina	Louis R. Morant
	Ron L. Charlton	Raymond L. Newton
	Steve Goggans	John W. Thomas
	Lillie Jean Johnson	

Ordinance No. 19-19

A motion was made by Councilmember Ron Charlton, and seconded by Councilmember Steve Goggans, for second reading approval of Ordinance No. 19-19 titled, "An Ordinance to Establish a Joint County Industrial and Business Park Pursuant to Section 4-1-170 of the South Carolina Code of Laws 1976, as amended, to be Known as the Georgetown County Project Eagle Joint County Industrial and Business Park

(THE "PARK"), in Conducting with Horry County, Such Park to be Geographically Located in Georgetown County; to Authorize the Execution and Delivery of a Written Park Agreement with Horry County as to the Requirements of Payments of Fee in Lieu of Ad Valorem Taxes with Respect to Park Property and the Sharing of the Revenues and Expenses of the park; To Provide for the Distribution of Revenues From the Park Within Georgetown County; and Other Matters Relating Thereto". Chairman John Thomas called for discussion.

Councilmember Charlton moved to amend Ordinance No. 19-19 to incorporate proposed text, as the ordinance was introduced by title. Councilmember Goggans offered a second on the amended motion. There was no further discussion.

In Favor:	Everett Carolina	Louis R. Morant
	Ron L. Charlton	Raymond L. Newton
	Steve Goggans	John W. Thomas
	Lillie Jean Johnson	

The vote on the main motion was as follows:

In Favor:	Everett Carolina	Louis R. Morant
	Ron L. Charlton	Raymond L. Newton
	Steve Goggans	John W. Thomas
	Lillie Jean Johnson	

ORDINANCES-First Reading:

Ordinance No. 19-21 - An Ordinance to authorize the expenditure of surplus Capital Project Sales Tax funds authorized under the Capital Project Sales Tax Act (S.C. Code Ann. Section 4-10-340, et seq.) previously collected pursuant to a majority vote on a referendum ordered by Georgetown County Ordinance 2014-28 held on November 4, 2014; further to designate the projects for which the surplus proceeds may be used; and to provide for other matters relating thereto.

Ordinance No. 19-22 – An Ordinance to Amend Ordinance No. 2007-06, "Georgetown County Animal Control Ordinance", regarding the sterilization of animals before release from the local animal shelter.

Ordinance No. 19-23 – An Ordinance Authorizing the Issuance and Sale of General Obligation Bonds of Georgetown County, South Carolina, Series 2019, or Such Other Appropriate Series Designation, in the Principal Amount of Not Exceeding \$10,000,000; Fixing the Form and Details of the Bonds; Authorizing the County Administrator to Determine Certain Matters Relating to the Bonds; Providing for the Payment of the Bonds and the Disposition of the Proceeds Thereof; and Other Matters Relating Thereto.

BIDS:

No reports.

REPORTS TO COUNCIL:

No reports.

DEFERRED:

Ordinance No. 2017-23

County Council deferred action on Ordinance No. 2017-23, a proposed amendment to the Pawleys Plantation Planned Development pursuant to legal questions pertaining to the application as submitted by the Pawleys Plantation Property Owners Association.

Ordinance No. 19-20

Ordinance No. 19-20, an Ordinance to authorize Georgetown County to lease a portion of a tract of property owned by Georgetown County, designated as Tax Map No. 04-0406-001-01-00, to JB's Celebration Park Inc. for the purpose of constructing a park for general public access.

Being no further business to come before County Council, Councilmember Ron Charlton made a motion to adjourn the meeting at 5:55 pm.

Date

Clerk to Council

Item Number: 6.a
Meeting Date: 10/8/2019
Item Type: CONSENT AGENDA

AGENDA REQUEST FORM
GEORGETOWN COUNTY COUNCIL



DEPARTMENT: Purchasing

ISSUE UNDER CONSIDERATION:

Change Order #4 to Procurement #18-043, Hagley West Drainage Improvements

CURRENT STATUS:

Greenwall Construction Services, Inc. was awarded the contract for Procurement #18-043, Hagley West Drainage Improvements. There have been several drainage complaints from citizens along Hagley Dr., Springfield Dr., Kings River Rd., Bristol Dr. This change order will address those complaints. In addition, this will serve as the final adjusting change order for Hagley Phase 2.

POINTS TO CONSIDER:

Staff would like to expand the current project to include Kings River Rd., Bristol Lane, Springfield Dr. and Old Ashely Loop. Work would consist of the following:

- 1) Hagley Phase 2: Final adjusting change order per final pay application quantities.
- 2) Hagley Phase 3: Adjusting quantities for revised scope of work per attached schedule of values and modified drawings.
- 3) Hagley Phase 4: Kings River Rd. (Crossline to Bristol Lane)-Regrade existing ditch along north side of road and replace existing driveway pipe 24" RCP.
- 4) Hagley Phase 4: Bristol Lane-Construct ditch and new pipeline (18" and 24") and install 18" crossline under Old Ashley Loop for flow diversion.
- 5) Please see comprehensive map of project attaches with all phases outlined.

FINANCIAL IMPACT:

This project is fully funded in GL account number 504.901.50705.

OPTIONS:

- 1) Approve Change Order #4 to Greenwall Construction Services, Inc. in the amount of \$294,283.21.
- 2) Deny the request.

STAFF RECOMMENDATIONS:

Stormwater, Capital Projects and Public Services recommends the award of Change Order #4 as listed as indicated by their signatures on the change order form and memorandum of recommendation that are attached herein.

ATTORNEY REVIEW:

No

ATTACHMENTS:

Description	Type
▣ Change Order #4 to Contract #18-043 with Greenwall Construction Service	Cover Memo
▣ Recommendation from Mr. Ray Funnye, Director of Public Services	Cover Memo



Georgetown County, South Carolina
Execution of Contract Change or Adjustment

Type of Change: ☒ Change Order ☐ Contract Amendment ☐ Task Order ☐ Other:

Contract #	Sequence #	Amendment #
18-043	4	
Project #	GL Account	Purchase Order
Hagley West Phase 2	504-901-50705	19-0000160
PRIOR Contract \$ Total	\$ Amount of this Change (+/-)	REVISED Contract \$ Total
\$1,718,481.55	\$294,283.21	\$2,012,764.76

Administration Use ONLY		
	Signature	Date
Budget Verified:		9/30/19
Change Originator:	Art Baker	09/24/19

Consultant Name:	Greenwall Construction Services, Inc.
Contract Title:	Construction for Hagley West Drainage Improvements
Task Order Name:	Various improvements along Hagley Drive, Springfield Dr, Kings River Road and Bristol Drive.
Scope of Work:	1. Hagley Phase 2: Final Adjusting Change Order for Hagley Phase 2 as required for final PPA quantities. 2. Hagley Phase 3: Adjusting quantities for revised scope of work, per attached Schedule of Values and modified drawings. 3. Hagley Phase 4: Kings River Road (Crossline to Bristol Lane): Regrade existing ditch along north side of road and replace existing driveway pipe 24" RCP. 4. Hagley Phase 4: Bristol Lane: Construct ditch and new pipeline (18" and 24") and install 18" crossline under Old Ashley Loop for flow diversion. Please see comprehensive map of project attached, with all phases outlined.
List Authorized Sub-Consultants:	N/A
Deliverables:	New pipe and catch basins, ditch regrading, driveway repairs, erosion control, hydroseeding. Please see attached documentation.
Justification for Change:	Addressing several drainage complaints from citizens along Hagley Drive, Kings River Road, Bristol Lane and Springfield Drive. Due to design modifications, additional structures/work was required. Please see comprehensive project map included. This CO provides as well for the final adjusting change order for Hagley Phase 2.
Start Date: NTP	Completion Date: +90 days

The parties indicated herein have executed this agreement on the dates written below, the latest of which shall be deemed to be the effective date. No payment will be made for any work performed prior to the effective date. Unless otherwise indicated, receipt of this executed agreement is your Notice to Proceed with the work specified herein.

Georgetown County, SC Signatures: Ray C. Funnye Director of Public Services _____ John Thomas Chair - County Council	09/24/19 Date _____ Date	Greenwall Construction Services, Inc. <u>See Attached</u> (Signature) _____ Date _____
NOTES: 1. This form is intended as a guide to identify minimum requirements for a contract change or adjustment. All changes must also be compliant with the provisions of the contract. 2. Where the intended change cannot be accommodated on this form; use as a cover (noting "See Attached" in the appropriate spaces above) to provide accounting codes, Admin authorization and signatures. Any substitute format <u>must</u> include all elements of this form for each item of work. 3. Attach additional budget forms as needed when multiple tasks and resources are proposed.		

Change Order #4 Summary	
Description	Amount
Hagley Phase 3 (See itemized schedule)	\$ 116,976.82
Hagley Phases 2 and Phase 4 (See itemized schedule)	\$ 177,306.39
Total	\$ 294,283.21

(Hagley Phase 3-Additional) - September 19, 2019										
Item	Description	Unit	Base Bid			Change Order #3 (Original)		Revised Quantities		CO#4
			Qty (Base Bid)	Unit Price (Base Bid)	Total Cost (Original Contract)	Qty (Change Order #3)	Total Cost (Original Contract)	Qty (Change Order #3)	Total Cost (Original Contract)	Total Cost (Original Contract)
1	Mobilization/staking/general conditions	LS	1	\$ 187,057.00	\$ 187,057.00	\$ 0.25	\$ 46,764.25	0.25	\$ 46,764.25	\$ -
2	Traffic Control	LS	1	\$ 28,125.41	\$ 28,125.41	\$ 0.40	\$ 11,250.16	0.60	\$ 16,875.25	\$ 5,625.08
3	Dewatering	LS	1	\$ 16,738.80	\$ 16,738.80	n/a	n/a	1.00	\$ 16,738.80	\$ 16,738.80
4	Dewatering/Pump Around/Sand Bags (Otter Run Rd)	LS	1	\$ 4,062.60	\$ 4,062.60	n/a	n/a	n/a	n/a	n/a
5	Strip Topsoil	CY	1,200	\$ 15.87	\$ 19,044.00	\$ 209.41	\$ 3,323.39	320.43	\$ 5,085.26	\$ 1,761.86
6	Clearing and Grubbing, tree removal (Otter Run Rd)	AC	0.15	\$ 50,320.00	\$ 7,548.00	n/a	n/a	n/a	n/a	n/a
7	Remove Stormwater Pipe	LF	1,065	\$ 13.61	\$ 14,494.65	\$ 460.00	\$ 6,260.60	667	\$ 9,077.87	\$ 2,817.27
8	Remove Conc. Headwall	EA	2	\$ 541.68	\$ 1,083.36	n/a	n/a	n/a	n/a	n/a
9	Misc. Demolition (clearing, tree removal, SW Struct. Removal, etc.)	LS	1	\$ 9,270.72	\$ 9,270.72	\$ 0.50	\$ 3,996.00	0.50	\$ 4,635.36	\$ 639.36
10	Documentation of and replacement of landscaping along re-graded ditch b/t TMS 04-0207-562-00-00 & 563-00-00	LS	1	\$ 13,131.30	\$ 13,131.30	n/a	n/a	n/a	n/a	n/a
11	Beaver Dam Removal (Otter Run Rd, approx.. 150 LF)	LS	1	\$ 1,676.10	\$ 1,676.10	n/a	n/a	n/a	n/a	n/a
12	Remove Driveway/Road - Asphalt/Concrete	SY	755	\$ 23.72	\$ 17,908.60	\$ 340.00	\$ 8,064.80	376	\$ 8,908.18	\$ 843.38
13	Hydroseeding	SF	86,425	\$ 0.11	\$ 9,506.75	\$ 31,712.50	\$ 3,488.38	38,932.50	\$ 4,282.58	\$ 794.20
14	Orange Safety Fence	LF	3,630	\$ 1.79	\$ 6,497.70	\$ 300.00	\$ 537.00	300	\$ 537.00	\$ -
15	SC150 Erosion Control Matting in Ditch	SY	2,470	\$ 2.07	\$ 5,112.90	\$ 1,884.72	\$ 3,901.38	2,883.89	\$ 5,969.65	\$ 2,068.28
16	Riprap Pipe Outlet Protection	SY	75	\$ 124.54	\$ 9,340.50	\$ 30.00	\$ 3,736.20	-	\$ -	\$ (3,736.20)
17	Stabilized Construction Entrance	EA	1	\$ 2,708.40	\$ 2,708.40	n/a	n/a	n/a	n/a	n/a
18	Sediment Tubes	EA	29	\$ 68.25	\$ 1,979.25	\$ 17.00	\$ 1,160.25	17	\$ 1,160.25	\$ -
19	Concrete Washout	EA	1	\$ 1,237.65	\$ 1,237.65	n/a	n/a	n/a	n/a	n/a
20	Inlet Protection	EA	15	\$ 135.42	\$ 2,031.30	\$ 8.00	\$ 1,083.36	8	\$ 1,083.36	\$ -
21	Silt Fence Rock Outlet (Otter Run Rd)	EA	1	\$ 1,665.00	\$ 1,665.00	n/a	n/a	n/a	n/a	n/a
22	Silt Fence (Otter Run Rd)	LF	500	\$ 2.78	\$ 1,390.00	n/a	n/a	n/a	n/a	n/a
23	15" RCP Drainage Pipe	LF	8	\$ 46.60	\$ 372.80	\$ 257.00	\$ 11,976.20	306	\$ 14,259.60	\$ 2,283.40
24	18" RCP Drainage Pipe	LF	453	\$ 46.62	\$ 21,118.86	n/a	n/a	n/a	n/a	n/a
25	24" RCP Drainage Pipe	LF	80	\$ 64.85	\$ 5,188.00	\$ 464.00	\$ 30,090.40	840	\$ 54,474.00	\$ 24,383.60
26	30" RCP Drainage Pipe	LF	28	\$ 87.34	\$ 2,445.52	\$ 244.00	\$ 21,310.96	248	\$ 21,660.32	\$ 349.36
27	42" RCP Drainage Pipe	LF	45	\$ 153.53	\$ 6,908.85	n/a	n/a	n/a	n/a	n/a
DRAINAGE OPTIONS-CHOOSE AND COMPLETE ONLY OPTION #1 (LINE ITEMS 28-31) OR #2 (LINE ITEMS 32-35) BELOW FOR USING EITHER A 24"x36" BOX CULVERT SYSTEM OR A 29"x45"										\$ -
OPTION 1										
28	Option #1- 24"x48" Conc. Box Culvert	LF	1251	\$ -	\$ -	n/a	n/a	n/a	n/a	n/a
29	Option #1- Box Culvert End inc. Riprap per SCDOT Std. (No flare-outs, mitered only)	EA	7	\$ -	\$ -	n/a	n/a	n/a	n/a	n/a
30	Option #1- Drop Inlets (through top of box culvert)	EA	6	\$ -	\$ -	n/a	n/a	n/a	n/a	n/a
31	Option #1- Storm Box Culvert Road Crossing	EA	1	\$ -	\$ -	n/a	n/a	n/a	n/a	n/a
OPTION 2										\$ -
32	Option #2- 29"x45" Conc. Elliptical Pipe	LF	1251	\$ 175.23	\$ 219,212.73	n/a	n/a	n/a	n/a	n/a
33	Option #2- Conc. Elliptical Pipe Beveled End inc. Riprap per SCDOT Std.	EA	7	\$ 2,845.81	\$ 19,920.67	n/a	n/a	n/a	n/a	n/a
34	Option #2- 24"x36" SCDOT Drop Inlets (4'x4' Box) for Elliptical Pipe Connections	EA	6	\$ 3,708.01	\$ 22,248.06	n/a	n/a	n/a	n/a	n/a
35	Option #2- Storm Elliptical Pipe Road Crossing	EA	1	\$ 5,971.80	\$ 5,971.80	n/a	n/a	n/a	n/a	n/a
36	Means and Methods for Installation of Box Culvert or Elliptical Pipe parallel with Existing Water Main	LS	1	\$ 5,550.00	\$ 5,550.00	n/a	n/a	n/a	n/a	n/a
37	Beveled Pipe Ends inc. Riprap & Geotextile Fabric	EA	30	\$ 1,150.67	\$ 34,520.10	n/a	n/a	28	\$ 32,218.76	\$ 32,218.76
38	Custom 8'x10' Drop Inlet Struct.	EA	1	\$ 7,428.56	\$ 7,428.56	n/a	n/a	n/a	n/a	n/a
39	Connect 42" RCP to Ex. Struct.	EA	1	\$ 674.88	\$ 674.88	n/a	n/a	n/a	n/a	n/a
40	24"x36" SCDOT Drop Inlet (2'x3' Box) w/ Side Weirs	EA	1	\$ 2,222.81	\$ 2,222.81	\$ 5.00	\$ 11,114.05	14	\$ 31,119.34	\$ 20,005.29
41	24"x36" SCDOT Drop Inlet (4'x4' Box) w/ Side Weirs	EA	1	\$ 2,302.12	\$ 2,302.12	\$ 3.00	\$ 6,906.36	3	\$ 6,906.36	\$ -
42	24"x36" SCDOT Drop Inlet (6'x6' Box)	EA	4	\$ 3,708.01	\$ 14,832.04	n/a	n/a	n/a	n/a	n/a
43	Connect ex. 15" CPP to new SCDOT 24"x36" Drop Inlet	EA	1	\$ 646.91	\$ 646.91	n/a	n/a	n/a	n/a	n/a
44	Connect 42" CPP to Custom Drop Inlet	EA	2	\$ 1,233.40	\$ 2,466.80	n/a	n/a	n/a	n/a	n/a
45	Asphalt Paving for Driveways	SY	280	\$ 53.14	\$ 14,879.20	\$ 333.11	\$ 17,701.52	-	\$ -	\$ (17,701.52)
46	Concrete Paving for Driveways	SY	175	\$ 99.32	\$ 17,381.00	\$ 171.00	\$ 16,983.72	428.56	\$ 42,564.14	\$ 25,580.42
47	Asphalt Paving for SCDOT Roadways	SY	225	\$ 49.95	\$ 11,238.75	\$ 122.22	\$ 6,105.00	111.11	\$ 5,550.00	\$ (555.00)
48	1.5" Asphalt Overlay for pipe crossings	SY	1925	\$ 14.72	\$ 28,336.00	\$ 244.44	\$ 3,598.22	-	\$ -	\$ (3,598.22)
49	Fine Grading (driveways, road, swales)	SY	9,560	\$ 2.78	\$ 26,576.80	\$ 2,595.50	\$ 7,215.49	2,883.89	\$ 8,017.21	\$ 801.72

(Hagley Phase 3-Additional) - September 19, 2019										
Item	Description	Unit	Base Bid			Change Order #3 (Original)		Revised Quantities		CO#4
			Qty (Base Bid)	Unit Price (Base Bid)	Total Cost (Original Contract)	Qty (Change Order #3)	Total Cost (Original Contract)	Qty (Change Order #3)	Total Cost (Original Contract)	Total Cost (Original Contract)
50	Fine Grading (Otter Run Rd, Spillway Area and Access)	SY	600	\$ 5.00	\$ 3,000.00	n/a	n/a	n/a	n/a	n/a
51	Storm Pipe Road Crossing	EA	3	\$ 5,971.80	\$ 17,915.40	\$ 2.00	\$ 11,943.60	1	\$ 5,971.80	\$ (5,971.80)
52	Flowable Fill around road pipe crossings	CY	80	\$ 159.17	\$ 12,733.60	\$ 55.47	\$ 8,828.63	70.28	\$ 11,186.70	\$ 2,358.07
53	Sanitary Sewer Service Relocation	EA	10	\$ 3,129.25	\$ 31,292.50	n/a	n/a	n/a	n/a	n/a
54	Water Service Relocation	EA	10	\$ 938.46	\$ 9,384.60	n/a	n/a	n/a	n/a	n/a
55	6" Water Main Vertical Relocation	EA	3	\$ 2,544.56	\$ 7,633.68	n/a	n/a	n/a	n/a	n/a
56	8" Water Main Vertical Relocation	EA	3	\$ 2,842.67	\$ 8,528.01	n/a	n/a	n/a	n/a	n/a
57	10" Water Main Vertical Relocation	EA	3	\$ 3,615.89	\$ 10,847.67	n/a	n/a	n/a	n/a	n/a
58	12" Water Main Vertical Relocation	EA	3	\$ 4,035.87	\$ 12,107.61	n/a	n/a	n/a	n/a	n/a
59	Concrete Utility Conflict Box	EA	1	\$ 6,280.78	\$ 6,280.78	n/a	n/a	n/a	n/a	n/a
60	Misc. relocations, working around exist. Utilities, shoring	LS	1	\$ 9,270.72	\$ 9,270.72	n/a	n/a	1.00	\$ 9,270.72	\$ 9,270.72
Total					\$ 963,047.82		\$ 247,339.92		\$ 364,316.75	\$ 116,976.82

Item 45 & 46. Driveways (Starting from Kings River Rd)								Pipe Quantities				
Driveway No.	Width	Length	Concrete or Asphalt	Notes	Concrete Area (SY)	Asphalt Area (SY)	Removal (SY)	Pipe #	30"	24"	18"	15"
								1		16		
								2	24			
								2A		16		
								3	112			
1	19	24	Concrete		50.7		50.7	4	112			
2	12	18	Concrete		24.0		24.0	5		72		
3	14	20	Asphalt		31.1		31.1	6		160		
4	14	28	Concrete		43.6		43.6	7		256		
								8		8		
5	9	19	Concrete	Golf Cart Path	19.0		19.0	9			64	
								10		16		
6	16	19	Concrete		33.8		33.8	11		32		
7	n/a	n/a	Remain Dirt	for Manhole			0.0	12		32		
8	12	25	Asphalt		33.3		33.3	13		32		
9	13	21	Asphalt	Existing Dirt	30.3		0.0	14		32		
10	12	17	Asphalt	Existing Dirt	22.7		0.0	15		32		
11	14	19	Asphalt		29.6		29.6	16		32		
12	12	17	Asphalt		22.7		22.7	17		32		
13	13	19	Asphalt	Boats	27.4		27.4	18		32		
14	16	14	Asphalt		24.9		24.9	19			64	
15	20	50	Asphalt	Springfield (Exist. Gravel)		SCDOT ROW (Item #47)	0.0	20		40		
								21			16	
								22				40
16	n/a	n/a	Remain Dirt	Existing Dirt			0.0	23				86
17	16	20	Concrete		35.6		35.6	24				80
18	n/a	n/a	Gravel	Existing Gravel			0.0	25				60
								26				40
Sub-Total					428.6	0.0	375.6		248	840	144	306

Item 47 - SCDOT Asphalt		
Decription	Area (SY)	Dimensions
King River Rd	0.0	0.0
Springfield to ROW	111.1	20'X50'
Total	111.1	

Item 48 - SCDOT Asphalt Overlay for Crosslines		
Decription	Area (SY)	Dimensions
King River Rd	0.0	
Total	0.0	
With Radii		0

Item 7. Remove Pipe	
Driveway Widths	24
No. of Driveways	16
Springfield	48
Additional	235
Kings River Rd	
Total	667

Item 37. Bevelled Pipe Ends	
Total Driveways	17
Less Driveways w/o stub	-8
Additional Ends	10
Total	28

Drop Inlets			
Item 41	4X4 Basins for 30"		3
Item 40	3X3 Basins for 24"		10
Item 40	2X2 Basins for 15" on		4
Total			17

Item 49 - Fine Grading		
Driveways	539.7	SY
3 Gravel Drives	106.7	SY
Ditches	1242	SY
Pipe (Non-driveway)	996	SY
Total	2,884	SY

Item 52 - Flow Fill		
Length	192	Ft
Width	5	Ft
Depth	2.5	Ft
Total	70.28	CY

Ditch Surface Area		
Bottom Width	2.5	Ft
Side Slopes (1:1.5 @ 2.5' deep)	9	Ft
Ditch Length per LF of Ditch	11.5	Ft
Total Project Length	2202	Ft
Less Pipe	1538	Ft
Ditch Length	972	Ft
Ditch Surface Area	1242	SY

Item 5 - Strip Topsoil		
Fine Grading Area	2884	SY
Topsoil Depth	4	Inches
Total	320.43	CY

[illegible]

TMS 04-0208-087-00-00
N/F
FOUNDERS GCC LLC
DB 2442 PG 74

WATSON BEULAH E ET AL
04-0206-157-00-00

EVANS KATIE J
04-0206-159-00-00

DIMENNA MICHAEL JO
04-0206-160-00-00

MANZ JONATHAN P
04-0206-210-00-00

WILDER KAREN R
04-0206-212-00-00

KUNZ EDWARD W
04-0206-211-00-00

- NOTES:
1. ALL PAVEMENT MARKINGS WITHIN SCDOT RIGHT OF WAY SHALL BE THERMOPLASTIC AND INSTALLED ACCORDING TO CURRENT SCDOT STANDARDS AND SPECIFICATIONS.
 2. ALL DRIVEWAY CULVERTS SHALL BE INSTALLED AND SEALED ACCORDING TO SCDOT TYPICAL DETAIL 714-205-01.
 3. ALL PIPES WITHIN RIGHT OF WAY SHALL HAVE BEVELED END SECTIONS AND RIP RAP ACCORDING TO SCDOT TYPICAL DETAIL 719-610-00



DESIGN DRAWINGS	NO. 1	6/1/2019
STORMWATER REVISION 1	NO. 2	7/1/2019
STORMWATER REVISION 2	NO. 3	7/29/2019

HAGLEY DRAINAGE IMPROVEMENTS : PHASE 3
GEORGETOWN COUNTY, SOUTH CAROLINA

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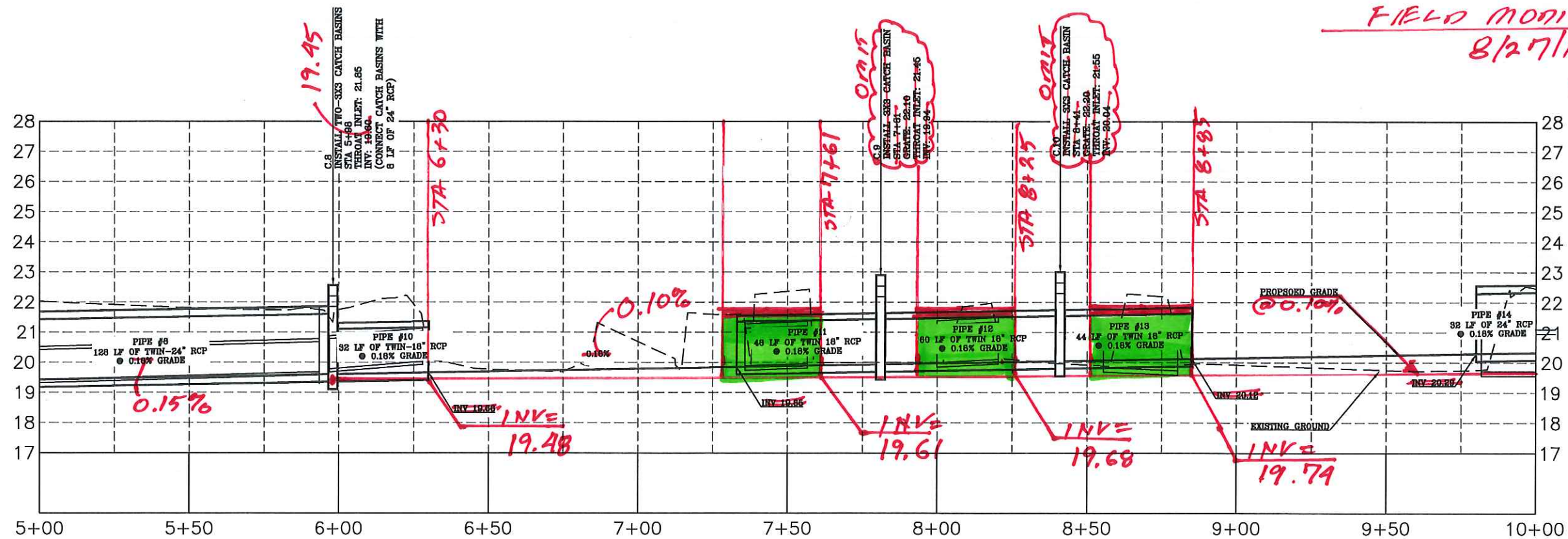
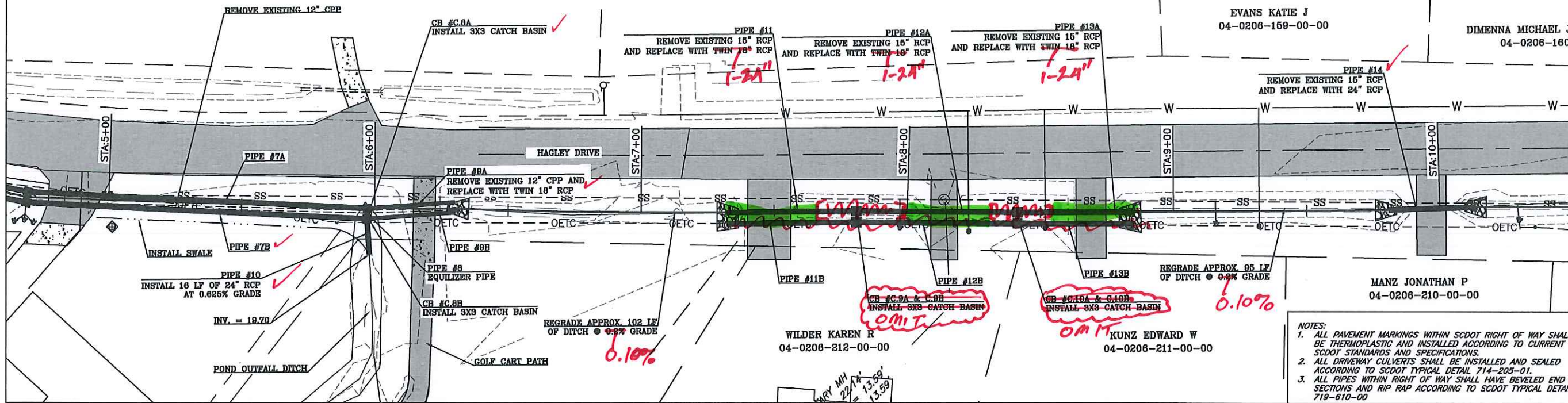
DESIGNED BY: ASB

DRAWN BY: MPM

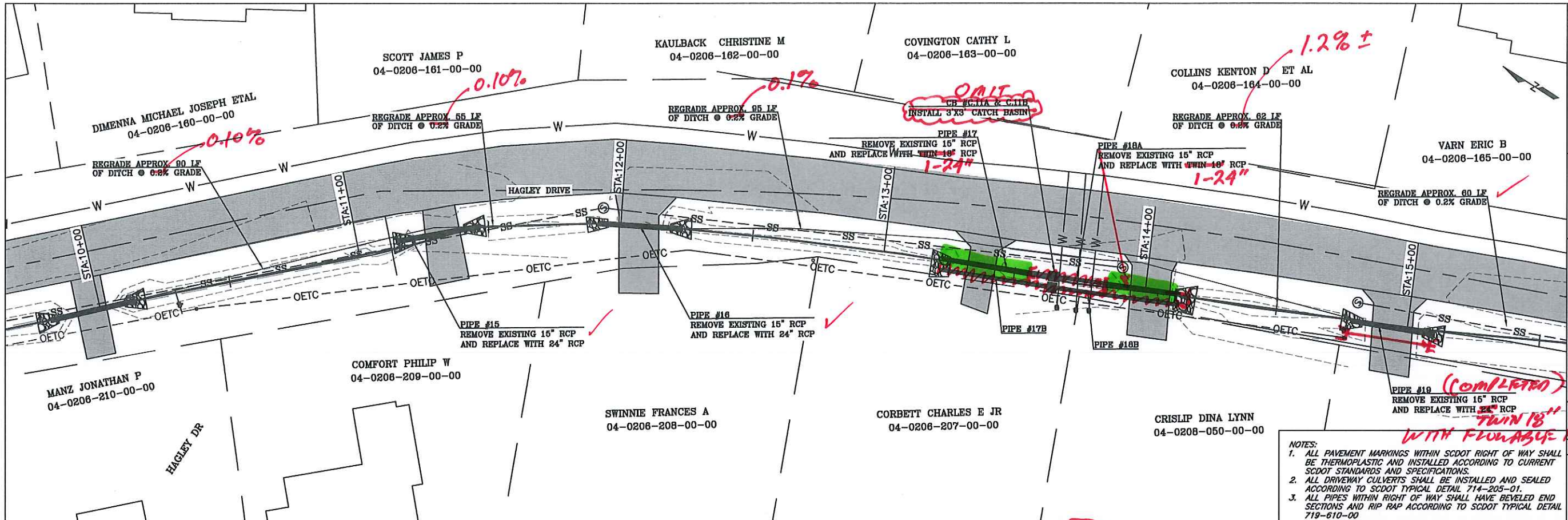
DATE: 7/29/2019

PLAN AND PROFILE

SHEET NO: C-02



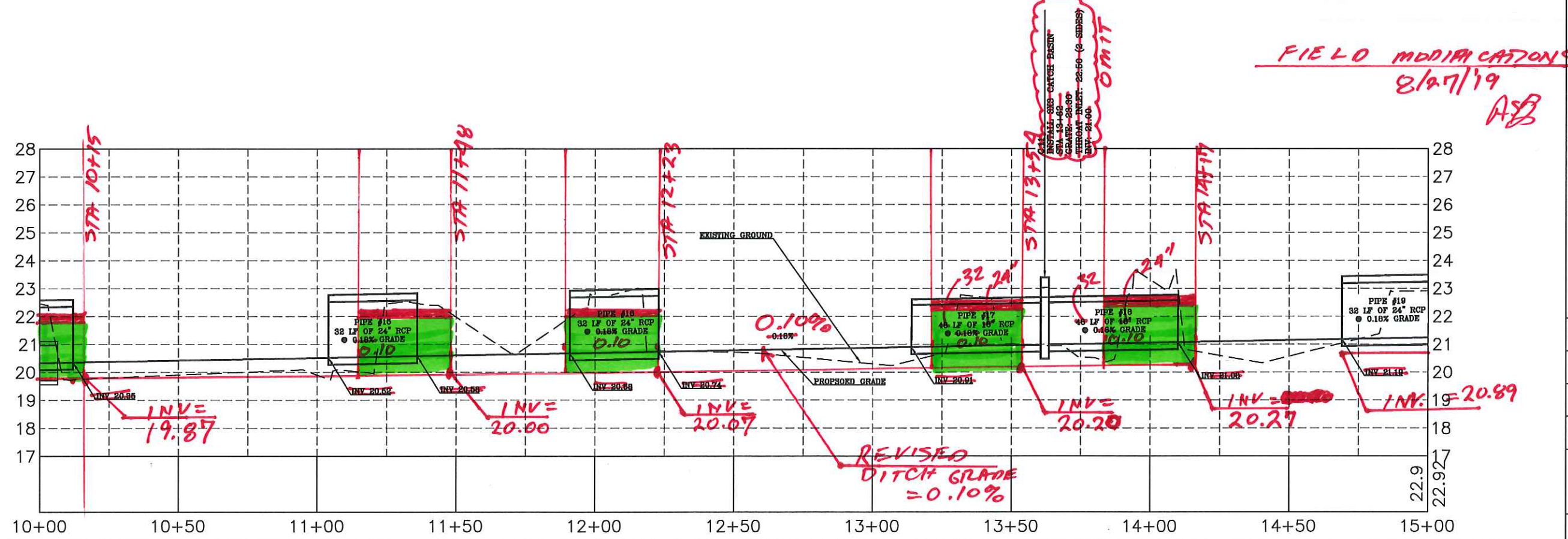
FIELD MODIFICATIONS
8/27/19
ASB



DESIGN DRAWINGS
STORMWATER REVISION 1
STORMWATER REVISION 2

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- NOTES:
1. ALL PAVEMENT MARKINGS WITHIN SCDDT RIGHT OF WAY SHALL BE THERMOPLASTIC AND INSTALLED ACCORDING TO CURRENT SCDDT STANDARDS AND SPECIFICATIONS.
 2. ALL DRIVEWAY CULVERTS SHALL BE INSTALLED AND SEALED ACCORDING TO SCDDT TYPICAL DETAIL 714-205-01.
 3. ALL PIPES WITHIN RIGHT OF WAY SHALL HAVE BEVELED END SECTIONS AND RIP RAP ACCORDING TO SCDDT TYPICAL DETAIL 719-610-00



FIELD MODIFICATIONS
8/27/19
ASB

HAGLEY DRAINAGE IMPROVEMENTS : PHASE 3
GEORGETOWN COUNTY, SOUTH CAROLINA

PROJECT:

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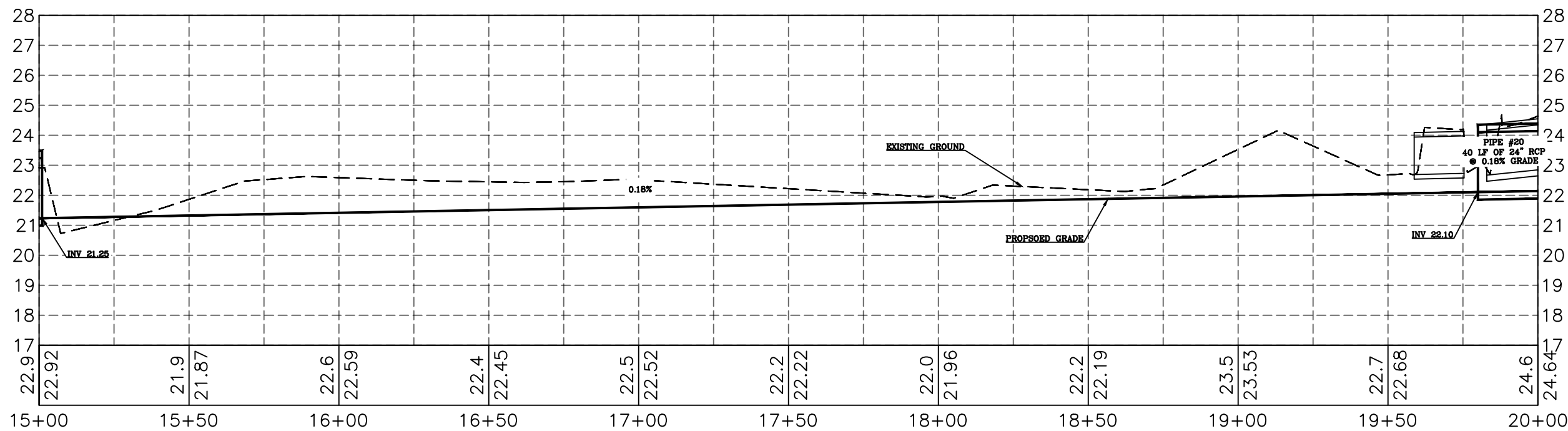
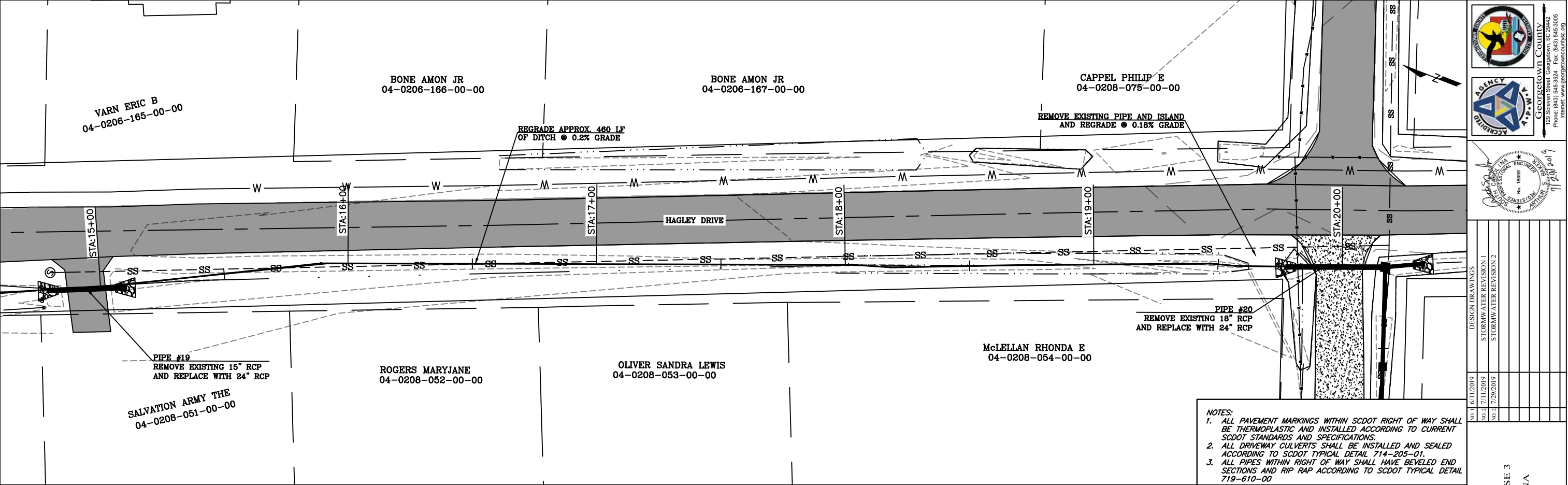
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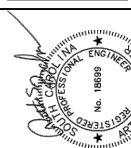


DRAWN BY: MPM

DATE: 7/29/2019

PLAN AND PROFILE

SHEET NO: C-03





Georgetown County
128 Saven Street, Georgetown, SC 29442
Phone: (843) 545-3524 Fax: (843) 545-3005
Internet: www.georgetowncountysc.org

DESIGN DRAWINGS	
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NO. 3	7/29/2019
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HAGLEY DRAINAGE IMPROVEMENTS : PHASE 3
GEORGETOWN COUNTY, SOUTH CAROLINA

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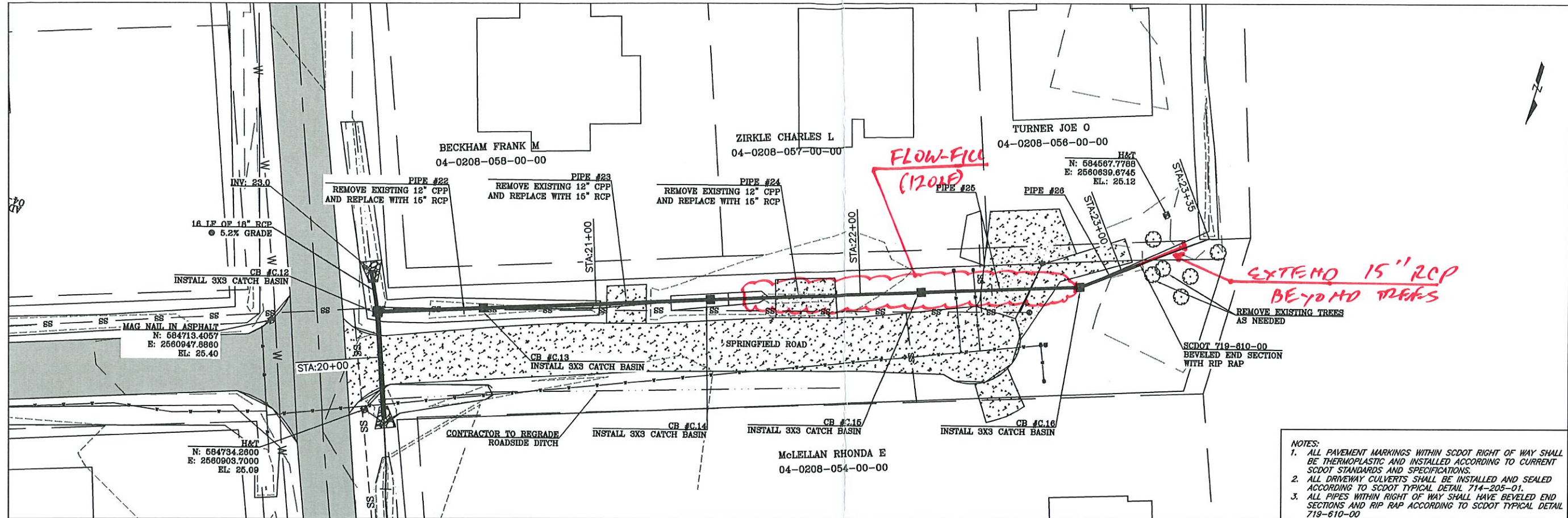
DESIGNED BY: ASB

DRAWN BY: MPM

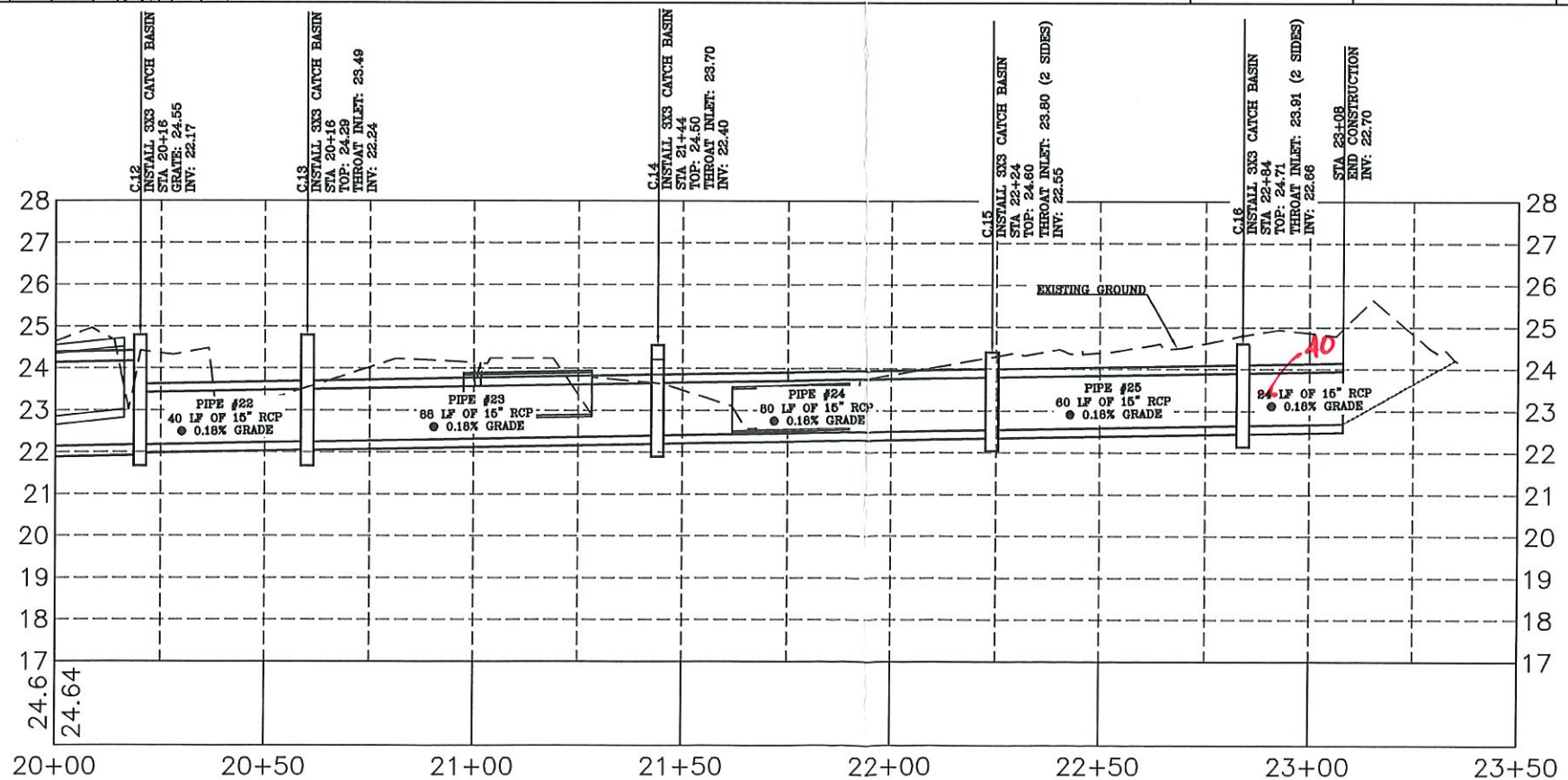
DATE: 7/29/2019




PLAN AND PROFILE

SHEET NO: C-04



NOTES:
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128 Serenity Street, Georgetown, SC 29442
 Phone: (843) 545-3524 Fax: (843) 545-3005
 Internet: www.georgetownsc.gov

DESIGN DRAWINGS	
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HAGLEY DRAINAGE IMPROVEMENTS : PHASE 3
 GEORGETOWN COUNTY, SOUTH CAROLINA

PROJECT:

SCALE: H:1:40
V:1:4

DESIGNED BY: ASB

DRAWN BY: MPM

DATE: 7/29/2019

PLAN AND PROFILE

SHEET NO: C-05

Hagley Ph. 2 & Ph. 4 Additional - Summary	
Contracted	\$ 1,471,141.63
Total to date	\$ 1,535,632.79
Additional funds required through PPA#11	\$ 64,491.16
+ Balance for outfall (Items #73-79)	\$ 68,737.51
+ Additional for outfall	\$ 22,711.60
+ Asphalt Overlays (Item #48)	\$ 17,664.00
+ Extra Box on Old Ashley Loop (Item #41)	\$ 3,702.12
Total	\$ 177,306.39

Greenwall Construction Service, Inc

31-Jul-19

SCHEDULE OF VALUES

Hagley West Drainage Improvements Phase 2

Pawleys Island, SC

Contract # 18-043

GC PO No 2019-00000160 & 2019-00000161

GCS Job # 2018-0005

Application for Payment # 09

Period 29-Jun-19 to 31-Jul-19

SOV Item No	Description of Work	Contract Quantity	U/M	Unit Price	Scheduled Value	Previous Applications	This Application		Total to Date		Percent Complete	Balance to Finish	
							Quantity	Value	Quantity	Value		Quantity	Value
	Base Contract including C/O # 01 PO No 2018-00000213 dated 10-03-17												
1	Mobilization / Staking / General Conditions	1	LS	\$226,987.20	\$226,987.20	\$221,637.84	0.0236	\$5,349.36	1.0000	\$226,987.20	100.00%	0.0000	\$0.00
2	Traffic Control	1	LS	\$43,465.41	\$43,465.41	\$46,740.40			1.0753	\$46,740.40	107.53%	(0.0753)	(\$3,274.99)
3	Dewatering (Hagley Drive)	1	LS	\$23,416.80	\$23,416.80	\$23,416.80		\$0.00	1.00	\$23,416.80	100.00%	0.00	\$0.00
4	Dewatering, Pump Around, Sand Bags (Otter Run Road)	1	LS	\$4,062.60	\$4,062.60			\$0.00	0	\$0.00	0.00%	1	\$4,062.60
5	Strip Topsoil	1,392	CY	\$15.87	\$22,091.04	\$26,582.25		\$0.00	1,675	\$26,582.25	120.33%	(283)	(\$4,491.21)
6	Clearing & Grubbing, Tree Removal (Otter Run Road)	0.15	AC	\$50,320.00	\$7,548.00	\$2,500.00			0.0497	\$2,500.00	33.12%	0.1003	\$5,048.00
7	Remove Stormwater Pipe	1,065	LF	\$13.61	\$14,494.65	\$13,909.42	120	\$1,633.20	1,142	\$15,542.62	107.23%	(77)	(\$1,047.97)
8	Remove Concrete Headwall	2	EA	\$541.68	\$1,083.36	\$1,625.04		\$0.00	3	\$1,625.04	150.00%	(1)	(\$541.68)
9	Misc Demolition (Clearing, Tree Removal, SW Struct Removal, etc)	1	LS	\$9,270.72	\$9,270.72	\$10,870.73			1.1726	\$10,870.73	117.26%	(0.1726)	(\$1,600.01)
10	Documentation of & Replacement of Landscaping along Re-Graded ditch b/t TMS 04-0207-562-00-00 & 563-00-00	1	LS	\$13,131.30	\$13,131.30	\$13,131.31		\$0.00	1.00	\$13,131.31	100.00%	0.00	(\$0.01)
11	Beaver Dam Removal (Otter Run Rd, approx 150 LF)	1	LS	\$1,676.10	\$1,676.10	\$1,676.10		\$0.00	1	\$1,676.10	100.00%	0	\$0.00
12	Remove Driveway, Road-Asphalt, Concrete	919	SY	\$23.72	\$21,798.68	\$20,849.88	48	\$1,138.56	927	\$21,988.44	100.87%	(8)	(\$189.76)
13	Hydroseeding	100,253	SF	\$0.11	\$11,027.83	\$10,672.20	4,385	\$482.35	101,405	\$11,154.55	101.15%	(1,152)	(\$126.72)
14	Orange Safety Fence	4,230	LF	\$1.79	\$7,571.70	\$6,891.50	380	\$680.20	4,230	\$7,571.70	100.00%	0	\$0.00
15	SC150 Erosion Control Matting in Ditch	2,504	SY	\$2.07	\$5,183.28	\$6,015.42	487	\$1,008.09	3,393	\$7,023.51	135.50%	(889)	(\$1,840.23)
16	Riprap Pipe Outlet Protection	115	SY	\$124.54	\$14,322.10	\$40,724.58	20	\$2,490.80	347	\$43,215.38	301.74%	(232)	(\$28,893.28)
17	Stabilized Construction Entrance	1	EA	\$3,141.74	\$3,141.74	\$3,141.74		\$0.00	1	\$3,141.74	100.00%	0	\$0.00
18	Sediment Tubes	34	EA	\$68.25	\$2,320.50	\$2,320.50		\$0.00	34	\$2,320.50	100.00%	0	\$0.00
19	Concrete Washout	1	EA	\$1,435.67	\$1,435.67	\$1,435.67		\$0.00	1	\$1,435.67	100.00%	0	\$0.00

Greenwall Construction Service, Inc

31-Jul-19

SCHEDULE OF VALUES

Hagley West Drainage Improvements Phase 2

Pawleys Island, SC

Contract # 18-043

GC PO No 2019-00000160 & 2019-00000161

GCS Job # 2018-0005

Application for Payment # 09

Period 29-Jun-19 to 31-Jul-19

SOV Item No	Description of Work	Contract Quantity	U/M	Unit Price	Scheduled Value	Previous Applications	This Application		Total to Date		Percent Complete	Balance to Finish	
							Quantity	Value	Quantity	Value		Quantity	Value
20	Inlet Protection	25	EA	\$135.42	\$3,385.50	\$3,385.50		\$0.00	25	\$3,385.50	100.00%	0	\$0.00
21	Silt Fence Rock Outlet (Otter Run Road)	1	EA	\$1,665.00	\$1,665.00			\$0.00	0	\$0.00	0.00%	1	\$1,665.00
22	Silt Fence (Otter Run Road)	500	LF	\$2.78	\$1,390.00			\$0.00	0	\$0.00	0.00%	500	\$1,390.00
23	15" RCP Drainage Pipe	8	LF	\$46.60	\$372.80	\$1,491.20		\$0.00	32	\$1,491.20	400.00%	(24)	(\$1,118.40)
24	18" RCP Drainage Pipe	453	LF	\$46.62	\$21,118.86	\$14,545.44	326	\$15,198.12	638	\$29,743.56	140.84%	(185)	(\$8,624.70)
25	24" RCP Drainage Pipe	143	LF	\$64.85	\$9,273.55	\$21,141.10		\$0.00	326	\$21,141.10	227.97%	(183)	(\$11,867.55)
26	30" RCP Drainage Pipe (Deleted @ C/O # 01)	0	LF	\$87.34	\$0.00			\$0.00	0	\$0.00	0.00%	0	\$0.00
27	42" RCP Drainage Pipe	70	LF	\$153.53	\$10,747.10	\$10,747.10		\$0.00	70	\$10,747.10	100.00%	0	\$0.00
	DRAINAGE OPTION 1												
28	24" x 48" Conc Box Culvert	1,251	LF	\$0.00	\$0.00			\$0.00	0	\$0.00	0.00%	1,251	\$0.00
29	Box Culvert End incl Riprap per SCDOT Std (No Flare Outs, Mitered only)	7	EA	\$0.00	\$0.00			\$0.00	0	\$0.00	0.00%	7	\$0.00
30	Drop Inlets (through top of Box Culvert)	6	EA	\$0.00	\$0.00			\$0.00	0	\$0.00	0.00%	6	\$0.00
31	Storm Box Culvert Road Crossing	1	EA	\$0.00	\$0.00			\$0.00	0	\$0.00	0.00%	1	\$0.00
	DRAINAGE OPTION 2												
32	29" x 45" Conc Elliptical Pipe	349	LF	\$175.23	\$61,155.27	\$68,690.16		\$0.00	392	\$68,690.16	112.32%	(43)	(\$7,534.89)
33	Conc Elliptical Pipe Beveled End incl SCDOT Rip-Rap	2	EA	\$2,845.81	\$5,691.62	\$5,691.62		\$0.00	2	\$5,691.62	100.00%	0	\$0.00
34	24"x36" SCDOT Drop Inlets (4'x4' Box) for Elliptical Pipe Connections	2	EA	\$3,708.01	\$7,416.02	\$7,416.02		\$0.00	2	\$7,416.02	100.00%	0	\$0.00
35	Storm Elliptical Pipe Road Crossing	1	EA	\$5,971.80	\$5,971.80	\$5,971.80		\$0.00	1	\$5,971.80	100.00%	0	\$0.00
36	Means and Methods for Installation of Box Culvert or Elliptical Pipe parallel with Existing Water Main	1	LS	\$16,438.00	\$16,438.00	\$16,438.00		\$0.00	1.00	\$16,438.00	100.00%	0.00	\$0.00
37	Beveled Pipe Ends incl Riprap & Geotextile Fabric	28	EA	\$1,150.67	\$32,218.76	\$18,410.72	12	\$13,808.04	28	\$32,218.76	100.00%	0	\$0.00
38	Custom 8' x 10' Drop Inlet Structure (Deleted @ C/O # 01)	0	EA	\$7,428.56	\$0.00			\$0.00	0	\$0.00	0.00%	0	\$0.00

Greenwall Construction Service, Inc

31-Jul-19

SCHEDULE OF VALUES

Hagley West Drainage Improvements Phase 2

Pawleys Island, SC

Contract # 18-043

GC PO No 2019-00000160 & 2019-00000161

GCS Job # 2018-0005

Application for Payment # 09

Period 29-Jun-19 to 31-Jul-19

SOV Item No	Description of Work	Contract Quantity	U/M	Unit Price	Scheduled Value	Previous Applications	This Application		Total to Date		Percent Complete	Balance to Finish	
							Quantity	Value	Quantity	Value		Quantity	Value
39	Connect 42" RCP to Ext Structure (Deleted @ C/O # 01)	0	EA	\$674.88	\$0.00			\$0.00	0	\$0.00	0.00%	0	\$0.00
40	24" x 36" SCDOT Drop Inlet (2 'x 3' Box) w/Side Weirs	1	EA	\$2,222.81	\$2,222.81	\$8,891.24		\$0.00	4	\$8,891.24	400.00%	(3)	(\$6,668.43)
41	24" x 36" SCDOT Drop Inlet (5' x 5' Box) w/Side Weirs	1	EA	\$3,702.12	\$3,702.12	\$3,702.12	1	\$3,702.12	2	\$7,404.24	200.00%	(1)	(\$3,702.12)
42	24" x 36" SCDOT Drop Inlet (6' x 6' Box)	1	EA	\$3,708.01	\$3,708.01	\$3,708.01		\$0.00	1	\$3,708.01	100.00%	0	\$0.00
43	Connect exist 15" CPP to new SCDOT 24" x 36" Drop Inlet	1	EA	\$646.91	\$646.91	\$1,940.73	1	\$646.91	4	\$2,587.64	400.00%	(3)	(\$1,940.73)
44	Connect 42" CPP to Custom Drop Inlet (Deleted @ C/O # 01)	0	EA	\$1,233.40	\$0.00			\$0.00	0	\$0.00	0.00%	0	\$0.00
45	Asphalt Paving for Driveways	310	SY	\$53.14	\$16,473.40	\$1,604.83	279.8	\$14,868.57	310.0	\$16,473.40	100.00%	0.0	\$0.00
46	Concrete Paving for Driveways	177	SY	\$99.32	\$17,579.64		281	\$27,908.92	281	\$27,908.92	158.76%	(104)	(\$10,329.28)
47	Asphalt Paving for SCDOT Roadways	432	SY	\$49.95	\$21,578.40	\$14,735.25	137	\$6,843.15	432	\$21,578.40	100.00%	0	\$0.00
48	1.5" Asphalt Overlay for Pipe Crossings	1,200	SY	\$14.72	\$17,664.00			\$0.00	0	\$0.00	0.00%	1,200	\$17,664.00
49	Fine Grading (Driveways, Road, Swales)	11,334	SY	\$2.78	\$31,508.52	\$39,670.60	489	\$1,359.42	14,759	\$41,030.02	130.22%	(3,425)	(\$9,521.50)
50	Fine Grading (Otter Run Road Spillway Area and Access)	600	SY	\$5.00	\$3,000.00			\$0.00	0	\$0.00	0.00%	600	\$3,000.00
51	Storm Pipe Road Crossing	4	EA	\$5,971.80	\$23,887.20	\$35,830.80		\$0.00	6	\$35,830.80	150.00%	(2)	(\$11,943.60)
52	Flowable Fill around Road Pipe Crossings	110	CY	\$159.17	\$17,508.70	\$42,657.56		\$0.00	268	\$42,657.56	243.64%	(158)	(\$25,148.86)
53	Sanitary Sewer Service Relocation (Deleted @ C/O # 01)	0	EA	\$3,129.25	\$0.00			\$0.00	0	\$0.00	0.00%	0	\$0.00
54	Water Service Relocation	11	EA	\$938.46	\$10,323.06	\$13,138.44	2	\$1,876.92	16	\$15,015.36	145.45%	(5)	(\$4,692.30)
55	6" Water Main Vertical Relocation	3	EA	\$2,544.56	\$7,633.68	\$7,633.68		\$0.00	3	\$7,633.68	100.00%	0	\$0.00
56	8" Water Main Vertical Relocation	4	EA	\$2,842.67	\$11,370.68	\$8,528.01		\$0.00	3	\$8,528.01	75.00%	1	\$2,842.67
57	10" Water Main Vertical Relocation	4	EA	\$3,615.89	\$14,463.56	\$3,615.89		\$0.00	1	\$3,615.89	25.00%	3	\$10,847.67
58	12" Water Main Vertical Relocation	3	EA	\$4,035.87	\$12,107.61			\$0.00	0	\$0.00	0.00%	3	\$12,107.61
59	Concrete Utility Conflict Box	6	EA	\$6,280.78	\$37,684.68	\$37,684.68		\$0.00	6	\$37,684.68	100.00%	0	\$0.00

Greenwall Construction Service, Inc

31-Jul-19

SCHEDULE OF VALUES

Hagley West Drainage Improvements Phase 2

Pawleys Island, SC

Contract # 18-043

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GCS Job # 2018-0005

Application for Payment # 09

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							Quantity	Value	Quantity	Value		Quantity	Value
60	Misc Relocations, Working Around Exist Utilities, Shoring	1	LS	\$10,754.04	\$10,754.04	\$10,754.04		\$0.00	1.00	\$10,754.04	100.00%	0.00	\$0.00
	C/O # 01: New Work Items per Stantec 09-23-18 Revisions												
61	48" RCP Drainage Pipe	1,995	LF	\$175.23	\$349,583.85	\$349,583.85		\$0.00	1,995	\$349,583.85	100.00%	0	\$0.00
62	Excavation, Displacement, etc for Depth Change	1,027	CY	\$15.87	\$16,298.49	\$16,298.49		\$0.00	1,027	\$16,298.49	100.00%	0	\$0.00
63	24" x 36" SCDOT Drop Inlet (5' x 5' Box)	14	EA	\$4,558.00	\$63,812.00	\$77,486.00	3	\$13,674.00	20	\$91,160.00	142.86%	(6)	(\$27,348.00)
64	Relocate Exist Force Main w/DIP & MJ @ 2nd Outfall Structure	1	LS	\$4,500.00	\$4,500.00	\$4,500.00		\$0.00	1	\$4,500.00	100.00%	0	\$0.00
65	Add Clearing @ 2nd Outfall (Approx 8 Trees Marked)	1	LS	\$15,420.00	\$15,420.00	\$15,420.00		\$0.00	1	\$15,420.00	100.00%	0	\$0.00
66	R/R Exist Wooden Fence Along Golf Course	1	LS	\$2,500.00	\$2,500.00	\$2,500.00		\$0.00	1.00	\$2,500.00	100.00%	0.00	\$0.00
67	R/R Exist Irrigation Lines/Heads @ Residence S of Lake Dr	1	LS	\$1,500.00	\$1,500.00	\$1,500.00		\$0.00	1	\$1,500.00	100.00%	0	\$0.00
68	New Outlet Structure in Pond (incl Grating, Trash Racks, etc)	1	LS	\$14,664.69	\$14,664.69	\$14,664.69		\$0.00	1.00	\$14,664.69	100.00%	0.00	\$0.00
69	Wooden Retaining Wall (Pending Review, Design, etc)			TBD									
70	R/R Exist CB at Metzler Property @ New 42" Crossline, etc	2	EA	\$4,324.81	\$8,649.62	\$8,649.62		\$0.00	2	\$8,649.62	100.00%	0	\$0.00
71	Tree Protection	5	EA	\$250.00	\$1,250.00	\$1,250.00		\$0.00	5	\$1,250.00	100.00%	0	\$0.00
72	Plug/Abandon Exist RCP DW Culvert	1	LS	\$750.00	\$750.00	\$750.00		\$0.00	1	\$750.00	100.00%	0	\$0.00
	C/O # 02: Outfall Stabilization Improvements (05-16-19)												
	New Bulkhead Retaining Wall @ Secondary Outfall												
73	Mobilization / Staking / General Conditions	1	LS	\$8,400.00	\$8,400.00	\$1,680.00		\$0.00	0.20	\$1,680.00	20.00%	0.80	\$6,720.00
74	Sediment & Erosion Control	1	LS	\$1,766.40	\$1,766.40			\$0.00	0	\$0.00	0.00%	1	\$1,766.40
75	Hydroseeding	1	LS	\$954.00	\$954.00			\$0.00	0	\$0.00	0.00%	1	\$954.00
76	Clearing	1	LS	\$4,728.00	\$4,728.00			\$0.00	0	\$0.00	0.00%	1	\$4,728.00
77	Fine Grading	1	LS	\$1,564.00	\$1,564.00			\$0.00	0	\$0.00	0.00%	1	\$1,564.00
78	New Bulkhead Retaining Wall (147 LF)	1	LS	\$95,382.00	\$95,382.00		0.5115	\$48,785.49	0.5115	\$48,785.49	51.15%	0.4885	\$46,596.51
79	4' Aluminum Fence	1	LS	\$4,728.60	\$4,728.60	\$0.00		\$0.00	0	\$0.00	0.00%	1	\$4,728.60

Greenwall Construction Service, Inc

31-Jul-19

SCHEDULE OF VALUES

Hagley West Drainage Improvements Phase 2

Pawleys Island, SC

Contract # 18-043

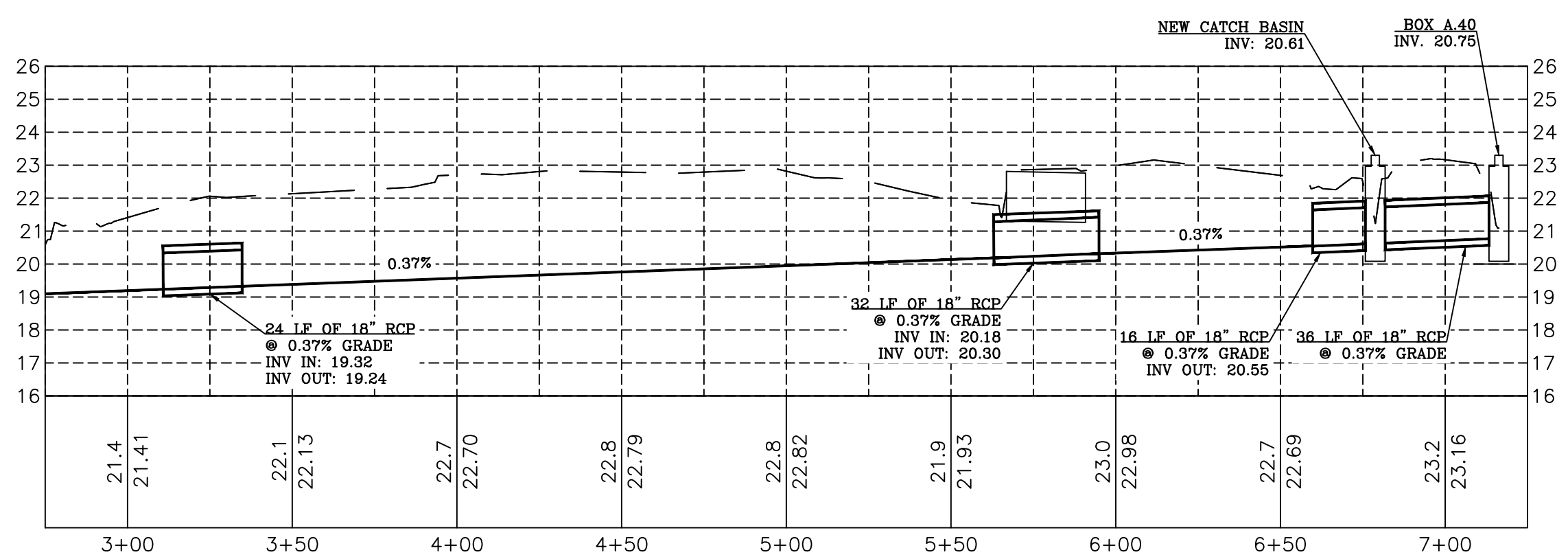
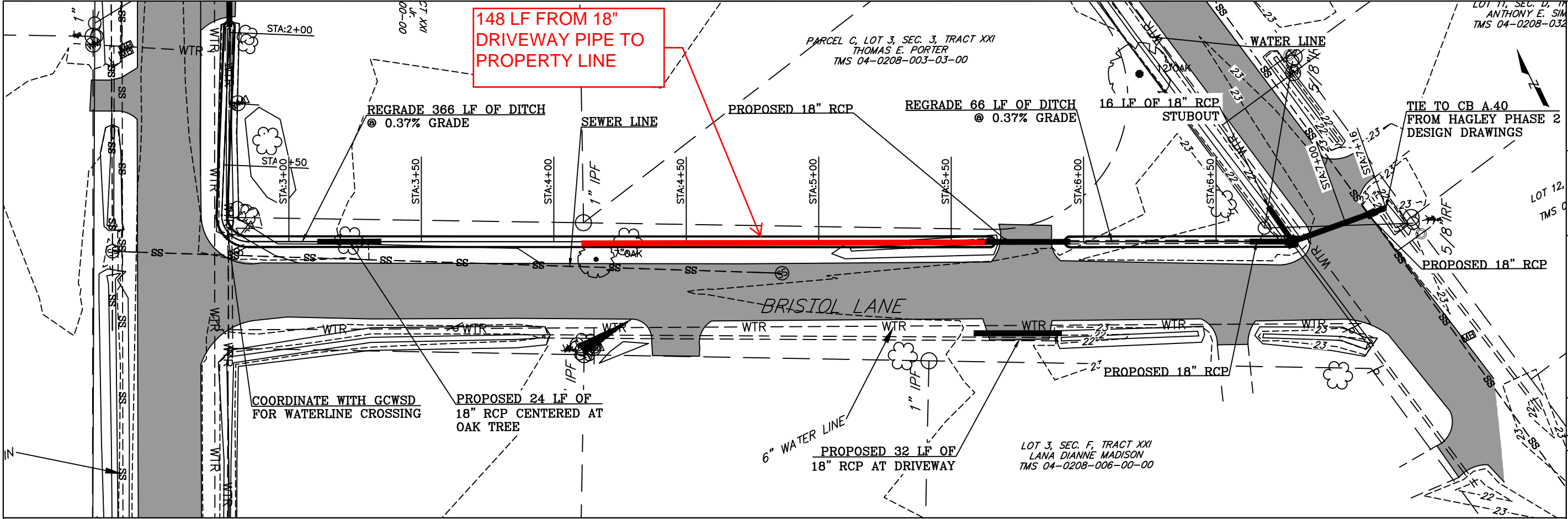
GC PO No 2019-00000160 & 2019-00000161


GCS Job # 2018-0005

Application for Payment # 09


Period 29-Jun-19 to 31-Jul-19

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							Quantity	Value	Quantity	Value		Quantity	Value
	Subtotal: Base Contract Including C/O # 02				\$1,471,141.63	\$1,356,448.57		\$161,454.22		\$1,517,902.79	103.18%		(\$46,761.16)
	Additional Work Items (not in Base Contract or C/O's)												
80	Remove Existing Drop Inlet Structures	3	EA	\$225.00	\$675.00	\$1,350.00		\$0.00	6	\$1,350.00	200.00%	(3)	(\$675.00)
81	Adjust/Raise/Lower Drop Inlet Structures	16	EA	\$585.00	\$9,360.00	\$15,795.00	1	\$585.00	28	\$16,380.00	175.00%	(12)	(\$7,020.00)
	Totals: Revised Contract				\$1,481,176.63	\$1,373,593.57		\$162,039.22		\$1,535,632.79	103.68%		(\$54,456.16)





Georgetown County
128 S. Main Street, Georgetown, SC 29542
Phone: (843) 545-3524 Fax: (843) 545-3005
Internet: www.georgetowncountysc.org



AGENCY
4-P.W.P.
ACCREDITED

DESIGN DRAWINGS

PROJECT:
BRISTOL LANE DRAINAGE
GEORGETOWN COUNTY, SOUTH CAROLINA

SCALE: H:1:40
V:1:4

DESIGNED BY: ASB

DRAWN BY: MPM

DATE: 6/5/2019

PLAN AND PROFILE

SHEET NO: C-02



Georgetown County
Department of Public Services
Phone: (843) 545-3325

Memorandum

To: Nancy Silver

From: Ray C. Funnye

File #: 316.16

Date: September 26, 2019

Re: Justification for Change Order #4: Various Required Modifications to Hagley West Drainage Project.

In order to take advantage of significant savings (approximately 35% lower than the next lowest bidder) in the Greenwall, Inc., bid received August 1, 2018 for the above project, we recommend proceeding with the proposed improvements detailed in the Change Order document:

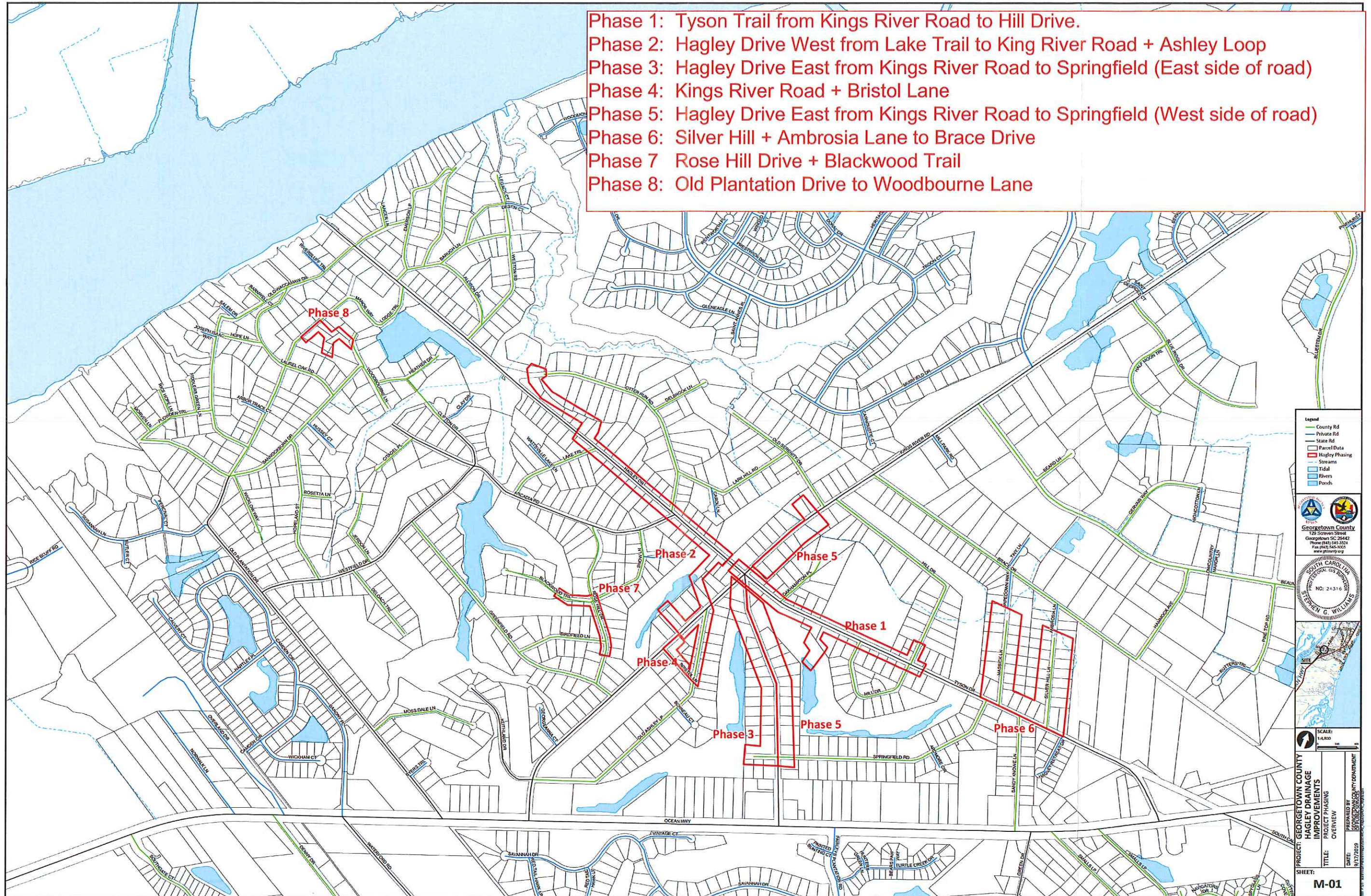
- Hagley Phase 2; Final adjusting change order
- Hagley Phase 3: Hagley Drive and Springfield Drive additional improvements incorporated at residents' requests.
- Hagley Phase 4: Drainage Improvements along Kings River Road and Bristol Lane;

A comprehensive map detailing the phases of this project is attached; in brief, the CO modifications include:

1. Final Adjusting Change Order for Hagley Phase 2 as required per final PPA quantities; and
2. Hagley Drive and Springfield Drive additional drainage improvements incorporated at residents' request.
3. Kings River Road (Crossline to Bristol Lane): Regrade existing ditch along north side of road and replace existing drive pipe with 24" RCP.
4. Bristol Lane: Construct ditch and new pipeline (18" and 24") and install 18" crossline under Old Ashley Loop for flow diversions.

Adequate funding in the current Stormwater budget provides for these changes amounting to a total of \$294,283.21. Therefore, I recommend we proceed with Change Order #4: Various Required Modifications to Hagley West Drainage Project.

- Phase 1: Tyson Trail from Kings River Road to Hill Drive.
 Phase 2: Hagley Drive West from Lake Trail to King River Road + Ashley Loop
 Phase 3: Hagley Drive East from Kings River Road to Springfield (East side of road)
 Phase 4: Kings River Road + Bristol Lane
 Phase 5: Hagley Drive East from Kings River Road to Springfield (West side of road)
 Phase 6: Silver Hill + Ambrosia Lane to Brace Drive
 Phase 7: Rose Hill Drive + Blackwood Trail
 Phase 8: Old Plantation Drive to Woodbourne Lane



Item Number: 6.b
Meeting Date: 10/8/2019
Item Type: CONSENT AGENDA

AGENDA REQUEST FORM
GEORGETOWN COUNTY COUNCIL



DEPARTMENT: Purchasing

ISSUE UNDER CONSIDERATION:

Procurement #19-057, Three (3) John Deere 1570 Terrain Cut Mower for Capital Equipment Replacement Plan

CURRENT STATUS:

To replace two (2) 2010 -1435 John Deere Mowers and one (1) 2002 John Deere Mower previously approved in the Capital Equipment Replacement Plan.

POINTS TO CONSIDER:

1) These item will be procured using the State Contract 4400018634 , under the existing Procurement Code: Sec. 2-76. Examples Cooperative Purchasing, External Procurement Activities:

Contracts established by the purchasing division of the State of South Carolina as provided in Chapter 35 of Title 11 (State Consolidated Procurement Code), South Carolina Code of Laws, 1976. (Ord. of 6-28-83, 6-101, 6-201, 6-202).

2) The recommendation is to replace the three (3) mowers with new 2019 John Deere 1570 TerrainCut mowers from Revels Turf and Tractor LLC, of Myrtle Beach, SC at a cost of \$24,589.25 x 3=\$78,193.82 inclusive of shipping and 6% Sales Tax.

3) For comparison, attached is a quote for 2018 used John Deere 1570 for sale at a price of \$27,220 ea.

FINANCIAL IMPACT:

This procurement is budgeted for \$65,600. Recent Tariffs have caused a considerable increase in equipment prices. As such, some of the units mentioned above have exceeded the budgeted replacement amount. The Department will ensure that the remainder of the CERP purchases (vehicles) will adjust for the estimated increase in equipment purchases. The Department is prepared to absorb any overage cost if needed. This procurement will be funded as part of the CERP in G/L 499.579.50707.

OPTIONS:

- 1) Award to Revels Turf and Tractor, LLC at \$78,193.82
- 2) Decline purchase.

STAFF RECOMMENDATIONS:

Beth Goodale, Director of Parks and Recreations has completed a review of the Department's FY20 Capital Equipment Replacement Plan and recommends the purchase of three (3) John Deere 1570 Terrain Cut Mowers with the State Contract pricing.

ATTACHMENTS:

Description

Type

- ▣ Vehicle Procurement Approval
- ▣ Quotes
- ▣ Recommendation #19-057

Backup Material
Backup Material
Backup Material



Georgetown County, South Carolina
VEHICLE / EQUIPMENT PROCUREMENT APPROVAL

Procurement # 19-057 A

Procurement for: CERP replacement vehicle for John Deere 1435 Mower Two (2)

Department: Parks and Recreation

Budgeted: ☒-YES ☐-NO

Estimated Cost: \$ 40,000 FY 20

Funds Available: ☐-YES ☐-NO ☐-Pending Budget Transfer

☐-Cash Purchase

☐-Municipal Lease/Purchase Financing -YRS

Funding Source Location	
G/L Account Number	Funding Amount
499.579.50707	40,000
Is grant money involved in this procurement? <input type="checkbox"/> -YES <input checked="" type="checkbox"/> -NO	
If YES, attach a copy of the approved grant.	
Grant Approval Attached: <input type="checkbox"/> -YES <input type="checkbox"/> -NO	

☐- New Acquisition If Replacement: ☒- Scheduled CERP ☐- Destroyed

Unit Being Replaced: Year/Make Model 2012 John Deere 1435 Mower
VIN/Serial No. 1TC1435DADT130247 1TC1435DIDT130248

Clear Title on Hand: ☐-YES ☐-NO If NO, identify bank holding lien:

Bank Currently Holding Title: _____

[Signature]
Department Director/Elected Official

8/1/19
Date
8/5/19

Budget Officer

[Signature]

Date
8/5/19

Purchasing

[Signature]

Date
8/7/19

Finance Director

[Signature]

Date
8/8/19

County Administrator

Date

YOUR CONTRACT. YOUR QUOTE. YOUR HELP REQUESTED.

**Ensure your equipment arrives with no delay.
Issue your Purchase Order or Letter of Intent.**

To expedite the ordering process, please include the following information in Purchase Order or Letter of Intent:

For any questions, please contact:

- ☐ Shipping address
- ☐ Billing address
- ☐ Vendor: John Deere Company
2000 John Deere Run Cary,
NC 27513
- ☐ Contract name and/or number
- ☐ Signature
- ☐ Tax exempt certificate, if applicable

Lynn Thompson

Revels Turf and Tractor, LLC
3420 Macklin Road
Myrtle Beach, SC 29588

Tel: 843-293-4900

Fax: 843-293-4902

Email: lynnthompson@revelstractor.com

**ALL PURCHASE ORDERS MUST BE MADE OUT TO (VENDOR):**

Deere & Company
2000 John Deere Run
Cary, NC 27513
FED ID: 36-2382580; DUNS#: 60-7690989

ALL PURCHASE ORDERS MUST BE SENT TO DELIVERING DEALER:

Revels Turf and Tractor, LLC
3420 Macklin Road
Myrtle Beach, SC 29588
843-293-4900
chad@revelstractor.com

Quote Summary

Prepared For:
Georgetown County
SC

Delivering Dealer:
Revels Turf and Tractor, LLC
Lynn Thompson
3420 Macklin Road
Myrtle Beach, SC 29588
Phone: 843-293-4900
lynnthompson@revelstractor.com

Quote ID: 20187892
Created On: 06 August 2019
Last Modified On: 13 September 2019
Expiration Date: 06 September 2019

Equipment Summary	Selling Price	Qty	Extended
JOHN DEERE 1570 TerrainCut Commercial Front Mower (Less Mower Deck) Contract: SC Comm Grounds Maint Equip Phase I 4400018634 (PG 8S CG 22) Price Effective Date: August 6, 2019	\$ 20,790.01 X	3 =	\$ 62,370.03
JOHN DEERE 72 In. Fastback Commercial Rear Discharge Deck Contract: SC Comm Grounds Maint Equip Phase I 4400018634 (PG 8S CG 22) Price Effective Date: August 6, 2019	\$ 3,799.24 X	3 =	\$ 11,397.72
Equipment Total			\$ 73,767.75

* Includes Fees and Non-contract items

Quote Summary

Equipment Total	\$ 73,767.75
Trade In	
SubTotal	\$ 73,767.75
Sales Tax - (6.00%)	\$ 4,426.07
Est. Service	\$ 0.00
Agreement Tax	
Total	\$ 78,193.82
Down Payment	(0.00)
Rental Applied	(0.00)

Salesperson : X _____

Accepted By : X _____

Confidential



JOHN DEERE



Selling Equipment

Quote Id: 20187892

Customer Name:

ALL PURCHASE ORDERS MUST BE MADE OUT TO (VENDOR):

Deere & Company
2000 John Deere Run
Cary, NC 27513
FED ID: 36-2382580; DUNS#: 60-7690989

ALL PURCHASE ORDERS MUST BE SENT TO DELIVERING DEALER:

Revels Turf and Tractor, LLC
3420 Macklin Road
Myrtle Beach, SC 29588
843-293-4900
chad@revelstractor.com

Equipment Notes:

Hours:

Stock Number:

Contract: SC Comm Grounds Maint Equip Phase I
4400018634 (PG 8S CG 22)

Price Effective Date: August 6, 2019

Selling Price *

\$ 3,799.24

* Price per item - includes Fees and Non-contract items

Code	Description	Qty	List Price	Discount%	Discount Amount	Contract Price	Extended Contract Price
0553TC	72 In. Fastback Commercial Rear Discharge Deck	3	\$ 4,999.00	23.00	\$ 1,149.77	\$ 3,849.23	\$ 11,547.69
Standard Options - Per Unit							
001A	United States and Canada	3	\$ 0.00	23.00	\$ 0.00	\$ 0.00	\$ 0.00
	Standard Options Total		\$ 0.00		\$ 0.00	\$ 0.00	\$ 0.00
Suggested Price							\$ 11,547.69
Additional Discounts							
	Multi-unit Discount	3			\$ 49.99	\$ -49.99	\$ -149.97
	Additional Discount Total				\$ 49.99	\$ -49.99	\$ -149.97
Total Selling Price			\$ 4,999.00		\$ 1,199.76	\$ 3,799.24	\$ 11,397.72

**JOHN DEERE**

Selling Equipment

Quote Id: 20187892

Customer Name:

ALL PURCHASE ORDERS MUST BE MADE OUT TO (VENDOR):Deere & Company
2000 John Deere Run
Cary, NC 27513
FED ID: 36-2382580; DUNS#: 60-7690989**ALL PURCHASE ORDERS MUST BE SENT TO DELIVERING DEALER:**Revels Turf and Tractor, LLC
3420 Macklin Road
Myrtle Beach, SC 29588
843-293-4900
chad@revelstractor.com**JOHN DEERE 1570 TerrainCut Commercial Front Mower (Less Mower Deck)**

Hours:

Stock Number:

Contract: SC Comm Grounds Maint Equip Phase I
4400018634 (PG 8S CG 22)Selling Price *
\$ 20,790.01

Price Effective Date: August 6, 2019

* Price per item - includes Fees and Non-contract items

Code	Description	Qty	List Price	Discount%	Discount Amount	Contract Price	Extended Contract Price
2430TC	1570 TerrainCut Commercial Front Mower (Less Mower Deck)	3	\$ 26,999.00	23.00	\$ 6,209.77	\$ 20,789.23	\$ 62,367.69
Standard Options - Per Unit							
001A	United States and Canada	3	\$ 0.00	23.00	\$ 0.00	\$ 0.00	\$ 0.00
1019	23x10.50-12 4PR Turf Drive Tires	3	\$ 0.00	23.00	\$ 0.00	\$ 0.00	\$ 0.00
1190	Two Wheel Drive	3	\$ 0.00	23.00	\$ 0.00	\$ 0.00	\$ 0.00
2010	Deluxe Comfort Seat with Armrests	3	\$ 0.00	23.00	\$ 0.00	\$ 0.00	\$ 0.00
Standard Options Total			\$ 0.00		\$ 0.00	\$ 0.00	\$ 0.00
Dealer Attachments/Non-Contract/Open Market							
UC13263	Quik-Tatch Weight, 42 lb (19 kg)	12	\$ 59.91	23.00	\$ 13.78	\$ 553.57	\$ 553.57
TCB10303	Rear Weight Mounting Kit	3	\$ 116.63	23.00	\$ 26.82	\$ 269.42	\$ 269.42
Dealer Attachments Total			\$ 176.54		\$ 40.60	\$ 822.99	\$ 822.99
Value Added Services Total			\$ 0.00			\$ 0.00	\$ 0.00
Suggested Price							\$ 63,190.68
Additional Discounts							
Multi-unit Discount		3			\$ 273.55	\$ -273.55	\$ -820.65
Additional Discount Total					\$ 273.55	\$ -273.55	\$ -820.65
Total Selling Price			\$ 27,175.54		\$ 6,523.92	\$ 20,651.62	\$ 62,370.03

JOHN DEERE 72 In. Fastback Commercial Rear Discharge Deck

Confidential



JOHN DEERE



**ALL PURCHASE ORDERS MUST BE MADE OUT
TO (VENDOR):**

Deere & Company
2000 John Deere Run
Cary, NC 27513
FED ID: 36-2382580; DUNS#: 60-7690989

**ALL PURCHASE ORDERS MUST BE SENT
TO DELIVERING DEALER:**

Revels Turf and Tractor, LLC
3420 Macklin Road
Myrtle Beach, SC 29588
843-293-4900
chad@revelstractor.com

Balance Due

\$ 78,193.82

Salesperson : X _____

Accepted By : X _____

Confidential

2018 JOHN DEERE 1570 For Sale In TABER, Alberta Canada



For Sale Price: \$27,220

(Price entered as: CAD \$36,000)

Contact Information

Western Tractor Company Inc.

9 TABER, Alberta, Canada T1G 1X7

Phone: +1 888-208-5328

Contact: Gordon Fletcher



Description

Width: 72 in; Engine Type: Diesel; Drive Type: AWD

Width: 72 in

Drive: AWD

Specifications

Year	2018	Manufacturer	JOHN DEERE
Model	1570	Serial Number	1TC1570VPJS040059
Condition	Used	Hours	204
Fuel Type	Diesel	Stock Number	00057118 (Q)



GEORGETOWN COUNTY PARKS & RECREATION

RECOMMENDATION MEMO

September 19, 2019

FOR: Nancy Silver, Purchasing Officer

FROM: Beth Goodale, Director of Parks, Recreation, and Community Services

SUBJECT: FY20 CAPITAL EQUIPMENT REPLACEMENT

Having completed a review of the Department's FY20 Capital Equipment Replacement Plan (CERP), I recommend the purchase of the following equipment:

- Two (2) John Deere 1200A Bunker/Field Rakes from Revels Turf & Tractor. The South Carolina State Contract price is \$13,178.40 per unit. These units will replace two (2) 2011 John Deere 1200A Bunker/Field Rakes.
- Three (3) John Deere 1570 Terrain Cut Mowers from Revels Turf & Tractor. The South Carolina State Contract price is \$20,790.01 per unit. Additionally, each unit will require a 72 In. Fastback Commercial Rear Discharge. The South Carolina State Contract price for the discharge deck is \$3,799.24 per unit. These units will replace one (1) 2002 John Deere Terrain Cut mower, and two (2) 2012 John Deere 1435 mowers.
- One (1) 2019 Kubota KUBL4710F Tractor from Tyler Equipment Co., Inc. The Sourcewell Contract pricing for this unit is \$18,980.00. This unit will replace one (1) 2005 Case Utility Tractor.
- One (1) 2019 Kubota KUBL5200F Tractor from Tyler Equipment Co., Inc. The Sourcewell Contract pricing for this unit is \$20,780.00. This unit will replace one (1) 2004 New Holland Utility Tractor.

As a note: Recent tariffs have caused a considerable increase in equipment prices. As such, some of the units mentioned above have exceeded the budgeted replacement amount. The Department will ensure that the remainder of the CERP purchases (vehicles) will adjust for the estimated increase in equipment purchases. The Department is prepared to absorb any overages that may occur while purchasing the remainder of the CERP items (vehicles).

Attachment(s):

Revels Turf & Tractor Quote 20188043

Revels Turf & Tractor Quote 20187892

Tyler Equipment Co., Inc. Quote 5165.01

Department	Model Year	Make	Model	Replace with	Quote	FY 2020 Budgeted Amount
Parks Maintenance	2011	John Deere	Bunker/Field Rake	JD 1200A Bunker Field	\$ 13,178	\$ 12,650
Parks Maintenance	2004	New Holland	tractor	Kubota 4710F	\$ 18,980	\$ 27,500
Parks Maintenance	2011	John Deere	1200A Bunker/Field Rake	JD 1200A Bunker Field	\$ 13,178	\$ 12,650
Parks Maintenance	2005	Case	JX10602C2RM Utility Trailer	Kubota 5200	\$ 20,780	\$ 27,500
Parks Maintenance	2002	John Deere	Mower	JD 1570	\$ 24,913	\$ 25,600
Parks Maintenance	2012	John Deere	1435 Mower	JD 1570	\$ 24,913	\$ 20,000
Parks Maintenance	2012	John Deere	1435 Mower	JD 1570	\$ 24,913	\$ 20,000
					\$ 140,856	\$ 145,900
Taxes and Fees (Tyler)					\$ 3,180	
Taxes and Fees (Revels)					\$ 1,581	
Taxes and Fees (Revels est)					\$ 4,484	
Total					\$ 150,101	

Item Number: 6.c
Meeting Date: 10/8/2019
Item Type: CONSENT AGENDA

AGENDA REQUEST FORM
GEORGETOWN COUNTY COUNCIL



DEPARTMENT: Purchasing

ISSUE UNDER CONSIDERATION:

Procurement #19-034, Non Engineered Road Repair, Resurfacing, Sealing and Marking, IDIQ

CURRENT STATUS:

The existing agreement with the current vendor, Coastal Asphalt, had reached the two year maximum term limitation and thus must be rebid.

POINTS TO CONSIDER:

- 1) This solicitation was originally advertised in a newspaper of general circulation in Georgetown County and the SC Business Opportunities On-Line Publication, posted on the county and SCBO websites, and direct mailed to all known offerors. There was one (1) bid received. Since only one (1) bid was received, a re-bid was completed and for the second time only one (1) bid was received from Coastal Asphalt.
- 2) The City of Georgetown had a similar bid that received two bids and Coastal Asphalt was the lowest bid. Their bid tabulation is attached for price comparison.
- 3) Coastal Asphalt held the previous contract and Public Services were pleased with the quality of work and professionalism.

FINANCIAL IMPACT:

This project is fully funded in GL#420.901.50702 up to \$60,000 and GL#066.906.50702 up to \$30,000.

OPTIONS:

- 1) Award the contract to Coastal Asphalt.
- 2) Decline staff's recommendation.

STAFF RECOMMENDATIONS:

The Georgetown County Public Service Director, Ray Funny has reviewed the bid tabulations and the bid tabulations from the City of Georgetown for comparison. Coastal Asphalt was the lowest bidder for the City of Georgetown's Bid. Additionally, previous experience with Coastal Asphalt has been positive over the years; their work has always met and frequently exceeded the County's standards. It is recommended that Coastal Asphalt be awarded the contract.

ATTORNEY REVIEW:

No

ATTACHMENTS:

Description	Type
▣ Procurement Solicitation Approval Form	Cover Memo
▣ Bid Opening Tabulation	Cover Memo

▣	City of Georgetown Bid Tabulation	Cover Memo
▣	Recommendtion from Ray Funnye, Director of Public Services	Cover Memo
▣	Sole Source Justification	Cover Memo



Georgetown County, South Carolina
PROCUREMENT SOLICITATION APPROVAL
Procurement # RE Bid 19-034

Procurement for: Improvements, Non-Engineered Road Repair, Resurfacing,
Sealing & Marking Services

Department: Public Services, CTC Road Funds and User Fee

Budgeted: ☒-YES ☐-NO

Budgeted/Estimated Cost: \$ 90,000 **FY20**

Funds Available: ☒-YES ☐-NO ☐-Pending
☐ Cash Purchase
☐-Municipal Lease/Purchase Financing (7-YR)

Funding Source Location	
G/L Account Number	Funding Amount
420.901.50702	\$ 60,000.00
066.906.50702	\$ 30,000.00

Is grant money involved in this procurement? ☐-YES ☒-NO

If YES, attach a copy of the approved grant budget from the awarding source.

Grant Approval Attached: ☐-YES ☒-NO


Department Director

9/18/2019
Date


Purchasing

9/23/2019
Date


Finance Director

9/23/2019
Date


County Administrator

9/24/19
Date



Public Bid Opening Tabulation

RE- BID # 19-034

Non Engineered Road Repair, Resurfacing, Sealing
and Marking, IDIQ

OPENING DATE: Wednesday, September 11, 2019 @ 3:00PM

Company's Name Coastal Asphalt, LLC

Description	Unit of Measure	Price
2" Patch	Per Square Foot	\$ 6.35
1 1/5" Asphalt Paving	Per Square Yard	\$ 11.75
2" Asphalt Paving	Per Square Yard	\$ 14.50
1 1/5" Mill Asphalt	Per Square Yard	\$ 5.95
2" Milling Asphalt	Per Square Yard	\$ 6.15
4" Shoulder Striping	Per Linear Foot	\$ 0.50
Double Center Line Striping	Per Linear Foot	\$ 1.00
Stop Bar- Thermo Plastic	Per Linear Foot	\$ 25.00
Seal Coating	Per Square Yard	\$ 2.00

Company's Name _____

Description	Unit of Measure	Price
2" Patch	Per Square Foot	
1 1/5" Asphalt Paving	Per Square Yard	
2" Asphalt Paving	Per Square Yard	
1 1/5" Mill Asphalt	Per Square Yard	
2" Milling Asphalt	Per Square Yard	
4" Shoulder Striping	Per Linear Foot	
Double Center Line Striping	Per Linear Foot	
Stop Bar- Thermo Plastic	Per Linear Foot	
Seal Coating	Per Square Yard	

Opened By Pamela Basselli
Date 9/11/19

Witness [Signature]
Date 9/11/19



CITY OF GEORGETOWN



BID TABULATION - CERTIFIED

PROJECT:	CITYWIDE ASPHALT PAVING	DATE OF BID OPENING:	Tuesday, July 23, 2019 2.00 pm

SIGNED:

 7-23-19


			2" Patch		1-1/2"			2"			Comments
					Paving	Milling		Paving	Milling		
			Subtotal				Subtotal			Subtotal	
Coastal Asphalt	2142 WINBURN STREET CONWAY SC 29527	849.397.7325	6.35	6.35	12.40	5.95	18.35	15.30	6.15	21.45	AWARD WINNER
Marshall Contracting	3108 WRIGHTSBORO ROAD SUITE D AUGUSTA GA 30909	706.755.0969	88.00	88.00	175.00	200.00	375.00	175.00	200.00	375.00	



Georgetown County
Department of Public Services
Phone: (843) 545-3325

Memorandum

To: Nancy Silver

From: Ray C. Funnye 

File #: 316.16

Date: September 17, 2019

Re: Recommendation for Bid # 19-034: Non-Engineered Road Repair, Resurfacing, Sealing, and Marking IDIQ

On Wednesday, September 11, 2019, Georgetown County opened the re-bid tabulations for # 19-034: Non-Engineered Road Repair, Resurfacing, Sealing and Marking IDIQ. For the second time, only one bid was received, from Coastal Asphalt, LLC.

The Georgetown County Purchasing Department performed due diligence by checking the bid tabulation given to the City of Georgetown's for similar services by the same vendor, and the bid was much higher, as was a competitor's bid received by the City of Georgetown. Additionally, our experience with Coastal Asphalt in Georgetown County has been positive over the years; their work has always met and frequently exceeded our standards.

Therefore, I recommend we award # 19-034: Non-Engineered Road Repair, Resurfacing, Sealing and Marking IDIQ to the sole service provider bidding, Coastal Asphalt, LLC.



Georgetown County, SC

JUSTIFICATION FOR SOLE SOURCE

Georgetown County proposes to procure Non-engineered road repair, resurfacing,
sealing & marking services. (1)

as a sole source from Coastal Asphalt, LLC
(2)

based upon the following justification as outlined in Ordinance 2008-09:

- ☒ There is a lack of competition for a product or service
- ☐ It is a unique, one-of-a-kind service offer.
- ☐ The product has patented or proprietary rights that provide superior capabilities that are not obtainable from similar products, and this product is not marketed through other wholesalers, jobbers, or distributors whose competition could be encouraged.
- ☐ Where the items are needed for trial use or testing.

Specify: These services were bid twice and each time received only one bid by the same
(3)
vendor. The vendor's prices were lower than those received by the City of Georgetown
(which had bid out similar services and received 2 bids). Additionally, we have been pleased
with the quality of work and professionalism provided by Coastal Asphalt, LLC.

Budgeted Funds: ☒-YES ☐-NO Amount: \$90,000.00

420.901.50702

G/L Account Number: 066.906.50702 Department: Public Services: 010-303

Submitted by: Ray Funnye Date: 9/18/2019

Department Director: [Signature] Date: 9/18/2019

Purchasing Approval: [Signature] Date: 9/25/19

County Administrator Approval: [Signature] Date: 9/27/19

Notes: (1) Enter brief description of goods or services to be procured
(2) Enter name, address and phone number of vendor or contractor
(3) Enter the basis of the sole source
***Attach a sole source letter from the vendor and any additional supporting documentation.



Public Bid Opening Tabulation

RE- BID # 19-034

Non Engineered Road Repair, Resurfacing, Sealing
and Marking, IDIQ

OPENING DATE: Wednesday, September 11, 2019 @ 3:00PM

Company's Name

Coastal Asphalt, LLC

Description	Unit of Measure	Price
2" Patch	Per Square Foot	\$ 6.35
1 1/5" Asphalt Paving	Per Square Yard	\$ 11.75
2" Asphalt Paving	Per Square Yard	\$ 14.50
1 1/5" Mill Asphalt	Per Square Yard	\$ 5.95
2" Milling Asphalt	Per Square Yard	\$ 6.15
4" Shoulder Striping	Per Linear Foot	\$ 0.50
Double Center Line Striping	Per Linear Foot	\$ 1.00
Stop Bar- Thermo Plastic	Per Linear Foot	\$ 25.00
Seal Coating	Per Square Yard	\$ 2.00

Company's Name

Description	Unit of Measure	Price
2" Patch	Per Square Foot	
1 1/5" Asphalt Paving	Per Square Yard	
2" Asphalt Paving	Per Square Yard	
1 1/5" Mill Asphalt	Per Square Yard	
2" Milling Asphalt	Per Square Yard	
4" Shoulder Striping	Per Linear Foot	
Double Center Line Striping	Per Linear Foot	
Stop Bar- Thermo Plastic	Per Linear Foot	
Seal Coating	Per Square Yard	

Opened By
Date

Pamela Basselli
9/11/19

Witness
Date

[Signature]
9/11/19

Item Number: 6.d
Meeting Date: 10/8/2019
Item Type: CONSENT AGENDA

AGENDA REQUEST FORM
GEORGETOWN COUNTY COUNCIL



DEPARTMENT: Purchasing

ISSUE UNDER CONSIDERATION:

Task Order #1 to Contract #17-078-DC, Local Funded Comprehensive Roadway Design & Engineering, IDIQ

CURRENT STATUS:

Dennis Corporation and Davis & Floyd were awarded Indefinite Delivery, Indefinite Quantity (IDIQ) contracts for Procurement #17-078, Local Funded Comprehensive Roadway Design & Engineering based on the County's procurement ordinance for architectural & engineering services. This is a requested task order under the awarded IDIQ agreement for roadway design and engineering services.

POINTS TO CONSIDER:

- 1) This project is related to the proposed paving of Indian Hut and Amos Road. Phase 1 will begin on Amos Rd. at the intersection of Sioux Fr. and continue on Indian Hut Road to a point +/- 100 LF southwest of its intersection with Clarence Dr.
- 2) The proposed task order would cover engineering design, permitting, and construction inspection and administration.
- 3) Public Works received proposals from both of the County's qualified IDIQ roadway engineering contractors. Davis and Floyd's cost was \$183,795, while Dennis Corporation's cost was \$105,400. Therefore, this task order is being recommended to the low bidder, Dennis Corporation.
- 3) Dennis Corporation has a history of successfully completed road engineering and construction projects for Georgetown County.

FINANCIAL IMPACT:

This project is fully funded in GL account number 066.906-50702.

OPTIONS:

- 1) Approve Task Order #1 to Dennis Corporation in the amount of \$105,400.
- 2) Deny the request.

STAFF RECOMMENDATIONS:

Public Works and Public Services recommends the award of Task Order #1 as listed as indicated by their signatures on the task order form and memorandum of recommendation that are attached herein.

ATTORNEY REVIEW:

No

ATTACHMENTS:

Description	Type
<div data-bbox="164 159 185 197">▢</div> Task Order #1 with Dennis Corporation Proposal	Cover Memo
<div data-bbox="164 218 185 256">▢</div> Recommendation from Mr. Ray Funnye, Director of Public Services	Cover Memo



Georgetown County, South Carolina

Execution of Contract Change or Adjustment

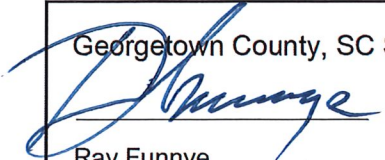
Type of Change: ☐ Change Order ☐ Contract Amendment ☒ Task Order ☐ Other:

Contract #	Sequence #	Amendment #
17-078-DC	1	
Project #	GL Account	Purchase Order
Indian Hut Amos Engineering	066.906.50702	2020-00000177
PRIOR Contract \$ Total	\$ Amount of this Change (+/-)	REVISED Contract \$ Total
\$0.00	\$105,400.00	\$105,400.00

Administration Use ONLY		
	Signature	Date
Budget Verified:		
Change Originator:	Stephen Williams	09/27/19

Consultant Name:	Dennis Corporation
Contract Title:	17-078 LOCAL FUNDED Comprehensive Roadway Design & Engineering IDIQ
Task Order Name:	Indian Hut Road Phase 1 & Amos Rd portion
Scope of Work:	<p>Task 1 Engineering Design and Permitting including:</p> <p>Project management - Quality Control - Field survey review - Initial utility coordination for contacts and minimization of conflicts - Preliminary design and field review with Owner - Pavement design - Final design and plans for permitting - Secure NPDES (Georgetown County) permit and OCRM-CZC Certification</p> <p>Task 2 Construction Inspections and Administration including:</p> <p>Professional project management - Lead preconstruction conference - Review of contractor submittals - Quality Assurance inspections and testing - Engineering Support during construction - Contractor's Pay Application review and Contract Administration - Final Inspection and Punch List - Administration of Contract and Permit closeout documents</p> <p>TOTAL \$105,400</p>
List Authorized Sub-Consultants:	Summit Engineering Laboratory and Testing PC (geotechnical)
Deliverables:	Construction plans, permitting, construction phase services
Justification for Change:	Acquisition of plans, permits, and construction phase services for this UF petitioned road paving project
Start Date: NTP	Completion Date: 14 months from NTP

The parties indicated herein have executed this agreement on the dates written below, the latest of which shall be deemed to be the effective date. No payment will be made for any work performed prior to the effective date. Unless otherwise indicated, receipt of this executed agreement is your Notice to Proceed with the work specified herein.

<p>Georgetown County, SC Signatures:</p> <p> SEP 27 2019</p> <p>Ray Funnye Public Services Director</p> <p>_____ John Thomas County Council Chairman</p> <p>_____ Date</p>	<p>Dennis Corporation</p> <p><u>See attached</u> <u>8/30/2019</u></p> <p>(Signature) Date</p> <hr/> <p>NOTES:</p> <p>1. This form is intended as a guide to identify minimum requirements for a contract change or adjustment. All changes must also be compliant with the provisions of the contract.</p> <p>2. Where the intended change cannot be accommodated on this form; use as a cover (noting "See Attached" in the appropriate spaces above) to provide accounting codes, Admin authorization and signatures. Any substitute format <u>must</u> include all elements of this form for each item of work.</p> <p>3. Attach additional budget forms as needed when multiple tasks and resources are proposed.</p>
--	---

August 30, 2019

Stephen Williams

Public Works Manager
Georgetown County Public Works
2236 Browns Ferry Road
Georgetown, SC 29440
VIA: Email

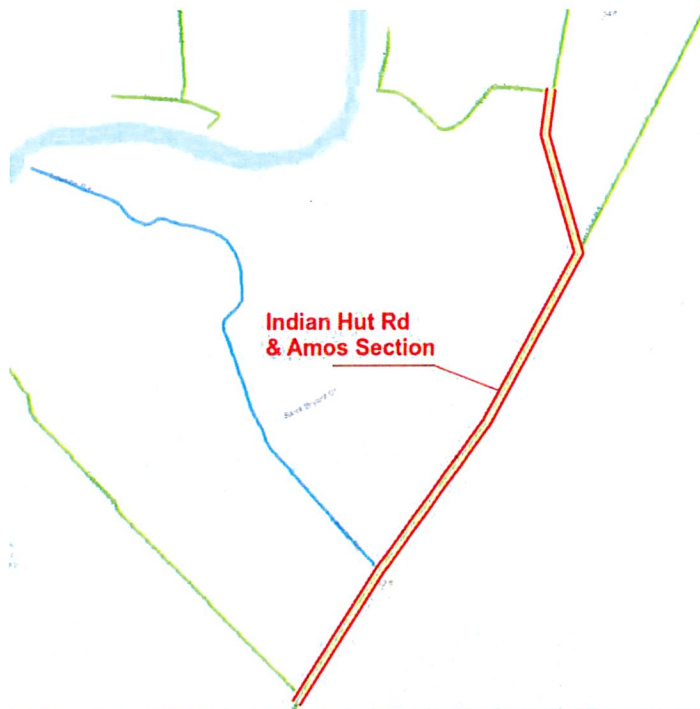
Re: Proposal – Indian Hut and Amos Road

Mr. Williams,

Please find below the requested proposal for engineering services for the above referenced project.

PROJECT DESCRIPTION

This project is related to the proposed paving of Indian Hut and Amos Road. Phase 1 of the project will begin on Amos Road at its intersection with Sioux Drive and continue on Indian Hut Road to a point ± 100 LF southwest of its intersection with Clarence Drive.



SCOPE

- 1- Task 1 Engineering Design and Permitting
 - a. Professional project management throughout the duration of this task
 - b. Quality Control measures for all deliverables
 - c. Field review of provided survey files
 - d. Initial utility coordination for contacts and minimization of conflicts
 - e. Preliminary design and field review with Owner
 - f. Pavement design
 - g. Final design and plans for permitting
 - h. Secure NPDES (Georgetown County) permit and OCRM-CZC Certification
- 2- Task 2 Construction Inspections and Administration
 - a. Professional project management throughout the duration of this task
 - b. Lead preconstruction conference
 - c. Review of contractor submittals
 - d. Quality Assurance inspections and testing
 - e. Engineering Support during construction
 - f. Contractor's Pay Application review and Contract Administration
 - g. Final Inspection and Punch List
 - h. Administration of Contract and Permit closeout documents

ASSUMPTIONS

- 1- Initial walkdown and review of NWI mapping indicates that impacts to jurisdictional wetlands are not expected for this project, and therefore no USACE permitting will be required. This will be confirmed during preliminary design.
- 2- Survey files provided by others are adequate for design and construction.
- 3- The presence of slag on the unpaved roadway is expected to exclude cement stabilized base course as a feasible pavement option. At least two pavement sections (stone base and asphalt base) will be designed for use as alternatives for bidding purposes.
- 4- SCDOT encroachment permits are not anticipated for this project. This will be confirmed during preliminary design.
- 5- Construction is expected to take up to 6 months. Inspections will be weekly and coordinated with the Contractor's scheduled work to ensure critical testing is performed.

DELIVERABLES

- 1- Preliminary Plans, Preliminary Construction Estimate, Preliminary Permitting Requirement, and Preliminary Utilities Review Summary
- 2- Preliminary Field Walkdown with Owner
- 3- Pre-Final Plans, Construction Estimate, Permitting Summary, Utilities Review Summary, NPDES Permit Submittal Package (with SWPPP), OCRM CZC Certification Submittal Package
- 4- Final Plans, Specifications, Secured Permits, and Construction Cost Estimate issued for bidding and construction
- 5- Meeting Agenda and Minutes, Inspection/Testing Reports, Approved Pay Applications, and Project Closeout Documents as needed during construction phase.

<u>FEE:</u>	<i>Task 1 – Engineering Design and Permitting:</i>	<i>\$ 62,700.00</i>
	<i>Task 2 – Construction Inspections and Administration:</i>	<i>\$ 42,700.00</i>
	<i>Total Engineering Services Not-to-Exceed (NTE)</i>	<i>\$105,400.00</i>

ADDITIONAL SERVICES:

Dennis Corporation is a South Carolina headquartered Surveying, Civil Engineering and Construction Management firm offering a full range of professional services for public and private clients throughout the State.

DENNIS CORPORATION LIST OF SERVICES

SURVEY

- Topographic
- Hydrographic
- Boundary
- ALTA
- Pre-Construction
- Right-of-Way Platting
- Settlement Plate Monitoring
- Construction Layout & Staking
- As-Built & Record Drawing
- Cross-Slope Verification
- 3D Scanning

ENGINEERING

- Project / Program Management
- Master Planning
- Civil Infrastructure Engineering
- Land Planning & Site Design
- Water & Wastewater Design
- Water Resources Engineering
- Transportation Engineering
- Traffic Planning & Engineering
- Structural Engineering
- Environmental & Permitting Services
- Expert Witness Services

CONSTRUCTION MANAGEMENT

- Heavy Civil Construction Management
- Building Construction Management
- Construction Cost Estimating
- Value Engineering
- Scheduling
- Financial Management
- Bidding and Award Services
- Contract Administration
- Construction Engineering & Inspection (CEI)
- Vibration Monitoring
- Special Inspections (Chapter 1 & 17)

Please let me know if we may be able to provide any additional services that may be required in the future. Should you have any questions or need any additional information, do not hesitate to contact me directly at 803.227.8558 (office) or 803.360.5685 (mobile).

Sincerely,



Matt Hines, PE
Engineering Manager
DENNIS CORPORATION

Enclosed:
Attachment A – Fee Estimate (For Information Only)



Attachment 'A'
Dennis Corporation Engineering Fee
(For Information Only)
SUMMARY SHEET

Client: Georgetown County

Description: Indian Hut & Amos Road - Phase 1

		Direct Labor Costs	Direct Non-Labor Expenses	Total
Task 001	Engineering Design and Permitting	\$59,466.00	\$3,203.20	\$62,669.20
Task 002	Construction Inspection and Administratio	\$38,368.00	\$4,301.60	\$42,669.60
		\$97,834.00	\$7,504.80	\$105,338.80

Confidential

FIRM: Dennis Corporation Date: August 30, 2019

Compiled By: Matt Hines

Approved By: Dan Dennis Reviewed By: Mark Johnston

Task 001
Engineering Design and Permitting

Direct Labor Costs

Client	Georgetown County
Description	Indian Hut & Amos Road - Phase 1
Date	8/30/2019
Prepared By	Matt Hines

Principal In Charge	Senior Project Manager	Project Manager	Senior Engineer	Engineer	Admin	Inspector (SCDOT Cert.)	Manhours	Description
							0	
	6	8					14	Project Admin and Client Coordination
							0	
			8	8			16	Initial Field Walkdown
							0	
				8			8	Utility Coordination
							0	
			1	8		10	19	Soil Sampling and Pavement Design
							0	
			0.5	8			8.5	Initial Mapping and Modeling
							0	
			10	72			82	Preliminary Design and Cost Estimate
							0	
			4	4			8	Preliminary QC Review
							0	
			1	4			5	Initial Permitting Summary and Utilities Review
							0	
			8				8	Field Design Review with Owner
							0	
			10	120			130	Final Design
							0	
			3	24			27	Stormwater / Erosion Control Design - SWPPP Preparation
							0	
			1	8			9	Traffic Control Design
							0	
			2	16			18	Plans and Estimate for Permitting
							0	
			8	8		4	20	Pre-Final QC Review
							0	
			8				8	Pre-Final Walkdown
							0	
			1	2			3	USACE No Permit Required Coordination
							0	
			2	16			18	Georgetown County Stormwater Permitting Coordination
							0	
			0.5	4			4.5	SCDHEC OCRM CZC Certification
							0	
			2	16			18	Plans, Specifications and Estimate for Bidding/Construction
							0	
			4	4			8	Final QC Review
							0	
							0	
							0	
							0	
							0	
							0	
							0	
							0	
							0	
0	6	8	74	330	0	14	432	TOTAL Task 001

Rates

\$190.00	\$150.00	\$150.00	\$150.00	\$120.00	\$60.00	\$90.00
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Total Direct Salary

\$0.00	\$900.00	\$1,200.00	\$11,100.00	\$39,600.00	\$0.00	\$1,260.00
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Total: \$54,060.00

Contingency (10%) \$5,406.00

TOTAL DIRECT LABOR COSTS	\$59,466.00
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Task 001
Engineering Design and Permitting

Direct Non-Salary Costs

1. Travel

Site Visits:	4	visits @	260	miles/ visit	1040 miles
Misc. Trips:	0	months @	0	miles/ mo.	0 miles

Description	#		\$ per		Extended
Mileage:	1040	Miles @	\$0.580	/mile=	\$603.20
Air/Train Fare:	0	Roundtrip	\$0.00	/trip=	\$0.00
Lodging:	0	Nights @	\$110.00	/night=	\$0.00
Per Diem:	0	Days @	\$30.00	/day=	\$0.00

Total Travel: \$603.20

2. Postage

Description	#		\$ per		Extended
Express Mail	0	@	\$25.00	/delivery=	\$0.00
Regular Mail	0	@	\$0.44	/mailing=	\$0.00

Total Postage: \$0.00

3. Reproductions

Description	#		\$ per		Extended
8 1/2 x 11 sheets (b&w)	0	X	\$0.10	/sheet=	\$0.00
8 1/2 x 11 sheets (color)	500	X	\$0.50	/sheet=	\$250.00
11 x 17 color copies	200	X	\$0.75	/sheet=	\$150.00
24 x 36 plots	100	X	\$2.00	/sheet=	\$200.00
D-plot Scans (10 Sheets)	0	X	\$30.00	/set=	\$0.00
E-plot Scans (10 Sheets)	0	X	\$48.00	/set=	\$0.00

Total Reproductions: \$600.00

4. Testing

Description	#		\$ per		Extended
	0	X	\$0.00	/ea=	\$0.00
	0	X	\$0.00	/ea=	\$0.00
	0	X	\$0.00	/ea=	\$0.00

Total Testing: \$0.00

5. Field Supplies

Description	#		\$ per		Extended
	0	X	\$0.00	/ea=	\$0.00
	0	X	\$0.00	/ea=	\$0.00
	0	X	\$0.00	/ea=	\$0.00

Total Field Supplies: \$0.00

6. Other

Description	#		\$ per		Extended
Geotech Lab Testing	1	X	\$2,000.00	/ea=	\$2,000.00
	0	X	\$0.00	/ea=	\$0.00
	0	X	\$0.00	/ea=	\$0.00

Total Other: \$2,000.00

TOTAL DIRECT NON-SALARY COSTS \$3,203.20

Direct Labor Costs

Georgetown County
Indian Hut & Amos Road - Phase 1
8/30/2019
Matt Hines

[illegible]

Rates

\$190.00	\$150.00	\$120.00	\$140.00	\$90.00	\$60.00	\$0.00
----------	----------	----------	----------	---------	---------	--------

Total Direct Salary

\$0.00	\$900.00	\$3,600.00	\$2,240.00	\$25,740.00	\$2,400.00	\$0.00
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00	Total:	\$34,880.00
	Contingency (10%)	\$3,488.00

TOTAL DIRECT LABOR COSTS	\$38,368.00
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Task 002
Construction Inspection and Administration

Direct Non-Salary Costs

1. Travel

Site Visits:	2	visits @	260	miles/ visit	520 miles
Misc. Trips:	0	months @	0	miles/ mo.	0 miles

Description	#		\$ per		Extended
Mileage:	520	Miles @	\$0.580	/mile=	\$301.60
Inspection Trips:	30	Trips @	\$100.00	/trip=	\$3,000.00
Lodging:	0	Nights @	\$110.00	/night=	\$0.00
Per Diem:	0	Days @	\$30.00	/day=	\$0.00

Total Travel: \$3,301.60

2. Postage

Description	#		\$ per		Extended
Express Mail	0	@	\$25.00	/delivery=	\$0.00
Regular Mail	0	@	\$0.44	/mailing=	\$0.00

Total Postage: \$0.00

3. Reproductions

Description	#		\$ per		Extended
8 1/2 x 11 sheets (b&w)	0	X	\$0.10	/sheet=	\$0.00
8 1/2 x 11 sheets (color)	0	X	\$0.50	/sheet=	\$0.00
11 x 17 color copies	0	X	\$0.75	/sheet=	\$0.00
24 x 36 plots	0	X	\$2.00	/sheet=	\$0.00
D-plot Scans (10 Sheets)	0	X	\$30.00	/set=	\$0.00
E-plot Scans (10 Sheets)	0	X	\$48.00	/set=	\$0.00

Total Reproductions: \$0.00

4. Testing

Description	#		\$ per		Extended
	0	X	\$0.00	/ea=	\$0.00
	0	X	\$0.00	/ea=	\$0.00
	0	X	\$0.00	/ea=	\$0.00

Total Testing: \$0.00

5. Field Supplies

Description	#		\$ per		Extended
	0	X	\$0.00	/ea=	\$0.00
	0	X	\$0.00	/ea=	\$0.00
	0	X	\$0.00	/ea=	\$0.00

Total Field Supplies: \$0.00

6. Other

Description	#		\$ per		Extended
Testing	1	X	\$1,000.00	/ea=	\$1,000.00
	0	X	\$0.00	/ea=	\$0.00
	0	X	\$0.00	/ea=	\$0.00

Total Other: \$1,000.00

TOTAL DIRECT NON-SALARY COSTS \$4,301.60



Georgetown County
Department of Public
Services
Phone: (843) 545-3325

Memorandum

To: Nancy Silver

From: Ray C. Funnye

Date: September 29, 2019

A handwritten signature in blue ink, appearing to read 'Ray C. Funnye', written over the 'From' line.

Re: Recommendation: 17-078 LOCAL FUNDED Comprehensive Roadway Design & Engineering IDIQ – Indian Hut Road Phase 1 & Amos portion

In August 2018 Georgetown County Department of Public Works solicited proposals through existing contract 17-078 LOCAL FUNDED Comprehensive Roadway Design & Engineering IDIQ for the design and construction of Indian Hut Road Phase 1 & Amos Road portion.

The scope of work is outlined in the attached proposal and includes engineering design, permitting, and construction inspection and administration. Public Works received proposals from Davis and Floyd (\$183,795) and Dennis Corporation (\$105,400).

We thoroughly reviewed these proposals and found Dennis Corporation to fully capable of carrying out the services requested. Dennis Corporation has successfully completed previous road engineering and construction projects for Georgetown County.

Based on the aforementioned, I hereby recommend 17-078-DC TO#1 for roadway design, engineering, and construction phase services for Indian Hut Road Phase 1 & Amos portion be awarded to Dennis Corporation in the amount of \$105,400.

Item Number: 7.a
Meeting Date: 10/8/2019
Item Type: PUBLIC HEARINGS

AGENDA REQUEST FORM
GEORGETOWN COUNTY COUNCIL



DEPARTMENT: Legal

ISSUE UNDER CONSIDERATION:

ORDINANCE NO. 19-18 - AN ORDINANCE AUTHORIZING (1) THE EXECUTION AND DELIVERY OF A FEE IN LIEU OF TAX AND INCENTIVE AGREEMENT BY AND BETWEEN GEORGETOWN COUNTY, SOUTH CAROLINA (THE "COUNTY") AND A COMPANY IDENTIFIED FOR THE TIME BEING AS PROJECT EAGLE, ACTING FOR ITSELF, ONE OR MORE AFFILIATES, AND/OR OTHER PROJECT SPONSORS (THE "COMPANY"), WITH RESPECT TO THE ESTABLISHMENT AND/OR EXPANSION OF OF CERTAIN FACILITIES IN THE COUNTY (COLLECTIVELY, THE "PROJECT"); (2) THE BENEFITS OF A MULTI-COUNTY INDUSTRIAL OR BUSINESS PARK TO BE MADE AVAILABLE TO THE COMPANY AND THE PROJECT; AND (3) OTHER MATTERS RELATING THERETO.

CURRENT STATUS:

Pending adoption.

POINTS TO CONSIDER:

Georgetown County, South Carolina, acting by and through its County Council is authorized and empowered under and pursuant to the provisions of the Code of Laws of South Carolina 1976, as amended, particularly Title 12, Chapter 44 of the Code and Title 4, Chapter 1 of the Code and by Article VIII, Section 13(D) 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, but not limited to, negotiated FILOT payments made pursuant to the Negotiated FILOT Act, with respect to a project; and

(iii) to create, in conjunction with one or more other counties, a multi-county industrial or business park in order to afford certain enhanced income tax credits to such investors.

One or more companies identified for the time being, collectively, as Project Eagle, each acting for itself, one or more affiliates, and/or other project sponsors, proposes to establish and/or expand certain facilities at one or more locations in the County, and anticipate that, should their plans proceed as expected, they will invest, or cause to be invested, at least \$10,700,000 in the Project and will create, or cause to be created, at least 74 new, full-time jobs within the County.

OPTIONS:

1. Adoption of Ordinance No. 19-18.
2. Decline adoption of Ordinance No. 19-18.

STAFF RECOMMENDATIONS:

The Council Chairman will open the floor for public comments pertaining to Ordinance No 19-18.
No action is required of County Council.

ATTACHMENTS:

Description		Type
▣	Ordinance No 19-18 Authorizing a FILOT Agreement with Project Eagle	Ordinance
▣	FILOT Agreement Project Eagle	Backup Material

**GEORGETOWN COUNTY
ORDINANCE NO. 19-18**

AN ORDINANCE AUTHORIZING (1) THE EXECUTION AND DELIVERY OF A FEE IN LIEU OF TAX AND INCENTIVE AGREEMENT BY AND BETWEEN GEORGETOWN COUNTY, SOUTH CAROLINA (THE "COUNTY") AND ONE OR MORE COMPANIES IDENTIFIED FOR THE TIME BEING, COLLECTIVELY, AS PROJECT EAGLE, EACH ACTING FOR ITSELF, ONE OR MORE AFFILIATES, AND/OR OTHER PROJECT SPONSORS (THE "COMPANIES"), WITH RESPECT TO THE ESTABLISHMENT AND/OR EXPANSION OF CERTAIN FACILITIES IN THE COUNTY (COLLECTIVELY, THE "PROJECT"); (2) THE BENEFITS OF A MULTI-COUNTY INDUSTRIAL OR BUSINESS PARK TO BE MADE AVAILABLE TO THE COMPANIES AND THE PROJECT; AND (3) OTHER MATTERS RELATING THERETO.

WHEREAS, Georgetown 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 (the "Code"), particularly Title 12, Chapter 44 of the Code (the "Negotiated FILOT Act") and Title 4, Chapter 1 of the Code (the "Multi-County Park Act") (collectively, the "Act") and by Article VIII, Section 13(D) 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, but not limited to, negotiated FILOT payments made pursuant to the Negotiated FILOT Act, with respect to a project; and (iii) to create, in conjunction with one or more other counties, a multi-county industrial or business park in order to afford certain enhanced income tax credits to such investors; and

WHEREAS, one or more companies identified for the time being, collectively, as Project Eagle, each acting for itself, one or more affiliates, and/or other project sponsors (the "Companies"), proposes to establish and/or expand certain facilities at one or more locations in the County (the "Project"), and anticipate that, should their plans proceed as expected, they will invest, or cause to be invested, at least \$10,700,000 in the Project and will create, or cause to be created, at least 74 new, full-time jobs within the County, in the aggregate; and

WHEREAS, based on information provided to the County by the Companies, the County has determined that the Project would 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 Companies to locate the Project in the County, the Council is enacting this Ordinance, which Ordinance is also intended to serve as an "inducement resolution" for the purposes of Section 12-44-30(11) of the Negotiated FILOT Act, whereby the County has determined to provide the

benefits of a negotiated FILOT and a multi-county industrial or business park with respect to the Project; and

WHEREAS, the County and the Companies have agreed to the specific terms and conditions of such arrangements as set forth herein and in a Fee in Lieu of Tax and Incentive Agreement by and between the County and the Companies with respect to the Project (the “Incentive Agreement”), the form of which Incentive Agreement is presented to this meeting, and which Incentive Agreement is to be dated as of _____, 2019 or such other date as the parties may agree; 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. Capitalized terms used and not otherwise defined herein shall have the meanings ascribed thereto in the Incentive Agreement. Additionally, as contemplated by Section 12-44-40(I) of the Negotiated FILOT Act, based on information provided to the County by the Companies with respect to the Project, the County makes the following findings and determinations:

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

Section 2.

(a) The County hereby agrees to enter into the Incentive Agreement, which agreement shall be in the form of a fee agreement, pursuant to the Negotiated FILOT Act, whereby the Companies will agree to satisfy, or cause to be satisfied, certain investment requirements with respect to the Project within certain prescribed time periods and the County will agree to accept certain negotiated FILOT payments with respect to the Project (the “Negotiated FILOT”), as set forth in **Section 2(b)** hereof and in accordance with the terms of the Incentive Agreement.

(b)

(i) The Negotiated FILOT shall be determined using: (1) an assessment ratio of 6%, (2) a millage rate of ___ mills, which millage rate or millage rates shall be fixed pursuant to Section 12-44-50(A)(1)(b)(i) of the Negotiated FILOT Act for the full term of the Negotiated FILOT; (3) the fair market value of the Project, as determined in accordance with Section 12-44-50(A)(1)(c) of the Negotiated FILOT Act; and (4) such other terms and conditions as will be specified in the Incentive Agreement including, but not limited to, that the Companies and the Project shall be entitled to the maximum benefits allowable under the Negotiated FILOT Act with respect to the disposal and replacement of Project property.

(ii) The Negotiated FILOT shall be calculated as provided in this **Section 2(b)** for all Negotiated FILOT Property placed in service during the Investment Period. For each annual increment of investment in Negotiated FILOT Property, the annual Negotiated FILOT payments shall be payable for a payment period of 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 payment period of thirty (30) years up to an aggregate of thirty-five (35) years or, if the Investment Period is extended as set forth in the Incentive Agreement, up to an aggregate of forty (40) years.

Section 3. The County agrees to locate the Project and the Land 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(D) of the State Constitution, if not already so included, and agrees to maintain the Project and the Land within the boundaries of such a multi-county industrial or business park on terms which provide for all jobs created at the Project from January 1, 2020 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 on terms, and for a duration.

Section 4. The County will use its best efforts to assist the Companies in securing grants and other funding for infrastructure and other improvements in support of the Project, including, but not limited to, any State grant funding and funding now or hereafter provided by one or more utilities in support of the Project.

Section 5. The form, provisions, terms, and conditions of the Incentive Agreement presented to this meeting and filed with the Clerk to the Council are hereby approved, and all of the provisions, terms, and conditions thereof are hereby incorporated herein by reference as if the Incentive Agreement was set out in this Ordinance in its entirety. The Incentive Agreement is to be in substantially the form now before this meeting and hereby approved, or with such changes therein as shall not materially adversely affect the rights of the County thereunder and as shall be approved by the official or officials of the County executing the same, upon the advice of counsel, 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 6. The Chairman of the Council is hereby authorized, empowered, and directed to execute the Incentive Agreement in the name and on behalf of the County; the Clerk to the Council is hereby authorized, empowered and directed to attest the same; and the Chairman of the Council is further authorized, empowered, and directed to deliver the Incentive Agreement to the Companies. The Chairman of the Council, the County Administrator of the County, and the Clerk to the Council, for and on behalf of the County, are hereby each authorized, empowered, and directed to do any and all things necessary or proper to effect the performance of all obligations of the County under and pursuant to Incentive Agreement, and to carry out the transactions contemplated thereby and by this Ordinance.

Section 7. The provisions of this Ordinance are hereby declared to be separable and if any section, phrase, or provision shall for any reason be declared by a court of competent jurisdiction to be invalid or unenforceable, such declaration shall not affect the validity of the remainder of the sections, phrases, and provisions hereunder.

Section 8. All orders, ordinances, resolutions, and parts thereof in conflict herewith are to the extent of such conflict hereby repealed. This Ordinance shall take effect and be in full force from and after its passage and approval.

[End of Ordinance]

Enacted and approved, in meeting duly assembled, this ____ day of _____, 2019.

GEORGETOWN COUNTY, SOUTH CAROLINA

By: _____
John Thomas, Chairman, County Council
Georgetown County, South Carolina

[SEAL]

Attest:

By: _____
Theresa Floyd, Clerk to County Council
Georgetown County, South Carolina

First Reading: August 27, 2019
Second Reading: September 24, 2019
Public Hearing: October 8, 2019
Third Reading: October 8, 2019

FEE IN LIEU OF TAX AND INCENTIVE AGREEMENT

by and among

GEORGETOWN COUNTY, SOUTH CAROLINA,

and

PROJECT EAGLE I,

and

PROJECT EAGLE II.

Dated as of _____, 2019

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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 _____, 2019, by and among GEORGETOWN COUNTY, SOUTH CAROLINA (the “County”), a body politic and corporate and a political subdivision of the State of South Carolina and Project Eagle I, a _____ organized and existing under the laws of the State of _____, acting for itself, one or more affiliates, and/or other project sponsors (“Project Eagle I”), and Project Eagle II, a _____ organized and existing under the laws of the State of _____, acting for itself, one or more affiliates, and/or other project sponsors (“Project Eagle II”), both previously identified, collectively, as PROJECT EAGLE (Project Eagle I and Project Eagle II, each a “Company” as set forth herein, with respect to its respective portion of the Project, and collectively referred to herein as the “Companies”).

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 (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” and, together with the Negotiated FILOT Act, the “Act”) and by Article VIII, Section 13(D) 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, but not limited to, negotiated FILOT payments made pursuant to the Negotiated FILOT Act, with respect to a project; and (iii) to create, in conjunction with one or more other counties, a multi-county industrial or business park in order to afford certain enhanced income tax credits to such investors; and

WHEREAS, the Companies are considering the establishment and/or expansion of certain manufacturing and related facilities at one or more locations in the County (the “Project”), and anticipates that, should its plans proceed as expected, it will invest, or cause to be invested, at least \$10,700,000 in the Project, in the aggregate, and will create, or cause to be created, at least 74 new, full-time jobs, in the aggregate, within the County, all by the end of the Compliance Period (as defined herein) as set forth in greater detail herein; and

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

WHEREAS, in accordance with such findings and determinations and in order to induce the Companies to locate the Project in the County, the County has determined, amongst other things, to provide the benefits of a negotiated FILOT and a multi-county industrial or business park with respect to the Project; and

WHEREAS, the County has determined that it is in the best interests of the County to enter into this Agreement with the Companies, subject to the terms and conditions set forth herein, and, by Ordinance No. _____ enacted by the Council on _____, 2019, approved the form, terms and conditions of this Agreement and ratified all prior actions taken with respect to the Project.

NOW, THEREFORE, in consideration of the premises, the mutual covenants contained herein, the above recitals which are incorporated herein by reference, the potential investment to be made, or caused to be made, and the potential jobs to be created, or caused to be created, by the Companies, in the aggregate, which contribute to the tax base and the economic welfare of the County, the respective representations and agreements hereinafter contained, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the County and the Companies 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.

“*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 and necessary attorney’s 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 any Company or any other Co-Investor under **Section 8.04** hereof; provided, however, that no such expense shall be considered an Administration Expense unless such Company, or other Co-Investor, required to pay such expense hereunder, 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 the County shall have furnished to such Company, or other Co-Investor, as the case may be, an itemized statement of all such expenses incurred.

“*Affiliate*” shall mean, with respect to any Company or any other Co-Investor, any corporation, limited liability company, partnership or other Person or entity which now or hereafter owns all or part of such Company or such other Co-Investor, as the case may be, or which is now or hereafter owned in whole or in part by such Company or such other Co-Investor, as the case may be, or by any partner, shareholder or owner of such Company or such other Co-Investor, as the case may be, and shall also include any subsidiary, affiliate or other Person,

individual, or entity who now or hereafter bears a relationship to such Company or such other Co-Investor, as the case may be, as described in Section 267(b) of the Internal Revenue Code.

“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, unless the context clearly requires otherwise.

“Co-Investor” shall mean any Company, any other Sponsor or Sponsor Affiliate within the meaning of Sections 12-44-30(19) and (20) of the Negotiated FILOT Act, any Affiliate of any Company or of any such other Sponsor or Sponsor Affiliate, any developer in a build-to-suit arrangement or other leasing arrangement with respect to the Project, any lessor of equipment or other property comprising a part of the Project, and any financing entity or other third party investing in, or providing funds for, the Project. Any Company shall notify the County in writing of the identity of any other Sponsor, Sponsor Affiliate or other Co-Investor and shall, to the extent such Company and any such other Sponsor, Sponsor Affiliate, or other Co-Investor intend to extend the benefits of the Negotiated FILOT to property owned by any Sponsor, Sponsor Affiliate, or such other 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 the original execution and delivery of this Agreement, **[the Companies are the only Co-Investors.]**

“Company” shall mean each of (i) Project Eagle I, and (ii) Project Eagle II, each with respect to their respective portions of the Project, and any surviving, resulting, or transferee entity in any merger, consolidation or transfer of assets permitted under **Sections 4.04** or **6.01** hereof or any other assignee or transferee hereunder which is designated by each respective Company and approved by the County.

“Compliance Period” shall mean the period commencing with the first day that Project 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 all or a portion of the Project is placed in service as set forth in Section 12-44-30(13) of the Negotiated FILOT Act. It is presently anticipated, but not required, that the initial Negotiated FILOT Property comprising all or a portion of the Project will be placed in service in the Property Tax Year ending on December 31, **[2020]**, and, in such event, the Compliance Period will end on December 31, **[2025]**.

“County” shall mean Georgetown 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 and any successor thereof.

“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 Project as part of the repair, alteration, or modification of such previously taxed property; provided, however, that Existing Property shall not be required to include: (a) the Land; (b) property acquired or constructed by or on behalf of any 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 property which has been placed in service in the State pursuant to an inducement agreement or other preliminary approval by the County 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 any 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 such Company or such other Sponsor or Sponsor Affiliate invests at least an additional \$45,000,000 in the Project, exclusive of the property identified in this subsection (c); or (d) modifications which constitute an expansion of the real property portion of Existing Property.

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

“FILOT Payment” or *“FILOT Payments”* shall mean the FILOT payments to be made by any Company or any other Co-Investor with respect to the Project, whether made as Negotiated FILOT Payments pursuant to **Section 5.01** hereof or as FILOT payments made pursuant to the Multi-County Park Act.

“Investment Period” shall mean the period for completion of the Project, which shall initially be equal to the Compliance Period; provided, however, that, if the Minimum Statutory Investment Requirement is satisfied by the end of the Compliance Period, the Investment Period shall be automatically extended, without further action or proceedings of the County, by five (5) years beyond the Compliance Period to end on the tenth anniversary of the end of the Property Tax Year in which the initial Negotiated FILOT Property comprising all or a portion of the Project is placed in service as set forth in Section 12-44-30(13) of the Negotiated FILOT Act; provided 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. In the event that the initial Negotiated FILOT Property comprising all or a portion of the Project is, as presently anticipated, placed in service

in the Property Tax Year ending on December 31, [2020], and upon any such extension, the Investment Period will end on December 31, [2030].

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

“*Minimum Contractual Investment Requirement*” shall mean investment in the Project, within the period commencing on the first day that Project property comprising all or a portion of the Project is purchased or acquired, whether before or after the date of this Agreement, and ending at the end of Compliance Period, by the Companies and all Co-Investors, in the aggregate, of at least \$10,700,000 (without regard to depreciation or other diminution in value).

“*Minimum Jobs Requirement*” shall mean the creation of at least 74 new, full-time jobs in the County by the Companies and all Co-Investors, in the aggregate, within the period commencing on January 1, [2020] and ending at the end of the Compliance Period.

“*Minimum Statutory Investment Requirement*” shall mean investment in the Project of not less than \$2,500,000 within the Compliance Period, as set forth in Section 12-44-30(14) of the Negotiated FILOT Act, which investment amount shall be calculated in accordance with, and subject to, Section 12-44-130 of the Negotiated FILOT Act and **Section 6.02** hereof.

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

“*Multi-County Park Act*” shall mean Title 4, Chapter 1 of the Code.

“*Multi-County Park Agreement*” shall mean that certain Agreement for Development of Joint County Industrial/Business Park (Georgetown County Project Eagle Park) by and between the County and Horry County, South Carolina dated as of _____, 2019 as supplemented, modified or amended, and, as such agreement may be further supplemented, modified, amended, 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 the portion of the Project consisting of Negotiated FILOT Property qualifying under the Negotiated FILOT Act for the negotiated assessment ratio and millage rate or rates described in **Section 5.01(b)(ii)** hereof.

“*Negotiated FILOT Act*” shall mean Title 12, Chapter 44 of the Code.

“*Negotiated FILOT Property*” shall mean all property qualifying for the Negotiated FILOT as economic development property within the meaning of Section 12-44-30(6) of the

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

“Non-Qualifying Property” shall mean that portion of the real and personal property 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 any 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 or under this Agreement, including without limitation property as to which any Company or any other Sponsor or Sponsor Affiliate has terminated the Negotiated FILOT pursuant to **Section 4.01(e)(iii)** hereof.

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

“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 any Company or any other Co-Investor for use on or about the Land; and (iii) any Replacement Property; provided, however, except as to Replacement Property, the term Project shall be deemed to include any such real property improvements and personal property, whether now existing or hereafter constructed, improved, acquired or equipped, only to the extent placed in service during the Investment Period.

“Property Tax Year” shall mean the annual period which is equal to the fiscal year of any Company, or any other Co-Investor, as the case may be, which, with respect to the Companies is the annual period ending on December 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 any Company or any other Sponsor or Sponsor Affiliate pursuant to **Section 4.01(e)** hereof and Section 12-44-50(B) of the Negotiated FILOT Act, any portion of the Negotiated FILOT Property constituting infrastructure which any 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 property which is damaged, destroyed, or taken by process of eminent domain and not restored or replaced.

“Replacement Property” shall mean all property placed in service 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 of such property replaces a single piece of the

Negotiated FILOT Property, to the maximum extent that such property may be included in the calculation of the Negotiated FILOT pursuant to **Section 5.01(d)** hereof and Section 12-44-60 of the Negotiated FILOT Act.

“Sponsor” and *“Sponsor Affiliate”* shall mean an entity whose investment with respect to the Project will qualify for the Negotiated FILOT pursuant to **Section 6.02** hereof and Sections 12-44-30(19) or (20) and Section 12-44-130 of the Negotiated FILOT Act if the statutory investment requirements are met. As of the original execution and delivery of the Agreement, **[the only Sponsors are the Companies]** and there are **[no Sponsor Affiliates]**.

“State” shall mean the State of South Carolina.

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

“Transfer Provisions” shall mean the provisions of Section 12-44-120 of the Negotiated FILOT Act.

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 has duly approved the Negotiated FILOT and the inclusion and maintenance of the Project in the Multi-County Park, all as set forth herein, and any and all actions reasonably necessary and appropriate to consummate the transactions contemplated hereby.

(b) On the basis of information supplied to it by the Companies, the County has determined the Project will subserve the purposes of the Act and has made all other findings of fact required by the Act in connection with the undertaking of the arrangements set forth herein.

(c) This Agreement has been duly authorized, executed and delivered on behalf of the County. The authorization, execution, and delivery of this Agreement and the performance by the County of its obligations hereunder will not, to the best

knowledge of the County, conflict with or constitute a breach of, or a default under, any South Carolina law, court or administrative regulation, decree, order, provision of the Constitution or laws of the State relating to the establishment of the County or its affairs, or any material agreement, mortgage, lease, or other instrument to which the County is subject or by which it is bound, nor, to the best knowledge of the County, any existing law or the provisions of the Constitution of the State.

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

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

(a) Project Eagle I is a limited liability company validly existing and in good standing under the laws of the State of South Carolina, 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. Project Eagle I's fiscal year end is **[December 31]** and it will notify the County of any changes in its fiscal year.

(b) Project Eagle I intends that the Project be operated as manufacturing and related facilities primarily for _____.

(c) The agreements with the County with respect to the Negotiated FILOT and the Multi-County Park were factors in inducing Project Eagle I to locate its portion of the Project within the County and the State.

(d) To the best knowledge of Project Eagle I, no actions, suits, proceedings, inquiries, or investigations are pending or threatened against or affecting Project Eagle I 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.

Section 2.03 Representations and Warranties by Project Eagle II. Project Eagle II makes the following representations and warranties as the basis for the undertakings on its part herein contained:

(a) Project Eagle II is a limited liability company validly existing and in good standing under the laws of the State of South Carolina, 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. Project Eagle II's fiscal year end is **[December 31]** and it will notify the County of any changes in its fiscal year.

(b) Project Eagle II intends that the Project be operated as manufacturing and related facilities primarily for _____.

(c) The agreements with the County with respect to the Negotiated FILOT and the Multi-County Park were factors in inducing Project Eagle II to locate its portion of the Project within the County and the State.

(d) To the best knowledge of Project Eagle II, no actions, suits, proceedings, inquiries, or investigations are pending or threatened against or affecting Project Eagle II 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 the provisions of **Section 5.01** hereof in lieu of *ad valorem* taxes with respect to that portion of the Project consisting of Negotiated FILOT Property until this Agreement expires or is sooner terminated.

Section 3.02 Multi-County Park Designation. The County agrees to locate the Project and the Land within the boundaries of the Multi-County Park, if not already so designated, and agrees to maintain the Project and the Land within the boundaries of the Multi-County Park pursuant to the provisions of the Multi-County Park Act and Article VIII, Section 13(D) of the State Constitution on terms which provide for all jobs created at the Project from January 1, **[2020]** 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 on terms, and for a duration.

Section 3.03 Commensurate Benefits. The parties acknowledge the intent of this Agreement, in part, is to afford the Companies and each other Co-Investor the benefits specified in this Article III in consideration of the Companies' decision to locate the Project within the County, and this Agreement has been entered into in reliance upon the enactment of the Act and the County's compliance with the requirements thereof. In the event that a court of competent jurisdiction holds that the Act is, in whole or in part, unconstitutional or this Agreement, 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 any 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

any Company, the County agrees to use its best efforts, and to take such other steps as may be necessary, to extend to the Companies and each other Co-Investor the intended benefits of this Agreement, including, but not limited to, the Negotiated FILOT and agrees, if requested by any Company, to enter into a lease purchase agreement with each Company and each other Sponsor or Sponsor Affiliate pursuant to Section 12-44-160 of the Negotiated FILOT Act and Title 4, Chapter 29 or Title 4, Chapter 12 of the Code, as applicable. 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 Companies and the County express their intentions that tax or FILOT payments be reformed so as to best afford each Company and each 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. Each 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 that each Company and each other Sponsor or Sponsor Affiliate must transfer their respective portion of the Negotiated FILOT Property to the County within one hundred eighty (180) days following such determination in order for the Negotiated FILOT benefits to continue to apply to such property.

Section 3.04 Funding Assistance. The County will use its best efforts to assist the Companies in securing grants and other funding for infrastructure and other improvements, comprising, or in support of, the Project, including, but not limited to, any State grant funding and funding now or hereafter provided by one or more utilities in support of the Project.

Section 3.05 County Lease Payment Obligation.

[To be inserted.]

ARTICLE IV

COVENANTS OF THE COMPANY

Section 4.01 Investment in Project.

(a) Each Company shall acquire, construct, equip, or improve or cause to be acquired, constructed, equipped, or improved, its respective portion of the Project, as the same shall be determined from time to time by such entity 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 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 December 31, [2022].

(b) Notwithstanding anything herein to the contrary, and to the maximum extent permitted by law, investment and job creation by any and all other Co-Investors shall together with investment and job creation by the Companies, count toward all

investment and job creation requirements, thresholds, and levels set forth in this Agreement, including, without limitation, the Minimum Contractual Investment Requirement, the Minimum Jobs 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 tax returns of each Company and each other Co-Investor filed with respect to the Project, including without limitation, each such entity's SCDOR PT-300 or such comparable forms, as the Department of Revenue may provide in connection with projects under the Act, without regard to depreciation or other diminution in value.

(c) To encourage increased investment in the Project, the County hereby agrees that in the event the Minimum Statutory Investment Requirement is satisfied by the end of Compliance Period, the Investment Period shall be automatically extended, without further action or proceedings of the County, by five (5) years beyond the end of the Compliance Period, and the County hereby agrees to such extension. There shall be no extension, however, beyond the Compliance Period of the period for meeting the Minimum Statutory Investment Requirement. In the event that the initial Negotiated FILOT Property comprising all or a portion of the Project is, as the parties presently anticipate, placed in service in the Property Tax Year ending on December 31, [2020], and upon any such extension, the Investment Period would extend through December 31, [2030].

(d) Subject to the provisions of **Sections 4.04 and 6.01** hereof, each Company and each other Co-Investor shall, retain title to, or other property rights in, its respective portion of the Project throughout the Term of this Agreement, and each Company and each other Co-Investor shall have full right to mortgage, lease, or encumber all or any portion of the Project, including without limitation, in connection with any financing transactions, all without the consent of the County.

(e) Each 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) Each Company and each other Co-Investor may, at its own expense, add to the Project all such real and personal property as each Company, or such other 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 each Company or any other Co-Investor, in its discretion, determines any property included in the Project, including without limitation, any Negotiated FILOT Property, has become inadequate, obsolete, worn out, unsuitable, undesirable, or unnecessary for operations at the Project, such Company or such other Co-Investor may remove such property from the Project and sell, trade in, exchange, or

otherwise dispose of them as a whole or in part without the consent of the County.

(iii) Any Company and any other Co-Investor may, at any time and in its discretion by written notice to the County, remove any of its Project property including, but not limited to, Negotiated FILOT Property, real or personal, from the Project or from the provisions of this Agreement including, but not limited to, the Negotiated FILOT arrangement set forth in this Agreement and retain such property for use as part of its operations in the County, whether or not such property remains as part of the Project, and effective as of the date of any such removal, such property will be subject to *ad valorem* taxes, or to 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 tax returns filed with respect to the Project and any other such property, 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 Act, and in such event, any such removal reflected by any such return shall be deemed to be effective as of the date of such removal.

(iv) If any Company or any other Co-Investor sells, leases, or otherwise disposes of any portion of, or adds to, the Land, or removes any portion of the Land from the Project while retaining such property for use as part of its operations in the County, all as permitted herein, such Company or such Co-Investor shall deliver to the County a revised **Exhibit A** to this Agreement or supplements to **Exhibit A** reflecting any such addition, disposal or removal and such revised or supplemented **Exhibit A** shall, effective as of the date of any such transaction, addition, disposal, or removal, be automatically made a part of this Agreement without further action or proceedings by the County; provided, that any requirement to provide such schedules or supplements to the County may be satisfied by property tax returns filed with respect to the Project and any other such property, 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, and in such event, any such addition, disposal, or removal reflected by any such return, shall be automatically deemed effective as of the date of any such addition, disposal, or removal.

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

Section 4.02 Payment of Administration Expenses. Each Company and each other Co-Investor will reimburse, or cause reimbursement of, the County from time to time for the County's Administration Expenses incurred in the fulfillment of its obligations hereunder, or in the implementation of this Agreement's terms and provisions, with respect to such Company or such other Co-Investor, respectively and, as the case may be, promptly upon written request therefor, but in no event later than ninety (90) days after receiving written notice from the County specifying the nature of such expense and requesting the payment of the same. The County acknowledges that it imposes no charges in the nature of impact fees or recurring fees in connection with the Project or the incentives authorized by this Agreement, and the County anticipates no out of pocket expenses, including, but not limited to attorneys' fees, to be Administration Expenses hereunder for review of this Agreement, the Multi-County Park Agreement and all resolutions, ordinances and other documentation related thereto or the transactions authorized hereby.

Section 4.03 Use of Project for Lawful Activities. During the Term of this Agreement, each Company and each other Co-Investor may use its respective portion of the Project as it deems fit for any lawful purpose.

Section 4.04 Maintenance of Existence. Except in the event the resulting, surviving or transferee entity is any Company or an Affiliate of any 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, each Company covenants that it will maintain its separate existence and will not dissolve or consolidate with, merge into or transfer, or otherwise dispose of all or 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) such Company shall be the continuing business entity, or the business entity formed by such consolidation or into which such Company is merged or the entity which acquires by conveyance or transfer all or substantially all of such 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 such 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 such Company herein and the performance of every covenant of this Agreement on the part of such Company to be performed or observed;

(b) immediately after giving effect to such transaction, no Event of 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) such Company shall have delivered to the County (i) a certificate of a duly authorized officer of such Company, accompanied by financial statements of the surviving company (if other than such Company) showing compliance with the net worth requirements specified in paragraph (a) above and (ii) an opinion of counsel for such Company and/or counsel to the transferee company, 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 any Company's assets in accordance with this Section, the successor entity formed by such consolidation or into which any such 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 any such Company under this Agreement with the same effect as if such successor entity had been named as a Company herein, and thereafter any such 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.

Each 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 such Company with the Transfer Provisions.

Section 4.05 Records and Reports. Each Company and each other Co-Investor will maintain, or cause to be maintained, such books and records with respect to its respective portion of the Project as will permit the identification of those portions of the Project it places in service during the Investment Period, the amount of investment with respect thereto, and any computations of Negotiated FILOT Payments made by such entity hereunder, and will comply with all reporting requirements of the State and the County applicable to Negotiated FILOT Property under the Negotiated FILOT Act, including without limitation the reports required by 12-44-90 of the Negotiated FILOT Act (collectively, "Filings"); provided, however, that the parties hereby waive in its entirety the requirement under Section 12-44-55 of the Negotiated FILOT Act for a recapitulation of the terms of this Agreement. In addition, the following records shall be provided to the County:

(a) Upon direction of the governing body of the County, a County Official may request and obtain such financial books and records from any Company and any other Sponsor or Sponsor Affiliate that support the Negotiated FILOT returns of such Company or such other Sponsor or Sponsor Affiliate as may be reasonably necessary to verify the calculations of the Negotiated FILOT Payments by such Company or such

other Sponsor or Sponsor Affiliate. For purposes of this Agreement, the term “County Official” shall include the Administrator, Auditor, Assessor, or Treasurer of the County.

(b) Each year during the Term hereof, each Company and each other Sponsor or Sponsor Affiliate shall deliver to the County Auditor, the County Assessor and the County Treasurer a copy of any form or return it files with the Department of Revenue with respect to the Project at the same time as delivery thereof to the Department of Revenue.

(c) Each 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 original 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, each 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 such Company or such other Co-Investor believes contains proprietary, confidential, or trade secret matters. The County shall comply with all reasonable, written requests made by any Company or any other Co-Investor with respect to maintaining the confidentiality of such designated segments. Except to the extent required by law, and unless the County has provided at least fifteen (15) days advance written notice to the disclosing Company or other Co-Investor, as the case may be, of such proposed release, the County shall not knowingly and voluntarily release any Filing, documents, or other information provided to the County by such Company or such other Co-Investor in connection with the Project, whether or not such information has been designated as confidential or proprietary by such Company or such other Co-Investor.

ARTICLE V

FEES IN LIEU OF TAXES

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

(a) In accordance with the Negotiated FILOT Act, the parties hereby agree, during the Term hereof, that there shall be due annually with respect to that portion of the Project constituting Negotiated FILOT Property, whether owned by any Company or by any other Sponsor or Sponsor Affiliate, a Negotiated FILOT Payment calculated as set forth in this Section, 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 presently anticipated, but not required, 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, [2022]. If any Company designates any other Sponsor or Sponsor Affiliates as the same shall have been consented to by the County, if such consent is required pursuant to **Section 6.02** hereof, such Company must notify the County in writing at the time of such designation as to whether such additional Sponsor or Sponsor Affiliate shall be primarily liable for the Negotiated FILOT Payments due hereunder with respect to such Sponsor or Sponsor Affiliate's respective portion of the Negotiated FILOT Property. Unless and until such additional notification is received, such designating Company shall be primarily liable for all Negotiated FILOT Payments due 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 initially be payable for a payment period of 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 payment period of thirty (30) years up to an aggregate of thirty five (35) years or, if the Investment Period is extended as set forth in **Section 4.01(c)** hereof, up to an aggregate of forty (40) years.

(ii) The Negotiated FILOT shall be determined using: (1) an assessment ratio of 6%; (2) a millage rate of [] mills, which millage rate or millage rates shall be fixed in accordance with Section 12-44-50(A)(1)(b)(i) of the Negotiated FILOT Act for the entire term of the Negotiated FILOT; 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 any Company or any other Sponsor or Sponsor Affiliate and the County may agree at a later date to amend this Agreement as to Negotiated FILOT Property owned by such Company or such other Sponsor or Sponsor Affiliate so as to determine the fair market value of any such real property in accordance with any other method permitted by the Negotiated FILOT Act.

(iii) All such calculations shall take into account all deductions for depreciation or other 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 any Company or any other Sponsor or Sponsor Affiliate disposes of any part of the Negotiated FILOT Property within the meaning of Section 12-44-50(B) of the Negotiated FILOT Act and as provided in **Section 4.01(e)(ii)** hereof, by the amount applicable to the Released Property;

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

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

(iv) to adjust such payments if any Company or any other Sponsor or Sponsor Affiliate elects to convert any portion of its Negotiated FILOT Property from the Negotiated FILOT to *ad valorem* taxes, or to FILOT payments pursuant to the Multi-County Park Act, as the case may be, as permitted by **Section 4.01(e)(iii)**.

(d) Upon installation or placing in service of any Replacement Property for any Released Property, such Replacement Property shall become subject to Negotiated FILOT Payments to the fullest extent allowed by the Negotiated FILOT Act, 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, or to the FILOT payments pursuant to the Multi-County Park Act, as the case may be, 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 Negotiated FILOT payment period set forth in **Section 5.01(b)(i)** hereof applicable to the Released Property.

(ii) Each Company and each 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 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 Companies and the County express their intentions that such payments be reformed so as to afford each Company and each 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 Companies 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 or FILOT payments pursuant to the Multi-County Park Act, as the case may be, and that, to the extent permitted by law, each Company and each other Sponsor or Sponsor Affiliate shall be entitled: (1) to enjoy the five (5) year exemption from *ad valorem* taxes, or from FILOT payments pursuant to the Multi-County Park Act, as the case may be, 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 each Company and each other Sponsor or Sponsor Affiliate were obligated to pay *ad valorem* taxes, or make FILOT payments pursuant to the Multi-County Park Act, as the case may be, 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

each Company and each other Sponsor or Sponsor Affiliate, as the case may be, with respect to such entity's portion of the Negotiated FILOT Property in question, an amount equal to the difference between the Negotiated FILOT Payments theretofore actually paid by such entity and the amount which would have been paid as *ad valorem* taxes, or as FILOT payments pursuant to the Multi-County Park Act, as the case may be, 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 Minimum Statutory Investment Requirement is not satisfied by the end of the Compliance Period, then all Negotiated FILOT Payments shall revert retroactively to *ad valorem* taxes, calculated as set forth in paragraph (e) above, and a Deficiency Payment from each such owing entity shall be due and payable with respect to Negotiated FILOT Payments theretofore made. In the event that the aggregate investment in the Project by all Sponsors and Sponsor Affiliates does not exceed \$5,000,000 by the end of the Compliance Period and any Sponsor or Sponsor Affiliate does not satisfy the Minimum Statutory Investment Requirement solely through its own direct investment in the Project, then the Negotiated FILOT Payments with respect to that portion of the Project owned by such non-qualifying Sponsor or Sponsor Affiliate shall revert retroactively to *ad valorem* taxes, or to FILOT payments pursuant to the Multi-County Park Act, as the case may be, calculated as set forth in paragraph (e) above, and such Sponsor or Sponsor Affiliate shall owe a Deficiency Payment with respect to Negotiated FILOT Payments theretofore made as to such portion of the Project. To the extent necessary to collect a Deficiency Payment under this sub-paragraph (i) due to failure to satisfy the Minimum Statutory Investment Requirement, 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 the Minimum Statutory Investment Requirement is satisfied by the end of the Compliance Period, but following the Compliance Period, investment in the Project, without regard to depreciation or other diminution in value, falls below the investment level set forth in the Minimum Statutory Investment Requirement, then the Project shall prospectively be subject to *ad valorem* taxes, or to FILOT Payments pursuant to the Multi-County Park Act, as the case may be, calculated as set forth in paragraph (e) above, in accordance with Section 12-44-140(C) of the Negotiated FILOT Act, commencing with any Negotiated FILOT Payments due with respect to

Project property placed in service as of the end of the Property Tax Year in which such deficiency occurs.

(iii) If either or both of the Minimum Contractual Investment Requirement and the Minimum Jobs Requirement are not satisfied by the end of the Compliance Period, but the Minimum Statutory Investment Requirement is nevertheless satisfied by the end of the Compliance Period, each Company and each other Sponsor or Sponsor Affiliate shall continue to be eligible to take advantage of the Negotiated FILOT described in this **Section 5.01** hereof; provided, however _____.

(iv) In accordance with the provisions of **Sections 4.01(b)** and **6.02** hereof, except for Existing Property, the investment in all property utilized by any Company or any other Co-Investor as part of the Project, whether owned by any Company or any other Co-Investor outright or utilized by any Company or any other Co-Investor pursuant to any financing agreement or any lease or other arrangement with any Company or any other Co-Investor and whether or not subject to this Agreement, shall be counted toward all investment obligations under this Agreement, including, to the extent permitted by law, investment obligations under the Negotiated FILOT Act.

(g) Except as otherwise set forth in this Agreement or as otherwise required by the Act, any amounts due to the County from any Company or any other Sponsor or Sponsor Affiliate under this **Section 5.01** as a Deficiency Payment or other retroactive payment shall be paid by such entity within one hundred eighty (180) days following receipt by such entity 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 and that the County is entitled to and shall have a statutory lien with respect to the Project pursuant to Section 12-44-90(E) of the Negotiated FILOT Act and Title 12, Chapter 54 of the Code relating to the collection and enforcement of *ad valorem* property taxes.

ARTICLE VI

THIRD PARTY ARRANGEMENTS

Section 6.01 Conveyance of Liens and Interests; Assignment. The County agrees that each Company and each other Co-Investor may at any time (a) transfer all or any of its rights and interests hereunder or with respect to all or any part of the Project to any Person; or (b) enter into any lending, financing, leasing, security, or similar arrangement or succession of such arrangements with any financing entity or other Person with respect to this Agreement or all or any part of the Project, including without limitation any sale-leaseback, equipment lease, 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 Project, whereby the transferee in any such arrangement leases the portion of the Project in question to any Company or any other Co-Investor or operates such assets for any Company or any other Co-Investor or is leasing all or a portion of the Project in question from any Company or any other Co-Investor. In the event of any such transfer, lease, financing, or other transaction described above, the rights and interests of such Company or such other Co-Investor under this Agreement, including, without limitation, the benefits of the Negotiated FILOT, with respect to any Project property so transferred, leased, financed, or otherwise affected shall be so transferred and preserved, automatically, without further action or proceedings of the County, subject to the following provisions: (i) except in connection with any transfer to any other Company or other Co-Investor or an Affiliate of such Company or any other Co-Investor, or transfers, leases, or financing arrangements pursuant to clause (b) above, as to all of which transfers and other transactions the County hereby consents, such transferor Company or any such other Co-Investor shall obtain the prior consent or subsequent ratification of the County to the extent required by the Transfer Provisions of the Negotiated FILOT Act, which consent or subsequent ratification of the County shall not be unreasonably conditioned, withheld, or delayed; (ii) except when a financing entity which is the income tax owner of all or part of the Project property is the transferee pursuant to clause (b) above and such financing entity assumes in writing the obligations of such Company or any such other Co-Investor hereunder, or when the County consents in writing or when the transfer relates to Released Property pursuant to **Section 4.01(e)** hereof, no such transfer shall affect or reduce any of the obligations of such Company or any such other Co-Investor hereunder; (iii) to the extent the transferee or financing entity shall become obligated to make Negotiated FILOT payments hereunder, the transferee shall assume the then current basis of the transferor Company or any such other Co-Investor (or prior transferee) in the Negotiated FILOT Property transferred; (iv) the transferor Company or any such other Co-Investor, transferee or financing entity shall, within sixty (60) days thereof, furnish or cause to be furnished to the County and the Department of Revenue notice of any such transfer agreement; and (v) the transferor Company or any such other Co-Investor and the transferee shall comply with all other requirements of the Transfer Provisions in order to preserve the benefits of the Negotiated FILOT.

Subject to County consent when required under this **Section 6.01**, and at the expense of the transferor Company or any such other Co-Investor, the County agrees to take such further action and 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 transferor Company or any other Co-Investor under this Agreement and/or any release of the transferor Company or any other Co-Investor pursuant to this **Section 6.01**.

Each Company acknowledges that any 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 Negotiated FILOT Act absent compliance by the transferor Company or any such Co-Investor with the Transfer Provisions.

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

ARTICLE VII

TERM; TERMINATION

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

Section 7.02 Termination. In addition to the termination rights of the County under **Section 8.02(a)** hereof, the County and the Companies may jointly agree to terminate this Agreement at any time, or any Company, may, at its option, unilaterally terminate this Agreement at any time, with respect to all, or any part, of the Project in which event the Project, or such portion of the Project, as the case may be, shall be subject to *ad valorem* taxes, or to FILOT payments under the Multi-County Park Act, as the case may be, 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 any Company or any 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 sixty (60) 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 the occurrence of such default.

Notwithstanding anything herein to the contrary, failure to meet any investment or job creation requirements, thresholds, or levels set forth in this Agreement shall not be deemed to be an Event of Default under this Agreement, but may terminate or adjust certain benefits hereunder or obligate one or more of the Companies or other Co-Investors, as the case may be, to make certain additional payments to the County, all as set forth in **Sections 4.02** and **5.01(f)** hereof.

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

(a) the County may 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) the County may have access to and inspect, examine, and make copies of the books and records of the Defaulting Entity pertaining to the construction, acquisition, or maintenance of the Project or calculation of the Negotiated FILOT as provided in **Section 4.05** hereof;

(c) the County may 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 any 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 Negotiated FILOT Act.

Section 8.04 Default by County. Upon the default of the County in the performance of any of its obligations hereunder, any 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 Companies 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 Companies 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 Companies or any 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-Investor hereof, and their respective successors and assigns as permitted hereunder; provided, however, that notwithstanding anything herein to the contrary, the County may not assign any or all of its rights, duties, and obligations in, to, and under this Agreement without the written consent of the Companies, which consent may be provided by the Companies in their sole discretion.

Section 9.03 Notices; Demands; Requests. All notices, demands, and requests to be given or made hereunder to or by the County or any 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) As to the County:

Georgetown County
Attn: County Administrator
716 Prince Street (29440)
P.O. Drawer 421270
Georgetown, South Carolina 29442
Phone: (843) 545-3006
Fax: (843) 545-3121

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

Wesley P. Bryant, Esquire
Georgetown County Attorney
716 Prince Street (29440)
P.O. Drawer 421270
Georgetown, South Carolina 29442
Phone: (843) 545-3194
Fax: (843) 545-3126

(b) As to Project Eagle I:

Attention: _____

Phone: (____) _____
Fax: (____) _____

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

Tushar V. Chikhliker, Esq.
Nexsen Pruet, LLC
1230 Main Street, Suite 700 (29201)
P.O. Drawer 2426
Columbia, South Carolina 29202
Phone: (803) 540-2188
Fax: (803) 727-1469

(c) As to Project Eagle II:

Attention: _____

Phone: (____) _____

Fax: (____) _____

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

Tushar V. Chikhliker, Esq.
Nexsen Pruet, LLC
1230 Main Street, Suite 700 (29201)
P.O. Drawer 2426
Columbia, South Carolina 29202
Phone: (803) 540-2188
Fax: (803) 727-1469

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 supersedes all prior and contemporaneous discussions of the parties, whether oral or written, and neither party hereto has made or shall be bound by any agreement or any warranty or 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. Unless as otherwise expressly set forth herein, this Agreement will not confer any rights or remedies upon any Person other than the parties hereto and their respective successors and assigns as permitted hereunder.

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 all parties.

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

Section 9.11 Further Proceedings. The parties intend any action to be taken hereinafter by the County pursuant to the express provisions of this Agreement may be undertaken by the Chairman of the Council without necessity of 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 Fee in Lieu of Tax and Incentive Agreement to be effective as of the date first written above.

GEORGETOWN COUNTY, SOUTH CAROLINA

By: _____
John Thomas, Chairman, County Council
Georgetown County, South Carolina

[SEAL]

ATTEST:

By: _____
Theresa Floyd, Clerk to Council
Georgetown County, South Carolina

PROJECT EAGLE I

By: _____
Name: _____
Its: _____

PROJECT EAGLE II

By: _____
Name: _____
Its: _____

**EXHIBIT A
LAND DESCRIPTION**

[To be inserted]

Applicable Negotiated FILOT Millage Rate: _____ mills

Item Number: 7.b
Meeting Date: 10/8/2019
Item Type: PUBLIC HEARINGS

AGENDA REQUEST FORM
GEORGETOWN COUNTY COUNCIL



DEPARTMENT: Legal

ISSUE UNDER CONSIDERATION:

ORDINANCE NO. 19-19 - AN ORDINANCE TO ESTABLISH A JOINT COUNTY INDUSTRIAL AND BUSINESS PARK PURSUANT TO SECTION 4-1-170 OF THE SOUTH CAROLINA CODE OF LAWS 1976, AS AMENDED, TO BE KNOWN AS THE GEORGETOWN COUNTY PROJECT EAGLE JOINT COUNTY INDUSTRIAL AND BUSINESS PARK (THE "PARK"), IN CONJUNCTION WITH HORRY COUNTY, SUCH PARK TO BE GEOGRAPHICALLY LOCATED IN GEORGETOWN COUNTY; TO AUTHORIZE THE EXECUTION AND DELIVERY OF A WRITTEN PARK AGREEMENT WITH HORRY COUNTY AS TO THE REQUIREMENT OF PAYMENTS OF FEE IN LIEU OF AD VALOREM TAXES WITH RESPECT TO PARK PROPERTY AND THE SHARING OF THE REVENUES AND EXPENSES OF THE PARK; TO PROVIDE FOR THE DISTRIBUTION OF REVENUES FROM THE PARK WITHIN GEORGETOWN COUNTY; AND OTHER MATTERS RELATED THERETO.

CURRENT STATUS:

Pending adoption.

POINTS TO CONSIDER:

In order to promote economic development in Georgetown County and surrounding areas, including Horry County, through improvements to the tax base of Georgetown County and the provision of additional employment opportunities, Georgetown County and Horry County have agreed to create the Park to include property presently anticipated to be now or hereafter owned and/or operated by one or more companies identified for the time being, collectively, as Project Eagle, and/or one or more existing, or to be formed, affiliates or other related entities.

OPTIONS:

1. Adoption of Ordinance No. 19-19.
2. Decline adoption of Ordinance No. 19-19.

STAFF RECOMMENDATIONS:

The Council Chairman will open the floor for public comments pertaining to Ordinance No 19-19.
No action is required of County Council.

ATTACHMENTS:

Description	Type
▣ Ordinance No 19-190 - To Establish a Joint County Industrial Business Park	Ordinance
▣ Joint County Industrial Business Park Agreement (Project Eagle)	Backup Material

Georgetown County, South Carolina
Joint County Industrial/Business Park

ORDINANCE NO. 19-19
(GEORGETOWN COUNTY PROJECT EAGLE MULTI-COUNTY PARK)

AN ORDINANCE TO ESTABLISH A JOINT COUNTY INDUSTRIAL AND BUSINESS PARK PURSUANT TO SECTION 4-1-170 OF THE SOUTH CAROLINA CODE OF LAWS 1976, AS AMENDED, TO BE KNOWN AS THE GEORGETOWN COUNTY PROJECT EAGLE JOINT COUNTY INDUSTRIAL AND BUSINESS PARK (THE “PARK”), IN CONJUNCTION WITH HORRY COUNTY, SUCH PARK TO BE GEOGRAPHICALLY LOCATED IN GEORGETOWN COUNTY; TO AUTHORIZE THE EXECUTION AND DELIVERY OF A WRITTEN PARK AGREEMENT WITH HORRY COUNTY AS TO THE REQUIREMENT OF PAYMENTS OF FEE IN LIEU OF *AD VALOREM* TAXES WITH RESPECT TO PARK PROPERTY AND THE SHARING OF THE REVENUES AND EXPENSES OF THE PARK; TO PROVIDE FOR THE DISTRIBUTION OF REVENUES FROM THE PARK WITHIN GEORGETOWN COUNTY; AND OTHER MATTERS RELATED THERETO.

WHEREAS, Georgetown County, South Carolina (“Georgetown County”) and Horry County, South Carolina (“Horry County”) (collectively, the “Counties”), as authorized under Article VIII, Section 13(D) of the South Carolina Constitution and Title 4, Chapter 1 of the Code of Laws of South Carolina 1976, as amended (the “Park Act”), and particularly Section 4-1-170 thereof, propose to establish a joint county industrial and business park (the “Park”); and

WHEREAS, in order to promote economic development in Georgetown County and surrounding areas, including Horry County, through improvements to the tax base of Georgetown County and the provision of additional employment opportunities, Georgetown County and Horry County have agreed to create the Park to include property presently anticipated to be now or hereafter owned and/or operated by one or more companies identified for the time being, collectively, as Project Eagle, and/or one or more existing, or to be formed, affiliates or other related entities (the “Project Property”); and

WHEREAS, the Park shall be known as the Georgetown County Project Eagle Joint County Industrial and Business Park; and

WHEREAS, the Counties have agreed to the specific terms and conditions of such arrangement as set forth in that certain Agreement for Development of Joint County Industrial and Business Park (Georgetown County Project Eagle Park) to be entered into by the Counties as of such date as the Counties may agree (the “Park Agreement”); and

WHEREAS, the Counties now desire to establish the Park to include the Project Property.

NOW, THEREFORE, BE IT ORDAINED BY THE GEORGETOWN COUNTY COUNCIL AS FOLLOWS:

Section 1. Establishment of Georgetown County Project Eagle Joint County Industrial and Business Park; Approval of Park Agreement. There is hereby authorized to be established in conjunction with Horry County a joint county industrial and business park to be known as the Georgetown County Project Eagle Joint County Industrial and Business Park, which is located on the land comprising the Project Property and more particularly described in the form of Park Agreement presented to this meeting. The form, provisions, terms and conditions of the Park Agreement now before this meeting and filed with the Clerk to Council be and they are hereby approved, and all of the provisions, terms and conditions thereof are hereby incorporated herein by reference as if the Park Agreement were set out in this Ordinance in its entirety.

The Park 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 Georgetown County, upon advice of counsel, thereunder and as shall be approved by the officials of Georgetown County executing the same, their execution thereof to constitute conclusive evidence of their approval of any and all changes or revisions therein from the form of the Park Agreement now before this meeting.

The Chairman of Georgetown County Council, for and on behalf of Georgetown County, is hereby authorized, empowered, and directed to do any and all things necessary or proper to effect the establishment of the Park and the execution and delivery of the Park Agreement and the performance of all obligations of Georgetown County under and pursuant to the Park Agreement and to carry out the transactions contemplated thereby and by this Ordinance.

Section 2. Payment of Fees in Lieu of *Ad Valorem* Taxes. Owners and lessees of property located in the Park will pay a fee in lieu of *ad valorem* taxes as provided for in the Park Agreement. The fee paid in lieu of *ad valorem* taxes shall be paid to the Treasurer of Georgetown County. That portion of such fee allocated pursuant to the Park Agreement to Horry County shall, upon receipt by the Treasurer of Georgetown County, be paid to the Treasurer of Horry County in accordance with the terms of the Park Agreement. Payments of such fees will be made on or before the due date for taxes for a particular year. Penalties for late payment will be at the same rate as late tax payment. Any late payment beyond said date will accrue interest at the rate of statutory judgment interest. The Counties, acting by and through the Treasurer of Georgetown County, shall maintain all liens and rights to foreclose upon liens provided for counties in the collection of *ad valorem* taxes.

Section 3. Distribution of Revenue.

(a) Revenues generated from the Park through the payment of fees in lieu of *ad valorem* taxes to be retained by Georgetown County pursuant to the Park Agreement shall be distributed within Georgetown County in accordance with this subsection:

- (1) First, unless Georgetown County elects to pay or credit the same from

only those revenues which Georgetown County would otherwise be entitled to receive as provided under item (3) below, to pay annual debt service on any special source revenue bonds issued by Georgetown County pursuant to, or to be utilized as a credit in the manner provided in, Section 4-1-175 of the Park Act;

(2) Second, at the option of Georgetown County, to reimburse Georgetown County for any expenses incurred by it in the administration, development, operation, maintenance and promotion of the Park or the industries and businesses located therein or for other economic development purposes of Georgetown County; and

(3) Third, to those taxing entities in which the property is located, in the same manner and proportion that the millage levied for the taxing entities would be distributed if the property were taxable but without regard to exemptions otherwise available pursuant to Section 12-37-220, Code of Laws of South Carolina 1976, as amended, for that year.

(b) Notwithstanding any other provision of this section:

(1) all taxing entities which overlap the applicable revenue generating properties within the Park shall receive at least some portion of the revenues generated from such properties; and

(2) all revenues receivable by a taxing entity in a fiscal year shall be allocated to operations and/or debt service as determined by the governing body of the taxing entity; provided, that any revenue which is to be allocated annually to a school district, shall, in accordance with the applicable law, be allocated by the Georgetown County Auditor between such school district's debt service and such school district's operations in the same proportion as the millage levied for the respective purpose bears to the millage levied for both purposes when combined.

Section 4. Governing Laws and Regulations. The ordinances and regulations of Georgetown County including, without limitation, those concerning zoning, health and safety, and building code requirements shall apply to the Park properties in Georgetown County unless the properties are within the boundaries of a municipality in which case the municipality's ordinances and regulations apply.

Section 5. Law Enforcement and Other Services. Jurisdiction to make arrests and exercise all authority and power within the boundaries of the Park properties is vested with the Sheriff's Department of Georgetown County. If any of the Park properties are within the boundaries of a municipality, then jurisdiction to make arrests and exercise law enforcement jurisdiction is vested with the law enforcement officials of the municipality. Fire, sewer, water and EMS services will be provided by the service district or other political unit within whose jurisdiction the Park properties are located.

Section 6. 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 7. General Repealer. Any prior ordinance, the terms of which are in conflict herewith, is, only to the extent of such conflict, hereby repealed.

Section 8. Effectiveness. This Ordinance shall be effective after third and final reading.

DONE IN MEETING DULY ASSEMBLED THIS ____ DAY OF _____, 2019.

GEORGETOWN COUNTY, SOUTH CAROLINA

By: _____
John Thomas, Chairman, County Council of
Georgetown County, South Carolina

ATTEST:

Theresa Floyd, Clerk to Georgetown County Council
Georgetown County, South Carolina

First Reading: August 27, 2019
Second Reading: September 24, 2019
Public Hearing: October 8, 2019
Third Reading: October 8, 2019

STATE OF SOUTH CAROLINA)
COUNTY OF GEORGETOWN)
COUNTY OF HORRY)

THIS AGREEMENT for the development of a joint county industrial and business park to be located within Georgetown County is made and entered into and to be effective as of _____, 2019, by and between Georgetown County, South Carolina (“Georgetown County”) and Horry County, South Carolina (“Horry County”).

RECITALS

WHEREAS, pursuant to Title 4, Chapter 1 of the Code of Laws of South Carolina 1976, as amended (the “Park Act”), and particularly Section 4-1-170 thereof, and Article VIII, Section 13(D) of the South Carolina Constitution, as well as Ordinance No. 19-19 enacted by the County Council of Georgetown County and Ordinance No. _____ enacted by the County Council of Horry County, Georgetown County and Horry County have determined that, in order to further promote economic development and thus provide additional employment opportunities within both of said counties, there should be established in Georgetown County a joint county industrial and business park to be located in Georgetown County upon property presently anticipated to be now or hereafter owned and/or operated by one or more companies identified for the time being, collectively, as Project Eagle, and/or one or more existing, or to be formed, affiliates or other related entities, and described in Exhibit A hereto (the “Park”), which Park shall be known as the Georgetown County Project Eagle Joint County Industrial and Business Park and shall be in addition to previous joint county industrial and business parks previously established between the counties; and

WHEREAS, as a consequence of the establishment of the Park, property therein shall be exempt from *ad valorem* taxation, but the owners or lessees of such property shall pay annual fees in an amount equal to that amount for which such owner or lessee would be otherwise liable except for such exemption; and

WHEREAS, Georgetown County has agreed to accept responsibility for the costs of infrastructure, maintenance, management, promotional costs, and other appropriate costs associated with the establishment and operation of the Park as set forth herein;

NOW, THEREFORE, in consideration of the mutual agreement, representations and benefits contained in this Agreement and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties agree as follows:

1. Binding Agreement. This Agreement serves as a written instrument setting forth the entire agreement between the parties and shall be binding on Georgetown County and Horry County, their successors and assigns.

2. Authorization. Article VIII, Section 13(D) of the Constitution of South Carolina provides that counties may jointly develop an industrial or business park with other counties within the geographical boundaries of one or more of the member counties, provided that certain conditions specified therein are met and further provided that the General Assembly of the State of South Carolina provides by law a means by which the value of property in such park will be considered for purposes of bonded indebtedness of political subdivisions and school districts and for purposes of computing the index of taxpaying ability for school districts. Section 4-1-170 of the Park Act satisfies the conditions imposed by Article VIII, Section 13(D) of the Constitution and provides the statutory vehicle whereby a joint county industrial or business park may be created.

3. Location of the Park.

(A) As of the date of this Agreement, the Park consists of property located in Georgetown County, as further identified in Exhibit A hereto. It is specifically recognized that the Park may from time to time consist of non-contiguous properties within Georgetown County. The boundaries of the Park may be enlarged or diminished from time to time as authorized by ordinances of both Georgetown County and Horry County. If any property proposed for inclusion in the Park, in whole or in part, is located within the boundaries of a municipality, then the municipality must give its consent prior to the inclusion of such property.

(B) In the event of any enlargement or diminution of the boundaries of the Park, this Agreement shall be deemed amended and there shall be attached hereto a revised Exhibit A, which shall contain a legal description of the boundaries of the Park, as enlarged or diminished, together with a copy of the ordinances of Georgetown County Council and Horry County Council pursuant to which such enlargement or diminution was authorized.

(C) Prior to the adoption by Georgetown County Council and by Horry County Council of ordinances authorizing the diminution of the boundaries of the Park, a public hearing shall first be held by Georgetown County Council, as the county council of the county wherein the portion of the Park proposed to be enlarged or diminished is located. Notice of such public hearing shall be published in a newspaper of general circulation in Georgetown County at least once and not less than fifteen (15) days prior to such hearing. Notice of such public hearing shall also be served in the manner of service of process at least fifteen (15) days prior to such public hearing upon any owner and, if applicable, any lessee of any real property which would be excluded from the Park by virtue of the diminution.

(D) Notwithstanding anything in this Agreement to the contrary, to the extent that either Georgetown County or Horry County has outstanding contractual commitments to any owner or lessee of property located within the Park requiring inclusion of such property within a multi-county industrial or business park established pursuant to the Park Act and Article VIII, Section 13(D) of the South Carolina Constitution, Georgetown County and Horry County shall not be entitled to remove such property from within the Park unless Georgetown County shall first obtain the written consent of the owner or lessee of such property.

4. Fee in Lieu of Taxes. Property located in the Park shall be exempt from *ad valorem* taxation. The owners or lessees of any property situated in the Park shall pay in accordance with

this Agreement an amount equivalent to the *ad valorem* property taxes or other in-lieu-of-payments that would have been due and payable but for the location of such property within the Park.

5. Allocation of Park Expenses. Georgetown County and Horry County shall bear expenses, including, but not limited to, development, operation, maintenance and promotion of the Park and the cost of providing public services, in the following proportions:

A. Georgetown County	100%
B. Horry County	0%

6. Allocation of Park Revenues. Georgetown County and Horry County shall receive an allocation of revenues generated by the Park through payment of fees in lieu of *ad valorem* property taxes in the following proportions:

A. Georgetown County	99%
B. Horry County	1%

Any payment by Georgetown County to Horry County of its allocable share of the fees in lieu of taxes from the Park shall be made not later than thirty (30) days from the end of the calendar quarter in which Georgetown County receives such payment. In the event that the payment made by any owner or lessee of Park property is made upon protest or is otherwise in dispute, Georgetown County shall not be obligated to pay to Horry County more than Horry County's share of the undisputed portion thereof until thirty (30) days after the final resolution of such protest or dispute.

7. Revenue Allocation Within Each County.

(A) Revenues generated by the Park through the payment of fees in lieu of *ad valorem* property taxes shall be distributed to Georgetown County and to Horry County, as the case may be, according to the proportions established by Paragraph 6 of this Agreement. With respect to such revenues so allocable to Georgetown County, such revenue shall be distributed within Georgetown County in the manner provided by ordinance of the County Council of Georgetown County; provided, that (i) all taxing entities which overlap the applicable revenue-generating properties within the Park shall receive at least some portion of the revenues generated from such properties, and (ii) with respect to amounts received in any fiscal year by a taxing entity, the governing body of such taxing entity shall allocate the revenues received to operations and/or debt service of such entity; provided, that any revenue which is to be allocated annually to a school district, shall, in accordance with applicable law, be allocated by the Georgetown County Auditor between such school district's debt service and such school district's operations in the same proportion as the millage levied for the respective purpose bears to the millage levied for both purposes when combined. Georgetown County is specifically authorized to use a portion of the revenue for economic development purposes as permitted by law and as established by ordinance of the County Council of Georgetown County.

(B) Such revenues allocable to Horry County pursuant to Section 6 of this Agreement shall be distributed as deemed appropriate by Horry County in the manner provided by ordinance of the County Council of Horry County.

8. Fee in Lieu of Taxes Pursuant to Title 4 or Title 12 of the Code of Laws of South Carolina. It is hereby agreed that the entry heretofore or hereafter by Georgetown County into any one or more fee in lieu of tax agreements pursuant to Title 4 or Title 12 of the Code of Laws of South Carolina 1976, as may be amended from time to time ("Negotiated Fee-in Lieu of Tax Agreements"), with respect to Park property and the terms of such agreements shall be at the sole discretion of Georgetown County.

9. Assessed Valuation. For the purpose of calculating the bonded indebtedness limitation and for the purpose of computing the index of taxpaying ability pursuant Section 59-20-20(3) of the Code of Laws of South Carolina 1976, as amended, allocation of the assessed value of property within the Park to Georgetown County and Horry County and to each of the taxing entities within the participating counties shall be identical to any allocation of revenue received and retained by each of the counties and by each of taxing entities within the participating counties, pursuant to Sections 6 and 7 of this Agreement.

10. Records. Georgetown County and Horry County each covenant and agree that, upon the request of Horry County, Georgetown County will provide to Horry County copies of the records of the annual tax levy and copies of the actual tax bills, for parcels of property included within the Park at the time of such tax levy, and will further provide copies to the Horry County Treasurer's collection records for the taxes so imposed, all as such records become available in the normal course of Georgetown County procedures. It is further agreed that Horry County shall not request such records from Georgetown County more frequently than once annually, absent compelling justification to the contrary.

11. No Liability of Horry County. It is expressly understood and agreed that by entering into this Agreement, Horry County assumes no liability whatsoever with respect to this Agreement, the establishment or existence of the contemplated Park, and no recourse shall be had for any claim based upon any obligation, covenant or agreement contained herein against Horry County or any council member, director, officer, employee, or agent of Horry County.

12. South Carolina Law Controlling. This Agreement has been entered into in the State of South Carolina and shall be governed by, and construed in accordance with South Carolina law.

13. Severability. In the event and to the extent (and only to the extent) that any provision or any part of a provision of this Agreement shall be held invalid or unenforceable by any court of competent jurisdiction, such holding shall not invalidate or render unenforceable the remainder of that provision or any other provision of this Agreement.

14. Counterpart Execution. This Agreement may be executed in multiple counterparts.

15. Termination. Notwithstanding any provision of this Agreement to the contrary, Georgetown County and Horry County agree that this Agreement may be terminated only upon approval of an ordinance to that effect by the county council of each county. Notwithstanding the foregoing, this Agreement may not be terminated to the extent that either Georgetown County or

Horry County has outstanding contractual commitments to any owner or lessee of property located in the Park requiring inclusion of such property within a multi-county industrial or business park established pursuant to the Park Act and Article VIII, Section 13(D) of the Constitution of South Carolina, unless such county shall first obtain the written consent of such owner or lessee.

[End of Agreement – Execution Page to Follow]

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

GEORGETOWN COUNTY, SOUTH CAROLINA

By: _____
John Thomas, Chairman of County Council,
Georgetown County, South Carolina

[SEAL]

Attest:

By: _____
Theresa Floyd, Clerk to County Council
Georgetown County, South Carolina

HORRY COUNTY, SOUTH CAROLINA

By: _____
Johnny Gardner, Chairman, County Council,
Horry County, South Carolina

[SEAL]

Attest:

By: _____
Patricia Hartley, Clerk to County Council
Horry County, South Carolina

EXHIBIT A
GEORGETOWN COUNTY PROJECT EAGLE PARK
LAND DESCRIPTION
[To be inserted]

Item Number: 9.a
Meeting Date: 10/8/2019
Item Type: RESOLUTIONS / PROCLAMATIONS

AGENDA REQUEST FORM
GEORGETOWN COUNTY COUNCIL



DEPARTMENT: Emergency Management

ISSUE UNDER CONSIDERATION:

Resolution No. 19-21 - To Adopt the UPDATED 2019 Hazard Mitigation Plan

CURRENT STATUS:

The Disaster Mitigation Act of 2000 (DMA 2000) required local governments to develop an All Hazard Mitigation Plan according to the regulations published on February 26, 2002 (44 CFR Section 201.6) in order to qualify for federal aid for technical assistance and post disaster funding. The original Georgetown County Hazard Mitigation Plan was adopted on August 10, 2004. This plan must be revised and approved by FEMA every five years. The Georgetown County Hazard Mitigation Planning Committee met and conducted public hearings concerning the plan. Then through the coordinated efforts of the South Carolina Emergency Management Division the plan was forwarded to FEMA and approved.

POINTS TO CONSIDER:

1. The resolution is required by the Disaster Mitigation Act to allow Georgetown County to become eligible for FEMA to grant technical assistance, mitigation and disaster relief reimbursement funding.
2. Hazard Mitigation plans are required by the Disaster Mitigation Act for adoption on State levels, County levels and as well must be adopted by the Municipalities.
3. The Georgetown County Hazard Mitigation Planning Committee is charged with reviewing, maintaining and periodically reporting on the progress of the plan and any future revisions to the plan to County Council. The committee including; County of Georgetown, City of Georgetown, Town of Pawleys Island, Town of Andrews, the Georgetown County School District, Georgetown County Water and Sewer District, Tidelands Health, various Fire Departments and other Civic and Environmental Groups.
4. The plan includes action steps to assist in the mitigation of hazards that could occur if major disasters potentially identified in the plan for Georgetown County were to occur.

FINANCIAL IMPACT:

The Hazard Mitigation Plan includes "Actions" requiring various County departments to prepare budgetary information for future approval to accomplish the plan requirements. Failure to meet plan requirements could affect future federal funding for disaster relief, funding for technical assistance, and could affect funding for mitigation efforts within the County and the Municipalities.

OPTIONS:

1. Approval of the Resolution to adopt the Hazard Mitigation Plan.
2. Rejection of the Resolution to adopt the Hazard Mitigation Plan.

STAFF RECOMMENDATIONS:

Approval of Resolution 19-21 adopting the Hazard Mitigation Plan thereby qualifying Georgetown County for future federal funding.

ATTORNEY REVIEW:

Yes

ATTACHMENTS:

	Description	Type
▯	Resolution No 19-21 Updated Hazard Mitigation Plan	Resolution Letter

RESOLUTION No. 19-21

**CALLING FOR THE ADOPTION OF THE GEORGETOWN COUNTY
HAZARD MITIGATION PLAN BY GEORGETOWN COUNTY COUNCIL**

WHEREAS, the County of Georgetown has experienced the effects of natural hazard events; and

WHEREAS, the Georgetown County Hazard Mitigation Planning Committee has prepared a recommended Georgetown County Hazard Mitigation Plan; and

WHEREAS, the recommended Georgetown County Hazard Mitigation Plan has been widely circulated for review by residents/business organizations/professional organizations of the unincorporated and incorporated areas of Georgetown County, state, federal, regional and local government agencies and has been supposed by those reviewers; and

NOW THEREFORE Be It Resolved:

- a. The Georgetown County Hazard Mitigation Plan is hereby adopted as an official plan of the County of Georgetown, and
- b. The Georgetown County Hazard Mitigation Planning Committee is recognized as a continuing entity charged with reviewing, maintaining and periodically reporting on the progress towards and revisions to the plan to the Georgetown County Council.

This Resolution becomes effective as of the 8th day of October, 2019.

John Thomas, Chairman
Georgetown County Council

ATTEST:

Theresa E. Floyd, Clerk
Georgetown County Council

Item Number: 9.b
Meeting Date: 10/8/2019
Item Type: RESOLUTIONS / PROCLAMATIONS

AGENDA REQUEST FORM
GEORGETOWN COUNTY COUNCIL



DEPARTMENT: County Council

ISSUE UNDER CONSIDERATION:

Resolution No. 19-22 - Supporting the Enactment of Legislation Against Hate Crimes in South Carolina.

CURRENT STATUS:

The U.S. Congress passed and signed into law the first federal hate crime statute in 1968, and since that time the Department of Justice has been enforcing federal hate crime legislation.

Subsequently, virtually all states and US territories have enacted hate crime statutes that are enforced by state and local law enforcement in state and local courts. Although state laws vary, forty-six states and the District of Columbia have statutes criminalizing bias-motivated violence or intimidation, and permit prosecution of hate crimes committed on the basis of race, religion, ethnicity, nationality, gender, sexual orientation, gender identity, disability, or homelessness.

POINTS TO CONSIDER:

In 2015, in the aftermath of tragedy following the heinous murder of nine people participating in Bible study at the Emmanuel AME Church in Charleston, SC, the nation's attention was focused on South Carolina's lack of state level law.

It is the mission of Georgetown County Government is to promote the health, safety, and welfare of its citizens; and Georgetown County Council believes providing enforceable local laws and penalties against hate crimes is in the best interest of our citizens.

Georgetown County Council supports the passage and adoption of appropriate legislation pertaining to hate crimes by the South Carolina General Assembly.

OPTIONS:

1. Adoption of Resolution No. 19-22.
2. Deny adoption of Resolution No. 19-22.

STAFF RECOMMENDATIONS:

Resolution No. 19-22 is sponsored by Councilmember Everett Carolina. Recommendation for the adoption of Resolution No. 19-22 supporting the enactment of legislation against hate crimes in South Carolina

ATTACHMENTS:

Description	Type
<input type="checkbox"/> Resolution No 19-22 To support enactment of legislation against hate crimes	Resolution Letter

Resolution No. 19-22

COUNTY OF GEORGETOWN)	<i>Supporting the Enactment of Legislation Against Hate Crimes in South Carolina</i>
)	
STATE OF SOUTH CAROLINA)	

WHEREAS, since 1968, when the U.S. Congress passed and signed into law the first federal hate crime statute, the Department of Justice has been enforcing federal hate crime legislation; and

WHEREAS, subsequently, virtually all states and US territories have enacted hate crime statutes that are enforced by state and local law enforcement in state and local courts. Forty-six states and the District of Columbia have statutes criminalizing bias-motivated violence or intimidation, and permit prosecution of hate crimes committed on the basis of race, religion, ethnicity, nationality, gender, sexual orientation, gender identity, disability, or homelessness; and

WHEREAS, in 2015, in the aftermath of tragedy following the heinous murder of nine people participating in bible study at the Emmanuel AME Church in Charleston, SC, the nation's attention was focused on South Carolina's lack of state level law; and

WHEREAS, nearly 6,000 hate crimes were reported by law enforcement agencies in 2013, according to the FBI Uniform Crime Reporting Program; and data indicates the number has continued to rise; and

WHEREAS, it is the mission of Georgetown County Government is to promote the health, safety, and welfare of its citizens; and Georgetown County Council believes providing enforceable local laws and penalties against hate crimes is in the best interest of all residents and visitors of the State of South Carolina;

NOW, THEREFORE, BE IT RESOLVED THAT Georgetown County Council supports and urges the passage and adoption of appropriate legislation pertaining to hate crimes by the South Carolina General Assembly.

SO SHALL IT BE, this 8th Day of October, 2019.

John W. Thomas, Chairman
Georgetown County Council

ATTEST:

Theresa E. Floyd, Clerk to Council

Item Number: 11.a

Meeting Date: 10/8/2019

Item Type: SECOND READING OF ORDINANCES

AGENDA REQUEST FORM
GEORGETOWN COUNTY COUNCIL



DEPARTMENT: County Administrator

ISSUE UNDER CONSIDERATION:

Ordinance No. 19-21 - An Ordinance to authorize the expenditure of surplus Capital Project Sales Tax funds authorized under the Capital Project Sales Tax Act (S.C. Code Ann. Section 4-10-340, et seq.) previously collected pursuant to a majority vote on a referendum ordered by Georgetown County Ordinance 2014-28 held on November 4, 2014; further to designate the projects for which the surplus proceeds may be used; and to provide for other matters relating thereto.

CURRENT STATUS:

Pending adoption.

POINTS TO CONSIDER:

The South Carolina General Assembly has enacted the Capital Project Sales Tax Act, S.C. Code Ann. Section 4-10-300 et seq., pursuant to which the governing body may impose a one percent sales and use tax by ordinance, subject to a referendum, within the County area for a specific purpose or purposes and for a limited time to collect money for such purposes.

Georgetown County Council enacted Ordinance 2014-28 establishing a list of capital projects and calling for a referendum, and a referendum was held November 4, 2014 whereby the citizens of Georgetown County approved the imposition of a one cent sales tax during a four (4) year term for the funding of certain capital projects.

Upon the end of the 4 year term, Georgetown County Council considered the capital projects on the 2014 referendum and determined the Winyah Bay dredging project cannot be undertaken due to a number of essential and regulatory outside governmental agencies withdrawing funding and redesignating the project's priority to an indefinite timeframe resulting, along with more tax collected than initially projected, a surplus of tax proceeds.

Georgetown County Council, under code section 4-10-340, is authorized to allocate surplus funding for the purposes set forth in Section 4-10-330(A)(1) following an ordinance specifying the authorized purposes for which the funds will be used.

OPTIONS:

1. Adopt Ordinance No. 19-21 to authorize the expenditure of surplus Capital Project Sales Tax funds previously collected.
2. Do not adopt Ordinance No. 19-21.

STAFF RECOMMENDATIONS:

Adopt Ordinance No. 19-21 to authorize the expenditure of surplus Capital Project Sales Tax funds previously collected.

NOTE: Ordinance No. 19-21 was introduced by title only at 1st reading and will require a motion to amend to incorporate proposed text.

ATTACHMENTS:

Description	Type
▣ Ordinance No. 19-21 - CPST Surplus	Ordinance

STATE OF SOUTH CAROLINA)
)
COUNTY OF GEORGETOWN)

ORDINANCE NO. 19-21

An ordinance to authorize the expenditure of surplus Capital Project Sales Tax funds authorized under the Capital Project Sales Tax Act (S.C. Code Ann. Section 4-10-340, et seq.) previously collected pursuant to a majority vote on a referendum ordered by Georgetown County Ordinance 2014-28 held on November 4, 2014; further to designate the projects for which the surplus proceeds may be used; and to provide for other matters relating thereto.

WHEREAS:

1. The South Carolina General Assembly has enacted the Capital Project Sales Tax Act, S.C. Code Ann. Section 4-10-300 et seq., pursuant to which the governing body may impose a one percent sales and use tax by ordinance, subject to a referendum, within the County area for a specific purpose or purposes and for a limited time to collect money for such purposes; and
2. The Georgetown County Council, as the governing body of Georgetown County, South Carolina, enacted Ordinance 2014-28 establishing a list of capital projects and calling for a referendum; and
3. A referendum was held November 4, 2014 whereby the citizens of Georgetown County approved the imposition of a one cent sales tax during a four (4) year term for the funding of certain capital projects; and
4. Upon the end of the 4 year term, Georgetown County Council considered the capital projects on the 2014 referendum and has determined the Winyah Bay dredging project cannot be undertaken due to unforeseen, escalated costs as confirmed by the U.S. Army Corp of Engineers, resulting, along with more tax collected than initially projected, a surplus of tax proceeds; and
5. Georgetown County Council, under code section 4-10-340, is authorized to allocate surplus funding for the purposes set forth in Section 4-10-330(A)(1) following an ordinance specifying the authorized purposes for which the funds will be used; and
6. Georgetown County Council, after careful consideration of potential capital projects, has determined the list of projects below comports with Section 4-10-330(A)(1) and intends to use capital project sales tax surplus monies resulting from the 2014 referendum to fund these projects, including, if applicable, the purchase, design, engineering and construction, preparation or improvement of the projects established in this Ordinance including, if applicable, payment of such sums as may be required in connection with the issuance of bonds, the proceeds of which are applied to such capital projects.

NOW THEREFORE BE IT ENACTED BY THE GEORGETOWN COUNTY COUNCIL THAT:

1. The Winyah Bay dredging project listed in Ordinance 2014-28 cannot be undertaken due to unforeseen, escalated costs as confirmed by the U.S. Army Corp of Engineers.

2. A portion of the surplus funding resulting from the capital project sales and use tax, as authorized by the Capital Project Sales Tax Act, S.C. Code Ann. Section 4-20-300 et seq., Georgetown County Ordinance 2014-28, and by 2014 referendum, is designated to fund the following projects:

1. Horry Georgetown Technical College – Advanced Manufacturing Center	\$ 1.5 M
2. Pennyroyal Road Industrial Site	\$ 3.75 M
	<hr/>
	\$ 5.25 M

3. This Ordinance shall take effect immediately upon adoption.

4. All provisions in other County Ordinances in conflict with this Ordinance are hereby repealed.

5. If any provision of this Ordinance or the application thereof to any person or circumstances is held invalid, the invalidity does not affect other provisions or applications of the Ordinance which can be given effect without the invalid provision or application and to this end, the provisions of this Ordinance are severable.

This Ordinance shall become effective on _____.

Adopted at the regular meeting of Georgetown County Council on _____.

ATTEST:

SIGNED:

Theresa E. Floyd, Clerk to Council

John Thomas, Chairman

REVIEWED BY: _____
Wesley P. Bryant, County Attorney

First Reading:

Second Reading:

Third Reading:

Public Hearing:

Item Number: 11.b
Meeting Date: 10/8/2019
Item Type: SECOND READING OF ORDINANCES

AGENDA REQUEST FORM
GEORGETOWN COUNTY COUNCIL



DEPARTMENT: Legal

ISSUE UNDER CONSIDERATION:

ORDINANCE NO. 19-22 - AN ORDINANCE TO AMEND ORDINANCE 2007-06, "GEORGETOWN COUNTY ANIMAL CONTROL ORDINANCE", REGARDING THE STERILIZATION OF ANIMALS BEFORE RELEASE.

CURRENT STATUS:

Pending

POINTS TO CONSIDER:

There has been a recent increase in capture of privately owned dogs by the City of Georgetown and Georgetown County animal control officers. It is currently the policy of the local animal shelter, in accordance with Section 4-27(c) of Ordinance 2007-06, to spay or neuter all animals before being released, with the waiver of this requirement being at the discretion of the animal shelter.

Owners of privately owned animals that have been captured have presented opposition to Section 4-27(c) citing concerns over plans for breeding and other intentions for their animals.

SC Code of Laws, Section 47-3-480(B) expressly preempts the sterilization of privately owned animals in possession by an animal shelter. By adoption of Ordinance No. 19-22, Georgetown County Council will clarify its Animal Control Ordinance to mirror that of Section 47-3-480(B) to prohibit sterilization of privately owned animals held for any reasons in an animal shelter.

OPTIONS:

1. Adoption of Ordinance No. 19-22.
2. Decline adoption of Ordinance No. 19-22.

STAFF RECOMMENDATIONS:

Recommendation for adoption of Ordinance No. 19-22.

ATTACHMENTS:

Description	Type
▣ Ordinance No. 19-22 Amendment to Animal Control Ordinance	Ordinance

STATE OF SOUTH CAROLINA)
)
COUNTY OF GEORGETOWN)

ORDINANCE NO. 19-22

AN ORDINANCE TO AMEND ORDINANCE 2007-06, "GEORGETOWN COUNTY ANIMAL CONTROL ORDINANCE", REGARDING THE STERILIZATION OF ANIMALS BEFORE RELEASE

WHEREAS, there has been a recent increase in capture of privately owned dogs by the City of Georgetown and Georgetown County animal control officers; and

WHEREAS, it is currently the policy of the local animal shelter, in accordance with Section 4-27(c) of Ordinance 2007-06, to spay or neuter all animals before being released with the waiver of this requirement being at the discretion of the animal shelter; and

WHEREAS, owners of privately owned animals that have been captured have presented opposition to Section 4-27(c) citing concerns over plans for breeding and other intentions for their animals; and

WHEREAS, SC Code of Laws, Section 47-3-480(B) expressly preempts the sterilization of privately owned animals in possession by an animal shelter; and

WHEREAS, Georgetown County Council, by action rendered herein, clarifies its Animal Control Ordinance to mirror that of Section 47-3-480(B) thereby prohibiting sterilization of privately owned animals held for any reasons in an animal shelter.

NOW, THEREFORE, be it ordained by Georgetown County Council that Section 4-27(c) of Ordinance 2007-06 be amended to state:

4-27(c) Fees. All fees associated with animal redemption, boarding, and adoption of impounded animals shall be set by the animal shelter. All animals received by the animal shelter **that are not privately owned** shall be spayed or neutered before being released. The animal shelter may waive such requirement at their discretion. **The requirement to spay or neuter shall not apply to a privately owned animal which the animal shelter, agency, society, or refuge may have in its possession for any reason if the owner of the animal claims or presents evidence that the animal is his property.**

1. This Ordinance shall take effect immediately upon adoption.
2. All provisions in other County Ordinances in conflict with this Ordinance are hereby repealed.
3. If any provision of this Ordinance or the application thereof to any person or circumstances is held invalid, the invalidity does not affect other provisions or applications of the Ordinance which can be given effect without the invalid provision or application and to this end, the provisions of this Ordinance are severable.
4. This Ordinance shall become effective upon its adoption.

Adopted at the regular meeting of Georgetown County Council on _____.

ATTEST:

SIGNED:

Theresa E. Floyd, Clerk to Council

John Thomas, Chairman

REVIEWED BY: _____

Wesley P. Bryant, County Attorney

First Reading:

Second Reading:

Third Reading:

Item Number: 11.c

Meeting Date: 10/8/2019

Item Type: SECOND READING OF ORDINANCES

AGENDA REQUEST FORM
GEORGETOWN COUNTY COUNCIL



DEPARTMENT: County Administrator

ISSUE UNDER CONSIDERATION:

ORDINANCE NO. 19-23 - AN ORDINANCE AUTHORIZING THE ISSUANCE AND SALE OF GENERAL OBLIGATION BONDS OF GEORGETOWN COUNTY, SOUTH CAROLINA, SERIES 2019, OR SUCH OTHER APPROPRIATE SERIES DESIGNATION, IN THE PRINCIPAL AMOUNT OF NOT EXCEEDING \$10,000,000; FIXING THE FORM AND DETAILS OF THE BONDS; AUTHORIZING THE COUNTY ADMINISTRATOR TO DETERMINE CERTAIN MATTERS RELATING TO THE BONDS; PROVIDING FOR THE PAYMENT OF THE BONDS AND THE DISPOSITION OF THE PROCEEDS THEREOF; AND OTHER MATTERS RELATING THERETO.

CURRENT STATUS:

Pending

POINTS TO CONSIDER:

Pursuant to Section 4-9-10, Code of Laws of South Carolina 1976, as amended, the County operates under the Council form of government and the County Council constitutes the governing body of the County.

Article X, Section 14 of the Constitution of the State of South Carolina, 1895, as amended, provides that each county shall have the power to incur bonded indebtedness in such manner and upon such terms and conditions as the General Assembly shall prescribe by general law. Such debt must be incurred for a public purpose and a corporate purpose in an amount not exceeding eight percent (8%) of the assessed value of all taxable property of such county.

Pursuant to Title 4, Chapter 15 of the S.C. Code (the same being and hereinafter referred to as the "County Bond Act"), the governing bodies of the several counties of the state may each issue general obligation bonds to defray the cost of any authorized purpose and for any amount not exceeding their applicable constitutional limit.

The County Bond Act provides that as a condition precedent to the issuance of bonds an election be held and the result be favorable thereto. Title 11, Chapter 27 of the S.C. Code ("Title 11, Chapter 27") provides that if an election be prescribed by the provisions of the County Bond Act, but not be required by the provisions of Article X of the Constitution, then in every such instance, no election need be held, and the remaining provisions of the County Bond Act shall constitute a full and complete authorization to issue bonds in accordance with such remaining provisions.

The assessed value of all the taxable property in the County for the 2018 tax year, the last completed assessment thereof, is \$582,991,687. Eight percent of such sum is \$46,639,334. As of the date hereof, the outstanding general obligation debt of the County subject to the limitation imposed by Article X, Section 14(7) of the Constitution is \$22,200,000. Thus, the County may incur not exceeding \$24,439,334 of additional general obligation debt within its applicable debt limitation.

County Council has determined it is in the best interest of the County to provide for the issuance and sale of not exceeding \$10,000,000 principal amount general obligation bonds of the County to provide funds

or not exceeding \$10,000,000 principal amount general obligation bonds of the County to provide funds for the following purposes: (i) funding capital improvements projects; (ii) paying costs of issuance of the Bonds (hereinafter defined); and (iii) such other lawful corporate and public purposes as the County Council shall determine.

OPTIONS:

1. Adoption of Ordinance No. 19-23.
2. Decline adoption of Ordinance No. 19-23.

STAFF RECOMMENDATIONS:

Recommendation for the adoption of Ordinance No. 19-23.

NOTE: *Ordinance No. 19-23 was introduced by title only, therefore a motion to amend will be required at 2nd reading in order to incorporate proposed text.*

ATTACHMENTS:

Description		Type
<input type="checkbox"/>	Ordinance No. 19-23 Issuance and Sale of General Obligation Bonds	Ordinance

ORDINANCE NO. 2019-23

AN ORDINANCE AUTHORIZING THE ISSUANCE AND SALE OF GENERAL OBLIGATION BONDS OF GEORGETOWN COUNTY, SOUTH CAROLINA, SERIES 2019, OR SUCH OTHER APPROPRIATE SERIES DESIGNATION, IN THE PRINCIPAL AMOUNT OF NOT EXCEEDING \$10,000,000; FIXING THE FORM AND DETAILS OF THE BONDS; AUTHORIZING THE COUNTY ADMINISTRATOR TO DETERMINE CERTAIN MATTERS RELATING TO THE BONDS; PROVIDING FOR THE PAYMENT OF THE BONDS AND THE DISPOSITION OF THE PROCEEDS THEREOF; AND OTHER MATTERS RELATING THERETO.

BE IT ORDAINED BY THE COUNTY COUNCIL OF GEORGETOWN COUNTY, SOUTH CAROLINA, AS FOLLOWS:

SECTION 1. Findings and Determinations. The County Council (the "County Council") of Georgetown County, South Carolina (the "County"), hereby finds and determines:

(a) Pursuant to Section 4-9-10, Code of Laws of South Carolina 1976, as amended (the "S.C. Code"), the County operates under the Council form of government and the County Council constitutes the governing body of the County.

(b) Article X, Section 14 of the Constitution of the State of South Carolina, 1895, as amended (the "Constitution"), provides that each county shall have the power to incur bonded indebtedness in such manner and upon such terms and conditions as the General Assembly shall prescribe by general law. Such debt must be incurred for a public purpose and a corporate purpose in an amount not exceeding eight percent (8%) of the assessed value of all taxable property of such county.

(c) Pursuant to Title 4, Chapter 15 of the S.C. Code (the same being and hereinafter referred to as the "County Bond Act"), the governing bodies of the several counties of the state may each issue general obligation bonds to defray the cost of any authorized purpose and for any amount not exceeding their applicable constitutional limit.

(d) The County Bond Act provides that as a condition precedent to the issuance of bonds an election be held and the result be favorable thereto. Title 11, Chapter 27 of the S.C. Code ("Title 11, Chapter 27") provides that if an election be prescribed by the provisions of the County Bond Act, but not be required by the provisions of Article X of the Constitution, then in every such instance, no election need be held (notwithstanding the requirement therefor) and the remaining provisions of the County Bond Act shall constitute a full and complete authorization to issue bonds in accordance with such remaining provisions.

(e) The assessed value of all the taxable property in the County for the 2018 tax year, the last completed assessment thereof, is \$582,991,687. Eight percent of such sum is \$46,639,334. As of the date hereof, the outstanding general obligation debt of the County subject to the limitation imposed by Article X, Section 14(7) of the Constitution is \$22,200,000. Thus, the County may incur not exceeding \$24,439,334 of additional general obligation debt within its applicable debt limitation.

(j) It is now in the best interest of the County for County Council to provide for the issuance and sale of not exceeding \$10,000,000 principal amount general obligation bonds of the County to provide funds for the following purposes: (i) funding capital improvements (the "Projects"); (ii) paying costs of issuance of the Bonds (hereinafter defined); and (iii) such other lawful corporate and public purposes as the County Council shall determine.

(k) Pursuant to an Ordinance adopted by the County Council on March 26, 2013, the County has adopted Written Procedures related to Tax-Exempt Debt.

SECTION 2. Authorization and Details of Bonds. Pursuant to the aforesaid provisions of the Constitution and laws of the State, there is hereby authorized to be issued not exceeding \$10,000,000 principal amount of general obligation bonds of the County to be designated “\$10,000,000 (or such lesser amount issued) General Obligation Bonds, Series 2019 (or such other appropriate series designation) of Georgetown County, South Carolina” (the “Bonds”) for the purpose stated in Section 1(j) of this Ordinance.

The Bonds shall be issued as fully registered Bonds registerable as to principal and interest; shall be dated their date of delivery to the initial purchaser(s) thereof; shall be in denominations of \$5,000 or any integral multiple thereof not exceeding the principal amount of Bonds maturing each year; shall be numbered from R-1 upward, respectively; shall bear interest from their date payable at such times as hereafter designated by the Administrator at such rate or rates as may be determined by the Administrator at the time of sale thereof; and shall mature serially in successive annual installments as determined by the Administrator.

Regions Bank, Atlanta, Georgia, shall serve as Registrar/Paying Agent for the Bonds.

Both the principal of and interest on the Bonds shall be payable in any coin or currency of the United States of America which is, at the time of payment, legal tender for public and private debts.

SECTION 3. Delegation of Authority to Determine Certain Matters Relating to the Bonds. Without further authorization, the County Council hereby delegates to the Administrator the authority to determine (a) the par amount of the Bonds; (b) the maturity dates of the Bonds and the respective principal amounts maturing on such dates; (c) the interest payment dates of the Bonds; (d) redemption provisions, if any, for the Bonds; and (e) the time and date of sale of the Bonds. The County Council further delegates to the Administrator the authority to receive bids on behalf of County Council and the authority to award the Bonds to the lowest bidder therefor. After the sale of the Bonds, the Administrator shall submit a written report to the County Council setting forth the results of the sale of the Bonds.

SECTION 4. Registration, Transfer and Exchange of Bonds. The County shall cause books (herein referred to as the “registry books”) to be kept at the offices of the Registrar/Paying Agent, for the registration and transfer of the Bonds. Upon presentation at its office for such purpose the Registrar/Paying Agent shall register or transfer, or cause to be registered or transferred, on such registry books, the Bonds under such reasonable regulations as the Registrar/Paying Agent may prescribe.

Each Bond shall be transferable only upon the registry books of the County, which shall be kept for such purpose at the principal office of the Registrar/Paying Agent, by the registered owner thereof in person or by his duly authorized attorney upon surrender thereof together with a written instrument of transfer satisfactory to the Registrar/Paying Agent duly executed by the registered owner or his duly authorized attorney. Upon the transfer of any such Bond the Registrar/Paying Agent on behalf of the County shall issue in the name of the transferee a new fully-registered Bond or Bonds, of the same aggregate principal amount, interest rate and maturity as the surrendered Bond. Any Bond surrendered in exchange for a new registered Bond pursuant to this Section shall be canceled by the Registrar/Paying Agent.

The County and the Registrar/Paying Agent may deem or treat the person in whose name any fully-registered Bond shall be registered upon the registry books as the absolute owner of such Bond, whether such Bond shall be overdue or not, for the purpose of receiving payment of the principal of and interest on

such Bond and for all other purposes and all such payments so made to any such registered owner or upon his order shall be valid and effectual to satisfy and discharge the liability upon such Bond to the extent of the sum or sums so paid, and neither the County nor the Registrar/Paying Agent shall be affected by any notice to the contrary. In all cases in which the privilege of transferring Bonds is exercised, the County shall execute and the Registrar/Paying Agent shall authenticate and deliver Bonds in accordance with the provisions of this Ordinance. Neither the County nor the Registrar/Paying Agent shall be obliged to make any such transfer of Bonds during the fifteen (15) days preceding an interest payment date on such Bonds.

SECTION 5. Record Date. The County hereby establishes a record date for the payment of interest or for the giving of notice of any proposed redemption of Bonds, and such record date shall be the fifteenth (15th) day (whether or not a business day) preceding an interest payment date on such Bond or in the case of any proposed redemption of Bonds, such record date shall be the fifteenth (15th) day (whether or not a business day) prior to the giving of notice of redemption of bonds.

SECTION 6. Mutilation, Loss, Theft or Destruction of Bonds. In case any Bond shall at any time become mutilated in whole or in part, or be lost, stolen or destroyed, or be so defaced as to impair the value thereof to the owner, the County shall execute and the Registrar shall authenticate and deliver at the principal office of the Registrar, or send by registered mail to the owner thereof at his request, risk and expense, a new Bond of the same series, interest rate and maturity and of like tenor and effect in exchange or substitution for and upon the surrender for cancellation of such defaced, mutilated or partly destroyed Bond, or in lieu of or in substitution for such lost, stolen or destroyed Bond. In any such event the applicant for the issuance of a substitute Bond shall furnish the County and the Registrar evidence or proof satisfactory to the County and the Registrar of the loss, destruction, mutilation, defacement or theft of the original Bond, and of the ownership thereof, and also such security and indemnity in an amount as may be required by the laws of the State or such greater amount as may be required by the County and the Registrar. Any duplicate Bond issued under the provisions of this Section in exchange and substitution for any defaced, mutilated or partly destroyed Bond or in substitution for any allegedly lost, stolen or wholly destroyed Bond shall be entitled to the identical benefits under this Ordinance as was the original Bond in lieu of which such duplicate Bond is issued, and shall be entitled to equal and proportionate benefits with all the other Bonds of the same series issued hereunder.

All expenses necessary for the providing of any duplicate Bond shall be borne by the applicant therefor.

SECTION 7. Execution of Bonds. The Bonds shall be executed in the name of the County with the manual or facsimile signature of the Chair of the County Council attested by the manual or facsimile signature of the Clerk of the County Council under the seal of the County impressed, imprinted or reproduced thereon; provided, however, the facsimile signatures appearing on the Bonds may not be those of the officers who are in office on the date of adoption of this Ordinance. The execution of the Bonds in such fashion shall be valid and effectual, notwithstanding any subsequent change in such offices. The Bonds shall not be valid or become obligatory for any purpose unless there shall have been endorsed thereon a certificate of authentication. Each Bond shall bear a certificate of authentication manually executed by the Registrar.

SECTION 8. Form of Bonds. The Bonds shall be in substantially the form attached hereto as Exhibit A and incorporated herein by reference.

SECTION 9. Security for Bonds. The full faith, credit and taxing power of the County are hereby irrevocably pledged for the payment of the principal of and interest on the Bonds as they respectively mature, and for the creation of such sinking fund as may be necessary therefor. There shall be levied

annually by the Auditor of the County, and collected by the Treasurer of the County, in the same manner as other county taxes are levied and collected, a tax, without limit, on all taxable property in the County sufficient to pay the principal of and interest on the Bonds as they respectively mature and to create such sinking fund as may be necessary therefor.

The County Council shall give the Auditor and Treasurer of the County written notice of the delivery of and payment for the Bonds and they are hereby directed to levy and collect annually, on all taxable property in the County, a tax, without limit, sufficient to pay the principal of and interest on the Bonds as they respectively mature and to create such sinking fund as may be necessary therefor.

SECTION 10. Notice of Initiative and Referendum. The County Council hereby delegates to the Administrator the authority to determine whether the Notice prescribed under the provisions of Title 11, Chapter 27, relating to the Initiative and Referendum provisions contained in Title 4, Chapter 9 of the S.C. Code, shall be given with respect to this Ordinance, such notice being in substantially the form attached hereto as Exhibit B. If such notice is given, the Administrator is authorized to cause such notice to be published in a newspaper of general circulation in the County.

SECTION 11. Defeasance. The obligations of the County under this Ordinance and the pledges, covenants and agreements of the County herein made or provided for, shall be fully discharged and satisfied as to any portion of the Bonds, and such Bond or Bonds shall no longer be deemed to be outstanding hereunder when:

(a) such Bond or Bonds shall have been purchased by the County and surrendered to the County for cancellation or otherwise surrendered to the County or the Paying Agent and is canceled or subject to cancellation by the County or the Paying Agent; or

(b) payment of the principal of and interest on such Bonds either (i) shall have been made or caused to be made in accordance with the terms thereof, or (ii) shall have been provided for by irrevocably depositing with a corporate trustee in trust and irrevocably set aside exclusively for such payment, (1) moneys sufficient to make such payment, or (2) Government Obligations (hereinafter defined) maturing as to principal and interest in such amounts and at such times as will ensure the availability of sufficient moneys to make such payment and all necessary and proper fees, compensation and expenses of the Paying Agent. At such time as the Bonds shall no longer be deemed to be outstanding hereunder, such Bonds shall cease to draw interest from the due date thereof and, except for the purposes of any such payment from such moneys or Government Obligations, shall no longer be secured by or entitled to the benefits of this Ordinance.

“Government Obligations” shall mean any of the following:

- (i) direct obligations of the United States of America or agencies thereof or obligations, the payment of principal or interest on which, in the opinion of the Attorney General of the United States, is fully and unconditionally guaranteed by the United States of America;
- (ii) non-callable, U. S. Treasury Securities - State and Local Government Series (“SLGS”);
- (iii) a defeasance obligation as defined in Section 6-5-10 of the S.C. Code as such as may be amended from time to time.

(c) Such Bond or Bonds shall be defeased as provided in Section 11-14-110 of the S.C. Code as such may be amended from time to time.

SECTION 12. Exemption from State Taxes. Both the principal of and interest on the Bonds shall be exempt, in accordance with the provisions of Section 12-2-50 of the S.C. Code, from all State, county, municipal, school district and all other taxes or assessments, except estate or other transfer taxes, direct or indirect, general or special, whether imposed for the purpose of general revenue or otherwise.

SECTION 13. Declaration of Intent to Reimburse Certain Expenditures. This Resolution shall constitute the County's declaration of official intent pursuant to Regulation §1.150-2 of the Internal Revenue Code of 1986 as amended (the "IRC") to reimburse the County from a portion of the proceeds of the Bonds for expenditures it anticipates incurring (the "Expenditures") with respect to the Projects prior to the issuance of the Bonds. The Expenditures which are reimbursed are limited to Expenditures which are: (1) properly chargeable to a capital account (or would be so chargeable with a proper election or with the application of the definition of placed in service under Regulation §1.150-2 of the IRC) under general federal income tax principals; or (2) certain de minimis or preliminary Expenditures satisfying the requirements of Regulation §1.150-2(f) of the IRC. The source of funds for the Expenditures with respect to the Projects will be the County's reserve funds. To be eligible for reimbursement of the Expenditures, the reimbursement allocation must be made not later than 18 months after the later of (a) the date on which the Expenditures were paid; or (b) the date such Projects were placed in service, but in no event more than three (3) years after the original Expenditures.

SECTION 14. Eligible Securities. The Bonds initially issued (the "Initial Bonds") will be eligible securities for the purposes of the book-entry system of transfer maintained by The Depository Trust Company, New York, New York ("DTC"), and transfers of beneficial ownership of the Initial Bonds shall be made only through DTC and its participants in accordance with rules specified by DTC. Such beneficial ownership must be of \$5,000 principal amount of Bonds of the same maturity or any integral multiple of \$5,000.

The Initial Bonds shall be issued in fully-registered form, one Bond for each of the maturities of the Initial Bonds, in the name of Cede & Co., as the nominee of DTC. When any principal of or interest on the Initial Bonds becomes due, the Paying Agent, on behalf of the County, shall transmit to DTC an amount equal to such installment of principal and interest. DTC shall remit such payments to the beneficial owners of the Initial Bonds or their nominees in accordance with its rules and regulations.

Notices of redemption of the Initial Bonds or any portion thereof shall be sent to DTC in accordance with the provisions of the Ordinance.

If (a) DTC determines not to continue to act as securities depository for the Initial Bonds, or (b) the County has advised DTC of its determination that DTC is incapable of discharging its duties, the County shall attempt to retain another qualified securities depository to replace DTC. Upon receipt by the County of the Initial Bonds together with an assignment duly executed by DTC, the County shall execute and deliver to the successor securities depository Initial Bonds of the same principal amount, interest rate and maturity registered in the name of such successor.

If the County is unable to retain a qualified successor to DTC or the County has determined that it is in its best interest not to continue the book-entry system of transfer or that interests of the beneficial owners of the Initial Bonds might be adversely affected if the book-entry system of transfer is continued (the County undertakes no obligation to make any investigation to determine the occurrence of any events that would permit it to make any such determination), and has made provision to so notify beneficial owners of

the Initial Bonds by mailing an appropriate notice to DTC, upon receipt by the County of the Initial Bonds together with an assignment duly executed by DTC, the County shall execute, authenticate and deliver to the DTC participants Initial Bonds in fully-registered form, in substantially the form set forth in Exhibit to this Ordinance in the denomination of \$5,000 or any integral multiple thereof.

Notwithstanding the foregoing, at the request of the purchaser, the Bonds will be issued as one single fully-registered bond and not issued through the book-entry system.

SECTION 15. Sale of Bonds, Form of Notice of Sale. The Bonds shall be sold at public sale. A Notice of Sale in substantially the form attached hereto as Exhibit C and incorporated herein by reference shall be distributed to prospective bidders and a summary of such Notice of Sale shall be published in a newspaper having general circulation in the State or in a financial publication published in the City of New York, State of New York, or both, not less than seven (7) days prior to the date set for such sale.

SECTION 16. Preliminary and Final Official Statement. The County Council hereby authorizes and directs the Administrator to prepare, or cause to be prepared, a Preliminary Official Statement to be distributed to prospective purchasers of the Bonds together with the Notice of Sale. The County Council authorizes the Administrator to designate the Preliminary Official Statement as “near final” for purposes of Rule 15c2-12(b)(5) promulgated by the Securities and Exchange Commission under the Securities Exchange Act of 1934, as the same may be amended from time to time (the “Rule”). The Administrator is further authorized to ensure the completion of the final form of the Official Statement upon the sale of the Bonds so that it may be provided to the purchaser of the Bonds.

SECTION 17. Filings with Central Repository. In compliance with Section 11-1-85 of the S.C. Code, the County covenants that it will file or cause to be filed with a central repository for availability in the secondary bond market when requested: (a) a copy of an annual independent audit of the County within thirty (30) days of the County’s receipt thereof; and (b) within thirty (30) days of the occurrence thereof, event specific information of an event which adversely affects more than five (5%) percent of the tax revenues of the County or the County's tax base.

SECTION 18. Continuing Disclosure. In compliance with the, the County covenants and agrees for the benefit of the holders from time to time of the Bonds to execute and deliver at closing, and to thereafter comply with the terms of a Continuing Disclosure Certificate in substantially the form appearing as Exhibit D to this Ordinance. In the event of a failure of the County to comply with any of the provisions of the Continuing Disclosure Certificate, an event of default under this Ordinance shall not be deemed to have occurred. In such event, the sole remedy of any bondholder or beneficial owner shall be an action to compel performance by the Ordinance.

SECTION 19. Deposit and Use of Proceeds. The proceeds derived from the sale of the Bonds shall be deposited with the Treasurer of the County in a special fund to the credit of the County and shall be applied solely to the purposes for which the Bonds have been issued, including payment of costs of issuance of the Bonds.

SECTION 20. Notice of Public Hearing. The County Council hereby ratifies and approves the publication of a notice of public hearing regarding the Bonds and this Ordinance, such notice in the form attached hereto as Exhibit E, having been published in the *Georgetown Times*, a newspaper of general circulation in the County, not less than 15 days prior to the date of such public hearing.

SECTION 21. Federal Tax Covenants. The County hereby covenants and agrees with the holders of the Bonds that it will not take any action which will, or fail to take any action which failure will, cause interest on the Bonds to become includable in the gross income of the bondholders for federal income tax purposes pursuant to the provisions of the IRC and regulations promulgated thereunder in effect on the date of original issuance of the Bonds. The County further covenants and agrees with the holders of the Bonds that no use of the proceeds of the Bonds shall be made which, if such use had been reasonably expected on the date of issue of the Bonds would have caused the Bonds to be “arbitrage bonds,” as defined in Section 148 of the IRC, and to that end the County hereby shall:

(a) comply with the applicable provisions of Sections 103 and 141 through 150 of the IRC and any regulations promulgated thereunder so long as the Bonds are outstanding;

(b) establish such funds, make such calculations and pay such amounts, in the manner and at the times required in order to comply with the requirements of the IRC relating to required rebates of certain amounts to the United States; and

(c) make such reports of such information at the time and places required by the IRC.

SECTION 22. Miscellaneous. The County Council hereby authorizes any one or more of the following officials to execute such documents and instruments as necessary to effect the issuance of the Bonds: Chair of the County Council, Administrator, Clerk to the County Council and County Attorney. The County Council hereby retains Burr & Forman LLP (Burr Forman McNair), as Bond Counsel, and Compass Municipal Advisors, LLC, as Financial Advisor in connection with the issuance of the Bonds. The Administrator is authorized to execute such contracts, documents or engagement letters as may be necessary and appropriate to effectuate these engagements.

All rules, regulations, resolutions and parts thereof, procedural or otherwise, in conflict herewith or the proceedings authorizing the issuance of the Bonds are, to the extent of such conflict, hereby repealed and this Ordinance shall take effect and be in full force from and after its adoption.

This Ordinance shall forthwith be codified in the Code of County Ordinances in the manner prescribed by law.

Enacted this ____ day of _____, 2019.

GEORGETOWN COUNTY, SOUTH CAROLINA

Chair, County Council

(SEAL)

ATTEST:

Clerk, County Council

Date of First Reading:

Publication of Notice of
Public Hearing:

Date of Second Reading:

Date of Public Hearing:

Date of Third Reading:

APPROVED AS TO FORM:

County Attorney

FORM OF BOND

UNITED STATES OF AMERICA
STATE OF SOUTH CAROLINA
COUNTY OF GEORGETOWN
GENERAL OBLIGATION BONDS, SERIES 2019

No. R-

<u>INTEREST</u> <u>RATE</u>	<u>MATURITY</u> <u>DATE</u>	<u>ORIGINAL</u> <u>ISSUE DATE</u>	<u>CUSIP</u>
--------------------------------	--------------------------------	--------------------------------------	--------------

REGISTERED HOLDER: CEDE & CO.

PRINCIPAL AMOUNT: DOLLARS

KNOW ALL MEN BY THESE PRESENTS, that Georgetown County, South Carolina (the "County"), is justly indebted and, for value received, hereby promises to pay to the registered holder specified above, or registered assigns, the principal amount specified above on the maturity date specified above, upon presentation and surrender of this Bond at the principal office of _____, in the City of _____, State of _____ (the "Paying Agent"), and to pay interest on such principal amount from the date hereof at the rate per annum specified above until this Bond matures. Interest on this Bond is payable semiannually on _____ and _____ of each year, commencing _____, until this Bond matures, and shall be payable by check or draft mailed or wire transferred to the registrar, presently _____, in _____, _____ (the "Registrar"), at the close of business on the fifteenth (15th) day of the calendar month preceding each semiannual interest payment date. The principal of and interest on this Bond are payable in any coin or currency of the United States of America which is, at the time of payment, legal tender for public and private debts; provided, however, that interest on this fully-registered Bond shall be paid by check or draft or wire transfer as set forth above.

This Bond shall not be entitled to any benefit under the Ordinance (hereafter defined), nor become valid or obligatory for any purpose, until the certificate of authentication hereon shall have been duly executed by the Registrar.

For the payment hereof, both principal and interest, as they respectively mature and for the creation of such sinking fund as may be necessary therefor, the full faith, credit and taxing power of the County are irrevocably pledged and there shall be levied annually by the Auditor of the County and collected by the Treasurer of the County, in the same manner as other county taxes are levied and collected, a tax, without limit, on all taxable property in the County sufficient to pay the principal of and interest on this Bond as they respectively mature and to create such sinking fund as may be necessary therefor.

This Bond is one of a series of Bonds of like date of original issue, tenor and effect, except as to number, denomination, date of maturity, redemption provisions, and rate of interest, aggregating _____ Dollars (\$ _____), issued pursuant to and in accordance with the Constitution of the State of South Carolina, 1895, as amended and laws of the State of South Carolina (the "State"), including Article X of the Constitution; Title 4, Chapter 15, of the Code of Laws of South Carolina 1976, as amended; Title 11, Chapter 27 of the Code of Laws of South Carolina 1976, as amended; and Ordinance No. 2019-____ duly enacted by the County Council on _____, 2019.

[Redemption Provisions]

This Bond is transferable as provided in the Ordinance, only upon the books of the County kept for that purpose at the principal office of the Registrar by the registered holder in person or by his duly authorized attorney upon surrender of this Bond together with a written instrument of transfer satisfactory to the Registrar duly executed by the registered holder or his duly authorized attorney. Thereupon a new fully-registered Bond or Bonds of the same aggregate principal amount, interest rate, redemption provisions, if any, and maturity shall be issued to the transferee in exchange therefor as provided in the Ordinance. The County, the Registrar and the Paying Agent may deem and treat the person in whose name this Bond is registered as the absolute owner hereof for the purpose of receiving payment of or on account of the principal hereof and interest due hereon and for all other purposes.

Under the laws of the State, this Bond and the interest hereon are exempt from all State, county, municipal, school district and all other taxes or assessments, except estate or other transfer taxes, direct or indirect, general or special, whether imposed for the purpose of general revenue or otherwise.

It is hereby certified and recited that all acts, conditions and things required by the Constitution and laws of the State to exist, to happen and to be performed precedent to or in the issuance of this Bond exist, have happened and have been performed in regular and due time, form and manner as required by law; that the amount of this Bond, together with all other indebtedness of the County, does not exceed the applicable limitation of indebtedness under the laws of the State; and that provision has been made for the levy and collection of a tax, without limit, on all taxable property in the County sufficient to pay the principal of and interest on this Bond as the same shall respectively mature and to create such sinking fund as may be necessary therefor.

IN WITNESS WHEREOF, GEORGETOWN COUNTY, SOUTH CAROLINA, has caused this Bond to be signed with the facsimile signature of the Chair of the County Council, attested by the facsimile signature of the Clerk to the County Council and the seal of the County impressed, imprinted or reproduced hereon.

GEORGETOWN COUNTY, SOUTH CAROLINA

Chair, County Council

(SEAL)

ATTEST:

Clerk, County Council

[FORM OF REGISTRAR'S CERTIFICATE OF AUTHENTICATION]

Date of Authentication:

This bond is one of the Bonds described in the within mentioned Ordinance of Georgetown County, South Carolina.

as Registrar

By: _____
Authorized Officer

The following abbreviations, when used in the inscription on the face of this Bond shall be construed as though they were written out in full according to applicable laws or regulations.

TEN COM - As tenants in common

UNIF GIFT MIN. ACT

TEN ENT - As tenants by the
entireties

Custodian
(Cust.) (Minor)

JT TEN - As joint tenants
with right of
survivorship and
not as tenants in
common

under Uniform Gifts to Minors

(State)

Additional abbreviations may also be used though not in list above.

[FORM OF ASSIGNMENT]

FOR VALUE RECEIVED, the undersigned sells, assigns and transfers unto

(Name and address of Transferee)

the within Bond and does hereby irrevocably constitute and appoint _____ attorney to transfer the within Bond on the books kept for registration thereof, with full power of substitution in the premises.

Dated:

Signature Guaranteed:

(Authorizing Officer)

Signature(s) must be guaranteed
by an institution which is a
participant in the Securities
Transfer Agents Medallion
Program (“STAMP”) or similar
program.

NOTICE: The signature to this
agreement must correspond with
the name of the registered holder as
it appears upon the face of the
within Bond in every particular,
without alteration or enlargement or any
change whatever.

Copies of the final approving opinions to be rendered shall be attached to each Bond and preceding the same a certificate shall appear, which shall be signed on behalf of the County with a facsimile signature of the Clerk to the County Council. The certificate shall be in substantially the following form:

[FORM OF CERTIFICATE]

IT IS HEREBY CERTIFIED that the following is a true and correct copy of the complete final approving opinions (except for date and letterhead) of Burr & Forman LLP, Columbia, South Carolina, approving the issue of bonds of which the within bond is one, the original of which opinions were manually executed, dated and issued as of the date of delivery of and payment for the bonds and a copy of which is on file with the County Council of Georgetown County, South Carolina.

GEORGETOWN COUNTY, SOUTH CAROLINA

By: _____
Clerk, County Council

FORM OF NOTICE

NOTICE IS HEREBY GIVEN that the County Council (the "County Council") of Georgetown County, South Carolina (the "County"), on _____, 2019, enacted Ordinance No. 2019-_____ entitled "AN ORDINANCE AUTHORIZING THE ISSUANCE AND SALE OF GENERAL OBLIGATION BONDS OF GEORGETOWN COUNTY, SOUTH CAROLINA, SERIES 2019, OR SUCH OTHER APPROPRIATE SERIES DESIGNATION, IN THE PRINCIPAL AMOUNT OF NOT EXCEEDING \$10,000,000; FIXING THE FORM AND DETAILS OF THE BONDS; AUTHORIZING THE COUNTY ADMINISTRATOR TO DETERMINE CERTAIN MATTERS RELATING TO THE BONDS; PROVIDING FOR THE PAYMENT OF THE BONDS AND THE DISPOSITION OF THE PROCEEDS THEREOF; AND OTHER MATTERS RELATING THERETO." (the "Ordinance"). The Ordinance authorizes the issuance and sale of not exceeding \$10,000,000 General Obligation Bonds, Series 2019 (the "Bonds") of the County. The proceeds of the Bonds will be used: (i) to fund capital improvements; (ii) to pay costs of issuance of the Bonds; and (iii) for such other lawful corporate and public purposes as the County Council shall determine.

Pursuant to Section 11-27-40(8) of the Code of Laws of South Carolina 1976, as amended, unless a notice, signed by not less than five (5) qualified electors of the County, of the intention to seek a referendum is filed both in the office of the Clerk of Court of the County and with the Clerk of the County Council, the initiative and referendum provisions of South Carolina law, Sections 4-9-1210 to 4-9-1230 of the Code of Laws of South Carolina 1976, as amended, shall not be applicable to the Ordinance. The notice of intention to seek a referendum must be filed within twenty (20) days following the publication of this notice of the adoption of the aforesaid Ordinance in a newspaper of general circulation in Georgetown County.

CHAIR, COUNTY COUNCIL OF GEORGETOWN
COUNTY, SOUTH CAROLINA

FORM OF NOTICE OF SALE

\$ _____ GENERAL OBLIGATION BONDS, SERIES 2019
OF GEORGETOWN COUNTY, SOUTH CAROLINA

Time and Place of Sale: NOTICE IS HEREBY GIVEN that sealed bids, facsimile bids and electronic bids will be received on behalf of Georgetown County, South Carolina (the "County") on _____, _____, 2019, at which time said proposals will be publicly opened for the purchase of \$ _____ General Obligation Bonds, Series 2019, of the County (the "Bonds").

Electronic Bids: Electronic proposals must be submitted through i-Deal's Parity Electronic Bid Submission System ("Parity"). No electronic bids from any other providers of electronic bidding services will be accepted. Information about the electronic bidding services of Parity may be obtained from i-Deal, 40 W. 23rd Street, 5th floor, New York, New York 10010, Customer Support, telephone (212) 404-8102.

Book-Entry-Only Bonds: The Bonds will be issued in fully-registered form. One Bond representing each maturity will be issued to and registered in the name of Cede & Co., as nominee of The Depository Trust Company, New York, New York ("DTC"), as registered owner of the Bonds and each such Bond will be immobilized in the custody of DTC. DTC will act as securities depository for the Bonds. Individual purchases will be made in book-entry form only, in the principal amount of \$5,000 or any integral multiple thereof not exceeding the principal amount of Bonds maturing each year; Purchasers will not receive physical delivery of certificates representing their interest in the Bonds purchased. The winning bidder, as a condition to delivery of the Bonds, will be required to deposit the Bond certificates representing each maturity with DTC.

The Bonds will be issued in fully-registered form registered as to principal and interest; will be dated _____, 2019; will be in denominations of \$5,000 or any integral multiple thereof not exceeding the principal amount of Bonds maturing in each year; and will mature serially in successive annual installments on _____ in each of the years and in the principal amounts as follows:

<u>Year</u>	<u>Principal Amount</u>	<u>Year</u>	<u>Principal Amount</u>
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The Bonds will bear interest from the date thereof payable semiannually on _____ and _____ of each year, commencing _____, until they mature.

[Redemption Provisions]

Registrar/Paying Agent: Regions Bank, Atlanta, Georgia, will serve as Registrar/Paying Agent for the Bonds.

Bid Requirements: Bidders shall specify the rate or rates of interest per annum which the Bonds are to bear, to be expressed in multiples of 1/20 or 1/8 of 1% and the lowest interest rate specified for any maturity shall not be more than 5% lower than the highest interest rate specified for any maturity. Bidders

are not limited as to the number of rates of interest named, but the rate of interest on each separate maturity must be the same single rate for all Bonds of that maturity from their date to such maturity date. **A BID FOR LESS THAN ALL THE BONDS OR FOR LESS THAN PAR WILL NOT BE CONSIDERED.**

Award of Bid. The Bonds will be awarded to the bidder or bidders offering to purchase the Bonds at the lowest true interest cost (TIC) to the County. The TIC will be the nominal interest rate which, when compounded semiannually and used to discount all debt service payments on the Bonds (computed at the interest rates specified in the bid and on the basis of a 360-day year of twelve 30-day months) to the dated date of the Bonds, results in an amount equal to the price bid for the Bonds. In the case of a tie bid, _____. The County reserves the right to reject any and all bids or to waive irregularities in any bid. Bids will be accepted or rejected no later than 3:00 p.m., South Carolina time, on the date of the sale.

Security: The full faith, credit and taxing power of the County are hereby irrevocably pledged for the payment of the principal of and interest on the Bonds as they respectively mature, and for the creation of such sinking fund as may be necessary therefor. There shall be levied annually by the Auditor of the County, and collected by the Treasurer of the County, in the same manner as other county taxes are levied and collected, a tax, without limit, on all taxable property in the County sufficient to pay the principal of and interest on the Bonds as they respectively mature and to create such sinking fund as may be necessary therefor.

Good Faith Deposit: No good faith deposit is required.

Official Statement: Upon the award of the Bonds, the County will prepare an official statement (the "Official Statement") in substantially the same form as the preliminary official statement subject to minor additions, deletions and revisions as required to complete the Official Statement. Within seven (7) business days after the award of the Bonds, the County will deliver the Official Statement to the successful bidder in sufficient quantity to comply with Rule G-32 of the Municipal Securities Rulemaking Board. The successful bidder agrees to supply to the County within 24 hours after the award of the Bonds all necessary pricing information and any Underwriter identification necessary to complete the Official Statement.

Continuing Disclosure: In order to assist the bidders in complying with Rule 15c2-12(b)(5) promulgated by the Securities and Exchange Commission under the Securities Exchange Act of 1934, as the same may be amended from time to time (the "Rule"), the County will undertake, pursuant to an ordinance and a Continuing Disclosure Certificate, to provide certain annual financial information and notices of the occurrence of certain events promulgated by the Securities and Exchange Commission under the Securities Exchange Act of 1934, as the same may be amended from time to time. A description of this undertaking is set forth in the Preliminary Official Statement and will also be set forth in the final Official Statement.

Legal Opinion: The County Council shall furnish upon delivery of the Bonds the final approving opinions of Burr & Forman LLP (Burr Forman McNair), Columbia, South Carolina, which opinions shall accompany each Bond, together with the usual closing documents, including a certificate of the County that no litigation is pending affecting the Bonds.

Issue Price Certificate: [TO BE PROVIDED]

Financial Advisor: Compass Municipal Advisors, LLC, has acted as Financial Advisor to the County in connection with the issuance of the Bonds. In this capacity, Compass Municipal Advisors, LLC

provided technical assistance in the preparation of the offering documents and assisted the County in preparing for this financing.

CUSIP Numbers: It is anticipated that CUSIP identification numbers will be set forth on the Bonds, but neither the failure to print such numbers on any Bond nor any error with respect thereto shall constitute cause for failure or refusal by the purchaser thereof to accept delivery of and pay for the Bonds in accordance with the terms of its proposal. The CUSIP Service Bureau charge for the assignment of such numbers shall be the responsibility of and shall be paid for by the successful bidder.

Delivery: The Bonds will be delivered on or about _____, 2019, in New York, New York, at the expense of the County. The balance of the purchase price then due must be paid in federal funds or other immediately available funds.

Additional Information: The Preliminary Official Statement, Official Notice of Sale and Official Bid Form of the County with respect to the Bonds are available via the internet at officialstatements.compassmuni.com and will be furnished to any person interested in bidding for the Bonds upon request to Burr Forman McNair, attention: Francenia B. Heizer, Esquire, telephone (803) 799-9800, e-mail: fheizer@burr.com. The Preliminary Official Statement shall be reviewed by bidders prior to submitting a bid. Bidders may not rely on this Official Notice of Sale as to the complete information concerning the Bonds. For additional information, please contact the County's Financial Advisor, Brian G. Nurick, Managing Director, Compass Municipal Advisors, LLC; telephone (803) 765-1004, e-mail: brian.nurick@compassmuni.com.

GEORGETOWN COUNTY, SOUTH CAROLINA

FORM OF CONTINUING DISCLOSURE CERTIFICATE

This Continuing Disclosure Certificate (the “Disclosure Certificate”) is executed and delivered by Georgetown County, South Carolina (the “County”) in connection with the issuance of \$ _____ General Obligation Bonds, Series 2019, Georgetown County, South Carolina (the “Bonds”). The Bonds are being issued pursuant to an ordinance adopted by the County Council of the County (the “Ordinance”). The County covenants and agrees as follows:

SECTION 1. Purpose of the Disclosure Certificate. This Disclosure Certificate is being executed and delivered by the County for the benefit of the holders and in order to assist the Participating Underwriters (defined below) in complying with the Rule (defined below).

SECTION 2. Definitions. The following capitalized terms shall have the following meanings:

“**Annual Report**” shall mean any Annual Report provided by the County pursuant to, and as described in, Sections 3 and 4 of this Disclosure Certificate.

“**Dissemination Agent**” shall mean the County or any successor Dissemination Agent designated in writing by the County and which has filed with the County a written acceptance of such designation.

“**Financial Obligation**” is defined by the Rule as and for purposes of this Disclosure Certificate shall mean (1) a debt obligation, (2) a derivative instrument entered into in connection with, or pledged as security or a source of payment for, an existing or planned debt obligation, or (3) a guarantee of either of the foregoing; provided, however, that a “Financial Obligation” shall not include municipal securities as to which a final official statement has been provided to the Municipal Securities Rulemaking Board consistent with the Rule.

“**Listed Events**” shall mean any of the events listed in Section 5(a) of this Disclosure Certificate.

“**National Repository**” shall mean for purposes of the Rule, the Electronic Municipal Market Access (EMMA) system created by the Municipal Securities Rulemaking Board.

“**Participating Underwriter**” shall mean _____ and any other original underwriter of the Bonds required to comply with the Rule in connection with offering of the Bonds.

“**Repository**” shall mean each National Repository and each State Depository, if any.

“**Rule**” shall mean Rule 15c2-12(b)(5) promulgated by the Securities and Exchange Commission under the Securities Exchange Act of 1934, as the same may be amended from time to time.

“**State Depository**” shall mean any public or private repository or entity designated by the State of South Carolina as a state depository for the purpose of the Rule. As of the date of this Certificate, there is no State Depository.

SECTION 3. Provision of Annual Reports.

(a) The County shall, or shall cause the Dissemination Agent to provide, not later than February 1 of each year, commencing in 2020, to the Repository an Annual Report which is consistent with the requirements of Section 4 of this Disclosure Certificate. Not later than fifteen (15) business days prior to such date the County shall provide the Annual Report to the Dissemination Agent, if other than the County; provided, that if the audited financial statements required pursuant to Section 4 hereof to be included in the Annual Report are not available for inclusion in the Annual Report as of such date, unaudited financial statements of the County may be included in such Annual Report in lieu thereof, and the County shall replace such unaudited financial statements with audited financial statements within fifteen (15) days after such audited financial statements become available for distribution. The Annual Report may be submitted as a single document or as separate documents comprising a package, and may cross-reference other information as provided in Section 4 of this Disclosure Certificate; provided that the audited financial statements of the County may be submitted separately from the balance of the Annual Report.

(b) If the County is unable to provide to the Repository an Annual Report by the date required in subsection (a), the County shall send a notice to the Municipal Securities Rulemaking Board and State Depository, if any, in substantially the form attached hereto as Exhibit A.

(c) The Dissemination Agent shall:

(1) determine each year prior to the date for providing the Annual Report the name and address of the Repository; and

(2) if the Dissemination Agent is other than the County, file a report with the County and (if the Dissemination Agent is not the Registrar) the Registrar certifying whether the Annual Report has been provided pursuant to this Disclosure Certificate, and, if provided, stating the date it was provided, and listing the Repository to which it was provided.

SECTION 4. Content of Annual Reports. The County's Annual Report shall contain or incorporate by reference the most recent audited financial statements, which shall be prepared in conformity with generally accepted accounting principles (or, if not in such conformity, to be accompanied by a qualitative discussion of the differences in the accounting principles and the impact of the change in the accounting principles on the presentation of the financial information) applicable to governmental entities such as the County, and shall, in addition, contain or incorporate by reference the following information for the most recently completed fiscal year:

- (a) County population (most readily available);
- (b) Total state appropriations subject to withholding under Article X, Sec. 15, South Carolina Constitution;
- (c) Outstanding Indebtedness of the County;
- (d) Annual and Estimated Market Value Summary of taxable property in County;
- (e) Tax rates for County;
- (f) Tax collections for County; and
- (g) Five largest taxpayers (including fee-in-lieu-of-tax) for County.

Any or all of the items listed above may be incorporated by reference from other documents, including official statements of debt issues with respect to which the County is an "obligated person" (as

defined by the Rule), which have been filed with the Repository or the Securities and Exchange Commission. If the document incorporated by reference is a final official statement, it must be available from the Municipal Securities Rulemaking Board. The County shall clearly identify each such other document so incorporated by reference.

SECTION 5. Reporting of Significant Events.

(a) Pursuant to the provisions of this Section 5, the County shall give, or cause to be given, notice of the occurrence of any of the following events (the “Listed Events”) with respect to the Bonds:

- (1) Principal and interest payment delinquencies;
- (2) Non-payment related defaults;
- (3) Unscheduled draws on debt service reserves reflecting financial difficulties;
- (4) Unscheduled draws on credit enhancements reflecting financial difficulties;
- (5) Substitution of credit or liquidity providers, or their failure to perform;
- (6) Adverse tax opinions, the issuance by the Internal Revenue Service of proposed or final determinations of taxability, Notices of Proposed Issue (IRS Form 5701-TEB) or other material notices or determinations with respect to the tax status of the security, or other material events affecting the tax status of the security;
- (7) Modifications to rights of security holders;
- (8) Bond calls;
- (9) Tender offers;
- (10) Defeasances;
- (11) Release, substitution, or sale of property securing repayment of the securities;
- (12) Rating changes;
- (13) Bankruptcy, insolvency, receivership or similar event of the County;
- (14) The consummation of a merger, consolidation, or acquisition involving the County or the sale of all or substantially all of the assets of the County other than in the ordinary course of business, the entry into a definitive agreement to undertake such an action or the termination of a definitive agreement relating to any such actions, other than pursuant to its terms;
- (15) Appointment of a successor or additional trustee or the change of name of a trustee;
- (16) Incurrence of a Financial Obligation of the County; or agreement to covenants, events of default, remedies, priority rights, or other similar terms of a Financial Obligation of the County, any of which affect security holders; and
- (17) Default, event of acceleration, termination event, modification of terms, or other similar events under the terms of a Financial Obligation of the County, any of which reflect financial difficulties.

(b) Whenever the County obtains knowledge of the occurrence of a Listed Event described in subsections (a)(2), (7), (8), (11), (14), (15) or (16) above, the County shall as soon as possible determine if such event would be material under applicable federal securities laws. If the County determines that knowledge of the occurrence of such event would be material under applicable federal securities laws, the County shall promptly, and no later than ten business days after the occurrence of the event, file a notice of such occurrence with the Repository.

(c) Whenever the County obtains knowledge of the occurrence of a Listed Event described in subsections (a)(1), (3), (4), (5), (6), (9), (10), (12), (13) or (17) above, the County shall promptly, and

no later than ten business days after the occurrence of the event, file a notice of such occurrence with the Repository.

(d) Notwithstanding the foregoing, notice of Listed Events described in subsections (a)(8), (9), and (10) above need not be given under this subsection any earlier than the notice (if any) of the underlying event is given to owners of affected Bonds. For the purposes of the event identified in (a)(13) above, the event is considered to occur when any of the following occur: the appointment of a receiver, fiscal agent or similar officer for the County in a proceeding under the U.S. Bankruptcy Code or in any other proceeding under state or federal law in which a court or governmental authority has assumed jurisdiction over substantially all of the assets or business of the County, or if such jurisdiction has been assumed by leaving the existing governing body and officials or officers in possession but subject to the supervision and orders of a court or governmental authority, or the entry of an order confirming a plan of reorganization, arrangement or liquidation by a court or governmental authority having supervision or jurisdiction over substantially all of the assets or business of the County.

SECTION 6. Termination of Reporting Obligation. The County's obligations under this Disclosure Certificate shall terminate upon the defeasance, prior redemption or payment in full of the Bonds.

SECTION 7. Dissemination Agent. The County may, from time to time, appoint or engage a Dissemination Agent to assist it in carrying out its obligations under this Disclosure Certificate, and may discharge any such Agent, with or without appointing a successor Dissemination Agent. The initial Dissemination Agent shall be the County.

SECTION 8. Amendment; Waiver. Notwithstanding any other provision of this Disclosure Certificate, the County may amend this Disclosure Certificate and any provision of this Disclosure Certificate may be waived, if such amendment or waiver is supported by an opinion of counsel expert in federal securities laws acceptable to the County, to the effect that such amendment or waiver would not, in and of itself, cause the undertakings herein to violate the Rule if such amendment or waiver had been effective on the date hereof but taking into account any subsequent change in or official interpretation of the Rule.

SECTION 9. Additional Information. Nothing in this Disclosure Certificate shall be deemed to prevent the County from disseminating any other information, using the means of dissemination set forth in this Disclosure Certificate or any other means of communication, or including any other information in any Annual Report or notice of occurrence of a Listed Event, in addition to that which is required by this Disclosure Certificate. If the County chooses to include any information in any Annual Report or notice of occurrence of a Listed Event, in addition to that which is specifically required by this Disclosure Certificate, the County shall have no obligation under this Certificate to update such information or include it in any future Annual Report or notice of occurrence of a Listed Event.

SECTION 10. Default. In the event of a failure of the County or the Dissemination Agent to comply with any provision of this Disclosure Certificate, any beneficial owner may take such actions as may be necessary and appropriate, including seeking injunctive relief or specific performance by court order, to cause the County, or the Dissemination Agent, as the case may be, to comply with its obligations under this Disclosure Certificate. A default under this Disclosure Certificate shall not be deemed an event of default under the Ordinance, and the sole remedy under this Disclosure Certificate in the event of any failure of the County or the Dissemination Agent to comply with this Disclosure Certificate shall be an action to compel performance.

SECTION 11. Duties, Immunities and Liabilities of Dissemination Agent. The provisions of this Section 11 shall apply if the School District is not the Dissemination Agent. The Dissemination Agent shall have only such duties as are specifically set forth in this Disclosure Certificate, and the County agrees to indemnify and save the Dissemination Agent, its officers, directors, employees and agents, harmless against any loss, expense and liabilities which they may incur arising out of or in the exercise or performance of their powers and duties hereunder, including the costs and expenses (including attorneys' fees) of defending against any claim of liability, but excluding liabilities due to the Dissemination Agent's negligence or willful misconduct. The obligations of the County under this Section shall survive resignation or removal of the Dissemination Agent and payment of the Bonds.

SECTION 12. Beneficiaries. This Disclosure Certificate shall inure solely to the benefit of the County, the Dissemination Agent, the Participating Underwriters, and holders from time to time of the Bonds and shall create no rights in any other person or entity.

SECTION 13. Counterparts. This Disclosure Certificate may be executed in several counterparts, each of which shall be an original and all of which shall constitute but one and the same instrument.

GEORGETOWN COUNTY, SOUTH CAROLINA

By: _____
Administrator

Dated: _____, 2019

EXHIBIT A

NOTICE TO REPOSITORIES OF FAILURE TO FILE ANNUAL REPORT

Name of Issuer: Georgetown County, South Carolina

Name of Issue: \$ _____ General Obligation Bonds, Series 2019,
Georgetown County, South Carolina

Date of Issuance: _____, 2019

NOTICE IS HEREBY GIVEN that Georgetown County, South Carolina (the “County”) has not provided an Annual Report with respect to the above-named Bonds as required by Sections 3 and 4 of the Continuing Disclosure Certificate executed and delivered by the County as Dissemination Agent. The County has notified us in writing that the Annual Report will be filed by _____.

Dated: _____

GEORGETOWN COUNTY, SOUTH CAROLINA

FORM OF NOTICE OF PUBLIC HEARING

Notice is hereby given that a public hearing will be held by the County Council of Georgetown County, South Carolina (the "County"), in County Council Chambers located at 716 Prince Street, Georgetown, South Carolina, at __:__ p.m. on _____, _____, 2019, or at such other location within the said County Courthouse as proper notice on the main entrance to the said County Courthouse might specify.

The purposes of the public hearing are to consider an Ordinance providing for the issuance and sale of general obligation bonds of Georgetown County, South Carolina (the "County"), Series 2019 or such other appropriate series designation (the "Bonds") in the principal amount of not exceeding \$10,000,000, the proceeds of which shall be used: (i) to fund capital improvements; (ii) to pay costs of issuance of the Bonds; and (iii) for such other lawful corporate and public purposes as the County Council shall determine.

The full faith, credit, and taxing power of the County will be pledged for the payment of the principal of and interest on the Bonds and a tax, without limit, will be levied on and collected annually, in the same manner other County taxes are levied and collected, on all taxable property of the County sufficient to pay to principal of and interest on the Bonds as they respectively mature and to create such sinking fund as may be necessary therefor.

At the public hearing all taxpayers and residents of the County and any other interested persons who appear will be given an opportunity to express their views for or against the Ordinance and the issuance of the Bonds.

CHAIR, COUNTY COUNCIL OF GEORGETOWN
COUNTY, SOUTH CAROLINA

Item Number: 12.a
Meeting Date: 10/8/2019
Item Type: FIRST READING OF ORDINANCES

AGENDA REQUEST FORM
GEORGETOWN COUNTY COUNCIL



DEPARTMENT: Planning / Zoning

ISSUE UNDER CONSIDERATION:

Ordinance No. 19-24 - To amend the signage requirements for Building C located in the Pawleys Plaza Planned Development (PD) located at 10225 Ocean Highway in Pawleys Island.

The applicant is requesting an amendment to the approved sign package for Pawleys Plaza to allow for additional signage for Building C.

CURRENT STATUS:

A comprehensive sign package was approved for this PD in March of 2014. The plan was further amended in July of 2015 to allow for additional signage along the rear of Building C.

POINTS TO CONSIDER:

1. The property is located on the west side of US Highway 17 at its intersection with Petigru Drive in Pawleys Island. This PD is anchored by the Publix grocery store.
2. A new tenant, Rack Room Shoes, is planned for Building C. They will be using three tenant spaces. The three spaces will take up a total of five storefronts. Section 2.3.1 of the sign package allows for one sign per tenant, however tenants in Building C are allowed an additional sign on the rear façade facing Petigru. Rack Room has requested a total of two signs to be located on the façade facing the parking lot.
3. The sign pictured on sheet S01 is 35.5" high X 208" long for a total of 51.27 square feet. The sign pictured on sheet S02 is 19" high X 170.5" long for a total of 22.49 square feet.
4. The 2015 amendment also included a requirement that the signs for Building C be reduced by 25% for width and height. The building layout shown in the sign package shows five tenant spaces for this area on drawing 2.7.3. This would allow for a total of 78.75 SF of signage after the 25% reduction. The two signs as proposed total 73.76 SF which would still be within the allowed overall square footage for this portion of the building.
5. Section 2.2.1.1 requires that the width and height of the graphic logo must be no larger than the maximum allowed sign height. The proposed logo for Sign S01 exceeds the approved sign height of 24" with a height of 35.5".
6. The Pawleys Plaza signage requirements also state that tenant signs must be either reverse channel or routed aluminum letters with internal LED lighting or external illumination.
7. Based on the increased tenant space and store frontage utilized by the applicant, staff recommended approval for the use of the two signs for Rack Room Shoes as well as the increase in size for the logo and the text. Both signs should use reverse channel letters or routed aluminum letters with internal LED lighting or external illumination. The proposed amendment should only apply to the

proposed signs for tenants in this portion of Building C.

8. The Planning Commission held a public hearing on this issue at their September 19th meeting. No one but the applicant came forward to speak. She informed the Commission that the signs would not be visible from Ocean Highway and that the logo is nationally recognized. She also indicated that there no elevation off which to reflect the light for the routed aluminum letters and this would create mismatched signs.

9. The Commission voted unanimously to recommend approval for the applicant's signage as proposed which includes the two signs to be illuminated as shown.

FINANCIAL IMPACT:

Not applicable.

OPTIONS:

1. Approve as recommended by PC
2. Deny request
3. Defer action
4. Remand to PC for further study
5. Approve an amended request

STAFF RECOMMENDATIONS:

Approve as recommended by PC

ATTORNEY REVIEW:

Yes

ATTACHMENTS:

Description	Type
▣ Ordinance No 19-24 Pawleys Island Plaza Signage	Ordinance
▣ Pawleys Plaza signage rack room attachments	Backup Material

STATE OF SOUTH CAROLINA)
)
COUNTY OF GEORGETOWN)

ORDINANCE NO. 19-24

**AN ORDINANCE TO AMEND THE PAWLEYS ISLAND PLAZA PLANNED
DEVELOPMENT TO AMEND THE MASTER SIGN PLAN**

**BE IT ORDAINED BY THE COUNTY COUNCIL MEMBERS OF
GEORGETOWN COUNTY, SOUTH CAROLINA, IN COUNTY COUNCIL
ASSEMBLED THAT THE SIGNAGE REQUIREMENTS FOR THE PAWLEYS
ISLAND PLAZA PD BE AMENDED TO REFLECT THE ATTACHED SIGNAGE
PLAN FOR THE PROPOSED RACK ROOM SHOES TENANT IN BUILDING C
DATED 7-16-19.**

**DONE, RATIFIED AND ADOPTED THIS _____ DAY OF _____,
2019.**

John W. Thomas (SEAL)
Chairman, Georgetown County Council

ATTEST:

Theresa E. Floyd
Clerk to Council

This Ordinance, No. 19-24, has been reviewed by me and is hereby approved as to form
and legality.

Wesley P. Bryant
Georgetown County Attorney

First Reading: _____

Second Reading: _____

Third Reading: _____



129 Screven St. Suite 222
Post Office Drawer 421270
Georgetown, S. C. 29440
Phone: 843-545-3158
Fax: 843-545-3299

APPLICATION TO AMEND A PLANNED DEVELOPMENT (PD)

COMPLETED APPLICATIONS MUST BE SUBMITTED ALONG WITH THE
REQUIRED FEE, AT LEAST FORTY-FIVE (45) DAYS PRIOR TO A PLANNING
COMMISSION MEETING.

Please note this approval applies to this particular property only.

Name of Planned Development: PAWLEYS ISLAND PLAZA

Regulation to which you are requesting an amendment *(check applicable):*

- ☐ Setback – Complete SECTION B: SETBACK AMENDMENT
- ☒ Signage – Complete SECTION C: SIGNAGE AMENDMENT
- ☐ Site Plan – Complete SECTION D: SITE PLAN AMENDMENT
- ☐ Other: _____

All Applicants must complete SECTION A: APPLICANT INFORMATION

SECTION A: APPLICANT INFORMATION

Property Information:

TMS Number: 04-0161-008-00-00
(Include all affected parcels)

Street Address: 10225 OCEAN HIGHWAY, BUILDING C

City / State / Zip Code: PAWLEYS ISLAND, SC 29585

Lot / Block / Number: _____

Existing Use: RETAIL COMMERCIAL

Proposed Use: N/A

Commercial Acreage: 12.01

Residential Acreage: —

Property Owner of Record:

Name: PAWLEYS PLAZA LLC

Address: 532 GOVERNOR MORRISON ST, STE 201

City/ State/ Zip Code: CHARLOTTE, NC 28211

Telephone/Fax: 980.237.9627

E-Mail: DREW@FERNCROFTCAPITAL.COM

Signature of Owner / Date: 

JOHN R. HOCKMEYER, MANAGER

Contact Information:

Name: DREW SADOWSKI

Address: 532 GOVERNOR MORRISON ST, STE 201, CHARLOTTE, NC 28211

Phone / E-Mail: 980.237.9627 DREW@FERNCROFTCAPITAL.COM

I have appointed the individual or firm listed below as my representative in conjunction with this matter related to the Planning Commission of proposed new construction or improvements to the structures on my property.

Agent of Owner:

Name: _____

Address: _____

City / State / Zip Code: _____

Telephone/Fax: _____

E-Mail: _____

Signature of Agent/ Date: _____

Signature of Owner /Date: _____

Fee Schedule: \$250.00 plus \$10.00 per Residential acre or \$25.00 per Commercial acre.

Adjacent Property Owners Information required:

1. The person requesting the amendment to the Zoning Map or Zoning Text must submit to the Planning office, at the time of application submittal, stamped envelopes addressed with name of each resident within **Four Hundred Feet (400)** of the subject property. The following return address must appear on the envelope: **"Georgetown County Planning Commission, 129 Screven St. Suite 222, Georgetown, SC 29440."**
2. A list of all persons (and related Tax Map Numbers) to whom envelopes were addressed to must also accompany the application.

It is understood by the undersigned that while this application will be carefully reviewed and considered, the burden of proving the need for the proposed amendment rests with the applicant.

Please submit this **completed application** and appropriate fee to Georgetown County Planning Division at 129 Screven St. Suite 222, Georgetown, S. C. 29440. If you need any additional assistance, please call our office at 843-545-3158.

Site visits to the property, by County employees, are essential to process this application. The owner/applicant as listed above, hereby authorize County employees to visit and photograph this site as part of the application process.

A sign will to be placed on your property informing residents of an upcoming meeting concerning this particular property. This sign belongs to Georgetown County and will be picked up from your property within five (5) days of the hearing.

All information contained in this application is public record and is available to the general public.

SECTION B: SETBACK AMENDMENT

Please supply the following information regarding your request:

- List any extraordinary and exceptional conditions pertaining to your particular piece of property. _____

- Do these conditions exists on other properties else where in the PD?

- Amending this portion of the text will not cause undue hardship on adjacent property owners. _____

Submittal requirements: 12 copies of 11 x 17 plans

- A scaled site plan indicating the existing conditions and proposed additions.
- Elevations of the proposal (if applicable).
- Letter of approval from homeowners association (if applicable).

SECTION C: SIGNAGE AMENDMENT

Reason for amendment request: TENANT WILL LEASE 3 CONTIGUOUS SUITES IN BUILDING C AND IS REQUESTING 2 FACADE SIGNS

Number of signs existing currently on site 0 (CURRENTLY NO TENANT(S))

Square footage of existing sign(s) 0

Number of Proposed signs: 2

Square footage of the proposed sign(s) SIGN 1 = 51.27 SF SIGN 2 = 22.49 SF
TOTAL = 73.76 SF

Submittal requirements:

- Proposed text for signage requirements.
- 12 copies (11 x 17) of proposed sign image.
- Site plan indicating placement of the proposed sign(s).
- Elevations.
- Letter from POA or HOA (if applicable)

SECTION D: SITE PLAN AMENDMENT

Proposed amendment request: _____

Reason for amendment request: _____

Submittal requirements:

- 12 copies of existing site plan.
- 12 copies of proposed site plan.
- Revised calculations (*calculations may include density, parking requirements, open space, pervious/impervious ratio, etc.*).

Pawleys Island Plaza
Property Location
RZPD 8-19-23551

Legend

Streets

— <all other values>

MaintainedBy

— County

— Private

— State

□ Pawleys Island Plaza

□ Lot Lines

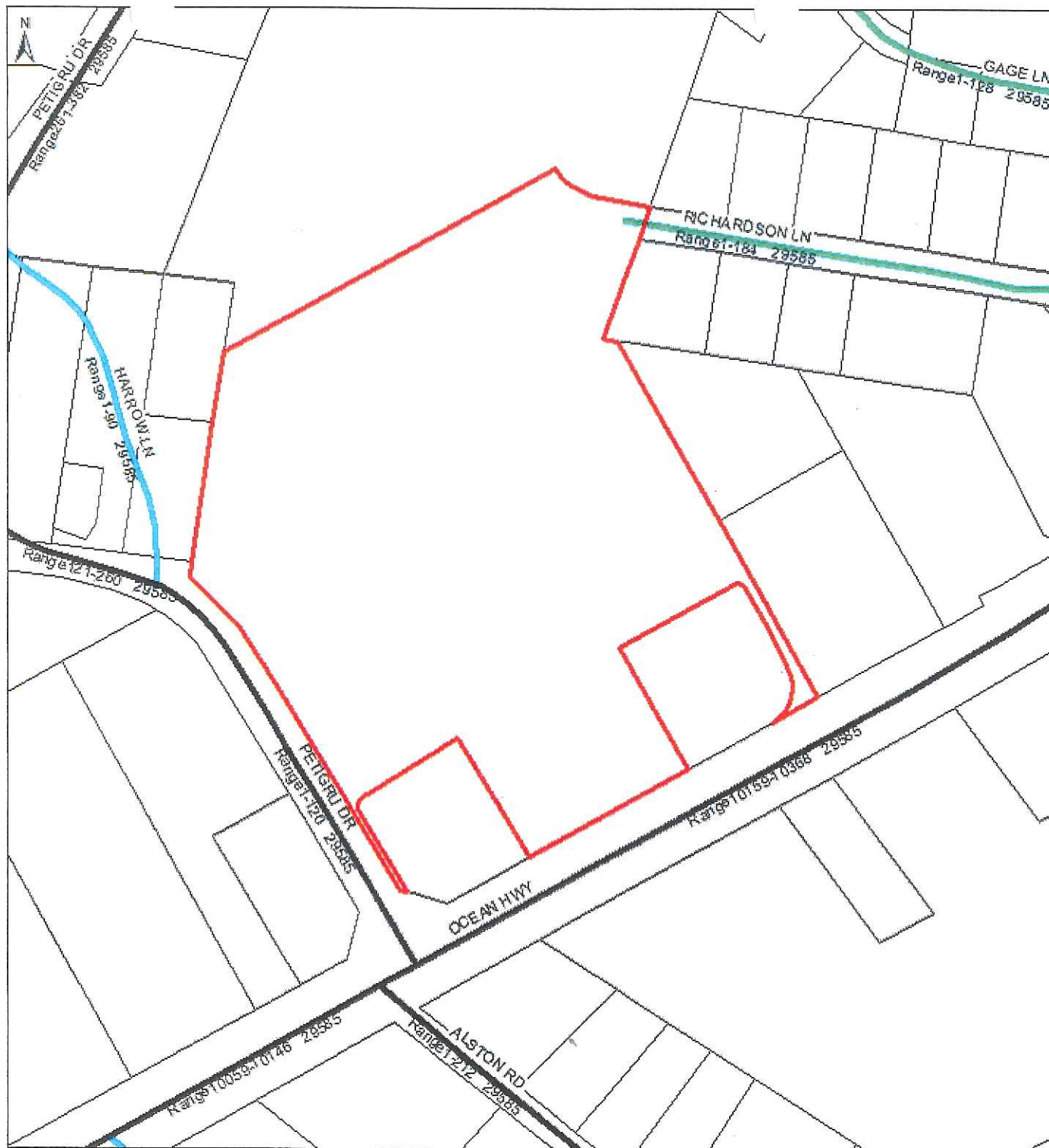
— Railroads

◆ Landmarks

Municipalities

0 70 140 280 420 560 Feet

DISCLAIMER: This map is a graphic representation of data obtained from various sources. All efforts have been made to warrant the accuracy of this map. However, Georgetown County disclaims all responsibility and liability for the use of this map.



The map displays a residential area with several streets and land parcels. Key features include:

- Streets:** Pettigru Dr, Richardson Ln, Gage Ln, Harrowhill Ln, Ocean Hwy, and Alston Rd.
- Land Parcels:** Labeled with 'Range' and 'Section' numbers, such as Range 10-120, 29585; Range 10-121, 29586; Range 10-122, 29587; Range 10-123, 29588; Range 10-124, 29589; Range 10-125, 29590; Range 10-126, 29591; Range 10-127, 29592; Range 10-128, 29593; Range 10-129, 29594; Range 10-130, 29595; Range 10-131, 29596; Range 10-132, 29597; Range 10-133, 29598; Range 10-134, 29599; Range 10-135, 29600; Range 10-136, 29601; Range 10-137, 29602; Range 10-138, 29603; Range 10-139, 29604; Range 10-140, 29605; Range 10-141, 29606; Range 10-142, 29607; Range 10-143, 29608; Range 10-144, 29609; Range 10-145, 29610; Range 10-146, 29611; Range 10-147, 29612; Range 10-148, 29613; Range 10-149, 29614; Range 10-150, 29615; Range 10-151, 29616; Range 10-152, 29617; Range 10-153, 29618; Range 10-154, 29619; Range 10-155, 29620; Range 10-156, 29621; Range 10-157, 29622; Range 10-158, 29623; Range 10-159, 29624; Range 10-160, 29625; Range 10-161, 29626; Range 10-162, 29627; Range 10-163, 29628; Range 10-164, 29629; Range 10-165, 29630; Range 10-166, 29631; Range 10-167, 29632; Range 10-168, 29633; Range 10-169, 29634; Range 10-170, 29635; Range 10-171, 29636; Range 10-172, 29637; Range 10-173, 29638; Range 10-174, 29639; Range 10-175, 29640; Range 10-176, 29641; Range 10-177, 29642; Range 10-178, 29643; Range 10-179, 29644; Range 10-180, 29645; Range 10-181, 29646; Range 10-182, 29647; Range 10-183, 29648; Range 10-184, 29649; Range 10-185, 29650; Range 10-186, 29651; Range 10-187, 29652; Range 10-188, 29653; Range 10-189, 29654; Range 10-190, 29655; Range 10-191, 29656; Range 10-192, 29657; Range 10-193, 29658; Range 10-194, 29659; Range 10-195, 29660; Range 10-196, 29661; Range 10-197, 29662; Range 10-198, 29663; Range 10-199, 29664; Range 10-200, 29665; Range 10-201, 29666; Range 10-202, 29667; Range 10-203, 29668; Range 10-204, 29669; Range 10-205, 29670; Range 10-206, 29671; Range 10-207, 29672; Range 10-208, 29673; Range 10-209, 29674; Range 10-210, 29675; Range 10-211, 29676; Range 10-212, 29677; Range 10-213, 29678; Range 10-214, 29679; Range 10-215, 29680; Range 10-216, 29681; Range 10-217, 29682; Range 10-218, 29683; Range 10-219, 29684; Range 10-220, 29685; Range 10-221, 29686; Range 10-222, 29687; Range 10-223, 29688; Range 10-224, 29689; Range 10-225, 29690; Range 10-226, 29691; Range 10-227, 29692; Range 10-228, 29693; Range 10-229, 29694; Range 10-230, 29695; Range 10-231, 29696; Range 10-232, 29697; Range 10-233, 29698; Range 10-234, 29699; Range 10-235, 29700; Range 10-236, 29701; Range 10-237, 29702; Range 10-238, 29703; Range 10-239, 29704; Range 10-240, 29705; Range 10-241, 29706; Range 10-242, 29707; Range 10-243, 29708; Range 10-244, 29709; Range 10-245, 29710; Range 10-246, 29711; Range 10-247, 29712; Range 10-248, 29713; Range 10-249, 29714; Range 10-250, 29715; Range 10-251, 29716; Range 10-252, 29717; Range 10-253, 29718; Range 10-254, 29719; Range 10-255, 29720; Range 10-256, 29721; Range 10-257, 29722; Range 10-258, 29723; Range 10-259, 29724; Range 10-260, 29725; 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Range 10-309, 29774; Range 10-310, 29775; Range 10-311, 29776; Range 10-312, 29777; Range 10-313, 29778; Range 10-314, 29779; Range 10-315, 29780; Range 10-316, 29781; Range 10-317, 29782; Range 10-318, 29783; Range 10-319, 29784; Range 10-320, 29785; Range 10-321, 29786; Range 10-322, 29787; Range 10-323, 29788; Range 10-324, 29789; Range 10-325, 29790; Range 10-326, 29791; Range 10-327, 29792; Range 10-328, 29793; Range 10-329, 29794; Range 10-330, 29795; Range 10-331, 29796; Range 10-332, 29797; Range 10-333, 29798; Range 10-334, 29799; Range 10-335, 29800; Range 10-336, 29801; Range 10-337, 29802; Range 10-338, 29803; Range 10-339, 29804; Range 10-340, 29805; Range 10-341, 29806; Range 10-342, 29807; Range 10-343, 29808; Range 10-344, 29809; Range 10-345, 29810; Range 10-346, 29811; Range 10-347, 29812; Range 10-348, 29813; Range 10-349, 29814; Range 10-350, 29815; Range 10-351, 29816; Range 10-352, 29817; Range 10-353, 29818; Range 10-354, 29819; Range 10-355, 29820; Range 10-356, 29821; Range 10-357, 29822; Range 10-358, 29823; Range 10-359, 29824; Range 10-360, 29825; Range 10-361, 29826; Range 10-

liability to

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Pawleys Island Plaza Property FLU RZPD 8-19-23551

Legend

Streets

<all other values>

MaintainedBy

County

Private

State

Pawleys Island Plaza

Lot Lines

Railroads

Landmarks

Future Landuse

FUTURE_LAN

CITY OF GEORGETOWN

COMMERCIAL

CONSERVATION PRESERVATION

EASEMENT

HIGH DENSITY RESIDENTIAL

INDUSTRIAL

LOW DENSITY RESIDENTIAL

MEDIUM DENSITY RESIDENTIAL

POND

PRIVATE RECREATIONAL

PUBLIC RECREATIONAL

PUBLIC/SEMI-PUBLIC

TOWN OF ANDREWS

TOWN OF PI

TRANSITIONAL

Municipalities



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Pawleys Island Plaz Property Aerial RZPD 8-19-23551

Legend

Streets

— <all other values>

MaintainedBy

— County

— Private

— State

▭ Pawleys Island Plaza

▭ Lot Lines

— Railroads

◆ Landmarks

2017 Hi Res Imagery

RGB

Red: Band_1

Green: Band_2

Blue: Band_3

Municipalities

0 70 140 280 420 560 Feet

DISCLAIMER: This map is a graphic representation of data obtained from various sources. All efforts have been made to warrant the accuracy of this map. However, Georgetown County disclaims all responsibility and liability for the use of this map.



NOTICE OF PUBLIC HEARING

A request from Drew Sadowski with Pawleys Plaza, LLC to amend the signage requirements for Building C located in the Pawleys Plaza Planned Development (PD). The property is located at 10225 Ocean Hwy in Pawleys Island. TMS# 04-0161-008-00-00. Case Number AMPD 8-19-23551.

The Planning Commission will be reviewing this request on **Thursday, September 19, 2019 at 5:30 p.m. in the Georgetown County Council Chambers entering at 129 Screven Street in Georgetown, South Carolina.**

If you wish to make public comments on this request, you are invited to attend this meeting. If you cannot attend and wish to comment please submit written comment to:

Georgetown County Planning Commission

PO Box 421270

Georgetown, South Carolina 29440

Telephone (843) 545-3158

Fax (843) 545-3299

E-mail: tcoleman@gtcounty.org

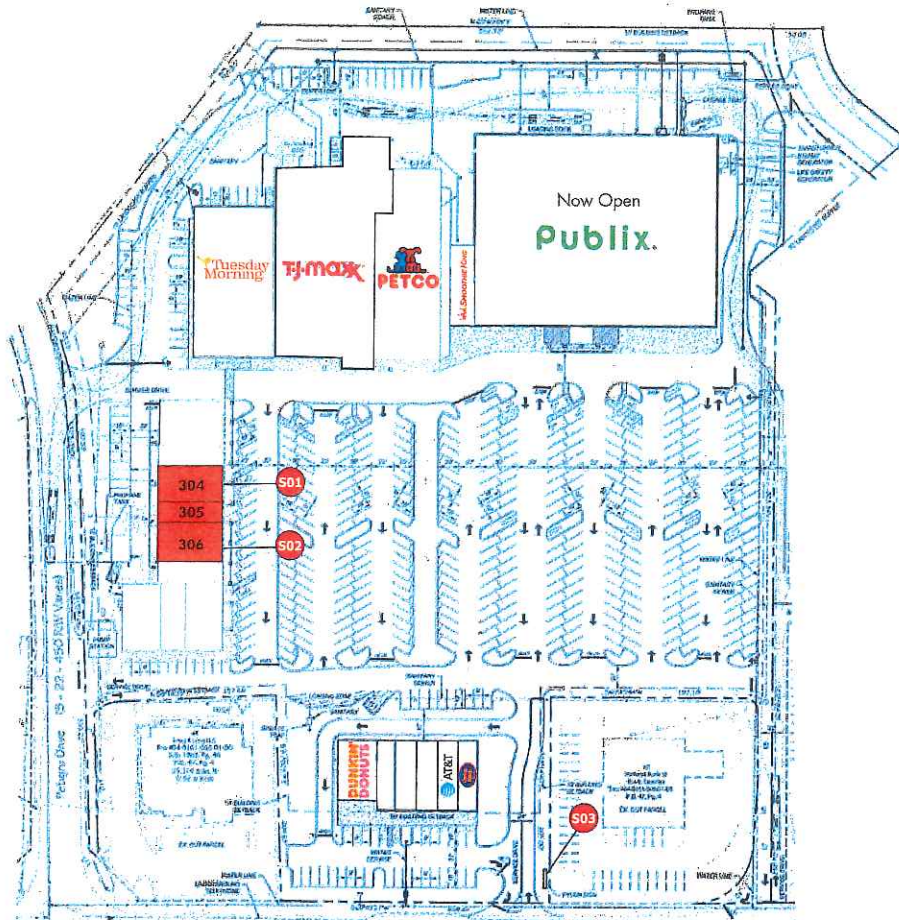


SO#104045

10225 Ocean Highway
Pawleys Island, SC 29585

Binder: 07/16/2019
Revised: 07/30/2019





S01 Tilted Square with Channel Letters and Bar



S02 Channel Letters and Bar



S03 Tenant Faces



National Headquarters: 1077 West Blue Heron Blvd.
West Palm Beach, Florida 33404
800.772.7932
www.atlasblw.com

Revisions:
07/19/2019
07/30/2019

SP

PM: Kaytlyn S

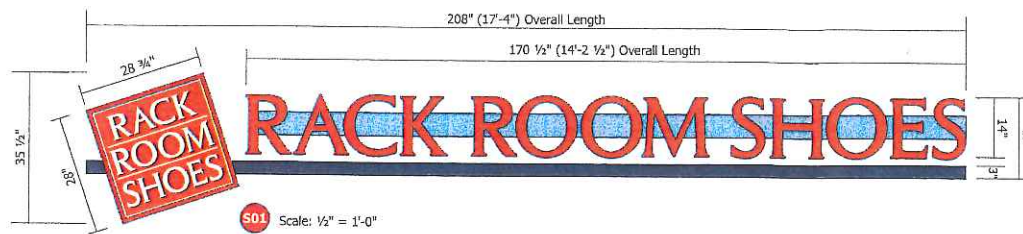
Drawn By: JS

Date: 07/16/2019

Address: 10225 Ocean Highway

City State: Pawleys Island, SC

Drawing Number: 104045-SP



TILTED SQUARE

- 7" deep S/F Cabinet with aluminum retainers.
- Flat Acrylic faces with surface applied graphics.
- Cabinet is internally illuminated with GE Tetra LED modules.

COLOR SCHEDULE:

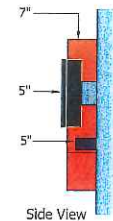
- Returns = Aluminum fabricated & painted to match 2119 Orange
- Retainers = Aluminum fabricated & painted to match 2119 Orange
- Face = 7328 white acrylic - flat with 3M 3630-44 Orange vinyl
- Copy = White with black vinyl Drop Shadow.
- Internal Illumination = GE Tetra LEDs - White

CHANNEL LETTERS

- 5" returns, Black (pre-finished) aluminum coil. Returns to house baffled drain-holes.
- Letter-backs of Ultra White aluminum. Letter interiors painted Ultra White.
- Acrylic faces secured with 1" Jewelite trimcap.
- Channel letters are internally illuminated with GE Tetra LED modules.
- Power supplies are located in raceway

COLOR SCHEDULE:

- Returns = Formed aluminum pre-finish Black (satin)
- Jewelite Trimcap = 1" Black
- Letter Faces = 2119 Orange acrylic
- Internal Illumination = Amber/Red LEDs
- Raceway = Painted to match fascia - TBD



ILLUMINATED BAR

- 5" returns aluminum coil with painted finish. Returns to house baffled drain-holes.
- Backs of Ultra White aluminum with interior painted Ultra White.
- Acrylic face secured with 1/2" (face side) x 3/4" (return side) aluminum retainer.
- Bar is internally illuminated with GE Tetra LED modules.

COLOR SCHEDULE:

- Returns = Formed aluminum painted PMS 281 Blue (satin)
- Aluminum Retainer = 1/2" x 3/4" formed aluminum painted PMS 281 Blue (satin)
- Letter Faces = 2447 White acrylic with 3M 3630-36 Blue vinyl overlay
- Internal Illumination = Blue LEDs

REVISIONS	DATE	BY	DESCRIPTION
1.			All materials and fasteners meet 3004.4
2.			All electrical components are UL listed, labeled and approved.
3.			Sign grounded according to NEC 6007.7
4.			Signs manufactured and listed NEC 600.3 and marked per NEC 600.4.
5.			All branch circuits per NEC 600.5(B), 1 or 181.2.
6.			All signs controlled by photocell or time clock per PBC 13-415, (APC), 1.4.
7.			One visible 20 amp disconnect per sign per circuit per NEC 600.6(A), 1.

ACTION

Manufacture and install Tilted Square Logo with 14" Channel Letterset (raceway mounted) and 3" illuminated Bar

SQUARE FOOTAGE

Allowed: NTE 24" in height or 14'-0" in length
Proposed: 35.5" x 208" = 51.27 sq ft



FRONT ELEVATION Scale: 1/8" = 1'-0"



National Headquarters: 1077 West Blue Heron Blvd.
West Palm Beach, Florida 33404
800.772.7932
www.atlasbtw.com

Revisions:

07/19/2019
07/30/2019

S01

PM: Kaytlyn S

Drawn By: JS

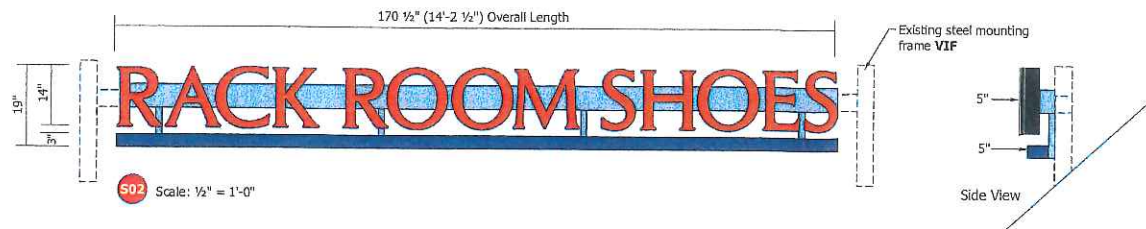
Date: 07/16/2019

Address: 10225 Ocean Highway

City State: Pawleys Island, SC

Drawing Number:

104045-S01



S02 Scale: 1/2" = 1'-0"

CHANNEL LETTERS

- 5" returns, Black (pre-finished) aluminum coil. Returns to house baffled drain-holes. Letter-backs of Ultra White aluminum; Letter Interiors painted Ultra White.
- Acrylic faces secured with 1" jewellite trimcap.
- Channel letters are internally illuminated with GE Tetra LED modules.
- Power supplies are located in raceway

COLOR SCHEDULE:

- Returns = Formed aluminum pre-finish Black (satin)
- Jewellite Trimcap = 1" Black
- Letter Faces = 2119 Orange acrylic
- Internal Illumination = Amber/Red LEDs
- Raceway = Painted to match fascia - TBD

ILLUMINATED BAR

- 5" returns aluminum coil with painted finish. Returns to house baffled drain-holes. Backs of Ultra White aluminum with interior painted Ultra White.
- Acrylic face secured with 1/2" (face side) x 3/4" (return side) aluminum retainer.
- Bar is internally illuminated with GE Tetra LED modules.

COLOR SCHEDULE:

- Returns = Formed aluminum painted PMS 281 Blue (satin)
- Aluminum Retainer = 1/2" x 3/4" formed aluminum painted PMS 281 Blue (satin)
- Letter Faces = 2447 White acrylic with 3M 3630-36 Blue vinyl overlay
- Internal Illumination = Blue LEDs

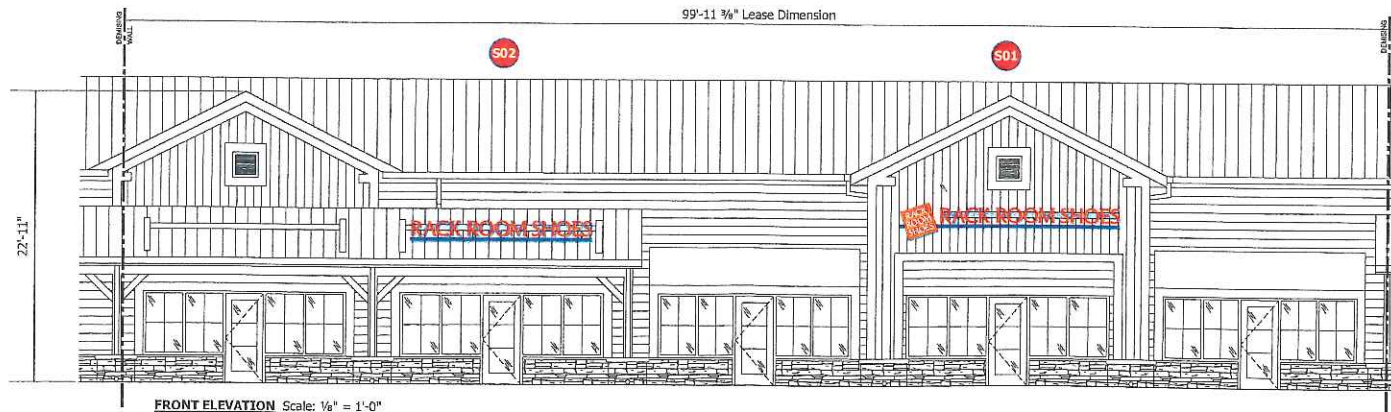
Electrical Notes
1. All materials and fasteners meet 3004.4
2. All electrical components are UL listed, labeled and approved.
3. Sign grounded according to NEC 6007.7
4. Signs manufactured and listed NEC 600.3 and marked per NEC 600.4.
5. All branch circuits per NEC 600.5(B), 1 or (B) 2.
6. All Signs controlled by photo-cell or time clock per FBC 13-415, (ABC), 1.4.
7. One viable 20 amp disconnect per sign per circuit per NEC 600.6(A) 1.

ACTION

Manufacture and install 14" Channel Letterset (raceway mounted) with 3" illuminated Bar. Sign mounts to existing steel mounting frame with illuminated bar attached to raceway with hanging tubes.

SQUARE FOOTAGE

Allowed: NTE 24" in height or 14'-0" in length
Proposed: 19" x 170.5" = 22.49 sq ft



FRONT ELEVATION Scale: 1/8" = 1'-0"



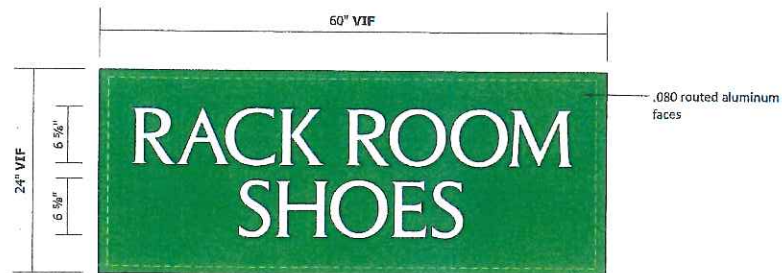
National Headquarters: 1077 West Blue Heron Blvd.
West Palm Beach, Florida 33404
800.772.7932
www.atlasbtw.com

Revisions:

07/19/2019
07/30/2019

S02

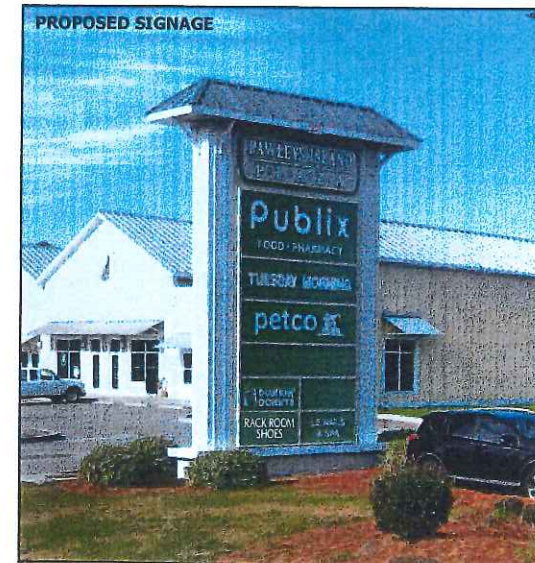
PM: Kaytlyn S	Address: 10225 Ocean Highway
Drawn By: JS	City/State: Pawleys Island, SC
Date: 07/16/2019	Drawing Number: 104045-S02



S03 Scale: 1" = 1'-0"

ACTION

Manufacture and install faces for existing D/F Tenant Pylon sign.
Faces are Routed aluminum backed with white acrylic.



National Headquarters: 1077 West Blue Heron Blvd.
West Palm Beach, Florida 33404
800.772.7932
www.atlasbtw.com

Revisions:
07/19/2019
07/30/2019

S03

PM: Kaytlyn S	Address: 10225 Ocean Highway
Drawn By: JS	City State: Pawleys Island, SC
Date: 07/16/2019	Drawing Number: 104045-S03

Item Number: 12.b
Meeting Date: 10/8/2019
Item Type: FIRST READING OF ORDINANCES

AGENDA REQUEST FORM
GEORGETOWN COUNTY COUNCIL



DEPARTMENT: County Administrator

ISSUE UNDER CONSIDERATION:

ORDINANCE No. 19-25 - AN ORDINANCE SETTING THE BASE SALARIES FOR ELECTED OFFICIALS OF GEORGETOWN COUNTY, AND FURTHER REPEALING AND REPLACING ORDINANCE NO: 2005-45

CURRENT STATUS:

Georgetown County adopted an ordinance to establish base salaries for elected officials in 2005.

POINTS TO CONSIDER:

In 2005, Georgetown County Council enacted Ordinance No. 2005-45 establishing the base salaries of newly elected South Carolina constitutional officials in Georgetown County.

Council recognizes that 14 years have passed since it last updated base salaries. Council desires to update the base salaries listed herein to account for previous cost of living increases, evolved responsibilities, and to establish the salaries as analogous to those employees serving in positions that are not elected who share comparable responsibilities and duties.

The adoption of Ordinance No. 19-25 by Georgetown County Council will serve to repeal and replace Ordinance No. 2005-45 in setting the base salaries of the constitutional elected officials in Georgetown County.

OPTIONS:

1. Adopt Ordinance No. 19-25 as proposed.
2. Decline the adoption of Ordinance No. 19-25.

STAFF RECOMMENDATIONS:

Recommendation for the adoption of Ordinance No. 19-25 as proposed.

ATTACHMENTS:

Description	Type
<input type="checkbox"/> Ordinance No. 19-25 To Establish the Base Salary for Elected Officials	Ordinance

STATE OF SOUTH CAROLINA

)

)

COUNTY OF GEORGETOWN

)

ORDINANCE NO: 19-25

**AN ORDINANCE SETTING THE BASE SALARIES FOR ELECTED OFFICIALS OF GEORGETOWN COUNTY,
AND FURTHER REPEALING AND REPLACING ORDINANCE NO: 2005-45**

WHEREAS, in 2005, Georgetown County Council enacted Ordinance 2005-45 thereby establishing the base salaries of newly elected South Carolina constitutional officials in Georgetown County; and

WHEREAS, Council recognizes that 14 years have passed since it last updated base salaries; and

WHEREAS, Council desires to update the base salaries listed herein to account for previous cost of living increases, evolved responsibilities, and to establish the salaries as analogous to those unelected employees who share comparable responsibilities and duties.

NOW, THEREFORE, it is ordained by the Georgetown County Council that Ordinance 2005-45 is hereby repealed and replaced with the following Ordinance, setting the base salaries of the constitutional elected officials as follows:

County Council Chairman:	\$19,433
County Council Member (6)	\$15,947
Auditor	\$52,715
Treasurer	\$55,657
Coroner	\$53,733
Clerk of Court	\$101,967
Sheriff	\$109,155

1. This ordinance does not reflect an increase in the current salary for County Council Chairman and members of County Council.
2. Base salaries of the Probate Court Judge, newly appointed Magistrates, and/or a newly appointed Master-In-Equity continue to be set by the State of South Carolina.
3. These base salaries listed herein are subject to the continuous accrual of annual cost of living increases, if any.
4. Should any word or phrase be declared invalid by a court the remaining provisions of this Ordinance shall remain in full force and effect.
5. Any other ordinance found inconsistent with this Ordinance shall be superseded to the extent necessary to give this Ordinance full force and effect.
6. The salaries set forth in this Ordinance, other than County Council members as stated above, shall be effective beginning January 1, 2020.

ADOPTED AT A PUBLISHED MEETING OF GEORGETOWN COUNTY COUNCIL THIS ____ DAY OF _____, 2019.

John Thomas, Chairman

ATTEST:

Theresa E. Floyd, Clerk to Council

This Ordinance has been reviewed and hereby approved as to form and legality.

Wesley P. Bryant
Georgetown County Attorney

First Reading: _____
Second Reading: _____
Third Reading: _____

Item Number: 12.c
Meeting Date: 10/8/2019
Item Type: FIRST READING OF ORDINANCES

AGENDA REQUEST FORM
GEORGETOWN COUNTY COUNCIL



DEPARTMENT: Planning / Zoning

ISSUE UNDER CONSIDERATION:

Ordinance No. 19-26 - An Amendment to Article XIII, Section 1304, Exceptions To Article XIII, of the Zoning Ordinance. This section outlines tree removal activities that are exempt from tree protection.

CURRENT STATUS:

1. Currently, public utilities are exempt from the tree regulations.
2. Section 1304.5, Rights-of-way, Easements, and Public Utilities. states that; public road rights-of-way except those relating to subdivisions referred to in Section 1301.7, easements for utilities and drainage, wells, lift stations and water storage tanks shall be exempt from this ordinance.

POINTS TO CONSIDER:

1. The County has become aware of situations recently that involve the removal of trees in road rights-of-way. It is possible that alternatives exist in situations that could result in saving some or all affected trees.
2. A proposed ordinance amendment regarding private utility work in road rights-of-way is attached. Essentially, this proposal would result in private utility work in rights-of-way not being exempt from the tree ordinance.
3. The Planning Commission will need to review the ordinance and make a recommendation to County Council.

FINANCIAL IMPACT:

na

OPTIONS:

1. Approve first reading of the amendment and send it to the Planning Commission for their review.
2. Reject the ordinance and do not amend the Tree Regulations.
3. Defer the matter.

STAFF RECOMMENDATIONS:

Approve first reading of the amendment and send it to the Planning Commission for their review.

ATTORNEY REVIEW:

Yes

ATTACHMENTS:

Description

Type

▣ Ordinance No. 19-26 Amendment to Tree Ordinance Ordinance

STATE OF SOUTH CAROLINA)
)
COUNTY OF GEORGETOWN)

ORDINANCE NO: 19-26

AN ORDINANCE TO AMEND ARTICLE XIII, TREE REGULATIONS, SECTION 1304.3 UTILITIES AND SECTION 1304.5 RIGHTS-OF-WAY, EASEMENTS AND PUBLIC UTILITIES, OF THE ZONING ORDINANCE OF GEORGETOWN COUNTY, SOUTH CAROLINA

NOW THEREFORE BE IT ORDAINED BY THE COUNTY COUNCIL MEMBERS OF GEORGETOWN COUNTY, SOUTH CAROLINA, IN COUNTY COUNCIL ASSEMBLED THAT ARTICLE XIII, TREE REGULATIONS, SECTION 1304.3, UTILITIES, OF THE ZONING ORDINANCE BE AMENDED TO READ AS FOLLOWS.

1304.3 Utilities. The ability of public utilities and electric suppliers to maintain safe clearances around existing utility lines shall not be affected by this ordinance. Tree cutting not associated with the safety or proper operation of the utility falls under the provision of this ordinance. Trees may be removed from existing ditches or storm water infrastructure if they are impeding adequate operation of the system. Trees located along drainage swales may not be removed unless an engineer provides clear evidence that the storm water system is measurably impacted by the tree. If the subject tree and swale are located in a County easement or are a part of a County approved storm water system, this determination shall be made by the County Public Works Director who shall consult the Planning Director.

This section exempting public utilities from the provisions regarding removal of trees shall not include private parties installing utilities in public rights-of-way or easements. Such private installations of utilities shall comply with this ordinance.

BE IT FURTHER ORDAINED BY THE COUNTY COUNCIL MEMBERS OF GEORGETOWN COUNTY, SOUTH CAROLINA, IN COUNTY COUNCIL ASSEMBLED THAT ARTICLE XIII, TREE REGULATIONS, SECTION 1304.5, RIGHTS-OF-WAY, EASEMENTS, AND PUBLIC UTILITIES, OF THE ZONING ORDINANCE BE AMENDED TO READ AS FOLLOWS.

1304.5 Rights-of-way, easements and public utilities. Public road rights-of-way except those relating to subdivisions referred to in Section 1301.7, easements for utilities and drainage, wells, lift stations and water storage tanks shall be exempt from this ordinance. **However, the installation by a private party of utilities in a right-of-way or easement as stated in section 1304.3 of this ordinance is not exempt from this ordinance.**

DONE, RATIFIED AND ADOPTED THIS _____ DAY OF _____, 2019.

_____(SEAL)
John W. Thomas
Chairman, Georgetown County Council

ATTEST:

Theresa E. Floyd
Clerk to Council

This Ordinance, No. 19-26 has been reviewed by me and is hereby approved as to form and legality.

Wesley P. Bryant
Georgetown County Attorney

First Reading: _____

Second Reading: _____

Third Reading: _____

Item Number: 12.d
Meeting Date: 10/8/2019
Item Type: FIRST READING OF ORDINANCES

AGENDA REQUEST FORM
GEORGETOWN COUNTY COUNCIL



DEPARTMENT: Finance

ISSUE UNDER CONSIDERATION:

Ordinance No. 19-27 - Amendment of the FY 2019/2020 Budget Ordinance.

CURRENT STATUS:

Pending Approval

POINTS TO CONSIDER:

Each year when budgets are being prepared for the ensuing fiscal year there are various budgeted projects and other purchases in progress. When the completion of such items does not occur prior to year-end it is necessary to "rollover" the appropriations and amend the budget in the following year to provide for the remaining expenditures.

Ordinance No. 19-27 will allow funding authorized in the FY 2018/2019 Budget to be carried forward to provide for expenditures in FY 2019/2020 associated with outstanding purchase commitments and completion of projects that were in progress at the end of the prior fiscal year.

FINANCIAL IMPACT:

The "rollovers" proposed in this ordinance only shifts appropriations from the prior year to the current year. Accordingly, there is no cumulative financial impact to the County.

OPTIONS:

1. Approve first reading of Ordinance No. 19-27 to amend the FY 2019/2020 Budget Ordinance by title only.
2. Reject Ordinance No. 19-27.

STAFF RECOMMENDATIONS:

Approve first reading of Ordinance No. 19-27 by title only.

Item Number: 15.a
Meeting Date: 10/8/2019
Item Type: REPORTS TO COUNCIL

AGENDA REQUEST FORM
GEORGETOWN COUNTY COUNCIL



DEPARTMENT: County Administrator

ISSUE UNDER CONSIDERATION:

Intergovernmental Agreement for Development of Multi-County Industrial Business Park

CURRENT STATUS:

Georgetown County currently has pending the adoption of an ordinance authorizing a fee-in-lieu of tax and incentive agreement (Ordinance No. 19-18) with a company currently identified as "Project Eagle". Additionally, an ordinance and agreement establishing a joint county industrial and business park pertaining to the property is pending adoption (Ordinance No. 19-19).

Project Eagle is located within the city limits of Georgetown, and the company/developer is purchasing property owned by the City of Georgetown. Several conditions in the property purchase agreement require county participation.

POINTS TO CONSIDER:

Several conditions are included in the purchase agreement that require county participation. The contract requires the property to be placed in a multi-county industrial and business park, that all incentives (state and local) managed by the county are approved, and that that Georgetown County provide some type of rent guarantee to mitigate the risk of constructing speculative industrial buildings.

This project has been a great partnership with the City of Georgetown. The *Property Purchase and Sale Agreement*, and *Intergovernmental Agreement for Development of a Multi-county Industrial and Business Park* are required to outline the relationship and to assign roles and responsibilities to all of the parties involved including the buyer of the property, the City of Georgetown, and Georgetown County.

OPTIONS:

1. Approve Intergovernmental Agreement with the City of Georgetown for development of Multi-county Industrial Business Park, as well as a Contract for Purchase and Sale of Land, as provided, associated with TMS No. 05-0047-017-00-00.
2. Do not approve Intergovernmental Agreement with the City of Georgetown for development of Multi-county Industrial Business Park, or Contract for Purchase and Sale of Land, as provided, associated with TMS No. 05-0047-017-00-00.

STAFF RECOMMENDATIONS:

Approve Intergovernmental Agreement with the City of Georgetown for development of Multi-county Industrial Business Park, as well as a Contract for Purchase and Sale of Land, as provided, associated with TMS No. 05-0047-017-00-00.

ATTACHMENTS:

Description	Type
▣ Intergovernmental Agreement	Backup Material
▣ Property Sale/ Purchase Agreement	Backup Material

STATE OF SOUTH CAROLINA) INTERGOVERNMENTAL AGREEMENT
) FOR DEVELOPMENT OF MULTI-
COUNTY OF GEORGETOWN) COUNTY
) INDUSTRIAL AND BUSINESS PARK
IN THE CITY OF GEORGETOWN) (Project Eagle)

THIS AGREEMENT for the development of a joint county industrial and business park to be located within the City of Georgetown, Georgetown County, South Carolina, is made and entered into and to be effective as of _____, 2019, by and between the City of Georgetown (“the City”) and Georgetown County, South Carolina (“Georgetown County”).

WHEREAS, pursuant to Title 4, Chapter 1 of the Code of Laws of South Carolina, as amended (the “Park Act”), and Article VIII, Section 13(D) of the South Carolina Constitution, as well as Ordinance No. 19-19 enacted by the County Council of Georgetown County, with the consent of the City as required by law, Georgetown County and Horry County have determined that, in order to further promote economic development and thus provide additional employment opportunities within both of said counties, there should be established in Georgetown County a joint county industrial and business park to be located in the City of Georgetown upon 12.10 acres of property, the sale of which was approved by City Council on _____, 2019, described in Exhibit A hereto (the “Park”), which Park shall be known as the Georgetown County Project Eagle Joint County Industrial and Business Park; and

WHEREAS, all of the property within the Park is within the City limits; and

WHEREAS, the Park Act provides if a joint county business park includes any portion of a municipality, the partner counties must obtain the consent of the municipality prior to the creation of the Park; and

WHEREAS, The City has consented to inclusion of the property in the Park as evidenced by _____, 2019, Resolution of City Council, referencing this Agreement; and

WHEREAS, as a consequence of the establishment of the Park, the County will collect fees in lieu of *ad valorem* taxation in an amount equal to that amount for which the owner or lessee of property within the Park would be otherwise liable except for such exemption; and

WHEREAS, Georgetown County has or is in the process of agreeing to establish a multi county business park (MCBP) with Horry County and agrees to accept responsibility for the costs of infrastructure, maintenance, management, promotional costs, and other costs associated with the Park, if any, as set forth by separate agreement between Georgetown County and Horry County; and

WHEREAS, Upon the City’s request, Georgetown County agrees to enter into an agreement as to distribution of Net Park Fees received and retained by the County with respect to the Project and all real and personal property located upon or comprising a portion of the Property with respect to each property tax year after application of any special source revenue credits and distributions of any amount to the partner county (“net park fees.”)

NOW, THEREFORE, in consideration of the mutual agreement, representations and benefits contained in this Agreement and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties agree as follows:

1. City Consent. The City consents to inclusion of the property in the Park, as evidenced by _____, 2019 Resolution of City Council and upon execution of this Agreement.

2. Location of the Park. The Park consists of 12.10 acres property located in the City of Georgetown, Georgetown County. It is specifically recognized that the boundaries of the Park may be enlarged or diminished from time to time as authorized by ordinances of both Georgetown County and Horry County. If any property proposed for inclusion in the Park, in whole or in part, is located within the boundaries of a municipality, then the municipality must give its consent prior to the inclusion of such property.

3. Park Expenses. Georgetown County shall bear all Park expenses, if any.

4. Distribution of Park Revenues. The City's share of Revenues is to be distributed pursuant to its _____, 2019 Resolution granting Consent and in the same proportion and ratio as its millage bears to the overall total levied. Associated revenues from any new, future project locating within the boundaries of this MCBP will also be distributed in accordance with this agreement. Such proportionate distribution shall not be reduced without the City Council's consent by resolution or ordinance.

5. Records. Georgetown County covenants and agrees that, upon request and subject to state records retention schedules Georgetown County will provide the City copies of the records of the annual tax levy and copies of the actual tax notice, for parcels of property included within the Park.

6. South Carolina Law Controlling. This Agreement has been entered into in the State of South Carolina and shall be governed by, and construed in accordance with the laws of the State of South Carolina..

7. Counterpart Execution. This Agreement may be executed in multiple counterparts.

[End of Agreement – Execution Page to Follow]

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

CITY OF GEORGETOWN, SOUTH CAROLINA

By: _____
Brendon M. Barber, Sr., Mayor

Attest:

By: _____
Stephanie Buccione, Clerk to City Council

GEORGETOWN COUNTY, SOUTH CAROLINA

By: _____
John Thomas, Chairman of County Council

Attest:

By: _____
Theresa Floyd, Clerk to County Council

EXHIBIT A

DESCRIPTION OF LAND

The Park is comprised of the following parcel(s):

ALL those pieces, parcels or tracts of land situate, lying and being in the City of Georgetown, County of Georgetown, State of South Carolina, shown and designated as “12.10 Acres” on a plat entitled “PLAT OF A DIVISION OF THE OLD EAGLE ELECTRIC PLANT SITE ON U.S. HIGHWAY 17 AND 701 (aka SOUTH FRASER STREET)”, prepared by Tidewater Land Surveying, LLC, dated July 14, 2019, and to be recorded in the Office of the Register of Deeds for Georgetown County, South Carolina as attached hereto.

TMS No.: 05-0047-017-00-00 (a portion)

CONTRACT FOR PURCHASE AND SALE OF LAND

THIS CONTRACT FOR PURCHASE AND SALE OF LAND (this “Agreement”) is made by and between **GUERRY GREEN**, an individual resident of the State of South Carolina and/or a to be formed and named entity that this contract will be assigned to that is owned by Guerry Green (hereinafter referred to as “Purchaser”), **CITY OF GEORGETOWN** a body politic and political subdivision of the State of South Carolina (hereinafter referred to as “Seller”), and only with respect to certain specific provisions contained herein **GEORGETOWN COUNTY** a body politic and political subdivision of the State of South Carolina (hereinafter referred to as “County”), to be effective as of the Effective Date (as hereinafter defined).

1. **SALE AND PURCHASE / PROPERTY.** Subject to the terms and conditions hereinafter set forth, Seller agrees to sell to Purchaser, and Purchaser agrees to purchase from Seller, all that certain lot, tract, or parcel of land located in the City of Georgetown, Georgetown County, South Carolina, bearing TMS 05-0047-017-00-00 (a portion) as more particularly described and depicted on **Exhibit A** attached hereto and incorporated herein by reference (the “Property”), together with and including all improvements (if any), rights, members, easements, appurtenances and hereditaments belonging or in anywise incident or appertaining to the Property.

2. **PURCHASE PRICE.**

(a) **Purchase Price.** Purchaser intends to invest approximately Ten Million and NO/100 Dollars (\$10,000,000.00) and create approximately seventy (70) new jobs paying on average above the average wage for Georgetown County by creating a business currently named “GreenCore Materials” that will use waste stream materials and general engineering models to achieve and create various plastic profile products with unheard of strength and other favorable characteristics such as rigidity and stability on the Property (the “Proposed Project”). With the Proposed Project in mind, the Seller and Purchaser have agreed on a purchase price for the Property of Two Hundred Ninety Thousand Two Hundred Fifteen and No/100 Dollars (\$290,215.00) (the “Purchase Price”).

(b) **Closing Payments.** On the Closing Date (as hereinafter defined) Purchaser agrees to pay to Seller the Purchase Price in certified United States federal funds, by wire transfer or other immediately available United States federal funds, less the Deposit (as hereinafter defined), with the Deposit being released to Seller by Escrow Agent at Closing.

3. **CLOSING DATE.** For all purposes herein, the “Closing” or “Closing Date” shall be on or before September 30, 2019, or at such earlier time as may be specified by Purchaser in writing to Seller and agreed to by Seller, with such consent not to be unreasonably withheld, conditioned, or delayed. Upon mutual agreement in writing by the parties, Seller and Purchaser may extend the Closing Date for up to thirty (30) days.

4. **PLACE OF CLOSING.** The Closing shall be held at the offices of Purchaser’s legal counsel Nexsen Pruet, LLC (“Escrow Agent”) in Myrtle Beach, South Carolina, unless an alternative location is mutually agreed upon by Seller and Purchaser; provided, however, all parties hereto agree that the Closing may be conducted in escrow without any applicable parties having to be physically present at the Closing, but may instead, participate by making all deliveries required to be made by hand delivery or mail to the Escrow Agent on or prior to the Closing Date.

5. DEPOSIT. Within five (5) business days from the Effective Date of this Agreement, Purchaser shall provide Escrow Agent with a Ten Thousand and No/100 Dollars (\$10,000.00) deposit by check or wire transfer (the "Deposit"). The Deposit shall apply to and be credited against the Purchase Price at Closing, or otherwise be disbursed by Escrow Agent as provided in this Agreement. Purchaser and Seller authorize Escrow Agent to hold the Earnest Money Deposit in trust and in a non-interest bearing escrow account, and to disburse same in accordance with the terms of this Agreement.

6. TITLE COMMITMENT AND POLICY.

(a) Prior to the expiration of the Feasibility Period (as defined below), Purchaser may, at Purchaser's sole expense, procure a title commitment for title insurance covering the Property (the "Commitment"), issued by a title insurance company selected by Purchaser (the "Title Company"), by which Commitment the Title Company will agree to issue to Purchaser, upon recording the deed for the Property, a standard owner's ALTA policy in the amount of the full Purchase Price, without exception for any matters other than the Permitted Exceptions (as such term is defined in Section 8(a)). Prior to the expiration of the Feasibility Period, Purchaser may examine the Commitment and Survey to be prepared pursuant to Section 7 of this Agreement and give written notice to Seller of its approval or disapproval in Purchaser's sole discretion of any matter contained in the Commitment and Survey. Seller may decide prior to the expiration of the Feasibility Period to either (i) seek to correct or cure the objections or defects so specified by Purchaser, or (ii) not correct or cure the objections or defects so specified by Purchaser. If Seller elects to attempt to cure such objections but such objections are not cured prior to Closing, or if Seller elects not to cure such objections, then Purchaser may terminate this Agreement whereupon the Deposit shall be returned to Purchaser.

(b) The Commitment may be updated (multiple times if desired by Purchaser) by the Title Company, at Purchaser's expense, prior to the Closing Date. Any title exception discovered during such update of the Commitment shall be treated as a title defect provided Purchaser gives Seller written notice thereof, and Seller may decide within ten (10) business days after Seller's receipt of such objections to either (i) seek to correct or cure the defects so specified by the update to the Commitment, or (ii) not correct or cure the defect so specified by the update to the Commitment. If Seller elects to attempt to cure such objections but such objections are not cured prior to Closing, or if Seller elects not to cure such objections, then Purchaser may terminate this Agreement whereupon the Deposit shall be returned to Purchaser.

7. SURVEY.

(a) Prior to the expiration of the Feasibility Period, Purchaser may, at Purchaser's expense, obtain a current ALTA or boundary survey of the Property, prepared by a duly licensed South Carolina land surveyor reasonably acceptable to Purchaser (the "Survey"). Notwithstanding the foregoing, the survey provided by the Seller shall be used as the legal description for the transfer of title to the Property from Seller to Purchaser.

(b) Prior to the expiration of the Feasibility Period, Purchaser may examine the Survey and give written notice to Seller of its approval or disapproval in Purchaser's sole discretion of any matter contained in the Survey. The rights and obligations of Purchaser and Seller as to any

written objections to the Survey by Purchaser shall be identical to written objections to title addressed in Section 6 of this Agreement. If the Survey is determined unacceptable by Purchaser prior to the expiration of the Feasibility Period, Purchaser may elect to terminate this Agreement prior to expiration of the Feasibility Period and the Deposit and the Extended Feasibility Period Deposit, if applicable, shall be returned to Purchaser.

(c) Following the expiration of the Feasibility Period, the Survey may need to be updated (multiple times if desired by Purchaser), at Purchaser's expense, prior to the Closing Date. Any title exception discovered during such update of the Survey shall be treated as a title defect provided Purchaser gives Seller written notice thereof, and Seller may decide within ten (10) business days after Seller's receipt of such objections to either (i) seek to correct or cure the defects so specified by the update to the Survey, or (ii) not correct or cure the defect so specified by the update to the Survey. If Seller elects to attempt to cure such objections but such objections are not cured prior to Closing, or if Seller elects not to cure such objections, then Purchaser may terminate this Agreement whereupon the Deposit shall be returned to Purchaser.

8. CLOSING PROCEDURES.

(a) Conveyance. Seller shall convey title which is marketable, insurable (at standard title insurance rates), and indefeasible free and clear of all mortgages, liens, encumbrances, restrictions, rights-of-way, easements, judgments and other matters affecting title, except the following matters (hereafter called the "Permitted Exceptions"), provided they do not interfere with the use, operation, and development of the Property, the marketability of title, or are objected to by Purchaser in accordance with Section 6 (provided, however, Purchaser shall have no obligation to object to mortgages, judgments, and monetary liens, all of which shall be satisfied and removed as liens prior to or at Closing): (i) ad valorem real property taxes not yet due and payable; and (ii) matters of record listed as exceptions in the Commitment (excluding the preprinted exceptions regarding the gap, survey, party in possession, and mechanics lien which will be removed upon Seller providing the requisite title affidavits and closing documents) accepted by Purchaser and not objected to or waived by Purchaser in accordance with the terms of this Agreement. The Property conveyed by Seller hereunder to Purchaser shall be by a limited warranty deed subject only to the Permitted Exceptions. Seller shall deliver possession of the Property at Closing.

(b) Costs of Sale.

(i) Title Insurance. The costs and premiums for all title search and exam fees, title insurance commitment fees, title insurance commitments and policies, and title insurance endorsement fees shall be paid by Purchaser.

(ii) Deed Recording Fee/Transfer Tax. The cost of the deed recording fee and/or documentary stamp taxes, based on the value of the Property conveyed, on the Deed shall be borne by Seller and paid at Closing.

(iii) Costs of Recording. The per page cost of recording the closing documents, including, without limitation, the limited warranty deed and quitclaim deed, if any, shall be borne by the Purchaser.

(iv) Real Estate Taxes. Ad valorem real property taxes for the year of the Closing shall be prorated between the Purchaser and Seller as of the Closing Date. If the amount of such ad valorem real property taxes for the year of the Closing is not then known, the apportionment of ad valorem real property taxes shall be estimated upon the basis of best information then available, with due provision for an adjustment to be made upon the final tax assessment and determination of tax rates for the year of the Closing. The provisions of this Section 8(b)(iv) of this Agreement shall survive the Closing.

(v) Utilities. If any water, sewer, and electric utility expenses exist for the Property for the year or month within which the Closing occurs, such utility expenses shall be prorated between Purchaser and Seller at and as of the Closing Date.

(vi) Other Assessments and Rollback Taxes. Any special assessment levied after Closing and any rollback or similar taxes charged for prior periods based upon any change of the current use of the Property by Purchaser, if any, shall be the sole and absolute responsibility of Seller. The provisions of this Section 8(b)(vi) of this Agreement shall survive the Closing.

(vii) Fees. Seller shall pay for Seller's own accountants' fees, financial consultant fees, and attorneys' fees in connection with this Agreement and the Closing. Purchaser shall pay for the Survey, any appraisal, any and all due diligence expenses, Purchaser's own accountants' fees, financial consultant fees, and attorneys' fees with this Agreement and the Closing, and all title examination costs and title insurance premiums.

(c) Closing Documents. On the Closing Date, Seller shall deliver the following items:

(i) Limited warranty deed duly executed in form for recordation, subject only to: (i) ad valorem real property taxes and assessments not yet due and payable, (ii) supplemental taxes assessed with respect to matters occurring on or after the Closing Date including rollback taxes, (iii) applicable zoning and governmental land use regulations and restrictions, and (iv) the Permitted Exceptions (as defined in Section 8(a) of this Agreement);

(ii) An owner's affidavit in form sufficient and reasonably acceptable to the Title Company and Seller;

(iii) A FIRPTA non-foreign affidavit;

(iv) A South Carolina Non-Resident Withholding Affidavit – Form I-295;

(v) A signature page to a purchase and sale closing statement prepared by Purchaser and Purchaser's counsel and reviewed and approved by Seller

(vi) Such further documents as may be customary and reasonably required to convey title to the Property to the Purchaser, or as required by the title company or Federal, State, or Local law to convey title to the Property to Purchaser at Closing or as reasonably requested by Purchaser; and

9. FEASIBILITY STUDIES AND LICENSE TO ENTER.

(a) From the Effective Date until September 29, 2019 (the "Feasibility Period"), Seller agrees to permit Purchaser and Purchaser's agents and independent contractors to enter upon and have reasonable access to the Property, for purposes of inspecting, testing, and examining the Property. If Purchaser determines in Purchaser's sole discretion that the Property is not satisfactory to Purchaser for acquisition, then Purchaser may terminate this Agreement by written notice to Seller prior to the expiration of the Feasibility Period, whereupon the Deposit shall be returned to Purchaser and this Agreement, apart from the obligations surviving herein, shall become null and void and of no further force or effect whatsoever. In addition, if Purchaser determines that the Property is not satisfactory for acquisition, the Property shall be restored by Purchaser to a neat, clean condition which shall be substantially the same as the condition of the Property prior to Purchaser's inspection of same. Upon mutual agreement in writing by the parties, Seller and Purchaser may extend the Feasibility Period for up to thirty (30) days.

(b) Purchaser shall keep confidential and not disclose to any third party the results of any study or investigation unless Purchaser is required to make such disclosure by law, court order or subpoena. Purchaser's access is further conditioned on Purchaser providing Seller with certificates of insurance listing Seller as an additional insured on all insurance policies evidencing that Purchaser's agents, designees or contractors performing such tests have insurance in types and amounts satisfactory to Seller as determined by Seller in its reasonable discretion.

(c) Notwithstanding anything set forth in this Agreement, Purchaser shall not be precluded from engaging in investigative and due diligence processes regarding the location of this project at alternative locations within Georgetown County, the State of South Carolina, and elsewhere in the United States.

10. OBLIGATIONS OF THE PARTIES. Purchaser, Seller and the County hereby acknowledge the following obligations with respect to the Property:

(a) Within Five (5) business days after the Effective Date, Seller, at its sole cost and expense, shall deliver copies of any and all documents, reports, analysis and the like as well as any reasonably requested additional information relating to the Property to Purchaser (e.g. appraisals, property and soils reports, surveys and any environmental reports such as Phase I's etc.).

(b) Within Twenty-four (24) months after the Effective Date, Seller, at its sole cost and expense, shall convert the overhead wiring for electrical service to the Property to underground service in order to allow loading docks to be placed at the rear of the Property and to provide for landscaping and parking. Provided Seller is diligently pursuing its obligations as set forth in this Section 10(b), the parties may extend such completion date as necessary to allow for such completion.

(c) On or before Closing, Seller shall consent to the designation of the Property as a Multi-County Business Park, to be created pursuant to Title 4, Chapter 1 of the South Carolina Code of Laws, Annotated 1976, so as to allow for certain credits, exemption, grants, and other incentives as may be available based on that designation from i) the State

of South Carolina, including its instrumentalities or agencies, (ii) Georgetown County, South Carolina or other political subdivision other than the City of Georgetown, and (iii) any other third parties including, but not limited to, applicable utility providers other than the City of Georgetown; provided, however, that such consent shall be contingent upon City Council's timely passage of a Resolution and an Agreement for the Development of a Joint County Industrial and Business Park between Georgetown and Horry counties, upon terms of revenue division satisfactory to City Council and as approved by ordinance of County Council.

(d) During the Feasibility Period, Seller shall confirm the existing code requirements (building, life and safety, etc.) related to the Property and that no additional stormwater drainage or approvals from Seller are necessary or required until operational square footage exceeds 200,000 square feet of existing impervious surface. Purchaser shall confirm whether permit coverage is required under the South Carolina Department of Health and Environmental Control's NPDES General Permit for Stormwater Discharges from Large and Small Construction Activities.

(e) During the Feasibility Period, County and Purchaser shall designate a speculative building for future companies willing to locate to the City of Georgetown. County shall agree to back stop rent on such building for five (5) years from the date of commencement of the lease term at a per square foot rate of at least Six Dollars and No/100s (\$6.00 per sq. ft.).

(f) During the Feasibility Period, County, Seller and Purchaser shall work together for the transfer of certain REU Credits from Georgetown Count Water and Sewer District to the Property.

(g) Prior to December 31, 2019, or as otherwise agreed in writing by the parties, Seller shall, at its sole cost and expense, remove all of its property both inside the existing building and on the Property to Purchaser's reasonable satisfaction or as otherwise agreed to in writing by Purchaser.

(h) Within Twenty-four (24) months after the Effective Date, Seller, at its sole cost and expense, shall place the necessary electrical transformers and outdoor lighting as agreed to in writing by Seller and Purchaser during the Feasibility Period, for the Property including existing and planned new buildings or expansions on the Property. Such new buildings and/or expansions or increased operations or power needs on the Property as well as any additional electrical transformer or capacity/service needs will be handled on an as-built and as-needed basis but shall be at Seller's sole cost and expense. Provided Seller is diligently pursuing its obligations as set forth in this Section 10(h), the parties may extend such completion date as necessary to allow for such completion.

(i) Prior to the end of the Feasibility Period, Seller and County shall work together to provide Purchaser with written confirmation and support that the existing building on the Property qualifies as a substantially abandoned textile factory in order to accommodate applicable South Carolina law incentive requirements regarding same.

(j) Prior to the end of the Feasibility Period, Seller and County shall work together to provide a letter endorsing and supporting that the Property qualifies as an Opportunity Zone and for New Market Tax Credits which are available to lower income census tracts across the United States.

(k) Seller and Purchaser have agreed that the Property will receive the equivalent of the Seller's most favorable industrial/commercial electric rate given to manufacturing facilities throughout its service area.

(l) During the Feasibility Period, Seller shall confirm in writing the specific calculation and approximate amounts of any business license fees attributable to Seller's intended use for the Property.

(m) During the Feasibility Period, Seller and Purchaser shall finalize the terms of an easement agreement ("Easement Agreement") which include the following:

- (i) A perpetual, non-exclusive easement for pedestrian and vehicular traffic over, upon and across that certain roadway and cul de sac area shown on the survey referenced in Exhibit A as containing .90 acres for the purpose of providing access to and from U.S. Highway 17 and the Property; said easement to be appurtenant to and run with the title to the Property;
- (ii) In consideration for the grant of this easement, Purchaser covenants and agrees to pave the unimproved portion of the easement area, including the cul de sac, in a manner which is consistent with the existing asphalt road and also in compliance with City of Georgetown requirements; said paving to be completed within one (1) year following closing;
- (iii) Upon satisfactory completion of the paving by the Purchaser, Seller will thereafter assume and be responsible for the repair and maintenance of the paved road;
- (iv) Purchaser acknowledges that the 0.90 acre easement area is currently used by the Seller to provide ingress and egress to and from U.S. Highway 17 and the Maryville Fire Station; Purchaser expressly acknowledges that this includes, but is not limited to, ingress and egress by emergency response vehicles and further covenants and agrees not to unreasonably block, interfere, restrict or otherwise impede the flow or passage of such emergency response vehicles;
- (v) Both the Seller and Purchaser covenant and agree to use reasonable care and due diligence in their respective use of the easement area; Purchaser agrees to indemnify the Seller for any and all damages or losses occasioned by the Seller arising out of the Purchaser's conduct and breach of the covenants hereunder; and
- (vi) All terms and provisions herein shall survive closing and shall bind, and inure to the benefit of, the Seller and Purchaser, their respective successors and assigns.

11. CONDITIONS TO CLOSING. Notwithstanding anything to the contrary contained in this Agreement, Purchaser shall have the right, in its sole discretion to cancel and terminate this Agreement, in which event the Deposit and the Extended Feasibility Period Deposit, if applicable, shall be returned to Purchaser, and Purchaser shall have no further obligation to Seller under this Agreement by reason of such cancellation, if:

(a) prior to Closing, any of the warranties and representations of Seller contained in this Agreement, specifically including but not limited to those contained in Section 10 above, shall prove untrue or incorrect, or at the time of Closing shall no longer be true and correct;

(b) Seller shall have failed to honor or fulfill any covenant, undertaking, or requirement of Seller pursuant to any provision of this Agreement;

(c) prior to Closing, Purchaser shall have received notification of a moratorium or denial on issuance of any license, permit authorization, or approval for development, use, and/or operation as it impacts the Property by federal, state, county or municipal authorities having jurisdiction over the Property;

(d) prior to Closing, conditions or restrictions are placed on the development, use, and/or operation of the Property, by federal, state, or county or municipal bodies, laws, regulations or ordinances, which would cause a delay in development, use, and/or operation of the Property;

(e) Title Company is not irrevocably committed to issue to Purchaser the title insurance policy required pursuant to this Agreement;

(f) the Survey to be prepared pursuant to Section 7 of this Agreement and agreed to by Purchaser and Seller has not been approved for recording by all applicable governmental authorities;

(g) the Property is not zoned by the applicable governmental authority to a zoning classification deemed necessary by Purchaser, in the sole discretion of the Purchaser, to use and develop the Property for Purchaser's intended purpose;

(h) final approval of, and the execution and delivery of any and all written agreements or instruments effecting, any and all State, County, Local, and other economic development incentives heretofore or hereafter committed with respect to the intended use for the Property by all applicable approving entities including, but not limited to, the State of South Carolina (or any of its agencies or instrumentalities including, but not limited to the SC Department of Commerce, the SC Coordinating Council for Economic Development, and ReadySC), Georgetown County, the City of Georgetown, Santee Cooper, the SC Power Team, and Santee Electric Cooperative;

(i) Purchaser and Seller are unable to finalize the terms of a mutually acceptable Easement Agreement; and

(j) any other event shall have occurred which gives Purchaser the right to cancellation pursuant to any other provision of this Agreement.

12. PURCHASER'S DEFAULT. Purchaser shall not be in breach or default hereunder unless within ten (10) days after the Purchaser's receipt of notice: (i) Purchaser fails to cure any breach of any obligation of Purchaser under this Agreement which is set forth in such notice, or (ii) Purchaser fails to complete Purchaser's purchase of the Property as required by this Agreement. If any such failure continues beyond such cure period, the remedy of Seller shall be to extinguish Purchaser's rights hereunder and Purchaser shall forfeit the Deposit to Seller as the agreed upon liquidated damages. The parties agree and stipulate that as of the Effective Date, the exact amount of damages would be extremely difficult to ascertain and that the Deposit constitutes a reasonable and fair approximation of such damages and is not a penalty.

13. SELLER'S DEFAULT. Seller shall be in default hereunder if: (i) any representation made by Seller herein is false in any material respect, (ii) any covenant or obligation made or undertaken by Seller hereunder is not performed in the time specified for such performance, (iii) there is a material change in title caused solely by Seller after the initial Title Commitment not permitted pursuant to this Agreement, or (iv) Seller wrongfully refuses to convey title to the Property in accordance herewith or otherwise breaches any other provision of this Agreement; provided, however, that upon any event of default, Seller shall have ten (10) days within which to cure such default after receipt of written notice from Purchaser.

Upon Seller's default and failure to cure such default, the Purchaser shall have the following remedies as Purchaser's sole and exclusive remedies:

- (a) To terminate this Agreement and thereupon receive a return of the Deposit; or
- (b) To pursue an action for specific performance.

14. REPRESENTATIONS, WARRANTIES AND COVENANTS OF PURCHASER.

Purchaser hereby represents and warrants to and covenants with Seller as follows:

Purchaser has duly and validly taken all action necessary to approve and authorize the execution of this Agreement, and to consummate the transactions contemplated hereby. When executed and delivered, this Agreement shall constitute valid and binding obligations of Purchaser enforceable in accordance with its terms and conditions.

All such representations and warranties shall be true and correct on and as of the Closing Date with the same force and effect as if made at that time, and all of such representations and warranties shall survive the Closing Date or any cancellation or termination of this Agreement, for a period of three (3) months.

15. REPRESENTATIONS, WARRANTIES AND COVENANTS OF SELLER.

Seller hereby represents and warrants to and covenants with Purchaser as follows:

(a) Seller has good, indefeasible, insurable (at standard title insurance rates), and marketable title to the Property. Seller is a political subdivision of the State of South Carolina and has the authority to execute this Agreement, and to consummate the transactions contemplated hereby. When executed and delivered, this Agreement shall constitute valid and binding obligations of Seller enforceable in accordance with its terms and conditions.

(b) Seller is a body politic and a political subdivision of the State of South Carolina.

(c) Seller represents that it has not performed any excavation, dumping or burial of any refuse materials or debris of any nature whatsoever on the Property and, further, that it has no knowledge of any Hazardous Materials or underground storage tanks on the Property that would subject Purchaser to any liability under either Federal, state, or local laws. The term "Hazardous Materials" as used in this Agreement includes, without limitation, gasoline, petroleum products, explosives, unexploded ordinance, radioactive materials, hazardous materials, hazardous wastes, hazardous or toxic substances, polychlorinated biphenyls or related or similar materials, asbestos or any material containing asbestos, or any other substance or material as may be defined as a hazardous or toxic substance by any Federal, state or local environmental law, ordinance, rule, or regulation, relating to the protection of the environment or to emissions, discharges, releases, or threatened releases of hazardous or toxic substances into the environment or otherwise relating to the manufacture, processing, distribution, use, treatment, storage, disposal, transport, or handling of hazardous or toxic substances, including, without limitation, the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended (42 U.S.C. Section 9601, et seq.), the Hazardous Materials Transportation Act, as amended (42 U.S.C. Section 1801, et seq.), the Resource Conservation and Recovery Act, as amended (42 U.S.C. Section 1251, et seq.), the Clean Air Act, as amended (42 U.S.C. Section 7401, et seq.), the Clean Water Act, 33 U.S.C. Section 1251, et seq., the Toxic Substances Control Act, 15 U.S.C. Section 2601, et seq., the South Carolina Pollution Control Act, S.C. Code Ann. §§ 48-1-110, et seq., the South Carolina Hazardous Waste Management Act, S.C. Code Ann. §§ 44-56-10, et seq., the State Underground Petroleum Environmental Response Bank Act, S.C. Code Ann. §§ 44-2-10 et seq., and in the regulations adopted and promulgated pursuant thereto.

All such representations and warranties shall be true and correct on and as of the Closing Date with the same force and effect as if made at that time, and all of such representations and warranties shall survive the Closing Date or any cancellation or termination of this Agreement, for a period of six (6) months.

16. CAPTIONS. The captions contained in this Agreement are for convenience only and are not a part of this Agreement.

17. ENTIRE AGREEMENT. This Agreement, including the exhibits attached hereto, contains the entire Agreement between Seller and Purchaser and all other representations, negotiations and agreements, written and oral, including any letters of intent which pre-date the Effective Date hereof, with respect to the Property or any portion thereof, are superseded by this Agreement and are of no force and effect. This Agreement may be amended and modified only by instrument, in writing, executed by all parties hereto.

18. ASSIGNMENT. Except for an assignment to an affiliate or to a to be formed and named entity of Purchaser, Purchaser shall have no right to assign this Agreement or any of its rights or obligations under this Agreement to any persons, corporations or other entity without the written approval of the other party, which approval shall not be unreasonably withheld, conditioned, or delayed. For purposes of this Agreement, an “affiliate” as applied to any party, means any other person who directly or indirectly through one or more intermediaries, controls, or is controlled by, or is under common control with such party. As used in this Section, the term “control” (including the terms “controlling”, “controlled by”, or “under common control with”) means the possession, direct or indirect, of the power to direct or cause the direction of the management and policies of such party, whether through ownership of voting securities, by contract or otherwise. Unless agreed by the parties, upon any assignment of this Agreement, the assignor shall not be relieved or released of or from any obligations or liabilities under this Agreement.
19. APPLICABLE LAW. This Agreement shall be construed by and controlled under the laws of the State of South Carolina.
20. PARTIAL INVALIDITY. In the event that any paragraph or portion of this Agreement is determined to be unconstitutional, unenforceable or invalid, such paragraph or portion of this Agreement shall be stricken from and construed for all purposes not to constitute a part of this Agreement, and the remaining portion of this Agreement shall remain in full force and effect and shall, for all purposes, constitute this entire Agreement.
21. CONSTRUCTION OF AGREEMENT. All parties hereto acknowledge that they have had the benefit of independent counsel with regard to this Agreement and that this Agreement has been prepared as a result of the joint efforts of all parties and their respective counsel. Accordingly, all parties agree that the provisions of this Agreement shall not be construed or interpreted for or against any party hereto based upon authorship.
22. COUNTERPARTS. This Agreement may be executed in any number of counterparts, each of which when executed and delivered shall be an original, but all such counterparts shall constitute one and the same instrument.
23. EFFECTIVE DATE. The “Effective Date” or the “Date” hereof shall be the last date that Purchaser or Seller executes this Agreement as listed on the signature page to this Agreement.
24. PARTIES / SUCCESSORS AND ASSIGNS / GENDER. The rights and obligations hereunder shall be binding upon and inure to the benefit of the parties hereto, their heirs, successors, personal representatives and administrators, and assigns (where assignment is permitted). The use of any gender herein shall be deemed to refer to the appropriate gender, whether masculine, feminine or neuter, and the singular shall be deemed to refer to the plural where appropriate, and vice versa.
25. NOTICES. Any notice, consent or other communication permitted or required by this Agreement shall be in writing, and shall be given to each party, at the address set forth below, in the following manner: (a) personal delivery, in which case the service shall be deemed received on the date of such personal delivery, (b) reputable overnight delivery service, in which case the notice shall be deemed to have been received one (1) business day following delivery to such

reputable overnight delivery service, (c) United States Mail, postage prepaid, registered or certified mail, return receipt requested, in which case the notice shall be deemed received three (3) business days following deposit with United States Mail, or (d) email to the email addresses listed below, in which case the notice shall be deemed received at the time sent by email if a copy of such notice is also sent within two (2) business days by reputable overnight delivery service. Notice delivered by the means described above shall also be deemed to have been given upon any refusal to accept delivery. In addition to delivery of the notice to the intended address by one of the means described in clauses (a), (b) or (c) above, each such notice shall also be delivered electronically to the email addresses listed below. Unless and until changed as provided below, the addresses for notices given pursuant to this Agreement shall be as follows:

If to Purchaser:

Guerry Green
407 A. Church Street
Georgetown, SC 29440
E-mail: guerry@screentight.com

With a required copy (not constituting notice) to:

Nexsen Pruet, LLC
1101 Johnson Avenue, Suite 300
Myrtle Beach, SC 29577
Attention: Franklin G. Daniels, Esq.
E-mail: fdaniels@nexsenpruet.com

If to Seller:

City of Georgetown
417 Wood Street
Georgetown, SC 29440
Attn: Sandra E. Yúdice, City Administrator
E-mail: syudice@cogsc.com
Attn: Debra Bivens, Director of Finance
E-mail: dbivens@cogsc.com

With a required copy (not constituting notice) to:

Crosby Law Firm, LLC
405 Dozier Street
Georgetown, SC 29440
Attention: Elise F. Crosby, Esq.
E-mail: ecrosby@crosbyfirm.com

Grimes Law
112 Highmarket Street
Georgetown, SC 29410
Attention: John P. Grimes, Esq.
E-mail: jack.grimes@grimeslawfirm.com

If to County:

Georgetown County
716 Prince St
Georgetown, S.C. 29440
Attn: Sel Hemingway
E-mail: shemingway@gtcounty.org
Attn: Wesley P. Bryant, Esq.
E-mail: wbryant@gtcounty.org

With a required copy (not constituting notice) to:

If to Escrow Agent:

Nexsen Pruet, LLC
1101 Johnson Avenue, Suite 300
Myrtle Beach, SC 29577
Attention: David C. Slough, Esq.
E-mail: dslough@nexsenpruet.com

26. **TIME.** Time is of the essence of each and every provision of this Agreement.

27. RISK OF LOSS AND CONDEMNATION.

Seller shall bear risk of loss prior to Closing (but shall have no obligation to repair any damage that occurs prior to Closing). In the event of any damage to all or any material portion of the Property, condemnation, eminent domain or taking of any portion of the Property, or any part thereof prior to Closing, Purchaser may, at Purchaser's election, terminate this Agreement in full. In the event Purchaser terminates this Agreement, the Deposit shall be refunded to Purchaser, and, except as otherwise expressly provided in this Agreement, Purchaser shall have no further obligations hereunder. If Purchaser proceeds with Closing, Purchaser shall be entitled and Seller shall assign to Purchaser all condemnation awards and settlements for the portions of the Property to which it acquires. If, however, Closing occurs, Purchaser shall be deemed to have irrevocably waived all objections to any damage, condemnation, eminent domain or taking of any portion of the Property.

28. WAIVER OF BREACH. The failure of any party hereto to enforce any provision of this Agreement shall not be construed to be a waiver of such or any other provision, nor in any way to affect the validity of all or any part of this Agreement or the right of such party thereafter to enforce each and every such provision. No waiver of any breach of this Agreement shall be held to constitute a waiver of any other or subsequent breach.

29. BROKER'S COMMISSIONS. Seller covenants and agrees to pay any real estate commissions due or owed on the sale of the Property incurred by Seller's actions or arising out of Seller's own broker or agent. Purchaser warrants and represents to Seller that no real estate broker was involved in this transaction on behalf of Purchaser. The provisions of this Section 29 of this Agreement shall survive closing..

30. ESCROW AGENT. The Deposit shall be deposited into an escrow account. The duties of Escrow Agent shall be as follows:

(a) During the term of this Agreement, Escrow Agent shall hold and deliver the Deposit in accordance with the terms and provisions of this Agreement.

(b) If this Agreement shall be terminated by the mutual written agreement of Seller and Purchaser, or if Escrow Agent shall be unable to determine at any time to whom the Deposit should be delivered, or if a dispute shall develop between Seller and Purchaser concerning to whom the Deposit should be delivered, then in any such event, Escrow Agent shall request joint written instructions from Seller and Purchaser and shall deliver the Deposit in accordance with such joint written instructions. In the event that such written instructions shall not be received by Escrow Agent within ten (10) days after Escrow Agent has served a written request for instructions upon Seller and Purchaser, the Escrow Agent shall have the right to pay the Deposit, into a court of competent jurisdiction and interplead Seller and Purchaser in respect thereof, and thereafter Escrow Agent shall be discharged of any obligations in connection with this Agreement.

(c) If costs or expenses are incurred by Escrow Agent because of litigation or a dispute between Seller and Purchaser arising out of the holding of the Deposit in escrow, Seller and Purchaser shall each pay Escrow Agent one-half of such costs and expenses. Except for such

potential costs and expenses, no fee or charge shall be due or payable to Escrow Agent for its services as escrow holder.

(d) By joining herein, Escrow Agent undertakes only to perform the duties and obligations imposed upon it under the terms of this Agreement and expressly does not undertake to perform any of the other covenants, terms and provisions incumbent upon Seller and Purchaser hereunder.

(e) Purchaser and Seller hereby agree and acknowledge that Escrow Agent assumes no liability in connection herewith except for gross negligence or willful misconduct; that Escrow Agent shall never be responsible for the validity, correctness or genuineness of any documents or notice referred to under this Agreement; and that Escrow Agent may seek advice from its own counsel and shall be fully protected in any action taken by it in good faith in accordance with the opinion of its own counsel.

[SIGNATURE PAGES ATTACHED]

[remainder of page intentionally left blank]

IN WITNESS WHEREOF, the parties have hereunto set their hands and affixed their seals as of the day and year set forth below each signatory's execution.

PURCHASER:

_____ (SEAL)
Guerry Green

Date: _____, 2019

SELLER:

CITY OF GEORGETOWN, a body politic and
political subdivision of the State of South Carolina

By: _____ (SEAL)
Name: _____
Title: _____
Date: _____, 2019

COUNTY:

COUNTY OF GEORGETOWN, a body politic and
political subdivision of the State of South Carolina

By: _____ (SEAL)
Name: _____
Title: _____
Date: _____, 2019

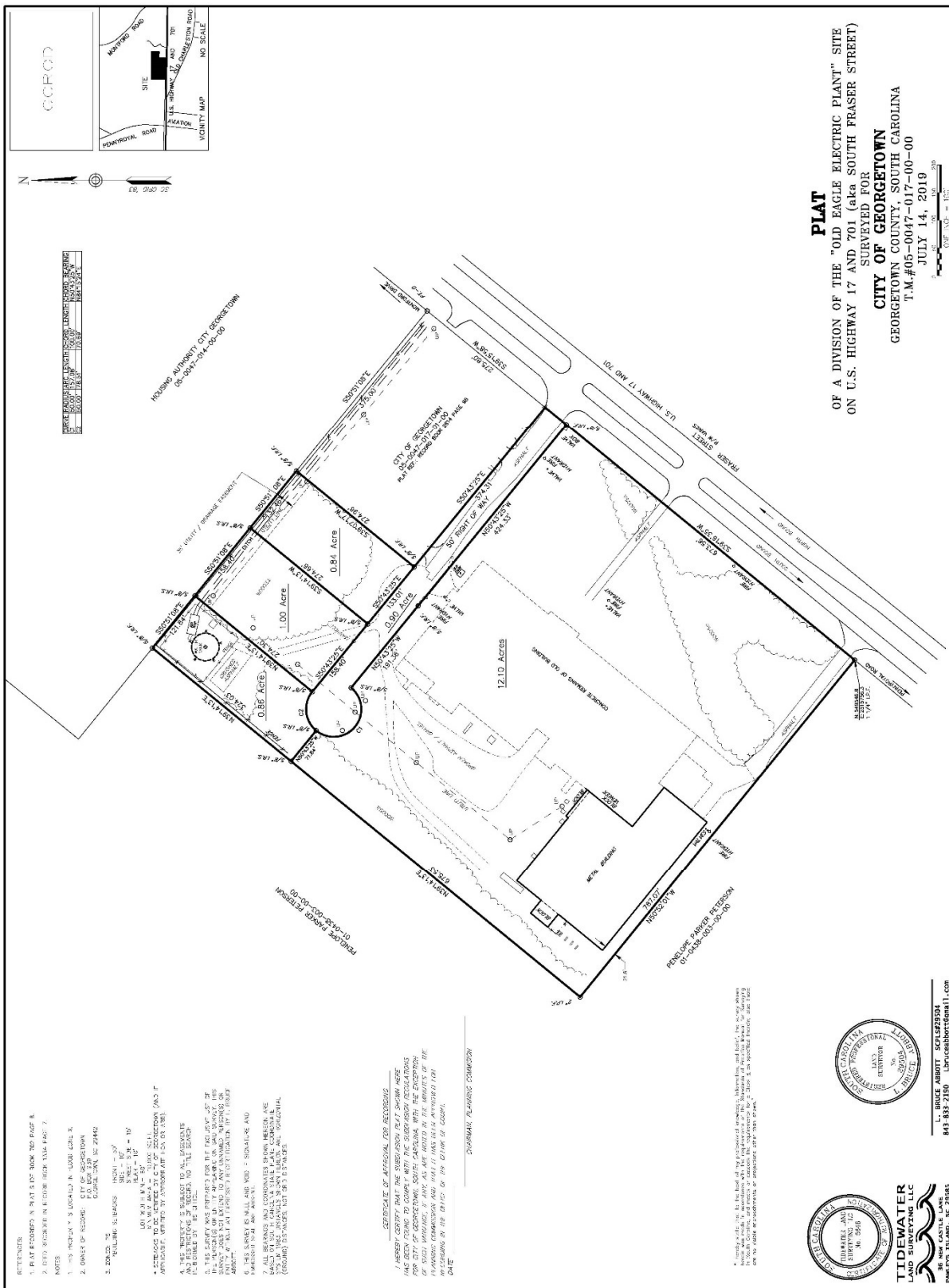
EXHIBIT A

Description and Depiction of Property

Legal Description:

ALL those pieces, parcels or tracts of land situate, lying and being in the City of Georgetown, County of Georgetown, State of South Carolina, shown and designated as “12.10 Acres” on a plat entitled “PLAT OF A DIVISION OF THE OLD EAGLE ELECTRIC PLANT SITE ON U.S. HIGHWAY 17 AND 701 (aka SOUTH FRASER STREET)”, prepared by Tidewater Land Surveying, LLC, dated July 14, 2019, and recorded in the Office of the Register of Deeds for Georgetown County, South Carolina as attached hereto.

TMS No.: 05-0047-017-00-00 (a portion)



Item Number: 16.a
Meeting Date: 10/8/2019
Item Type: DEFERRED OR PREVIOUSLY SUSPENDED ISSUES

AGENDA REQUEST FORM
GEORGETOWN COUNTY COUNCIL



DEPARTMENT: Planning / Zoning

ISSUE UNDER CONSIDERATION:

Ordinance No. 2017-23 - To amend the Pawleys Plantation Planned Development to add an additional two single family lots to the PD. TMS 04-0418-014-00-00. Case Number AMPD 6-17-18572.

On June 27, 2017 the Pawleys Plantation Property Owners Association applied to change the land use designation for two parcels along Green Wing Teal Lane from open space to single family. A change in land use is considered a major change to a Planned Development based on Section 619.3 of the Zoning Ordinance.

CURRENT STATUS:

The Pawleys Plantation PD is located east of Ocean Highway approximately 557 feet south of Hagley Drive in Pawleys Island. The PD contains a combination of single family units, patio lots and multi-family units along with a golf course and associated amenities.

POINTS TO CONSIDER:

1. The Pawleys Plantation Property Owners Association took ownership of the two parcels labeled as open space 9 and 10 on the attached map in 2010. The parcels were originally part of the golf course property.
2. According to the applicant both parcels were largely shown as wetlands on a 1987 Army Corps of Engineers survey. The POA's environmental consultant has indicated that the wetlands have receded significantly on these two parcels since the 1987 survey and both are now suitable building sites. The Army Corps has not yet confirmed the consultant's assertion.
3. The POA is seeking to sell the parcels in order to relieve the organization from the burden of maintaining both of these areas as well as provide additional income to be used for maintenance elsewhere on the property.
4. Open space #9 contains .25 acres and is approximately 72 feet wide. Open space #10 contains .29 acres is approximately 113 feet wide. Both parcels exceed the average lot size for the street with the exception of the large half-acre parcel located at the end of the cul de sac which was a combination of two original lots. Existing parcels on this street are considered patio lots and are designated as Tract D. Setbacks are 20' for the front, 7' and 3' for the side if a one-story home and 12' and 8' for the side if a two-story home and 20' in the rear.
5. The parcels back up to a large pond. The County's GIS infrared imagery shows significant uplands for both parcels. The attached wetland delineation from the applicant's consultant shows .004 of an acre of wetlands out of a total of .25 acres for Open Space #9 and .1 acre of wetlands out of a total of .29 acres for Open Space #10. Some fill will likely be required for Open Space #10.
6. The reduction in the amount of open space for the PD is minimal based on the large amount of open space provided for the PD as a whole. According to their engineer, the PD contains 62 acres of open space including the golf course. The POA currently owns 22.4 acres of open space.
7. Overall density for the PD will not be exceeded. At least one large tract originally shown as multi-family is being developed as single family and according to the POA, twelve different parcels have been combined also resulting in a density reduction.
8. The new owners for the parcels would be required to submit a tree removal plan to the Zoning Administrator prior to receiving a building permit.
9. According to the applicant, the POA met on August 28th and received the necessary approval from 80% of the members to remove these properties from the "common property" designation so that they can be sold by the POA.
10. The applicant met with several of those residents with drainage concerns. The existing swales on these parcels are currently functioning. The POA will either relocate the existing swales or install catch basins and pipes to handle the drainage.
11. Staff recommended approval of the request conditional on the following:
 - a. Approval from the Corps of Engineers for the attached wetlands delineation and any proposed fill.
 - b. Both new parcels will adhere to the PD requirements and setbacks for patio lots.
12. The Planning Commission held public hearings on this request on both August 17th and September 21st. After

12. The Planning Commission held public hearings on this request on both August 17th and September 21st. After receiving several comments from the neighbors regarding drainage, the Commission deferred action at the August meeting. Four property owners from this area spoke against the proposal with concerns about existing drainage problems, adding more run-off to the system and the promise of open space in these areas. One property owner spoke stating that the POA representative had addressed his concerns from the previous meeting. The POA representative responded by stating that the lots were not initially left for open space, but due to the wetlands which have now receded, the drainage situation will not be changed by virtue of this request and that the POA is attempting to work with the golf course on the issues with the existing ditch in this area.
13. The Commission voted 7 to 0 to recommend denial for this request.
14. Ordinance No. 2017-23 has been amended subsequent to previous report. Should Council choose to approve Ordinance No. 2017-23 with revised text, a *motion to amend* will be required.

FINANCIAL IMPACT:

Not applicable

OPTIONS:

1. Deny request as recommended by PC.
2. Approve request
3. Defer for further information
4. Remand to PC for further study

STAFF RECOMMENDATIONS:

Deferred pending internal review by County Attorney.

ATTORNEY REVIEW:

Yes

Item Number: 16.b
Meeting Date: 10/8/2019
Item Type: DEFERRED OR PREVIOUSLY SUSPENDED ISSUES

AGENDA REQUEST FORM
GEORGETOWN COUNTY COUNCIL



DEPARTMENT: Legal

ISSUE UNDER CONSIDERATION:

ORDINANCE NO. 19-18 - AN ORDINANCE AUTHORIZING (1) THE EXECUTION AND DELIVERY OF A FEE IN LIEU OF TAX AND INCENTIVE AGREEMENT BY AND BETWEEN GEORGETOWN COUNTY, SOUTH CAROLINA (THE "COUNTY") AND A COMPANY IDENTIFIED FOR THE TIME BEING AS PROJECT EAGLE, ACTING FOR ITSELF, ONE OR MORE AFFILIATES, AND/OR OTHER PROJECT SPONSORS (THE "COMPANY"), WITH RESPECT TO THE ESTABLISHMENT AND/OR EXPANSION OF OF CERTAIN FACILITIES IN THE COUNTY (COLLECTIVELY, THE "PROJECT"); (2) THE BENEFITS OF A MULTI-COUNTY INDUSTRIAL OR BUSINESS PARK TO BE MADE AVAILABLE TO THE COMPANY AND THE PROJECT; AND (3) OTHER MATTERS RELATING THERETO.

CURRENT STATUS:

Pending adoption.

POINTS TO CONSIDER:

Georgetown County, South Carolina, acting by and through its County Council is authorized and empowered under and pursuant to the provisions of the Code of Laws of South Carolina 1976, as amended, particularly Title 12, Chapter 44 of the Code and Title 4, Chapter 1 of the Code and by Article VIII, Section 13(D) 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, but not limited to, negotiated FILOT payments made pursuant to the Negotiated FILOT Act, with respect to a project; and*
- (iii) to create, in conjunction with one or more other counties, a multi-county industrial or business park in order to afford certain enhanced income tax credits to such investors.*

One or more companies identified for the time being, collectively, as Project Eagle, each acting for itself, one or more affiliates, and/or other project sponsors, proposes to establish and/or expand certain facilities at one or more locations in the County, and anticipate that, should their plans proceed as expected, they will invest, or cause to be invested, at least \$10,700,000 in the Project and will create, or cause to be created, at least 74 new, full-time jobs within the County.

OPTIONS:

1. Adoption of Ordinance No. 19-18.
2. Decline adoption of Ordinance No. 19-18.

STAFF RECOMMENDATIONS:

Defer action.

ATTACHMENTS:

Description	Type
▢ Ordinance No 19-18 Authorizing a FILOT Agreement with Project Eagle	Ordinance
▢ FILOT Agreement Project Eagle	Backup Material

**GEORGETOWN COUNTY
ORDINANCE NO. 19-18**

AN ORDINANCE AUTHORIZING (1) THE EXECUTION AND DELIVERY OF A FEE IN LIEU OF TAX AND INCENTIVE AGREEMENT BY AND BETWEEN GEORGETOWN COUNTY, SOUTH CAROLINA (THE "COUNTY") AND ONE OR MORE COMPANIES IDENTIFIED FOR THE TIME BEING, COLLECTIVELY, AS PROJECT EAGLE, EACH ACTING FOR ITSELF, ONE OR MORE AFFILIATES, AND/OR OTHER PROJECT SPONSORS (THE "COMPANIES"), WITH RESPECT TO THE ESTABLISHMENT AND/OR EXPANSION OF CERTAIN FACILITIES IN THE COUNTY (COLLECTIVELY, THE "PROJECT"); (2) THE BENEFITS OF A MULTI-COUNTY INDUSTRIAL OR BUSINESS PARK TO BE MADE AVAILABLE TO THE COMPANIES AND THE PROJECT; AND (3) OTHER MATTERS RELATING THERETO.

WHEREAS, Georgetown 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 (the "Code"), particularly Title 12, Chapter 44 of the Code (the "Negotiated FILOT Act") and Title 4, Chapter 1 of the Code (the "Multi-County Park Act") (collectively, the "Act") and by Article VIII, Section 13(D) 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, but not limited to, negotiated FILOT payments made pursuant to the Negotiated FILOT Act, with respect to a project; and (iii) to create, in conjunction with one or more other counties, a multi-county industrial or business park in order to afford certain enhanced income tax credits to such investors; and

WHEREAS, one or more companies identified for the time being, collectively, as Project Eagle, each acting for itself, one or more affiliates, and/or other project sponsors (the "Companies"), proposes to establish and/or expand certain facilities at one or more locations in the County (the "Project"), and anticipate that, should their plans proceed as expected, they will invest, or cause to be invested, at least \$10,700,000 in the Project and will create, or cause to be created, at least 74 new, full-time jobs within the County, in the aggregate; and

WHEREAS, based on information provided to the County by the Companies, the County has determined that the Project would 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 Companies to locate the Project in the County, the Council is enacting this Ordinance, which Ordinance is also intended to serve as an "inducement resolution" for the purposes of Section 12-44-30(11) of the Negotiated FILOT Act, whereby the County has determined to provide the

benefits of a negotiated FILOT and a multi-county industrial or business park with respect to the Project; and

WHEREAS, the County and the Companies have agreed to the specific terms and conditions of such arrangements as set forth herein and in a Fee in Lieu of Tax and Incentive Agreement by and between the County and the Companies with respect to the Project (the “Incentive Agreement”), the form of which Incentive Agreement is presented to this meeting, and which Incentive Agreement is to be dated as of _____, 2019 or such other date as the parties may agree; 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. Capitalized terms used and not otherwise defined herein shall have the meanings ascribed thereto in the Incentive Agreement. Additionally, as contemplated by Section 12-44-40(I) of the Negotiated FILOT Act, based on information provided to the County by the Companies with respect to the Project, the County makes the following findings and determinations:

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

Section 2.

(a) The County hereby agrees to enter into the Incentive Agreement, which agreement shall be in the form of a fee agreement, pursuant to the Negotiated FILOT Act, whereby the Companies will agree to satisfy, or cause to be satisfied, certain investment requirements with respect to the Project within certain prescribed time periods and the County will agree to accept certain negotiated FILOT payments with respect to the Project (the “Negotiated FILOT”), as set forth in **Section 2(b)** hereof and in accordance with the terms of the Incentive Agreement.

(b)

(i) The Negotiated FILOT shall be determined using: (1) an assessment ratio of 6%, (2) a millage rate of ___ mills, which millage rate or millage rates shall be fixed pursuant to Section 12-44-50(A)(1)(b)(i) of the Negotiated FILOT Act for the full term of the Negotiated FILOT; (3) the fair market value of the Project, as determined in accordance with Section 12-44-50(A)(1)(c) of the Negotiated FILOT Act; and (4) such other terms and conditions as will be specified in the Incentive Agreement including, but not limited to, that the Companies and the Project shall be entitled to the maximum benefits allowable under the Negotiated FILOT Act with respect to the disposal and replacement of Project property.

(ii) The Negotiated FILOT shall be calculated as provided in this **Section 2(b)** for all Negotiated FILOT Property placed in service during the Investment Period. For each annual increment of investment in Negotiated FILOT Property, the annual Negotiated FILOT payments shall be payable for a payment period of 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 payment period of thirty (30) years up to an aggregate of thirty-five (35) years or, if the Investment Period is extended as set forth in the Incentive Agreement, up to an aggregate of forty (40) years.

Section 3. The County agrees to locate the Project and the Land 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(D) of the State Constitution, if not already so included, and agrees to maintain the Project and the Land within the boundaries of such a multi-county industrial or business park on terms which provide for all jobs created at the Project from January 1, 2020 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 on terms, and for a duration.

Section 4. The County will use its best efforts to assist the Companies in securing grants and other funding for infrastructure and other improvements in support of the Project, including, but not limited to, any State grant funding and funding now or hereafter provided by one or more utilities in support of the Project.

Section 5. The form, provisions, terms, and conditions of the Incentive Agreement presented to this meeting and filed with the Clerk to the Council are hereby approved, and all of the provisions, terms, and conditions thereof are hereby incorporated herein by reference as if the Incentive Agreement was set out in this Ordinance in its entirety. The Incentive Agreement is to be in substantially the form now before this meeting and hereby approved, or with such changes therein as shall not materially adversely affect the rights of the County thereunder and as shall be approved by the official or officials of the County executing the same, upon the advice of counsel, 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 6. The Chairman of the Council is hereby authorized, empowered, and directed to execute the Incentive Agreement in the name and on behalf of the County; the Clerk to the Council is hereby authorized, empowered and directed to attest the same; and the Chairman of the Council is further authorized, empowered, and directed to deliver the Incentive Agreement to the Companies. The Chairman of the Council, the County Administrator of the County, and the Clerk to the Council, for and on behalf of the County, are hereby each authorized, empowered, and directed to do any and all things necessary or proper to effect the performance of all obligations of the County under and pursuant to Incentive Agreement, and to carry out the transactions contemplated thereby and by this Ordinance.

Section 7. The provisions of this Ordinance are hereby declared to be separable and if any section, phrase, or provision shall for any reason be declared by a court of competent jurisdiction to be invalid or unenforceable, such declaration shall not affect the validity of the remainder of the sections, phrases, and provisions hereunder.

Section 8. All orders, ordinances, resolutions, and parts thereof in conflict herewith are to the extent of such conflict hereby repealed. This Ordinance shall take effect and be in full force from and after its passage and approval.

[End of Ordinance]

Enacted and approved, in meeting duly assembled, this ____ day of _____, 2019.

GEORGETOWN COUNTY, SOUTH CAROLINA

By: _____
John Thomas, Chairman, County Council
Georgetown County, South Carolina

[SEAL]

Attest:

By: _____
Theresa Floyd, Clerk to County Council
Georgetown County, South Carolina

First Reading: August 27, 2019
Second Reading: September 24, 2019
Public Hearing: October 8, 2019
Third Reading: October 8, 2019

FEE IN LIEU OF TAX AND INCENTIVE AGREEMENT

by and among

GEORGETOWN COUNTY, SOUTH CAROLINA,

and

PROJECT EAGLE I,

and

PROJECT EAGLE II.

Dated as of _____, 2019

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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 _____, 2019, by and among GEORGETOWN COUNTY, SOUTH CAROLINA (the “County”), a body politic and corporate and a political subdivision of the State of South Carolina and Project Eagle I, a _____ organized and existing under the laws of the State of _____, acting for itself, one or more affiliates, and/or other project sponsors (“Project Eagle I”), and Project Eagle II, a _____ organized and existing under the laws of the State of _____, acting for itself, one or more affiliates, and/or other project sponsors (“Project Eagle II”), both previously identified, collectively, as PROJECT EAGLE (Project Eagle I and Project Eagle II, each a “Company” as set forth herein, with respect to its respective portion of the Project, and collectively referred to herein as the “Companies”).

W I T N E S S E T H:

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 (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” and, together with the Negotiated FILOT Act, the “Act”) and by Article VIII, Section 13(D) 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, but not limited to, negotiated FILOT payments made pursuant to the Negotiated FILOT Act, with respect to a project; and (iii) to create, in conjunction with one or more other counties, a multi-county industrial or business park in order to afford certain enhanced income tax credits to such investors; and

WHEREAS, the Companies are considering the establishment and/or expansion of certain manufacturing and related facilities at one or more locations in the County (the “Project”), and anticipates that, should its plans proceed as expected, it will invest, or cause to be invested, at least \$10,700,000 in the Project, in the aggregate, and will create, or cause to be created, at least 74 new, full-time jobs, in the aggregate, within the County, all by the end of the Compliance Period (as defined herein) as set forth in greater detail herein; and

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

WHEREAS, in accordance with such findings and determinations and in order to induce the Companies to locate the Project in the County, the County has determined, amongst other things, to provide the benefits of a negotiated FILOT and a multi-county industrial or business park with respect to the Project; and

WHEREAS, the County has determined that it is in the best interests of the County to enter into this Agreement with the Companies, subject to the terms and conditions set forth herein, and, by Ordinance No. _____ enacted by the Council on _____, 2019, approved the form, terms and conditions of this Agreement and ratified all prior actions taken with respect to the Project.

NOW, THEREFORE, in consideration of the premises, the mutual covenants contained herein, the above recitals which are incorporated herein by reference, the potential investment to be made, or caused to be made, and the potential jobs to be created, or caused to be created, by the Companies, in the aggregate, which contribute to the tax base and the economic welfare of the County, the respective representations and agreements hereinafter contained, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the County and the Companies 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.

“*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 and necessary attorney’s 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 any Company or any other Co-Investor under **Section 8.04** hereof; provided, however, that no such expense shall be considered an Administration Expense unless such Company, or other Co-Investor, required to pay such expense hereunder, 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 the County shall have furnished to such Company, or other Co-Investor, as the case may be, an itemized statement of all such expenses incurred.

“*Affiliate*” shall mean, with respect to any Company or any other Co-Investor, any corporation, limited liability company, partnership or other Person or entity which now or hereafter owns all or part of such Company or such other Co-Investor, as the case may be, or which is now or hereafter owned in whole or in part by such Company or such other Co-Investor, as the case may be, or by any partner, shareholder or owner of such Company or such other Co-Investor, as the case may be, and shall also include any subsidiary, affiliate or other Person,

individual, or entity who now or hereafter bears a relationship to such Company or such other Co-Investor, as the case may be, as described in Section 267(b) of the Internal Revenue Code.

“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, unless the context clearly requires otherwise.

“Co-Investor” shall mean any Company, any other Sponsor or Sponsor Affiliate within the meaning of Sections 12-44-30(19) and (20) of the Negotiated FILOT Act, any Affiliate of any Company or of any such other Sponsor or Sponsor Affiliate, any developer in a build-to-suit arrangement or other leasing arrangement with respect to the Project, any lessor of equipment or other property comprising a part of the Project, and any financing entity or other third party investing in, or providing funds for, the Project. Any Company shall notify the County in writing of the identity of any other Sponsor, Sponsor Affiliate or other Co-Investor and shall, to the extent such Company and any such other Sponsor, Sponsor Affiliate, or other Co-Investor intend to extend the benefits of the Negotiated FILOT to property owned by any Sponsor, Sponsor Affiliate, or such other 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 the original execution and delivery of this Agreement, **[the Companies are the only Co-Investors.]**

“Company” shall mean each of (i) Project Eagle I, and (ii) Project Eagle II, each with respect to their respective portions of the Project, and any surviving, resulting, or transferee entity in any merger, consolidation or transfer of assets permitted under **Sections 4.04** or **6.01** hereof or any other assignee or transferee hereunder which is designated by each respective Company and approved by the County.

“Compliance Period” shall mean the period commencing with the first day that Project 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 all or a portion of the Project is placed in service as set forth in Section 12-44-30(13) of the Negotiated FILOT Act. It is presently anticipated, but not required, that the initial Negotiated FILOT Property comprising all or a portion of the Project will be placed in service in the Property Tax Year ending on December 31, **[2020]**, and, in such event, the Compliance Period will end on December 31, **[2025]**.

“County” shall mean Georgetown 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 and any successor thereof.

“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 Project as part of the repair, alteration, or modification of such previously taxed property; provided, however, that Existing Property shall not be required to include: (a) the Land; (b) property acquired or constructed by or on behalf of any 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 property which has been placed in service in the State pursuant to an inducement agreement or other preliminary approval by the County 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 any 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 such Company or such other Sponsor or Sponsor Affiliate invests at least an additional \$45,000,000 in the Project, exclusive of the property identified in this subsection (c); or (d) modifications which constitute an expansion of the real property portion of Existing Property.

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

“FILOT Payment” or *“FILOT Payments”* shall mean the FILOT payments to be made by any Company or any other Co-Investor with respect to the Project, whether made as Negotiated FILOT Payments pursuant to **Section 5.01** hereof or as FILOT payments made pursuant to the Multi-County Park Act.

“Investment Period” shall mean the period for completion of the Project, which shall initially be equal to the Compliance Period; provided, however, that, if the Minimum Statutory Investment Requirement is satisfied by the end of the Compliance Period, the Investment Period shall be automatically extended, without further action or proceedings of the County, by five (5) years beyond the Compliance Period to end on the tenth anniversary of the end of the Property Tax Year in which the initial Negotiated FILOT Property comprising all or a portion of the Project is placed in service as set forth in Section 12-44-30(13) of the Negotiated FILOT Act; provided 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. In the event that the initial Negotiated FILOT Property comprising all or a portion of the Project is, as presently anticipated, placed in service

in the Property Tax Year ending on December 31, [2020], and upon any such extension, the Investment Period will end on December 31, [2030].

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

“Minimum Contractual Investment Requirement” shall mean investment in the Project, within the period commencing on the first day that Project property comprising all or a portion of the Project is purchased or acquired, whether before or after the date of this Agreement, and ending at the end of Compliance Period, by the Companies and all Co-Investors, in the aggregate, of at least \$10,700,000 (without regard to depreciation or other diminution in value).

“Minimum Jobs Requirement” shall mean the creation of at least 74 new, full-time jobs in the County by the Companies and all Co-Investors, in the aggregate, within the period commencing on January 1, [2020] and ending at the end of the Compliance Period.

“Minimum Statutory Investment Requirement” shall mean investment in the Project of not less than \$2,500,000 within the Compliance Period, as set forth in Section 12-44-30(14) of the Negotiated FILOT Act, which investment amount shall be calculated in accordance with, and subject to, Section 12-44-130 of the Negotiated FILOT Act and **Section 6.02** hereof.

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

“Multi-County Park Act” shall mean Title 4, Chapter 1 of the Code.

“Multi-County Park Agreement” shall mean that certain Agreement for Development of Joint County Industrial/Business Park (Georgetown County Project Eagle Park) by and between the County and Horry County, South Carolina dated as of _____, 2019 as supplemented, modified or amended, and, as such agreement may be further supplemented, modified, amended, 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 the portion of the Project consisting of Negotiated FILOT Property qualifying under the Negotiated FILOT Act for the negotiated assessment ratio and millage rate or rates described in **Section 5.01(b)(ii)** hereof.

“Negotiated FILOT Act” shall mean Title 12, Chapter 44 of the Code.

“Negotiated FILOT Property” shall mean all property qualifying for the Negotiated FILOT as economic development property within the meaning of Section 12-44-30(6) of the

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

“Non-Qualifying Property” shall mean that portion of the real and personal property 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 any 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 or under this Agreement, including without limitation property as to which any Company or any other Sponsor or Sponsor Affiliate has terminated the Negotiated FILOT pursuant to **Section 4.01(e)(iii)** hereof.

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

“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 any Company or any other Co-Investor for use on or about the Land; and (iii) any Replacement Property; provided, however, except as to Replacement Property, the term Project shall be deemed to include any such real property improvements and personal property, whether now existing or hereafter constructed, improved, acquired or equipped, only to the extent placed in service during the Investment Period.

“Property Tax Year” shall mean the annual period which is equal to the fiscal year of any Company, or any other Co-Investor, as the case may be, which, with respect to the Companies is the annual period ending on December 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 any Company or any other Sponsor or Sponsor Affiliate pursuant to **Section 4.01(e)** hereof and Section 12-44-50(B) of the Negotiated FILOT Act, any portion of the Negotiated FILOT Property constituting infrastructure which any 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 property which is damaged, destroyed, or taken by process of eminent domain and not restored or replaced.

“Replacement Property” shall mean all property placed in service 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 of such property replaces a single piece of the

Negotiated FILOT Property, to the maximum extent that such property may be included in the calculation of the Negotiated FILOT pursuant to **Section 5.01(d)** hereof and Section 12-44-60 of the Negotiated FILOT Act.

“Sponsor” and *“Sponsor Affiliate”* shall mean an entity whose investment with respect to the Project will qualify for the Negotiated FILOT pursuant to **Section 6.02** hereof and Sections 12-44-30(19) or (20) and Section 12-44-130 of the Negotiated FILOT Act if the statutory investment requirements are met. As of the original execution and delivery of the Agreement, **[the only Sponsors are the Companies]** and there are **[no Sponsor Affiliates]**.

“State” shall mean the State of South Carolina.

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

“Transfer Provisions” shall mean the provisions of Section 12-44-120 of the Negotiated FILOT Act.

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 has duly approved the Negotiated FILOT and the inclusion and maintenance of the Project in the Multi-County Park, all as set forth herein, and any and all actions reasonably necessary and appropriate to consummate the transactions contemplated hereby.

(b) On the basis of information supplied to it by the Companies, the County has determined the Project will subserve the purposes of the Act and has made all other findings of fact required by the Act in connection with the undertaking of the arrangements set forth herein.

(c) This Agreement has been duly authorized, executed and delivered on behalf of the County. The authorization, execution, and delivery of this Agreement and the performance by the County of its obligations hereunder will not, to the best

knowledge of the County, conflict with or constitute a breach of, or a default under, any South Carolina law, court or administrative regulation, decree, order, provision of the Constitution or laws of the State relating to the establishment of the County or its affairs, or any material agreement, mortgage, lease, or other instrument to which the County is subject or by which it is bound, nor, to the best knowledge of the County, any existing law or the provisions of the Constitution of the State.

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

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

(a) Project Eagle I is a limited liability company validly existing and in good standing under the laws of the State of South Carolina, 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. Project Eagle I's fiscal year end is **[December 31]** and it will notify the County of any changes in its fiscal year.

(b) Project Eagle I intends that the Project be operated as manufacturing and related facilities primarily for _____.

(c) The agreements with the County with respect to the Negotiated FILOT and the Multi-County Park were factors in inducing Project Eagle I to locate its portion of the Project within the County and the State.

(d) To the best knowledge of Project Eagle I, no actions, suits, proceedings, inquiries, or investigations are pending or threatened against or affecting Project Eagle I 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.

Section 2.03 Representations and Warranties by Project Eagle II. Project Eagle II makes the following representations and warranties as the basis for the undertakings on its part herein contained:

(a) Project Eagle II is a limited liability company validly existing and in good standing under the laws of the State of South Carolina, 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. Project Eagle II's fiscal year end is **[December 31]** and it will notify the County of any changes in its fiscal year.

(b) Project Eagle II intends that the Project be operated as manufacturing and related facilities primarily for _____.

(c) The agreements with the County with respect to the Negotiated FILOT and the Multi-County Park were factors in inducing Project Eagle II to locate its portion of the Project within the County and the State.

(d) To the best knowledge of Project Eagle II, no actions, suits, proceedings, inquiries, or investigations are pending or threatened against or affecting Project Eagle II 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 the provisions of **Section 5.01** hereof in lieu of *ad valorem* taxes with respect to that portion of the Project consisting of Negotiated FILOT Property until this Agreement expires or is sooner terminated.

Section 3.02 Multi-County Park Designation. The County agrees to locate the Project and the Land within the boundaries of the Multi-County Park, if not already so designated, and agrees to maintain the Project and the Land within the boundaries of the Multi-County Park pursuant to the provisions of the Multi-County Park Act and Article VIII, Section 13(D) of the State Constitution on terms which provide for all jobs created at the Project from January 1, **[2020]** 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 on terms, and for a duration.

Section 3.03 Commensurate Benefits. The parties acknowledge the intent of this Agreement, in part, is to afford the Companies and each other Co-Investor the benefits specified in this Article III in consideration of the Companies' decision to locate the Project within the County, and this Agreement has been entered into in reliance upon the enactment of the Act and the County's compliance with the requirements thereof. In the event that a court of competent jurisdiction holds that the Act is, in whole or in part, unconstitutional or this Agreement, 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 any 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

any Company, the County agrees to use its best efforts, and to take such other steps as may be necessary, to extend to the Companies and each other Co-Investor the intended benefits of this Agreement, including, but not limited to, the Negotiated FILOT and agrees, if requested by any Company, to enter into a lease purchase agreement with each Company and each other Sponsor or Sponsor Affiliate pursuant to Section 12-44-160 of the Negotiated FILOT Act and Title 4, Chapter 29 or Title 4, Chapter 12 of the Code, as applicable. 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 Companies and the County express their intentions that tax or FILOT payments be reformed so as to best afford each Company and each 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. Each 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 that each Company and each other Sponsor or Sponsor Affiliate must transfer their respective portion of the Negotiated FILOT Property to the County within one hundred eighty (180) days following such determination in order for the Negotiated FILOT benefits to continue to apply to such property.

Section 3.04 Funding Assistance. The County will use its best efforts to assist the Companies in securing grants and other funding for infrastructure and other improvements, comprising, or in support of, the Project, including, but not limited to, any State grant funding and funding now or hereafter provided by one or more utilities in support of the Project.

Section 3.05 County Lease Payment Obligation.

[To be inserted.]

ARTICLE IV

COVENANTS OF THE COMPANY

Section 4.01 Investment in Project.

(a) Each Company shall acquire, construct, equip, or improve or cause to be acquired, constructed, equipped, or improved, its respective portion of the Project, as the same shall be determined from time to time by such entity 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 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 December 31, [2022].

(b) Notwithstanding anything herein to the contrary, and to the maximum extent permitted by law, investment and job creation by any and all other Co-Investors shall together with investment and job creation by the Companies, count toward all

investment and job creation requirements, thresholds, and levels set forth in this Agreement, including, without limitation, the Minimum Contractual Investment Requirement, the Minimum Jobs 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 tax returns of each Company and each other Co-Investor filed with respect to the Project, including without limitation, each such entity's SCDOR PT-300 or such comparable forms, as the Department of Revenue may provide in connection with projects under the Act, without regard to depreciation or other diminution in value.

(c) To encourage increased investment in the Project, the County hereby agrees that in the event the Minimum Statutory Investment Requirement is satisfied by the end of Compliance Period, the Investment Period shall be automatically extended, without further action or proceedings of the County, by five (5) years beyond the end of the Compliance Period, and the County hereby agrees to such extension. There shall be no extension, however, beyond the Compliance Period of the period for meeting the Minimum Statutory Investment Requirement. In the event that the initial Negotiated FILOT Property comprising all or a portion of the Project is, as the parties presently anticipate, placed in service in the Property Tax Year ending on December 31, [2020], and upon any such extension, the Investment Period would extend through December 31, [2030].

(d) Subject to the provisions of **Sections 4.04 and 6.01** hereof, each Company and each other Co-Investor shall, retain title to, or other property rights in, its respective portion of the Project throughout the Term of this Agreement, and each Company and each other Co-Investor shall have full right to mortgage, lease, or encumber all or any portion of the Project, including without limitation, in connection with any financing transactions, all without the consent of the County.

(e) Each 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) Each Company and each other Co-Investor may, at its own expense, add to the Project all such real and personal property as each Company, or such other 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 each Company or any other Co-Investor, in its discretion, determines any property included in the Project, including without limitation, any Negotiated FILOT Property, has become inadequate, obsolete, worn out, unsuitable, undesirable, or unnecessary for operations at the Project, such Company or such other Co-Investor may remove such property from the Project and sell, trade in, exchange, or

otherwise dispose of them as a whole or in part without the consent of the County.

(iii) Any Company and any other Co-Investor may, at any time and in its discretion by written notice to the County, remove any of its Project property including, but not limited to, Negotiated FILOT Property, real or personal, from the Project or from the provisions of this Agreement including, but not limited to, the Negotiated FILOT arrangement set forth in this Agreement and retain such property for use as part of its operations in the County, whether or not such property remains as part of the Project, and effective as of the date of any such removal, such property will be subject to *ad valorem* taxes, or to 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 tax returns filed with respect to the Project and any other such property, 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 Act, and in such event, any such removal reflected by any such return shall be deemed to be effective as of the date of such removal.

(iv) If any Company or any other Co-Investor sells, leases, or otherwise disposes of any portion of, or adds to, the Land, or removes any portion of the Land from the Project while retaining such property for use as part of its operations in the County, all as permitted herein, such Company or such Co-Investor shall deliver to the County a revised **Exhibit A** to this Agreement or supplements to **Exhibit A** reflecting any such addition, disposal or removal and such revised or supplemented **Exhibit A** shall, effective as of the date of any such transaction, addition, disposal, or removal, be automatically made a part of this Agreement without further action or proceedings by the County; provided, that any requirement to provide such schedules or supplements to the County may be satisfied by property tax returns filed with respect to the Project and any other such property, 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, and in such event, any such addition, disposal, or removal reflected by any such return, shall be automatically deemed effective as of the date of any such addition, disposal, or removal.

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

Section 4.02 Payment of Administration Expenses. Each Company and each other Co-Investor will reimburse, or cause reimbursement of, the County from time to time for the County's Administration Expenses incurred in the fulfillment of its obligations hereunder, or in the implementation of this Agreement's terms and provisions, with respect to such Company or such other Co-Investor, respectively and, as the case may be, promptly upon written request therefor, but in no event later than ninety (90) days after receiving written notice from the County specifying the nature of such expense and requesting the payment of the same. The County acknowledges that it imposes no charges in the nature of impact fees or recurring fees in connection with the Project or the incentives authorized by this Agreement, and the County anticipates no out of pocket expenses, including, but not limited to attorneys' fees, to be Administration Expenses hereunder for review of this Agreement, the Multi-County Park Agreement and all resolutions, ordinances and other documentation related thereto or the transactions authorized hereby.

Section 4.03 Use of Project for Lawful Activities. During the Term of this Agreement, each Company and each other Co-Investor may use its respective portion of the Project as it deems fit for any lawful purpose.

Section 4.04 Maintenance of Existence. Except in the event the resulting, surviving or transferee entity is any Company or an Affiliate of any 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, each Company covenants that it will maintain its separate existence and will not dissolve or consolidate with, merge into or transfer, or otherwise dispose of all or 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) such Company shall be the continuing business entity, or the business entity formed by such consolidation or into which such Company is merged or the entity which acquires by conveyance or transfer all or substantially all of such 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 such 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 such Company herein and the performance of every covenant of this Agreement on the part of such Company to be performed or observed;

(b) immediately after giving effect to such transaction, no Event of 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) such Company shall have delivered to the County (i) a certificate of a duly authorized officer of such Company, accompanied by financial statements of the surviving company (if other than such Company) showing compliance with the net worth requirements specified in paragraph (a) above and (ii) an opinion of counsel for such Company and/or counsel to the transferee company, 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 any Company's assets in accordance with this Section, the successor entity formed by such consolidation or into which any such 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 any such Company under this Agreement with the same effect as if such successor entity had been named as a Company herein, and thereafter any such 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.

Each 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 such Company with the Transfer Provisions.

Section 4.05 Records and Reports. Each Company and each other Co-Investor will maintain, or cause to be maintained, such books and records with respect to its respective portion of the Project as will permit the identification of those portions of the Project it places in service during the Investment Period, the amount of investment with respect thereto, and any computations of Negotiated FILOT Payments made by such entity hereunder, and will comply with all reporting requirements of the State and the County applicable to Negotiated FILOT Property under the Negotiated FILOT Act, including without limitation the reports required by 12-44-90 of the Negotiated FILOT Act (collectively, "Filings"); provided, however, that the parties hereby waive in its entirety the requirement under Section 12-44-55 of the Negotiated FILOT Act for a recapitulation of the terms of this Agreement. In addition, the following records shall be provided to the County:

(a) Upon direction of the governing body of the County, a County Official may request and obtain such financial books and records from any Company and any other Sponsor or Sponsor Affiliate that support the Negotiated FILOT returns of such Company or such other Sponsor or Sponsor Affiliate as may be reasonably necessary to verify the calculations of the Negotiated FILOT Payments by such Company or such

other Sponsor or Sponsor Affiliate. For purposes of this Agreement, the term “County Official” shall include the Administrator, Auditor, Assessor, or Treasurer of the County.

(b) Each year during the Term hereof, each Company and each other Sponsor or Sponsor Affiliate shall deliver to the County Auditor, the County Assessor and the County Treasurer a copy of any form or return it files with the Department of Revenue with respect to the Project at the same time as delivery thereof to the Department of Revenue.

(c) Each 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 original 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, each 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 such Company or such other Co-Investor believes contains proprietary, confidential, or trade secret matters. The County shall comply with all reasonable, written requests made by any Company or any other Co-Investor with respect to maintaining the confidentiality of such designated segments. Except to the extent required by law, and unless the County has provided at least fifteen (15) days advance written notice to the disclosing Company or other Co-Investor, as the case may be, of such proposed release, the County shall not knowingly and voluntarily release any Filing, documents, or other information provided to the County by such Company or such other Co-Investor in connection with the Project, whether or not such information has been designated as confidential or proprietary by such Company or such other Co-Investor.

ARTICLE V

FEES IN LIEU OF TAXES

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

(a) In accordance with the Negotiated FILOT Act, the parties hereby agree, during the Term hereof, that there shall be due annually with respect to that portion of the Project constituting Negotiated FILOT Property, whether owned by any Company or by any other Sponsor or Sponsor Affiliate, a Negotiated FILOT Payment calculated as set forth in this Section, 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 presently anticipated, but not required, 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, [2022]. If any Company designates any other Sponsor or Sponsor Affiliates as the same shall have been consented to by the County, if such consent is required pursuant to **Section 6.02** hereof, such Company must notify the County in writing at the time of such designation as to whether such additional Sponsor or Sponsor Affiliate shall be primarily liable for the Negotiated FILOT Payments due hereunder with respect to such Sponsor or Sponsor Affiliate's respective portion of the Negotiated FILOT Property. Unless and until such additional notification is received, such designating Company shall be primarily liable for all Negotiated FILOT Payments due 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 initially be payable for a payment period of 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 payment period of thirty (30) years up to an aggregate of thirty five (35) years or, if the Investment Period is extended as set forth in **Section 4.01(c)** hereof, up to an aggregate of forty (40) years.

(ii) The Negotiated FILOT shall be determined using: (1) an assessment ratio of 6%; (2) a millage rate of [] mills, which millage rate or millage rates shall be fixed in accordance with Section 12-44-50(A)(1)(b)(i) of the Negotiated FILOT Act for the entire term of the Negotiated FILOT; 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 any Company or any other Sponsor or Sponsor Affiliate and the County may agree at a later date to amend this Agreement as to Negotiated FILOT Property owned by such Company or such other Sponsor or Sponsor Affiliate so as to determine the fair market value of any such real property in accordance with any other method permitted by the Negotiated FILOT Act.

(iii) All such calculations shall take into account all deductions for depreciation or other 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 any Company or any other Sponsor or Sponsor Affiliate disposes of any part of the Negotiated FILOT Property within the meaning of Section 12-44-50(B) of the Negotiated FILOT Act and as provided in **Section 4.01(e)(ii)** hereof, by the amount applicable to the Released Property;

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

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

(iv) to adjust such payments if any Company or any other Sponsor or Sponsor Affiliate elects to convert any portion of its Negotiated FILOT Property from the Negotiated FILOT to *ad valorem* taxes, or to FILOT payments pursuant to the Multi-County Park Act, as the case may be, as permitted by **Section 4.01(e)(iii)**.

(d) Upon installation or placing in service of any Replacement Property for any Released Property, such Replacement Property shall become subject to Negotiated FILOT Payments to the fullest extent allowed by the Negotiated FILOT Act, 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, or to the FILOT payments pursuant to the Multi-County Park Act, as the case may be, 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 Negotiated FILOT payment period set forth in **Section 5.01(b)(i)** hereof applicable to the Released Property.

(ii) Each Company and each 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 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 Companies and the County express their intentions that such payments be reformed so as to afford each Company and each 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 Companies 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 or FILOT payments pursuant to the Multi-County Park Act, as the case may be, and that, to the extent permitted by law, each Company and each other Sponsor or Sponsor Affiliate shall be entitled: (1) to enjoy the five (5) year exemption from *ad valorem* taxes, or from FILOT payments pursuant to the Multi-County Park Act, as the case may be, 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 each Company and each other Sponsor or Sponsor Affiliate were obligated to pay *ad valorem* taxes, or make FILOT payments pursuant to the Multi-County Park Act, as the case may be, 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

each Company and each other Sponsor or Sponsor Affiliate, as the case may be, with respect to such entity's portion of the Negotiated FILOT Property in question, an amount equal to the difference between the Negotiated FILOT Payments theretofore actually paid by such entity and the amount which would have been paid as *ad valorem* taxes, or as FILOT payments pursuant to the Multi-County Park Act, as the case may be, 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 Minimum Statutory Investment Requirement is not satisfied by the end of the Compliance Period, then all Negotiated FILOT Payments shall revert retroactively to *ad valorem* taxes, calculated as set forth in paragraph (e) above, and a Deficiency Payment from each such owing entity shall be due and payable with respect to Negotiated FILOT Payments theretofore made. In the event that the aggregate investment in the Project by all Sponsors and Sponsor Affiliates does not exceed \$5,000,000 by the end of the Compliance Period and any Sponsor or Sponsor Affiliate does not satisfy the Minimum Statutory Investment Requirement solely through its own direct investment in the Project, then the Negotiated FILOT Payments with respect to that portion of the Project owned by such non-qualifying Sponsor or Sponsor Affiliate shall revert retroactively to *ad valorem* taxes, or to FILOT payments pursuant to the Multi-County Park Act, as the case may be, calculated as set forth in paragraph (e) above, and such Sponsor or Sponsor Affiliate shall owe a Deficiency Payment with respect to Negotiated FILOT Payments theretofore made as to such portion of the Project. To the extent necessary to collect a Deficiency Payment under this sub-paragraph (i) due to failure to satisfy the Minimum Statutory Investment Requirement, 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 the Minimum Statutory Investment Requirement is satisfied by the end of the Compliance Period, but following the Compliance Period, investment in the Project, without regard to depreciation or other diminution in value, falls below the investment level set forth in the Minimum Statutory Investment Requirement, then the Project shall prospectively be subject to *ad valorem* taxes, or to FILOT Payments pursuant to the Multi-County Park Act, as the case may be, calculated as set forth in paragraph (e) above, in accordance with Section 12-44-140(C) of the Negotiated FILOT Act, commencing with any Negotiated FILOT Payments due with respect to

Project property placed in service as of the end of the Property Tax Year in which such deficiency occurs.

(iii) If either or both of the Minimum Contractual Investment Requirement and the Minimum Jobs Requirement are not satisfied by the end of the Compliance Period, but the Minimum Statutory Investment Requirement is nevertheless satisfied by the end of the Compliance Period, each Company and each other Sponsor or Sponsor Affiliate shall continue to be eligible to take advantage of the Negotiated FILOT described in this **Section 5.01** hereof; provided, however _____.

(iv) In accordance with the provisions of **Sections 4.01(b)** and **6.02** hereof, except for Existing Property, the investment in all property utilized by any Company or any other Co-Investor as part of the Project, whether owned by any Company or any other Co-Investor outright or utilized by any Company or any other Co-Investor pursuant to any financing agreement or any lease or other arrangement with any Company or any other Co-Investor and whether or not subject to this Agreement, shall be counted toward all investment obligations under this Agreement, including, to the extent permitted by law, investment obligations under the Negotiated FILOT Act.

(g) Except as otherwise set forth in this Agreement or as otherwise required by the Act, any amounts due to the County from any Company or any other Sponsor or Sponsor Affiliate under this **Section 5.01** as a Deficiency Payment or other retroactive payment shall be paid by such entity within one hundred eighty (180) days following receipt by such entity 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 and that the County is entitled to and shall have a statutory lien with respect to the Project pursuant to Section 12-44-90(E) of the Negotiated FILOT Act and Title 12, Chapter 54 of the Code relating to the collection and enforcement of *ad valorem* property taxes.

ARTICLE VI

THIRD PARTY ARRANGEMENTS

Section 6.01 Conveyance of Liens and Interests; Assignment. The County agrees that each Company and each other Co-Investor may at any time (a) transfer all or any of its rights and interests hereunder or with respect to all or any part of the Project to any Person; or (b) enter into any lending, financing, leasing, security, or similar arrangement or succession of such arrangements with any financing entity or other Person with respect to this Agreement or all or any part of the Project, including without limitation any sale-leaseback, equipment lease, 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 Project, whereby the transferee in any such arrangement leases the portion of the Project in question to any Company or any other Co-Investor or operates such assets for any Company or any other Co-Investor or is leasing all or a portion of the Project in question from any Company or any other Co-Investor. In the event of any such transfer, lease, financing, or other transaction described above, the rights and interests of such Company or such other Co-Investor under this Agreement, including, without limitation, the benefits of the Negotiated FILOT, with respect to any Project property so transferred, leased, financed, or otherwise affected shall be so transferred and preserved, automatically, without further action or proceedings of the County, subject to the following provisions: (i) except in connection with any transfer to any other Company or other Co-Investor or an Affiliate of such Company or any other Co-Investor, or transfers, leases, or financing arrangements pursuant to clause (b) above, as to all of which transfers and other transactions the County hereby consents, such transferor Company or any such other Co-Investor shall obtain the prior consent or subsequent ratification of the County to the extent required by the Transfer Provisions of the Negotiated FILOT Act, which consent or subsequent ratification of the County shall not be unreasonably conditioned, withheld, or delayed; (ii) except when a financing entity which is the income tax owner of all or part of the Project property is the transferee pursuant to clause (b) above and such financing entity assumes in writing the obligations of such Company or any such other Co-Investor hereunder, or when the County consents in writing or when the transfer relates to Released Property pursuant to **Section 4.01(e)** hereof, no such transfer shall affect or reduce any of the obligations of such Company or any such other Co-Investor hereunder; (iii) to the extent the transferee or financing entity shall become obligated to make Negotiated FILOT payments hereunder, the transferee shall assume the then current basis of the transferor Company or any such other Co-Investor (or prior transferee) in the Negotiated FILOT Property transferred; (iv) the transferor Company or any such other Co-Investor, transferee or financing entity shall, within sixty (60) days thereof, furnish or cause to be furnished to the County and the Department of Revenue notice of any such transfer agreement; and (v) the transferor Company or any such other Co-Investor and the transferee shall comply with all other requirements of the Transfer Provisions in order to preserve the benefits of the Negotiated FILOT.

Subject to County consent when required under this **Section 6.01**, and at the expense of the transferor Company or any such other Co-Investor, the County agrees to take such further action and 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 transferor Company or any other Co-Investor under this Agreement and/or any release of the transferor Company or any other Co-Investor pursuant to this **Section 6.01**.

Each Company acknowledges that any 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 Negotiated FILOT Act absent compliance by the transferor Company or any such Co-Investor with the Transfer Provisions.

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

ARTICLE VII

TERM; TERMINATION

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

Section 7.02 Termination. In addition to the termination rights of the County under **Section 8.02(a)** hereof, the County and the Companies may jointly agree to terminate this Agreement at any time, or any Company, may, at its option, unilaterally terminate this Agreement at any time, with respect to all, or any part, of the Project in which event the Project, or such portion of the Project, as the case may be, shall be subject to *ad valorem* taxes, or to FILOT payments under the Multi-County Park Act, as the case may be, 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 any Company or any 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 sixty (60) 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 the occurrence of such default.

Notwithstanding anything herein to the contrary, failure to meet any investment or job creation requirements, thresholds, or levels set forth in this Agreement shall not be deemed to be an Event of Default under this Agreement, but may terminate or adjust certain benefits hereunder or obligate one or more of the Companies or other Co-Investors, as the case may be, to make certain additional payments to the County, all as set forth in **Sections 4.02** and **5.01(f)** hereof.

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

(a) the County may 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) the County may have access to and inspect, examine, and make copies of the books and records of the Defaulting Entity pertaining to the construction, acquisition, or maintenance of the Project or calculation of the Negotiated FILOT as provided in **Section 4.05** hereof;

(c) the County may 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 any 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 Negotiated FILOT Act.

Section 8.04 Default by County. Upon the default of the County in the performance of any of its obligations hereunder, any 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 Companies 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 Companies 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 Companies or any 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-Investor hereof, and their respective successors and assigns as permitted hereunder; provided, however, that notwithstanding anything herein to the contrary, the County may not assign any or all of its rights, duties, and obligations in, to, and under this Agreement without the written consent of the Companies, which consent may be provided by the Companies in their sole discretion.

Section 9.03 Notices; Demands; Requests. All notices, demands, and requests to be given or made hereunder to or by the County or any 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) As to the County:

Georgetown County
Attn: County Administrator
716 Prince Street (29440)
P.O. Drawer 421270
Georgetown, South Carolina 29442
Phone: (843) 545-3006
Fax: (843) 545-3121

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

Wesley P. Bryant, Esquire
Georgetown County Attorney
716 Prince Street (29440)
P.O. Drawer 421270
Georgetown, South Carolina 29442
Phone: (843) 545-3194
Fax: (843) 545-3126

(b) As to Project Eagle I:

Attention: _____

Phone: (____) _____
Fax: (____) _____

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

Tushar V. Chikhliker, Esq.
Nexsen Pruet, LLC
1230 Main Street, Suite 700 (29201)
P.O. Drawer 2426
Columbia, South Carolina 29202
Phone: (803) 540-2188
Fax: (803) 727-1469

(c) As to Project Eagle II:

Attention: _____

Phone: (____) _____

Fax: (____) _____

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

Tushar V. Chikhliker, Esq.
Nexsen Pruet, LLC
1230 Main Street, Suite 700 (29201)
P.O. Drawer 2426
Columbia, South Carolina 29202
Phone: (803) 540-2188
Fax: (803) 727-1469

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 supersedes all prior and contemporaneous discussions of the parties, whether oral or written, and neither party hereto has made or shall be bound by any agreement or any warranty or 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. Unless as otherwise expressly set forth herein, this Agreement will not confer any rights or remedies upon any Person other than the parties hereto and their respective successors and assigns as permitted hereunder.

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 all parties.

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

Section 9.11 Further Proceedings. The parties intend any action to be taken hereinafter by the County pursuant to the express provisions of this Agreement may be undertaken by the Chairman of the Council without necessity of 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 Fee in Lieu of Tax and Incentive Agreement to be effective as of the date first written above.

GEORGETOWN COUNTY, SOUTH CAROLINA

By: _____
John Thomas, Chairman, County Council
Georgetown County, South Carolina

[SEAL]

ATTEST:

By: _____
Theresa Floyd, Clerk to Council
Georgetown County, South Carolina

PROJECT EAGLE I

By: _____
Name: _____
Its: _____

PROJECT EAGLE II

By: _____
Name: _____
Its: _____

EXHIBIT A
LAND DESCRIPTION

[To be inserted]

Applicable Negotiated FILOT Millage Rate: _____ mills

Item Number: 16.c
Meeting Date: 10/8/2019
Item Type: DEFERRED OR PREVIOUSLY SUSPENDED ISSUES

AGENDA REQUEST FORM
GEORGETOWN COUNTY COUNCIL



DEPARTMENT: Legal

ISSUE UNDER CONSIDERATION:

ORDINANCE NO. 19-19 - AN ORDINANCE TO ESTABLISH A JOINT COUNTY INDUSTRIAL AND BUSINESS PARK PURSUANT TO SECTION 4-1-170 OF THE SOUTH CAROLINA CODE OF LAWS 1976, AS AMENDED, TO BE KNOWN AS THE GEORGETOWN COUNTY PROJECT EAGLE JOINT COUNTY INDUSTRIAL AND BUSINESS PARK (THE "PARK"), IN CONJUNCTION WITH HORRY COUNTY, SUCH PARK TO BE GEOGRAPHICALLY LOCATED IN GEORGETOWN COUNTY; TO AUTHORIZE THE EXECUTION AND DELIVERY OF A WRITTEN PARK AGREEMENT WITH HORRY COUNTY AS TO THE REQUIREMENT OF PAYMENTS OF FEE IN LIEU OF AD VALOREM TAXES WITH RESPECT TO PARK PROPERTY AND THE SHARING OF THE REVENUES AND EXPENSES OF THE PARK; TO PROVIDE FOR THE DISTRIBUTION OF REVENUES FROM THE PARK WITHIN GEORGETOWN COUNTY; AND OTHER MATTERS RELATED THERETO.

CURRENT STATUS:

Pending adoption.

POINTS TO CONSIDER:

In order to promote economic development in Georgetown County and surrounding areas, including Horry County, through improvements to the tax base of Georgetown County and the provision of additional employment opportunities, Georgetown County and Horry County have agreed to create the Park to include property presently anticipated to be now or hereafter owned and/or operated by one or more companies identified for the time being, collectively, as Project Eagle, and/or one or more existing, or to be formed, affiliates or other related entities.

OPTIONS:

1. Adoption of Ordinance No. 19-19.
2. Decline adoption of Ordinance No. 19-19.

STAFF RECOMMENDATIONS:

Defer action.

ATTACHMENTS:

Description		Type
▢	Ordinance No 19-190 - To Establish a Joint County Industrial Business Park	Ordinance
▢	Joint County Industrial Business Park Agreement (Project Eagle)	Backup Material

Georgetown County, South Carolina
Joint County Industrial/Business Park

ORDINANCE NO. 19-19
(GEORGETOWN COUNTY PROJECT EAGLE MULTI-COUNTY PARK)

AN ORDINANCE TO ESTABLISH A JOINT COUNTY INDUSTRIAL AND BUSINESS PARK PURSUANT TO SECTION 4-1-170 OF THE SOUTH CAROLINA CODE OF LAWS 1976, AS AMENDED, TO BE KNOWN AS THE GEORGETOWN COUNTY PROJECT EAGLE JOINT COUNTY INDUSTRIAL AND BUSINESS PARK (THE “PARK”), IN CONJUNCTION WITH HORRY COUNTY, SUCH PARK TO BE GEOGRAPHICALLY LOCATED IN GEORGETOWN COUNTY; TO AUTHORIZE THE EXECUTION AND DELIVERY OF A WRITTEN PARK AGREEMENT WITH HORRY COUNTY AS TO THE REQUIREMENT OF PAYMENTS OF FEE IN LIEU OF *AD VALOREM* TAXES WITH RESPECT TO PARK PROPERTY AND THE SHARING OF THE REVENUES AND EXPENSES OF THE PARK; TO PROVIDE FOR THE DISTRIBUTION OF REVENUES FROM THE PARK WITHIN GEORGETOWN COUNTY; AND OTHER MATTERS RELATED THERETO.

WHEREAS, Georgetown County, South Carolina (“Georgetown County”) and Horry County, South Carolina (“Horry County”) (collectively, the “Counties”), as authorized under Article VIII, Section 13(D) of the South Carolina Constitution and Title 4, Chapter 1 of the Code of Laws of South Carolina 1976, as amended (the “Park Act”), and particularly Section 4-1-170 thereof, propose to establish a joint county industrial and business park (the “Park”); and

WHEREAS, in order to promote economic development in Georgetown County and surrounding areas, including Horry County, through improvements to the tax base of Georgetown County and the provision of additional employment opportunities, Georgetown County and Horry County have agreed to create the Park to include property presently anticipated to be now or hereafter owned and/or operated by one or more companies identified for the time being, collectively, as Project Eagle, and/or one or more existing, or to be formed, affiliates or other related entities (the “Project Property”); and

WHEREAS, the Park shall be known as the Georgetown County Project Eagle Joint County Industrial and Business Park; and

WHEREAS, the Counties have agreed to the specific terms and conditions of such arrangement as set forth in that certain Agreement for Development of Joint County Industrial and Business Park (Georgetown County Project Eagle Park) to be entered into by the Counties as of such date as the Counties may agree (the “Park Agreement”); and

WHEREAS, the Counties now desire to establish the Park to include the Project Property.

NOW, THEREFORE, BE IT ORDAINED BY THE GEORGETOWN COUNTY COUNCIL AS FOLLOWS:

Section 1. Establishment of Georgetown County Project Eagle Joint County Industrial and Business Park; Approval of Park Agreement. There is hereby authorized to be established in conjunction with Horry County a joint county industrial and business park to be known as the Georgetown County Project Eagle Joint County Industrial and Business Park, which is located on the land comprising the Project Property and more particularly described in the form of Park Agreement presented to this meeting. The form, provisions, terms and conditions of the Park Agreement now before this meeting and filed with the Clerk to Council be and they are hereby approved, and all of the provisions, terms and conditions thereof are hereby incorporated herein by reference as if the Park Agreement were set out in this Ordinance in its entirety.

The Park 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 Georgetown County, upon advice of counsel, thereunder and as shall be approved by the officials of Georgetown County executing the same, their execution thereof to constitute conclusive evidence of their approval of any and all changes or revisions therein from the form of the Park Agreement now before this meeting.

The Chairman of Georgetown County Council, for and on behalf of Georgetown County, is hereby authorized, empowered, and directed to do any and all things necessary or proper to effect the establishment of the Park and the execution and delivery of the Park Agreement and the performance of all obligations of Georgetown County under and pursuant to the Park Agreement and to carry out the transactions contemplated thereby and by this Ordinance.

Section 2. Payment of Fees in Lieu of *Ad Valorem* Taxes. Owners and lessees of property located in the Park will pay a fee in lieu of *ad valorem* taxes as provided for in the Park Agreement. The fee paid in lieu of *ad valorem* taxes shall be paid to the Treasurer of Georgetown County. That portion of such fee allocated pursuant to the Park Agreement to Horry County shall, upon receipt by the Treasurer of Georgetown County, be paid to the Treasurer of Horry County in accordance with the terms of the Park Agreement. Payments of such fees will be made on or before the due date for taxes for a particular year. Penalties for late payment will be at the same rate as late tax payment. Any late payment beyond said date will accrue interest at the rate of statutory judgment interest. The Counties, acting by and through the Treasurer of Georgetown County, shall maintain all liens and rights to foreclose upon liens provided for counties in the collection of *ad valorem* taxes.

Section 3. Distribution of Revenue.

(a) Revenues generated from the Park through the payment of fees in lieu of *ad valorem* taxes to be retained by Georgetown County pursuant to the Park Agreement shall be distributed within Georgetown County in accordance with this subsection:

- (1) First, unless Georgetown County elects to pay or credit the same from

only those revenues which Georgetown County would otherwise be entitled to receive as provided under item (3) below, to pay annual debt service on any special source revenue bonds issued by Georgetown County pursuant to, or to be utilized as a credit in the manner provided in, Section 4-1-175 of the Park Act;

(2) Second, at the option of Georgetown County, to reimburse Georgetown County for any expenses incurred by it in the administration, development, operation, maintenance and promotion of the Park or the industries and businesses located therein or for other economic development purposes of Georgetown County; and

(3) Third, to those taxing entities in which the property is located, in the same manner and proportion that the millage levied for the taxing entities would be distributed if the property were taxable but without regard to exemptions otherwise available pursuant to Section 12-37-220, Code of Laws of South Carolina 1976, as amended, for that year.

(b) Notwithstanding any other provision of this section:

(1) all taxing entities which overlap the applicable revenue generating properties within the Park shall receive at least some portion of the revenues generated from such properties; and

(2) all revenues receivable by a taxing entity in a fiscal year shall be allocated to operations and/or debt service as determined by the governing body of the taxing entity; provided, that any revenue which is to be allocated annually to a school district, shall, in accordance with the applicable law, be allocated by the Georgetown County Auditor between such school district's debt service and such school district's operations in the same proportion as the millage levied for the respective purpose bears to the millage levied for both purposes when combined.

Section 4. Governing Laws and Regulations. The ordinances and regulations of Georgetown County including, without limitation, those concerning zoning, health and safety, and building code requirements shall apply to the Park properties in Georgetown County unless the properties are within the boundaries of a municipality in which case the municipality's ordinances and regulations apply.

Section 5. Law Enforcement and Other Services. Jurisdiction to make arrests and exercise all authority and power within the boundaries of the Park properties is vested with the Sheriff's Department of Georgetown County. If any of the Park properties are within the boundaries of a municipality, then jurisdiction to make arrests and exercise law enforcement jurisdiction is vested with the law enforcement officials of the municipality. Fire, sewer, water and EMS services will be provided by the service district or other political unit within whose jurisdiction the Park properties are located.

Section 6. 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 7. General Repealer. Any prior ordinance, the terms of which are in conflict herewith, is, only to the extent of such conflict, hereby repealed.

Section 8. Effectiveness. This Ordinance shall be effective after third and final reading.

DONE IN MEETING DULY ASSEMBLED THIS ____ DAY OF _____, 2019.

GEORGETOWN COUNTY, SOUTH CAROLINA

By: _____
John Thomas, Chairman, County Council of
Georgetown County, South Carolina

ATTEST:

Theresa Floyd, Clerk to Georgetown County Council
Georgetown County, South Carolina

First Reading: August 27, 2019
Second Reading: September 24, 2019
Public Hearing: October 8, 2019
Third Reading: October 8, 2019

STATE OF SOUTH CAROLINA)
COUNTY OF GEORGETOWN)
COUNTY OF HORRY)

THIS AGREEMENT for the development of a joint county industrial and business park to be located within Georgetown County is made and entered into and to be effective as of _____, 2019, by and between Georgetown County, South Carolina (“Georgetown County”) and Horry County, South Carolina (“Horry County”).

RECITALS

WHEREAS, pursuant to Title 4, Chapter 1 of the Code of Laws of South Carolina 1976, as amended (the “Park Act”), and particularly Section 4-1-170 thereof, and Article VIII, Section 13(D) of the South Carolina Constitution, as well as Ordinance No. 19-19 enacted by the County Council of Georgetown County and Ordinance No. _____ enacted by the County Council of Horry County, Georgetown County and Horry County have determined that, in order to further promote economic development and thus provide additional employment opportunities within both of said counties, there should be established in Georgetown County a joint county industrial and business park to be located in Georgetown County upon property presently anticipated to be now or hereafter owned and/or operated by one or more companies identified for the time being, collectively, as Project Eagle, and/or one or more existing, or to be formed, affiliates or other related entities, and described in Exhibit A hereto (the “Park”), which Park shall be known as the Georgetown County Project Eagle Joint County Industrial and Business Park and shall be in addition to previous joint county industrial and business parks previously established between the counties; and

WHEREAS, as a consequence of the establishment of the Park, property therein shall be exempt from *ad valorem* taxation, but the owners or lessees of such property shall pay annual fees in an amount equal to that amount for which such owner or lessee would be otherwise liable except for such exemption; and

WHEREAS, Georgetown County has agreed to accept responsibility for the costs of infrastructure, maintenance, management, promotional costs, and other appropriate costs associated with the establishment and operation of the Park as set forth herein;

NOW, THEREFORE, in consideration of the mutual agreement, representations and benefits contained in this Agreement and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties agree as follows:

1. Binding Agreement. This Agreement serves as a written instrument setting forth the entire agreement between the parties and shall be binding on Georgetown County and Horry County, their successors and assigns.

2. Authorization. Article VIII, Section 13(D) of the Constitution of South Carolina provides that counties may jointly develop an industrial or business park with other counties within the geographical boundaries of one or more of the member counties, provided that certain conditions specified therein are met and further provided that the General Assembly of the State of South Carolina provides by law a means by which the value of property in such park will be considered for purposes of bonded indebtedness of political subdivisions and school districts and for purposes of computing the index of taxpaying ability for school districts. Section 4-1-170 of the Park Act satisfies the conditions imposed by Article VIII, Section 13(D) of the Constitution and provides the statutory vehicle whereby a joint county industrial or business park may be created.

3. Location of the Park.

(A) As of the date of this Agreement, the Park consists of property located in Georgetown County, as further identified in Exhibit A hereto. It is specifically recognized that the Park may from time to time consist of non-contiguous properties within Georgetown County. The boundaries of the Park may be enlarged or diminished from time to time as authorized by ordinances of both Georgetown County and Horry County. If any property proposed for inclusion in the Park, in whole or in part, is located within the boundaries of a municipality, then the municipality must give its consent prior to the inclusion of such property.

(B) In the event of any enlargement or diminution of the boundaries of the Park, this Agreement shall be deemed amended and there shall be attached hereto a revised Exhibit A, which shall contain a legal description of the boundaries of the Park, as enlarged or diminished, together with a copy of the ordinances of Georgetown County Council and Horry County Council pursuant to which such enlargement or diminution was authorized.

(C) Prior to the adoption by Georgetown County Council and by Horry County Council of ordinances authorizing the diminution of the boundaries of the Park, a public hearing shall first be held by Georgetown County Council, as the county council of the county wherein the portion of the Park proposed to be enlarged or diminished is located. Notice of such public hearing shall be published in a newspaper of general circulation in Georgetown County at least once and not less than fifteen (15) days prior to such hearing. Notice of such public hearing shall also be served in the manner of service of process at least fifteen (15) days prior to such public hearing upon any owner and, if applicable, any lessee of any real property which would be excluded from the Park by virtue of the diminution.

(D) Notwithstanding anything in this Agreement to the contrary, to the extent that either Georgetown County or Horry County has outstanding contractual commitments to any owner or lessee of property located within the Park requiring inclusion of such property within a multi-county industrial or business park established pursuant to the Park Act and Article VIII, Section 13(D) of the South Carolina Constitution, Georgetown County and Horry County shall not be entitled to remove such property from within the Park unless Georgetown County shall first obtain the written consent of the owner or lessee of such property.

4. Fee in Lieu of Taxes. Property located in the Park shall be exempt from *ad valorem* taxation. The owners or lessees of any property situated in the Park shall pay in accordance with

this Agreement an amount equivalent to the *ad valorem* property taxes or other in-lieu-of-payments that would have been due and payable but for the location of such property within the Park.

5. Allocation of Park Expenses. Georgetown County and Horry County shall bear expenses, including, but not limited to, development, operation, maintenance and promotion of the Park and the cost of providing public services, in the following proportions:

A. Georgetown County	100%
B. Horry County	0%

6. Allocation of Park Revenues. Georgetown County and Horry County shall receive an allocation of revenues generated by the Park through payment of fees in lieu of *ad valorem* property taxes in the following proportions:

A. Georgetown County	99%
B. Horry County	1%

Any payment by Georgetown County to Horry County of its allocable share of the fees in lieu of taxes from the Park shall be made not later than thirty (30) days from the end of the calendar quarter in which Georgetown County receives such payment. In the event that the payment made by any owner or lessee of Park property is made upon protest or is otherwise in dispute, Georgetown County shall not be obligated to pay to Horry County more than Horry County's share of the undisputed portion thereof until thirty (30) days after the final resolution of such protest or dispute.

7. Revenue Allocation Within Each County.

(A) Revenues generated by the Park through the payment of fees in lieu of *ad valorem* property taxes shall be distributed to Georgetown County and to Horry County, as the case may be, according to the proportions established by Paragraph 6 of this Agreement. With respect to such revenues so allocable to Georgetown County, such revenue shall be distributed within Georgetown County in the manner provided by ordinance of the County Council of Georgetown County; provided, that (i) all taxing entities which overlap the applicable revenue-generating properties within the Park shall receive at least some portion of the revenues generated from such properties, and (ii) with respect to amounts received in any fiscal year by a taxing entity, the governing body of such taxing entity shall allocate the revenues received to operations and/or debt service of such entity; provided, that any revenue which is to be allocated annually to a school district, shall, in accordance with applicable law, be allocated by the Georgetown County Auditor between such school district's debt service and such school district's operations in the same proportion as the millage levied for the respective purpose bears to the millage levied for both purposes when combined. Georgetown County is specifically authorized to use a portion of the revenue for economic development purposes as permitted by law and as established by ordinance of the County Council of Georgetown County.

(B) Such revenues allocable to Horry County pursuant to Section 6 of this Agreement shall be distributed as deemed appropriate by Horry County in the manner provided by ordinance of the County Council of Horry County.

8. Fee in Lieu of Taxes Pursuant to Title 4 or Title 12 of the Code of Laws of South Carolina. It is hereby agreed that the entry heretofore or hereafter by Georgetown County into any one or more fee in lieu of tax agreements pursuant to Title 4 or Title 12 of the Code of Laws of South Carolina 1976, as may be amended from time to time ("Negotiated Fee-in Lieu of Tax Agreements"), with respect to Park property and the terms of such agreements shall be at the sole discretion of Georgetown County.

9. Assessed Valuation. For the purpose of calculating the bonded indebtedness limitation and for the purpose of computing the index of taxpaying ability pursuant Section 59-20-20(3) of the Code of Laws of South Carolina 1976, as amended, allocation of the assessed value of property within the Park to Georgetown County and Horry County and to each of the taxing entities within the participating counties shall be identical to any allocation of revenue received and retained by each of the counties and by each of taxing entities within the participating counties, pursuant to Sections 6 and 7 of this Agreement.

10. Records. Georgetown County and Horry County each covenant and agree that, upon the request of Horry County, Georgetown County will provide to Horry County copies of the records of the annual tax levy and copies of the actual tax bills, for parcels of property included within the Park at the time of such tax levy, and will further provide copies to the Horry County Treasurer's collection records for the taxes so imposed, all as such records become available in the normal course of Georgetown County procedures. It is further agreed that Horry County shall not request such records from Georgetown County more frequently than once annually, absent compelling justification to the contrary.

11. No Liability of Horry County. It is expressly understood and agreed that by entering into this Agreement, Horry County assumes no liability whatsoever with respect to this Agreement, the establishment or existence of the contemplated Park, and no recourse shall be had for any claim based upon any obligation, covenant or agreement contained herein against Horry County or any council member, director, officer, employee, or agent of Horry County.

12. South Carolina Law Controlling. This Agreement has been entered into in the State of South Carolina and shall be governed by, and construed in accordance with South Carolina law.

13. Severability. In the event and to the extent (and only to the extent) that any provision or any part of a provision of this Agreement shall be held invalid or unenforceable by any court of competent jurisdiction, such holding shall not invalidate or render unenforceable the remainder of that provision or any other provision of this Agreement.

14. Counterpart Execution. This Agreement may be executed in multiple counterparts.

15. Termination. Notwithstanding any provision of this Agreement to the contrary, Georgetown County and Horry County agree that this Agreement may be terminated only upon approval of an ordinance to that effect by the county council of each county. Notwithstanding the foregoing, this Agreement may not be terminated to the extent that either Georgetown County or

Horry County has outstanding contractual commitments to any owner or lessee of property located in the Park requiring inclusion of such property within a multi-county industrial or business park established pursuant to the Park Act and Article VIII, Section 13(D) of the Constitution of South Carolina, unless such county shall first obtain the written consent of such owner or lessee.

[End of Agreement – Execution Page to Follow]

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

GEORGETOWN COUNTY, SOUTH CAROLINA

By: _____
John Thomas, Chairman of County Council,
Georgetown County, South Carolina

[SEAL]

Attest:

By: _____
Theresa Floyd, Clerk to County Council
Georgetown County, South Carolina

HORRY COUNTY, SOUTH CAROLINA

By: _____
Johnny Gardner, Chairman, County Council,
Horry County, South Carolina

[SEAL]

Attest:

By: _____
Patricia Hartley, Clerk to County Council
Horry County, South Carolina

EXHIBIT A
GEORGETOWN COUNTY PROJECT EAGLE PARK
LAND DESCRIPTION
[To be inserted]

Item Number: 16.d
Meeting Date: 10/8/2019
Item Type: DEFERRED OR PREVIOUSLY SUSPENDED ISSUES

AGENDA REQUEST FORM
GEORGETOWN COUNTY COUNCIL



DEPARTMENT: County Administrator

ISSUE UNDER CONSIDERATION:

Ordinance No. 19-20 - An Ordinance to authorize Georgetown County to lease a portion of a tract of property owned by Georgetown County, designated as Tax Map No. 04-0406-001-01-00, to JB's Celebration Park Inc. for the purposes of constructing a Celebration Park for general public access.

CURRENT STATUS:

Pending approval.

POINTS TO CONSIDER:

Georgetown County owns certain real estate on Wildcat Way in Pawleys Island, SC in Tax District No. 04 of Georgetown County identified as Tax Map No. 04-0406-001-01-00. JB's Celebration Park Inc. is desirous of leasing a portion of Tract 2 of said property for the purpose of constructing a Celebration Park for the general public to access utilize and enjoy for various public events and leisure.

Georgetown County Council has determined that it is in the best interest of the taxpayers and citizens of said County that the County enter into a lease agreement with the Lessee for a thirty (30) year rental period.

OPTIONS:

1. Adoption of Ordinance No. 19-20.
2. Deny approval of Ordinance No. 19-20.

STAFF RECOMMENDATIONS:

Recommendation to defer third reading approval of Ordinance No. 19-20.

ATTACHMENTS:

Description	Type
▢ Ordinance No 19-20 Authorizing Property Lease JB's Celebration Park	Ordinance
▢ Property Lease Agreement	Backup Material

STATE OF SOUTH CAROLINA)
)
COUNTY OF GEORGETOWN)

ORDINANCE NO: 19-20

**AN ORDINANCE TO AUTHORIZE GEORGETOWN COUNTY TO LEASE TO JB's CELEBRATION PARK INC.
A PORTION OF A TRACT OF PROPERTY, DESIGNATED AS TRACT 2 OF TMS NO. 04-0406-001-01-00,
AND OWNED BY GEORGETOWN COUNTY**

BE IT ORDAINED BY THE GEORGETOWN COUNTY COUNCIL AS FOLLOWS:

WHEREAS, Georgetown County owns certain real estate situate in Tax District No. 04 of Georgetown County; whereon is situate a tract of property further identified as Tax Map No. 04-0406-001-01-00; and,

WHEREAS, the JB's Celebration Park Inc. is desirous of leasing a portion of Tract 2 of said property for the purpose of constructing a Celebration Park for the general public to access utilize and enjoy for various public events and leisure; and,

WHEREAS, Georgetown County Council has determined that it is in the best interest of the taxpayers and citizens of said County that the County enter into a lease agreement with the Lessee for a thirty (30) year rental period, ending on December 31, 2049.

WHEREAS, a public hearing on said lease agreement was held _____, 2019.

NOW, THEREFORE, BE IT ORDERED AND ORDAINED BY THE GEORGETOWN COUNTY COUNCIL AND IT IS ORDAINED BY THE AUTHORITY OF SAID COUNCIL:

That the following described property referred to in the Lease Agreement attached to this Ordinance as Exhibit A shall be leased unto the Georgetown County Water and Sewer District.

Should any word, phrase, clause or provision of this ordinance be declared invalid or unconstitutional by a court of competent jurisdiction, such declaration shall not affect this ordinance as a whole or any part hereof except that specific provision declared by such court to be invalid or unconstitutional.

All ordinances or parts of ordinances in conflict with this ordinance or inconsistent with its provisions, are hereby repealed or superseded to the extent necessary to give this ordinance full force and effect.

This ordinance shall take effect upon final approval of this ordinance.

DONE, RATIFIED, AND ADOPTED THIS _____ DAY OF _____, 2019.

Chairman, Georgetown County Council (Seal)

ATTEST:

Clerk to Council

This Ordinance, No. 19-20, has been reviewed by me and is hereby approved as to form and legality.

Wesley P. Bryant,
Georgetown County Attorney

First Reading:

Second Reading:

Third Reading:

STATE OF SOUTH CAROLINA)
)
COUNTY OF GEORGETOWN)

LEASE and AGREEMENT
(Portion of TMS No: 04-0406-001-01-00)

WHEREAS, JB's Celebration Park Inc. (JBs), a South Carolina corporation is desirous of leasing a portion of TMS No: 04-0406-001-01-00 for the construction of a Celebration Park for the general public to access, utilize, and enjoy for various public events and leisure; and

WHEREAS, Georgetown County believes the Celebration Park and its proposed design/venue will benefit the recreational interests of the citizenry of Georgetown County; and

WHEREAS, JB's has a strong desire to move forward the design and construction of the park for which it will provide its funding; and

WHEREAS, the County, pursuant to the terms of this agreement will provide support in the form of a long term real property lease and grounds maintenance and upkeep for the park once it is finally completed.

NOW, THEREFORE, in consideration of the mutual promises and covenants hereinafter contained, the Lessor and Lessee do mutually agree as follows:

THIS PROPERTY LEASE AGREEMENT ("Agreement" or "Lease") made and entered into this ___ day of July 30, 2019, by and between the **JBs CELEBRATION PARK INC.** (hereinafter referred to as Lessee) AND **GEORGETOWN COUNTY**, a body politic and corporate and organized under the laws of the State of South Carolina, (hereinafter referred to as Lessor).

1. Leased Property. The Lessor, in consideration of the rents, covenants and agreements hereinafter specified to be paid, kept and performed by Lessee, hereby leases Lessee that certain property located west of and adjacent to Wildcat Way, Pawleys Island, South Carolina known as a portion of Tract 2 TMS No: 04-0406-001-01-00 (hereinafter referred to as the Property) more fully depicted in Plat Slide 632, Page 1 and Plat Side 742, Page 4. Upon the final design of the park it is understood this Lease will be supplemented with a more definite depiction of the park.

TO HAVE AND TO HOLD unto Lessee for the time and upon the terms as hereinafter set forth.

2. Representations of Lessor. The Lessor represents that it leases the Property in an AS IS condition and that the title to the Property is free from encumbrances. Lessor further represents that it has the right and authority to make this Agreement.

3. Term. The Term of this Agreement shall be for 30 years until December 31, 2049.

4. Renewal Term. There shall be the option of a renewal term to be agreed upon in another writing utilizing terms to be negotiated at that time.

5. Early Termination. Lessee shall have the right to terminate this Agreement at any time during the term hereof in the event Lessee's activities become prohibited, is rendered practically unfunded and/or unprofitable, the property is no longer needed or the Lessee acquires fee simple title to the property.

Lessor shall have the right to terminate this Agreement at any time during the term hereof if it is determined by either party the subject park has been damaged beyond repair due to acts of God.

Nothing herein precludes the parties from mutually terminating this agreement early by an agreed upon written amendment to this document. If the Leased Property is subject to a Condemnation action by an entity other than the Lessor, or if a portion is condemned, then, if the Lessee so desires, the term of this Agreement shall automatically cease and terminate as of the date of such taking or condemnation.

6. End of Term. Upon expiration of the Initial Term, Renewal Term, or other termination of this Agreement, Lessee shall quit and surrender to Lessor the property in essentially the same condition as it was received. Lessee shall remove from the property all of its property, to include any improvements (unfixed) to the property prior to the expiration of the term or early termination date. Any fixed improvements shall remain on the property and be transferred to the Lessor by bill of sale.

7. Holdover Occupancy. Holdover occupancy shall not be allowed unless agreed to by both parties and evidenced in writing, executed by both parties, amending the terms of this agreement.

8. Rent and Lease Payments. Commencing on the date as written above, Lessee shall pay lessor Rent (as herein defined) at the address specified in Paragraph 28, or other such place as may be designated by Lessor. **The Rent shall be One Dollar a year.** Said rent shall be prorated for the initial month and/or any partial months due to early termination, if needed. Rent shall not be subject to deduction. FURTHER, the Lessee shall be responsible for any and all repairs, maintenance, and upkeep, regardless of cause, for restoring the property to the same state of condition it is in at the commencement of this lease agreement.

9. Security Deposit. A security deposit shall not be required for this agreement.

10. Fees and Taxes. Lessee's obligation under this paragraph shall include, without limitation, payments of any and all charges, taxes or fees imposed by Federal, State or Local governments, or any agencies thereof, on, in connection or resulting from or arising out of Lessee's use of occupancy of the Leased Property. Lessor shall timely pay all uniform fees and taxes, to include the Georgetown County Storm Water Fee if applicable, which may be assessed upon the Leased Property by all governing bodies with jurisdiction. The Lessee shall be responsible for and shall timely pay any and all personal property taxes which may be assessed by all governing bodies with jurisdiction upon Lessee's personal property located upon the Leased Property.

11. Use of Leased Property. During the Term of this Agreement, and any renewal period thereof, Lessee shall occupy and use the Leased Property for the purpose of conducting any and

all associated construction, maintenance, and use activities due to the establishment of a Celebration Park.

If necessary, Lessee shall be allowed to install reasonable exterior signs and graphic materials on the Leased Property and for advertisement and recognition so long as the signs conform to all applicable Sign and Zoning Ordinances for the County of Georgetown.

12. Covenant of Quite Enjoyment. The Lessee, upon the payment of Rent herein reserved and upon the performance of all other terms of this Agreement, shall at all times during the lease term, and during any extension term, peaceably and quietly enjoy the Leased Property without any disturbance from the Lessor or from any other person claiming through the Lessor.

13. Maintenance. Lessor, upon final completion of the construction of the park (to be evidenced in writing by JB's and delivered to the County) shall be responsible for all grounds maintenance and upkeep of the premises.

14. Repairs. Repairs that are needed due to any occurrence regardless of the cause or area needing repair shall be the responsibility of the Lessor during the term of this Lease Agreement.

15. Sublease/Assignment. Lessee agrees not to assign any interest of Lessee hereunder or sublet, license or permit any other party or parties to occupy any portion of the property without the express, written consent of the Lessor.

16. Right of Entry. Lessor shall have the right, upon adequate notice, to enter the real property for the purpose of maintenance, repair, inspecting or protecting such. This right includes, but is not limited to, safety checks in the time of natural disasters and any other emergencies. Lessee also expressly recognizes the property is owned by the public and held in trust by the County so entry must be made available to the general public; no individual person, group, or company is to solely utilize the premises to the exclusion of others.

18. Compliance with Governmental Orders, Regulations, Etc. The Lessee covenants and agrees to comply with all governmental rules, laws and ordinances during the term of its lease. Any failure to do so by the Lessee will result in a breach of this Agreement.

19. Insurance. Lessee agrees to maintain, at its own expense, general liability insurance policy or policies. The insurance required by this Agreement shall, at a minimum, be issued by insurance companies authorized to do business in the State of South Carolina. Lessee agrees to maintain a policy with at least \$300,000.00 in coverage for a single individual, \$600,000.00 per occurrence. Lessee agrees to furnish Lessor, upon request, with a copy of certificates and binders evidencing the existence of the insurance required herein. Lessor must receive at least ten (10) days prior written notice of any cancellation of Lessee's insurance coverage. Failure to maintain insurance coverage as stated above shall constitute a breach of this agreement. However, nothing herein shall preclude the Lessor from obtaining or maintaining its own property insurance, in whatever form, during the term of this Lease Agreement.

Lessor shall maintain general liability insurance over the premises for which it keeps ownership during the term of this agreement.

20. Casualty. In the event the Leased Property or the means of access thereto shall be damaged by fire or any other cause, the rent payable hereunder shall not abate provided that the leased property is not rendered untenable by such damage.

21. Alterations and Improvements. The Lessee shall be allowed to make any major alterations to the Leased Property so long as it comports with the public nature of the project. The Lessee agrees to meet with County representatives for a design review prior to the commencement of construction. Lessee shall indemnify and hold harmless the Lessor against any mechanic's liens or materialmen's liens, lawsuits, or any other lien or action whereby money is being claimed as owed, arising out of the making of any alteration or improvements by Lessee to the Leased Property as herein provided.

22. Utilities. The Lessee shall be responsible for any and all utility charges for connections during its construction under the terms of this lease. The Lessor shall be responsible for service charges throughout the term of this agreement.

23. Default. If Lessee shall file a voluntary petition in bankruptcy, or if Lessee shall file any petition or institute any proceedings under any insolvency or bankruptcy act (or any amendment thereto hereafter made) seeking to effect a reorganization or a composition with Tenant's creditors, or if (in any proceeding based on the insolvency of Lessee or relating to bankruptcy proceedings) a receiver or trustee shall be appointed for Lessee of the leased property, or if any proceeding shall be commenced for the reorganization of Lessee, or if the leasehold estate created hereby shall be taken on execution or by any process of the law of if Lessee shall admit in writing Lessee's inability to pay Lessee's obligations generally as they become due, or if there shall be a default in the payment of the rental reserved hereunder, or any part thereof for more than thirty (30) days after written notice of such default by the Lessor, or if there shall be a default in the performance of any other payment, covenant, agreement, condition, rule or regulation herein contained or hereafter established on the part of the Lessee for more than thirty (30) days after written notice of such default by the Lessor, or if the Lessee losses or dissolves its non-profit corporation status regardless of the circumstances surrounding the dissolution, then Lessor may, at Lessor's sole option, terminate this Agreement.

24. DISCLAIMER OF LIABILITY AND HOLD HARMLESS AGREEMENT. LESSOR HEREBY DISCLAIMS AND LESSEE HEREBY RELEASES LESSOR FROM ANY AND ALL LIABILITY, WHETHER IN CONTRACT OR TORT (INCLUDING BUT NOT LIMITED TO STRICT LIABILITY AND NEGLIGENCE) FOR ANY LOSS, DAMAGE OR INJURY OF ANY NATURE WHATSOEVER SUSTAINED BY LESSEE, ITS EMPLOYEES, MEMBERS, AGENTS OR INVITEES DURING THE TERM (INITIAL OR RENEWAL OR MONTH-TO-MONTH) OF THIS AGREEMENT. THE PARTIES DO AGREE THAT UNDER NO CIRCUMSTANCES SHALL LESSOR BE LIABLE FOR INDIRECT, CONSEQUENTIAL, SPECIAL OR EXEMPLARY DAMAGES, WHETHER IN CONTRACT OR TORT, WHETHER CAUSED BY NEGLIGENCE OR GROSS NEGLIGENCE, SUCH AS, BUT NOT LIMITED TO, LOSS OF REVENUE OR ANTICIPATED PROFITS OR OTHER DAMAGE RELATED TO THE PREMISES.

THE LESSOR SHALL NOT HOLD THE LESSEE RESPONSIBLE FOR ANY LIABILITIES THAT ARISE AS A RESULT OF THE LESSOR'S FAILURE TO COMPLY WITH THE AGREEMENT HEREIN OR ANY OTHER LIABILITY THAT MAY OCCUR PURSUANT TO A DIRECT ACT OR OMISSION OF THE LESSOR, WHETHER IN CONTRACT OR TORT. THE LESSEE COVENANTS AND AGREES TO ACCEPT

RESPONSIBILITY FOR ALL BODILY INJURY AND PROPERTY DAMAGE THAT OCCURS PURSUANT TO ACTS OF THE LESSEE.

25. Governing Law and Jurisdiction. This Agreement shall be construed in accordance with the laws of the State of South Carolina. Any litigation arising out of this agreement shall be resolved through the 15th Judicial Circuit Court of South Carolina in Georgetown County only after non-binding mediation is held by a neutral mediator agreed to by both parties. **This agreement is not subject to arbitration.**

26. Relationship of Parties. The relationship between Lessor and Lessee shall always and only be that of Lessor and Lessee. Lessee shall never at any time during the term of this Agreement become the agent of the Lessor, and Lessor shall not be responsible for the acts or omissions of Lessee, its employees, or agents.

27. Remedies Cumulative. The rights and remedies with respect to any of the terms and conditions of this Agreement shall be cumulative and not exclusive, and shall be in addition to other rights and remedies available to either party in law or equity.

28. Notices. Any notice given by one party to the other in connection with this Agreement shall be in writing and shall be sent by certified or registered mail, return receipt requested and shall be deemed to have been given at the time it is duly deposited and registered in any US Mail Post Office or Branch Post Office:

If to Lessee: Sel Hemingway, Administrator
Georgetown County
PO Drawer 421270
Georgetown, SC 29442

If to Lessor: JB's Celebration Park, Inc.
1266 Parker Drive
Pawleys Island, SC 29585

With a copy to: Wesley P. Bryant, Esq.
Georgetown County Attorney
716 Prince Street
Georgetown, SC 29440

29. Waiver. The waiver by either party of any covenant or condition of this Agreement shall not thereafter preclude such party from demanding performance in accordance with the terms thereof.

30. Successors Bound. This Agreement shall be binding on and shall inure to the benefit of its successors or legal representatives of the parties hereto unless the Lessor and Lessee otherwise enact a written agreement stating otherwise.

31. Severability. If a provision hereof shall be finally declared void or illegal by any court of agency having jurisdiction over the parties to this Agreement, the entire Agreement shall not be

void, but the remaining provisions shall continue in effect as nearly as possible in accordance with the original intent of the parties.

32. Gender and Singular. In construing this agreement, feminine or neuter pronouns shall be substituted for those masculine in form and vice versa, and plural terms shall be substituted for singular and singular for plural in any place in which the context so requires.

33. Captions. The captions appearing in the beginning of each separate numbered section in this Agreement are for convenience only and are not a part of this Agreement and do not in any way limit or amplify the terms or provisions contained herein.

34. Written Changes. This Agreement may not be changed orally, but only by agreement in writing and signed by both parties.

35. Acknowledged. It is acknowledged by both parties that Georgetown County has not appropriated funding for the construction of this park and is not liable for construction costs. It is further acknowledged by both parties that if the park were to be destroyed or severely damaged due to an Act of God that Georgetown County may not have appropriations at that time to reconstruct the park and the parties will meet to determine any subsequent action related thereto.

IN WITNESS WHEREOF, the undersigned parties have hereunto set their hands and seals this the date and year first above written.

WITNESSES

LESSOR: GEORGETOWN COUNTY

BY: _____

ITS: County Administrator

STATE OF SOUTH CAROLINA

COUNTY OF GEORGETOWN

I, _____, do hereby certify that Sel Hemingway personally appeared before me this day and acknowledged the due execution of the foregoing instrument.

Witness my hand and official seal this _____ day of _____, 2019.

NOTARY PUBLIC FOR SOUTH CAROLINA

My Commission Expires: _____

WITNESSES

Rhonda Lee-Morris

LESSEE: JB's CELEBRATION PARK, INC.

BY: Cynthia G. Bindner
ITS: Owner

STATE OF SOUTH CAROLINA

COUNTY OF GEORGETOWN

I, Nancy Orman, do hereby certify that Cynthia G. Bindner personally appeared before me this day and acknowledged the due execution of the foregoing instrument.

Witness my hand and official seal this 30 day of July, 2019.

Nancy Orman
NOTARY PUBLIC FOR SOUTH CAROLINA
My Commission Expires: 4/29/2024