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SC Court of Appeals

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM GEORGETOWN COUNTY
Court of Common Pleas

Thomas A. Russo, Circuit Court Judge

Case No. 2010-CP-22-1233

Appellate Case No. 2012-213524

First South Bank.....Respondent,

v.

South Causeway, LLC.....Appellant.

**ADDENDUM TO THE
RECORD ON APPEAL**

Joel W. Collins, Jr.
Christian Stegmaier
James L. Floyd, III
Collins & Lacy, P.C.
Post Office Box 12487
Columbia, SC 29211
Attorneys for Respondent

James M. Griffin
Lewis, Babcock & Griffin L.L.P.
Post Office Box 11208
Columbia, SC 29211
Attorney for Appellant

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OTHER MATERIALS OR DOCUMENTS:

Plaintiff's Exhibits 18, 21 and 22	1874
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Chitty, Carson

From: Lovelace, Wayne
Sent: Monday, March 09, 2009 3:14 PM
To: WheelerCribb@aol.com
Subject: Proposal
Peggy:

As I mentioned a few minutes ago, these are the two proposals that Chip and I have discussed to release our mortgage on the Myrtle Avenue property:

OPTION #1

1. \$ 65,000 - 2008 real estate property taxes.
65,000 - 2009 real estate property taxes (to be escrowed w/ First South Bank and to be paid when billed you by Georgetown County, SC).
10,000 - Attorney fees
375,000 - Additional interest reserve contribution to carry the loan to the original maturity date of 07/05/11.
\$515,000 - Total

OPTION #2

2. \$ 65,000 - 2008 real estate property taxes.
65,000 - 2009 real estate property taxes (to be escrowed w/ First South Bank and to be paid when billed you by Georgetown County, SC).
10,000 - Attorney fees.
160,000 - Additional interest reserve contribution to carry the loan to new maturity date of 07/05/10.
\$300,000 - Total

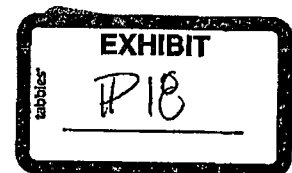
As you will note, Option #2 requires \$215,000 less in outlay than Option #1 because we are shortening the maturity of the loan by one year and we will require payment in full on the 07/05/2010 maturity date.

Please review and let me know how you wish to proceed.

Wayne
First South Bank
Columbia Office

1/5/2011

1874



FSB-SC 00106

Chitty, Carson

From: WheelerCribb@aol.com
Sent: Monday, March 30, 2009 9:53 PM
To: Lovelace, Wayne
Cc: MautoneLLC@aol.com
Subject: Fwd: Initial Offer for Causeway Property
Attachments: PAWLEYS_SOUTH_CAUSEWAY_AGREEMENT_3.27.09.doc.pdf

From: RobbleinPawleys
To: wwheeler2@sc.rr.com, WheelerCribb
Sent: 3/27/2009 10:29:30 P.M. Eastern Daylight Time
Subj: Fwd: Initial Offer for Causeway Property

Mrs. Peggy and Darwin,

Please read the message below and the attached agreement. It is an initial offer, but we can still discuss some of the finer points.

The offer price is your asking price!!! (They will correct the number on page one...It says \$9,550.00)

At first glance the time line for closing may seem long, but the buyer is planning for "worst case scenario issues", as they should. They would like to close in 6 months + 60 days, but they are wanting to research any potential road blocks from the county or others. Their time requested seems to be unnecessary to me; but as I said...let's discuss this before you make a decision, one way or the other. Remember, anyone who wants to purchase your property is going to need time for Due Diligence.

Page 8, para. 20 also states that if another offer comes in, this buyer request a 24 business day Right of Refusal. This means we can continue to market the property. Page 5, para. 12-d does need clarification. It seems to contradict page 8, para.20.

I hope that this group can make it happen. They just seem to be very cautious. Please give me a call when it is convenient for you.

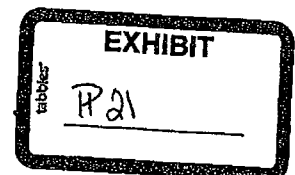
Good Luck,
Robble Buice
(843) 997-8424

-----Original Message-----

From: Martin E. Potts <mpotts@pottscpanies.com>
To: RobbleinPawleys@aol.com
Sent: Fri, 27 Mar 2009 7:55 pm

This is a first draft of the agreement which I would like for you to review. The purchase price is what I had outlined in previous emails. You should check the parcel numbers since they are not consistent with your offering. Also, I need the federal express address for South Causeway and her attorney's address (name). An attorney may not be required for this simple document but that is up to you and Ms. Cribb.

Our goal is outlined. Remember we will not initiate any aspect of the below until we have an agreement.



1/5/2011

FSB-SC 01002

1. Tie up the property for the time frames outlined.
2. Have Steve do detail layouts and meet with County along with me to determine compliance with new site plan.
3. Submit layouts to tenants to determine if there is interest, time for approvals, etc..
4. Coordinate meetings with County, users, and South Causeway owners.
5. If and when approved by all parties determine if council process required.
6. If council process required arrange and engage positive PR program. Personal meetings and group meetings. UNLOCK THE NECK!
7. Potts actively engaged with all members of council except Jerry, Jerry on a need to know basis.
8. Together, we might just be able to make this work, you, Ms. Cribb, Steve, and our team.
9. If we are not pleased with our progress or discover that resistance cannot be overcome then we drop the Agreement.

What this means is that once we have a contract we start with our land planning to determine if we have to go back to council. Steve does this following execution of non disclosure agreement. That will be known during the first 60 days. I will fly in every other week following site plan approval by me to meet with owners, council, people.

As you and I discussed, I will also act as a broker in this matter and at the appropriate time will initiate a letter for each of us to sign. You may have a standard form and if so please forward to me at your convenience.

We are serious and want to play; we will do everything within our professional capability to close in this property. However, and again I state that we have no control over retail tenants in terms of what their proforma's might support. The game has changed and last night on CNBC a commentator spelled out that commercial property has fallen (in terms of pricing) by as much as 2/3 in select markets. Of course most of these properties do not have adjacency to the beach and there are other attributes of Pawleys that will sure help.

Marty

PS: One sign of the times: <http://articles.moneycentral.msn.com/Investing/StockInvestingTrading/is-the-american-mall-dying.aspx>

Martin E. Potts
Lumberton Ventures 2007, LLC
Commercial Brokers and Real Estate Brokers
4361 Harborough Road
Columbus, Ohio 43220

T 614-459-7333 C 614-403-3030

Need a job? [Find employment help in your area.](#)

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1/5/2011

FSB-SC 01003

STATE OF SOUTH CAROLINA

COUNTY OF GEORGETOWN

AGREEMENT TO PURCHASE REAL ESTATE

DRAFT

DRAFT

THIS AGREEMENT TO PURCHASE REAL ESTATE (the "Agreement") dated this the _____ day of April, 2009 is made between **SOUTH CAUSEWAY LLC** as "Seller" to **LUMBERTON VENTURES 2007, LLC** (hereinafter referred to as "Buyer").

RECITALS:

The Seller is the owner of the real property located in the County of Georgetown, State of South Carolina, comprising approximately eighteen and thirty six hundredths (18.36) acres more or less, said real estate identified as Plat 028-06-TMS 04-0169-001-03-00, Plat 2-030-TMS 04-0164-033-00-00 and TMS 04-0164-030-00-00 as presently shown on the Georgetown County Tax Maps and being more particularly described in Exhibit "A" attached hereto and incorporated herein by this reference (hereinafter referred to as the "Property").

The Seller desires to sell and Buyer desires to purchase the Property subject to the terms set forth below.

NOW, THEREFORE, in consideration of the sum of **One Thousand and No/100 Dollars (\$1,000.00)** (the "Initial Deposit") paid by the Buyer to the Seller upon execution hereof, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereby agree as follows:

Agreement to Buy and Sell. The Seller offers to sell and convey to the Buyer and the Buyer agrees to buy the Property, together with the improvements thereon, if any, at the time of closing and all the easements and rights of way, privileges and appurtenances belonging or in any way appertaining thereto, subject to the terms and conditions set forth below.

- 1 **Purchase Price.** The purchase price of the Property shall be Nine Million, Five Hundred Fifty Thousand and No/100 Dollars (\$9,550,000) with the exact acreage to be purchased to be determined by a survey, prepared by a Registered Surveyor, accepted by each party to this Agreement (as specified in Section 7). Such purchase price shall be payable at Closing (as hereinafter defined) in cash or by readily available funds less any deposits made. Buyer shall receive a credit against the purchase price at Closing in an amount equal to the Initial Deposit and any Extension Deposits (as hereinafter defined) paid by Buyer pursuant to the terms and provisions hereof. This provision shall survive the Closing and conveyance of title.
- 2 **Closing.** The Closing shall occur on a date no later than sixty (60) days after the

expiration of six (6) months after the date of full execution of the Agreement by all parties (the "Initial Closing Date"), unless extended pursuant to the provisions of subparagraph four (4) below. If the Closing shall not occur on or before that date, and is not extended pursuant to the provisions of subparagraph four (4) below, this Agreement shall automatically cease and terminate. The Agreement Date shall be defined as the date of full execution by all parties of the Agreement.

- 3 Extensions. Buyer shall have the right to extend the Closing Date for two (2) additional periods of up to six (6) months each (the "Extended Closing Dates") upon delivery of written notice to the Seller on or before the expiration of the Initial Closing Date (not including the thirty (30) day period) that Buyer desires to exercise its right to extend the Initial Closing Date and the deposit with Seller's attorney of the additional sum of Ten Thousand and No/100 Dollars (\$10,000.00) (the "First Extension Additional Deposit") and Fifty Thousand and No/100 Dollars (\$50,000.00) for the second extension ("Second Extension Additional Deposit"). The Initial Deposit and any Additional Deposits, if any, shall be delivered to Prudential Source One Properties as Escrow Agent and shall be held, without interest accrual, in Prudential Source One Properties Real Estate Trust Account.
- 4 Exercise of Extensions. Buyer shall exercise the Extension or Extensions by giving written notice to Seller of same on or before the expiration of the Initial Closing Date as set forth above. The 30 day period for closing after the expiration of 6 months shall likewise apply to the two extension periods if exercised by Buyer (eg . 6 months + 30 days / 12 months + 30 days or 18 months + 30 days).
- 5 Closing and Title. Closing shall occur no later than thirty (30) days after the expiration of 6 months from the Agreement Date or 30 days after the expiration of one or both of the Extension Periods, at a time and place designated by Seller (the "Closing"). Seller agrees to convey, bargain and sell, by general warranty deed, good, marketable, and insurable fee simple title, which for purposes hereof shall be defined as the willingness of a reputable title insurance company selected by Buyer doing business in the State of South Carolina to insure the Property at regular rates, free and clear of all liens, judgments, mortgages or other encumbrances, and subject only to easements, restrictions and rights of way of record acceptable to Buyer which do not interfere with or inhibit the use of the Property as intended by Buyer and Buyer shall have the right to obtain a written commitment for title insurance (the "Commitment") to be issued by a title insurance company selected by Buyer. Buyer shall promptly notify Seller prior to the expiration of the initial six (6) month period of any defects or objectionable matters disclosed by the Commitment or any survey obtained by Buyer. Seller agrees to use all reasonable efforts to remedy any such objections to Buyer's reasonable satisfaction within thirty (30) days after notice (the "Cure Period"). Notwithstanding anything herein to the contrary, if Seller is unable to cure any such defect or remove such objectionable matters within thirty (30) days after notice, the Buyer shall have the right to cancel this Agreement by giving Seller written notice of cancellation within five (5) business days following expiration of the initial six (6) month period; the parties shall have no further rights hereunder; and the Initial Deposit shall be returned to Buyer.

- 6 Survey. Buyer, at its sole expense, at any time during the term of initial six month period or extensions thereof, shall have the right to obtain a survey and legal description. When completed, Buyer shall furnish Seller a copy of such survey and within fifteen (15) days following receipt thereof, if Seller or Buyer objects to the survey, then each party to this Agreement shall use reasonable efforts to resolve such objections so that a survey acceptable to each party is obtained. If neither Seller nor Buyer object to the survey within the time permitted by this Agreement then the survey shall be deemed accepted.
- 7 Taxes and Assessments. Real estate taxes, whether or not then due or payable, shall be prorated to the date of Closing. Seller will pay his proportionate share of all assessments which become a lien against the Property prior to Closing. In addition, any deferred taxes charged by the city or county after closing are to be paid by the Buyer. Buyer shall pay at closing all roll back taxes, if any.
- 8 Physical Inspection. Seller hereby grants to the Buyer and its agents a license to enter the Property for the purpose of conducting such surveys, physical inspections, environmental, soil and other tests and examinations as Buyer may deem appropriate. Buyer shall give Seller not less than forty-eight (48) hours prior written notice that Buyer desires to enter the Property for the purpose of conducting such studies, inspections and examinations. Buyer shall also forward to Seller copies of any reports that Buyer may receive in response to Buyer's investigations, inspections, studies and tests. Buyer will indemnify and hold Seller harmless from any and all costs, damages, claims, and/or causes of action resulting there from.
- 9 Seller's Representations and Warranties.
- 9.1 Seller hereby represents and warrants to Buyer as follows, which representations and warranties shall be deemed made by Seller to Buyer also as of the date of Closing:
- 9.1.1 Seller holds valid fee simple title to the Property.
- 9.1.2 Except as disclosed by Seller, there are no pending or threatened condemnation or similar proceeding or actions affecting the Property or any part thereof, nor to the best knowledge and belief of Seller is any such proceeding or action contemplated by any governmental authority. Seller makes no representations or warranties as to the intent of the SCDOT relative to intersection improvements, including drainage and relocation of a ditch traversing the property.
- 9.1.3 To the best of Seller's knowledge, the Property is in compliance with all federal, state and local laws, ordinances, regulations, statutes, and rules and restrictions relating thereto;
- 9.1.4 The Property has access to and from public highways, streets or roads, and to the best knowledge and belief of Seller, there are no suits, judgments, bankruptcies, actions or proceedings pending, or to the best of Seller's knowledge or belief, threatened or contemplated, affecting any portion of the Property or its

development for Buyer's intended use.

- 9.1.5 Seller has not received any notice of any violation of any ordinance, regulation, law or statute of any governmental agency pertaining to the Property or any part thereof.
- 9.1.6 There are no encumbrances or special assessments either pending or confirmed for sidewalks, paving, water, sewer or other improvements on or adjoining the Property.
- 9.1.7 Seller is not now insolvent nor will become insolvent as a result of the actions contemplated by this Agreement.
- 9.1.8 Except as disclosed by Seller, to the best of Seller's actual knowledge, as of the date of this Agreement and as of the date of Closing, the Property (including land, surface water, ground water, and improvements) is now and will then be free of all contamination, including, without limitation (i) any "hazardous waste", "underground storage tanks", "petroleum", "regulated substance", or "used oil" as defined by the Resource Conservation and Recovery Act of 1976 (42 U.S.C. § 6901, et seq.) as amended, or by any regulations promulgated thereunder; (ii) any "hazardous substance" as defined by the Comprehensive Environmental Response, Compensation and Liability Act of 1980 (41 U.S.C. § 9601, et seq.) as amended, or by any regulations promulgated thereunder (including, but not limited to, asbestos and radon); (iii) any "oil" or other "hazardous substances" as defined by the Oil and Hazardous Substances Control Act of 1976; (iv) any substance the presence of which on, in, or under the Property, is prohibited by any law similar to those set forth above; and (v) any other substance which by law, regulation, ordinance or guidance (whether published or unpublished) requires special handling in its collection, storage, treatment, or disposal. Seller has disclosed the existence of previous septic tanks on the property which were buried in accordance with county regulations.
- 9.1.9 There are no parties other than Seller and family in possession of any portion of the Property, as lessees, tenants at sufferance, trespassers or otherwise.
- 9.1.10 There is no dispute with anyone concerning the location of property lines or corners for the Property.
- 9.1.11 Seller is unaware of any latent defects regarding the Property, such as mine shafts, sinkholes, burial grounds or archaeological deposits or other conditions which would make Buyer's proposed use and development impractical, extraordinarily expensive, or subject to material delays.
- 9.1.12 There are no liens, reservations, restrictions, easements, or other encumbrances on the Property which in any way limit or impair Buyer's intended use of the Property.
- 9.1.13 Seller is not a "foreign person" as defined in the Federal Foreign Investment in Real Estate Act of 1980 and the Tax Reform Act of 1984, as amended. If requested by Buyer, Seller shall execute a "Non-Foreign Affidavit" at closing.

certifying the foregoing.

- 10 Failure to close by Buyer. If, at the Closing date and following exercise of any extensions, if any, exercised by Buyer, the Buyer shall refuse to close Seller shall retain the Initial Deposit and Additional Deposits, without interest, if applicable, as Seller's sole and exclusive remedy, and, thereafter, the parties shall have no further obligations or liabilities to each other hereunder.
- 11 Failure to close by Seller. In the event that Seller shall refuse to close, except Buyer's default, (i) Buyer may enforce specific performance of this Agreement or (ii) Buyer may terminate this Agreement in which event the Initial Deposit and Additional Deposits, if any shall be immediately returned to Buyer, without interest. No delay or omission in the exercise of any right or remedy of Buyer upon any breach by Seller shall impair any right or remedy or be construed as a waiver.
- 12 Affirmative Covenants of Seller. Seller hereby covenants and agrees with Buyer that so long as this Agreement is in effect, Seller will: (a) refrain from performing any grading or excavation, construction or other change or improvement on the Property; (b) not create, incur or suffer to exist any lien or other encumbrance affecting the Property; (c) not commit any waste or nuisance upon the Property; (d) not, after the initial 6 month period, enter into any contracts, agreements or other undertakings affecting the Property and (e) not take any action, or omit to take any action which would have the effect of violating any of the representations and warranties of Seller contained in this Agreement.
- 13 Brokerage Commission. Seller acknowledges and represents that it has retained Robbie Buice of Prudential Source One Properties as its Broker in connection with this transaction. Otherwise both Buyer and Seller agree to indemnify and hold the other harmless from and against any and all claims, demands or the cost and expense thereof, including reasonable attorneys' fees, arising out of any brokerage commission, fee or other compensation due or alleged to be due in connection with the transactions contemplated by this Agreement based upon an agreement alleged to have been made or other action alleged to have been taken by the indemnifying party.
- 14 Miscellaneous.
 - 14.1 Any of the representations, warranties, covenants, and agreements of the parties, as well as any rights and benefits of the parties, pertaining to a period of time following the Closing or to be performed after Closing shall survive the Closing and shall not be merged therein.
 - 14.2 This Agreement shall be construed under and in accordance with the laws of the State of South Carolina. If either party brings an action at law or in equity to enforce or interpret this Agreement, the prevailing party in such action shall be entitled to recover reasonable attorneys' fees and court costs in addition to any other remedy granted.

- 14.3 This Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective heirs, executors, administrators, legal representatives, successors and assigns.
- 14.4 In case any one or more of the provisions contained in this Agreement shall, for any reason, be held to be invalid, illegal, or unenforceable in any respect, such invalidity, illegality, or unenforceability shall not affect any other provision and this Agreement shall be construed as if such invalid, illegal, or unenforceable provision had never been contained herein.
- 14.5 This Agreement constitutes the sole and only agreement of the parties hereto and supersedes any prior understandings or written or oral agreements between the parties respecting the subject matter hereof.
- 14.6 Words of any gender used in this Agreement shall be held and construed to include any other gender, and words in the singular number shall be held to include the plural, and vice versa, unless the context requires otherwise.
- 14.7 In the event this Agreement is exercised, each of the parties hereto agree to execute at Closing all documents necessary to carry out the intent of this Agreement or to comply with all laws applicable to or governing this transaction.
- 14.8 The Buyer shall have the right to assign this Agreement to another person or entity, without the written approval of the Seller.

15 Notices.

- 15.1 Notice hereunder shall be given in writing and shall be (a) personally delivered, (b) deposited in the United States Mail, postage prepaid, registered or certified, return receipt requested, or (c) deposited with an overnight courier (such as, but not limited to, Federal Express) and shall be deemed received upon actual receipt, and if given to Seller, to it at the following address:

Peggy Wheeler-Cribb
South Causeway LLC
(need address for overnight or certified)
Murrells Inlet, South Carolina 29585

- 15.2 With copy (which shall not constitute notice) to:
South Causeway LLC Attorney

Pawleys Island, SC 29585

15.3 *If given to Buyer*

Martin E. Potts
Lumberton Ventures 2007, LLC
4361 Harborough Road
Columbus, OH 43220

15.4 *With copy (which shall not constitute notice) to:*

Robert J. Samol
Phillips, Grill, Kaiser & Altimeter, POLK
61, 14th Street
Wheeling, WV 26003

or at such other address or addresses as either party may advise the other parties of from time to time pursuant to the provisions of this paragraph.

- 16 Cooperation. The parties hereto agree to cooperate with each other in every reasonable way in carrying out the transactions contemplated hereby, in obtaining and delivering all required closing documents in the event this Agreement is exercised, and obtaining all required governmental approvals, and agree to use their best efforts to expeditiously accomplish same each recognizing that time is of the essence.
- 17 Memorandum of Agreement. Upon Buyer's request, Seller agrees to execute a Memorandum of this Agreement containing such provisions hereof (or summaries thereof) as either Seller or Buyer may desire except for the purchase price to be paid, which Memorandum may be recorded, at Buyer's expense, in the appropriate recording office. Buyer agrees to file a release of such document, in form reasonably acceptable to Seller, in the event, through no fault of Seller, Closing does not occur.
- 18 Counterparts. This Agreement may be executed in counterparts, any of which shall be sufficient as the original, if when taken together the Agreement has been executed by both of the parties hereto.
- 19 Buyer's Approvals. Buyer shall have the right during the Initial (6 month) Period and any Extension Periods of this Agreement and at Buyer's sole cost and expense, to seek such approvals, permits, licenses, certificates, exceptions, authorizations and variances, including, without limitation, those pertaining to zoning, subdivision, use, building, erosion, environmental compliance, wetlands, curb cuts and utility connections and services pertaining to the Property as Buyer deems necessary for its use and development of the Property for Buyer's intended use. Seller will cooperate with Buyer in connection therewith and will, without limitation, enter appearances as may be required for the same and sign all documents reasonably necessary therefore. In the event Buyer is unable, during the Initial (6 month) Period and any Additional Extension Periods, if any, to obtain any such necessary approvals, Buyer shall have the right to terminate this Agreement and to receive an immediate return of any Additional Deposits made, if any. Upon any termination, the Seller shall have the right to receive immediate payment of the Initial Deposit.

- 20 In the event that following the initial term of this Agreement to Purchase Real Estate dated _____ that Seller receives a bona-fide offer to Purchase the Property as defined in the Agreement to Purchase Real Estate dated _____ from another qualified party, then Buyer shall have 24 business days from receipt of written notice from Seller to Buyer, the right of first refusal to purchase the Property. Concurrent with Buyer's written election to exercise its right of first refusal, Buyer shall deposit with Seller a non refundable deposit of 5.0 % of the proposed purchase price with Seller. This 5.0 % deposit shall not be refundable except to un-curable title defects. Buyer further agrees to close the Purchase within 180 day from depositing the funds and electing its right of first refusal. Further provided that the payment of 5.0 %, referred to above and any and all payments made for said Options or Extensions thereof shall be applied to the purchase prices, but are not refundable if the Options are not exercised. All other terms and conditions remain as written.

IN WITNESS WHEREOF, Seller and Buyer have hereunto set their respective hands and adopted seals as of the date (s) and year set forth below.

SOUTH CAUSEWAY LLC

Seller:

by: Peggy Wheeler-Cribb
South Causeway, LLC

Title: Managing Member

Date: _____

LUMBERTON VENTURES 2007 LLC

Buyer:

by: Martin E. Potts
Lumberton Ventures 2007, LLC

Title: Managing Member

Date: _____

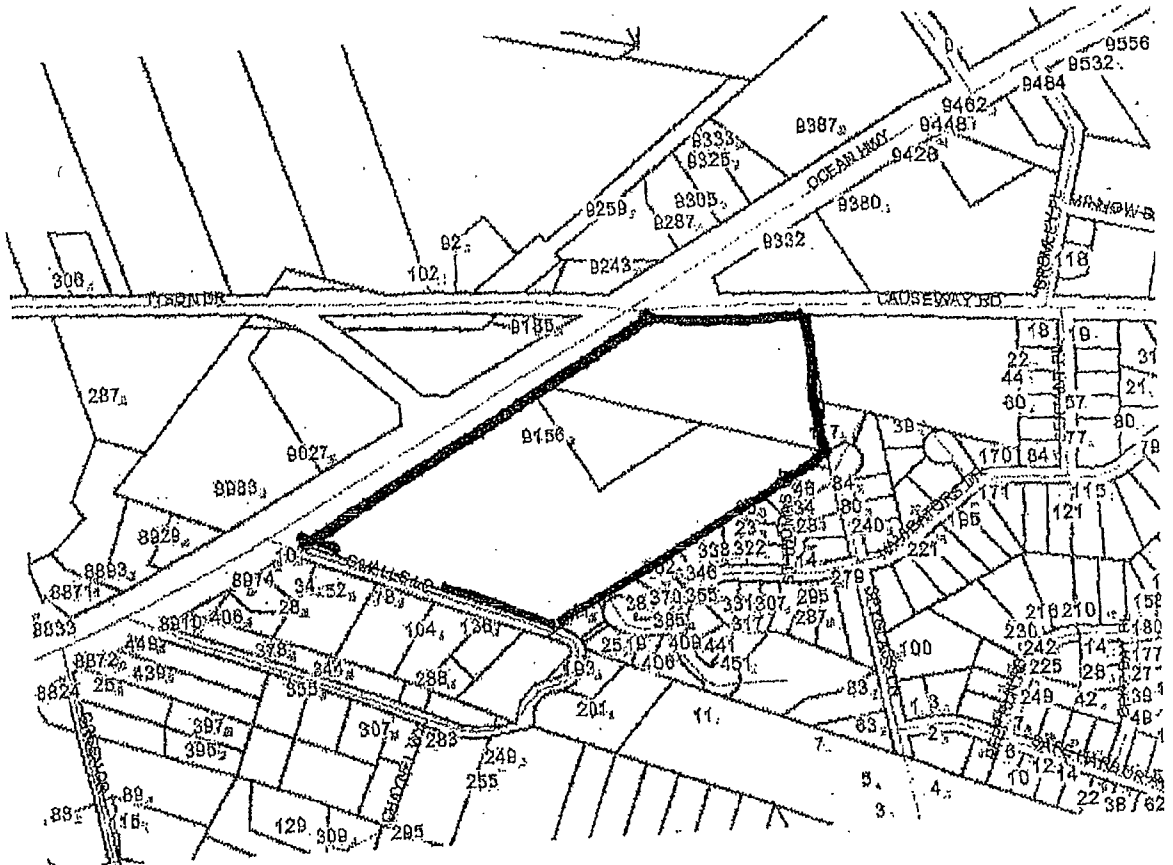


EXHIBIT "A"

PCL XL error

Subsystem: VECTOR

Warning: IllegalMediaSize

FSB-SC 01013

Chitty, Carson

From: WheelerCribb@aol.com
Sent: Wednesday, June 10, 2009 2:37 PM
To: Lovelace, Wayne
Subject: Fwd: LOI for South Causeway property
Attachments: PAWLEY'sLOI.doc

From: whudson@wilsonkibler.com
To: WheelerCribb@aol.com
Sent: 6/9/2009 4:34:25 P.M. Eastern Daylight Time
Subj: RE: LOI

Peggy- Here it is. Contact me ASAP after your review. Thanks!

Will Hudson

William M. Hudson
Retail Services Group
Grubb & Ellis | Wilson Kibler
1105 48th Ave. N, Suite 207
Myrtle Beach, SC 29577
(843) 946-7100 ext. 109 - office
(843) 946-9892 - fax
(704) 756-5457 - cell
whudson@wilsonkibler.com

#22

----- Original Message -----

From: WheelerCribb@aol.com <WheelerCribb@aol.com>
To: Will Hudson
Sent: Tue Jun 09 14:16:55 2009
Subject: Re: LOI

It's Peggy and that will be fine. I will be leaving here right at 4:30, but will return late tonight. Have a good afternoon.

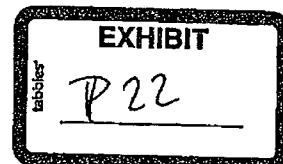
Peggy <<http://cdn-cf.aol.com/se/sml/0201d20638/12>>

In a message dated 6/9/2009 2:12:54 P.M. Eastern Daylight Time, whudson@wilsonkibler.com writes:

Debbie- I have the LOI in my possession and will be emailing it to you around 4:30 when I get back to the office!! Can you email me your phone numbers so I can have them on hand?? Thanks!!!!

Sincerely,
Will Hudson

William M. Hudson
Retail Services Group



1/5/2011

FSB-SC 00242

Grubb & Ellis | Wilson Kibler
1105 48th Ave. N, Suite 207
Myrtle Beach, SC 29577
(843) 946-7100 ext. 109 - office
(843) 946-9892 - fax
(704) 758-6457 - cell
whudson@wilsonkibler.com

A Good Credit Score is 700 or Above. See yours in just 2 easy steps!
<[http://pr.atwola.com/promoclk/100126575x1221322977x1201367197/acl?](http://pr.atwola.com/promoclk/100126575x1221322977x1201367197/acl?redir=http://www.freecreditreport.com/pm/default.aspx?sc=668072%26hmpglD=62%26bcd=JuneStepsFooterNO62)
[redir=http://www.freecreditreport.com/pm/default.aspx?sc=668072%26hmpglD=62%26bcd=JuneStepsFooterNO62](http://www.freecreditreport.com/pm/default.aspx?sc=668072%26hmpglD=62%26bcd=JuneStepsFooterNO62)>

A Good Credit Score is 700 or Above. See yours in just 2 easy steps!

Dell Inspiron 15 Laptop: Now in 6 vibrant colors! Shop Dell's full line of laptops.

June 9, 2009

SENT VIA EMAIL

Mr. Will Hudson
Grubb & Ellis | Wilson Kibler
Myrtle Beach, South Carolina

Re: 19.22 Acre development Parcel
Pawley's Island, South Carolina

Dear Will:

The purpose of this letter is to express the interest of Interface Properties, Inc. and or assigns ("Purchaser") to enter into a Sale and Purchase Agreement with the Owner of the aforementioned property that is more particularly described in Exhibit "A" attached hereto and made a part hereof. The pertinent terms and conditions of the Agreement will include, but not be limited to, the following:

LOCATION: US17 and South Causeway, Pawley's Island, S.C.

PARCEL: Approximately 19.22 acres of land.

OWNERS: Peggy Wheeler Cribb

PRICE: \$ 10,000,000 to be paid in cash at closing.

DEPOSIT: \$ 50,000.00

INSPECTION

PERIOD: 120 days; during which time Purchaser will conduct title examination, engineering, soil tests, environmental study, surveying, site planning, feasibility, tenant negotiations, etc.
One (60) extension for an additional deposit of \$25,000, which shall be due at end of the original due diligence period.

FSB-SC 00244

CLOSING:

Closing shall be held within 45 days after the inspection period. Each party shall pay all closing costs, which is customary in South Carolina.

**CONDITIONS TO
CLOSE:**

1. All utilities including water, sewer, electric, gas and Telephone is available at or near the subject site.
2. All environmental issues, if any, are resolved and remediated.
3. Soil and geotech suitable for commercial development.
4. Zoning and site plan approvals required for retail shopping center development.

BROKERAGE:

The only broker that has been involved of record unless otherwise agreed to by Buyer and seller in the purchase and sale agreement other than Wilson Kibler and Interface Properties. Any fee arrangement will be recorded in the purchase agreement.

Please bear in mind that the aforementioned Letter of Intent is considered to be non-binding until Purchaser and Seller enter into a formal Agreement. Signature of Owner below shall confirm its agreement with the contents of this letter. Upon receipt of this letter signed by Owner, I will instruct my attorney to prepare a Contract for review and consideration.

Yours truly,
INTERFACE PROPERTIES, INC.

Robert Hicks
Partner

APPROVED AND ACCEPTED:

BY: _____

NAME: _____

ITS: _____

Settlement Statement

U.S. Department of Housing
and Urban Development



OMB No. 2502-0265

B. Type of Loan

1 ☐ FHA 2 ☐ FmHA 3 ☒ Conv. Unins. 6. File Number
4 ☐ VA 5 ☐ Conv. Ins. SCAUSEWAY 7. Loan Number 8134802 8. Mortgage Insurance Case Number

C. NOTE: This form is furnished to give you a statement of actual settlement costs. Amounts paid to and by the settlement agent are shown. Items marked "(p.o.c.)" were paid outside the closing; they are shown here for informational purposes and are not included in the totals.

D. NAME OF BORROWER: South Causeway, LLC

ADDRESS OF BORROWER: P O Box 3727, Pawleys Island, SC 29585

E. NAME OF SELLER:

ADDRESS OF SELLER:

F. NAME OF LENDER: FIRST SOUTH BANK

ADDRESS OF LENDER: P O BOX 11509, COLUMBIA, SC 29211-1509

G. PROPERTY LOCATION: 17.49 acres, 1.68 acres & Lot 4, 134 Myrtle Ave
Pawleys Island, SC 29585

H. SETTLEMENT AGENT: HINDS, COWAN, STRANGE & GIER

PLACE OF SETTLEMENT: 604 FRONT STREET, POST OFFICE DRAWER 1410, GEORGETOWN, SC 29442-1410
604 FRONT STREET, POST OFFICE DRAWER 1410, GEORGETOWN, SC 29442-1410

I. SETTLEMENT DATE: 6/25/2008

J. SUMMARY OF BORROWER'S TRANSACTION

100. GROSS AMOUNT DUE FROM BORROWER

101. Contract sales price

102. Personal property

103. Settlement charges to borrower (line 1400)

104. Payoff Mgt to First Palmetto Savings Bank

105. Payoff Mgt to First South Bank

Adjustments for items paid by seller in advance

106. City/town taxes to

107. County taxes to

108. Assessments to

109. to

110. to

111. to

112. to

120. GROSS AMOUNT DUE FROM BORROWER

200. AMOUNTS PAID BY OR IN BEHALF OF BORROWER

201. Deposit or earnest money

202. Principal amount of new loan(s)

203. Existing loan(s) taken subject to

204. First Draw against A&D

205.

206. Principal amount of seller financing

207.

208.

209.

209a

209b

Adjustments for items unpaid by seller

210. City/town taxes to

211. County taxes to

212. Assessments to

213. to

214. to

215. to

216. to

217. to

218. to

219. to

220. TOTAL AMOUNTS PAID BY OR IN BEHALF OF BORROWER

300. CASH AT SETTLEMENT FROM/TO BORROWER

301. Gross amount due from borrower (line 120)

302. Less amounts paid by/for borrower (line 220)

303. CASH ☒ From ☐ To BORROWER

K. SUMMARY OF SELLER'S TRANSACTION

400. GROSS AMOUNT DUE TO SELLER

401. Contract sales price

402. Personal property

403.

404.

405.

Adjustments for items paid by seller in advance

406. City/town taxes to

407. County taxes to

408. Assessments to

409. to

410. to

411. to

412. to

420. GROSS AMOUNT DUE TO SELLER

500. REDUCTIONS IN AMOUNT DUE TO SELLER

501. Excess deposit (see instructions)

502. Settlement charges to seller (line 1400)

503. Existing loan(s) taken subject to

504. Payoff of first mortgage loan

505. Payoff of second mortgage loan

506. Principal amount of seller financing

507.

508.

509.

509a

509b

Adjustments for items unpaid by seller

510. City/town taxes to

511. County taxes to

512. Assessments to

513. to

514. to

515. to

516. to

517. to

518. to

519. to

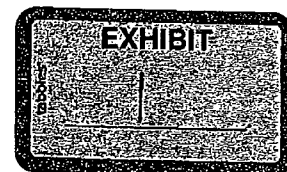
520. TOTAL REDUCTIONS IN AMOUNT DUE SELLER

600. CASH AT SETTLEMENT TO/FROM SELLER

601. Gross amount due to seller (line 420)

602. Less reductions in amount due seller (line 520)

603. CASH ☒ To ☐ From SELLER



U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
SETTLEMENT STATEMENT

PAGE 2

Charges				Paid From Borrower's Funds At Settlement	Paid From Seller's Funds At Settlement
700	FEE'S/BROKER'S COM. based on price				
701	of Commission (line 700) as follows:				
702	to				
703	Commission paid at Settlement				
704	to				
800	Items Payable In Connection With Loan				
801	Loan Origination Fee	1.00 %	to FIRST SOUTH BANK	65,000.00	
802	Loan Discount	%	to		
803	Appraisal Fee		to		
804	Credit Report		to		
805	Lender's Inspection Fee		to		
806	Mortgage Insurance Application Fee		to		
807	Interest Reserve \$300,000-\$1,246.98		to FIRST SOUTH BANK	248,753.02	
808	Flood Certification Fee		to FIRST SOUTH BANK	30.00	
809	EDR Report Fee		to FIRST SOUTH BANK	95.00	
810	Bank's attorney's fee		to Tyler, Cassell, Jackson, Pearce & Silver	9,322.50	
811	Deposit in First South Bank account		to FIRST SOUTH BANK	5,000.00	
812	Disputed rollback taxes held in escrow 4-164-03		to HINDS, COWAN, STRANGE & GEER	51,246.98	
813			to		
814			to		
815			to		
900	Items Required By Lender To Be Paid In Advance				
901	Interest from		to		
902	Mortgage Insurance Premium for	months to			
903	Hazard Insurance Premium for	years to			
904		years to			
905		years to			
1000	Reserves Deposited With Lender				
1001	Hazard Insurance	months@	per month		
1002	Mortgage Insurance	months@	per month		
1003	City property taxes	months@	per month		
1004	County property taxes	months@	per month		
1005	Annual assessments	months@	per month		
1006		months@	per month		
1007		months@	per month		
1008		months@	per month		
1009					
1100	Title Charges				
1101	Settlement or closing fee		to		
1102	Abstract or title search		to		
1103	Title examination		to TA Title Services	480.00	
1104	Title Insurance binder		to HINDS, COWAN, STRANGE & GEER	75.00	
1105	Document preparation		to		
1106	Notary fees		to		
1107	Attorney's fees		to HINDS, COWAN, STRANGE & GEER	2,750.00	
	(includes above items numbers:				
1108	Title Insurance		to HINDS LAW FIRM, AS AGT FOR OLD REPUBLIC	4,612.50	
	(includes above items numbers:				
1109	Lender's Coverage:	4,612.50	INS AMT:		
1110	Owner's Coverage:		INS AMT:		
1110a					
1111	Preparation of Deed		to HINDS, COWAN, STRANGE & GEER	75.00	
1112	Preparation of LLC documents		to HINDS, COWAN, STRANGE & GEER	560.00	
1113	Title Insurance Commission \$2767.50		to HINDS, COWAN, STRANGE & GEER		
1200	Government Recording and Transfer Charges				
1201	Recording Fees: Deed \$11.00; L-Mortgage(s) \$32.00; Releases \$15.00			58.00	
1202	City/county tax/stamps: L-Mortgage(s)				
1203	State tax/stamps: L-Mortgage(s)				
1204	Recording UCC-GC		Register of Deeds	16.00	
1205	Recording UCC-SOS		Secretary of State	20.00	
1300	Additional Settlement Charges				
1301	Survey		to The Earthworks Group, Inc.	*P.O.C.*	
1302	Phase I		to The Earthworks Group, Inc.	*P.O.C.*	
1303	Administrative Costs		to HINDS, COWAN, STRANGE & GEER	25.00	
1304	UCC Search		to Secretary of State	15.00	
1305	Federal Express		to HINDS, COWAN, STRANGE & GEER	50.00	
1306	Review of Lease etc by George Geer		to HINDS, COWAN, STRANGE & GEER	442.95	
1307	Reimbursement		to Peggy Wheeler Cribb	116,325.74	
1308	Escrow of rollback taxes 4-169-01-03-00		to HINDS, COWAN, STRANGE & GEER	83,674.26	
1309			to		
1400	Total Settlement Charges (enter on lines 103, Section J and 502, Section K)			588,633.95	

CERTIFICATION
I have carefully reviewed the HUD - 1 Settlement Statement and to the best of my knowledge and belief, it is a true and accurate statement of all receipts and disbursements made on my account or by me in this transaction. I further certify that I have received a copy of the HUD - 1 Settlement Statement.
South Causeway, LLC

By: Peggy Wheeler Cribb Borrower
Peggy Wheeler Cribb, Member

The HUD-1 Settlement Statement, which I have received, is a true and accurate account of this transaction. I have caused the funds to be disbursed in accordance with this statement.
Robert R. Geer HINDS, COWAN, STRANGE & GEER
Settlement Agent

WARNING: It is a crime to knowingly make false statements to the United States on this or any other similar form. Penalties upon conviction can include a fine and imprisonment. For details see Title 18 U.S. Code Section 1001 and Section 1010.
6/25/2008 Date
SCAUSEWAY

FSB-SC 03227



June 25, 2008

Mr. Will Darwin Wheeler
Ms. Peggy Wheeler-Cribb
334 Myrtle Avenue
Pawleys Island, South Carolina, 29585

HAND DELIVERED

Re: Lot 4 / 334 Myrtle Avenue
Pawleys Island, South Carolina 29585

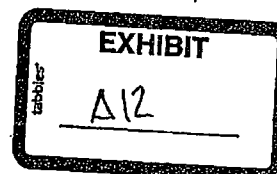
Dear Darwin and Peggy:

Please let this letter serve to confirm our agreement as to when, and under what conditions, First South Bank will agree to release its mortgage on Lot 4 / 334 Myrtle Avenue, Pawleys Island, South Carolina, 29585, which partially secures our loan to South Causeway, LLC.

Provided no default exists in any of the South Causeway, LLC loan documents at the time the request for a release is made, First South Bank will agree to release the referenced mortgage upon the occurrence of any of the following events:

1. Written certification from the project's supervising / design engineer, plus any agency from Georgetown County, SC, having supervisory jurisdiction over the development, that the proposed improvements including, but not limited to, roadways, water, sewer and storm drainage, have been completed in accordance with the project's original design plans and specifications, that the improvements are fully functional and operational, and that the project has been constructed in substantial compliance with any regulations required by Georgetown County, SC, and the State of South Carolina.

Approval(s) must be in form and content acceptable to First South Bank.



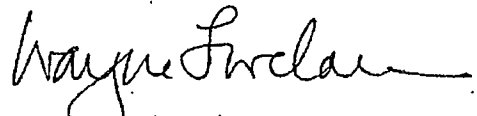
A12
FSB-SC 02072

2. First South Bank is furnished a copy of a signed lease between Alex Lee, Inc. / Lowe's Foods, Inc. and South Causeway, LLC, (by assignment from Peggy Wheeler-Cribb) on terms no less favorable than those outlined in the proposed Intent to Lease, dated May 10, 2008, between Alex Lee, Inc. / Lowe's Foods, Inc. and Peggy Wheeler-Cribb.

3. The appraised value of the property and proposed improvements reflects a value of, not less than, \$9,500,000.

Thank you very much for allowing us to handle this transaction for you. Should you have any questions, please call me at (803) 806-3104.

Sincerely,



F. Wayne Lovelace
Senior Vice President
First South Bank

FSB-SC 02073

Lyerly, Chip

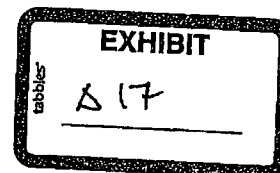
From: Lovelace, Wayne
Sent: Tuesday, September 30, 2008 8:57 AM
To: 'George Geer'
Cc: Lyerly, Chip; 'Don Tyler'
Subject: South Causeway, LLC

George:

Has Lowe's Foods responded to the revised lease, etc. that you recently sent for their review? Don Tyler, Chip Lyerly and I have a meeting scheduled for 11:00 am this morning to discuss the lease, and your latest revisions, and it would be helpful to get an update, if possible.

Thanks,

Wayne Lovelace
First South Bank



Subj: RE: I will meet with Mr. McCallum Friday afternoon at my house
Date: 4/7/2010 11:47:13 A.M. Eastern Daylight Time
From: wlovelace@FIRSTSOUTHBANCORP.com
To: WheelerCribb@aol.com

Peggy:

Thank you for your e-mail. I have contacted Mr. McCallum and suggested he call you and set a time mutually convenient for both of you this Friday. I trust that he will call sometime today and make these arrangements.

I realize that you and Darwin have had a number of questions regarding Mr. McCallum and who he represents. Our purpose in contacting you was, solely, to let you know that Mr. McCallum knows the property very well and is aware of your interest in conducting an auction sometime very soon (I assume from signage that has been placed at the site). He found out about our bank's involvement through a search of the public records and thinks that there may be a possible alternative to how you currently expect to dispose of the property.

By way of introduction, Mr. McCallum is an experienced real estate developer and broker, as well as, a client of our bank. While we do not know what he will propose or what his plans may be, we do know that he has a definite interest in the property and may be a participating partner with his client, who we know to be extremely capable - both financially and otherwise - of bringing about a major development of the South Causeway site.

In conclusion, we feel very fortunate to have Mr. McCallum as a customer and know of no reason to believe that either he or his client will not be honest or straightforward as to their intentions and / or proposals.

Thank you.

Wayne
First South Bank
Columbia Office

From: WheelerCribb@aol.com [mailto:WheelerCribb@aol.com]
Sent: Wednesday, April 07, 2010 10:25 AM
To: Lovelace, Wayne
Subject: Re: I will meet with Mr. McCallum Friday afternoon at my house

Just let me know so I can schedule my day. Right now it is open, but may not stay that way long.

Have a blessed day

BECAUSE HE LIVES WE CAN FACE TOMORROW

PEGGY WHEELER-CRIBB

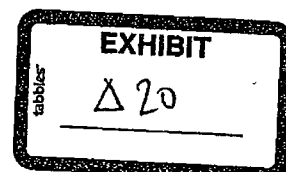


"I CAN'T FEEL MY WAY TO BETTER BEHAVIOR, BUT I CAN BEHAVE MY WAY TO BETTER FEELINGS"

IN A MESSAGE DATED 4/7/2010 10:15:34 A.M. EASTERN DAYLIGHT TIME,
WLOVELACE@FIRSTSOUTHBANCORP.COM WRITES:

Thank you and I will pass it on to Mr. McCallum

Wednesday, June 16, 2010 AOL: WheelerCribb
South Causeway_00018



CONFIDENTIALITY AGREEMENT

THIS CONFIDENTIALITY AGREEMENT (this "Agreement") is made as of the 27 day of March, 2010 between HARRIS INVESTMENT COMPANY #1, LLC (hereinafter referred to as "Reviewer"), and FIRST SOUTH BANK (hereinafter referred to as "Bank"), and is effective as of the date set forth above. The parties acknowledge the following facts:

A. Bank is the owner and holder of a certain commercial loan (the "Loan") in the original principal amount of \$6,500,000.00, and having a current outstanding principal balance of \$ _____ made by Bank to South Causeway, LLC, a South Carolina limited liability company ("Borrower"), which is secured by, among other instruments, a Real Estate Mortgage recorded on June 25, 2008, in Book 990 at Page 247, of the Georgetown County, South Carolina public records; and

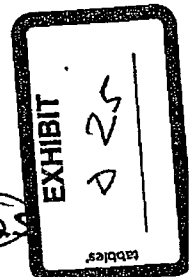
B. Reviewer has expressed to Bank that Reviewer has an interest in purchasing the Loan together with all of Bank's rights and obligations with respect thereto, and Bank is willing to consider sale of the Loan to Reviewer, without recourse, for a price to be determined, payable in immediately available United States funds, any and all commissions due with respect to such sale and purchase to be the sole responsibility of the Reviewer pursuant to an agreement entered into by Reviewer separate and apart from this Agreement; and

C. In order to evaluate and, if appropriate, to proceed with purchase of the Loan, Bank must disclose (and may have heretofore disclosed) to Reviewer, certain Proprietary Information (as hereinafter defined).

In consideration of the above premises and the covenants hereinafter set forth, the parties agree as follows:

1. (a) As used herein, the term "Proprietary Information" means all non-public information related to the Loan in the possession of Bank which is supplied or otherwise made available to Reviewer by Bank or its agents, attorneys or consultants, whether by oral communications or by written or electronic communication. Proprietary Information includes, but is not limited to, underwriting information and analysis, financial information with respect to the Borrower and with respect to guarantors of the Loan (the "Guarantors"), financial projections, appraisals, environmental reports, internal memoranda and communications (including, without limitation, with Bank's attorneys) and approvals, payment histories, and documentation used to create, establish, secure and guarantee Borrower's obligations with respect to the Loan. Proprietary Information includes non-public information which has been disclosed to Bank by Borrower, the Guarantors, and by third parties, all of which Bank is obligated to treat as confidential.

(b) Proprietary Information does not include any data or information which (1) is already known as fact to Reviewer prior to the time it is disclosed to Reviewer by Bank, and was gleaned entirely from a source other than Bank, its agents and attorneys; (2) is disclosed by Reviewer pursuant to a requirement of a governmental agency or is required to be disclosed by



operation of law; provided, however, that Reviewer shall have first given written notice of such required disclosure to Bank, made a reasonable effort to obtain a protective order requiring that the Proprietary Information so disclosed be used only for the purposes for which disclosure is required and taken reasonable steps to allow Bank to seek to protect the confidentiality of the information required to be disclosed; or (3) before being divulged by Reviewer (i) has become generally known as actual fact to the public through no act or negligence of Reviewer; (ii) has been rightfully received by Reviewer from a third party without restriction on disclosure and without, to the knowledge of Reviewer, a breach of any obligation of confidentiality running directly or indirectly to Bank; or (iii) has been approved for release to the general public by a written authorization of Bank.

2. Reviewer (a) must receive and hold (including any Proprietary Information received by Reviewer prior to the date of this Agreement) the Proprietary Information in trust and in strictest confidence; (b) must protect such Proprietary Information from disclosure and in no event take any action causing, or fail to take the action necessary in order to prevent, any such Proprietary Information to lose its character as Proprietary Information; and (c) must not and cannot use, reproduce, distribute, disclose or otherwise disseminate the Proprietary Information except as strictly necessary in its due diligence to determine whether to purchase the Loan. Any and all reproductions of such Proprietary Information must prominently contain a confidentiality legend.

3. Disclosures of the Proprietary Information may be made only to employees, agents or independent contractors (which Reviewer must identify to and have approved by Bank in writing prior to receipt of any Proprietary Information) of Reviewer (a) who are directly involved in Reviewer's consideration of the purchase of the Loan from the Bank and have a specific need to know such information; and (b) whom Reviewer has obligated in writing to hold such Proprietary Information in trust and in strictest confidence and otherwise to comply with the terms of this Agreement. Reviewer agrees to monitor diligently each such employee, agent and independent contractor and, upon request by Bank, promptly to furnish to Bank a certified list of Reviewer's employees, agents and independent contractors having had access to such Proprietary Information. Unauthorized disclosure or use by any such employee, agent or independent contractor (regardless of whether allowed by Bank) shall constitute and comprise an unauthorized disclosure and use by the Reviewer.

4. The proprietary Information shall be used by Reviewer solely in making the determination of whether to purchase the Loan from Bank, and for no other purpose. If Reviewer shall fail to begin its review of the Proprietary Information by April 13, 2010, or at any time prior to June 1, 2010 determine it does not intend to purchase the Loan or if Reviewer shall have not have purchased the Loan by June 1, 2010, Reviewer shall immediately return without copying or otherwise retaining in any form all physically existing Proprietary Information to Bank (including, without limitation, all copies thereof), and destroy irrevocably and irretrievably all electronic records thereof and with respect thereto (including, without limitation, means of access thereto), whereupon Bank shall have no further obligation hereunder and Reviewer shall not use, nor have any right to use, the Proprietary Information, for any purpose whatsoever.

5. If Reviewer should breach, intentionally or inadvertently, or threaten to breach any the provisions of this Agreement, Bank, in addition to any other remedies it may have at law or in equity for redress of matters arising directly out of Reviewer's breach (excluding any and all consequential or punitive damages), will be entitled to a restraining order, injunction or other similar remedy in order to specifically enforce the provisions of this Agreement. Reviewer specifically acknowledges that money damages alone would be an inadequate remedy for the injuries and damage which would be suffered and incurred by Bank as a result of a breach of any of the provisions of this Agreement. In the event that Bank should seek an injunction hereunder, Reviewer hereby waives any requirement for the submission of proof of the economic value of any Proprietary Information or the posting of a bond or any other security. Furthermore, and in addition to and not in lieu of the foregoing, Reviewer shall immediately upon demand indemnify and hold Bank, its officers, employees, agents and attorneys, harmless from, and indemnify each of such parties with respect to, any and all loss, liability, suits, obligations, fines, damages, judgments, penalties, claims, charges, expenses and all out-of-pocket costs (including, without limitation, attorneys' fees (based on standard hourly rates and actual time expended and without reference to any legal presumption) and costs incurred as a consequence thereof or as a consequence of seeking such indemnification) which may be imposed on, incurred or paid by or assessed against the Bank by reason of failure of Reviewer to timely and fully comply with each and every of the terms, provisions, conditions and requirements of this Agreement.

6. This Agreement and the rights and obligations of the parties under this Agreement may not be assigned except upon the prior written approval of the parties, which approval may be withheld without cause. The rights and obligations of the parties will inure to the benefit of, will be binding upon and will be enforceable by the parties and their lawful successors and representatives.

7. Reviewer agrees that no notification or public announcement of the purchase of the Loan or of this Agreement shall be made or released except with the express prior written consent of Bank.

8. The Proprietary Information includes certain financial and other information and projections and assumptions, some of which has been provided by third parties. Such information may not be all-inclusive and may be subject to errors and omissions. Bank, and its affiliates, employees or agents, have not expressed or implied any warranty or representations with regard to the accuracy or completeness of the Proprietary Information.

9. This Agreement represents the entire agreement between Reviewer and Bank related to the treatment of Proprietary Information heretofore or hereafter reviewed or inspected by Reviewer and or its authorized representatives. This Agreement supersedes all other agreements relating to such matters between the parties. No modifications of this Agreement or waiver of any of its terms will be effective unless set forth in a writing signed by the party against whom it is sought to be enforced. No forbearance, failure or delay by Bank in exercising any right, power or remedy under this Agreement shall operate as a waiver thereof or preclude its further exercise. If Bank proceeds to use any legal process to enforce its rights under this Agreement due to a breach hereof by Reviewer, Bank shall be entitled to be reimbursed for all out of pocket costs including reasonable attorneys' fees determined based on standard hourly

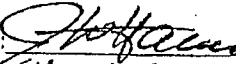
rates and actual time expended and without reference to any legal presumption. This Agreement will be governed by and construed in accordance with the laws of the State of South Carolina.

IN WITNESS WHEREOF the parties hereto have caused this Agreement to be duly executed as of the day and year first above written.

[SIGNATURE BLOCKS TO BE PROVIDED]
By Reviewer

Reviewer Name: HARRIS INVESTMENT COMPANY #1, LLC

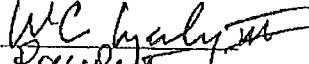
Reviewer Address: 4725 Piedmont Row Drive, Suite 800
Charlotte, NC 28210

By: 
Its: MANAGER

Date: 3-27-2010

Bank Name: FIRST SOUTH BANK

Bank Address: 1333 Main Street, Suite 100
Columbia, S.S. 29201

By: 
Its: PRESIDENT

Date: 3-27-10

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM GEORGETOWN COUNTY
Court of Common Pleas

Thomas A. Russo, Circuit Court Judge

Case No. 2010-CP-22-1233

Appellate Case No. 2012-213524

First South Bank.....Respondent,

v.

South Causeway, LLC.....Appellant.

CERTIFICATE OF COUNSEL

The undersigned hereby certifies that this Addendum to the
Record on Appeal contains only material proposed to be included by
any of the parties and not any other material.

Respectfully Submitted,

COLLINS & LACY, P.C.



JOEL W. COLLINS, JR.

jcollins@collinsandlacy.com

CHRISTIAN STEGMAIER

cstegmaier@collinsandlacy.com

JAMES L. FLOYD, III

lfloyd@collinsandlacy.com

Post Office Box 12487

Columbia, SC 29211

(803) 256-2660 (Voice)

(803) 771-4484 (Facsimile)

ATTORNEYS FOR RESPONDENT

Columbia, South Carolina
December 9, 2013

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

RECORDED
DEC 09 2013
SC Court of Appeals

APPEAL FROM GEORGETOWN COUNTY
Court of Common Pleas

Thomas A. Russo, Circuit Court Judge

Case No. 2010-CP-22-1233

Appellate Case No. 2012-213524

First South Bank.....Respondent,

v.

South Causeway, LLC.....Appellant.

PROOF OF SERVICE

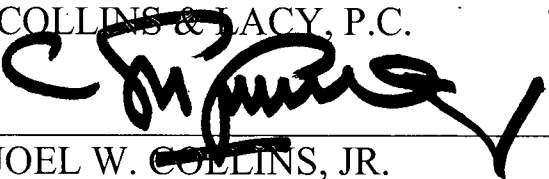
I certify that a copy of the Addendum to the Record on Appeal in the above-captioned matter was served on all parties to this matter by depositing a copy of the same in the United States Mail, postage prepaid, on December 9, 2013, addressed as follows to their attorney of record:

COUNSEL SERVED:

James M. Griffin, Esquire
Lewis, Babcock & Griffin, L.L.P.
Post Office Box 11208
Columbia, SC 29211

Respectfully Submitted,

COLLINS & LACY, P.C.



JOEL W. COLLINS, JR.

jcollins@collinsandlacy.com

CHRISTIAN STEGMAIER

cstegmaier@collinsandlacy.com

JAMES L. FLOYD, III

lfloyd@collinsandlacy.com

Post Office Box 12487

Columbia, SC 29211

(803) 256-2660 (Voice)

(803) 771-4484 (Facsimile)

ATTORNEYS FOR RESPONDENT

**PROOF OF SERVICE – ADDENDUM
TO THE RECORD ON APPEAL**

Columbia, South Carolina
December 9, 2013