

THE STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM RICHLAND COUNTY
Court of Common Pleas

DeAndrea G. Benjamin, Circuit Court Judge

Civil Action No. 2016-CP-40-07353
Appellate Case No. 2017-000134

RECEIVED

MAY 17 2017

SC Court of Appeals

Richardson Construction Company, Inc. Appellant,

v.

Richland County, a political subdivision, and
McClam & Associates, Inc. Respondents.

**SUPPLEMENT TO APPELLANT’S MOTION FOR EXPEDITED TEMPORARY
INJUNCTION PENDING APPEAL AND SUPPORTING MEMORANDUM**

On Tuesday, May 9, 2017, Appellant Richardson Construction Company, Inc. (“RCC”) filed its Motion for Expedited Temporary Injunction Pending Appeal and Supporting Memorandum (“Motion for Expedited Temporary Injunction”), pursuant to Rule 62(c), SCRCP. RCC now supplements that motion with correspondence from Richland County bearing on the motion.

RCC requested the temporary injunction pending appeal, in part, because Richland County has deprived it of any adequate remedy at law. *Denman v. City of Columbia*, 387 S.C. 131, 140, 691 S.E.2d 465, 470 (2010). One reason RCC has been deprived of an adequate

remedy at law is because there has never been even a semblance of a response to RCC's contract award protest—that is, until this past Friday.

Late Friday afternoon on May 12, 2017, at 5:17 p.m.—three days after RCC filed its Motion for Expedited Temporary Injunction—RCC received a letter from Richland County. (Letter from Jennifer Wladischkin to Kathleen McDaniel, dated May 12, 2016, RCC 583 - 586.) In that letter, Jennifer Wladischkin, who asserts she is the Richland County “Assistant Procurement Director/Manager and Acting Procurement Director/Manager,” purports to acknowledge RCC's contract award protest. (*Id.*)

RCC attempted to file the contract award protest, protesting the award of the Shop Road Extension Phase 1 construction project to McClam & Associates, Inc. (“McClam”) on December 16, 2016. Following RCC filing the contract award protest, the first, essential step in obtaining an adequate remedy at law through the procurement administrative process was for the Richland County Procurement Director to attempt to settle the matter and send RCC a written decision if settlement could not be accomplished within a “reasonable time.” Richland County Code §§ 2-621.1(b) and (c). This necessary administrative step is impossible because Richland County still does not have a Procurement Director.

At a hearing in the trial court on December 21, 2016, Richland County took the position that Christy Swofford was the “acting Director of Procurement.” However, there **was never any response** to RCC's contract protest by a Procurement Director before or after the December 21, 2016 hearing. Subsequently, at a hearing on April 4, 2017, Richland County represented to the trial court that Chris Younts was the Richland County Procurement Director. Within thirty days of his appointment, Mr. Younts resigned or was terminated. Again, there continued to be **no response whatsoever** to RCC's contract protest.

As of the date of RCC's receipt of Ms. Wladischkin's letter, it had been 147 days since RCC filed its contract award protest. Ms. Wladischkin begins her letter with a cursory acknowledgment of the extraordinary delay in responding, stating, "Let me first apologize for any delays up to this point" but then acknowledges that she is "acquainting" herself with the matter and provides no timeframe whatsoever for action on Richardson's protest. (*Id.*) At this point, apologies are meaningless. RCC has been denied the legal remedies of administrative procedure to which it was entitled; the harm has been done.

It strains credulity to think it took Richland County 147 days to formulate Ms. Wladischkin's letter in response to RCC's contract award protest. Instead, RCC believes that Ms. Wladischkin's letter is merely an attempt by Richland County—too little and far too late—to create some record of activity to present to this Court in response to RCC's Motion for Expedited Temporary Injunction.

That Ms. Wladischkin's letter is a disingenuous pretense by Richland County is demonstrated by several points. First, Ms. Wladischkin purports to be the "Assistant Procurement Director/Manager and Acting Procurement Director/Manager" for Richland County. Richland County has used this ploy previously when it presented an Affidavit of Christy Swofford to the trial court, stating when it served Richland County's purposes, that Ms. Swofford was not just the assistant Procurement Director but that she was also the "acting" Procurement Director. (Aff. of Christy Swofford ¶¶ 1 and 2, RCC 232.)

As far as RCC can determine, Ms. Wladischkin was—and still is—a contract specialist for Richland County and not the assistant or acting Procurement Director. The Richland County website, viewed on the evening of Friday, May 12, 2017, and the morning of Monday, May 15, 2017, states that Ms. Wladischkin is a "contract specialist." (Print out of Procurement Office

web page from Richland County website, printed on May 12 and May 15, 2017, RCC 587 – 590.) Ms. Wladischkin’s own LinkedIn web profile represents that she is a contract specialist; it makes no mention of her being the assistant/acting Procurement Director/Manager. (Print out of Jennifer Sebour Wladischkin’s LinkedIn profile, printed on May 12, 2017, RCC 591 – 592.) This is no public record of this promotion or of Ms. Wladischkin’s qualifications. There is no indication that Ms. Wladischkin’s “promotion” is anything more than an effort to give the appearance that a Procurement Director exists.

In the second paragraph of Ms. Wladischkin’s letter, she quotes the Richland County Procurement Code Section 2-261.1(b), which states that the Procurement Director or “designated representative” may settle a protest administratively. Despite the careful wording used here, Ms. Wladischkin cannot be writing in the capacity of a “designated representative” because that would require her to be designated by an **actual** Procurement Director, which Richland County does not have. To interpret the ordinance otherwise would permit the County Administrator to direct any County employee to conduct the initial review of a contract award protest in place of the Procurement Director, which would be unlawful.

At the end of the second paragraph of her letter, Ms. Wladischkin states that she is “acquainting myself with the facts of the solicitation and award, including your protest and supplements, in order to be able to make an informed decision on any settlement possibilities and a subsequent decision on your client’s protest.” (Letter from Jennifer Wladischkin to Kathleen McDaniel, dated May 12, 20167, RCC 583 - 586.) This protest has now been pending for over five months, and the individual purporting to act in the capacity of the Procurement Director is only just now “acquainting” herself with the facts of RCC’s protest. Ms. Wladischkin fails to provide any timeline for further communication in her letter.

In her third paragraph, Ms. Wladischkin sets forth a particularly detailed explanation of her role and that of the Procurement Review Panel. It seems unlikely that the Richland County contract specialist wrote this letter, which means someone either wrote it for her or directed her on the specifics points to discuss. Considering the likelihood of outside input into this letter, RCC questions the ability of Ms. Wladischkin to evaluate this matter independently and in a way that actually affords RCC the due process to which it is entitled.

In the last paragraph of her letter, Ms. Wladischkin references working “tirelessly” with the members of the Procurement Review Panel to coordinate their availability. RCC has already presented to this Court that a properly constituted Procurement Review Panel does not exist because there are only three members that can be identified and there is no documentation to support those three members representing the necessary industries, as required by Richland County’s Code of Ordinance. (RCC’s Motion for Expedited Temporary Injunction p. 9.) The agenda for tonight’s Richland County Council meeting evidences Richland County’s continuing failure to appoint individuals to the Procurement Review Panel. (Agenda for May 16, 2017 Richland County Council meeting, RCC 593 - 599.) Richland County is capable of appointing members to other boards and commissions as there are five individuals up for appointment at tomorrow’s County Council meeting. Nevertheless, there continue to be no further appointments to the Procurement Review Panel to fill the vacancies that have existed for two years.

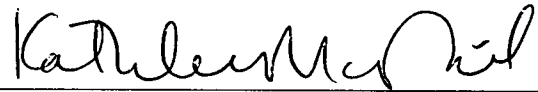
RCC has requested that this Court expedite its decision-making on RCC’s motion for temporary injunction pending appeal. Ms. Wladischkin’s letter points to the urgency of the matter, as it demonstrates that that County cannot (or will not) provide any procedural mechanism to provide Richardson relief. In the meantime, if McClam continues to work during the pendency of the appeal, it would complete such a significant amount of work that there

would be no practical value in RCC being granted the contract either through a re-bid or through an outright award of the contract to RCC. It is not only the amount of work that McClam is completing that is concerning, but it is also the type of work that McClam is completing that will harm RCC if McClam's work is not halted pending this appeal. Robert M. Richardson, the General Manager and President of RCC, has observed the work that McClam is conducting. (Aff. of Robert M. Richardson ¶ 9, RCC 600 – 605.) Within RCC's bid, there was a mix of work that would be self-performed by RCC and work that RCC would subcontract out. (*Id.* ¶ 11.) McClam is currently performing the work that RCC would self-perform if it obtains the contract. (*Id.* ¶ 10 – 14.) If McClam continues to do this work, it will diminish the overall value of the contract to RCC, further harming RCC even if it ultimately obtains the contract for work. (*Id.*)

In light of the now impossibility of relief due to the absence of key Richland County staff, the continuing failure of Richland County to provide any administrative procedure for review of the award to McClam, and the fact that McClam is currently performing the high-value work that RCC intended to self-perform, RCC requests that this Court issue an order directing Richland County and McClam to stop work on the Shop Road Extension construction project during the pendency of RCC's appeal.

CONCLUSION

RCC has demonstrated that it has no adequate remedy at law, that it is likely to succeed on the merits of its procurement dispute, and that it will suffer irreparable harm if a temporary injunction pending this appeal is not granted. Based upon the foregoing, RCC requests that this Court issue a temporary injunction directing Richland County and McClam to stop work on the Shop Road Extension construction project during the pendency of RCC's appeal.



Richard C. Detwiler
Kathleen M. McDaniel
CALLISON TIGHE & ROBINSON, LLC
1812 Lincoln Street, Suite 100
Post Office Box 1390
Columbia, South Carolina 29202-1390
Telephone: 803-404-6900
Facsimile: 803-404-6901
kathleenmcdaniel@callisontighe.com

May 10, 2017

Columbia, South Carolina

ATTORNEYS FOR APPELLANT

THE STATE OF SOUTH CAROLINA
In the Court of Appeals

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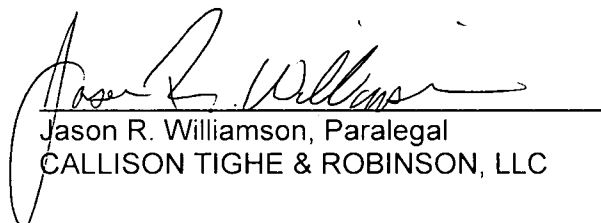
I certify that I have served Appellant's Motion for Expedited Temporary Injunction Pending Appeal and Supporting memorandum on May 16, 2017, on the following by causing a copy to be delivered via the U.S. Postal Service to Counsel for the Respondents to addresses shown below:

Ned Nicholson, Esq.
MCNAIR LAW FIRM
1221 Main Street, Suite 1800
Columbia, South Carolina 29201

**ATTORNEY FOR
RICHLAND COUNTY**

Alan Peace, Esq.
HARRELL & MARTIN, PA
135 Columbia Ave.
Chapin, South Carolina 29036

**ATTORNEY FOR
McCLAM & ASSOCIATES, INC.**


Jason R. Williamson, Paralegal
CALLISON TIGHE & ROBINSON, LLC

May 16, 2017

Columbia, South Carolina

TABLE OF CONTENTS

Letter from Jennifer Wladischkin to Kathleen McDaniel,
dated May 12, 2017.....583

Print out of Procurement Office web page from Richland County
Website, printed on May 12, 2017 and May 15, 2017.....587

Print out of Jennifer Sebour Wladischkin’s LinkedIn profile,
printed on May 12, 2017.....591

Agenda for May 16, 2017 Richland County Council meeting593

Affidavit of Robert M. Richardson.....600



Kathleen McDaniel <kathleenmcdaniel@gmail.com>

Shop Road Extension Phase I Construction contract award protest

Jennifer Wladischkin <WladischkinJ@rcgov.us> Fri, May 12, 2017 at 5:16 PM
To: "kathleenmcdaniel@gmail.com" <kathleenmcdaniel@gmail.com>
Cc: LARRY SMITH <SMITHLA@rcgov.us>, "NNicholson@MCNAIR.NET" <NNicholson@mcnair.net>, "lcrum@mcnair.net" <lcrum@mcnair.net>, "apeace@harrellmartin.com" <apeace@harrellmartin.com>, ELIZABETH MCLEAN <MCLEANE@rcgov.us>

Good Afternoon,

Please see the attached correspondence, I look forward to working with you in the future.

Sincerely,

Jennifer Wladischkin

Acting Procurement Director/Manager

Assistant Procurement Director/Manager

Richland County Office of Procurement & Contracting

2020 Hampton Street, Suite 3064

Columbia, SC 29204

(803)576-2126 - Phone

(803)576-2135 - Fax


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RCC - 583

5/15/2017

Gmail - Shop Road Extension Phase I Construction contract award protest

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 Shop Rd Ext protest letter.pdf
98K



Office of Procurement and Contracting
2020 Hampton Street, Suite 3064
Columbia, SC 29204
(803) 576-2130 – Phone
(803) 576-2135 – FAX

May 12, 2017

(via email on 5/12/17 and U.S. Mail)

Kathleen McDaniel, Esq.
Callison Tighe & Robinson
1812 Lincoln Street, Suite 200
Columbia, SC 29201

Re: Shop Road Extension Phase 1 Construction contract award protest

Dear Ms. McDaniel:

I am writing, as the Assistant Procurement Director/Manager and the Acting Procurement Director/Manager, to update you on the status of the County administrative process regarding the above protest. Let me first apologize for any delays up to this point. I hope to be able to move the process along in a timely manner.

The former Assistant Procurement Director received Richardson Construction's protest on December 16, 2016, as well as additional documents labeled as supplements. As you are likely aware, the protest process is found in the Richland County Code of Ordinances §2-261.1. §2-261.1(b) states that the director of procurement or "designated representative may administratively settle the protest...consistent with this ordinance and procurement regulations promulgated by Richland County." As such, I am currently acquainting myself with the facts of the solicitation and award, including your protest and supplements, in order to be able to make an informed decision on any settlement possibilities and a subsequent decision on your client's protest.

If I determine that settlement is not possible, Richland County Code of Ordinances §2-261.1(c) provides that I must provide a written Decision on the protest within ten (10) days of that determination. Should Richardson Construction, McClam or the County wish to appeal the Decision, that party shall adhere to the requirements of § 2-621.1(e) and within ten (10) days of the issuance of the Decision appeal to the Richland County Procurement Review Panel ("the Panel.") The appealing party shall in its appeal state whether or not it requests an interview with the Panel. The appeal can be provided to me at the Procurement Office and must be delivered to my office within the ten (10) day appeal period. In the event of an appeal, I will immediately contact the members of the Panel and provide them a copy of the Protest(s) being appealed, the Decision, and copies of the materials I reviewed in rendering my Decision. Any communications by a party to any appeal to the Panel must be provided by the party to the other parties by the same means and method of communication. However, should an interview be requested by an appealing party, I may contact the Panel members only for the purpose of coordinating the scheduling of such interview if granted by the Panel.

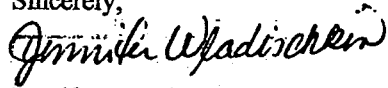
Assuming an appeal of the Decision from any party, and the Panel granting an interview, the County has been tirelessly attempting to coordinate times with the Panel members for which they are available in May and June. As soon as we have firm dates from the Panel, the County will contact all parties to provide available dates.

If you have any questions or concerns, please do not hesitate to contact me.

RCC - 585

With kind regards, I am

Sincerely,



Jennifer Wladischkin
Acting Procurement Director/Manager
Assistant Procurement Director/Manager
Richland County

Cc: Larry Smith, Esq., Richland County Attorney
Ned Nicholson, Esq., McNair Law Firm, P.A.
Liz Crum, Esq., McNair Law Firm, P.A.
Alan Peace, Esq., Harrell & Martin, PA
(all cc's via email only)

Richland County, South Carolina

Have a question or concern?

Contact the Richland County Office of Procurement & Contracting

Call: (803) 576-2130

Fax: (803) 576-2135

Email: rcsolicitations@rcgov.us

Address: 2020 Hampton Street
Suite 3064
Columbia, SC 29201

[Get Driving Directions](#)

ABOUT US

Procurement & Contracting Officers:

Jennifer Wladischkin – Contract Specialist; wladischkinj@rcgov.us

Brittany Flake – Buyer; flakeb@rcgov.us

Sierra Flynn – Buyer; flynns@rcgov.us

Toya Thomson – Administrative Assistant; thomsont@rcgov.us

Additional Links:

SC Materials Management Office: www.mmo.sc.gov

National Institute of Governmental Purchasing (NIGP): www.nigp.org

SC Budget and Control Board: www.procurement.sc.gov

SC Association of Governmental Purchasing Officials: www.scagpo.org

South Carolina State Surplus: www.scsurplusproperty.com

Penny Tax Program: www.richlandpenny.com

Richland County

South Carolina

2020 Hampton Street

P.O.Box 192

Columbia, SC 29201

One-Call Response Center

24 Hours (803) 929-6000

ombudsman@rcgov.us

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Richland County, South Carolina

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Sierra Flynn – Buyer; flynns@rcgov.us

Toya Thomson – Administrative Assistant; thomsont@rcgov.us

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SC Association of Governmental Purchasing Officials: www.scagpo.org

South Carolina State Surplus: www.scsurplusproperty.com

Penny Tax Program: www.richlandpenny.com

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Jennifer Sebour Wladischkin

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Contract Specialist at Richland County
Columbia, South Carolina Area
Logistics and Supply Chain

Current Richland County
Previous Richland County, Belk, Fastco
Education University of Baltimore
Recommendations 3 people have recommended Jennifer

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First Name Last Name

Example: Jeff Weiner

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Experience

Contract Specialist

Richland County
August 2010 – Present (6 years 10 months)

Buyer

Richland County
August 2010 – May 2012 (1 year 10 months)

Clinique Counter Manager

Belk
July 2009 – August 2010 (1 year 2 months)

Chief Operating Officer

Fastco
November 2002 – May 2009 (6 years 7 months)

Purchasing

Safety-Kleen
April 2001 – November 2002 (1 year 8 months)

Negotiate national contracts, manage vendor relationships, drive cost savings, point of contact for branches, sales reps, accounting and managers.

Buyer, US Emergency Lighting Division

Thomas & Betts
September 1998 – April 2001 (2 years 8 months)

Purchase and schedule raw materials, work closely with engineering, sales and production, consolidate supply base, implement cost savings program, ISO Internal Auditor

Inventory Control Manager

Witten International
February 1995 – September 1998 (3 years 8 months)



People Also Viewed



Shemeka Young
Senior Director Human Resources, Fulfillment at Chewy



Kim Jänhä, PhD
Legislative Services Coordinator at Richland County Legislative Delegation



Cecilia Williams
ACCOUNTING CLERK AT RICHLAND COUNTY TREASURY



Traci Young Cooper
Director of Richland County School District One, Extended Day Programs at Richland County School District



Nina Hojlander
Broker, Realtor, CRS, GRI, ABR, SRES, SPS, CDPE, SFR, CMRS at RE/MAX Executive Charlotte



Valeria Jackson
Director of Community Development at Richland County



Nikki Newman
Vice President of Sales - Industrial and Commercial Products at FDL Fasteners



Lisa Donahue
Hybrid Sales Specialist at EFC International



Linda Bartley Bailey
Richland County Recreation Commission



Dana Yeager
President at Richland County Safety Council



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Skills

Process Improvement Inventory Management Strategic Planning Management
Negotiation Inventory Control Forecasting Materials Management
Global Sourcing Accounting Team Building Budgets Customer Service
Purchasing Microsoft Excel See 12+

Education

University of Baltimore
1992 – 1994

Essex Community College
1990 – 1992

Recommendations

A preview of what LinkedIn members have to say about Jennifer:

“ Success is not an entitlement, it is an effort earned! That statement fits Miss Jennifer in every aspect as she never takes anything for granted and she gives 110% 24 / 7. She
See more

“ Jennifer is very conscientious & intelligent and also very responsible; She has strong sense of teamwork, which prompts her to positively join all kinds of business project.
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Sign up to see who recommended Jennifer

Groups

National Industrial F... Next Dimension Care... Purchasing & Materi... NIGP: The Institute f...

ISM - Purchasing & S...

View Jennifer's full profile to...

- See who you know in common
- Get introduced
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RICHLAND COUNTY

COUNTY COUNCIL AGENDA

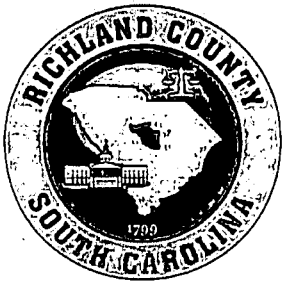
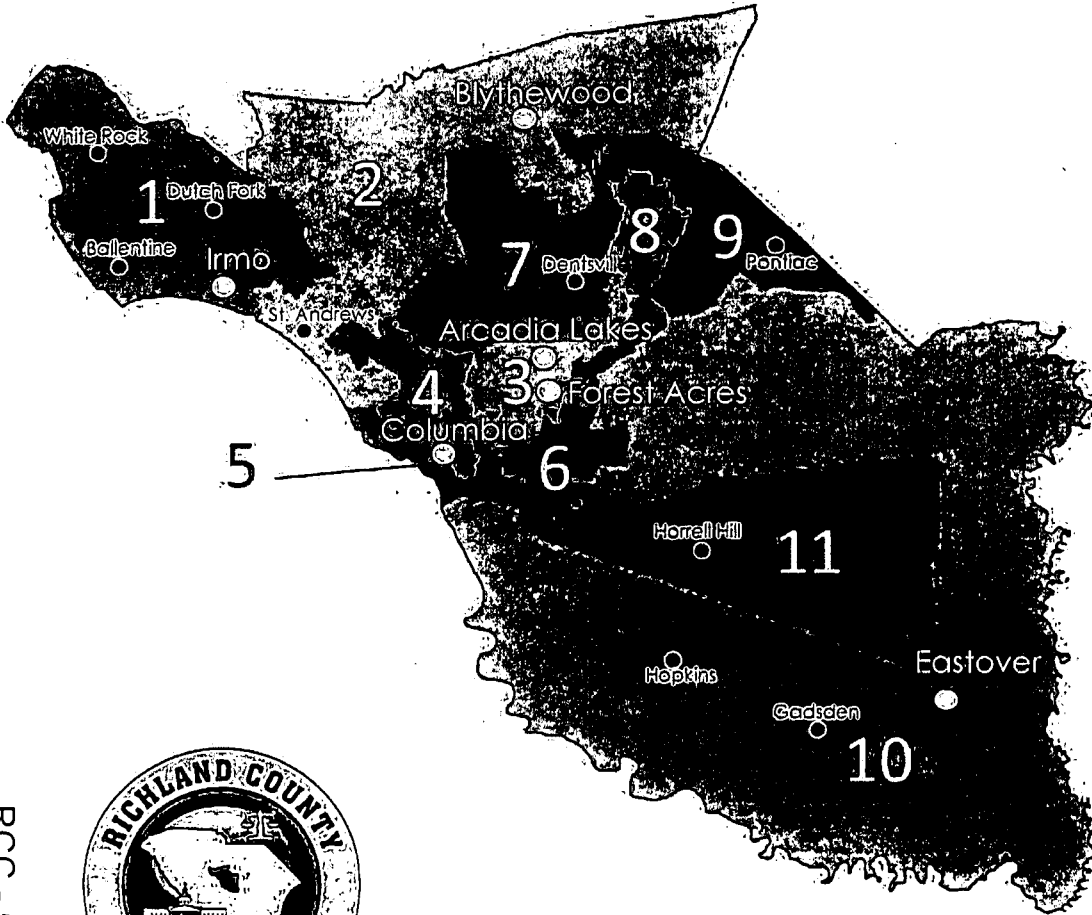


TUESDAY, May 16, 2017

6 P.M.

COUNCIL CHAMBERS

RICHLAND COUNTY COUNCIL 2017-2018



RCC - 594



VICE CHAIR
Bill Malinowski
District 1



CHAIR
Joyce Dickerson
District 2



Yvonne McBride
District 3



Paul Livingston
District 4



Seth Rose
District 5



Greg Pearce
District 6



Gwendolyn Kennedy
District 7



Jim Manning
District 8



Calvin "Chip" Jackson
District 9



Dalhi Myers
District 10



Norman Jackson
District 11



Richland County Council
Regular Session
May 16, 2017 – 6:00 PM
Council Chambers
2020 Hampton Street, Columbia, SC 29201

- 1. **CALL TO ORDER** The Honorable Joyce Dickerson,
Chair, Richland County Council

- 2. **INVOCATION** The Honorable Chip Jackson

- 3. **PLEDGE OF ALLEGIANCE** The Honorable Chip Jackson

- 4. **APPROVAL OF MINUTES** The Honorable Joyce Dickerson
 - a. Regular Session: May 2, 2017 [PAGES 7-17]

- 5. **ADOPTION OF AGENDA** The Honorable Joyce Dickerson

- 6. **PRESENTATION OF RESOLUTION AND PROCLAMATION**
 - a. Proclamation recognizing Emmanuel Cunningham, Cardinal Newman High School, for his achievements in sports, academics and community service The Honorable Norman Jackson

 - b. Resolution recognizing Clemson University and former Lower Richland Diamonds Marcus Edmond on his success leading the Tigers to the National Championship The Honorable Norman Jackson

- 7. **REPORT OF THE COUNTY ATTORNEY FOR EXECUTIVE SESSION ITEMS** *Items requiring outside counsel or a consultant. Larry Smith, County Attorney
 - a. Audit Update

 - b. Transportation Matter: Contractual Matter

Note: Pursuant to Council Rules, Council will record non-electronic roll call voting for all votes that are not unanimous for second and third reading or one time votes; and which are not merely procedural in nature.

- c. Personnel Matter
- d. Utility/Contractual Matter

8. **CITIZENS' INPUT**

For Items on the Agenda Not Requiring a Public Hearing

9. **REPORT OF THE COUNTY ADMINISTRATOR**

Gerald Seals, County Administrator

- a. Personnel Matter

10. **REPORT OF THE CLERK OF COUNCIL**

Michelle Onley, Deputy Clerk of Council

- a. BUDGET REMINDERS: (All Meetings are at 6:00 PM)

- 1. May 18 – Budget Public Hearing
- 2. May 25 – Budget 2nd Reading: Grants Only
- 3. May 30 – Budget 2nd Reading: Non-Grant Items

- b. Moving Forward Together Youth Summit: June 12 & 13, 8:30 AM – 5:00 PM, Convention Center

11. **REPORT OF THE CHAIR**

The Honorable Joyce Dickerson

- a. Clerk Search Update
- b. Council Services Budget
- c. COMET/CMRTA Update
- d. Council District H-Tax Allocations

12. **APPROVAL OF CONSENT ITEMS**

The Honorable Joyce Dickerson

- a. 17-007MA
Cox & Dinkins
RM-HD to GC (0.8 Acres)
Daulton Drive & Barbara Drive
TMS# R17012-02-12 [THIRD READING] [PAGES 18-19]

- b. 17-008MA
Cox & Dinkins
OI to GC (10.33 Acres)
Daulton Drive, Blarney Drive & Barbara Drive
TMS# R17012-02-01 [THIRD READING] [PAGES 20-21]
- c. 17-009MA
Krystal Martin
GC to LI (5 Acres)
10539 Farrow Road
TMS# R17500-02-18 [THIRD READING] [PAGES 22-23]

13. **REPORT OF THE RULES AND APPOINTMENTS COMMITTEE**

The Honorable Bill Malinowski

I. **Notification of Appointments**

- a. Board of Assessment Appeals – 2
 - 1. Devon-Natasha Holliman [PAGES 24-25]
- b. Employee Grievance – 2
 - 1. James H. Hill, III [PAGES 26-27]
- c. Planning Commission – 1
 - 1. Chui Ping (Karen) Yip [PAGES 28-29]
- d. Accommodations Tax – 3 (One applicant must have a background in the Cultural Industry; One applicant must have a background in the Hospitality Industry; and the other is an at-large seat)
 - 1. Matthew Lew [PAGES 30-31]
- e. Central Midlands Council of Governments (COG) – 1
 - 1. Douglas J. Fabel [PAGES 32-34]

14. **OTHER ITEMS**

- a. FY17 – District 4 Hospitality Tax Allocations [PAGES 35-36]

b. FY17 – District 1 Hospitality Tax Allocations [PAGES 37-38]

c. ~~FY17 - District 3 Hospitality Tax Allocations [PAGES 39-40]~~

15. **SECOND CITIZENS' INPUT**

Must Pertain to Richland County Matters Not on the Agenda

16. **SECOND COUNTY ATTORNEY'S REPORT OF EXECUTIVE SESSION ITEMS**

Larry Smith, County Attorney

17. **MOTION PERIOD/ANNOUNCEMENTS**

a. Direct staff to research changing the ordinance relating to water runoff so in the future it will require environmental studies and not allow any runoff that exceeds the current runoff from the undeveloped property. This motion should be reviewed/completed and provided to the Planning Commission no later than their June meeting.

The Honorable Bill Malinowski

b. Request that administrative staff and Emergency Services Director evaluate the current contract for ambulance service fee collection to determine whether a rebid of this contract might improve the revenue from ambulance operations. A recommendation regarding this contract would then be reported to the A&F Committee for any necessary action.

The Honorable Greg Pearce

c. Move that the Budget Committee be changed from a standing committee of Council to an "Ad Hoc" committee that would only meet when specific items are referred to it via the Motion Period. Currently, items being placed on the Budget Committee agenda are of sufficient importance that the entire Council should be debating and voting on these.

The Honorable Greg Pearce

d. ~~If Developers, Builders, etc. cause any hardship on any community due to poor workmanship or unapproved or unpermitted work of any kind that fails, all of their building permits should be pulled and the builder not allowed to build until they fix the problem(s). NOTE: The homeowners, nor the citizens, should have to pay to fix poor workmanship~~

The Honorable Norman Jackson

- e. HOA's operated by developers or management firms should be fined if due to their poor management, and not that of the homeowners, it causes a hardship on the homeowners or community. NOTE: There are improperly maintained detention ponds that have trees growing in them which causes flooding during a bad storm

The Honorable Norman Jackson

(Additional motions may be received by the Clerk of Council's Office up to 24 hours prior to the Council meeting. Such motions will be distributed as "24-Hour Motions" to Council members)

17. **ADJOURN**

STATE OF SOUTH CAROLINA)	IN THE COURT OF COMMON PLEAS
)	
COUNTY OF RICHLAND)	FOR THE FIFTH JUDICIAL CIRCUIT
)	
Richardson Construction Company, Inc.,)	C/A No. 2016-CP-40-07353
)	
Plaintiff,)	
)	
v.)	AFFIDAVIT OF ROBERT M. RICHARDSON
)	
Richland County, a political subdivision,)	
and McClam & Associates, Inc.,)	
)	
Defendants.)	
)	

PERSONALLY APPEARED before me, Robert M. Richardson, who being first duly sworn, testifies that:

1. My name is Robert M. Richardson. I am a resident of South Carolina.
2. I am over 18 years old.
3. I have personal knowledge of the truth of the facts stated herein.
4. I am the General Manager and President of Richardson Construction Company of Columbia, SC, Inc. ("RCC").
5. RCC filed a procurement decision appeal with the Richland County Procurement Review Panel on December 5, 2016, disputing Gerald Seals' recommendation to Richland County Council that the contract for the Shop Road Extension project be awarded to McClam & Associates, Inc. ("McClam").
6. RCC filed a contract award protest with the office of the Richland County Procurement Director on December 16, 2016, protesting the award of the Shop Road Extension project to McClam.
7. The letter from Jennifer Wladischkin, received on May 12, 2017, is the first and only response RCC has ever received from the Richland County Procurement Office regarding RCC's contract award protest and procurement decision appeal.
8. Despite not even acknowledging RCC's contract award protest and procurement decision appeal for 147 days, Richland County permitted McClam, the highest bidder, to begin performing work on the Shop Road Extension Project.
9. On May 15, 2017, I observed McClam's work on the Shop Road Extension Project and estimate it to be no more than 10% complete.

10. I observed that the Shop Road Right-of-Way and some of the utility areas have been partially cleared and grubbed or mulched. Some of the earthwork has been accomplished primarily in the area east of the planned stream crossing.

11. RCC stated in our Proposal Documents submitted to bid on the Shop Road Extension Project that we planned to subcontract a large portion of the utility and drainage work, as well as the concrete paving and asphalt paving work and that we would self-perform the clearing, grading, pond construction, and culvert installation.

12. Each day that McClam continues to work will decrease the amount of clearing, grading, pond construction, and culvert installation, which is the portion of the work we plan to self-perform and is the most profitable to us.

13. I estimate McClam has performed 3-5% of the work RCC planned to self-perform.

14. If McClam is allowed to continue its work at the Shop Road Extension Project, it will have significantly diminished the value of the overall contract, should it be determined that the contract should be awarded to RCC.

15. I also observed fires smoldering in piles of cleared debris, which appeared to me to be in violation of Richland County ordinances and South Carolina Department of Health and Environmental Control regulations.

16. Attachments 1 and 2 show the location of burning that I observed.

17. By burning debris on-site rather than hauling it away for disposal, McClam is saving approximately \$150,000 to \$200,000 on the project, which savings will inure only to McClam and not Richland County and its taxpayers.


Robert M. Richardson

Sworn to and subscribed before me this 16 day of

May, 2017.

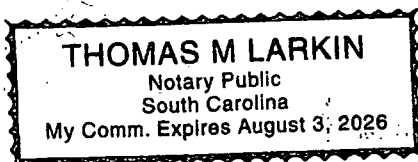


Official Signature of Notary

(Official Seal)

Thomas M Larkin, Notary Public

My commission expires: August 3, 2026



ATTACHMENT 1
AFFIDAVIT OF ROBERT M. RICHARDSON

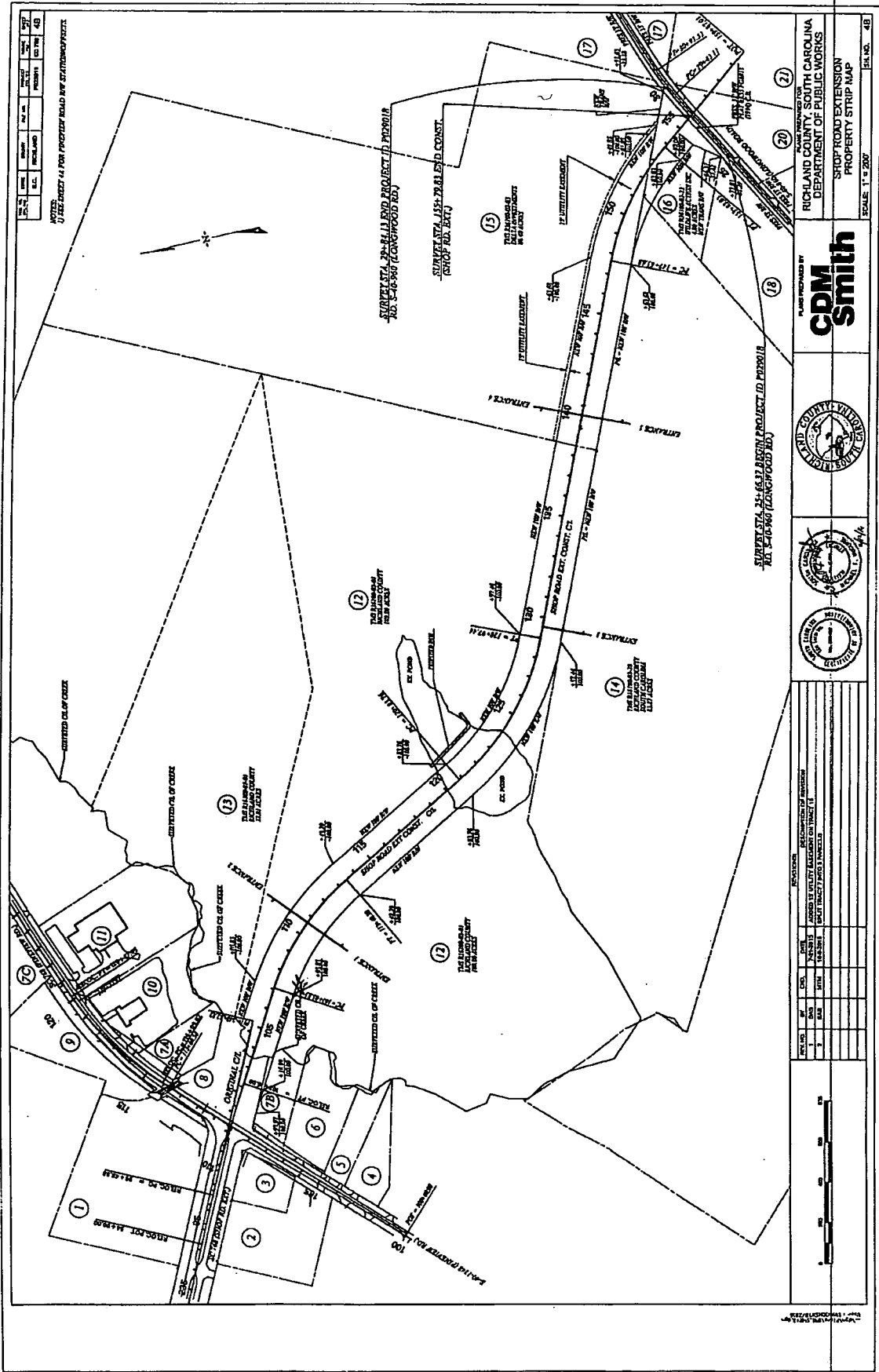


TABLE 1
 SURVEY DATA FOR PROPERTY STRIP EXTENSION PROJECT

NO.	DATE	BY	FOR	SCALE	STATUS
1	11/15/11	CDM SMITH	PROPOSED	1" = 200'	AS SHOWN

PLANS PREPARED BY
CDM Smith
 RICHLAND COUNTY, SOUTH CAROLINA
 DEPARTMENT OF PUBLIC WORKS
 SHOP ROAD EXTENSION
 PROPERTY STRIP MAP
 SCALE: 1" = 200'
 PLAN NO. 48



NO.	DATE	BY	FOR	SCALE	STATUS
1	11/15/11	CDM SMITH	PROPOSED	1" = 200'	AS SHOWN



ATTACHMENT 2
AFFIDAVIT OF ROBERT M. RICHARDSON

Google Maps Shop Rd



Imagery ©2017 Google, Map data ©2017 Google 200 ft

Kathleen McDaniel – Member
Ph.: 803-404-6900
Fax: 803-404-6901
kathleenmcdaniel@callisontighe.com

May 16, 2017

The Honorable Jenny Abbott Kitchings
Clerk, South Carolina Court of Appeals
1220 Senate Street
Columbia, South Carolina 29201

**Re: Richardson Construction Company, Inc. v. Richland County, a
political subdivision, and McClam & Associates, Inc.
Appellate No: 2017-000134
Case No: 2016-CP-40-07353
Firm No: 6344.012**

Dear Ms. Kitchings:

Enclosed for filing please find the original and seven copies of the Supplement to Appellant's Motion for Expedited Temporary Injunction Pending Appeal and Supporting Memorandum and of the Proof of Service. Please file the originals and return the clocked-in copy to our office via the enclosed, postage pre-paid envelope.

By copy of this letter, I am serving same upon all counsel of record.

Thank you for your assistance in this matter.

With kind regards, I am

Sincerely yours,



Kathleen McDaniel

KMM/jrw
Enclosures

cc: Ned Nicholson, Esq. (w/ Enclosures)
Alan Peace, Esq. (w/ Enclosures)

RECEIVED

MAY 17 2017

SC Court of Appeals