

**AN ORDINANCE
AUTHORIZING AN AGREEMENT BETWEEN
CHARLESTON COUNTY AND CDM OF CHARLESTON, LLC**

WHEREAS, Charleston County, South Carolina (the "County") acting by and through the Charleston County Council ("County Council") is empowered pursuant to the South Carolina Local Government Development Agreement Act, Title 6, Chapter 31, Code of Laws of South Carolina, 1976, as amended (the "Development Agreement Act"), to enter into development agreements relating to property within the County; and

WHEREAS, on October 16, 2003, County Council adopted Ordinance Number 1268, finding that on October 24, 2003, Charleston County, South Carolina and CDM of Charleston, LLC ("CDM") and Carolina Park Associates, LLC ("Carolina Park Associates") entered into and executed a Development Agreement (the "Development Agreement") that complied with the Development Agreement Act, the Charleston County Comprehensive Plan, and the Charleston County Zoning and Land Development Regulations. County Council approved the terms of the Development Agreement in accordance with the Development Agreement Act, the Charleston County Comprehensive Plan, and the Charleston County Zoning and Land Development Regulations. The Development Agreement was recorded On October 27, 2003, in Book F-473, Page 145 in the Office of the Register of Mesne Conveyance for Charleston County; and

WHEREAS, on September 28, 2004, the Town of Mount Pleasant Town (the "Town") annexed the property that is the subject to the Development Agreement (the "Property") into the Town; and

WHEREAS, on November 30, 2004, County Council adopted Ordinance Number 1352 finding that CDM and Carolina Park Associates negotiated the annexation of the Property into the Town, that CDM and Carolina Park Associates agreed with the Town upon certain amendments to the Development Agreement, that the Development Agreement be amended to add the Town as a party, and approving the amendments agreed upon by CDM, Carolina Park Associates and the Town; and

WHEREAS, on or about December 20, 2004, CDM, Carolina Park Associates, and the County entered into an Amendment to Development Agreement (the "First Amendment") with the Town pursuant to Section 6-31-10 et seq., Code of Laws of South Carolina, 1976, as amended, relating to annexation of the Property by the Town which, among other things, grants to CDM, Carolina Park Associates and the Town the sole right to make further amendments to the Development Agreement provided that any further amendments relating to specific provisions regarding Commitments for Community Service Organizations, the School Campus Site and Library and Police, Fire and Emergency Medical Services Sites must be approved by the County. The First Amendment was recorded on December 20, 2004, in Book X-519, Page 649 in the Office of the Register of Mesne Conveyance for Charleston County; and

WHEREAS, on June 6, 2006, Carolina Park Associates and the Town entered into a Second Amendment to Development Agreement (the "Second Amendment") which, among other things, addresses certain issues concerning the development of the Property. The Second Amendment was recorded on June 8, 2006, in Book A-587, Page 332 in the Office of the Register of Mesne Conveyance for Charleston County; and

WHEREAS, on or about June 10, 2008, Carolina Park Associates and the Town

entered into a Third Amendment to Development Agreement (the "Third Amendment") which, among other things, amends certain access and egress connections with U.S. Highway 17. The Third Amendment was recorded on June 13, 2006, in Book H-662, Page 846 in the Office of the Register of Mesne Conveyance for Charleston County; and

WHEREAS, on September 2, 2010, CDM conveyed four (4) acres of property identified as tax map parcel identification number 598-03-00-114 in the Property of Carolina Park development to the County for the Library Site by Limited Warranty Deed dated September 2, 2010, and recorded February 9, 2011, in Book 0171, Page 035 in the Office of the Register of Mesne Conveyance for Charleston County, South Carolina. Subsequently, the Charleston County Library Board has determined the Library Site is inadequate to build a 4,000 square foot library facility with parking and future expansion; and

WHEREAS, on or about January 26, 2011, CDM and the Town entered into a Fourth Amendment to Development Agreement (the "Fourth Amendment") which, among other things, amends certain access, ingress and egress connections between the Property and Darrell Creek Trail. The Fourth Amendment was recorded on January 26, 2011, in Book 0168, Page 457 in the Office of the Register of Mesne Conveyance for Charleston County; and

WHEREAS, on April 4, 2011, the Town and CDM entered into a Termination of Development Agreement whereby the Town having assumed all of the rights and obligations of the County under the Development Agreement, the Town and CDM terminated the Development Agreement and enter into a new development agreement. The Termination of Development Agreement was recorded on April 5, 2012, in Book

0243, Page 768 in the Office of the Register of Mesne Conveyance for Charleston County, South Carolina.

WHEREAS, CDM has offered a six (6) acres in the Property of the Carolina Park development in exchange for the four (4) acres previously contributed, and in addition, CDM, the owner of the Carolina Park development, will contribute \$1,200,000, in lieu of other financial contributions previously required of CDM, to be paid in equal payments over a seven (7) year period to the County for construction, furnishings, operation costs, debt service payments for a new library facility, and further terms and conditions as agreed upon by the County and CDM, and the County has agreed to accept, which shall be designated as the Agreement Between the County of Charleston, South Carolina and CDM of Charleston, LLC (the "Agreement").

NOW, THEREFORE, be ordained it by Charleston County Council, in meeting duly assembled, as followed:

SECTION I. FINDINGS INCORPORATED

In addition to the recitals set forth above, which Charleston County Council hereby adopts as findings of fact, Charleston County Council specifically finds that the Agreement Between the County of Charleston, South Carolina and CDM of Charleston, LLC memorializes an agreement between the County and CDM whereby CDM will exchange (6) acres in the Property of the Carolina Park development for the four (4) acres previously contributed, and in addition, CDM will contribute \$1,200,000 to be paid in equal payments over a seven (7) year period to the County for construction, furnishings, operation costs, debt service payments for a new library facility, and further terms and conditions as agreed upon by the County and CDM.

SECTION II. AUTHORITY TO EXECUTE DOCUMENTS

A. The Chairman of Charleston County Council is authorized to execute and deliver the Ordinance on behalf of the County, and any other necessary documents or instruments incidental to the approval of this Ordinance .

B. The Charleston County Attorney shall approve the terms and provisions of the Agreement, and the Charleston County Administrator shall be authorized to execute and deliver the Agreement and any other necessary documents or instruments incidental to the approval of this Agreement on behalf of the County.

SECTION III. SEVERABILITY

If, for any reason, any part of this Ordinance is invalidated by a court of competent jurisdiction, the remaining portions of this Ordinance shall remain in full force and effect.

SECTION IV. EFFECTIVE DATE

This Ordinance shall become effective immediately upon approval of County Council following third reading.

ADOPTED and APPROVED in meeting duly assembled this 8th day of May, 2012.

CHARLESTON COUNTY, SOUTH CAROLINA

By: _____
Teddie E. Pryor, Sr.
Chairman of Charleston County Council

ATTEST:

By: _____
Beverly T. Craven
Clerk to Charleston County Council