

AGENDA
LEXINGTON COUNTY COUNCIL
Committee Meetings
Tuesday, June 26, 2007
Second Floor - County Administration Building
212 South Lake Drive, Lexington, SC 29072
Telephone - 803-785-8103 -- FAX 803-785-8101

***Times are tentatively scheduled committee meetings that may run behind or ahead of schedule; therefore, the times could change by as much as 30 minutes.**

2:50 p.m. - 3:10 p.m. - Economic Development

- (1) Project Fry - Economic Development - Al Burns, Director
- (2) Approval of Minutes - Meeting of May 22, 2007A
- (3) Old Business/New Business
- (4) Adjournment

3:10 p.m. - 3:40 p.m. - Planning & Administration

- (1) Impact Fees (Goals 2,3) - Corley Mill Fire Station - Planning & GIS - Charlie Compton, DirectorB
- (2) Renaming of a Portion of Twelve Mile Creek - Planning & GIS - Charlie Compton, DirectorC
- (3) Old Business/New Business
- (4) Adjournment

3:40 p.m. - 3:45 p.m. - Justice

- (1) Justice Assistance Grant (JAG) Application (Goal 3) - Sheriff's Department - Col. Allan PaavelD
- (2) Methamphetamine Initiative Grant Application (Goal 3) - Sheriff's Department - Col. Allan PaavelE
- (3) Approval of Minutes - Meeting of May 22, 2007F
- (4) Old Business/New Business
- (5) Adjournment

3:45 p.m. - 3:50 p.m. - Health & Human Services

- (1) Approval of Minutes - Meeting of May 22, 2007 G
- (2) Old Business/New Business - 911 Center Relocation Options
- (3) Adjournment

3:50 p.m. - 3:55 p.m. - Public Works

- (1) Approval of Minutes - Meeting of May 22, 2007 **H**
- (2) Old Business/New Business - Private Roads, Road Maintenance Fee Ordinance, Alternate Funding Sources
- (3) Adjournment

3:55 p.m. - 4:10 p.m. - Airport

- (1) Airport Improvement Program Grant Application (**Goals 1,2,3**) - Katherine Hubbard, County Administrator **I**
- (2) Pilots Advisory Committee (**Goal 1**) - Katherine Hubbard, County Administrator **J**
- (3) Old Business/New Business
- (4) Adjournment

4:10 p.m. - 4:15 p.m. - Committee of the Whole

- (1) Approval of Minutes - Meeting of May 22, 2007 **K**
- (2) Approval of FY 2007- 08 Budget Worksession Minutes - Meeting of May 15, 2007 **L**
- (3) Old Business/New Business - Revised Building Use and Naming Policy
- (4) Adjournment

Economic Development

S. Davis, Chairman
B. Banning, Sr., V Chairman
J. Kinard
J. Jeffcoat
T. Cullum
B. Derrick

Justice

B. Banning, Sr., Chairman
J. Kinard, V Chairman
S. Davis
B. Keisler
B. Derrick

Public Works

D. Summers, Chairman
T. Cullum, V Chairman
B. Keisler
J. Carrigg, Jr.
B. Derrick

Committee of the Whole

B. Derrick, Chairman
D. Summers, V Chairman
J. Kinard
S. Davis
B. Keisler
J. Jeffcoat
J. Carrigg, Jr.
B. Banning, Sr.
T. Cullum

Planning & Administration

J. Jeffcoat, Chairman
S. Davis, V Chairman
D. Summers
J. Carrigg, Jr.
B. Banning, Sr.
B. Derrick

Health & Human Services

J. Carrigg, Jr., Chairman
J. Jeffcoat, V Chairman
D. Summers
B. Keisler
B. Banning, Sr.
B. Derrick

Airport

T. Cullum, Chairman
J. Carrigg, Jr., V Chairman
J. Kinard
D. Summers
B. Derrick

A G E N D A
LEXINGTON COUNTY COUNCIL

Tuesday, June 26, 2007

Second Floor - Dorothy K. Black Council Chambers - County Administration Building
212 South Lake Drive, Lexington, South Carolina 29072
Telephone - 803-785-8103 FAX - 803-785-8101

4:30 P.M. - COUNCIL CHAMBERS

Call to Order/Invocation
Pledge of Allegiance

Employee Recognition - Katherine Hubbard, County Administrator

Resolution

(1) Raymond S. Caughman - Presented by Chairman Derrick

AppointmentsM

Bids/Purchases/RFPs

- (1) Carrier Condensing Unit - Sole Source Procurement - Building Services/LibraryN
- (2) Dell Network Servers - Information Services O
- (3) Wireless Access Points and Connectors - Information Services P
- (4) Term Contract - Work Uniforms Q

Chairman's Report

Administrator's Report

Zoning Amendment

- (1) Zoning Map Amendment M07-03 - 1605 Bush River Road and Adjoining Parcel,
Columbia - 3rd and Final ReadingR

Ordinances

- (1) Ordinance 06-10 - Stormwater Management Ordinance (**Goals 1,2**) - 3rd and Final Reading **S**
- (2) Ordinance 07-07 - An Ordinance Authorizing the Execution and Delivery of a Fee in Lieu of Tax and Incentive Agreement Between Lexington County and Otis Spunkmeyer, Inc. - 2nd Reading..... **T**

Committee Reports

Planning & Administration, J. Jeffcoat, Chairman

- (1) Renaming of a Portion of Twelve Mile Creek – **Tab C**

Justice, B. Banning, Chairman

- (1) Justice Assistance Grant (JAG) Application (**Goal 3**) - **Tab D**
- (2) Methamphetamine Initiative Grant Application (**Goal 3**) - **Tab E**

Airport, T. Cullum, Chairman

- (1) Airport Improvement Program Grant Application (**Goals 1,2,3**) - **Tab I**

6:00 P.M. - Public Hearing

- (1) Justice Assistance Grant (JAG) Program (**Goal 3**)..... **U**

Budget Amendment Resolutions

OLD BUSINESS/NEW BUSINESS

EXECUTIVE SESSION/LEGAL BRIEFING

MATTERS REQUIRING A VOTE AS A RESULT OF EXECUTIVE SESSION

ADJOURNMENT

GOALS

1. Provide for public services to citizens of Lexington County.
2. Manage growth to meet needs of Lexington County.
3. Appropriate required funding to meet Strategic Plan.

The Committee Minutes are left out intentionally until approved by the Committee. Upon the Committee's approval, the minutes will be available on the internet.

Memorandum

June 4, 2007

To: Katherine Hubbard
County Administrator

For: County Council

From: Charlie Compton, Director 
Department of Planning and GIS

Reference: Impact Fees – Corley Mill Fire Station

This particular capital project has received additional interest with respect to the use of impact fees. The original Impact Fee Study was completed in May of 2005, so we have updated the calculations to include the existing development from 2005 and 2006. At that time the Planning Commission recommended adding commercial square footage calculations to the residential dwelling unit formula used to estimate possible fees.

Because the various databases used by county departments are designed for purposes other than impact fee calculations, the square footage numbers are a little more of a guess than the dwelling unit counts. However, they should still be good enough for a “go/no go” decision on this project.

The latest budget and expenditures for this capital project are as follows:

Fire Station		1,114,982
Land	438,326	
Station	548,416	
Landscaping, etc.	5,000	
Tap fees, etc.	10,000	
Exterior Lighting	4,000	
Generator	20,000	
Site work	65,000	
Architectural Fees	24,240	
Pumper		329,000
Tanker		238,000
		Total \$1,681,982

It is assumed that the expenditures can be justified as having a 20-year life, so the fee calculations are projected using 20 years of estimated growth. There would have to be an analysis done every year to insure that the fees are generating the expected revenue. At several points during the 20 years, the fees would probably have to be increased or decreased based on actual income.

The procedure I used to divide the fees between residential and commercial was simply something I created. An impact fee consultant, who is going to be essential on this project, may advise us to use a different method. However, none of this would change the amount of revenue, just the source.

Note that this service area involves lands annexed by West Columbia and Lexington so an impact fee ordinance would also have to be adopted and implemented by them to cover the entire project.

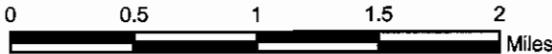
Enclosures: Map of Service Area Boundary
Chart of housing unit data
Impact Fee calculations (assuming a 20-year life)
SC Development Impact Fee Act

Corley Mill Station Service Area



Map Produced By Lexington County
Department of Planning & GIS 2007

View County Maps Online: www.lex-co.com
Link: GIS Property Mapping & Data Services



Map Datum: S.C. State Plane, Nad 1983, Zone 3900
Map Date: 06/04/2007
Lexington County Planning & GIS

Corley Mill Fire Station Service Area

2000 Census					New Housing Units Permitted							# of Housing Units as of Jan. 1, 2007	7-year Growth (2000-2006)	
Tract	Block Group	Block	Population	Housing Units	2000	2001	2002	2003	2004	2005	2006		# of New Housing Units	Average # of New Housing Units per year
Service Area Totals			6,517	2,787	21	37	24	31	70	134	418	3,522	735	105.00
021014	1	1000	3	2	0	0	0	0	0	0	0	2	0	0.00
020506	2	2001	432	237	0	0	0	0	0	0	0	237	0	0.00
020506	2	2000	0	0	0	0	0	0	0	27	80	107	107	15.29
021014	1	1021	0	0	0	0	0	0	0	0	0	0	0	0.00
020507	1	1000	17	7	0	0	0	0	0	0	0	7	0	0.00
020507	1	1001	442	192	8	19	0	0	0	0	0	219	27	3.86
020507	1	1016	13	5	0	0	0	0	0	0	1	6	1	0.14
020507	1	1012	69	27	0	0	0	0	0	0	0	27	0	0.00
021007	1	1007	32	12	0	0	0	0	0	0	0	12	0	0.00
020506	1	1009	97	44	0	0	0	0	0	1	0	45	1	0.14
021014	1	1019	0	0	0	1	0	0	0	79	1	81	81	11.57
020506	2	2002	6	4	0	0	0	0	0	0	0	4	0	0.00
020506	1	1003	0	0	0	0	0	0	0	0	0	0	0	0.00
020506	1	1024	36	18	0	0	1	0	0	0	0	19	1	0.14
020506	1	1000	11	7	1	1	0	0	1	0	0	10	3	0.43
020506	1	1012	5	2	0	0	0	0	0	0	0	2	0	0.00
021014	1	1024	1	2	0	0	0	0	0	0	0	2	0	0.00
020506	2	2007	0	0	0	0	0	0	0	0	0	0	0	0.00
020506	2	2011	10	5	0	0	0	0	0	0	0	5	0	0.00
020506	1	1006	5	3	0	0	0	0	0	0	0	3	0	0.00
021014	1	1001	168	64	0	1	1	0	0	0	0	66	2	0.29
021014	1	1009	18	5	0	0	0	0	0	0	0	5	0	0.00
021014	1	1008	18	8	0	0	0	0	0	0	0	8	0	0.00
021014	1	1010	58	21	0	0	0	0	0	0	0	21	0	0.00
020506	1	1005	45	19	1	0	0	0	0	0	0	20	1	0.14
021014	1	1011	36	14	0	0	0	1	0	0	0	15	1	0.14
021014	1	1012	117	45	1	5	5	20	18	1	0	95	50	7.14
021014	1	1013	43	16	0	0	1	0	1	0	0	18	2	0.29
021014	1	1016	101	29	0	0	0	0	0	0	0	29	0	0.00
021014	1	1998	0	0	0	0	0	0	0	0	2	2	2	0.29
020506	1	1004	97	42	2	3	2	4	1	0	0	54	12	1.71
021014	1	1015	41	20	1	0	0	0	0	0	0	21	1	0.14
020506	1	1007	0	0	0	0	0	0	0	0	0	0	0	0.00
021014	1	1014	124	41	0	0	0	0	0	0	280	321	280	40.00
020506	1	1001	505	241	0	3	1	0	15	0	0	260	19	2.71
020506	1	1011	74	35	0	0	1	1	0	0	0	37	2	0.29
020506	1	1008	49	17	0	0	0	0	0	0	0	17	0	0.00
020506	1	1010	68	27	0	0	0	0	0	0	0	27	0	0.00
020506	1	1019	12	6	0	0	0	0	0	0	0	6	0	0.00
020506	1	1020	44	16	0	0	0	0	0	0	0	16	0	0.00
020506	1	1016	26	10	0	0	0	0	0	0	0	10	0	0.00
020506	1	1021	40	12	0	0	0	0	0	0	0	12	0	0.00
020506	1	1015	34	13	0	0	0	0	0	0	0	13	0	0.00
020506	1	1017	74	32	1	1	0	0	0	0	0	34	2	0.29
020506	1	1002	5	3	0	0	0	1	0	0	0	4	1	0.14
020506	1	1022	50	20	0	0	0	0	0	0	0	20	0	0.00
020506	1	1018	56	16	0	0	0	0	0	0	0	16	0	0.00
020506	1	1025	51	17	0	0	0	0	0	12	0	29	12	1.71
020506	1	1013	0	0	0	0	0	0	0	0	0	0	0	0.00
020506	1	1023	32	15	0	0	0	0	0	0	0	15	0	0.00
020506	1	1014	13	5	0	1	0	0	1	0	0	7	2	0.29
021014	1	1022	0	2	0	0	0	0	0	0	0	2	0	0.00
021014	1	1020	0	0	0	0	0	0	0	0	0	0	0	0.00
020506	2	2003	655	180	2	0	2	1	1	0	0	186	6	0.86
020506	2	2008	65	56	0	0	0	0	0	0	0	56	0	0.00

021014	1	1017	0	9	0	0	0	0	0	0	0	9	0	0.00
020506	2	2012	64	52	0	0	5	2	5	0	0	64	12	1.71
021014	1	1018	43	0	0	0	0	0	0	0	0	0	0	0.00
021014	1	1025	318	151	3	0	0	0	0	1	0	155	4	0.57
021014	1	1023	0	1	0	0	0	0	0	0	0	1	0	0.00
020506	2	2006	17	11	0	1	0	0	0	0	0	12	1	0.14
021007	1	1001	10	3	0	0	0	0	0	0	0	3	0	0.00
020506	2	2004	14	8	0	0	0	0	0	0	0	8	0	0.00
021007	1	1002	12	7	0	0	0	0	0	0	0	7	0	0.00
020506	2	2005	48	24	0	0	0	0	0	0	0	24	0	0.00
020506	2	2013	17	6	0	0	0	0	0	0	0	6	0	0.00
020506	2	2009	0	0	0	0	0	0	0	0	0	0	0	0.00
021007	1	1000	4	1	0	0	0	0	0	0	0	1	0	0.00
020506	3	3015	0	0	0	0	0	0	0	0	0	0	0	0.00
020506	2	2010	10	5	0	0	0	0	0	0	0	5	0	0.00
021007	1	1004	128	50	0	0	1	0	0	0	0	51	1	0.14
020506	3	3013	34	26	0	1	0	0	27	0	0	54	28	4.00
020506	3	3014	47	28	0	0	0	0	0	0	0	28	0	0.00
021007	1	1003	44	13	0	0	0	0	0	0	0	13	0	0.00
020506	3	3012	120	7	0	0	0	0	0	0	0	7	0	0.00
020507	1	1010	365	213	0	0	0	0	0	0	0	213	0	0.00
020507	1	1011	45	26	0	0	0	0	0	0	0	26	0	0.00
020507	1	1008	204	81	0	0	0	0	0	0	0	81	0	0.00
021007	1	1005	114	46	0	0	0	0	0	0	0	46	0	0.00
020506	3	3011	39	20	0	0	0	0	0	0	0	20	0	0.00
020507	1	1007	47	20	0	0	0	0	0	0	1	21	1	0.14
020507	1	1009	71	29	0	0	0	0	0	0	0	29	0	0.00
021007	1	1006	180	58	0	0	2	1	0	0	0	61	3	0.43
020507	1	1015	57	17	0	0	0	0	0	0	0	17	0	0.00
020507	1	1021	39	17	0	0	0	0	0	0	0	17	0	0.00
020507	1	1014	21	7	0	0	0	0	0	0	0	7	0	0.00
020507	1	1013	33	14	0	0	0	0	0	0	0	14	0	0.00
020507	1	1006	63	25	0	0	0	0	0	5	0	30	5	0.71
020507	1	Bloc	87	33	0	0	0	0	0	0	0	33	0	0.00
020507	1	1005	65	29	0	0	0	0	0	0	0	29	0	0.00
021007	1	1008	0	2	0	0	0	0	0	0	0	2	0	0.00
020507	1	1019	7	3	0	0	0	0	0	0	0	3	0	0.00
020507	1	1002	24	9	0	0	0	0	0	0	0	9	0	0.00
020507	1	1018	0	0	0	0	0	0	0	0	0	0	0	0.00
020507	1	1003	63	29	0	0	0	0	0	0	0	29	0	0.00
020507	1	1004	24	11	0	0	0	0	0	0	13	24	13	1.86
020507	1	1017	133	77	1	0	2	0	0	0	0	80	3	0.43
021007	1	1009	8	5	0	0	0	0	0	8	40	53	48	6.86

Preliminary Impact Fee Calculations (20-year life) for Corley Mill Fire Station and Equipment

Number of Dwelling Units			Growth as a % of 2027 Dwelling Units	% Growth X Total Cost* (\$1,182,602)	=	Growth	=	Impact Fee
2007	2027	Growth						
3,522	5,622	2,100	37.35%	\$441,702	÷	2,100	=	\$210.33 per dwelling unit

Commercial Square Footage			Growth as a % of 2027 Square Footage	% Growth X Total Cost* (\$499,380)	=	Growth	=	Impact Fee
2007	2027	Growth						
2,686,626	4,036,626	1,350,000	33.44%	\$166,993	÷	1,350,000	=	\$.1237 per square foot

Total **\$608,695**

\$608,695 ÷ 20 years = \$30,435 per year

* The Total Cost of the project has been divided between the residential dwelling units and commercial square footage in the following manner:

5,622 dwelling units X 1,700 square feet = 9,557,400 square feet of residential

9,557,400 square feet of residential + 4,036,626 square feet of commercial = 13,594,026 total square feet

9,557,400 ÷ 13,594,026 = 70.31% X \$1,681,982 = **\$1,182,602 (Cost assigned to residential)**

4,036,626 ÷ 13,594,026 = 29.69% X \$1,681,982 = **\$499,380 (Cost assigned to commercial)**

ARTICLE 9.

DEVELOPMENT IMPACT FEES

SECTION 6-1-910. Short title.

This article may be cited as the “South Carolina Development Impact Fee Act”.

SECTION 6-1-920. Definitions.

As used in this article:

- (1) “Affordable housing” means housing affordable to families whose incomes do not exceed eighty percent of the median income for the service area or areas within the jurisdiction of the governmental entity.
- (2) “Capital improvements” means improvements with a useful life of five years or more, by new construction or other action, which increase or increased the service capacity of a public facility.
- (3) “Capital improvements plan” means a plan that identifies capital improvements for which development impact fees may be used as a funding source.
- (4) “Connection charges” and “hookup charges” mean charges for the actual cost of connecting a property to a public water or public sewer system, limited to labor and materials involved in making pipe connections, installation of water meters, and other actual costs.
- (5) “Developer” means an individual or corporation, partnership, or other entity undertaking development.
- (6) “Development” means construction or installation of a new building or structure, or a change in use of a building or structure, any of which creates additional demand and need for public facilities. A building or structure shall include, but not be limited to, modular buildings and manufactured housing. “Development” does not include alterations made to existing single-family homes.
- (7) “Development approval” means a document from a governmental entity which authorizes the commencement of a development.
- (8) “Development impact fee” or “impact fee” means a payment of money imposed as a condition of development approval to pay a proportionate share of the cost of system improvements needed to serve the people utilizing the improvements. The term does not include:
 - (a) a charge or fee to pay the administrative, plan review, or inspection costs associated with permits required for development;
 - (b) connection or hookup charges;
 - (c) amounts collected from a developer in a transaction in which the governmental entity has incurred expenses in constructing capital improvements for the development if the owner or developer has agreed to be financially responsible for the construction or installation of the capital improvements;

(d) fees authorized by Article 3 of this chapter.

(9) "Development permit" means a permit issued for construction on or development of land when no subsequent building permit issued pursuant to Chapter 9 of Title 6 is required.

(10) "Fee payor" means the individual or legal entity that pays or is required to pay a development impact fee.

(11) "Governmental entity" means a county, as provided in Chapter 9, Title 4, and a municipality, as defined in Section 5-1-20.

(12) "Incidental benefits" are benefits which accrue to a property as a secondary result or as a minor consequence of the provision of public facilities to another property.

(13) "Land use assumptions" means a description of the service area and projections of land uses, densities, intensities, and population in the service area over at least a ten-year period.

(14) "Level of service" means a measure of the relationship between service capacity and service demand for public facilities.

(15) "Local planning commission" means the entity created pursuant to Article 1, Chapter 29, Title 6.

(16) "Project" means a particular development on an identified parcel of land.

(17) "Proportionate share" means that portion of the cost of system improvements determined pursuant to Section 6-1-990 which reasonably relates to the service demands and needs of the project.

(18) "Public facilities" means:

(a) water supply production, treatment, laboratory, engineering, administration, storage, and transmission facilities;

(b) wastewater collection, treatment, laboratory, engineering, administration, and disposal facilities;

(c) solid waste and recycling collection, treatment, and disposal facilities;

(d) roads, streets, and bridges including, but not limited to, rights-of-way and traffic signals;

(e) storm water transmission, retention, detention, treatment, and disposal facilities and flood control facilities;

(f) public safety facilities, including law enforcement, fire, emergency medical and rescue, and street lighting facilities;

(g) capital equipment and vehicles, with an individual unit purchase price of not less than one hundred thousand dollars including, but not limited to, equipment and vehicles used in the delivery of public safety services, emergency preparedness services, collection and disposal of solid waste, and storm water management and control;

(h) parks, libraries, and recreational facilities.

(19) "Service area" means, based on sound planning or engineering principles, or both, a defined geographic area in which specific public facilities provide service to development within the area defined. Provided, however, that no provision in this article may be interpreted to alter, enlarge, or reduce the service area or boundaries of a political subdivision which is authorized or set by law.

(20) "Service unit" means a standardized measure of consumption, use, generation, or discharge attributable to an individual unit of development calculated in accordance with generally accepted engineering or planning standards for a particular category of capital improvements.

(21) "System improvements" means capital improvements to public facilities which are designed to provide service to a service area.

(22) "System improvement costs" means costs incurred for construction or reconstruction of system improvements, including design, acquisition, engineering, and other costs attributable to the improvements, and also including the costs of providing additional public facilities needed to serve new growth and development. System improvement costs do not include:

(a) construction, acquisition, or expansion of public facilities other than capital improvements identified in the capital improvements plan;

(b) repair, operation, or maintenance of existing or new capital improvements;

(c) upgrading, updating, expanding, or replacing existing capital improvements to serve existing development in order to meet stricter safety, efficiency, environmental, or regulatory standards;

(d) upgrading, updating, expanding, or replacing existing capital improvements to provide better service to existing development;

(e) administrative and operating costs of the governmental entity; or

(f) principal payments and interest or other finance charges on bonds or other indebtedness except financial obligations issued by or on behalf of the governmental entity to finance capital improvements identified in the capital improvements plan.

SECTION 6-1-930. Developmental impact fee.

(A)(1) Only a governmental entity that has a comprehensive plan, as provided in Chapter 29 of this title, and which complies with the requirements of this article may impose a development impact fee. If a governmental entity has not adopted a comprehensive plan, but has adopted a capital improvements plan which substantially complies with the requirements of Section 6-1-960(B), then it may impose a development impact fee. A governmental entity may not impose an impact fee, regardless of how it is designated, except as provided in this article. However, a special purpose district or public service district which (a) provides fire protection services or recreation services, (b) was created by act of the General Assembly prior to 1973, and (c) had the power to impose development impact fees prior to the effective date of this section is not prohibited from imposing development impact fees.

(2) Before imposing a development impact fee on residential units, a governmental entity shall prepare a report which estimates the effect of recovering capital costs through impact fees on the

availability of affordable housing within the political jurisdiction of the governmental entity.

(B)(1) An impact fee may be imposed and collected by the governmental entity only upon the passage of an ordinance approved by a positive majority, as defined in Article 3 of this chapter.

(2) The amount of the development impact fee must be based on actual improvement costs or reasonable estimates of the costs, supported by sound engineering studies.

(3) An ordinance authorizing the imposition of a development impact fee must:

(a) establish a procedure for timely processing of applications for determinations by the governmental entity of development impact fees applicable to all property subject to impact fees and for the timely processing of applications for individual assessment of development impact fees, credits, or reimbursements allowed or paid under this article;

(b) include a description of acceptable levels of service for system improvements; and

(c) provide for the termination of the impact fee.

(C) A governmental entity shall prepare and publish an annual report describing the amount of all impact fees collected, appropriated, or spent during the preceding year by category of public facility and service area.

(D) Payment of an impact fee may result in an incidental benefit to property owners or developers within the service area other than the fee payor, except that an impact fee that results in benefits to property owners or developers within the service area, other than the fee payor, in an amount which is greater than incidental benefits is prohibited.

SECTION 6-1-940. Amount of impact fee.

A governmental entity imposing an impact fee must provide in the impact fee ordinance the amount of impact fee due for each unit of development in a project for which an individual building permit or certificate of occupancy is issued. The governmental entity is bound by the amount of impact fee specified in the ordinance and may not charge higher or additional impact fees for the same purpose unless the number of service units increases or the scope of the development changes and the amount of additional impact fees is limited to the amount attributable to the additional service units or change in scope of the development. The impact fee ordinance must:

(1) include an explanation of the calculation of the impact fee, including an explanation of the factors considered pursuant to this article;

(2) specify the system improvements for which the impact fee is intended to be used;

(3) inform the developer that he may pay a project's proportionate share of system improvement costs by payment of impact fees according to the fee schedule as full and complete payment of the developer's proportionate share of system improvements costs;

(4) inform the fee payor that:

(a) he may negotiate and contract for facilities or services with the governmental entity in lieu of the development impact fee as defined in Section 6-1-1050;

(b) he has the right of appeal, as provided in Section 6-1-1030;

(c) the impact fee must be paid no earlier than the time of issuance of the building permit or issuance of a development permit if no building permit is required.

SECTION 6-1-950. Procedure for adoption of ordinance imposing impact fees.

(A) The governing body of a governmental entity begins the process for adoption of an ordinance imposing an impact fee by enacting a resolution directing the local planning commission to conduct the studies and to recommend an impact fee ordinance, developed in accordance with the requirements of this article. Under no circumstances may the governing body of a governmental entity impose an impact fee for any public facility which has been paid for entirely by the developer.

(B) Upon receipt of the resolution enacted pursuant to subsection (A), the local planning commission shall develop, within the time designated in the resolution, and make recommendations to the governmental entity for a capital improvements plan and impact fees by service unit. The local planning commission shall prepare and adopt its recommendations in the same manner and using the same procedures as those used for developing recommendations for a comprehensive plan as provided in Article 3, Chapter 29, Title 6, except as otherwise provided in this article. The commission shall review and update the capital improvements plan and impact fees in the same manner and on the same review cycle as the governmental entity's comprehensive plan or elements of it.

SECTION 6-1-960. Recommended capital improvements plan; notice; contents of plan.

(A) The local planning commission shall recommend to the governmental entity a capital improvements plan which may be adopted by the governmental entity by ordinance. The recommendations of the commission are not binding on the governmental entity, which may amend or alter the plan. After reasonable public notice, a public hearing must be held before final action to adopt the ordinance approving the capital improvements plan. The notice must be published not less than thirty days before the time of the hearing in at least one newspaper of general circulation in the county. The notice must advise the public of the time and place of the hearing, that a copy of the capital improvements plan is available for public inspection in the offices of the governmental entity, and that members of the public will be given an opportunity to be heard.

(B) The capital improvements plan must contain:

(1) a general description of all existing public facilities, and their existing deficiencies, within the service area or areas of the governmental entity, a reasonable estimate of all costs, and a plan to develop the funding resources, including existing sources of revenues, related to curing the existing deficiencies including, but not limited to, the upgrading, updating, improving, expanding, or replacing of these facilities to meet existing needs and usage;

(2) an analysis of the total capacity, the level of current usage, and commitments for usage of capacity of existing public facilities, which must be prepared by a qualified professional using generally accepted principles and professional standards;

- (3) a description of the land use assumptions;
 - (4) a definitive table establishing the specific service unit for each category of system improvements and an equivalency or conversion table establishing the ratio of a service unit to various types of land uses, including residential, commercial, agricultural, and industrial, as appropriate;
 - (5) a description of all system improvements and their costs necessitated by and attributable to new development in the service area, based on the approved land use assumptions, to provide a level of service not to exceed the level of service currently existing in the community or service area, unless a different or higher level of service is required by law, court order, or safety consideration;
 - (6) the total number of service units necessitated by and attributable to new development within the service area based on the land use assumptions and calculated in accordance with generally accepted engineering or planning criteria;
 - (7) the projected demand for system improvements required by new service units projected over a reasonable period of time not to exceed twenty years;
 - (8) identification of all sources and levels of funding available to the governmental entity for the financing of the system improvements; and
 - (9) a schedule setting forth estimated dates for commencing and completing construction of all improvements identified in the capital improvements plan.
- (C) Changes in the capital improvements plan must be approved in the same manner as approval of the original plan.

SECTION 6-1-970. Exemptions from impact fees.

The following structures or activities are exempt from impact fees:

- (1) rebuilding the same amount of floor space of a structure that was destroyed by fire or other catastrophe;
- (2) remodeling or repairing a structure that does not result in an increase in the number of service units;
- (3) replacing a residential unit, including a manufactured home, with another residential unit on the same lot, if the number of service units does not increase;
- (4) placing a construction trailer or office on a lot during the period of construction on the lot;
- (5) constructing an addition on a residential structure which does not increase the number of service units;
- (6) adding uses that are typically accessory to residential uses, such as a tennis court or a clubhouse, unless it is demonstrated clearly that the use creates a significant impact on the system's capacity; and
- (7) all or part of a particular development project if:

- (a) the project is determined to create affordable housing; and
- (b) the exempt development's proportionate share of system improvements is funded through a revenue source other than development impact fees.

SECTION 6-1-980. Calculation of impact fees.

(A) The impact fee for each service unit may not exceed the amount determined by dividing the costs of the capital improvements by the total number of projected service units that potentially could use the capital improvement. If the number of new service units projected over a reasonable period of time is less than the total number of new service units shown by the approved land use assumptions at full development of the service area, the maximum impact fee for each service unit must be calculated by dividing the costs of the part of the capital improvements necessitated by and attributable to the projected new service units by the total projected new service units.

(B) An impact fee must be calculated in accordance with generally accepted accounting principles.

SECTION 6-1-990. Maximum impact fee; proportionate share of costs of improvements to serve new development.

(A) The impact fee imposed upon a fee payor may not exceed a proportionate share of the costs incurred by the governmental entity in providing system improvements to serve the new development. The proportionate share is the cost attributable to the development after the governmental entity reduces the amount to be imposed by the following factors:

- (1) appropriate credit, offset, or contribution of money, dedication of land, or construction of system improvements; and
- (2) all other sources of funding the system improvements including funds obtained from economic development incentives or grants secured which are not required to be repaid.

(B) In determining the proportionate share of the cost of system improvements to be paid, the governmental entity imposing the impact fee must consider the:

- (1) cost of existing system improvements resulting from new development within the service area or areas;
- (2) means by which existing system improvements have been financed;
- (3) extent to which the new development contributes to the cost of system improvements;
- (4) extent to which the new development is required to contribute to the cost of existing system improvements in the future;
- (5) extent to which the new development is required to provide system improvements, without charge to other properties within the service area or areas;
- (6) time and price differentials inherent in a fair comparison of fees paid at different times; and

(7) availability of other sources of funding system improvements including, but not limited to, user charges, general tax levies, intergovernmental transfers, and special taxation.

SECTION 6-1-1000. Fair compensation or reimbursement of developers for costs, dedication of land or oversize facilities.

A developer required to pay a development impact fee may not be required to pay more than his proportionate share of the costs of the project, including the payment of money or contribution or dedication of land, or to oversize his facilities for use of others outside of the project without fair compensation or reimbursement.

SECTION 6-1-1010. Accounting; expenditures.

(A) Revenues from all development impact fees must be maintained in one or more interest-bearing accounts. Accounting records must be maintained for each category of system improvements and the service area in which the fees are collected. Interest earned on development impact fees must be considered funds of the account on which it is earned, and must be subject to all restrictions placed on the use of impact fees pursuant to the provisions of this article.

(B) Expenditures of development impact fees must be made only for the category of system improvements and within or for the benefit of the service area for which the impact fee was imposed as shown by the capital improvements plan and as authorized in this article. Impact fees may not be used for:

- (1) a purpose other than system improvement costs to create additional improvements to serve new growth;
- (2) a category of system improvements other than that for which they were collected; or
- (3) the benefit of service areas other than the area for which they were imposed.

SECTION 6-1-1020. Refunds of impact fees.

(A) An impact fee must be refunded to the owner of record of property on which a development impact fee has been paid if:

- (1) the impact fees have not been expended within three years of the date they were scheduled to be expended on a first-in, first-out basis; or
- (2) a building permit or permit for installation of a manufactured home is denied.

(B) When the right to a refund exists, the governmental entity shall send a refund to the owner of record within ninety days after it is determined by the entity that a refund is due.

(C) A refund must include the pro rata portion of interest earned while on deposit in the impact fee account.

(D) A person entitled to a refund has standing to sue for a refund pursuant to this article if there has not been a timely payment of a refund pursuant to subsection (B) of this section.

SECTION 6-1-1030. Appeals.

(A) A governmental entity which adopts a development impact fee ordinance shall provide for administrative appeals by the developer or fee payor.

(B) A fee payor may pay a development impact fee under protest. A fee payor making the payment is not estopped from exercising the right of appeal provided in this article, nor is the fee payor estopped from receiving a refund of an amount considered to have been illegally collected. Instead of making a payment of an impact fee under protest, a fee payor, at his option, may post a bond or submit an irrevocable letter of credit for the amount of impact fees due, pending the outcome of an appeal.

(C) A governmental entity which adopts a development impact fee ordinance shall provide for mediation by a qualified independent party, upon voluntary agreement by both the fee payor and the governmental entity, to address a disagreement related to the impact fee for proposed development. Participation in mediation does not preclude the fee payor from pursuing other remedies provided for in this section or otherwise available by law.

SECTION 6-1-1040. Collection of development impact fees.

A governmental entity may provide in a development impact fee ordinance the method for collection of development impact fees including, but not limited to:

- (1) additions to the fee for reasonable interest and penalties for nonpayment or late payment;
- (2) withholding of the certificate of occupancy, or building permit if no certificate of occupancy is required, until the development impact fee is paid;
- (3) withholding of utility services until the development impact fee is paid; and
- (4) imposing liens for failure to pay timely a development impact fee.

SECTION 6-1-1050. Permissible agreements for payments or construction or installation of improvements by fee payors and developers; credits and reimbursements.

A fee payor and developer may enter into an agreement with a governmental entity, including an agreement entered into pursuant to the South Carolina Local Government Development Agreement Act, providing for payments instead of impact fees for facilities or services. That agreement may provide for the construction or installation of system improvements by the fee payor or developer and for credits or reimbursements for costs incurred by a fee payor or developer including interproject transfers of credits or reimbursement for project improvements which are used or shared by more than one development project. An impact fee may not be imposed on a fee payor or developer who has entered into an agreement as described in this section.

SECTION 6-1-1060. Article shall not affect existing laws.

(A) The provisions of this article do not repeal existing laws authorizing a governmental entity to impose fees or require contributions or property dedications for capital improvements. A development impact fee adopted in accordance with existing laws before the enactment of this article is not affected until termination of the development impact fee. A subsequent change or reenactment of the development impact fee must comply with the provisions of this article. Requirements for developers to pay in whole or in part for system improvements may be imposed by governmental entities only by way of impact fees imposed pursuant to the ordinance.

(B) Notwithstanding another provision of this article, property for which a valid building permit or certificate of occupancy has been issued or construction has commenced before the effective date of a development impact fee ordinance is not subject to additional development impact fees.

SECTION 6-1-1070. Shared funding among units of government; agreements.

(A) If the proposed system improvements include the improvement of public facilities under the jurisdiction of another unit of government including, but not limited to, a special purpose district that does not provide water and wastewater utilities, a school district, and a public service district, an agreement between the governmental entity and other unit of government must specify the reasonable share of funding by each unit. The governmental entity authorized to impose impact fees may not assume more than its reasonable share of funding joint improvements, nor may another unit of government which is not authorized to impose impact fees do so unless the expenditure is pursuant to an agreement under Section 6-1-1050 of this section.

(B) A governmental entity may enter into an agreement with another unit of government including, but not limited to, a special purpose district that does not provide water and wastewater utilities, a school district, and a public service district, that has the responsibility of providing the service for which an impact fee may be imposed. The determination of the amount of the impact fee for the contracting governmental entity must be made in the same manner and is subject to the same procedures and limitations as provided in this article. The agreement must provide for the collection of the impact fee by the governmental entity and for the expenditure of the impact fee by another unit of government including, but not limited to, a special purpose district that does not provide water and wastewater utilities, a school district, and a public services district unless otherwise provided by contract.

SECTION 6-1-1080. Exemptions; water or wastewater utilities.

The provisions of this chapter do not apply to a development impact fee for water or wastewater utilities, or both, imposed by a city, county, commissioners of public works, special purpose district, or nonprofit corporation organized pursuant to Chapter 35 or 36 of Title 33, except that in order to impose a development impact fee for water or wastewater utilities, or both, the city, county, commissioners of public works, special purpose district or nonprofit corporation organized pursuant to Chapter 35 or 36 of Title 33 must:

(1) have a capital improvements plan before imposition of the development impact fee; and

(2) prepare a report to be made public before imposition of the development impact fee, which shall include, but not be limited to, an explanation of the basis, use, calculation, and method of collection of the development impact fee; and

(3) enact the fee in accordance with the requirements of Article 3 of this chapter.

SECTION 6-1-1090. Annexations by municipalities.

A county development impact fee ordinance imposed in an area which is annexed by a municipality is not affected by this article until the development impact fee terminates, unless the municipality assumes any liability which is to be paid with the impact fee revenue.

SECTION 6-1-2000. Taxation or revenue authority by political subdivisions.

This article shall not create, grant, or confer any new or additional taxing or revenue raising authority to a political subdivision which was not specifically granted to that entity by a previous act of the General Assembly.

SECTION 6-1-2010. Compliance with public notice or public hearing requirements.

Compliance with any requirement for public notice or public hearing in this article is considered to be in compliance with any other public notice or public hearing requirement otherwise applicable including, but not limited to, the provisions of Chapter 4, Title 30, and Article 3 of this chapter.

Diana Burnett

From: Jane A Messenger [jmessenger@usgs.gov]
Sent: Wednesday, June 06, 2007 9:43 AM
To: countycouncil@lex-co.com
Cc: Jennifer E Runyon; Kenneth B Fox
Subject: Request for opinion on proposed geographic name Drafts Branch, SC

June 6, 2007

Mr. William Derrick, Chairman
212 S. Lake Drive
County Courthouse
Lexington, SC 29072-3437

countycouncil@lex-co.com

Dear Mr. Derrick,

The U. S. Board on Geographic Names is responsible by law for adjudicating decisions regarding geographic names for use by the departments and agencies of the Federal government. The Board has received a proposal to make official the commemorative name Drafts Branch for a stream in Lexington County, South Carolina, to recognize an historical family. Because local acceptance of any name is very important to the Board, we would like your opinion regarding this proposal.

For a link to a portion of the Irmo, SC online topographic map showing the location of the stream, please visit:

<http://www.topozone.com/map.asp?lat=34.01661&lon=-81.15344&size=1&u=6&datum=nad83&layer=DRG25>

In order for the Board to review all responses and vote on this issue in a timely manner, we ask that if possible you respond with an opinion by August 15, 2007.

If you have any questions or need additional time to conduct your research, please do not hesitate to contact us.

Thank you in advance for your assistance in this matter and we look forward to hearing from you.

Sincerely,

J. A. Messenger
Geographic Names Researcher
(573) 308-3690
jmessenger@usgs.gov

For Lou Yost, Executive Secretary
U.S. Board on Geographic Names
12201 Sunrise Valley Drive, MS 523
Reston, VA 20192-0523
(703) 648-4552
(703) 648-4549 fax

CASE BRIEF (Domestic)

Drafts Branch: stream, 58 m (190 ft.), 1.5 km (0.9 mi.) long; heads at 34°01' 00"N, 81°09'12"W, flows w into Twelvemile Creek 2.2 km (1.4 mi.) NW of Mt. Zion Church and 2.6 km (1.6 mi.) SSW of the confluence of Twelvemile Creek with the Salada River; Lexington County; 34°00'57"N, 81°10'11"W; USGS map – Irmo, SC 1:24,000 (mouth of feature).

<http://www.topozone.com/map.asp?lat=34.01661&lon=-81.15344&size=1&u=6&datum=nad83&layer=DRG25>

Proposal: new commemorative name for an unnamed feature

Map: USGS Irmo, SC 1:24,000 (mouth of feature)

Proponent: Trudy Wales, MN

Administrative area: None

Previous BGN Action: None

Names associated with feature:

GNIS: No record

Local Usage: Not in local usage

Published: None found

Case Summary: This proposal is to make official the name Drafts Branch for a 1.5 km long tributary of Twelvemile Creek in Lexington County, SC to be named for Jefferson Luther Drafts (1838-1904) who owed land on which the stream is located and was the original "Drafts" on the acreage containing the stream. Jacob Drafts was a founding member of the nearby church. Some Drafts still own land along this stream. The proponent reports that the name is not in local usage, but also reports that there is no opposition to the name because no one else cares. There are three ponds in Richland County named Drafts Pond, but no other features in South Carolina named Drafts.

Proposed by: Trudy Wales, MN

Submitted by: Erwin Shaw, Lexington, SC

Date: 06/04/2007

Date: 06/04/2007



COUNTY OF LEXINGTON
FINANCE DEPARTMENT

interoffice

MEMORANDUM

to: County Council

from: Adam DuBose, Manager of Grants Administration

subject: Justice Assistance Grant (JAG) Program

date: June 19, 2007

Attached is an application request for this years Justice Assistance Grant Program allocation of \$64,127. The application is due on July 2, 2007 by 8:00 p.m.

Due to there only being one Council meeting between now and the due date, I am requesting that this application request be sent through both the Committee and full Council on June 26, 2007.

There is a condition in the solicitation stating that prior to applying for the grant, the application must be made public and an opportunity for the public to comment. Due to this condition, a public hearing is scheduled for 6:00 on June 26, 2007 to give the public this opportunity.

**COUNTY OF LEXINGTON
 JUSTICE ASSISTANCE GRANT
 Annual Budget
 FY 2007-08 Estimated Revenue**

Object Code	Revenue Account Title	Actual 2005-06	11 Months Received Thru May 2006-07	Amended Budget Thru May 2006-07	Projected Revenues Thru Jun 2006-07	Requested Revenues 2007-08	Total Recommend 2007-08
*FY07 Justice Assistance Grant							
Revenues:							
457000	Federal Grant Income	63,574	26,309	51,518	51,518	64,127	64,127
		<u>63,574</u>	<u>26,309</u>	<u>51,518</u>	<u>51,518</u>	<u>64,127</u>	<u>64,127</u>
	***Total Appropriations				51,518	64,127	64,127
FUND BALANCE							
	Beginning of Year				<u>0</u>	<u>0</u>	<u>0</u>
	FUND BALANCE - Projected						
	End of Year				<u><u>0</u></u>	<u><u>0</u></u>	<u><u>0</u></u>

COUNTY OF LEXINGTON
JUSTICE ASSISTANCE GRANT
Annual Budget
Fiscal Year - 2007-08

Fund
 Division: Judicial
 Organization: 142000 - Magistrate Court Services

		<i>BUDGET</i>				
Object Expenditure Code Classification	2005-06 Expenditure	2006-07 Expenditure (May)	2006-07 Amended (May)	2007-08 Requested	2007-08 Recommend	2007-08 Approved
Personnel						
* Total Personnel	0	0	0	0	0	0
Operating Expenses						
* Total Operating	0	0	0	0	0	0
** Total Personnel & Operating	0	0	0	0	0	0
Capital						
540000 Small Tools and Minor Equipment	0	0	1,937	7,695	7,695	
540010 Minor Software	0	3,073	3,100	0	0	
All Other Equipment	0	6,652	8,775	0	0	
** Total Capital	0	9,725	13,812	7,695	7,695	
*** Total Budget Appropriation	0	9,725	13,812	7,695	7,695	

**COUNTY OF LEXINGTON
JUSTICE ASSISTANCE GRANT
Annual Budget
Fiscal Year - 2007-08**

Fund
Division: Law Enforcement
Organization: 151200 - Operations

		<i>BUDGET</i>				
Object Expenditure Code Classification	2005-06 Expenditure	2006-07 Expenditure (May)	2006-07 Amended (May)	2007-08 Requested	2007-08 Recommend	2007-08 Approved
Personnel						
* Total Personnel	0	0	0	0	0	0
Operating Expenses						
520700 Technical Services	31,200	0	0	0	0	0
529903 Contingency	0	0	323	0	0	0
* Total Operating	31,200	0	323	0	0	0
** Total Personnel & Operating	31,200	0	323	0	0	0
Capital						
All Other Equipment	24,387	12,548	32,710			
(6) Laptop Computer and Accessories				19,378	19,378	
(1) Radio Repeater Installation				30,000	30,000	
** Total Capital	24,387	12,548	32,710	49,378	49,378	
*** Total Budget Appropriation	55,587	12,548	33,033	49,378	49,378	

COUNTY OF LEXINGTON
JUSTICE ASSISTANCE GRANT
Annual Budget
Fiscal Year - 2007-08

Fund
 Division: Non-departmental
 Organization: 999900 Non-departmental

Object Expenditure Code Classification	2005-06	2006-07	2006-07	2007-08	<i>BUDGET</i>	
	Expenditure	Expenditure (May)	Amended (May)	Requested	2007-08 Recommend	2007-08 Approved
Personnel						
* Total Personnel	0	0	0	0	0	0
Operating Expenses						
520306 Counseling Services	7,987	4,673	4,673	7,054	7,054	
* Total Operating	7,987	4,673	4,673	7,054	7,054	
** Total Personnel & Operating	7,987	4,673	4,673	7,054	7,054	
Capital						
** Total Capital	0	0	0	0	0	0
*** Total Budget Appropriation	7,987	4,673	4,673	7,054	7,054	

SECTION V. B. - OPERATING LINE ITEM NARRATIVES

520306 COUNSELING SERVICES \$7,054

These funds will be used to provide community counseling support group services for Lexington County battered women and their children. It will also help provide crime victim services and break the intergenerational cycle of domestic violence.

SECTION V. C. - CAPITAL LINE ITEM NARRATIVES

540000 SMALL TOOLS AND MINOR EQUIPMENT \$7,695

These funds will be used to purchase new or replacement equipment that may be needed throughout the fiscal year. The Magistrate Court Service's currently has six District Courts, one Bond Court, One Central Court, and offices at the Judicial Center. Each year numerous items are purchased for each of these locations.

SECTION V. C. - CAPITAL LINE ITEM NARRATIVES

5A8 (6) LAPTOP COMPUTERS AND ACCESSORIES \$19,378

The tough book laptop computers enable the officers to complete incident and investigative reports, to research all types of warrants, and to obtain other pertinent information in the field; therefore, increasing the officer's efficiency and effectiveness as it relates to their job duties and investigations. Some of the laptops now used by the officers are over seven years old.

The estimated cost for the laptops is \$19,378.

5A8 (1) RADIO REPEATER INSTALLATION \$30,000

The installation of a radio repeater at the Judicial Center would enable the security officers to properly communicate between the officers working security and the communications center. This will allow the security officers to discover perpetrators and unwanted activity awareness and increase all officer's awareness of their surroundings for the safety of those confined within the Judicial Center

The estimated cost for the installation of the radio repeater is \$30,000.



Sistercare

0 Box 1029

Columbia, SC 29202

803 926-0505

803 794-0098

March 5, 2007

Kristi M. Hornsby, CGFO
Manager of Grants Administration
County of Lexington
Finance Department
212 South Lake Drive
Lexington, SC 29072

LEXINGTON COUNTY

MAR 08 RECD

FINANCE DEPT

Re: Victim's Bill of Rights Funds

Dear Ms. Hornsby:

Sistercare requests \$10,000 for FY 2007-2008 from Lexington County's Victims' Assistance funds collected under S.C. Code Ann. 14-1-206 through 208 (assessment statutes) and 14-1-211 (surcharge statute) to provide crime victim services and to break the intergenerational cycle of domestic violence.

Victims' Assistance revenues will be used to help provide community counseling support group services for Lexington County battered women and their children during FY 2007-2008. Many of the women, who participate in Sistercare's community counseling support groups, are court ordered to attend for 26 weeks. Last year, the groups that Sistercare provides for domestic violence victims, including those living in Lexington County, were accessed by 570 women and 44 of their children.

During calendar year 2006, Sistercare served 2,367 Lexington County battered women and their children by providing a variety of services including crisis counseling, emergency shelter, and court advocacy.

Our board of directors appreciates Lexington County's past assistance and hopes that you will support Sistercare's services for battered women and their children by facilitating our request for FY 2007-2008.

Sincerely,

Nancy Barton
Executive Director
ld



Sheriff

James R. Metts, Ed. D.



LEXINGTON COUNTY SHERIFF'S DEPARTMENT

MEMORANDUM

LEXINGTON COUNTY
JUN 15 RECD
FINANCE DEPT

To: Adam DuBose, County Grants Manager
From: Colonel Allan Paavel 
Date: June 14, 2007
Re: Methamphetamine Initiative Grant

The Sheriff's Department is requesting approval to apply for the Methamphetamine Initiative Grant. This grant is 100% funded by the United States Department of Justice and is due to them on June 29 at 5:00 p.m. We are requesting overtime funds, operating costs, training, and equipment to address the four major problems that are presenting themselves to Lexington County with the methamphetamine explosion.

A letter was received on May 22, 2007, stating that Lexington County had been selected by the Office of Community Oriented Policing Services to apply for competitive grant funding under the COPS 2007 Methamphetamine Initiative. The deadline for submission of this grant is June 29, 2007. There was not sufficient time to meet the deadline for the County Council meeting on June 12; therefore, we are respectfully requesting that the grant be placed in and out of the Justice Committee meeting on June 26, 2007.



**COUNTY OF LEXINGTON
METHAMPHETAMINE INITIATIVE
Annual Budget
FY 2007-08 Estimated Revenue**

Object Code	Revenue Account Title	Actual 2005-06	6 Months Received Thru Dec 2006-07	Amended Budget Thru Dec 2006-07	Projected Revenues Thru Jun 2006-07	Requested 2007-08	Approved 2007-08
* Methamphetamine Initiative:							
Revenues:							
457000	Federal Grant Income	0	0	0	0	449,800	
	** Total Revenue	0	0	0	0	449,800	
	***Total Appropriation				0	449,800	
	FUND BALANCE						
	Beginning of Year				0	0	
	FUND BALANCE - Projected						
	End of Year				0	0	

GRANT PERIOD: 10-01-2007 to 09-30-2009

GRANT AWARD: Federal \$0

PERCENTAGE SHARED: 100% Federal

COUNTY OF LEXINGTON
METHAMPHETAMINE INITIATIVE
Annual Budget
Fiscal Year - 2007-08

Fund:
Division: Law Enforcement
Organization: 151200 LE/Operations

		BUDGET					
Object Code	Expenditure Classification	2005-06 Expenditure	2006-07 Expenditure (Dec)	2006-07 Amended (Dec)	2007-08 Requested	2007-08 Recommend	2007-08 Approved
Personnel							
510199	Special Overtime	0	0	0	50,000	50,000	
	* Total Personnel	0	0	0	50,000	50,000	
Operating Expenses							
520200	Contracted Services	0	0	0	44,000	44,000	
520800	Outside Printing	0	0	0	5,000	5,000	
521200	Operating Supplies	0	0	0	1,000	1,000	
525210	Conference & Meeting Expense	0	0	0	30,000	30,000	
	* Total Operating	0	0	0	80,000	80,000	
	** Total Personnel & Operating	0	0	0	130,000	130,000	
Capital							
	(1) Surveillance Platform Van				125,000	125,000	
	(14) Laptop Computers and Accessories				58,800	58,800	
	(2) Night Vision Binoculars				6,400	6,400	
	(8) Night Vision Monoculars				17,600	17,600	
	(5) Body Wire Kits and Accessories				22,500	22,500	
	(1) Radio Frequency GPS Tracking Device				14,000	14,000	
	(14) GPS Navigation System				12,600	12,600	
	(2) Battery Operated Camera Systems and Accessories				16,000	16,000	
	(2) Remote Camera Kits				7,000	7,000	
	(14) Digital Camcras and Accessories				7,000	7,000	
	(14) Portable Printers and Accessories				6,300	6,300	
	(1) LCD Projector				2,800	2,800	
	(14) Training Kits and Accessories				16,800	16,800	
	(1) Computer Server and Accessories				7,000	7,000	
	** Total Capital	0	0	0	319,800	319,800	
	*** Total Budget Appropriation	0	0	0	449,800	449,800	

SECTION III. – PROGRAM OVERVIEW

Lexington County is faced with four (4) major problems related to methamphetamine explosion in Lexington County. The defined problems are the formation of Hispanic criminal organizations, the limitations of investigative capabilities due to outdated technology and the insufficient number of investigators, and the information sharing between law enforcement, other agencies and the community to further aid in prevention and public awareness. Lexington County has a growing number of Hispanic criminal organizations due to the growing Hispanic population. These criminal organizations are able to provide a larger quantity of methamphetamine at a cheaper price; therefore, the number of users and trade is increasing. In an effort to stay current with changing trends in the methamphetamine drug trade, additional training is needed.

The Methamphetamine Initiative grant will address the major problems listed above and will allow the law enforcement agencies in the county to improve narcotic investigation techniques for the safety and concern of the citizens of Lexington County and our youth who are subjected to drugs.

SECTION V. B. – OPERATING LINE ITEM NARRATIVES

510199 – SPECIAL OVERTIME \$50,000

Overtime and fringe benefits for sworn officers will be required due to the covert nature of methamphetamine-related drug activities. The overtime will be applied to the Sheriff's Department and to other agencies participating in the methamphetamine initiative grant.

The estimated cost for overtime is \$50,000.

520200 – CONTRACTED SERVICES \$44,000

Per program requirements, funds are necessary to pay an evaluator for project activities. These evaluation activities will begin at the onset of the project to establish baseline information.

The cost for the evaluator is \$44,000.

520800 –OUTSIDE PRINTING \$ 5,000

Special brochures will be required for the dissemination of information for assistance with victims of drug abuse and for the support of effective community awareness and referrals. The brochures must be designed according to grant specifications and will be approved by the grant prior to printing.

The estimated cost of outside printing is \$5,000.

521200 - OPERATING SUPPLIES \$ 1,000

The Narcotic investigators will require supplies to maintain the daily and covert operations; these include tapes, film, disks, batteries, and other supplies as required for the grant team.

The cost of operational supplies are estimated.

525210 – CONFERENCE AND MEETING EXPENSES \$30,000

Training officers who investigate and disrupt methamphetamine laboratories are required to receive specialized training from two different training sources. The courses required will be out of state and taught by the DEA or other agency. Training will also be required for the new technological equipment purchased on the grant.

Travel costs for training courses and for equipment training will cost approximately \$30,000.

SECTION V. C. - CAPITAL LINE ITEM NARRATIVES

5A8 SURVEILLANCE PLATFORM VAN \$125,000

Intelligence and evidence is gathered during surveillance. Surveillance is a difficult and time consuming process as it must be completed undercover. This vehicle would enable agents to gather video, pictures, and other information easier, quicker, day, or night, and during inclement weather from a secure covert environment.

The estimated cost for the evidence safe is \$125,000.

5A8 (14) LAPTOP COMPUTERS AND ACCESSORIES \$58,800

The tough book laptop computers enable the officers to complete incident and investigative reports, research warrants and obtain other pertinent information in the field; therefore, increasing the officer's efficiency and effectiveness as it relates to the investigation.

The estimated cost for the laptops is \$58,800.

5A8 (2) NIGHT VISION BINOCULARS \$6,400

Nighttime surveillance operations in rural settings are difficult due to low or no lighting. These night vision binoculars would greatly increase the ability to observe labs in production, collect evidence, and aid in the successful prosecution of cases.

The estimated cost for the night vision binoculars including tax and shipping is \$6,400

5A8 - (8) NIGHT VISION MONOCULAR \$17,600

Nighttime surveillance operations in rural settings are difficult due to low or no lighting. This night vision monocular would greatly increase the ability to observe labs in production, collect evidence, and aid in the successful prosecution of cases. The vision range of the monocular is less than the binoculars but they are easier to conceal.

The estimated cost for the night vision monocular including tax and shipping is \$17,600.

5A8 - (5) BODY WIRE KITS AND ACCESSORIES \$22,500

During the investigative process body wires are needed to obtain information and collect evidence. The body wires also increase the safety and security of the officers working undercover. The kits include the body wire, receiver, two digital recorders and a case for transport and storage.

The estimated cost for the body wire kits is \$22,500.

5A8 - (1) RADIO FREQUENCY GLOBAL POSITIONING SYSTEM TRACKING DEVICE \$14,000

Most labs are located far off secondary roads and are set up in abandon houses or areas with heavy vegetation. The use of the radio frequency global positioning system tracking device would enable the officers to tract suspects with ease and locate the labs with greater accuracy. The tracking records of suspects could reveal many relationships that strengthen the case for prosecution and could create additional cases.

The estimated cost for the tracking system is \$14,000.

5A8 – (14) GLOBAL POSITIONING SYSTEM NAVIGATION SYSTEMS **\$12,600**

The investigators will use the coordinates provided by the radio frequency global positioning system tracking device to investigate each location the suspect visited and review any patterns or relationships. The discovery of patterns and relationships aid in successful prosecution.

The estimated cost for the navigation system is \$12,600.

5A8 – (2) BATTERY OPERATED CAMERA SYSTEMS AND ACCESSORIES **\$16,000**

These camera systems are self-contained units in that they record all activity automatically for set time periods. Within remote rural areas of the county, these camera systems can record activity for approximately 10 days. This would allow an agent to discover perpetrators movements and activity, saving time and money on an agent watching for days to determine when the suspects are present.

The estimated cost for the ground hog system is \$16,000.

5A8 – (2) REMOTE CAMERA KITS **\$ 7,000**

These covert types of camera systems are used for real-time viewing of a target location via the internet. This system allows viewing of a target location 24 hours a day, collecting pictures for identification and evidence. The kit includes an IP camera, internet modem, power strip, and power pole box.

The estimated cost for the camera kits is \$7,000.

5A8 – (14) DIGITAL CAMERAS AND ACCESSORIES **\$ 7,000**

Digital cameras allow agents to photograph target locations, evidence, and suspects. greatly increasing the collection of evidence.

The estimated cost for the digital cameras is \$7,000.

5A8 – (14) PORTABLE PRINTERS AND ACCESSORIES **\$ 6,300**

Portable printers save time by allowing agents to complete search warrants, complete paperwork and print while on location. These printers would work in conjunction with the tough book computers.

The estimated cost for the portable printers is \$6,300.

5A8 – LCD PROJECTOR **\$ 2,800**

Power point presentations will be given to educate the public on the prevention, effects and abuse of methamphetamines

The estimated cost for the projector is \$2,800.

5A8 – (14) TRAINING KITS AND ACCESSORIES **\$16,800**

Officer safety is always an issue, so these kits provide advanced training items for high-risk entries into methamphetamine production labs. It will include training weapons, and ammunition, protective equipment and props for simulation labs.

The estimated cost for the training kits is \$16,800.

5A8 – COMPUTER SERVER AND ACCESSORIES

\$7,000

A computer server provides a central database to store information, evidence, and statistical information on the effectiveness of the program against methamphetamine production and use.

The estimated cost for the computer server is \$7,000.

The Committee Minutes are left out intentionally until approved by the Committee. Upon the Committee's approval, the minutes will be available on the internet.

The Committee Minutes are left out intentionally until approved by the Committee. Upon the Committee's approval, the minutes will be available on the internet.

The Committee Minutes are left out intentionally until approved by the Committee. Upon the Committee's approval, the minutes will be available on the internet.

COUNTY OF LEXINGTON Grant Request Summary Form

Title of Grant: Airport Improvement Program

Fund: 5800 Lexington County Airport at Pelion Department: 999900 Non-Departmental
No. Title No. Title

Type of Summary: Grant Application X Grant Award _____

Grant Overview:
 The application that we are submitting is for an Airfield Lighting Rehabilitation for the Runway, Taxiway and PAPI on RW 35 Approach. This application includes the design, bidding and construction for this project.

 The total amount we are requesting is \$384,326; that breaks out to \$365,109 from the FAA, \$9,609 from the County, and \$9,608 from the State.

Grant Period: ASAP to _____

Responsible Departmental Grant Personnel: Jim Starling, Engineering Associate

Date Grant Information Released: _____ Date Grant Application Due: ASAP

Grant Expenditures (Please attach a detailed budget with Excel spreadsheet, Overview, Line Item Narratives, etc.):

Personnel
 Operating \$ 384,326.00
 Capital
 Total \$ 384,326.00

Local Match Required: Yes No

If Yes, What is the Percentage / Amount:

95	\$365,109.00	* 2.5% or \$9,608 is the County's portion.
5	\$19,217.00	
%	<i>\$ Amount</i>	

Requirements at the End of this Grant (please explain in detail):

 None

Dept. Preparer:	JS	6/20/2007
Dept. Approval:	JS	6/20/2007
Finance Approval:	AD	6/20/2007
	<i>Initials</i>	<i>Date</i>



June 20, 2007

Mr. Anthony Cochran
Federal Aviation Administration/DOT
Atlanta Airports District Office
Campus Building
1701 Columbia Avenue, Suite 2-260
College Park, GA 30337-2747

Re: Airfield Lighting Rehabilitation Project (3-45-0067-009-2007) Federal Assistance Application

Dear Mr. Cochran:

Please find enclosed Lexington County's application for Federal assistance on the Airfield Lighting Rehabilitation Project (3-45-0067-009-2007) at the Lexington County Airport at Pelion. The total project cost is \$384,326.00. If approved, the project will be funded as follows:

FAA (95%)	\$365,110.00
Lexington County (2.5%)	\$ 9,608.00
State of South Carolina (2.5%)	<u>\$ 9,608.00</u>
Total	\$384,326.00

Lexington County appreciates your ongoing assistance with our airport projects and the continued support of the Federal Aviation Administration. If you have any questions concerning this application or project, please let me know.

Sincerely,

Katherine L. Hubbard
County Administrator

**APPLICATION FOR
FEDERAL ASSISTANCE**

1. TYPE OF SUBMISSION:		2. DATE SUBMITTED	Applicant Identifier
Application <input checked="" type="checkbox"/> Construction <input type="checkbox"/> Non-Construction		3. DATE RECEIVED BY STATE	3-45-0067-009-2007
Preapplication <input type="checkbox"/> Construction <input type="checkbox"/> Non-Construction		4. DATE RECEIVED BY FEDERAL AGENCY	State Application Identifier
5. APPLICANT INFORMATION		Federal Identifier	
Legal Name: LEXINGTON COUNTY, SOUTH CAROLINA		Organizational Unit: LEXINGTON COUNTY, SOUTH CAROLINA	
Organizational DUNS: 030115885		Department: DEPARTMENT OF PUBLIC WORKS	
Address: Street: 212 SOUTH LAKE DRIVE		Division: LEXINGTON COUNTY AIRPORT at PELION	
City: LEXINGTON		Name and telephone number of the person to be contacted on matters involving this application (give area code) Prefix: MR. First Name: JIM	
County: LEXINGTON		Middle Name:	
State: SC Zip Code: 29072-3437		Last Name: STARLING	
Country: UNITED STATES		Suffix: ENGINEERING ASSOCIATE, DPW	
6. EMPLOYER IDENTIFICATION NUMBER (EIN): 57 - 6000379		Email: jstarling@lex-co.com	
8. TYPE OF APPLICATION: <input checked="" type="checkbox"/> New <input type="checkbox"/> Continuation <input type="checkbox"/> Revision If Revision, enter appropriate letter(s) in box(es) (See back of form for description of letters.) <input type="checkbox"/> <input type="checkbox"/> Other (specify)		7. TYPE OF APPLICANT: (See back of form for Application Types) B; COUNTY Other (specify)	
10. CATALOG OF FEDERAL DOMESTIC ASSISTANCE NUMBER: TITLE (Name of Program): 20 - 106 AIRPORT IMPROVEMENT PROGRAM		9. NAME OF FEDERAL AGENCY: FEDERAL AVIATION ADMINISTRATION	
12. AREAS AFFECTED BY PROJECT (Cities, Counties, States, etc.): TOWN OF LEXINGTON, SOUTH CAROLINA COUNTY OF LEXINGTON, SOUTH CAROLINA		11. DESCRIPTIVE TITLE OF APPLICANT'S PROJECT: AIRFIELD LIGHTING REHABILITATION - RUNWAY, TAXIWAYS, & PAPI ON RW 35 APPROACH (DESIGN, BIDDING & CONSTRUCTION)	
13. PROPOSED PROJECT Start Date: ASAP Ending Date:		14. CONGRESSIONAL DISTRICTS OF: a. Applicant SECOND b. Project SECOND	
15. ESTIMATED FUNDING:		16. IS APPLICATION SUBJECT TO REVIEW BY STATE EXECUTIVE ORDER 12372 PROCESS?	
a. Federal	\$365,109	a. Yes. <input type="checkbox"/> THIS PREAPPLICATION/APPLICATION WAS MADE AVAILABLE TO THE STATE EXECUTIVE ORDER 12372 PROCESS FOR REVIEW ON DATE: _____	
b. Applicant	\$9,609	b. No. <input checked="" type="checkbox"/> PROGRAM IS NOT COVERED BY E.O. 12372	
c. State	\$9,608	<input type="checkbox"/> OR PROGRAM HAS NOT BEEN SELECTED BY STATE FOR REVIEW	
d. Local		17. IS THE APPLICANT DELINQUENT ON ANY FEDERAL DEBT?	
e. Other		<input type="checkbox"/> Yes. If "Yes" attach an explanation. <input checked="" type="checkbox"/> No	
f. Program Income		18. TO THE BEST OF MY KNOWLEDGE AND BELIEF, ALL DATA IN THIS APPLICATION/PREAPPLICATION ARE TRUE AND CORRECT. THE DOCUMENT HAS BEEN DULY AUTHORIZED BY THE GOVERNING BODY OF THE APPLICANT AND THE APPLICANT WILL COMPLY WITH THE ATTACHED ASSURANCES IF THE ASSISTANCE IS AWARDED.	
g. TOTAL	\$384,326	a. Authorized Representative	
Prefix MRS. First Name KATHERINE		Middle Name L.	
Last Name HUBBARD		Suffix	
b. Title: COUNTY ADMINISTRATOR		c. Telephone Number (give area code) 803-785-8100	
d. Signature of Authorized Representative		e. Date Signed	

PART III - BUDGET INFORMATION - CONSTRUCTION**SECTION A - GENERAL**

1. Federal Domestic Assistance Catalog No. **20-106**
 2. Functional or Other Breakout **Airport Improvement Program**

SECTION B - CALCULATION OF FEDERAL GRANT

Cost Classification	Use only for revisions		Total Amount Required
	Latest Approved Amount	Adjustment + or (-)	
1. Administration expense			\$11,067
2. Preliminary expense			
3. Land, structures, right-of-way			
4. Architectural engineering basic fees			\$67,502
5. Other architectural engineering fees			\$10,000
6. Project inspection fees			\$12,145
7. Land development			
8. Relocation expenses			
9. Relocation payments to individuals and businesses			
10. Demolition and removal			
11. Construction and project improvement			\$283,612
12. Equipment			
13. Miscellaneous			
14. Total (Line 1 through 13)			\$384,326
15. Estimated Income (if applicable)			
16. Net Project Amount (Line 14 minus 15)			\$384,326
17. Less: Ineligible Exclusions			
18. Add: Contingencies			
19. Total Project Amt. (Excluding Rehabilitation Grants)			\$384,326
20. Federal Share requested of Line 19			\$365,109
21. Add Rehabilitation Grants Requested (100 Percent)			
22. Total Federal grant requested (Lines 20 & 21)			\$365,109
23. Grantee share			\$9,609
24. Other shares			\$9,608
25. Total project (Lines 22, 23 & 24)			\$384,326

SECTION C - EXCLUSIONS

26. Classification	Ineligible for Participation (1)	Excluded from Contingency Provision (2)
a.	\$	\$
b.		
c.		
d.		
e.		
f.		
g.	\$	\$

SECTION D - PROPOSED METHOD OF FINANCING NON-FEDERAL SHARE

27. Grantee Share		
a. Securities		
b. Mortgages		
c. Appropriations (By Applicant)	\$9,609	
d. Bonds		
e. Tax Levies		
f. Non Cash		
g. Other (Explain)		
h. TOTAL -Grantee Share	\$9,609	
28. Other Shares		
a. State	\$9,608	
b. Other		
c. Total Other Shares	\$9,608	
29. TOTAL	\$19,217	

SECTION E - REMARKS

PART IV PROGRAM NARRATIVE (ATTACH - SEE INSTRUCTIONS)

**LINE ITEM BREAKDOWN
SECTION B - CALCULATION OF FEDERAL GRANT
LEXINGTON COUNTY AIRPORT AT PELION
FAA A.I.P. 3-45-0067-009-2007 APPLICATION**

	AIRFIELD LIGHTING REHABILITATION PROJECT
<u>Line Item 1 - Administrative Expense</u>	
Legal Advertisement	\$0
DBE Plan Update	\$8,067
Grant Services	\$3,000
	\$11,067
<u>Line Item 4 - A/E Basic Fees</u>	
Design and Bidding	\$48,088
Construction Administration	\$19,414
	\$67,502
<u>Line Item 5 - Other A/E Fees</u>	
PAPI Obstruction Survey (Estimate)	\$10,000
	\$10,000
<u>Line Item 6 - Project Inspection Fees</u>	
Project Inspection	\$12,145
QA Testing	\$0
	\$12,145
<u>Line Item 11 - Construction</u>	
Runway Edge Lighting Rehabilitation (KING Bid)	\$130,482
Taxiway Edge Lighting Rehabilitation (KING Bid)	\$135,643
PAPI System Rehabilitation (KING Bid)	\$17,487
	\$283,612
TOTAL PROJECT	\$384,326
FAA ELIGIBLE	\$384,326
FAA SHARE	\$365,109
STATE SHARE	\$9,608
LOCAL SHARE	\$9,609

PART IV
PROGRAM NARRATIVE

LEXINGTON COUNTY AIRPORT AT PELION
FAA A.I.P. 3-45-0067-009-2007 APPLICATION

AIRFIELD LIGHTING REHABILITATION PROJECT

This request is designed to improve general aviation service at the Lexington County Airport at Pelion (6J0). The edge lighting systems at this Airport have reached the end of their serviceable life. The taxiway system was installed approximately 14 years ago. The runway system is much older than that. In the last few, years maintenance on the systems has increasingly grown such that the system has been "piecemealed" together to try to keep it operational. The lighting system is so unreliable that the airfield is rendered practically useless at night.

The work has been divided into a Base Bid, Additive Bid No. 1, and Additive Bid No. 2 and may be generally described as follows:

The Base Bid will generally consist of removal of the existing and installation of a new medium intensity runway edge lighting system with stake and base mount lights. Existing mandatory signs will be replaced with new signs and concrete pads. The existing vault equipment and vault equipment enclosure will be replaced with a precast vault building and associated vault equipment.

The Additive Bid No. 1 will generally consist of removal of the existing and installation of a new medium intensity taxiway edge lighting system with stake and base mount lights. Taxiway guidance signs will be replaced with new signs and concrete pads.

The Additive Bid No. 2 will generally consist of furnishing and installing a L-881 (2-Box), current driven precision approach path indicator (PAPI) system for runway 35 and associated vault equipment.



COUNTY OF LEXINGTON

212 South Lake Drive
Lexington, SC 29072
(803) 785-8100
Fax (803) 785-8101
khubbard@lex-co.com

Memorandum

TO: Councilman Todd Cullum, Chairman, Airport Committee
From: Katherine Hubbard, County Administrator *Kat*
Date: June 18, 2007
Re: Pilots Advisory Committee

At its recent airport strategic visioning session, Council discussed the need to receive input from local pilots regarding the needs of the flying community that can be served by the County's airport. Council established an objective to have a Pilots Advisory Committee in place by the end of this summer.

In discussions with the SC Aeronautics Commission Director Michael O'Donnell, he has suggested that the County contact the South Carolina Aviation Association(SCAA) for their assistance with locating interested Lexington County pilots for our committee. In addition, Mr. O'Donnell has offered the assistance of a member of his staff for this committee, Jamey Kempson, who has been an active resource for us at the airport.

With Council's permission, I will contact Frank Manning, SCAA President, as well as Katie English, SCAA Manager, for their assistance with the task of preparing a suggested committee membership for Council's consideration. I have tentatively placed this item on the Airport Committee agenda for June 26 for this purpose.

If any additional information is needed prior to the meeting next week, please let me know.

The Committee Minutes are left out intentionally until approved by the Committee. Upon the Committee's approval, the minutes will be available on the internet.

The Committee Minutes are left out intentionally until approved by the Committee. Upon the Committee's approval, the minutes will be available on the internet.

APPOINTMENTS - BOARDS & COMMISSIONS

June 26, 2007

SMOKEY DAVIS

Children's Shelter - David S. Hipp - Term expired 06/30/06 - Not eligible for reappointment

Board of Zoning Appeals - Bryan Clemenz (Resignation effective 03/20/07) Term expires 12/31/07

Planning Commission - Earl E. McLeod, Jr. - Term expires 8/26/07 - Eligible for reappointment

JOHNNY JEFFCOAT

Museum Commission - Sandra Burdett - Term expired 11/01/05 - Not eligible for reappointment

JOHN CARRIGG

Assessment Appeals Board - Vacant - Term expired 09/21/06

Museum Commission - Vacant - Term expired 11/01/06

Board of Zoning Appeals - Malcolm Dennis (Resignation effective 01/01/07) - Term expires 12/31/09

Planning Commission - Robert A. Wilbur - Term expires 8/26/07 - Not eligible for reappointment

BILL BANNING

Planning Commission - William E. Unthank, Jr. - Term expires 8/26/07 - Eligible for reappointment

AIKEN/BARNWELL/LEXINGTON COUNTIES COMMUNITY ACTION COMMISSION, INC.

Juanice Aaron - Term expired 12/31/05 - Eligible for reappointment

BUILDING CODE BOARD OF APPEALS

Plumbing - Ashton B. Shuler - Term expires 8/13/07 - Eligible for reappointment

Building Industry - Ernie Magaro, Jr. - Term expires 8/13/07 - Eligible for reappointment

At-Large - Richard C. Key - Term expires 8/13/07 - Eligible for reappointment

CENTRAL MIDLANDS COUNCIL OF GOVERNMENTS

Melanie P. Ellerbe - Term expires 06/15/07 - Not eligible for reappointment

Vacant - Term expires 06/15/2009

CULTURAL COUNCIL OF RICHLAND AND LEXINGTON COUNTIES

John Carrigg - Term expired - Not eligible for reappointment

COUNTY OF LEXINGTON

Procurement Services

MEMORANDUM

(O) 785-8385

(F) 785-2240

DATE: May 31, 2007

TO: Katherine L. Hubbard
County Administrator

THROUGH: Sheila R. Fulmer, CPPB
Procurement Manager



FROM: Janice A. Bell, CPPB
Procurement Officer



SUBJECT: Carrier Condensing Unit / Sole Source Procurement - Building Services / Library

We received a requisition from the Building Services for the purchase of one (1) Carrier Condensing Unit to be installed at the Library.

This has been deemed a sole source and will be purchased directly from the manufacturer (Carrier). Building Services has recommended this replacement due to the high cost of replacing condenser coils on the existing unit. Building Services has stock parts and their personnel have been trained on Carrier equipment. The total cost of this unit including applicable tax is \$6,779.00.

Funds are appropriated in the following account:

2300-230099-5A7605	Library Operations
HVAC Condenser – Lexington	\$6,779.00

I concur with the above recommendation and further recommend that this purchase be placed on County Council's agenda for their next scheduled meeting on June 26, 2007.

copy: Larry Porth, Director of Finance/Assistant County Administrator
Randy Quattlebaum, Manager Building Services Division
Dan MacNeill, Library Director

COUNTY OF LEXINGTON

Procurement Services

MEMORANDUM

(O) 785-8319

(F) 785-2240

DATE: June 18, 2007

TO: Katherine L. Hubbard
County Administrator

THROUGH: Sheila R. Fulmer, CPPB
Procurement Manager

FROM: Donna J. Potts, CPPB
Procurement Officer



SUBJECT: Dell Network Servers – Information Services

We have received a purchase request for two (2) Dell Network Servers for the Department of Information Services. The servers will be purchased directly from the manufacturer (Dell) through the South Carolina State Contract #05-S6656-A11104.

These servers manage DHCP, WINS2, DNS2 and Domain authentication for all Wide Area Network (WAN) users. The purchase of these two (2) units is needed to provide fail-over redundancy in case one of the units fails.

The total cost including applicable sales tax is \$9,109.98.

Funds for this purchase were requested in fiscal year 07/08 in the following account:

1000-102100-5A8039 – (2) Domain Controller/Network Servers - \$9,109.98

Approval is being sought to purchase this equipment as soon as possible in the new fiscal year.

I concur with the above recommendation and further recommend that this purchase be placed on County Council's agenda for their next scheduled meeting on June 26, 2007.

copy: Larry Porth, Director of Finance/Assistant County Administrator
Jim Schafer, Director of Information Services

COUNTY OF LEXINGTON

Procurement Services

MEMORANDUM

(O) 785-8319

(F) 785-2240

DATE: June 18, 2007

TO: Katherine L. Hubbard
County Administrator

THROUGH: Sheila R. Fulmer, CPPB
Procurement Manager

FROM: Donna J. Potts, CPPB
Procurement Officer



SUBJECT: Wireless Access Points and Connectors – Information Services

We have received a purchase request for Wireless Access Points and connectors for the Department of Information Services. The hardware will be purchased from Data Network Solutions through the South Carolina State Contract #06-S6983-A11898.

The wireless connectivity within County facilities was first installed in 2003, starting in the Marc H. Westbrook Judicial Center with funds donated by the law firms in Lexington and Richland counties. Changes in wireless technology require that seventeen (17) existing wireless access points be replaced prior to 2008. Since we are experiencing connectivity problems with a few brands of wireless cards recently installed in new laptops, we would like to replace the existing access points as soon as possible in the new fiscal year.

The total cost including applicable sales tax is \$13,447.97.

Funds for this purchase were requested in fiscal year 07/08 in the following accounts:

1000-102100-5A8032 – (17) Wireless Access Points - \$11,950.57

1000-102100-540000 – Small Tools and Minor Equipment - \$1,497.40

I concur with the above recommendation and further recommend that this purchase be placed on County Council's agenda for their next scheduled meeting on June 26, 2007.

copy: Larry Porth, Director of Finance/Assistant County Administrator
Jim Schafer, Director of Information Services

COUNTY OF LEXINGTON

Procurement Services

MEMORANDUM

(O) 785-8319

(F) 785-2240

DATE: June 6, 2007

TO: Katherine L. Hubbard
County Administrator

THROUGH: Sheila R. Fulmer, CPPB
Procurement Manager



FROM: Donna J. Potts, CPPB
Procurement Officer



**SUBJECT: TERM CONTRACT – WORK UNIFORMS
BID NO. C07033-05/29/07P**

Competitive bids were solicited and advertised for a term contract for providing work uniforms for the departments of Fleet Services, Central Stores, Public Works, Building Services and Solid Waste Management. The term of this contract shall be for a period of one (1) year. The County has the option to extend the contract on an annual basis and will not exceed two (2) additional one (1) year periods.

We received seven (7) bids of which two (2) were no bids and two (2) were deemed non-responsive (see attached bid tabulation). The bids were evaluated by Sheila R. Fulmer, Procurement Manager and Donna J. Potts, Procurement Officer. It is our recommendation to award this contract to Designlab Incorporated as the lowest responsive bidder meeting specifications.

The cost of this contract is based on estimated quantities projected for use by the departments for a period of one (1) year. It is estimated that the annual value of this contract is \$25,470.49 including sales tax. Purchases are made on an as needed basis and will not exceed funds available in each department's uniform account(s).

I concur with the above recommendation and further recommend that this bid be placed on County Council's agenda for their next scheduled meeting on June 26, 2007.

Attachment

copy: Larry Porth, Director of Finance/Assistant County Administrator
John Fechtel, Director of Public Works
Rod Pimental, Central Stores Manager
Ellis Gammons, Fleet Services Manager
Randy Quattlebaum, Building Services Manager
Joe Mergo, III, Director Solid Waste Management

COUNTY OF LEXINGTON
BID TABULATION

C07033-05/29/07P
Work Uniforms

Item #	Qty	Description	Ujifirst Corporation		Wearguard/Aramark		Eagle Group		Lesesne Industries		Designlab Incorporated	
			Unit Price	Total Price	Unit Price	Total Price	Unit Price	Total Price	Unit Price	Total Price	Unit Price	Total Price
1	300	Pants, PT10	\$13.45	\$4,035.00	\$11.99	\$3,597.00	\$13.20	\$3,960.00	\$11.88	\$3,564.00	\$12.53	\$3,759.00
2	30	Pants, PT30	\$17.25	\$517.50	\$11.99	\$359.70	\$12.25	\$367.50	\$12.94	\$388.20	\$10.89	\$326.70
3	15	Shorts, PT26	\$13.00	\$195.00	\$9.99	\$149.85	\$10.62	\$159.30	\$9.60	\$144.00	\$9.75	\$146.25
4	64	Coveralls, CT10	\$75.00	\$4,800.00	\$36.99	\$2,367.36	\$20.94	\$1,340.16	no bid	no bid	\$18.21	\$1,165.44
5	64	Coveralls, Insulated	\$247.00	\$15,808.00	\$55.00	\$3,520.00	\$39.60	\$2,534.40	no bid	no bid	\$39.15	\$2,505.60
6	245	Shirts, SP14, LS	\$13.00	\$3,185.00	\$13.99	\$3,427.55	\$9.18	\$2,249.10	\$8.39	\$2,055.55	\$8.64	\$2,116.80
7	245	Shirts, SP14, SS	\$10.50	\$2,572.50	\$11.99	\$2,937.55	\$8.00	\$1,960.00	\$7.04	\$1,724.80	\$7.28	\$1,783.60
8	25	Shirts, SP 10, LS	\$15.00	\$375.00	\$13.99	\$349.75	\$11.88	\$297.00	\$12.63	\$315.75	\$10.94	\$273.50
9	25	Shirts, SP20, SS	\$13.00	\$325.00	\$11.99	\$299.75	\$9.96	\$249.00	\$10.55	\$263.75	\$9.05	\$226.25
10	10	Shirts, SK62	\$16.00	\$160.00	\$9.99	\$99.90	\$12.50	\$125.00	\$10.99	\$109.90	\$11.05	\$110.50
11	117	Jacket, JT50	\$30.00	\$3,510.00	no bid	no bid	\$24.00	\$2,808.00	\$21.49	\$2,514.33	\$24.04	\$2,812.68
12	70	Jacket, HJ-50	\$47.00	\$3,290.00	\$35.00	\$2,450.00	\$34.12	\$2,388.40	\$39.53	\$2,767.10	\$24.20	\$1,694.00
13	50	Pants, PT59	\$16.00	\$800.00	\$11.99	\$599.50	\$13.02	\$651.00	\$12.67	\$633.50	\$12.20	\$610.00
14	30	Shirts, SP11/13	\$12.00	\$360.00	\$19.99	\$599.70	\$10.20	\$306.00	\$9.64	\$289.20	\$9.90	\$297.00
15	30	Shirts, SP21/23	\$11.00	\$330.00	\$17.99	\$539.70	\$7.92	\$237.60	\$7.83	\$234.90	\$8.06	\$241.80
16	25	Smock, TP31	\$15.00	\$375.00	\$16.99	\$424.75	\$11.76	\$294.00	\$11.40	\$285.00	\$11.39	\$284.75
17	15	Smock, TP23	\$14.00	\$210.00	\$16.99	\$254.85	\$10.80	\$162.00	\$9.65	\$144.75	\$9.99	\$149.85
18	13	Parka, JP70	\$108.00	\$1,404.00	no bid	no bid	\$64.50	\$838.50	\$63.03	\$819.39	\$62.63	\$814.19
19	70	Hooded, Jacket, HJ51	\$52.50	\$3,675.00	no bid	no bid	\$69.00	\$4,830.00	no bid	no bid	\$39.30	\$2,751.00
20	15	Pants, PC10	\$19.00	\$285.00	\$12.99	\$194.85	\$15.00	\$225.00	\$13.80	\$207.00	\$14.04	\$210.60
21	50	Belt	\$19.00	\$950.00	\$10.99	\$549.50	\$8.00	\$400.00	\$9.84	\$492.00	\$9.97	\$498.50
22	500	Emblem	\$3.00	\$1,500.00	\$6.00	\$3,000.00	\$1.50	\$750.00	no bid	no bid	\$2.50	\$1,250.00
23	1	Cost to sew on patches	\$0.00	\$0.00	\$6.00	\$6.00	\$1.00	\$1.00	\$1.06	\$1.06	\$0.75	\$0.75
24		Discount offered	0%		10%		40%		30%		20%	
		Total		\$48,662.00		\$25,727.26		\$27,132.96		\$16,954.18		\$24,028.76
		Taxes		\$2,919.72		\$1,543.64		\$1,627.98		\$1,017.25		\$1,441.73
		Grand total		\$51,581.72		\$27,270.90		\$28,760.94		\$17,971.43		\$25,470.49

Received a no bid response from Eidson's Custom Embroidery and Working Person's Store stating that they were unable to meet specifications. Bid stated that award would be made to one vendor, therefore vendors needed to bid on all items to be considered. Wearguard/Aramark and Lesesne Industries were deemed non-responsive.

Bids opened May 29, 2007 @ 3:00 p.m.

Donna J. Potts
Donna J. Potts, CPPB
Procurement Officer



COUNTY OF LEXINGTON, SOUTH CAROLINA

Community Development

County Administration Building, 4th Floor
212 South Lake Drive, Lexington, SC 29072
(803)785-8121

ZONING MAP AMENDMENT APPLICATION # M07-03

Address and/or description of the property for which the amendment is requested:

1605 Bush River Road and Adjoining Parcel to the West, Columbia 29210

Zoning Classifications: (Current) R1 - Low Density Residential (Proposed) C2- General Commercial

TMS#: 003617-04-011 & 012 Property Owner: Charles Hatchell

Reason for the request: I am requesting the change in zoning to allow for an office use on the property.

Even though this request will be carefully reviewed and considered, the burden of proving the need for the amendment rests with the applicant.

Date of Application: 4/4/07 Applicant: Owner [] Agent [x]

Phone #(s): cell (803) 261-1140

Signature: Larry C. Cooke Printed Name: Larry Cooke

Street/Mailing Address: 23 Huntwick Ct., Columbia, SC 29206

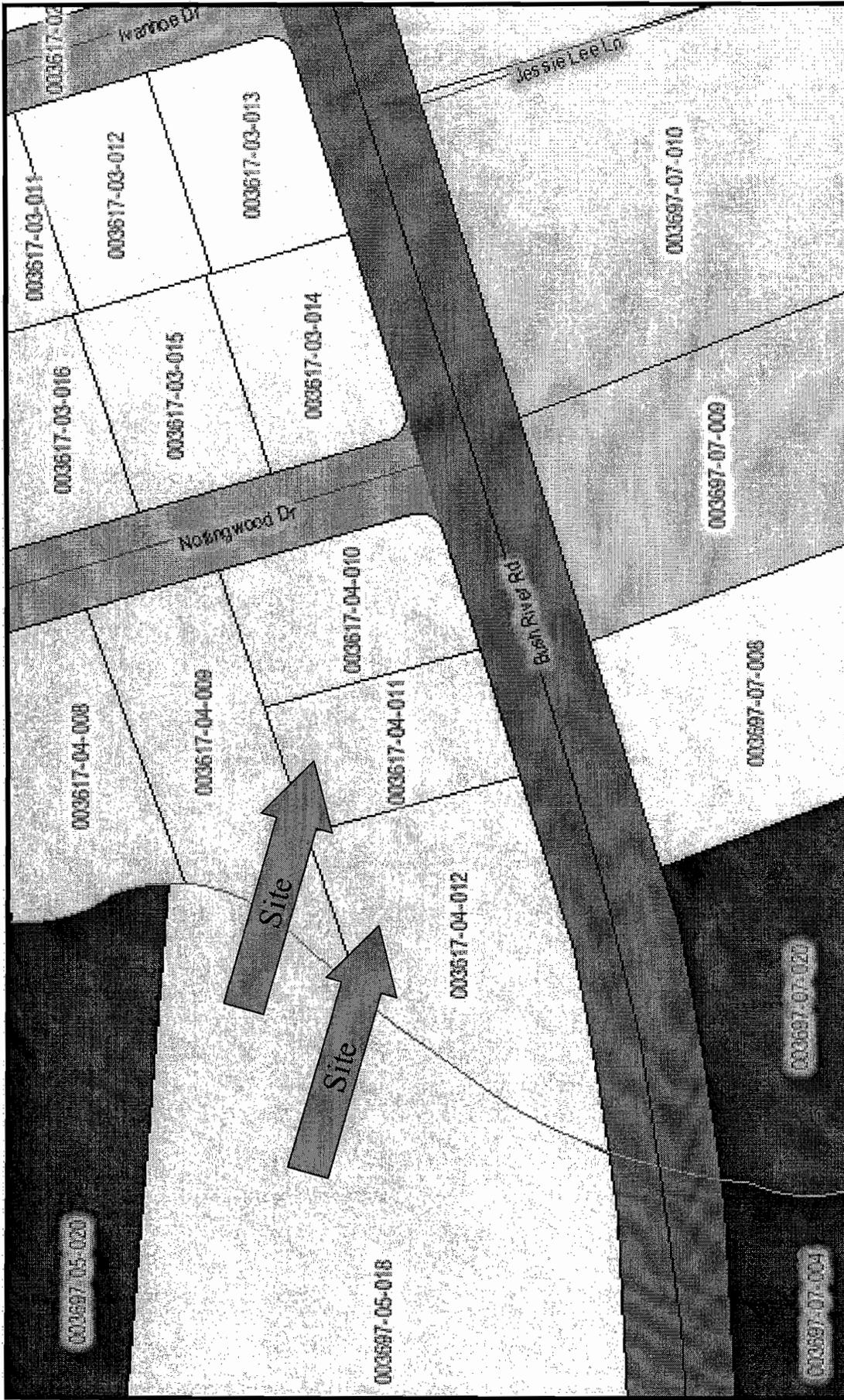
Table with 2 columns: Date, Event. Rows: 4/4/07 Application Received, 4/19/07 Newspaper Advertisement, 4/20/07 Notices Mailed

Table with 2 columns: Date, Event. Rows: 4/4/07 Fee Received, 4/23/07 Property Posted, 5/17/07 Planning Commission

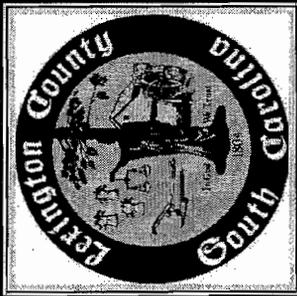
Planning Commission Recommendation: 5-0 Approval

Table with 4 columns: Date, Event. Rows: 4/24/07 First Reading, 5/08/07 Public Hearing, 6/12/07 Second Reading, Third Reading

Results:



ZONING MAP AMENDMENT REQUEST #M07-03



Planning Area:
Seven Oaks /
Dutch Fork –
1971/74

Amendment Area:
TMS#
003617-04-011 &
012

Ordinance 06-10

Lexington County

Stormwater Management Ordinance

TABLE OF CONTENTS

ORDINANCE # 06-10 Stormwater Management

Division 1 General Provisions

- Sec. 1-1. Title
- 1-2. Authority
- 1-3. Jurisdiction
- 1-4. Findings
- 1-5. Purpose
- 1-6. Construction and Scope
- 1-7. Severability
- 1-8. Rules of Language and Interpretation
- 1-9. Relationship with Other Laws, regulations, and Ordinances
- 1-10. Amendments
- 1-11. Conflicting Ordinances Repealed
- 1-12. Definitions
- 1-13. Reserved

Division 2 Organization and Administration

- Sec. 2-1. Lexington County Stormwater Management Program (SWMP)
- 2-2. Lexington County Floodplain Management Program
- 2-3. Coordination with Other Agencies
- 2-4. Cooperation with Other Governments
- 2-5. Inspection During Construction
- 2-6. Right-Of-Entry
- 2-7. Reserved

Division 3 Stormwater Quantity and Quality Management Requirements

- Sec. 3-1. Regulations
- 3-2. Prohibitions and Exemptions
- 3-3. Design/Engineering Standards
- 3-4. Land Disturbance Permit Application Process
- 3-5. Land Development Manual
- 3-6. Ownership and Lexington County Participation
- 3-7. Maintenance, Construction, Inspection, and Project Closure
- 3-8. Watercourse Protection
- 3-9. Notification of Spills
- 3-10. Reserved

Division 4 Detection and Removal of Illicit Discharges and Improper Disposal

- Sec. 4-1. Illicit Connections, Illicit Discharges and Improper Disposal
- 4-2. Detection of Illicit Connections and Improper Disposal
- 4-3. Waste Disposal Prohibitions
- 4-4. Discharges in Violation of Industrial or Construction Activity
NPDES Stormwater Discharge Permit

4-5. Reserved

Division 5 Monitoring and Inspections

- Sec. 5-1. Monitoring
- 5-2. Inspections
- 5-3. Reserved

Division 6 Enforcement, Penalties and Abatement

- Sec. 6-1. Enforcement
- 6-2. Civil Penalties
- 6-3. Additional legal measures
- 6-4. Corrective Action
- 6-5. Stop Work
- 6-6. Permit Suspension and Revocation
- 6-7. Criminal Penalties
- 6-8. Reserved

Division 7 Variances

- Sec. 7-1. Reserved

Division 8 Appeals

- Sec. 8-1. Appeals Process
- 8-2. Reserved

Division 9 Charges and Fees

- Sec. 9-1. Funding
- 9-2. Connection to Conveyances
- 9-3. Plan Review
- 9-4. Field Inspection

Division 10 Floodplain Management Program

- Sec. 10-1. Compliance
- 10-2. Duties
- 10-3. General and Specific Standards
- 10-4. Variances
- 10-5. Reserved

Division 11 Appendix

Definitions

DIVISION 1 – GENERAL PROVISIONS

Sec. 1-1. Title.

This ordinance shall be known as the “Stormwater Management Ordinance of Lexington County, South Carolina.

Sec. 1-2. Authority.

This ordinance is adopted pursuant to the authority conferred upon Lexington County by the South Carolina Constitution, Act No. 194 of the Acts and Joint Resolutions of 1971 enacted by the General Assembly of the State of South Carolina, approved April 23, 1971, in 1976 South Carolina Code of Laws Sections 4-9-30, 4-9-40 and understate and Federal Stormwater Requirements.

Sec. 1-3. Jurisdiction.

The provisions of this Ordinance shall apply to all portions of the unincorporated Lexington County, as they may exist from time to time and such additional areas lying inside the limits of those jurisdictions within the incorporated areas as approved by Lexington County Council.

The floodplain management provisions of this ordinance shall apply to all areas of special flood hazard within the jurisdiction of Lexington County as identified by the Federal Emergency Management Agency in the latest versions of its Lexington County Flood Insurance Study.

Sec. 1-4. Findings.

The Lexington County Council makes the following findings:

- (a) Uncontrolled stormwater runoff may have significant, adverse impact on the health, safety and general welfare of Lexington County and the quality of life of its citizens. The potential impacts of uncontrolled stormwater can lead to the degradation of water quality and general riverine ecosystem through excessive or illegal pollutant discharges, erosion, and flooding thereby limiting or removing its designated and potential uses.
- (b) Lexington County is required by federal law [33 U.S.C 1342(p) and 40 CFR 122.26] to obtain a National Pollutant Discharge Elimination System permit from the South Carolina Department of Health and Environmental Control (“SCDHEC”) for stormwater discharges from the Lexington County Stormwater system. The NPDES permit requires Lexington County to impose controls to reduce the discharge of pollutants in stormwater to maximum extent practicable using management practices, control techniques and system, design and

engineering methods, and such other provisions which are determined to be appropriate for the control of such pollutants.

- (c) Additionally, certain facilities that discharge stormwater associated with an industrial activity, including construction activities, are required by the South Carolina Code of Regulations 61-9-122 to obtain NPDES permits.

Sec. 1-5. Purpose.

- (a) It is the purpose of this ordinance to protect, maintain, and enhance water quality and the environment of Lexington County and the short-term and long-term public health, safety, and general welfare of the citizens of Lexington County and minimize property damage by establishing requirements and procedures to control the potential adverse effects of increased stormwater runoff and related pollutant loads associated with both future development and existing developed land. Proper management of stormwater runoff will further the purpose of this Ordinance to minimize damage to public and private property, insure a functional drainage system, reduce the effects of development on land and stream channel erosion, attain and maintain water quality standards, enhance the local environment associated with the drainage system, reduce local flooding, maintain to the maximum extent practical predeveloped runoff characteristics of the area in terms of flow rate, volume and pollutant concentration, and facilitate economic development while mitigating associated pollutant, flooding, erosion, and drainage impacts.
- (b) It is further the purpose of this ordinance to direct the development of a Stormwater Management Program, and establish legal authority to authorize Lexington County at a minimum to:
 - (1) Comply with State and Federal requirements related to stormwater management developed pursuant to the Clean Water Act;
 - (2) Prohibit illicit discharges to the Lexington County MS4 and receiving waters;
 - (3) Control the discharge to the Lexington County MS4 and receiving waters of spills, dumping, or disposal of materials other than stormwater;
 - (4) Address specific categories of non-stormwater discharges and similar other incidental non-stormwater discharges listed in the SWMP;
 - (5) Require erosion and sediment controls to protect water quality on all applicable new and re-development projects;
 - (6) Where necessary, require stormwater discharge rate and volume control during and following development, redevelopment, or construction;

- (7) Define and implement procedures for and carry out such procedures of site plan review and site inspection of all construction projects within Lexington County. Such procedures may include defining bonding, development phases, property transfer, ownership of the stormwater management system, and enforcing the provisions of this Ordinance;
 - (8) Control the discharge to the Lexington County MS4 and receiving waters of pollutants in such quantity that water quality standards are not being met or to other wise address post-construction, long-term water quality. This includes the necessary means needed to comply with State and Federal regulations regarding stormwater management quantity and quality;
 - (9) Define procedures for addressing citizen complaints within Lexington County;
 - (10) Define procedures to require adequate long term operation and maintenance of Best Management Practices (BMPs);
 - (11) Carry out inspection, surveillance and monitoring procedures necessary to determine compliance and noncompliance with permit conditions including the prohibition on illicit discharges to the Lexington County storm sewer system and receiving waters;
 - (12) Encourage to the maximum extent practicable the use new design and treatment strategies to control the release of stormwater discharges;
 - (13) Encourage to the maximum extent practicable the creation of stream buffers and preservation of natural spaces to provide areas that could be used for flood storage, stormwater treatment and control, and recreation. Such areas may be required in special protection areas needed to protect, maintain, or enhance water quality and protect property from flooding problems;
 - (14) Develop, implement, and enforce action plans to address pollutant load reductions required in impaired waterbodies and to comply with Total Maximum Daily Loads (TMDL) established by EPA or SCDHEC and to otherwise meet water quality standards.
 - (15) Enable enforcement of all said authorizations.
- (c) It is still further the purpose of this ordinance to establish and maintain delegated review authority status from SCDHEC to the Lexington County Public Works Department for issuing Land Disturbance permits for construction projects.
- (d) The application of this Ordinance and the provisions and references expressed herein shall be the minimum stormwater and floodplain management

requirements and shall not be deemed a limitation or repeal of any other powers granted by statute. In addition, if site characteristics on new development, redevelopment, and existing developments indicate that complying with these minimum requirements will not provide adequate designs or protection for local property, residents, or the environment, it is the property owner, lessee or person responsible for land disturbing activities to exceed management practices, control techniques and system, design and engineering methods and such other programs and controls as are required by the Lexington County NPDES permit.

Sec. 1-6. Construction and Scope

- (a) The provisions of this Ordinance shall apply throughout the unincorporated areas of Lexington County.
- (b) The Director of Public Works or his designee shall be primarily responsible for the coordination and enforcement of the provisions of this Ordinance, the SWMP.
- (c) The Floodplain Manager or his designee shall be primarily responsible for the coordination and enforcement of the provisions of the floodplain management sections of this Ordinance and for submittal of the Biennial Report to the Federal Emergency Management Agency (FEMA).

Sec. 1-7. Severability.

Should any word, phrase, clause or provision of this ordinance be declared invalid or unconstitutional by a court of competent jurisdiction, such declaration shall not affect this ordinance as a whole or any part hereof except that specific provision declared by such court to be invalid or unconstitutional.

Sec. 1-8. Rules of Language and Interpretation

- (a) The word "shall" is mandatory; the word "may" is permissive.
- (b) The particular shall control the general.
- (c) Words used in the present tense shall include the future, and words used in the singular include the plural, and the plural the singular, unless the context clearly indicates the contrary.
- (d) All public officials, bodies and agencies to which reference is made are those of Lexington County, unless otherwise indicated.

Sec. 1-9. Relationship with other laws, regulations and ordinances

Whenever the provisions of this Ordinance impose more restrictive standards than are required in or under any other law, regulation or ordinance, the requirements contained in this article shall prevail. Whenever the provisions of any other law, regulation or ordinance require more restrictive standards than are required in this article, the requirements of such law, regulation or ordinance shall prevail.

Sec. 1-10. Amendments

This Ordinance may be amended in the same manner as prescribed by law for its original adoption.

Sec. 1-11. Conflicting Ordinances Repealed

All ordinances or parts of ordinances in conflict with the provisions of this Ordinance are hereby repealed. This Ordinance shall prevail in any and all conflicts with guidelines, manuals, or other publications.

Sec. 1-12. Definitions.

For the purpose of this Ordinance, definitions contained in South Carolina regulations 61-9.122.2 and 72-301 are incorporated herein by reference. Where the same words are defined in both the aforementioned regulations, but are not the same, the definitions contained in R. 61-9.122.2 and 72-301 shall be used for the purposes of this Ordinance. Additional terms, phrases and words shall have the meaning given in the Appendix.

Sec. 1-12 Reserved.

DIVISION 2 – ORGANIZATION AND ADMINISTRATION

Sec. 2-1. Lexington County Stormwater Management Program.

The SWMP, developed by Lexington County to implement the provisions of this Ordinance serves as the basis for Lexington County's program implementation and administration. The SWMP, as amended from time to time by Lexington County, plan shall be viewed as an extension of this Ordinance and is hereby given identical authority to see that its requirements are both complied with and enforced.

Sec 2-2. Lexington County Floodplain Management Program

The Floodplain Management Program developed by Lexington County to comply with the National Flood Insurance Program (NFIP) serves as the basis for Lexington County's program implementation and administration. The Public Works Department

is hereby given authority to develop, implement and administer this Program, as amended from time to time by Lexington County, for the life of Lexington County's participation in the NFIP.

Sec. 2-3. Coordination with Other Agencies.

The Public Works Department shall coordinate Lexington County's activities with other federal, state, and local agencies, which manage and perform functions relating to the protection of receiving waters. Authority not expressly reserved for other agencies or restricted by statute is placed with the Public Works Department for the protection and preservation of receiving waters. The Public Works Department shall coordinate with State and Federal Agencies having jurisdiction.

Sec. 2-4. Cooperation with Other Governments.

Lexington County may enter into agreements with other governmental and private entities to carry out the purposes of this ordinance.

Nothing in this Ordinance or in this Section shall be construed as limitation or repeal of any ordinances of these local governments or of the powers granted to these local governments by the South Carolina Constitution or South Carolina statutes.

Sec. 2-5. Inspection during Construction

The Public Works Department shall periodically inspect the work completed under the approved Land Disturbance Permit Application. Frequency of such inspections shall be established for all land disturbing activities within the jurisdiction of Lexington County. Project closure procedures shall include inspection procedures to assess if the work has been carried out in accordance with the permit and this Ordinance. The project closure process may consider phasing so that portions of a project can be closed at various time periods, provided that the necessary documentation is submitted for approval. This process and documentation requirements are detailed in the Land Development Manual.

Sec. 2-6. Right-Of-Entry

- (a) The Director of Public Works or his designee shall have right-of-entry on or upon the property of any person subject to this Article and any permit/document issued hereunder. The Director of Public Works or his designee shall be provided ready access to all parts of the premises for the purposes of inspecting, monitoring, sampling, inventorying, examining and copying of records, and performing any other duties necessary to determine compliance with this Ordinance.
- (b) Where a the property owner or lessee has security measures in force requiring proper identification and clearance before entry onto the premises, the person

shall make necessary arrangements with the necessary parties so that, upon presentation of suitable identification, the Director of Public Works or his designee will be permitted to enter without delay for the purposes of performing such responsibilities identified in (a).

- (c) The Public Works Department shall have the right to set up on the person's property such devices as are necessary to conduct sampling and/or metering of the person's operations as they relate to stormwater management.
- (d) Any temporary or permanent obstruction to access to the necessary areas to perform the said responsibilities shall be removed promptly by the property owner or lessee at the written or verbal request of the Director of Public Works or his designee. The costs of clearing such access shall be borne by the property owner or lessee.
- (e) In cases where an imminent threat to the health or safety of the general public or the environment is suspected, the Director of Public Works or his designee shall perform said responsibilities to determine if immediate action is necessary. Such responsibilities shall be made with or without the consent of the property owner or lessee. If such consent is refused, the Director of Public Works or his designee may seek issuance of an administrative search warrant or other enforcement measures authorized in this Ordinance to remove such threat. In such cases, the property owner or Lessee, as the case may be, shall reimburse the County for its direct and related expenses. If the property owner or Lessee, as the case may be, fails to reimburse the County, the County is authorized to file a lien for said costs against the property or the Lessee's leasehold interest, as the case may be, and to enforce the lien by judicial foreclosure proceedings.

Sec. 2-7 Reserved.

DIVISION 3 – STORMWATER QUANTITY AND QUALITY MANAGEMENT REQUIREMENTS

Sec. 3-1. Regulations.

- (a) Federal regulations governing stormwater management, as specified in State Code of Laws 40 C.F.R. 122.26, and State Code of Regulations R. 61-9 et. seq. and R. 72.300 et seq. are adopted as the minimum requirements for the management of stormwater within Lexington County as defined in the respective regulations.
- (b) The Public Works Department shall be responsible for day to day coordination, implementation and enforcement of this Ordinance and the SWMP and well as the long-term management of the County's drainage. Without limitation, the Public Works Department shall have the following specific authority:

- (1) To issue any permit, certification or license that may be required to comply with this Ordinance and Federal and State regulations pertaining to stormwater management.
- (2) To deny a facility connection to the MS4 or discharge to waters of the State if State, Federal Regulations and this Ordinance are not met.
- (3) To create and enact the Lexington County Land Development Manual as an extension of this ordinance. The Development Manual shall be used to convey design and engineering standards, construction management processes and procedures, and other aspects necessary for compliance with this Ordinance. The original adoption and subsequent revisions of this Manual shall include approval by County Council.
- (4) To require the submittal of a Land Disturbance Permit Application for all applicable land disturbing activities, to include a plan to control stormwater and pollutants and other components detailed in the Lexington County Land Development Manual.
- (5) Provide for the protection of the natural resources of sensitive and highly susceptible areas to the impacts of excessive and polluted stormwater. This may include the creation of watershed-specific plans that will limit or otherwise direct land development activities and require the reduction of excessive and polluted stormwater from any area.
- (6) To require the development of a Stormwater Pollution Prevention Plan (SWPPP) for all applicable new and re-development projects and enforcement of such SWPPP.
- (7) To approve land disturbing plans and to require as a condition of such approvals, structural or non-structural controls, practices, devices, operating procedures, or other mechanisms to protect public and private property from flooding and erosion and attain TMDL-mandated pollutant load reductions and water quality standards.
- (8) To require performance bonds when necessary of any person to secure that person's compliance with Land Disturbance Permit, as well as other permits, certificate, license or authorization issued or approved by the Public Works Department pursuant to this Ordinance, the SWMP and Federal and State laws. The Public Works Department shall develop a process that organizes the closure of bonds and Land Disturbance permits to accommodate development phases and property ownership transfer.
- (9) To comply with all Federal and State regulatory requirements, promulgated or imposed pursuant to the Clean Water Act and the SC

Stormwater Management and Erosion Reduction Act, applicable to the management of stormwater discharges to or from the Lexington County MS4.

- (10) To conduct all activities necessary to carry out the SWMP and other requirements included in the Lexington County NPDES permit, the SWMP and this Ordinance, and to pursue the necessary means and resources required to properly fulfill this responsibility.
- (11) To develop and implement strategic plans for complying with TMDLs. Such plans shall include an initial due diligence procedures to fully assess the problem and alternative solutions so as to proceed with cost-effective solutions.
- (12) To enact special cost- and credit-sharing programs that would assist land developers and the Public Works Department in meeting the water quantity and quality discharge requirements of this Ordinance and the Land Development Manual.
- (13) To enter into agreements with other governmental entities or private persons or entities to provide or procure services to conduct and carry out such activities as authorized by this Ordinance.
- (14) To maintain the stormwater system consistent with the provisions of the Lexington County NPDES permit, the SWMP and this Ordinance.
- (15) To direct, review and recommend for approval by Lexington County Council, the stormwater management operating budget.
- (16) To direct, review and recommend for approval by Lexington County Council necessary changes to the existing stormwater management programs.
- (17) To determine appropriate fees, to impose penalties, and to take necessary and appropriate actions to collect any fee or enforce any penalty assessed pursuant to this Ordinance. The Public Works Department shall seek approval from County Council on development and revision of the fee and penalty schedules through resolution from the Director.
- (18) To require encroachment permits as necessary.

Sec. 3-2. Prohibitions and Exemptions

No person shall (1) develop any land, (2) engage in any industry or enterprise, (3) construct, operate or maintain any landfill, hazardous waste treatment, disposal or recovery facility, or any other industrial or related facility, (4) dispose of any hazardous or toxic substance or other pollutant or (5) otherwise prevent the transport of sediment and other pollutants associates with stormwater runoff

beyond property boundaries without having provided for compliance with this Ordinance.

The following development activities are exempt from the provisions of this Ordinance.

- (1) Land disturbing activities undertaken on forestland for the production and harvesting of timber and timber products and conducted in accordance with best management practices and minimum erosion protection measures established by the South Carolina Forestry Commission pursuant to Section 48-18-70 of the 1976 Code of Laws of South Carolina, as amended.
- (2) Activities undertaken by persons who are otherwise regulated by the provisions of Chapter 20 of Title 48, the South Carolina Mining Act.
- (3) Certain land disturbing activities undertaken by persons who are exempt from the provisions of the Stormwater Management and Sediment Reduction Act as set forth in Section 48-14-40 of the 1976 Code of Laws of South Carolina, as amended.
- (4) Land disturbing activities on agricultural land for production of plants and animals, including but not limited to: forages and sod crops, grains and feed crops, tobacco, cotton, and peanuts; dairy animals and dairy products; poultry and poultry products; livestock, including beef cattle, sheep, swine, horses, ponies, mules, or goats, including the breeding and grazing of these animals; bees, fur animals, and aquaculture. The construction of an agricultural structure that requires the disturbance of one or more acres, such as, but not limited to, broiler houses, machine sheds, repair shops, coops, barns, and other major buildings shall require the submittal and approval of a Land Disturbance permit prior to the start of the land disturbing activity.

Sec. 3-3. Design and Engineering Standards.

Design and engineering standards define the desired level of quality and performance for stormwater management systems on all land disturbance projects and existing facilities in order to meet the purpose of this Ordinance. The standards establish the minimum technical requirements needed to express compliance through calculations, maps and drawings, or others as necessary.

The Public Works Department is authorized to develop and adopt policies, criteria, specifications, and standards for the proper implementation of the requirements of this Ordinance, Federal and State laws and the SWMP and to provide a sound technical basis for the achievement of stormwater management, including water quality and quantity objectives. These standards shall be presented for use in the Land

Development Manual. The standards defined in the most current version of the Manual shall serve as the requirements to meet this Ordinance.

It shall be the responsibility of the property owner, lessee or person responsible for land disturbing activities to provide adequate controls to meet the design and engineering standards.

Sec 3-4. Land Disturbance Permit Application Process

All land disturbing activities shall require the creation and submittal of a Land Disturbance Permit Application for review by the Public Works Department. The entire application process and requirements shall be detailed in the Land Development Manual.

It shall be the responsibility of the applicant (property owner, lessee or person responsible for land disturbing activities) to provide a complete Land Disturbance Application Package that meets all the requirements of this Ordinance, the SWMP, and other State and Federal regulations.

Sec. 3-5. Land Development Manual

To establish the minimum requirements, processes and guidance on the design, evaluation and implementation of land disturbing or pollutant discharging activities and stormwater management conveyances and facilities in Lexington County, The Public Works Department is authorized to develop and adopt additional policies, criteria, processes, specifications, and standards for the proper implementation of the requirements of this Ordinance, Federal and State laws and the SWMP in a Land Development Manual. The Manual shall include design standards, procedures and criteria for conducting hydrologic, hydraulic, pollutant load evaluations, and downstream impact for all components of the stormwater management system. Although the intention of the manual is to establish uniform design practices, it neither replaces the need for engineering judgment nor precludes the use of information not presented. Other accepted engineering procedures may be used to conduct hydrologic, hydraulic and pollutant load studies if approved by the Public Works Department.

The Design Manual shall contain at a minimum the following components:

- (a) Permit application and site project closure processes;
- (b) Permit approval requirements;
- (c) Hydrologic, hydraulic, and water quality design criteria (i.e., design standards) for the purposes of control runoff rate, volume, and pollutant load. Suggested reference material shall be included for guidance in computations needed to meet the design standards;

- (d) Information and requirements for new and re-development projects in special protection areas that will be created to address TMDLs, known problem areas and other areas necessary to protect, maintain, and enhance water quality and the environment of Lexington County and the public health, safety, and general welfare of the citizens of Lexington County.
- (e) Land Disturbance Permit Application requirements;
- (f) Construction document requirements;
- (g) Required and recommended inspection and maintenance schedules and activities for all components of the stormwater management system, including construction-related BMPs.

The Manual may be updated periodically to reflect the advances in technology and experience gathered with time. The most current version shall be the used by Lexington County for conveyance and BMP design, construction and maintenance.

Sec. 3-6 Ownership and Lexington County Participation

Prior to the issuance of a Land Disturbance Permit, the responsible party shall execute a legal document to cover all necessary maintenance of the stormwater management system. Property owners and Lessees are responsible for maintaining stormwater quantity and quality facilities and all conveyance structures located on commercial property.. Lexington County will accept maintenance responsibilities of stormwater systems in residential areas after the two year warranty/guarantee period.

The property owner or lessee shall grant to Lexington County a perpetual, non-exclusive, transferable easement from a public street that allows for public inspection and emergency repair of all components of the drainage system, including all conveyances and all water quantity and quality control facilities. At the request of the Director of Public Works or his designee, the property owner or lessee shall grant to Lexington County right-of-ways.

Lexington County shall own and maintain all drainage system components that are constructed under or collect stormwater runoff from a County-owned road.

Stormwater quantity and quality control facilities shall be located so that required easements can be effectively used and ownership and maintenance responsibility can be clearly defined in deeds and plats.

Lexington County shall reserve the right to accept or deny ownership and maintenance of all or part of a stormwater system.

The Covenants shall specify minimum maintenance requirements to be performed at necessary intervals by the property owner or lessee, as the case may be. Failure to perform such activities will constitute a violation of this Ordinance.

If a facility or any portion of the stormwater system is not being maintained as required, the Director of Public Works or his designee will notify the property owner or Lessee, as the case may be, in writing. If property owner or Lessee, as the case may be, fails to repair or maintain the facility within the allotted time, the Public Works Department is authorized to precede with applicable enforcement proceedings. The Public Works Department may authorize the work to be performed by the County or others. In such cases, the property owner or Lessee, as the case may be, shall reimburse the County for its direct and related expenses. If the property owner or Lessee, as the case may be, fails to reimburse the County, the County is authorized to proceed with applicable judicial proceedings.

A property owner or lessee may hire or contract others to perform necessary maintenance actions, but Lexington County will hold the person named in the Covenants as the responsible party should legal actions described in (g) be necessary.

When the Director of Public Works or his designee determines that additional storage capacity or pollution reduction beyond that required by the applicant for on-site stormwater management is necessary in order to enhance or provide for the public health, safety and general welfare, to correct unacceptable or undesirable existing conditions or to provide protection in a more desirable fashion for future development, Lexington County may:

- (1) require that the applicant grant any necessary easements over, through or under the applicant's property to provide access to or drainage for such a facility;
- (2) require that the applicant obtain from the owners of property over, through or under where the stormwater management facility is to be located, any easements necessary for the construction and maintenance of same (and failing the obtaining of such easement Lexington County may, at its option, assist in such matter by purchase, condemnation, dedication or otherwise, and subject to (3) below, with any cost incurred thereby to be paid by Lexington County);
- (3) to implement the provision of additional stormwater control, both Lexington County and developer must be in agreement with the proposed facility that includes the additional storage or treatment capacity.

Sec. 3-7 Maintenance, Construction, Inspection, and Project Closure

Maintenance of the stormwater management system is critical for the achievement of its purpose of controlling stormwater runoff quantity and quality and the short-term and long-term public health, safety, and general welfare of the citizens of Lexington County.

A permanent maintenance plan for the stormwater management system shall be included in the Land Disturbance Permit Application. As part of the maintenance plan, the property owner or lessee of such facility shall specifically agree to be responsible for permanent maintenance. In order to transfer maintenance responsibility, a letter of acceptance by the new owner(s) accepting permanent maintenance responsibility shall be filed with the Public Works Department.

As part of the Land Disturbance Permit Application, the applicant shall submit construction and BMP maintenance and inspection schedules. Required and recommended schedules for BMP maintenance and inspection are to be provided in the Land Development Manual.

If the construction is to be phased, no stage work, related to the construction of stormwater management facilities shall proceed until the preceding stage of work is completed in accordance with the approved Land Disturbance Permit. The procedure for construction phases beginning and ending and what constitutes such conditions shall be developed and detailed in the Land Development Manual.

The permittee shall notify the Director of Public Works or his designee before commencing any work to implement the approved Land Disturbance Permit and upon completion of any phase or designated component of the site. Notification schedules shall be provided for in the Land Development Manual. All self-inspections, maintenance actions, BMP replacements, and changes to the approved Land Disturbance Permit shall be documented and presented upon request to the Director of Public Works or his designee.

The permittee shall notify the Public Works Department that the site, or portion of the site, is sufficiently stabilized to begin the closure process. If portions of the site are to close prior to others (e.g. phased construction), a proposed schedule shall be included in the approved Land Disturbance Permit. The closure process shall at a minimum require:

- a final plat showing the location of all stormwater easements and responsible party for the maintenance of the system. References shall be made to any all ownership and lessee Covenants established for ensuring the maintenance and long term functioning of the stormwater system. The plats shall also show conflicts with other new or existing easement;

documentation from the owner of the approved Land Disturbance Permit, including any revisions and as-built construction drawings, inspection reports; and stormwater system ownership transfers;

(3) that all components of the stormwater management system meet the approved Land Disturbance Permit and specifications or achieve the function for which they were designed. In addition, the site shall be cleared of all construction trash and debris from the stormwater system and the site as a whole;

(4) a final inspection conducted by the Director of Public Works or his designee

(f) The project closure process must be completed by the Public Works Department prior to any of the following actions, as applicable:

(1) The use or occupancy of any newly constructed components of the site.

(2) Acceptance of any road into the Official Lexington County Road Inventory or designation of road owner and associated stormwater management system.

(3) Release of any bond held by Lexington County.

(4) Approval and/or acceptance for recording of map, plat or drawing, the intent of which is to cause a division of a single parcel of land into two or more parcels.

Sec. 3-8. Watercourse Protection

Every person owning property through which a watercourse passes, or such person's lessee, shall keep and maintain that part of the watercourse within the property free of trash, debris, and other obstacles that would pollute, contaminate, or significantly retard the flow of water through the watercourse. In addition, the owner or lessee shall maintain existing privately owned structures within or adjacent to a watercourse, so that such structures will not become a hazard to the use, function, or physical integrity of the watercourse.

To assist in the compliance with State and Federal laws and regulations, the Public Works Department may develop special protection areas which require additional control of stormwater quality and quantity than provided by minimum design standards. Such areas may consist of watershed corresponding to adopted TMDLs, known flooding problems and pollution impairments, or other areas necessary to protect, maintain, and enhance water quality and the environment of Lexington County and the public health, safety, and general welfare of the citizens of Lexington County. These areas can be expected to change with time as development continues and federal and state law demands.

New stormwater systems created as the result of any new and re-development project shall be connected to the existing drainage system in a manner to so as not degrade the integrity of the existing system, whether natural or manmade, and shall have demonstrated this to the Public Works Department prior to issuance of the project closure. Discharge points shall be confined to connections with an existing natural or man-made drainage system. When stormwater discharges are to flow into collection systems not owned and maintained by Lexington County, the owners of all such systems, private or public, shall be notified and provided the opportunity to review such plans. The owners of these systems shall maintain the right to disapprove new connections to their system. Private systems shall include all those on private property, including private controls. Inline ponds shall be included as jurisdictional waters of State and are not included as private systems, but instead protected by this Ordinance as any other water of the State.

Sec. 3-9. Notification of Spills

Notwithstanding other requirements of law, as soon as any person responsible for a facility or operation and maintenance, or responsible for emergency response for a facility or operation has information of any known or suspected release of materials which are resulting or may result in illegal discharges or pollutants discharging into stormwater, the storm drain system, or waters of the State, said person shall take all necessary steps to ensure the discovery, containment, and cleanup of such release. In the event of such a release of hazardous materials, including but not limited to oils, greases, engine fluids and fuels, chemicals, herbicides and pesticides, and fertilizers, said person shall immediately notify all necessary agencies of the occurrence via emergency dispatch services. This shall include the Lexington County Public Safety Department and Public Works Department. Notifications shall be confirmed by written notice addressed and mailed to the Public Works Department within 5 business days of the spill event. In the event of a release of non-hazardous materials, said person shall record an onsite written record of the spill. The owner or operator of such establishment shall retain an on site written record of any and all spills that will include information on cleanup measures taken and the actions to prevent its recurrence. Such records shall be retained for at least 5 years.

Failure to provide notification of a release as provided above is a violation of this ordinance.

The owner, operator, or other designated responsible party will bear all costs of cleaning up any spills. In the event that Lexington County departments clean up a spill, the owner, operator, or designated responsible party will be required to reimburse the County for funds used in the clean-up.

Sec. 3-10. Reserved.

DIVISION 4 – DETECTION AND REMOVAL OF ILLICIT CONNECTIONS AND DISCHARGES AND IMPROPER DISPOSAL

Sec. 4-1. Illicit Connections, Illicit Discharges and Improper Disposal.

- (a) It is unlawful for any person to connect any pipe, open channel, or any other conveyance system that discharges anything, except stormwater or unpolluted water which is approved by the Public Works Department, into the MS4 or a Water of the State.
- (b) It is unlawful for any person to continue the operation of any such illicit connection regardless of whether the connection was permissible when constructed. Improper connections in violation of this ordinance must be disconnected and redirected, if necessary, to the satisfaction of the Director of Public Works or his designee and any other federal, state, or local agencies or departments regulating the discharge.
- (c) It is unlawful for any person to throw, drain, or otherwise discharge to the County's MS4 or to the waters of the State or to cause, permit, or allow a discharge that is composed of anything except stormwater or unpolluted water which is approved by the Public Works Department.
- (d) The Director of Public Works or his designee may require controls for or exempt from the prohibition provision in (a), (b), and (c) above the following, provided that a reasonable determination is made that they are not a significant source of pollution:
 - (1) Unpolluted industrial cooling water, but only under the authorization and direction of the Director of Public Works or his designee and appropriate NPDES permit.
 - (2) Water line flushing performed or required by a government agency, diverted stream flows, rising ground waters, and unpolluted pumped ground waters, and unpolluted ground water infiltration.
 - (3) Discharges from potable water sources, foundation drains, air conditioning condensation, irrigation water, springs, water from crawl space pumps, footing drains, lawn watering, individual car washing, dechlorinated swimming pool discharges, flows from riparian habitats and wetlands, and street wash water.
 - (4) Discharges or flows from fire fighting.
- (e) Lexington County may develop procedures for allowing other non-stormwater discharges not listed in (d) (1-4).
- (f) In the event of an accidental discharge or an unavoidable spill into the Lexington County MS4 of any pollutant, the person concerned shall inform the Lexington

County Director of Public Works or his designee on the same business day, or no longer than 24 hours, of the nature, quantity and time of occurrence of the discharge. The person concerned shall take immediate steps to contain the waste, treat the waste or other actions to minimize affects of the discharge on the MS4 and receiving waters. The person shall also take immediate steps to ensure no recurrence of the discharge. The owner, operator, or other designated responsible party will bear all costs of cleaning up any spills. In the event that Lexington County departments clean up a spill, the owner, operator, or designated responsible party will be required to reimburse the County for funds used in the clean-up.

Sec. 4-2. Detection of Illicit Connections and Improper Disposal.

- (a) The Public Works Department shall take appropriate steps to detect and eliminate illicit connections to the Lexington County Stormwater System, including the adoption of a program to screen illicit discharges and identify their source or sources, perform inspections, and levy fines if not removed.
- (b) The Public Works Department shall take appropriate steps to detect and eliminate improper discharges. These steps may include programs to screen for disposal, programs to provide for public education and public information, inspection, levy fines, and other appropriate activities to facilitate the proper management and disposal of used oil, toxic materials, and household hazardous waste.

Sec 4-3. Waste Disposal Prohibitions.

- (a) No person shall throw, deposit, leave, maintain, keep, or permit to be thrown, deposited, left, or maintained, in or upon any public or private property, driveway, parking area, street, alley, sidewalk, component of the storm drain system, or water of the U.S., any refuse, rubbish, garbage, litter, pet fecal matter, or other discarded or abandoned objects, articles, and accumulations, so that the same may cause or contribute to pollution. Yard debris, including natural foliage, may be deposited in the public right of way but not in or on any stormwater conveyance structures, including inlets and gutters, but only if a collection service is available. Wastes in proper waste receptacles may be placed in the street for collection, but again only if collection by or through the County is in place. No waste or yard debris shall be placed in the street without such a collection service.

Note:

Sec. 4-4. Discharges in Violation of Industrial or Construction Activity NPDES Storm Water Discharge Permit.

- (a) Any person subject to an industrial or construction activity NPDES Storm Water Discharge Permit shall comply with all provisions of such permit. Proof of

compliance with said permit may be required in a form acceptable to the Director of Public Works or his designee prior to or as a condition of the issuance of a Land Disturbance Permit, and/or a building permit.

Sec. 4-5. Reserved.

DIVISION 5 – MONITORING AND INSPECTIONS

Sec. 5-1. Monitoring.

- (a) The Public Works Department may monitor the quantity and concentration of pollutants in stormwater discharges from the areas and/or locations designated in Lexington County's SWMP.

Sec. 5-2. Inspections.

- (a) The Director of Public Works or his designee, bearing proper credentials and identification, may enter and inspect all properties for regular inspections, periodic investigations, monitoring, observation measurement, enforcement, sampling and testing, to effectuate the provisions of this ordinance and the SWMP programs. The Director of Public Works or his designee shall duly notify the owner of said property or the representative on site and the inspection shall be conducted at reasonable times.
- (b) Upon refusal by any property owner to permit an inspector to enter or continue an inspection, the inspector shall terminate the inspection or confine the inspection to areas concerning which no objection is raised. The Director of Public Works or his designee shall document the refusal and the grounds for such and promptly seek appropriate compulsory process.
- (c) In the event that the Director of Public Works or his designee reasonably believes that discharges from the property into the Lexington County MS4 may cause an imminent and substantial threat to human health or the environment, the inspection may take place at any time and without notice to the owner of the property or a representative on site. The inspector shall present proper credentials upon reasonable request by the owner or representative.
- (d) Inspection reports shall be maintained in a permanent file located in the Public Works Department's office.
- (e) At any time during an inspection or at such other times as the Public Works Department or his designee may request information from an owner or representative, the owner or representative may identify areas of his facility or establishment, material, or processes that contain or might reveal a trade secret. If the Director of Public Works or his designee has no clear and convincing

reason to question such identification, all material, processes and all information obtained within such areas shall be conspicuously labeled "CONFIDENTIAL – TRADE SECRET." The trade secret designation shall be freely granted to any material claimed to be such by the owner or representative unless there is clear and convincing evidence for denying such designation. In the event the Director of Public Works or his designee does not agree with the trade secret designation, the material shall be temporarily designated a trade secret and the owner or representative may request an appeal of the Public Works Department's decision in the manner in which all such appeals are handled in this ordinance.

Sec. 5-3 Reserved.

DIVISION 6 – ENFORCEMENT, PENALTIES, AND ABATEMENT

Sec. 6-1. Enforcement

(a) When the Director of Public Works or his designee finds that work done under any Land Disturbance permit for new and re-developments issued under the provisions of this Ordinance fails to conform to the approved Land Disturbance Permit, or that the work has not been done, the Director of Public Works or his designee may, as deemed necessary and after due process, by written Notice of Violation (NOV), direct conformity to said Permit(s). Actions may include:

- (1) issuing a written order to comply, to suspend work, or to revoke the permit issued;
- (2) seeking redress through legal action;
- (3) withholding the release of permanent electric power to the site; and/or
- (4) withholding other needed permits for the site.

The NOV shall serve as a legal requirement to remove the violation(s). The written NOV shall be provided to the owner or the person responsible for land disturbing activities stating the nature of the violation, the amount of time in which to correct deficiencies, the date on which an inspection will be made to make sure that corrective action has been performed, and the proposed penalty structure if corrective action is not taken by the inspection date. After the issuance of the NOV and following due process, the Director of Public Works or his designee is hereby given the authority to levy fines as described in this section.

(b) When the Director of Public Works or his designee determines that an owner has failed to maintain a stormwater management facility, written NOV shall be provided to the owner or the person in possession, charge or control of such property stating the nature of the violation, the amount of time in which to

correct deficiencies, the date on which an inspection will be made to make sure that corrective action has been performed, and the proposed penalty structure if corrective action is not taken. It shall be sufficient notification to deliver the notice to the person to whom it is addressed, or to deposit a copy of such in the United States Mail, properly stamped, certified and addressed to the address used for tax purposes. The NOV may address the entire site, or a specific portion of the site so as not to unduly impede the development of areas being managed for the control of stormwater runoff and associated pollutants.

- (c) When the Director of Public Works or his designee determines that an owner of any property is causing or partially causing flooding, erosion, or non-compliance with water quality standards or this Ordinance, upon providing valid proof of such impacts, the Director of Public Works or his designee can require owners to remove the proven impact in a concerted, prudent manner. A written NOV shall be issued to the owner containing the information stated above. Following the issuance of the NOV and due process, the Director of Public Works or his designee is hereby given the authority to levy fines as described in this section.
- (d) The County Attorney is hereby directed to take all legal actions necessary to correct situations described in (a), (b) and (c), including actions that are necessary to remove from the property such objectionable conditions constituting non-compliance with this Ordinance.
- (e) Nothing contained in this Ordinance shall impair the right or ability of the County Attorney to exercise any and all other remedies available, at law or in equity, including without limitation, the pursuit of injunctive relief, under emergency circumstances where there exists the danger of bodily injury or death.
- (f) The authorized enforcement agency or its appointed agent may obtain injunctive relief to enjoin violations of the provisions of this Ordinance, and any person damaged as a result of such violations may, upon a proper showing of such damages, obtain payment therefore by a civil action.
- (g) This Ordinance may be enforced by any other remedy of law or equity that the Public Works Department is authorized to pursue, to include the authorities and powers conferred to local governments by the General Assembly of South Carolina. The penalties and other remedies provided in this Ordinance are cumulative and not exclusive, and may be independently and separately pursued against the same person for the activity constituting a violation of this Ordinance. The enforcement of any remedy provided herein shall not prevent the enforcement of any other remedy or remedies in other provisions of this Code or other laws and regulations.
- (h) The Department of Public Works shall provide due process into the enforcement of violations so as to provide owners, lessee, and other responsible parties the abilities to resolve said violations in a timely matter before facing

finer and civil and criminal penalties. It is the intent of this Ordinance that violators be given appropriate due processes.

Sec. 6-2. Civil Penalties

Any person violating any provision of this ordinance shall be subject to a civil penalty subject to the penalty jurisdiction of magistrate's Court. Each separate day of a violation, constitutes a new and separate violation.

Sec. 6-3. Additional Legal Measures

(a) Where Lexington County is fined and/or placed under a compliance schedule by the state or federal government for a violation(s) of its NPDES permit, and Lexington County can identify the person(s) who caused such violation(s) to occur, Lexington County may pass through the penalty and cost of compliance to that person(s).

(b) The Lexington County Attorney may institute injunctive, mandamus or other appropriate action or proceedings at law or equity, including criminal conviction, for the enforcement of this Ordinance or to correct violations of this Ordinance, and any court of competent jurisdiction shall have the right to issue restraining orders, temporary or permanent injunctions, mandamus or other appropriate forms of remedy or relief.

Sect. 6-4. Corrective Action

In the event a violation of this Ordinance has not been corrected within the applicable time period for correction, Lexington County, or its contractor, may enter upon the lot or parcel of land and correct the violation, and the costs incurred as a result of such action (including inspection, administration, labor and equipment costs) shall be collected from the bond, if in place and sufficient to cover such costs, or shall become a lien upon the property and shall be collected in the same manner as Lexington County taxes are collected.

Sec. 6-5. Stop Work

The Director of Public Works, his designee, or other authorized personnel may issue a stop work order if it is found that a land disturbance activity is being conducted in violation of this Ordinance.

The stop work order may allow or require correction of NOV issues, but shall otherwise stop all other project related activities. Any person in violation of a stop work order is subject to payment of all fees, bonds, and penalties prior to the lifting of the stop work order.

Sec. 6-6. Permit Suspension and Revocation

A Land Disturbance permit may be suspended or revoked if one or more of the following violations have been committed:

- (a) violations of the conditions of the Land Disturbance Permit Application approval,
- (b) construction not in accordance with the letter or intent of the approved plans,
- (c) non-compliance with correction notice(s) or stop work order(s), or
- (d) the existence of an immediate danger to a downstream area in the judgment of the Director of Public Works or his designee.

Sec. 6-7 Criminal Penalties

In addition to any applicable civil penalties, any person who negligently, willfully or intentionally violates any provision of this Ordinance shall be guilty of a misdemeanor and shall be punished subject to the penalty jurisdictional of Magistrate Court. Each day of a violation shall constitute a new and separate offense.

Sec. 6-8 Reserved.

DIVISION 7 – VARIANCES FROM DESIGN REQUIREMENTS

The Director of Public Works, his designee, or other authorized personnel may grant a variance from the requirements of this ordinance if exceptional circumstances applicable to a site exist such that strict adherence to the provisions of the ordinance will result in unnecessary hardship and will not fulfill the intent of the ordinance. The Director of Public Works, his designee, or other authorized personnel may also grant credits to those design that seek to install BMPs which provide further water quality protection than the minimum standards required by this Ordinance. The Land Development Manual shall provide a process and guidelines for design credits as necessary. These provisions do not apply to areas within the floodplain.

A written request for a variance shall be required and shall state the specific variance sought and the reasons, with supporting data, a variance should be granted. The request shall include all information necessary to evaluate the proposed variance. Design credits must be clearly defined and documented in the permit application.

Sec. 7-1 Reserved.

DIVISION 8 – APPEALS

Sec. 8-1. Appeals Process

Any person aggrieved by a decision by the Director of Public Works or his designee may appeal the same by filing a written notice of appeal with the Planning Commission within (30) thirty days of the issuance of said decision. If the person to whom the decision or notice of violation is directed fails or neglects to appeal the notice of violation within (30) thirty days of the issuance of said decision or Notice of Violation, the decision or violation becomes final.

Sec. 8-2.

The Planning Commission will review the appeal and will either reverse or modify the decision or make the decision final. The notice of appeal shall state the specific reasons why the violation or decision of the Public Works Department is alleged to be in error.

Sec. 8-3.

The Planning Commission shall hear and determine such appeals in a quasi-judicial capacity within 30 days or such other times as may be mutually agreed upon and will render a decision within 10 working days after the appeal has been heard.

Sec. 8-4

Any person aggrieved by the decision of the Planning Commission may appeal the decision to the Lexington County Circuit Court in accordance with its rules and procedures.

Sec. 8-5 Reserved.

DIVISION 9 – CHARGES AND FEES

Sec. 9-1. Funding.

In addition to all other charges, fees, and penalties, Lexington County shall have the right to develop and impose a Stormwater Service Fee to fund implementation of this Stormwater Management Ordinance and its associated programs and plans. Establishment and revision of such fees shall be approved by the Lexington County Council.

Sec. 9-2. Connection to Conveyances.

The Public Works Department shall have the right to establish a schedule of appropriate fees for any person or property owner establishing a new discharge to waters of the State within Lexington County or to a wet weather conveyance. Such fee shall be payable as part of any permit application or submission, regulating the discharge of stormwater runoff (i.e. plan review fees). Permit fees shall be established on the basis of facility classes relating to the quantity and quality of permitted discharge. Establishment and revision of such fees shall be approved by the Lexington County Council.

Sec. 9-3 Plan Review.

Costs associated with plan review of land development construction documents other than those routinely performed by the Stormwater Division may be assessed a fee representing the cost in labor, equipment, and materials expended in the conduct of the review. Establishment and revision of such fees shall be approved by the Lexington County Council.

Sec. 9-4. Field inspection.

Costs associated with field inspection of land development or construction activities other than those routinely performed by the Public Works Department as part of compliance monitoring may be assessed a fee representing the cost in labor, equipment, and materials expended in the conduct of the inspection. Establishment and revision of such fees shall be approved by the Lexington County Council.

DIVISION 10 – FLOODPLAIN MANAGEMENT PROGRAM

Sec. 10-1. Compliance

No structure or land shall hereafter be located, extended, converted, or structurally altered without full compliance with the terms of this ordinance and other applicable regulations.

Sec. 10-2. Duties.

(a) The Floodplain Manager shall be responsible for day to day coordination, implementation and enforcement of this section of the Ordinance and the Floodplain Management Program. Without limitation, the Floodplain Manager shall have the following specific powers and duties:

- (1) Review all development permits to assure that the requirements of this ordinance have been satisfied.
- (2) Advise permittees that additional federal or State permits may be required,

and if specific federal or State permits are known, require that copies of such permits be provided and maintained on file with the development permit.

(3) Watercourse alterations

- a) Notify adjacent communities and the South Carolina Department of Natural Resources, Land Resources and Conservation Districts Division, State Coordinator for the National Flood Insurance Program, prior to any alteration or relocation of a watercourse, and submit evidence of such notification to the Federal Emergency Management Agency.
- b) Maintain written reports of maintenance to show that maintenance has been provided within the altered or relocated portion of said watercourse so that the flood-carrying capacity is not diminished. This maintenance must consist of a comprehensive program of periodic inspections, and routine channel clearing and dredging, or other related functions. The assurance shall consist of a description of maintenance activities, frequency of performance, and the local official responsible for maintenance performance. Records shall be kept on file for FEMA inspection.
- c) If the proposed project will impact the configuration of the watercourse, floodway, or base flood elevation for which a detailed Flood Insurance Study has been developed, the applicant shall apply for and must receive approval for a Conditional Letter of Map Revision with the Federal Emergency Management Agency prior to the start of actual construction.
- d) Within 60 days of completion of an alteration of a watercourse, referenced in the certification requirements, the applicant shall submit as-built certification, by a registered professional engineer, to the Federal Emergency Management Agency.
- e) Prevent encroachments within floodways unless the certification and flood hazard reduction provisions of the Stormwater Design Manual are met.
- f) Require development proposals for proposed developments prior to signing off on and CLOMRs or LOMRs.
- g) Cooperate with neighboring communities with respect to the management of adjoining floodplains and/or flood-related erosion areas in order to prevent aggravation of existing hazards.
- h) Notify adjacent communities prior to permitting substantial commercial developments and large subdivisions to be undertaken in areas of special flood hazard and/or flood-related erosion hazards.

i) Certification requirements

- 1) Obtain and review actual elevation (in relation to mean sea level) of the lowest floor of all new or substantially improved structures, in accordance with administrative procedures outlined in the Land Development Manual.
- 2) Obtain the actual elevation (in relation to mean sea level) to which the new or substantially improved structures have been floodproofed, in accordance with the floodproofing certification outlined in this section.
- 3) When floodproofing is utilized for a particular structure, obtain certifications from a registered professional engineer or architect in accordance with the non-residential construction requirements outlined in the Land Development Manual.

j) Where interpretation is needed as to the exact location of boundaries of the areas of special flood hazard (for example, where there appears to be a conflict between a mapped boundary and actual field conditions), make the necessary interpretation. The person contesting the location of the boundary shall be given a reasonable opportunity to appeal the interpretation as provided in this article.

k) Where a map boundary showing an area of special flood hazard and field elevations disagree, the base flood elevations for flood protection elevations (as found on an elevation profile, floodway data table, etc.) shall prevail. The correct information should be submitted to FEMA as per the map maintenance activity requirements outlined in the Land Development Manual.

l) When base flood elevation data or floodway data has not been provided in accordance with Section # Lexington County Floodplain Management Program, obtain, review, and reasonably utilize best available base flood elevation data and floodway data available from a federal, State, or other source, including data developed pursuant to the standards for subdivision proposals outlined in the Land Development Manual, in order to administer the provisions of this ordinance. Data from preliminary, draft, and final Flood Insurance Studies constitutes best available data from a federal, state, or other source. Data must be developed using hydraulic models meeting the minimum requirement of an NFIP approved model. If an appeal is pending on the study in accordance with 44 CFR Ch. 1, Part 67.5 and 67.6, the data does not have to be used.

m) When the exact location of boundaries of the areas special flood hazards conflict with the current, natural topography information at the site the property owner may apply and be approved for a Letter of Map Amendment (LOMA) by FEMA. The local administrator will maintain a copy of the Letter of Map Amendment issued from FEMA.

- n) Make on-site inspections of projects in accordance with the administrative procedures outlined Manual.
- o) Serve notices of violations, issue stop-work orders, revoke permits and take corrective actions in accordance with the administrative procedures in this ordinance.
- p) Maintain all records pertaining to the administration of this ordinance and make these records available for public inspection.
- q) Notify the South Carolina Department of Natural Resources Land, Water and Conservation Division, within six (6) months, of any annexations or detachments that include special flood hazard areas.
- r) The President issued Executive Order 11988, Floodplain Management May 1977. E.O. 11988 directs federal agencies to assert a leadership role in reducing flood losses and losses to environmental values served by floodplains. Proposed developments must go through an eight-step review process. Evidence of compliance with the executive order must be submitted as part of the permit review process.
- s) Perform an assessment of damage from any origin to the structure using FEMA's Residential Substantial Damage Estimator (RSDE) software to determine if the damage equals or exceeds 50 percent of the market value of the structure before the damage occurred.
- t) Perform an assessment of permit applications for improvements or repairs to be made to a building or structure equals or exceeds 50 percent of the market value of the structure before the improvement or repair is started. Cost of work counted for determining if and when substantial improvement to a structure occurs shall be cumulative for a period of five years. If the improvement project is conducted in phases the total of all cost associated with each phase, beginning with the issuance of the first permit, shall be utilized to determine whether "substantial improvement" will occur.

The market values shall be determined by one of the following methods:

- 1) the current assessed building value as determined by the county's assessor's office or the value of an appraisal performed by a licensed appraiser at the expense of the owner; or,
- 2) one or more certified appraisals from a registered professional licensed in accordance with the laws of South Carolina and the appraisal shall indicate actual replacement value of the building or structure in its pre-improvement condition, less depreciation for functionality and obsolescence and site improvements. The Marshall & Swift Residential

Cost Handbook shall be used to determine costs for buildings or structures.

- 3) Real Estate purchase contract within 12 months prior to the date of the application for a permit.

Sec. 10-3. General and Specific Standards.

Development may not occur in the floodplain where alternative locations exist due to the inherent hazards and risks involved in floodplain development. Before a permit is issued, the applicant shall demonstrate that new structures cannot be reasonably be located out of the floodplain and that encroachments onto the floodplain are minimized. In all areas of special flood hazard the provisions of the Land Development Manual shall apply:

It shall be the responsibility of the property owner, lessee or person responsible for land disturbing activities to provide adequate controls to meet the design and engineering standards.

Sec. 10-4. Variances.

The Planning Commission may grant a variance from the requirements of the Floodplain Management Section of this Ordinance as outlined in the Land Development Manual.

Sec. 10-5. Reserved.

DIVISION 11 – APPENDIX

Definitions

“Applicant” is a person, firm, governmental agency, partnership, or any other entity who seeks to obtain approval or a permit under the requirements of this Ordinance and who will be responsible for the land disturbing activity and related maintenance thereof.

“As-built drawings” are revised construction drawings that show in the installed location of the new facilities on a project, including the stormwater system. This term and “record drawings” shall be synonymous.

“Best Management Practices (BMPs)” are any structural or non-structural measure or facility used for the control of stormwater runoff, be it for quantity or quality control. BMPs also includes schedules of activities, prohibitions of practices, maintenance procedures, treatment requirements, operating procedures, and other management practices to control site runoff, spillage or leaks, sludge or waste disposal, drainage from raw material storage, or otherwise prevent or reduce the pollution of waters of the State.

“Construction” or “Construction Activity” is any activity involving clearing, grading, transporting, filling, or any other activity which causes land to be exposed to the danger of erosion, or which might create an alteration to an existing drainage way or other component of the stormwater system or facility.

“Director of Public Works” means the Director of the Lexington County Public Works Department.

“Developer” means any person who acts in his own behalf, or as an owner or as an agent for an owner of property, and who makes application for the permit necessary to disturb land or vegetation or to encroach upon a major drainage channel, or to encroach upon the designated floodplain.

“Erosion” means the general process by which soils or rock fragments are detached and moved by the action of wind, water, ice, and gravity.

“Easement” is an authorization by a property owner to the general public, a corporation, or a certain person or persons for the use of any designated part of his property for a specific purpose.

“Flood/flooding” is a temporary rise in the level of water which results in the inundation of areas not ordinarily covered by water.

“Illicit connection” means a connection to the Lexington County Stormwater System which results in a discharge that is not composed entirely of stormwater runoff except discharges pursuant to an NPDES permit (other than the NPDES permit for the Lexington County Stormwater System).

“Improper disposal” means any disposal other than through an illicit connection that results in an illicit discharge, including, but not limited to the disposal of used oil and toxic materials resulting from the improper management of such substances.

“Illicit discharge” or “Illegal discharge” means any activity which results in a discharge to the Lexington County Stormwater System or receiving waters that is not composed entirely of stormwater except (a) discharge pursuant to an NPDES permit (other than the NPDES for Lexington County) and (b) discharges resulting from the fire-fighting activities.

“Land Disturbance” is any activity involving clearing, grading, transporting, filling, or any other activity which causes land to be exposed to the danger of erosion, or which might create an alteration in the natural drainageway.

“Land Disturbance Permit” means the legal document allowing land to be disturbed from its existing condition.

“Land Disturbance Permit Application” means the set of drawings, specifications, design calculations, SWPPP, and other documents that comprise all of the information for the control of stormwater for land disturbances which is required as part of the NPDES land disturbance permit, granted by Public Works Department and by this Ordinance. Approval of this application constitutes the issuance of and “Land Disturbance Permit”.

“Lexington County Stormwater System” or “Stormwater System” or “Lexington County MS4” means the conveyance or system of conveyances (including roads with drainage systems, highways, right-of-way, municipal streets, catch basins, curbs, gutters, ditches, man-made channels, storm drains, detention ponds, and other stormwater facilities) which is (a) owned or operated by Lexington County; (b) designed or used for collecting or conveying stormwater; (c) not a combined sewer system; and (d) not part of a Publicly Owned Treatment Works (POTW).

“Lessee” means the person in a lease agreement with a property owner for use of the property.

“Low Impact Development (LID)” is a set of principles and design components used to manage stormwater runoff by mimicking natural conditions and limiting pollutant transport through source control.

“Maintenance” means any action necessary to preserve stormwater system component, including conveyances, facilities and BMPs in proper working condition, in order to serve the intended purposes set forth in this ordinance and to prevent structural failure of such components.

“MS4” means municipal separate storm sewer system.

“New Development” or “Re-Development” means any of the following actions undertaken by any person, including, without limitation, any public or private individual or entity:

- (a) division of a lot, tract, or parcels or other divisions by plat or deed;
- (b) the construction, installation, or alteration of land, a structure, impervious surface or drainage facility;
- (c) clearing, scraping, grubbing or otherwise significantly disturbing the soil, vegetation, mud, sand or rock of a site; or
- (d) adding, removing, exposing, excavating, leveling, grading, digging, burrowing, dumping, piling, dredging, or otherwise disturbing the soil, vegetation, mud, sand or rock of a site.

“NPDES” means National Pollutant Discharge Elimination System. See “Clean Water Act”

“NPDES permit” means the NPDES permit for stormwater discharges issued to Lexington County pursuant to the Clean Water Act and the federal stormwater discharge regulations (40 CFR 122.26) that allows for restricting pollutant loads as necessary to meet water quality standards.

“Outfall” or “Discharge point” means the point where Lexington County Stormwater System or other municipal and private systems discharges to waters of the State/United States.

“Owner” means any person who acts in his own behalf on an application for the permit necessary to disturb land or vegetation or to encroach upon a major drainage channel, or to encroach upon the designated floodplain and the person, if so designated by default or on legal documents, as the responsible party for maintenance of a stormwater system.

“Person” means any and all persons, natural or artificial and includes any individual, association, firm, corporation, business trust, estate, trust, partnership, two or more persons having a joint or common interest, state or federal or an agent or employee thereof, or any other legal entity.

“Pollutant” means sediment, bacteria, and nutrients which cause exceedances of water quality standards, dredged spoil, solid waste, incinerator residue, filter backwash, sewage, garbage, sewage sludge, munitions, chemical wastes, biological materials, radioactive materials, heat, wrecked or discarded equipment, rock, sand, cellar dirt, and industrial, municipal, and agricultural waste discharged into water.

“Property Owner” means the legal owner of the property.

“Public Works Department” means the Lexington County Public Works Department, the Director of Public Works or any of that department’s duly authorized representatives or designees.

“Receiving waters” means the waters into which the Lexington County Stormwater System outfalls flow and which are located within the jurisdictional boundaries of Lexington County and include, without limitation, any lakes, bays, sounds, ponds, impounding reservoirs, springs, wells, rivers, streams, creeks, , inlets, canals, and all other bodies of surface or underground water, natural or artificial, public or private.

“Regulation” means any regulation, rule or requirement prepared by and/or adopted by the Lexington County Council pursuant to this Ordinance.

“SWMP” means the Lexington County Stormwater Management Program, which contains components that are required as part of the NPDES stormwater permit. These components are documented in the SWMP Plan.

“Stormwater” means stormwater runoff, snowmelt runoff, and surface runoff and drainage.

“Stormwater management” means the collection, conveyance, storage, treatment and disposal of stormwater runoff in a manner to meet the objectives of this ordinance and its terms, including, but not limited to, measures that control the increased volume and rate of stormwater runoff and water quality impacts caused by manmade changes to the land.

“Stormwater management facility”, also referred to as BMPs, or structural BMPs, are any structure used for the control of stormwater runoff, be it for quantity or quality control.

“TMDL” is a regulatory value developed to represent the amount of a pollutant that a waterbody can incorporate while meeting water quality standards. TMDL are further defined as the legal document developed by EPA and SCDHEC designating the pollutant load a permitted discharge is allowed to input into a waterbody.

“Variance” means the modification of the minimum stormwater management requirements contained in this Ordinance and the SWMP for specific circumstances where strict adherence to the requirements would result in unnecessary hardship and not fulfill the intent of this Ordinance.

“Watercourse” is any natural or man-made conveyance used to transport runoff from one location to the next.

“Watershed” is a drainage area or drainage basin contributing to the flow of stormwater into a receiving watercourse or water body.

“Water Quality” means those characteristics of stormwater runoff that relate to the physical, chemical, biological, or radiological integrity of water.

“Water Quantity” means those characteristics of stormwater runoff that relate to the rate and volume of the stormwater runoff.

This Ordinance shall become effective on September 1, 2007.

Enacted this _____ day of _____, 2007

LEXINGTON COUNTY, SOUTH CAROLINA

William C. Derrick
Chairman, County Council

(SEAL)

ATTEST:

Clerk to Council

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

STATE OF SOUTH CAROLINA
COUNTY COUNCIL FOR LEXINGTON COUNTY
ORDINANCE NO. 07-07

AN ORDINANCE AUTHORIZING: (1) THE EXECUTION AND DELIVERY OF A FEE IN LIEU OF TAX AND INCENTIVE AGREEMENT BY AND AMONG LEXINGTON COUNTY, SOUTH CAROLINA (THE "COUNTY"), OTIS SPUNKMEYER, INC. (THE "COMPANY"), PURSUANT TO WHICH THE COUNTY SHALL COVENANT TO ACCEPT CERTAIN NEGOTIATED FEES IN LIEU OF *AD VALOREM* TAXES; (2) THE GRANT OF FUNDS FOR CONSTRUCTION OF CERTAIN INFRASTRUCTURE REQUIREMENTS IN CONNECTION WITH THE ESTABLISHMENT OF MANUFACTURING FACILITIES SERVING THE ECONOMIC DEVELOPMENT OF THE COUNTY; (3) THE BENEFITS OF A MULTI-COUNTY PARK TO BE MADE AVAILABLE TO THE COMPANY; AND (4) OTHER MATTERS RELATING THERETO.

WHEREAS, Lexington 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 thereof (the "Simplified FILOT Act") and Title 4, Chapter 1 of the Code (the "Multi-County Park Act") (collectively, the "Act"): (i) to enter into agreements with certain investors to construct, operate, maintain, and improve industrial and commercial facilities through which the economic development of the State of South Carolina (the "State") will be promoted by inducing industrial 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 with respect to such properties; (iii) to grant funds for construction of infrastructure requirements in connection with the establishment of manufacturing facilities serving the economic development of the county; and (iv) to create, in conjunction with one or more other counties, a multi-county industrial park in order to afford certain enhanced income tax credits to such investors; and

WHEREAS, Otis Spunkmeyer, Inc., a Delaware corporation, (the "Company") is considering making a significant investment in the County through the acquisition, improvement and equipping of certain manufacturing facilities within the County (the "Project"), and the Company anticipates that, should its plans proceed as expected, it will invest at least Seventeen Million Dollars (\$17,000,000) in personal property and Eight Million Dollars (\$8,000,000) in real property and will create approximately 72 new full-time jobs within the County by the end of the Initial Compliance Period (defined below); and

WHEREAS, the County has given due consideration to the economic development impact of the Project, has determined on the basis of the information supplied to it by the Company that the Project would subserve the purposes of the Act

and, would be directly and substantially beneficial to the County, the taxing entities of the County and the citizens and residents of the County and, pursuant to a Resolution adopted by the Council on February 13, 2007 (the "Resolution"), has made certain findings in accordance with the provisions of the Act; and

WHEREAS, in accordance with such findings and determinations and in consideration of the jobs and the investment created by the Company, the County wishes to induce the Company to undertake the Project by offering the inducements set forth in the Inducement and Millage Rate Agreement (the "Inducement Agreement") between the County and the Company heretofore approved by the Council by the Resolution; and

WHEREAS, the County and the Company have agreed to the specific terms and conditions of such arrangements as set forth in a Fee in Lieu of Tax and Incentive Agreement among the County and the Company (the "Incentive Agreement") the form of which presented to this meeting, which Incentive Agreement is to be dated as of June 30, 2007 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(H) of the Code, the findings and determinations set forth in the Inducement Resolution are hereby ratified and confirmed and the terms and conditions of the Inducement Agreement are hereby ratified and approved; provided, however, that in the event of any inconsistency between the Inducement Agreement and the Incentive Agreement, the provisions of the Incentive Agreement shall control.

Section 2. The County hereby agrees, subject to the investment and other requirements set forth herein and in the Act, to enter into the Incentive Agreement with the Company, whereby the Company will agree to pay a Negotiated FILOT (as defined herein) with respect to the Project in accordance with the terms of such Incentive Agreement. The Incentive Agreement will provide, *inter alia*, the following:

(a) In order to take advantage of the Negotiated FILOT, the Company must invest or cause others to invest at least Seventeen Million Dollars (\$17,000,000) in personal property and Eight Million Dollars (\$8,000,000) in real property (the "Minimum Contractual Investment Requirement") at the Project during the period commencing with the date of the Company's initial expenditure with respect to the Project, whether before or after the effective date of this Agreement, and ending on the fifth anniversary of the end of the property tax year in which the Company places in service the initial assets comprising the Project (the "Initial Compliance Period").

(b) To encourage the Company to increase its investment in the Project, if the Company meets the Minimum Contractual Investment Requirement by the end of the Initial Compliance Period, the period for completion of the Project shall be extended for two years beyond the Initial Compliance Period (such Initial Compliance Period, as so extended, referred to herein as the "Investment Period"), and the County hereby approves of such extension.

(c) (i) The Company shall pay a fee in lieu of ad valorem taxes calculated as provided in this Section 2(c) (the "Negotiated FILOT") for all property placed in service by the Company as part of the Project during the Investment Period. The annual Negotiated FILOT payments shall commence with respect to the property tax year in which the first assets comprising a part of the Project are placed in service and shall continue for a period of 20 years; provided that, if the Project is placed in service during more than one year, each year's investment during the Investment Period shall be subject to the Negotiated FILOT for a period of 20 years.

(ii) The Negotiated FILOT shall be determined using: (1) an assessment ratio of 7.0%, (2) a millage rate of 274.738 mills, which is the millage rate applicable as of June 30, 2007, and which rate shall be fixed for the entire term of the Incentive Agreement, and (3) the fair market value of the Project, determined in accordance with the Act.

(iii) If the Company fails to invest or cause to be invested an amount equal to the Minimum Contractual Investment Requirement by the end of the Initial Compliance Period, the County shall be entitled to terminate the Incentive Agreement, adjust the incentives provided hereunder prospectively and/or require the Company to pay all or part of the difference between the Negotiated FILOT theretofore paid and the amount which would have been paid but for the Incentive Agreement.

Section 3. The County will diligently take all reasonable acts to insure that the Project will be included, and will remain, within the boundaries of a multi-county industrial or business park pursuant to the provisions of the Multi-County Park Act on terms which provide, for all jobs created by the Company in the County during the Investment Period, any additional jobs tax credits afforded by the laws of the State for projects located in multi-county industrial or business parks.

Section 4. Subject to the County's prerogatives under the law as it pertains to the budget process, the County shall provide grant funds in the amount of Two Hundred Fifty Thousand Dollars (\$250,000) to reimburse costs of on-site infrastructure required for the Project, such grant funds to be administered in accordance with the terms of the Incentive Agreement. If the Company fails to maintain or cause to be maintained the Minimum Contractual Investment Requirement during the period commencing with the first year the Minimum Contractual Investment Requirement is met through June 30, 20__, the County shall be entitled to terminate the Incentive Agreement, adjust the incentives provided thereunder prospectively and/or require the Company to repay all or part of such grant. The County also will use its best efforts to secure One Hundred

Thirty-Five Thousand Dollars (\$135,000) in funds for infrastructure required for the Project site from "set aside funds" administered by the South Carolina Advisory Coordinating Council for Economic Development.

Section 5. The form, provisions, terms, and conditions of the Incentive Agreement presented to this meeting and filed with the Clerk to Council be and they are hereby approved, and all of the provisions, terms, and conditions thereof are hereby incorporated herein by reference as if the Incentive Agreement were set out in this Ordinance in its entirety. The Incentive Agreement is to be in substantially the form now before this meeting and hereby approved, or with such changes therein as shall not materially adversely affect the rights of the County thereunder and as shall be approved by the officials of the County executing the same, their execution thereof to constitute conclusive evidence of their approval of any and all changes or revisions therein from the form of the Incentive Agreement now before this meeting.

Section 6. The Chairman of the Council and the Clerk to Council, for and on behalf of the County, is hereby authorized, empowered, and directed to do any and all things necessary or proper to effect the execution and delivery of the Incentive Agreement, the performance of all obligations of the County under and pursuant to the Inducement Agreement and the Incentive Agreement, and to carry out the transactions contemplated thereby and by this Ordinance.

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

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

[End of Ordinance; execution page to follow.]

Enacted and approved this _____ day of _____, 2007.

LEXINGTON COUNTY, SOUTH CAROLINA

By: _____
William C. Derrick, Chairman, County Council
Lexington County, South Carolina

[SEAL]

Attest:

By: _____
Diana W. Burnett, Clerk to County Council
Lexington County, South Carolina

First Reading: _____, 2007
Second Reading: _____, 2007
Public Hearing: _____, 2007
Third Reading: _____, 2007

FEE IN LIEU OF TAX AND INCENTIVE AGREEMENT

between

LEXINGTON COUNTY, SOUTH CAROLINA

and

OTIS SPUNKMEYER, INC.

Dated as of June 30, 2007

ARTICLE I	DEFINITIONS.....	2
	Section 1.01. Definitions.....	2
	Section 1.02. References to Agreement.....	6
ARTICLE II	REPRESENTATIONS AND WARRANTIES.....	6
	Section 2.01. Representations and Warranties by County.....	6
	Section 2.02. Representations and Warranties by Company.....	7
ARTICLE III	COVENANTS OF COUNTY	8
	Section 3.01. Agreement to Accept FILOT Payments	8
	Section 3.02. Additional County Undertakings	8
	Section 3.03. Commensurate Benefits	8
ARTICLE IV	COVENANTS OF COMPANY	9
	Section 4.01. Investment in Project.	9
	Section 4.02. Failure to Comply with Investment Commitments.....	10
	Section 4.03. Payment of Administration Expenses.....	11
	Section 4.04. Use of Project for Lawful Activities.....	11
	Section 4.05. Maintenance of Existence.....	11
	Section 4.06. Records and Reports	12
ARTICLE V	FEEES IN LIEU OF TAXES.....	13
	Section 5.01. Payment of Fees in Lieu of Ad Valorem Taxes.....	13
	Section 5.02. Statutory Lien.....	17
ARTICLE VI	THIRD PARTY ARRANGEMENTS	17
	Section 6.01. Conveyance of Liens and Interests; Assignment.....	17
	Section 6.02. Sponsors and Sponsor Affiliates.....	18
ARTICLE VII	TERM; TERMINATION.....	19
	Section 7.01. Term.....	19
	Section 7.02. Termination.....	19
ARTICLE VIII	EVENTS OF DEFAULT AND REMEDIES	19
	Section 8.01. Events of Default by Company.....	19
	Section 8.02. Remedies on Event of Default by Company.....	19
	Section 8.03. Defaulted Payments	20

Section 8.04.	Application of Monies upon Enforcement of Remedies against Company	20
Section 8.05.	Default by County.....	20
ARTICLE IX	MISCELLANEOUS	20
Section 9.01.	Rights and Remedies Cumulative.....	20
Section 9.02.	Successors and Assigns.....	21
Section 9.03.	Notices; Demands; Requests.....	21
Section 9.04.	Applicable Law	22
Section 9.05.	Entire Understanding	22
Section 9.06.	Severability	22
Section 9.07.	Headings and Table of Contents; References	22
Section 9.08.	Multiple Counterparts	22
Section 9.09.	Amendments	22
Section 9.10.	Waiver	22
Section 9.11.	Further Proceedings	22
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 June 30, 2007, between LEXINGTON COUNTY, SOUTH CAROLINA (the "County"), a body politic and corporate and a political subdivision of the State of South Carolina, and OTIS SPUNKMEYER, INC., a corporation organized and existing under the laws of the State of Delaware, acting for itself, any affiliates or other project sponsors (the "Company");

WITNESSETH:

WHEREAS, Lexington County, South Carolina (the "County"), acting by and through its County Council (the "Council"), is authorized and empowered under and pursuant to the provisions of the Code of Laws of South Carolina, 1976, as amended through the date hereof (the "Code"), particularly Title 12, Chapter 44 (the "Simplified FILOT Act"); and Title 4, Chapter 1 of the Code (the "Multi-County Park Act") (collectively, the "Act"): (i) to enter into agreements with certain investors to construct, operate, maintain, and improve industrial and commercial facilities through which the economic development of the State of South Carolina (the "State") will be promoted by inducing industrial 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 with respect to such properties; (iii) to grant funds for construction of infrastructure requirements in connection with the establishment of manufacturing facilities serving the economic development of the county; and (iv) to create, in conjunction with one or more other counties, a multi-county industrial park in order to afford certain enhanced income tax credits to such investors; and

WHEREAS, the Company is considering significant investment in the County through the acquisition, improvement and equipping of certain manufacturing facilities within the County (the "Project"), and the Company anticipates that, should its plans proceed as expected, it will invest at least Seventeen Million Dollars (\$17,000,000) in personal property and Eight Million Dollars (\$8,000,000) in real property and will create approximately 72 new full-time jobs within the County by the end of the Initial Compliance Period (defined below); 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 County adopted a Resolution on February 27, 2007, pursuant to which the County and the Company entered into an Inducement and Millage Rate Agreement ("Inducement Agreement"), whereby the Company agreed to locate the Project within the boundaries of the County and the County agreed to provide the FILOT benefits, a grant of funds for construction of certain infrastructure, and multi-county industrial or business park benefits as described herein; and

WHEREAS, the County 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.

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

ARTICLE I

DEFINITIONS

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

“Act” shall mean, collectively, the FILOT Act and the Multi-County Park Act.

“Administration Expenses” shall mean the reasonable and necessary expenses incurred by the County in the fulfillment of its obligations under this Agreement and in the implementation of its terms and provisions, including attorneys’ fees at the hourly rates which are standard for the applicable legal services to the County, but excluding expenses incurred by the County in defending either challenges to the incentives provided herein by third parties or suits brought by the Company under **Section 8.05** hereof; provided, however, that no such expense shall be considered an Administration Expense unless the County and the Company shall have first agreed, prior to the County incurring such expense, as to the maximum amount thereof or as to the basis for which such expenses will be incurred, and that the County shall have furnished to the Company an itemized statement of all expenses incurred and provided, further, that nothing herein shall be construed as prohibiting the County from engaging the counsel of its choice for matters deemed necessary and prudent by the County.

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

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

“Co-Investor” shall mean any Sponsor or Sponsor Affiliate within the meaning of Sections 12-44-30(A)(18) and (19) of the Code, any Corporate Affiliate of the Company or of any such Sponsor or Sponsor Affiliate, any developer in a build-to-suit arrangement with respect to the Project, any lessor of equipment or other property comprising a part of the Project, any financing entity or other third party investing in or providing funds for the Project. The Company shall notify the County in writing of the identity of any Sponsor, Sponsor Affiliate or other Co-Investor and shall, to the extent the Company and any such Co-Investor intend to extend the benefits of the Negotiated FILOT to property owned by such Co-Investor pursuant to

Section 6.02 hereof, comply with any additional notice requirements, or other applicable provisions, of the Act. As of the date of original execution and delivery of this Agreement, _____ is the only Co-Investor.

"Company" shall mean Otis Spunkmeyer, Inc., a Delaware corporation, and any surviving, resulting, or transferee entity in any merger, consolidation or transfer of assets permitted under **Sections 4.05 or 6.01** hereof or any other assignee hereunder which is designated by the Company and approved by the County.

"Corporate Affiliate" shall mean any corporation, limited liability company, partnership or other Person or entity which owns all or part of the Company or which is owned in whole or in part by the Company or by any partner, shareholder or owner of the Company.

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

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

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

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

"Economic Development Property" shall mean 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 Code, excluding specifically any Non-Qualifying Property.

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

"Existing Property" shall mean property proscribed from becoming Economic Development Property under this Agreement pursuant to Section 12-44-110 of the Code, including without limitation property which has been subject to *ad valorem* taxes in the State prior to commencement of the Investment Period and property included in the Project as part of the repair, alteration, or modification of such previously taxed property; provided, however, that Existing Property shall not include: (a) the Land; (b) property acquired or constructed by or on behalf of the Company 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; (c) property purchased by or on behalf of the Company 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 invests, or causes to be invested, at least an additional \$45,000,000 in the Project, exclusive of the property identified in this subsection (c); or (d) modifications which constitute an expansion of the real property portion of Existing Property, all as determined pursuant to Section 12-44-110 of the Code.

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

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

“*FILOT Payments*” or “*FILOT Revenues*” shall mean the payments to be made by the Company pursuant to **Section 5.01** hereof.

“*Initial Compliance Period*” shall mean the period commencing with the date of the Company's initial expenditure with respect to the Project and ending on the fifth anniversary of the end of the Property Tax Year in which the Company places in service the initial assets comprising the Project, all as specified in Section 12-44-30(13) of the Code. The parties anticipate that the initial phase of the Project will be placed in service in the Property Tax Year ending on [June 30, 2007] and that therefore, the end of the Initial Compliance Period will be [June 30, 2012].

“*Investment Maintenance Requirement*” shall mean aggregate investment in the Project by the Company and all Co-Investors of not less than \$8,000,000 in real property and not less than \$17,000,000 in personal property during the period commencing with the first year that the Minimum Contractual Investment Requirement is met and ending on **June 30, 20__**; provided that, depreciation shall be disregarded in determining compliance with this requirement. Initial investment in the Project and investment in all Replacement Property and all property added to the Project after the Minimum Contractual Investment Requirement has been met, regardless of whether such property constitutes Economic Development Property, shall count toward this Investment Maintenance Requirement.

“*Investment Period*” shall mean the period for completion of the Project, which shall be equal to the Initial Compliance Period; provided, however, that, if the aggregate investment in the Project equals or exceeds the Minimum Contractual Investment Requirement on or before the end of the Initial Compliance Period, the Investment Period shall automatically be extended to the seventh anniversary of the end of the Property Tax Year in which the Company places in service the initial assets comprising the Project; provided further that there shall be no extension of the period for meeting the Minimum Statutory Investment Requirement beyond the Initial Compliance Period, all determined as specified in Section 12-44-30(13) of the Code. The parties anticipate the Investment Period as so extended will end on June 30, 2014.

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

“*Minimum Contractual Investment Requirement*” shall mean investment prior to the end of the Initial Compliance Period of not less than \$17,000,000 in personal property and not less than \$8,000,000 in real property (without regard to subsequent depreciation) in the aggregate by the Company and any Co-Investor in assets comprising the Project and consisting of property which is subject to either *ad valorem* taxes or FILOT Payments.

"Minimum Statutory Investment Requirement" shall mean investment with respect to the Project by any one of the Company, any other Sponsor or any Sponsor Affiliate of not less than \$5,000,000 prior to the end of the Initial Compliance Period.

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

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

"Multi-County Park Agreement" shall mean that certain Multi-County Park Agreement between the County, and [Calhoun] County, South Carolina dated as of _____, _____, as amended, supplemented, or replaced from time to time.

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

"Non-Qualifying Property" shall mean that portion of the facilities located on the Land and consisting of: (i) Existing Property; (ii) except as to Replacement Property, property which the Company 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 FILOT Act, including without limitation property as to which the Company 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 constructed thereon; (ii) all machinery, equipment, furnishings and other personal property acquired by or on behalf of the Company 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 or acquired, only to the extent placed in service during the Investment Period, and the term Project shall be deemed to exclude any Existing Property or other Non-Qualifying Property.

"Property Tax Year" shall mean the annual period which is equal to the fiscal year of the Company, *i.e.*, the period ending on June 30 of each year.

"Released Property" shall include Economic Development Property which is scrapped, sold, disposed of, or released from this Agreement by the Company pursuant to **Section 4.01(e)**

hereof and Section 12-44-50(B) of the Code; any portion of the Economic Development Property constituting infrastructure which the Company dedicates to the public use within the meaning of Section 12-6-3420(C) of the Code; and any Economic Development Property damaged, destroyed, or taken by process of eminent domain and not restored or replaced.

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

“*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(A)(18) or (19) and Section 12-44-130 of the Code if the statutory investment requirements are met. Initially, the only Sponsors or Sponsor Affiliates are Otis Spunkmeyer, Inc. and _____.

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

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

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

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

ARTICLE II

REPRESENTATIONS AND WARRANTIES

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

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

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

(d) To the best knowledge of the undersigned representatives 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 undersigned representatives 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 Company. The Company makes the following representations and warranties as the basis for the undertakings on its part herein contained:

(a) The Company is a corporation validly existing and in good standing under the laws of the State of Delaware and 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 June 30, 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 primarily as a manufacturing facility.

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

(d) No actions, suits, proceedings, inquiries, or investigations known to the undersigned representatives of the Company are pending or threatened against or affecting the Company in any court or before any governmental authority or arbitration board or tribunal, which 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.

ARTICLE III

COVENANTS OF COUNTY

Section 3.01. Agreement to Accept 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 Economic Development Property until this Agreement expires or is sooner terminated.

Section 3.02. Additional County Undertakings.

(a) The County will designate the Project as part of a Multi-County Park pursuant to the Multi-County Park Act and will, to the extent permitted by law, use its best, reasonable efforts to maintain such designation on terms which provide any additional job tax credits afforded by the laws of the State for projects located within multi-county industrial or business parks for all jobs created by the Company during the Investment Period.

(b) The County hereby agrees, **subject to the County's prerogatives under the law as it pertains to the budget process**, to provide grant funds in the amount of Two Hundred Fifty Thousand Dollars (\$250,000) to reimburse costs of on-site infrastructure required for the Project, such grant funds to be paid to or to the order of the Company upon completion of the building in which the Project will be located.

(c) The County also will use its best efforts to secure One Hundred Thirty-Five Thousand Dollars (\$135,000) in grant funds for infrastructure required for the Project site from "set aside funds" administered by the South Carolina Advisory Coordinating Council for Economic Development.

Section 3.03. Commensurate Benefits. The parties acknowledge the intent of this Agreement, in part, is to afford the Company the benefits specified in this Article III in consideration of the Company's decision to locate the Project within the County, and this Agreement has been entered into in reliance upon the enactment of the Act and the County's compliance with the requirements thereof. In the event that a court of competent jurisdiction holds that the Act is unconstitutional or this Agreement or agreements similar in nature to this 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 in any material respect, then at the request of the Company, the County agrees to use its best, reasonable efforts to extend to the Company the intended benefits of this Agreement and agrees, if requested, to enter into a lease purchase agreement with the Company pursuant to Section 12-44-160; Title 4, Chapter 29 or Title 4, Chapter 12 of the Code, as applicable, or to take such other steps as may be appropriate to extend to the Company the intended benefits of this Agreement. The Company acknowledges, if a court of competent jurisdiction holds all or part of

the FILOT Act is unconstitutional or otherwise illegal, the FILOT Act provides the Company must transfer the Economic Development Property to the County within 180 days following such determination in order for the Negotiated FILOT benefits to continue to apply. In such lease purchase agreement, the County, upon the conveyance of title to the Project to the County at the expense of the Company, agrees to lease the Project to the Company.

ARTICLE IV

COVENANTS OF COMPANY

Section 4.01. Investment in Project.

(a) The Company hereby agrees to acquire, or cause to be acquired, the Project, as the same shall be determined from time to time by the Company in its sole discretion, and to comply with, or cause to be complied with, the Minimum Contractual Investment Requirement and the Investment Maintenance Requirement. As required by Section 12-44-30(2) of the Code, at least a portion of the assets 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 executed and delivered, *i.e.* the Property Tax Year ending on June 30, 2011.

(b) Expenditures by Co-Investors shall, together with expenditures by the Company, count toward all investment requirements set forth in this Agreement, including, the Minimum Contractual Investment Requirement, the Investment Maintenance Requirement and, to the full extent permitted by the FILOT Act, the Minimum Statutory Investment Requirement. Aggregate investment shall generally be determined by reference to the Property Tax Returns of the Company and any Co-Investor pertaining to the Project and filed with respect to each Property Tax Year during the Investment Period without regard to depreciation.

(c) To encourage the Company to increase its investment in the Project, the County has agreed that, if the aggregate investment in the Project reaches the Minimum Contractual Investment Requirement, the Investment Period shall be automatically extended by two (2) years past the end of the Initial Compliance Period, and the County hereby agrees to such extension. There shall be no extension, however, beyond the Initial Compliance Period of the period for meeting the Minimum Statutory Investment Requirement. As extended, the Investment Period is anticipated to extend through **June 30, 2014**.

(d) The Company and/or its designated Co-Investors shall retain title to its respective portion of the Project throughout the Term of this Agreement, and the Company and any Co-Investor shall have full right to mortgage or encumber the Project in connection with any financing transactions.

(e) The Company 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 may, at its own expense, add to the Project all such real and personal property as the Company in its discretion deems useful or desirable, including Economic Development Property qualifying for the Negotiated FILOT under **Section 5.01** hereof without any limit as to the amount thereof.

(ii) Subject to the provisions of **Sections 4.02(b), 5.01(f)(ii) and 8.01** hereof, in any instance when the Company in its discretion determines any items included in the Project, including any Economic Development Property and any portion of the Land, have become inadequate, obsolete, worn out, unsuitable, undesirable, or unnecessary for operations at the Project, the Company may remove such items or portions of the Land from the Project and sell, trade in, exchange, or otherwise dispose of them as a whole or in part without the consent of the County.

(iii) The Company may, at any time and in its discretion by written notice to the County, remove any Economic Development Property, real or personal, from the Negotiated FILOT set forth in this Agreement and retain such property for use as part of its operations in the County, and thereafter such property will be subject to ad valorem taxes.

(iv) If the Company sells, leases, or otherwise disposes of any portion of, or adds any real property to, the Land, the Company shall deliver to the County, within 30 days thereafter, a new **Exhibit A** to this Agreement.

(v) All Economic Development Property sold, leased or otherwise disposed of under this Section shall be deemed Released Property for purposes of this Agreement.

Section 4.02. Failure to Comply with Investment Commitments.

(a) If the Company fails to comply with the Minimum Contractual Investment Requirement, the Investment Period shall not be extended pursuant to **Section 4.01(c)** above and the County shall have the right to:

(i) terminate or adjust the incentives specified herein prospectively;
and

(ii) require the Company to repay all or part of the difference between the Negotiated FILOT theretofore paid and the amount which should have been paid but for this Agreement.

(b) If the Company complies with the Minimum Contractual Investment Requirement, but fails to comply with the Investment Maintenance Requirement, the County shall have the right to:

(i) terminate or adjust the incentives specified herein prospectively;
and

(ii) require the Company to repay all or part of the grant made by the County pursuant to **Section 3.02(b)** hereof.

(c) Any amounts due retroactively to the County under this **Section 4.02** shall be paid within one hundred eighty (180) days following receipt by the Company of notice from the County that such amounts are due.

Section 4.03. Payment of Administration Expenses. The Company will reimburse the County from time to time for its Administration Expenses promptly upon written request therefor, but in no event later than sixty (60) days after receiving written notice from the County specifying the nature of such expense and requesting the payment of the same. The County acknowledges it imposes no charges in the nature of impact fees or recurring fees in connection with the incentives authorized by this Agreement, and, aside from the attorneys' fees, the County anticipates no out of pocket expenses in connection with this Agreement and the transactions authorized hereby. The parties understand that counsel to the County has estimated its fees and other expenses for review of this Agreement, the Inducement and Millage Rate Agreement, the Multi-County Park Agreement and all resolutions, ordinances and other documentation related thereto at \$ _____.

Section 4.04. Use of Project for Lawful Activities. During the Term of this Agreement, the Company shall use the Project as it deems fit for any lawful purpose.

Section 4.05. Maintenance of Existence. Unless the County shall consent otherwise, which consent shall not be unreasonably withheld, 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 corporation, or the corporation 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, every payment obligation of the Company herein and the performance of every covenant of this Agreement on the part of the Company to be performed or observed;

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

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

Upon any consolidation or merger or any conveyance or transfer of all or substantially all of the Company's assets in accordance with this Section, the successor corporation 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 corporation 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 Economic Development Property may cause the Economic Development 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 agrees to maintain such books and records with respect to the Project as will permit the identification of those portions of the Project which it places in service in each Property Tax Year during the Investment Period, the amount of investment with respect thereto, computations of all Negotiated FILOT Payments made hereunder and to comply with all reporting requirements of the State and the County applicable to Economic Development Property under the Act, including without limitation the reports required by 12-44-90 of the Code (collectively, "Filings"); provided, however, that the parties hereby waive in its entirety the requirement under Section 12-44-55 of the Code for a recapitulation of the terms of this Agreement. Specifically, the Company shall provide the following:

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

(b) The Company shall cause a copy of this Agreement, as well as a copy of the completed Form PT-443 required by the Department of Revenue, to be filed within thirty (30) days after the date of execution and delivery hereof with the County Auditor and the County Assessor of the County and of each 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 may, by clear, written designation, conspicuously marked, designate with respect to any Filings delivered to the County segments thereof that the Company believes contain proprietary, confidential, or trade secret matters. The County shall comply with all reasonable, written requests made by the Company with respect to maintaining the confidentiality of such designated segments. Except to the extent required by law, the County shall not knowingly and voluntarily release information, which has been designated as confidential or proprietary by the Company.

ARTICLE V

FEES IN LIEU OF TAXES

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

(a) In accordance with the Act, the parties hereby agree, during the Term hereof, there shall be due annually with respect to that portion of the Project constituting Economic Development Property, whether owned by the Company or by a Sponsor or Sponsor Affiliate, a Negotiated FILOT 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 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 Economic Development Property to its tax rolls, will be due on **January 15, [2009]**. If the Company designates any Sponsor or Sponsor Affiliates, as the same shall have been consented to by the County pursuant to **Section 6.02** hereof, the Company must notify the County in writing at the time of such designation as to whether such Sponsor or Sponsor Affiliate shall be primarily liable for the FILOT Payments hereunder. Unless and until such notification is received, and the County consents in writing, the Company shall be primarily liable for all FILOT Payments to the extent set forth hereinabove in this paragraph (a).

(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 Economic Development Property, the annual Negotiated FILOT Payments shall be payable for a period of 20 years. Accordingly, if such Economic Development Property is

placed in service during more than one year, each year's investment during the Investment Period shall be subject to the Negotiated FILOT for a period of 20 years.

(ii) The Negotiated FILOT shall be calculated using (1) an assessment ratio of 7%; (2) a millage rate of 274.738 mills, which is the millage rate applicable as of June 30, 2007, which rate shall be fixed in accordance with Section 12-44-50(A)(1)(b)(i) of the Code for the entire term of this Agreement; and (3) the fair market value of such Economic Development Property as determined in accordance with Section 12-44-50(A)(1)(c) of the Code, 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).

(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 Economic Development 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 disposes of any part of the Economic Development Property within the meaning of Section 12-44-50(B) of the Code 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 Economic Development Property or any portion thereof is damaged or destroyed, lost or stolen, or the subject of condemnation proceedings, which damage, destruction, loss, theft and/or condemnation would substantially impair the value of the Project or such portion thereof;

(iii) to increase such payments in the event the Company adds any Economic Development Property (other than Replacement Property) to the Project; or

(iv) to adjust such payments if the Company elects to convert any portion of the Economic Development Property from the Negotiated FILOT to *ad valorem* taxes, as permitted by Section 4.01(e)(iii).

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

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

(ii) The Company shall maintain, or cause to be maintained, records sufficient to identify all Replacement Property, 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 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 Economic Development 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 benefits commensurate with those intended under this Agreement as then permitted by law, including without limitation any benefits afforded under Title 4, Chapter 12 and Title 4, Chapter 29 of the Code, as applicable, to the extent allowed by law. Absent the legal authorization to effect such reformation, the Company and the County agree that there shall be due hereunder with respect to the portion of the Economic Development Property affected by such circumstances *ad valorem* taxes and that, to the extent permitted by law, the Company 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 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 with respect to the portion of the Economic Development Property in question an amount equal to the difference between the Negotiated FILOT Payments theretofore actually paid and the amount which would have been paid as *ad valorem* taxes, together with interest on such deficiency as provided in Section 12-54-25(D) of the Code (a "Deficiency Payment").

(f)

(i) In the event that the investment in the Project is insufficient to satisfy the Minimum Statutory Investment Requirement, then all Negotiated FILOT Payments shall revert retroactively to *ad valorem* taxes, calculated as set forth in paragraph (e) above, and a Deficiency Payment shall be due and payable with respect to FILOT Payments theretofore made. In the event that the aggregate investment in the Project does not exceed \$10,000,000 by the end of the Initial Compliance Period and any Sponsor or Sponsor Affiliate does not satisfy the Minimum Statutory Investment Requirement solely through its own direct investment in the Project, then the Negotiated FILOT Payments with respect to that portion of the Project owned by such Sponsor or Sponsor Affiliate shall revert retroactively to *ad valorem* taxes calculated as set forth in paragraph (e) above, and such Sponsor or Sponsor Affiliate shall owe a Deficiency Payment with respect to 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 Code 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 Company's investment in the Project based on an income tax basis without regard to depreciation falls below the Minimum Statutory Investment Requirement, the Project shall thereafter be subject to *ad valorem* taxes, calculated as set forth in paragraph (e) above.

(iii) If the investment in the Project does not comply with the Minimum Contractual Investment Requirement or the Investment Maintenance Requirement, then the County shall have the rights specified in **Section 4.02** hereof.

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

(g) Except as otherwise set forth in this Agreement or as otherwise required by the Act, any amounts due to the County under this **Section 5.01** as a Deficiency Payment or other retroactive payment shall be paid within one hundred eighty (180) days following receipt by the Company of notice from the County that such a Deficiency Payment or other retroactive payment is due. 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 as it would have with respect to *ad valorem* taxes, and the County's rights arising under this **Section 5.01** prior to the time of such termination shall survive any such termination.

Section 5.02. Statutory Lien. The parties acknowledge the County's right to receive FILOT Revenues hereunder shall have a statutory lien with respect to the Economic Development Property pursuant to Section 12-44-90(E) of the Code 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 Company 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 Economic Development Property 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 Economic Development Property, 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 Economic Development Property, as long as the transferee in any such arrangement leases the Economic Development Property in question to the Company or any of its Corporate Affiliates or operates such assets for the Company or any of its Corporate Affiliates or is leasing such the Economic Development Property in question from the Company or any of its Corporate Affiliates. In order to preserve the benefits of the Negotiated FILOT hereunder with respect to property so transferred: (i) except in connection with any transfer to an Corporate Affiliate of the Company, or transfers pursuant to clause (b) above (as to which such transfers the County hereby consents), the Company shall first obtain the written consent of the County; (ii) except when a financing entity which is the income tax owner of all or part of the Economic Development Property is the transferee pursuant to clause (b) above and such financing entity assumes in writing the obligations of the Company hereunder, or when the County consents in writing or when the transfer relates to Released Property pursuant to **Section 4.01(e)** hereof, no such transfer shall affect or reduce any of the obligations of the Company hereunder; (iii) to the extent the transferee or financing entity shall become obligated to pay make Negotiated FILOT payments hereunder, the transferee shall assume the then current basis of the Company (or prior transferee) in the Economic Development Property transferred; (iv) the Company, transferee or financing entity shall, within sixty (60) days thereof, furnish or cause to

be furnished to the County and the Department of Revenue a true and complete copy of any such transfer agreement; and (v) the Company and the transferee shall comply with all other requirements of the Transfer Provisions.

Subject to County consent when required herein, and at the Company's expense, the County agrees to 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 under this Agreement and/or any release of the Company pursuant to this **Section 6.01**.

The Company acknowledges such a transfer of an interest under this Agreement or in the Economic Development Property may cause all or part of the Economic Development 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 6.02. Sponsors and Sponsor Affiliates. The Company may designate from time to time Sponsors or Sponsor Affiliates pursuant to the provisions of Sections 12-44-30(18) or (19), respectively, and Section 12-44-130 of the Code, 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 Corporate 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 (18) or (19) and Section 12-44-130 of the Code must be approved by Resolution of the County Council. To the extent that a Sponsor or Sponsor Affiliate invests an amount equal to the Minimum Statutory Investment Requirement at the Project prior to the end of the Initial Compliance Period the investment by such Sponsor or Sponsor Affiliate shall qualify for the Negotiated FILOT payable under **Section 5.01** hereof (subject to the other conditions set forth therein) in accordance with Section 12-44-30(18) of the Code. To the extent that the aggregate investment in the Project prior to the end of the Initial Compliance Period by the Company, all Sponsors and Sponsor Affiliates and, to the extent provided by law, other Co-Investors exceeds \$10,000,000 as provided in Section 12-44-30(18) of the Code, 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 Statutory Minimum Requirement. The Company shall provide the County and the Department of Revenue with written notice of any Sponsor or Sponsor Affiliate designated pursuant to this **Section 6.02** within ninety (90) days after the end of the calendar year during which any such Sponsor or Sponsor Affiliate has placed in service assets to be used in connection with the Project, all in accordance with Section 12-44-130(B) of the Code.

ARTICLE VII

TERM; TERMINATION

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

Section 7.02. Termination. The County and the Company may agree to terminate this Agreement at any time, or the Company, may, at its option, terminate this Agreement at any time, in which event the Project shall be subject to *ad valorem* taxes from the date of termination. As provided in **Sections 4.02, 5.01(f) and 8.01** of this Agreement, the County may terminate this Agreement if the Company fails to comply, or cause compliance with, the Minimum Contractual Investment Requirement, the Investment Maintenance Requirement or the Minimum Statutory Investment Requirement.

ARTICLE VIII

EVENTS OF DEFAULT AND REMEDIES

Section 8.01. Events of Default by Company. Any one or more of the following events (herein called an "Event of Default", or collectively "Events of Default") shall constitute an Event of Default by the Company:

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

(b) if default shall be made by the Company 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 Company written notice of such default; provided, the County may, in its discretion, grant the Company a longer period of time as necessary to cure such default if the Company 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 Company has contested the occurrence of such default.

Failure to meet any investment requirements set forth herein shall not be deemed to be an Event of Default under this Agreement, but may terminate certain benefits hereunder or obligate the Company to make certain additional payments to the County, all as set forth in **Sections 4.02 and 5.01(f)** hereof.

Section 8.02. Remedies on Event of Default by Company. Upon the occurrence of any Event of Default, the County may exercise any of the following remedies:

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

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

(c) take whatever action at law or in equity as may appear necessary or desirable to collect the amount then due or enforce the County's rights hereunder, it being the express intent of the parties that the County, without limitation, shall have the same remedies available by law to collect 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 should fail to make any of the payments required under this Agreement, the item or installment so in default shall continue as an obligation of the Company until the amount in default shall have been fully paid. If any such default relates to its obligations to make FILOT Payments hereunder, the Company agrees to pay the same with interest thereon at the rate per annum provided by the Code for late payment of *ad valorem* taxes together with any penalties provided by the Code for late payment of *ad valorem* taxes, all as provided in Section 12-44-90 of the Code.

Section 8.04. Application of Monies upon Enforcement of Remedies against Company. Any monies received by the County upon enforcement of its rights hereunder shall be applied as follows: first, to the reasonable costs associated with such enforcement proceedings; second, to pay Administration Expenses; and third, to pay the Negotiated FILOT in accordance with **Section 5.01** hereof.

Section 8.05. Default by County. Upon the default of the County in the performance of any of its obligations hereunder, the Company 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 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 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 of any or all such other rights, powers, or remedies.

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

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

(a) As to the County:

Lexington County
Attn.: County Administrator
212 S. Lake Drive
Lexington, South Carolina 29072
Phone: 803-785-8100
Fax: 803-785-8101
Email: khubbard@lex-co.com

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

Jeffery M. Anderson, Esquire
Lexington County Attorney
P.O. Box 489
140 E. Main Street
Lexington, South Carolina 29071-0489
Phone: 803-359-2512
Fax: 803-359-7478
Email: jeff@oldcourthouse.com

(c) As to the Company:

Otis Spunkmeyer, Inc.
Attn.: Chief Financial Officer
14490 Catalina Street
San Leandro, CA 94577
Phone: 510-667-3821
Fax: 510-667-3844
Email: sricks@spunkmeyer.com

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

April C. Lucas, Esq.
Nexsen Pruet, LLC
1230 Main Street, Suite 700
Columbia, South Carolina 29201
Phone: 803-771-8900
Fax: 803-253-8277
Email: alucas@nexsenpruet.com

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

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

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

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

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

Section 9.09. Amendments. Subject to the limitations set forth in Section 12-44-40(J)(2) of the 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.

LEXINGTON COUNTY, SOUTH CAROLINA

By: _____
William C. Derrick, Chairman, County Council
Lexington County, South Carolina

[SEAL]

Attest:

By: _____
Diana W. Burnett, Clerk to County Council
Lexington County, South Carolina

OTIS SPUNKMEYER, INC.

By: _____
Name: _____
Title: _____

**EXHIBIT A
LEGAL DESCRIPTION**



The U.S. Department of Justice, Office of Justice Programs' Bureau of Justice Assistance is pleased to announce that it is seeking applications for funding under the Edward Byrne Memorial Justice Assistance Grant (JAG) Program. This program furthers the Department's mission by assisting state, local, and tribal efforts to prevent or reduce crime and violence.

Edward Byrne Memorial Justice Assistance Grant (JAG) Program FY 2007 Local Solicitation

Eligibility

Applicants are limited to units of local government on the *FY 2007 Units of Local Government List* for JAG funds. To view this list, go to www.ojp.usdoj.gov/BJA/grant/jagallocations.html.
(See "Eligibility," page 1)

Deadline

All applications are due by 8:00 p.m. e.t. on July 2, 2007.
(See "Deadline: Applications," page1)

Contact Information

For assistance with the requirements of this solicitation, contact: Eileen Garry, Deputy Director for Programs, at 202-307-6226 or eileen.garry@usdoj.gov.

This application must be submitted through OJP's Grants Management System (GMS). For technical assistance with submitting the application, call the Grants Management System Support Hotline at 1-888-549-9901.

CONTENTS

Overview of the Edward Byrne Memorial Justice Assistance Grant Program	1
Deadline: Applications	1
Eligibility	1
JAG Program-Specific Information	1
Attorney General Priorities	2
Match Requirement	4
Performance Measures	4
How To Apply	4
What An Application Must Include:	7
Standard Form 424	
Program Narrative	
Budget and Budget Narrative	
Other Attachments	
Additional Requirements	7

Edward Byrne Memorial Justice Assistance Grant Program CDFA #16.738

Overview of the Edward Byrne Memorial Justice Assistance Grant Program

The Edward Byrne Memorial Justice Assistance Grant (JAG) Program (42 U.S.C. 3751(a)) is the primary provider of federal criminal justice funding to state and local jurisdictions. JAG funds support all components of the criminal justice system, from multijurisdictional drug and gang task forces to crime prevention and domestic violence programs, courts, corrections, treatment, and justice information sharing initiatives.

Deadline: Applications

The due date for applying for funding under this announcement is 8:00 p.m. e.t. on July 2, 2007.

Eligibility

Units of local government appearing on the *FY 2006 Units of Local Government List* established by the Bureau of Justice Statistics (BJS) are eligible to apply for JAG funds. For JAG program purposes, a unit of local government is a town, township, village, parish, city, county, or other general purpose political subdivision of a state; or a federally recognized Indian tribe or Alaskan Native organization that performs law enforcement functions as determined by the Secretary of the Interior. In Louisiana, a unit of local government means a district attorney or a parish sheriff. For a listing of eligible units of local government, go to www.ojp.usdoj.gov/BJA/grant/jagallocations.html.

JAG Program-Specific Information

All awards are subject to the availability of appropriated funds and any modifications or additional requirements that may be imposed by law.

Proposed to streamline justice funding and grant administration, the JAG Program allows states, tribes, and local governments to support a broad range of activities to prevent and control crime based on their own local needs and conditions. JAG blends the previous Byrne Formula and Local Law Enforcement Block Grant (LLEBG) Programs to provide agencies with the flexibility to prioritize and place justice funds where they are needed most.

Formula

The JAG formula includes a *state allocation* consisting of a minimum base allocation with the remaining amount determined on population and Part 1 violent crime statistics, and a *direct allocation* to units of local government. Once the state allocation is calculated, 60 percent of the funding is awarded to the state and 40 percent to eligible units of local government. State allocations also have a required *variable pass through* to units of local government, calculated by BJS from each state's crime expenditures.

Purpose Areas

JAG funds can be used for state and local initiatives, technical assistance, training, personnel, equipment, supplies, contractual support, and information systems for criminal justice for any one or more of the following purpose areas:

- Law enforcement programs.
 - Prosecution and court programs.
 - Prevention and education programs.
 - Corrections and community corrections programs.
 - Drug treatment programs.
 - Planning, evaluation, and technology improvement programs.
- ★ Any law enforcement or justice initiative previously eligible for funding under Byrne or LLEBG is eligible for JAG funding.

Attorney General Priorities

To more effectively align JAG formula funding with far-reaching crime issues identified by recent data and evaluation, the Office of Justice Programs has designated the following priority areas for a heightened concentration in FY 2007:

- Multi-jurisdictional task forces, addressing violent crime, drug, and gun violence reduction.
- School safety and school resource officer initiatives.
- Project Safe Childhood (www.projectsafechildhood.gov).
- Gang enforcement and prevention.
- Community prosecution activities.
- Court security and continuation of operations initiatives.
- Human trafficking enforcement and prevention.
- Synthetic drug trafficking reduction.
- Prisoner reentry initiatives.
- Cybercrime and identity theft enforcement and prevention.
- Justice information sharing planning and implementation.
- Intelligence analysis and fusion center operations.

Responsibilities

The chief executive officer of an eligible unit of local government or a local agency designated by the chief executive officer must apply for JAG funds. A unit of local government receiving a JAG award will be responsible for the administration of the funds including distributing the funds; monitoring the award; submitting reports including performance measure and program assessment data; and providing ongoing assistance to any subrecipients of the funds.

Administrative Funds

A unit of local government may use up to 10 percent of the award for costs associated with administering JAG funds.

Disparate Certification

A disparate allocation occurs when a constituent unit of local government is scheduled to receive one and one-half times more (four times more for multiple units of local government) than another constituent unit(s), while the other unit of local government bears more than 50 percent of the costs of prosecution or incarceration that arise for Part 1 violent crimes reported by the geographically constituent unit(s). JAG disparities are certified by the Director of the

Bureau of Justice Assistance (BJA), based in part on input from the state's Attorney General. For a listing of disparate jurisdictions, go to www.ojp.usdoj.gov/BJA/grant/jagallocations.html.

- ★ Jurisdictions certified as disparate must submit a **joint application** for the aggregate of funds allocated to them, specifying the amount of the funds that are to be distributed to each of the units of local government and the purposes for which the funds will be used. The units of local government involved may establish a joint advisory board to carry out the joint application process. When beginning the JAG application process, a Memorandum of Understanding (MOU) must be completed, signed, and faxed to OJP, indicating who will serve as the applicant/fiscal agent for the joint funds. MOUs must be faxed to 202-354-4147, with the OJP Grants Management System (GMS)-generated application number printed on each page. For a sample MOU, go to www.ojp.usdoj.gov/BJA/grant/jag/07JAGMOU.pdf.

Application Reviews

The eligible unit of local government applying for a JAG award must make the grant application available for review to the governing body of the unit of local government or an organization designated by that governing body not fewer than 30 days before the application is submitted to BJA. Also, the unit of local government must provide an assurance that the application or any future amendment was made public and an opportunity to comment was provided to citizens and to neighborhood or community organizations to the extent applicable law or established procedure makes such an opportunity available.

Supplanting

Federal funds must be used to supplement existing funds for program activities and cannot replace, or supplant, non federal funds that have been appropriated for the same purpose.

Award Amount

Of the 40 percent allocated for direct awards from BJA to units of local government, funds will be allocated based on the same ratio to such share as the average annual number of Part 1 violent crimes reported by the unit to the Federal Bureau of Investigation (FBI) for the 3 most recent calendar years for which data is available, to the number of Part 1 violent crimes reported by all units of local government in the state to the FBI for such years.

- ★ For FYs 2005–2008, BJA will allocate the local amount to units of local government in the same way the LLEBG amount was allocated among reporting and non-reporting units of local government.
- ★ If the allocation to a unit of local government is less than \$10,000, the direct JAG award to the state will be increased by the total amount of such allocations to be distributed among state police departments that provide criminal justice services to units of local government and/or to any units of local government whose allocation is less than \$10,000.

Length of Awards

Awards are made in the first fiscal year of the appropriation and may be expended during the following 3 years, for a total of 4 years. Extensions beyond this period may be made on a case-by-case basis at the discretion of the Director of BJA.

Trust Fund

The unit of local government must establish a trust fund in which to deposit JAG funds. The trust fund may or may not be an interest bearing account.

Prohibited Uses

JAG funds cannot be used directly or indirectly for security enhancements or equipment to nongovernmental entities not engaged in criminal justice or public safety. Based on extraordinary and exigent circumstances making the use of funds essential, BJA may certify a state's request to use funds for:

- Vehicles, vessels, or aircraft.
- Luxury items.
- Real estate.
- Construction projects, other than penal or correctional institutions.

Match Requirement

While match is not required with the JAG Program, match is an effective strategy for states and local units of government to expand justice funds and build buy-in for local criminal justice initiatives.

Performance Measures

To assist in fulfilling the Department's responsibilities under the Government Performance and Results Act (GPRA), P.L. 103-62, applicants who receive funding under this solicitation must provide data that measures the results of their work. Performance measures for this solicitation can be found at: www.ojp.usdoj.gov/BJA/grant/JAGPerfMeasures.pdf.

How To Apply

The Catalog of Federal Domestic Assistance (CFDA) number for this solicitation is 16.738, titled "Edward Byrne Memorial Justice Assistance Grant Program." OJP requires that funding applications be submitted through the OJP Grants Management System (GMS). Faxed or mailed applications will not be accepted.

To access the system, go to <https://grants.ojp.usdoj.gov>. Applications submitted via GMS must be in one of the following formats: Microsoft Word (.doc), PDF file (.pdf), or text (.txt). If you experience difficulties at any point in this process, call the GMS Help Desk at 1-888-549-9901 between 7:30 a.m. and 9:00 p.m. eastern time. New GMS users must create a new account before submitting an application. All JAG applications are due on or before 8:00 p.m. e.t. on July 2, 2007.

Step 1: Signing On

- If you already have a GMS user ID, proceed to GMS sign in. Even if your organization already has a user ID, you will not be registered for the solicitation until you have signed onto GMS and entered the appropriate solicitation. To do so, please proceed to step 2.
- If you do not have a GMS user ID, select "New User? Register Here." After you have completed all of the required information, click "Create Account" at the bottom of the page and note your user ID and password, which are case sensitive.

- The Office of Management and Budget requires that all businesses and nonprofit applicants for federal funds include a DUNS (Data Universal Numeric System) number in their application for a new award or renewal of an award. Applications without a DUNS number are incomplete. A DUNS number is a unique nine-digit sequence recognized as the universal standard for identifying and keeping track of entities receiving federal funds. The identifier is used for tracking purposes and to validate address and point of contact information. The DUNS number will be used throughout the grant life cycle. Obtaining a DUNS number is a free, simple, one-time activity. Obtain one by calling 1-866-705-5711 or by applying online at www.dunandbradstreet.com.

Step 2: Selecting/Registering for the Program

- After you have logged onto the system using your user ID and password, click on "Funding Opportunities."
- Select "Bureau of Justice Assistance" from the drop-down list, and click "Search." This will narrow the list of solicitations within the Office of Justice Programs to those in BJA.
- From the list of BJA grants, find "FY 2007 Justice Assistance Grant Program," and click "Apply Online."
- Confirm that your organization is eligible to apply for this program by reading the text on the screen. If eligible, proceed by clicking "Continue."

Step 3: Completing the Overview Information

- Select the type of application you are submitting by choosing "Application Non-Construction" in the "Type of Submission" section.
- Select "New" in the drop-down box for "Type of Application."
- If your state has a review and comment process under Executive Order 12372 (<http://policy.fws.gov/library/rgeo12372.pdf>), then select either "Yes" and enter the date you made this application available under that review or "N/A" because this program has not been selected by your state for such a review. If your state does not have such a process, then select "No. Program Not Covered by E.O. 12372."
- Click "Save and Continue."

Step 4: Completing the Applicant Information

- Answer "Yes" or "No" to the question about whether your organization is delinquent on any federal debt.
- The rest of this page will prepopulate based on the information you submitted during the registration process. Check this information for accuracy and relevance to your organization, and make any needed changes.
- Click "Save and Continue."

Step 5: Completing the Project Information

- Provide a title that is descriptive of your project.
- List the geographic areas to be affected by the project.
- Enter a start date for the project that is on or after October 1, 2006 and an end date that is not more than 48 months later.
- Select all of the Congressional districts that are affected by this application. To select multiple districts, hold down the CTRL key while making your selections.
- Enter your state's allocation in the federal line under the "Estimated Funding" section. For a listing of state allocations, go to www.ojp.usdoj.gov/BJA/grant/jagallocations.html.
- Click "Save and Continue."

Step 6: Uploading the Attachments

- You will be asked to upload three attachments to the online application system. (See the Attachments section for detailed instructions.)

1. Program Narrative (Attachment 1).
2. Budget Narrative (Attachment 2).
3. Review Narrative (Attachment 3).

Click "Attach" to upload these documents. A new window will open. To continue, click "Browse" and find the file on your computer or the network drive from which you wish to upload, then click on "Upload Your Document." A window that says "File Upload Successful" should appear. Next to the upload list, the notation should change to "Attachment OK." Repeat these steps for all three uploads.

- If you encounter any difficulties uploading your file, click on "Tips for Successful Upload." This document will explain the usual problems with uploading files and will help you through them.
 - Click "Save and Continue."
- ★ Depending on the size of the attachment and/or your computer's Internet connection, the uploading process can take several hours. The system will shut down promptly at the deadline. Incomplete applications will not be accepted and no exceptions will be granted.

Step 7: Completing the Assurances and Certifications

- You will need to accept both the assurances document and the certifications document. To do this, click on "Assurances" and "Certifications Regarding Lobbying; Debarment, Suspension, and Other Responsibility Matters; and Drug-Free Workplace Requirements."
- Read both documents. At the bottom of each one, click the "Accept" button.
- After you have accepted both documents, enter the correct personal information for the person submitting the application.
- Click the box next to the text at the bottom of the page to certify that the person submitting the application is authorized to accept these assurances and certifications.
- Click "Save and Continue."

Step 8: Reviewing the SF-424

- By answering the questions contained in GMS, you have completed the Standard Form 424 (SF-424) and other forms required to apply for grant funding. Take a moment to review the SF-424 to ensure that it is accurate.
- If you need to make changes to any portion of the application, simply click on that section along the left side of the screen. Be sure to click "Save and Continue" after making any changes.
- When you are sure that the information is accurate, click "Continue."

Step 9: Submitting the Application

- A list of application components will appear on the screen. It should say "Complete" before each component. If it says "Incomplete" then click on the word and it will take you back to the section that needs to be completed. An explanation of what is missing will be at the top of that screen.

What an Application Must Include

Standard Form 424

Program Narrative (Attachment 1)

Applicants must submit a program narrative that generally describes the proposed program activities for the 4-year grant period. The narrative must outline the type of programs to be funded by the JAG award and provide a brief analysis of the need for the programs. Narratives must also identify anticipated coordination efforts involving JAG and related justice funds. Certified disparate jurisdictions submitting a **joint application** must specify the amount of the funds that are to be distributed to each of the units of local government and the purposes for which the funds will be used.

Budget and Budget Narrative (Attachment 2)

Applicants must submit a budget narrative outlining how JAG administrative funds will be used to support and implement the program.

Review Narrative (Attachment 3)

Applicants must submit information documenting that their JAG application was available for review to the governing body—or organization designated by that body—not less than 30 days before the application was submitted to BJA. The attachment must also specify that an opportunity to comment was provided to citizens and neighborhood or community organizations to the extent applicable law or established procedure makes such an opportunity available.

Additional Requirements

- Civil Rights compliance.
- Confidentiality and Human Subjects Protections regulations.
- Anti-Lobbying Act.
- Financial and Government Audit requirements.
- National Environmental Policy Act (NEPA) compliance.
- DOJ Information Technology Standards.
- Single Point of Contact Review.
- Non-Supplanting of State or Local Funds.
- Criminal Penalty for False Statements.
- Compliance with Office of the Comptroller *Financial Guide*.
- Suspension or Termination of Funding.

We strongly encourage you to review the information pertaining to these additional requirements prior to submitting your application. Additional information for each can be found at www.ojp.usdoj.gov/funding/otherrequirements.htm.

FY 2007 JAG - STATE OF SOUTH CAROLINA

*Disparate jurisdictions are shaded and will share the Joint Allocation Amount

State	Jurisdiction Name	Gov't Type	Individual Allocation	Joint Allocation
SC	ABBEVILLE COUNTY	County		
SC	ABBEVILLE CITY	Municipal	\$12,318	\$12,318
SC	AIKEN COUNTY	County	\$35,203	
SC	ANDERSON COUNTY	County	\$90,546	
SC	ANDERSON CITY	Municipal	\$20,792	
SC	BEAUFORT COUNTY	County	\$76,239	
SC	BEAUFORT CITY	Municipal	\$19,043	
SC	BERKELEY COUNTY	County	\$59,529	
SC	CHARLESTON COUNTY	County	\$97,340	
SC	CHARLESTON CITY	Municipal	\$101,663	
SC	MOUNT PLEASANT TOWN	Municipal	\$15,165	
SC	NORTH CHARLESTON CITY	Municipal	\$141,155	
SC	CHEROKEE COUNTY	County	\$22,233	
SC	GAFFNEY CITY	Municipal	\$13,827	
SC	CHESTER COUNTY	County	\$22,577	
SC	CHESTER CITY	Municipal	\$12,352	
SC	CHESTERFIELD COUNTY	County	\$15,200	
SC	CLARENDON COUNTY	County	\$18,940	
SC	COLLETON COUNTY	County	\$29,542	
SC	DARLINGTON COUNTY	County	\$71,470	
SC	DARLINGTON CITY	Municipal	\$13,210	
SC	HARTSVILLE CITY	Municipal	\$18,631	
SC	DILLON COUNTY	County	\$20,072	
SC	DILLON CITY	Municipal	\$14,342	
SC	DORCHESTER COUNTY	County	\$37,605	
SC	SUMMERVILLE TOWN	Municipal	\$12,832	
SC	FAIRFIELD COUNTY	County	\$24,223	
SC	FLORENCE COUNTY	County	\$61,862	
SC	FLORENCE CITY	Municipal	\$53,628	
SC	LAKE CITY	Municipal	\$10,774	
SC	GEORGETOWN COUNTY	County	\$22,679	
SC	GEORGETOWN CITY	Municipal	\$16,263	
SC	GREENVILLE COUNTY	County	\$222,678	
SC	GREENVILLE CITY	Municipal	\$65,911	
SC	GREENWOOD COUNTY	County	\$27,140	
SC	GREENWOOD CITY	Municipal	\$41,139	\$68,279
SC	HORRY COUNTY	County	\$111,991	
SC	CONWAY CITY	Municipal	\$14,239	
SC	MYRTLE BEACH CITY	Municipal	\$56,407	
SC	JASPER COUNTY	County	\$12,764	
SC	KERSHAW COUNTY	County	\$19,557	
SC	CAMDEN CITY	Municipal	\$12,455	
SC	LANCASTER COUNTY	County	\$23,983	
SC	LANCASTER CITY	Municipal	\$21,479	
SC	LAURENS COUNTY	County	\$36,747	
SC	LAURENS CITY	Municipal	\$17,087	
SC	LEE COUNTY	County	\$11,803	
SC	LEXINGTON COUNTY	County	\$64,127	
SC	CAYCE CITY	Municipal	\$12,764	
SC	WEST COLUMBIA CITY	Municipal	\$31,257	
SC	MARION COUNTY	County	\$12,935	
SC	MARION CITY	Municipal	\$11,014	
SC	MARLBORO COUNTY	County	\$19,832	

FY 2007 JAG - STATE OF SOUTH CAROLINA

*Disparate jurisdictions are shaded and will share the Joint Allocation Amount

State	Jurisdiction Name	Gov't Type	Individual Allocation	Joint Allocation
SC	BENNETTSVILLE CITY	Municipal	\$17,601	
SC	NEWBERRY COUNTY	County	\$10,499	
SC	OCONEE COUNTY	County	\$25,150	
SC	ORANGEBURG COUNTY	County	\$55,103	
SC	ORANGEBURG CITY	Municipal	\$10,431	
SC	PICKENS COUNTY	County	\$19,763	
SC	RICHLAND COUNTY	County	\$189,602	
SC	COLUMBIA CITY	Municipal	\$143,488	
SC	SPARTANBURG COUNTY	County	\$98,678	
SC	SPARTANBURG CITY	Municipal	\$79,121	
SC	SUMTER COUNTY	County	\$50,368	
SC	SUMTER CITY	Municipal	\$70,166	
SC	UNION COUNTY	County	\$11,734	
SC	UNION CITY	Municipal	\$10,945	
SC	WILLIAMSBURG COUNTY	County	\$15,474	
SC	YORK COUNTY	County	\$76,719	
SC	CLOVER TOWN	Municipal	\$12,901	
SC	ROCK HILL CITY	Municipal	\$76,719	
SC	YORK CITY	Municipal	\$11,357	
SC	STATE OF SOUTH CAROLINA	State	\$5,497,757	
		TOTAL	\$8,512,140	

*While ineligible for direct JAG funding in FY 2007, for JAG purposes this county remains a partner with the city/cities receiving JAG funds, and must be a signatory on the MOU required of disparate jurisdictions. For details, please go to: www.ojp.usdoj.gov/BJA/grant/jag/07JAGMOU.pdf



Sistercare

PO Box 1029

Columbia, SC 29202

803 926-0505

Fax 803 794-0098

March 5, 2007

Kristi M. Hornsby, CGFO
Manager of Grants Administration
County of Lexington
Finance Department
212 South Lake Drive
Lexington, SC 29072

LEXINGTON COUNTY

MAR 08 RECD

FINANCE DEPT

JAG FUNDS

Re: ~~Victim's Bill of Rights Funds~~

Dear Ms. Hornsby:

Sistercare requests \$10,000 for FY 2007-2008 from Lexington County's Victims' Assistance funds collected under S.C. Code Ann. 14-1-206 through 208 (assessment statutes) and 14-1-211 (surcharge statute) to provide crime victim services and to break the intergenerational cycle of domestic violence.

Victims' Assistance revenues will be used to help provide community counseling support group services for Lexington County battered women and their children during FY 2007-2008. Many of the women, who participate in Sistercare's community counseling support groups, are court ordered to attend for 26 weeks. Last year, the groups that Sistercare provides for domestic violence victims, including those living in Lexington County, were accessed by 570 women and 44 of their children.

During calendar year 2006, Sistercare served 2,367 Lexington County battered women and their children by providing a variety of services including crisis counseling, emergency shelter, and court advocacy.

Our board of directors appreciates Lexington County's past assistance and hopes that you will support Sistercare's services for battered women and their children by facilitating our request for FY 2007-2008.

Sincerely,

Nancy Barton
Executive Director
ld



	FEDERAL AWARD	SHERIFF	MAGISTRATE	SISTERCARE	SOLICITOR	SCHOOLS
96 LLEBG	166,046	110,913	67%	0	55,133	33%
97 LLEBG	180,480	162,000	90%	0	18,480	10%
98 LLEBG	206,390	166,381	81%	27,000	13,009	6%
99 LLEBG	200,858	160,358	80%	27,000	13,500	7%
00 LLEBG	187,058	149,341	80%	12,572	25,145	13%
01 LLEBG	205,341	151,003	74%	0	54,338	26%
02 LLEBG	168,243	134,943	80%	11,655	21,645	13%
03 LLEBG	128,972	107,327	83%	16,200	0	4%
04 LLEBG	51,097	38,297	75%	6,400	0	8%
05 JAG	72,611	55,910	77%	8,714	0	11%
06 JAG	42,481	32,710	77%	5,098	0	11%
07 JAG	64,127	49,378	77%	7,695	0	11%
						5%
						2,400