

AGENDA ACTION ITEM



Public Comment

SIGN IN SHEET

December 2, 2014

6:00 PM

AGENDA ACTION ITEMS: Council will hear public comment during this portion of the meeting for Agenda Action Items on today's agenda only. Agenda Action Items are defined as Administrator Report Items, Ordinances, Resolutions, Proclamations, Action Items, advertised Old Business item, advertised New Business item and Recommendations from Committee ONLY. Combined the two Public Comment Sessions at this meeting are limited to a total of 40 minutes, 4 minutes per person.

Please be advised that citizens not utilizing their full four [4] minutes may not "donate" their remaining time to another speaker. As stated above, each speaker is restricted to a maximum of four [4] minutes.

Citizens failing to PRINT or list the specific **AGENDA ACTION ITEM** will not be called upon to address Council during this portion of the meeting.

	FULL NAME	AGENDA ACTION ITEM
1	Margaret Thompson	Transportation
2	RANDY GILCHRIST	TRANSIT IMPLEMENTATION PLAN
3	DONNA LINSIN	TRANSIT IMPLEMENTATION PLAN
4		
5		
6		
7	RYAN HOWLA	2014-29 2014-24
8		
9		
10	Berry Nichols	20 The New Year.
11		
12		
13		
14		
15		

Everyone speaking before Council will be required to do so in a civil manner. Council will not tolerate personal attacks on individual council members, county staff or any person or group. Racial slurs will not be permitted. Council's number one priority is to conduct business for the citizens of this county. All citizens who wish to address Council and all Boards and Commission appointed by Council should do so in an appropriate manner.

Comment on Transit Implementation Plan
Presented by: Donna Linsin
Oconee County Council Meeting
12/02/2014

At the last Council meeting, Council decided to table making any decision on the Transit Advisory Task Force's recommendation to extend the CAT bus routes to both Walhalla and Westminster and to look into using smaller transportation vehicles such as a van. Thank you for making this wise decision.

I am not against providing public transportation to those who need to use it to go to work, to go to the doctor, to go to the library to enrich their life, to go to the soup kitchens, pharmacy, or to buy groceries.

Over the past couple of weeks, I have had a chance to review the Minutes of the Task Force. I want to share a few things with you that I learned from these Minutes that indicate something is wrong.

Eleven people comprised the task force. Is something wrong when two of the members were not present at any of the meetings, including the CAT Bus Chief Executive Officer, Al Babinicz? Is something wrong when the task force scheduled nine meetings and five meetings were cancelled? Is something wrong when the advisory committee holds four meetings for a total of 3 hours and 23 minutes

and comes up with a recommendation to purchase an electric bus and charging station for \$1.3 Million, excluding the bus shelters? Is something wrong when the task force did not allow any public comments that may have been valuable to their mission at their meetings? Is something wrong, when at their final meeting on September 25 lacked a quorum with only 5 out of eleven members present and a consensus was determined to direct the URS consultant to prepare a final recommendation report for presentation at a future County Council meeting? Is something wrong when this group decided to go ahead and meet on September 25 without a quorum? Is something wrong when the estimated operating and maintenance cost and estimated ridership is only an assumption and not supported by any substantial evidence such as an actual count of riders?

Is something wrong when only 347 people respond to a public opinion survey out of 75,000 residents? This only represents $\frac{1}{2}$ of 1% of the population. Does this show an overwhelming support that we need to spend more money for CAT buses?

I encourage this Council to table making any decision tonight until an actual passenger count is made instead of relying on estimates and assumptions.



MINUTES
OCONEE COUNTY
TRANSIT ADVISORY TASK FORCE COMMITTEE
January 23, 2014

MEMBERS:

Scott Moulder, Oconee County, **Chair**
Al Babinicz, CEO, CAT Bus
Lorenia Lee, Salem
David Underwood, Walhalla
Gene Blair, At Large Member
Arthur Rodgers, At Large Member

Sandra Powell, Westminster, **Vice Chair**
Mike Smith RME, SC DOT
Ed Halbig, Seneca
Linda Oliver, West Union
Charles Morgan, Jr., At Large Member
Elizabeth Hulse, Clerk to Council, TATFC Secretary

The Oconee County Transit Advisory Task Force Committee [TATFC] met at 6:00 PM in Council Chambers, 415 South Pine Street, Walhalla, SC with all representatives present [except Mr. Babinicz, Ms. Lee, Mr. Blair and Mr. Smith] and Clerk to Council Elizabeth G. Hulse present.

Press:

Pursuant to the Freedom of Information Act, notice of the meeting, date, time, place of meeting and agenda were posted on the bulletin board at the County Administrative Offices, 415 South Pine Street, Walhalla, SC, and the County Council website [www.oconeesc.com/council]. In addition it was made available [upon request] to the newspapers, radio stations, television stations and concerned citizens.

Member of the press present: Dick Mangrum – WGOG Radio & Ray Chandler – Anderson Independent.

Call to Order:

Mr. Moulder called the meeting to order at 6:00 p.m.

Mr. Moulder thanked the members for participating in this project; noting its importance to the citizens to identify public transportation needs.

Appointment of Vice Chairperson by Chair:

Mr. Moulder asked Ms. Powell if she would be willing to serve as Vice Chair for this group. Ms. Powell accepted appointment.

Transit Feasibility Study Report Presentation / Mr. Chip Burger, URS

Mr. Burger addressed the Committee utilizing a PowerPoint presentation [copy filed with these minutes] highlighting the following issues:

- Goals of Update
- Public Involvement
- Public Opinion Study
- Selected Responses
- Census 2010 Data
- Key Demographic Observations
- Review of Current Transit Service
- Peer Community Analysis
- Path Forward
- Typical Reasons for Transit Service Implementation
- Conceptual Service Development

Mr. Halbig briefly outlined the City of Seneca's role with CAT Bus, Clemson being included in the Greenville Metropolitan Planning Organization [MPO] and Federal & State funding for rural transit. Discussion followed regarding various topics to include:

- Studies Conducted re: Transit: original conducted in 2008, updated in 2013
- Rural Transit Funding [5311 money]

- Potential Funding Sources for Expansion: Grants, Fares for extended service, local government and or municipal subsidies
- Origin Destination Study: need for, timing for study, etc.
- Need for Implementation Study to assist Committee in forming recommendation
- City of Seneca as Transit Authority
- CAT Bus only Electric Bus System in USA – designation important to City of Seneca & CAT Bus system; discontinued use diesel busses
- CAT Bus statistics: City of Seneca cost \$65/hour operation [peer agencies \$60-\$70/hour], 25,000 monthly riders
- Potential Expansion Scenarios to include service to Duke Energy, Keowee Key, Salem, etc.

Mr. Underwood made a motion, seconded by Mr. Morgan, approved 6 – 0 to recommend to County Council to fund an Implementation Study.

Establishment of 2014 Meeting Schedule:

Mr. Moulder led discussion regarding a meeting schedule for 2014. After discussions, the committee decided they would meet next on Thursday, February 27, 2014, at 6:00 p.m. in Council Chambers, Oconee County Administrative Offices, 415 S. Pine Street, Walhalla, SC.

Other Business

No Other Business was addressed at this meeting.

Adjourn

Ms. Powell made a motion, approved unanimously by the Committee to adjourn the meeting at 7:02 p.m.

Respectfully Submitted:

Elizabeth G. Hulse
Clerk to Council



MINUTES
OCONEE COUNTY
TRANSIT ADVISORY TASK FORCE COMMITTEE
February 27, 2014

MEMBERS:

Scott Moulder, Oconee County, **Chair**
Al Babinicz, CEO, CAT Bus
Lorenia Lee, Salem
David Underwood, Walhalla
Gene Blair, At Large Member
Arthur Rodgers, At Large Member

Sandra Powell, Westminster, **Vice Chair**
Mike Smith RME, SC DOT
Ed Halbig, Seneca
Linda Oliver, West Union
Charles Morgan, Jr., At Large Member
Elizabeth Hulse, Clerk to Council, TATFC Secretary

The Oconee County Transit Advisory Task Force Committee [TATFC] met at 6:00 PM in Council Chambers, 415 South Pine Street, Walhalla, SC with all representatives present [except Mr. Babinicz, Ms. Lee, Mr. Rodgers & and Mr. Morgan] and Clerk to Council Elizabeth G. Hulse present. Mr. Randy Russell attended on behalf of Mr Smith.

Press: Pursuant to the Freedom of Information Act, notice of the meeting, date, time, place of meeting and agenda were posted on the bulletin board at the County Administrative Offices, 415 South Pine Street, Walhalla, SC, and the County Council website [www.oconeesc.com/council]. In addition it was made available [upon request] to the newspapers, radio stations, television stations and concerned citizens. Member of the press present: Dick Mangrum – WGOG Radio & Ray Chandler – Anderson Independent.

Call to Order:

Mr. Moulder called the meeting to order at 6:00 p.m.

Approval of Minutes Mr. Underwood made a motion, seconded by Mr. Halbig, approved unanimously to approve the minutes from the January 23, 2014 as presented.

URS Implementation Study

County Council Approval for Study

Mr. Moulder reported to the Committee that County Council at their February 18, 2014 regular meeting approve expending up to \$23,500 for an implementation study.

Phase I Discussions regarding Implementation Study

Mr. Moulder along with Mr. Chip Burger, URS Senior Transportation Planner, and Mr. Jim Brown, URS Transportation & Environmental Planning Section Leader, initiated discussion with the Committee aspects for a Transit Implementation Plan Tasks [handout provided – copy filed with these minutes]. Various issues were discussed to include: field work needed for data gathering, set up meetings with key stakeholders [industries, medical, municipalities & chambers of commerce], public education, etc.

Establishment of 2014 Meeting Schedule:

Mr. Moulder led discussion regarding a meeting schedule for 2014. After discussions, the committee decided they would meet next on Thursday, April 24, 2014, and on the last Thursday monthly thereafter through September 2014 at 6:00 p.m. in Council Chambers, 415 S. Pine Street, Walhalla, SC.

Other Business

No Other Business was addressed at this meeting.

Adjourn

Ms. Powell made a motion, approved unanimously by the Committee to adjourn the meeting at 6:20 p.m.

Respectfully Submitted:

Elizabeth G. Hulse, Clerk to Council



MINUTES
OCONEE COUNTY
TRANSIT ADVISORY TASK FORCE COMMITTEE
July 24, 2014

MEMBERS:

Scott Moulder, Oconee County, **Chair**
Al Babinicz, CEO, CAT Bus
Lorenia Lee, Salem
David Underwood, Walhalla
Gene Blair, At Large Member
Arthur Rodgers, At Large Member

Sandra Powell, Westminster, **Vice Chair**
Mike Smith RME, SC DOT
Ed Halbig, Seneca
Linda Oliver, West Union
Charles Morgan, Jr., At Large Member
Elizabeth Hulse, Clerk to Council, TATFC Secretary

The Oconee County Transit Advisory Task Force Committee [TATFC] met at 6:00 PM in Council Chambers, 415 South Pine Street, Walhalla, SC with all representatives present [except Mr. Babinicz & Ms. Lee] and Clerk to Council Elizabeth G. Hulse present.

Press:

Pursuant to the Freedom of Information Act, notice of the meeting, date, time, place of meeting and agenda were posted on the bulletin board at the County Administrative Offices, 415 South Pine Street, Walhalla, SC, and the County Council website [www.oconeesc.com/council]. In addition it was made available [upon request] to the newspapers, radio stations, television stations and concerned citizens.

Member of the press present: none.

Call to Order:

Mr. Moulder called the meeting to order at 6:00 p.m.

Approval of Minutes

Mr. Underwood made a motion, seconded by Mr. Halbig, approved unanimously to approve the minutes from the February 27, 2014 as presented.

URS Implementation Study / Update

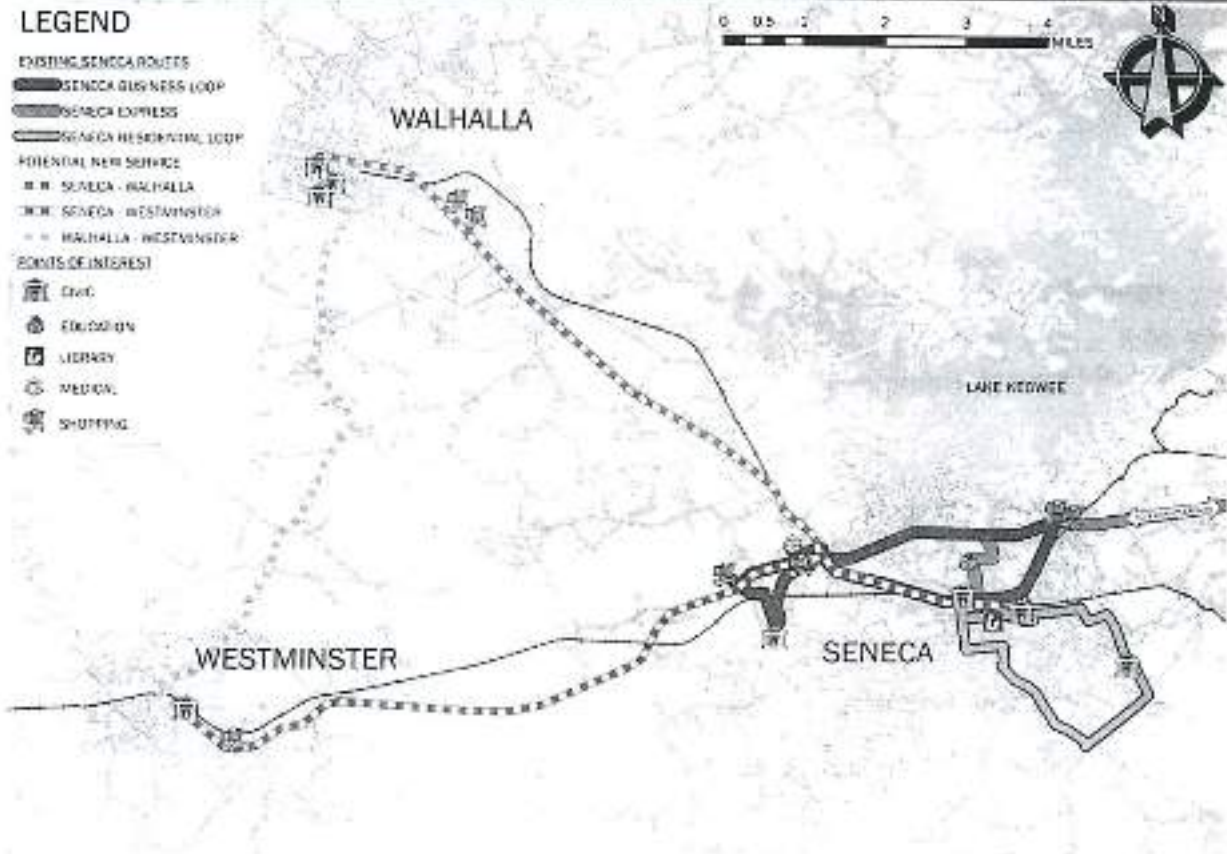
Mr. Moulder turned the meeting over to Mr. Chip Burger, URS Senior Transportation Planner, and Mr. Jim Brown, URS Transportation & Environmental Planning Section Leader, who addressed the Committee utilizing a PowerPoint presentation [copy filed with these minutes] highlighting the following issues:

- Review of Current Transit Services in Oconee County
- Path Forward
- Implementation Plan Elements
- Key Area Employer Survey
- Commute Patterns
 - Clemson Residents' Commute Patterns [map]
 - Seneca Residents' Commute Patterns [map]
 - Walhalla Residents' Commute Patterns [map]
 - Westminster Residents' Commute Patterns [map]
 - Findings
- Service Implementation Plan / Proposed Routes
 - Seneca Area Existing & Potential New Transit Service [map]
 - PURPLE LINE: Seneca to/from Walhalla
 - GREEN LINE: Seneca to/from Westminster
 - BLUE LINE: Walhalla to/from Westminster
- O&M and Capital Cost Estimates for each Route
- Financial Plan
- Next Steps

SENECA AREA EXISTING AND POTENTIAL NEW TRANSIT SERVICE

LEGEND

- EXISTING SENECA ROUTES
- SENECA BUSINESS LOOP
 - SENECA EXPRESS
 - SENECA RESIDENTIAL LOOP
- POTENTIAL NEW SERVICE
- SENECA - WALHALLA
 - SENECA - WESTMINSTER
 - WALHALLA - WESTMINSTER
- POINTS OF INTEREST
- CIVIC
 - EDUCATION
 - LIBRARY
 - MEDICAL
 - SHOPPING



Lengthy discussion followed to include: proposed estimated cost per revenue hour as being too low; current CAT/City of Seneca electric busses and charging facilities; smaller busses versus full size busses; diesel versus electric; potential Federal and/or SCDOT grant funding; initiation of three lines versus one line at a time; free versus fee based services [pros/cons]; governance of expanded services; possible "circle" route within Oconee County; cost of busses, and additional charging stations in Oconee County.

Mr. Moulder summarized discussions as follow:

- o Move forward with the three proposed routes
- o Request revised [more conservative] operation cost estimates for the routes
- o Pursue looking at potential grant funding
- o Meet with City of Seneca Administrator to discuss governance of potentially expanded service
- o Proceed in phased approach if necessary based on financial issues

Ms. Powell made a motion, seconded by Mr. Blair, approved unanimously to request URS to prepare a draft final recommendation/report for review at the next meeting.

Other Business

No Other Business was addressed at this meeting.

Next Meeting

The next meeting will be held August 28, 2014.

Adjourn

Mr. Smith made a motion, seconded by Mr. Rodgers, approved unanimously to adjourn the meeting at 7:15 p.m.

Mr. Smith made a motion, seconded by Mr. Rodgers,

Respectfully Submitted:

Elizabeth G. Hulse, Clerk to Council



MINUTES
OCONEE COUNTY
TRANSIT ADVISORY TASK FORCE COMMITTEE
September 25, 2014

MEMBERS:

Scott Moulder, Oconee County, **Chair**
Al Babinicz, CEO, CAT Bus
Lorenia Lee, Salem
David Underwood, Walhalla
Gene Blair, At Large Member
Arthur Rodgers, At Large Member

Sandra Powell, Westminster, **Vice Chair**
Randy Russell for Mike Smith RME, SC DOT
Ed Halbig, Seneca
Linda Oliver, West Union
Charles Morgan, Jr., At Large Member
Elizabeth Hulse, Clerk to Council, TATFC Secretary

The Oconee County Transit Advisory Task Force Committee [TATFC] met at 6:00 PM in Council Chambers, 415 South Pine Street, Walhalla, SC with all representatives present [except Mr. Babinicz, Ms. Lee, Mr. Underwood, Mr. Rodgers, Ms. Oliver & Mr. Morgan] and Clerk to Council Elizabeth G. Hulse present.

Press:

Pursuant to the Freedom of Information Act, notice of the meeting, date, time, place of meeting and agenda were posted on the bulletin board at the County Administrative Offices, 415 South Pine Street, Walhalla, SC, and the County Council website [www.oconeese.com/council]. In addition it was made available [upon request] to the newspapers, radio stations, television stations and concerned citizens.

Member of the press present: Dick Mangrum/WGOG Radio and Ray Chandler/Anderson Independent Newspaper.

Call to Order:

Mr. Moulder called the meeting to order at 6:00 p.m. noting that a quorum was not present. He stated that as this is the last meeting of the Committee and as the URS Consultant had made the trip from Atlanta that the group would meet [without a quorum present] and hear the consultants final recommendations prior to his final report. Lastly, Mr. Moulder thanked all participants in the process for their commitment and service to the citizens of Oconee County.

Approval of Minutes

As a quorum was not present Mr. Moulder requested a motion to accept the minutes as presented.

Ms. Powell made a motion, seconded by Mr. Blair, approved unanimously to accept the July 24, 2014 minutes as presented.

URS Implementation Study / Update

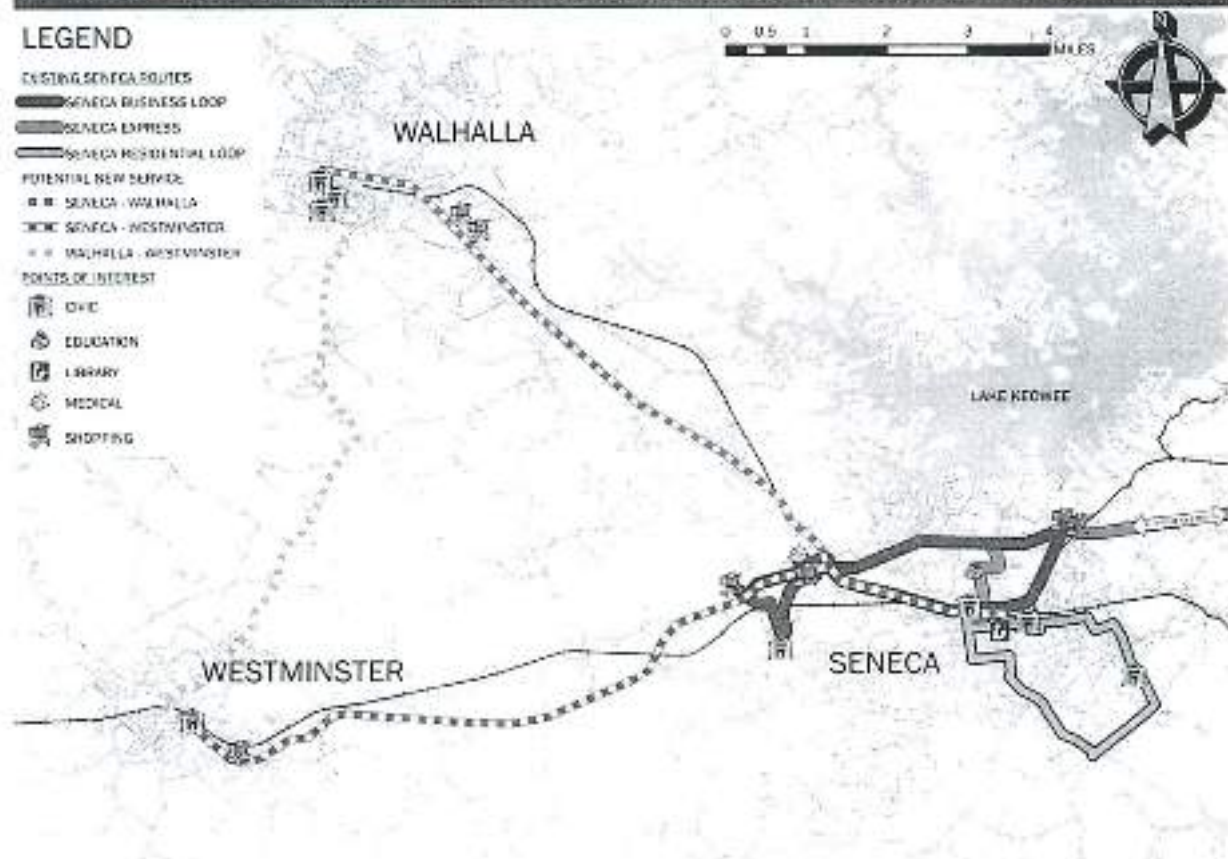
Mr. Moulder turned the meeting over to Mr. Chip Burger, URS Senior Transportation Planner, who addressed the Committee utilizing a PowerPoint presentation [copy filed with these minutes] highlighting the following issues:

- Commute Patterns [O&D Study]
- Service Implementation Plan / Proposed Routes [see map next page]
 - Seneca Area Existing & Potential New Transit Service
 - PURPLE LINE: Seneca to/from Walhalla
 - GREEN LINE: Seneca to/from Westminster
 - BLUE LINE: Walhalla to/from Westminster
- O&M and Capital Cost Estimates for each Route
- Financial Plan
- Summary O&M and Capital Cost Estimates
- Policy Considerations
- Next Steps

SENECA AREA EXISTING AND POTENTIAL NEW TRANSIT SERVICE

LEGEND

- EXISTING SENECA ROUTES
- SENECA BUSINESS LOOP
 - SENECA EXPRESS
 - SENECA RESIDENTIAL LOOP
- POTENTIAL NEW SERVICE
- SENECA - WALHALLA
 - SENECA - WESTMINSTER
 - WALHALLA - WESTMINSTER
- POINTS OF INTEREST
- HOME
 - EDUCATION
 - LIBRARY
 - MEDICAL
 - SHOPPING



In follow up to the last meeting, Mr. Moulder reported on discussion held with the City of Seneca Administrator, Greg Dietterick, regarding partnering with the City of Seneca for expansion of bus services in Oconee County. Mr. Moulder reported that the City of Seneca is in support of expansion and partnering to provide the services as they already have a lot of the needed infrastructure and expertise.

Lengthy discussion followed to include: proposed estimated cost per revenue hour; current CAT/City of Seneca electric busses and charging facilities vs. the need to add additional charging station(s) and busses; potential Federal and/or SCDOT grant funding; governance of expanded services to go through the City of Seneca; cost of busses, City of Walhalla potential loop routes, City of Westminster potential loop routes, etc.

Mr. Moulder again thanked the participants for their hard work and dedication to this process. It was the consensus of the group that the next step will be to direct the URS consultant to prepare a final recommendation report for presentation at a future County Council meeting and for Mr. Moulder to begin development of an Intergovernmental Agreement with the City of Seneca [to be completed by end of 2014] outlining the partnership between the County and the City for expanded bus service in Oconee County.

Other Business

No Other Business was addressed at this meeting.

Next Meeting

No additional meetings of this group will be called.

Adjourn

Mr. Moulder adjourned the meeting at 6:46 p.m.

Respectfully Submitted:

Elizabeth G. Hulse
Clerk to Council

FROM COUNTY COUNCIL
BACKUP MATERIAL
@ 11/18/2014 MEETING

O&M and Capital Cost Estimates

- Assumptions

- Operating 12 hours/day for 255 weekdays/year
- Ridership estimates:
 - Low - 10 passengers per revenue hour;
 - Moderate - 20 passengers per revenue hour;
 - High - 30 passengers per revenue hour
 - Note: Seneca service currently has ~ 35 passengers per revenue hour
- O&M costs based on \$65.32 operating cost per revenue hour based on current City of Seneca data



Public Opinion Survey

- Distribution
 - 347 responses
 - Local governments and service providers
 - 72% online / 28% hardcopy
- Geographic response
 - Seneca – 12%
 - Walhalla – 37%
 - Westminster – 2%
 - West Union – 4%
 - Elsewhere in Oconee County – 45%



TAKEN FROM BACK UP MATERIAL PRESENTED AT
THE JAN. 23, 2014 OCONEE TRANSIT ADVISORY
TASK FORCE MEETING.



OCONEE COUNTY
TRANSIT ADVISORY TASK FORCE COMMITTEE
A G E N D A

January 23, 2014

6:00 PM

**Council Chambers, Oconee County Administrative Offices
415 South Pine Street, Walhalla, SC**

1. Call to Order
2. Introduction of Members
3. Appointment of Vice Chairperson by Chairman
4. Oconee County Transit Feasibility Study Report Presentation / Mr. Chip Berger, URS
 - August 2013 Transit Feasibility Update [*handout at meeting*]
 - June 2013 Transit Feasibility Final Report [*handout at meeting*]
5. Review of Responsibilities & Goal / S. Moulder
[Vote and/or Action on matters discussed [if required]]
6. Establishment of 2014 Meeting Schedule
7. Other Business
8. Adjourn

There will not be any Public Comment session at this meeting.

Assisted Listening Devices (ALD) are available to accommodate the special needs of citizens attending meetings held in Council Chambers.
All requests should be made to the Clerk to Council at least 72 hours prior to the meeting start time.

Oconee County Capital Project Sales Tax Commission meeting schedules and agendas are posted at the Oconee County Administration Building
& are available on the County Council Website. (All upcoming meetings will be held in Council Chambers unless otherwise noted.)

Commission's meetings shall be conducted pursuant to the South Carolina Freedom of Information Act, Council's Rules and the Model Rules of Parliamentary Procedure for South Carolina Counties, latest edition. This agenda may not be inclusive of all issues which the Commission may bring up for discussion at this meeting. Items are listed on the Commission's agenda to give public notice of the subjects and issues to be discussed, acted upon, received as information and/or disposed of during the meeting. Items listed on the Commission's agenda may be taken up, tabled, postponed, removed or otherwise disposed of as provided for under the Model Rules of Parliamentary Procedure for South Carolina Counties, latest edition.



OCONEE COUNTY
TRANSIT ADVISORY TASK FORCE COMMITTEE
AGENDA

February 27, 2014

6:00 PM

Council Chambers, Oconee County Administrative Offices
415 South Pine Street, Walhalla, SC

1. Call to Order
2. Approval of Minutes: January 23, 2014
3. URS Implementation Study
 - County Council Approval for Study
 - Phase I Discussions regarding Implementation Study / Scott Moulder & Chip Burger/URS

[Vote and/or Action on matters discussed [if required]]
4. Establishment of remaining 2014 Meeting Schedule
5. Other Business
6. Adjourn

There will not be any Public Comment session at this meeting.

Assisted Listening Devices (ALD) are available to accommodate the special needs of citizens attending meetings held in Council Chambers.
ALD requests should be made to the Clerk to Council at least 10 minutes prior to the meeting start time.

Oconee County Capital Project Sales Tax Commission meeting schedules and agendas are posted at the Oconee County Administration Building
& are available on the County Council Website. [All upcoming meetings will be held in Council Chambers unless otherwise noted]



OCONEE COUNTY
TRANSIT ADVISORY TASK FORCE COMMITTEE
A G E N D A

July 24, 2014

6:00 PM

**Council Chambers, Oconee County Administrative Offices
415 South Pine Street, Walhalla, SC**

1. Call to Order
2. Approval of Minutes: February 27, 2014
3. URS Implementation Study / Update [*Vote and/or Action on matters discussed [if required]*]
4. Other Business
5. Next Meeting: August 28, 2014
6. Adjourn

There will not be any Public Comment session at this meeting.

Assisted Listening Device (ALD) are available to accommodate the special needs of visitors attending meetings held in Council Chambers.
ALD requests should be made to the Clerk in Council at least 30 minutes prior to the meeting start time.

Oconee County Capital Project Sales Tax Commission meeting schedules and agendas are posted at the Oconee County Administration Building
& are available on the County Council Website. [All upcoming meetings will be held in Council Chambers unless otherwise noted]



OCONEE COUNTY
TRANSIT ADVISORY TASK FORCE COMMITTEE
AGENDA

September 25, 2014

6:00 PM

**Council Chambers, Oconee County Administrative Offices
415 South Pine Street, Walhalla, SC**

1. Call to Order
2. Approval of Minutes: July 24, 2014
3. URS Draft Final Recommendations/Report [*Vote and/or Action on matters discussed [if required]*]
4. Other Business
5. Next Meeting: September 25, 2014
6. Adjourn

There will not be any Public Comment session at this meeting.

Assisted Listening Devices (ALD) are available to accommodate the special needs of citizens attending meetings held in Council Chambers. ALD requests should be made to the Clerk of Council at least 30 minutes prior to the meeting start time.

Oconee County Capital Project Sales Tax Commission meeting schedules and agendas are posted at the Oconee County Administration Building & are available on the County Council Website. [All upcoming meetings will be held in Council Chambers unless otherwise noted.]



4065 Keowee School Road, Seneca
www.keoweefolks.org

Who, What, Where, Why and How

WHO, WHAT, WHERE

Founded in 1993

- **Who** are we? 1150 families, businesses & corporations. Membership heavily from Oconee County lakeside communities and watershed areas.
- **What** are we? 501(c)(3) - watershed organization. Allows FOLKS to receive tax exempt donations and government grants
- **Where** are we? Headquarters at 4065 Keowee School Road, Seneca SC 29672.

WHY

- Mission Statement – ***“To Preserve, Protect and Enhance Lake Keowee and its watershed through conservation, science, education and good governance so that the lake remains clear, clean, safe and beautiful for the communities, users, visitors, area businesses and future generations”***
- Lake Keowee is vital to the economic well-being of Oconee County & the Upstate.
- Lake Keowee draws tourism, industry, businesses and new residents to the area.
- Lake Keowee is a significant source of revenue to the County.
- However, Lake Keowee is *delicate. It requires attention and care.*

WHAT

- FOLKS is a unique resource whose mission is to help provide that attention and care.
- FOLKS draws attention to issues, potential problems and works to solve problems.
- FOLKS identifies threats to the lake.
 - Nonpoint source pollution:
 - sediment;
 - nutrients (nitrogen & phosphorus);
 - septics (bacteria).
- **Receive and administer grants**
- **Conduct Lake and island sweeps**
- **Stakeholder in Keowee-Toxaway Relicensing**
- Community outreach (newsletter, forums)
- Recognized by EPA, DHEC, DNR as a valuable resource.

GRANTS

FOLKS has received grants since 1999 of about \$600,000. These require 40% match in the form of mileage and volunteer hours at Federal standard costs.

Over 14,000 people-hours were expended in the implementation of these grants.

Grants

- One example – Cane Creek Grant



An EPA/SCDHEC survey of SC Lakes in 1975 found Lake Keowee to be the least impaired by non-point-source pollution. However, it was noted that the upper reaches of Cane Creek were polluted. At that time the “sewer treatment” was an aeration pond.



LAKE & ISLAND SWEEPS

Lake and Island Sweeps since 1993 along the 370 miles of shoreline and 71 islands amount to:

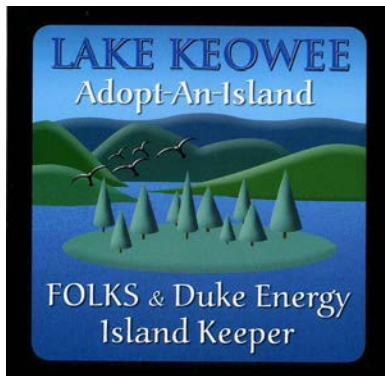
- 13,000 people-hours
- 17,000 40 gallon bags of assorted trash
- In recent years we have been joined by groups of divers from North Carolina to sweep the lake bottom.

Lake & Island Sweeps

LAKE SWEEP



ADOPT AN ISLAND



WARNING

No Camping Allowed (Tents, Campers, or RV's)

No Permanent Structures Allowed

No Fires or Littering Allowed

No Removal of Vegetation

Police have authority to arrest under NCGS-14-159-13

Police have authority to arrest under SC code of laws-16-11-620



ENJOY THE ISLANDS!



JUST REMEMBER:

- NO NIGHT TIME USE (dusk to dawn)
- NO FIRES OR LITTERING
- NO REMOVAL OF VEGETATION
- NO PERMANENT STRUCTURES
- POLICE AUTHORIZED TO ARREST UNDER NO CODE NCGS-14-159-13
- POLICE AUTHORIZED TO ARREST UNDER SC CODE 16-11-620

For more information call
Duke Energy Lake Services
at 1-800-433-6163

Stakeholder in FERC Relicensing Process

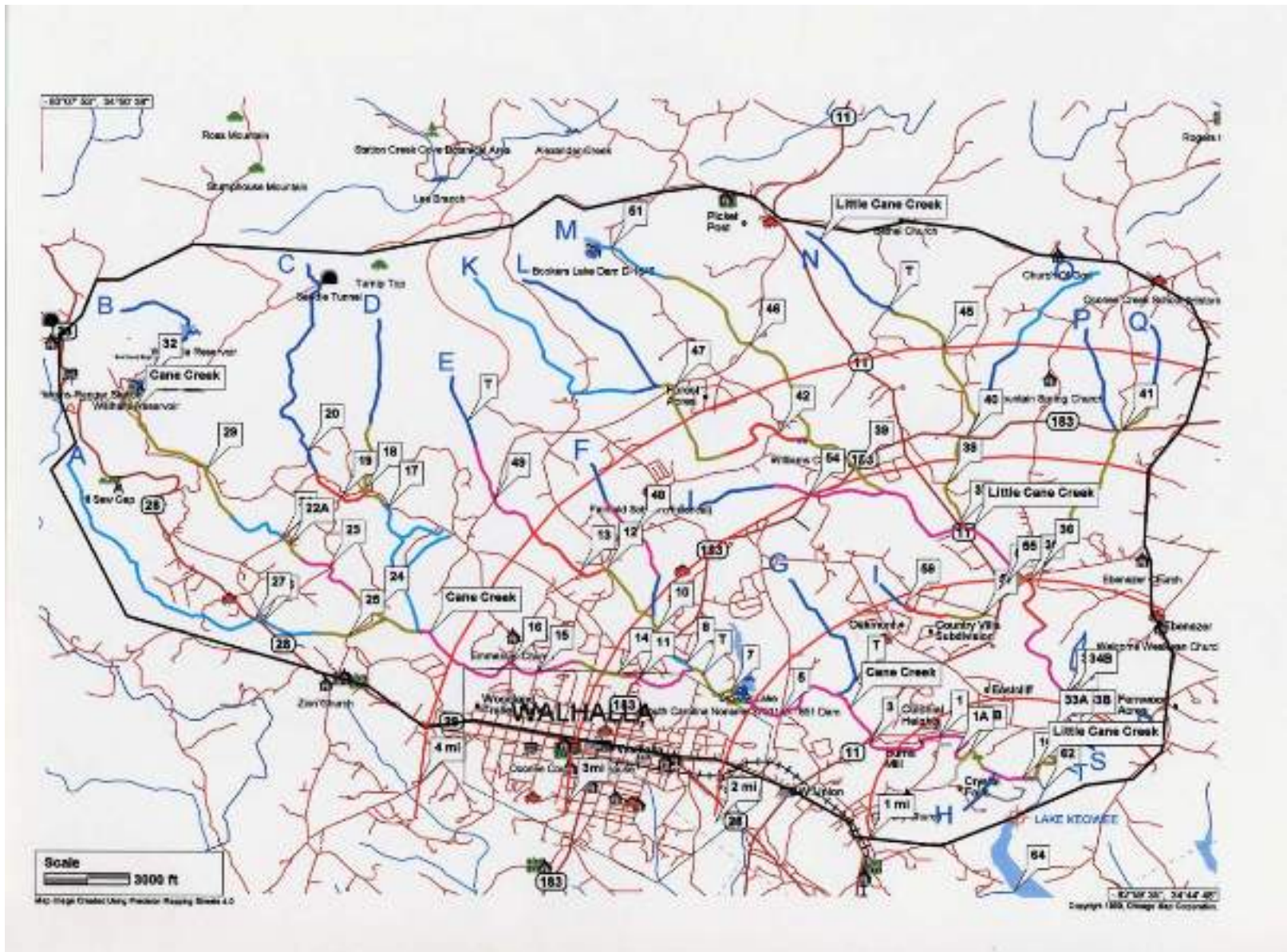
- **Source Water Protection Program**
- **Habitat Enhancement Program**
- **Stabilization of 12,500 feet of eroded island shoreline**
- **Dock Extension Program to reach deep water**
- **Oconee County Land Bank - \$600,000**
- **Litter/Recycling Outreach to students - \$10,000/yr.**

How Can Oconee County Help Protect Lake Keowee

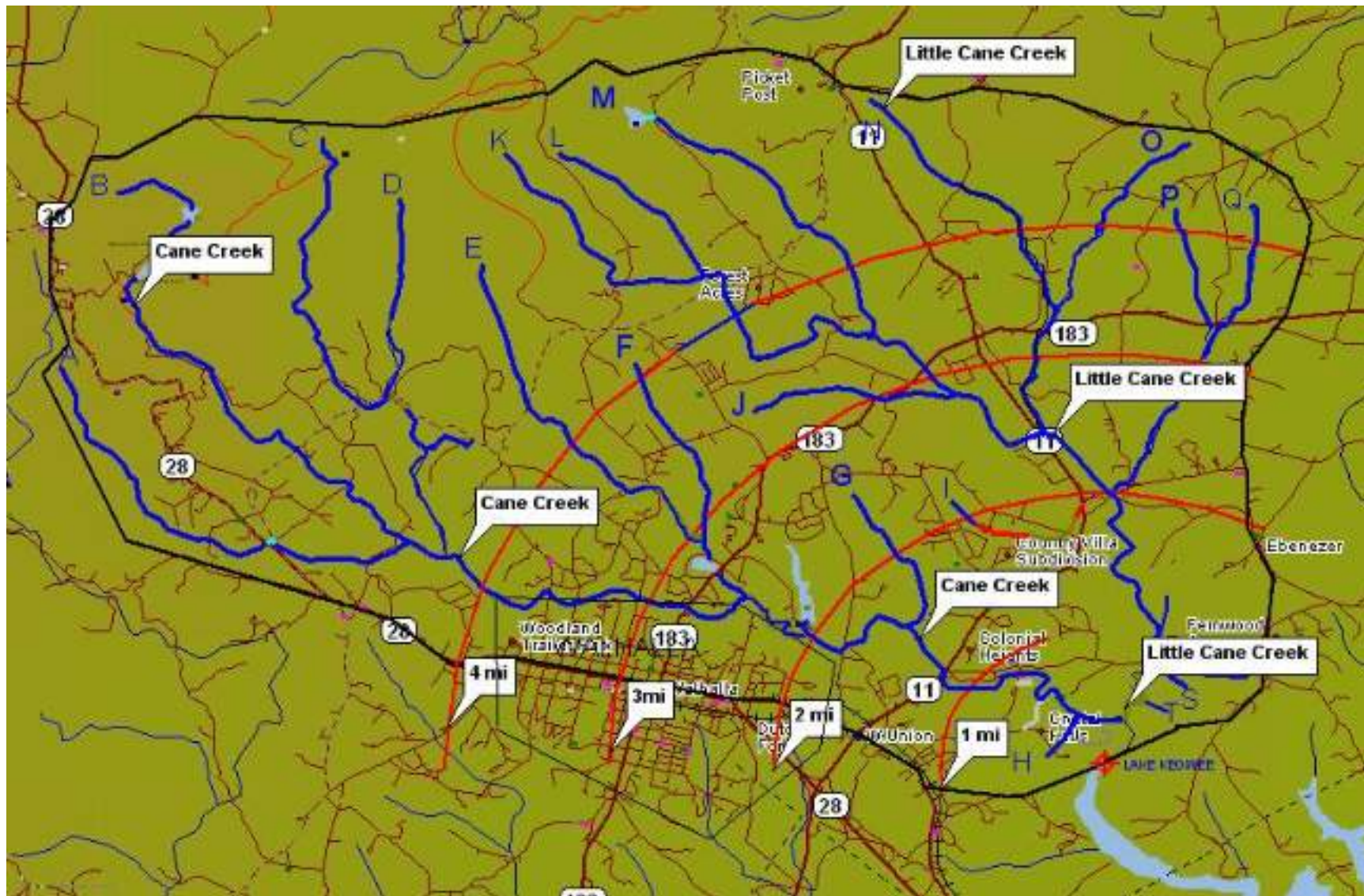
1. Extend protective vegetated buffer to at least 35', preferably 50'.
2. Adopt the Standard Ordinance Section to require a Grading Permit prior to any soil disturbance
3. Implement a Storm Water Management Program before being forced to by the EPA after 2020 Census.
4. Allow any citizen to file complaints about alleged infractions within the Lake Overlay.

ADDITIONAL INFORMATION

Cane & Little Cane Creek Clean Water Act Section 319 Grant Watershed – February 2006



Cane & Little Cane Creek Clean Water Act Section 319 Grant Watershed – February 2006



PROJECT ELEMENTS

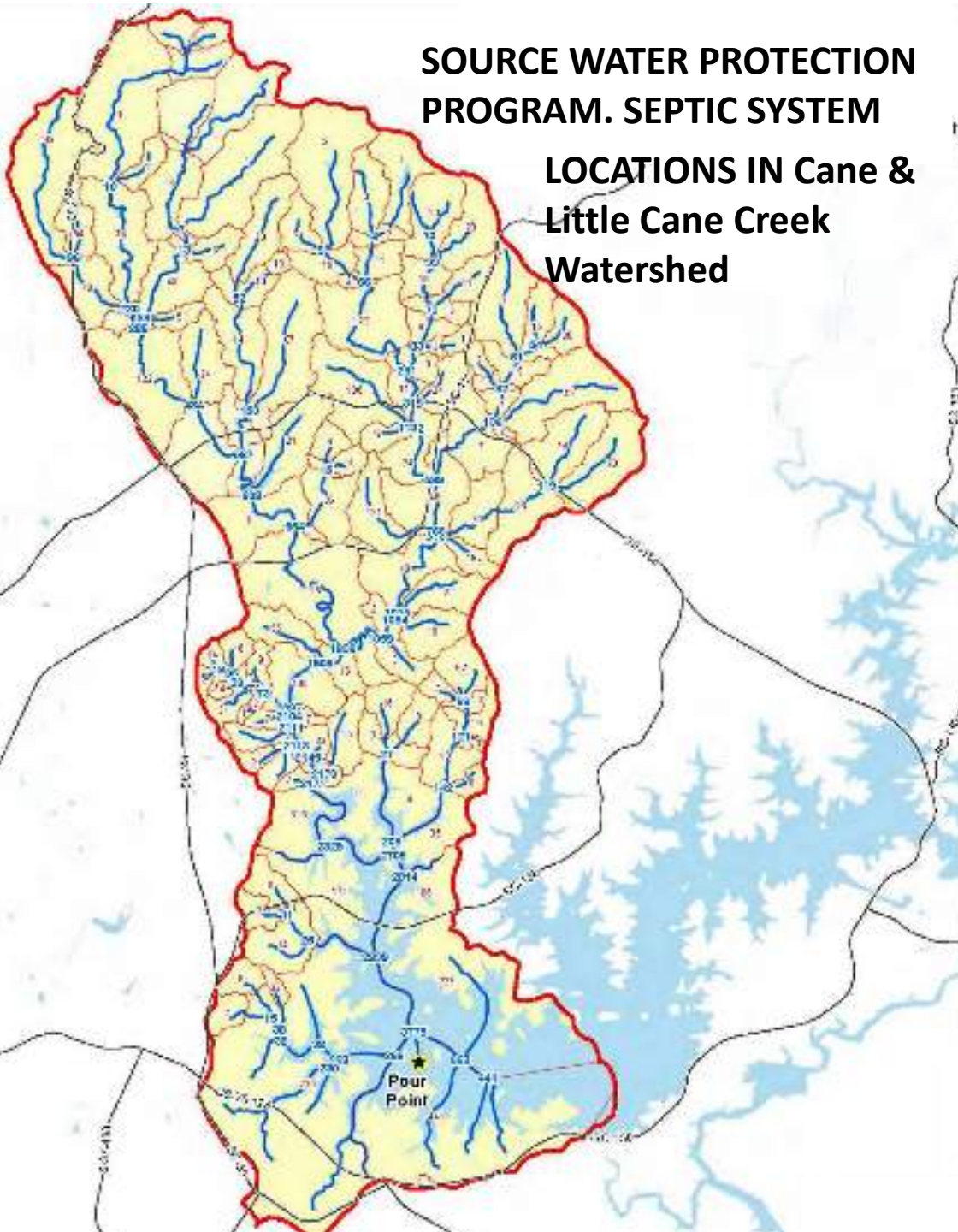
- 1. Develop farm plans and implement BMP's for FC load reduction linked to livestock.**
- 2. Identify and rehabilitate failing septic systems of near-stream rural homeowners.**
- 3. Develop and implement educational outreach – stormwater runoff effects.**

PROJECT PARTNERS

1. Clemson University Cooperative Extension Service (CES)
2. USDA – Natural Resources Conservation Service (NRCS)
3. Soil and Water Conservation District
4. Cattlemen’s Association – Oconee County
5. SC DHEC- Walhalla, SC
6. Oconee County Planning and Mapping Department - Staff
7. Clemson University-Environmental Engineering and Science and School of the Environment (EES)
8. KOBA - (Keep Oconee Beautiful Association)
9. Walhalla Police Department
10. Boy Scout Troop

SOURCE WATER PROTECTION PROGRAM. SEPTIC SYSTEM

LOCATIONS IN Cane & Little Cane Creek Watershed



This map of the Cane and Little Cane Creeks shows the likely distribution of septic systems. Starting at the top of the map there are very few homes. As you go down the small tributaries there are homes and the further toward Lake Keowee you go the number of septic systems increases until the count reaches almost 3800.

The Source Water Protection Program (SWPP) for which \$1MM was allocated in the Duke-Energy Relicensing Agreement was suggested and negotiated by FOLKS. The team of stakeholders who work on this project will try to leverage these funds with other grants. A major objective of this program is to continue the “find and cost-share fix failed septic systems”.

We estimate there are 30-40,000 septic systems in the Lake Keowee Watershed and EPA and SCDHEC estimate the failure rate to be in the 10-20% range. This level has been borne out in Michigan where, under an EPA consent decree all septic systems must be inspected at point of sale and about 15-20% have something in need of fixing.

We do not know the current failure rate in South Carolina since a repair permit is not required.

FOLKS' IMPACT ON KT RELICENSING

SOURCE WATER PROTECTION PROGRAM

This \$1MM program was spearheaded by FOLKS. It involves reduction of nonpoint source pollution with an emphasis on finding and fixing failed septic systems.

HABITAT ENHANCEMENT PROGRAM

This \$1-3MM program was suggested by FOLKS and modeled after the Catawba-Wateree Program. It is intended to improve wildlife and fish habitat.

STABILIZATING ERODED ISLAND SHORELINE

As the shoreline is built out the islands will take on an increased level of recreation activity. This ~\$1MM program will utilize enhanced rip-rap to stabilize shoreline on 10 islands.

EXAMPLE OF SEVERE EROSION & SILTATION

Cane Creek – Burns Mill Road

From our observations, Cane Creek is one of the most severely silted waterways flowing into Lake Keowee. These photos were taken during heavy rain events. On two occasions in the past 3 - 4 years there have been “log-jams” in front of Waters Edge Community and the Keowee Falls RV Park. As the creek enters a wide area in front of the RV park the water flow rate drops and silt is deposited. There is actually one large island on the Waters Edge side and another (in normal flow times just under the surface). The first log-jam took out two docks and there was such a dense log debris field, the residents went out with chain saws and cut through the jam.

In the case of the second log-jam, FOLKS had been working with the Waters Edge community on a local siltation issue and we contacted Duke-Energy. Since these logs constituted a hazard to navigation the residents corralled the logs into a cove and a Duke-Energy contractor made a number of trips to take loads of logs out of the lake.

We have given the City of Walhalla a copy of the photo showing the Stormwater within 8” of a gravity feed sanitary sewer line over Cane Creek (near Sanderson’s property.)

As the water goes under the new Burns Mill Bridge there is a sharp turn to the left. There has been a very significant erosion of an 8-10 foot bank. Left unattended, several large trees will end up falling and blocking that arm of Cane Creek – a setup for another logjam.

The bottom line is that sediment is a major non point source pollutant and can be mitigated by a Stormwater Management Program and adoption of a Grading Ordinance Section.



Sewer crossing above Burns Mill Bridge



Downstream of Burns Mill Rd up the road bridge



Debris just upstream of Burns Mill Bridge sawed

Debris above up the road upstream



Debris upstream of Burns Mill Bridge



Debris up the road





**PUBLIC HEARING
SIGN IN SHEET
OCONEE COUNTY COUNCIL MEETING
DATE: December 2, 2014 6:00 p.m.**

Ordinance 2014-26 "AN ORDINANCE TO AUTHORIZE THE ACCEPTANCE OF ELECTRONIC SIGNATURES FOR CERTAIN OCONEE COUNTY TRANSACTIONS IN ACCORDANCE WITH THE SOUTH CAROLINA UNIFORM ELECTRONIC TRANSACTION ACT AND TO AUTHORIZE AN ELECTRONIC SIGNATURE POLICY IN ACCORDANCE WITH SECTION 26-6-190(A) OF THE SOUTH CAROLINA CODE OF LAWS; AND OTHER MATTERS RELATED THERETO"

Written comments may be submitted at any time prior to the hearing for inclusion in the official record of the meeting.

Everyone speaking before Council will be required to do so in a civil manner.

Council will not tolerate personal attacks on individual council members, county staff or any person or group. Racial slurs will not be permitted. Council's number one priority is to conduct business for the citizens of this county. All citizens who wish to address Council and all Boards and

Commission appointed by Council should do so in an appropriate manner.

Public comment during a public hearing is not limited to four minutes per person.

Sign up sheets will be available thirty minutes prior to the hearing for those interested in addressing Council.

Written comments may be submitted at any time prior to the hearing for inclusion in the official record of the meeting.

Please submit written comments to the Clerk to Council, 415 South Pine Street, Walhalla, South Carolina, 29691.

Please PRINT your name

1.
2.
3.
4.
5.
6.
7.
8.
9.
10.
11.
12.
13.
14.
15.
16.
17.
18.
19.
20.
21.
22.
23.
24.

NONE

**AGENDA ITEM SUMMARY
OCONEE COUNTY, SC**

**COUNCIL MEETING DATE: December 2, 2014
COUNCIL MEETING TIME: 6:00 PM**

ITEM TITLE [Brief Statement]:

Third & Final Reading of Ordinance 2014-26 "AN ORDINANCE TO AUTHORIZE THE ACCEPTANCE OF ELECTRONIC SIGNATURES FOR CERTAIN OCONEE COUNTY TRANSACTIONS IN ACCORDANCE WITH THE SOUTH CAROLINA UNIFORM ELECTRONIC TRANSACTION ACT AND TO AUTHORIZED AN ELECTRONIC SIGNATURE POLICY IN ACCORDANCE WITH SECTION 26-6-190(A) OF THE SOUTH CAROLINA CODE OF LAWS; AND OTHER MATTERS RELATED THERETO."

BACKGROUND DESCRIPTION:

Proposed ordinance 2014-26 stems from the County's One-Stop-Shop initiative which has been focused on streamlining processes and making government more user friendly overall. Part of the One-Stop-Shop initiative has been the implementation on new permitting software in the Community Development department. The software is cloud based which allows citizens to navigate the County's permitting process online from the comforts of their home or office or from a job site. Part of the permitting processes requires a signature from the applicant. Ordinance 2014-26 establishes procedures related to the acceptance of electronic signatures. Ordinance 2014-26 will not only apply to the Community Development department. This ordinance establishes electronic signature policies for all County operations. Having these procedures in place is crucial as the County moves forward with the One-Stop-Shop program and as the County transitions to operating in a digital environment in order to best serve the citizens of Oconee County.

SPECIAL CONSIDERATIONS OR CONCERNS [only if applicable]:

None

FINANCIAL IMPACT [Brief Statement]:

Check Here if Item Previously approved in the Budget. No additional information required.

Approved by : _____ **Finance**

COMPLETE THIS PORTION FOR ALL GRANT REQUESTS:

Are Matching Funds Available: Yes / No

If yes, who is matching and how much:

Approved by : _____ **Grants**

ATTACHMENTS

None

STAFF RECOMMENDATION [Brief Statement]:

It is staff's recommendation that Council take third & final reading of Ordinance 2014-26.

Submitted or Prepared By:

Approved for Submittal to Council:

JOSH STEPHENS

Department Head/Elected Official

T. Scott Moulder, County Administrator

Council has directed that they receive their agenda packages a week prior to each Council meeting, therefore, Agenda Items Summaries must be submitted to the Administrator for his review/approval no later than 12 days prior to each Council meeting. It is the Department Head / Elected Officials responsibility to ensure that all approvals are obtained prior to submission to the Administrator for inclusion on an agenda.

A calendar with due dates marked may be obtained from the Clerk to Council.

STATE OF SOUTH CAROLINA
OCONEE COUNTY
ORDINANCE 2014-26

AN ORDINANCE TO AUTHORIZE THE ACCEPTANCE OF ELECTRONIC SIGNATURES FOR CERTAIN OCONEE COUNTY TRANSACTIONS IN ACCORDANCE WITH THE SOUTH CAROLINA UNIFORM ELECTRONIC TRANSACTION ACT AND TO AUTHORIZE AN ELECTRONIC SIGNATURE POLICY IN ACCORDANCE WITH SECTION 26-6-190(A) OF THE SOUTH CAROLINA CODE OF LAWS; AND OTHER MATTERS RELATED THERETO.

WHEREAS, Oconee County, South Carolina (the “County”), is a body politic and corporate and a political subdivision of the State of South Carolina (the “State”), acting by and through the Oconee County Council (the “County Council”); and,

WHEREAS, it has come to the attention of the County Council that State law, by and through Section 26-6-10, et. seq. of the South Carolina Code of Laws, 1976, *as amended* (the “Code”), known as the *Uniform Electronic Transactions Act* (the “UETA”), authorizes counties to allow for electronic signatures to be accepted by the County for certain transactions; and,

WHEREAS, on February 28, 2007, the South Carolina Budget and Control Board promulgated the South Carolina Standards for Electronic Signatures (the “SC Standards for Electronic Signatures”), attached hereto as Exhibit A, which were created in an effort to comply with the purpose and intent of the UETA; and,

WHEREAS, acceptance of documents filed and signed electronically is beneficial to citizens and businesses interacting with local governments by permitting them to submit documents electronically rather than by hand delivery, overnight delivery or mailing, and is environmentally friendly in that it eliminates the need for the presentation of multiple paper copies of documents; and,

WHEREAS, the County Council therefore deems it to be in the best interests of the health, safety, welfare and convenience of the citizens and businesses with which the County interacts, to establish a mechanism for acceptance of certain documents filed electronically and bearing electronic signatures; and,

WHEREAS, due to the aforementioned, the County Council finds that there is a need to authorize the acceptance of electronic signatures for certain transactions, to consent to the standards set forth in the SC Standards for Electronic Signatures, which may be amended by the South Carolina Budget and Control Board from time to time, and to provide for the adoption of policies and procedures in accordance with Section 26-6-190(A) of the Code:

NOW, THEREFORE, it is hereby ordained by the Oconee County Council, in meeting duly assembled, that:

1. The County hereby adopts and consents to the SC Standards for Electronic Signatures, as may be amended by the South Carolina Budget and Control Board from time to time, for use by the County in the implementation and application of this Ordinance, including, without limitation, through the Ordinance section immediately following this one. The current SC Standards for Electronic Signatures document is attached hereto as Exhibit A to this Ordinance, and it is hereby incorporated by reference as fully as if set forth verbatim herein.
2. The County will accept the following documents submitted electronically, and bearing electronic signatures, as provided in the preceding section of this Ordinance: Applications for rezoning, zoning permit, conditional use permit, special exception variance, planned unit development and other changes in the permitted use of a parcel of real property; Applications for site plan approval; Applications for building permit or other permit related to the improvement of real property; Applications, preliminary plats and other documents pertaining to the subdivision of a parcel of real property; Applications for encroachment permits; Any documents included within any of the foregoing applications, such as but not limited to boundary surveys, affidavits, engineering drawings, and sketches of legal descriptions. The County may request, in its sole discretion, additional documentation related to the foregoing documents, to be submitted, signed or sealed electronically. The Oconee County Administrator is authorized to determine and specify additional documents which may or must be submitted in electronic format with electronic signature, as provided herein, and the Oconee County Administrator shall maintain a list of all documents which are required or authorized to be submitted to the County in such format.
3. The Oconee County Administrator shall determine acceptable technologies and vendors consistent with industry best practices to ensure County adherence to SC Standards for Electronic Signatures and the security and integrity of the data received, retained, and used by the County.
4. The County Administrator is hereby authorized and directed to take any and all actions required of the County, or that he may deem desirable in his sole discretion, to give effect to the acts of the County Council as contemplated herein. This ordinance shall be codified in the Oconee County Code of Ordinances.
5. Should any part or provision of this Ordinance be deemed unconstitutional or unenforceable by any court of competent jurisdiction, such determination should not affect the rest and remainder of this Ordinance, all of which is hereby deemed separable.

6. All ordinances, orders, resolutions, and actions of the County Council inconsistent herewith are, to the extent of such inconsistency only, hereby repealed, revoked, and rescinded. However, nothing contained herein, or in Exhibit A, shall cancel, void, or revoke, or shall be interpreted as cancelling, voiding, or revoking in any regard any prior County acts, actions, or decisions of the County or the County Council, in any regard, except as explicitly and specifically stated herein.
7. All other terms, provisions, sections, and contents of the Code of Ordinances not specifically affected hereby shall remain in full force and effect.
8. This Ordinance shall take effect, and be in full force and effect, from and after the third reading and the public hearing and enactment by the County Council in accordance with the County Code.

Ordained in meeting, duly assembled, this 2nd day of December, 2014.

ATTEST:

Elizabeth Hulse,
Clerk to Oconee County Council

Joel Thrift,
Chairman, Oconee County Council

First Reading: October 21, 2014 [title only]
Second Reading: November 18, 2014
Third Reading: December 2, 2014
Public Hearing: December 2, 2014

Exhibit A
to
Ordinance 2014-26

South Carolina
Enterprise Architecture

**Uniform Electronic
Transactions Act**

**SC Standards
for Electronic Signatures**

February 28, 2007



Table of Contents

1.0 Standards	3
1.1 Applicability and Scope.....	3
1.2 Applicability to Transactions	4
1.3 Standards for Electronic Signatures.....	4
1.4 Use of Signature Unique to the Signer	5
1.5 Agreement by the Parties.....	6
1.6 Intent to Sign	6
1.7 Association of the Signature with the Signed Record	7
2.0 Examples	8
2.1 Digitized Human Signature	8
2.2 Online Tax Filing	8
2.3 Federal / State Tax Filing.....	8
3.0 Additional Considerations for Electronic Signatures.....	10
3.1 Risk Assessment.....	10
3.2 Additional Features.....	10
4.0 Definitions	12

1.0 Standards

1.1 Applicability and Scope

Background

The standards promulgated in this document were created in an effort to comply with the purpose and intent of the Uniform Electronic Transactions Act (UETA - S.C. Code Ann. 26-6-10 et seq.). South Carolina Code Section 26-6-190 of UETA, entitled Development of standards and procedures; service of process, states, in part:

The South Carolina State Budget and Control Board shall adopt standards to coordinate, create, implement, and facilitate the use of common approaches and technical infrastructure, as appropriate, to enhance the utilization of electronic records, electronic signatures, and security procedures by and for public entities of the State. Local political subdivisions may consent to be governed by these standards.

Applicability

As UETA states in S.C. Code Section 26-6-190, the standards set forth in this document are applicable to all State government entities including agencies, boards, commissions, colleges and universities. Local government entities may, at their option, consent to be governed by these standards. Model procedures for the use of electronic records, electronic signatures, and security procedures for private commercial transactions and contracts may be developed, implemented and facilitated by the Secretary of State. Such model procedures addressed in this document may prove applicable for this purpose.

Scope

The UETA does not require State government entities to utilize electronic records or electronic signatures. The extent that State government entities do use such records or signatures, they are subject to these standards (UETA, S.C. Code Section 26-6-180). The purpose of this document is to define the responsibilities and procedures to be used by State government entities when establishing and implementing electronic signatures with regard to the authentication, security, non-repudiation and integrity of such electronic signatures and the electronic records which are to be considered as signed.

Development, Periodic Review and Updating of these Standards

In November 2005, the State Budget and Control Board established a Task Force composed of subject matter experts from a number of state agencies to develop the standards set forth herein. This Task Force submitted its recommendations to the State's Architecture Oversight Committee (AOC) for review, evaluation and adoption. The AOC submitted final recommendations to the State Budget and Control Board, which shall be responsible for maintaining and updating these standards on an ongoing basis. The Task Force has been converted to an UETA Advisory Committee to provide ongoing comments, feedback and advice in this effort.

The Architecture Oversight Committee (AOC), by requiring these standards, does not state or provide the means of funding the assessment, establishment, implementation, or operation of electronic signatures or the electronic transactions which use electronic signatures.

1.2 Applicability to Transactions

The Uniform Electronic Transactions Act (UETA) defines an electronic signature as “an *electronic sound, symbol or process attached to or logically associated with a record and executed or adopted by a person with the intent to sign the record.*” This broad definition becomes problematic when considering the possible types of electronic records as defined by UETA. An electronic record is “a *record created, generated, sent, communicated, received, or stored by electronic means.*” This definition includes not only database records and network-based or web-based data exchanges, but also emails, fax transmissions, voice mails, PDA communications, tape backups and so on. Fax transmissions, voice mails, PDA communications, and tape backups are out of the scope of these standards.

There are four important parts to an electronic signature: 1) an electronic sound, symbol, process, etc. which is unique to the signer; 2) the agreement, either implied or explicit, by both parties to accept an electronic sound, symbol, process, etc. as a valid signature; 3) the intent to sign the record and 4) the action of applying the electronic signature to a specific document or record. These are discussed in greater detail below.

The phrase in UETA “with the intent to sign the record” presupposes that a signature is desired. Fortunately, not all types of electronic records require an electronic signature, nor do they require one to be permanently stored. By their nature, many electronic records do not require a signature, as no contractual, financial or confidential information is being exchanged. Other electronic records, such as a PDF created from a signed paper document, fulfill the requirements of an electronic signature as an intrinsic part of their structure.

The presence of an electronic signature presumes the originality of the record that has been signed. Electronic records must have an authoritative version, which may be treated as an original record, whether or not there are multiple copies of that record. To clarify further, during progressive processing of an electronic record, any information that is added or changed must create a new version of the record, to which the original signature no longer applies. This new record may be stored as (a) separate, duplicate or ancillary record(s). The version to be treated as an original signed version may not change. The new record may in turn be signed, creating a new, separately verifiable electronic signature.

1.3 Standards for Electronic Signatures

All programs implemented by State government entities which utilize electronic signatures shall meet the following conditions. The degree to which these conditions are met will vary by program, as dictated by law or regulation, by risk to the program, or by desire of the participants. Later sections will discuss each of these conditions in greater detail.

Use of signature unique to the signer: The electronic signature must uniquely identify the signer, and must be under reasonable control of the signer. That is, it must be unlikely that any other unauthorized entity provided the signature.

Agreement by the parties: A party signs a document in order to convey a mutually understood message to another party, such as authorship, receipt, or approval of the document. In the case of an electronic signature, both the signer and the intended recipient of the signed document must agree, either explicitly or implicitly, that the

electronic sound, symbol, or process will serve as a signature for the electronic document or record.

Intent to sign: The application of the electronic signature to the electronic record must be an intentional act. Intent can be determined by the contents of the document or record and the facts and circumstances surrounding the transaction.

Association of the signature with the signed record: The electronic signature must be physically or logically associated with the electronic record that is signed, and that association must persist for as long as the signature is in effect, which may be the life of the record.

The degree to which each of the above conditions is met is dependent on several factors normally associated with security concerns:

- **Authentication:** the ability to prove that the actual signer is the intended signer,
- **Non-Repudiation:** the inability of the signer to deny the signature, and
- **Integrity:** the assurance that neither the record nor the signature has been altered since the moment of signing.

However, it is important not to confuse the strength of the electronic signature with the strength of the security surrounding a given transaction. For example, an electronic record signed with a digital signature utilizing public key infrastructure (PKI) may be transmitted without authorization over an unsecured network, while a record signed with a weak password may be transmitted in encrypted format over a highly secured line.

Note that this standard does not deny or supersede the implementation standards established by law, regulation, or qualified body for any specific program, such as an IRS / State program or a program governed by HIPAA regulations. Rather, this standard for South Carolina governmental entities is intended to provide a framework for such program specific standards, and to provide governance where no such external standards are in place.

1.4 Use of Signature Unique to the Signer

The electronic sign, symbol, or process serving as the electronic signature must uniquely identify the person, business, agency, or system which is the signer of the electronic record, and be under the reasonable control of that party. The most commonly used form of identification in electronic transactions is the Personal Identification Number (PIN) or password, either assigned arbitrarily to the party by a service provider or self-selected by the party, and used in conjunction with a unique user identification. This PIN or password serves as an electronic signature either by being entered in response to a request to sign a transaction, or by the party's executing an action with intent to sign, while authenticated by the PIN or password. The longer and more complex (use of alpha, numeric, and special characters) the PIN or password is, the less likely that it can be replicated by an unauthorized party. However, the uniqueness of the PIN or password to a given party is still dependent on the security measures taken by the party. The strongest password loses any characteristic of authentication or non-repudiation if it is posted on a sticky note in plain view.

For an individual signer, the strongest form of electronic signature is based on some inherent physical characteristic of the person. A digitized version of a hand-written signature is the simplest example of this class. More sophisticated biometric signatures, such as a digitized fingerprint, retinal scan, or voice print, require more costly technology not readily available at time of this writing to the general public.

For a business, agency, or computer system, the most secure form of electronic signature requires the application of a public/private key pair, often referred to as Public Key Infrastructure (PKI). The business acquires a digital certificate from a Certificate Authority, and installs it on a computer system under secured control. The business or agency utilizes its uniquely assigned private key to sign an electronic record, and the electronic signature generated by this process becomes an intrinsic part of the electronic record. While a digital certificate can be assigned to an individual, this is not general practice, in part because a household computer system is generally shared by multiple parties.

The nature of the sound, symbol, or action to be utilized by a South Carolina agency in a program requiring electronic signatures will depend on several factors. One is the risk to the program of unauthorized or repudiated transactions, and the likelihood of the need to verify the signature in a contested context, such as a court of law. This risk must be balanced against factors of cost and availability of the means of signing for the intended population of signers. A technology which is cost justifiable for a bounded, controlled population such as agency employees or a small, known constituent base, may not be feasible for an unknown and unbounded general public.

It must be noted that while the signing party bears primary responsibility for maintaining control of the means of creating the electronic signature, the recipient of the electronic signature also bears a responsibility to protect the signature on behalf of the signer. For example, an agency that issues PINs or supports PIN self selection must protect those PINs from access by parties who might make unauthorized use of them.

1.5 Agreement by the Parties

For an electronic signature to be valid, both the signing party and the recipient party must agree that the sound, symbol, or process will in fact serve as a signature for the electronic record in question. This agreement may be either formal or informal, and can be determined from the context and surrounding circumstances, including the conduct of the parties. In the business world, electronic commerce is generally established between two parties by means of a Trading Partner Agreement (TPA). The Trading Partner Agreement (TPA) establishes the normal terms and conditions under which the transactions may occur; it sets forth the terms required by the nature of the electronic transaction; and it defines what will constitute a signature if electronic record(s) are to be generated and signed in the course of the transaction. Partners must understand what aspects of an electronic signature are to be implemented, and must understand their responsibility in working with, recognizing and preserving the electronic signature and the associated electronic record(s). In the context of two governmental agencies, whether both agencies are at the state level or at differing federal, state, or local levels, such an agreement is often known as a Memorandum of Understanding or MOU.

For governmental programs involving the general business community or individual constituents, it is not reasonable for an agency to negotiate separate agreements with each party. In this case, the agreement is generally issued unilaterally by the agency through legislation, regulation, or program documentation. Participation in the program by the business or individual party then constitutes acceptance of the agreement and of the program parameters. In all cases, however, there should be advance notice that a sound, symbol, or process generated by the business or individual will be considered to be a valid electronic signature for an electronic record. The simplest form of such notice, in the context of an online transaction, may be wording or a pop-up box on the screen explaining that a subsequent action will be considered to be an act of signing.

1.6 Intent to Sign

There can be no electronic signature without the intention to execute or adopt the sound, symbol or process for purposes of signing the related document or record. There is a sequential

relationship between the agreement by the parties and the act of signing: there is agreement that a certain action will create or serve as an electronic signature, and then that action is intentionally executed. An electronic signature may be created by the signing party or on behalf of a party by an authorized agent, including an electronic agent.

In order to reduce the uncertainty regarding the intent to sign, there should be a prior agreement (or notification) that the execution of the transaction will constitute a signature, followed by the action itself executed with intent to sign. For example, the intent to sign may be demonstrated by a simple mouse click in an online transaction, in response to an on-screen notification that the action will constitute an act of signing. In this case, the signer is generally logged onto an application using credentials such as a user identification and PIN or password, and those credentials may become logically associated with the transaction record to constitute the electronic signature. However, it must be noted that, without the requisite intent to sign, merely executing an online transaction while authenticated by means of certain credentials does not in itself constitute an act of signing, even if those credentials can be associated with the transaction record.

An expression of intent to sign may cover multiple applications of an electronic signature; for example, a system may be programmed to apply a digital signature to all electronic records of a certain type.

1.7 Association of the Signature with the Signed Record

An electronic signature has value only in the context of an electronic record. It may signify that an electronic record is acknowledged or approved, that its contents are agreed to, or that the record is authentic. In the case of the record of a transaction, it may signify that the transaction was properly authorized. The value lies in the ability to verify the signature, and therefore reaffirm its significance to the electronic record, at a later date. For this reason, the electronic signature must be physically or logically associated with the electronic record for the lifetime of the electronic record.

Corollary to this requirement is the assumption that neither the electronic record nor the electronic signature itself is altered during this timeframe. A program utilizing electronic signatures should therefore implement appropriate security measures at both the originator of the signature and the recipient of the signature to prevent unauthorized alteration to either the electronic record or the electronic signature. The nature of these measures may be dictated by external governance, as in the case of an IRS or HIPAA program. If the application of security is at the discretion of the participating South Carolina agency or agencies, then the nature of the security measures should be commensurate to the risk and consequences of unauthorized alteration. A risk assessment should be performed early in the development of the program, in order to determine appropriate security measures to protect the electronic record and electronic signature both during transactions and in subsequent storage.

The simplest of these measures is to ensure that access controls are in place to prevent unauthorized access to modify or delete the electronic record and electronic signature. Stronger measures include the use of unalterable media such as write-once, read many (WORM) disks to store the electronic record and electronic signature. One of the strongest detection measures is the use of digital signatures, where an algorithmic hash of the electronic record is encrypted using the private key of the signer. In this case any alteration to the electronic record by a party not in possession of this private key will invalidate the digital signature, because the digital signature, when decrypted with the signer's public key, will not yield the hash of the altered record.

2.0 Examples

The standard for electronic signatures for South Carolina governmental agencies does not dictate the use of any specific technologies or authorize any specific models for implementation. This is done for two reasons: first, because the array of technologies and implementation models for the use of electronic signatures is extremely large, and would not provide useful guidance for all situations, and secondly so that the technology-neutral standard will not require modification or become invalidated by the invention or adoption of future technology. However, in order to provide some measure of guidance, the following examples of the use of electronic signatures are offered as illustration of the standard.

2.1 Digitized Human Signature

A digitized signature is a graphical image of a handwritten signature. Some applications require an individual to create his or her handwritten signature using a special computer input device, such as a digital pen and pad. The digitized representation of the entered signature may then be compared to a previously-stored copy of a digitized image of the handwritten signature. If special software judges both images comparable, the signature is considered valid. This application of technology shares the same security issues as those using the PIN or password approach, because the digitized signature is another form of shared secret known both to the user and to the system. The digitized signature can be more reliable for authentication than a password or PIN because there is a biometric component to the creation of the image of the handwritten signature. Forging a digitized signature can be more difficult than forging a paper signature since the technology digitally compares the submitted signature image with the known signature image, and is better than the human eye at making such comparisons. The biometric elements of a digitized signature, which help make it unique, are in measuring how each stroke is made (duration, pen pressure, etc.). As with all shared secret techniques, compromise of a digitized signature image or characteristics file could pose a security (impersonation) risk to users.

2.2 Online Tax Filing

The South Carolina Department of Revenue (DOR) offers a web-based application to allow individuals to file their Individual Income Tax returns online. Users are authenticated by means of a pre-assigned PIN which is sent by the DOR to the taxpayer's address of record. At the conclusion of the filing transaction, the user is presented with a "jurat" (Latin for "been sworn") affirming that the information is true and accurate. The user is then prompted to re-enter the PIN as a signature to the jurat and thus the return. By re-entering the PIN, the taxpayer accepts the agreement for that PIN to serve as an electronic signature, and indicates an intent to sign. This use of the PIN therefore constitutes a valid electronic signature.

By contrast, DOR also offers a web-based application to allow businesses to file their Sales and Use Tax returns online. The user must be authenticated by means of a user identification and self-selected PIN prior to utilizing the application. However, the application does not present any jurat to the taxpayer or ask for re-entry of the PIN, nor does it state at any time that any subsequent action will be considered as an act of signing. For this reason, although the online filing is legal and binding, and although proper authentication is required, the transaction is not considered to have been signed.

2.3 Federal / State Tax Filing

When a taxpayer files an electronic income tax return using commercial software such as TurboTax ® or utilizes a paid preparer such as H&R Block, both the federal and state tax returns

are transmitted to the IRS. The IRS, in turn, splits off the state returns and transmits them to the participating states.

The electronic returns are signed by various means, as part of the transaction between the taxpayer and the tax preparer or host of the commercial software, and subsequently the IRS. The DOR considers those returns to be signed, even though the signatures are not verified on receipt by the DOR. This example serves to illustrate the difference between electronic signatures and transactional security. There are a number of security measures in place governing the transactions between the DOR and IRS to retrieve the South Carolina tax returns. However, the authentication of these transactions has nothing to do with the original taxpayers' electronic signatures which are associated with the transmitted electronic records.

3.0 Additional Considerations for Electronic Signatures

3.1 Risk Assessment

Risk Assessment: A risk assessment should be performed to determine the best means of implementing electronic signatures and the level of security for the type of program. This assessment should take into consideration the following issues:

- The nature and value of the data and records in the transactions. Differing types of data and records will have different requirements. Data and records which fall under HIPAA requirements, for example, will have much stricter requirements than some other types of data and records.
- The susceptibility of the transaction's data to fraud. Some data will be of a higher profile, and possibly more susceptible to fraud than other types of data.
- The type of communication for the transactions.
- The security of the systems which host the transaction processes and data.
- The reliability of the systems which host the transaction processes and data.
- The consequences of successful fraud for participants, their organizations and the system(s).
- The role and authority of the user base, especially on those systems where there are multiple levels of authorization on the data.
- The existing technology base and the cost of technology.
- The required level of confidence in establishing the users' identity.
- The required level of communication integrity.
- The required level of record integrity.
- The required level of non-repudiation for records.

Risk Mitigation Plan: After the possible risks have been identified, a risk mitigation plan must be created. This plan will ensure that for all known risks, action will or can be taken to resolve the risk, mitigate the risk, or have a contingency for the risk. Critical risks should be resolved fully prior to proceeding with the implementation. The risk mitigation process should be fully documented.

3.2 Additional Features

There are several additional implementation features of electronic signatures that are not included in the South Carolina standard (as defined in section 1), as they may not apply to all implementations.

These features can fulfill specific business requirements in certain types of business transactions. In some cases, they mimic the process that exists when working with paper documents.

- **Continuity of signature capability:** The ability to ensure that public awareness of the means or technology used to create or apply an electronic signature, such as the identification of the algorithm utilized, does not compromise the ability of the signer to apply additional secure signatures at a later date.
- **Countersignatures:** The capability to prove the order of application of signatures. This is analogous to the normal business practice of countersignatures, where a party signs a document that has already been signed by another party. In an electronic signature, the

issue of record originality must be considered, especially if a copy of the record(s) is made during the process of applying a countersignature.

- **Independent verifiability:** The capability to verify a party's signature (electronic record or digitized signature) without the cooperation of the signer.
- **Interoperability of Electronic Signature Technology:** The assurance that applications, systems or other electronic components used during phases of communication between trading partners and/or between internal components of an entity, are able to read and correctly interpret the transaction information communicated from one to the other.
- **Multiple signatures:** The capability of multiple parties to sign an electronic record, document or transaction. Conceptually, multiple signatures are simply appended to the document or record. Depending upon the implementation, the issue of originality may arise.
- **Data Transportability:** The ability of a signed document to be transported over an insecure network to another system, while maintaining the integrity of the document, including content, signatures, signature attributes, and (if present) document attributes.

4.0 Definitions

AOC: The Architecture Oversight Committee is the governing body of the South Carolina Enterprise Architecture.

Authentication: The use of passwords, tokens (such as smart cards), digital certificates or biometrics to verify that an entity is the one claimed.

Authorization: The process of granting an entity permission to do or have something, or of verifying that permission at time of action.

Ciphertext: The representation of encrypted information. This text may be viewable, but requires decoding. For example, a decryption algorithm is required to convert the ciphertext back into plaintext or its original form.

Credential: A credential is a set of data used for user/system authentication, which is established during a registration process, is stored in an identity management system, and is retrieved for comparison during an authentication process. In some cases, a credential is as simple as a login id and password. Examples of more complex credentials include digital certificates, electronic profiles of a user, a One-Time-Password device, a hardware token, or a biometric device (with the storage of biometric information for a user).

Digital Certificate: A digital certificate is an electronic record issued to a properly authenticated individual or organization by a Certificate Authority (CA). The digital certificate contains a mathematically related pair of encryption keys assigned uniquely to the individual or organization. The “public key” is published by the CA, so that any party may use it to encrypt data intended for the individual or organization. The “private key” must be kept secured by the individual or organization, and is used to encrypt data which can only come from the individual or organization. The digital certificate is installed on a computer system or server controlled by the individual or organization, and is utilized by various communication services, such as web browsers and communication protocols, to perform encryption and decryption services.

Digital Signature: A digital signature is an electronic record created by the mathematical operation of a private encryption key on an electronic record or document. A short record or “digest” is created from the original record or document. The digest is then encrypted with the private key to create the digital signature. The digital signature is generally appended to the document or record for transmission. A digital signature may be verified by the receiving party by decrypting it with the sender’s public key, and then comparing the resulting short record with the digest of the transmitted record or document. Digital signatures are considered among the strongest forms of electronic signature for two reasons: 1) they can only be created by an entity’s private key, so they are difficult to repudiate, and 2) they are based on a mathematical reduction of the original record or document, so that they cannot be validated if the transmitted record or document is altered in any way.

DOR: Department of Revenue

<p>Electronic Agent: An <u>electronic signature</u> may be created by an electronic agent on behalf of a person. An electronic agent may take the form of software that performs automated processes. An application which accepts <u>electronic signatures</u> from an individual may also need to be configured to authenticate and authorize electronic agents, and to record an <u>electronic signature</u> with the electronic agent as the signer. Note that a computer application may also create an <u>electronic signature</u> on its own behalf, without reference to any specific person.</p>
<p>Electronic Record: A <u>record</u> created, generated, sent, communicated, received or stored by electronic means.</p>
<p>Electronic Signature: Means an electronic sound, symbol, or process attached to or logically associated with a <u>record</u> and executed or adopted by a person with the intent to sign the <u>record</u>.</p>
<p>Embedding: The inclusion or linking of <u>electronic signature</u> elements into the <u>electronic record</u> to which the signature applies.</p>
<p>Encryption: The transformation of confidential plaintext or other information into <u>ciphertext</u> to protect it. An encryption algorithm combines plaintext with other values called keys, or ciphers, so the data becomes unintelligible. Once encrypted, data can be stored or transmitted. Decrypting data reverses the encryption algorithm process and makes the plaintext available for further processing.</p>
<p>HIPAA: Health Insurance Portability and Accountability Act (Pub.L. 104-191, Aug. 21, 1996)</p>
<p>Integrity: The means to ensure that data is complete and unaltered despite aging, transmission, duplication, migration, <u>encryption</u>, decryption or restoration.</p>
<p>IRS: Internal Revenue Service</p>
<p>Jurat: Latin for “been sworn”. It pertains to not just affirming the signature is yours but also to swearing the information represented is true and accurate.</p>
<p>Non-repudiation (or non-reputable records): A security feature under which the origin of data cannot be denied, and can be proven to an independent third party.</p>
<p>Password: The confidential <u>authentication</u> information composed of a string of alpha-numeric and / or special characters, whose specific requirements may vary by application, used during an <u>authentication</u> process.</p>
<p>PDA: Personal Digital Assistant (e.g., a Palm Pilot or other handheld electronic equivalent)</p>

PDF: Portable Document Format. A electronic format to convey the image of a document. It is often viewed with Acrobat Reader.

PIN: Personal Identification Number

PKI: Public Key Infrastructure

Record: Information that is inscribed on a tangible medium or that is stored in an electronic or other medium and is retrievable in perceivable form.

UETA: Uniform Electronic Transactions Act. (S.C. Code Ann. Section 26-6-10 et seq.)

<http://www.scstatehouse.net/code/tit126.htm>

WORM: Write Once Read Many. A type of data storage that when once the data is stored, the data cannot be changed.

AGENDA ITEM SUMMARY
OCONEE COUNTY, SC

COUNCIL MEETING DATE: December 2, 2014
COUNCIL MEETING TIME: 6:00 PM

ITEM TITLE [Brief Statement]:

Third & Final Reading of Ordinance 2014-24 "AN ORDINANCE AUTHORIZING AND DIRECTING THE PROVISION OF COUNTY-FUNDED LEGAL REPRESENTATION, DEFENSE, AND LIMITED INDEMNIFICATION FOR OCONEE COUNTY EMPLOYEES IN CERTAIN LIMITED CIRCUMSTANCES INVOLVING THE DIRECTION AND PERFORMANCE OF OFFICIAL DUTIES; AND OTHER MATTERS RELATED THERETO"

BACKGROUND DESCRIPTION:

This ordinance is designed to cover all county employees who are engaged in their official duties and are sued. The ordinance addresses specifically a gap in South Carolina state law regarding immunity for public officials. An employee[s] can be sued, found innocent and deemed to have acted within their authority; however, attorney fees for their defense in a suit may not be awarded by a judge. This leaves the employee[s] with huge legal fees for their defense when they were acting within the scope of their official duty. This ordinance will **NOT** cover employees if they are deemed to have acted outside of their official duties by a court of law.

A Public Hearing was held on November 18, 2014 and Council initiated third reading. This matter was tabled after a motion to amend and present the amended ordinance at the December 2, 2014 meeting for consideration. There is an open motion on the floor to approve **Ordinance 2014-24** on third and final reading.

SPECIAL CONSIDERATIONS OR CONCERNS [only if applicable]:

None

FINANCIAL IMPACT [Brief Statement]:

None

Check Here if Item Previously approved in the Budget. No additional information required.

Approved by : Finance

COMPLETE THIS PORTION FOR ALL GRANT REQUESTS:

Are Matching Funds Available: Yes / No

If yes, who is matching and how much:

Approved by : Grants

ATTACHMENTS

Ordinance 2014-24 & Blue Line DRAFT Copy showing amendment

STAFF RECOMMENDATION [Brief Statement]:

Submitted or Prepared By:

Approved for Submittal to Council:

Department Head/Elected Official

T. Scott Moulder, County Administrator

Council has directed that they receive their agenda packages a week prior to each Council meeting, therefore, Agenda Items Summaries must be submitted to the Administrator for his review/approval no later than 12 days prior to each Council meeting. It is the Department Head / Elected Officials responsibility to ensure that all approvals are obtained prior to submission to the Administrator for inclusion on an agenda.

A calendar with due dates marked may be obtained from the Clerk to Council.

STATE OF SOUTH CAROLINA
OCONEE COUNTY
ORDINANCE 2014-24

AN ORDINANCE AUTHORIZING AND DIRECTING THE PROVISION OF COUNTY-FUNDED LEGAL REPRESENTATION, DEFENSE, AND LIMITED INDEMNIFICATION FOR OCONEE COUNTY EMPLOYEES AND CERTAIN OTHER OFFICERS, OFFICIALS, AND APPOINTEES OF THE COUNTY, IN CERTAIN LIMITED CIRCUMSTANCES INVOLVING THE DIRECTION AND PERFORMANCE OF OFFICIAL DUTIES; AND OTHER MATTERS RELATED THERETO.

WHEREAS, Oconee County, South Carolina (the "County"), a body politic and corporate and a political subdivision of the State of South Carolina (the "State"), acting by and through its governing body, the Oconee County Council (the "County Council"), is served by many loyal and dedicated elected officials and employees and appointees of County Council, who diligently carry out the official functions of the County, as established in State law, on a daily basis; and

WHEREAS, in order to ensure that all elected officials and employees of all counties in the State are able to carry out such assigned official duties in a responsible manner, free of fear from personal attack or loss because of and while acting in the scope of their official duties, federal law and South Carolina law both provide extensive protections for such employees, including making such attacks and loss generally subject to sovereign immunity, and generally prohibiting lawsuits attempting to create such loss except when the employee is acting outside of the scope of their official duties; and

WHEREAS, because published threats have recently been made against certain County employees and elected officials, threatening to sue them for financially crippling damages by means and language which would skirt or obviate the protections afforded to such employees by state and federal law, thereby making such a possibility not merely theoretical, but a threatened reality; and

WHEREAS, a potential gap exists in the statutory protection of County employees, officials, and other servants of the County from litigation intended to harm them personally for discharging the official duties of the County, in that defense of such threatened litigation by County employees, even to the extent necessary to have such litigation dismissed or converted to suit against the County, as prescribed by state law, could nevertheless result in catastrophic financial burden to such employees, officials, and other servants; and

WHEREAS, no employee, officials, and other servants should ever be intentionally threatened by or exposed to any financial loss, much less intentionally catastrophic financial loss, merely for doing that which is required and mandated by state law, such as, without limitation, the uniform and consistent lawful collection of owed taxes, and because the threat of such loss would be harmful to the official discharge of public duties in any political subdivision, and even chill the willingness to serve in public office by creating fear of personal damage or loss for simply doing one's duties; and

WHEREAS, because Oconee County recognizes the need to prevent use of threats of potential litigation as coercion or intimidation to deter or chill such discharge of official duties, Oconee County desires to ensure that all County employees, elected officials and all appointees of County Council, all of whom must be either employees of the County, receive paychecks from the County, or be appointed by County Council (collectively, the "Employees"), engaged in the direction or performance of official duties for and on behalf of Oconee County, know that they are protected from such liability or harm, unless and until they lose their immunity and protection from such litigation in accordance with South Carolina law, including, without limitation, §1-7-50, *et seq.* and §15-78-70, South Carolina Code, 1976, as amended, and so Oconee County Council hereby authorizes and directs the provision of County funded legal representation, defense, and limited indemnification (limited to the extent of actual legal costs incurred by and valid judgments rendered against any County Employee except for conduct outside the scope of his official duties or which constitutes actual fraud, actual malice, intent to harm, or a crime involving moral turpitude) for such Employees, to address costs and risks prior to statutory protection dismissing such litigation, all of which is consistent with defense of other Employees sued for the direction and discharge of their official duties throughout the State.

NOW, THEREFORE, IT IS HEREBY ORDAINED by Oconee County Council, in meeting duly assembled, that:

1. The foregoing preamble, and all statements contained therein, are hereby adopted as findings of fact by Oconee County Council, for purposes of this Ordinance.

2. Notwithstanding any other provisions hereof, this Ordinance is intended to comply, in every detail, with the Constitution and law of the State of South Carolina, and shall always be interpreted and applied only in that manner. Further, this Ordinance shall only be interpreted and applied so as to comply with all restrictions and dictates applicable to it, as set out in the Attorney General Opinion related to it dated November 18, 2014. Further, this Ordinance shall apply to civil actions, only, and not criminal actions, and shall apply only to acts undertaken within the scope of employment, in good faith.

3. To the extent that the South Carolina Insurance Reserve Fund or other County carrier fails to provide full coverage of defense, possible judgment, or other related expenses for the defense of any County Employee named as a defendant in litigation related to the direction and performance of official duties (those prescribed by federal or state law, or traditionally and historically carried out by County Employees on behalf of the public of Oconee County), Oconee County shall provide for legal defense of such Employees, with counsel reasonably acceptable to such Employees, and will cover possible judgment or other related expenses related to such representation and defense, unless and until a determination is made by a court of competent jurisdiction that such Employee was acting outside the scope of his or her official duties or engaged in conduct which constitutes actual fraud, actual malice, intent to harm, or a crime involving moral turpitude, all as prescribed by state law, it being the policy of Oconee County to protect County Employees from personal financial damage as a result of directing or performing official duties on behalf of the County, except as otherwise proscribed by state law.

4. Expenses for the representation, defense, and indemnification of County Employees, as prescribed in the foregoing paragraph, shall be paid only from general or special reserve funds of the County, or if applicable, from a special insurance policy carried by the County for such purpose, and are limited, and not unlimited, in that regard.

5. Because the coverage and payment policy prescribed herein is specific to job responsibilities of County Employees, and based on acts within the scope of employment, in good faith, only, such expenses will be paid by the County as first payment, prior to any personal liability insurance coverage carried by the Employee in question.

6. Any request from a County Employee for use of the coverage prescribed herein will be reviewed and subject to approval by a committee composed of the County Attorney, the Chief Financial Officer of the County, and the Risk Manager of the County, each having an equal vote. A decision by the committee to decline to provide coverage for a County Employee, as prescribed herein, may be appealed to the County Administrator.

7. If the representation and defense policy prescribed herein is approved after public hearing and third and final reading of this Ordinance, such policy will be effective immediately, and will date back to the date of first reading of this Ordinance.

8. Should any part or provision of this Ordinance be deemed unconstitutional or unenforceable by any court of competent jurisdiction, such determination shall not affect the rest and remainder of this Ordinance, all of which is hereby deemed separable.

9. All ordinances, orders, resolutions, and actions of Oconee County Council inconsistent herewith are, to the extent of such inconsistency only, hereby repealed, revoked, and rescinded.

10. This Ordinance shall take effect and be in full force and effect, as of the date of first reading, from and after third reading and enactment by Oconee County Council.

ORDAINED in meeting, duly assembled, this 2nd day of December, 2014.

ATTEST:

Elizabeth Hulse,
Clerk to Oconee County Council

Joel Thrift,
Chairman, Oconee County Council

First Reading: October 7, 2014
Second Reading: October 21, 2014
Public Hearing: November 18, 2014
Third Reading: December 2, 2014

OCONEE COUNTY, SOUTH CAROLINA
ORDINANCE NO.: 2014-24

WHEREAS, Oconee County, South Carolina (the "County"), a body politic and corporate and a political subdivision of the State of South Carolina (the "State"), acting by and through its governing body, the Oconee County Council (the "County Council"), is served by many loyal and dedicated elected officials and employees ~~(collectively, the "Employees")~~ and appointees of County Council, who diligently carry out the official functions of the County, as established in State law, on a daily basis; and

WHEREAS, in order to ensure that all elected officials and employees of all counties in the State are able to carry out such assigned official duties in a responsible manner, free of fear from personal attack or loss because of and while acting in the scope of their official duties, federal law and South Carolina law both provide extensive protections for such employees, including making such attacks and loss generally subject to sovereign immunity, and generally prohibiting lawsuits attempting to create such loss except when the employee is acting outside of the scope of their official duties; and

WHEREAS, because published threats have recently been made against certain County employees and elected officials, threatening to sue them for financially crippling damages by means and language which would skirt or obviate the protections afforded to such ~~Employees~~ employees by state and federal law, thereby making such a possibility not merely theoretical, but a threatened reality; and

WHEREAS, a potential gap exists in the statutory protection of County ~~Employees~~ employees, officials, and other servants of the County from litigation intended to harm them personally for discharging the official duties of the County, in that defense of such threatened litigation by County ~~Employees~~ employees, even to the extent necessary to have such litigation dismissed or converted to suit against the County, as prescribed by state law, could nevertheless result in catastrophic financial burden to such ~~Employees~~ employees, officials, and other servants; and

WHEREAS, no ~~Employee~~ employee, officials, and other servants should ever be intentionally threatened by or exposed to any financial loss, much less intentionally catastrophic financial loss, merely for doing that which is required and mandated by state law, such as, without limitation, the uniform and consistent lawful collection of owed taxes, and because the threat of such loss would be harmful to the official discharge of public duties in any political subdivision, and even chill the willingness to serve in public office by creating fear of personal damage or loss for simply doing one's duties; and

WHEREAS, because Oconee County recognizes the need to prevent use of threats of potential litigation as coercion or intimidation to deter or chill such discharge of official duties, Oconee County desires to ensure that all County ~~Employees~~employees, elected officials and all appointees of County Council, all of whom must be either employees of the County, receive paychecks from the County, or be appointed by County Council (collectively, the "Employees"), engaged in the direction or performance of official duties for and on behalf of Oconee County, know that they are protected from such liability or harm, unless and until they lose their immunity and protection from such litigation in accordance with South Carolina law, including, without limitation, §1-7-50, et seq. and §15-78-70, South Carolina Code, 1976, as amended, and so Oconee County Council hereby authorizes and directs the provision of County funded legal representation, defense, and limited indemnification (limited to the extent of actual legal costs incurred by and valid judgments rendered against any County Employee except for conduct outside the scope of his official duties or which constitutes actual fraud, actual malice, intent to harm, or a crime involving moral turpitude) for such Employees, to address costs and risks prior to statutory protection dismissing such litigation, all of which is consistent with defense of other Employees sued for the direction and discharge of their official duties throughout the State.

NOW, THEREFORE, IT IS HEREBY ORDAINED by Oconee County Council, in meeting duly assembled, that:

1. The foregoing preamble, and all statements contained therein, are hereby adopted as findings of fact by Oconee County Council, for purposes of this Ordinance.

2. Notwithstanding any other provisions hereof, this Ordinance is intended to comply, in every detail, with the Constitution and law of the State of South Carolina, and shall always be interpreted and applied only in that manner. Further, this Ordinance shall only be interpreted and applied so as to comply with all restrictions and dictates applicable to it, as set out in the Attorney General Opinion related to it dated November 18, 2014. Further, this Ordinance shall apply to civil actions, only, and not criminal actions, and shall apply only to acts undertaken within the scope of employment, in good faith.

~~3.~~ 3. To the extent that the South Carolina Insurance Reserve Fund or other County carrier fails to provide full coverage of defense, possible judgment, or other related expenses for the defense of any County Employee named as a defendant in litigation related to the direction and performance of official duties (those prescribed by federal or state law, or traditionally and historically carried out by County Employees on behalf of the public of Oconee County), Oconee County shall provide for legal defense of such Employees, with counsel reasonably acceptable to such Employees, and will cover possible judgment or other related expenses related to such representation and defense, unless and until a determination is made by a court of competent jurisdiction that such Employee was acting outside the scope of his or her official duties or

engaged in conduct which constitutes actual fraud, actual malice, intent to harm, or a crime involving moral turpitude, all as prescribed by state law, it being the policy of Oconee County to protect County Employees from personal financial damage as a result of directing or performing official duties on behalf of the County, except as otherwise proscribed by state law.

34. Expenses for the representation, defense, and indemnification of County Employees, as prescribed in the foregoing paragraph, shall be paid only from general or special reserve funds of the County, or if applicable, from a special insurance policy carried by the County for such purpose, and are limited, and not unlimited, in that regard.

45. Because the coverage and payment policy prescribed herein is specific to job responsibilities of County Employees, and based on acts within the scope of employment, in good faith, only, such expenses will be paid by the County as first payment, prior to any personal liability insurance coverage carried by the Employee in question.

56. Any request from a County Employee for use of the coverage prescribed herein will be reviewed and subject to approval by a committee composed of the County Attorney, the Chief Financial Officer of the County, and the Risk Manager of the County, each having an equal vote. A decision by the committee to decline to provide coverage for a County Employee, as prescribed herein, may be appealed to the County Administrator.

67. If the representation and defense policy prescribed herein is approved after public hearing and third and final reading of this Ordinance, such policy will be effective immediately, and will date back to the date of first reading of this Ordinance.

78. Should any part or provision of this Ordinance be deemed unconstitutional or unenforceable by any court of competent jurisdiction, such determination shall not affect the rest and remainder of this Ordinance, all of which is hereby deemed separable.

8 9. All ordinances, orders, resolutions, and actions of Oconee County Council inconsistent herewith are, to the extent of such inconsistency only, hereby repealed, revoked, and rescinded.

9 10. This Ordinance shall take effect and be in full force and effect, as of the date of first reading, from and after third reading and enactment by Oconee County Council.

**AGENDA ITEM SUMMARY
OCONEE COUNTY, SC**

**COUNCIL MEETING DATE: December 2, 2014
COUNCIL MEETING TIME: 6:00 PM**

ITEM TITLE [Brief Statement]:

Second Reading of Ordinance 2014-28 "AN ORDINANCE AMENDING CHAPTER 32 AND CHAPTER 38 OF THE OCONEE COUNTY CODE OF ORDINANCES, IN CERTAIN LIMITED REGARDS AND PARTICULARS ONLY, REGARDING HEIGHT RESTRICTIONS FOR STRUCTURES LOCATED IN ZONED INDUSTRIAL DISTRICTS AND FOR STRUCTURES LOCATED IN AREAS DESIGNATED BY OCONEE COUNTY AS COUNTY INDUSTRIAL PARKS; AND OTHER MATTERS RELATED THERETO."

BACKGROUND DESCRIPTION:

Proposed ordinance 2014-28 stems from a desire to ensure Oconee's land use regulations take into account the evolving needs of industrial development. Rapid technological advances are allowing companies to design and build facilities that ensure increased operational efficiencies. Ordinance 2014-28 will increase allowable height for property zoned in the Industrial District and for County Industrial Parks. Ordinance 2014-28 will help ensure that Oconee County maintains it competitive edge when recruiting new industry and when working with existing industry.

SPECIAL CONSIDERATIONS OR CONCERNS [only if applicable]:

None

FINANCIAL IMPACT [Brief Statement]:

Check Here if Item Previously approved in the Budget. No additional information required.

Approved by : _____ **Finance**

COMPLETE THIS PORTION FOR ALL GRANT REQUESTS:

Are Matching Funds Available: Yes / No

If yes, who is matching and how much:

Approved by : _____ **Grants**

ATTACHMENTS

None

STAFF RECOMMENDATION [Brief Statement]:

It is staff's recommendation that Council take second reading of Ordinance 2014-28.

Submitted or Prepared By:

Approved for Submittal to Council:

JOSH STEPHENS

Department Head/Elected Official

T. Scott Moulder, County Administrator

Council has directed that they receive their agenda packages a week prior to each Council meeting, therefore, Agenda Items Summaries must be submitted to the Administrator for his review/approval no later than 12 days prior to each Council meeting. It is the Department Head / Elected Officials responsibility to ensure that all approvals are obtained prior to submission to the Administrator for inclusion on an agenda.

A calendar with due dates marked may be obtained from the Clerk to Council.

STATE OF SOUTH CAROLINA
COUNTY OF OCONEE
ORDINANCE 2014-28

AN ORDINANCE AMENDING CHAPTER 32 AND CHAPTER 38 OF THE OCONEE COUNTY CODE OF ORDINANCES, IN CERTAIN LIMITED REGARDS AND PARTICULARS ONLY, REGARDING HEIGHT RESTRICTIONS FOR STRUCTURES LOCATED IN ZONED INDUSTRIAL DISTRICTS AND FOR STRUCTURES LOCATED IN AREAS DESIGNATED BY OCONEE COUNTY AS COUNTY INDUSTRIAL PARKS; AND OTHER MATTERS RELATED THERETO.

WHEREAS, Oconee County, South Carolina (the “County”), a body politic and corporate and a political subdivision of the State of South Carolina (the “State”), acting by and through its governing body, the Oconee County Council (the “County Council”), has adopted multiple ordinances for the effective, efficient governance of the County, which, subsequent to adoption, are codified in the Oconee County Code of Ordinances (the “Code of Ordinances”), as amended, from time to time; and

WHEREAS, the County, acting by and through the County Council, is authorized by Section 4-9-30(9) and Chapter 29 of Title 6 of the South Carolina Code, 1976, as amended, among other sources, to impose land use restrictions and development standards in the unincorporated areas of the County; and,

WHEREAS, Chapter 32 of the Code of Ordinances contains terms, provisions and procedures applicable to performance standards in the County; and

WHEREAS, Chapter 38 of the Code of Ordinances contains terms, provisions and procedures applicable to zoning in the County; and

WHEREAS, County Council recognizes that there is a need to revise the law of the County to meet the changing needs of the County and that there is a need to amend, specifically, certain sections of Chapter 32 and Chapter 38 of the Code of Ordinances to increase allowable height for property zoned in Industrial Districts and for property located in those industrial parks designated by the County as County Industrial Parks (“County Industrial Parks”) in order to take into account the evolving needs of industrial development, including the rapid technological advances that allow companies to design and build facilities that ensure increased operational efficiencies, and to ensure that the County maintains it competitive edge when recruiting new industry and when working with existing industry; and

WHEREAS, County Council has therefore determined to modify Chapters 32 and 38 of the Code of Ordinances, and to affirm and preserve all other provisions of the Code of Ordinances not specifically or by implication amended hereby.

NOW, THEREFORE, it is hereby ordained by the Oconee County Council, in meeting duly assembled, that:

1. Section 32-605 of Chapter 32 of the Code of Ordinances, entitled *Requirements*, is hereby revised, rewritten, and amended to read as set forth in Attachment A, which is attached hereto and hereby incorporated by reference as fully as if set forth verbatim herein.

2. Section 32-606 of Chapter 32 of the Code of Ordinances, entitled *Exemptions*, is hereby revised, rewritten, and amended to read as set forth in Attachment B, which is attached hereto and hereby incorporated by reference as fully as if set forth verbatim herein.

3. Section 38-9.4 of Chapter 38 of the Code of Ordinances, entitled *Height*, is hereby revised, rewritten, and amended to read as set forth in Attachment C, which is attached hereto and hereby incorporated by reference as fully as if set forth verbatim herein.

4. Section 38-10.11 of Chapter 38 of the Code of Ordinances, entitled *Industrial district (ID)*, is hereby revised, rewritten, and amended to read as set forth in Attachment D, which is attached hereto and hereby incorporated by reference as fully as if set forth verbatim herein.

5. County Council hereby declares and establishes its legislative intent that Attachments C and D, hereto, as may perhaps be amended from time to time, become the applicable zoning provisions of the County with regard to the sections amended by Attachments C and D, from and after their adoption, states its intent to so adopt Attachments C and D, and directs that a public hearing thereon be undertaken by County Council or the Oconee County Planning Commission, in accord with and as required by Section 6-29-760 and by Section 4-9-130, South Carolina Code, 1976, as amended.

6. Should any part or provision of this Ordinance be deemed unconstitutional or unenforceable by any court of competent jurisdiction, such determination shall not affect the rest and remainder of this Ordinance, all of which is hereby deemed separable.

7. All ordinances, orders, resolutions, and actions of County Council inconsistent herewith are, to the extent of such inconsistency only, hereby repealed, revoked, and rescinded. However, nothing contained herein, or in the Attachments hereto, shall cancel, void, or revoke, or shall be interpreted as cancelling, voiding, or revoking in any regard any prior performance standard, zoning or rezoning acts, actions, or decisions of the County or County Council, in any regard.

5. All other terms, provisions, and parts of the Code of Ordinances, and specifically, Sections 32-605 and 32-606 of Chapter 32 and Sections 38-9.4 and 38-10.11 of Chapter 38, not amended hereby, directly or by implication, shall remain in full force and effect.

6. This Ordinance shall take effect and be in full force and effect from and after third reading and enactment by County Council, and will apply to all zoning processes initiated after first (1st) reading hereof. All processes actually initiated by submitting a properly and legally completed petition to the County, at a minimum, prior to first (1st) reading of this ordinance and the establishment of the pending ordinance doctrine thereby, shall be completed under the zoning and performance standard rules and regulations of Chapters 32 and 38 of the Code of Ordinances, as in effect prior to final adoption of this ordinance.

ORDAINED in meeting, duly assembled, this _____ day of _____, 2014.

ATTEST:

Elizabeth Hulse,
Clerk to Oconee County Council

Joel Thrift,
Chairman, Oconee County Council

First Reading: November 18, 2014
Second Reading: December 2, 2014
Third Reading: _____
Public Hearing: _____

Attachment A

Sec. 32-605. - Requirements.

All proposed Structures not specifically exempted by this article that are greater than 65 feet in height, or otherwise subject to the exemptions found in Sec. 32-606(19) and (20) and greater than 199 feet in height, shall be subject to review and approval by the Oconee County Board of Zoning Appeals only as a special exception. In addition to the requirements for special exceptions established in chapter 32, article I of this Code, as amended, the board shall issue findings on each of the following criteria:

- (1) Projected traffic and ability of existing roadways to accommodate the increase caused by the proposed structure.
- (2) Anticipated cost of any specialized emergency response equipment and training required to serve the proposed Structure.
- (3) Potential noise, light, fumes, shadows, obstruction of air flow, and other negative secondary effects caused by the proposed Structure that may impact existing uses and/or adjacent properties.
- (4) The aesthetic and cultural character of the environs, specifically regarding any potential degradation by the proposed structure of scenic views, historic sites, significant landmarks, and other sensitive areas.
- (5) Appropriateness of proposed Structure in relation to the character of the community.

Attachment B

Sec. 32-606. - Exemptions.

The following Structures shall be exempt from the standards governing height established by this article:

- (1) Belfries.
- (2) Chimneys.
- (3) Church spires.
- (4) Communication towers (to include amateur radio antennas).
- (5) Conveyors.
- (6) Cooling towers.
- (7) Cupolas.
- (8) Domes.
- (9) Elevator bulkheads.
- (10) Fire towers.
- (11) Flag poles.
- (12) Ornamental towers and spires.
- (13) Public monuments.
- (14) Public utility poles.
- (15) Silos.
- (16) Skylights.
- (17) Smoke stacks.
- (18) Stage towers or scenery lofts.
- (19) Structures, not otherwise exempt by this section, that are 200 feet or less in height, and located on property zoned as an Industrial District (ID) in accordance with Chapter 38 of the Oconee County Code of Ordinances.

(20) Structures, not otherwise exempt by this section, that are 200 feet or less in height, and located on property designated by Oconee County as County Industrial Parks.

Such features shall be erected only to such height as is necessary to accomplish the purpose they are intended to serve and no height extension shall serve as a dwelling place for human habitation.

This section shall in no way exempt any structure from the application of standards or regulations contained in other chapters of this Code or other articles of this chapter, including, without limitation, any standards or regulations regarding height restrictions for certain areas of Oconee County, such as airport approach height restrictions.

Attachment C

Sec. 38-9.4. - Height.

(a) The height of a building or structure shall be measured according to methods provided for in adopted building codes. The height of a tree shall be measured as the distance from the ground at the base to the highest point of vegetation.

(b) The height limitations of this chapter shall not apply to the following:

- (1) Belfries.
- (2) Chimneys.
- (3) Church spires.
- (4) Conveyors.
- (5) Cooling towers.
- (6) Cupolas.
- (7) Domes.
- (8) Elevator bulkheads.
- (9) Fire towers.
- (10) Flag poles.
- (11) Ornamental towers and spires.
- (12) Public monuments.
- (13) Public utility poles.
- (14) Silos.
- (15) Skylights.
- (16) Smoke stacks.
- (17) Stage towers or scenery lofts.

(18) Structures, not otherwise exempt by this section, that are 200 feet or less in height, and located on property zoned as an Industrial District (ID) in accordance with Chapter 38 of the Oconee County Code of Ordinances.

(19) Structures, not otherwise exempt by this section, that are 200 feet or less in height, and located on property designated by Oconee County as County Industrial Parks.

Such features shall be erected only to such height as is necessary to accomplish the purpose they are intended to serve and no height extension shall serve as a place for human habitation.

This section shall in no way exempt any structure from the application of standards or regulations contained in other chapters of this Code or other articles of this chapter, including, without limitation, any standards or regulations regarding height restrictions for certain areas of Oconee County, such as airport approach height restrictions.

(c) Communication towers, antennas, and water tanks shall be exempt from district height requirements in these standards, but shall instead be subject to standards provided for in the Oconee County Unified Performance Standards Chapters of the Oconee County Code of Ordinances; however, all other district dimensional standards shall apply as specified.

Attachment D

Sec. 38-10.11. - Industrial district (ID).

Title: Industrial district.

Definition: Those areas suited for light and/or heavy industries.

Intent: The intent of this district is to provide for the industrial and commercial needs of Oconee County while protecting other uses from potential negative impacts associated with such activities.

*Dimensional requirements:**

ID District	Minimum District Size		Minimum District Buffer			Max. Height
		10 Acres		50 feet		
Nonresidential Uses (interior lots)	Minimum Lot Size		Minimum Yard Requirements			Max. Height
	Min. Lot Size	Min. Width (ft.)	Front Setback (ft.)	Side Setback (ft.)	Rear Setback (ft.)	Structure Height (ft.)
	½ acre (21,780 sf)	90	30	10	15	200

AGENDA ITEM SUMMARY
OCONEE COUNTY, SC
COUNCIL MEETING DATE: December 2, 2014
COUNCIL MEETING TIME: 6:00 PM

ITEM TITLE [Brief Statement]:

Second Reading Ordinance 2014-29 "AN ORDINANCE AUTHORIZING (1) THE EXECUTION AND DELIVERY OF A FEE IN LIEU OF TAX AND INCENTIVE AGREEMENT BY AND BETWEEN OCONEE COUNTY, SOUTH CAROLINA (THE "COUNTY") AND A COMPANY IDENTIFIED FOR THE TIME BEING AS **PROJECT SARAH**, ACTING FOR ITSELF, AND/OR ONE OR MORE AFFILIATES OR OTHER PROJECT SPONSORS (THE "COMPANY"), PURSUANT TO WHICH THE COUNTY SHALL COVENANT TO ACCPET CERTAIN NEGOTIATED FEES IN LIEU OF AD VALOREM TAXES 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 COMPANY AND THE PROJECT; (3) CERTAIN SPECIAL SOURCE REVENUE CREDITS IN CONNECTION WITH THE PROJECT; AND (4) OTHER MATTERS RELATING THERETO"

Second Reading Ordinance 2014-30 "AN ORDINANCE AUTHORIZING AND APPROVING (1) DEVELOPMENT OF A JOINT COUNTY INDUSTRIAL AND BUSINESS PARK PURSUANT TO SECTION 4-1-170 OF THE CODE OF LAWS OF SOUTH CAROLINA 1976, AS AMENDED, IN CONJUNCTION WITH PICKENS COUNTY (THE "PARK"), SUCH PARK TO BE, AT THE TIME OF ITS INITIAL DEVELOPMENT, GEOGRAPHICALLY LOCATED IN OCONEE COUNTY AND TO INCLUDE CERTAIN PROPERTY NOW OR TO BE HEREAFTER OWNED AND/OR OPERATED BY A COMPANY IDENTIFIED FOR THE TIME BEING AS **PROJECT SARAH**; (2) THE EXECUTION AND DELIVERY OF A WRITTEN PARK AGREEMENT WITH PICKENS 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; (3) THE DISTRIBUTION OF REVENUES FROM THE PARK WITHIN OCONEE COUNTY; AND (4) OTHER MATTERS RELATED THERETO."

BACKGROUND DESCRIPTION:

Ordinance 2014-29 puts into place a fee-in-lieu-of-taxes agreement (FILOT) between Oconee County and Project Sarah. The company will locate this capital investment in Oconee as part of this incentive offered from the County.

Ordinance 2014-30 expands the multi-county park to include the property associated with Project Sarah.

SPECIAL CONSIDERATIONS OR CONCERNS [only if applicable]:

N/A

FINANCIAL IMPACT [Brief Statement]:

Check Here if Item Previously approved in the Budget. No additional information required.

Approved by: _____ **Finance**

COMPLETE THIS PORTION FOR ALL GRANT REQUESTS:

Are Matching Funds Available: Yes / **Ne**

If yes, who is matching and how much:

Approved by: _____ **Grants**

ATTACHMENTS

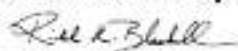
Ordinance 2014-29 - Fee in Lieu of Tax and Incentive Agreement (Project Sarah)

Ordinance 2014-30 - Multi-County Park Agreement

STAFF RECOMMENDATION [Brief Statement]:

It is the staff's recommendation that Council approve Ordinance 2014-29 and Ordinance 2014-30 on second reading.

Submitted or Prepared By:



Approved for Submittal to Council:

Department Head/Elected Official

T. Scott Moulder, County Administrator

Council has directed that they receive their agenda packages a week prior to each Council meeting, therefore, Agenda Items Summaries must be submitted to the Administrator for his review/approval no later than 12 days prior to each Council meeting. It is the Department Head / Elected Officials responsibility to ensure that all approvals are obtained prior to submission to the Administrator for inclusion on an agenda.

A calendar with due dates marked may be obtained from the Clerk to Council.

STATE OF SOUTH CAROLINA
OCONEE COUNTY
ORDINANCE 2014-29

AN ORDINANCE AUTHORIZING (1) THE EXECUTION AND DELIVERY OF A FEE IN LIEU OF TAX AND INCENTIVE AGREEMENT BY AND BETWEEN OCONEE COUNTY, SOUTH CAROLINA (THE "COUNTY") AND A COMPANY IDENTIFIED FOR THE TIME BEING AS PROJECT SARAH, ACTING FOR ITSELF, AND/OR ONE OR MORE AFFILIATES OR OTHER PROJECT SPONSORS (THE "COMPANY"), PURSUANT TO WHICH THE COUNTY SHALL COVENANT TO ACCEPT CERTAIN NEGOTIATED FEES IN LIEU OF AD VALOREM TAXES WITH RESPECT TO THE 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 COMPANY AND THE PROJECT; (3) CERTAIN SPECIAL SOURCE REVENUE CREDITS IN CONNECTION WITH THE PROJECT; AND (4) OTHER MATTERS RELATING THERETO.

WHEREAS, Oconee 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" or, as to Section 4-1-175 thereof, and, by incorporation Section 4-29-68 of the Code, the "Special Source 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; (iii) to permit investors to claim special source revenue credits against their FILOT payments ("Special Source Credits") to reimburse such investors for expenditures in connection with infrastructure serving the County and improved or unimproved real estate and personal property, including machinery and equipment, used in the operation of a manufacturing or commercial enterprise in order to enhance the economic development of the County ("Special Source Improvements"); and (iv) to create, in conjunction with one or more other counties, a multi-county industrial or business park in order to afford certain enhanced income tax credits to such investors and to facilitate the grant of Special Source Credits; and

WHEREAS, a company identified for the time being as Project Sarah, acting for itself or one or more affiliates or other project sponsors (the "Company"), is considering the establishment and/or expansion of certain facilities at one or more locations in the County (the

“Project”), and anticipates that, should its plans proceed as expected, the Project will generate substantial investment and job creation in the County; and

WHEREAS, based on information provided to the County by the Company, 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 Company to locate the Project in the County, the Council adopted a Resolution on November 18, 2014 (the “Inducement Resolution”), whereby the County agreed to provide the benefits of a negotiated FILOT, a multi-county industrial or business park, and Special Source Credits with respect to the Project; and

WHEREAS, the County and the Company 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 Company 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 [____], 2014 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. As contemplated by Section 12-44-40(I) of the Negotiated FILOT Act, the findings and determinations set forth in the Inducement Resolution are hereby ratified and confirmed. In the event of any disparity or ambiguity between the terms and provisions of the Inducement Resolution and the terms and provisions of this Ordinance and the Incentive Agreement, the terms and provisions of this Ordinance and the Incentive Agreement shall control. Capitalized terms used and not otherwise defined herein shall have the meanings ascribed thereto in the Incentive Agreement. Additionally, based on information provided to the County by the Company 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; and

(g) The Project will have a substantial public benefit.

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 Company 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) the lowest millage rate or millage rates allowed with respect to the Project pursuant to Section 12-44-50(A)(1)(d) of the Negotiated FILOT Act, as set forth in greater detail in the Incentive Agreement, 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) and such other terms and conditions as will be specified in the Incentive Agreement.

(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 an aggregate payment period of forty (40) years, which period shall be comprised of an initial period of thirty (30) years and an automatic extension period of ten (10) 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 forty (40) years.

Section 3. The County will use its best commercially reasonable efforts to insure that the Project will be included, if not already included, and will remain, during the term of the incentives described herein, 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 on terms which provide the Company and the Project with any and all additional jobs creation tax credits afforded by the laws of the State for projects located within multi-county industrial or business parks and on terms which facilitate the Special Source Credits referenced in Section 4 hereof.

Section 4. As an additional incentive to induce the Company to undertake the Project, and as reimbursement for investment in Special Source Improvements and subject to the requirements of the Special Source Act, the County does hereby agree that each Credit Eligible Entity shall be entitled to receive, and the County shall provide, Special Source Credits against each Negotiated FILOT payment due with respect to the Project in a manner and amount, and for a period of time, as is set forth in greater detail in the Incentive Agreement. In accordance with the Special Source Act, the Special Source Credits authorized herein shall not, in the aggregate, exceed the aggregate cost of Special Source Improvements funded from time to time in connection with the 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 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 Company. 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, 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.

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 December, 2014.

OCONEE COUNTY, SOUTH CAROLINA

By: _____
Joel Thrift, Chairman, County Council
Oconee County, South Carolina

[SEAL]

Attest:

By: _____
Elizabeth G. Hulse, Clerk to County Council
Oconee County, South Carolina

First Reading: November 18, 2014
Second Reading: December 2, 2014
Public Hearing: December __, 2014
Third Reading: December __, 2014

FEE IN LIEU OF TAX AND INCENTIVE AGREEMENT

between

OCONEE COUNTY, SOUTH CAROLINA

and

PROJECT SARAH

Dated as of [_____], 2014

TABLE OF CONTENTS

	Page
ARTICLE I DEFINITIONS.....	2
Section 1.01. Definitions.....	2
Section 1.02. References to Agreement.....	8
ARTICLE II REPRESENTATIONS AND WARRANTIES.....	8
Section 2.01. Representations and Warranties by County.....	8
Section 2.02. Representations and Warranties by the Company.....	8
ARTICLE III COVENANTS OF COUNTY	9
Section 3.01. Agreement to Accept Negotiated FILOT Payments.....	9
Section 3.02. Special Source Credits.....	9
Section 3.03. Multi-County Park Designation.....	10
Section 3.04. Commensurate Benefits.....	10
ARTICLE IV COVENANTS OF THE COMPANY	11
Section 4.01. Investment in Project.	11
Section 4.02. Failure to Satisfy Minimum Contractual Investment Requirement and/or Minimum Jobs Requirement.....	13
Section 4.03. Payment of Administration Expenses.....	16
Section 4.04. Use of Project for Lawful Activities.....	17
Section 4.05. Maintenance of Existence.....	17
Section 4.06. Records and Reports	18
Section 4.07. Funding for Special Source Improvements.....	19
ARTICLE V FEES IN LIEU OF TAXES.....	19
Section 5.01. Payment of Fees in Lieu of Ad Valorem Taxes.....	19
Section 5.02. Statutory Lien.....	24
ARTICLE VI THIRD PARTY ARRANGEMENTS	24
Section 6.01. Conveyance of Liens and Interests; Assignment.....	24
Section 6.02. Sponsors and Sponsor Affiliates.....	25
ARTICLE VII TERM; TERMINATION.....	26
Section 7.01. Term.....	26
Section 7.02. Termination.....	26
ARTICLE VIII EVENTS OF DEFAULT AND REMEDIES	26

TABLE OF CONTENTS
(continued)

	Page
Section 8.01. Events of Default	26
Section 8.02. Remedies on Event of Default	27
Section 8.03. Defaulted Payments	27
Section 8.04. Default by County.....	28
ARTICLE IX MISCELLANEOUS	28
Section 9.01. Rights and Remedies Cumulative.....	28
Section 9.02. Successors and Assigns.....	28
Section 9.03. Notices; Demands; Requests.....	28
Section 9.04. Applicable Law	29
Section 9.05. Entire Understanding	29
Section 9.06. Severability	30
Section 9.07. Headings and Table of Contents; References	30
Section 9.08. Multiple Counterparts	30
Section 9.09. Amendments	30
Section 9.10. Waiver.....	30
Section 9.11. Further Proceedings	30
EXHIBIT A LEGAL DESCRIPTION.....	A-1

FEE IN LIEU OF TAX AND INCENTIVE AGREEMENT

THIS FEE IN LIEU OF TAX AND INCENTIVE AGREEMENT (this "Agreement" dated as of [_____], 2014, by and between OCONEE COUNTY, SOUTH CAROLINA (the "County"), a body politic and corporate and a political subdivision of the State of South Carolina, and a company identified for the time being as PROJECT SARAH, acting for itself, one or more affiliates or other project sponsors (the "Company").

WITNESSETH:

WHEREAS, the County, acting by and through its County Council (the "Council"), is authorized and empowered under and pursuant to the provisions of the Code of Laws of South Carolina 1976, as amended (the "Code"), and particularly Title 12, Chapter 44 of the Code (the "Negotiated FILOT Act") and Title 4, Chapter 1 of the Code (the "Multi-County Park Act" or, as to Section 4-1-175 thereof, the "Special Source 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; (iii) to permit investors to claim special source revenue credits against their FILOT payments ("Special Source Credits") to reimburse such investors for expenditures in connection with infrastructure serving the County or improved or unimproved real estate and personal property including machinery and equipment used in the operation of a manufacturing or commercial enterprise in order to enhance the economic development of the County ("Special Source Improvements"); and (iv) to create, in conjunction with one or more other counties, a multi-county industrial or business park in order to afford certain enhanced income tax credits to such investors and to facilitate the grant of Special Source Credits; and

WHEREAS, the Company is considering the establishment and/or expansion of certain 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 \$175,000,000 in the Project and will create, or cause to be created, at least 30 new, full-time jobs 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 the Project will subserve the purposes of the Act and has made certain findings pertaining thereto in accordance with the Act; and

WHEREAS, in accordance with such findings and determinations and in order to induce the Company to locate the Project in the County, the Council adopted a Resolution on November 18, 2014 (the "Inducement Resolution"), whereby the County agreed to provide the benefits of a

negotiated FILOT, a multi-county industrial or business park, and Special Source Credits, all with respect to the Project, the terms of all of which are set forth in greater detail in this Agreement; and

WHEREAS, the County has determined it is in the best interest of the County to enter into this Agreement with the Company, subject to the terms and conditions set forth herein, and, by Ordinance No. [] enacted by the Council on [], 2014, 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 Company 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 Company agree as follows:

ARTICLE I

DEFINITIONS

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

“*Act*” shall mean, collectively, the Negotiated FILOT Act and the Multi-County Park Act, including, but not limited to, the Special Source Act.

“*Administration Expenses*” shall mean the reasonable and necessary expenses incurred by the County in the fulfillment of its obligations under this Agreement and in the implementation of its terms and provisions, including reasonable and necessary attorneys’ fees at the hourly rates which are standard for the applicable legal services to the County, but excluding any expenses incurred by the County in defending either challenges to the incentives provided herein by third parties or suits brought by the Company or any other Sponsor or Sponsor Affiliate under **Section 8.04** hereof; provided, however, that no such expense shall be considered an Administration Expense unless the Company, or other Sponsor or Sponsor Affiliate 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 Sponsor or Sponsor Affiliate, an itemized statement of all such expenses incurred.

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

the Company or any other Sponsor or Sponsor Affiliate, as the case may be, or by any partner, shareholder or owner of the Company or any other Sponsor or Sponsor Affiliate, as the case may be, as well as any subsidiary, affiliate or other Person, individual, or entity who now or hereafter bears a relationship to the Company or any other Sponsor or Sponsor Affiliate, 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 the 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 the 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. The 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 the 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 such Co-Investor pursuant to **Section 6.02** hereof, comply with any additional notice requirements, or other applicable provisions, of the Negotiated FILOT Act. As of the date of original execution and delivery of this Agreement, the Company is the only Co-Investor.

“*Company*” shall mean a company identified for the time being as Project Sarah, and any surviving, resulting, or transferee entity in any merger, consolidation or transfer of assets permitted under **Sections 4.05** or **6.01** hereof or any other assignee or transferee hereunder which is designated by the Company and approved by the County.

“*Compliance Period*” shall mean the period commencing with the first day that Negotiated FILOT Property is purchased or acquired, whether before or after the date of this Agreement, and ending on the fifth anniversary of the end of the Property Tax Year in which the initial Negotiated FILOT Property comprising all or a portion of the Project is placed in service, all 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 placed in service in the Property Tax Year ending on December 31, [2015], the Compliance Period will end on December 31, [2020].

“*County*” shall mean Oconee 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.

“*Credit Eligible Entity*” shall have the meaning specified in **Section 3.02(a)** hereof.

“*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, but not limited to, property which has been subject to *ad valorem* taxes in the State prior to commencement of the Investment Period and property included in the Project as part of the repair, alteration, or modification of such previously taxed property; provided, however, that Existing Property shall not include: (a) the Land; (b) property acquired or constructed by or on behalf of the Company or any other Sponsor or Sponsor Affiliate during the Investment Period which has not been placed in service in this State prior to the commencement of the Investment Period notwithstanding that *ad valorem* taxes have heretofore been paid with respect to such property, or property which has been placed in service in the State pursuant to an inducement agreement or other preliminary approval by the County, including, but not limited to, the Inducement Resolution prior to execution of this Agreement pursuant to Section 12-44-40(E) of the Negotiated FILOT Act, which property shall qualify as Negotiated FILOT Property; (c) property purchased by or on behalf of the Company or any other Sponsor or Sponsor Affiliate during the Investment Period in a transaction other than between any of the entities specified in Section 267(b) of the Internal Revenue Code, as defined under Chapter 6 of Title 12 of the Code as of the time of the transfer, to the extent that the Company or such other Sponsor or Sponsor Affiliate invests 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.

“*Investment Period*” shall mean the period for completion of the Project, which shall initially be equal to the Compliance Period; provided, however, that, in the event that the Minimum Investment Period Extension Requirement is satisfied by the end of the Compliance Period, the Investment Period shall be hereby automatically extended, without further action or proceedings of the County or the Council, 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, all in accordance with Section 12-44-30(13) of the Negotiated FILOT Act; provided further that there shall be no extension of the period for meeting the Minimum Statutory Investment Requirement beyond the Compliance Period, all determined as specified in Section 12-44-30(13) of the Negotiated FILOT Act. In the event that the initial Negotiated FILOT Property comprising all or a portion of the Project is placed in service in the Property Tax Year ending on December 31, [2015], and if and when so extended, the Investment Period will end on December 31, [2025].

“*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 is purchased or acquired, whether before or after the date of this Agreement, and ending at the end of Compliance Period, by the Company and all Co-Investors, in the aggregate, of at least \$175,000,000 (without regard to depreciation or other diminution in value).

“*Minimum Investment Period Extension Requirement*” shall mean investment in the Project, within the period commencing on the first day that Project property is purchased or acquired, whether before or after the date of this Agreement, and ending at the end of Compliance Period, by the Company together with all Co-Investors, in the aggregate, of at least \$50,000,000 (without regard to depreciation or other diminution in value).

“*Minimum Jobs Requirement*” shall mean the creation of at least thirty (30) new, full-time jobs in the County by the Company and all Co-Investors, in the aggregate, within the period commencing on January 1, 2014 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 required by 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 a Joint County Industrial and Business Park (Project Sarah) by and between the County, and Pickens County, South Carolina dated as of [_____], or such other date as the parties thereto may agree, as supplemented, modified or amended, to include the Project and the Land, 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 that 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, but not limited to, each item of real and tangible personal property comprising the Project which is placed in service during the Investment Period and which meets the requirements of Sections 12-44-30(6) and 12-44-40(C) of the Negotiated FILOT Act, together with all Replacement Property, but excluding any Non-Qualifying Property and any Released Property.

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

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

“Project” shall mean: (i) the Land and all buildings, structures, fixtures and other real property improvements prior hereto or hereafter constructed on the Land; (ii) all machinery, equipment, furnishings and other personal property prior hereto or hereafter acquired by or on behalf of the Company or any other Co-Investors 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 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 the Company, or any other Co-Investor, as the case may be, *i.e.*, with respect to the Company, 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 the Company or any other Sponsor or Sponsor Affiliate pursuant to **Section 4.01(e)** hereof and Section 12-44-50(B) of the Negotiated FILOT Act, any portion of the Negotiated FILOT Property constituting infrastructure which the Company or any other Sponsor or Sponsor Affiliate dedicates to the public use within the meaning of Section 12-6-3420(C) of the Code, or 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.

“Special Source Act” shall mean Section 4-1-175 of the Code.

“Special Source Credits” shall mean the Tier 1 Special Source Credits and the Tier 2 Special Source Credits, collectively, as set forth in **Section 3.02** hereof.

“Special Source Improvements” shall mean to the extent paid for by the Company or any other Sponsor or Sponsor Affiliate, any infrastructure serving the economic development of the County and any improved or unimproved real property, buildings, structural components of buildings, fixtures, or other real property improvements and, upon the written election of the Company to the County, personal property, including machinery and equipment, used in the operation of a manufacturing or commercial enterprise in order to enhance the economic development of the County, all as set forth in the Special Source Act. For purposes of this Agreement, Special Source Improvements shall initially be deemed to include, but not be limited to, all roadwork, water, sewer, drainage, power and utility facilities serving the Project, as well as the Land, the buildings, fixtures and other real property improvements on the Land, and any additions or improvements to any of the foregoing, whether paid for by the Company or any Sponsor or Sponsor Affiliate directly or through lease payments.

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

“State” shall mean the State of South Carolina.

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

“Tier 1 Special Source Credits” shall mean the special source revenue credits hereby granted by the County and described in **Section 3.01(a)** hereof.

“Tier 2 Special Source Credits” shall mean the special source revenue credits hereby granted by the County and described in **Section 3.01(b)** 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 of the Council, the County has duly authorized the execution and delivery of this Agreement and has duly approved the Negotiated FILOT and Special Source Credits, as well as 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 Company, 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 State or local law, court or administrative regulation, decree, order, provision of the Constitution or laws of the State or the County relating to the establishment of the County or its affairs, or any material agreement, mortgage, lease, or other instrument to which the County is subject or by which it is bound, nor, to the best knowledge of the County, any existing law or the provisions of the Constitution of the State.

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

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

(a) The Company is a [] validly existing and in good standing under the laws of the State of [] and is authorized to do business in 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. The Company's fiscal year end is December 31 and the Company will notify the County of any changes in the fiscal year of the Company.

(b) The Company intends to operate the Project as manufacturing and related facilities primarily for [].

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

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

ARTICLE III

COVENANTS OF COUNTY

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

Section 3.02. Special Source Credits.

(a) As reimbursement for investment in Special Source Improvements and subject to the requirements of the Special Source Act, the County hereby agrees to provide, and the Company and each other Sponsor or Sponsor Affiliate (each, a "Credit Eligible Entity") shall be entitled to receive, special source revenue credits against each Negotiated FILOT Payment due from each such Credit Eligible Entity with respect to the Project, for each tax year for the entire term of the Negotiated FILOT, in an amount equal to thirty-three percent (33%) of each such Negotiated FILOT Payment, commencing with the tax year for which the initial Negotiated FILOT Payment is due hereunder from the Company (collectively, the "Tier 1 Special Source Credits).

(b) As additional reimbursement for investment in Special Source Improvements and, subject to the requirements of the Special Source Act and **Section 4.02** hereof, and in addition to the Tier 1 Special Source Credits, the County hereby

agrees to provide, and each Credit Eligible Entity shall be entitled to receive, special source revenue credits against each net Negotiated FILOT Payment due from each such Credit Eligible Entity with respect to the Project, after application of the Tier 1 Special Source Credits, for a period of fifteen (15) consecutive tax years, in an amount equal to forty percent (40%) of each such net Negotiated FILOT Payment, commencing with the tax year for which the initial Negotiated FILOT Payment is due hereunder from the Company (collectively, the “Tier 2 Special Source Credits”).

(c) The Special Source Credits to which each Credit Eligible Facility is entitled for each tax year of the period set forth in **Section 3.02(a)** and **Section 3.02(b)** hereof, shall be reflected by the County Auditor or other authorized County official or representative on each bill for Negotiated FILOT Payment due sent by the County to each such Credit Eligible Entity for each such tax year, by reducing the total original Negotiated FILOT Payment amount otherwise due for such tax year by the amount of Special Source Credits to which such Credit Eligible Entity is entitled for such tax year.

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

(e) In accordance with the Special Source Act, the Special Source Credits authorized herein shall not, in the aggregate, exceed the cost of Special Source Improvements funded from time to time in connection with the Project by the Company and all other Sponsors and Sponsor Affiliates.

Section 3.03. Multi-County Park Designation. The County agrees to designate the Project and the Land as part of a 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, 2014 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 which facilitate the Special Source Credits set forth in **Section 3.02** hereof.

Section 3.04. Commensurate Benefits. The parties acknowledge the intent of this Agreement, in part, is to afford the Company and each other Sponsor or Sponsor Affiliate the benefits specified in this Article III in consideration of the Company’s decision to locate the Project within the County, and this Agreement has been entered into in reliance upon the enactment of the Act and the County’s compliance with the requirements thereof. In the event that a court or other entity of competent jurisdiction holds that the Act is 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 the Company determine there is a reasonable doubt as to the validity or

enforceability of this Agreement or the Multi-County Park Agreement in any material respect, then at the request of the Company, the County agrees to use its best efforts to extend to the Company and each other Sponsor or Sponsor Affiliate the intended benefits of this Agreement, including, but not limited to, the Negotiated FILOT and the Special Source Credits and agrees, if requested by the Company, to enter into a lease purchase agreement with the 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, and to take such other steps as may be appropriate to extend to the Company and each other Sponsor or Sponsor Affiliate the intended benefits of this Agreement, including, but not limited to, the Negotiated FILOT and the Special Source Credits. 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 or other entity of competent jurisdiction to be invalid or unenforceable in whole or in part, the Company and the County express their intentions that tax or FILOT payments be reformed so as to best afford the Company and each other Sponsor or Sponsor Affiliate benefits commensurate with, but not in excess of, those intended under this Agreement, including, but not limited to, the Special Source Credits, as then permitted by law, including, but not limited to, any benefits afforded under Title 12, Chapter 6, Title 4, Chapter 1 and Title 4, Chapter 29 of the Code, as applicable, to the extent allowed by law. The Company acknowledges, if a court of competent jurisdiction holds all or part of the Negotiated FILOT Act is unconstitutional or otherwise illegal, the Negotiated FILOT Act currently provides that the 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. In such lease purchase agreement, the County, upon the conveyance of title to the Project to the County at the expense of the Company or any other Sponsor or Sponsor Affiliate, as the case may be, agrees to lease the Project to the Company or any such other Sponsor or Sponsor Affiliate, as the case may be. At the end of the term of any such lease purchase agreement, and upon payment of all outstanding obligations incurred under such lease purchase agreement, each of the Company and any such other Sponsor or Sponsor Affiliate shall have the option to purchase its respective portion of the Project for Ten Dollars (\$10.00).

ARTICLE IV

COVENANTS OF THE COMPANY

Section 4.01. Investment in Project.

(a) The Company hereby agrees to acquire, construct, equip, or improve or cause to be acquired, constructed, equipped, or improved, the Project, as the same shall be determined from time to time by the Company in its sole discretion. 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, 2017.

(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 Company, count toward all investment and job creation requirements, thresholds, and levels set forth in this Agreement, including, but not limited to, the Minimum Contractual Investment Requirement, the Minimum Jobs Requirement, the Minimum Investment Period Extension 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 the 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 Investment Period Extension Requirement is satisfied by the end of Compliance Period, the Investment Period shall be hereby automatically extended, without further action or proceedings of the County or the Council, 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 placed in service in the Property Tax Year ending on December 31, [2015], and if and when so extended, the Investment Period will end on December 31, [2025].

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

(i) The Company and each other Co-Investor may, at its own expense, add to the Project all such real and personal property as the Company, or such other Co-Investor, in its discretion deems useful or desirable, but not limited to, Negotiated FILOT Property, without any limit as to the amount thereof.

(ii) Subject to the provisions of **Section 5.01(f)(ii)** hereof, in any instance when the Company or any other Co-Investor, in its discretion, determines any 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, the 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) The Company and each other Co-Investor may, at any time and in its discretion by written notice to the County, remove any Project property including, but not limited to, Negotiated FILOT Property, real or personal, from the Project or 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 thereafter such property will be subject to *ad valorem* taxes or FILOT payments pursuant to the Multi-County Park Act, as the case may be; provided, that, any such notice requirement may be, but shall not be required to be, satisfied by property 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.

(iv) If the 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, but retains such property for use as part of its operations in the County, all as permitted herein, the 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 be hereby automatically made a part of this Agreement without further action or proceedings by the County or the Council; 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.

(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. Failure to Satisfy Minimum Contractual Investment Requirement and/or Minimum Jobs Requirement. If either or both of the Minimum Contractual Investment Requirement and the Minimum Jobs Requirement are not satisfied by the end of the Compliance Period, each of the following provisions shall apply:

(a) The Company and each other Sponsor or Sponsor Affiliate shall continue to be eligible for the Negotiated FILOT described in **Section 5.01** hereof and the Tier 1 Special Source Credits so long as the Minimum Statutory Investment Requirement is nevertheless satisfied by the end of the Compliance Period.

(b) Each Credit Eligible Entity shall, to the extent required by the below provisions of this **Section 4.02(b)**, reimburse the County for any Tier 2 Special Source Credits previously received, or to be received, by such Credit Eligible Entity for each of the first five (5) tax years of the credit period set forth in **Section 3.02(b)** hereof (*i.e.*, for each tax year for which such Credit Eligible Entity is entitled to receive Special Source Credits under **Section 3.02(b)** hereof and for which a Negotiated FILOT Payment has been, or will be, due to be paid without penalty with respect to the Project on or before the January 15 immediately following the end of the Compliance Period) (collectively, the “Compliance Period Special Source Credits”), taking into account (i) the highest level of aggregate investment in the Project (without regard to depreciation or diminution in value) within the Compliance Period at any time during the Compliance Period (the “Actual Project Investment”), as compared to the Minimum Contractual Investment Requirement, (ii) the highest number of new, full-time jobs created, in the aggregate, at the Project within the period set forth in the Minimum Jobs Requirement at any time during such period (the “Actual Project Jobs”), as compared to the Minimum Jobs Requirement, and (iii) an equal weighting for investment and jobs; provided, in the event that the Actual Project Investment exceeds the Minimum Contractual Investment Requirement or the Actual Project Jobs exceeds the Minimum Jobs Requirement, the percentage of any such surplus shall be applied to offset any shortfall in satisfaction of the other such requirement, as the case may be, in accordance with the weighting set forth in subsection (iii) above, all as further detailed and illustrated in the formula and examples set forth below:

Formula:

1. $\frac{\text{Actual Project Investment}}{\$175,000,000} \times 100 = \text{Investment Satisfaction Percentage [ISP]}$
2. $100\% - \text{ISP} = \text{Investment Satisfaction Factor [ISF]}$
3. $\frac{\text{Actual Project Jobs}}{30 \text{ new, full-time jobs}} \times 100 = \text{Jobs Satisfaction Percentage [JSP]}$
4. $100\% - \text{JSP} = \text{Jobs Satisfaction Factor [JSF]}$
5. $\frac{\text{ISF} + \text{JSF}}{2} = \text{Final Satisfaction Factor [FSF]}$

6. In the event that determination of the Final Satisfaction Factor results in a positive percentage figure, the Final Satisfaction Factor shall be applied to the Compliance Period Special Source Credits received, or to be received, by each Credit Eligible Entity as set forth above to determine reimbursement amounts due to the County, if any, from each such Credit Eligible Entity, as further illustrated in the examples set forth below. Any such amounts shall be due to be paid by a Credit Eligible Entity on or before the date by which such Credit Eligible Entity is required, under applicable law, to make its Negotiated FILOT Payment due with respect to the Project for the tax year corresponding to the final Property Tax Year of the Compliance Period (*i.e.*, the Negotiated FILOT Payment due with respect to Project property placed in service as of the end of the final Property Tax Year within the Compliance Period).

Examples:

As an example, assuming Actual Project Investment of \$140,000,000 and Actual Project Jobs of 24, the Final Satisfaction Factor to be applied against the Compliance Period Special Source Credits, as set forth in the above formula, would be calculated as follows:

1. $\frac{\$140,000,000}{\$175,000,000} \times 100 = 80.0\%$ [ISP]
2. $100\% - 80.0\% = 20.0\%$ [ISF]
3. $\frac{24}{30} \times 100 = 80.0\%$ [JSP]
4. $100\% - 80.0\% = 20.0\%$ [JSF]
5. $\frac{20.0\% + 20.0\%}{2} = 20.0\%$ [FSF]
6. Assuming Compliance Period Special Source Credits for a Credit Eligible Entity of \$1,000,000, upon application of the Final Satisfaction Factor of 20.0% to such amount, such Credit Eligible Entity would be required to make a reimbursement payment to the County, as set forth above, in the amount of \$200,000.

As an additional example, assuming Actual Project Investment of \$210,000,000 and Actual Project Jobs of 24, the Final Satisfaction Factor to be applied against the Compliance Period Special Source Credits, as set forth in the above formula, would be calculated as follows:

1. $\frac{\$210,000,000}{\$150,000,000} \times 100 = 135.0\%$ [ISP]

\$175,000,000

2. $100\% - 135.0.0\% = (-35.0\%)$ [ISF]

3. $\frac{24 \text{ jobs}}{30 \text{ jobs}} \times 100 = 80.0\%$ [JSP]

4. $100\% - 80.0\% = 20.0\%$ [JSF]

5. $\frac{(-35.0\%) + 20.0\%}{2} = (-7.50\%)$ [FSF]

6. No reimbursement of Compliance Period Special Source Credits from any Credit Eligible Entity would be due to the County.

(c) Each Credit Eligible Entity shall continue to be eligible for Tier 2 Special Source Credits against each Negotiated FILOT Payment due from such Credit Eligible Entity with respect to the Project for the remaining ten (10) tax years of the period set forth in **Section 3.02(b)** hereof; provided, however, in the event that determination of the Final Satisfaction Factor pursuant to this **Section 4.02(b)** results in a positive percentage figure, the initial Tier 2 Special Source Credits percentage set forth in **Section 3.02(a)** hereof of forty percent (40%) shall be reduced for the remaining such tax years by the percentage equal to such Final Satisfaction Factor, as further illustrated in the example set forth below:

Example:

As an example, assuming a Final Satisfaction Factor of twenty percent (20%), the Tier 2 Special Source Credits percentage applicable for the remaining such tax years would be reduced from 40% by 20% of such initial Special Source Credits percentage, down to a Special Source Credits percentage of 32%.

Section 4.03. Payment of Administration Expenses. The Company or any other Sponsor or Sponsor Affiliate 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 the Company or such other Sponsor or Sponsor Affiliate, promptly upon written request therefor, but in no event later than sixty (60) days after receiving written notice from the County specifying the nature of such expense and requesting the payment of the same. The County acknowledges that it imposes no charges in the nature of impact fees or recurring fees in connection with the Project or the incentives authorized by this Agreement, and, aside from the attorneys' fees set forth below, the County anticipates no out of pocket expenses in connection with this Agreement and the transactions authorized hereby. The parties understand that the County will incur legal fees and other expenses for review of the Inducement Resolution, this Agreement, the Multi-County Park

Agreement and all resolutions, ordinances and other documentation related thereto in an amount not to exceed \$[_____].

Section 4.04. Use of Project for Lawful Activities. During the Term of this Agreement, the Company and each other Co-Investor may use the Project as it deems fit for any lawful purpose.

Section 4.05. Maintenance of Existence. Except in the event the resulting, surviving or transferee entity is the Company or an Affiliate of the Company, as to which such consolidation, merger, or transfer, the County hereby preapproves and consents, unless the County shall provide prior consent or subsequent ratification otherwise, which consent or ratification shall not be unreasonably withheld, conditioned or delayed, the Company covenants that it will maintain its separate existence and will not dissolve or consolidate with, merge into or transfer, or otherwise dispose of substantially all of its property to any other entity or permit one or more other entities to consolidate with or merge into it or purchase substantially all of its property unless:

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

(b) immediately after giving effect to such transaction, no Event 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) the Company shall have delivered to the County (i) a certificate of a duly authorized officer of the Company, accompanied by financial statements of the surviving company (if other than the Company) showing compliance with the net worth requirements specified in paragraph (a) above and (ii) an opinion of counsel for the Company and/or counsel to the transferee company, each stating that such consolidation, merger, conveyance or transfer and such supplement to this Agreement comply with this Section and that all conditions precedent herein provided for relating to such transaction have been complied with.

Upon any consolidation or merger or any conveyance or transfer of all or substantially all of the Company's assets in accordance with this Section, the successor entity formed by such consolidation or into which the Company is merged or to which such conveyance or transfer is made, shall succeed to, and be substituted for, and may exercise every right and power of the

Company under this Agreement with the same effect as if such successor entity had been named as the Company herein, and thereafter the Company shall be relieved of all obligations and covenants under this Agreement.

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

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

Section 4.06. Records and Reports. The Company and each other Sponsor and Sponsor Affiliate 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 the Company and any other Sponsor or Sponsor Affiliate that support the Negotiated FILOT returns of the Company or such other Sponsor or Sponsor Affiliate as may be reasonably necessary to verify the calculations of the Negotiated FILOT Payments by the 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, the 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) The Company shall cause a copy of this Agreement, as well as a copy of the completed Form PT-443 required by the Department of Revenue, to be filed within thirty (30) days after the date of 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, the Company and each other Sponsor or Sponsor Affiliate may, by clear, written designation, conspicuously marked, designate with respect to any Filings or other documents or information delivered to the County segments thereof that the Company or such other Sponsor or Sponsor Affiliate believes contain proprietary, confidential, or trade secret matters. The County shall comply with all reasonable, written requests made by the Company or any such other Sponsor or Sponsor Affiliate 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 Company or such other Sponsor or Sponsor Affiliate of such proposed release, the County shall not knowingly and voluntarily release any Filing, documents or information provided to the County by the Company or any other Sponsor or Sponsor Affiliate in connection with the Project, whether or not such information has been designated as confidential or proprietary by the Company or any other Sponsor or Sponsor Affiliate.

Section 4.07. Funding for Special Source Improvements The Company and each other Sponsor Affiliate shall provide, or cause the provision of, funding for the Special Source Improvements related to its respective portion of the Project.

ARTICLE V

FEEES IN LIEU OF TAXES

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

(a) In accordance with the Negotiated FILOT Act, the parties hereby agree, during the Term hereof, that there shall be due annually with respect to that portion of the Project constituting Negotiated FILOT Property, whether owned by the Company or by any other Sponsor or Sponsor Affiliate, a Negotiated FILOT 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 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, [2017]. If the 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, the 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 other entity's respective portion of the Negotiated FILOT Property. Unless and until such additional notification is received, the Company shall be primarily liable for all Negotiated FILOT Payments 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 be payable for an aggregate payment period of forty (40) years, which period shall be comprised of an initial period of thirty (30) years and an automatic extension period of ten (10) 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 forty (40) years up to an aggregate of forty-five (45) years or, if the Investment Period is extended as set forth in **Section 4.01(c)** hereof, up to an aggregate of fifty (50) years.

(ii) The Negotiated FILOT shall be determined using (1) an assessment ratio of 6%; (2) the lowest millage rate or rates allowed with respect to the Project pursuant to Section 12-44-50(A)(1)(d) of the Negotiated FILOT Act, which the parties believe to be, based on the property comprising the Land as of the original execution and delivery of this Agreement, [] mills with respect to the Land and all Negotiated FILOT property located thereon, which millage rate 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 the 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 the 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 diminution in value allowed by the Code or by the tax laws generally, as well as tax exemptions which would have been applicable if such property were subject to *ad valorem* taxes, except the five-year exemption from County taxes allowed for certain manufacturing, distribution, corporate headquarters and research and development facilities pursuant to Section 3(g) of Article X of the Constitution of the State and Sections 12-37-220(B)(32) and (34) of the Code.

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

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

(i) to reduce such payments in the event the Company or any other Sponsor or Sponsor Affiliate disposes of any part of the Negotiated FILOT Property within the meaning of Section 12-44-50(B) of the Negotiated FILOT Act and as provided in **Section 4.01(e)(ii)** hereof, by the amount applicable to the Released Property;

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

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

(d) Upon installation or placing in service of any Replacement Property for any Released Property, such Replacement Property shall become subject to Negotiated FILOT Payments to the fullest extent allowed by 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 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 forty-year period set forth in **Section 5.01(b)(i)** hereof applicable to the Released Property

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

(e) In the event that, for any reason, the Negotiated FILOT Act and/or the Negotiated FILOT or any portion thereof is, by a court of competent jurisdiction following allowable appeals, declared invalid or unenforceable in whole or in part, or the portion of the Project consisting of Negotiated FILOT Property is deemed not to be eligible for a Negotiated FILOT pursuant to the Act in whole or in part, the Company and the County express their intentions that such payments be reformed so as to afford the Company and 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 Company and the County agree that there shall be due hereunder with respect to that 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, the Company and each other Sponsor or Sponsor Affiliate shall be entitled: (1) to enjoy the five-year exemption from *ad valorem* taxes (or fees in lieu of taxes) provided by Article X, Section 3 of the Constitution of the State, and any other exemption allowed by law; (2) to enjoy all allowable depreciation; and (3) to receive all other tax credits which would be due if the Company and each other Sponsor or Sponsor Affiliate were obligated to pay *ad valorem* taxes hereunder. To the extent that under such circumstances the Negotiated FILOT Payments hereunder are subject to retroactive adjustment, then there shall be due and payable from the Company and any other Sponsor or Sponsor Affiliate, as the case may be, with respect to 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 and the amount which would have been paid as *ad valorem* taxes, together with interest on such deficiency as provided in Section 12-54-25(D) of the Code (a "Deficiency Payment").

(f)

(i) In the event that the 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. Pursuant to Section 12-44-30(19) of the Negotiated FILOT Act, 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 calculated as set forth in paragraph (e) above, and such Sponsor or Sponsor Affiliate shall owe a Deficiency Payment with respect to Negotiated FILOT Payments theretofore made as to such portion of the Project. To the extent necessary to collect a Deficiency Payment under this clause (i) due to failure to satisfy the Minimum Statutory Investment Requirement, 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 first Property Tax Year following 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, the Company and each other Sponsor or Sponsor Affiliate shall continue to be eligible to take advantage of the Negotiated FILOT described in **Section 5.01** hereof and the Tier 1 Special Source Credits, but the County shall have the rights specified in **Section 4.02** hereof with respect to the Tier 2 Special Source Credits.

(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 the Company or any other Co-Investor at the Land, whether

owned by the Company or any other Co-Investor outright or utilized by the Company or any other Co-Investor pursuant to any financing agreement or any lease or other arrangement with the 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 under this **Section 5.01** as a Deficiency Payment or other retroactive payment shall be paid within one hundred eighty (180) days following receipt by the Company or any other Sponsor or Sponsor Affiliate of notice from the County that such a Deficiency Payment or other retroactive payment is due from such entity.

Section 5.02. Statutory Lien. The parties acknowledge the County's right to receive Negotiated FILOT Payments hereunder 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 the Company and each other Sponsor or Sponsor Affiliate 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 the Company or any other Sponsor or Sponsor Affiliate or any of their respective Affiliates or operates such assets for the Company or any other Sponsor or Sponsor Affiliate or any of their respective Affiliates or is leasing portion of the Project in question from the Company or any other Sponsor or Sponsor Affiliate or any of their respective Affiliates. In order to transfer all or any of its rights and interests under this Agreement and preserve the benefits hereunder, including, but not limited to, the benefits of the Negotiated FILOT and the Special Source Credits, with respect to any Project property so transferred, leased, financed, or otherwise affected: (i) except in connection with any transfer to any other Sponsor or Sponsor Affiliate or an Affiliate of the Company or any Sponsor or Sponsor Affiliate, or transfers, leases, or financing arrangements pursuant to clause (b) above (as to which such transfers the County hereby consents), the Company shall obtain the prior

consent or subsequent ratification of the County, which consent or subsequent ratification 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 the Company or any such other Sponsor or Sponsor Affiliate hereunder, or when the County consents in writing or when the transfer relates to Released Property pursuant to **Section 4.01(e)** hereof, no such transfer shall affect or reduce any of the obligations of the Company or any such other Sponsor or Sponsor Affiliate hereunder; (iii) to the extent the transferee or financing entity shall become obligated to make Negotiated FILOT payments hereunder, the transferee shall assume the then current basis of the Company or any such other Sponsor or Sponsor Affiliate (or prior transferee) in the Negotiated FILOT Property transferred; (iv) the Company or any such other Sponsor or Sponsor Affiliate, 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 in order to preserve the benefits of the Negotiated FILOT; and (v) the Company or any such other Sponsor or Sponsor Affiliate 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 Company or any such other Sponsor or Sponsor Affiliate, 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 Company or any other Sponsor or Sponsor Affiliate under this Agreement and/or any release of the Company or any other Sponsor or Sponsor Affiliate pursuant to this **Section 6.01**.

The Company acknowledges that any transfer 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 Company or any such Sponsor or Sponsor Affiliate with the Transfer Provisions.

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

ARTICLE VII

TERM; TERMINATION

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

Section 7.02. Termination. In addition to the termination rights of the County under **Section 8.02(a)** hereof, the County and the Company may jointly agree to terminate this Agreement at any time, or the Company, may, at its option, unilaterally terminate this Agreement at any time, with respect to all, or any portion, of the Project in which event the Project, or such portion of the Project, 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 the Company or any other Sponsor or Sponsor Affiliate (the "Defaulting Entity") but only with respect to such Defaulting Entity's rights, duties, and obligations contained herein:

(a) if default shall be made in the due and punctual payment of any Negotiated FILOT Payments, which default shall not have been cured within 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 certain benefits hereunder or obligate the Company or other Sponsors or Sponsor Affiliates, as the case may be, to make certain additional payments to the County, all as set forth in **Section 4.02** and **Section 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 4.06** 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, but not limited to, shall have the same remedies available by law to collect Negotiated FILOT Payments as if they were delinquent *ad valorem* tax payments, including execution upon the lien referred to in **Section 5.02** hereof.

Section 8.03. Defaulted Payments. In the event the Company or any other Sponsor or Sponsor Affiliate should fail to make any of the payments required to be made by such entity under this Agreement, the item or installment so in default shall continue as an obligation of such entity until the amount in default shall have been fully paid. If any such default relates to its obligations to make Negotiated FILOT Payments hereunder, such entity shall pay the same with

interest thereon at the rate per annum provided by the Code for late payment of *ad valorem* taxes together with any penalties provided by the Code for late payment of *ad valorem* taxes, all as provided in Section 12-44-90 of the Negotiated FILOT Act.

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

ARTICLE IX

MISCELLANEOUS

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

Section 9.02. Successors and Assigns. The terms and provisions of this Agreement shall be binding upon and inure to the benefit of the parties hereto, each Sponsor or Sponsor Affiliate 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 Company, which consent may be provided by the Company in its 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 the Company shall be in writing and shall be deemed to be properly given or made if sent by United States first class mail, postage prepaid, or via facsimile transmission or reputable courier service, to the following persons and addresses or to such other persons and places as may be designated in writing by such party.

(a) As to the County:

Oconee County
Attn: County Administrator
415 South Pine Street
Walhalla, South Carolina 29691
Phone: 864-638-4245
Fax: 864-718-1024

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

Oconee County
Attn: Oconee County Attorney
415 South Pine Street
Walhalla, South Carolina 29691
Phone: 864-638-4245
Fax: 864-718-1024

(c) As to the Company:

Attention: _____

Phone: _____
Fax: _____

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

Burnet R. Maybank, III, Esq.
Tushar V. Chikhliker, Esq.
Nexsen Pruet, LLC
1230 Main Street, Suite 700
Columbia, South Carolina 29201
Phone: 803-771-8900
Fax: 803-253-8277

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

Section 9.05. Entire Understanding. This Agreement expresses the entire understanding and all agreements of the parties hereto with each other and 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 both parties.

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

Section 9.11. Further Proceedings. 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.

OCONEE COUNTY, SOUTH CAROLINA

By: _____
Joel Thrift, Chairman, County Council
Oconee County, South Carolina

[SEAL]

ATTEST:

By: _____
Elizabeth G. Hulse, Clerk to Council
Oconee County, South Carolina

PROJECT SARAH

By: _____
Name: _____
Its: _____

**EXHIBIT A
LEGAL DESCRIPTION**

[To be inserted.]

STATE OF SOUTH CAROLINA
OCONEE COUNTY
ORDINANCE 2014-30

AN ORDINANCE AUTHORIZING AND APPROVING (1) DEVELOPMENT OF A JOINT COUNTY INDUSTRIAL AND BUSINESS PARK PURSUANT TO SECTION 4-1-170 OF THE CODE OF LAWS OF SOUTH CAROLINA 1976, AS AMENDED, IN CONJUNCTION WITH PICKENS COUNTY (THE "PARK"), SUCH PARK TO BE, AT THE TIME OF ITS INITIAL DEVELOPMENT, GEOGRAPHICALLY LOCATED IN OCONEE COUNTY AND TO INCLUDE CERTAIN PROPERTY NOW OR TO BE OWNED AND/OR OPERATED BY A COMPANY IDENTIFIED FOR THE TIME BEING AS PROJECT SARAH; (2) THE EXECUTION AND DELIVERY OF A WRITTEN PARK AGREEMENT WITH PICKENS 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; (3) THE DISTRIBUTION OF REVENUES FROM THE PARK WITHIN OCONEE COUNTY; AND (4) OTHER MATTERS RELATED THERETO.

WHEREAS, Oconee County, South Carolina ("Oconee County") and Pickens County, South Carolina ("Pickens County"), as authorized under Article VIII, Section 13(D) of the South Carolina Constitution and Section 4-1-170 of the Code of Laws of South Carolina, 1976, as amended (the "Act"), propose to develop a joint county industrial and business park (the "Park"); and

WHEREAS, in order to promote economic development and thus encourage investment and provide additional employment opportunities within both of said counties, Oconee County and Pickens County have agreed to develop a Park in Oconee County and Pickens County to be located, at the time of its initial development, upon property that is located in Oconee County and which now or will be owned and/or operated by a company identified for the time being as Project Sarah; and

WHEREAS, Oconee County and Pickens County have agreed to the specific terms and conditions of such arrangement as set forth in the Agreement for Development of a Joint County Industrial and Business Park (Project Sarah) proposed to be entered into by and between Oconee County and Pickens County as of such date as may be agreed to by Oconee County and Pickens County (the "Park Agreement"); and

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

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

Section 1. Approval of the Park Agreement. The form, provisions, terms and conditions of the Park Agreement now before this meeting and filed with the Clerk to Oconee County 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 Chairman of Oconee County Council is hereby authorized, directed, and empowered to execute the Park Agreement in the name and on behalf of Oconee County; the Clerk to Oconee County Council is hereby authorized, directed, and empowered to attest the same; and the Chairman of Oconee County Council is further authorized, directed, and empowered to deliver the Park Agreement to Pickens County.

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 Oconee County thereunder and as shall be approved by the officials of Oconee 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 Oconee County Council, the County Administrator of Oconee County, and the Clerk to the Oconee County Council, for and on behalf of Oconee County, are hereby each authorized and empowered to do any and all things necessary or proper to effect the development of the Park and the performance of all obligations of Oconee County under and pursuant to the Park Agreement and to carry out the transactions contemplated thereby and by this Ordinance.

Section 2. Payment of Fee in Lieu of Tax. The businesses and industries located in the Park must pay a fee in lieu of *ad valorem* taxes as provided for in the Park Agreement. With respect to properties located in the Oconee County portion of the Park, the fee paid in lieu of *ad valorem* taxes shall be paid to the Treasurer of Oconee County. That portion of such fee allocated pursuant to the Park Agreement to Pickens County shall be thereafter paid by the Treasurer of Oconee County to the Treasurer of Pickens County within fifteen (15) business days following the end of the calendar quarter of receipt for distribution in accordance with the Park Agreement. With respect to properties located in the Pickens County portion of the Park, the fee paid in lieu of *ad valorem* taxes shall be paid to the Treasurer of Pickens County. That portion of such fee allocated pursuant to the Park Agreement to Oconee County shall thereafter be paid by the Treasurer of Pickens County to the Treasurer of Oconee County within fifteen (15) business days following the end of the calendar quarter of receipt for distribution in accordance with the Park Agreement. The provisions of Section 12-2-90 of the Code of Laws of South Carolina 1976, as amended, or any successor statutes or provisions, apply to the collection and enforcement of the fee in lieu of *ad valorem* taxes.

Section 3. Distribution of Revenues within Oconee County.

(a) Revenues generated from industries and businesses located in the Oconee County portion of the Park to be retained by Oconee County shall be distributed within Oconee County in accordance with this subsection: first, unless Oconee County elects to pay or credit the same from only those revenues which Oconee County would otherwise be entitled to receive as

provided under the third item below, to pay annual debt service on any special source revenue bonds issued by Oconee County pursuant to, or to be utilized as a special source revenue credit in the manner provided in, Section 4-1-175 of the Act; second, at the option of Oconee County, to reimburse Oconee 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 Oconee County; and third, in accordance with Oconee County rules regarding the distribution of Park revenues from all County Parks, including, without limitation, after payment of all other authorized allocations provided herein or in such County regulations, including, without limitation, in the annual County budget ordinance, allocation of the remaining Park revenues to those taxing entities in which the applicable revenue-generating property is located, in the same manner and proportion that the millage levied for the taxing entities would be distributed if such property were taxable but without regard to exemptions otherwise available pursuant to Section 12-37-220 of the Code of Laws of South Carolina 1976, as amended, for that year.

(b) Notwithstanding any other provision of this section, all taxing entities which overlap an applicable revenue-generating property within the Park shall receive at least some portion of the revenues generated from such property, and all revenues receivable by a taxing entity in a fiscal year shall be allocated to operations and maintenance and to debt service as determined by the governing body of the taxing entity. Except as provided in this Ordinance, all other taxing entities in Oconee County shall receive zero percent (0%) of such Park revenues.

(c) Revenues generated from industries and businesses located in the Pickens County portion of the Park and received by Oconee County shall be retained by Oconee County.

Section 4. Applicable Ordinances and Regulations. Any applicable ordinances and regulations of Oconee County including those concerning zoning, health and safety, and building code requirements shall apply to the Park properties located in Oconee County unless the properties are within the boundaries of a municipality in which case, the municipality's applicable ordinances and regulations shall apply. Any applicable ordinances and regulations of Pickens County including those concerning zoning, health and safety, and building code requirements shall apply to the Park properties located in Pickens County unless the properties are within the boundaries of a municipality in which case, the municipality's applicable ordinances and regulations shall apply.

Section 5. Law Enforcement Jurisdiction. Jurisdiction to make arrests and exercise all authority and power within the boundaries of the Park properties located in Oconee County is vested with the Sheriff's Department of Oconee County. Jurisdiction to make arrests and exercise all authority and power within the boundaries of the Park properties located in Pickens County is vested with the Sheriff's Department of Pickens County. If any of the Park properties located in either Oconee County or Pickens County 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.

Section 6. Conflicting Provisions. To the extent this ordinance contains provisions that conflict with provisions contained elsewhere in the Oconee County Code or other Oconee

County ordinances, the provisions contained in this ordinance supersede all other provisions and this ordinance is controlling. No prior acts or actions previously lawfully undertaken in accordance with such conflicting provisions, however, shall be repealed or revoked by this general repealer.

Section 7. Severability. If any section of this ordinance is, for any reason, determined to be void or invalid by a court of competent jurisdiction, it shall not affect the validity of any other section of this ordinance which is not itself void or invalid.

Section 8. Effectiveness. This Ordinance shall be effective upon third and final reading following duly noticed public hearing.

[End of Ordinance - Signature page to follow]

Enacted and approved, in meeting duly assembled, this ____ day of _____, 2014.

OCONEE COUNTY, SOUTH CAROLINA

By: _____
Joel Thrift, Chairman County Council
Oconee County, South Carolina

ATTEST:

By: _____
Elizabeth G. Hulse, Clerk to County Council
Oconee County, South Carolina

First reading: November 18, 2014
Second reading: December 2, 2014
Public hearing: _____
Third reading: _____

STATE OF SOUTH CAROLINA)
)
 COUNTY OF OCONEE)
)
 COUNTY OF PICKENS)
)

**AGREEMENT FOR DEVELOPMENT OF A
 JOINT COUNTY INDUSTRIAL AND
 BUSINESS PARK (PROJECT SARAH)**

THIS AGREEMENT for the development of a joint county industrial and business park to be located within Oconee County and Pickens County is made and entered into as of [____], 2014, by and between Oconee County, South Carolina (“Oconee County”) and Pickens County, South Carolina (“Pickens County”).

RECITALS

WHEREAS, Oconee County and Pickens County are contiguous counties which, pursuant to Ordinance No. _____, enacted by Oconee County Council on _____, 2014, and Ordinance No. [_____] enacted by Pickens County Council on _____, 2014, have each determined that, in order to promote economic development and thus encourage investment and provide additional employment opportunities within both of said counties, there should be developed in Oconee County and Pickens County a joint county industrial and business park (the “Park”), to be located upon property more particularly described in Exhibit A (Oconee) and Exhibit B (Pickens) hereto; and

WHEREAS, as a consequence of the development of the Park, property comprising the Park and all property having a situs therein is exempt from *ad valorem* taxation pursuant to Article VIII, Section 13(D) of the South Carolina Constitution, but the owners or lessees of such property shall pay annual fees in an amount equivalent to the property taxes or other in-lieu-of payments that would have been due and payable except for such exemption.

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 Oconee County and Pickens County, their successors and assigns.

2. **Authorization.** Article VIII, Section 13(D) of the South Carolina Constitution 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 manner in 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 pursuant to any provision of law which measures the relative fiscal capacity of a school district to support its schools based on the assessed valuation of taxable property in the district as compared to the assessed valuation of taxable property in all school districts in South Carolina. The Code of Laws of South Carolina,

1976, as amended (the “Code”) and particularly, Section 4-1-170 thereof, satisfies the conditions imposed by Article VIII, Section 13(D) of the South Carolina 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 original execution and delivery of this Agreement, the Park initially consists of property that is located in Oconee County and which now or will be owned and/or operated by a company identified for the time being as Project Sarah, as more particularly described in Exhibit A (Oconee) hereto. It is specifically recognized that the Park may from time to time consist of non-contiguous properties within each county. The boundaries of the Park may be enlarged or diminished from time to time as authorized by ordinances of the county councils of both Oconee County and Pickens County. If any property proposed for inclusion in the Park is located, at the time such inclusion is proposed, within the boundaries of a municipality, then the municipality must give its consent prior to the inclusion of the property in the Park.

(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 (Oconee) or a revised Exhibit B (Pickens) which shall contain a legal description of the boundaries of the Park within Oconee County or Pickens County, as the case may be, as enlarged or diminished, together with a copy of the ordinances of Oconee County Council and Pickens County Council pursuant to which such enlargement or diminution was authorized.

(C) Prior to the adoption by Oconee County Council and by Pickens County Council of ordinances authorizing the diminution of the boundaries of the Park, separate public hearings shall first be held by Oconee County Council and Pickens County Council. Notice of such public hearings shall be published in newspapers of general circulation in Oconee County and Pickens County, respectively, at least once and not less than fifteen (15) days prior to such hearing. Notice of such public hearings shall also be served in the manner of service of process at least fifteen (15) days prior to such public hearing upon the owner and, if applicable, the lessee of any property which would be excluded from the Park by virtue of the diminution.

4. Fee in Lieu of Taxes. Pursuant to Article VIII, Section 13(D) of the South Carolina Constitution, all property located in the Park is exempt from all *ad valorem* taxation. The owners or lessees of any property situated in the Park shall pay in accordance with this Agreement an amount (referred to as fees in lieu of *ad valorem* taxes) equivalent to the *ad valorem* 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 Expenses. Oconee County and Pickens County shall bear expenses incurred in connection with the Park, including, but not limited to, those incurred in the administration, development, operation, maintenance and promotion of the Park, in the following proportions:

If the property is located in the Oconee County portion of the Park:

A. Oconee County 100%

B. Pickens County 0%

If the property is located in the Pickens County portion of the Park:

A. Oconee County 0%

B. Pickens County 100%

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

If the property is located in the Oconee County portion of the Park:

A. Oconee County 99%

B. Pickens County 1%

If the property is located in the Pickens County portion of the Park:

A. Oconee County 1%

B. Pickens County 99%

With respect to such fees generated from properties located in the Oconee County portion of the Park, that portion of such fees allocated to Pickens County shall thereafter be paid by the Treasurer of Oconee County to the Treasurer of Pickens County within fifteen (15) business days following the end of the calendar quarter of receipt for distribution. With respect to such fees generated from properties located in the Pickens County portion of the Park, that portion of such fees allocated to Oconee County shall thereafter be paid by the Treasurer of Pickens County to the Treasurer of Oconee County within fifteen (15) business days following the end of the calendar quarter of receipt for distribution.

7. **Revenue Allocation within Each County.**

(A) Revenues generated by the Park through the payment of fees in lieu of *ad valorem* taxes shall be distributed to Oconee County and to Pickens County, as the case may be, according to the proportions established by Section 6 of this Agreement. With respect to revenues allocable to Oconee County or Pickens County by way of fees in lieu of *ad valorem* taxes generated from properties within its own boundaries (the "Host County"), such revenue shall be distributed within the Host County in the manner provided by ordinance of the county council of the Host County; provided, that (i) each taxing entity which overlaps the applicable revenue-generating portion of the Park shall receive at least some portion of the revenues generated from such revenue-generating portion, 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. Each Host 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 the Host County.

(B) Revenues allocable to Oconee County by way of fees in lieu of *ad valorem* taxes generated from properties located in the Pickens County portion of the Park shall be distributed solely to Oconee County. Revenues allocable to Pickens County by way of fees in lieu of *ad*

valorem taxes generated from properties located in the Oconee County portion of the Park shall be distributed solely to Pickens County.

8. **Fees in Lieu of *Ad Valorem* Taxes Pursuant to Title 4 or Title 12 of the Code.** It is hereby agreed that the entry by Oconee County into any one or more fee in lieu of *ad valorem* tax agreements pursuant to Title 4 or Title 12 of the Code or any successor or comparable statutes (“Negotiated Fee in Lieu of Tax Agreements”), with respect to property located within the Oconee County portion of the Park and the terms of such agreements shall be at the sole discretion of Oconee County. It is further agreed that entry by Pickens County into any one or more Negotiated Fee in Lieu of Tax Agreements with respect to property located within the Pickens County portion of the Park and the terms of such agreements shall be at the sole discretion of Pickens 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 to Section 59-20-20(3) of the Code, allocation of the assessed value of property within the Park to Oconee County and Pickens County and to each of the taxing entities within the participating counties shall be in accordance with the allocation of revenue received and retained by each of the counties and by each of the taxing entities within the participating counties, pursuant to **Section 6** and **Section 7** of this Agreement.

10. **Applicable Ordinances and Regulations.** Any applicable ordinances and regulations of Oconee County including those concerning zoning, health and safety, and building code requirements shall apply to the Park properties located in the Oconee County portion of the Park unless any such property is within the boundaries of a municipality in which case, the municipality’s applicable ordinances and regulations shall apply. Any applicable ordinances and regulations of Pickens County including those concerning zoning, health and safety, and building code requirements shall apply to the Park properties located in the Pickens County portion of the Park unless any such property is within the boundaries of a municipality in which case, the municipality’s applicable ordinances and regulations shall apply.

11. **Law Enforcement Jurisdiction.** Jurisdiction to make arrests and exercise all authority and power within the boundaries of the Park properties located in Oconee County is vested with the Sheriff’s Department of Oconee County. Jurisdiction to make arrests and exercise all authority and power within the boundaries of the Park properties located in Pickens County is vested with the Sheriff’s Department of Pickens County. If any of the Park properties located in either Oconee County or Pickens County 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.

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 or part of a provision of this Agreement.

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

15. **Term; Termination.** This Agreement shall extend for a term of fifty-five (55) years from the effective date of this Agreement, or such later date as shall be specified in any amendment hereto. Notwithstanding the foregoing provisions of this Agreement or any other provision in this Agreement to the contrary, this Agreement shall not expire and may not be terminated to the extent that Oconee County or Pickens County has outstanding contractual covenants, commitments or agreements to any owner or lessee of Park property, including, but not limited to, a company identified for the time being as Project Sarah, to provide, or to facilitate the provision of, special source revenue credits, including, but not limited to, those set forth in that certain Fee in Lieu of Tax and Incentive Agreement by and between Oconee County and a company identified for the time being as Project Sarah, dated as of _____, 2014, as may be amended, modified, or supplemented from time to time, or other incentives requiring inclusion of property of such owner or lessee within the boundaries of a joint county industrial or business park created pursuant to Article VIII, Section 13(D) of the South Carolina Constitution and Title 4, Chapter 1 of the Code, unless the Host County (as defined in Section 7(A) hereof) shall first (i) obtain the written the consent of such owner or lessee and (ii) include the property of such owner or lessee as part of another joint county industrial or business park created pursuant to Article III, Section 13(D) of the South Carolina Constitution and Title 4, Chapter 1 of the Code, which inclusion is effective immediately upon termination of this Agreement.

[End of Agreement – Execution Page to Follow]

IN WITNESS WHEREOF, the parties hereto have executed this Agreement to be effective as of the day and the year first above written.

OCONEE COUNTY, SOUTH CAROLINA

By: _____
Joel Thrift, Chairman, County Council
Oconee County, South Carolina

[SEAL]

Attest:

By: _____
Elizabeth G. Hulse, Clerk to County Council
Oconee County, South Carolina

PICKENS COUNTY, SOUTH CAROLINA

By: _____
G. Neil Smith, Chairman, County Council
Pickens County, South Carolina

[SEAL]

Attest:

By: _____
Donna F. Owen, Clerk to County Council
Pickens County, South Carolina

Exhibit A (Oconee)

Oconee County Property

[To be inserted]

The remainder of this page intentionally left blank.

Exhibit B (Pickens)

Pickens County Property

None.

The remainder of this page intentionally left blank.

STATE OF SOUTH CAROLINA
OCONEE COUNTY
ORDINANCE 2014-31

AN ORDINANCE TO ALLOW AN EXISTING MULTI-COUNTY INDUSTRIAL PARK AGREEMENT BETWEEN OCONEE COUNTY, SOUTH CAROLINA AND WILLIAMSBURG COUNTY, SOUTH CAROLINA TO EXPIRE; TO DEVELOP A MULTI-COUNTY INDUSTRIAL PARK IN CONJUNCTION WITH PICKENS COUNTY, SOUTH CAROLINA, ESTABLISHED PURSUANT TO THE SOUTH CAROLINA CODE OF LAWS OF 1976, SECTION 4-1-170, ET SEQUITUR, AS AMENDED; TO PROVIDE FOR A WRITTEN AGREEMENT WITH PICKENS COUNTY REGARDING THE MULTI-COUNTY PARK JOINTLY DEVELOPED WITH PICKENS COUNTY; TO RELOCATE PROPERTY TO THE MULTI-COUNTY PARK JOINTLY DEVELOPED WITH PICKENS COUNTY; AND OTHER RELATED MATTERS RELATED THERETO.

WHEREAS, on July 25, 1994, Oconee County, South Carolina (“Oconee County”), and Williamsburg County, South Carolina (“Williamsburg County”), developed a joint county industrial/business in accordance with Article VIII, Section 13(D) of the South Carolina Constitution and Section 4-1-170 of the Code of Laws of South Carolina, 1976, as amended (the “Act”) and thereafter amended the Agreement for Joint County Industrial Park on December 6, 1994 (“Amended Williamsburg Agreement”);

WHEREAS, Oconee County and Williamsburg County thereafter created one or more multi-county industrial parks (each a “Prior MCIP”), executed and delivered one or more agreements governing each MCIP and placed property in each MCIP;

WHEREAS, Oconee County desires to allow the Amended Williamsburg Agreement, as well as each Prior MCIP, to expire effective December 6, 2014 (“Effective Date”) pursuant to the Amended Williamsburg Agreement;

WHEREAS, Oconee County and Pickens County, South Carolina (“Pickens County”), as contiguous counties, are authorized under Article VIII, Section 13(D) of the South Carolina Constitution and the Act, to (i) develop jointly multi-county industrial parks, and (ii) include real and personal property located in the geographic boundaries of the counties, which inclusion under the terms of the Act makes such property exempt from *ad valorem* property taxes, and changes the character of the annual receipts from such property to fees-in-lieu of *ad valorem* property taxes in an amount equivalent to *ad valorem* taxes that would have been due and payable but for the location of the property in such multi-county industrial parks;

WHEREAS, as provided under the Act, to promote the economic welfare of their citizens, Oconee County and Pickens County desire to jointly develop a multi-county park (“Park”) and execute and deliver the Agreement Governing the Oconee-Pickens Industrial Park, the substantially final form of which is attached as Exhibit A (“Agreement”), to govern the operation of the Park; and

WHEREAS, for the property in each expiring Prior MCIP located in Oconee County and as designated on Exhibit B (“Relocated Oconee County Property”), Oconee County desires to, contemporaneously with the expiration of the Amended Williamsburg Agreement, relocate the Relocated Oconee County Property to the Park which is governed by the Agreement.

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

Section 1. Expiration of MCIP. The Oconee County Council (“Council”) approves and authorizes the expiration of the Amended Williamsburg Agreement and each Prior MCIP, effective December 6, 2014. The Council Chair (“Chair”) and the Oconee County Clerk to Council (or their respective designees) are authorized to execute whatever documents and take whatever further actions as may be necessary to memorialize the expiration of the Amended Williamsburg Agreement and each Prior MCIP.

Section 2. Development of Park; Execution of Agreement. Oconee County is authorized to jointly develop the Park with Pickens County. The Chair or the Council Vice-Chair (“Vice-Chair”) in the event the Chair is absent, is authorized to execute the Agreement, the Oconee County Clerk to Council is authorized to attest the same, and the Oconee County Administrator is authorized to deliver the Agreement to Pickens County. The form and terms of the Agreement are approved, with any revisions that are not materially adverse to Oconee County and are approved by the Oconee County Administrator after consultation with legal counsel to Oconee County. All of the terms of the Agreement are incorporated in this Ordinance by reference as if the Agreement were set forth in this Ordinance in its entirety.

Section 2. Inclusion of Property. The Park’s boundaries are expanded to include the Relocated Oconee County Property as of the Effective Date. The Chair, or the Vice Chair in the event the Chair is absent, the Oconee County Administrator and the Oconee County Clerk to Council are hereby authorized to take such further actions as may be necessary to complete the expansion of the Park boundaries. Pursuant to the terms of the Agreement, the expansion is complete upon (i) the adoption of this Ordinance by the Oconee County Council and a companion resolution or ordinance by the Pickens County Council and (ii) the delivery by Oconee County of a description of the Property to Pickens County.

Section 3. Further Assurances. The Chair, the Clerk and the Oconee County Administrator (or their respective designees) are authorized to execute whatever other documents and take whatever further actions as may be necessary to effect the intent of this Ordinance.

Section 4. Severability. If any part of this Ordinance is unenforceable, the remainder is unaffected

Section 5. General Repealer. Any ordinance, order, resolution, or parts thereof in conflict herewith are to the extent of such conflict, only, hereby repealed. No act or action previously undertaken pursuant to authority valid at the time shall be considered revoked by this Ordinance however.

Section 6. Effective Date. This Ordinance is effective after third and final reading.

OCONEE COUNTY, SOUTH CAROLINA

Chairman of County Council
Oconee County, South Carolina

(SEAL)
ATTEST:

Clerk to County Council
Oconee County, South Carolina

First Reading: November 18, 2014 [title only]
Second Reading: December 2, 2014
Public Hearing:
Third Reading:

EXHIBIT A
OCONEE-PICKENS INDUSTRIAL PARK AGREEMENT

EXHIBIT B

**DESCRIPTION OF OCONEE COUNTY PROPERTY TO BE RELOCATED TO A MULTI-COUNTY PARK
JOINTLY DEVELOPED WITH PICKENS COUNTY, SOUTH CAROLINA**

PROJECT NAME	DESCRIPTION	NOTES

STATE OF SOUTH CAROLINA)
)
 COUNTY OF OCONEE)
)
 COUNTY OF PICKENS)

AGREEMENT FOR DEVELOPMENT OF
 JOINT COUNTY INDUSTRIAL AND
 BUSINESS PARK

THIS AGREEMENT for the development of a joint county industrial and business park to be located in Oconee County, South Carolina (“Oconee County”), dated as of _____, 2014, is made and entered into by and between Oconee County and Pickens County, South Carolina (“Pickens County”, and Oconee County and Pickens County collectively, the “Counties”), both political subdivisions of the State of South Carolina.

RECITALS

WHEREAS, the Counties have determined that, in order to promote economic development and thus provide additional employment opportunities within both of said Counties, and to increase the tax base of Oconee County, there should be established in Oconee County a joint county industrial and business park (the “Park”), which Park shall be in addition to all 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, during the term of this Agreement, but the owners or lessees of such property shall pay annual fees during that term in an amount equal to that amount of *ad valorem* taxes for which such owner or lessee would be liable except for such exemption.

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 is hereby acknowledged, the parties hereby 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 the Counties, 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 and 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, Code of Laws of South Carolina, 1976, as amended ("Section 4-1-170"), satisfies the conditions imposed by Article VIII, Section 13(d), of the Constitution and provides the statutory vehicle whereby a joint county industrial and business park may be created.

3. Location of the Park.

(A) The Park consists of property located in Oconee County, as is hereinafter more specifically described in Exhibit A hereto. It is specifically recognized that the Park may from time to time consist of non-contiguous properties. The boundaries of the Park may be enlarged or diminished from time to time as authorized by ordinances of both of the Counties.

(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 description of the properties located in the Park, as enlarged or diminished, together with a copy of the ordinances of Oconee County Council and Pickens County Council pursuant to which such enlargement or diminution was authorized.

(C) Prior to the adoption by Oconee County Council and by Pickens County Council of ordinances authorizing the diminution of the boundaries of the Park, a public hearing shall first be held by the Oconee County Council. Notice of such public hearing shall be published in a newspaper of general circulation in Oconee County at least once and not less than fifteen (15) days prior to such hearing.

(D) Notwithstanding the foregoing, for a period of forty (40) years commencing with the later of the effective date of this Agreement or the effective date of the expansion of the boundaries of the Park to include such parcel, the boundaries of the Park shall not be diminished so as to exclude therefrom any parcel of real estate without the consent of the owner thereof and the Counties and, if applicable, lessee of such parcel.

4. Fee-in-Lieu of Taxes. Property located in the Park shall be exempt from *ad valorem* taxation during the term of this Agreement. The owners or lessees of any property situated in the Park shall pay in accordance with and during the term of 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. Where, in this Agreement, reference is made to payment of *ad valorem* property taxes or other in-lieu of payments, such reference shall be construed, in accordance with this Section 4, to mean the *ad valorem* property taxes or other in-lieu of payments that would otherwise have been due to be paid to Oconee County, after deduction of all applicable allowances, credits, deductions, and exemptions authorized or required by state law.

5. Allocation of Park Expenses. The Counties shall bear expenses, including, but not limited to, development, operation, maintenance and promotion of the Park in the following proportions:

A.	Oconee County	100%
B.	Pickens County	0%

6. **Allocation of Park Revenues.** The Counties shall receive an allocation of all revenue generated by the Park through payment of fees-in-lieu of *ad valorem* property taxes or from any other source in the following proportions:

- | | | |
|----|----------------|-----|
| A. | Oconee County | 99% |
| B. | Pickens County | 1% |

Any payment by Oconee County to Pickens County of its allocable share of the fees-in-lieu of taxes from the Park shall be made not later than fifteen (15) days from the end of the calendar quarter in which Oconee County receives such payment from the occupants of the Park. In the event that the payment made by any occupant of a Park is made under protest or is otherwise in dispute, Oconee County shall not be obligated to pay to Pickens County more than Pickens 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.** Revenues generated by the Park through the payment of fees-in-lieu of *ad valorem* property taxes shall be distributed to the Counties according to the proportions established by Paragraph 6. Such revenues shall be distributed within Oconee County and Pickens County in the manner directed by the respective ordinances enacted by such counties relating to the Park or such distribution from time to time, including, but not limited to, the allocation of the revenues such counties receive and retain from the Park for the payment of special source revenue bonds, provision of special source credits or payments, or other permitted uses of such revenues.

8. **Fees-in-Lieu of Taxes Pursuant to Code of Laws of South Carolina.** It is hereby agreed that the entry by Oconee County into any one or more negotiated fee-in-lieu of tax agreements pursuant to Titles 4 or 12, South Carolina Code, 1976, as amended, or any successor or comparable statutes, with respect to property located within the Park and the terms of such agreements shall be at the sole discretion of Oconee County.

9. **Assessed Valuation.** For the purpose of calculating the bonded indebtedness limitation of the political subdivisions and overlapping tax districts which levy taxes in the park property described in Exhibit A, and for the purpose of computing the index of taxpaying ability of any applicable school districts located in Oconee County pursuant to Section 59-20-20(3), Code of Laws of South Carolina, 1976, as amended, allocation of the assessed value of property within the Park to Oconee County shall be identical to the percentage established for the allocation of revenue to Oconee County pursuant to Paragraphs 6 and 7 respectively and any ordinance enacted by Oconee County which provides for the allocation or distribution of such revenue, subject, however, to the provisions of Section 4-29-68(E) of the Code of Laws of South Carolina, 1976, or any successor legislation.

10. **Records.** The Counties covenant and agree that, upon the request of either, the other will provide to the requesting party copies of the records of the annual tax levy and copies of the actual tax bills, for parcels of property encompassed by this Agreement, and will further provide copies of the County Treasurer's collection records for the taxes so imposed, all as such records become available in the normal course of County procedures. It is further agreed that none of the

parties shall request such records from any other party more frequently than once annually, absent compelling justification to the contrary.

11. **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 or part of a provision of this Agreement.

12. **Termination.** Notwithstanding any provision of this Agreement to the contrary, Oconee County and Pickens County agree that this Agreement may not be terminated by either party for a period of forty (40) years commencing with the effective date hereof.

**THE REMAINDER OF THIS PAGE IS INTENTIONALLY LEFT BLANK
SIGNATURE PAGES FOLLOW**

WITNESS our hands and seals this _____ day of _____, 2014.

OCONEE COUNTY, SOUTH CAROLINA

By: _____
Chairman, County Council
Oconee County, South Carolina

(SEAL)

ATTEST:

Clerk to County Council
Oconee County, South Carolina

WITNESS our hands and seals this _____ day of _____, 2014.

PICKENS COUNTY, SOUTH CAROLINA

By: _____
Chairman, County Council
Pickens County, South Carolina

By: _____
Administrator
Pickens County, South Carolina

(SEAL)

ATTEST:

Clerk to County Council
Pickens County, South Carolina

Exhibit A

Park Property

The Park is comprised of the following parcels:

**AGENDA ITEM SUMMARY
OCONEE COUNTY, SC**

COUNCIL MEETING DATE: December 2, 2010
COUNCIL MEETING TIME: 6:00 PM

ITEM TITLE [Brief Statement]:

First Reading of Ordinance 2014-27 "AN ORDINANCE TO ACKNOWLEDGE AND AUTHORIZE THE EXECUTION OF AN INTERGOVERNMENTAL AGREEMENT BETWEEN OCONEE COUNTY AND THE CITY OF WESTMINSTER FOR THE PROVISION OF A COUNTY MAGISTRATE TO ACT AS MUNICIPAL JUDGE FOR THE CITY OF WESTMINSTER; AND OTHER MATTERS RELATED THERETO."

BACKGROUND DESCRIPTION:

This Ordinance authorizes an intergovernmental agreement between the County and the City of Westminster in order to allow a County Magistrate Judge to act as Municipal Judge for the City.

SPECIAL CONSIDERATIONS OR CONCERNS [only if applicable]:

FINANCIAL IMPACT [Brief Statement]:

Check Here if Item Previously approved in the Budget. No additional information required.

Approved by : _____ **Finance**

COMPLETE THIS PORTION FOR ALL GRANT REQUESTS:

Are Matching Funds Available: Yes / No
If yes, who is matching and how much:

Approved by : _____ **Grants**

ATTACHMENTS

Ordinance 2014-27

STAFF RECOMMENDATION [Brief Statement]:

It is the recommendation of staff that Council approve Ordinance 2014-27 on first reading.

Submitted or Prepared By:

Approved for Submittal to Council:

Department Head/Elected Official

T. Scott Moulder, County Administrator

Council has directed that they receive their agenda packages a week prior to each Council meeting, therefore, Agenda Items Summaries must be submitted to the Administrator for his review/approval no later than 12 days prior to each Council meeting. It is the Department Head / Elected Officials responsibility to ensure that all approvals are obtained prior to submission to the Administrator for inclusion on an agenda.

A calendar with due dates marked may be obtained from the Clerk to Council.

STATE OF SOUTH CAROLINA
COUNTY OF OCONEE
ORDINANCE 2014-27

**AN ORDINANCE TO ACKNOWLEDGE AND AUTHORIZE
THE EXECUTION OF AN INTERGOVERNMENTAL
AGREEMENT BETWEEN OCONEE COUNTY AND THE CITY
OF WESTMINSTER FOR THE PROVISION OF A COUNTY
MAGISTRATE TO ACT AS MUNICIPAL JUDGE FOR THE
CITY OF WESTMINSTER; AND OTHER MATTERS RELATED
THERETO.**

WHEREAS, Oconee County, South Carolina (“Oconee County”), is a body politic and corporate and a political subdivision of the State of South Carolina; and,

WHEREAS, the City of Westminster (the “City”) has established a municipal court, which is part of the South Carolina unified judicial system, to hear and determine all cases within its jurisdiction; and,

WHEREAS, pursuant to §14-25-25 of the South Carolina Code of Laws, 1976, as amended (the “Act”), a municipality may, after establishing a municipal court by ordinance, contract with a county governing authority for the services of a magistrate to serve as its municipal judge and may designate such magistrate as its municipal judge; and,

WHEREAS, significant changes in South Carolina laws have made it unfeasible for some municipalities to continue to operate municipal courts on an efficient, economical basis; and,

WHEREAS, the City acknowledges that the Oconee County Magistrate’s Office (“County Magistrate’s Office”) has the capability to provide the City with a county magistrate, to act as a municipal judge to hear and determine all cases under the City’s jurisdiction thereby providing this vital service to the citizens of Westminster on an uninterrupted basis with maximum cost efficiency; and,

WHEREAS, the City is willing to compensate the County Magistrate’s Office for providing the City with a county magistrate to act as a municipal judge, and the City has formally requested a contractual arrangement with Oconee County so that the County Magistrate’s Office may make a county magistrate available to be designated by the City as a municipal judge; and,

WHEREAS, the County Magistrate’s Office is willing to provide the City with a county magistrate, to act as a municipal judge to hear and determine all cases under the City’s jurisdiction in return for compensation from the City; and,

WHEREAS, Oconee County recognizes that such an arrangement would efficiently serve the taxpayers of both governmental entities; and,

WHEREAS, the Chief Magistrate of Oconee County has agreed to seek an Order of the Chief Justice of the South Carolina Supreme Court authorizing the Chief Magistrate of the County to assign any magistrate of the County as the municipal judge for the City and to assign a magistrate to serve as an associate municipal judge; and,

WHEREAS, through the authority granted by the Act, the City and Oconee County desire to enter into an intergovernmental agreement (the “Agreement”) in the form attached as **Exhibit A**, and incorporated by this reference; and,

WHEREAS, pursuant to the Agreement, Oconee County intends to pay the assigned magistrate additional and clearly separable compensation solely for additional duties as a Municipal Judge for the City, over and above and not as a part of the compensation received by such assigned magistrate for his or her duties as magistrate pursuant to §22-8-40 of the South Carolina Code of Laws, 1976, *as amended*, only if the assigned magistrate signs a document acknowledging that the compensation is separable and solely for such additional duties as Municipal Judge.

NOW, THEREFORE, it is hereby ordained, by Oconee County Council, in meeting duly assembled that:

1. Oconee County, acting by and through the Oconee County Council, hereby acknowledges and accepts the Agreement.
2. The Oconee County Administrator is authorized to execute the Agreement on behalf of Oconee County and may take all other steps and actions as are necessary or appropriate to enter into and enforce the Agreement.
3. The Oconee County Administrator shall ensure that any payments made to the assigned magistrate pursuant to or as a result of the Agreement are additional and clearly separable compensation solely for additional duties as a Municipal Judge for the City, over and above and not as a part of the compensation received by such assigned magistrate for his or her duties as magistrate pursuant to §22-8-40 of the South Carolina Code of Laws, 1976, *as amended*, and the Oconee County Administrator shall ensure that before any payment is made, the assigned magistrate signs a document acknowledging that the compensation is separable and solely for such additional duties as Municipal Judge and will last only so long as the assigned magistrate is performing such duties.
4. Should any part or provision of this Ordinance be deemed unconstitutional or unenforceable by any court of competent jurisdiction, such determination shall not affect the rest and remainder of this Ordinance, all of which is hereby deemed separable.
5. All ordinances, orders, resolutions, and actions of Oconee County Council inconsistent herewith are, to the extent of such inconsistency only, hereby repealed, revoked, and rescinded.
6. This Ordinance shall take effect and be in full force and effect from and after third reading and enactment by Oconee County Council.

ORDAINED in meeting, duly assembled, this ____ day of _____, 2014.

ATTEST:

Elizabeth Hulse,
Clerk to Oconee County Council

Joel Thrift,
Chairman, Oconee County Council

First Reading: December 2, 2014
Second Reading: _____
Third Reading: _____
Public Hearing: _____

INTERGOVERNMENTAL AGREEMENT

THIS INTERGOVERNMENTAL AGREEMENT (the “Agreement”) is made and entered into this ____ day, of _____, 2014, by and between Oconee County, South Carolina (the “County”), and the City of Westminster, South Carolina, (the “City”).

WHEREAS, the City has established a municipal court, which is part of the South Carolina unified judicial system, to hear and determine all cases within its jurisdiction; and,

WHEREAS, pursuant to §14-25-25 of the South Carolina Code of Laws, 1976, as amended (the “Act”), a municipality may, after establishing a municipal court by ordinance, contract with a county governing authority for the services of a magistrate to serve as its municipal judge and may designate such magistrate as its municipal judge; and,

WHEREAS, significant changes in South Carolina laws have made it unfeasible for some municipalities to continue to operate municipal courts on an efficient, economical basis; and,

WHEREAS, the City acknowledges that the Oconee County Magistrate’s Office (“County Magistrate’s Office”) has the capability to provide the City with a County magistrate, to act as a municipal judge to hear and determine all cases under the City’s jurisdiction thereby providing this vital service to the citizens of Westminster on an uninterrupted basis with maximum cost efficiency; and,

WHEREAS, the City is willing to compensate the County for providing the City with a County magistrate, to act as a municipal judge and the Mayor, Administrator, and City Council of the City have formally requested a contractual arrangement with the County so that the County Magistrate’s Office is authorized to make a magistrate available to provide the service required by the City and be designated by the City as a municipal judge; and,

WHEREAS, the County and the County Magistrate’s Office are willing to provide the City with a County magistrate, to act as a municipal judge to hear and determine all cases under the City’s jurisdiction in return for compensation from the City paid to the County; and,

WHEREAS, the County and the City recognize that such an arrangement would efficiently serve the taxpayers of both governmental entities; and,

WHEREAS, the Chief Magistrate of Oconee County has agreed to seek an Order of the Chief Justice of the South Carolina Supreme Court authorizing the Chief Magistrate of the County to assign any magistrate of the County as the municipal judge for the City and to assign a magistrate to serve as an associate municipal judge; and,

WHEREAS, through the authority granted by the Act, and in accordance with the Order to be obtained by the Chief Magistrate, the City and the County desire to enter into this Agreement.

NOW THEREFORE, in consideration of the foregoing and other good and valuable consideration, the City and the County agree as follows:

1. Services Provided By County and County Magistrate’s Office:

- a. The County agrees to authorize the Chief Magistrate to provide judicial services and perform judicial duties for the City by assigning a county magistrate by and through a request made to the Chief Justice of the South Carolina Supreme Court, pursuant to the Chief Justice’s powers as administrative head of the unified judicial system, to act as the municipal judge for the City, in addition to the assigned magistrate’s normal

Initials _____/_____/_____
GREENVILLE 318515v3

duties as a magistrate for the County. The County will pay the assigned magistrate additional, clearly separable compensation solely for such additional duties as municipal judge, over and above, and not as a part of the compensation received by such assigned magistrate for his or her duties as magistrate pursuant to §22-8-40 of the South Carolina Code of Laws, 1976, as amended, and the assigned magistrate will sign a document acknowledging that the compensation is separable and solely for such additional duties as municipal judge. The County further agrees to authorize the Chief Magistrate to provide judicial services and perform judicial duties for the City by assigning a county magistrate by and through a request made to the Chief Justice of the South Carolina Supreme Court, pursuant to the Chief Justice's powers as administrative head of the unified judicial system, to act as the associate municipal judge for the City in the absence of the full-time municipal judge assigned, in addition to the assigned magistrate's normal duties as a magistrate for the County. The County will pay the assigned associate magistrate additional, clearly separable compensation solely for such additional duties as associate municipal judge, over and above, and not as a part of the compensation received by such assigned magistrate for his or her duties as magistrate pursuant to §22-8-40 of the South Carolina Code of Laws, 1976, as amended, and the assigned magistrate will sign a document acknowledging that the compensation is separable and solely for such additional duties as associate municipal judge.

- b. The assigned magistrate will:
- i. Hold court at least twice per month during hours that do not conflict with the magistrate's hours serving the County; and,
 - ii. Conduct jury and bench trials for the City on an as needed basis. All trials will be scheduled by a clerk employed by the County; and,
 - iii. Issue arrest warrants and search warrants on a prompt and reasonable basis and based upon appropriate standards, hold bond hearings, and be responsible for all other judicial duties as required by law; and,
 - iv. Be on call, but only within the hours prescribed for the conduct of his or her duties for the City and not as an extension of his or her County hours, it being understood and agreed by all parties hereto that the assigned magistrate's duties as municipal judge are in addition to, separate, and apart from his or her duties as a magistrate for the County for purposes of pay and determination as a full-time or part-time magistrate for the County.
 - v. Should the regular duties of the assigned magistrate conflict with providing services to the City, the assigned magistrate will always handle any duties in connection with the County Magistrate's Office first.
 - vi. The assigned magistrate acting as associate municipal judge shall perform the abovementioned duties in the absence of the magistrate assigned as the full-time municipal judge.
 - vii. The assigned magistrate shall transmit all fines, fees, and assessments collected on behalf of the city municipal court to the county treasurer on the first Wednesday of each month or within ten (10) days thereafter along with

an itemized report showing the proper distribution of the amount collected according to South Carolina law. The county treasurer shall transmit to the city treasurer that portion of the total amount collected that is to be retained by the city according to law within ten (10) days after having received the transmittal from the assigned magistrate. The assigned magistrate shall deliver an itemized report to the city treasurer showing the exact amounts collected and the amount to be retained by the city along with an itemization showing the amounts to be retained by the other entities entitled to a portion thereof according to South Carolina law. The report will be delivered to the city treasurer at the same time the assigned magistrate transmits the fines, fees, and assessments collected on behalf of the city municipal court to the county treasurer.

2. Reimbursement for Municipal Judges and Responsibilities of City:

- a. The City shall reimburse the County **\$1,350.00 (One Thousand Three Hundred Fifty and no/100 Dollars)** per month, in advance, on or before the 1st day of each month on and after the effective date of this Agreement, which will be the amount of additional compensation paid to the full-time judge, associate judge, and clerk as follows:
 - i. \$1,000.00 per month to be paid to the full-time judge,
 - ii. \$100.00 per month to be paid to the associate judge, and
 - iii. \$200.00 per month to be paid to the clerk.
 - iv. The city further agrees to reimburse the County \$50.00 per month for supplies.
- b. The City further agrees to:
 - i. Reimburse the County for any costs incurred by the County for trials conducted on behalf of the City and for the cost of compensating jurors according to law. The City agrees to reimburse the County on or before the thirtieth (30th) day after receiving an invoice from the County that details the actual costs incurred by the County for conducting trials; and,
 - ii. Designate the assigned magistrate as the City's full-time municipal judge for purposes of this Agreement, and designate the assigned magistrate as the City's associate municipal judge for purposes of this Agreement; and
 - iii. Pay for and acquire the necessary licenses/permissions and equipment needed to implement and utilize the South Carolina Judicial Department Case Management System ("CMS"). The City agrees to pay all fees directly to the South Carolina Judicial Department and further agrees to maintain CMS at all times during the term of this Agreement. The City acknowledges that the fees for CMS are determined by the South Carolina Judicial Department and are presently \$3,500.00 annually for municipalities in Oconee County.
- c. The City acknowledges and understands that the assigned magistrates will still have his or her regular duties in connection with the County Magistrate's Office, for which

the assigned magistrates will receive his or her usual County pay pursuant to §22-8-40 of the South Carolina Code of Laws, 1976, as amended.

- d. The City acknowledges that, in the sole discretion of the Chief Magistrate of the County, any activities of the assigned magistrates pursuant to this Agreement may be conducted at any location designated by the Chief Magistrate as deemed necessary in the furtherance of justice. It is the intent of the preceding sentence to clarify that on a case-by-case basis the Chief Magistrate may designate a temporary alternative facility for the adjudication of any particular case after consultation with the City. The parties to this agreement understand that there may be cases and instances where the existing facility utilized by the City as a municipal court may not accommodate more complex cases involving numerous witnesses. Moreover, the parties to this agreement acknowledge there may be instances wherein a particular case requires the assigned magistrates to disqualify themselves from presiding over the case due to the requirements of the Code of Judicial Conduct. In such circumstances, it may be necessary to assign the case to a neutral location to be adjudicated before a non-disqualified magistrate in order to avoid any appearance of impropriety. Additionally, there may be cases wherein a defendant demands a live-jury selection or requires numerous potential jurors to be summoned to appear for jury selection and the assigned magistrates grant such request. These examples are not meant to be exhaustive and are merely used to demonstrate that the intent of this section, particularly the first sentence, is to clarify that the Chief Magistrate may consult with the City and direct that a particular case be adjudicated at an alternative location. This section is not intended to be used as a means whereby the Chief Magistrate may permanently transfer the adjudication of municipal cases to a location other than that designated by the City.

3. Term of Agreement: The term of this Agreement will commence on January 1, 2015, and shall thereafter be renewed automatically on a monthly basis.

4. Termination of Agreement: Either party may terminate this Agreement with thirty (30) days written notice of termination. This Agreement is always subject to appropriation of funds. In the event of non-appropriation by either party, this Agreement will be deemed terminated ninety (90) days following such non-appropriation.

5. Notice to the County and the City: Unless otherwise specifically provided in this Agreement or by law, any and all notices or other communications required or permitted by this Agreement or by law to be served on, given to, or delivered to either party to this Agreement shall be in writing and shall be deemed duly served, given, delivered and received when personally delivered (including confirmed overnight delivery service to the party to whom it is directed), or in lieu of such personal delivery, when three (3) business days have elapsed following deposit thereof in the United States mail, first-class postage prepaid, certified, return receipt requested, addressed to:

County: Administrator
Oconee County
415 South Pine Street
Walhalla, SC 29691

(with copy to): Chief Magistrate
Oconee County
207-A E.N. 1st Street
Seneca, SC 29678

City: Administrator
City of Westminster
PO Box 399
Westminster, SC 29693

Either party may change its address for the purpose of this paragraph by giving written notice of such change to the other party in the manner provided in this paragraph.

6. **Breach of Agreement:** Failure of either party to perform any of its covenants or conditions under the Agreement is a breach of the Agreement, and, in the event of breach, the non-breaching party will have the right to any legal remedy provided under the laws of the State of South Carolina.

7. **Unavoidable Delay - Force Majeure:** If either party shall be delayed or prevented from the performance of any act required by this Agreement by reason of acts of God, strikes, lockouts, labor troubles, inability to procure materials, restrictive governmental laws, or regulations or other cause, without fault and beyond the reasonable control of the party obligated (financial inability excepted), performance of such act will be excused for the period of the delay; and the period for the performance of any such act will be extended for a period equivalent to the period of such delay; provided, however, nothing in this section shall excuse the City from the prompt payment of any fee or other charge required of the City except as may be expressly provided elsewhere in this Agreement.

8. **Inconsistent Terms:** To the extent that any provisions of the City's or the County's ordinances are inconsistent with the terms of the Agreement, the City or the County will waive said ordinance provisions and said provisions will not apply to the City or County for purposes of this agreement, its terms and provisions, application and implementation. The Agreement shall be approved by ordinances enacted by the City and the County, in order to constitute binding legal authority of each.

9. **Severability of Agreement:** In the event any portion of this Agreement is declared invalid or unenforceable, the remaining portions hereof shall remain in full force and effect.

10. **Waivers and Amendments to Agreement:** No modification, waiver, amendment, discharge or change of this Agreement shall be valid unless the same is in writing and signed by the party against which the enforcement of such modification, waiver, amendment, discharge or change is or may be sought.

11. **No Waiver of Breach:** No failure by either the County or City to insist upon the strict performance by the other of any covenant, agreement, term or condition of this Agreement, or to exercise any right or remedy consequent upon a breach thereof, shall constitute a waiver of any such breach or of such covenant, agreement, term or condition. No waiver of any breach shall affect or alter this Agreement, but each and every covenant, condition, agreement and term of this Agreement shall continue in full force and effect with respect to any other then existing or subsequent breach.

12. **Captions:** Captions in this Agreement are inserted for convenience of reference only and do not define, describe or limit the scope or the intent of this Agreement or any of the terms hereof.

13. **Controlling Law:** This Agreement shall be construed and enforced under the laws of the State of South Carolina.

OCONEE COUNTY

BY: _____

Scott Moulder

ITS: Administrator

DATED: _____

CHIEF MAGISTRATE

BY: _____

M. Todd Simmons

DATED: _____

CITY OF WESTMINSTER

BY: _____

Jeff Lord

ITS: Administrator

DATED: _____

**AGENDA ITEM SUMMARY
OCONEE COUNTY, SC**

COUNCIL MEETING DATE: December 2, 2014
COUNCIL MEETING TIME: 6:00 PM

ITEM TITLE [Brief Statement]:

First Reading Resolution R-2014-19 "A RESOLUTION AUTHORIZING AN INDUCEMENT AND MILLAGE RATE AGREEMENT BETWEEN OCONEE COUNTY, SOUTH CAROLINA AND **CASTO SOUTHEAST REALTY SERVICES, LLC** RELATING TO THE COUNTY'S EXECUTION AND DELIVERY OF A FEE AGREEMENT AND AN INFRASTRUCTURE IMPROVEMENT CREDIT RELATED TO THE FEES IN LIEU OF TAXES THEREUNDER PURSUANT TO TITLE 12, CHAPTER 44, CODE OF LAWS OF SOUTH CAROLINA, 1976, AS AMENDED, AND THE PLACEMENT OF CERTAIN PROPERTIES IN A MULTI-COUNTY INDUSTRIAL/BUSINESS DEVELOPMENT PARK ESTABLISHED BY THE COUNTY."

BACKGROUND DESCRIPTION:

This is an economic development project previously referred to as "Project Fountain" by the Oconee Economic Alliance that entails a mixed-use development that will result in an estimated \$30,000,000 capital investment that will yield 300 new jobs. This development also will serve as a catalyst for the Hwy 123 corridor east of Seneca, redevelop a former textile site and be a "gateway project."

SPECIAL CONSIDERATIONS OR CONCERNS [only if applicable]:

N/A

FINANCIAL IMPACT [Brief Statement]:

Check Here if Item Previously approved in the Budget. No additional information required.

Approved by: Finance

COMPLETE THIS PORTION FOR ALL GRANT REQUESTS:

Are Matching Funds Available: Yes / ~~No~~

If yes, who is matching and how much:

Approved by: Grants

ATTACHMENTS

Resolution and Inducement Agreement attached.

STAFF RECOMMENDATION [Brief Statement]:

It is the staff's recommendation that Council approve Resolution R2014-19 on first and final reading.

Submitted or Prepared By:



Department Head/Elected Official

Approved for Submittal to Council:

T. Scott Moulder, County Administrator

Council has directed that they receive their agenda packages a week prior to each Council meeting, therefore, Agenda Items Summaries must be submitted to the Administrator for his review/approval no later than 12 days prior to each Council meeting. It is the Department Head / Elected Officials responsibility to ensure that all approvals are obtained prior to submission to the Administrator for inclusion on an agenda.

A calendar with due dates marked may be obtained from the Clerk to Council.

**STATE OF SOUTH CAROLINA
OCONEE COUNTY
RESOLUTION R2014-19**

A RESOLUTION AUTHORIZING AN INDUCEMENT AND MILLAGE RATE AGREEMENT BETWEEN OCONEE COUNTY, SOUTH CAROLINA AND CASTO SOUTHEAST REALTY SERVICES, LLC RELATING TO THE COUNTY'S EXECUTION AND DELIVERY OF A FEE AGREEMENT AND AN INFRASTRUCTURE IMPROVEMENT CREDIT RELATED TO THE FEES IN LIEU OF TAXES THEREUNDER PURSUANT TO TITLE 12, CHAPTER 44, CODE OF LAWS OF SOUTH CAROLINA, 1976, AS AMENDED, AND THE PLACEMENT OF CERTAIN PROPERTIES IN A MULTI-COUNTY INDUSTRIAL/BUSINESS DEVELOPMENT PARK ESTABLISHED BY THE COUNTY.

WHEREAS, Oconee County, South Carolina (the "County"), acting by and through its County Council (the "County Council") is authorized and empowered under and pursuant to the provisions of Title 12, Chapter 44 of Code of Laws of South Carolina, 1976, as amended (the "Act"), to acquire, or cause to be acquired, properties and to enter into agreements with any business to construct, operate, maintain and improve such property and to enter into or allow financing agreements with respect to such properties through which powers the economic development of the State of South Carolina will be promoted and trade developed by inducing manufacturing and commercial enterprises to locate and remain in the State of South Carolina and thus utilize and employ the manpower, agricultural products and natural resources of the State and benefit the general public welfare of the County by providing services, employment, recreation or other public benefits not otherwise provided locally; and

WHEREAS, Casto Southeast Realty Services, LLC (the "Company") is considering the location of new facilities within the County, which would consist of the acquisition, construction, and improvement of certain real properties and improvements thereto located in the County and of the machinery, equipment, fixtures, and furnishings to be purchased and installed in connection therewith for the operation of such facilities related to the business and other legal activities of the Company and its affiliates (the "Project"); and

WHEREAS, the Company proposes that the real property in the County on which the Project will be located be placed within the boundaries of a multi-county business or industrial development park established by the County pursuant to Title 4, Chapter 1, Code of Laws of South Carolina, 1976, as amended, with another contiguous South Carolina county to be selected by the County; and

WHEREAS, the County, acting through the County Council, is also authorized by Section 4-1-175, Section 4-29-68, and Section 12-44-70 of the South Carolina Code of Laws, 1976, as amended (collectively, the "Infrastructure Act") to provide an infrastructure improvement credit (the "Infrastructure Credit"), secured by and based solely on revenues of the County from payments in lieu of taxes pursuant to Section 4-1-170, Code of Laws of South Carolina, 1976, as amended and Section 12-44-50 of the Act, for the purpose of defraying a

portion of the cost of designing, acquiring, constructing, improving, or expanding the infrastructure servicing the County in order to enhance the economic development of the County; and

WHEREAS, the cost of planning, designing, acquiring, constructing and completing the proposed Project will require expenditures of in excess of \$2,500,000 in the County, which will satisfy the requirements of Section 12-44-30(14) of the Act; and

WHEREAS, the County Council is informed that the Company anticipates that, upon completion of the Project, the proposed Project will provide additional employment in the County; and

WHEREAS, based on information provided by the Company, the County has determined that the Project would benefit the general public welfare of the County by providing service, employment, recreation or other public benefits not otherwise provided locally; and that the Project gives rise to no pecuniary liability of the County or incorporated municipality or a charge against the general credit or taxing power of either; and that the purposes to be accomplished by the Project, i.e., economic development, creation of jobs, and addition to the tax base of the County, are proper governmental and public purposes and that the inducement of the location or expansion of the Project within the County and State is of paramount importance and that the benefits of the Project will be greater than the costs; and

WHEREAS, the Project will provide public benefits incident to conducting business operations, and is of importance to the County because of its location, and because the County desires to influence the profile and appearance of the Project because of the location, and in order to implement the public purposes enumerated in the Act and in furtherance thereof to assist the Company in locating the Project within the County, the County has agreed to place the real property on which the Project will be located within the boundaries of a multi-county business or industrial development park established by the County with another contiguous South Carolina county to be selected by the County, to provide the Company with an Infrastructure Credit to assist in defraying the costs of designing, acquiring, constructing, improving, or expanding infrastructure, land and improvements to real property as defined in Section 4-29-68(A)(2) and Section 12-44-70(B) of the Infrastructure Act (the "Infrastructure Project"), and to provide certain sewer upgrades in the area, in partnership with the City of Seneca and the Oconee Joint Regional Sewer Authority, to facilitate growth and development in the entire area in which the Project is to locate, in order to induce the Company to proceed with the Project in the County.

NOW, THEREFORE, BE IT RESOLVED, by the County Council in meeting duly assembled:

Section 1. Pursuant to the authority of the Act and for the purpose of authorizing the Fee Agreement (as described in the Act) for the Project, there is hereby authorized to be executed an Inducement and Millage Rate Agreement between the County and the Company pertaining to the Project, encompassing the incentives addressed in the preamble of this Resolution, and involving investment in the County of not less than \$2,500,000 in qualifying fee in lieu of tax investment by the end of the fifth (5th) year after the year of execution of the Fee Agreement.

Section 2. The provisions, terms and conditions of the Fee Agreement by and between the County and the Company and the form, details, and maturity provisions, if any, of the Fee Agreement shall be prescribed by subsequent ordinance of the County Council, in accordance with the South Carolina Home Rule Act (the "Home Rule Act").

Section 3. The Chairman of County Council is hereby authorized and directed to execute the Inducement Agreement on behalf of the County, in substantially the form attached, or with such changes or additions as shall not materially prejudice the County, upon the advice of the county attorney, and the Clerk of the County Council is hereby directed and authorized and directed to attest the same; and the Chairman of County Council is hereby further authorized and directed to deliver said executed Inducement Agreement to the Company.

Section 4. Prior to the execution and delivery by the County of the Fee Agreement, the County Council will comply with the provisions of the Home Rule Act regarding the procedural requirements for adopting ordinances and resolutions, and to the actual adoption of such ordinances and resolutions.

Section 5. All orders, resolutions, and parts thereof in conflict herewith are, to the extent of such conflict, only, hereby repealed. Nothing contained herein, however, shall repeal or revoke any prior act or action lawfully undertaken in accordance with existing authority at the time undertaken. This Resolution shall take effect and be in full force from and after its passage by the County Council.

Section 6. It is the intention of the County Council that this Resolution shall constitute an official action on the part of the County relating to the inducement of the Project.

DONE IN MEETING DULY ASSEMBLED THIS 2nd DAY OF DECEMBER, 2014.

OCONEE COUNTY, SOUTH CAROLINA

By: _____
Joel Thrift, Chairman of County Council
Oconee County, South Carolina

ATTEST:

Elizabeth G. Hulse, Clerk to County Council
Oconee County, South Carolina

INDUCEMENT AND MILLAGE RATE AGREEMENT

THIS INDUCEMENT AND MILLAGE RATE AGREEMENT made and entered into by and between Oconee County, South Carolina, a body politic and corporate and a political subdivision of the State of South Carolina (the "County") and Casto Southeast Realty Services, LLC, a Florida limited liability company (the "Company").

WITNESSETH:

ARTICLE I

RECITATION OF FACTS

Section 1.1 As a means of setting forth the matters of mutual inducement which have resulted in the making and entering into of this Agreement, the following statements of fact are herewith recited:

- (a) The County is authorized and empowered by the provisions of Title 12, Chapter 44, Code of Laws of South Carolina, 1976 (the "Act") to acquire, enlarge, improve, expand, equip, furnish, own, lease, and dispose of properties through which the economic development of the State of South Carolina (the "State") will be promoted and trade developed by inducing new businesses to locate in the State and by encouraging businesses now located in the State to expand their investments and thus utilize and employ manpower and other resources of the State and benefit the general public welfare of the County by providing services, employment, recreation or other public benefits not otherwise provided locally.
- (b) The Company is considering the acquisition, construction and improvement of certain real properties and improvements thereto and the acquisition of the certain machinery, equipment, fixtures and furnishings to be purchased and installed in connection therewith for commercial and retail purposes (the "Project"). In the County. The Project will involve an investment of at least Two Million Five Hundred Thousand Dollars (\$2,500,000) in new, taxable (fee in lieu of tax) investment within the meaning of the Act, occurring by the end of the fifth (5th) year following the year of execution of a fee in lieu of tax agreement pursuant to the Act between the County and the Company (the "Fee Agreement").
- (c) The Company has requested the County to assist it through (i) the incentive of a payment in lieu of ad valorem taxes as authorized by the Act, (ii) providing an infrastructure improvement credit (the "Infrastructure Credit") as described in Section 4-1-175, Section 4-29-68 and Section 12-44-70 of the Code of Laws of South Carolina 1976, as amended (collectively, the "Infrastructure Act"), and (iii) the placement of the Project in a multi-county business or industrial development park (the "Park") established by the County and a qualifying South Carolina county pursuant to Section 4-1-170, Code of Laws of South Carolina 1976, as amended.

- (d) The County has given due consideration to the economic development impact of the Project, has found that the Project, the agreement to provide for payments in lieu of ad valorem taxes and certain Infrastructure Credits, and the agreement to use its best efforts to locate the Project in a Multi-County Park as set forth herein are beneficial to the County, because of the location of the Project, the ability to influence the profile and appearance of the Project, and the ability to provide infrastructure, through the Project, for the development of that entire part of the County; and, based on information provided by the Company, that the Project would benefit the general public welfare of the County by providing service, employment, recreation, infrastructure, or other public benefits not otherwise provided locally; that the Project shall give rise to no pecuniary liability of the County or any incorporated municipality or a charge against the general credit or taxing power of either; that the purposes to be accomplished by the Project, i.e., economic development, creation of jobs, and addition to the tax base of the County, are proper governmental and public purposes; that the inducement of the location or expansion of the Project within the County and State is of paramount importance; and that the benefits of the Project will be greater than the costs; and accordingly, the County has agreed to effect the issuance and delivery of this Agreement, pursuant to the Act, and on the terms and conditions hereafter set forth.

ARTICLE II

UNDERTAKINGS ON THE PART OF THE COUNTY

Subject to the general provisions contained in Article IV hereof, the County agrees as follows:

Section 2.2 The Project, as represented to the County, will involve capital expenditures for real and personal property qualifying under the Act in the County of at least \$2,500,000 in new taxable property occurring by the end of the fifth (5th) year following the year in which the Fee Agreement is executed (the "Initial Investment Period"). The Project will be constructed or installed by the Company or an affiliate company thereof on a site owned or hereafter acquired by the Company or an affiliate company thereof.

Section 2.3 The Fee Agreement will be executed at such time and upon acceptable terms to the County, as the time and upon acceptable terms to the County, as the Company shall request subject to Section 4.2 herein.

Section 2.4 The terms and provisions of the Fee Agreement shall be substantially in the form generally utilized in connection with the Act as agreed upon by the County and the Company. Such Fee Agreement shall contain, in substance, the following provisions:

- (a) The term of the Fee Agreement will coincide with the maximum term of the negotiated fee pursuant to the Act (without extension) at the time of the execution of the Fee Agreement. Thus, the Company shall be allowed and required to invest under and pursuant to the Fee Agreement not less than \$2,500,000 in qualifying

fee in lieu of tax investment in the Project by the end of the fifth (5th) year after the year of execution of the Fee Agreement with such investment being maintained in accordance with the Act.

- (b) The Company will maintain the Project and will (i) keep the Project insured against loss or damage or perils generally insured against by industries or businesses similar to the Company and will carry public liability insurance covering personal injury, death or property damage with respect to the Project; or (ii) self-insure with respect to such risks in the same manner as it does with respect to similar property owned by the Company; or (iii) maintain a combination of insurance coverage and self-insurance as to such risks.
- (c) The Fee Agreement shall provide that, in the performance of the agreements contained therein on the part of the County, any obligations the County may incur for the payment of money shall not create a pecuniary liability of the County nor create a general obligation on its part or by the State or any incorporated municipality, but shall be payable solely from the payments received under such Fee Agreement and, under certain circumstances, insurance proceeds and condemnation awards.
- (d) The Fee Agreement shall contain agreements providing for the defense and indemnification of the County and the individual elected officials, officers, agents and employees thereof for all liabilities, expenses or attorney's fees incurred by them and for any claim of loss suffered or damage to property or any injury or death of any person occurring in connection with the planning, design, acquisition, construction and carrying out of the Project, including without limitation any environmental liability.
- (e) The Fee Agreement shall contain a provision requiring the Company to make payments in lieu of taxes ("Fee Payments"). Pursuant to the Act, such Fee Payments shall continue for a period of up to thirty (30) years with respect to each year of capital investment made under the Fee Agreement during the Initial Investment Period, and any amendments or supplements to the Fee Agreement to the extent permitted by law and authorized by the County herein. The amounts of such Fee Payments shall be determined by using an assessment ratio of 6.0% , a millage rate not less than the higher of the millage rate in effect on June 30 of the calendar year immediately preceding the execution of the Fee Agreement or in effect on June 30 of the calendar year in which the Fee Agreement is executed (unless a higher millage rate is agreed to by the Company), and the fair market value (which value is not subject to reassessment as provided in the Act) as determined by using original cost for any real property and original cost less allowable depreciation for any personal property in accordance with Title 12, Chapter 37, Code of Laws of South Carolina 1976, as amended.
- (f) The Fee Agreement shall provide that, based on a commitment by the Company to make an investment in the Project as described in Section 2.1 hereof, all within the Initial Investment Period, the County is committing to provide with respect to

Project, in cooperation with the Oconee Joint Sewer Authority and pursuant to an Intergovernmental Agreement to be executed with the City of Seneca, South Carolina (the "City") certain improvements and upgrades to the sewer system which will serve the Project, including installation of a pumping station and sewer mains to and from the pumping station, (the "Infrastructure Improvements") with the County's contribution to such Infrastructure Improvements pursuant to such Intergovernmental Agreement being \$300,000, subject to reimbursement through the Infrastructure Credits granted to the Company as described in Section 2.3(g) below, if the County does not fund such Infrastructure Improvements directly from Multi-County Park revenues which it receives and retains.

- (g) The Fee Agreement shall provide that in conjunction with the County's contribution for the Infrastructure Improvements, the County shall grant to the Company an Infrastructure Credit to reimburse the County for its contribution to the Infrastructure Improvements over a period to be determined by the County, if the County does not fund such Infrastructure Improvements directly from Multi-County Park revenues which it receives and retains. The Fee Agreement may provide for additional Infrastructure Credits if the County and the Company mutually agree upon the terms and conditions thereof.
- (h) The County and the Company agree, in accordance with the Act, that the Company may dispose of property subject to fee payments, as set forth in this Section.
 - (1) When the Company disposes of property subject to the fee, the fee payment must be reduced by the amount of the fee payment applicable to that property, subject to an absolute requirement to invest not less than \$2,500,000 in qualifying fee in lieu of tax investment in the Project, with such investment occurring by the end of the fifth (5th) year after the year of execution of the Fee Agreement, and maintain such investment, without regard to depreciation, in accordance with the Act.
 - (2) Property shall be considered disposed of for purposes of this Section only when it is scrapped or sold in accordance with the Fee Agreement.
- (i) The County and the Company agree that the Company may purchase replacement property which replacement property will be included into the fee to the full extent allowed pursuant to the Act.
- (j) The County will use its best commercially reasonable efforts to locate the Project within the boundaries of an existing or new Multi-County Park with a contiguous South Carolina county selected by the County.

Section 2.5 Upon the request of the Company, the County will permit the planning, design, acquisition, construction and carrying out of the Project to commence prior to the execution and delivery of the Fee Agreement. Contracts for construction and for purchase of

machinery, equipment and related real and personal property deemed necessary under the Fee Agreement may be let by the Company.

ARTICLE III

UNDERTAKINGS ON THE PART OF THE COMPANY

Section 3.6 Prior to execution of the Fee Agreement and subsequent to this Agreement, the Company may advance any acquisition or construction funds required in connection with the planning, design, acquisition, construction and carrying out of the Project and be entitled to subject the constructed or acquired property to the Fee Agreement.

Section 3.7 The County will have no obligation to assist the Company in finding a lender and the Company may endeavor to finance the Project to the extent required to finance the cost of the acquisition and installation of the Project.

Section 3.8 If the Project proceeds as contemplated, the Company further agrees as follows:

- (a) To enter into the Fee Agreement, under the terms of which it will obligate itself to pay to the County sums sufficient to pay payments in lieu of tax in accordance with Section 2.2(e) hereof, to the extent and when the same may become due and payable with the Fee Agreement to be in form and to contain such provisions, consistent with those set forth in Section 2.2 hereof as shall be satisfactory to the County and to the Company;
- (b) To indemnify, defend with legal counsel acceptable to the County (the approval of which shall not be unreasonably withheld by the County), and hold the County harmless from all expenses to which it might be put in the fulfillment of its obligations under this Agreement and in the negotiations and implementation of its terms and provisions, including reasonable attorneys' fees;
- (c) To perform such further acts and adopt such further proceedings as may be required to faithfully implement its undertakings and consummate the proposed financing;
- (d) To apply for, and use its best efforts to obtain, all permits, licenses, authorizations and approvals required by all governmental authorities in connection with the acquisition, construction, operation and use of the Project; and
- (e) To indemnify, defend with legal counsel acceptable to the County (the approval of which shall not be unreasonably withheld by the County) and hold the County and the individual directors, officers, agents and employees thereof harmless against any claim or loss or damage to property or any injury or death of any person or persons occurring in connection with the planning, design, acquisition, construction, leasing and carrying out of the Project, including without limitation any environmental liability. The Company also agrees to reimburse or otherwise pay, on behalf of the County, any and all expenses not hereinbefore mentioned

incurred by the County in connection with the Project and the preparation of all proceedings and documents of the County referred to herein, including without limitation its reasonable attorney's fees. This indemnity shall be superseded by a similar indemnity in the Fee Agreement.

- (f) To invest not less than Two Million Five Hundred Thousand Dollars (\$2,500,000) in new taxable investment in the Project by the end of the fifth (5th) year following the end of the year in which the Fee Agreement is executed and maintain such investment in accordance with the Act, or lose the benefits of this Agreement in accordance with the Act for failure to do so.
- (g) To pay for or reimburse the costs of the Infrastructure Improvements to the extent not being paid for by the Oconee Joint Sewer Authority and the County and the City pursuant to the Intergovernmental Agreement, and to use its Infrastructure Credits to reimburse the County for the County's share (currently \$300,000) of the costs of the Infrastructure Improvements, if the County does not fund its share of the Infrastructure Improvements directly from the Multi-County Park revenues which it receives and is entitled to retain .

ARTICLE IV

GENERAL PROVISIONS

Section 4.9 All commitments of the County under Article II hereof are subject to compliance by the County with the provisions of the South Carolina Home Rule Act and all of the provisions of the Act, including, without limitation, the condition that nothing contained in this Agreement shall constitute or give rise to a pecuniary liability of the County or any incorporated municipality or a charge against the general credit or taxing powers of either.

Section 4.10 All commitments of the County and the Company hereunder are subject to the condition that the County and the Company agree on mutually acceptable terms and conditions of all documents, the execution and delivery of which are contemplated by the provisions hereof.

Section 4.11 If for any reason this Agreement is not executed and delivered by the Company on or before February 27, 2015 the provisions of this Agreement shall be cancelled and neither party shall have any rights against the other and no third parties shall have any rights against either party except:

- (a) The Company will pay the County for all expenses which have been authorized by the Company and incurred by the County in connection with the planning, design, acquisition, construction and carrying out of the Project and for all expenses incurred by the County in connection with the authorization and approval of the Fee Agreement or this Agreement;
- (b) The Company will pay the out-of-pocket expenses of officers, agents and employees of the County and counsel for the County incurred in connection with the Project and the preparation and execution of this Agreement and the Fee

Agreement, and will pay fees for legal services related to the Project and the negotiation, authorization, and execution of the Fee Agreement and this Agreement.

Section 4.12 The parties understand that the Company may choose not to proceed with the Project, in which event this Agreement shall be cancelled and, subject to parties' obligations described in Section 4.3, neither party shall have any further rights against the other, and no third party shall have any rights against either party.

Section 4.13 To the maximum extent allowable under the Act, the Company and the Sponsors, if applicable, may, with the prior consent of the County, assign (including, without limitation, absolute, collateral, and other assignments) all or a part of its rights and/or obligations under this Agreement, the Fee Agreement, or any other agreement related hereto or thereto, to one or more other entities without adversely affecting the benefits to the Company or its assignees pursuant to any such agreement or the Act.

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

OCONEE COUNTY, SOUTH CAROLINA

By: _____
Joel Thrift, Chairman of County Council
Oconee County, South Carolina

Attest: _____
Elizabeth G. Hulse, Clerk to County
Council
Oconee County, South Carolina

Date: _____, 2014

CASTO SOUTHEAST REALTY SERVICES,
LLC

By: _____
Its: _____

Date: _____, 20__

PROCUREMENT - AGENDA ITEM SUMMARY
OCONEE COUNTY, SC

COUNCIL MEETING DATE: December 2, 2014

ITEM TITLE:

Title: Stub Taxiway Project **Department:** Aeronautics **Amount:** \$120,000.00

FINANCIAL IMPACT:

Procurement was approved by Council in Fiscal Year 2014-15 budget process.
Budget: \$ 120,000.00 ~~Capital Project Fund Will be Used for This Project~~ *See Special Considerations below*
Project Cost: \$ 120,000.00
Balance: \$ 0.00
Finance Approval: *Mark H. Pulli 11/20/2014* Grant Approval: _____

BACKGROUND DESCRIPTION:

At the October 18, 2011 meeting, Council approved the award of RFP 11-03 for Professional Services – Airport Engineer and Consultant, to W. K. Dickson and Company, Inc. of Columbia, SC for a five year term for services as needed. Projects exceeding \$50,000 are brought back to Council individually for approval. Currently, landing aircraft have to continue the length of the runway to get to the taxiway leading to the ramp. This means the runway is unusable during peak periods, until traffic clears and aircraft burn additional fuel. It would be more time and fuel efficient and safer to allow aircraft to exit the runway quicker and easier by the development of a mid-field "stub" taxiway. W. K. Dickson will develop plans and specifications and provide services for the bidding of the new stub taxiway. This will be bid at a later date to an outside contractor. W. K. Dickson will assist in the power line relocation and they will provide geotechnical investigation, testing, topographic surveying, updating and permitting for land disturbance.

SPECIAL CONSIDERATIONS OR CONCERNS :

This project is funded by the FAA through a grant. The FAA will pay 90% of the costs (\$108,000), the state will pay 5% (\$6,000) and the County will pay 5% (\$6,000). W. K. Dickson will also assist the County with subsequent grant application to request funding for the construction in a subsequent funding cycle.

ATTACHMENT:

- 1. Task Order #4 from W. K. Dickson

STAFF RECOMMENDATION:

It is the staff's recommendation that Council approve the award of \$120,000.00 to W. K. Dickson & Company, Inc. of Columbia, SC for engineering services for the Stub Taxiway Project.
Submitted or Prepared By: *Robyn Courtright* **Approved for Submittal to Council:** _____
Robyn Courtright, Procurement Director **T. Scott Moulder, County Administrator**

Council has directed that they receive their agenda packages a week prior to each Council meeting, therefore, Agenda Items Summaries must be submitted to the Administrator for his review/approval no later than 12 days prior to each Council meeting. It is the Department Head / Elected Officials responsibility to ensure that all approvals are obtained prior to submission to the Administrator for inclusion on an agenda.
A calendar with due dates marked may be obtained from the Clerk to Council.

TASK ORDER #4

**IN ACCORDANCE WITH
GENERAL SERVICES AGREEMENT FOR PROFESSIONAL SERVICES
BETWEEN OWNER AND CONSULTANT (RFQ# 10-22, RFP# 11-03)
DATED: October 18, 2011**

Oconee County, South Carolina

Scope of Services

for

NEW STUB TAXIWAY PROJECT

Design/Bid

This Task Order made and entered into this 30th day of SEPTEMBER, 2014, by and between the OWNER:

Oconee County
415 South Pine Street,
Walhalla, South Carolina 29691

And the CONSULTANT:

W.K. Dickson & Co., Inc.
1320 Main Street, Suite 400
Columbia, South Carolina 29201

Amends the AGREEMENT executed by and between the parties hereto on the 18th day of October, 2011, into which this Task Order is hereby incorporated and made a part hereof, to specify the following:

SCOPE OF SERVICES

I. Basic Services

A. RUNWAY 7 APPROACH - POWER LINE RELOCATION

The CONSULTANT will coordinate with Blue Ridge Electric Co-op, as needed and requested, to assist them by providing the airspace clearance requirements (sketches), in order to assist the Co-op in their relocation and burying of their existing power line along Shiloh and Airline roads.

B. NEW STUB TAXIWAY PROJECT

In order to allow greater efficiency for arriving aircraft at the Oconee County Airport during times of high use, which occur throughout the year, (seasonal sporting events, holidays, campus recruitment events, alumni events, orientation, commencement and semester beginnings and endings, etc.), CEU needs to develop a nearly mid-field "Stub" Taxiway.

Currently, landing aircraft has to continue the length of the runway to get to the Taxiway leading to the Ramp. This avails the Runway un-usable until traffic clears and burns fuel for the distance required accessing the Ramp. During these periods of peak demands, it would be more time and fuel efficient and safer to allow Aircraft to exit the Runway quicker and in an easier manner.

*Task Order #4 – New Stub Taxiway Project
Oconee County Airport*

The purpose of this project is to develop Construction Plans and Specifications and provide Services during Bidding for this New Stub Taxiway at the Oconee County Airport. The CONSULTANT will also prepare the subsequent Grant Application to request funding for the Construction, in a subsequent funding cycle.

The project will include basic services for current Grant administration assistance, Stub Taxiway Plans, Specifications, Services during Bidding, including a recommendation of contract award, a final engineering report and current Grant Close-Out. The Design will allow the County to achieve the recommended pavement profile and requirements of a Category B-II aircraft as defined by various FAA Advisory Circulars.

The final design plans and specifications will address the necessary improvements, including constructability issues, protection of NAVAIDS, drainage, Airfield Safety, erosion control, shoulder repair, lighting, signage, pavement marking and will consider the re-striping of the entire Taxiway, if deemed to be prudent and acceptable to the FAA.

II. Special Services

The CONSULTANT will also provide special services for geotechnical investigation and testing, topographic surveying, Disadvantaged Business Enterprises (DBE) Plan including the 3-year Update and Permitting for land disturbance.

Professional services related to construction administration and observations are not included and will be provided under separate agreement at the time of construction.

This TASK ORDER does not provide for any assistance for any existing obstruction removal issues or any other surface Pavement Condition issues.

All SCDHEC or other permit fees will be paid by the OWNER.

COMPENSATION

This TASK ORDER shall authorize the ENGINEER to provide the professional services described. The schedule of services to be provided and fees include:

I. BASIC SERVICES

A.	Runway 7 Power Line Relocation Coordination	Lump Sum	\$ 8,200.00
B.	New Stub Taxiway		
1.	Project Development Phase	Lump Sum	\$26,000.00
2.	Design Phase	Lump Sum	\$41,300.00
3.	Construction Services - Limited (Bid Assistance, Recommendation to Award, & FY15 Grant Application preparation)	Lump Sum	\$17,900.00
	SUBTOTAL (Basic Services)		\$93,400.00

II. SPECIAL SERVICES

A.	Geotechnical (Soils) Investigation	Lump Sum	\$4,400.00
B.	Topographic Survey	Lump Sum	\$7,200.00
C.	DBE Plan (Includes 3-Year Update)	Lump Sum	\$10,800.00
D.	Permitting	Lump Sum	\$4,200.00
		SUBTOTAL (Special Services)	\$26,600.00
		LUMP SUM TOTAL	\$120,000.00

III. ADDITIONAL WORK

Any additional work required but not contained in the above scope of services will be paid for in accordance with the rate schedule in effect at the time and will be subject to prior approval by Oconee County.

This Task Order executed as of the day and year first above written and, fully executed by the OWNER and the CONSULTANT, is eligible for participation by the Federal Aviation Administration (FAA) and the South Carolina Aeronautics Commission (SCAC), subject to availability of funding.

IN WITNESS WHEREOF, the parties hereto have made and executed this Contract as of the date and year first written above.

OWNER:

CONSULTANT:

OCONEE COUNTY, SOUTH CAROLINA

W.K. DICKSON & CO., INC.

By: 

By: 

T. Scott Moulder
Oconee County Administrator

Terry A. Macaluso, P.E.
Vice President

Witness: 

Witness: 

Date: 30 Sept 2014

Date: 9.25.2014

OCONEE COUNTY BOARD / COMMISSION / COMMITTEE CANDIDATE LISTING

	Dx	AT LARGE	Reappoint Request	AERONAUTICS	PUBLIC SAFETY	REGULATORY	PLANNING	EDUCATION	TOURISM & REC.	Questionnaire Received Date	
Brightwell, Albert	1			x						November	2014
Faiola, John A.	1								x	July	2014
Kisker, Brad	1						x			July	2014
Lockhart, Raymond	1					x	x		x	July	2014
McMahan, Marie	1		Yes					x		September	2014
Medford, Allend	1		Yes				PLAN			November	2014
Renz, Randy	1		Yes	x						October	2014
Smith, George S.	1			x		x	x			November	2014
Nichols, Berry	2	Yes	Yes				BZA			November	2014
Gilster, William A.	3		Yes				PLAN			July	2014
Holleman, Kelly	3							x		November	2014
Lange, Amber	3				x		x	x		November	2014
Ownbey, David	3						x			October	2014
Jacobson, Maria	4							x		October	2014
McPhail, Gwen	4	Yes	Yes				PLAN			July	2014
Pearson, Frankie	4				x		x		x	June	2014
Blair, Gene	5	Yes		x		x	x		x	August	2014
Caster, William	5		Yes					x		September	2014
Amenez, Jennie	5						x	x	x	December	2013
Walker, William	5						x			July	2014

Questionnaires are maintained on file for one year then removed from consideration unless updated by candidate.

Areas of Interest [please check one or more]

Board/Commissions Applicable to Interests

Aeronautics	Aeronautics Commission
Public Safety, Health & Welfare	Anderson-Oconee Behavior Health Services Commission Emergency Services Commission
Regulatory	Building Codes Appeal Board Parks, Recreation & Tourism Commission Board of Zoning Appeals
Planning Activities	Appalachian Council of Governments Board of Directors Board of Zoning Appeals Capital Project Advisory Committee Conservation Bank Board Economic Development Commission Planning Commission Scenic Highway Committee
Education	Arts & Historical Commission Library Board
Tourism & Recreation	Arts & Historical Commission Parks, Recreation & Tourism Commission Scenic Highway Committee

Boards & Commissions	State / OC Code Reference	Reps [DX-At Large]	Co-Terminus	Term Limits	4 Year Term	Meeting Date to Appoint	Paul & Beil	Wayne McCall	Paul Cain	Joel Thrift	Reg Dexter		
							2010-2014	2013-2016	2010-2014	2013-2016	2013-2016	2010-2014	2013-2016
							District I	District II	District III	District IV	District V	At Large	At Large
Aeronautics Commission	2-262	5 - 2	YES	2X	YES	Jan - June 2013	Randy Renz [1]	David Bryant [1]	Edward Perry [1]	Dan Schmeidt [2]	Ronald Chiles [1]	Thomas Luke [2]	Michael Gray [<1]
Arts & Historical Commission	2-321	5 - 2	YES	2X	YES	Jan - June 2013	VACANT	Luther Lyle [2]	Marlam Noorai [<1]	Barbara Waters [2]	H. Richardson [2]	Bess Ciupak [1]	Jean Dobson [2]
Board of Zoning Appeals	38-6-1	5 - 2	YES	2X	YES	Jan - June 2013	Allen Medford [1]	Sammy Lee [2]	Gary Littlefield [1]	Marty McKee [<2]	Dick Hughes [2]	Berry Nichols [1]	Paul Reckert [2]
Building Codes Appeal Board		5 - 0	YES	2X	YES	Jan - June 2013	Roger Mize [2]	Matt Rochester [1]	Bob DuBose [1]	Mike Willimon [2]	Harry Tollison [2]		
Conservation Bank Board	2-381	Appointed by Category		2X	YES	Jan - June 2013	Shea Airey [1]	Andy Lee [2]	VACANT	Marvin Prater [2]	Frank Ables [1]	Richard Cain [1]	Glenn Buddin [1]
Scenic Highway Committee	26-151	0 - 2	YES	2X	YES	Jan - June 2013						Allen D. Boggs [1]	Staley Powell [1]
Library Board	4-9-35 / 18-1	0 - 9	YES	2X	YES	Jan - June 2013	Daniel Day [2], Ellis Hughes [2], B Hetherington [1], H McPheeters [1], A Champion [1], VACANT				William Caster [1], Maria Jacobson [1], Marie McMahan [1]		
PRT Commission (members up for reappointment due to initial stagger)	6-4-25 2-381	Appointed by Industry		2X	YES	June 2013	Brian Greer [2], Rosemary Bailes [2], JoAnne Blake [2]			Becky Wise [1], Rick Lacey [1], David Lavere [1], Mike Wallace [1]			
Planning Commission	6-29-310 32-4	5 - 2	YES	N/A	YES	February 2013	Andrea Heller	C. W. Richards	William Gilster	Bud Childress	Ryan Honea	Gwen McPhail	John Lyle
Behavioral Health Services Commission	2-291	0 - 7	YES	2X	3 yr.	June 2014	Steve Jenkins [1], Harold Alley [1], Louie Holleman [1], Wanda Long [1], Priscilla Taylor [1], Joan Black [1], Jere DuBois [1]						
Capital Project Advisory Committee	2-391	CC, PC, Infra, 2 @ Lg.	NO	3X	1 yr	May 2014	Council Representative VACANT, Planning Commission GMcPhail [1], Infrastructure Advisory Representative Bwinchester [1]					Randy Abbott [1]	VACANT
Infrastructure Advisory Commission	34-1	N/A	NO	N/A	NO	January	Council Representative Appointed Annually						
ACOG BOD				N/A	NO	JAN 2013	Council Rep: CC CHAIR or designee [yearly]; 2 yr terms Citizen Rep: Bob Winchester, Minority Rep: Bennie Cunningham						
Worklink Board						N/A	Worklink contacts Council w/ recommendations when seats open						

[#] - denotes term. [<2] denotes a member who has served one term and less than one half of an additional term making them eligible for one additional appointment.

[SHADING = reappointment requested - questionnaire on file]

Denotes individual who DOES NOT WISH TO BE REAPPOINTED

Bold Italic TEXT denotes member ineligible for reappointment - having served or will complete serving max # of terms at the end of their current term.

NON AGENDA ITEMS

Comment regarding these issues will be heard at the end of the meeting.



Public Comment

SIGN IN SHEET

November 18, 2014

6:00 PM

Council will hear public comment during this portion of the meeting for Non-Agenda Items. Please Be Advised: Combined the two Public Comment Sessions at this meeting are limited to a total of 40 minutes, 4 minutes per person.

Please be advised that citizens not utilizing their full four [4] minutes may not "donate" their remaining time to another speaker. As stated above, each speaker is restricted to a maximum of four [4] minutes.

Citizens failing to PRINT or list the **NON AGENDA item they wish to address will not be called upon during this portion of the meeting.**

	FULL NAME	NON AGENDA ISSUE
1		
2		
3		
4		
5		
6		
7		
8		
9		
10		
11		
12		
13		
14		
15		

NONE

Everyone speaking before Council will be required to do so in a civil manner. Council will not tolerate personal attacks on individual council members, county staff or any person or group. Racial slurs will not be permitted. Council's number one priority is to conduct business for the citizens of this county. All citizens who wish to address Council and all Boards and Commission appointed by Council should do so in an appropriate manner.

NOTE: Non Agenda Item matters can be addressed except for those which, due to law or proper protocol, would be inappropriate for public meetings of Council, such as, but not limited to, personal attacks on individual council members, partisan political activity and/or comments.

PUBLISHER'S AFFIDAVIT

**STATE OF SOUTH CAROLINA
COUNTY OF OCONEE**

OCONEE COUNTY COUNCIL

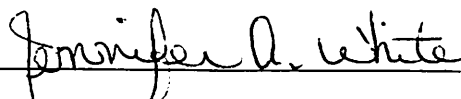
IN RE: PH 12/02/14

BEFORE ME the undersigned, a Notary Public for the State and County above named, This day personally came before me. Hal Welch, who being first duly sworn according to law, says that he is the General Manager of **THE JOURNAL**, a newspaper published Tuesday through Saturday in Seneca, SC and distributed in **Oconee County, Pickens County** and the Pendleton area of **Anderson County** and the notice (of which the annexed is a true copy) was inserted in said papers on 11/20/2014 and the rate charged therefore is not in excess of the regular rates charged private individuals for similar insertions.



Hal Welch
General Manager

Subscribed and sworn to before me this
11/20/2014



Jennifer A. White
Notary Public
State of South Carolina
My Commission Expires July 1, 2024

<p>JENNIFER A WHITE NOTARY PUBLIC State of South Carolina My Commission Expires July 1, 2024</p>
--

TRANSPORTATION

AUTOS FOR SALE



06 CHEVROLET EL
142,000 miles • \$
Pete's Auto
402 S. Oak St. • S
882-1487



07 Mercury Grand M
68,000 miles • \$1
Pete's Auto
402 S. Oak St. • S
882-1487



08 LINCOLN TOWN
Signature Ser
58,000 miles • \$1
Pete's Auto
402 S. Oak St. • S
864-882-1487



83 CHEVROLET C
Customized
180k miles • \$5
Pete's Auto
402 S. Oak St. • S
882-1487

LEGAL NOTICES

LEGALS

NOTICE OF APPLICATION
Notice is hereby given that MOUNTAIN CRAFT TAP intends to apply to the South Carolina Department of Revenue for a license/permit that will allow the sale and ON/OFF premises consumption of BEER AND WINE at 100 LIBERTY DRIVE, CLEMSON, SC 29631. To object to the issuance of this permit/license written protest must be postmarked no later than DECEMBER 04, 2014.

For a protest to be valid it must be in writing, and should include the following information: (1) the name, address and telephone number of the person filing the protest; (2) the specific reasons why the application should be denied; (3) that the person protesting is willing to attend a hearing (if one is requested by the applicant); (4) that the person protesting resides in the same county where the proposed place of business is located or within five miles of the business; and (5) the name of the applicant and the address of the premises to be licensed. Protests must be mailed to: S.C. Department of Revenue, ARL SECTION, P.O. Box 125, Columbia, SC 29214-0107; or faxed to: (803)898-0110.

STATE OF SOUTH CAROLINA
COUNTY OF OCONEE

Community First Bank, Inc.
Plaintiff vs.
Timothy M. Brown, Melissa S. Brown, First Virginia Credit Services, Inc., The South Carolina Department of Revenue, The South Carolina Department of Motor Vehicles, Hubert A. Boxton and Deborah M. Boxton.
Defendants.

IN THE COURT OF COMMON PLEAS

CASE NO.: 2013-CF-37-00384

AMENDED SUMMONS

TO: THE DEFENDANT(S) HEREIN:
YOU ARE HEREBY SUMMONED and required to answer the Complaint in this action, a copy of which is hereby served upon you, and to serve a copy of your answer to the Complaint upon the undersigned subscriber at his office at 318 West

LEGAL NOTICES

LEGALS

Stone Avenue, Greenville, South Carolina, 29609 (mailing address: Post Office Box 2446, Greenville, South Carolina 29602), within thirty (30) days after service hereof, exclusive of the day of such service. If you fail to answer the Complaint within that time, judgment by default will be rendered against you for the relief demanded in the Complaint.

TO MINOR(S) OVER FOURTEEN YEARS OF AGE, AND/OR TO MINOR(S) UNDER FOURTEEN YEARS OF AGE AND THE PERSON WITH WHOM THE MINOR(S) RESIDES, AND/OR TO PERSONS UNDER SOME LEGAL DISABILITY: YOU ARE FURTHER SUMMONED AND NOTIFIED to apply for the appointment of a guardian ad litem within thirty (30) days after the service of this Summons and Notice upon you. If you fail to do so, application for such appointment will be made by the Mortgagee immediately and separately and such application will be deemed absolute and total in the absence of your application for such an appointment within thirty (30) days after the service of the Summons and Complaint upon you.

YOU WILL ALSO TAKE NOTICE that should you fail to answer the foregoing Summons, the Plaintiff will move for an Order of Reference of this case to the Master-In-Equity or Special Referee in the County, which Order shall, pursuant to Rule 53 of the South Carolina Rules of Civil Procedure, specifically provide that the said Master-In-Equity or Special Referee is authorized and empowered to enter a final judgment in this case with appeal only to the South Carolina Court of Appeals pursuant to Rule 203(d)(1) of the SCAR, effective June 1, 1989.

YOU WILL ALSO TAKE NOTICE that under the provisions of the South Carolina Code Section 28-3-100, effective June 15, 1993, any collateral assignments of rents contained in the attached mortgage is perfected and Plaintiff hereby gives notice that all rents shall be

LEGAL NOTICES

LEGALS

payable directly to it by delivery to its undersigned attorneys from the date of default. In the alternative, David R. Price, Jr., P.A. will move before a judge of this Circuit on the 10th day of service hereof, or as soon thereafter as counsel may be heard, for an Order enforcing the assignment of rents, if any, and compelling payment of all rents covered by such assignment directly to the Plaintiff, which motion is to be based upon the original Note and Mortgage and the Complaint attached hereto.
Respectfully Submitted,

David R. Price, Jr. (S.C. Bar # 75140)
DAVID R. PRICE, JR., P.A.
318 West Stone Avenue (29609)
Post Office Box 2446
Greenville, South Carolina
29602-2446
(864) 271-2636 office
(864) 271-2637 fax
David@GreenvilleLegal.com
Attorney for Plaintiff
Greenville, South Carolina

The Oconee County Council will hold a Public Hearing for Ordinance 2014-26 "AN ORDINANCE TO AUTHORIZE THE ACCEPTANCE OF ELECTRONIC SIGNATURES FOR CERTAIN OCONEE COUNTY TRANSACTIONS IN ACCORDANCE WITH THE SOUTH CAROLINA UNIFORM ELECTRONIC TRANSACTION ACT AND TO AUTHORIZE AN ELECTRONIC SIGNATURE POLICY IN ACCORDANCE WITH SECTION 26-8-190(A) OF THE SOUTH CAROLINA CODE OF LAWS AND OTHER MATTERS RELATED THERETO" on Tuesday, December 2, 2014 at 6:00 p.m. in Council Chambers, Oconee County Administrative Offices, 415 S. Pine Street, Walhalla, SC.

Subscribe Today!

ICE FINDER

LOCAL SERVICE PROFESSIONALS

Advertise your
service here
and online
for \$105
for four weeks!



CLEANING

Cesar's Professional

- Painting
- Pressure Washing
- Deck & Dock Treatments
- Vinyl Siding
- Carpet Cleaning
- Gutter & Roof Cleaning
- Windows & Blinds Cleaning
- Softw Cleaning

Residential & Commercial
Licensed & Insured

10% off for Existing
Customers & Senior Citizens

"No Job Too Small"

864 784 1148

PET CLEANUP

Sir POOMAN

K-9 Waste
Removal Service

"NOW OFFERING"
Pet Food & Water



PROUDLY SERVING
THE UPSTATE

Oconee County Native
References Available

Thompson, Alexander

HOME
IMPROVEMENT

J. Dalen Professional Building Services

CARPENTRY
PLUMBING
ELECTRICAL
PAINTING

30 years experience
HOME REPAIRS

HOME
IMPROVEMENT

GARRETT REPAIR & RENOVATING

Service You Can Trust

20% Senior Discount

- Electrical
- Plumbing
- Carpentry
- Painting
- Handyman Services

Free Estimates
Licensed & Insured

864 784 1148



T. Scott Moulder
Administrator

Oconee County
Administrative Offices
415 South Pine Street
Walhalla, SC 29691

Phone: 864 718 1023
Fax: 864 718 1024

E-mail:
tbhulse@oconeesc.com

Paul Corbeil
Vice-Chairman
District I

Wayne McCall
District II

Archie Barron
District III

Joel Thrift
District IV
Chairman

Reginald T. Dexter
District V

.....LEGAL AD.....

**PLEASE ADVERTISE IN THE NEXT ISSUE
OF YOUR NEWSPAPER**

The Oconee County Council will hold a Public Hearing for Ordinance 2014-26 "AN ORDINANCE TO AUTHORIZE THE ACCEPTANCE OF ELECTRONIC SIGNATURES FOR CERTAIN OCONEE COUNTY TRANSACTIONS IN ACCORDANCE WITH THE SOUTH CAROLINA UNIFORM ELECTRONIC TRANSACTION ACT AND TO AUTHORIZE AN ELECTRONIC SIGNATURE POLICY IN ACCORDANCE WITH SECTION 26-6-190(A) OF THE SOUTH CAROLINA CODE OF LAWS; AND OTHER MATTERS RELATED THERETO" on Tuesday, December 2, 2014 at 6:00 p.m. in Council Chambers, Oconee County Administrative Offices, 415, S. Pine Street, Walhalla, SC.



Beth Hulse

From: Beth Hulse
Sent: Wednesday, November 19, 2014 1:49 PM
To: Beth Hulse; classadmgr@upstatetoday.com
Subject: PH 2014-26 12-2-14
Attachments: 111914 - PH 2014-26 12-02-2014.doc

Please run at your earliest convenience.
Thanks.

Elizabeth G. Hulse, CCC
Clerk to Council
Oconee County Administrative Offices
415 South Pine Street
Walhalla, SC 29691
864-718-1023
864-718-1024 [fax]
bhulse@oconeesc.com
www.oconeesc.com/council

Beth Hulse

From: Beth Hulse
Sent: Wednesday, November 19, 2014 1:49 PM
To: Beth Hulse; Carlos Galarza; Chad Dorsett; DJM News Editor; Fox News; Greenville News (localnews@greenvillenews.com); Kevin; Norman Cannada (ncannada@upstatetoday.com); Ray Chandler; Steven Bradley (sbradley@upstatetoday.com); Westminster News / Keowee Courier (westnews@bellsouth.net); WGOG (dickmangrum@wgog.com); WSPA TV - Channel 7 (assignmentdesk@wspa.com); WYFF 4 News
Subject: Public Hearing: Ordinance 2014-26

The Oconee County Council will hold a Public Hearing for Ordinance 2014-26 “AN ORDINANCE TO AUTHORIZE THE ACCEPTANCE OF ELECTRONIC SIGNATURES FOR CERTAIN OCONEE COUNTY TRANSACTIONS IN ACCORDANCE WITH THE SOUTH CAROLINA UNIFORM ELECTRONIC TRANSACTION ACT AND TO AUTHORIZE AN ELECTRONIC SIGNATURE POLICY IN ACCORDANCE WITH SECTION 26-6-190(A) OF THE SOUTH CAROLINA CODE OF LAWS; AND OTHER MATTERS RELATED THERETO” on Tuesday, December 2, 2014 at 6:00 p.m. in Council Chambers, Oconee County Administrative Offices, 415. S. Pine Street, Walhalla, SC.

Elizabeth G. Hulse, CCC

Clerk to Council

Oconee County Administrative Offices

415 South Pine Street

Walhalla, SC 29691

864-718-1023

864-718-1024 [fax]

bhulse@oconeesc.com

www.oconeesc.com/council