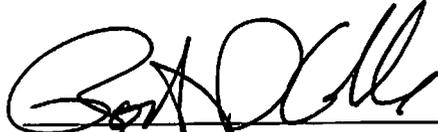


ORDINANCE NO.: 2006-104

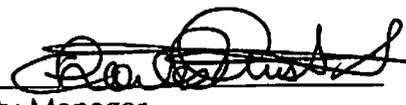
*Authorizing the City Manager to execute an Agreement to Resolve
A Dispute Regarding Tax Increment Financing District Revenues
with Richland County*

BE IT ORDAINED by the Mayor and City Council this 13th day of December, 2006, that the City Manager is hereby authorized to execute the attached "Agreement to Resolve A Dispute Regarding Tax Increment Financing District Revenues" between the City of Columbia and Richland County.

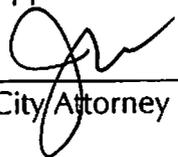
Requested by:


MAYOR

Approved by:


City Manager

Approved as to form:


City Attorney

ATTEST:


City Clerk

Introduced: 11/29/2006
Final Reading: 12/13/2006

ORIGINAL
STAMPED IN RED

EXHIBIT A

1999 Agreement

AGREEMENT TO MODIFY
CONGAREE VISTA REDEVELOPMENT DISTRICT
AND TO PROVIDE FOR ADDITIONAL
TAX INCREMENT FINANCING

This Agreement to Modify the Congaree Vista Redevelopment District and to provide for Additional Tax Increment Financing (the "Agreement") made and entered into on the dates set forth herein by and between the City of Columbia, South Carolina (the "City") and Richland County, South Carolina (the "County").

WITNESSETH

Section 1. Statement of Facts. As a means of setting forth the matters of mutual inducement which have resulted in the making and entering to of this Agreement, the following statements of fact are herewith recited:

(a) The City is an incorporated municipality located in a portion of the County, and as such possesses all powers granted to municipalities by the Constitution and general laws of this State.

(b) The County is a body politic and corporate and a political subdivision of the State and as such possesses all powers granted to counties pursuant to a general law of the State.

(c) The City has by Ordinance No. 86-22 enacted by the City Council on June 25, 1986, adopted and approved, and by Ordinance No. 94-062 enacted by the City Council on September 14, 1994, amended, the redevelopment plan entitled: "Tax Increment Financing Plan For the Redevelopment of the Congaree Vista Area", dated May 5, 1986, approved and adopted pursuant to Ordinance No. 86-22 as amended by the "First Amendment to the Tax Increment Financing Plan for the Congaree Vista Redevelopment Project Area" dated July 11, 1994, as revised August 30, 1994, approved and adopted pursuant to Ordinance No. 94-062 (the "Redevelopment Plan").

(d) The Redevelopment Plan set forth the geographic boundaries of the Congaree Vista Redevelopment Area (the "TIF District"). The Richland County Auditor previously has determined and certified the total initial equalized assessed value in the TIF District to be \$6,873,360 as of December 4, 1986 (the "1986 Initial Assessed Value") and for certain area added to the TIF District in 1994 to be \$771,350 as of November 23, 1994 (the "1994 Initial Assessed Value").

(e) As set forth in Ordinance No. 86-22 the duration of the Redevelopment Plan is fifteen (15) years, i.e., such Redevelopment Plan expires in 2001.

(f) Pursuant to Ordinance No. 94-005 enacted by the City Council on November 30, 1994 (the "Bond Ordinance"), the City has issued \$10,430,000 Tax Increment Bonds, Series 1994 (the "Tax Increment Bonds").

(g) The City has requested, and the County has agreed, to an extension of the duration of the Redevelopment Plan for a period equal to the lesser of (i) the time required to repay certain Additional Tax Increment Bonds (as defined herein) or (ii) ten (10) years; such Redevelopment Plan as amended and as described herein will expire not later than December 1, 2011.

NOW, THEREFORE, in consideration of mutual agreements between the parties as set forth herein and for other good and valuable consideration, the parties do agree as follows:

Section 2. Extension of Duration of Redevelopment Plan. Based upon the agreements herein contained, the County hereby consents to the City's extension of the duration of the Redevelopment Plan for a period of equal to the lesser of (i) the time required to repay certain Additional Tax Increment Bonds (as defined herein) or (ii) ten (10) years which extension will expire not later than December 1, 2011. The County further consents to and approves the collection of real property taxes to pay the Additional Tax Increment Bonds based upon the 1986 Initial Assessed Value and the 1994 Initial Assessed Value in the TIF District, respectively. The City will enact an Ordinance (the "TIF Amendment Ordinance") pursuant to S.C. Code § 31-6-80 in the form attached hereto, or as subsequently agreed to by the County, which among other things, will contain or provide for a list of all projects that are to be funded from revenues deposited in the special tax allocation fund or other separate fund (the "TIF Fund") created under S.C. Code § 31-6-110. The TIF Amendment Ordinance will be drafted so as to provide a complete restatement of and be the definitive source for all City ordinances involving the Redevelopment Plan. The City will also provide the County, either as part of such ordinance or in a separate document, a complete accounting for all revenues received by the City and applied to the Redevelopment Project Costs pursuant to the adoption of the Redevelopment Plan (including any investment income therefrom) from date any funds were deposited to the TIF Fund. The City agrees that from the date hereof any funds deposited in the TIF Fund or any other sums included in TIF Revenues (as hereinafter defined) will be applied solely as provided in this Agreement.

Section 3. Expansion of the TIF District. The County agrees to alteration of the boundaries of the TIF District to include the areas along the Saluda, Broad and Congaree Rivers within the corporate boundaries of the City as identified in the Three Rivers Greenway Plan including a metes and bounds or other legal description (the "Greenway Plan"), a copy of which is incorporated herein by reference. Development of such areas will be funded by Additional Tax Increment Bonds (the "Additional Tax Increment Bonds"). All areas included in the expanded TIF District are referred to as the "Expanded TIF District." In expanding the TIF District, the City agrees to adopt an ordinance (the "Expansion Ordinance"), which may be incorporated in the ordinance referred to in Section 2 above. The Expansion Ordinance shall specify the projects in the Greenway Plan with detail including estimated costs. The Expansion Ordinance shall be deemed to be a part of this Agreement and the County's consent to the alteration of the boundaries of the TIF District is based upon the Expansion Ordinance as adopted.

Section 4. Projects to be Added to the Redevelopment Plan. Any or all of the following projects may be added to the Redevelopment Plan and funded with Additional Tax Increment Bonds payable from amounts in the TIF Fund resulting from the extension of the duration of the Redevelopment Plan as described in Section 2 and the expansion of the TIF District as described in Section 3:

- (a) Not exceeding \$12,000,000 for the Three Rivers Greenway;
- (b) Not exceeding \$8,000,000 for the purchase of land for the Arena/Conference Center; and

- (c) Not exceeding \$5,000,000 for the Edventure Museum for which the City also agrees to provide \$1,000,000 from other revenue sources to be identified by the City but not including amounts deposited into the TIF Fund (collectively, the "Projects"):

provided, however, that to the extent the City applies revenue from the existing TIF District to defray the costs of the land referred to in (b) above or to repay that portion of any TIF Bonds allocable to such costs and the construction of the Arena/Conference Center has not begun by December 1, 2001, the City will reimburse the County for any amounts paid for such purpose from the portion of TIF Revenues (as defined in Section 6 hereof) resulting from a levy made by the County (including levies made for any agency, entity or school district whose budget and levy are approved by the County and any levy for the payment of general obligation bonds issued by the County or any of such agencies, entities or school districts); such payment, if required, shall be made from such sources as are determined by the City; provided, however, that the City agrees that the County may withhold from any tax collections due to the City the amount required to satisfy the City's obligations hereunder.

Section 5. Issuance of Additional Tax Increment Bonds. The County consents to the City's issuance of not more than \$25,000,000 Additional Tax Increment Bonds the proceeds of which will be applied to defray a portion of the costs of any of the projects referred to in Section 4 hereof. The Additional Tax Increment Bonds shall have a final maturity date of not later than December 1, 2011. The Additional Tax Increment Bonds will be structured with sufficient "super sinker bonds" or other bonds that can be redeemed at any time without penalty which will allow the City to apply all amounts available in the TIF Fund not needed to meet scheduled bond payments on obligations payable therefrom to the early redemption of the Additional Tax Increment Bonds. If the Additional Tax Increment Bonds have not been retired by December 1, 2008, the City agrees to pay to the County on or before each April 15 thereafter, beginning April 15, 2009, an amount equal to the portion of TIF Revenues resulting from any levy made by the County (including levies made for any agency, entity or school district whose budget and levy are approved by the County and any levy for the payment of general obligation bonds issued by the County or any of such agencies, entities or school districts) so long as the Additional Tax Increment Bonds are outstanding. Such payment, if required, shall be made from such sources as are determined by the City; provided, however, that the City agrees that the County may withhold from any tax collections due to the City in the amount required to satisfy the City's obligations hereunder.

Section 6. TIF Revenues. (a) For purposes of this Agreement, the term "TIF Revenues" means (i) all amounts deposited in the TIF Fund; and (ii) all grants, gifts, bequests or contributions or other sums provided to the City to defray the costs of the Projects; (iii) any income derived from the investment of any such sources; provided further, in the event the City receives any grants, gifts, bequests or contributions for the purpose of reimbursing the City for expenditures previously made with respect to any of the Projects the City shall reimburse the County for its pro-rata share thereof determined in the same manner as set forth in Section 4 hereof.

(b) TIF Revenues generated by the Expanded TIF District may only be utilized for the payment of the Additional Tax Increment Bonds used for the Projects set forth in Section 4 above. The City will by November 1 annually (beginning in Tax Year 1999) submit to the County Administrator and the Richland County Treasurer a certified and approved budget for the Expanded TIF District detailing Project expenditures and debt service payments on the Additional Tax Increment Bonds. Such budget shall include an appropriation of TIF Revenues in excess of the amount required to make scheduled payments on the TIF Bonds and the Additional Tax Increment Bonds to retire outstanding Additional Tax Increment Bonds prior to their maturity.

(c) All funds on deposit to the TIF Fund or to be received during the extension provided for in Section 2 hereof, including investment income therefrom, shall be applied solely to (i) the payment of the outstanding TIF Bonds (the 1994 Bonds); (ii) the payment of Redevelopment Project Costs other than those funded by Additional Tax Increment Bonds in an amount not exceeding a sum equal to \$17.7 million less the amount applied to such costs since December 1, 1997, from sums deposited to the TIF Fund; and (iii) to the accumulation of amounts sufficient to defease and discharge or repay the TIF Bonds and the Additional TIF Bonds. Whenever the amounts on deposit to the TIF Fund together with income therefrom are sufficient to defease the TIF Bonds and pay the Redevelopment Project Costs set forth in Schedule A, any excess revenues shall be distributed to all other taxing entities in the manner provided by S.C. Code § 31-6-70. The amounts for each Project set forth on Schedule A may be modified by the City; provided that the total amount of Redevelopment Project Costs as set forth in (ii) above may not be increased.

Section 7. Modifications to the Redevelopment Plan. All modifications to the Redevelopment Plan must be approved by both the City and the County. Proposed modifications will be sent to the Joint City-County TIF Review Committee for review and the committee will make a recommendation to the City and County concerning the merits of the modification(s). The City and the County hereby agree that any change in the Redevelopment Plan, including any change in the proposed use of moneys on deposit to the TIF Fund, shall be deemed to be a substantive change requiring amendment, including specifically, any change in location of any project or element thereof, any change in the function, purpose or description on any project or element thereof, any change in size of any project by more than 5% and any change in cost which exceeds the lesser of 5% of the amount shown on the schedules attached hereto or \$100,000.

Section 8. Annual Report. Beginning November 2000, the City will produce an Annual Report for the TIF District for the fiscal year ending the immediately preceding June 30. The report will provide details related to revenue, expenditures, projects and projections related to remaining projects not previously funded and a complete accounting for the TIF Fund.

Section 9. Default and Remedies. (a) General. Failure by either party to perform or otherwise act in accordance with any term or provision of this Agreement within a period of thirty

(30) days after written notice thereof from the other party, specifying the wrongful act or omission, shall constitute a default. Except in the case of any failure to pay money, such time period shall be extended for the reasonable period required to cure the default (but in no event more than 120 days total from the date of notice) provided that the non-performing party shall have diligently commenced to cure the default within said thirty (30) day time period and shall thereafter diligently pursue the cure to completion.

In the event that a default is not cured within the pertinent cure period, the non-defaulting party shall have, without limitation, the following rights and remedies:

The non-defaulting party may proceed with an action at law or in equity, including but not limited to the right to specifically enforce any term or provision of this Agreement and/or the right to institute an action for damages and costs.

The parties declare it to be their intent that this Agreement may be specifically enforced and that remedies be cumulative and liberally enforced so as to adequately and completely compensate the non-defaulting party.

(b) *Special Remedies for Certain Defaults by City.* Each of the following shall constitute a "Material City Event of Default":

- (i) Any modification of the TIF Amendment Ordinance or the Expansion Ordinance without the consent of the County.
- (ii) Any change in the schedules referred to in Section 4 hereof without the consent of the County.
- (iii) Any failure by the City to apply TIF Revenues in the manner specified herein.
- (iv) Any failure by the City to reimburse the County for the application of any TIF Revenues as provided in Section 4 with respect to the Arena/Conference Center.

In the event of the occurrence of a Material City Event of Default, the City shall pay to the County an amount equal to the portion of TIF Revenues resulting from any levy made by the County (including levies made for any agency, entity or school district whose budget and levy are approved by the County and any levy for the payment of general obligation bonds issued by the County or any such agency, entity or school district) just as if the Redevelopment Plan were terminated. Such payment, if required, shall be made on the April 15 first succeeding a Material City Event of Default and each April 15 thereafter from such sources as are determined by the City; provided, however, that the City agrees that the County may withhold from any tax collections due to the City the amount required to satisfy the City's obligations hereunder.

Section 10. Notices. All notice or other communications required or permitted to be given pursuant to this Agreement shall be in writing and shall be deemed to have been given or delivered when deposited in the mail, postage prepaid, registered or certified mail, return receipt requested, or delivered to a private courier providing evidence of receipt as part of the services, and addressed to the parties as follows:

City of Columbia:
Attn: City Manager
1737 Main Street
Columbia, South Carolina 29217-0147

Richland County:
Attn: County Administrator
Post Office Box 192
Columbia, South Carolina 29202

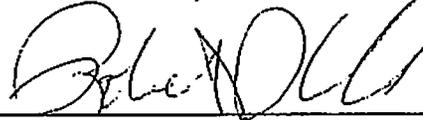
Section 11. Modification of Agreement. This Agreement may not be modified or amended except by a written instrument signed by or on behalf of both parties by their duly authorized officers. No amendment, modification, or termination of this Agreement, and no waiver of any provision or consent required hereunder shall be valid unless consented to in writing by both parties.

Section 12. Entire Agreement. This Agreement constitutes the entire Agreement between the parties regarding the matters set forth herein. No amendment to this Agreement shall be effective unless reduced to writing, executed by both parties, and approved by appropriate legal process. This Agreement shall be interpreted pursuant to the laws of the State of South Carolina.

IN WITNESS WHEREOF, the parties hereto, each after due authorization, have executed this Agreement on the respective dates indicated below.

CITY OF COLUMBIA, SOUTH CAROLINA

By:



Mayor

(SEAL)

ATTEST:

By:



City Manager

Date: October 6, 1999

RICHLAND COUNTY, SOUTH CAROLINA

By:

Paul Fungsten
Chairman of County Council

(SEAL)

ATTEST:

By:

J. Cary McSwain
County Administrator

Date: October __, 1999