



We Are Columbia

MEETING DATE: October 18, 2016

DEPARTMENT: Legal

FROM: *Shari Ardis, Legal Administrator*

SUBJECT: **Resolution No.: R-2016-039 Authorizing the City Manager to execute a Sub-Lease Agreement between the City of Columbia and The Boys & Girls Club of the Midlands, Inc. for The Norman Arnold Center at 1100 South Holly Street**

FINANCIAL IMPACT:

ATTACHMENTS:

- R-2016-039 lease Norman Arnold Center (Boys & Girls Club) (PDF)

RESOLUTION NO.: R-2016-039

Authorizing the City Manager to execute a Sub-Lease Agreement between the City of Columbia and The Boys & Girls Club of the Midlands, Inc. for The Norman Arnold Center at 1100 South Holly Street

BE IT RESOLVED by the Mayor and City Council this ___ day of _____, 2016, that the City Manager is authorized to execute the attached Sub-Lease Agreement, or on a form approved by the City Attorney between the City of Columbia and The Boys & Girls Club of the Midlands, Inc. for The Norman Arnold Center at 1100 South Holly Street.

Requested by:

Senior Assistant City Manager Baker

Mayor

Approved by:

City Manager

Approved as to form:

ATTEST:



Deputy City Attorney

City Clerk

Introduced:

Final Reading:

LEGAL DEPARTMENT DRAFT

SUBLEASE AGREEMENT

THIS SUBLEASE AGREEMENT (this "Sublease"), dated as of July __, 2016, is entered into by and between **CITY OF COLUMBIA, SOUTH CAROLINA**, ("City") and **BOYS & GIRLS CLUBS OF THE MIDLANDS, INC.**, a South Carolina Non-Profit Corporation ("Boys & Girls Clubs").

WHEREAS, by Ground Lease dated _____, 2016, (the "Prime Lease"), Richland County School District One, South Carolina ("School District") leased to City, and City leased from School District, the land and improvements known as The Norman Arnold Center located at 1100 South Holly Street, Columbia, South Carolina, as more particularly described on Exhibit A attached hereto and made a part hereof (together with all rights-of-way or use, easements, servitudes, licenses, tenements, driveways, approaches, pavements, hereditaments, curbs and street front privileges and appurtenances thereunto belonging, the "Premises");

WHEREAS, City desires to sublease the Premises to Boys & Girls Clubs, and Boys & Girls Clubs desires to sublease the Premises from City, and each desires to enter into this Sublease for the sublease of the Premises;

NOW, THEREFORE, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto agree as follows:

1. **Premises**. City hereby subleases and rents to Boys & Girls Clubs, and Boys & Girls Clubs hereby subleases and rents from City, the Premises, together with all of City's interest in the Premises.

2. **Term**. The term of this Sublease ("Term") shall commence on January 1, 2016 (hereinafter referred to as the "Commencement Date"), and continue for a period of twenty-five (25) years. The Parties shall have the option to extend this Sublease beyond the Term for three (3) further terms of twenty-five (25) years each (the "Renewal Terms"), upon written agreement. City agrees that it will not terminate or fail to renew the Prime Lease without the prior written consent of Boys & Girls Clubs.

3. **Rent**. Boys & Girls Clubs shall pay to City, at the notice address set forth herein, annual rent in the amount of One and 00/100 Dollar (\$1.00), payable in advance on the 10th day of January beginning on January 10, 2016, and continuing on the 10th day of January annually thereafter.

4. **Future Improvements**. Throughout the Term and all Renewal Terms, Boys & Girls Clubs shall have the right, at its sole cost and expense, to construct additional improvements ancillary or complementary to the existing community center facility, together with parking, driveways, sidewalks, lighting, landscaping, entranceways and other related facilities. Additionally, Boys & Girls Clubs shall have the right to construct, or cause to be constructed, improvements for uses that are unrelated to the existing community center facility, provided the same do not unreasonably interfere with the existing community center facility use. (Any improvements constructed pursuant to the first two sentences of this Section 4 shall be collectively referred to as the "Future Improvements"). Any Future Improvements constructed within the Premises (including any rooftop equipment) shall be constructed in accordance with applicable governmental regulations and in accordance with plans and specifications reviewed and approved in advance by City. Boys & Girls Clubs shall submit its proposed construction plans and drawings for the improvements, including elevations, a site plan, photometric plans and specifications and a narrative description of the Future Improvements and other amenities which will be constructed

(collectively, "**Boys & Girls Clubs' Plans**") to City for review and approval at least thirty (30) days prior to the commencement of construction of any Future Improvements. Any Future Improvements shall be constructed in accordance with the approved Boys & Girls Clubs' Plans and any substantial changes or modifications therefrom must be approved by City. Boys & Girls Clubs' Plans shall be approved or disapproved within a reasonable amount of time not to exceed thirty (30) days.

5. **Maintenance; Repairs; Alterations; Reconstruction.** Throughout the Term and any Renewal Terms, City, at its sole cost and expense, shall maintain the Premises and all improvements constructed thereon in a good first-class condition and state of repair, ordinary wear and tear only excepted, and in accordance with all applicable laws, rules, ordinances, orders and regulations of (i) federal, state, county, municipal and other governmental agencies and bodies having or claiming jurisdiction thereof, and (ii) all insurance companies insuring all or any part of the Premises or improvements or both. Maintenance of Future Improvements shall be agreed upon at the time any Plans referenced in the preceding paragraph are approved. If the improvements, not to include Future Improvements constructed by Boys & Girls Clubs, constructed on the Premises are damaged by fire or other casualty, City shall (i) cause such damage to be repaired without unreasonable delay and the improvements substantially restored to their original condition, or (ii) cause new improvements to be constructed on the Premises of equal or greater value than the improvements that existed on the Premises prior to such casualty. Notwithstanding the foregoing, if such damage shall occur within the last two (2) years of the Term or any Renewal Term of this Sublease, then either party shall have the right to terminate this Sublease as of the date of such damage by giving written notice of termination to the other party within thirty (30) days after the date of such damage.

6. **Ownership of Future Improvements.** All Future Improvements constructed on the Premises by Boys & Girls Clubs as permitted by this Sublease shall be owned by Boys & Girls Clubs until expiration of the Term or any Renewal Term or sooner termination of this Sublease. Boys & Girls Clubs may modify Future Improvements on the Premises with the consent of City and under circumstances where the Future Improvements, alterations or additions (a) are consistent with any restrictive covenants and the architectural requirements thereunder, (b) do not substantially diminish the value of the Premises, and (c) do not result in conditions which would threaten the structural integrity of the Future Improvements or substantially alter the fundamental design thereof as represented in Boys & Girls Clubs' Plans submitted to City. All Future Improvements on the Premises at the expiration of the Term or sooner termination of this Sublease shall, without compensation to Boys & Girls Clubs, then become City's property free and clear of all claims to or against such Future Improvements by Boys & Girls Clubs or any third person in possession of the Premises, and Boys & Girls Clubs shall defend, indemnify and hold City harmless against all liabilities and loss arising from such claims or from City's exercise of the rights conferred by this Section.

7. **Consent of School District.** The Parties acknowledge that City currently leases the Premises from School District, who holds title to the Premises in Fee Simple. School District has acknowledged and consented to the terms of this Sublease, and Boys & Girls Clubs shall execute a Non-Disturbance and Attornment Agreement, the form of which is set forth in **Exhibit C** attached hereto and made a part hereof. City further acknowledges and covenants that, if it should default on its obligations under the Prime Lease, then Boys & Girls Clubs shall have the right, but not the obligation, to cure said default, and City hereby recognizes Boys & Girls Clubs' rights under this Sublease shall not be affected by any default of City in the Prime Lease.

8. **Use.** Boys & Girls Clubs may use the Premises for the continued operation of a community center facility in accordance with the Operating Guidelines, as the same may be amended, supplemented, or modified from time to time, attached hereto as **Exhibit B** and made a part hereof, and other ancillary or complementary uses. Additionally, unrelated uses of the approved Future

Improvements shall be permissible, provided the same do not unreasonably interfere with the existing community center facility use.

9. **Utility Charges.** City will pay, or cause to be paid, all charges for sewer usage or rental, refuse and snow removal, and utilities, including gas, telephone, water and electricity, consumed on the Premises during the term of this Sublease as the same shall become due and payable.

10. **Compliance with Laws and Ordinances.** Boys & Girls Clubs will comply with all federal, state, county and city laws, ordinances and regulations of any duly constituted authority affecting the Premises.

11. **City's Access to Premises.** City will have access to the Premises, at its own risk and expense, at any and all reasonable times during the term of this Sublease for the purpose of examining and inspecting same, and maintaining the improvements and Future Improvements as referenced in Section 5.

12. **Assignment and Subletting.** Boys & Girls Clubs is hereby specifically granted with rights to sublease or assign all or a portion of the Premises to third parties of its choice with prior written permission of the City; provided, however, that Boys & Girls Clubs shall remain responsible for the true and faithful performance of the underlying terms of the Sublease herein by any sub-Sublessees or assignees.

13. **Compliance with Prime Lease.** City shall timely comply with all of its obligations under the Prime Lease.

14. **Environmental** City warrants and represents to the best of its actual knowledge without independent investigation, that no use, storage, treatment, or transportation of toxic or hazardous wastes, materials, or substances, or any other substance that is prohibited, limited or regulated by any governmental or quasi-governmental authority or that, even if not so regulated, could or does pose a hazard to health and safety of the occupants of the building or surrounding property (collectively "**Hazardous Substances**") has occurred in or on the Premises before the date hereof.

The Premises shall not be used for the treatment, storage, transportation to or from, use or disposal of Hazardous Substances, and Boys & Girls Clubs shall not use, generate, manufacture, produce, store, dispose or permit the escape on, under or about the Premises, or any part thereof of any Hazardous Substances (except for the use and storage of general office and cleaning supplies used in the ordinary course of Boys & Girls Clubs' business). Boys & Girls Clubs shall be liable for, and shall indemnify and hold City harmless from, all costs, damages and expenses (including reasonable attorney's fees) incurred in connection with: (i) the discharge or other release in or from the Premises of any Hazardous Substances by Boys & Girls Clubs or its agents, employees, contractors or invitees occurring at any time after the Delivery Date, (ii) the use, storage, discharge or disposal of any Hazardous Substances by Boys & Girls Clubs or its agents, employees, contractors or invitees, and (iii) Boys & Girls Clubs' failure to comply with any applicable law relating to Hazardous Substances.

15. **Notices.** Any notice, consent or approval provided for herein shall be deemed duly given by the sender thereof to the addressee thereof only if in writing and mailed to such addressee at the "**Notice Address**" of such addressee (as set forth below) by registered or certified mail, postage prepaid, return receipt requested, or by Federal Express or other overnight courier service which delivers upon signed receipt of the addressee. The time of the giving of any such notice given in the manner required above shall be the time of receipt thereof by the addressee or any agent of the addressee, except that if the addressee or such agent of the addressee shall refuse to receive any such notice given in the manner

required or if there shall be no person available at the time of delivery thereof to receive such notice, the time of the giving of such notice shall be the time of such refusal or the time of such attempted delivery, as the case may be.

The Notice Address of Boys & Girls Clubs shall be:

with a copy to:

Boys & Girls Clubs of the Midlands, Inc.
500 Gracern Road
Columbia, South Carolina 29210
Attn: Carter H. Clark
Fax #: _____

Wesley M. Graybill, Esquire
Graybill Lansche & Vinzani, LLC
2721 Devine Street
Columbia, South Carolina 29205
Fax #: 803-404-5701

The Notice Address of City shall be:

with a copy to:

City of Columbia, South Carolina
Attn: S. Allison Baker
Post Office Box 147
Columbia, South Carolina 29217
Fax #: 803-401-8800

16. **Liens.** Boys & Girls Clubs shall not permit any mechanics', laborers' or materialmen's liens or the claims thereof to stand against the Premises by reason of any cause whatsoever.

17. **Indemnification.** Boys & Girls Clubs agrees to indemnify and hold City harmless from any and all claims, demands and actions, and all reasonable costs and expenses relating thereto (including reasonable attorneys' fees), for damage, injury, death, disability or illness of or to any persons or property, arising out of, or as a result of Boys & Girls Clubs' possession of the Premises, construction, reconstruction or demolition of improvements, or Boys & Girls Clubs' use of the Premises or any breach or default of Boys & Girls Clubs in the performance of any of its covenants hereunder.

18. **Insurance.** City agrees to maintain the insurance coverages described in Section 7 of the Prime Lease.

19. **Events of Default.** Any one or more of the following events shall be deemed an "**Event of Default**":

(a) If Boys & Girls Clubs shall default in the payment of any rent or any other sum of money specified hereunder to be paid by Boys & Girls Clubs within five (5) days after same becomes due; or

(b) If Boys & Girls Clubs shall default in the performance of any other of the terms, conditions or covenants contained in this Sublease to be performed or observed by it, and Boys & Girls Clubs does not remedy such default within thirty (30) days after receipt of written notice thereof or, if such default cannot be remedied in such period, does not within said thirty- (30) day period commence with diligence and dispatch such act or acts as shall be necessary to remedy the default and shall not complete such act or acts within a reasonable time; or

(c) If Boys & Girls Clubs shall become bankrupt or insolvent, or file or have filed against it in any court pursuant to any statute, either of the United States or any State, a petition in bankruptcy or insolvency or for reorganization, or file or have filed against it a petition for the appointment of a receiver or trustee for all or substantially all of the assets of Boys & Girls Clubs and such appointment shall not be vacated or set aside within sixty (60) days from the date of such appointment, or if Boys & Girls Clubs makes an assignment for the benefit of creditors, petitions for or enters into an arrangement, or admits its inability to pay its debts as they become due; or

In the event of any Event of Default by Boys & Girls Clubs, City may at any time thereafter, in its sole discretion, with or without additional notice or demand and without limiting City in the exercise of a right or remedy which City may have by reason of such default or breach:

(a) Terminate this Sublease or Boys & Girls Clubs' right of possession (but Boys & Girls Clubs shall remain liable as hereinafter provided) and/or pursue any other remedies at law or in equity.

(b) Maintain Boys & Girls Clubs' right to possession, in which case this Sublease shall continue in effect whether or not Boys & Girls Clubs shall have abandoned the Premises. In such event, City shall be entitled to enforce all of City's rights and remedies under this Sublease, including the right to recover the rent and any other charges and adjustments as may become due hereunder. Neither efforts by City to mitigate damages caused by a default by Boys & Girls Clubs nor the acceptance of any rentals (as hereinafter defined) shall constitute a waiver by City of any of City's rights or remedies; or

(c) Pursue any other remedy now or hereafter available to City under the laws or judicial decisions of the State of South Carolina.

It is further agreed that the rights and remedies given to City in this Sublease are distinct, separate and cumulative remedies, and that no one of them, whether or not exercised by City, shall be deemed to be in exclusion of any of the others.

20. **City Default.** In the event of any default by City under this Sublease, Boys & Girls Clubs will give City written notice specifying such default with particularity, and City shall thereupon have thirty (30) days (or such longer period as may be required in the exercise of due diligence) in which to cure any such default.

21. **Holding Over.** If Boys & Girls Clubs remains in possession of the Premises or any part thereof after the expiration of the Term of this Sublease with City's acquiescence and without any written agreement between the parties, Boys & Girls Clubs shall be only a tenant at will and there shall be no renewal of this Sublease; provided, however, Boys & Girls Clubs shall be obligated to pay rent for such holdover period at a rate equal to one hundred fifty percent (150%) of the rent payable for the immediately preceding lease year and shall remain primarily liable for any consequential damages suffered by City as a result of said holdover.

22. **Successors in Interest.** Except as otherwise provided herein, all provisions of this Sublease shall be binding upon, inure to the benefit of, and be enforceable by and against, the respective successors and permitted assigns of any party to this Sublease.

23. **Waiver.** Any consent to or waiver of any provision hereof shall not be deemed or construed to be a consent to or waiver of any other provision of this Sublease. Failure on the part of any party to complain of any act or failure to act of any other party, irrespective of the duration of such failure, shall not constitute a waiver or modification of rights hereunder. No waiver or modification hereunder shall be effective unless the same is in writing and signed by the party against whom it is sought. Any term or condition of this Sublease may be waived in writing at any time by the party entitled to the benefit of same.

24. **Severability.** If any provision of this Sublease shall, in whole or in part, prove to be invalid for any reason, such invalidity shall affect only the portion of such provision that shall be invalid, and in all other respects, this Sublease shall stand as if such invalid provision, or other invalid portion thereof, had not been a part hereof. The parties agree that this Sublease shall be enforced to the fullest extent permitted by law. Accordingly, if, in any judicial proceeding, a court shall determine that any provision is invalid or unenforceable as written, the parties consent to an interpretation by the court that will provide enforcement to the maximum extent permitted by law.

25. **Entire Agreement; Amendment.** This Sublease constitutes the sole and entire agreement and understanding of the parties with respect to its specific subject matter. All prior agreements, representations or understandings, whether written or oral, shall be merged herein and shall not be construed to change, amend, alter, repeal or invalidate this Sublease. This Sublease may be amended only by a written instrument executed by all of the parties.

26. **Governing Law and Jurisdiction.** This Sublease has been executed and delivered in the State of South Carolina, and its validity, interpretation, performance and enforcement, and all matters relating thereto, shall be governed by and construed and interpreted in accordance with the laws of the State of South Carolina. For purposes of any litigation arising from or related to this Sublease, the parties hereby submit to the jurisdiction and venue of the appropriate state or federal court located in Columbia, South Carolina.

27. **No Adverse Presumption.** The parties acknowledge that this Sublease arose as the result of arm's-length negotiations between them and that this Sublease is the product of input by both parties. Accordingly, any ambiguity or uncertainty is not to be construed against either party.

28. **Counterparts; Scanned, Facsimile or Photocopies.** This Sublease may be executed in one or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same document. In addition, this Sublease may contain more than one counterpart of the signature page(s), all of which signature page(s) may be attached to one copy of this Sublease to constitute the entire executed Sublease. Scanned, facsimile, or photocopies of the executed Sublease may be relied upon as if the original.

[SIGNATURE PAGES ATTACHED HERETO AND INCORPORATED HEREIN BY REFERENCE]

EXHIBIT A
LEGAL DESCRIPTION OF PREMISES

All that certain piece, parcel, or tract of land, with any improvements thereon, being triangular in shape, located east of Memorial Stadium in the Rosewood Area of the City of Columbia, being more particularly shown as Lot 2, Block 1, on Tax Map 200 for Richland County School District #IC recorded in the Office of the Register of Deeds for Richland County in TMS 141-280, and being bounded as follows: on the Northeast fronting on Airport Boulevard, whereon it measures Four Hundred Ten Feet (410'), more or less; on the South by Owens Field, whereon it measures Six Hundred Feet (600'), more or less; and on the Northwest by property of the City of Columbia, South Carolina, whereon it measures Four Hundred Eighty Feet (480'), more or less.

EXHIBIT B
OPERATING GUIDELINES

OPERATING GUIDELINES

- Boys & Girls Clubs shall have sole use of the facility for youth development programs and have responsibility for member participants during the following dates/times:

School Year: (August – May)
Monday – Friday, 2:00 p.m. – 9:00 p.m.
(6:00 p.m. – 9:00 p.m. is teen-focused programs)

Summer: (June – August)
Monday – Friday, 7:30 a.m. – 6:30 p.m.

When Richland County School District One has a holiday or closing in their schedule, the Boys & Girls Clubs program will be open from 7:30 a.m. – 6:00 p.m. All other hours will adhere to City's schedule.

- Public access to the rest room and water fountain facilities will remain open during the time of operation. A Drop-In Program will be managed by Boys & Girls Clubs;
- Boys & Girls Clubs agrees to actively promote the program to the neighborhood surrounding the community and encourage involvement by neighborhood youth;
- Boys & Girls Clubs agrees to limit participation to the program standards set forth by Boys & Girls Clubs of America and the safety standards set forth by the fire department.
- A staff ratio of 1 staff to 15 members must be maintained, all staff must be 18 years or older;
- Boys & Girls Clubs will provide City with an up-to-date list of members, including emergency information;
- All operations and programming will be governed by the Sublease Agreement with City. Hours of operation may be altered or extended to meet the needs of the community, and in some instances, program times may be altered. This will be done with the approval of the Director of Parks and Recreation and Boys & Girls Clubs' Executive Director, or their designees;
- The Boys & Girls Clubs program will serve youth ages 6 to 18 during agreed-upon hours;
- All youth must abide by Boys & Girls Clubs' rules and regulations when involved in any program during operation hours. All youth service providers must use the same guidance and discipline policies and procedures when supervising youth;
- All youth involved in the Boys & Girls Clubs program must have a membership/information sheet completed and signed by a parent or guardian;
- Boys & Girls Clubs must maintain a controlled environment during agreed-upon hours by the following procedures:

- * Check-in desk monitored by professional staff;
 - * Children enrolled in program must sign in and out of facility;
-
- Background checks will be required of all adults involved with the Boys & Girls Clubs program, whether an employee or volunteer;
 - Boys & Girls Clubs may use existing equipment including game room equipment, outdoor equipment, tables and chairs;
 - Boys & Girls Clubs representatives may tour the facility during operating hours. Boys & Girls Clubs may reserve space for meetings and training as the schedule permits with advance notice.

EXHIBIT C
FORM OF NON-DISTURBANCE AND ATTORNMENT AGREEMENT

NON-DISTURBANCE AND ATTORNMENT AGREEMENT

THIS NON-DISTURBANCE AND ATTORNMENT AGREEMENT (this "**NDA**"), dated as of July __, 2016, is entered into by and among **RICHLAND COUNTY SCHOOL DISTRICT ONE, SOUTH CAROLINA** ("**School District**"), **CITY OF COLUMBIA, SOUTH CAROLINA**, ("**City**"), and **BOYS & GIRLS CLUBS OF THE MIDLANDS, INC.**, a South Carolina Non-Profit Corporation ("**Boys & Girls Clubs**").

WHEREAS, by Ground Lease dated _____, 2016, (the "**Prime Lease**"), School District leased to City of Columbia, South Carolina ("**City**"), and City leased from School District, the land and improvements known as The Norman Arnold Center located at 1100 South Holly Street, Columbia, South Carolina, as more particularly described on **Exhibit A** attached hereto and made a part hereof (together with all rights-of-way or use, easements, servitudes, licenses, tenements, driveways, approaches, pavements, hereditaments, curbs and street front privileges and appurtenances thereunto belonging, the "**Premises**");

WHEREAS, by Sublease Agreement dated July ____, 2016, City subleased the Premises to Boys & Girls Clubs, and Boys & Girls Clubs subleased the Premises from City;

WHEREAS, it is the desire and intention of the parties hereto to create certain non-disturbance and attornment rights between School District and Boys & Girls Clubs;

NOW, THEREFORE, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto agree as follows:

1. **Non-Disturbance.** School District does hereby agree with Boys & Girls Clubs that, so long as Boys & Girls Clubs complies with the terms, conditions and covenants of the Sublease and performs its obligations under the Sublease, (a) School District will take no action which will interfere with or disturb Boys & Girls Clubs' possession or lawful use of the Premises or other rights under the Sublease, and (b) in the event City defaults on its obligations of the Prime Lease resulting in a termination thereof, the Property shall be subject to the Sublease and School District shall recognize Boys & Girls Clubs as a tenant on the Premises for the remainder of the term of the Sublease in accordance with the provisions thereof; provided, however, that School District shall not be liable for any act or omission of City.

2. **Attornment.** Boys & Girls Clubs does hereby agree with School District that in the event City defaults on its obligations of the Prime Lease resulting in a termination thereof, then Boys & Girls Clubs shall attorn to and recognize School District as the landlord under the Sublease for the remainder of the term thereof, and Boys & Girls Clubs shall perform and observe its obligations thereunder, subject only to the terms and conditions of said Sublease. Boys & Girls Clubs further covenants and agrees to execute and deliver upon request of School District, or its successors or assigns, an appropriate agreement of attornment to any subsequent title holder of the Premises.

3. **Notices.** Any and all notices, elections or demands permitted or required to be made under this NDA shall be in writing, signed by the party giving such notice, election or demand and shall be delivered personally, or sent by registered or certified United States mail, postage prepaid, to the other parties at the addresses set forth below, or at such other address within the United States as may have

theretofore been designated in writing. The date of personal delivery or the date of mailing, as the case may be, shall be the date of such notice, election or demand.

School District: Richland County School District One
Attn: _____

City: City of Columbia, South Carolina
Attn: S. Allison Baker
Post Office Box 147
Columbia, South Carolina 29217

Boys & Girls Clubs: Boys & Girls Clubs of the Midlands, Inc.
Attn: Carter H. Clark
500 Gracern Road
Columbia, South Carolina 29210

4. **Binding Effect.** This NDA shall be binding upon all the parties hereto, their successors and assigns and all of those holding title under any of them, and the pronouns herein shall include, where appropriate, either gender or both, singular or plural.

[SIGNATURE PAGES ATTACHED HERETO AND INCORPORATED HEREIN BY REFERENCE]

EXHIBIT A
LEGAL DESCRIPTION OF PREMISES

All that certain piece, parcel, or tract of land, with any improvements thereon, being triangular in shape, located east of Memorial Stadium in the Rosewood Area of the City of Columbia, being more particularly shown as Lot 2, Block 1, on Tax Map 200 for Richland County School District #IC recorded in the Office of the Register of Deeds for Richland County in TMS 141-280, and being bounded as follows: on the Northeast fronting on Airport Boulevard, whereon it measures Four Hundred Ten Feet (410'), more or less; on the South by Owens Field, whereon it measures Six Hundred Feet (600'), more or less; and on the Northwest by property of the City of Columbia, South Carolina, whereon it measures Four Hundred Eighty Feet (480'), more or less.