



CHESTER COUNTY COUNCIL MEETING

Carlisle Roddey Chester County Government Complex

1476 J.A. Cochran Bypass Chester, SC 29706

Monday, August 21st, 2023 at 6:00 PM

Agenda

- 1. Call to Order**
- 2. Pledge of Allegiance and Invocation**
- 3. Approval of Minutes**
 - a. July 17th, 2023 minutes.
- 4. Citizen Comments**
- 5. Ordinances/Resolutions/Proclamations**
 - a. 3rd Reading of 2023-17 An Ordinance to Amend the Chester County Procurement Policy.
 - b. 2023-17 Resolution to Change the Position Title of Benefits Administrator/Risk Tech to HR Generalist.
- 6. Administrator's Report**
- 7. Old Business**
 - a. Chester County Landfill Expansion update. John Abercrombie, Labella Consultant.
 - b. Chester County Rural Fire Updates- Interim Rural Fire Coordinator Kell Benson.
- 8. New Business**
 - a. 2023-2024 ATAX Recommendations- ATAX Chairperson Maria Hedgpath.
 - b. Setting the 2023 Millage Rate- County Auditor Donnie Wade.
 - c. Council to authorize the approval of \$2500 grant from Project Safe Pet Matching for spay & neuter with a 100% match. -Animal Control Acting Director Jessica Ruckart.
 - d. Council to authorize the approval of \$1200 grant from Southern Animal Welfare League for spay & neuter with a 100% match. -Animal Control Acting Director Jessica Ruckart.

e. **1st Reading of CCMA23-09** Gaston Springs LLC/Benji Layman request a portion (20.04 acres) of Tax Map #114-00-00-059-000 located at Gaston Farm Road and adjacent to I-77 to be rezoned from Limited Industrial District (ID-2) to Planned Development District (PD). The Planning Commission voted 5-2 to approve.

f. **1st Reading of CCMA23-10** Gaston Springs LLC/Benji Layman request a portion (150.76 acres) of Tax Map #114-00-00-015-000 located at Gaston Farm Road and adjacent to I-77 to be rezoned from Limited Industrial District (ID-2) to Planned Development District (PD). The Planning Commission voted 5-2 to approve.

g. Approval of Walkers Mill Performance Bond. County Attorney Joanie Winters.

9. **Boards and Commissions**

- a. Appointment to the Catawba Council of Governments. County Council.
- b. Appointment to the Gateway District Master Plan Steering Committee. County Council.
- c. Re-Appointment to the Olde English District. County Council.
- d. Appointment to Parks & Recreation Advisory Board. Vice Chairman Wilson.

10. **Executive Session**

- a. To discuss contractual matters regarding County properties.
- b. To discuss a personnel matter regarding Parks and Recreation/Tourism.
- c. To discuss a personnel matter regarding Animal Control.

11. **Council Actions Following Executive Session**

- a. Action taken regarding County properties contractual matters.
- b. Action taken regarding Parks and Recreation/Tourism personnel matter.
- c. Action taken regarding Animal Control personnel matter.

12. **Council Comments**

13. **Adjourn**

Pursuant to the Freedom of Information Act, the Chester News & Reporter, The Herald in Rock Hill, SC, WSOC-TV, Channel 9 Eyewitness News, the Mfg. Housing Institute of SC, WRHI Radio Station, C&N2 News, WCNC News and Capitol Consultants were notified, and a notice was posted on the bulletin board at the Chester County Government Building 24 hours prior to the meeting.

Guidelines for Addressing Council

Citizens Comments:

- Each citizen will be limited to three minutes.

Public Hearings:

- Each speaker will be limited to three minutes.

When introduced:

- Approach the podium, state your name and address.
- Speak loudly and clearly making sure that the microphone is not obstructed.
- Do not address the audience – direct all comments to Council.
- Do not approach the Council table unless directed.

Anyone addressing Council will be called out of order if you:

- Use profanity.
- Stray from the subject. Make comments personally attacking an individual member of Council.



CHESTER COUNTY COUNCIL MEETING

R. Carlisle Roddey Chester County Government Complex

1476 J.A. Cochran Bypass Chester, SC 29706

Monday, July 17, 2023 at 6:00 PM

Minutes

Present: Chairman Joe Branham, Vice Chairman Pete Wilson, Councilman Mike Vaughn, Councilwoman Erin Mosley, Councilman John Agee, Councilman Corey Guy, Councilman William Killian, County Administrator Brian Hester, County Attorney Joanie Winters and Clerk to Council Karen Lee.

1. **Call to Order**-Chairman Branham called the meeting to order.
2. **Pledge of Allegiance and Invocation**- Pledge was recited in unison; Councilman Guy gave the invocation.
3. **Approval of Minutes**
 - a. **July 3rd, 2023 Council minutes.**
Councilwoman Mosley motioned to approve, second by Vice Chairman Wilson. Unanimous vote.
4. **Citizen Comments**

John Massey, 171 East Lacy St, Chester addressed Council regarding a non-responsive government.

Nathan Smith, 3911 Wylie Mill Rd, Richburg addressed Council regarding the Gateway Steering Committee.

Liz Odum, 1235 Grun Augen, Richburg addressed Council regarding the Gateway Steering Committee.
5. **Public Hearing**- Public hearing was opened, no one signed up to speak.
 - a. **2023-16** An Ordinance to Amend the Chester County Gateway District Master Plan Steering Committee Enabling Act.
 - b. **2023-17** An Ordinance to Amend the Chester County Procurement Policy.
 - c. **2023-18** An Ordinance to Amend Chester County Code Section 46-93 Littering.
Public hearing was closed.
6. **Ordinances/Resolutions/Proclamations**
 - a. **3rd Reading of 2023-13** An Ordinance Authorizing (1) The Execution And Delivery Of A Special Source Revenue Credit Agreement By And Between The County And [Project 2247] In Connection With The Establishment Of Certain Facilities Located In The County; (2) The

Benefits Of A Multi-County Industrial Or Business Park To Be Made Available To [Project 2247] And The Property; And (3) Other Related Matters. Councilman Vaughn motioned to approve, second by Councilwoman Mosley. Unanimous vote.

b. 3rd Reading of 2023-16 An Ordinance to Amend the Chester County Gateway District Master Plan Steering Committee Enabling Act. Councilwoman Mosley motioned to approve the enabling act with changes to section 5.a., to incorporate newspaper or website and approve all members and all current members until the end of the year 2023/2024 which ends December 31, 2024, second by Vice Chairman Wilson. Unanimous vote.

7. **Administrator's Report**

Administrator Hester introduced Kell Benson as the new interim Rural Fire Coordinator.

Gave an update on North Chester Fire Substation and Lewis Fire Department projects.

Informed Council Debbie Parsons would be resigning from the Chester County Election Commission July 31, 2023.

8. **New Business**

a. Greetings from the City of Chester -Mayor Carlos Williams and City Administrator Malik Whitaker. Mayor Williams said the City has had challenges in the past and would continue to have them but this was a new day for the City of Chester going forward. There are new investors and developers coming in, there are clothing stores and restaurants that have opened shop. He has a new vision for the City of Chester and would like to partner with the County in different areas in the near future. He asked about going back to leadership meetings forums that at one time met quarterly.

b. Downtown beautification project- Councilman Guy.

Councilman Guy introduced Karen Hutto, she along with Sandra Stroman stated they would like to add benches, flowers and plants to Main and Gadsden Street downtown. Their goal was to make the City of Chester and Chester County beautiful so it would be memorable to visitors to bring them back to Chester. She was a member of the Potting Shed and the CCDA, they were currently working on the breezeway downtown between Gene's restaurant and Christ Central Thrift Store. They plan to maintain all the sites through sponsors. They asked for \$5000 dollars yearly to keep the maintenance up.

Administrator Hester stated they could add that to the budget next year, he also asked if there was a plan in place for sidewalks.

City Administrator Whitaker stated they did have funds for sidewalks.

Councilman Guy stated the City of Chester represents Chester County; and suggested the county work with her.

c. Council to approve the Sheriff's Office to enter into a multi-year contract with SOMA Global, Inc for a new Records Management System (RMS). Sheriff Dorsey.

Sheriff Dorsey stated the first three years would be funded by the State, he plans to ask Council in the fourth year to add \$124,000 dollars to his budget each year in order to continue on with the contract.

Councilman Guy motioned to approve, second by Councilwoman Mosley. Unanimous vote.

d. Discussion regarding front loaded garages. - Councilman Agee.

Councilman Agee asked if a workshop could be held to discuss changes to the zoning ordinance regarding cluster developments. Administrator Hester stated one could be put together for late August or September.

9. **Executive Session**

Councilwoman Mosley motioned to go into executive session, second by Vice Chairman Wilson. Unanimous vote.

- a. To discuss a personnel matter in Human Resources.
- b. To discuss a personnel matter in Rural Fire.
- c. To discuss a personnel matter in Parks & Recreation.
- d. To discuss a personnel matter regarding the position for Project Manager.

10. Council Actions Following Executive Session

Vice Chairman Wilson motioned to go back to regular session, second by Councilman Vaughn. Unanimous vote.

- a. **Action taken regarding Human Resource personnel matter.** Taken as information.
- b. **Action taken regarding Rural Fire personnel matter.** Taken as information.
- c. **Action taken regarding Parks & Recreation personnel matter.** Taken as information.
- d. **Action taken regarding the Project Manager position.** Taken as information.

11. Council Comments-None

12. Adjourn

Councilman Vaughn motioned to adjourn, second by Councilwoman Mosley. Unanimous vote.

Karen Lee, Clerk to Council

Time: 8:50 PM

Pursuant to the Freedom of Information Act, the Chester News & Reporter, The Herald in Rock Hill, SC, WSOC-TV, Channel 9 Eyewitness News, the Mfg. Housing Institute of SC, WRHI Radio Station, C&N2 News, WCNC News and Capitol Consultants were notified, and a notice was posted on the bulletin board at the Chester County Government Building 24 hours prior to the meeting.



STATE OF SOUTH CAROLINA)
)
COUNTY OF CHESTER)

Ordinance No. 2023-17

AN ORDINANCE TO AMEND CHESTER COUNTY PURCHASING AND CONTRACTING POLICIES AND PROCEDURES MANUAL

WHEREAS, Chester County has the authority under S.C. Code §4-9-30 to adopt ordinances and to promulgate rules and regulations pertaining to its government and affairs, and to review interpret and amend its ordinances, rules and regulations; and

WHEREAS, in particular, Chester County Council is empowered by the provisions of S.C. Code §4-9-160 and §11-35-50, as amended to enact ordinances and policies relating to the purchasing system of the County for procurement of goods and services in accordance with existing laws, and regulations; and

WHEREAS, Chester County has reviewed the existing Purchasing and Contracting Policies and Procedures Manual and find that there are several updates that are necessary.

NOW, THEREFORE, BE IT ORDAINED BY THE COUNTY COUNCIL FOR CHESTER COUNTY, SOUTH CAROLINA, DULY ASSEMBLED THAT THE FOLLOWING ORDINANCE IS HEREBY ADOPTED:

Chester County Council does hereby adopt the amendments to the Chester County Purchasing and Contracting Policies and Procedures Manual as shown in Exhibit A, attached and incorporated by reference herein.

This Ordinance shall be effective upon adoption by the Chester County Council on the date of the final reading approval.

Enacted and approved this ____ day of _____, 2023.

CHESTER COUNTY, SOUTH CAROLINA

By: _____

Joseph R. Branham
Chair, Chester County Council

Attest:

By: _____

Karen Lee
Clerk to County Council
Chester County, South Carolina

First Reading: June 26, 2023
Second Reading: July 3, 2023
Public Hearing: July 17, 2023
Third Reading: August 21, 2023



CHESTER COUNTY PURCHASING AND CONTRACTING POLICIES AND PROCEDURES MANUAL

Adopted ~~on July~~ on August ____, 2023

[jw.v.7821023](#)

Introduction

The Chester County Purchasing and Contracting Policies and Procedures Manual is adopted pursuant to the Chester County Procurement Ordinance (§26-136, et seq.) and pursuant to S.C. Code §11-35-50 and may be referred to as the “County Procurement Code.” The Procurement Code shall be implemented by the County Administrator who is authorized to issue regulations consistent with this Code. (S.C. Code §4-9-160. §11-35-50). The Procurement Code was developed to provide fair and equitable treatment of all persons involved in public purchasing by the County, to maximize the purchasing value of public funds in procure, and to provide safeguards for maintaining a procurement system of quality and integrity.

It is the goal of Chester County to fairly, equally and impartially administer its procurement program based on the guidelines set forth in this Manual. The County does not discriminate against any vendor based on race, color, religion, national origin, sex, age, disability, or veteran status in any area of the procurement process.

Any interpretation of the procedures outlined in this manual is the responsibility of the Procurement Director, subject to the guidance and supervision of the County Administrator and the County Attorney.

This Manual supersedes and replaces all previously developed procurement policies adopted by the County whether by resolution or ordinance, and will continue to be subject to periodic revision subject to the final approval of the County Council. The Manual is a fluid document and may be amended from time to time by County Council.

I. GENERAL

A. Applicability

This Procurement Policy and Procedure Manual applies to contracts for the procurement of supplies, services, and construction needed by the County. It shall apply to every expenditure of public funds irrespective of their financial sources, unless specifically exempted by County ordinance or State or Federal law. Nothing in this Manual shall prevent any County department or agency from complying with the terms and conditions of any grant, gift, or request which is otherwise consistent with existing County ordinances or State or Federal laws. When the procurement involves the expenditure of federal assistance or contract funds, the procurement shall be conducted in accordance with any mandatory applicable federal law and regulation.

B. Objective

The overall goal is to maintain a continuous supply of goods and services in support of Chester County. Purchasing seeks to identify and acquire supplies in a timely fashion at the lowest cost consistent with the desired quality and being environmentally friendly for both the short and long-term interests of the County.

C. Contract Authority

Any Purchase Orders, contracts or agreements with a minimum total cost of One Hundred Thousand Dollars and One Cent (\$100,000.01) or more must be procured through the sealed bidding process and shall be submitted to County Council for their approval. Such purchases must be documented with sealed written quotations from no less than three (3) qualified sources of supply (unless approved by County Council or exempted by policy herein) and approval by the Procurement Director and the County Administrator that the procurement is to the advantage of the County and that there have been enough funds budgeted for the purchase. The County does reserve the right to limit or "short-list" bidders for such procurements, as is in the best interest of the County.

Local Vendor Preference Stipulation: This permits the lowest local (Chester County or its municipalities) Bidder whose bid is within ~~seven~~five percent (~~75~~75%) of the lowest non-local Bidder on project solicitations up to \$100,000.00 or within two percent (2%) of the lowest non-local bidder on project solicitations over \$100,000.00 to be awarded the project with the approval of County Council. Local Vendor Preference will further permit local (Chester County or its municipalities) qualified bidders to be given the opportunity to match the lowest non-local bidder, and may be awarded the project with the approval of the County Administrator.

Additional consideration will be given to local bidders who use local subcontractors on the project.

Exceptions: The purchase of commercially available off-the-shelf (in stock) vehicles, upfit packages, and other equipment in the amount of One Hundred Thousand Dollars and No Cents (\$100,000.00) and less can be purchased without additional quotes or without the bidding process. When purchasing multiple vehicles/equipment, and when not available on any type of state contract, the County reserves the right to purchase multiple vehicles/equipment on one Purchase Order following the receipt of quotes from up to three (3) sources and accepting the low price even when the price exceeds \$100,000.00.

For purchases of \$25,000.01 through \$100,000, there must be three (3) written quotations from qualified sources and a certification by the Director and the County Administrator that the procurement is to the advantage of the County and that there have been sufficient funds budgeted for the purchase. Written solicitation can be advertised in SCBO, emailed to registered vendors or by other means of reaching vendors.

For purchases of \$10,001.00 through \$25,000.00, there must be written quotations from no less than three (3) qualified sources of supply and there must be an approved purchase order in accordance with the procurement policies in this Manual. These purchase orders shall be signed by the Procurement Director and the County Administrator or his/her designee. Under exigent circumstances and where the Department Director has conducted due diligence and is unable to obtain three (3) quotes, only the County Administrator can approve the purchase using one (1) or (2) quotes.

For purchases of up to \$10,000.00, there must be a minimum of one (1) written quote from a qualified source of supply and there must be an approved purchase order in accordance with the procurement policies in this Manual. The purchases must be distributed equitably among qualified suppliers when practical.

Purchase of \$500.00 or less where normal purchasing processes are not practical: Department Directors, Appointed and Elected Officials may make purchases from approved vendors but must get a purchase order within two (2) business days following the purchase.

Blanket purchase procurements must be approved by the County Administrator and/or the Director for repetitive small purchases on a charge account basis not requiring a purchase order for each purchase and are limited to small purchases not to exceed \$2,500.00. Medical supplies, inmate food, and rock (gravel) are exempt from the dollar limit on blanket purchase orders. Chester County blanket purchase orders cannot be used at any time for personal purchases. Any employee allowing others to use the County blanket purchase orders or who

has used the County blanket purchase orders for personal use may be subject to disciplinary action, up to and including termination.

Sole source procurements must be approved by the County Administrator and the Director where there is only a single supplier, compatibility of equipment or parts as a paramount consideration, the item is one of a kind, or the procurement is for printed material. A letter of verification that the vendor is a sole source provider shall be submitted prior to such approval.

Procurements in emergency situations declared by the County Administrator to involve a threat to public health, safety, or welfare must be approved by the County Administrator and do not have to follow the procurement procedure. In the absence of the County Administrator, such approval shall come from the Chester County Council Chairman.

Approval levels and procedures are further outlined in this Manual.

D. Prohibited Contracts

The County and its agencies are prohibited from entering into any contract, lease or agreement, that would result in pecuniary gain for an employee or officer of the County, or an employee, officer or member of any County agency. The County shall be prohibited from entering into a contract, lease or agreement resulting in pecuniary gain for a member of the family of an employee or officer of the County or a member of the family of an employee, officer or member of any County agency. "Family member" shall be defined as being within the third degree of consanguinity or affinity.

An exception may be made ~~W~~where a contract, lease or agreement has been negotiated through a strict process of public notice and competitive bidding, or through a request for proposals, and the existence and degree of familial relationship has been disclosed in writing in the original bid or proposal, and it appears that the award of such contract, lease or agreement would be in the best interest of the County. An employee who is requesting such an exception must complete the Employee Contract Request Form which will be reviewed and approved or denied by the County Administrator for further review by County Council where the prohibitions set forth herein may be waived by a majority vote of County Council. Such majority vote is satisfaction that County Council accepts such contract, lease, or agreement by a majority vote, if it is shown on the record that such familial relationship exists.

Employees engaged in the purchasing function are expected to be free of interests or relationships that are or potentially detrimental to the best interest of Chester County, and shall not engage or participate in any commercial transactions involving the County. Any employee who has assumed or is about to assume a financial or other outside business relationship that

might involve a conflict of interest must immediately inform the County Administrator of the circumstances involved. This information is to be reviewed at an appropriate level for a decision on whether a conflict exists and, if so, what course of action is needed. A conflict of interest exists when an employee:

- Has an outside interest that materially impacts the time or attention that should be devoted to the affairs of the County;
- Has a direct or indirect interest in a relationship with an outsider that is inherently unethical or might be implied or construed to be or make possible personal gain due to the employee's ability to influence decisions; render the employee partial toward the outsider for personal reasons or otherwise inhibit the impartiality of the employee's judgment; place the employee or the County in an embarrassing or ethically questionable position; or negatively reflect on the integrity of the County;
- Takes personal advantage of an opportunity that properly belongs to the County;
- Uses County property without approval;
- Discloses County proprietary information to unauthorized persons.

Employees of Chester County act within the scope of "express authority" and are neither negligent, dishonest, nor acting in bad faith and are then not likely to become personally liable for such actions. Personal liability may occur, however, if the scope of business authority is exceeded. Where this occurs, the seller generally has no recourse to the County since no valid contract exists. The recourse available to the seller becomes against the employee personally. All employees should avoid being placed in that position.

E. Ethics

Employees of Chester County are expected to be free of interests or relationships that are or potentially detrimental to the best interest of Chester County and shall not engage or participate in any conduct that would be in violation of ethics. In addition to the prohibitions listed above, employees of Chester County may not:

- Personally accept loans; moneys or other special considerations from an individual or business organization doing business with the County;
- Accept gifts, other than advertising novelties, entertainment or gifts of de minimus value;

Any employee offered or receiving payments, gifts or other consideration shall refuse it to the giver in a tactful manner, referring the giver to the policy prohibition. When in doubt, employees should ask prior to accepting any gift.

F. Compliance with County Finance and Federal Requirements

Where a procurement involves the expenditure of County funds which have been previously budgeted, the Contracts and Procurement Director and other applicable County personnel shall comply with the procedures as they relate to the disbursement of funds and/or management of projects where appropriate documentation for the expenditure is submitted in a timely and appropriate manner.

Where a procurement involved the expenditure of funds, which are the proceeds of bonds or other financing instrument, the Contracts and Procurement Director and other applicable County personnel shall comply with the terms of such financing.

Where a procurement involves the expenditure of Federal assistance or contract funds, the Contracts and Procurement Director shall comply with such Federal law and authorized regulations which are mandatorily applicable but may not appear in this Manual.

In all procurement actions for the County, the provisions of South Carolina Code of Laws §8-13-10, et sec (S.C. State Ethics Act) shall be complied with at all times. The acceptance of any gratuity in the form of cash, merchandise, or any other thing with a value exceeding twenty-five dollars (\$25.00) by an employee of the County from any person, firm or corporation to which any purchase contract is or might be awarded, shall be deemed a violation of this Manual and the corresponding County Ordinance, and may subject that employee to disciplinary action, up to and including termination. The offer of any gratuity by any actual or prospective vendor or contractor shall be cause for cancelling any contract involved, or for voiding any potential future relationship with that vendor or contractor, and for declaring the vendor or contractor ineligible for further bidding with the County.

F. Anti-Trust

The County operates in strict compliance with anti-trust laws such as the Sherman, Clayton and the Federal Trade Commission Acts, in any area of the County government's operations where violations may have significant negative impacts on its ability to conduct business, and which may lead to expensive litigation, damages and penalties. Any employee of the County who participates in a violation of these laws is individually and personally subject to fine or imprisonment.

II. Definitions

Addendum – A change or modification to achieve correctness. An addendum is also an alteration, modification, deletion or addition to a solicitation document such as an Invitation for Bids. An addendum must be in writing.

Amendment – A revision or change to a document, generally the contract; often used to correct a solicitation.

Appointed Official - Individuals named or assigned to a position, an office, or the like, e.g., Magistrate Judges are appointed by the Governor on the recommendation of the State Senator for District 17 (Chester County).

Award – The presentation of a Purchase Order or contract to a bidder or the acceptance of a bid or proposal.

Bid Bond – An insurance agreement in which a third party agrees to be liable to pay a certain amount of money if a specific successful bidder fails to sign the contract as it was bid.

Blanket Purchase Order – An arrangement under which a purchaser contracts with a supplier to provide an item(s) or a service(s) on an as-needed basis. Properly prepared, such an arrangement sets a limit on the period it is valid and the maximum amount of money that may be spent within a specified period.

Bidder - A Business Enterprise that submits a bid in response to any County solicitation.

Business Days – Days on which the Administrative offices of the County are open for the public to conduct business.

Business/Business Enterprise – A legal entity operated for profit that is properly licensed, as applicable, and registered to do business in the State of South Carolina as a corporation, limited liability company (LLC), partnership, sole proprietorship, joint-stock company, joint venture, professional association or other formation recognized by the State. The term shall also include any nonprofit corporation duly registered with the State and possessing a 501(c)(3) designation from the Internal Revenue Service.

Certification – Completion by a Business Enterprise of the application process and subsequent approval by the Small Business Enterprise (SBE) Program Manager for participation of the Business Enterprise in the SBE Program.

Change Order (bilateral) - An agreed upon written order to a Contractor executed by the County and the Contractor following execution of a base contract, directing a change in the work which may include a change in the contract price, the time for Contractor's performance, or any combination thereof.

Change Order (unilateral) – A written order issued by the Procurement Director or the Director's designee, directing the Contractor to make changes which the contract authorizes the County to order without the consent of the Contractor.

Competitive Bidding – The submissions of offers by individuals or firms competing for a contract, privilege or right to supply merchandise or services.

Competitive Sealed Bidding – A method of procurement that requires the following elements: issuance of an invitation for Bids with a purchase description/specifications, acceptance criteria and all contractual terms and

conditions applicable to the procurement; a public, contemporaneous opening of bids at a pre-designated time and place; an unconditional acceptance of a bid without alteration or correction except as authorized in this Manual; and an award to the most responsive and responsible bidder who has submitted the lowest bid that meets the requirements and criteria set forth in the Invitation for Bids.

Construction – The process of building, altering, repairing, improving, or demolishing any public structure, or building, or other public improvements of any kind to any public real property. It does not include the routine operations, routine repair, or routine maintenance of existing structures, buildings or real property.

Construction Management Services or Design-Build Services – Approaches to construction contract management that allow for the selection of a single firm to perform and/or manage the complete design and construction of a project.

Contract – All types of County agreements, regardless of what they may be called, that engage the procurement of supplies, services or construction and are enforceable by law.

Contract Modification – Any written alteration in specifications, delivery point, rate of delivery, period of performance, price, quantity or other provisions of any contract accomplished by mutual action of the parties to the contract. Verbal contract modifications will not be recognized as valid by the County.

Contractor – Any person entering into a written agreement/contract with the County for the procurement of supplies, services or construction.

Cost Analysis – The evaluation of cost data for the purpose of arriving at costs actually incurred or estimates of costs to be incurred, prices to be paid, and costs to be reimbursed.

Cost-Plus-A-Percentage-Of-Cost-Contract – A cost reimbursement contract that prior to completion of the work the parties agree that the profit fee will be a predetermined percentage of the total cost of the work.

Cost-Plus-Fixed-Fee-Contract – A cost reimbursement that provides for the payment of a fixed fee to the Contractor. The fixed fee, once negotiated, does not vary with the actual cost but may be adjusted because of any subsequent changes in the Scope of Work or services to be performed.

Days – Calendar days unless specifically indicated to be business days.

Debarment – Where a supplier or contractor is prevented from consideration in the award of contracts. This may occur because the Contractor's name appears on either the Federal or State Department lists, contractor does not have the requisite licensing as required for the work/services, contractor is in arrears with payment to the Federal, State or local governments, or other reasons as determined by the County.

Department Director – The individual responsible for a department or agency of the County.

Designee – A duly authorized representative of a person/department/agency holding a superior position.

Design Specifications – A specification that sets forth physical characteristics in definitive terms.

Disadvantaged Business – A small business which is owned or controlled by a majority of persons, not limited to members of minority groups, who have been deprived of the opportunity to develop and maintain a competitive position in the economy because of social disadvantages.

Elected Official – Individuals duly elected into office through a special or general election and who is responsible for a department, agency or function of the County.

Electronic – A means that is electrical, digital, magnetic, optical, electromagnetic, or any other similar technology.

Emergency Purchase – An immediate acquisition by a department to obtain goods or services to avoid a substantial hazard to life or property, or significant interruption of the operations of a County department. Such action may be taken by a Department Director on weekends or in the evenings, but every effort must be made to obtain the approval of the County Administrator or his designee.

Equal Opportunity – Policies and procedures of the County to ensure non-discrimination and equal opportunity to all employees, especially women, minorities, and persons with disabilities. Specific contract provisions may require nondiscrimination in employment by contractors and subcontractors.

Fixed-Price Contract – A price not subject to any adjustments through a commitment due to a previously agreed upon fixed cost by the Contractor prior to the performance of the contract.

Good Faith Effort – The requirement that prime Contractors make a documented effort, in “good faith”, to provide contract opportunities to small, minority-owned and woman-owned businesses in accordance with the policies of the County.

Governmental Body – Any department or agency of the County.

Invitation for Bid – A formal request to prospective vendors soliciting price quotations or bids in accordance with the procedures in this manual.

Joint Venture – A partnership or cooperative agreement between two or more businesses related to a single effort to secure a contract opportunity.

Minor Informality – Mistakes, excluding judgmental errors, that have negligible effect on price, quantity, quality, delivery, or other contractual terms, and the waiver or correction of such mistakes does not prejudice other Bidders or Offerors, or the County.

Offeror – One who submits a proposal in response to an RFP in competitive negotiation, or one who makes an offer in response to a solicitation.

Performance Bond – A bond that may be required as specified in the RFP or solicitation to ensure completion of the work or services proffered.

Prequalification – A process in which bidders/vendors/service providers are prequalified by responding to a solicitation to establish responsibility. This may include without limitation information regarding such factors as financial background, industry stability, capacity to perform, lines of credit, manufacturers' authorizations, relevant experience, etc. This process may be used to short-list potential bidders prior to the bid let.

Procurement – Buying, purchasing, renting, leasing or otherwise acquiring any supplies, services, or construction. It may also include functions that pertain to the obtaining of any supply, service, or construction including, without limitation, a description of requirements, selection, and solicitation of sources, preparation and award of contract, and all phases of contract administration.

Procurement Agent or Buyer – The Director of Contracts and Procurement shall be the Procurement Agent or Buyer, or shall designate another employee in the Department to act in this role.

Professional Services – Professional services and consultant services include services that are of an advisory nature, provide personal expertise and/or a recommended course of action, and have an end product that is basically a transmittal of information related to County programs or operations. Classification as professional services may also require an advanced, specialized type of knowledge, expertise or training customarily acquired either by a prolonged course of study or equivalent experience such as accountants, physicians, investigators, attorneys, architects, surveyors, or engineers.

Public Notice – The distribution or dissemination of information using methods that are reasonably available to interested parties. Such methods may include, at the discretion of the County, publication in newspapers of general circulation, electronic or paper mailing lists, and website(s) designated by the County.

Purchase Order – A written document prepared by the buyer and provided to a supplier formally stating all terms and conditions of procurement and in accordance with the procedures and policies in this Manual.

Quotation – A statement of price, terms of sale, and description of goods or services offered by a supplier to a prospective purchaser; the stating of the current price of a commodity.

Request for Proposals (RFP) – A request made through Public Notice for the submission of proposals based on a generalized Scope of Work with contract award to the responsible person(s) submitting the most advantageous and responsive proposal.

Request for Quotations (RFQ) – A request made through Public Notice for the submission of written quotations without formal advertising and requirement for sealed bids.

Responsible Bidder or Offeror – A Bidder who has the capacity in all respects to perform fully any contract requirements and who meets all other requirements of the County which will assure a good faith performance, and which may be substantiated by past performance.

Responsive Bidder or Offeror – A Bidder who has submitted a bid or offer which conforms in all material aspects to the solicitation.

Short-List – The ability of the County to limit the number of invited Bidders to an RFP or RFQ when it is in the best interest of the County to do so.

Specifications – A detailed statement of particulars prescribing dimensions, materials, performance, quality of work, etc. for something to be purchased, built or installed.

Small Business – A U.S. business which is independently owned, and which is not dominant in its field of operation or an affiliate or subsidiary of a business dominant in its field of operation.

Sole Source Purchase – An award for a commodity or service that can only be purchase from one supplier, usually because of its technological, specialized, or unique character.

Solicitations – Purchasing processes designed to seek and obtain goods and/or services including Request for Quotations (RFQ), Invitation for Bids (IFB), and Request for Proposals (RFP).

Subcontractor – A Business Enterprise that either directly contracts with a Contractor or directly contracts with another Subcontractor under such Contractor, to provide services or perform work relating to a contract. May also be referred to as “Vendor” interchangeably.

Substantial Performance – Exists when the Contractor has performed all material requirements of the entire contract or a divisible portion thereof, such that the underlying purpose of the contract has not been substantially impaired.

Supplier – A Business Enterprise that either directly contracts with a Contractor or directly with a Subcontractor under such Contractor, to provide materials, supplies, or equipment in connection with a contract. A supplier may be a regular dealer, manufacturer, or broker. May also be referred to as “Vendor” interchangeably.

Termination for Cause – An exercise of the County’s contractual right to completely or partially terminate a contract because of the Contractor’s failure to perform its contractual obligations. Generally, County procurement will only support a “Termination for Cause” if the Contractor has failed to Substantially Perform. Contracts are not usually terminated because a Contractor does not completely or perfectly perform (minor non-performance issues remain). Contracts may be “Terminated for Cause” due to minor non-performance issues when the contract documents expressly require perfect performance.

Termination for Convenience – An exercise of the County’s right to terminate or cancel performance of work under contract, in whole or in part, if the County determines that termination is in the best interest of the County.

III. DEPARTMENT OF CONTRACTS AND PROCUREMENT

A. Creation

The County has created the Department of Contracts and Procurement (“Procurement”) to assure that purchases for the County are made in compliance with County Ordinance and other policies governing these actions. The acquisition of supplies, equipment and services necessary for the everyday operation of the County is the responsibility of this Department operating under the direct supervision of the County Administrator. This Department serves as an important cross functional ally supporting operating groups within the County as they strive to meet needs and achieve mandates since the Department represents the primary contact between the various functions and their suppliers.

Procurement is the only unit in the County authorized to procure supplies, materials, equipment and contractual services required by the Departments except as provided by County Council through its ordinance, the exemptions outlined in this Manual, and the policy on petty cash. The County Administrator or his/her designee and the Director are the only individuals authorized to sign purchase orders or contracts on behalf of the County.

Any individual who enters into an agreement on behalf of the County without prior authorization or the signature of either the County Administrator and/or the Director may be assuming personal liability for such commitment. So long as employees of the County act within the scope of “express authority” and are neither negligent, dishonest, nor acting in bad faith, then the employees are not likely to become personally liable for such actions. Personal liability may occur, however, if the scope of business authority is exceeded. Violations shall be reported immediately to either the County Administrator or the Director who will investigate and based on the findings of the investigation, shall take appropriate action with the appropriate individual. Individuals reporting valid violations shall not be subjected to retaliation.

B. Director of Contracts and Procurement

The County has created the position of Director of Contracts and Procurement (“Director”) who will be the County’s principal procurement official for the purpose of entering into contracts for the procurement of goods and services. The Director shall be selected in

accordance with County personnel policies and procedures, will be a full-time public employee of the County and shall report to the County Administrator.

The Director shall be responsible for establishing and administering purchasing policies; establishing professional relationships with current or potential vendors, initiating reports necessary to permit analysis of purchasing performance; negotiating and recommending contracts; consolidating purchases of like or common items, and analyzing prices paid for materials, equipment, and services.

The primary objectives for the Director include, without limitation:

1. Procure for the County, the highest quality supplies, equipment, and services for the least possible cost;
2. Promote an understanding of sound purchasing policies and procedures throughout all departments, divisions and agencies of the County;
3. Determine the most efficient and economical means of obtaining an item or service without sacrificing the controls and principles of sound purchasing;
4. Assist in developing competitive specifications for use by all departments, divisions and agencies;
5. Maintain awareness of improved purchasing practices utilized by private industry and other governmental entities, and apply such practices when feasible with the approval of the County Administrator;
6. Encourage competition and endeavor to obtain full and open completion on all purchases;
7. Maintain and update forms as necessary for the successful operation of the Department;
8. Establish vendor accounts to include, without limitation, completed W-9 forms, and all Certificates of Liability required, and to ensure that Accounts Payable is provided with all vendor documentation prior to the issuance of any Purchase Order to vendor;
9. Exchange ideas and information with other local government procurement departments to solve common procurement problems;
10. Exercise control over surplus, excess, and dilapidated materials;
11. Coordinate with departments, divisions and agencies of the County to maintain inventories at a satisfactory level commensurate with the budget;
12. Confirm expenditures with Finance to ensure monetary appropriations are adequate and existing;
13. Work with departments, divisions and agencies of the County to promote good will between the County and its vendors;
14. Comply with all local, state, and federal laws in the administration of procurement and contracting functions;

15. Cooperate with County Finance in the preparation of statistical data concerning the procurement, usage, disposition of all supplies, services and construction;
16. Advise ordering departments whenever the quality or specifications of the ordered materials are inconsistent with normal standards that may lead to higher costs given market conditions;
17. Ensure confidentiality where appropriate for proprietary information received and not subject to disclosure under State or Federal laws;
18. Advise the County Administrator of economic and market conditions which may significantly impact the County's short and long-term interests;
19. Develop, with the assistance of the County Attorney as to legal sufficiency, standard forms and conditions of invitations to bid and purchase orders and contracts; develop and prescribe the use by agencies of other forms required in carrying out the provisions of this Manual, and amend or eliminate any such forms;
20. To the greatest extent possible, make full utilization of the procurement services provided through the South Carolina Division of General Services, Materials Management Office, i.e., S.C. State Contracts;
21. All other activities required by the job description of the Director and the requirements of this Manual for the smooth and effective operation of the Department.

IV. THE PROCUREMENT PROCESS

A. Requirements for Requisitions

Purchasing is responsible for ensuring the efficient purchase of materials, supplies and services with the objective that they be available at the proper time, quantity, quality, location and price consistent with the needs and resources of the County. It is vital to the successful performance of this duty that the Director have the authority to review procurement requests, specifications and suggested sources.

Procurement may work with departments, divisions and agencies to develop a list of acceptable suppliers of a specific product or service whenever necessary. Once a list of acceptable suppliers has been established, the Director or Procurement designee shall be solely responsible for selection of a supplier from that list for the best fit for current requirements. The Director shall be responsible for the review of the specifications of each purchase requisition. This review shall include, without limitation:

1. Requests for goods of a quality that seem to be greater than required;
2. Requests for goods of a quality that seem to be less than required;
3. Requests whose material seems to be inconsistent with the actual requirement;
4. Requests that do not conform to County standards;
4. Requests for "sole source" purchases;

5. Requests for items believed to be under State contract, and
6. Requests without proper authorization.

In order for any purchase to be considered, an approved Requisition must be submitted prior to any purchase or the agreement to purchase any goods or services that are not exceptions to these policies and procedures. The Requisition must contain the vendor name, address, contact information, the account (budget) number, item number, item description, cost, shipping, method of payment, anticipated completion date, and must be signed by the Department Director or their designee, Elected and Appointed Officials or their designee. Requisitions that are submitted incomplete will be returned and thus may delay the procurement as a result. **All signatures on the Requisition must be original signatures.** Where available, digital electronic signatures provided through the appropriate platform will be accepted.

B. Purchase Order

A Purchase Order is a legal document governed by the Uniform Commercial Code (UCC) that creates a binding commitment for the County. Purchase Orders will be used by all authorized employees for purchases and constitute a final and entire agreement between the supplier and the County as a bona fide offer to buy. When formal acceptance is received from the supplier, the Purchase Order becomes a legal contract that is binding. This gives the supplier the authority to ship and to invoice for the goods or services. Due to the binding nature of a Purchase Order, those employees who are authorized to engage in procurement must understand that **no commitment may be made to any vendor without following the procurement policies and procedures, and any commitment made outside of the precepts of this Manual may create a personal liability for that employee.**

The Purchase Order is critical to protecting the County from unclear and/or unusual provisions and must be written with care as a result. Terms and conditions contained in the County's purchase order provide protection against unfair or unreasonable limitations or disclaimers that frequently appear in quotations forms that are received from suppliers.

A major requirement of a Purchase Order is precise and clear descriptions of the elements of the order, the terms of the purchase, and time, manner and place of delivery. Additionally, Purchase Orders will not be issued for any procurement that has not followed the requirements of this Manual. **All the following information must appear on any requisition since it is necessary when preparing a purchase order:**

1. Name and address of supplier and requisitioner name;
2. Requisition number or budget number, where applicable;
3. Address of ordering location and ship to/bill to address;

4. Account number and charge number, where applicable;
5. Date of order;
6. FOB information and discount terms;
7. Manner of shipment and route, where applicable;
8. Description of goods, quantity per item, price per unit and part number, where applicable and total cost of procurement;
9. Date goods are required;
10. Confirmation;
11. Verification by the Director of the receipt of an executed W-9 tax form and required Certificates of Insurance for General Liability, Workers' Compensation and any other insurance requirements;
12. Signature of person requesting procurement, and
13. Signatures of County Administrator or his/her designee and Director.

The following caveats are critical in the preparation of a Purchase Order and may delay the procurement process if not adhered to carefully:

- An approved Requisition must be submitted prior to the issuance of any Purchase Order. Commitments made to vendors by anyone representing the County prior to the issuance of a Purchase Order will not be honored by the County and could create personal liability for the individual making the invalid commitment.
- Purchase Orders **must state** the price, number of units, part number(s), where applicable, the extended price (the unit price multiplied by the number of units ordered), and the total cost of the Purchase Order.
- The Purchase Order **must show** appropriate discounts and any payment terms, so the County has a complete understanding as to what needs to be paid and when.
- The FOB point and freight terms **must** be clearly stated.
- The Purchase Order **must show** the specific date materials or services are expected to be delivered or performed.
- Blanket Purchase Orders may be permitted under certain circumstances but **must be approved** by the County Administrator and the Director, and may require the approval of County Council depending on the total value of the Purchase Order.
- The Purchase Order **must show** the original signatures of the County Administrator and the Director.
- For any purchase that ultimately needs a Purchase Order as required by this Manual, a Purchase Order number must be obtained **before any commitment is**

made on behalf of the County. Invoices that arrive with a check request for payment to the Vendor may be denied.

- Emergency purchases that are Five Hundred Dollars and No Cents (\$500.00) or less may be purchased using an approved vendor before you have a Purchase Order. The Purchase Order must be processed within two (2) business days of the purchase.

Requisitions that are returned because of incomplete or invalid information or does not contain the proper approvals may result in the denial of a Purchase Order.

C. Source Selection

The selection of suppliers is the responsibility of Procurement and requires a consideration of several factors. In making the selection, the Director or his/her designee will coordinate closely with other departments to obtain adequate and reasonable specifications and other requirements relative to the purchase and supplier decision. As much detail as possible should be obtained in order that purchases adequately meet the needs of the County at the lowest cost or best value. The County will select providers based on expertise, dependability, reputation, past performance and financial strength. County Council shall retain the authority to establish or approve a method of source selection other than those specified in this Manual or by Ordinance. County Council shall further retain the authority to give final approval to any procurement authorized by the Manual or by Ordinance. Also considered is the nature of guaranty or warranty of the product or service, its price and quality.

All sources requesting to be put on a Bidders' list shall be included unless the Director recommends that the Bidder should not go onto the list for previous performance issues. The Director shall ensure that the Bidders' list contain all identified sources interested in bidding on County procurement. The Director shall periodically review the Bidders' list and shall require the addition or deletion to such lists of sources as deemed necessary. The Bidders' list does not eliminate the County's obligation to notify the public of procurement opportunities.

Special consideration will be given to the following provided they satisfy any additional requirements contained in the RFP or RFQ:

1. Suppliers who are developing new and improved products or equipment or are developing/designing a special product or service for the County for exclusive use;
2. Suppliers who are located within the County;
3. Participation by minority, disabled or women-owned businesses, by certification.

E. Competitive Sealed Bidding

(i) *Invitation for Bid.* An invitation for Bid shall be issued and shall include a description of the scope of work or the product required. All contractual terms and conditions that are applicable to the procurement will be set forth in full detail. The Invitation must be clear on terms and explain absolutes. The County reserves the right to limit or “short-list” the number of Bidders invited to bid.

(ii) *Public Notice.* Public notice of the Invitation for Bid shall be given not less than seven (7) days prior to the date set forth therein for the opening of bids. Such notice may include publication in a newspaper of general, local circulation. The notice shall include the place, date and time of bid opening.

(iii) *Bid Opening.* Bids shall be opened publicly in the presence of one (1) or more witnesses at the time and place designated in the Invitation for Bid. The amount of each bid and other such relevant information as may be specified by regulation, together with the name of each Bidder, shall be read aloud and recorded, creating a Bid Tabulation. The Bid Tabulation shall be open for public inspection after award. Late bids shall not be opened nor considered for award, but the name of the late Bidder(s) and the time of the attempted delivery shall be read aloud and recorded in the bid file wherever possible.

(iv) *Bid Information.* Most procurement information is a public record to the extent required by South Carolina Code Ann. §30-4-10 et seq. (The Freedom of Information Act or FOIA). Commercial or financial information obtained in response to a “Request for Proposal” or any type of bid solicitation or “Request for Quotation” which is privileged and confidential shall not be disclosed as well as other information which may be exempt from disclosure. Privileged and confidential information is information in specific detail not customarily released to the general public, the release of which might cause harm to the competitive position of the party supplying the information or constitute an unreasonable invasion of privacy. Such information must be designated at “confidential” or “proprietary” on the document itself. Examples of this type information include, without limitation:

- Customer Lists;
- Design recommendations and identification of prospective problem areas under an RFP;
- Design concepts, including methods and procedures;
- Biographical data on key employees of the bidder;
- Evaluative documents pre-decisional in nature such as inter- or intra- agency memoranda containing technical evaluations and recommendations, or

- Items marked as proprietary by a bidder under an RFP and not subject to public access under other provisions.

(v) *Bid Acceptance and Evaluation.* Bids shall be unconditionally accepted without alteration or correction, except as authorized by Ordinance or this Manual. Bids shall be evaluated based on the requirements set forth in the Invitation for Bid, which may include criteria to determine acceptability such as inspection, testing, quality, workmanship, delivery, and suitability for a particular purpose. Those criteria that will affect the bid price and be considered in evaluation for award shall be objectively measurable, such as discounts, transportation costs, and total or life cycle costs. The Invitation for Bid shall set forth the evaluation criteria to be used. No criteria may be used in bid evaluations that are not set forth in the Invitation for Bid. The Director may conduct discussions with the apparent responsive Bidders for the purpose of clarification if in the Director's judgment, such clarification is necessary. Clarification of any Bidder's bid must be documented in writing by the Director and shall be included with the bid file. Documentation concerning the clarification shall be subject to disclosure upon request under FOIA.

(vi) *Prequalification and Limitation of Bidders.* The County may determine that due to the size or breadth of a project, it must limit the number of Bidders to make the process more effective and efficient. This information shall be included in the Invitation For Bid as to the limit on the number of bidders and how many will be invited to bid, and prior to the receipt of any bids, the County will advertise for and receive Statements of Qualifications. The Statements of Qualifications shall be evaluated by a team including without limitation, the County Administrator, County Treasurer, Procurement Director, Public Works Director, Roads Supervisor, Planning Director, Maintenance Supervisor, the IT Director the Engineering Consultant, and other engineers who may be involved with the project, . The makeup of this team will be determined by the nature of the project. Through the Statements of Qualifications, the County will prequalify those Bidders who will be invited to submit bids. Scoring will be predicated upon location of the company, previous work strength, safety records, number of employees, financial ability to perform the work, etc.

(vii) *Correction or Withdrawal of Bids/Cancellation of Awards.* Corrections or withdrawal of inadvertently erroneous bids, before or after award of cancellation of awards or contracts based on such bid mistakes, may be permitted by the Director in accordance with this Manual. Mistakes discovered before bid opening may be modified or withdrawn by written notice received in the Director's office prior to the time set for bid opening. In lieu of bid correction, a low bidder alleging a material mistake of fact may be permitted to withdraw its bid if:

- a) the mistake is clearly evident on the face of the bid document, but the intended correct bid is not similarly evident; or
- b) the bidder submits evidence which clearly and convincingly demonstrates that a mistake was made. All decisions to permit the correction or withdrawal of bids, or to cancel awards or

contracts based on bid mistakes, shall be supported by a written determination made by the Director.

After bid opening, no changes in bid prices or other provisions of bids prejudicial to the interest of the County or fair competition shall be permitted. Except as otherwise provided by Ordinance or this Manual, all decisions to permit the correction or withdrawal of bids, or to cancel awards or contracts based on bid errors, shall be supported by a written determination made by the Director and reviewed by the County Attorney.

(viii) *Minor Informalities and Irregularities in Bids.* A minor informality or irregularity is one which is merely a form or is some immaterial variation from the exact requirements of the Invitation for Bid, having no effect or merely a trivial or negligible effect on total bid price, quality, quantity, or delivery of the supplies or performance of the contract, and the correction or waiver of which would not affect the relative standing of, or be otherwise prejudicial to, Bidders. The Director shall either give the Bidder the opportunity to cure any deficiency resulting from a minor informality or irregularity in a bid or waive any such deficiency when it is to the advantage of the County. Such communication or determination shall be made in writing. Examples of minor informalities or irregularities may include but are not limited to:

- a) Failure of a Bidder to return the number of copies of signed bids required by solicitation;
- b) Failure of a Bidder to furnish the required information concerning the number of the Bidder's employees or failure to make a representation concerning its size;
- c) Failure of a Bidder to acknowledge receipt of an amendment to a solicitation, when required, but only if the amendment has no effect or merely a trivial or negligible effect on price, quality, quantity, delivery, or relative standing of Bidders;
- d) Failure of a Bidder to furnish product literature;
- e) Failure of a Bidder to indicate a bid number on its submission envelope, and
- f) Failure of a Bidder to indicate his contractor's license number.

(ix) *Award.* No bid will be awarded until the Director has reviewed each bid. A written recommendation is then sent by the Director to the Finance Director and the County Administrator for written authorization to proceed with the purchase based on available funds. For those purchases requiring the approval of County Council, once approved for funding by the Finance Director and the County Administrator, the recommendation would then be sent for review by the County Council at a duly called Council meeting. It is the policy of the County to award the contract with reasonable promptness by written notice to the lowest responsible and responsive Bidder whose bid meets the requirements and criteria set forth in the Invitation for Bid.

In the event the Director recommends purchasing from a Bidder other than the lowest Bidder, the Director shall submit a written recommendation to the County Administrator detailing reasons for the request. The request must be approved by the County Administrator and/or the County Council, depending on the authorization requirements as set forth in this Manual, prior to awarding the contract to someone other than the lowest responsible and responsive bidder.

In other than construction projects (addressed separately herein), if all bids exceed available funds and no additional monies can be appropriated, then the bids will be rejected.

(x) *Tie Bids.* If two (2) or more Bidders are tied in price, while otherwise meeting all the required terms and conditions of the bid, awards may be determined as follows:

- a) If there is an in-County firm (active business) tied with an out-of-County firm, the award will go to the in-County firm.
- b) If there is an in-state firm (active business) tied with an out-of-state firm, the award will go to the in-state firm.
- c) Tie bids involving in-County and in-State firms may be resolved by accepting the bid that was first received (reference time and date stamp) in the Purchasing Department.
- d) Tie bids involving in-County and in-State firms may be resolved by the flip of a coin in the office of the Director witnessed by all interested parties.

(xi) *Cancellation of Invitation for Bid or RFP.* An Invitation for Bid, an RFP or other solicitation may be cancelled, or any or all bids or proposals may be rejected in whole or in part when it is in the best interest of Chester County in accordance with regulations. The reasons for the cancellation or rejection must be in writing and be incorporated into the solicitation file.

(xii) *Negotiations after Unsuccessful Competitive Sealed Bidding.* When bids received in response to an Invitation for Bid are unreasonable or the low bid exceeds available funds as certified by the Finance Director, and it is determined in writing by the Director that time or other circumstances will not permit the delay required to re-solicit competitive sealed bids, a contract may be negotiated pursuant to this section, provided that:

- a) Each responsible/responsive Bidder, who submitted a bid under the original solicitation, is notified of the determination and is given reasonable opportunity to negotiate;
- b) The negotiated price is lower than the lowest rejected bid by any responsive/responsible Bidder under the original solicitation, and
- c) The negotiated price is the lowest negotiated price offered by any responsive/responsible Bidder.

F. Competitive Bidding Exceptions

The following supplies and services may be considered exceptions from Competitive Bidding processes as determined by the County but will still require a requisition and issuance of a Purchase Order where noted

1. Leasing or purchasing of real property does not have to follow the procurement procedure but must be approved by the County Administrator prior to entering into any contractual agreement;
2. Advertising time or space in newspapers, radio, television, professional journals or publications;
3. Postage stamps and postal fees, U.S. Post Office box rentals;
4. Professional training – requires requisition and issuance of Purchase Order;
5. Conference facilities – requires requisition and issuance of Purchase Order;
6. Maintenance on equipment that must be provided by the original equipment manufacturer or an authorized dealer – requires requisition and issuance of Purchase Order;
7. Purchasing through state contracts (State contract number must be clearly shown on the Purchase Order) – requires requisition and issuance of Purchase Order;
8. Services provided by public utilities as regulated by the Public Service Commission;
9. Professional dues and registration and membership fees will require a Purchase Order;
10. Legal services;
11. License agreements for computer software, after such software has been purchased subject to the provisions of this Manual – requires requisition and issuance of Purchase Order;
12. The procurement of copyrighted educational films, CD-ROM documents, databases, computer assisted instructional materials, interactive video programs and other related materials made available by information technology that can only be obtained from the company providing the information or service – requires requisition and issuance of Purchase Order;
13. The procurement of goods, products or services from the South Carolina Department of Corrections – requires requisition and issuance of Purchase Order;
14. Hospital fees;
15. Payment to Federal and State agencies as required by law; and
16. Travel and lodging – requires requisition and issuance of Purchase Order and lodging reservations (and any changes to the reservations) shall be made through the Purchasing Office. Travel and lodging is also limited by the Travel policy in the Employee Handbook. Overnight lodging is not typically approved for travel that is within a sixty (60) mile

radius, and the traveler is required to complete a Travel Request, obtaining approval prior to the travel. When lodging is required, employees are expected to utilize standard, medium-priced hotels and motels whenever possible. If an employee is to attend a formal, organized meeting or convention, they may stay at the hotel or motel where the meeting is held with advance Department Director approval. In all cases, the county will pay no more than the regular single occupancy rate and government rates must be requested. **Receipts for lodging must be presented with daily expense report.** The employee has two options for payment for lodging. If you are booking your lodging at least forty-five (45) days or more before your travel, you can request an advance payment sent directly to the hotel or you can take the check with you when you travel. You may also request the lodging to be prepaid with the County's credit card. All incidental charges and expenses must be paid for with the County credit card. Employees are not permitted to present their personal credit card.

G. Formal Bids for Construction Projects

For construction projects, the Public Works Director along with a third-party engineering firm (the "Engineer") shall generate plans and create specifications. The date set for the bid opening must allow ample time for prospective bidders to prepare their bid. Public bid notices may be run in one or more newspapers of general local circulation. The formal bid opening may also appear on the South Carolina Business Opportunities (SCBO) website and/or the Chester County website. The Director will determine, with the assistance of the Public Works Director and the Engineer, what construction trades will be involved on the project (e.g., subcontractors, drywall, electrical, fencing, etc.).

Where the Director and/or the Engineer feel a pre-bid meeting is mandatory, that information will be included in the Invitation for Bid. Bidders who do not attend the mandatory pre-bid meeting will be prohibited from submitting a bid.

Bids received late will not be accepted or considered for the award. Bids are opened publicly at a specific date and time. A Bid Tabulation will be created and made available to all interested Bidders following the reading of the bids. No bid will be awarded until the Director, the Engineer, and any other individual who is managing the project have reviewed each bid. A written recommendation for the award shall be sent to the County Administrator for review and subsequent submission to County Council for approval. Upon approval, the Director with the assistance of the County Attorney, shall create a contract agreement which is sent to the successful contractor for execution. Once the contract agreement has been returned, the Director, the Engineer, and any other individual who is managing the project will issue a "notice-to-proceed" for the contractor.

It is the policy of the County to award the contract to the lowest responsible and responsive Bidder who best meets the County's plans and specifications. Factors considered in awarding a construction contract should include without limitation, the following: 1) quality; 2) price; 3) warranty or guarantee; 4) timeliness of delivery; 5) service; 6) past performance of contractor on previous projects; 7) client references involving like or similar projects.

In the event the Director recommends awarding the contract to other than the lowest Bidder, the Director and/or the Engineer shall submit a written request to the County Administrator detailing reasons for the request. Depending on the approval authority required, this may be approved by the County Administrator and sent back to the Director or approved by the County Administrator and sent on for review to the County Council. If either the County Administrator or County Council do not adopt the recommendation of the Director, the contract will be awarded to the lowest Bidder.

When deemed necessary by the Director, a bid deposit in the amount of at least 5% of the proposed contract price will be required of all Bidders. This deposit will be in the form of a 5% bid bond executed by a corporate surety licensed under the laws of South Carolina. If the successful Bidder fails to enter into the proposed contract within 15 days after the award date, the County may call for the bid bond.

A performance bond in the amount of 100% of the contract price may be required at the discretion of the Director and/or the County Administrator in any case where the construction contract price exceeds \$50,000.00. Such bond shall be reviewed and approved by the County Attorney. This provision enables the Director to ensure that the contractor provides suitable evidence of their financial condition and ability to complete the work without financial difficulty. Cash or a certified check, in the full amount of the contract, may be submitted as part of the contract in lieu of a bond within fifteen (15) days from the contract award date. Failure of the contractor to satisfactorily fulfill their obligations shall be cause for the forfeiture of the guaranty. In such instance, the Director shall document the circumstances and file such findings with the related contract.

In some cases, the Director may determine that an alternative to a performance bond is appropriate. In such cases the County shall require a general liability insurance policy with a binder for "completed operations" and premises policy rider sufficient to cover the cost to complete the project. In addition, a provision shall be made for all accounts payable checks for the project to be issued as jointly payable to the contractor and supplier. Also, a provision shall be made in the contract raising the percentage of retention in the contract prior to completion.

For construction contracts of less than \$50,000.00, 25% of each payment request shall be retained by the County until the final payment for the contract is made or until the County has determined to its satisfaction that the contracted project is substantially complete.

Commercial contractors must be licensed by the South Carolina Department of Labor, Licensing and Regulation (SCLLR) before being awarded any contract for \$5,000 or more. Electrical and plumbing contractors must secure a surety bond, made out to Chester County, before being awarded any contract for \$1,000 or more. Mechanical contractors must secure a surety bond, made out to Chester County, before being awarded any contract for \$2,500 or more.

H. Competitive Sealed Proposals ("RFP")

(i) *Conditions for use.* Where the Director determines in writing that the use of competitive sealed bidding is either not practicable or not advantageous to the County, a contract may be entered into by competitive sealed proposals. Proposals shall be solicited through a Request for Proposals ("RFP").

(ii) *Public Notice.* Public notice of the RFP shall be given not less than seven (7) days prior to the date set forth therein for the opening of the proposals. Such notice may include publication in a newspaper of general local circulation or advertisement on SCBO and the Chester County website.

(iii) *The RFP.* The RFP should state the relative importance of price or fee and other evaluation criteria. The County shall attempt to secure proposals from no less than three (3) qualified sources, when such sources are available.

(iv) *Receipt of Proposals.* No proposals shall be handled so as to permit disclosure of the contents of any proposal to competing Offeror's during the process of negotiation. A register of proposals shall be prepared containing the name of each Offeror, the number of modifications received if any, and a description sufficient to identify the item offered. The register of proposals shall be open for public inspection only after contract award.

(v) *Request for Qualifications (RFQ).* Prior to soliciting proposals, the Director may issue an RFQ from prospective Offerors. Such request shall contain at a minimum a description of the goods or services to be solicited by the RFP, and the general scope of work and shall state the deadline for submission of information and how prospective Offerors may apply for consideration. The request shall require information only on their qualifications, experience and ability to perform the requirements of the contract.

After receipt of the responses to the RFQ from prospective Offerors, prospective Offerors shall be ranked from most qualified to least qualified based on the information provided. Proposals shall then be solicited from at least the top two (2) prospective Offerors by

means of a RFP. The failure of a prospective Offeror to be selected to receive the RFP shall not be grounds for protest under this Manual.

(v) *Proposal Opening.* Proposals shall be publicly opened and only the names of the Offerors disclosed at the proposal opening. Contents of competing proposals shall not be disclosed during the process of review and discussion. Proposals shall be available for public inspection after award of the contract. Proprietary or confidential information marked as such in each proposal shall not be disclosed without written consent of the Offeror. Late proposals shall neither be opened nor considered for award; however, the name and address of the late Offeror and the time of attempted delivery will be recorded.

(vii) *Clarifications with Responsible Offerors and Revisions to Proposals Prior to Selection of Preferred Offeror or Proposal.* As provided in the RFP, discussions may be conducted with responsible Offerors who submit proposals determined to be reasonably susceptible of being selected for award for the purpose of clarification to assure full understanding of, and responsiveness to, the solicitation requirements. Offerors shall be accorded fair and equal treatment with respect to any opportunity for submissions, and prior to award for the purpose of obtaining best and final offers. In conducting discussions there shall be no disclosure of any information derived from proposals submitted by competing respondents.

(viii) *Selection and Ranking.* Proposals shall be evaluated using only the criteria stated in the RFP and there must be adherence to any weightings that have been previously assigned. Once evaluation is complete, all responsive Offerors shall be ranked from the most advantageous to the least advantageous to the County, considering only the evaluation factors stated in the RFP. If price is an initial evaluation factor, award shall be made in accordance with this.

If price is not an initial evaluation factor, negotiations shall be conducted with the top ranked responsive Offeror for performance of the contract at a price which is fair and reasonable to the County. Should the Director be unable to negotiate a contract at a price which is fair and reasonable to the County, negotiations shall be formally terminated with the top ranked responsive Offeror and negotiations commenced with the second most advantageous responsive Offeror, and then the third and so on until a satisfactory contract has been negotiated. In conducting negotiations, there must be no disclosure of any information derived from proposals submitted by competing Offerors.

(ix) *Award.* Except as hereinafter prescribed, the award shall be made to the responsible Offeror whose proposal is determined, in writing, to be the most advantageous to the County, taking into consideration the evaluation factors set forth in the RFP. No other factors or criteria shall be used in the evaluation. The contract file shall contain the basis on which the award is made.

V. OTHER PROCUREMENT METHODS

A. Small Purchases

Any purchase not to exceed \$10,000 may be accomplished without securing competitive quotations if the prices are fair and reasonable. Documentation of purchase must be accomplished through an approved Requisition and the issuance of an approved Purchase Order. Competitive quotations need only be taken when the Director suspects the price may not be fair and reasonable, e.g., comparison to previous price paid, personal knowledge of the price range of the item involved. The Director may periodically review the frequency of 'small purchases' to ensure the purchase is not a large purchase being purchased over a period to avoid the procurement process. Regardless of the amount of the small purchase, the vendor will be set up in the same fashion as other vendors and shall submit a written quote for the purchase, an executed W-9 and required Insurance Certificates to the Director.

B. Blanket Purchase Contracts

Blanket Purchase Contracts may exist for ongoing needs of the County. Bids are solicited based upon historic use of certain supplies or equipment. Procurement may authorize certain Department Directors to place orders against blanket contracts without seeking bids each time since unit prices and terms have been agreed upon in writing by both parties. Certain Blanket Purchase Contracts may contain a provision for the renewal of a given annual contract for up to two (2) additional fiscal years based upon mutual agreement of both the County and the Vendor. Single purchases on a blanket Purchase Order must not exceed \$2,500.00, and those that do exceed this limit must follow the appropriate process for the amount being purchased. Violation of this requirement may result in the loss of purchasing authority or personal liability for the purchase. Blanket Purchase Contracts **still requires the submission subsequent receipts and must be approved by the County Administrator and/or the Director.**

C. Emergency Purchases/Emergency Construction

Emergency purchases should be avoided whenever possible through proper planning. An emergency may be defined as an "unforeseen occurrence requiring prompt and immediate action." An emergency may also include situations in which life, safety, and welfare of the County citizens are in danger, necessitating emergency construction work such as, without limitation, repairs to a sewer line, repairs to a water well pump, etc. For emergency purchases or contracts exceeding \$500.00, the Department Director must request authorization from the County Administrator, utilizing the County Purchase Order, requesting a waiver of the County's formal bid procedures. All efforts must be made by the Department Director to obtain approval from the Chester County Administrator or his/her designee. Such emergency purchases or construction may then be executed immediately upon approval. In cases where the County

Purchase Order is not completed due to the extreme nature of the emergency, the Department Director is expected to follow up with the Director with an appropriately completed Purchase Order once the emergency has ceased and as soon as practicable. Department Directors in first-responder situations should plan accordingly in their budgets for emergency purchases through the fiscal year.

D. Sole Source Procurement

Any request by a Department Directors that a procurement be restricted to one potential source shall be made in writing and shall contain an explanation as to why no other source will be suitable or acceptable to meet the needs of the County. A contract of less than, or equal to Twenty-Five Thousand Dollars and No Cents (\$25,000.00) may be awarded for a supply, service or construction item without competition where the County Administrator and the Director determine in writing that there is only one source for the required supply, service or construction item, or that the proposed award to a single source is a permitted, noncompetitive procurement as set forth herein. Certification from the sole source vendor may be required. After verification of a sole source vendor, or the justification of a sole source purchase is warranted, the Director has the authority to negotiate the price, terms and conditions of the procurement. A sole source for non-competitive contract award greater than One Hundred Thousand Dollars and No Cents (\$100,000.00) for a supply, service or construction item must be approved by County Council. The Director will review the record of sole source providers yearly and submit the list of renewals for approval for the next fiscal year to County Council during the budget process.

Examples of permissible, non-competitive procurements include without limitation:

- Where the County Administrator has deemed the compatibility of equipment, accessories, services, systems, software or replacement parts is of paramount importance;
- Where the item or service is an unexpected but immediate need such as towing services;
- Where an item is required for trial use or testing;
- Where public utility services are to be procured; and
- Any situation or circumstance the County Administrator deems to be appropriate for non-competitive procurement.

E. State Contract Procurement

State procurement enters into a variety of contracts with manufacturers and/or dealers utilized by the State and local governments at all levels. The Director may procure without competitive bids equipment, supplies, or services which are under current state contract.

These commodities may include without limitation, vehicles, tractors, backhoes, radar units, janitorial supplies, office supplies, traffic control equipment and fuel.

General Services Administration (GSA), HGAC, Sourcewell, Omnia, NASPO, are some of the ontract holders who make their products available to State and local governments for the same prices charged to federal government agencies. County purchasing may procure without competitive bids, equipment or supplies under contract with these entities, also referred to as Federal Supply Schedules.

Any purchase made through a State Contract or Federal Supply Schedule must be indicated as such on the Purchase Order through reference of the State Contract number or the Federal Supply Schedule Contract number. Purchase Orders that are purported to be purchasing through either agency but do not contain this number will be returned to the issuer without approval for the purchase. **State Contract procurement still requires a purchase order submission to the Director.**

VI. CONTRACT ADMINISTRATION

A. Types of Contracts

A contract is a bilateral agreement entered into by the buyer and the seller. For a contract to be legally binding and enforceable, both an offer and acceptance, in identical terms are required. **Contracts that bind Chester County may only be signed by the County Administrator.** Other County employees who sign a contract without express authority may be held personally liable for the contractual amount therein.

Subject to the limitations of this Manual, any type of contract which will promote the best interest of the County may be used provided that the use of a cost plus a percentage of cost contract is prohibited. A cost-reimbursement contract may be used only when the Director determines that such a contract is likely to be less costly to the County than any other type or that it is impractical to obtain the supplies, services or construction required except under such a contract.

Types of permissible contracts include without limitation:

(i) *Multi-Term Contract.* A contract for supplies or services may be entered into for a renewable period or until completion of the project(s) which was clearly described in the original solicitation, whichever is later, not to exceed a total of five (5) years, provided the term of the contract and the conditions of renewal or extension, if any, are included in the solicitation and funds are available for the first fiscal period at the time of the contracting. Payment and

performance obligations of the County for each succeeding fiscal period shall be subject to the availability and appropriation of funds.

Prior to the utilization of a multi-term contract, it shall be determined in writing:

- (a) That estimated requirements cover the period of the contract and are reasonably firm and continuing, and
- (b) That such a contract will serve the best interest of the County by encouraging effective competition or otherwise promoting economies in County procurement.

All multi-term contracts shall contain a clause stating that when funds are not appropriated or otherwise made available to support continuation of performance in a subsequent fiscal period, the contract shall be cancelled. **ALL MULTI-TERM CONTRACTS MUST BE APPROVED BY COUNTY COUNCIL.**

(ii) *Leases of Business Personal Property or Equipment.* A lease is a contract for the use of equipment or other supplies under which Title does not pass to the County unless there is a purchase option, where Title may pass to the County at some future time. A lease may be entered into if:

- (a) It is in the best interest of Chester County;
- (b) All conditions for renewal and costs of termination are set forth in the lease;
- (c) The lease shall be obtained using normal procurement procedures; and
- (d) Funding sources must be compatible with permitting a lease agreement.

(iii) *Lease with Purchase Option.* A purchase option in a lease may be exercised only if the lease containing the purchase option was awarded under competitive sealed bidding or competitive sealed proposal, or the leased supply or equipment is the only supply or equipment that can meet the County's requirements as determined, in writing, by the Department Director of the requesting department and the Director.

When a contract is to contain an option for renewal, extension or purchase, notice of such provision shall be included in the solicitation. Excise of the option is always at the County's discretion only, and not subject to agreement or acceptance by the Contractor.

(iv) *Maintenance Contract.* All maintenance contracts and agreements must be procured through the procurement process. Wherever practical, the terms of maintenance contracts shall be resolved in connection with the original solicitation for the item or equipment, which is the subject of the maintenance contract. The County Administrator or the Director, in consultation with the County Attorney, will review the contract for proper terms and conditions

as well as for fair pricing. Maintenance contracts may only be approved by the Director and the County Administrator.

B. Contract Requirements

(i) *Contract File.* The Director shall maintain all determinations and other written records pertaining to the solicitation, award or performance of a contract in a contract file. Following the award of construction contracts, contract files reflecting daily administration shall be maintained in the department responsible for overall administration of the project. Copies of Change Orders to the contract shall also be maintained in the Director's file.

All procurement records shall be retained and disposed of in accordance with record retention guidelines and schedules approved by the State. If a contract is being funded in whole or in part by assistance from a Federal agency, then all procurement records pertaining to that contract shall be maintained for three (3) years from the closeout date of the assistance agreement, or the final disposition of any controversy arising out of the assistance agreement.

(ii) *Legal Review.* All contracts shall be either drafted by the County Attorney or if supplied by the Contractor/Vendor, reviewed by the County Attorney to ensure that the best interest of the County is served by the document.

(iii) *Required Provisions.* All contracts for supplies, services and construction shall include provisions necessary to define the responsibilities and rights of the parties to the contract. The Director may also issue clauses appropriate for supply, service or construction contracts which may address the following subjects:

- (a) The unilateral right of the County to order, in writing, changes in the work within the scope of the contract;
- (b) The unilateral right of the County to order, in writing, temporary stoppage of the work or delaying performance that does not alter the scope of the contract;
- (c) Variations occurring between estimated quantity of work in a contract and actual quantities;
- (d) Defective pricing;
- (e) Liquidated damages;
- (f) Specified excuses for delay or non-performance;
- (g) Termination of the contract for default, or in whole or in part, for the convenience of the County;
- (h) Suspension of work on a construction project ordered by the County; (i) Site conditions differing from those indicated in the contract or ordinarily encountered except that differing site conditions clauses need not be included in a contract:
 - I. When the contract is negotiated;

- II. When the contract provides the site or design, or
- III. When the parties have otherwise agreed with respect to the risk of differing site conditions.

(j) Types and amounts of insurance coverage which are reasonable but required for the protection of the County.

(iv) *Price Adjustments.* Adjustments in price resulting from the use of contract clauses as shown herein shall be computed in one or more of the following ways:

- I. By agreement on a fixed price adjustment before commencement of the pertinent performance or as soon thereafter as practical.
- II. By unit prices specified in the contract or subsequently agreed upon.
- III. By the cost attributable to the events or situations under such clauses with adjustment of profit or fee, all as specified in the contract or subsequently agreed upon.
- IV. In such other manner as the contracting parties may mutually agree.
- V. In the absence of agreement by the parties, by unilateral determination by the County, of the reasonable costs allocable either directly or indirectly to the events or situations under such clauses as accounted for in accordance with generally accepted accounting principles, and with adjustment of profit or fee, as appropriate and subject to the other provisions of this Manual.

(v) *Standard Contract Clauses and their Modification.* The Director may establish, after consultation with the County Attorney, standard contract clauses for use in County contracts. If the Director establishing any standard clauses addressing the subjects set forth above, such clauses may be varied provided that any variations are supported by written determination that states the circumstances justifying such variations, and provided that the nature of any such material variation be stated in the Invitation for Bids or RFP.

(vi) *Change Orders/Contract Modifications.* Every contract modification, Change Order, or contract price adjustment under a construction contract with the County shall be subject to prior approval by the Director. The Director may approve such modifications, Change Orders, or adjustments that do not exceed the budgeted amount approved by County Council. Any increase over the budgeted amount must be approved by County Council.

(vii) *Right to Inspect Plant.* The County may at reasonable times inspect the part of the plant, place of business, or work site of a contractor or subcontractor at any tier which is pertinent to the performance of any contract awarded or to be awarded by the County.

(viii) *Right to Audit Records.* The County may at reasonable times and places audit the books and records of any contractor who has submitted cost or pricing data to the extent that such books, documents, papers, and records are pertinent to such cost or pricing data. Such books and records shall be maintained by the contractor for a period of five (5) years from the date of final payment under the subcontract or as otherwise provided by laws of the State of South Carolina.

The County shall be entitled to audit the books and records of a contractor or a subcontractor at any tier under any negotiated contract or subcontract other than a firm fixed-price contract to the extent that such books, documents, papers, and records are pertinent to the performance of such contract or subcontract. Such books and records shall be maintained by the contractor for a period of five (5) years from the date of final payment under the subcontract or as otherwise provided by the State of South Carolina.

VII. LEGAL AND CONTRACTUAL REMEDIES

A. Authority to Resolve Protested Solicitations and Awards

(i) *Right to Protest.* Any actual or prospective Bidder, Offeror, or Contractor who feels they are aggrieved in connection with the solicitation or award of a contract may submit a written protest to the Director, except as otherwise stated in this Manual. The protest must be submitted within seven (7) calendar days after such aggrieved person knows or should have known of the facts giving rise thereto.

(ii) *Authority to Resolve Protests.* The Director shall have the authority, prior to the commencement of an action in court concerning the controversy, to settle and resolve a protest by an aggrieved Bidder, Offeror, or a Contractor, actual or prospective, concerning the solicitation or award of a contract.

(iii) *Decision.* If the protest is not resolved by mutual agreement, the Director shall issue a decision in writing within ten (10) calendar days. The decision shall:

- (a) state the reasons for the action taken; and
- (b) inform the protestant of his rights to administrative review as provided in this Manual and under the laws of the State of South Carolina.

(iv) *Notice of Decision.* A copy of the decision under subsection (iii) of this Section shall be mailed or otherwise furnished immediately to the protestant and any other intervening party.

(v) *Finality of Decision.* A decision under subsection (iii) of this Section shall be final and conclusive, unless fraudulent.

(iv) *Appeal*. A person adversely affected by the decision may appeal administratively to the County Administrator.

B. Debarment or Suspension of Bidders, Offerors, or Contractors

When for any reason, collusion or other anti-competitive practices are suspected among any Bidder, Offeror, or Contractor, a notice of the relevant facts shall be transmitted to the County Attorney.

Authority. After fifteen (15) days' notice to the person involved and reasonable opportunity has passed for that person to be heard, the Director in consultation with the County Attorney and the County Administrator, shall have the authority to debar a person for cause from consideration for award of prospective contracts. The debarment shall not be for a period to exceed three (3) years. The same officer, after consultation with the County Attorney and the County Administrator, shall have the authority to suspend a person from consideration for award of contracts if there is probable cause for debarment. The suspension shall not be for a period to exceed three (3) months. The authority to debar or suspend shall be exercised in accordance with the regulations contained herein.

Reasons for Debarment or Suspension of Bidders, Offerors, or Contractors. The causes for debarment or suspension include without limitation the following:

- i. Conviction for commission of a criminal offense as an incident to obtain, or attempting to obtain, a public or private contract or subcontract, or in the performance of such Contractor subcontract.
- ii. Conviction under State or Federal statutes for embezzlement, theft, forgery, bribery, falsification or destruction of records, receiving stolen property, or any other offense indicating a lack of business integrity or business honesty which currently, seriously and directly affects responsibility as a County Contractor.
- iii. Conviction under State or Federal antitrust statutes arising out of the submission of bids or proposals.
- iv. Violation of contract provisions as set forth herein, of a character which is regarded by the Director to be so serious as to justify debarment action:
 - a) Deliberate failure without good cause to perform in accordance with the specifications or within the time limit provided in the contract, or
 - b) A recent record of failure to perform, or of unsatisfactory performance, in accordance with the terms of one (1) or more contracts if failure to perform, or unsatisfactory performance caused solely by acts beyond the control of the Contractor shall not be a basis for debarment.

v. Any other cause the Director determines to be so serious and compelling as to affect responsibility as a County Contractor, including debarment by another governmental entity for cause.

vi. vi. For violation of the ethical standards set forth in the State Ethics Act.

vii. Failure to pay uncontested or unappealed but delinquent, real or personal property taxes. These taxes are meant to include those taxes, assessments and penalties for which the County Treasurer has issued his tax execution to the Delinquent Tax Collector. However, this is not deemed to include tax assessments that are actually under formal appeal, or in litigation, at the time the debarment or suspension decision is made.

Decision. The Director shall issue a written decision to debar or suspend. The decision shall:

- a) State the reasons for the action taken, and
- b) Inform the debarred or suspended person involved of their rights to administrative review as provided in this Manual.

A copy of the decision shall be mailed or otherwise furnished immediately to the debarred or suspended person, and any other party intervening. A decision under this Section shall be final and conclusive unless fraudulent, or the debarred or suspended person appeals administratively to the County Administrator.

Time of Decision, Prohibition from Accepting Bids or Offers from Person(s) Where Contract is Terminated. In addition to the authority to suspend or debar, the Director is further and expressly authorized to suspend a Bidder, Offeror or Contractor after submission of a bid or response to a solicitation where the Bidder, Offeror or Contractor is not determined to be subject to debarment or suspension until after the bid or response has been filed with the County. Where the County has terminated a contract, or contracts, with a person for cause or due to the failure or inability of the person to properly perform, the Director may not accept a bid or proposal for goods or services from such a person for a solicitation which either in whole or in part seeks a replacement or substitute for the goods or services which were the subject of the terminated contract. The Director may not accept a bid or offer from a person or company that is an affiliate, successor or assignee of the defaulting company or person, or which has an element of common management, ownership, or control with the terminated company.

C. Resolution of Contract Controversies

This Section applies to controversies between the County and a Contractor which arises under or by virtue of a contract between them. This includes without limitation, controversies based on breach of contract, mistake, misrepresentation or other cause for contract modification or rescission. The Director, after consultation with the County Attorney and the

County Administrator, is authorized prior to commencement of an action in a court concerning the controversy, to settle and resolve any controversy described herein.

If such a controversy is not resolved by mutual agreement, the Director shall promptly issue a decision in writing. The decision shall:

- (a) State the reason for the action taken, and
- (b) Inform the Contractor of its right to administrative review as provided in this Manual.

A copy of the decision shall be mailed or otherwise furnished immediately to the Contractor. This decision shall be final and conclusive unless fraudulent or the Contractor appeals for administrative review by the County Administrator.

If the Director does not issue the written decision required under this Section within thirty (30) days after written request for a final decision, or within such longer period as may be agreed upon by the parties, then the Contractor may proceed as if an adverse decision has been received.

Any Bidder, Offeror or Contractor receiving an adverse decision may appeal this decision to the courts of the State of South Carolina.

VIII. DISPOSAL OF SURPLUS COUNTY EQUIPMENT

The Director shall be responsible for the disposal of junk, excess or obsolete materials and equipment such as automobiles, trucks, vehicle bodies, tractors, riding mowers, typewriters, etc. following appropriate approval, the Director will periodically (but no less than on an annual basis) offer such material for sale. Surplus items may be sold through a public auction or by sealed bids. The most appropriate method of disposal will be determined as required. Sales of surplus equipment will be advertised in a publication of general local distribution and through SCBO.

Outdated or used County equipment may be sold to other governmental entities provided the offer to buy is fair and reasonable. The sale must be approved in writing by the Department Director and the County Administrator.

IX. DISPOSAL OF COUNTY REAL ESTATE OR REAL PROPERTY

It is the policy of the County to offer for sale, at fair market value, all surplus real property owned by the County. Surplus real property may be sold to adjacent property owners only when, as determined by an appraiser's report, such property is usable only by the adjacent property owner(s). When the property is sold, adequate legal provisions shall be made so that

no owner will be denied access to his or her property because of the sale. The County Administrator shall set a minimum selling price for all appraised surplus properties and approved by County Council.

This section does not pertain to properties seized and held by the Chester County Forfeited Land Commission.

All surplus real properties must be appraised to determine fair market value.

The sale of any surplus real property must be approved by County Council through its ordinance process, including without limitation a public hearing. After Council has authorized the sale of specific surplus real property, the property shall be sold as follows:

- (i) *Publication.* The Director will advertise surplus properties at least twice in a publication of local distribution with the advertisement containing the minimum selling price and a request for offers-to-buy on a given date, no less than thirty (30) days and no more than seventy-five (75) days after first publication. Offers-to-Buy will be submitted to the Director to be opened on the specified date and time.
- (ii) *Acceptance or Rejection of Offers-to-Buy.* On all sealed offers-to-buy (bids), only the highest net offer after deducting any fees or commissions will be considered. The County will have thirty (30) days to accept or reject an offer-to-buy. Council may, by motion, extend the time for considering the offer to sixty (60) days. If no reasonable offers-to-buy are received, the selling price of such property may become negotiable.

X. INVENTORY CONTROL PROCEDURES

The Inventory Control policy establishes a process for the recording, identification and accountability of all County-owned assets of significant value that is relatively permanent. The Finance Director, along with the assistance of the Procurement Director and Risk Management, have the responsibility to maintain a system of equipment control to provide a safeguard against loss and to facilitate effective utilization. Equipment of the County is paid for by the County taxpayer and the County must then be good stewards of that equipment.

A. Asset Types

- (i) *Land.* Land includes the investment, held fee simple in real estate other than buildings and/or other improvements. All land, as defined, regardless of value or cost, should be capitalized.

(ii) *Buildings.* Buildings include all County-owned buildings except those whose condition prevent their serving a present or future useful purpose. Permanently installed fixtures to or within a building, such as boilers, lighting fixtures, and plumbing are considered a part of the building. The subsequent addition or minor fixtures and/or equipment to a building should be recorded as equipment. The costs of major improvements to a building, renovation of the building, etc., should be capitalized and recorded as part of the building asset value.

(iii) *Other improvements.* Other improvements are physical property of a permanent nature, including storage tanks, reservoirs, parking areas, park facilities, etc.

(iv) *Infrastructure.* Infrastructure assets are long-lived capital assets that normally are stationary in nature and can be preserved for a significantly greater number of years than most other capital assets. Examples are roads, bridges, drainage systems and lighting systems.

(v) *Equipment.* Equipment includes movable property of a relatively permanent nature and of significant value, such as mobile equipment, office equipment, data processing equipment, machines, tools, and office furniture and fixtures. "Relatively permanent" is defined as a useful life of three years or longer. "Significant value" is defined as having an original cost of \$5,000 and over. The County may exercise the option to include other items for the purpose of maintaining appropriate accounting control. The cost may be applied in some instances to aggregates of units of similar type or purpose, such as groups of chairs, shelving, filing cabinets, etc., rather than to the individual unit itself. Exceptions to the \$5,000 value and the one-year life rule will be applied consistently.

B. Maintenance of Fixed Assets Inventory List

The County shall maintain an inventory of its capital assets. The capital assets list will be maintained by the Finance Director for the purpose of:

- (i) Safeguarding the County's capital investment;
- (ii) Fix responsibility for the custody of the equipment;
- (iii) Assist in formulation of acquisition and retirement policies through accumulation of data regarding prices, sources of supply and useful life; and
- (iv) To provide data for financial reports, including funding reports for replacement needs.

Capital assets are tangible assets of significant value having a useful life that extends beyond a reasonable time period as defined by the County. The capital assets included in the County's accounting system are land, buildings, other improvements, infrastructure and equipment.

The County Finance Director shall utilize an appropriate property and equipment control system to meet the need for detailed information as to particular identification of the property or equipment and the costs, the depreciation, the assignment and the location of the equipment for assets of a value of \$5,000.00 or more. The Finance Director or his designee shall conduct an annual inventory of all equipment assigned to each Department/unit location. The responsibility for equipment accountability is assigned to the Department Director. The policy requires:

- (i) All items of equipment to be brought under control shall be identified by an assigned fixed asset number as required below.
- (ii) Periodic physical inventories, at least once annually, shall be taken of all items of equipment placed under a fixed control number.
- (iii) Equipment utilization controls shall be maintained for significant items, whether they are in the form of daily usage records or simple periodic observations to provide a safeguard against loss and to facilitate effective utilization.
- (iv) No item of equipment should be permitted to leave the premises without a pass signed by the proper authority. This includes equipment intended for other County locations and signed off by the Department Director for removal and return.
- (v) Department Director shall be administratively responsible for any equipment assigned to their Department. The equipment assigned should not be permanently transferred without written approval of the County Administrator and the Finance Director.
- (vi) (vi) *Inventory Components*. To be included in an inventory, an item should:
 - a) Chester County property;
 - b) Include items of furniture, electronic equipment, machinery, vehicles and apparatus which may be used repeatedly without any material impairment of physical condition and which have a probable life of more than three (3) years;
 - c) Include items that Chester County is leasing or renting, if the lease is applied toward the purchase of the item and is determined to be a capital lease.
- (vii) *Non-Inventory Items*. The following should not be included in a physical inventory:
 - a) Items that are purchased by a grant or contract for which the County does not hold title;
 - b) Personally owned items;
 - c) Expendable items;
 - d) Items that are considered permanent attachments to a building, e.g., light fixtures, built-in cabinets, permanently installed heating and cooling apparatus and carpeting.

Generally, all equipment purchases in excess of \$5,000 must be placed under control. Different levels of equipment control can be established.

(viii) *Receipt of New Equipment.* When new equipment is received by the County, the Procurement Director shall verify that the item description is identical to the item as described on the purchase order issued to the Vendor, tag the equipment or work with the Department Director to get the equipment verified and tagged.

(ix) *Equipment Information.* Information regarding new and existing equipment should include without limitation:

- a) Description;
- b) Serial or manufacturer identification number'
- c) Original cost;
- d) Purchase Order Number;
- e) Acquisition date;
- f) Disposition date where applicable;
- g) Category;
- h) Department to which equipment is assigned;
- i) Person assigned responsibility for the equipment;
- j) Location – building and area of the building where equipment is kept or used.

(x) *Changes in Status of Equipment.* All status changes to equipment are to be reported by the Department Director immediately as they occur as follows:

- a) Whenever an equipment item is temporarily (less than six (6) months) transferred between locations, the Department initiating the transfer must keep a record of its new location. The new location must be reported to the Finance Director and Risk Management.
- b) Whenever an item of equipment is to be permanently transferred to another location, this must be reported by the Department Director to the Finance Director and Risk Management.
- c) Whenever an item of equipment is found missing or believed to be stolen, this must be reported immediately to the Sheriff's Office, the County Administrator, the Finance Director and Risk Management.

(xi) *Surplus Property Disposal.* Notwithstanding the process previously outlined herein under Section VII and Section VIII, the following will be required for inventory control purposes:

- a) The Department Director will evaluate the condition of the item(s) and assign condition as obsolete, poor or scrap.
- b) The item(s) will be disposed of in accordance with this Manual.
- c) The Department Director will be responsible for the removal of the asset control tag and returning it to the Procurement Director.
- d) Upon being advised of the disposition of the asset, the Finance Director will retire the asset(s) from the Inventory Control system.
- e) An annual report of surplus sales shall be submitted prior to the conclusion of the fiscal year to Chester County Council, the Finance Director and Risk Management by the Procurement Director.

C. Development and Assignment of Fixed Asset Control Numbers

Capital assets shall be categorized into several classification groups based on type and use of the items. These groups shall be defined and maintained on file in the Procurement and the Finance Departments.

Capital assets will be assigned control numbers and will be added to the capital asset inventory list immediately following invoice payment to ensure that a current and accurate listing is maintained.

D. Department Review of Capital Asset Listing

On an annual basis, Department Director will be issued a copy of the Asset listing for their respective Department(s). this asset report shall be thoroughly reviewed, noting changes, additions, or deletions to be made to the inventory system. The inventory system will be revised based on information received from each department. A copy of the revised information will be provided to Procurement and Risk Management for the purpose of updating their records and/or insurance coverages.

XI. ELECTRONIC PROCUREMENT AND COMMERCE

A. Electronic Procurement

The Director may participate in securing goods and services as provided in this Manual by means of electronic procurement where sealed bids are not required. Examples of the type procurement may include without limitation:

- 1. Reverse auction where bids are permitted until the lowest bid is identified;
- 2. Acceptance of RFP and RFQ electronically;
- 3. Establish a chat room for meeting of Bidders, Offerors and Contractors;
- 4. Establish a FAQ site which relates to a specific bid or proposal.

B. Electronic Record

S.C. Code of Laws §26-5-520 states that an electronic record is deemed to be secure if:

1. It is created by application of a security procedure that is commercially reasonable and agreed to by the parties;
2. The electronic record can be verified not to have been altered since a specified point in time.

C. Electronic Signature

S.C. Code of Laws §26-5-510 states that an electronic record is deemed to be secure if:

1. It is created by application of a security procedure that is commercially reasonable and agreed to by the parties;
2. The electronic signature can be verified by use of a procedure that is recognized and approved by the parties;
3. When not previously agreed to by the parties, the electronic signature is:
 - a. Unique to the party using it; and
 - b. Capable of identifying such party; and
 - c. Created in a manner or using a means under the sole control of the party using it; and
 - d. Linked to the electronic record to which it relates in a manner such that, if the record is changed, the electronic signature is invalidated.

D. Electronic Commerce

The Director may participate in securing goods and services through means of electronic commerce whereby quotes and solicitations for the purchase of goods or services is done through a business' electronic "store".

E. Security of Records

All records received electronically will be maintained electronically in a secure location and retained in original format.

XI. CREDIT CARD PURCHASES

A. Authorized Use

Credit cards are issued to certain personnel (the “authorized user”) within the County who are authorized to use such cards for appropriate purchases for their Department, and who frequently purchase commodities and services. A frequent purchase is defined as using a card at least once in a three (3) month period. The employee who has been authorized to use the credit card is the only person authorized to use the card. **Chester County credit cards cannot be used at any time for personal purchases. Any employee allowing others to use the County credit card or who has used the County credit card for personal use may be subject to disciplinary action, up to and including termination.** The authorized user will notify the Finance Director and/or Accounts Payable for any loss or expiration of the credit card.

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The total cost of any transaction must not exceed the established single transaction limit. A single purchase may be comprised of multiple items purchased in one transaction. All items purchased to meet a single requirement must be purchased in one transaction. A single purchase shall not be split into two or more transactions to stay within the single transaction limit.

B. Prohibited Use

Credit cards shall not be used under any circumstances for the following:

- (i) Cash Advances;
- (ii) Gift cards;
- (iii) Rental or lease of land or buildings;
- (iv) Utilities (i.e., telephone services, telephone calls, etc.);
- (v) Alcoholic beverages or tobacco products;
- (vi) Non-business entertainment expenses;
- (vii) Sales tax;
- (viii) Square technology or third-party billing vendor set up in an individual’s name; (ix) Third-party billing vendor fees, and (x) Credit card fees or surcharges.

C. Fuel Cards

Fuel Cards shall be issued to each County vehicle and the card must remain in the vehicle to which it was issued. PIN numbers are assigned to each fuel card and may not be shared with others. Fuel cards are for gasoline fillups only and may not be used for high octane fuel (unless required by Auto Maintenance, food, or car washes).

D. Responsibility of Finance Director

The Finance Director or his designee shall be responsible for the following with regard to the County credit card:

- (i) Monitor all disputed purchases, credits and billing errors;
- (ii) Provide all new requesting Department cardholders the internal controls, transaction review and approval procedures prior to their usage of the card;
- (iii) Collect expired cards and distribute renewal cards;
- (iv) Assist in requesting Department's reconciliation;
- (v) Monitor for appropriate purchases on the card to ensure that all purchases are directly related to the mission of the County and serve a public purpose and to contact the appropriate individual or Department Director where clarification may be required, and
 - (vi) Obtain original detailed invoices or itemized receipts for all purchases.

E. Procurement Requirements

Employees making purchases on a County-issued credit must follow established procedures and guidelines for procurement including without limitation the requirement for bids and the need for a purchase order.

At no time should items on back order be charged to a credit card.

Purchasing authority must instruct the vendor to charge the card account at the time of shipment or when services are rendered so the commodities/service is received before the charge is posted to the account. The purchasing authority will confirm that the vendor is properly licensed and insured as required by the area of discipline at the time the service/commodities is delivered.

Purchasing authority must report lost cards or potentially fraudulent activity **immediately** to the Finance Director and/or Accounts Payable.

Authorized users are required to follow the following procedures:

- All transactions must be supported by original detailed or itemized receipt or invoice listing what was purchased, unit cost, number of units purchased, total cost, vendor name, etc. and any other applicable back-up documentation.
- Invoices and receipts that list the entire card account number and expiration date are to be adjusted so that only the last four digits of the card account number are listed. An

appropriate adjustment would be to cross out or white out the numbers and expiration date.

- The vendor name listed on invoices and receipts should match the credit card statement.

F. Infractions of Policy/Procedure

The Finance Director reserves the right, dependent on the degree of the infraction, to impose any of the actions below when an infraction of the policy and/or procedure is suspected:

- The Finance Director has the authority to deactivate a credit card account pending the completion of a review;
- The cardholder will be notified that an account is under review and pending investigation;
- The use of a County-issued credit card may be deactivated, suspended or cancelled;
- The authorized user may be issued a written warning;
- The authorized user may be placed on a 30-day suspension during which all charging privileges are suspended;
- The authorized user may be placed on a ninety (90) day suspension during which all charging privileges are suspended;
- The authorized user may be placed on a one-hundred eighty (180) day suspension during which all charging privileges are suspended;
- The authorized user is terminated from being an authorized user, and
- Discipline up to and including termination of employment in accordance with this policy and the Employee Handbook of Chester County.

The offending employee may also be subject to:

- Reimbursement to the County for any non-approved purchase(s). The purchase(s) would then become the property of the County.
- Subject to legal action by the County.
- The requirement of South Carolina sales tax if the purchase is deemed to be outside of the realm of a purchase for public purposes.

G. Termination of Cardholder

When a cardholder or authorized user ends employment with the County, the Human Resources Director is responsible to notify the Finance Director and/or Accounts payable **immediately**. The Human Resources Director will collect the credit card at the termination meeting and submit the credit card to the Finance Director and/or Accounts Payable thereafter. If the Human Resources Director is unable to collect the credit card when an employee is terminated, the Human Resources Director must immediately notify the Finance Director and/or Accounts Payable who will ensure that the credit card is terminated. Where the authorized user leaves the County voluntarily, that employee will be required to coordinate reconciliation of the card activity prior to ending employment.

XII.

Appeals

A. Bid Protests

Any actual or prospective bidder, offeror, or contractor who is aggrieved in connection with the connection with the solicitation or award of a contract may protest in writing to the Director of Contracts and Procurement within fifteen (15) days of the date of the issuance of the Requests for proposals or other solicitations documents, whichever is applicable or any amendment thereto if the amendment is at issue. Protestors are urged to seek resolution of their complaints initially with the Director of Contracts and Procurement. A protest with respect to a request for bids or request for proposals shall be submitted in writing prior to the opening of bids or the closing date of proposals, unless the aggrieve person did not know and could not have known of the facts giving rise to such protest prior to bid opening or the closing date for proposals. The protect shall be submitted within ten (10) calendar days after such aggrieved person knows or should have known of the facts giving rise thereto.

In the even of a timely protest, the Director will not proceed further with the solicitation or award of the contract until all administrative and judicial remedies have been exhausted.

B. Contract Claims

All claims by a contractor against the County relating to a contract, except bid protest, shall be submitted in writing to the Director for a decision. The Director may request a conference with the purchasing agent on the claim. Claims include without limitation disputes arising under a contract, and those based upon a breach of contract, mistake, misrepresentations or other cause for contract modification or rescission.

The decision of the Director will be promptly issued in writing and mailed or otherwise furnished to the contractor. The decision will state the basis for the decision and will inform the contractor of its appellate rights.

The Director's decision will be final and conclusive unless within ten (10) calendar days from the date of the receipt of the decision, the contractor mails or otherwise delivers a written appeal to the Director or the commencement of an action in a court of competent jurisdiction.

DONE IN MEETING DULY ASSEMBLED, this 21st day of August 2023.

COUNTY COUNCIL OF CHESTER COUNTY

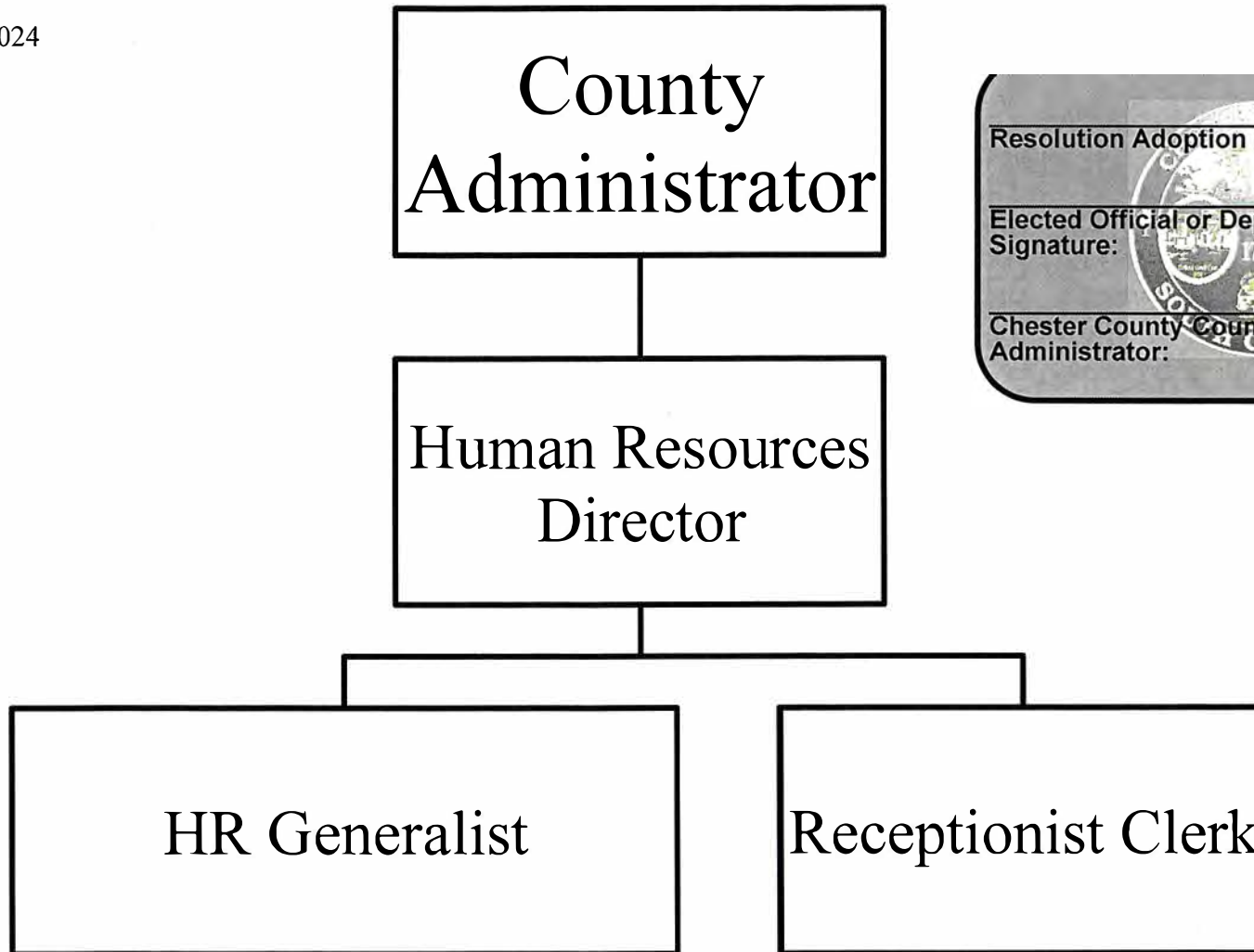
Joseph R. Branham
County Council of Chester County

ATTEST:

Karen Lee
Clerk to County Council of Chester County

NEW HUMAN RESOURCES – ORGANIZATIONAL CHART

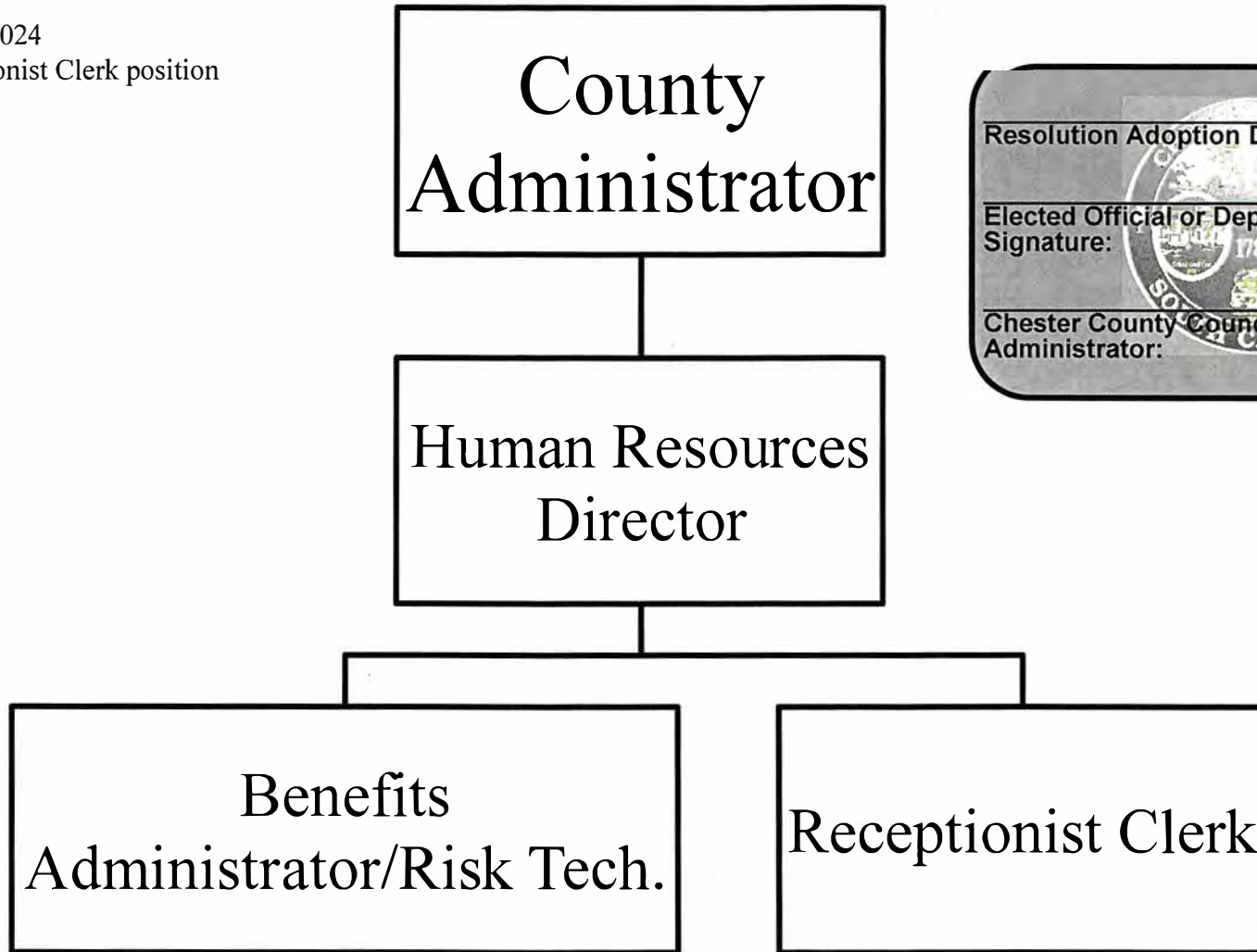
Fiscal year 2023-2024



OLD HUMAN RESOURCES – ORGANIZATIONAL CHART

Fiscal year 2023-2024

- Added Receptionist Clerk position




Accommodations Tax Advisory Committee (ATAX) Recommendations FY 2023-2024

APPLICANT	TOTAL PROJECT BUDGET	AMOUNT REQUESTED	AMOUNT RECOMMENDED	% TOURIST LAST YEAR
Chester Arts Council - Jingle Bell Bazaar	\$19,500.00	\$14,000.00	\$5,000.00	47.33%
Chester Arts Council - Operating Support	\$86,000.00	\$36,000.00	\$17,200.00	41.98%
Chester Downtown Development Association - Hog on the Hill	\$18,000.00	\$7,000.00	\$4,000.00	24.44%
Chester Downtown Development Association - HILLARITY	\$20,000.00	\$10,000.00	\$8,500.00	30.00%
Chester Co. Historical Society - Full Time Operation of Museum & Archives	\$125,000.00	\$25,000.00	\$16,000.00	72.95%
Chester Co. Historical Society - Full Time Operation of Chester County Transportation Museum	\$80,000.00	\$25,000.00	\$9,000.00	91.54%
Flopeye Fish Festival - Annual Festival	\$30,000.00	\$15,000.00	\$11,000.00	37.97%
Lando Art Festival	\$1,700.00	\$800.00	\$400.00	17.05%
Lando Southern Summer Picnic	\$1,000.00	\$500.00	\$0.00	15.30%
Lando-Manetta Mills History Center - Lando Days	\$4,000.00	\$3,250.00	\$1,000.00	29.07%
Lando-Manetta Mills History Center - Museum Operations	\$42,000.00	\$21,000.00	\$10,000.00	81.82%
The Homecoming-SL Finley Restoration Association	\$20,000.00	\$5,000.00	\$1,975.00	33.94%
Richburg Christmas Parade	\$2,075.00	\$2,075.00	\$0.00	41.88%
Fort Lawn Fall Festival	\$21,400.00	\$5,000.00	\$2,975.00	52.30%
Lowrys Christmas Parade	\$6,000.00	\$4,000.00	\$0.00	62.50%
MLK Jr. Parade	\$5,916.00	\$2,000.00	\$0.00	5.00%
Rotary Derby	\$14,500.00	\$3,500.00	\$1,975.00	37.14%
MLK Jr. Blues Festival	\$40,000.00	\$10,000.00	\$1,975.00	67.11%
TOTAL	\$537,091.00	\$189,125.00	\$91,000.00	



Chester County, South Carolina
Office of the Auditor
Post Office Drawer 580
Chester, South Carolina 29706

To: Brian Hester, County Administrator

From: Donnie Wade, Auditor
 Thomas E. Darby, Treasurer 

Subject: Millage Rates

Date: August 16th, 2023

For your review, listed are the 2022 tax levies and the proposed levies for 2023.

		Proposed	
	2022	2023	Increase
	Tax Levy	Tax Levy	(Decrease)
County Operations	149.9	149.9	0.0
County Debt	17.3	17.3	0.0
Millage Funds	7.7	7.7	0.0
Library	6.7	6.7	0.0
York Tech	2.2	2.0	(0.2)
Chester Fire District	48.3	51.2	2.9
Chester Fire Bond	2.9	0.0	(2.9)
Lando Fire District Operations	10.8	11.5	0.7
Lando Fire District Debt Service	7.4	7.4	0.0
Richburg Fire District Operations	6.8	7.3	0.5
Richburg Fire District Debt Service	7.8	6.8	(1.0)
Lewis Fire District Operations	14.2	15.2	1.0
Fort Lawn Fire District Operations	12.3	12.3	0.0
Fort Lawn Fire District Debt Service	3.5	3.2	(0.3)



Project Safe Pet, Inc.

168 Hwy 274, #311

Lake Wylie, SC 29710

www.ProjectSafePet.com

July 7, 2023

Chester County Animal Control
2714 Dawson Drive
Chester, SC 29706

Project Safe Pet is interested in making a donation to the successful Spay/Neuter program you are managing for Chester County. We are willing to make a \$2,500.00 donation to the Program if Chester County matches the donation, similar to last year.

We are very impressed with the success of your Program and the difference it has made for the animals of Chester County.

Regards,

A handwritten signature in black ink that reads "Laure Hadder".

Laure Hadder
Treasurer



Southern Animal Welfare League

803-230-2672
2505 Woodberry Lane
Catawba, South Carolina
Chester County

Chester County Government

July 2, 2023

Dear County Council,

Our non profit animal rescue group located in Chester County, South Carolina is offering Chester County Animal Control a \$1200 spay/neuter grant with a Chester County match for these funds.

Sincerely,

Jackie Kyles
President

Chester County Planning Commission Minutes

July 18, 2023

CCMA23-09 Gaston Springs LLC/Benji Layman request a portion (20.04 acres) of Tax Map #114-00-00-059-000 located at Gaston Farm Road and adjacent to I-77 to be rezoned from Limited Industrial District (ID-2) to Planned Development District (PD).

Benji Layman stated he is with the Isaacs Group and lives at 8720 Red Oak Boulevard, Charlotte, North Carolina. We're bringing back a project that started this process about a year ago. And the reason is we were advised to keep it clean. We've shifted to a new homebuilder. It's the same team members. I've been the engineer throughout, Tom Miller's here, he's been the property owner since the beginning, and Chris Robusto actually started this from the homebuilder side. He is with Fielding Homes, he switched over to Dreamfinders Homebuilders. And as we progress through looking at the developer agreement and some of the things that council is looking for. We didn't want any confusion as far as the home builder or who that was under. So, we've come back applying under Tom as a property owner. But the entitlements remain the same. I did want to clean up one thing too to make sure there's no confusion. This is the latest plan. And in talking to Mike, so right at the deadline we were kind of going through about four things. One was he needed the HOA covenants, two was the SCDOT approval on our TIA, three was a plat, and four was to update our road cross section. We did all those and you should have those in your package. But as part of the change, we initially proposed a wider road right away or a more narrow right road right away because we are going to do a private street. But Mike said we still need to meet the criteria of the county ordinance. So, when we did that, we updated we've got wider right away and when as well. So, we've to get to our 400 Maximum units are lots that we're looking at. We do have a combination of 50- and 60-foot-wide lots, so just wanted to make sure I think there was an older version that maybe suggested just 60 foot. So, we do have 50 foot and 60-foot lots. Some of the big items and I know that everyone's been looking for throughout the process and some high points. We do have an approved TIA and it involves right turn lanes into the site on both entrances, some monitoring at the intersection of Gaston Farm and Lyle and then some road improvements by way of a right and left turn lane at Hwy 9 and Lyle. We do have, we have acquired capacity for sewer, Tom paid that back in August of last year. So, he purchased the sewer capacity for 400 Lots. The other big items we've got four parking spaces per lot. That's two garages, two driveways, and our driveways are actually 25 foot from the back of sidewalk to the garage. So, there's ample room to park and still have that pedestrian access. We have 50-foot landscape buffers around the entire site but on top of that just want to point out we've kept there's a large pond on site that we are keeping. There's a lot of natural areas along creeks that kind of meander through the site where we're proposing to stay off of those with at least a 35-foot buffer but we're also staying off that more with more green space. We've got at least 40 acres of open space with this project. We will have an amenity on site. It'll be kind of in that corner by the front entrance. And again, we'll have sidewalks that will meet the typical red cross section for Chester County which is sidewalks on both sides of the road throughout the entire subdivision. And just from an architectural standpoint, the what we proposed before even though it's a different homebuilder, those, those entitlements are what we were looking for. They have stayed the same. It's Hardie plank. So, it's not no vinyl siding on these on this

product 30-year shingles and again, we're 25 foot from the public right away. Other than that, I'm here to answer any questions that you might have. Like I mentioned, the homebuilders here as well as the property owner.

Chairman Raines asked if Mr. Layman can step back to the podium, please for some question, I think.

Commissioner Hough stated you're saying your lots are only 50 and 60 foot wide? That's for your average lot size or is that the lot size.

Mr. Layman stated correct and that is they'll there will be some that are more 50 will be the minimum there will be a mix of 60 There will be some throughout the site that are more than 60. Those are the minimums.

Commissioner Hough asked the average is going to be what?

Mr. Layman stated we don't have an exact makeup, but 55-60.

Commissioner Hough asked what's your setbacks going to be on the side lot lines.

Mr. Layman stated they will 10-foot side setbacks that per code. So, it just fits the bigger lots will be a bigger house.

Commissioner Hough stated so 40- 45-foot-wide housing maximum then. Yep, and you're gonna need a little room for budge there I guess.

Mr. Layman stated correct. Yeah. So usually, we make the lot 61 feet if it's a 60 foot and it's a 40-foot product. So, you've got 10, 10 feet on each side. So, you're, you're looking at about 20 to 21 foot of separation between homes.

Commissioner Hough stated square foot is wise what I've read, I've seen a few of the plans in here. What's your average square footage you're gonna be on that lot.

Chris Robusto answered from the audience 2200 on the smaller ones and 2500-2600 on the bigger ones.

Chairman Raines asked where on the property would you say the pool would be when you're coming in at first entrance on the left. Amenities if you want to call them that.

Mr. Layman stated that's correct. Yep, this this piece right here it's hard to tell based on the scale, but this is about three acres so it's yeah, we showed some parking.

Chairman Raines asked if that's the overflow parking in its description as well.

Mr. Layman stated correct, and we had we did have opportunity if needed to provide some other pocket parks or amenities throughout the site. They just haven't been nailed down for what and where.

Chairman Raines stated and then would just be a phase one, phase two, phase three type concept and building it.

Mr. Layman stated so my understand is I think contracts written as a potential two-phase deal. But the purchase would all be at one time. So, the agreement would be for the maximum we could fit.

Chairman Raines stated thank you. The letter here says build out of 2029.

Mr. Layman stated that's probably about right, yep.

Commissioner Hough asked question, your average lot size I seen on there. It's gonna be like 6000 square feet. Is that correct? Somewhere in that range.

Mr. Layman stated that's gonna be the minimum. I think on the lot size itself; the average is going to be closer to seven below 7000 square foot. That's an absolute minimum lot depth.

Commissioner Hough stated because if I'm not mistaken, 6000 square feet, is about 13th of an acre, maybe somewhere in that range.

Mr. Layman stated It's in that in that range. I think we'll be closer to 1500 to two tenths of an acre. Just what we show, the depth on all the lots we have drawn or at least five foot deeper than that minimum typical layout we have. We just kind of do that. To make sure we've got room as the project evolves and the design continues, but the lots will actually be slightly bigger than that.

Commissioner Grant asked what the average square footage of the home is?

Mr. Layman stated 2200 square feet to 2500 square feet.

Commissioner Grant asked and all of its gonna be hardiplank you said. No vinyl?

Mr. Layman stated correct, no vinyl.

Commissioner Hough stated and then from what I understand, you said you've already looked at you've got some DOT studies that say the traffic is not an issue.

Mr. Layman stated It's not saying that it's not an issue. It's so we did, we do have an approved traffic study that SCDOT has approved. What we're responsible for us to kind of mitigate issues based on our traffic counts to kind of the level or slightly better level than they are now. So essentially, we're making changes on Gaston Farm Road to take on the capacity of the subdivision. And then the other point of emphasis was at Hwy 9 and Lyle, which it's a right turn lane, right turn lane on Lyle on a left turn lane on the Hwy 9.

Commissioner Hough asked any plans for any stoplights. Maybe as far as Lyle and 9 or anything like that.

Mr. Layman stated we've asked and as we were going through the process, I think the question came up.

Commissioner Hough stated 400 to 800 cars dumping in there is gonna be a lot.

Mr. Layman stated they are not requiring a stoplight. And SCDOT, I think wrote back to us and said at this time it didn't weren't a stoplight. So, we aren't proposing that at this time. It just points out that the traffic study is actually done by a third-party engineer that's not by us. So, it's just I'm kind of passing that on is what the study found.

Chairman Raines stated in your, your application, you mentioned like 400 homes but some somewhere else 384-389 or something. Which numbers are more accurate.

Mr. Layman stated so well we have sewer capacity for 400 lots and so that would be the absolute maximum. And from a probably planning and engineering standpoint, we're probably looking at closer to 384. But the 400 is based on the maximum we could ask for a sewer and that's what was approved.

Chairman Raines stated so they can branch it.

Chairman Raines asked if anyone else had any more questions. There were none. He stated that we will hear from the citizens that are in favor and against. He asked who was in favor.

Tom Miller stated he was in favor.

Chairman Raines asked for him to step to the podium and state his opinion on this matter.

Tom Miller stated that he lives at 1862 Pleasant Grove Road here in Chester. South Carolina. The reason I'm the petitioner of rezoning and file for is because I'm retaining 125 acres of the remaining site. I have a vested interest in what goes on in the community and surrounding that property. When initially I looked at the development of the site, it is zoned ID-2. That would have been my preference to develop it as an industrial facility. However, in looking at the site, the best access for that application would be going through Crenshaw, going to Crenshaw Parkway. I met with Mr. Crenshaw and he's unwilling to grant access to that service road on 77. Looking back at the property again, reevaluating it felt like a residential development would be a better application as opposed to tractor trailers going on to Gaston Farm Road. So that's why we got here a year ago. If we were to develop an industrial site on the property, you could accommodate as much as two and a half million square feet of warehousing. The residential property I think it'd be a lesser impact on the area. We had extensive meetings, workshops, and discussions of development agreements. We had meetings with municipalities and providers of schools to discuss what the community were active, as many as 1500 homes now we're only looking at 400 homes. The other developer that had 1100 subdivisions is no longer moving forward. The school superintendent, actually enter during those workshops, stated that this Lewisville school system could handle the capacity of these students. Even so much as that. The school superintendent Dr. Sutton was at the November 1 workshop. Meeting with the county council stated that the school system could accommodate these students

without reaching capacity. Further, he said that additional students would open up additional higher end classes. The current development plan, my current development partner is Dream Finders Homes like Chris, Chris Robusto initiated this project when he was with Fielding Homes and he's now wishing to pursue the same project. We want to produce a higher quality home, not a vinyl home, like some other developers have proposed, that are building in Chester. We want a non-disposable home, something that will enhance the community and would appreciate your support and support and any questions you might have.

Commissioner Walley asked Mr. Miller how long have you lived on Gaston Farm Road.

Mr. Miller stated he does not live on Gaston Farm Road. He lives on Pleasant Grove.

Commissioner Walley asked how long have you been in the community.

Mr. Miller stated that he has owned that property for 25 years.

Commissioner Hough stated I have a question for verification. I see all these plans that are presented tonight. But I see that we're looking at the zoning. We're approving the zoning and not the planning tonight. Is that correct? Was it all one package? We all present it but we're looking at the zoning. So that's the question.

Planning Director Mike Levister stated basically tonight we are doing the zoning. Once the zoning is approved and then we have a sketch plan. After he gets that and then he has to come back to y'all with preliminary plats, final plats, and all that has to meet the land development requirements.

Commissioner Hough stated that the zoning does not tie our hands to what we see here. That's what I'm asking.

Planning Director Mike Levister stated that now if you want to change something, you can make that recommendation when you make when whoever wants to make a motion. That way that recommendation is moved forward as y'all's recommendation to county council. Which y'all have the authority to make a recommendation.

Commissioner Hough stated I just want to make sure we can see all the plans. And we're talking a lot about the plans, but this is rezoning. Just wanted to clarify that.

Planning Director Mike Levister stated that a rezoning you are looking at what he's presenting and if you got any changes you would like to have for that authority to make that recommendation.

Chairman Raines stated okay, so we have three individuals who've also asked to speak tonight, and I will ask the first one to come up these being in opposition to, Shawn Saris. If you would state your name and address for the record, please.

Shawn Saras stated that he lives at 2738 Lyle Road. Good evening. I am the community that Mr. Miller speaks of. Myself and many of the members sitting with me. Gaston Farm Road is exactly that, a farm road. My wife's family is from that area. Grew up on that road. The Helms and the Keys. She grew up raising cattle, hogs, and chickens. And being married to my wife now, we have more property on Lyle Road, named after Mr. Bud Lyles' family. Who is also here in opposition. We continue to raise cattle, chickens, and hogs. And to be quite frank, we do not want a subdivision on our farm road and the surrounding areas. That property is zoned for industrial, and it needs to remain zoned for industrial we are okay with the being zoned for industrial. Sun Fiber is in an area which is industrial. We are okay with that. Well, we are not okay with is a subdivision in our rural farming community. So, that is it. We would like that property to remain industrial.

Bud Lyle stated that hello I'm Bud Lyle grew up on that property. I live at 6072 Lyle Road. And I've lived on that property since I was three years old. The traffic from industrial because Sun Fibers across the street is at shift change and trucks every now and again. So that's not a real bother. But traffic from housing with 400 houses is going to be constant 24 hours a day with at least two houses. Everybody has two houses, two cars rather per home nowadays. And with teenagers or something you might have more. So, you're talking about 800 new cars and they all like to wreck to the head and block their lane. All those people come the back way down Lyle Road, Gaston Farm Road, Fishing Creek Road, Humpback Bridge coming back way to Rock Hill. And in the mornings from 6:30 to 8:30, all the construction workers come that way. And every afternoon they go home that way because local people know that road. That's the only access you have if 77 block because the county council has already let four of these matchbook house developments get one 901, which will soon be so you can't get on it. A plan, a real plan development say like Baxter or Ballantine always has commercial and is far from industrial as possible. Gaston Farm as industrial is needed to get something nice like Gallo, something in there that is clean industrial. You know, and that's the only sewer outlet besides Mr. Crenko's on the Chester side of I-77. So, that sewer needs to follow the creek so everybody can tap it. They're planning on running up Gaston Farm Road, so I hear. So that's just like Nine where it runs up the highest place around. Nobody can tap it unless you use pressure sewer or you need gravity sewer, so everybody can tap in. These changes that these developers are all to make the developers more money and the gateway district was set up I thought years ago to be the way it is. Already have the developments on Nine. Where exactly is the sewer that they plan to run? They told me on the road, which I assumed to be Gaston Farm Road which would be Highway nine is the highest place. Gaston Farm is the next highest. So, anybody trying to tap it would have to run pressure sewer, very expensive. So, by letting them change the zoning, from an industrial to a commercial you're overloading the last road in and out of here if there's an accident because ambulances and fire trucks are using Lyle Road and I'm sure Gaston Farm and Fishing Creek to get around and when that wreck was on 77, SHUT DOWN 77. And they do every time there's a big problem on 77. I just ask you to look at real plan developments. Baxter, the Ballantine area and what used to be Indian land, whatever it's called now. They don't have any industrial and commercial next door and those 125 acres he's saving touches Sun Fiber. What's he gonna do with that? Because if he puts industrial in there, nobody's gonna live there, it will be like Bowater's. Everybody wants to move away from Bowater's after it's been there 50 years. This is a sad thing to change stuff at the last minute for somebody that just has the money, that's my opinion. Lyle Road, Gaston Farm cannot handle the traffic. They just can't. I don't care what kind; I saw them put the things up for studies or you're on a Wednesday take them down Thursday morning to get a little bit of time.

Chairman Raines stated I misspoke there was only two. There were two in favor, two opposed. Mr. Layman was the one that signed and already presented the case. So that concludes the public input people have signed up to speak tonight. We've heard a proposal for changing the zoning as Mr. Hough pointed out. It's just that to change the zoning to planned development.

A member from the audience asked am I able to speak because the sheet was gone?

Chairman Raines stated signup period was earlier. I'm not going to take any more public comments. So, as I was saying, we've got just a proposal to change the zoning. The planned development would encompass the housing that's been presented tonight, as Mr. Levister pointed out that the plan would be subject to Planning Commission approval. Checks against whether or not it meets county ordinances and that sort of thing, and then moves forward with the actual development itself. It would have to have an approved plot, plat for the whole development in entirety. So, having said that, we need a motion on the floor to discuss.

Commissioner Grant motioned to approve.

Chairman Raines stated I second. Okay, so now we discuss. And as Mr. Shawn Hough pointed out, we can amend this plan as far as lot size things like go. We can't do anything about traffic, can't do anything about water and sewer. Those people do their thing and they've said we can supply water we can supply sewer, and I'm no traffic engineer. I have no idea, but I have somebody that works in that line of the world, and they presented me with a document saying that the roads can accommodate that. I know convenience and all of that is an entirely different thing of being able to accommodate the roads, but I'm assuming that access for emergency vehicles and all those kinds of things have been included in that. We've also been told that there'll be turn lanes into these areas to alleviate actually blocking the road to get in and out.

Commissioner Hough stated a few things. One, the density I know and Fort Mill and Ballantine in such places, these names were throwing around. I know the density is like that but a 50 or 60 a lot seems very dense to me. Is there any movement there for lot size and because I know I know the battle you all fight because lots equal money and I know how expensive infrastructure is, but I'm asking is those lots being that tight? Is there any movement there as far as lot size goes because I know you're trying to get the maximum density I understand that but that is a 50-foot-wide lot. I mean that's this room's not much more than that. You know what I mean?

Chris Robusto stated yes. So, we originally started we're at a 60-foot-wide lot out there. And just so you all understand when we've been working with council over the last year. We were informed that the public road, they did not want public roads in our subdivision that they had to be private roads. So, we had drawn the plan when we resubmitted as private roads. Well, in other municipalities and Mecklenburg and the Union County and other counties when you do a private road, you're able to do them a little bit more narrow. So that's what we had submitted to Mike, and Mike came back and said now you have to build it to the public road standard. So, we have a huge, we have a very big pavement section within our

subdivision. And now the homeowners that we have in there, they're going to be fully responsible for all of the maintenance and everything on that road. So, when we originally drew the plan, we had 60-foot lots, with a, with a, with a reasonable ride width road. Then we went to the bigger road, and everything got pinched and got in got tighter. And so that's where we were asking for the 50-foot lots. We would be willing to go to some percentage or maximum number or something like that. But we have, we I understand what you're saying we still have 10-foot side yards. So, this homes will still be the same distance apart. But we are requesting a 50 foot if we need to limit the amount or a percentage some way, we could, we could work through that.

Commissioner Hough stated question, and I know y'all got a lot of work into this but reality is, you know, we live in these areas. So, we kind of understand pretty well. Yeah, and I have a second question to this too. But with that being said, I look at some of the green space available and some of your plants and looks like you have some excess. I know you have got a lot of work into this already. But is there anywhere to trim any of that to get these lots of little bigger because that is tiny. You know what I mean? Mr. Robusto stated we understand and so I live in Baxter Village up in Fort Mill. And so, I'm familiar with small lot and all of those things, and you're correct. We have probably more open space than we need. And we are at this point, it's not engineer, right. I mean, we have topography and we've got layouts for the roads and the lots that we just don't know how far we're going to be able to massage them to that's where, that's where we were asking for the ability to do some 50-foot lots.

Commissioner Hough stated and I say a second statement and I don't think I'll be alone in saying this. For the school superintendent to tell you that the 400 homes that in turn that our schools will accommodate that is just like she just said, laughable. Well, there's no way.

Mr. Robusto and Tom Miller from the audience stated that there was a workshop and if you get the minutes.

Commissioner Hough stated I don't doubt he said it, I'm just saying he's wrong.

Mr. Robusto stated we're just relaying the news. I hear your concerns.

Commissioner Hough stated only because we have children there. I mean, we know it's already like and we got a lot of developments coming. That's why, I just want to ask these questions and I'm not and I understand I know how it is to have this much work into something. So, I'm asking this question in front because it's gonna affect my decision because even though we're not approving this tonight, if there's no lateral movement, then it will affect what I'm going to or have gonna vote. So, my question is this, you know, with that density.

Mr. Robusto stated so we're not the density that we're at now was is the, is the same density we were at last year when we came through the process, but we had this the 60- foot lot and really we only went to the 50s because of the obligation now for the roads to be maintained by so what happens is, if I have to build excimer roads for 60- foot lots, well if I can put 10 more homes in there because I do some 50- foot lots at 10 more people that can help pay for that road. That subdivision has to be all on infrastructure. Yeah, it's all you know, I have to build this I have to build the road. And I think about 50-foot lot there and

pick up two or three on the street and two or three on another street that helps pay for all of the asks of Council which is the private road system that we're having that we're proposing.

Commissioner Hough stated and I understand you keep saying this is the same as last year and understand that. But we've got about three or four planned developments that already are down there that we hadn't felt the full effects of yet that are coming and so it does change from last year a little bit to this year. But we've already got a lot going on down there and like I said we haven't even felt the full effects of yet when everything's built out and we've already got approved it's gonna be a lot already. That's why I'm asking about the density.

Mr. Robusto stated so Benji, where are we at? Two and a quarter. We're at two and a quarter units per acre is what our density is which is, I mean, from a residential subdivision perspective, I know that we're less than the LGI subdivision that's down there, Lenar, and those guys, so we were, we were asking for two and a quarter to and it's a math equation. We all know that. I mean, it's how many houses and how many and how many roads.

Commissioner Hough stated is two and a quarter per acre, including the green space and the roads and everything. Is that correct? Or is that the actual acreage on sites because that's the case we'll make each a lot almost a half-acre. You know what I mean.

Mr. Robusto stated it's the total acreage of the site.

Commissioner Hough stated that I just want to clarify that.

Mr. Robusto stated that we have 150 in one track, 70 in another or excuse me, 20 in another. So, we have 170 ish acres.

Commissioner Hough stated that so total acreage is two.

Mr. Robusto stated yes, and our open space is really good open space. The pond is a great pond, the trail systems that we're going to be out in the open space is a ton of open space. So again, when you get that much open space like you have Baxter there's tons of outside that's usable, but they have smaller lots. That's kind of we're not doing this obviously the same thing as Baxter, but that's kind of the that's kind of the how the how it gets developed when we're when we're working on it. So, as Benji had initially said we're like 380 ish units or so that's numbers that that that make everything work with our sewer and everything we're gonna have to do there and turn lanes and it's a lot of infrastructure we're having to do so. So, yes, we'd be willing to limit but we still would like the ability to have some 50-foot lots.

Chairman Raines asked do we need to define that at this point? That would be preferable, right? We can't just leave it open ended.

Commissioner Hough stated this is still zoning only though.

Planning Director Mike Levister stated that if you want to make a motion to make changes to what they're presented as far as lot size or whatever, now's the time to make that recommendation. When you make your recommendation to the County Council. Then they would have to resubmit plans to me and then I'll give it to the clerk of the council to reference whatever y'all's recommendation is, but I'll have the authority to make recommendations and whatever they present it in their package.

Chairman Raines stated our opinion is strictly that a recommendation. Your issue is the 50- foot lots. How many 50-foot lots.

Mr. Robusto asked if can we do, is 30% reasonable. That would be 120 total of the 400, 30%.

Commissioner Hough state I mean if you are asking me.

Mr. Robusto stated that's what we are proposing.
Commissioner Hough stated if you're asking me, I don't know.

Mr. Robusto stated I know I know. I clearly hear you say zero.

Commissioner Hough stated I know you need them. I know how expensive it is.

Mr. Robusto stated we really do because in the roads are the big thing. So just so everybody understands how the county council basically said they're not going to accept the roads into the public system. So, it only leaves with the option to go with private and I only have the option to do a full 50 or 60 foot right away, so 50 foot. So, it's like 26 feet face to face of payments. I think they're pretty big lanes, I think that we have gone through there. So that's where that was where this all started. We started with a 60-foot lots and then we everything just has gotten massaged down where we're requesting some amount of 50s.

Chairman Raines asked so out of 384 lines how many are 50- foot.

Mr. Robusto stated not to exceed 120. That we, I would agree to that.

Chairman Raines asked how many total now. Is this proposed now.

Mr. Robusto stated we didn't have a limit. We just Benji's drawn a plan. We kind of massage things.

Chairman Raines stated so right now you couldn't tell me there was 150 lots that were 50-foot.

Mr. Layman stated from the audience that it's close to 50/50.

Mr. Robusto stated yeah, so 180 to 200 I think was the original if we're going to take 60 or 80 of them away. That would, we can probably still get things to work from our side. If we could get support 120/50 note not to exceed 120 50-foot lots, then we would. That's the minimum lot size and we would if that works, I guess if we're asking for that.

Chairman Raines stated ok, anything else? Then asked Mr. Robusto to state his name and address for the record.

Mr. Robusto stated my name is Chris Robusto and I'm at 517 Sutton Road North in Fort Mill.

Chairman Raines asked if anyone else had anything they would like to air.

Commissioner Grant stated the only thing I'd like to add Mr. Chairman is we are approving a zoning. He got to come back to us with lot sizes and all that kind of stuff, right.

Chairman Raines stated that is correct.

Commissioner Grant stated I just wanted to make that clear.

Chairman Raines stated but we have some ability to mold and shape because we do have a proposal. And we have some ability to amend that if you want to call it that. To make it a little more in the county's favor the residents in the area, you know, to mitigate a little bit of the impact if you want to call some of these houses. And it's this is strictly recommendation. I mean, our bearing has no wait with the council. They can, they can do what they believe. They've been in discussions apparently with the council already about from before and since then.

Commissioner Grant stated their workshops have addressed this situation.

Chairman Raines stated sounds like it. I haven't been a part of any of that. Everything must flow.

Planning Director Mike Levister stated I just want to clarify, are we going to make any changes we already got a motion in a second on the table. So, if anybody wants to make any suggestions like not to exceed 120 50-foot lots, then now would be the time we need to make sure somebody wants to change the motion and second, we need to remove the motion, the second and then the motion.

Chairman Raines stated as it stands now if we vote now, it's strictly to approve it just like it.

Planning Director Mike Levister stated, and I prefer to do each case separate we discussed both of them. But when we do the vote on each step correct. But if somebody wants to make anything, any changes, we need to remove the second and the motion.

Chairman Raines stated I'm willing to withdraw my second if we want to amend what we just talking about.

Commissioner Grant stated likewise for me on my motion as well. So, to speak up somebody. I'm ready to vote.

Commissioner Grant then stated I call a question of vote. Straight up. Like it is.

Chairman Raines stated you're making a motion. Straight up, not under 20 lots or anything. I second then.

Commissioner Grant motioned to approve, second by Chairman Raines. Vote 5-2 to approve.



Chester County, South Carolina
 Department of Planning, Building & Zoning
 1476 J.A. Cochran Bypass
 Chester, SC 29706

Zoning Map Amendment (Rezoning) Application

Fee: Residential \$150.00, Non-Residential \$300.00, Planned Development \$1000.00

Meeting Date: 7-18-23 Case # CCMA23-09 Invoice # 6781

The applicant hereby requests that the property described to be rezoned from ID-2 to PD

Please give your reason for this rezoning request:
 To provide a maximum of 400 single family lots in a master planned community

Copy of plot must be presented with the application request

Designation of Agent (complete only if owner is not applicant): I (we) hereby appoint the person named as applicant as my (our) agent to represent me (us) in this request for rezoning. A Corporate Resolution letter or a permission letter must be presented at the time of application request. NAICS CODE: _____

Property Address Information

Property address: Gaston Farm Road adjacent to I-77
 Tax Map Number: 114-00-00-059-000 Acres: 20.04

Any structures on the property: yes _____ no . If you checked yes, draw locations of structures on plat or blank paper.

PLEASE PRINT:

Applicant (s): Gaston Springs LLC - represented by Benji Layman - The Isaacs Group
 Address: 1120 East Boulevard Suite 200 Charlotte, NC 28203
 Telephone: _____ cell _____ work _____
 E-Mail Address: lom@millerdevelopmentcompany.com

Owner(s) if other than applicant(s): Charles Stephen Miller + Thomas Brown Miller
 Address: 1120 East Boulevard suite 200 Charlotte N.C. 28203
 Telephone: _____ cell _____ work _____
 E-Mail Address: _____

I (we) hereby agree that this information I (we) have presented is correct. Insufficient information may result in a denial of your request.

Owner's signature: [Signature] Date: 6/15/23
 Applicant signature: [Signature] Date: 6/15/23

CANCELLATION MAY RESULT IN AN ADDITIONAL FEE OF \$150.00. SOMEONE MAY REPRESENT YOU AT THE MEETING.



Building & Zoning Department
1476 J A Cochran Bypass
Chester, SC 29706
Phone: (803) 581-0942
Fax: (855) 930-0979

Issued to:

Benji Layman
The Isaacs Group, P.C.
8720 Red Oak Blvd
Charlotte, NC 28217

Receipt No. 6781

Date 06/21/2023
Cashier jchappell

Payment Items

Map Amendment 2 parcel rezoning \$1,000.00
\$1,000.00

Form of Payment

Check	2130	\$1,000.00
		\$1,000.00

Thank you for your payment.

We are proposing to rezone a portion of two parcels (114-00-00-015 000 and 114 00-00-059 000) located on Gaston Farm Road to PD to accommodate no more than 384 single family lots. The request is to rezone approximately 150.76 acres of parcel 114-00-00 015-000 (118.89 to remain as ID-2) and approximately 20.04 acres of parcel 114-00-00-059-000 (2.02 acres to remain ID-2). The total to remain as ID 2 is approximately 120.91 acres.

The entire development will consist of single family lots with a minimum width of 60' and a minimum area of 7,000 square feet. The density for the development works out to 2.25 lots/acre based on 384 lots across approximately 170.80 acres.

There will be multiple pocket parks spread throughout the development which will include dog stations, benches, and enhanced landscaping. There will also be a main amenity area which will include a pool and cabana. A great effort has been made to maintain the existing ponds (two separate ponds) and streams (along with buffers) and leave those as natural open space.

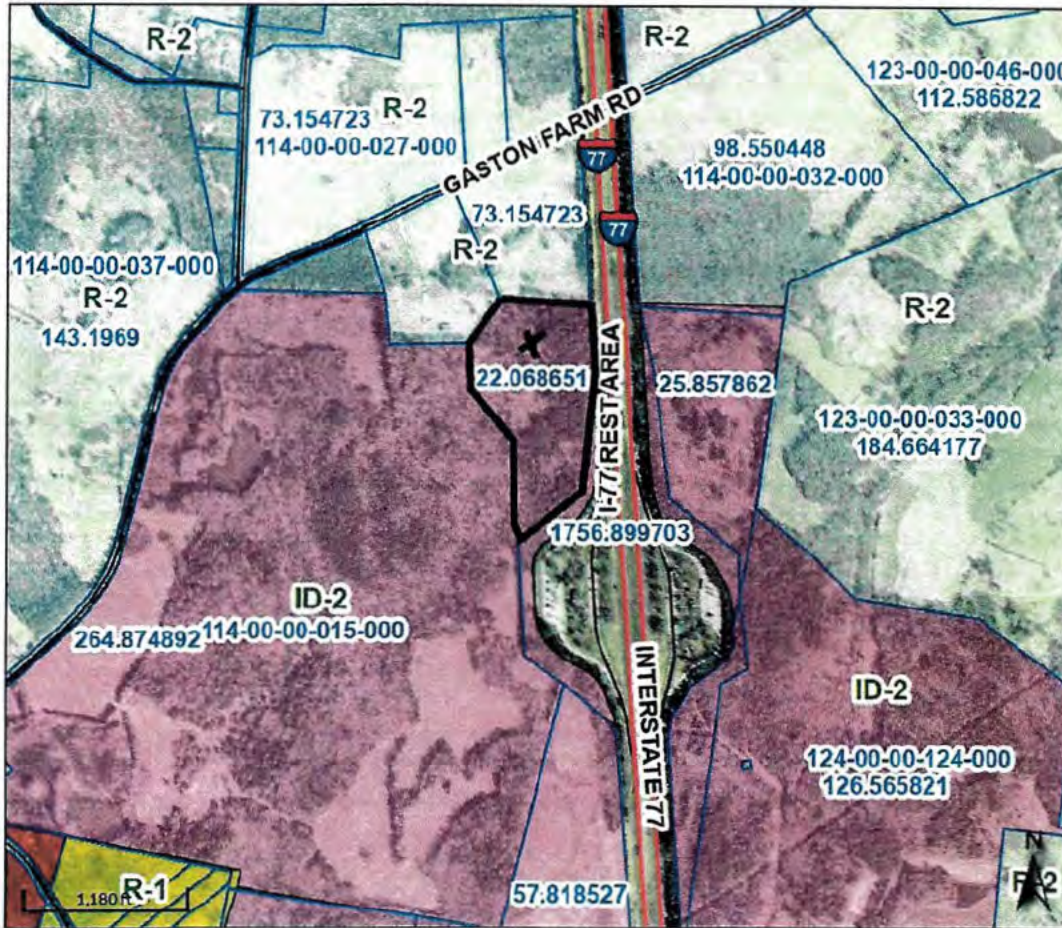
Streets will be private with sidewalk. Along with the pocket parks, there will be small areas of surface parking that can be used for overflow. Each lot will consist of a total of 4 unobstructed parking spaces (2 in the garage and 2 in the driveway; outside of the sidewalk). A TIA has been approved for the site.

All applicable County and State regulations will be met with regards to landscaping, erosion control, and permanent storm water detention/water quality. During construction multiple sediment basins will be constructed to control surface run off. A buffer will be provided off of all streams to allow for room to collect construction run off and send this water to ponds to settle. Water will then be skimmed off the top and clean water will be released at a slow rate or draw down time over several days. In the final condition, two large ponds will be provided to treat and detail storm water. Again, this will be released at a rate lower than existing conditions. Landscaping will be provided per code. Also, existing trees will remain undisturbed along the creek buffers and in areas around the perimeter of the property.

The development will have an HOA and will have covenants. This will provide direction on all easement information as well as maintenance responsibilities for common open space as well as maintenance for storm water ponds. The covenants will be recorded to assure compliance.

Sewer capacity was paid for 400 lots and it is anticipated the infrastructure will be constructed to ensure the capacity agreement stays in place. It is anticipated that full build out will occur around 2029.

The approach with this project has been a little different than other proposed developments in the market today. This project proposes a nice product on lots that are a little wider and bigger than other PD development and built at a lower density. The lot layout has been based on the natural features of the property and will provide nice amenities without trying to fit too much.



Overview



Parcel ID	114-00 00-059-000	Alternate ID	n/a	Owner Address	MILLER THOMAS BROWN
Sec/Twp/Rng	n/a	Class	LA		MILLER CHARLES STEPHEN
Property Address		Acreage	22.069		1682 PLEASANT GROVE RD
					CHESTER SC 29706
District	03				
Brief Tax Description	n/a				

(Note: Not to be used on legal documents)

Date created: 6/21/2023
 Last Data Uploaded: 6/21/2023 3:11:05 AM



Next Year (2024) Changes



Search Options

Map Number Real History Year

Name 1 Other Map Number

Alerts

Has Additional Comments

Owner Information

Post Initials Reason for Change Activity Date

Name 2 Land Value

Address 1 Building Value

Address 2 Total Market Value

Zip Code Total Tax Value

Codes

District Fire Code LANDO

Town Neighborhood

Subdivision Use Class

Description

Legal

Location Street Number Street Name Suffix Direction

Additional Information

Appraisal Appeal Owner Occupied TIF

Agricultural Use Reappraisal Notice MCIP Base

Rollback Exempt Industrial Park ID

RICHBURG MEADOWS

CHESTER COUNTY, SOUTH CAROLINA



DEVELOPMENT BY:
OWNER:
DATE:



PRELIMINARY
FOR REVIEW PURPOSES ONLY

RICHBURG MEADOWS
CHESTER COUNTY, SOUTH CAROLINA

REVISIONS:

NO.	DATE	DESCRIPTION

ISACS

1234567890



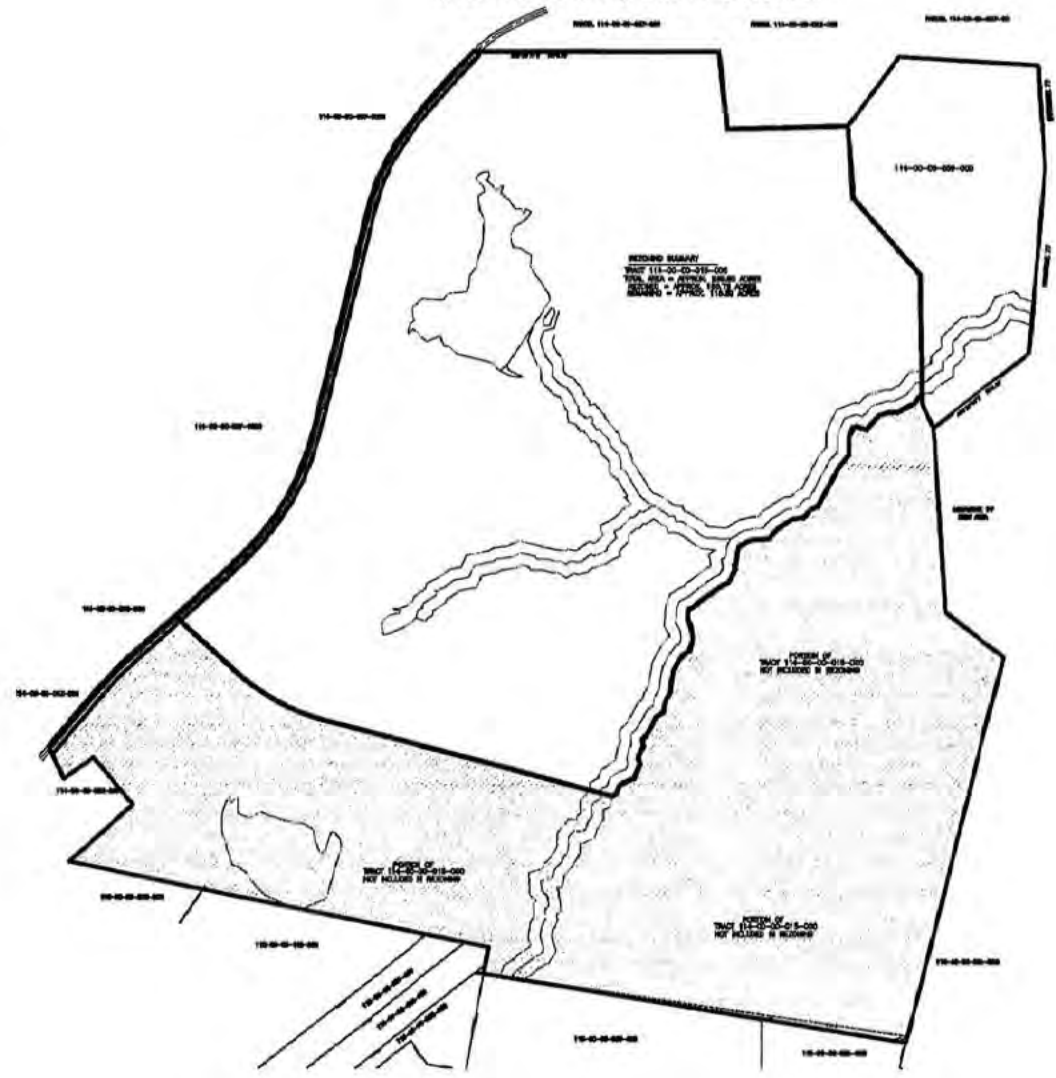
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RICHBURG MEADOWS

CHESTER COUNTY, SOUTH CAROLINA



PREPARED BY: SAACS
 DATE: 11-20-03
 PROJECT NO.: 11-00-00-000



PRELIMINARY
 FOR REVIEW PURPOSES ONLY

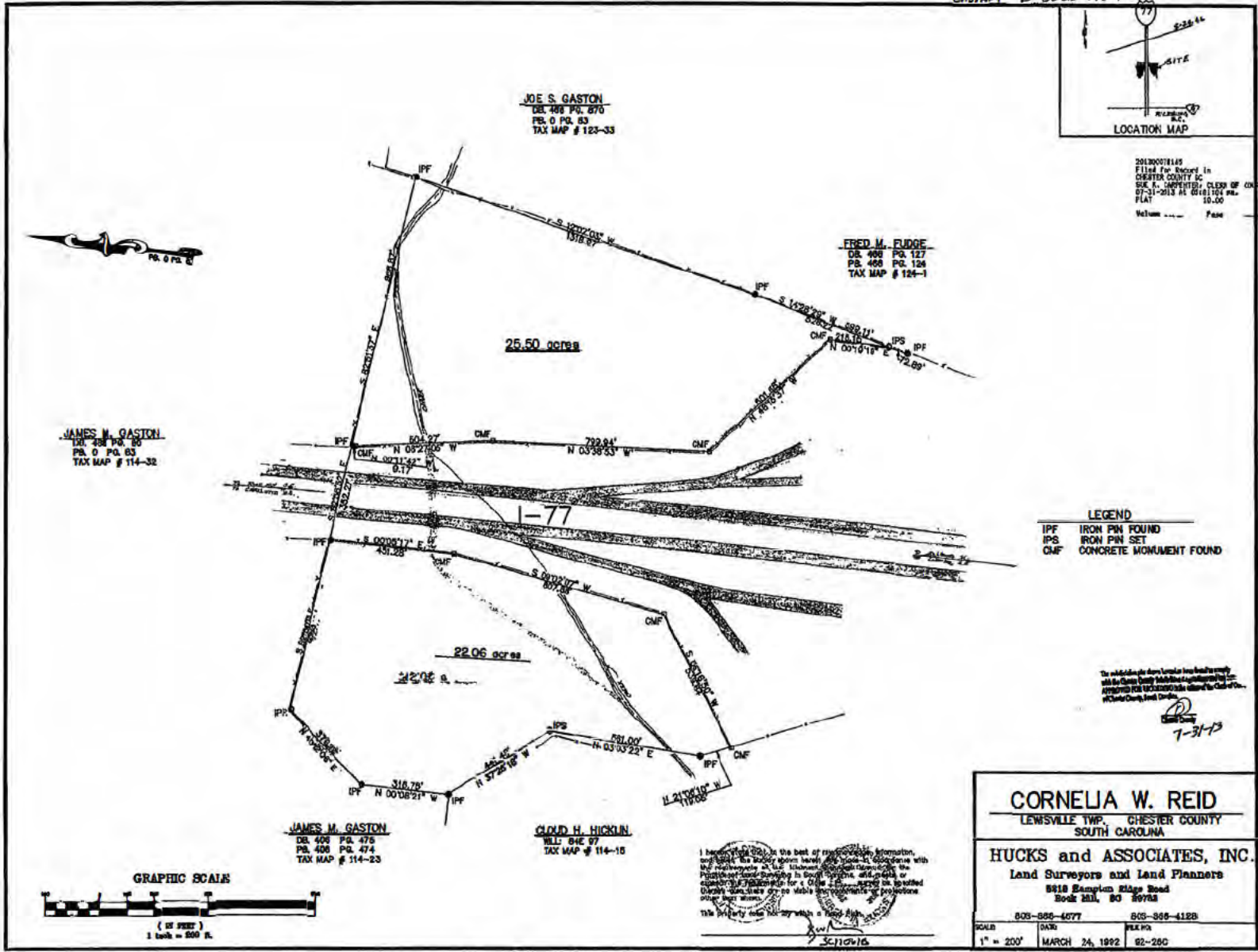
RICHBURG MEADOWS	
CHESTER COUNTY, SOUTH CAROLINA	
PROJECT NO. 11-00-00-000	
DATE: 11-20-03	SCALE: AS SHOWN
<small>SAACS ENGINEERING & ARCHITECTURE, INC.</small> <small>1000 W. 10TH STREET, SUITE 100, RICHBURG, SC 29729</small> <small>TEL: 803-771-1111 FAX: 803-771-1112</small>	



NO.	DATE	REVISION

11-00-00-000
 11-20-03

CABINET D. Subc 196 PG 2



Mike Levister

From: Love, Allison C. <[REDACTED]>
Sent: Thursday, June 9, 2022 4:15 PM
To: Tou Lee
Cc: Sally Hudson; [REDACTED] Nick Liguori; Christopher M. Robusto; Mike Levister; Gamble, David D.; Steven Epley; Benji Layman; Douglas Alles
Subject: RE: 225100 Hicklin Property TIA Presubmisison Scoping Package 3.11.2022

Hello,

The Department agrees in concept with allowing two access locations on Gaston Farm Road. The final determination will be made during the encroachment permit application process, when the SCDOT Access and Roadside Management Standards (ARMS) manual requirements for horizontal and vertical sight distance and separation between roads and driveways must be demonstrated by the developer's civil engineer.

Thank you,

Allison C. Love, AICP
Assistant District Permit Engineer – District 4
SC Department of Transportation
[REDACTED]



Safety 1st – Live By It!
Let 'em Work, Let 'em Live!

From: Tou Lee <[REDACTED]>
Sent: Thursday, June 9, 2022 4:00 PM
To: Love, Allison C. <[REDACTED]>

[REDACTED]

Subject: RE: 225100 Hicklin Property TIA Presubmisison Scoping Package 3.11.2022

*** This is an EXTERNAL email. Please do not click on a link or open any attachments unless you are confident it is from a trusted source. ***

Allison,

While we are finalizing the TIA for submission, the development team would like an answer from Department in order for them to move to the next step in their rezoning process. Is Department OKAY in concept with two proposed driveway connection onto Gaston Farm Road?

Let us know if Department can give a concurrence or would need to wait to review the TIA. We anticipate to submit the TIA within the next week.

Thank you,



Tou Lee, EI Project Engineer I
DAVENPORT
9144 Arrowpoint Blvd, Suite 130 Charlotte, NC 28273
[Redacted]

— Celebrating 20 years | est. 2002 —

From: Tou Lee
Sent: Tuesday, May 3, 2022 10:32 AM
To: Love, Allison C. <[Redacted]>

Allison,

I hope you're doing well. Attached is the revised scoping package for your review/comment/approval. From the previous scope, the development proposes to increase intensity from 375 DU to 400 DU. The package includes existing volumes and proposed trip distributions for use. Let us know if you have any questions.

Thank you,



Tou Lee, EI Project Engineer I
DAVENPORT
9144 Arrowpoint Blvd, Suite 130 Charlotte, NC 28273
[Redacted]

— Celebrating 20 years | est. 2002 —

From: Love, Allison C. <[Redacted]>
Sent: Friday, March 18, 2022 2:00 PM
To: Tou Lee <[Redacted]>

Cc: [Redacted]
Chri
<Ga

Subject: RE: 225100 Hicklin Property TIA Presubmisison Scoping Package 3.11.2022

Good afternoon,

The Department agrees with the content of the proposed scoping package.

Thank you,

Allison C. Love, AICP
Assistant District Permit Engineer – District 4
SC Department of Transportation



Safety 1st Live By It!
Let 'em Work, Let 'em Live!

From: [REDACTED]
Sent: Friday, March 11, 2022 1:22 PM

[REDACTED]

Subject: 225100 Hicklin Property TIA Presubmission Scoping Package 3.11.2022

*** This is an EXTERNAL email. Please do not click on a link or open any attachments unless you are confident it is from a trusted source. ***

All,

Attached for your review/comments/approval is the TIA presubmission scoping package for Hicklin Property, in Chester County, SC. Let us know if you have any questions or need additional information.

We understand the County is currently in a planned development moratorium but is expected to be lifted soon.

Thank you,



Tou Lee, EI Project Engineer I
DAVENPORT
9144 Arrowpoint Blvd, Suite 130 Charlotte, NC 28273

[REDACTED]

— Celebrating 20 years | est. 2002 —



CAROLINA WETLAND SERVICES, INC.
550 E. Westinghouse Blvd.
Charlotte, NC 28273
704-527-1177 (office)
704-527-1133 (fax)

August 2, 2021

Tom Miller
Miller Development Company
122 Cherokee Road
Charlotte, NC 28207

**Subject: Preliminary Wetlands Investigation
Gaston Farm Road Site
Chester County, South Carolina
CWS Project No. 2021-0104**

Dear Mr. Miller,

On July 28, 2021, Carolina Wetland Services, Inc. (CWS) scientists, Megan Bollero, WPIT¹ and Amie Hoy, WPIT, field-reviewed the Gaston Farm Road Site for the presence of potential jurisdictional waters of the U.S., including wetlands. The Gaston Farm Road Site (Chester County Tax Parcel Nos. 114-00-00-059-000 and 114-00-00-015-000) is approximately 286 acres in extent and is located southwest of the Interstate 77 and Gaston Farm Road interchange in Chester County, South Carolina (Figure 1).

This investigation was conducted to preliminarily identify and approximately map those features that could be jurisdictional as defined by methodologies described in the 1987 Corps of Engineers Delineation Manual² and the 2012 Eastern Mountains & Piedmont Regional Supplement,³ as well as, recent guidance from the U.S. Army Corps of Engineers (USACE). Prior to conducting the site investigation, CWS reviewed the United States Geological Survey (USGS) Topographic Map (Figure 2) and the United States Department of Agriculture - Natural Resources Conservation Service (USDA-NRCS) Published Soil Survey (Figure 3). The USGS Topographic Map and the USDA-NRCS Published Soil Survey Map depict multiple potential riverine systems and two freshwater ponds throughout the entirety of the project limits. Additionally, a review of the National Wetlands Inventory (NWI) Mapper⁴ showed multiple potential riverine systems throughout the entirety of the project limits, two potential freshwater ponds and one potential wetland in the northwestern portion of the study area.

Stream and Wetland Investigation Results

Based on the results of this field investigation, there are 14 potential waters of the U.S. located within the project boundary (Figure 4). These waters consist of seven potential stream channels

¹ Wetland Professional in Training, The Society of Wetland Scientists Professional Certification Program

² Environmental Laboratory. 1987. "Corps of Engineers Wetlands Delineation Manual", Technical Report Y-87 1, US Army Engineer Waterways Experiment Station, Vicksburg, Mississippi.

³ US Army Corps of Engineers, April 2012. Regional Supplement to the Corps of Engineers Wetland Delineation Manual: Eastern Mountains and Piedmont Region. US Army Engineer Research and Development Center, Vicksburg, Mississippi.

⁴ National Wetlands Inventory Mapper: <https://www.fws.gov/wetlands/data/mapper.html>

(Streams A-G), five potential wetlands (Wetland AA-EE), and two potential open water features (Pond A and B).

Streams A, B, D, E, and G had weak continuity of bed and bank, moderate in-channel structure, and had no baseflow at the time of the site visit, indicating intermittent flow.

Streams C and F had strong continuity of bed and bank, moderate in-channel structure, and approximately three to six inches of moderate baseflow at the time of the site visit, indicating perennial flow.

On-site features are summarized in Tables 1-3. Photographs 1-6 are representative of on-site features and current site conditions (Attachment A).

Table 1. Summary of Potential On-Site Wetlands⁵

Wetland Name	Cowardin Classification	Approximate Acreage (ac.)
Wetland AA	Palustrine Forested	1.68
Wetland BB	Palustrine Forested	0.01
Wetland CC	Palustrine Forested	0.11
Wetland DD	Palustrine Emergent	0.13
	Palustrine Forested	0.005
Wetland EE	Palustrine Forested	0.007
Wetland Total:		1.94 ac.

Table 2. Summary of Potential On-Site Stream Channels⁶

Stream Name	USACE/EPA/Rapanos Classification	Approximate Linear Feet (lf)
Stream A	Intermittent	34
Stream B	Intermittent	37
Stream C	Perennial	1,378
Stream D	Intermittent	1,249
Stream E	Intermittent	8
Stream F	Perennial	4,009
Stream G	Intermittent	146
Stream Total:		6,861 lf

Table 3. Summary of Potential On-Site Freshwater Ponds⁷

Jurisdictional Water	Cowardin Classification	Approximate Acreage (ac.)
Pond A	Freshwater Pond	2.9
Pond B	Freshwater Pond	2.60
Pond Total:		5.5 ac.

⁵ Subject to further delineation and USACE concurrence

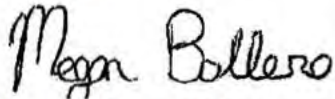
⁶ Subject to further delineation and USACE concurrence

⁷ Subject to further delineation and USACE concurrence

Please note that this report does not represent a detailed waters of the U.S. delineation. This report is for planning purposes only. The potential features depicted on Figure 4 (attached) are based on a limited, preliminary field investigation, and the limits of jurisdiction are an estimate only. GPS points are incomplete and were taken only at beginning points of jurisdiction, jurisdictional breakpoints, and/or representatively along wetlands and are subject to change following a detailed investigation. **A full delineation (flagging in the field) of jurisdictional waters of the U.S. with GPS mapping and USACE verification will be conducted once the project progresses into the design phase.**

Thank you for the opportunity to provide these services on this important project. Please do not hesitate to contact Megan Bollero at 757-576-6433 or megan@cws-inc.net should you have any questions or comments regarding this report.

Sincerely,

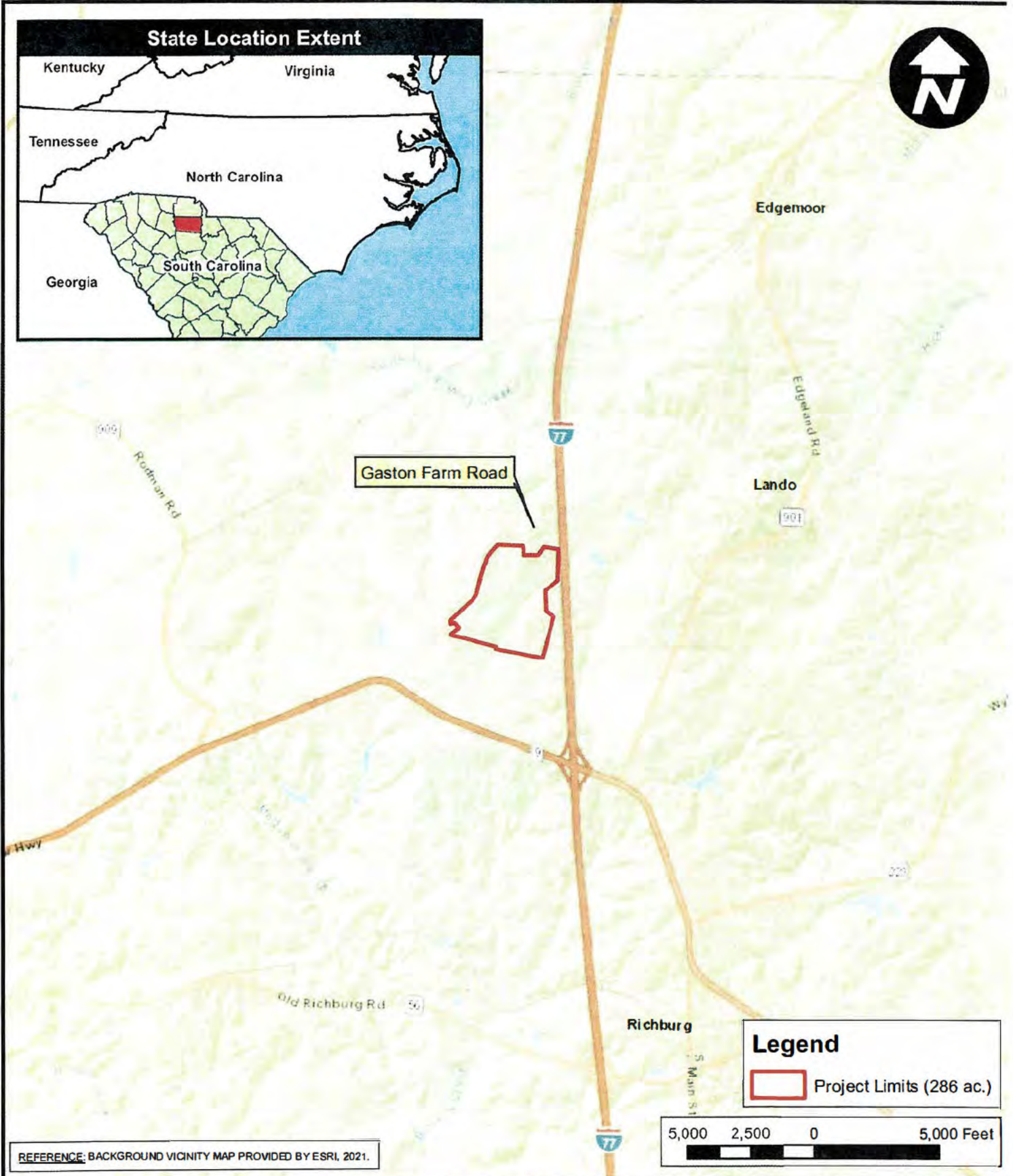
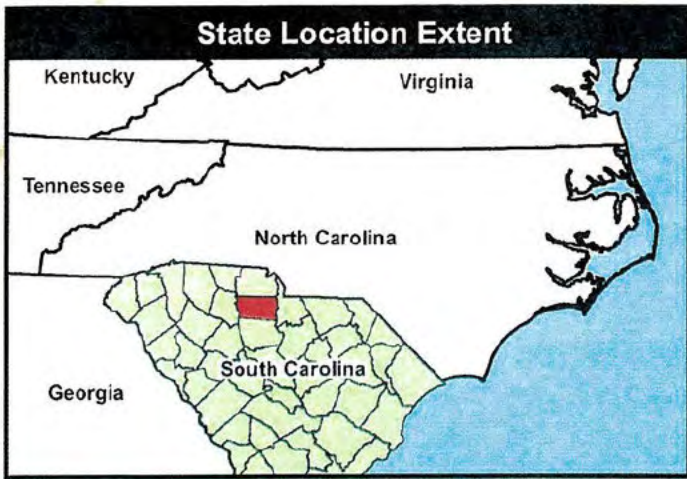


Megan Bollero, WPIT
Project Scientist



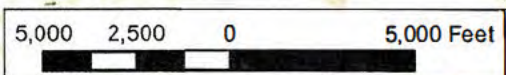
Aliisa Harjuniemi, PWS
Senior Project Manager

Attachments: Figure 1: Vicinity Map
Figure 2: USGS Topographic Map
Figure 3: USDA-NRCS Published Soil Survey of Chester County
Figure 4: Approximate Wetland/Other Waters Boundaries with Aerial Imagery
Attachment A: Photopage (Photographs 1-6)



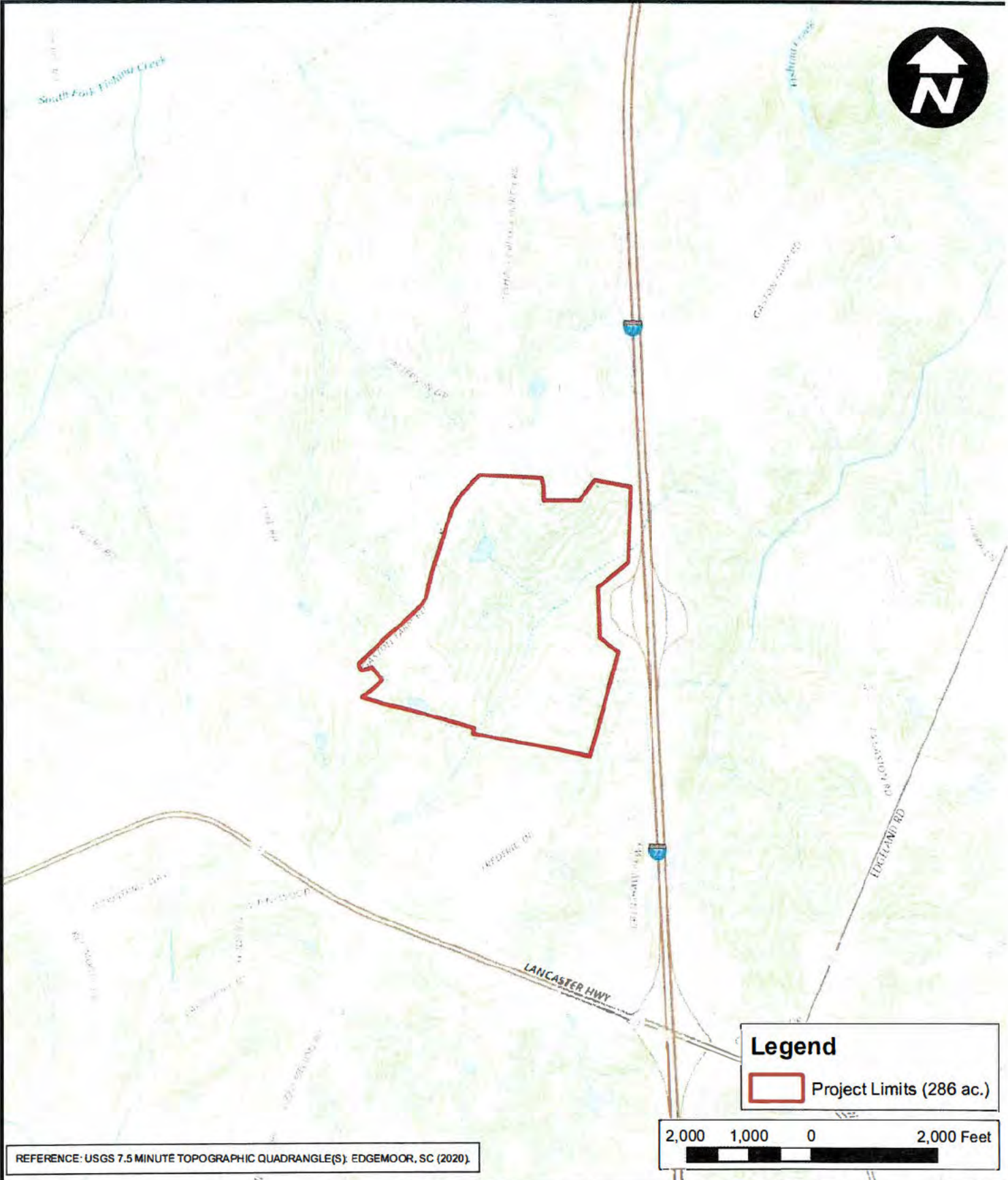
Legend

Project Limits (286 ac.)



REFERENCE: BACKGROUND VICINITY MAP PROVIDED BY ESRI, 2021.

SCALE: 1 inch = 5,000 feet	DATE: 7/29/2021		Vicinity Map Gaston Farm Road Site Chester County Richburg, South Carolina	FIGURE NO.
CWS PROJECT NO: 2021-0104	DRAWN BY: ALH			1
COORDINATES: 34.763498, -81.044137	CHECKED BY: AVH			



REFERENCE: USGS 7.5 MINUTE TOPOGRAPHIC QUADRANGLE(S): EDGEWOOD, SC (2020).

SCALE: 1 inch = 2,000 feet

CWS PROJECT NO: 2021-0104

COORDINATES: 34.763498, -81.044137

DATE: 7/27/2021

DRAWN BY: ALH

CHECKED BY: AVH

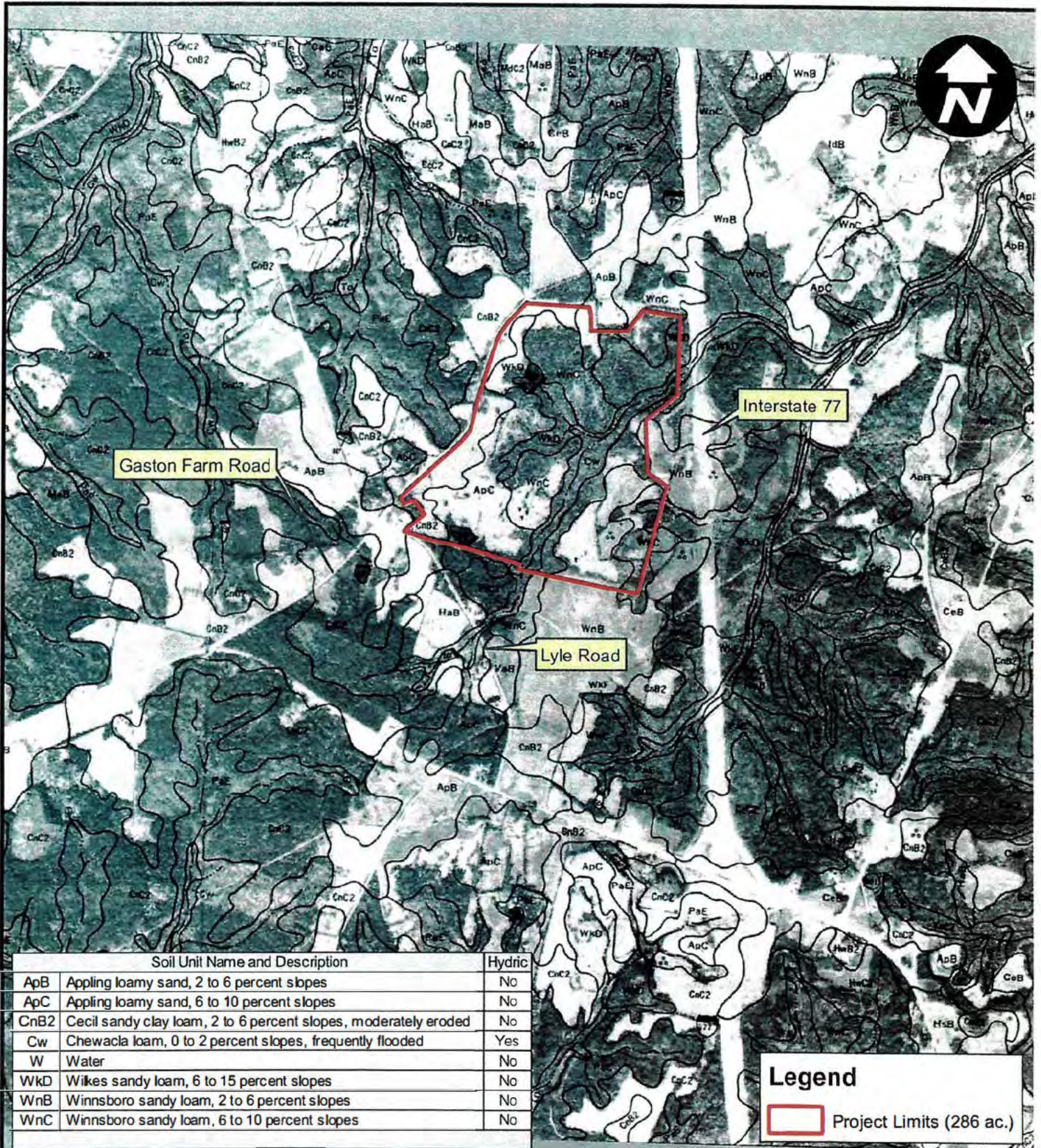


USGS Topographic Map

Gaston Farm Road Site
Chester County
Richburg, South Carolina

FIGURE NO.

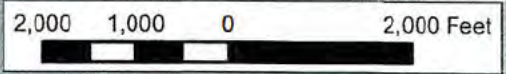
2



Soil Unit Name and Description		Hydric
ApB	Appling loamy sand, 2 to 6 percent slopes	No
ApC	Appling loamy sand, 6 to 10 percent slopes	No
CnB2	Cecil sandy clay loam, 2 to 6 percent slopes, moderately eroded	No
Cw	Chewacla loam, 0 to 2 percent slopes, frequently flooded	Yes
W	Water	No
WkD	Wilkes sandy loam, 6 to 15 percent slopes	No
WnB	Winnsboro sandy loam, 2 to 6 percent slopes	No
WnC	Winnsboro sandy loam, 6 to 10 percent slopes	No

Legend

Project Limits (286 ac.)



REFERENCE: USDA-NRCS PUBLISHED SOIL SURVEY OF CHESTER COUNTY, SC, SHEET 14, DATED 1982.

SCALE: 1 inch = 2,000 feet

CWS PROJECT NO: 2021-0104

COORDINATES: 34.763498, -81.044137

DATE: 8/2/2021

DRAWN BY: ALH

CHECKED BY: AVH



USDA-NRCS Published Soil Survey of Chester County

Gaston Farm Road Site
Chester County
Richburg, South Carolina

FIGURE NO. **3**

ATTACHMENT A:

Photopage (Photographs 1-6)



Photograph 1. View of emergent Wetland DD, facing southeast.



Photograph 2. View of forested Wetland AA, facing northeast.



Photograph 3. View of intermittent Stream C, facing upstream.



Photograph 4. View of perennial Stream F, facing upstream.



Photograph 5. View of freshwater Pond A, facing southwest.



Photograph 6. View of non-jurisdictional topographic crenulation, facing northeast.



May 3, 2022
Allison Love, AICP
District 4, SCDOT
loveac@scdot.org

RE: Pre-Submission checklist for Hicklin Property development to be located in Chester County, SC
(DAVENPORT Project Number **225100**)

Dear Ms. Love

I am pleased to submit this Pre-Submission checklist for this proposed project in Chester County. The transportation impact analysis will be prepared in accordance with the SCDOT guidelines for traffic impact studies and the following proposed scoping items. Please advise if any of these items should be adjusted:

- **Site Location** 3120 State Rd 46, Richburg, SC 29729
- **Site Layout** – (See attached site plan)
- **Trip Generation** – (see attached table)
 - LUC 210 – 400 Single Family Homes.
- **Proposed analysis software** - Synchro Traffic Modeling Software (Version 10)
- **Proposed Study Intersections** – (See attached Study Intersection map)
 - S-46 (Gaston Farm Road) at Fishing Creek Church Road
 - S-46 (Gaston Farm Road) at Lyle Road
 - SC-9 (Lancaster Highway) at S-46 (Gaston Farm Road)
 - SC-9 (Lancaster Highway) at Lyle Road
- **Proposed Site Accesses**
 - S-46 (Gaston Farm Road) at Site Access 1 (Full, northern)
 - S-46 (Gaston Farm Road) at Site Access 2 (Full, southern)
- **Proposed future build analysis year** – 2029
- **Proposed annual growth rate** – 2%, 10-year data, see attached
 - Station Number 185: 2019 11,400 ADT; 2010 10,900 ADT
 - Station Number 187: 2019 – 12,400 ADT; 2010 – 11,200 ADT
- **Proposed Study Scenarios:** AM (7-9 am) and PM (4-6 pm) peaks for the following:
 - 2022 Existing Conditions
 - 2029 Future No-Build Conditions
 - 2029 Future Build Conditions
 - 2029 Future Build Conditions + Improvements (as necessary)



DAVENPORT

- **Proposed site trip directional distribution** – See attached
- **Approved Developments** – N/A, to be determined by SCDOT
- **Committed Improvements** – N/A, to be determined by SCDOT

Please feel free to contact me with any questions at 704-579-5197. Thank you and we look forward to working with you on this project.

Sincerely,

A handwritten signature in black ink, appearing to read 'Tou Lee'.

Tou Lee, EI

Home Office:
119 Brookstown Ave. Suite PH1
Winston-Salem, NC 27101
Main: 336.744.1636; Fax: 336.468.9377

Charlotte Regional Office:
9144 Arrowpoint Blvd. Suite 130
Charlotte, NC 28273
Main: 704.200.2864

Serving the Southeast since 2002

Table A - ITE Trip Generation 11th Edition

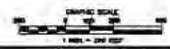
Average Weekday Driveway Volumes					24 Hour Two-Way	AM Peak Hour		PM Peak Hour	
Land Use	ITE Land Code	Size	Method/Type		Volume	Enter	Exit	Enter	Exit
Single-family Homes	210	400	Dwelling Units	Adjacent/ Equation	3,612	68	195	230	136
Total Unadjusted Trips					3,612	68	195	230	136



PRELIMINARY
FOR REVIEW PURPOSES ONLY

DEVELOPMENT DATA
 PROJECT NAME: [REDACTED]
 DEVELOPER: [REDACTED]
 PLAN PROVIDED BY: [REDACTED] PHONE #: [REDACTED]
 PARCEL #: [REDACTED]
 TOTAL AREA: [REDACTED]
 ZONING: [REDACTED]
 PREPARED BY: [REDACTED]
 DATE: [REDACTED]
 CHECKED BY: [REDACTED]
 SCALE: [REDACTED]
 SHEET NO. [REDACTED] OF [REDACTED]

PLANNED BY: [REDACTED]
 ARCHITECT: [REDACTED]
 ENGINEER: [REDACTED]
 SURVEYOR: [REDACTED]
 DRAFTER: [REDACTED]



NO.	DATE	REVISION

HICKLIN PROPERTY DEVELOPMENT
 DESIGN CONSULTING, SOUTH CAROLINA

ISAACS
 CIVIL ENGINEERING & SURVEYING

1000 W. 10th Street, Suite 403
 Columbia, SC 29201
 Phone: (803) 792-1111
 Fax: (803) 792-1112

C1.0



FIGURE 2A
SITE LOCATION MAP

SITE INDICATOR





FIGURE 2B
VICINITY MAP

STUDY INTERSECTIONS
EXISTING
PROPOSED



Query

DATA SOURCE:
 Trip Generation Manual, 11th Ed

SEARCH BY LAND USE CODE:

LAND USE GROUP:
 (200-299) Residential

LAND USE:
 210 - Single Family Detached Housing

LAND USE SUBCATEGORY:
 All Sites

SETTING/LOCATION:
 General Urban/Suburban

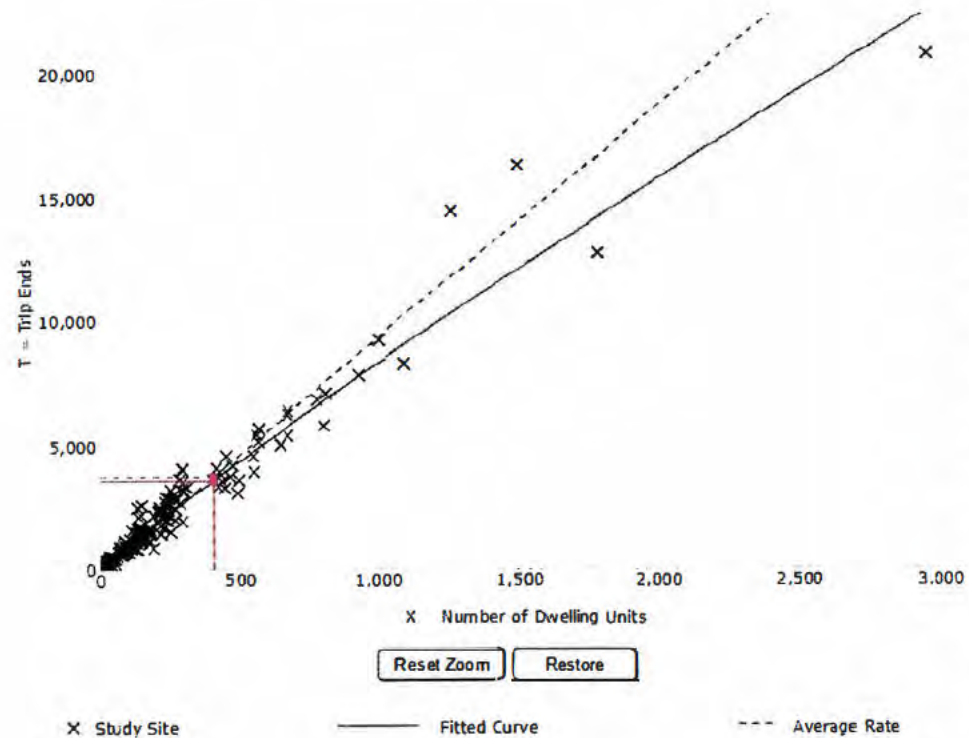
INDEPENDENT VARIABLE (IV):
 Dwelling Units

TIME PERIOD:
 Weekday

TRIP TYPE:
 Vehicle

ENTER IV VALUE TO CALCULATE TRIPS:

Data Plot and Equation



DATA STATISTICS

Land Use:
 Single-Family Detached Housing (210)

Independent Variable:
 Dwelling Units

Time Period:
 Weekday

Setting/Location:
 General Urban/Suburban

Trip Type:
 Vehicle

Number of Studies:
 174

Avg. Num. of Dwelling Units:
 246

Average Rate:
 9.43

Range of Rates:
 4.45 - 22.61

Standard Deviation:
 2.13

Fitted Curve Equation:
 $Ln(T) = 0.02 Ln(X) + 2.69$

R^2 :
 0.95

Directional Distribution:
 50% entering, 50% exiting

Calculated Trip Ends:
 Average Rate: 3772 | Total: 1806 | Entr.: 1806 | Exit:

Fitted Curve: 3612 | Total: 1806 | Entr.: 1806 | Exit:

Query

DATA SOURCE:
Trip Generation Manual, 11th Ed

SEARCH BY LAND USE CODE:
210

LAND USE GROUP:
(200-299) Residential

LAND USE:
210 - Single-Family Detached Housing

LAND USE SUBCATEGORY:
All Sites

SETTING/LOCATION:
General Urban/Suburban

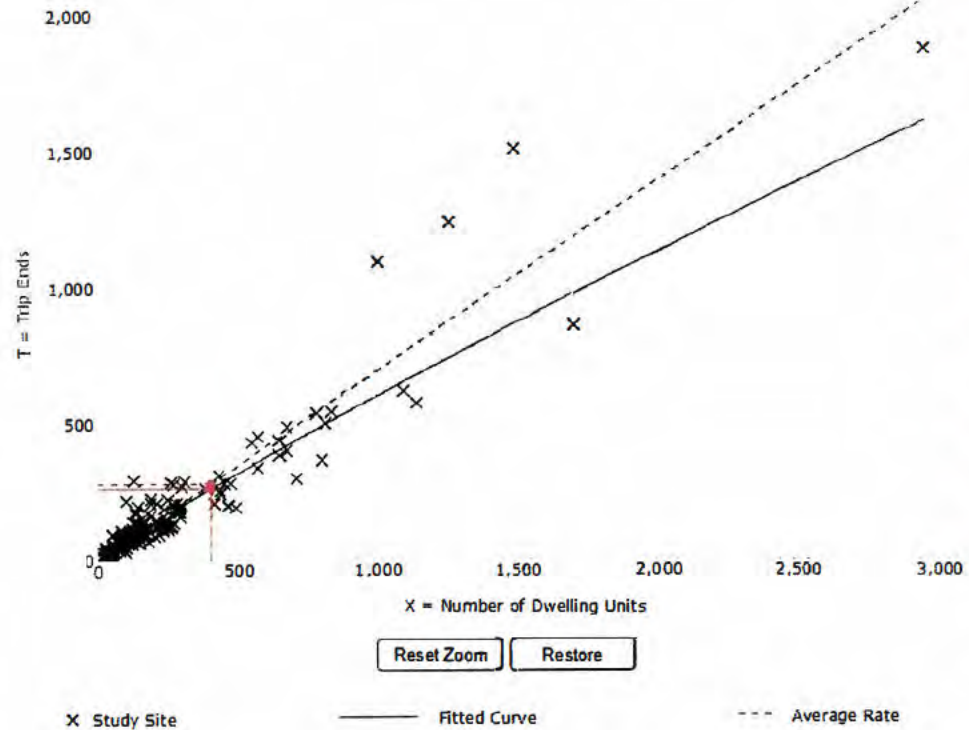
INDEPENDENT VARIABLE (IV):
Dwelling Units

TIME PERIOD:
Weekday Peak Hour of Adjacent Street Traffic

TRIP TYPE:
Vehicle

ENTER IV VALUE TO CALCULATE TRIPS:
400 Calculate

Data Plot and Equation



DATA STATISTICS

Land Use:
Single-Family Detached Housing (210) [Description and Data File](#)

Independent Variable:
Dwelling Units

Time Period:
Weekday
Peak Hour of Adjacent Street Traffic
One Hour Between 7 and 9 a.m.

Setting/Location:
General Urban/Suburban

Trip Type:
Vehicle

Number of Studies:
192

Avg. Num. of Dwelling Units
226

Average Rate:
0.70

Range of Rates:
0.27 - 2.27

Standard Deviation:
0.24

Fitted Curve Equation:
 $\ln(T) = 0.91 \ln(X) - 0.12$

R²:
0.90

Directional Distribution:
25% entering 74% exiting

Calculated Trip Ends:
Average Rate: 280 (Total); 73 (Entry) 207 (Exit)
Fitted Curve: 263 (Total); 68 (Entry), 195 (Exit)

Query

DATA SOURCE:
 Trip Generation Manual, 11th Ed

SEARCH BY LAND USE CODE:

LAND USE GROUP:
 (200-299) Residential

LAND USE:
 210 - Single-Family Detached Housing

LAND USE SUBCATEGORY:
 All Sites

SETTING/LOCATION:
 General Urban/Suburban

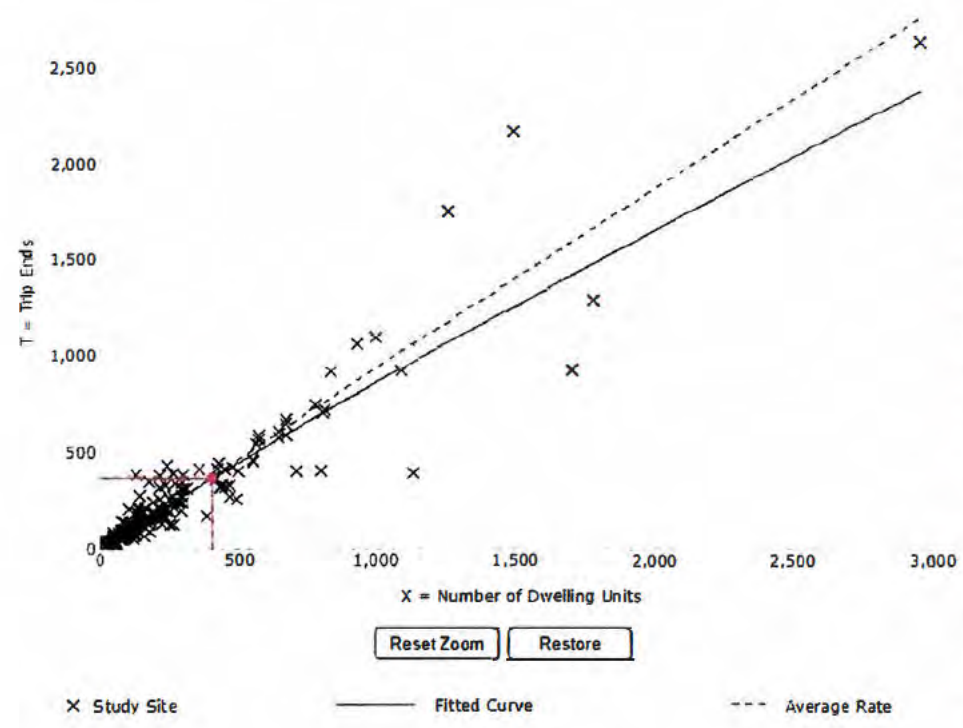
INDEPENDENT VARIABLE (IV):
 Dwelling Units

TIME PERIOD:
 Weekday Peak Hour of Adjacent Street Traffic

TRIP TYPE:
 Vehicle

ENTER IV VALUE TO CALCULATE TRIPS:

Data Plot and Equation



DATA STATISTICS

Land Use:
 Single-Family Detached Housing (210)

Independent Variable:
 Dwelling Units

Time Period:
 Weekday
 Peak Hour of Adjacent Street Traffic
 One Hour Between 4 and 6 pm

Setting/Location:
 General Urban/Suburban

Trip Type:
 Vehicle

Number of Studies:
 208

Avg. Num. of Dwelling Units:
 248

Average Rate:
 0.94

Range of Rates:
 0.35 - 2.98

Standard Deviation:
 0.31

Fitted Curve Equation:
 $\ln(T) = 0.94 \ln(X) - 0.27$

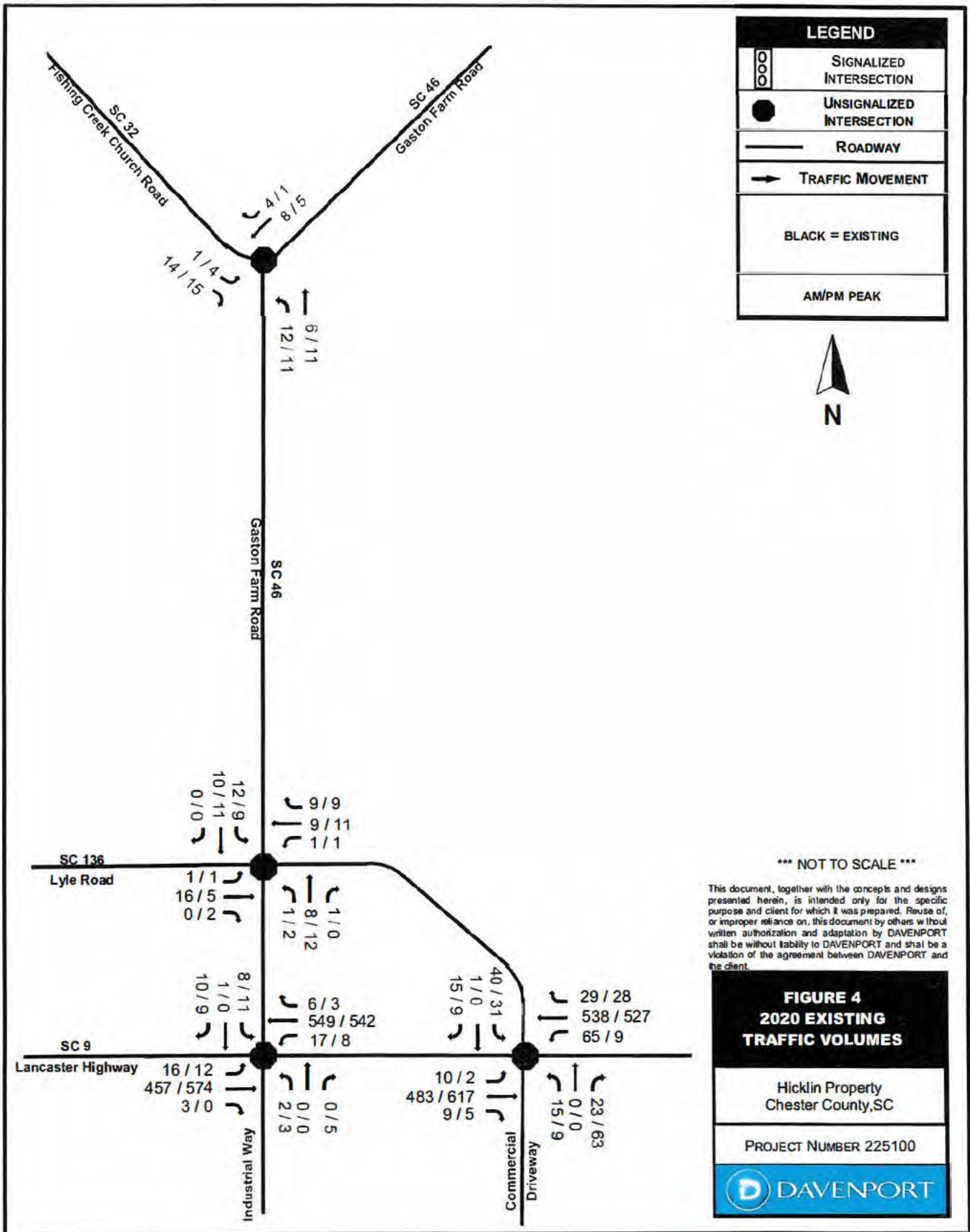
R²:
 0.92

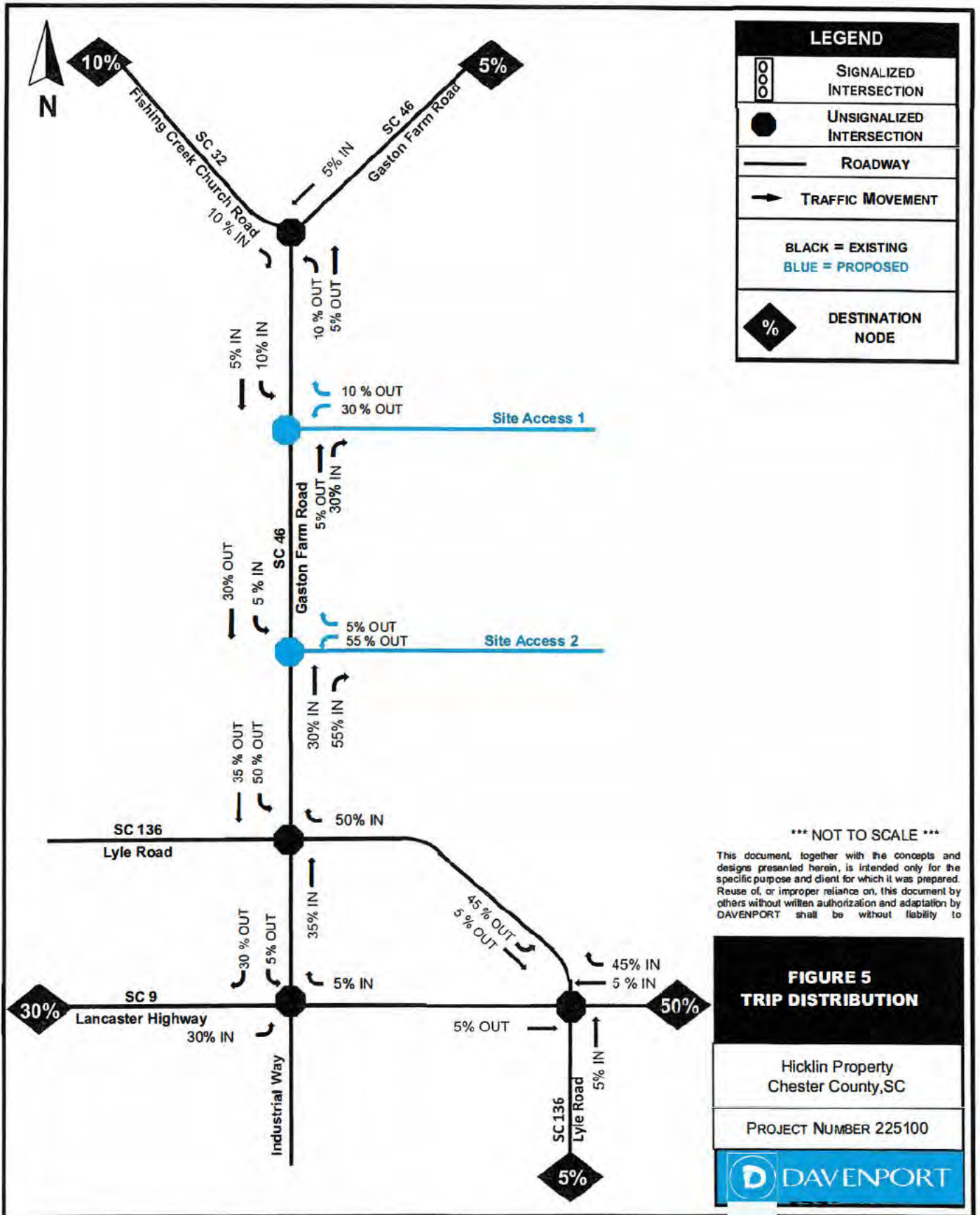
Directional Distribution:
 63% entering, 37% exiting

Calculated Trip Ends:
 Average Rate: 376 (Total: 227 (Entry), 139 (Exit))
 Fitted Curve: 356 (Total: 210 (Entry), 136 (Exit))

SCDOT AADT			
	SC-9 Station 185	SC-9 Station 187	S-46 Station 351
2010	10900	11200	150
2011	10000	10200	125
2012	11200	11200	150
2013	9700	9500	150
2014	9600	9100	125
2015	11100	10900	150
2016	11900	11000	175
2017	11200	10100	25
2018	11200	12200	25
2019	11400	12400	25
Slope	55.56	133.33	-13.89
Percent Slope	0.49	1.08	-55.56

Selected Growth Rate: 2%







VIA Electronic Mail

May 5, 2022

Chester County
Building and Zoning
PO Box 580
Chester, SC 29706

Re: Chester Sewer District
Willingness and Ability to Serve Letter
for NPDES Permit # SC0001741

To Whom It May Concern:

The Chester Sewer District (d/b/a) Chester County Wastewater Recovery (CWR) is willing and able to provide The Miller Development's with an additional twenty-five (25) residential units to the previous allotment of three-hundred-seventy-five (375) residential units with wastewater service. The cumulative allocation is four-hundred (400) residential units for the properties located on Gaston Farm Road in Richburg, South Carolina. The tax map numbers for the aforementioned lots are as follows:

- 114-00-00-015-000
- 114-00-00-059-000

Please note, this willingness and ability letter are subject to the following conditions:

- CWR will evaluate the current capacity conditions if construction has not begun and/or is not completed by the expiration date, May 31, 2024.

If you require additional information, please call me at (803) 377-3541.

Sincerely,
Chester County Wastewater Recovery


Phillip A. Thompson-King
Executive Director

Cc: J. Michael Hunter, Maintenance Superintendent, CWR
Tony Young, Wastewater Operations Superintendent, CWR
Joel Manning, Finance Analyst and Manager, CWR
The Miller Development
File



Solving the water needs of tomorrow today.

WATER AVAILABILITY REQUEST FORM (For Informational Purposes)

Date: 08/24/2021

A. Owner/Developer: DRB Group - Chris Robusto

Phone# [REDACTED]

Address: 227 W Trade St, Suite 1610, Charlotte, NC 28202

E-mail [REDACTED]

Owner Engineer: The Isaacs Group - Benji Layman

Phone# [REDACTED]

Address: 8720 Red Oak Blvd, Suite 420, Charlotte, NC 28217

E-mail [REDACTED]

B. Development/Project Name: Hicklin Property Development

Development/Project Location: Gaston Farm Road at Lyle Rd

Parcel Number: 114-00-00-015-000 and 114-00-00-059-000

C. Type of Development

- Residential
- Multi-Family
- Commercial
- Industrial
- Institutional

Type of Business: _____ Number of Units: 750

Building Area (SQ FT): _____ Anticipated Water Capacity Required (GPM) 947

District Use Only

Water may be available if the property owner meets the conditions as follows:

1. Capacity to provide service:
 - The property is within the District's Water System service area and the System has sufficient capacity to serve this property.
 - Service to this property is **not available** from the Water System at this time.

2. Availability of Domestic Water Service
 - Water will be provided by service connection to an existing 16 inch water main located along Lyle Rd and is approximately 3500 feet from the site.
 - Water service is available after the following improvements are completed:
 - 3500 feet of 12 inch water mains on Lyle Rd to reach the site;
 - The construction of a distribution system on the site;
 - Other Describe: _____

3. Availability of water for firefighting:
 - The nearest fire hydrant is located at Int of Lyle Rd/Fredric Dr and is within 3500 feet of the property.
 - Fire flow capacity is not available and shall be extended.

Approved By: *Andrew Little* Date: 08/24/2021
District Engineer



FIRE HYDRANT FLOW TESTING FORM

Completed by: TCausey JHinson

FLOW HYDRANT DATA					TEST HYDRANT DATA			HYDRANT/TEST COMMENTS
DATE	COEFF.	FLOW HYDRANT ID	PITOT READING	GPM (from chart)	TEST HYDRANT ID	STATIC PRESSURE	RESIDUAL PRESSURE	
3/23/2021	0.9	L01	32	949	L01	48	40	Lyle Rd
3/23/2021	0.9	L02	30	919	L01	48	42	Fredric Dr

THE BELAIR

2-4 BEDROOM | 2-3 BATH | 2 CAR GARAGE | 1,814 SQ. FT. LIVING AREA



ELEVATION A



ELEVATION B



ELEVATION C

REV. 8/1/20



DREAM FINDERS HOMES
HOMES BUILT TO FIT YOUR LIFESTYLE

DREAMFINDERSHOMES.COM

Site maps, floor plans and elevations are artist's rendering only and are subject to change without notice. Dimensions, plans and specifications are not to scale. Contact your new home builder for more information. www.dreamfindershomes.com



THE BELAIR

2-4 BEDROOM | 2-3 BATH | 2 CAR GARAGE | 1,814 SQ. FT. LIVING AREA



First Floor

REV. 8/1/20



DREAM FINDERS HOMES
HOMES BUILT TO FIT YOUR LIFESTYLE

DREAMFINDERSHOMES.COM

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THE BELAIR

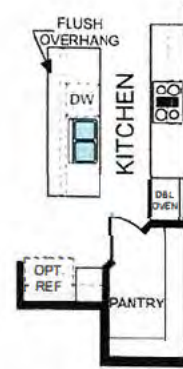
2-4 BEDROOM | 2-3 BATH | 2 CAR GARAGE | 1,814 SQ. FT. LIVING AREA



Optional
Bay Window
at Owner's Bedroom



Optional
Bay Window
at Casual Dining



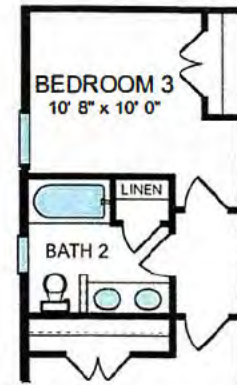
Optional
Gourmet Kitchen



Optional
Owner's Bath 2



Optional
Owner's Bath 3



Optional
Bedroom 3 ILO Study

First Floor Options

REV. 8/1/20



DREAM FINDERS HOMES
HOMES BUILT TO FIT YOUR LIFESTYLE

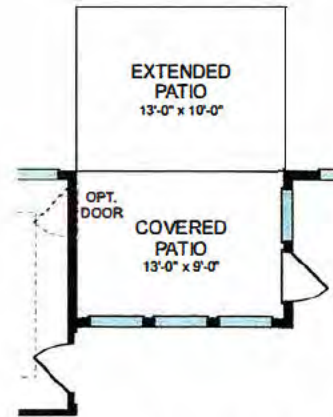
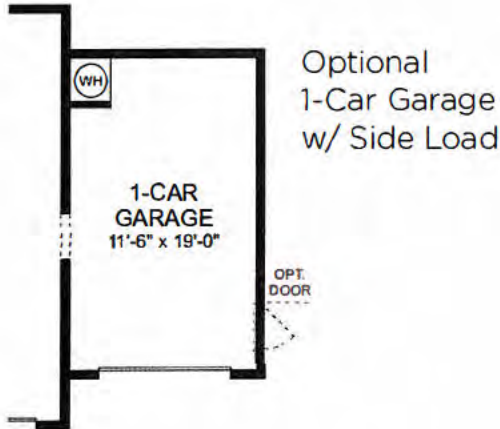
DREAMFINDERSHOMES.COM

Site maps, floor plans and elevations are artist's rendering only and are subject to change without notice. Dimensions, plans and specifications are not to scale. Contact your new

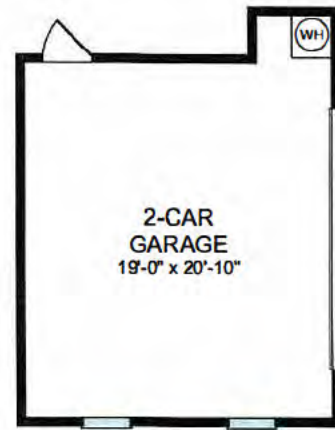
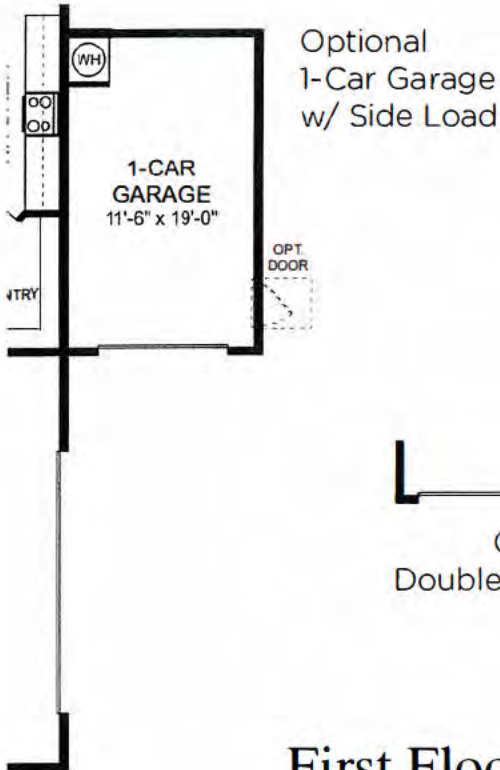


THE BELAIR

2-4 BEDROOM | 2-3 BATH | 2 CAR GARAGE | 1,814 SQ. FT. LIVING AREA



Optional Extended Patio



Optional
Side Load Garage

First Floor Options (cont.)

REV. 8/1/20



DREAM FINDERS HOMES
HOMES BUILT TO FIT YOUR LIFESTYLE

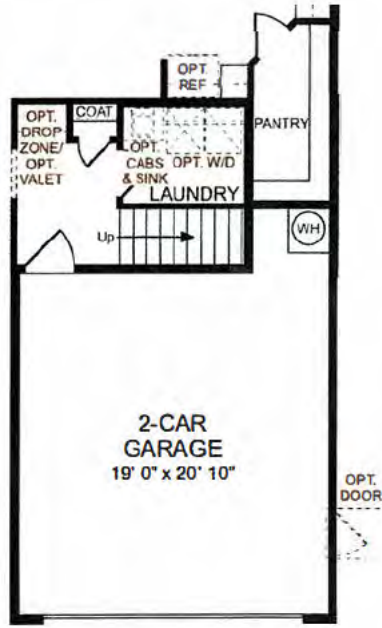
DREAMFINDERSHOMES.COM

Site maps, floor plans and elevations are artist's rendering only and are subject to change without notice. Dimensions, plans and specifications are not to scale. Contact your new home builder for more information.

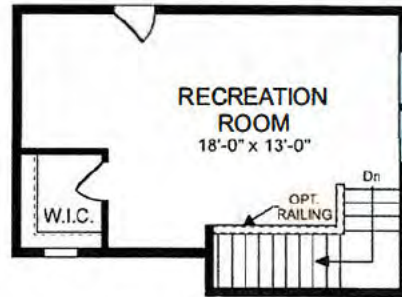


THE BELAIR

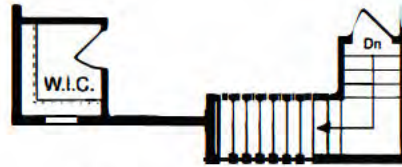
2-4 BEDROOM | 2-3 BATH | 2 CAR GARAGE | 1,814 SQ. FT. LIVING AREA



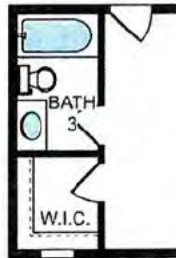
Stairs to Second Floor



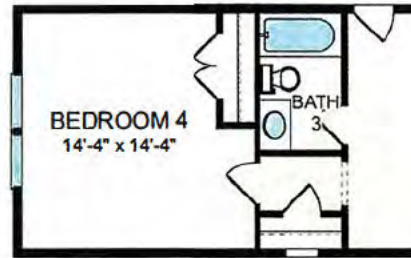
Rec. Room (Standard)



Optional Enclosed Rec. Room



Optional Bath 3



Optional Bedroom 4 w/ Optional Bath 3

Optional Second Floor

REV. 8/1/20



DREAM FINDERS HOMES
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THE CARDINAL

4 BEDROOM

2.5 BATH

2 CAR GARAGE

2,235 SQ. FT. LIVING AREA



ELEVATION A



ELEVATION B



ELEVATION C

REV. 10/26/22



DREAM FINDERS HOMES
HOMES BUILT TO FIT YOUR LIFESTYLE

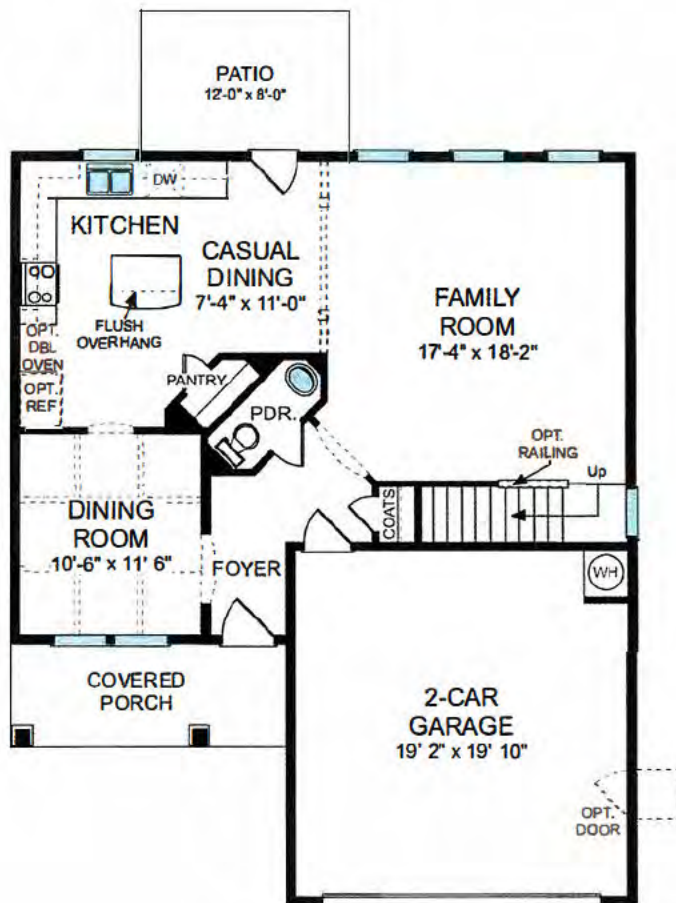
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THE CARDINAL

4 BEDROOM | 2.5 BATH | 2 CAR GARAGE | 2,235 SQ. FT. LIVING AREA



First Floor

REV. 10/26/22



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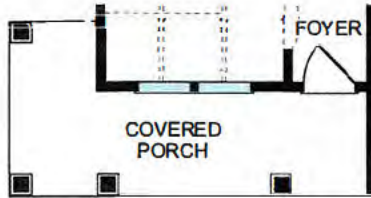


THE CARDINAL

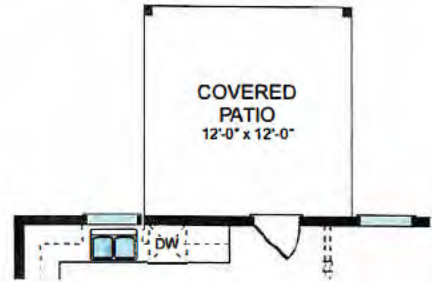
4 BEDROOM | 2.5 BATH | 2 CAR GARAGE | 2,235 SQ. FT. LIVING AREA



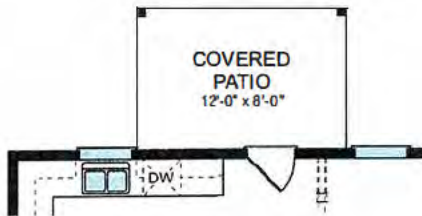
Optional Fireplace
at Family Room



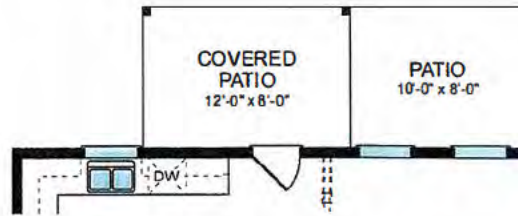
Optional
Wrap-Around Porch



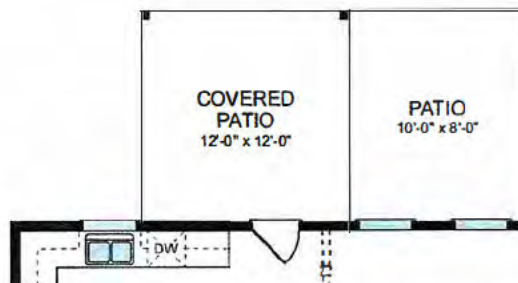
Optional
Extended Covered Patio



Optional
Covered Patio



Optional Patio
w/ Covered Patio



Optional
Extended Patio
w/ Extended Covered Patio

First Floor Options

REV. 10/26/22



DREAM FINDERS HOMES
HOMES BUILT TO FIT YOUR LIFESTYLE

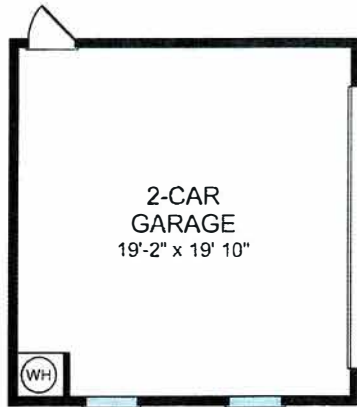
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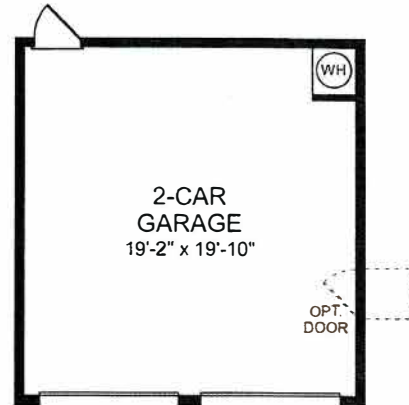


THE CARDINAL

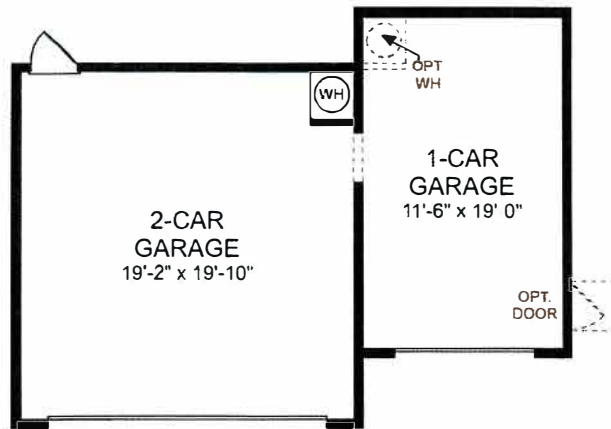
4 BEDROOM | 2.5 BATH | 2 CAR GARAGE | 2,235 SQ. FT. LIVING AREA



Optional
Side Load Garage



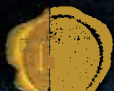
Optional
Double Garage Door



Optional
1-Car Garage

First Floor Options (cont.)

REV. 10/26/22



DREAM FINDERS HOMES
HOMES BUILT TO FIT YOUR LIFESTYLE

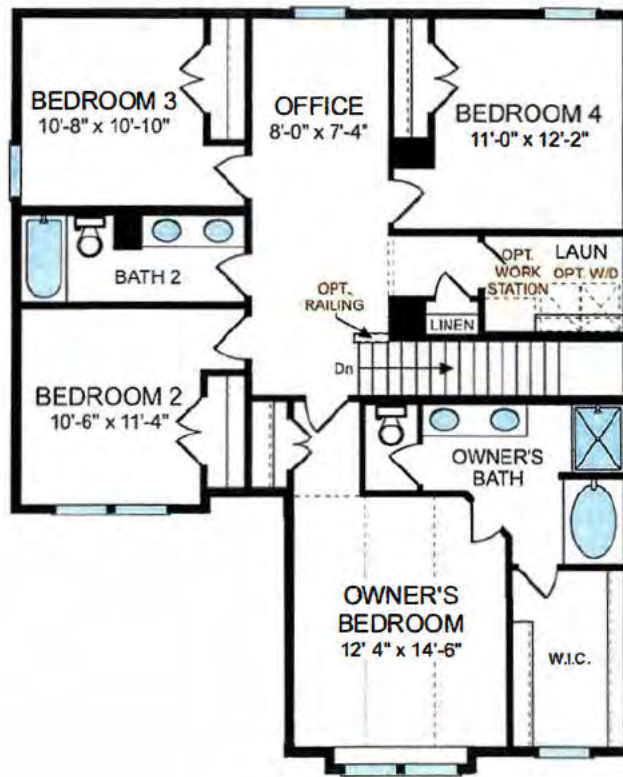
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THE CARDINAL

4 BEDROOM | 2.5 BATH | 2 CAR GARAGE | 2,235 SQ. FT. LIVING AREA



Second Floor

REV. 10/26/22



DREAM FINDERS HOMES
HOMES BUILT TO FIT YOUR LIFESTYLE

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THE TRILLIUM

4 BEDROOM | 2.5 BATH | 2 CAR GARAGE | 2,677 SQ. FT. LIVING AREA



ELEVATION A



ELEVATION B



ELEVATION C

REV. 12/1/22



DREAM FINDERS HOMES
HOMES BUILT TO FIT YOUR LIFESTYLE

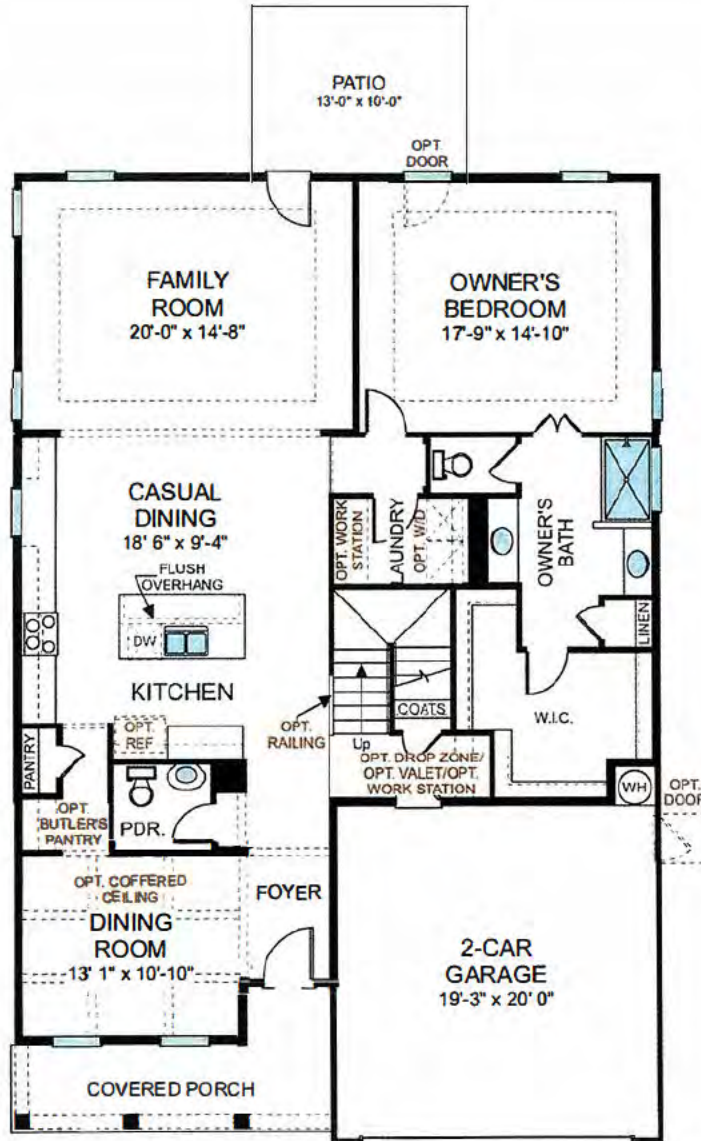
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THE TRILLIUM

4 BEDROOM | 2.5 BATH | 2 CAR GARAGE | 2,677 SQ. FT. LIVING AREA



First Floor

REV. 12/1/22



DREAM FINDERS HOMES
HOMES BUILT TO FIT YOUR LIFESTYLE

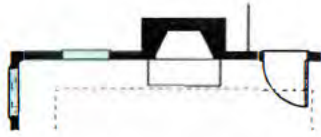
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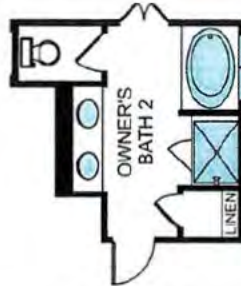


THE TRILLIUM

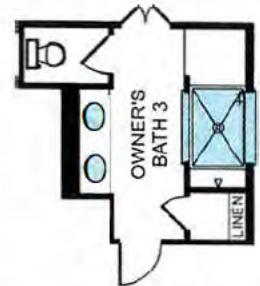
4 BEDROOM | 2.5 BATH | 2 CAR GARAGE | 2,677 SQ. FT. LIVING AREA



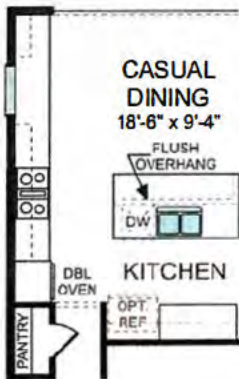
Optional
Fireplace at Family Room



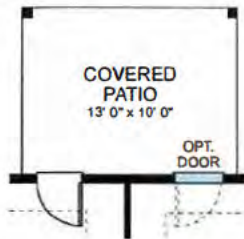
Optional
Owner's Bath 2



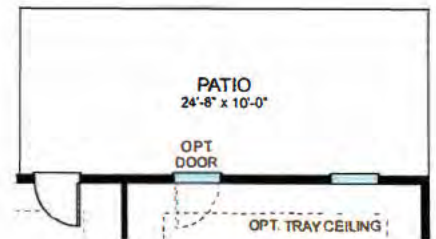
Optional
Owner's Bath 3



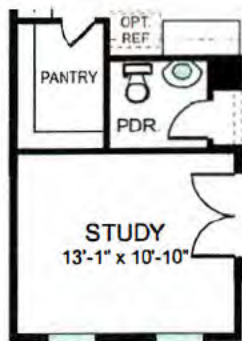
Optional
Gourmet Kitchen



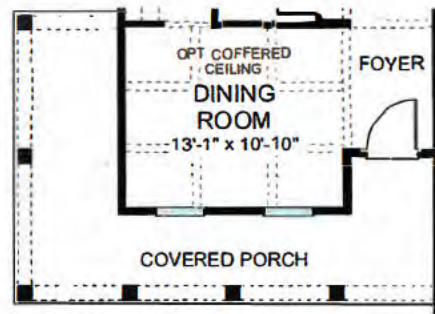
Optional
Covered Patio



Optional
Extended Patio



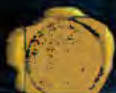
Optional
Study ILO Dining Room



Optional
Wrap-Around Porch

First Floor Options

REV. 12/1/22



DREAM FINDERS HOMES
HOMES BUILT TO FIT YOUR LIFESTYLE

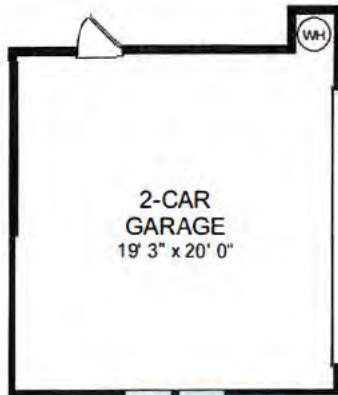
DREAMFINDERSHOMES.COM

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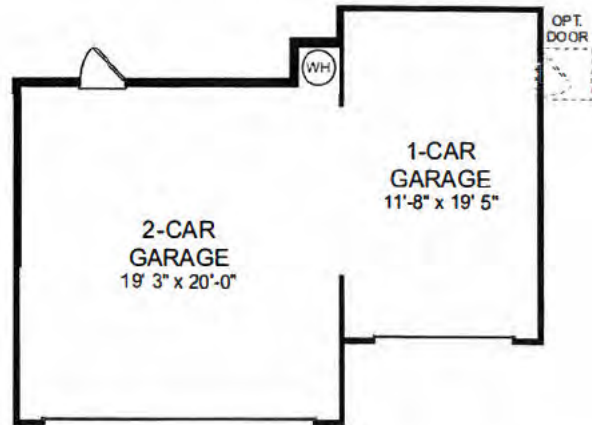


THE TRILLIUM

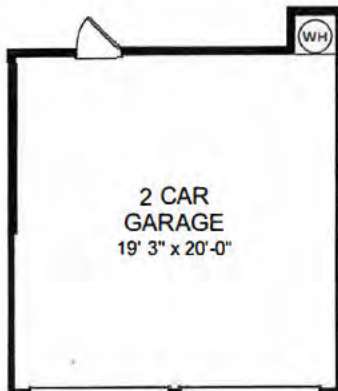
4 BEDROOM | 2.5 BATH | 2 CAR GARAGE | 2,677 SQ. FT. LIVING AREA



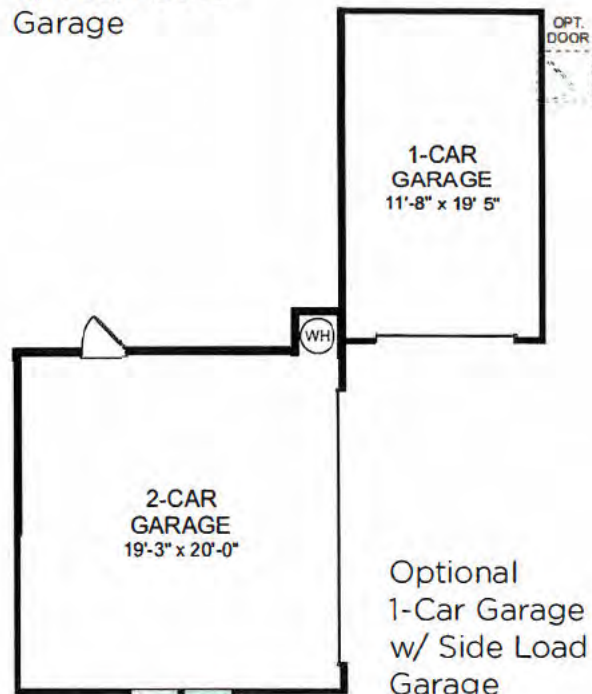
Optional Side Load Garage



Optional 1-Car Garage w/ Front Load Garage



Optional Double Garage Door



Optional 1-Car Garage w/ Side Load Garage

First Floor Options (cont.)

REV. 12/1/22



DREAM FINDERS HOMES
HOMES BUILT TO FIT YOUR LIFESTYLE

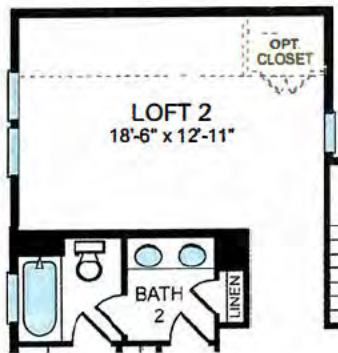
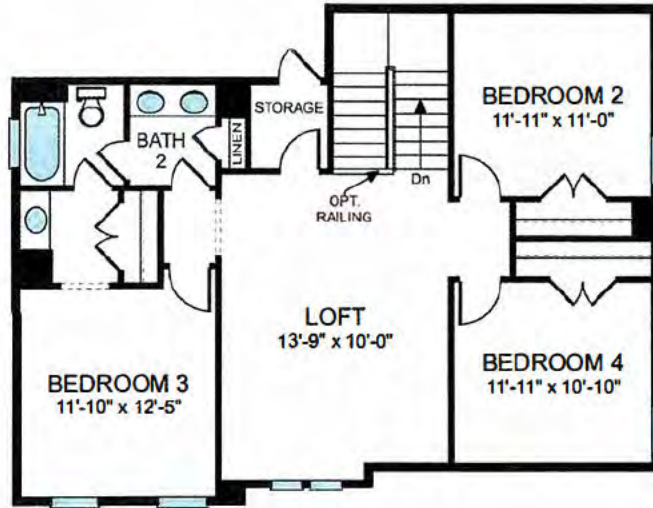
DREAMFINDERSHOMES.COM

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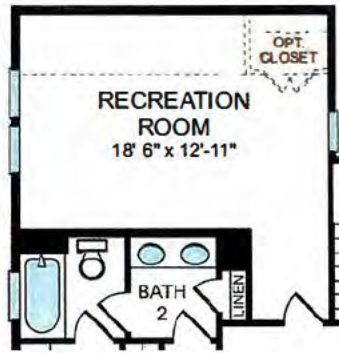


THE TRILLIUM

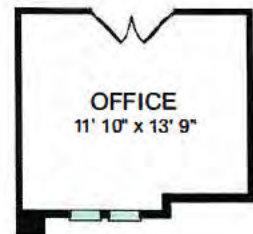
4 BEDROOM | 2.5 BATH | 2 CAR GARAGE | 2,677 SQ. FT. LIVING AREA



Optional Loft 2



Optional Rec. Room



Optional Office ILO Loft

Second Floor w/ Options

REV. 12/1/22



DREAM FINDERS HOMES
HOMES BUILT TO FIT YOUR LIFESTYLE

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THE OCEANA

3-4 BEDROOM | 2-3 BATH | 2 CAR GARAGE | 2,033 SQ. FT. LIVING AREA



ELEVATION A



ELEVATION B



ELEVATION C

REV. 11/28/22



DREAM FINDERS HOMES
HOMES BUILT TO FIT YOUR LIFESTYLE

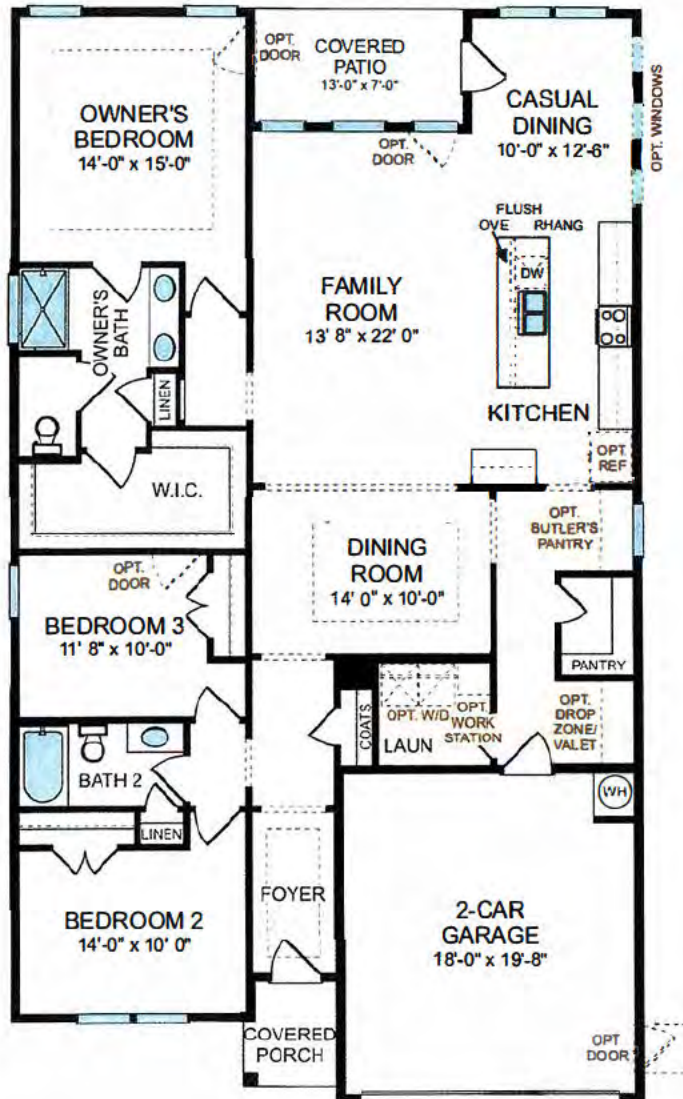
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THE OCEANA

3-4 BEDROOM | 2-3 BATH | 2 CAR GARAGE | 2,033 SQ. FT. LIVING AREA



First Floor

REV. 11/28/22



DREAM FINDERS HOMES
HOMES BUILT TO FIT YOUR LIFESTYLE

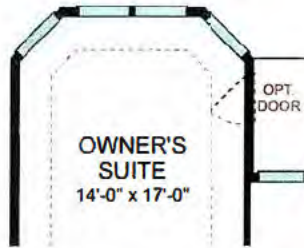
DREAMFINDERSHOMES.COM

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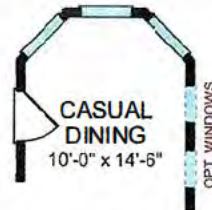


THE OCEANA

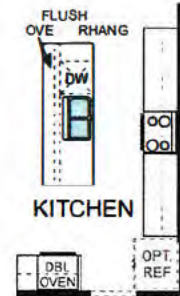
3-4 BEDROOM | 2-3 BATH | 2 CAR GARAGE | 2,033 SQ. FT. LIVING AREA



Optional Bay Window at Owner's Bedroom



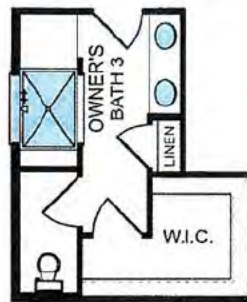
Optional Bay Window at Casual Dining



Optional Gourmet Kitchen



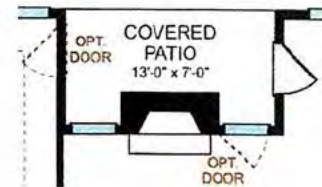
Optional Owner's Bath 2



Optional Owner's Bath 3



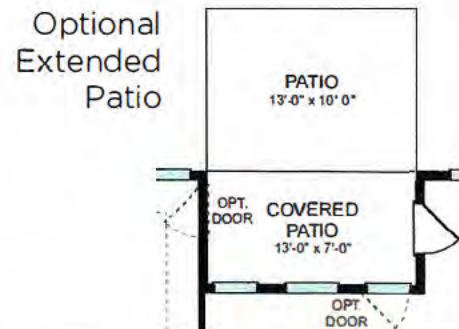
Optional Shower at Bath 2



Optional Fireplace at Family Room



Optional 1-Car Garage



Optional Extended Patio

First Floor Options

REV. 11/28/22



DREAM FINDERS HOMES
HOMES BUILT TO FIT YOUR LIFESTYLE

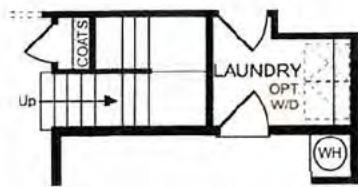
DREAMFINDERSHOMES.COM

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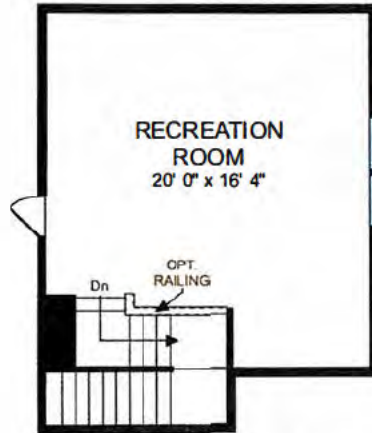


THE OCEANA

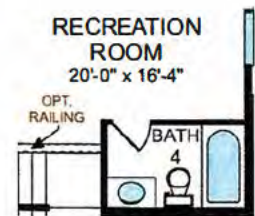
3-4 BEDROOM | 2-3 BATH | 2 CAR GARAGE | 2,033 SQ. FT. LIVING AREA



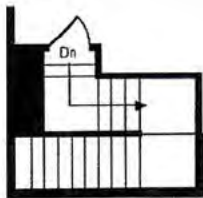
Stairs to
Optional Second Floor



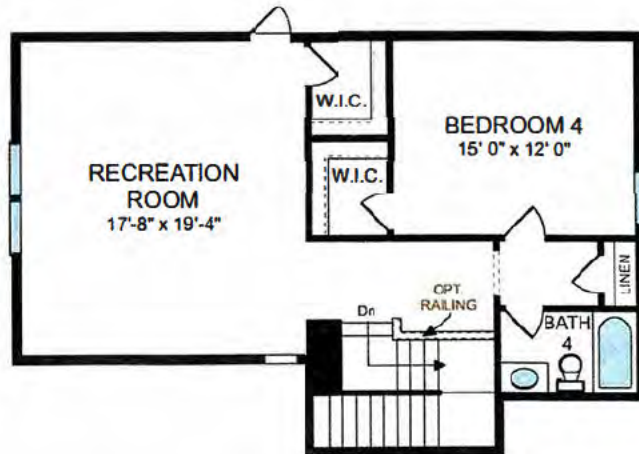
Rec. Room (Standard)



Optional Bath 4



Optional Enclosed
Rec. Room



Optional Rec. Room
w/ Bedroom 4 & Bath 4

Optional Second Floor

REV. 11/28/22



DREAM FINDERS HOMES
HOMES BUILT TO FIT YOUR LIFESTYLE

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THE HATTERAS

3-4 BEDROOM | 2.5 BATH | 2 CAR GARAGE | 2,388 SQ. FT. LIVING AREA



ELEVATION A

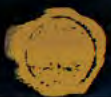


ELEVATION B



ELEVATION C

REV. 8/1/20



DREAM FINDERS HOMES

HOMES BUILT TO FIT YOUR LIFESTYLE

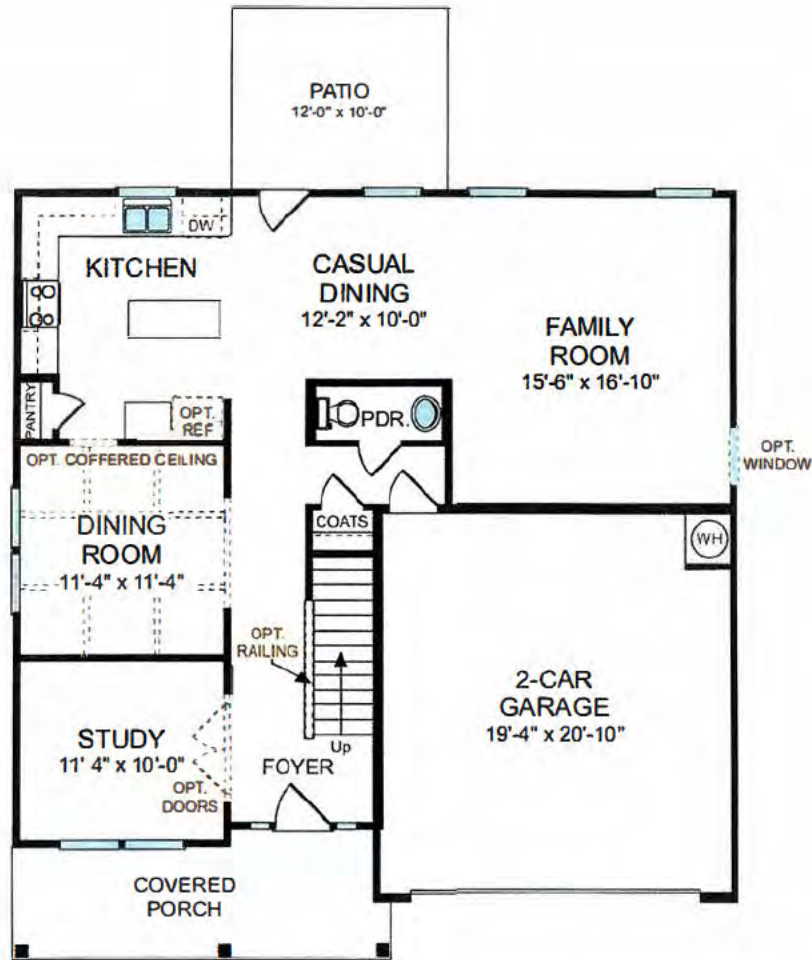
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THE HATTERAS

3-4 BEDROOM | 2.5 BATH | 2 CAR GARAGE | 2,388 SQ. FT. LIVING AREA



First Floor

REV. 8/1/20



DREAM FINDERS HOMES
HOMES BUILT TO FIT YOUR LIFESTYLE

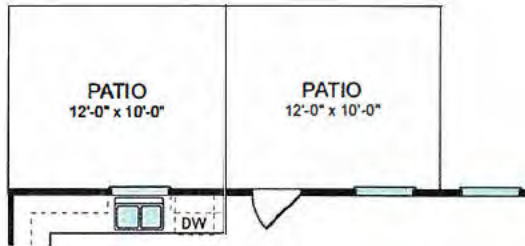
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THE HATTERAS

3-4 BEDROOM | 2.5 BATH | 2 CAR GARAGE | 2,388 SQ. FT. LIVING AREA



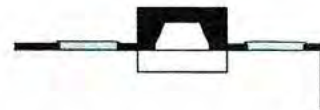
Optional
Extended Patio



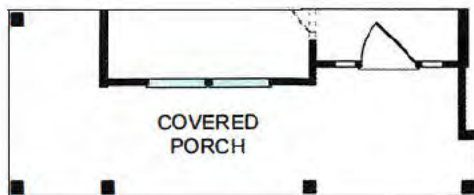
Optional
Covered Patio



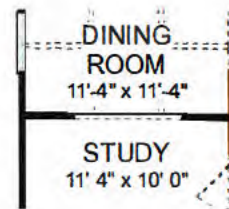
Optional
Gourmet Kitchen



Optional Fireplace
at Family Room



Optional
Wrap-Around Porch



Optional
Opening to Study

First Floor Options

REV. 8/1/20



DREAM FINDERS HOMES

HOMES BUILT TO FIT YOUR LIFESTYLE

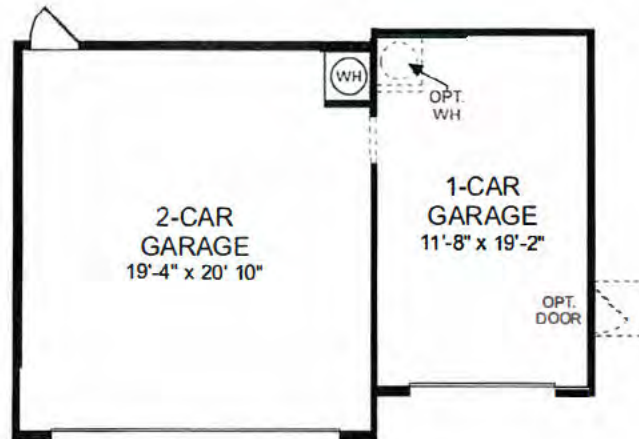
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THE HATTERAS

3-4 BEDROOM | 2.5 BATH | 2 CAR GARAGE | 2,388 SQ. FT. LIVING AREA



Optional
1-Car Garage



Optional
Double Garage Door



Optional
Side Load Garage

First Floor Options (Cont.)

REV. 8/1/20



DREAM FINDERS HOMES
HOMES BUILT TO FIT YOUR LIFESTYLE

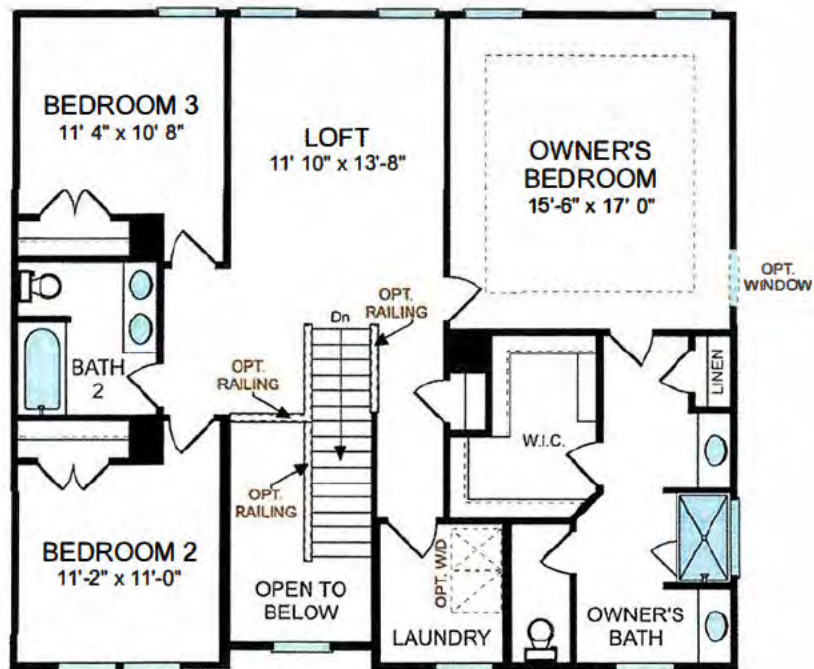
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THE HATTERAS

3-4 BEDROOM | 2.5 BATH | 2 CAR GARAGE | 2,388 SQ. FT. LIVING AREA



Second Floor

REV. 8/1/20



DREAM FINDERS HOMES
HOMES BUILT TO FIT YOUR LIFESTYLE

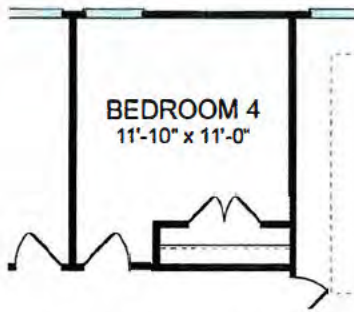
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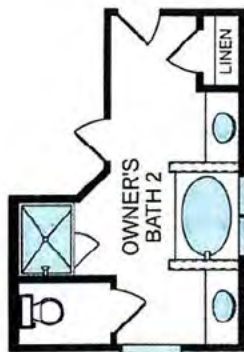


THE HATTERAS

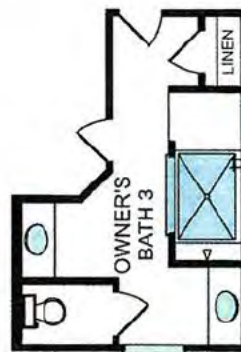
3-4 BEDROOM | 2.5 BATH | 2 CAR GARAGE | 2,388 SQ. FT. LIVING AREA



Optional
Bedroom 4 ILO Loft



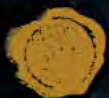
Optional
Owner's Bath 2



Optional
Owner's Bath 3

Second Floor Options

REV. 8/1/20



DREAM FINDERS HOMES
HOMES BUILT TO FIT YOUR LIFESTYLE

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**DECLARATION OF
COVENANTS, CONDITIONS, AND RESTRICTIONS
FOR [COMMUNITY NAME]**

**THIS DOCUMENT REGULATES OR PROHIBITS
THE DISPLAY OF POLITICAL SIGNS**

This Instrument was prepared by
and after recording mail to:
Costner Law Office, PLLC
10735 David Taylor Drive, Suite 200
Charlotte, NC 28262

**DECLARATION OF COVENANTS, CONDITIONS, AND
RESTRICTIONS FOR [COMMUNITY NAME]**

THIS DECLARATION is made this the _____ day of _____, 20____, by **[DECLARANT NAME]**, a _____ limited liability company (hereinafter referred to as “Declarant”).

WITNESSETH:

WHEREAS, Declarant is the owner of the real property more particularly described on Exhibit “A” attached hereto, which property is more particularly described in Article I below; and

WHEREAS, Declarant desires to create an exclusive residential community of single family detached residential lots to be named **[COMMUNITY NAME]**; and

WHEREAS, Declarant anticipates that the single family detached residential lots will be developed in a single neighborhood; and

WHEREAS, Declarant desires to ensure the attractiveness of the community, to prevent any further impairment thereof, to prevent nuisances, to preserve, protect and enhance the values and amenities of all property within the community and to provide for the maintenance and upkeep of all residential units as provided herein, the Common Areas as hereinafter defined; and to this end, desires to subject the real properties described herein below in Article I to the coverage of the covenants, conditions, restrictions, easements, charges and liens hereinafter set forth, each and all of which is and are for the benefit of said properties described below, and each owner thereof; and

WHEREAS, Declarant has incorporated, or will incorporate, under [North/South] Carolina law, **[ASSOCIATION NAME]** (the “Association”), as a non-profit corporation for the purpose of exercising and performing the aforesaid functions.

NOW, THEREFORE, Declarant hereby declares that all of the properties described in Article I, Section One below, and such additions thereto as may be hereafter made pursuant to Article I, Section Two hereof, shall be held, sold and conveyed subject to the following easements, restrictions, covenants and conditions, which are for the purpose of protecting the values and desirability of, and which shall run with, the real properties and be binding upon all parties having any right, title or interest in the described properties or any party thereof, their heirs, successors and assigns, and shall inure to the benefit of each owner thereof.

**ARTICLE I
PROPERTIES SUBJECT TO THIS DECLARATION**

Section One: Properties. The property which is and shall be held, transferred, sold, conveyed and occupied subject to this Declaration, and within the jurisdiction of the Association is located

in [COUNTY NAME], [North/South] Carolina, and described on Exhibit "A".

Section Two: Additions to Existing Property. Additional property may be brought within the scheme of this Declaration provisions in the following manner:

- (a) Additional land described in Exhibit "B" which is attached hereto and incorporated herein by reference may be annexed to the existing property under Section One by Declarant, without the consent of any other Lot Owner(s) or any mortgagee, provided that said annexations must occur within ten (10) years after the date this instrument is recorded.
- (b) The additions authorized under Article I, Section Two shall be made by filing of record a Supplement to Declaration of Covenants, Conditions and Restrictions with respect to the additional properties (an "Expansion Amendment"), which shall extend the scheme of this Declaration to such properties and thereby subject such additions to the benefits, agreements, restrictions and obligations set forth herein, or in the alternative, create an additional declaration for any portion of the additional properties.
- (c) The Declarant reserves the right to add additional covenants and easements with respect to the land owned by the Declarant described herein in Exhibit "B". Such additional covenants and easements may be set forth either in a Supplemental Declaration subjecting property to this Declaration or in a separate Supplemental Declaration. Any such Supplemental Declaration may supplement, create exceptions to, or otherwise modify the terms of this Declaration as it applies to the subject property in order to reflect the different character and intended use of such property.

ARTICLE II **DEFINITIONS**

Section One. "Act" means the [North Carolina Planned Community Act/South Carolina Homeowners Association Act] as contained in [Chapter 47F/Title 27] of the [North/South] Carolina [General Statutes/Code of Laws] (or as contained in any successor portion of the North Carolina General Statutes), as the same exists from time to time.

Section Two. "Assessments" shall mean and refer to the payment obligations set forth in Article V, Section One that are payable to the Association by Owners.

Section Three. "Association" shall mean and refer to [ASSOCIATION NAME], its successors and assigns and a copy of the Articles of Incorporation and Bylaws of the Association are attached hereto as Exhibits "C" & "D" respectively and incorporated herein by reference.

Section Four. "Association Documents: shall mean and refer to the Association's Declaration, Bylaws, Architectural Design Requirements, and any other document issued by the Association for the purpose of governing the Properties, all as amended from time from time.

Section Five. “Board of Directors” shall mean and refer to the Board of Directors of the Association.

Section Six. “Builder” shall mean and refer to residential homebuilders who purchase Lots from the Declarant for the construction of residential homes to be sold to Owners.

Section Seven. “Building” shall mean a residential structure constructed or to be constructed on a Lot; provided it is specifically understood that a Building shall be treated as the personal property of, or a betterment to the Lot, by an Owner.

Section Eight. “Common Area” shall mean all real property owned by the Association and all other improvements for the common use, benefit and enjoyment of the Owners. Common Areas, with respect to the property subject to this Declaration, shall be shown on the various plats recorded or to be recorded in the [COUNTY NAME] Public Registry and designated thereon as “Common Areas”, but shall exclude all Lots as herein defined, and all publicly dedicated streets, if any. “Common Area” shall include all private roads and drives shown on said plats as now recorded and as shall be hereinafter recorded in the [COUNTY NAME] Public Registry covered under Article I, Section One.

Section Nine. “Common Expense” shall mean the amount of expenditures payable by the Owners to meet the proposed budget. The Common Expenses shall include such amounts as the Board of Directors deems necessary for the operation and maintenance of the Property and shall include, without limitation, amounts for purposes set forth in Article V, Section Four, amounts for permitted reserves, and such amounts as may be necessary to make up any deficit for outstanding Common Expenses for any previous year.

Section Ten. “Declarant” shall mean and refer to [DECLARANT NAME], a _____, its successors and assigns, if such successors or assigns should acquire all of the Declarant’s interest in the Properties.

Section Eleven. “Declarant Control Period” shall mean the time period established in Article XIV, Section One, Subsection (a) of this Declaration. For purposes of this Declaration and other Governing Documents, “Declarant Control Period” refers to the period during which the Declarant shall have the right to control the Association and appoint all members of the Board of Directors.

Section Twelve. “Declaration” shall mean and refer to this Declaration of Covenants, Conditions, and Restrictions, as amended from time to time.

Section Thirteen. “[COUNTY NAME] Public Registry” shall mean and refer to the Office of the Register of Deeds for [COUNTY NAME], North Carolina.

Section Fourteen. “Member” shall mean and refer to an Owner who holds membership in the Association pursuant to this Declaration.

Section Fifteen. “Lot” shall mean and refer to any plot of land shown upon an approved site plan or any recorded subdivision map of the Properties covered under Article I, Section One,

or additional thereto, with the exception of the Common Area, and shall include all improvements thereon.

Section Sixteen. "Owner" shall mean and refer to the record owner, whether one or more persons or entities, of a fee or fee interest in any Lot which is a part of the Properties, including contract sellers, but excluding those having any interest merely as security for the performance of an obligation.

Section Seventeen. "Properties" shall mean and refer to that certain real property hereinbefore described in Article I, Section One and such additions thereto from the property described in Article I, Section Two, as may hereafter be brought within the jurisdiction of the Association and be made subject to this Declaration.

ARTICLE III **PROPERTY RIGHTS**

Section One. Owners' Easements of Enjoyment. Every Owner shall have a right and easement of enjoyment in and to the Common Area, which shall be appurtenant to and shall pass with the title to every Lot, subject to the following provisions:

- (a) Any rights of Assessment under the Declaration and other fees for the use of any facilities situated upon property owned by the Association;
- (b) The right of the Association to charge a reasonable admission and other fees for the use of the Common Area and any recreational facility situated thereon;
- (c) The right of the Association to dedicate or transfer all or any part of the Common Area to any public agency, authority, or utility for such purposes and subject to such conditions as may be agreed by the Members;

No such dedication or transfer shall be effective unless an instrument signed by the Members holding two-thirds (2/3) of the total number of votes in the Association agreeing to such dedication or transfer has been recorded;

- (d) The right of individual owners to the exclusive use of driveways and parking spaces as provided in this Article;
- (e) The right of the Association to limit the number of guests of Members;
- (f) The right of the Association, in accordance with its Articles and By-Laws, to borrow money for the purpose of improving the Common Area facilities and in aid thereof to mortgage said properties, and the rights of such mortgagee in said properties shall be subordinate to the rights of the homeowners and respective mortgagees hereunder;
- (g) The right of the Association to adopt, publish, and enforce reasonable rules and regulations as provided in Article IX;

- (h) The right of the Association to enter any Lot and Common Area in order to perform maintenance, alteration, or repair required herein to be performed by the Association, and the Owner of such Lot shall permit the Association or its representative to enter for such purpose at reasonable times and with reasonable advance notice;
- (i) The right of the Association or its representative to enter any Lot in the case of any emergency threatening such Lot or any other Lot for the purpose of remedying or abating the cause of such emergency. Such right of entry shall be immediate and shall not be considered a trespass;
- (j) The easement rights of the Declarant reserved in Article X of this Declaration;
- (k) The rights of the Declarant reserved in Article XI of this Declaration.

Section Two. Title to the Common Area. The Declarant hereby covenants for itself, its successors and assigns, that it will convey fee simple title to the Common Area depicted on such maps of any property subjected to the terms of this Declaration, to the extent the same are from time to time recorded in the Office of the Register of Deeds for [COUNTY NAME], [North/South] Carolina in the Association, free and clear of all encumbrances and liens, except those set forth in this Declaration and any easements of record. Following the conveyance of Common Area to the Association, Declarant shall be entitled to proration credit for all expenses of the Association incurred by the Declarant (including insurance and real estate taxes) which have not theretofore been reimbursed to Declarant. The Common Area shall be conveyed without any express or implied warranties, which warranties are hereby expressly disclaimed by Declarant.

Section Three. Status of Title of Property; Property Subject to Declaration. The Declarant represents to the Association and all the Owners that, as of the effective date hereof, the Declarant has marketable, fee simple title to the Land and that the rights and interest of all Owners in and to the Property are subject only to (i) liens for real estate taxes for the current year and subsequent years; (ii) existing and/or recorded easements, conditions, covenants, declarations, reservations and restrictions including, without limitation, those set forth in this Declaration; (iii) easements and use rights, if any, reserved by the Declarant hereunder; (iv) applicable governmental regulations, including zoning laws, which may be imposed upon the Property from time to time; and (v) the existing Mortgages of the project lender encumbering portions of the Property.

The Declaration provides a method and easement for the shared use by the Owners of Lots, and their permitted guests, of certain parking, and certain other amenities, as more particularly set forth in the Declaration.

Section Four. Limited Warranty from Declarant. FOR A PERIOD OF ONE (1) YEAR FROM THE DATE OF COMPLETION OF CONSTRUCTION (BEING THE LATER OF SUBSTANTIAL COMPLETION UNDER THE CONSTRUCTION CONTRACT, OR THE DATE A CERTIFICATE OF OCCUPANCY IS ISSUED THEREFOR), THE DECLARANT

SHALL AT NO COST TO THE ASSOCIATION REPAIR OR REPLACE (IN THE DECLARANT'S DISCRETION) ANY PORTIONS OF THE COMMON AREAS (EXCEPT FIXTURES, ACCESSORIES AND APPLIANCES COVERED BY SEPARATE WARRANTIES OF THEIR RESPECTIVE MANUFACTURERS) WHICH ARE DEFECTIVE.

AS TO MATERIALS OR WORKMANSHIP. THIS LIMITED WARRANTY IS IN PLACE OF ALL OTHER CONTRACTUAL OBLIGATIONS OR WARRANTIES, EXPRESS OR IMPLIED, AND THE DECLARANT DISCLAIMS ALL OTHER CONTRACTUAL OBLIGATIONS OR WARRANTIES, INCLUDING ANY IMPLIED WARRANTIES OF HABITABILITY, MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE. TO THE FULLEST EXTENT PERMITTED BY LAW, THE LIABILITY OF THE DECLARANT SHALL BE LIMITED TO SUCH REPAIR OR REPLACEMENT AND THE DECLARANT SHALL NOT BE LIABLE FOR DAMAGES OF ANY NATURE, WHETHER DIRECT, INDIRECT, SPECIAL OR CONSEQUENTIAL, REGARDLESS OF WHETHER SUCH DAMAGES ARE CLAIMED TO ARISE OUT OF THE LAW OF CONTRACT, TORT OR OTHERWISE, OR PURSUANT TO STATUTE OR ADMINISTRATIVE REGULATIONS, EXCEPT AS OTHERWISE SET FORTH IN A SEPARATE CONTRACTUAL AGREEMENT BETWEEN DECLARANT AND BUILDER.

Each Owner, in accepting a deed from the Declarant or any other party to a Lot, expressly acknowledges and agrees that this Section Four establishes the sole liability of the Declarant to the Association and the Owners related to defects in the Common Areas and the remedies available with regard thereto. At the end of the one (1) year warranty period referred to hereinabove in this Section Four, the Declarant will assign to the Association in writing all of its rights, claims, causes of action and demands which it has or which may thereafter accrue against all other people who may be responsible for the design and/or construction of the Common Areas. THIS LIMITED WARRANTY RELATES SOLELY TO THE COMMON AREAS. THE BUILDING CONSTRUCTED UPON EACH LOT IS SUBJECT TO A SEPARATE LIMITED WARRANTY PURSUANT TO THE REAL ESTATE PURCHASE AGREEMENT THEREFOR BETWEEN THE OWNER AND THE BUILDER.

ARTICLE IV

MEMBERSHIP AND VOTING RIGHTS

Section One. Every Owner and Builder shall be a Member of the Association. Membership shall be appurtenant to and may not be separated from ownership of any Lot.

Section Two. The Association shall have two classes of voting membership:

Class A. Class A Members shall be all Owners of a Lot with the exception of the Declarant and shall be entitled to one (1) vote for each Lot owned. When more than one person holds an interest in any Lot, all such persons shall be Members. The vote for such Lot shall be exercised as they among themselves determine, but in no event shall more than one vote be cast with respect to any Lot.

Class B. Class B Member(s) shall be the Declarant and shall be entitled to three (3) votes for each Lot owned. The Class B membership shall cease and be converted to Class A membership, on the happening of the following events, whichever occurs later:

- (a) the date on which Declarant, or its successors which have been assigned Declarant Rights, no longer owns any of property subject to this Declaration;
- (b) ten years from the date of recording of this Declaration; or
- (c) the date on which Declarant voluntarily surrenders its rights as Declarant, as evidenced by a written instrument, executed by Declarant, and recorded in the Registry.

Section Three. Declarant shall be entitled to appoint the entire Board of Directors while Class B membership exists.

ARTICLE V
COVENANT FOR ASSESSMENTS

Section One. Creation of the Lien and Personal Obligation of Assessments. Each Owner of a Lot owned within the Properties, hereby covenants, and each Owner of any Lot by acceptance of a deed therefore, whether or not it shall be so expressed in such deed, is deemed to covenant and agree to pay to the Association: (1) annual assessments or charges, (2) special assessments, such assessments to be established and collected as hereinafter provided, and (3) specific assessments against a Lot(s) as provided in this Declaration (collectively, the "Assessments"). The Assessments, together with interest, late charges, costs and reasonable attorney fees, shall be a charge on the Lot and shall be a continuing lien upon the properties against which each such Assessment is made. Each such Assessment, together with interest, late charges, costs and reasonable attorney fees, shall also be the personal obligation of the Owner. If a lien has been properly filed in the [COUNTY NAME] Public Registry, it may be foreclosed as further described hereafter in Article XI. Notwithstanding anything in this Declaration to the contract, the Declarant shall have the express right, in its sole discretion, to exempt, in whole or in part, any Builder from its obligations to pay Assessments on any Lots it owns pursuant to a separate contractual agreement.

Section Two. Specific Assessments. Any expenses incurred by the Association for the benefit of less than all of the Lots may be specially assessed equitably among all of the Lots which are benefitted according to the benefit received. Any Association expenses occasioned by the conduct of less than all of those entitled to occupy all of the Lots, or by the licenses or invitees

of any such Lots, may be specifically assessed against the Lots whose occupant, licensee or invitee occasioned any such Association expenses. To the extent not inconsistent with the Act, any Association expenses which significantly disproportionately benefit all Lots may be assessed equitably among all Lots according to the benefit received.

Section Three. Purpose of Assessments. The Assessments levied by the Association shall be used exclusively to promote the recreation, health, safety and welfare of the residents of the Properties, including the following: (1) the improvement, repair and maintenance of the Common Areas; (2) the maintenance, repair and reconstruction of private water and/or sewer lines (and any meters of lift stations associated therewith), private drives, driveways, walks, and parking areas situated on the Common Area; (3) the cutting and removal of weeds and grass, the removal of trash and rubbish, or any other maintenance of the Common Areas; (4) the payment of taxes and public assessments assessed against the Common Areas; (5) the payment for trash removal services benefitting all Lots; (6) the procurement and maintenance of insurance in accordance with this Declaration; (7) the employment of attorneys, accountants, and management companies to represent the Association when necessary; (8) the provision of adequate reserves for the replacement of capital improvements, including, without limiting the generality of the foregoing, paving, and any other major expense for which the Association is responsible; and (9) such other needs as may arise.

Section Four. Maximum Annual Assessments. The Assessments against the Lots shall be based upon annual estimates of the Association's cash requirements to provide for payment of all estimated expenses arising out of the Association's obligations under this Declaration. Such estimated expenses may include, among other things, the following: expenses of management; taxes and special assessments; premiums for all insurance that the Association is required or permitted to maintain hereunder; repairs and maintenance; wages for Association employees, including fees for a Manager (if any); utility charges, legal and accounting fees; any deficit remaining from a previous period; creation of reasonable contingency reserves, surplus, and/or sinking funds; and any other expenses and liabilities which may be incurred by the Association under or by reason of this Declaration. Such expenses shall constitute the "Common Expenses." Until January 1 of the year immediately following the conveyance of the first Lot to any Owner, the **maximum annual assessment shall be \$[3,000.00] per Lot** (except that the maximum annual assessment for Lots owned by Declarant which are not occupied as a resident shall be \$300.00 per Lot). Notwithstanding anything in this Declaration to the contrary, the Declarant shall have the express right, in its sole discretion, to exempt, in whole or in part, any Builder from its obligation to pay annual assessments on any Lots it owns pursuant to a separate contractual agreement.

(a) From and after January 1, of the year immediately following the conveyance of the first Lot to an Owner, the maximum annual assessment may be increased by the Board of Directors effective January 1 of each year without a vote of the Membership, but subject to the limitation that any such increase shall not exceed the greater of: (i) ten (10%) percent, or (ii) the percentage increase in the Consumer Price Index (published by the Department of Labor, Washington, DC) for all cities over the preceding twelve (12) month period which ended on the previous October 1.

(b) From and after January 1 of the year immediately following the conveyance of

the first Lot to an Owner, or until increased as provided for in (a) above or (c) below, whichever last occurs, the maximum annual assessment may be increased above the increase permitted in Section 4(a) above by a vote of two-thirds (2/3) of each class of Members who are voting in person or by proxy, at a meeting duly called for this purpose.

(c) The Board of Directors may not fix the annual assessment at an amount in excess of the maximum annual assessment.

ARTICLE VI

INSURANCE AND CASUALTY LOSSES

Section One. Owner's Property Insurance. Each Owner shall procure and maintain in full force and effect property insurance covering the Building constructed upon any Owner's Lot, as well as all other improvement, fixtures and equipment thereon, in an amount equal to one hundred (100%) percent of the then current replacement cost thereof. Each Owner shall at the original issuance thereof and at each renewal provide to the Association a certificate of insurance for such Owner's Building. The exclusive authority to negotiate, settle and otherwise deal in all respects with a Building's insurer and to adjust losses under the Building's insurance policy provided for herein shall be that of the Owner and the Owner's Mortgagee, if said Mortgagee is so entitled. The cost of the insurance premium for the property insurance under this Article VI, Section One shall be the sole and exclusive obligation of the Owner. Each Owner, at his own expense, may obtain on his Lot, or the improvements thereon, or the contents thereof, title insurance, homeowner's liability insurance, theft and other insurance covering improvements, betterment and personal property damaged and lost. In addition, risk of loss with respect to any improvements made by an Owner upon his Lot, shall be that of the Owner. Betterments coverage or "improvements insurance" shall be secured solely by an Owner wishing such coverage of his risk of loss, and the Association shall have no liability therefor.

Section Two. The Association's Property Insurance.

(a) If the Common Areas include any insurable property, the Association will obtain, maintain and pay the premiums, as a Common Expense, upon a "master" or "blanket" type policy or policies of property insurance covering the Common Areas, except (i) land, foundation, excavation, or other items normally excluded from coverage; (ii) all Buildings constructed upon Lots and all other improvements and betterments made to Lot by Owners at their expense; and (iii) personal property of Owners and lessees of Owners, their families, invitees and guests. Such coverage will also insure supplies, equipment and other personal property of the Association. The policy will be in an amount equal to one hundred (100%) percent of the current replacement cost of the Common Areas, exclusive of land, foundations, excavation, and other items normally excluded from coverage. A reasonable "deductible amount" not to exceed five percent (5%) of the policy face amount may be included at the discretion of the Board of Directors if available and if a material savings, as determined by the Board of Directors in its sole discretion, in premium cost results therefrom, but the deductible amount will be considered a Common Expense and borne by the Association as a whole, without regard to the number of Owners directly affected by a loss that is later incurred,

and reserves will be established for the deductible.

(b) The name of the insured under the Association policy will be substantially as follows: "[ASSOCIATION NAME]." Loss payable provisions will be in favor of the Association and the Trustee, as a trustee for each Owner, and each such Owner's Mortgagee as the interests of such parties may appear. Each Owner and his respective Mortgagee, if any, will be beneficiaries of the policy in a percentage equal to the percentage interest attributable to the Lot(s) owned by such Owner. All Association policies will contain a standard mortgagee clause, or equivalent endorsement (without contribution), which is commonly accepted by Institutional Mortgage investors in the area in which the Property is located, and which appropriately names all Institutional Mortgage holders or their servicers in such form as requested by such Institutional Mortgage holders of their servicers.

(c) All Association policies will be written with a company holding a general policyholder rating of "A" or better by Best's Insurance Reports and in a financial category of Class VI or better in Best's Key Rating Guide. Policies are unacceptable where (i) under the terms of the insurance carrier's charter, Bylaws or policy, contributions or assessments may be made against the Association, Owner's Mortgagee or the designees of Mortgagees; or (ii) by the terms of the carrier's charter, Bylaws or policy, loss payments are contingent upon action by the carrier's board of directors, policy holders or members. Association policies may not be cancelable or substantially modified by any party without at least ten (10) days prior written notice to the Association.

(d) The Association will provide to Owners and/or Mortgagees requesting the same in writing a certificate of insurance, or a copy of the certificate of insurance, for the Association, for which the Association may charge reasonable copying costs.

Section Three. Intentionally omitted.

Section Four. Association's Liability Insurance. The Association will obtain, maintain and pay the premiums, as a Common Expense, upon a policy of comprehensive general liability coverage covering at a minimum all of the Common Areas. Coverage limits will be in amounts generally required by private Institutional Mortgage holders for projects similar in construction, location and use to the Property; provided, however, that such coverage will be for at least one million and 00/100 (\$1,000,000.00) dollars for bodily injury, including death of persons, and property damage arising out of a single occurrence. Coverage under this policy will include, without limitation, legal liability to the insured for property damage, bodily injury and death of persons in connection with the operation, maintenance and use of the Common Areas and legal liability arising out of lawsuits related to employment contracts in which the Association is a party. If the policy does not include "severability of interest" in its terms, an endorsement will be included which precludes the insurer's denial of the claims of an Owner because of the negligent acts of the Association or another Owner. Such policy must provide that it cannot be canceled or substantially modified, by any party, without at least thirty (30) days prior written notice to the Association and each holder of an Institutional Mortgage listed as a scheduled

holder of an Institutional Mortgage in the insurance policy.

Section Five. Association's Fidelity Bonds and Other Insurance. The Association may, but shall not be required to, obtain, maintain and pay the premiums, as a Common Expense, upon a blanket fidelity bond for all officers, directors, trustees and employees of the Association and other persons handling or responsible for funds belonging to or administered by the Association, including any professional management company assisting with the administration of the Association. The total amount of the fidelity bond coverage required will be based upon the best business judgment of the Board of Directors. Any fidelity bond that the Association shall, in its sole judgment, determine to secure will meet the following requirements: the Association will be named as an obligee; the bonds will contain waivers of all defenses based upon the exclusion of persons serving without compensation from the definition of "employees" or similar terms or expressions; and the bond will provide that it may not be canceled or substantially modified (including cancellation for nonpayment of a premium) without at least ten (10) days prior written notice to the Association and each holder of an Institutional Mortgage listed as a scheduled holder of an Institutional Mortgage in the fidelity bond.

The Association will obtain, maintain and pay the premiums, as a Common Expense, on a policy of directors and officers liability insurance in such amounts as determined by the Board of Directors.

The Board of Directors will be authorized on behalf of the Association to obtain and maintain such other and further insurance as the Board of Directors may determine from time to time.

Section Six. Authority to Adjust Association Loss. The exclusive authority to negotiate, settle and otherwise deal in all respects with insurers and adjust all losses under policies provided for the Association will be vested in the Board of Directors or its duly authorized agent for the benefit of all Owners and Mortgagees; provided, however, that all Owners and Mortgagees having an interest in such loss will be advised in advance of all actions anticipated to be taken of a material nature related to the adjustment of the loss. Each Owner, in accepting a deed to a Lot, expressly appoints the directors, and each of them, his due and lawful attorneys-in-fact, with full power of substitution, to act on behalf of the Owner as fully as the Owner could act in person on all matters related to the authority granted in this Article VI, Section Six, including executing all documents required in connection therewith on behalf of the Owner.

Section Seven. Association Insurance Trustee.

(a) The Board of Directors may, from time to time, designate a third-party Trustee hereunder. The Trustee, whether the Board of Directors acting in said capacity, or a third-party designated by the Board of Directors, will serve the Association and the Owners and their Mortgagees (as their interests may appear) as provided herein. Any third-party Trustee, but not the Board of Directors acting in such capacity, will be entitled to receive reasonable compensation for services rendered which will be a Common Expense of the Association.

(b) All insurance policies obtained by the Association will name the Association and the Trustee as loss payees. Immediately upon the receipt by the Association of any insurance proceeds, the Association will endorse the instrument by means of which such proceeds are paid and deliver the instrument to the Trustee. The Trustee will not be liable for payment of premiums, for the renewal or the sufficiency of the policies or for the failure to collect any insurance proceeds. Nor will the Trustee have any obligation to inspect the Property to determine whether a loss has been sustained or to file any claim or claims against any insurer or any other person.

(c) Among other things, the duties of the Trustee will be to receive proceeds delivered to it, hold such proceeds in trust for the benefit of the Owners and their Mortgagees, and disburse the proceeds as hereinafter provided.

(d) Proceeds of insurance policies received by the Trustee will be disbursed as follows:

(i) If the damage or destruction for which the proceeds are paid is to be repaired or reconstructed, the proceeds, or such portion thereof as may be required for such purposes, will be disbursed in payment for such repairs or reconstruction as hereinafter provided. Any proceeds remaining after defraying such costs will be paid to the Association for the benefit of all Owners and their Mortgagees, if any;

(ii) If it is determined, as provided in Section Nine below, that the damage or destruction for which the proceeds are paid will not be repaired or reconstructed, such proceeds will be disbursed to such persons as therein provided; and

(iii) Any and all disbursements of funds by the Trustee for any purpose whatsoever will be made pursuant to and in accordance with a certificate of the Association signed by the President and attested by the Secretary directing the Trustee to make the disbursements.

(e) The Trustee will not incur liability to any Owner, Mortgagee or other person for any disbursements made by it in good faith to and in accordance with the foregoing requirements.

Section Eight. Damage or Destruction to a Lot's Building. Each Owner covenants and agrees that in the event of damage in or destruction of the Building or other structures on his or her Lot, the Owner shall proceed promptly to repair or to reconstruct in a manner consistent with the original construction or such other plans and specifications as are approved by the Declarant during the Declarant Control Period, and thereafter are approved by the Board of Directors. Alternatively, the Owner shall clear the Lot of all debris and ruins and maintain the Lot in a neat and attractive, landscaped condition approved by the Declarant during the Declarant Control Period, and thereafter approved by the Board of Directors. Should the Owner fail to

clear the Lot of all debris and ruins and restore the Lot with attractive landscaping in keeping with the Common Areas, the Association shall have the right to have such work performed and to specially assess such Owner for the cost thereof. Such amount owed shall be a lien against the Lot. The Owner shall pay any costs which are not covered by insurance proceeds.

Section Nine. Damage and Destruction to Association Common Areas.

(a) Immediately after all or any part of the Property covered by Association insurance is damaged or destroyed by fire or other casualty, the Board of Directors or its duly authorized agent will proceed with the filing and adjustment of all claims arising under such insurance and obtain reliable and detailed estimates of the cost of repair or reconstruction of the damaged or destroyed property. Repair or reconstruction, as used in this Section Nine, means repairing or restoring the damaged Common Areas to substantially the same conditions in which it existed prior to the fire or other casualty.

(b) Any such damage or destruction will be repaired; provided, however, that should more than seventy-five percent (75%) of the Common Areas consisting of the Amenities, roads and other improvements be destroyed and the Members holding one hundred percent (100%) of the total voting interest of the Association vote to disapprove the rebuilding of the Common Areas voting in person or by proxy at a meeting at which a quorum is present, duly called, in whole or in part, for the purpose of disapproving such repair or reconstruction, then such reconstruction of the Common Areas shall not occur. If Common Areas are not reconstructed, all insurance proceeds will be delivered to the Association. Except as otherwise provided, any such damage or destruction in the Common Areas, will be repaired and reconstructed as promptly as practicable. No Mortgagee will have any right to restrict the use of insurance proceeds otherwise available for repair, reconstruction or rebuilding.

Section Ten. Insufficient Proceeds to Repair Damage to Association Property.

(a) If the damage or destruction for which Association insurance proceeds are paid to the Trustee is to be repaired or reconstructed and such proceeds are not sufficient to defray the cost thereof, or if no insurance proceeds exist with respect to such damage or destruction, the Board of Directors will levy an Assessment against the Owners in sufficient amounts to pay for the repair or reconstruction. Additional Assessments may be made at any time during or following the completion of any repair or reconstruction.

(b) Any and all sums paid to the Association under and by virtue of those Assessments provided for in subsection (a) of this Section Ten will be deposited by the Association with the Trustee. Such proceeds from insurance and Assessments, if any, received by the Trustee will be disbursed as provided in Section Seven above.

ARTICLE VII
INTENTIONALLY OMITTED

ARTICLE VIII **CONDEMNATION**

Section One. General. Whenever all or any part of the Property will be taken by any authority having the power of condemnation or eminent domain, each Owner will be entitled to notice thereof and shall have the right to negotiate, settle and otherwise deal in all respects with the condemning authority as to the taking of such Owner's Lot and the improvements thereon; provided, however, that the exclusive right to negotiate, settle and otherwise deal in all respects with the condemning authority as to the taking of the Common Areas will be vested in the Board of Directors or its duly authorized agent on behalf of the Association. Each Owner, in accepting a deed to a Lot, expressly appoints the directors, and each of them, his due and lawful attorneys-in-fact, with full power of substitution, to act on behalf of the Owner as fully as the Owner could act in person in all matters related to the authority granted in this Article VIII, Section One, including executing all documents required in connection therewith on behalf of the Owner. The award made for such taking will be payable to the Trustee. Unless otherwise required by law at the time of such taking, any award made therefore will be disbursed by the Trustee, as hereinafter provided in this Article VIII.

Section Two. Complete Taking. In the event the entire Property is taken by power of eminent domain, the Association's ownership of, and the members' rights in and to, the Common Areas pursuant hereto shall terminate and the condemnation award shall be allocated among and distributed by the Trustee to the Owners in proportion, and their respective Mortgagees and other lienholders as their interests may appear. Notwithstanding, each Owner shall have the right to negotiate, settle and otherwise deal in all respects with the condemning authority as to the taking of such Owner's Lot and the Building and other improvements which may be located therein.

Section Three. Partial Taking of Non-Essential Areas. In the event less than the entire Property is taken by power of eminent domain and if the taking does not include any portion of the Common Areas, then the Board of Directors will be permitted to replace any nonessential improvements to the extent deemed appropriate and the Trustee will disburse the proceeds of such awards in the same manner as hereinabove provided for and in connection with the repair, reconstruction or rebuilding of improvements after damage or destruction, with all excess proceeds to be distributed to the Association.

Section Four. Partial Taking of Essential Areas. In the event less than the entire Property is taken by power of eminent domain and the taking includes any portion of a Lot or the Common Areas essential to the use of any Lot, then the following shall occur:

(a) **Allocation of Award.** As soon as practicable, the Board of Directors shall, reasonably and in good faith, apportion the condemnation award between compensation, severance damages or other proceeds and shall allocate such apportioned amounts and pay the same to the Owners as follows:

(i) The respective amounts apportioned to the taking of, or injury to, such portion of the Common Areas affecting primarily the use or enjoyment of

one or more particular Lots and the improvements thereon (e.g. the taking of, or injury to, Common Areas immediately around one or more Lots which prevents such Lot from rebuilding their improvements or causes them to have to modify their improvements within their Lots because of changes in setbacks or otherwise), then the proceeds from such taking of, or injury to, as it affects such particular Lots shall be allocated and distributed to the Owners of such affected Lots;

(ii) The total amount apportioned to the taking of or injury to the Common Area which equally affects the Owners of all Lots (such as the taking of, or injury to, the Amenities) shall be allocated among and distributed to all Owners in proportion;

(iii) The total amount apportioned to severance damages shall be allocated among and distributed to the Owners of those Lots that have not been taken, in proportion to their respective percentage interests as adjusted for the removal of those Owners whose Lots have been taken;

(iv) The total amount apportioned to consequential damages and any other takings or injuries shall be allocated and distributed as the Association determines to be equitable under the circumstances;

(v) If apportionment or allocation is already established by negotiation, judicial decree, statute or otherwise, the Association shall employ such apportionment and allocation to the extent it is relevant and applicable; and

(vi) Distribution of allocated proceeds shall be made by the Association or the designated Trustee to the Owners and their respective Mortgagees as appropriate and as their interests may appear.

Section Five. Continuation and Reorganization. If less than the entire Property is taken by power of eminent domain, the Association and the ownership of the Common Areas by its members pursuant hereto shall not terminate, but shall continue. If any partial taking results in the taking of an entire Lot, the Owner thereof shall cease to be a Member of the Association and an Owner under this Declaration. The Association shall reallocate the voting rights and the undivided interest in the Common Areas appurtenant to such Lot in accordance with this Declaration.

ARTICLE IX

ARCHITECTURAL CONTROL

Section One. Approval Required for Improvements. No improvements, alterations, repairs, changes in exterior material or color, excavation, change in grade, planting, landscaping, exterior decoration (including, without limitation, yard ornaments, figurines, statues, bird baths, houses and feeders, flags and similar items) or other work which in any way alters any Lot or the exterior improvements located thereon from their natural or improved state existing on the date such Lot was first conveyed in fee to an Owner other than Declarant or Builder shall be

commenced, erected, or maintained upon any Lot, and no building, fence, wall, residence, or other structure shall be commenced, erected, maintained, improved, altered, or removed, until the plans and specifications showing the nature, kind, shape, height, materials, and location of the same shall have been submitted to and approved in writing as to harmony of external design and location, in relation to surrounding structures and topography, and as to compliance with the Architectural Design Guidelines by the Architectural Control Committee (“ACC”).

Notwithstanding the foregoing: (i) temporary seasonal exterior decorations shall not require the prior approval of the ACC, but if any such decorations are determined, in the sole discretion of the ACC, to be distasteful or otherwise disruptive to the aesthetics or visual harmony of the community, the ACC may require the prompt and permanent removal of such decorations; (ii) any improvements erected or maintained upon any Lot prior to the recording of this Declaration shall not require the prior approval of the ACC, but if any such improvements are determined, in the sole discretion of the ACC, to be distasteful or otherwise disruptive to the aesthetics or visual harmony of the community, the ACC may require the prompt and permanent removal of such improvements; (iii) Declarant may improve and develop the Properties, including the Lots, as Declarant chooses, without the prior written approval of the ACC, so long as said development follows the general plan of development of the Properties from time to time approved by the appropriate governmental authority; and (iv) Declarant may provide vested approval(s) for certain floorplans and/or elevations submitted by a Builder and/or waive any review fees associated therewith, and once granted by Declarant, and provided that the applicable plans do not subsequently change, any such vested approval(s) shall be irrevocable and binding on the ACC, the Board of Directors, and the Association as to any Lots owned by Builder or subject to any contract to purchase or option to purchase of Builder.

If an Owner neglects or fails to promptly remove any such decorations and improvements at the request of the ACC, the Association may effect such removal. In order to enable the Association to accomplish the foregoing, there is hereby reserved to the Association the right to unobstructed access over and upon each Lot at all reasonable times for such purpose, and the cost of such removal shall be added to and become a part of the Assessment to which such Lot is subject.

Section Two. Composition of the Architectural Control Committee. Until the date that is three (3) months after the date on which Declarant no longer owns any Lots, members of the ACC shall be appointed by Declarant. Thereafter, or at such earlier date as Declarant relinquishes in writing its right to appoint members of the ACC, the members of the ACC shall be appointed by the Board of Directors. The members of the ACC shall be appointed annually, and the ACC shall be comprised of at least three (3), and no more than seven (7), individuals, the exact number of members being designated from time to time by the body having the authority to appoint such members (Declarant or the Board of Directors, as the case may be). After the expiration of the Declarant Control Period, the members of the ACC must be Owners. In the event of death or resignation of a member of the ACC, the party or body then having the authority to appoint members of the ACC shall have full authority to designate and appoint a successor. Members of the ACC may be removed and replaced at any time, with or without cause, and without prior notice, by the party or body then having the power to appoint such members. Notwithstanding anything contained herein to the contrary, the ACC shall have the

right, power, and authority to employ and/or use the services of architects, engineers, or other professionals as it deems necessary or advisable, in its sole discretion, to carry out the duties and obligations of the ACC described herein.

Section Three. Architectural Design Guidelines. The ACC may promulgate Architectural Design Guidelines, attached hereto as Exhibit "E", as amended from time to time. The Architectural Design Guidelines shall be explanatory and illustrative of the general intent of the development of the Properties, and are intended as a guide to assist the ACC in reviewing plans and specifications for improvements.

Section Four. Procedures.

(a) Any person desiring to make any improvement, alteration, or change described in Section One above shall submit the plans and specifications therefor, showing the nature, kind, shape, height, materials, exterior colors, and location of the same, to the ACC for review. The ACC shall evaluate such plans and specifications in light of the purposes of this Article IX. The ACC may specify the level of detail to be included in the required plans and specifications, as well as the number of copies of same that shall be submitted. The ACC may set a review fee or schedule of fees from time to time for the review (or re-review) of plans or other submissions.

(b) Upon approval by a majority of the members of the ACC of any plans and specifications submitted pursuant to this Declaration, a copy of such plans and specifications, as approved, shall be deposited for permanent record with the ACC, and a copy of such plans and specifications bearing such approval, in writing, shall be returned to the applicant submitting the same. Approval for use in connection with any Lot of any plans and specifications shall not be deemed a waiver of the ACC's right, in its discretion, to disapprove similar plans and specifications or any of the features or elements included therein if such plans, specifications, features, or elements are subsequently submitted for use in connection with any other Lot. Approval of any such plans and specifications relating to any Lot, however, shall, except as provided below, be final as to that Lot, and such approval may not be reviewed or rescinded thereafter, provided that there has been adherence to, and compliance with such plans and specifications, as approved, and any conditions attached to any such approval. Notwithstanding the above provisions, such approval shall expire and require re-approval following a new submittal process if construction is not commenced within thirty (30) days after approval, unless additional time is allowed by the ACC. As a condition to the granting of approval of any alteration request made under this Article IX, the Association may require that the Owner(s) requesting such change be liable for any cost of maintaining, repairing, and insuring the approved alteration. If such condition is imposed, the Owner(s) shall evidence consent thereto by a written document in recordable form satisfactory to the Association. Thereafter, the Owner(s), and any subsequent Owner(s) of the Lot, by acceptance of a deed therefor, whether or not it shall be so expressed in such deed, are deemed to covenant and agree that the cost of maintaining, repairing, and insuring such alteration shall be part of the annual assessment or charge set forth herein, and subject to the lien rights described herein.

Section Five. Limitation of Liability. No member of the ACC shall be liable for claims, causes of action, or damages (except where occasioned by willful misconduct of such member) arising out of or in connection with services performed hereunder. Neither the ACC nor the members thereof, nor the Association nor the members thereof, nor the Declarant, nor any officers, directors, members, employees, agents, or affiliates of any of them, shall be liable for damages or otherwise to anyone submitting plans and specifications and other submittals for approvals, or to any Owner: (a) by reason of mistake in judgment, negligence, misfeasance, malfeasance, or nonfeasance arising out of or in connection with the approval or disapproval of, or the failure to approve or disapprove of, any plans and specifications or the exercise of any power or right provided for in this Declaration; or (b) for any defects in any plans or specifications approved by the ACC, or for any structural defects in any work done according to such plans or specifications. The approval of plans and specifications by the ACC shall not be deemed or construed as a representation or warranty of the ACC, the Association, or Declarant, or any officer, director, member, employee, agent, or affiliate of any of them: (i) that improvements constructed in accordance with such plans and specifications will comply with applicable zoning ordinances, building codes, or other governmental or quasi-governmental laws, ordinances, rules and regulations; or (ii) as to the structural soundness, quality, durability, suitability, fitness, or proper functioning of improvements constructed in accordance with such plans and specifications; and any responsibility or liability therefor is hereby expressly disclaimed. Every person who submits plans and specifications and every Owner agrees not to bring any action or suit against Declarant, the Association, the ACC, or the officers, directors, members, employees, agents, or affiliates of any of them to recover any such damages, and hereby releases, demises, and quitclaims all claims, demands, and causes of action arising out of or in connection with any judgment, negligence, misfeasance, malfeasance, or nonfeasance as described above, and hereby waives the provisions of any law which provides that a general release does not extend to claims, demands, and causes of action not known at the time the release is given.

ARTICLE X **MAINTENANCE**

Section One. Responsibility of Association. Except as specifically provided to the contrary herein, the Association will maintain the Common Areas in accordance with proper maintenance procedures applicable thereto and will enforce all warranties with respect to the Common Areas. In addition, the Association will repair or replace all parts of the Common Areas. In addition, the Association will be responsible for maintaining any retaining walls installed by the Declarant or a Builder, if that retaining wall (1) encumbers multiple Lots or (2) encumbers one (1) Lot and one (1) or more Common Area parcels. Except as otherwise provided herein, the cost of such will be charged to the Owners as a Common Expense.

Section Two. Access to Lots. The Declarant, Association, or Builder will have the irrevocable right, to be exercised by the Board of Directors or its agent, which term includes the Association manager, to have reasonable access to each Lot from time to time, to undertake such action as it may determine, but for which it has no obligation, or for which it may be requested, to prepare and secure a Building in anticipation of storm or hurricane, provided the Association shall be under no obligation to an Owner to do so; and for the inspection, maintenance, repair or replacement of any of the Common Areas accessible therefrom, or for making emergency

repairs therein necessary to prevent damage to the Common Areas or Lots. In addition, the Declarant, Association, or Builder shall have the right to enter upon each Lot, from time to time, for purposes of performing typical landscape maintenance services, including but not limited to the cutting and removal of weeds and grass, the removal of trash and rubbish, or any other maintenance of the Common Areas. Nothing in the foregoing shall constitute a trespass on behalf of the Board of Directors, the Association, or agents thereof.

Section Three. Responsibility of Owner. In the event that the Board of Directors should determine that the need for maintenance or repairs by the Association as provided for in this Article X, Section Three is caused through the willful or negligent act of an Owner or the lessee of an Owner, their families, invitees or guests, or the Owner's pets, the cost of which is not covered or paid for by insurance, then the cost, both direct and indirect, of such maintenance or repairs will be added to and become a part of the Assessment to which such Owner and his Lot are subject. Each Owner will maintain, repair, or replace at his own expense all the Building and other improvements upon the Lot which may become in need thereof. Further, each Owner will, at his own expense, maintain, repair and replace, when necessary, the heating and air-conditioning condensers and other such exterior appurtenances to such Owner's Building whether or not located within such Owner's Lot. Each Owner shall keep the exterior of his Building and other improvements in a neat, well maintained condition, as determine by the Board of Directors in its sole discretion. If the Owner does not make those repairs to his Building and/or other improvements required to be made by him within thirty (30) days from the date of receipt of written demand from the Association, the same may be repaired by the Association and the cost thereof will be assessed against the Owner and the Lot owned by such Owner as a specific assessment. In the event an Owner's Building is severely damaged by catastrophic event, such Owner shall commence to either repair and/or rebuild such Building or tear down the Building and grade and landscape the Building site within three (3) months of such catastrophic event. Should Owner fail to tear down its Building and grade and landscape the Building site or fail to commence reconstruction and repair of the Building within such three (3) month period, the Association shall have the right to tear down the Owner's Building and to grade and landscape the Building site and the cost thereof will be assessed against the Owner and the Lot owned by such Owner as a specific assessment.

Section Four. Access, Ingress and Egress. All Owners, by accepting title to a Lot, waive all rights of uncontrolled and unlimited access, ingress, and egress to and from such property and acknowledge and agree that such access, ingress, and egress will be limited to roadways, sidewalks and walkways located within the Property from time to time, provided that pedestrian and vehicular access to and from all such property will be provided at all times. There is reserved unto Declarant, the Association, and their respective successors and assigns the right and privilege, but not the obligation, to install and maintain electronic gates controlling vehicular access to and from the Property, provided that reasonable steps are taken to facilitate the access of all Owners, guests, and other invitees. Neither the Declarant nor the Association will be responsible, in the exercise of its reasonable judgment, for the granting or denial of access to the Property in accordance with the foregoing. The Declarant shall be responsible for petitioning the NC Department of Transportation (NCDOT) for acceptance of the subdivision roads. The Association shall be responsible for the maintenance of the subdivision roads as required under the Minimum Construction Standards identified in the latest edition of the NCDOT Subdivision Roads manual, until such time as the roads are accepted by the NCDOT

for state maintenance.

Section Five. Declarant's Right to Develop. Notwithstanding anything herein contained to the contrary, the Declarant hereby reserves unto itself, its successors and assigns, the right and option to control any gate to the Property and to leave the gate in an open position for the unobstructed and uncontrolled passage of construction vehicles for persons engaged in both infrastructure and building construction activities. The within right, if exercised, will be limited to the hours of 6 a.m. to 6 p.m. and will terminate upon expiration of the Declarant Control Period.

ARTICLE XI **LOT RESTRICTIONS**

Section One. Lots. All Lots will be, and the same are hereby restricted exclusively, for residential use, provided, however, a Lot's Building may be used as a combined residence and executive or professional office by the Owner thereof so long as no rental management activities are conducted from the Lot, or Building upon a Lot, and so long as such use does not interfere with the quiet enjoyment by other Owners and does not include visitation by clients, or unreasonable levels of mail, shipping, storage or trash requirements. No immoral, improper, offensive or unlawful use will be made of any Lot or Building, and no use or condition will be permitted which is a source of unreasonable noise or interference with the peaceful possession and quiet enjoyment of any other portion of the Property by other Owners or lessees of Owners, their families, invitees and guests. All Lots and the Buildings thereon or therein will be kept in a clean and sanitary condition and no rubbish, refuse or garbage will be allowed to accumulate. No fire hazard will be allowed to exist, and no use or condition will be permitted which will increase any rate of insurance related to the Property. In addition, all Owners, guests of Owners, lessees of Owners, renters, their families, invitees and guests will abide by all rules and regulations in effect from time to time governing the use of Lots and Buildings. This section does not apply to any Lot that contains a Builder's Model Home, construction trailer(s) and/or other temporary structures by a Builder during construction of homes within the Property. Notwithstanding anything in this Declaration to the contrary, normal and customary construction activities of any Builder(s) shall not be deemed to be a source of unreasonable noise or interference with the peaceful possession and quiet enjoyment of the Owners for purposes of this Section.

Section Two. Animals and Pets. No animals, livestock, or poultry of any kind will be raised, bred or kept on any part of the Property, except that dogs, cats, or other normal household pets may be kept by the respective Owners inside their respective Buildings provided that: (i) the Board of Directors may establish reasonable rules and regulations to insure that all permitted pets are properly licensed and inoculated for rabies and other diseases for which inoculation is necessary for such pets; (ii) the Owner execute a written indemnification and hold harmless agreement in favor of the Association and the Association's management company, in form and content satisfactory to counsel for the Board of Directors, prior to bringing the Owner's pet upon the Property; (iii) permitted pets are not kept, bred, or maintained for any commercial purpose and do not create any health hazard or, in the sole discretion of the Board of Directors, unreasonably disturb the peaceful possession and quiet enjoyment of any other portion of the Property by other Owners and lessees of Owners, their families, invitees and guests; (iv) the

Board of Directors may establish reasonable rules to limit the number of permitted pets per Lot or Building; and (v) permitted pets shall be kept on a physical leash at all times when outside of a Building or fenced-in yard, and the Owner shall clean up after his permitted pets.

Section Three. Antennas. No television antenna, radio receiver, or other similar device will be attached to or installed on any portion of the Building or other improvements upon the Lot by an Owner, except as required by the Telecommunications Act of 1996 and implementing rules therefore issued by the Federal Communications Commission and by the Association in conformity with rules or guidelines of the Federal Communications Commission; provided, however, the Declarant and the Association, and their successors and assigns, will not be prohibited from installing equipment necessary for master antenna, security, cable television, mobile radio, or other similar systems within the Properties.

Section Four. Leasing of Lots. An Owner of a Lot will have the right to lease or rent his Lot and the Building upon such Lot for a period of no less than six (6) months, subject to applicable local ordinances, provided, however, that no rental management activities may be conducted from the Lot or the Building, and provided that all leases and rental contracts will require the lessee to abide by all conditions and restrictions placed on the use and occupancy of the Lot by this Declaration. The Board of Directors shall have the right to approve the form of all such leases and rental contracts, and any Owner leasing or renting his Lot shall provide to the Association for approval a copy of the executed lease or rental contract prior to its commencement. Occupancy by a tenant or renter under any such approved form of lease or rental contract is subject to continuing approval of the Board of Directors thereunder, which may be removed at any time by the Board of Directors for any violation by any such tenant or renter of the rules and regulations of the Association.

Section Five. Parking of Motor Homes, Trailers, Boats, etc. All vehicles shall be parked on a developer installed or ACC approved parking structure, or in parking spaces within the Common Areas. The Board of Directors shall have the power to define and impose Association rules and regulations prohibiting or otherwise controlling the storage or parking upon any portion of the Property of any mobile home, trailer (either with or without wheels), motor home, tractor, truck (other than pick-up trucks), commercial vehicles of any type, camper, motorized camper or trailer, boat or other watercraft, boat trailer, motorcycle, golf cart, motorized bicycle, motorized go-cart, or any other related forms of transportation devices, provided, however, the Association's rules regarding storage or other parking must not allow such mobile home, trailer (either with or without wheels), motor home, tractor, truck (other than pick-up trucks), commercial vehicles of any type, camper or trailer, boat or other watercraft, boat trailer, motorcycle, golf cart motorized bicycle, motorized go-cart, or any other related forms of transportation devices to be visible from the adjoining street. This section does not apply to any construction trailer(s) or other temporary structures and/or related equipment used by a Builder during construction of homes within the Property.

Section Six. Signs. Except as may be required by law or by legal proceedings, no signs, flags, banners, or advertising posters of any kind, including, but not limited to, "For Rent," "For Sale," and other similar signs, shall be erected by an Owner, the Association, or any agent, broker, contractor or subcontractor thereof, nor shall any sign or poster be maintained or permitted on any Building window, or within a Building and viewable through any window, or on the

exterior of any improvements, or on any unimproved portion of property located within the Property, without the express written permission of the Declarant during the Declarant Control Period, and thereafter without the express written permission of the Board of Directors. The approval of any signs, flags, banners, and posters, including, without limitation, name and address signs, shall be upon such conditions as may be from time to time determined by the party entitled to approve the same and may be arbitrarily withheld. Notwithstanding the foregoing, the restrictions of this Article XI, Section Seven shall not apply to the Declarant or to any person having the prior written approval of the Declarant. In addition, the Declarant and/or Association shall have the right to erect reasonable and appropriate signs on any portion of the Common Areas in accordance with **Architectural Design Guidelines** adopted therefor and approved by the governmental authority with jurisdiction thereof. Notwithstanding anything herein to the contrary, Declarant may authorize any Builder to place signs, flags, and banners on the Property in connection with construction, sales, leasing, resales, and other marketing activities.

ARTICLE XII **EASEMENTS**

Section One. Encroachments. If any portion of the Common Areas encroach upon any Lot or as a result of variances from the Site Plan and/or Survey, an easement will exist for the encroachment and for the maintenance of the same so long as the improvements comprising a portion of the Common Areas continue to encroach upon such Lot(s). If the improvements comprising a portion of the Common Areas will be partially or totally destroyed as a result of fire or other casualty or a result of eminent domain proceedings, and then rebuilt, encroachments of parts of the Common Areas upon any Lot(s) due to such rebuilding, will be permitted, and valid easements for such encroachments and the maintenance thereof will exist so long as the improvements remain.

Section Two. Utilities, etc. There is hereby granted a blanket easement upon, across, over and under all the Property for ingress, egress, installation, replacing, repairing and maintaining a master television antenna or CATV system and all utilities, including, but not limited to water, gas, sewers, telephones and electricity, and other forms of telecommunication and technology cabling, now existing or developed in the future. Such easements grant to appropriate utility companies the right to erect and maintain the necessary poles and other necessary equipment on the Property. In addition, the Board of Directors will be entitled to grant additional permits, licenses, and easements over the Common Areas for utilities, roads, and other purposes reasonably necessary or useful for the proper maintenance and operation of the Property.

Section Three. Easement for Construction. Notwithstanding anything herein to the contrary, Declarant and Builder and persons designated by the Declarant or Builder will have an easement to enter upon and cross over the Common Areas for purposes of ingress and egress to all portions of the Property; to use portions of the Common Areas and any Lots owned by the Declarant for construction or renovation related purposes including the storage of tools, machinery, equipment, building materials, appliances, supplies and fixtures, and the performance of work respecting the Property; and to maintain and correct drainage of surface, roof or storm water.

Section Four. Intentionally omitted.

Section Five. Easement for Inspection by Declarant. Notwithstanding anything herein to the contrary, Declarant and persons designated by the Declarant will have an easement to enter upon and cross over the Common Areas for purposes of ingress and egress to all portions of the Property; as well as an easement for reasonable access to each Lot as the Declarant may find desirable, for the inspection of the whole or any portion of the Property, its Lots, the Buildings thereon or therein, the Common Areas, the components and structural parts thereof, as well as their maintenance requirements and the maintenance performed thereon to the date of any such inspection. Nothing herein shall require the Declarant to perform any such inspection, but if the Declarant does undertake any such inspection, Declarant shall provide to the Board of Directors a copy of its findings or the inspection report produced therefrom. Nothing herein shall prohibit the Board of Directors from engaging a professional inspector to perform an annual maintenance audit as part of the Board of Director's annual budgeting process.

Section Six. Easement for Sales Purposes. Declarant and Builder and persons designated by the Declarant or Builder will have an easement to maintain one or more sales offices, management offices, and models throughout the Property, and to maintain one or more advertising signs on the Common Areas while the Declarant or Builder is selling Lots in the Property, or any contemplated expansion thereof. Declarant and Builder reserves the right to place model home Buildings, management offices, and sales offices on any Lots, owned or leased by Declarant or Builder and on any portion of the Common Areas in such number, of such size and in such locations as Declarant or Builder deems appropriate. So long as Declarant or Builder will be selling Lots in the Property or any contemplated expansion thereof, Declarant or Builder will have the right to restrict the use of a reasonable number of parking spaces, for purposes including, but not limited to, the providing of spaces for use by prospective Lot purchasers, Declarant or Builder's employees, and others engaged in sales, maintenance, construction, or management activities.

Section Seven. No View Easements. No view easements, express or implied, will be granted to any Owner in connection with the conveyance of a Lot to such Owner.

Section Eight. Easement for United States Postal Service. Notwithstanding anything herein to the contrary, Declarant, the Association, the Owners, and the United States Postal Service will have an easement for the purposes of ingress and egress, installation, use, maintenance, repair, and replacement of, the designated areas within the Property which contain cluster mailboxes.

Section Nine. Emergency. There is hereby granted to the Association, its directors, officers, agents and employees and to any manager employed by the Association and to all policemen, firemen, ambulance personnel, and all similar emergency personnel, an easement to enter upon the Property in any part thereof in the proper performance of their respective duties. Except in the event of emergencies, the rights under this Article XII, Section Nine will be exercised only during reasonable daylight hours, and then, whenever practicable, only after advance notice to the Owner or Owners affected thereby.

ARTICLE XIII
THE DEVELOPMENT PLAN FOR THE PROPERTY

Section One. Reservation of Right to Expand and Contract. Anything to the contrary contained in this Declaration notwithstanding, at any time on or before ten years from the date of recording this Declaration, the Declarant will be entitled, but not required, to expand the property which is the subject of this Declaration by including any of the property described in Exhibit "B" attached hereto, and to contract the property which is subject to this Declaration in accordance with these expansion and contraction rights as provided in Article I, Section Two, above and in this Article XIII, Section One.

(a) Contraction; Withdraw of Unimproved Common Areas. During the period in which the Class B membership exists, the Declarant is entitled to subdivide portions of the Common Areas from the Properties, upon which no Lots have been created, and to remove the subdivided portion from the application of this Declaration by filing one or more amendments to this Declaration including amendments to the Exhibits where necessary (a "Contraction Amendment"). A Contraction Amendment will be executed solely by the Declarant for itself and as attorney in fact for all Owners and shall be effective upon recording in the [COUNTY NAME] Public Registry.

Section Two. Declarant's Reservation of Right to Modify Owned Lots. The Declarant shall have the right, so long as it owns any Lot, to modify each such Lot and the Building, provided, however, the aggregate percentage interest assigned to the Lot(s) so affected will not change. The Declarant shall effect such modification for a Lot by filing an amended plat ("Lot Modification Plat"). A Lot Modification Plat will be effective upon recording such amendment in the [COUNTY NAME] Public Registry.

Section Three. Amenities; Required Expansion. Amenities may be constructed as part of the expansion of the property which is subject to this Declaration, but the Declarant shall not be required to do so. Any amenities shall be constructed at the option of the Declarant in its sole and absolute discretion, and no covenant, representation or warranty is made herein that any amenities will be constructed. No Owner will have the right to require construction or addition of any land, amenities, Lots, Buildings, or other improvements or property under any circumstances.

Section Four. Assignability of Rights. The Declarant may assign the rights reserved in this Article XIII to any person or entity by an instrument recorded in the [COUNTY NAME] Public Registry.

Section Five. Application of Declaration. Any Expansion Amendment, Contraction Amendment, or Lot Modification Plat (collectively, "Declarant Amendments") may be filed separately or in concert as one amendment. Upon the filing of a Declarant Amendment prescribed by herein, all definitions contained in the Declaration will be deemed amended to the extension necessary to cause the addition of real property and the improvements described in such amendment to be treated as fully an integral part of the property which is subject to the Declaration.

Section Six. No Consent Required. Subject to the time limit set forth in herein, the Declarant, its successors and assigns, will have the absolute right to effect an expansion or contraction of the property which is subject to the Declaration, or a modification of a Lot in accordance with this Article XIII and to file Declarant Amendments to this Declaration without any action or consent on the part of any Owner or Mortgage holder; provided, however, that to the extent any action on the part of any Owner is required by any third party to assure the expansion of the property which is subject to the Declaration as provided in this Article XIII, each Owner, in accepting a deed to a Lot, agrees to undertake such actions and/or provide such consents as are reasonably requested, and expressly appoints the Declarant his due and lawful attorney in fact with full power of substitution, to execute all documents reasonably required to evidence the requisite action or consent.

ARTICLE XIV

TRANSITION PROVISION

Section One. Appointment of Directors and Officers.

(a) The Declarant shall have the right to appoint or remove any or all members of the Board of Directors and any or all officers of the Association until such time as the first of the following dates: (i) ten (10) years from the date of recording this Declaration; (ii) upon the conveyance by the Declarant, in the ordinary course of business to persons other than a successor developer, or development/construction lender for the Declarant, or successor developer pursuant to a foreclosure or deed-in-lieu of foreclosure, of one hundred percent (100%) of the property subject to this Declaration; or (iii) the date the Declarant surrenders its authority to appoint directors of the Association by an express amendment to any Declaration executed and filed of record by the Declarant. Upon the first occurrence of any one of the following events listed in this Section, the Declarant Control Period shall expire, and may thereafter be reinstated by vote of sixty-seven percent (67%) of the total votes of the Association.

(b) After the expiration of the Declarant's right to appoint under subparagraph (a) above, and notwithstanding anything contained herein to the contrary, the Declarant shall, nevertheless and so long as it holds one or more Lots included in the property, which is subject to this Declaration, have the right to appoint one (1) member of the Board of Directors.

Section Two. Special Meeting to Elect Board. Within sixty (60) days after the date on which Owners other than the Declarant become entitled pursuant to this Article XIV to elect members of the Board of Directors of the Association, the Association will call, and give not less than thirty (30) days and not more than sixty (60) days notice of, a special meeting of the Members to elect the Board of Directors. The existing board members appointed by the Declarant shall remain on the Board of Directors with full authority and control until their elected successors take office. In the event such an appointed board member is no longer able or willing to serve prior to his or her elected successor takes office, the Declarant may appoint an interim board member until such elected successor takes office.

Section Three. Cooperation. The Association will cooperate with the Declarant to the extent