THE STATE OF SOUTH CAROLINA
In The Supreme Court

APPEAL FROM RICHLAND COUNTY
Court of Common Pleas

George C James, Jr , Circuit Court Judge

Opinion No 4914 (S C Ct App Filed November 30, 2011)

Stevens & Wilkinson of South Carolina, Inc , Gary Realty Company, Inc , Garfield Traub Development, LLC, and Turner Construction Company — Plaintiffs,

Of Whom

Stevens & Wilkinson of South Carolina, Inc Gary Realty Company, Inc and Garfield Traub Development, LLC are — Respondents,

vs

City of Columbia, Paul C "Bo" Aughtry III, Windsor/Aughtry Co , Inc , Vista Hotel Partners, LLC, and Hilton Hotels Corporation — Defendants,

Of Whom

City of Columbia is — Petitioner

APPENDIX - VOLUME I

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THE STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM RICHLAND COUNTY
Court of Common Pleas

George C James Jr , Circuit Court Judge

Case No 2005-CP-40-3361
Court of Appeals Tracking No 1020154006

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SC Court of Appeals

Stevens & Wilkinson of South Carolina, Inc , Gary Realty Company, Inc Garfield Traub Development LLC and Turner Construction Company — Plaintiffs,

Of Whom
Stevens & Wilkinson of South Carolina Inc is — Appellant

vs

Paul C "Bo ' Aughtry III Windsor/Aughtry Co , Inc Vista Hotel Partners LLC, Hilton Hotels Corporation and the City of Columbia, South Carolina — Defendants

Of Whom
City of Columbia, South Carolina is — Respondent

RECORD ON APPEAL
VOLUME I

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THE STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM RICHLAND COUNTY
Court of Common Pleas

George C James Jr Circuit Court Judge

RECEIVED
SC Court of Appeals

Case No 05 CP 40 3361

Stevens & Wilkinson of South Carolina Inc — Plaintiff/Appellant

v

City of Columbia South Carolina — Defendant

NOTICE OF APPEAL

Stevens & Wilkinson of South Carolina Inc appeals the Orders of the Honorable George C James Jr entered on November 19 2009 and February 1 2010 the last of which was received by counsel for the Appellant on February 4 2010 Appellant files this appeal within thirty (30) days of receipt of that order as required by Rule 203 SCACR

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Form 4

STATE OF SOUTH CAROLINA

COUNTY OF RICHLAND

IN THE COURT OF COMMON PLEAS

JUDGMENT IN A CIVIL CASE

CASE NO 2005CP4003361

JUL 2 2009
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Stevens And Wilkinson of South Carolina Inc *vs* **City Of Columbia South Carolina**

Plaintiff Defendant

RICHLAND COUNTY FILED
2009 JUL 27 PM 2 00
JEANNETTE W McBRIDE C C P & G S

CHECK ONE

☐ **JURY VERDICT** This action came before the court for a trial by jury The issues have been tried and a verdict rendered

☐ **DECISION BY THE COURT** This action came to trial or hearing before the court The issues have been tried or heard and a decision rendered

☐ **ACTION DISMISSED** (*CHECK REASON*) ☐ Rule 12(b) SCRCP ☐ Rule 41(a) SCRCP (Vol Nonsuit) ☐ Rule 43(k) SCRCP (Settled) ☐ Other

☐ **ACTION STRICKEN** (*CHECK REASON*) ☐ Rule 40(j) SCRCP ☐ Bankruptcy ☐ Binding arbitration subject to right to restore to confirm vacate or modify arbitration award ☐ Other _____

☐ **DISPOSITION OF APPEAL TO THE CIRCUIT COURT** (*CHECK APPLICABLE BOX*)
☐ Affirmed ☐ Reversed ☐ Remanded ☐ Other
NOTE ATTORNEYS ARE RESPONSIBLE FOR NOTIFYING LOWER COURT TRIBUNAL OR ADMINISTRATIVE AGENCY OF THE CIRCUIT COURT RULING IN THIS APPEAL

IT IS ORDERED AND ADJUDGED ☒ See attached order ☐ Statement of Judgment by the Court

Dated at Columbia, South Carolina this _____ day of _____ 2009

_____
PRESIDING JUDGE

This judgment was entered on the _____ day of _____ 2009 and a copy mailed first class this 27th day of July 2009 to attorneys of record or to parties (when appearing pro se) as follows

Richard A Harpootlian
ATTORNEY(S) FOR THE PLAINTIFF(S)

Michael W Tighe
Patricia Alexander Howard
Kathleen M McDaniel
ATTORNEY(S) FOR THE DEFENDANT(S)

Jeanette W McBride
Clerk of Court

SCRCP APP 24/FORM 4

0003

JUL 2 2 2009
Clerk of Court
RICHLAND COUNTY
FILED
2009 JUL 23 AM 11 47
JEANETTE W McBRIDE
C C P & G S

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	
COUNTY OF RICHLAND	)	FOR THE FIFTH JUDICIAL CIRCUIT
Stevens & Wilkinson of South Carolina Inc	)	Civil Action 05 CP 40 3361
	)	
Plaintiff	)	
v	)	**ORDER ON**
	)	**RULE 59(e) MOTION**
City of Columbia South Carolina	)	
	)	
Defendant	)	
	)	

This matter is before the court on the motion of Defendant City of Columbia to alter or amend the prior order of March 23 2009 granting Plaintiff Stevens & Wilkinson s motion for partial summary judgment. The March 23rd order found that the Plaintiff had established that there was no genuine issue of material fact as to whether a contract existed between Stevens & Wilkinson and the City

I decline to reach the issues raised by the City for the reasons stated below First the City s counteroffer vs acceptance argument was not raised before me in defense to the Plaintiff s motion for partial summary judgment As our appellate courts have held [a] party cannot use Rule 59(e) to present to the court an issue the party could have raised prior to judgment but did not *Hickman v Hickman* 301 S C 455 456 392 S E 2d 481 482 (Ct App 1990) The City previously offered several defenses to the Plaintiff's motion but this was not one of them Thus it is inappropriate for the City to introduce new theories in support of its case in the form of a Rule 59(e) motion

The City also requests that I find any obligation it possessed under the contract with Stevens & Wilkinson was satisfied by the City s December 29 2003 payment to Stevens & Wilkinson My previous order however was constrained to the existence of the contract 'The purpose of Rule 59(e) SCRCP to alter or amend the judgment is to request the trial judge to

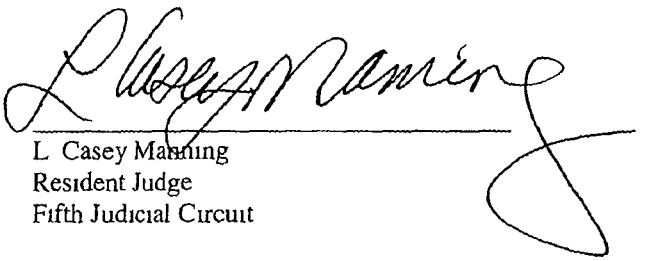
reconsider matters properly encompassed in a decision on the merits *Arnold v State* 309 S C 157 172 173 420 S E 2d 834 842 (1992) My previous order did not rule on the question of the breach of contract or any damages related thereto Thus it would be inappropriate for me to make extend a ruling in this case

Finally even if I were to rule upon the City s counteroffer vs acceptance theory I find that the City s position does not give rise to a genuine issue of material fact The July 30 2003 City Council minutes represent that financing for $650 000 of interim architectural fees was approved The minutes did not represent any instruction of a counterproposal Furthermore the City has represented to this court that it agreed to pay the $650 000 The lack of reference within the City Council minutes to the additional $75 000 per week beyond the anticipated bond closing date does not clearly preclude an acceptance of the original offer To the contrary the fact that the City continued to work with Stevens & Wilkinson beyond the bond closing date and paid Stevens & Wilkinson more than the $650 000 further supports their acceptance of the initial offer Assent to an offer need not be expressed to constitute a contract and may be inferred from acts and conduct *Florence City County Airport Com n v Air Terminal Parking Co* 283 S C 337 341 322 S E 2d 471 473 (Ct App 1984)

As a further matter it appears that the phrase albeit on seemingly modified terms contained within my previous order has given rise to this motion It was not my intent to cloud the issue of the terms contained within the initial offer and acceptance Rather the phrase was a reference to the outstanding questions of whether the terms may have been modified by the parties after the contract was formed—questions addressed within the very same paragraph In view of the confusion surrounding this phrase I amend the previous order so as to delete this phrase

Beyond the minor correction referenced above the court declines to alter or amend its March 23 2009 order

IT IS SO ORDERED



L Casey Manning
Resident Judge
Fifth Judicial Circuit

July 23 2009
Columbia South Carolina

STATE OF SOUTH CAROLINA)
)
COUNTY OF RICHLAND)

IN THE COURT OF COMMON PLEAS
FOR THE FIFTH JUDICIAL CIRCUIT

Gary Realty Company Inc and
Garfield Traub Development, LLC

Plaintiffs,

vs

City of Columbia, South Carolina

Defendant

(2005 CP 40 1014)

CONSOLIDATED
CIVIL ACTION NO 2007-CP-40-1252

RECEIVED
NOV 20 2009
Richard A Harpootlian, P.A.

ORDER ordered

2009 NOV 19 PM 12 59

JEANETTE W. BRICE
C.C.P. & G.

RICHLAND COUNTY

Stevens & Wilkinson of South
Carolina Inc ,

Plaintiff

vs

City of Columbia South Carolina,

Defendant

(2005-CP 40-3361)

Turner Construction Company,

Plaintiff

vs

City of Columbia,

Defendant

(2007-CP-40 1252)

#1

This matter came before the Court on the Motions for Summary Judgment filed by the City of Columbia in each of the above captioned cases These three cases along with two companion cases[1] were consolidated for the purposes of discovery and thereafter for trial The parties to all five cases have filed voluminous materials regarding the defendants motions for summary judgment in all five cases Two full day hearings were held on these motions on July 9 2009 and August 17, 2009 Because the factual and legal issues in the three cases where the City is the Defendant are identical this Court will address the City s Motions for Summary Judgment against all three Plaintiffs together Having fully considered the written motions and supporting materials submitted to the Court by the parties as well as the oral argument and exhibits presented to the Court the Court hereby orders that each of the City of Columbia s Motions for Summary Judgment are granted

FACTUAL BACKGROUND

In January 2001, the Lexington-Richland Columbia Convention Center Commission issued a Request for Qualifications (RFQ) seeking candidates to develop a hotel adjacent to the Midlands Regional Convention Center Plaintiffs were part of a team led by Edens & Avant Real Estate Services, LLC[2], which responded to the RFQ Almost two years later, in December 2002 the City of Columbia (the City) elected to enter negotiations with the Project Team that included Plaintiffs The Project Team proposed to develop a publicly-funded full service Hilton Hotel The proposed financing structure for this hotel provided that the City would issue tax exempt bonds to finance the

[1]The other two cases are (1) Stevens & Wilkinson of South Carolina Inc v Paul C Bo Aughtry III Windsor/Aughtry Co Inc and Vista Hotel Partners LLC Civil action number 2006 CP-40 5092 and (2) Gary Realty Company Inc and Garfield Traub Development LLC v Paul C Bo Aughtry III Windsor/Aughtry Co Inc Vista Hotel Partners LLC and Hilton Hotels Corporation Civil action number 2006 CP-40 6488

[2]Edens & Avant is not a party to any of these cases

development and the City would set up a non profit corporation that would own the hotel Under this proposal Hilton would operate the hotel

The negotiation process that began in December 2002 involved attempts to prepare several complex written agreements among the various parties However not one of these contract documents was ever executed A Memorandum of Understanding dated April 17 2003 (the MOU) was the only document ever signed by the parties The MOU set forth a framework for the development of a publicly funded convention center headquarters hotel Page 1 of the MOU stated

> This MOU reflects the intent to proceed in good faith to execute definitive written agreements with respect to the business terms and conditions herein contained Notwithstanding anything herein to the contrary, if the City determines that it is not feasible to proceed with the Hotel project it shall have no liability under this MOU

The MOU identified the basic principles that were to be negotiated among numerous parties to create subsequent definitive written agreements

In June 2003 the non-profit corporation (NPC) that was proposed to own the hotel was incorporated The by laws of the NPC stated that it was to fund the development construction and commencement of operations of the hotel with the net proceeds of bonds issued by South Carolina Jobs Economic Development Authority (JEDA) Funding the hotel project with the proceeds of bonds issued by JEDA would have necessitated approval not only by Columbia City Council but also by the State Budget and Control Board Neither JEDA nor any other entity ever agreed to issue the bonds, and the bonds to finance this project were never issued

The MOU stated that approximately $60 million in tax exempt municipal bonds would be issued to fund the hotel development As Plaintiffs negotiated the proposed contracts, this cost estimate increased at a rate of almost $1 million per month By February 11 2004 ten months

after the MOU was signed, the proposed bond amount had grown to over $69 million and none of the definitive written agreements had been finalized or executed On March 15, 2004 the proposed bond amount had increased to over $72 million this financing model also included a portion of taxable bonds something that was never contemplated in the MOU

On March 17 2004, the City Council voted to open a new bidding process and issue a new Request for Proposals (RFP) for development of a privately-funded convention center The new RFP was issued on April 2, 2004 City Council appointed a Hotel Selection Committee composed of ten private citizens to review the responses to the RFP and make a recommendation to City Council about which proposal to select

Plaintiffs' Project Team with the exception of Edens & Avant participated in the new RFP process submitting two proposals for consideration One of Plaintiffs' proposals was a resubmission of their original proposal for the same seventy plus million dollar publicly-financed Hilton Hotel, and the other was a new proposal for a $53 75 million Hilton Hotel that would be funded partially by the City and partially with private capital Windsor/Aughtry Co Inc [3] (Windsor/Aughtry) also submitted a proposal in response to the RFP

The Hotel Selection Committee recommended selection of Windsor/Aughtry, and the City ultimately accepted that recommendation Following their failure to be selected, Plaintiffs brought multiple lawsuits against the City, Hilton Hotels and Windsor/Aughtry

SUMMARY JUDGMENT STANDARD

[3]Windsor/Aughtry Co Inc along with Paul C Bo Aughtry III and the related Vista Hotel Properties LLC are Defendants in the other two companion lawsuits

Summary judgment is appropriate if the pleadings depositions answers to interrogatories, and admissions on file together with the affidavits, if any show that there is no genuine issue as to any material fact and that the moving party is entitled to a judgment as a matter of law Rule 56(c), SCRCP In determining whether any triable issues of fact exist, the evidence and all reasonable inferences therefrom must be viewed in the light most favorable to the non moving party Medical Univ of South Carolina v Arnaud, 360 S C 615 619 602 S E 2d 747, 749 (2004), Rife v Hitachi Constr Mach Co , Ltd 363 S C 209 213, 609 S E 2d 565, 567 (Ct App 2005) However, once the moving party carries its initial burden, the opposing party must, under Rule 56(e), do more than simply show that there is some metaphysical doubt as to the material facts but must come forward with specific facts showing there is a genuine issue for trial B & B Liquors, Inc v O Neil, 361 S C 267, 270 603 S E 2d 629, 631 (Ct App 2004) The opponent cannot rest on mere allegations or denials contained in the pleadings, but must come forward with specific facts showing there is a genuine issue for trial Jones v State Farm Mut Auto Ins Co , 364 S C 222, 228, 612 S E 2d 719, 722 (Ct App 2005) (citation omitted) If the evidence taken as a whole is susceptible of only one reasonable inference, there is no jury issue and the motion for summary judgment should be granted Hopson v Clary, 321 S C 312, 468 S E 2d 305 (1995)

Where the preponderance of the evidence burden of proof applies, the non moving party is required to submit only a "scintilla" of evidence in order to withstand a motion for summary judgment Hancock v Mid-South Mgmt Co , Inc , 381 S C 326, 330, 673 S E 2d 801, 803 (2009) However to meet the scintilla standard, evidence must be probative, mere speculation is not probative and is not sufficient McDowell v Stilley Plywood Co , 210 S C 173, 41 S E 2d

5

872, 875 (1947) (recently quoted in Bass v Gopal, Inc 2009 WL 1917283 4 (S C Ct App 2009) (unpublished))

LEGAL ANALYSIS

Each of Plaintiffs assert similar causes of action against the City Gary Realty/Garfield Traub in their Amended Complaint, assert two causes of action

- Quantum Meruit; and
- Breach of Duty of Good Faith and Fair Dealing [4]

By its Second Amended Complaint, Stevens & Wilkinson alleges three causes of action against the City

- Breach of Contract, including Breach of the Obligation of Good Faith and Fair Dealing,
- Quantum Meruit, and
- Estoppel

In its Complaint, Turner Construction asserts four causes of action against the City

- Breach of Contract,
- Quantum Meruit,
- Contract Implied in Law, and
- Breach of Duty of Good Faith and Fair Dealing and Violation of State Procurement Law

Turner Construction did not submit any evidence into the record in opposition to the City s Motion for Summary Judgment At the hearing, Turner Construction joined in the arguments presented by the other two Plaintiffs

[4]Gary Realty/Garfield Traub moved to amend their Complaint for a second time and the City consented to that amendment However Gary Realty/Garfield Traub never filed or served the Second Amended Complaint. The proposed Second Amended Complaint added two causes of action for breach of contract and estoppel, premised on the same legal and factual arguments as the other two Plaintiffs Therefore had Gary Realty/Garfield Traub filed and served their Second Amended Complaint their causes of action for breach of contract and estoppel would also be dismissed on the City s Motion for Summary Judgment for the same reasons stated herein that Stevens & Wilkinson and Turner Construction's causes of action for breach of contract and estoppel are dismissed

This Court addresses each cause of action in turn and viewing the evidence in the record as to each cause of action in the light most favorable to Plaintiffs, finds that Plaintiffs fail to produce even a scintilla of probative evidence to create a genuine issue of material fact Therefore, the City is entitled to summary judgment on each cause of action as a matter of law

1 **BREACH OF CONTRACT**

A **The MOU was not a binding and enforceable contract**

The issue of whether the MOU is a binding enforceable contract is a matter of law for determination by this Court Where, as here, the material facts concerning the formation of alleged contract are not in dispute, the issue of contract *vel non* is a question of law W E Gilbert & Assocs v S C Nat'l Bank 285 S C 421, 423 330 S E 2d 307 309 (Ct App 1985), see also Capital City Garage & Tire Co v Electric Storage Battery Co , 113 S C 352, 363, 101 S E 838, 841 (1920) (where the question was whether particular documents constituted a written contract, it was a question of law for the court which found the documents did not constitute a contract) *Corpus Juris Secundum* states

> Pursuant to the generally applicable rule concerning decisions in respect of undisputed facts whether undisputed facts establish a contract is a question of law, for decision by the court By application of this principle whether a document, or multiple documents exchanged by the parties, constitute a contract is generally held to be a question of law for determination by the court, since the question involves the interpretation of an instrument or instruments, the determination of their validity as a matter of law, or both

17B C J S Contracts § 771 (2008)

A contract is an obligation which arises from actual agreement of the parties Rushing v McKinney 370 S C 280 290, 633 S E 2d 917 922 (Ct App 2006) There can be no contract where the parties never completed their negotiations as to essential terms W E Gilbert &

Assocs 285 S C at 424 25 330 S E 2d at 309 Electro-Lab of Aiken, Inc v Sharp Constr Co of Sumter, 357 S C 363, 593 S E 2d 170 (Ct App 2004) Specifically, a letter of intent or agreement to agree is not a binding and enforceable contract Trident Constr Co , Inc v Austin Co , 272 F Supp 2d 566, 575 (D S C 2003) ("agreements to agree do not amount to a contract in South Carolina"), Blanton Enterprises, Inc v Burger King Corp , 680 F Supp 753, 770 n 20 (D S C 1988) (same) This principle was established early in South Carolina case law See Savannah Guano Co v Fogle, 112 S C 234, 100 S E 59 (1919) (concluding no contract existed where there was only a promise to enter into a contract in the future), Holliday v Pegram, 89 S C 73, 71 S E 367 (1911) (finding there was no contract where the defendant promised to make a contract or arrange an agreement at a future date) If the document or contract that the parties agree to make is to contain any material term that is not already agreed on, no contract has yet been made, and the so called contract to make a contract is not a contract at all Arthur L Corbin, Corbin on Contracts § 29, at 45, (One Vol Ed 1952)

An examination of the four corners of the MOU reveals that it was not a binding and enforceable contract but, rather, was an unenforceable, non binding agreement to agree in the future The first page of the MOU states that the parties intended to negotiate further to reach definitive written agreements that would address the business terms and conditions contained in the MOU These business terms and conditions contained in the MOU were not there to bind the parties but instead were to provide a framework for negotiating and executing subsequent definitive written agreements The MOU, which reflected an intention to negotiate multiple agreements that would constitute this complex, multi million dollar deal, did not contractually bind the parties As the MOU stated it was the definitive written agreements that were to bind the parties not the MOU itself

There were at least six separate definitive agreements specifically mentioned in the MOU which were conditions precedent to the parties being contractually bound These six agreements were (1) the Bond Underwriting/Bond Financing Agreement(s) (2) the Qualified Management Agreement, (3) the Joint Use Agreement Regarding Parking Rights, (4) the Hotel Room Block Agreement, (5) the Development/Management Agreement and (6) the Design/Build Agreement None of these agreements were ever fully negotiated or executed Even if the MOU could be considered a contract, a contract that is otherwise valid becomes unenforceable if a condition precedent fails to occur M & M Group, Inc v Holmes 379 S C 468, 477, 666 S E 2d 262 266 (Ct App 2008) (A condition precedent to a contract is any fact other than the lapse of time, which unless excused, must exist or occur before a duty of immediate performance arises)

The record further demonstrates that there was never any agreement on the material business terms and conditions among the parties On April 17, 2003, the date of the MOU, the projected cost for development and construction of the hotel was approximately $60 million by March 15 2004, Plaintiffs models indicated that price had increased to more than $72 million Similarly, in September 2003, the Plaintiffs proposal for the "City Standby Support Payment" obligation (i e , the City's guarantee of the Hotel's operations) was $53 million, by March 2004, this direct risk to the City had nearly doubled to $91 million. There is no evidence in the record to demonstrate that the City by action of City Council, agreed to these ever changing terms and conditions

Similarly it is not disputed that other significant open issues were never resolved For example the Plaintiffs never determined whether the hotel would be required to pay property taxes a material financial consideration that none of the financial projections for the hotel ever took into account Plaintiffs also never determined how executive compensation to the members

of Hilton Hotels upper-level management would be handled in a manner that satisfied Hilton but that did not violate the requirements of the Internal Revenue Service the executive compensation structure would determine whether the bonds were tax exempt or taxable, obviously a critical issue

The plain language of the MOU demonstrates that it was not a binding enforceable contract Furthermore, there is no genuine issue of material fact that the essential terms of the alleged contract were never agreed upon by the parties Indeed, nowhere in the record do the Plaintiffs demonstrate what the terms of the purported contract were The City therefore is entitled to summary judgment as a matter of law on the Plaintiffs' claim for breach of contract

B Payment of Interim Architectural Fees

Stevens & Wilkinson also premises a breach of contract action upon the City Council s vote in July of 2003 to pay $650,000 in interim architectural fees This issue was the subject of a prior Motion for Partial Summary Judgment brought by Stevens & Wilkinson In a separate order, Judge L Casey Manning granted Stevens & Wilkinson's Motion for Partial Summary Judgment, finding that a contract was formed by the City Council's vote in response to a proposal made by Stevens & Wilkinson

> The uncontroverted evidence in this case indicates that Stevens & Wilkinson, as the head of the architectural/design team of the Hotel Project, completed all design work necessary to formulate a guaranteed maximum price for the Hotel Project by July of 2003 At that point in time, Bobby Lyles the President of Stevens & Wilkinson penned a letter to City Council notifying them of the design team's intent to put their pencils down until bond financing was finalized As an alternative to this delay, however, Stevens & Wilkinson offered to continue work on the Hotel Project in exchange for $650,000 through October 15, 2003 and $75,000 a week thereafter The City accepted this offer on July 30, 2003 via a vote of City Council approving the allocation of $650,000 to the design team

10

Order of Hon L Casey Manning, dated March 23, 2009

However Judge Manning s order does not address whether any breach of that contract occurred

This Court s order does not have any effect on Judge Manning's finding that a contract was formed between Stevens and Wilkinson and the City through the July 2003 negotiations One of the grounds the City cites in its motion for summary judgment is that the defendant breached no contract See, City s Motion for Summary Judgment However, in its Memorandum in Support of Summary Judgment, the City states that its position on the issue of the July 30, 2003 contract is fully articulated in its motion to alter or amend Judge Manning s order The City's memorandum clearly states that it will address its arguments on the issue in its reply memorandum if its motion to alter or amend had not been ruled on prior to the summary judgment hearing See, City's Memorandum in Support of Motion for Summary Judgment

Judge Manning issued his order on the City's Rule 59(e) Motion to Alter or Amend Judgment on July 23, 2009 The order denied the City s Motion to Alter or Amend and clearly confined it's ruling to the existence of a contract refusing to address whether or not a breach had occurred Order of Hon L Casey Manning, dated July 23, 2009 The City subsequently submitted its Reply Memorandum in Support of its Motion for Summary Judgment The City only addressed the issue of the July 2003 contract for interim architectural fees in its argument to dismiss Stevens and Wilkinson's cause of action for estoppel The City s breach of contract argument was confined to the MOU and did not address the interim architectural fees

While this issue was brought to the attention of the Court at the motion hearing, it was not fully briefed or argued The Court made the parties aware that it had not received pre trial briefs from either side on the issue of the interim architectural fees The City handed up its Second Supplemental Exhibits in Support of City's Motion for Summary Judgment at the August

17 hearing The City s original motion and the subsequent briefs did not adequately present the parties positions on the issues nor did they inform the Court such that it could make a fully informed decision on the issue

In my view, the question of whether the City breached any agreement arising out of the July 2003 vote is not properly before this Court Neither side is prejudiced by this finding, and the issue may be determined in the normal progression of this case

2 QUANTUM MERUIT

All three Plaintiffs assert causes of action for quantum meruit against the City Quantum meruit is an equitable action for the recovery of unjust enrichment. Columbia Wholesale Co , Inc v Scudder May N V , 312 S C 259 259 440 S E 2d 129 129 (1994) The elements are (1) a benefit conferred upon the defendant by the plaintiff, (2) the defendant realizes the benefit, and (3) the defendant retains the benefit under circumstances that would make it unjust for him to retain the benefit without paying its value Id Thus the measure of damage is the benefit conferred upon the Defendant Id As a matter of law, none of Plaintiffs have demonstrated the required elements for a claim of unjust enrichment Thus, summary judgment in favor of the City on each of Plaintiffs claims for quantum meruit is appropriate

Plaintiffs assert that they conferred valuable material and services to the City in the form of a "rendering" of the proposed hotel plans designs, drawings, financial models, construction estimates, and expertise As to each of these allegations there is not a scintilla of probative evidence to support Plaintiffs' position First the rendering was a sketch of the proposed hotel which was commissioned by the City specifically for use in public presentations to community groups The rendering was made by Barbara Ratner, a third party artist and the City paid her

$4 000 for her work directly The City even paid Stevens & Wilkinson's co architect TVS $400 to coordinate obtaining the rendering Thus the City paid for whatever benefit it received from the rendering Furthermore, the rendering was not a confidential or proprietary document because the City commissioned the rendering and fully compensated the artist and TVS for their work Thus assuming as a fact that the City provided Windsor/Aughtry with a copy of the rendering, such fact does not provide a sufficient basis upon which Plaintiffs can premise an action for quantum meruit

Second Plaintiffs allege that the hotel constructed by Windsor/Aughtry looks like the hotel proposed by Plaintiffs and that this resemblance gives rise to an inference that the City gave Windsor/Aughtry the plans and drawings for use in constructing the privately funded hotel This without more, cannot form the basis for a claim for quantum meruit Plaintiffs presented no evidence of any striking similarities between their proposed hotel and that which was actually constructed. Even if it did look similar Plaintiffs presented no evidence that Windsor/Aughtry ever received such plans from anyone, much less the City, or that Windsor/Aughtry made actual use of the plans More to the point however, there is nothing in the record to suggest that the City ever benefitted from the plans and drawings Therefore this allegation cannot form a basis for Plaintiffs' quantum meruit claim

Third, the plans, designs, drawings, financial models, and construction estimates for a hotel never constructed have no intrinsic value and might only have been valuable if they had been utilized to construct the proposed hotel which they were not But again, no value could have been conferred upon the City

Finally, the Project Team conferred no special knowledge or expertise upon the City that resulted in a benefit or value to the City any benefit of learning how to structure such a deal was realized by members of the Project Team and not the City

In response to the City s Motion for Summary Judgment, none of Plaintiffs put forth any probative evidence of a benefit conferred upon and used by the City As a result Plaintiffs failed to demonstrate any genuine issue of material fact that any of them conferred anything of value upon the City or that the City realized a benefit from anything conferred The City, therefore, is entitled to summary judgment in its favor on each of Plaintiffs claims for quantum meruit

3 CONTRACT IMPLIED IN LAW

Turner Construction asserts a claim against the City for breach of contract implied in law There is no cause of action in South Carolina for breach of contract implied in law separate from a cause of action for quantum meruit. Myrtle Beach Hospital v City of Myrtle Beach 341 S C 1, 532 S E 2d 868 (2000) As a matter of law, Turner Construction s claim for contract implied in law must be amalgamated into its claim for quantum meruit As noted, Turner is unable to meet the elements necessary to prevail on its claim for quantum meruit and the City is entitled to judgment in its favor on Turner's claim foi quantum meruit.

4 BREACH OF DUTY OF GOOD FAITH AND FAIR DEALING AND VIOLATION OF STATE PROCUREMENT LAW

Gary Realty/Garfield Traub and Turner Construction assert that the City has breached a duty of good faith and fair dealing Turner Construction also asserts that the City violated state procurement law and a duty of good faith inherent in the state procurement procedures

The South Carolina Consolidated Procurement Code, and any duty of good faith found thereunder, is inapplicable to the City The Procurement Code applies to every procurement or expenditure of funds by this State under contract acting through a governmental body S C

8/14

Code Ann § 11-35 40 The statutory definition of governmental body specifically excludes municipalities S C Code Ann § 11 35 310(18) The only requirement of the State Procurement Code applicable to municipalities is that each municipality must adopt its own procurement code The City of Columbia has complied with this requirement Because the State Procurement Code is inapplicable to municipalities it cannot provide a basis for liability for the City[5]

Gary Realty/Garfield Traub and Turner allege a breach of a covenant of good faith and fair dealing There is no separate cause of action for the breach of the implied covenant of good faith and fair dealing Williams v Riedman, 339 S C 251 274 529 S E 2d 28, 40 (Ct App 2000) Further, where there is no contract no covenant of good faith and fair dealing arises Keiger v Citgo, Coastal Petroleum, Inc 326 S C 369 374 482 S E 2d 792 794 (1997) (dismissing for failure to state a claim a cause of action for breach of the covenant of good faith and fair dealing where plaintiff failed to allege the existence of a contract) Because there is no separate cause of action for the breach of covenant of good faith and fair dealing, the City is entitled to summary judgment as a matter of law in its favor on Gary Realty/Garfield Traub and Turner's claims for breach of the duty of obligation of good faith and fair dealing

5 ESTOPPEL

Stevens & Wilkinson[6] asserts a cause of action in estoppel against the City In the context of a contract claim against a governmental entity, the relying party must meet the general requirements of estoppel in order to prevail Davis v Greenwood School District, 365 S C 629,

[5]This finding is consistent with a prior order of this Court (per Judge Kinard) dismissing the portion of Stevens & Wilkinson s Amended Complaint alleging a violation of the South Carolina Consolidated Procurement Code See Order of The Honorable Ernest Kinard filed April 27 2006

[6]See Footnote 4 supra

620 S E 2d 65 (2005) These elements are (1) the presence of an unambiguous promise (2) the promisee s reasonable reliance upon the promise (3) that the reliance was expected or foreseeable by the promisor, and (4) the promisee was injured as a result of reliance on the promise Id at 634 620 S E 2d at 67

A party asserting an estoppel claim against a governmental entity must additionally prove that the alleged conduct of a government employee or officer was within the authority of that individual If the employee or officer did not have authority to make the decision or statement, then no estoppel will lie against the governmental entity Service Mgt , Inc v State Health and Human Servs Fin Comm n 298 S C 234 238, 379 S E 2d 442 (Ct App 1989)

Stevens &Wilkinson first asserts that the MOU contains an unambiguous promise to pay for all work performed on the project As a matter of law the MOU contains no such promise indeed, the MOU specifically states that the Project Team is responsible for the costs incurred prior to closing the financing Such closing, i e , the issuance of the bonds, never occurred The MOU makes clear that the Project Team including Plaintiffs was to bear the cost of its own performance unless and until the bonds closed

The only basis provided in the MOU for Stevens & Wilkinson to recover costs would be if the bonds failed to close because the City breached an obligation in the Development Agreement Execution of the Development Agreement was a condition precedent to Stevens & Wilkinson s recovery of its costs and the Development Agreement was one of the numerous definitive written agreements that was never finalized nor executed

Stevens & Wilkinson also fails to present evidence of any reliance on the MOU for payment for its work, or that such reliance was reasonable and foreseeable by the City Any work performed by these Plaintiffs was with full knowledge that it was performed at risk without

the protection of a Development Agreement Further the City had sole discretion to determine whether the project was feasible making it patently unforeseeable to the City that Stevens & Wilkinson would expect payment for all of its work if the project failed to move forward

Stevens & Wilkinson asserts that it relied upon statements made by individual officers or employees of the City The power of officers and employees to bind the City in contract is limited by state statute and municipal ordinance, and neither provides any officer or employee with authority to bind the City in contract of the nature contemplated in the Hotel Project The City can only be bound in a transaction of this nature and magnitude by a vote of the properly convened City Council The City Council cannot delegate the authority to enter into such contractual arrangements It was not within the scope of authority for any individuals to bind the City, therefore the actions or statements of any individual officer or employee of the City cannot form the basis for a claim of estoppel Because officers or employees of the City lacked authority to bind the City, no statements of such individuals can form the basis of a claim of estoppel

To the extent that Stevens & Wilkinson asserts that actions taken by the NPC form the basis for a claim of estoppel against the City, such assertion also fails as a matter of law Such action could only be taken by City Council convened as City Council The Columbia Convention Center Hotel Corporation had no authority to bind the City to enter into a contract to issue the necessary bonds, or to appropriate funds for the City Standby Support Payments Because the City Council would ultimately have been required to enact an ordinance to issue the bonds or appropriate funds for the City Standby Support Payment, the Hotel Corporation acting alone would not have had authority to bind the City Any reliance upon the actions of the Hotel Corporation would not have been reasonable or foreseeable Thus, as a matter of law an

estoppel claim against the City based upon actions of the Columbia Convention Center Hotel Corporation will not lie

Finally Stevens & Wilkinson attempts to base a claim for estoppel on the City Council vote on July 30 2003 to pay $650 000 in interim architectural fees This presents a position wholly inconsistent with Stevens & Wilkinson s other theories of recovery On July 30 2003 the Columbia City Council voted to approve $650 000 in interim architectural fees to be paid to Stevens & Wilkinson Stevens & Wilkinson filed a Motion for Partial Summary Judgment on February 20, 2009, seeking a determination that Stevens & Wilkinson and the City of Columbia created a contractual agreement – separate and apart from the Memorandum of Understanding – in July of 2003 for the performance of and payment for architectural and design services On March 23, 2009 Judge Manning issued an order granting Stevens & Wilkinson's motion for partial summary judgment Thus, if a contract – separate and apart from the MOU – was formed by the July 30, 2003 vote that vote cannot also create potential liability for the City under the MOU on the basis of estoppel

For the foregoing reasons Stevens & Wilkinson is unable to state a claim for estoppel against the City The City, therefore, is entitled to summary judgment in its favor on the estoppel claims brought by Stevens & Wilkinson

CONCLUSION

Based upon the foregoing the Motions for Summary Judgment brought by the City of Columbia are granted as to all causes of action brought by all Plaintiffs

Accordingly, it is ordered that

1 The City of Columbia s Motion for Summary Judgment on Stevens & Wilkinson and Turner s claims for breach of contract is **GRANTED** provided however this Court makes no finding as to the claim for payment of Interim Architecture Fees

2 The City of Columbia's Motion for Summary Judgment against the three Plaintiffs' claims for quantum meruit is **GRANTED**

3 The City of Columbia s Motion for Summary Judgment on Stevens & Wilkinson's claim for estoppel is **GRANTED**

4 The City of Columbia's Motion for Summary Judgment on Gary Realty/Garfield Traub s claims for breach of duty of good faith and fair dealing is **GRANTED**

5 The City of Columbia's Motion for Summary Judgment on Turner's claims for contract implied in law breach of duty of good faith and fair dealing and violations of State Procurement Law is **GRANTED**

6 The original of this Order shall be filed in the Clerk of Court s file number 2007-CP-40 1252 Certified copies shall be filed in 2005 CP 40-1014 and 2005 CP-40-3361

AND IT IS SO ORDERED

George C James, Jr Presiding Judge
Fifth Judicial Circuit

Sumter, South Carolina

11/11, 2009

STATE OF SOUTH CAROLINA)	IN THE COURT OF COMMON PLEAS
)	FOR THE FIFTH JUDICIAL CIRCUIT
COUNTY OF RICHLAND)	
Gary Realty Company, Inc and)	CONSOLIDATED
Garfield Traub Development, LLC,)	CIVIL ACTION NO 2007 CP 40 1252
)	
Plaintiffs,)	
)	
vs)	
)	**CERTIFICATE OF SERVICE**
City of Columbia, South Carolina,)	
)	
Defendant)	
)	
(2005 CP-40 1014))	
Stevens & Wilkinson of South)	
Carolina Inc ,)	
)	
Plaintiff)	
vs)	
)	
City of Columbia, South Carolina)	
)	
Defendant)	
)	
(2005 CP 40-3361))	
Turner Construction Company)	
)	
Plaintiff,)	
)	
vs)	
)	
City of Columbia,)	
)	
Defendant)	
)	
(2007 CP 40 1252))	

RICHLAND COUNTY
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JEANETTE W McBRIDE
C C P & G S

I Denise M Hardwick, an employee of Callison Tighe & Robinson, LLC, Attorneys for Defendant City of Columbia, South Carolina hereby certify that I served the Order of the Honorable

George C James Jr dated November 11 2009 upon all counsel of record by causing a copy of the same to be placed in the U S Mail, first-class postage affixed addressed as set forth below on November 19, 2009

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Columbia, South Carolina

November 19, 2009

Order of the Honorable George C James, Jr , dated November 11, 2009, upon all counsel of record by causing a copy of the same to be placed in the U S Mail first class postage affixed, addressed as set forth below, on November 19 2009

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Denise M Hardwick

Columbia, South Carolina

November 19 2009

THE STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM RICHLAND COUNTY
Court of Common Pleas

George C James Jr Circuit Court Judge

Case No 05-CP-40-3361

Stevens & Wilkinson of South Carolina Inc — Plaintiff/Appellant

v

City of Columbia South Carolina — Defendant

CERTIFICATE OF SERVICE

I Beth Craft employee of RICHARD A HARPOOTLIAN P A attorney for Appellant Stevens & Wilkinson of South Carolina Inc do hereby certify that I have served the below listed document Via U S Mail on March 5 2010 to the individuals listed below

Document 1) Notice of Appeal

Served
Michael Tighe Esquire
D Reece Williams, Esquire
Kathleen M McDaniel Esquire
Richard C Detwiler Esquire
Callison Tighe & Robinson LLC
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Beth Craft
Legal Assistant

STATE OF SOUTH CAROLINA)	IN THE COURT OF COMMON PLEAS
)	FOR THE FIFTH JUDICIAL CIRCUIT
COUNTY OF RICHLAND)	
Stevens and Wilkinson of South)	CONSOLIDATED
Carolina Inc Gary Realty Company)	CIVIL ACTION NO 2007 CP-40 12552
Inc and Garfield Traub)	
Development LLC and Turner)	
Construction Company)	
)	
Plaintiffs)	
)	
vs)	**ORDER DENYING STEVENS AND WILKINSON, GARY REALTY AND GARFIELD TRAUB DEVELOPMENT AND TURNER CONSTRUCTION COMPANY'S MOTIONS TO ALTER OR AMEND SUMMARY JUDGMENT FOR THE CITY OF COLUMBIA**
)	
Paul C 'Bo Aughtry III Windsor/)	
Aughtry Co , Inc Vista Hotel)	
Partners LLC, Hilton Hotels)	
Corporation and the)	
City of Columbia)	
)	
Defendants)	
)	
)	

2010 FEB -1 AM 9 03
RICHLAND COUNTY
FILED

This matter came before the court on plaintiffs Stevens and Wilkinson Gary Realty and Garfield Traub Development and Turner Construction Company's Motions to Alter or Amend the Court s November 19 2009 Order granting summary judgment to the City of Columbia The plaintiffs' motions are substantially similar and therefore will be addressed in one order Grounds (1) (2) (3) (4) (5) (7) (8) and (9) raised by Stevens and Wilkinson are denied Grounds (1) (2) (3) (4) (5) (7) (8) (9) (10) raised by Gary Realty and Garfield Traub are denied Grounds (1) (2) (3) (4) (5), (6), (8) (9), (10) and (11) raised by Turner Construction are denied

Plaintiffs Stevens and Wilkinson and Gary Realty and Garfield Traub s sixth ground and plaintiff Turner Construction s seventh ground for relief is that the court was in error when it found that the Memorandum of Understanding (MOU) was void for a failure of conditions

precedent because no such conditions existed within the MOU Plaintiffs rely on the recent case of Plantation A D LLC v Gerald Builders of Conway, Inc et al Op No 4632 (S C Ct App Refiled Dec 18 2009) (Shearhouse Adv Sh No 55 at 136) to support their contention However Gerald Builders is distinguishable from this case In Gerald Builders the trial court found the MOU to be a binding contract but ruled that the defendant s performance was excused because of a failure of implied conditions precedent The Court of Appeals reversed the trial court and held that a condition precedent could not be implied where it could have been expressly set forth in the document

In Gerald Builders the plaintiff and defendant entered into a MOU related to a purchase agreement the parties had executed The MOU provided for a 50/50 profit sharing arrangement between the parties and required Gerald Builders to fully satisfy the first mortgage on the property and to repay a loan to a third party as the lots in the development were sold ' The MOU expressly stated that it was not a contract for the purchase or sale of real estate Before the defendant was able to purchase the property and develop it in accordance with the purchase agreement foreclosure proceedings were initiated against the Plaintiff Plantation Defendant Gerald Builders purchased the property at the "upset bid sale sold it to a third party and refused to honor the profit sharing provision in the MOU

The trial court found that the MOU was a binding contract on both parties, but that Gerald Builders was excused from performing because of the failure of implied conditions precedent The trial court found two conditions precedent were implied in the MOU 1) that the property had to be purchased from Plantation A D and not from a Master in Equity or some other party, and 2) that Gerald Builders had to develop the property and not simply resell it The trial court held that the failure of these conditions rendered the MOU void

As to the first implied condition the trial court based its decision on the terms Buyer and Seller as used in the MOU It held that using the terms Buyer and ' Seller to refer to the parties implied that the property be purchased by Gerald Builders from Plantation A D The Court of Appeals reversed finding the implied condition was in contradiction to the language in the MOU that made clear that it was not a contract for the sale of real estate As for the second implied condition the trial court based its finding on language in the MOU that required mortgage holders on the property be paid off as the lots were sold The Court of Appeals reversed, finding that this language was not present in the profit sharing provision of the MOU and therefore could not create a condition precedent to excuse profit sharing

In the present case however there was express language creating a condition precedent of six separate definitive agreements to be executed prior to the defendant s duty to perform

> (I)(1) General Conditions This MOU reflects the intent to proceed in good faith to execute definitive written agreements with respect to the business terms and conditions herein contained Notwithstanding anything herein to the contrary, if the City determines that t is not feasible to proceed with the Hotel project it shall have no liability under this MOU

The language makes clear that prior to the City of Columbia s performance the definitive written agreements would have to be executed to establish the business terms and conditions needed to proceed In Gerald Builders the conditions were not expressly set forth in the MOU whereas in the instant case the conditions were expressly stated under the General Conditions section

Notwithstanding the finding of conditions precedent in this case the court has also found that the MOU was not a binding and enforceable agreement ' An examination of the four corners of the MOU reveals that it was not a binding and enforceable contract but rather, was an unenforceable non-binding agreement to agree in the future (p 8 November 19, 2009 Order) Even if the conditions precedent were not expressly set forth in the MOU the finding that it was

not a binding and enforceable agreement would still support the grant of summary judgment for the City

CONCLUSION

Based upon the foregoing the Motions for Reconsideration is denied

AND IT IS SO ORDERED

George C James, Jr Presiding Judge
Fifth Judicial Circuit

Sumter South Carolina

January 27, 2010

By 4

STATE OF SOUTH CAROLINA	)
	) IN THE COURT OF COMMON PLEAS
COUNTY OF RICHLAND	)
	) Civil Action No 05-CP-40-_____
Stevens & Wilkinson of South Carolina Inc	)
	) **COMPLAINT AND ACTION**
Plaintiff	) **TO FORECLOSE**
	) **MECHANIC'S LIEN**
vs	)
	)
City of Columbia South Carolina	)
	)
Defendant	)

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RICHLAND CO C P & G S

The Plaintiff complaining of the Defendant named above would respectfully show that

1 The Plaintiff Stevens & Wilkinson of South Carolina Inc , is a corporation organized and existing under the laws of the State of South Carolina and doing business in Columbia South Carolina

2 The Defendant the City of Columbia South Carolina (hereinafter "the City") is a political subdivision of the State of South Carolina and is amenable to suit for the causes of action alleged herein

FACTS COMMON TO ALL CAUSES OF ACTION

3 On or about January 15 2001 the City issued a Request for Qualifications for a team to assist in developing a 300-room first class full service convention center Hotel (hereinafter the Hotel)

4 The City took such action after a commissioned market study determined that the Hotel if publicly-financed would be economically feasible

5 The market study additionally concluded that the Hotel would within two years of operation generate cash flow more than sufficient to service the debt resulting from its construction

6 In December of 2002 the City selected a development team (hereinafter the Team) that would be responsible for the construction of the Hotel The Plaintiff was the architectural and design member of the Team

7 From December 2002 through February 2004 the Team established regular weekly development team meetings in which staff personnel of the City regularly participated Most of these meetings were held at the Plaintiff's Columbia office

8 During the course of these regular project meetings the City encouraged the Team including the Plaintiff to continue to spend considerable time and money in the refinement of the project design documents and other plans

9 In April 2003, the Team including the Plaintiff executed a Memorandum of Understanding (MOU) with the City under which the Team agreed to design construct and finance the convention center Hotel pursuant to the terms therein A copy of the MOU is attached and incorporated herein by reference

10 The MOU was a valid binding contract between the Team (including the Plaintiff) and the City

11 At all times, the Plaintiff acted in good faith under the MOU, and believed the City was acting in good faith as well

12 The Plaintiff, acting pursuant to the MOU, incurred substantial costs and performed extensive work for the Hotel project

13 Columbia Convention Center Hotel Corporation (hereinafter CCCHC) is a nonprofit corporation which was formed by the City to hold title to the Hotel for the benefit of the City

14 After its formation CCCHC at all times acted as an agent of the City

15 On February 11 2004 CCCHC voted to approve the financing structure and development budget for the Hotel as presented by the Team including the Plaintiff

16 On February 25, 2004 the City authorized the Team including the Plaintiff to proceed with finalizing documentation closing fundraising and groundbreaking for the Hotel

17 In March, 2004 in violation of its obligation of good faith and fair dealing under the MOU the City issued a new Request for Proposal (hereinafter RFP) for privately-funded delivery of the Hotel

18 In the RFP process instituted as of March 2004 the City acted in bad faith and in violation of state procurement laws in favoring one bidder Windsor/Aughtry Company Inc (hereinafter WAC) in at least the following ways

a In allowing a representative of WAC to sit in on the Team's presentation and have the benefit of The Team s and Plaintiff's work product

b In allowing and encouraging WAC to modify its original proposal under the RFP which had been for a limited-service hotel to a full-service hotel and

c Deliberately withholding Team correspondence from the selection committee while providing post due date correspondence and materials from WAC

19 During the course of dealings between the Team and the City the City obtained a substantial amount of material which was proprietary to the Team including the Plaintiff which was work product of the Team and Plaintiff and which was intended to be used only in connection with the Team s and Plaintiff's activities under the MOU

20 Notwithstanding the proprietary nature of the Team s work product the City shared it with other parties interested in and competitive to the Team s project

21 Moreover despite the City s issuance of the new RFP no representative of the City ever instructed the Plaintiff to cease working on the project and Plaintiff continued to work on the project The City gladly accepted the benefit of the Plaintiff's labor on the project

22 In early July of 2003 the City met with agents for the Plaintiff and agreed to remit to Plaintiff the sum of approximately $700 000 00 in return for Plaintiff's past and continued work on the project In so doing the City recognized its obligations under the MOU

23 In December of 2003 the City paid to Plaintiff the sum of approximately $700 000 00 and partially performed its obligations under the MOU However the City failed to pay to Plaintiff the full amount due Plaintiff in violation of the MOU

24 Alternatively when the City met with Plaintiff's agents in July of 2004 the City effectively amended the MOU and agreed to pay Plaintiff in full for all work performed on the project

25 The reasonable value of the services and money provided by the Plaintiff to the Defendant, less the sum already remitted to Plaintiff by the City in December of 2003 is $1 279 721 00

26 On or about April 1 2005, Plaintiff recorded a Notice and Certificate of Mechanic s Lien in the Richland County Office of the Register of Mesne Conveyance Plaintiff brings this action to enforce that Mechanic s Lien

27 Plaintiff last performed work on the Project within six (6) months of the date this action is filed

FOR A FIRST CAUSE OF ACTION
(Breach of Contract)

28 Each and every preceding paragraph is included by reference as if contained herein

29 The City refused to compensate the Plaintiff for the above referenced expenditures of time money and effort made by the Plaintiff in furtherance of the Hotel in accordance with the MOU and the parties amended agreement of July 2003 (as evidenced by the City s payment of approximately $700 000 00 in December of 2003)

30 This refusal by the City constituted an unjustifiable failure on the part of the City to perform in accordance with the MOU and the July 2003 agreement

31 The Plaintiff sustained significant monetary damages as a direct and proximate result of the City s actions

FOR A FIRST ALTERNATIVE CAUSE OF ACTION
(Quantum Meruit)

32 Alternately the Plaintiff pleads upon information and belief that should an action in contract not lie, the Plaintiff is nonetheless entitled to recovery in Quantum Meruit for the following reasons

33 As a result of the work and effort described in the preceding paragraphs, the Plaintiff has furnished the Defendant with valuable materials and services including but not limited to plans designs renderings and expert advice These materials and services were of significant monetary value

34 The Defendant did not fully compensate the Plaintiff for rendering such materials and services

35 The Defendant accepted these materials and services and has made use of them in furtherance of the construction of the Hotel

36 These materials and services were rendered under circumstances that reasonably notified the Defendant that the Plaintiff expected payment for such materials and services

FOR A SECOND CAUSE OF ACTION
(Breach of Duty of Good Faith and Fair Dealing)

37 Each and every preceding paragraph is included by reference as if contained herein

38 By virtue of the MOU between the Team (including the Plaintiff) and the City, each party had an obligation to adhere to the principles of good faith and fair dealing in performance of the contract

39 The City acted with bad faith in refusing to perform in accordance with the MOU and made misrepresentations to the Plaintiff with regard to the Defendant s ability to perform in accordance with the MOU

40 The City acting in bad faith decided not to proceed with the Hotel project as set forth in the MOU Upon information and belief the City s decision was not based on a determination that the project was not feasible

WHEREFORE the Plaintiff prays for judgment against the Defendant in a sum sufficient to compensate it for its actual damages for the costs of this action for interest to the date of judgment Plaintiff prays that the premises described in Exhibit A hereto be sold and the proceeds of the sale applied to the discharge of the demand contained herein Finally Plaintiff prays for such other and further relief as the Court may deem just and proper

Respectfully submitted

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Facsimile (803) 252 4810

ATTORNEY FOR PLAINTIFF

July 11 2005

Columbia South Carolina

EXHIBIT 1

EXHIBIT A

Subparcel 1

All that certain piece parcel or lot of land with the improvements thereon being located on the southern side of Senate Street between Park (formerly Gates) and Lincoln Streets in the City of Columbia being known as 916-918 Senate Street and being bounded as follows north by Senate Street and fronting thereon sixty-eight feet and ten inches (68 10) more or less east by lot formerly of Rabb and measuring thereon two hundred eight feet and eight inches (208 8) more or less, south by lots formerly of Rabb and Mrs Clark and measuring thereon sixty-eight feet and ten inches (68 10") more or less and on the west by lot formerly of Celia Richardson and measuring thereon two hundred eight feet and eight inches (208 8) more or less This is the identical property conveyed to the South Carolina State Highway Department of John Herbert Noles Jr , devisee and Executor under the Last Will and Testament of Lula E Niles Webber, also known as Lula E Niles by deed dated January 5 1973 and recorded January 5 1973 in the Office of the Register of Mesne Conveyances for Richland County in Deed Book D267 at page 130 (This lot is a portion of TMS 08916-10-12)

Subparcel 2

All that certain piece parcel or lot of land with the improvements thereon situate lying and being at the southwestern corner of the Intersection of Park and Senate Streets in the City of Columbia the County of Richland State of South Carolina being bounded as follows to-wit on the north by Senate Street measuring thereon seventy five feet (75), on the east by Park Street measuring thereon seventy-five feet (75) on the south by *Subparcel* 3 next hereinafter described, measuring thereon seventy-five feet (75) and on the west by property now or formerly of Richardson described below as *Subparcel* 5, measuring thereon seventy-five feet (75), all said measurements being a little more or less

Subparcel 3

All that certain piece parcel or lot of land, with the improvements thereon, situate lying and being on the western side of Park Street between Senate and Pendelton Streets in the City of Columbia, County of Richland State of South Carolina, said lot being rectangular in shape and having the following boundaries and measurements to wit on the north by property now or formerly of Richardson being the lot next hereinabove described as *Subparcel* 2 and the lot described below as *Subparcel* 5 measuring thereon one hundred thirty-six feet (136), on the east by said Park Street measuring thereon forty feet and three inches (40 3) on the south by the lot next hereinafter described as *Subparcel* 4

measuring thereon one hundred thirty-six feet (136) and on the west by property now or formerly of Perrin and measuring thereon forty feet and three inches (40 3) all measurements being a little more or less

Subparcel 4

All that certain piece parcel or lot of land together with any improvements thereon situate lying and being on the western side of Park Street between Senate and Pendleton Street in the City of Columbia County of Richland, State of South Carolina, being rectangular in shape and having the following boundaries and measurements, to wit on the north by the lot next hereinabove described as *Subparcel* 3, measuring thereon one hundred thirty-five feet (135) on the east by said Park Street measuring thereon forty feet (40) on the south by property now or formerly of McKinney described below as *Subparcel* 6 and measuring thereon one hundred thirty-five feet (135) and on the west by property now or formerly of Perrin and measuring thereon forty feet (40) all measurements being a little more or less

Subparcel 5

All that certain piece parcel or lot of land, with any improvements thereon situate lying and being on the southern side of Senate Street between Park Street and Lincoln Street in the City of Columbia, County of Richland State of South Carolina being bounded and measuring as follows on the north by Senate Street on which it fronts seventy two feet (72) more or less, on the east by property formerly of T H Moffatt, and measuring thereon seventy-eight and four-tenths feet (78 4) more or less on the south by property formerly of T H Moffatt, on which it measures seventy-two feet (72) more or less and on the west by property now or formerly of Perrin and measuring thereon eighty feet (80), more or less

Subparcel 6

All that certain piece, parcel or lot of land with any improvements thereon, situate lying and being on the western side of Park Street between Senate and Pendleton Streets in the City of Columbia County of Richland State of South Carolina bounded now or formerly as follows on the north by lot of T Parker Davis and measuring one hundred thirty feet (130'), more or less on the east by Park Street fronting and measuring thereon fifty feet (50) more or less on the south by lots now or formerly of Rhonda E Gibbes and W D Melton measuring thereon one hundred thirty feet (130), more or less, and on the west by lot now or formerly of Annie E Harden, being a portion of the lot and measuring thereof fifty feet (50) more or less

Subparcel 7

All that certain piece parcel or lot of land, with the improvements thereon being located at the northwest corner of Pendleton and Park Streets in the City of Columbia said lot commencing at the said corner of the intersection and running in a northerly direction along Park Street one hundred feet and eight inches (100 8) more or less thence turning at a right angle and running in a westerly direction one hundred (100) feet, more or less thence turning and running in a northerly direction one hundred sixteen feet and four inches (116 4) more or less thence turning and running in a westerly direction fifty nine (59) feet, more or less thence turning and running in a southerly direction two hundred seventeen (217) feet, more or less to said Pendleton Street thence turning and running in an easterly direction along said Pendleton Street one hundred fiftv-nine (159) feet more or less to the point of beginning This is the same property conveyed to the South Carolina State Highway Department by deed of Elizabeth B Fuller Caroline B Grimball and Pauline B Riley as Executrices of the Estate of W Gordon Belser dated December 16 1976 and recorded December 22,1976 in the office of the Register of Mesne Conveyances for Richland County in Deed Book D 407 at page 721 (This lot is a portion of TMS 08916-10-12)

Subparcel 8

All that certain piece parcel or lot of land with improvements thereon being known as 917 and 919 Pendelton Street being located on the northern side of Pendelton Street between Park and Lincoln Streets in the City of Columbia measuring on its northern and southern sides forty-eight (48) feet more or less and on its eastern and western sides two hundred seventeen (217) feet, more or less being bounded on the north by lot formerly of Rose, on the east by lot formerly of Melton and Thompson on the south by Pendleton Street and on the west by lot formerly of Harper This is the same property conveyed to the South Carolina State Highway Department by Alice Kirby by deed dated December 29 1976 and recorded January 4 1977 in the Office of the Register of Mesne Conveyances for Richland County in Deed Book D 409 at page 214 (This lot is a portion of TMS 08916 10-12)

Subparcel 9

All that certain piece parcel or lot of land with improvements thereon situate lying and being on the western side of Park Street, between Pendleton and Senate streets in the City of Columbia County of Richland, State of South Carolina measuring and being bounded as follows on the north by the lot

described above as *Subparcel* 6 whereon it measures one hundred and one feet (101) more or less on the east by said Park Street whereon it measures thirty-eight and four-tenths feet (38 4 0 more or less, on the south by land now or formerly of Mary Gaynor whereon it measures one hundred feet (100) more or less and on the west by land now or formerly of Belser described above as *Subparcel* 7, whereon it measures thirty-eight and four-tenths feet (38 4), more or less

Subparcel 10

All that certain piece parcel or lot of land with improvements thereon situate lying and being on the western side of Park Street in the City of Columbia County of Richland State of South Carolina measuring and bounding as follows on the north by property now or formerly of Carder whereon it measures one hundred feet (100) more or less on the east by said Park Street whereon it measures thirty-six and six-tenths feet (36 6), more or less Said lot being more specifically shown on a plat made for Daisy Lee Meredith by Tomlinson Engineering Company on March 28, 1945 to be recorded in the RMC Office of Richland County in Plat Book J page 208

STATE OF SOUTH CAROLINA	)	
	)	IN THE COURT OF COMMON PLEAS
COUNTY OF RICHLAND	)	
Stevens & Wilkinson of South Carolina Inc	)	Case No 05-CP 40-3361
	)	
	)	**AMENDED COMPLAINT**
Plaintiff	)	
	)	
vs	)	
	)	
City of Columbia South Carolina	)	
	)	
Defendant	)	
	)	

The Plaintiff complaining of the Defendant named above would respectfully show that

1 The Plaintiff Stevens & Wilkinson of South Carolina Inc is a corporation organized and existing under the laws of the State of South Carolina and doing business in Columbia South Carolina

2 The Defendant the City of Columbia South Carolina (hereinafter the City) is a political subdivision of the State of South Carolina and is amenable to suit for the causes of action alleged herein

FACTS COMMON TO ALL CAUSES OF ACTION

3 On or about January 15 2001 the City issued a Request for Qualifications for a team to assist in developing a 300 room first-class full service convention center Hotel (hereinafter the Hotel)

4 The City took such action after a commissioned market study determined that the Hotel if publicly-financed would be economically feasible

5 The market study additionally concluded that the Hotel would, within two years of operation generate cash flow more than sufficient to service the debt resulting from its construction

6 In December of 2002 the City selected a development team (hereinafter the Team) that would be responsible for the construction of the Hotel The Plaintiff was the architectural and design member of the Team

7 From December 2002 through February 2004 the Team established regular weekly development team meetings in which staff personnel of the City regularly participated Most of these meetings were held at the Plaintiff s Columbia office

8 During the course of these regular project meetings the City encouraged the Team including the Plaintiff to continue to spend considerable time and money in the refinement of the project design documents and other plans

9 In April 2003 the Team including the Plaintiff executed a Memorandum of Understanding (MOU) with the City under which the Team agreed to design construct and finance the convention center Hotel pursuant to the terms therein A copy of the MOU is attached to the original complaint in this action and incorporated herein by reference

10 The MOU was a valid binding contract between the Team (including the Plaintiff) and the City

11 At all times the Plaintiff acted in good faith under the MOU, and believed the City was acting in good faith as well

12 The Plaintiff acting pursuant to the MOU incurred substantial costs and performed extensive work for the Hotel project

13 Columbia Convention Center Hotel Corporation (hereinafter CCCHC) is a nonprofit corporation which was formed by the City to hold title to the Hotel for the benefit of the City

14 After its formation CCCHC at all times acted as an agent of the City

15 On February 11, 2004 CCCHC voted to approve the financing structure and development budget for the Hotel as presented by the Team including the Plaintiff

16 On February 25 2004 the City authorized the Team including the Plaintiff to proceed with finalizing documentation closing fundraising and groundbreaking for the Hotel

17 In March 2004 in violation of its obligation of good faith and fair dealing under the MOU the City issued a new Request for Proposal (hereinafter RFP) for privately funded delivery of the Hotel

18 In the RFP process instituted as of March 2004 the City acted in bad faith and in violation of state procurement laws in favoring one bidder Windsor/Aughtry Company Inc (hereinafter WAC) in at least the following ways

a In allowing a representative of WAC to sit in on the Team s presentation and have the benefit of The Team s and Plaintiff s work product

b In allowing and encouraging WAC to modify its original proposal under the RFP which had been for a limited service hotel to a full service hotel and

c Deliberately withholding Team correspondence from the selection committee while providing post due date correspondence and materials from WAC

19 During the course of dealings between the Team and the City the City obtained a substantial amount of material which was proprietary to the Team including the Plaintiff which was work product of the Team and Plaintiff and which was intended to be used only in connection with the Team s and Plaintiff's activities under the MOU

20 Notwithstanding the proprietary nature of the Team s work product the City shared it with other parties interested in and competitive to the Team s project

21 Moreover despite the City s issuance of the new RFP no representative of the City ever instructed the Plaintiff to cease working on the project and Plaintiff continued to work on the project The City gladly accepted the benefit of the Plaintiff s labor on the project

22 In early July of 2003, the City met with agents for the Plaintiff and agreed to remit to Plaintiff the sum of approximately $700 000 00 in return for Plaintiff s past and continued work on the project In so doing the City recognized its obligations under the MOU

23 In December of 2003 the City paid to Plaintiff the sum of approximately $700 000 00 and partially performed its obligations under the MOU However the City failed to pay to Plaintiff the full amount due Plaintiff in violation of the MOU

24 Alternatively when the City met with Plaintiff s agents in July of 2004 the City effectively amended the MOU and agreed to pay Plaintiff in full for all work performed on the project

25 The reasonable value of the services and money provided by the Plaintiff to the Defendant less the sum already remitted to Plaintiff by the City in December of 2003 is $1 279 721 00

FOR A FIRST CAUSE OF ACTION
(Breach of Contract)

26 Each and every preceding paragraph is included by reference as if contained herein

27 The City refused to compensate the Plaintiff for the above referenced expenditures of time money and effort made by the Plaintiff in furtherance of the Hotel in accordance with the MOU and the parties amended agreement of July 2003 (as evidenced by the City s payment of approximately $700 000 00 in December of 2003)

28 This refusal by the City constituted an unjustifiable failure on the part of the City to perform in accordance with the MOU and the July, 2003 agreement

29 The Plaintiff sustained significant monetary damages as a direct and proximate result of the City s actions

FOR A SECOND CAUSE OF ACTION
(Quantum Meruit)

30 Alternately the Plaintiff pleads upon information and belief that should an action in contract not lie the Plaintiff is nonetheless entitled to recovery in Quantum Meruit for the following reasons

31 As a result of the work and effort described in the preceding paragraphs the Plaintiff has furnished the Defendant with valuable materials and services including but not limited to plans designs renderings and expert advice These materials and services were of significant monetary value

32 The Defendant did not fully compensate the Plaintiff for rendering such materials and services

33 The Defendant accepted these materials and services and has made use of them in furtherance of the construction of the Hotel

34 These materials and services were rendered under circumstances that reasonably notified the Defendant that the Plaintiff expected payment for such materials and services

FOR A THIRD CAUSE OF ACTION
(Breach of Duty of Good Faith and Fair Dealing)

35 Each and every preceding paragraph is included by reference as if contained herein

36 By virtue of the MOU between the Team (including the Plaintiff) and the City each party had an obligation to adhere to the principles of good faith and fair dealing in performance of the contract

37 The City acted with bad faith in refusing to perform in accordance with the MOU and made misrepresentations to the Plaintiff with regard to the Defendant s ability to perform in accordance with the MOU

38 The City acting in bad faith decided not to proceed with the Hotel project as set forth in the MOU Upon information and belief the City s decision was not based on a determination that the project was not feasible

39 The City s actions described above particularly those described in paragraphs 17 18 and 19 violate the provisions set forth in South Carolina Code Sections 11 35 20 and 11-35-30

FOR A FOURTH CAUSE OF ACTION
(Estoppel)

40 Each and every preceding paragraph is included by reference as if contained herein

41 The City made an unambiguous promise to pay Plaintiff for all work performed on the project

42 This promise is set forth in the MOU at paragraph VI 3

43 Plaintiff reasonably and justifiably relied on this promise by expending time money and resources in preparing plans and designs for the aforementioned hotel project

44 Plaintiff's reliance was expected by and foreseeable to the City

45 At the time it performed this work Plaintiff lacked the knowledge that City was not going to pay them for the work performed

46 As a result of the above Plaintiff suffered financial loss Not only did Plaintiff incur the loss of the value of the money and other resources it directly

invested in reliance on the City s promise it invested substantial time and effort in this project that could have been invested in other profitable work

47 Plaintiff prejudicially changed its position in reliance on the City s promise as set forth in the preceding paragraph Plaintiff passed up the opportunity to earn money on other projects while working on the hotel project

48 Based on the above the City is estopped from withholding payment to plaintiff for the reasonable value of the work performed

WHEREFORE the Plaintiff prays for judgment against the Defendant in a sum sufficient to compensate it for its actual damages for the costs of this action for pre-judgment interest Plaintiff prays for such other and further relief as the Court may deem just and proper

Respectfully submitted

Richard A Harpootlian
M David Scott
RICHARD A HARPOOTLIAN P A
1410 Laurel Street
Post Office Box 1090
Columbia South Carolina 29202
Telephone (803) 252-4848
Facsimile (803) 252-4810

ATTORNEYS FOR PLAINTIFF

November 14 2005
Columbia South Carolina

STATE OF SOUTH CAROLINA	)	
	)	IN THE COURT OF COMMON PLEAS
COUNTY OF RICHLAND	)	
Stevens & Wilkinson of South Carolina Inc	)	Civil Action No 05 CP-40-3361
Plaintiff	)	
vs	)	**CERTIFICATE OF SERVICE**
City of Columbia South Carolina	)	
Defendant	)	

I Beth Craft Legal Assistant to Richard A Harpootlian P A hereby certify that I have this 14th day of November 2005 served via Hand Delivery the named individual(s) with a copy of the following

Documents 1) Amended Complaint

Served Mary Milliken Esquire
Callison Tighe & Robinson LLC
1812 Lincoln Street Suite 200
Columbia South Carolina 29202

Beth Craft Legal Assistant to
Richard A Harpootlian P A

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	
COUNTY OF RICHLAND	)	Case No 05-CP 40-3361
Stevens & Wilkinson of South Carolina Inc	)	
Plaintiff,	)	
vs	)	**SECOND AMENDED COMPLAINT**
City of Columbia, South Carolina,	)	
Defendant	)	

RICHLAND COUNTY
FILED
2009 AUG -3 PM 4 47
JEANETTE W McBRIDE
C P & G S

The Plaintiff complaining of the Defendant named above, would respectfully show that

1 The Plaintiff Stevens & Wilkinson of South Carolina Inc , is a corporation organized and existing under the laws of the State of South Carolina and doing business in Columbia, South Carolina

2 The Defendant, the City of Columbia, South Carolina (hereinafter 'the City) is a political subdivision of the State of South Carolina and is amenable to suit for the causes of action alleged herein

FACTS COMMON TO ALL CAUSES OF ACTION

3 On or about January 15, 2001, the City issued a Request for Qualifications for a team to assist in developing a 300-room first-class full service convention center Hotel (hereinafter the Hotel")

4 The City took such action after a commissioned market study determined that the Hotel, if publicly-financed would be economically feasible

5 The market study additionally concluded that the Hotel would within two years of operation generate cash flow more than sufficient to service the debt resulting from its construction

6 In December of 2002, the City selected a development team (hereinafter the Team) that would be responsible for the construction of the Hotel The Plaintiff was the leading architectural and design member of the Team As such the Plaintiff associated and/or hired other architectural and design firms to whom the Plaintiff was responsible for payment

7 From December 2002 through April 2004 the Team established regular weekly development team meetings in which staff personnel of the City regularly participated Most of these meetings were held at the Plaintiff's Columbia office

8 During the course of these regular project meetings the City encouraged the Team, including the Plaintiff, to continue to spend considerable time and money in the refinement of the project design documents and other plans

9 In April 2003, the Team, including the Plaintiff, executed a Memorandum of Understanding (MOU) with the City under which the Team agreed to design construct and finance the convention center Hotel pursuant to the terms therein. A copy of the MOU is attached to the original complaint in this action, and incorporated herein by reference

10 The MOU was a valid, binding contract between the Team (including the Plaintiff), and the City

11 At all times the Plaintiff acted in good faith under the MOU and believed the City was acting in good faith as well

12 The Plaintiff, acting pursuant to the MOU incurred substantial costs and performed extensive work for the Hotel project

13 In early July of 2003 Stevens & Wilkinson and the other architectural and design firms it associated and/or hired had completed all architectural/design work envisioned under the MOU Stevens & Wilkinson informed the City that all additional architectural/design work would cease unless the City agreed to begin paying Stevens & Wilkinson and the other architectural/design firms The City met with agents for the Plaintiff and agreed to remit to Plaintiff the sum of $650 000 00 in return for Plaintiff's continued work on the project through the anticipated bond closing date of October 13 2003 and $75,000 per week for all work completed beyond October 13 2003

14 The City was not able to achieve bond closing on October 13 2003 and architectural/design work continued beyond that date

15 In December of 2003, the City paid to Plaintiff the sum of approximately $697,000 00— recognizing the necessity of compensating Plaintiff for architectural/design work performed beyond that originally envisioned in the MOU

16 The Plaintiff and the other architectural and design firms it associated and/or hired continued architectural/design work on the hotel project beyond December of 2003 with the active participation of the City The City failed, however, to make any additional payments to the Plaintiff as envisioned by either the MOU or the July 30, 2003 agreement

17 Columbia Convention Center Hotel Corporation (hereinafter "CCCHC) is a nonprofit corporation which was formed by the City to hold title to the Hotel for the benefit of the City After its formation, CCCHC at all times acted as an agent of the City

18 On February 11 2004, CCCHC voted to approve the financing structure and development budget for the Hotel as presented by the Team, including the Plaintiff

19 In March of 2004 in violation of its obligation of good faith and fair dealing under the MOU the City issued a new Request for Proposals (hereinafter RFP') for privately funded delivery of the Hotel

20 In the RFP process instituted as of March 2004, the City acted in bad faith in favoring one bidder Windsor/Aughtry Company, Inc (hereinafter WAC") in at least the following ways

a In allowing a representative of WAC to sit in on the Team s presentation and have the benefit of The Team s and Plaintiff's work product

b In allowing and encouraging WAC to modify its original proposal under the RFP, which had been for a limited-service hotel to a full service hotel, and

c Deliberately withholding Team correspondence from the selection committee while providing post due date correspondence and materials from WAC

21 During the course of dealings between the Team and the City, the City obtained a substantial amount of material which was proprietary to the Team including the Plaintiff which was work product of the Team and Plaintiff and which was intended to be used only in connection with the Team's and Plaintiff's activities under the MOU

22 Notwithstanding the proprietary nature of the Team s work product the City shared it with other parties interested in and competitive to the Team s project

23 Moreover despite the City s issuance of the new RFP no representative of the City ever instructed the Plaintiff to cease working on the project, and Plaintiff continued to work on the project The City gladly accepted the benefit of the Plaintiff's labor on the project

FOR A FIRST CAUSE OF ACTION
(Breach of Contract)

24 Each and every preceding paragraph is included by reference as if contained herein

25 The MOU constituted a valid and binding contract entered between the City and Stevens & Wilkinson The MOU was supported by valuable consideration including but not necessarily limited to, the mutual promises of performance made by both the City and Stevens & Wilkinson

26 The City unjustifiably breached its duties set forth within the MOU More specifically, the City failed to use its best efforts to approve the issuance of a series of tax exempt Hotel revenue bonds ' In doing so, the City violated the express terms of the MOU

27 The City refused to compensate the Plaintiff for the above referenced expenditures of time money and effort made by the Plaintiff in furtherance of the Hotel in accordance with the MOU and the parties' amended agreement of July 2003

28 This refusal by the City constituted an unjustifiable failure on the part of the City to perform in accordance with the MOU and the July 2003 agreement

29 The City also breached the MOU by failing to adhere to its duty of good faith and fair dealing The City acted with bad faith in refusing to perform in accordance with the MOU and made misrepresentations to the Plaintiff with regard to the Defendant s ability to perform in accordance with the MOU Upon information and belief, the City s decision to breach the MOU was not based on a determination that the project was not feasible

30 The Plaintiff sustained significant monetary damages as a direct and proximate result of the City s actions

31 In the alternative, the July 2003 agreement between the City and Stevens & Wilkinson constituted a separate binding contract between the Plaintiff and the Defendant which was supported by valuable consideration

32 The City unjustifiably breached the terms of the July 2003 agreement by failing to compensate the Plaintiff for architectural/design work performed subsequent to July 30 2003

33 The City also unjustifiably breached the terms of the duty of good faith and fair dealing attending the July 2003 contractual agreement Agents of the City met with members of the Development Team—including Stevens & Wilkinson—through April of 2004 and encouraged Plaintiff to continue working on the hotel project Despite the fact that the City was aware of such actions and encouraged their progress, it nevertheless chose to deny Stevens & Wilkinson the fruits of the July 2003 contractual agreement

34 As a direct and proximate result of the City s breach of the July 2003 agreement the Plaintiff sustained significant monetary damages

FOR A SECOND CAUSE OF ACTION
(Quantum Meruit)

35 Alternately, the Plaintiff pleads upon information and belief, that, should an action in contract not lie, the Plaintiff is nonetheless entitled to recovery in Quantum Meruit for the following reasons

36 As a result of the work and effort described in the preceding paragraphs the Plaintiff has furnished the Defendant with valuable materials and services including, but not limited to, plans, designs, renderings, and expert advice These materials and services were of significant monetary value

37 The Defendant did not fully compensate the Plaintiff for rendering such materials and services

38 The Defendant accepted these materials and services, and has made use of them in furtherance of the construction of the Hotel

39 These materials and services were rendered under circumstances that reasonably notified the Defendant that the Plaintiff expected payment for such materials and services

FOR A THIRD CAUSE OF ACTION
(Estoppel)

40 Each and every preceding paragraph is included by reference as if contained herein

41 The City made an unambiguous promise to pay Plaintiff for all work performed on the project The City also made an unambiguous promise, through the July 2003 agreement to pay Plaintiff for all work performed on the project beyond that envisioned within the MOU

42 Within the MOU the City promised to compensate Stevens & Wilkinson for its efforts rendered in providing architectural/design services In July of 2003, the City further promised to compensate Stevens & Wilkinson for interim architectural/design services performed beyond those necessary to reach a GMP Both of these promises are more fully evidenced by the City s December 2003 payment of approximately $697,000 to Plaintiff

43 Plaintiff reasonably and justifiably relied on the City's promises by expending time money and resources in preparing plans and designs for the aforementioned hotel project

44 Plaintiff's reliance was expected by and foreseeable to the City

45 At the time it performed this work—as to both the MOU and the July 2003 agreement—Plaintiff lacked the knowledge that City was not going to pay them for the work performed

46 As a result of the above, Plaintiff suffered financial loss Not only did Plaintiff incur the loss of the value of the money and other resources it directly invested in reliance on the City s promise it invested substantial time and effort in this project that could have been invested in other profitable work

47 Plaintiff prejudicially changed its position in reliance on the City's promise, as set forth in the preceding paragraph Plaintiff passed up the opportunity to earn money on other projects while working on the hotel project

48 Based on the above the City is estopped from withholding payment to plaintiff for the reasonable value of the work performed

WHEREFORE, the Plaintiff prays for judgment against the Defendant in a sum sufficient to compensate it for its actual damages for the costs of this action, for pre-judgment interest Plaintiff prays for such other and further relief as the Court may deem just and proper

Respectfully submitted

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Telephone (803) 252-4848
Facsimile (803) 252 4810

ATTORNEYS FOR PLAINTIFF

July 7, 2009
Columbia, South Carolina

STATE OF SOUTH CAROLINA) IN THE COURT OF COMMON PLEAS
) FOR THE FIFTH JUDICIAL CIRCUIT
COUNTY OF RICHLAND)

Gary Realty Company, Inc and Garfield Traub Development, LLC) Civil Action No 07-CP 40 12[illegible]
(consolidated for discovery)

Plaintiffs,

vs

City of Columbia, South Carolina

Defendant

Stevens & Wilkinson of South South Carolina Inc

Plaintiffs,

vs

City of Columbia, South Carolina,

Defendant

(Civil Action No 05-CP-40 3361)

Stevens & Wilkinson of South South Carolina Inc ,

Plaintiffs

vs

Paul C "Bo" Aughtry, III Windsor/Aughtry Co , Inc , Vista Hotel Partners, LLC ,

Defendants

(Civil Action No 06-CP-40-5092)

Gary Realty Company Inc , and Garfield Traub Development LLC

Plaintiffs,

CERTIFICATE OF SERVICE

FILED
2009 AUG -3 PM 4 47
JEANETTE W. McBRIDE
C C P & G S

vs

Paul C 'Bo Aughtry, III
Windsor/Aughtry Co Inc Vista Hotel Partners, LLC and Hilton Hotels Corp ,

Defendants

(Civil Action No 06-CP 40 6488)

Turner Construction Company,

Plaintiff,

vs

City of Columbia,

Defendant

(Civil Action No 06 CP-40-6488)

I, Heather Herron, Legal Assistant to Richard A Harpootlian, P A , hereby certify that I have this 3rd day of August, 2009, served the following document(s), via Hand Delivery, Facsimile and United States Postal Service, upon the below listed individuals

Documents *Plaintiff Stevens & Wilkinson s Second Amended Complaint*

Counsel

VIA HAND DELIVERY
Kathleen McDaniels Esquire
D Reece Williams III, Esquire
Callison, Tighe & Robinson, LLC
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(Attorney for the City of Columbia)

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34th Floor
Atlanta Georgia 30303
(Attorneys for Paul C. "Bo" Aughtry, III, Windsor/Aughtry Co , Inc and Vista Hotel Partners, LLC)

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Janet Jenner & Suggs
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(Attorney for Gary Realty Co , Inc and Garfield Traub Development)

Jay T Thompson, Esquire
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Columbia South Carolina 29201
(Attorney for Hilton Hotel Corporation)

Melinda Pillow Esquire
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Ellis Lawhorne & Sims
1501 Main Street, Fifth Floor
Post Office Box 2285
Columbia South Carolina 29202
(Attorneys for Turner Construction Company)

Heather Herron

STATE OF SOUTH CAROLINA	)	
	)	IN THE COURT OF COMMON PLEAS
COUNTY OF RICHLAND	)	
	)	
Stevens & Wilkinson of South Carolina Inc	)	CASE NO 05 CP 40 3361
	)	
Plaintiff	)	
v	)	**MOTION AND ORDER INFORMATION FORM AND COVER SHEET**
	)	
City of Columbia South Carolina	)	
	)	
Defendant		

RICHLAND COUNTY FILED
2009 FEB 20 PM 2 05
JEANETTE W. WALBRECK
C C P & S

Plaintiff's Attorney Richard A Harpootlian Bar No 2725 Address 1410 Laurel Street Columbia SC 29201 phone (803) 252 4848 fax (803) 252 4810 e mail rah@harpootlianlaw com other	Defendant s Attorney D Reece Williams Bar No Address 1812 Lincoln Street, Second Floor Cola SC 29201 phone 256 2371 fax e mail reecewilliams@ctrlawfirm com other

X MOTION HEARING REQUESTED (attach written motion and complete SECTIONS I and III)
FORM MOTION, NO HEARING REQUESTED (complete SECTIONS II and III)
PROPOSED ORDER/CONSENT ORDER (complete SECTIONS II and III)

SECTION I Hearing Information

Nature of Motion Partial Summary Judgment
Estimated Time Needed 20 Court Reporter Needed ☒ YES / ☐ NO

SECTION II Motion/Order Type

☒ Written motion attached
Form Motion/Order
I hereby move for relief or action by the court as set forth in the attached proposed order

Signature of Attorney for ☒ Plaintiff / ☐ Defendant — Date submitted 2/20/09

SECTION III Motion Fee

☒ PAID -- AMOUNT $25 00
☐ EXEMPT (check reason)
☐ Rule to Show Cause in Child or Spousal Support
☐ Domestic Abuse or Abuse and Neglect
☐ Indigent Status ☐ State Agency v Indigent Party
☐ Sexually Violent Predator Act ☐ Post-Conviction Relief
☐ Motion for Stay in Bankruptcy
☐ Motion for Publication ☐ Motion for Execution (Rule 69 SCRCP)
☐ Proposed order submitted at request of the court or reduced to writing from motion made in open court per judge s instructions
Name of Court Reporter
☐ Other

JUDGE'S SECTION ☐ Motion Fee to be paid upon filing of the attached order ☐ Other	JUDGE CODE Date

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SCCA/233 (11 03)

STATE OF SOUTH CAROLINA	) IN THE COURT OF COMMON PLEAS
	)
COUNTY OF RICHLAND	) Civil Action No 05-CP 40-3361
Stevens & Wilkinson of South Carolina, Inc	) **PLAINTIFF STEVENS & WILKINSON'S MOTION FOR PARTIAL SUMMARY JUDGMENT**
Plaintiffs,	)
vs	)
City of Columbia South Carolina	)
Defendant	)

FILED
2009 FEB 20 PM 2 1
JEANETTE W McBRIDE
C C P & G S

Plaintiff Stevens & Wilkinson of South Carolina, Inc ('S&W) by and through its undersigned attorneys and pursuant to Rule 56 of the South Carolina Rules of Civil Procedure hereby submits this motion for partial summary judgment

Plaintiff requests that the Court as a matter of law find the following

1 The Memorandum of Understanding entered between Stevens & Wilkinson and the City of Columbia constituted a binding and enforceable contract,

2 The City of Columbia never determined that its performance as detailed within the Memorandum of Understanding was not feasible, and

3 Stevens & Wilkinson and the City of Columbia created a contractual agreement—separate and apart from the Memorandum of Understanding—in July of 2003 for the performance of and payment for architectural and design services

Plaintiff Stevens & Wilkinson bases its motion upon the pleadings, discovery documentation and other material revealed in this case Plaintiff avers that no genuine issue material of fact exists as to these three points As a result the Court should grant Plaintiff's motion for partial summary judgment

Plaintiff reserves the right to submit a memorandum of law in support of its motion

Respectfully submitted,

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Graham L Newman Esquire
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ATTORNEYS FOR THE PLAINTIFF
STEVENS & WILKINSON

Columbia, South Carolina
February 20, 2009

STATE OF SOUTH CAROLINA) IN THE COURT OF COMMON PLEAS
) FOR THE FIFTH JUDICIAL CIRCUIT
COUNTY OF RICHLAND)

Gary Realty Company Inc , and Garfield Traub Development LLC

Plaintiffs

vs

City of Columbia South Carolina

Defendant

Stevens & Wilkinson of South South Carolina Inc

Plaintiffs

vs

City of Columbia South Carolina

Defendant

(Civil Action No 05 CP-40-3361)

Civil Action No 07 CP-40 125
(consolidated for discovery)

2009 FEB 20 PM 2 10
JEANNETTE W. McBRIDE
CC C P & G S
FILED

Stevens & Wilkinson of South South Carolina, Inc ,

Plaintiffs

vs

Paul C "Bo' Aughtry, III, Windsor/Aughtry Co , Inc Vista Hotel Partners LLC ,

Defendants

(Civil Action No 06-CP-40-5092)

CERTIFICATE OF SERVICE

Gary Realty Company Inc , and Garfield Traub Development, LLC,

Plaintiffs,

vs

Paul C Bo Aughtry, III
Windsor/Aughtry Co , Inc , Vista Hotel Partners LLC and Hilton Hotels Corp

Defendants

(Civil Action No 06 CP 40 6488)

Turner Construction Company

Plaintiff

vs

City of Columbia,

Defendant

(Civil Action No 06 CP 40-6488)

I Heather Herron Legal Assistant to Richard A Harpootlian P A , hereby certify that I have this 20th day of February 2009, served the following document(s), via Hand Delivery and United States Postal Service, upon the below listed individuals

Documents *Plaintiff Stevens & Wilkinson s Motion for Partial Summary Judgment*

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Heather Herron

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	
COUNTY OF RICHLAND	)	FOR THE FIFTH JUDICIAL CIRCUIT
Stevens & Wilkinson of South Carolina, Inc	)	CASE NO 2005 CP-40-3361
Plaintiff	)	
vs	)	**DEFENDANT CITY OF COLUMBIA'S MEMORANDUM IN SUPPORT OF MOTION FOR SUMMARY JUDGMENT**
City of Columbia South Carolina	)	
Defendant	)	

JUL 17 2009
Richard A. Harpootlian P.A.
Columbia

TO RICHARD A HARPOOTLIAN, ESQUIRE AND GRAHAM L NEWMAN, ESQUIRE, ATTORNEYS FOR PLAINTIFF

On December 15 2008 Defendant City of Columbia South Carolina ("the City') filed a Motion for Summary Judgment on all causes of action asserted against it by Plaintiff Stevens & Wilkinson of South Carolina Inc (Stevens & Wilkinson) The City respectfully submits this Memorandum in support of its motion

FACTS

In January 15, 2001, the Lexington-Richland Columbia Regional Convention Center Commission issued a Request for Qualifications ("RFQ") for the development of a headquarters hotel to support the Midlands Regional Convention Center **(Exhibit 1** RFQ dated January 15 2001) On February 28 2001, John Lumpkin President of Edens & Avant submitted a Statement of Qualifications on behalf of Edens & Avant and Garfield-Traub Corporation [1] **(Exhibit 2**

[1]Garfield-Traub is referred to in the Statement of Qualifications as 'Garfield Corporation '

Statement of Qualifications Transmittal Page only) After a lengthy selection process the Columbia City Council voted on December 11, 2002 to select Edens & Avant as the Convention Center Hotel Developer with the caveat that a final agreement is negotiated (**Exhibit 3** Columbia City Council Meeting Minutes December 11, 2002)

On April 17 2003, Defendant City of Columbia (' the City') and the members of the Project Team executed a Memorandum of Understanding (the ' MOU") (**Exhibit 4** fully executed Memorandum of Understanding) The MOU set forth a framework for the development of a publicly funded convention center headquarters hotel (the Hotel Project) The Project Team members relevant to this litigation were Edens & Avant Real Estate Services LLC, Garfield Traub Development and Gary Realty Inc as the "Developer,' both of which are Plaintiffs in a companion lawsuit [2] Turner Construction Company also a Plaintiff in a companion lawsuit [3] Plaintiff Stevens & Wilkinson as the Design/Builder ' Hilton Corporation as the Operator and Salomon Smith Barney Inc which later became Citigroup Global Markets (Citigroup) as the 'Underwriter " (**Exhibit 4** MOU III 2) John Lumpkin of Edens & Avant served as the point man' for the Project Team (**Exhibit 5** Deposition of John Lumpkin 40 20-25)

The MOU contemplated the formation of a nonprofit corporation that would issue approximately $60 million in tax-exempt hotel revenue bonds to finance the development and construction of the hotel and that would own the hotel The bonds were to be supported by revenues

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[2]Gary Realty Company, Inc and Garfield Traub Development, LLC v City of Columbia, South Carolina Civil Action No 2005-CP 40 1014

[3]Turner Construction Company v City of Columbia, South Carolina, Civil Action No 2007-CP 40-1252

from the proposed hotel as well as by what was referred to in the MOU as City Credit Support [4] In the event the hotel revenues were insufficient to cover the debt service on the bonds, the City would be expected to appropriate some amount of money to make up any shortfall but the City's tolerance for this risk was something within the City s sole discretion In pertinent part, the MOU provided

> 4 NPC Financing - The NPC [Non-Profit Corporation] is to retain the Underwriter and legal counsel to structure and issue approximately $60 million in tax-exempt hotel revenue bonds in amounts acceptable to the City ('the Bonds) supported by Hotel revenues and the City Financial Participation
>
> 5 City Credit Support - The City is willing to provide a credit enhancement to support an amount acceptable to the City which would be utilized for any debt service shortfall on the Subordinate Bonds or Hotel Bonds (as the case may be) if project revenues net of expenses are insufficient to provide for the debt service on the Subordinate Bonds or on the Hotel Bonds

MOU V 4 and 5

In its General Conditions, the MOU also provided as follows

> 1 GENERAL CONDITIONS
>
> 1 This MOU reflects the intent to proceed in good faith to execute definitive written agreements with respect to the business terms and conditions herein contained Notwithstanding anything herein to the contrary if the City determines that it is not feasible to proceed with the Hotel project it shall have no liability under this MOU

[4] The City Credit Support is alternately termed the City Standby Support ' the City Credit Enhancement,' or the City Credit Support In this Memorandum the City will refer to this item as the 'City Standby Support Payment because that is how Citigroup consistently referred to it in their financial models and projections

2 Unless superseded by an amendment to this MOU or the final Development Management Agreement this MOU identifies the understanding of the parties

MOU I

As will be shown the nature and the amount of the City Standby Support Payment was ever increasing In fact as the Project Team s plan ultimately evolved the City faced the potential risk of bailing the entire project out if the hotel revenues failed to cover debt service

A A portion of those bonds are not credit enhanced by the City They're - they're purely - those bonds are paid by the financial performance of the hotel So as to that portion -- and I believe it was the majority of the bonds If the hotel did not perform then the bondholder s recourse was to come back and take the hotel back and had no recourse to the City

Q Do you believe that if that were to occur the City of Columbia would have left those nonrecourse bondholders standing and not paid that debt?

A I do not I think the City just as - just as they would have in a private transaction would not allow -- would allow a private developer to go - you know to go under It would necessarily need to step in and pick up the pick up the -- you know, the - the hotel and it could not afford to have this hotel go into a situation where it would be taken back by a lender, whether it's bondholders or - or a private lender

(**Exhibit 6** Deposition of John Lumpkin 60 11 61 7) (emphasis added)

On June 10, 2003, the non profit Hotel Corporation contemplated by the MOU was incorporated (**Exhibit 7** Articles of Incorporation and Bylaws for Columbia Convention Center Hotel Corporation) The By-laws of the Hotel Corporation state that it was to fund the development, construction and commencement of operations of the hotel with the ' net proceeds of bonds issued by South Carolina Jobs-Economic Development Authority (' JEDA) ' (**Exhibit 8**, Bylaws § 2 3(b)

Funding the hotel project with the proceeds of a bond issued by JEDA would have necessitated approval not only by Columbia City Council and JEDA but also by the State Budget and Control Board (**Exhibit 9**, Letter from Elliott E Franks III to Steve Gantt dated February 25 2004) JEDA never agreed to issue the bonds in fact negotiations with JEDA stalled and as the project evolved the Project Team began looking to the City to issue the bonds itself in order to fund the project The project team was aware of this possibility (**Exhibit 10** Letter from John Lumpkin to Bill Corrado, dated February 26, 2004) In addition the bond insurance company Ambac a key player in the Project Team's financing proposal indicated on a Commitment for Financial Guaranty Insurance that the obligor on the bond issue was to be the City of Columbia, South Carolina (**Exhibit 11**, Ambac Commitment Letter, dated February 17, 2004)

Over the months following execution of the MOU, the Project Team worked to design a hotel within a budget and financing structure acceptable to the City While the MOU contemplated $60 million in bond financing in less than ten months the Project Team s proposal rose to approximately $70 million and then had risen to a number in excess of $72 million

The Project Team made at least two presentations to the Hotel Corporation Only at the February 11, 2004 meeting did the Hotel Corporation take a recorded vote On that day, William Corrado presented the most current financing plan created by the Project Team The Hotel Corporation voted four to one

> to approve the new financing plan for the hotel that requires the Convention Center Hotel Corporation to be legally responsible for 50% of the principal and interest payments on the hotel bonds for the first ten (10) years and from year eleven (11) until the final payment of the hotel bonds the Corporation's legal responsibility will be 70% of the principal and interest payments for the bond issue

(**Exhibit 12** Columbia Convention Center Hotel Corporation Meeting Minutes February 11 2004)

Those same minutes from the February 11, 2004 meeting also reflect that the Project Team and the City were still negotiating key definitive written agreements called for in the MOU

> Mr Joel Gottlieb, Gottlieb & Smith P A told the members of Council that the most significant agreement is the Qualified Management Agreement also known as the Hotel Management Agreement between the Corporation and the Hilton that must reflect the business deal with Hilton and fall within the various tax safe harbors so the bond financing will flow He said that the Room Block Agreement between the Convention Center and the Convention Center Hotel is also significant Mr Gottlieb stated that several agreements and various bond documents are still under negotiation

Id (emphasis in original)

After this presentation to the nonprofit corporation the Project Team continued to change the financing plan Whereas the par amount of the bonds presented to the Hotel Corporation on February 11 2004 was $69 870 000 (**Exhibit 13** Citigroup Presentation dated February 11 2004), that amount increased to $72,015 000 in financial models and projections dated March 15 2004 (**Exhibit 14**, Citigroup Financial Model dated March 15 2004) Also as indicated by the March 15 2004 Financial Model, the Project Team was considering the necessity of having to issue some taxable bonds This would have been a significant deviation from the plan presented to the nonprofit corporation on February 11 2004, and is further indication of the ever evolving nature of the Hotel Project Significantly, Ambac's so-called Commitment Letter (**Exhibit 11**) issued six days after the February 11, 2004 meeting and one of the key ingredients to make any bond financing proposal acceptable to Wall Street, was for only $63 295,000, over $6 5 million less than the number presented to the Hotel Corporation

In March 2004, the City determined that the hotel project was not feasible as was its prerogative under the MOU This was evidenced by the City s decision to issue a second Request for Proposals for a privately funded hotel option The minutes of the City Council meeting on March 17 2004, state that staff was instructed to draft a Request for Proposals for a full service Convention Center Hotel " (**Exhibit 15** Columbia City Council Meeting Minutes March 17 2004) On March 24 2004 the City Council voted unanimously to approve the minimum requirements for the Convention Center Hotel ' (**Exhibit 16** Columbia City Council Meeting Minutes March 17 2004) On April 2 2004, the City issued a Request for Proposals (' RFP) for the development of a privately funded convention center hotel (**Exhibit 17**, RFP)

The Project Team was well aware of the City s determination and understood that the City intended to pursue a privately-funded hotel project rather than the publicly-funded hotel project proposed by the Project Team John Lumpkin the Project Team point man testified

> Q At some in time after February 11 2004 you became aware that the City was moving in a different direction, is that correct?
>
> A I became aware that the City Council had met and had - had decided that it was going to open the process up in some way shape or form to entertain a private solution a private - approach you know versus this public private approach that we had been pursuing with the City

(**Exhibit 18** Deposition of John Lumpkin, 84 10-18)

> A I m assuming the City Council voted to move forward on an alternative

Id , 86 18-19

Notably members of the Development Team – including the Plaintiff – made alternative proposals under the new RFP but were not selected Windsor/Aughtry Co Inc owned by Paul C "Bo' Aughtry, was selected as the hotel developer in this second selection process Windsor/Aughtry Co , Inc successfully developed and constructed a full service Hilton Hotel to support the Midlands Regional Convention Center

On November 14 2005 Plaintiff Stevens & Wilkinson filed an Amended Complaint against the City Garfield Traub and Gary Realty similarly filed an Amended Complaint against the City on July 29 2005 in their companion case, and Turner Construction Company filed a Complaint against the City on March 15 2007 These actions along with similar ones brought against Hilton Hotels Corporation and Windsor/Aughtry Co Inc , were consolidated for discovery on May 22 2007 There is a motion pending to consolidate these and other related cases against Windsor Aughtry and Hilton for trial

STANDARD OF REVIEW

Summary judgment is proper when 'there is no genuine issue as to any material fact and that the moving party is entitled to a judgment as a matter of law Rule 56(c) SCRCP, Conner v City of Forest Acres 348 S C 454 560 S E 2d 606 (2002) In this case, there are no genuine issues of material fact and the City is entitled to judgment as a matter of law

LEGAL ARGUMENTS

In its Amended Complaint Stevens & Wilkinson alleges four causes of action against the City

1 Breach of contract
2 Quantum Meruit
3 Breach of Obligation of Good Faith and Fair Dealing
4 Estoppel

APPENDIX_0085

The City will address each cause of action in turn to demonstrate that there are no genuine issues of material fact as to each and that the City is entitled to judgment on each cause of action as a matter of law

1 BREACH OF CONTRACT

A cause of action for breach of contract requires that the plaintiff prove as a most basic matter the existence of a contract _Tidewater Supply Co , Inc v Industrial Electric Co 253 S C 483, 485 171 S E 2d 607, 608 (1969) Where there is no contract, an action for breach of contract will not lie Because of the complex nature of this transaction involving intricate Wall Street bond financing, an international hotel operator a developer from Dallas Texas and general contractors from Atlanta Georgia, the parties needed a framework for moving toward a convention center hotel The MOU was this framework but the MOU was not and never was intended to be a binding contract

As a matter of law the MOU was not a binding enforceable contract for two reasons First by its unambiguous terms the MOU represents the parties understanding to continue to negotiate towards the execution of subsequent contracts As a matter of South Carolina law no such understanding forms a contract Second there was no meeting of the minds as to all of the essential business terms and conditions contained in the MOU Because there was no meeting of the minds or mutual assent to the essential terms which were not set forth in the MOU, the MOU is not a binding, enforceable contract

a The MOU Is Merely a Non Contractual Agreement to Make a Contract

Where an action presents a question as to the construction of a written document and the

language is clear and unambiguous the question is not one of fact but one of law Shipyard Property Owners Ass n v Mangiaracina 307 S C 299 308, 414 S E 2d 795 801 (Ct App 1992) 'To ascertain the intention of an instrument resort is first to be had to its language and if such is perfectly plain and capable of legal construction such language determines the force and effect of the instrument ' Superior Automobiles Insurance Co v Maners, 261 S C 257 263, 199 S E 2d 719 722 (1973) The plain language of the MOU evidences that neither the City nor any member of the Project Team intended to be bound by the MOU Instead the language of the MOU evidences that the MOU was to serve as a framework for continuing to negotiate and execute at least four different operative contracts specifically contemplated by the MOU which would then define the terms of the transaction The MOU states in pertinent part

> This MOU reflects the intent to proceed in good faith to execute definitive written agreements with respect to the business terms and conditions contained herein

(Exhibit 4 Memorandum of Understanding ¶ 1)

The specific operative contracts contemplated by the MOU were the Development Management Agreement the Design-Build Agreement, the Hotel Operating Agreement and the Room Block Agreement, all of which were essential to the transaction Because the MOU looked toward the execution of operative contracts, it is nothing more than a framework for the parties to negotiate an agreement – an agreement to make an agreement, which is not a contract As one leading authority on contracts explains

> It is quite possible for parties to make an enforceable contract binding them to prepare and execute a subsequent final agreement In order that such may be the effect, it is necessary that agreement shall have been expressed on **all essential terms** that are to be incorporated in the document That document is understood to be a mere memorial

> of the agreement already reached If the document or contract that the parties agree to make is to contain **any material term** that is not already agreed on no contract has yet been made the so called contract to make a contract' is not a contract at all

Arthur L Corbin et al Corbin on Contracts § 2 8, at 133-34 (footnotes omitted) (emphasis added)

In this case, there were significant **material terms** left unexpressed in the MOU concerning the proposed contractual relationship between the City and the Project Team Indeed most of the significant terms defining the relationships and responsibilities of the parties were left open to be negotiated and defined by the subsequent operative contracts The MOU therefore fits squarely into Corbin s definition of a contract to make a contract such that the MOU is not a contract itself

Several South Carolina cases recognize that oral or written "agreements to agree' are not themselves contracts One of the earliest such cases is Savannah Guano Co v Fogle, 112 S C 234 100 S E 59 (1919) In Savannah Guano the South Carolina Supreme Court held that where there was a promise to make a contract there could be no actual contract until the material terms had been agreed upon Id at 112 100 S E at 60

A more recent case emphasizes the point that an ' agreement to agree represents negotiations only and not the formation of a contract Electro Lab of Aiken Inc v Sharp Construction Co of Sumter 357 S C 363, 593 S E 2d 170 (Ct App 2004) In Electro Lab a general contractor used an electrical subcontractor's bid in its contractor s bid to build a school Id at 366, 593 S E 2d at 171 When the general contractor was subsequently informed that another company could do the same work for a lower bid the general contractor asked the subcontractor if it could do the work for the lower price Id at 267 593 S E 2d at 172 The subcontractor agreed to do so The general contractor sent a signed confirmatory fax to the subcontractor stating the agreed-to price and

instructing the sub contractor to begin the necessary preparations for the electrical work including obtaining a performance and payment bond The fax also stated A subcontract is forthcoming ' According to the contractor the subcontractor indicated six weeks later that he would not be able to obtain the bond and asked to withdraw from the project, and the general contractor hired another company to do the electrical The subcontractor then sued the general contractor for breach of contract Id

The Court of Appeals held that the writing sent to the subcontractor was insufficient to create a contract Id at 370 593 S E 2d at 174 The general contractor s statement that a subcontract was forthcoming demonstrated that the parties were engaged in negotiations Id They had agreed to agree but were not yet bound in contract Id

The MOU is similar to the confirmatory fax in Electrolab The MOU set forth some of the business terms and conditions but expressly contemplated those terms and other material terms being incorporated into subsequent binding contracts Here as in Electrolab, such a document, although in writing and signed cannot itself form a contract This conclusion is in accord with other South Carolina state and federal authorities applying South Carolina law that have held that an agreement to make an agreement does not form a contract Holliday v Peagram, 89 S C 73, 73 71 S E 367, 370 (1911) Blanton Enterprises v Burger King Corporation, 680 F Supp 753 770 (D C S C 1988), Trident Construction Co v Austin Co 272 F Supp 2d 566, 575 (D C S C 2003)

The overwhelming evidence contained in the record supports the legal conclusion that as a matter of law, the MOU was a mere framework for proceeding to negotiate operative binding contracts The deposition testimony of parties to the MOU is the clearest evidence that they did not interpret the MOU as a binding contract and did not intend to be bound by its terms

John Lumpkin the point man for the project and not a party to this litigation testified repeatedly that the MOU had no binding effect

Q Going into this MOU, though getting everybody to sign it, unquestionably you understood -- the project team understood that this document was going to require City Council approval?

A What I understood was that this document did not obligate the City at the point and that there were certain actions and requirements the document spelled out that needed to be taken to move forward

(Exhibit 18 Deposition of John Lumpkin 53 3-12)

A I think the Memorandum of Understanding is like a letter of intent

(Exhibit 20, Deposition of John Lumpkin 67 8 9)

A No I think it s much like a letter of intent that you say that Here is what we intend to do and the steps we intend to take, but you, you know once -- until we get all the stuff together neither party using a letter of intent has you know obligations under this letter of intent

(Exhibit 21, Deposition of John Lumpkin 68 17 22)

Q The Memorandum of Understanding I think you ve you have said that this did not create a binding contract

A That in and of itself -

Q Right

A -- that's correct Yes, sir

Q Right And as of June 26, 2003 you understood that under the terms of the MOU members of the development team agreed to be effectively at risk up to the date of the bond closing That's what you stated to Mr Steve Gantt?

A That s correct That s correct

(**Exhibit 22** Deposition of John Lumpkin 287 22 288 8)

From the outset the MOU was not nor was it intended to be a binding contract and it was never modified into a binding contract

Q There were no modifications to the MOU?

A There were - there were no written modifications as to this MOU as presented here

Q We ve covered that

A Right

Q I m asking you about unwritten modifications There were no modifications oral or otherwise to the MOU is that correct? And if I'm incorrect in saying that I want you to tell what was modified

MR HINSON Object to the form

THE WITNESS What modifications that I believe was made to this form other than what's not written in this form? That's the question right?

BY MR DETWILER

Q That s right

A I would say there was not -- no modifications to this particular form that was made

(**Exhibit 23** Deposition of Charles Gary 23 3 22)

The MOU provides only a broad outline of the many intricate and detailed business terms and conditions that were constantly in negotiation between the City and the Project Team In fact many of the essential business terms discussed in the MOU were constantly in flux and even at the very end were never successfully negotiated or finalized

The most important aspect of the project that was never fully reconciled was the total cost of the hotel to the City The MOU contemplated that approximately $60 million in tax exempt hotel revenue bonds would be issued **(Exhibit 4** MOU ¶ V 4) However as the Project Team s proposals evolved, the total amount to be financed by the bond issue increased dramatically While the MOU executed in April 2003 contemplated a $60 million bond issue by September 24 2003 the value of the bonds projected to be necessary to fund development and construction of the hotel had increased to $62 785,000 **(Exhibit 24** Citigroup Financial Model dated September 24 2003) In February 2004 the value of the bond issue had increased even further to $69,870,000 **(Exhibit 13** Citigroup Presentation, dated February 11 2004) At the time the City issued a Request for Proposals on a privately funded hotel project, the Project Team s estimate had sky rocketed to over $72,000 000 $12 million more than contemplated in the MOU **(Exhibit 14** Citigroup Financial Model dated March 15 2004) Thus the par value of the bonds that the Project Team proposed to be issued increased more than 20% over the amount estimated in the MOU This tremendous increase in the par value of the bonds indicates that there was no meeting of the minds as to this material business term, the *sine qua non* of the entire project in the MOU

The MOU also contemplated that the City would undertake to provide City Standby Support Payments, in an amount acceptable to the City, to make up any shortfalls in debt service if the hotel revenues were insufficient **(Exhibit 4** MOU ¶ V 5) This was an essential term because it represented the amount of money that the City s taxpayers would have to pay out of the City s general fund should the hotel not produce enough revenue to pay the debt service on the bonds The MOU provides absolutely no indication of what this amount was projected to be, demonstrating the MOU's failure to set forth a definitive term on this material issue Further indicating that there was

never any agreement on this material issue, the city credit support was constantly a moving target and continued to increase exponentially throughout the project negotiations In September 2003 the total amount that the City could have been responsible for paying directly out of its general fund was $53,135 000 (**Exhibit 24**, Citigroup Financial Model dated September 24 2003) By the time the City issued the RFP for a privately funded hotel project the amount that the Project Team proposed the City should underwrite was $89,735,000–an almost 70% increase in the direct risk to the City (**Exhibit 25** Citigroup Financial Model dated March 18, 2003)

As further evidence of the failure of the MOU to represent a meeting of the minds sufficient to form a binding contract the MOU specifically contemplated the negotiation and execution of subsequent agreements that **would** define the parties s contractual relationships It remained necessary under the express terms of the MOU for the parties to 'execute definitive written agreements in order for those business terms and conditions to become binding in contract upon any of the parties to the MOU None of those key agreements were ever executed Not only were the terms of the mandatory agreements not fully set forth in the MOU, none of these agreements were ever completely negotiated or executed The failure to execute any one of these agreements meant the project did not go forward

Gary Realty and Garfield Traub have admitted that no agreements contemplated by the MOU were ever executed

> REQUEST NO 2 Admit that no Qualified Management Agreement or other agreement under which Hilton was to manage the convention center hotel was ever executed
>
> **RESPONSE Admitted**

(**Exhibit 26** Plaintiffs Responses to Defendant Hilton Hotels Corporation s Second Request for Admissions dated October 29 2007)

The testimony of the parties to the MOU further evidences the fact that none of these essential agreements were ever finalized or executed

Q Okay And there were no other agreements with the city?

A No other signed agreements

(**Exhibit 27** Deposition of Charles Gary 23 23-25)

Q And in fact basically what this indicates is moving forward exactly in accordance with the MOU moving forward in an effort to try to come up with some definitive written agreements?

A Well we had - in certain respects had come up with the agreements There were other agreements that had certain certain provisions that were still in discussion as I recall

(**Exhibit 28,** Deposition of John Lumpkin 158 3-11)

Q So in other words there was still - there was still agreements left to be put in place and negotiated and - and finalized and signed?

A Well I think that there was still piece there was still provisions in the documents that were necessarily you know, central to the transaction I m not sure because in the hotel operating agreement they were still dealing with the tax issues and there were, you know -- again theoretically if there was a tax issue that the tax law changed in Washington and you could not - no longer to do these kinds of deals, then, golly Houston, we have a problem

(**Exhibit 29,** Deposition of John Lumpkin, 83 5 17)

John Lumpkin also testified specifically that the Development Management Agreement was never executed (**Exhibit 30** Deposition of John Lumpkin 74 11-13)

As a matter of law the MOU is nothing more than an agreement to agree and as a matter of law is not a binding contract By its own terms the MOU fails as a contract because it is merely an agreement to make an agreement, which does not form a contract under South Carolina law In addition, the essential terms of the transaction are only broadly alluded to in the MOU and there is no meeting of the minds as to these crucial business terms The essential terms of the transaction continued to change after execution of the MOU and none of the definitive written agreements necessary to the transaction were ever finalized or executed

Because the MOU is not a binding enforceable contract Stevens & Wilkinson s cause of action for breach of contract based upon the MOU must therefore fail and the City is entitled to summary judgment in its favor on this claim

(b) Payment of Interim Architectural Fees

The City recognizes that Stevens & Wilkinson also premises a breach of contract action upon the City Council s vote in July 2003 to pay the Project Team $650 000 in interim architectural and engineering fees This issue was the subject of a prior motion for summary judgment brought by Stevens & Wilkinson This Court granted Stevens & Wilkinson s motion for summary judgment but the City timely filed a Rule 59(e) motion to alter or amend the Court s decision essentially asking the Court to clarify its ruling In that motion to alter or amend the City agrees that the City Council s vote on July 30, 2003, and Stevens & Wilkinson s subsequent performance, formed a binding contract the terms of which were for the City to pay Stevens & Wilkinson $650,000 in interim architectural and engineering fees The City complied with the terms of that contract and in fact overpaid Stevens & Wilkinson in the amount of $697,085 on December 18 2003

The Court has yet to hold a hearing or rule on the City s motion to alter or amend therefore a final ruling on this motion has not been had If a final ruling on Stevens & Wilkinson s motion for summary judgment is issued before the hearing on the City s motion for summary judgment discussed herein the City will address its arguments on that matter in its Reply Memorandum prior to the hearing on its motion for summary judgment Suffice it to say for now that the City s position on that issue is fully articulated in its motion to alter or amend, filed on April 1 2001

2 QUANTUM MERUIT

Stevens & Wilkinson asserts a cause of action for quantum meruit against the City Quantum meruit is an equitable action for the recovery of unjust enrichment Columbia Wholesale Co , Inc v Scudder May N V 312 S C 259 259 440 S E 2d 129 129 (1994) The measure of damage is the benefit conferred upon the Defendant Id As a matter of law Stevens & Wilkinson cannot demonstrate that it meets the required elements for a claim of unjust enrichment Thus summary judgment in favor of the City on Stevens & Wilkinson s claim for quantum meruit is appropriate

In Scudder May the South Carolina Supreme Court held that quantum meruit allows recovery for unjust enrichment when the following elements are met

a A benefit is conferred upon the defendant by the plaintiff
b The defendant realizes the benefit and
c The defendant retains the benefit under circumstances that would make it unjust for him to retain the benefit without paying its value Id

The Supreme Court applied the three part test from Scudder May in Myrtle Beach Hosp , Inc v City of Myrtle Beach 341 S C 1 8 532 S E 2d 868, 872 (2000) In that case Myrtle Beach Hospital provided medical care to pre-trial detainees held by the City of Myrtle Beach Id at 3 532 S E 2d at 869 The City of Myrtle Beach refused to pay for the medical services, and the hospital

sued the city on a theory of quantum meruit Id at 532 S E 2d at 870 The Supreme Court held that quantum meruit, quasi contract, and implied by law contract are equivalent terms for a single equitable remedy Id at 8 532 S E 2d at 872 The Supreme Court held that the three part test from Scudder May was the proper test for each of the three equivalent causes of action thereby overruling any cases applying a different test for any of those causes of action Id at 9 532 S E 2d at 872

In applying the test to the facts, the Supreme Court held that the hospital could not recover on its claim for quantum meruit because the city did not receive and retain a benefit Id , 532 S E 2d at 873 Instead, the benefit of the medical services inured to the pre trial detainees Id After reviewing the pertinent constitutional and statutory provisions, the Supreme Court held that the city had no duty to provide medical care to pre trial detainees despite its duty to provide medical care to persons incarcerated after conviction Id Because it was the responsibility of the detainees and not the city to pay for their services the detainees received the benefit and it was not inequitable to allow the city to refuse to pay what the detainees themselves owed Id at 10, 532 S E 2d at 873

Following Scudder May and Myrtle Beach Hospital South Carolina courts consistently have applied only this three-prong test when evaluating claims for quantum meruit, quasi contract and contract implied in fact claims Pitts v Jackson National Life Insurance Co , 352 S C 319 339 574 S E 2d 502, 512 (Ct App 2002), Landbank Fund VII, LLC v Dickerson, 369 S C 621 630, 632 S E 2d 882, 888 (Ct App 2007)

The theory of quantum meruit differs from that of contract and even estoppel in that the focus is on the amount that the alleged recipient is enriched rather than the cost of performance of the one allegedly conferring the benefit The proper measure of the amount of damages is the value conferred upon the defendant rather than the expense to the plaintiff Stringer Oil Co Inc v Bobo

320 S C 369 373 465 S E 2d 366 (Ct App 1996) In Stringer Oil the Court of Appeals cited with approval two cases from Georgia ' Value for purposes of the quantum meruit remedy means value to the owner rather than cost to the workman producing the result Blumby v Smith & Plaster Co of Ga , 181 S E 2d 303, 305 (Ga Ct App 1971) ' [T]he 'reasonable value which plaintiff may recover in quantum meruit is not the value of labor but the value of the benefit resulting therefrom " Remediation Services, Inc v Georgia Pacific Corp 433 S E 2d 631 637 (Ga Ct App 1993) In addition the court stated 'It is basic hornbook law that although plaintiff's costs of performance might represent some evidence of value they do not represent a recoverable item of restitution themselves 320 S C at 374, 465 S E 2d at 369 (Citing Dobbs Dan B Remedies § 45 at 261)

In their pleadings, the Project Team including Stevens & Wilkinson asserts it conferred a benefit of valuable material and services on the City in the form of plans, designs renderings and expert advice However in order to prevail on a claim of quantum meruit, Stevens & Wilkinson must prove that the City realized some quantifiable benefit from the material or services conferred There is no evidence in the record of this case that the Project Team's work product was ultimately of any benefit to the City or was used by the City in any way Because the publicly funded hotel development failed to materialize the City realized no benefit from any of Stevens & Wilkinson s materials and services The plans and designs themselves have no intrinsic value and would only have been valuable if they had been utilized to construct the proposed hotel, which they were not

Various members of the Project Team have admitted that the City received no benefits from their work

Q What part of what Gary Realty did did the City of Columbia ever ultimately use?

A Ultimately used?

Q Yes, sir

A I don t know whether they ultimately used it, but when I take a look at the final product down there it has a pretty good resemblance of what we put together

Q Okay The city of -- the location for the hotel was always there and that's something that had been talked about for years prior to this, isn't that correct?

A That's my understanding yes

Q All right And the hotel that was ultimately built was what about two thirds the size of what your team proposed?

A That s my understanding

Q But it has a resemblance to - is that what you're saying, it has a resemblance to what y'all proposed?

A Yes it does

Q Okay What else did the city of - besides the resemblance of the facility is there anything you can tell me specifically that the city used that y all produced? When I say y all " I mean the project team

A No, there's nothing I could tell you we produced That we as a team produced

(Exhibit 31, Deposition of Charles Gary 30 22-31 24)

Q No I'm talking about the City of Columbia You sued the City of Columbia, and so what I want to know is what part of your work product, if anything has been used by the City of Columbia or for the benefit of the City of Columbia?

A You know, I'd say that our couple of years of effort in this put the ball on the one yard line, it informed all the staff elected officials what this whole concept was about It gave them the ability to distinguish the different financing types, different

hotel types so much I mean I think that everybody was ready to do this deal I think everybody was ready to do it with us until the events you know, that were perpetrated by other outside forces ultimately that are a party to this lawsuit as well brought this thing down I think the City was educated significantly by us and by our team and in all respects

Q Anything else that the City of Columbia gained from your work product?

A That's probably enough

Q Okay So the answer is no nothing else you can think of?

A Not offhand

(Exhibit 32 Deposition of Ray Garfield 28 12-29 10)

It is illogical for the Project Team to assert that it educated' the City in how to proceed with the development and construction of a publicly funded construction project and that such "education" was of any benefit conferred upon the City In fact, it was actually some members of the Project Team who were learning how to put such a transaction together and not the City

A I got a call from John Lumpkin one day He said they were looking for some minority participation with a larger developer and someone had given him my name that said I had done some development - I d never done any hotel development but I d done some commercial development and some residential development - and John said that he wanted to talk with me and wanted -- after he talked with me he said he wanted me to be a part of the team

Q Okay

A And I told him "John I know nothing about hotel development but I'm - I don t want to be a part of a team that's -- I m just going to be doing window dressing " I said **I would like to learn that facet of real estate** hotel development Then I said you know, ' Tell me what kind of numbers y'all have in mind What percentage of the minority

> participation are you willing to pay?" And I threw a number out to him I said you know based on my **limited expertise** that 15 percent of the total fee would be sufficient

(**Exhibit 33** Deposition of Charles Gary 25 22-26 17) (emphasis added)

Because the plans and drawings had no value to the City after the City determined that the project was infeasible, Stevens & Wilkinson fails to demonstrate that it conferred anything value upon the City or that the City realized a benefit from anything conferred Furthermore, the Project Team conferred no special knowledge or expertise upon the City that resulted in a benefit of value to the City This is in part because the benefit of learning how to structure such a deal was realized by members of the Project Team and not the City The City therefore is entitled to summary judgment in its favor on Stevens & Wilkinson's claim for quantum meruit

3 BREACH OF DUTY OF GOOD FAITH AND FAIR DEALING

In its Amended Complaint Stevens & Wilkinson alleges

> By virtue of the MOU between the Team (including the Plaintiff) and the City, each party had an obligation to adhere to the principles of good faith and fair dealing in the performance of the **contract**

Stevens & Wilkinson Amended Complaint § 36 (emphasis added)

As a matter of law, an obligation of good faith and fair dealing is implied in all **contracts** Commercial Credit Corp v Nelson Motors, Inc , 247 S C 360 366 67 147 S E 2d 481 (1966) ("[T]here exists in every contract an implied covenant of good faith and fair dealing ') (emphasis added) Rather than existing outside or separate from the contract the covenant of good faith and fair dealing arises from the contract and becomes another term of the contract. Williams v Riedman 339 S C 251 274 529 S E 2d 28 40 (Ct App 2000) There is no separate cause of action for the breach of the implied covenant of good faith and fair dealing Where there is no contract, no

covenant of good faith and fair dealing arises Keigei v Citgo, Coastal Petroleum, Inc., 326 S C 369 374 482 S E 2d 792, 794 (1997) (dismissing for failure to state a claim a cause of action for breach of the covenant of good faith and fair dealing where plaintiff failed to allege the existence of a contract)

Because there is no recognized cause of action for the breach of covenant of good faith and fair dealing the City is entitled to summary judgment as a matter of law Furthermore, as explained previously, the MOU is not a contract This means that no obligation of good faith and fair dealing was implied in the MOU The City therefore is entitled to summary judgment in its favor on Stevens & Wilkinson s claim for breach of the duty of obligation of good faith and fair dealing

4 **ESTOPPEL**

Central to its cause of action for estoppel, Stevens & Wilkinson alleges that the MOU contains an unambiguous promise that the City will pay Stevens & Wilkinson for 'all work performed on the project As a matter of law, the portion of the MOU relied upon by Stevens & Wilkinson contains no promise, much less an unambiguous promise to pay Stevens & Wilkinson for any of its work, therefore, the City is entitled to summary judgment in its favor on Stevens & Wilkinson s cause of action for estoppel

In the context of a contract claim against a governmental entity the relying party must meet the general requirements of estoppel in order to prevail Davis v Greenwood School District, 365 S C 629, 620 S E 2d 65 (2005) In Davis, several teachers sued the Greenwood School District because they believed they had been improperly denied permanent annual incentives promised to them for attaining National Board Certification Id at 633 620 S E 2d 65 67 (2005) The Supreme Court held that a plaintiff must prove four elements to recover on an estoppel claim

a The presence of an unambiguous promise
b The promisee s reasonable reliance upon the promise,
c That the reliance was expected oi foreseeable by the promisor and
d The promisee was injured as a result of reliance on the promise Id at 634 620 S E 2d at 67

The teachers based their claim upon statements made to them by the school district superintendent Id , 620 S E 2d at 67 8 The court held that the teachers reliance on any promises made by the superintendent was not reasonable because the superintendent made it clear in communications with the teachers that all incentives would be subject to annual review and approval by the school board The teacheis claim of estoppel failed Id at 635 620 S E 2d at 68

In addition a party asserting an estoppel claim against a governmental entity must prove that the alleged conduct of a government employee or officer is within the authority of that individual If the employee or officer did not have authority to make the decision or statement then no estoppel will lie against the governmental entity Service Mgt , Inc v State Health and Human Services Finance Commission, 298 S C 234 238 379 S E 2d 442 (Ct App 1989) In Service Management, a nursing home entered into a contract foi reimbursement for services provided pursuant to the Medicaid program Id at 236 379 S E 2d at 443 The terms of the contract provided for a particular rate of reimbursement for capital expenses Id A rate sheet attached to the front of contract and not incorporated by reference therein provided for a higher rate of reimbursement The plaintiff sought to recover the higher rate of reimbursement Id at 237, 379 S E 2d at 443

The employee who supervised rate setting testified that he calculated the higher iate of reimbursement based upon the existing practice of the agency Id at 236, 379 S E 2d at 443 The Court of Appeals denied the plaintiff's claim of estoppel against the state commission Id at 238, 379 S E 2d at 444 The court held that the agency's governing board had never approved the rate

setting practice Id at 237, 379 S E 2d at 443 Because the employee was without authority to make such changes to the rates, the agency was not bound by that employee s unauthorized actions Id 379 S E 2d at 444 The fact that the employee's conduct was unauthorized defeated the estoppel claim Id at 238, 379 S E 2d at 444

Stevens &Wilkinson asserts that the MOU contains an unambiguous promise to pay for all work performed on the project and that this promise is contained in Paragraph VI 3 of the MOU which states

> Pre-Development Funding-The Project Team will be responsible for the costs incurred prior to closing the financing These costs include but are not limited to design testing bid packages, legal underwriting travel, etc If the Hotel financing fails to close as a result of the City not meeting its obligations outlined in the Development Agreement or as a result of an unforeseen catastrophic event not caused by any of the Project Team the City will reimburse the Project Team for actual, documented costs incurred to that point in time up to an amount to be agreed upon All studies tests, plans and the like prepared or obtained by the Project Team will be assigned to and become the property of the City

As a matter of law Stevens & Wilkinson is unable to meet the legal elements for an estoppel claim based upon this statement in the MOU Most importantly, the paragraph in the MOU relied upon by Stevens & Wilkinson is **not** an unambiguous promise to pay Stevens & Wilkinson for all of its work The first sentence of this paragraph expressly states that the Project Team is responsible for the costs incurred prior to closing the financing Such closing i e the issuance of the bonds never occurred This language cannot support the assertion that the City promised to pay Stevens & Wilkinson for all of its work because it clearly implies that the Project Team was to bear the cost of its own performance unless and until the bonds closed

The third sentence of the paragraph relied upon by Stevens & Wilkinson provides that the only basis for Stevens & Wilkinson to recover costs would be **if** the bonds failed to close because the City breached an obligation in the Development Agreement The Development Agreement was one of the numerous definitive written agreements ' that was never finalized nor executed The conditional nature of this sentence cannot support the assertion that it is an unambiguous promise Execution of the Development Agreement was a condition precedent to Stevens & Wilkinson s recovery of its costs under this third sentence Because the Development Management Agreement was never executed this paragraph contains no unambiguous promise to pay Stevens & Wilkinson for any of its work

Stevens & Wilkinson also fails to demonstrate that it meets the second and third elements of an estoppel claim Any work that Stevens & Wilkinson did it did with full knowledge that that it did so at risk without the protection of a Development Agreement Such knowledge vitiates Stevens & Wilkinson's assertion that its reliance upon this paragraph was reasonable

It is furthermore obvious that the City could not have foreseen that Stevens & Wilkinson would have relied upon this paragraph as an unambiguous promise to pay Stevens & Wilkinson for anything This paragraph is but one paragraph in the larger MOU and must be read in the context of that document The MOU on the very first page states Notwithstanding anything herein to the contrary, if the City determines that it is not feasible to proceed with the Hotel project it shall have no liability under this MOU " The phrase "notwithstanding anything herein to the contiary' evinces the City's understanding that it had sole authority to determine whether the project was oi was not feasible, and if the project was not feasible, the City would have no liability whatsoever to any of the parties regardless of any statement in Paragraph VI 3 Feasibility meant "operational and

financial feasibility (**Exhibit 34** Deposition of Lumpkin p 71 19 23) The Project Team also recognized the sole authority of the City to determine the feasibility of the project (**Exhibit 35,** Deposition of John Lumpkin p 12-22) The presence of this provision providing the circumstances under which the City could end the deal with no liability makes it patently unforeseeable to the City that Stevens & Wilkinson would rely to its detriment on Paragraph VI 3

Although not pled in its Amended Complaint the City anticipates that Stevens & Wilkinson will assert two other bases for its estoppel claim First, Stevens & Wilkinson may assert that it relied upon actions alleged to have been taken by the Columbia Convention Center Hotel Corporation Second Stevens & Wilkinson may assert that it relied upon statements made by individual officers or employees of the City In either case, any statement made by an officer or employee of the City or action taken by an entity other than City Council convened as City Council lacks authority to bind the City, negating Stevens & Wilkinson s claim of estoppel against the City

Ultimately, this project hinged upon the issuance of hotel revenue bonds Regardless of whether those bonds were going to be issued by JEDA the City or the nonprofit corporation the City was going to be required to provide some amount of City Credit Support Payments but only in an amount the City, in its sole discretion, deemed ' acceptable ' MOU, V 4 and 5 As explained below the City could not have authorized either the bond issue or the approval of any amount of City Credit Support Payment without a vote of the City Council convened as City Council and following all statutory requirements

As a matter of state statute, the City can only take action through the City Council S C Code Ann § 5-7 160 states, "All powers of the municipality are vested in the council except as otherwise provided by law, and the council shall provide for the exercise thereof and for the

performance of all duties and obligations imposed on the municipality by law S C Code Ann §5 13-30 reiterates that [a]ll legislative powers of the municipality and the determination of all matters of policy shall be vested in the municipal council

State law and the Columbia City Code require that the City acting through the City Council enact an ordinance to issue bonds or appropriate funds The Columbia City Code addresses the necessity of an ordinance for the issuance of bonds or appropriation of funds in Section 2 81 wherein the code states

> The council shall act by ordinance in all matters required by law to be done by ordinance, including (3) Appropriate funds and adopt a budget (5) Authorize the borrowing of money or the issuance of bonds

South Carolina Code Section 6 21-50 authorizes municipalities to issue revenue bonds for the construction of a hotel however pursuant to S C Code Section 6-21 210 City Council must authorize that bond issue by an ordinance or resolution No such ordinance or resolution authorizing the issuance of the bonds was ever even brought before the City Council for a vote South Carolina Code Section 5 7-260 requires adoption of a budget by an ordinance enacted by City Council

Not only must the City Council act by ordinance to issue bonds or appropriate funds, but the City Council cannot delegate this legislative authority to take either action because they are non delegable duties of the City Council As stated in 16A Am Jur 2d Constitutional Law § 295, 'A legislature's budget making responsibilities may not be delegated It cannot delegate its power to appropriate money unless specifically authorized by the federal or state constitutions This fundamental doctrine is recognized in South Carolina in particular reference to the General Assembly s authority to delegate budgeting and appropriations to another entity 'Legislative

authority may not be delegated State ex rel McLeod v McInnis 278 S C 307 317 295 S E 2d 633 639 (1982) Gilstrap v South Carolina Budget and Control Bd 310 S C 210 216, 423 S E 2d 101 105 (1992)

Likewise, the power of individual officers and agents to bind the City in contract is limited by state statute and municipal ordinance As described in S C Code Section 5-13-90, the City Manager is the CEO and head of the administrative branch of the City government, however, his authority is limited to hiring and firing city employees preparing the annual budget, preparing the annual financial report advising the city council on financial condition and needs of the City, and performing any other duties prescribed by law or required of him by the council

The Columbia City Code restates the general duties of the City Manager provided for by state statute 'The city manager shall be the chief executive officer of the city and head of the administrative branch of city government The city manager shall perform and exercise the duties and responsibilities prescribed by law for this office and such other duties and responsibilities as prescribed by the city council' Columbia City Code Section 2-114

Although the City Council can authorize the City Manager to take actions not specifically enumerated in the statute or ordinance, the City Council cannot delegate to the City Manager the authority to enter into contractual arrangements of the amount that was going to be necessary to fund the Hotel Project The Columbia City Code specifically provides that the City Manager is authorized to bind the City in contract without City Council approval for contracts of $10 000 or less For contracts in excess of $10,000 the city council must approve award of the contract Columbia City Code Section 2 207 Neither State statute nor city ordinance provides any other officer or employee of the City with authority to bind the City in contract

To the extent that Stevens & Wilkinson asserts that actions taken by the Columbia Convention Center Hotel Corporation form the basis for a claim of estoppel against the City such assertion fails as a matter of law Such action could only be taken by City Council convened as City Council The Columbia Convention Center Hotel Corporation would have no authority to bind the City to enter into a contract, to issue the necessary bonds, or to appropriate funds for the credit standby support payments without the requisite formal vote of City Council, something that never occurred An essential element of an estoppel claim against a municipality is that the entity alleged to have taken some action forming the basis of the estoppel claim must have been acting within the scope of its authority Because the City would ultimately have been required to enact an ordinance to issue the bonds or appropriate funds for the City Standby Support Payment, the Hotel Corporation acting alone would not have had authority to bind the City Council Furthermore any reliance upon the actions of the Hotel Corporation were not justifiable Thus an estoppel claim against the City based upon actions of the Columbia Convention Center Hotel Corporation will not lie

S&W may also allege that Steve Gantt, Shawn Epps or individual members of City Council made statements or took actions that would support a cause of action for estoppel It was not within the scope of authority for any of those individuals to bind the City therefore, any actions or statements would have been unauthorized Any reliance on such actions or statements would not have been justified Therefore as a matter of law, such actions or statements cannot form the basis for a claim of estoppel

For the foregoing reasons Stevens & Wilkinson is unable to meet each of the requirements of an estoppel claim against the City The City therefore, is entitled to summary judgment in its favor on Stevens & Wilkinson s estoppel claim

CONCLUSION

Based upon the foregoing Defendant City of Columbia asks the Court to grant its motion for summary judgment on all causes of action alleged by Plaintiff Stevens & Wilkinson s in its Amended Complaint

Respectfully submitted

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ATTORNEYS FOR DEFENDANT CITY OF COLUMBIA

Columbia South Carolina

June 12, 2009

STATE OF SOUTH CAROLINA COUNTY OF RICHLAND	)	IN THE COURT OF COMMON PLEAS FOR THE FIFTH JUDICIAL CIRCUIT
Stevens & Wilkinson of South Carolina Inc Plaintiff vs City of Columbia, South Carolina Defendant	)	CASE NO 2005 CP 40 3361 **CERTIFICATE OF SERVICE**

I Denise M Hardwick an employee of Callison Tighe & Robinson LLC Attorneys for Defendant, City of Columbia South Carolina, hereby certify that I served the **Defendant City of Columbia's Memorandum in Support of Motion for Summary Judgment** upon all counsel of record by causing a copy of the same to be placed in the U S Mail first class postage prepaid addressed as follows, on June 12 2009

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Denise M Hardwick

Columbia, South Carolina
June 12 2009

Exhibit 1

0108

LEXINGTON - RICHLAND - COLUMBIA REGIONAL CONVENTION CENTER COMMISSION

Request For Qualifications
Regional Convention Center Hotel
January 15, 2001

The two South Carolina counties of Lexington and Richland (the Counties) and the City of Columbia (the City), are working together with the Columbia Metropolitan Convention and Visitor's Bureau (the CVB) and the Greater Columbia Chamber of Commerce (the Chamber) to establish a regional convention center and hotel in the City of Columbia They are seeking an experienced convention center hotel developer/operator to begin discussions concerning the possibility of working together in a public/private partnership to develop and operate a proposed full-service, convention hotel of approximately 250 rooms with expansion possibilities

Background – For many years there have been numerous discussions and proposals to develop and construct a convention center for the Columbia market The CVB has supported these efforts in the past and recently led an effort to make this dream come true using a feasibility study conducted by KPMG – Peat Marwick to generate further action This study and an up-date study will be made available to respondents upon written request

During this same period time the University of South Carolina (the University) was also considering the development of a new sports arena to replace the existing Carolina Coliseum The University desires a modern, up-to-date sports and general purpose indoor athletic event facility with approximately 20 000 seats for basketball, including a number of executive skyboxes for corporate sponsors Community leaders saw an opportunity to work together to achieve the greatest degree of efficiency possible for each project It was felt that if the two projects were developed in close proximity, there would likely be significant savings in

development and operation costs, which would benefit the community and those who would be using the facilities in the future

Working with the Chamber and a group of committed business leaders, the CVB, the Counties, the City and the University held a series of meetings which culminated in an Intergovernmental Agreement (the Agreement) to move forward together with the two projects The underlying premise of the Agreement calls for the parties to collaborate in the development of the Arena and the Convention Center in such a manner as to maximize the advantages of being located in close proximity, and to share, where possible the infrastructure that will be required to support both facilities

The first challenge for the City and the Counties was to develop a financial scenario for the Convention Center that would assure the necessary funding for the project without placing an additional financial burden on the taxpayers of the area The three governments agreed to a plan, and ordinances were passed, establishing a three percent (3%) Tourism Development Fee The use of the revenue generated by this new fee is dedicated to the development and operation of the new Convention Center The City and the Counties have been collecting revenue from the increased Tourism Development Fee since January 1, 1998, and the estimated $35 million development cost of the Convention Center can be supported by the current revenue stream

In 1998, the Committee commissioned a site selection analysis by a consultant team consisting of The Rosser Architectural Group (the Arena architect), TVS and Associates (the Convention Center architect), Stevens & Wilkinson of South Carolina (the local architect for both projects), LDR International of Columbia, Maryland, and Wilbur Smith Associates of Columbia, South Carolina This team recommended locations for the Arena and Convention Center in the heart of Columbia's Congaree Vista Redevelopment Area (see Exhibit A) The property, along with adjacent parking to serve both facilities, has now been acquired by the City and the University and the Arena is currently under construction with an expected completion date of September 30, 2002

The Congaree Vista Development Area (The Vista) is in the hart of Columbia's City Center and has experienced a tremendous amount of growth in the past several years Strtagicily located between Columbia's Main Street, and the Congaree River and adjacent to the University of South Carolina's main campus

with a population of over 25,000, the Vista is a popular location for a wide variety of entertainment and shopping venues that attract many visitors The City is also emphasizing residential development in the Vista and City Center which is expanding the market potential for businesses in the area The investments in the Arena and the Regional Convention Center are exciting additions to the millions that have already been invested in the Vista by both the public and private sectors

The City and Counties have organized a Regional Convention Center Commission (the Commission) to coordinate planning with the University of South Carolina in the development of the Arena, and to be responsible to the three governments for the development and operation of the Convention Center including the development of an adjacent convention center hotel It is their intent to work with an experienced developer who will design and construct a convention center hotel of approximately 200 rooms The developer will be expected to own and manage the day-to-day operations of the hotel, including the marketing and coordination with the convention center that will be required to the maximize the use of both facilities to the greatest possible extent

Recently the City adopted a Columbia City Center Master Plan The purpose of the Master Plan is to guide future public and private development in "Downtown" Columbia, in an area known as City Center This area includes the site where the Arena and Convention Center are being built A major element of the Master Plan is a focus on tourism and the visitor economy in the Columbia area, which is deemed to be underutilized The plan recommends a focus on the potential of the visitor and tourism market, and information from the Master Plan is included in attached Exhibits B and C

Interested hotel developers and their teams, should submit their qualifications (10 sets) to the Regional Convention Center Commission, in care of the City of Columbia, Office of Economic Development 1201 Main Street, Suite 250, Columbia, South Carolina 29201, prior to the close of business on February 28, 2001 Qualification submittals should include, but not be limited to, the following information

- Developer's (Organization's) history
- Development experience - including specific projects similar to the one being proposed
- Financial position and resources - including letters of reference and financial capabilities from banks and/or financial institutions
- Examples of how have you structured deals similar to this in the past?
- Hotel affiliation(s) – include specifics about projects, locations and descriptions of management/ownership structure(s)
- Describe, in as much detail as you feel necessary, the Development Teem you would propose for this project - including the architect, engineer and other "consultants" you typically use in a project of this magnitude
- Current projects under development – how does this project affect your ability to take on additional work?
- What is your preferred project organizational structure? How do you like to work?
- Describe your firm and the specific qualifications/experience of your top managers, specifically, who would be involved in this project?
- What is your operating philosophy? How do you like to do business?
- How would you propose we do this deal?

It is anticipated that the Commission will review all respondent's submittals and choose a maximum of three (3) developers with which to have formal interviews The interview process will result in a ranking of preferred developers, and negotiations will begin to select a development partner If the Authority cannot come to an agreement with the highest ranked developer, negotiations will begin with the second ranked, and so on

The Commission reserves the right to reject any and all of the qualification packages submitted and to began another selection process if necessary

The Commission is an equal opportunity organization and encourages the inclusion of minority and female firms on development teams

Important Commission members are not to be contacted by developers during this qualification and selection process Any questions should be addressed in writing to Jim Gambrell at The City of Columbia, Office of Economic Development, 1201 Main Street, Suite 250, Columbia, SC 29201 Responses will be made in writing to all developers

The commission would greatly appreciate a indication of your intent to respond to this RFQ If you do not have an interest, and will nor submit a response we would appreciate notification so as to not burden you with additional correspondence Please notify Jim Gambrell at the same address previously given with your intentions

Exhibit 2

0114

Garfield corporation Edens & Avant

February 28 2001

Regional Convention Center Commission
C/o City of Columbia
Office of Economic Development
1201 Main Street Suite 250
Columbia South Carolina 29201

Dear Commission

The team of Edens & Avant and Garfield Corporation is pleased to present the enclosed statement of qualifi cations with regard to the development of a full service hotel adjacent to the new Convention Center We believe our team of talent is uniquely qualified to assist in moving this Project forward on a timely basis while meeting the goals and objectives of the Commission

We look forward to the opportunity of meeting with you personally to present and discuss our experience approach and qualifications

Sincerely

John H Lumpkin
President - Edens & Avant

Exhibit 3

CITY OF COLUMBIA
CITY COUNCIL WORK SESSION MINUTES
December 11, 2002
9 00 AM - City Council Chambers
3rd Floor City Hall - 1737 Main Street

The City of Columbia City Council met for a Work Session on Wednesday December 11 2002 in the City Hall Council Chambers 1737 Main Street Columbia South Carolina Mayor Robert D Coble called the meeting to order at 9 06 a m Council members present were The Honorable E W Cromartie II The Honorable Jim D N Papadea The Honorable Anne M Sinclair The Honorable Hamilton Osborne Jr The Honorable Sam Davis and The Honorable Tameika C Isaac Also present were Ms Leona K Plaugh City Manager and Ms Pamela J Ferst Acting City Clerk

REVIEW COUNCIL AGENDA

CITY COUNCIL DISCUSSION / ACTION

A Convention Center Update Mr Steve Camp

Mr Steve Camp Midlands Regional Convention Center Authority told Council that they are in the process of site preparation for the Convention Center Mr Camp stated that it is difficult to sell something that can t be seen He said they are focusing on attracting state associations and regional meetings to this facility He informed Council that the hotel needs to open in conjunction with the Convention Center and if it doesn t he might only book four (4) groups early on Mr Camp explained that it s best to have the front door of a hotel at least 400 feet from the entrance of the Convention Center He thanked the members of Council for supporting the Convention Center

A1 *Columbia Metropolitan Convention and Visitors Bureau – Request for Funding

Upon motion by Mr Cromartie seconded by Ms Sinclair Council voted unanimously to approve the disbursement of $60 000 from the Accommodations Tax Fund to the Columbia Metropolitan Convention and Visitors Bureau to enable the Bureau to complete programs and tasks during the 2002 / 2003 fiscal year

A2 Convention Center Hotel Developer Selection **(Item W on Regular Agenda)**

Mr Jerry McClendon Strategic Advisory Group told Council that both developers are proposing 300-room hotels of similar quality and cost Mr McClendon explained that the John Q Hammons proposal is privately owned financed and developed but the Edens & Avant proposal is a city sponsored proposal so it can be value engineered to the price you want Mr McClendon informed Council that a headquarters hotel next to a convention center typically has more meeting space which generates more revenue He stated that both teams have agreed in principle to follow the City of Columbia s Commercial Non Discrimination Policy and Subcontracting Outreach issues Mr McClendon also informed Council that both teams have indicated a willingness to enter into a Room Block Agreement He stated that both financial structures pay for the entire project including the hotel land and parking Mr McClendon informed Council that the main difference between the proposals relates to the City s risk position

Upon motion by Mr Osborne seconded by Ms Sinclair Council voted two (2) in favor of and four (4) opposed to the selection of the privately funded option and not put citizens in a financial risk Voting aye were Ms Sinclair and Mr Osborne Voting nay was Mr Cromartie Mr Davis Ms Isaac and Mayor Coble Mr Papadea abstained from voting due to a conflict of interest

Upon motion by Mayor Coble seconded by Mr Cromartie Council voted five (5) to one (1) to select Edens & Avant as the Convention Center Hotel Developer with the caveat that a final agreement is negotiated and authorized staff and the consultants to strengthen the 1 3 times debt service Voting aye were Mr Cromartie Mr Osborne Mr Davis, Ms Isaac and Mayor Coble Voting nay was Ms Sinclair Mr Papadea abstained from voting due to a conflict of interest

B Review Ordinance No 2002-057 Amending the 1998 Code of Ordinances of the City of Columbia South Carolina Chapter 24 Vehicles for Hire Article IV Wrecker and Towing Services Sec 205 through Sec 215
This item was held over no action was taken

C Proposed Real Estate Sales & Acquisition Policy – Mr Jim Meggs
This item was held over no action was taken

D Legislative Issues 2003 – Ms Shirley Gossett Legislative Liaison
This item was held over no action was taken

Mayor Coble adjourned the Work Session at 11 30 p m

- **Mr Cromartie left the meeting at 11 30 p m**

Respectfully submitted by

Pamela J Ferst CPS
Acting City Clerk

Exhibit 4

COLUMBIA

MOU

FINAL COPY

4/17/03

040303(F:\city\hotel\mou)

MEMORANDUM OF UNDERSTANDING

This Memorandum of Understanding (the 'MOU') by and between the CITY OF COLUMBIA ('City') and the PROJECT TEAM ('Project Team') defined below, for the development of a 300-room convention center hotel and ancillary uses (hereafter the 'Hotel") in response to the City's solicitation for development teams to construct and operate the Hotel.

WHEREAS, Project Team intends to construct a three hundred (300) guestroom, full service Hilton Hotel with approximately twelve thousand (12,000) square feet of meeting space in downtown Columbia adjacent to the new Midlands Regional Convention Center (the "MRCC") to satisfy the needs of conventioneers and visitors to Columbia, and

WHEREAS, the City has determined that the Hotel is required to maximize the utilization and the economic benefits of the MRCC, and

WHEREAS, the City's support of the development of the Hotel helps to achieve this goal and understands a public-private partnership will be required to create a financially viable Hotel, and

WHEREAS, it was determined that it would be in the best interest of the City for a Non-Profit Corporation ('NPC") of the City to be the owner of the Hotel, and

WHEREAS, the Project Team submitted a proposal to finance, develop and operate the Hotel in response to the City's solicitation, and

WHEREAS, the City and the Project Team desire to document the understandings reached with respect to the financing, development and operation of the Hotel

NOW THEREFORE, in consideration of the foregoing and the mutual promises contained herein, and other valuable consideration the sufficiency and receipt of which are hereby acknowledged, the parties agree as follows

I GENERAL CONDITIONS

1 This MOU reflects the intent to proceed in good faith to execute definitive written agreements with respect to the business terms and conditions herein contained Notwithstanding anything herein to the contrary, if the City determines that it is not feasible to proceed with the Hotel project it shall have no liability under this MOU

2 Unless superseded by an amendment to this MOU or the final Development Management Agreement, this MOU identifies the understanding of the parties

II PURPOSE

This MOU is entered into with the understanding by all parties that the primary reason for the City's participation in the Hotel is to maximize the impact the MRCC has on the community by developing an adjacent headquarters hotel Accordingly, it is understood that the MRCC impact is of the highest priority

III PARTIES TO THIS MEMORANDUM OF UNDERSTANDING

1 City – City of Columbia ('City'),

2 Project Team

2 1 Developer – Edens & Avant Real Estate Services LLC, Garfield Traub Development; and Gary Realty, Inc

2 2 Design/Builder – Turner Construction Company in association with Construction Dynamics and DESA, Inc The A/E part of their Team is - Thompson, Ventulett, Stainback & Associates, Inc Architects, Stevens & Wilkinson, and ENVIRO AgScience

2.3 Operator – Hilton Corporation

2 4 Underwriter – Salomon Smith Barney, Inc

IV Hotel Description

1 Hotel Site – The anticipated site is located near the new MRCC and is approximately 60,000 square feet

2 Parking Facility Site – The anticipated site is located near new MRCC and is approximately 80,000 square feet.

3 Brand – The Hotel is to be branded as a "Hilton ' hotel and named by the NPC in accordance with the Operator's brand requirements

4 Hotel Program – The Hotel is to include 300 rentable guestrooms, including ten 10 suites The Hotel is to also include approximately 12,000 square feet of ballroom and breakout meeting space In addition, the Hotel is to include a casual restaurant and lobby bar that collectively is to provide table seating adequate to serve Hotel guests as well as those utilizing meeting space in the Hotel

5 Parking – The Hotel is to have access to adequate parking spaces in a larger public parking garage adjacent to the Hotel for Hotel patrons and guests

6 Project Quality - The construction quality and level of amenities is to be similar in all material respects to the Sheraton Overland Park Hotel and/or The Radisson Convention Center Hotel in Myrtle Beach

7 Development Budget - A detailed development budget will be prepared by Developer but shall be subject to the review and approval of the City

V ROLE OF THE CITY

1 Hotel Site Assembly – The City agrees to acquire the Hotel Site, satisfy any environmental issues, demolish any existing structures, rezone the land for the Hotel (if required) and convey it to the NPC at cost, funded by Hotel Revenue Bond proceeds The Developer will provide an amount satisfactory to the City in Hotel Revenue Bond proceeds for acquisition of land and site development costs associated with the Hotel

2 Parking Facility – The City is to develop a nearby Parking Facility of approximately 800 spaces 300 parking spaces will be made available in the public parking garage for Hotel patrons and guests The NPC is to work with the City to formulate a joint use agreement related to the Hotel parking spaces during periods of low demand.

3 Establish NPC – The City is to establish a NPC to issue bonds to finance the Hotel, own the Hotel developed by the Project Team, and retain the Operator for the operation of the Hotel consistent with the terms and conditions of this MOU The NPC articles of incorporation, bylaws and Board of Directors are to be established by the City

4 NPC Financing – The NPC is to retain the Underwriter and legal counsel to structure and issue approximately $60 million in tax-exempt hotel revenue bonds in amounts acceptable to the City ('the Bonds") supported by Hotel revenues and the City Financial Participation The Bonds will be issued either in one series— Hotel Bonds" or two series—"Senior Bonds and 'Subordinate Bonds" The City shall use its best efforts to approve the issuance of a series of tax-exempt Hotel revenue bonds The proceeds of the Bonds will be sufficient to (i) pay the development and construction costs of the project, (ii) pay 100% of debt service on the Bonds during the construction period and pay a portion of debt service during the first two operating years, (iii) fund debt service reserve funds for the Bonds, (iv) pay the fees of the Underwriter as described below, and (v) pay other financing costs including the costs of bond and underwriter s counsel, rating agency fees, trustee fees, financial advisory fees, printing costs and costs of the feasibility report. in amounts satisfactory to the City

5 City Credit Support – The City is willing to provide a credit enhancement to support an amount acceptable to the City which would be utilized for any debt service shortfall on the Subordinate Bonds or Hotel Bonds (as the case may be), if project revenues net of expenses are insufficient to provide for the debt service on the Subordinate Bonds or on the Hotel Bonds

VI. ROLE OF THE DEVELOPER

1 Development of the Hotel – The Developer will coordinate design, development, construction and delivery of the Hotel in accordance with the terms of the Development Management Agreement to be finalized between the City or NPC and the Developer

2 Development Fee – The Developer is to be paid a development fee of 4 75% of the project budget, exclusive of land and any financing related fees, to ensure the coordination and delivery of the Hotel on time and on budget A preliminary scope of services is presented in Attachment 1 The fee is intended to include all fees and costs associated with personnel, administrative, travel and any other expenses The Development Fee is to be paid as follows 33 1/3% upon closing the bond sale, 57 2/3% on a pro rata basis over the construction period based on percentage of completion of the Hotel and the balance of 10% at the issuance of a Certificate of Occupancy for the Hotel

3 Pre Development Funding – The Project Team will be responsible for the costs incurred prior to closing the financing These costs include, but are not limited to, design, testing, bid packages, legal, underwriting, travel, etc If the Hotel financing fails to close as a result of the City not meeting its obligations outlined in the Development Agreement, or as a result of an unforeseen catastrophic event not caused by any of the Project Team, the City will reimburse the Project Team for actual, documented costs incurred to that point in time up to an amount to be agreed upon. All studies, tests, plans and the like prepared or obtained by the Project Team will be assigned to and become the property of the City

4 Project Oversight – During the design and construction phases of the Hotel, the Developer shall furnish to the City and the City's consultants all information reasonably requested concerning the designing, planning, construction and development of the Hotel The Developer is to provide the City with the opportunity for timely review and approval of construction plans for the Hotel The Developer acknowledges that the City may have its own construction monitor, which could also be the construction monitor for the bondholders, on the Hotel site and that Construction Oversight costs are to be paid from the Hotel budget

5 Zoning - The City and the Developer will work together on zoning matters including those related to the height of the Hotel building setbacks and design review issues

6 Commercial Non-Discrimination Policy and Subcontracting Outreach Program – The Developer and Operator agree to fully implement the City's Commercial Non-Discrimination Policy and Subcontracting Outreach Program and to execute any amendments covering matters as reasonably determined by the City as necessary to evidence compliance with the City's policies In addition, it will be the goal of the Developer to have twenty-five percent (25%) of the work associated with the construction of the Hotel handled by MBE/WBE firms and fifteen percent (15%) of the development and related fees generated by this project paid to the MBE/WBE firms associated with the project.

VII ROLE OF THE CONTRACTOR

1 Fee – The Design/Builder is to be paid 8% of Design/Build costs for general conditions and a 5% fee based on the Design/Build costs for the Design/Builder's overhead and profit. The fees are intended to include all fees and costs associated with personnel, administrative, travel and any other expenses The fee is to be paid

per a schedule to be outlined in the Design/Build Agreement If the Underwriter does not close the financing the City will not be responsible for reimbursing for any costs incurred except as provided in Section VI, 3 herein above

2 Development Guarantee – Upon the execution of the Design Build Agreement, Turner Construction guarantees that the Hotel budget, including all costs related to designing, constructing, finishing and equipping the hotel will not exceed an amount to be agreed upon between the City, the Developer and Turner Construction. At the time of the issuance of any bonds, Turner Construction is to guarantee delivery of the Hotel on a date certain for the budgeted amount The guarantee is to be supported by a payment and performance bond acceptable to the City and in an amount acceptable to the City that names the City as dual obligee The guarantee is to also provide the City with liquidated damages on a schedule and in amounts sufficient to equal the interest on any bonds as it becomes due The guarantee must be acceptable to the bond underwriter and to the bondholders

3 Design/Build Cost Savings – Fifty-percent (50%) of the construction cost savings realized during the construction of the Hotel will accrue to the NPC Program/budget changes prior to the commencement of construction shall not be considered construction cost savings

VIII ROLE OF THE ARCHITECT

1 Fee – The Architect is to be paid a fee of 7.25% by the Design/Builder based on hard construction costs together with the Design/Builder's general expenses and fees This fee is comprised of a 6% basic services fee and 1 25% for special consultants to be retained by the Architect for the project The fee is to be paid consistent with the normal A I.A contractual provisions in terms of timing and amount of payments If the Underwriter does not close the financing, the City will not be responsible for reimbursing any costs incurred except as provided in VI, 3 herein above The fee includes all fees and costs associated with personnel, administrative, travel and any other expenses for the defined scope The Architect will be reimbursed for any additional services or expenses as requested by the City

2 Design Review – The Architect shall develop and implement a design review process that is to provide the City, neighborhood and professional staff input into the design of the Hotel All parties pledge to use their best efforts to maintain the integrity of the Hotel and to be conscious of the time and cost of changes made during the review process

IX. ROLE OF THE UNDERWRITER

1 Services Provided – Underwriter as the NPC's senior managing underwriter is to be responsible for analyzing and structuring the project, development of the financing plan, development of the supporting financial documents, and marketing the bonds

2 Fee – The Underwriter fee, contingent upon a successful transaction closing, is to be either 1 5% of the total par amount of the Bonds for the Senior Bonds and 1.25% of

the total par amount of the Bonds for the Subordinate Bonds or 1 375% of the total par amount of the Hotel Bonds

X. ROLE OF THE OPERATOR

1 Operator Contribution – Subject to the provisions under this Section X, the Operator will contribute $1 5 million in the form of an interest free, self-amortizing loan whose initial principal balance, after the opening, is to automatically reduce, without payment, by 1/180th per month as long as the QMA (defined below) is in effect If the QMA is terminated before such loan is fully amortized, Operator shall be repaid the unamortized portion of such loan. The exact amount and terms will be subject to the approval of senior management of the Operator

2 Qualified Management Agreement – The Hotel is to be managed by the Operator under a 15 year Qualified Management Agreement ("QMA") that complies with Operating Guidelines for Management Contracts as set forth in the IRS Revenue Procedure 97-13 and the Internal Revenue Code of 1986, as amended, and as interpreted by the City's or NPC's Bond Counsel, as appropriate The City has the right to approve the final form of the QMA

3 Base Management Fee – The Operator will be paid a fixed base management fee for the first four years, calculated based on 2.0% during the first year, 2 5% during the second year, 2 5% during the third year and 2 75% during the fourth year, of the projected gross operating revenues of the Hotel, and adjusted annually to reflect changes in a Market RevPar index for the remaining term. The fee structure assumes that the QMA would include a performance test that would allow for the earliest termination date to be at a time to be determined

4 Subordinated Base Management Fee – The Operator will be paid a fixed subordinate management fee for the first three years, calculated based on 1 0% of the projected gross operating revenues of the Hotel, and 1 25% annually thereafter This fee would be subordinate to either the senior project revenue bonds and the City enhanced project revenue bonds or the Hotel Bonds as applicable

5 Centralized Services Costs – If required by Bond Counsel, the Operator agrees to be paid a fixed amount for centralized services allocation for the first four years, based on the Operator's current formulas and the projected gross operating revenues, and adjusted annually by CPI for the remaining term.

6 Technical Services Fee – The Operator is to be paid $315,000 for technical services related to Hotel development. The fee is intended to include all fees and costs associated with personnel, administrative, travel and miscellaneous expenses The fee is to be paid pro rata over the design and construction period based on percentage of completion of the Hotel

7 Pre Opening Marketing – The Operator is to outline its plan for directing the pre-opening marketing activities of the Hotel in an attachment to the QMA, subject to approval by the NPC Pre opening costs are estimated to be $1,500,000

8 Non Compete Area – For a period of time, not to exceed the time the Operator manages the Hotel, Operator agrees not to directly or indirectly operate, franchise, brand or manage another full service Hilton Hotel within a five (5) mile radius of the Hotel

9 Employees – All employees of the Hotel are to be employees of the Operator who shall be solely responsible for complying with all employment laws

10 City Policies – The Operator agrees that the QMA will include certain requirements by the City relating to policies including but not limited to Commercial Non-Discrimination Policy and Subcontracting Outreach Program, Equal Employment Opportunity, Drug Policy, etc

11 Procurement – The Operator is to use reasonable efforts to make all purchases for the best commercial terms available Any rebate received by the Operator related to a purchase for Hotel is applied to reduce the cost of Operator's purchasing operations and such reduction in cost (or, if any, the purchasing operation's profit) will be allocated to Hotel in the same manner as allocated to other Operator-managed hotels Payments received from vendors for services rendered by Operator to such vendors, including market research, collection of purchasing data and participation in co-marketing or advertising programs, are not considered rebates and will be retained by Operator

12 HQ Hotel Room Block Commitment – The Operator is to enter into an agreement with the Convention Center Authority that is to make available 250 of the Hotel's standard rooms and an applicable percentage of the Hotel's suites for a to be-determined number of event nights each month for city-wide events booking the MRCC for a mutually agreeable number of months in advance The number of rooms required to be made available can be reduced to 200 at a mutually agreeable point in time The City is to retain the right to impose a room block rate cap on each type of room tied to the average daily group rate for such type of room, if the City determines it is required to book the event. The Operator can reasonably request release of dates beyond a to-be-agreed-upon date for certain high impact in-house group events

13 MRCC Meeting Space Rental and Catering Policy - Subject to availability, Operator agrees to pay normal and customary rental rates for use of MRCC facilities and services and to use MRCC catering services for such functions

14 Flag Approval – Hilton Corporation will need to formally approve the use of its flag, which approval is expected.

XI ATTACHMENTS

1 Preliminary Development Management Scope of Services

SIGNATURES

CITY OF COLUMBIA

Print Name _____
Title _____

EDENS & AVANT REAL ESTATE SERVICES, LLC

John H Lumpkin, Jr President

GARFIELD TRAUB DEVELOPMENT, LLC
By Garfield Corporation, Member

Raymond Garfield, Jr , President

GARY REALTY, INC

Charles B Gary, President

THOMPSON, VENTULETT, STAINBACK & ASSOCIATES, INC
ARCHITECTS

Roger Neuenschwander, President

STEVENS & WILKINSON

Robert T Lyles, Chairman

ENVIRO AgSCIENCE

Louis B Lynn, President

TURNER CONSTRUCTION COMPANY

Paul D Little, Vice President

CONSTRUCTION DYNAMICS, INC

Nathaniel Spells, Sr President

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By Garfield Corporation, Member

Raymond Garfield, Jr , President

GARY REALTY, INC

Charles B Gary, President

Design Architect
THOMPSON, VENTULETT, STAINBACK & ASSOCIATES, INC , ARCHITECTS

Roger Neuenschwander, President

Prime Architect
STEVENS & WILKINSON OF South Carolina, Inc.

Robert T Lyles, Chairman

ENVIRO AgSCIENCE

Louis B Lynn, President

TURNER CONSTRUCTION COMPANY

Paul D Little, Vice President

CONSTRUCTION DYNAMICS, INC

Nathaniel Spells, Sr President

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By Garfield Corporation, Member

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GARY REALTY, INC

Charles B Gary, President

THOMPSON, VENTULETT, STAINBACK & ASSOCIATES, INC
ARCHITECTS DESIGN ARCHITECT

Roger Neuenschwander, President

STEVENS & WILKINSON
PRIME/ ARCHITECT of RECORD

Robert T Lyles, Chairman

ENVIRO AgSCIENCE

Louis B Lynn, President

TURNER CONSTRUCTION COMPANY

Paul D Little, Vice President

CONSTRUCTION DYNAMICS, INC

Nathaniel Spells, Sr President

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Paul D Little, Vice President

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Nathaniel Spells, Sr President

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DESA, INC

Diane E Sumpter, President & CEO

HILTON CORPORATION

Stephen H Crabill, Vice President,
Southeast Region

SALOMON SMITH BARNEY, INC

William M Corrado, Director

DESA, INC

Diane B Sumpter, President & CEO

HILTON CORPORATION

Stephen H Crabill, Vice President,
Southeast Region

CITIGROUP GLOBAL MARKETS
INC

William M. Corrado, Director

DESA, INC

Diane B Sumpter, President & CEO

HILTON HOTELS CORPORATION

Greg S Dickhens, Vice President
South Central Region

SALOMON SMITH BARNEY, INC

William M Corrado Director

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APPENDIX_0144

ATTACHMENT 1

PRELIMINARY DEVELOPMENT MANAGEMENT SCOPE OF SERVICES

I. PRE-CONSTRUCTION SERVICES

1 Identify and quantify the Owner's goals for the Project so that these goals can be communicated clearly to the entire Project team

2 Identify for the Owner a list of required consultants and other professionals required to develop the Project that have not already been envisioned

3 Develop an initial Project development schedule describing the steps and duration of the major tasks required to develop the Project.

4 Identify other parameters, such as code, zoning, land use or other such restrictions, which have a potential impact of the design development or construction of the Project.

5 Work with architect and operator to refine the current Project program and master plan

6 Review and refine the preliminary Project budget outlining the expected costs to develop the Project.

7 Develop a bid packaging plan.

II DESIGN COMPLETION PHASE (AFTER FINANCING PLAN APPROVAL)

1 Manage the design and development team throughout the entire documentation process to ensure adherence to the approved program, budget and schedule

2. Develop the organizational structure of the development team, establish responsibilities and line of authority and establish communication procedures to be used throughout the development process

3 Provide periodic review of design documents for completeness, feasibility, constructability and appropriateness of building systems and materials

4 Provide periodic budget checks throughout the design process and propose and review value engineering alternates required to maintain Project budget

5 Implement any design changes required to maintain the Project budget.

6 Identify and coordinate required site studies, such as soil and environmental reports, necessary to design and obtain construction permits for the Project.

7 Assist the Owner, architect and/or general contractor in the review of the Project with code officials and submission of the Project to obtain required building permits

8 Work with the architect to prepare bid packages

9 Review contractor submittals and make recommendations

10 Assist the City with negotiating the contractor contracts

11 Develop and manage the entire accounting and funding process to include receipt and review of all Project related invoices and payment applications and assembly of such documents into a monthly draw package Submit this package to the City with recommendation for payment and manage and/or monitor payment by the City

12 Establish and monitor the FF&E procurement process for adherence to the approved Project budget and schedule

13 Maintain Project records and Project communication procedures throughout the development process

III CONSTRUCTION PHASE

1 Provide on site representation throughout the entire construction process as the City's representative

2 Monitor the development and maintenance of the construction schedule by the general contractor(s)

3 Conduct regular on-site meetings with the general contractor(s), architect, operator and other appropriate development team members to coordinate and maintain the construction process.

4 Review and coordinate all requests for information from the general contractor(s) for timely response by the architect. Review and monitor all supplemental instructions and directives for potential impact on the Project budget and schedule

5 Review all invoices and applications for payment from the general contractor(s) and design team and include all approved requests in the monthly draw package to be submitted to the City for payment

6 Provide a monthly report to the City that summarizes the status of the Project cost and schedule

7 Review change proposals submitted by the general contractor(s) for appropriateness and accuracy and recommend acceptance and/or payment of such changes to the City

8 Monitor the submission of shop drawings and product samples by the general contractor(s) and response and review by the architect for timeliness and appropriateness

9 Monitor the procurement, warehousing, delivery and installation of all FF&E with the purchasing agent and associated vendors and contractors to ensure timeliness

10 Develop with the design team and general contractor the construction punch lists for all areas of the Project Monitor implementation and completion of all punch list items

11 Assist the general contractor(s) with acquisition of all government approvals required to receive a certificate of occupancy

12 Maintain all Project records throughout the construction process

IV POST-CONSTRUCTION PHASE

1 Assist the general contractor(s) and operator in conducting all move-in operations, system start-ups and other transitional requirements

2 Manage the closeout of the construction contract, punch list completion and receipt and documentation of all final lien waivers

3 Close out the Project accounting and provide the final status of the Project budget.

4 Obtain and turnover to operations and/or the Owner all product and warranty information pertaining to the Project

Exhibit 5

with Strategic Advisory And I probably was the one that had more conversation with him about the document, you know, but received significant input and direction, in fact, from in this case Garfield-Traub and Turner Construction and others in terms of what they were prepared to do and how it ought to work

So I -- whether it came to me first or it went to Garfield-Traub, I don't remember, but I'm assuming -- again, this is -- you assume things, but got the original, sent it to all parties on our team and asked -- you know, asked for input, and we -- yes, we went through a -- it went through a process to get to this final document

Q Do you recall how long of a process that was? Was it a couple of weeks, couple of months or six months, or do you recall?

A I don't remember

Q Is it fair to say, though, that you were kind of the point man for the project in interfacing with the City?

A I think it's fair to say I was the point man, but, you know, again, I kind of looked at it as keeping the train on the track

Exhibit 6

Q That's what it says?
A Yes, sir
Q So everybody -- everybody just sort of begins with that conclusion?
A Well, you know, I -- yes I mean, that's what it says
Q And when we say public private partnership, we're talking about a publicly funded -- a publicly financed hotel?
A Well, not exactly because the way the structure works, there are bonds issued A portion of those bonds are not credit enhanced by the City They're -- they're purely -- those bonds are paid by the financial performance of the hotel So as to that portion -- and I believe it was the majority of the bonds If the hotel did not perform, then the bondholder's recourse was to come back and take the hotel back and had no recourse to the City
Q Do you believe that if that were to occur the City of Columbia would have left those nonrecourse bondholders standing and not paid that debt?
A I do not I think the City just as -- just as they would have in a private transaction

would not allow -- would allow a private developer to go -- you know, to go under It would necessarily need to step in and pick up the -- pick up the -- you know, the -- the hotel, and it could not afford to have this hotel go into a situation where it would be taken back by a lender, whether it's bondholders or -- or a private lender So I --

Q So when we talk about the City only having responsibility for a portion of the debt, in fact, as a practical matter the City was on the hook for all of it because they weren't going to let those bondholders --

A I mean, I -- well, again, I won't speak -- I'm speak -- my judgment would be that, yes, the City should be -- you know, would want to step up --

Q Right

A -- wasn't required to step up In fact, even on the credit enhanced piece it's subject to non-appropriation So the City could -- I mean, you know, other cities that I'm not going to speak -- could have decided, "We're not going to fund it a dime," and if it -- you know, just like a state lease It's a ten year lease subject to an

Exhibit 7

Exhibit "D"

CERTIFIED TO BE A TRUE AND CORRECT COPY AS TAKEN FROM AND COMPARED WITH THE ORIGINAL ON FILE IN THIS OFFICE

JUN 10 2003

SECRETARY OF STATE OF SOUTH CAROLINA

STATE OF SOUTH CAROLINA
SECRETARY OF STATE
NONPROFIT CORPORATION
ARTICLES OF INCORPORATION

FILED

JUN 10 2003

Mark Hammond
SECRETARY OF STATE

THIS SPACE IS FOR USE BY BLACK INK

Pursuant to Section 33-31 202 of the South Carolina Code of Laws as amended the Undersigned corporation submits the following information

1 The name of the nonprofit corporation is Columbia Convention Center Hotel Corporation

2 The initial *registered office* of the nonprofit corporation is 1737 Main Street
Street Address

Columbia City | Richland County | SC State | 29201 Zip Code

The name of the registered agent of the nonprofit corporation at that office is
Charles P. Austin
Print Name

I hereby consent to the appointment as registered agent of the corporation
Agent's Signature

3. Check a "b" or c" whichever is applicable Check only one box

a ☒ The nonprofit corporation is a public benefit corporation.

b ☐ The nonprofit corporation is a religious corporation

c. ☐ The nonprofit corporation is a mutual benefit corporation.

4 Check "a" or "b" whichever is applicable

a ☒ This corporation will have members

b ☐ This corporation will not have members

5 The address of the principal office of the nonprofit corporation is

1737 Main Street (Street Address) | Columbia (City) | Richland (County) | South Carolina (State) | 29201 (Zip Code)

6 If this nonprofit corporation is either a public benefit or religious corporation (when box "a or "b of paragraph 3 is checked), complete either a or "b" whichever is applicable to describe how the remaining assets of the corporation will be distributed upon dissolution of the corporation

a ☐ Upon dissolution of the corporation assets shall be distributed for one or more exempt purposes within the meaning of section 501(c)(3) of the Internal Revenue Code or the corresponding section of any future Federal tax code, or shall be distributed to the Federal government, or to a state or local government for a public purpose Any such asset not so disposed of shall be disposed of by the Court of Common Pleas of the county in which the principal office of the corporation is then located, exclusively for such purposes or to such organization or organizations, as said court shall determine which are organized and operated exclusively for such purposes

COLUMBIA 751577v1

Columbia Convention Center Hotel Corporation
Name of Corporation

b ☒ Upon dissolution of the corporation, consistent with the law, the remaining assets of the corporation shall be distributed to

City of Columbia, South Carolina

7 If the corporation is a mutual benefit corporation (when box c of paragraph 3 is checked) complete either "a" or b whichever is applicable to describe how the (remaining) assets of the corporation will be distributed upon dissolution of the corporation.

a ☐ Upon dissolution of the mutual benefit corporation the (remaining) assets shall be distributed to its members, or if it has no members to those persons to whom the corporation holds itself out as benefiting or serving

b. ☐ Upon dissolution of the mutual benefit corporation the (remaining) assets, consistent with the law shall be distributed to

8 The optional provisions which the nonprofit corporation elects to include in the articles of incorporation are as follows (See 33-31 202(c) of the 1976 South Carolina Code of Laws as amended the applicable comments thereto and the instructions to this form)

See Attachment A

9 The name and address of each incorporator is as follows (only one is required)

Charles P. Austin, 1737 Main Street, Columbia, South Carolina 29201
Name Address Zip Code

Name Address Zip Code

Name Address Zip Code

10 Each original director of the nonprofit corporation must sign the articles but only if the directors are named in these articles

Name (Only if named in articles) Signature of director

Name (Only if named in articles) Signature of director

Name (Only if named in articles) Signature of director

11 Each incorporator must sign the articles

Signature of incorporator

Signature of incorporator

Signature of incorporator

COLUMBIA 751577v1

0150

1-1626

APPENDIX_0155

Columbia Convention Center Hotel Corporation
Name of Corporation

I INSTRUCTIONS

1 Two copies of this form, the original and either a duplicate original or a conformed copy must be filed.

2 If space in this *form* is insufficient please attach additional sheets containing a reference to the appropriate paragraph in this form or prepare this using a computer disk which will allow for expansion of space on the form.

3 This form must be accompanied by the *filing* fee of $25 00 payable to the Secretary of State

Return to Secretary of State
P O Box 11350
Columbia SC 29211

4 If this organization is a Homeowners Association or a Political *Association* it must also be accompanied by the First Annual Report of Corporations and an additional $25 00 fee is required

NOTE

THE FILING OF THIS DOCUMENT DOES NOT IN AND OF ITSELF PROVIDE AN EXCLUSIVE RIGHT TO USE THIS CORPORATE NAME ON OR IN CONNECTION WITH ANY PRODUCT OR SERVICE USE OF A NAME AS A TRADEMARK OR SERVICE MARK WILL REQUIRE FURTHER CLEARANCE AND REGISTRATION AND BE AFFECTED BY PRIOR USE OF THE MARK. FOR *MORE* INFORMATION, CONTACT THE TRADEMARKS DIVISION OF THE SECRETARY OF STATE S OFFICE AT (803) 734-1728

THE BYLAWS OF COLUMBIA CONVENTION CENTER HOTEL CORPORATION

ARTICLE I

NAME SEAL AND OFFICES

1 1 Name The name of this Corporation is Columbia Convention Center Hote Corporation (the "Corporation")

1 2 Seal. If the Corporation has a seal, the Corporation s corporate seal shall be in such form and bear such inscription as determined by the Board of Directors The Board of Directors may change the form of the seal or the inscription therein at pleasure

1 3 Offices. The office of the Corporation shall be City Hall 1737 Main Street, Columbia, South Carolina 29201 The Corporation may also have offices at such other places as the purposes of the Corporation may require.

ARTICLE II

OBJECTIVE, PURPOSE, ACTIVITIES AND DISPOSITION OF ASSETS ON DISSOLUTION

2.1 Object. Its object is to be organized and operated exclusively as a South Carolina public benefit nonprofit corporation existing solely for the benefit of the City of Columbia (the "City"), a municipal corporation of the State of South Carolina.

2 2 General Purpose. The Corporation has not been formed for pecuniary profit or financial gain, and no part of the assets, income or profits of the Corporation is or shall be distributable to or inure to the benefit of, its directors or officers except to the extent permitted under the laws of South Carolina relating to nonprofit corporations and the Internal Revenue Code of 1986, as amended (or the corresponding provision of any subsequent United States internal revenue law) (the "IRC") No substantial part of the activities of the Corporation shall be the carrying on of propaganda, or otherwise attempting to influence legislation, and the Corporation shall not participate in, or intervene in (including the publishing or distribution of statements) any political campaign on behalf of any candidate for public office Notwithstanding any other provisions of these Bylaws or Corporation's Articles of Incorporation, the Corporation shall not carry on any other activities not permitted to be carried on (a) by a corporation exempt from federal income tax under IRC Section 501(c)(3) or (b) by a corporation, contributions to which are deductible under IRC Section 170(c)(2)

2 3 Specific Purposes The Corporation is an instrumentality of the City organized and operated to assist the city in the following governmental functions and accomplish the following governmental purposes

(a) To engage in all aspects and/or activities related directly or indirectly to the design construction, equipping, management, operation and any other functions pertaining to the establishment of a hotel and related amenities (the 'Hotel') to provide for lodging for attendees of events to be held at the Midlands Regional Convention Center (the "Convention Center") and for other visitors.

(b) To finance the design, construction, equipping and commencement of operations, and establish necessary reserves, with the net proceeds of bonds issued by South Carolina Jobs Economic Development Authority ("JEDA")

(c) To enter into such related and ancillary agreements with third parties for the development and management of the Hotel, so long as all such agreements comply with the requirements of Rev Proc 97-13 (or such successor administrative pronouncement) and no net income of the Corporation is distributed to any party other than the City

Furthermore, the Corporation is prohibited from engaging in any business activity other than to own and/or lease property to be used for essential governmental functions in connection with the financing of such facilities for or on behalf of the City

2.4 **Distribution on Dissolution.** In the event of dissolution of the Corporation, all of the remaining assets and property of the Corporation shall, after necessary expenses thereof be distributed to the city

ARTICLE III

DIRECTORS

3.1 Authority The Board of Directors shall have ultimate authority over the conduct and management of the business and affairs of the Corporation, except as may be expressly limited by the South Carolina Nonprofit Corporation Act of 1994 as amended (the "Act") or these Bylaws.

3.2 **Number, Appointment and Qualifications.** The Board of Directors of the corporation shall initially consist of five (5) Directors, all of whom shall be current members of Columbia City Council (the "Council Directors") All of the Directors shall be appointed by the City, the sole Member of the Corporation. The City may increase or decrease the number of Directors between three (3) and seven (7) at its at its discretion

3.3 **Classification and Tenure.** Each Director shall hold office from the date of such Director's appointment and qualification until such Director's successor shall have been duly appointed and qualified, or until such Director's earlier removal, resignation, death or incapacity The term of each initial Director shall be staggered so that approximately one-third (⅓) of the Initial Directors serve terms of one (1) year one-third (⅓) of the Initial Directors serve terms of two (2) years and one-third (⅓) of the Initial Directors serve terms of three (3) years Thereafter, all Directors shall serve terms of three years each.

3.4 **Resignation of Directors.** A Director may resign at any time by delivering written notice to the Board of Directors the President or the Secretary A resignation is effective when the notice is effective unless the notice specifies a later date.

3 5 **Removal/Vacancies** The City shall have the right to remove any or all of its respective appointees as Directors at any time with or without cause and appoint a replacement Director for the remainder of each removed Director s then current term An Council Director who ceases to be a member of City Council shall be deemed automatically removed from the Board of Directors

36 **Attendance.** All Directors shall be required to attend in person at least seventy-five per cent (75%) of the regular meetings of the Board of Directors held during each fiscal year of the Corporation Failure of any Director to satisfy this attendance requirement shall result in removal of the subject Director upon adoption of an appropriate resolution by the Board of Directors If so removed by the Board of Directors, the subject Director shall not be reappointed to serve on the Board of Directors for a period of at least three (3) years

37 **Regular Meetings** Regular meeting of the Board of Directors shall be at least one time per year for the purpose of transacting all business that may properly come before the Board of Directors at such date, time and place to be specified by the Board of Directors The meeting shall be held at the principal office of the Corporation or such other location within or without the State of South Carolina as specified by the Board of Directors. The Board of Directors may by resolution provide for the holding of additional meetings without notice other than such resolution, provided, however, the resolution shall fix the dates, times and places (which may be anywhere within or without South Carolina) for these regular meetings Except as otherwise provided by law, any business may be transacted at any regular meeting of the Board of Directors

38 **Special Meetings Notice of Special Meeting.** Special meetings of the Board of Directors may be called for any lawful purpose or purposes by the President, or at least twenty five percent (25%) of the Directors then in office. The person or persons calling a special meeting shall give or cause to be given, to each Director at his business address, notice of the date, time and place of the meeting by any means of communication acceptable under the Act not less than two (2) days prior thereto An oral notice is permissible if reasonable under the circumstances and is effective when communicated in a comprehensible manner Written notice is effective when received

Written notice shall be deemed received when delivered to the Director's business address shown in the Corporation's current records If notice is given by facsimile transmission, the notice shall be deemed delivered when the facsimile of the notice is transmitted to a facsimile with acknowledgment of receipt. All notices of a special meeting shall describe the purpose of such special meeting and the only business to be considered at the special meeting shall relate to the purpose so described Any time or place fixed for a special meeting must permit participation in the meeting by means of telecommunications as authorized below

3.9 **Waiver of Notice of Meetings.** Notice of a meeting need not be given to any Director who signs a waiver of notice either before or after the meeting To be effective the

waiver shall contain recitals sufficient to identify beyond a reasonable doubt the meeting to which it applies The recitals may; but need not necessarily include reference to the date and purpose of the meeting and the business transacted thereat. Recital of the proper date of a meeting shall be conclusive identification of the meeting to which a waiver of notice applies unless the waiver contains additional recitals creating a patent ambiguity as to its proper application The attendance of a Director at a Board of Director's meeting shall constitute waiver of notice of that meeting except where the Director, upon arriving at the meeting or prior to the vote on a matter not noticed in conformity with the Act, these Bylaws, or the Articles, objects to lack of notice and does not thereafter vote or assent to the objected action

3.10 **Participation by Telecommunications.** Any Director may participate in, and, for purposes of Section 3.6 above, be regarded as present at, any meeting of the Board of Directors by means of conference telephone or any other means of communication by which all persons participating in the meeting can hear each other at the same time

3.11 **Quorum.** A majority of the Directors in office immediately before the meeting shall constitute a quorum for the transaction of business at any meeting of the Board of Directors If a quorum shall not be present at any meeting of the Board of Directors the Directors, present at the meeting may adjourn the meeting from time to time, without notice other than announcement at the meeting, until a quorum is present.

3.12 **Action.** The Board of Directors shall take action pursuant to resolutions adopted by the affirmative vote of a majority of the Directors participating in a meeting at which a quorum is present, or the affirmative vote of a greater number of Directors where required by the Articles, these Bylaws, the Act or otherwise by law

3.13 **Action Without Meeting** To the fullest extent permitted by the Act and the Freedom of Information Act ("FOIA"), the Board of Directors may take action without a meeting by written consent as to such matters and in accordance with such requirements and procedures authorized by the Act and FOIA. Unless otherwise permitted by the Act and FOIA, such written consent must be signed by all Directors and included in the minutes filed with the corporate records reflecting the action taken

3.14 **Presumption of Assent.** A Director of the Corporation who is present at a meeting of the Board of Directors at which action on any corporate matter is taken shall be presumed to have assented to the action taken unless (i) such Director objects at the beginning of the meeting, or promptly upon arrival, to holding the meeting or transacting business at the meeting, (ii) the Director votes against the action and the vote is entered in the minutes of the meeting, (iii) the Director's dissent or abstention for the action taken is entered in the minutes of the meeting, or (iv) the Director delivers written notice of dissent or abstention to the presiding officer of the meeting before its adjournment or to the Corporation immediately after the adjournment of the meeting The right to dissent shall not apply to a Director who voted in favor of such action

3.15 **Committees** The Board of Directors may from time to time by resolution, designate one or more Committees, who shall render advice to the Board of Directors and oversee specified activities designated by the Board of Directors Any such Committee may be

designated as a standing Committee appointed annually or as a special Committee for specific circumstances or transactions with a limited duration Each Committee shall be composed of at least two (2) Directors and such other persons as specified from time to time by the Board of Directors, who shall all serve at the pleasure of the Board of Directors The duties, constitution, and procedures of any Committee shall be prescribed by the Board of Directors but no Committee shall be granted authority to act upon any matter without approval from the Board of Directors. The Board of Directors shall designate one member of each Committee as its President. The Board of Directors shall appoint members to Committees as it deems advisable. The President of each Committee shall schedule all Committee meetings and provide appropriate notice to all Committee members and the Secretary For all Committee meetings, a quorum shall be required consisting of a majority of the members of the Committee. The President of the Committee shall have a vote on all matters coming before the Committee Minutes of Committee meetings shall be kept and open to inspection by the public. The results of each vote shall be recorded in the minutes Minutes of all Committee meetings shall be provided to the Secretary within thirty (30) days after any Committee meeting, but shall remain subject to modification by the Committee at its next meeting

3.14 **Committee Meetings.** A majority of each Committee's voting members shall constitute a quorum for the transaction of business by the Committee, and each Committee shall take action pursuant to resolutions adopted by a majority of the Committee's voting members participating in a meeting at which a quorum of the Committee is present. Each Committee may also take action without a meeting by written consent as to such matters and in accordance with such requirements and procedures authorized by the Act for Director action, Unless otherwise permitted by the Act for Director action such written consent must be signed by all of the Committee's voting members Special meetings of any Committee may be called at any time by any Director who is a member of the Committee or by any person entitled to call a special meeting of the full Board of Directors, *Except* as otherwise provided in this section, the conduct of all meetings of any Committee, including notice thereof, and the taking of any action by such Committee shall be governed by this Article Procedures shall be established for all Directors to receive schedules of all Committee meetings, agendas and copies of Committee meeting minutes to keep the Directors informed of matters under consideration by all Committees In addition, Directors who are not serving on specific Committees are encouraged to attend Committee meetings of interest and participate in such meetings as non voting members. In this manner, Directors can provide guidance and assistance to the Committees during the process of formulating recommendations to the Board of Directors and gain a better understanding of all of the factors considered by the Committee in making such recommendations.

3.17 **No Compensation** Directors shall not receive compensation for serving as a member of the Corporation's Board of Directors The Board of Directors may by resolution authorize the payment or reimbursement of direct out-of pocket expenses incurred of each Director related to the Director's service to the Corporation

3.18 **Order of Business** Unless otherwise determined by the President, the order of business at the annual meeting, to be set as the first regular meeting of the Board of Directors in a fiscal year and so far as practicable at all other meetings of the Board of Directors, shall be as follows,

1 Determination of a quorum,
2. Reading and disposal of all unapproved minutes,
3 Reports of Officers and Committees, if applicable,
4 Appointment of Officers and Committees if applicable,
5 Unfinished business, if applicable,
6 New business, and
7 Adjournment

Unless, and to the extent determined by *the Board* of Directors or the President of the meeting, meetings of *the* Board of Directors shall not be required to be held in accordance with rules of parliamentary procedure

3.19 **Agenda.** The President of the Corporation shall prepare an agenda for each meeting prior to or during a meeting. Each Director of the Corporation shall receive a copy of *the* agenda and it shall be available for public inspection which it is distributed to the Directors

Directors shall confine their discussions and comments to only those items that appear on the agenda provided Any matter which is not on the agenda may be discussed only upon *the* completion of the agenda. The Board of Directors *may* not take formal action on any non-agenda matter unless all Directors present vote to add *the* matter *to* the agenda.

The President may add an item *to* an agenda *at* any time provided, however, that if the Member objects to an item added after the agenda was distributed *to the* Directors no action may be taken at that meeting with respect to *that* item Any Director may *request* the President to place an item on a future agenda by making such a request *at* a Board of Director meeting

330 **Election of Officers.** Officers shall be elected annually at the Regular Meeting of the Board *of* Directors The *Board* of Directors shall elect a President, Vice President, Treasurer, and Secretary Officers will be elected by a majority vote of those Directors attending *the* meeting at which the nominations *are* made. If *the* retiring President is not available at *such* meeting, the Vice President for the Corporation may preside for the purpose of electing Officers only thereafter, the new President shall preside.

3 21 **Freedom of Information Act.** The Board of Directors and all Committees shall at all times comply with the South Carolina Freedom of Information Act, which includes satisfying the notice provision for all meetings The Board *of* Directors may hold closed sessions as provided by the Freedom *of* Information Act.

Full and accurate minutes of the Corporation's proceedings shall be kept and shall be open to inspection by the public *The* results of each vote shall be recorded in the minutes

332 **Board Contacts with Public.** Directors shall not represent any contacts they have with the media or other members of the public as being representative of the Corporation unless the Corporation has formally taken a position on the matter Individual Directors shall not release information to the media or the public when that information has been provided to them by *the* Corporation s attorney as part of a Confidential Attorney-Client memorandum or as part of a Corporation closed session held in compliance with applicable law,

ARTICLE IV

OFFICERS

4 1 **In General** The Officers of the Corporation shall consist of a President, a Vice President, a Treasurer and a Secretary and may also include assistant secretaries and other officers and agents as the Board of Directors deems advisable from time to time All Officers shall be appointed by the Board of Directors to serve at the pleasure of the Board of Directors. Except as may otherwise be provided by the Act or in the Corporation s Articles of Incorporation, any Officer may be removed by the Board of Directors at any time, with or without cause Any vacancy, however occurring, in any office may be filled by the Board of Directors for the unexpired term One person may hold two or more offices Each Officer shall exercise the authority and perform the duties as may be set forth in these By laws and any additional authority and duties as the Board of Directors shall determine from t h e to time,

4.2 President, The President shall serve at the pleasure of the Board of Directors The President shall preside at all meetings of the Board of Directors and shall undertake *such* additional duties and obligations as may from time to *time* be specified by the Board The President shall serve as the chief executive officer of the Corporation and, subject to the authority of the Board of Directors, shall oversee *the* business and affairs of the Corporation and *shall* see that the resolutions of the Board of Directors and authorized Committees thereof are put into effect. Except as otherwise provided herein and as may be specifically limited by resolution of the Board of Directors or an authorized Committee thereof, the President shall have full authority to execute on the Corporation s behalf any and all contracts, agreements notes, bonds certificates, instruments and other documents. The President shall also perform *such* other duties and may exercise such other powers as are incident to the office of chief executive officer and as are from time to time assigned *to* him by the Act, these Bylaws or the Board of Directors.

4 3 Vice President. The Board of Directors may appoint one or more Vice Presidents to serve in such capacities as specified by the Board of Directors from time to time (but such authority shall not exceed that of the President), with a Vice President designated by the Board of Directors *to* preside over meetings of the Board of Directors in the absence of the President, Except as otherwise determined by the Board of Directors, each Vice President shall serve under *the* direction of the President and shall perform such duties and may *exercise* such powers as are incident to the officer of a senior vice president of a corporation

4.4 Treasurer. The Treasurer shall serve under the direction of *the* President and shall be responsible for all financial matters presented to the Corporation, including the establishment and maintenance of *the* Corporation's bank accounts and all financial accounting related to the oversight of the Corporation's books and records

4.5 Secretary. Except as otherwise provided by these Bylaws or determined by the Board of Directors, the Secretary shall serve under the direction of the President The Secretary shall whenever possible attend all meetings of the Board of Directors, and whenever the Secretary cannot attend such meetings, such duty shall be delegated by the presiding officer for such meeting to a duly authorized assistant secretary The Secretary shall record or cause to

be recorded under the Secretary's general supervision the proceedings of all such meetings and any other actions taken by the Board of Directors (or by any Committee of the Board of Directors) in a book or books (or similar collection) to be kept for such purpose. The Secretary shall upon proper request give, or cause to be given, all notices in connection with such meetings The Secretary shall be the custodian of the Corporate seal and affix the seal to any document requiring it and to attest thereto by signature The Secretary may delegate the Secretary's authority to affix the Corporation's seal and attest thereto by signature to any Assistant Secretary The Board of Directors may give general authority to any other officer or specified agent to affix the Corporation s seal and to attest thereto by signature Unless otherwise required by law, the affixing of the Corporation's seal shall not be required to bind the Corporation under any documents duly executed by the Corporation and the use of the seal shall be precatory in the discretion of the Corporation s duly authorized signing officers The Secretary shall properly keep and file, or cause to be properly kept and filed under the Secretary's supervision all books, reports statements, notices, waivers, proxies, tabulations minutes, certificates, documents, records, lists, and instruments required by the Act or these Bylaws to be kept or filed, as the case may be The Secretary may when requested, and shall when required authenticate any records of the Corporation Except to the extent otherwise required by the Act, the Secretary may maintain or cause to be maintained, such items within or without the State of South Carolina at any reasonable place The Secretary shall perform such other duties and may exercise such other powers as are incident to the office of Secretary and as are from time to time assigned to such office by the Act, these Bylaws, the Board of Directors or the President In the absence of the Secretary, an Assistant Secretary may perform any act or exercise any power of the Secretary including, but not limited to certifying any document pursuant to the authorization of the Board of Directors

4.6 Salaries. The salaries and other compensation of the Officers shall be fixed from time to time by the Board of Directors, provided, however, that no compensation shall be paid to members of the Board of Directors who also serve as Officers except for reimbursement of direct out-of-pocket expenses reasonably incurred in the discharge of their respective duties on behalf of the Corporation

ARTICLE V

INDEMNIFICATION

5.1 Scope. The Corporation shall indemnify defend and hold harmless the Corporation's Officers and Directors to the fullest extent permitted by, and in accordance with the Act. This plan of indemnification shall constitute a binding agreement of the Corporation for the benefit of the Officers and Directors as consideration for their services to the Corporation and may be modified or terminated by the Board of Directors only prospectively Such right of indemnification shall not be exclusive of any other right which such Directors, Officers or representatives may have or hereafter acquire and, without limiting the generality of such statement, they shall be entitled to their respective rights of indemnification under any bylaw, agreement insurance, provision of law, or otherwise as well as their rights under this Article V

5.2 **Indemnification Plan** The Board of Directors may from time to time adopt and Indemnification Plan implementing the rights granted in Section 5.1 This Indemnification Plan shall set forth in detail the mechanics of how the indemnification rights granted in Section 5.1 shall be exercised, provided that the Indemnification Plan shall include that the Directors shall not be indemnified until twenty (20) days after effective written notice is given to the South Carolina Attorney General as set forth in Section 33-31 855(d) of the Act.

5.3 **Insurance** The Board of Directors may cause the Corporation to purchase and maintain insurance on behalf of any person who is or was a Director or Officer of the Corporation, or is or was saving at the request of the Corporation as a Director or Officer of another corporation, or as its representative in a partnership, joint venture trust or other enterprise, against any liability asserted against such person and incurred in any such capacity or arising *out* of such status whether or not the Corporation would have the power to indemnify such person.

ARTICLE VI

TRANSACTIONS

6.1 **Contracts** The Board of Directors may authorize any Officer or Officers, or agent or agents, to enter into any contract or execute and deliver any instrument in the name of and on behalf of the Corporation, and such authority may be general or confined to specific instances

6.2 **Loans.** The Board of Directors may authorize any Officer or Officers, or agent or agents to contract any indebtedness and grant evidence of indebtedness and collateral therefor in the name of and on behalf of the Corporation, and such authority may be general or confined to specific instances

6.3 **Checks Drafts, Etc.** All checks, drafts or orders for the payment of money, notes or other evidences of indebtedness issued in the name of the Corporation shall be signed by such Officer or Officers, agent or agents of the Corporation and in such manner as shall from time to time be determined by resolution of the Board of Directors In the absence of such determination by the Board of Directors, such instruments shall be signed by the President or the Vice President.

6.4 **Deposits.** All funds of the Corporation shall be deposited from time to time to the credit of the Corporation in such banks, trust companies or other depositories as the Board of Directors may select.

6.5 **Gifts.** The Board of Directors may accept on behalf of the Corporation any contribution, gift, bequest or devise for the general purposes or for any special purpose of the Corporation

6.6 **Voting of Shares in Other Corporations Owned by the Corporation** Subject always to the specific directions of the Board of Directors, any share or shares of stock or membership interest issued by any other corporation and owned or controlled by the Corporation may be voted at any shareholders' or members' meeting of the other corporation

by the President or by any other Officer specifically designated by the Board of Directors Whenever, in the judgment of the President, or in his absence, of any designated Officer it is desirable for the Corporation to execute a proxy or give a shareholders' or members' consent in respect to any share or shares of stock or membership interest issued by any other corporation and owned or controlled by the Corporation, the proxy or consent shall be executed in the name of the Corporation by the President without necessity of any authorization by the Board of Directors Any person or persons designated in the manner above stated as the proxy or proxies of the Corporation shall have full right, power and authority to vote such share or shares of stock or membership interest issued by the other corporation

ARTICLE VII

RECORDS/ANNUAL AUDIT

7.1 **Forms of Records.** When consistent with good business practices any records of the Corporation may be maintained in other than written form if such other form is capable of reasonable preservation and conversion into written form within a reasonable time,

7.2 **Corporate Records.** The Corporation shall keep as permanent written records a copy of the minutes of all meetings of its Board of Directors a record of all actions taken by the Directors without a meeting, and a record of all actions taken by Committees of the Board of Directors The Corporation shall maintain appropriate accounting records The Corporation or its agent shall maintain a record of the name and address, in alphabetical order, of each Director The Corporation shall keep a copy of the following records at its principal office

A its Articles of Incorporation or restated Articles of Incorporation and all amendments thereto currently in effect;

B its Bylaws or restated Bylaws and all amendments thereto currently in effect,

C a list of the names and business or home address of its current Directors and Officers, and

D the Corporation s most recent report of each type required to be filed by the Corporation with the South Carolina Secretary of State

7.3 **Annual Audit.** Within one hundred eight (180) days after the close of each fiscal year of the Corporation, the Board of Directors shall cause an audit to be completed regarding the financial condition of the Corporation and an appropriate report issued to the City Such audit services shall be undertaken in accordance with accounting practices generally applicable to audits of governmental units by the certified public accounting firm then providing audit services to the City for the applicable fiscal year or such other firm of certified public accountants as may be selected by the Board of Directors from time to time

ARTICLE VIII

MISCELLANEOUS

8 1 Fiscal Year The fiscal year of the Corporation shall end on June 30 of each calendar year

8.2 Amendments These Bylaws may be altered, amended, or repealed and new Bylaws may be adopted by a majority vote of the Board of Directors then in office provided that the notice of any meeting at which the Bylaws are to be amended shall state that the purpose or one of the purposes of the meeting is to consider an amendment to the Bylaws and shall be accompanied by a copy or summary of the proposed change or state the general nature of the change Irrespective of the foregoing, neither the provisions of Section 3.2 or this Section 8 3 shall be amended without the written consent of the City

8 3 Severability If any provision of these Bylaws or the application thereof to any person or circumstances shall be held invalid or unenforceable to any extent by a court of competent jurisdiction, such provision shall be complied with or enforced to the greatest extent permitted by law as determined by such court, and the remainder of these Bylaws and the application of such provision to other persons or circumstances shall to be affected thereby and shall continue to be complied with and enforced to the greatest extent permitted by law

8.4 Usage. In construing these Bylaws feminine or neuter terms and pronouns shall be substituted for masculine forms and vice versa, and plural terms shall be substituted for singular forms and vice versa, in any place in which the context so requires. The section and paragraph headings contained in these Bylaws are for reference purposes only and shall not affect in any way the meaning or interpretation of these Bylaws Terms such as 'hereof" "hereunder", "hereto", and words of similar import shall refer to these Bylaws in the entirety and all references to "Articles", 'Paragraphs "Sections", and similar cross references shall refer to specified portion of these Bylaws, unless the context clearly requires otherwise Terms used herein which are not otherwise defined shall have the meanings ascribed to them in the Act. All references to statutory provisions shall be deemed to include corresponding sections of succeeding law

8.5 Conflict Between Bylaws, Articles of Incorporation and the Act. The Corporation's Articles of Incorporation and the *Act* (as either may be amended from time to time) are incorporated herein by reference Any conflict between the terms of these Bylaws, the Corporation's Articles of Incorporation or the Act shall be resolved in the following order: (1) the Act (2) the Corporation's Articles of Incorporation, and (3) these Bylaws.

The foregoing are certified to be the hue and complete Bylaws of the Corporation as adopted by the Board of Directors at a duly called meeting held on June 11 2003

Secretary

Date of Certification _____

(Corporate Seal)

Exhibit 8

(a) To engage in all aspects and/or activities related directly or indirectly to the design, construction, equipping, management, operation and any other functions pertaining to the establishment of a hotel and related amenities (the "Hotel") to provide for lodging for attendees of events to be held at the Midlands Regional Convention Center (the "Convention Center") and for other visitors

(b) To finance the design, construction equipping and commencement of operations, and establish necessary reserves, with the net proceeds of bonds issued by South Carolina Jobs Economic Development Authority ("JEDA")

(c) To enter into such related and ancillary agreements with third parties for the development and management of the Hotel so long as all such agreements comply with the requirements of Rev Proc. 97 13 (or such successor administrative pronouncement) and no net income of the Corporation is distributed to any party other than the City

Furthermore, the Corporation is prohibited from engaging in any business activity other than to own and/or lease property to be used for essential governmental functions in connection with the financing of such facilities for or on behalf of the City

2.4 **Distribution on Dissolution.** In the event of dissolution of the Corporation, all of the remaining assets and property of the Corporation shall after necessary expenses thereof be distributed to the City

ARTICLE III

DIRECTORS

3.1 Authority The Board of Directors shall have ultimate authority over the conduct and management of the business and affairs of the Corporation, except as may be expressly limited by the South Carolina Nonprofit Corporation Act of 1994 as amended (the "Act") or these Bylaws.

3.2 **Number, Appointment and Qualifications.** The Board of Directors of the corporation shall initially consist of five (5) Directors, all of whom shall be current members of Columbia City Council (the "Council Directors") All of the Directors shall be appointed by the City, the sole Member of the Corporation The City may increase or decrease the number of Directors between three (3) and seven (7) at its at its discretion

3.3 **Classification and Tenure.** Each Director shall hold office from the date of such Director's appointment and qualification until such Director's successor shall have been duly appointed and qualified, or until such Director's earlier removal, resignation, death or incapacity The term of each initial Director shall be staggered so that approximately one-third (⅓) of the Initial Directors serve terms of one (1) year one third (%) of the Initial Directors serve terms of two (2) years and one-third (⅓) of the Initial Directors serve terms of three (3) years Thereafter all Directors shall serve terms of three years each

Exhibit 9

South Carolina Jobs-Economic Development Authority

JOE E TAYLOR JR
Chairman

ELLIOTT E FRANKS III
President & CEO

February 25 2004

Mr Steve Gantt
Assistant City Manager
City of Columbia
1737 Main Street
Columbia South Carolina 29201

Sent Via Facsimile (803-255-8912)

Re. Columbia Hotel and Convention Center Project

Dear Steve

We understand that the City Council approved certain aspects of the Hotel and Convention Center Project at its meeting on February 11 2004 Prior to the issuance of the bonds to finance the construction of the Project, however both JEDA (through the adoption of a bond resolution) and the Budget and Control Board (through the adoption of a resolution approving the bond issue) will need to approve the final terms of the requested bond financing for the Project

The JEDA Board s approval of its February 5 2004 Resolution was conditioned upon further financial review and receipt of complete financial information on the Project Accordingly prior to JEDA s approval of this bond financing and adoption of a bond resolution JEDA s Loan Committee first must meet to examine the financial aspects of the proposed bond financing The Loan Committee will determine whether this project will be considered by the full JEDA Board In order to facilitate your request that the Project go forward to the April meeting of the Budget and Control Board we have scheduled a Loan Committee meeting for March 25 2004

For purposes of its deliberations, the Loan Committee will need all of the relevant information at its disposal Therefore, we respectfully request that the City undertake the following steps in advance of the Loan Committee s March 25 meeting

1. On February 12 2004 JEDA requested a package of financial information from the underwriter of the proposed bonds for the Project Please ensure we receive the package no later than March 15 2004

2. As required under JEDA s regulations hold a public hearing and adopt a resolution in support of the Project Please accomplish both of these steps prior to the Loan Committee meeting

With the cooperation of the City and the City Council in the matters above, we will be able to avoid delays. I would appreciate your advising me of the date(s) of the meeting(s) for the public hearing and resolution

We look forward to continued cooperation with the City in connection with this Project

Sincerely,

Elliott E Franks III

RECEIVED
6 2004
LEGAL
DEPARTMENT

RECEIVED
FEB 26 2004
LEGAL
DEPARTMENT

Exhibit 10

FAX TRANSMITTAL COVER SHEET

TO Bill Corrado (212) 723 8581

FROM John Lumpkin

DATE February 26 2004

PAGES (including cover sheet) 5

Message

Bill

We met yesterday at the City (attending were the Mayor Steve Gantt Shawn Epps Bill Musser and Dan McLeod (Bond Counsel) and Joel Gottlieb) Discussion focused on the prospect of having either the Not For-Profit Corporation or the City itself issue Hotel Bonds in lieu of having to continue to proceed through JEDA (and subsequently the State Budget and Control Board) Subject to the numbers being reasonable the decision was made to pursue one of these other alternates As far as the Non-Profit is concerned Bond Counsel advised that bond monies which were not part of the construction and upfit of the Hotel (hard and soft) would need to be issued via a taxable bond They indicated that this would include approximately 3 2 million (which was the capitalized interest after construction is completed) as well as working capital (and possibly other costs) In this latter regard they asked that I provide to them a breakdown of the operating supplies and equipment piece I am faxing to you the cost breakdown which Hilton had provided earlier to us as to their estimates of the OS&E In addition I am also faxing another copy of the Design Development Combined GMP breakdown You will also note another category entitled Opening Costs I am not sure in which category these Opening Costs would fall

The other alternative is to have the City directly issue Certificates of Participation The Bond lawyers have concern that Hilton would have a problem with this approach because it impacts matters like indemnification etc I was frankly not sure what they meant I would like you/Van Duys to review these matters before we get back to the Bond Counsel

It is important moreover to the Mayor that we have this sorted out as best we can so that he can present a solution and recommendation to the Not For-Profit Board next Wednesday

In all of this the City is no less committed to proceed forward (assuming we can work out the details of having another issuer of the Bonds) The City in fact is willing to pull the trigger to fund demolition and earthwork prior to Bond Closing (which would save about 6 weeks in the schedule) once we solve the matter of the issuer

I look forward to hearing from you

p s Until we sort this out we are having no conversations with JEDA (or its representatives)

Exhibit 11

Ambac Assurance Corporation
One State Street Plaza
New York, NY 10004
212 668 0340
A member of the Ambac Financial Group, Inc.

February 17, 2004

received 2/19/2004
By FAX - From S GANTT.

Bill Musser Esq
McNair Law Firm, P A
1301 Gervais Street
Columbia SC 29201

RE $63,295 000 City of Columbia, South Carolina, Senior Bonds (Columbia Hilton)

Ambac

Dear Mr Musser

Enclosed please find the original and one certified copy of the Commitment for Financial Guaranty Insurance Commitment No 26216 (the "Commitment") relating to the above-captioned obligations (the "Obligations") The original of this Commitment should be delivered to, or held on behalf of the Obligor of the Obligations and if not exercised should be discarded.

Our Standard Package, which contains the bond legend to appear on the Obligations and Ambac Assurance Corporation s ("Ambac") disclosure language to be inserted in the Official Statement, is enclosed with your commitment.

A camera-ready specimen of Ambac s Financial Guaranty Insurance Policy (the "Policy"), with any applicable endorsement, and our logo are also attached, with our wire instructions

Upon the sale and final pricing of the Issue sold with Ambac, proceed as follows

1 Please fax your final debt service schedule and a distribution list to our closing department fax number 212-208-3136 Please note that even if a premium has been determined we still need a final debt service schedule

2 You will be assigned a closing coordinator and a policy number as soon as you have a firm closing date Please call Danielle Packer at 212 208 3331 with that information and she will assign your transaction to a closing coordinator

3 The Ambac disclosure language in your Preliminary Official Statement and Final official Statement must be approved by your closing coordinator

4 Please send or fax to your closing coordinator as soon as possible (1) the cover and maturity page, the table of contents, the Security section, the Rating section the Ambac language and the specimen Policy as they appear in your Final Official Statement to ensure their accuracy and (2) the Statement of Insurance as it appears on the form of the bond for our approval

THREE COPIES of the final OFFICIAL STATEMENT must be sent to your CLOSING COORDINATOR as soon as available for the timely preparation of Ambac's Policy and its prompt submission to the rating agencies.

Subject to change, with Ambac s approval

Ambac

5 An opinion of Ambac's counsel regarding (a) the validity and enforceability of the Policy and (b) the fairness and accuracy of the language included in the Official Statement describing Ambac and the Policy will be delivered at closing The delivery of such opinion is dependent upon the prior review of such official statement by our legal department. A Certificate of Bond Insurer will also be delivered The forms of these documents are included in the Standard Package

6 Please refer to this Commitment for conditions which must be satisfied prior to Ambac's release of its Policy **Drafts of all financing documents should be sent to Ambac's Credit Underwriter if you need approval. Final form of documents requested by your closing coordinator should be sent to his/her attention prior to the day of closing**

7 In addition, as noted in the Commitment, the rating agencies assess separate fees in connection with the issuance of the rating letters All questions regarding the payment of such fees must be addressed to the applicable agency,

8 On the morning of closing bond counsel should call the closing coordinator with a wire reference number for the Ambac premium Upon receipt of the wire number the closing coordinator will release the Ambac Policy

9 Lastly TWO final transcripts either on CD-ROM or printed material as applicable, must be sent to the attention of Ambac's CORPORATE RECORDS department as soon as possible after closing

If you have any questions please do not hesitate to contact your closing coordinator

Sincerely

James Plupps
Internal Support

Anne Rabin, Ambac's Credit Underwriter

Enclosures

cc. Steve Gantt
City of Columbia
1737 Main Street
Columbia, SC 29201

Brenton Robertson
Merchant Capital, L.L.C
One Buckhead Plaza, Suite 950
3060 Peachtree Road, NW
Atlanta, GA 30305

Steve Camp
Columbia Metropolitan Convention Center
900 Assembly St
Columbia, SC 29202

William M Corrado
Citigroup Global Markets
390 Greenwich Street, 2nd Floor
New York, NY 10013

Ambac Assurance Corporation
One State Street Plaza
New York, NY 10004
212.668 0340

A member of Ambac Financial Group, Inc

COMMITMENT FOR FINANCIAL GUARANTY INSURANCE

Obligor CITY OF COLUMBIA, SOUTH CAROLINA

Commitment Number 26216

Commitment Date, February 17 2004

Expiration Date May 17 2004

Obligations $63 295 000 Senior Bonds (Columbia Hilton) maturing on September 1 in the years 2008 through 2035 both inclusive

Insurance premium 2.90% of the total principal and interest due on the Obligations (Fitch, Inc. Moody's Investors Service and Standard & Poor's Credit Markets Services assess separate rating fees which are payable directly to them Each rating agency will bill separately and all questions regarding the payment of such fees must be addressed to the applicable agency)

Ambac Assurance Corporation ("Ambac"), a Wisconsin Stock Insurance Corporation,

hereby commits to issue a Financial Guaranty Insurance Policy (the Policy') relating to the above-described debt obligations (the Obligations) substantially in the form imprinted in this Commitment, subject to the terms and conditions contained herein or added hereto (see conditions set forth herein)

To keep this Commitment in effect *after* the expiration date set forth above, a request for renewal must be submitted to Ambac prior to such expiration date. Ambac reserves the right to refuse wholly or in part to grant a renewal

The Financial Guaranty Insurance Policy shall be issued if the following conditions are satisfied

1 The documents to be executed and delivered in connection with the issuance and sale of the Obligations shall. not contain any untrue or misleading statement of a material fact and shall not fail to state a material fact necessary in order to make the information contained therein not misleading

2 No event shall occur which would permit any purchaser of the Obligations otherwise required, not to be required to purchase the Obligations on the date scheduled for the issuance and delivery thereof

3 There shall be no material change in or affecting the Obligations (including without limitation the security for the Obligations or the proposed debt service structure for the Obligations) or the financing documents or the official statement (or any similar disclosure document) to be executed and delivered in connection with the issuance and sale of the Obligations from the descriptions or schedules thereof heretofore provided to Ambac

4 The Obligations shall contain no reference to Ambac the Policy or the financial guaranty insurance evidenced thereby except as may be approved by Ambac.

* Subject to change, with Ambac's approval.

5 Ambac shall be provided with

(a) Executed copies of all financing documents the official statement (or any similar disclosure document) and the various legal opinions delivered in connection with the issuance and sale of the Obligations including without limitation, the unqualified approving opinion of bond counsel rendered by a law firm acceptable to Ambac The form of Bond Counsel sapproving opinion shall also indicate, if applicable that the Obligations are exempt from federal income taxation, that the Obligor must comply with certain covenants under and pursuant to the new tax law and that the Obligor has the legal power to comply with such covenants Such opinion of bond counsel shall be addressed to Ambac or, in lieu thereof a letter shall be provided to Ambac to the effect that Ambac may rely on such opinion as if it were addressed to Ambac.

(b) Evidence of a wire transfer in an amount equal to the insurance premium at the time of the issuance and delivery of the Obligations

6 Unless expressly waived in whole or in part by Ambac, the financing documents and the Official Statement shall contain (a) the terms and provisions provided in Ambac s STANDARD PACKAGE transmitted herewith, and (b) any additional oral or written provisions or comments submitted by Ambac.

7 Ambac shall receive a copy of any insurance policy surety bond, guaranty or indemnification or any other policy, contract or agreement which provides for payment of all or any portion of the debt, the costs of reconsmction, the loss of business income or in any way secures ensures or enhances the income stream anticipated to pay the Obligations

8 Any provisions or requirements of the Purchase Contract or Bond Purchase Agreement referencing Ambac must be sent to the attention of Danielle Packer not less than five (5) business days prior to closing If such provisions or requirements are not received within that time, compliance may not be possible

Special conditions

9 Investment grade rating from S&P but we will require that monies be set so that Ambac can apply for a Moody s rating

10 All project documents must be satisfactory to Ambac and its outside counsel Ambac will require the City to pay for outside legal review of documents Estimated cost is $90 000-120 000 dollars

11 All insurance provisions must be satisfactory to Ambac Ambac will quire an insurance consultant to review insurance provisions. Estimated cost is $15 000-20 000 dollars

12 Satisfactory review of all environmental reports related to the project.

13 No additional debt allowed under the Indenture

14 Construction Monitor subject to Ambac consent based upon a mutually a p e d upon list of candidates

15 Ambac s consent to replace Operator

16 The City's obligation to appropriate monies for debt service is limited to 50% for the initial 10 year operating period and 70% per annum until the debt is fully repaid. The City's obligation to support the annual debt service will always relate to the original amount of Obligations issued, except for redemptions made with monies from outside the transaction.

17 There will be no conditions in the ground lease or Deed of Trust to selling the property or use of the facilities in foreclosure

18 Ambac can q u i r e a Hotel Consultant to be retained if debt service coverage on the Obligations is less *than* 1 2x, but 1 1x for the initial two years of hotel operations

19 Ambac's consent to Hotel Consultant based upon a mutually agreed upon list of candidates

20 The City will not be able to receive monies from the Project prior to 2008

21 The City will receive 50% of any excess cash flow provided coverage from Hotel net operating income is at least 1 2x

22 City agrees not to sponsor or support any additional hotel with other than traditional development tools in a defined competitive area without Ambac consent.

23 The Convention Center Authority will covenant not to enter into a room block agreement with any other hotel and not to designate any other hotel as affiliated with the convention center

Anne Labesq
Authorized Officer

2-2578

Exhibit 12

CITY OF COLUMBIA
CONVENTION CENTER HOTEL CORPORATION
BOARD OF DIRECTORS MEETING MINUTES
February 11 2004
2 00 PM – Council Chambers
3rd Floor City Hall 1737 Main Street

The City of Columbia Convention Center Hotel Corporation Board of Directors met on Wednesday February 11 2004 in the City Hall Council Chambers at 1737 Main Street Columbia South Carolina Mayor Robert D Coble called the meeting to order at 2 03 p m Council members present were The Honorable E W Cromartie II The Honorable Anne M Sinclair The Honorable Sam Davis and The Honorable Tameika Isaac Devine Also present were Mr Charles P Austin Sr City Manager and Ms Erika D Moore City Clerk The Honorable Jim D N Papadea and The Honorable Hamilton Osborne, Jr are not members of the Convention Center Hotel Corporation Board of Directors

DISCUSSION

1 Design / Pre construction Presentation – Development Team

Mr John Lumpkin Development Manager / Edens & Avant President and Chief Executive Officer provided the opening remarks relating to the planning development and operations of the Columbia Hilton Convention Center Hotel He said that the process for a Convention Center Hotel began in 2001 and now the design phase of a hotel that meets the Hilton standard is almost complete He stated that the initial average daily room rate will be approximately $115 00 per night and that the cost compares favorably to other hotels in this area that were built to the same specifications He announced that construction costs have decreased and that additional bonds will be issued for the purpose of providing more financial protection to the City of Columbia and its citizens Mr Lumpkin told the members of Council that there would be enough aggregate net revenues for the Convention Center Hotel to be successful He said that the Development team is taking a conservative approach He stated that an additional $2 5 million was set aside for debt service bringing the total amount to $8 3 million to cover operational shortfalls He also described how the Hilton would operate but not own the Convention Center hotel and that Taylor Construction has guaranteed a maximum price which protects the city on the price of the project and the time frame Mr Lumpkin said that the Hilton has approved the design development of this hotel and has provided a letter of support He told the members of Council that the completion date relies heavily on the bond sales

2 Financial Structure – Citigroup Global Markets Inc

Mr William Corrado Director of Citigroup Global Markets Inc said that the financial structure that s being presented does qualify the bonds that are being issued for bond insurance He said that the AAA Bonds could be financed at 5 1% in today s market versus 7% He presented the current financial structure for the Convention Center Hotel He said that he is responsible for taking the hard cost and determining how many bonds should be sold to cover construction cost, interest during construction fund the reserves to pay the bond insurer and other finances associated with the transactions Mr Corrado said the Hilton Corporation will contribute $1 5 million in key money and that $68 9 million of Senior Lien Hotel Revenue Bonds will be issued He announced that bond financing would close on April 1 2004 Mr Corrado stated that the project would have a total of $71 million in funding

Mr Joel Gottlieb, Gottlieb & Smith P.A told the members of Council that the most significant agreement is the Qualified Management Agreement also known as the Hotel Management Agreement between the Corporation and the Hilton that must reflect the business deal with Hilton and fall within the various tax safe harbors so the bond financing will flow He said that the Room Block Agreement between the Convention Center and the Convention Center Hotel is also significant. Mr Gottlieb stated that several agreements and various bond documents are still under negotiation

Mayor Coble stated that what we are building is economic infrastructure He said that we need this infrastructure to strengthen the economy and to create jobs He outlined the following four (4) issues that were associated with the decision making process to build a privately or publicly funded hotel 1) The Columbia Hilton is the product that we needed to be competitive with conventions and visitors 2) The Incentives for the City of Columbia 3) He decided against a John Q Hammond Hotel because of the future unknowns of the corporation and 4) the use of local contractors that are able to compete in the bid process Mayor Coble stated that the deal we have today is stronger and a full service hotel is essential

Upon motion by Mayor Coble seconded by Mr Cromartie the Board of Directors voted unanimously to go into Executive Session at 3 00 p m for the discussion of Item 3

EXECUTIVE SESSION

3 Discussion of negotiations incident to proposed contractual arrangements
Items were discussed in Executive Session no action was taken

- **Mayor Coble adjourned the Executive Session at 4 10 p m to reconvene the meeting**

Upon motion by Mayor Coble seconded by Mr Cromartie the Board of Directors voted four (4) to one (1) to approve the new financing plan for the hotel that requires the Convention Center Hotel Corporation to be legally responsible for 50% of the principal and interest payments on the hotel bonds for the first ten (10) years and from year eleven (11) until the final payment of the hotel bonds the Corporation s legal responsibility will be 70% of the principal and interest payments for the bond issue Staff was authorized to proceed with the Hilton Agreement and other contracts as outlined Voting aye were Mr Cromartie Mr Davis Ms Devine and Mayor Coble Voting nay was Ms Sinclair

Ms Sinclair stated that as this deal grows her concerns continue to increase She said that she s concerned because parking is not included in addition to other issues

Ms Isaac Devine stated that she concurs with Councilwoman Sinclair s comments She said that the City of Columbia hasn t gotten where it is today by not taking risks She stated that we must move forward to fulfill the commitments that have been made

- **Mayor Coble adjourned the meeting at 4 15 p m**

Respectfully submitted by

Erika D Moore
City Clerk

Exhibit 13

Confidential

Presentation to

Columbia
South Carolina

CURRENT HOTEL FINANCIAL ANALYSIS

February 11, 2004

citigroup

Confidential

SB City of Columbia 02919
CG_02919

0180

APPENDIX_0185

Sources and Uses of Funds

February 11, 2004
One Tier Financing Structure

Par Amount of Bonds	$69 870 000 00
Key Money	1 500 000 00
Total Sources of Funds	$71 370 000 00

Construction Fund	$ 48 922 461 62
Other Development Costs	0
Other City Uses	1 500 000 00
Capitalized Interest	8 084 995 64
Debt Service Reserve	5 741 563 46
Working Capital	500 000 00
Underwriter s Discount	960 712 50
Cost of Issuance	1 427 000 00
Municipal Bond Insurance	4 229 088 12
Contingency	4,378 46
Total Uses of Funds	$ 71 370 000 00

Variances in sources and uses of funds from prior analyses result primarily from (i) the reclassification of certain construction fund amounts to working capital (ii) additional capitalized interest to improve debt service coverage and the cash flow in operating years 1 and 2 and (iii) the use of cost effective bond insurance

citigroup

Confidential

APPENDIX_0186

Interest Rates and Financing Assumptions

Construction Costs	$49 329 000
Working Capital Costs	$500 000
Interest Rates	2 84% 4 78%
Bond Insurance Premium	2 90% of Total Debt Service
Arbitrage Yield	5 10%
Dated and Delivery Date	April 1 2004
Scheduled Hotel Operating Date	October 1 2005
Guaranteed Hotel Opening Date	January 1 2006
Guaranteed Construction Period	21 Months
Capitalized Interest Period	Construction period plus one year (50% of operating years 1 and 2)
Debt Service Reserve Fund	Lesser of Maximum Annual Debt Service 10% of Par 125% of Average Annual Debt Service
Costs of Issuance	$1 427 000
Underwriter s Discount	1 375%
Maturity	January 1 2036
Debt Service Structure	Ascending
Ratings	Aa1/AAA (Insured)
Reinvestment Rate DSRF	5 00%
Other	1 20%

citigroup

Confidential

SB City of Columbia 02921

CG_02921

0182

APPENDIX_0187

Projected Cash Flow Analysis 2006-2020

2006	$4 344 848	$1 593 806	2 73x	$? 751 047	$0	$0	$0	$5 741 363	$8 49 405	$796 903
2007	5 143 663	1 593 806	3 23x	3 549 857	0	0	477 562	5 741 363	11 768 782	796 903
008	5 412 858	3 187 613	1 70x	2 225 246	1 191 768	1 191 768	3 187 613	5 741 363	13 537 758	1 593 806
2009	5 525 203	3 982 613	1 39x	1 542 591	1 586 451	1 586 451	3 987 613	5 741 363	14 439 469	1 991 306
2010	5 687 453	4 030 035	1 41x	1 657 419	1 983 368	1 983 368	4 030 035	5 741 363	15 395 552	2 015 017
2011	5 674 008	4 078 393	1 39x	1 595 616	2 426 606	2 426 606	4 078 393	5 741 363	16 68 583	039 196
201	5 823 381	4 127 185	1 41x	1 696 196	2 8 7 888	2 827 888	4 127 185	5 741 363	17 0 519	2 063 59
013	5 987 066	4 181 281	1 43x	1 805 785	3 65 906	3 265 906	4 181 281	5 741 363	18 260 24	2 090 640
2014	6 167 793	4 230 3 2	1 46x	1 937 472	3 749 815	3 749 815	4 230 3 2	5 741 363	19 408 780	2 115 103
2015	6 145 163	4 279.362	1 44x	1 865 802	4 287 518	4 287 518	4 279 362	5 741 363	70 461 563	139 681
2016	6 320 906	4 333 209	1 46x	1 987 697	4 774 828	4 774 828	4 333 209	5 741 363	21 611 925	3 033 246
2017	6 501 921	4 381 369	1 48x	2 120 552	5 313 369	5 313 369	4 381 369	5 741 363	22 870 022	3 066 256
018	6 688 367	4 433 611	1 51x	2 254 756	5 903 300	5 903 300	4 433 611	5 741 363	4 216 449	3 103 5 7
2019	6 880 406	4 489 437	1 53x	390 969	6 545 335	6 545 335	4 489 437	5 741 363	25 712,440	3 1 12 606
020	7 078 206	4 543 355	1 56x	534 851	7 212 617	7 42 617	4 543 355	5 741 363	27 304 803	3 180 748

citigroup

Confidential

SB City of Columbia 02922

CG_02922

0183

APPENDIX_0188

Projected Cash Flow Analysis 2021-2035

2021	$7 281 940	$4 599 917	1 58\	$2,687 023	$7 936 441	$7 936 441	$4 599 917	$5 741 363	$20 016 186	$3 219 942
2022	7 491 786	4 653 638	1 61\	2 838 149	8 810 681	8 810 681	4 653 638	5 741 363	30 854 512	3 257 546
2023	7 707 928	4 709 278	1 64\	2 998 650	9 687 028	9 687 028	4 709 278	5 741 363	3 823 346	3 296 494
2024	7 930 553	4 766,399	1 66\	3 164 155	10 627 437	10 627 437	4 766 399	5 741 363	34 926 790	3 336 479
2025	8 159 858	4 825 087	1 69\	3 334 771	11 637 904	11 637 904	4 825 087	5 741 363	37 169 0 9	3 377 561
2026	8 396 042	4 879 771	1 7 \	3 516 771	12.711 294	12.711 294	4 879 771	5 741 363	39 559 09	3 415 839
2027	8 639 311	4 940 675	1 75\	3 698 636	13 859 443	13 859 443	4 940 675	5 741 363	42.09J 561	3 458 473
2028	8 889 878	4 997 053	1 78\	3 89 825	15 083 652	15 083 652	4 997 053	5 741 363	44 798 547	3 497 937
2029	9 147 962	5 058 628	1 81\	4 089 334	16 384 450	16 384 450	5 058 628	5 741 363	47 058 (	3 541 040
2030	9 413 789	5 119 646	1 84\	4 204 143	17 765 336	17 765 336	5 119 646	5 741 363	50 685 825	3 583 752
031	9 687 591	5 179 587	1 87\	4 508 004	19 230 167	19 230 167	5 179 587	5 741 363	53 889 289	3 625 711
2032	9 969 607	5,242,928	1 90\	4 726 679	20 780 660	20 780 660	5 242 928	5 741 363	57 27 290	3 670 050
033	10 260 083	5 304 319	1 93\	4 955 764	22 421 310	22 421 310	5 304 319	5 741 363	60 844 067	3 713 023
2034	10 559 273	5 368 282	1 97\	5 190]31	24 154 457	24 154 457	5 368 282	5 741 363	64 609 551	3 757 797
2035	16 608 803	9 954 100	1 C7\	C 654 703	24 154 457	24 154 457	9 091 001	5 741 363	69 795 989	2 948 916

Confidential

citigroup

APPENDIX_0189

Exhibit 14

City of Columbia South Carolina
Columbia Hilton
Additional $1 5MM City Use
AAA Insured (Taxable and Tax Exempt Issuance)
Sources and Uses of Funds (Combined)

SOURCES	Tax Exempt Bonds	Taxabl Bonds	Key M y	T tal
Par Amount	66 250 000 00	5 765 000 00		72,015 000 00
Key Money			1 500 000 00	1 500 000 00
Accrued Interest				
T tal S urces	66,250 000 00	5 765 000 00	1,500 000 00	73,515 000 00
USES				
Construction Fund Deposit	47 870 828 04	1,381,974 22	1 000 000 00	50,252,802 26
Other Development Costs				
Other City Uses	1 500 000 00			1 500 000 00
Capitalized Interest Fund Deposit	4,839,284 58	3 641 741 85		8 481 026 44
Debt Service Reserve Fund Deposit	5 596 051 79	306 727 70		5 902,779 48
Working Capital Fund			500 000 00	500 000 00
Underwriter's Discount	910,937 50	79 268 75		990,206 25
Costs of Issuance	1 480 655 07	128 844 93		1 609,500 00
Municipal Bond Insurance	4 050 981 89	22_ 040.18		4 273 022.07
Accrued Interest				
Other				
Contingency (Rounding)	1 261 13	4 402.37		5 663 50
Total Uses	66,250 000 00	5 765 000 00	1,500 000 00	73 515 000 00
ASSUMPTIONS / SUMMARY STATISTICS				
Arbitrag Y eld	5 14./	5 13./.		5 14./
True Interest Cost	5 24Y	5 36./.		5 25Y
All In Cost f Borrowing	5 42Y	5 73./.		5 43./
Intial Coverag	2.61x	3.25x		2.61
A erage Co erage	1 67x	4 82		L67
Dated Date	4/1/2004	4/1/2004		4/1/2004
Delivery Dat	4/1/2004	4/1/2004		4/1/2004
BOND ISSUANCF EXPENSES				
Und-rwriter's D count	$13 75	$13 75		$13 75
Costs of Issuance	$22.35	$22.35		$22 35
Municipal Bond I urance	2 850%	2 850./.		2.850%
INVESTMENT RATES				
Debt Service Reserv Fund D posit	5 000Y	5 000Y		5 000Y
Construction Fund Deposit	1 200Y	1 200%		1 200Y
Cap tal zed Interest Fund Deposit	1 200Y	1 200Y		1 200Y
OTHER.				
Capitalized Interest	Yes	Yes		Yes
Interest Cap talized Through	1/1/2008	1/1/2008		1/1/2008
Debt Service Reserve Fund	Yes	Yes		Yes
D bt Service Reserve Fund Requirement	Lesser of Three	Lesser of Three		Lesser of Three
End f Construction	12/1/2005	12/1/2005		12/1/2005
CONSTRUCTION FUND SUMMARY				
Total C nstructi n Fund Draw	48,269,000.00	1 400 000.00	1 000,000 00	50,669 000.00
Target C nstruction F ds				50,669 000.00
D f nce				

Notes.

Interest / Investment Rates as f 2 5-04
Assumes triple-A insured credit rating

City of Columbia South Carolina
Columbia Hilton
Operating Statistics and Projected Revenues Expenditures Net Income and Coverage Ratios
Fiscal Years Ending December 31 as shown

	2006	2007	2008	2009	2010	2011	2012	2013	2014	2015
Available Room (Daily)	300	300	300	300	300	300	300	300	300	300
Available Room (Annually)	109 500	109 500	109 500	109 800	109 500	109 500	109 500	109 800	109 500	109,500
Occupied Rooms (Annually)	67 890	75 580	77 750	77 750	77 750	77 750	77 750	77 750	77 750	77 750
Occupancy Percentage	62 00	69 00%	71 00%	71 00%	71 00	71 00	71 00%	71 00%	71 00%	71 40%
Average Room Rate	$117 75	$122.25	$126 50	$130.25	$134.25	$138 25	$142 25	$146.50	$151 00	$155 50
Revenue Per Occupied Room (RevPAR)	$73 01	$84.35	$89 82	$92.48	$95 32	$98 18	$101 00	$104 02	$107.21	$110 41
REVENUE										
Room	$7 994	$9,237	$9 835	$10 127	$10 438	$10 749	$11 060	$11 380	$11 740	$12 080
Food & Beverage	4 627	4 765	4 908	5 056	5 207	5 36	5 524	5 690	5 861	6 037
Telecommunications	147	168	178	184	189	195	201	207	213	220
Garage	576	660	700	721	742	765	788	811	835	861
Other Operated Department	257	295	312	322	331	341	352	362	373	384
Rentals and Other Income	73	84	89	92	95	98	100	103	107	110
Total Revenues	$13 674	$15 209	$16 022	$16 502	$17 002	$17 512	$18 025	$18,563	$19 130	$19 792
DEPARTMENTAL EXPENSES										
Rooms	$1 970	$2,136	$2 231	$2 298	$2 367	$2 438	$2 511	$2 587	$2 664	$2 744
Food & Beverage	3 239	3 336	3 438	3 539	3 645	3 754	3 867	3,983	4 103	4,226
Telecommunications	88	101	107	110	114	117	121	124	128	132
Garage	419	480	509	524	540	556	573	590	607	626
Other Operated Departments	180	206	219	225	232	239	246	253	261	269
Total Departmental Expenses	$6,896	$6 259	$6,502	$6,696	$6 898	$7 104	$7 318	$7 537	$7 763	$7 997
Departmental Profit	$7 778	$8 950	$9 520	$9 806	$10 104	$ 0 408	$10 707	$11 026	$11,367	$11 795
UNDISTRIBUTED EXPENSES										
Admin & G	$1 006	$1 036	$ 068	$1 100	$1 133	$1 167	$1,202	$1 238	$1 275	$1 313
Marketing	1 087	1 120	1 154	1 188	1 224	1 261	1 298	1 337	1 378	1 419
Property Operation & Maintenance	576	593	611	630	648	668	688	709	730	752
Utility Costs	503	518	534	550	566	583	601	619	637	656
Total Undistributed Operating Expenses	$3 172	$3 267	$3 367	$3 468	$3,571	$3,679	$3 789	$3 903	$4 020	$4 140
GROSS OPERATING PROFIT	$4 606	$5 683	$6 153	$6 338	$6 533	$6 729	$6 918	$7 123	$7,347	$7 565
FIXED CHARGES										
Insurance	138	142	146	151	155	160	165	170	175	180
Total Fixed Charges	$138	$142	$146	$151	$155	$160	$165	$170	$175	$180
EBITDA BEFORE MGT FEES	$4,468	$5 541	$6 007	$6 187	$6 378	$6,569	$8 753	$6,953	$7 172	$7 385
MANAGEMENT FEES										
Base Management Fee	$273	$380	$401	$454	$468	$482	$496	$510	$526	$542
Incentive Management Fees (see below)	0	0	0	0	0	0	0	0	0	0
Total Management Fees	$273	$380	$401	$454	$468	$482	$496	$510	$526	$542
EBITDA	$4 195	$5 161	$5 606	$5 733	$5 910	$6,087	$6 257	$6 443	$6 646	$6,843
Primary FF&E Reserve	$137	$304	$481	$495	$510	$700	$721	$743	$765	$985
NET OPERATING INCOME (1)	$4 058	$4 857	$5,126	$5,238	$5 400	$5,387	$5 536	$5 700	$5 881	$5 858
Add: Incentive Management Fee (see below)	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0
ADJUSTED NET OPERATING INCOME	$4 058	$4 857	$5 126	$5 238	$5 400	$5,387	$5 536	$5 700	$5 881	$5 858
INVESTMENT EARNINGS AND OTHER REV (2)										
Debt Service Reserve Fund Taxable	$15	$15	$15	$15	$15	$15	$15	$322	$0	$0
Debt Service Reserve Fund Tax Exempt	280	280	280	280	280	280	280	280	280	280
Total Investment Earnings and Other R	$295	$295	$295	$295	$295	$295	$295	$602	$280	$280
REVENUES AVAILABLE FOR DEBT SERVICE	$4,353	$5 152	$5 421	$5 533	$5 696	$5,682	$5 831	$6 302	$6,161	$6 138
TAXABLE LIEN DEBT SERVICE:										
Gross Debt Service	$258	$258	$258	$1 343	$1 355	$1,376	$1 391	$1 100	$0	$0
Less. Capitalized Interest	129	129	0	0	0	0	0	0	0	0
Net Taxable Lien Debt Serv	$129	$129	$258	$1 343	$1 355	$1 376	$1 391	$1 100	$0	$0
TAX-EXEMPT LIEN DEBT SERVICE.										
Gross Debt Service	$3 082	$3 082	$3 082	$3 082	$3 082	$3 082	$3 082	$3 082	$4 307	$4 355
Less. Capitalized Interest	1,541	1 541	0	0	0	0	0	0	0	0
Net Tax-Exempt Lien Debt Serv	$1 541	$1 541	$3 082	$3 082	$3 082	$3 082	$3 082	$3 082	$4 307	$4 355
TOTAL NET DEBT SERVICE	$1 670	$1 670	$3 340	$4 425	$4 437	$4 457	$4 472	$4 182	$4 307	$4 355
NET CASH FLOW AFTER DEBT SERVICE	$2,683	$3,482	$2,081	$1 108	$1,259	$1 225	$1 359	$2,120	$1 854	$1 783
OTHER DEDUCTIONS.										
Subordinated Management Fee	$137	$152	$160	$206	$213	$219	$225	$232	$239	$246
Subordinated FF&E Reserve Fund	137	304	481	495	510	525	541	557	574	591
Total Other Deductions	$273	$456	$641	$701	$723	$744	$766	$789	$813	$837
NET CASH FLOW	$2,409	$3 026	$1 440	$407	$536	$480	$593	$1 331	$1 041	$946
APPLICATION OF NET CASH FLOWS										
Supplemental Reserve Fund	$2 409	$930	$1 085	$12	$21	$15	-$291	$125	$48	$53
Rd mpti n Fund 50%	0	1 048	178	198	258	233	442	603	496	446
City Surplus Fund 50%	0	1,048	178	198	258	233	442	603	498	446
Remaining Net Cash Flows	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0
FUND BALANCES										
Supplemental Reserve Fund Requirement	$3 340	$3 340	$4 425	$4 437	$4 457	$4 472	$4 182	$4 307	$4 355	$4,408
Accum. Bal Supplemental Reserve Fund	$2 409	$3 340	$4 425	$4 437	$4 457	$4 472	$4 182	$4 307	$4 355	$4 408
Accum. Bal Redemption Fund	$0	$1 048	$1,225	$1 423	$1 681	$1 913	$2 355	$2 958	$3 455	$3 901
Accum. Bal Surplus Fund	$0	$1 048	$1 225	$1 423	$1 681	$1 913	$2 355	$2,958	$3 455	$3 901
AVAILABLE CITY STANDBY SUPPORT PAYMENT	$835	$835	$1 670	$2 212	$2 218	$2 229	$2 236	$2,091	$2 153	$2,177
DEBT SERVICE COVERAGE RATIOS										
Debt Service Coverage Ratio (3)	5 21	6 17	3 25	2.50	2.57	2.55	2.61	3.01	2.86	2.82
Total Debt Service Coverage Ratio (4)	2.61	3 08	1 62	1 25	1 28	1 27	1 30	1.51	1 43	1 41

NOTES
(1) As provided by PKF through 2015 3% annual increase thereafter
(2) Assume Interest Earnings 5.00% for the Debt Service Reserve Funds.
(3) Adjusted Net Operating Income Plus DSRF earnings divided by Net Debt Service Available City Standby Support Payment
(4) Adjusted Net Operating Income plus DSRF earning divided by Net Debt Service

Citigroup Global Markets Inc. 3/15/2006 (Preliminary subject to Change)

City of Columbia South Carolin
C lumbia Hilt
Operati g Sta dar d F rec tad Reve p dict re N t I come nd Coverag Ratio
for the Y rs Endi g Decemb 31 as hown

	2016	2017	2018	2019	2020	2021	2022	2023	2024	2025
A ai ble Rooms (D ly)	300	300	300	300	300	300	300	300	300	300
Available Rooms (An lly)	109 500	109 800	109 500	109,500	109 500	109 800	109 500	109 500	109 500	109 800
Occupied R oms (An ally)	78 183	78 397	78 183	78 183	78,183	78 397	78 183	78 183	78 183	78,397
Occupancy P rc tage	71 40%	71 40 %	71 40%	71 40%	71 40%	71 40%	71 40%	71 40%	71 40%	71 40%
Averag R m Rat	$160 17	$164 97	$168 92	$175 02	$180.27	$185 68	$191 25	$196 98	$202.89	$208 98
R enu P Occupied Room (Re PAR)	$114 38	$117 79	$121 32	$124 96	$128 71	$132.57	$136 55	$140 65	$144 87	$149.21
REVENUE										
Rooms	$ 2 453	$12 826	$13 211	$13 607	$14,018	$14 436	$14 869	$15 3 5	$15 775	$16 248
Food & Beverage	6 218	6 405	6 597	6 795	6 999	7 208	7 425	7 647	7 877	8 113
Telecommunicatio	227	233	240	248	255	263	271	279	287	296
Garage	887	913	941	9o9	998	1 028	1 059	1 091	1 123	1 157
Other Operated Departme t	39o	407	420	432	445	459	472	486	501	516
Rentals a d Oth r Incom	113	117	120	124	128	131	135	139	144	148
Total Revenue	$20 293	$20 902	$21,529	$22,175	$22,840	$23 525	$24,231	$24,958	$25 707	$26,478
DEPARTMENTAL EXPENSES										
Rooms	$2 825	$2 911	$2 998	$3,088	$3 181	$3 276	$3 375	$3 476	$3 580	$3 688
Food & Beverag	4 353	4 483	4 618	4 756	4,899	5 046	5 197	5 353	5 514	5 679
Tel communicatio	136	140	144	148	153	158	162	167	172	177
Garage	645	664	684	705	726	747	770	793	817	841
Other Op rated Dep rtme ts	277	285	294	303	312	321	331	341	351	362
T tal Departm tal Expen es	$8,237	$8 484	$8 738	$9 001	$9 271	$9 549	$9 835	$10 130	$10,434	$10 747
Departme tal Profit	$12 056	$12 418	$12,780	$13 174	$13,569	$13 976	$14 396	$14 828	$15,272	$15 731
UNDISTRIBUTED EXPENSES.										
Admin & G n	$1 352	$1 393	$1 435	$1 478	$1 522	$1 568	$1 615	$1 663	$1 713	$1 765
Marketi g	1 482	1 505	1 551	1 597	1 645	1,694	1 745	1 798	1 851	1 907
Property Operation & M int ance	775	798	822	846	872	898	925	953	981	1,011
Utility Costs	676	696	717	738	760	783	807	831	856	882
T tal Undistributed Operating Expe se	$4 284	$4 392	$4 524	$4 660	$4 789	$4,943	$5 092	$5,244	$5,402	$5 564
GROSS OPERATING PROFIT	$7 792	$8 026	$8 286	$8 514	$8 770	$9 033	$9 304	$9 583	$9 871	$10 167
FIXED CHARGES										
Insura ce	185	191	197	203	209	215	221	228	235	242
Total Fix d Charges	$185	$191	$197	$203	$209	$215	$221	$228	$235	$242
EBITDA BEFORE MGT FEES	$7 607	$7 836	$8 070	$8 312	$8 561	$8 818	$9 083	$9,355	$9 636	$9 925
Base M nag ment Fees	$558	$575	$592	$610	$628	$647	$666	$686	$707	$728
Incentive Man gement Fees (se below)	0	0	0	0	0	0	0	0	0	0
Total M nag ment Fee	$558	$575	$592	$610	$628	$647	$666	$686	$707	$728
EBITDA	$7 048	$7 260	$7 478	$7 702	$7 933	$8 171	$8,416	$8 669	$8,929	$9 197
Primary FF&E R serv	$1 015	$1 045	$1 076	$1,109	$1 142	$1 176	$1,212	$1,248	$1,285	$1 324
NET OPERATING INCOME (1)	$6 034	$6 215	$6,401	$6,593	$6 791	$6 995	$7 205	$7 421	$7 643	$7 873
Add l centiv M n g m t Fee (se b l w)	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0
ADJUSTED NET OPERATING INCOME	$6 034	$6 215	$6 401	$6,593	6 791	$6 995	$7 205	$7,421	$7 643	$7 873
INVESTMENT EARNINGS AND OTHER REV (2)										
Debt S rvic Reserve F d Taxable	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0
D bt S rvice Re rve F nd Tax-Ex mpt	280	280	280	280	280	280	280	280	280	280
Total Investment Earnings d Other Re	$280	$280	$280	$280	$280	$280	$280	$280	$280	$280
REVENUES AVAILABLE FOR DEBT SERVIC	$6 314	$6 496	$6 681	$6 873	$7,071	$7 275	$7 485	$7 701	$7,923	$8 153
TAXABLE LIEN DEBT SERVICE:										
Gros Debt Service	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0
L ss Cap talized Int re t	0	0	0	0	0	0	0	0	0	0
Net Tax ble Lien Debt Servi	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0
TAX-EXEMPT LIEN DEBT SERVICE										
Gro s Debt Service	$4 408	$4 465	$4 516	$4 570	$4 627	$4 682	$4 739	$4 793	$4 853	$4 909
L ss C pitalized Int rest	0	0	0	0	0	0	0	0	0	0
Net Tax-Exempt Lie Debt Service	$4 408	$4 465	$4 516	$4 570	$4 627	$4 682	$4,739	$4 793	$4 853	$4,909
TOTAL NET DEBT SERVICE	$4,408	$4,465	$4 516	$4 570	$4 627	$4,682	$4 739	$4 793	$4 853	$4 909
NET CASH FLOW AFTER DEBT SERVICE	$1 906	$2,030	$2,166	$2,303	$2 444	$2,593	$2 746	$2,908	$3 071	$3,244
OTHER DEDUCTIONS										
Subordinated M ageme t F	$254	$261	$269	$277	$286	$294	$303	$312	$321	$331
Subordinate FF&E Reserve F nd	609	627	646	665	685	706	727	749	771	794
Total Other Dedu b n	$862	$888	$915	$942	$971	$1 000	$1 030	$1 061	$1,093	$1 125
NET CASH FLOW	$1 044	$1 142	$1,251	$1 361	$1 473	$1 593	$1 716	$1 847	$1 978	$2 118
APPLICATION OF NET CASH FLOWS										
S ppl mental Reserv Fund	$57	$51	$54	$57	$55	$57	$54	$60	$58	$62
R demptio F nd 50%	493	545	598	652	709	768	831	894	961	1 028
City Surplus Fund 50 4	493	545	598	652	709	768	831	894	961	1,028
Rema g Net Ca h Flows	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0
FUND BALANCES										
Supplme tal Re rve Fund Requirement	$4 465	$4 516	$4 570	$4 627	$4 682	$4 739	$4 793	$4 853	$4 909	$4 971
Accum B l Supplemental Reserve F nd	$4 465	$4 516	$4 570	$4 627	$4 682	$4 739	$4 793	$4 853	$4 909	$4 971
Accum. Bal. Bond Redempt F d	$4 394	$4 940	$5,538	$6 190	$6 899	$7,667	$8 498	$9 392	$10 352	$11,380
Accum. Bal. Surplus Fund	$4 394	$4 940	$5 538	$6 190	$6 899	$7 667	$8 498	$9 392	$10 352	$11 380
AVAILABLE CITY STANDBY SUP PAYMENT	$3 085	$3 125	$3 161	$3 199	$3 239	$3 277	$3 317	$3,355	$3 397	$3 436
DEBT SERVICE COVERAGE RATIOS										
Debt S rvice C verag Ratio (3)	4 77	4.85	4 93	5 01	5 09	5.18	5.26	5 36	5 44	5.54
Total Debt S rvice C erage Ratio (4)	1 43	1 45	1 48	1 50	1.53	1.55	1.58	1 61	1.63	1 66

NOTES
(1) As provid d by PKF through 2015 3% ann Increase thereaft r
(2) Assumes Interest Earn ngs of 5 00% f r the Debt Service Reserve Fu ds
(3) Adj sted Net Op rating I come Plus DSRF m ng divided by N t Debt Service Requ Avail ble City Standby Supp rt P ym nt
(4) Adj sted Net Operating I come plus DSRF am gs d vided by N t D bt Service

City of Columbia South Carolina
Col mbia H tto
Operating Stab bcs d F rcasted Reve es E p d re Net I om d Coverag Ratios
(th Years Ending Decemb 31 hown

	2026	2027	2028	2029	2030	2031	2032	2033	2034	203
Ava ilable Rooms (D ily)	300	300	300	300	300	300	300	300	300	300
Avail ble Rooms (An ually)	109 500	109 500	109 500	109 800	109 500	109 500	109 500	109 800	109 500	109 500
Occupied R ms (Annu lly)	78 183	78 183	78 183	78 397	78 183	78 183	78,183	78,397	78 183	78 183
Occupancy Perce tag	71 40%	71 40%	71 40%	71 40%	71 40%	71 40%	71 40%	71 40.4	71 40%	71 40%
Averag Ro m Rat	$215 25	$221 71	$228 36	$235.21	$242.26	$249 53	$257 02	$264 73	$272 67	$280 85
R enue P Occupi d Ro m (RevPAR)	$153 69	$158 30	$163 05	$167 94	$172.98	$178 17	$183 51	$189 02	$194 69	$200.53
REVENUE										
Rooms	$16 735	$17,237	$17 755	$18 287	$18 836	$19 401	$19 983	$20 582	$21,200	$21 836
F d & Be rage	8 357	8 607	8 865	9 132	9 405	9 688	9 978	10 278	10 586	10 903
T lecommu ications	305	314	323	333	343	353	364	375	386	397
Garage	1 152	1 228	1,264	1 302	1,341	1 382	1 423	1 466	1 510	1,555
Other Op rated Department	532	547	564	581	598	616	635	654	673	694
Rental nd Other Incom	152	157	162	166	171	177	182	187	193	199
Total Rve	$27 272	$28,090	$28 933	$29 801	$30 695	$31 616	$32,564	$33 541	$34,548	$35,584
DEPARTMENTAL EXPENSES										
R om	$3 798	$3 912	$4 030	$4 151	$4,275	$4 403	$4 535	$4 671	$4 812	$4 956
F d & Bev rage	5 850	6 025	6 206	6 392	6 584	6 781	6 985	7 194	7 410	7 633
Telecommu icati s	183	188	194	200	206	212	218	225	231	238
Garag	867	893	919	947	975	1 005	1 035	1 066	1 098	1 131
Othe Op rated Department	372	384	395	407	419	432	445	458	472	486
T tal Departme tal Expe e	$11 070	$11 402	$11,744	$12,096	$12,459	$12,833	$13 218	$13 614	$14 023	$14 443
Departmental Profit	$16 202	$16 688	$17 189	$17 705	$18,236	$18 783	$19 347	$19 927	$20 525	$21 141
UNDISTRIBUTED EXPENSES										
Admin & G n	$1 817	$1 872	$1 928	$1 986	$2,046	$2 107	$2,170	$2 235	$2 302	$2 371
Mark ti g	1 964	2 023	2 084	2 146	2,211	2,277	2 345	2 416	2,488	2 563
Property Operation & M tena	1 041	1 072	1 104	1 137	1 172	1,207	1 243	1 280	1 319	1 358
Utility Costs	908	935	963	992	1 022	1 053	1 084	1 117	1,150	1 185
T tal Undistributed Operating Expense	$5 731	$5 903	$6 080	$6,262	$6 450	$6,643	$6 843	$7 048	$7 260	$7 477
GROSS OPERATING PROFIT	$10 472	$10 786	$11 109	$11 443	$11 786	$12,140	$12,504	$12 879	$13 265	$13 663
FIXED CHARGES										
Insura ce	249	257	264	272	280	289	298	306	316	325
Total Fi ed Charges	$249	$257	$264	$272	$280	$289	$298	$306	$316	$325
EBITDA BEFORE MGT FEES	$10 223	$10 529	$10 845	$11 170	$11 506	$11 851	$12,206	$12,572	$12,950	$13,338
Base Manageme t Fee	$750	$772	$798	$820	$844	$869	$896	$922	$950	$979
Incentive M nagement Fees (ee below)	0	0	0	0	0	0	0	0	0	0
Total Manageme t Fees	$750	$772	$796	$820	$844	$869	$896	$922	$950	$979
EBITDA	$9 473	$9 757	$10 049	$10,351	$10,661	$10 981	$11 311	$11 650	$12,000	$12,360
Primary FF&E R serv	$1,364	$1 405	$1 447	$1 490	$1 535	$1 581	$1,628	$1 677	$1 727	$1,779
NET OPERATING INCOME (1)	$8 109	$8,352	$8 603	$8 861	$9 127	$9 401	$9 683	$9 973	$10 272	$10 580
Add. I ce tive M nagement F (b low)	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0
ADJUSTED NET OPERATING INCOME	$8 109	$8 352	$8 603	$8 861	$9,127	$9 401	$9 683	$9 973	$10 272	$10 580
INVESTMENT EARNINGS AND OTHER REV (2)										
Debt S rvice Res rve F d Taxable	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0
Debt Service R serve F nd Tax-Exempt	280	280	280	280	280	280	280	280	280	5,876
Total I vestment Earn gs nd Othe Re	$280	$280	$280	$280	$280	$280	$280	$280	$280	$5,876
REVENUES AVAILABLE FOR DEBT SERVIC	$8 389	$8 632	$8 883	$9 141	$9 407	$9 680	$9 962	$10 253	$10 552	$16 456
TAXABLE LIEN DEBT SERVICE										
Gros Debt Service	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0
Less. Capitalized Int re t	0	0	0	0	0	0	0	0	0	0
Net Taxable Lien Debt Service	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0
TAX-EXEMPT LIEN DEBT SERVICE.										
Gross Debt S rvice	$4 971	$5 029	$5 088	$5 151	$5 214	$5 275	$5 335	$5 402	$5 467	$9 938
Le s Capital ed Interest	0	0	0	0	0	0	0	0	0	0
Net T -Exempt Lien Debt Service	$4 971	$5,029	$5,088	$5 151	$5 214	$5 275	$5 335	$5,402	$5 467	$9 938
TOTAL NET DEBT SERVICE	$4 971	$5 029	$5 088	$5 151	$5 214	$5,275	$5 335	$5 402	$5,467	$9 938
NET CASH FLOW AFTER DEBT SERVICE	$3 418	$3 603	$3,795	$3 989	$4 193	$4 405	$4,627	$4 850	$5 085	$6,518
OTHER DEDUCTIONS										
Subordin ted Man geme t F	$341	$351	$362	$373	$384	$395	$407	$419	$432	$445
Sub rdinate FF&E R serve F nd	818	843	868	894	921	948	977	1,006	1 036	1,068
T tal Othe Ded ti s	$1 159	$1 194	$1,230	$1,267	$1 305	$1,344	$1 384	$1 425	$1 468	$1 512
NET CASH FLOW	$2,258	$2 409	$2,565	$2,723	$2 888	$3 061	$3,243	$3 425	$3 617	$5 008
APPLICATION OF NET CASH FLOWS										
Supplemental Res rve Fund	$58	$59	$63	$63	$61	$60	$58	$65	$3 617	$0
R d mpti F nd 50%	1 100	1 175	1,251	1 330	1 413	1,501	1 588	1 680	0	2 503
City Suppl s Fund 50%	1,100	1,175	1,251	1,330	1,413	1,501	1,588	1,680	0	2 503
Remaining N t Cash Fl ws	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0
FUND BALANCES										
Suppl mental Reserv Fund Req rem. I	$5 029	$5 088	$5 151	$5 214	$5,275	$5 335	$5 402	$5 467	$9 938	$0
Accum. Bal. Suppl mental Res rv F nd	$5 029	$5 088	$5,151	$5,214	$5 275	$5 335	$5,402	$5 467	$9 084	$9 084
Accum. Bal Bond Redemptio Fund	$12 481	$13 656	$14 907	$16,237	$17 650	$19 151	$20,739	$22 419	$22,419	$24 922
Accum. Bal Surplus Fund	$12 481	$13 656	$14 907	$16 237	$17 650	$19 151	$20,739	$22 419	$22,419	$24 922
AVAILABLE CITY STANDBY SUP PAYMENT	$3 480	$3 521	$3,561	$3 606	$3 650	$3 693	$3,734	$3 782	$3 827	$6,857
DEBT SERVICE COVERAGE RATIOS.										
Debt Servi e Coverage Rati (3)	5.62	5 72	5 82	5.91	6 01	6 12	6.22	6 33	6 43	5.52
Total Debt Service Co erag Rati (4)	1.69	1 72	1 75	1.77	1 80	1.84	1.87	1.90	1 93	1.66

NOTES.
(1) A provided by PKF through 2035 3% annual ncre e thereafte
(2) Assumes Interest Earning 15.00% for th D bt Service R erve F nd
(3) Adju ted Net Op rating Incom Pl DSRF arning divided by Net D bt Service Min Avail bl C ty Standby Support Payment
(4) Adjusted N t Operati g Income plu DSRF arning divided by Net D bt Servi ce

Citigroup Global Markets Inc., 3/15/2004 @ 6:56 PM Subject Charged

City of Columbia South Carolina
Columbia Hilton

Construction Draw Schedule

	OMP	Operations Supplies and Equipment	IT & Telephone	Development Co	Legal & Accounting	Construction Mgt	Tenant Services Fee	Pre Opening	W C	Operating Reserve	Closing	Monthly Drawdowns	Funding Source: Bond Money	Funding Source: Taxable	Funding Source: Tax Exempt
6/1/2004	4 023 000			503 307	75 000	15 000	100 000					4 851 307	0	0	4 851 307
5/1/2004	2,476 000			65 488			11 945					2,553 433	0	0	2,553 433
6/1/2004	1 583 000			65 488			11 945					1 660,433	0		1 660 33
7/1/2004	2,285 000			63 488			11 945					2,362 433	0	0	2,362 433
8/1/2004	2,574 000			65 488			11 945					2 651 433	0	0	2,651 433
9/1/2004	2 577 000			65,488			11 945					2,654 433	0	0	3 654 4
10/1/2004	2,399 000			63,488			11 945					2 476 433	0	0	2 476 33
11/1/2004	1 973 000			65 488			11 945					2 050 433	0	0	2 050 433
12/1/2004	2,028,000			65,488			11 945					2 105 433	0	0	2 105 433
1/1/2005	4 403,000			63 488			11 944				11 ,00	4,600 32	0		,600 32
2/1/2005	2,349 000			63 488			11 944	240,000			75 000	2 701 32	200 00	00,000	2 50
3/1/2005	1 971 000	350 000	100,000	65 488			11 944	200,000			75 000	2 773 432	200 000	200,000	2 573 32
4/1/2005	1 858 000	150,000	100 000	65 488			11 944	200,000			75 000	2 426 432	200 000	200 000	2 2 32
5/1/2005	1 641 000	100,000	100 000	5,			11 944	2 0,000			75 000	2,193 432	200 000	200 000	1 993 32
6/1/2005	1 350,000	200,000	100,000	65 88			3 4	2 ,000			75,0	2 002 432	200 000	200 000	1 802 432
7/1/2005	1 740 000	200 000	100 000	65 488			11 944	200,000			75 000	2 392,432	200 0 0	200 000	2 192 432
8/1/2005	1,300 000	400 000	100 000	65 488			1 9	,000			75,000	2 ,4	200 0	200 000	1 952 432
9/1/2005	1 000 000	750,000	100 000	1			3	0 000	100 000		75,000	2,202 432	200 000	0	2 002 432
10/1/2005	250,000	750,000	43 000	273,397			11 944	200 000	100 000		75 000	1 733 341	200 000	0	1 633 341
11/1/2005	225,000								100,000	250,000		575,000	350 000	50 000	0 225 000
12/1/2005									5 000			5 000	50 0 0	50 00	0 0
T l	40 017 000	2,886,000	743 000	1 890 000	75 000	150 000	315 000	1 800,000	350,000	250 000	793 000	9 69 000	2 00 000	1 000 000	1 00 00 00
B d Draws		0 10/1/2005						1 800 000 ALL	350 000 ALL	250 000 ALL		2 400 000			

0190

JL001517

APPENDIX_0195

City of Columb a South Carolina
Columbia Hilton
Tax Exempt Bonds

Construction Fund

D t	Begnnng Balance	Depo t	Interest 1 2000909'	Transf t Ceplat	Dra d wns	E ding B lance
4/1/2004		47 870 828 04				47 870 828 04
4/1/2004	47 870,828 04				4 851 307 00	43 019 521 04
5/1/2004	43 019 521 04		42 912.36		,553 433 00	40 509 000 41
6/1/2004	40 509 000.41		40,408 10		1 660 433 00	38 888 975 50
7/1/2004	38,888,975 50		38 792 11		2,362,433 00	36 565 334 61
8/1/2004	36 565,334 61		36 474 26		2,651 433 00	33 950 375 87
9/1/2004	33 950 375 87		33 865 81		2,654,433 00	31 329 808 68
10/1/2004	31 329 808 68		31,251 77		2 476,433 00	28 884 627 45
11/1/2004	28,884 627 45		28 812.68		2 050 433 00	26 863 007 13
12/1/2004	26 863,007 13		26 796 09		2 105 433 00	24 784 370 22
1/1/2005	24 784,370 22		24 722.64		4 600 432 00	20 208 660 86
2/1/2005	20,208 660 86		20 158 32		2,701 432.00	17 527,387 18
3/1/2005	17,5?? 387 18		17 483 73		773 432.00	14 771 438 91
4/1/2005	14 771 438 91		14 734 65		2 426 432.00	12,359 741 55
5/1/2005	12,359 741 55		12,328 96		2,193 432.00	10 178 638.51
6/1/2005	10,178 638.51		10 153 28		2,002,432.00	8 186 359 79
7/1/2005	8 186,359 79		8 165 97		2,392,432.00	5 802,093 76
8/1/2005	5 802,093 76		5 787 64		2,152 432.00	3 655 449 40
9/1/2005	3 655 449 40		3,646 34		2,202,432.00	1 456,663 75
10/1/2005	1 456 663 75		1 453 04		1,233 341 00	224 775 78
11/1/2005	224 775 78		2_4 22		_25 000 00	(0.00)
12/1/2005	(0 00)		(0 00)			(0 00)
1/1/2006	(0 00)		(0 00)			(0.00)
2/1/2006	(0 00)		(0 00)			(0 00)
3/1/2006	(0 00)		(0 00)			(0 00)
4/1/2006	(0 00)		(0 00)			(0 00)
5/1/2006	(0 00)		(0 00)			(0 00)
6/1/2006	(0 00)		(0 00)			(0 00)
7/1/2006	(0 00)		(0 00)			(0 00)
8/1/2006	(0 00)		(0 00)			(0 00)
9/1/2006	(0 00)		(0 00)			(0 00)
10/1/2006	(0 00)		(0 00)			(0 00)
11/1/2006	(0 00)		(0.00)			(0 00)
12/1/2006	(0 00)		(0 00)			(0 00)
1/1/2007	(0.00)		(0 00)			(0 00)
2/1/2007	(0 00)		(0.00)			(0 00)
3/1/2007	(0 00)		(0.00)			(0 00)
4/1/2007	(0 00)		(0 00)			(0 00)
5/1/2007	(0.00)		(0.00)			(0 00)
6/1/2007	(0.00)		(0.00)			(0 00)
7/1/2007	(0.00)		(0.00)			(0 00)
8/1/2007	(0.00)		(0.00)			(0 00)
9/1/2007	(0 00)		(0.00)			(0 00)
10/1/2007	(0 00)		(0.00)			(0 00)
11/1/2007	(0 00)		(0 00)			(0 00)
12/1/2007	(0 00)		(0 00)			(0 00)
1/1/2008	(0.00)		(0.00)			(0 00)
2/1/2008	(0 00)		(0.00)			(0 00)
3/1/2008	(0.00)		(0 00)			(0 00)
4/1/2008	(0 00)		(0 00)			(0 00)
5/1/2008	(0 00)		(0 00)			(0 00)
6/1/2008	(0 00)		(0 00)			(0 00)
7/1/2008	(0 00)		(0 00)			(0 00)
8/1/2008	(0 00)		(0 00)			(0 00)
9/1/2008	(0 00)		(0 00)			(0.00)
10/1/2008	(0 00)		(0 00)			(0 00)
11/1/2008	(0 00)		(0 00)			(0 00)
12/1/2008	(0 00)		(0 00)			(0 00)
1/1/2009	(0 00)		(0 00)			(0 00)
2/1/2009	(0 00)		(0 00)			(0 00)
3/1/2009	(0.00)		(0 00)			(0 00)
4/1/2009	(0.00)		(0 00)			(0 00)
5/1/2009	(0 00)		(0 00)			(0 00)
6/1/2009	(0 00)		(0 00)			(0 00)
7/1/2009	(0 00)		(0 00)			(0 00)
8/1/2009	(0 00)		(0 00)			(0 00)
9/1/2009	(0 00)		(0 00)			(0.00)
10/1/2009	(0 00)		(0 00)			(0 00)
11/1/2009	(0 00)		(0 00)			(0 00)
12/1/2009	(0 00)		(0 00)			(0 00)
1/1/2010	(0 00)		(0 00)			(0 00)
2/1/2010	(0 00)		(0 00)			(0 00)
3/1/2010	(0 00)		(0.00)			(0 00)
T tal		47 870 828 04	398 171 96		48,269 000.00	

City of Columbia South Carolina
Columbia Hilton
Taxable Bonds

Construction Fund

Dat	Beginning Balan	Depo t	Interest 1 200000%	Transf to C pf it	Drawdowns	Ending Balance
4/1/2004		1 381 974 22				1 381 974 22
4/1/2004	1 381 974 22					1 381 974 22
5/1/2004	1,381 974 22		1 378 53			1,383 352.75
6/1/2004	1 383,352 75		1 379 91			1 384 732.66
7/1/2004	1,384,732 66		1 381 28			1 386 113 94
8/1/2004	1,386,113 94		1 382.66			1 387 496.60
9/1/2004	1 387 496 60		1 384 04			1 388 880 64
10/1/2004	1 388 880 64		1 385 42			1 390 266 06
11/1/2004	1 390,266 06		1 386 80			1 391 652 87
12/1/2004	1 391 652 87		1 388 19			1 393 041 05
1/1/2005	1 393 041 05		1 389 57			1 394 430 62
2/1/2005	1 394 430 62		1 390 96		200 000.00	1 195 821 58
3/1/2005	1 195 821 58		1 192 84		200 000 00	997 014 42
4/1/2005	997 014 42		994 53		200 000 00	798 008 95
5/1/2005	798 008 95		796 02		00 000.00	598 804 98
6/1/2005	598 804 98		597 31		200 000 00	399 402 29
7/1/2005	399 402.29		398 41		200 000 00	199 800 70
8/1/2005	199 800 70		199 30		200 000 00	(0 00)
9/1/2005	(0 00)		(0 00)			(0 00)
10/1/2005	(0 00)		(0 00)			(0 00)
11/1/2005	(0 00)		(0 00)			(0 00)
12/1/2005	(0 00)		(0 00)			(0 00)
1/1/2006	(0 00)		(0 00)			(0 00)
2/1/2006	(0 00)		(0 00)			(0 00)
3/1/2006	(0 00)		(0 00)			(0 00)
4/1/2006	(0 00)		(0 00)			(0 00)
5/1/2006	(0 00)		(0 00)			(0 00)
6/1/2006	(0 00)		(0 00)			(0 00)
7/1/2006	(0 00)		(0 00)			(0.00)
8/1/2006	(0 00)		(0 00)			(0 00)
9/1/2006	(0 00)		(0 00)			(0 00)
10/1/2006	(0.00)		(0 00)			(0 00)
11/1/2006	(0 00)		(0 00)			(0 00)
12/1/2006	(0 00)		(0 00)			(0 00)
1/1/2007	(0 00)		(0.00)			(0 00)
2/1/2007	(0 00)		(0 00)			(0.00)
3/1/2007	(0.00)		(0 00)			(0.00)
4/1/2007	(0 00)		(0 00)			(0 00)
5/1/2007	(0 00)		(0.00)			(0 00)
6/1/2007	(0.00)		(0 00)			(0.00)
7/1/2007	(0 00)		(0 00)			(0 00)
8/1/2007	(0 00)		(0 00)			(0 00)
9/1/2007	(0 00)		(0 00)			(0 00)
10/1/2007	(0 00)		(0 00)			(0.00)
11/1/2007	(0.00)		(0 00)			(0.00)
12/1/2007	(0.00)		(0 00)			(0 00)
1/1/2008	(0 00)		(0 00)			(0 00)
2/1/2008	(0.00)		(0 00)			(0.00)
3/1/2008	(0 00)		(0 00)			(0 00)
4/1/2008	(0 00)		(0 00)			(0 00)
5/1/2008	(0.00)		(0 00)			(0 00)
6/1/2008	(0 00)		(0 00)			(0 00)
7/1/2008	(0 00)		(0 00)			(0 00)
8/1/2008	(0.00)		(0 00)			(0 00)
9/1/2008	(0.00)		(0 00)			(0 00)
10/1/2008	(0 00)		(0 00)			(0 00)
11/1/2008	(0 00)		(0 00)			(0 00)
12/1/2008	(0 00)		(0 00)			(0.00)
1/1/2009	(0 00)		(0 00)			(0 00)
2/1/2009	(0.00)		(0 00)			(0 00)
3/1/2009	(0 00)		(0 00)			(0 00)
4/1/2009	(0.00)		(0 00)			(0 00)
5/1/2009	(0 00)		(0 00)			(0 00)
6/1/2009	(0 00)		(0 00)			(0 00)
7/1/2009	(0 00)		(0.00)			(0 00)
8/1/2009	(0 00)		(0 00)			(0 00)
9/1/2009	(0.00)		(0 00)			(0 00)
10/1/2009	(0 00)		(0 00)			(0 00)
11/1/2009	(0.00)		(0 00)			(0 00)
12/1/2009	(0 00)		(0 00)			(0 00)
1/1/2010	(0.00)		(0 00)			(0 00)
2/1/2010	(0.00)		(0 00)			(0 00)
3/1/2010	(0 00)		(0 00)			(0 00)
T tal		1,381 974.22	18 025 78		1 400 000 00	

City of Columbia South Carolina
Columbia Hilton
Key Money

Construction Fund

Date	Beginning Balance	Deposit	Interest (0.000000%)	Transfer Capln	Draw downs	Ending Balance
4/1/2004						
4/1/2004						
5/1/2004						
6/1/2004						
7/1/2004						
8/1/2004						
9/1/2004						
10/1/2004						
11/1/2004						
12/1/2004						
1/1/2005						
2/1/2005						
3/1/2005						
4/1/2005						
5/1/2005						
6/1/2005						
7/1/2005						
8/1/2005						
9/1/2005		1,000,000.00			300,000.00	700,000.00
10/1/2005	700,000.00				300,000.00	400,000.00
11/1/2005	400,000.00				350,000.00	50,000.00
12/1/2005	50,000.00				50,000.00	
1/1/2006						
2/1/2006						
3/1/2006						
4/1/2006						
5/1/2006						
6/1/2006						
7/1/2006						
8/1/2006						
9/1/2006						
10/1/2006						
11/1/2006						
12/1/2006						
1/1/2007						
2/1/2007						
3/1/2007						
4/1/2007						
5/1/2007						
6/1/2007						
7/1/2007						
8/1/2007						
9/1/2007						
10/1/2007						
11/1/2007						
12/1/2007						
1/1/2008						
2/1/2008						
3/1/2008						
4/1/2008						
5/1/2008						
6/1/2008						
7/1/2008						
8/1/2008						
9/1/2008						
10/1/2008						
11/1/2008						
12/1/2008						
1/1/2009						
2/1/2009						
3/1/2009						
4/1/2009						
5/1/2009						
6/1/2009						
7/1/2009						
8/1/2009						
9/1/2009						
10/1/2009						
11/1/2009						
12/1/2009						
1/1/2010						
2/1/2010						
3/1/2010						
Total		1,000,000.00			1,000,000.00	

City of Columbia South Carolina
Columbia Hilton
Tax Exempt Bonds

Current Interest Bonds

Date	Principal	Rate	Yield	Price	Interest	Total Debt Service	Annual Debt Serv
4/1/2004							
7/1/2004					770,419.63	770,419.63	
1/1/2005		1.300%	1.300%	100.000	1,540,839.25	1,540,839.25	2,311,258.88
7/1/2005					1,540,839.25	1,540,839.25	
1/1/2006		1.640%	1.640%	100.000	1,540,839.25	1,540,839.25	3,081,678.50
7/1/2006					1,540,839.25	1,540,839.25	
1/1/2007		1.940%	1.940%	100.000	1,540,839.25	1,540,839.25	3,081,678.50
7/1/2007					1,540,839.25	1,540,839.25	
1/1/2008		2.300%	2.300%	100.000	1,540,839.25	1,540,839.25	3,081,678.50
7/1/2008					1,540,839.25	1,540,839.25	
1/1/2009		2.600%	2.600%	100.000	1,540,839.25	1,540,839.25	3,081,678.50
7/1/2009					1,540,839.25	1,540,839.25	
1/1/2010		2.840%	2.840%	100.000	1,540,839.25	1,540,839.25	3,081,678.50
7/1/2010					1,540,839.25	1,540,839.25	
1/1/2011		3.080%	3.080%	100.000	1,540,839.25	1,540,839.25	3,081,678.50
7/1/2011					1,540,839.25	1,540,839.25	
1/1/2012		3.320%	3.320%	100.000	1,540,839.25	1,540,839.25	3,081,678.50
7/1/2012					1,540,839.25	1,540,839.25	
1/1/2013		3.520%	3.520%	100.000	1,540,839.25	1,540,839.25	3,081,678.50
7/1/2013					1,540,839.25	1,540,839.25	
1/1/2014		3.690%	3.690%	100.000	1,540,839.25	1,540,839.25	3,081,678.50
7/1/2014					1,540,839.25	1,540,839.25	
1/1/2015	1,225,000.00	3.830%	3.830%	100.000	1,540,839.25	2,765,839.25	4,306,678.50
7/1/2015					1,517,380.50	1,517,380.50	
1/1/2016	1,320,000.00	3.950%	3.950%	100.000	1,517,380.50	2,837,380.50	4,354,761.00
7/1/2016					1,491,310.50	1,491,310.50	
1/1/2017	1,425,000.00	4.060%	4.060%	100.000	1,491,310.50	2,916,310.50	4,407,621.00
7/1/2017					1,462,383.00	1,462,383.00	
1/1/2018	1,540,000.00	4.170%	4.170%	100.000	1,462,383.00	3,002,383.00	4,464,766.00
7/1/2018					1,430,274.00	1,430,274.00	
1/1/2019	1,655,000.00	4.270%	4.270%	100.000	1,430,274.00	3,085,274.00	4,515,548.00
7/1/2019					1,394,939.75	1,394,939.75	
1/1/2020	1,780,000.00	4.360%	4.360%	100.000	1,394,939.75	3,174,939.75	4,569,879.50
7/1/2020					1,356,135.75	1,356,135.75	
1/1/2021	1,915,000.00	4.450%	4.450%	100.000	1,356,135.75	3,271,135.75	4,627,271.50
7/1/2021					1,313,527.00	1,313,527.00	
1/1/2022	2,055,000.00	4.530%	4.530%	100.000	1,313,527.00	3,368,527.00	4,682,054.00
7/1/2022					1,266,981.25	1,266,981.25	
1/1/2023	2,205,000.00	4.600%	4.600%	100.000	1,266,981.25	3,471,981.25	4,738,962.50
7/1/2023					1,216,266.25	1,216,266.25	
1/1/2024	2,360,000.00	4.660%	4.660%	100.000	1,216,266.25	3,576,266.25	4,792,532.50
7/1/2024					1,161,278.25	1,161,278.25	
1/1/2025	2,530,000.00	4.690%	4.690%	100.000	1,161,278.25	3,691,278.25	4,852,556.50
7/1/2025					1,101,949.75	1,101,949.75	
1/1/2026	2,705,000.00	4.720%	4.720%	100.000	1,101,949.75	3,806,949.75	4,908,899.50
7/1/2026					1,038,111.75	1,038,111.75	
1/1/2027	2,895,000.00	4.730%	4.730%	100.000	1,038,111.75	3,933,111.75	4,971,223.50
7/1/2027					969,645.00	969,645.00	
1/1/2028	3,090,000.00	4.740%	4.740%	100.000	969,645.00	4,059,645.00	5,029,290.00
7/1/2028					896,412.00	896,412.00	
1/1/2029	3,295,000.00	4.750%	4.750%	100.000	896,412.00	4,191,412.00	5,087,824.00
7/1/2029					818,155.75	818,155.75	
1/1/2030	3,515,000.00	4.760%	4.760%	100.000	818,155.75	4,333,155.75	5,151,311.50
7/1/2030					734,498.75	734,498.75	
1/1/2031	3,745,000.00	4.770%	4.770%	100.000	734,498.75	4,479,498.75	5,213,997.50
7/1/2031					645,180.50	645,180.50	
1/1/2032	3,985,000.00	4.780%	4.780%	100.000	645,180.50	4,630,180.50	5,275,361.00
7/1/2032					549,939.00	549,939.00	
1/1/2033	4,235,000.00	4.780%	4.780%	100.000	549,939.00	4,784,939.00	5,334,878.00
7/1/2033					448,722.50	448,722.50	
1/1/2034	4,505,000.00	4.780%	4.780%	100.000	448,722.50	4,953,722.50	5,402,445.00
7/1/2034					341,053.00	341,053.00	
1/1/2035	4,785,000.00	4.780%	4.780%	100.000	341,053.00	5,126,053.00	5,467,106.00
7/1/2035					226,691.50	226,691.50	
1/1/2036	9,485,000.00	4.780%	4.780%	100.000	226,691.50	9,711,691.50	9,938,383.00
7/1/2036							
1/1/2037		4.780%	4.780%	100.000			
7/1/2037							
1/1/2038		4.780%	4.780%	100.000			
7/1/2038							
1/1/2039		4.780%	4.780%	100.000			
7/1/2039							
1/1/2040		4.780%	4.780%	100.000			
7/1/2040							
1/1/2041		4.780	4.780%	100.000			
7/1/2041							
1/1/2042		4.780%	4.780%	100.000			
7/1/2042							
1/1/2043		4.780%	4.780%	100.000			
7/1/2043							
1/1/2044		4.780%	4.780%	99.992			
Total	66,250,000.00				75,889,715.38	142,139,715.38	142,139,715.38

City of Columbia South Carolina
Columbia Hilton
Tax Exempt Bonds

Capitalized Interest

Date	Days 30/360	Beginning Balance	Deposits	Interest 1 200000 4	Imp From DSRF Fund	Percentage Capitalized	Interest Capitalized	End Balance
4/1/2004			4 839 284 58			100 00 /		4 839,284.58
7/1/2004	90	4 839 284 58		14 496 14	69 518 84	100 00"	770 419 63	4 152,879 94
1/1/2005	180	4 152 879 94		24 917 28	139 901 29	100 00 /	1,540 839,25	2 776 859 26
7/1/2005	180	2,776 859 26		16 663 16	139 901 29	100 00 4	1 540 839 25	1 392 58 46
1/1/2006	180	1 392 582 46		8 355 49	139 901 29	100 00 4	1 540 839 25	
7/1/2006	180					0 00%		
1/1/2007	180					0 00%		
7/1/2007	180					0 00"		
1/1/2008	180					0 00		
7/1/2008	180					0 00		
1/1/2009	180					0 00"		
7/1/2009	180					0 00 4		
1/1/2010	180					0 00"		
7/1/2010	180					0 00 4		
1/1/2011	180					0 00%		
7/1/2011	180					0 00"		
1/1/2012	180					0 00%		
7/1/2012	180					0 00"		
1/1/2013	180					0 00 4		
7/1/2013	180					0 00 /		
1/1/2014	180					0.00"		
7/1/2014	180					0 00%		
1/1/2015	180					0 00 /		
7/1/2015	180					0 00"		
1/1/2016	180					0 00 /		
Total				64 430 07	489,222 72		5 392 937 38	

City of Columbia South Carolina
Columbia Hilton
Tax Exempt Bonds

Debt Service Reserve Fund

Date	Day 30/360	Beginning Balance	Deposits	Interest 5.000000%	Export Capital Fund	Export to Revenue Fund	Ending Balance
4/1/2004			5,596,051.79				5,596,051.79
7/1/2004	90	5,596,051.79		69,518.84	(69,518.84)		5,596,051.79
1/1/2005	180	5,596,051.79		139,901.29	(139,901.29)		5,596,051.79
7/1/2005	180	5,596,051.79		139,901.29	(139,901.29)		5,596,051.79
1/1/2006	180	5,596,051.79		139,901.29	(139,901.29)		5,596,051.79
7/1/2006	180	5,596,051.79		139,901.29		(139,901.29)	5,596,051.79
1/1/2007	180	5,596,051.79		139,901.29		(139,901.29)	5,596,051.79
7/1/2007	180	5,596,051.79		139,901.29		(139,901.29)	5,596,051.79
1/1/2008	180	5,596,051.79		139,901.29		(139,901.29)	5,596,051.79
7/1/2008	180	5,596,051.79		139,901.29		(139,901.29)	5,596,051.79
1/1/2009	180	5,596,051.79		139,901.29		(139,901.29)	5,596,051.79
7/1/2009	180	5,596,051.79		139,901.29		(139,901.29)	5,596,051.79
1/1/2010	180	5,596,051.79		139,901.29		(139,901.29)	5,596,051.79
7/1/2010	180	5,596,051.79		139,901.29		(139,901.29)	5,596,051.79
1/1/2011	180	5,596,051.79		139,901.29		(139,901.29)	5,596,051.79
7/1/2011	180	5,596,051.79		139,901.29		(139,901.29)	5,596,051.79
1/1/2012	180	5,596,051.79		139,901.29		(139,901.29)	5,596,051.79
7/1/2012	180	5,596,051.79		139,901.29		(139,901.29)	5,596,051.79
1/1/2013	180	5,596,051.79		139,901.29		(139,901.29)	5,596,051.79
7/1/2013	180	5,596,051.79		139,901.29		(139,901.29)	5,596,051.79
1/1/2014	180	5,596,051.79		139,901.29		(139,901.29)	5,596,051.79
7/1/2014	180	5,596,051.79		139,901.29		(139,901.29)	5,596,051.79
1/1/2015	180	5,596,051.79		139,901.29		(139,901.29)	5,596,051.79
7/1/2015	180	5,596,051.79		139,901.29		(139,901.29)	5,596,051.79
1/1/2016	180	5,596,051.79		139,901.29		(139,901.29)	5,596,051.79
7/1/2016	180	5,596,051.79		139,901.29		(139,901.29)	5,596,051.79
1/1/2017	180	5,596,051.79		139,901.29		(139,901.29)	5,596,051.79
7/1/2017	180	5,596,051.79		139,901.29		(139,901.29)	5,596,051.79
1/1/2018	180	5,596,051.79		139,901.29		(139,901.29)	5,596,051.79
7/1/2018	180	5,596,051.79		139,901.29		(139,901.29)	5,596,051.79
1/1/2019	180	5,596,051.79		139,901.29		(139,901.29)	5,596,051.79
7/1/2019	180	5,596,051.79		139,901.29		(139,901.29)	5,596,051.79
1/1/2020	180	5,596,051.79		139,901.29		(139,901.29)	5,596,051.79
7/1/2020	180	5,596,051.79		139,901.29		(139,901.29)	5,596,051.79
1/1/2021	180	5,596,051.79		139,901.29		(139,901.29)	5,596,051.79
7/1/2021	180	5,596,051.79		139,901.29		(139,901.29)	5,596,051.79
1/1/2022	180	5,596,051.79		139,901.29		(139,901.29)	5,596,051.79
7/1/2022	180	5,596,051.79		139,901.29		(139,901.29)	5,596,051.79
1/1/2023	180	5,596,051.79		139,901.29		(139,901.29)	5,596,051.79
7/1/2023	180	5,596,051.79		139,901.29		(139,901.29)	5,596,051.79
1/1/2024	180	5,596,051.79		139,901.29		(139,901.29)	5,596,051.79
7/1/2024	180	5,596,051.79		139,901.29		(139,901.29)	5,596,051.79
1/1/2025	180	5,596,051.79		139,901.29		(139,901.29)	5,596,051.79
7/1/2025	180	5,596,051.79		139,901.29		(139,901.29)	5,596,051.79
1/1/2026	180	5,596,051.79		139,901.29		(139,901.29)	5,596,051.79
7/1/2026	180	5,596,051.79		139,901.29		(139,901.29)	5,596,051.79
1/1/2027	180	5,596,051.79		139,901.29		(139,901.29)	5,596,051.79
7/1/2027	180	5,596,051.79		139,901.29		(139,901.29)	5,596,051.79
1/1/2028	180	5,596,051.79		139,901.29		(139,901.29)	5,596,051.79
7/1/2028	180	5,596,051.79		139,901.29		(139,901.29)	5,596,051.79
1/1/2029	180	5,596,051.79		139,901.29		(139,901.29)	5,596,051.79
7/1/2029	180	5,596,051.79		139,901.29		(139,901.29)	5,596,051.79
1/1/2030	180	5,596,051.79		139,901.29		(139,901.29)	5,596,051.79
7/1/2030	180	5,596,051.79		139,901.29		(139,901.29)	5,596,051.79
1/1/2031	180	5,596,051.79		139,901.29		(139,901.29)	5,596,051.79
7/1/2031	180	5,596,051.79		139,901.29		(139,901.29)	5,596,051.79
1/1/2032	180	5,596,051.79		139,901.29		(139,901.29)	5,596,051.79
7/1/2032	180	5,596,051.79		139,901.29		(139,901.29)	5,596,051.79
1/1/2033	180	5,596,051.79		139,901.29		(139,901.29)	5,596,051.79
7/1/2033	180	5,596,051.79		139,901.29		(139,901.29)	5,596,051.79
1/1/2034	180	5,596,051.79		139,901.29		(139,901.29)	5,596,051.79
7/1/2034	180	5,596,051.79		139,901.29		(139,901.29)	5,596,051.79
1/1/2035	180	5,596,051.79		139,901.29		(139,901.29)	5,596,051.79
7/1/2035	180	5,596,051.79		139,901.29		(139,901.29)	5,596,051.79
1/1/2036	180	5,596,051.79		139,901.29		(5,735,953.08)	
7/1/2036	180						
1/1/2037	180						
7/1/2037	180						
1/1/2038	180						
7/1/2038	180						
1/1/2039	180						
7/1/2039	180						
1/1/2040	180						
7/1/2040	180						
1/1/2041	180						
7/1/2041	180						
1/1/2042	180						
7/1/2042	180						
1/1/2043	180						
7/1/2043	180						
1/1/2044	180						
Total			5,596,051.79	8,883,300.40	(489,222.72)	(13,990,129.47)	

7/1/2019						
1/1/2020		5 430%	5 430%	100 000		
7/1/2020						
1/1/2021		5 430%	5 430%	100 000		
7/1/2021						
1/1/2022		5 430%	5 430%	100 000		
7/1/2022						
1/1/2023		5 430%	5 430%	100 000		
7/1/2023						
1/1/2024		5 430%	5 430%	100 000		
7/1/2024						
1/1/2025		5 630%	5 630%	100 000		
7/1/2025						
1/1/2026		5 630%	5 630%	100 000		
7/1/2026						
1/1/2027		5 630%	630%	100 000		
7/1/2027						
1/1/2028		5 630%	5 630%	100 000		
7/1/2028						
1/1/2029		5 630%	5 630%	100 000		
7/1/2029						
1/1/2030		5 630%	5 630%	100 000		
7/1/2030						
1/1/2031		5 630%	5 630%	100 000		
7/1/2031						
1/1/2032		5 630%	5 630%	100 000		
7/1/2032						
1/1/2033		5 630%	5 630%	100 000		
7/1/2033						
1/1/2034		5 630%	5 630%	100 000		
7/1/2034						
1/1/2035		5 630%	5 630%	100.000		
7/1/2035						
1/1/2036		5 630%	5 630%	100.000		
7/1/2036						
1/1/2037		0 000%	0 000%	100 000		
7/1/2037						
1/1/2038		0 000%	0 000%	100 000		
7/1/2038						
1/1/2039		0 000%	0 000 6	100 000		
7/1/2039						
1/1/2040		0 000%	0 000%	100 000		
7/1/2040						
1/1/2041		0 000%	0 000%	100.000		
7/1/2041						
1/1/2042		0 000%	0 000%	100 000		
7/1/2042						
1/1/2043		0 000%	0 000%	100 000		
7/1/2043						
1/1/2044		0 000%	0.000%	100 001		
Total	5 765 000 00				2,025 883 50	7 790 883 50	7 790 883 50

City of Columb a South Carolina
Columbia Hilton
Taxable Bonds

Cap talized Interest

Date	Day 30/360	Beginning Balance	Depo ts	Interest 1 2000000/	Import F m DSRF Fund	Percentag Cap tal zed	Interest Cap talized	Ending Balance
4/1/2004			3 641 741 85			100 00 /		4 839 ,84 58
7/1/2004	90	4 839,284 58		14 496 14	3 810 43	100 00 /	64 558 50	4 15 879 94
1/1/2005	180	4 152 879 94		24 917 28	7 668 19	100 00%	129 117 00	2 776 859 26
7/1/2005	180	2 776 859 26		16 661 16	7 668 19	100 00%	329 117 00	1 392,582.46
1/1/2006	180	1 392 582 46		8 355 49	7 668 19	100 00%	329 117 00	
7/1/2006	180					50 00%	834 978 13	
1/1/2007	180					50 00%	834 978 13	
7/1/2007	180					50 00%	834 978.13	
1/1/2008	180					50 00%	834 978.13	
7/1/2008	180					0 00%		
1/1/2009	180					0 00%		
7/1/2009	180					0 00°		
1/1/2010	180					0 00%		
7/1/2010	180					0 00%		
1/1/2011	180					0 00%		
7/1/2011	180					0 00 ,o		
1/1/2012	180					0 00"		
7/1/2012	180					0 00 ,o		
1/1/2013	180					0 00%		
7/1/2013	180					0 00%		
1/1/2014	180					0 00%		
7/1/2014	180					0 00%		
1/1/2015	180					0 00%		
7/1/2015	180					0 00%		
1/1/2016	180					0 00 /o		
Total				64 430.07	26 815 01		3 791 822.00	

City of Columbia South Carolina
Columbia Hilton
Taxable Bonds

Debt Service Reserve Fund

Date	Days 30/360	Beginning Balan	Deposits	Interest 5 000000%	Expirt to Capin Fund	Expo Revenue Fund	Ending Balanc
4/1/2004			306 727 70				306 727 70
7/1/2004	90	306,727 70		3 810 43	(3 810 43)		306 727 70
1/1/2005	180	306,727 70		7 668 19	(7 668 19)		306 727 70
7/1/2005	180	306,727 70		7 668 19	(7 668 19)		306 727 70
1/1/2006	180	306,727 70		7 668 19	(7 668 19)		306 727 70
7/1/2006	180	306 727 70		7 668 19		(7 668 19)	306 727 70
1/1/2007	180	306 727 70		7 668 19		(7 668 19)	306 727 70
7/1/2007	180	306 727 70		7 668 19		(7 668 19)	306 727 70
1/1/2008	180	306 727 70		7 668 19		(7 668 19)	306 727 70
7/1/2008	180	06,727 70		7 668 19		(7 668 19)	306 727 70
1/1/2009	180	306,727 70		7 668 19		(7 668 19)	306 727 70
7/1/2009	180	306,727 70		7 668 19		(7 668 19)	306 727 70
1/1/2010	180	306,727 70		7 668 19		(7 668 19)	306 727 70
7/1/2010	180	306 727 70		7 668 19		(7 668 19)	306 727 70
1/1/2011	180	306 727 70		7 668 19		(7 668 19)	306 727 70
7/1/2011	180	306 727 70		7 668 19		(7 668 19)	306 727 70
1/1/2012	180	306,727 70		7 668 19		(7 668 19)	306 727 70
7/1/2012	180	306 727 70		7 668 19		(7 668 19)	306 727 70
1/1/2013	180	306 727 70		7 668 19		(7 668 19)	306 727 70
7/1/2013	180	306 727 70		7 668 19		(314 395 89)	
1/1/2014	180	306,727 70					
7/1/2014	180						
1/1/2015	180						
7/1/2015	180						
1/1/2016	180						
7/1/2016	180						
1/1/2017	180						
7/1/2017	180						
1/1/2018	180						
7/1/2018	180						
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7/1/2039	180						
1/1/2040	180						
7/1/2040	180						
1/1/2041	180						
7/1/2041	180						
1/1/2042	180						
7/1/2042	180						
1/1/2043	180						
7/1/2043	180						
1/1/2044	180						
Total			306 727 70	149,506 08	(26,815 01)	(429 418 78)	

Exhibit 15

CITY OF COLUMBIA
CITY COUNCIL WORK SESSION ACTION REPORT
March 17 2004
9 00 AM City Council Chambers
3rd Floor City Hall 1737 Main Street

PUBLIC HEARING END

* There was a consensus of Council to amend the Work Session agenda to include the discussion of the Disparity Study City Center Master Plan Request for Qualifications and the Convention Center Hotel Request for Proposals

PRESENTATIONS

A Greening the Arts Festival 2004 – Ms Shirley Fields Martin Executive Director
ACTION Ms Shirley Fields Martin presented the Greening the Arts Festival to the members of City Council Greening the Arts Festival will be held from Sunday May 23 2004 until Sunday May 30 2004 in the City of Columbia

B Rosewood Community Parks Master Plan – Mr Bob Amundson Rosewood Community Council President and Mr Kenneth Simmons Kenneth B Simmons & Associates
ACTION Mr Bob Amundson Rosewood Community Council President and Mr Kenneth Simmons Kenneth B Simmons & Associates presented the Rosewood Community Parks Master Plan as it relates to Valencia Rosewood Tyler and Lester Bates Parks

Council voted unanimously to endorse the Parks Master Plan subject to the appropriation of funding

COUNCIL DISCUSSION / ACTION

B1 * Disparity Study
ACTION Council voted unanimously to endorse and adopt the Proposed Critical Path for MBE / WBE Policy Development for the City of Columbia along with the proposed implementation schedule and budget The City Manager was authorized to implement the plan and budget as outlined

B2 * Greater Columbia Community Relations Council Request for Funding – Mr Preston Winkler Executive Director
ACTION Council voted unanimously to allocate Community Promotions Funding in the amount of $60 783 25 to cover a budgetary shortfall for fiscal year 2003/2004

The request to add the Greater Columbia Community Relations Council to the City of Columbia s General Fund Budget will be discussed at a later date

**Amendment to the Agenda

0201

2-764

COUNCIL DISCUSSION / ACTION

B3 City Center Master Plan Request for Qualifications
ACTION Staff was directed to proceed with a Request for Qualifications for the City Center Master Plan

- Mayor Coble adjourned the Work Session at 10 00 a m to convene the Zoning Public Hearing

- Mayor Coble reconvened the Work Session at 11 33p m

B4 * Convention Center Hotel Request for Proposals
ACTION Staff was directed to draft a Request for Proposals for a full service Convention Center Hotel

APPOINTMENTS

C Design Development Review Commission
ACTION APPROVED the re appointment of Mr James Byrum Ms Gardenia Fair Mr James Mancini and Ms Nancy McCormick for a three year term to expire in April 2007

Council voted unanimously to go into Executive Session at 11 37 a m for the discussion of Items D through F as amended

EXECUTIVE SESSION DISCUSSION

D Receipt of legal advice which relates to a matter covered by attorney client privilege

E *Discussion of negotiations incident to the proposed sale of property

F Receipt of legal advice which relates to a pending threatened or potential claim

ACTION These items were discussed in Executive Session no action was taken

- Mayor Coble adjourned the Work Session at 12 50 p m

Exhibit 16

CITY OF COLUMBIA
CITY COUNCIL WORK SESSION ACTION REPORT
March 24,2004
9 00 AM City Council Chambers
3rd Floor City Hall - 1737 Main Street

PRESENTATIONS

A ** Miss South Carolina/USA Amanda Pennekamp – Ms Paula Miles Executive Director of the Miss SC/USA Pageant

ACTION Miss Paula Miles introduced Miss Amanda Pennekamp as Miss South Carolina 2004 Miss Pennekamp introduced her platform to the members of City Council and thanked everyone for their support Mayor Coble presented Miss Pennekamp with a Key to the City and roses as a token of the City s support

B Retirement Presentation for Chief John Jansen – Mr Curtis Maffett Mr Joseph (Rusty) Smith and Mr Joseph Floyd Assistant Chiefs Columbia Fire Department

ACTION Mayor Coble members of City Council Mr Charles P Austin Sr City Manager and members of the Fire Department showered Chief John Jansen with words of appreciation Mayor Coble presented a Proclamation in honor of the Chief's retirement which declared today as Chief John Jansen Day in the City of Columbia

C Kids Day Columbia 2004 – Ms Judy Stringer Columbia Action Council Executive Director

ACTION Ms Judy Stringer Executive Director briefed the members of Council on the Kids Day Columbia 2004 Event

D *Cultural Council of Richland - Lexington Counties Update – Ms Susan Benesh Executive Director

ACTION Ms Susan Benesh Executive Director updated the members of Council on the changes that have occurred within the past nine (9) months within the Cultural Council

E East Central City Consortium Project Update – Mr Fred A Johnson F A Johnson Consulting Group Inc

ACTION The East Central City Consortium Inc provided a project update for the members of Council Various team members presented a comprehensive plan for revitalizing at least twelve (12) neighborhoods in the City of Columbia A Masterplan will be presented in sixty (60) days

F **Economic Development Strategic Plan – Mr Jim Gambrell Director of Economic Development

ACTION Mr Jim Gambrell Director of Economic Development presented the City or Columbia s Collaborative Plan for Economic Development to the members of Council

TRAFFIC ISSUES

G Glenwood Road Traffic Control

ACTION APPROVED the installation of a multi way stop at the intersection of Glenwood Road and Bagnal Road contingent upon SCDOT approval

APPOINTMENTS

H Planning Commission
ACTION APPROVED the reappointment of Ms Jenny Screen and Ms Isabelle Mandel for a three-year term to expire on March 1 2007

I Election Commission
ACTION APPROVED the appointment of Mrs Marsha Duffy on a temporary basis contingent upon Mrs Duffy acceptance of the appointment Mrs Marsha Duffy accepted the appointment to the City of Columbia Election Commission on a temporary basis

STREET CLOSING

J Council is asked to approve a request from the University of South Carolina and Global Spectrum to close Greene Street from Gadsden Street to the railroad track where it dead ends and to restrict access from the corner of Gadsden Street and Greene Street to Wayne Street and Gervais Street one hour prior to the following events Contact Mr Matt Homan Director of Event Services
ACTION APRPOVED

OTHER MATTERS

K Council is asked to approve the Destruction of 128 Firearms as requested by the Columbia Police Department Evidence Unit
ACTION APPROVED

L Council is asked to approve the Destruction of 519 Narcotics to include drug paraphernalia as requested by the Columbia Police Department Evidence Unit
ACTION APPROVED

M Tom Joyner Sky Show Request for Funding
ACTION APPROVED funding in the amount of **$3,500 00** from the City Council Contingency Fund

Council voted to go into Executive Session at **11 42** a m for the discussion of the Convention Center Hotel Request for Proposals

EXECUTIVE SESSION DISCUSSION

N Discussion of negotiation incident to proposed contractual arrangements
ACTION This item was discussed in Executive Session no action was taken

- Mayor Coble reconvened the Work Session at **12 35** p m

I COUNCIL DISCUSSION /

O Convention Center Hotel Request for Proposals
ACTION Council voted unanimously to approve the minimum requirements for the Convention Center Hotel as it relates to the Physical Characteristics Services to be Provided Branding Interfacing with the Convention Center Incentives from the City of Columbia Controls for the City of Columbia and the Requirement to comply with the Commercial Non Discrimination Policy and Sub Contractor Outreach Program

- Mayor Coble adjourned the meeting at **1 25** p m

Exhibit 17

Request for Proposals

Convention Center Hotel

CITY OF COLUMBIA, SOUTH CAROLINA
REQUEST FOR PROPOSALS
CONVENTION CENTER HOTEL

I. OVERVIEW The City of Columbia South Carolina ('City') is issuing this request for proposals ('RFP") for the development and operation of a full service convention center hotel to support the Columbia Metropolitan Convention Center (Convention Center) The Convention Center is currently under construction and is scheduled to be completed in September 2004 The completion of this facility will represent a substantial investment and the culmination of unprecedented cooperation between many organizations in the area An important factor in the success of convention centers nationwide is the affiliation of the convention center with a hotel For this reason, the City is seeking proposals for the construction ownership and operation of a convention center hotel (Hotel")

II GENERAL INFORMATION AND INSTRUCTIONS

A PROCUREMENT PROCESS The RFP is not a bid In the event the City elects to negotiate a contract with the successful proposer such contract shall contain terms and conditions consistent herewith The City reserves the right in its sole discretion to reject all submissions, reissue a subsequent RFP terminate restructure or amend this procurement process at any time The final selection and contract negotiation rests solely with the City The City shall establish a special committee (' Committee) for the purpose of reviewing the proposals and making appropriate recommendations to City Council Where the context permits the term 'City" shall include the Committee and City Council

B QUESTIONS Questions are allowed and encouraged to clarify this RFP All questions or requests for information shall be in writing and addressed to City of Columbia, Attn Steven A Gantt, PO Box 147 Columbia, SC 29217 Such written questions may also be transmitted by facsimile to (803) 255-8922 or e-mail to sagantt@columbiasc net Upon request the City shall provide a copy of its market study prepared by PKF Consulting

Proposers shall not lobby or otherwise contact members of City Council or the Committee with respect to this RFP Such contact shall constitute grounds for rejection of a proposal

C PRE-RESPONSE MEETING A pre response meeting will be held on Monday April 19 2004, at 2 00 p m at the City Council Chambers City Hall 1737 Main Street Columbia SC Proposers are not required to attend but are encouraged to do so

D REJECTION OF PROPOSALS The City may reject any proposals which do not conform to the essential requirements of the RFP

E **CONFIDENTIALITY** All information materials or other documents submitted by a proposer shall not be released or made otherwise available to any person or entity except the City's representatives assisting in this procurement process until public opening of the proposals unless required by law or judicial process Proprietary or financial information submitted to the City by a proposer will not be disclosed if proposer visibly marks each part of the proposal which proposer considers to be confidential financial or proprietary information with the word "Confidential unless required by law or judicial process

F **EVALUATION CRITERIA** The following shall be used in evaluating proposals and the proposals should include information necessary for such evaluation

1 Past Performance The proposer's satisfactory past experience in developing and operating hotels

2 Proposed Investment/Financial Ability - The total capital investment proposed to be made in the Hotel and the financial ability of the proposer

3 Performance of Requested Services Demonstration that proposer currently has the capability qualifications and experience to develop and operate the Hotel

4 Exceeding Minimum Greater consideration will be given to proposals exceeding the Minimum Hotel Specifications

5 Maximization of City Incentives The City has outlined the incentives it is willing to grant for this project below and greater consideration will be given to proposals exceeding Minimum Hotel Specifications and/or requiring less City incentives

G **PROPOSALS, FORMAT**

1 All proposals must be clearly marked 'Proposal for Development and Operation of Columbia Convention Center Hotel

2 Proposals must be signed by an authorized person and submitted in sealed envelopes and shall include at least ten (10) copies

3 Proposals must be submitted by hand delivery (including delivery by recognized courier) to Steven A Gantt City of Columbia City Hall 1737 Main Street Columbia, SC 29201 or mailed to City of Columbia Attn Steven A Gantt, PO Box 147 Columbia, SC 29217

4 Proposals must be received on or beforeMay 4, 2004

H **INTERVIEWS / CONTRACT NEGOTIATIONS** The City will evaluate the proposals and may in its discretion, elect to interview meet with and/or require public presentations from one or more of the proposers before making final selection Once final selection is made a contract will be negotiated with the selected proposer which may include a security deposit requirement The City intends to make a final selection prior to July 1 2004

III. **TERMS AND CONDITIONS** The physical characteristics of the Hotel enumerated herein are minimum requirements The goal of the City is to obtain the largest number of guest accommodations at the highest possible quality as a result of this RFP Proposers are therefore encouraged to enhance their submissions with respect to all elements of the Hotel including but not limited to numbers of guests rooms size of meeting areas restaurant lounge/bar kitchen facilities and other guest amenities Preference will be given to size of facility quality of finishes design features including expansion capability and guest services to be provided

A **MINIMUM HOTEL SPECIFICATIONS**

1 200 guest rooms of not less than 330 square feet / room

2 5 000 square feet of meeting space

3 Kitchen facility capable of providing service to a restaurant lounge/bar, room service catering to meeting space

4 Restaurant facilities of not less than 100 seats offering three meals per day seven days per week

5 Lounge/bar facility with not less than 50 seats A lobby bar may be substituted in lieu of dedicated lounge/bar

6 Swimming pool of sufficient size to provide a pleasing recreational experience for guests

7 Fitness room or facility appropriately equipped

8 Business center equipped with appropriate modern business equipment and technology

9 The building exterior shall be constructed with long lasting aesthetically pleasing materials (*e g* masonry brick precast) Interiors finishes shall be of first class quality

10 Mechanical systems shall be designed to maximize efficiency guest comfort and aesthetics

11 The Hotel must be branded or flagged by a nationally known hotel operator with a nationwide reservation system Significant weight and preference will be afforded to proposals which offer a First Class' nationally known hotelier it being the intent of the City to attract visitors and groups from across the United States

B ROOM BLOCK AGREEMENT

1 The primary mission of the Hotel will be to provide support for the convention activities of the Convention Center Consequently the proposers must be willing to enter into a satisfactory long term room block agreement that would generally require committing at least 200 rooms and appropriate hotel meeting space for qualified (city wide) events held at the Convention Center up to 14 nights per months for events that book the Convention Center three years or more in advance The requirements of the room block agreement would decrease as the booking horizon shortens

2 All reasonable efforts shall be made to allow the Hotel to charge the prevailing room rates to a qualified event However if a room rate cannot be successfully negotiated between the Hotel and the qualified event the City may at its sole discretion require the Hotel to charge a predetermined rate that would be mutually agreed upon between the City and the Hotel as part of the room block agreement

3 The details of the room block agreement are subject to negotiation between the City and the Hotel and are an integral part of the City offering the incentives outlined below

C **HOTEL SITE(S)** The Hotel shall be constructed on one of two City owned parcels generally shown or described on the attached **Exhibits A"** and **"B"** respectively The parcel described on **Exhibit "A '** is bounded on the north by Senate Street and is called Parcel A" and the parcel described on **Exhibit "B"** is bounded on the south by Senate Street and is called 'Parcel B" The City intends to construct a public parking garage either along Pendleton Street on property currently owned by the City and on property not yet acquired by the City or on property currently owned by the City which includes Parcel A If the garage is constructed on Pendleton Street Parcel A will be the preferred Hotel site If the garage is constructed on land which includes Parcel A then Parcel B will be the Hotel site

D CITY INCENTIVES

1 **GROUND LEASE** The City will ground lease the site for a 50 year term for a rental of One Dollar ($1 00) per year paid in advance The ground lease shall not be subordinated to liens

2 **PARKING** The City will provide one parking space per sleeping room in a City parking facility to be constructed nearby to the Hotel site and managed and maintained by the City These parking spaces will be made available to the Hotel at 50% of then prevailing market rates (the current daily market rate is $10 00) The City anticipates entering into a joint use parking agreement related to the parking facility that will allow the City to rent as many spaces as possible to daily visitors As such the City envisions working with the Hotel to determine the reasonable number of spaces that will be required for the Hotel on a daily basis and the Hotel will be charged only for the spaces it utilizes In this way the Hotel can minimize its parking costs and the City can maximize its parking revenues

3 The City reserves the right but not the obligation to consider additional incentives to induce a higher quality product If additional incentives are required please specify and explain

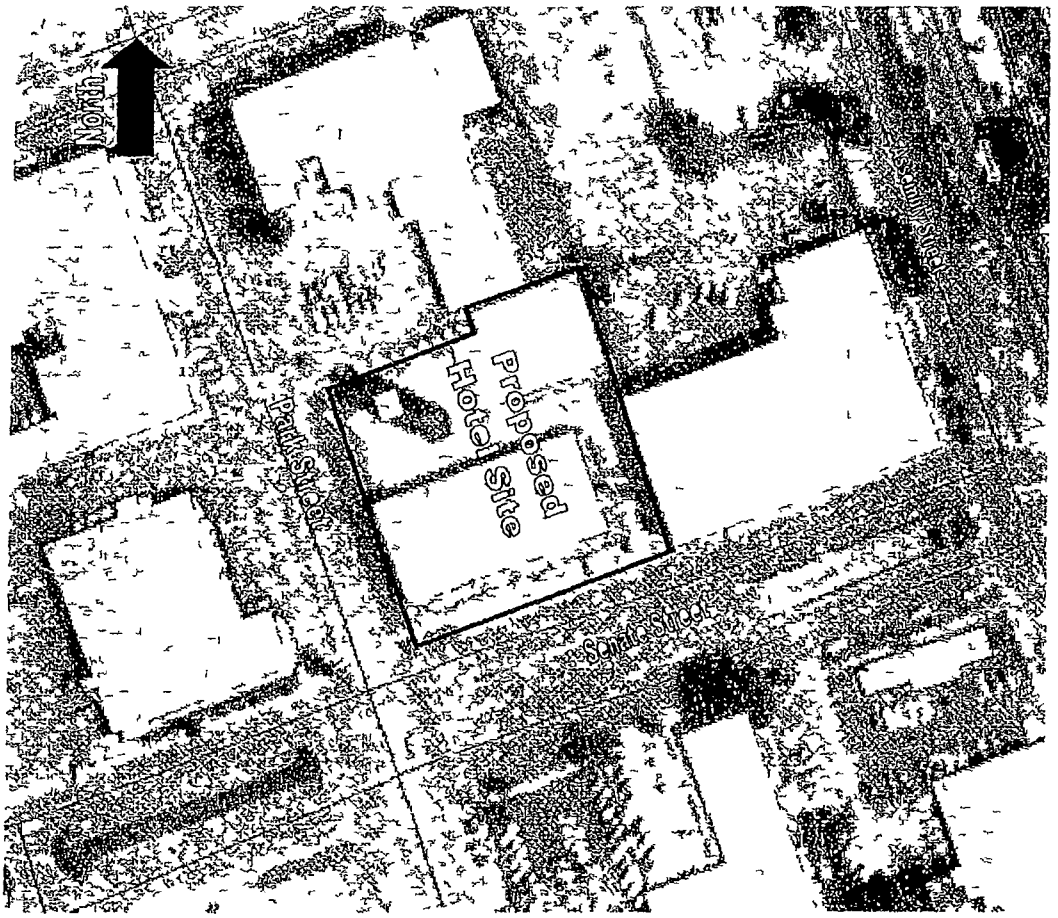
E **NON-DISCRIMINATION** Proposer will take affirmative action in complying with all federal state and local requirements concerning fair employment and employment of the handicapped and concerning the treatment of all employees without regard or discrimination by reason of race color religion sex national origin or physical handicap Any contract extended subsequent to this RFP shall require proposers to comply with the City's Commercial Non Discrimination Policy and Sub-Contractor Outreach Program

Exhibit "A"

Description of Site

The proposed Hotel site is located at the southwest corner of Senate and Park Streets The approximate boundaries or the property are as follows northern boundary (Senate Street) - 207 feet eastern boundary (Park Street) - 243 feet western boundary - 243 southern boundary - 210 feet

Exhibit "B"



Description of Site

The proposed Hotel site is located at the northeast corner of Senate and Park Streets The approximate boundaries of the property are as follows southern boundary (Senate Street) - 206 feet western boundary (Park Street) - 186 feet northern boundary (irregular line) - 206 feet eastern boundary - 208 feet

City of Columbia, South Carolina
Columbia Hilton
Additional $15 MM City Use
AAA Insured (40 City Support)
Sources and Uses of Funds (Combined)

SOURCES	Total
Par Amount	62,785,000.00
Key M	1,500,000.00
Total Sources	64,285,000.00

USES	
Construction Fund Deposit	48,994,150.00
Other Developments	
Other City Uses	1,500,000.00
Capitalized Interest Fund Deposit	5,837,691.81
Debt Service Reserve Fund Deposit	709,691.19
Wells Capital Fund	863,793.7
Underwriters Discount	1,377,000.00
Costs of Issuance	
Municipal Bond Insurance	
Accrued Interest	
Other	
Contingency (Rounding)	03
Total Uses	64,285,000.00

ASSUMPTIONS / SUMMARY STATISTICS	
Arbitrage Yield	5.0%
True Interest Cost	6%
All-In TIC	5.78%
Average Coupon	4%
Average Life	6%
Dated Date	1/1/2003
Delivery Date	1/1/2003

BOND ISSUANCE EXPENSES	
Underwriters Discount	$1
Costs of Issuance	$21.14
Municipal Bond Insurance	0.000

INVESTMENT RATES	
Debt Service Reserve Fund Deposit	5.000
Construction Fund Deposit	1.50
Capitalized Interest Fund Deposit	1.50

OTHER	
Capitalized Interest	Yes
Interest Capitalized Through	9/1/ 00
Debt Service Reserve Fund	Y
Debt Service Reserve Fund Requirement	Less of Three
End of Construction	9/1 00

CONSTRUCTION FUND SUMMARY	
Total Construction Fund Deposit	49,429,000.00
Target Construction Funds	49,429,000.00
Difference	

POTENTIAL CITY SUPPORT	
40% of Bonds Debt Service Minimum/Year	1,08 6.1
40% of Bonds Debt Service Maximum/Year	106 0 0
40% of Bonds Debt Service Average/Year (Operations)	1.45.30
(Net of Capitalized Interest and Debt Service Reserve Fund)	

N

Investment/Investment Rates 8-03
Assumptions and Underwriting

C tv f C 1 mb th C rol ra

mb Hdt

	20 6	20 7	200	2009	20	201			201	20 5
tab ooms (D ly	00	300	300	00	360	300	360	300	300	0
tabl P om (ly)	10 ,00	09 ,00	09 00	9 00	0 50	0 ,500	0 ,500	0 ,50	,05 5 0	0 ,00
Occup d com (An u28)	6 985	73 53	6 23	8 397	78 83	78 63	76 183	78 397	8 1	6 83
Occup cy Perce tag	63.00%	6 08%	7 40%	00.6	7 40%	7 0	0%	7 0%	7 0%	7 40
A erag Room R	$1 8 2	$123 05	$ 27 72	$1 1 5	$ 35 0	$ 39 56	$1 5	$1 06	$ 52 50	7 08
R en PerO cu R m(P R)	$74	$82 55	$9	$9 3	$9 7	$9 5	$ 02	$ 2	$ 08 89	$ 2 5
RE										
ooms	$8 3 0	$9 n2	$9 9	$ 46	$10 ,00	0	$ 0 982	1 31		1 3
F d & B rag	393	730	4 872	5 0 8	5 69	5 32	8	5 648	5 8 8	9 2
T ecommunicatio	53	67	77	183	188	194	99	205	2 2	2 8
Go ag	0	0	0		0		0	0	0	0
O her Op rated D p m	268	253	310	3 9	329	3 9	9	359	3 0	361
R al and Oth Incom	6	8	9	9		9	00	03	6	09
T tal R en	3,40	$14,436	$15 206	$ 5 60	$ 6 140	$ 6 6	$17 11	$ 2	$ 8, 9	$18 693
DEPARTMENTAL PRO IT										
Rooms	$6 311	$7 042	$7 5 3	$ 68	$8 010	8 2	$8 9	$6 0	$6 938	$9 269
ood & B rag	3 8	419	1 61	,05	,55	1 597	6 5	69	6	1 97
T lecomm ications	6	67	71	73	7	73	79	82	85	87
Gam	0	0	0	0	0	0	0	0	0	0
Other Op ed D p rtm	8	68	93	5	99	02	05	07	1	
Rental and Oth Incom	76	8	89	5	9	97	00	03	06	09
T ta D pa m nt rof	$7 907	$ 00	$9,357	$9 53	$9	$ 0 25	$10, 18	$	$1 04	$ 376
OVERHEAD EX E ES										
der n & G	$999	$1 029	$ 9o0	$ 091	$ 2	$ 58	$1 93	$1,228	$1 26	$ 303
Mark ng	0 9	12	1 145	180	2 5	251	89	328	367	408
Prop rty Op r tio & M nt ce	572	589	607	625	644	663	83	03	7 5	746
Utility Cos	499	5	530	546	562	579	96	61	633	652
Total Overh d	$3,1 9	$ 244	$3,342	$3 442	$3,545	$3,651	$3 76	$,8	$3,990	$4 109
GR SS OPERATING P OFIT	$	$, 56	$ $	$	$	$6, 74	$ 657	859	$7 56	7 267
FIXED CHARGES										
Property Taxe	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0
I surance	37		5	50	54	59	164	8	3	179
T tal Fix d C arges	$137	$1 1	$ 45	$	$ 54	59	$ 6	$168	$17	$ 9
EBITD BEFO E A GT FEE	$4	,0 5	$5 7	$5,9 0	$ 1 0	$6 3 5	6 3	6 9	$ 883	$ 8
MANAGEMENT FEES										
B Manag m F	$2 8	$ 6	$380	$43	4 4	$ 57	$471	$485	$ 99	$51
Inc d M gem (b)	0	0	0	0	0	0	0	0	0	0
T tal M g ment F	$ 8	$36	$ 0	$431	$444	$457	$ 71	$485	$ 99	$1
EBITDA	$,353	4, 54	$5	$5 5 9	$5 686	$ 58	$6 022	$6 206	$6,38	$6 57
Prin ary F BE Reserv	$ 3	$ 89	6	$ 70		$55	$665	70	$ 6	$ 35
ET OPERATING NCOME ( )	2 9	$4 665	$ 934	$5 6 0	$5 202	5, 3	$5 338	$5 501	$5,658	$5 639
Add Incentive M nag m F (se elow)	$0	$0	$	$0	$0	$	$0	$0	$0	$0
ADJUSTED NET OPERATING INCOME	$,2 9	$,665	$ 93	$5,0	$5 02	$5 1 3	$ 33	5, 01	$5 658	$5 639
NVESTMEN EARN GS AND OTHER RE	(2)									
Debt Service R rve Fun enior	$285	$285	$285	$285	$28	$2 5	$ 85	$285	$285	$2
Debt Service R rv Fun Subordina	0	0	0		0	0	0	0	0	0
al In tm t Earning an Oth R	$285	$285	$	$ $	$ 85	$ $	$ 85		$285	$
ADJUST D NOI AND OTHER REVEN ES	$ 0	$ 51	$ 9	$5 325	$	$ 78	$ 623	$	$6 9	5
SENIOR LIEN DEBT SERV CE										
Gros Deb S rvice	$3 53	$ 53	3,858	$3 06	$3,9 5	$4 000	$4 050	$ 096	$ 7	$4 8
Le s C p alized Int st	52	0	0		0	0	0	0	0	0
N S m L D t S rv ce	$3 022	$3 453	3,858	$ 906	$3,95	$ 00	$4 050	$4 096	$	$4 1
SUBORDIN TED L EN DEBT SERVICE.										
Gro Deb Service	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0
Le s C p alized Int re	0	0	0	0	0	0	0	0	0	0
Subo di ted Debt Serv	$0	0	$	$	$0	$0	$	$0	$0	
OT ET DEBT SERVICE	$3 22	$3	$ 85	3 06	3,955	$4 00	$4 050	$4 96	$ 7	$4
OT ER DEDUCT O S										
Subord ted Managemen F	$ 3	1	$ 2	6	$ 02	$2 8	$2	$220	$22	$2 4
ordinate FF&E Reserve Fund	34	289	5	470	484	99	$ 3	29	$44	561
T t Oth D	$268	$433	$608	$666	$686	$ 07	$72	$7	$771	94
NET CASH FLOW	$1,2 5	$ 65	$ 53	$75	$8 7	$ 2	$846	$9 1	$ 02	
APPLICATION OF NET C SH FLOW										
S pplem tal R rv Fund	$ 2 9	$1 065	$753	$7 4	$2 4	$ 1	$46	$5	$5	$
Surplus Fund	0	0	0	0	633	2	80	890	97	88
R m ing N t C Flow	$	$	$	$	$0	$0	$0	$0	$0	$0
FUND BALANCES										
Acco B l S pplem IR rv Fund	$1 2	$2 280	$3 032	$3 786	$ 000	$ 050	$4 096	$ 1 7	$- 88	$4 2 9
Accum Bal S rplus Fund	$0	$0	$0	$0	$633	$ 355	$2 53	$3 0 5	$4 018	$4 900
Supplem Res rv Fund 9 uirem t	$3 53	$3 858	$3 900	$3 955	$ 000	$4 050	$4 096	$ 7	$ 98	$ 49
CITY STANDBY SUPPORT PAYT ENT	$1 209	$1 38	$1 543	$ 562	$ 582	$1 600	$1 620	$1 638	$ 59	$1 679
DEBT SERV E COVER GE RAT OS										
S nior Debt S rvi C g R ti (3)	2.48	2.39	2.25	2.27	2. 1	2 26	2 31	2.35	.39	2.35
Senior Debt S rvice C g R ti (4)	1.49	1 4	1.35	1 6	1 39	1 37	39	1 41	1 3	1 4

NOTES
(1) As prov d by PKF through 2015 3% nnu creas th rea er
(2) Assume Interest E rning or 5 00% for t D b Service P serve Funds
(3) N Income plu S DSRF arn g d vided by ena Li Debt Service C y S andby S ppon P ym
(4) N Income plu S ns DSRF arn g d ded by Sen Li D bt ervice

City of Columbia, South Carolina

Occupancy Percentage										
Occupied Room Revenue										
Average Room Rate										
Occupied Room Revenue (RevPAR)	$ 5 52	$ 8 99	$ 22 59	$ 26.23	$130 2	$ 33	$ 7 9	$ 2 0f	$ 6 34	$ 50 3
Revenue										
Food & Beverage	6 72	6 357	5-8	6 4	946	7 55	7 369	7,-90	7 818	8 0 3
Telecommunications	225	231	238	245	253	260	268	76	284	3
Golf	0	0	0	0	0	0	0	0	0	0
Other Operated Departments	392	404	4 6	29	442	55	9	483	97	5 2
Rental and Other Income	2	6	9	21	6	130	3	38	2	6
Total Revenue	$ 9 254	$ 83	$ 0 42	$2 39	$21 8 0	22 320	$22 390	$23 880	$2 390	$25 2
DEPARTMENTAL COST										
Room	$9 ,47	$9,833	$ 0 28	10 432	10 7 6	$ 1 068	1 400	7 2	$12 794	$ 57
Food & Beverage	851	1 905	6-	2 023	083	-,1 6	-,2 0	2,276	345	4
Telecommunications	90	92	95	98	01	0	07	0	1	
Golf	0	0	0	0	0	0	0	0	0	0
Other Operated Departments	17	121	25	128	32	36	0	44	149	53
Rental and Other Income	2	6	9	21	28	130	134	138	2	6
Total Departmental Profit	$11 717	$ 2,069	$ 2 431	$12 804	$13 198	$13 584	$ 9	$14,411	$ 843	$15,288
OVERHEAD EXPENSES										
Administrative & General	$1 3 2	$ 382	$ 24	$1 4 7	$1 5 1	$1 55	$1,603	$ 6o1	$ 700	$ 7
Marketing	50	1 94	1 539	585	1 632	1 68	1 732	784	837	1,592
Property Operation & Maintenance	768	79	8 5	6 0	865	891	917	945	923	003
Utility Costs	672	69	7 2	34	7 8	779	802	826	95	876
Total Overhead	$4,232	$4 359	$4 90	626	$4 763	$ 06	$ 054	$5,205	$5,36	$5 522
GROSS OPERATING PROFIT	,48	$	$ 94	$8 79	$8,42	$8 77	$8,937	$9,20	$,48	$9,766
FIXED CHARGES										
Property Taxes	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0
Insurance	184	90	96	201	208	2 4	220	22	234	241
Total Fixed Charges	$ 84	$ 90	$196	$201	$208	$21	$220	$227	$234	$241
EBITDA	$ 30	$	$7 5	7	$ 2	$8	$ 717	$8 9	2 9	$9 526
Base Management Fee	529	$545	$562	$5 9	96	$6 4	$632	$65	$671	$69
Incentive Management Fee	0	0	0	0	0	0	0	0	0	0
Total Management Fee	529	$5 5	562	$ 9	55	$6 4	$6	$ 51	$ 1	$
EBITD	$677	$6, 7	7 8	$ 9	$ 62	$7 50	$8 085	$ 328	$ 578	$ 835
Property & ER	$953	$98	$102	$ 052	$ 084	$ 8	$ 50	$ 84	$ 220	$ 256
NET OPERATING INCOME	$,9	$ 9	$6 162	$6,347	$6 5 7	$ 7,4	$6 9,6	$7 44	$7 358	$7 573
Add: Incentive Management Fee (see below)	$0	$0	$0	$0	$0	$	$0	$0	$0	$0
ADJUSTED NET OPERATING INCOME	$ 8	$5 983	6,162	$6 3 7	$ 537	$ 734	$6 9 6	$ 44	$,358	$7 579
OTHER EARNINGS AND OTHER REVENUES										
Debt Service Reserve Fund Sizing	$785	$785	$285	$285	$285	$785	$785	$285	$285	$285
Debt Service Reserve Fund Subordinate	0	0	0	0	0	0	0	0	0	0
Total Investment Earnings and Other	$ 8,,	$285	$285	$2 5	$265	$285	$ 5	$285	$285	285
ADJUSTED NOI AND OTHER REVENUES	$ 84	$6,268	$6,448	$6	$6 ,3	$7 019	2,4	$ 29	$7,643	7 864
SENIOR LIEN DEBT SERVICE										
Gross Debt Service	$4 2 9	$ 299	$4 352	$ 00	$4 55	$,508	$ 564	$ 8 6	$ 67	$ 729
Less: Capitalized Interest	0	0	0	0	0	0	0	0	0	0
Net Senior Lien Debt Service	249	$4 99	$4 35	$ 400	$4 455	$4,508	$4 564	$4 1	$ 74	$4 729
SUBORDINATED LIEN DEBT SERVICE										
Gross Debt Service	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0
Less: Capitalized Interest	0	0	0	0	0	0	0	0	0	0
Net Subordinated Lien Debt Service	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0
TOTAL NET DEBT SERVICE	$4 2 9	299	$4 352	0	$4,455	$4 508	$ 564	$4 616	$4 674	$,729
OTHER DEDUCTIONS										
Subordinated Management Fee	$2	$ 8	$ 55	$263	$ 7	$279	$287	$ 95	$ 05	$314
Subordinate Base & Incentive Fund	578	95	6 3	631	6 0	67	690	7 0	32	75
Total Other Deductions	$81	$8 3	$ 68	$ 4	$921	$949	$977	$1 006	$1 3	$1 0
NET CASH FLOW	$1 0 7	127	$1 227	$ 3	1 4 7	$ 562	$ 680	$1 807	$	,06
APPLICATION OF NET CASH FLOW										
Supplemental Reserve Fund	$50	$5	$47	$5	$53	$55	$52	$59	$54	$55
Surplus Fund	77	1 0 3	80	83	1 39	507	628	1 748	978	2 013
Remaining Net Cash Flow	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0
Annual Supplemental Reserve Fund	$4 299	$ 52	$ 400	$4 45	$4 508	$4 64	$4 6 6	67	$4 7 9	$ 783
Annual Surplus Fund	$ 8 6	$6 949	$8 129	$ 13	$ 0,808	$12 313	$13 941	$ 790	17 568	$19,581
Supplemental Reserve Fund Requirement	$ 9	$4 52	$ 00	$4 455	$4 508	$4 564	$4,616	$4 674	$ 779	$4 783
CITY SUPPORT PAYMENT	1 700	$1 720	1 741	$1 760	$1 782	$1 80	$1 825	$1 846	$1 870	$1 891
DEBT SERVICE COVERAGE RATIOS										
Senior Debt Service Coverage Ratio (3)	2.39	2.43	2. 7	2.51	2. 5	2. 9	2.64	2 68	2.73	2.77
Senior Debt Service Coverage Ratio (4)	1 43	1 6	8	1 51	53	1 5	1.58	1 61	64	1 66

NOTES

(1) As provided by PKF through 20 3% annual increase thereafter

(2) Assumes Investment Earnings of 5 00% on the Debt Service Reserve Fund

(3) Net Income plus Senior DSRF funding divided by Senior Lien Debt Service

(4) Net Income plus Senior DSRF funding divided by Senior Lien Debt Service Plus Subordinate Debt Service Standby Support Payment

Citizens Gas and Electric subject to change

0217

JG 00185

APPENDIX_0222

		2027	28	2		2031	03	2033	34	03
		300	300	00	300	300	00	300	300	00
		9 500	09 50	0 ,800	0 ,000	109 500	9 00	09 800	0	09 00
		78 83	78 83	78 83	78 ,97	79 83	8 83	78 8	8 3 7	8 83
		%	7 0	40%	71 40	71 40	7 0%	0%	7 40	0%
		$2 7 44	$223,96	$230 68	$23 ,60	$244 73	$ 52 07	$259 63	$267 2	$2 5
		$ 5 25	$ 9 1	$ 64 70	$ 66,64	$ 7 3	$1 998	$ 5 38	$ 90 9	$ 96 6

	6	$ 7	6 2	$ 6 0	$ 6 ,25	2	6	0 4 7	0 0	$
	8 29	8 543	8 799	9 063	335	5	9 904	0 20	0 07	0 8
	302	3 1	320	330	340	350	360	371	382	39
	0	0	0	0		0	0	0	0	0
	527	,43	560	576	594		630	649	668	686
	5	5	60	16	70	75	80	86	9	97
	$ 5,275	$26,652	27 45	$ 27	$29 123	$2 97	$3 897	$3 ,824	$ 2,7 8	$33 62

	$12 30	$ 3 2 5	$13 612	$1 020	$ 4 441	$1 ,07	$ 5 320	$ 5 780	$ 6 53	$1 7
	2 87	2 562	2 639	2 7 8	2 800	2 864	2 970	3,0 9	3 5	3 2 6
	0	12	28	132	136	1 0	14	8	,3	157
	0	0	0	0	0	0	0	0	0	0
	58	63	67	72	178	83	88	9	200	206
	5	55	60	5	1 0	75	0	86	19	7
	$157 7	$ 6 2 9	$ 6 706	7 20	$ 7 723	$ 8 255	$18 803	$ 9 367	$ 9 8	6

	$ 804	$1 858	$1,913	$,971	$2 030	$2,09	$2 54	$2,2 6	$2 285	$2 353
	1 949	2 007	2 068	2 30	2 94	2,2 9	23 7	2397	2, 9	2 5 3
	033	1 064	1 096	28	1 62	1 197	33	,27	1 308	347
	03	330	7	98	016	1 0 6	078	0	1 3	8
	$5 688	$5,858	6 034	$6, 5	$6 402	$6 594	$6 792	$6 696	$7 20S	$ 21
	$ 59	$ 0,26		$	$ 322	$1 ,661	12 011	$ 2,372	$ 2,	3 25

	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0
	2 8	255	263	27	279	287	296	305	314	3
	$2 8	$5	$ 63	$271	$279	$287	$296	$3 5	$3	$ 23
	$9 8	06	$ 9	1 23	$ 1	$11, 74	$ 1 5	$ 67	429	2 2

	$ 12	$733	$755	$778	$60	$825	$850	58 5	$90	$928
	0	0	0		0	0	0	0	0	0
	$ 12	$733	$755	$778	$ 0	$ 25	$850	$875	$90	$928
	$9 00	$,373	39 54	$9 944	$10 242	$1 549	$ 66	$ 1 2	$,527	$1 873
	264	$ 333	7	4	$1 56	$1 500	$ 5 5	$ 59	$ 63	$ 688
	$ 806	$8 640	$8 281	$8,530	$8, 86	$9,049	$9 321	$9 01	$9 89	$ 5
	$0	$0	,0	$0	$0	$0	$0	0	$0	$0
	$7,806	$8, 0	$8 28	$ 530	$8 786	$9 0 9	$9 321	$9 60	$ 889	$ 0 18

	$285	$285	$285	$285	$28	$285	$28	$285	$285	$5 995
	0	0	0	0	0	0	0	0	0	
	5	$2 5	$285	$28	$285	2 5	$2 5		$ 85	5,935
	$ 9	$ 3 6	$ 7	$9 8 5	$ 1	,9 5	9 606	$3 E 5	74	$

	$ 783	$,843	$,0	$ 9 8	$5 018	$5 080	,5 1 3	$5 02	$5 2	$9 822
	0	0	0	0	0	0	0	0	0	0
	$ 783	$4,8 3	$4 901	$ 958	$ 18	$5,	$6 3	,5 202	$5,,65	$9 822

	$0	$0	$0	$0	$0	$0	0	$0	$0	$0
	0	0	0	0	0	0	0	0	0	0
	$0	$0	$	$0	$0	$0	$	$5 2	$0	

	$ 83	$4 43	$ 1	$4,95	$5,018	$5, 0	$5, 3	$5 2	$5 265	2

	$323	$333	$343	$353	$364	$3 5	$386	3 8	$ 0	$422
	6	900	87	848	874	900	927	955	983	0 3
	100	$ 13	$1 167	$1,202	$ 238	$1 27	$1 13	1 53	$1,393	35
	$,2	$2,350	$2 9	$2 656	$2 81	$2 89	,3 0	3 2	$ 16	$4, 18

	$59	$58	$57	$60	$62	$63	$ 9	$63	$3 5 6	$0
	2 9	2 292	3 442	2,596	754	2 9 7	3 092	3 268	0	9 8
	$	$0	$0	$0	$0	$0	$0	$0	$	0

	$4,843	$4 301	$ 958	$5,018	$ 060	$ 143	$5 202	$5 26	$8 61	$9 781
	$21 730	$24 02	$26 64	$29,060	$31,8*4	$3 3	$37,822	$4 091	$4 ,09	$48 009
	$4,843	$4 90	$4 958	$_0 8	$3 080	$5 143	$5 20	$5 _05	$5,827	$0

	$1 9 3	$1 937	$1 961	$1 983	$2 002	$2,032	$2,057	$2,081	$2 106	$1 E47

	2.82	2.87	2.	2.95	3.01	3 06	3.1	3 17	3 22	98
	1 63	1 72	1 75	1 78	1.81	1.8	87	1 90	93	65

NOTES

( ) As p d b PK through 0 5 3% nn al/ ere ther fl

) Ass m au es ming f 90% for th D bt ve Reserv F nds

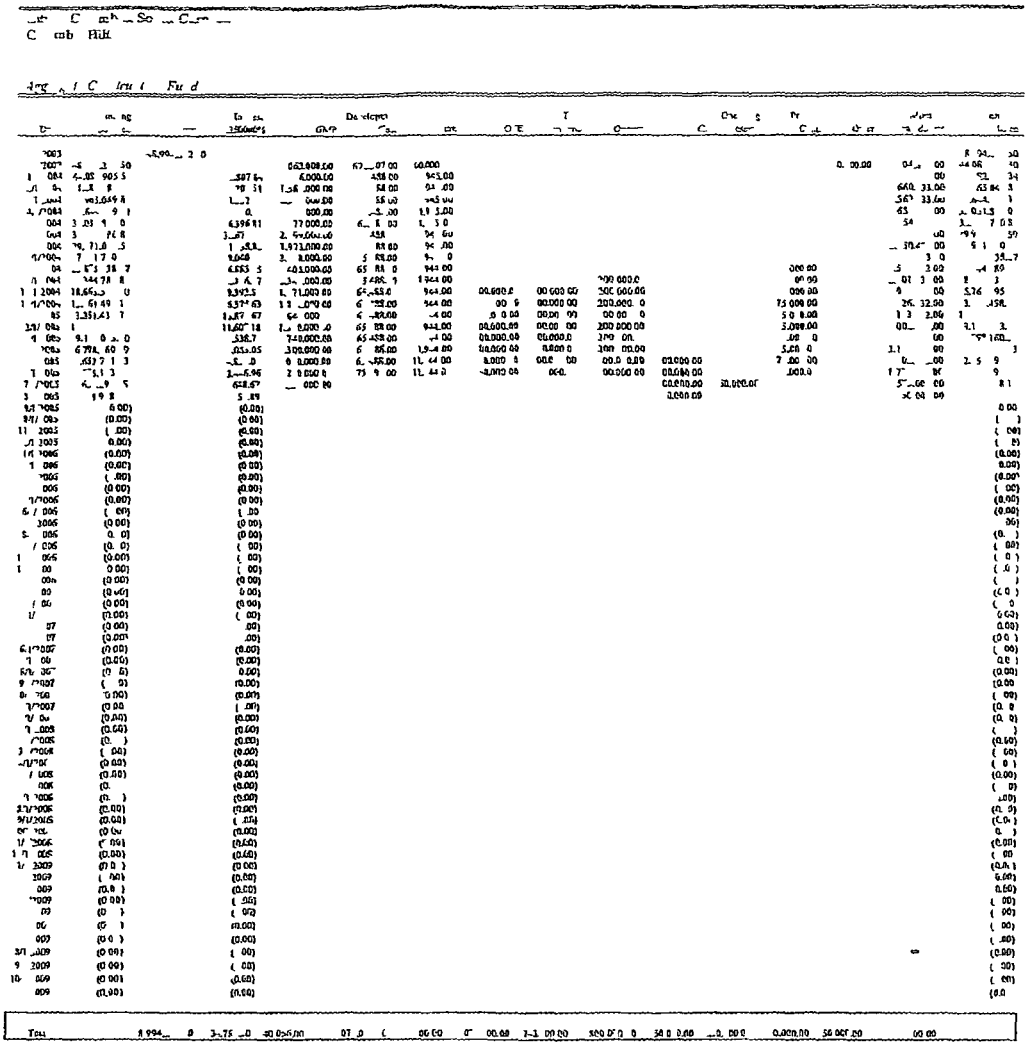
(3) N Income plu S nior DSRF ming d vid d by Senio D bt S rv I C Standby S pp Payment

( ) N Income plu S nio SRF ming divided by S nior L Debt S vice

C — C ... — C ...
C formerly Held

...ted Debt ...

Date	Principal Outstanding	Compounded Interest (CAB)	Current Interest (CIB)	Debt Service	Annual Debt Service
1/1/2004			6...9	...6 .2	
...1/2004			7 ... 9 .50	1 7 ...567 .0	72n,ne7 50
9/1/2004			726,587 50	1 72 ,587.50	
3/1/2005			1 72 .567 50	1 7 6,5 7 .0	453,175 00
9/1/2005			1 726,587 50	1 7 6,587 .0	
/1/200...			1 ...,587.50	1 7 6,587 .0	3 45 1 5 00
9/1/200...			1 ...6...97 50	1 6,58 .0	
3/1/200...			96...67 .0	1 7 597 50	4 175 00
/1/200			1 796,587 .0	1 ...796,587.50	
3/1/2009			1 ...96,587.50	131 ,587 .1	...8,175 00
9/1/2010	2 5 000 00		71 4,50.00	1 715 4,50 00	
1/2009	000 00		1 1 450 00	...190 4..0 00	905,900 00
9/1/2009			1 70 .387 50	1 70...387.50	
3/1/2010	0 000 00		1 702 87 50	...52,387 .0	3 954 00
9/1/2010			1,687,...6...50	1 687 702 .0	
3/1/2011			1,687,2 ...0	2,312...6 .0	9 9,5... 00
9/1/2011	... 000 00		1,670 0 5 00	1,670 075 00	
3/1/201			1,670,0 5,00	2,3 0 07 00	4 050 150 00
9/1/201	710 000 00		1,6 0.5 0 00	1,750...50 00	
3/1/201			1 650,3,50 00	...455 0 00	4 096,100 00
9/1/2013	... 000 00		1,6...8,69 .50	1,6...8,687.50	
3/1/2014			1 6...6,6 7 50	2 18, 87 .0	4,147,...75. 0
9/1/2014	...90,000 00		1 604,2 2. 0	1,604,212 .0	
3/1/201			1 604,21 .50	...994 1 .50	4 19 4..5 00
9/1/2015	990 000,00		1,576 987 50	1,...76,987.50	
/1/2016			1,57... 987 50	,671 987 .0	4 ...48 9...5 00
9/1 01	1 095 000.00		1,545,87 00	1,546 875 00	
3/1/2017			1,546 875 00	751 875 00	4,298 50 00
9/1/2017	1 05,000 00		1 1 .50	1,51 .50	
3/1/2018			1 1 7 7.50	,838,...7 .0	4 35... 00
9/1/201	1 25,000 00		1 4 ...00 00	1 4 7 ,0 00	
3/1 1 19			1 4...7,300 00	9 ...300.00	4,399 n00 00
9 1 19	1 ...45,000 00		1 437,56...50	1 437 5... .50	
3/1/20 0			1 4 7 6...50	017 56...50	4,455,1..5 00
9/1/20 0	1,550 000 00		1,394 11 .50	1,394 112 .0	
3/1/20 1			1,...94 11 .50	113 11 ...50	4 508 ... 00
9/1/20..1	1 ...0,000 00		1,346 812.50	1,...46 12.50	
3/1/20 2			1,346 81...50	...1... 1...50	4,36... ... 00
9/1/20	1 ...0 000.00		1 795,387 50	1...9 .387...0	
3/1/20...3			1...95,...87...0	3,... 0,387.50	4 615 7 00
9/1/20...3	02...,000.00		1...39 700 00	1...39 700 00	
3/1/2024			1,259 700 00	4...4 700 00	4 674 400 00
9/1/20 4	2,155,000 00		1 1 9,33 ...0	1 1 9,337.50	
3/1/20...5			1 179,3 7 50	3,549 337.50	4 7 8, 7 00
9/1/20...	...70,000.00		1 1 3,16... 0	1 1 3 1 ...0	
3/1/2026			1 1 1 4 1...50	669 16 .50	4 7... ... 00
9 1/2026	...5 000 0.)		1 043,900 00	1 0... 900 00	
.../1/20			1 043 90... 00	79...900 00	4 64 ...05 00
1/20...7	2 5,0 0 00		963,1 .50	,6R,1...20	
3/1/2026			9...R,1 7 50	93 1 7...0	4 904 7 00
9/1/2026	96 000.00		886,600 00	88 600 00	
3/1/2029			886,600 00	4 071,600 00	4 9 8 00 00
9/1/2029	185 000 00		799 01 .50	799 012 .0	
/1/2030			799,01 .50	4...19 01 .0	018 0..5 00
1/20...0	4...0 000.00		1 04 962.50	04 9 .50	
/1/20 1			04 962.50	4...4 96...50	5,0 9 9...5 00
9/1/2031	3,070,000 00		604 0...7.50	604 0...7.50	
3 1/20			644 0...7.50	4 9 0 7 .0	14 0 ...
9/1/20	3 9 020 00		49 ...25.00	49 ...25 00	
1/203			495,...5.00	4 1 825 0)	...01 50 0
9 1/20...	4 10 000 00		80,050.00	80,050.00	
3/1/2034			380 050.00	4,385.0 0.00	5... 100 00
9/1/2034	4,545 000 00		...56 162.50	2... 162.50	
/1/203			...56 162 50	9,571 162 .0	7...5 00
/1/20...	9 1 000 00				
/1/2036					
9/1/2036					
3/1/20...7					
9 1/203					
3/1/20...9					
9/1/20 8					
3/1/2039					
9/1/20...9					
3/1/2040					
9/1/2040					
3/1/2041					
9/1/2041					
3/1/20					
9/1/204...					
3/1 14					
9/1					
T tal	6... 65 000 00		2...41 1...5	145,0... 156...5	1441 ,867 50



C tv fC l mh So ch C In
C l mo Bl lt
Senior Bonds

C nt f t Bo as

Du						Debt S rv	Deb Se
12/1/200							
6/2004							
3/1/2005						726,587.50	
9/1/2005						726,587.50	
3/1/2006						726,587.50	
9/1/2006						726,587.50	
3/1/2007						726,587.50	
9/1/2007						726,587.50	
3/1/2008						726,587.50	
9/1/2008						726,587.50	
3/1/2009						715,587.50	
9/1/2009						715,587.50	
3/1/2010						702,387.50	
9/1/2010						702,387.50	
3/1/2011						687,637.50	
9/1/2011						687,637.50	
3/1/2012						670,075.00	
9/1/2012						670,075.00	
3/1/2013						650,550.00	
9/1/2013						650,550.00	
3/1/2014						628,687.50	
9/1/2014						628,687.50	
3/1/2015						604,112.50	
9/1/2015						604,112.50	
3/1/201						576,987.50	
9/1/201						576,987.50	
3/1/2017						546,875.00	
9/1/2017						546,875.00	
3/1/2018						513,775.00	
9/1/2018						513,775.00	
3/1/2019						477,600.00	
9/1/2019						477,600.00	
3/1/20						437,262.50	
9/1/20						394,112.50	
3/1/2022						346,812.50	
9/1/20						346,812.50	
3/1/20						295,387.50	
9/1/023						239,387.50	
3/1/20						179,700.00	
9/1/2024						179,700.00	
3/1/20						114,187.50	
9/1/20						114,187.50	
3/1/20						104,900.00	
9/1/20						104,900.00	
3/1/20						96,412.50	
9/1/20						96,412.50	
3/1/20						86,600.00	
9/1/20						86,600.00	
3/1/2030						799,012.50	
9/1/2030						799,012.50	
3/1/20						704,962.50	
9/1/2031						704,962.50	
3/1/2032						604,012.50	
9/1/203						604,012.50	
3/1/203						499,212.50	
9/1/203						499,212.50	
3/1/2034						388,050.00	
9/1/20						388,050.00	
3/1/20						267,162.50	
9/1/20						267,162.50	
3/1/203							
9/1/203							
3/1/2037							
9/1/2037							
3/1/2038							
9/1/2038							
3/1/2039							
9/1/2039							
3/1/2040							
9/1/2040							
3/1/2041							
9/1/2041							
3/1/2042							
9/1/204							
3/1/043							
9/1/2043							
T tal							

City of Columbus, Ohio
Columbus, Ohio
Department of Building

Construction Fund

Date	Beginning Balance	Deposits	Interest Income	Transfers	Disbursements	Ending Balance
1/1/2003		[illegible]				48,993,212.00
[illegible]	[illegible]				[illegible]	44,089.00
1/1/2004	[illegible]		5,507.41		[illegible]	1,582,809.34
1/1/2004	41,582,260.34		43,[illegible].51		1,[illegible]433.00	39,965,049.85
1/1/2004	39,965,049.85		41,52[illegible]		2,362,453.00	7,644,139.11
1/1/2004	[illegible]		11.92		2,651.00	5,011,702.03
1/1/2004	[illegible]		[illegible]96.81		654,43[illegible].00	2,413,780.83
1/1/2004	413,780.8[illegible]		33.6[illegible]6.76		47,[illegible]33.00	3,997,[illegible]0.9[illegible]
1/1/2004	[illegible]		31,[illegible]38.8[illegible]		[illegible]050,4[illegible]3.00	7,951,[illegible]30.4[illegible]
8/1/2004	7,951,730.42		[illegible]4.85		10,[illegible]433.00	[illegible]5,[illegible]7.[illegible]
9/1/2004	[illegible]5,875,[illegible]8.7		[illegible].5		4,557,432.00	1,344,[illegible]89.[illegible]
10/1/2004	21,344,[illegible]9.8[illegible]		[illegible]1,6[illegible]4		[illegible]01,[illegible]4.00	1,[illegible]25,[illegible]34.0
11/1/2004	18,665,[illegible]4.30		19,[illegible]9.[illegible]		9,[illegible]34,[illegible]00	15,7[illegible]1,495.1
12/1/2004	15,[illegible]61,[illegible]95.12		16,375.63		4,[illegible]6,432.00	13,[illegible]51,438.[illegible]5
1/1/2005	13,[illegible]51,438.75		13,871.67		[illegible]93,43[illegible].00	11,171,8[illegible]8.4[illegible]
2/1/2005	11,171,878.42		11,[illegible]07.18		[illegible]082,4[illegible].00	9,[illegible]1,[illegible]053.0[illegible]
3/1/2005	9,[illegible]81,053.[illegible]0		9,[illegible]38.79		2,[illegible]792,4[illegible]2.00	6,[illegible]795,[illegible]60.[illegible]9
4/1/2005	[illegible]7[illegible]8,[illegible]60.3[illegible]4		[illegible]63.05		3,[illegible]32.00	[illegible],65[illegible],[illegible]51.43
5/1/2005	4,652,[illegible]91.43		4,[illegible]834.08		0,[illegible]43,[illegible]00	55,[illegible]19.[illegible]5
6/1/2005	[illegible]5,193.5		[illegible]46.9[illegible]		1,[illegible]41.00	8,[illegible]4,[illegible]99.[illegible]8
7/1/2005	694,[illegible]99.48		6[illegible]8.2		[illegible]575,[illegible]00.00	49,[illegible]948.11
8/1/2005	49,948.11		51.89		50,000.00	(0.00)
9/1/2005	(0.00)		(0.00)			(0.00)
10/1/2005	(0.00)		(0.00)			(0.00)
11/1/2005	(0.00)		(0.00)			(0.00)
12/1/2005	(0.00)		(0.00)			(0.00)
1/1/2006	(0.00)		(0.00)			(0.00)
2/1/2006	(0.00)		(0.00)			(0.00)
3/1/2006	(0.00)		(0.00)			(0.00)
4/1/2006	(0.00)		(0.00)			(0.00)
5/1/2006	(0.00)		(0.00)			(0.00)
6/1/2006	(0.00)		(0.00)			(0.00)
7/1/2006	(0.00)		(0.00)			(0.00)
8/1/2006	(0.00)		(0.00)			(0.00)
9/1/2006	(0.00)		(0.00)			(0.00)
10/1/2006	(0.00)		(0.00)			(0.00)
11/1/2006	(0.00)		(0.00)			(0.00)
12/1/2006	(0.00)		(0.00)			(0.00)
1/1/2007	(0.00)		(0.00)			(0.00)
2/1/2007	(0.00)		(0.00)			(0.00)
3/1/2007	(0.00)		(0.00)			(0.00)
4/1/2007	(0.00)		(0.00)			(0.00)
5/1/2007	(0.00)		(0.00)			(0.00)
6/1/2007	(0.00)		(0.00)			(0.00)
7/1/2007	(0.00)		(0.00)			(0.00)
8/1/2007	(0.00)		(0.00)			(0.00)
9/1/2007	(0.00)		(0.00)			(0.00)
10/1/2007	(0.00)		(0.00)			(0.00)
11/1/2007	(0.00)		(0.00)			(0.00)
12/1/2007	(0.00)		(0.00)			(0.00)
1/1/2008	(0.00)		(0.00)			(0.00)
2/1/2008	(0.00)		(0.00)			(0.00)
3/1/2008	(0.00)		(0.00)			(0.00)
4/1/2008	(0.00)		(0.00)			(0.00)
5/1/2008	(0.00)		(0.00)			(0.00)
6/1/2008	(0.00)		(0.00)			(0.00)
7/1/2008	(0.00)		(0.00)			(0.00)
8/1/2008	(0.00)		(0.00)			(0.00)
9/1/2008	(0.00)		(0.00)			(0.00)
10/1/2008	(0.00)		(0.00)			(0.00)
11/1/2008	(0.00)		(0.00)			(0.00)
12/1/2008	(0.00)		(0.00)			(0.00)
1/1/2009	(0.00)		(0.00)			(0.00)
2/1/2009	(0.00)		(0.00)			(0.00)
3/1/2009	(0.00)		(0.00)			(0.00)
4/1/2009	(0.00)		(0.00)			(0.00)
5/1/2009	(0.00)		(0.00)			(0.00)
6/1/2009	(0.00)		(0.00)			(0.00)
7/1/2009	(0.00)		(0.00)			(0.00)
8/1/2009	(0.00)		(0.00)			(0.00)
9/1/2009	(0.00)		(0.00)			(0.00)
10/1/2009	(0.00)		(0.00)			(0.00)
11/1/2009	(0.00)		(0.00)			(0.00)
Total	[illegible]4,994,12[illegible].50		4,[illegible]4 87.50		49,4[illegible]9,000.00	

C [illegible]
C lamb a E lc
Senior Bonds

Coo ch_ed1 : e t

Da	D vs 0- 60	Bag g Balance	D-tos L	L lerec. I_50000^	Impact on DSRF Fund	[illegible] C-[illegible]	I est C-[illegible]	End ng Bal m-
12/1/[illegible]			8a7 769 1			)		,877 769 1
3/1/2004	90	a877 1		[illegible]	u[illegible]56		[illegible]	1 [illegible]3
9/1/2004	ao	[illegible]66		,a51 to	1[illegible]7 2		[illegible]5 87 4	3 1 8
3/1/2005	180	aa1,592.5		42,461 3	1 [illegible]74 9	)	1 7 6,5 7 50	_000 09 13
9/1/2005	180	_000,509 13		1_501 93	1 _74 8	,u	1 [illegible]6,a87.50	428 9(5 84
3/1/ 00[illegible]	180	428, 5 94		2,[illegible] 104		[illegible]	431 64[illegible] 68	(0.00)
9/1/2006	180	(0.00)		(0.00)		)		(0.00)
3/1/2007	180	(0.00)		(0.00)		(		(0.00)
1/2007	80	(0.00)		(0.00)		,a		(0.00)
3/1/2008	180	(0.00)		(1.00)		,[illegible]		(0.00)
9/1/2008	180	(0.00)		(0.00)		,[illegible]		(0.00)
/1/2009	180	(0.00)		(0.00)		[illegible]		(0.00)
9/1/2009	180	(0.00)		(0.00)				(0.00)
3/1/2010	180	(0.00)		(0.00)				(0.00)
9/1/2010	180	(0.00)		(0.00)		[illegible] [illegible]		(0.00)
/1/2011	180	(0.00)		(0.00)		0.		(0.00)
9/1/2011	180	(0.00)		(0.00)		,a[illegible]		(0.00)
/1/2012	180	(0.00)		(0.00)		,[illegible] [illegible]		(0.00)
9/1/2012	180	(0.00)		(0.00)		a [illegible]		(0.00)
/1/2013	180	(0.00)		(0.00)		[illegible]		(0.00)
9/1/2013	180	(0.00)		(0.00)		/		(0.00)
3/1/2014	180	(0.00)		(0.00)				(0.00)
9/1/2014	180	(0.00)		(0.00)		[illegible]		(0.00)
3/1/2015	180	(0.00)		(0.00)		,u		(0.00)
9/1/2015	180	(0.00)		(0.00)		[illegible] [illegible]		(0.00)
[illegible]				877 [illegible]	499 15 0		[illegible]474 70 13	

C ty of C ta _ _ Co h C
C tamb Hall n
Sen or Bo ds

Debt S r Re n F a

D	Day s/30/360	B g nning B lan	Deposi	Int re 000000	Cu t F d	Prin I R n F d	End Ba
1 /1/2003			5 09 691 19				5 09 691 19
3/ /2004	360	91		0 930 00	(7 936 00		5 709 691 1
1	360	5		2	2		7 5 1
3/1/2005	180	5 709 691 19		42,742 6	(142,742 6)		5,709,691 19
/1/ 005	180	5 09 691 19		14 742 6	(14 74 6)		709 691 19
1/2006	180	5 709 691 19		14 4 6		(142,74 6)	5 09 691 19
9/1/2006	180	5 709 691 19		14 4 6		(14 74 6)	709 691 19
1 007	180	5 09 691 19		14 74 6		(1 4 6)	5 09 691 19
9/1/2 0	180	5 09 691 19		142,74 6		(142,74 6)	5 09 91 19
3/1/2008	180	09 691 19		14 74 6		(14 42 6)	709 91 19
9 1/2008	80	09 691 19		142,742 6		(142,74 6)	09 691 19
1/2009	180	709 691 19		14 74 6		14 4 6)	09,691 19
9 1/2009	1 0	709 691 19		14 74 6		(14 74 6)	09 1 19
3/1/2010	180	5 09 691 19		4 4 6		(142, 42 6)	709 91 19
9/1/2010	180	09,691 19		142 74 26		(142,74 26)	709 691 19
1/2011	180	09,691 19		14 42 6		(14 74 6)	09 691 19
9/1/2011	180	09,691 19		14 742 26		(142,742 26)	09,691 19
1/201	180	5 709 691 19		142, 42 6		(1 2, 4 26)	5 709 691 19
9/1/201	180	5,709,691 19		14 74 6		(142, 4 26)	09 691 19
1/2013	180	709,691 19		14 743 26		(142,74 26)	09,691 19
9 1/2013	180	5 709 691 19		14 74 26		(142, 4 26)	5 709 691 19
3/1/2014	180	5 709 91 19		14 742 26		(14 4 26)	709 91 19
9/1/2014	180	5 09 6 1 19		142,742 26		(14 42 6)	09 691 19
3/1/201	1 0	709,691 19		142,74 26		(142,74 6)	5 709 691 19
9 1/2015	180	709 91 19		14 74 6		(14 74 6)	5,709 691 19
3/1/2016	180	709 691 19		14 74 6		(14 742 26)	5 09 691 19
9/1/201	180	5 09,691 19		143,74 6		(14 74 6)	5,709 691 19
1/201	180	709,691 19		142,74 26		(142, 4 26)	5,709 691 19
9 1/2017	180	709,691 19		14 74 26		(142,742 26)	5 709 691 19
3/1/2018	180	5 709,6 1 19		14 742 26		(142,74 26)	5 709 691 19
9/1/2018	180	709 91 19		14 42 26		(142,742 6)	709 691 19
3/1/201	180	5 709 91 19		42 4 26		(14 742 6)	09 691 19
9/1/2019	180	709 691 19		142,7 2 6		(14 742)	709 691 19
3/1/2020	180	709 91 19		14 6		(142,74 26)	5 09 691 19
9/1/20 0	1 0	5 709 691 19		14 74 6		(4 74)	5, 09 91 19
/1/2021	180	09 691 19		14 6		(14 42 26)	5 09 691 19
9/1/20 1	1 0	709 691 19		14 74 6		(142,74 5)	709 691 19
3/1/202	180	5 709 691 19		14 7 26		(14 4 6)	5 709,691 19
9/1/20	180	5 709 691 19		14 74 6		(14 42 26)	5, 09,691 19
3/1/20	180	5 709 691 19		142,742 26		(1 2, 6)	709,691 19
9/1/202	180	5 709,691 19		142,742 6		(14 742)	5 709,691 1
3/1/20 4	1 0	5 709 691 19		142,74 6		(142 742 6)	5,709 691 19
9/1/20 4	180	5,709 691 19		142,742 6		(142,74)	5,709,691 19
1/20	180	709 691 19		142 4 6		(1 2,74 6)	5 709 691 19
9/1/20	1 0	5 709 691 19		14 74 6		(14 7 2 6)	5,709,691 19
/1/2026	180	709,6 1 19		14 74 26		(1 74 6)	5,709,691 19
9/1/20 6	180	5 709 691 19		14 742 6		(14 42 26)	5,709,6 1 19
/1/20 7	180	5,709 691 19		14 4		(142, 2 6)	5,709,691 19
9 1/20 7	180	709 1 19		1		(14 4)	709 69 19
1/ 2	180	09 691 19		1 74 6		(14 4 6)	709 91 19
9 1/20 2	180	5 09 691 19		14 7 26		(14 4)	709 69 19
/1/20 9	1 0	09 1 19		1 74 6		(142,712 6)	5 709 91 19
9/1/2079	180	5 709 691 19		142,74 6		(14 742 6)	5 709 691 1
3/1/20 0	180	709 691 19		14 7 2 6		(142,742 26)	5 709 691 19
9/1/2081	180	5 709,691 19		142 742 6		(142, 26)	5 709 691 19
1 0 1	180	09 91 19		142 742 6		(142, 6)	709 591 19
9 1/20 1	180	709 691 19		14 2 6		(14 74 6)	09 691 19
/1/20 2	180	709 91 19		1 42 6		(14 342 6)	5 709 691 19
9/1/20	180	09 691 19		14 6		(14 742 26)	5 709 6 1 19
3/1/20 3	180	709,691 19		14 4 26		(142 42 6)	5 709 691 1
9/1/20	1 0	09,691 19		14 2		(142,74 6)	709 691 19
/1/20 4	180	5 709 691 19		142 4 6		(142,742 26)	5 709 691 19
9/1/2034	180	709 691 19		14 4 6		(14 74 6)	709 691 19
3/1/20 5	180	709,691 19		14 74 26		(14 74 6)	5 709,691 19
9/1/2035	1 0	709 691 19		14 742 6		(5,63 33 4)	
3/1/2036	1 0						
9/1/20	180						
1/2037	1 0						
9/1/20 7	180						
1/20 8	180						
9/1/20 8	180						
1/2039	180						
9/1/2039	180						
3/1/2040	180						
/1/2040	180						
1/2041	180						
9/1/2041	180						
/1/2042	180						
9 1/2043	18						
3/1/2044	180						
9 1/2044	180						
T 1			5 709 691 19	90 3 694 19	(459 157 0)	(14 7 27 98)	

C ty of Col mbia, South Carolina
Columbia Water

Aggregate Cost of Issuance

Cost of Issuance	Fee
Bond Counsel	250 000
Underwriters Counsel	100 000
Counsels to the City	300 000
Financial Advisor	650 000
Hot l Consultant	5 000
Trustee Counsel	1 000
POS/OS Printing	15 000
S&P	40 000
Moody's	40 000
Fitch	0
Feasibility Report	250 000
City Issuance Expenses	1025 000
Miscellaneous	000
Total	1 277 000 00

Exhibit 18

could close on the basis that we had presented to the City on February the 11th, that the City was prepared to go -- the City -- the not-for-profit corporation was prepared to go forward -- to move forward on the basis of what we presented to them on February the 11th

Q Okay Well, let's just go ahead and complete the timeline and we'll fill in some things as we -- and come back to them

At some point in time after February 11, 2004, you became aware that the City was moving in a different direction, is that correct?

A I became aware that the City Council had met and had -- had decided that it was going to open the process up in some way, shape or form to entertain a private solution -- a private approach, you know, versus this public private approach that we had been pursuing with the City

Q In other words, it was going to open up that for discussion, not necessarily choosing one financing structure over another, but it wanted to look at that other angle?

A I would -- I -- you know, very candidly I wasn't clear at all at that point what the City was working to try to achieve in the context of

But, again, I was confused about, "Do you still have this one up --" we actually had a couple of meetings following all of this with City staff there to move forward on the -- on the project we were moving forward on and, you know, stay the course We have a closing coming up, and then I -- and then -- and, again, I don't -- I mean, they're all friends, and the City just, "We're going to put that on hold "

So that went on -- you know, the public private went on hold while the City, you know, for its own reasons decided to look at a private alternative

Q And that action, that is, opening it up for alternatives, took City Council approval?

A I -- I've always -- again, I keep saying assume, assume I don't -- I'm assuming it did I'm assuming the City Council voted to move forward on an -- on an alternative

Q Was there ever a City Council meeting that you're aware of that -- where they voted to approve your proposal?

A Well, I think they voted to approve a Memorandum of Understanding back when we worked on the transaction through those many months -- I'm

Exhibit 19

MOU, I'm not -- I'm not here to say it did or didn't

Q Going into this MOU, though, getting everybody to sign it, unquestionably you understood -- the project team understood that this document was going to require City Council approval?

A What I understood was that this document did not obligate the City at the point and that there were certain actions and requirements the document spelled out that needed to be taken to move forward to get to the final closing mutually agreeable of all the parties, and that's the process we followed to get to a closing -- to build this Convention Center Hotel

Q And that this particular document required City Council approval?

A This particular document -- yes, this particular document at the time required City Council approval

Q Okay And what was the purpose of building the hotel? Why did the City want a hotel?

A I believe a primary -- the primary driver for the convention -- for the hotel was to support the convention center that the City and

Exhibit 20

conditions on the bottom of page one You mentioned a while ago that -- and I'm going to paraphrase you, but I think you mentioned a while ago that the City didn't have any obligation under this document

A I think that -- you know, I think the memorandum -- and, again, I've not read it in a -- in a long time But I think the Memorandum of Understanding is like a letter of intent It's, "We all understand we're going to go forward together in good faith together to do certain things " No, there's no -- you know, there's no little legal obligation until we get to the point where those things are completed

Q Right

A But it's a Memorandum of Understanding in terms of what the responsibility of the City was, what the responsibility of the various parties -- the role of the City, the role of the developer, the role of the contractor, the role of the architect or of the underwriter, the role of the operator that each party signed it that says, "Yes, we will move forward consistent with our rules to a -- to conclude a transaction "

Q Well, "We'll try to conclude a

Exhibit 21

transaction, if we can"?

A "We'll endeavor in good faith to move forward to include a transaction consistent with this Memorandum of Understanding "

Q All right Let's talk about that The -- paragraph one of the -- of Article I, the general conditions, the second sentence does state, consistent with what I think you said a while ago, "Notwithstanding anything herein to the contrary, if the City determines that it is not feasible to proceed with the hotel project, it shall have no liability under this MOU " Did I read that correctly?

A That's correct

Q What would you call that provision? I -- an escape clause?

A No I think it's much like a letter of intent that you say that "Here is what we intend to do and the steps we intend to take, but you, you know, once -- until we get all the stuff together neither party using a letter of intent has, you know, obligations under this letter of intent "

It does not say that, "By virtue of the steps you can subsequently take, subject to a letter of intent, that those particular steps may

Exhibit 22

member of the hotel team at this point

Q You're unsure of the --

A I am I'm honestly -- I mean, again, I -- you asked the question and I gave you -- as I recall someone said, but I never asked anybody further about that, and that could just be, you know, there's one of those community rumors that are out there, do you know this, that and the other So I don't deal in that kind of stuff

Q Yes, sir

A Close the chapter on that book and you're gone

MR NEWMAN Yes, sir Well, thank you I don't have anything further

RE-EXAMINATION

BY MR DETWILER

Q May I ask you a quick question

A Yes, sir

Q I really will try to be brief

A No problem

Q Everybody is ready to go home

The Memorandum of Understanding I think you've -- you have said this did not create a binding contract

A That in and of itself --

Q Right

A -- that's correct Yes, sir

Q Right And as of June 26th, 2003, you understood that under the terms of the MOU members of the development team agreed to be effectively at risk up to the date of the bond closing That's what you stated to Mr Steve Gantt?

A That's correct That's correct

Q Okay So I want to be clear about your testimony earlier, particularly in response to some of the questions that Mr Ward asked you Are you suggesting now that sometime after June 26th, 2003, the City did something specifically that changed what you said to Mr Gantt in this June 26th, 2003, letter?

A Let me -- I mean, I'll try to answer -- respond to you, Mr Detwiler

Q I'm sorry, but I'm -- excuse me Let me make sure -- this is a -- this is a yes or no question --

A Well --

Q -- and I want to know -- you're welcome to explain it --

A Certainly

Q -- but if the City did something, I

Exhibit 23

or not anything was modified as far as the agreement itself is concerned

Q Okay So sitting here today, you can't -- there were no modifications to the MOU?

A There were -- there were no written modifications as to this MOU as presented here

Q We've covered that

A Right

Q I'm asking you about unwritten modifications There were no modifications, oral or otherwise, to the MOU, is that correct? And if I'm incorrect in saying that I want you to tell me what was modified

MR HINSON Object to the form

THE WITNESS What modifications that I believe was made to this form other than what's not written in this form? That's the question, right?

BY MR DETWILER

Q That's right

A I would say there was not -- no modifications to this particular form that was made

Q Okay And there were no other agreements with the city?

A No other signed agreements

Exhibit 24

City of Columbia, South Carolina
Columbia Hilton
Additional $15,000,000 City Use
AAA Insured (40% City Support)
Sources and Uses of Funds (Combined)

SOURCES	Total
Par Amount	62,785,000.00
Key Money	1,000,000.00
[illegible]	
Total Sources	64,785,000.00

USES	
Construction Fund Deposit	48,944,150
Other Development Costs	
Other City Uses	15,000,000.00
Capitalized Interest Fund Deposit	887,614
Debt Service Reserve Fund Deposit	909,919
Working Capital Fund	
Underwriter's Discount	863,937
Costs of Issuance	139,000.00
Municipal Bond Insurance	
Accrued Interest	
Other	
Contingency (Rounding)	33
Total Uses	64,785,000.00

ASSUMPTIONS / SUMMARY STATISTICS	
Arbitrage Yield	6%
True Interest Cost	6.1
All-In Cost of Borrowing	7.8%
Net Coupon	7.8
Average Coupon	7.8
Dated Date	1/1/2003
Delivery Date	1/1/2003

BOND ISSUANCE EXPENSES	
Underwriter's Discount	863,937
Costs of Issuance	139,000
Municipal Bond Insurance	0.00%

INVESTMENT RATES	
Debt Service Reserve Fund Deposit	5.000
Construction Fund Deposit	1.50
Capitalized Interest Fund Deposit	1.50

OTHER	
Capitalized Interest	Yes
Interest Capitalized Through	9/1/2003
Debt Service Reserve Fund	Yes
Debt Service Reserve Fund Requirement	Lesser of Thr
End of Construction	9/1/2005

CONSTRUCTION FUND SUMMARY	
Total Construction Fund Draws	49,429,000.00
Target Construction Fund	49,429,000.00
Difference	

POTENTIAL CITY SUPPORT	
40% of Senior Bonds Debt Service Minimum/Year	1,038,611
40% of Senior Bond Debt Service Maximum/Year	1,063,040
40% Senior Bond Debt Service Average/Year (Operations)	1,050,826
(Net of Capitalized Interest and Debt Service Reserve Fund)	

Note

Interest Rates Estimated Rates as of 8-03
Assumes Triple A insured credit rating

C ty f C l mb th Carol a
C l m H H
g A gu show

	2 06		2008	2009	0 0	01	20 2	2 1		2 5
a bl R m (D ll	300	300	300	300	00	300	300	03	300	300
N ms (A nu l	0 0	09 0	0 00	1 3 800	03 00	0 0	0 00		5 00	05 00
O up ed com (Ann y)	69 85	73 453	83	78 397	78 8	8 53	7 3	7 97	8 83	8 183
O up cy Perce tag	63 00	57 08	7 0%	71 40%	7 0%	1 0	0%	7 0%	7 0	71 40
rag Room R	51 8	$ 23 05	$ 27 72	$ 55	$135 0	$ 39 56	$ 3 75	$ 06		7 08
R Per O cu d Room (R P R)	$	$ 5	$91 9	$93 93	$96.75	$99	$ 02 6	$ 05 72	$108 69	$ 2 5
R										
om	$8 3 0	$9 2	3 58	9	0,3	$ 3 6	$ 0 9 2	$ 3	3	99
F od & B g	59	730	872	0	5 69	5 24	5	5 648	5 8 8	5 9 2
T le ommuni	53	67	77	83	89	94	99	205	2 2	2 8
G g	0		0	0	0		0	0	0	0
Oth Opera ed D part nt	269	293	310	3 9	329	339	3 9	359	70	381
R al Oth incom	76	84	8	9		97	00	03	06	09
T tal R ven	$ 3,400	$ 4, 36	$ 5 206	$15,660	$16,140	$ 6 625	$ 1	$ 62	49	$18 633
DEPARTMENTAL PROF T										
R ms	$6 311	$7 0 2	$7 543	7 68	$8 0 0	8 25	$8 39	6 6	$6 598	$9,269
F od & B rag	,3 9	9	5	505	1,551	1 597	1 545	69	6	1 57
T communica	6	67	71	73	75	78	79	82	85	87
Gar g	0	0	0		0	0	0	0	0	0
Oth Op ed Dep rtm	81	88	93	95	9	02	05	07	11	1
R ntal and O he Incom	76	8	89	9	9	97	00	03	06	09
T ta D partm tal Prof	$7,90	$ 0	9 257	$9 532	$9 829	$ 0 25	10 4 8	$ 732	$ 046	$11 3 6
OVERHEAD EX ENSES										
Admin & Ge	$999	$1 029	$ 060	$ 091	$ 2	$ 58	$1 193	$ 228	$1 265	$ 303
Mark ting	079	1 2	1 5	80	,215	1 251	289	1 328	36	08
Pro erty Op r & M inten ce	572	589	607	625	64	663	683	03	725	746
U il y Costs	499	5 4	530	5 6	562	579	96	61	633	652
T tal Ov rh d	$3 1 9	244	$3 342	$3 442	$3 545	$3 65	$3, 61	3 873	$3 990	$ 09
ROSS O ERATI G ROFIT	$4 8	$6	$ 9 5	$6 9	$6,28	$ 7	$6,657	$6 85	$7 056	$7 267
FIXED CHARGES										
Pro rty Taxes	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0
sura ce	137		5	50	54	59	64	6	3	79
tal Fix Charges	$137	$ 1	$145	$150	$ 54	$159	$ 6	$168	$173	$
EBITD BE O E MGT F ES	$	$5 5	$770	$5 9 0	$8 1	$6 3 3	$6 3	6 691	$6 83	$,088
MANAGEMENT FEES										
Bas Man gement F	$2 8	$ 6	$38	$43	44	$ 57	$471	$ 85	$ 99	$5
I ive Manag m nt (b l)	0	0	0	0	0	0	0	0	0	0
T tal M g men	$268	$3 1	$3 8	1	$444	$457	$47	$485	$49	$ 14
EB TDA	,3 3	$4,954	$5,390	$5 5 9	$5 68	$ 58	$6 022	$6,2 6	$6 84	$6 574
nt ary F &E R serv	$ 3	$283	4	$ 7		$555	$585	$705	$ 6	$9 5
NET OP RATING NCOME (1)	$4 9	665	$ 934	$5 040	$5 2 2	$5 93	$5 33	$5 5 1	$5 658	$5 6 9
Add Man gem nt F (low)	$	$0	$0	$0	0	$0	$0	0	$0	$0
AD STED NET OPERATING NCOME	$4,2 9	$ 5	$ 9 4	$ 040	$5 02	$5 3	$5,358	$5,50	$5 658	$5 639
NVESTMENT EAR INGS AND OTHE REV (2)										
D bt S rvice R serv F nio	$285	$285	$285	$ 65	$285	$285	$285	$285	$285	$2
D bt Service R serv F d Subord na	0	0	0	0	0	0	0	0	0	0
T l Inve tm Ear ings Oth R	$285	285	$285	$2 5	$	85	$2 5	$285	$2	$
AD STED NO A D OTHER REVEN ES	$ 04	$49 1	$ 9	$6 25	$5 8	$ 8	623	$ 7	$ 94	$5 925
SENIOR LI N DEBT SER CE										
Gro Deb Service	$3 53	$3 53	3,858	$3 90	$3 9 5	$4 009	$ 050	$ 096	$ 7	$4 98
Les Cap al d Inte	2	0	0	0	0	0	0	0	9	0
Seni L D S rvice	$3 22	$3 453	$3	$3 9 6	$3 955	$4,000	$4 050	$4 96	$4 147	$4
SUBORD N TED LIEN DEBT SERV CE										
Gro D bt Service	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0
L Cap ized Int rest	0	0	0	0	0	0	0	0	0	0
et S bo dina d L en D bt Servi	$0	$0	$	$	$		$	0	$	0
OTAL NET DEBT SERVICE	$3 2	$ 453	$3 858	$3 906	$3, 55	$4 0	$4,05	96	$ 1 7	$4 8
OTHER DEDUCT ONS										
S bordin d Man gem	$ 34	14	$ 2	6	$202	$208	$214	$220	$227	$234
Subordinate FF& Re rve F d	34	269	56	470	484	99	5 3	5 9	54	6
T l Other D d	$268	$433	$608	$666	$686	7	$727	$7 9	$ 7	8
ET C SH LOW	2 5	$1 065	$75	5	$ 47	$772	$846	$9 1	$ 025	$932
APPLICATION OF NET CASH F OW										
S ppl mental Re erve Fund	$ 2 5	$1 069	$ 53	$7 4	$2 4	$ 1	$46	$51	$5	$ 1
Surplu Fund	0	0	0	0	633	72	800	890	97	83
Remain g t C h Fl w	$0	$0	$	$	$0	$0	$0	$	$0	$
FUND BALANCES										
Accum Bal Suppl ment l Res rv Fund	$,2 5	$2 280	$3,03	$3 736	$4 000	$ 050	$4 098	$4 147	$ 198	$4 2 9
A cum Bal Surplu Fund	$0	$0	$0	$0	$633	$1 355	$2 5	$3,0 5	$4 0 8	$4 900
Suppl mental Res rve F nd R quireme	$3 53	$3 858	$ 906	$3 55	$4,000	$4,050	$4,098	$ 7	$ 98	$4 9
CITY STA DBY SUPPORT PAYMENT	$1 09	$1 381	$1 543	$ 562	$ 582	$1,600	$1,620	$1 638	$1 659	$ 9
DEB ER E CO RAGE RATIOS										
S n D bt S rvi C er R tio (3	2 8	2.39	2.25	2.27	2.31	2 28		2 35	.39	2.35
S l D bt S rvi Cov g R tio (4)	1.49	1 4	1 35	1.36	1.39	1 37	39	1 1	1 43	1 41

NOTES
(1) A p l d by P F hrough 2015 3% nn al cr ase th re ter
(2) A um Interest E rning at 5 00% f the D bt Ser ice P rve F nd
(3) N ncome plu Senio DSPF arning di ded by Seni L D bt rv l C / Standby S pp P yme
( ) N nc me plu S nio DSPF arning d ided by eni Lien D b ervic

C mp Global n ws nc 00 Boshing afffer Change

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0242

APPENDIX_0247

City f C f mb Sc th C l
C l m H
O re febr ryas F cas d R m Exp e ct m d C vera e
th Y ars En g g rl

	20 6	2017	20	20 9		20 1	022	2023	2	02
bl Room (D y)	3 0	300	30	00	300	3 0	300	300	00	0
ab s m vsn	5,900	09 900	09 00	0 500	5 ,0	0 800	09 00	0 ,900	0 50	00
O cupied R m An ly)	78 83	6 39	78 83	6 63	78	8 39	78	76 8	78 83	7 397
O cup cy ce tage	0%	71 05	7 0%	1 09	1 G	1 0%	7 0		0	7 40
A rage R m Ra	$ 5 79	$ 86.65	$ 7 .65	176 9	$ 82 0	$ 87.56	$ 93 9	$ 98 9	20 3	52 0
R venu er O cu ied R om (R P R)	$1 5 52	$ 8.59	$ 5	$ 26 23	$ 3 02	$ 3 92	$ 7 9	$ 2.0	$ 6 3	$ 0 3
EVEN E										
R ms	3 3	3	$ 3 .05	3 56		3 0	$ 50	$ 5 92	$ 5 3	6 0
F od & B g	6 72	6 3 7	548	5	5	7 65	7 369	7 90	7 8 8	0 3
T mm n s	225	23	238	245	2 3	260	268	7	284	93
ng	0	0	0	0	0	0	0	0	0	0
Ot Co ted Depar ts	392	0	5	29	442	4 5	69	83	497	5 2
R n an Oth I come	2	6	1 9	23	26	30	3	38	1 2	6
T ta Rve ue	$19 254	$ 9 83	$20 426	$2 039	$21,670	22 329	$ 330	$23 680	$ 90	$ 22
DEPARTMENTAL PROFIT										
R m	$9 7	$9,833	$ 0 28	0 32	$ 07 5	$ 1 068	1 400	$11 7 2	12 94	$ 57
Food B erage	85	908	36	2 023	033	6	2 0	2 7	345	4
T lecommunication	90	92	95	98	01	0	0	0	0	7
G rag	0	0	0	0	0	0	0	3	0	0
Oth Op ra ed D p me	17	121	1 5	128	32	36	0	44	1 9	3
Re al and O h Inc m	12	6	1 9	123	2	130	34	8	42	6
T tal D m tal P fit	11 717	$12 069	$1 43	$ 804	188	$ 3 584	$ 3 91	$1 411	$	$ 5 8
O ERHEAD EX ENSES										
Adm & G	$ 3 2	$ 82	$ 24	$ 7	$1 51	$ 55	$ 603	$ 6	$ 00	$ 7
Mark ing	50	1 94	1 539	1 585	632	68	1 732	1 784	837	392
roperty Op rave & l n e	768	791	815	840	8 5	8 1	7	945	973	003
Un lit Costs	72	69	712	734	6	779	802	826	85	876
T t l O rhead	$4,232	$4,359	$4 9	625	$4 76	$4 300	5,054	$5 205	$5 3	$5 5 2
GRO ERATING CF	$ 485	$77 0	$7 941	$8 7	$	6 7	$8 937	$2	$ 82	$
FIXED CH RGES										
roperty Taxe	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0
Insura ce	6	90	$6	0	208	2	20	227	2 4	
T al Fix C arges	$184	$ 90	$ 96	$20	$2 8	21	220	$227	$234	$ 1
EBITD E ORE MG FEES	$	$ 52	$77 5	7 78	$8	$8	8	$ 79		$9 5 6
B M gers F	$529	$545	$562	$5 9	$596	$61	$632	$6	$671	$69
l ent A g m t F (b low)	0	0	0	0	0	0	0	0	0	0
tal Man g m t F	$5 9	$54	$5 2	$5 9	$59		2	$65	$6 1	$69
EBITDA	$677	6,	7 18	$7 99	$7 621	$7 850	$ 08	$ 32	$ 78	$8 035
ary FF E Rese	$953	$99	$ 2	$ 0 2	$ 084	$ 1 6	$, 50	$ 84	$ 2 0	$ 256
NET OPERA ING INCOME)	$5 808	$ 3	$ 162	$6,34	$6 53	$6 7 4	$6 936	44	$7 35	$ 579
Add en ve Man gem t (below)	$0	$0	$0	$0	$0	$0	$0	$0	0	$
ADJU TED ET O RATI G INCOME	5,808	$ 8	6,162	$6, 47	$ 7	$8 734	$ 9 6	$ 44	$7 3 8	$ 579
VESTMENT EARNINGS AND O HER REV 2)										
D bt S rvice R serv Fund Sinke	$285	$ 85	$285	$285	$285	$286	$ 85	$ 85	$ 85	$285
O S rvice Reserv F d Subordina	0	0	0	0	0	0	0	0	0	0
T tal ostm tE ning Other R	$ 8	$285	$295	$2 5	$285	$2 5	$		$	$
ADJUSTED OI AND O ER REV NUE	$ 3	6, 6	$ 448	$6 633	$6,823	$ 1	1	$ 9	$7	$ 0
SENIOR LIEN DeB S R IC										
Gro Deb service	$4,249	$4 299	$ 352	$ 400	$4 5	$ 508	$ 564	$4 6 6	$	$ 72
L s Capitalize d Int rest	0	0	0	0	0	0	0	0	0	0
N San L D t S rvice	$ 2 9	$4 99	$ 352	$ 4 0	$4 45	$4 508	$ 5 4	$4 6 6	$ 674	$ 729
SUBORD ATED LIEN DEBT SERVICE										
Gross De Service	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0
Les Ca talize Int res	0	0	0	0	0	0	0	0	0	0
S b din ted Lien D bt S rv ce	$0	$0	$0	$	$0	$	$0	$0	$0	$0
TOT L ET DEBT SER CE	$4 2 9	$4 299	$4 52	$4 4 0	$4 55	$4 508	$ 564	$4,6	$ 7	729
OTHER DEDUCTIONS										
Subordinated Ma g m	$24	8	$4 55	$ 63	$ 7	$279	$287	$ 6	$305	$3 4
Sub rdin F S Q rv F nd	578	95	6 3	83	050	670	690	0	3	3
T tal Oth D d	$8 8	$8 3	$8	$ 94	$921	$9 9	977	$ 06	$ 03	1 68
NET CASH FLOW	$ 7	1 127	$1 227	$1 333	$,4 7	$ 562	$1 68	$ 07	933	$2 068
APPLICATION OF NET C SH FLO										
pp mental R erv Fund	$30	$	$47	$56	$ 3	$55	$52	$59	$5	$55
rplus Fund	977	0 3	80	83	354	507	1 628	48	$78	2 0 3
R m n g N C h Fl	$0	$0	$0	$	$0	$	$0	$0	$0	$0
A um B l S pp men al R erv F d	$4 299	$4 352	$4 00	$4 5	$4 508	4 64	$ 0 0	$ 67	$ 7 9	$ 83
Ac um B l Surpl Fund	$ 8 6	$8 949	$8,129	$9 413	$ 0,606	$ 2 3 3	$ 3 94	$ 5 690	$17,588	$ 01
S ppl me ta R rve F d R q remen	$ 99	$4 52	$4 00	$4,455	$4,508	$,564	$4 6	$4 67	$ 729	$ 783
CITY SUPPORT PA MENT	1 700	$1 720	$17 1	$1 768	$ 762	$1 803	1 825	$1 846	$1 870	$1 8 1
DEBT SER E COVERAGE RATIOS										
S D bt S vi C erag R o (3)	2.39	2.43	2. 7	2 51	2 55	2.59	2.64	2.68	2.73	2. 7
S ni D bt S rv Cover g R (4)	1 43	1 46	1 6	1 51	1 53	1 5	58	1 61	1 64	1 6

NOTES
( ) As p vid b KF through 2015 3% annual incr sh re fer
(2 As um Int st E rning f 5 00% o the D b S rvic P rv Funds
(3) In m plu S ni DSRF ings d id d b Sen or Li D bt S rv City db S pp yer
(4) N Incom plu Senio DSR ming d vid d by S ni Li Debt S ce.

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APPENDIX_0248

tv of Col nb a Sou h C rol

C l mb H l

lo l Y or E g Aug 0 sh

	2 26	027	2 8	028	30	20 1		2033	2 34	2035
A z lt Room (D 3	00	303	300	00	00	300	90	300	300	30
bte P m (n)	00	09 500	109 ₀00	0 600	500	09 ₀00	9 00	800	0 500	0 00
Occup ed Room (Ann l	78 183	78 183	78 193	78 ₀97	8 83	8 3	78 83	8 97	8 3	78 83
Occup y P ce Lag	7 0%	71 05	7 0%	71 40%	0%	71 40%	7 0%	7 05	1 g	7
A eag oom R e	$ 7 44	$223.96	$230.68	$23 .50	$244 73	$ 52 0	$259	267	$2 5 44	$2 3 70
R en P Occup d Room (ovP R)	$ 5 5	$ 9.91	$ 6 70	$ 69 64	$ 7 73	$ 79 98	$ 85 38	$ 90.9	$ 96 66	$202 6
R ms	$ 6	$ 399	7 2	$ 8.	$ 05		0	0 0		
Food & B erag	8 284	8 643	8 709	9 063	9 335	6 5	9,90	0,29	0,5	0 8
T l omm ab	302	3	320	330	340	350	360	371	382	39
rag	0		0	0		0	0	0	0	0
Oth Op ed Dep rt nt	527	543	560	576	594		630	649	668	688
R nt an Oth ec me		5	50	165	170	75	80	86	9	9
T tal R	5,875	$26, 2	$27 6	$28 2 5	$ 9	$29 997	$3 897	$3 824	$32,7	$3 762
DEPARTMENTAL PROFIT										
R ms	$12 630	$ 3 2 5	$13 6 2	$14 020	$ 4 44	$1 ₀07	$ 5,320	$ 5,780	$16 53	$ 7
F od & B erage	2 487	2 562	2 639	2 7 8	2,800	2,884	2 970	3,0 9	3 5	3 2 6
T lecommunicati	0	12	28	3.	136	1 0	44	8	3	157
G rag	0	0	0	0	0	0	0	0	0	0
O h Op ed D ent	58	63	167	172	78	83	88	9	200	206
ental and Othe Incom	5	55	60	1o5	1 0	115	80	86	91	97
T l D p rtm tal P fit	$15, 47	$16 215	$16 706	$ 7 2 7	723	$1 255	$1 ,80	$ 367	$ 48	30 5 6
OVERHEAD EXPENSES										
A min & Gen	$ 80	$ 858	$ 313	$ 971	$2 030	$2 05	$2 1o4	$2 216	$2 285	$2 353
Mark ng	1 9 9	2 007	2,068	2, 30	2 9	2,259	2,3 7	2,397	2 69	2 5 3
roperty Operat & Ma enance	,033	1 06	086	1 28	1 162	97	33	270	308	347
U ilit C st	903	930	7	98o	1 0 6	1 0 0	078	110	1 3	78
Tot l Ove head	$5,688	$5,858	$6,034	$6 215	$ 402	$6,594	$6,792	$6 595	$7,205	$7 21
ROS OPERA If ROFIT	$	$ 36	$10 6 2	$1 ,992	322		$12,0	2,372	$ 2,7	$ 125
FIXED CHARGES										
Property Taxe	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0
I surance	2 8	255	263	271	279	287	296	305	314	323
T al Fix C arges	$2 8	$ 55	$ 63	$27	$279	$287	$296	$30	$314	$ 2
EB TD BEFORE NGT FEE	$9 8	$10 06	$ 0 489	721	$	$11,3 4	$ 1,715	$ 2,067	$ 2 429	$12 8 2
B Man gem t F es	$ 2	$733	$755	$778	$801	$825	$850	$8 5	$50	$928
In ent M g ment F (b low)	0	0	0	0	0	0	0	0		0
T t M g ment F	$ 2	33	55	$778	$80	$825	$850	$ 5	$ 01	$328
EBITDA	$9	$,373	9 654	$9 944	10 242	$10,549	$10	$1 92	$ 1,527	$1 73
Rsv F R erv	1,294	$ 3,3	,. 3	$	$ 56	$1 500	$ 5 5	$ 59	$ 639	$1,688
NET OP RATING INCOME (1)	$ 806	$8 04	28	$ 5 0	$8,786	$9,043	$9 21	$9 601	$9 889	$10 85
Add ent Man gem F (se bel)	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0
ADJUSTED NET O ERATING NCOM E	$,806	8,040	8 281	$8 30	$8 786	$9 0	9,321	$9 601	$ 889	$ 0 185
NVESTMENT EARNINGS AND OTHER REV (2)										
D bt rv ce R serv Fund Sec	$285	$285	$285	$285	$285	$285	$285	$285	$285	$ 9 5
D S rvice R serv Fund Subordinate	0	0	0	0	0	0	0	0	0	0
T tal Investmen Earning nd Oth Rev	2 5	$	$285	285	$2 5	85	$285	$ 85	$ 85	$5, 95
AD EO NOI AND OTHER RE ENUES	$ 0	$8,	$8 5	$8 8 5	$9 71	$9 3_5	806	$9 886	$1 7	$ 9
SE IOR LIEN DEBT SERVICE										
Gro O_bl ervice	$ 783	$4 843	$ 90	$4 9 8	$5 0 8	$5 0 0	$5, 3	$,202	$5,2co	$9 8 7
L s. Cap zed Inter st	0	0	0	0	0	0	0	0	0	0
N t Senior Li Debt S rv ce	$ 783	$4 8 3	$4 901	$4,958	$5, 18	$5 080	$5,143	$5,202	$5,.65	$9 827
SUBORDINATED LIEN DEBT SERVICE										
Gro O Servi ce	$0	$0	$	$0	$0	$0	$0	$0	$0	$0
L s. Cap alized Inte	0	0	0	0	0	0	0	0	0	0
Net Sub di ated Lien D S rvice	$	$0	$	$0	$0	$	$0		$0	$
O A NET DEBT SERVICe	$4 83	$4 43	$ 901	$4 958	$5,0	$5,	$5	$5 202	$ 265	$9 82
OT ER DEDUCTION										
S bordi d Ma aceme	$323	$333	$343	$353	$364	$3 5	$386	$3 8	$410	$422
S bordin FF&E Res rve F nd	776	800	82	848	874	900	927	955	983	0 3
T tal O h D d ct	$1 00	$ 133	$1 167	$1 2 2	$1 238	$1 275	$1 13	$,353	$1 393	$1, 35
NET CA H FLOW	$2,2 9	$2,350	$2 9	2 558	$2 8	$2 80	$0	$ 332	$3 516	$ 918
APPLICATION OF NET CASH FLOW										
Supplemental R serv Fund	$59	$58	$57	$60	$62	$63	$ 9	$63	$3 5 6	$0
gle Fund	2 1 9	2,292	442	2 598	,754	2,9 7	3 092	3 288	0	4 9 8
R m ing Net C h Fl	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0
m B l S pp ent I R rv F d	$4 843	$4,901	$4,958	$5 0 8	$5,080	$5 143	$5,202	$5,255	$8 761	$8,76
Accum B l Surpl Fund	$2 730	$24 02_	$2 464	$29,060	$31,814	$34 ₀3	$37,822	$4 091	$4 091	$46 009
Suppl m tal R erve Fund R qu ement	$4 843	$4 01	$4,958	$5 018	$,080	$5 1 3	$5 202	$5,_ 5	$ 27	$0
CITY SUPPORT PAYMENT	$1 913	$1 937	$1 961	$1 983	$2,007	$2,032	$2,057	$2,081	$2 106	$1 647
DEBT SERV CE COV RAGE RATIOS										
S ru D bt Service C erag R ti (3)	2.82	2.87	2.91	2.96	1	06	3 1	3	.22	98
Senio D bt S vice C ve ge R t ( )	1 69	1 72	1 75	1 78	1 81	1 8	1 87	1 0	1.93	1 65

NOTES

( ) A pro d d by PK through 0 or 3% annua incre thures

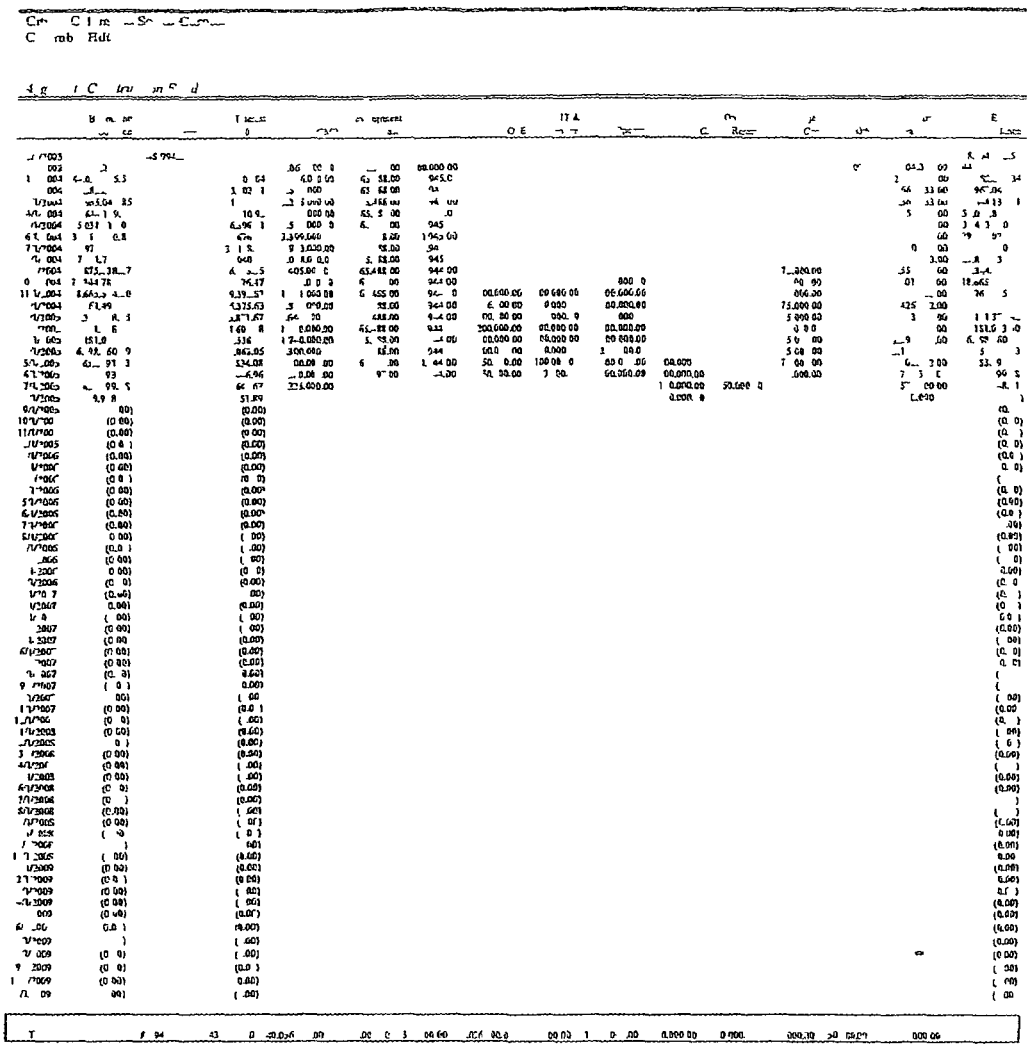
") Ass m Inter st rnings of $ 00% for the Debt ervice Res rv Fund

(3) N Income plu S rve DSPF m s divid d by Senio Li D bt serv I City Standby S pp P ym nt

( ) N t Incom plu S for DSPF meg di ded y S for Le D bt S rv ce

Aggregate Debt S

Da	Prin	Compoun d Int est CAB)	Curre nt CIB)	D b Servic	Ann l Deduc tc
1_/1/00					
1/2004			(_9	86 .2"	
1 04			1 26,597 0	1 726,587.50	72 7 0
7/1/2005			726,587_0	1 726,587.50	
9/1/2005			1 726,587 0	1 776,587.50	453 17 00
7/1/2006			1 726,587 0	1 6,587.50	
9/1/2006			1 776,587.50	1 776,587.50	34 1 5 00
1/1/200			1 65 7 0	1 6 87.50	
/1 30			6 87.50	1 87 0	45_175 00
1/01/			1 7 6,587 50	1 7 6_87 0	
/1/ 30	4 000 00		1 26,5 4 .50	131 7 0	_6.R1 00
1 089			71 4 0 00	1 71,4 4 0 00	
9 1 009	000 00		1 1 450 00	2 190,450 00	,905 *00 00
1 01			1 70 .387.50	1 70_387 50	
9 1/2010	0 000 00		1 0_87.50	,5_387 0	3 954 00
7/1/2011			1 687_62.50	1,687 2.50	
9/1 011	2_ 000 00		1 687.2 50	312_6 0	,999 _ 00
3/1 01			1 70 0 5 00	1,670,0 5 00	
9/1 01	710 000 00		1 670 0 5 00	2,360 075 00	4 050 150 00
3/1/01			1 0.5 0 00	1 750,550.00	
9/1 013	9 000 00		1 650,5 0 00	445.5 0.00	4,096,100 00
7/1/2014			1 6 8 68 .50	1,_9,687.50	
9 1 014	590 000 00		1 6 ,687.50	2.51R, 87 0	4,142_7 .00
1/2015			1 604 12.50	1 604.21 0	
9/1/2015	990 000 00		1 604.21 0	2,594, 1 .50	4,194,4_5 00
7/12016			1 5 6 987 50	1_76,987.50	
9/1 01	1695 000 00		1 376 987.50	,671 987.50	4_48,9 5 00
3/1/2017			1 546 87 00	1,546,875 00	
9/1/201	1 0 000 00		1,546,875 00	751 875.00	4_98 50 00
3/1/2018			1,51 .50	1,513 ~37.50	
9/1 01	1 _5 000 00		1 1 737 70	,R38,~7 0	4.35_, 7 00
1/2019			1 4 _100 00	1 4 7 00 00	
9/1 _19	1 445 00 1 00		1 4 7,300 00	9 _300.00	4 99 of 0 00
1/20 0			1 37,56_50	1 437 5(.50	
9/1/20 0	1,250 00 1 60		1 4 7 62.50	017 56_50	4,455 1_5 00
/1/20 1			1_94 11 .50	1,394 11 .50	
9/1/2(1	1 0 000 00		1 44 11 .50	114 11 .50	4,50R, _ 0(
/1/20 2			1,34o,81 .50	1,346,81 0	
9/1 0	1 ~0 ,00 00		1,34(,81_50	3_16 1_50	4 ,(_.00
3/1/20_			1,295,387 50	1_9 ,387 0	
9/1/20_	0_,000 00		1,295,387_50	3,_ 0,387.50	4 15,77 00
/1/2024			1_ 700 00	1_39 700 00	
9/1/20 4	2,195,000 00		1 _39 700 00	9 4 700 00	4 74,400 00
3/1 0_			1 1 9 0	1 1 9_ 7.50	
9/1/20_5	_ 0,000 00		1 379 3 7.50	549 337.50	4,725.67 0(
3/1/20 (			1 114 16_ 0	1 114,16_ 0	
9/1/20 (	C)0 00		1 114 1 _ 0	,669,1 .50	4 783 _3 00
1/20			1 043 9 10 03	1,0_ 900 00	
1/20 7	2 ,0(0.00		1 04 900.00	79_ 00.00	4,642,90(00
/1/20 _			96_ 1 _50	,68,1 0	
9/1/20_	_9(000 00		9(1 7 50	,93_,1(7_0	4,901.27 00
/1/ 30			886,600.00	6_0 ,00 00	
9/1/20 _	_,185,000 00		886,600 00	4,071 600 00	4,95R,_00.00
3/1/203(			799,01_ 50	799 012.50	
9/1 _0_0	470,000 00		799 01 50	4_19,012.50	018,025.00
1 0 1			704 962.50	704 96 .50	
9/1/2031	3 470,000 00		704 96_50	4,3 4 962.50	5 0 9 9_ 00
1/20 2			604 03 .50	604,037.50	
9/1 03	3,9_5,0 0.00		604 0 7.50	4,5 9 0 7 1	14 0 00
1/203			49 9_ 00	495 _5 00	
9 1 0	4 10,000 00		495 h 00	4 (82_ 00	5_01 50 00
7/2034			80.050 00	80 050 00	
9/1/20_4	_505 000 00		80,0 0.00	4 R85 050.00	_ 100 00
1/203			_6 162.50	_ 162.50	
9/1/20 5	1 000 00		_56 16_ 0	9,571 187.50	9 7_5 00
7/1/20 (					
9/1/20					
3/1 0 7					
9/1/2037					
3/1/20 8					
9/1 0 8					
1/20 9					
9/1/20 9					
3/1/2040					
9/1/2040 A					
3/1/ 041					
9/1/2041					
1 /20					
9/1/2042					
/1 34					
9/1/ 04					
T al	(785 000 00		2_41 13e_5	145 02 15 _5	144 1 _66 50



City of Columbia Capital Improvements Plan
Combined Utility Revenue Bonds
Series B Bonds

Table of Debt Service Requirements

Date	Principal	Rate	Yield	Price	Interest	Total Debt Service	Debt Service
12/1/2003							
3/1/2004							
9/1/2004							
3/1/2005							
9/1/2005							
3/1/2006							
9/1/2006		5.500%	5.500%	100.000			
3/1/2007							
9/1/2007		5.500%	5.500%	100.000			
3/1/2008							
9/1/2008							
3/1/2009							
9/1/2009							
3/1/2010							
9/1/2010							
3/1/2011							
9/1/2011							
3/1/2012							
9/1/2012							
3/1/2013							
9/1/2013							
3/1/2014							
9/1/2014							
3/1/2015							
9/1/2015							
3/1/2016							
9/1/2016							
3/1/2017							
9/1/2017							
3/1/2018							
9/1/2018							
3/1/2019							
9/1/2019							
3/1/2020							
9/1/2020							
3/1/2021							
9/1/2021							
3/1/2022							
9/1/2022							
3/1/2023							
9/1/2023							
3/1/2024							
9/1/2024							
3/1/2025							
9/1/2025							
3/1/2026							
9/1/2026							
3/1/2027							
9/1/2027							
3/1/2028							
9/1/2028							
3/1/2029							
9/1/2029							
3/1/2030							
9/1/2030							
3/1/2031							
9/1/2031							
3/1/2032							
9/1/2032							
3/1/2033							
9/1/2033							
3/1/2034							
9/1/2034							
3/1/2035							
9/1/2035							
3/1/2036							
9/1/2036							
3/1/2037							
9/1/2037							
3/1/2038							
9/1/2038							
3/1/2039							
9/1/2039							
3/1/2040							
9/1/2040							
3/1/2041							
9/1/2041							
3/1/2042							
9/1/2042							
3/1/2043							
9/1/2043							
Total	6,783,000.00						

C tv f C lumb So th C r .m
C lutw.o Hilton
S n or Bonds

C tr ruo F d

D	S rmmun B..l..n	D pcs	Interest 1.250000%	ransfer C In	Dro d ms	C ch g B l
1_/1/2003		1 994 21 9				5 994 1 0
/2 3	48 94__ __50				44 089 0 0	
1/1/2004	__4 89 90 50		5,807.64		1.582. 60.34	
1/2004	41,582,280.34		43,20 .51		1 .60 433.00	39 965 049.85
/1/2004	39 96o 049 65		41,52__26		2,362 4,3 00	77,644 139 11
3/1 2004	,2o4 9 11		11 9		2.6 1,33 00	5,0 1 17 62
4/1/2004	35,031 61 0		36_96.81		654 33 00	2 413 780 83
5/1/2004	413 780.8		_3 6 6 76		47 1 3 00	79 971 0 4 9
6/1/2004	9 971 0_4.59		31 138 6		_050 4 3 00	27 951 730 42
7/1/2004	27 951 730 42		9 04 85		_ 0 433 00	_,87 8. 7
8/1/2004	25 5 8_.7		6 8o		1.557 43 00	1_44 69 5
9/1 2004	21_.44 9 8		__1 6 4		_ 81 4 2.00	18.665 _34 0
10/1 004	16,665 __4. 0		1 9 .5		_933 43_.00	15 7 1 495 1
11/1/2004	15.761 495 1		16 375.63		_4 432 00	13,351 438 5
12/1/2004	13_.51 43o 75		13 871.67		_193 43 00	11 171 8 8 2
1/1/2005	11 171 878 42		11 o07 18		002 4 00	9 181,0o3 0
2/1/2005	9 181,053 o0		9_.36 79		92 4 2.00	6 798,160_.9
3/1 2005_	6,798 160.39		053 05		5_, 32 00	552,791 43
4/1/2005	4 65_.791 43		4 834.08		_ 0_.432.00	55 193.5
5/1/2005	5 19		_.43 96		17 41 00	6 4 799 48
6/1/2005	4. 99 48		648 62		5 000 00 00	49 348 11
7/1/2005	49 348 11		51 9		50 000 00	(0 00)
8/1/2005	(0 00)		(0.00)			(0.00)
9/1/2005	(0 00)		(0.00)			(0 00)
10/1/2005	(0 00)		(0.00)			(0 00)
11/1 00	(0.00)		(0.00)			(0.00)
12/1/2005	(0 00)		(0.00)			(0 00)
1/1/2006	(0 00)		(0.00)			(0 00)
2/1/2006	(0 00)		(0.00)			(0.00)
3/1/2006	(0 00)		(0.00)			(0 00)
4/1/2006	(0 00)		(0.00)			(0 00)
5/1/2006	(0 00)		(0.00)			(0 00)
6/1/2006	(0 00)		(0.00)			(0 00)
7/1/2006	(0 00)		(0 0)			(0 00)
8/1/2006	(0 00)		(0.00)			(0 00)
9/1/2006	(0 00)		(0.00)			(0 00)
10/1/2006	(0 00)		(0.00)			(0 00)
11/1/2006	(0 00)		(0.00)			(0 00)
12/1/2006	(0 00)		(0.00)			(0.00)
1/1/2007	(0 00)		(0.00)			(0 00)
2/1/2007	(0 00)		(0.00)			(0 00)
3/1/2007	(0 00)		(0.00)			(0 00)
4/1/2007	(0 00)		(0.00)			(0 00)
5/1/2007	(0 00)		(0.00)			(0 00)
6/1/2007	(0 00)		(0.00)			(0 00)
7/1/2007	(0 00)		(0.00)			(0 00)
8/1/2007	(0 00)		(0.00)			(0 00)
9/1/2007	(0 00)		(0.00)			(0 00)
10/1/2007	(0 00)		(0.00)			(0 00)
11/1/2007	(0 00)		(0.00)			(0 00)
12/1/2007	(0 00)		(0.00)			(0 00)
1/1/2008	(0 00)		(0.00)			(0 00)
2/1/2008	(0 00)		(0.00)			(0 00)
3/1/2008	(0 00)		(0.00)			(0 00)
4/1/2008	(0 00)		(0.00)			(0 00)
5/1/2008	(0 00)		(0.00)			(0 00)
6/1/2008	(0 00)		(0.00)			(0 00)
7/1/2008	(0.00)		(0.00)			(0 00)
8/1/2008	(0 00)		(0.00)			(0 00)
9/1/2008	(0.00)		(0.00)			(0 00)
10/1/2008	(0 00)		(0.00)			(0 00)
11/1/2008	(0 00)		(0.00)			(0 00)
12/1/2008	(0.00)		(0.00)			(0 00)
1/1/2009	(0.00)		(0.00)			(0 00)
2/1/2009	(0.00)		(0.00)			(0 00)
3/1/2009	(0.00)		(0.00)			(0 00)
4/1/2009	(0.00)		(0.00)			(0 00)
5/1/2009	(0.00)		(0.00)			(0 00)
6/1/2009	(0.00)		(0.00)			(0 00)
7/1/2009	(0.00)		(0.00)			(0 00)
8/1/2009	(0.00)		(0.00)			(0 00)
9/1/2009	(0.00)		(0.00)			(0 00)
10/1/2009	(0.00)		(0.00)			(0 00)
11/1/2009	(0.00)		(0.00)			(0 00)
T tal		48 994_.1_.50	4 4 787 50		49 4 9 000 00	

JG 00190

0248

APPENDIX_0253

C [illegible] C [illegible]
C lamb Bilt n
Senior Bonds

C ch d i t st

Date	D [illegible]	Beginning Balance	Deposit	[illegible]	[illegible] DSRF Fund	[illegible]	[illegible]	Ending Bal
12/1/2003			887,769.1			d		8,779.1
3/1/2004	[illegible]	[illegible]		[illegible]	[illegible]		[illegible]	[illegible]
9/1/2004		[illegible]		[illegible]	[illegible]		[illegible]	[illegible]
3/1/2005	180	1,892.52		[illegible]	1,2,74 8		17,6,587.50	2,000,004.13
9/1/2005	180	[illegible]808,509.13		1,5[illegible]1.93	14,74 8	[illegible]	1[illegible]6,587.50	4,8,965.94
3/1/2006	180	8,9 5.94		[illegible]6,1.04			431,64[illegible].88	(0.00)
9/1/2006	180	(0.00)		(0.00)				(0.00)
3/1/2007	180	(0.00)		(0.0[illegible])		0.31		(0.00)
9/1/2007	180	(0.00)		(0.00)		[illegible]		(0.00)
3/1/2008	180	(0.00)		1.00)		[illegible]		(0.00)
9/1/2008	180	(0.00)		(0.0[illegible])		[illegible]		(0.00)
3/1/2009	180	(0.00)		(0.00)				(0.00)
9/1/2009	180	(0.00)		(0.00)				0.00)
3/1/2010	180	(0.00)		(0.00)				(0.00)
9/1/2010	180	(0.00)		(0.00)				(0.00)
3/1/2011	180	(0.00)		(0.0[illegible])		[illegible]		(0.00)
9/1/2011	180	(0.00)		(0.00)				(0.00)
3/1/ 01	180	(0.00)		(0.00)				(0.00)
9/1/2012	180	(0.00)		(0.00)		0		(0.00)
3/1/2013	180	(0.00)		(0.00)		[illegible]		(0.00)
9/1/2013	180	(0.00)		(0.0[illegible])				(0.00)
3/1 014	180	(0.00)		(0.00)		[illegible]		(0.00)
9/1 014	180	(0.00)		(0.00)		[illegible]		(0.00)
3/1/2015	180	(0.00)		(0.00)		[illegible]		(0.00)
9/1/2015	180	(0.00)		(0.00)		[illegible]		(0.00)
Total				887.6	499.15 .40		[illegible]4,470 1	

Columbia Hilton
Senior Bonds

Debt Service Reserve Fund

Date	Days Outstanding	Beginning Balance	Deposits	Interest Income	Transfer to Debt Service Fund	Withdrawals	Ending Balance
1/1/2003		5,709,691.19					5,709,691.19
7/1/2004				90,936.56	(90,936.56)		5,709,691.19
1/1/2005	180	5,709,691.19		142,742.28	(142,742.28)		5,709,691.19
7/1/2005	180	5,709,691.19		142,742.28	(142,742.28)		5,709,691.19
1/1/2006	180	5,709,691.19		142,742.28		(142,742.28)	5,709,691.19
7/1/2006	180	5,709,691.19		142,742.28		(142,742.28)	5,709,691.19
1/1/2007	180	5,709,691.19		142,742.28		(142,742.28)	5,709,691.19
7/1/2007	180	5,709,691.19		142,742.28		(142,742.28)	5,709,691.19
1/1/2008	180	5,709,691.19		142,742.28		(142,742.28)	5,709,691.19
7/1/2008	180	5,709,691.19		142,742.28		(142,742.28)	5,709,691.19
1/1/2009	180	5,709,691.19		142,742.28		(142,742.28)	5,709,691.19
7/1/2009	180	5,709,691.19		142,742.28		(142,742.28)	5,709,691.19
1/1/2010	180	5,709,691.19		142,742.28		(142,742.28)	5,709,691.19
7/1/2010	180	5,709,691.19		142,742.28		(142,742.28)	5,709,691.19
1/1/2011	180	5,709,691.19		142,742.28		(142,742.28)	5,709,691.19
7/1/2011	180	5,709,691.19		142,742.28		(142,742.28)	5,709,691.19
1/1/2012	180	5,709,691.19		142,742.28		(142,742.28)	5,709,691.19
7/1/2012	180	5,709,691.19		142,742.28		(142,742.28)	5,709,691.19
1/1/2013	180	5,709,691.19		142,742.28		(142,742.28)	5,709,691.19
7/1/2013	180	5,709,691.19		142,742.28		(142,742.28)	5,709,691.19
1/1/2014	180	5,709,691.19		142,742.28		(142,742.28)	5,709,691.19
7/1/2014	180	5,709,691.19		142,742.28		(142,742.28)	5,709,691.19
1/1/2015	180	5,709,691.19		142,742.28		(142,742.28)	5,709,691.19
7/1/2015	180	5,709,691.19		142,742.28		(142,742.28)	5,709,691.19
1/1/2016	180	5,709,691.19		142,742.28		(142,742.28)	5,709,691.19
7/1/2016	180	5,709,691.19		142,742.28		(142,742.28)	5,709,691.19
1/1/2017	180	5,709,691.19		142,742.28		(142,742.28)	5,709,691.19
7/1/2017	180	5,709,691.19		142,742.28		(142,742.28)	5,709,691.19
1/1/2018	180	5,709,691.19		142,742.28		(142,742.28)	5,709,691.19
7/1/2018	180	5,709,691.19		142,742.28		(142,742.28)	5,709,691.19
1/1/2019	180	5,709,691.19		142,742.28		(142,742.28)	5,709,691.19
7/1/2019	180	5,709,691.19		142,742.28		(142,742.28)	5,709,691.19
1/1/2020	180	5,709,691.19		142,742.28		(142,742.28)	5,709,691.19
7/1/2020	180	5,709,691.19		142,742.28		(142,742.28)	5,709,691.19
1/1/2021	180	5,709,691.19		142,742.28		(142,742.28)	5,709,691.19
7/1/2021	180	5,709,691.19		142,742.28		(142,742.28)	5,709,691.19
1/1/2022	180	5,709,691.19		142,742.28		(142,742.28)	5,709,691.19
7/1/2022	180	5,709,691.19		142,742.28		(142,742.28)	5,709,691.19
1/1/2023	180	5,709,691.19		142,742.28		(142,742.28)	5,709,691.19
7/1/2023	180	5,709,691.19		142,742.28		(142,742.28)	5,709,691.19
1/1/2024	180	5,709,691.19		142,742.28		(142,742.28)	5,709,691.19
7/1/2024	180	5,709,691.19		142,742.28		(142,742.28)	5,709,691.19
1/1/2025	180	5,709,691.19		142,742.28		(142,742.28)	5,709,691.19
7/1/2025	180	5,709,691.19		142,742.28		(142,742.28)	5,709,691.19
1/1/2026	180	5,709,691.19		142,742.28		(142,742.28)	5,709,691.19
7/1/2026	180	5,709,691.19		142,742.28		(142,742.28)	5,709,691.19
1/1/2027	180	5,709,691.19		142,742.28		(142,742.28)	5,709,691.19
7/1/2027	180	5,709,691.19		142,742.28		(142,742.28)	5,709,691.19
1/1/2028	180	5,709,691.19		142,742.28		(142,742.28)	5,709,691.19
7/1/2028	180	5,709,691.19		142,742.28		(142,742.28)	5,709,691.19
1/1/2029	180	5,709,691.19		142,742.28		(142,742.28)	5,709,691.19
7/1/2029	180	5,709,691.19		142,742.28		(142,742.28)	5,709,691.19
1/1/2030	180	5,709,691.19		142,742.28		(142,742.28)	5,709,691.19
7/1/2030	180	5,709,691.19		142,742.28		(142,742.28)	5,709,691.19
1/1/2031	180	5,709,691.19		142,742.28		(142,742.28)	5,709,691.19
7/1/2031	180	5,709,691.19		142,742.28		(142,742.28)	5,709,691.19
1/1/2032	180	5,709,691.19		142,742.28		(142,742.28)	5,709,691.19
7/1/2032	180	5,709,691.19		142,742.28		(142,742.28)	5,709,691.19
1/1/2033	180	5,709,691.19		142,742.28		(142,742.28)	5,709,691.19
7/1/2033	180	5,709,691.19		142,742.28		(142,742.28)	5,709,691.19
1/1/2034	180	5,709,691.19		142,742.28		(142,742.28)	5,709,691.19
7/1/2034	180	5,709,691.19		142,742.28		(142,742.28)	5,709,691.19
1/1/2035	180	5,709,691.19		142,742.28		(142,742.28)	5,709,691.19
7/1/2035	180	5,709,691.19		142,742.28		(142,742.28)	5,709,691.19
1/1/2036	180						
7/1/2036	180						
1/1/2037	180						
7/1/2037	180						
1/1/2038	180						
7/1/2038	180						
1/1/2039	180						
7/1/2039	180						
1/1/2040	180						
7/1/2040	180						
1/1/2041	180						
7/1/2041	180						
1/1/2042	180						
7/1/2042	180						
1/1/2043	180						
7/1/2043	180						
1/1/2044	180						

Total			5,709,691.19	9,012,694.19	(459,157.40)	(4,427,537.98)	

City of Columbia, South Carolina
Columbia Hilton

Aggregate Cost of Issuance

Cost of Issuance	Fee
Bond Counsel	50 000
Underwriters Counsel	100 000
Counsels to the City	300 000
Financial Advisor	65 000
Hotel Consultant	5 000
Trustee / Counsel	15 000
POS/OS Printing	15 000
S&P	40 000
Moody	40 000
Fitch	0
Feasibility Report	50 000
City Issuance Expenses	107 000
Miscellaneous	000
Total	1 7000 00

Exhibit 25

City of Columbia South Carolina
Columbia Hilton
Additional $1 5MM City Use
AAA Insured (Taxable and Tax Exempt Issuance)
Sources and Uses of Funds (Combined)

SOURCES	Tax Exempt Bo ds	Taxabl Bonds	Key M ey	T tal
Par Amount	64 545 000 00	5 750 000 00		70 295 000 00
Key Money			1 500 000 00	1 500,000 00
Accrued Interest				
T tal S es	64,545 000 00	5 750 000 00	1 500 000 00	71 795 000 00
USES				
Construction Fund Deposit	46 488 853 82	1 381 974 22	1 000 000 00	48 870 828 04
Other Development Cost				
Other C ty Uses	1,500 000 00			1 500 000 00
Capitalized Interest Fund Deposit	4 728 842 54	3 605,582.73		8 334 425 27
Debt Service Reserve Fund Deposit	5 486 164 64	318 355 87		5 804 520 51
Work g Cap tal Fund			500 000 00	500 000 00
Underwriter's D scount	887 493 75	79 062 50		966 556 25
C sts f Issuance	1 477 845 90	131 654 10		1 609,500 00
Muni pal Bond Insurance	3 971 434 58	230 457 82		4 201 892.39
Accrued Interest				
Other				
C ntingency (R unding)	4 364 77	2 912 77		7 277 54
T tal U es	64 545 000 00	5 750 000 00	1,500 000.00	71 795 000 00
ASSUMPTIONS / SUMMARY STATISTICS				
Arbitrage Yield	5 14%	5 37%		5 15%
True Interest C st	5 25%	5 58.4		5 27%
All In Cost of Borrowing	5 43%	5 94.4		5 46
Initial Coverage	2 65x	3 30x		2.65x
A erage Coverag	1 70x	4 88		1 70x
Dated Date	4/1/2004	4/1/2004		4/1/2004
Del ery Dat	4/1/2004	4/1/2004		4/1/2004
BOND ISSUANCE EXPENSES				
U derwriter's Discount	$13 75	$13 75		$13 75
Costs of Issuance	$22 90	$22 90		$22 90
Munic pal Bond Insurance	2 8509%	2 850%		2.850%
INVESTMENT RATES				
Debt Serv Res rve Fund D po t	5 000%	5 000%		5 000%
Construction Fund Depos t	1 200%	1.200%		1 200%
Cap talized Interest Fund Depos t	1 200%	1 200%		1 200%
OTHER				
C p talized Interest	Yes	Yes		Yes
Interest Cap talized Through	1/1/2008	1/1/2008		1/1/2008
Debt Service Reserve Fund	Yes	Yes		Yes
Debt Service Reserv Fund Requirement	Lesser of Three	Lesser of Three		Lesser of Three
End of Construction	1_/1/2005	12/1/2005		12/1/2005
CONSTRUCTION FUND SUMMARY				
T tal Construct o Fund Drawa	46 ,69,000 00	1,400,000.00	1 000 000.00	49,269 000 00
T reet Construct F ds				49,269 000.00
D ff ce				

N tes

Interest / In estment Rates as of 2 5-04
Assumes triple A insured credit rating.

City of Col mb S th C rol a
Col mb Hilton
Operati g Sta bcs d Forca t d R ea E po dture Ne I me nd C verag R os
for th Y rs End g Dec mbe 3 h wn

	2006	2007	2008	2009	2010	2011	2012	201	2014	2015
A labl Rooms (D ity)	300	300	300	300	300	300	300	300	300	300
Ava lable R ms (An ity)	109 500	109 500	109 500	109 800	09 500	109 500	109 500	109 800	09 500	109 500
Occ p ed R ms (An ity)	67 890	75 560	77 750	77 750	77 750	77 750	77 750	77 750	77 750	77 750
Occup cy Percentag	62 00%	69 00%	71 00%	71 00 %	71 00%	71 00 %	71 00 %	71 00%	71 00%	71 40
Averag Room R t	$117 75	$122 25	$126 50	$130 25	$134 25	$138 25	$142 25	$146 50	$151 00	$155 50
R enue P Occupi d Room (R P R)	$73 01	$84 35	$89 82	$92 48	$95 32	$98 16	$101 00	$104 02	$107.21	$110 41
REVENUE										
R ms	$7 994	$9 237	$9 835	$10 127	$10 438	$10 749	$11 060	$11 390	$11 740	$12 090
F d & B rag	4 627	4 765	4 908	5 056	5 207	5 364	5 524	5 690	5,861	6 037
T lecommu icati	147	168	178	184	189	195	201	207	213	220
G rag	576	660	709	721	742	765	788	811	836	861
Other Op rated Departm t	257	295	312	322	331	341	352	362	373	384
R tals nd Other I come	73	84	89	92	95	98	100	103	107	110
T tal Rv ues	$13 674	$15 209	$16 022	$16,502	$17 002	$17 512	$18 025	$18,563	$19 130	$19,702
DEPARTMENTAL EXPENSES										
Rooms	$1 970	$2,136	$2,231	$2,298	$2 367	$2 438	$2 511	$2 587	$2 664	$2,744
F od & Be erag	3 239	3 336	3 436	3,539	3 645	3 754	3 867	3 983	4 103	4 226
T lecommunicati	88	101	107	110	114	117	121	124	128	132
G rage	419	480	509	524	540	556	573	590	607	626
Oth r Operated Department	180	206	219	225	232	239	246	253	261	269
T tal Departme tal Expense	$5 696	$6 259	$6 502	$6,696	$6,898	$7 104	$7 318	$7 537	$7 763	$7 997
Departme tal P ofit	$7 778	$8 950	$9 520	$9 806	$10 104	$10 408	$10 707	$11 026	$11 367	$11 705
UNDISTRIBUTED EXPENSES										
Adm & Gen	$1 006	$1 036	$1 068	$1 100	$1 133	$1 167	$1 202	$1 238	$1,275	$1 313
Marketi g	1 087	1 120	1 154	1 188	1 224	1 261	1 298	1 337	1 378	1 419
Property Operation & Mai t	576	593	611	630	648	668	688	709	730	752
U ity Costs	503	518	534	550	566	583	601	619	637	656
Total U distributed Opera g Expense	$3,172	$3 267	$3 367	$3 468	$3 571	$3 679	$3 789	$3 903	$4,020	$4 140
GROSS OPERATING PROFIT	$4 606	$5 683	$6 153	$6 338	$6 533	$6 729	$6 918	$7 123	$7 347	$7 565
FIXED CHARGES										
I rance	138	142	146	151	155	160	165	170	175	180
T tal F d Charges	$138	$142	$146	$151	$155	$160	$165	$170	$175	$180
EBITDA BEFORE MGT FEES	$4 468	$5,541	$6 007	$6 187	$6 378	$6,569	$6 753	$6 953	$7 172	$7 385
MANAGEMENT FEES										
Base Management Fees	$273	$380	$401	$454	$468	$482	$496	$510	$526	$542
Ince tive Manag ment F (below)	0	0	0	0	0	0	0	0	0	0
Total Man g ment Fees	$273	$380	$401	$454	$468	$482	$496	$510	$526	$542
EBITDA	$4 195	$5 161	$5 606	$5 733	$5 910	$6 087	$6 257	$6 443	$6 646	$6 843
Primary FF&E Res rve	$137	$304	$481	$495	$510	$700	$721	$743	$765	$985
NET OPERATING INCOME (1)	$4 058	$4,857	$5 126	$5,238	$5 400	$5 387	$5,536	$5 700	$5 881	$5 858
Add l centiv M nageme t Fe (s b low)	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0
ADJUSTED NET OPERATING INCOME	$4,058	$4 857	$5 126	$5,238	$5,400	$5 387	$5 536	$5 700	$5 881	$5,858
INVESTMENT EARNINGS AND OTHER REV (2)										
D bt Service R erv F d Taxabl	$16	$16	$16	$16	$16	$16	$16	$16	$334	$0
D bt Service R serve Fu d Tax Exempt	274	274	274	274	274	274	274	274	274	274
T tal I vestme t Earnings nd Other Rev	$290	$290	$290	$290	$290	$290	$290	$290	$609	$274
REVENUES AVAILABLE FOR DEBT SERVICE	$4 348	$5 147	$5,416	$5,528	$5 691	$5 677	$5 827	$5 990	$6 489	$6 132
TAXABLE LIEN DEBT SERVICE										
Gro D bt Service	$270	$270	$270	$1 070	$1 088	$1 096	$1 111	$1 126	$1 313	$0
Less Capitalized I t rest	135	135	0	0	0	0	0	0	0	0
N t T abl Le Debt Serv	$135	$135	$270	$1 070	$1 088	$1 096	$1 111	$1 126	$1 313	$0
TAX-EXEMPT LIEN DEBT SERVICE										
Gross D bt Service	$3 012	$3 012	$3 012	$3 012	$3 012	$3 012	$3 012	$3 012	$3 012	$4 327
L ss Capitalized I t rest	1 506	1 506	0	0	0	0	0	0	0	0
N t Tax-Exempt Le Debt Serv ce	$1 506	$1,506	$3 012	$3,012	$3 012	$3 012	$3 012	$3 012	$3 012	$4,327
TOTAL NET DEBT SERVICE	$1 641	$1 641	$3,282	$4 082	$4 100	$4 109	$4 123	$4 138	$4 325	$4 327
NET CASH FLOW AFTER DEBT SERVICE	$2 707	$3 506	$2,134	$1 446	$1 590	$1 569	$1 704	$1 852	$2,164	$1 805
OTHER DEDUCTIONS										
S bordinated Man gement Fees	$137	$152	$160	$206	$213	$219	$225	$232	$239	$246
Subordin te FF&E Reserve F d	137	304	481	495	510	525	541	557	574	591
T tal Othe Dedu ns	$273	$456	$641	$701	$723	$744	$766	$789	$813	$837
NET CASH FLOW	$2,433	$3,049	$1 49	$745	968	$824	$ 38	1 063	$1 351	$968
APPLICATION OF NET CASH FLOW										
S pplemental Reserve Fund	$2 433	$849	$800	$18	$8	$14	$15	$187	$2	$53
Redemptio Fu d 50%	0	1 100	346	363	430	405	461	438	675	457
City Surplu F nd 50%	0	1 100	346	363	430	405	461	438	675	457
R maini g N t Ca h Flows	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0
FUND BALANCES										
Supp mental R serve Fund Req rement	$3 282	$3 282	$4 082	$4 100	$4 109	$4 123	$4 138	$4 325	$4,327	$4 380
Accum. Bal. S ppl mental Reserve Fund	$2 433	$3 282	$4 082	$4 100	$4 109	$4 123	$4 138	$4,325	$4,327	$4 380
Accum Bal B d Redempti F d	$0	$1 100	$1 447	$1 810	$2,240	$2 645	$3 106	$3 544	$4,219	$4 676
Accum Bal. Surplu Fu d	$0	$1 100	$1 447	$1 810	$2,240	$2,845	$3 106	$3 544	$4 219	$4 676
AVAILABLE CITY STANDBY SUP PAYMENT	$821	$821	$1 641	$2,041	$2 050	$2 054	$2 061	$2,069	$2 162	$2,164
DEBT SERVICE COVERAGE RATIOS										
Debt Service C verage Ratio (3)	5 30	6 27	3 30	2.71	2.78	2.76	2.83	2.90	3 00	2.83
T tal Debt S rvice Coverage Rati (4)	2.65	3.14	1 65	1 35	1 39	1 38	1 41	1 45	1.50	1 42

NOTES
(1) As provid d by PKF through 2015 3% al increas there fter
(2) Assumes I terest E rning f 5 00 % for th Debt Service R erve Funds.
(3) Adjusted Net Op rating Income Pl s DSRF arning divid d by N t O bt S rvice Mn Availabl City Standby Support Payment
(4) Adjust d Net Operating I come plus DSRF arning divided by N t Debt Service

C ty of Col mb a S th Ca ol
C l b Hilt
Opera g Stat cs d F re ted R r Expe d ture N t i mé nd Coverag Rat
f th Y rs En g Dec mbe 31 hown

	2016	2017	2018	019	2020	2021	2022	2023	2024	2025
A table Rooms (D ly)	300	300	300	300	300	300	300	300	300	300
A tabl R ms (An lly)	109 500	109 800	109 00	109 500	109 500	109 800	109 500	09 500	109 500	109 800
Occup ed Rooms (An lly)	78 183	78 397	78 183	78 183	78 183	78 397	78 183	78 183	78 183	78 397
Occup cy P rc t g	71 40%	71 40 %	71 40%	71 40%	71 40%	71 40%	71 40%	71 40%	71 40 %	71 40%
Averag R m Rat	$160 17	$164 97	$ 69 92	$175 02	$180 27	$185 58	$191 25	$196 98	$202 89	$208 98
R n P r Occupied Room (R PAR)	$114 36	$117 79	$12 32	$124 96	$128 71	$132 57	$136 55	$140 65	$144 87	$149 21
REVENUE										
R ms	$12 453	$12 826	$13 211	$13 607	$14 016	$14 436	$14 869	$15 315	$ 5 775	$15 248
Food & B tag	6 218	6 405	6 597	6 795	6 999	7,208	7 425	7 647	7 877	8 113
T lecommunications	227	233	240	248	255	263	271	279	287	296
G rag	887	913	941	969	998	1 028	1 059	1 091	1 123	1 157
Other Op rated D partm t	396	407	420	432	445	459	472	486	501	516
R tal nd Oth Incom	113	117	120	124	128	131	135	139	144	148
T tal R	$20 293	$20 902	$21 529	$22 175	$22 840	$23 525	$24 231	$24 9 8	$25 707	$26 478
DEPARTMENTAL EXPENSES										
R oms	$2 826	$2,911	$2 998	$3 088	$3 181	$3,276	$3 375	$3 476	$3 580	$3 688
F d & Beverag	4 353	4 483	4 618	4 756	4 899	5,046	5 197	5 353	5 514	5 679
T lecommunication	136	140	144	149	153	158	162	167	172	177
G g	645	664	684	705	726	747	770	793	817	841
Other Op rated Departm nt	277	285	294	303	312	321	331	341	351	362
T tal Departme tal Expe se	$8,237	$8 484	$8 739	$9 001	$9,271	$9 549	$9 835	$10 130	$10 434	$10 747
Departmental Profit	$12 056	$12 418	$12 790	$13 174	$13 569	$13 976	$14 396	$14 828	$15 272	$15 731
UNDISTRIBUTED EXPENSES										
Admin & Gen	$1 352	$1 393	$1 435	$1 478	$1 522	$1 568	$1 615	$1 663	$1 713	$1 765
Marketing	1 462	1 505	1 551	1 597	1 645	1 694	1 745	1 798	1 851	1 907
Property Operation & Ma ntenan	775	798	822	846	872	898	925	953	981	1,011
Utility Co ts	676	696	717	738	760	783	807	831	856	882
T tal Undistributed Operati g Expense	$4,264	$4 392	$4 524	$4 660	$4,799	$4 943	$5 092	$5,244	$5 402	$5 564
GROSS OPERATING PROFIT	$7 792	$8 026	$8,266	$8,514	$8 770	$9 033	$9 304	$9 583	$9 871	$10 167
FIXED CHARGES										
Insurance	185	191	197	203	209	215	221	228	235	242
T tal F ed Charges	$185	$191	$197	$203	$209	$215	$221	$228	$235	$242
EBITDA BEFORE MGT FEES	$7 607	$7 835	$8,070	$8 312	$8,561	$8 818	$9 083	$9 355	$9 636	$9 925
B se Man gement Fee	$558	$575	$592	$610	$628	$647	$666	$686	$707	$728
In tive Ma ageme t Fee (se bel w)	0	0	0	0	0	0	0	0	0	0
Total M nag ment Fee	$558	$575	$592	$610	$628	$647	$666	$686	$707	$728
EBITDA	$7 048	$7 260	$7 478	$7 702	$7 933	$8 171	$8,416	$8 669	$8,929	$9 197
Primary FF&E Reserv	$1 015	$1 045	$1 076	$1 109	$1 142	$1,176	$1 212	$1,248	$1,285	$1 324
NET OPERATING INCOME (1)	$6 034	$6 215	$6 401	$6,593	$6 791	$6,995	$7 205	$7 421	$7 643	$7 873
Add: Incentive M gement F (ee b low)	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0
ADJUSTED NET OPERATING INCOME	$6,034	$6,215	$6 401	$6 593	$6 791	$6 995	$7 205	$7 421	$7 643	$7 873
INVESTMENT EARNINGS AND OTHER REV (2)										
D bt Serv R rve Fund Taxable	$0	$0	$0	$0	$0.	$0	$0	$0	$0	$0
Debt S rvice R rve Fund Tax-Exempt	274	274	274	274	274	274	274	274	274	274
Total Investment Earn ng nd Other Re	$274	$274	$274	$274	$274	$274	$274	$274	$274	$274
REVENUES AVAILABLE FOR DEBT SERVIC	$6 308	$6 489	$6 676	$6 868	$7 065	$7 269	$7 479	$7 695	$7 918	$8,147
TAXABLE LIEN DEBT SERVICE.										
Gro s Debt S rv ce	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0
Le s: C pitalized Int t	0	0	0	0	0	0	0	0	0	0
N t T xable Li Debt S rv	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0
TAX-EXEMPT LIEN DEBT SERVICE										
Gro Debt S rvice	$4 380	$4 433	$4 484	$4 539	$4 591	$4 647	$4 704	$4 759	$4 814	$4 877
Less: Capitalized I terest	0	0	0	0	0	0	0	0	0	0
N t T -Exempt Li Debt Serv e	$4 380	$4 433	$4 484	$4 539	$4 591	$4 647	$4 704	$4 759	$4,814	$4 877
TOTAL NET DEBT SERVICE	$4 380	$4 433	$4 484	$4 539	$4 591	$4 647	$4 704	$4 759	$4 814	$4 877
NET CASH FLOW AFTER DEBT SERVICE	$1 928	$2 057	$2,192	$2,329	$2,474	$2,622	$2,775	$2 936	$3 103	$3 270
OTHER DEDUCTIONS										
Sub rd led M nag ment F	$254	$261	$269	$277	$286	$294	$303	$312	$321	$331
S b rdin te FF&E R serv F d	609	627	646	665	685	706	727	749	771	794
T tal Oth Deduction	$862	$888	$915	$942	$971	$1 000	$1 030	$1 061	$1 093	$1 125
NET CASH FLOW	$1 065	$1 _	$1 77	$1 387	$1,503	$1 622	$1 745	$1 876	$2,013	$2,145
APPLICATION OF NET CASH FLOWS										
Supplemental Reserv Fund	$52	$51	$55	$53	$55	$58	$54	$56	$62	$58
Red mption Fund 50%	507	558	611	667	724	782	845	910	974	1 044
City Suppl s F nd 50%	507	558	611	667	724	782	845	910	974	1 044
R ma ng N t Cash Fl ws	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0
FUND BALANCES										
Supplement l Reserve F nd Requirem t	$4 433	$4 484	$4 539	$4 591	$4,647	$4 704	$4 759	$4 814	$4 877	$4 935
Accum. B L Supplemental Reserv F d	$4 433	$4 484	$4 539	$4 591	$4 647	$4 704	$4 759	$4 814	$4 877	$4 935
Accum. Bal. Bond R demption F d	$5 183	$5 741	$6,352	$7 019	$7 743	$8 525	$9 371	$10,281	$11,255	$12,298
Accum. Bal. S rplu F nd	$5 183	$5 741	$6 352	$7 019	$7 743	$8,525	$9 371	$10 281	$11 255	$12,298
AVAILABLE CITY STANDBY SUP PAYMENT	$3 066	$3 103	$3 139	$3,177	$3,214	$3 253	$3 293	$3,331	$3 370	$3 414
DEBT SERVICE COVERAGE RATIOS										
Debt S rv Co erag R ti (3)	4.80	4 88	4 96	5.04	5 13	5.21	5 30	5 39	5 48	5.57
T tal Debt S rvice Coverag Ratio (4)	1.44	1 46	1 49	1.51	1.54	1 56	1 59	1 62	1 64	1 67

NOTES
(1) As provid d by PKF thro gh 2015 3.4 annual incre th reaft
(2) Assumes I tere t Earnings of 5 00% fo th Debt Service R serve F nds
(3) Adj sted Net Op rating Income Pl DSRF mings divided by N t Debt Service Minus A ti bl City Standby Support Payment
(4) Adj ted Net Op rating Income plus DSRF arning d vided by N t D bt Service

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City of Columbia South Carolina
Columbia Hotel
Operating Statistics and Forecasted Revenues Expenditures and Income and Average Rates
For the Years Ending December 31 (Unaudited)

	2026	2027	2028	2029	2030	2031	2032	2033	2034	2035
Available Rooms (Daily)	300	300	300	300	300	300	300	300	300	00
Available Rooms (Annually)	109 500	109 500	109,500	09 800	109 500	109 500	109 500	109 800	109,500	09 500
Occupied Rooms (Annually)	8 183	78 183	78 183	78 397	78 183	78 183	78 183	78 397	78 183	78 183
Occupancy Percentage	71 40	71 40%	71 40%	71 40%	71 40%	71 40%	71 40%	71 40.4	71 40%	71 40%
Average Room Rate	$215.25	$221 71	$228 36	$235 21	$242 26	$249 53	$257 02	$264 73	$272 67	$280 85
Revenue Per Occupied Room (RevPAR)	$153.69	$158 30	$163 05	$167 94	$172.98	$ 78 17	$183 51	$189 02	$194 69	$200 53
REVENUE										
Rooms	$16 735	$17 237	$17 755	$18 287	$18 836	$19 401	$19 983	$20 582	$21 200	$21 836
Food & Beverage	8 357	8 607	8 866	9 132	9 405	9 688	9 978	10 278	10 586	10 903
Telecommunications	305	314	323	333	343	353	364	375	386	397
Garage	1 192	1,228	1,264	1 30	1 341	1 382	1 423	1 466	1 510	1 555
Other Operated Department	532	547	564	581	598	616	635	654	673	694
Rental and Other Income	152	157	162	166	171	177	182	187	193	199
Total Revenues	$27,272	$28 090	$28 933	$29 801	$30 695	$31 616	$32,564	$33 541	$34 548	$35 584
DEPARTMENTAL EXPENSES										
Rooms	$3 798	$3 912	$4 030	$4 151	$4 275	$4 403	$4 535	$4 671	$4 812	$4 956
Food & Beverage	5 850	6 025	6 206	6,392	6 584	6 781	6,985	7 194	7 410	7 633
Telecommunications	183	188	194	200	206	212	218	225	231	238
Garage	867	893	919	947	975	1 005	1 035	1 066	1 098	1 131
Other Operated Department	372	384	395	407	419	432	445	458	472	486
Total Departmental Expenses	$11 070	$11 402	$11 744	$12,096	$12 459	$12,833	$13,218	$13,614	$14,023	$14 443
Departmental Profit	$16,202	$16 689	$17 189	$17 705	$18 236	$18 783	$19 347	$19 927	$20 525	$21 141
UNDISTRIBUTED EXPENSES										
Admin & Gen	$1 817	$1 872	$1 928	$1 986	$2,046	$2 107	$2 170	$2 235	$2 302	$2 371
Marketing	1 964	2,023	2 084	2 146	2,211	2,277	2 345	2 416	2 488	2,563
Property Operation & Maint	1 041	1 072	1 104	1 137	1 172	1,207	1,243	1,280	1 319	1 358
Utility Costs	908	835	963	992	1,022	1,053	1,084	1,117	1,150	1,185
Total Undistributed Operating Expenses	$5,731	$5 803	$6,080	$6,262	$6,450	$6,643	$6 843	$7 048	$7 260	$7 477
GROSS OPERATING PROFIT	$10 472	$10 786	$11 109	$11 443	$11 786	$12,140	$12 504	$12 879	$13 265	$13 663
FIXED CHARGES										
Insurance	249	257	264	272	280	289	298	306	316	325
Total Fixed Charges	$249	$257	$264	$272	$280	$289	$298	$306	$316	$325
EBITDA BEFORE MGT FEES	$10 223	$10 529	$10 845	$11 170	$11 506	$11 851	$12,206	$12,572	$12,950	$13 338
Base Management Fees	$750	$772	$796	$820	$844	$869	$896	$922	$950	$979
Incentive Management Fee (see below)	0	0	0	0	0	0	0	0	0	0
Total Management Fee	$750	$772	$796	$820	$844	$869	$896	$922	$950	$979
EBITDA	$9 473	$9 757	$10 049	$10 351	$10 661	$10 981	$11 311	$11 650	$12,000	$12,360
Primary FF&E Reserve	$1 364	$1,405	$1 447	$1 490	$1 535	$1 581	$1 628	$1 677	$1 727	$1 779
NET OPERATING INCOME (1)	$8 109	$8 352	$8,603	$8 861	$9,127	$9 401	$9 683	$9,973	$10,272	$10 580
Add. Incentive Management Fee (see below)	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0
ADJUSTED NET OPERATING INCOME	$8 109	$8 352	$8 603	$8 861	$9 127	$9 401	$9 683	$9 973	$10 272	$10 580
INVESTMENT EARNINGS AND OTHER REV (2)										
Debt Service Reserve Fund Taxable	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0
Debt Service Reserve Fund Tax Exempt	274	274	274	274	274	274	274	274	274	5 760
Total Investment Earnings and Other Rev	$274	$274	$274	$274	$274	$274	$274	$274	$274	$5 760
REVENUES AVAILABLE FOR DEBT SERVICE	$8 383	$8 627	$8 877	$9 135	$9 401	$9 675	$9 957	$10 247	$10 547	$16 341
TAXABLE LIEN DEBT SERVICE.										
Gross Debt Service	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0
Less Capitalized Interest	0	0	0	0	0	0	0	0	0	0
Net Taxable Lien Debt Service	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0
TAX-EXEMPT LIEN DEBT SERVICE.										
Gross Debt Service	$4 935	$4 994	$5 053	$5 113	$5 177	$5 234	$5 300	$5 364	$5 430	$9 813
Less Capitalized Interest	0	0	0	0	0	0	0	0	0	0
Net Tax-Exempt Lien Debt Service	$4 935	$4 994	$5 053	$5 113	$5 177	$5 234	$5 300	$5 364	$5 430	$9 813
TOTAL NET DEBT SERVICE	$4,935	$4,994	$5 053	$5 113	$5 177	$5 234	$5 300	$5 364	$5 430	$9 813
NET CASH FLOW AFTER DEBT SERVICE	$3 449	$3 633	$3,824	$4,023	$4,224	$4 441	$4 657	$4 883	$5 117	$6 528
OTHER DEDUCTIONS										
Subordinated Management Fees	$341	$351	$362	$373	$384	$395	$407	$419	$432	$445
Subordinated FF&E Reserve Fund	818	843	868	894	921	948	977	1 006	1,036	1,068
Total Other Deductions	$1 159	$1 194	$1,230	$1,267	$1 305	$1 344	$1 384	$1 426	$1 468	$1 512
NET CASH FLOW	$2,289	$2,439	$2,594	$2,756	$2,920	$3 097	$3 273	$3 458	$3 648	$5 016
APPLICATION OF NET CASH FLOWS										
Supplemental Reserve Fund	$59	$59	$59	$64	$58	$68	$64	$66	$3 648	$0
Redemption Fund 50Y	1 115	1 190	1 267	1 346	1 431	1,516	1 605	1 696	0	2 508
City Surplus Fund 50%	1 115	1,190	1,267	1,346	1,431	1 516	1,605	1,696	0	2,508
Remaining Net Cash Flows	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0
FUND BALANCES										
Supplemental Reserve Fund Requirement	$4 994	$5 053	$5 113	$5 177	$5 234	$5 300	$5,364	$5 430	$9 613	$0
Accum. Bal Supplemental Reserve Fund	$4 994	$5 053	$5 113	$5 177	$5 234	$5 300	$5 364	$5 430	$9 078	$9 078
Accum. Bal Bond Redemption Fund	$13 414	$14 603	$15 871	$17 217	$18 648	$20 164	$21 768	$23 464	$23 464	$25 972
Accum Bal Split Fund	$13 414	$14,603	$15 871	$17 217	$18 648	$20 164	$21 768	$23 464	$23 464	$25 9 2
AVAILABLE CITY STANDBY SUP PAYMENT	$3 454	$3 498	$3 537	$3 579	$3 624	$3 664	$3 710	$3 755	$3 801	$6 869
DEBT SERVICE COVERAGE RATIOS										
Debt Service Coverage Ratio (3)	5 66	5 76	5.86	5 96	6.05	6 16	6.26	6.37	6 47	5.55
Total Debt Service Coverage Ratio (4)	1 70	1 73	1 76	1 79	1 82	1 85	1 88	1 91	1 94	1 67

NOTES:
(1) As provided by PKF through 2035 3% annual increase thereafter
(2) Assumes Interest Earnings of 5 00% for the Debt Service Reserve Funds.
(3) Adjusted Net Operating Income Plus DSRF earnings divided by Net Debt Service Min Available City Standby Support Payment
(4) Adjusted Net Operating Income plus DSRF earnings divided by Net Debt Service.

City of Columbia South Carolina
Columbia Hilton

Cash Flow Schedule

	WIP	Operations Supplies Equipment	IT & Technology	Development Costs	Land Acquisition	Contingency Management	Tenant Improvements	Phase 1 Operations	Working Capital Reserve	Operating Capital	Phase 1 Delivery	Monthly Total	Funding Source: Money	Funding Source: Equity Money	Funding Source: Total	Funding Source: Cumulative
1/1/2004	4,023,00			502,307	75,0 0	150 000	100,000					4,851,307			0	4,851,307
5/1/2004	2,476,000			65,488			11,945					2,553,433	0		0	2,553 32
6/1/2004	1,583,000			65,488			21,945					1,660,433	0		0	1,660,433
7/1/2004	2,285,000			65,488			11,945					2,362,433	0		0	2,362,433
8/1/2004	2,574,000			65,488			11,9 5					2,651,433	0		0	2,651 33
9/1/2004	2,577,000			61,488			11,945					2,654,433	0			2,654 43
10/1/2004	2,399,000			65,488			11,945					2,476,433			0	476,433
11/1/2004	1,973,000			65,488			11,945					2,050,433	0		0	2,050,433
12/1/2004	2,028,000			61,488			11,945					2,105,433	0		0	105 33
1/1/2005	4,405,000			65,488			11,944				118,000	4,600,432	0		0	4,600,432
2/1/2005	2,349,000			65,488			11,944	200,000			75,000	2,701,432	200,000		00,000	2,501,432
3/1/2005	1,971,000	250,000	100,000	65,488			11,944	200,000			75,000	2,773,432	200,000		200,000	2,573 32
4/1/2005	1,828,000	150,000	100,000	65,488			11,9	0 00			75,000	2,426,432	200,000		200 00	2,226 32
5/1/2005	1,641,000	100,000	100,000	65,488			11,944	200,000			75,000	2,193,432	200,000		2 000	1 3
6/1/2005	1,350,000	200,000	100,000	65,488			11,94	200,000			75,000	002 32	200,000		200,000	1,80 432
7/1/2005	1,740,000	200,000	100,000	65,488			11 94	,0			75,000	2,392,432	200,000		200,000	2,19 432
8/1/2005	1,300,000	00,000	00 00				,9	000			75,000	2,132,432	200 00		2	9 2 1
9/1/2005	1,000,000	750,000	100,000	65 88			11,944	2 0,000	100		75 00	2 7 32		000,0		002 32
10/1/2005	200,000	750,000	43,000	273,197			11,944	200,00	100,000		75,000	1,713,341	300,000	300 0	0	1 33 1 1
11/1/2005	225,000								100,000	2 0,000		575,000	350,000	350,000	0	225,000
12/1/2005									50,000			5 000	50,0 0	50,000		
Total	40,017,000	2,886,000	743,000	1,890,000	75,000	150,000	315,000	1,800,000	350,000	250,000	793,000	49,1G9,000	2,00,000	1,00,000	4C0 00	16,869,000
Bond Proceeds		0						2,800,000	350,000	350,000		2,400,000				
Due		10/1/2005						ALL	ALL	ALL						

0257
JL001321
APPENDIX_0262

City of Columbia South Ca olina
Columbia Hilton
Tax Exempt Bonds

Construct on Fund

D te	Begnn g Balanc	D pos t	I erest 1 200000 6	Transf to C pin	Drawd ns	Ending Balance
4/1/2004		46 488 853 82				46 88 853 8
4/1/2004	46 488 853 82				4 851 307 00	41 637,546 82
5/1/2004	41 637,5 6 82		41,533 83		2,553 433 00	39 125 647 66
6/1/2004	39 125 647 66		39 028 19		1 660 433 00	37,504,242 85
7/1/2004	37 504,242 85		37 410 82		2 362 433 00	35 179,2..0 67
8/1/2004	35 179,220.67		35 091 59		2 651 433 00	32,562,879 27
9/1/2004	32,562,879.27		32,481 77		2 654 433 00	29 940 928 04
10/1/2004	29 940 928 04		29 866 35		2 476 433 00	27 494 361 38
11/1/2004	27 494,361 38		27 425 88		2 050 433 00	25 471 354 26
12/1/2004	25 471,354,26		25 407 91		2 105 433 00	23 391 329 17
1/1/2005	23,391,329 17		23,333 06		4 600 432.00	18 814 230 23
2/1/2005	18 814,230.23		18 767 37		2 501 432.00	16 331 565 60
3/1/2005	16,331,565 60		16,290 89		2,573 432.00	13 774 424 49
4/1/2005	13,774 424 49		13 740 11		2,226 432 00	11 561 732 60
5/1/2005	11 561 732,60		11,532.93		1 993 432 00	9 579 833.53
6/1/2005	9 579 833.53		9 555 97		1 802 432.00	7 786,957.50
7/1/2005	7 786 957 50		7 767.56		2,192,432 00	5 602,293 07
8/1/2005	5 602 293.07		5 588 34		1 952 432 00	3,655 449 40
9/1/2005	3 655 449 40		3 646.34		2,202,432 00	1 456 663 75
10/1/2005	1 456 663 75		1 453 04		1 233,341 00	224 775 78
11/1/2005	224 775 78		224 22		225 000 00	(0 00)
12/1/2005	(0.00)		(0 00)			(0 00)
1/1/2006	(0.00)		(0 00)			(0.00)
2/1/2006	(0 00)		(0 00)			(0.00)
3/1/2006	(0 00)		(0 00)			(0 00)
4/1/2006	(0 00)		(0 00)			(0 00)
5/1/2006	(0 00)		(0 00)			(0 00)
6/1/2006	(0 00)		(0.00)			(0 00)
7/1/2006	(0 00)		(0.00)			(0 00)
8/1/2006	(0 00)		(0 00)			(0 00)
9/1/2006	(0 00)		(0 00)			(0 00)
10/1/2006	(0 00)		(0 00)			(0 00)
11/1/2006	(0 00)		(0 00)			(0 00)
12/1/2006	(0 00)		(0 00)			(0 00)
1/1/2007	(0 00)		(0.00)			(0.00)
2/1/2007	(0 00)		(0 00)			(0.00)
3/1/2007	(0 00)		(0 00)			(0 00)
4/1/2007	(0 00)		(0 00)			(0 00)
5/1/2007	(0 00)		(0 00)			(0 00)
6/1/2007	(0 00)		(0 00)			(0.00)
7/1/2007	(0 00)		(0 00)			(0 00)
8/1/2007	(0 00)		(0 00)			(0 00)
9/1/2007	(0 00)		(0 00)			(0 00)
10/1/2007	(0 00)		(0 00)			(0 00)
11/1/2007	(0 00)		(0 00)			(0 00)
12/1/2007	(0 00)		(0 00)			(0.00)
1/1/2008	(0 00)		(0 00)			(0 00)
2/1/2008	(0 00)		(0 00)			(0 00)
3/1/2008	(0 00)		(0.00)			(0 00)
4/1/2008	(0.00)		(0 00)			(0 00)
5/1/2008	(0.00)		(0 00)			(0 00)
6/1/2008	(0 00)		(0 00)			(0 00)
7/1/2008	(0.00)		(0 00)			(0 00)
8/1/2008	(0.00)		(0.00)			(0 00)
9/1/2008	(0.00)		(0 00)			(0 00)
10/1/2008	(0.00)		(0.00)			(0 00)
11/1/2008	(0.00)		(0 00)			(0 00)
12/1/2008	(0.00)		(0 00)			(0 00)
1/1/2009	(0.00)		(0.00)			(0 00)
2/1/2009	(0.00)		(0.00)			(0.00)
3/1/2009	(0.00)		(0 00)			(0 00)
4/1/2009	(0.00)		(0 00)			(0.00)
5/1/2009	(0 00)		(0 00)			(0 00)
6/1/2009	(0 00)		(0 00)			(0.00)
7/1/2009	(0 00)		(0 00)			(0 00)
8/1/2009	(0 00		0 00)			(0 00)
9/1/2009	(0.00)		(0 00)			(0.00)
10/1/2009	(0 00)		(0 00)			(0.00)
11/1/2009	(0 00)		(0 00)			(0 00)
1_/1/2009	(0 00)		(0 00)			(0 00)
1/1/2010	(0 00)		(0 00)			(0 00)
2/1/2010	(0 00)		(0 00)			(0 00)
3/1/2010	(0 00)		(0 00)			(0 00)
Total		46 488 853 82	380,145.18		46,869 000 00	

City of Columb a South Carolin
Columb a Hilton
Taxable Bonds

Construction Fund

Dat	Be_gnn g Balanc_	D posit	I terest 1 200000 ro	Transf 1 C plnt	Drawd wns	Endi g Balance
4/1/2004		1 381 974 22				1 381 974 2
4/1/2004	1 381 974 2					1 381 974 2
5/1/2004	1 381 974 22		1,378 53			1 383 352.75
6/1/2004	1 383 352.75		1,379 91			1 384,732 66
7/1/2004	1 384 732 66		1,381 28			1 386,113 94
8/1/2004	1 386 113 94		1,382.66			1,387 496 60
9/1/2004	1 387 496 60		1 384 04			1 388 880 64
10/1/2004	1,388 880 64		1,385 42			1 390 266 06
11/1/2004	1,390,266 06		1,386 80			1,391 652.87
12/1/2004	1 391 652.87		1 388 19			1 393 041 05
1/1/2005	1 393 041 05		1,389 57			1,394 430 62
2/1/2005	1,394,430 62		1 390 96		200 000 00	1 195 821 58
3/1/2005	1 195 821 58		1 192 84		200 000 00	997,014 42
4/1/2005	997 014 42		994.53		200 000.00	798,008 95
5/1/2005	798 008.95		796 02		200,000 00	598 804 98
6/1/2005	598 804 98		597.31		200 000 00	399 402.29
7/1/2005	399 402.29		398 41		200 000 00	199 800 70
8/1/2005	199 800.70		199 30		.00 000 00	(0.00)
9/1/2005	(0 00)		(0.00)			(0 00)
10/1/2005	(0.00)		(0 00)			(0 00)
11/1/2005	(0 00)		(0 00)			(0 00)
1_/1/2005	(0 00)		(0 00)			(0 00)
1/1/2006	(0.00)		(0 00)			(0 00)
2/1/2006	(0.00)		(0 00)			(0 00)
3/1/2006	(0 00)		(0 00)			(0 00)
4/1/2006	(0 00)		(0 00)			(0 00)
5/1/2006	(0 00)		(0.00)			(0 00)
6/1/2006	(0.00)		(0 00)			(0 00)
7/1/2006	(0.00)		(0 00)			(0 00)
8/1/2006	(0 00)		(0 00)			(0 00)
9/1/2006	(0 00)		(0 00)			(0 00)
10/1/2006	(0 00)		(0 00)			(0 00)
11/1/2006	(0 00)		(0 00)			(0 00)
12/1/2006	(0 00)		(0 00)			(0.00)
1/1/2007	(0.00)		(0 00)			(0.00)
2/1/2007	(0 00)		(0 00)			(0.00)
3/1/2007	(0 00)		(0.00)			(0 00)
4/1/2007	(0 00)		(0 00)			(0.00)
5/1/2007	(0 00)		(0 00)			(0.00)
6/1/2007	(0 00)		(0 00)			(0 00)
7/1/2007	(0 00)		(0 00)			(0.00)
8/1/2007	(0 00)		(0 00)			(0 00)
9/1/2007	(0 00)		(0 00)			(0 00)
10/1/2007	(0 00)		(0 00)			(0 00)
11/1/2007	(0 00)		(0 00)			(0 00)
12/1/2007	(0 00)		(0 00)			(0 00)
1/1/2008	(0.00)		(0.00)			(0 00)
2/1/2008	(0.00)		(0 00)			(0 00)
3/1/2008	(0.00)		(0 00)			(0 00)
4/1/2008	(0.00)		(0.00)			(0 00)
5/1/2008	(0.00)		(0.00)			(0 00)
6/1/2008	(0.00)		(0 00)			(0.00)
7/1/2008	(0.00)		(0.00)			(0 00)
8/1/2008	(0 00)		(0.00)			(0.00)
9/1/2008	(0 00)		(0 00)			(0.00)
10/1/2008	(0 00)		(0.00)			(0 00)
11/1/2008	(0 00)		(0 00)			(0 00)
12/1/2008	(0 00)		(0 00)			(0 00)
1/1/2009	(0 00)		(0 00)			(0 00)
2/1/2009	(0 00)		(0 00)			(0 00)
3/1/2009	(0 00)		(0 00)			(0 00)
4/1/2009	(0 00)		(0 00)			(0 00)
5/1/2009	(0 00)		(0 00)			(0 00)
6/1/2009	(0 00)		(0 00)			(0 00)
7/1/2009	(0.00)		(0 00)			(0 00)
8/1/2009	(0 00)		(0 00)			(0 00)
9/1/2009	(0.00)		(0 00)			(0 00)
10/1/2009	(0 00)		(0 00)			(0 00)
11/1/2009	(0 00)		(0.00)			(0 00)
12/1/2009	(0 00)		(0 00)			(0 00)
1/1/2010	(0.00)		(0 00)			(0 00)
2/1/2010	(0.00)		(0 00)			(0 00)
3/1/2010	(0.00)		(0 00)			(0 00)
Total		1 381 974 22	18,025 78		1 400 000 00	

City of Columbia South Carolina
Columbia Hilton
Key Money

Construction Fund

Date	Beginning Balance	Deposit	Interest 0.000000%	Transfer to Capital	Drawdown	Ending Balance
4/1/2004						
4/1/2004						
5/1/2004						
6/1/2004						
7/1/2004						
8/1/2004						
9/1/2004						
10/1/2004						
11/1/2004						
12/1/2004						
1/1/2005						
2/1/2005						
3/1/2005						
4/1/2005						
5/1/2005						
6/1/2005						
7/1/2005						
8/1/2005						
9/1/2005		1,000,000.00			300,000.00	700,000.00
10/1/2005	700,000.00				300,000.00	400,000.00
11/1/2005	400,000.00				350,000.00	50,000.00
12/1/2005	50,000.00				50,000.00	
1/1/2006						
2/1/2006						
3/1/2006						
4/1/2006						
5/1/2006						
6/1/2006						
7/1/2006						
8/1/2006						
9/1/2006						
10/1/2006						
11/1/2006						
12/1/2006						
1/1/2007						
2/1/2007						
3/1/2007						
4/1/2007						
5/1/2007						
6/1/2007						
7/1/2007						
8/1/2007						
9/1/2007						
10/1/2007						
11/1/2007						
12/1/2007						
1/1/2008						
2/1/2008						
3/1/2008						
4/1/2008						
5/1/2008						
6/1/2008						
7/1/2008						
8/1/2008						
9/1/2008						
10/1/2008						
11/1/2008						
12/1/2008						
1/1/2009						
2/1/2009						
3/1/2009						
4/1/2009						
5/1/2009						
6/1/2009						
7/1/2009						
8/1/2009						
9/1/2009						
10/1/2009						
11/1/2009						
12/1/2009						
1/1/2010						
2/1/2010						
3/1/2010						
Total		1,000,000.00			1,000,000.00	

City of Col mbia South Carolina
Columbia H ltoa
Tax Exempt Bonds

Current Inte est Bonds

Date	Prn pal	Rat	Y ld	P	t t est	T tal D b Serv ce	Annual D bt S rv
4/1/2004							
7/1/2004					753 059 75	753 059 75	
1/1/2005		1 300%	1.300%	100 000	1 506 119 50	1 506 11 50	2,259 179 25
7/1/2005					1 506 119 50	1 506 119 50	
1/1/2006		1 640%	1 640%	100 000	1 506 119.50	1 506 119 50	3 012,239 00
7/1/2006					1 506 119 50	1 506 119 50	
1/1/2007		1 940%	1 940%	100 000	1 506 119 50	1 506 119 50	3 012 239 00
7/1/2007					1 506 119 50	1 506 119 50	
1/1/2008		2 300%	2.300%	100 000	1,506 119 50	1 506 119 50	3 012,239 00
7/1/2008					1 506 119 50	1 506 119 50	
1/1/2009		2 600 /.	_600%	100 000	1 506,119 50	1 506 119 50	3 012,239 00
7/1/2009					1 506,119 50	1 506 119 50	
1/1/2010		2 840%	2.840%	100 000	1,506 119 50	1 506 119 50	3 012,239 00
7/1/2010					1,506,119.50	1 506 119 50	
1/1/2011		3 080*	3 080%	100 000	1,506 119 50	1 506 119 50	3 012 239 00
7/1/2011					1,506 119 50	1 506 119 50	
1/1/2012		3.320%	3 320 /	100 000	1 506 119 50	1 506 119.50	3 012,239 00
7/1/2012					1 506 119 50	1 506 119 50	
1/1/2013		3.520%	3 520%	100 000	1 506 119 50	1 506 119 50	3 012,239 00
7/1/2013					1 506 119 50	1,506 119 50	
1/1/2014		3.690%	3 690%	100 000	1 506 119 50	1 506,119 50	3 012 239 00
7/1/2014					1 506 119.50	1 506 119 50	
1/1/2015		3 830%	3 830%	100 000	1 506 119.50	1 506 119 50	3 01 239 00
7/1/2015					1,506 119 50	1 506 119 50	
1/1/2016	1,315 000 00	3 950%	3 950%	100 000	1,506 119 50	2,821 119 50	4 327 239 00
7/1/2016					1 480 148.25	1 480 148 _5	
1/1/2017	1 420 000.00	4 060%	4 060%	100 000	1 480 148 25	2 900 148.25	4 380 296 50
7/1/2017					1 451 322.25	1 451,322 _5	
1/1/2018	1 530 000 00	4 170%	4 170%	100 000	1 451 322.25	2,981 322.25	4 432 644 50
7/1/2018					1 419 421 75	1 419 421 75	
1/1/2019	1 645 000.00	4 270%	4 270%	100 000	1 419 421 75	3 064 421 75	4 483 843 50
7/1/2019					1 384 301 00	1,384,301 00	
1/1/20 0	1 770 000 00	4 360 /	4 360%	100 000	1,384,301 00	3 154 301 00	4 538 602 00
7/1/2020					1 345 715 00	1 3 5 715 00	
1/1/2021	1 900 000 00	4 50%	4 450%	100 000	1 345 715 00	3 245 715 00	4 591 430 00
7/1/2021					1,303 440 00	1 303 440 00	
1/1/2022	2 040 000 00	4.530%	4.530%	100 000	1,303 440 00	3 343 440 00	4 646 880 00-
7/1/2022					1 257 _34 00	1 257,234.00	
1/1/2023	2,190 000 00	4 600%	4 600%	100 000	1 257,234 00	3 447,234 00	4 704 468 00
7/1/2023					1,206 864 00	1 206 864 00	
1/1/2024	2,3 5 000 00	4 660%	4 660%	100.000	1,206,864 00	3 551 864 00	4 758 728 00
7/1/2024					1 152,225 50	1 152,225 50	
1/1/2025	2,510 000 00	4 690%	4 690%	100 000	1 152 225 50	3 662,225 50	4 814 451 00
7/1/2025					1 093 366 00	1 093,366 00	
1/1/2026	2 690 000.00	4 720%	4 720%	100 000	1 093 366 00	3 783,366 00	4,876 732.00
7/1/2026					1 029 882.00	1 029 882.00	
1/1/2027	2,875 000.00	4 730%	4 730%	100 000	1 029 882.00	3 904 882.00	4 934 764 00
7/1/2027					961 888.25	961 888.25	
1/1/2028	3 070 000.00	4 740%	4 740%	100 000	961 888.25	4 031 888 25	4 993 776 50
7/1/2028					889 129 25	889 1 9 _5	
1/1/2029	3 275 000 00	4 750%	4 750%	100 000	889 129.25	4 164 129.25	5 053,258 50
7/1/2029					811 348 00	811 348 00	
1/1/2030	3 490 000 00	4 760%	4 760%	100 000	811 348.00	4 301,348.00	5 112 696 00
7/1/2030					728 286 00	728 286.00	
1/1/2031	3 720 000 00	4 770%	4 770%	100 000	728 286 00	4 448 286.00	5 176,572 00
7/1/2031					639,564 00	639 564 00	
1/1/2032	3 955 000 00	4 780%	4 780%	100 000	639 564 00	4,594,564 00	5,234 128 00
7/1/2032					545 039 50	545 039.50	
1/1/2033	4,210 000 00	4 780%	4 780%	100 000	545 039 50	4 755 039.50	5,,00 079 00
7/1/2033					444 420 50	444 420.50	
1/1/2034	4,475 000 00	4 780%	4 780%	100 000	444 420 50	4 919 420.50	5 363 841 00
7/1/2034					337 468.00	337 468 00	
1/1/2035	4 755,000 00	4.780%	4 780%	100 000	337 468 00	5 092 468 00	5 429 936 00
7/1/2035					223 823 50	223 823.50	
1/1/2036	9,365,000 00	4.780%	4 780%	100 000	223 823 50	9,588 823.50	9 812,647 00
7/1/2036							
1/1/2037		4.780%	4 780%	100 000			
7/1/2037							
1/1/2038		4 780%	4 780 /.	100 000			
7/1/2038							
1/1/2039		4 780%	4 780%	100 000			
7/1/2039							
1/1/2040		4 780%	4 780 /.	100 000			
7/1/2040							
1/1/2041		4 780%	4 780 /.	100 000			
7/1/2041							
1/1/2042		4 780 /.	4 780 /	100 000			
7/1/2042							
1/1/2043		4 780 /.	4 780%	100 000			
7/1/2043							
1/1/2044		4 780%	4 780%	99 992			
T tal	64,545 000.00				74 803,381 75	139 348 581 75	139 348 581 75

C ty of Columbia South Carolina
Columbia Hilton
Tax Exempt Bonds

Capital ed Interest

Date	Day 30/360	Beginn g Balance	Depo ts	Interest 1 200000%	Import F om DSRF Fund	P centag Capitalized	In eres Cap tal ed	Ends g Balance
4/1/2004			4 728 842 54			100 00%		4 728 842 54
7/1/2004	90	4,728 842 54		14 165 31	68 153 73	100 00%	752 059 75	4 058 101 83
1/1/2005	180	4 058 101 83		24 348 61	137 154 12	100 00%	1,506 119 50	2 713 485 05
7/1/2005	180	2,713 485 05		16 80 91	137 154 12	100 00 %	1,506 119 50	1 360 800 58
1/1/2006	180	1 360,800.58		8,164 80	137 154 12	100 00%	1 506 119 50	
7/1/2006	180					0 00%		
1/1/2007	180					0.00%		
7/1/2007	180					0 00%		
1/1/2008	180					0 00%		
7/1/2008	180					0 00%		
1/1/2009	180					0 00%		
7/1/2009	180					0 00%		
1/1/2010	180					0 00%		
7/1/2010	180					0 00%		
1/1/2011	180					0 00%		
7/1/2011	180					0 00%		
1/1/2012	180					0 00%		
7/1/2012	180					0 00%		
1/1/2013	180					0 00%		
7/1/2013	180					0 00%		
1/1/2014	180					0.00%		
7/1/2014	180					0.00%		
1/1/2015	180					0.00%		
7/1/2015	180					0 00%		
1/1/2016	180					0 00%		
Total				62 959 64	479 616 07		5,271 418 25	

City of Columbia South Carolina
Columbia Hilton
Tax Exempt Bonds

Debt Service Reserve Fund

D	Day 30/360	Beginning Balance	Deposits	Interest 5.000000%	Export to Capital Fund	Expo Ren Fund	End g Balance
4/1/2004			5,486,164.64				5,486,164.64
7/1/2004	90	5,486,164.64		68,153.73	(68,153.73)		5,486,164.64
1/1/2005	180	5,486,164.64		137,154.12	(137,154.12)		5,486,164.64
7/1/2005	180	5,486,164.64		137,154.12	(137,154.12)		5,486,164.64
1/1/2006	180	5,486,164.64		137,154.12	(137,154.1)		5,486,164.64
7/1/2006	180	5,486,164.64		137,154.12		(137,154.12)	5,486,164.64
1/1/2007	180	5,486,164.64		137,154.12		(137,154.12)	5,486,164.64
7/1/2007	180	5,486,164.64		137,154.12		(137,154.12)	5,486,164.64
1/1/2008	180	5,486,164.64		137,154.1		(137,154.12)	5,486,164.64
7/1/2008	180	5,486,164.64		137,154.12		(137,154.12)	5,486,164.64
1/1/2009	180	5,486,164.64		137,154.12		(137,154.12)	5,486,164.64
7/1/2009	180	5,486,164.64		137,154.12		(137,154.12)	5,486,164.64
1/1/2010	180	5,486,164.64		137,154.12		(137,154.12)	5,486,164.64
7/1/2010	180	5,486,164.64		137,154.12		(137,154.12)	5,486,164.64
1/1/2011	180	5,486,164.64		137,154.12		(137,154.12)	5,486,164.64
7/1/2011	180	5,486,164.64		137,154.12		(137,154.12)	5,486,164.64
1/1/2012	180	5,486,164.64		137,154.12		(137,154.12)	5,486,164.64
7/1/2012	180	5,486,164.64		137,154.12		(137,154.12)	5,486,164.64
1/1/2013	180	5,486,164.64		137,154.12		(137,154.12)	5,486,164.64
7/1/2013	180	5,486,164.64		137,154.12		(137,154.12)	5,486,164.64
1/1/2014	180	5,486,164.64		137,154.12		(137,154.12)	5,486,164.64
7/1/2014	180	5,486,164.64		137,154.12		(137,154.12)	5,486,164.64
1/1/2015	180	5,486,164.64		137,154.12		(137,154.1)	5,486,164.64
7/1/2015	180	5,486,164.64		137,154.12		(137,154.12)	5,486,164.64
1/1/2016	180	5,486,164.64		137,154.12		(137,154.12)	5,486,164.64
7/1/2016	180	5,486,164.64		137,154.12		(137,154.12)	5,486,164.64
1/1/2017	180	5,486,164.64		137,154.12		(137,154.12)	5,486,164.64
7/1/2017	180	5,486,164.64		137,154.12		(137,154.12)	5,486,164.64
1/1/2018	180	5,486,164.64		137,154.12		(137,154.12)	5,486,164.64
7/1/2018	180	5,486,164.64		137,154.12		(137,154.12)	5,486,164.64
1/1/2019	180	5,486,164.64		137,154.12		(137,154.12)	5,486,164.64
7/1/2019	180	5,486,164.64		137,154.12		(137,154.12)	5,486,164.64
1/1/2020	180	5,486,164.64		137,154.12		(137,154.12)	5,486,164.64
7/1/2020	180	5,486,164.64		137,154.12		(137,154.12)	5,486,164.64
1/1/2021	180	5,486,164.64		137,154.12		(137,154.12)	5,486,164.64
7/1/2021	180	5,486,164.64		137,154.12		(137,154.12)	5,486,164.64
1/1/2022	180	5,486,164.64		137,154.12		(137,154.12)	5,486,164.64
7/1/2022	180	5,486,164.64		137,154.12		(137,154.12)	5,486,164.64
1/1/2023	180	5,486,164.64		137,154.12		(137,154.12)	5,486,164.64
7/1/2023	180	5,486,164.64		137,154.12		(137,154.12)	5,486,164.64
1/1/2024	180	5,486,164.64		137,154.12		(137,154.12)	5,486,164.64
7/1/2024	180	5,486,164.64		137,154.12		(137,154.12)	5,486,164.64
1/1/2025	180	5,486,164.64		137,154.12		(137,154.12)	5,486,164.64
7/1/2025	180	5,486,164.64		137,154.1		(137,154.12)	5,486,164.64
1/1/2026	180	5,486,164.64		137,154.12		(137,154.12)	5,486,164.64
7/1/2026	180	5,486,164.64		137,154.12		(137,154.12)	5,486,164.64
1/1/2027	180	5,486,164.64		137,154.12		(137,154.12)	5,486,164.64
7/1/2027	180	5,486,164.64		137,154.12		(137,154.12)	5,486,164.64
1/1/2028	180	5,486,164.64		137,154.12		(137,154.12)	5,486,164.64
7/1/2028	180	5,486,164.64		137,154.12		(137,154.12)	5,486,164.64
1/1/2029	180	5,486,164.64		137,154.12		(137,154.12)	5,486,164.64
7/1/2029	180	5,486,164.64		137,154.12		(137,154.12)	5,486,164.64
1/1/2030	180	5,486,164.64		137,154.12		(137,154.12)	5,486,164.64
7/1/2030	180	5,486,164.64		137,154.12		(137,154.12)	5,486,164.64
1/1/2031	180	5,486,164.64		137,154.12		(137,154.12)	5,486,164.64
7/1/2031	180	5,486,164.64		137,154.12		(137,154.12)	5,486,164.64
1/1/2032	180	5,486,164.64		137,154.12		(137,154.12)	5,486,164.64
7/1/2032	180	5,486,164.64		137,154.12		(137,154.12)	5,486,164.64
1/1/2033	180	5,486,164.64		137,154.12		(137,154.12)	5,486,164.64
7/1/2033	180	5,486,164.64		137,154.12		(137,154.12)	5,486,164.64
1/1/2034	180	5,486,164.64		137,154.12		(137,154.12)	5,486,164.64
7/1/2034	180	5,486,164.64		137,154.12		(137,154.12)	5,486,164.64
1/1/2035	180	5,486,164.64		137,154.12		(137,154.12)	5,486,164.64
7/1/2035	180	5,486,164.64		137,154.12		(137,154.12)	5,486,164.64
1/1/2036	180	5,486,164.64		137,154.12		(5,623,318.75)	
7/1/2036	180						
1/1/2037	180						
7/1/2037	180						
1/1/2038	180						
7/1/2038	180						
1/1/2039	180						
7/1/2039	180						
1/1/2040	180						
7/1/2040	180						
1/1/2041	180						
7/1/2041	180						
1/1/2042	180						
7/1/2042	180						
1/1/2043	180						
7/1/2043	180						
1/1/2044	180						
Total			5,486,164.64	8,708,863.03	(479,616.07)	(13,715,411.59)	

City of Columbia South Carolina
Columbia Hilton
Taxable Bonds

Current Interest Bonds

Date	Principal	Rate	Yield	Price	Interest	Total Debt Service	Annual Debt Serv
4/1/2004							
7/1/2004					67,515.38	67,515.38	
1/1/2005		1.750%	1.750%	100.000	135,030.75	135,030.75	202,546.13
7/1/2005					135,030.75	135,030.75	
1/1/2006		2.400%	2.400%	100.000	135,030.75	135,030.75	270,061.50
7/1/2006					135,030.75	135,030.75	
1/1/2007		2.880%	2.880%	100.000	135,030.75	135,030.75	270,061.50
7/1/2007					135,030.75	135,030.75	
1/1/2008		3.380%	3.380%	100.000	135,030.75	135,030.75	70,061.50
7/1/2008					135,030.75	135,030.75	
1/1/2009		3.670%	3.670%	100.000	135,030.75	135,030.75	270,061.50
7/1/2009					135,030.75	135,030.75	
1/1/2010	800,000.00	4.000%	4.000%	100.000	135,030.75	935,030.75	1,070,061.50
7/1/2010					119,030.75	119,030.75	
1/1/2011	850,000.00	4.310%	4.310%	100.000	119,030.75	969,030.75	1,088,061.50
7/1/2011					100,713.25	100,713.25	
1/1/2012	895,000.00	4.560%	4.560%	100.000	100,713.25	995,713.25	1,096,426.50
7/1/2012					80,307.25	80,307.25	
1/1/2013	950,000.00	4.730%	4.730%	100.000	80,307.25	1,030,307.25	1,110,614.50
7/1/2013					57,839.75	57,839.75	
1/1/2014	1,010,000.00	4.760%	4.760%	100.000	57,839.75	1,067,839.75	1,125,679.50
7/1/2014					33,801.75	33,801.75	
1/1/2015	1,245,000.00	5.430%	5.430%	100.000	33,801.75	1,278,801.75	1,312,603.50
7/1/2015							
1/1/2016		5.430%	5.430%	100.000			
7/1/2016							
1/1/2017		5.430%	5.430%	100.000			
7/1/2017							
1/1/2018		5.430%	5.430%	100.000			
7/1/2018							
1/1/2019		5.430%	5.430%	100.000			
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7/1/2025							
1/1/2026		5.630%	5.630%	100.000			
7/1/2026							
1/1/2027		5.630%	5.630%	100.000			
7/1/2027							
1/1/2028		5.630%	5.630%	100.000			
7/1/2028							
1/1/2029		5.630%	5.630%	100.000			
7/1/2029							
1/1/2030		5.630%	5.630%	100.000			
7/1/2030							
1/1/2031		5.630%	5.630%	100.000			
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1/1/2032		5.630%	5.630%	100.000			
7/1/2032							
1/1/2033		5.630%	5.630%	100.000			
7/1/2033							
1/1/2034		5.630%	5.630%	100.000			
7/1/2034							
1/1/2035		5.630%	5.630%	100.000			
7/1/2035							
1/1/2036		5.630%	5.630%	100.000			
7/1/2036							
1/1/2037		0.000%	0.000%	100.000			
7/1/2037							
1/1/2038		0.000%	0.000%	100.000			
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1/1/2039		0.000%	0.000%	100.000			
7/1/2039							
1/1/2040		0.000%	0.000%	100.000			
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1/1/2041		0.000%	0.000%	100.000			
7/1/2041							
1/1/2042		0.000%	0.000%	100.000			
7/1/2042							
1/1/2043		0.000%	0.000%	100.000			
7/1/2043							
1/1/2044		0.000%	0.000%	100.001			
Total	750,000.00				2,336,239.13	8,086,239.13	8,086,239.13

City of Columb a So th Caroli a
Columbia H ltop
Taxable Bonds

Capitalized Interest

D t	Days 30/360	Beginn g Balan	Dep ts	In erest 1 200000 /	Import From DSRF Fund	Percentag Cap talized	I erest Cap tal ed	E ding Balance
4/1/2004			3 605,582.73			100 00%		4 728 842 54
7/1/2004	90	4 728,842.54		14 165 31	3 954 88	100 00%	67 515.38	4 058 101 83
1/1/2005	180	4,058 101 83		24 348 61	7,958 90	100 00%	135 030.75	2 713 485 05
7/1/2005	180	2 713 485 05		16 280 91	7 958 90	100 00%	135 030 75	1 360 800 58
1/1/2006	180	1 360 800 58		8 164 80	7 958 90	100 00%	135,030.75	
7/1/2006	180					50 00%	820,575 13	
1/1/2007	180					50.00%	820 575 13	
7/1/2007	180					50 00%	820 575 13	
1/1/2008	180					50 00 4	820 575 13	
7/1/2008	180					0 00%		
1/1/2009	180					0.00%		
7/1/2009	180					0 00%		
1/1/2010	180					0.00%		
7/1/2010	180					0 00%		
1/1/2011	180					0 00%		
7/1/2011	180					0 00%		
1/1/2012	180					0 00%		
7/1/2012	180					0 00%		
1/1/2013	180					0 00%		
7/1/2013	180					0 00%		
1/1/2014	180					0.00%		
7/1/2014	180					0 00%		
1/1/2015	180					0 00%		
7/1/2015	180					0 00%		
1/1/2016	180					0 00%		
Total				62,959 64	27 831 57		3 754,908 13	

C ty of Columbia So th Carol na
Col mbia Hilton
Taxable Bonds

Debt Service Reserve Fund

Date	Day 30/360	Beginni g Balance	D posi	I est 5 000000%	Export C p Fund	Expo R enue Fund	Ending Balance
4/1/2004			318 355.86				318 55 86
7/1/2004	90	318,355 86		3 954 88	(3 954 88)		318 355 86
1/1/2005	180	318 355 86		7 958 90	(7 958 90)		318,355 86
7/1/2005	180	318,355 86		7 58 90	(7 958 90)		318 355 86
1/1/2006	180	318 355 86		7 958 90	(7 958 90)		318,355 86
7/1/2006	180	318,355 86		7 958 90		(7 958 90)	318 355 86
1/1/2007	180	318,355 86		7 958 90		(7 958 90)	318 355 86
7/1/2007	180	318 355 86		7 958 90		(7 958 90)	318 355 86
1/1/2008	180	318,355 86		7 958 90		(7 958 90)	318,355 86
7/1/2008	180	318 355 86		7 958 90		(7 958 90)	318 355 86
1/1/2009	180	318,355 86		7 958 90		(7 958 90)	318 35 86
7/1/2009	180	318,355 86		7 958 90		(7 958 90)	318,355 86
1/1/2010	180	318,355 86		7 958 90		(7 958 90)	318 355 86
7/1/2010	180	318,355 86		7,958 90		(7,958 90)	318,355 86
1/1/2011	180	318,355 86		7 958 90		(7 958 90)	318 355 86
7/1/2011	180	318 355 86		7 958 90		(7 958 90)	318,355 86
1/1/2012	180	318,355 86		7 958 90		(7 958 90)	318,355 86
7/1/2012	180	318,355 86		7,958 90		(7 958 90)	318 355 86
1/1/2013	180	318,355 86		7 958 90		(7 958 90)	318,355 86
7/1/2013	180	318,355 86		7,958 90		(7 958 90)	318,355 86
1/1/2014	180	318,355 86		7 958 90		(7 958 90)	318,355 86
7/1/2014	180	318 355 86		7 958 90		(7 958 90)	318 355 86
1/1/2015	180	318,355 86		7 958 90		(326 314 76)	
7/1/2015	180						
1/1/2016	180						
7/1/2016	180						
1/1/2017	180						
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1/1/2042	180						
7/1/2042	180						
1/1/2043	180						
7/1/2043	180						
1/1/2044	180						
T tal			318,355 86	171 091 71	(27 831 57)	(461 616.00)	

City of Columbia South Carolina
Columbia Hilton

Aggregate Cost of Issuance

Cost of Issuance	Fee
Bond Counsel	300 000
Underwriter's Counsel	100 000
Counsels to the City	300 000
Financial Advisor	65 000
Hotel Consultant	365 000
Trustee / Counsel	15 000
POS/OS Printin	15 000
Ambac	105 000
Ambac Insurance Counsel	17 500
S&P	80 000
Moody s	60 000
Fitch	0
Feasibility Report	60 000
C ty Issuance Expenses	102 000
Miscellaneous	25 000
Total	1 609 500 00

Exhibit 26

STATE OF SOUTH CAROLINA COUNTY OF RICHLAND Gary Realty Company Inc and Garfield Traub Development LLC Plaintiffs, vs Paul C Bo Aughtry III, Windsor/Aughtry Co , Inc , Vista Hotel Partners and Hilton Hotels Corporation Defendants	IN THE COURT OF COMMON PLEAS Civil Action No 2006 CP 40 6488 (For Discovery Purposes Only, Now a Part of Consolidated Action No 2007-CP 40 1252) **PLAINTIFFS' RESPONSES TO DEFENDANT HILTON HOTELS CORPOATION'S SECOND REQUEST FOR ADMISSIONS**

TO ROBERT W FOSTER, JR., WILLIAM P SIMPSON AND JAY T THOMPSON, ATTORNEYS FOR DEFENDANT HILTON HOTELS CORPORATION

GENERAL OBJECTION AND QUALIFICATION

The following responses are given without prejudice to responding party's right to produce evidence of any subsequently discovered fact or facts, which this responding party may later recall Responding party accordingly reserves the right to change any and all answers herein as additional facts are ascertained analyses are made, legal research is completed, and contentions are made The responses contained herein are made in a good faith effort to supply as much factual information and as much specification of legal contentions as are presently known but in no way should be to the prejudice of Plaintiff in relation to further discovery, research or analysis The aforementioned statement pertains to and should be incorporated by reference in each and every response following

RESPONSES TO SECOND REQUEST FOR ADMISSIONS

REQUEST NO 1 Admit that under Section X of the Memorandum of Understanding, captioned 'ROLE OF THE OPERATOR Hilton was to manage the convention center hotel under a Qualified Management Agreement that had not been executed at the time the MOU was signed

RESPONSE **Admitted**

REQUEST NO 2 Admit that no Qualified Management Agreement or other agreement under which Hilton was to manage the convention center hotel was ever executed

RESPONSE **Admitted**

REQUEST NO 3 Admit that Hilton did not directly or indirectly operate, franchise, brand or manage another full service Hilton Hotel within a five (5) mile radius of the convention center hotel at any time during which Hilton managed the convention center hotel

RESPONSE **Plaintiffs have insufficient knowledge of Hilton's business, business activities and precise hotel locations required in order answer this request**

REQUEST NO 4 Admit that the MOU ceased to be effective at the time the City of Columbia issued a new Request for Proposals in April 2004

RESPONSE **Plaintiffs object to the form of this question on the grounds that the term "effective" is vague and ambiguous The City's of Columbia's April 2004 issuance of a new Request for Proposals was an action counter to the MOU, however, this is not to say that such actions invalidated or otherwise nullified the validity and efficacy of the MOU Without having further explanation, description, and understanding as to what is meant by the Request, Plaintiffs must DENY**

By _____

Francis M Hinson, IV Esquire
Janet Jenner & Suggs, LLC
500 Taylor Street, Suite 301
Post Office Box 927
Columbia, South Carolina 29202
(803) 726-0050
(803) 727-1059 FAX
ATTORNEY FOR PLAINTIFFS

Columbia, South Carolina
October 29 2007

Exhibit 27

or not anything was modified as far as the agreement itself is concerned

Q Okay So sitting here today, you can't -- there were no modifications to the MOU?

A There were -- there were no written modifications as to this MOU as presented here

Q We've covered that

A Right

Q I'm asking you about unwritten modifications There were no modifications, oral or otherwise, to the MOU, is that correct? And if I'm incorrect in saying that I want you to tell me what was modified

MR HINSON Object to the form

THE WITNESS What modifications that I believe was made to this form other than what's not written in this form? That's the question, right?

BY MR DETWILER

Q That's right

A I would say there was not -- no modifications to this particular form that was made

Q Okay And there were no other agreements with the city?

A No other signed agreements

Exhibit 28

we were that close in our minds to be able to close bond financing

Q And, in fact, basically what this indicates is moving forward exactly in accordance with the MOU, moving forward in an effort to try to come up with some definitive written agreements?

A Well, we had -- in certain respects had come up with those agreements There were other agreements that had certain -- that had certain provisions that were still in discussion, as I recall

Q Okay

A But I don't remember -- I mean, if there were -- the materiality of a couple of those Others would have to, you know, speak to that who were more involved in that than I was, but I did recall that -- say for -- there were tax things There were things that needed to be finalized And it wasn't a matter of Mr Gottlieb saying, "We've got to sit down and start negotiating those agreements " Those agreements had been sent to the City back in the spring of 2003

Q And they were still under negotiation according to Mr Gottlieb?

A According to Mr Gottlieb what this

Exhibit 29

to begin scheduling final -- getting the final pieces of the documents together to have a closing within the period -- whatever period of time you have a bond closing

Q So, in other words, there was still -- there was still agreements left to be put in place and negotiated and -- and finalized and signed?

A Well, I think that there was still piece -- there was still provisions in documents that were necessarily, you know, central to the transaction I'm not sure because in the hotel operating agreement they were still dealing with the tax issues, and there were, you know -- again, theoretically if there was a tax issue that the tax law changed in Washington and you could not -- no longer to do these kind of deals, then, golly, Houston, we have a problem But I wasn't aware any of that happened

They were simply through the machinations that tax lawyers do to work through that, and, you know, there were these other things that I think I mentioned But I wasn't at that point aware that truly there was not -- there was anything -- that based on the -- based on the underwriting we had achieved -- and assuming we

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Exhibit 30

Q Another part of these general conditions is found in paragraph two And it says, "Unless superseded by an amendment to this MOU or the final development management agreement, this MOU identifies the understanding of the parties " There was -- was a final development agreement ever entered into?

A There was a development management agreement drafted and provided to the City There were at one or two meetings with -- with the city attorney, Mr Meggs No, I -- there was never a development management agreement signed with finality

I believe that -- this is John Lumpkin's thought process at the time -- that we had reached a meeting of the minds with that development management and, again, internal review, but it was never -- it was never executed It was not -- a development management was not executed, but it had been negotiated in my mind

Q Okay And in your mind who was -- did anybody representing the City with any authority ever tell you that, "Okay, we have a deal, or there are no other deal points that we need to talk about"?

d53cbc4a ad51-48eb a9f2 1a1fa8567742

Exhibit 31

person just to get an understanding of the financing, but, you know, that wasn't part of my job I wanted to learn how to put together a package, and I think that was the whole scope of getting the minority participation, to learn Sort of a mentor/protégé program That's basically what it was, was for us to kind of learn the development of hotels and how to put these public deals together

Q Was there anything else that you were going to do for the team as part of this deal?

A That was about the extent of it

Q Did the -- ultimately, the way things worked out, did the City of Columbia use any of your work product?

A I think, you know, as a part of the development team I think they did, because I had some input in putting that whole package together

Q Okay Well, what part of what you did -- I'm talking about Gary Realty

A Uh-huh

Q What part of what Gary Realty did did the City of Columbia ever ultimately use?

A Ultimately used?

Q Yes, sir

A I don't know whether they ultimately used it, but when I take a look at the final product down there, it has a pretty good resemblance of what we put together

Q Okay The city of -- the location for the hotel was always there, and that's something that had been talked about for years prior to this, isn't that correct?

A That's my understanding, yes

Q All right And the hotel that was ultimately built was, what, about two-thirds the size of what your team proposed?

A That's my understanding

Q But it has a resemblance to -- is that what you're saying, it has a resemblance to what y'all proposed?

A Yes, it does

Q Okay What else did the city of -- besides the resemblance of the facility, is there anything you can tell me specifically that the city used that y'all produced? When I say "y'all," I mean the project team

A No, there's nothing I could tell you we produced That we as a team produced

Q Okay All right Good And how about

Exhibit 32

DEPONENT I think it's likely their consultant reported this back to their client

BY MR DETWILER

Q Is there anything else?

A No

Q What of your project team's work was used by the City of Columbia, ultimately used by the City of Columbia, if anything?

A When you say the City of Columbia, are you talking about the current project that exists there with Aughtry?

Q No I'm talking about the City of Columbia You sued the City of Columbia, and so what I want to know is what part of your work product, if anything, has been used by the City of Columbia or for the benefit of the City of Columbia?

A You know, I'd say that our couple of years of effort in this put the ball on the one yard line, it informed all the staff, elected officials what this whole concept was about It gave them the ability to distinguish the different financing types, different hotel types so much I mean, I think that everybody was ready to do this deal, I think everybody was ready to do it with us until the events, you know, that were perpetrated by other outside forces

ultimately that are a party to this lawsuit as well, brought this thing down I think the City was educated significantly by us and by our team and in all respects

Q Anything else that the City of Columbia gained from your work product?

A That's probably enough

Q Okay So the answer is no, nothing else you can think of?

A Not offhand

Q Okay Now, tell me what the City did to cause your damages that you describe here today Now, we're talking about the City, we're not talking about outside forces We're talking about the City

A The City basically breached their agreement, our entire agreement, the MOU and all the other understandings that we had at the time

Q Okay Let's start with the MOU How did they breach the MOU? How did the City of Columbia breach the MOU?

A They did not complete their transaction on their side of the bargain, and walked away from the table They had a feasible transaction--

Q In your opinion?

A In PKF's opinion that the City hired and paid, and in

Exhibit 33

letter

A February 17, 2003

Q And what is the import of that letter?

A Where a percentage of the total of the -- a total of the development fee was to be paid to Gary Realty Company

Q All right And does that -- I'm a little confused about the language in there I just want to make sure I'm clear What was the percentage that Gary Realty was looking for? How much was Gary Realty looking at being compensated in this deal?

A Fifteen percent of the total development fee

Q Okay Whatever the development fee was, you were going to get 15 percent of it?

A That's correct

Q And for that you were going to develop some data, you said?

A We were going -- the -- from what I understand, I got a call from John Lumpkin one day He said they were looking for some minority participation with a larger developer and someone had given him my name that said I had done some development -- I'd never done any hotel

development, but I'd done some commercial development and some residential development -- and John said that he wanted to talk with me and wanted -- after he talked with me he said he wanted me to be a part of the team

Q Okay

A And I told him, "John, I know nothing about hotel development, but I'm -- I don't want to be a part of a team that's -- I'm just going to be doing window dressing " I said I would like to learn that facet of real estate, hotel development Then I said, you know, "Tell me what kind of numbers y'all have in mind What percentage of the minority participation are you willing to pay?" And I threw a number out to him I said, you know, based on my limited expertise that 15 percent of the total fee would be sufficient

Q Okay

A And they agreed on that

Q And that was what you all ultimately agreed on?

A That's correct

Q Okay

MR DETWILER Mark that

(DEF EXH 3, APRIL 9, 2003 LETTER

Exhibit 34

So I never -- I never sensed in any of this there was any angst about what we were doing We were moving forward together, you know, to -- to touch all the bases and get all the agreements in order to close

Q And I think you just stated that you don't have any reason to believe that the City operated in anything other than good faith as you sit here today looking back?

A You know, I think the City's -- you know, the City staff certainly at that level -- I can't -- I don't know what went on behind closed doors I don't know except when we would go to the present to the City -- and the City scouts asked good questions I think we provided them legitimate and accurate responses as we moved forward to reach -- reach -- to move forward to a bond closing

Q What do you think the word feasible mean -- meant?

A To me it meant -- it might -- to me it meant the operational and financial feasibility, to me It could mean for the City that the City had crossed to pay otherwise and it wasn't able to -- the bond rating might have been adversely -- this

Exhibit 35

Q And whose decision would it be to make the determination whether or not the hotel project was feasible?

A Well, I think this -- I mean, it says the City, and that's how we understood it But, again, based on going forward to determine the feasibility -- and that's what we were doing Part of what we now began to do is look at the feasibility through a PKF study and Hilton looking at it and us then running real numbers to see if we could get to a real number that did have coverages and the like that made this a feasible project

Q But at any point during this process the City had a right to look at it with a critical eye and determine whether or not in its view for its purposes the project was feasible Is that a fair statement?

A I think it's a fair statement, but, again, as we said, it moved in good faith I said -- and I don't say -- I don't mean -- I'm not suggesting that the City operated other than in good faith, but in terms of our going forward into this transaction -- and we had -- we had a very positive relationship with the City staff in all the meetings we had We all worked together

STATE OF SOUTH CAROLINA COUNTY OF RICHLAND	)	IN THE COURT OF COMMON PLEAS FOR THE FIFTH JUDICIAL CIRCUIT
Stevens & Wilkinson Inc Gary Realty Company Inc and Garfield Traub Development LLC Plaintiffs vs Paul C Bo Aughtry III Windsor/Aughtry Co , Inc Vista Hotel Partners LLC, Hilton Hotels Corporation, and the City of Columbia Defendants	)	(Consolidated Civ Act No 2007 CP 40 1252)

JEANETTE W. GRANGE
CLERK OF COURT
2009 AUG -4 PM 3 57
RICHLAND COUNTY, S.C.

JOINT MEMORANDUM OF STEVENS & WILKINSON, GARY REALTY, AND GARFIELD-TRAUB IN OPPOSITION TO CITY'S AND AUGHTRY'S MOTIONS FOR SUMMARY JUDGMENT

PROCEDURAL SUMMARY

This is a joint memorandum filed by plaintiffs Stevens & Wilkinson Gary Realty and Garfield-Traub in opposition to the motions for summary judgment filed by the City of Columbia and Windsor-Aughtry The claims of the plaintiffs are not identical but are sufficiently similar to warrant a joint response out of concerns for judicial economy Differences in analysis will be noted throughout the brief

Preliminarily, it should be noted that Stevens & Wilkinson has alleged three causes of action against the City 1) breach of contract, 2) quantum meruit and 3) estoppel [1] Gary Realty and Garfield Traub have alleged two causes of action against the City 1) breach of contract and 2) quantum meruit. Thus the City s motion as to estoppel only applies to Stevens & Wilkinson

[1] Stevens & Wilkinson also previously pleaded a claim for breach of covenant of good faith and fair dealing With the consent of the City of Columbia however Stevens & Wilkinson has amended its complaint so as to combine this cause of action with its breach of contract claim

APPENDIX_0297

The plaintiffs have also alleged a claim of tortious interference with contractual relations against Defendant Windsor Aughtry Whereas Aughtry s motion for summary judgment as to these claims closely parallels the City s motion for summary judgment as to breach of contract, Aughtry s motion is addressed within this memorandum

As a final matter Stevens & Wilkinson possesses a claim for breach of contract against the City stemming from a July 2003 agreement that is independent of any other plaintiffs claims Stevens & Wilkinson has been awarded summary judgment as to the existence of that contract by an order of the Honorable Casey Manning dated July 23 2009 Neither the motions of the City nor the motion of Windsor Aughtry pertain to this July 2003 contract between Stevens & Wilkinson and the City

STANDARD OF REVIEW

A grant of summary judgment is only appropriate if the pleadings depositions, answers to interrogatories and admissions on file, together with the affidavits if any, show that there is no genuine issue as to any material fact and that the moving party is entitled to a judgment as a matter of law Rule 56(c) SCRCP *Wilson v Style Crest Products Inc* 367 S C 656, 627 S E 2d 733 (2006)

'[I]n cases applying the preponderance of the evidence burden of proof, the non-moving party is only required to submit a ***mere scintilla of evidence*** in order to withstand a motion for summary judgment" *Hancock v Mid-South Management Co Inc*, 381 S C 326 330, 673 S E 2d 801, 803 (2009)(emphasis supplied)

'In evaluating whether such a grant of summary judgment is proper, the court must view all evidence adduced and ratiocinations drawn from the evidence in the light most favorable to the non moving party *Byrd v City of Hartsville* 365 S C 650 620 S E 2d 76 (2005) ' Since a

grant of summary judgment has the effect of revoking a litigant s opportunity to dispute factual issues at trial, it should be fastidiously invoked *Cunningham ex rel Grice v Helping Hands* 352 S C 485 575 S E 2d 549 (2003)

ANALYSIS

The City and Aughtry have moved for summary judgment as to the Plaintiffs breach of contract and tortious interference allegations on largely duplicative grounds and thus shall be addressed together Additionally, the City has moved for summary judgment as to quantum meruit and estoppel All motions should be denied

I Breach of Contract

Both the City of Columbia and Aughtry argue that the memorandum of understanding did not constitute a contract As a preliminary matter it must be emphasized that **'[i]f the evidence as to the existence of a contract is conflicting or raises more than one reasonable inference, the issue should be submitted to the jury** *Armstrong v Collins*, 366 S C 204, 223, 621 S E 2d 368, 377 (Ct App 2005)(emphasis supplied), citing *Hendricks v Clemson Univ* 353 S C 449 459 578 S E 2d 711, 716 (2003) [2]

The arguments offered by the Defendants may be grouped into three categories first, the parties did not intend to create a contract, second even if the MOU is a contract, it is void for indefiniteness, and third, even if the MOU is a contract, it is void due to the failure of conditions precedent. Each argument is fundamentally flawed both legally and factually and thus the Defendants motion for summary judgment as to Breach of Contract must be denied

[2] The City claims that its argument on this point may be resolved "as a matter of law (City s Memo p 9) This is incorrect The authorities cited by the City go the interpretation of a contract rather than the determination of whether a contract exists As *Armstrong v Collins* points out the question of the existence of a contract is one of fact

a Through the MOU, the parties intended to create a binding contract

An agreement between two or more persons upon sufficient consideration to either do or not do a particular act is a contract *McPeters v Yeargin Const Co Inc* 290 S C 327 331 350 S E 2d 208, 210 (Ct App 1986) In this case the ' particular act contemplated by the MOU was ' the development of a 300 room convention center hotel (See **Exhibit A,** p 1) The intention of the parties should be determined from the surrounding circumstances as well as from the testimony of all the witnesses, and subsequent acts are relevant to show whether a contract was intended *Wright v Trask*, 329 S C 170 178, 495 S E 2d 222, 226 (Ct App 1997) quoting *Caulder v Knox* 251 S C 337 344 345, 162 S E 2d 262, 266 (1968) [3]

Surrounding circumstances witness testimony and the parties subsequent acts all provide ample evidence of intent to form a contract

1 Surrounding circumstances support the existence of a contract

The 'surrounding circumstances" of the MOU transaction demonstrate strong evidence of contractual intent First of all, the language of the MOU establishes mutual obligations on behalf of the City and the plaintiffs As it pertains to the plaintiffs and the City, the MOU speaks in mandatory terms as to what the rights and responsibilities of each are under the agreement

- **The Architect *shall develop*** and implement a design review process that is to provide the City neighborhood and professional staff input into the design of the Hotel ' **(Exhibit A,** p 5 ¶ VIII 2)
- ' **The Architect *is to be paid*** a fee of 7 25% by the Design/Builder based on hard construction costs together with the Design/Builder s general expenses and fees ' **(Exhibit A** p 5, ¶ VIII 1)

[3] *Wright v Trask* addressed the issue of a contract to make a will *Caulder v Knox*—the case which the *Wright* court relied upon—made it clear that "[a] contract to make a will must have the essential elements of any contract, which are a contractual intent, followed by an actual meeting of the minds of the parties and accompanied by a valid consideration *Id* at 344, 162 S E 2d at 266

- **The City** ***agrees to acquire*** the Hotel Site satisfy any environmental issues demolish any existing structures, rezone the land for the Hotel (if required) and convey it to the NPC at cost, funded by Hotel Revenue Bond proceeds **(Exhibit A** p 3 ¶ V 1)

- **The City** ***is to develop*** a nearby Parking Facility of approximately 800 spaces **(Exhibit A,** p 3, ¶ V 2)

- **'The City** ***is to establish*** a [non-profit corporation] to issue bonds to finance the Hotel own the Hotel developed by the Project Team and retain the Operator for the operation of the Hotel consistent with the terms and conditions of this MOU **(Exhibit A,** p 3 ¶ V 3)

- **The Developer** ***will coordinate*** design, development construction and delivery of the Hotel in accordance with the terms of the Development Management Agreement to be finalized between the City or NPC and the Developer **(Exhibit A** p 3 ¶ VI 1)

- **The Developer** ***is to be paid*** a development fee of 4 75% of the project budget to ensure the coordination and delivery of the Hotel on time and on budget (Exhibit A ¶ VI 2)

The South Carolina Supreme Court has observed that mandatory language such as "shall and 'will" has been held to create contractual rights within a document *See Conner v City of Forest Acres*, 348 S C 454, 464, 560 S E 2d 606 611 (2002) In the context of employment contracts the Supreme Court has recognized that "[i]t is patently unjust to allow an employer to couch a handbook, bulletin or other similar material in mandatory terms and then allow him to ignore these very policies as 'a gratuitous, nonbinding statement of general policy whenever it works to his disadvantage' *Small v Springs Industries Inc*, 292 S C 481, 485, 357 S E 2d 452 455 (1987) Here a similar injustice would work upon the Plaintiffs where the City has held out the performance of the parties as mandatory—not conditioned upon any contingency

Furthermore if the parties intended the MOU to be 'nothing more than a framework for the parties to negotiate an agreement" (City s Memo, p 10), it would render the following phrase meaningless "if the City determines that it is not feasible to proceed with the Hotel project it shall have no liability under this MOU ' (See **Exhibit A,** ¶ I 1) "The rule of construction is that

every word of a contract should be given meaning and effect if possible *J A Fay & Egan Co v Mims* 151 S C 484 __ 149 S E 246 248 (1929) The clear intent of the language of ¶ I 1 is to provide a condition in which—if such condition occurs—the City will suffer no liability under the MOU In the eyes of contract law, this 'feasibility clause exists as a 'condition subsequent A condition subsequent has been defined as a future event upon the happening of which the agreement or obligations of the parties would be no longer binding 13 *Williston on Contracts* § 38 9 (4th ed) Here the mere existence of a condition subsequent evidences the parties intent to be bound by the MOU until which time the condition might occur If the MOU is interpreted as a non binding document however, then the entirety of ¶ I 1 would be rendered mere surplusage in violation of South Carolina's rules of construction [4]

Adhering to the defendants' insistence that the MOU was meant to be a non binding "agreement to agree would also render meaningless the clear contractual language found within the opening paragraphs of the document

> NOW THEREFORE in consideration of the foregoing and the mutual promises contained herein, and other valuable consideration the sufficiency and receipt of which are hereby acknowledged the parties agree as follows

(See **Exhibit A**, p 1)

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[4] In its recitation of the facts of this case, the City hints that the condition subsequent did, indeed occur However neither the City nor Aughtry rely upon this allegation within the body of their motions and it is quite clear that the question of whether the City determined the Hotel project to be 'not feasible' is—at a bare minimum—a genuine issue of fact See e g , **Exhibit C** Deposition of John Lumpkin p 276, ll 3 – 9

> Q Has anyone with the City ever told you that the hotel project as envisioned by the original MOU—that the completion of that project was not feasible?
> A No, sir
> Q Even to this day you ve not hear that?
> A No sir

The recitation of consideration in the form of mutual promises is a fundamental characteristic of a contractual agreement If practical documents will be interpreted to give effect to all of their provisions' *M & M Group Inc v Holmes* 379 S C 468 476, 666 S E 2d 262, 266 (Ct App 2008)

Finally it must be emphasized that the nature of this transaction—the construction of a major hotel valued at approximately $60 million—calls into question the reasonableness of the defendants' allegation that the parties would have begun such a monumental undertaking without some assurance of compensation

ii Witness testimony supports the existence of a contract

The witness testimony provided in this case also demonstrates the parties' intent to be bound to the terms of the MOU Ray Garfield Greg Garfield, and Tony Traub have all submitted sworn affidavits testifying to the following

> Each party agreed that they would complete certain duties and tasks necessary for the creation of the Hotel, and the City offered to pay the various members for their work I considered then, and still believe, that this agreement formed a binding contract between and among all parties to the document Vast amounts of work and attention were put into drafting the MOD there were many detailed discussions of its provisions and it was evident that all parties considered the document to be very important I do not believe that this much attention and interest would have been given to the document if the parties had not considered it to form a binding agreement GTD for its part, never would have agreed to put in the effort necessary to develop the Hotel if we did not consider the MOD to form a contract and believe that all signatories felt similarly on the matter

(See **Exhibit B**, Affidavits of R. Garfield Aff ¶ 8, T Traub Aff ¶ 4 G Garfield Aff ¶ 4)

Paul Little the regional Senior Vice President of Turner Construction, testified that he saw the City as possessing mandatory obligations under the MOU

Q As to the MOU what is your understanding of what the City s responsibilities within that document were?

A Attend meetings make decisions related to the program and keep the team moving forward

Q When you say "keep the team moving forward, did that involve any type of good faith effort to secure financing for the project?

A Yes That s the way I would interpret that

Q Did you expect the City to use good faith efforts to secure bond financing?

A Of course, yes

(See **Exhibit D** Deposition of Paul Little, p 53 ll 12 – 25)

Even John Lumpkin, upon whose testimony the City and Aughtry so strongly rely testified that the MOU was not a 'boundless" document and that 'each party had responsibilities under the document in terms of each party's role and responsibility to move forward consistent with the framework of the Memorandum of Understanding " (See **Exhibit C**, Deposition of John Lumpkin, p 281 ll 21 – 25 p 311 l 19) Lumpkin discussed, at length, the issue of the ' feasibility clause within the MOU and described its efficacy consistent with a condition subsequent.

Q Now am I reading that correctly by determining—when I interpret it—interpret this as saying the City will have no liability under the MOU if it determines that it s not feasible to proceed with the hotel project?

A Okay

Q Is that a fair reading?

A That s—that's what it says

(See **Exhibit C** Deposition of John Lumpkin, p 307 l 24 – p 308, l 6)

Thus the sworn testimony of five witnesses provides evidence that 1) several parties looked upon the MOU as a binding contract 2) parties recognized mutual obligations within the MOU, and 3) parties recognized the feasibility provision as a condition subsequent to the execution of the MOU Undoubtedly the defendants will point to contradictory testimony, but in the context of a motion for summary judgment '[t]he court must construe all ambiguities conclusions and inferences arising from the evidence most strongly against the moving party *See Finger v Finger* 270 S C 244 241 S E 2d 746 (1978)

iii The subsequent acts of the parties demonstrate the existence of a contract

In recent years both the South Carolina Supreme Court and Court of Appeals have noted that evidence that a party complied with the terms of the alleged contract or acted in conformity therewith is relevant and admissible on the issues of the contract's existence, the meaning of its terms and whether the contract was breached *Silver v Aabstract Pools & Spas Inc* 376 S C 585, 593, 658 S E 2d 539, 543 (Ct App 2008), *quoting Conner v City of Forest Acres* 363 S C 460 473, 611 S E 2d 905 912 (2005) In this case the parties—including the defendants—operated for nearly an entire year under the terms of the MOU before the City chose to breach its agreement These substantial, subsequent acts provide strong evidence of the existence of a contract

Several witnesses have testified that the members of the development team had completed their work required under the MOU for the breaking of ground on the Hotel project when the City suddenly chose to issue a new RFP Bobby Lyles, CEO of Stevens & Wilkinson, stated the following

> A When the non profit accepted the whole deal in—whenever that was, February 4th, to go to bond closing, is when everything—

0300

> **I mean, the project, my drawings were finished,** ***everything was done***
>
> Q Okay
>
> A **And as far as we were concerned, we had delivered everything that we were supposed to do and it had been approved** And so they owed us for our contract for the work performed, all the work performed

(See **Exhibit E**, Deposition of Bobby Lyles, p 82 ll 2 – 12)(emphasis supplied)

Paul Little, the regional Senior Vice President of Turner Construction, concurred with Lyles assessment of the progress of the Hotel project

> Q My question is in regard to the February of 2004 time frame Was there anything, any disagreement or other potential roadblocks that you saw at that time that could have potentially derailed this project, speaking of again, February 2004
>
> A No I think that s about when the GMP was approved ***I think we were rocking and rolling and ready to go***

(See **Exhibit D**, Deposition of Paul Little, p 78, ll 15 – 23)(emphasis supplied)

Shawn Epps the City's Special Projects Coordinator overseeing the Hotel project, testified that the City worked to comply with its responsibilities under the MOU

> Q Okay And on page 3 of the agreement, you may need to look at it I don t expect you to have memorized it Paragraph V, sets out the role of the City in this transaction, is that right?
>
> A Yes
>
> Q Okay The Paragraph V or Roman Numeral 5, number 1, says Hotel site assembly, the City agrees to acquire the hotel site and then it goes on to say some other things Did the City acquire the hotel site?
>
> A Yes, sir
>
> Q Did it satisfy the environmental issues?
>
> A Yes

Q Okay Was the land rezoned for the hotel?

A I think it was zoned appropriately at the time for the hotel is what I recall I don t think it was rezoned

Q Okay Didn t need to be rezoned is what you re saying?

A Yes sir, that's what I recall

Q And was a nonprofit corporation organized?

A By the City?

Q Yes

A Yes

(See **Exhibit F** Deposition of Shawn Epps p 9 l 13 – p 10, l 17)

The City—both its council members and its non-profit hotel corporation—were well aware of the continued work under the memorandum as was memorialized in the hand-written minutes of the October 15, 2003 non-profit corporation meeting

> Shawn Epps reminded the not for profit that **arch** (sic) **lawyers, and other consultants were working and that *a great deal of money was being spent each day*** the not for profit board discussed stopping everyone until the rating agencies came to town and responded The not for profit decided not to stop any work at this time

See **Exhibit G** October 15, 2003 minutes p 2 (emphasis supplied)

It should be noted that the members of the non profit corporation present to hear Epps' warning included all five voting members of City Council (Mayor Coble, Councilpersons Cromartie, Davis Sinclair, and Isaac) City Manager Charles Austin Assistant City Manager Steve Gantt, and City Attorney Jim Meggs [5]

[5] Councilmen Osborne and Papadea abstained from all votes on the Hotel project due to conflicts of interest

Both the City and Aughtry rely heavily upon the deposition testimony of John Lumpkin in arguing that the parties did not intend the MOU to be a binding contract What the defendants fail to mention, however is that Lumpkin specifically noted that the parties subsequent performance under the terms of the MOU may have changed what he previously perceived to be the nature of that document In deposition testimony Lumpkin discusses the parties subsequent acts at length, perhaps best exemplified in the following exchange with the City's counsel

> Q Now you said that that MOU—and I m going to paraphrase here—
>
> A That s all right
>
> Q –may have been affected by subsequent actions of the City?
>
> A It may have I mean, again, **the facts are the facts and whether—whether the—whether that—they—you know, they demonstrated the actions of the City as it moved forward in certain respects give rise to other rights, I'm not—I can't speak to that I have no opinion about that,** ***but it could have***
>
> Q And exactly what are those actions if you can identify the ones that you know of that the City took or didn't take that you believe you understand may have affected the MOU?
>
> A Well, I guess it would probably be a combination as we started out—we began to have weekly meetings ordinarily at Mr Lyles' office, and the City was there, I mean with its staff participating and we worked through all the iterations of the—particularly of the—of the hotel itself and the construction of the hotel and all the pieces and parts And I think there s a fairly—you know I say detailed—a thorough paper trail about having that
>
> We went to the City periodically and explained to the City where we were with all of the things we were working on, and—you know and, again I think as mentioned earlier there were other things that the City had—was interested in improving coverages and things, and we worked on that
>
> But I guess in the—sort of the grand scheme of things or the overall scheme of things that we were working toward a closing, and there was no one at the City—and whether it was the—certainly not the staff, but no one that I had talked with—and I didn't—we were not having ongoing conversations with counsel

> or the staff or the attorneys that were saying Well gee whiz Houston we ve got a problem There s something here that s not working
>
> So you work on that till—you know from whenever the MOU was signed if not before until after February of 2004 which is close to a year There could be certain rights that could have arisen by virtue of the City s involvement and participation in moving the project forward maybe I don t—again I don t—that's not for me to you know conclude that

(See **Exhibit C**, Deposition of John Lumpkin p 235 l 9 – p 237, l 9)

As shown by this lengthy testimony the parties worked for an extended period of time under the contractual framework established by the MOU In the months following the execution of the MOU in fact, Stevens & Wilkinson subcontracted with numerous companies to help provide the design services necessary for the hotel project (See **Exhibit H** Sample of Subcontractor Invoices) As a result, Stevens & Wilkinson incurred substantial debt under the reasonable presumption that the City would live up to its promises set forth within the MOU

b Memorandum of Understanding is not void for indefiniteness

The City and Aughtry devote considerable effort towards claiming that the MOU is not enforceable because the document envisioned the execution of additional agreements According to both parties reference to additional agreements rendered the MOU insufficiently definite to constitute a binding contract ' [N]either law nor equity requires every term or condition to be set forth in a contract ' *Maccaro v Andrick Development Corp* , 280 S C 96 100, 311 S E 2d 91, 94 (Ct. App 1984) **'The requirement of certainty in contracts ensures that the parties intend to conclude a binding agreement and provides the court a reasonably certain basis for granting a remedy** ' *Prestwick Golf Club Inc v Prestwick Ltd. Partnership* 331 S C 385, 390, 503 S E 2d 184, 187 (Ct App 1998)(emphasis supplied) citing *King v Oxford* 282 S C 307 318 S E 2d 125 (Ct App 1984) In conducting this analysis of "sufficient certainty of

terms the South Carolina Court of Appeals has been careful to note that the existence of intent to conclude a binding agreement must be viewed in the light most favorable to the [non moving party] *Prestwick Golf Club Inc* at 390, 503 S E 2d at 187

Both the MOU and the circumstances surrounding it show strong evidence sufficient to indicate intent to form a binding agreement Furthermore, the MOU provides a reliable basis for the Court to grant the plaintiffs' requested remedy—compensation for fees not paid Therefore the defendants arguments as to indefiniteness fail

i Intent of the parties to construct a binding contract is clear

As shown in the discussion above the language of the MOU provides evidence of contractual intent through its use of mandatory terms such as will and "shall' that set forth mutual promises the utilization of conditions subsequent that would excuse the City from performance and the recitation of contractual consideration Witness testimony and the parties subsequent acts with regard to the MOU further support the intent to contract. Thus with regard to this consideration of the definiteness of the MOU, the plaintiffs incorporate the discussion set forth above

ii Contractual terms are sufficient to provide court with reasonably certain basis for granting a remedy

In arguing that the MOU is unenforceable for indefiniteness, the City and Aughtry allege that the price with regard to the Hotel project was not sufficiently detailed Where a contract does not fix a definite price there must be a definite method for ascertaining it ' *McPeters v Yeargin Const Co Inc* , 290 S C 327 331 350 S E 2d 208 211 (Ct App 1986) citing *Edens v Laurel Hill Inc* 271 S C 360, 364, 247 S E 2d 434 436 (1978), see also 17 C J S *Contracts* § 36(2)(c) The defendants latch onto the fact that the contractual price was fixated at 'approximately $60 million The defendants fail to note, however that the MOU specifically

developed a definite method through which the price of the plaintiffs services would be calculated

Stevens & Wilkinson, Gary Realty, and Garfield Traub are seeking compensation from monies they rightfully earned under the MOU The City directly questioned Bobby Lyles as to how Stevens & Wilkinson would have calculated its fee

> Q What was going to be your fee in—under the arrangement you had?
>
> A Whatever is stated in the MOU

(See **Exhibit E**, Deposition of Bobby Lyles, p 34 ll 11 -13)

And, indeed, the MOU provides ample direction as to how the plaintiffs' fees were to be derived

> Fee—The Architect is to be paid a fee of 7 25% by the Design/Builder based on hard construction costs together with the Design/Builder s general expenses and fees This fee is comprised of a 6% basic services fee and 1 25% for special consultants to be retained by the Architect for the project The fee is to be paid consistent with the normal A I A contractual provisions in terms of timing and amount of payments

(See **Exhibit A** ¶ VIII 1)

> Development Fee—the Developer is to be paid a development fee of 4 75% of the project budget exclusive of land and any financing related fees, to ensure the coordination and delivery of the Hotel on time and on budget

(See **Exhibit A**, ¶ VI 2)

The MOU establishes a clear guidepost for the price of the hotel at $60 million (See Exhibit A, ¶ V 4) The remedies sought from the plaintiffs in this case turn upon the fees that would have been earned under the MOU As shown above, the parties foresaw the great potential of flexibility of cost when executing the MOU and thus accounted for all contingencies by spelling out construction/management/design fees in terms of percentages of cost rather than flat

rates (See **Exhibit A** ¶¶ VI 2 VIII 1) Clearly this constituted a definite method for ascertaining the various fees and cured the MOU of any potential indefiniteness of costs

The South Carolina Court of Appeals has dismissed claims that variables within methods of payment give rise to an indefinite agreement '[The parties] agreement need not have specified all details concerning method of payment especially where it is reasonable to infer the obvious ' *Lites v Taylor* 284 S C 316, 319 326 S E 2d 173 175 (Ct App 1985) In *Lites* 'the obvious was that a balance owed would be paid upon completion of a job In this case, the obvious is that unforeseen changes in the cost of the development and design of the hotel would be accounted for by the establishment of a percentage basis of payment

Furthermore any uncertainty surrounding the cost of the hotel at the date of the MOU's execution is common to the trade in which the plaintiffs operate

> When we entered into this MOU at the time we didn't have floor plans or quantities or anything to take a reasonable estimate from It was just our guess -- I shouldn't say our guess - our estimate at that time of hopefully what it was ***Until you start designing a building on the site and understand the site constraints and understand more of the nature of what you have to do, the best you can do is take an estimate and hope they can get there***

(See **Exhibit I**, Deposition of Tony Traub p 255 ll 10 – 19)(emphasis supplied)

> ***[O]ne way that architects get paid is a percentage of construction cost.*** If you bid a job, that number that you get on a bid day includes general conditions, overhead and profit everything Some contractors try to exclude that when you re negotiating with the contractor They say, Well that s not construction cost, that's my cost ' you know But I guess generally accepted number that you multiply a percentage on is—includes those items also And it doesn t make any real difference If you don t include it, your percentage goes up

(See **Exhibit E**, Deposition of Bobby Lyles p 46, ll 8 – 18)(emphasis supplied)

South Carolina law holds that "it is necessary for enforceability that the essentials of the contract be agreed upon *but all need not be expressed.* They may be implied from custom and usual forms

[trade usage] and former course of dealing *Keith v River Consulting Inc* 365 S C 500, 505 506 618 S E 2d 302 305 (Ct App 2005)(emphasis in original), *quoting Carolina Aviation Inc v Glens Falls Ins Co* 214 S C 222, 230 51 S E 2d 757 761 (1949) As Traub points out the defendants' protestations over the lack of a definite price within the MOU belies the nature of hotel design and development Bobby Lyles further establishes that the designation of percentage fees a traditional method of compensation within the industry For these reasons the approximate cost of the Hotel project as "$60 million"—taken in conjunction with the definite method for calculating plaintiffs' fees within the MOU—does not render the MOU unenforceable for indefiniteness

iii Additional Agreements do not render the MOU void for indefiniteness

The defendants argue that the envisioning of additional agreements arising out of the MOU renders the MOU hopelessly unenforceable Very simply this is not the law

> Minor terms left unresolved do not vitiate an agreement if the essential terms have been incorporated into the agreement Further a contract will not fail for indefiniteness if any missing terms can be supplied by law presumption or custom
>
> [P]arties may agree on some terms sufficient to create a contract, leaving other provisions for later negotiations A contract does not necessarily lack all effect merely because it expresses the idea that something is left to future agreement The actions of the parties may conclusively establish their intention to enter into a binding agreement even if some terms are left for future agreement

C J S *Contracts* § 78

Aughtry's claim of the materiality of the envisioned agreements rests upon his unsupported allegation that the agreements

> were necessary to determine fundamental issues, including the source and terms of the approximately $60 million needed to fund the project, the construction and development of the hotel and a related parking facility, the management and use of the hotel the

> operating relationship and terms on which the proposed hotel would commit rooms for users of the Columbia Convention Center

(Aughtry s Memo p 21)

Notably absent from this hyperbolic description, however, is any reference to how these documents or their execution would affect the Court s ability to determine contractual intent or a basis for granting a remedy Similarly the City offers no such explanation beyond mere presumption In fact none of the agreements fingered by the City and Aughtry are necessary to determine contractual intent or reach a remedy—and as such the agreements do not invalidate the MOU

It is also important to note that neither Stevens & Wilkinson nor Gary Realty nor Garfield & Traub were to be signatories to any of the agreements raised by the defendants Both the ' qualified management agreement' and ' hotel room block agreement" were to be entered between the City and the Hilton (See **Exhibit A** ¶¶ X 2 X 12) The ' design/build agreement was to be executed between Turner Construction and the City (See Exhibit A, ¶¶ VII 1) The 'development management agreement seems to have been initially envisioned between the developers and the City (See **Exhibit A,** ¶ VI 1), but was actually drafted for the signature of Hilton (See **Exhibit J,** Drafted Development Management Agreement) The ' joint use agreement" was to be executed between the City of Columbia and its non-profit corporation (See **Exhibit A,** ¶ V 2) And finally, as stated above, neither a ' bond underwriting agreement nor a "technical services fee agreement" are actually referenced within the MOU

The plaintiffs do not dispute that there were further contracts that would be signed prior to the actual opening and operation of the 300 room Hilton Hotel However South Carolina law provides that [a] contract is not unenforceable simply because its performance is, as to

particular details left open to subsequent agreement of the parties [and] this is especially true where the contract provides guidelines for subsequent agreement *Aperm of South Carolina v Roof*, 290 S C 442 447 351 S E 2d 171 173 (Ct App 1986) *(citing* Touche Ross & Co v DASD Corp , 162 Ga App 438 292 S E 2d 84 (1982) 17 AmJur 2d *Contracts* § 76 (1964) 17 AmJur 2d *Contracts* § 77 (1964))

In *Aperm* the contract at issue provided that if the marketing program one party was to present contained the agreed minimum royalty provisions the other party would agree to arbitrate the other terms of the program The Court of Appeals found that this contract did not fail for indefiniteness noting it was evident that the *sine qua non* if the agreement was to insure that the second party received minimum royalties *Id* Similarly, here the *sine qua non* of the MOU was the design and development of the Hotel project—the essential terms of which were spelled out within the MOU Thus the defendants may not invalidate the MOU by pointing to tangential agreements

Furthermore, even if the envisioned agreements constituted absent material terms, the actions and subsequent negotiations of the parties established those terms 'A writing is incomplete as an agreement or a contract if blanks as to material matters are left in it unless the omissions may be supplied from other parts of such writing or the blanks are subsequently and lawfully filled ' *Potomac Leasing Co v Otts Market Inc* 292 S C 603 606-607, 358 S E 2d 154, 156 (Ct App 1987), citing 17 C J S *Contracts* Section 65 (1963) John Lumpkin—upon whom both the City and Aughtry so strongly rely—specifically notes that all the major points to finalize and close this deal had been resolved (See **Exhibit C** Deposition of John Lumpkin, p 97, ll 16-23)

> There were—there were some details to work out in certain of the agreements that had been pointed out but in my—my recollection

> there were—there were no—there were no significant issues as it related to those documents It was simply a matter of getting the documents finally finalized so we could go to a closing

(Deposition of John Lumpkin p 266 ll 6 12)

With particular regard to the development management agreement, Lumpkin felt that all material issues had been agreed upon

> I believe that—this is John Lumpkin s thought process at the time—that we had reached a meeting of the minds with that development management and again, internal review, but it was never—it was never executed It was not—a development management was not executed, but it had been negotiated in my mind

(See **Exhibit C** Deposition of John Lumpkin p 74, ll 14 20)

Finally, even if the Plaintiffs were to concede that the MOU was a mere informal agreement in anticipation of more final documents (which they do not) such a concession would not render the MOU unenforceable "The cases uniformly hold that whether the contracting parties intended to be bound by an informal agreement prior to the execution of a contemplated formal agreement is to be determined by the surrounding facts and circumstances of each particular case *Bugg v Bugg* 272 S C 122, 125 249 S E 2d 505, 507 (1978) In this case the facts and circumstances show that the material terms of Hotel project—those which demonstrate the contractual intent of the parties and the remedies of each party through contract—are clearly set forth within the MOU Thus the MOU does not fail for a lack of definiteness and the defendants motions must be denied

c. The contract is not void for a failure of conditions precedent

Going beyond the arguments offered by the City Defendant Aughtry insists that the MOU—if a contract—must be found unenforceable due to failures of conditions precedent 'In contract law, [condition precedent] connotes any fact other than the lapse of time, which,

unless excused must exist or occur before a duty of immediate performance arises *Worley v Yarborough Ford Inc* 317 S C 206 210, 452 S E 2d 622 624 (Ct App 1994) *citing Ballenger Corp v City of Columbia* 286 S C 1, 331 S E 2d 365 (Ct App 1985)

> The question of whether a provision in a contract constitutes a condition precedent is a question of construction dependent on the intent of the parties to be gathered from the language they employ In ascertaining intent, the court will strive to discover the situation of the parties, along with their purposes at the time the contract was entered Parties are governed by their outward expressions and the court is not free to consider their secret intentions
>
> *M & M Group Inc v Holmes*, 379 S C 468, 476-477 666 S E 2d 262, 266 (Ct App 2008)(internal citations omitted)

Allegations of a condition precedent within a contract give rise to questions of fact subject to South Carolina's traditional summary judgment scrutiny *See Ballenger Corp v City of Columbia*, 286 S C 1 4, 331 S E 2d 365, 367 (Ct App 1985)

Aughtry claims that various agreements contemplated by the MOU constituted conditions precedent and relies upon "the explicit language of the MOU A close examination of the MOU terms Aughtry cites, however, disproves his theory The South Carolina Court of Appeals has noted that [w]ords and phrases such as if' 'provided that, 'when after, 'as soon as' and 'subject to' frequently are used to indicate that performance expressly has been made conditional *Ballenger Corp v City of Columbia*, 286 S C 1 5 331 S E 2d 365 368 (Ct App 1985) Aughtry claims that seven separate agreements constituted conditions precedent a bond underwriting agreement (See Exhibit A, ¶ IX 1), a qualified management agreement (See Exhibit A, ¶ X 2), a joint use agreement relative to parking (See Exhibit A ¶ V 2), a hotel room block agreement (See Exhibit A ¶ X 12) a design/build agreement (See Exhibit A ¶ VII 1-2), a development management agreement (See Exhibit A, ¶ VI 1) and a technical services fee agreement (See Exhibit A ¶ X 6) None of the agreements cited by Aughtry contain the

'conditional language recognized by South Carolina courts In fact, two of the agreements to which Aughtry refers—the bond underwriting agreement' and the technical services fee agreement' —aren t found in the MOU at all

Aughtry also offers as evidence of 'conditions precedent' several deposition excerpts evincing that the agreements contemplated" were never physically executed Of course as shown above in the depositions of Lumpkin and Little sufficient contrary testimony exists which states that a meeting of the minds had been achieved as to all material terms with regard to these agreements But more importantly none of the deposition excerpts offered by Aughtry address the intent of parties to the MOU as to whether the agreements contemplated' ' must exist or occur before a duty of immediate performance arises " *Worley supra*

South Carolina courts look skeptically upon claims of inferred ' conditions precedent" relating to unexecuted documents In *Ballenger, supra* the City of Columbia attempted to evade performance under a contract by alleging that a condition precedent—in the form of a written Notice to Proceed' —was never executed

> The Contractor hereby agrees to commence work under the contract on or before a date to be specified in [a] written Notice to Proceed of the Owner and to fully complete the project within 450 consecutive calendar days thereafter The Contractor further agrees to pay as liquidated damages the sum of $150 00 for each consecutive calendar day thereafter

Id at 5, 331 S E 2d at 368

The Court of Appeals quickly rejected this position with regard to the Notice holding that "its purpose is to fix the date for the completion of the project and nothing more *Id*

Just as with the 'Notice to Proceed ' in *Ballenger* here the various agreements contemplated" carry with them no evidence of express intent to create a contingency to performance However the courts have made clear that ' a condition precedent may not be

implied when it might have been provided for by the express agreement *Worley supra* at 210, 452 S E 2d at 625 (Ct App 1994), quoting 17A C J S *Contracts* § 338 (1963) 17A Am Jur 2d *Contracts* § 471 (1991) The parties undoubtedly were well aware of how to create contingencies with the MOU as they agreed to the 'feasibility condition subsequent within ¶ I 1 However the parties made no effort to make the performance of the MOU expressly contingent upon the completion of the 'agreements contemplated Thus based upon the evidence before the Court, it must be assumed that no such contingency was contemplated

Because there is no such express representation of conditions precedent within the MOU, Aughtry s motion for summary judgment must be denied As shown by this analysis, to the extent that any evidence exists supporting Aughtry s argument sufficient evidence exists to the contrary so as to preclude summary judgment

II **Quantum Meruit**

The City moves for summary judgment as to the plaintiffs Quantum Meruit cause of action on the basis that no benefit was conferred by the plaintiffs upon the City Absent an express contract recovery under quantum meruit is based on quasi-contract the elements of which are (1) a benefit conferred upon the defendant by the plaintiff, (2) realization of that benefit by the defendant, and (3) retention by the defendant of the benefit under conditions that make it unjust for him to retain it without paying its value " *Columbia Wholesale Co Inc v Scudder May N V*, 312 S C 259 261, 440 S E 2d 129 130 (1994) In this case there is ample evidence that the City of Columbia received realized and retained the benefit of the efforts of the Plaintiffs without providing adequate compensation Thus the City s motion for summary judgment must fail

On April 5 2004—the first business day after the second RFP was issued—Bo Aughtry contacted the City of Columbia and requested copies of documents prepared by the plaintiffs

> Steve,
> As you know I received the RFP on Friday—thank you
> I have several immediate questions and am sure there will be more
> Secondly you were going to send me a rendering of the City Hilton Hotel If you would please also send a copy to Danny Bounds, Bounds & Gillespie Architects 7975 Stage Hills Blvd, Ste 4 Memphis TN, 38113 I would be most appreciative

(See **Exhibit K**, Gantt-Aughtry correspondence)

Pertinent to Aughtry's request, Gantt bluntly replied "[t]he rendering has been mailed to your Architect" (See **Exhibit K**, Gantt Aughtry correspondence) In fact under the terms of the MOU upon the potential dissolution of the MOU '[a]ll studies tests plans and the like prepared or obtained by the Project Team will be assigned to and become the property of the City (See **Exhibit A**, ¶ VI 3) Thus there is no doubt that, at the time construction finally began on the Hotel project, the City and Aughtry were in possession of the full set of documentation prepared by the plaintiffs

The City scoffs at the notion that the months and months of work dedicated to the hotel project conferred any benefit upon it But even the deposition excerpts cited by the City give rise to an inference that the City utilized the work completed by the plaintiffs

> Q What part of what Gary Realty did did (sic) the City of Columbia ever ultimately use?
>
> A Ultimately used?
>
> Q Yes sir
>
> A I don't know whether they ultimately used it, but when I take a look at the final product down there it has a pretty good resemblance of what we put together

(See **Exhibit L**, Deposition of Charles Gary p 30 l 22 – p 31)

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Yet the City—through its 30(b)(6) deposition—has readily admitted the notable similarity of the plans prepared by the plaintiffs and the hotel eventually constructed by Aughtry

> Q You had a rendering of the proposed hotel from the Edens & Avant group, correct?
>
> A Yes, sir
>
> Q That rendering would be in the category of information materials or other documents would it not? It would be – it was a document was it not?
>
> A It was public information that had been provided to us had been in the paper We had had that long before this request was made
>
> Q Well my question is Was it a document?
>
> A Yeah Yes, sir
>
> Q And the Garfield Traub team was a proposer under this RFQ, correct?
>
> A Yes sir
>
> Q All right And that document had previously been submitted by the team for which Garfield Traub was working, correct?
>
> A The rendering?
>
> Q Yes
>
> A I'm—I don't think Garfield Traub had submitted it I think that was something that one of—somebody from the previous development team had prepared that Yes
>
> Q It was done most likely by Stevens and Wilkinson?
>
> A I would assume Or TVS
>
> Q All right And you—the City gave that rendering to Mr Aughtry, is that not correct?
>
> A That s correct

0316

Q What use did Mr Aughtry make of that rendering?

A I don t know

Q Do you remember what that rendering looked like?

A It looks much like the building the hotel we presently have

(See **Exhibit M**, Deposition of Steve Gantt p 50, l 4 – p 51, l 16)

Presumably the City feels it is mere coincidence that the Aughtry produced hotel looks much like the building ' designed by Stevens & Wilkinson and the rest of the publicly-financed hotel team But, undoubtedly Aughtry s request and receipt of the Stevens & Wilkinson renderings prior to even developing his own hotel proposal gives rise to competent evidence that the City retained and utilized the work of the plaintiffs without compensating the plaintiffs for their work

Furthermore Garfield Traub expended a significant amount of time and effort facilitating the Hotel Block Room Agreement between the City and the Hilton

> Q And Room Block and Meeting Facilities Agreement was one ever executed?
>
> A No Again, it would be executed upon the bond closing, but it was negotiated heatedly I might add and we spent a lot of time in arriving to a conclusion which I believe both Hilton and the City were comfortable with

(See **Exhibit I**, Deposition of Tony Traub, p 79 ll 15-21)

Whereas the parties to the Room Block Agreement remained the same during the private hotel development, undoubtedly both the City and Hilton had the benefit of the efforts expended by Garfield Traub with regard to the document s negotiations

The City insists that "the plans and drawings had no value to the City after the City determined that the project was infeasible", but it offers no evidence of such beyond this conclusory allegation To the contrary, competent evidence exists demonstrating the plaintiffs

conferral of realized benefits upon the City and the City's likely retention and utilization of those benefits without just compensation As a result the plaintiffs claims for quantum meruit meet the ' mere scintilla standard and the City's motion for summary judgment must fail

III Breach of Covenant of Good Faith & Fair Dealing

As to Plaintiff Stevens & Wilkinson, the City moves for summary judgment on the grounds that Stevens & Wilkinson s claim for breach of the covenant of good faith and fair dealing is properly contained within the claim for breach of contract Stevens & Wilkinson concurs with this analysis and has combined the two claims in its latest amended complaint.

The City also moves for summary judgment on the grounds that the MOU is not a contract Stevens & Wilkinson adopts the arguments set forth in section one of this memorandum in defense of that allegation

IV Estoppel

> Promissory estoppel requires a claimant to prove (1) the presence of an unambiguous promise (2) the promisee reasonably relied upon the promise (3) the reliance was expected and foreseeable by promisor and (4) the promisee was injured as a result of reliance upon the promise

Davis v Greenwood School Dist 50, 365 S C 629, 634, 620 S E 2d 65, 67 (2005), citing *Satcher v Satcher* 351 S C 477, 484, 570 S E 2d 535, 538 (Ct App 2002)

The City claims that no genuine issue of material fact exists as to the first three elements of promissory estoppel As shown below sufficient facts exist to warrant a jury trial

a. The MOU and subsequent acts of the City formed an unambiguous promise of payment to Stevens & Wilkinson

'Unlike a contract which requires a meeting of the minds and consideration, promissory estoppel looks at a promise, its subsequent effect on the promisee and in certain cases bars the promisor from making an inconsistent disposition of the property *Satcher v Satcher*, 351 S C

477 484 570 S E 2d 535, 538 (Ct App 2002) South Carolina courts have observed that evidence tending to show an unambiguous promise includes whether a party can clearly articulate the terms of the alleged [] contract, how much money would ultimately be [exchanged] or how [the parties] would settle up *Rushing v McKinney*, 370 S C 280, 295 633 S E 2d 917, 925 (Ct App 2006)

In this case the City promised Stevens & Wilkinson that it would compensate them for their efforts spent designing and developing the convention center hotel Both the memorandum of understanding and the parties' interaction following the execution of the MOU gave rise to this unambiguous representation

The MOU set forth several unambiguous promises that give rise to this claim [6]

- **"The Architect *is to be paid*** a fee of 7 25% by the Design/Builder based on hard construction costs together with the Design/Builder s general expenses and fees **(Exhibit A**, p 5, ¶ VIII 1)
- **'The City *shall use its best efforts*** to approve he issuance of a series of tax-exempt Hotel Revenue bonds ' **(Exhibit A** p 3, ¶ V 4)
- The NPC is to retain the Underwriter and legal counsel to structure and issue ***approximately $60 million*** **in tax-exempt hotel revenue bonds** **(Exhibit A** p 3, ¶ V 4)

These promises made by the City to Stevens & Wilkinson within the MOU are set forth in unequivocal language The amount of financing involved in the transaction is "approximately $60 million' which, according to the testimony of Tony Traub, is the best estimate of price in such a transaction (See **Exhibit I,** Deposition of Tony Traub p 255 ll 10 – 19) The method of 'settling up' with the plaintiffs is also specifically stated as a percentage of the project budget and/or construction costs Thus the promises extended by the City to the plaintiffs are clear cut

[6] The City alleges that Stevens & Wilkinson relies upon ¶ VI 3 of the MOU in pleading estoppel Stevens & Wilkinson cited to this provision in a previous version of its complaint but has since removed the specific reference in its most recent filing

The City insists that contingencies within the contract relevant to either the failure of the City to use its best efforts to issue the necessary bonds or the refusal of the Underwriter to approve the bonds renders the above listed promises ambiguous However these conditions are in no way detrimental to the clarity of the obligations set forth within in the MOU—rather the conditions more specifically set forth the relationship of the City to the plaintiffs as it pertains to the promises made by the City

As shown above the terms of the City's promises to the plaintiffs are clearly articulated the amount of money involved is set forth, and the method of the parties 'settling up ' is spelled out Thus evidence exists the assurances given by the City of Columbia to the plaintiffs were unambiguous promises

b The Plaintiffs reasonably relied upon the City's promises

The conduct of the City towards the MOU transaction provided the plaintiffs with sound reason to rely upon the City's representations within the MOU John Lumpkin testified that the members of the project team worked closely with both members of City Council and City staff persons to achieve the goals set forth within the MOU

> [W]e did go on a – on two or three or four occasions—and I don't remember but established a report, ' Here is where we are Here is where it is ' You know, the bond—the underwriters came into town ***The mayor was there Several members of council were there, you know, again, working to get the bond***—getting a—I mean, they're working hard to make this work—this transaction happen which is where—you know, where they—we did get favorable letters from underwriters, you know, and I think the City's mayor and others involved there—just I think as they do any time they come to look at a—Moody's and S&P I think were the two that were in, maybe Fitch, but Moody's was one, and then Ambac the bond insurer, came in and we went through the same drill with them, ***with the City's participation***

(See **Exhibit C**, Deposition of John Lumpkin p 238, l 18 – p 239, l 10) (emphasis supplied)

0320

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Tony Traub testified that the parties reacted to the City s on going participation and encouragement in the further development of the MOU framework

> In fact when we gave the GNP, the City consistently told us through Steve Gantt and possibly Shawn Epps, but certainly Steve Gantt, that we need to get the project development cost under 50 million which we did ***And then the City not only said, keep going, that's what we want, but that's when they authorized payment to the architects for additional plans so that we could refine the cost better and get it to a point where they wanted more finite plans done*** although we were willing to sell bonds at an earlier stage It was the City who wanted more drawings done

(See **Exhibit I** Deposition of Tony Traub, p 255 l 19 – p 256 l 5) (emphasis supplied)

And Bobby Lyles spoke at length about his day to day dealings with the City and his reliance thereupon

> A It's my testimony that we would do enough work to get a guaranteed maximum price that s acceptable to the city, which is what we did
>
> Q And so –
>
> A ***And I would have never done any more work unless the city asked me to do more work***
>
> Q Okay
>
> A ***Which they did***

(See **Exhibit E**, Deposition of Bobby Lyles, p 80 l 7 – l 14)(emphasis supplied)

Stevens & Wilkinson pleads in its complaint that the work performed beyond the four corners of the MOU both evinced good faith reliance upon the City's continuing representations and gave rise to a claim of estoppel, in its own right Steve Gantt testifying as a 30(b)(6) witness for the City largely agrees

> Q Who told them to stop working that they were at risk again? Because obviously what the Council—**you would agree with me,**

what the Council did in July was not consistent with the MOU, is that correct?

A **That's correct**

Q Their agreement under the MOU was to - that is Stevens and Wilkinson with the City – was you are at risk, you will not be paid for generating construction drawings to the point drawings that would be sufficient for Turner to generate - to give an estimate of the guaranteed maximum price That's what they agreed to do at risk

A Yes

Q They did that by July and said, we're putting our pencils down because we've done what we said we would do at risk Isn t that correct?

A That's what they said

(See **Exhibit M**, Deposition of Steven Gantt pp 33-34)(emphasis supplied)

Q Isn t it reasonable for them to believe that they should have been paid for what they did after City Council told them to pick their pencils back up?

A I don t know

Q So you have a question about that? **They could have reasonably expected to be paid**

A **I guess they could have, yes**

(See **Exhibit M** Deposition of Steve Gantt, p 32) (emphasis supplied)

As shown above, not only did the MOU provide substantial justification for Stevens & Wilkinson's reliance upon the City's representations, but the City s ongoing interaction with the project team under the MOU and subsequent approval of additional funding for work beyond the MOU both buttressed the reasonableness of Stevens & Wilkinson s reliance and created an independent right of estoppel For these reasons, the City s motion must be denied

0322

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c The Plaintiffs' reliance was foreseeable by the City

The City s involvement with Stevens & Wilkinson and the other members of the project team throughout the progress of work envisioned within the MOU and beyond rendered the plaintiff's reliance highly foreseeable As noted above, in October of 2003 Shawn Epps specifically brought to the attention of City Council the fact that contractors such as Stevens & Wilkinson were continuing to work on the project envisioned within the MOU Yet the City, despite considering whether it should request the contractors stop work, expressly chose not to do so (See **Exhibit G** October 15 2003 minutes) During his deposition Epps described the situation as follows

> A The reason I brought it up is because there was a lot of questions about a financing package and the coverages and how it all fit Whether the deal was feasible as it related to the financing and the coverages and ***I wanted to remind them, I didn't want them to have any misunderstanding that, you know, people were still working That work was still going on, that those consultants were still expending time and effort as it related to the project.***
>
> ***Q And it would be—if you knew you weren't going to do this project, it would be fair to stop them from doing any more work, right?***
>
> ***A Yes***

(See **Exhibit F**, Deposition of Shawn Epps p 44, l 21 – p 45, l 9)

Councilwoman Tameika Isaac Devine also testified as to her personal knowledge of Stevens & Wilkinson continuing to work above and beyond the terms of the MOU

> Q The **Stevens & Wilkinson (sic) as you saw continued to work after that period of time described under the MOU** and council voted to pay them additional moneys through bond closing?
>
> A We voted to pay them $650,000 which was the estimate we received through October Yes

0323

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> Q Right And they ultimately were paid more than that, about $710 000 according to these documents because they continued to work even beyond that beyond the October 10th, isn't that correct?
>
> A I can t recall But I wouldn't disagree with that no

(See **Exhibit N**, Deposition of Tameika Isaac-Devine pp 82 83)(emphasis added)

Perhaps most directly on point however is an exchange that occurred between Bobby Lyles and Mayor Bob Coble regarding not only the City s knowledge but the City's desire for Stevens & Wilkinson to continue working on the hotel project envisioned within the MOU above and beyond the work required for a guaranteed maximum price

> Well, that July [of 2003] council meeting, the presentation was made by the various team members of the design the construction cost, the financial package the whole ball of wax And that was approved by council in executive session
>
> At that time, if I m not—I m going from memory now Mayor Coble asked when the bonds could be sold
>
> And it was—I think the date was, like October 13th or sometime in October was the anticipated date for the bonds to be sold
>
> At that point, I reminded city council that our job as contemplated under the MOU was complete and we were—and I used the expression we were putting our pencils down until the bonds were sold And they asked the general contractor how did that effect the opening date of the hotel And we said, well, its July that s October So I was asked by council, I think specifically Bob Coble to come up—what it would cost for us to continue working I told him I'd go back to the office and figure it out and get back in touch
>
> I went back and prepared a document that I sent to Shawn Epps that estimated, I think, $650,000 to get through October the 13th, if I'm not mistaken And $75,000 a week for each week after that until we contemplated the project. I was told after the next council meeting that we were to—that that was approved and that we would proceed

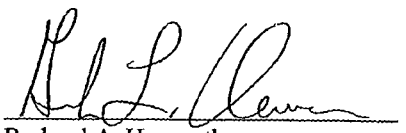
(See **Exhibit E**, Deposition of Bobby Lyles p 67, l 10 – p 68, l 24)

Based upon the testimony of Epps Isaac Devine and Lyles, it is undisputed that not only should the City have foreseen that Stevens & Wilkinson was relying upon its promises within the MOU and subsequent promises in July of 2003 but the City had actual knowledge of such reliance Due to this evidence the City's motion as to the claim of estoppel must be denied

CONCLUSION

For the reasons set forth herein, the motions of Defendants City of Columbia and Windsor/Aughtry should be denied

Respectfully submitted



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August 3, 2009
Columbia, South Carolina

STATE OF SOUTH CAROLINA) IN THE COURT OF COMMON PLEAS
) FOR THE FIFTH JUDICIAL CIRCUIT
COUNTY OF RICHLAND)

Gary Realty Company Inc , and Garfield Traub Development LLC,

Plaintiffs,

vs

City of Columbia, South Carolina,

Defendant

Stevens & Wilkinson of South South Carolina Inc ,

Plaintiffs

vs

City of Columbia, South Carolina,

Defendant.

(Civil Action No 05-CP-40-3361)

Civil Action No 07 CP 40 1252
(consolidated for discovery)

2009 AUG -4 PM 3 57
JEANETTE W McBRIDE
C C P & C S

RICHLAND COUNTY
FILED

Stevens & Wilkinson of South South Carolina Inc

Plaintiffs

vs

Paul C "Bo" Aughtry, III, Windsor/Aughtry Co Inc , Vista Hotel Partners, LLC ,

Defendants

(Civil Action No 06-CP-40-5092)

CERTIFICATE OF SERVICE

Gary Realty Company, Inc and Garfield Traub Development, LLC

Plaintiffs,

vs

Paul C Bo Aughtry, III,
Windsor/Aughtry Co , Inc Vista Hotel
Partners LLC and Hilton Hotels Corp

Defendants

(Civil Action No 06 CP 40-6488)

Turner Construction Company

Plaintiff,

vs

City of Columbia

Defendant

(Civil Action No 06 CP 40-6488)

I, Heather Herron Legal Assistant to Richard A Harpootlian, P A , hereby certify that I have this _____day of August 2009 served the following document(s) via Electronic Mail, upon the below listed individuals

Documents *Joint Memorandum of Stevens & Wilkinson, Gary Realty and Garfield Traub in Opposition to City s and Aughtry s Motions for Summary Judgment*

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Heather Herron

STATE OF SOUTH CAROLINA	)	
	)	IN THE COURT OF COMMON PLEAS
COUNTY OF RICHLAND	)	
	)	
Stevens & Wilkinson of South Carolina Inc	)	CASE NO 07 CP 40 1252
	)	
Plaintiff	)	
v	)	**MOTION AND ORDER INFORMATION FORM AND COVER SHEET**
	)	
City of Columbia, South Carolina	)	
	)	
Defendant		

JEANETTE C P McBRIDE G S
2009 NOV 30 PM 4:53
RICHLAND COUNTY

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X MOTION HEARING REQUESTED (attach written motion and complete SECTIONS I and III)
FORM MOTION, NO HEARING REQUESTED (complete SECTIONS II and III)
PROPOSED ORDER/CONSENT ORDER (complete SECTIONS II and III)

SECTION I Hearing Information

Nature of Motion Motion to Amend or Alter Order
Estimated Time Needed 20 Court Reporter Needed ☒ YES / ☐ NO

SECTION II Motion/Order Type

☐ Written motion attached
☒ Form Motion/Order
I hereby move for relief or action by the court as set forth in the attached proposed order

Signature of Attorney for ☒ Plaintiff / ☐ Defendant — Date submitted 11/30/09

SECTION III Motion Fee

☒ PAID – AMOUNT $25 00
☐ EXEMPT (check reason)
☐ Rule to Show Cause in Child or Spousal Support
☐ Domestic Abuse or Abuse and Neglect
☐ Indigent Status ☐ State Agency v Indigent Party
☐ Sexually Violent Predator Act ☐ Post-Conviction Relief
☐ Motion for Stay in Bankruptcy
☐ Motion for Publication ☐ Motion for Execution (Rule 69 SCRCP)
☐ Proposed order submitted at request of the court or reduced to writing from motion made in open court per judge s instructions
Name of Court Reporter
☐ Other

JUDGE'S SECTION ☐ Motion Fee to be paid upon filing of the attached order ☐ Other	JUDGE CODE Date

CLERK'S VERIFICATION

Date Filed
Collected by

SCCA/233 (11 03)

☐ MOTION FEE COLLECTED _____
☐ CONTESTED – AMOUNT DUE _____

SCCA/233 (11 03)

STATE OF SOUTH CAROLINA COUNTY OF RICHLAND	)	IN THE COURT OF COMMON PLEAS FOR THE FIFTH JUDICIAL CIRCUIT
Stevens & Wilkinson Inc Gary Realty Company Inc and Garfield Traub Development, LLC Plaintiffs, vs Paul C "Bo Aughtry III, Windsor/Aughtry Co Inc Vista Hotel Partners LLC, Hilton Hotels Corporation, and the City of Columbia, Defendants	)	(Consolidated Civ Act No 2007 CP 40 1252)

RICHLAND COUNTY
FILED
2009 NOV 30 PM 4 33
JEANETTE W McBRIDE
C C P & G S

STEVENSON & WILKINSON'S MOTION TO ALTER OR AMEND THE COURT'S NOVEMBER 19, 2009 ORDER

Plaintiff Stevens & Wilkinson moves pursuant to Rule 59(e) SCRCP for an order altering or amending the court s prior order (filed on November 19 2009) granting summary judgment to the City of Columbia. While the court has ruled in the City's favor (with the exception of the claim to interim architectural fees) the Plaintiff submits this motion to ensure that it has "enable[d] the lower court to rule properly after it has considered all relevant facts, law and arguments *Staubes v City of Folly Beach* 339 S C 406, 412, 529 S E 2d 543, 546 (2000)

The grounds for Plaintiffs requested relief are as follows

1 As set forth within Section I a i of Plaintiffs August 3, 2009 memorandum and within the issues raised in the oral arguments and the discovery exchanged in this matter to date the circumstances surrounding the formation of the memorandum of understanding constitute evidence of a genuine material fact as to whether the memorandum of understanding constituted a contract

2 As set forth within Section I a.ii of Plaintiffs August 3 2009 memorandum and within the issues raised in the oral arguments and the discovery exchanged in this matter to date, the witness testimony of Ray Garfield, Greg Garfield and Tony Traub constitute evidence

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of a genuine issue of material fact as to whether the memorandum of understanding constituted a contract

3 As set forth within Section I a iii of Plaintiffs August 3 2009 memorandum and within the issues raised in the oral arguments and the discovery exchanged in this matter to date, the subsequent acts of the parties with regard to the memorandum of understanding constitute evidence of a genuine issue of material fact as to whether the memorandum of understanding constituted a contract

4 As set forth within Section I b ii of Plaintiffs' August 3 2009 memorandum and within the issues raised in the oral arguments and the discovery exchanged in this matter to date, the memorandum of understanding is not void for indefiniteness because the terms of the memorandum of understanding are sufficient to provide court with reasonably certain basis for granting a remedy

5 As set forth within Section I b iii of Plaintiffs August 3 2009 memorandum and within the issues raised in the oral arguments and the discovery exchanged in this matter to date the additional agreements envisioned within the memorandum of understanding do not render it unenforceable because the agreements were not material to the memorandum of understanding are traditionally left unresolved in construction/development contracts of this type, had by and large been completed by the time of the breach, and were to be resolved by clear guideposts set forth within the memorandum of understanding

6 As set forth within Section I c of Plaintiffs August 3, 2009 memorandum and within the issues raised in the oral arguments and the discovery exchanged in this matter to date the memorandum of understanding was not void for the failure of conditions precedent because no such conditions existed within the memorandum of understanding In support of this contention, the Plaintiff points to recent authority from the South Carolina Court of Appeals *Plantation A D LLC v Gerald Builders of Conway Inc et al* Op No 4362 (S C Ct App filed Nov 10, 2009) (Shearouse Adv Sh No 49 at 71)

7 As set forth within Section IV a of Plaintiffs August 3, 2009 memorandum and within the issues raised in the oral arguments and the discovery exchanged in this matter to date, the City of Columbia should be estopped from denying Stevens & Wilkinson compensation because the MOU and subsequent acts formed an unambiguous promise to pay Stevens & Wilkinson

8 As set forth within Section IV b of Plaintiffs' August 3 2009 memorandum and within the issues raised in the oral arguments and the discovery exchanged in this matter to date the City of Columbia should be estopped from denying Stevens & Wilkinson compensation because Stevenson & Wilkinson reasonably relied upon the City s promises

9 As set forth within Section IV c of Plaintiffs' August 3 2009 memorandum and within the issues raised in the oral arguments and the discovery exchanged in this matter to date

the City of Columbia should be estopped from denying Stevens & Wilkinson compensation because Stevens & Wilkinson s reliance was foreseeable by the City

Based upon these contentions the Plaintiff respectfully requests that that Court amend its previous order and deny the City of Columbia s motion for summary judgment

Respectfully submitted

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Graham L Newman
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ATTORNEYS FOR STEVENS & WILKINSON

November 30 2009
Columbia South Carolina

STATE OF SOUTH CAROLINA	) IN THE COURT OF COMMON PLEAS
	) FOR THE FIFTH JUDICIAL CIRCUIT
COUNTY OF RICHLAND	) *(consolidated for discovery purposes)*
Stevens & Wilkinson of South Carolina Inc Gary Realty Company Inc and Garfield Traub Development, LLC	) Civil Action 07-CP 40-1252
Plaintiff	) **CERTIFICATE OF SERVICE**
v	
Paul C "Bo" Aughtry, III Windsor/Aughtry Co , Inc , Vista Hotel Partners LLC, City of Columbia, South Carolina	
Defendant	

2009 NOV 30 PM 4:32
JEANETTE W McBRIDE C C P & J S
RICHLAND COUNTY FILED

I Heather Herron Legal Assistant to Richard A Harpootlian P A hereby certify that I have this 30th day of November, 2009, served via Hand Delivery and U S Mail the named individual(s) with a copy of the following with regards to this case

Documents *Stevens & Wilkinson s Motion to ~~Alert~~ Alter or Amend the Court s November 19 2009 Order*

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Heather Herron

STATE OF SOUTH CAROLINA	)	
	)	IN THE COURT OF COMMON PLEAS
COUNTY OF RICHLAND	)	
	)	
Gary Realty Company Inc and Garfield Traub Development, LLC,	)	Civil Action No 2006 CP 40 6488
	)	(For Discovery Purposes Only Now a Part of
Plaintiffs	)	Consolidated Action No 2007-CP 40 1252)
vs	)	
	)	
Paul C Bo Aughtry III Windsor/Aughtry Co , Inc Vista Hotel Partners and Hilton Hotels Corporation	)	**PLAINTIFFS' RESPONSES TO DEFENDANT HILTON HOTELS CORPOATION'S SECOND REQUEST FOR ADMISSIONS**
Defendants	)	

TO ROBERT W FOSTER, JR WILLIAM P SIMPSON AND JAY T THOMPSON, ATTORNEYS FOR DEFENDANT HILTON HOTELS CORPORATION

GENERAL OBJECTION AND QUALIFICATION

The following responses are given without prejudice to responding party s right to produce evidence of any subsequently discovered fact or facts which this responding party may later recall Responding party accordingly reserves the right to change any and all answers herein as additional facts are ascertained analyses are made legal research is completed and contentions are made The responses contained herein are made in a good faith effort to supply as much factual information and as much specification of legal contentions as are presently known but in no way should be to the prejudice of Plaintiff in relation to further discovery, research or analysis The aforementioned statement pertains to and should be incorporated by reference in each and every response following

RESPONSES TO SECOND REQUEST FOR ADMISSIONS

REQUEST NO 1 Admit that under Section X of the Memorandum of Understanding, captioned ROLE OF THE OPERATOR, Hilton was to manage the convention center hotel under a Qualified Management Agreement that had not been executed at the time the MOU was signed

0336

RESPONSE **Admitted**

REQUEST NO 2 Admit that no Qualified Management Agreement or other agreement under which Hilton was to manage the convention center hotel was ever executed

RESPONSE **Admitted**

REQUEST NO 3 Admit that Hilton did not directly or indirectly operate franchise brand or manage another full service Hilton Hotel within a five (5) mile radius of the convention center hotel at any time during which Hilton managed the convention center hotel

RESPONSE **Plaintiffs have insufficient knowledge of Hilton's business, business activities and precise hotel locations required in order answer this request**

REQUEST NO 4 Admit that the MOU ceased to be effective at the time the City of Columbia issued a new Request for Proposals in April 2004

RESPONSE **Plaintiffs object to the form of this question on the grounds that the term "effective" is vague and ambiguous The City's of Columbia's April 2004 issuance of a new Request for Proposals was an action counter to the MOU, however, this is not to say that such actions invalidated or otherwise nullified the validity and efficacy of the MOU Without having further explanation, description, and understanding as to what is meant by the Request, Plaintiffs must DENY**

By

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(803) 727-1059 FAX
ATTORNEY FOR PLAINTIFFS

Columbia South Carolina
October 29 2007

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a predecessor in that job?
A No, sir
Q The job was created when you took it over?
A Yes, sir, there was a previous special projects administrator, but there was not one at the time that I was employed in that position
Q Okay Who was let me ask it this way As of April 03, what was your relationship to the Columbia hotel or the convention center hotel project?
A I was the project manager
Q Who was the project manager before you? Or was there one?
A I don't recall
Q Did you know that there were discussions about the convention center hotel going on before April of 03?
A Yes sir
Q Were you involved in those in any way?
A No, sir
Q And was there a specific date in April of 03 that you took over management of the convention center hotel project?
A Not that I recall

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Q Had the Memorandum of Understanding been signed before or after, or was it signed after you started managing the project?
A Before
Q All right So it would have been after April 17th then, if that was the date the MOU was signed?
A I don t know that that s the date it was signed
Q Okay Did you have any input into the drafting or negotiating of the MOU?
A No, sir
Q When you began the project did you read the Memorandum of Understanding?
A Yes sir
Q Okay Did you have any questions about it when you read it?
A Not that I recall
Q Nothing that you didn t understand?
A Not that I recall
(PLF EXH 1 Columbia MOU Final Copy dated 4/17/03, was marked for identification)
BY MR SUGGS
Q Okay Exhibit 1 is what I believe to be the Memorandum of Understanding Would you look

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through that and see if you agree?
A (Complying) Yes, sir
Q Okay Do you have an opinion whether the City of Columbia owes Gary Realty and Garfield Traub any money under this Memorandum of Understanding?
A My opinion is that s not up to me to decide
Q Do you have a personal opinion?
A I don t really think my personal opinion is relevant
Q Well, it may or may not be, that would be for somebody else to decide, but I d like to know the answer to the question anyway?
A My opinion of the verbiage in the document is that it indicates that they were working at risk
Q And so your personal opinion is that the City does or doesn t owe them money?
A Based on words in the document, they were working at risk
Q Does the document have as a condition, the intent to proceed in good faith?
A On the part of whom?
Q Both parties, all parties?

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A Yes, sir
Q Do you have any information that would lead you to believe that Gary Realty and Garfield Traub and I may call them the project team from now on, that the project team failed to act in good faith?
A No, sir
Q Okay And on page 3 of the agreement, you may need to look at it I don t expect you to have memorized it Paragraph V, sets out the role of the City in this transaction, is that right?
A Yes
Q Okay The Paragraph V or Roman Numeral 5, number 1, says Hotel site assembly, the City agrees to acquire the hotel site and then it goes on to say some other things Did the City acquire the hotel site?
A Yes, sir
Q Did it satisfy the environmental issues?
A Yes
Q Were there existing structures that needed to be demolished?
A Yes
Q And did the City do that?

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A We ve demolished them currently
Q Before April of 2004 had those been demolished?
A No sir
Q Okay Was the land rezoned for the hotel?
A I think it was zoned appropriately at the time for the hotel, is what I recall I don t think it was rezoned
Q Okay Didn t need to be rezoned is what you re saying?
A Yes sir, that s what I recall
Q And was a nonprofit corporation organized?
A By the City?
Q Yes
A Yes
Q And was the land transferred or conveyed to the nonprofit corporation?
A I don t recall if it was actually transferred or conveyed
Q Okay Paragraph 2 of the Roman numeral 5 refers to a parking facility Before April of 2004, did the City develop a nearby parking facility?

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A No sir
Q Paragraph 3 relates to the nonprofit corporation and you've already told me the City did establish a nonprofit corporation to issue bonds, is that correct?
A Yes, sir
Q Did the nonprofit corporation retain an underwriter and legal counsel to structure and issue the bonds?
A The City retained those folks I don't think they worked directly for the nonprofit corporation
Q All right Were the bonds issued?
A No, sir
Q Okay Before April of 2004, had the hotel financing closed?
A April of 03 or 04?
Q '04?
A No
Q Okay What I want to try to do now is get an overview from your point of view of the project from April of 2003 up to date really, you know, and I'm not going to ask you just to give me a narrative, but I'm sort of looking for a general overview So when you became project manager for

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this convention center hotel project what was your understanding of what was going to happen? What the project entailed?
A The City was going to construct a hotel to support the convention center
Q Who was going to pay for the hotel?
A The City
Q And the City would own the hotel?
A Correct
Q Or a nonprofit corporation formed by the City, to be accurate, right?
A Yes
Q And there had been more than one group that had competed for the right to develop and build this hotel, were you aware of that?
A Yes
Q Are you aware how the project team that was headed up by Edens & Avant was chosen?
A No, sir
Q Did the project team fail to deliver on any of its obligations during the time that it was working on the project?
A Yes
Q Which obligations did it fail to deliver on?

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A To provide a hotel that we could finance and build
Q Why was it the City could not financially build the hotel that was proposed?
A That's a complicated question The main reason is that it was cost prohibitive
Q When you took over the project in April of '03, what was your understanding of the cost of the entire project? Did you have an understanding of what the cost of the entire project would be?
A I don t recall
Q All right Let's make sure I understand the elements of the entire project There would be the actual acquisition of the land, that would be one cost, correct?
A Correct
Q And then there would be the actual construction of the physical building of the hotel, right? Construction costs?
A Correct
Q There would be fees in connection with the issuance of the bonds?
A Correct.
Q There would be a fee for the development team?

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constantly changing and being modified and Turner was providing cost estimates
Q Did the development team continue to work diligently to try to resolve those issues?
A I don t recall if it was diligently They continued to work
(PLF EXH 7, Handwritten notes from hotel not for profit meeting dated 10/15/2003, stamped I 1543 through I 1547, was marked for identification)
BY MR SUGGS
Q All right I m giving you Exhibit 7, that s a handwritten document First thing I want to ask you is, is that your handwriting?
A Yes
Q And can you tell me what this document is? Again read it, if you need to
A (Complying) All right.
Q Okay What is this document?
A This is the not for profit corporation that was the entity that was to own the hotel It was a meeting
Q Okay What was the purpose of the meeting?
A Purpose of the meeting based on reading

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this was to give them an overview and some information about the financial package and where we were at and answer questions that they had
Q Was there anybody from the development team at this meeting?
A Not according to the attendees listed at the top
Q Okay And you have a thing underlined here that says SAG major points prior to attached presentation Did they do a formal presentation?
A They did
Q Was there a handout that they gave out?
A I do recall that they did have a handout
Q All right Did they do a PowerPoint presentation as well?
A Yes, sir
Q Okay On the second page it talks about something that you did and it says Shawn Epps reminded the not for profit that -- what is that word?
A That s the abbreviation for architect
Q Architects lawyers, and other consultants were working and that a great deal of money was being spent each day The not for profit

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board discussed stopping everyone until the rating agencies come to town and responded The not for profit decided not to stop any work at this time, is that right?
A That is what it says
Q Okay Would the consultants mentioned in there include the development team?
A Yes
Q Why did you bring that up?
A When were the interim A/E fees approved?
Q When were they approved?
A Yeah I m just trying to get a frame of reference for the time
Q Right Let me go back we had those minutes and it looks like July 30th
A So this is right about this is just after that was approved
Q Well August, September two and a half months after it was approved
A The reason I brought it up is because there was a lot of questions about a financing package and the coverages and how it all fit Whether the deal was feasible as it related to the financing and the coverages and I wanted to remind

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them, I didn t want them to have any misunderstanding that, you know, people were still working That work was still going on, that those consultants were still expending time and effort as it related to the project.
Q And it would be -- if you knew you weren t going to do this project, it would be fair to stop them from doing anymore work, right?
A. Yes
Q Okay Attached to this are some questions that were asked Were these questions that had been well, tell me, if you know, how did this document, the typed part of this document, come about?
A Based on what I have written here, Dana Turner took those questions down
Q Okay
A I think that s what it says in here
Q Oh I see, I had missed that Dana Turner recorded questions, okay And Anne Sinclair apparently asked Has the budget increased solely because of the cost of the hotel? Do you remember the answer to that question?
A I do not
Q Okay And I see that I m not going

Page 9

C lumb
Q And I w t t g t t th t) t
s d hh d d y p actice unt l 1989
A I p ct d th tw l w fi ms Th
f st w th Boyd Kn wlton T t & F nl y a d I
pr ti d ith that f m up t l th arly 1980
d I left th t f rm nd p t ced with th H N r
Law Firm until I l ft th t f m n 1989
Q And yo menti d d graduate school
Wher d d y g to ollege
A I w nt t P inceton Uni sity
Pri et n N Jer y
Q And y went into the l t te
bu i ss fte 1989
A Th t s correct
Q y e t d
And wh d d yo g to wo k for
A I we t t w k w th f rm h n
C l mb by the nam f Ed ns & Avant
Q And wh t is Edens & Av t
A Well Eden & Avant wh I
) in d them s a full se vice commercial re l
state firm
Q What d s that me n
A W ll it b oke ge s r e

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p op rty m nagement s vi es development s rvices
le s ng serv s both for third pa ty clients for a
f a d ther was ls ssets that it act lly
all was third pa ty but ther wa om assets that
pr marily Joe Eden h d nte est in that tha
co pa y m nag d at least fo the entities that
o ned those th s p pe ties
Q And did Ed ns & A ant I gu ss we
ne d t t lk ab ut wh n you first j ined them but
did Edens & Avant at that tim wn their own re l
state
A Ed ns & A nt owned no real est t
Edens & Av t was third p rty se vi company
nd t ma aged o a s t managed develop d for
thi d pa ti Again s m of th as ets w re
as ets i wh ch J Ed ns a d Dan A a t a d th r
w re a d in som s oth had own rship
inte st but th c mp ny its lf did th m n g ment
nd d v l pment f r a fe fo th entities
Q J st in ge ral terms uld y u
d crib the kind of re l state th y were involv d
in or Edens & Avant was in olv d in?
A I think pr b bly the majority of wh t
they d d th and I th k ll of what th y do
n nd th t s volved b t it was what I call

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n c s ty t l t m f th t ms f th
t l sid f it Th y
Q Wh t d c ty t l me
A Gr y an h sh p ng ente s
Q Okay
A B t w al o th y als h d a l g t
th t tim p p ty m ag m t f m i the offic
in the ind st i l ar na They al h d a l rg
active th d p ty b kerage sales mpany and we
had le s had le ing ag nts d p erty
m agement man g s me h d d t ll s me wh
d d off c a d ind st ial
So ga n th t s what f ll ce
m ant Y u j st did y u p form d full
erv ll th e w s ctu lly d d some
p tm t m nageme t b ck th s d ys
Q And d d thi lud th d el pme t f
thes p p t a w ll
A It it cl d d yes it did It
in lud d devel pment f b th t that time as I
c ll b th offic d nd pr mar ly ff e
d t l
Q Ok y Did it wh d d y u le
Edens & A nt
A In n the sp i g f 1989

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Q 19
A I me n Ed s & A t
Q Y ah wh n did you leav Eden & A a t
A W ll Ed ns I n I may miss a
d t her
Q Okay
A B t Ede s & Avant let m if I
may let me try to a wer it this way In th lat
1990s Edens & Av nt obtai ed a in stment from a
pension fund When it obt ined that inv stm nt it
did wh t p bably c uld be called an up it
pulled the Edens pr p rty eithe at the prop rty
l v l r the pa tne hip le l i t a nt ty wh ch
d fer ed t fo those wh were owne i th r a d
fo a d began Be ame p m ly as a hard
as et c mp y a retail company
It then dr pped d n int a subsidiary
Edens & Av nt Re l Estate Servic I thi k the am
wa b t I could b wro g t handle the
third-p rty pi e of the b si s whi h was all the
oth thi gs it had hist ic lly do e
Q S ll the prop rtie that Ede s &
Avant had a t r t in r that H Ed had an
inter st n r Mr Avant w nt p y u d
A W nt int went i t ntity that

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w f d f r th u pose f i g th e
p p t
Q An REIT
A W ll it w in effe t but it was
pr t ly it s a p ce REIT if y nt t
c ll t th t
Q I g t y Ok y And th t l ft E&A
Real Est t Ser ices just third p ty nt ty
A Th rd party third ll it wa
subsidi ry of Edens & A t but it pr marily
handled the thi d p rty busin
Q G t y
A The broke age it had all of its
br k rage It h d the it h d third p rty retail
pr p rty m nag m nt lea ing It had th rd pa ty
d elopm nt It h d third party office So it
p lled i all of th all tho e functi ns
ithin it
And w h d d ing this pe i d of time
start d health a de elopme t h lthca
company e u m healthc e d sio and so
t al wa doing health re relat d t vities f
prim ily third party f health ar systems
Nonacute c medical off build g amb latory
u gery cente s a d th like

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Q W ll we her t day to talk abo t
the City of Columbia Con ent n Hotel nd I
b lie e nd w ll get into th dates as best we
can in a minute
A Su e
Q But I beli e ll of that b g n in
early 2001 I mean 2001 2002 in that range
a d aga n we ll talk about th t
But during the period of tim y u were
involved i the Columbia Conve tion C nter Hot l
t ation were you working for fo Edens &
A ant R al Estat Services that third party entity
you just described
A What I wh t I can t rem mber a d
I thought I thought th ough thi from
chronol gy was whether wh n this first thing
st rted it w s till und r the Edens & Av nt
umbrella as such o whether it we had then
formed the Edens & Avant R al Estat Servic s
I my recollecti n s is th t the w rk that w
done w s und r the third pa ty Eden & Av nt R al
Estate Servi es comp ny
Q Because I v s n th t name but I
didn t k w if it began th t way or that s
A I don t m mbe I d n t rem mb r

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Q N at y tim wh l y b
while you we e t Ed ns & Av t fr m 89 t whe
did yo y y left
A Ed s & A ant spu off its th rd p ty
bu e nd g in I ld b wro g ab t th
d te I v tho ght about this m t me p bably
l te 2004 and it s ld th brokerag th rd p rty
and elated t to NAI Avant wh h i now a
thi d p rty c mpany h n Columbia It ld its
h althc re bus ss to Cons a He lthc r R l
Estate Servic s
Q I m with you And s you l ft
A I left and I a d I tayed with NAI
Avant s a senio d i r h lping the bus s
de l pm nt I also had a i which I had n
w ership i tere t but I did r tain wnership
intere t in Consera
Q Okay
A And th re was lady ut in Atlanta
that r n th t company
Q And th t s who you re w th ow
A That s wh I m w th now
Q And do y t ll h a owner h p
i te est in th t
A What in 2000 in the fall f 2006

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we old Consera to comp y in Charlotte C gdell
Spence d s Cogdell Spenc w own Cons a
d I sold my t re t in that regard t Cogdell
Sp c r
Q D r g the period of t m y u we e
d aling ith th h tel d I m just g ing to
efer to t s th hotel but we e t lking ab ut
the Columbia Conv ntion Cente Hot l wh h
obviously b came th Hilton
Du ng that pe iod f t me did y
hav n ow ership inter st in any f the E&A or
Edens & Avant mp ies
A I had some owner hip interest in the
talent of th f the services company
Q Okay B t yo rk d f r th vices
mpany
A But I worked f r the s rvic ompany
My s lary was paid pa d t me through the
servi es company yes
Q All right Du ing the time yo
worked o were ass ci ted with Ed ns & Av nt
hav you ever k own Ed ns & Ava t t d l p a
hotel
A Not wh le I w s the no sir
Q How ab ut ma ag a hotel

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A N t t my k wl dg n t t ny t h
Q Had t v r b n ol ed y r f p bl c f ing r g me t in ol g ny tity
A I m n t re whether it had t Ag I m my fram f f r nc is f m 89 forward
Q But I m k g y u oll ti n
A N
Q h le y er the
A N t to my r c ll ti n Not as I r m mb
Q Ok y A c uple of pr lim ry q sti s b f re we g n
H v y u t lked to anyb dy in p epa ti f r this d p t t stimo y t day
A I h ve talked t o e i p eparati f th s d pos t n t stimo y t d y I have and I th ught about this too I h d n nversati n with y f the pl nt ffs defendant how er you want to ay th t f th p c pals N one h s ttempt n one h s c t ct d me I ve contact d n on So I h d I m an I m walk ng into this with ut ha g ny c n sat o

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I ve had c nversatio s with thre attorneys F rst in this room with Mr Mike Tighe He called m d Mik is frie d nd h call d me He sa d W uld y u come and it nd spend a few minutes nd I c me over a d s t nd sp t a few minut s And then M Suggs called me I m n t su e w thin the s m t m frame This g e back
Q This is ea ly n
A This is ly n
Q Right
A This is ly on S id Could yo com ver and talk to m And did th s me th ng I t v r to K n s ff ce d w sat a d h d about yo know a t t lk d had a c n rs ti n w th Mr Fost r W had lun h day H sa d Could you one t l nch nd s t down a d just and I had c ers ti o n that reg rd
Mr H rp otlian all d m bo t sch duling a d p sit b t th t was but that w had n c nve tion ab ut the c itself H j st t ying to schedule a dep s tion
Q Well l t s t lk ab t th C t n

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Cent H t l And I m j t g g t ask you f y d j t t ll me th st y y m mber it I kn w t b hile but t ll m f t f ll h w y u g t l d in t
A A best I e ll I fi t n ny fi st kno l dg of it wa I g t a c ll f m Bobby Lyl B bby a d I h v b f nd W ve d om bu n ss u r lat d to hotels
Q Right
A And B bby i t me kn w th t h had b n onta ted by hot l dev l pe ut of state who was go g to be pu s ng the development of the C nventi n C nt r H tel der a bond typ str cture fe typ d al a d
Q D d he e me I m s rry t int rupt D d he t ll y wh it as th t had c t ct d him
A H m y ha t th tin Garfi ld Traub
Q Ok y
A H he prob bly d d t the time I mean h j st he told m ga n I don t know how long B bby h d had c nv rs ti n ith h m but h said th y need d l cal p tner l s call it what y u w ll nd wo ld we be te ested nd

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I you kn w we that s what our that s hat we wer w w r i a lot of wh t w d d was f fee stuff
Q Sure
A So I I th k I probably talk d t B bby ome about it H e pl i d more bout it a d then I m assuming I got on the phone with G rfield Tony eith r T ny Traub or Ray Garf eld or both of them learned a little more b ut it
At som point th y cam t C lumbia ag in I do t kn w all thes t me th t y u k w to describe what they w re pursuing how th y w e pur uing t They had fin sh d hotel ut in Overland P k K nsa u d r a s milar tructu e and explained that t m And I I p obably talked b t it in the c moa y d aid W ll let s let s e let s get become volv d as one of the team to pursue this
Q W ll d you rec ll wh t nitiated the idea of th City f Columbia being involved in this in the first pla e
A I the City cla ms t have be n talking about a C enti n Center H t l f v r
Q Ok y
A Well they talk d about this g es

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b p b bly y a befo Th y t lk d t
oo nt p tt g t n th G y d p p ty
s th r d S th th City of Columbia
h b e t lki g off and o bout th t f a l g
tim
Q And is t yo r r llection th t it w
Garf ld T b id t do the publ f nan ing
structur
A You know that s my ll t th t
that was th t a t ctu e that had w
being ut lized by yo kn ar u d th cou try
t underw t you kn w c n nti center hot ls
w th the bond n t f r p fit corp ati and the
l k S I y u k ow I l ned that that
w s this w n t be ng ted ut of wh le
cl th It w s being d in othe commu ties s
a e appr h t d vel p a c ve ti
e t r h tel ersu to h e it be t tally pri t
Q And did were y u aw e of that
before th y ta t d you ls thi s meth ng that
y k j st being n th b sin s or is th s
m th g yo got l r g curve
A I don t b liev I k ew about t u t l
B bby Lyles called me nd sk d m f f
would b t e t d in d scus ing bec m g p rt of

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a team t pursue this you k w pp tunity with
the City
Q Ok y And you s d th phrase
t d yo k ow th t be n d f ed I th nk in
som of th d ume ts th t I v s en Co ld y
t ll us h the t m was a sembled
A I I c uld be lik I say
m tat I may not have it t tally i tact But
Garfield and Traub had w ked with sever l memb rs
of this group the architects ut of Atl nta
Q That w uld b Thomps n Ventul tt
A TVS
Q Y ah
A They had wo k d with them Had w k d
with Turn h d orked with Hilton d o th y
they brought to they b ught all f th expert
if y will who h d built d sign d t uct r d
fi anced perat d th e type of hotels y u know
t k that w s -- that wa th c re g p of
those wh e you know who kn w each oth d
h d w k d t gethe b fore
Q And you ve m nti red O erl nd Pa k in
Kansas Is that o e of the proj cts you recall
th ir having work d on together
A Well that as a - as I r member th t

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Sh to ob ly H lton d d t w k
that
Q Okay
A But I thi k that th other th t th
rchitect a d the co t t had work d w th
ith G f ld and f ub in that d th y m y
h rked I th k th y v w rked with th m
th rs to
Q And d d thi gr up that h d wo ked
t geth r pre i usly includ th Smith B rn y f lks
and I g th y ltimately becam C t g ou
A Wh ther they th y may have I
don t k I m not ure bout th t But I b t
I do beli v that G rf ld T ub had w rk d w th
w th Bill C rrado wh as th p i c p l at the
C tig up
Q Ok y
A So gain this g u h d wo k d
togeth t sact n hot l t n acti n s
gain it it w an e pe c d te m that c m
t th table wh h g ve us c mfo t g v J hn
Lumpk n d Edens & Av nt Re l Estate Services
c mfo t that would be working with people wh
kn w h t they w e doing
Q Okay And d who was it that

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assembled the r st of th t m Or h w was the
rest f th team assembled
A It w s a c mbin tion of probably B bby
Lyl and m discuss ng th tog the B bby w
l c l l c l p rt of th te m b a s h w s
n t he h d n e I d n t think h d do e th
co ve tions or the h tel d sign
Q R ght
A I we ere lo l part of the te m
There as a and I don t r member - I kn w it
s p rt of th Memorandum f Underst d ng I
think it w part f the criteri th t w s ut lized
in d ciding you kno o f th criteria wh
w w going to decid to try - to see if we c n
d a h tel ith th m Th t was a inclusive
minor ty woman c nsiderati n thr ugh the City
But I don t know I can t r memb
spe fi ally if that s but I do think that w s
th cas nd s we we w nt bo t th p oces of
identify ng qualified min ities and women l c lly
in m t ca es which with ith r B bby h d w rked or
I had w rked t b i g them as b g p rt of th s
team
Q And ho was id nt fi d u ng th t
ite is d br ght to th team

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lid ti n th t th you k ow th t a h tel of 300 s th t p f rm d at th s p ject d h t ccup y a y u kn ld k ba d n nd p d t nalysi

Q Okay And wh as the s th g oup ll d SAG Str tegi Ad s y Croup Do you re all them

A I do

Q And who re they

A Th y w r the advisor to the C ty

Q Okay Again doi g i dependent fi a cial d i o what?

A N I think they do they do analysis of hotels and d fferent typ o I g e m cipal proj cts nd they they w re tained by the C ty I m not r whe th y w e retain d by th C ty but and they w e a v y ep bl fi m I m a they were y u know th y were th to adv e th City in terms f I th nk th y were actually i l d bef re th s l ctio w s mad b t they c rt ly continued to be olved s we lk d worked through th pr ject d th va ious and the arious p rti ula ly the fi a c al pieces f it

S th y w r adv sing the City I

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mean I would t say a finan ial advi but nsultant in t ms f the hotel y u know the o er ll hot l transa ti n

Q G t it Well a I pr m sed w ve I want to talk ab ut the Mem andum f Under tand ng nd yo menti ned th t a while ag

MR DETWILER S let go ahead and mark this I got a tab on it alre dy

(DEFT EXH i Columbia MOU Final Copy 4/17/03 mark d for identific tion)

BY MR DETWILER

Q M Lumpkin I e sh wn you what has n w been m rked as E h b t Number l and wond d if you ould identify that fo us

A Well th s is the a copy f the cuted o ig al f the M mo a dum f Und rstanding b tw n the City f Columbia and the p ject t m which listed n the ~ all the signatory pages nd I think th y re dupli t sig atories as and I m a um g that all th signator signatures are th re

Q And th c v page that on the d cum t I v shown you o th t h b en m rk d indi ates th t this is the f nal copy dated Ap il 17th 2003 Does th t nd right in terms f when

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th a f n lly e t d nd forth

A If th t s wh t it say th t s I can ccept th t

Q Ok y And th was a well let me sk y th Y u w r a gn t y f th t w ll

A Y

Q On b half f Edens & A nt R al E t t S r es

A Y s

Q Was tell m f yo ll pleas yo r ec lle t f wh t led t thi final docume t We e there dr fts b ck and f th d forth th t wer negoti t d

A Y s s

Q Ok y And wh who w s involv d i that p o e s

A My e oll ti well the t am w s l t d a d I don t rem mb e actly th date wh n w er wh w e sele ted t be th g p t g tiate with I gues that s a w y f putt g in

Q Right

A And th prima y and dual behalf f the C ty w a gentlema by the nam f Jeff Sax

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with Str tegic Ad isory And I pr bably was th one that h d mor con er ti n with him abo t th d cume t y know but re i d signifi nt inp t and directi i f t fr m n th s ase G rf eld T ub and Turne C nstruction and th in terms of wh t they were p p d t do and h w it ought to work

So I whether it c m to me first r it went to Garfi ld Traub I d n t rem mb r b t I m a suming again this is y u a sume things b t got th original se t it to all pa t s on our team a d sked you know asked for input nd ye w went th ugh t went through a pr ss t g t to th s fi al docum t

Q Do y u all how l g of a p oc s that was Was it a coupl f w ks couple of m nths six m nth or do y u recall

A I d n t rememb r

Q Is it f ir t say th gh that y u we e kind of th point man f the proj t in interfa ng with th City

A I think it s f i to s y I w s th point ma but y u know again I kind of lo ked at it as keep ng the train n th t ack

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MOU I m t I m t h r to s y it did
d dn t
Q G i g i t th MOU th ugh g tt g
veryb dy to sig t unqu tio bly y
d t d th p j ct te m und sto d that th
doc ment w g g to qu r City Cou il
ppr al?
A Wh t I underst od w s that th s
document did not bl g t th C ty t th po t d
that th e ere erta n a tio s d eq r me ts
the d cum t p lled o t that eded t be t k t
m ve f r ard t get t th fi al cl s g mut ally
gre bl f ll the parties nd th t s th
pr c ss w foll w d t g t t a closing t build
th s C vention C t Hot l
Q And that th s p rticula docum t
r qui d C ty Council app o al
A Th particul r docun nt yes th
part cula docum t t th t m q ed C ty
Cou l pproval
Q Ok y And what was the purpos f
building the h tel Why did th C ty want a hotel
A I believe a pr ma y th prim y
driv r f the n t n f th hot l wa to
upp rt the c v ntion ce t th t the City and

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other h d p t c p t d in build ng and
under rit g its pe ation
Q And in fact the MOU stat s that
do sn t it th t the that th C ty i dete min d
that th h t l s that a hotel is r quir d to
maximize the utiliz t n ec n ic benefits f the
Midl nd R gio l Convention Center
A That my nderstanding
Q Right No this part ul document
the MOU pe ks in t ms of a 300 r om h t l Was
th t p r eived to be the that was p rc i ed t
be the best way to achieve the g al the p p se
that the City s trying t ach eve
A I d n t in terms of the number f
room I m I d n t r m mber how when th t
came in It may have c me in at the e rlier stag s
in the RF early on but looking t yo know
c uld the City could the ~ could the ma ket
support 300 om a d that wa the PTF analysis
nd Hilton analysis that both came back and aid
that yes it c ld support 300 ro m full servic
Q Ok y
A So and if th analys s h d c me back
and s d No don t the n t the supp t
i the market for thi th n we you kn w it

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wo ld h v b t e s ly ll th w y b k to
th d w g b d b t y u w ld h v t go b k
a d l k t th y k wh th r it s p bl c o
pri t w d t th d g d es t hu t
Q Right R ght
A But
Q And so s the nything magic ab t
th 300 ms o that s just h t
A I think th City I mean th City
it s hat the C ty d d t have If it w e
f sible if th market supported it t have 300
ro m f ll ic with 12 000 feet of of
meet g p e
Q And th t w I gues so t f th i h
l st f r the City
A I do t know f it s a w sh list It
s j t I m thi w s y u kn ag i I
think a d l d n t rememb I d n t remember
when th PTF st dy I m suming the PTF tudy
came after thi MOU w s ecut d b cau e that w uld
h v b n y u know Let s mak sur that
as w m forw d that and whethe H lton
had h d d n som f t own b cause it was
l dy i the market and y k w you th k
that H lton l dy kind f h d m sense f wh t

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m ght be the RF the possible a d t ctually
went and did it w nalys s b f re y u kn w
t a po t n t ms of its p rt cipat o i this
b c s t as g ng t p t s me money up f r
the for th pp rt nity t man ge this ov r a
p od of years
Q A millio nd half dolla I think it
was
A I an t r memb r the umber
Q Okay
A B t it w s it as n t n
insignific t am unt of mo y I don t remembe
the numb
Q Th d I guess Hilton came with the
G f eld T aub faction of the pr j ct t m
A That w s my yeah And they th y
ame to the y u k w bro ght this team with
TVS Turn th nd and H lt n nd C rad
who had all worked togethe b re
Q Ok y And in th p emis f thi MOU
on page on it ls ys that that the City
nd r t d ~ r the p rti s I do t kn
which It k d f h d t di c rn but anyway
nd rstand that a public ex me p i ate
p rt rsh p ill be requir d to eat a

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in n i lly abl h t l
A R ght
Q Wh ch d th t c n l
A I m as um g th t eryo reach d the
ncl n
Q W ll
A I gu ss I m n I ke p as m g
things but I m that ar I me n w s a f ct
that to ha e a f nan i lly v able w needed to
h th truct re that h d d bt v rv
and c pital z d inte st and th and tr cture
it i a way that would n k t uld m re likely
as e th t it wo ld be fin ncially i bl
And f u I guess p int to th
City th n w If y u ha e a pr at develop r
d l p y ur h t l nd I think this i
l git mate ph l phic lly the tho e that
disag ed with th C ty tak ng th s ut a d I
r sp ct the r d ff n s phil s phical
diff re ces
But y u k If this s going t be
a li choin to the suc ess of your nvent
cent and your c nv ti n c nter ord ar ly
and g in th was my underst nding was a l ss
l der It does not make mon y m st

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communities but it bri gs pe ple into the
c mmunity Th y spend money in the mmunity
They ge rate ta s nd t s a go d thing f r
l t of b sin sses in the commu ity
T b tt r m ke that a viable
p po iti n having mor nt ol f a conventi n
center hot l that a linchpin is a bett
solutio than having privat d v l p r build one
wher you do ot control the financial iability f
that hotel And there e risks involved in th t
C tainly th re a risks i v l ed in the c dit
enhancement but at l t you are contr lling those
r sk and with the hotel p rat ng ag eme t
you ve g t Hilt n on the hook and f it doesn t
pe form y u h v certai right
And n the case - n the the ca
y u r relying on th d taking nothing away
from the c nt operator and I m not say ng
I m not sugg sting th t at all But there a
risk the a risk ther and cert in
communities opt d t yo know We ll go the
p t r ute Others said W d t nt l
this b c t s very importa t to have a I
m an it s also a symbiotic rel tio hip b tween
the h t l nd the con tion c nt r W n d

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w ed to t l th t s b t nd that
d th t t e th ugh a n t fo p f t d
th l ke that w th t g e th City more
t l
Q W ll y m t ned the ph s l ss
l d r Was t ybody t tion f om the
beg ng th t the hotel id nev ke m y
A No I m t lki g bout the n entio
nt it lf
Q Oh ok y I th ght you we e talking
bout the h tel
A N n
Q was g g t be loss l ade
A No t the c nt ary Ou p j tio
wer th t th s h t l w n t only viable but t
ld b it w uld it ould g e te e cess
urpl fu d f the City
Q Okay
A I m t lking ab t how a ent n
enter erate
Q I m with you Okay And but y
b g n th sign tori s t the MOU b gan w th the
c lu ion that p bl c pri te pa tn ship w ld
be eq red t reate a financ lly v able h tel
A Th t h t it says

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Q Th t s what it says
A Yes sir
Q So erybody ev ybody just sort of
begins with that co cl sion
A Well y u kno I yes I mean
th t s what it says
Q And wh n e y public privat
p rtn rship we re t lking abo t a publ ly
fund d a publicly fin nced h tel?
A Well not exactly be us the way the
str ctur w rk th a bonds issued A portio
of th s b nds r not c dit h d by the City
They re th y e purely those bonds e p id
by the f nancial p f rm n of th hot l So as
to th t po ti n a d I beli e t wa th
majority of th bo d If th hot l did not
p f rm then the bo dh lder s u s was to come
back and t ke the hot l b ck and had no re ou e to
th City
Q D you b li ve that if that w t
oc the City of C lumb ld h v left th se
n n c ur b ndh lde s stand ng and not p id that
d bt
A I d n t I thi k the C ty just
just as th y would ha e in a pr vate t sa t on

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uld not llow uld all p t d el p
t g y k w to g und It wo ld
eces r ly d t st p in and p k p th p ck
up th y kn w th the h t l nd t uld
t ff d to ha th hotel g t tu tion
he it w ld b t k n ba k by l nde wh th r
it s b dh lders r r a privat lender S
I
Q S when talk ab ut the City ly
ha g r pons bility f r a p rt of the d bt
fact as a p t c l m tte th City was on the
ho k for all of it becaus th y w en t going to
let th b ndholders
A I mean I well again I won t
p k I m sp ak my judgm t would b th t
ye th C ty sh uld be you know w uld w t to
st p p
Q Right
A w s t quir d to step up In
f t e n on the r d t enha c d p c it s
subject to on appr priatio So th City ould
I mean yo kn w oth citi that I m not going
t speak ould h ve d c ded W ot g ing to
fund it d n and if it you kn w just l k a
st te le se It s a te y l se ubj ct t an

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an l pp p iat Th s an annual
pp p t
A p ti al matter I w uld I
would hope that the City ould st p up nder th s
tra s ction b t t asn t required
Q And y u ve had a l t of experi nce with
the City of Columbia nd the City f th s for
y ars hav t you
A I I ve worked w th the City
p imarily i i a community capacity
Q Right And y u h l v yo r heart
and y b l ed at that time when you signed this
MOU th t the City was on th h k for all of it?
A I never
Q What v th y d cided
A At this point t th s p i t trying
to derst d wh t where we w r g ing to end
u what my goal was which I bel e we
accompli hed was t s ructure a financ lly
trans cti that was that w s ppropri t that
pro d d sign fic nt r s ves that was backed
by e ended up u ng th bo d i ce o that
y ould g t a lower ate
Q Right
A th t th C ty I m n ag in

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d bo d y k r all th a s th t
it w uld b t ld b t w uld be
transact that by all ght th C ty w ld
e er e h v to be yo k ow I wo ldn t
p t p t d it oth rw
I m an I th k t a imp rt t t put
th saf gu rd f ial safegua ds in it d
the operating saf guard t wh h we did and
th City n my h d acqu ed t that a d we
moved fo ward d ngly th t we wer b ild ng
b th d bt st u tu debt c ag s er funds
Hilton pe te H lt being th op rat r d
the City was b tter protect d d b tte ss d
th t this w ld w rk in a 300 r om full rv e
h tel than if a p iv t p t h d c me in a d
the City h d sub id zed o th fr t nd d th
l t the p v t p r t p rate it j st t ee if
it would work y u know
And I m not s yi g th s h t l b use
t d ff r t The h tel th t was ultimately
built w s a diff ent h t l than this
Q In what w y
A Smaller And wheth wheth r it had
ll the f ll er e el m ts I d n t kn b ause
I did not f ll w th t myself

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Q Okay All right If everyo b li ed
going into this that th s f nc ng str ct r was
g ing to be c m c lly abl fi an ially
iable wh t would h bee th need for y
parti ular cred t enh nce ts f m th City any
s gnifica t one
A That s ju t h w these transacti ns
my underst nding d aga n I m n t that
w uld probably be m re of Ray Ga f eld Bill
Corr d c nvers t on b t part f th t dealt with
the cost of the debt With th cr dit nh n d y u
get b tter interest ates Wh n y u get better
interest r tes y h lo er debt ser
paym nts If you hav l r d bt ervices
paym ts y u ha e t have debt high d bt
coverage rati s nd y u ha e a d it m kes t
just that much mor fi ally viable
MR DETWILER We v bee going for
litti over an hour I m r ady to pl w forward r
do y u want t take a br k
MR WILLIAMS Let s tak b eak
(A rec ss tr nspi ed)
BY MR DETWILER
Q M Lumpki befor th bre k we we e
talking b t th s not n f th p blic p i t

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p t er h p th t s l d f r n th MOU
A R ght
Q C n y u tell me h t y ll b sed th
c lu th t publ c p vat p rt h p
w ll b eq ir d t create a f c lly abl
h t l
A Well I n t s e th ag in wh
d fted th l ngu g in the d cum t so
t ms of the d cument itself b t I have I th k
I e ted n th By virtu f the financ al
structu e of th d bt co erag s a d the debt
vic s ves nd the like that are th t mak
th s f a ally viabl f n l tr ture in
t rms of p ati g number n
N mbe two th fact that th C ty
w uld b c nt l if you ll a t relat d t
th H lto per t ng the h tel t w m re l kely
t be m re f ally i bl than f you h d a
thi d pa ty pr t d l p who for wh m y u
h d n t l a d y u did y ld hav no
dea of th ir d bt s vic e e o the r
f n nc al p bility t op t
Y there was a gre t r risk if
you w nt t call it I e that term I try
to th r with t h vi g if you d d n t

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have control and s mething beg n to g wr ng
b caus the e e n t debt s rvic reserves and
th r me h nisms put nt place then and it may
be that y uld e d up w th it atio that w s
not f n ially v able w th a private dev lope
g tt ng nt l a d e tho gh and I would
ev re t rat wh t you had asked me bef e th t
Y kn w I d t as a practic l m tt
b l e e that the City of Columbi w uld allow the
h t l I think th y w ld h e stepped up I
think t would be less likely in my mind with the
st ture we h d gi en the PKF and all th all
th pr jecti s f r the 300 m t hav a issue
th n f y u had than if you potentially h d a
pr v t d v loper with y u n t k wi g what moneys
w r in the h tel the financ l c ndition of the
p i t d l p r and the f t th t it was it
was it eally i a l chpin to h ve the wh le
m k t h lp the c nv nti n c te
S th t s how I b li ed e d again
I m saying it a l ttl in rtfully but that how I
f el t was mo it was prud nt f the City to
m ve forward with thi public p iv te for those
so
Q Okay L t s t lk b ut thes g n ral

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co d ti n th bo t m f pag Y
m t d wh l g th t and I m g g t
a ph y u b t I thi k y m nti ned a wh le
go th t th City d dn t ha e any obl g ti under
th d um t
A I th nk th t y k I th k th
m m ndum a d g in I v not r d t in
n l g tim But I think th Memorandum f
Unde sta d g is l k l tt of i t nt It s
We all und tand we r g ng to g f w rd
tog th g d f ith together t d cert n
things N there n yo know the s n
l ttl l g l bligat on unt l w g t t the p int
where tho e things r ompleted
Q Right
A B t it s a M m ndum f U d t ding
in term of wh t the e po bility f th City
wh t th sp nsibility f th u
pa t s th r le of the City th l of the
d l p th r l f the tr tor the r le f
th h te t r f the under ite the le of
th ope ato that ch pa ty sign d t th t s ys
Y s will m v forward s stent with u
rules to a t c n lude t a s ti
Q W ll We ll t y to onclude a

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tr nsa tion if we ca ?
A We ll endeavor n g d faith t m
forw d t nclud a tr n tion c n i t t with
th s M m ra d m f U d rsta d ng
Q All right Let s t lk ab t th t
The paragraph ne f th f Art cl I the
gene al c d tions the s c d s tence does stat
onsi tent with what I think you said a wh l ago
Notwithstanding anyth ng h rein to the ontr ry
if the City d t rm es th t it is n t fe sible to
pr ed with the h tel p je t it sh ll have n
liabil ty und r th s MOU Did I r ad that
o r ctly
A That s r ect
Q What would y c ll that pr io
I n e ape cl use
A No I think it s mu h l k l tter of
intent th t y u s y th t H r is what we i tend t
do a d th teps we intend to t k but you y u
kn w c until we g t all the stuff t g ther
neither party using a l tter of int nt has y
k w obligati ns nd this lette of inte t
It do ot ay that By virtu of the
steps yo ca subs que tly t k subj ct to a
l tter f i tent th t th se pa ti la t p m y

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y k w d I d t y k w hat e w
just d d d t t do t
Q W ll s yo I thi k wh t y re
t ll g ne s th t f as bil ty n y ur m d was
con m c b lity
A It was both op tional f asib l ty
b d n y kn w again th PKF I th nk the
City th City mo d through thi a I th k
delib rate thoughtf l ay as they were mov ng
through th p c ss They had to k l ge than I
thought it w s g i g t t k but in any nt
b t t wa that pi ce f t that I thought was a
ve y imp rt nt p ece to succ d th t y k w
it s n t j st ot j t th dev lopment t am
p v di g y u information t ncluded fr m Hilt n
th t they e don th i wn a alysis nd th y
conclud d they re willing t p t th m ney in
the b t n d p d nt an lysis a d th y u
hav the r t ng ag c es you know c m in and
I mean nd g t a t a d the y u had a
bond insurer c m n nd g e t insur
So all th se yo k ow ext rnal
pr fessio al ev l tions e e posit v evalu tion
ab t th on enti nt h tel that mad it
my m d f a ible t m e fo rd t bo d clos ng

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Q Another part f thes g n ral
conditi s is f u d i par graph two And it says
Unless supers ded by amendm nt to this MOU
the final d v l pme t manag m t g ment th
MOU identifies the der t ding of the parti s
There wa w s a final d elopment agreem nt ever
entered int
A There was a de el pm nt man gement
agreement dr ft d and p vided t th City There
we at one or two me ti gs with with the city
attorney Mr Meggs No I there was n ver a
d velopment ma agem t agreement signed w th
finality
I b lie that th s John
Lumpkin s tho ght p c s at the tim that w
had reach d a me ting of the minds w th that
d velopment m n gement and again internal re i w
but it was never — it was never executed It w s
n t a development ma geme t as ot ex ted
but it had b en negotiated in my mind
Q Okay And n y u ind who was d d
anybody representing the City with any autho ity
e er tell yo th t Okay we have a d al or the e
n h deal poi ts that w d t talk
bout

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A D d t I f ct what happ ed o
I f the ag m ts nd it s what it
is W ould nd n g m t t th C ty r
w w uld end d c ment to the City and it ld
t k a tak some tim f th m t re i w the
d cume t
Q Su
A Th y ould come ba k a d would se d
mm ts b k And n th a f th developm nt
m ag m nt at least in my mi d w h d th re
wa thing noth ng l e that w s mat al to be
side d but to answe di t to you quest
n s m on d d t say All r ght y k ow J h
that s th d velopm t ag e ment th t we y
k ow e g ng to s g t m w
I think h t th C ty w s d ng w
h lding ll that to th d to gn v ything at
th d I think but I d d t th t w s m
thinking that Why why did th y j st h ld b k
And I th nk t wa w w e e h d re h d I
m an the gua nt d m imum cont t w from
Tu er We had we d fted that all th e
d um nts we dr ft d and sent to the City back
in n t lo g aft th th MOU had b en I
thi k

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Q W ll
A a d it just t k l g an
inordinate am unt f t m t g t esp ba k n
d cum ts but my se se w s a d they it
sponse - th re w ld be pons s b ck that
y u know we h d th ther thi gs that we re
w rking o a d we w nt d t mak s e w got thos
b fore they nded up getti g the actual legal
d cum t f nalized to ign
Q All ght Who d d you d l with
d r ctly ab ut these variou document thes
various agr ment that need d to b ig ed
A Well I didn t deal dir ctly on all th
doc ments On the I worked with with the
Johns n Toal firm o th on the on the
d v lop nt ma agement agreement which is what
their p imary r l was w th s as well as on th
Tur e gua nteed max c nt t whi h also included
the architect in ther
Th r w a h t l op rating agr ment
that was a separate document that Hilton s
tt ys and thers wer w ki g o w th th City
that I I mean may have g ne t a upl of
thos meetings nd I did not I d d ot ha
a di ct r l There w ve l th ro m bl k

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p t t t the C ty d rat
p t l t t that c ld c o k f
ll th right eas And that I think
th t e e at r ght at th t poi t
Q W ll th t s th s b g
d ff enc n my m nd d that wh t I m t ying
t g t t t f d t in your v w whe w re y u
t that po nt or we y u ight at that po nt
My a d let me
A S r
Q ask the q stion this way pleas
A S
Q D y u b li sitti g h re t day th t
the pr ject team ev each d a defi itive
agreem nt heth o n t it w s s gned
d finiti e gr em t w th the C ty of Columbia A
m ting f th m ds
A I felt nd again there s a
th s and I m t ned th t Mr Tie I
me tioned th t M Suggs I ment oned thi t
Mr F t r There w a me ti g in Februa y f
2004
Q Okay If I ould
A L t m and I d t know there
were m nut s there were m utes f th m eti g

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I nev r s e I n v r e n m t of the
meeting but that w s meeti g where we came a d
pr s ted veryth ng t the to the c uncil and
what my my tak away from th t w s Ye
th t s we re re dy t mo e l ng but I don t
know how they re rd d that
Q Okay
A n the m nute of the f
the City whether y u k w and I wa ot the
only on there There were other th r at the
time
Q So th answer t my q ti n is wh t
Yes or no Yo felt at some p int in t me and I
gues you re talking ab ut th Feb uary 11 2004
me ting
A R ght
Q with th City hot l corporation
A It was a ot f r pr fit c poration
that s ght
Q ith th not-f p fit corporati n
that th t m eti g l d you t bel th t th e had
b en a m ting of the mind Is that what y re
s y ng
A Th t me ting led me to con lud th t t
w s you know w ld th n now pr ceed f rwa d

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to b g h dul ng f n l g tt g th l
p ece f the d t t g her t h v cl g
w thin the period wh tev p d of tim y
h e a b nd closing
Q S th w d there w s till
th re s still gr em ts l ft t b p t in plac
nd g tiat d a d nd f liz d d ig d
A W ll I think that there as st ll
pl c ther was still p i in d cuments
that ere ecessar ly y u k o c tr l t th
t nsa tion I m not sur bec s i the h tel
operat ng agr em t th y wer still d al ng with
the tax issu s d th re w e y u k again
th or tically if there was a tax issu that the t
l w changed in Wa hi gt n a d y c uld n t n
l ng r t do these kind of d al the golly
H ust n we ha p blem But I w t ny
f th t ha ened
They er imply th ugh the
machina i th t ta lawy r d to w rk through
that and you kn w there w r th s th r th ngs
that I th nk I mentioned But I w s t t that
point wa that truly th e w s ot th re w s
anyth g that based n the ba d o the
u de writi g w had ch ved nd ssum ng w

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could close on the b is th t we had p e ented t
th City n February th 11th th t th City a
prepa ed to g th C ty th n t f profit
c rporati wa prepared to go forward to m
f rward the basis of what we pr s nted to them
on Februa y th 11th
Q Okay Well let s just go ahead and
complete the t meline and we ll fill n some things
as we and come ba k to them
At some point in time aft r February
11 2004 yo b cam aw e th t the City was moving
in d fferent direction is that o rect
A I became aware that the C ty C l
h d met and had had decid d th t it w going to
op n th pr s up in s me w y hap o f m t
entertain a pr vate l ti n a p iv te app oach
y know ve sus this publ private pp o h that
we had bee p rs ng with the City
Q In other wo ds it w s g ing to op n p
th t for discuss o ot ecessarily ch g on
fina cing structur over an the b t it wanted to
lo k t that other angl
A I would I you know ry ndidly
I wa n t cl r at ll at that poi t what th City
w s wo king to t y t achie in th cont xt of

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h h d h I th ght we w nd um d
er F b u ry d th wh t th C ty did
th y k w d d h g d d ha g n
h t t d cid d t nt d t t y to g t
c mpl h d I me t h v b pl d
t me by nyon f m th C ty hy th t happ d
Q The this o cu ed h rtly afte
F bruary 11th 2004 did it not
A My rec ll tion wa t was in with n
the t 30 d y Now I m an it a F h y
time f ame o March t m f am I think t was
with 30 d y th t the City I say City C ty
C ncil y k w took mad d c si nd y u
k ow I nd I b l v t was my
nderst ding ag i it it c m d wn to ne
pe on ch ngi g a v t
Q Okay And o the C ty C l vot d at
that p int to do RFP nd request f r
pr p sal for a private f c ng deal
A That what my re oll t N
hether it wa at n m eting a d th y you know
n t changed o h w that h pp d but th
C ty yes th City the City then c me out
with a W ll w e j t g ing t put this the
n o hold and w r g i g t lo k t th s

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But agai I w s onfused about Do
y u till ha e th p - we a tu lly had a
o ple f meeting f ll w ng all of this ith City
t ff th re to m e fo ard o the o the
proje t we wer moving fo ard on and y u know
stay th c se We h ve a cl sing coming up and
th n I d th d ag in I don t I
m an they re all fri nd and the City just
We re go g to put that on h ld
So th t we t on you know the public
pri ate went o h ld while th City yo kn w f r
its wn easo s d d d to l ok at a priv te
alternative
Q And that action that is ope i g t p
f ltern tive took City Co nc l approval
A I I ve always g in I ke p
ayi g assume assume I d n t I m assum ng it
did I m sum ng the City Council voted to mov
forw rd on an o an alt rnativ
Q Was there ever City Coun il m eting
that you re aw of h t whe th y voted to
app e y r pro osal
A W ll I think they ted t pp ov a
M mor ndum of Understa d g b k wh n we w ked o
th t ti n through thos m y months I m

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g i rep t g my lf d fti g th
d m t put th f al t t t g th
pre nt d it d f m my my m m ry that t
w that th e n t for p r t who also were
m mbers f th City Cou l d Thumb up mo e
forwa d d w w mo g for ard to a l i g
Q Th not f r pr f t p ti n g v y u
that ind cation i th t what you r t lli g m
A Th t that w uld b a curat
Q Ok y
A And again a sum g th t w s a
n t f r prof t And g y u a d th t
a - that was n t for p of t not council and
th t fi e if th t wa n t not f r p fit
Februa y I did t em mb r I thought t w s
City C u il but y u s ying t for profit If
th t wh w th e I w uld t d p t that
Q Ok y S after the Febr ary 11 2004
m et ng y u had with th t f r p fit
corp at n y u nd after th C ty Coun l
the subsequ t City Cou il v te to ppr ve the RFP
a d lo k at lt rnative I think y u s d that
that y r team nt nu d to rk n the publ c
f n i g de l
A Well it s my c llection nd f

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nd g in there m ght be th I k pt minutes
of these m etings that th r wo ld b mi ut
follow g that that we will c ntinue to work
forward o th t again b c s th r w it
was t least in my mind it was not le ex tly
what all th C ty w s t yi g to a compl sh and we
n ded to stay th co r e f r a cl si g until
until someone definitively s d Well that s n t
someth i g we will do
And so that my recoll ctio is
we we co tinued to w rk on that
Q B t there was n q estion in your mind
they w e lo king at other alt rn t v a yo
ntinu d to m ve f rw rd on with yours
A I it was just a f se in my
mind it w a confusing time
Q Well the at
A I m th y t k a te t put t n
RFP That s p etty cl r when r th t vote w
taken
Q Y h wh t
A Well you kn nd then you say
well what h poen now nd I think th r the e
was b iously a l t of c nv sati n mong the team
memb r about hat to do and D you kno d

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t p ts th t h d t b inal d I my
mind we e v y clos f or th in s m
ag t I M G ttl b m d th m y be
th w r erta n el m t th t n d d to b
v tt d a d pa ti ula ly a t l ted to the hotel
pe ti g agreem nt that th re c ld b d tails
ther th t I did t y u kn we t wer
not privy to that I you k ow I might st nd
c r e t d I ther ould be po t th b t I
w t I j t knew the e we t x is u s but I
didn t k w the nature of the t x issue
BY MR DETWILER
Q -W ll wh t you ve just d scribed sn t
it the d finit n f f lu e f th m ti g f
the minds
A N si Wa th w s no fail
Q Ok y
A The e w n fa lu It w
m ving p d tiv ly fo ard t n l de th
d cuments a d th t had been th t had b n
ulat on fo l e t y a y u k w y
know that I felt w w e we e ve y cl s r
otherwise and M Co rado w ld have y u
kn w o ld t h no nc d in his th t w
ould clos by April th 1st I m w e

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e w re that close in ur mi ds to be abl t close
bond financing
Q And i f t b sic ily wh t th s
ind ates s mo ing for ard exa tly in acc rdan e
w th the MOU mov ng forw rd i n ffort t t y t
ome up with s m def itiv w itt n g eements
A Well we h d in c rtain respects had
come up th those g e m nts Ther were oth
ag ements that had ertain that had certain
pr isi that wer still in d scu n a t
re all
Q Okay
A But I d t m mb r I m f
there w r the materiality of a couple of th se
Oth uld ha e t yo kn so k t th t who
w re more inv lv d n th t than I was but I d d
call th t say f th e wer t x th ng
There we e th ngs that needed to b fin liz d And
t wasn t a m tte of Mr Gottlieb s y g W ve
got t sit down and start negotiati g th e
gre m ts Th se agr em ts had be n sen t th
City back in the spring f 2003
Q And they were still under negotiation
c o d g t M G ttl b
A Acc rding to Mr Gottlieb what this

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y i th a l g m t h t t ll
g t t g b i g eg tiat d d I ld
sp t hi y u kn hi him o if b t
t l ast my mi d n la g mea re f t
rtu lly c mpl ted t rm of l ke d el pm t
m ag ment th se d cuments h e bee th y
h d t b e ec ted
Th r had t bee a formal fo mal
vot r f al fin l b t w ll
all m ing f rward g d faith to clud t
Q All right Fai an ugh Bali t r
not I m almost to th
(DEFT EXH D cember 22 2003 _
L tt f Tr smitt l to P ggy M M y F Sh
Epps arked for identifi ation)
BY MR D TWILER
Q I m going to l t y u l ok t
Defendant s E h b t N mb r 9 wh ch i a tr smittal
l tter f om Sh w Epp t P ggy M Mu ray nd th
City of Columbia It t lly go s in c nj n tion
w th th f ll wing hibit s you might nt to
j st take a lo k at the next xh bit w th that
(DEFT EXH 5 In o ce 38430B nd
Ch k m k d f r d t f t)
BY MR DETWILER

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Q H e you g Th n t e hib t i
Exhibit 5 which is a py of a check from the City
f Col mb a t St ns & Wilk n th m u t f
$697 084 79
MR DETWILER L t s mark thes thr
together
(DEFT EXH 6 L tter Dated De emb
18 2003 to M St ve Gantt from John H Lumpkin
Jr December 18 2003 to M John Lumpkin From
M k Alle d D c mber 17 2003 to M M rk
Alles From Robert T Lyl ma ked f r
id ntificat n)
BY MR DETWILER
Q And Exhib t 6 is actually a s ries f
l tt s O e is f m y u t St ve G ntt An th r
one is from t you from Mark Alle of T r er
C nst u t a d a th from Bobby Lyl s
t Ma k Alles with a copy to y I ll let yo
lo k at that and aft r y re d th se let me know
and then I just w nt to g t f nd t h t y
c n tell m bo t it
A All righ si
Q Could you t ll me hat this payment
let me b k up
The Mem ra dum Mem andum f

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A N th t g ght aft h s
d um t g ed nd I s d t D tw l r
th gs c d nd ct t k d l t
of stuff happ ned bet n then nd when th
f al de isio wa mad n t to pu sue I
m an
Q But at th t me th MOU w s ent ed
into y u wer adv g othe m mb f th t m
so long as th City acted in good faith nd cert
c n m c d t s w re not m t they could
laterally pull th plug o thi d l
A Whi h is co siste t w th the MOU
(DEFT EXH 8 Ju 26 2003 L tt to
M Ste en A Gantt From Joh H Lumpk J
ma k d for d t f ti n)
BY MR FOSTER
Q Let s l k t th n t h b t Number
8 I m just g g t k yo t r d th d get
f m liar w th t and then I ll ask yo qu sti n
bout t
MR DETWILER Th s will be Number 8
MR FOSTER Yes Number 8
A Okay
BY MR FOSTER
Q Now what s this letter This s a

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l tt r from you s that cor ect
A It is It s
Q And who is t t d wh t th dat
A It was June th 26th 2003 It was
to M St v n A Gantt who as istant City
man ger and the prime our primary point f
t ct w th th City on n o go g b i es t
related to the nonlegal pieces of the property
Q And this is about tw and a half m nths
after the MOU was s g ed th reab uts this letter
A Well yes
Q Okay
A Yes
Q Okay Now - nd what i th gen ral
topic that you are addressing in this lette
A Well the gen ral top c w s d
again it could be that there are minutes that
would further clarify Wh t we w re ab ut s th t
th a chitectural team had been hard at work
draft putti g together the plans t g t t
b nd cl sing a d th t w h d ugh to get to a
bond closing at this poi t a time but according
to and b sed on th letter but w c ld
ac le at the open g f the h tel et c tera a
the City would agre I think gain sist nt

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y k w with h t I h d ti n d to
M D twil would g e to o er a p i d
tim you k ow bet July th 10 and th d
90 days t
Q Ok y All r ght And th g ant d
maximum pr ce f m Tu ner C n tructi n is that
th is th t e f th co tr ct you d y
e i vol ed with
A Y
Q Okay H d th t g n l m m m pr e
ontr ct b en ex cut d by this date
A It had t
Q Ok y N w going b ck t th
beginning
A It h d b en sent t the City agai with
th do m ts rl n the trans ction for
th C ty to h th input and y u know my
rol was t h lp neg tiate on b half of the City a
th de l pm t m g th g n l g nt d
max mum ntr t S c nsist nt with wh t I s d
here is we re g ing t n gotiate t on behalf of
th City
Q Ok y N w g ng back to th very
first sent c I wa t t m k s e I u d t d
th phr s l gy that you stat d in the letter which

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st tes A y k w nder the t rms o th MOU
m mbe s f th development team and who w re
th m mbers f th de el pment team
A I think the signatori s on that on
the memorandum as I a I would
Q Ok y And d d they agr d t b
effectively at risk What did you mean by
effecti ly at risk
A W ll gain that you kn w that
we th t th r would be sweat equity W would
work t wa d bond clos g and you kn w t l
got to the bond cl sing at that p int that we
w we w uld I m an ur w k product
would we w uld not would be t risk
Q And then again it s ys up until the
d te of the b nd closing So hat occurred what
was your und rstanding of what w uld ur under
the MOU t the b d lo ng?
A Well the per the I guess not
only th mem ndum but it subsequent docum nts
being executed cert i fees w uld get paid the
b nds a b nd fund would be est blished d y u
w ld b g th n t t on f th h t l at that
oo t be u then y w uld have a guara te d
m ximum ntr ct apor ved You d hav bo d

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w s th mp y I t ompa i s th n
c mpa y I w with w p d nt f h d b ld
Q And s t m I t i
und stand g th t the mpany as b cally spl t
half and yo went ith h lf d th th
half w nt another way
A Well I w t I h d tually I h d
a fi an l t st i th half th t nt th
other way but I w nt with th c mpany that D n nd
T dd bo ght
Q Okay D y u d y u Ed n &
A a t Re l Estat Se vice LLC or any s c or
omp y h y int est n the ut m f th
l suit th t th pla ntiffs hav c mme d
A N i n t I m n t t my
knowl dge The o int r st in that
Q And o e has told you th t f thi
sf l th t that Ed & A nt R l Est te
Servic LLC r some su cess r entity w ll b
nt tled t any paym t
A N ir
Q I f t d y u ha e any knowl dge of
h th r o n t th y are t tl d to ny p yment
fr m this pr ject
A I ll it and I g ess here I go

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again assum ng b t I assumed when we we left
the developm nt t m th n we left w l ft t nd
th re was no there w s no expect tion whatso
th t e w uld ecei e a y fees at th t you kn
going f w rd
Q S to ver mplify it is it that y u
bel e that y u l ft it o th table as it w
that it would go back
A Left it o th table a it we e
Q Okay
A I guess th t s a y f cha ct izi g
t
Q In r fer c to the M mor ndum f
Und sta ding th e s phra e in ther nd
I ll invite your attention t that M m randum of
Und r ta d g And this s on pag on
A All r ght
Q Rom n numer l n s ti n o e the
sentenc that w all be t to d ath the s cond
t c ft r th fi t omma If th C ty
det rm nes
A Right
Q D d I und r t d — a d th t was a long
tim ago in this d posit on that y u said the
City chose those word as you rec llect it

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A I f y u g b k and l k t th
l k at th i u it t s f d fts I m
um g the City h s th m that I wo ld ot b
rp d that the C ty ho those d O the
Strat g Ad sory S v wh w ad is ng the
City wh n this whe this and I beli v th t
th y re lly h lp d put t geth r th init al d a t
of th s and n behalf f the City n g ti ted it
Q Now you said th t that MOU nd I m
going t pa ph h
A That s all right
Q m y h w b en ff t d by bs q nt
ti n f th City
A It m y h v I m an g in th f cts
e th facts and whethe - wh th th wh th
that th y y u kn w th y demo t ted the
t f th C ty as it mov d fo w d n rta n
r p ct g v ris to the ights I m t - I
t p k t th t I h ve p i n b t th t
b t t ould h v
Q And exactly what ar tho t n if
you de t fy th n s th t y u kn w f that the
C ty to k r didn t t ke th t you beli ve you
nderst nd may ha e affected the MOU
A W ll I g s it w uld pr b bly b a

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comb t s w sta t d t we b gan t hav
w ekly m etings rd n rily t M Lyle s office
and th City was th re I me n th ts staff
part cipat ng and e rked th ugh all the
t ratio s of th - part cularly of the of the
h t l it lf and th c nst uct n of th hot l and
all the pi ces and parts And I think there s a
fairly you k I say d tail d th ugh
p p r trail ab ut h ving that
We went to th City perrodically nd
pl ed t th City wher w w w th all of th
th ng we were working on and you kn w and
ag in I think a m ntio d li r th e we e
other th g th t th C ty had was interested in
mpr ving cov ges nd thing and we w ked n
that
B t I gu in the rt of the grand
scheme f th ngs or the overall scheme of things
th t we e e w king t wa d closi g nd there
w no ne t the City d wh the it was the
ce tainly n t the staff but no one that I h d
t lked th nd I d dn t w w not h v ng
ongoing onver at ns with counsel r th staff o
th att neys th t were saying Well gee hi
H st w g t pr bl m Th re m th g

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h r th t s t w k g
So y u work on that t ll you kn w
f om whe th MOU was s g d f t b f
u til fte February f 2004 h ch l t a
y Th ld b rtain rights th t uld
h by v t of th C ty s in olvement a d
p t pation in mo ing th pr je t forward m ybe
I d t g i I d that s not f r m to
you k o conclud that
Q So if I an characterize th actions r
i ct n th t y y m y h ve ch ng d th MOU
from I think hat y called l tter f i tent t
som th g els
A Right
Q - that would b the period c me t ng
th t r h ld by the p j t t am th t C ty
ffi al ttended the -
A And the progre s that was made n
th n the pl s d th y ign d off n pl
In oth r wo ds the City was there We were
pr se ting th City but the C ty had its wn t
of ey s and ear in t rms of Mr Epps and Mr Gantt
sign g off on plans and those thos will work
You h d m mb s of oun il wh uld g and look t
the fin shes a d Yes th t w rk

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S y u w r gi g y u know you
were w rking through the d tails of a transaction
whil th othe h le th l g l d cu nts f
you will were orking on a parallel t ack
Q And would the ex mple that yo v
just ref red t signing off on plans would that
take place other than at one f these peri dic
meetings of th pr ject team
A I don t know that the nly other
th on the pl ce it would t k pl c and
again you ll have - the City would have its
r cords There were periodic r p rts that were
pro id d t th C ty and I assuming he e I go
aga n but I m assumi g that Mr G ntt a on a
regular b sis keepi g the c uncil appr sed of the
prog ess we w re making with r gard to those
those it ms lements
But we did g n a on two or three
f u o sio s d I don t rememb r but
established a r po t He e is where we are Her
is wher it i You k w th b nd the
und rwriters ame nto town The mayor w s there
Several memb s of council w e th re you kn w
g wo k ng to g t th b nd g tting a I
m n th y w rk ng h d to make this w rk

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thi t n ti h pp wh h h you k w
wh th y d d g t f vo bl l tt r f m
u d t y k ow d I think the City s
mayo d o h v d th ju t I th k
th y do ny t me th y com to t lo k at a
M ody s and S&P I th nk wer th two that were n
mayb fit h but M dy w s d then Ambac
th b d in ur r cam in and w e t through th
same drill w th them with th City
pa t p t n
Q And i t f r for me t sort of
cha ac i that th se subs q nt ctions aft r
th MOU w re princip lly of th e c t g th t
is proj t te m meetings atte ded by City
offic al and thers p odic r p ts to City
Counc l a d/ th h t l b ard and then y
d scussio s th the pr ncipals be g the City nd
ts ffic als nd att r ys a d th C ty s ad isor
wh ch I g ess w uld be Strategic Adv s y -
A R ght
Q and PKF
A And that s fair w y t characterize
it L k th last piec ould be m ving the
legal the documents that p p red th file that
y u had t you kn you needed to get that

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you kn th se t the finish line as well
Q Of th se ar as that we just talked
about here the subsequ t ti y u say
occurr d on f those w pe iodi pr j ct t am
m t ng is t th t o r ct
A Y s s r
Q And and you k pt m nute of th
p riodic pr ject team meeti gs didn t you
A I did
Q And I m g ing t hand you n exhibit
that w ll m k as 13 nd ask f you c n identify
th t s b ing o e of tho m ut
(DEFT EXH 13 March 3 2004
Memorandum t Columb a C n enti n Cent Hotel Te m
From J hn Lu pki mark d f r identificat on)
A All right
BY MR WARD
Q And this lo ks like s me of the - or
n of th m nu s that y u had pr pared f the
project team meetings
A That s correct
Q And I v l ked this over before and
it occurred to me that it might have been the cas
that the mann f pr p ation wa th t you would
simply add to the pr ceding minut s

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Q C y ll th y ult m t ly d dn t
g ith y u th y u hot l j t ight
A R ght R ght
Q D d th w rk you do hav a y be ef t
f nc al r therwise to the City
A W ll th City n v r went forw rd w th
th pr je t d y u k they they made o e
p yment to the ~ to the d s gn t m Y kn w f
th re y know y u k ow if there re
v lue to add w c rtainly pr ded th y u
kn w the the w k to get t a transa ti n that
would clos ub t t ally co sistent with the
m m randum
I mean ther we e heng s the b nds
h ng d nd therw s but as f r s th ct al
d m ts at the nd they didn t th t t
t d Th a ch te tu l plans wer n t
us d I d t kn Maybe th y w r M yb th
s m I d n t even kno f th e w re s m
t m memb s at th nd f th day mayb lt m t ly
ded p w th n w d loper I d t kn that
I ju t don t kn w wh t that wh t th t s
I don t believ th t Mr Gary or
M Ch les or Mr Garf ld they bvi usly
d d t b b t g f om ~ you kn w I

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think it w v lued to ha e a it was if not
t was val able x r W could h had a
full vice hotel built y u know by whatever the
t me nd hen I s w n of the minute th t you
know in a and that uld have b en su c ssful
f r th City n my opini n but the C ty ele ted
n t t go th t route
It wasn t any I mean benefit It
d dn t I m an we th y didn t use the plans
Th y didn t use th th y didn t use the arc
the c t t r S th y did t us th
developer S I d t kn w what how th w y
I m whe I m interp t g be f t th t they ~
it ben fitt d because th y n r us d any of th t
s th e w o ~ hey w ren t abl to th y
just didn t u t
Q Ok y
MR HINSON I e g t n thing further
I ll pa s th torch ver t Mr Newman
EXAMINATION
BY MR NEWMAN
Q M Lumpki my n i G ham Newm n
We met rlier t day
A Y s sir
Q W v t p ken before have we

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A N e h t
Q D yo h a y id why this 300 r m
Hil o fina d h tel d l f ll thr ugh
A I al eady t stified I d t k w
Q D y j t d y u have and I
not ask ng y u ask ng you t f m hy t f ll
th gh but wh t s y r su pici ?
A I d t kn w I you k if I
again you k w there was ext rnal there was a
l t the w l t f o se ut th fa about
pposition to th hotel But whether that a
y kn c trib t d t the re son or not I
n t I d n t kn w
Q Were y u r warned by a yone with the
City th t t may f ll th ugh b f th request
f a c d RFP w commu c t d t y u
A I m w may h e we may have
g tt n n kl ng t me b t s m e lse o
th te m may h v g tt kling th t there
m ght b a vot th t s g g t change and
nd you kn w that if the vote hanged that
who knows I d dn t unde tand eve if the
te cha g d y still h d th e favor tw
agai st if the ote h ged but ho th t how
that f ct r d int it bu that s we may

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have may have heard th t during that p riod of
t m
Q Has any n with the City ever t ld y u
that the hot l p oj t as en is ed by the
riginal MOU that th c mplet n f that project
was not fe bl
A N sir
Q Even to this day you e not heard that?
A N sir
Q Now let s talk about the MOU I think
it E hibit Number 1 again And th re s been a
lot of dis u sion bout var ous blig ti ns d
dutie T ll me if I m wr ng but have y u stated
p ev usly th t y f lt lik y u had a d ty t
operate under th t MOU in good f th
A Y s ir
Q Did you f el that v ryone h d a d ty
t ope te under that MOU in go d fa th
A I me n I th nk that s just inherit in
the transa tion th t w all all were part of a
t am d it was i cumb t pon us to operate as a
te m recogni ing that in some case becau e o the
d v lopment manag m nt g em nt we h d certain
r spo sibiliti s t th C ty th t v th ugh
c rrently was pa t of the te m we had we had to

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t k w h d t p t th C ty s hat to
g tiate w th T f r pl and
H lt
Q Right
A Yo kno wer t y ng t work
th ough s m f th thing w n ed t k th gh
t get the tra s ction d n t n ily
c t nt with MOU but c uld h v entered
d livered a quality fir t lass 300 ro m Con ntion
Ce t r H tel with the Hilt n fl g nd d with
th f n l st ucture th t was w s a financi l
st cture that worked
Q And we ve also d sc d th io s
sk th t c m al g w th th t MOU A pretty h ge
pa t right
A I mean we talk d b t th t sk
ye
Q All r ght s r Y ot d ho ever
th t th ar h tect ral nd e gin g teams c ry
less risk is th t corr ct
A W ll I th y c ried more k The
A&E fi m I me n in ur cas M u s was
more f sweat I c ll it w at eq ity I m an
w wer n ol ed our time involved in w rki g
h lping th m w k ll this togeth r but in

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th c f the e g n ers and the architectural
firm they act ally had plans that wer d fted
d a d costs that they n urred that w re y u
know h rd c sts
Q Y s s r Much of th r work I
mean n tur lly b cause th y r the a chitects much
of th ir w rk would b n the f o t e d f th
p j t
A Yes sir good bit of th t work w uld
h b n on the f o t nd of the project
Q I u d sta d I t to sho you
D fendant s Exhibit Number 8
A All ght
Q I t ll y u wh t l t s j st talk
bout l t s just t lk abo t th fact that s me
mon ys ha b pa d to Stev ns & Wilkins n is
that cor ect
A Th t s co ct
Q And th t w s a result of th ir w rk
going above a d bey nd the - th t which was
nec ssa y to g into the GMC
MR DETWILER Obj ct t th f rm of
the question
A Well
BY MR NEWMAN

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Q I that ght
A W ll no r lly th lt
of they had t k th pr j ct to a po t a d
g i e w c llab t ly ticipat g
cl ing - an ly f ll l i g nd h n that
b g n to l k m yb it d es t happ n a d we
c ld still maybe n t M yb it s still that
w y b t o d we could take the pl that
we e th r nd l s but w uld l s 90 d ys i
th p ces
And that s - again I m n t the
und r riter th t lo k at plan h t I thi k at
that po nt the pl ns w r und r tage th t y u
could clo n th b nds nd b t f we were
if we d dn t ke p them wo ki g th w w ld
th n n o e se would l se 90 days or ay n
an ther w y ld gai 90 d y by keeping them
d awing and keep o they d dn t p t the pen ls
down a d and s w w uld hav a hotel that uld
op n t l a t n th sch dule w had me 90 days
li r b cause w c uld g t tru t on sta t d
that much earlie
Q To the b st of your kno ledge did
St e & W lkin compl t or s bstant ally
c mplete its d t nd th M mo dum f

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Und r t nding
A Well und r the le f the rchitect
it r ally sp ks mo to the to the f e pi c
nd so it doesn t p ak to th y u kn what
they what they d d you know d d
subst ti ely but und their I m an th y
complet d schenatic des g a d then they went
toward d sig development dr w ngs Th se we e
priced out That was nabli g us to get to a
guara teed m ximum p ic cont a t with a w th
th contract r
So I would say say in my w rds
in my c s d r d j dgm t th ar hitectural team
w rked in a tim ly prof sion l y t mov
m ve th t p rt of the project along to so that
we w u d be bl to get to a timely bond pri e
Q Okay And that w s part of this
promi as a p ty t th MOU is th t orre t
A I th k th t th y th y pe f rm d
th th y i my in my judgm nt TVS and
S&W d M Ly n all c mpl d with th i
respo ibiliti s s I nderstood them
Q Th k y u s r No
A but th archit ct w s under the TVS
cont a t I m an nd r the c nt act So if y

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went b ck d l k d t th t t t y d lly
n d th t t to see th t t t
what th y w su p d wh t the r
sp nsib lit s yo k w by the l tt f th
c t ct wh t th p n bil ti wer
Q Ok y C n yo pl ase tur t p ge one
f th M m randum f Understand ng pl s D you
s th p agr ph whi h b gi s in ll caps NOW
THEREFORE
A All right
Q C ld yo pl se read just that
pa agraph fo m
A NOW THEREFORE n c nsiderati n of the
f g g d m tu l pr mises co ta d h e n a d
th v luable c nsiderat on the s ffi y and
r ipt f wh h hereby k wl dged th
p ti g s f ll s
Q All ight And w ld you agr e th t
m t l p t d w thin this
do ment
A I think the w s e ch p rty h d
responsibilit es und r the d m nt n terms of
ea h p ty s rol d spo sibility t move
forward c ns st nt w th th f am w rk of the
M orand m of U d t nding

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Q Y s D d th m t g of th minds
the p rties a hieved in this d cum nt ever e visi n
completed a ly c mpl t d h tel p oj ct be ng
compar d to a pot ntial priv t oposal
A No sir
Q It d d t
A N si I mea we comp t d
with a p i ate pr posal
Q Y s s r
A d w l ted f r reasons that I
think in s m of this som f the act al minutes
of this meeting I read you k ow was th mayor
s how the m yor w s yi g Th t why we
sel ct d what we s lect d n th first pl
Q C uld y u l t to D nd t s
Exhibit 16 please I b li e it s mail fr m
Shawn This s it ntitl d m il f om
Sh wn Epps to Jo l G ttl b
A Right
Q I believe the text s an e mail nt by
Rosalie H milton
A Right
Q In th main paragraph in the te t th
n xt t th l st t e wh ch b g n with The
City w uld do you se th t sentenc

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A Th C ty ld th omp e
Q Ye t C uld y r d th t ne
t ple s
A Th C ty ld th omp th s
r c mm nded pri te p p s l t ur r tly
struct ed t a ti n d th fte mak f al
decisi n
Q Was it your u derst d ng at th t t m
o M r h 29th 2004 that th m l t d early
c mpl t d publ ly f nded h tel tra a t on w uld
be o p ed t p i at pr p s l
A And I ll say gain I as ery
ca didly I was c f sed b t e of thi at the
tim n te ms f h w t all com g d wn
Q Y s
A But a d g in I d t kn w d
there may be some d cum nts i the f le that show
that th w s f t h t th City was d ing
N had c mmuni t d t m f m th C ty th t t
wo ld t be take to a ount S that that
m y b th my s ptio I m t m y ha e
been a convers t on that I had w th M Gantt that
s id Well y kn h y k w d w
c nt u t d w did W c t d to m t
on th o the pr gram on the t f r p fit

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corporation ho d tr acti n f r this
Q Pr or t Edens & A nt withdrawal n
the t m did y u hav a m eti g w th Paul
Little Aught y
A N sir
Q Did yo ver discu s this hotel p oject
with him
A Th ly co v rsatio I had th
Mr Aught y was in the context of a you know
not his t a sact but but the y kn it
w s just more ditorial W fri nds we
be n fri d b t th t w aft r the fact So I
had no convers tion o temp ran ously on any of
thi with Mr A ghtry
Q Do you k w tt y n t n d
St e B jamin
A I d
Q Did y u ha e any cont ct with
M B njam n du i g y u t me o th d v l pm t
team
A He as f the bond c unsel he
was h w s p rt f th b d cou l t m
Th s an organizati nal ha t th t we had and
St ve d I m t s r f h und t s
counsel o o b nd counsel but he on of

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th e h w s i f tho teams
Q Okay So h s partic pat g in
A H w p t pat g s p t f th
de elop f th proj t te m mb r f th
p ject t m
Q All ght
A or s th t had been brought
in d I m t wh th t th t s H yn orth
Sinkler or gosh there s two o th th ia
f ms i v l d had b ght Ste e in to be
as ated n t ms f th bo d b d pi f
th tr s cti
Q Am I i c r ct saying that
Mr B nj m n wa ass sting in bta ing the publi
f c g f th h tel pr ject
A I m n t I d t k that y u re
in rr ct I d n t k ow what h s spec fic role
was b t the bond c un l would need to address
that I kn th t w w e refl cted him
the rg izational chart s a mb r f th b nd
counsel pi c f t
Q Okay A e y u famil a with Richland
Co ty n ilman by the name f Dam n J ter
A I m
Q Do y u kn w Mr J t r

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A I do
Q H ve y u had any ontact with Mr Jeter
durang you t m th de l pm nt t a
A Not n any co te t i this in this
tr sacti n r
Q H y p ke with him b ut th
F lt n h t l since you left th de elopment
A I h e not
Q Okay A yo ware th t Mr B njamin
a d Mr Jet r r ently p s s own h p interests
in the pri ately fina ced hotel
A Someon I d n t k ow who it w s
Some n told m th t just n n con s ti n
I d t k o ho told me that and I not h d any
conversation with e the on of th m b t I do t
know that for fact
Q Okay
A And this is maybe mo ths and way w y
later I don t know when it m ght hav happ n d
I don t know
Q Y s ir Since - during your time on
the development te m did y u h any d cu si ns
with y oth p rty that lat be m memb of
the Bo Aught y Vista H t l d v l pm t t am
A I d n t kn w who m y h e become a

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memb f th h t l t m t thi po t
Q Y r unsur f th
A I m I m h tly I mea ag in
I y k d the qu ti n d I ga y u as I
r ll s eon s d b t I n k d yb dy
f ther b ut that d that co ld just be you
k th f th s commu ty um s th t
are out there do y u kn w th that nd the
th r S I d n t d al th t kind of stuff
Q Y s si
A Cl th h pte that b k and
you r g ne
MR NEWMAN Yes si Well tha k
y u I don t hav nythi g f th r
RE EXAMINATION
BY MR DETWILER
Q M y I ask y qu k q e ti
A fes si
Q I r lly w ll t y t b b i f
A N problem
Q Everybody s ready to go h me
Th Memo d m f U d rst nding I th nk
you v y u have said this did not c eat
bind ng contract
A That in and of tself

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Q Right
A that s c r ct Yes sir
Q Right And s of Jun 26th 2003 y u
u d tood th t u d th term of th MOU memb rs
of the development team agreed to b ff cti ely at
isk up t the dat f the b nd cl sing That s
what you t t d to M St ve Ga tt
A That s correct That s co e t
Q Ok y So I wa t t b cl r ab t y u
testimony e lie particularly in response t some
f the quest ons that Mr Ha d asked you A e y
suggesting now that s metime afte Jun 26th 2003
the City d d s methi g sp cifically that changed
what you said to Mr G tt i this June 26th 2003
lett
A Let me I m I ll t y t ans er
resp nd to you Mr Detwile
Q I m sorry but I m excuse me Let
me make su e this is a th i y
que tion
A Well
Q and I want t know yo r w lc me
to expl i t
A Certainly
Q but if the City d d som th g I

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d l th t y y w my m d
terpretet that I d d t hav a conve s tion
w th th City that id my s ns w s that w
i p rt nt c p t t ll f t yo k w th t
p d d we uld g t ll th oth r p s i pl c
that th y still e till h d t h fina ci l
li s cr ss hich I I b li v we w
absolutely did but the could b other opinion
that
Q And th could be other f sib lity
th th con m c f a b lity th t th
C ty uld pull th pl g and still be n go d
faith cor ect
A D n t kn w what thos would be but
yo kn
Q Well ptabl cov ge
A Right
Q Et t r just others
A I u d t nd that but I d t I
m a ga n I w s t y g t k p t to
Mr Alles that I think he must h v put s m thing
in th docum t th t id th C ty is c mmitted a d
I id No y u c n t do th t
Q Would yo agree that if thi p bl
finan ing through b nds was not pol tically

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f asibl th City f Columb a h d th right t in
good faith not go f rward w th this project
A I think that a str tch
Q Is there anythi g in this doc ment that
ould lim t the p litical f asibility
A I think if a polit d id d Well
my p l tical life is on the line if I vote
c nt u t v t f this and w uld vot the
th r ay that th t s n t a g d faith vot i my
opin n
MR FOST R Okay Th nk you
MR NEWMAN I ju t got two q ck
redire ts
A in t rms of feasibility
RE EXAMINATION
BY MR NEWMAN
Q I v just g t two d ct I n t
that true that the City promis d to quote use its
b st ef ts to appr th s nc f a exi f
tax e empt h t l ev n bonds
A E c se me
Q I ll ef r y u it s wrong f r me to
n t quot som thing a d not page thre of
Def da t E hibit l p ragr ph V 4
A All right

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Q It y t mb tw
A R ght
Q I it t e th t th City pr m d t
u ts b t ff t t ppr e th i of a
s ies f tax e mpt Int nal R enu b nds
A I think t y u kno
MR DETWILER E cus me I m g i g t
bj t to th t
A But it go s t s y th t t w ll b
sufficient t pay the const ti n p y d bt
s rv ce p y f s f d d bt er e rese es p y
ther f n n ng c t and s n and n nd s
f th m t t f ct y t th C ty S
ags n it we t b k t th C ty I mea I j t
h ve t y k o it s y h t it s ys
BY MR NEWMAN
Q Yes Th t fine And th n I
w nt t ju t go b k t Mr F t fe ring I
w nt t sp k t th s d d h m tim
Th last cle e in S cti n 1 1 If the C ty
d termine th t it ot f bl to p d with
th H t l pr j t t shall have no l b lity u der
this MOU
Now m I r d g that c rre tly by
d terminaing wh n I nterpret it i t rpret

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this as ay ng th C ty w ll have no liability
unde th MOU if it d t min s that it s not
f a ible t proc d with th hotel pr j t
A Okay
Q I th t f r re ding
A That s th t wh t t ays
Q What f the City ever det rm nes that
t s n t feas ble to p oce d with the hotel
pr ject
A I mean there co ld be other rea s I
gu ss y u could say th t you wouldn t close but
th s this w b ically th y u know fails f
of the C ty that f th City w s you may d
th things cor tly nd rything may work
through but if you decid good f ith that it s
not fe sible for legitimate eas ns th n nd I
m y be wrong I may b thi king ab t this wrong
at this late in the day but I mean if th
City the e could be ther thing that had
happened that do sn t deal w th f a ib l ty but
d al with y u know th contractor not y u
kn w the arch t c u if w d id d d that
may go back t f asib l ty
S I gu it s h w yo ch ct re
that but I guess th o ld be oth

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cum ta c s that ould h a th t th City may h d termi d that it ld y k b y d f b l ty with th p j ct th t d e n t th t it t goi g to w k b t m yb it ll on b ch t fe sibil ty I d t k w

Q And th th cl s th t put the d el pment team m mbers at risk ght

A I n t k w I haven t read the enti e Memora dum of Underst nd g b t I thi k it it was unde sto d when you started out n this that e we t w ere at risk and we n eded to m ve f rward together coll b t v ly Wheth r f t a d f ct subsequent to that as we worked through it sup rsede thi MOU te ms of tak g liv s of th ir own legally I do t know

MR NEWMAN Okay Thank y

RE EXAMINATION

BY MR HINSON

Q I hav o q ck f ll up i the spi it of having on m re s t f question

You testif ed arl r that y u didn t ie the MOU as forming a c nt ct s that c e t

A That s r ght That s ght

Q Wh t d d you see the purp se f the MOU

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as b ng?

A W ll the pu pose s gain I would charact r z it mor like a l tt f ntent is that it s ts out the understand and t a gr ter r lesser e tent the b in ss unde ta ding of the part s that Her is what we int nd t pur e tog th r We int d t pu u a hotel with th se many rooms w th this much space with these with these prof ssional service pro iders with th se agreements nd but th s doesn t it s not a l gal it s not a binding co tract We re g ng to proce d f rw d to mov forward to pull those d cuments together

Q W uld it be an unfair assessment to say it was the contract t mov fo ward i good faith t f m another contract

MR DETWILER Obj tion

A I don t kno that I ca s y th t Agai th t l gal t rpretatio and it may be th t y u kn we intend to proce d rorw rd g od there re two I ll go b k nd l k t the general number o e in g d f th execut d cum nts with r spect to bus ness terms and c nditi on

W ll n the b sin ss t rms and

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o d ti was th City b g t f d t th g nd th se k nd f thi g my h d But it l y nd I do t th nk on is a y mor imp ta t than the ther b t f th y d cide in g d f ith t s t feasible then for in my pi ion be ty i i th y f th beh lde It m y b that I ask d th que tio I p k t o so o qu ti th t was asked d an red ab ut making change fo p l tical e so s a d meo s d but that s ju t my op nion That would n t be a fai reas n to cha g in my p n BY MR HINSON

Q W ld you ag e th t th docume t e idences an greement betw n th part es t mov f w d in g d fa th to the t rms th e

A I think th d me t I me n ag in I d h to say spe ks f r its lf nd whatev l gal l g l bi d ng I did t I d dn t l k at this as a docum nt that b dless but w wo k d togeth to move toward to m e tow d d cuments subject to the City deciding it wa n t feasible to - t conclude the pr ject in go d f th

MR HINSON Ok y Tha k you Noth ng mo

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MR DETWILER Not from me

(The deposition was concluded at 5 49 p m)

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Q Ok y A d d yb dy ll y th
h t h d l d d t th
y
A N t my ll
Q A f y k pp d h
$150 000 b
A A f I k y
Q A d did y h y p f i
ith yb dy T h id th
A I p t my f g p f
i b t I y k I d h t
th d um Y k w I h y k b
i
MR DETWILER Ok y D y t k
b k f m ? W b g i g b h
Thi gh h g d L d h t
(A p d)
BY MR DETWILER
Q H Lyl l m k y l t l b m
b th f b I y g my b g y
nd t d I m h i g l l b t f
d ff lty S I y t g gh I
b b t t
A Ok y
Q Th MOU l t ith h MOU Th MOU

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ll f th hi t g t 7 25 p t f wh t?
A Of h t t on c t
Q Ok y I t lly y H d t
g h h th d g /b ild g l
p d f Th t h it t lly y
k y C ld y ll i m d t l wh t th t m
t p pl h d t d th f li i g?
A W ll y f w y h t h t t
g t pa d p t g f i t If y
b d j b th t b h t y g t b d d y i l d
g l d t h d d p f t y hi g
S t t y t l de h h y
g t g th h t c r Th y y W ll
h t t t th y t y k
B I g g lly p d mu b h t y m lt ply
p t g l d th l A d
d mak y l d ff If y d t
ncl d y p t g g p
Q Right S h p ca tag th t w talk g
b t g ng t b pply g h h l
t f th h l mi g f th gr d
A Y b i k d mo
Q Th bt k d mo t I ddi i t
T g l h d d pe d f th?
A C t A if th p j t h d b b d

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b th m th b d p
(Of th d)
BY MR DETWILER
Q A d th y b q t b t k d f
Tur b t I m g g k y yu y Th f
mpl t d th MOU f Tur th
d ig /b ld t 8 pe t f th d ig /b ld
f g l d t ns k y T ll me h t th t
wo ld m
A W ll th t y p nt d t y
y k th f lk th t k th y b tru k y
k g l th h d f h j b
Q Ok y A d
A S th y t t g t p d h t f th
h d pl pe t g f th t
Q I m th y I th k I d t d th t
A d th S p t f b d th d g /b ld
t f th d g /b ld h d d p f t?
A C
Q T ll m h th t me
A Th th t th h t th
b d y u k it h t we mak up th b ld g
Wh t th t f th t f th h ld g i
Q Th t uld l d th
A FF4E

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Q FF4E?
A Y
Q H b th li ?
A I t k th b k It d p d d I d
m mb f T w p bl f FF E t b t
p b bly we b t p ob bly t l p k g
Q Ok y W ll th t ly l
h MOU Th t w th g b d d d I by
th d f iti itte g ?
A I ld h k t ld b h th
Hil y i th t y q i
Q Ok y
A B t y k w I y h it i y
fil m pl I th y h d T t
b kd n d it w ll h il th b y
k w t g i p t d
MR DETWILER Ok y
(DEPT EXH 4 I t g y A
ma ked f id tif ti)
BY MR DETWILER
Q I g i g t h y p f int g t y
th t y l y t d sk d f
t mi d m f ll d g lai d t b
t i d by th pl i iff hi h ld b St n E
W lki

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Q El Ad i h omp y
A N p b bly mp y
Q Y d k h th i
A H h h
Q O h d k h h l
p y d t k w wh h t ll b I
k
A N I k I t t ll y ly hi h
h h y l th j b
Q Ok y
A I y k h d I k h d
l t h mai sai l t m k
th t th m li d th t t d d
f i h y k mp d l ph d
t ff l k th t B I d t memb th i m
Q D y th d h th
p g p g th b t lk g b t
h h th h d l f th f y d g
h p d by b dy y f r
A Y t w
Q Do y k h th t
A P b bly D N
Q D H Wh @ Mo
A H p j ma g fi
Q Ok y

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A N p j t g r h p j
Q I h t ll w th y
A N
Q A d t rm f d f g h d t l f th
h tly t lk g b t h t d n t i th
i pp th b ld D H b th
p w ld d t lk t ?
A H ld k l mo t t h I
ld
Q Ok y All gh
A Th t y k I k d h t p p
th i d t g t D k
Q S G it
A d y i d whil g d I d d
lly l y pl i D b S wh h ?
A Sh l l h t
Q Ok y A d h J t d h
th f d g it y
A Sh p t f h i i g up
Q G t t And it my d t d g f om y
t im y l th th th t gg d h
b i g d th d l y f th GHP
A W th pp l
Q W h pp l f th GHP
A (N d h d)

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Q ly
A A d h f g
Q k y Ok y Y d h 600
Ik d b $797 000 h t lly p d by h
y
A Y
Q L t Ik b h t I ll y
ll ti f h th t th y b t
t b d
A W ll th t J ly l t g th
p m d by th i t m mb f
h de g h t i th f l
p k g th h l b ll f And h pp d
by il t i
Q Ok y
A A h ime f I I m g g f
m y H y C bl k d h h b d ld b
ld
Q Y h
A A d t I th k th d w l k
Oc b 13 h t m Oc b h t p d
d f h b d t h ld
Q A d h h t B ll C d d
A
Q A d h ith C g p?

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A R gh
Q Ok y
A h p t I mi d d ty l h t
J b mpl t d d th HOU mpl t d
d I d th p we p t i g
p l d til h b d s ld And h y
k d t g l t t h did th t ff ct th
p g d t f th h t l A d id w ll t
J ly th t O t b A d y k w b i ly it
g ing t d l y y k y m gh w ll f g
y k h m y m th h t i d l y f
f g i g t gh th gh th ld
b d l y S I k d by il I th k
p f lly B b C bl t m p h t it ld t
f k g I t ld h m I d g b k t
th ff d f g d g t ba k i t h
Q R ght
A I w t b k d p p d d cum t h t I
t t Sh Epp th t t m d I thi k $650 000
g h gh O b th 13 h If I t m tak A d
$75 000 we k f h w k ft tha il
mpl t d th p j t I t ld f r h
il m i g h w t th th
pp d d th t w wo ld p d
Q Ok y S h f th pp d t th

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A Th h t h g l h
l p yb dy
Q E yb dy Ok y H b ll igh
ll ll gh Th t f
I h d m t l I f
y p g 3 f th d m h y l f h
ty I p g ph 4 R d th f
A P g 3
Q P g 3
A R I f th ity k y
Q P g ph 4 J f l l y lf th
h fi t t th p g ph if y ll d
l t k y q t
Ok y
Q S y ld g with m h h i y h d
ght t d t m wh t I l f d b pt bl
i d hi p g ph Tha h t th y
A I ld b d th y y
Q Ok y A d h t p g ph l
I t g ll g i g d w t h p g ph
p g ph 5 d y s h
A Y
Q I y h t th y i ll g p d
d t h nc m t t pp t m t p bl t

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th ity h h ld be il zed f y d bt v
h f ll n th b di t bond d h t l b d
bl h bl h blah
Do y th t
A Y
Q S gai th c ty h d gh t
d t nm h t pt bl t t i t m f h
m h dit h em t t w g g t h v t pply
t th d l ight
A App
Q Ok y And d y k wh th t th
t dit ha me t p ti w mpl iy p d
d
A I d t
Q Okay A d th ty had r ght t ppro
th h t l b dg t d th th l t p g ph
p g 2 ght
A Right
Q D y k heth th fi l
d vel pm t b dg pp v d by th ty?
A It
Q It Ok y Wh th t d
A July
Q That w J ly f 03
Ok y N l k pag 4 f m if yo

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ld pl I h h l f h
d l p p g ph 3 p d l p f nd g
A y h m
A Y
Q Ok y h y h th p j
ll p bl f h t d p t
l g th fi g I h gh
A Y
Q A d h j th t h y f
y g h p t th l g f th g h
p j t k
A N
MR NEWMAN Obj t t h f
BY MR DETWILER
Q Wh d h m th
A I m th d l p t k I m
ll I id I ld d i g h GMP g
gh d g g h g h GMP
Q Ok y
A N k g l f g
l d
Q W ll thi y t f I g
h d m th y g d
Y h
Q Why d y d th

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A I d ta d b it d th l f h
d l p
Q A f t th p j t t m ll b
p bl f h d p t l g h
f g S t y t t y th t th t d t
pply y u
A It y t mo y th t l d gh
k g g d m p h t
pt bl t th y hi h h t d d
Q A d
A And I ld h d y m k
l h ty k d t d k
Q Ok y
A Wh h h y did
Q Wh h th y d d d h y p d y f h
t k
A N th y did
Q Th $69 000
A Th y p d th h b I i d
k
Q Ok y Y t h h y
t pl t d h y g d thi HOU g g t b
i h I h t wh y t if d t h l
g
A Y

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Q gh
R W WHAT Obj t th f
BY MR ET ILER
Q A d h y h h p j w ll b
p l f h t d p l g h
f g h y c
A Ok y
Q Ok y S ld t l gi lly fl h
h th y h ld b th
p b l y f h p) t
A N
Q d h d l p d h p y h d
t th
U il h y k d m t t t k
Q Ok y
A A d p d p y f
Q A d h t h
A Th ly
Q Th t J ly
A R gh
Q Ok y All gh A d i y
t t y th t h th h h i y k d y
k i J ly f 2003 h y y g h t
th y g g p y y f om hi g th th
p ifi f k h yo g g d

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h f m h p i d f ll i g hat?
A Tha h th y g d t d h Wh h
p f t p d h h l d l h th t
P b y 4th t g t b d l g i h
y h g I m th p j y d g
f h d yth g d
Q Ok y
A And f d h d
d l d ve y h g th t we w pp d t d d t
h d b p d And th y d f
t t f th k p f m d ll h k
p f rm d
Q Ok y All ght R y p f
p j t m ght
A I
Q A d th p j k d i h
deli g p k g t
A W did W
Q Ok y A d h d d th i y did ty
l t pp h ll p k g th t
th p j t p d?
A I J ly y
Q I J ly
Y
Q All igh L t m k y hi q ti d

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h y h b d ff t i l h h y
ki g R d y ll h
b i g h g d h h h y
h p f p t h i h f h
h l g g h p y p p y t
R hl C y?
A I d mb h
MR DETWILER Ok y Th t ll I h f
ght A d I th l y m y h f
q t D y ll k b k
MR THOMPSON Y
(Off h d)
EXAMINATION
BY MR PAUL
Q M Lyl y n i Jimmy P l T by W d
d I p R A gh y d W d /A gh y d
V t t l I ll b k g y q ti f h l
thi ft
A P D l d f y d d
h I y h t I by h I y l m k
nd ll t th q Th
th t H Det l g pply h s p
f h d p ti th me d p
A I d d
Q I ll t y p t th q h

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k d y I y k m b th m bj ct
t h I g i g t y y b p h
am th g th h l dy k d y
I t f j y b Xg d h d
t f t Y d p t q t y h d
g d p b f H y b p y
t t l d d lly y lf l t
A P lly?
Q T i
A I d b ll
Q Okay H y t f d t t
t l
A I h
Q All r gh H y t m ?
A Thr f
Q Ok y Gi h f t h t y
ll pl
A It w d I t ifi d
t th l f h l d yo k f m
h t l dp t pl g dp l
Q And h l g g h
A G lly t th Bl ff R d I ??
A t lly th t w h I b l g
20 dd ye g
Q Th d i h t y ll t t fy g

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A I don t think I did
Q Did y ver have any contact with Salomon Smith Barney
A No
Q You said the f nancing aspect of this would not be your specialty is that correct?
A No We re builders
Q Mr Alles will be more up to speed on the financing
A I guess I would be surprised That s just not what we do
Q As to the MOU what is your understanding of what the City s responsibilities within that document were
A Attend meetings make decisions related to the program and keep the team moving forward
Q When you say keep the team moving forward did that nvolve any type of good faith effort to secure financing for the project
A Yes That s the way I would interpret that
Q Did you expect the City to use good faith efforts to secure bond financing
A Of course yes

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MR NEWMAN I think that s all I have
(Whereupon off-the record discussions ensued)
MR HINSON I ve got nothing
MR WARD Nothing
MR DETWILER I have a few follow-up questions
RECROSS EXAMINATION
BY MR DETWILER
Q Do you have any opinions or have you been asked to form any opinions with regard to damages that Turner expects to try to prove at trial?
A No
Q Would that be in your realm of expertise even if you were asked to do it?
A No I m not sure I understand the question honestly but I ll - I don t work there anymore so -
Q Well I g ess what I m asking you is are you qualified to give testimony regarding damages suffered by Turner in this case?
A I think Mark Alles would be a better candidate for that in that he was delivering the

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service the hours that were put in from a staffing standpo nt et cetera et cetera I m not sure if I m helping you but that s --
Q So are you saying that it is possible that you could gi e that testimony or you would not give that testimony?
A Ask the question again I m sorry to belabor it
Q Let me ask it another way Who would be the most knowledgeable person with regard to damages suffered by Turner?
A Gosh Probably me or Mark would be my answer
Q Okay Then tell me if you can what damages Turner has suffered as a result of anything the City of Columbia did or did not do
A Could you define damages
Q I m asking you to define damages
A I don t think honestly I don t think we re seeking any damages I think we re looking to be reimbursed for the actual time and effort that was put into putting the GMP together
Q And when you say we you re talking about Turner?

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A Turner
Q And then tell me what that entails What number is Turner seeking?
A From recollection somewhere around $700 000 or something like that
Q Okay And how was that number arrived at
A Staff looking at dollars that staff costs primarily probably some copies telephone calls normal prosecution of putting the GMP together
Q What is your understanding of what is meant by the term in the MOU feasible or feasibility Do you recall that term in the MOU?
A I remember the words in there I would suspect it means -- for me it would mean will a 200 300 ro m hotel whatev r it was fit on this site Is it feasible within this budget constraint? That s the way I would interpret that
Q Do you recall who has a right to determine whether the hotel was feasible as set forth in the MOU?
MS PILLOW Objection as to form We

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Was any sort of gr ement ever rea hed between members of th project t am with regard to what the r general fees would be?
A Better ask it again Sorry
Q It s lunchtime
Let me go back and refer you to -
A I remember the one that had Turner Construction and Construction Dynamics Is that the one you re talking about?
Q Let s go back to Defendant s Exhibit 9 the e mail from Mr Alles to you
A Yep
Q Tell me what the date of that e mail was
A April 2nd 2004
MS PILLOW What exhibit are you looking at
THE WITNESS Am I looki g at -
MS PILLOW No Look at Exhibit 9
THE WITNESS Oh I m sorry I m looking at Exhibit 11
(Whereupon off the record discussions ensued)
A Exhibit 9 is dated August 15th 2003
Q So that s the summer of 2003

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A Yes
Q D d memb r of the project te m reach an understanding between each other as to what their various fees and comp nsation rates would be at any point subsequent to this?
A This would be a better question for Mark I don t recall
Q Fair enough
MR NEWMAN I don t think I have anything else
CROSS-EXAMINATION
BY MR HINSON
Q Mr Little my name is Francis Hinson I represent the Garfield Traub and Gary Realty parties My question is in regard to the February of 2004 time frame
Was there anything any disagreement o other potential roadblocks that you saw at that time that could have potentially derailed this project speaking of again February 2004
A No I think that s about when the GMP was approved I think we were rocking and rolling and ready to go
Q So would you agree there was a meeting of the minds at that time frame in regard to all

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of the major points
A Yes absolutely
MR HINSON Thank you
FURTHER RECROSS EXAMINATION
BY MR DETWILER
Q So it was your understanding there was a meeting of the minds as to the debt coverage ratios and the financing and that the City approved those
A No My meeting of the minds was referring to the GMP that we presented
Q So the only thing you re talking about - I think the question was much more general than that But your answer is confined to the GMP and a meeting of the minds with regard to the GMP is that correct
A That is correct
MR DETWILER Thank you That s all I have
MS PILLOW That s it
(Deposition adjourned 12 20 p m)
(Whereupon it was agreed among counsel and the witness that the witness right to read and sign the deposition would be reserved)

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I PAUL LITTLE Deponent do hereby certify that I have read the foregoing deposition and the same is a true and accurate transcript of my testimony except for the changes listed below if any

PAGE/LINE/CHANGE REASON

_____

If additional space is needed please attach separate sheet(s) and indicate number of additional page(s) here _____

_____
PAUL LITTLE Deponent

_____(Notary Public)
Date Notarized _____
My Commission Expires _____
Donovan Reporting P C FAX 770 428 5801
237 Roswell Street Marietta Georgia 30060
Date of Deposition August 26 2008 CR CMR

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or not anything was modified as far as the agreement itself is concerned

Q Okay So sitting here today, you can't -- there were no modifications to the MOU?

A There were -- there were no written modifications as to this MOU as presented here

Q We've covered that

A Right

Q I'm asking you about unwritten modifications There were no modifications, oral or otherwise, to the MOU is that correct? And if I'm incorrect in saying that I want you to tell me what was modified

MR HINSON Object to the form

THE WITNESS What modifications that I believe was made to this form other than what's not written in this form? That's the question, right?

BY MR DETWILER

Q That's right

A I would say there was not -- no modifications to this particular form that was made

Q Okay And there were no other agreements with the city?

A No other signed agreements

development fee breakdown?

A Yes

Q Are these amounts included in that summary we saw earlier?

A I believe so

Q Okay And I mean, had you just asked for the breakdown? Was that, was this the normal, was this sent to everybody or just you?

A I can't say who else it was sent to But I believe that it was requested by all members of council

Q We saw where the corporation voted -- well, first of all Did city council ever vote to not build this publicly-owned facility?

A I don't believe so

Q And so the process that was begun in 2001 before you came on, the MOU, the agreements and minutes we've seen here, that process was never formally to your knowledge stopped?

A I guess I would -- depend on what you mean by formally

Q By a vote of city council

A By a vote of city council? Not that I can recall

Q The Stevens & Wilkinson as you saw continued to

work after that period of time described under the MOU and council voted to pay them additional moneys through bond closing?

A We voted to pay them $650,000 which was the estimate we received through October Yes

Q Right And they ultimately were paid more than that, about $710,000 according to these documents because they continued to work even beyond that, beyond the October 10th isn't that correct?

A I can't recall But I wouldn't disagree with that, no

Q But if the documents indicated they said the 650 through October 10th which was the anticipated bond closing, and then $60,000 a week after that until the bonds closed Do you remember that letter?

A Right

Q Okay Now, Stevens & Wilkinson had agreed in the MOU to not be compensated up to the point where they did the drawings and engineering so that a guaranteed maximum price could be discerned is that correct?

A Correct

Q That would be --

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bonds to provide enough monies to finance the project

Q That s just simple math?

A Simple math

Q And how did you arrive at the amount for the senior bonds?

A The senior bonds were driven by needing a minimum of two times debt service coverage So I am provided with my hotel net operating income that generates -- that number divided by the debt service on the bonds needs to be at least two times

So the debt service on $35 million if you look on page 2 down the next debt service coverage ratios senior debt service ratio two times So at a minimum the debt service on the senior bonds

Q Right

A okay needs to be covered by the hotel net operating income by at least two times

Q And two times where does that number come from?

A At the time of in December of 2002 when this announcement prepared, the rate agencies the bond insurance companies

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investors all deemed two times debt service coverage enough cushion

Q That would be the minimum?

A That would be the minimum

Q Well, let's go down and talk about these debt service coverage ratio figures that you have at the bottom

The senior debt service coverage ratio is two?

A Yes

Q That's the minimum number?

A Yes

Q And from that falls an aggregate I guess debt coverage ratio for all the debt, is that what

A Yes Well again in the first column the 1 44 is the coverage on the senior and subordinate bonds So again it s the hotel net income divided by the sum of debt service on the senior bonds as well as the subordinate bonds

And then the final row the total debt service coverage ratio again hotel net income divided by the aggregate of all three series of bonds

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Q And did you do you recall the City of Columbia ever getting involved in a discussion of the - an acceptable debt service coverage ration a ratio that was acceptable to it?

A Not that I recall

Q Okay Who did you have conversations with, with regard to the debt coverage ratios?

A The primary contacts from the city at the time were Steve Gant Shaun Epps were the two primary contacts

Q So you did have conversations with them about it?

A Of course Ultimately and again as we will go through this ultimately the plan of finance evolved to the point where the subordinate bonds in this analysis were assumed to have support from the city

And ultimately the transaction evolved where rather than selling three series of bonds the city chose to sell one series of bonds and to support -- unlike this scenario where the city would have supported all of the subordinate bonds

By the time the ultimate plan of finance was determined in late 03 early 04

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which was ultimately rated and insured the city chose to issue one series of bonds and backstop a portion of the debt service on one series of bonds

Q When you say backstop what does that mean?

A It means that if we are selling say 60 $70 million worth of bonds and there is debt service on those bonds of five to $6 million to get to investment grade ratings to get the interest of a bond insurance company based upon the coverage that the hotel is generating coupled with a certain level of city support, gets you to the investment grade and gets you to the bond insurance

And ultimately the amount of backstop from the city to get to investment grade ratings and get to bond insurance was 50 percent of the debt service for the first 10 years and 70 percent years 11 through 30

Q So when you say backstop, in other words, that s what the City of Columbia --

A The city

Q Let me finish my question

A Sorry

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Q If I understand what you re telling me is that s what the City of Columbia would guarantee if the hotel did not cash flow enough to pay the bonds themselves?
A That s correct
Q Okay In other words they would have to take that from other revenues somewhere else to subsidize the hotel?
A That s right
Q Now and I think you said ultimately it got to 50 percent for the first 10 years and 70 percent for years 11 through 30 is that correct?
A That s correct Again to get to a BBB rating from Standard & Poor's and to get Ambac to agree to insure the bonds the agreement with the finance team with the city with the agencies with insurers with a 50 percent backstop from the city years one through 10 70 percent years 11 through 30
Q What backstop was required in this first scenario that we have been talking about? I m talking about the 12/5/02
A Sure This first scenario would have assumed that 100 percent of the subordinate bonds

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would have been backstopped which is the reason why the interest rate on these bonds were assumed to be 4 8 percent because they had the benefit of the city backstop
Q So in other words --
MR HINSON Excuse me for a second I m just wondering if any of the other call in folks are having the same problem I am struggling to hear It s like it almost doesn t sound like a microphone and a volume issue it s just cutting in and out and it s getting almost impossible
MR DETWILER Well I don t know what to say
MR GRAHAM The only thing I would suggest is I do think y all were talking a little bit over each other and I bet that s the reason why I think even more so than usual
If the witness would just wait a half a second I think that might solve some of the problem
MR DETWILER Well let s try that And we ll both try to speak up I don t think I have that problem but you have a

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softer voice than I do
BY MR DETWILER
Q Let s try again What were we talking about?
A I believe we were talking about on the analysis that s before me what portion of the debt service would need to be backed by the city and I was saying that in this scenario it was assumed that the city would backstop 100 percent of the debt service on the subordinate bonds which is the reason why the debt service on the subordinate bonds was 4 8 percent versus 6 6 percent on the senior bonds because those did not have the benefit of the city support
Q And the bond amount, the total bond amounts were going to be $58 630,000 at that point?
A That s correct
Q And so we are talking about the city backstopping at that point about a third of the bonds?
A That s correct
Q And the senior bonds nor the junior bonds enjoyed the backstop of the city at all?

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A That s correct
Q Now you mentioned going to page 2 of this document you mentioned that the total revenues shown on the top line of page 2 those were numbers provided you by Garfield Traub?
A That s correct
Q And what other numbers were provided from outside sources that allowed you to create this model?
A Okay Clearly the net operating income as footnoted and the construction amount which is shown here in total of being 46 odd million dollars
Q Okay
A And again with other than that, again obviously you make the other assumption in this analysis is the length of the construction period
In the bond in bond financing the construction fund deposit that means from the bond proceeds you take $46 million you put it into a trust deed account, and that money is drawn down as construction dollars are needed to build the hotel
Q Who vetted those numbers?

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premium on the use It also shows additional costs that Ambac has discussed in this document

Q Okay And you re talking

A DEFENDANT Can we have the witness say what document he s talking about?

MR DETWILER I m sorry I was getting ready to do that

A This is Defendants Exhibit No 10 which starts with the e mail correspondence to Steve Gant where I am updating Steve on the Ambac premium that effectively by lowering the premium it pays for half of their legal insurance fees

And this document shows on page 11 of Exhibit 10 CL3119 shows as cost of issuance two line items for Ambac which would include their legal and their insurance counsel fees

BY MR DETWILER

Q And this is you are talking about the detail attached

A That s right

Q to the model of what date?

A Of February 24th

Q Okay February 24th, 2004, there is yet another model here, and it has those costs

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you ve just identified?

A Yes This analysis shows as use of funds the lowering of their upfront fee from 2 9 percent to 2 85 and then an increase in the aggregate cost of issuance to be inclusive of insurance fees and Ambac legal fees

Q So as of 2/24/04 at least, this deal was still evolving?

A Yes And Steve Gant from the city was in receipt of an e mail that showed the impact of the revised Ambac fee and an additional cost

Q Do you ever recall talking to anybody about property taxes on the hotel?

A Typically in these not for profit hotel transactions property taxes are not charged This is a if you will a governmental building so typically these are not on the tax rolls

Q In fact your models do not reflect any cost for tax property tax

A Yes The PKF as they prepare their feasibility study you know again did not include a property tax item If they saw a hotel model for a privately owned hotel there would be

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a property tax

Q Going back to my question

Do you recall having any specific conversations with anyone about property taxes on this deal?

A I don t

Q This commitment from Ambac was for $63,295 000 If it had increased to the level of your February 11th 04 model of $69,870 000 would Ambac have required a higher standby commitment or do you know?

A Well again I will tell you in my words what the difference between the 63 million As I said before if you look at the $63 million model versus the $69 million model the majority of the difference is in fact the upfront bond insurance fee

So that s why again not to tell you that I disagreed with your interpretation of this $63 million saying that they weren t committed to the 69 because the major difference between the two analyses was simply their fee

Q Was their fee?

A Yes

Q And the additional capitalized

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interest?

A That s correct Which, frankly was most likely one of their you know requested items as well

Q And -- but I guess going back to my question do you know whether or not, at this higher bond amount, Ambac would have requested a higher standby commitment from the city? And if you don t know --

A Again I stand by that this was their commitment and this was a subsequent discussions with them

If I went back and looked at my -- all my e mails, there may well have been an e-mail transmission to Ann Raven at Ambac that showed her if you will a more recent analysis than this October analysis saying that, you know her 2 85 percent fee whether it was 63 million or 69 million was on the table and, in fact, the proposal from them

Q Well let me represent to you that after much pain and subpoenas and e mails and telephone calls we have asked for and I assume received every document that Citigroup has with regard to this transaction

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but I think I understood you to say the construction cost did not increase it was other costs that increased right?
A That is correct yes sir
Q But if you d look if you would, at Roman Numeral 5 Paragraph 4 and the bonds it says The proceeds of the bonds will be sufficient to one pay the development and construction cost of the project, two 100 percent of the debt service on the bonds during the construction period and pay a portion of debt service during the first two operating years three fund debt service reserve funds for the bonds four pay the fees of the underwriter as described- — below and five pay other financing costs including costs of bond and underwriter s counsel rating agency fees trustee fees financial advisory fees printing costs costs of feasibility reports in amounts satisfactory to the City ' So all of the non construction that has all of the costs that you said were causing the increase the fees and the insurance cost and the underwriting costs those costs were contemplated at the outset as part of the cost of the bond deal right?
A Yes
Q And so it s not like these were a surprise It s

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just that the deal started out with a $60 million bond issue and long before it was over it had grown to a $7 million bond issue right?
A That s correct.
Q And partly because of all these fees and partly because of insurance requirements
A Well when I said the construction costs had not grown I'm talking about they ve not grown since we issued a guaranteed maximum price in I believe it was the end of August of 03 When we entered into this MOU at the time we didn t have floor plans or quantities or anything to take a reasonable estimate from It was just our guess -- I shouldn t say our guess our estimate at that time of hopefully what it was Until you start designing a building on the site and understand the site constraints and understand more of the nature of what you have to do the best you can do is take an estimate and hope they can get there In fact when we gave the GNP the City consistently told us through Steve Gantt, and possibly Shawn Epps but certainly Steve Gantt that we need to get the project development cost under 50 million which we did And then the City not only said keep going that's what we want but that's when they authorized payment to the architects for

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additional plans so that we could refine the cost better and get it to a point where they wanted more finite plans done although we were willing to sell bonds at an earlier stage It was the City who wanted more drawings done
Q I move to strike that as unresponsive to the question. What you just said following up on what you just said goes to the point in Roman Numeral I Paragraph I doesn t it where it says This MOU reflects the intent to proceed in good faith to execute definitive written agreements ' meaning as you just said when you all signed this MOU in April of 2003 you didn't have a physical design you were going to get one right?
A Yes
Q And you didn t have a guaranteed price you were going to get one?
A That s correct
Q And you didn t know what kind of parking lot facility you would have and what kind of revenue costs there would be, you had to work that out?
A Correct
Q And you didn t have a qualified an IRS qualified Hotel Management Agreement negotiated that had to be done?

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A That s correct
Q All of these things You didn t know whether you were going to have one, tax exemptions or whether you would have to pay all those taxes right?
A That s correct
Q You didn t know whether you were going to pay construction sales tax or whether you were going to get exemptions from construction sales tax?
A Yes
Q And so all of that had to be worked out?
A Right.
Q And that's the reason this document is basically this MOU is a guide a Letter of Intent if you will to get to to guide the lawyers and guide the people and get the definitive agreements right?
A That s correct
Q And none of the definitive agreements ever got executed did they?
A The answer is no and they would not have been until the bond closing And we were prevented from putting all the doing that by the City deciding not to go forward
Q I think that's all I ve got.
(Deposition concluded at 5 12 p m)

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at this meeting you were not at this meeting is that correct?
A Correct
Q But this is in February of 2004 At every one of these meetings Stevens and Wilkinson or as contained in this meeting the meeting minutes and meetings you attended they were updating you on what they had done that week, is that correct?
A Correct
Q And for example and maybe you haven t looked at these specifically but let me let me see There's a number of areas in here when they talk about what S&W and others are doing But I mean, every week they were doing things that is Stevens and Wilkinson, in terms of design, additional architectural work, is that correct? I mean, they were going forward designing the building and doing all the things strike that Let s put it this way What they had done up to July was to do enough design that you could get the -- an estimate of the maximum price to build the thing is that correct?
A It's my understanding they had gotten to some percentage of completion of the plans that

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Turner Construction could then use those plans to determine what they thought the guaranteed max price would be for the project Yes
Q And then going forward from July the idea was to go ahead -- I mean, those are not complete plans That was just enough of a plan so people could give a guaranteed maximum price is that correct?
A. That's correct
Q So then they continued to do the design work and continued to do the architectural work And the City indicated that they should go forward with doing that And I guess my question would be to you When did they tell them to stop doing that? When did they tell Stevens and Wilkinson to stop working?
A I would -- I'm not 100 percent sure but I would assume that was sometime around the April 2004 timeline when the RFP was being prepared for the private hotel deal.
Q Okay Now there was a vote to issue an RFP in April
A. Yes sir
Q Okay But to your knowledge was there a vote to stop this project? That is to say

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Stevens and Wilkinson, everybody working on this thing stop Was there such a vote?
A Not to my knowledge
Q Were you directed to tell people to stop by the City manager or by City Council?
A No
Q Okay And matter of fact today as we sit here City Council to your knowledge has never voted to -- under that MOU that the project wasn't feasible Have they ever done that to your knowledge?
A No
Q Have they ever voted to tell Stevens and Wilkinson Gary Realty Turner or anybody to stop working under the on that project?
A No
Q And you re the project manager correct?
A Yes
Q So if City Council were to take some action to do that would it be you that would have communicated it to these folks?
A Probably so
Q I mean every other communication has been through you correct?

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A Most all of them, yes
Q Okay Now, after that payment in December that we have seen the invoice for and that invoice was in December, and this was for work done through October, is that correct?
A. That s correct
Q Okay When they had -- were you being apprised by Stevens and Wilkinson that they were continuing to work after that October date? I mean, in these weekly meetings I mean, you knew they were working
A. Yes
Q And you re the representative of the City
A. Yes
Q Were you reporting that work to anybody any superior or to City Council?
A Council was aware that we were moving forward on the project
Q And they were aware that Stevens and Wilkinson and others were continuing to work on this project even after the the I guess I would call it at risk date back in July For instance Stevens and Wilkinson when they finished what they were supposed to do under the MOU, City

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A I think probably from the whenever this (indicating) June or July date up through February or March, that they had concerns about the coverage on the financing for the hotel
Q How was that expressed to him?
A Face to face
Q In executive session or in
A In one particular case and I think it may have been the Columbia Facilities Corporation meeting was upstairs It was a public meeting
Q Did anybody ever tell Stevens and Wilkinson about that to your knowledge?
A Well, Mr Lumpkin was our contact person for the team
Q Right But this issue, this deal with Stevens and Wilkinson, was a check directly to them, correct?
A Yes
Q It wasn t any deal with Mr Lumpkin that he was going to be paid for doing anything post July
A No
Q Just Stevens and Wilkinson?
A Yeah Mr Lumpkin was in the meeting

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where they discussed this and determined that's what they were going to do
Q Did you communicate to Stevens and Wilkinson that at any point after October up till the April RFP that they were working at risk again? That the rules had changed again?
A Not directly no
Q Not directly? Did you do indirectly? How would you have done it indirectly?
A Well the MOU says you're at risk
Q Okay But the MOU said you're at risk, then City Council -- when they said, okay we've done what we're going to do at risk. We're putting our pencils down City Council said no, we don't want to waste time, pick your pencils back up and we'll pay you. Did they not?
A Yes
Q And they said initially 650 They paid them more than 650 Did anyone ever tell them to put their pencils back down?
A No
Q Okay So isn't it reasonable for Stevens and Wilkinson to believe that they should be paid for what they did up until April? I mean you were there on the ground Wouldn't it be

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reasonable?
A I'm not sure that s a decision that I would make or have an opinion on
Q Oh, no no Well you're the manager You re the guy running the show You re meeting with them every week. You've watched them as they're doing what they're doing You watched their labor You watched what they are doing I mean, they said in July our pencils are down. City Council said no pick them back up, we don't want to wait
Isn t it reasonable for them to believe that they should have been paid for what they did after City Council told them to pick their pencils back up?
A I don t know
Q So you have a question about that? They could have reasonably expected to be paid
A. I guess they could have yes
Q I mean, based on the context of what was going on, you're at these meetings you re watching them work, and you re the project manager So it was reasonable for them to expect to get paid for that work It wouldn t be unreasonable for them to expect it

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A It was my understanding that the payment that they received was for a specific period of time
Q Okay And that period of time was over when?
A. As you have stated I think a three month period to get us from 50 or 60 percent drawings where they could were able to do the guaranteed maximum price to construction documents
Q Okay Now when that -- but when -- and then the it was supposed to go to when the bonds were supposed to be issued in October, right? But the bonds were not issued?
A The construction documents would have -- had been in place in order for us to issue the bonds
Q Right But I guess what I'm asking you is Who told them to stop working that they were at risk again? Because obviously what the Council you would agree with me what the Council did in July was not consistent with the MOU is that correct?
A That's correct.
Q Okay So they changed the agreement with Stevens and Wilkinson And the question -- is

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that correct? I mean, the agreement with Stevens and Wilkinson was you'll work at risk till you generate a document that a guaranteed maximum price somebody could Turner Construction can tell you what the GMP is Right?
A Can you repeat the question?
Q Their agreement under the MOU was to that is Stevens and Wilkinson with the City -- was you are at risk, you will not be paid for generating construction drawings to the point drawings that would be sufficient for Turner to generate to give an estimate of the guaranteed maximum price That's what they agreed to do at risk
A. Yes
Q They did that by July and said we're putting our pencils down because we've done what we said we would do at risk Isn t that correct?
A. That's what they said
Q City Council said, no, we want we don t want to wait we don't want a delay We're going to ask you to pick your pencils back up what will it cost to get through bond closing which is we estimate to be October And they said and there's a document I don't have it

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with me today - but they said $350,000 plus $60 000 a week, which is what was submitted through you to City Council Do you remember that document?
A Yeah Actually it was submitted directly to Council That meeting was held with Council
Q You're right And Council came back after seeing that document and voted 650 000 although their
A. It ended up being more than that
Q -- their invoice ended up being more than that. There wasn't a separate vote of City Council to appropriate 697,000 Y'all just wrote the check
A. Yeah I would like to see the backup on that would show what the difference was which I don't remember right offhand
Q But it was for more than 650?
A Yes
Q Okay And that was through October They continued to work through the rest of October, November, December, January, February, March, and at some point stopped working on this project Although as you have conceded they were never told

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to stop working Right?
A Correct
Q And during the I guess what I'm trying to get to is During that process during that after October process well let me back up First of all we have agreed that the City modified its agreement with Stevens and Wilkinson by having them work after that July period when they put their pencils down and agreed to pay them, correct?
A Council did agree to pay them
Q Okay The question I have is When did Council or you tell them to stop working? Did they ever?
A Not to my knowledge, no
MR HARPOOTLIAN Okay Let's take I may be done Just give me a couple of minutes
(A recess transpired)
(Mr Harpootlian and Mr Newman left the deposition)
MR SUGGS Okay Ready to go forward?
THE WITNESS Yes, sir
EXAMINATION
BY MR. SUGGS
Q Mr Gantt, I m Ken Suggs I represent

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Gary Realty and the Garfield Traub company in connection with this lawsuit against the City and others And you understand that we noticed your deposition today not in your individual capacity? You understand that?
A Yes sir
Q But as a representative of the City?
A Yes sir
Q And that you understand that you're speaking for the City as you sit in that chair today?
A. Yes, sir
Q Okay And the City could have chosen any number of people to do this task, correct? I mean, they could have chosen the Mayor to speak for the City?
A Yes sir
Q They could have chosen the City manager, right?
A. Yes sir
Q They could have chosen, like Geico Mrs Butterworth?
A. Yes sir
Q Okay But they chose you Do you know how they chose you for this job?

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development team signed the agreement
Q All right. And then in the hotel description under Paragraph 3 this Memorandum of Understanding says The hotel is to be branded as a Hilton hotel correct?
A That's correct
Q Okay All right Turn to Page 4, and there s a Paragraph 3 there that talks about pre development funding And at any point when I'm asking you these questions if you need to take the time to read something please feel free to do that
A Okay
Q The -- I think it's one, two the third sentence in that paragraph starts out If the hotel financing fails to close as a result of the City not meeting its obligations outlined in the Development Agreement and my question is Is there a separate document called the Development Agreement? Or does that refer to this Memorandum of Understanding?
A I think that's a separate agreement
Q Have you seen such a separate agreement?
A I don't -- I don't remember seeing

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that Most well, all of the agreements and there were a multitude of agreements that had to be fleshed out and approved, were handled through Joel Gottlieb's office
Q Okay But my question to you is Have you ever seen a document --
A I don't recall seeing a Development Agreement No
Q Well, turn back a page
A. Yes sir
Q The City's obligations under this agreement this Memorandum of Understanding, are outlined in Paragraph Roman numeral V, is that correct?
A Yes sir
Q All right. Number 1, it says The City agrees to acquire the hotel site
A. Yes sir
Q Did the City do that prior to April of 2004?
A Yes sir I believe it did
Q And had the land been conveyed to the nonprofit corporation before April of 2004?
A No sir I think it was still held by the City

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Q Had in Number 2 it talks about a parking facility up to April 2004 Had the City developed a parking facility?
A We were in the process of developing a parking facility Yes sir
Q Was the parking facility ultimately developed?
A Yes, sir it is
Q In Paragraph 5 of Roman numeral V it talks about the City credit support and says The City is willing to provide a credit enhancement to support an amount acceptable to the City which would be utilized for any debt service shortfall on the subordinate bonds or hotel bonds (as the case may be) if project revenues net of expenses are insufficient to provide for the debt service on the subordinate bonds or on the hotel bonds
Did I read that correctly?
A Yes sir, you did
Q What does that mean?
A That means that the City was willing to backstop the bonds to be issued for the construction of the hotel with our water and sewer fund
Q Okay So if there was a short -- if

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the bonds were not sufficient to manage the debt service on the hotel?
A. If the revenues were not sufficient to satisfy the bond interest and principal payments then the City would utilize water and sewer funds to backstop those bonds Yes
Q Okay And I think you said earlier that the MOU was drafted originally by Edens & Avant and then revised by some people from the City
A. Reviewed by our legal department.
Q Okay And then the Memorandum of Understanding was presented to City Council, is that correct?
A Yes sir
MR. SUGGS All right. And for some reason, I only ended up with one copy of this But here's a copy of the City Council meetings from April 16 2003 Can we mark that as the next exhibit please, ma'am
(EXH 7 City Council Work Session Minutes 4/15/03 was marked for identification.)
BY MR. SUGGS
Q All right Exhibit 7 on the second page has an indication that City Council voted

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and the single bond issue seemed to be the one that had the best chance of being for us to move forward on

Q Okay And then Exhibit 24 which is the typewritten minutes of that same meeting or the public part of that meeting, says Upon motion by Mayor Coble seconded by Mr Cromartie the board of directors voted four to one to approve the new financing for the hotel

A Yes sir That's true That is correct.

Q Okay And when they had that vote they knew all of this stuff already about bond coverage issues right?

A They had received all the information

Q All right They were fully informed correct?

A They had received all the information

Q Okay And you had made your best efforts to make it clear to them

A Yes sir

Q Okay Now while we're on Exhibit 32 go back to the first page Mr Paul has you -- or read some of this about the taxes It said here, Joel G brought up the fact that there is an issue

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with whether the County will require us to pay property taxes Richland County will decide if taxes are to be paid or not

And then he said skip a sentence And would you read the sentence he asked you to skip? It starts with "none of

A None of the other public hotels in the country pay property taxes

Q Is that country or county?

A. There's no other public hotels in the county, so I'm saying that must be country

Q Okay In the whole country, he said no other public hotels pay property taxes?

A Yeah

Q All right. You had also at that September 11th meeting, you were asked about all these agreements that were still in the process of being negotiated And you referred to them as when the bill was running up, right?

A Yes sir

Q All right And those all of those agreements, the management agreement, the parking, all those agreements that you talked about with Mr Paul were actively being negotiated in February of 2004, correct?

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A Yes sir I believe they were

Q Who which side quit negotiating? The City or the development group?

A I don't know the answer

MR PAUL Object to the form.

A I don t know the answer to that

BY MR. SUGGS

Q Okay At some point were the City s lawyers instructed to stop negotiating the management agreement the parking agreements and those sort of things?

A I don t -- I don't remember whether they were specifically informed to cease and desist or the fact that the RFP went out for another hotel deal indicated to them that they needed to stop work on that and --

Q Okay So they either were told to or they understood from the issuance of the RFP that there was no point in them going forward with those negotiations?

A. That would be correct. Yes, sir

Q All right And then Exhibit 30 I'm going to ask you about Exhibit 30 if you can find it.

A. What is it?

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Q It's another handwritten set of minutes It's dated 10/15/03

A Okay

Q Okay This is the one where you were getting some -- you're getting a presentation apparently from Strategic Advisory Group

A Yes sir

Q Okay And then on the second page of that the last thing it says is Shawn Epps reminded the Not For Profit that architects, lawyers and other consultants were working and that a great deal of money was being spent each day The Not For Profit Board discussed stopping everyone until the rating

A Agency

Q agency came to town and responded The Not For Profit decided not to stop any work at this time Is that correct?

A. Yes sir

MR. SUGGS Okay All right Can I have a sticker, please to put on this?

BY MR. SUGGS

Q What is the function of bond insurance? I mean, what does it insure? And I'm just asking because I don't

to call that a disagreement It was just something we had to deal with that nobody really had a solution for

Q Anything else, that you can think of?

A Let me see The parking There was an outstanding item as it related to property taxes We had to have approval from the county The cash flows -- everything was predicated on a property tax exemption, and we had not -- we, the development team, had not gotten that exemption It was a material exemption that would have made that coverage go to all-in coverage, again, with all the payments to a negative number

Property taxes and, you know, the insurance -- while we had a commitment letter for the -- from the insurance company, that commitment letter was for a project that didn't include this larger bond offering as it related to capitalized interest, and that needed to be resolved

Q When you say the insurance company --

A The bond insurance

Q -- you're speaking of Ambac?

A Yeah, Ambac Their commitment was for a 60-some -- low $60 million project, and by the

time that new transaction came around excluding the parking component it was over 70 million So Ambac would -- had to relook at everything, relook at the coverage, reassess their position on whether or not they were going to insure the project

Q Was there any indication that Ambac was going to change their position?

A I have no opinion on that It was -- we had one letter for the 60-some million and -- but yet we had a $71 million project

Q The property tax exemption, is that an exemption that other public hotels have received?

A Yes

Q Do you know of any public hotels that did not receive a property tax exemption from their county?

A No, but we had indication that this one was going to be a challenge

Q What was that indication?

A The preliminary-discussions I can't remember which attorney was working on that, but said that this is not going to be a slam dunk Because every -- in South Carolina, I understood it that every county made that decision, it wasn't a state level decision, that the county tax appraiser

had the authority to grant it or not to grant it

Q That was a conversation you had with an attorney working on the case?

A I believe it -- I don't know if Gottlieb was handling that or not I just remember it being communicated back We did -- we, like everyone, thought it was not going to be an issue, and then we had heard that it's not a slam dunk, as I recall it

Q And there was no resolution of that, to your --

A Not that I know of, no Not that I know of

Q So after the Garfield Traub/Edens and Avant team is selected SAG stayed on with the city, correct?

A Correct

Q And was there another proposal for your services after that?

A I don't recall We -- in this proposal we laid out our billing rates and there was a fee cap, and I don't recall if we actually issued another proposal or just there was city council action along the way to raise the cap I think it's the latter, though I don't think there's

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In the Court of Appeals

APPEAL FROM RICHLAND COUNTY
Court of Common Pleas

George C James, Jr , Circuit Court Judge

Case No 2005-CP-40-3361
Court of Appeals Tracking No 1020154006

Stevens & Wilkinson of South Carolina, Inc , Gary Realty Company, Inc , Garfield Traub Development, LLC, and Turner Construction Company — Plaintiffs

Of Whom
Stevens & Wilkinson of South Carolina, Inc is — Appellant

vs

Paul C 'Bo Aughtry III, Windsor/Aughtry Co , Inc , Vista Hotel Partners LLC Hilton Hotels Corporation and the City of Columbia, South Carolina — Defendants,

Of Whom
City of Columbia, South Carolina is — Respondent

RECORD ON APPEAL
VOLUME II

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STATE OF SOUTH CAROLINA COUNTY OF RICHLAND	IN THE COURT OF COMMON PLEAS FOR THE FIFTH JUDICIAL CIRCUIT
Civil Action No 2005 CP-40 1014 Gary Realty Company Inc and Garfield Traub Development LLC Plaintiffs vs City of Columbia, South Carolina Defendant.	(For Discovery Purposes Part of Consolidated Civil Action No 2007 CP 40 1252)
Civil Action No 2006 CP-40-6488 Gary Realty Company Inc and Garfield Traub Development LLC Plaintiffs vs Paul C Bo Aughtry III Windsor/Aughtry Co Inc Vista Hotel Partners LLC and Hilton Hotels Corporation Defendants	**AFFIDAVIT OF RAYMOND GARFIELD**

RECEIVED
JUL 02 2009
Richard Harpootlian, PA.
Calendered

I Raymond Garfield being duly sworn under oath declare under penalty of perjury as provided by law that I am an adult person over the age of 18 years and that if I were called as a witness in this matter I would competently testify to the following

1 I am currently a principal managing officer and founding member of Garfield Traub Development LLC (GTD)

2 I have more than 35 years of professional experience in the development finance and asset management of all types of real property and have an extensive Wall Street background For over a decade now I have focused primarily on property development, and in particular hotel development. I work with investment banking partners and bond counsel to

engineer financing structures and secure capital for developments I have great understanding and familiarity with the customs and practices of the hotel development industry

3 Prior to forming Garfield Traub from 1992 to 1997 I served as Chairman and CEO of Vista Properties Inc a publicly held national land development company with more than 9 000 acres of urban land in its portfolio From 1988 to 1992 I served as Senior Vice President and Managing Director of Cushman & Wakefield Inc where I managed the Financial Services Division for the western half of the United States In this capacity I directed the sales and financing of major properties throughout 21 offices and was responsible for more than $2 5 billion of transactions for hotel properties and major commercial properties As Vice President of Salomon Brothers from 1984 to 1988 I originated and closed more than $2 5 billion in capital transactions as part of my investment banking responsibilities Prior to that from 1981 to 1984 I served at Merrill Lynch Commercial Real Estate as Executive Vice President Chief Operating Officer and Manager of National Sales for the company s commercial real estate services offices throughout the United States

4 On or about January 15 2001 the City of Columbia, South Carolina (the City') issued a Request for Qualifications (RFQ ') for a team to develop a 300 room first-class full service hotel (the Hotel) next to the Columbia Convention Center This RFQ is attached as Exhibit A to my affidavit Conversations I had with various City officials made clear that the City was adamant that the Hotel needed to be full service—that this was an essential element and was necessary to attract the types of trade shows conventions and other meetings that the City desired and believed would best support and complement its new convention center The City s explicit desire for a full service hotel was well known a fact that I believe is supported by the January 15 2001 letter from Charles Cole Chairman of the Hotel Development Committee to

Hilton s Thomas Davis attached as Exhibit B My conversations with City officials informed me based on my years of experience in the hotel development business that by full service the City meant at a minimum high level appointments and amenities a four pipe heating and air conditioning system a ballroom of at least 10 000 square feet, on premises meeting space totaling around 20 000 square feet, one or more on premises restaurants with full food and beverage service and an industrial grade kitchen capable of delivering such service to the hotel s restaurants meeting facilities and room service

5 My company received a copy of the City s RFQ was interested in the project and began to assemble a development team to prepare a proposal responsive to the RFQ As part of this process a hotel developer typically recruits a hotel company for the team and for this purpose GTD contacted executives at Hilton Hotels Corporation (Hilton) Ultimately sometime in 2001 we asked Hilton to join the GTD team expressing that my partners and I expected any hotel operator that joined our group to commit itself exclusively to our team and no other It is my company s common practice (and is the practice of most other hotel developers) to have an exclusive relationship with any hotel company that we ask to join one of our development teams

6 Hilton employees John Weeman and Gary Mills put me in touch with Steve Crabill and Brian Fry who were executives in the Hilton s southeastern office I met with these two individuals regarding my company s interest in the Columbia Convention Center Hotel and specifically recall either Mr Crabill or Mr Fry noting that the company did not have an invitation to join another team Acceptance of our proposal was initially tendered on a conditional nature for prior to fully committing to our team, Mr Crabill and Mr Fry wanted to check with their franchisees including Mr Aughtry to see if any of them wanted to compete in

the City s RFP Upon finding no issue with any of their franchisees Mr Crabill and Mr Fry on behalf of Hilton accepted GTD s invitation and agreed to become an exclusive member of our team From our conversations it was absolutely clear that Hilton agreed it would not join any other team and that GTD would not offer the flag of any other hotel company in its proposal to the City Furthermore while our initial agreement made no specific mention of operating arrangements for the completed Hotel it was absolutely without question that our exclusivity agreement covered any Hilton branded hotel regardless of whether it was managed/operated by the Hilton Corporation or run as a franchise To make a distinction between a corporately managed and a franchised hotel in an exclusivity agreement would be highly unorthodox in the hotel development industry and if requested would require specific clear discussion and agreement in this regard

7 Encompassing hundreds upon hundreds of hours of work GTD put together a complete development team consisting of eleven (11) different entities (the Team or GTD Team") and responded to the aforementioned RFQ from the City Choosing between several other respondents/bidders in executive session on the morning of December 11 2002 the City voted to select the GTD Team to undertake the development design financing and operation of the Hotel a decision that is documented in Exhibit C to my affidavit. The City s selection of the GTD Team s bid was communicated to us later that same day

8 In April 2003 the City and the various members of the Team signed a Memorandum of Understanding (MOU) laying out the project and the various duties obligations and compensation of the signatories This document is attached to my affidavit as Exhibit D I have seen Exhibit E (minutes from the City Council Meeting of Oct 23 2002) and Exhibit F (excerpt from Jeff Sachs Feb 5 2009 deposition) both of which are consistent with

my recall of the events—that although some input came from GTD and other Team members the MOU was primarily drafted by the City and its advisor Strategic Advisory Group ("SAG) The MOU sets forth the duties and tasks the various Team members are to fulfill and provides terms and conditions under which they are to be compensated Each party agreed that they would complete certain duties and tasks necessary for the creation of the Hotel and the City offered to pay the various members for their work I considered then, and still believe that this agreement formed a binding contract between and among all parties to the document. Vast amounts of work and attention were put into drafting the MOU there were many detailed discussions of its provisions and it was evident that all parties considered the document to be very important I do not believe that this much attention and interest would have been given to the document if the parties had not considered it to form a binding agreement. GTD for its part never would have agreed to put in the effort necessary to develop the Hotel if we did not consider the MOU to form a contract and believe that all signatories felt similarly on the matter

9 Paragraph I 1 of the MOU states that if the City determines that it is not feasible to proceed with the Hotel project it shall have no liability under this MOU (*see* Exhibit D p 1) From numerous discussions with the City and other Team members GTD understood this provision to mean that if the Team members were unable to put together a feasible Hotel project—meaning a project capable of meeting economic viability conditions necessary to obtain construction financing that could therefore be built—then the City would have no liability to pay for the work performed in preparing the proposal If the Team did not perform its obligation under the agreement—that is its obligation to put together a hotel project that was feasible—the City would be relieved of its duty to pay the team members However if the Team members were able to put together a plan for a feasible hotel then the City would have an obligation to

build the hotel and compensate the Team members as set forth in the MOU As I believe all parties to the MOU understood the project would have to demonstrate economic feasibility in order to obtain construction financing and the obtainment of such financing would necessarily demonstrate that the project was economically feasible in the eyes of lenders or bondholders It was my understanding then and I still believe now that all other parties to the MOU felt similarly that if a feasible hotel project was able to be put together and the City for whatever reason chose not to build the hotel then the City would be in breach of contract and obligated to compensate the Team members for the fees they would have earned had the City not broken the agreement I have seen the minutes from the City Council s February 11 2004 executive session meeting (*see* Exhibit G) in which the City voted to approve the bond financing structure for the GTD Team s hotel and in which Councilwoman Devine stated that the City must move forward to fulfill the commitments that have been made I believe that this is exactly what Ms Devine was speaking of at that time—that since the project was feasible the City was obligated to move forward with the Hotel s construction

10 Two separate consulting firms PKF International Limited (PKF") and Strategic Advisory Group ('SAG) were hired by the City to study and analyze the proposed Hotel project and to advise the City in this regard. It was well understood that the City and all members of the GTD Team considered PKF to be well respected in the industry and unbiased and impartial in its analysis of the feasibility of the Hotel This is demonstrated by the City Council Minutes from July 9 2003 attached as Exhibit H in which the term unbiased was used to describe PKF s report To the best of my knowledge neither of these companies ever determined the Hotel to be infeasible and in fact I have seen PKF s final report to the City that specifically states Based upon the analyses and assumption herein the hotel operated as a

going concern and owned by the City of Columbia, appears to be an economically feasible Project (*emphasis added*) (*see* Exhibit I final page of excerpt from PKF s Oct 2003 report) To this same point I have seen Exhibit J which is a portion of the transcript of the deposition of Jeff Sachs (the City s consultant from SAG) in which Mr Sachs clearly states that no determination of infeasibility was ever made by his company

11 Various SAG presentations and reports fully informed the City about the risks of the deal long before the MOU was signed and the City had already received negative political pressure concerning the public ownership of a hotel Nonetheless the City decided to move forward with the hotel project as proposed by GTD I do not believe that at the time the MOU was signed any party to the agreement had ever contemplated that the City could back out of the agreement simply because it decided the proposed project was too risky because of political resistance or because the City simply changed its mind and decided not to go forward with the deal or that it did not want to own a hotel In my mind, this would be an inconceivable definition of the term feasible and completely contrary to both the common understanding of the word and the manner in which it is typically used in the hotel development industry In my experience as a hotel developer the term feasible hotel project describes a project that is capable of being financed and constructed The MOU embodied the parties shared understanding that this definition was met. Any assertion that the MOU allowed the City to reverse its commitment on its own accord based on considerations it had already rejected would give the City the ability to back out of the deal simply on a whim Neither GTD nor in my experience any reasonable hotel developer would ever have agreed to such a condition. In my mind based on what GTD was told and from my years of experience in the hotel development industry it was obvious the term feasible as used in the MOU meant that the Hotel put forward by the Team was one for

which financing could be secured and which could be constructed for the amount of financing provided Furthermore the City never took a vote determining that our Hotel was not feasible The City so testified in its Rule 30(b)(6) deposition a portion of which is attached as Exhibit K

12 Over the next year the Team completed countless tasks necessary for the development of the hotel many of which were specified in the MOU itself Among its required duties the Team designed and negotiated a construction commitment for the Hotel at a guaranteed maximum price obtained design approvals for the Hotel from the City s Design Development Review Committee secured commitments associated with the issuance of bonds to fund the Hotel s construction and operation obtained an independent analysis of the Hotel s operations for bond issuance purposes and negotiated and drafted numerous agreements associated with and necessary to the transaction. As an example of this work Exhibit L represents one of the numerous drafts of the Design Build Agreement that my Team put together Exhibit M is a copy of one of the many iterations of the Development Management Agreement that GTD worked to produce The GTD Team was intricately involved with bonds for the construction of the Hotel and, as demonstrated by Exhibits N and O Ambac and Standard & Poors both expected that the bonds would receive an investment grade rating upon issuance In further confirmation of the project s feasibility on February 17 2004 Ambac also provided its Commitment of Financial Guaranty as demonstrated in Exhibit P

13 The hotel project put together by the GTD Team was fundable workable sustainable and entirely feasible In fact as demonstrated by the City Council Meeting Minutes from February 11 2004 attached as Exhibit G the City Council approved the pricing of the Hotel as presented by the GTD development team approved the design and the bond financing structure and instructed the Team to go forward with the hotel as proposed

14 It is my understanding that despite the feasibility of the GTD Team s hotel as explicitly recognized by the City the City Council on March 17 2004 directed its staff to issue a new Request For Proposals (RFP) for the development of a hotel to support the City s convention center Council minutes containing that direction are attached as Exhibit Q This new RFP was issued on April 2 2004 and is attached as Exhibit R News of this decision caught me completely by surprise I had not been (and have never been) informed of any determination by the City that my team s Hotel project was not feasible and to the best of my knowledge no one ever determined that the Hotel we were working to build was not feasible Furthermore I have never been directed to stop working on the Hotel project

15 I have seen various letters that Defendant Bo Aughtry sent to City Council members and City employees during the time my Team was working on the Hotel project An example of such a letter is attached as Exhibit S These letters make many misleading and even patently false statements and claims It is my understanding that Aughtry represented to the City that the Columbia Convention Center and downtown market would not support a full service hotel as is demonstrated in Exhibit T As demonstrated by PKF s report (Exhibit I) industry research at the time showed the contrary—that the downtown Columbia market hotel could very much support a full service hotel located near the City s convention center I believe that if Mr Aughtry is the sophisticated hotelier and hotel developer he claims to be he would have been well aware that his statements regarding the Columbia hotel market were untrue Ultimately Mr Aughtry built (and currently owns) a full service hotel downtown beside the Columbia Convention Center The very fact that Mr Aughtry built what it was he was so adamantly telling the City would be a financial disaster creates a strong inference that he very well knew that what he was advising the City was false

16 Although he chose not to submit a bid in response to the initial RFQ it is my understanding that Mr Aughtry long encouraged the City to break its commitment to the GTD Team and I believe that much of what he said to the City was intentionally misleading and at times rose to the level of being fraudulent Among the conversations and exchanges of correspondence that I understand Mr Aughtry to have had with City officials I have seen a September 30 2003 letter he wrote to all members of the City Council (*see* Exhibit U) in which he said that if the GTD Team s hotel was built, Columbia would be facing an economic calamity in its downtown hotel market and a financial disaster for the city It is my belief that Mr Aughtry in no way believed that the 300 room hotel my company was working to build would be a disaster or create an economic calamity in the downtown hotel market. Mr Aughtry himself wanted to build a hotel at this very location and ultimately built a hotel there that was only 25% smaller in size My experience as a hotel developer informs me that if Mr Aughtry truly believed that a 300 room hotel would create a calamity' and economic disaster it would be unlikely for him to expect a 222 room hotel to be a success and it would be indefensible as a business proposition to seek let alone pursue as aggressively as he did the opportunity to build it It is my belief that, at the time he was telling City officials that GTD s hotel would be a disaster Mr Aughtry very much knew that what he was saying was not true— that he was only saying what he did because he, himself wanted to build and own the future hotel associated with the Columbia Convention Center and needed the City to breach its agreement with my company in order to be able to do so

17 In a similar vein on February 18 2004 Mr Aughtry e mailed the various members of City Council saying that building GTD s hotel would have catastrophic results (*see* Exhibit V) He also stated that the consultants involved in forecasting the operation/feasibility of my

Team s hotel would only be rewarded IF the deal goes forward " This is absolutely untrue, as PKF had no incentive to see that my Team s hotel was built The consulting company was hired at a flat fee and/or billing by the hour In my experience as a hotel developer consultants such as PKF are never rewarded" for the consummation of a deal—their role is to be completely unbiased and as accurate in their predictions as possible and their compensation is never contingent on the nature of their findings or conclusions As a hotel developer Mr Aughtry surely was aware of this yet he was telling the City the opposite

18 In this same February 18th e mail Mr Aughtry also took issue with the list of hotels in other cities that PKF used to help forecast and analyze the expected demand for the GTD s Team s hotel He stated that the numbers [the City has] been given are extremely skewed and proposed a list of hotels that, he claimed, would be much [more] analogous and accurate for comparison and forecasting purposes However Mr Aughtry s alternative list (which not surprisingly painted a bleak picture for the occupancy of my team s hotel) was anything but analogous Of the ten hotels that Mr Aughtry presented all of them had either one or more of the following characteristics 1) old and greatly in need of renovation 2) located in a metropolitan area with a population considerably smaller than that of Columbia, 3) positioned several miles from a downtown market and most important of all 4) not adjacent to or in any way servicing a convention center I have no doubt that Mr Aughtry handpicked this list of hotels solely to suit his objective of disparaging my Team s project Considering Mr Aughtry s experience in the hotel industry I believe the remarkably disparate character of the hotels on his list creates an inference that Mr Aughtry was knowingly being untruthful when he claimed the hotels he presented were analogous to the hotel the City desired to have built and had selected my Team to build

19 It is my belief that the March 17 2004 vote by City Council directing its staff to draft a new Request for Proposals (RFP) for a full service Convention Center Hotel was the result of Mr Aughtry s campaign to disparage my Team s Hotel and to interfere with my Team s contract through lies and misleading information regarding the Columbia hotel market As described below I believe there is evidence to show that Mr Aughtry was deceptive and untruthful with regard to the type of hotel he planned to build the price for which he intended to build it and the time it would take him to complete its construction Furthermore I believe the evidence creates an inference that Mr Aughtry was involved in a conspiracy with Hilton Hotels Corporation to have the bidding process for the Convention Center Hotel reopened and to allow him to win the new RFP with a fraudulent bid

20 A local attorney named Steve Benjamin served as bond counsel for the GTD Team and was present at many Team meetings from 2002 onward Nonetheless after the April 2004 RFP went out Mr Benjamin asked City Council for a waiver to allow him to participate as a potential investor in the hotel project under the new RFP The City Council reviewed his request in an executive session on May 12 2004 and having seen Exhibit W I now know that this waiver was granted It is my understanding confirmed by reading Mr Aughtry s deposition (*see* Exhibit X) that Mr Benjamin thereafter became a part owner of the hotel that Mr Aughtry constructed Given the timing of Mr Benjamin s waiver request, and the obvious conflict of interest that arose where an attorney who worked for our Team became an investor in a competing team s project, in my mind Mr Benjamin s behavior raises a strong inference that he was induced by Mr Aughtry to break his commitment with the GTD team and work to influence the City Council s decision to abandon the GTD team in exchange for part ownership of the Aughtry team s hotel

21 On May 20 2004 the GTD and Aughtry teams presented their proposals to the City Beforehand the teams were specifically instructed that these were to be closed door presentations which is to say that the various team members and their affiliates were not to sit in or otherwise be privy to the presentations of other teams Nonetheless an individual named Damon Jeter who I now know was a member of the Aughtry team, was present during the GTD Team s presentation to the City Exhibit Y confirms that others witnessed Mr Jeter s presence as well I have read Mr Jeter s affidavit, and although he recalls his presence in the room being shorter than I understand it to have been he does admit that he sat in on our presentation (*see* Exhibit Z) From having read Mr Aughtry s and Mr Jeter s depositions (*see* Exhibit X and Exhibit AA) I also understand that Mr Jeter later gained an ownership interest in the Aughtry hotel Mr Jeter s improper behavior like Mr Benjamin s creates a strong inference that his actions were induced by Mr Aughtry in exchange for the opportunity of ownership in the Aughtry team s hotel

22 I have seen the Aughtry team s proposal to the City an excerpt of which is attached as Exhibit BB On its face Aughtry s proposal offered only the choice between a Hilton Garden Inn and a Marriott Courtyard neither of which are accepted in the hotel trade as full service hotels but both of which are considered to be limited service or select service establishments I have also seen some of Mr Aughtry s correspondence with the City including Exhibit T a letter dated February 13 2001 from Mr Aughtry to the City in which Mr Aughtry states that a full service hotel is not what the Columbia needs and proposing that a Hilton Garden Inn is better suited for the City s needs I believe this demonstrates that even Mr Aughtry did not consider a Garden Inn to be a full service hotel From having read Mr Aughtry s deposition and having seen the May 21 2004 letter from Brian Fry to Bo Aughtry (*see* Exhibit CC) I now

know that, despite the contents of the Aughtry team s written proposal the group s presenters told the City orally at their presentation on May 20 2004 (a) that they could modify the limited service Hilton Garden Inn specified in their written proposal sufficiently to satisfy the City s full service RFP criterion and (b) that they had obtained or could obtain, the Hilton Hotels Corporation s consent that such a facility carry the flagship Hilton brand rather than the Hilton Garden Inn brand specified in their written proposal

23 I was informed of these developments within hours after the Aughtry team s presentation on May 20 2004 Greg Garfield and I spoke by telephone that afternoon with Chris Pfohl a vice president at Hilton Corporation and one of the Hilton executives personally involved with the Hilton GTD exclusivity agreement discussed above Greg Garfield and I relayed to Mr Pfohl our understanding that Aughtry had informed the City s Hotel Selection Committee that he could provide a full service Hilton Hotel adjacent to the Convention Center Mr Pfohl seemed shocked and angry to learn that Mr Aughtry had made such a representation to the City Mr Pfohl was very apologetic that the Hilton members of Aughtry s team had allowed this to happen (as Aughtry was offering a Hilton Garden Inn there were Hilton employees on his team) and assured us that Mr Aughtry was not, and would not be approved to offer a full service Hilton brand hotel—that only the GTD Team held and could hold such approval During this conversation Mr Pfohl made absolutely no distinction between Hilton operated and franchised hotels To have made such a differentiation would have been unnecessary for our exclusivity agreement was in no way limited to any particular ownership and operation structure for the Hotel Mr Pfohl told us not to worry about what Mr Aughtry had told the City and said that he would get this matter straightened out and properly

communicate to City officials that Mr Aughtry s team had not been permitted and would not be permitted to offer or build a Hilton brand hotel for the Columbia Convention Center project

24 Having seen Exhibit CC I now know that the following day May 21 2004 Hilton s Director of Franchise Development for the Southeast Region Brian Fry wrote a letter to Mr Aughtry (including the City as a recipient) which stated "Subject to receipt and processing of a Franchise Application Hilton supports your proposed development of a Hilton Garden Inn Hotel at the Convention Center Hilton continues to support the Garfield Traub team for development of a Hilton managed Hilton Full Service Hotel at the Convention Center GTD also promptly received a copy of this letter either as a blind carbon copy recipient or because Hilton otherwise faxed or mailed my company a copy Although this letter was not worded as strongly as I had expected from my earlier conversation with Mr Pfohl I understood the letter to convey exactly what he had assured us was Hilton s position that the right to build a Hilton brand hotel (whether operated by the Hilton Corporation or run by a franchisee) lay exclusively with the GTD Team and that Mr Aughtry had no right to offer a Hilton brand hotel to the City (although he could offer a limited service Hilton Garden Inn)

25 Shortly after it was sent, GTD received a copy of a letter from Mr Aughtry dated May 25 2004 attached herein as Exhibit DD In this letter Mr Aughtry responded to Mr Fry s correspondence by stating You Steve and I know that our Hilton alternative was well discussed among the three of us and that fact needs to be affirmatively conveyed to the city of Columbia I believe this letter provides clear evidence that Mr Aughtry was attempting to use his influence with Hilton based on his business dealings with Hilton on other projects to strong arm Hilton into backing him up on a claim he had already made to the City that ran counter to Hilton s exclusivity agreement with GTD

26 Although I was not originally a recipient of Exhibit EE I now know that on the evening of May 25 2004 Bill Fortier an executive at Hilton s Beverly Hills headquarters wrote in an e mail to Brian Fry Chris Pfohl and another Hilton executive that Hilton would stand behind [GTD] for the Hilton and Bo [Aughtry] for the [Hilton Garden Inn] That e mail continued However we will do this through a phone call[ ] not a letter We will only make one statement and that is to set the city straight on Bo but we will not answer any other what if questions about the deals [*sic*] outcome In my judgment this reluctance to put anything in writing was because Mr Fortier knew that Hilton could not defend having promised exclusivity to GTD while also having succumbed to Mr Aughtry s demand to let him offer a full service Hilton It is clear to me that Hilton under pressure from Mr Aughtry was attempting to avoid saying anything that Aughtry could construe as failing to capitulate to his demand—or that GTD could construe as a threat to its exclusive rights

27 Unknown to me at the time in evident contradiction to Mr Fortier s stated intent to "set the City straight on Bo but not to put anything in writing Mr Fortier wrote a very short letter to the City on May 26 2004 stating It is our position that the letter from Hilton to Mr Aughtry on May 21 2004 and Mr Aughtry s letter to Hilton on May 25 2004 are both correct I have attached Mr Fortier s May 26th letter hereto as Exhibit FF In this letter Mr Fortier offered absolutely no explanation as to how both the May 21st and May 25th letters could be correct." I believe Mr Fortier s statement that "both are correct was written in response to pressure from Mr Aughtry either as already described or as further applied after Mr Fortier s May 25th internal e mail described in the preceding paragraph

28 In my judgment the reason for the brevity of Mr Fortier s May 26th letter was that any explanation of his both are correct assertion would have required him to expose as

misleading and deceitful the language of Brian Fry s May 21st letter To make the May 21st letter correct if Aughtry s May 25th letter were also correct, would require straining to interpret the words Hilton[ ]managed full service Hilton in the Fry letter as a qualifier permitting Aughtry to offer the City a *franchised* Hilton flagship-brand hotel or a hotel under a non flagship brand at any level of service (including full service) regardless of the exclusivity agreement with GTD Fortier knew that Aughtry had induced Hilton into a commitment that breached that agreement He and Aughtry jointly intended to induce the City into handing GTD s project to Aughtry by a two step ruse first, by submitting a written bid for a project that would not broadcast a violation of Hilton GTD exclusivity but that all parties knew the City would not approve and second by varying the terms of that written bid orally without GTD s knowledge with the aid of the deliberate both are correct misstatement Aughtry had induced Hilton officials to make concerning their commitment to GTD In other words Aughtry s and Fortier s joint intent was to bid a Hilton Garden Inn publicly offer the City a Hilton branded hotel privately mollifying GTD in the meantime with deceptive assurances that its agreement was intact and then, after the City signed with Aughtry announce the swap of brands to the one GTD had been given the exclusive right to build

29 I believe that any reasonable person would read Brian Fry s May 21st letter to mean that Hilton could support Aughtry only for a Garden Inn and could not allow him to build a full service Hilton, whether franchised or corporate-owned because of the company s commitment to GTD If Fry had intended to communicate to the City that Hilton s commitment to GTD did not prevent the company from permitting Aughtry to offer the City a *franchised* full service Hilton hotel then Mr Fry could and would have stated this in the letter in a clear and concise manner Because all parties knew Aughtry to be in the business of developing

franchised and not corporate owned hotels GTD never had any concern that Aughtry was offering the City a *Hilton managed* full service Hilton hotel Rather the concern was that he was offering a full service hotel bearing the flagship Hilton brand regardless of the form of ownership or management If Fry and Aughtry wanted the letter s recipients to understand that Aughtry was allowed to offer a *franchised* full service Hilton hotel then Fry would have simply stated this The fact that they did not indicates that they wished the letter to be construed differently

30 I feel confident that Mr Aughtry was well aware as the experienced hotel developer he claims to be that an exclusivity agreement like the one between Hilton and GTD would have no need to distinguish between a franchised and Hilton operated Hilton Hotel Accordingly I have no doubt that Mr Aughtry well knew that Hilton would be violating its exclusive obligation to the GTD Team if Aughtry were allowed to build a franchised Hilton I am convinced that Aughtry was dishonest in his contention to the contrary and that he made efforts to hide this fact from the City and conceal his intentions from the GTD Team The evidence plainly shows that the deceptively written letters of May 21st, May 25th and May 26th contained the precise wording they did because Hilton and Aughtry were acting in concert to deceive the City into believing it could select Aughtry s bid without violating the Hilton GTD exclusivity agreement, and at the same time deceive the GTD Team into believing Hilton was honoring the agreement when in fact it had secretly given Aughtry permission to offer and build a full service Hilton branded hotel

31 From the express terms of the April 2004 RFP as well as conversations I had with City representatives, I absolutely understood that the City viewed full service and a brand name associated with being full service (such as Hilton) to be essential elements of any hotel proposal

the City would consider Aughtry s bid submission as written was non responsive to the RFP However had the Aughtry team s April 30 2004 bid documents contained the all important information the team members secretly conveyed to the City—that they would offer a hotel on terms that contravened the Plaintiffs explicit agreement with Hilton—I would have been able to expose the Aughtry Defendants bid as a sham at that time I would have been able to reveal to the City that Hilton s agreement with the GTD prevented Aughtry from offering a full service Hilton branded hotel regardless of whether it was franchised or corporately operated and the Aughtry team s proposal would have been disqualified in favor of the GTD Team s proposal

32 The City demanded a full service hotel, a requirement that was explicitly stated in both the January 15 2001 RFQ (Exhibit A) and subsequent April 2 2004 RFP (Exhibit R) I am fully convinced that Aughtry was fully aware that a Hilton Garden Inn (or Marriott Courtyard) would not be responsive to the City s request I am further convinced that, Mr Aughtry knew that his offer of a full service Hilton would trigger a reaction from the GTD Team and allow us the opportunity to alert the City that Hilton had a commitment to GTD that prevented him from offering a full service Hilton hotel I am convinced that for these reasons Mr Aughtry cooperated with Hilton to make a formal proposal of a non full service Garden Inn with the intention and plan that a full service Hilton Hotel would later be swapped in its place At the very time that Aughtry was submitting an extensive proposal for a Hilton Garden Inn his stratagem was to deceive the GTD team with a bait and switch. That is to say he intended to promise the City they could swap out the Garden Inn for a full service Hilton hotel but because of the exclusive agreement with us he could not do it overtly in his written, public bid He also deceived the City by telling the City that he could deliver the hotel they wanted when in fact the GTD deal stood as an obstacle He knew that he had to first have the GTD Team out of the

picture (i e have GTD lose the second bidding process) in order to be able to openly offer the City a full service Hilton hotel which I believe is why he did not include a Hilton brand hotel in his written bid to the City even though that is what he intended all along to build

33 In my professional judgment the Hilton Columbia Convention Center Hotel constructed by Mr Aughtry looks very similar to the building my team proposed, designed planned and obtained City approval to construct I note that during the City s Rule 30(b)(6) deposition even the City agreed that the two hotels look very similar (*see* Exhibit GG) I believe that this surprising similarity in appearance creates an inference that Aughtry gained access to the GTD Team s proprietary work product material either through Defendant Hilton or Steven Benjamin, both of whom were participants on the GTD Team and then later members of Aughtry s team I believe these GTD proprietary materials include but are not limited to concepts plans designs drawings financing models and terms of various agreements and contracts that GTD had negotiated That material was intended for use—and all GTD Team members and participants agreed it would be used—only in connection with the Team s work under the MOU I would also note that during the City s Rule 30(b)(6) deposition the City readily admitted that it provided Mr Aughtry a copy of my Team s architectural renderings (*see* Exhibit HH)

34 Having read Exhibit II a letter from Mr Aughtry to Mayor Coble dated August 8 2003 stating I would require no concession, subsidy or guarantees from the city initial or in the future I believe that Mr Aughtry represented to the City that he could build the hotel without government subsidies It is my belief that Aughtry knew that this representation was false when made and that at no point in time did he ever intend to build his proposed hotel without subsidy from the City The proposal that Aughtry submitted to the City s selection

committee (contained in part, in Exhibit BB) provided for zero City subsidy (other than reduced parking) However it is my understanding as evidenced by Exhibit JJ that when Aughtry changed from a Hilton Garden Inn to a full service Hilton Hotel he then demanded a $3 million cash subsidy from the City I also understand that Mr Aughtry requested and received a tremendously reduced rate for the purchase of the land on which the hotel was built (he paid only $250 000 for land worth several million dollars) Having read the City of Columbia s Rule 30(b)(6) deposition (Exhibit JJ) I now know that, on top of his initial subsidy and concession on the price of the land Mr Aughtry again went to the City this time during the actual construction of the hotel and demanded an additional $1 5 million cash subsidy in order to complete the project. From my experience in the hotel industry I believe that Aughtry had no basis for his initial representations to the City that he would not require a subsidy or that his subsidy would be limited to $3 million (i e that all along he was aware that a seven figure subsidy would be required) I believe that he knew such statements to be false when he made them and that he knowingly made this disingenuous offer for the purpose of inducing the City to abandon the GTD Team I am convinced that all along he planned to demand a subsidy once he had the City committed to his project and in a position where it had no reasonable alternative but to submit to his demands

35 I believe that Aughtry s written proposal to the City was itself a fraud The proposal was supposed to represent Aughtry s offer to the City However what Aughtry intended to build was a Hilton not a Garden Inn or a Courtyard as his proposal specified As I understood it then and as corroborated in the City s Rule 30(b)(6) deposition the requirements of the RFQ were that if [a bidding team] wanted more than the ground lease and the parking [the team] should put that in [its] proposal (*See* Exhibit KK) The Aughtry team did not ask for any

subsidies in its proposal but specifically declares [O]ur proposal requires no subsidy or long term support from the city (*See* Exhibit BB) However Mr Aughtry ultimately requested and was given over $4 5 million dollars in subsidies. It is my belief that Mr Aughtry had no intention of ever building the hotel contained in his proposal As a hotel developer Mr Aughtry should have been well aware that his proposed hotel did meet the minimum criteria set forth by the City However for all of the reasons discussed above Mr Aughtry did not want his written documentation to state that he was proposing a Hilton that would require large amounts of subsidies It is clear to me that Mr Aughtry was planning on changing his bid after it was submitted As shown in Exhibit DD Mr Aughtry s letter of May 25 2004 to Hilton s Brian Fry states Brian you understand that it is untenable for me to be perceived as having represented a proposal to the city of Columbia without Hilton s blessing You Steve and I know that our Hilton alternative was well discussed among the three of us and that fact needs to be affirmatively conveyed to the city of Columbia so that credibility does not come into question " Furthermore it is my understanding that after the Aughtry team s May 20 2004 presentation Mr Aughtry was quick to let the City know how much of a subsidy he would require to build the City a full service Hilton hotel The promptness with which Aughtry was able to supply this information creates an inference that he had been planning on building a full service Hilton all along In my mind this and the May 25 2004 letter creates a strong inference that Aughtry s written bid was a sham and that all along he had planned to build a Hilton with the help of City subsidies The manner in which Hilton permitted and even assisted Mr Aughtry in swapping out the offer of a Garden Inn in the place of a Hilton suggests a conspiracy between Aughtry and Hilton to see that the Aughtry bid was selected by the City

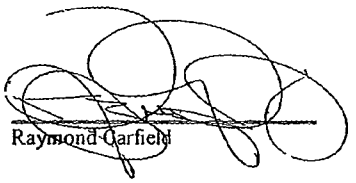
36 As discussed above and evidenced in Exhibit II Aughtry represented to the City that he could complete his proposed hotel at the outside 18 months from a green light I understand that on May 28 2004 Aughtry was notified that he had been selected to build the hotel however it was not until August 2007 that his hotel opened Thus it took Aughtry three years and three months to complete his hotel—he was never even remotely close to the 18 month timetable he told the City he could deliver From my experience of over three decades in hotel development I know such a feat (concluding an entire hotel development project from design to opening) to be extremely difficult indeed nearly impossible I have never known a convention center headquarters hotel to go from green light to completion in such a short time frame It is my professional opinion that the only way Aughtry could possibly believe he could actualize such an accomplishment would be if he intended to use or take advantage of the concepts plans, designs drawings financing models terms of already negotiated agreements and contracts and other work product documents of the GTD Team Thus it is my testimony that either Aughtry was lying to the City when he claimed he could build the Convention Center Hotel within 18 months or that at the time he made this statement he intended to make improper use of the GTD Team s work product without informing the City or GTD

37 I believe that the testimony discovery documents and facts of this case at a minimum raise factual questions going to the heart of the matter as to whether Defendant Aughtry employed fraud and deceit to effectuate the City s abandonment of the GTD Team s hotel project and to win the bid for himself At a minimum factual questions persist as to whether Defendant Aughtry resorted to fraud in order to misrepresent Hilton s position to the City and induce the betrayal of the hotel company s allegiance to the GTD Team that Hilton was contractually bound to maintain misrepresented the conditions and needs of the downtown

Columbia hotel market, and/or fraudulently misrepresented the government subsidy and time requirements to complete his hotel project.

38 I also believe that the aforementioned behavior of Mr Benjamin and Mr Jeter creates the inference of a conspiracy between these individuals and Aughtry for the purpose of convincing the City to abandon my Team s project issue a new RFP and select the fraudulent Aughtry proposal

I declare under penalty of perjury that the foregoing statements are true and correct to the best of my knowledge and belief



Raymond Garfield

Sharon L D'Arcy

SWORN to and subscribed before me

this 24th day of June 2009

My commission expires _____

Notary Public for _____

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(RAY GARFIELD'S AFFIDAVIT EXHIBIT LIST)

Exhibit A	City's Request for Qualifications (dated January 15, 2001)
Exhibit B	Letter from Cole to Hilton re RFQ (dated January 15, 2001)
Exhibit C	City Council Minutes Selecting Hotel Developer (dated December 11, 2002)
Exhibit D	Memorandum of Understanding (dated April 17, 2003)
Exhibit E	City Council Minutes Directing SAG to Draft MOU (dated October 2, 2002)
Exhibit F	Excerpt from Jeff Sachs Deposition re SAG Drafting MOU (dated February 5, 2009)
Exhibit G	Minutes from City of Columbia Convention Center Hotel Corporation re Approving Bond Financing (dated February 11, 2004)
Exhibit H	City Council Minutes re PFK Offering Unbiased Analysis (dated July 9, 2003)
Exhibit I	Excerpt from PFK Consulting Study (dated October 2003)
Exhibit J	Excerpt from Jeff Sachs Deposition re No Determination of Feasibility Ever Being Made (dated February 5, 2009)
Exhibit K	Excerpt from City of Columbia s Rule 30(b)(6) Deposition (Gantt deponent) re No Vote of Infeasibility (dated December 9, 2008)
Exhibit L	Design Build Agreement
Exhibit M	Development Management Agreement
Exhibit N	Ambac Letter of Support (dated January 7, 2004)
Exhibit O	Standard & Poor s Letter to Citi Predicting Investment Grade Rating of Hotel Bonds (dated January 20, 2004)
Exhibit P	Ambac Commitment for Financial Guaranty (dated February 17, 2004)
Exhibit Q	City Council Minutes re Request for Proposals (dated March 17, 2004)
Exhibit R	City s Request for Proposals (dated May 4, 2004)
Exhibit S	Letter from Aughtry to All City Council Members (dated August 19, 2003)

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(RAY GARFIELD S AFFIDAVIT EXHIBIT LIST)

Exhibit T	Letter from Aughtry to Cole re Full Service Hotel Being Difficult to Attract (dated February 13, 2001)
Exhibit U	Letter from Aughtry to City Council Predicting a Calamity if GTD s Hotel is Built (dated September 30, 2003)
Exhibit V	E mail from Aughtry to City Council re Hilton's Room Rates (dated February 18, 2004)
Exhibit W	City Council Minutes re Permitting Benjamin s Ownership in Aughtry s Hotel (dated May 12, 2004)
Exhibit X	Excerpt from Aughtry s Deposition re Benjamin and Jeter s Ownership in Aughtry s Hotel (dated September 11, 2007)
Exhibit Y	Starks Letter to City Manager re Jeter Having Sat in on GTD s Presentation (dated May 27, 2004)
Exhibit Z	Excerpt from Jeter s Deposition re Jeter Having Witnessed GTD s Presentation (dated May 12, 2008)
Exhibit AA	Excerpt from Jeter s Deposition re Jeter s Ownership in Aughtry s Hotel (dated May 12, 2008)
Exhibit BB	Aughtry s Hotel Proposal (dated April 30, 2004)
Exhibit CC	Letter from Fry to Aughtry re Aughtry s Statement to City Council that He was Approved to Build a Hilton Hotel (dated May 21, 2004)
Exhibit DD	Letter from Aughtry to Fry re Hilton Having Discussed with Aughtry His Interest in Building a Hilton Hotel (dated May 24, 2009)
Exhibit EE	E mail from Fortier re Hilton Responding Only with a Phone Call and Setting the City Straight on Aughtry (dated May 25, 2004)
Exhibit FF	Letter from Fortier to Gantt re Both Fry and Aughtry Letters Being Correct (dated May 26, 2004)
Exhibit GG	Excerpt from City of Columbia s Rule 30(b)(6) Deposition (Gantt deponent) re Aughtry s Hotel Looking Like GTD s Proposed Hotel (dated December 9, 2008)
Exhibit HH	Excerpt from City of Columbia s Rule 30(b)(6) Deposition (Gantt deponent) re Information Being Given to Aughtry (dated December 9, 2008)

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(RAY GARFIELD'S AFFIDAVIT EXHIBIT LIST)

Exhibit II	Letter from Aughtry to Mayor Coble re His Hotel Requiring No Subsidies and Only 18 Months to Complete (dated August 8, 2003)
Exhibit JJ	Excerpt from City of Columbia s Rule 30(b)(6) Deposition (Gantt deponent) re Additional Subsidies Aughtry Received dated December 9, 2008
Exhibit KK	Excerpt from City of Columbia s Rule 30(b)(6) Deposition (Gantt deponent) re RFQ Requirement that Any Additional Requests be Included in Written Proposals (dated December 9, 2008)

STATE OF SOUTH CAROLINA COUNTY OF RICHLAND	IN THE COURT OF COMMON PLEAS FOR THE FIFTH JUDICIAL CIRCUIT
Civil Action No 2005 CP 40 1014 Gary Realty Company Inc and Garfield Traub Development, LLC, Plaintiffs, vs City of Columbia, South Carolina Defendant	(For Discovery Purposes Part of Consolidated Civil Action No 2007 CP 40-1252)
Civil Action No 2006-CP 40 6488 Gary Realty Company, Inc and Garfield Traub Development, LLC, Plaintiffs vs Paul C "Bo Aughtry III, Windsor/Aughtry Co , Inc , Vista Hotel Partners LLC, and Hilton Hotels Corporation Defendants	**AFFIDAVIT OF GREG LAWRENCE GARFIELD**

I, Greg Lawrence Garfield being duly sworn under oath, declare under penalty of perjury as provided by law, that I am an adult person over the age of 18 years and that if I were called as a witness in this matter, I would competently testify to the following

1 I am currently a principal and managing officer of Garfield Traub Development, LLC ("GTD)

2 I have over a decade of experience in the financing, development design, construction and operations of essential facilities of many types of real property for the public sector My broad scope of responsibilities at GTD includes working with the company s investment banking partners and attorneys to engineer ownership and financing structures for developments I also negotiate project documents and agreements and lead problem solving of

political legal and financial issues for clients and their essential developments My duties also include collaborating with GTD's design and construction team members to program design, 'value engineer' and price facilities I participate in the preparation of operating pro formas and perform financial and investment analysis and due diligence I also have overall responsibility for the company's marketing efforts

3 My experience includes participation in the development of 17 properties and the structuring and placement of more than $270 million in debt and equity for creative public/private developments for GTD's clients My ownership and structuring expertise involves public/private partnerships utilizing conventional debt and equity, long term fixed and variable rate bonds and certificates of participation for lease purchase and installment sale financings and complex project financings, including tax-exempt revenue bond financings for headquarters hotels and other facility types Prior to joining GTD in 1998 I worked for McCall McBride & Lancaster, Inc , a financial consulting and management advisory firm with clients ranging from major law firms to real estate developers

4 I have read the June 24, 2009 affidavit of Ray Garfield My memory and opinions are in complete accord with all that Ray Garfield's affidavit contains I would, however make the following clarifications/qualifications

a Regarding Paragraph 6 of Ray s affidavit I was not involved in GTD's initial outreach to Hilton Hotels Corporation John Weeman and Gary Mills did not offer to put me in touch with Hilton executives Steve Crabill and Brian Fry—that first contact rested solely with Ray

b While in agreement with the contents of Paragraph 25 of Ray s affidavit I would also include mention of a telephone conversation I had with

Hilton s Chris Pfohl On the afternoon of May 25, 2004 shortly after receiving a copy of Mr Aughtry s letter to Brian Fry dated that same day (Exhibit DD to Ray Garfield's affidavit), I called Mr Pfohl on the telephone Mr Pfohl indicated to me that he was not aware of Mr Aughtry's May 25th letter I read him the contents of the correspondence, after which he expressed dismay to learn that other executives at Hilton had had discussions with Aughtry in which Hilton indicated it would support Aughtry for the development of a full-service Hilton for the City I said to Mr Pfohl that the members of the GTD team felt that if Hilton simply refrained from responding to the Aughtry letter the City would give credence solely to the Hilton s letter of May 21st (Exhibit CC to Ray Garfield s affidavit) and would disregard Aughtry s May 26th letter Mr Pfohl indicated that if what Mr Aughtry said in his letter was true then Hilton s franchise side had obviously overstepped its bounds He concluded by saying that he would contact Bill Fortier to investigate the matter and report back to me on their conversation I considered Mr Pfohl s statement regarding Hilton's franchise division having overstepped its bounds to be consistent with all of the other representations to GTD that had been made by Mr Pfohl and the other Hilton representatives, which up until that time had indicated that the right to build a full service Hilton Hotel for the City of Columbia rested solely with the GTD team.

[signature and notarization on page following]

I declare under penalty of perjury that the foregoing statements are true and correct to the best of my knowledge and belief

Greg Lawrence Garfield

SWORN to and subscribed before me

this 24th day of June, 2009

My commission expires

Notary Public for

SHARRON L D'ARCY
Notary Public, State of Texas
My Commission Expires
February 03 2013

0414

STATE OF SOUTH CAROLINA COUNTY OF RICHLAND	IN THE COURT OF COMMON PLEAS FOR THE FIFTH JUDICIAL CIRCUIT
Civil Action No 2005 CP-40 1014 Gary Realty Company, Inc and Garfield Traub Development, LLC, Plaintiffs, vs City of Columbia South Carolina Defendant	(For Discovery Purposes Part of Consolidated Civil Action No 2007 CP 40 1252)
Civil Action No 2006-CP 40 6488 Gary Realty Company, Inc and Garfield Traub Development LLC, Plaintiffs vs Paul C "Bo Aughtry III Windsor/Aughtry Co Inc , Vista Hotel Partners LLC, and Hilton Hotels Corporation Defendants	**AFFIDAVIT OF ERIC ANTHONY TRAUB**

I, Eric Anthony "Tony" Traub, being duly sworn under oath, declare under penalty of perjury as provided by law, that I am an adult person over the age of 18 years and that if I were called as a witness in this matter I would competently testify to the following

1 I am currently a principal, managing officer, and founding member of Garfield Traub Development LLC ('GTD)

2 I have over 30 years of real estate development leadership experience, ranging from deal structuring and capitalization through design construction and operations My current responsibilities focus primarily on the leadership of design builder relationships and the design and construction process including design, programming and value engineering input and

oversight, as well as negotiation of project documents and agreements I have great understanding and familiarity with the customs and practices of the hotel development industry

3 Prior to the formation of GTD from 1991 to 1999 I served as President and CEO of American Nevada Corporation, Nevada's largest developer Working in some of the fastest growing communities in the country, I led the development of hotels and recreational facilities, office buildings medical facilities retail centers, and thousands of residential lots I was employed as vice president and general manager for the Perini Corporation's western division from the mid 1980s to 1991, where, among other signature projects, I developed the Resort at Squaw Creek a premier ski and golf conference resort and Rincon Centre, a one million square foot, mixed use office/retail condominium project in downtown San Francisco, California From 1976 to the mid 1980s, as President of the Resorts and Commercial Divisions of General Development Corporation then Florida s largest developer, my divisions developed countless commercial properties including conference resorts, country clubs marinas and other recreational facilities From approximately 1971 to 1976, I worked for various companies owned or controlled by the Pritzker family (of Chicago) which owned and operated Hyatt Hotels and various real estate development companies In that capacity, I was extensively involved in transactions throughout the United States Five years ago, I formed Gotham Real Estate Corporation a hotel Real Estate Investment Trust (REIT) Concurrently with my responsibilities with Garfield Traub, I also serve as President and CEO of Gotham, which has investments in hotels throughout the United States

4 I have read the June 24, 2009 affidavit of Ray Garfield My memory and opinions are in complete accord with all that Ray Garfield s affidavit contains I would, however make the following clarifications/qualifications

a Regarding Paragraph 6 of Ray s affidavit I was not involved in the initial outreach to Hilton Hotels Corporation John Weeman and Gary Mills did not offer to put me in touch with Hilton executives Steve Crabill and Brian Fry— that first contact rested solely with Ray After Ray Garfield reached an agreement with Mr Crabill and Mr Fry I did, however have direct dialogue with Hilton employees regarding their company's commitment of exclusively to the GTD team Specifically, I recall attending a meeting concerning the City's convention center hotel project, held in Columbia sometime in early 2003 during which time I spoke with Brian Fry In addition to what Mr Fry had previously said to Ray Garfield, he also provided me oral assurances that Hilton was giving the GTD team the exclusive right to offer a full service Hilton to the City of Columbia While I do not recall our conversation ever making specific mention of operating arrangements for the Hotel it was absolutely without question that our exclusivity agreement covered any Hilton brand hotel regardless of whether it was managed/operated by the Hilton Corporation or run by a franchisee To make a distinction between a corporately managed and a franchised hotel in an initial development exclusivity agreement would be unheard of in the hotel development industry

b Regarding Paragraph 23 of Ray's affidavit although the contents of the conversation were reported to me shortly after it took place the May 20 2004 telephone call that Ray Garfield and Greg Garfield made to Chris Pfohl was not something with which I was personally involved

[signature and notarization on page following]

I declare under penalty of perjury that the foregoing statements are true and correct to the best of my knowledge and belief

Eric Anthony Traub

Alethea K. Cain

SWORN to and subscribed before me

this 26 day of June 2009

My commission expires 6/27/10

Notary Public for SOUTH CAROLINA

Hotel Not For Profit Meeting 10-15-03

S Gantt	K Gaines	J McClendon
J Gottlieb	J Meggs	
L Epps	D Turner	
C Austin	E V Cronotic	
C Alexander	S Downs	
D McCloud	A Sanchez	
B Musser	T Isaac	
B Robertson	B Cotel	

SAG Mayor Counter Proof to attached presentation

- The City will have to pay for the parking garage. There is no money in the Hotel deal for parking

- Coverage for deal is very slim. The market may accept the level of coverage The City may have to (not) accept more risk to improve the coverage

- SAG gave presentation and Dana Turner recorded questions by the not for profit board members See Attached

- Brent Robertson gave presentation See Attached

- Jim Meppe + Brent Robertson stated that in terms of the City of Columbia's good credit that we the city was on the hook for the entire deal not just the 70% shown in the attached financing package

- Shawn Eppe reminded the not for profit that arch lawyers, and other consultants were working and that a great deal of money was being spent each day The not for profit board discussed stopping everyone ~~else~~ until the rating agencies come to town and responded The not for profit decided not to stop any work at this time

J & A Engineering, LLC
1800 Slope Wood Bend
Marietta, GA 30062
Voice 404-545-6867
Fax 309-409-3481

Invoice

Invoice Number
SW 03 HH 001
Invoice Date
10/1/03

Bill To

Stevens & Wilkinson
P O Drawer 7
Columbia, SC 29202-0007

Customer ID	Payment Terms	Due Date
Stevens & Wilkinson	Net 30 Days	10/31/03

Description	Amount
Telecommunications/Security Design Services	
Project Columbia Hilton Hotel	
75% of Design Development Phase complete of $8,949 00	2 237 25

Total Invoice Amount Due - $ 2,237 25

0421

Harpootlian 0046

ENVIRO AgScience, INC

Environmental and Agricultural Scientists

Agricultural and Environmental Stewardship Professionals

August 18 2003

Client
Stevens & Wilkinson of
South Carolina Inc
P O Drawer 7
Columbia SC 29202 0007
ATTN Ashby Gresette

Invoice #S&W CH#1 Aug 03

City of Columbia
Convention Center Hotel

Date	Description		Price
Aug 2003	Design Services	$	18 000 00
	AMOUNT DUE	$	18,000 00

Make Check Payable To

ENVIRO AgScience INC
P O Box 23285
Columbia SC 29224
803 714 7290

THANK YOU FOR DOING BUSINESS WITH US!!

0422

Harpootlian 0047

Clevenger Frank
FOODSERVICE & LAUNDRY CONSULTING & DESIGN LaVallee

INVOICE

Dean H Morr
Stevens & Wilkinson of South Carolina
P O Drawer 7
Columbia SC 29202 0007

November 15 2003
Invoice No 8431
Project No 1514
Page No 1

Re Columbia Hilton SC
Foodservice Consulting

For professional services through November 15 2003

Description	Hours	Rate	Cost
Schematic Design			
Schematic Drawings			
Carlos M Nunes	0 50	70 00	$35 00
Design Development			
Administration/ Coordination			
Michael Egan	15 25	100 00	$1 525 00
System Engineering			
Michael Egan	4 50	100 00	$450 00
Equipment Base Plan			
Michael Egan	2 50	100 00	$250 00
Carlos M Nunes	43 25	70 00	$3 027 50
Quality Assurance			
Michael Egan	4 75	100 00	$475 00
Total Services			$5 762 50

39 WESTMORELAND AVE WHITE PLAINS NY 10606
PHONE 914 997 9660 FAX 914 997 96 1

	Cost	Multiplier	Total	
Telephone	2 30	1 15	2 65	
Courier	105 03	1 15	120 79	
Reproduction (In House)	264 60	1 15	304 29	
	371 93		427 73	
Total Reimbursables				$427 73
Invoice Total				**$6 190 23**

39 WESTMORELAND AVE WHITE PLAINS NY 10606
PHONE 914 997 9600 FAX 914 997 9671

Statement of Account

Invoice #	Date	0 30	31 60	61 90	91 120	121 +	Total AR
8321	08/23/2003			$950 00			$950 00
8400	10/27/2003	$7 945 34					$7 945 34
8431	11/15/2003	$o 190 23					$o 190 23
	Subtotal	$14 135 57		$950 00			$15 085 57

Total Amount Now Due $15 085 57

PLEASE REFERENCE OUR INVOICE NUMBERS ON YOUR REMITTANCE

39 WESTMORELAND AVE WHITE PLAINS NY 10606
PHONE 914 997 9660 FAX 914 997 9671

Cleveniger Frable LaVallee

FOODSERVICE & LAUNDRY CONSULTING & DESIGN

INVOICE

Mr Jack Plaxco
TVS Interiors
200 Promenade Two
1230 Peachtree Street NE
Atlanta GA 30309

August 23 2003
Invoice No 6321
Projec No 1514
Page No 1

Re Columbia Hilton SC
Foodservice Consulting

For professional services through August 15 2003

Description	Hours	Rate	Cost	
Schematic Design				
Administration/ Coordination				
Michael Egan	6 50	100 00	$650 00	
Budgeting				
Michael Egan	3 00	100 00	$300 00	
Total Services				$950 00
Invoice Total				$950 00

33 WESTMORELAND AVE WHITE PLAINS NY 10606
PHONE 914 997 9600 FAX 914 997 9671

Cleveneger Frable LaVallee
FOODSERVICE & LAUNDRY CONSULTING & DESIGN

I N V O I C E

Dean H Morr
Stevens & Wilkinson of South Carolina
P O Drawer 7
Columbia SC 29202 0007

October 27 2003
Invoice No 8400
Project No 1514
Page No 1

Re Columbia Hilton SC
Foodservice Consulting

For professional services through October 15 2003

Description	Hours	Rate	Cost
Schematic Design			
Administration/ Coordination			
Michael Egan	12 00	100 00	$1 200 00
Carlos M Nunes	0 50	70 00	$35 00
Schematic Drawings			
Michael Egan	27 50	100 00	$2 750 00
Carlos M Nunes	43 75	70 00	$3 062 50
Quality Assurance			
Michael Egan	4 50	100 00	$450 00
Total Services			$7 497 50

39 WESTMORELAND AVE WHITE PLAINS NY 10606
PHONE 914 997 9600 FAX 914 997 9671

	Cost	Multiplier	Total	
Telephone	1 72	1 15	1 98	
Reproduction (In House)	387 70	1 15	445 86	
	389 42		447 84	
Total Reimbursables				$447 84
Invoice Total				**$7 945 34**

39 WESTMORELAND AVE WHITE PLAINS NY 10606
PHONE 914 997 9660 FAX 914 997 9671

LOEWEN GUNTHEP
DESIGN GROUP
2111 E HIGHLAND
SUITE B-375
PHOENIX, ARIZONA 85016
(602)954-0097
(602)954 6683 FAX

INVOICE

BILL TO STEVENS AND WILKINSON
1501 MAIN STREET GROUND FLOOR
COLUMBIA SC 29201

DATE 30 Nov 03
INVOICE # 03155
JOB # 03017
PROJECT HILTON COLUMBIA SC

ATTN BOBBY LYLES

LUMP SUM FEE $ 212 000 00

DESCRIPTION OF SERVICES.

GENERAL
SPACE PLAN REVIEW WITH HILTON TVS OWNER
CONFERENCE CALL ON NOVEMBER 12 2003

GUEST ROOM DESIGN
CONTINUED CARPET/FABRIC STRIKE OFFS
GENERAL FF&E LAYOUTS ON NEW BASE SHEETS
CASEGOOD DESIGN

PUBLIC SPACE
CARPET DESIGNS

SERVICES NOVEMBER 03	$	12,000 00
SERVICES JUNE 03	$	11 750 00
SERVICES JULY 03	$	8 000 00
SERVICES AUGUST 03	$	4 000 00
SERVICES SEPTEMBER 03	$	14 500 00
SERVICES OCTOBER 03	$	15 000 00
FEE REMAINING	$	*146 750 00*

REIMBURSABLES.

MILEAGE	$	1 44
COLOR COPIES OCTOBER	$	752 40
CONFERENCE CALL SERVICES	$	24 58
BLAYLOCK REPROGRAPHICS #7835	$	19 46
PHONE	$	17 81
COLOR COPIES NOVEMBER	$	77 83
FED-EX #4 988 36007	$	26 41

Harpootlian 0054

FED EX #4-988 59007		$	28 30
FED EX #4 988 59007		$	20 74
FED EX #4 988 5900[illegible]		$	28 30
FED EX #4 988 59007		$	28 30
FED EX #4 988 59007		$	23 22
FED EX #4 988 59007		$	23 22
FED-EX #4-988 59007		$	26 80
FED-EX #4 988 59007		$	18 88
FED EX #4 988 59007		$	18 85
FED-EX #4 988 59007		$	19 84
FED-EX #4 988 59007		$	18 08
FED EX #4 988 59007		$	34 93
		$	34 96
	REIMBURSABLES NOVEMBER 03	$	1 244 40
	REIMBURSABLES JUNE 03	$	4 586 03
	REIMBURSABLES JULY 03	$	545 48
	REIMBURSABLES AUGUST 03	$	943 60
	REIMBURSABLES SEPTEMBER 03	$	1 994 59
	REIMBURSABLES OCTOBER 03	$	512 59
TERMS NET 30	CURRENT DUE	$	13 244 40
	PREVIOUS DUE	$	61 834 29
	BALANCE DUE	$	75 078 69

*NOTE INVOICE IS NOT DUE UNTIL THE BONDS ARE SOLD IN EARLY FALL

LOEWEN GUNTHER
DESIGN GROUP
2111 E HIGHLAND
SUITE B 375
PHOENIX, ARIZONA 85016
(602)954-0097
(602)954 6683 FAX

INVOICE

BILL TO STEVENS AND WILKINSON
1201 MAIN STREET GROUND FLOOR
COLUMBIA SC 29201

DATE 31 Oct 03
INVOICE # 03140
JOB # 03017
PROJECT HILTON COLUMBIA SC

ATTN BOBBY LYLES

LUMP SUM FEE $ 212 000 00

DESCRIPTION OF SERVICES.
MEETING AT L/G OFFICES 10/15
- REVIEW LOBBY PLAN
REVIEW GUEST ROOM PLANS
REVIEW FF&E BUDGET WITH TURNER
REVIEW GUESTROOM DESIGN AND COLOR PALETTE DIRECTION WITH HILTON
REVIEW RESTAURANT CONCEPTS

GUEST ROOM DESIGN
BEGIN CARPET STRIKE OFFS COORDINATION
- BEGIN SOFTGOOD SAMPLE STRIKE OFF COORDINATION

PREPARATION AND DISTRIBUTION OF WORKING PROGRAMMING SESSION BOOKLET

TVS COORDINATION FOR MP&E ENGINEEPS AND ARCHITECRUAL DEVELOPMENT DOCUMENTS

SERVICES OCTOBER 03	$	15 000 00
SERVICES JUNE 03	$	11 750 00
SERVICES JULY 03	$	8 000 00
SERVICES AUGUST 03	$	4 000 00
SERVICES SEPTEMBER 03	$	14 500 00
FEE REMAINING	$	*158 750 00*

REIMBURSABLES.
FED-EX #1 940 58719 $ 10 56

0431

Harpootlian 0056

FED-EX #4 940 58719	$	10 50
FED EX #4 940 58719	$	10 88
FED EX #4-940 58719	$	10 02
FED EX #4 940 58719	$	10 50
FED EX #4 940 58719	$	10 50
FED EX #4 940 58719	$	9 50
FED EX #4 940 58719	$	12 38
FED EX #4 940 58719	$	18 17
DINNER FOR DEADLINE	$	49 30
OFFICE SUPPLIES	$	3 00
BREAKFAST FOP MEETING 10/16	$	30 00
KITS CAMERAS #918089440	$	13 48
MILEAGE	$	12 96
LUNCH FOR MEETING 10/16	$	102 31
IMAGING TECHNOLOGIES #0166423	$	113 34
FF&E NOTEBOOK	$	14 34
PHONE	$	14 17
FED EX #4 940 58719	$	56 34

REIMBURSABLES OCTOBER 03	$	512 59
REIMBURSABLES JUNE 03	$	4 588 03
REIMBURSABLES JULY 03	$	545 48
REIMBURSABLES AUGUST 03	$	943 60
REIMBURSABLES SEPTEMBER 03	$	1 994 59

TERMS NET 30

CURRENT DUE	$	15 512 59
PREVIOUS DUE	$	46 321 70
BALANCE DUE	$	61 834 29

NOTE INVOICE IS NOT DUE UNTIL THE BONDS ARE SOLD IN EARLY FALL

LOEWEN GUNTHER
DESIGN GROUP
2111 E HIGHLAND
SUITE B-375
PHOENIX, ARIZONA 85016
(602)954 0097
(602)954 6683 FAX

INVOICE

BILL TO STEVENS AND WILKINSON
1501 MAIN STREET GROUND FLOOR
COLUMBIA SC 29201

DATE 30 Sep 03
INVOICE # 03128
JOB # 03017
PROJECT HILTON COLUMBIA SC

ATTN BOBBY LYLES

LUMP SUM FEE $ 212 000 00

DESCRIPTION OF SERVICES.
MEETING IN SOUTH CAROLINA (SEPT 2 4)
CITY PRESENTATION
PROGRAMMING MEETING PER JOHN LUMPKIN S REQUEST

MEETING AT LG OFFICES (HILTON REVIEWS)
REVIEW GUEST ROOM LAYOUTS
REVIEW PUBLIC SPACE PLAN
FF&E COSTS
GENERAL DESIGN DIRECTION FLASHCARDS

SERVICES SEPTEMBER 03	$	14 500 00
SERVICES JUNE 03	$	11 750 00
SERVICES JULY 03	$	8 000 00
SERVICES AUGUST 03	$	4 000 00
FEE REMAINING	$	*173 750 00*

REIMBURSABLES.

MILEAGE	$	33 60
PHONE	$	10 73
KITS CAMERAS #918061100	$	41 21
BREAKFAST FOR MEETING 9/25	$	32 77
LUNCH FOR MEETING 9/25	$	85 13
COLOR COPIES	$	121 50
FLAX #69672	$	133 82
ARIZONA ART SUPPLY S170162	$	139 90
ARIZONA ART SUPPLY #170213	$	9 00

0433

Harpootlian 0058

DINNER FOR LATE NIGHT MEETING		$	19 22
FOOD FOR TRAVEL 6/25		$	143 77
DINNER FOR LATE NIGHT MEETING		$	36 00
TIPS FOR JUNE TRIPS		$	48 00
LODGING 6/25		$	213 47
TRANSPORTATION 6/25		$	30 00
GAS FOR CAR-6/26		$	22 85
BORDERS BOOKS (LOCAL AREA)		$	22 40
CHAMBER OF COMMERCE (LOCAL AREA)		$	8 34
BLUE SKY GALLERY		$	157 50
	REIMBURSABLES JUNE 03	$	4 588 03
TERMS NET 60	CURRENT DUE	$	16 338 03
	PREVIOUS DUE	$	
	BALANCE DUE	$	16 338 03

NOTE INVOICE IS NOT DUE UNTIL THE BONDS ARE SOLD IN EARLY FALL

ENGINEERS
PLANNERS
ECONOMISTS

Wilbur Smith Associates

1301 Gervais Street (29201)
Post Office Box 92
Columbia SC 29202 0092
(803) 758 4500
(803) 251 2064 fax
www.wilbursmith.com

DISTRIBUTION
- ☐ PERMANENT FILE
- ☐ PEADING FILE
- ☐ LYLES
- ☐ MOSS
- ☐ K BRANHAM
- ☐ GRESSETTE
- ☐

May 28 2003

Mr Ashby Gressette, AIA
Stevens & Wilkinson of South Carolina
P O Drawer 7
Columbia, South Carolina 29202 0007

Via E-mail / Mail

RE Professional Design Services for
Convention Center Hotel Parking Garage

Dear Ashby

Based on the attached Letter of Intent from the City of Columbia dated May 16, 2003 indicating the City s intent to enter into a contract for professional services with Wilbur Smith Associates (WSA) in connection with the above referenced project, please accept this letter as WSA s intent to enter into a subagreement with S&W for professional design services The scope of these services will be defined in the near future

Meanwhile, we have allocated $1,000 for your initial efforts on this project until all agreements can be finalized

We look forward to working with you and S&W on this very exciting project

Very truly yours

WILBUR SMITH ASSOCIATES, INC

Gregory S Slaybaugh, P E
Vice President Parking & Facilities Engineering Division
and Project Manager

GSS/ems

Enclosure

0435

Harpootlian 0063

Stevens&Wilkinson

August 27 2003

Mr Scott Samson
BAI LLC
4006 Speedway
Austin TX 78751

RE COLUMBIA HILTON HOTEL
Columbia SC
JN 03028 00

Subject LETTER OF ENGAGEMENT for ACOUSTICAL / AUDIO VISUAL DESIGN SERVICES

Dear Mr Samson

Congratulations! The Columbia Hilton Team is pleased to notify you of our intent to retain BAI LLC for Acoustical Design / Audio-Visual Services for this project This letter is intended to establish the basic terms of the engagement

1 Your willingness to perform the Scope of Work as defined in the RFP and your Proposal with mutually agreeable modifications for a Lump Sum or Thirteen Thousand Five-Hundred Dollars ($13 500 00) for Acoustical Services and Twenty One Thousand Five Hundred Dollars ($21 500 00) for Audio-Visual Services

2 Design work through the Design Development Phase is not to exceed the fee of Five Thousand Four Hundred Dollars ($5 400 00) for Acoustical Services and Eight Thousand Six Hundred Dollars ($8 600 00) for Audio Visual Services before the bond sale

3 Your willingness to meet the Project Budget the Project Schedule and Hilton Brand standards

4 Your contract will be with Stevens & Wilkinson the Prime Architect

5 A not to-exceed allowance of Three Thousand Seven Hundred Fifty Dollars ($3 750 00) is included for your reimbursable expenses for the project

Specific duties and responsibilities of the parties are included by reference to your Proposal dated July 8 2003 and our RFP documents A Consultant Agreement will be negotiated between BAI LLC and the architects to further define duties and responsibilities

This is an exciting project and we are delighted to have you join the team The schedule is rather intense so we will want to schedule a design work session as soon as possible

0436

Harpootlian 0003

APPENDIX_0445

Call me if you have any questions Please sign this letter indicating your acceptance of the basic terms of engagement and return a copy to me at your earliest convenience

Sincerely
Stevens & Wilkinson of South Carolina Inc

Dean H Morr AIA
V ce President

Accepted by

Date 8/29/03

DHM/jhw

cc John Lumpkin - Edens & Avant
Mark Allies - Turner Construction
Tony Traub - Garfield Traub
Bill Tom - Hilton Corp
Jack Plaxco - TVS

Stevens&Wilkinson
ARCHITECTURE ENGINEERING INTERIORS

August 27 2003

Mr Frank Douglas
Mr Lee Jones
The Douglas Group
3040 Post Oak Blvd Suite 510
Houston TX 77056

RE COLUMBIA HILTON HOTEL
Columbia SC
JN 03028 00

Subject LETTER OF ENGAGEMENT for SIGNAGE SERVICES

Dear Mr Douglas and Mr Jones

Congratulations! The Columbia Hilton Team is pleased to notify you of our intent to retain The Douglas Group for Signage Services for this project This letter is intended to establish the basic terms of the engagement

1 Your willingness to perform the Scope of Work as defined in the RFP and your Proposal with mutually agreeable modifications for a Lump Sum of Thirty One Thousand Ten Dollars ($31 010 00) for Signage Services

2 Design work through the Design Development Phase is not to exceed the fee of Seven Thousand Six-Hundred Fifty Dollars ($7 650 00) before the bond sale

3 Your willingness to meet the Project Budget the Project Schedule and Hilton Brand standards

4 Your contract will be with Stevens & Wilkinson the Prime Architect

5 A not to-exceed allowance of Four Thousand Six Hundred Dollars ($4 600 00) is included for your reimbursable expenses for the project to be modified

Specific duties and responsibilities of the parties are included by reference to your Proposal dated July 25 2003 and our RFP documents A Consultant Agreement will be negotiated between The Douglas Group and the architects to further define duties and responsibilities

This is an exciting project and we are delighted to have you join the team The schedule is rather intense so we will want to schedule a design work session as soon as possible

0438

Stevens & Wilkinson of South Carolina Inc
PO Drawer 7 Columbia SC 29202 0007 1501 Main Street Columbia SC 29201 803 765 0320 Fax 803 254 6209

Harpootlian 0005

Call me if you have any questions Please sign this letter indicating your acceptance of the basic terms of engagement and return a copy to me at your earliest convenience

Sincerely
Stevens & Wilkinson of South Carolina Inc

Dean H Morr AIA
Vice President

Accepted by

9/5/03
Date

DHM/jhw

cc John Lumpkin - Edens & Avant
Mark Alles - Turner Construction
Tony Traub - Garfield Traub
Bill Tom - Hilton Corp
Jack Plaxco - TVS

	Totals		Telecom		Security
30% = DD's	8999	=	3579	+	5370
50% = CD's	14,918	=	5968	+	8950
20% = CA	5967	=	2388	+	3579
	29,834		11,935		17,899

Stevens&Wilkinson
ARCHITECTURE ENGINEERING INTERIORS

August 27 2003

Mr Jorge Gomez PE RCDD
J & A Engineering LLC
1800 Slope Wood Bend
Marietta GA 30062

RE COLUMBIA HILTON HOTEL
Columbia SC
JN 03028 00

Subject LETTER OF ENGAGEMENT for TELECOMMUNICATIONS / SECURITY SERVICES

Dear Mr Gomez

Congratulations! The Columbia Hilton Team is pleased to notify you of our intent to retain J & A Engineering LLC for Telecommunications / Security Design Services for this project This letter is intended to establish the basic terms of the engagement

1 Your willingness to perform the Scope of Work as defined in the RFP and your Proposal with mutually agreeable modifications for a Lump Sum of Eleven Thousand Nine Hundred Thirty Five Dollars ($11 935 00) for Telecommunications Services and Seventeen Thousand Eight-Hundred Ninety-Nine Dollars ($17 899 00) for Security Services

2 Design work through the Design Development Phase is not to exceed the fee of Three Thousand Five Hundred Seventy-Nine Dollars ($3 579 00) for Telecommunications Services and Five Thousand Three Hundred Seventy Dollars ($5 370 00) for Security Services before the bond sale

3 Your willingness to meet the Project Budget the Project Schedule and Hilton Brand standards

4 Your contract will be with Stevens & Wilkinson the Prime Architect

5 A not-to-exceed allowance of Two Thousand Seven-Hundred Fifty Dollars ($2 750 00) is included for your reimbursable expenses for the project

Specific duties and responsibilities of the parties are included by reference to your Proposal dated July 26 2003 and our RFP documents A Consultant Agreement will be negotiated between J & A Engineering LLC and the architects to further define duties and responsibilities

This is an exciting project and we are delighted to have you join the team The schedule is rather intense so we will want to schedule a design work session as soon as possible

Harpootlian 0007
0440

Stevens & Wilkinson of South Carolina Inc
PO Drawer 7 Columbia SC 29202 0007 1501 Main Street Columbia SC 29201 803 765 0320 Fax 803 254 0209

Call me if you have any questions Please sign this letter indicating your acceptance of the basic terms of engagement and return a copy to me at your earliest convenience

Sincerely
Stevens & Wilkinson of South Carolina Inc

Dean H Morr AIA
Vice President

DHM/jhw

cc John Lumpkin – Edens & Avant
Mark Alles – Turner Construction
Tony Traub – Garfield Traub
Bill Tom – Hilton Corp
Jack Plaxco – TVS

Accepted by

8/31/03
Date

Member
J & A Engineering, LLC

Stevens&Wilkinson
ARCHITECTURE ENGINEERING INTERIORS

August 27 2003

Ms Candace Kling
C M Kling & Associates Inc
1411 King Street
Alexandria VA 22314

RE COLUMBIA HILTON HOTEL
Columbia SC
JN 03028 00

Subject LETTER OF ENGAGEMENT for LIGHTING DESIGN SERVICES

Dear Ms Kling

Congratulations! The Columbia Hilton Team is pleased to notify you of our intent to retain C M Kling & Associates Inc for Lighting Design Services for this project This letter is intended to establish the basic terms of the engagement

1 Your willingness to perform the Scope of Work as defined in the RFP and your Proposal with mutually agreeable modifications for a Lump Sum of Thirty-Five Thousand Dollars ($35 000 00)

2 Design work through the Design Development Phase is not to exceed the fee of Seventeen Thousand Five Hundred Dollars ($17 500 00) before the bond sale

3 Your willingness to meet the Project Budget the Project Schedule and Hilton Brand standards

4 Your contract will be with Stevens & Wilkinson the Prime Architect

5 A not to exceed allowance of Seven Thousand Eight Hundred Fifty Dollars ($7,850 00) is included for your reimbursable expenses for the project

Specific duties and responsibilities of the parties are included by reference to your Proposal dated July 1 2003 and our RFP documents A Consultant Agreement will be negotiated between C M Kling & Associates Inc
and the architects to further define duties and responsibilities

This is an exciting project and we are delighted to have you join the team The schedule is rather intense so we will want to schedule a design work session as soon as possible

Stevens & Wilkinson of South Carolina Inc
PO Drawer 7 Columbia SC 29202 0007 1501 Main Street Columbia SC 29201 803 765 0320 Fax 803 254 6209

Call me if you have any questions Please sign this letter indicating your acceptance of the basic terms of engagement and return a copy to me at your earliest convenience

Sincerely
Stevens & Wilkinson of South Carolina Inc

Dean H Mori AIA
Vice President

DHM/jhw

cc John Lumpkin - Edens & Avant
Mark Alles - Turner Construction
Tony Traub - Garfield Traub
Bill Tom - Hilton Corp
Jack Plaxco - TVS

Accepted by

9/5/03
Date

Planning Architecture Interior Design

Thompson Ventulett Stainback & Associates Inc
2700 Promenade Two 1230 Peachtree Street N E
Atlanta Georgia 30309-3591
t 404 888 6600
f 404 888 6700

April 15 2005

Mr Dean Morr
Stevens & Wilkinson
1501 Main Street 10th Floor
Columbia, SC 29201

Peference Columbia Hilton Columbia South Carolina
Project No 9107 000

Dear Mr Morr

Our independent auditors Bearden & Smith, P C are engaged in an audit of our financial statements For verification purposes only would you kindly respond directly to them regarding the accuracy of the following information at December 31, 2004 We are including a summary of the project's status below

Summary

1	Original Contract Amount	$ 690,600 00
2	Total Approved Change Orders	$ 0
3	Adjusted Contract Price	$ 690,600 00
4	Total Billings	$ 649,881 81
5	Total Payments	$ 189,543 29
6	Total Unpaid Balance	$ 460,338 52
7	Less Retentions	$ 0
8	Total Currently Due	$ 460,338 52
9	Details of any claims back charges, or disputes concerning this contract (Attach a separate sheet if necessary)	$
10	Estimated Completion Date	On Hold

Special notes

Please review the attached detail of all outstanding invoices at 12/31/2004 that are due to ensure the listing's completeness and accuracy We are enclosing a self addressed, stamped envelope for your convenience in replying directly to our auditors Your prompt response will be greatly appreciated

Sincerely,

Thompson Ventulett, Stainback & Associates, Inc

Virginia J Gaeblein
Vice President of Financial Planning

The above information is
____ Correct
____ Incorrect (Please submit details of any differences)

0444

BY _____ DATE _____

TITLE _____

Harpootlian 0034

(34)

APPENDIX_0453

Detail Aged Accounts Receivable Report

Order By Project (Open Items Only)
Project Sort By Project ID
As of 12/31/2004
Aged By Due Date

TVS&A Inc Architects
Principal — ZZZZZZZZ
Project Manager — ZZZZZZZ
Client — ZZZZZZZZ
Project 0167 000 — 0167 ZZZ
AR Accounts 110000001 — 110000001

Project / Invoice #	Post Date	Due Date	Journal	Ref #	Inv Amount	Telephone # / Contact(s) 0 30	31 60	61 90	91 120	121 +
0167 000	Columbia Hilton					DR DEAN MORR				
27029	11/30/2003	12/04/2003	SJ	9119	528 929 72					528 929 72
27029	01/09/2004		CR	1650	69 254 29					69 254 29
27029	02/10/2004		CR	1662	120 289 00					120 289 00
27200	12/31/2003	12/17/2003	SJ	9247	29 952 16					29 952 16
27226	12/31/2003	01/22/2004	SJ	9277	18 612 78					18 612 78
27281	01/31/2004	02/27/2004	SJ	9354	34 903 86					34 903 86
27383	02/29/2004	03/24/2004	SJ	9476	35 968 71					35 968 71
27559	03/31/2004	04/30/2004	SJ	9631	487 95					487 95
27644	04/30/2004	05/27/2004	SJ	9696	338 77					338 77
27760	05/31/2004	06/28/2004	SJ	9773	486 92					486 92
27860	06/30/2004	07/29/2004	SJ	9845	200 94					200 94
			Balance Due		460 338 52	0 00	0 00	0 00	0 00	460 338 52
			Grand Total		460 338 52	0 00	0 00	0 00	0 00	460 338 52

Stevens&Wilkinson

A TECTURE ENGINEER NG NTER O S

December 18 2003
Invoice No 38430B
Job No 03028 00

City of Columbia
Attn Shawn Epps
P O Box 147
Columbia SC 29217

FOR Columbia Hilton Hotel

PROFESSIONAL SERVICES FOR THE PERIOD JULY 10, 2003 THROUGH DECEMBER 15, 2003- NET AMOUNTS VOLUNTARILY & TEMPORARY DEFFERED

Fees		
S&W	359 707 34	
TVS	170 289 00	
Consultants		
Douglas Group	2 922 30	
BAI	14 000 00	
CM King	3 500 00	
J&A Engineering	20 883 56	
Enviro Ag	18 000 00	
Clevenger	14 210 00	
Lowen Gunther	57.250.00	
	660 762 20	
Less Previously Billed	0.00	
Current Fee Billing		660 762 20
Expenses to Date		
S&W	6 081 43	
TVS	19 254 29	
Consultants	10.986.87	
	36 322 59	
Less Previously Billed	0.00	
Current Reimbursable Billing		36.322.59
TOTAL AMOUNT DUE THIS INVOICE		$ 697,084.79

NOTICE SECTION 29 6 50 CODE OF LAWS OF SOUTH CAROLINA 1976 AS AMENDED APPLIES TO THE PAYMENT REQUESTED HEREIN

0446

S [illegible] South Carolina Inc
P O [illegible] Co [illegible] 29_0 0707 1501 M [illegible] Sc 29701 803 [illegible] 0220 Fax 803 [illegible]

Harpootlian 0036

Stevens&Wilkinson

ARCH ECTURE ENG N NG INTER ORS

December 18 2003
Invoice No 38430B
Job No 03028 00

City of Columbia
Attn Shawn Epps
P O Box 147
Columbia SC 29217

FOR Columbia Hilton Hotel

PROFESSIONAL SERVICES FOR THE PERIOD JULY 10, 2003 THROUGH DECEMBER 15, 2003

	Fees	Fee Earned
Basic Project Fee	2 203 000 00	588 006 10
Early Site Work	34,000.00	34,000.00
Subtotal	2 237 000 00	622 006 10
I D Fees	357 000 00	75,078 69

TOTAL AMOUNT DUE THIS INVOICE $ 697,084.79

NOTICE SECTION 29-6 50 CODE OF LAWS OF SOUTH CAROLINA 1976 AS AMENDED APPLIES TO THE PAYMENT REQUESTED HEREIN

0447

Stevens & Wilkinson South Carolina Inc
PO Drawer 7 Col [illegible] Suite 202 1301 Gervais Street [illegible] SC 29 [illegible] 803 765 03[illegible] F [illegible] 09

Harpootlian 0037

Stevens&Wilkinson

ARCHITECTURE ENGINEERS

December 18 2003
Invoice No 38430A
Job No 03028 00

Turner Construction
Attn Mr Mark Alles
3424 Peachtree Road NE Suite 200
Atlanta GA 30326

FOR Columbia Hilton Hotel

PROFESSIONAL SERVICES FOR THE PERIOD ENDING DECEMBER 31, 2003

Phase	Fee	Percent Complete	Fee Earned
Schematic/Early GMP1	208 200 00	100%	208 200 00
Design Dev %	74 000 00	100%	74 000 00
Construction Doc	483 200 00	45%	217 440 00
GMP Pricing	68 800 00	50%	34 400 00
Construction Admin %	275,000.00	0%	0.00
	1 109 200 00		534 040 00
Early Site Work	34 000 00	100%	34 000 00
		Total Fee Billing	568 040 00
		Less Previously Billed	0.00
		Current Fee Billing	568 040 00
Reimbursable Expenses to Date	6 081 43		
Less Previously Billed	0 00		6,081 43
		TOTAL AMOUNT DUE THIS INVOICE	$ 574,121.43

NOTICE SECTION 29 6 50 CODE OF LAWS OF SOUTH CAROLINA 1976 AS AMENDED APPLIES TO THE PAYMENT REQUESTED HEREIN

0448

Sears [illegible]
PO Box [illegible]

Harpootlian 0038

INVOICE NO 27023

DATE November 30 2003

TO STEVENS & WILKINSON
1501 Main Street 13th Floor
Columbia South Carolina 29201
Attn Mr Dean Morr

REFERENCE COLUMBIA HILTON
Columbia South Carolina
Projec No 0167 000

FOR PROFESSIONAL SERVICES RENDERED THROUGH 11/27/03

FEE BASIS Architectural Services Risk Premium Lump Sum $75 000 00 Basic Services Lump Sum $615 600 00
Reimbursable Expenses @ 1 1

PHASE	% FEE	PART OF FEE	% COMP	FEE EARNED	LESS PREV INVOICED	AMOUNT DUE THIS INVOICE
A BASIC SERVICES						
1) Risk Premium	100%	$ 75,000 00	100%	$ 75,000 00	$ 0 00	$ 75,000 00
2) Schematics	40%	246 850 00	100%	$ 246 850 00	$ 0 00	$ 246 850 00
3) Design Dev	22%	137 140 00	100%	137 140 00	0 00	137 140 00
4) Const Docs	28%	170 660 00	25%	42 665 00	0 00	42 665 00
5) Bid	02%	12 190 00	50%	6 095 00	0 00	6 095 00
6) Const Admin	08%	48,760 00		0 00	0 00	0 00
	100%	$ 615 600 00		$ 432 750 00	$ 0 00	$ 432 750 00
Total Basic Services		$ 690,600.00		$ 507,750.00	$ 0.00	$ 507,750.00
B REIMBURSABLE EXPENSES						
1) Printing/Reproduction				$ 6 976 78	$ 0 00	$ 6 976 78
2) Telephone/Faxes				5 794 49	0 00	5 794 49
3) Postage/Delivery				1 004 50	0 00	1 004 50
4) Photography				27 57	0 00	27 57
5) Special Supplies				11 81	0 00	11 81
6) Travel/Subsistence				7,364 57	0 00	7,364 57
				$ 21 179 72	$ 0 00	$ 21 179 72
C PROJECT TOTALS				$ 528,929.72	$ 0.00	$ 528,929.72

THOMPSON VENTULETT STAINBACK & ASSOCIATES INC ARCHITECTS

BY _____
David F Frazer

JP/kd

0449

Invoice

The Douglas|Group
PLEASE REMIT TO
3040 Pos Oak Boulevard Suite 510
Houston Texas 77056

December 5 2003
Invoice No 23040 00 0010535

Stevens & Wilkinson Inc
Dean Morr
1501 Main St Ground Floor
Columbia SC 29201

Project 23040 00 Columbia Hilton Hotel

Provide Design Development Contract Document and Construction Administration for the Columbia Hilton Hotel s Environmental Graphics and Wayfinding System

CC Thompson Ventulett Stainback

Professional services from November 1, 2003 to November 30, 2003

Fee

Phase	Fee	Percent Complete	Earned	
Programming/Budget Ver	1 530 00	95 00	1 453 50	
Design Development	6 120 00	20 00	1 224 00	
Contract Documents	12 240 00	2 00	244 80	
Bidding/Negotiation	1 530 00	0 00	0 00	
Construction Admin	9 590 00	0 00	0 00	
Total Fee	31 010 00	Total Earned	2 922 30	
		Previous Fee Billing	1 989 00	
		Current Fee Billing	933 30	
		Total Fee		933 30

Reimbursable Expenses

R/E Reproductions	80 50	
R/E Telephone	0 74	
R/E Delivery & Postage	70 30	
Total Reimbursables	151 54	151 54

Total this invoice $1 084 84

Outstanding Invoices

Number	Date	Balance
0010524	11/13/03	1 989 35

PAYMENT DUE UPON RECEIPT TE (13) 96 3311

0450

Harpootlian 0040

Invoice

The Douglas|Group
PLEASE REMIT TO
3040 Post Oak Boulevard Suite 510
Houston Texas 77056

November 13 2003
Invoice No 23040 00 0010524

Stevens & Wilkinson Inc
Dean Morr
1501 Main St Ground Floor
Columbia SC 29201

Project 23040 00 Columbia Hilton Hotel

Provide Design Development Contract Document and Construction Administration for the Columbia Hilton Hotel s Environmental Graphics and Wayfinding System

PLEASE NOTE THIS REPLACES ALL OTHER INVOICES

CC Thompson Ventulett Stainback

Professional services from October 1, 2003 to October 31, 2003

Fee

Phase	Fee	Percent Complete	Earned	
Programming/Budget Ver	1 530 00	90 00	1 377 00	
Design Development	6 120 00	10 00	612 00	
Contract Documents	12 240 00	0 00	0 00	
Bidding/Negotiation	1 530 00	0 00	0 00	
Construction Admin	9 590 00	0 00	0 00	
Total Fee	31 010 00	Total Earned	1 989 00	
		Previous Fee Billing	0 00	
		Current Fee Billing	1 989 00	
		Total Fee		**1 989 00**

Reimbursable Expenses

R/E Telephone	0 35	
Total Reimbursables	0 35	**0 35**

Total this invoice $1 989 35

Billings to date	Current	Prior	Total
Fee	1 989 00	0 00	1 989 00
Expense	0 35	0 00	0 35
Totals	1 989 35	0 00	1 989 35

0451

PAYMENT DUE UPON RECEIPT TEL (713) 961 33 1

Harpootlian 0041

BAI Consultants in Acoustics & Audio/Visual Technologies
[illegible] Suite [illegible] [illegible] [illegible] www.baiaa.com

Invoice

DATE	INVOICE NO
11/14/2003	4747

BILL TO

STEVENS & WILKINSON
1201 MAIN STREET
COLUMBIA SOUTH CAROLINA 29201
ATTN DEAN H MORR

P O NO	TERMS	PROJECT
	Due on recpt	

ITEM	DESCRIPTION	QTY	RATE	AMOUNT
	COLUMBIA HILTON HOTEL COLUMBIA SOUTH CAROLINA			
	TVSA/STEVEN & WILKINSON JOINT PROJECT NO 0167 00			
FEES	PROFESSIONAL SERVICES RENDERED THROUGH 100 / DD FOR ACOUSTICS ACOUSTICS FEE $13 200 SD@ 3 / plus DD @ 35 % 40 / OF $13 00 = $5 400 NO PRIOR FEE BILLING		5 400 00	5 400 00
FEES	PROFESSIONAL SERVICES RENDERED THROUGH 100 % DD FOR AUDIO VISUAL AV FEE $ 1 200 40 % OF $21 200 = $8 600 NO PRIOR FEE BILLING		8 600 00	8 600 00
	BAI 4664			
			Total	$14 000 00

TAXPAYER ID #74 2105 11

0452

Harpootlian 0042

APPENDIX_0461

C M Kling & Associates, Inc

Architectural Lighting Design

141 King Street
Alexandria VA 22314
703 684 6270 Fax 703 684 6273

INVOICE.

DATE	INVOICE #
9 8 200	204

BILL TO	PROJECT
Stevens & Wilkinson Dean H Morr AIA P O Drawer & Columbia South Carolina 29202 0007	CMKA Project # 23 51 Columbia Hilton Hotel

TERMS	Phone	FAX#
Net 30	803 765 0320	703 254 6209

DESCRIPTION	HOURS	RATE	AMOUNT
Design Development Watts/ Sq ft Loads Preliminary pricing and response to Design Build GMP= 10% - see proposal		3 500 00	3 500 00

0453

It's been a pleasure working with you!

Total $3 500 00

Harpootlian 0043

J & A Engineering, LLC
1800 Slope Wood Bend
Marietta, GA 30062
Voice 404-545 6867
Fax 309-409-3481

Invoice

Invoice Number
SW 03 HH 003
Invoice Date
11/30/03

Bill To

Stevens & Wilkinson
P O Drawer 7
Columbia SC 29202 0007

Customer ID	Payment Terms	Due Date
Stevens & Wilkinson	Net 30 Days	12/30/03

Description	Amount
Telecommunications/Security Design Services	
Project Columbia Hilton Hotel - Job #03028 00	
80% Construction Documents Complete	11 934 56
Plotting Expense Total of 18 plots (All 42 x 30) @ $0 83 per sq ft = $130 72	130 72

Total Invoice Amount Due $12 065 28

0454

Harpootlian 0044

J & A Engineering, LLC
1800 Slope Wood Bend
Marietta, GA 30062
Voice 404-545-6867
Fax 309-409-3481

Invoice

Invoice Number
SW 03 HH 002
Invoice Date
10/30/03

Bill To

Stevens & Wilkinson
P O Drawer 7
Columbia, SC 29202-0007

Customer ID	Payment Terms	Due Date
Stevens & Wilkinson	Net 30 Days	11/29/03

Description	Amount
Telecommunications/Security Design Services Project Columbia Hilton Hotel 100% of Design Development Phase complete Previously billed 25% complete P 237 25	6 711 75

Total Invoice Amount Due $ 6 711 75

0455

Harpootlian 0045

Edens & Avant

REAL ESTATE SERVICES

June 26 2003

Mr Steven A Gantt
Assistant City Manager
City of Columbia
P O Box 147
Columbia SC 29217

RE Convention Center Hotel

Post GMP

Dear Steve

As you know under the terms of the MOU members of the development team agreed to be effectively at risk up to the date of bond closing As it relates to the architectural and engineering work the at risk was limited to sufficient plans and specs in order to obtain a Guaranteed Maximum Price (GMP) from Turner Construction the contractor The completion of the GMP set of documents is scheduled to occur July 10, 2003 We are very pleased with the work accomplished at this point and anticipate meeting the July 10 schedule With the GMP in hand, the City would then be able to pursue bond closings currently scheduled to be held during the second week of October 2003 The issue/opportunity presented under this scenario relates to the time period between obtaining the GMP and bond closing (approximately 90 days) Provided the architectural team continues its work during this ninety (90) day period (which work is not required for bond closing) it would enable the contractor to commence its work ninety (90) days earlier thereby directly affecting the timeframe of the Hotel opening In order for this to happen the architectural team would need assurance that it would receive payment for its work performed during this particular timeframe.

I enclose an estimate of the fees which would be incurred during this 90 day period and a weekly estimate of the fees after that should the bond closing be delayed beyond the week of October 13 2003 Please advise

Sincerely

John H Lumpkin Jr President
EDENS & AVANT REAL ESTATE SERVICES, LLC

Enclosures

0456

900 Bank of America Plaza 1901 Main Street Columbia SC 29201 803 7794420 Fax 803 254 4983 www edensandavant com

JL000250

Stevens&Wilkinson
ARCHITECTURE ENGINEERING INTERIORS

Columbia Convention Center Hotel
Architectural & Engineering Fees
Cost Estimate
June 26, 2003

Estimated Fees During 90-Day Period July 10 2003 – October 13 2003	$450 000 00
Estimate of Fees to be Incurred Weekly After October 13 2003 (anticipated Bond closing date)	$ 60 000 00/Week

Stevens & Wilkinson of South Carolina Inc
PO Drawer 7 Columbia SC 29202 0007 1501 Main Street Columbia SC 29201 803 765 0320 Fax 803 254 6209

COLUMBIA

MOU

FINAL COPY

4/17/03

040303(f:\city\hotel\mou)

MEMORANDUM OF UNDERSTANDING

This Memorandum of Understanding (the "MOU") by and between the CITY OF COLUMBIA (" City") and the PROJECT TEAM (" Project Team") defined below, for the development of a 300 room convention center hotel and ancillary uses (hereafter the 'Hotel ') in response to the City's solicitation for development teams to construct and operate the Hotel

WHEREAS, Project Team intends to construct a three hundred (300) guestroom, full service Hilton Hotel with approximately twelve thousand (12,000) square feet of meeting space in downtown Columbia adjacent to the new Midlands Regional Convention Center (the 'MRCC) to satisfy the needs of conventioneers and visitors to Columbia, and

WHEREAS, the City has determined that the Hotel is required to maximize the utilization and the economic benefits of the MRCC and

WHEREAS, the City's support of the development of the Hotel helps to achieve this goal and understands a public-private partnership will be required to create a financially viable Hotel, and

WHEREAS, it was determined that it would be in the best interest of the City for a Non Profit Corporation ('NPC") of the City to be the owner of the Hotel, and

WHEREAS, the Project Team submitted a proposal to finance, develop and operate the Hotel in response to the City's solicitation, and

WHEREAS the City and the Project Team desire to document the understandings reached with respect to the financing, development and operation of the Hotel

NOW THEREFORE, in consideration of the foregoing and the mutual promises contained herein, and other valuable consideration the sufficiency and receipt of which are hereby acknowledged, the parties agree as follows

I GENERAL CONDITIONS

1 This MOU reflects the intent to proceed in good faith to execute definitive written agreements with respect to the business terms and conditions herein contained Notwithstanding anything herein to the contrary, if the City determines that it is not feasible to proceed with the Hotel project it shall have no liability under this MOU

2. Unless superseded by an amendment to this MOU or the final Development Management Agreement, this MOU identifies the understanding of the parties

II PURPOSE

This MOU is entered into with the understanding by all parties that the primary reason for the City s participation in the Hotel is to maximize the impact the MRCC has on the community by developing an adjacent headquarters hotel Accordingly, it is understood that the MRCC impact is of the highest priority

III PARTIES TO THIS MEMORANDUM OF UNDERSTANDING

1 City – City of Columbia (City"),

2 Project Team

2 1 Developer – Edens & Avant Real Estate Services LLC, Garfield Traub Development; and Gary Realty, Inc

2 2 Design/Builder – Turner Construction Company in association with Construction Dynamics and DESA, Inc The A/E part of their Team is - Thompson, Ventulett, Stainback & Associates, Inc Architects, Stevens & Wilkinson, and ENVIRO AgScience

2 3 Operator – Hilton Corporation

2 4 Underwriter – Salomon Smith Barney, Inc

IV Hotel Description

1 Hotel Site – The anticipated site is located near the new MRCC and is approximately 60,000 square feet.

2 Parking Facility Site – The anticipated site is located near new MRCC and is approximately 80,000 square feet.

3 Brand – The Hotel is to be branded as a "Hilton ' hotel and named by the NPC in accordance with the Operator's brand requirements

4 Hotel Program – The Hotel is to include 300 rentable guestrooms, including ten 10 suites The Hotel is to also include approximately 12,000 square feet of ballroom and breakout meeting space In addition, the Hotel is to include a casual restaurant and lobby bar that collectively is to provide table seating adequate to serve Hotel guests as well as those utilizing meeting space in the Hotel.

5 Parking – The Hotel is to have access to adequate parking spaces in a larger public parking garage adjacent to the Hotel for Hotel patrons and guests

6 Project Quality - The construction quality and level of amenities is to be similar in all material respects to the Sheraton Overland Park Hotel and/or The Radisson Convention Center Hotel in Myrtle Beach

7 Development Budget - A detailed development budget will be prepared by Developer but shall be subject to the review and approval of the City

V ROLE OF THE CITY

1 Hotel Site Assembly – The City agrees to acquire the Hotel Site, satisfy any environmental issues, demolish any existing structures, rezone the land for the Hotel (if required) and convey it to the NPC at cost, funded by Hotel Revenue Bond proceeds The Developer will provide an amount satisfactory to the City in Hotel Revenue Bond proceeds for acquisition of land and site development costs associated with the Hotel

2 Parking Facility – The City is to develop a nearby Parking Facility of approximately 800 spaces 300 parking spaces will be made available in the public parking garage for Hotel patrons and guests The NPC is to work with the City to formulate a joint use agreement related to the Hotel parking spaces during periods of low demand

3 Establish NPC – The City is to establish a NPC to issue bonds to finance the Hotel, own the Hotel developed by the Project Team, and retain the Operator for the operation of the Hotel consistent with the terms and conditions of this MOU The NPC articles of incorporation, bylaws and Board of Directors are to be established by the City

4 NPC Financing – The NPC is to retain the Underwriter and legal counsel to structure and issue approximately $60 million in tax-exempt hotel revenue bonds in amounts acceptable to the City (the Bonds") supported by Hotel revenues and the City Financial Participation. The Bonds will be issued either in one series— Hotel Bonds or two series—"Senior Bonds and Subordinate Bonds" The City shall use its best efforts to approve the issuance of a series of tax exempt Hotel revenue bonds The proceeds of the Bonds will be sufficient to (i) pay the development and construction costs of the project, (ii) pay 100% of debt service on the Bonds during the construction period and pay a portion of debt service during the first two operating years, (iii) fund debt service reserve funds for the Bonds, (iv) pay the fees of the Underwriter as described below, and (v) pay other financing costs including the costs of bond and underwriter s counsel rating agency fees, trustee fees, financial advisory fees, printing costs and costs of the feasibility report. in amounts satisfactory to the City

5 City Credit Support – The City is willing to provide a credit enhancement to support an amount acceptable to the City which would be utilized for any debt service shortfall on the Subordinate Bonds or Hotel Bonds (as the case may be), if project revenues net of expenses are insufficient to provide for the debt service on the Subordinate Bonds or on the Hotel Bonds

VI ROLE OF THE DEVELOPER

1 Development of the Hotel – The Developer will coordinate design, development, construction and delivery of the Hotel in accordance with the terms of the Development Management Agreement to be finalized between the City or NPC and the Developer

2 Development Fee – The Developer is to be paid a development fee of 4 75% of the project budget, exclusive of land and any financing related fees, to ensure the coordination and delivery of the Hotel on time and on budget A preliminary scope of services is presented in Attachment 1 The fee is intended to include all fees and costs associated with personnel, administrative, travel and any other expenses. The Development Fee is to be paid as follows 33 1/3% upon closing the bond sale, 57 2/3% on a pro rata basis over the construction period based on percentage of completion of the Hotel and the balance of 10% at the issuance of a Certificate of Occupancy for the Hotel

3 Pre-Development Funding – The Project Team will be responsible for the costs incurred prior to closing the financing These costs include, but are not limited to, design, testing, bid packages, legal, underwriting, travel, etc If the Hotel financing fails to close as a result of the City not meeting its obligations outlined in the Development Agreement, or as a result of an unforeseen catastrophic event not caused by any of the Project Team, the City will reimburse the Project Team for actual, documented costs incurred to that point in time up to an amount to be agreed upon All studies, tests, plans and the like prepared or obtained by the Project Team will be assigned to and become the property of the City

4 Project Oversight – During the design and construction phases of the Hotel, the Developer shall furnish to the City and the City s consultants all information reasonably requested concerning the designing, planning, construction and development of the Hotel The Developer is to provide the City with the opportunity for timely review and approval of construction plans for the Hotel. The Developer acknowledges that the City may have its own construction monitor, which could also be the construction monitor for the bondholders, on the Hotel site and that Construction Oversight costs are to be paid from the Hotel budget.

5 Zoning - The City and the Developer will work together on zoning matters including those related to the height of the Hotel building setbacks and design review issues

6 Commercial Non Discrimination Policy and Subcontracting Outreach Program – The Developer and Operator agree to fully implement the City's Commercial Non-Discrimination Policy and Subcontracting Outreach Program and to execute any amendments covering matters as reasonably determined by the City as necessary to evidence compliance with the City's policies In addition, it will be the goal of the Developer to have twenty-five percent (25%) of the work associated with the construction of the Hotel handled by MBE/WBE firms and fifteen percent (15%) of the development and related fees generated by this project paid to the MBE/WBE firms associated with the project.

VII ROLE OF THE CONTRACTOR

1 Fee – The Design/Builder is to be paid 8% of Design/Build costs for general conditions and a 5% fee based on the Design/Build costs for the Design/Builder's overhead and profit. The fees are intended to include all fees and costs associated with personnel, administrative, travel and any other expenses The fee is to be paid

per a schedule to be outlined in the Design/Build Agreement. If the Underwriter does not close the financing the City will not be responsible for reimbursing for any costs incurred except as provided in Section VI, 3 herein above

2 Development Guarantee – Upon the execution of the Design-Build Agreement, Turner Construction guarantees that the Hotel budget, including all costs related to designing, constructing, finishing and equipping the hotel will not exceed an amount to be agreed upon between the City, the Developer and Turner Construction. At the time of the issuance of any bonds, Turner Construction is to guarantee delivery of the Hotel on a date certain for the budgeted amount. The guarantee is to be supported by a payment and performance bond acceptable to the City and in an amount acceptable to the City that names the City as dual obligee The guarantee is to also provide the City with liquidated damages on a schedule and in amounts sufficient to equal the interest on any bonds as it becomes due The guarantee must be acceptable to the bond underwriter and to the bondholders

3 Design/Build Cost Savings – Fifty-percent (50%) of the construction cost savings realized during the construction of the Hotel will accrue to the NPC Program/budget changes prior to the commencement of construction shall not be considered construction cost savings

VIII ROLE OF THE ARCHITECT

1 Fee – The Architect is to be paid a fee of 7 25% by the Design/Builder based on hard construction costs together with the Design/Builder's general expenses and fees This fee is comprised of a 6% basic services fee and 1 25% for special consultants to be retained by the Architect for the project. The fee is to be paid consistent with the normal A I A contractual provisions in terms of timing and amount of payments If the Underwriter does not close the financing, the City will not be responsible for reimbursing any costs incurred except as provided in VI, 3 herein above The fee includes all fees and costs associated with personnel, administrative, travel and any other expenses for the defined scope The Architect will be reimbursed for any additional services or expenses as requested by the City

2 Design Review – The Architect shall develop and implement a design review process that is to provide the City, neighborhood and professional staff input into the design of the Hotel All parties pledge to use their best efforts to maintain the integrity of the Hotel and to be conscious of the time and cost of changes made during the review process

IX ROLE OF THE UNDERWRITER

1 Services Provided – Underwriter as the NPC's senior managing underwriter is to be responsible for analyzing and structuring the project, development of the financing plan, development of the supporting financial documents, and marketing the bonds

2 Fee – The Underwriter fee, contingent upon a successful transaction closing, is to be either 1 5% of the total par amount of the Bonds for the Senior Bonds and 1 25% of

the total par amount of the Bonds for the Subordinate Bonds or 1 375% of the total par amount of the Hotel Bonds

X. ROLE OF THE OPERATOR

1 Operator Contribution – Subject to the provisions under this Section X, the Operator will contribute $1 5 million in the form of an interest free, self-amortizing loan whose initial principal balance, after the opening, is to automatically reduce, without payment, by 1/180th per month as long as the QMA (defined below) is in effect. If the QMA is terminated before such loan is fully amortized, Operator shall be repaid the unamortized portion of such loan. The exact amount and terms will be subject to the approval of senior management of the Operator

2 Qualified Management Agreement – The Hotel is to be managed by the Operator under a 15-year Qualified Management Agreement ("QMA") that complies with Operating Guidelines for Management Contracts as set forth in the IRS Revenue Procedure 97 13 and the Internal Revenue Code of 1986, as amended, and as interpreted by the City's or NPC s Bond Counsel, as appropriate The City has the right to approve the final form of the QMA.

3 Base Management Fee – The Operator will be paid a fixed base management fee for the first four years, calculated based on 2 0% during the first year, 2 5% during the second year, 2 5% during the third year and 2 75% during the fourth year, of the projected gross operating revenues of the Hotel, and adjusted annually to reflect changes in a Market RevPar index for the remaining term. The fee structure assumes that the QMA would include a performance test that would allow for the earliest termination date to be at a time to be determined

4 Subordinated Base Management Fee – The Operator will be paid a fixed subordinate management fee for the first three years, calculated based on 1 0% of the projected gross operating revenues of the Hotel, and 1 25% annually thereafter This fee would be subordinate to either the senior project revenue bonds and the City enhanced project revenue bonds or the Hotel Bonds as applicable

5 Centralized Services Costs – If required by Bond Counsel, the Operator agrees to be paid a fixed amount for centralized services allocation for the first four years, based on the Operator's current formulas and the projected gross operating revenues, and adjusted annually by CPI for the remaining term

6 Technical Services Fee – The Operator is to be paid $315,000 for technical services related to Hotel development. The fee is intended to include all fees and costs associated with personnel, administrative, travel and miscellaneous expenses The fee is to be paid pro rata over the design and construction period based on percentage of completion of the Hotel.

7 Pre-Opening Marketing – The Operator is to outline its plan for directing the pre-opening marketing activities of the Hotel in an attachment to the QMA, subject to approval by the NPC Pre opening costs are estimated to be $1,500,000

8 Non-Compete Area – For a period of time, not to exceed the time the Operator manages the Hotel Operator agrees not to directly or indirectly operate, franchise brand or manage another full service Hilton Hotel within a five (5) mile radius of the Hotel

9 Employees – All employees of the Hotel are to be employees of the Operator who shall be solely responsible for complying with all employment laws

10 City Policies – The Operator agrees that the QMA will include certain requirements by the City relating to policies including but not limited to Commercial Non-Discrimination Policy and Subcontracting Outreach Program, Equal Employment Opportunity, Drug Policy, etc

11 Procurement – The Operator is to use reasonable efforts to make all purchases for the best commercial terms available Any rebate received by the Operator related to a purchase for Hotel is applied to reduce the cost of Operator's purchasing operations and such reduction in cost (or, if any, the purchasing operation's profit) will be allocated to Hotel in the same manner as allocated to other Operator-managed hotels Payments received from vendors for services rendered by Operator to such vendors, including market research, collection of purchasing data and participation in co-marketing or advertising programs, are not considered rebates and will be retained by Operator

12 HQ Hotel Room Block Commitment – The Operator is to enter into an agreement with the Convention Center Authority that is to make available 250 of the Hotel s standard rooms and an applicable percentage of the Hotel s suites for a to-be-determined number of event nights each month for city-wide events booking the MRCC for a mutually agreeable number of months in advance The number of rooms required to be made available can be reduced to 200 at a mutually agreeable point in time The City is to retain the right to impose a room block rate cap on each type of room tied to the average daily group rate for such type of room, if the City determines it is required to book the event. The Operator can reasonably request release of dates beyond a to-be-agreed-upon date for certain high impact in house group events

13 MRCC Meeting Space Rental and Catering Policy - Subject to availability, Operator agrees to pay normal and customary rental rates for use of MRCC facilities and services and to use MRCC catering services for such functions

14 Flag Approval – Hilton Corporation will need to formally approve the use of its flag, which approval is expected

XI ATTACHMENTS

1 Preliminary Development Management Scope of Services

SIGNATURES

CITY OF COLUMBIA

Print Name _____
Title _____

EDENS & AVANT REAL ESTATE SERVICES, LLC

John H Lumpkin, Jr President

GARFIELD TRAUB DEVELOPMENT, LLC
By Garfield Corporation, Member

Raymond Garfield, Jr , President

GARY REALTY, INC

Charles B Gary President

THOMPSON, VENTULETT, STAINBACK & ASSOCIATES, INC ARCHITECTS

Roger Nettenschwander, President

STEVENS & WILKINSON

Robert T Lyles, Chairman

ENVIRO AgSCIENCE

Louis B Lynn, President

TURNER CONSTRUCTION COMPANY

Paul D Little, Vice President

CONSTRUCTION DYNAMICS, INC

Nathaniel Spells, Sr President

SIGNATURES

CITY OF COLUMBIA

Print Name _____
Title _____

EDENS & AVANT REAL ESTATE SERVICES, LLC

John H. Lumpkin Jr President

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Charles B Gary, President

THOMPSON, VENTULETT, STAINBACK & ASSOCIATES, INC
ARCHITECTS

Roger Neuenschwander, President

STEVENS & WILKINSON

Robert T Lyles, Chairman

ENVIRO AgSCIENCE

Louis B Lynn, President

TURNER CONSTRUCTION COMPANY

Paul D Little, Vice President

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Nathaniel Spells, Sr President

SIGNATURES

CITY OF COLUMBIA

Print Name _____
Title _____

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John H Lumpkin, Jr President

GARFIELD TRAUB DEVELOPMENT, LLC
By Garfield Corporation, Member

Raymond Garfield, Jr , President

GARY REALTY, INC

Charles B Gary, President

Design Architect
THOMPSON, VENTULETT, STAINBACK & ASSOCIATES INC , ARCHITECTS

Roger Neuenschwander, President

Prime Architect
STEVENS & WILKINSON OF South Carolina, Inc

Robert T Lyles, Chairman

ENVIRO AgSCIENCE

Louis B Lynn, President

TURNER CONSTRUCTION COMPANY

Paul D Little, Vice President

CONSTRUCTION DYNAMICS, INC

Nathaniel Spells, Sr President

SIGNATURES

CITY OF COLUMBIA

Print Name _____
Title _____

EDENS & AVANT REAL ESTATE SERVICES, LLC

John H Lumpkin Jr President

GARFIELD TRAUB DEVELOPMENT, LLC
By Garfield Corporation, Member

Raymond Garfield Jr President

GARY REALTY INC

Charles B Gary, President

THOMPSON, VENTULETT, STAINBACK & ASSOCIATES INC ARCHITECTS

Roger Neuenschwander, President

STEVENS & WILKINSON

Robert T Lyles, Chairman

ENVIRO AgSCIENCE

Louis B Lynn, President

TURNER CONSTRUCTION COMPANY

Paul D Little Vice President

CONSTRUCTION DYNAMICS, INC

Nathaniel Spells, Sr President

SIGNATURES

CITY OF COLUMBIA

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Title _____

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John H Lumpkin, Jr President

GARFIELD TRAUB DEVELOPMENT LLC

By Garfield Corporation, Member

Raymond Garfield, Jr , President

GARY REALTY, INC

Charles B Gary, President

THOMPSON, VENTULETT, STAINBACK & ASSOCIATES, INC ARCHITECTS

Roger Neuenschwander, President

STEVENS & WILKINSON

Robert T Lyles, Chairman

ENVIRO AgSCIENCE

Louis B Lynn, President

TURNER CONSTRUCTION COMPANY

Paul D Little, Vice President

CONSTRUCTION DYNAMICS, INC

Nathaniel Spells, Sr President

SIGNATURES

CITY OF COLUMBIA

Print Name _____
Title _____

EDENS & AVANT REAL ESTATE SERVICES LLC

John H Lumpkin, Jr President

GARFIELD TRAUB DEVELOPMENT, LLC
By Garfield Corporation, Member

Raymond Garfield, Jr , President

GARY REALTY INC

Charles B Gary, President

THOMPSON VENTULETT, STAINBACK & ASSOCIATES INC
ARCHITECTS DESIGN ARCHITECT

Roger Neuenschwander, President

STEVENS & WILKINSON
PRIME / ARCHITECT of RECORD

Robert T Lyles, Chairman

ENVIRO AgSCIENCE

Louis B Lynn, President

TURNER CONSTRUCTION COMPANY

Paul D Little, Vice President

CONSTRUCTION DYNAMICS, INC

Nathaniel Spells Sr President

APPENDIX_0481

SIGNATURES

CITY OF COLUMBIA

Print Name _____
Title _____

EDENS & AVANT REAL ESTATE SERVICES, LLC

John H Lumpkin Jr President

GARFIELD TRAUB DEVELOPMENT, LLC
By Garfield Corporation, Member

Raymond Garfield Jr , President

GARY REALTY INC

Charles B Gary President

THOMPSON, VENTULETT STAINBACK & ASSOCIATES INC ARCHITECTS

Roger Neuenschwander, President

STEVENS & WILKINSON

Robert T Lyles, Chairman

ENVIRO AgSCIENCE

Louis B Lynn, President

TURNER CONSTRUCTION COMPANY

Paul D Little, Vice President

CONSTRUCTION DYNAMICS, INC

Nathaniel Spells, Sr President

SIGNATURES

CITY OF COLUMBIA

Print Name _____
Title _____

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Nathaniel Spells, Sr President

DESA INC

Diane E Sumpter, President & CEO

HILTON CORPORATION

Stephen H. Crabill, Vice President,
Southeast Region

SALOMON SMITH BARNEY, INC

William M Corrado, Director

APPENDIX_0484

DESA, INC

Diane B Sumpter, President & CEO

HILTON CORPORATION

Stephen H. Crabill, Vice President,
Southeast Region

CITIGROUP GLOBAL MARKETS
INC

William M. Corrado, Director

APPENDIX_0485

DESA, INC

Diane E Sumpter, President & CEO

HILTON HOTELS CORPORATION

Greg S Dickhens Vice President
South Central Region

SALOMON SMITH BARNEY INC

William M Corrado Director

APPENDIX_0486

ATTACHMENT 1

PRELIMINARY DEVELOPMENT MANAGEMENT SCOPE OF SERVICES

I PRE-CONSTRUCTION SERVICES

1 Identify and quantify the Owner s goals for the Project so that these goals can be communicated clearly to the entire Project team

2 Identify for the Owner a list of required consultants and other professionals required to develop the Project that have not already been envisioned

3 Develop an initial Project development schedule describing the steps and duration of the major tasks required to develop the Project.

4 Identify other parameters, such as code zoning, land use or other such restrictions, which have a potential impact of the design development or construction of the Project.

5 Work with architect and operator to refine the current Project program and master plan

6 Review and refine the preliminary Project budget outlining the expected costs to develop the Project.

7 Develop a bid packaging plan.

II DESIGN COMPLETION PHASE (AFTER FINANCING PLAN APPROVAL)

1 Manage the design and development team throughout the entire documentation process to ensure adherence to the approved program, budget and schedule

2 Develop the organizational structure of the development team establish responsibilities and line of authority and establish communication procedures to be used throughout the development process

3 Provide periodic review of design documents for completeness, feasibility constructability and appropriateness of building systems and materials

4 Provide periodic budget checks throughout the design process and propose and review value engineering alternates required to maintain Project budget

5 Implement any design changes required to maintain the Project budget.

6 Identify and coordinate required site studies, such as soil and environmental reports necessary to design and obtain construction permits for the Project

7 Assist the Owner, architect and/or general contractor in the review of the Project with code officials and submission of the Project to obtain required building permits

8 Work with the architect to prepare bid packages

9 Review contractor submittals and make recommendations

10 Assist the City with negotiating the contractor contracts

11 Develop and manage the entire accounting and funding process to include receipt and review of all Project related invoices and payment applications and assembly of such documents into a monthly draw package Submit this package to the City with recommendation for payment and manage and/or monitor payment by the City

12 Establish and monitor the FF&E procurement process for adherence to the approved Project budget and schedule

13 Maintain Project records and Project communication procedures throughout the development process

III. CONSTRUCTION PHASE

1 Provide on-site representation throughout the entire construction process as the City s representative

2 Monitor the development and maintenance of the construction schedule by the general contractor(s)

3 Conduct regular on-site meetings with the general contractor(s) architect, operator and other appropriate development team members to coordinate and maintain the construction process

4 Review and coordinate all requests for information from the general contractor(s) for timely response by the architect Review and monitor all supplemental instructions and directives for potential impact on the Project budget and schedule

5 Review all invoices and applications for payment from the general contractor(s) and design team and include all approved requests in the monthly draw package to be submitted to the City for payment.

6 Provide a monthly report to the City that summarizes the status of the Project cost and schedule

7 Review change proposals submitted by the general contractor(s) for appropriateness and accuracy and recommend acceptance and/or payment of such changes to the City

8 Monitor the submission of shop drawings and product samples by the general contractor(s) and response and review by the architect for timeliness and appropriateness

9 Monitor the procurement, warehousing, delivery and installation of all FF&E with the purchasing agent and associated vendors and contractors to ensure timeliness

10 Develop with the design team and general contractor the construction punch lists for all areas of the Project. Monitor implementation and completion of all punch list items

11 Assist the general contractor(s) with acquisition of all government approvals required to receive a certificate of occupancy

12 Maintain all Project records throughout the construction process

IV POST-CONSTRUCTION PHASE

1 Assist the general contractor(s) and operator in conducting all move in operations, system start ups and other transitional requirements

2 Manage the closeout of the construction contract punch list completion and receipt and documentation of all final lien waivers

3 Close out the Project accounting and provide the final status of the Project budget

4 Obtain and turnover to operations and/or the Owner all product and warranty information pertaining to the Project

City of Columbia, South Carolina
Columbia Hilton
Additional $15 MM City Use
AAA Insured (40% City Support)
Sources and Uses of Funds (Conduit)

SOURCES	Total
Par Amount	62,185,000.00
Key Money	1,000,000.00
Other Interest	
Total Sources	64,185,000.00
USES	
Construction Fund Deposit	48,994,150.00
Other Development Costs	
Other City Uses	1,000,000.00
Capitalized Interest Fund Deposit	857,621.25
Debt Service Reserve Fund Deposit	909,918.75
Work Capital Fund	
Underwriters Discount	863,293.75
Costs of Issuance	1,370,000.00
Municipal Bond Insurance	
Accrued Interest	
Other	
Contingency (Rounding)	933.25
Total Uses	64,185,000.00

ASSUMPTIONS / SUMMARY STATISTICS	
Arbitrage Yield	5.00%
True Interest Cost	7.816%
All Cost Borne	7.85%
Bond Rating	AAA
Average Coupon	5.000%
Dated Date	1/1/2003
Delivery Date	1/1/2003

BOND ISSUANCE EXPENSES	
Underwriter Discount	$1,370,000.00
Costs of Issuance	$1,113,293.75
Municipal Bond Insurance	0.000%

INVESTMENT RATES	
Debt Service Reserve Fund Deposit	5.000%
Construction Fund Deposit	1.000%
Capitalized Interest Fund Deposit	1.250%

OTHER	
Capitalized Interest	Yes
Interest Capitalized Through	9/1/2004
Debt Service Reserve Fund	Yes
Debt Service Reserve Fund Requirement	Lesser of Three
End of Construction	9/1/2004

CONSTRUCTION FUND SUMMARY	
Total Construction Fund Deposit	49,429,000.00
Target Construction Fund	49,429,000.00
Difference	

POTENTIAL CITY SUPPORT	
0% of Senior Bonds Debt Service Minimum/Year	1,085,611
40% of Senior Bonds Debt Service Maximum/Year	(106,043)
40% Senior Bonds Debt Service Average/Year (Operations)	1,434,530
(Net of Capitalized Interest and Debt Service Reserve Fund)	

Notes

Investment Rates as of 8-8-03
Assumes triple A insured rating.

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	2 6	8 7	2008			01	2 2	1		26 5
vai ble m (J ly)		300	300	00	00	00	300	00	300	300
vaila le m (Annu l)	09 ,0	09 ,00	0 ,40	9 600	09 ,0	09 ,00	9 ,30	0 ,00	09 ,00	0 ,00
Occupied .oom (Ann 6/)	8 ,5	73 ,65	8 63	7 3	7 83	78 63	83	78 7	78 8	8 183
Occupancy P rcentage	63. %	6 .08%	7 40%	7 0%	7 40%	7 3	0	7 0	7 40	71.40%
verag Room Rate	$ 8 2	$123.05	$ 7 7	$ 31 55	$ 35 50	$ 39.56	$4 37	$ 8.06	$2.50	$ 57 5
Re enu Per D cup Room (PerPAR)	$74 1	$8 5	$9 1	$ 3. 3	$96	$99 5	$ 02.6	$ 05 72	$ 08. 9	$ 2. 5
...										
Rooms	$3 3 0	$ 82	$ 758	$ 49	$ 0 0	$10	$ 0 2	$1	3	90
Food & B erag	393	730	872	018	$ 59	$ 374		$ 646	$ 8	5,992
Telecommunicati	53	67	77	83	88	94	99	05	2 2	2 8
Garage	0		0	0	0			0	0	0
Other Op ra d D partm nts	268	293	310	3 9	29	339	49	359	0	38
Rentals and Other Inco e	76	8	8	84	9			103	06	09
T ta R en	$ 3 40	$14,436	$15 206	$15 660	1 140	$ 6 625	$ 4	$1 628	$18, 9	$ 8 633
DEPARTMENTAL ROFIT										
Rooms	6 11	$7 042	$7,0	7 7 8	$8 0 0	8 251	$8 9	$ 7 6	$8 598	$9 269
ood & B rag	,3 8	4 9	1 61	505	1,55	1 597	545	69	6	1 9
Telecom ication	6	67	1	73	7	78	79	82	3	67
Gar	0	0	0	0	0	0	0	0	0	0
Oth Oper ted D partm	8	8	3	5	9	102	0	07		1
Rental and Oth Incom	76	84	89	9	94	97	00	03	06	09
T tal D p m t Profi	$ 907	$8 0	8,257	$9 532	$9 29	$ 5	$10 418	$10 732	$11 046	6
OVERHEAD EXPE SES										
Admin & Ge	$999	$1,029	$1 060	$,091	$ 24	1 158	$1 93	$,226	$1 2	$,303
Mark ing	079	1 2	45	1 80	215	,251	,289	1 328	1 367	08
Property Op ra ion & Main nce	572	589	607	625	64	663	83	03	7 5	7 8
Utility Costs	493	5 4	530	5 6	582	79	96	6	633	652
Total Overh d	$3,1 9	$3,..44	$3 342	$3 442	$3,545	$3 651	$3 761	$3 873	$3,990	$ 09
GROSS PERATI G PROFIT	$	$,.5	$5 $	$8 090	$ 294	$ 4	$ 657	$6,859	$7 056	$7 67
FIXED CHARGES										
Property Tax	$0	$0	$0	$0	$0	0	$0	$0	$0	$0
Insurance	37	14	5	150	4	59	184	68	173	79
T tal Fix d C ges	$ 7	$1	$145	$ 50	$ 54	59	$ 64	$165	$	$1 9
EBITDA BEFO G FE S	62	15	$5,7	$5,9	$ 130	$6 315	$6 93	91		
MANAGEMENT FEES										
Base Managem t Fees	$268	$,6	$ 80	$43	4.4	$ 7	$.7	$485	,499	$
Incentive M g m nt (b low)	0	0	0	0	0	0	0	0	0	0
T tal M g m nt Fee	$		$380	$ 3	$444	$ 7	$471	$4 5	$ 9	$5
EBITDA	$,25	$6, 54	$5,280	$	$5 6	$5, ,8	$6 022	$,2	3	$ 7
...sey F &E R v	$ 3	$ 89	,45	$ 70	...	$...9	$,65	705	$7 5	$9 6
NET OP RATI G C E( )	9	$4, 65	$ 9	$5,040	$5, 2	$5 193	$5,338	$5 1	$5 5	$5,6 9
Add: Incen an g m n F (belo)	$0	$0	$0	$0		$0	$0	$0	$0	$
ADJUSTED NE PERATI G N OME	$,2	$4 6 5	$ 83	040	$5 02	$5 1	$5	$,9	$,658	$5 39
INVESTM EI TEAR INGS A OTHER REV (2)										
D bt S rvice serv Fu ...em	$285	285	285	$ 8	$285	$285	$285	$28	$2 5	$28
D bt S rvice Re rv Fund Subordinat	0	0	0	0	0	0	0	0	0	0
T ve tm E ning d Oth R	$ 85	$285	$2 5	$2 5	$	$	$5	$	$2	$2 5
ADJU TED O AI D OTHER REVENUES	$,04	$ 1	$	$ 325	$..	$ 79	$5 ,73	$	$5,	..5
SENIOR N DEBT SERVICE										
Gros D b Service	$3 3	$ 453	3,858	$3 06	$3,9..5	$4 900	$ 050	$4 096	$ 7	$4 98
L s Cap italized Int re	2	0	0	0	0	0		0	0	0
N t Senior Li Debt S rvice	$3 22	3 453	$ 858	3 806	$ 55	$ 0	$4 050	$	$ 1	$4 9
$ BORDINATED LI N DEBT SER ICE										
Gre D Service	$0	$0	$	$0	$0	$0	$0	$0	$0	$0
Less: Cap italized Int re	0	0	0	0	0	0		0	0	
N t Sub dina d Lien D bt Serv	$0	$0	$	$0	$0	0	$	$0	$	
OT L NET DEBT ERVICE	022	$3 453	$3,858	$3,806	$3,955	$4,0	$.. 50	$4 5	$ 7	$ 3
OTHER DEDUCTIONS										
Subordi ated M gem t F	$ 74	4	$ 2	6	$702	$708	$21	$220	$22	$2,4
Subordina FF& R erv Fund	34	299	56	470	434	99	$ 3	$29	$44	56
T t th D d ction	$268	$433	60	$ 68	$ 9	$707	$	$	$ 7	
NET CA LOW	$,2	$ 65	753	$754	$8 7	$772	$ 45	$8 1	$,0 5	2
APPLIC TION O NET CAS FLOW										
S po m nt R rv Fund	$ 2 5	$ 65	753	$7 4	$2 4	$5	$46	$51	$5	$
S rplus Fund	0	0	0	0	6,3	22	800	39	97	83
R ma ing Net Ca h Fl	$0	$0	$0	$0	$0	$		$	$0	
FUND B LANCES										
Accum Sel Suppl e al Reserve F nd	$1 2 5	$2,280	$3 03	$3 78	$4 000	$,0 0	$4 096	$4	$ 98	$4,2 9
Accum B t S rplus Fund	$0	$0	$0	$0	6 3	$1 355	$ 59	$3 0.5	$4 018	$ 900
Suppl men al Reserv Fund qui em	$3 53	$3 858	90	$,5	$,000	$ 050	$ 0 9	$4 7	$4 93	$4 9
CITY STANDB SUPPORT PAYMENT	1 09	$ 301	$1 43	$1 562	$1 58	$1 600	$1 620	$1 6 8	$ 653	$1 619
DE T SE E COVERAGE RATIOS										
S nr D bt Servi C g R ti (	.40	2,79	2.25	2 7	2.91	8	2.3	2. 5	.39	2. 5
S nl D bt S rv C g R ti (1)	1.49	4	1 35	1 36	39	1 37	1 39	1 1	1.43	1 41

NOTES
(1) A prevd by PKF brough 2015 3% i ... here er
(2) Ass me fol ro l E rning at S 00% fo ...be D b S rv es Fund
(3) Ne Income plu S DSPF rn g d..ended b S rv D bt Servi le City ...andby Suppor P ...ment
( ) N In me plu ...eme DSP ...rning of Ided S ...erve Li D bt rvic...

...ed ... ...ES ... rtnership Staff Chang...

City of C l mb uth C rol

	2		20 3	20 3		1	022			025
Roo (5 M)	300	300	00	00	09	300	0	300	00	300
Occupied R om Annually)	8 63	8	8	78 63	8	8 9	8 3	8 83	8 83	8 397
Occup P ce tage	71 40%	71 40%	0%	1 0	1 0%	1 40	7	7	7 0%	7 40
A rag om Ra	$ 6 79	$ 66 65	$ 7 6	$176 79	$ 82	$ 87 56	$ 93 9	$ 98 93	304 95	$ 1 0
R en Occupied R om (RevPA)	$ 5 2	$ 1 .59	$ 22.55	$ 6.23	$130.02	$133 92	$137.9	7	$ 6 34	$ 59 73
ev e										
Ro ms	2,3	23	3	3 96	3 03	0	3 53	$ 5 92	$ 48	$ 8 6
F d & erag	6 72	6 57	8.54	$ 4	,54	7 55	7 369	7 90	7 3 8	8 0 3
T comm n ation	225	231	238	2 5	2 3	260	268	276	28	93
ual g	0	0	0	0	0	0	0	0	0	0
Oth Op rated D partmen	392	404	416	28	442	455	9	83	497	5 2
P & s and Oth Income	12	16	1 9	23	8	30	3	8	1 2	6
ta R on es	$19 354	$1 83	$20 26	$2 ,033	$2 670	,320	2 390	23 9	2 3 0	$25,122
DEPARTMENTAL PROFIT										
Rooms	$9 5 7	$9,633	$ 0 128	0 32	$ 0 7	$ 1 968	1 400	311 2	12,094	$ 57
Food & erag	1 851	90	64	2 0 3	083	6	1 0	2	3 5	4 5
T lecommunication	50	52	5	98	01	0	0	10	4	1 7
G	0	0	0	0	0	0	0	0	0	0
Oth Operated D p ment	117	21	25	28	32	136	40	44	149	
Ren als and Other Income	112	6	1 9	23	8	1 0	34	38	2	6
T tal D partmen tal P fit	$17 717	$ 2,369	$ 2 431	$12 864	$3 128	$13 584	$ 3,35	$14 411	$14, 3	$15 28
OVERHEAD E ENSES										
Adm & G	$ 3 2	$ 82	$ 24	$14 7	$ 5	$ 56	$ 03	$ 6 1	$1 00	$ 7 1
Marketing	50	4 4	1,539	585	1 32	1 681	2	1 7	837	392
Property Op ion & Mai enance	768	791	8 5	0	6	891	917	9 5	973	003
Utility Costs	672	69	2	734	756	779	80	82	85	8 6
T tal O rhe d	$4, 3	$4,359	$ 0	625	4 63	$4,806	5,054	$5, 05	$5,361	$5 5
GROSS OP RATI G PROFIT	$ 485	$7 0	4	8, 78	$8, 2	$8,6 7	$ 7	$3	$9,48	$9 746
FIXED CHARGES										
Property Tax	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0
Insurance	186	90	96	01	208		220	227	234	1
T tal F d ges	$184	$ 90	$ 96	$201	$208	$2	$ 20	$227	$ 34	$2 1
EBITDA RE AG FEE	$7 3	$ 520	$7 5		$ 217	4		$6 9	9	$,5 5
B ve gem t F	$28	$545	$562	$579	$ 8	$6	$632	$8	671	$69
In ent g m F (b low)	0	0	0	0	0	0	0	0	0	0
T tal M g m F	$ 9	$545	$	$79	$5		$32	$65	$ 1	$6 1
EBITDA	6 771	6,97	$7 164	$,0 9	$7 62	$7 ,0	085	$8 328	$,5 8	$ 5
P an F E Pa	353	$98	$ 0	$ 65	$1 084	$ 6	$ 50	$ 84	$1,240	$ 256
NET OPERATI G NCOME ( )	$5 18	$,9 3	$6 162	$6,347	$6 537	$6 ,4	936	$7 144	$,35	$7 573
Add ive Manage (b low)	$0	$0	$	$0	$0	0	$0	$0	$0	$0
ADJUSTED NET OPERATING I CO E	$5 8	$,583	$, 6	$ 347	$6 53	$6,7 4	$6 93	$,4	$ 353	$7 5 9
NV STMEN EARNI G AND OTHER REV 7)										
D bt S rv ce R serv F d Senior	$ 65	$785	$793	$265	$285	$ 85	$ 5	$285	$28	$765
Deb Service R rve F d Subordinate	0	0	0	0	0	0	0	0	0	0
Total imen Earning Othe n	$285	$285	$ 5	$ 5	$ 85	$5	$ 5	$ 5	$ 5	$285
ADJUSTED O AND OTHER REV NUES	$5 4	$5268	$ 448	$5 633	$6 823	$ 19	2,1	9	$7 6 3	864
S OR IEN D B SERVICE.										
Gr D S rvice	4 2 9	$4,259	$ 332	$ 400	$ 5	$ 09	$4 984	$4 6 6	$4 74	$ 72
Le s C pi ali d Intere	0	0	0	0	0	0	0		0	0
t t San D rv ce	$4 2 9	$	$ 3 3	$4, 0	$4 455	$4,50	$ 56	$4,6 6	4 674	$ 729
SUBORD NATED LIEN DEBT SERVICE										
Cre D Service	$0	$0	$0	$0	$0	$0	$0	0	$0	$0
Le C pitalized Interest	0	0	0	0	0	0	0	0	0	0
Net S boro d Lien D bt S rv ce	$0	$0	$0	$0	$0	$	0	$0	$0	$0
TOTAL ET DEBT SER CE	4	$ 2 9	$4 5	$ 0	$4 5	$4 50	564	$ 6	$ 67	$ 723
O HER DEDUCTIONS										
Subord ted Man ement F	$241	8	$,65	$ 63	$	$279	$297	$256	305	$3 4
S boro F & R rv F d	570	95	6 3	63	6 0	670	690	710	32	754
T tal Oth D d	$8	$43	$868	$ 4	$921	$9 9	$9 7	966	$1 03	
NET CASH FLOW	$ 27	1 27	$1 227	$ 33	$1 7	$1 5EZ	1 30	$ 807	$ 933	$2, 68
APPLIC TION OF NE CASH FLO										
Supplemental R erv Fund	$	$	$47	$58	$53	$55	$32	$58	$54	$55
Surplu Fund	77	073	30	1 83	396	907	1 628	7 8	8	2 0 3
R m ng Cash r	$0	$0	$	$0	$0	$0	0		$0	$
A cum B l S ppl men l R rv F d	$ 299	$4, 2	$4 00	$4 4	$4 508	$ 64	$ 0 0	$ 67	$47 9	$ 83
A m g l S plu F d	$ 8 6	$8, 9	$8 29	$ 13	0 606	$ 2 3 3	$ 3 9	$ 90	$17,5 8	58
S pplemen l rve F d R q m t	$ 99	$4 5	$ 0	$4 55	$4,508	$4,564	$ 6	$4 67	$ 729	$4 783
CITY SUPPORT PAYMENT	1 700	$1 720	$1 741	$1,760	$ 782	$1 803	$1 825	$1 8 5	$ 870	$ 8
D BT SER COVERAGE RA OS										
S or D bt S A C ag R u (1)	2 9	2 3		2.51	2.55	9	2 54	2.68	2 73	2 77
S D bt S Cov ag R u (4)	1 43	1.46	1 6	1 51	1 53	1.58	1 58	1 1	6	1 66

OTE

( ) As pr d d b PKF through 201 3% va ance the ar

(2) sum ir st Earning $ 907 so th b Service e rve Fund

( ) Ne Incom plu S rv OS F ag d ded by Senic Lien D bt Serv ce le Cit S andby S pport ye

( ) I Incom plu S rd DSRF m g d ded by S nic Lia. Debt Service

tv o Col mb S C ro a
I n X cn
I th Y ar Ending Augu sh

		2	6	0		3	70	3	3	03
A H Rooms (O r)	300	300	00	00	00	00	00	300	300	00
a etl Rooms (Ann 0)	00	09 500	09 500	09 500	500	09 500	09 00	09 800	0 500	09 500
Occup d Rooms (Annual)	78 163	7 5	78 93	78 39	78 83	5 83	78 83	78.3 7	8 83	78 83
Occupancy Percen ge	40%	7 0%	1 40%	1 40%	71 0%	1 40	7 0%	71 40	7 0%	71 0%
A erag R om Ra	$217 44	$223.96	$230 63	$23 .50	244 73	$ 52.07	$2 6	$267	$ 44	$283 3
R nu P r Occupied R m (R PAR)	$ 5 45	$ 59 91	$16 0	$169.6	$ 7 73	$ 98	$ 85 8	$ 90.94	$ 9 66	$202.56
S										
R oms	6	$1 9		$1	$ 5	$ 9.2	$19	20 1	$ 0	$
F od & Be erage	8 294	8 4	8 7 3	9 063	335	6	9 90	0 201	07	0 8
T l ommunications	302	3 1	320	330	340	50	360	371	382	394
Garag	0	0	0	0	0	0	0	0	0	0
Ot er Op ated D part n s	527	43	560	576	94	1	630	649	668	688
R al and Other Income	1	5	60	16	70		60	86	9	97
T tal R enues	25,875	$26, 2		$28,275	$29 123	$	$ 7	$ 9 4	$32, 78	$33 76
DEPARTMENTAL RO IT										
Rooms	$ 6 0	$ 3,2 5	$13 6 2	1 020	44	$1 07	$ 5 320	$ 780	$ 6 53	$1 7
Food & B verag	87	2 5 2	2 639	2 7 8	2 800	2 884	2 970	3 0 9	3 5	3 2 6
Tel communicatio	0	2	29	1 2	136	1 0	44	8	153	157
G rag	0	0	0	0	0	0	0	0	0	0
Oth Operated Depart s	8	63	67	72	78	83	58	94	200	206
R als and Othe Income	5	55	60	65	170	175	90	66	191	1 7
T t l D partme tal P	$ 5 7	$ 6 219	$16 706	$ 7 297	$ 7 7	$18 2 5	$1 3	19 67	$ 943	0 546
OVERHEAD EXPENSES										
Admin & Gen	$1 804	$1 6 8	$ 3 3	$1,971	$2 030	$2 091	$2 154	$2 2 8	$2 285	$2 53
Marketing	949	2,007	2 068	2 30	2 94	2,259	2,327	97	2,4	5 3
Property Operation & M in en nce	1 033	1 06	1 096	128	1 62	1 19	1 33	2 0	1 309	,347
U ilit Costs	903	930	7	98	0 6	1 0 6	1 078	1, 0	3	1 78
T tal O erhead	$5 688	$5,858	03	$6,2 5	$6 407	$6,594	$6 92	$6,995	$7 205	$7 21
GROSS O ERATING ROFIT	$ 59	$ 61	$	$10,9	$1 322	$11 661	$ 2 0	$	$ 2, 3	$13 125
FIXED CHARGES										
roperty T es	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0
surance	2 8	2	263	27	279	287	296	305	31	323
T l Fix d harge	$2 8	$255	63	$271	$279	1 7	$296	30	$314	$ 3
EB TD BEFORE M T FEE	$1 0	1 06	40	$	$ 0	$11 374	$ 7 5	$ 2, 67	$1 429	2,
B s d gem t F es	$ 2	$7 3	$ 55	$ 8	$601	$ 25	$8 0	$ 5	901	$928
ontiv Management F (b l w)	0	0	0	0	0	0	0	0	0	0
T l Ma gement F	$	$7	$755	778	$80	8 5	$85	$	$ 01	$328
EBITDA	$ 100	$9,3	9,654	$9 44	10 2 2	$ 549	$ 66	$ 92	$ 1,527	$11 973
mar FA Reserv	25	$ 33	$ 3	$	$ 56	$1 00	$ 5 5	$ 5	$ 6 9	$ 688
NET OP RATING COME 1)	$ 806	$8,040	$ 1	$ 5	736	$ 04	$9	$ 60	9 889	$ 0,1 5
A d Incentive Managem F (belo)	$	$0	$0	$0	$0	$0	$0	$0	$0	$0
ADJUSTED NET OPERATI G I COME	$7 806	$8 0 0	$ 61	$8 5 0	$ 786	$9 0 9	$9 3 1	$ 60	89	$ 5
INVESTMENT EARN NGS AND OTHER RE (2)										
D bt Serv ce Reserv und Ser or	$265	$225	$485	$ 85	$285	$265	$285	$285	$285	$ 99
Debt S rvice Reserv Fund Subordina			0	0	0	0	0	0	0	0
T tal Investm t E r ing d Oth P	2 5	$ 5	$335	$2 5	$2	85	2 5		85	$ 3
ADJU ED NOI A D THER EVEN ES	$ 092	$ 32	$ 5 7	$		5	9 600	$9 56		$ 1
SENIOR LIEN DEBT SERVICE										
Gros D bt Service	$ 93	$ 8 3	90	$4 9 8	5 0 9	$5 080	$ 1 3	$ 0	$ 5	$9 6 7
L ss C pitalized In st	0	0	0	0	0	0	0	0	0	0
Net Sen or L D Serv ce	$4,78	$	$ 01	$4 9	$5,018	$5,0	14	$5 202	$5,265	$9 8
SUBORDINATED LIEN DEBT SERVICE										
Gro s D bt Service	0	$0	$0	$0	$0	$0	$0	$0	$0	$0
Less Capitaliz d Inter	0	0	0	0	0		0	0	0	0
Net S bordi ated Lien D b S rv	$	$	$0	$0	$		$0	0	$0	$0
TOTA NET DEBT SERVICE	$ 3	$ 43	$ 9	$ 9	$5, 8	$5, 80	$ 3	$ 2 2	$5 65	$ 82
OTHER DEDUCTIONS										
S bordinated In entive ee	$ 23	$333	$3 3	$3 3	$364	$3 5	$386	99	$ 0	$422
S bordin te FF& Res rv Fund	76	800	824	848	8	90	927	955	983	0 3
T tal Other D ct	$1 0	$ 133	$1 167	$1 2	238	$ 275	$1 13	$1 353	$1 93	$ 35
NET CASH FLOW	$ 2	$2, 50	$2, 9	$ 56	$ 8	$ 80	3 150	$ 332	$ 5 6	$4 9 8
AP LICATION OF NET CASH FLOW										
S pplemental R erv Fund	$59	$ 8	$57	$60	$62	$63	$ 9	$63	$3,5 6	0
rplu Fund	2 9	2 292	442	2,596	2 754	2,9 7	3 092	3 268	0	4 919
Rem ing I C l ws	$0	$0		$0	$0	$	$	$0	$	$0
m Bal Suppl mental R rv F d	4,8 3	90	$4,9 8	$5 0 8	$ 060	$ 143	$ 202	$5 255	$9 761	8,761
A cum B l Su plu F d	$2 730	$2 0	$ 64	$29 060	$31 8 4	$3 3	$37 82	4 091	$ 1 091	$ 8 009
S pplem al R erv F d R q ment	$ 943	$ 901	950	$ 018	080	$ 3	$5 20	$5, 65	$9,827	$
CITY SUPPORT PAYMENT	$1 913	$1 937	$1 961	$ 983	$2,007	$2,032	$2,057	$2,081	$2,106	$1 E47
DEBT ERVICE C ERAGE RATI										
S D bt Servi C ag Rati ( )	2.92	2.8	2.91	2.96	3 1				22	
S n D bt Servi C g Rati ( )	1 69	1 72	1.75	1. 8	1 81	1 84	1 87	1 0	1.9	1 65

NOTES
) As pro ided by P thro gh 0 3 mu more th fter
) ssumes tne st ng f 5 00 for th D bt ervice R rv Funds
(3) Net Income pl Seni D PF m g d vid d by S ic L D bt S rvice les Cit St ndby S ppor yr
( ) Net Income plu S ni r DSPF ng divid d by nio L D bt S rvice

C Global Hotel Financial Feasibility Study

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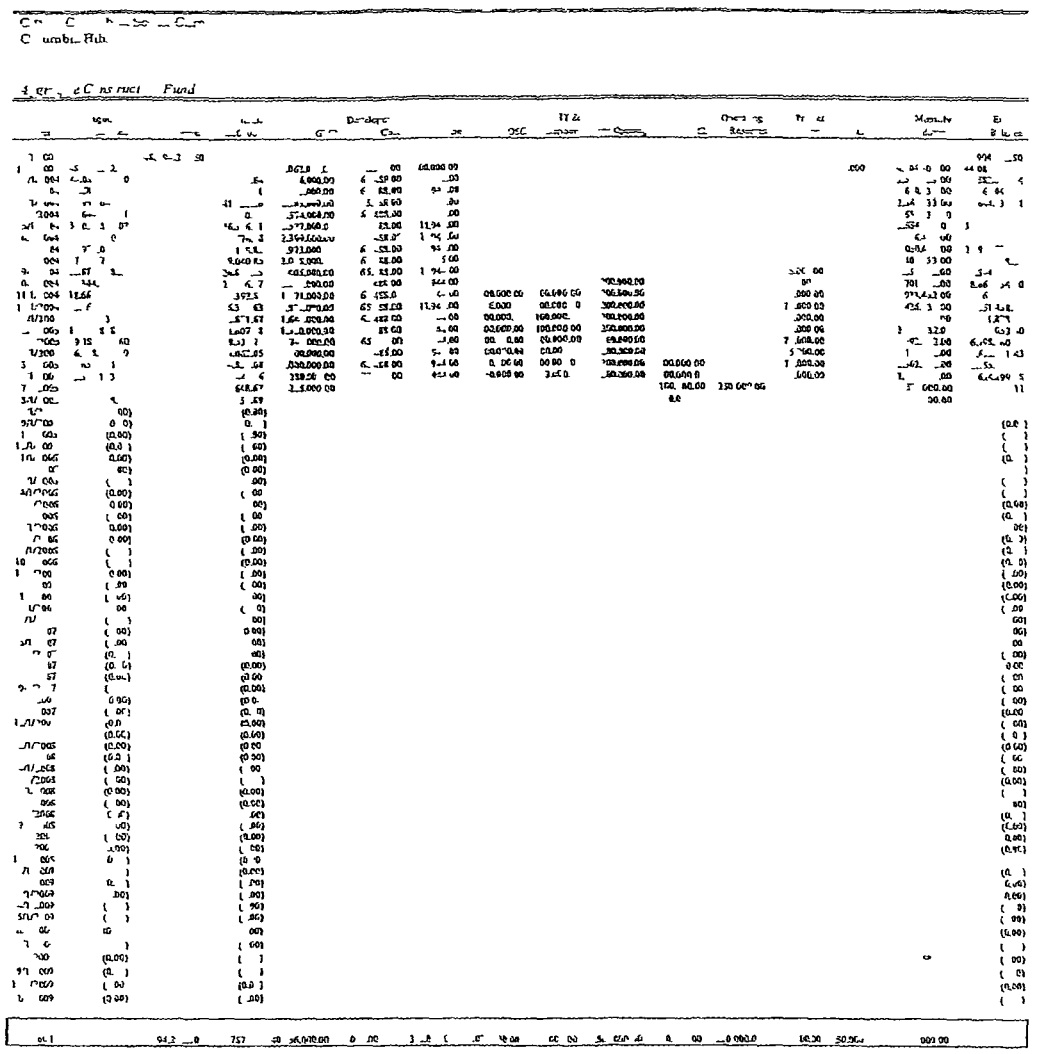
C [illegible] C [illegible]

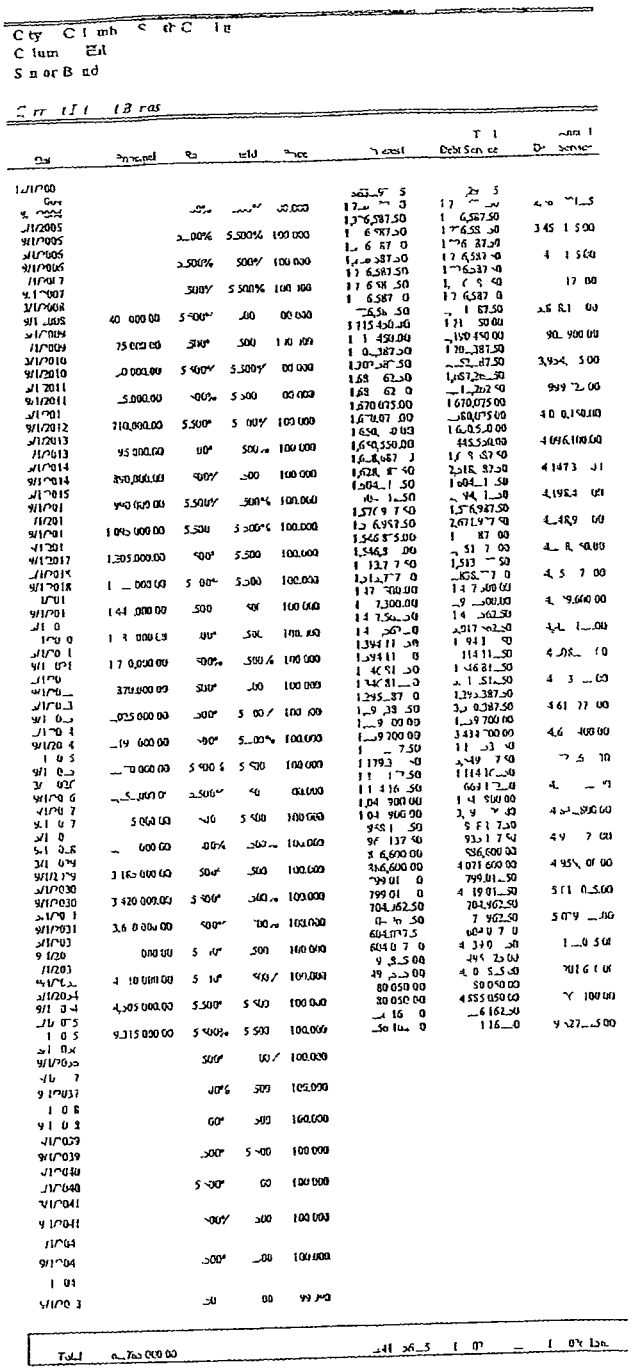
Columbia Elton

Amortized Debt Service

Date	Principal	Compounded Interest (Cash)	Current Interest (PIK)	Total Debt Service	Annual Debt Service
1/1/2003					
[illegible]			6...2	[illegible]	
9/1/2004			1,776,587.50	1,776,587.50	[illegible]
3/1/2005			[illegible]	1,726,587.50	
9/1/2005			1,726,587.50	1,776,587.50	3,453,175.00
3/1/2006			1,726,587.50	1,726,587.50	
9/1/2006			1,726,587.50	1,726,587.50	3,453,175.00
3/1/2007			1,776,587.50	1,776,587.50	
9/1/2007			1,726,587.50	1,776,587.50	3,553,175.00
3/1/2008			1,726,587.50	1,726,587.50	
9/1/2008	45,000,000.00		1,726,587.50	131,726,587.50	263,453,175.00
3/1/2009			1,726,587.50	1,726,587.50	
9/1/2009	45,000,000.00		1,726,587.50	131,726,587.50	263,453,175.00
3/1/2010			1,702,387.50	1,702,387.50	
9/1/2010	550,000,000.00		1,702,387.50	2,252,387.50	3,954,775.00
3/1/2011			1,687,762.50	1,687,762.50	
9/1/2011	[illegible],000,000.00		1,687,762.50	312,262,[illegible]	3,999,525.00
3/1/2012			1,670,875.00	1,670,875.00	
9/1/2012	710,000,000.00		1,670,875.00	2,[illegible]50,875.00	4,050,150.00
3/1/2013			1,650,550.00	1,650,550.00	
9/1/2013	[illegible],600,000.00		1,650,550.00	[illegible],446,[illegible]50.00	4,096,100.00
3/1/2014			1,626,687.50	1,626,687.50	
9/1/2014	790,000,000.00		1,626,687.50	2,[illegible]18,687.50	4,147,375.00
3/1/2015			1,604,[illegible]1.50	1,604,[illegible]1.50	
9/1/2015	890,000,000.00		1,604,[illegible]1.50	[illegible]91,[illegible]12.50	4,193,425.00
3/1/2016			1,576,987.50	1,[illegible]76,987.50	
9/1/2016	1,095,000,000.00		1,576,987.50	[illegible]671,987.50	4,248,975.00
3/1/2017			1,546,875.00	1,546,875.00	
9/1/2017	1,200,000,000.00		1,546,875.00	1,[illegible]875.00	4,293,750.00
3/1/2018			1,51[illegible]7.50	1,51[illegible]7.50	
9/1/2018	1,[illegible]2,000,000.00		1,[illegible]37.50	2,838,[illegible]7.50	4,353,175.00
3/1/2019			1,4[illegible],000.00	1,4[illegible],000.00	
9/1/2019	1,[illegible]4,[illegible]00,000.00		1,4[illegible]3,300.00	9,[illegible]3,300.00	4,[illegible]99,600.00
3/1/2020			1,437,562.50	1,437,562.50	
9/1/2020	1,[illegible]50,000,000.00		1,[illegible]7,[illegible]6.50	01,[illegible]56,[illegible]50	4,455,125.00
3/1/2021			1,[illegible]94,111.50	1,[illegible]94,111.50	
9/1/2021	1,[illegible]20,000,000.00		1,[illegible]94,111.50	114,111.50	4,388,225.00
3/1/2022			1,346,812.50	1,346,812.50	
9/1/2022	1,[illegible]70,000,000.00		1,346,812.50	[illegible]16,[illegible]1.50	4,363,625.00
3/1/2023			1,295,287.50	1,[illegible]29,287.50	
9/1/2023	[illegible],[illegible]02,[illegible]000,000.00		1,295,287.50	3,[illegible]70,287.50	4,715,575.00
3/1/2024			1,229,700.00	1,[illegible]29,700.00	
9/1/2024	[illegible],[illegible]15,[illegible]000,000.00		1,[illegible]29,700.00	[illegible]54,700.00	4,774,400.00
3/1/2025			1,179,[illegible]3.50	1,179,[illegible]3.50	
9/1/2025	[illegible],[illegible]70,000,000.00		1,179,337.50	3,549,337.50	4,728,675.00
3/1/2026			1,114,[illegible]16.[illegible]0	1,114,[illegible]16.[illegible]0	
9/1/2026	[illegible],[illegible]55,[illegible]000,000.00		1,114,162.5[illegible]	[illegible]69,1[illegible].50	4,783,[illegible]32.50
3/1/2027			1,043,900.00	1,043,900.00	
9/1/2027	3,[illegible]55,000,000.00		1,043,900.00	3,[illegible]99,900.00	4,843,800.00
3/1/2028			968,[illegible]37.50	968,1[illegible]7.50	
9/1/2028	2,[illegible]65,000,000.00		968,1[illegible]7.50	93[illegible],1[illegible]7.50	4,901,[illegible]75.00
3/1/2029			858,600.00	858,600.00	
9/1/2029	3,185,000,000.00		966,600.00	4,031,600.00	4,890,200.00
3/1/2030			799,01[illegible].50	799,01[illegible].50	
9/1/2030	[illegible]95,000,000.00		799,01[illegible].50	4,[illegible]19,01[illegible].50	5,018,025.00
3/1/2031			704,9[illegible]2.50	704,[illegible]2.50	
9/1/2031	3,[illegible]1,000,000.00		704,9[illegible].50	4,3[illegible]4,9[illegible].50	5,079,925.00
3/1/2032			604,03[illegible].50	604,03[illegible].50	
9/1/2032	9[illegible],[illegible]30,000.00		604,03[illegible].50	4,559,0[illegible]7.50	5,141,075.00
3/1/2033			495,3[illegible]1.[illegible]0	9[illegible],825.[illegible]0	
9/1/2033	4,[illegible]10,000,000.00		495,[illegible]1.[illegible]0	4,[illegible]0[illegible],8[illegible].00	5,201,650.00
3/1/2034			380,0[illegible]0.00	[illegible]80,050.00	
9/1/2034	4,505,000,000.00		380,050.00	4,[illegible]85,050.00	5,160,100.00
3/1/2035			256,16[illegible].50	[illegible]5,162.50	
9/1/2035	1,[illegible]000.00		[illegible]56,162.[illegible]0	9,571,1[illegible].50	9,827,[illegible]5.00
3/1/2036					
9/1/2036					
3/1/2037					
9/1/2037					
3/1/2038					
9/1/2038					
3/1/2039					
9/1/2039					
3/1/2040					
9/1/2040					
3/1/2041					
9/1/2041					
3/1/2042					
9/1/2042					
3/1/2043					
9/1/2043					
Total	6,[illegible]85,000,000.00		[illegible],1[illegible]5	45,03[illegible]15,[illegible]5	144,16[illegible],6[illegible]50

[illegible]





City of C lumb Sou h C r ne
C lum t Bult
e tor Bond

C st ctio F d

D	Beginning Balance	Deposit	Interest Income	Transf to C. 1	Drawdown	Ending Balance
1_/1/2003		45,994, 1__ 9				6 994_1 0
0 3	45,004_ 50				4 34 1 00	44,0 9 40 0
1/1/200	44,089 90_ 9		5 07 4		_3,43 00	1,582 _034
2/1/2004	41,582,260.14		40_0_51		1,160,433.00	39 965 049 55
3/1/2004	39 96 049 5		41 2_2		_6 4,300	7,644 1 9 11
4/1/2004	0 4 3 11		11_9		2,6 1 0 00	5,0 1 817 02
5/1 004	5 031 61 0		6,_96.81		_6 4 _00	2,413,_00.83
6/1 004	_413 30.8		3.6 6 6		7 3 00	9 931 02 _
7/1/2004	99 9 10 59		31 138.8		_050 4 3 00	7 951 730 4
8/1/2004	7 951 730 42		29 040.8		_ 05 4_3.60	_s87 8_7
9/1/2004	3 75_ 8 7		4 3		455 432.00	1_44 39 5
10/1 004	1_44 9 h		_1 64		_ 014 00	1 465,524 0
11/1/2004	18 665_4_0		1 9_S		2,923 4 _00	15 7 1 495
12/1/2004	15 761 95 1		16, 75.6		_430 32 00	13,351 438 5
1/1/2005	13,_51 438 75		13 871.67		_193 43 00	11 1 1 878 2
2/1/2005	11 171,878 2		11 07 18		_00 4_00	9 1 1 063 0
3/1/2005	9 1 1,05 0		9 36 79		_ 92,4 2.00	6 795,160.39
4/1 2005	6,7 160 9		03 05		3_ 32.00	2,791 3
5/1/2005	4,65 91 4		4,C4 08		_0_43_00	355 19 5
6/1/2005	2_ 19 5		_46.96		1,735_41.00	6 4 99 8
7 1 2005	6 4,9 8		648 2		5 000.00	49 349 11
8/1/2005	49 9 11		51.89		50 000.00	(0 00)
9/1 200	(0.0)		(0.00)			(0.00)
10 1/2005	(0 00)		(0.00)			(0 00)
11/1/200	(0.00)		(0.00)			(0.00)
12/1/2005	(0 00)		(0.00)			(0.00)
1 1/2006	(0 00)		(0.00)			(0.00)
2/1 2006	(0.00)		(0.00)			(0.00)
3/1/2006	(0 00)		(0.00)			(0.00)
4 1 2006	(0 00)		(0.00)			(0.00)
5/1 006	(0 00)		(0 00)			(0.00)
6/1 006	(0 00)		(0 00)			(0 00)
7/1/2006	(0 00)		(0.00)			(0.00)
8/1 2006	(0 00)		(0.00)			(0.00)
9 1/2006	(0.00)		(0 00)			(0 0)
10/1/2006	(0 00)		(0.00)			0 00)
11/1/2006	(0 00)		(0 00)			(0 00)
1 1 006	(0 00)		(0.00)			(0 00)
2007	(0.00)		(0.00)			(0.00)
2/1/2007	(0 00)		(0.00)			0 0)
3/1 007	(0 00)		(0.00)			(0.00)
4/1/2007	(0 00)		(0 00)			(0.00)
/1/2007	(0.00)		(0 00)			(0 00)
6/1 007	(0.00)		(0.00)			(0.00)
1/2007	(0 00)		(0.00)			(0 00)
8/1 007	(0.00)		(0.00)			(0.0 0)
/1/2007	(0.00)		(0.00)			(00)
10/1/2007	(00)		(0 0)			(0.00)
1/200	(0 00)		(0 00)			(0.00)
1 1/2007	(0.00)		0.00)			0.00)
1/1 0 8	(0 00)		(0 00)			(0 00)
1/2008	(0.00)		(0.00)			(0 00)
1/2008	(0 00)		(0.00)			(0.00)
4/1/2008	(0.00)		(0 00)			(0.00)
5/1/2008	(0.00)		(0 00)			(0 00)
6 1/2008	(0 0)		(0.00)			(0.0 0)
1/2008	(0 00)		(0 0)			(0.00)
8/1/2008	(0 00)		(0.00)			(0 00)
9 1 00	(0 0)		(0 00)			(0 0)
10 1/2008	(0 00)		(0.00)			(0 0)
11/1/2008	(0.0)		(0.00)			(0 00)
12/1/2008	(0 00)		(0.00)			(0 00)
1 1/2009	(0 00)		(0.00)			(0.00)
1/2009	(0 00)		(0 00)			0 00)
3/1 2009	(0.00)		(0.00)			(0.00)
4/1 2009	(0.00)		(0.00)			(0.00)
5/1 2009	(0.00)		(0.00)			(0 00)
6 1/2009	(0 00)		(0.00)			(0 00)
/1/2009	(0 00)		(0.00)			(0.00)
8/1/2009	(0.00)		(0 00)			(0 00)
9/1/2009	(0 00)		(0 00)			(0 00)
10/1/2009	(0 00)		(0.00)			(0.00)
11 1/2009	(0 00)		(0 00)			(0 00)
Total		45,99 _12.50	4 4 87 0		49 479 000 00	

Cin p G b 4 r ct f 04/2003 (ncl consy S (ya Cer)

? _S

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C [illegible] C [illegible]
C lamb [illegible]
S [illegible] r Bonds

C p [illegible] d i erest

D	D	3-ganang		[illegible]	[illegible] rom	[illegible]	[illegible]	Cash g
D	[illegible]	Balance	Deposit	[illegible]	DSRF Fund	C [illegible]	[illegible]	Balan
12/1/[illegible]			[illegible]					[illegible]
3/1/ [illegible]	[illegible]	[illegible]		[illegible]	[illegible]	[illegible]	[illegible]	[illegible]
9/1/2[illegible]	[illegible]	[illegible]		[illegible]	[illegible]	[illegible]	[illegible]	[illegible]
3/1/[illegible]	180	[illegible]		[illegible]	[illegible]	[illegible]	[illegible]	[illegible]
/1/[illegible]	180	[illegible]		[illegible]	[illegible]	[illegible]	[illegible]	[illegible]
3/1/[illegible]	180	[illegible]		[illegible]	[illegible]	[illegible]	[illegible]	[illegible]
9/ /[illegible]	180	[illegible]		[illegible]	[illegible]	[illegible]	[illegible]	[illegible]
/1/[illegible]	180	[illegible]		[illegible]	[illegible]	[illegible]	[illegible]	[illegible]
9/1/[illegible]	180	[illegible]		[illegible]	[illegible]	[illegible]	[illegible]	[illegible]
3/1/[illegible]	180	[illegible]		[illegible]	[illegible]	[illegible]	[illegible]	[illegible]
9/1/[illegible]	180	[illegible]		[illegible]	[illegible]	[illegible]	[illegible]	[illegible]
3/1/[illegible]	180	[illegible]		[illegible]	[illegible]	[illegible]	[illegible]	[illegible]
9/1/[illegible]	180	[illegible]		[illegible]	[illegible]	[illegible]	[illegible]	[illegible]
3/1/[illegible]	180	[illegible]		[illegible]	[illegible]	[illegible]	[illegible]	[illegible]
9/1/[illegible]	180	[illegible]		[illegible]	[illegible]	[illegible]	[illegible]	[illegible]
3/1/[illegible]	180	[illegible]		[illegible]	[illegible]	[illegible]	[illegible]	[illegible]
9/1/[illegible]	180	[illegible]		[illegible]	[illegible]	[illegible]	[illegible]	[illegible]
3/1/[illegible]	180	[illegible]		[illegible]	[illegible]	[illegible]	[illegible]	[illegible]
9/1/[illegible]	180	[illegible]		[illegible]	[illegible]	[illegible]	[illegible]	[illegible]
3/1/[illegible]	180	[illegible]		[illegible]	[illegible]	[illegible]	[illegible]	[illegible]
9/1/[illegible]	180	[illegible]		[illegible]	[illegible]	[illegible]	[illegible]	[illegible]
3/1/[illegible]	180	[illegible]		[illegible]	[illegible]	[illegible]	[illegible]	[illegible]
9/1/[illegible]	180	[illegible]		[illegible]	[illegible]	[illegible]	[illegible]	[illegible]
[illegible]				[illegible]	[illegible]	[illegible]	[illegible]	

C ty C t_ S t
C lumb Hdt n
S nior B nds

D bt S r c Res n F a

D	Da 30/06/0	B l	Deposi	1500/99%	Capital Fund	Reserve Fund	Ba ance
1 /1/2003			5,709,691 19				
/1/2004							
/1/2005	1 0	5 709,691 19		4 74 26	(142,74 5)		5 709,691 19
/1/2005	0	5 709,691 1		1 742. 8	(14 4 5)		5,70 ,691 19
/1/2006	0	709,691 19		142, 4		142 4 5)	5, 09 691 19
9/1/ 006	0	709,691 19		4 5		(14 74 5)	09 691 19
/1/ 0	0	709,691 19		14 1 8		(14 4 5)	5, 09 6 1 19
9/1/2007	0	5 709,691 19		1 2 2		(142, 4 28)	5 709 691 19
/1/ 008	0	09 1 9		1 742 8		14 4 5)	5 09 691 19
/1/2008	0	09,691 19		142,742. 8		(142,742 5)	5 09 691 19
/1/2009	0	09 91 19		1 74 2		(14 4 5)	09 691 19
9/1/ 009	0	09,691 19		14 74		(142, 5)	709 91 19
9/1/2010	0	5 09,691 19		14 4		(14 4 5)	709 691 19
9/1/2010	0	5 09,691 19		142 74		(14 74 5)	5 709 691 19
3/1/2011	0	09 691 19		14 4		(142,74 28)	5 09 691 19
9/1/2011	0	09,691 1		14 742		(142,742 28)	5 09 691 19
/1/201	0	5 709,691 19		14 4		(1 2, 4 28)	709 691 19
9 1/201	0	5 709,691 19		14 4		(42, 42 28)	5 09 691 19
/1/2013	0	09,691 19		14 74 28		(142,74 5)	09 691 19
9/1/2013	0	5 09 691 19		14 74 8		14 8)	5,709 691 19
3/1/2014	0	5,709 91 19		14 42		(14 4 5)	709 691 19
9/1/2014	0	709,691 19		142,74 8		(14 4 8)	09 691 19
3/1/201	0	09 691 9		14 42		(14 74 28)	709 691 19
9 1/201	0	09 691 19		14 4 28		(14 74 28)	5,709 691 19
/1/201	0	09 91 19		14 74 8		(142,742 5)	5 09 6 1 19
/1/201	0	09,691 19		14 74		(14 74)	09 691 19
/1/2017	0	09 91 19		14 742 5		(142, 4 28)	5 709 691 19
9/1/2017	0	09 691 19		14 742 8		(142,742 5)	5 709 6 1 19
3/1/2018	0	5 09 1 19		14 74 28		(14 7 5)	5 09 691 19
3/1/2018	0	09,691 19		14 4 8		(142,742 5)	709 691 19
/1/ 1	0	5 709,691 1		142 8		(142,742 5)	09 691 19
9/1/2019	0	09 1 9		14 2 9		(14 7 2 5)	5,709 691 19
3/1/20 0	0	09,691 19		14 4		(142,74 28)	5, 09 691 19
/1/ 0	0	09 9 1 19		14 4 8		(14 7 5)	5,7 9 691 19
3/1/2021	0	09,691 19		1 4 8		(142, 42 28)	5, 09 691 19
9/1/ 0 1	0	09,691 9		14 7 9		(142, 4 28)	09 691 19
/1/202	0	09,691 19		14 7 8		(142, 4 5)	5 709 691 19
9 1/20	0	5 09,691 19		14 74 28		(14 4 5)	09 691 19
/1/20	0	5 709 91 19		14 42		(142, 4 5)	709,691 19
1/2023	0	5 09,691 19		14 74		(14 2)	5 709 691 19
3/1/ 0 4	0	09,691 19		142, 4 8		(14 42 28)	5,709 91 19
9/1/20 4	0	5 09,691 19		142, 42 8		(142,742 5)	5 709,691 19
1/20	0	09 691 19		14 4 8		(142,74 8)	5,709 91 19
9/1/20 5	0	5,709,69 19		14 74 8		(1 7 9)	709,691 19
1/20 6	0	09 5 1 19		14 73 8		(1 74)	5,709 91 19
9 1/20 6	0	5 09,691 19		14 742		(14 4 5)	09 691 19
/1/ 0 7	0	09,691 19		14 4 8		(14 5)	709 691 19
9 1/ 0 7	0	09 1 19		1		(1 4 5)	709 691 19
1/20	0	09 1 19				(9 4 5)	709 691 19
9/1/20	0	09,691 19		14 2 5		(14 4 5)	709 69 19
1/20 9	0	09 1 19		1 74 5		(14 74 28)	5 09 691 19
/1/20 9	0	09 9 1 19		14 74 5		(42, 42 8)	5 709 691 1
1/20 0	0	09 691 19		14 742 9		(42, 4 5)	5 709 691 19
9/1/20 0	0	709 91 19		14 5		(142,4 28)	709 691 19
1/20 1	0	09 91 19		14 74 5		(14 5)	709 691 19
9 1/20 1	0	09,691 19		4 2 9		(14 4 25)	709 691 19
/1/2022	0	09 691 19		1 4 5		(142,742 6)	5,709 91 19
9/1/20	0	09 691 1		13 4 5		5)	5 09 691 9
3/1/20 3	0	09 691 19		14 4 25		(14 4 8	5, 09 691 9
1/20	0	709 691 19		14 2		14 74 5)	09 691 9
/1/20 4	0	5 709 691 19		142 5		(142,742 5)	5 09 691 19
9/1/20 4	0	709 691 19		14 4 5		(14 742 5)	709,691 19
3/1/20 5	0	709,691 19		1 7 9		(1 74 28)	09,691 19
9/1/203	0	09,691 19		14 42 9		(5, 4)	
3/1/20 6	0						
/1/ 0	0						
1/203	0						
9 1/20 7	0						
/1 039	0						
9/1/ 0 9	0						
1/20 9	0						
9/1/2039	0						
/1 0 9	0						
/1 040	0						
1/2041	0						
9/1/2041	0						
/ 04	0						
9 1/ 04	0						
/1/20	0						
9 1/204	0						
T t l			5 709 691 19	90 4 19	(499 157 0)	(4 7 96)	

C[illegible] Columbia South Carolina
Columbia Plan

Aggregate Cost of Issuance

Cost of Issuance	Fee
Bond Counsel	250 000
Underwriter's Counsel	150 000
Counsel to the City	300 000
Financial Advisor	650 000
Hotel Consultant	250 000
Trustee/ Counsel	15 000
POS/OS Printing	1 000
S&P	40 000
Moody's	40 000
Fitch	0
Feasibility Report	250 000
City Issuance Expenses	102 000
Miscellaneous	000
Total	1,927 000 00