

AGENDA
LEXINGTON COUNTY COUNCIL
Committee Meetings

May 22, 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.**

3:15 p.m. - 3:20 p.m. - Economic Development

- (1) Meeting of March 13, 2012 - Approval of Minutes..... A
- (2) Old Business/New Business
- (3) Adjournment

3:20 p.m. - 3:25 p.m. - Planning and Administration

- (1) Meeting of March 13, 2012 - Approval of Minutes..... B
- (2) Old Business/New Business - Federal CDBG Demolition Reimbursement Requirements, Additionally Language/Information (Pennington) for Communication Towers, Number of Forfeited Land Commission Mobile Homes Not Sold and Had Separate Owners Than the Landowner, Percentage of Mobile Homes Demolished Owned by Someone Other Than the Property Owner, Assessment Appeals Board ByLaw Update
- (3) Adjournment

3:25 p.m. - 3:30 p.m. - Justice

- (1) Paul Coverdell Grant Application (Goal 1) - Sheriff's Department - Allan Paavel, Colonel..... C
- (2) Meeting of March 13, 2012 - Approval of Minutes..... D
- (3) Old Business/New Business
- (4) Adjournment

3:30 p.m. - 3:10 p.m. - Health and Human Services

- (1) 2012 Local Emergency Management Performance Grant (LEMPG) Application (Goal 1) - Public Safety/Preparedness - Thomas Collins, Emergency Response Coordinato..... E
- (2) Citizens Corp Grant (FY 09 Reverted Funds) Award (Goal 1) - Public Safety/Preparedness - Tom Collins, Emergency Response Coordinator..... F
- (3) Meeting of March 13, 2012 - Approval of Minutes..... G
- (4) Old Business/New Business
- (5) Adjournment

3:10 p.m. - 3:15 p.m. - Public Works & Solid Waste Management

- (1) Meeting of March 13, 2012 - Approval of Minutes..... H
- (2) 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 Update, List of Outstanding Bonds, etc, LPA Process Update, State Dirt Roads, Tire Disposal Program, Cost Update on Old Bush River Design, Update on City of Columbia Enhancement Grant for Columbiana Ave, Micala Drive Bridge Update

(3) Adjournment

3:15 p.m. - 3:20 p.m. - Airport

- (1) Meeting of March 13, 2012 - Approval of Minutes..... I
- (2) Special Called Meeting of March 21, 2012 - Approval of Minutes..... J
- (3) Old Business/New Business
- (4) Adjournment

3:20 p.m. - 4:15 p.m. - Committee of the Whole

- (1) Meeting of March 13, 2012 - Approval of Minutes..... K
- (2) Possible Executive Session if Time Permits
- (3) Old Business/New Business - Local Contractor Procurement
- (4) 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

Health & Human Services

B. Matthews, Chairman
D. Summers, V Chairman
F. Townsend, III
B. Keisler
J. Kinard

Public Works & Solid Waste Management

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

Airport

F. Townsend, III, Chairman
J. Kinard, V Chairman
D. Summers
B. Keisler
T. Cullum

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**

May 22, 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 of Resolutions

- (1) Davis, Frawley, Anderson, McCauley, Ayer, Fisher & Smith LLC - 50th Anniversary –
Presented by County Council
- (2) Emergency Medical Services Week Presented by Councilman Matthews
- (3) Kathy Maness Presented by Councilwoman Summers
- (4) National Public Works Week Presented by Councilman Cullum

Administrator's Report

Employee Recognition - Joe Mergo, County Administrator

Resolution

- (1) Hardee Expressway L
- (2) 2012 Gilbert High School Varsity Baseball Team

Appointments

- (1) Boards and Commissions M

Bids/Purchases/RFPs

- (1) Carpet and Flooring Products-Term Contract - Building Services..... N
- (2) County-wide Copiers..... O
- (3) New 911 EOC/ECC Facility-Administration P
- (4) VHF Simulcast Narrowbanded Communications System-Public Safety/Fire Service..... Q

Approval of Minutes

- (1) Meeting of April 10, 2012 R

Ordinance

- (1) Ordinance 12-05 - Auth. the Exec. & Delivery of a FILOT by Lex Co & AVTEC to Provide for a Incentive, to Include the Inclusion of the Company in a Multi Cty Pk, Granting of Certain SSRC's & Other Matters Related Thereto - 2nd Reading S

Committee Reports

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

- (1) Fence Relocation at Pelion Airport T
- (2) West Columbia Enhancement Grant Match Program U

Health & Human Services, B. Matthews, Chairman

- (1) 2012 Local Emergency Management Performance Grant (LEMPG) Application..... E
- (2) Citizens Corp Grant (FY 09 Reverted Funds) Award..... F

Budget Amendment Resolutions

6:00 P.M. - Public Hearings

- (1) Ordinance 12-05 - Auth. the Exec. & Delivery of a FILOT by Lex Co & AVTEC to Provide for a Incentive, to Include the Inclusion of the Company in a Multi Cty Pk, Granting of Certain SSRC's & Other Matters Related Thereto..... V
- (2) FY 12 JAG Application..... W
- (3) Ordinance 12-06 - An Ordinance Adopting an Annual Budget for Fiscal Year 2012-2013..... X

OLD BUSINESS/NEW BUSINESS

EXECUTIVE SESSION/LEGAL BRIEFING

MATTERS REQUIRING A VOTE AS A RESULT OF EXECUTIVE SESSION

ADJOURNMENT

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Sheriff

James R. Metts, Ed. D.



LEXINGTON COUNTY SHERIFF'S DEPARTMENT

TO: ADAM DUBOSE, County Grants Financial Manager

FROM: NANDALYN HEAITLEY, LCSD Grants Coordinator *NH*

RE: Paul Coverdell Grant

DATE: May 9, 2012

The budget submitted for council review for the Paul Coverdell grant is due to the Department of Public Safety on June 11, 2012. This is the same budget that was presented to the county council in January, 2012, for the Paul Coverdell grant for reverted funding. The grant was not awarded and it was suggested that we submit the same grant for regular funding.

Because the council members have already approved the submission of the Paul Coverdell grant, we are respectfully requesting the Paul Coverdell grant be sent to committee and out to council on May 22, 2012, for the county council meeting.



A Nationally Accredited Law Enforcement Agency
P.O. Box 639/Lexington, South Carolina 29071 (803) 359-8230, Fax # (803) 359-1162

**COUNTY OF LEXINGTON
FORENSIC LAB MODULE
Annual Budget
Fiscal Year - 2012-13**

Object Code Revenue Account Title	Requested 2012-13	Recommend 2012-13	Approved 2012-13
* LE - Forensic Lab Module:			
Revenues (Organization: 000000)			
457000 Federal Grant Income	23,900	23,900	
461000 Investment Interest	0	0	
** Total Revenue	23,900	23,900	
***Total Appropriation	23,900	23,900	
FUND BALANCE			
Beginning of Year	0	0	
FUND BALANCE - Projected			
End of Year	0	0	

* Grant will be funded 100% from DPS.

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

Object Expenditure Code Classification	BUDGET		
	2012-13 Requested	2012-13 Recommend	2012-13 Approved
Personnel			
* Total Personnel	0	0	
Operating Expenses			
* Total Operating	0	0	
** Total Personnel & Operating	0	0	
Capital			
540000 Small Tools & Minor Equipment	0	0	
540010 Minor Software	0	0	
(1) Forensic Lab Module	19,000	19,000	
(1) Evidence Cart	4,900	4,900	
** Total Capital	23,900	23,900	
*** Total Budget Appropriation	23,900	23,900	

SECTION V. - PROGRAM OVERVIEW

The Forensic Lab Module is an additional software component to the new Records Management System. This module will work in conjunction with the existing evidence module and will improve the quality and the timeliness of forensic science services by streamlining the process of evidence handling and improving the accuracy of recording forensic evidence. The module will also digitally record evidence and track it from the point of submission through each process or step, to the ending lab results. At any given time, the forensic evidence may be viewed to see which step the evidence is being analyzed or to pin point the location of the evidence.

The manual system now being used consists of documenting evidence information on paper. Because the forensic lab module records everything digitally, the evidence information may be retrieved immediately with accuracy. Accountability of the work process will be increased and the final results will be generated in a shorter period of time. Using this system will eliminate the stand alone databases, paper forms and will allow accessibility of information to the requesting investigator.

SECTION VI. D. – CAPITAL LINE ITEM NARRATIVES

5AD - (1) FORENSIC LAB MODULE \$ 19,000

The Forensic Lab Module is an additional software component to the new Records Management System. This module will work in conjunction with the existing evidence module and will improve the quality and the timeliness of forensic science services by streamlining the process of evidence handling and improving the accuracy of recording forensic evidence. The module will also digitally record evidence and track it from the point of submission through each process or step, to the ending lab results.

5AD - (1) EVIDENCE CART \$ 4,900

An evidence cart is needed to carry large items such as a computer, tethered scanner, and other essentials that are needed to scan evidence in place to prevent any type of damage or dislodging of important parts of the evidence.

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Lexington County Public Safety Department
Emergency Management Division

TO: Diana W. Burnett
Clerk to Lexington County Council

FROM: Thomas B. Collins
Emergency Manager

REF: Local Emergency Management Performance Grant (LEMPG) - 2012

DATE: May 11, 2012

We respectfully request to put to County Council the 2012 Local Emergency Management Performance Grant (LEMPG) Application. Our office received the information on the 2012 LEMPG on April 27, 2012.

Our deadline to submit the approved grant application to the South Carolina Emergency Management division is June 8, 2012, therefore we respectfully request to have the LEMPG Grant Application submitted to and brought out at the May 22, 2012 County Council Health and Human Services Meeting.

There is a 50% match for this grant. Lexington County will match funds through the salaries of the Emergency Management Staff.

Thank you for your attention to this matter.

COUNTY OF LEXINGTON Grant Request Summary Form

Title of Grant: 2012 Local Emergency Management Performance Grant (LEMPG)

Fund: 1000 General Fund **Department:** 131101 PS/Emergency Preparedness
No. Title No. Title

Type of Summary: **Grant Application** X **Grant Award** _____

Grant Overview:

The 2012 Local Emergency Management Performance Grant (LEMPG) application will be used to offset a percentage of the salaries for the Lexington County Emergency Preparedness personnel. This application also includes funds for the Emergency Response Coordinator to an Emergency Management training events. This application also includes funds which will be used for the purchase of equipment and supplies for Emergency Preparedness operations.

Equipment: (1) Vehicle Mount Weather Station, (7) HazMat Suits, (5) Ipad & Accessories, Furniture for the EOC Center, (1) Scrolling Marquee Sign, (20) 800 MHz batteries, and (1) Satellite Phone.

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

Responsible Departmental Grant Personnel: Thomas B. Collins, Emergency Response Coordinator

Date Grant Information Released: April 26, 2012 **Date Grant Application Due:** June 8, 2012

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

Personnel	\$ 94,096.00		* Application Amount: \$65,021.00
Operating	\$ 3,871.00		* Award Amount:
Capital	\$ 32,075.00		
Total	<u>\$ 130,042.00</u>		

Local Match Required: Yes No

If Yes, What is the Percentage / Amount:

50	\$65,021.00	* This is not a cash, but an in-kind match.
50	\$65,021.00	
%	\$ Amount	

Requirements at the End of this Grant (please explain in detail): None

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

Dept. Preparer:	NM	5/11/2012
Dept. Approval:	TBC	5/11/2012
Finance Approval:	AD	5/11/2012
	<i>Initials</i>	<i>Date</i>

COUNTY OF LEXINGTON
LOCAL EMERGENCY MANAGEMENT PERFORMANCE GRANT
Annual Budget
FY - 2012-13 Estimated Revenue

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
* Local Emergency Management Performance Grant (LEMPG)								
Revenues:								
451200	FEMA EPD Operating Reimbursement	71,039	42,899	73,597	73,597	65,021	65,021	
	In-kind Match	66,284	56,962	73,597	73,597	65,021	65,021	
	** Total Revenue	<u>137,323</u>	<u>99,861</u>	<u>147,194</u>	<u>147,194</u>	<u>130,042</u>	<u>130,042</u>	
	***Total Appropriation				144,531	130,042	130,042	
FUND BALANCE								
	Beginning of Year				<u>0</u>	<u>0</u>	<u>0</u>	
FUND BALANCE - Projected								
	End of Year				<u>2,663</u>	<u>0</u>	<u>0</u>	
*50/50 In-kind Match								

COUNTY OF LEXINGTON
LOCAL EMERGENCY MANAGEMENT PERFORMANCE GRANT
Annual Budget
Fiscal Year - 2012-13

Fund: 1000
Division: Public Safety
Organization: 131101 - PS / Emergency Preparedness

		BUDGET					
Object Code	Expenditure Classification	2010-11 Expend	2011-12 Expend (Dec)	2011-12 Amended (Dec)	2012-13 Requested	2012-13 Recommend	2012-13 Approved
Personnel							
510100	Salaries & Wages	77,282	48,042	73,152	64,773	64,773	
510200	Overtime	0	0	0	0	0	
511112	FICA Cost	5,912	3,614	5,597	4,955	4,955	
511113	State Retirement	2,677	1,815	2,768	2,724	2,724	
511114	Police Retirement	0	0	5,190	4,806	4,806	
511120	Insurance Fund Contribution	15,600	7,800	11,777	15,600	15,600	
511130	Workers' Compensation	1,388	832	1,397	1,238	1,238	
511214	Police Retirement - Retiree	5,623	3,412	0	0	0	
	* Total Personnel	108,482	65,515	99,881	94,096	94,096	
Operating Expenses							
520200	Contracted Services	0	0	0	0	0	
522200	Small Equipment Repair & Maintenance	281	0	0	0	0	
522300	Vehicle Repairs & Maintenance	0	17	500	0	0	
524100	Vehicle Insurance	0	0	546	0	0	
525210	Conference, Meeting & Training Expenses	8,100	3,745	6,570	3,075	3,075	
525400	Gas, Fuel & Oil	0	200	2,000	0	0	
525600	Uniforms & Clothing	0	0	332	796	796	
	* Total Operating	8,381	3,962	9,948	3,871	3,871	
	** Total Personnel & Operating	116,863	69,477	109,829	97,967	97,967	
Capital							
540000	Small Tools & Minor Equipment	329	0	1,390	0	0	
540010	Minor Software	0	646	776	0	0	
	All Other Equipment	15,376	29,738	32,536			
	(1) Vehicle Mount Weather Station				4,895	4,895	
	(7) Level A HazMat Suits				5,810	5,810	
	(1) Laptop				3,961	3,961	
	(5) iPads and Accessories				3,983	3,983	
	Office Furniture for the EOC				8,108	8,108	
	(1) Scrolling Marquee Sign				578	578	
	(20) 800 MHz Radio Batteries				835	835	
	(1) Satellite Phone				3,905	3,905	
	** Total Capital	15,705	30,384	34,702	32,075	32,075	
	*** Total Budget Appropriation	132,568	99,861	144,531	130,042	130,042	

SECTION V – PROGRAM OVERVIEW

PUBLIC SAFETY/EMERGENCY MANAGEMENT LEMPG GRANT

Summary of Programs:

PROGRAM II – EMERGENCY MANAGEMENT LEMPG GRANT

Objectives:

This grant is awarded annually to support Emergency Management and the Emergency Operations Center in Lexington County. There is a 50/50 match with the County portion coming from the salaries of the Emergency Manager and the Administrative Assistant.

SECTION VI. - LINE ITEM NARRATIVES

SECTION VI. A. – LISTING OF REVENUES

451200 – FEMA EPD OPERATING REIMBURSEMENT \$ 65,021

These grant funds will be used to support Emergency Management and the Emergency Operations Center in Lexington County.

SECTION VI. C. - OPERATING LINE ITEM NARRATIVES

525210 – CONFERENCES, MEETING & TRAINING EXPENSES **\$ 3,075**

This account will cover the cost for the Emergency Manager to continue to attend the Homeland Security/Emergency Management Certification Program through the American Military University.

Three (3) courses at \$975.00 each = \$2,925.00
Three (3) books at \$50.00 each = \$150.00

525600 – UNIFORMS & CLOTHING **\$ 796**

This account will be used to cover the cost of uniform items in support of Emergency Management operations.

SECTION VI. D. - CAPITAL LINE ITEM NARRATIVES

5AD – (1) VEHICLE MOUNT WEATHER STATION **\$ 4,895**

This account will be used to purchase a weather system that will interface with the CAMEO/ALOHA HazMat software. This will allow for plume modeling and evacuation corridor predictions during an incident.

(1) Orion Weather Station = \$4,574.00 = \$320.18 tax = \$4,894.18

5AD – (7) LEVEL A HAZMAT SUITS **\$ 5,810**

Level A HazMat suits have a five (5) year life span. This account will be used to replace seven (7) of the Level A HazMat suits in the current inventory.

Three (3) Level A HazMat Suits – XL @ \$737.00 ea = \$2,211.00 + \$154.77 tax = \$2,365.77
Two (2) Level A HazMat Suits – 2X @ \$1,562.00 ea = \$1,562.00 + \$109.34 tax = \$1,671.34
Two (2) Level A HazMat Suits – 3X @ \$828.00 ea = \$1,656.00 + \$115.92 tax = \$1,771.92

5AD – (1) LAPTOP AND ACCESSORIES **\$ 3,961**

This account will be used to purchase a laptop and the necessary software for the Emergency Manager in support to support emergency management operations. The current laptop is over 4 years old and needs to be replaced.

(1) Dell Precision M6600 Laptop with Windows 7 + tax = \$3,070.26
(1) MS Office Pro Plus License + tax = \$353.00
(1) Adobe Acrobat Professional + tax = \$291.00
(1) BOSS Client License + tax = \$26.00
(1) Symantec Antivirus License + tax = \$37.00
(1) Plus 210W Port Replicator + tax = \$171.19

5AD – (5) IPADS AND ACCESSORIES **\$ 3,983**

Emergency Management will be utilizing ipads for damage assessment after emergencies or disasters that affect the county.

(5) iPad 2 with iOS, 4.3 operating system – 32 GB @ \$641.00 each (includes tax) = \$3,205.00
(5) iPad 2 Sena ZipBook covers @ \$75.00 each (includes tax) = \$375.00
(5) iPad 2 Wireless Keyboard @ \$74.00 each (includes tax) = \$370.00
(1) iPad 2 iWorks (includes tax) = \$33.00

5AD – OFFICE FURNITURE FOR THE EOC **\$ 8,108**

This account will be used to purchase furniture for the Emergency Management Office/EOC. The current furniture set is well over 10 years old and is in need of repairs.

5AD – (1) SCROLLING MARQUEE SIGN \$ 578

This account will be used to purchase a scrolling marquee sign for the Emergency Operations Center (EOC). The EOC needs to be able to display up-to-the-minute vital information to the operations staff in the EOC during an ongoing event. The use of a scrolling marquee would accomplish this task.

Marquee sign	\$500.00
Shipping/Handling	<u>\$40.00</u>
Subtotal	\$540.00
Tax	<u>\$37.80</u>
Total	\$577.80

5AD – (20) 800 MHz RADIO BATTERIES \$ 835

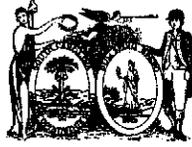
This account will be used to purchase batteries for 800 MHz radios in reserve.

(20) Batteries @ \$39.00 ea = \$780.00 + \$54.60 tax = \$834.60.

5AD – (1) SATELLITE PHONE \$ 3,905

This account will be used to purchase a satellite phone with accessories for the Emergency Operations Center.

The State of South Carolina
Military Department



OFFICE OF THE ADJUTANT GENERAL

ROBERT E. LIVINGSTON, Jr.
MAJOR GENERAL
THE ADJUTANT GENERAL

April 26, 2012

Tom Collins, Director
Lexington County Emergency Preparedness Division
212 S. Lake Drive, Suite 502
Lexington, SC 29072

REF: 2012 LEMPG Allocations

Dear Mr. Collins:

Enclosed is your 2012 Local Emergency Management Performance Grant (LEMPG) application package in hard copy and on CD. A copy of this letter has been sent to your county administrator/manager for information. Your county's estimated annual award is \$65,021 which includes \$35,946 for EM Special Project funding. Your completed grant application is due to EMD by June 8, 2012, but no later than June 12, 2012. Please note that this is not an award letter, but an application to receive funds. An actual award letter will be forwarded following SCEMD's award from the federal government.

The county will be reimbursed upon receipt of quarterly reports with supporting documentation of allowable expenditures. Each county will be responsible for providing the match for the grant award. Please note that the period of performance for the 2012 LEMPG is July 1, 2012 to June 30, 2013.

Of special note are the requirements outlined below:

1. Planning: LEMPG program participants must ensure EOPs are Comprehensive Preparedness Guidance (CPG) 101 v.2 compliant.
2. Exercises: LEMPG program funded personnel, to include personnel used as match, must participate in no less than three exercises in a 12-month period.
3. Training: LEMPG program funded personnel, to include personnel used as match, must complete the following training requirements: National Incident Management System (NIMS) Training: IS-100, IS-200, IS-700, and IS-800; FEMA Professional Development Services (PDS) courses: IS-120, IS-230, IS-235, IS-240, IS-241, IS-242, and IS-244.

A data table has been added in the enclosed package to assist with reporting.

If you have any questions or if we can assist you in any way, please contact Kim Stenson, (803) 737-8651, Deborah Dawson, (803) 737-8598, or your Regional Emergency Manager.

Sincerely,

Handwritten signature of George H. McKinney, II in black ink.
George H. McKinney, II
Director

HM/dd
Enclosures
CC: County Administrators

Emergency Management Division
2779 Fish Hatchery Road
West Columbia, South Carolina 29172
(803) 737-8500 • Fax: (803) 737-8570

FY 12
LOCAL EMERGENCY
MANAGEMENT PERFORMANCE
GRANT PROGRAM



GUIDELINES
AND
APPLICATION PROCEDURES

APPLICATIONS DUE BY: June 8, 2012

SOUTH CAROLINA
EMERGENCY MANAGEMENT DIVISION
OFFICE OF THE
ADJUTANT GENERAL

**LOCAL
EMERGENCY MANAGEMENT PERFORMANCE GRANT PROGRAM (LEMPG)
GUIDELINES AND APPLICATION PROCEDURES**

I. Introduction/Background

The Office of the Adjutant General, Emergency Management Division, has been designated by the State Law Enforcement Division to administer local assistance under the Emergency Management Performance Grant (EMPG).

As a supporting element of the state, the purpose of the LEMPG remains the same: to encourage the design and implementation of programs that yield measurable results at all levels of government. Through the LEMPG, you and your local emergency management staff support your strategic plan and its initiatives and goals as well as the states', and that is to establish a cohesive, comprehensive emergency management network. This year funding assistance for local jurisdictions will be based upon a performance period of July 1, 2012 through June 30, 2013.

Our joint state and local partnership will provide the state with the capability to effectively address the hazards and related impacts which affect us; ensure that federal, state and local jurisdictions can operate efficiently together in major disasters or emergency situations; and focus on mutual efforts to achieve our goals.

This document provides applicants with program criteria and eligibility information so that formal application proposals may be prepared. Included in this package are worksheets for counties to use in preparing their application. Please complete your application and forward to:

George H. McKinney, II, Director
S.C. Emergency Management Division
2779 Fish Hatchery Road
West Columbia, SC 29172

The deadline for submission is June 8, 2012.

II. Eligible Program Areas

The state and its local jurisdictions will continue to work together to comply with the *South Carolina Code of Laws, Title 25, Chapter 1, Article 4* and the *S.C. Code of Regulations 58-1 and 58-101* pertaining to Emergency Management. Copies of these documents can be obtained at www.scstatehouse.net (the SC Legislature homepage). In addition to these requirements and in support of the EMPG, South Carolina's emphasis will be on the following:

- **Laws and Authorities** - the legal authorities for the development, implementation and maintenance of an emergency management program.
- **Hazard Identification and Risk Assessment** - the identification of the hazards with the greatest potential to affect lives and property and an assessment of the likelihood, vulnerability, and magnitude of incidents that could result from exposure to hazards.
- **Hazard Mitigation** - a systematic approach to eliminate hazards or to reduce the effect of hazards.
- **Resource Management** - the availability of critical human and physical resources required in disaster response.
- **Planning** - the collection, analysis, and use of information, and the development, promulgation, and maintenance of a comprehensive emergency management plan, action plan, mitigation plan and administrative plan.
- **Direction, Control and Coordination** - the capability to monitor emergencies and disasters; quickly and accurately assess their magnitude; and direct, control and coordinate response and recovery.
- **Communications and Warning** - the ability to alert and warn response organizations and the general public of pending and spontaneous disaster events.
- **Logistics and Facilities** - essential facilities and services that support response and recovery operations.
- **Training** - assessments, development, and implementation of a training/education program for public officials, emergency response and recovery personnel, and mitigation personnel.
- **Exercise** - the evaluation of plans and capabilities based on a program of tests and exercises.
- **Public Education and Information** - the provision of public education and information to protect lives and minimize property loss.
- **Finance and Administration** - financial and administrative procedures in place before, during, and after disaster events.

III. County Worksheets

Annual Standard Requirements: Funding for the FY12 LEMPG will have a proposed scope of work similar to those of previous years. This scope of work will cover typical items expected such as plan reviews, joint assessments, participation in training and workshops. Additionally, grantees may develop an EM project for completion during the period of performance.

IV. Reporting Requirements

Local jurisdictions will submit **quarterly** progress reports using the LEMPG worksheet along with a narrative outlining the accomplishments of each item and identifying any shortcomings. *Local jurisdictions will also submit **quarterly**, a financial reporting form of Local Expenditures, for reimbursement of eligible expenditures. **These financial reports must be submitted even if no financial activity has taken place on the grant.***

*The progress and financial reports are due on **October 10, 2012, January 10, 2013, April 10, 2013 and July 10, 2013.***

**TERMS AND CONDITIONS
APPLICABLE TO THE AWARD OF LOCAL EMERGENCY
MANAGEMENT PERFORMANCE GRANT**

The following terms and conditions are hereby acknowledged, and agreed to, pursuant to the receipt of funds, as administered by the Federal Emergency Management Agency (grantor) through the State Law Enforcement Division (state administrative agency), to the South Carolina Emergency Management Division, herein known as the Division (grantee), and sub-allocated to local jurisdictions (sub-grantee).

- A. It is understood and accepted that the local jurisdiction's emergency management program must comply with the *South Carolina Code of Laws, Section 25-1-450* and *Regulations 58-1*. Copies of these documents can be obtained at www.scstatehouse.net (the SC Legislature homepage).
- B. It is agreed that each participating local jurisdiction will complete an annual *scope of work* to include pre-designated work elements as described in program areas, and as agreed upon with the Division, to ensure eligibility for annual assistance funds. Core work elements should support the State in accomplishing its goals under the Emergency Management Performance Grant (EMPG), and should include efforts in planning, exercising, training, data preparation, as well as other essential emergency management tasks.
- C. ***Applicable Federal Regulations:*** The local jurisdiction assures and certifies that they will comply with the regulations, policies and requirements set forth in the *44 CFR Part 13, Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments*, 2 CFR Part 215, *Uniform Administrative Requirements for Grants and Agreements with Institutions of Higher Education, Hospitals, and Other Non-Profit Organizations* (formerly OMB Circular A-110), 2 CFR Part 225, *Cost Principles for State, Local, and Indian tribal Governments* (formerly OMB Circular A-87), 2 CFR Part 220, *Cost Principles for Educational Institutions* (formerly OMB Circular A-21), 2 CFR Part 230, *Cost Principles for Non-Profit Organizations* (formerly OMB Circular A-122), *Federal Acquisition Regulations (FAR)*, Part 31.2 *Contract Cost Principles and Procedures, Contracts with Commercial Organizations*, *CFR 5, 900, OMB Circulars Nos. A-102, A-87, and A-133*; and, the *Standard Assurances* as they relate to the application, acceptance, and use of federal funds. Copies of these documents can be obtained at www.gpo.gov (the Government Printing Office homepage).
- D. ***Written Approval of Changes:*** It is also understood that any changes to this award, to include the scope of work and budget revisions exceeding 10% of the budget, will be mutually agreed upon in writing by and between the Division and the local jurisdiction.
- E. ***Reimbursement of Expenses:*** The Division agrees to reimburse local jurisdictions one fourth of the annual allocation, providing funds are available in their approved grant award, for the satisfactory performance of their scope of work.
- F. ***Emergency Reporting:*** It is agreed that the local jurisdiction, in support of the Division's responsibility to the Governor of the State of South Carolina, will report to the Division information concerning emergencies and/or disasters, as they occur within the jurisdiction, on a 24-hour basis.
- G. ***Emergency Operations Plan:*** Each participating local jurisdiction must have a local *Emergency Operations Plan (EOP)*, which is approved by the local chief executive and accepted by the Governor

or other authorized state official as being consistent with the state's *EOP*.

- H. **Performance:** It is agreed that in the event the local jurisdiction fails to meet the requirements described herein, and has previously received financial assistance administered through the Division, the local jurisdiction shall reimburse the Division to the full extent of payments made. However, if the requirements described herein have been partially met, and the local jurisdiction has previously received financial assistance administered through the Division, then the local jurisdiction shall reimburse the Division on a pro rata basis.
- I. **Performance Reporting:** It is agreed that the local jurisdiction will submit quarterly progress reports on their FY12 Scope of Work. It is further understood and agreed that the local jurisdiction will submit quarterly a financial reporting form and local expenditures for reimbursement of eligible expenditures. All progress and financial reports are due within ten (10) working days after the end of the quarter. (October 10, 2012, January 10, 2013, April 10, 2013 and July 10, 2013.)
- J. **Retention of Records:** The local jurisdiction agrees to retain pertinent records, including financial records, supporting documents and statistical records, for a minimum of three years after the final expenditure report and all other pending matters are closed. In the event of litigation, claim or audit before the expiration of the three-year period, said records must be retained for three years after the litigation, claim or audit is resolved. When applicable, the local jurisdiction agrees to retain records for non-expendable property purchased totally or partially with LEMPG award funds for a period of three years after its final disposition.
- K. **Audit Requirements:** The local jurisdiction shall have an audit performed in accordance with *OMB Circular A-133* for each fiscal year encompassed under this subcontract and forward one copy to the Division, if the total of all federal awards equal over \$500,000.00. **An *Acceptance of Audit Requirements* form must be submitted with the application (see attached).**
- L. **Non-supplanting Requirement:** Grant funds will be used to supplement existing funds, and will not replace (supplant) funds that have been appropriated for the same purpose. Applicants or grantees may be required to supply documentation certifying that a reduction in non-Federal resources occurred for reasons other than the receipt or expected receipt of Federal funds.
- M. **Freedom of Information Act (FOIA):** FEMA recognizes that much of the information submitted in the course of applying for funding under this program or provided in the course of its grant management activities may be considered law enforcement sensitive or otherwise important to national security interests. While this information under Federal control is subject to requests made pursuant to the Freedom of Information Act (FOIA), 5 U.S.C. §552, all determinations concerning the release of information of this nature are made on a case-by-case basis by the FEMA FOIA Office, and may likely fall within one or more of the available exemptions under the Act. The applicant is encouraged to consult its own State and local laws and regulations regarding the release of information, which should be considered when reporting sensitive matters in the grant application, needs assessment, and strategic planning process. The grantee should be familiar with the regulations governing Sensitive Security Information (49 CFR Part 1520), as it may provide additional protection to certain classes of homeland security information.
- N. **Civil Rights Compliance and Notification of Findings:** The local jurisdiction agrees to adhere to affirmative action measures to ensure that applicants for employment, and the employees, are treated

fairly in compliance with *Title VI of the Civil Rights Act of 1964, Section 504 of the Rehabilitation Act of 1973, Title IX of the Education Amendments of 1972, and the Age Discrimination Act of 1975*. Cumulatively, these laws prohibit discrimination on the basis of race, color, religion, age, sex, national origin, limited English proficiency, or disability.

- O. **Conflict of Interest:** The local jurisdiction agrees to adhere to *Section 8-13-420, Code of Laws of South Carolina*, as amended, insofar as they refer to prohibition of gratuities.
- P. **Budget Transfers:** Sub-grantees are permitted to adjust their budget within the approved direct cost categories, Personnel, Contractual Services, Travel, Supplies and Other to meet unanticipated expenses. Equipment has been excluded. Sub-grantees may transfer up to 10% of the total budget.
- Q. **Budget Revisions:** For non-construction grants, transfer of funds between total direct cost categories in the approved budget shall receive the *prior approval* of SCEMD when such cumulative transfers among those direct cost categories exceed ten (10) percent of the budget.
- R. **Requesting Prior Approval:** A request for prior approval of any budget revision will be in the same budget format the grantee used in its application and shall be accompanied by a narrative justification for the proposed revision.
- S. **Technology Requirements:**
1. **National Information Exchange Model (NIEM).** FEMA requires all grantees to use the latest NIEM specifications and guidelines regarding the use of Extensible Markup Language (XML) for all grant awards. Further information about the required use of NIEM specifications and guidelines is available at <http://www.niem.gov>.
 2. **Geospatial Guidance.** Geospatial technologies capture, store, analyze, transmit, and/or display location-based information (i.e., information that can be linked to a latitude and longitude). FEMA encourages grantees to align any geospatial activities with the guidance available on the FEMA website at <http://www.fema.gov/grants>.
 3. **28 CFR Part 23 guidance.** FEMA requires that any information technology system funded or supported by these funds comply with 28 CFR Part 23, Criminal Intelligence Systems Operating Policies, if this regulation is determined to be applicable.
- T. **Protected Critical Infrastructure Information (PCII).** The PCII Program, established pursuant to the Critical Infrastructure Act of 2002 (Public Law 107-296) (CII Act), created a framework which enables members of the private sector, States, local jurisdictions, and tribal nations to voluntarily submit sensitive information regarding critical infrastructure to DHS. The Act provides statutory protection from public disclosure and civil litigation for CII that is validated as PCII. When validated as PCII, the information can only be shared with government employees who complete the training requirement, who have homeland security duties, and a need to know. For additional information about PCII or the accreditation process, please contact the DHS PCII Program Office at pcii-info@dhs.gov.

SOUTH CAROLINA EMERGENCY MANAGEMENT DIVISION

LOCAL EMERGENCY MANAGEMENT PERFORMANCE GRANT (LEMPG)

PROCUREMENT PROCEDURES

The following procedures support federal guidelines dealing with procurement and apply to contracts and leased, as well as purchased, equipment and other items. Federal, state and local jurisdiction procedures will be followed precisely for all procurement. In any case, selection of other than the lowest bidder must always be fully justified. All procurement transactions, whether negotiated or competitively bid and without regard to dollar value, will be conducted in a manner so as to provide *maximum, open and free competition*.

The grantor/sub-grantee will be alert to organizational conflicts of interest or noncompetitive practices among contractors who may restrict or eliminate competition or otherwise restrain trade. Contractors who develop or draft specifications, requirements, statements of work and/or Requests for Proposal (RFP) for a proposed procurement will be excluded from bidding or submitting a proposal to compete for the award of such procurement.

The following procedures adhere to instructions contained in the Grants Management Common Rule entitled "Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments" revised April 19, 1995, Office of Management and Budget Circular A-110 entitled Uniform Administrative Requirements for Grants and Agreements with Institutions of Higher Education, Hospitals and Other Non-Profit Organizations and the Grant Terms and Conditions.

A. Bidding Requirements: The sub-grantee must comply with proper competitive bidding procedures as required by the applicable above-referenced federal rule.

Items purchased through the Division of General Services (state surplus) are exempted from any additional bidding process.

FOR STATE AND LOCAL GOVERNMENTS ONLY: If an item(s) is purchased through a state term contract, no additional bidding is required. The state contract number must be on the invoice when submitting for reimbursement. For information on items that are on state contract, call Materials Management Office at (803) 737-0800 or check the MMO web page at www.state.sc.us/mmo.

NOTE: "In the Aggregate" means that more than one item (i.e., a group of items) is purchased from the same vendor at the same time.

Purchases not in excess of \$2,500.00: Small purchases not exceeding \$2,500.00 may be accomplished without securing competitive quotations if the prices are considered reasonable.

Purchases from \$2,500.01 to \$10,000.00: Solicitation of quotes from a minimum of three qualified sources of supply must be made and documentation of the quotes attached to the requisition for a small purchase over \$2,500.01. Solicitation does not need to be submitted to SCEMD for prior approval on any items, including those bid in the aggregate whose total cost is

between \$2,500.01 and \$10,000.00. However, proper bidding procedures must be followed and adequate bidding documentation must be maintained in the sub-grantee's files. All bidding information must be made available to SCEMD upon request for auditing purposes. The award will be made to the lowest responsive and responsible source.

Purchases from \$10,000.01 to \$50,000.00: Any items, including those bid in the aggregate, whose total cost is between \$10,000.01 and \$50,000.00, requires a written solicitation of bids, quotes, or proposals (returned in writing). The procurement must be advertised at least once in the *South Carolina Business Opportunities (SCBO)* publication or through a means of central electronic advertising as approved by the designated board office. A copy of the written solicitation and written quotes must be attached to the purchase requisition. The award will be made to the lowest responsive and responsible source or, when a request for proposal is used, the highest ranking offeror.

Submit to SCEMD (see paragraph B for mailing address) with Request for Reimbursement.

- Copy of written solicitation for bids/quotes, including the specifications (criteria) provided to each vendor;
- List of all vendors solicited;
- Copy of advertisement (with date shown) placed in **SCBO**, newspapers, trade papers, etc.;
- Copy of *all* vendor responses, including those that send a “no bid” response;
- The bid/quote selected;
- Criteria used for bid/quote selection. If other than low bid/quote is selected, provide sufficient justification/rationale.

Purchases above \$50,000.00: Competitive Sealed Bidding Procedures must be followed when procurement amounts are \$50,000 or more:

- Invitations for bid must be issued in an efficient and economical manner and must include specifications and all contractual terms and conditions applicable to the procurement. If there are not three qualified sources, invitations for bid must be issued to all qualified sources that are available. If three qualified sources are not available, documentation must be submitted to SCEMD – Administrative Services indicating the reason(s) for the unavailability of three sources;
- Adequate notice of invitations for bid must be given a reasonable time before the date set forth in it for the opening of said bids. The notice must include publication in the *South Carolina Business Opportunities* or a means of central electronic advertising as approved by the designate board office. Governmental bodies may charge vendors the cost incurred for copying and mailing bids or proposal documents requested in response to procurement.
- All bids, including modifications, received before the time of opening must be kept secure and unopened, except as provided by regulation of the board.
- Bids must be opened publicly in the presence of one or more witnesses at the time and place designated in the invitation for bids and manner prescribed by regulation of the board. The amount of each bid, and other relevant information as may be specified by regulation, together with the name of each bidder must be tabulated. The tabulation must be open to public inspection at that time.
- Bids must be accepted unconditionally without alteration or correction, except as otherwise

authorized in the code. The invitations for bid must set forth the evaluation criteria to be used. Criteria must not be used in bid evaluation that has not been included in the invitation for bid. Bids must be evaluated based on the requirements in the invitations for bids and in accordance with the regulations of the board.

- As provided in the invitations for bid, discussions may be conducted with apparent responsive bidders for the purpose of clarification to assure full understanding of the requirements of the invitation for bid. All bids, in the procuring agency's sole judgment, needing clarification must be accorded that opportunity. Clarification of a bidder's quote/response must be documented in writing by the procurement offices and must be included in the bid. Documentation concerning clarification must be subject to disclosure upon request.
- For contracts with a total or potential value in excess of \$50,000 but less than \$100,000 or greater, notice of an intended award of a contract must be given by posting the notice for ten days before entering into a contract and must be sent to all bidders responding to the solicitation on the same day that the notice is posted in accordance with this section. The posting date shall appear on the face of all these notices.

Submit to SCEMD (see paragraph B for mailing address) for approval.

- Copy of written solicitation for bids/quotes, including the specifications (criteria) provided to each vender;
- List all vendors solicited;
- Copy of advertisements (with date shown) placed in **SCBO**, newspapers, trade papers, etc.;
- Copy of *all* vendor responses, including those that send a "no bid" response;
- The bid selected; and,
- Criteria used for bid selection. If other than low bid is selected, provide sufficient justification/rationale.

B. Send all required procurement correspondence to the following address:

**SC Emergency Management Division (SCEMD)
2779 Fish Hatchery Road
West Columbia, SC 29172**

For inquires regarding procurement, please feel free to contact the following SCEMD Grants Administration Staff:

Mr. Kim Stenson
Chief of Staff
(803) 737-8651

Ms. Deborah Dawson
Account/Fiscal Analyst
(803) 737-8598

Property Control

Subject to the obligations and conditions set forth in 44 CFR Part 13, Sec.13.32 Equipment:

(a) Title. Subject to the obligations and conditions set forth in this section, title to equipment acquired under a grant or sub-grant will vest upon acquisition to the grantee or sub-grantee respectively.

(b) States. A State will use, manage, and dispose of equipment acquired under a grant by the State in accordance with State laws and procedures. Other grantees and sub-grantees will follow paragraphs (c) through (e) of this section.

(c) Use.

(1) Equipment shall be used by the grantee or sub-grantee in the program or project for which it was acquired as long as needed, whether or not the project or program continues to be supported by Federal funds. When no longer needed for the original program or project, the equipment may be used in other activities currently or previously supported by a Federal agency.

(2) The grantee or sub-grantee shall also make equipment available for use on other projects or programs currently or previously supported by the Federal Government, providing such use will not interfere with the work on the projects or program for which it was originally acquired. First preference for other use shall be given to other programs or projects supported by the awarding agency. User fees should be considered if appropriate.

(3) Notwithstanding the encouragement in Sec. 13.25(a) to earn program income, the grantee or subgrantee must not use equipment acquired with grant funds to provide services for a fee to compete unfairly with private companies that provide equivalent services, unless specifically permitted or contemplated by Federal statute.

(4) When acquiring replacement equipment, the grantee or sub-grantee may use the equipment to be replaced as a trade-in or sell the property and use the proceeds to offset the cost of the replacement property, subject to the approval of the awarding agency.

(d) Management requirements. Procedures for managing equipment (including replacement equipment), whether acquired in whole or in part with grant funds, until disposition takes place will, as a minimum, meet the following requirements:

(1) Property records must be maintained that include a description of the property, a serial number or other identification number, the source of property, who holds title, the acquisition date, and cost of the property, percentage of Federal participation in the cost of the property, the location, use and condition of the property, and any ultimate disposition data including the date of disposal and sale price of the property.

(2) A physical inventory of the property must be taken and the results reconciled with the property records at least once every two years.

(3) A control system must be developed to ensure adequate safeguards to prevent loss, damage, or theft of the property. Any loss, damage, or theft shall be investigated and report to SCEMD.

(4) Adequate maintenance procedures must be developed to keep the property in good condition.

(5) If the grantee or sub-grantee is authorized or required to sell the property, proper sales procedures must be established to ensure the highest possible return.

(e) Disposition. When original or replacement equipment acquired under a grant or sub-grant is no longer needed for the original project or program or for other activities currently or previously supported by a Federal agency, disposition of the equipment will be made as follows:

(1) Items of equipment with a current per-unit fair market value of less than \$5,000 may be retained, sold or otherwise disposed of with no further obligation to the awarding agency.

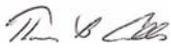
(2) Items of equipment with a current per unit fair market value in excess of \$5,000 may be retained or sold and the awarding agency shall have a right to an amount calculated by multiplying the current market value or proceeds from sale by the awarding agency's share of the equipment.

(3) In cases where a grantee or sub-grantee fails to take appropriate disposition actions, the awarding agency may direct the grantee or sub-grantee to take excess and disposition actions. Sub-grantee will request disposition instructions from the Federal agency.



Lexington County Public Safety Department
Emergency Management Division

TO: Adam DuBose
Grants Manager

FROM: Thomas B. Collins 
Emergency Manager

REF: 2009 Citizen Corps - State Homeland Security Program (SHSP)
Grant Award

DATE: May 3, 2012

The South Carolina Emergency Management Division has released the information regarding the award for reverted funding for the SHSP 2009 Citizen Corps Grant. Lexington County has been awarded \$12,926.00.

Our office received the grant award information on April 27, 2012. The grant award is due to SC Emergency Management on May 20, 2012, however, since the County Council meeting is scheduled for May 22, 2012, they will accept the signed award document on May 23, 2012. As a result we would like to respectfully request that the grant award be submitted to and brought out at the May 22, 2012 County Council Health and Human Services meeting.

Thank you for your attention to this matter.

**COUNTY OF LEXINGTON
CITIZEN CORPS GRANT
Annual Budget
Fiscal Year - 2011-12**

Object Code	Revenue Account Title	Actual 2009-10	Received Thru Jun 2010-11	Amended Budget Thru Jun 2010-11	Projected Revenues Thru Jun 2010-11	Requested 2011-12	Recommend 2011-12	Approved 2011-12
* Citizen Corps Grant 2480 (09 Reverted Funds):								
Revenues:								
457000	Federal Grant Income	0	0	0	0	12,926	12,926	12,926
801000	Op Trn for General Fund/Cty Ordinary	0	0	0	0	0	0	0
** Total Revenue		0	0	0	0	12,926	12,926	12,926
***Total Appropriation					0	12,926	12,926	12,926
FUND BALANCE								
Beginning of Year								
					0	0	0	0
FUND BALANCE - Projected								
End of Year								
					0	0	0	0

Fund: 2480
Division: Public Safety
Organization: 131101 Emergency Preparedness

Object Code	Expenditure Classification	2009-10 Expend	2010-11 Expend (Jun)	2010-11 Amended (Jun)	2011-12 Requested	2011-12 Recommend	2011-12 Approved
BUDGET							
Personnel							
* Total Personnel		0	0	0	0	0	0
Operating Expenses							
520800	Outside Printing	0	0	0	1,731	1,731	1,731
521000	Office Supplies	0	0	0	150	150	150
525600	Uniforms & Clothing	0	0	0	3,745	3,745	3,745
* Total Operating		0	0	0	5,626	5,626	5,626
** Total Personnel & Operating		0	0	0	5,626	5,626	5,626
Capital							
540000	Small Tools & Minor Equipment	0	0	0	300	300	300
5AC735	(1) Diesel Generator				1,500	1,500	1,500
5AC736	(1) Equipment Trailer				5,000	5,000	5,000
5AC737	(1) Equipment Table				300	300	300
5AC738	(2) Chairs				200	200	200
** Total Capital		0	0	0	7,300	7,300	7,300
*** Total Budget Appropriation		0	0	0	12,926	12,926	12,926

SECTION V – PROGRAM OVERVIEW

CITIZEN CORPS GRANT – Reverted 09 Funds

The Citizen Corps Program provides funding for the development and training of the Lexington County Community Emergency Response Team (CERT). Members of CERT assist communities in times of emergencies until the First Responders can arrive on the scene.

SECTION VI. A. – SUMMARY OF REVENUES

457000 – FEDERAL GRANT INCOME **\$12,926**

SECTION VI. C. – OPERATING LINE ITEM NARRATIVES

520800- OUTSIDE PRINTING **\$1,731**

This account will be used to purchase Public Outreach Materials and Student Manuals for CERT classes.

50 Manuals x \$18.00 = \$900.00 + 63.00 tax = \$963.00

200 CERT Brochures @ .7376/ea = \$147.52 + \$10.33 tax = \$157.85

300 Emergency Preparedness pamphlet @ \$1.90/ea = \$570.00 + \$39.90 tax = \$609.90

521000 – OFFICE SUPPLIES **\$150**

This account will be used to purchase CDs to copy CERT course curriculum information, writing tablets and pencils for CERT classes.

525600- UNIFORMS/CLOTHING **\$3,745**

This account will be used to purchase Uniforms for the CERT Members.

100 Golf Shirts @ \$20/ea = \$2,000.00
7% SC tax = \$140.00
\$2,140.00

100 T-shirts @ \$10/ea = \$1,000.00
7% SC tax = \$70.00
\$1,070.00

100 caps @ \$5.00/ea = \$500.00
7% SC tax = \$35.00
\$535.00

SECTION VI. D. – CAPITAL LINE ITEM NARRATIVES

540000 – SMALL TOOLS & MINOR EQUIPMENT \$300

This account will be used to purchase 15-20 flashlights for the CERT members in response to call outs to scenes.

5AC735 – (1) DIESEL GENERATOR \$1,500

This account will be used to purchase a Diesel Generator to power an equipment trailer for the CERT members to respond to call outs to emergency scenes.

5AC736 – (1) EQUIPMENT TRAILER \$5,000

This account will be used to purchase an equipment trailer for the CERT Program. Currently all members carry backpacks for callouts to emergency responses. By hauling this equipment in a trailer the backpacks would be assigned as needed, thus eliminating having to buy each member their own equipment. This would save money in the long run. The Equipment includes backpacks, laptops. Also Emergency Management must provide CERT members a means of communications thru various types of radios currently available, laptops, supplies, etc. to the members. These could also be stored in the trailer.

5AC737 – (1) EQUIPMENT TABLE \$300

This account will be used to purchase an equipment table to be used to prepare various types of equipment to include radios, laptops, etc.

5AC738 – (2) CHAIRS \$200

This account will be used to purchase chairs for the equipment table.

The State of South Carolina
Military Department



OFFICE OF THE ADJUTANT GENERAL

ROBERT E. LIVINGSTON, Jr.
MAJOR GENERAL
THE ADJUTANT GENERAL

April 26, 2012

Mr. Tom Collins, Emergency Manager
Lexington County Emergency Preparedness Division
212 S. Lake Drive, Suite 502
Lexington, SC 29072

REF: 2009 SHSP Allocations

Dear Mr. Collins:

Enclosed are two copies of the Cooperative Agreement Award allocating Lexington County \$12,926.00 under the FY2009 Citizens Corps Cooperative Agreement. Please return **one copy** of the award document signed by an authorized county official (administrator/county manager), to the attention of Joe Farmer by **May 20, 2012**. Retain the **second copy** of the Award Document for your files.

In an effort to adhere to the Citizens Corp Program guidelines, the local emergency management agencies should expend their funds by August 15, 2012. Progress and financial reports for this agreement are required in our offices *no later than 10 days after the end of the period*. Progress reports should include the status of all objectives of the cooperative agreement and shortfalls, if any. Progress and financial reports should be addressed to the attention of George McKinney.

Because of federal constraints, there will be no budget extensions to this Cooperative Agreement. If the awarded amount can not be spent by August 15, 2012, a notice must be submitted in writing, and addressed to George McKinney, with a copy to your Regional Emergency Management coordinator by July 15, 2012.

If you have any questions or if we can assist you in any way, please contact Joe Farmer (803)737-8569, or your Regional Emergency Manager.

Sincerely,

Handwritten signature of George H. McKinney II in black ink.
George H. McKinney II
Director

GHM/jk/hvd
Enclosures

Emergency Management Division
2779 Fish Hatchery Road
West Columbia, South Carolina 29172
(803) 737-8500 • Fax: (803) 737-8570

**SOUTH CAROLINA
EMERGENCY MANAGEMENT DIVISION
2779 Fish Hatchery Road
West Columbia, SC 29172**

COOPERATIVE AGREEMENT AWARD

SUB-GRANTEE: Lexington County Emergency Preparedness Division DATE: April 26, 2012

PROGRAM NAME: Citizen Corps CFDA No.: 97.067

COOPERATIVE AGREEMENT PERIOD: Date of last signature-8/15/12 GRANT NO: 09SHSP51

COOPERATIVE AGREEMENT AWARD: 12,926.00

TOTAL AWARD: 12,926.00

Under the Department of Homeland Security and South Carolina Law Enforcement Division Grant No. 09SHSP51, the South Carolina Emergency Management Division, Office of the Adjutant General, hereby awards to the aforementioned *Sub-Grantee*, a federal grant in the amount shown above, for the projects specified in the FY-2009 Citizens Corps application. This Cooperative Agreement Award is subject to the terms and conditions set forth in the application.

The cooperative agreement shall become effective, as of the date of award and upon return of an original signed copy of this document by the *Sub-Grantee's* designated official(s), to the South Carolina Emergency Management Division. This award must be accepted within thirty (30) days from the above date. It is agreed that Quarterly Progress, Finance and other reports, as required by the South Carolina Emergency Management Division, must be submitted in accordance with the Terms and Conditions of the award.

The *Sub-Grantee*, hereby assures and certifies that it will comply with the regulations, policies, guidelines and requirements, as applicable, set forth in the Code of Federal Regulations (CFR) 44, OMB Circular Nos. A-21, A-87, A-122 and A-133 and the signed Certifications, which are on file, as they relate to the application acceptance and use of federal funds.



George McKinney, Director
South Carolina Emergency Management Division
Office of the Adjutant General

Acceptance for the Sub-Grantee:

County Administrator/Manager

Date: _____

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RESOLUTION

**THE COUNCIL FOR THE COUNTY OF LEXINGTON, SOUTH CAROLINA,
MEETING IN GENERAL SESSION THE 22TH DAY OF MAY, TWO
THOUSAND AND TWELVE, ADOPTED THE FOLLOWING:**

WHEREAS, the Airport Connector, also known as the Hardee Expressway, was designed by the South Carolina Department of Transportation (SCDOT) to provide a safe and efficient controlled-access highway connecting the Columbia Metropolitan Airport to Interstate 26; and

WHEREAS, only the first phase, between Airport Boulevard (SC 302) and Platt Springs Road (SC 602), has been built and the second phase, which would go from Airport Boulevard to Interstate 26, and will also include a new freeway interchange, has **not** been constructed; and

WHEREAS, Phase II of the project is ready to build, with planning, engineering, right-of-way acquisition, environmental clearance and permitting complete; and

WHEREAS, the U.S. Department of Transportation has designated the Connector as a *National Highway System Intermodal Connector*; and

WHEREAS, approximately \$41 million has been spent to date on completion of Phase I and engineering, right-of-way and environmental clearance and permitting of Phase II; and

WHEREAS, the estimated remaining cost of Phase II is approximately \$76.8 million and Central Midlands Council of Governments has set aside \$13.7 million in Federal/State transportation funds for the project leaving an additional \$63.1 million needed; and

WHEREAS, full funding for the complete Connector project had been identified by SCDOT by 2006 but construction funding for Phase II was instead used on another highway project outside our region; and

WHEREAS, Phase II would create an estimated 350 construction jobs and recent commitments by Amazon.com for up to 2,000 jobs and Nephron Pharmaceuticals for 707 new jobs illustrate the great potential for private sector job growth in the project area; and

WHEREAS, the project’s benefit-cost ratio was determined to be 4.5 to 1 by a study commissioned by Central Midlands Council of Governments; and

WHEREAS, completion of the Airport Connector will improve the regional transportation system by providing a direct controlled-access highway link to the Airport, and relieving congestion on existing roadways such as S.C. Route 302, Old Dunbar Road, and Charleston Highway; and

WHEREAS, the project will help the Airport continue to grow as a major freight hub and will facilitate growth of key economic “clusters.”

NOW, THEREFORE, BE IT RESOLVED that we, the members of Lexington County Council, support and endorse the completion of the Airport Connector and encourage the South Carolina Department of Transportation to secure full funding for this vital transportation and economic development project.

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
May 22, 2012**

JIM KINARD

- **Assessment Appeals Board - Christopher Lykes**; term expires 09/21/12; *resigned effective 04/15/12*
- **Children's Shelter - Suzanne Hackett**; term expires 06/30/12; not eligible for reappointment

SMOKEY DAVIS

- **Children's Shelter - Robert Foster**; term expires 06/30/12; 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*

TODD CULLUM

- **Board of Zoning Appeals - Vacant**; term expires 12/31/13
- **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*

Central Midlands Council of Governments (COG)

- **Earl McLeod**; term expires 06/15/12; eligible for reappointment; confirmed desire to serve another term

Midlands Workforce Development Board (7 appointments)

- **DSS - Richelynn Douglass**; term expires 06/30/12; eligible for reappointment; *confirmed desire to serve another term*
- **Vocational Rehabilitation - Roy Hewett**; term expires 06/30/13; changed employment; Ineligible for reappointment; *nomination forms attached for Darlene Graham and Rhonda Pitts for consideration*

**** The following two Private Sector appointments currently held by Mr. Rountree and Mr. Steadman are open for nomination; attached are forms for Debby Lucas and Anthony White for consideration**

- **Private Sector - Eugene Rountree**; term expires 06/30/12; eligible for reappointment; *confirmed does not wish to serve another term*
- **Private Sector - Wallace Steadman**; term expires 06/30/13; changed employment; ineligible for reappointment

- **Labor - John Allen**; term expires 06/30/12; eligible for reappointment; *pending nomination forms for consideration*
- **Private Sector - Marty T. Martin**; term expires 06/30/12; eligible for reappointment; *pending nomination forms for consideration*
- **Private Sector - Chevis Ballentine**; term expires 06/30/12; eligible for reappointment; *pending nomination forms for consideration*

**LEXINGTON COUNTY COUNCIL
BOARD/COMMISSION NOMINATION FORM**

Name of Board/Commission: Midlands Workforce Development Board

Nominee: Darline Graham

Address: 277 Bridleridge Rd. Lexington SC 29073

Employed by: SC Vocational Rehabilitation Department

Address: 1410 Boston Ave. West Columbia SC 29170

Home Telephone: _____ Business Telephone: 803-896-6668

Mobile Phone: 803-521-7220 Beeper Number: _____

Fax Number: 803-896-6510

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

Background information (include education, community- service activities, previous service or county boards/commissions):

B.S. Sociology

M.A. Rehabilitation Counseling

Submitted by: Darline Graham

Date: 1/30/12

**LEXINGTON COUNTY COUNCIL
BOARD/COMMISSION NOMINATION FORM**

Name of Board/Commission: Midlands Workforce Development Board

Nominee: Rhonda Pitts

Address: 425 Coops Court, W. Columbia, SC 29170

Employed by: SC Vocational Rehabilitation Dept.

Address: 1410 Boston Ave, W. Cola, SC 29171

Home Telephone: _____ Business Telephone: 803-896-8382

Mobile Phone: 864-642-7998 Beeper Number: _____

Fax Number: 803-896-6877

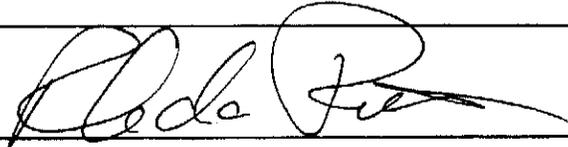
Is nominee aware of board/commission activities and responsibilities: yes

Background information (include education, community- service activities, previous service on county boards/commissions):

M. Ed in Counseling
LPC

Previously served on Workforce Development Board for Anderson,
Oconee & Pickens County.

Served on various halfway house boards in the upstate
Currently serving on the SC Independent Living
Council.

Submitted by: 

Date: 1/30/12

LEXINGTON COUNTY COUNCIL
BOARD/COMMISSION NOMINATION FORM

Name of Board/Commission: Midlands Workforce Development Board

Nominee: Debby Lucas

Address: 1249 WE Jetcoat Road Gaston SC 29053

Employed by: Nucor Building Systems SE

Address: 200 Whetstone Road PO Box 1006 Swansea SE 29716

Home Telephone: - Business Telephone: 803 568 2100 x160

Mobile Phone: 803 960 2219 Beeper Number: -

Fax Number: Direct Fax 775-655-6032

Nominee aware of board/commission activities and responsibilities: YES

Background information (include education, community- service activities, previous service in county boards/commissions):

Graduated St. Matthews High School, Basic Bookkeeping certificate with O-C Tech College, Associates in Business Admin.

Member of SC American Payroll Association

Member of Society for Human Resource Management

Leader for Nucor's Adopt-A-High schooler service

Leader for Nucor's Redshirt Friday military service

Safety committee member for Nucor

Internal Auditor for Nucor's Environmental Management System

Currently hold position of Human Resource/Payroll Coordinator

Currently enrolled with Villanova University for Human Resource Management

Submitted by: Debby Lucas

Date: May 15, 2012

**LEXINGTON COUNTY COUNCIL
BOARD/COMMISSION NOMINATION FORM**

Name of Board/Commission: Midlands Workforce Development Board

Nominee: Anthony White

Address: 712 Leafy Bend Court Lexington SC 29073

Employed by: Akebono

Address: 201 Metropolitan Drive West Columbia SC 29170

Home Telephone: 803-546-6021 **Business Telephone:** 803-227-1323

Mobile Phone: 803-546-6021 **Beeper Number:** n/a

Fax Number: 803-822-2010

Is nominee aware of board/commission activities and responsibilities: .yes

Background information (include education, community- service activities, previous service on county boards/commissions):

I graduated from high school in 1988, joined the military and served 6 years in the US Airforce as flight engineer on a C130 aircraft. After my military service, I returned to school and earned a BA in Business from Saint Leo University in 2003. I've been working in training and organizational development for more than 12 years.

Submitted by: *Anthony White*

Date: 2-8-10

COUNTY OF LEXINGTON

Carpet & Flooring Products

Evaluation Committee Report and Recommendation Request for Qualifications No. PQ12007-04/20/12B

May 3, 2012

PURPOSE

The County of Lexington solicited proposals from carpet and flooring companies to determine qualified suppliers for furnishing and installing carpet and other flooring products. Contractors who were determined to be responsible and responsive to this solicitation will be added to the County's qualified vendors list as a provider of carpet and flooring products on an "on-call" basis with Council's approval.

EVALUATION COMMITTEE

On March 28, 2012, as required by the County's Purchasing Ordinance and RFQ Criteria, an evaluation committee was approved by Mr. Joe G. Mergo, III, County Administrator, to evaluate and review the resumes and ultimately report its recommendation to County Council for their consideration. Committee members were Bob Hall, Building Services; Dee Bedenbaugh, Public Library System Director; Chief Brian Hood, PS/EMS Coordinator; Chief Eddie Turner, PS/Fire Service; and Jo Marie Brown, Procurement Officer.

SOLICITATION REQUIREMENTS

The required legal advertisement soliciting resumes from qualified carpet and flooring companies was placed and appeared in the South Carolina Business Opportunities (SCBO) publication on April 2, 2012. Notification was also posted on our website and mailed to companies on our bidders' list.

Proposals were due and received by 4:00 p.m. on April 20, 2012. At that time, the County had received proposals from five (5) companies:

Bonitz Flooring

Total Flooring

McWaters

Rucker Floor Service

Coleman Flooring Company

EVALUATION PROCESS

To begin the evaluation process, copies of the proposals were distributed to each committee member on April 23, 2012 for individual evaluation. The committee met again on April 30, 2012 for a detailed discussion of the individual evaluation of the resumes/qualifications and respective scoring of each criteria factor.

Each resume under consideration was evaluated and scored on the following selection criteria listed in the order of their relative importance: (a) past performance; (b) the ability of the professional personnel; (c) related experience on similar projects; (d) willingness to meet time and budget requirements.

RECOMMENDATION

The committee recommends having a contract with Bonitz Flooring Group, Total Flooring, McWaters, Coleman Flooring Company and Rucker Floor Service to provide carpet and floor services for Lexington County on an "on-call" basis for a term contract of one (1) year with two (2) one year extensions.

Each committee member checked all references for one proposer and reported back during the final evaluation meeting. All companies submitting a proposal had excellent references from credible state and local agencies.

The committee hereby submits this recommendation for Council's consideration and approval. We further recommend that this proposal be placed on County Council agenda for their next scheduled meeting on May 22, 2012.

Jo Marie Brown, CPPB
Procurement Officer

COUNTY OF LEXINGTON

Procurement Services

MEMORANDUM

(O) 785-8385

(F) 785-2240

DATE: May 11, 2012

TO: Joe G. Mergo III
County Administrator

FROM: Jeffrey A. Hyde
Procurement Manager

SUBJECT: County-wide Copiers

The County solicited three (3) proposals from selected vendors on the South Carolina “Cost per Copy” Contract # 5400000968. On January 30, 2012 the proposals were received and we began the evaluation process, including individual interviews with all three (3) firms.

The proposals were evaluated by Mike Ujcich, Chief Information Officer; Dan McNeil, Interim Information Technology Manager; Angela Seymour, Procurement Officer; and Jeffrey A. Hyde, Procurement Manager. We recommend awarding the contract to the Pollock Company as the lowest bidder meeting the County’s requirements. (See attached Bid Tabulation).

We further recommend that a term contract be awarded for the initial period of one (1) year with the option to extend the contract for four (4) additional one (1) year periods, if deemed to be in the best interest of the County.

I concur with the above recommendation and further recommend that this purchase be placed on County Council’s agenda for their next scheduled meeting on May 22, 2012.

copy: Larry Porth, Director of Finance/Assistant County Administrator
Mike Ujcich, Chief Information Officer
Dan McNeil, Interim Information Technology Manager

COST PER COPY COST FOR POLLOCK COMPANY:

STATE CONTRACT PRICING

<u>COPIER MODEL</u>	<u>CPC COST</u>
223	\$.0721
283	\$.0604
161	\$.0838
363	\$.0348
423	\$.0324
601	\$.0324

**Average cost per month for all models based on current usage will be \$15,228.95.

OPTION 1

CPC COST for 0 – 330,000	CPC COST for 330,000 - +
\$.0225	.0085

**Average cost per month for all models based on current usage will be \$7,478.95.

Optional Cost per Machine:

- Fax - \$.00005
- Staple Finisher - \$.00005
- (2) Additional Paper Trays - \$.00005

COST PER COPY COST FOR XEROX/CAROLINA OFFICE SYSTEMS:

Monthly Volume Range	Monthly Target Volume	CPC for first 30%**	First 30% for Volume	CPC for After 30%
5,000-15,000	10,000	\$0.0604	3,000	\$0.0111
15,000-35,000	25,000	\$0.0348	7,500	\$0.0064
60,000-75,000	67,500	\$0.0324	20,250	\$0.0060
75,000-125,000	100,000	\$0.0301	30,000	\$0.0055

****There will be an additional \$22.00 charge per month per unit for Equitrac Office Software for account tracking.**

COST PER COPY COST FOR OCE NORTH AMERICA:

COPIER MODEL	CPC COST for 0 – 3,000	CPC COST for 3,001 - +
IR2530	\$.0604	\$.0111

Optional Cost per Machine:

ADF Access Handle – A1	\$.0003
Braille Label Kit – E1	\$.0001
Convenience Stapler – A1	\$.0008
PCL Printer Kit - AF1	\$.0015
PS Printer Kit - AF1	\$.0015
Color Send Kit – Y1	\$.0010
Searchable PDF Kit – C1	\$.0013
USB Application 3-Port Interface	\$.0006
Super G3 Fax Board	\$.0010
Line Filter with 15 AMP Surge Protector	\$.0005

COPIER MODEL	CPC COST for 0 – 7,500	CPC COST for 7,501 - +
IR2535	\$.0348	\$.0064

Optional Cost per Machine:

Cassette Feeding Unit – AE1	\$.0018
ADF Access Handle – A1	\$.0003
Braille Label Kit – F1	\$.0001
Convenience Stapler – A1	\$.0006
PCL Printer Kit – AF1	\$.0012
PS Printer Kit – AF1	\$.0012
Color Send Kit – Y1	\$.0008
Searchable PDF Kit – C1	\$.0010
USB Application 3-Port Interface	\$.0005
Super G3 Fax Board – AG1	\$.0008
Line Filter with 15 AMP Surge Protector	\$.0004

COST PER COPY COST FOR OCE NORTH AMERICA (Continued):

COPIER MODEL	CPC COST for 0 – 12,000	CPC COST for 12,001 - +
IR3245	\$.0324	\$.0060

Optional Cost per Machine:

Puncher Unit – R1	\$.0007
Braille Label Kit – F1	\$.00004
ADF Access Handle – A1	\$.0002
Convenience Stapler	\$.0003
PCL Printer Kit – AF1	\$.0010
Color Universal Send & PCL Print Package	\$.0013
PS Printer Kit – AA1	\$.0007
Direct Print Kit- F1	\$.0004
USB Memory Connectivity Kit – A1	\$.0005
Color Universal Send Kit – P1	\$.0019
Universal Send PDF Advanced Feature Set	\$.0012
Super G3 Fax Board – AC1	\$.0011
Super G3 2 nd Line Fax Board – AC1	\$.0005
Super G3 2 nd /3 rd Fax Board – AC1	\$.0011
Wireless LAN Board – A1	\$.0007
System Upgrade RAM – A1	\$.0003
Additional Memory Type A	\$.0002
HDD Data Erase Kit – B2	\$.0004

COPIER MODEL	CPC COST for 0 – 12,000	CPC COST for 12,001 - +
IR3245	\$.0324	\$.0060

HDD Data Encryption Kit – B5	\$.0004
Removable Hard Disk Drive	\$.0017
Voice Operation Kit – B1	\$.0020
Voice Guidance Kit – D1	\$.0009
Line Filter with 15 AMP Surge Protector	\$.0002

COPIER MODEL	CPC COST for 0 – 15,750	CPC COST for 15,751 - +
IR6055	\$.0324	\$.0060

Optional Cost per Machine:

Paper Deck Unit – A1	\$.0012
External 2/3 Hole Puncher	\$.0004

Tab Feeding Attachment Kit – B1	\$.0001
Utility Tray – A1	\$.00003
Braille Label Kit – F1	\$.00002
ADF Access Handle – A1	\$.0001
Convenience Stapler	\$.0002
PCL Printer Kit – AJ1	\$.0005
PS Printer Kit – AJ1	\$.0007
Universal Send Advanced Feature Set – E1	\$.0006
Super G3 Fax Board – AC1	\$.0004
Super G3 2 nd Line Fax Board – AC1	\$.0003
Super G3 2 nd /3 rd Fax Board – AC1	\$.0005
Remote Fax Kit – A1	\$.0002
Wireless LAN Board – B1	\$.0003
USB Device Port – A1	\$.0001
Additional Memory Type B	\$.0001
Data Erase Kit – C1	\$.0002
HDD Data Encryption and Mirroring Kit	\$.0003
Removable HDD Kit – AD1	\$.0005
Voice Guidance Kit – F1	\$.0004
Stamp Unit – B1	\$.00003

COUNTY OF LEXINGTON

Procurement Services

MEMORANDUM

(O) 785-8166

(F) 785-2240

DATE: May 14, 2012

TO: Joe G. Mergo III
County Administrator

FROM: Jeffrey A. Hyde
Procurement Manager

SUBJECT: **New 911 EOC/ECC Facility**
B12046-03/29/12H
Administration

Competitive bids were solicited and advertised for the New 911 EOC/ECC Facility on February 23, 2012. A mandatory pre-bid meeting was held on March 08, 2012, in which eight (8) of the ten (10) pre-qualified contractors attended.

We received eight (8) bids on April 05, 2012 (see attached Bid Tabulation).

The bids were evaluated by Joe Mergo, County Administrator; David Kerr, Public Safety Director; Mike Ujcich, Information Services; Mark Kerley, Building Services Manager and Jeffrey A. Hyde, Procurement Manager. It is our recommendation to award this project to the lowest responsive, responsible bidder – Mashburn Construction, in the amount of \$7,752,397.00.

County funds are appropriated in the following accounts:

2605-131301-5AA444	Construction	\$2,074,377.00
4507-131301-5AA444	Construction	\$4,394,548.00

The total project amount compared to the account balances results in a funding deficit of \$1,283,472.00. It is my understanding that staff will be prepared to review funding options with Council.

I concur with the above recommendation and further recommend that this bid be placed on County Council's agenda for their next scheduled meeting on May 22, 2012.

copy: Joe G. Mergo III, County Administrator
Larry Porth, Director of Finance/Assistant County Administrator
David Kerr, Public Safety Director
Mike Ujcich, Information Services
Mark Kerley, Building Services Manager

County of Lexington

BVB EVALUATION SCORE SHEET

BID # : B12046-03/29/12H

Construct New 911 EOC/ECC Facility

Contractor	Cost Points - 75%	Listed SC Subcontractors - 5%	Misc Criteria - 20%	Total points
H.G. Reynolds Co.	68.93	5.0	13.00	86.93
Manhattan Construction	70.31	5.0	19.50	94.81
Mashburn Construction	75.00	5.0	17.50	97.50
Moss & Associates	69.46	5.0	16.50	90.96
New South Construction	70.09	5.0	15.75	90.84
R.D. Brown Contractors	73.69	5.0	11.75	90.44
M.B. Kahn Construction	N/R			
HITT Contracting	N/R			

* M.B.Kahn did not acknowledge addendum # 2 in their bid submission

* HITT Contracting did not provide the required SC subcontractor listing in their bid submission

Evaluation Meeting - 04/19/2012

Jeffrey A Hyde, CPPB

Procurement Manager

County of Lexington

Bid Tabulation

BID # : B12046-03/29/12H

Construct New 911 ECC/EOC Facility

Contractor	Ack Amend	Bid Bond	Sub Listing	Base Bid Amount
H.G. Reynolds Co.	1 & 2	X	X	\$ 8,435,000.00
HITT Contracting	1 & 2	X	not included	\$ 8,300,000.00
Manhattan Construction	1 & 2	X	X	\$ 8,270,000.00
Mashburn Construction	1 & 2	X	X	\$ 7,752,397.00
M.B. Kahn Construction	1	X	X	\$ 8,187,700.00
Moss & Associates	1 & 2	X	X	\$ 8,371,000.00
New South Construction	1 & 2	X	X	\$ 8,295,000.00
R.D. Brown Contractors	1 & 2	X	X	\$ 7,890,000.00

Bids Received: April 05, 2012 @ 2:00pm

Jeffrey A. Hyde, CPPB
Procurement Manager

COUNTY OF LEXINGTON

Procurement Services

MEMORANDUM

(O) 785-8166

(F) 785-2240

DATE: May 14, 2012

TO: Joe G. Mergo, III
County Administrator

THROUGH: Jeffrey A. Hyde
Procurement Manager

FROM: Jo Marie Brown
Procurement Officer

**SUBJECT: VHF Simulcast Narrowbanded Communications System
Public Safety/Fire Service**

We have received a purchase request for the purchase of a VHF Simulcast Narrowbanded Communications System for Public Safety/Fire Service. This item will be purchased from the SC State Contract #5000011320 from Motorola Communications, Inc. This SC State contract currently expires on December 12, 2014.

David Kerr, Director of Public Safety has reviewed and recommended this purchase. The total cost, including applicable sales tax, is \$ 380,495.00.

Funds are appropriated in multiple accounts:

4518-131500-xxxxxx	Narrowbanding Project	\$520,000.00
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I concur with the above recommendation and further recommend that this purchase be placed on County Council's agenda for their next scheduled meeting on May 22, 2012.

copy: Larry Porth, Director of Finance/Assistant County Administrator
David Kerr, Director of Public Safety

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Ordinance No. 12-05

AN ORDINANCE

AUTHORIZING THE EXECUTION AND DELIVERY OF A FEE AGREEMENT BY AND AMONG LEXINGTON COUNTY, SOUTH CAROLINA, AND AVTEC, INC., AS SPONSOR, AND ONE OR MORE SPONSOR AFFILIATES, TO PROVIDE FOR A FEE IN LIEU OF *AD VALOREM* TAXES INCENTIVE, INCLUDING THE INCLUSION OF THE COMPANY'S PROPERTY IN A MULTI-COUNTY PARK, GRANTING OF CERTAIN SPECIAL SOURCE REVENUE CREDITS AND OTHER MATTERS RELATED THERETO.

WHEREAS, Lexington County, South Carolina ("County"), acting by and through its County Council ("County Council") is authorized and empowered under and pursuant to the provisions of Title 12, Chapter 44, Code of Laws of South Carolina, 1976, as amended ("Act"), (i) to enter into agreements with qualifying industry to encourage investment in projects constituting economic development property through which the industrial development of the State of South Carolina will be promoted by inducing new and existing manufacturing and commercial enterprises to locate and remain in the State and thus utilize and employ manpower and other resources of the State; and (ii) to covenant with such industry to accept certain payments in lieu of *ad valorem* taxes ("FILOT") with respect to such investment;

WHEREAS, pursuant to Title 4, Section 1, Code of Laws of South Carolina, 1976, as amended ("MCIP Act"), the County is authorized to develop multi-county industrial parks with other qualifying counties and, in its discretion, include within the boundaries of such parks the property of qualifying industries. Under the authority provided in the MCIP Act, the County has created previously a multi-county park with Calhoun County ("Park");

WHEREAS, pursuant to Section 4-1-175, Code of Laws of South Carolina, 1976, as amended, the County is authorized to provide a credit ("Infrastructure Credit") against FILOT payments made in connection with projects located in the Park for purposes of reimbursing the Company for qualifying infrastructure related expenditures;

WHEREAS, Avtec Inc., ("Company") is planning a total investment consisting of expenditures, which are anticipated to be approximately \$7,600,000, to establish a new computer console manufacturing facility in the County and the creation of approximately 25 new jobs ("Project");

WHEREAS, the County identified the Project by a Resolution dated April 10, 2012, as required by the Act, and reiterates in this Ordinance the findings relating to the Project set forth in that Resolution;

WHEREAS, the County has determined to offer the Company a FILOT incentive package at an assessment ratio of 6%, with a fixed millage rate for 20 years, being the millage rate of 477.275. In addition, the County has determined to include the Project within the boundaries of the Park and offer an Infrastructure Credit to offset the costs of certain road improvements. The terms and conditions of each of these incentives are more fully described in the Fee Agreement ("Fee Agreement") attached hereto as Exhibit A; and

WHEREAS, the County has determined to extend the term of the Park through the term of the Fee Agreement, including any extensions permitted under the Act and authorized by County Council.

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

Section 1. *Authorization to Execute and Deliver Fee Agreement.* The Chairman of County Council is hereby authorized and directed to execute the Fee Agreement, which is in substantially final form as hereto attached in the name of and on behalf of the County, subject to the approval of any revisions as are not materially adverse to the County by the County Administrator and the County Attorney, and the County Administrator is hereby authorized and directed to attest the Agreement; and the Chairman is hereby further authorized and directed to deliver the Agreement to the Company.

Section 2. *Statutory Findings.* The County hereby finds: (i) the Project will benefit the general public welfare of the County by providing service, employment, recreation or other public benefits not otherwise provided locally; (ii) the Project gives rise to no pecuniary liability of the County or incorporated municipality or to no charge against its general credit or taxing power; (iii) the purposes to be accomplished by the Project are proper governmental and public purposes; and (iv) the benefits of the Project to the public are greater than the costs to the public.

Section 3. *Inclusion within the Park and Extension of Park Term.* The expansion of the Park boundaries to include the Project site, as described on the attached Exhibit B, and the extension of the Park term through the term of the Fee Agreement, including any extensions as permitted by the Act, is hereby authorized and approved.

Section 4. *Approval of Infrastructure Credit.* The grant of the Infrastructure Credit, as described in the Fee Agreement, is hereby authorized and approved.

Section 5. *Approval of Sponsor Affiliate.* Pursuant to Section 12-44-130 of the Act, the Company may request the addition of one or more Sponsor Affiliates to the Fee Agreement. Following each request, if the proposed Sponsor Affiliate agrees to be bound by the Fee Agreement, then following approval of the proposed Sponsor Affiliate by subsequent County Council resolution, the proposed Sponsor Affiliate shall be eligible for the benefits under, and become a party to, the Fee Agreement.

Section 6. *General Repealer.* All ordinances, resolutions, and parts thereof in conflict herewith are, to the extent of such conflict, hereby repealed.

This Ordinance takes effect and is in full force only after the County Council has approved it following three readings and a public hearing.

LEXINGTON COUNTY, SOUTH CAROLINA

William B. Banning, Sr., Chair
Lexington County Council

(SEAL)
ATTEST:

Diana W. Burnett, Clerk to Council
Lexington County Council

READINGS:

First Reading: May 8, 2012
Second Reading: May 22, 2012
Third Reading: June 14, 2012
Public Hearing: May 22, 2012

EXHIBIT A

**Form of
Fee In Lieu of Ad Valorem Taxes Agreement**

EXHIBIT B

Description of Project Site

FEE-IN-LIEU OF *AD VALOREM* TAXES AND INCENTIVE AGREEMENT

BETWEEN

AVTEC, INC.

AND

LEXINGTON COUNTY, SOUTH CAROLINA

DATED AS OF JUNE 14, 2012

PREPARED BY:

**PARKER POE ADAMS & BERNSTEIN LLP
1201 MAIN STREET, SUITE 1450 (29201)
POST OFFICE BOX 1509
COLUMBIA, SOUTH CAROLINA 29202-1509
(803) 255-8000**

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FEE-IN-LIEU OF AD VALOREM TAXES AND INCENTIVE AGREEMENT

THIS FEE-IN-LIEU OF *AD VALOREM* TAXES AND INCENTIVE AGREEMENT (“Fee Agreement”) is made and entered into as of June 14, 2012, by and between Lexington County, South Carolina (“County”), a body politic and corporate and a political subdivision of the State of South Carolina (“State”), acting by and through the Lexington County Council (“County Council”) as the governing body of the County, and Avtec, Inc., a South Carolina corporation, as sponsor, its affiliates and assigns (collectively, “Company” and with County, “Parties,” each, a “Party”).

WITNESSETH:

(a) The County is authorized by Title 12, Chapter 44, Code of Laws of South Carolina, 1976, as amended (“Act”) to enter into a fee agreement with qualifying industries to induce such industries to locate in the State and to encourage industries now located in the State to expand their investments and thus make use of and employ manpower and other resources of the State;

(b) The County is authorized pursuant to Title 4, Section 1, Code of Laws of South Carolina, 1976, as amended (“MCIP Act”), to develop multi-county industrial parks with other qualifying counties and, in its discretion, include within the boundaries of such parks the property of qualifying industries. Under the authority provided in the MCIP Act, the County has created previously a multi-county park with Calhoun County (“Park”);

(c) The County is authorized pursuant to Section 4-1-175, Code of Laws of South Carolina, 1976, as amended, to provide a credit against FILOT payments made in connection with projects located in the Park for purposes of reimbursing the Company for qualifying infrastructure related expenditures;

(d) Pursuant to the Act, the County finds that (a) the Project (as defined herein) is anticipated to benefit the general public welfare of the County by providing services, employment, recreation, or other public benefit not otherwise adequately provided locally; (b) the Project gives rise to no pecuniary liability of the County or incorporated municipality and to no 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;

(e) The Company has agreed to establish and maintain a new computer console manufacturing facility within the County (“Project”). The Company reasonably expects that it will make capital investments at the Project of \$7,600,000; however, because a \$1,500,000 portion of the planned investment relates to a building expansion that may (or may not) occur 48 months from now, depending on market conditions not within the Company’s control, the Company commits to \$6,100,000 million of capital investment for purposes of this Agreement (“Capital Commitment”) which qualifies the Project for benefits under the Act;

(f) The Company anticipates the creation of 25 new full time jobs in conjunction with the Project and on which the Company will withhold payroll taxes for South Carolina income tax purposes (“Job Commitment,” together with the Capital Commitment, the “Investment Commitment”); and

(g) Pursuant to a resolution adopted on April 10, 2012 (“Inducement Resolution”), the County formally identified the Project as required by the Act. Pursuant to an Ordinance adopted on June 12, 2012 (“Fee Ordinance”), the County Council authorized the County to enter into a Fee Agreement with the

Company which identifies the property comprising the Project as Economic Development Property under the Act subject to the terms and conditions hereof.

NOW, THEREFORE, AND IN CONSIDERATION of the respective representations and agreements hereinafter contained, the parties hereto agree as follows, with the understanding that no obligation of the County described herein shall create a pecuniary liability or charge upon its general credit or taxing powers, but shall be payable solely out of the sources of payment described herein and shall not under any circumstances be deemed to constitute a general obligation to the County:

ARTICLE I DEFINITIONS

Section 1.1. Terms. The terms defined in this Article shall for all purposes of this Fee Agreement have the meaning herein specified, unless the context clearly requires otherwise.

“Chairman” means the Chairman of the County Council of Lexington County, South Carolina.

“Clerk of County Council” means the Clerk to the County Council of Lexington County, South Carolina.

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

“Commencement Date” means the last day of the first property tax year during which Economic Development Property is placed in service, expected to be December 31, 2012.

“County” means Lexington County, South Carolina, a body politic and corporate and political subdivision of the State of South Carolina, its successors and assigns, acting by and through the Lexington County Council as the governing body of the County.

“County Council” means the Lexington County Council, the governing body of the County.

“Diminution of Value” in respect of any Phase of the Project means any reduction in the value based on original fair market value as determined in Step 1 of Section 3.1 of this Fee Agreement, of the items which constitute a part of the Phase which may be caused by (i) the Company’s removal of equipment pursuant to Section 3.6 of this Fee Agreement, (ii) a casualty to the Phase of the Project, or any part thereof, described in Section 3.7 of this Fee Agreement, or (iii) a condemnation to the Phase of the Project, or any part thereof, described in Section 3.9 of this Fee Agreement.

“Economic Development Property” means all items of real and tangible personal property comprising the Project which qualify as economic development property under the Act, become subject to the Fee Agreement, and are identified by the Company in connection with the annual filing of a SCDOR PT-100, PT-300 or comparable forms with the South Carolina Department of Revenue (as such filing may be amended from time to time) for each year within the Investment Period. Title to all Economic Development Property shall at all times remain vested in the Company, except as may be necessary to take advantage of the effect of Section 12-44-160.

“Equipment” means all of the machinery, equipment, furniture and fixtures, together with any and all additions, accessions, replacements and substitutions thereto or therefor acquired by the Company during the Investment Period as a part of the Project.

“Event of Default” means any Event of Default specified in Section 3.15 of this Fee Agreement.

“Fee Term” or “Term” means the period from the date of delivery of this Fee Agreement until the last Phase Termination Date unless sooner terminated or extended pursuant to the terms of this Fee Agreement.

“FILOT Payments” means the payments in lieu of taxes which Company is obligated to pay to the County under the terms of this Agreement.

“Improvements” means improvements, together with any and all additions, accessions, replacements and substitutions thereto or therefor acquired by the Company during the Investment Period.

“Investment Period” means the period beginning with the first day that Economic Development Property is purchased or acquired and ending five years after the Commencement Date, which end date is expected to be December 31, 2017. The minimum investment must be completed within five years of the commencement date. As described in Section 3.1 of this Agreement, this date may be extended by subsequent resolution of the County Council, in accordance with the Act, for up to five additional years.

“Phase” or “Phases” in respect to the Project means the Equipment, Improvements and Real Property, if any, placed in service during each year of the Investment Period.

“Phase Termination Date” means with respect to each Phase of the Project the day twenty years after each such Phase of the Project becomes subject to the terms of this Fee Agreement. Anything contained herein to the contrary notwithstanding, the last Phase Termination Date shall be no later than December 31 of the year of the expiration of the maximum period of years that the annual fee payment is available to the Company, under Section 12-44-30(20) of the Act, as amended.

“Project” means the Equipment, Improvements, and Real Property, together with the acquisition, construction, installation, design and engineering thereof, in phases. The Project involves an initial investment of sufficient sums to qualify under the Act.

“Real Property” means real property, as more particularly described in Exhibit A, together with all and singular the rights, members, hereditaments and appurtenances belonging or in any way incident or appertaining thereto acquired or constructed by the Company; all Improvements now or hereafter situated thereon; and all fixtures now or hereafter attached thereto, but only to the extent such Improvements and fixtures are deemed to become part of the Project under the terms of this Fee Agreement.

“Removed Components” means the following types of components or Phases of the Project or portions thereof, all of which the Company, shall be entitled to remove from the Project with the result that the same shall no longer be subject to the terms of the Fee Agreement: (a) components or Phases of the Project or portions thereof which the Company in its sole discretion, determines to be inadequate, obsolete, worn-out, uneconomic, damaged, unsuitable, undesirable or unnecessary; or (b) components or Phases of the Project or portions thereof which the Company in its sole discretion, elects to remove pursuant to Section 3.6(c) or Section 3.7(b)(iii) of this Fee Agreement.

“Replacement Property” means any property which is placed in service as a replacement for any item of Equipment or any Improvement which is scrapped or sold by the Company and treated as a Removed Component under Section 3.6 hereof regardless of whether such property serves the same function as the property it is replacing and regardless of whether more than one piece of property replaces any item of Equipment or any Improvement.

“Sponsor Affiliate” means an affiliate that joins with or is an affiliate of the Company whose investment with respect to the Project, if any, will qualify for FILOT Payments, as defined in Section 3.1 hereof and Section 12-44-30(A)(19) and Section 12-44-130 of the Act.

Any reference to any agreement or document in this Article I or otherwise in this Fee Agreement is deemed to include any and all amendments, supplements, addenda, and modifications to such agreement or document.

ARTICLE II REPRESENTATIONS AND WARRANTIES

Section 2.1. *Representations of the County.* The County hereby represents and warrants to the Company as follows:

(a) The County is a body politic and corporate and a political subdivision of the State which acts through the County Council as its governing body and by the provisions of the Act is authorized and empowered to enter into the transactions contemplated by this Fee Agreement and to carry out its obligations hereunder. The County has duly authorized the execution and delivery of this Fee Agreement and any and all other agreements described herein or therein.

(b) The Project constitutes a “project” within the meaning of the Act.

(c) By due corporate action, the County has agreed that, subject to compliance with applicable laws, each item of real and tangible personal property comprising the Project shall be considered Economic Development Property under the Act.

Section 2.2. *Representations of the Company.* The Company hereby represents and warrants to the County as follows:

(a) The Company is a corporation organized under the laws of the State and qualified to conduct business in the State and has power to enter into this Fee Agreement.

(b) The Company’s execution and delivery of this Fee Agreement and its compliance with the provisions hereof do not result in a default, not waived or cured, under any agreement or instrument to which the Company is now a party or by which it is bound.

(c) The Company intends to operate the Project as a “project” within the meaning of the Act as in effect on the date hereof, and for such other purposes permitted under the Act, as the Company may deem appropriate.

(d) The availability of the payment in lieu of taxes with regard to the Economic Development Property authorized by the Act has induced the Company to undertake the Project in the County.

(e) The Company will invest \$6,100,000 by the end of the Investment Period.

(f) The Company will create 25 new full time jobs in conjunction with the Project during the Investment Period, on which the Company will withhold payroll taxes for South Carolina income tax purposes.

ARTICLE III FILOT PAYMENTS

Section 3.1. *Negotiated Payments.*

(a) Pursuant to Section 12-44-50 of the Act, the Company, is required to make payments in lieu of *ad valorem* taxes (“FILOT Payments”) on all Economic Development Property comprising the Project and placed in service, as follows: the Company shall make FILOT Payments in lieu of *ad valorem* taxes with respect to each Phase of the Project placed in service on or before each December 31 through December 31, 2017.

(b) The amount of such annual FILOT Payments shall be determined by the following procedure (subject, in any event, to the required procedures under the Act and to Section 3.4 hereof):

- Step 1: Determine the fair market value of the Phase of the Project placed in service in any given year until the occurrence of the Phase Termination Date using original income tax basis for State income tax purposes for any real property (provided, if real property is constructed for the fee or is purchased in an arms length transaction, fair market value is deemed to equal the original income tax basis, otherwise, the Department of Revenue will determine fair market value by appraisal) and original income tax basis for State income tax purposes less depreciation for each year allowable to the Company for any personal property as determined in accordance with Title 12 of the Code, as amended and in effect on December 31 of the year in which each Phase becomes subject to the Fee Agreement, except that no extraordinary obsolescence shall be allowable but taking into account all applicable property tax exemptions which would be allowed to the Company, under State law, if the property were taxable, except those exemptions specifically disallowed under Section 12-44-50(A)(2) of the Act, as amended and in effect on December 31 of the year in which each Phase becomes subject to the Fee Agreement.
- Step 2: Apply an assessment ratio of 6% to the fair market value as determined for each year in Step 1 to establish the taxable value of each Phase of the Project in the year it is placed in service until the Phase Termination Date or such longer period of years that the annual fee payment is permitted to be made by the Company, under the Act, as amended.
- Step 3: Use a millage rate of 477.275 (which millage rate shall be a fixed rate for the term of this Fee Agreement) to determine the amount of the FILOT Payments which would be due in each year of the Fee Term on the payment dates prescribed by the County for such payments or such longer period of years that the annual fee payment is permitted to be made by the Company under the Act, as amended.
- Step 4: Reduce the amount resulting from Steps 1-3 by the amount of any infrastructure credit granted pursuant to Section 3.2 hereof.

(c) If, by the end of the Investment Period, the Company fails to meet its Investment Commitment, then, upon receipt of written notice from the County which may be delivered in the County’s sole discretion after an in person consultation with the Company’s leadership, the Company shall prospectively begin making *ad valorem* tax payments to the County on any property comprising the Project that would be subject to *ad valorem* taxation in the County. Furthermore, upon receipt of written notice from the County which may be delivered in the County’s sole discretion after an in person consultation with the Company’s leadership, the Project shall revert retroactively to *ad valorem* tax

treatment. In such event, any amount determined to be due and owing to the County shall be reduced by the total amount of payments in lieu of *ad valorem* taxes made by the Company with respect to the Project and further reduced by any abatements provided by law.

(d) In the event that it is determined by a final order of a court of competent jurisdiction or by agreement of the parties that the minimum payment in lieu of taxes applicable to this transaction is to be calculated differently than described above, the payment shall be reset prospectively at the minimum permitted level so determined.

(e) In the event that the Act or the above-described FILOT Payments are declared invalid or unenforceable, in whole or in part, for any reason, the parties express their intentions that such payments and this Fee Agreement be reformed so as to most closely effectuate the legal, valid, and enforceable intent thereof and so as to afford the Company with the benefits to be derived hereunder. If the Project is deemed to be subject to *ad valorem* taxation, the payment in lieu of *ad valorem* taxes to be paid to the County by the Company shall become equal to the amount which would result from taxes levied on the Project by the County, municipality or municipalities, school district or school districts, and other political units as if the Project was and had not been Economic Development Property under the Act. In such event, any amount determined to be due and owing to the County from the Company with respect to a year or years for which payments in lieu of *ad valorem* taxes have been previously remitted by the Company to the County hereunder, shall be reduced by the total amount of payments in lieu of *ad valorem* taxes made by the Company with respect to the Project pursuant to the terms hereof, and further reduced by any abatements provided by law. Upon request, the County shall consider implementation of any subsequent statutory changes that could benefit the Company.

Section 3.2. Terms of Infrastructure Credit.

(a) On achievement of the Capital Commitment, the Company shall be entitled to receive a credit (“Infrastructure Credit”) of \$100,000 against the Company’s FILOT liability. The Company shall certify achievement of the Capital Commitment through delivery of documentation, sufficiently evidencing the achievement of the Capital Commitment, to the County’s Economic Development Director. On certification to the County of achievement of the Capital Commitment, the Company will receive a \$100,000 Infrastructure Credit against its FILOT liability and the Infrastructure Credit will be reflected on the Company’s next annual FILOT bill.

(b) If the Company invests a total of \$7,600,000 by the end of the Investment Period and certifies, in the same manner the Company certifies achievement of the Capital Commitment in subsection (a), the investment to the County, the Company is entitled to an additional \$50,000 Infrastructure Credit against its FILOT liability. On certification of the achievement of a total investment of \$7,600,000, the additional \$50,000 Infrastructure Credit will be reflected on the Company’s next annual FILOT bill.

(c) The parties hereto agree that the Infrastructure Credit shall be utilized to reimburse the Company for qualifying expenditures relating to roadway improvements necessary to serve the Project.

Section 3.3. FILOT Payments on Replacement Property. If the Company elects to replace any Removed Components and to substitute such Removed Components with Replacement Property as a part of the Project, then, pursuant and subject to Section 12-44-60 of the Act, the Company shall make statutory payments in lieu of *ad valorem* taxes with regard to such Replacement Property as follows:

(a) to the extent that the income tax basis of the Replacement Property (“Replacement Value”) is less than or equal to the original income tax basis of the Removed Components (“Original Value”) the amount

of the FILOT Payments to be made by the Company with respect to such Replacement Property shall be calculated in accordance with Section 3.1 hereof; provided, however, in making such calculations, the original cost to be used in Step 1 of Section 3.1 shall be equal to the lesser of (x) the Replacement Value or (y) the Original Value, and the number of annual payments to be made with respect to the Replacement Property shall be equal to twenty (20) (or, if greater, the maximum number of years for which the annual fee payments are available to the Company for each portion of the Project under the Act, as amended) minus the number of annual payments which have been made with respect to the oldest Removed Components disposed of in the same property tax year as the Replacement Property is placed in service; and

(b) to the extent that the Replacement Value exceeds the Original Value of the Removed Components (“Excess Value”), the FILOT Payments to be made by the Company with respect to the Excess Value shall be equal to the payment that would be due if the property were not Economic Development Property.

Section 3.4. *Reductions in Payments of Taxes Upon Removal, Condemnation or Casualty.* In the event of a Diminution in Value of any Phase of the Project, the payment in lieu of taxes with regard to that Phase of the Project shall be reduced in the same proportion as the amount of such Diminution in Value bears to the original fair market value of that Phase of the Project as determined pursuant to Step 1 of Section 3.1 hereof. However, failure of the Company to maintain its Investment Commitment (using original costs basis less depreciation) shall constitute an Event of Default under Section 3.15(e) hereof, except if the Diminution in Value is due to a condemnation under Section 3.9(b) or is during the election period under Section 3.7(d).

Section 3.5. *Place and Allocation of FILOT Payments.* The Company shall make the above-described FILOT Payments directly to the County in accordance with applicable law. FILOT payments are allocated in accordance with the Act.

Section 3.6. *Removal of Equipment.* The Company shall be entitled to remove the following types of components or Phases of the Project from the Project with the result that said components or Phases (“Removed Components”) shall no longer be considered a part of the Project and shall no longer be subject to the terms of this Fee Agreement: (a) components or Phases which become subject to statutory payments in lieu of *ad valorem* taxes; (b) components or Phases of the Project or portions thereof which the Company, in its sole discretion, determines to be inadequate, obsolete, uneconomic, worn-out, damaged, unsuitable, undesirable or unnecessary; or (c) components or Phases of the Project or portions thereof which the Company, in its sole discretion, elects to remove pursuant to Section 3.6(c) or Section 3.7(b)(iii) hereof. However, failure of the Company to maintain its investment at the Investment Commitment (using original cost basis less depreciation) shall constitute and Event of Default under Section 3.15(e) hereof.

Section 3.7. *Damage or Destruction of Project.*

(a) *Election to Terminate.* In the event the Project is damaged by fire, explosion, or any other casualty, the Company is entitled to terminate this Agreement.

(b) *Election to Rebuild.* In the event the Project is damaged by fire, explosion, or any other casualty, and if the Company does not elect to terminate this Agreement, the Company may, in its sole discretion, commence to restore the Project with such reductions or enlargements in the scope of the Project, changes, alterations and modifications (including the substitution and addition of other property) as may be desired by the Company. All such restorations and replacements shall be considered substitutions of

the destroyed portions of the Project and shall be considered part of the Project for all purposes hereof, including, but not limited to, any amounts due by the Company, to the County under Section 3.1 hereof.

(c) *Election to Remove.* In the event the Company elects not to terminate this Agreement pursuant to subsection (a) and elects not to rebuild pursuant to subsection (b), the damaged portions of the Project shall be treated as Removed Components.

(d). *Timing of Election.* The Company shall make the elections under this Section within two years of the date of the damage or destruction of the Project.

Section 3.8. Multi-County Industrial Park. The County agrees to use its best efforts to amend the existing multi-county industrial and business park agreement to include the Project in the Park pursuant to the terms of the MCIP Act and to extend the term of the Park through the Fee Term. The County agrees to undertake and execute those procedures, instruments, ordinances, resolutions and documents as may be reasonably required to accomplish the inclusion of the Project in a Park.

Section 3.9. Condemnation.

(a) *Complete Taking.* If at any time during the Fee Term title to or temporary use of the entire Project should become vested in a public or quasi-public authority by virtue of the exercise of a taking by condemnation, inverse condemnation or the right of eminent domain, or by voluntary transfer under threat of such taking, or in the event that title to a portion of the Project shall be taken rendering continued occupancy of the Project commercially infeasible in the judgment of the Company, the Company shall have the option to terminate this Fee Agreement as of the time of vesting of title by sending written notice to the County within a reasonable period of time following such vesting.

(b) *Partial Taking.* In the event of a partial taking of the Project or transfer in lieu thereof, the Company may elect: (i) to terminate this Fee Agreement; (ii) to repair and restore the Project, with such reductions or enlargements in the scope of the Project, changes, alterations and modifications (including the substitution and addition of other property) as may be desired by the Company; or (iii) to treat the portions of the Project so taken as Removed Components.

Section 3.10. Maintenance of Existence. The Company agrees (i) that it shall not take any action which will materially impair the maintenance of its corporate existence and (ii) that it will maintain its good standing under all applicable provisions of State law. Notwithstanding the foregoing, any changes in the Company's corporate existence that result from internal restructuring or reorganization of the Company, or its parent are specifically authorized hereunder. Likewise, benefits granted to the Company under this Fee Agreement shall, in the event of any such restructuring or reorganization, be transferred to the successor entity under the provisions of Section 3.14 hereof. Such transfers are specifically approved and authorized by the County without any further action by the County Council.

Section 3.11. Indemnification Covenants. (a) Except as provided in paragraph (b) below, the Company shall indemnify and save the County, its past, present, and future employees, elected officials, officers and agents (each, an "Indemnified Party") harmless against and from all claims by or on behalf of any person arising from the County's execution of this Agreement, performance of the County's obligations under this Agreement or the administration of its duties pursuant to this Agreement, or otherwise by virtue of the County having entered into this Agreement. If such a claim is made against any Indemnified Party, then subject to the provisions of (b) below, the Company shall defend the Indemnified Party in any action or proceeding.

(b) Notwithstanding anything herein to the contrary, the Company is not required to indemnify any Indemnified Party against any claim or liability (1) occasioned by the acts of that Indemnified Party, which are unrelated to the execution of this Agreement, performance of the County's obligations under this Agreement, or the administration of its duties under this Agreement, or otherwise by virtue of the County having entered into this Agreement; (2) resulting from that Indemnified Party's own negligence, bad faith, fraud, deceit, or willful misconduct.

(c) An Indemnified Party may not avail itself of the indemnification provided in this Section unless it provides the Company with prompt notice, reasonable under the circumstances, of the existence or threat of any claim or liability, including, without limitation, copies of any citations, orders, fines, charges, remediation requests, or other claims or threats of claims, in order to afford the Company notice, reasonable under the circumstances, within which to defend or otherwise respond to a claim.

(d) Following this notice, the Company shall resist or defend against any claim or demand, action or proceeding, at its expense, using counsel of its choice. The Company is entitled to manage and control the defense of or response to any claim, charge, lawsuit, regulatory proceeding or other action, for itself and the Indemnified Party; provided the Company is not entitled to settle any matter at the separate expense or liability of any Indemnified Party without the consent of that Indemnified Party. To the extent any Indemnified Party desires to use separate counsel for any reason, other than a conflict of interest, that Indemnified Party is responsible for its independent legal fees.

Section 3.12. Confidentiality/Limitation on Access to Project. The County acknowledges and understands that, to the extent, the Company utilizes confidential and proprietary "state-of-the-art" manufacturing equipment and techniques and that a disclosure of any confidential and proprietary "state-of-the-art" information relating to such equipment or techniques, including, but not limited to, disclosures of financial or other information concerning the Company's operations would result in substantial harm to the Company and could thereby have a significant detrimental impact on the Company's employees and also upon the County. Therefore, the County agrees that, except as required by law and pursuant to the County's police powers, 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; (ii) shall request or be entitled to inspect the Project or any property associated therewith; provided, however, that if an Event of Default shall have occurred and be continuing hereunder, the County shall be entitled to inspect the Project provided they shall comply with the remaining provisions of this Section; or (iii) shall 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. Prior to disclosing any confidential or proprietary information or allowing inspections of the Project or any property associated therewith, the Company may require the execution of reasonable, individual, confidentiality and non-disclosure agreements by any officers, employees or agents of the County or any supporting or cooperating governmental agencies who would gather, receive or review such information or conduct or review the results of any inspections.

Section 3.13. Sponsor Affiliates. The Company may designate from time to time Sponsor Affiliates pursuant to the provisions of Section 12-44-30(19) and Section 12-44-130 of the Act, which Sponsor Affiliates shall be entities which may join with the Company to make investments with respect to the Project, or which may participate in the financing of such investments, and which agree to be bound by the terms and provisions of this Fee Agreement. All Sponsor Affiliates (not designated herein) which otherwise meet the requirements of Section 12-44-30(19) and Section 12-44-130 of the Act must be approved by resolution of the County Council and must execute a Joinder Agreement, in substantially the form attached hereto as Exhibit B, by which a Sponsor Affiliate agrees to be bound by terms of this Fee Agreement.

The Company shall provide the County and the Department of Revenue with written notice of any Sponsor Affiliate designated pursuant to this Section within 90 days after the end of the calendar year during which any such Sponsor Affiliate has placed in service assets to be used in connection with the Project, all in accordance with Section 12-44-130(B) of the Act.

Section 3.14. Assignment and Subletting. This Fee Agreement may be assigned in whole or in part and the Project may be subleased as a whole or in part by the Company so long as such assignment or sublease is made with County consent, which may be granted by Resolution of the County Council. The Company shall be permitted to assign this Fee Agreement to any of its related companies, if any.

Section 3.15. Events of Default. The following are “Events of Default” under this Fee Agreement, and the term “Events of Default” means, whenever used with reference to this Fee Agreement, any one or more of the following occurrences:

(a) Failure by the Company to make, upon levy, the FILOT Payments described in Section 3.1 hereof; provided, however, that Company is entitled to all redemption rights granted by applicable statutes; or

(b) Failure by the Company to perform any of the other material terms, conditions, obligations or covenants of the Company hereunder, which failure shall continue for a period of 90 days after written notice from the County to the Company specifying such failure and requesting that it be remedied, unless the County shall agree in writing to an extension of such time prior to its expiration.

(c) Failure by the Company to continue operations at the Project.

(d) Failure by the Company to meet its Investment Commitment in the Investment Period.

(e) Failure by the Company to maintain the Investment Commitment, as determined by the original cost basis without regard to depreciation, as the investment in the Project, except if the failure to maintain the Investment Commitment is a result of a condemnation under Section 3.9(b) or is during the election period in Section 3.7(d).

Section 3.16. Remedies on Default. In addition to the remedy articulated in Section 3.1(c), whenever any Event of Default shall have occurred and shall be continuing, the County, after having given written notice to the Company of such default and after the expiration of a 30 day cure period in which the Event of Default has not been cured, shall have the option to take any one or more of the following remedial actions:

(a) Terminate the Fee Agreement; or

(b) Take whatever action at law or in equity that may appear necessary or desirable to collect the other amounts due and thereafter to become due or to enforce performance and observance of any obligation, agreement or covenant of the Company under this Fee Agreement.

Nothing in this Fee Agreement shall be construed, in any fashion, so as to diminish or abate the County’s first priority lien, pursuant to the Act and State tax law, to the extent it exists independently of this Fee Agreement, for unpaid taxes or FILOT Payments.

Section 3.17. Remedies Not Exclusive. No remedy conferred upon or reserved to the County under this Fee Agreement is intended to be exclusive of any other available remedy or remedies, but each and every remedy shall be cumulative and shall be in addition to every other lawful remedy now or hereafter

existing. No delay or omission to exercise any right or power accruing upon any continuing default hereunder shall impair any such right or power or shall be construed to be a waiver thereof, but any such right and power may be exercised from time to time and as often as may be deemed expedient. In order to entitle the County to exercise any remedy reserved to it, it shall not be necessary to give notice, other than such notice as may be herein expressly required and such notice required at law or equity which the Company is not competent to waive.

Section 3.18. Waiver of Recapitulation Requirements. As permitted under Section 12-44-55 of the Act, the Company and County hereby waive application of any of the recapitulation requirements as set forth in Section 12-44-55.

Section 3.19. Administrative Fees. The Company shall reimburse the County for all reasonable costs and fees, including but not limited to the County's legal fees and costs for retention of its Special Counsel, actually incurred by the County but exclusive of normal County overhead including costs and salaries related to administrative, staff employees and similar costs and fees, relating to the negotiation and approval of the inducement of the Project, as they shall become due, but in no event later than the date which is the earlier of any payment date expressly provided for in this Fee Agreement or the date which is 45 days after receiving written notice from the County, accompanied by such supporting documentation as may be necessary to evidence the County's right to receive such payment, specifying the nature of such expense and requesting payment of same. The fees reimbursable under this Section shall in no event exceed [\$3,500] in the aggregate.

Section 3.20. Initial Filing. At the time the Company makes the initial filing of the Fee Agreement with the South Carolina Department of Revenue, as required by section 12-44-50 of the Act, the Company shall deliver a copy of the initial filing to the County's Economic Development Director and the County's Attorney.

ARTICLE IV MISCELLANEOUS

Section 4.1. Notices. Any notice, election, demand, request or other communication to be provided under this Fee Agreement shall be effective when delivered to the party named below or when deposited with the United States Postal Service, certified mail, return receipt requested, postage prepaid, addressed as follows (or addressed to such other address as any party shall have previously furnished in writing to the other party), except where the terms hereof require receipt rather than sending of any notice, in which case such provision shall control:

AS TO THE COUNTY: Lexington County, South Carolina
 County Administrator
 Lexington County Administration Building
 212 S. Lake Drive
 Lexington, South Carolina 29072
 Telephone: (803) 785-8100
 Facsimile: (803) 785-8101

WITH A COPY TO: County Attorney
 Jeff Anderson
 Nicholson, Davis, Frawley, Anderson, & Ayer, LLC
 140 East Main Street
 Lexington, South Carolina 29072

Telephone: (803) 359-2512
Facsimile: (803) 359-7478

AS TO THE SPONSOR: Avtec, Inc.
Michael Branning, President
4335 Augusta Highway
Gilbert, South Carolina 29054
Telephone: (803) 892-2181
Facsimile: (803) 892-3715

WITH A COPY TO: Parker Poe Adams & Bernstein LLP
1201 Main Street, Suite 1450 (29201)
Post Office Box 1509
Columbia, South Carolina 29202-1509
Telephone: (803) 255-8000
Facsimile: (803) 255-8017

Section 4.2. *Binding Effect.* This Fee Agreement is binding, in accordance with its terms, upon and inure to the benefit of the Company and the County, and their respective successors and assigns. In the event of the dissolution of the County or the consolidation of any part of the County with any other political subdivision or the transfer of any rights of the County to any other such political subdivision, all of the covenants, stipulations, promises and agreements of this Fee Agreement shall bind and inure to the benefit of the successors of the County from time to time and any entity, officer, board, commission, agency or instrumentality to whom or to which any power or duty of the County has been transferred.

Section 4.3. *Counterparts.* This Fee Agreement may be executed in any number of counterparts, and all of the counterparts taken together shall be deemed to constitute one and the same instrument.

Section 4.4. *Governing Law.* This Fee Agreement and all documents executed in connection herewith shall be construed in accordance with and governed by the laws of the State.

Section 4.5. *Headings.* The headings of the articles and sections of this Fee Agreement are inserted for convenience only and shall not be deemed to constitute a part of this Fee Agreement.

Section 4.6. *Amendments.* The provisions of this Fee Agreement may only be modified or amended in writing by an agreement or agreements entered into between the parties.

Section 4.7. *Further Assurance.* From time to time the County agrees to execute and deliver to the Company such additional instruments as either may reasonably request to effectuate the purposes of this Fee Agreement.

Section 4.8. *Severability.* If any provision of this Fee Agreement is declared illegal, invalid or unenforceable for any reason, the remaining provisions hereof shall be unimpaired, and such illegal, invalid or unenforceable provision shall be reformed so as to most closely effectuate the legal, valid and enforceable intent thereof and so as to afford the Company with the maximum benefits to be derived herefrom, it being the intention of the County to offer the Company the strongest inducement possible to locate the Project in the County.

Section 4.9. *Limited Obligation.* THE PROJECT SHALL GIVE RISE TO NO PECUNIARY LIABILITY OF THE COUNTY OR ANY INCORPORATED MUNICIPALITY NOR TO ANY CHARGE AGAINST ITS GENERAL CREDIT OR TAXING POWER.

Section 4.10. *Force Majeure.* No party hereto shall be responsible for any delays or non-performance caused in whole or in part, directly or indirectly, by strikes, accidents, freight embargoes, fire, floods, inability to obtain materials, conditions arising from government orders or regulations, war, an act of terrorism or national emergency, acts of God, and any other cause, similar or dissimilar, beyond such party's reasonable control.

Section 4.11. *Execution Disclaimer.* Notwithstanding any other provision, the County is executing as statutory accommodation to assist the Company in achieving the intended benefits and purposes of the Act. The County has made no independent legal or factual investigation regarding the particulars of this transaction and it executes in reliance upon representations by the Company that this document complies with all laws and regulations, particularly those pertinent to industrial development projects in South Carolina.

IN WITNESS WHEREOF, the County, acting by and through the County Council, has caused this Fee Agreement to be executed in its name and on its behalf by the Chairman of County Council and to be attested by the Clerk to County Council; and the Company has caused this Fee Agreement to be executed by a duly authorized officer, all as of the day and year first above written.

LEXINGTON COUNTY, SOUTH CAROLINA

William B. Banning, Sr., Chair
Lexington County Council

(SEAL)
ATTEST:

Diana W. Burnett, Clerk to Council
Lexington County Council

[Signature Page to Fee in Lieu of Ad Valorem Tax Agreement dated as of [], 2012]

AVTEC, INC.

BY
ITS

[Signature Page to Fee in Lieu of Ad Valorem Tax Agreement dated as of June 14, 2012]

EXHIBIT A
PROPERTY DESCRIPTION

**EXHIBIT B
JOINDER AGREEMENT**

Reference is hereby made to that Fee Agreement effective June 14, 2012 (“Fee Agreement”), between Lexington County, South Carolina (“County”), and Avtec, Inc. (“Company”).

1. Joinder to Fee Agreement.

The undersigned hereby (a) joins as a part to, and agrees to be bound by and subject to all of the terms and conditions of, the Fee Agreement; (b) acknowledges and agrees that (i) in accordance with Section 3.13 of the Fee Agreement, the undersigned has been designated as a Sponsor Affiliate by the Company for purposes of the Project and such designation has been consented to by the County pursuant to a Resolution adopted by the County on []; (ii) the undersigned qualifies or will qualify as a Sponsor Affiliate under the Fee Agreement and Section 12-44-30(A)(19) and Section 12-44-130 of the Act; and (iii) the undersigned shall have all of the rights and obligations of a Sponsor Affiliate as set forth in the Fee Agreement.

2. Capitalized Terms.

All capitalized terms used but not defined in this Joinder Agreement shall have the meanings set forth in the Fee Agreement.

3. Governing Law.

This Joinder Agreement shall be governed by and construed in accordance with the laws of the State of South Carolina, without regard to principles of choice of law.

IN WITNESS WHEREOF, the undersigned has executed this Joinder Agreement to be effective as of the date set forth below.

Date

Name of Entity

By: _____

Name: _____

Its: _____

Address: _____

IN WITNESS WHEREOF, the Company consents to the addition of the above-named entity becoming a Sponsor Affiliate under the Fee Agreement effective as of the date set forth above.

Date

AVTEC, INC.

By _____

Its: _____



COMMITTEE REPORT

RE: Fence Relocation at Pelion Airport

DATE: May 14, 2012

COMMITTEE: Airport

MAJORITY REPORT: Yes

The Airport Committee met on Tuesday, May 8, 2012, to discuss the fence relocation at the Pelion Airport.

Mr. Jim Starling, Public Works Engineering Associate III, presented a request by the Federal Aviation Administration (FAA) to relocate approximately 2,500 linear foot of fence based on a safety issue associated with Federal Aviation Regulation (FAR) Part 77 which restricts vertical obstructions from penetrating into navigable airspace. The Pelion Airport has 6,500 linear foot of fence affected by this regulation. The estimated cost of the fence removal is \$47,000. Mr. Starling reported there is a FAA grant balance of approximately \$45,000 available for the County to utilize for the project. The County would be required to fund the project at 100 percent and be reimbursed by FAA at 95 percent with the possibility of the South Carolina Aeronautics Commission funding 2.5 percent. The County's final cost would be \$1,000. Staff is requesting Council approval to move forward with a contract to relocate approximately 2,250 foot of fence utilizing the FAA grant balance of \$45,000. The funding is available in the Taxiway "A" Realignment account (5801-580020-5AA426) which has an unencumbered balance of \$54,994.

The Airport Committee majority voted in favor, with one opposed, to recommend Council to approve staff's recommendation for moving forward with the fence relocation project at the Pelion Airport.



COMMITTEE REPORT

RE: West Columbia Enhancement Grant Match Request

DATE: May 14, 2012

COMMITTEE: Public Works & Solid Waste Management

MAJORITY REPORT: Yes

The Public Works and Solid Waste Management Committee met on Tuesday, May 8, 2012, to discuss the West Columbia Enhancement Grant match request.

Mr. Jim Starling, Public Works Engineering Associate III, presented a request from the City of West Columbia for local match funds for a SCDOT Enhancement Grant. The City was approved for the Highway 1 Street Lighting Project (FPA #34-11) totaling \$543,750 that requires a 20 percent local match. SCDOT provided 80 percent at \$435,000 and the City provided 20 percent at \$108,750 which they submitted to SCDOT. The City of West Columbia is now submitting a request for reimbursement from the County for their local match portion. Mr. Starling reported funding was available in the "C" Fund Special Projects account.

The Committee voted unanimously in favor to recommend to Council to approve the City of West Columbia's request for the 20 percent local match of \$108,750 for the Highway 1 Street Lighting Project.

Ordinance No. 12-05

AN ORDINANCE

AUTHORIZING THE EXECUTION AND DELIVERY OF A FEE AGREEMENT BY AND AMONG LEXINGTON COUNTY, SOUTH CAROLINA, AND AVTEC, INC., AS SPONSOR, AND ONE OR MORE SPONSOR AFFILIATES, TO PROVIDE FOR A FEE IN LIEU OF *AD VALOREM* TAXES INCENTIVE, INCLUDING THE INCLUSION OF THE COMPANY'S PROPERTY IN A MULTI-COUNTY PARK, GRANTING OF CERTAIN SPECIAL SOURCE REVENUE CREDITS AND OTHER MATTERS RELATED THERETO.

WHEREAS, Lexington County, South Carolina ("County"), acting by and through its County Council ("County Council") is authorized and empowered under and pursuant to the provisions of Title 12, Chapter 44, Code of Laws of South Carolina, 1976, as amended ("Act"), (i) to enter into agreements with qualifying industry to encourage investment in projects constituting economic development property through which the industrial development of the State of South Carolina will be promoted by inducing new and existing manufacturing and commercial enterprises to locate and remain in the State and thus utilize and employ manpower and other resources of the State; and (ii) to covenant with such industry to accept certain payments in lieu of *ad valorem* taxes ("FILOT") with respect to such investment;

WHEREAS, pursuant to Title 4, Section 1, Code of Laws of South Carolina, 1976, as amended ("MCIP Act"), the County is authorized to develop multi-county industrial parks with other qualifying counties and, in its discretion, include within the boundaries of such parks the property of qualifying industries. Under the authority provided in the MCIP Act, the County has created previously a multi-county park with Calhoun County ("Park");

WHEREAS, pursuant to Section 4-1-175, Code of Laws of South Carolina, 1976, as amended, the County is authorized to provide a credit ("Infrastructure Credit") against FILOT payments made in connection with projects located in the Park for purposes of reimbursing the Company for qualifying infrastructure related expenditures;

WHEREAS, Avtec Inc., ("Company") is planning a total investment consisting of expenditures, which are anticipated to be approximately \$7,600,000, to establish a new computer console manufacturing facility in the County and the creation of approximately 25 new jobs ("Project");

WHEREAS, the County identified the Project by a Resolution dated April 10, 2012, as required by the Act, and reiterates in this Ordinance the findings relating to the Project set forth in that Resolution;

WHEREAS, the County has determined to offer the Company a FILOT incentive package at an assessment ratio of 6%, with a fixed millage rate for 20 years, being the millage rate of 477.275. In addition, the County has determined to include the Project within the boundaries of the Park and offer an Infrastructure Credit to offset the costs of certain road improvements. The terms and conditions of each of these incentives are more fully described in the Fee Agreement ("Fee Agreement") attached hereto as Exhibit A; and

WHEREAS, the County has determined to extend the term of the Park through the term of the Fee Agreement, including any extensions permitted under the Act and authorized by County Council.

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

Section 1. *Authorization to Execute and Deliver Fee Agreement.* The Chairman of County Council is hereby authorized and directed to execute the Fee Agreement, which is in substantially final form as hereto attached in the name of and on behalf of the County, subject to the approval of any revisions as are not materially adverse to the County by the County Administrator and the County Attorney, and the County Administrator is hereby authorized and directed to attest the Agreement; and the Chairman is hereby further authorized and directed to deliver the Agreement to the Company.

Section 2. *Statutory Findings.* The County hereby finds: (i) the Project will benefit the general public welfare of the County by providing service, employment, recreation or other public benefits not otherwise provided locally; (ii) the Project gives rise to no pecuniary liability of the County or incorporated municipality or to no charge against its general credit or taxing power; (iii) the purposes to be accomplished by the Project are proper governmental and public purposes; and (iv) the benefits of the Project to the public are greater than the costs to the public.

Section 3. *Inclusion within the Park and Extension of Park Term.* The expansion of the Park boundaries to include the Project site, as described on the attached Exhibit B, and the extension of the Park term through the term of the Fee Agreement, including any extensions as permitted by the Act, is hereby authorized and approved.

Section 4. *Approval of Infrastructure Credit.* The grant of the Infrastructure Credit, as described in the Fee Agreement, is hereby authorized and approved.

Section 5. *Approval of Sponsor Affiliate.* Pursuant to Section 12-44-130 of the Act, the Company may request the addition of one or more Sponsor Affiliates to the Fee Agreement. Following each request, if the proposed Sponsor Affiliate agrees to be bound by the Fee Agreement, then following approval of the proposed Sponsor Affiliate by subsequent County Council resolution, the proposed Sponsor Affiliate shall be eligible for the benefits under, and become a party to, the Fee Agreement.

Section 6. *General Repealer.* All ordinances, resolutions, and parts thereof in conflict herewith are, to the extent of such conflict, hereby repealed.

This Ordinance takes effect and is in full force only after the County Council has approved it following three readings and a public hearing.

LEXINGTON COUNTY, SOUTH CAROLINA

William B. Banning, Sr., Chair
Lexington County Council

(SEAL)
ATTEST:

Diana W. Burnett, Clerk to Council
Lexington County Council

READINGS:

First Reading: May 8, 2012
Second Reading: May 22, 2012
Third Reading: June 14, 2012
Public Hearing: May 22, 2012

EXHIBIT A

**Form of
Fee In Lieu of Ad Valorem Taxes Agreement**

EXHIBIT B

Description of Project Site

FEE-IN-LIEU OF AD VALOREM TAXES AND INCENTIVE AGREEMENT

BETWEEN

AVTEC, INC.

AND

LEXINGTON COUNTY, SOUTH CAROLINA

DATED AS OF JUNE 14, 2012

PREPARED BY:

**PARKER POE ADAMS & BERNSTEIN LLP
1201 MAIN STREET, SUITE 1450 (29201)
POST OFFICE BOX 1509
COLUMBIA, SOUTH CAROLINA 29202-1509
(803) 255-8000**

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FEE-IN-LIEU OF AD VALOREM TAXES AND INCENTIVE AGREEMENT

THIS FEE-IN-LIEU OF *AD VALOREM* TAXES AND INCENTIVE AGREEMENT (“Fee Agreement”) is made and entered into as of June 14, 2012, by and between Lexington County, South Carolina (“County”), a body politic and corporate and a political subdivision of the State of South Carolina (“State”), acting by and through the Lexington County Council (“County Council”) as the governing body of the County, and Avtec, Inc., a South Carolina corporation, as sponsor, its affiliates and assigns (collectively, “Company” and with County, “Parties,” each, a “Party”).

WITNESSETH:

(a) The County is authorized by Title 12, Chapter 44, Code of Laws of South Carolina, 1976, as amended (“Act”) to enter into a fee agreement with qualifying industries to induce such industries to locate in the State and to encourage industries now located in the State to expand their investments and thus make use of and employ manpower and other resources of the State;

(b) The County is authorized pursuant to Title 4, Section 1, Code of Laws of South Carolina, 1976, as amended (“MCIP Act”), to develop multi-county industrial parks with other qualifying counties and, in its discretion, include within the boundaries of such parks the property of qualifying industries. Under the authority provided in the MCIP Act, the County has created previously a multi-county park with Calhoun County (“Park”);

(c) The County is authorized pursuant to Section 4-1-175, Code of Laws of South Carolina, 1976, as amended, to provide a credit against FILOT payments made in connection with projects located in the Park for purposes of reimbursing the Company for qualifying infrastructure related expenditures;

(d) Pursuant to the Act, the County finds that (a) the Project (as defined herein) is anticipated to benefit the general public welfare of the County by providing services, employment, recreation, or other public benefit not otherwise adequately provided locally; (b) the Project gives rise to no pecuniary liability of the County or incorporated municipality and to no 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;

(e) The Company has agreed to establish and maintain a new computer console manufacturing facility within the County (“Project”). The Company reasonably expects that it will make capital investments at the Project of \$7,600,000; however, because a \$1,500,000 portion of the planned investment relates to a building expansion that may (or may not) occur 48 months from now, depending on market conditions not within the Company’s control, the Company commits to \$6,100,000 million of capital investment for purposes of this Agreement (“Capital Commitment”) which qualifies the Project for benefits under the Act;

(f) The Company anticipates the creation of 25 new full time jobs in conjunction with the Project and on which the Company will withhold payroll taxes for South Carolina income tax purposes (“Job Commitment,” together with the Capital Commitment, the “Investment Commitment”); and

(g) Pursuant to a resolution adopted on April 10, 2012 (“Inducement Resolution”), the County formally identified the Project as required by the Act. Pursuant to an Ordinance adopted on June 12, 2012 (“Fee Ordinance”), the County Council authorized the County to enter into a Fee Agreement with the

Company which identifies the property comprising the Project as Economic Development Property under the Act subject to the terms and conditions hereof.

NOW, THEREFORE, AND IN CONSIDERATION of the respective representations and agreements hereinafter contained, the parties hereto agree as follows, with the understanding that no obligation of the County described herein shall create a pecuniary liability or charge upon its general credit or taxing powers, but shall be payable solely out of the sources of payment described herein and shall not under any circumstances be deemed to constitute a general obligation to the County:

ARTICLE I DEFINITIONS

Section 1.1. Terms. The terms defined in this Article shall for all purposes of this Fee Agreement have the meaning herein specified, unless the context clearly requires otherwise.

“Chairman” means the Chairman of the County Council of Lexington County, South Carolina.

“Clerk of County Council” means the Clerk to the County Council of Lexington County, South Carolina.

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

“Commencement Date” means the last day of the first property tax year during which Economic Development Property is placed in service, expected to be December 31, 2012.

“County” means Lexington County, South Carolina, a body politic and corporate and political subdivision of the State of South Carolina, its successors and assigns, acting by and through the Lexington County Council as the governing body of the County.

“County Council” means the Lexington County Council, the governing body of the County.

“Diminution of Value” in respect of any Phase of the Project means any reduction in the value based on original fair market value as determined in Step 1 of Section 3.1 of this Fee Agreement, of the items which constitute a part of the Phase which may be caused by (i) the Company’s removal of equipment pursuant to Section 3.6 of this Fee Agreement, (ii) a casualty to the Phase of the Project, or any part thereof, described in Section 3.7 of this Fee Agreement, or (iii) a condemnation to the Phase of the Project, or any part thereof, described in Section 3.9 of this Fee Agreement.

“Economic Development Property” means all items of real and tangible personal property comprising the Project which qualify as economic development property under the Act, become subject to the Fee Agreement, and are identified by the Company in connection with the annual filing of a SCDOR PT-100, PT-300 or comparable forms with the South Carolina Department of Revenue (as such filing may be amended from time to time) for each year within the Investment Period. Title to all Economic Development Property shall at all times remain vested in the Company, except as may be necessary to take advantage of the effect of Section 12-44-160.

“Equipment” means all of the machinery, equipment, furniture and fixtures, together with any and all additions, accessions, replacements and substitutions thereto or therefor acquired by the Company during the Investment Period as a part of the Project.

“Event of Default” means any Event of Default specified in Section 3.15 of this Fee Agreement.

“Fee Term” or “Term” means the period from the date of delivery of this Fee Agreement until the last Phase Termination Date unless sooner terminated or extended pursuant to the terms of this Fee Agreement.

“FILOT Payments” means the payments in lieu of taxes which Company is obligated to pay to the County under the terms of this Agreement.

“Improvements” means improvements, together with any and all additions, accessions, replacements and substitutions thereto or therefor acquired by the Company during the Investment Period.

“Investment Period” means the period beginning with the first day that Economic Development Property is purchased or acquired and ending five years after the Commencement Date, which end date is expected to be December 31, 2017. The minimum investment must be completed within five years of the commencement date. As described in Section 3.1 of this Agreement, this date may be extended by subsequent resolution of the County Council, in accordance with the Act, for up to five additional years.

“Phase” or “Phases” in respect to the Project means the Equipment, Improvements and Real Property, if any, placed in service during each year of the Investment Period.

“Phase Termination Date” means with respect to each Phase of the Project the day twenty years after each such Phase of the Project becomes subject to the terms of this Fee Agreement. Anything contained herein to the contrary notwithstanding, the last Phase Termination Date shall be no later than December 31 of the year of the expiration of the maximum period of years that the annual fee payment is available to the Company, under Section 12-44-30(20) of the Act, as amended.

“Project” means the Equipment, Improvements, and Real Property, together with the acquisition, construction, installation, design and engineering thereof, in phases. The Project involves an initial investment of sufficient sums to qualify under the Act.

“Real Property” means real property, as more particularly described in Exhibit A, together with all and singular the rights, members, hereditaments and appurtenances belonging or in any way incident or appertaining thereto acquired or constructed by the Company; all Improvements now or hereafter situated thereon; and all fixtures now or hereafter attached thereto, but only to the extent such Improvements and fixtures are deemed to become part of the Project under the terms of this Fee Agreement.

“Removed Components” means the following types of components or Phases of the Project or portions thereof, all of which the Company, shall be entitled to remove from the Project with the result that the same shall no longer be subject to the terms of the Fee Agreement: (a) components or Phases of the Project or portions thereof which the Company in its sole discretion, determines to be inadequate, obsolete, worn-out, uneconomic, damaged, unsuitable, undesirable or unnecessary; or (b) components or Phases of the Project or portions thereof which the Company in its sole discretion, elects to remove pursuant to Section 3.6(c) or Section 3.7(b)(iii) of this Fee Agreement.

“Replacement Property” means any property which is placed in service as a replacement for any item of Equipment or any Improvement which is scrapped or sold by the Company and treated as a Removed Component under Section 3.6 hereof regardless of whether such property serves the same function as the property it is replacing and regardless of whether more than one piece of property replaces any item of Equipment or any Improvement.

“Sponsor Affiliate” means an affiliate that joins with or is an affiliate of the Company whose investment with respect to the Project, if any, will qualify for FILOT Payments, as defined in Section 3.1 hereof and Section 12-44-30(A)(19) and Section 12-44-130 of the Act.

Any reference to any agreement or document in this Article I or otherwise in this Fee Agreement is deemed to include any and all amendments, supplements, addenda, and modifications to such agreement or document.

ARTICLE II REPRESENTATIONS AND WARRANTIES

Section 2.1. *Representations of the County.* The County hereby represents and warrants to the Company as follows:

(a) The County is a body politic and corporate and a political subdivision of the State which acts through the County Council as its governing body and by the provisions of the Act is authorized and empowered to enter into the transactions contemplated by this Fee Agreement and to carry out its obligations hereunder. The County has duly authorized the execution and delivery of this Fee Agreement and any and all other agreements described herein or therein.

(b) The Project constitutes a “project” within the meaning of the Act.

(c) By due corporate action, the County has agreed that, subject to compliance with applicable laws, each item of real and tangible personal property comprising the Project shall be considered Economic Development Property under the Act.

Section 2.2. *Representations of the Company.* The Company hereby represents and warrants to the County as follows:

(a) The Company is a corporation organized under the laws of the State and qualified to conduct business in the State and has power to enter into this Fee Agreement.

(b) The Company’s execution and delivery of this Fee Agreement and its compliance with the provisions hereof do not result in a default, not waived or cured, under any agreement or instrument to which the Company is now a party or by which it is bound.

(c) The Company intends to operate the Project as a “project” within the meaning of the Act as in effect on the date hereof, and for such other purposes permitted under the Act, as the Company may deem appropriate.

(d) The availability of the payment in lieu of taxes with regard to the Economic Development Property authorized by the Act has induced the Company to undertake the Project in the County.

(e) The Company will invest \$6,100,000 by the end of the Investment Period.

(f) The Company will create 25 new full time jobs in conjunction with the Project during the Investment Period, on which the Company will withhold payroll taxes for South Carolina income tax purposes.

ARTICLE III FILOT PAYMENTS

Section 3.1. *Negotiated Payments.*

(a) Pursuant to Section 12-44-50 of the Act, the Company, is required to make payments in lieu of *ad valorem* taxes (“FILOT Payments”) on all Economic Development Property comprising the Project and placed in service, as follows: the Company shall make FILOT Payments in lieu of *ad valorem* taxes with respect to each Phase of the Project placed in service on or before each December 31 through December 31, 2017.

(b) The amount of such annual FILOT Payments shall be determined by the following procedure (subject, in any event, to the required procedures under the Act and to Section 3.4 hereof):

- Step 1: Determine the fair market value of the Phase of the Project placed in service in any given year until the occurrence of the Phase Termination Date using original income tax basis for State income tax purposes for any real property (provided, if real property is constructed for the fee or is purchased in an arms length transaction, fair market value is deemed to equal the original income tax basis, otherwise, the Department of Revenue will determine fair market value by appraisal) and original income tax basis for State income tax purposes less depreciation for each year allowable to the Company for any personal property as determined in accordance with Title 12 of the Code, as amended and in effect on December 31 of the year in which each Phase becomes subject to the Fee Agreement, except that no extraordinary obsolescence shall be allowable but taking into account all applicable property tax exemptions which would be allowed to the Company, under State law, if the property were taxable, except those exemptions specifically disallowed under Section 12-44-50(A)(2) of the Act, as amended and in effect on December 31 of the year in which each Phase becomes subject to the Fee Agreement.
- Step 2: Apply an assessment ratio of 6% to the fair market value as determined for each year in Step 1 to establish the taxable value of each Phase of the Project in the year it is placed in service until the Phase Termination Date or such longer period of years that the annual fee payment is permitted to be made by the Company, under the Act, as amended.
- Step 3: Use a millage rate of 477.275 (which millage rate shall be a fixed rate for the term of this Fee Agreement) to determine the amount of the FILOT Payments which would be due in each year of the Fee Term on the payment dates prescribed by the County for such payments or such longer period of years that the annual fee payment is permitted to be made by the Company under the Act, as amended.
- Step 4: Reduce the amount resulting from Steps 1-3 by the amount of any infrastructure credit granted pursuant to Section 3.2 hereof.

(c) If, by the end of the Investment Period, the Company fails to meet its Investment Commitment, then, upon receipt of written notice from the County which may be delivered in the County’s sole discretion after an in person consultation with the Company’s leadership, the Company shall prospectively begin making *ad valorem* tax payments to the County on any property comprising the Project that would be subject to *ad valorem* taxation in the County. Furthermore, upon receipt of written notice from the County which may be delivered in the County’s sole discretion after an in person consultation with the Company’s leadership, the Project shall revert retroactively to *ad valorem* tax

treatment. In such event, any amount determined to be due and owing to the County shall be reduced by the total amount of payments in lieu of *ad valorem* taxes made by the Company with respect to the Project and further reduced by any abatements provided by law.

(d) In the event that it is determined by a final order of a court of competent jurisdiction or by agreement of the parties that the minimum payment in lieu of taxes applicable to this transaction is to be calculated differently than described above, the payment shall be reset prospectively at the minimum permitted level so determined.

(e) In the event that the Act or the above-described FILOT Payments are declared invalid or unenforceable, in whole or in part, for any reason, the parties express their intentions that such payments and this Fee Agreement be reformed so as to most closely effectuate the legal, valid, and enforceable intent thereof and so as to afford the Company with the benefits to be derived hereunder. If the Project is deemed to be subject to *ad valorem* taxation, the payment in lieu of *ad valorem* taxes to be paid to the County by the Company shall become equal to the amount which would result from taxes levied on the Project by the County, municipality or municipalities, school district or school districts, and other political units as if the Project was and had not been Economic Development Property under the Act. In such event, any amount determined to be due and owing to the County from the Company with respect to a year or years for which payments in lieu of *ad valorem* taxes have been previously remitted by the Company to the County hereunder, shall be reduced by the total amount of payments in lieu of *ad valorem* taxes made by the Company with respect to the Project pursuant to the terms hereof, and further reduced by any abatements provided by law. Upon request, the County shall consider implementation of any subsequent statutory changes that could benefit the Company.

Section 3.2. *Terms of Infrastructure Credit.*

(a) On achievement of the Capital Commitment, the Company shall be entitled to receive a credit (“Infrastructure Credit”) of \$100,000 against the Company’s FILOT liability. The Company shall certify achievement of the Capital Commitment through delivery of documentation, sufficiently evidencing the achievement of the Capital Commitment, to the County’s Economic Development Director. On certification to the County of achievement of the Capital Commitment, the Company will receive a \$100,000 Infrastructure Credit against its FILOT liability and the Infrastructure Credit will be reflected on the Company’s next annual FILOT bill.

(b) If the Company invests a total of \$7,600,000 by the end of the Investment Period and certifies, in the same manner the Company certifies achievement of the Capital Commitment in subsection (a), the investment to the County, the Company is entitled to an additional \$50,000 Infrastructure Credit against its FILOT liability. On certification of the achievement of a total investment of \$7,600,000, the additional \$50,000 Infrastructure Credit will be reflected on the Company’s next annual FILOT bill.

(c) The parties hereto agree that the Infrastructure Credit shall be utilized to reimburse the Company for qualifying expenditures relating to roadway improvements necessary to serve the Project.

Section 3.3. *FILOT Payments on Replacement Property.* If the Company elects to replace any Removed Components and to substitute such Removed Components with Replacement Property as a part of the Project, then, pursuant and subject to Section 12-44-60 of the Act, the Company shall make statutory payments in lieu of *ad valorem* taxes with regard to such Replacement Property as follows:

(a) to the extent that the income tax basis of the Replacement Property (“Replacement Value”) is less than or equal to the original income tax basis of the Removed Components (“Original Value”) the amount

of the FILOT Payments to be made by the Company with respect to such Replacement Property shall be calculated in accordance with Section 3.1 hereof; provided, however, in making such calculations, the original cost to be used in Step 1 of Section 3.1 shall be equal to the lesser of (x) the Replacement Value or (y) the Original Value, and the number of annual payments to be made with respect to the Replacement Property shall be equal to twenty (20) (or, if greater, the maximum number of years for which the annual fee payments are available to the Company for each portion of the Project under the Act, as amended) minus the number of annual payments which have been made with respect to the oldest Removed Components disposed of in the same property tax year as the Replacement Property is placed in service; and

(b) to the extent that the Replacement Value exceeds the Original Value of the Removed Components (“Excess Value”), the FILOT Payments to be made by the Company with respect to the Excess Value shall be equal to the payment that would be due if the property were not Economic Development Property.

Section 3.4. *Reductions in Payments of Taxes Upon Removal, Condemnation or Casualty.* In the event of a Diminution in Value of any Phase of the Project, the payment in lieu of taxes with regard to that Phase of the Project shall be reduced in the same proportion as the amount of such Diminution in Value bears to the original fair market value of that Phase of the Project as determined pursuant to Step 1 of Section 3.1 hereof. However, failure of the Company to maintain its Investment Commitment (using original costs basis less depreciation) shall constitute an Event of Default under Section 3.15(e) hereof, except if the Diminution in Value is due to a condemnation under Section 3.9(b) or is during the election period under Section 3.7(d).

Section 3.5. *Place and Allocation of FILOT Payments.* The Company shall make the above-described FILOT Payments directly to the County in accordance with applicable law. FILOT payments are allocated in accordance with the Act.

Section 3.6. *Removal of Equipment.* The Company shall be entitled to remove the following types of components or Phases of the Project from the Project with the result that said components or Phases (“Removed Components”) shall no longer be considered a part of the Project and shall no longer be subject to the terms of this Fee Agreement: (a) components or Phases which become subject to statutory payments in lieu of *ad valorem* taxes; (b) components or Phases of the Project or portions thereof which the Company, in its sole discretion, determines to be inadequate, obsolete, uneconomic, worn-out, damaged, unsuitable, undesirable or unnecessary; or (c) components or Phases of the Project or portions thereof which the Company, in its sole discretion, elects to remove pursuant to Section 3.6(c) or Section 3.7(b)(iii) hereof. However, failure of the Company to maintain its investment at the Investment Commitment (using original cost basis less depreciation) shall constitute and Event of Default under Section 3.15(e) hereof.

Section 3.7. *Damage or Destruction of Project.*

(a) *Election to Terminate.* In the event the Project is damaged by fire, explosion, or any other casualty, the Company is entitled to terminate this Agreement.

(b) *Election to Rebuild.* In the event the Project is damaged by fire, explosion, or any other casualty, and if the Company does not elect to terminate this Agreement, the Company may, in its sole discretion, commence to restore the Project with such reductions or enlargements in the scope of the Project, changes, alterations and modifications (including the substitution and addition of other property) as may be desired by the Company. All such restorations and replacements shall be considered substitutions of

the destroyed portions of the Project and shall be considered part of the Project for all purposes hereof, including, but not limited to, any amounts due by the Company, to the County under Section 3.1 hereof.

(c) *Election to Remove.* In the event the Company elects not to terminate this Agreement pursuant to subsection (a) and elects not to rebuild pursuant to subsection (b), the damaged portions of the Project shall be treated as Removed Components.

(d). *Timing of Election.* The Company shall make the elections under this Section within two years of the date of the damage or destruction of the Project.

Section 3.8. Multi-County Industrial Park. The County agrees to use its best efforts to amend the existing multi-county industrial and business park agreement to include the Project in the Park pursuant to the terms of the MCIP Act and to extend the term of the Park through the Fee Term. The County agrees to undertake and execute those procedures, instruments, ordinances, resolutions and documents as may be reasonably required to accomplish the inclusion of the Project in a Park.

Section 3.9. Condemnation.

(a) *Complete Taking.* If at any time during the Fee Term title to or temporary use of the entire Project should become vested in a public or quasi-public authority by virtue of the exercise of a taking by condemnation, inverse condemnation or the right of eminent domain, or by voluntary transfer under threat of such taking, or in the event that title to a portion of the Project shall be taken rendering continued occupancy of the Project commercially infeasible in the judgment of the Company, the Company shall have the option to terminate this Fee Agreement as of the time of vesting of title by sending written notice to the County within a reasonable period of time following such vesting.

(b) *Partial Taking.* In the event of a partial taking of the Project or transfer in lieu thereof, the Company may elect: (i) to terminate this Fee Agreement; (ii) to repair and restore the Project, with such reductions or enlargements in the scope of the Project, changes, alterations and modifications (including the substitution and addition of other property) as may be desired by the Company; or (iii) to treat the portions of the Project so taken as Removed Components.

Section 3.10. Maintenance of Existence. The Company agrees (i) that it shall not take any action which will materially impair the maintenance of its corporate existence and (ii) that it will maintain its good standing under all applicable provisions of State law. Notwithstanding the foregoing, any changes in the Company's corporate existence that result from internal restructuring or reorganization of the Company, or its parent are specifically authorized hereunder. Likewise, benefits granted to the Company under this Fee Agreement shall, in the event of any such restructuring or reorganization, be transferred to the successor entity under the provisions of Section 3.14 hereof. Such transfers are specifically approved and authorized by the County without any further action by the County Council.

Section 3.11. Indemnification Covenants. (a) Except as provided in paragraph (b) below, the Company shall indemnify and save the County, its past, present, and future employees, elected officials, officers and agents (each, an "Indemnified Party") harmless against and from all claims by or on behalf of any person arising from the County's execution of this Agreement, performance of the County's obligations under this Agreement or the administration of its duties pursuant to this Agreement, or otherwise by virtue of the County having entered into this Agreement. If such a claim is made against any Indemnified Party, then subject to the provisions of (b) below, the Company shall defend the Indemnified Party in any action or proceeding.

(b) Notwithstanding anything herein to the contrary, the Company is not required to indemnify any Indemnified Party against any claim or liability (1) occasioned by the acts of that Indemnified Party, which are unrelated to the execution of this Agreement, performance of the County's obligations under this Agreement, or the administration of its duties under this Agreement, or otherwise by virtue of the County having entered into this Agreement; (2) resulting from that Indemnified Party's own negligence, bad faith, fraud, deceit, or willful misconduct.

(c) An Indemnified Party may not avail itself of the indemnification provided in this Section unless it provides the Company with prompt notice, reasonable under the circumstances, of the existence or threat of any claim or liability, including, without limitation, copies of any citations, orders, fines, charges, remediation requests, or other claims or threats of claims, in order to afford the Company notice, reasonable under the circumstances, within which to defend or otherwise respond to a claim.

(d) Following this notice, the Company shall resist or defend against any claim or demand, action or proceeding, at its expense, using counsel of its choice. The Company is entitled to manage and control the defense of or response to any claim, charge, lawsuit, regulatory proceeding or other action, for itself and the Indemnified Party; provided the Company is not entitled to settle any matter at the separate expense or liability of any Indemnified Party without the consent of that Indemnified Party. To the extent any Indemnified Party desires to use separate counsel for any reason, other than a conflict of interest, that Indemnified Party is responsible for its independent legal fees.

Section 3.12. Confidentiality/Limitation on Access to Project. The County acknowledges and understands that, to the extent, the Company utilizes confidential and proprietary "state-of-the-art" manufacturing equipment and techniques and that a disclosure of any confidential and proprietary "state-of-the-art" information relating to such equipment or techniques, including, but not limited to, disclosures of financial or other information concerning the Company's operations would result in substantial harm to the Company and could thereby have a significant detrimental impact on the Company's employees and also upon the County. Therefore, the County agrees that, except as required by law and pursuant to the County's police powers, 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; (ii) shall request or be entitled to inspect the Project or any property associated therewith; provided, however, that if an Event of Default shall have occurred and be continuing hereunder, the County shall be entitled to inspect the Project provided they shall comply with the remaining provisions of this Section; or (iii) shall 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. Prior to disclosing any confidential or proprietary information or allowing inspections of the Project or any property associated therewith, the Company may require the execution of reasonable, individual, confidentiality and non-disclosure agreements by any officers, employees or agents of the County or any supporting or cooperating governmental agencies who would gather, receive or review such information or conduct or review the results of any inspections.

Section 3.13. Sponsor Affiliates. The Company may designate from time to time Sponsor Affiliates pursuant to the provisions of Section 12-44-30(19) and Section 12-44-130 of the Act, which Sponsor Affiliates shall be entities which may join with the Company to make investments with respect to the Project, or which may participate in the financing of such investments, and which agree to be bound by the terms and provisions of this Fee Agreement. All Sponsor Affiliates (not designated herein) which otherwise meet the requirements of Section 12-44-30(19) and Section 12-44-130 of the Act must be approved by resolution of the County Council and must execute a Joinder Agreement, in substantially the form attached hereto as Exhibit B, by which a Sponsor Affiliate agrees to be bound by terms of this Fee Agreement.

The Company shall provide the County and the Department of Revenue with written notice of any Sponsor Affiliate designated pursuant to this Section within 90 days after the end of the calendar year during which any such Sponsor Affiliate has placed in service assets to be used in connection with the Project, all in accordance with Section 12-44-130(B) of the Act.

Section 3.14. *Assignment and Subletting.* This Fee Agreement may be assigned in whole or in part and the Project may be subleased as a whole or in part by the Company so long as such assignment or sublease is made with County consent, which may be granted by Resolution of the County Council. The Company shall be permitted to assign this Fee Agreement to any of its related companies, if any.

Section 3.15. *Events of Default.* The following are “Events of Default” under this Fee Agreement, and the term “Events of Default” means, whenever used with reference to this Fee Agreement, any one or more of the following occurrences:

(a) Failure by the Company to make, upon levy, the FILOT Payments described in Section 3.1 hereof; provided, however, that Company is entitled to all redemption rights granted by applicable statutes; or

(b) Failure by the Company to perform any of the other material terms, conditions, obligations or covenants of the Company hereunder, which failure shall continue for a period of 90 days after written notice from the County to the Company specifying such failure and requesting that it be remedied, unless the County shall agree in writing to an extension of such time prior to its expiration.

(c) Failure by the Company to continue operations at the Project.

(d) Failure by the Company to meet its Investment Commitment in the Investment Period.

(e) Failure by the Company to maintain the Investment Commitment, as determined by the original cost basis without regard to depreciation, as the investment in the Project, except if the failure to maintain the Investment Commitment is a result of a condemnation under Section 3.9(b) or is during the election period in Section 3.7(d).

Section 3.16. *Remedies on Default.* In addition to the remedy articulated in Section 3.1(c), whenever any Event of Default shall have occurred and shall be continuing, the County, after having given written notice to the Company of such default and after the expiration of a 30 day cure period in which the Event of Default has not been cured, shall have the option to take any one or more of the following remedial actions:

(a) Terminate the Fee Agreement; or

(b) Take whatever action at law or in equity that may appear necessary or desirable to collect the other amounts due and thereafter to become due or to enforce performance and observance of any obligation, agreement or covenant of the Company under this Fee Agreement.

Nothing in this Fee Agreement shall be construed, in any fashion, so as to diminish or abate the County’s first priority lien, pursuant to the Act and State tax law, to the extent it exists independently of this Fee Agreement, for unpaid taxes or FILOT Payments.

Section 3.17. *Remedies Not Exclusive.* No remedy conferred upon or reserved to the County under this Fee Agreement is intended to be exclusive of any other available remedy or remedies, but each and every remedy shall be cumulative and shall be in addition to every other lawful remedy now or hereafter

existing. No delay or omission to exercise any right or power accruing upon any continuing default hereunder shall impair any such right or power or shall be construed to be a waiver thereof, but any such right and power may be exercised from time to time and as often as may be deemed expedient. In order to entitle the County to exercise any remedy reserved to it, it shall not be necessary to give notice, other than such notice as may be herein expressly required and such notice required at law or equity which the Company is not competent to waive.

Section 3.18. Waiver of Recapitulation Requirements. As permitted under Section 12-44-55 of the Act, the Company and County hereby waive application of any of the recapitulation requirements as set forth in Section 12-44-55.

Section 3.19. Administrative Fees. The Company shall reimburse the County for all reasonable costs and fees, including but not limited to the County's legal fees and costs for retention of its Special Counsel, actually incurred by the County but exclusive of normal County overhead including costs and salaries related to administrative, staff employees and similar costs and fees, relating to the negotiation and approval of the inducement of the Project, as they shall become due, but in no event later than the date which is the earlier of any payment date expressly provided for in this Fee Agreement or the date which is 45 days after receiving written notice from the County, accompanied by such supporting documentation as may be necessary to evidence the County's right to receive such payment, specifying the nature of such expense and requesting payment of same. The fees reimbursable under this Section shall in no event exceed [\$3,500] in the aggregate.

Section 3.20. Initial Filing. At the time the Company makes the initial filing of the Fee Agreement with the South Carolina Department of Revenue, as required by section 12-44-50 of the Act, the Company shall deliver a copy of the initial filing to the County's Economic Development Director and the County's Attorney.

ARTICLE IV MISCELLANEOUS

Section 4.1. Notices. Any notice, election, demand, request or other communication to be provided under this Fee Agreement shall be effective when delivered to the party named below or when deposited with the United States Postal Service, certified mail, return receipt requested, postage prepaid, addressed as follows (or addressed to such other address as any party shall have previously furnished in writing to the other party), except where the terms hereof require receipt rather than sending of any notice, in which case such provision shall control:

AS TO THE COUNTY:	Lexington County, South Carolina County Administrator Lexington County Administration Building 212 S. Lake Drive Lexington, South Carolina 29072 Telephone: (803) 785-8100 Facsimile: (803) 785-8101
WITH A COPY TO:	County Attorney Jeff Anderson Nicholson, Davis, Frawley, Anderson, & Ayer, LLC 140 East Main Street Lexington, South Carolina 29072

Telephone: (803) 359-2512
Facsimile: (803) 359-7478

AS TO THE SPONSOR: Avtec, Inc.
Michael Branning, President
4335 Augusta Highway
Gilbert, South Carolina 29054
Telephone: (803) 892-2181
Facsimile: (803) 892-3715

WITH A COPY TO: Parker Poe Adams & Bernstein LLP
1201 Main Street, Suite 1450 (29201)
Post Office Box 1509
Columbia, South Carolina 29202-1509
Telephone: (803) 255-8000
Facsimile: (803) 255-8017

Section 4.2. *Binding Effect.* This Fee Agreement is binding, in accordance with its terms, upon and inure to the benefit of the Company and the County, and their respective successors and assigns. In the event of the dissolution of the County or the consolidation of any part of the County with any other political subdivision or the transfer of any rights of the County to any other such political subdivision, all of the covenants, stipulations, promises and agreements of this Fee Agreement shall bind and inure to the benefit of the successors of the County from time to time and any entity, officer, board, commission, agency or instrumentality to whom or to which any power or duty of the County has been transferred.

Section 4.3. *Counterparts.* This Fee Agreement may be executed in any number of counterparts, and all of the counterparts taken together shall be deemed to constitute one and the same instrument.

Section 4.4. *Governing Law.* This Fee Agreement and all documents executed in connection herewith shall be construed in accordance with and governed by the laws of the State.

Section 4.5. *Headings.* The headings of the articles and sections of this Fee Agreement are inserted for convenience only and shall not be deemed to constitute a part of this Fee Agreement.

Section 4.6. *Amendments.* The provisions of this Fee Agreement may only be modified or amended in writing by an agreement or agreements entered into between the parties.

Section 4.7. *Further Assurance.* From time to time the County agrees to execute and deliver to the Company such additional instruments as either may reasonably request to effectuate the purposes of this Fee Agreement.

Section 4.8. *Severability.* If any provision of this Fee Agreement is declared illegal, invalid or unenforceable for any reason, the remaining provisions hereof shall be unimpaired, and such illegal, invalid or unenforceable provision shall be reformed so as to most closely effectuate the legal, valid and enforceable intent thereof and so as to afford the Company with the maximum benefits to be derived herefrom, it being the intention of the County to offer the Company the strongest inducement possible to locate the Project in the County.

Section 4.9. *Limited Obligation.* THE PROJECT SHALL GIVE RISE TO NO PECUNIARY LIABILITY OF THE COUNTY OR ANY INCORPORATED MUNICIPALITY NOR TO ANY CHARGE AGAINST ITS GENERAL CREDIT OR TAXING POWER.

Section 4.10. *Force Majeure.* No party hereto shall be responsible for any delays or non-performance caused in whole or in part, directly or indirectly, by strikes, accidents, freight embargoes, fire, floods, inability to obtain materials, conditions arising from government orders or regulations, war, an act of terrorism or national emergency, acts of God, and any other cause, similar or dissimilar, beyond such party's reasonable control.

Section 4.11. *Execution Disclaimer.* Notwithstanding any other provision, the County is executing as statutory accommodation to assist the Company in achieving the intended benefits and purposes of the Act. The County has made no independent legal or factual investigation regarding the particulars of this transaction and it executes in reliance upon representations by the Company that this document complies with all laws and regulations, particularly those pertinent to industrial development projects in South Carolina.

IN WITNESS WHEREOF, the County, acting by and through the County Council, has caused this Fee Agreement to be executed in its name and on its behalf by the Chairman of County Council and to be attested by the Clerk to County Council; and the Company has caused this Fee Agreement to be executed by a duly authorized officer, all as of the day and year first above written.

LEXINGTON COUNTY, SOUTH CAROLINA

William B. Banning, Sr., Chair
Lexington County Council

(SEAL)
ATTEST:

Diana W. Burnett, Clerk to Council
Lexington County Council

[Signature Page to Fee in Lieu of Ad Valorem Tax Agreement dated as of [], 2012]

AVTEC, INC.

BY
ITS

[Signature Page to Fee in Lieu of Ad Valorem Tax Agreement dated as of June 14, 2012]

EXHIBIT A
PROPERTY DESCRIPTION

**EXHIBIT B
JOINDER AGREEMENT**

Reference is hereby made to that Fee Agreement effective June 14, 2012 ("Fee Agreement"), between Lexington County, South Carolina ("County"), and Avtec, Inc. ("Company").

1. Joinder to Fee Agreement.

The undersigned hereby (a) joins as a part to, and agrees to be bound by and subject to all of the terms and conditions of, the Fee Agreement; (b) acknowledges and agrees that (i) in accordance with Section 3.13 of the Fee Agreement, the undersigned has been designated as a Sponsor Affiliate by the Company for purposes of the Project and such designation has been consented to by the County pursuant to a Resolution adopted by the County on []; (ii) the undersigned qualifies or will qualify as a Sponsor Affiliate under the Fee Agreement and Section 12-44-30(A)(19) and Section 12-44-130 of the Act; and (iii) the undersigned shall have all of the rights and obligations of a Sponsor Affiliate as set forth in the Fee Agreement.

2. Capitalized Terms.

All capitalized terms used but not defined in this Joinder Agreement shall have the meanings set forth in the Fee Agreement.

3. Governing Law.

This Joinder Agreement shall be governed by and construed in accordance with the laws of the State of South Carolina, without regard to principles of choice of law.

IN WITNESS WHEREOF, the undersigned has executed this Joinder Agreement to be effective as of the date set forth below.

Date

Name of Entity

By: _____
Name: _____
Its: _____
Address: _____

IN WITNESS WHEREOF, the Company consents to the addition of the above-named entity becoming a Sponsor Affiliate under the Fee Agreement effective as of the date set forth above.

Date

AVTEC, INC.

By _____
Its: _____

Ordinance No. 12-05

AN ORDINANCE

AUTHORIZING THE EXECUTION AND DELIVERY OF A FEE AGREEMENT BY AND AMONG LEXINGTON COUNTY, SOUTH CAROLINA, AND AVTEC, INC., AS SPONSOR, AND ONE OR MORE SPONSOR AFFILIATES, TO PROVIDE FOR A FEE IN LIEU OF *AD VALOREM* TAXES INCENTIVE, INCLUDING THE INCLUSION OF THE COMPANY'S PROPERTY IN A MULTI-COUNTY PARK, GRANTING OF CERTAIN SPECIAL SOURCE REVENUE CREDITS AND OTHER MATTERS RELATED THERETO.

WHEREAS, Lexington County, South Carolina ("County"), acting by and through its County Council ("County Council") is authorized and empowered under and pursuant to the provisions of Title 12, Chapter 44, Code of Laws of South Carolina, 1976, as amended ("Act"), (i) to enter into agreements with qualifying industry to encourage investment in projects constituting economic development property through which the industrial development of the State of South Carolina will be promoted by inducing new and existing manufacturing and commercial enterprises to locate and remain in the State and thus utilize and employ manpower and other resources of the State; and (ii) to covenant with such industry to accept certain payments in lieu of *ad valorem* taxes ("FILOT") with respect to such investment;

WHEREAS, pursuant to Title 4, Section 1, Code of Laws of South Carolina, 1976, as amended ("MCIP Act"), the County is authorized to develop multi-county industrial parks with other qualifying counties and, in its discretion, include within the boundaries of such parks the property of qualifying industries. Under the authority provided in the MCIP Act, the County has created previously a multi-county park with Calhoun County ("Park");

WHEREAS, pursuant to Section 4-1-175, Code of Laws of South Carolina, 1976, as amended, the County is authorized to provide a credit ("Infrastructure Credit") against FILOT payments made in connection with projects located in the Park for purposes of reimbursing the Company for qualifying infrastructure related expenditures;

WHEREAS, Avtec Inc., ("Company") is planning a total investment consisting of expenditures, which are anticipated to be approximately \$7,600,000, to establish a new computer console manufacturing facility in the County and the creation of approximately 25 new jobs ("Project");

WHEREAS, the County identified the Project by a Resolution dated April 10, 2012, as required by the Act, and reiterates in this Ordinance the findings relating to the Project set forth in that Resolution;

WHEREAS, the County has determined to offer the Company a FILOT incentive package at an assessment ratio of 6%, with a fixed millage rate for 20 years, being the millage rate of 477.275. In addition, the County has determined to include the Project within the boundaries of the Park and offer an Infrastructure Credit to offset the costs of certain road improvements. The terms and conditions of each of these incentives are more fully described in the Fee Agreement ("Fee Agreement") attached hereto as Exhibit A; and

WHEREAS, the County has determined to extend the term of the Park through the term of the Fee Agreement, including any extensions permitted under the Act and authorized by County Council.

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

Section 1. *Authorization to Execute and Deliver Fee Agreement.* The Chairman of County Council is hereby authorized and directed to execute the Fee Agreement, which is in substantially final form as hereto attached in the name of and on behalf of the County, subject to the approval of any revisions as are not materially adverse to the County by the County Administrator and the County Attorney, and the County Administrator is hereby authorized and directed to attest the Agreement; and the Chairman is hereby further authorized and directed to deliver the Agreement to the Company.

Section 2. *Statutory Findings.* The County hereby finds: (i) the Project will benefit the general public welfare of the County by providing service, employment, recreation or other public benefits not otherwise provided locally; (ii) the Project gives rise to no pecuniary liability of the County or incorporated municipality or to no charge against its general credit or taxing power; (iii) the purposes to be accomplished by the Project are proper governmental and public purposes; and (iv) the benefits of the Project to the public are greater than the costs to the public.

Section 3. *Inclusion within the Park and Extension of Park Term.* The expansion of the Park boundaries to include the Project site, as described on the attached Exhibit B, and the extension of the Park term through the term of the Fee Agreement, including any extensions as permitted by the Act, is hereby authorized and approved.

Section 4. *Approval of Infrastructure Credit.* The grant of the Infrastructure Credit, as described in the Fee Agreement, is hereby authorized and approved.

Section 5. *Approval of Sponsor Affiliate.* Pursuant to Section 12-44-130 of the Act, the Company may request the addition of one or more Sponsor Affiliates to the Fee Agreement. Following each request, if the proposed Sponsor Affiliate agrees to be bound by the Fee Agreement, then following approval of the proposed Sponsor Affiliate by subsequent County Council resolution, the proposed Sponsor Affiliate shall be eligible for the benefits under, and become a party to, the Fee Agreement.

Section 6. *General Repealer.* All ordinances, resolutions, and parts thereof in conflict herewith are, to the extent of such conflict, hereby repealed.

This Ordinance takes effect and is in full force only after the County Council has approved it following three readings and a public hearing.

LEXINGTON COUNTY, SOUTH CAROLINA

William B. Banning, Sr., Chair
Lexington County Council

(SEAL)
ATTEST:

Diana W. Burnett, Clerk to Council
Lexington County Council

READINGS:

First Reading: May 8, 2012
Second Reading: May 22, 2012
Third Reading: June 14, 2012
Public Hearing: May 22, 2012

EXHIBIT A

**Form of
Fee In Lieu of Ad Valorem Taxes Agreement**

EXHIBIT B

Description of Project Site

FEE-IN-LIEU OF *AD VALOREM* TAXES AND INCENTIVE AGREEMENT

BETWEEN

AVTEC, INC.

AND

LEXINGTON COUNTY, SOUTH CAROLINA

DATED AS OF JUNE 14, 2012

PREPARED BY:

**PARKER POE ADAMS & BERNSTEIN LLP
1201 MAIN STREET, SUITE 1450 (29201)
POST OFFICE BOX 1509
COLUMBIA, SOUTH CAROLINA 29202-1509
(803) 255-8000**

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FEE-IN-LIEU OF AD VALOREM TAXES AND INCENTIVE AGREEMENT

THIS FEE-IN-LIEU OF *AD VALOREM* TAXES AND INCENTIVE AGREEMENT (“Fee Agreement”) is made and entered into as of June 14, 2012, by and between Lexington County, South Carolina (“County”), a body politic and corporate and a political subdivision of the State of South Carolina (“State”), acting by and through the Lexington County Council (“County Council”) as the governing body of the County, and Avtec, Inc., a South Carolina corporation, as sponsor, its affiliates and assigns (collectively, “Company” and with County, “Parties,” each, a “Party”).

WITNESSETH:

(a) The County is authorized by Title 12, Chapter 44, Code of Laws of South Carolina, 1976, as amended (“Act”) to enter into a fee agreement with qualifying industries to induce such industries to locate in the State and to encourage industries now located in the State to expand their investments and thus make use of and employ manpower and other resources of the State;

(b) The County is authorized pursuant to Title 4, Section 1, Code of Laws of South Carolina, 1976, as amended (“MCIP Act”), to develop multi-county industrial parks with other qualifying counties and, in its discretion, include within the boundaries of such parks the property of qualifying industries. Under the authority provided in the MCIP Act, the County has created previously a multi-county park with Calhoun County (“Park”);

(c) The County is authorized pursuant to Section 4-1-175, Code of Laws of South Carolina, 1976, as amended, to provide a credit against FILOT payments made in connection with projects located in the Park for purposes of reimbursing the Company for qualifying infrastructure related expenditures;

(d) Pursuant to the Act, the County finds that (a) the Project (as defined herein) is anticipated to benefit the general public welfare of the County by providing services, employment, recreation, or other public benefit not otherwise adequately provided locally; (b) the Project gives rise to no pecuniary liability of the County or incorporated municipality and to no 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;

(e) The Company has agreed to establish and maintain a new computer console manufacturing facility within the County (“Project”). The Company reasonably expects that it will make capital investments at the Project of \$7,600,000; however, because a \$1,500,000 portion of the planned investment relates to a building expansion that may (or may not) occur 48 months from now, depending on market conditions not within the Company’s control, the Company commits to \$6,100,000 million of capital investment for purposes of this Agreement (“Capital Commitment”) which qualifies the Project for benefits under the Act;

(f) The Company anticipates the creation of 25 new full time jobs in conjunction with the Project and on which the Company will withhold payroll taxes for South Carolina income tax purposes (“Job Commitment,” together with the Capital Commitment, the “Investment Commitment”); and

(g) Pursuant to a resolution adopted on April 10, 2012 (“Inducement Resolution”), the County formally identified the Project as required by the Act. Pursuant to an Ordinance adopted on June 12, 2012 (“Fee Ordinance”), the County Council authorized the County to enter into a Fee Agreement with the

Company which identifies the property comprising the Project as Economic Development Property under the Act subject to the terms and conditions hereof.

NOW, THEREFORE, AND IN CONSIDERATION of the respective representations and agreements hereinafter contained, the parties hereto agree as follows, with the understanding that no obligation of the County described herein shall create a pecuniary liability or charge upon its general credit or taxing powers, but shall be payable solely out of the sources of payment described herein and shall not under any circumstances be deemed to constitute a general obligation to the County:

ARTICLE I DEFINITIONS

Section 1.1. Terms. The terms defined in this Article shall for all purposes of this Fee Agreement have the meaning herein specified, unless the context clearly requires otherwise.

“Chairman” means the Chairman of the County Council of Lexington County, South Carolina.

“Clerk of County Council” means the Clerk to the County Council of Lexington County, South Carolina.

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

“Commencement Date” means the last day of the first property tax year during which Economic Development Property is placed in service, expected to be December 31, 2012.

“County” means Lexington County, South Carolina, a body politic and corporate and political subdivision of the State of South Carolina, its successors and assigns, acting by and through the Lexington County Council as the governing body of the County.

“County Council” means the Lexington County Council, the governing body of the County.

“Diminution of Value” in respect of any Phase of the Project means any reduction in the value based on original fair market value as determined in Step 1 of Section 3.1 of this Fee Agreement, of the items which constitute a part of the Phase which may be caused by (i) the Company’s removal of equipment pursuant to Section 3.6 of this Fee Agreement, (ii) a casualty to the Phase of the Project, or any part thereof, described in Section 3.7 of this Fee Agreement, or (iii) a condemnation to the Phase of the Project, or any part thereof, described in Section 3.9 of this Fee Agreement.

“Economic Development Property” means all items of real and tangible personal property comprising the Project which qualify as economic development property under the Act, become subject to the Fee Agreement, and are identified by the Company in connection with the annual filing of a SCDOR PT-100, PT-300 or comparable forms with the South Carolina Department of Revenue (as such filing may be amended from time to time) for each year within the Investment Period. Title to all Economic Development Property shall at all times remain vested in the Company, except as may be necessary to take advantage of the effect of Section 12-44-160.

“Equipment” means all of the machinery, equipment, furniture and fixtures, together with any and all additions, accessions, replacements and substitutions thereto or therefor acquired by the Company during the Investment Period as a part of the Project.

“Event of Default” means any Event of Default specified in Section 3.15 of this Fee Agreement.

“Fee Term” or “Term” means the period from the date of delivery of this Fee Agreement until the last Phase Termination Date unless sooner terminated or extended pursuant to the terms of this Fee Agreement.

“FILOT Payments” means the payments in lieu of taxes which Company is obligated to pay to the County under the terms of this Agreement.

“Improvements” means improvements, together with any and all additions, accessions, replacements and substitutions thereto or therefor acquired by the Company during the Investment Period.

“Investment Period” means the period beginning with the first day that Economic Development Property is purchased or acquired and ending five years after the Commencement Date, which end date is expected to be December 31, 2017. The minimum investment must be completed within five years of the commencement date. As described in Section 3.1 of this Agreement, this date may be extended by subsequent resolution of the County Council, in accordance with the Act, for up to five additional years.

“Phase” or “Phases” in respect to the Project means the Equipment, Improvements and Real Property, if any, placed in service during each year of the Investment Period.

“Phase Termination Date” means with respect to each Phase of the Project the day twenty years after each such Phase of the Project becomes subject to the terms of this Fee Agreement. Anything contained herein to the contrary notwithstanding, the last Phase Termination Date shall be no later than December 31 of the year of the expiration of the maximum period of years that the annual fee payment is available to the Company, under Section 12-44-30(20) of the Act, as amended.

“Project” means the Equipment, Improvements, and Real Property, together with the acquisition, construction, installation, design and engineering thereof, in phases. The Project involves an initial investment of sufficient sums to qualify under the Act.

“Real Property” means real property, as more particularly described in Exhibit A, together with all and singular the rights, members, hereditaments and appurtenances belonging or in any way incident or appertaining thereto acquired or constructed by the Company; all Improvements now or hereafter situated thereon; and all fixtures now or hereafter attached thereto, but only to the extent such Improvements and fixtures are deemed to become part of the Project under the terms of this Fee Agreement.

“Removed Components” means the following types of components or Phases of the Project or portions thereof, all of which the Company, shall be entitled to remove from the Project with the result that the same shall no longer be subject to the terms of the Fee Agreement: (a) components or Phases of the Project or portions thereof which the Company in its sole discretion, determines to be inadequate, obsolete, worn-out, uneconomic, damaged, unsuitable, undesirable or unnecessary; or (b) components or Phases of the Project or portions thereof which the Company in its sole discretion, elects to remove pursuant to Section 3.6(c) or Section 3.7(b)(iii) of this Fee Agreement.

“Replacement Property” means any property which is placed in service as a replacement for any item of Equipment or any Improvement which is scrapped or sold by the Company and treated as a Removed Component under Section 3.6 hereof regardless of whether such property serves the same function as the property it is replacing and regardless of whether more than one piece of property replaces any item of Equipment or any Improvement.

“Sponsor Affiliate” means an affiliate that joins with or is an affiliate of the Company whose investment with respect to the Project, if any, will qualify for FILOT Payments, as defined in Section 3.1 hereof and Section 12-44-30(A)(19) and Section 12-44-130 of the Act.

Any reference to any agreement or document in this Article I or otherwise in this Fee Agreement is deemed to include any and all amendments, supplements, addenda, and modifications to such agreement or document.

ARTICLE II REPRESENTATIONS AND WARRANTIES

Section 2.1. *Representations of the County.* The County hereby represents and warrants to the Company as follows:

(a) The County is a body politic and corporate and a political subdivision of the State which acts through the County Council as its governing body and by the provisions of the Act is authorized and empowered to enter into the transactions contemplated by this Fee Agreement and to carry out its obligations hereunder. The County has duly authorized the execution and delivery of this Fee Agreement and any and all other agreements described herein or therein.

(b) The Project constitutes a “project” within the meaning of the Act.

(c) By due corporate action, the County has agreed that, subject to compliance with applicable laws, each item of real and tangible personal property comprising the Project shall be considered Economic Development Property under the Act.

Section 2.2. *Representations of the Company.* The Company hereby represents and warrants to the County as follows:

(a) The Company is a corporation organized under the laws of the State and qualified to conduct business in the State and has power to enter into this Fee Agreement.

(b) The Company’s execution and delivery of this Fee Agreement and its compliance with the provisions hereof do not result in a default, not waived or cured, under any agreement or instrument to which the Company is now a party or by which it is bound.

(c) The Company intends to operate the Project as a “project” within the meaning of the Act as in effect on the date hereof, and for such other purposes permitted under the Act, as the Company may deem appropriate.

(d) The availability of the payment in lieu of taxes with regard to the Economic Development Property authorized by the Act has induced the Company to undertake the Project in the County.

(e) The Company will invest \$6,100,000 by the end of the Investment Period.

(f) The Company will create 25 new full time jobs in conjunction with the Project during the Investment Period, on which the Company will withhold payroll taxes for South Carolina income tax purposes.

ARTICLE III FILOT PAYMENTS

Section 3.1. *Negotiated Payments.*

(a) Pursuant to Section 12-44-50 of the Act, the Company, is required to make payments in lieu of *ad valorem* taxes (“FILOT Payments”) on all Economic Development Property comprising the Project and placed in service, as follows: the Company shall make FILOT Payments in lieu of *ad valorem* taxes with respect to each Phase of the Project placed in service on or before each December 31 through December 31, 2017.

(b) The amount of such annual FILOT Payments shall be determined by the following procedure (subject, in any event, to the required procedures under the Act and to Section 3.4 hereof):

- Step 1: Determine the fair market value of the Phase of the Project placed in service in any given year until the occurrence of the Phase Termination Date using original income tax basis for State income tax purposes for any real property (provided, if real property is constructed for the fee or is purchased in an arms length transaction, fair market value is deemed to equal the original income tax basis, otherwise, the Department of Revenue will determine fair market value by appraisal) and original income tax basis for State income tax purposes less depreciation for each year allowable to the Company for any personal property as determined in accordance with Title 12 of the Code, as amended and in effect on December 31 of the year in which each Phase becomes subject to the Fee Agreement, except that no extraordinary obsolescence shall be allowable but taking into account all applicable property tax exemptions which would be allowed to the Company, under State law, if the property were taxable, except those exemptions specifically disallowed under Section 12-44-50(A)(2) of the Act, as amended and in effect on December 31 of the year in which each Phase becomes subject to the Fee Agreement.
- Step 2: Apply an assessment ratio of 6% to the fair market value as determined for each year in Step 1 to establish the taxable value of each Phase of the Project in the year it is placed in service until the Phase Termination Date or such longer period of years that the annual fee payment is permitted to be made by the Company, under the Act, as amended.
- Step 3: Use a millage rate of 477.275 (which millage rate shall be a fixed rate for the term of this Fee Agreement) to determine the amount of the FILOT Payments which would be due in each year of the Fee Term on the payment dates prescribed by the County for such payments or such longer period of years that the annual fee payment is permitted to be made by the Company under the Act, as amended.
- Step 4: Reduce the amount resulting from Steps 1-3 by the amount of any infrastructure credit granted pursuant to Section 3.2 hereof.

(c) If, by the end of the Investment Period, the Company fails to meet its Investment Commitment, then, upon receipt of written notice from the County which may be delivered in the County’s sole discretion after an in person consultation with the Company’s leadership, the Company shall prospectively begin making *ad valorem* tax payments to the County on any property comprising the Project that would be subject to *ad valorem* taxation in the County. Furthermore, upon receipt of written notice from the County which may be delivered in the County’s sole discretion after an in person consultation with the Company’s leadership, the Project shall revert retroactively to *ad valorem* tax

treatment. In such event, any amount determined to be due and owing to the County shall be reduced by the total amount of payments in lieu of *ad valorem* taxes made by the Company with respect to the Project and further reduced by any abatements provided by law.

(d) In the event that it is determined by a final order of a court of competent jurisdiction or by agreement of the parties that the minimum payment in lieu of taxes applicable to this transaction is to be calculated differently than described above, the payment shall be reset prospectively at the minimum permitted level so determined.

(e) In the event that the Act or the above-described FILOT Payments are declared invalid or unenforceable, in whole or in part, for any reason, the parties express their intentions that such payments and this Fee Agreement be reformed so as to most closely effectuate the legal, valid, and enforceable intent thereof and so as to afford the Company with the benefits to be derived hereunder. If the Project is deemed to be subject to *ad valorem* taxation, the payment in lieu of *ad valorem* taxes to be paid to the County by the Company shall become equal to the amount which would result from taxes levied on the Project by the County, municipality or municipalities, school district or school districts, and other political units as if the Project was and had not been Economic Development Property under the Act. In such event, any amount determined to be due and owing to the County from the Company with respect to a year or years for which payments in lieu of *ad valorem* taxes have been previously remitted by the Company to the County hereunder, shall be reduced by the total amount of payments in lieu of *ad valorem* taxes made by the Company with respect to the Project pursuant to the terms hereof, and further reduced by any abatements provided by law. Upon request, the County shall consider implementation of any subsequent statutory changes that could benefit the Company.

Section 3.2. Terms of Infrastructure Credit.

(a) On achievement of the Capital Commitment, the Company shall be entitled to receive a credit (“Infrastructure Credit”) of \$100,000 against the Company’s FILOT liability. The Company shall certify achievement of the Capital Commitment through delivery of documentation, sufficiently evidencing the achievement of the Capital Commitment, to the County’s Economic Development Director. On certification to the County of achievement of the Capital Commitment, the Company will receive a \$100,000 Infrastructure Credit against its FILOT liability and the Infrastructure Credit will be reflected on the Company’s next annual FILOT bill.

(b) If the Company invests a total of \$7,600,000 by the end of the Investment Period and certifies, in the same manner the Company certifies achievement of the Capital Commitment in subsection (a), the investment to the County, the Company is entitled to an additional \$50,000 Infrastructure Credit against its FILOT liability. On certification of the achievement of a total investment of \$7,600,000, the additional \$50,000 Infrastructure Credit will be reflected on the Company’s next annual FILOT bill.

(c) The parties hereto agree that the Infrastructure Credit shall be utilized to reimburse the Company for qualifying expenditures relating to roadway improvements necessary to serve the Project.

Section 3.3. FILOT Payments on Replacement Property. If the Company elects to replace any Removed Components and to substitute such Removed Components with Replacement Property as a part of the Project, then, pursuant and subject to Section 12-44-60 of the Act, the Company shall make statutory payments in lieu of *ad valorem* taxes with regard to such Replacement Property as follows:

(a) to the extent that the income tax basis of the Replacement Property (“Replacement Value”) is less than or equal to the original income tax basis of the Removed Components (“Original Value”) the amount

of the FILOT Payments to be made by the Company with respect to such Replacement Property shall be calculated in accordance with Section 3.1 hereof; provided, however, in making such calculations, the original cost to be used in Step 1 of Section 3.1 shall be equal to the lesser of (x) the Replacement Value or (y) the Original Value, and the number of annual payments to be made with respect to the Replacement Property shall be equal to twenty (20) (or, if greater, the maximum number of years for which the annual fee payments are available to the Company for each portion of the Project under the Act, as amended) minus the number of annual payments which have been made with respect to the oldest Removed Components disposed of in the same property tax year as the Replacement Property is placed in service; and

(b) to the extent that the Replacement Value exceeds the Original Value of the Removed Components (“Excess Value”), the FILOT Payments to be made by the Company with respect to the Excess Value shall be equal to the payment that would be due if the property were not Economic Development Property.

Section 3.4. Reductions in Payments of Taxes Upon Removal, Condemnation or Casualty. In the event of a Diminution in Value of any Phase of the Project, the payment in lieu of taxes with regard to that Phase of the Project shall be reduced in the same proportion as the amount of such Diminution in Value bears to the original fair market value of that Phase of the Project as determined pursuant to Step 1 of Section 3.1 hereof. However, failure of the Company to maintain its Investment Commitment (using original costs basis less depreciation) shall constitute an Event of Default under Section 3.15(e) hereof, except if the Diminution in Value is due to a condemnation under Section 3.9(b) or is during the election period under Section 3.7(d).

Section 3.5. Place and Allocation of FILOT Payments. The Company shall make the above-described FILOT Payments directly to the County in accordance with applicable law. FILOT payments are allocated in accordance with the Act.

Section 3.6. Removal of Equipment. The Company shall be entitled to remove the following types of components or Phases of the Project from the Project with the result that said components or Phases (“Removed Components”) shall no longer be considered a part of the Project and shall no longer be subject to the terms of this Fee Agreement: (a) components or Phases which become subject to statutory payments in lieu of *ad valorem* taxes; (b) components or Phases of the Project or portions thereof which the Company, in its sole discretion, determines to be inadequate, obsolete, uneconomic, worn-out, damaged, unsuitable, undesirable or unnecessary; or (c) components or Phases of the Project or portions thereof which the Company, in its sole discretion, elects to remove pursuant to Section 3.6(c) or Section 3.7(b)(iii) hereof. However, failure of the Company to maintain its investment at the Investment Commitment (using original cost basis less depreciation) shall constitute and Event of Default under Section 3.15(e) hereof.

Section 3.7. Damage or Destruction of Project.

(a) *Election to Terminate.* In the event the Project is damaged by fire, explosion, or any other casualty, the Company is entitled to terminate this Agreement.

(b) *Election to Rebuild.* In the event the Project is damaged by fire, explosion, or any other casualty, and if the Company does not elect to terminate this Agreement, the Company may, in its sole discretion, commence to restore the Project with such reductions or enlargements in the scope of the Project, changes, alterations and modifications (including the substitution and addition of other property) as may be desired by the Company. All such restorations and replacements shall be considered substitutions of

the destroyed portions of the Project and shall be considered part of the Project for all purposes hereof, including, but not limited to, any amounts due by the Company, to the County under Section 3.1 hereof.

(c) *Election to Remove.* In the event the Company elects not to terminate this Agreement pursuant to subsection (a) and elects not to rebuild pursuant to subsection (b), the damaged portions of the Project shall be treated as Removed Components.

(d). *Timing of Election.* The Company shall make the elections under this Section within two years of the date of the damage or destruction of the Project.

Section 3.8. Multi-County Industrial Park. The County agrees to use its best efforts to amend the existing multi-county industrial and business park agreement to include the Project in the Park pursuant to the terms of the MCIP Act and to extend the term of the Park through the Fee Term. The County agrees to undertake and execute those procedures, instruments, ordinances, resolutions and documents as may be reasonably required to accomplish the inclusion of the Project in a Park.

Section 3.9. Condemnation.

(a) *Complete Taking.* If at any time during the Fee Term title to or temporary use of the entire Project should become vested in a public or quasi-public authority by virtue of the exercise of a taking by condemnation, inverse condemnation or the right of eminent domain, or by voluntary transfer under threat of such taking, or in the event that title to a portion of the Project shall be taken rendering continued occupancy of the Project commercially infeasible in the judgment of the Company, the Company shall have the option to terminate this Fee Agreement as of the time of vesting of title by sending written notice to the County within a reasonable period of time following such vesting.

(b) *Partial Taking.* In the event of a partial taking of the Project or transfer in lieu thereof, the Company may elect: (i) to terminate this Fee Agreement; (ii) to repair and restore the Project, with such reductions or enlargements in the scope of the Project, changes, alterations and modifications (including the substitution and addition of other property) as may be desired by the Company; or (iii) to treat the portions of the Project so taken as Removed Components.

Section 3.10. Maintenance of Existence. The Company agrees (i) that it shall not take any action which will materially impair the maintenance of its corporate existence and (ii) that it will maintain its good standing under all applicable provisions of State law. Notwithstanding the foregoing, any changes in the Company's corporate existence that result from internal restructuring or reorganization of the Company, or its parent are specifically authorized hereunder. Likewise, benefits granted to the Company under this Fee Agreement shall, in the event of any such restructuring or reorganization, be transferred to the successor entity under the provisions of Section 3.14 hereof. Such transfers are specifically approved and authorized by the County without any further action by the County Council.

Section 3.11. Indemnification Covenants. (a) Except as provided in paragraph (b) below, the Company shall indemnify and save the County, its past, present, and future employees, elected officials, officers and agents (each, an "Indemnified Party") harmless against and from all claims by or on behalf of any person arising from the County's execution of this Agreement, performance of the County's obligations under this Agreement or the administration of its duties pursuant to this Agreement, or otherwise by virtue of the County having entered into this Agreement. If such a claim is made against any Indemnified Party, then subject to the provisions of (b) below, the Company shall defend the Indemnified Party in any action or proceeding.

(b) Notwithstanding anything herein to the contrary, the Company is not required to indemnify any Indemnified Party against any claim or liability (1) occasioned by the acts of that Indemnified Party, which are unrelated to the execution of this Agreement, performance of the County's obligations under this Agreement, or the administration of its duties under this Agreement, or otherwise by virtue of the County having entered into this Agreement; (2) resulting from that Indemnified Party's own negligence, bad faith, fraud, deceit, or willful misconduct.

(c) An Indemnified Party may not avail itself of the indemnification provided in this Section unless it provides the Company with prompt notice, reasonable under the circumstances, of the existence or threat of any claim or liability, including, without limitation, copies of any citations, orders, fines, charges, remediation requests, or other claims or threats of claims, in order to afford the Company notice, reasonable under the circumstances, within which to defend or otherwise respond to a claim.

(d) Following this notice, the Company shall resist or defend against any claim or demand, action or proceeding, at its expense, using counsel of its choice. The Company is entitled to manage and control the defense of or response to any claim, charge, lawsuit, regulatory proceeding or other action, for itself and the Indemnified Party; provided the Company is not entitled to settle any matter at the separate expense or liability of any Indemnified Party without the consent of that Indemnified Party. To the extent any Indemnified Party desires to use separate counsel for any reason, other than a conflict of interest, that Indemnified Party is responsible for its independent legal fees.

Section 3.12. Confidentiality/Limitation on Access to Project. The County acknowledges and understands that, to the extent, the Company utilizes confidential and proprietary "state-of-the-art" manufacturing equipment and techniques and that a disclosure of any confidential and proprietary "state-of-the-art" information relating to such equipment or techniques, including, but not limited to, disclosures of financial or other information concerning the Company's operations would result in substantial harm to the Company and could thereby have a significant detrimental impact on the Company's employees and also upon the County. Therefore, the County agrees that, except as required by law and pursuant to the County's police powers, 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; (ii) shall request or be entitled to inspect the Project or any property associated therewith; provided, however, that if an Event of Default shall have occurred and be continuing hereunder, the County shall be entitled to inspect the Project provided they shall comply with the remaining provisions of this Section; or (iii) shall 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. Prior to disclosing any confidential or proprietary information or allowing inspections of the Project or any property associated therewith, the Company may require the execution of reasonable, individual, confidentiality and non-disclosure agreements by any officers, employees or agents of the County or any supporting or cooperating governmental agencies who would gather, receive or review such information or conduct or review the results of any inspections.

Section 3.13. Sponsor Affiliates. The Company may designate from time to time Sponsor Affiliates pursuant to the provisions of Section 12-44-30(19) and Section 12-44-130 of the Act, which Sponsor Affiliates shall be entities which may join with the Company to make investments with respect to the Project, or which may participate in the financing of such investments, and which agree to be bound by the terms and provisions of this Fee Agreement. All Sponsor Affiliates (not designated herein) which otherwise meet the requirements of Section 12-44-30(19) and Section 12-44-130 of the Act must be approved by resolution of the County Council and must execute a Joinder Agreement, in substantially the form attached hereto as Exhibit B, by which a Sponsor Affiliate agrees to be bound by terms of this Fee Agreement.

The Company shall provide the County and the Department of Revenue with written notice of any Sponsor Affiliate designated pursuant to this Section within 90 days after the end of the calendar year during which any such Sponsor Affiliate has placed in service assets to be used in connection with the Project, all in accordance with Section 12-44-130(B) of the Act.

Section 3.14. Assignment and Subletting. This Fee Agreement may be assigned in whole or in part and the Project may be subleased as a whole or in part by the Company so long as such assignment or sublease is made with County consent, which may be granted by Resolution of the County Council. The Company shall be permitted to assign this Fee Agreement to any of its related companies, if any.

Section 3.15. Events of Default. The following are “Events of Default” under this Fee Agreement, and the term “Events of Default” means, whenever used with reference to this Fee Agreement, any one or more of the following occurrences:

(a) Failure by the Company to make, upon levy, the FILOT Payments described in Section 3.1 hereof; provided, however, that Company is entitled to all redemption rights granted by applicable statutes; or

(b) Failure by the Company to perform any of the other material terms, conditions, obligations or covenants of the Company hereunder, which failure shall continue for a period of 90 days after written notice from the County to the Company specifying such failure and requesting that it be remedied, unless the County shall agree in writing to an extension of such time prior to its expiration.

(c) Failure by the Company to continue operations at the Project.

(d) Failure by the Company to meet its Investment Commitment in the Investment Period.

(e) Failure by the Company to maintain the Investment Commitment, as determined by the original cost basis without regard to depreciation, as the investment in the Project, except if the failure to maintain the Investment Commitment is a result of a condemnation under Section 3.9(b) or is during the election period in Section 3.7(d).

Section 3.16. Remedies on Default. In addition to the remedy articulated in Section 3.1(c), whenever any Event of Default shall have occurred and shall be continuing, the County, after having given written notice to the Company of such default and after the expiration of a 30 day cure period in which the Event of Default has not been cured, shall have the option to take any one or more of the following remedial actions:

(a) Terminate the Fee Agreement; or

(b) Take whatever action at law or in equity that may appear necessary or desirable to collect the other amounts due and thereafter to become due or to enforce performance and observance of any obligation, agreement or covenant of the Company under this Fee Agreement.

Nothing in this Fee Agreement shall be construed, in any fashion, so as to diminish or abate the County’s first priority lien, pursuant to the Act and State tax law, to the extent it exists independently of this Fee Agreement, for unpaid taxes or FILOT Payments.

Section 3.17. Remedies Not Exclusive. No remedy conferred upon or reserved to the County under this Fee Agreement is intended to be exclusive of any other available remedy or remedies, but each and every remedy shall be cumulative and shall be in addition to every other lawful remedy now or hereafter

existing. No delay or omission to exercise any right or power accruing upon any continuing default hereunder shall impair any such right or power or shall be construed to be a waiver thereof, but any such right and power may be exercised from time to time and as often as may be deemed expedient. In order to entitle the County to exercise any remedy reserved to it, it shall not be necessary to give notice, other than such notice as may be herein expressly required and such notice required at law or equity which the Company is not competent to waive.

Section 3.18. Waiver of Recapitulation Requirements. As permitted under Section 12-44-55 of the Act, the Company and County hereby waive application of any of the recapitulation requirements as set forth in Section 12-44-55.

Section 3.19. Administrative Fees. The Company shall reimburse the County for all reasonable costs and fees, including but not limited to the County's legal fees and costs for retention of its Special Counsel, actually incurred by the County but exclusive of normal County overhead including costs and salaries related to administrative, staff employees and similar costs and fees, relating to the negotiation and approval of the inducement of the Project, as they shall become due, but in no event later than the date which is the earlier of any payment date expressly provided for in this Fee Agreement or the date which is 45 days after receiving written notice from the County, accompanied by such supporting documentation as may be necessary to evidence the County's right to receive such payment, specifying the nature of such expense and requesting payment of same. The fees reimbursable under this Section shall in no event exceed [\$3,500] in the aggregate.

Section 3.20. Initial Filing. At the time the Company makes the initial filing of the Fee Agreement with the South Carolina Department of Revenue, as required by section 12-44-50 of the Act, the Company shall deliver a copy of the initial filing to the County's Economic Development Director and the County's Attorney.

ARTICLE IV MISCELLANEOUS

Section 4.1. Notices. Any notice, election, demand, request or other communication to be provided under this Fee Agreement shall be effective when delivered to the party named below or when deposited with the United States Postal Service, certified mail, return receipt requested, postage prepaid, addressed as follows (or addressed to such other address as any party shall have previously furnished in writing to the other party), except where the terms hereof require receipt rather than sending of any notice, in which case such provision shall control:

AS TO THE COUNTY: Lexington County, South Carolina
 County Administrator
 Lexington County Administration Building
 212 S. Lake Drive
 Lexington, South Carolina 29072
 Telephone: (803) 785-8100
 Facsimile: (803) 785-8101

WITH A COPY TO: County Attorney
 Jeff Anderson
 Nicholson, Davis, Frawley, Anderson, & Ayer, LLC
 140 East Main Street
 Lexington, South Carolina 29072

Telephone: (803) 359-2512
Facsimile: (803) 359-7478

AS TO THE SPONSOR: Avtec, Inc.
Michael Branning, President
4335 Augusta Highway
Gilbert, South Carolina 29054
Telephone: (803) 892-2181
Facsimile: (803) 892-3715

WITH A COPY TO: Parker Poe Adams & Bernstein LLP
1201 Main Street, Suite 1450 (29201)
Post Office Box 1509
Columbia, South Carolina 29202-1509
Telephone: (803) 255-8000
Facsimile: (803) 255-8017

Section 4.2. *Binding Effect.* This Fee Agreement is binding, in accordance with its terms, upon and inure to the benefit of the Company and the County, and their respective successors and assigns. In the event of the dissolution of the County or the consolidation of any part of the County with any other political subdivision or the transfer of any rights of the County to any other such political subdivision, all of the covenants, stipulations, promises and agreements of this Fee Agreement shall bind and inure to the benefit of the successors of the County from time to time and any entity, officer, board, commission, agency or instrumentality to whom or to which any power or duty of the County has been transferred.

Section 4.3. *Counterparts.* This Fee Agreement may be executed in any number of counterparts, and all of the counterparts taken together shall be deemed to constitute one and the same instrument.

Section 4.4. *Governing Law.* This Fee Agreement and all documents executed in connection herewith shall be construed in accordance with and governed by the laws of the State.

Section 4.5. *Headings.* The headings of the articles and sections of this Fee Agreement are inserted for convenience only and shall not be deemed to constitute a part of this Fee Agreement.

Section 4.6. *Amendments.* The provisions of this Fee Agreement may only be modified or amended in writing by an agreement or agreements entered into between the parties.

Section 4.7. *Further Assurance.* From time to time the County agrees to execute and deliver to the Company such additional instruments as either may reasonably request to effectuate the purposes of this Fee Agreement.

Section 4.8. *Severability.* If any provision of this Fee Agreement is declared illegal, invalid or unenforceable for any reason, the remaining provisions hereof shall be unimpaired, and such illegal, invalid or unenforceable provision shall be reformed so as to most closely effectuate the legal, valid and enforceable intent thereof and so as to afford the Company with the maximum benefits to be derived herefrom, it being the intention of the County to offer the Company the strongest inducement possible to locate the Project in the County.

Section 4.9. *Limited Obligation.* THE PROJECT SHALL GIVE RISE TO NO PECUNIARY LIABILITY OF THE COUNTY OR ANY INCORPORATED MUNICIPALITY NOR TO ANY CHARGE AGAINST ITS GENERAL CREDIT OR TAXING POWER.

Section 4.10. *Force Majeure.* No party hereto shall be responsible for any delays or non-performance caused in whole or in part, directly or indirectly, by strikes, accidents, freight embargoes, fire, floods, inability to obtain materials, conditions arising from government orders or regulations, war, an act of terrorism or national emergency, acts of God, and any other cause, similar or dissimilar, beyond such party's reasonable control.

Section 4.11. *Execution Disclaimer.* Notwithstanding any other provision, the County is executing as statutory accommodation to assist the Company in achieving the intended benefits and purposes of the Act. The County has made no independent legal or factual investigation regarding the particulars of this transaction and it executes in reliance upon representations by the Company that this document complies with all laws and regulations, particularly those pertinent to industrial development projects in South Carolina.

IN WITNESS WHEREOF, the County, acting by and through the County Council, has caused this Fee Agreement to be executed in its name and on its behalf by the Chairman of County Council and to be attested by the Clerk to County Council; and the Company has caused this Fee Agreement to be executed by a duly authorized officer, all as of the day and year first above written.

LEXINGTON COUNTY, SOUTH CAROLINA

William B. Banning, Sr., Chair
Lexington County Council

(SEAL)
ATTEST:

Diana W. Burnett, Clerk to Council
Lexington County Council

[Signature Page to Fee in Lieu of Ad Valorem Tax Agreement dated as of [], 2012]

AVTEC, INC.

BY
ITS

[Signature Page to Fee in Lieu of Ad Valorem Tax Agreement dated as of June 14, 2012]

EXHIBIT A
PROPERTY DESCRIPTION

**EXHIBIT B
JOINDER AGREEMENT**

Reference is hereby made to that Fee Agreement effective June 14, 2012 ("Fee Agreement"), between Lexington County, South Carolina ("County"), and Avtec, Inc. ("Company").

1. Joinder to Fee Agreement.

The undersigned hereby (a) joins as a part to, and agrees to be bound by and subject to all of the terms and conditions of, the Fee Agreement; (b) acknowledges and agrees that (i) in accordance with Section 3.13 of the Fee Agreement, the undersigned has been designated as a Sponsor Affiliate by the Company for purposes of the Project and such designation has been consented to by the County pursuant to a Resolution adopted by the County on []; (ii) the undersigned qualifies or will qualify as a Sponsor Affiliate under the Fee Agreement and Section 12-44-30(A)(19) and Section 12-44-130 of the Act; and (iii) the undersigned shall have all of the rights and obligations of a Sponsor Affiliate as set forth in the Fee Agreement.

2. Capitalized Terms.

All capitalized terms used but not defined in this Joinder Agreement shall have the meanings set forth in the Fee Agreement.

3. Governing Law.

This Joinder Agreement shall be governed by and construed in accordance with the laws of the State of South Carolina, without regard to principles of choice of law.

IN WITNESS WHEREOF, the undersigned has executed this Joinder Agreement to be effective as of the date set forth below.

Date

Name of Entity

By: _____

Name: _____

Its: _____

Address: _____

IN WITNESS WHEREOF, the Company consents to the addition of the above-named entity becoming a Sponsor Affiliate under the Fee Agreement effective as of the date set forth above.

Date

AVTEC, INC.

By _____

Its: _____

COUNTY OF LEXINGTON
FINANCE DEPARTMENT

interoffice

MEMORANDUM

to: County Council

from: Adam DuBose, Manager of Grants Administration

subject: FY 12 Edward Byrne Memorial Justice Assistance Grant (JAG)

date: April 30, 2012

The FY 12 Edward Byrne Memorial Justice Assistance Grant (JAG) Program application is due to the Department of Justice on May 14th, no later than 8:00 p.m. eastern time. There is only one Council meeting between now and when the application is due.

I am requesting to have this application sent to the Justice Committee and full Council at the May 8th Council meeting.

**COUNTY OF LEXINGTON
 FY 12 JUSTICE ASSISTANCE GRANT
 Annual Budget
 FY 2012-13 Estimated Revenue**

Object Code	Revenue Account Title	Actual 2010-11	Received Thru Jun 2011-12	Budget Thru Jun 2011-12	Revenues Thru Jun 2011-12	Requested 2012-13	Recommend 2012-13	Approved 2012-13
* FY 12 Justice Assistance Grant:								
Revenues:								
457000	Federal Grant Income	0	0	0	0	39,035	39,035	
		<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>39,035</u>	<u>39,035</u>	
	***Total Appropriations				0	39,035	39,035	
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>	

**COUNTY OF LEXINGTON
 FY 12 JUSTICE ASSISTANCE GRANT
 Annual Budget
 Fiscal Year - 2012-13**

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

Object Expenditure Code	Classification	2010-11 Expenditure	2011-12 Expenditure (June)	2011-12 Amended (June)	<i>BUDGET</i>	
					2012-13 Requested	2012-13 Recommend
Personnel						
	* Total Personnel	0	0	0	0	0
Operating Expenses						
520306	Counseling Services	0	0	0	4,294	4,294
	* Total Operating	0	0	0	4,294	4,294
	** Total Personnel & Operating	0	0	0	4,294	4,294
Capital						
	** Total Capital	0	0	0	0	0
	*** Total Budget Appropriation	0	0	0	4,294	4,294

SECTION V. – PROGRAM OVERVIEW

The Edward Byrne Memorial Justice Assistance Grant (JAG) Program is the primary provider of federal criminal justice funding to state and local jurisdictions. JAG funds support all components of the criminal justice system, from multijurisdictional drug and gang task forces to crime prevention and domestic violence programs, courts, corrections, treatment, and justice information sharing initiatives. JAG-funded projects may address crimes through the provision of services directly to individuals and/or communities and by improving the effectiveness and efficiency of criminal justice systems, processes, and procedures.

The County of Lexington has been allocated \$39,035 for the FY 12 Edward Byrne Memorial Justice Assistance Grant (JAG) Program from the US Department of Justice. This funding will be split between the Sheriff's Department, Magistrate Court Service, and Sistercare.

SECTION VI. D. – CAPITAL LINE ITEM NARRATIVE

(2) EXECUTIVE DESK **\$ 2,065**

The two executive desks will be purchased for one At-Large Magistrate and one District Magistrate. Each desk can be purchased on State contract for \$964.80 each.

2 Executive Desk @ \$964.80ea = \$1,929.60 x 7% tax = \$2,064.67

(2) CREDENZAS **\$ 2,166**

The two credenzas will be purchased for one At-Large Magistrate and one District Magistrate. Each credenza can be purchased on State contract for \$912 each.

2 Credenza @ \$912ea = \$1,824 x 7% tax = \$1,951.68

2 keyboard tray @ 100.00ea = \$200 x 7% = \$214

(1) EXECUTIVE CHAIR **\$ 453**

The Magistrate Court is requesting one executive chair to be used by an At-Large Magistrate at the Summary Court Center. The chair can be purchased on State contract for \$309.98 each.

1 Executive Chairs @ \$422.50ea x 7% = \$452.08

SECTION VI. D. – CAPITAL LINE ITEM NARRATIVE

(120) DRIVER LICENSE BARCODE READERS \$ 30,057

These scanners are needed to read the barcodes on the back of driver licenses. The information obtained from the scan of the license will populate the data fields in our Records Management System for reporting purposes. This will increase the accuracy of data on file and this will reduce the time an officer spends entering this information. The total estimated cost per scanner is \$250; therefore we are estimating that we will be able to purchase 120 scanners with this allocation.

SECTION VI. C. - OPERATING LINE ITEM NARRATIVES

520306 – COUNSELING SERVICES **\$ 4,294**

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



Sistercare

PO Box 1029

Columbia, SC 29202

803 926-0505

Fax 803 794-0098

March 5, 2012

Adam DuBose
Manager of Grants Administration
County of Lexington
Finance Department
212 South Lake Drive
Lexington, SC 29072

LEXINGTON COUNTY

MAR 07 2012

FINANCE DEPT

Re: Victim's Assistance Funds

Dear Mr. DuBose,

Sistercare requests \$8,000 for FY 2012-2013 from Lexington County's Victim's Assistance funds to provide crime victims' services to battered women and their children who reside in Lexington County.

Victim's assistance revenue will be used to help provide counseling and group services for Lexington County battered women and their children during FY 2012-2013. The Lexington County battered women who participate in Sistercare's programs receive counseling and support services to help them break the cycle of domestic violence. During 2011-2012, Sistercare provided group services to 218 abused women and children living in Lexington County. In addition, Sistercare provided services like emergency shelter, court advocacy, counseling, transitional housing, and resource referrals to 2,986 battered women and their children living in Lexington County.

Our staff and board of directors greatly appreciate Lexington County's past assistance, and we hope that you will continue to support Sistercare's services for battered women and their children by facilitating our request for FY 2012-2013.

Sincerely,

Nancy Barton
Executive Director
lm



U.S. Department of Justice
Office of Justice Programs
Bureau of Justice Assistance



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

Edward Byrne Memorial Justice Assistance Grant (JAG) Program FY 2012 Local Solicitation

Eligibility

Applicants are limited to units of local government appearing on the FY 2012 JAG Allocations List. To view this list, go to www.bja.gov/programs/jag/12jagallocations.html. For JAG program purposes, a unit of local government is: a town, township, village, parish, city, county, borough, or other general purpose political subdivision of a state; or, it may also be a federally recognized Indian tribe that performs law enforcement functions (as determined by the Secretary of the Interior). Otherwise a unit of local government may be any law enforcement district or judicial enforcement district established under applicable state law with authority to independently establish a budget and impose taxes. In Louisiana, a unit of local government means a district attorney or parish sheriff. In the District of Columbia or any United States Trust Territory, a unit of local government is any agency of the District of Columbia or federal government performing law enforcement functions for the District of Columbia or Trust Territories of the United States.

Deadline

Applicants must register in [OJP's Grants Management System](#) (GMS) prior to submitting application for this funding opportunity. Select the "Apply Online" button associated with the solicitation title. (See "How To Apply," page 14.) All registrations and applications are due by 8:00 p.m. eastern time on May 14, 2012. (See "Deadlines: Registration and Application," page 4.)

Contact Information

For technical assistance with submitting the application, contact the Grants Management System Support Hotline at 1-888-549-9901, option 3, or via e-mail to GMS.HelpDesk@usdoj.gov.

Note: The [GMS](#) Support Hotline hours of operation are Monday-Friday from 6:00 a.m. to 12 midnight eastern time, except federal holidays.

For assistance with any other requirement of this solicitation, contact the BJA Justice Information Center at 1-877-927-5657, via e-mail to JIC@telesishq.com, or by [live web chat](#). The BJA Justice Information Center hours of operation are 8:30 a.m. to 5:00 p.m. eastern time, and 8:30 a.m. to 8:00 p.m. eastern time, Monday through Friday, on the solicitation close date.

Funding opportunity number assigned to announcement: BJA-2012-3256

Release date: March 28, 2012

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Edward Byrne Memorial Justice Assistance Grant (JAG) Program: Local Solicitation CFDA #16.738

Overview

The Edward Byrne Memorial Justice Assistance Grant (JAG) Program (42 U.S.C. 3751(a)) is the primary provider of federal criminal justice funding to state and local jurisdictions. JAG funds support all components of the criminal justice system, from multijurisdictional drug and gang task forces to crime prevention and domestic violence programs, courts, corrections, treatment, and justice information sharing initiatives. JAG-funded projects may address crime through the provision of services directly to individuals and/or communities and by improving the effectiveness and efficiency of criminal justice systems, processes, and procedures.

Deadlines: Registration and Application

Applicants must register in GMS prior to submitting an application for this funding opportunity. The deadline to register in GMS is 8:00 p.m. eastern time on May 14, 2012, and the deadline to apply for funding under this announcement is 8:00 p.m. eastern time on May 14, 2012. See the "How To Apply" section on page 14 for more details.

Eligibility

Refer to the cover page of this solicitation for eligibility under this program.

JAG Program—Specific Information

Formula

Once each fiscal year's overall JAG Program funding level is determined, BJA partners with the Bureau of Justice Statistics (BJS) to begin a four-step grant award calculation process which consists of:

1. Computing an initial JAG allocation for each state and territory, based on their share of violent crime and population (weighted equally).
2. Reviewing the initial JAG allocation amount to determine if the state or territory allocation is less than the minimum ("de minimus") award amount defined in the JAG legislation (0.25 percent of the total). If this is the case, the state or territory is funded at the minimum level, and the funds required for this are deducted from the overall pool of JAG funds. Each of the remaining states receives the minimum award plus an additional amount based on their share of violent crime and population.
3. Dividing each state's final award amount (except for the territories and District of Columbia) between state and local governments at a rate of 60 and 40 percent, respectively.

4. Determining local unit of government award allocations, which are based on their proportion of the state's three-year violent crime average. If a local eligible award amount is less than \$10,000, the funds are returned to the state to be awarded to these local units of government through the state agency. If the eligible award amount is \$10,000 or more, then the local government is eligible to apply for a JAG award directly from BJA.

Award Amount

Eligible award amounts under JAG are posted annually to BJA's JAG web page: www.bja.gov/ProgramDetails.aspx?Program_ID=59.

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

Purpose Areas

JAG funds may be used for state and local initiatives, technical assistance, strategic planning, research and evaluation, data collection, training, personnel, equipment, forensic laboratories, supplies, contractual support, and criminal justice information systems that will improve or enhance such areas as:

- Law enforcement programs.
- Prosecution and court programs.
- Prevention and education programs.
- Corrections and community corrections programs.
- Drug treatment and enforcement programs.
- Planning, evaluation, and technology improvement programs.
- Crime victim and witness programs (other than compensation).

JAG funds may also be used to address key statutory requirements that may not be otherwise funded, including requirements from the state and federal level, such as addressing limited English proficiency requirements and other similar mandates.

Responsibilities

The Chief Executive Officer (CEO) of an eligible unit of local government or other officer designated by the CEO must submit the application for JAG funds. A unit of local government receiving a JAG award will be responsible for the administration of the funds including: distributing the funds; monitoring the award; submitting quarterly financial status (SF-425) and performance metrics reports and annual programmatic reports; and providing ongoing oversight and assistance to any subrecipients of the funds.

Length of Awards

Awards are made in the first fiscal year of the appropriation and may be expended during the following 3 years, for a total grant period of 4 years. Extensions beyond this period may be made on a case-by-case basis at the discretion of the Director of BJA and must be requested via the Grants Management System (GMS) **no less than 30 days prior to the grant end date.**

BJA-2012-3256

Administrative Funds

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

Disparate Certification

A disparate allocation occurs when a city or municipality is allocated one-and-one-half times (150 percent) more than the county, while the county bears more than 50 percent of the costs associated with prosecution or incarceration of the municipality's Part 1 violent crimes. A disparate allocation also occurs when multiple cities or municipalities are collectively allocated four times (400 percent) more than the county, and the county bears more than 50 percent of the collective costs associated with prosecution or incarceration of each municipality's Part 1 violent crimes.

- ★ Jurisdictions certified as disparate must identify a fiscal agent that will submit a **joint application** for the aggregate eligible allocation to all disparate municipalities. The joint application must determine and specify the award distribution to each unit of local government and the purposes for which the funds will be used. When beginning the JAG application process, a Memorandum of Understanding (MOU) that identifies which jurisdiction will serve as the applicant/fiscal agent for joint funds, must be completed, and signed by the Authorized Representative for each participating jurisdiction. The signed MOU should be attached to the application. For a sample MOU, go to www.bja.gov/Funding/JAGMOU.pdf.

Governing Body Review

The applicant agency (fiscal agent in disparate situations) must make the grant application available for review by the governing body (or to the organization designated by the governing body) not fewer than 30 days before the application is submitted to BJA.

Public Comment

The applicant agency (the fiscal agent in disparate situations) must include a statement that the application was made public and that, to the extent of applicable law or established procedure, an opportunity to comment was provided to citizens and to neighborhood or community-based organizations.

Supplanting

Federal funds must be used to supplement existing funds for program activities and cannot replace or supplant nonfederal funds that have been appropriated for the same purpose. Supplanting is prohibited under JAG. See BJA's [JAG web page](#) and the updated JAG FAQs for examples of supplanting.

Trust Fund

Award recipients may draw down JAG funds in advance. To do so, a trust fund must be established in which to deposit the funds. The trust fund may or may not be an interest-bearing account. If subrecipients draw down JAG funds in advance, they also must establish a trust fund in which to deposit funds. This trust fund requirement only applies to direct JAG award recipients as well as subrecipients that are not on a reimbursement basis.

Match Requirement

While match is not required with the JAG Program, match is as an effective strategy for states and units of local government to expand justice funds and build buy-in for local criminal justice initiatives. If an applicant proposes a voluntary match amount, the match amount incorporated into the OJP-approved budget becomes mandatory and subject to audit.

Prohibited Uses

No JAG funds may be expended outside of JAG purpose areas. Even within these purpose areas, however, JAG funds cannot be used directly or indirectly for security enhancements or equipment for nongovernmental entities not engaged in criminal justice or public safety. Nor may JAG funds be used directly or indirectly to provide for any of the following matters unless BJA certifies* that extraordinary and exigent circumstances exist, making them essential to the maintenance of public safety and good order:

- **Vehicles (excluding police cruisers), vessels (excluding police boats), or aircraft (excluding police helicopters).
- Luxury items.
- Real estate.
- Construction projects (other than penal or correctional institutions).
- Any similar matters.

***For information related to requesting a waiver to use funds for any prohibited item, refer to the updated JAG FAQs on BJA's [JAG web page](#).**

****Police cruisers may include a police pursuit vehicle (PPV) or system support vehicle (SSV). Examples include sedans and sport utility vehicles (SUVs).**

Budget Information

Limitation on Use of Award Funds for Employee Compensation; Waiver

With respect to any award of more than \$250,000 made under this solicitation, federal funds may not be used to pay total cash compensation (salary plus bonuses) to any employee of the award recipient at a rate that exceeds 110 percent of the maximum annual salary payable to a member of the Federal Government's Senior Executive Service (SES) at an agency with a Certified SES Performance Appraisal System for that year. The 2012 salary table for SES employees is available at www.opm.gov/oca/12tables/indexSES.asp. Note: A recipient may compensate an employee at a higher rate, provided the amount in excess of this compensation limitation is paid with non-federal funds. (Any such additional compensation will not be considered matching funds where match requirements apply.)

The limitation on compensation rates allowable under an award may be waived on an individual basis at the discretion of the Assistant Attorney General (AAG) for OJP. An applicant requesting a waiver should include a detailed justification in the budget narrative of its application. Unless the applicant submits a waiver request and justification with the application, the applicant should anticipate that OJP will request the applicant to adjust and resubmit its budget.

The justification should include the particular qualifications and expertise of the individual, the uniqueness of the service being provided, the individual's specific knowledge of the program or project being undertaken with award funds, and a statement explaining that the individual's salary is commensurate with the regular and customary rate for an individual with his/her qualifications and expertise, and for the work to be done.

Minimization of Conference Costs

No OJP funding can be used to purchase food and/or beverages for any meeting, conference, training, or other event. Exceptions to this restriction may be made only in cases where such sustenance is not otherwise available (i.e., extremely remote areas), or where a special presentation at a conference requires a plenary address where there is no other time for sustenance to be obtained. Such an exception would require prior approval from the BJA Director. This restriction does not apply to water provided at no cost, but does apply to any and all other refreshments, regardless of the size or nature of the meeting. Additionally, this restriction does not impact direct payment of per diem amounts to individuals in a travel status under your organization's travel policy.

Updated Department of Justice and OJP guidance on conference planning, minimization of costs, and conference cost reporting will be forthcoming and will be accessible on the OJP web site at www.ojp.usdoj.gov/funding/funding.htm.

Costs Associated with Language Assistance (if applicable)

If an applicant proposes a program or activity that would deliver services or benefits to individuals, the costs of taking reasonable steps to provide meaningful access to those services or benefits by individuals with limited English proficiency may be allowable costs. Reasonable steps to provide meaningful access to services or benefits may include interpretation or translation services where appropriate.

For additional information, see the "Civil Rights Compliance" section of the OJP "Other Requirements for OJP Applications" web page (www.ojp.usdoj.gov/funding/other_requirements.htm).

Updated Requirements

Bulletproof Vest Certification

Bulletproof vests can be funded through two BJA-administered programs: the JAG Program and the Bulletproof Vest Partnership (BVP) Program.

- BVP is a program designed to provide a critical resource to state and local law enforcement through the purchase of ballistic-resistant and stab-resistant body armor. A jurisdiction is able to request up to 50 percent of the cost of a vest with BVP funds. For more information on the BVP Program, including eligibility and application, refer to the [BVP web page](#).

- JAG funds may also be used to purchase vests for an agency, but they may not be used to pay for that portion of the bulletproof vest (50 percent) that is not covered by BVP funds. Unlike BVP, JAG funds used to purchase vests do not require a 50 percent match.
- Bulletproof vests purchased with JAG funds may be purchased at any threat level, make, or model from any distributor or manufacturer, as long as the vests have been tested and found to comply with applicable National Institute of Justice ballistic or stab standards. In addition, bulletproof vests purchased must be American-made. The latest NIJ standard information can be found at: www.nij.gov/topics/technology/body-armor/safety-initiative.htm.
- As is the case in BVP, grantees that wish to purchase vests with JAG funds **must certify** that law enforcement agencies receiving vests have a written "mandatory wear" policy in effect. FAQs related to the mandatory wear policy and certifications can be found at www.bja.gov/Funding/JAGFAQ.pdf. This policy must be in place for at least all uniformed officers before any FY 2012 funding can be used by the agency for vests. There are no requirements regarding the nature of the policy other than it being a mandatory wear policy for all uniformed officers while on duty. A *mandatory wear concept and issues paper* and a *model policy* are available by contacting the BVP Customer Support Center at vests@usdoj.gov or toll free at 1-877-758-3787.
- A copy of the certification related to the mandatory wear can be found at: www.bja.gov/Funding/12JAGBVPCert.pdf.

Interoperable Communications Guidance

- Grantees (including subgrantees) that are using FY 2012 JAG Program funds to support emergency communications activities must comply with the *FY 2012 SAFECOM Guidance for Emergency Communication Grants*, including provisions on technical standards that ensure and enhance interoperable communications. Emergency communications activities include the purchase of Interoperable Communications Equipment and technologies such as voice-over-internet protocol bridging or gateway devices, or equipment to support the build out of wireless broadband networks in the 700 MHz public safety band under the Federal Communications Commission (FCC) Waiver Order. SAFECOM guidance can be found at www.safecomprogram.gov.
- Grantees interested in developing a public safety broadband network in the 700 MHz band in their jurisdictions must adhere to the technical standards set forth in the FCC Waiver Order, or any succeeding FCC orders, rules, or regulations pertaining to broadband operations in the 700 MHz public safety band. The recipient shall also ensure projects support the Statewide Communication Interoperability Plan (SCIP) and are fully coordinated with the full-time Statewide Interoperability Coordinator (SWIC) in the state of the project. As the central coordination point for their state's interoperability effort, the SWIC plays a critical role, and can serve as a valuable resource. SWICs are responsible for the implementation of the SCIP through coordination and collaboration with the emergency response community. The U.S. Department of Homeland Security Office of Emergency Communications maintains a list of SWICs for each of the 56 states and territories. Contact OEC@hq.dhs.gov if you are not familiar with your state or territory's SWIC. If any future regulatory requirement (from the FCC or other governmental entity) results in a material technical or financial change in the project, the recipient should submit associated documentation, and other material, as applicable, for review by the SWIC to ensure

coordination. Grantees (and sub-grantees) must provide a listing of all communications equipment purchased with grant award funding (plus the quantity purchased of each item) to their assigned BJA State Policy Advisor once items are procured during any periodic programmatic progress reports.

DNA Testing of Evidentiary Materials and Upload of DNA Profiles to a Database

If JAG program funds will be used for DNA testing of evidentiary materials, any resulting eligible DNA profiles must be uploaded to the Combined DNA Index System (CODIS), by a government DNA lab with access to CODIS. No profiles generated with JAG funding may be entered into any other non-governmental DNA database without prior express written approval from BJA. For more information, refer to the NIJ FY 2012 DNA Backlog Reduction Program, available at ncjrs.gov/pdffiles1/nij/sl000989.pdf

Reporting Requirements

Once an award is accepted, award recipients must submit quarterly financial status (SF-425) and annual programmatic reports through [GMS](#), quarterly performance metrics reports (see Performance Measures section below) through BJA's Performance Measurement Tool ([PMT](#)), and Federal Funding Accountability and Transparency Act (FFATA) reports through the FFATA Sub-award Reporting System ([FSRS](#)) as necessary (see FFATA section below).

Performance Measures

To assist in fulfilling the Department's responsibilities under the Government Performance and Results Act of 1993 (GPRA), P.L. 103-62, and the GPRA Modernization Act of 2010, Public Law 111-352, applicants who receive funding under this solicitation must provide data that measures the results of their work. Quarterly performance metrics reports must be submitted through BJA's Performance Measurement Tool (PMT) web site: www.bjaperformancetools.org. The performance measure can be found at: www.bjaperformancetools.org/help/ARRAJAGandJAGCombinedIndicatorGrid.pdf.

All JAG recipients should be aware that BJA is currently making changes to the JAG performance reporting processes, including measures. While state administering agencies are playing a role in the process, recipients are advised that the reporting requirements noted above may be subject to modification through this process.

Submission of performance measures data is not required for the application. Instead, applicants should discuss in their application their proposed methods for collecting data for performance measures. Refer to the section "What an Application Should Include" on page 16 for additional information.

Note on Project Evaluations

Applicants that propose to use funds awarded through this solicitation to conduct project evaluations should be aware that certain project evaluations (such as systematic investigations designed to develop or contribute to generalizable knowledge) may constitute "research" for purposes of applicable DOJ human subjects protection regulations. However, project evaluations that are intended only to generate internal improvements to a program or service, or are conducted only to meet OJP's performance measure data reporting requirements likely do

not constitute “research.” Applicants should provide sufficient information for OJP to determine whether the particular project they propose would either intentionally or unintentionally collect and/or use information in such a way that it meets the DOJ regulatory definition of research.

Research, for the purposes of human subjects protections for OJP-funded programs, is defined as, “a systematic investigation, including research development, testing, and evaluation, designed to develop or contribute to generalizable knowledge.” 28 C.F.R. § 46.102(d). For additional information on determining whether a proposed activity would constitute research, see the decision tree to assist applicants on the “Research and the Protection of Human Subjects” section of the OJP Other Requirements for OJP Applications” web page (www.ojp.usdoj.gov/funding/other_requirements.htm). Applicants whose proposals may involve a research or statistical component also should review the “Confidentiality” section on that web page.

Notice of Post-Award FFATA Reporting Requirement

Applicants should anticipate that OJP will require all recipients (other than individuals) of awards of \$25,000 or more under this solicitation, consistent with the Federal Funding Accountability and Transparency Act of 2006 (FFATA), to report award information on any first-tier subawards totaling \$25,000 or more, and, in certain cases, to report information on the names and total compensation of the five most highly compensated executives of the recipient and first-tier subrecipients. Each applicant entity must ensure that it has the necessary processes and systems in place to comply with the reporting requirements should it receive funding. Reports regarding subawards will be made through the FFATA Subaward Reporting System (FSRS), found at www.fsrs.gov.

Note also that applicants should anticipate that no subaward of an award made under this solicitation may be made to a subrecipient (other than an individual) unless the potential subrecipient acquires and provides a Data Universal Numbering System (DUNS) number.

Priorities

BJA recognizes that the downturn in the economy has resulted in significant pressures on state and local criminal justice systems. In these challenging times, shared priorities and leveraged resources can make a significant impact. In light of this, it is important to make SAAs and local JAG recipients aware of several areas of priority that may be of help in maximizing the effectiveness of JAG funding at the state and local level.

As an overall framework for success, we encourage both state and local comprehensive justice planning, bringing all of the system stakeholders together—including law enforcement, courts, prosecutors, defenders, corrections officials, and other stakeholders (including victims and victim advocates)—to create a comprehensive and strategic justice plan to ensure coordination and a more effective justice system.

In addition to our longstanding and unwavering commitment to keeping violent crime at its lowest level in decades, the following priorities represent key areas where we will be focusing nationally and invite each state and local JAG recipient to join us in addressing these challenges as a part of our JAG partnership.

Funding Evidence-Based Programs

BJA strongly encourages state and local planners to fund programs that are evidence-based and have been proven effective. In the current difficult budgetary climate, it is more critical than ever that JAG dollars are spent on programs with proven effectiveness.

Questions often arise about what is meant by evidence-based programs. OJP considers programs and practices to be evidence-based when their effectiveness has been demonstrated by causal evidence (generally obtained through one or more outcome evaluations). Causal evidence documents a relationship between an activity or intervention (including technology) and its intended outcome, including measuring the direction and size of a change, and the extent to which a change may be attributed to the activity or intervention. Causal evidence depends on the use of scientific methods to rule out, to the extent possible, alternative explanations for the documented change. The strength of causal evidence, based on the factors described above, will influence the degree to which OJP considers a program or practice to be evidence-based.

In 2011, OJP made an excellent online tool available to criminal justice practitioners and policy makers to identify evidence based programs that are effective or promising. CrimeSolutions.gov is the OJP online resource about what works in criminal justice, juvenile justice, and crime victim services. Using certified expert reviewers, CrimeSolutions.gov provides detailed information and evidence ratings of programs that may fall within the JAG purpose areas. Launched in June 2011, CrimeSolutions.gov features multiple, user-friendly search options; easy to read program profiles and evaluation summaries from over three decades of research; and recognizable evidence ratings by certified reviewers with research and subject area expertise . CrimeSolutions.gov is intended to increase the use of evidence-based programs in criminal justice, juvenile justice and victim services settings; inform practitioners and policy makers about what works using the best available evidence; and help state and local jurisdictions address crime effectively and efficiently. BJA urges SAAs and local jurisdictions to use information available in CrimeSolutions.gov in making funding decisions.

Criminal Justice Planning

Jurisdictions are strongly encouraged to use JAG funding to support their existing strategic plan. If such a plan does not now exist, jurisdictions are encouraged to develop and undertake a strategic planning process, using a community engagement model, in order to guide spending under this and future fiscal year allocations. Training and technical assistance (TTA) is available from BJA's TTA providers to assist localities with the development of their strategic planning process and their plan to fund evidence-based projects. To ensure that the impact of Byrne JAG funding decisions is considered across the entire criminal justice system, we are redoubling our efforts to encourage state and local jurisdictions to bring all system stakeholders together in the strategic planning process. Our recommended guidelines are that at a minimum, the strategic planning process includes law enforcement, courts, prosecutors, indigent defense providers, victim advocates, and corrections and community corrections officials. BJA will continue to provide valuable technical assistance in 2012 through the National Criminal Justice Association (NCJA) for comprehensive criminal justice planning that includes bringing all criminal justice stakeholders to the table to develop innovative strategies to improve the fair administration of justice. For more information, see the [National Center for Justice Planning web site](http://NationalCenterforJusticePlanning.org).

Recidivism Reduction and Community Corrections

In this time of fiscal austerity and smaller state and local budgets, reducing the overall costs of incarceration in a manner that promotes public safety is a paramount goal. Effective community supervision coupled with evidence-based program interventions can result in significant reductions in recidivism. A priority funding area is the implementation of effective pre-trial services programs and innovative programs and approaches in probation and parole supervision that improve services to offenders and increase collaborative efforts among community supervision agencies with law enforcement and the courts. This includes development and implementation of strategies for the identification, supervision, and treatment of medium- to high-risk offenders that demonstrate the integration, use, and efficacy of evidenced-based practices and principles in the improvement of the delivery of probation and/or parole supervision strategies and practices.

Indigent Defense

Another key priority area is ensuring that justice is truly done in the criminal justice system is support for indigent defense. BJA continues to encourage states and SAAs to use JAG funds to support the vital needs of the indigent defense community. Attorney General Holder has consistently stressed that the crisis in indigent defense reform is a serious concern which must be addressed if true justice is to be achieved in our nation. In 2002, the American Bar Association (ABA) published Ten Principles of a Public Defense Delivery System which represent fundamental building blocks for implementing quality legal representation for indigent defendants. (See [ABA Ten Principles](#).)

Evidence-Based “Smart Policing” Programs

As a result of the current fiscal crisis, many police departments are experiencing unprecedented budget cuts, layoffs and reductions in force. These challenges must be met by making wider use of advancements in the law enforcement field in the last several decades which rely on use of data, crime analysis, crime mapping and other analytic tools, cutting edge technology, and research and evaluations regarding effective policing strategies and programs. A useful matrix of evidence-based policing programs and strategies is available through the [Center for Evidence-Based Policy](#) at George Mason University and provides valuable information on policing strategies and programs that work. BJA encourages states to use JAG funds to support these “smart policing” strategies, including a focus on real time crime analysis centers (CACs), and effective partnerships with universities and research partners and with non-traditional criminal justice partners. Counterterrorism continues to be the number one priority for the Department of Justice. At the state and local level, high functioning, evidence-based, data driven public safety agencies are a critical component of our nation’s “all crimes” strategy. In addition, the JAG Program has long supported effective and collaborative multi-jurisdictional task forces and justice information sharing programs, which continue as a priority in order to maintain our nation’s historic reductions in violent crime.

Officer Safety and Wellness

Law enforcement safety and wellness issues are an important priority for the Department of Justice, have become highly visible as recent trends have shown an increase in law enforcement deaths. According to the National Law Enforcement Officers Memorial Fund, 2011 showed a 16 percent increase in law enforcement fatalities with a 20 percent increase in

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firearms-related fatalities. The Department of Justice is taking a holistic approach to addressing officer safety and wellness by providing training and technical assistance to state and local law enforcement, as well as studying law enforcement injuries. BJA encourages states and local jurisdictions to use JAG funds to support this priority area by providing training—such as paying for tuition and travel expenses related to attending trainings like the VALOR training—as well as providing start-up funding for health and wellness programs to law enforcement agencies.

How To Apply

Applications are submitted through OJP's Grants Management System ([GMS](#)). [GMS](#) is a web-based, data-driven computer application that provides cradle to grave support for the application, award, and management of awards at OJP. Applicants must register in GMS for each specific funding opportunity and should begin the process immediately to meet the GMS registration deadline, especially if this is the first time using the system. Complete instructions on how to register and submit an application in GMS can be found at www.ojp.usdoj.gov/gmscbt/. If the applicant experiences technical difficulties at any point during this process, e-mail GMS.HelpDesk@usdoj.gov or call 888-549-9901 (option 3), Monday–Friday from 6:00 a.m. to midnight eastern time, except federal holidays. OJP highly recommends that applicants start the registration process as early as possible to prevent delays in submitting an application package by the specified application deadline.

All applicants should complete the following steps:

1. **Acquire a Data Universal Numbering System (DUNS) number.** In general, the Office of Management and Budget requires that all applicants (other than individuals) for federal funds include a DUNS number in their application for a new award or renewal of an existing award. A DUNS number is a unique nine-digit sequence recognized as the universal standard for identifying and keeping track of entities receiving federal funds. The identifier is used for tracking purposes and to validate address and point of contact information for federal assistance applicants, recipients, and subrecipients. The DUNS number will be used throughout the grant life cycle. Obtaining a DUNS number is a free, one-time activity. Obtain a DUNS number by calling Dun and Bradstreet at 866-705-5711 or by applying online at www.dnb.com. A DUNS number is usually received within 1-2 business days.
2. **Acquire or renew registration with the Central Contractor Registration (CCR) database.** OJP requires that all applicants (other than individuals) for federal financial assistance maintain current registrations in the CCR database. The CCR database is the repository for standard information about federal financial assistance applicants, recipients, and subrecipients. Organizations that have previously submitted applications via Grants.gov are already registered with CCR, as it is a requirement for Grants.gov registration. Note, however, that applicants must **update or renew their CCR registration annually** to maintain an active status. Information about CCR registration procedures can be accessed at www.ccr.gov.
3. **Acquire a GMS username and password.** A new user must create a GMS profile by selecting the “First Time User” link under the sign-in box of the [GMS](#) home page. For more information on how to register in GMS, go to www.ojp.usdoj.gov/gmscbt/.

4. **Verify the CCR registration in GMS.** OJP requests that all applicants verify their CCR registration in GMS. Once logged into GMS, click the “CCR Claim” link on the left side of the default screen. Click the submit button to verify the CCR registration.
5. **Search for the funding opportunity on GMS.** After logging into GMS or completing the GMS profile for username and password, go to the “Funding Opportunities” link on the left side of the page. Select the Bureau of Justice Assistance and the Edward Byrne Memorial Justice Assistance Grant (JAG) Program—Local Solicitation.
6. **Register by selecting the “Apply Online” button associated with the solicitation title.** The search results from step 5 will display the solicitation title along with the registration and application deadlines for this funding opportunity. Select the “Apply Online” button in the “Action” column to register for this solicitation and create an application in the system.
7. **Complete the Disclosure of Lobbying Activities.** All applicants must complete this information and submit the form in GMS. An applicant that expends any funds for lobbying activities must provide the detailed information requested on the form, *Disclosure of Lobbying Activities*, (SF-LLL). An applicant that does not expend any funds for lobbying activities should enter “N/A” in the required highlighted fields. Access the form at www.ojp.gov/funding/forms/disclosure.pdf.
8. **Submit an application consistent with this solicitation by following the directions in GMS.** Once submitted, GMS will display a confirmation screen stating the submission was successful. **Important:** In some instances, an applicant must wait for GMS approval before submitting an application. Applicants are urged to submit the application **at least 72 hours prior** to the due date of the application.

Note: OJP’s Grants Management System (GMS) does not accept executable file types as application attachments. These disallowed file types include, but are not limited to, the following extensions: “.com,” “.bat,” “.exe,” “.vbs,” “.cfg,” “.dat,” “.db,” “.dbf,” “.dll,” “.ini,” “.log,” “.ora,” “.sys,” and “.zip.”

Note: Duplicate Applications

If an applicant submits multiple versions of an application, BJA will review the most recent version submitted.

Experiencing Unforeseen GMS Technical Issues

If an applicant experiences unforeseen GMS technical issues beyond the applicant's control that prevent submission of its application by the deadline, the applicant must contact the BJA Programs Office staff **within 24 hours after the deadline** and request approval to submit the application. At that time, BJA Programs Office staff will instruct the applicant to submit specific information detailing the technical difficulties. The applicant must e-mail: a description of the technical difficulties, a timeline of submission efforts, the complete grant application, the applicant DUNS number, and GMS Help Desk tracking number(s) received. **Note: Requests are not automatically approved by BJA.** After the program office reviews all of the information submitted, and contacts the GMS Help Desk to validate the technical issues reported, OJP will contact the applicant to either approve or deny the request to submit a late application. If the technical issues reported cannot be validated, the application will be rejected as untimely.

The following conditions are not valid reasons to permit late submissions: (1) failure to begin the registration process in sufficient time, (2) failure to follow GMS instructions on how to register and apply as posted on its Web site, (3) failure to follow all of the instructions in the OJP solicitation, and (4) technical issues experienced with the applicant's computer or information technology (IT) environment, including firewalls.

Notifications regarding known technical problems with GMS, if any, are posted at the top of the OJP funding web page, www.ojp.usdoj.gov/funding/solicitations.htm.

What an Application Should Include

Applicants should anticipate that failure to submit an application that contains all of the specified elements may negatively affect the review of the application and, should a decision be made to make an award, will result in the inclusion of special conditions that preclude access to or use of award funds pending satisfaction of the conditions.

Refer to the BJA Grant Writing and Management Academy and OJP 101 for an overview of what should be included in each application requirement. These trainings can be found at bja.ncjrs.gov/gwma/index.html and www.ojp.gov/grants101/.

OJP strongly recommends use of appropriately descriptive file names (e.g., "Program Narrative," "Budget and Budget Narrative," "Memoranda of Understanding," etc.) for all required attachments.

1. Information to Complete the Application for Federal Assistance (SF-424)

The SF-424 is a standard form required for use as a cover sheet for submission of pre-applications, applications, and related information. Grants.gov and GMS take information from the applicant's profile to populate the fields on this form.

2. Program Narrative

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

Failure to submit this required information will result in an application being returned in the Grants Management System (GMS) for inclusion of the missing information OR the attachment of a withholding of funds special condition at the time of award.

3. Budget and Budget Narrative

Applicants **must** submit a budget and budget narrative outlining how JAG funds, including administrative funds if applicable, will be used to support and implement the program. This narrative should include a full breakdown of administrative costs, as well as an overview of how funds will be allocated across approved JAG purpose areas. Applicants should utilize the following approved budget categories to label the requested expenditures: Personnel, Fringe Benefits, Travel, Equipment, Supplies, Consultants/Contracts, and an Other

category. For informational purposes only, a sample budget form may be found at www.ojp.usdoj.gov/funding/forms/budget_detail.pdf.

Failure to submit this required information will result in an application being returned in the Grants Management System (GMS) for inclusion of the missing information OR the attachment of a withholding of funds special condition at the time of award.

4. Review Narrative

Applicants **must** submit information documenting that the date the JAG application was made available for review to the governing body, or to an organization designated by that governing body, on a date not less than 30 days before the application was submitted to BJA. The attachment must also specify that an opportunity to comment was provided to citizens to the extent applicable law or established procedures make such opportunity available.

Failure to submit this required information will result in an application being returned in the Grants Management System (GMS) for inclusion of the missing information OR the attachment of a withholding of funds special condition at the time of award.

5. Abstract

Applicants **must** provide an abstract that includes the applicant's name, title of the project, goals of the project, and a description of the strategies to be used. In addition, above or below the abstract narrative, applicants **must identify up to five project identifiers** that would be associated with proposed project activities. The list of all identifiers can be found at www.bja.gov/programs/jag/jag12/12JAGIdentifiers.pdf. The abstract **should not** exceed a half-page, or 400-500 words.

Failure to submit this required information will result in an application being returned in the Grants Management System (GMS) for inclusion of the missing information OR the attachment of a withholding of funds special condition at the time of award.

6. Tribal Authorizing Resolution (if applicable)

If an application is being submitted by either (1) a tribe or tribal organization or (2) a third party proposing to provide direct services or assistance to residents on tribal lands, then a current authorizing resolution of the governing body of the tribal entity or other enactment of the tribal council or comparable governing body authorizing the inclusion of the tribe or tribal organization and its membership should be included with the application. In those instances when an organization or consortium of tribes proposes to apply for a grant on behalf of a tribe or multiple specific tribes, then the application should include a resolution (or comparable legal documentation, as may be applicable) from all tribes that will be included as a part of the services/assistance provided under the grant. A consortium of tribes for which existing consortium bylaws allow action without support from all tribes in the consortium (i.e., without authorizing resolution or other enactment of each tribal governing body) may submit a copy of its consortium bylaws with the application in lieu of tribal resolutions (or comparable legal documentation).

If an applicant is unable to obtain and submit with its application a fully-executed (i.e., signed) copy of a tribal resolution or other, comparable legal documentation as may be consistent with the tribe's governance structure, then, at minimum, the applicant should submit an unsigned, draft version of such legal documentation as part of its application

(except in cases where, with respect to a tribal consortium applicant, consortium bylaws allow action without the support of all consortium member tribes). If selected for funding, use of and access to funds will be contingent on receipt of the fully-executed tribal resolution or other, comparable legal documentation.

7. Additional Attachments (if applicable)

Jurisdictions certified as disparate **must** identify a fiscal agent that will submit a **joint application** for the aggregate eligible allocation to all disparate municipalities. The joint application **must** determine and specify the award distribution to each unit of local government and the purposes for which the funds will be used. When beginning the JAG application process, a Memorandum of Understanding (MOU) that identifies which jurisdiction will serve as the applicant/fiscal agent for joint funds, **must** be completed, and signed by the Authorized Representative for each participating jurisdiction. The signed MOU **must** be attached to the application. For a sample MOU, go to www.bja.gov/Funding/JAGMOU.pdf.

Failure to submit this required information will result in an application being change requested in the Grants Management System (GMS) for inclusion of the missing information OR the attachment of a withholding special condition at the time of award if time does not permit for a change request process.

8. Other Standard Forms

Additional forms that may be required in connection with an award are available on OJP's funding page at www.ojp.usdoj.gov/funding/forms.htm. For successful applicants, receipt of funds may be contingent upon submission of all necessary forms. Note in particular the following forms:

- a. [Standard Assurances](#)
Applicants must read, certify, and submit this form in GMS prior to the receipt of any award funds.
- b. [Certifications Regarding Lobbying; Debarment, Suspension and Other Responsibility Matters; and Drug-Free Workplace Requirements](#)
Applicants must read, certify and submit in GMS prior to the receipt of any award funds.
- c. [Accounting System and Financial Capability Questionnaire](#) (required for any applicant other than an individual that is a non-governmental entity and that has not received any award from OJP within the past 3 years; this form must be downloaded, completed, and submitted)

Review Process

OJP is committed to ensuring a fair and open process for awarding grants. BJA reviews the application to make sure that the information presented is reasonable, understandable, measurable, and achievable, as well as consistent with the solicitation. Applications for formula awards will be reviewed to ensure statutory requirements have been met.

Absent explicit statutory authorization or written delegation of authority to the contrary, all final grant award decisions will be made by the Assistant Attorney General (AAG).

Additional Requirements

Applicants selected for awards must agree to comply with additional legal requirements upon acceptance of an award. OJP strongly encourages applicants to review the information pertaining to these additional requirements prior to submitting your application. Additional information for each requirement can be found at www.ojp.usdoj.gov/funding/other_requirements.htm.

- Civil Rights Compliance
- Faith-Based and Other Community Organizations
- Confidentiality
- Research and the Protection of Human Subjects
- Anti-Lobbying Act
- Financial and Government Audit Requirements
- National Environmental Policy Act (NEPA)
- DOJ Information Technology Standards (if applicable)
- Single Point of Contact Review
- Nonsupplanting of State or Local Funds
- Criminal Penalty for False Statements
- Compliance with [Office of Justice Programs Financial Guide](#)
- Suspension or Termination of Funding
- Nonprofit Organizations
- For-Profit Organizations
- Government Performance and Results Act (GPRA)
- Rights in Intellectual Property
- Federal Funding Accountability and Transparency Act (FFATA) of 2006
- Awards in excess of \$5,000,000 – federal taxes certification requirement
- Active CCR Registration

Provide Feedback to OJP on This Solicitation

To assist OJP in improving its application and award processes, we encourage applicants to provide feedback on this solicitation, application submission process, and/or the application review/peer review process. Feedback can be provided to OJPSolicitationFeedback@usdoj.gov.

Application Checklist
FY 2012 Edward Byrne Memorial Justice Assistance Grant (JAG) Program:
Local Solicitation

The application checklist has been created to assist in developing an application.

Eligibility Requirement:

- _____ The jurisdiction listed as the legal name on the application corresponds with the eligible jurisdiction listed on BJA's JAG web page
- _____ The federal amount requested is within the allowable limit of the FY 2012 JAG Allocations List as listed on BJA's JAG web page

What an Applications Should Include:

- _____ Standard 424 Form (see page 16)
- _____ Program Narrative (see page 16)
- _____ Budget and Budget Narrative (see page 16)
- _____ Review Narrative (the date the JAG application was made available to the governing body for review and that it was provided to the public for comment) (see page 17)
- _____ Abstract (see page 17)
- _____ Tribal Authorizing Resolution (if applicable) (see page 17)
- _____ Disclosure of Lobbying Activities (SF-LLL) (see page 15)
- _____ Additional Attachments (if applicable) (see page 18);
- _____ Other Standard Forms as applicable (see page 18), including:
 - _____ Accounting System and Financial Capability Questionnaire (if applicable)
- _____ DUNS Number (see page 14)
- _____ CCR Registration (see page 14)

2012 SOUTH CAROLINA JAG ALLOCATIONS

Listed below are all jurisdictions in the state that are eligible for FY 2012 JAG funding, as determined by the JAG formula. If your jurisdiction is listed with another city or county government in a shaded area, you are in a funding disparity. In this case, the units of local government must develop a Memorandum of Understanding (MOU) and apply for an award with a single, joint application.

Finding your jurisdiction:(1) Disparate jurisdictions are listed in shaded groups below, in alphabetic order by county.(2) Eligible individual allocations are listed alphabetically below the shaded, disparate groupings.

Counties that have an asterisk (*) under the "Eligible Individual Allocation" column did not submit the level of violent crime data to qualify for a direct award from BJA, but are in the disparate grouping indicated by the shaded area. The JAG legislation requires these counties to remain a partner with the local jurisdictions receiving funds and must be a signatory on the required Memorandum of Understanding (MOU). A sample MOU is provided online at:

<https://www.bja.gov/Funding/JAGMOU.pdf>. Disparate jurisdictions do not need to abide by the listed individual allocations, which are provided for information only. Jurisdictions in a funding disparity are responsible for determining individual amounts within the Eligible Joint Allocation and for documenting individual allocations in the MOU. For additional details regarding the JAG formula and award calculation process, with examples, please refer to the updated JAG Technical report: <https://www.bja.gov/Publications/JAGTechRpt.pdf>.

For JAG Frequently Asked Questions, please refer to BJA's JAG webpage:

<https://www.bja.gov/Funding/JAGFAQ.pdf>.

State	Jurisdiction Name	Government Type	Eligible Individual Allocation	Eligible Joint Allocation
SC	CHARLESTON COUNTY	County	\$50,289	
SC	NORTH CHARLESTON CITY	Municipal	\$79,491	\$129,780
SC	SUMTER COUNTY	County	\$21,160	
SC	SUMTER CITY	Municipal	\$37,637	\$58,797
SC	AIKEN COUNTY	County	\$31,850	
SC	ANDERSON CITY	Municipal	\$14,834	
SC	ANDERSON COUNTY	County	\$64,289	
SC	BEAUFORT CITY	Municipal	\$10,739	
SC	BEAUFORT COUNTY	County	\$52,520	
SC	BENNETTSVILLE CITY	Municipal	\$10,445	
SC	BERKELEY COUNTY	County	\$43,963	
SC	CHARLESTON CITY	Municipal	\$44,723	
SC	CHESTER COUNTY	County	\$14,908	
SC	CHESTERFIELD COUNTY	County	\$11,303	
SC	CLARENDON COUNTY	County	\$12,627	
SC	COLLETON COUNTY	County	\$17,727	
SC	COLUMBIA CITY	Municipal	\$91,457	
SC	CONWAY CITY	Municipal	\$13,437	
SC	DARLINGTON COUNTY	County	\$25,819	
SC	DILLON CITY	Municipal	\$10,911	
SC	DILLON COUNTY	County	\$21,430	
SC	DORCHESTER COUNTY	County	\$30,281	
SC	FAIRFIELD COUNTY	County	\$13,363	
SC	FLORENCE CITY	Municipal	\$30,796	

SC	FLORENCE COUNTY	County	\$30,257
SC	GEORGETOWN COUNTY	County	\$18,904
SC	GREENVILLE CITY	Municipal	\$41,879
SC	GREENVILLE COUNTY	County	\$147,140
SC	GREENWOOD CITY	Municipal	\$25,181
SC	GREENWOOD COUNTY	County	\$22,460
SC	HARTSVILLE CITY	Municipal	\$12,014
SC	HORRY COUNTY	County	\$77,824
SC	KERSHAW COUNTY	County	\$16,305
SC	LANCASTER CITY	Municipal	\$12,897
SC	LANCASTER COUNTY	County	\$18,291
SC	LAURENS COUNTY	County	\$22,337
SC	LEXINGTON COUNTY	County	\$39,035
SC	MARLBORO COUNTY	County	\$12,137
SC	MOUNT PLEASANT TOWN	Municipal	\$12,480
SC	MYRTLE BEACH CITY	Municipal	\$34,229
SC	OCONEE COUNTY	County	\$21,479
SC	ORANGEBURG COUNTY	County	\$32,267
SC	PICKENS COUNTY	County	\$18,953
SC	RICHLAND COUNTY	County	\$177,862
SC	ROCK HILL CITY	Municipal	\$48,940
SC	SPARTANBURG CITY	Municipal	\$54,359
SC	SPARTANBURG COUNTY	County	\$58,993
SC	SUMMERVILLE TOWN	Municipal	\$11,058
SC	WEST COLUMBIA CITY	Municipal	\$12,750
SC	WILLIAMSBURG COUNTY	County	\$11,328
SC	YORK COUNTY	County	\$35,725

Local total		\$1,783,083
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ORDINANCE 12-06
AN ORDINANCE ADOPTING AN ANNUAL BUDGET FOR
FISCAL YEAR 2012-2013

WHEREAS, South Carolina Code § 4-9-120 and § 4-9-130 require that County Council shall adopt an annual budget; and

WHEREAS, the annual budget shall be based upon estimated revenues and shall provide appropriations for County operations and debt service for all County departments and agencies.

NOW, THEREFORE, be it ordained and enacted by the Lexington County Council as follows:

SECTION 1 - GENERAL

The fiscal year 2012-2013 County budget for Lexington County, South Carolina, a copy of which is attached hereto and incorporated herein by way of reference, is hereby adopted.

SECTION 2 – COUNTY-WIDE TAX LEVY

There shall be levied, for County operations and for County designated millage agencies (Midlands Technical College and Riverbanks Park) on all taxable property in Lexington County, sufficient taxes to fund the referenced budget in the number of mills allowed in Code Section 6-1-320.

County Ordinary	22.743
Law Enforcement	30.379
Fire Service	15.986
Library	6.211
Solid Waste	7.889
Indigent Care	0.887
Total County Operating Millage	84.095
Midlands Technical College	2.970
Midlands Tech – Capital	1.404
Riverbanks Park	1.093
Mental Health	0.508

SECTION 3 - DEBT SERVICE TAX LEVY

The County Auditor is hereby authorized and directed to levy millages for all county and special district debt service funds in amounts sufficient to retire their respective debts.

SECTION 4 – SPECIAL PURPOSE DISTRICT TAX LEVY

There shall be levied, for the special purpose districts (Lexington County Recreation and Aging Commission, Irmo-Chapin Recreation Commission, and Irmo Fire District) on all taxable property in their respective districts, sufficient taxes to fund their respective budgets in the number of mills, allowed in Code Section 6-1-320.

Lexington Recreation Commission	12.315
Irmo-Chapin Recreation Commission	13.354
Irmo-Fire District	15.986

SECTION 5 - BUDGETARY ESTIMATES

Anticipated revenues are stated as estimates and the respective appropriations are maximum and conditional. Should actual funding sources for any such fund be less than projected, the Administrator shall reduce budgeted expenditures attributable to said fund.

SECTION 6 - BUDGETARY CONTROL

Departments and/or other organizational units are bound to the appropriated expenditures incorporated herein. Upon the written request of the department head, the County Administrator, or his designated representative, is hereby authorized to effect transfers between line items.

Any departments which overspend their spending levels for two consecutive months shall have sufficient personnel in their department removed from the County payroll to fully compensate, prior to June 30, 2013, the impending overrun.

SECTION 7 - LINE ITEM CARRYOVERS

Any line items previously appropriated and/or properly encumbered as of June 30, 2012, shall be carried forward as an appropriation of fiscal year 2012-2013 upon the recommendation of the County Administrator, and by passage of a budgetary amendment resolution by County Council.

SECTION 8 - NEW GRANTS

Grant funds applied for or received after the budget year, and therefore not stated in this budget ordinance, shall, by passage of a budgetary amendment resolution by County Council authorizing the acceptance of the grant and its appropriations, be accounted for in appropriate special revenues funds. The specific grant provisions shall direct the manner of expenditure of these funds.

SECTION 9 - OTHER MISCELLANEOUS RECEIPTS

Revenues other than those originally budgeted may be expended as directed by their respective revenue source after they are accepted and appropriated by the County Council by passage of the budgetary amendment resolution. Such funds include, but are not limited to, contributions, donations, special events, insurance and similar recoveries. These funds may be appropriated for any costs or overruns or new projects upon approval of County Council.

SECTION 10 - LINE OF CREDIT AUTHORIZATION

From time to time it may be necessary for the administration of the County (or any other agency for which the county levies taxes) to borrow in anticipation of tax revenues to guarantee continuity in regular operations. To provide for such contingencies, the administration of the county (or the respective agencies) is hereby authorized to borrow in anticipation of ad valorem tax collections. Such authorization may only be exercised upon certification of need by both the County Treasurer and the Finance Director (or the CEO of the agency and the Chief Financial Officer) and any amount borrowed must be obtained at the lowest possible interest rate and repaid as quickly as practical.

SECTION 11 - SEVERABILITY

If for any reason any provision of this Ordinance shall be declared invalid or unconstitutional, such shall not affect the remaining provisions of this Ordinance.

This Ordinance shall become effective July 1, 2012.

Enacted this _____ day of _____, 2012.

William B. Banning, Sr., Chairman

ATTEST:

Diana W. Burnett, Clerk

First Reading:
Second Reading:
Public Hearing:
Third & Final Reading:
Filed w/Clerk of Court: