

Calhoun County Speculative Building RFP

Request for Information Responses

November 18, 2015

Contractor #1:

1. Page 3 of 8 - Item 4.a. Please clarify that Calhoun County is providing the design only for a 250' x 250' building pad and not the actual pad. All grading is to be included under the successful bidder.

Answer: Calhoun County has contracted Thomas & Hutton to complete civil site plans. All site construction improvements are to be completed by the Design/Build team, as XXX in the Plans.

2. Page 3 of 8 - Item 5.a. The RFP indicates the N and E walls are to be solid 8" thick concrete to 4' AFF and that the Northeast wall is to be 12" thick solid concrete to 4' AFF in the base proposal as well. Did you mean that the E & W walls were to be 8" solid to 4' AFF and the N dock wall was to be 12" thick solid to 4' AFF? Does the 12" thick concrete wall below the 8" insulated wall only apply to the alternate for the 2 truck dock foundations or to the entire N wall?

Answer: All walls are to be full height eight (8)-inch concrete walls.

3. Special Inspections by statute cannot be paid for by a General Contractor. See page 6 of 8 under 8. Notes.

Answer: Please provide a breakout cost for Special Inspections. Contractual arrangements will be made pending selection.

4. We would like to have a copy of the I-26 Industrial Park Covenants.

Answer: Please see Industrial Park Covenants attached below.

Contractor #2:

1. After you receive proposals on Dec 1, 2015, by what date do you intend to notify the successful D/B contractor of award?

Answer: The Proposals will be evaluated, and based on the information received, Calhoun County may follow up with multiple Design/Build Teams for clarity. Expected selection of a Design/Build team and contract negotiations will be in late January 2016.

2. By what date do anticipate being under contract agreement with the successful D/B contractor?

Answer: It is anticipated that a contract will be in place in January 2016.

3. Will a certification of the pad (that it has been built in accordance with the geotechnical engineers recommendations) and compaction tests and reports be provided to the D/B prior to mobilizing the site?

Answer: As stated above, all Site Construction Improvements are to be included in the Design/Build Contract.

4. When do you expect the pad will be ready for the D/B contractor to mobilize and begin construction?

Answer: Please see above.

5. Is there a preferred completion date?

Answer: The completion date will be dependent on the contract date; however, it is anticipated that construction will be completed by Fall of 2016.

6. Will the cost of permits and inspections be waived for this project?

Answer: The Building Fees will be waived; however, the Permit fees will need to be calculated and included separately for the County's records.

7. Can you please provide a copy or link to the specific Calhoun County Procurement Code Section that you reference (2-457)?

Answer: The Calhoun County Procurement Code is attached below for your reference. The referenced section discusses Competitive Sealed Proposals.

8. Is it the intent to 'cut-in' future dock doors into the concrete wall panels at a future date (no openings at all along the future truck court at this time) but with an Alternate to provide two (2) dock doors?

Answer: The alternate only applies to the dock footings. It is acceptable to provide an alternate to have dock footings for a future truck court along the full length of the northern wall. In any scenario, dock doors will not be installed at this time.

9. Is it acceptable to provide code required insulation in the walls and roof other than the values stated in the RFP?

Answer: The intention is to have a code compliant, as well as a marketable Industrial Speculative Building. Therefore, it is left to the discretion of the Design/Build team.

10. Is it your expectation that the southern expansion wall be a concrete wall?

Answer: All walls will be concrete.

11. Please explain the following in greater detail:

“Walls:

Exterior walls shall be constructed of insulated concrete wall panels with an eight (8) inch thick concrete wall to extend four (4) foot above finish floor along the north and east walls. The northeast wall shall include a twelve (12) inch thick concrete wall to extend four (4) feet above finish floor.”

We do not understand “an eight (8) inch thick concrete wall to extend four (4) foot above finish floor” nor “a twelve (12) inch thick concrete wall to extend four (4) feet above finish floor”.

Please explain.

Answer: All walls to be 8-inch, full height concrete walls.

ATTACHMENT A
INDUSTRIAL PARK COVENANTS

DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS
OF THE
CALHOUN COUNTY I-26 INDUSTRIAL PARK

2007002027

RESTRICTIVE COVENANTS
RECORDING FEES

\$37.00

PRESENTED & RECORDED:

07-31-2007 11:40:30 AM

KENNETH HASTY
REGISTER OF DEEDS
CALHOUN COUNTY, SC

By: CINDY FORD DEPUTY

BK:D 225

PG:72-102

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**DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS
OF THE CALHOUN COUNTY I-26 INDUSTRIAL PARK**

THIS DECLARATION (the "Declaration"), made this ___ day of _____, 2007, by Calhoun County, South Carolina, a body politic and political subdivision of the State of South Carolina, hereinafter referred to as "Declarant" or the "County."

ARTICLE 1

RECITALS

1.01 Ownership. Declarant is the owner of certain real property located and situate in the County of Calhoun, State of South Carolina, known as the Calhoun County I-26 Industrial Park, consisting of approximately 375 acres and more particularly described in Exhibit A attached hereto and made a part hereof (the "Property").

1.02 Establishment of Covenants. In order to establish a general plan for the improvement and development of the Property, and to ensure the proper development and use of the Property, Declarant desires to impose on the Property restrictions for the benefit of Declarant and the future owners of the Property and any portions thereof, and each Lot (as hereinafter defined) within the Property, or any other subdivision of the Property, shall be held, improved and conveyed subject to the covenants, conditions, and restrictions imposed hereby, which shall be enforceable in accordance with this Declaration.

ARTICLE 2

GENERAL PROVISIONS

2.01 Establishment of Restrictions and Covenants. The Declarant hereby declares that the Property is now held, and shall be transferred, sold, leased, conveyed and occupied subject to the covenants, conditions and restrictions herein set forth, each and all of which is and are for and shall inure to the benefit of and pass with each and every parcel of the Property and apply to and bind the heirs, assignees and successors in interest of each and every owner of a Lot or other portion of the Property.

2.02 Restrictions Operate as Covenants. Each purchaser of any Lot(s) of the Property covenants and agrees with Declarant, its successors and assigns to use the Property only in accordance with the covenants, conditions and restrictions herein set forth and to refrain from using the Property in any way inconsistent with or prohibited by the provisions of this Declaration.

2.03 Purpose of Restrictions and Covenants. It is the intent and purpose of these covenants, conditions and restrictions to allow the Property to be used for general light industrial and commercial activities as more particularly described in Section 6.04 below, provided that such activities are confined within a building or buildings and do not contribute excessive noise, dust, smoke or vibration to the surrounding environment nor contain a high hazard potential due to the nature of the products, materials or processes involved.

2.04 Definitions.

(a) Articles: The articles of incorporation of the Association, as the same may be amended from time to time.

(b) Association: The Calhoun County I-26 Industrial Park Owners Association, Inc., a South Carolina nonstock corporation, and its successors.

(c) Board of Directors: The Board of Directors of the Association established pursuant to the Articles.

(d) Bylaws: The bylaws of the Association, as the same may be amended from time to time.

(e) Common Area(s): (i) all real estate specifically designated as "Common Area" in this Declaration or in any other instrument executed by Declarant and recorded in the land records of Calhoun County, South Carolina, and (ii) all other real property (including easements) and improvements and facilities currently owned by the County within the Park (including any areas annexed pursuant to Section 10.05 below) or hereafter owned by the Association which are intended to be devoted to the common use and enjoyment of Owners. Common Areas may include, for example but without limitation, signage and landscaped areas.

(f) Lot(s): Lot shall mean (i) any lot which is shown on a recorded plat of all or a portion of the Property and (ii) as to each discrete parcel of the Property on which there is constructed a building, the entire parcel or, if the parcel has been subdivided, each portion thereof separately owned, and (iii) any tract or parcel of the Property designated by Declarant as a "Lot" in this Declaration or deed or other recorded instrument. The term "Lot" shall not include Common Areas or public streets or other properties dedicated to and accepted by a public authority.

(g) Member: Every person or entity who holds membership in the Association.

(h) Mortgage: A mortgage or other similar financing arrangement on a Lot or a portion of the Property securing a lender.

(i) Mortgagee: The holder of a note secured by a Mortgage.

(j) Non-Starbucks Parcels: Those portions of the Property, including any Property annexed pursuant to Section 10.05 hereof, which are not a part of the Starbucks Parcel. As of the date hereof, the Non-Starbucks Parcels are comprised of the Property described on Exhibit D, attached hereto and made a part hereof.

(k) Option Parcel: Approximately twenty-five (25) acres of the Property, more particularly described on Exhibit C, attached hereto and made a part hereof, which Starbucks has an option to purchase. For the purposes of this Declaration, the Option Parcel shall be considered part of the Starbucks Parcel for as long as the option to purchase remains in effect.

- (l) Owner: "Owner" shall mean any entity and its successor, assigns, heirs and legal representatives, owning a fee simple interest or any leasehold interest in and to any Lot or portion thereof.
- (m) Park: The Property, including all easements and other appurtenant rights.
- (n) Period of Declarant Control: The period of time from the date of recordation of this Declaration until the Class B membership in the Association terminates as provided in Section 4.03 below.
- (o) Right-of-way Line: When reference is made to right-of-way line it shall mean the line which is then established on the filed subdivision of the Property or in any street or public right-of-way dedication recorded among the land records of Calhoun County, South Carolina, with respect to any portion of the Property as the ultimate right-of-way line for roads or streets.
- (p) Side and Front of Lots and Sites: The Front of a Lot or Site, except a corner Lot or Site, is the portion thereof facing on any street. (Thus a Lot or Site may have two Fronts where, for instance, it faces onto two parallel streets. As to corner Lots or Sites, the narrowest frontage of a Lot or Site facing the street is the Front, and the longest side facing the intersecting street is the Side, irrespective of the direction in which the structures face).
- (q) Sign: Any structure, device or contrivance, electric or non-electric, and all parts thereof which are erected or used for advertising or informational purposes upon or within which any poster, bill, bulletin, printing, lettering, painting device or other advertising or information of any kind whatsoever is used, placed, posted, tacked, nailed, pasted or otherwise fastened or affixed.
- (r) Site: All contiguous land under single ownership; provided, however, that multiple occupancy of a building does not destroy a parcel's character as a Site.
- (s) Starbucks: Starbucks Manufacturing Corporation, a Washington corporation.
- (t) Starbucks Parcel: Approximately fifty (50) acres of the Property, more particularly described on Exhibit B attached hereto and made a part hereof.
- (u) Streets: Reference to all streets or rights-of-way within these restrictive covenants shall mean dedicated vehicular rights-of-way.

ARTICLE 3

COMMON AREAS

3.01 Obligations of the Association. Prior to the date assessments are levied pursuant to Section 5.07 below, the County shall be responsible for the repair, maintenance, replacement, management, operation and control of the Common Areas. Commencing on the date assessments

are levied pursuant to Section 5.07 below, the Association, subject to the rights of the Owners as set forth in this Declaration, shall be responsible for the repair, maintenance, replacement, management, operation and control of the Common Areas and all improvements thereon (including fixtures, personal property and equipment related thereto) in accordance with the requirements of the applicable zoning ordinance and other applicable laws and regulations, and shall keep the same in good, clean and attractive condition, order and repair. Sirens Lane shall be a public road dedicated to and maintained by the County.

3.02 Owners' Rights of Enjoyment and Use of Common Areas. Except as otherwise set forth herein, every Owner shall have a right of use or enjoyment in and to the Common Areas which shall be appurtenant to and shall pass with the title to every Lot. The Common Areas shall be used by Owners only for the purpose or purposes for which the Common Areas may have been improved by Declarant or the Association and subject to any applicable restrictions in the zoning ordinance and any applicable easement(s) and other conditions of record.

3.03 General Limitations on Owners' Rights. The Owners' rights of use or enjoyment in the Common Areas shall be subject to the following:

- (a) the right of the Association to establish reasonable rules and regulations for the use of the Common Areas;
- (b) the right of the Association to suspend the right of an Owner to use or benefit from any of the Common Areas (other than access to its Lot) for any period during which any assessment against its Lot is delinquent;
- (c) the right of the Association to suspend the right of an Owner to use or benefit from any of the Common Areas (other than access to its Lot) for any period during which any other infraction by the Owner of the Declaration or the rules promulgated by the Association remains uncorrected after the last day of a period established for correction by the Association (such period to be stated in a notice to the Owner together with a statement of the infraction complained of and the manner of its correction) and for not more than sixty days after such correction;
- (d) the right of the Association to grant permits, licenses and easements across the Common Areas for utilities, roads and other purposes; provided that such permit, license, or easement does not materially adversely affect the rights of an Owner or Owners to use the Common Areas as permitted in this Declaration;
- (e) the right of the Association to dedicate or transfer all or any part of the Common Areas to any public agency, authority or utility for such purposes and subject to such conditions as may be desired by the Association; provided that such dedication or transfer does not materially adversely affect the rights of an Owner or Owners to use the Common Areas as permitted in this Declaration;
- (f) all of the other easements, covenants and restrictions provided for in the subdivision plat for the Property and applicable to the Common Areas; and

(g) the right of the Association to enter into shared use and maintenance agreements.

3.04 Delegation of Use. Any Owner may delegate its right of use and enjoyment of the Common Area to its tenants, subject to such rules and regulations and fees as may be established from time to time by the Association.

3.05 Damage or Destruction of Common Area by Owner. In the event any Common Area or improvement thereon is damaged or destroyed by an Owner, its tenants, licensees or agents, the Association may repair such damage at the Owner's expense. The Association may repair such damage in a good and workmanlike manner in conformance with the original plans and specifications of the area or improvement involved, or as the Common Area or improvement may have been theretofore modified or altered, in the discretion of the Association. The cost of such repairs, to the extent the Owner would be liable therefor under applicable laws of the State of South Carolina, shall become an individual assessment upon the Lot of such Owner and shall constitute a lien upon such Owner's Lot and be collectible in the same manner as other assessments set forth herein. The foregoing obligation is not absolute in that the Owner shall be released of liability for such costs to the extent that the costs are actually paid or reimbursed to the Association by the proceeds of the Association's insurance policies (but only if such release of liability will not invalidate such insurance).

3.06 Rights in Common Areas Reserved by Declarant. Until such time as a parcel of real estate constituting Common Area is conveyed to the Association, Declarant shall have the right, as to that parcel, but not the obligation, (i) to construct such improvements thereon as it deems appropriate for the common use or enjoyment of Owners, (ii) to maintain, at the Association's expense, such Common Area in neat condition and repair, including mowing and removing underbrush and weeds, and (iii) to use the Common Area for other purposes not inconsistent with this Declaration.

ARTICLE 4

MEMBERSHIP AND VOTING RIGHTS IN ASSOCIATION

4.01 Owners as Members. Every Owner of a Lot shall be a Member of the Association. Membership shall not be separated from ownership of such Lot. Upon the closing of the sale of a Lot, the membership appurtenant to the Lot of the selling Owner shall cease and the purchasing Owner shall become a member of the Association.

4.02 Articles and Bylaws to Govern. Except to the extent expressly provided in this Declaration, all of the rights, powers and duties of the Association and the Members shall be governed by the Articles and the Bylaws.

4.03 Classes of Membership. The Association shall have two classes of voting membership:

Class A. Class A Members shall be all Owners including Declarant so long as Declarant owns any Lot.

Class B. The Class B Member shall be Declarant. The Class B membership shall terminate on the earliest to occur of the following:

- (i) the date on which Declarant ceases to be the Owner of at least twenty-five percent (25%), by area, of Lots subject to this Declaration;
- (ii) the date on which Declarant executes and records in the land records of Calhoun County, South Carolina, a Supplemental Declaration terminating the Class B membership; or
- (iii) five (5) years after the initial date of recordation of this Declaration.

4.04 Voting Rights.

(a) Class A Votes. Each Class A Member shall be entitled to cast one (1) vote for each acre of Property owned in the Park. For the purposes of determining the number of votes allocated to each Class A Member, ownership of a portion of an acre shall be rounded to the nearest full acre. For example, if a Class A Member owns less than 1.50 acres of Property within the Park, that Class A Member shall receive one (1) vote. If a Class A Member owns 1.50 acres of Property within the Park, that Class A Member shall receive two (2) votes.

(b) Class B Vote. The Class B Member shall have one vote (as a Class B Member), which Declarant shall be entitled to cast; accordingly, any requirement in the Declaration, Articles or Bylaws for a certain percentage of each class of Members shall mean the one vote when applied to the Class B Membership.

(c) Suspension of Voting Rights. The Board of Directors of the Association may suspend the voting rights of any Member subject to assessment under the Declaration during the period when any assessment shall remain delinquent, but upon payment of such assessment, the voting rights of such Member shall automatically be restored.

ARTICLE 5

ASSESSMENTS

5.01 Creation of the Lien and Personal Obligation for Assessments. Subject to Section 5.10, each Owner of any Lot, whether or not it shall be so expressed in its deed, is deemed to covenant, to pay to the Association assessments as set forth herein and in the Bylaws. The assessments, together with interest thereon and costs of collection including attorney's fees, shall be a continuing lien upon the Lot against which each such assessment is made in order to secure payment thereof and shall also be the personal obligation of the party who was the Owner of the Lot at the time the assessment fell due, and of each subsequent Owner. No Owner may waive or otherwise avoid liability for the assessments provided herein by nonuse of the Common Areas or abandonment of its Lot. Each assessment that is not paid when due shall bear interest at the rate established by the Association, which rate shall not exceed 18% per annum.

5.02 Purpose of Assessments. The assessments levied by the Association shall be used for the management, maintenance, improvement, care, operation, renovation, repair and replacement of the Common Areas and improvements thereon and other property owned or acquired by the Association of whatsoever nature, for the discharge of all real estate taxes and other levies and assessments against the Common Areas and improvements thereon and other property owned or acquired by the Association, for the procurement of insurance by the Association as more particularly described in the Bylaws, for the establishment of reserves (if any) with respect to the Association's obligations, for the discharge of such other obligations as may be imposed upon or assumed by the Association pursuant to the Articles or Bylaws, for fees for one or more management companies and for such other purposes as may be authorized by or pursuant to the Articles or Bylaws.

5.03 Regular Assessments. Regular assessments [i.e., all assessments other than those provided for in Sections 5.04 and 5.05] or levied upon an individual Lot as expressly set forth elsewhere in the Declaration, Articles, or Bylaws, shall be established and increased or decreased from time to time by the Board of Directors of the Association pursuant to the Bylaws.

5.04 Special Assessments. In addition to the regular assessments, the Board of Directors of the Association may levy, for any fiscal year, a special assessment applicable to that year and not more than the following year if the purpose in doing so is found by the Board of Directors to be in the best interests of the Association.

5.05 Individual Assessment. Individual assessments shall be those expenses directly related to providing a service or maintenance to one or more Lots, whether at the request of the Owner thereof or as the result of exercise of an Association remedy. If an individual assessment is levied on multiple Lots owned by one Owner, it shall be allocated among that Owner's Lots as the Board of Directors of the Association directs, or in the absence of such a direction, equally among such Lots. Notwithstanding the concept of individual assessments, the Association is not obligated to provide any service or maintenance to Lots except as may be expressly provided in the Declaration, Articles or Bylaws.

5.06 Assessment Rate. Both regular and special assessments under Sections 5.03 and 5.04 shall be fixed at a uniform rate per acre for all Lots subject to assessment.

5.07 Date of Commencement of Regular Assessment; Due Dates. Subject to Section 5.11, the regular assessment provided for herein shall commence as to each Lot subject to assessment on the first day of the month following the submission of such Lot to this Declaration. The regular assessment applicable to such Lot shall be adjusted according to the number of months remaining in the fiscal year after the month in which the Lot is subjected to this Declaration. Notwithstanding the foregoing, the Association shall not begin levying assessments pursuant to this Declaration or the Bylaws until the earlier to occur of (i) the end of the Period of Declarant Control; or (ii) the date selected by a majority of the Class A Members for the Association to begin levying assessments.

5.08 Effect of Nonpayment of Assessments; Remedies of Association. The lien of the assessments provided for in this Declaration may be perfected and enforced by the Association. After giving the delinquent Owner thirty (30) days prior written notice, the Association may file a

claim or notice of lien in favor of the Association securing the amount of the assessments which are then due and which may accrue subsequent to the recording of the claim or notice of lien and prior to entry of final judgment of foreclosure. The Association may bring an action at law against the Owner personally obligated to pay the assessment, or may foreclose the lien in a manner similar to foreclosure of a mortgage lien, or both. Interest and costs of collection including attorney's fees shall be added to the amount of such assessment and shall be secured by the assessment lien. The Association, acting on behalf of the Owners, shall have the power to bid for an interest in any Lot foreclosed at such foreclosure sale and to acquire, lease, hold, mortgage and convey the Lot. A statement from the Association showing the balance due on any assessment shall be prima facie proof of the current assessment balance and the delinquency, if any, due on a particular Lot.

5.09 Priority of Assessment Liens. The lien, once perfected, shall be prior to all other subsequent liens and encumbrances except (i) real estate tax liens and (ii) liens and encumbrances recorded prior to the recordation of this Declaration, and (iii) the first mortgage lien of any Mortgagee. Sale or transfer of any Lot pursuant to foreclosure of such a Mortgage (or, if approved by the Association, acceptance of a deed in lieu of foreclosure) shall extinguish the lien as to payments that became due prior to the sale or transfer. The transferees of such Lot shall be liable for any assessments coming due after the sale or transfer. The provisions of this subsection shall not affect the priority of mechanics' and materialmen's liens.

5.10 Exempt Property. The following property, to the extent subject to this Declaration, shall be exempt from the assessments and liens created herein: (i) all properties dedicated to and accepted by a public authority for a public use, such as for access and utilities; and (ii) all Common Areas.

ARTICLE 6

REGULATION OF IMPROVEMENTS

6.01 Approval of Plans.

(a) Approval Required. No improvement constructed after the date hereof shall be erected, placed, altered, maintained or permitted to remain on any land subject to this Declaration until final plans and specifications showing the following shall have been submitted to and approved in writing by the Board of Directors of the Association: plot layout including guest and employee parking facilities; all exterior elevations with materials and colors therefor; existing topography and finished grades; signs; screening; and landscaping and outdoor lighting fixtures. Such plans and specifications shall be submitted in writing in duplicate over the authorized signature of the Owner, lessee, licensee or its authorized agent. Material changes in approved plans must similarly be submitted to and approved by the Board of Directors of the Association. All such requests for approval shall be submitted directly to the Board of Directors of the Association as follows:

c/o Calhoun County
102 Courthouse Drive, Suite 108
St. Matthews, South Carolina 29135

Attn: E. Lee Prickett, County Administrator

or at such other address as may be specified in a written notice to be mailed first class, postage prepaid, via regular U.S. mail to the last known address of each Owner.

(b) Basis for Approval. The Board of Directors of the Association shall have the right to disapprove plans, specifications or other matters submitted to it pursuant hereto in the event that the same are not in accordance with this Declaration, or in the event the same are incomplete, or in the event the Board of Directors of the Association, in its sole discretion, deems the same contrary to the best interests of the Park. The Board of Directors of the Association may base its approval or disapproval of plans, specifications or other matters submitted to it pursuant hereto on, among other things, the maintenance, enhancement or restoration of the overall quality of the Park, the adequacy of site dimensions, height of any improvements, conformity and harmony of external design with neighboring structures, effect of location and proposed use of improvements on neighboring sites and the types of operations and uses thereof, lighting, relations of topography, grade and finish ground elevation of the site being improved to that of neighboring sites, proper facing of main elevations with respect to nearby streets, adequacy of screening of mechanical, air conditioning or rooftop utility installations, and conformity of the plans, specifications and other matters submitted to the Board of Directors of the Association pursuant hereto for the purpose and general plan and intent of this Declaration. The Board of Directors of the Association may establish Development Guidelines or other written requirements from time to time to embody the Association's policies and goals for the Park and to guide Owners in obtaining approvals hereunder. The Board of Directors of the Association may prospectively revise such Development Guidelines or other written guidelines from time to time following thirty (30) days notice to Owners of Property subject to this Declaration and affected by any such revisions, and thereafter any approvals required hereunder shall be guided by such revised guidelines.

(c) Approval Procedures. The Board of Directors of the Association in its sole discretion may establish plan approval procedures in order to achieve the desired quality of site development through review of plan submissions. Such procedures may, but need not necessarily, include a pre-design conference whereby, prior to submission of any plans, the Owner, lessee, licensee or other occupant of the site or its authorized agent and its representatives for the various design disciplines involved, meets with the Board of Directors of the Association, or its designated review committee to discuss the requirements of this Declaration with respect to any proposed improvement of said site. In addition, such procedures may, but need not necessarily include a requirement that the Owner, lessee, licensee or other occupant of the Site or its authorized agent submit a preliminary plan, working drawings, a landscape plan, and a use or operation plan or any other plans and specifications for review and approval by the Board of Directors of the Association at any time or times during the planning and development of the Site.

(d) Result of Inaction. If the Board of Directors of the Association fails to either approve or disapprove in writing any plans submitted pursuant to this Article within sixty (60) days after the same have been submitted to the Board of Directors of the

Association, it shall be conclusively presumed that the Board of Directors of the Association has approved said plans and specifications; provided, however, that if within said sixty (60) day period, the Board of Directors of the Association gives written notice of the fact that a reasonable additional period not to exceed sixty (60) additional days is required for the approval of such plans and specifications, there shall be no presumption that the same are approved until the expiration of the extended period set forth in said notice.

(e) Review Fee. A reasonable review fee shall be paid to the Board of Directors of the Association at each such time that any plans, specifications or other matters are submitted for approval pursuant to this Declaration. The Board of Directors of the Association shall from time to time establish the amount of such review fee.

(f) Limitation of Liability. The approval by the Board of Directors of the Association of any plans or modifications to plans shall not constitute a warranty or representation by the Declarant, the Association, or the Board of Directors of the adequacy, code compliance, technical sufficiency or safety of the improvements described in such plans, as the same may be modified; and the Declarant, Association, and Board of Directors shall have no liability whatsoever for the failure of the plans or the improvements to comply with applicable building, zoning or other codes, laws and ordinances or to comply with sound engineering, design or construction practices. In addition, in no event shall the Declarant, Association and Board of Directors have any liability whatsoever to any Owner, Mortgagee, contractor or other party for any costs or damages (consequential or otherwise) that may be incurred or suffered on account of the approval, disapproval or conditional approval of any plans

(g) Starbucks Parcel. Notwithstanding anything set forth above, provided that the plans and specifications for the Starbucks Parcel are approved by Calhoun County, South Carolina, the Starbucks Parcel shall be exempt from the foregoing approval process for a period of six (6) years from the date this Declaration is recorded.

6.02 Actions Following Approval.

(a) Proceeding with Work. Upon receipt of the Board of Directors' approval of any improvements pursuant hereto, the Owner, lessee, licensee or other occupant of the Site or its authorized agent to whom such approval is given shall be entitled to construct such improvements as are permitted pursuant to the Board of Directors' approval, and shall, as soon as practicable, satisfy all conditions of such approval and diligently proceed with the commencement and completion of all approved construction, refinishing, alterations, excavations or other site improvement. In all cases, such work shall be commenced within one (1) year from the date of such approval, or if work is performed which unreasonably deviates from such approval, or if there is other failure to comply with this Section, then any approval given pursuant to this Declaration shall be deemed revoked. The Board of Directors may, upon request made prior to the expiration of said one (1) year period, extend, in writing, the time for commencing work, or the Board of Directors may otherwise waive, in writing, the failure to comply with this Section.

(b) Completion of Work. In any event, construction, reconstruction or alteration of any such improvement shall be completed within two (2) years after the commencement thereof, except for so long as such completion is rendered impossible or would result in great hardship due to strikes, fires, national emergencies, natural calamities or other reasons of force majeure beyond the control of Owner, lessee, licensee or the occupant on the Site or its authorized agent. Failure to comply with this Section shall constitute a breach of this Declaration and subject the defaulting party or parties to all enforcement procedures set forth in this Declaration and any other remedies provided by law or in equity.

6.03 Liability. Neither the Declarant, the Association, the Board of Directors, the Members, nor their representatives shall be liable for any damage, loss or prejudice suffered or claimed on account of (a) the approval or disapproval of any plans, drawings and specifications whether or not defective; (b) any construction or performance of any work whether or not pursuant to approved plans, drawings and specifications; or (c) the improvement or development of any property within the Park.

6.04 Permitted Uses. No operation or use of Property within the Park shall be permitted until the plans and specifications therefor have been submitted and approved in writing by the Board of Directors of the Association pursuant to the procedures in this Article 6. Unless otherwise specifically prohibited herein, any industrial or commercial operation and use will be permitted if it is performed or carried out entirely within a building that is designed and constructed so that said enclosed operations and uses do not cause or produce a nuisance to adjacent sites, such as but not limited to, unreasonable vibration, sound, electro-mechanical disturbances, radiation, air or water pollution, dust or emission odors, toxic or non-toxic matter. Subject to Section 6.05(d)(i) below, a coffee roasting, processing, manufacturing, storage, packaging, warehousing and distribution facility and related improvements for activities incidental thereto shall be considered a permitted use under this Section. All lighting is to be reasonably shielded from adjacent sites. The Association may restrict, control or prohibit any use or uses of any site subject to this Declaration, which the Association in its sole discretion deems to create a nuisance to adjacent sites or which the Association deems offensive or detrimental to any other property subject to this Declaration.

6.05 Prohibited Uses.

(a) General. The following operations and uses shall not be permitted in the Park: labor camps; mining, boring, drilling, removal, or any other exploitation of subsurface natural resources, except that small-scale boring activities in connection with environmental or geotechnical due diligence studies conducted in accordance with applicable standards shall be permitted; coal mining or processing plants or facilities; smelting of iron, tin, zinc or other ores; refining of petroleum or of petroleum products; fortune telling; dry cleaning plants; sales lots for prefabricated structures; tire recapping plants; farm and heavy construction equipment and implement sales, leasing, service, storage and similar activities; truck terminals; lumber, planing or sawing mills; pulpwood yards; taxidermy; drive-in theaters; cemeteries (public and private); commercial poultry, livestock and swine production; cattle feeder lots or fur-bearing animal rearing or breeding farms; animal kennels; abattoirs; junk yards; bailing, processing of scrap metal, glass, paper or rags, except that recycling or trash compacting activities by individual

Owners incidental to normal business operations shall be permitted if such activities otherwise comply with this Declaration; processing of wrecked or junked motor vehicles; quarries; race tracks; raceways or dragstrips; truck stops; utility and recreational trailer sales and rentals; sanitary landfills or garbage disposal areas; sewage treatment facilities, excluding those required by applicable law for the on-site pre-treatment, or similar treatment or retention, of wastewater produced by an individual Owner, provided however, it does not otherwise constitute a non-permitted use, and further provided that such treatment facilities are designed, constructed, and maintained so as to limit the impact to adjacent Lots; trailer or mobile home parks; "mini-warehouses"; adult entertainment establishments, massage parlors or similar business operations or other unsightly, obnoxious or objectionable businesses which: a) may produce and emit substantial gases, smokes, or odors, including but not limited to those produced by signs that would be objectionable in a high quality, environmentally-controlled commercial development, or would interfere with the business operations of an Owner, b) would emit excessive amounts of dust, sweepings, dirt or cinders into the atmosphere so as to interrupt the quiet use and enjoyment of any other Lot, or discharge liquid, solid wastes or other harmful matter into any stream, river, pond, lake or other body of water which, in the opinion of the Association, may adversely affect the health, safety, comfort of, or the intended property use by, persons within the area, or c) would cause or create a nuisance.

(b) Environmental Provision. No Lot or other portion of the Property shall be used for any business or activity the operation of which is known, or likely to, result in the generation, storage, disposal, discharge or emission of any hazardous substance, material, pollutant or waste (collectively, "Hazardous Substances"), including, but not limited to, (i) any asbestos or insulation or other material composed of or containing asbestos, or (ii) any hazardous, toxic or dangerous substance, material, pollutant or waste defined as such in (or for the purposes of) the Comprehensive Environmental Response Compensation and Liability Act, as amended, 42 U.S.C. § 9061 et seq., the Resource Conservation and Recovery Act, 42 U.S.C. § 6901 et seq., the Clean Air Act, 42 U.S.C. § 7401 et seq., the Clean Water Act, 33 U.S.C. § 1251 et seq., the Refuse Act, 33 U.S.C. § 401 et seq., the Toxic Substances Control Act, 15 U.S.C. § 2601 et seq., and the Safe Drinking Water Act, 15 U.S.C. § 2601 et seq., any so-called state or local "Superfund" or "Superlien" laws, or any other federal, state or local statute, law, ordinance, code, rule, regulation, order or decree regulating, relating to, or imposing liability or standards of conduct concerning any hazardous, toxic or dangerous substance, material, pollutant or waste, including radioactive materials. Without limiting the foregoing in any way, those businesses or activities the operation of which requires the use of Hazardous Substances during the normal course of operations shall not be prohibited due to such uses, provided that any such Hazardous Substances are used, stored and disposed of in accordance with all applicable laws, rules, and regulations, and those businesses or activities within SIC Code 2095 shall be permitted.

(c) Power Plants and Power Lines.

(i) Power Plant Substations. To the extent permitted by applicable law, and subject to the power of eminent domain, the placement of power plant substations and power generation stations within the Park shall be prohibited. Notwithstanding the foregoing, power substations used only for the transmission and not generation of electricity shall be permitted in the southeast corner of the Park immediately adjacent to any power substation that existed in such location as of June 30, 2007.

(ii) Overhead Power Lines. To the extent permitted by applicable law, and subject to the power of eminent domain, the placement of power transmission lines (x) on, over or under any Lot in order to service another Lot or (y) anywhere in the Park within three hundred (300) feet of any property line boundary of the Starbucks Parcel shall be prohibited. All power distribution lines within the Park shall be underground. Notwithstanding the foregoing, the overhead power lines along the rear of the Park existing as of June 30, 2007, shall be permitted to remain; provided, however, that no overhead power lines will cross any other property located within in the Park to connect with such overhead power lines located at the rear of the Park.

(d) Non-Starbucks Parcels. In addition to the prohibited uses set forth in Sections 6.05(a), (b) and (c) above, the Non-Starbucks Parcels shall not be used for the following uses:

(i) Use Restriction. All Owners and lessees of Non-Starbucks Parcels within the boundaries of the Park, as may be expanded from time to time, shall be prohibited from engaging in the business of coffee bean roasting, manufacturing, packaging, distribution or processing on any portion of the Park without the prior written consent of the Owner of the Starbucks Parcel.

(ii) Odor. In recognition of the fact that coffee beans absorb odor readily, and that such odor absorption can negatively impact the quality of Starbucks' product, any Owner or lessee of any portion of any Non-Starbucks Parcels in the Park shall be prohibited from conducting or permitting any use or operation which does or could reasonably be expected to emit any odor which could interfere with or adversely affect Starbucks' planned operations on the Starbucks Parcel.

6.06 Nuisances. No rubbish or debris of any kind shall be permitted to accumulate upon or adjacent to any Site other than normal accumulation and storage of trash in connection with a confined and reasonably prompt trash disposal or pickup program, and no odors shall be permitted to arise therefrom so as to render any Site or portion thereof unsanitary, unsightly, offensive or detrimental to any of the Property in the vicinity thereof or to the occupants thereto. No nuisance shall be permitted to exist or operate upon any Site so as to be offensive or detrimental to any of the Property in the vicinity thereof or to its occupants.

6.07 Repair of Structures. No structure or improvement upon any Site shall be permitted to fall into disrepair, and each such structure or improvement shall at all times be kept in good condition and repair and adequately appointed or otherwise finished.

6.08 Variance. Upon good cause being shown by any Owner of Property as determined by the Association, the Association hereunder is hereby granted the discretion and right to permit a variance from any of the requirements of this Declaration in order to prevent any owner from experiencing an unreasonable hardship resulting from the purpose, size or topography of a particular Lot.

6.09 Land Uses. All land uses on the Property are and shall be subject to the Development Standards listed in Article 7 of this Declaration.

ARTICLE 7

DEVELOPMENT STANDARDS

7.01 Setbacks. No building shall be located on any one or more Lots nearer to the Front, Side or Rear Lot Lines than the minimum setback set forth below:

- (a) Front (or fronts, in the case of a corner lot): Seventy (70) feet
- (b) Sides (including all non-front, in the case of a corner lot): Thirty (30) feet
- (c) Rear (where applicable, as in the case of a non-corner lot): Thirty (30) feet.

7.02 Building Height. No improvement, including, but not limited to, buildings, building appurtenances, water towers, standpipes, penthouses, elevators or elevator equipment, stairways, ventilating fans or similar equipment required to operate and maintain any building, fire or parapet walls, skylights, tanks, cooling or other towers, wireless radio or television masts and antennas, or flagpoles shall exceed heights prescribed by the zoning ordinance of Calhoun County, or by applicable law. Notwithstanding the foregoing, improvements having a maximum height of one hundred fifty (150) feet above grade shall be permitted, provided that such improvements obtain all required approvals from the County.

7.03 Signs. Subject to Section 7.03(g) below, no Sign shall be permanently erected or maintained on the Property except in conformity with the requirements of Calhoun County and the following:

- (a) Signs visible from the exterior of any building may be lighted, but no Signs or any other contrivance shall be devised or constructed so as to rotate, gyrate, blink or move in any animated fashion.
- (b) Signs shall be restricted to advertising only the person, firm, company or corporation operating the use conducted on the Site.
- (c) A Sign advertising the sale or lease of the Site shall be permitted in addition to the other Signs listed in this section. Said Sign shall conform to a size, design and color scheme to be supplied by the Association.
- (d) One (1) construction Sign no larger than four (4) feet by eight (8) feet denoting the architects, engineers, contractor and other related subjects shall be permitted upon the commencement of construction. Said Sign shall conform to applicable zoning ordinances and regulations.
- (e) A Future Tenant Identification or "Future Home Of" Sign listing the names of future tenants, the responsible agent or realtor, and identification of the Park shall be permitted. Said Sign shall conform to applicable zoning ordinances and regulations.
- (f) All signs shall conform to the setbacks imposed by applicable law.

(g) Notwithstanding the restrictions set forth in 7.03(a)-(f) above, the Owner of the Starbucks Parcel shall be permitted and have the right to install wall, monument, and/or building signage, including signage on the silos, on the Starbucks Parcel to the maximum extent permitted by law, and the right to install additional signage, including but not limited to, monument signage at the Park entrance, in other locations within the Park, all at locations and in forms determined by the Owner of the Starbucks Parcel in its sole discretion, provided, however, that the installation of such signage is performed in accordance with any applicable Calhoun County rules or regulations governing such signage. In addition to the foregoing signage, if any Park signage is installed which lists any Park user's name, the Owner of the Starbucks Parcel shall have the right to have its name listed on such signage in at least the size equivalent to such other user and at no cost to the Owner of the Starbucks Parcel. In addition, the Association shall be prohibited from changing the name of the Park or the name of a street within or near the Park to incorporate the name of any competitor of the Owner of the Starbucks Parcel, who, as one of its primary business purposes, is in the coffee industry.

7.04 Parking. Each Owner shall provide adequate off-Street parking to accommodate all parking needs of the Site. On-street parking shall be prohibited, except during periods of actual construction or repair which makes parking on-Site impracticable, in which event vehicles shall be parked in accordance with all applicable laws and in such a manner so as to minimize the disruption to access within the Park and to the business operations of other Owners within the Park. Required off-street parking shall be provided on the Site of the use served, or on a contiguous Site. If parking requirements increase as a result of a change in use or number of employees, additional off-street parking may be required by the Association to satisfy the intent of this Article, which shall be at the sole expense of the Owner, lessee or occupant of the Site to be benefited by such additional parking. The location, number and size of parking spaces shall conform to the applicable zoning ordinances and governmental regulations of Calhoun County.

7.05 Landscaping.

(a) All landscaping, walkways, driveways and parking areas, loading and storage areas and other exterior areas upon any Site shall at all times be maintained in good condition and repair and kept free and clear of all weeds, trash and other debris. The Association in its discretion may hire contractors to maintain the exterior areas which the Owner, lessee or occupant of a Site after written notice has failed to restore to good condition and repair. The cost of such repair plus ten percent (10%) for handling such repair shall be billed to the Owner or occupant of the building on such Site and shall be paid within thirty (30) days from the date of such billing.

(b) The area of any Site and the area between the Site property line and Street curb line or ditch shall be landscaped by the Owner of such Site, except for areas covered by buildings, paved areas and sidewalks.

(c) All trees now standing on any Site within fifty (50) feet of any front, side or rear property line shall be left standing as a permanent, natural buffer zone. It is the intent of this Declaration to establish between Sites natural, wooded buffers to a total depth of one hundred (100) feet where such buffers now exist. Notwithstanding the foregoing, such fifty (50) foot buffer

shall not be required along the rear property lines adjacent to the three hundred (300) foot buffer along the western edge of the Park. Nothing in this subsection shall be deemed to prevent the removal of any unhealthy or diseased trees, or trees that pose a safety concern.

(d) All landscaping required hereunder or otherwise to be provided on any Site shall be completed within ninety (90) days after the substantial completion of construction of any buildings or structures to be constructed on the Site.

7.06 Loading Areas. Loading and receiving areas shall not be permitted in the front yard (defined as the land area between the principal street or roadway on the Property and the building or buildings on a Site) of any Site; provided, however, the Board of Directors of the Association may waive this restriction based upon the needs or requirements of an Owner. In all events, landscaped visual barriers shall be erected so as to screen loading and receiving areas from all Streets.

7.07 Storage Areas. Unless visually screened in a manner acceptable to the Board of Directors of the Association, no materials, supplies, equipment, finished or semi-finished products or articles of any nature shall be stored or permitted to remain on any Site outside of any structure located on the Site. Temporary or portable self storage structures shall be prohibited. Waste and rubbish storage facilities shall be properly screened from Streets and adjacent Property. All waste and rubbish storage facilities shall be subject to the review and approval of the Board of Directors of the Association.

7.08 Utilities. All permanent utility connections, including all electrical and telephone connections and installation of wires to any buildings or structures located on a Site shall be made underground from the nearest available power or utility source.

7.09 Exterior Lighting. All exterior lighting shall be compatible and harmonious throughout the Property and shall be in keeping with the exterior design of the building on the Site in question.

7.10 Building Regulations. The exterior walls of all buildings shall be of such materials, design and colors as may be approved in writing by the Association. No canopies with visible wall hangers will be permitted. The design of canopies shall be in keeping with the design of buildings, including color coordination, and must be approved in writing by the Association.

7.11 Storm Drainage. Plans and specifications for any Site shall include a detailed storm drainage plan indicating quantity and direction of storm water runoff, pipe size and location, catch basins, headwalls, ditches, swales and other drainage structures or improvements to be completed by the Owner. All storm drainage shall be carried to designated drainage easements and in no case shall any storm drainage from any Site be carried across the Owner's property line onto another Site except when confined within specified drainage easements or in order to access a drainage easement. Drainage plans shall be subject to the approval of the Association and shall be designed to coordinate with the drainage of the entire Park. No drainage of a Site shall be constructed which would prohibit the proper drainage of other Sites within the Park.

7.12 Nuisances. No portion of the Property shall be used in such a manner as to create an unreasonable nuisance to adjacent Sites, such as but not limited to vibration, sound, electro-mechanical disturbance and radiation, radiation, air or water pollution, dust emissions of odorous, toxic or noxious matter.

7.13 Starbucks Parcel. Notwithstanding anything set forth above, upon the approval of the plans and specifications for the Starbucks Parcel by Calhoun County, and provided that the construction of the improvements on the Starbucks Parcel conform with all applicable laws, rules, and regulations, such improvements shall be deemed to comply with the provisions set forth in this Article 7.

ARTICLE 8

ENFORCEMENT

8.01 Abatement and Suit. Violation or breach of any restriction and covenant herein contained shall give to the Association, and every other Owner of Property for whose benefit these restrictions and covenants are expressly made, the right to enter upon the Property upon or as to which said violation or breach exists and to summarily abate and remove, at the expense of the Owner thereof, any structure, thing or condition that may be or exist thereon contrary to the intent and the meaning of the provisions hereof, or to prosecute a proceeding at law or in equity against the person or persons who have violated or are attempting to violate any of these restrictions and covenants to enjoin or prevent them from doing so, to cause said violation to be remedied or to recover damages for said violations.

8.02 Deemed to Constitute a Nuisance. The result of every action or permission whereby any restriction or covenant herein contained is violated in whole or in part is hereby declared to be and to constitute a nuisance, and every remedy allowed by law or equity against an Owner, either public or private, shall be applicable against every such result and may be exercised by the Association or by any Owner of Property for whose benefit these restrictions and covenants are made.

8.03 Attorneys' Fees. In any legal or equitable proceeding for the enforcement or to restrain the violation of this Declaration or any provision hereof, the losing party or parties shall pay the attorneys' fees of the prevailing party or parties, including, without limitation the attorneys' fees of the Association, in such amount as may be fixed by the court in such proceedings. All remedies provided herein or at law or in equity shall be cumulative and not exclusive.

8.04 Inspection. The Association or its designated representative may from time to time at any reasonable hour or hours, enter and inspect any Property subject to these restrictions to ascertain compliance therewith.

8.05 Failure to Enforce Not a Waiver of Rights. The failure of the Association or any other Owner of Property to enforce any restrictions herein contained shall in no event be deemed

to be a waiver of the right to do so thereafter, nor of the right to enforce any other restriction or covenant.

8.06 Injunctive Relief. By purchasing a Lot, each Owner acknowledges that its potential violation of the covenants and restrictions set forth in this Declaration may prove to make a damage claim impossible and hereby agrees that injunctive relief will be appropriate, and will not oppose the imposition of an injunction.

8.07 Lien Rights. As set forth otherwise herein and subject to Section 5.01 above, there is reserved to the Association, the right to create operating and capital improvement assessments, and there is hereby created a lien against each Lot, in favor of the Association, for such operating expenses, capital investments properly imposed and expenses for enforcement of the terms of this Declaration against any Owner.

ARTICLE 9

TERM, TERMINATION AND MODIFICATION

9.01 Term. This Declaration, every provision hereof and every covenant and restriction contained herein shall continue in full force and effect for a period of thirty (30) years from the date hereof, unless otherwise specifically provided. Notwithstanding the foregoing, the Term of this Declaration shall automatically renew for additional thirty (30) year periods unless the Owners holding two-thirds (2/3) of the Class A Votes elect to terminate this Declaration, in which event the Association shall record a notice of termination of this Declaration in the land records of Calhoun County, South Carolina.

9.02 Termination and Modification. This Declaration, or any provision hereof, or any covenant or restriction contained herein, may be terminated, extended, modified or amended, as to the whole of said Property or any portion thereof, only with the written consent of the Owners of seventy-five percent (75%) of the Property in the Park, provided, however, that so long as any single Owner owns at least twenty percent (20%) of the Property, no such termination, modification or amendment shall be effective without the written approval of such Owner. No such termination, modification or amendment shall be effective until a proper instrument in writing has been executed and acknowledged and recorded in the land records of Calhoun County, South Carolina.

ARTICLE 10

MISCELLANEOUS PROVISIONS

10.01 Constructive Notice and Acceptance. Every person who now or hereafter owns or acquires any right, title or interest in or to any portion of the Property is and shall be conclusively deemed to have consented and agreed to every covenant, condition and restriction contained herein, whether or not any reference to this Declaration is contained in the instrument by which such person acquired an interest in said Property.

10.02 Mutuality; Reciprocity; Runs With the Land. Except as otherwise provided herein, all restrictions, covenants and agreements herein contained are made for the direct, mutual and reciprocal benefit of each and every part and parcel of said Property; shall create mutual, equitable servitudes upon each parcel in favor of every other parcel; and shall create reciprocal rights and obligations between the respective owners of all parcels of the Property and privity of contract and estate between all grantees of said parcels, their heirs, successors and assigns. In addition, all restrictions herein contained shall operate as covenants running with the land for the benefit of the Property and shall inure to the benefit of all grantees of said land, their heirs, successors and assigns, and shall apply to and bind the grantees of any and all parcels of the Property, their heirs, successors and assigns.

10.03 Paragraph Headings. Paragraph headings where used herein, are inserted for convenience only and are not intended to be a part of this Declaration or in any way to define, limit or describe the scope and intent of the particular paragraphs to which they refer.

10.04 Effect of Invalidation. If any provision of this Declaration is held to be invalid by any court, the invalidity of such provision shall not affect the validity of the remaining provisions hereof.

10.05 Annexation. Declarant may at any time or from time to time during the pendency of these restrictions add property to the Property which is covered by this Declaration, and upon the recording of a Certificate of Annexation of property containing the provisions set forth in Section 10.06 of this Declaration, the covenants contained in this Declaration shall apply to the annexed land in the same manner as if it were originally covered by this Declaration; and thereafter, the rights, powers and responsibilities of the parties to this Declaration with respect to the annexed land shall be the same as with respect to the original land, and the rights, privileges, duties and liabilities of the Owners, lessees and occupants of parcels within the annexed land shall be the same as in the case of the original Property.

10.06 Certificate of Annexation. The Certificate of Annexation of real property referred to in Section 10.05 above shall contain the following provisions:

- (a) A reference to this Declaration, which reference shall state the date of recording hereof and the book or books of the records of Calhoun County, South Carolina, and page numbers where this Declaration is recorded;
- (b) A statement that the provisions of this Declaration shall apply to the annexed property in the manner set forth in Section 10.06 of this Declaration;
- (c) A sufficient legal description of the annexed real property;
- (d) Any additional or specific restrictive covenants which may be applicable solely to the annexed real property; and
- (e) Such additional matters as the Declarant may desire to state in the Certificate.

10.07 Project Name. The name of the Property shall be the Calhoun County I-26 Industrial Park or such other name as may be chosen by the Association.

10.08 Choice of Law. This Declaration shall be governed by the laws of the State of South Carolina.

10.09 Conflict. If any conflict arises between the provisions of this Declaration and any other document affecting the property subject to this Declaration, the provisions of this Declaration shall control.

10.10 Declarant's Representations and Warranties. Declarant hereby represents and warrants that as of the date of this Declaration, Declarant owns the entire Park and has the authority to execute this Declaration.

{Signature follows}

IN WITNESS WHEREOF, the undersigned has executed this Declaration on the date first hereinabove written.

CALHOUN COUNTY, SOUTH CAROLINA


David K. Summers, Jr., Chairman
Calhoun County Council

(SEAL)

ATTEST:


Donna R. Allread, Clerk
Calhoun County Council

SIGNED, SEALED AND DELIVERED
IN THE PRESENCE OF:


(Witness #1)


(Witness #2 or Notary)

STATE OF SOUTH CAROLINA)
)
COUNTY OF CALHOUN)

ACKNOWLEDGMENT

PERSONALLY APPEARED before me Steve Hamilton (Witness #1) and made oath that (s)he saw the within-named Calhoun County Officials, as the County's act and deed, sign, seal, attest, and deliver the within Declaration and that (s)he with

F. Lee Duckett, Jr. (Witness #2 or Notary) witnessed the execution thereof.

Steve Hamilton
(Witness #1)

SWORN to before me this
24th day of July, 2007.

[Signature] (SEAL)
Notary Public for South Carolina

My Commission Expires: 03-18-2015

EXHIBIT A

**EXHIBIT A TO DECLARATION
DESCRIPTION OF PROPERTY**

PKJ

All that certain piece, parcel or tract of land, the same being in Calhoun County, near Gaston, South Carolina, consisting of One Hundred Twenty and 4/10 (120.4) acres, the same being bounded on the WEST by lands now or formerly of Hill; on the NORTH by now or formerly of Witts; on the EAST by lands, now or formerly of Witts, and the western boundary line of right-of-way of Interstate I-26; and on the SOUTH by Sandy Run Creek, and being more particularly described as follows: Beginning at a point where Sandy Run Creek and the western boundary line of the right-of-way of Interstate Highway I-26 intersect, thence running on an average bearing of N75.25'E for a distance of One Thousand, Nine Hundred Fifty-Five (1,955') feet, more or less, to a point; thence, turning at an angle and running S21.30'E for a distance of Two Thousand Six Hundred Seventy-Three (2,673') feet, to a point; thence turning at angle and running N23.15'E for a distance of One Thousand Seventy-One and 4/10 (1,071.4') feet, more or less, to a point; thence, turning at an angle, and running N21.30'E for a distance of Two Hundred Twelve and 5/10 (212.5') feet, to a point; thence, turning at an angle and running S43.00'E for a distance of Two Thousand, Two Hundred Forty-Five (2,245') feet, more or less, to a point of the western boundary line of the right-of-way for Interstate Highway I-26; thence, turning at an angle and running in a straight line, and along said western boundary line said right-of-way for a distance of One Thousand Seven Hundred Forty (1,740') feet, more or less, to the point of beginning, all as shown on a plat prepared for Rachel Parris by Belter & Smith, Inc., Engineers and Surveyors, dated September 13, 1971, said plat being recorded as Plat No. 644 in the Office of the Clerk of Court for Calhoun County.

And

All that certain piece, parcel or tract of land, containing 274.13 acres, more or less, situate, lying and being in Calhoun County, South Carolina, being more fully shown and delineated on a survey by Michael R. Mills, PLS dated February 20, 2003, recorded in the Office of the Clerk of Court for Calhoun County as PLAT 4336 and PLAT 4337. Being bounded as follows: on the NORTHEAST by a frontage road (Sonitag Drive); SOUTHEAST by lands of Francis X. Scheper and by lands of Calhoun County; EAST by lands of Calhoun County; SOUTH by lands of James S. Jackson and Cindi A. Jackson, Sandy Run Creek being the line; SOUTHWEST by lands of Vernon C. Searles and Margaret E. Searles; SOUTHEAST again by lands of Vernon C. Searles and Margaret E. Searles; EAST again by lands of Vernon C. Searles and Margaret E. Searles; SOUTH again by S-9-41 (Valley Ridge Road); WEST by Lot 11 of Block "C" on aforesaid plat; SOUTH again by Lot 11, Lot 10 and Lot 9 of Block "C" on aforesaid plat; WEST again generally by Lots 1 through 8 of Block "C" on aforesaid plat; SOUTH and SOUTHEAST again by Lot 1 of Block "C" on aforesaid plat; WEST again by S-9-41 (Valley Ridge Road); NORTHEAST and NORTH by Lot 25 of Block "B" on aforesaid plat; WEST again generally by

OKK

Lots 1 through 25 of Block "B" on aforesaid plat; SOUTH and SOUTHEAST again by Lot 1 of Block "B" on aforesaid plat; WEST again by S-9-41 (Valley Ridge Road); NORTHEAST and NORTH again by lands of Brad and Sandra D. Williams; WEST again by lands of Brad and Sandra D. Williams; SOUTH, WEST and SOUTH again by lands of Brad and Sandra D. Williams; WEST again by Lots 1, 2 and 3 of Block "A" on aforesaid plat; SOUTHWEST by Lot 1 of Block "A" on aforesaid plat; NORTHWEST by lands of Wyman Boozer Realty; NORTHEAST by lands of Sweetwater of SC LLC and NORTHWEST again by lands of Sweetwater of SC LLC. The property having the metes, bounds, courses, and distances as shown on the aforesaid plat, which is incorporated herein by reference.

EXHIBIT B

Description of Starbucks Parcel

DKS
ALL THAT CERTAIN PIECE, PARCEL OR LOT OF LAND, SITUATE, LYING AND BEING IN THE STATE OF SOUTH CAROLINA, COUNTY OF CALHOUN, NEAR SANDY RUN AND BEING SHOWN ON A PLAT TITLED, BOUNDARY SURVEY PREPARED FOR PROJECT WILLIE, DATED APRIL 19, 2007, LAST REVISED 05-11-07, 2007 BY B.P. BARBER & ASSOCIATES, INC., SAID PLAT HAVING THE FOLLOWING METES AND BOUNDS TO WIT:

COMMENCING AT A 3/4" REBAR BEING THE SOUTHEAST CORNER OF LOT 25, SANDY CREEK SUBDIVISION AND PROCEEDING THROUGH PROPERTY OF CALHOUN COUNTY (300' BUFFER AREA) IN A DIRECTION OF N79°56'04"E FOR A DISTANCE OF 300.28' TO A 5/8" REBAR, THIS BEING THE POINT OF BEGINNING.

THENCE TURNING AND PROCEEDING THE FOLLOWING COURSES AND DISTANCES ALONG PROPERTY OF CALHOUN COUNTY (300' BUFFER AREA) IN A DIRECTION OF N07°34'53"W FOR A DISTANCE OF 957.84' TO A 5/8" REBAR, THENCE N10°25'46"W FOR A DISTANCE OF 204.51' TO A 5/8" REBAR, THENCE N16°06'41"W FOR A DISTANCE OF 210.91' TO A 5/8" REBAR, THENCE N21°44'51"W FOR A DISTANCE OF 205.10' TO A 5/8" REBAR, AND THEN N25°12'46"W FOR A DISTANCE OF 194.48' TO A 5/8" REBAR;

THENCE TURNING AND PROCEEDING ALONG PROPERTY OF CALHOUN COUNTY IN A DIRECTION OF N68°38'23"E FOR A DISTANCE OF 1,096.64' TO A 5/8" REBAR ON THE WESTERN RIGHT OF WAY OF A PROPOSED ROAD EXTENSION;

THENCE TURNING AND PROCEEDING ALONG THE WESTERN RIGHT OF WAY OF A PROPOSED ROAD EXTENSION IN A DIRECTION OF S27°47'14"E FOR A DISTANCE OF 1,697.86' TO A 5/8" REBAR;

THENCE TURNING AND PROCEEDING ALONG PROPERTY OF CALHOUN COUNTY IN A DIRECTION OF S66°41'26"W FOR A DISTANCE OF 1,559.35' TO A 5/8" REBAR, THIS BEING THE POINT OF BEGINNING. THIS PARCEL CONTAINS 50.136 ACRES OR 2,183,946 SQUARE FEET.

**EXHIBIT C
TO DECLARATION**

DKD
COMMENCING AT A 3/4" REBAR BEING THE SOUTHEAST CORNER OF LOT 25, SANDY CREEK SUBDIVISION AND PROCEEDING THROUGH PROPERTY OF CALHOUN COUNTY (300' BUFFER AREA) IN A DIRECTION OF N79°56'04"E FOR A DISTANCE OF 300.28' TO A 5/8" REBAR; THENCE TURNING AND PROCEEDING ALONG PROPERTY OF CALHOUN COUNTY (300' BUFFER AREA) AND ALONG PARCEL B THE FOLLOWING COURSES AND DISTANCES: IN A DIRECTION OF N07°34'53"W FOR A DISTANCE OF 957.84' TO A 5/8" REBAR, THENCE N10°25'46"W FOR A DISTANCE OF 204.51' TO A 5/8" REBAR, THENCE N16°06'41"W FOR A DISTANCE OF 210.91' TO A 5/8" REBAR, THENCE N21°44'51"W FOR A DISTANCE OF 205.10' TO A 5/8" REBAR, THENCE N25°12'46"W FOR A DISTANCE OF 194.48' TO A 5/8" REBAR, THIS BEING THE POINT OF BEGINNING. THENCE TURNING AND PROCEEDING ALONG PROPERTY OF CALHOUN COUNTY (300' BUFFER AREA) THE FOLLOWING COURSES AND DISTANCES: IN A DIRECTION OF N25°12'46"W FOR A DISTANCE OF 981.80' TO A 5/8" REBAR, THENCE N14°18'43"W FOR A DISTANCE OF 16.31' TO A 5/8" REBAR; THENCE TURNING AND PROCEEDING ALONG PROPERTY OF CALHOUN COUNTY IN A DIRECTION OF N66°41'26"E FOR A DISTANCE OF 1061.74' TO A 5/8" REBAR; THENCE TURNING AND PROCEEDING ALONG THE WESTERN RIGHT OF WAY OF A PROPOSED ROAD EXTENSION THE FOLLOWING COURSES AND DISTANCES: ALONG A CURVE TO THE LEFT IN A DIRECTION OF S21°32'23"E FOR A CHORD DISTANCE OF 153.01' (SAID CURVE HAVING AN ARC DISTANCE OF 153.31' AND A RADIUS OF 703.00') TO A 5/8" REBAR, THENCE S27°47'14"E FOR A DISTANCE OF 884.44' TO A 5/8" REBAR; THENCE TURNING AND PROCEEDING ALONG PARCEL B IN A DIRECTION OF S68°38'23"W FOR A DISTANCE OF 1,096.64' TO A 5/8" REBAR, THIS BEING THE POINT OF BEGINNING. THIS PARCEL CONTAINS 25.000 ACRES OR 1,089,007 SQUARE FEET.

ATTACHMENT B

CALHOUN COUNTY PROCUREMENT CODE SECTION 2-457

Sec. 2-457. Competitive sealed proposals.

(a) *Conditions for use.* When a purchasing department/division/unit determines in writing that the use of competitive sealed bidding is either not practicable or not advantageous to the county, a contract may be entered into by competitive sealed proposals subject to the provisions of section 2-458 and the ensuing regulations, unless otherwise provided for in this section. The county council may provide by regulation that it is either not practicable or not advantageous to the county to procure specified types of supplies, services, or construction by competitive sealed bidding.

(b) *Public notice.* Adequate public notice of the request for proposals shall be given by advertisement in at least one issue of a newspaper of general circulation.

(c) *Receipt of proposals.* Proposals shall be opened publicly in accordance with regulations of the county council. A tabulation of proposals shall be prepared in accordance with regulations promulgated by the county council and shall be open for public inspection after contract award.

(d) *Request for qualifications.* Prior to soliciting proposals, the procuring department/division/unit, acting through the chief procurement officer, may issue a request for qualifications from prospective offerors. Such request shall contain at a minimum a description of the goods or services to be solicited by the request for proposals and the general scope of the work and shall state the deadline for submission of information and how prospective offerors may apply for consideration. The request shall require information only on their qualifications, experience, and ability to perform the requirements of the contract. After receipt of the responses to the request for qualifications from prospective offerors, the prospective offerors shall be ranked from most qualified to least qualified on the basis of the information provided. Proposals shall then be solicited from at least the top two prospective offerors by means of a request for proposals. The failure of a prospective offeror to be selected to receive the request for proposals shall not be grounds for protest.

(e) *Evaluation factors.* The request for proposals shall state the relative importance of the factors to be considered in evaluating proposals but shall not require a numerical weighting for each factor. Price may but need not be an evaluation factor.

(f) *Discussion with offerors.* As provided in the request for proposals, discussions may be conducted with apparent responsive offerors for the purpose of clarification to assure full understanding of the requirements of the request for proposals. All offerors, whose proposals, in the procuring department/division/unit's sole judgment, needed clarification, shall be accorded such an opportunity.

(g) *Selection and ranking.* Proposals shall be evaluated using only the criteria stated in the request for proposals and there must be adherence to any weightings that have been previously assigned. Once evaluation is complete, all responsive offerors shall be ranked from most advantageous to least advantageous to the county, considering only the evaluation factors stated in the request for proposals. If price is an initial evaluation factor, award shall be made in accordance with subsection (h)(1) of this section.

(h) *Negotiations.* Whether price was an evaluation factor or not, the procuring department/division/unit, through the chief procurement officer, may, in its sole discretion proceed in any of the manners indicated below:

- (1) Negotiate price with the highest-ranked offeror. If a satisfactory price cannot be agreed upon, price negotiations may be conducted, in the sole discretion of the procuring department/division/unit, with the second, and then the third, and so on, ranked offerors to such level of ranking as determined by the procuring department/division/unit in its sole discretion;
- (2) Negotiate with the highest ranking offeror on matters affecting the scope of the contract, so long as the overall nature and intent of the contract is not changed. If a satisfactory contract cannot be negotiated with the highest ranking offeror, negotiations may be conducted, in the sole discretion of the procuring department/division/unit, with the second, and then the third, and so on, ranked offerors to such level of ranking as determined by the procuring department/division/unit in its sole discretion;
- (3) During the negotiation process as outlined in this subsection (h)(1) and (2), if a department/division/unit is unsuccessful in its first round of negotiations, it may reopen negotiations with any offeror with whom it previously negotiated;
- (4) If, after following the procedures set forth in this subsection, a contract is not able to be negotiated, the scope of the request for proposals may be changed in an effort to reduce the cost to a fair and reasonable amount, and all responsive offerors must be allowed to submit their best and final offers. In conducting negotiations, there must be no disclosure of any confidential information derived from proposals and negotiations submitted by competing offerors.

(i) *Award.* Award must be made to the responsive offeror whose proposal is determined in writing to be the most advantageous to the county, taking into consideration price and the evaluation factors set forth in the request for proposals, unless the procuring department/division/unit determines to utilize one of the options provided in subsection (h) of this section. The contract file shall contain the basis on which the award is made and must be sufficient to satisfy external audit requirements as determined by the county finance director.

(Ord. No. 2006-1, § 1.13, 9-11-2006)

Sec. 2-458. Negotiations after unsuccessful bidding.

When bids received pursuant to an invitation for bids under section 2-456 are considered unreasonable by the procuring department/division/unit, or are not independently reached in open competition, or the low bid exceeds available funds as certified by the finance director or administrator, and it is determined in writing by the chief procurement officer, the head of a purchasing department/division/unit, or the designee of either officer above the level of procurement officer, that time or other circumstances will not permit the delay required to resolicit competitive sealed bids, a contract may be negotiated pursuant to this section, provided that:

- (1) Each responsible bidder who submitted a bid under the original solicitation is notified of the determination and is given reasonable opportunity to negotiate;