

**AGENDA  
LEXINGTON COUNTY COUNCIL  
Committee Meetings**

**February 28, 2012**

**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. Also, if time permits, Council may elect to enter into Executive Session to discuss contractual, legal, personnel matters, etc.**

**11:00 a.m. - 12:10 p.m. - Economic Development**

- (1) 12th Street Extension Improvements Presentation - Economic Development - Chuck Whipple, Director..... A
- (2) Project Carolina Presentation - Economic Development - Chuck Whipple, Director ..... B
- (3) Project Console Update - Economic Development - Chuck Whipple, Director
- (4) Project Panther Update - Economic Development - Chuck Whipple, Director ..... C
- (5) Old Business/New Business
- (6) Adjournment

**12:10 p.m. - 12:20 p.m. - Planning and Administration**

- (1) New Website Review (Goal 1) - Information Services - Mike Ujcich, CIO and Chuck Whipple, Economic Development Director
- (2) Old Business/New Business
- (3) Adjournment

**12:20 p.m. - 12:25 p.m. - Justice**

- (1) DUI Prosecution Program Grant Application - Solicitor - Rick Hubbard, Deputy Solicitor ..... D
- (2) Old Business/New Business
- (3) Adjournment

**12:25 p.m. - 12:45 p.m. - Public Works & Solid Waste Management**

- (1) 12 Mile Creek Watershed Water Quality Improvement Grant Application - Public Works - Sheri Armstrong, Stormwater Manager ..... E
- (2) DHEC Used Oil Grant Application - Solid Waste Management - Dave Eger, Director ..... F
- (3) DHEC Waste Tire Grant Application - Solid Waste Management - Dave Eger, Director ..... G
- (4) Solid Waste DHEC Management Grant Application - Solid Waste Management - Dave Eger, Director ..... H
- (5) Old Business/New Business - Traffic Congestion, Alternate Material for Road Swells, New Road/Corley Mill/Riverchase Monthly Update, Flooding Issues/Kinley Creek Criteria, Stormwater Utility Fee Update, Pine Glen Alternate Exit, Chaney Road Closing, Nursery Road Project, List of Outstanding Bonds, etc.
- (6) Adjournment

**12:45 p.m. - 2:30 p.m. - Committee of the Whole**

- (1) Possible Executive Session if Time Permits
- (2) Old Business/New Business - Local Contractor Procurement
- (3) Adjournment

**GOALS**

- 1. Provide for public services to citizens of Lexington County.
- 2. Manage growth to meet the needs of Lexington County.
- 3. Provide innovative Financial Management.

**Economic Development**

J. Jeffcoat, Chairman  
S. Davis, V Chairman  
J. Kinard  
D. Summers  
B. Keisler

**Planning & Administration**

D. Summers, Chairman  
S. Davis, V Chairman  
J. Kinard  
B. Matthews  
T. Cullum

**Justice**

S. Davis, Chairman  
B. Keisler, V Chairman  
F. Townsend, III  
J. Jeffcoat  
B. Matthews

**Public Works & Solid Waste Management**

T. Cullum, Chairman  
J. Kinard, V Chairman  
B. Keisler  
J. Jeffcoat  
B. Matthews

**Committee of the Whole**

B. Banning, Sr., Chairman  
J. Jeffcoat, V Chairman  
J. Kinard  
F. Townsend, III  
S. Davis  
D. Summers  
B. Keisler  
B. Matthews  
T. Cullum

**AGENDA  
LEXINGTON COUNTY COUNCIL**

**February 28, 2012**

**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**

**Chairman's Report**

**Presentation**

- (1) 2011 Achievement Award by the S.C. Association of Counties - Human Resources - John Henderson, SCAC Risk Manager ..... I

**Administrator's Report**

**Employee Recognition - Joe Mergo, Interim County Administrator**

**Resolution**

- (1) Resolution No. 12-01 Expressing Opposition to House Bill #4721 and Senate Bill #514 ..... J

**Appointments**

- (1) Boards and Commissions ..... K

**Bids/Purchases/RFPs**

- (1) Parking Lot Rehabilitation - Public Works/Sheriff's Department/Library ..... L

**Approval of Minutes**

- (1) Meeting of January 10, 2012 ..... M

**Zoning Amendment**

- (1) Zoning Text Amendment #11-04 - Buffering Restrictions - 3<sup>rd</sup> and Final..... N

**Ordinance**

- (1) Ordinance 11-19 - Ordinance Authorizing (1) Fee-in-Lieu Between Lex Cty & Nephron Pharm., (2) Negotiated Fees in Lieu of Ad Valorem Taxes, (3) SSC, (4) Multi-Cty Park, (5) Transfer & Conveyance of Property, & (6) Other Matters - 3<sup>rd</sup> & Final Reading..... O

**Committee Reports**

**Planning & Administration, D. Summers, Chairman**

(1) FY 2012-13 CDBG Program and HOME Program ..... P

**Public Works & Solid Waste Management, T. Cullum, Chairman**

(1) Columbia Avenue Project RFQ for Engineer ..... Q

**Justice, S. Davis, Chairman**

(1) DUI Prosecution Program Grant Application..... D

**Health & Human Services, B. Matthews, Chairman**

(1) Communications Narrowbanding ..... R

**Budget Amendment Resolutions**

**OLD BUSINESS/NEW BUSINESS**

**EXECUTIVE SESSION/LEGAL BRIEFING**

**MATTERS REQUIRING A VOTE AS A RESULT OF EXECUTIVE SESSION**

**ADJOURNMENT**

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**COUNTY OF LEXINGTON**  
**SOL / DUI PROSECUTION PROGRAM**  
**Annual Budget**  
**Fiscal Year - 2012-13**

Object Code	Revenue Account Title	Actual 2010-11	Received Thru Dec 2011-12	Amended Budget Thru Dec 2011-12	Projected Revenues Thru Jun 2011-12	Requested 2012-13	Approved 2012-13	Awarded 2012-13
<b>*Solicitor / DUI Prosecution Program 2461:</b>								
<b>Revenues:</b>								
457000	Federal Grant Income	18,507	0	91,869	91,869	78,000	78,000	
<b>**Total Revenue</b>		<b>18,507</b>	<b>0</b>	<b>91,869</b>	<b>91,869</b>	<b>78,000</b>	<b>78,000</b>	
<b>***Total Appropriations</b>					<b>91,869</b>	<b>78,000</b>	<b>78,000</b>	
FUND BALANCE								
Beginning of Year								
					<b>0</b>	<b>0</b>	<b>0</b>	
FUND BALANCE - Projected								
End of Year								
					<b>0</b>	<b>0</b>	<b>0</b>	

Fund 2461  
Division: Judicial  
Organization: 141200 - Solicitor

							<b>BUDGET</b>	
Object Expenditure Code	Classification	2010-11 Expend	2011-12 Expend (Dec)	2011-12 Amended (Dec)	2012-13 Requested	2012-13 Approved	2012-13 Awarded	
<b>Personnel</b>								
510100	Salaries & Wages - 1	12,027	25,810	65,416	55,686	55,686		
511112	FICA - Employer's Portion	894	1,916	4,978	4,260	4,260		
511113	State Retirement - Employer's Portion	1,133	2,461	6,238	5,903	5,903		
511120	Employee Insurance - 1	1,300	3,900	9,750	7,800	7,800		
511130	Workers Compensation	43	93	236	201	201		
<b>* Total Personnel</b>		<b>15,397</b>	<b>34,180</b>	<b>86,618</b>	<b>73,850</b>	<b>73,850</b>		
<b>Operating Expenses</b>								
521000	Office Supplies	120	90	625	625	625		
524201	General Tort Liability Insurance	0	11	36	25	25		
524202	Surety Bonds - 1	0	0	8	0	0		
525000	Telephone	0	0	243	243	243		
525021	Smart Phone Charges - 1	211	497	1,256	1,020	1,020		
525041	E-mail Service Charges -1	20	41	102	81	81		
525210	Conference, Meeting & Training Expense	0	773	1,437	800	800		
525230	Subscriptions, Dues, & Books	0	0	0	0	0		
525240	Personal Mileage Reimbursement	173	518	1,544	1,356	1,356		
<b>* Total Operating</b>		<b>524</b>	<b>1,930</b>	<b>5,251</b>	<b>4,150</b>	<b>4,150</b>		
<b>** Total Personnel &amp; Operating</b>		<b>15,921</b>	<b>36,110</b>	<b>91,869</b>	<b>78,000</b>	<b>78,000</b>		
<b>Capital</b>								
540000	Small Tools & Minor Equipment	160	0	0	0	0		
540010	Minor Software	616	0	0	0	0		
	All Other Equipment	1,810	0	0	0	0		
<b>** Total Capital</b>		<b>2,586</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>		
<b>*** Total Budget Appropriation</b>		<b>18,507</b>	<b>36,110</b>	<b>91,869</b>	<b>78,000</b>	<b>78,000</b>		

## **SECTION V. - PROGRAM OVERVIEW**

### **Summary of Programs:**

DUI Prosecution Program

### **Objectives:**

To provide funding for a dedicated DUI prosecutor whose primary focus is the prosecution of South Carolina Highway Patrol DUI cases in Magistrates Courts throughout the Eleventh Judicial Circuit. When practicable, the prosecutor may also assist in the prosecution of DUI cases made by the South Carolina Highway Patrol and other local law enforcement agencies in all Courts within the Eleventh Judicial Circuit. A main goal of this program is to increase the number of successful prosecutions of DUI cases.

**SECTION VI. LINE ITEM NARRATIVES**

**SECTION VI. A. – LISTING OF REVENUES**

**457000 – FEDERAL GRANT INCOME** **\$78,000**

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The total projected funds of the grant award are estimated to be approximately \$78,000. This is a 100% federally funded grant, no match is required.

**SECTION VI. B. - LISTING OF POSITIONS**

**Staffing Level:**

<u>Job Title</u>	<u>Positions</u>	<u>Full Time Equivalent</u>		<u>Total</u>	<u>Grade</u>
		<u>General Fund</u>	<u>Other Fund</u>		
Assistant Solicitor	1		1	1	19
	===		===	===	
Total Positions	1		1	1	

**SECTION VI. C - OPERATING LINE ITEM NARRATIVES**

**521000 – OFFICE SUPPLIES \$625**

To cover the cost of printer cartridges, envelopes, photo paper, paper, pens, note pads, paper clips, staples, tape, DVD-Rs, CD-Rs and headphones for the Assistant Solicitor.

**524201 – GENERAL TORT LIABILITY INSURANCE \$25**

To cover the cost of general tort liability insurance coverage per, Risk Management.

**525000 – TELEPHONE \$243**

To cover the cost of telephone service for the Assistant Solicitor.

**525021 – SMART PHONE CHARGES \$1,020**

To cover the cost of smart phones charges and service for the Assistant Solicitor.

**525041 – E-MAIL SERVICE CHARGES \$81**

The cost of e-mail services is \$6.75 per month per account.

**525210 – CONFERENCE, MEETING & TRAINING EXPENSE \$800**

To cover the cost of continuing education conferences and courses for the Assistant Solicitor to maintain his/her license.

**525240 – PERSONAL MILEAGE REIMBURSEMENT \$1,356**

To cover the cost of reimbursing the Assistant Solicitor for mileage when using his/her personal vehicle for work related business, to include traveling to Court.

State of South Carolina  
Office of the Solicitor  
Eleventh Judicial Circuit

COUNTIES  
EDGEFIELD / LEXINGTON  
McCORMICK / SALUDA  
FAXES: (803) 785-8431 or (803) 785-8255



LEXINGTON COUNTY JUDICIAL CENTER  
205 E. MAIN ST. ROOM 309  
LEXINGTON, SOUTH CAROLINA 29072  
TELEPHONE: (803) 785-8352

**DONALD V. MYERS**  
*Solicitor*

February 22, 2012

Lexington County Council  
County of Lexington  
212 South Lake Drive  
Lexington, SC 29072

Re: DUI Prosecution Program

Honorable County Council Members:

I was informed today that it is not protocol to have an item presented and approved by County Council on the same day. However, in the prior two grant years, the grant application for the DUI Prosecution Program was prepared by the South Carolina Commission on Prosecution Coordination, and once the grant was awarded to us, we presented it to County Council and it was approved the same day. This is the first year our Office has had to prepare the grant application for the DUI Prosecution Program. I spoke with Adam Dubose in Finance in early February regarding the grant application and provided the Grant Summary Request Form to him on February 16, as he requested. I respectfully ask that County Council approve the request to apply for the DUI Prosecution Program grant the same day it is presented on February 28, 2012.

This is the third and final year of a 100% federally funded grant that allows our Office to provide an Assistant Solicitor to prosecute South Carolina Highway Patrol cases in Magistrates Courts throughout the Eleventh Judicial Circuit. The continuation of this program is very important to both the Solicitor's Office and the South Carolina Highway Patrol. If you have any questions or need additional information, please call me at 785-8576. Thank you for your consideration in this matter.

Sincerely,

A handwritten signature in cursive script that reads 'Christopher G. Samellas'.

Christopher G. Samellas  
Senior Assistant Solicitor

# COUNTY OF LEXINGTON

## Grant Request Summary Form

**Title of Grant:** Twelve Mile Creek Watershed Water Quality Improvement Project

**Fund:** NEW Stormwater Improve - 12 Mile Creek **Department:** 121400 PW / Stormwater Management  
*No. Title No. Title*

**Type of Summary:** **Grant Application** X **Grant Award** \_\_\_\_\_

**Grant Overview:** A fecal coliform pollutant load reduction of approximately 89.9% at Water Quality Monitoring Station S-294 will be required to meet clean water standards as specified in the TMDL Twelve Mile Creek Watershed Report, 2004. Section 319 Grant funds are available at this time to pursue TMDL implementation, but future Section 319 Grant funds availability is unknown. Fecal coliform pollutant load reduction in Twelve Mile Creek Watershed will have direct impact on the water quality of the Lower Saluda River, impacting the quality of life and local economics in Lexington County. This project proposes to install Best Management Practices (BMPs) in Twelve Mile Creek Watershed to reduce the fecal coliform entering Twelve Mile Creek, its tributaries and the Lower Saluda River. Stream protection BMPs associated with farm animals may include a combination of a number of the following methods: streambank fencing, riparian forest buffers, stream crossings and alternative water sources.

SCDHEC provides 60% of the total project costs. The 40% match is intended to include several funding partners to minimize the County's expenses. In-kind services (labor and equipment) by all partners in proposed to minimize actual cash expenditures by all partners, including the County.

**Grant Period:** June 1, 2012 to May 30, 2015

**Responsible Departmental Grant Personnel:** Sheri Armstrong Stormwater Manager

**Date Grant Information Released:** January 11, 2012 **Date Grant Application Due:** March 1, 2012

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

<b>Personnel</b>	\$ 11,632.00		
<b>Operating</b>	\$ 44,953.00	* Application Amount:	249,409.00
<b>Capital</b>	\$ 370,980.00	* Award Amount:	
<b>Total</b>	<u>\$ 427,565.00</u>		

**Local Match Required:** Yes  No

**If Yes, What is the Percentage / Amount:**

60	249,409.00	* 40% plus in-kind match
40	178,156.00	
%	\$ Amount	

**Requirements at the End of this Grant (please explain in detail):** Project closure documentation.

F:\windows\excel2k\forms\grants\blankgrantsummaryform.xls  
 Last Updated: 12/13/06 By: AD

Dept. Preparer:	SW	2/16/2012
Dept. Approval:	JF	2/16/2012
Finance Approval:	AD	2/16/2012
	<i>Initials</i>	<i>Date</i>

**COUNTY OF LEXINGTON**  
**319 GRANT TMDL IMPLEMENTATION**  
**Annual Budget**  
**Fiscal Year - 2011-12**

Object Code	Revenue Account Title	Requested 2011-12	Recommend 2011-12	Approved 2011-12
<b>* PW - 319 Grant TMDL Implementation - 12 Mile Creek:</b>				
<b>Revenues:</b>				
457000	Federal Grant Income	400,980	249,409	
801000	Op Trn From General Fund/LE	25,000	25,000	
	In-kind Match (County Only)	11,884	11,884	
	In-kind Match (other partners/landowners, EQUIP, CDBG)	263,076	166,272	
	<b>** Total Revenue</b>	<b>700,940</b>	<b>452,565</b>	
	<b>***Total Appropriation</b>	<b>427,565</b>	<b>427,565</b>	
FUND BALANCE				
	Beginning of Year	0	0	
FUND BALANCE - Projected				
	End of Year	273,375	25,000	

**COUNTY OF LEXINGTON**  
**319 GRANT TMDL IMPLEMENTATION**  
**Annual Budget**  
**Fiscal Year - 2011-12**

Fund: NEW  
Division: Public Works  
Organization: 121400 - Stormwater Management

Object Code	Expenditure Classification	<b>BUDGET</b>		
		2011-12 Requested	2011-12 Recommend	2011-12 Approved
<b>Personnel</b>				
510100	Salaries & Wages (In-Kind)	9,856	9,856	
511112	FICA - Employer's Portion (In-Kind)	754	754	
511113	State Retirement - Employer's Portion (In-Kind)	940	940	
511130	Workers Compensation (In-Kind)	82	82	
	<b>* Total Personnel</b>	<b>11,632</b>	<b>11,632</b>	
<b>Operating Expenses</b>				
520300	Professional Services	20,000	20,000	
520400	Advertising & Publicity	16,500	16,500	
520800	Outside Printing	2,500	2,500	
521200	Operating Supplies	2,000	2,000	
523100	Building Rental	700	700	
525100	Postage	3,000	3,000	
529903	Contingency	0	0	
	Soil and Water Conservation District (In-kind)	253	253	
	<b>* Total Operating</b>	<b>44,953</b>	<b>44,953</b>	
	<b>** Total Personnel &amp; Operating</b>	<b>56,585</b>	<b>56,585</b>	
<b>Capital</b>				
	Fat Trappers & Liners	4,800	4,800	
	Heavy Use Area Protection	28,620	28,620	
	Septic Repairs/Sewer Hookups	144,000	144,000	
	Streambank Stabilization	19,320	19,320	
	Stream Crossing	2,400	2,400	
	Wells	27,000	27,000	
	Watering Facility	12,600	12,600	
	Piping	13,440	13,440	
	Loafing Shed	36,000	36,000	
	Staking Shed	16,800	16,800	
	Manure Compost Facility	27,000	27,000	
	Fencing	39,000	39,000	
	<b>** Total Capital</b>	<b>370,980</b>	<b>370,980</b>	
	<b>*** Total Budget Appropriation</b>	<b>427,565</b>	<b>427,565</b>	

**SECTION III  
PROGRAM OVERVIEW**

**319 Grant TMDL Implementation Twelve Mile Creek Watershed**

The Public Works Stormwater Department of Lexington County will be the lead organization for this project. The Stormwater Department works under the direction of Lexington County Council. Twelve Mile Creek is listed in the South Carolina Section 303d List of impaired waterbodies for fecal coliform bacteria impairments. A Total Maximum Daily Load (TMDL) for fecal coliform bacteria was developed for three (1) sampling sites within the watershed located at S-294. By developing quality land practices, community cooperation and educational programs the County will work to restore and protect Twelve Mile Creek. The TMDL for Twelve Mile Creek calls for fecal coliform load reduction of 89.9%. Nonpoint sources have been identified as the main contributors of fecal coliform bacteria contamination for these sites. Lexington County and its consultant AMEC will partner with the USDA Natural Resource Conservation Services, Soil and Water Conservation District, the Lexington County Solid Waste Department, Midlands Biofuel, the Town of Lexington, and land owners to educate and implement best management practices in the watershed.

**Staffing Level**

		Grade
1 Stormwater Manager	with insurance	25
1 Environmental Coordinator	with insurance	18
1 Manger/Soil & Water Con. Dist.	with insurance	
1 Clerk/Public Works	with insurance	4

**Cooperating Agencies**

Natural Resource Conservation Services, NRCS  
Soil and Water Conservation District  
Lexington County Solid Waste  
Town of Lexington  
Midlands Biofuel

**SECTION V. – LINE ITEM NARRATIVES**

**SECTION V.B. – OPERATING LINE ITEM NARRATIVES**

**520300 Professional Services \$20,000**

Cost associated with grant support for the Stormwater Division consultant AMEC. Support includes project oversight and reporting.

**520400 Advertising & Publicity \$16,500**

Cost associated with education and outreach development associated with the grant by the consultant AMEC & newspaper advertisements.

**520800 Outside Printing \$2,500**

Copies, Brochures/Handouts, & Door Hangers/Flyers

**521200 Operating Supplies \$2,000**

Supplies for meetings

**523100 Building Rental \$700**

Rental of a community building to hold stakeholder meetings.

**525100 Postage \$3,000**

**SECTION V.C. – CAPITAL LINE ITEM NARRATIVES**

**FAT TRAPPERS AND LINERS \$4,800**

Collect residential fats/oils/grease

**HEAVY USE PROTECTION AREA \$28,620**

Protection around livestock watering facilities

**SEPTIC REPAIRS/REPLACEMENTS \$144,000**

To repair or replace failing septic system within the Hollow Creek Watershed.

**STREAM STABILIZATION \$19,320**

To stabilize heavily traveled areas currently barren of vegetation.

**STREAM CROSSING \$2,400**

Large holding area to compost chicken feed.

**WELLS \$27,000**

Alternative water source to provide drinking water to live stock.

**WATER FACILITY \$12,600**

Troughs for well.

**PIPING \$13,440**

Used to convey the well water to water troughs.

**LOAFING SHEDS \$36,000**

Cover for animal feeding areas.

**FUND: NEW  
PW / STORMWATER MANAGEMENT (121400)  
FY 2011-12 BUDGET REQUEST**

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4

**STACKING SHED AT AFOS **\$16,800****

Large holding area to compost chicken feed.

**MANURE COMPOSTIN FACILITY **\$27,000****

Location to properly compost animal manure.

**FENCING **\$39,000****

Agricultural BMP to be used on lands to fence live stock from direct access to Hollow Creek.

# **County of Lexington**

## **Department of Solid Waste Management**

498 Landfill Lane  
Lexington, South Carolina 29073  
Telephone: (803) 755-3325  
Facsimile: (803) 755-3833

**To:** Adam DuBose, County Grants Manager  
**From:** Amanda St. John, Recycling Coordinator  
**Date:** February 16, 2012  
**Re:** DHEC Used Oil Grant Application

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Solid Waste Management is requesting Council committee approval to apply for DHEC's used oil grant.

We are proposing grant funding be used to help purchase three 500-gallon oil/gas mixture tanks, five 120-gallon oil bottle containers, twelve containment platforms, one carport cover, one concrete slab as well as 1/3 of the cost for expanding the recycling loading dock at the landfill. Funding for professional development and public education are also being requested. Total funds requested are \$71,605.

With the April 6 deadline, Council may report out the application at their March 13, 2012 meeting.

We appreciate your understanding and consideration of this matter. If you have any questions, please let me know.



**COUNTY OF LEXINGTON  
DHEC USED OIL GRANT  
Annual Budget  
Fiscal Year - 2012-13**

Object Code	Revenue Account Title	Actual 2010-11	Received Thru Dec 2011-12	Amended Budget Thru Dec 2011-12	Projected Revenues Thru Jun 2011-12	Requested 2012-13	Recommend 2012-13	Approved 2012-13
<b>*DHEC Used Oil Grant 5722:</b>								
<b>Revenues:</b>								
458000	State Grant Income	19,075	18,626	34,360	34,360	71,605	71,605	
805700	Op Trn from Solid Waste	0	0	0	0	0	0	
<b>** Total Revenue</b>		<b>19,075</b>	<b>18,626</b>	<b>34,360</b>	<b>34,360</b>	<b>71,605</b>	<b>71,605</b>	
<b>***Total Appropriation</b>					<b>34,360</b>	<b>71,605</b>	<b>71,605</b>	
FUND BALANCE								
Beginning of Year					<u>0</u>	<u>0</u>	<u>0</u>	
FUND BALANCE - Projected								
End of Year					<u>0</u>	<u>0</u>	<u>0</u>	

Fund: 5722  
Division: Public Works  
Organization: 121207 - Solid Waste / Recycling

Object Expenditure Code	Classification	<b>BUDGET</b>				
		2010-11 Expend	2011-12 Expend (Dec)	2011-12 Amended (Dec)	2012-13 Requested	2012-13 Recommend
<b>Operating Expenses</b>						
520100	Contacted Maintenance	0	0	0	0	0
520400	Advertising and Publicity	2,797	0	2,000	2,000	2,000
521200	Operating Supplies	14,772	337	7,542	7,400	7,400
521213	Public Education Supplies	844	128	3,000	3,000	3,000
525100	Postage	0	0	0	0	0
525210	Conference, Meeting & Training Expense	662	0	1,000	750	750
525250	Motor Pool Reimbursement	0	0	0	0	0
<b>* Total Operating</b>		<b>19,075</b>	<b>465</b>	<b>13,542</b>	<b>13,150</b>	<b>13,150</b>
<b>**Total Personnel &amp; Operating</b>		<b>19,075</b>	<b>465</b>	<b>13,542</b>	<b>13,150</b>	<b>13,150</b>
<b>Capital</b>						
599999	Capital Clearing	(30,524)	0	0	0	0
	All Other Equipment	30,524	20,810	20,818		
	(3) 500 Gallon Oil/Gas Mixture Tanks				33,997	33,997
	(1) Carport Cover				2,675	2,675
	Concrete Slab				4,280	4,280
	(5) 120 Gallon Oil Bottle Containers				2,408	2,408
	(12) Containment Platforms				3,429	3,429
	Construction (Expansion of Recycling Loading Dock)				11,666	11,666
<b>**Total Capital</b>		<b>0</b>	<b>20,810</b>	<b>20,818</b>	<b>58,455</b>	<b>58,455</b>
<b>** Total Appropriation</b>		<b>19,075</b>	<b>21,275</b>	<b>34,360</b>	<b>71,605</b>	<b>71,605</b>

## SECTION V – PROGRAM OVERVIEW

### Summary of Programs

DHEC Used Oil Recycling Grant

#### Objective:

This program is a proposed grant application with South Carolina Department of Health and Environmental Control (DHEC). Funding is being requested to maintain and upgrade each site, educate our residents about the program and provide training for our County staff.

Obtain funding to purchase (3) 500-gallon oil/gas mixture tanks, (1) Carport Cover, (1) Concrete Slab, (5) 120-gallon oil bottle containers, (12) Containment Platforms and to help fund expansion of current recycling loading dock at landfill.

Also requested are oil bottle bags.

Funding will also help educate the public about our program by developing and printing a used oil recycling brochure, running advertisements in the newspaper and placing billboards in visible areas.

Finally, funding will be used to send staff to the Carolina Recycling Association Conference.

## SECTION VI. – LINE ITEM NARRATIVES

### SECTION VI. A – SUMMARY OF REVENUES

<b>458000 – State Grant Income</b>	<b>\$71,605</b>
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**SECTION VI. C - OPERATING LINE ITEM NARRATIVES**

**520400 - ADVERTISING AND PUBLICITY \$2,000**

(1) Advertisement in Neighbors section of The State newspaper promoting the county's used oil recycling program. (1 newspaper advertisement x \$515.00 each = \$515.00).

(3) Billboard advertisements placed in various locations around the county promoting the recycling of used motor oil. (3 billboards x \$495.00 each = \$1,485).

**521200 - OPERATING SUPPLIES \$7,400**

(20) Boxes of Oil Bottle Bags (Box of 100) x \$370/Box = \$7,400. These bags are used to line oil bottle recycling containers used for the collection and recycling of oil bottles from the County's 11 collection and recycling Centers.

**521213 - PUBLIC EDUCATION \$3,000**

(10,000) Used Oil Recycling Brochures. Brochures printed on recycled paper to educate residents about Lexington County's used oil recycling program. The brochures will be distributed via mail, presentations, special events, collection and recycling centers. (10,000 x 0.30each = \$3,000)

**525210 - CONFERENCE, MEETING & TRAINING EXPENSE \$750**

The \$750 professional development allotment will be used toward staff attendance at the Carolina Recycling Association Annual Meeting.

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**SECTION VI. D –CAPITAL LINE ITEM NARRATIVES**

**5AD000 - (3) 500- GALLON OIL/GAS MIXTURE TANK \$33,997**

Purchase of (3) 500-gallon Oil/Gas Mixture Tanks for the Pelion, Riverchase and Sandhills Collection and Recycling Centers. (3 Tanks x \$9,890 each + \$750 (each) installation +tax = \$33,997)

**5AD000 - (1) CARPORT COVER \$2,675**

Purchase of (1) Carport Cover for the expansion of the oil pad at the new Landfill Recycling Center. (1 x \$2,500.00 each +tax = \$ 2,500)

**5AD000 - (1) CONCRETE SLAB \$4,280**

Purchase and installation of a concrete slab for the expansion of the oil pad at the Landfill Recycling Center. (1 concrete pad x \$4,000 +tax = \$4,000)

**5AD000 - (5) 120 GALLON OIL BOTTLE CONTAINERS \$2,408**

Purchase of (5) 120- gallon oil bottle containers for Collection and Recycling Centers. (5 oil bottle containers x \$450 each + tax = \$ 2,408)

**5AD000 - (12) CONTAINMENT PLATFORMS \$3,429**

Purchase of containment platforms for safe storage of oil bags, 55-gallon drums for oil bottles and filters. (12 platforms x 267.00 +tax = \$3,429)

**5AD000 – CONSTRUCTION (EXPANSION OF RECYCLING LOADING DOCK) \$11,666**

To cover 1/3 of the cost of expanding the current recycling dock at the landfill with bumpers. (\$35,000 /3 = \$11,666)

**SC DHEC Office of Solid Waste Reduction and Recycling**  
**FY2013 Used Oil Grant Application**

**1) Lexington County Solid Waste Management**

2) Joe Mergo, Lexington County Interim Administrator  
212 S. Lake Drive  
Lexington, SC 29072  
Office: 803.785.8100  
Fax: 803.785.8101  
[khubbard@lex-co.com](mailto:khubbard@lex-co.com)

Larry Porth, Finance Director  
212 S. Lake Drive  
Lexington, SC 29072  
Office: 803.785.8105  
Fax: 803.785.8379  
[lporth@lex-co.com](mailto:lporth@lex-co.com)

Amanda St. John, Recycling Coordinator  
498 Landfill Lane  
Lexington, SC 29073  
Office: 803.785.3340  
Fax: 803.755.3325  
[astjohn@lex-co.com](mailto:astjohn@lex-co.com)

3) **List the public education/outreach activities performed last year.** In FY11, presentations were given to several community organizations and schools. Also, billboards were placed around different areas of the county by Lamar Advertising, specifically promoting used motor oil recycling. Information was also provided at the County Energy Expo and Kids Day.

- 4) **Attach a list and/or map of all sites at which used oil, farmer oil, gas/oil mixtures, oil filters, and oil bottles are collected.**

Site	Location	Used Oil	Gas/Oil Mixture	Farmer Oil	Oil Filters	Oil Bottles
Ball Park Rd	Lexington		X		X	X
Bush River Rd	Columbia		X		X	X
Chapin	Chapin		X		X	X
Edmund	Lexington		X		X	X
Edmund Landfill	Lexington		X		X	X
Hollow Creek	Gilbert		X		X	X
Leesville	Leesville			X	X	X
Pelion	Pelion	X			X	X
River Chase	Lexington	X			X	X
Sandhills	Cayce	X			X	X
Southeast	Swansea		X		X	X
Summit	Leesville			X	X	X

- 5) **Description of items requested, specific amount, location, and descriptive literature:**

**a) Oil/Gas Mixture Tank (Total Requested: \$33,997)**

- a. Three 500-gallon oil/gas mixture tanks.
- b. 500-gallon oil/gas mixture tanks (each) = \$9890+ \$750 (installation fee) + tax
- c. The three 500-gallon oil/gas mixture tanks will be installed at the Pelion, River Chase and Sandhills Collection Centers.
- d. These new tanks will enhance the county's used oil recycling program by providing an additional locations that accept oil and gas mixtures.

**b) Carport (Total Requested: \$2,675)**

- a. One carport + tax = \$2,675
- b. \$2,500 each
- c. The carport will be used at the new recycling area at Edmund Landfill. The current oil pad and carport cover are too small to accommodate the 1,250-gallon tank as well as containers for oil filters and oil bottles.
- d. The carport is needed for the installation of the proposed new concrete slab for the expansion of the oil area.

**c) Concrete Slab (Total requested: \$4,280)**

- a. One concrete slab for expansion of oil area at the Edmund Landfill recycling area. The current oil collection area is too small to accommodate the 1,250-gallon tank as well as containers for oil bottles and oil filters.
- b. Concrete slab + tax = \$4,280
- c. This new slab will be used to expand the existing oil collection area the Edmund Landfill recycling area.
- d. This expansion will allow us to continue to provide adequate used oil collection as well as used oil filter and bottle collection.

**d) 120- gallon Oil Bottle Containers (Total Requested: \$2,408)**

- a. Five, 120-gallon oil bottle containers
- b. \$450.00 each + tax = \$2,408
- c. The 120- Gallon Oil Bottle Containers will be used to replace damaged/unusable containers at some of county's 11 Collection and Recycling Centers.
- d. The additional oil bottle containers will enhance the used oil recycling program by providing updated equipment and upkeep to the existing equipment.

**e) Containment Platforms (Total requested: \$3,429)**

- a. 12 containment platforms for storage and safe containment of oil bags, bottles, and 55- gallon drums.
- b. \$267.00 each + tax = \$3,429
- c. The platforms will be used at the oil bottle collection area at the Edmund Landfill as well as some of our collection centers.

**f) Oil Bottle Bags (Total Requested: \$7,400)**

- a. Twenty cases of 100 bags
- b. \$370.00 each
- c. The oil bottle bags will be used at all 11 Collection and Recycling Centers in Lexington County.
- d. The bags are needed to help sustain the oil bottle recycling program in Lexington County.

**6) Contract Services:**

LCSWM is not requesting funds for contract services.

- a. N/A
- b. N/A
- c. LCSWM currently works with Santee Cooper. LCSWM participates in Santee Cooper's Give Oil for Energy Recovery (GOFER) program. Santee Cooper removes and recycles the used oil collected at all 11 Collection and Recycling Center and the Edmund Landfill.

**7) Public Education:**

LCSWM is requesting **\$5,000** for public education. Grant funding will be used to print brochures and to advertise the recycling program via the newspaper and/or billboards.

**8) Site Preparation (\$11,666)**

- a. LCSWM is requesting 1/3 of the cost to expand our recycling loading dock at the Edmund Landfill. Recycling efforts would be greatly improved if more docks could be added to the existing area. Material collected at the dock could include mattresses, electronics, textiles, carpet and possibly more. We are hoping to increase the area from 3 docks to 4. Our goal is divert more material from our transfer station and landfill each year.
- b. The total estimated cost to expand the dock is \$35,000. We are requesting 1/3 of the cost, **\$11,666**.
- c. The recycling dock is located at the Edmund Landfill located at 498 Landfill Lane Lexington, SC 29073.
- d. This property is owned by Lexington County.

**9) Professional Development:**

LCSWM is requesting **\$750** for professional development. Grant funding will be used to send the Solid Waste Director, Recycling Coordinator, or other Solid Waste Management staff to seminars, trainings and professional workshops.

**10) Other Direct Costs:**

LCSWM is not requesting funds for other direct costs.

# **County of Lexington**

## **Department of Solid Waste Management**

498 Landfill Lane  
Lexington, South Carolina 29073  
Telephone: (803) 755-3325  
Facsimile: (803) 755-3833

**To:** Adam DuBose, County Grants Manager  
**From:** Amanda St. John, Recycling Coordinator  
**Date:** February 16, 2012  
**Re:** DHEC Waste Tire Grant Application

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Solid Waste Management is requesting Council committee approval to apply for DHEC's waste tire grant.

We are proposing grant funding be used to expand and modify the tire loading dock at the Edmund Landfill. Funding for professional development and public education are also being requested. Total funds requested are \$79,950.

With the April 6 deadline, Council may report out the application at their March 13, 2012 meeting.

We appreciate your understanding and consideration of this matter. If you have any questions, please let me know.

## COUNTY OF LEXINGTON Grant Request Summary Form

**Title of Grant:** Solid Waste Tire Grant

**Fund:** 5721 SW / Waste Tire Grant **Department:** 121207 Solid Waste/Recycling  
*No. Title No. Title*

**Type of Summary:** **Grant Application** X **Grant Award** \_\_\_\_\_

**Grant Overview:**

Lexington County Solid Waste Management is applying for grant funding to promote proper tire disposal and recycling and training/travel for County Staff as well as modify and expand the tire loading dock.

**Grant Period:** July 1, 2012 to June 30, 2013

**Responsible Departmental Grant Personnel:** Amanda St. John, Recycling Coordinator

**Date Grant Information Released:** February 3, 2012 **Date Grant Application Due:** April 6, 2012

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

<b>Personnel</b>	\$ -		
<b>Operating</b>	\$ 3,750.00	* Application Amount:	79,950.00
<b>Capital</b>	\$ 76,200.00	* Award Amount:	
<b>Total</b>	<u>\$ 79,950.00</u>		

**Local Match Required:** Yes  No

**If Yes, What is the Percentage / Amount:** N/A  
 \_\_\_\_\_  
 % \$ Amount

**Requirements at the End of this Grant (please explain in detail):**  
**Submit quarterly and year-end reports to DHEC.**

F:\windows\excel2k\forms\grants\blankgrantsummaryform.xls  
 Last Updated: 12/13/06 By: AD

Dept. Preparer:	<u>ASJ</u>	<u>2/16/2012</u>
Dept. Approval:	<u>DE</u>	<u>2/16/2012</u>
Finance Approval:	<u>AD</u>	<u>2/17/2012</u>
	<i>Initials</i>	<i>Date</i>



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## SECTION V – PROGRAM OVERVIEW

### Summary of Program

DHEC Waste Tire Grant

#### Objective:

This program is a proposed grant application with South Carolina Department of Health and Environmental Control (DHEC).

The funds will be used to educate the public about proper tire disposal and provide funding to expand the existing tire loading dock.

Funds will also be used to send staff to the Carolina Recycling Annual Conference or the SWANA Annual conference to promote professional development.

## SECTION VI. – LINE ITEM NARRATIVES

### SECTION IV. A – SUMMARY OF REVENUES

<b>458000 – STATE GRANT INCOME</b>	<b>\$79,950</b>
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### SECTION VI. C - OPERATING LINE ITEM NARRATIVES

<b>521213 - PUBLIC EDUCATION SUPPLIES</b>	<b>\$3,000</b>
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Funds to cover the purchase of educational supplies, brochures, etc.

<b>525210 – CONFERENCE, MEETING &amp; TRAINING EXPENSES</b>	<b>\$750</b>
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Funds to cover the cost for staff to attend the Carolina Recycling Association's annual conference or other professional development.

**SECTION VI. D – CAPITAL LINE ITEM NARRATIVES**

**5AD000 - ENGINEERING (TIRE LOADING DOCK)** **\$16,200**

Funds for engineering design and construction administration to modify and construct a new tire loading dock at the landfill.

**5AD000 - CONSTRUCTION (TIRE LOADING DOCK)** **\$60,000**

Funds to modify and construct a new tire loading dock at the landfill.

# **County of Lexington**

**Department of Solid Waste Management**

498 Landfill Lane

Lexington, South Carolina 29073

Telephone: (803) 755-3325

Facsimile: (803) 755-3833

**To:** Adam DuBose, County Grants Manager  
**From:** Amanda St. John, Recycling Coordinator  
**Date:** February 16, 2012  
**Re:** DHEC Solid Waste Grant Application

---

Solid Waste Management is requesting Council committee approval to apply for DHEC's solid waste management grant.

We are proposing grant funding be used to implement a backyard and vermin composting education and outreach program. Total funds requested are \$5,000.

With the April 6th deadline, Council may report out the application at their March 13, 2012 meeting.

We appreciate your understanding and consideration of this matter. If you have any questions, please let me know.



**COUNTY OF LEXINGTON  
SOLID WASTE DHEC MANAGEMENT GRANT  
Annual Budget  
Fiscal Year - 2012-13**

Object Code	Revenue Account Title	Actual 2010-11	Received Thru Dec 2011-12	Amended Budget Thru Dec 2011-12	Projected Revenues Thru Jun 2011-12	Requested 2012-13	Recommend 2012-13	Approved 2012-13
<b>*Solid Waste DHEC Management Grant 5720:</b>								
<b>Revenues:</b>								
458000	State Grant Income	0	22,112	7,000	7,000	5,000	5,000	
461000	Investment Interest	5	0	0	0	0	0	
<b>** Total Revenue</b>		<u>5</u>	<u>22,112</u>	<u>7,000</u>	<u>7,000</u>	<u>5,000</u>	<u>5,000</u>	
<b>***Total Appropriation</b>					56,750	5,000	5,000	
FUND BALANCE								
Beginning of Year					1,443	(48,307)	(48,307)	
FUND BALANCE - Projected								
End of Year					<u>(48,307)</u>	<u>(48,307)</u>	<u>(48,307)</u>	

Fund: 5720  
Division: Public Works  
Organization: 121207 - Solid Waste / Recycling

Object Code	Expenditure Classification	<b>BUDGET</b>				
		2010-11 Expend	2011-12 Expend (Dec)	2011-12 Amended (Dec)	2012-13 Requested	2012-13 Recommend
<b>Personnel</b>						
<b>* Total Personnel</b>		<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>
<b>Operating Expenses</b>						
520200	Contracted Services	0	2,606	27,250	0	0
520400	Advertising & Publicity	0	0	0	1,267	1,267
521200	Operating Supplies	0	0	0	3,733	3,733
521213	Public Education Supplies	0	0	0	0	0
525100	Postage	0	0	0	0	0
<b>* Total Operating</b>		<b>0</b>	<b>2,606</b>	<b>27,250</b>	<b>5,000</b>	<b>5,000</b>
<b>**Total Personnel &amp; Operating</b>		<b>0</b>	<b>2,606</b>	<b>27,250</b>	<b>5,000</b>	<b>5,000</b>
<b>Capital</b>						
599999	Capital Clearing	0	0	0	0	0
	All Other Equipment	0	22,112	29,500	0	0
<b>**Total Capital</b>		<b>0</b>	<b>22,112</b>	<b>29,500</b>	<b>0</b>	<b>0</b>
<b>** Total Budget Appropriation</b>		<b>0</b>	<b>24,718</b>	<b>56,750</b>	<b>5,000</b>	<b>5,000</b>

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## SECTION V. – PROGRAM OVERVIEW

### Summary of Program

DHEC Solid Waste Management Grant

### Objective:

This program is a proposed grant application with South Carolina Department of Health and Environmental Control (DHEC). DHEC is offering grant funds for programs that demonstrably impact the recycling rate through increased collection and recycling. The proposed grant request would help fund a Backyard Composting Education and Outreach Program that would help educate residents on the importance of diverting organic materials, including yard trimmings, from landfills.

## SECTION VI. – LINE ITEM NARRATIVES

### SECTION VI. A – SUMMARY OF REVENUES

<b>458000 – STATE GRANT INCOME</b>	<b>\$5,000</b>
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### SECTION VI. C - OPERATING LINE ITEM NARRATIVES

<b>520400 - ADVERTISING AND PUBLICITY</b>	<b>\$1,267</b>
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(2) Advertisement in Neighbors section of The State newspaper promoting backyard composting and diverting yard trimmings from landfill. (2 newspaper advertisement x \$515.34 each = \$1,030.68).

(1) Advertisements in Lexington Chronicle promoting backyard composting and diverting yard trimmings from landfill. (1 newspaper advertisement x \$236.25 each = \$236.25).

<b>521200 - OPERATING SUPPLIES</b>	<b>\$3,733</b>
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To cover the costs of backyard/vermin-composting education and outreach to include the following: workshops, certificates, composting supplies for workshops and residents and the printing of an educational brochure or booklet.

FY13 DHEC Solid Waste Reduction and Recycling Grant

1. Lexington County Solid Waste Management

2. Amanda St. John, Recycling Coordinator

498 Landfill Lane

Lexington, SC 29073

Office: 803.785.3340

Fax: 803.755.3833

[astjohn@lex-co.com](mailto:astjohn@lex-co.com)

Joe Mergo, Lexington County Interim Administrator

212 S. Lake Drive

Lexington, SC 29072

Office: 803.785.8100

Fax: 803.785.8101

[khubbard@lex-co.com](mailto:khubbard@lex-co.com)

Larry Porth, Finance Director

212 S. Lake Drive

Lexington, SC 29072

Office: 803.785.8105

Fax: 803.785.8379

[lporth@lex-co.com](mailto:lporth@lex-co.com)

3. We are requesting funding to implement a backyard and vermi composting education and outreach program. We would like to hold workshops and provide educational materials to our residents in order to encourage them to compost.
4. The targeted commodity is organic material, specifically yard trimmings and food scraps. We currently collect clean wood waste (scrap lumber, limbs, pallets, etc.) at the landfill and four of our collection centers but would like to encourage residents in taking a more active role in reducing the amount of waste they send to the landfill.
5. We are targeting our residents but feel we can reach them through several outlets including local schools and businesses. We will offer demonstrations to neighborhood associations, schools, businesses and non-profits.
6. If organic material is not currently being composted then it is most likely being disposed of in a landfill. We hope to demonstrate how easy backyard and vermin composting can be so that

more of our residents will take an active role in reducing a large portion of their household waste currently being sent to a landfill.

7. The residents would, of course, be responsible for their own compost—how and what is collected and how the end product is used. We would provide technical assistance and best practices in order for them to be successful at composting.
8. No potential vendors are needed for this particular program.
9. We plan to work through our library system as well as our local environmental contacts to promote demonstrations and workshops. Information will be posted on the County's Web page and distributed through the quarterly e-newsletter.
10. Much of the organic material generated in the county is currently not collected for composting. As mentioned before we do collect clean wood waste at four of our centers and the landfill and last year, because of these efforts, we were able to divert more than 4,000 tons from our landfill. We estimate that currently more than 55,700 tons of organic material (food scraps and yard trimmings) is being generated by our residents.
11. There's no way to really determine how many households will begin to compost due to any outreach efforts on our part. We do hope that we at least get the conversation started on the importance of waste diversion and the many benefits of backyard composting. With an estimated 55,700 tons generated in FY10, there's much room for improvement.
12. The EPA's 2010 MSW Facts and Figures Report estimates that nearly 27% of MSW generated nationwide is comprised of food scraps and yard trimmings. In FY10, Lexington County generated 206,407 tons of MSW.
- 13-15. This is not a regional program but we will reach out to our municipalities and offer assistance .
16. We are requesting **\$5,000**. Approximately \$1,200 to advertise and promote the program and \$3,800 to secure workshop space, refreshments, print/purchase educational materials as well as demonstration supplies.
17. Any continuance of this program will be funded by Lexington County or through future grants.

**South Carolina Association of Counties  
Workers Compensation/Property & Liability Trusts  
2011 Outstanding Safety Achievement Award**

The Risk Management Division submitted applications for a 2011 SCAC Safety Achievement Award and was recognized at the Trust's Annual Meeting in January.

Two projects attributed to the award:

1. After slip and fall injury on low boy trailer that transports backhoe and other equipment, installed non-slip grids Public Works had an increased awareness of slip and falls from previous equipment related slip injuries. Have not had a slip related injury from the trailer since the installation in May. Public Works did have a minor slip when an operator was entering cab of equipment but, was not related to this type of surface exposure from the trailer.

2. Lexington County Threat Assessment Team conducted a Security Threat Assessment of the Lexington County Administration Building and the Judicial Center in June 2011. Lexington County utilizes Hazard Assessments to review the physical and technical security of the County premises. In addition, the assessments focus on the evaluation of both external and internal factors which may contribute to the commission of violent acts against employees (both at fixed sites and in the field) and third parties on the County premises or who deal with employees.

**LEXINGTON COUNTY  
RESOLUTION NO. 12-01**

EXPRESSING OPPOSITION TO HOUSE BILL #4721 AND  
SENATE BILL #514 RELATING TO FLOW CONTROL, AND  
REQUESTING THAT BOTH BILLS BE PULLED FROM  
FURTHER CONSIDERATION BY THE SOUTH CAROLINA  
LEGISLATURE.

**WHEREAS**, in December, 1990, Horry County Council, in coordination with the Horry County League of Cities, approved and enacted Ordinance Number 60-90, creating the Horry County Solid Waste Authority, Inc. (SWA), a non-profit corporation created in furtherance of the governmental powers of Horry County, South Carolina, and charged inter alia, with the following responsibilities:

To develop and implement in all respects an adequate solid waste disposal and resource recovery/recycling system for all residents, commercial and industrial operators within the County, and such other entities as the Authority deems appropriate.

and;

**WHEREAS**, the SWA has provided a comprehensive solid waste management program for all the citizens and residents of Horry County; and

**WHEREAS**, the SWA provides services to all citizens in Horry County including: operating a yard waste composting facility to accept yard waste and other approved organic material for the purpose of providing an alternative disposal for these materials; providing recycling facilities; providing a program for disposal of household hazardous waste products; providing storm debris facilities for all cities and the County; providing a program for processing some construction and demolition waste products; providing an educational program for schools and citizens relating to responsible waste management with an emphasis on source reduction, reuse, recycling and environmental awareness; providing adequate facilities for waste disposal; and other related programs; and

**WHEREAS**, the SWA developed a Solid Waste Management Plan for Horry County which plan was initially developed in 1993, and updated in 1998, 2001, 2007 and 2011, and which was adopted and approved the City of Conway; and

**WHEREAS**, the proper disposal of all municipal solid waste and construction and demolition solid waste material (not recycled or reused) is in the best interest of Horry County's citizens for preservation of the environment in the County and to maintain the County in a state of natural beauty for the enjoyment of its citizens and to attract tourism; and

**WHEREAS**, on May 22, 2007, the Board of Directors of the Solid Waste Authority approved a resolution supporting the establishment of a Flow Control Ordinance by Horry County Council; and

**WHEREAS**, on April 7, 2009, Horry County Council adopted a County ordinance requiring all municipal solid waste and construction and demolition solid waste materials (not recycled or reused) be delivered to specified SWA management – resource recovery facilities would be in the best interest of the citizens of Horry County, to insure the safe, efficient disposal of waste products and preserve County resources in a manner that is environmentally friendly; and

**WHEREAS**, on September 19, 2011, the South Carolina Supreme Court ruled that Horry County’s Flow Control Ordinance is a valid enactment in furtherance of the County’s police power consistent with the general laws and Constitution of South Carolina, and is not preempted by the South Carolina Solid Waste Policy and Management Act, and further noted the longstanding involvement of counties in South Carolina in the field of solid waste management; and

**WHEREAS**, the Lexington County Council believes that the passage of House Bill #4721 and Senate Bill #514 would detrimentally affect the ability of the Horry County Solid Waste Authority to sustain all current and further environmental and education programs as well as continue to provide a comprehensive solid waste management program for all the citizens and residents of Horry County.

**NOW, THEREFORE, BE IT RESOLVED** that we, the members of Lexington County Council, hereby express our opposition to House Bill #4721 and Senate Bill #514 and request that both Bills be pulled from further consideration by the South Carolina House of Representatives and the South Carolina Senate.

\_\_\_\_\_  
William B. Banning, Sr., Chairman

\_\_\_\_\_  
Johnny W. Jeffcoat, Vice Chairman

\_\_\_\_\_  
James E. Kinard, Jr.

\_\_\_\_\_  
Frank J. Townsend, III

\_\_\_\_\_  
George H. “Smokey” Davis

\_\_\_\_\_  
Debra B. Summers

\_\_\_\_\_  
Bobby C. Keisler

\_\_\_\_\_  
K. Brad Matthews

\_\_\_\_\_  
M. Todd Cullum

ATTEST:

\_\_\_\_\_  
Diana W. Burnett, Clerk



## APPOINTMENTS BOARDS & COMMISSIONS

February 28, 2012

### FRANK TOWNSEND

- **Lexington County Health Services District**; Allan R. Risinger; term expires 03/10/12; eligible for reappointment; *confirmed desire to serve another term*

### SMOKEY DAVIS

- **Lexington County Health Services District**; Ernest Rene Derrick, Jr.; term expires 03/10/12; eligible for reappointment; *confirmed desire to serve another term*

### JOHNNY JEFFCOAT

- **Museum**; Laura Howell; term expired 11/01/11; *confirmed desire NOT to serve another term*

### BRAD MATTHEWS

- **Lexington County Health Services District**; William A. Kennedy; term expires 03/10/12; *not eligible for reappointment*

### BILL BANNING

- **Assessment Appeals Board**; Paige Hicks; term expires 09/21/13; resigned 12/31/11; nomination form for Joel T. Merrill attached

### TODD CULLUM

- **Board of Zoning Appeals**; Vacant; term expires 12/31/13
- **Lexington County Health Services District**; G. Tripp Jones, MD; term expires 03/10/12; eligible for reappointment; *confirmed desire to serve another term*
- **Museum** - Vacant; term expires 11/01/13

### AT LARGE:

#### Building Codes Board of Appeals

- **Plumbing** - Ashton Shuler; term expired 08/13/11; eligible for reappointment; *confirmed desire NOT to serve another term*

Lexington County Health Services District; James D. Whitehead, Jr., MD.; term expires 03/10/12; *not eligible for reappointment*

#### Stormwater Advisory Board

- **Environmental Steward** - Sue Green; term expires 12/09/12; resigned effective 11/16/11



LEXINGTON COUNTY COUNCIL

BOARD/COMMISSION NOMINATION FORM

Name of Board/Commission: Assessment Appeals Board

Nominee: Joel T. Merrill

Address: 2608 Pine Lake Dr. W. Columbia, SC. 29169

Employed by: Southeastern Consulting Group

Address: P.O. Box 21065 Columbia, S.C. 29169

Home Telephone: 803-739-1717 Business Telephone: 803-791-4330

Mobile Phone: 803-252-6491 Fax Number: 888-445-5355

Email Address: Joel@merrillins.com

Is nominee aware of board/commission activities and responsibilities? Yes

Background information (include education, community service activities, previous service on county boards/commissions or any other boards/commissions on which you are currently serving):

- South Carolina Small Business Chamber - Charter Board Member
West Metro Rotary Member - Incoming Board Member
Executive Association of Greater Columbia former Member
Quail Hollow Community Association - Secretary
Quail Hollow Community Association - President
Dne K Dot com - Board Member
Brokers Insurance Group - Board Member

Office use only
Submitted by: Bill Banning
Council District Number: 8
Date: 2-28-12

Please return completed form to:
Lexington County Council
212 South Lake Drive, Suite 601
Lexington, SC 29072
Or Fax to 803-785-8101
For questions call 803-785-8103

# COUNTY OF LEXINGTON

## Procurement Services

MEMORANDUM

(O) 785-8319

(F) 785-2240

**DATE:** February 16, 2012

**TO:** Joe Mergo, III  
Interim County Administrator

**THROUGH:** Jeffrey A. Hyde  
Procurement Manager

**FROM:** Angela M. Seymour  
Procurement Officer

**SUBJECT: Parking Lot Rehabilitation  
B12037-02/08/12S  
Public Works/Sheriff's Department/Library**

Competitive bids were solicited and advertised for rehabilitation of the parking lots for the Cayce/West Columbia Library and the Lexington County Sheriff's Department. This project consists of full depth patching, new concrete curb installation, removal, and replacement of existing curb, 1.5" HMA overlay, and line painting at these Lexington County maintained facilities. A mandatory pre-bid meeting was held on January 27, 2012 in which ten (10) contractors were represented. We received four (4) responsive bids and three (3) "no bids" on February 8, 2012 (see attached Bid Tabulation).

The bids were evaluated by John Fechtel, Director of Public Works; J. Randy Edwards, County Engineer; Colonel Alan Paavel, Sheriff's Department; Dee Bedenbaugh, Public Library System Director; and Angela M. Seymour, Procurement Officer. It is our recommendation to award this project to REA Contracting for Task One (Library) and Task Two (Sheriff's Department) as the lowest bidder for a total amount, including all applicable taxes, of \$241,272.75.

Funds will be appropriated in the following accounts:

<u>Account Number</u>	<u>Account Description</u>	<u>Account Balance</u>
2300-230099-5AC314	Repave Parking Lot – Cayce/West Columbia	\$79,145.00
4515-159900-5AC332	Sheriff's Department Paving	\$60,000.00
4515-159900-5AC333	LE Training Facility Paving	\$35,000.00
1000-151200-5A9231	Pave Front Parking Lot	\$26,709.00**

**\*\*A Budget Amendment Resolution (BAR) is to be presented to County Council for approval on February 28, 2012 to transfer the additional \$40,419.00 that is needed in account 1000-151200-5A9231.**

I concur with the above recommendation and further recommend that these purchases be placed on County Council's agenda for their next scheduled meeting on February 28, 2012.

copy: Larry Porth, Director of Finance/Assistant County Administrator  
John Fechtel, Director of Public Works/Assistant County Administrator  
J. Randy Edwards, County Engineer  
Colonel Allan Paavel, Sheriff's Department  
Sylvia Dillon, Sheriff's Department  
Dee Bedenbaugh, Public Library System Director

**County of Lexington**

**Bid Tabulation**

**BID # : B12037-02/15/12S**  
**Parking Lot Rehabilitation**  
**Task 1 - Library**

Item	Qty	U/M	Description	**AOS Specialty		Charlie Price Paving Company,		Sloan Construction Company,	
				Unit Total	Total Cost	Unit Total	Total Cost	Unit Total	Total Cost
<b>Task 1 Total</b>					<b>No Bid</b>		<b>No Bid</b>		<b>No Bid</b>
<b>Task 2 - LCSD</b>									
Item	Qty	U/M	Description	Unit Total	Total Cost	Unit Total	Total Cost	Unit Total	Total Cost
<b>Task 2 Total</b>					<b>No Bid</b>		<b>No Bid</b>		<b>No Bid</b>
<b>Grand Total Task 1 &amp; Task 2</b>					<b>No Bid</b>		<b>No Bid</b>		<b>No Bid</b>

**Task 1 - Library**

Item	Qty	U/M	Description	REA Contracting		Asphalt Paving & Maintenance Company, Inc.		LCI Lineberger Construction, Inc.	
				Unit Total	Total Cost	Unit Total	Total Cost	Unit Total	Total Cost
202	400	SY	Asphalt Removal and Disposal	\$ 4.55	\$ 1,820.00	\$ 8.75	\$ 3,500.00	\$ 5.85	\$ 2,340.00
401.1	1000	SY	Milling of Existing Asphalt	\$ 5.65	\$ 5,650.00	\$ 8.50	\$ 8,500.00	\$ 3.75	\$ 3,750.00
401.2	200	TN	Full Depth Asphalt Patch	\$ 110.50	\$ 22,100.00	\$ 142.50	\$ 28,500.00	\$ 135.00	\$ 27,000.00
401.3	20	TN	Hot Mix Asphalt, Wedge and Level (Type C)	\$ 87.50	\$ 1,750.00	\$ 125.00	\$ 2,500.00	\$ 112.00	\$ 2,240.00
401.4	360	TN	Hot Mix Asphalt, Surface Course (Type C)	\$ 87.50	\$ 31,500.00	\$ 101.32	\$ 36,475.20	\$ 138.00	\$ 49,680.00
625.1	1300	LF	4" White Parking Lot Lines - Fast Dry Paint	\$ 0.30	\$ 390.00	\$ 0.35	\$ 455.00	\$ 0.79	\$ 1,027.00
625.2	300	LF	4" Blue Parking Lot Lines - Fast Dry Paint	\$ 0.65	\$ 195.00	\$ 0.35	\$ 105.00	\$ 0.91	\$ 273.00
627.1	7	EA	Handicap Symbol - Thermoplastic	\$ 60.00	\$ 420.00	\$ 95.00	\$ 665.00	\$ 450.00	\$ 3,150.00
627.2	3	EA	White Directional Arrows - Thermoplastic	\$ 62.50	\$ 187.50	\$ 222.00	\$ 666.00	\$ 68.02	\$ 204.06
627.3	36	LF	24" White Stop Bar - Thermoplastic	\$ 20.50	\$ 738.00	\$ 18.53	\$ 667.08	\$ 28.34	\$ 1,020.24
720.1	760	LF	New Concrete Curb & Gutter	\$ 10.35	\$ 7,866.00	\$ 25.00	\$ 19,000.00	\$ 18.09	\$ 13,748.40
720.2	60	LF	Concrete Curb Removal	\$ 25.00	\$ 1,500.00	\$ 25.00	\$ 1,500.00	\$ 21.99	\$ 1,319.40
720.3	2	EA	Concrete Handicap Access Ramp	\$ 1,250.00	\$ 2,500.00	\$ 2,500.00	\$ 5,000.00	\$ 2,830.44	\$ 5,660.88
720.4	19	EA	6" Concrete Parking Block	\$ 42.75	\$ 812.25	\$ 50.00	\$ 950.00	\$ 81.97	\$ 1,557.43
802	120	LF	4" Schedule 40 PVC Conduit	\$ 14.30	\$ 1,716.00	\$ 12.50	\$ 1,500.00	\$ 28.89	\$ 3,466.80
<b>Task 1 Total</b>					<b>\$ 79,144.75</b>		<b>\$ 109,983.28</b>		<b>\$ 116,437.21</b>

**Task 2 - LCSD**

Item	Qty	U/M	Description	Unit Total	Total Cost	Unit Total	Total Cost	Unit Total	Total Cost
202	300	SY	Asphalt Removal and Disposal	\$ 4.05	\$ 1,215.00	\$ 6.67	\$ 2,001.00	\$ 7.50	\$ 2,250.00
401.1	1500	SY	Milling of Existing Asphalt	\$ 3.85	\$ 5,775.00	\$ 7.50	\$ 11,250.00	\$ 3.75	\$ 5,625.00
401.2	560	TN	Full Depth Asphalt Patch	\$ 94.50	\$ 52,920.00	\$ 130.00	\$ 72,800.00	\$ 135.00	\$ 75,600.00
401.3	100	TN	Hot Mix Asphalt, Wedge and Level (Type C)	\$ 86.00	\$ 8,600.00	\$ 102.50	\$ 10,250.00	\$ 112.00	\$ 11,200.00
401.4	980	TN	Hot Mix Asphalt, Surface Course (Type C)	\$ 86.00	\$ 84,280.00	\$ 92.25	\$ 90,405.00	\$ 113.50	\$ 111,230.00
625.1	5400	LF	4" White Parking Lot Lines - Fast Dry Paint	\$ 0.30	\$ 1,620.00	\$ 0.35	\$ 1,890.00	\$ 0.45	\$ 2,430.00
625.2	200	LF	4" Blue Parking Lot Lines - Fast Dry Paint	\$ 0.60	\$ 120.00	\$ 0.35	\$ 70.00	\$ 0.57	\$ 114.00
627.1	4	EA	Handicap Symbol - Thermoplastic	\$ 60.00	\$ 240.00	\$ 125.00	\$ 500.00	\$ 450.00	\$ 1,800.00
627.3	36	LF	24" White Stop Bar - Thermoplastic	\$ 20.50	\$ 738.00	\$ 14.00	\$ 504.00	\$ 28.34	\$ 1,020.24
720.1	400	LF	New Concrete Curb & Gutter	\$ 10.30	\$ 4,120.00	\$ 22.50	\$ 9,000.00	\$ 17.75	\$ 7,100.00
720.2	100	LF	Concrete Curb Removal	\$ 25.00	\$ 2,500.00	\$ 10.00	\$ 1,000.00	\$ 13.19	\$ 1,319.00
<b>Task 2 Total</b>					<b>\$ 162,128.00</b>		<b>\$ 199,670.00</b>		<b>\$ 219,688.24</b>
<b>Grand Total Task 1 &amp; Task 2</b>					<b>\$ 241,272.75</b>		<b>\$ 309,653.28</b>		<b>\$ 336,125.45</b>

**Task 1 - Library**

			<b>C.R. Jackson, Inc.</b>		
<b>Item</b>	<b>Qty</b>	<b>U/M</b>	<b>Description</b>	<b>Unit Total</b>	<b>Total Cost</b>
202	400	SY	Asphalt Removal and Disposal	\$ 7.50	\$ 3,000.00
401.1	1000	SY	Milling of Existing Asphalt	\$ 4.50	\$ 4,500.00
401.2	200	TN	Full Depth Asphalt Patch	\$ 132.25	\$ 26,450.00
401.3	20	TN	Hot Mix Asphalt, Wedge and Level (Type C)	\$ 157.70	\$ 3,154.00
401.4	360	TN	Hot Mix Asphalt, Surface Course (Type C)	\$ 136.50	\$ 49,140.00
625.1	1300	LF	4" White Parking Lot Lines - Fast Dry Paint	\$ 0.35	\$ 455.00
625.2	300	LF	4" Blue Parking Lot Lines - Fast Dry Paint	\$ 0.45	\$ 135.00
627.1	7	EA	Handicap Symbol - Thermoplastic	\$ 285.00	\$ 1,995.00
627.2	3	EA	White Directional Arrows - Thermoplastic	\$ 170.00	\$ 510.00
627.3	36	LF	24" White Stop Bar - Thermoplastic	\$ 22.80	\$ 820.80
720.1	760	LF	New Concrete Curb & Gutter	\$ 14.00	\$ 10,640.00
720.2	60	LF	Concrete Curb Removal	\$ 14.60	\$ 876.00
720.3	2	EA	Concrete Handicap Access Ramp	\$ 800.00	\$ 1,600.00
720.4	19	EA	6' Concrete Parking Block	\$ 50.00	\$ 950.00
802	120	LF	4" Schedule 40 PVC Conduit	\$ 26.70	\$ 3,204.00
<b>Task 1 Total</b>					<b>\$ 107,429.80</b>

**Task 2 - LCSD**

<b>Item</b>	<b>Qty</b>	<b>U/M</b>	<b>Description</b>	<b>Unit Total</b>	<b>Total Cost</b>
202	300	SY	Asphalt Removal and Disposal	\$ 7.25	\$ 2,175.00
401.1	1500	SY	Milling of Existing Asphalt	\$ 3.00	\$ 4,500.00
401.2	560	TN	Full Depth Asphalt Patch	\$ 125.00	\$ 70,000.00
401.3	100	TN	Hot Mix Asphalt, Wedge and Level (Type C)	\$ 143.00	\$ 14,300.00
401.4	980	TN	Hot Mix Asphalt, Surface Course (Type C)	\$ 110.00	\$ 107,800.00
625.1	5400	LF	4" White Parking Lot Lines - Fast Dry Paint	\$ 0.35	\$ 1,890.00
625.2	200	LF	4" Blue Parking Lot Lines - Fast Dry Paint	\$ 0.50	\$ 100.00
627.1	4	EA	Handicap Symbol - Thermoplastic	\$ 285.00	\$ 1,140.00
627.3	36	LF	24" White Stop Bar - Thermoplastic	\$ 22.80	\$ 820.80
720.1	400	LF	New Concrete Curb & Gutter	\$ 14.00	\$ 5,600.00
720.2	100	LF	Concrete Curb Removal	\$ 17.30	\$ 1,730.00
<b>Task 2 Total</b>					<b>\$ 210,055.80</b>
<b>Grand Total Task 1 &amp; Task 2</b>					<b>\$ 317,485.60</b>

\*\* AOS Specialty provided a "no bid" response due to scheduling conflicts.

\*\* Sloan Construction Company, Inc. provided a "no bid" response due to they were submitting as a subcontractor.

\*\* Charlie Price Paving Company, Inc. provided a "no bid" response due to scheduling conflicts.

Bids Received: February 13, 2012 @ 2:00 PM

Angela M. Seymour  
Procurement Officer

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COUNTY OF LEXINGTON, SOUTH CAROLINA

Community Development

County Administration Building, 4th Floor
212 South Lake Drive, Suite 401, Lexington, SC 29072
(803)785-8121

ZONING TEXT AMENDMENT APPLICATION # T11-04

Section(s) of the Zoning Ordinance that are affected:

ARTICLE 2-APPLICATION OF REGULATIONS-Chapter 3. Buffering Restrictions

Reason for the request: To create an easier method for monitoring buffering restrictions for residential detached and residential attached (2 dwelling units).

Submitted on behalf of: [ ] County Council [X] Planning Commission

Printed Name: Charles M. Compton Title: Director, Planning & GIS

Signature: signature on file

Table with 4 columns: Date, Action, Date, Action. Rows: 10/28/11 Application Received, 11/17/11 Newspaper Advertisement, 12/15/11 Planning Commission

Planning Commission Recommendation: 7-0 approval for December 9, 2011 draft

Table with 4 columns: Date, Action, Date, Action. Rows: 11/08/11 First Reading, 12/13/11 Public Hearing, 02/14/12 Second Reading, Third Reading

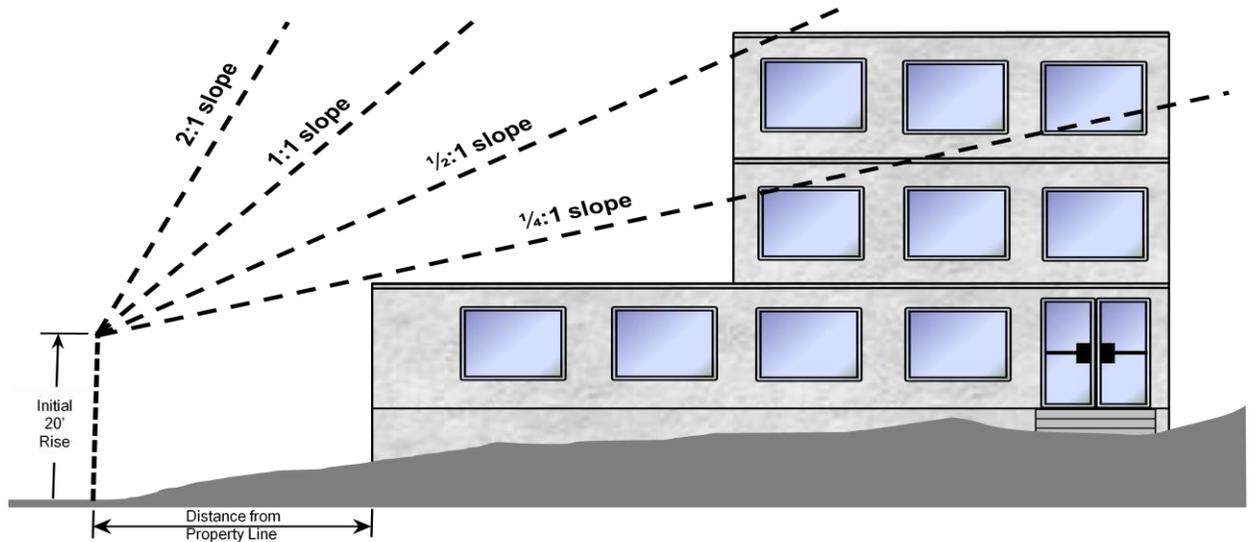
Results:

23.00 Purpose

Buffering restrictions are a key component of this Ordinance which strive to achieve compatibility of neighboring activities. To accomplish this goal, each principal activity classification has a separate set of recommended maximum buffering restrictions which address height, buffers, setbacks, and screening. These principal activity categories will find themselves located in projects containing varying degrees of intensity depending on the layout, size, shape, design, etc., of the specific activity itself, the accessory activities, and the associated buildings and structures. Determination of the ideal buffering restrictions for each specific principal activity will be subject to a process outlined in this chapter. Likewise subdivisions and other new developments which may contain a variety of activities will be given internal flexibility with the application of these restrictions in order to achieve a maximum level of creativity in the formation of their project layout.

23.10 Height Regulations

Height regulations are based on the establishment of a height control slope. Initially, a 20-foot rise is permitted at the property line perpendicular to the property line. Then, based on the district concerned, and the activity involved, a height control slope is specified in terms of a ratio of vertical rise to horizontal distance. For example, a 2:1 ratio means that for every 2 feet of vertical rise, an additional 1 foot of horizontal distance is measured off into the interior of the property. The following diagram describes the nature of the height control slope:



The *International Residential Code for One- and Two-family Dwellings* allows no more than three stories above-grade in height; therefore, any Residential Detached or Residential Attached (2 dwelling units) activity that meets a 10-foot setback from adjoining property is exempt from the height requirements of this section.

The following chart is published to assist in determining the maximum permissible structure height allowed with various height control slopes. Heights are listed in feet based upon an initial 20-foot rise at the property line.

Distance from the Property Line	Height Control Slope					
	1/4:1	1/2:1	1:1	2:1	3:1	4:1
5	21.25	22.5	25	30	35	40
10	22.5	25	30	40	50	60
15	23.75	27.5	35	50	65	80
20	25	30	40	60	80	100
25	26.25	32.5	45	70	95	120
30	27.5	35	50	80	110	140
35	28.75	37.5	55	90	125	160
40	30	40	60	100	140	180

Distance from the Property Line	Height Control Slope					
	¼:1	½:1	1:1	2:1	3:1	4:1
45	31.25	42.5	65	110	155	200
50	32.5	45	70	120	170	220
55	33.75	47.5	75	130	185	240
60	35	50	80	140	200	260
65	36.25	52.5	85	150	215	280
70	37.5	55	90	160	230	300
75	38.75	57.5	95	170	245	320
80	40	60	100	180	260	340
85	41.25	62.5	105	190	275	360
90	42.5	65	110	200	290	380
95	43.75	67.5	115	210	305	400
100	45	70	120	220	320	420

A maximum of two above-ground stories are permitted in the LC district.

The chart in Section 23.50 lists the height requirements of this Ordinance by activity type and location.

### 23.11 Special Requirements for Waterfront Property

In order to protect the unique scenic vistas of significant waterways in Lexington County, special requirements are to be applied to the development of properties in the vicinity of the Saluda River, the Edisto River, the Congaree River, and Lake Murray. Where there are multiple methods for computing the allowed height for a building in this chapter, the most restrictive shall apply. *The International Residential Code for One- and Two-family Dwellings allows no more than three stories above-grade in height; therefore, any Residential Detached or Residential Attached (2 dwelling units) activity that meets a 50-foot buffer distance from the waters of Lake Murray or a 100-foot buffer distance from the shores of the three rivers listed below is exempt from the Special Requirements for Waterfront Property.*

Lake Murray: A special height control slope of ½:1 is to be used along the shores of Lake Murray where the regulated property is designated as a Restrictive Development District. If the property is designated as an Intensive Development District, then a height control slope of 2:1 shall apply. Along the shores of Lake Murray, the location of the initial 20-foot rise shall be considered to be the location of the 360-foot (mean sea level) contour *or the waterfront property line, whichever is the least restrictive*. All property within 1000 feet of the 360-foot contour and designated as a Restrictive Development District shall also comply with the following additional height restrictions which are based on the street classification providing access to the proposed activity:

Local (L) street – No building taller than 70 feet is allowed. That height is measured from the average elevation of the building as it leaves the ground.

Collector (C) street – No building taller than 100 feet is allowed. That height is measured from the average elevation of the building as it leaves the ground.

Arterial (A) street – Height of buildings shall be determined by the other requirements from this chapter.

Congaree River: Because of the extremely varied terrain along the banks of this river, it is very difficult to determine the best elevation from which to measure the “initial 20-foot rise” referenced in Section 23.10. For this river, the beginning elevation for calculating the height control slope for the waterfront property line shall be uniform along the river bank. That elevation shall be the same as the highest elevation on the property that falls within 300 feet of the waterfront property line. A height control slope of 1:1 shall apply to this waterfront property line.

Saluda River: Because of the unique scenic character of the Saluda River, stricter height requirements apply to the adjacent lands. All buildings within 500 feet of the waterfront property lines shall not exceed ~~40~~ 50 feet. Buildings farther than 500 feet but within 1000 feet of the waterfront property lines shall not exceed ~~60~~ 70 feet. That height is measured from the highest elevation of the building as it leaves the ground. ~~A height control slope of~~

~~1:1 shall also apply to the waterfront property lines.~~ For the purpose of this Ordinance, the Saluda River is considered to begin 4000 feet downstream from its discharge point below the Lake Murray Dam.

Edisto River: Because of the unique “black water” aspects of the North Fork of the Edisto River, stricter height requirements apply to the adjacent lands. All buildings within 500 feet of the waterfront property lines shall not exceed ~~40~~ 50 feet. That height is measured from the highest elevation of the building as it leaves the ground. ~~A height control slope of 1:1 shall also apply to the waterfront property lines.~~ For the purpose of this Ordinance, the Edisto River is considered to begin at the I-20 bridge crossing.

The average elevation as referenced in these regulations shall be computed by selecting the halfway point between the highest and lowest ground elevations surrounding the structure.

**ORDINANCE**

**AN ORDINANCE AUTHORIZING (1) THE EXECUTION AND DELIVERY OF A FEE IN LIEU OF TAX AND INCENTIVE AGREEMENT (THE "FILOT AGREEMENT") BETWEEN LEXINGTON COUNTY, SOUTH CAROLINA (THE "COUNTY") AND NEPHRON SC, INC., ACTING FOR ITSELF, ANY AFFILIATES AND OTHER PROJECT SPONSORS, (THE "COMPANY"), IN CONNECTION WITH THE ESTABLISHMENT OF FACILITIES IN THE COUNTY (THE "PROJECT"); (2) THE COUNTY TO COVENANT IN SUCH FILOT AGREEMENT TO ACCEPT CERTAIN NEGOTIATED FEES IN LIEU OF AD VALOREM TAXES WITH RESPECT TO THE PROJECT; (3) SPECIAL SOURCE CREDITS IN CONNECTION WITH THE PROJECT; (4) THE BENEFITS OF A MULTI-COUNTY INDUSTRIAL OR BUSINESS PARK TO BE MADE AVAILABLE TO THE COMPANY AND THE PROJECT; (5) TRANSFER AND CONVEYANCE BY THE COUNTY TO THE COMPANY OF CERTAIN PROPERTY; AND (6) OTHER MATTERS RELATING THERETO.**

**WHEREAS**, to induce companies to locate in the State of South Carolina (the "State") and to encourage companies now located in the State to expand their investments and thus make use of and employ workers and other resources of the State, Lexington County, South Carolina (the "County") is authorized by the Code of Laws of South Carolina 1976, as amended (the "Code") and particularly Title 12, Chapter 44 thereof (the "Fee Act"), to enter into fee agreements with companies meeting the requirements of the Fee Act which identifies certain property of such companies as economic development property, and the County is further authorized by Title 4, Chapter 1 of the Code (the "Multi-County Park Act" or, as to Sections 4-1-175 of the Multi-County Park Act and, by incorporation, Section 4-29-68 of the Code, the "Special Source Act") and Article VIII, Section 13 of the Constitution of the State to designate properties as part of a multi-county industrial or business park (a "Multi-County Park") and to use all or a portion of the payments-in-lieu-of-taxes resulting from such designation to pay, or reimburse such companies for paying, through the provision to such companies of special source revenue credits, the cost of infrastructure serving a project and of improved or unimproved real estate and personal property, including machinery and equipment, used in the operation of a manufacturing or commercial enterprise ("Special Source Improvements"), all of which enhances the economic development of the County;

**WHEREAS**, pursuant to an Inducement Resolution for Project Cauliflower dated October 25, 2011, and in order to induce Nephron SC, Inc., acting for itself, any affiliates and any other project sponsors (the "Company"), to make, or cause to be made, new or additional investment through the establishment of facilities located in the County (the "Project"), the County agreed to enter into a fee agreement under the Fee Act with the Company whereby the County would, under certain circumstances, accept certain negotiated payments-in-lieu-of-taxes with respect to the Project and further agreed to provide the Company and the Project with the benefits of certain special source revenue credits and to the inclusion and maintenance of the Project in a Multi-County Park;

**WHEREAS**, the Project is expected to provide significant economic benefits to the County, and in order to further induce the Company to locate, or cause location of, the Project in the County, the County desires to enter into a Fee in Lieu of Tax and Incentive Agreement (the “FILOT Agreement”) with the Company in connection with the Project, which, amongst other things, (i) establishes a negotiated payment-in-lieu-of-taxes (“Negotiated Payments-in-Lieu-of-Taxes”) arrangement and identifies the property comprising the Project as economic development property under the Fee Act, subject to the terms and conditions of the FILOT Agreement and the provisions of the Fee Act, (ii) provides for certain special source revenue credits (“Special Source Credits”) to pay, or to reimburse the Company for payment of, the costs of certain Special Source Improvements related to the Project, and (iii) agrees to the conveyance by the County to the Company of certain real property and the execution and delivery by the County of certain documentation in connection therewith, including, without limitation, a limited warranty deed, all as set forth in greater detail in the FILOT Agreement;

**WHEREAS**, the County Council of the County (the “County Council”) has caused to be prepared and presented to the County Council the form of the FILOT Agreement between the County and the Company, which the County proposes to execute and deliver;

**WHEREAS**, as further inducement to the Company, the County will include the Project, including the Project site within an existing Multi-County Park, if not already so included, and will maintain such designation with respect to the Project, including the Project site, as set forth in greater detail in the FILOT Agreement;

**WHEREAS**, it appears that the FILOT Agreement and the additional documents referred to therein, and attached thereto, which are before this meeting are in appropriate form and are appropriate instruments to be executed and delivered by the County for the purposes intended.

**NOW, T HEREFOR E, B E I T O R D A I N E D** by the County Council in meeting duly assembled as follows:

**Section 1.** Pursuant to the Fee Act and particularly Section 12-44-40(I) thereof, the County Council has made and hereby makes the following findings:

- (a) The Project constitutes a “project” as said term is referred to and defined in Section 12-44-30 of the Act;
- (b) The Project is anticipated to benefit the general public welfare of the County by providing services, employment, recreation, or other public benefits not otherwise adequately provided locally;
- (c) The purposes to be accomplished by the Project are proper governmental and public purposes;
- (d) The benefits of the Project to the public are greater than the costs;
- (e) Neither the Project nor any documents or agreements entered into by the County in connection therewith gives, or will give rise to any pecuniary liability of the County or incorporated municipality or to any charge against its general credit or taxing power; and

(f) Having evaluated the purposes to be accomplished by the Project as proper governmental and public purposes, the anticipated dollar amount and nature of the investment to be made, and the anticipated costs and benefits to the County, the County has determined that the Project is properly classified as economic development property.

**Section 2.** In order to promote industry, develop trade and utilize the manpower, agricultural products and natural resources of the State, the form, terms and provisions of the FILOT Agreement presented to this meeting and filed with the Clerk to County Council, including, without limitation, the provisions regarding the Negotiated Payments-in-Lieu-of-Taxes arrangement, the Special Source Credits, and the property conveyance set forth therein, are hereby approved and all of the terms, provisions and conditions of the FILOT Agreement are hereby incorporated herein by reference as if the FILOT Agreement was set out in this Ordinance in its entirety. The Chair of County Council and the Clerk to County Council be and they are hereby authorized, empowered and directed to execute, acknowledge and deliver the FILOT Agreement and the other documents referred to therein, or attached thereto, to the Company.

**Section 3.** The FILOT Agreement is to be in substantially the form now before this meeting and hereby approved, or with such changes therein as shall be not be materially adverse to the County or the Company and as shall be approved by the officials of the County executing the same, upon advice of counsel, their execution thereof to constitute conclusive evidence of their approval of any and all changes or revisions therein from the form of FILOT Agreement now before this meeting.

**Section 4.** The Chair of County Council and the County Administrator, for and on behalf of the County, are hereby each authorized and directed to do any and all things necessary to effect the execution and delivery of the FILOT Agreement and the other documents referred to therein, or attached thereto, and the performance of all obligations of the County under and pursuant to the FILOT Agreement and the other documents referred to therein, or attached thereto, and to carry out the transactions contemplated thereby and by this Ordinance.

**Section 5.** The consummation of all transactions contemplated by the FILOT Agreement is hereby approved.

**Section 6.** This Ordinance shall be construed and interpreted in accordance with the laws of the State of South Carolina.

**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.

**DONE, RATIFIED AND ENACTED** this 28th day of February, 2012.

**LEXINGTON COUNTY, SOUTH CAROLINA**

---

William B. "Bill" Banning, Sr., Chairman  
Lexington County Council

ATTEST:

By: \_\_\_\_\_  
Diana W. Burnett  
Clerk to Lexington County Council

First Reading:     October 25, 2011  
Second Reading:   February 14, 2012  
Public Hearing:     February 14, 2012  
Third Reading:     February 28, 2012

EXECUTION COPY

**FEE IN LIEU OF TAX AND INCENTIVE AGREEMENT**

**BETWEEN**

**LEXINGTON COUNTY, SOUTH CAROLINA**

**AND**

**NEPHRON SC, INC.**

**DATED AS OF**

**FEBRUARY 28, 2012**

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## **FEE IN LIEU OF TAX AND INCENTIVE AGREEMENT**

**THIS FEE IN LIEU OF TAX AND INCENTIVE AGREEMENT** (the “Agreement”) is made and entered into as of February 28, 2012 by and between **LEXINGTON COUNTY, SOUTH CAROLINA** (the “County”), a body politic and corporate and a political subdivision of the State of South Carolina, acting by and through its County Council (the “County Council”) as governing body of the County, and **NEPHRON SC, INC.**, a corporation organized and existing under the laws of the State of South Carolina, acting for itself, any affiliates or other project sponsors (the “Company”).

### **W I T N E S S E T H:**

**WHEREAS**, to induce companies to locate in the State of South Carolina (the “State”) and to encourage companies now located in the State to make investments and thus make use of and employ workers and other resources of the State, the County is authorized by the Code of Laws of South Carolina 1976, as amended (the “Code”) and particularly Title 12, Chapter 44 thereof (the “Fee Act”), to enter into a fee agreement with companies meeting the requirements of the Fee Act which identifies certain property of such companies as economic development property, and the County is further authorized by Title 4, Chapter 1 of the Code (the “Multi-County Park Act” or, as to Sections 4-1-175 of the Multi-County Park Act and, by incorporation, Section 4-29-68 of the Code, the “Special Source Act”) (the Multi-County Park and the Special Source Act, together with the Fee Act, hereinafter collectively referred to as the “Act”) and Article VIII, Section 13 of the Constitution of the State to designate properties as part of a multi-county industrial or business park (a “Multi-County Park”) and to use all or a portion of the payments-in-lieu-of-taxes resulting from such designation to pay, or reimburse such companies for paying, through the provision to such companies of special source revenue credits, the cost of infrastructure serving a project and of improved or unimproved real estate and personal property, including machinery and equipment, used in the operation of a manufacturing or commercial enterprise (“Special Source Improvements”), all of which enhances the economic development of the County;

**WHEREAS**, pursuant to the Fee Act, the County finds that (a) it is anticipated that the Project (as defined herein) will benefit the general public welfare of the County by providing services, employment, recreation or other public benefits not otherwise adequately provided locally; (b) neither the Project nor any documents or agreements entered into by the County in connection therewith will give rise to any pecuniary liability of the County or incorporated municipality or to any charge against its general credit or taxing power; (c) the purposes to be accomplished by the Project are proper governmental and public purposes; and (d) the benefits of the Project to the public are greater than the costs to the public;

**WHEREAS**, pursuant to an Inducement Resolution for Project Cauliflower dated October 25, 2011 (the “Inducement Resolution”), and in order to induce the Company to make, or cause to be made, new investment in the County, the County agreed to enter into a fee agreement under the Fee Act with the Company whereby the County would, under certain circumstances, accept certain negotiated payments-in-lieu-of-taxes with respect to the Project and agreed to provide the Company and the Project with the benefits of certain Special Source

Credits (as defined herein), to include and maintain and maintenance of the Project in a Multi-County Park, and to convey certain real property to the Company, all as set forth greater detail herein; and

**WHEREAS**, pursuant to an Ordinance adopted on February 28, 2012 (the “Ordinance”), the County Council, authorized the County to enter into this Agreement with the Company, which, establishes, amongst other things, a negotiated payment-in-lieu-of-taxes arrangement and identifies the property comprising the Project as economic development property under the Fee Act, subject to the terms and conditions hereof and the provisions of the Fee Act, and which provides for Special Source Credits to pay, or to reimburse for payment of, the costs of certain Special Source Improvements related to the Project, all as set forth in greater detail herein.

**NOW, THEREFORE, FOR AND IN CONSIDERATION** of the respective representations and agreements hereinafter contained and other value, the parties hereto agree as follows:

## **ARTICLE I**

### **RECAPITULATION AND DEFINITIONS**

**SECTION 1.1. Statutorily Required Recapitulation.** Pursuant to Section 12-44-55(B) of the Fee Act, the County and the Company agree to waive the recapitulation requirements of Section 12-44-55 of the Fee Act. If the Company should be required to retroactively comply with the recapitulation requirements of Section 12-44-55 of the Fee Act, then the County agrees to waive any and all penalties and fees of the County for the Company’s noncompliance.

**SECTION 1.2. Rules of Construction; Use of Defined Terms.** Unless the context clearly indicates otherwise, in this Agreement words and terms defined in **Section 1.3** hereof are used with the meanings ascribed thereto. The definition of any document or agreement shall include any amendments, supplements, addenda, and modifications to that document, unless the context clearly indicates otherwise.

#### **SECTION 1.3. Definitions.**

**“Act”** means, collectively, Title 12 Chapter 44 of the Code (the “Fee Act”), Title 4, Chapter 1 of the Code (the “Multi-County Park Act”) including, without limitation, Section 4-1-175 of the Multi-County Park Act and, by incorporation, Section 4-29-68 of the Code, (the “Special Source Act”).

**“Affiliate”** shall mean any corporation, limited liability company, partnership or other Person or entity which now or hereafter owns all or part of the Company or which now or hereafter is owned in whole or in part by the Company or by any partner, shareholder or owner of the Company, as well as any subsidiary, affiliate or other Person, individual, or entity who now or hereafter bears a relationship to the Company as described in Section 267(b) of the Internal Revenue Code.

**“Agreement”** means this Agreement dated as of February 28, 2012 between the County and the Company.

**“Applicable Governmental Body”** means each governmental entity within the State having jurisdiction over or the right to approve or disapprove any or all of the Documents.

**“Chair”** means the Chair of County Council (or the person or persons authorized to perform the duties thereof in the absence of the Chair).

**“Clerk”** means the Clerk of County Council (or the person or persons authorized to perform the duties thereof in the absence of the Clerk).

**“Code”** means Code of Laws of South Carolina 1976, as in effect on the date hereof, as the same may be amended from time to time.

**“Commencement Date”** means the last day of the Property Tax Year during which Project property consisting of economic development property (as defined under the Fee Act) is first placed in service; except that this date must not be later than the last day of the Property Tax Year which is three (3) years from the year in which the County and the Company have entered into this Agreement.

**“Company”** means Nephron SC, Inc., a South Carolina Corporation, and its successors and assigns.

**“County”** means Lexington County, South Carolina, and its successors and assigns.

**“County Administrator”** means the County Administrator for the County (or the person or persons authorized to perform the duties thereof in the absence of the County Administrator).

**“County Council”** means the County Council of the County.

**“Documents”** means the Inducement Resolution, the Ordinance, this Agreement, the Multi-County Park Agreement, and the Ordinances enacted by the County Council to create the Multi-County Park and to add the Site and the Project to the Multi-County Park.

**“DOR”** means the South Carolina Department of Revenue and any successor thereto.

**“Enhanced Investment FILOT Minimum Requirements”** shall mean (i) investment in the Project of at least \$150,000,000 (without regard to depreciation, reassessment, or other diminution in value) and (ii) creation of at least 125 new full-time jobs at the Project, all in accordance with Section 12-44-30(7) of the Fee Act.

**“Event of Default”** shall mean any Event of Default specified in **Section 9.1** of this Agreement.

**“Fee Term”** shall mean the duration of the Negotiated Payments-in-Lieu-of-Taxes arrangement with respect to each Stage of the Project as specified in **Section 5.3** hereof.

**“Full-Time Jobs”** shall mean a job requiring a minimum of 35 hours of an employee’s time per week for the entire normal year of the Company’s operation or a job requiring a

minimum of 35 hours of an employee's time per week for a year in which the employee was hired initially for or transferred to the Project.

**"Inducement Resolution"** shall mean the Inducement Resolution for Project Cauliflower of the County Council adopted on October 25, 2011.

**"Investment Period"** shall initially mean the period beginning with the first day that economic development property (as defined in the Fee Act) is purchased or acquired for the Project, whether before or after the date of this Agreement, and ending on the last day of the tenth Property Tax Year following the Commencement Date; provided, that the Company may request an extension of such period as set forth in **Section 3.2(b)** hereof.

**"Multi-County Park"** means 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 the any agreement that supersedes or replaces the initial Multi-County Park Agreement set forth herein.

**"Multi-County Park Agreement"** shall mean the Agreement for Development of Joint County Industrial Park dated December 11, 1995 between the County and Calhoun County as amended to include the Project and as further amended, supplemented, or replaced from time to time.

**"Negotiated Payments in Lieu of Taxes"** means the payments to be made pursuant to Section 5.1 of this Agreement with respect to that portion of the Project consisting of economic development property (as defined under the Fee Act).

**"Ordinance"** means the Ordinance adopted by the County on February 28, 2012, authorizing the County's execution, delivery, performance, and entering into of this Agreement.

**"Payments-in-Lieu-of-Taxes"** means any and all payments-in-lieu-of-taxes to be made with respect to the Project whether made as Negotiated Payments-in-Lieu-of-Taxes pursuant to the Fee Act or made as payments-in-lieu-of-taxes pursuant to the Multi-County Park Act.

**"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.

**"Phase 1 Contractual Minimum Requirements"** shall mean (i) investment in the Project of at least \$313,000,000 (without regard to depreciation, reassessment, or other diminution in value) and (ii) the creation of at least 700 Full-Time Jobs, all within the Phase 1 Contractual Minimum Requirements Compliance Period.

**"Phase 1 Contractual Minimum Requirements Compliance Period"** shall mean the period beginning with the first day that economic development property (as defined in the Fee Act) is purchased or acquired for the Project, whether before or after the date of this Agreement, and ending on the last day of the seventh Property Tax Year following the Commencement Date.

**“Phase 2 Special Source Credits Requirements”** shall mean (i) additional investment in the Project (without regard to depreciation, reassessment or other diminution in value) of at least \$205,000,000 and (ii) the creation of at least 250 Full-Time Jobs at the Project, all in excess of the investment and job requirements set forth in the Phase 1 Contractual Minimum Requirements, and within the Investment Period.

**“Phase 3 Special Source Credits Requirements”** shall mean (i) additional investment in the Project (without regard to depreciation, reassessment or other diminution in value) of at least \$244,000,000 and (ii) the creation of at least 285 Full-Time Jobs at the Project, all in excess of the aggregate investment and job requirements set forth in the Phase 1 Contractual Minimum Requirements and the Phase 2 Special Source Credits Requirements and within the Investment Period.

**“Project”** shall mean (i) the Site and all buildings structures, fixtures, and other improvements now or hereafter located at the Site including, without limitation, rail, water, sewage treatment and disposal facilities, and air and other pollution control facilities; (ii) all machinery, apparatus, equipment, fixtures, office facilities, furnishings, pollution control equipment and other personal property now or hereafter located at the Site; and (iii) any Replacement Property; provided, however, except as to Replacement Property and any other property placed in service in the County in resatisfaction of the investment maintenance levels as set forth in **Section 5.5(b)(ii)** hereof, 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.

**“Property Tax Year”** shall mean the annual period which is equal to the fiscal year of the Company, i.e., the annual period ending on December 31 of each year.

**“Replacement Property”** means any property placed in service after the Investment Period as a replacement for any economic development property (as defined under the Fee Act) theretofore forming a part of the Project and disposed of, or deemed disposed of, as provided in **Section 5.2** hereof.

**“Site”** means the land at which Project property will be located in the County which land is further described in **Exhibit A** hereto.

**“Special Source Credits”** mean the special source revenue credits described in **Section 5.7** hereof.

**“Special Source Improvements”** means, to the extent paid for, or caused to be paid for, by the Company, or used by the Company pursuant to any financing, lease, license or other access arrangement, any infrastructure serving the economic development of the County and any improved and unimproved real property, buildings, structural components of buildings, fixtures or other real property improvements, and, upon the written request by the Company to the County, personal property, including machinery and equipment, used in the operation of a manufacturing or commercial enterprise in order to enhance the economic development of the

County, all in accordance with the Special Source Act. For purposes of this Agreement, Special Source Improvements shall be deemed to include, without limitation, all roadwork, rail, water, sewer, drainage, power and utility facilities serving the Project, as well as any land comprising the Site, the buildings, fixtures and other real property improvements at the Site, and, upon the written request by the Company to the County, the personal property, including machinery and equipment, located at the Site, and any additions or improvements to any of the foregoing, whether paid for by the Company directly or pursuant to any lease, license or other access arrangement.

“**Stage**” with respect to the Project shall mean each individual annual increment of Project property, if any, placed in service during the Investment Period.

“**Standard FILOT Minimum Requirement Compliance Period**” shall mean the period beginning with the first day that economic development property (as defined in the Fee Act) is purchased or acquired for the Project, whether before or after the date of this Agreement, and ending on the last day of the fifth Property Tax Year following the Commencement Date.

“**Standard FILOT Minimum Requirement**” shall mean investment in the Project of at least \$5,000,000 (without regard to depreciation, reassessment, or other diminution in value) within the Standard FILOT Minimum Requirement Compliance Period, in accordance with Section 12-44-30(14) of the Fee Act.

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

**SECTION 1.4. Internal References.** Any reference to any agreement or document in this Article I or otherwise in this Agreement shall be deemed to include any and all amendments, supplements, addenda, and modifications to such agreement or document. References herein to Title, Chapters or Sections, except the references to Sections of this Agreement or where the intent clearly requires otherwise, refer to Sections of the Code. The words “hereof”, “herein”, “hereunder”, and other words of similar impact refer to this Agreement as a whole.

## ARTICLE II

### LIMITATION OF LIABILITY; EXEMPTION FROM *AD VALOREM* TAXES

**SECTION 2.1. Limitation of Liability.** Any obligation which the County may incur for the payment of money as a result of the transactions described in the Documents shall never constitute an indebtedness of the County within the meaning of any State constitutional provision or statutory limitation and shall never create a pecuniary liability of the County or a charge upon its general credit or against its taxing powers but shall be payable solely out of the funds received by it under the Documents.

**SECTION 2.2. Exemption from Ad Valorem Taxes.** The County and the Company acknowledge that pursuant to the Act, upon execution of this Agreement, no part of the Project will be subject to *ad valorem* property taxation in the State, and that this factor, among others, is the basis upon which the Company has entered into this Agreement.

## ARTICLE III

### REPRESENTATIONS, WARRANTIES AND COVENANTS

**SECTION 3.1. Representations and Warranties of the County.** The County makes the following representations and warranties to the Company, and covenants with the Company, as follows:

(a) The County is a body politic and corporate and a political subdivision of the State and is authorized and empowered by the Act to execute the Documents to which it is a party and to fulfill its obligations described in the Documents. By proper action, the County Council has duly authorized the execution and delivery of the Documents to which the County is a party and has taken all such action as is necessary to permit the County to enter into and fully perform the transactions required of it under the Documents.

(b) Neither the execution and delivery of the Documents, nor the consummation and performance of the transactions described in the Documents, violate, conflict with or will result in a breach of any of the material terms, conditions or provisions of any agreement, restriction, law, rule, order or regulation to which the County is now a party or by which it is bound.

(c) There is no action, suit, proceeding, inquiry or investigation at law or in equity before or by any judicial or administrative court or agency, public board or body, pending or threatened, against or affecting the County, wherein an unfavorable decision, ruling or finding may or would materially adversely affect the validity or enforceability of the Documents, the County's obligations hereunder, or the consummation of the transactions described in the Documents.

(d) Neither the existence of the County nor the rights of any members of County Council to their offices is being contested and none of the proceedings taken to authorize the execution, delivery and performance of such of the Documents as require execution, delivery and performance by the County has been repealed, revoked, amended or rescinded.

(e) All consents, authorizations and approvals required on the part of the County, State and all other Applicable Governmental Bodies in connection with the execution, delivery and performance by the County of such of the Documents as require execution, delivery and performance by the County have been obtained and remain in full force and effect as of the date hereof or will be obtained.

(f) The Project constitutes a "project" within the meaning of the Act.

(g) By due corporate action, the County has agreed that, subject to compliance with applicable provisions of the Fee Act, each item of real and personal property comprising the Project shall be considered economic development property (as defined under the Fee Act).

(h) The Documents to which the County is a party are (or, when executed, will be) legal, valid and binding obligations of the County enforceable against the County under present

law in accordance with their respective terms, except as such terms may be limited by laws affecting creditors' rights generally.

**SECTION 3.2. Covenants by the County.** The County covenants with the Company as follows:

(a) The County agrees to do all things deemed reasonably necessary as requested by the Company in writing in connection with the Project including but not limited to the execution, delivery and performance of its obligations under the Documents and in accordance with the Act, all for the purposes of promoting industrial development, developing trade, and utilizing and employing the manpower and natural resources of the County and the State.

(b) To the extent permitted by law, the Company may request of the County, and the County may approve in its sole discretion, an extension of the Investment Period in accordance with and up to the limits permitted under Section 12-44-30(13) of the Fee Act. The grant of any such extension by the County may be approved by a resolution of County Council. Upon the granting of any such extension the County agrees to, at the Company's expense, cooperate with the Company in assisting the Company to file with the DOR a copy of documentation evidencing such extension within thirty (30) days of the date of execution thereof by the County.

**SECTION 3.3. Representations and Warranties of the Company.** The Company makes the following representations and warranties to the County:

(a) The Company is a corporation authorized to transact business in the State. The Company has full corporate power to execute the Documents to which it is a party and to fulfill its obligations described in such Documents and, by proper corporate action, has authorized the execution and delivery of the Documents to which it is a party.

(b) Neither the execution and delivery of the Documents to which the Company is a party, nor the consummation and performance of the transactions described in such Documents violate, conflict with, or will, to its knowledge, result in a material breach of any of the material terms, conditions or provisions of any agreement, restriction, law, rule, order or regulation to which the Company is now a party or by which it is bound.

(c) There is no action, suit, proceeding, inquiry or investigation at law or in equity before or by any judicial or administrative court or agency, public board or body, pending or threatened, against or affecting the Company wherein an unfavorable decision, ruling or finding would adversely and materially affect the consummation of the transactions described in the Documents to which the Company is a party.

(d) All consents, authorizations and approvals required on the part of the Company in connection with the execution, delivery, and performance by the Company of Documents to which the Company is a party and the transactions contemplated thereby and the acquisition, construction and installation of the Project have been obtained and remain in full force and effect or will be obtained.

(e) The Documents to which the Company is a party are (or, when executed, will be) legal, valid and binding obligations of the Company enforceable against the Company in

accordance with their respective terms, except as such terms may be limited by laws affecting creditors' rights generally.

(f) The Company will pay all reasonable and necessary costs of the County, including attorney's fees, incurred in connection with the negotiation, authorization, execution and delivery of this Agreement. Legal counsel to the County has estimated its attorney's fees in connection with such matters to be \$16,500 or less.

## ARTICLE IV

### COMMENCEMENT AND COMPLETION OF THE PROJECT AND THE SPECIAL SOURCE IMPROVEMENTS

**SECTION 4.1. The Project.** The Company has acquired, constructed and/or installed or has made or will make plans for the acquisition, construction and/or installation of certain real property improvements and machinery, equipment, and other personal property comprising the Project. The parties agree that Project property shall consist of the Site, such property and any additional real and personal property as may be identified by the Company, its Affiliates, or other third parties that have entered into any financing, lease, license or other access arrangement with the Company or any of its Affiliates with respect to Project property, on, or in connection with, annual filings with the DOR of a SCDOR PT-300, or comparable property tax or fee in lieu of tax forms, including any schedules thereto (as such filings may be amended or supplemented from time to time), with respect to each Property Tax Year within the Investment Period and, as to Replacement Property, with respect to each Property Tax Year thereafter during the term of this Agreement. The Project will consist of facilities utilized primarily in connection with the manufacturing of pharmaceutical products and related activities.

Pursuant to the Fee Act, the Company and the County hereby agree that the property comprising the Project shall be economic development property (as defined under the Fee Act), so long as such property meets the requirements of the Fee Act.

Notwithstanding any other provision of this Agreement, the Company may place property into service at any time under this Agreement, but such property may only qualify as economic development property (as defined under the Fee Act) if it is placed in service during the Investment Period, including any additional extension period thereto, or is Replacement Property.

All investment in, and job creation at, the Project by the Company, by any of its Affiliates, including, without limitation, Nephron Pharmaceuticals Corporation, LuLu Trucking, Inc., Loose Screw Construction, LLC, and Kennedy Campus LLC, and by any third party to the extent that the Company or any of its Affiliates utilizes the property funded by such third party pursuant to any financing, lease, license, or other access arrangement, shall, to the extent permitted by law, count toward each investment and job requirement or threshold specified in this Agreement including, without limitation, the Phase 1 Contractual Minimum Requirements, the Enhanced Investment FILOT Minimum Requirements, the Standard FILOT Minimum Requirement, the Phase 2 Special Source Credits Requirements, and the Phase 3 Special Source Credits Requirements. Notwithstanding anything in this Agreement or the other Documents to

the contrary, each such Affiliate or third party, upon written notice by the Company to the County of the identity of such Affiliate or third party, which notice is hereby provided to the County with respect to Nephron Pharmaceutical Corporation, LuLu Trucking, Inc., Loose Screw Construction, LLC, and Kennedy Campus LLC, shall hereby also be entitled, to the extent permitted by the Act, to all rights, interests, and benefits to which the Company is entitled under this Agreement including, without limitation, the Negotiated Payments-in-Lieu-of-Taxes and Special Source Credits arrangements and shall also be bound by all of the duties, restrictions, and obligations to which the Company has agreed upon under this Agreement (but excluding the benefits and obligations specified in **Section 5.5** hereof), all only with respect to each such entity's portion of the Project. The Company shall notify DOR in writing of all such entities to benefit from the Negotiated Payments-in-Lieu-of-Taxes arrangement in accordance with Section 12-44-130(B) of the Fee Act. Any other entity to whom the Company intends to extend the benefits of this Agreement may, at the request of the Company, be approved by a resolution passed by the County Council, in its sole discretion.

**SECTION 4.2. Diligent Completion.** The Company agrees to use reasonable efforts to cause the acquisition, construction and installation of the Project to be completed; however, notwithstanding anything contained in this Agreement or the other Documents to the contrary, the Company shall not be obligated to complete, acquire, construct, and install, or cause the completion, acquisition, construction, and installation of, all or any portion of the Project, and may terminate this Agreement with respect to all or any portion of the Project as set forth in **Article X** herein.

**SECTION 4.3. Modifications to Project.** The Company may make, or cause to be made, from time to time any additions, modifications or improvements to the Project that it may deem desirable for its business purposes, in its sole discretion.

**SECTION 4.4. Special Source Improvements.** The Company agrees to provide, or cause to be provided, the funding for the designing, acquiring, constructing, improving, or expanding of Special Source Improvements related to the establishment of the Project.

**SECTION 4.5. Reports; Filings.** In accordance with Section 12-44-90 of the Fee Act, the Company shall cause a copy of this Agreement, as well as a copy of the completed Form PT-443 of DOR, to be filed with the County Auditor, the County Assessor, the County Treasurer and DOR within thirty (30) days after the date of execution and delivery hereof and shall also cause a copy of this Agreement to be filed with the County Auditor and the County Assessor of Calhoun County. In addition, the Company shall provide the County Auditor, the County Assessor, and the County Treasurer with a copy of all annual filings made by the Company to DOR pursuant to this Agreement and the Fee Act.

## ARTICLE V

### NEGOTIATED PAYMENTS-IN-LIEU-OF-TAXES; DISPOSITION OF NEGOTIATED PAYMENTS-IN-LIEU-OF-TAXES; SPECIAL SOURCE CREDITS

**SECTION 5.1. Negotiated Payments in Lieu of Taxes.** The parties acknowledge that under Section 12-44-40 of the Fee Act, the Project is exempt from *ad valorem* property taxes. However, the Company shall be required to make, or cause to be made, Negotiated Payments-in-Lieu-of-Taxes with respect to the Project as provided in this **Section 5.1**. In accordance with the Fee Act, and unless this Agreement is sooner terminated, the Company shall make, or cause to be made, annual Negotiated Payments-in-Lieu-of-Taxes with respect to the Project, said payments being due and payable and subject to penalty assessments in the manner prescribed by the Fee Act. Such amounts shall be calculated and payable as follows:

(a) Subject to the provisions of **Section 5.4** hereof, the County has agreed to accept, and the Company has agreed to make, or cause to be made, annual Negotiated Payments-in-Lieu-of-Taxes with respect to the Project in an amount equal to the property taxes that would be due with respect to such property, if it were taxable, but using (i) an assessment ratio of 4%; (ii) a millage rate which is fixed at **284.190** mills for each 30-year payment period applicable to each Stage of the Project as set forth in **Section 5.3** hereof; and (iii) the fair market value of such property which shall be determined in accordance with Section 12-44-50(A)(1)(c) of the Fee Act as follows:

(i) for real property if such real property is constructed for the fee or is purchased in an arm's length transaction, by utilizing the original income tax basis for South Carolina income tax purposes without regard to depreciation, reassessment, or other diminution in value; provided, however, that the Company and the County may agree to hereafter amend this Agreement as to Project real property so as to determine the fair market value of any such real property in accordance with any other method permitted by the Fee Act; and

(ii) for personal property, using the original income tax basis for South Carolina income tax purposes less depreciation, reassessment, or other diminution in value, allowable for property tax purposes, except that the Project is not entitled to extraordinary obsolescence.

(b) The Negotiated Payments-in-Lieu-of-Taxes shall be made on the basis that the Project property, if it were otherwise subject to *ad valorem* property taxes, would be allowed all applicable exemptions from those taxes, except for the exemptions allowed under Section 3(g) of Article X of the South Carolina Constitution and Section 12-37-220(B)(32) and (34) of the Code.

(c) The Company shall make, or cause to be made, Negotiated Payments-in-Lieu-of-Taxes for each year during the term hereof beginning with the Property Tax Year for which the Project property consisting of economic development property (as defined under the Fee Act) is first placed in service. The Negotiated Payments-in-Lieu-of-Taxes shall be made to the County

Treasurer on the due dates which would otherwise be applicable for ad valorem property taxes for the Project, with the first payment being due on the first date following the delivery of this Agreement when, but for this Agreement, such taxes would have been paid with respect to the Project.

(d) Any economic development property (as defined under the Fee Act) placed in service as part of the Project during the Investment Period shall be included in the calculation of payments pursuant to paragraphs (a), (b) and (c), above, for a period not exceeding thirty (30) years following the Property Tax Year in which such property was placed in service. Pursuant to and subject to the Fee Act: (i) Replacement Property shall be included (using its income tax basis) in the calculation of payments pursuant to paragraphs (a), (b) and (c), above, but only up to the original income tax basis of property which is being disposed of in the same Property Tax Year; (ii) Replacement Property shall be deemed to replace the oldest property subject to the fee which is disposed of in the same Property Tax Year that the Replacement Property is placed in service; (iii) more than one piece of property can replace a single piece of property; (iv) Replacement Property does not have to serve the same function as the Project property it is replacing; (v) to the extent that the income tax basis of the Replacement Property exceeds the original income tax basis of the Project property which it is replacing, the portion of such property allocable to the excess amount shall be subject to annual payments calculated as if the exemption for economic development property (as defined under the Fee Act) were not allowed; and (vi) Replacement Property is entitled to Negotiated Payments-in-Lieu-of-Taxes pursuant to **Section 5.1** hereof for the remaining portion of the thirty-year payment period referred to in this **Section 5.1(d)** applicable to the property which it is replacing.

#### **SECTION 5.2. Disposal of Property; Replacement Property.**

(a) In any instance where the Company, in its sole discretion, determines that any item or items of property included in the Project have become, in whole or in part, inadequate, obsolete, worn out, unsuitable, undesirable or unnecessary, the Company may remove such item (or such portion thereof as the Company shall determine) or items and sell, trade in, exchange or otherwise dispose of it or them (as a whole or in part) without any responsibility or accountability to the County therefor. The loss or removal from the Project of any property, or any portion thereof, as a result of fire or other casualty or by virtue of the exercise or threat of the power of condemnation or eminent domain shall be deemed to be a disposal of such property, or portion thereof, pursuant to **Section 5.2** hereof. Subject to the provisions of **Section 5.4** hereof with regard to the maintenance of certain investment levels, and **Section 5.2** hereof with respect to Replacement Property, the Negotiated Payments-in-Lieu-of-Taxes required by **Section 5.1** hereof shall be reduced by the amount thereof applicable to any property included in the Project, or part thereof, disposed of, or deemed disposed of, pursuant to **Section 5.2** hereof.

(b) The Company may, in its sole discretion, replace, renew or acquire and/or install other property in substitution for, any or all property or portions thereof disposed of, or deemed disposed of, pursuant to **Section 5.2(a)** hereof. Any such property may, but need not, serve the same function, or be of the same utility or value, as the property being replaced.

**SECTION 5.3. Fee Term.** The applicable term of the Negotiated Payments-in-Lieu-of-Taxes arrangement set forth in this Agreement shall be measured separately for each Stage

beginning from the last day of the Property Tax Year in which such Stage of the Project is placed in service through the last day of the Property Tax Year which is the twenty-ninth year following such year. This Agreement shall terminate, as to the Negotiated Payments-in-Lieu-of-Taxes arrangement, with respect to the Project or any Stage or part thereof, upon the earlier to occur of (a) payment of the final installment of Negotiated Payments-in-Lieu-of-Taxes pursuant to **Section 5.1** hereof with respect to the Project or such Stage or part thereof, as the case may be, or (b) exercise by the Company of its option to terminate pursuant to **Section 10.1** hereof with respect to the Project or such Stage or part thereof, as the case may be,.

#### **SECTION 5.4. Failure to Achieve or Maintain FILOT Investment Requirements.**

(a) In the event that either or both of the Phase 1 Contractual Minimum Requirements are not satisfied by the end of the Phase 1 Contractual Minimum Requirements Compliance Period, but the Standard FILOT Minimum Requirement is nevertheless satisfied by the end of the Standard FILOT Minimum Requirement Compliance Period, then the Project shall continue to be eligible for the Negotiated Payments-in-Lieu-of-Taxes arrangement set forth in **Section 5.1** hereof, but with an applicable assessment ratio of 6%, retroactively and prospectively. In such event, within one hundred eighty (180) days following the end of the Phase 1 Contractual Minimum Requirements Compliance Period, the Company shall make, or cause to be made, payment to the County in an amount equal to the difference between the Negotiated Payments-in-Lieu-of-Taxes theretofore made and the amount of Negotiated Payments-in-Lieu-of-Taxes which would have otherwise been due in the case of an applicable assessment ratio equal to 6%.

(b) In the event that either or both of the Phase 1 Contractual Minimum Requirements are not satisfied by the end of the Phase 1 Contractual Minimum Requirements Compliance Period, and the Standard FILOT Minimum Requirement is not satisfied by the end of the Standard FILOT Minimum Requirement Compliance Period, then the Negotiated Payments-in-Lieu-of-Taxes shall revert to *ad valorem* property taxation, retroactively and prospectively, and the County shall terminate this Agreement. In the event that the County terminates this Agreement pursuant to this **Section 5.4(b)**, within one hundred eighty (180) days following the end of the Phase 1 Contractual Minimum Requirements Compliance Period, the Company shall, if deemed due by the County, make, or cause to be made, payments to the County in an amount equal to the difference between the Negotiated Payments-in-Lieu-of-Taxes theretofore made and the amount of *ad valorem* property taxes which would otherwise have been due, subject to **Section 5.4(d)** hereof, plus any interest required to be paid under Section 12-44-140(B) of the Fee Act.

(c)

(i) In the event that the Phase 1 Contractual Minimum Requirements are satisfied by the end of the Phase 1 Contractual Minimum Requirements Compliance Period, but following the Phase 1 Contractual Minimum Requirements Compliance Period, investment in the Project, without regard to depreciation, reassessment, or other diminution in value, falls below the investment level set forth in the Phase 1 Contractual Minimum Requirements, so long as investment in the Project, without regard to depreciation, reassessment, or other diminution in value, maintains at least the investment level set forth in the

Enhanced Investment FILOT Minimum Requirement, then the Project shall nevertheless continue to be eligible for the Negotiated Payments-in-Lieu-of-Taxes arrangement set forth in **Section 5.1** hereof including, without limitation, with an applicable assessment ratio of 4%, retroactively and prospectively.

(ii) In the event that the Phase 1 Contractual Minimum Requirements are satisfied by the end of the Phase 1 Contractual Minimum Requirements Compliance Period, but following the Phase 1 Contractual Minimum Requirements Compliance Period, investment in the Project, without regard to depreciation, reassessment, or other diminution in value, falls below the investment level set forth in the Enhanced Investment FILOT Minimum Requirement, so long as investment in the Project, without regard to depreciation, reassessment, or other diminution in value, maintains at least the investment level set forth in the Standard FILOT Minimum Requirement, then the Project shall continue to be eligible for the Negotiated Payments-in-Lieu-of-Taxes arrangement set forth in **Section 5.1** hereof, but with an applicable assessment ratio of 6%, prospectively, commencing with any Negotiated Payments-in-Lieu-of-Taxes due as to the Project with respect to the Property Tax Year during which such investment shortfall occurs.

(iii) In the event that either or both of the Phase 1 Contractual Minimum Requirements are not satisfied by the end of the Phase 1 Contractual Minimum Requirements Compliance Period, but the Project nevertheless continues to be eligible for the Negotiated Payments-in-Lieu-of-Taxes arrangement pursuant to this **Section 5.4**, if following the Standard FILOT Minimum Requirement Compliance Period, investment in the Project, without regard to depreciation, reassessment, or other diminution in value, falls below the investment level set forth in the Standard FILOT Minimum Requirement, then the Project shall prospectively, commencing with any Payments-in-Lieu-of-Taxes due as to the Project with respect to the Property Tax Year during which such investment level shortfall occurs, be subject to *ad valorem* property taxation or payments-in-lieu-of-taxes pursuant to the Multi-County Park Act, as the case may be, subject to **Section 5.4(d)** hereof.

(d) In the event that the Company is required to make, or to cause to be made, any differential payment to the County or is no longer eligible for Negotiated Payments-in-Lieu-of-Taxes, pursuant to **paragraphs (b) or (c) of Section 5.4** hereof, in calculating any such differential payment or prospective *ad valorem* property tax or payments-in-lieu-of-taxes pursuant to the Multi-County Park Act due from the Company, as the case may be, the Company shall be entitled: (1) to enjoy the five-year exemptions from *ad valorem* property taxes (or fees in lieu of property taxes) provided by Article X, Section 3 of the Constitution of the State, and any other property tax exemption that would have been available to the Company; (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* property taxes hereunder or under the Fee Act.

**SECTION 5.5. Property Conveyance.** The real property located and shown at the Site attached hereto as **Exhibit A** and made a part hereof, together with and including all

improvements, rights, members, easements, riparian rights, timber, minerals, appurtenances and hereditaments belonging or in anywise incident or appertaining to the Site, shall be conveyed by limited warranty deed, in substantially the form attached hereto as **Exhibit B** and made a part hereof, by the County to the Company within the later to occur of either (i) thirty (30) days after approval and execution of this Agreement, or (ii) thirty (30) days of the satisfaction, in the sole discretion of the Company, of all conditions to closing and any title and/or due diligence objections raised by the Company. The County has no obligation to correct any defect in title. If the Company is not satisfied with the results of the title examination, the Company's sole right is to terminate this Agreement. The closing shall be held at the offices of the Company's South Carolina counsel, Nexsen Pruet, LLC in Columbia, South Carolina, unless an alternative location is mutually agreed upon by the County and the Company; provided, however, all parties hereto agree that the closing may be conducted in escrow without any applicable parties having to be physically present at the closing. The County shall deliver possession of the Site at closing. The conveyance shall be subject only to the easements and restrictions of public record at the Office of the Register of Deeds for Lexington County, South Carolina, provided that they are not objected to by the Company, and provided further that they do not interfere with the use, operation, and development of the Site or the Project for the Company's intended purpose (the same being primarily the development, construction, and operation of a pharmaceutical manufacturing facility), and to all applicable governmental ordinances and statutes, and subject to the following conditions which shall be included in the conveyance deed or other appropriate documents, as applicable and necessary, which will be recorded in the Lexington County, South Carolina Register of Deeds Office and all which shall survive the closing for only so long as these terms may expressly provide in this Agreement, if at all:

(a) The Company shall commence construction on the Site within six (6) months of recordation of the limited warranty deed for the Site from the County to the Company, subject to force majeure, acts of God, or other matters beyond the reasonable control of the Company. If the Company fails to commence construction on the Site within six (6) months of recordation of the limited warranty deed for the Site from the County to the Company, subject to force majeure, acts of God, or other matters beyond the reasonable control of the Company, the County may elect by providing written notice to the Company that the County would like the Site to be conveyed back to the County. Notwithstanding anything to the contrary contained herein, conclusive evidence of the commencement of construction shall be by the recordation of an affidavit of construction commencement (the "Commencement Affidavit") by the Company in the Office of the Register of Deeds for Lexington County, South Carolina providing that the Company has commenced physical work on the Site and that such work commenced within six (6) months of recordation of the limited warranty deed for the Site from the County to the Company, subject to force majeure, acts of God, or other matters beyond the reasonable control of the Company. The recordation of the Commencement Affidavit by the Company in the Office of the Register of Deeds for Lexington County, South Carolina, shall be conclusive evidence of the commencement of construction on the Site by the Company, and after recordation of the Commencement Affidavit any and all rights of the County to request a reconveyance of the Site and any requirement of commencement of construction shall thereafter be automatically void and of no further force or effect. The provisions of this paragraph shall be included in the limited warranty deed from the County to the Company.

(b)

(i) Should either or both the Phase 1 Contractual Minimum Requirements not be satisfied by the end of the Phase 1 Contractual Minimum Requirements Compliance Period, upon written request by the County accompanied by verification that such requirements have not been satisfied, the Company shall have until the end of the Property Tax Year following the Property Tax Year in which such written notice from the County is received by the Company to either show compliance or come into compliance with any such requirement. If, within such cure period, the Company shall not achieve compliance with such requirements, upon written request of the County, the Company shall pay the County for the value of the Site conveyance at the value of \$60,000 per acre within ninety (90) days after written notice from the County to the Company of the failure to satisfy such requirements.

(ii) Should the Phase 1 Contractual Minimum Requirements be satisfied by the end of the Phase 1 Contractual Minimum Requirements Compliance Period, or by the end of the cure period described in **Section 5.5(b)(i)** hereof, as the case may be, but within seven (7) Property Tax Years following the Property Tax Year in which such requirements are initially satisfied, investment in the Project, without regard to depreciation, reassessment, or other diminution in value, fall below the investment level set forth in the Phase 1 Minimum Contractual Requirements, the Company shall pay the County for the value of the Site conveyance upon the terms set forth in **Section 5.5 (b)(i)** hereof; provided, that, notwithstanding the foregoing, should, as a result, in whole or in part, of force majeure, acts of God, or other matters beyond the reasonable control of the Company, investment in the Project, without respect to depreciation, reassessment, or other diminution in value, fall below the investment level set forth in the Phase 1 Minimum Contractual Requirements during the above-referenced seven-year period, the above-referenced payment shall only become due to the County if, within seven (7) Property Tax Years following the Property Tax Year during which such shortfall occurs, such investment level in the Project is not resatisfied.

(iii) At Closing, the County and the Company shall execute a memorandum of this Agreement in substantially the form attached hereto as **Exhibit C**, and made a part hereof (the "Memorandum of Agreement"). The Memorandum of Agreement shall be recorded in the Office of the Register of Deeds for Lexington County, South Carolina. This Agreement shall not be recorded. The provisions contained in this paragraph (b), all of which are applicable only upon recordation of the limited warranty deed for the Site referenced herein, shall be binding upon the real estate and shall run with the real estate; provided, however, upon the compliance with the investment and job requirements set forth in this paragraph (b), the provisions of this paragraph (b) shall thereafter be automatically void and of no further force and effect and in

such event, the County shall, and hereby agrees to, file an appropriate termination of the Memorandum of Agreement in the Office of the Register of Deeds for Lexington County, South Carolina. The terms and provisions of this paragraph (b) shall survive any termination of this Agreement under Section 10.1 of this Agreement.

(c) The Site is sold AS IS; provided, however, the County confirms that the Site is in “shovel ready” condition as that term is generally defined and classified by the South Carolina Department of Commerce. The County has good, indefeasible, insurable (at standard title insurance rates), and marketable title to the Site. The Company may, at its own cost, conduct an inspection and due diligence investigations of the Site, to include, but not be limited to, environmental studies (including a Phase I study and a Phase II study if the Phase I indicates the necessity of further environmental testing and investigation), soil testing, wetlands analysis and delineation, utility and water and sewer requirements. If the Company is not satisfied with the Site for any reason whatsoever, in the sole opinion and discretion of the Company, the Company may decide, in the sole and absolute discretion of the Company, to not accept the conveyance of the Site. If the Company decides, in the sole and absolute discretion of the Company, to not accept the conveyance of the Site, the Company may terminate this Agreement and this Agreement shall become null and void and of no further force or effect, and the County has no obligation to find other suitable real property for the Company. The County shall not cause or permit any encumbrances in the form of a mortgage, lien, encumbrance, covenant, condition, restriction, assessment, easement, right-of-way, obligation, encroachment or liability whatsoever, to be placed of record, affect the title insurance to be given the Company pursuant to this Agreement or otherwise exist, from the effective date of this Agreement to the date of termination of this Agreement or closing, excepting, however, such matters that have been specifically approved in writing by the Company. The County acknowledges that the natural amenities of and current state of the Site constitute a material inducement to the Company for entering into this Agreement and, therefore, the County agrees to (i) maintain the natural amenities, specifically, the tree canopy and rolling contour of the land, and soil, in its natural condition, and (ii) maintain any improvements in the condition existing on the effective date of this Agreement and not cause any damage to any improvements located on the Site, or the Site, normal wear and tear excepted. The County further agrees not to cut, clear, excavate, fill, dump or dispose of any materials of any kind on the Site during the pendency of this Agreement.

(d) The cost of the deed recording fee and/or state or local transfer taxes and documentary stamp taxes (S.C. Code Ann. Section 12-24-10, et. seq.), based on the value of the Site conveyed, on the limited warranty deed required hereunder shall be borne by the Company and paid at closing. The per page cost of recording the closing documents, including, without limitation, the limited warranty deed shall be borne by the Company. The County shall pay for any and all due diligence expenses ordered by the County and the County’s own accountants’ fees and financial consultant fees. The Company shall pay for any and all due diligence expenses ordered by the Company, the Company’s own accountants’ fees, financial consultant fees, and attorneys’ fees with this Agreement and the closing, and all title examination costs and title insurance premiums. The County shall bear all risk of loss until recordation of the deed of conveyance. The County and the Company warrant and represent that no real estate broker was involved in this transaction and no commission shall be owed in connection the sale of the Site pursuant to this Agreement. To the best of the County’s knowledge and belief, there are no

executory contracts, leases, agreements, service contracts, repair agreements and warranty, guaranty rights, maintenance, management or other contracts or agreements affecting the Site except those which may be terminated on thirty (30) days' notice or less, and the County shall disclose and provide all contracts, leases, or agreements affecting the Site to the Company at least forty-five (45) days prior to closing. The County shall not enter into any leases, maintenance, management, or other contracts without the Company's prior written consent which would materially affect the Site or its use and which are not terminable on ten (10) days' notice, and the County shall disclose any such contract(s) to the Company.

(e) At the closing, the County shall provide: (1) the limited warranty deed duly executed in form for recordation; (2) an owner's affidavit, lien waiver affidavit in form sufficient and acceptable to the title company so as to allow it to eliminate the standard owner's exceptions, including the parties' in possession, mechanic's lien, and gap exceptions from the title commitment and policy and running to the benefit of the Company and the title company insuring title to the Site; (3) a FIRPTA non-foreign affidavit; (4) the County ordinance authorizing the County to undertake the subject transaction; (5) a South Carolina Form I-295 Withholding Affidavit; (6) the Memorandum of Agreement (as defined hereinabove); and (7) such further documents as may be customary and reasonably required to vest title to the Site in the Company, to enable the title company to insure the title to the Site, and to give effect to the transaction contemplated under this Agreement, as required by applicable Federal, State, or Local law, or as may reasonably be requested by the Company or the title company.

(f) The Site is subject to the terms and conditions of that certain Declaration of Rights, Restrictions, Affirmative Obligations, and Conditions Which Constitute Covenants Running With Certain Lands of County Of Lexington South Carolina, dated as of December 7, 2010, and recorded on December 7, 2010, in the Office of the Register of Deeds for Lexington County, South Carolina, in Book 14607, at Page 226 (hereinafter referred to as the "Declaration"). The County hereby confirms that the County is the "Developer" under the Declaration, as such term is defined in the Declaration. In connection with the conveyance of the Site to the Company from the County, the County hereby approves and confirms the following with regard to the terms and conditions of the Declaration: (i) the requirement contained in Section 3.4 of the Declaration providing that all improvements shall be completed within one (1) year after the approval of plans by the County shall not be applicable with regard to any and all development and construction on the Site, and the County expressly waives any and all application of this completion requirement with regard to the Site; (ii) the right to re-purchase contained in Section 7.5 of the Declaration shall not be applicable to the Site, and the County expressly waives any and all application of Section 7.5 of the Declaration as it relates to the Site; and (iii) the County hereby expressly approves the development plans, conceptual plans, and conceptual construction schedules dated as of February 24, 2012 (the "Development and Conceptual Plans") with regard to the Company's development of the Site, and the County hereby confirms that the Development and Conceptual Plans comply with the terms and conditions contained in the Declaration, including, without limitation, height restrictions, and the County and the Company hereby understand that the Development and Conceptual Plans may be further revised with the County's consent, which consent shall not be unreasonably withheld, conditioned, or delayed. After closing on the Site, the County shall execute a consent and approval to be recorded in the Office of the Register of Deeds for Lexington County, South Carolina, to place parties on notice of the preceding waivers and approvals of the matters

contained in the Declaration as they pertain to the Site. Furthermore, following completion of construction of the improvements on the Site by the Company, and from time to time upon the reasonable request of the Company, the County shall record a commercially reasonable compliance estoppel certificate providing that the Site is in compliance with the Declaration, that no defaults exist under the Declaration, and other customary and commercially reasonable matters.

**SECTION 5.6. Multi-County Park Designation.** The County represents that the Site is presently included in a Multi-County Park. The County agrees to include, if not already included, and to maintain, the Project and the Site in a Multi-County Park, pursuant to Section 13 of Article VIII of the Constitution of the State and the Multi-County Park Act, 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 at the Site and the Project during the Investment Period and which facilitate the Special Source Credits, and to undertake and execute those procedures, instruments, ordinances, resolutions and documents as may be reasonably required to accomplish same.

**SECTION 5.7. Special Source Credits.**

(a) As reimbursement for investment in Special Source Improvements related to the Project, and subject to the requirements of the Special Source Act and **Section 5.7(f)** hereof, the County agrees to provide to the Company, and the Company shall be entitled to receive, Special Source Credits against any and all Payments-in-Lieu-of-Taxes due as to the Project with respect to ten (10) consecutive Property Tax Years, in an amount equal to 20% of each such Payment-in-Lieu-of-Taxes, commencing with the Property Tax Year with respect to which the initial Payments-in-Lieu-of-Taxes are due as to one or more buildings comprising a portion of the Project (the "Phase 1 Special Source Credits"). In the event that the Phase 1 Contractual Minimum Requirements are not satisfied by the end of the Phase 1 Contractual Minimum Requirements Compliance Period, such Phase 1 Special Source Credits shall terminate retroactively and prospectively, and in such event, the Company shall within one hundred eighty (180) days of the end of the Phase 1 Contractual Minimum Requirements Compliance Period make, or cause to be made, payment to the County in the amount of the Phase 1 Special Source Credits theretofore received by the Company; provided, however, that notwithstanding the foregoing provisions, in the event that the Phase 1 Minimum Contractual Requirements are not satisfied by the end of the Phase 1 Minimum Contractual Requirements Compliance Period, but the Enhanced Investment FILOT Minimum Requirements have nevertheless been satisfied by the end of the Standard FILOT Minimum Requirement Compliance Period, the Company shall be entitled to receive and retain Special Source Credits in an amount equal to 10% of such Payments-in-Lieu-of-Taxes due with respect to such ten-year period, retroactively and prospectively, and, in such event, shall be required to pay, or cause to be paid, only one-half (1/2) of such payment to the County.

(b) In addition to the Special Source Credits set forth in **Section 5.7(a)** hereof, and subject to **Section 5.7(g)** hereof, in the event that the Phase 2 Special Source Credits Requirements are satisfied by the end of the Investment Period, the County agrees to provide to the Company, and the Company shall be entitled to receive, additional Special Source Credits against any and all Payment-in-Lieu-of-Taxes due as to Project property comprising investment

satisfying the Phase 2 Special Source Credits Requirements, in an amount equal to \$250,000 against each such Payment-in-Lieu-of-Taxes due with respect to ten (10) consecutive Property Tax Years commencing with the Property Tax Year with respect to which the initial Payment-in-Lieu-of-Taxes as to such property is due (the “Phase 2 Special Source Credits”).

(c) In addition to the Special Source Credits set forth in **Section 5.7(a)** and **Section 5.7(b)** hereof, and subject to **Section 5.7(h)** hereof, in the event that the Phase 3 Special Source Credits Requirements are satisfied by the end of the Investment Period, the County agrees to provide to the Company, and the Company shall be entitled to receive, additional Special Source Credits against any and all Payment-in-Lieu-of-Taxes due as to Project property comprising investment satisfying the Phase 3 Special Source Credits Requirements, in an amount equal to \$300,000 against each such Payment-in-Lieu-of-Taxes due with respect to ten (10) consecutive Property Tax Years commencing with the Property Tax Year with respect to which the initial Payment-in-Lieu-of-Taxes to such property is due (the “Phase 3 Special Source Credits”).

(d) The amount of the total annual Special Source Credits set forth in **Sections 5.7(a), 5.7(b), and 5.7(c)** hereof which are due to the Company shall be reflected on each annual bill sent by the County to the Company for such Payments-in-Lieu-of-Taxes due from the Company as to the Project with respect to each such Property Tax Year by reducing the amount of Payments-in-Lieu-of-Taxes otherwise due as to such Property by the total amount of the Special Source Credits to which the Company is entitled for such Property Tax Year.

(e) In accordance with the Special Source Act, the Special Source Credits authorized herein shall not, in the aggregate, exceed the aggregate cost of Special Source Improvements funded in connection with the Project from time to time during the Investment Period by or on behalf of the Company. **THE SPECIAL SOURCE CREDITS AUTHORIZED HEREIN SHALL NOT CONSTITUTE A GENERAL OBLIGATION OF THE COUNTY, BUT SHALL BE AN OBLIGATION PAYABLE SOLELY FROM THE AGGREGATE PAYMENTS-IN-LIEU-OF-TAXES RECEIVED BY THE COUNTY HEREUNDER WITH RESPECT TO THE PROJECT.**

(f) Upon commencement of the Company’s receipt of the Phase 1 Special Source Credits:

(i) if, within the five (5) Property Tax Years following the Property Tax Year in which the Phase 1 Contractual Minimum Requirements are initially satisfied, investment made in the Project, without respect to depreciation, reassessment, or other diminution in value, falls below the investment level set forth in the Phase 1 Contractual Minimum Requirements, the Phase 1 Special Source Credits shall terminate prospectively commencing with any Payments-in-Lieu-of-Taxes due as to such property with respect to the Property Tax Year during which such investment shortfall occurs; and

(ii) if, within the five (5) Property Tax Years following the period set forth in **Section 5.7(f)(i)** above, the investment shortfall referenced therein occurs, the amount of Phase 1 Special Source Credits otherwise applicable to any Payments-in-Lieu-of-Taxes due as to such property with respect to any Property Tax Year during which such investment shortfall occurs shall be reduced on a

pro-rata basis by comparing the highest investment level achieved during such Property Tax Year to the investment level set forth in the Phase 1 Contractual Minimum Requirements.

(g) Upon commencement of the Company's receipt of the Phase 2 Special Source Credits:

(i) if, within the five (5) Property Tax Years following the Property Tax Year in which the Phase 2 Special Source Credits Requirements are initially satisfied, investment made in Project property satisfying such investment requirements without respect to depreciation, reassessment, or other diminution in value, falls below the investment level set forth in the Phase 2 Special Source Credits Requirements, the Phase 2 Special Source Credits shall terminate prospectively commencing with any Payments-in-Lieu-of-Taxes due as to such property with respect to the Property Tax Year during which such investment shortfall occurs; and

(ii) if, within the five (5) Property Tax Years following the period set forth in **Section 5.7(g)(i)** above, the investment shortfall referenced therein occurs, the amount of Phase 2 Special Source Credits otherwise applicable to any Payments-in-Lieu-of-Taxes due as to such property with respect to any Property Tax Year during which such investment shortfall occurs shall be reduced on a pro-rata basis by comparing upon the highest investment level achieved during such Property Tax Year to the investment level set forth in the Phase 2 Special Source Credits Requirements.

(h) Upon commencement of the Company's receipt of the Phase 3 Special Source Credits:

(i) if within the five (5) Property Tax Years following the Property Tax Year in which the Phase 3 Special Source Credits Requirements are initially satisfied, investment made in Project property satisfying such investment requirements, without respect to depreciation, reassessment, or other diminution in value, falls below the investment level set forth in the Phase 3 Special Source Credits Requirements, the Phase 3 Special Source Credits shall terminate prospectively commencing with any Payments-in-Lieu-of-Taxes due as to such property with respect to the Property Tax Year during which such investment shortfall occurs; and

(ii) if within the five (5) Property Tax Years following the period set forth in **Section 5.7(h)(i)** above, the investment shortfall referenced therein occurs, the amount of Phase 3 Special Source Credits otherwise applicable to any Payments-in-Lieu-of-Taxes due as to such property with respect to any Property Tax Year during which such investment shortfall occurs shall be reduced on a pro-rata basis by comparing the highest investment level achieved during such Property Tax Year to the investment level set forth in the Phase 3 Special Source Credits Requirements set forth in the Phase 3 Special Source Credits.

## ARTICLE VI

### PROPERTY TAX EXEMPTION AND ABATEMENT

**SECTION 6.1. Protection of Tax Exempt Status of the Project.** In order to insure that the Project is not and will not become subject to *ad valorem* property taxes under the laws of the State or any political subdivision thereof, the County and the Company covenant that:

(a) all right and privileges granted to either party under this Agreement or any other Documents shall be exercised so that if any conflict between this Section and any other provision in any document shall arise, then in that case, this Section shall control;

(b) the County and the Company have not knowingly committed or permitted and will not knowingly commit or permit (as to any act over which either has control) any act which would cause the Project to be subject to *ad valorem* property taxes by the County or political subdivision of the State of South Carolina in which any part of the Project is located; and

(c) the Company will maintain the identity of the Project as a “project” in accordance with the Act.

## ARTICLE VII

### EFFECTIVE DATE

**SECTION 7.1. Effective Date.** This Agreement shall become effective as of the date first written above.

## ARTICLE VIII

### SPECIAL COVENANTS

#### **SECTION 8.1. Indemnification Covenants.**

(a) The Company shall and agrees to hold the County and its County Council members, officers, agents and employees harmless from pecuniary liability in connection with those reasons set forth in (i) or (ii) of **Section 8.1(b)** hereof.

(b) Notwithstanding the fact that it is the intention of the parties that neither the County nor any of its members, officers, agents and employees shall incur any pecuniary liability to any third party (i) by reason of the terms of this Agreement or the undertakings of the County required hereunder, or (ii) by reason of the performance of any act in connection with the entering into and performance of the transactions described in the Documents, if the County or any of its members, officers, agents or employees should incur any such pecuniary liability, then, in that event the Company shall indemnify and hold harmless the County and its members, officers, agents and employees against all pecuniary claims by or on behalf of any Person, arising out of the same, and all reasonable costs and expenses, including reasonable attorney’s fees, incurred in connection with defending against any such claim, and upon notice from the

County, the Company at its own expense shall defend the County and its officers, agents and employees in any such action or proceeding.

(c) Notwithstanding the foregoing, the Company shall not be obligated to indemnify the County or any of its individual members, officers, agents or employees for expenses, claims, losses or damages arising from the intentional or willful misconduct or negligence of the County or any of its individual members, officers, agents or employees.

**SECTION 8.2. Assignment and Leasing.** Subject to and pursuant to the Fee Act, including Section 12-44-120 thereof, this Agreement may not be assigned unless the County approves such assignment by Resolution; provided, however, that such consent is not required in connection with financing-related transfers or any other transfers not requiring the consent of the County under the Fee Act. The County hereby expressly pre-approves and consents to any transfer or assignment by the Company, or any Affiliate of the Company, of any or all of its interest in the Project and/or this Agreement to, or merger or consolidation with, any other Affiliate of the Company and to any resulting transfer or assignment of any or all of such interest among such entities including, without limitation, to one or more of Nephron Pharmaceuticals Corporation, LuLu Trucking, Inc., Loose Screw Construction, LLC, and Kennedy Campus, LLC. Notwithstanding any provision of this Section to the contrary, if and to the extent that the future consent of the County is required in connection with a transfer, assignment or other action referenced in this Section, the County hereby expressly agrees that, to the extent permitted by the Fee Act, such approval may be provided by Resolution of County Council. The Company acknowledges transfers of this Agreement or the Project property may cause the Project property to become ineligible for the Negotiated Payments-in-Lieu-of-Taxes arrangement set forth herein or result in penalties under the Fee Act absent compliance by the Company with the transfer provisions of Section 12-44-120 of the Fee Act.

**SECTION 8.3. Commensurate Benefits.** The parties acknowledge the intent of this Agreement, in part, is to afford the Company the benefits specified in **Article V** 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 Fee Act, the Multi-County Park Act, and the Special Source Act and the County's compliance with the requirements thereof. In the event that a court of competent jurisdiction holds that the Fee Act, the Multi-County Park Act, or the Special Source Act is unconstitutional or this Agreement, the Multi-County Agreement or agreements similar in nature to this Agreement or the Multi-County Park Agreement are invalid or unenforceable in any material respect, or should the Company determine there is a reasonable doubt as to the validity or enforceability of this Agreement in any material respect, then at the request of the Company, the County agrees to extend to the Company the intended benefits of this Agreement and agrees, if requested, to enter into a lease purchase agreement or similar arrangement with the Company pursuant to Section 12-44-160 of the Fee Act, under Title 4, Chapter 29 or Title 4, Chapter 12 of the Code, as applicable, and to take such other steps as may be appropriate to extend to the Company the intended benefits of this Agreement, including, without limitation, the provision of a special source revenue credit to the extent statutorily allowed, which is commensurate to the benefits which would otherwise accrue to the Company under the Agreement.

**SECTION 8.4. Confidentiality.** The County acknowledges and understands that the Company may have and maintain at the Project certain confidential and proprietary information. The County agrees that neither the County nor any employee, agent or contractor of the County: (i) shall request, or be entitled to receive, any such confidential or proprietary information, or (ii) shall request, or be entitled, to inspect the Project or any property associated therewith. To the extent that the Company has heretofore provided confidential and proprietary information regarding the Project in the County which has been provided under written designation of the Company as “Confidential”, the County shall not knowingly and intentionally disclose or otherwise divulge any such confidential or proprietary information to any other person, firm, governmental body or agency, or any other entity unless specifically required to do so by State law. In the event that the County is required to disclose any confidential or proprietary information obtained from the Company to any third party, the County agrees to provide the Company with maximum possible advance notice of such requirement to disclose before making such disclosure, and to cooperate with any attempts by the Company to obtain judicial or other relief from such disclosure requirement, at the expense of the Company.

## ARTICLE IX

### EVENT OF DEFAULT AND REMEDIES

**SECTION 9.1. Events of Default Defined.** The occurrence of any one or more of the following events shall be an “Event of Default” under this Agreement:

(a) If the Company shall fail to make, or cause to be made, any Negotiated Payments-in-Lieu of-Taxes or any other payment required under this Agreement and such failure shall continue for thirty (30) days after receiving written notice of default from the County; or

(b) If the Company shall fail to observe or perform any covenant, condition or agreement required herein to be observed or performed by the Company (other than as referred to in **Section 9.1(a)** hereof), and such failure shall continue for a period of thirty (30) days after written notice of default has been given to the Company by the County; provided if by reason of “force majeure” as hereinafter defined, the Company is unable in whole or in part to carry out any such covenant, condition or agreement or if it takes longer than thirty (30) days to cure such default and the Company is diligently attempting to cure such default, there shall be no Event of Default during such inability or cure period. The term “force majeure” as used herein shall mean circumstances not reasonably within the control of the parties, such as without limitation, acts of God, strikes, lockouts or other industrial disturbances; war; acts of public enemies; mobilization or military conscription on a large scale; order of any kind of the government of the United States or any State, or any civil or military authority other than the County Council or other County authority; insurrections; riots; landslides; earthquakes; fires; lightning; storms; droughts; floods; requisitions, confiscation, or commandeering of property; fuel restrictions; general shortages of transport, goods, or energy; or

(c) If any material representation or warranty on the part of the Company or the County made in the Documents furnished in connection with the Documents or the transactions described in the Documents shall have been false or misleading in any material respect.

(d) Anything herein to the contrary notwithstanding, failure to satisfy or maintain any investment or job requirements or levels set forth herein shall not be deemed to be an Event of Default under this Agreement, but may terminate or adjust certain benefits hereunder or obligate the Company to make certain additional payments to the County, all as set forth in **Sections 5.4, 5.5 and 5.7** hereof, which shall be the County's sole remedies for any such failure.

**SECTION 9.2. Remedies on Default.** Whenever any Event of Default shall have happened pursuant to **Section 9.1** hereof and be subsisting, the County may (i) terminate this Agreement by providing at least thirty (30) days written notice to the Company specifying the termination date; or (ii) take whatever action at law or in equity may appear legally required or necessary or desirable to collect the payments and other amounts then due or to enforce performance and observance of any obligation, agreement or covenant of the Company, under the Documents. Although the parties acknowledge that the Project is exempt from *ad valorem* property taxes, the County and any other taxing entity affected thereby may, without limiting the generality of the foregoing, exercise the remedies provided by general law (Title 12, Chapter 49 and Title 12, Chapter 51) and any act relating to the enforced collection of taxes. The County's right to receive Negotiated Payments-in-Lieu-of-Taxes shall have a first priority lien status pursuant to Section 12-44-90 of the Fee Act and Title 12, Chapters 4 and 54 of the Code. 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.

Each right, power, and remedy of the County or 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 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 the Company of any or all such other rights, powers, or remedies.

**SECTION 9.3. No Additional Waiver Implied by One Waiver.** In the event any warranty, covenant or agreement contained in this Agreement should be breached by the Company or the County and thereafter waived by the other party to this Agreement, such waiver shall be limited to the particular breach so waived and shall not be deemed to waive any other breach.

**SECTION 9.4. 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 X

### OPTION TO TERMINATE

**SECTION 10.1. Option to Terminate.** From time to time (including without limitation any time during which there may be subsisting an Event of Default) and at any time upon at least 30 days notice, the Company may terminate this Agreement with respect to the entire Project or any portion thereof. Upon termination of all or part of this Agreement, the Company will become liable for *ad valorem* property taxes, or payments-in-lieu-of-taxes pursuant to the Multi-County Park Act, as the case may be, on the Project or such portion thereof as is so terminated from inclusion in the Project, as well as for any amounts already due and owing under this Agreement, which latter amounts, if any, shall be paid to the County with the next installment of Negotiated Payments-in-Lieu-of-Taxes pursuant to **Section 5.1**, or, if the termination is of the entire Project, then within one hundred eighty (180) days of termination.

## ARTICLE XI

### MISCELLANEOUS

**SECTION 11.1. Notices.** All notices, approvals, consents, requests and other communications hereunder shall be in writing and may be delivered personally, or may be sent by facsimile or certified mail, return receipt requested, to the following addresses, unless the parties are subsequently notified of any change of address in accordance with this **Section 11.1**:

If to the Company: Nephron SC, Inc.  
c/o Nephron Pharmaceuticals Corporation  
Attention: Hunter Gordy  
4121 SW 34th Street  
Orlando, FL 32811  
Facsimile: 407-999-3225

With A Copy To: Nexsen Pruet, LLC  
Attention: Burnet R. Maybank, III, Esq.  
Tushar V. Chikhliker, Esq.  
1230 Main Street, Suite 700 (29201)  
P. O. Drawer 2426  
Columbia, S.C. 29202-2426  
Facsimile: 803-253-8277

If to the County: Lexington County Council, South Carolina  
Attention: Clerk to Council  
212 South Lake Drive  
Lexington, SC 29072  
Facsimile: 803-785-8101

With A Copy To: Davis Frawley Anderson McCauley, Ayer, Fisher & Smith, LLC  
Attention: Jeff M. Anderson, Esq.  
140 E. Main Street  
P.O. Box 489  
Lexington, SC 29071-0489  
Facsimile: 803-359-7478

Any notice shall be deemed to have been received as follows: (1) by personal delivery, upon receipt; (2) by facsimile, 24 hours after confirmed transmission or dispatch; and (3) by certified mail, 3 business days after delivery to the U.S. Postal authorities by the party serving notice.

**SECTION 11.2. Binding Effect.** This Agreement shall inure to the benefit of and shall be binding upon the County and the Company, as well as any and all additional entities eligible to benefit under this Agreement pursuant to **Section 4.1** hereof or **Section 8.2** hereof, and their respective successors and assigns.

**SECTION 11.3. Invalidity and Severability.** In the event that the Fee Act or the Negotiated Payments-in-Lieu-of-Taxes or Special Source Credits arrangement described in the Agreement hereof is determined to be invalid or unenforceable in its entirety, the parties hereby agree that except as the final judicial decision may otherwise require, the Company shall be entitled to retain any benefits received under or pursuant to this Agreement; otherwise, in the event any provision of this Agreement shall be held invalid or unenforceable by any court of competent jurisdiction, that decision shall not invalidate or render unenforceable any other provision of this Agreement, unless that decision destroys the basis for the transaction, in which event the parties shall in good faith attempt to preserve, to the maximum extent possible, the benefits provided and to be provided to the Company hereunder by either restructuring or reconstituting this Agreement under any then applicable law, including but not limited to Chapter 29 of Title 4 and Chapter 12 of Title 4 of the Code.

**SECTION 11.4. Payments Due on Saturday, Sunday and Holidays.** Whenever any payment to be made hereunder shall be stated to be due on a Saturday, a Sunday or a holiday, such payment shall be made on the next business day.

**SECTION 11.5. Amendments, Changes and Modifications.** Except as otherwise provided in this Agreement, this Agreement may not be amended, changed, modified, altered or terminated without the written consent of the County and the Company. To the maximum extent allowed by law, any such County consent including, without limitation, any County consent specifically referred to in this Agreement, may be provided by a resolution of County Council.

**SECTION 11.6. Execution of Counterparts.** This Agreement may be executed in several counterparts, only one of which shall be an original; provided, however, that any action may be brought upon any counterpart of this Agreement or any counterpart of any document that is attached to this Agreement as an exhibit.

**SECTION 11.7. 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 thereof.

**SECTION 11.8. Law Governing Construction of Agreement.** The laws of the State shall govern the construction of this Agreement.

**SECTION 11.9. Headings.** The headings of the articles and sections of this Agreement are inserted for convenience only and shall not be deemed to constitute a part of this Agreement.

**SECTION 11.10. Further Assurance.** From time to time the County agrees to execute and deliver to the Company such additional instruments and undertaking further proceedings as the Company may reasonably request to effectuate the purposes of this Agreement.

[EXECUTION PAGE TO FOLLOW]

**IN WITNESS WHEREOF, LEXINGTON COUNTY, SOUTH CAROLINA, and the COMPANY**, each pursuant to due authority, has duly executed this Agreement, all as of the date first above written.

LEXINGTON COUNTY, SOUTH CAROLINA

---

James E. Kinard, Jr.  
Chair of Lexington County Council

**ATTEST:**

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Diana W. Burnett  
Clerk, Lexington County Council

**NEPHRON SC, INC.**

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Its: \_\_\_\_\_

**EXHIBIT A**

**SITE  
LEGAL DESCRIPTION**

ALL that certain piece, parcel or tract of land, together with any improvements located thereon, situate, lying and being in the County of Lexington, State of South Carolina, designated as Parcel "A" containing 58.80 acres as delineated on ALTA/ACSM Land Title Survey prepared for Nephron SC, Inc., prepared by Russell S. Owens, S.C. Registered Land Surveyor No. 19404, Survey One, LLC, dated January 18, 2012 and recorded February \_\_\_\_\_, 2012 in the Office of the Register of Deeds for Lexington County, South Carolina in Plat Book \_\_\_\_\_, at page \_\_\_\_\_ ("Survey"); the Survey is specifically incorporated herein by reference and reference to said Survey is craved for the particulars as to metes, courses, distances, size, shape, dimensions, measurements, bounds and boundaries.

DERIVATION: Limited Warranty Deed to County of Lexington from CRW Investment Company, Inc. dated November 15, 2006 and recorded November 20, 2006 in the Office of the Register of Deeds for Lexington County, South Carolina in Book 11550, at page 87; Limited Warranty Deed to County of Lexington from CRW Investment Company, Inc. dated November 15, 2006 and recorded November 20, 2006 in said Office in Book 11550, at page 89; Quit Claim Deed to County of Lexington from CRW Investment Company, Inc. dated November 15, 2006 and recorded November 20, 2006 in said Office in Book 11550, at page 91; and Limited Warranty Deed to County of Lexington from Wade H. Sellers and Robert E. Sellers dated November 15, 2006 and recorded November 20, 2006 in said Office in Book 11550, at page 93.

TAX MAP NO.: 008096-02-006 (Portion)



See Exhibit "B" attached hereto and incorporated herein by reference.

TO HAVE AND TO HOLD, all and singular, the Premises before mentioned, unto Grantee, its successors and assigns forever;

AND Grantor does hereby bind itself and its successors and assigns to warrant and forever defend all and singular the Premises unto Grantee, its successors and assigns, against itself, its successors and assigns, lawfully claiming, or to claim, the same or any part thereof, but no others.

**[SIGNATURE PAGE ATTACHED]**

**[remainder of page intentionally left blank]**



**EXHIBIT "A"**

ALL that certain piece, parcel or tract of land, together with any improvements located thereon, situate, lying and being in the County of Lexington, State of South Carolina, designated as Parcel "A" containing 58.80 acres as delineated on ALTA/ACSM Land Title Survey prepared for Nephron SC, Inc., prepared by Russell S. Owens, S.C. Registered Land Surveyor No. 19404, Survey One, LLC, dated January 18, 2012 and recorded February \_\_\_\_\_, 2012 in the Office of the Register of Deeds for Lexington County, South Carolina in Plat Book \_\_\_\_\_, at page \_\_\_\_\_ ("Survey"); the Survey is specifically incorporated herein by reference and reference to said Survey is craved for the particulars as to metes, courses, distances, size, shape, dimensions, measurements, bounds and boundaries.

DERIVATION: Limited Warranty Deed to County of Lexington from CRW Investment Company, Inc. dated November 15, 2006 and recorded November 20, 2006 in the Office of the Register of Deeds for Lexington County, South Carolina in Book 11550, at page 87; Limited Warranty Deed to County of Lexington from CRW Investment Company, Inc. dated November 15, 2006 and recorded November 20, 2006 in said Office in Book 11550, at page 89; Quit Claim Deed to County of Lexington from CRW Investment Company, Inc. dated November 15, 2006 and recorded November 20, 2006 in said Office in Book 11550, at page 91; and Limited Warranty Deed to County of Lexington from Wade H. Sellers and Robert E. Sellers dated November 15, 2006 and recorded November 20, 2006 in said Office in Book 11550, at page 93.

TAX MAP NO.: 008096-02-006 (Portion)

## EXHIBIT "B"

### *Permitted Exceptions*

1. Grantee shall commence construction on the Premises within six (6) months of recordation of this Title to Real Estate Limited Warranty Deed, subject to force majeure, acts of God, or other matters beyond the reasonable control of Grantee. If Grantee fails to commence construction on the Premises within six (6) months of recordation of this Title to Real Estate Limited Warranty Deed, subject to force majeure, acts of God, or other matters beyond the reasonable control of Grantee, Grantor may elect by providing written notice to Grantee that Grantor would like the Premises to be conveyed back to Grantee. Notwithstanding anything to the contrary contained herein, conclusive evidence of the commencement of construction shall be by the recordation of an affidavit of construction commencement (the "Commencement Affidavit") by Grantee in the Office of the Register of Deeds for Lexington County, South Carolina providing that Grantee has commenced physical work on the Premises and that such work commenced within six (6) months of recordation of this Title to Real Estate Limited Warranty Deed for the Premises, subject to force majeure, acts of God, or other matters beyond the reasonable control of Grantee. The recordation of the Commencement Affidavit by Grantee in the Office of the Register of Deeds for Lexington County, South Carolina, shall be conclusive evidence of the commencement of construction on the Premises by Grantee, and after recordation of the Commencement Affidavit any and all rights of Grantor to request a reconveyance of the Premises and any requirement of commencement of construction shall thereafter be automatically void and of no further force or effect.
  
2. Conditions, restrictions and covenants set forth in Declaration of Rights, Restrictions, Affirmative Obligations, and Conditions which Constitute Covenants Running with Certain Lands of County of Lexington, South Carolina by County of Lexington, South Carolina dated December 7, 2010 and recorded December 7, 2010 in the Office of the Register of Deeds for Lexington County, South Carolina in in Book 14607, at page 226.
  
3. Easement to Sewer Lines granted to City of Cayce from Lexington County dated December 22, 2010 and recorded June 24, 2011 in the Office of the Register of Deeds for Lexington County, South Carolina in Deed Book 14924, at page 200.
  
4. Right of way easement granted South Carolina Electric & Gas Company from County of Lexington dated February 14, 2011 and recorded February 18, 2011 in the Office of the Register of Deeds for Lexington County, South Carolina in Deed Book 14735, at page 308.
  
5. Matters of survey shown on ALTA/ACSM Land Title Survey prepared for Nephron SC, Inc., prepared by Russell S. Owens, S.C. Registered Land Surveyor No. 19404, Survey One, LLC, dated January 18, 2012 and recorded February \_\_\_\_\_, 2012 in the Office of the Register of Deeds for Lexington County, South Carolina in Plat Book \_\_\_\_\_, at page \_\_\_\_\_.
  
6. Deed to Sewer Lines granted to City of Cayce from Lexington County dated December 22, 2010 and recorded January 26, 2012 in the Office of the Register of Deeds for Lexington County, South Carolina in Deed Book 15299, at page 79.

PERSONALLY appeared before me the undersigned, who being duly sworn, deposes and says:

1. I have read the information on this affidavit and I understand such information.
2. The property being transferred is located in the County of Lexington, bearing Lexington County Tax Map Number 008096-02-006 (portion) and was transferred by County of Lexington, South Carolina to Nephron SC, Inc. on \_\_\_\_\_, 2012.
3. Check one of the following: The deed is
  - (a) \_\_\_\_\_ subject to the deed recording fee as a transfer for consideration paid or to be paid in money or money's worth.
  - (b) \_\_\_\_\_ subject to the deed recording fee as a transfer between a corporation, a partnership, or other entity and a stockholder, partner, or owner of the entity, or is a transfer to a trust or as a distribution to a trust beneficiary.
  - (c) \_\_\_\_\_ exempt from the deed recording fee because (See Information section of affidavit): (If exempt, please skip items 4 - 7, and go to item 8 of this affidavit.)
4. Check one of the following if either item 3(a) or item 3(b) above has been checked (See Information section of this affidavit):
  - (a) \_\_\_\_\_ The fee is computed on the consideration paid or to be paid in money or money's worth in the amount of \$\_\_\_\_\_.
  - (b) \_\_\_\_\_ The fee is computed on the fair market value of the realty which is \_\_\_\_\_.
  - (c) \_\_\_\_\_ The fee is computed on the fair market value of the realty as established for property tax purposes which is \_\_\_\_\_.
5. Check Yes \_\_\_ or No XXXX to the following: A lien or encumbrance on the land, tenement, or realty before the transfer and remained on the land, tenement, or realty after the transfer. If "Yes," the amount of the outstanding balance of this lien or encumbrance is \_\_\_\_\_.
6. The deed recording fee is computed as follows:
  - (a) \_\_\_\_\_ Place the amount listed in item 4 above here: \$\_\_\_\_\_
  - (b) \_\_\_\_\_ Place the amount listed in item 5 above here: \$0.00  
(If no amount is listed, place zero here.)
  - (c) \_\_\_\_\_ Subtract Line 6(b) from Line 6(a) and place result here: \$\_\_\_\_\_
7. The deed recording fee due is based on the amount listed on Line 6(c) above and the deed recording fee due is \$\_\_\_\_\_.
8. As required by Code Section 12-24-70, I state that I am a responsible person who was connected with the transaction as Grantor.
9. I understand that a person required to furnish this affidavit who willfully furnishes a false or fraudulent affidavit is guilty of a misdemeanor and, upon conviction, must be fined not more than one thousand dollars or imprisoned not more than one year, or both.

_____ Sworn to before me this _____ day of _____, 2012 My Commission Expires: _____  [AFFIX OFFICIAL NOTARY SEAL]	COUNTY OF LEXINGTON, SOUTH CAROLINA  By: _____ (SEAL) Name: _____ Title: Chair of Lexington County Council	ATTEST:  _____ (SEAL) Diana W. Burnett Clerk, Lexington County Council
----------------------------------------------------------------------------------------------------------------------------------	------------------------------------------------------------------------------------------------------------------------	------------------------------------------------------------------------------------







## EXHIBIT A

### Description of the Property

ALL that certain piece, parcel or tract of land, together with any improvements located thereon, situate, lying and being in the County of Lexington, State of South Carolina, designated as Parcel "A" containing 58.80 acres as delineated on ALTA/ACSM Land Title Survey prepared for Nephron SC, Inc., prepared by Russell S. Owens, S.C. Registered Land Surveyor No. 19404, Survey One, LLC, dated January 18, 2012 and recorded February \_\_\_\_\_, 2012 in the Office of the Register of Deeds for Lexington County, South Carolina in Plat Book \_\_\_\_\_, at page \_\_\_\_\_ ("Survey"); the Survey is specifically incorporated herein by reference and reference to said Survey is craved for the particulars as to metes, courses, distances, size, shape, dimensions, measurements, bounds and boundaries.

DERIVATION: Limited Warranty Deed to County of Lexington from CRW Investment Company, Inc. dated November 15, 2006 and recorded November 20, 2006 in the Office of the Register of Deeds for Lexington County, South Carolina in Book 11550, at page 87; Limited Warranty Deed to County of Lexington from CRW Investment Company, Inc. dated November 15, 2006 and recorded November 20, 2006 in said Office in Book 11550, at page 89; Quit Claim Deed to County of Lexington from CRW Investment Company, Inc. dated November 15, 2006 and recorded November 20, 2006 in said Office in Book 11550, at page 91; and Limited Warranty Deed to County of Lexington from Wade H. Sellers and Robert E. Sellers dated November 15, 2006 and recorded November 20, 2006 in said Office in Book 11550, at page 93.

TAX MAP NO.: 008096-02-006 (Portion)





## COMMITTEE REPORT

**RE:** FY 2012-13 CDBG Program and HOME Program

**DATE:** February 17, 2012

**COMMITTEE:** Planning and Administration

**MAJORITY REPORT:** Yes

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The Planning & Administration Committee convened on Tuesday, February 14, 2012 to review the FY 2012-13 CDBG Program and HOME Program.

Mr. Ron Scott, Community Development Director, presented recommendations for the FY 2012-13 Community Development Block Grant (CDBG) Program and the HOME Investment Partnership Program along with a PowerPoint overview of both programs. Mr. Scott said that over the last 12 years both programs have brought in an estimated \$20 million used for infrastructure, road paving, water and sewer lines, and more. The United States Department of Housing and Urban Development (HUD) has notified the County of its allocation for FY 2012-13 at \$1,352,807 for the CDBG Program and \$440,547 for the HOME Program available after July 1, 2012. Mr. Scott outlined the FY 2012-13 projects proposed for both programs. CDBG Project proposals are estimated at \$1,129,214 and HOME Project proposals are estimated at \$580,493. Staff recommends Council's approval of the proposed CDBG and HOME projects and administrative budgets in order to proceed with the Annual Action Plan due to HUD by May 15, 2012.

The Planning & Administration Committee voted unanimously to recommend to full Council to approve staff's recommendations.

Attachment: FY2012-13 CDBG and HOME Program



# County of Lexington

Community Development Department  
212 South Lake Drive—Suite 401  
Lexington, SC 29072  
Phone: (803) 785-8121  
Fax: (803) 785-8188

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## MEMORANDUM

TO: Planning and Administration Committee  
Lexington County Council

THROUGH: Joe Mergo III, Interim County Administrator

FROM: Ronald T. Scott, Community Development Director

DATE: February 3, 2012

RE: FY 2012-13 Community Development Block Grant (CDBG) Program  
FY 2012-13 HOME Investment Partnership Program

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The United States Department of Housing and Urban Development (HUD) has notified the County that its FY 2012-13 allocation will be \$1,352,807 for the CDBG Program and \$440,547 for the HOME Program. These funds will not be made available to the County until after July 1, 2012.

A summary is attached of project funding recommendations for the FY 2012-13 CDBG and HOME Programs. The CDBG Program received 12 requests for funding totaling \$1,257,726. All requests were reviewed and evaluated by the Grant Programs Division staff and the Grant Programs Advisory Committee. After preliminary rankings, staff also evaluated the general project eligibility, feasibility, and the capacity of the applicants to administer programs according to federal guidelines. All HOME projects will be administered internally. The County has requested a waiver of the Community Housing Development Organization (CHDO) set-aside for FY 2012-13. These funds will be used toward our standard programs if the waiver is granted by HUD.

It is County Council's authority to approve any proposed projects or combination of projects that total the amount of available funds. Funding for approved projects will not be available until after July 1, 2012, and will be provided on a reimbursable basis after staff review of supporting documentation.

We request County Council's consideration and approval of the proposed CDBG and HOME projects so that we may proceed with developing our Annual Action Plan, which is due to HUD by May 15, 2012. The projects you approve will be listed in our Annual Action Plan and will also be considered as approved for the purposes of the County's FY 2012-13 budget process.

**Requested Action: Committee recommendation to County Council for approval of the FY 2012-13 CDBG projects, HOME projects, and the administrative budgets for our HUD grant programs.**

# FY 2012-13 BUDGET SUMMARY

## CDBG BUDGET SUMMARY

### Program Revenue for FY 12-13

FY 12-13 Allocation	\$1,352,807
Unexpended Funds	<u>\$ 64,745</u>

**TOTAL:** \$1,417,552

### Program Expenses for FY 12-13:

Recommended Projects	\$1,129,214
Program Administration	\$ 248,224
Project Contingency/Uncommitted Funds	<u>\$ 40,114</u>

**TOTAL:** \$1,417,552

## HOME BUDGET SUMMARY

### Program Revenue for FY 12-13

FY 12-13 Allocation	\$ 440,547
Unexpended Funds and Allocation from HOME Fund Balance	\$ 184,000
General Fund Request (HUD Match)	<u>\$ 28,303</u>

**TOTAL:** \$ 652,850

### Program Expenses for FY 12-13

Recommended Projects	\$ 580,493
Program Administration	<u>\$ 72,357</u>

**TOTAL:** \$ 652,850

# FY 2012-13 CDBG PROJECT PROPOSALS

<u>PROJECTS</u>	<u>RECOMMENDED FUNDING</u>
<p><b>(1) Lexington County</b> <i>Minor Home Repair Program</i></p>	<p><b>\$250,000</b></p>
<p><b>(2) Town of Lexington</b> <i>West Lexington Waterline Upgrade</i></p>	<p><b>\$210,000</b></p>
<p><b>(3) City of Cayce</b> <i>Avenues Area Waterline Upgrade</i></p>	<p><b>\$171,083</b></p>
<p><b>(4) Lexington County</b> <i>Homeownership Assistance Program</i></p>	<p><b>\$150,000</b></p>
<p><b>(5) Town of Lexington</b> <i>Keeping Every Youth Safe Afterschool Program</i></p>	<p><b>\$73,346</b></p>
<p><b>(6) Town of Springdale</b> <i>Platt Springs Road Blight Removal</i></p>	<p><b>\$65,200</b></p>
<p><b>(7) Harvest Hope Food Bank</b> <i>Backpack Weekend Child Feeding Program</i></p>	<p><b>\$64,800</b></p>
<p><b>(8) Boys and Girls Club of the Midlands</b> <i>BE GREAT Academy Scholarship Program</i></p>	<p><b>\$63,800</b></p>
<p><b>(9) Lexington County</b> <i>Home Rehabilitation Project Delivery</i></p>	<p><b>\$45,000</b></p>
<p><b>(10) Sistercare, Inc.</b> <i>Shelter Facility Improvements</i></p>	<p><b>\$18,500</b></p>
<p><b>(11) Babcock Center, Inc.</b> <i>Duffie Work Activity Center Improvements</i></p>	<p><b><u>\$17,485</u></b></p>
<b>Total</b>	<b>\$1,129,214</b>



# FY 2012-13 HOME PROJECT PROPOSALS

## PROJECTS

## RECOMMENDED FUNDING

(1) Homeownership Assistance

\$420,493

(2) Housing Rehabilitation Program

\$160,000

Total

\$580,493





## COMMITTEE REPORT

**RE:** Columbia Avenue Project RFQ for Engineer.

**DATE:** February 17, 2012

**COMMITTEE:** Public Works & Solid Waste Management

**MAJORITY REPORT:** Yes

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The Public Works Committee met on Tuesday, February 14, 2012, to discuss the RFQ for Columbia Avenue Project engineer.

Mr. John Fechtel, Director of Public Works, reported that the County has applied to SCDOT to be the Local Public Agency (LPA) where the County can administer all or portions of the S-48 Columbia Avenue project. He said the County should know within the next 30-45 days if the County is qualified as the LPA for the project. Mr. Fechtel said a RFQ needs to be put out for the project engineering, which is a large part of the application. Staff recommends authorization from Council for a RFQ once SCDOT approves Lexington County as the LPA for the Columbia Avenue project.

The Public Works Committee voted unanimously in favor to recommend to Council to approve authorization for staff to proceed with a RFQ for an engineer if SCDOT gives the County the clearance for designation as the LPA for the Columbia Avenue project.



## COMMITTEE REPORT

**RE:** Communications Narrowbanding

**DATE:** February 17, 2012

**COMMITTEE:** Health and Human Services

**MAJORITY REPORT:** Yes

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The Health and Human Services Committee met on Tuesday, February 14, 2012, to review the proposed Public Safety Communications Narrowbanding.

David Kerr, Public Safety Director, presented information and a PowerPoint Presentation on the unfunded mandate from the Federal Communications Commission (FCC) to make additional Very High Frequency (VHF) Channels available in the 150 MHz / 450-470 MHz frequency spectrum by January 1, 2013. The unfunded mandate applies to all public safety frequencies licensed to the County including the Fire and Emergency Medical Services. The system must be installed, licensed and fully operational by December 31, 2012 to make certain it is ready to dispatch. Staff requests Council to authorize Public Safety to negotiate and enter into a contract with Motorola, Inc. (a state contracted vendor) to build/install a three (3) tower VHF Simulcast Communications System for Lexington County.

The Health and Human Services Committee voted unanimously in favor to recommend to Council to approve staff's recommendations to pursue with the implementation of the Communications Narrowbanding as mandated.

Attachment: Communications Narrowbanding



County of Lexington  
Department of Public Safety

MEMO

To: Joe Mergo, Interim County Administrator  
From: David Kerr, Public Safety Director  
Date: February 7, 2012  
Subject: Communications Narrowbanding

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The Federal Communications Commission (FCC) has mandated through federal legislative action to make additional Very High Frequency (VHF) Channels available in the 150MHz / 450-470 MHz frequency spectrum by January 1, 2013. This mandate splits the 25 kHz bandwidth currently authorized by the FCC to 12.5 kHz, which reduces signal coverage across the County from 90% to approximately 50%. This mandate applies to all public safety VHF frequencies licensed to Lexington County, to include Fire and Emergency Medical Services. By December 31, 2012, Lexington County's 12.5 kHz VHF communication system must be installed, licensed, and fully operational to ensure the continued timely notification and dispatch of our first responders.

Lexington County primarily uses the VHF communications system to page/alert and direct the response of over 350 volunteer and career firefighters. The VHF communications system is also used as a backup to Public Safety's primary communications radio system, Palmetto 800, throughout the County.

Lexington County Public Safety, in cooperation with many state, county and civilian communications experts has explored options to minimize the impacts of the Narrowbanding Mandate on County communications. Having considered multiple technology options, this department recommends the following solution:

- 1) Lexington County installs a three (3) transmitter, VHF Simulcast Communications system. Computer modeling shows that this system

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will likely provide as good, if not better, VHF coverage of Lexington County. (est. one time cost \$450,000)

- 2) Lexington County will place transmitters on three co-use antennas at various locations around the County to optimize coverage. These towers will be chosen based on coverage provided, available infrastructure support, and annual reoccurring costs. Lexington County will incur annual tower lease and system maintenance costs. (est. annual cost \$50,000)
- 3) Pagers and radios currently in use by Lexington County Public Safety will be narrowbanded to allow for use on the new system (est. one time cost \$15,000)
- 4) County frequency licenses will be updated to reflect new narrowbanded frequencies.

This system will have an estimated lifecycle of 8 to 10 years. At that time, if technological advancements in communications evolve, the County may be able to consolidate all emergency communications under one system. We have also been advised that the FCC is likely to mandate future narrowbanding down to 6.25 kHz, however no timeline has been given.

The department recommends that initial installation costs be funded using the Fire Service Contingency Fund (\_\_\_\_\_). We further recommend that the annual reoccurring tower lease and maintenance costs be funded from the Fire Service Operating Fund (131500).

Public Safety requests that the Council authorize this department to negotiate and enter into a contract with Motorola, Inc. (a state contracted vendor) to build/install a three (3) tower VHF Simulcast Communications System for Lexington County.