

STATE OF SOUTH CAROLINA
COUNTY OF CHARLESTON

Road/Route **PORT ACCESS ROAD**
 File **10.037345A**
 Item
 Project **GEN8**
 PIN **37345 RD01**
 Tract **1/66**

) IN THE COURT OF COMMON PLEAS
) C/A NO. **2014-CP-10-3878**
)

FILED
 2014 JUN 18 PM 3:12
 JULIE J. ARMSTRONG
 CLERK OF COURT
 BY _____

South Carolina Department of Transportation,
 Condemnor,
 VS.
**Ashley II of Charleston, LLC, a South Carolina
 Limited Liability Company,**
 Landowner(s),
 and
Bank of America, N.A., Mortgagee,
 Other Condemnee(s).

CONDEMNATION NOTICE
 AND
 TENDER OF PAYMENT
 (JURY TRIAL DEMANDED)

TO: THE LANDOWNER(S) AND OTHER CONDEMNEE(S) ABOVE NAMED:

Pursuant to the South Carolina Eminent Domain Procedure Act, Section 28-2-10, et seq., Code of Laws of South Carolina, 1976, as amended, you are hereby notified as follows:

1. The South Carolina Department of Transportation (SCDOT) is the Condemnor herein and seeks to acquire the real property described herein for public purposes.
2. **Ashley II of Charleston, LLC, a South Carolina Limited Liability Company** is named as Landowner(s) in this action by virtue of **its** claim(s) of title (or other interests) as shown by that certain **deed dated June 27, 2003 from Roper Hospital North, Inc., a South**

Condemnation Notice and Tender of Payment (continued)

Carolina nonprofit corporation recorded July 15, 2003 in the RMC Office for Charleston County in Deed Book Z454, Page 005:

3. **Bank of America, N.A., Mortgagee is made a party of this action as "Other Condemnee(s)" by virtue of its claim of interest in that certain Mortgage recorded in the RMC Office for Charleston County in Record Book O026, Page 082.**

4. The following is a description of the real property subject to this action and a description of the interest sought to be acquired in and to the property by the Condemnor:

All that parcel or strip of land, to establish a right of way, containing 79,360 square feet (1.82 acres), more or less, and all improvements thereon if any, including rights of access as may be needed for controlled access facilities, owned by Ashley II of Charleston, LLC, a South Carolina Limited Liability Company shown as the "Area of Acquisition" on Exhibit A, attached hereto and made a part of hereof, between approximate survey stations 5767+36 Line "A" Survey and 5784+00 right Line "G" Survey and between approximate survey stations 5783+00 and 5790+00 right Line "G" Survey.

Tax Map Number 469-00-00-002.

5. The SCDOT is vested with the power of eminent domain pursuant to Section 57-5-320 and Section 28-2-60, Code of Laws of South Carolina, 1976, as amended.

6. The property sought herein is to be acquired for public purposes, more particularly for the construction of **FROM: I-26 (EXIT 216) TO: PROPOSED PORT TERMINAL.**

7. This action is brought pursuant to Section 28-2-240, Code of Laws of South Carolina, 1976, as amended.

8. The SCDOT has complied with the requirements set forth in Section 28-2-70(a), Code of Laws of South Carolina, 1976, as amended, by having the subject property appraised and making the appraisal available to the Landowner(s) where required by law, and certifies to the Court that a negotiated resolution has been attempted prior to the commencement of this action, or pursuant to Section 12-28-2940, Code of Laws of South Carolina, 1976, as amended, an appraisal of this property was not required.

9. Project plans may be inspected at the office of **Charleston County Maintenance Office, 6355 Fain Street, North Charleston, South Carolina 29418**, under PCN 37345 RD01, Tract 1/66, Port Access Road.

Condemnation Notice and Tender of Payment (continued)

10. THE CONDEMNOR HAS DETERMINED JUST COMPENSATION FOR THE PROPERTY AND RIGHTS TO BE ACQUIRED HEREUNDER, TO BE THE SUM OF **FOUR HUNDRED THOUSAND TWENTY SIX HUNDRED AND NO/100 DOLLARS (\$420,600.00)** AND HEREBY TENDERS PAYMENT THEREOF TO THE LANDOWNER(S).

11. Payment of this amount will be made to the Landowner(s) if within thirty (30) days of service of this Condemnation Notice, the Landowner(s) in writing requests payment, and agrees to execute any instruments necessary to convey to the Condemnor the property interests and rights described hereinabove. The Agreement and Request for Payment must be sent by first class certified mail with return receipt requested to South Carolina Department of Transportation, Director, Rights of Way, Post Office Box 191, Columbia, South Carolina 29202-0191 or delivered in person to South Carolina Department of Transportation, Director, Rights of Way, 955 Park Street, Columbia, South Carolina 29202. If no Agreement and Request for Payment is received by the Condemnor within the thirty (30) day period, the tender is considered rejected.

12. If the tender is rejected, the Condemnor has the right to file this Condemnation Notice with the Clerk of Court of the County where the property is situated and deposit the tender amount with the Clerk. The Condemnor shall give the Landowner(s) and Other Condemnee(s) notice that it has done so and may then proceed to take possession of the property interests and exercise the rights described in this Condemnation Notice.

13. AN ACTION CHALLENGING THE CONDEMNOR'S RIGHT TO ACQUIRE THE PROPERTY AND RIGHTS DESCRIBED HEREIN MUST BE COMMENCED IN A SEPARATE PROCEEDING IN THE COURT OF COMMON PLEAS WITHIN THIRTY DAYS OF THIS CONDEMNATION NOTICE, OR THE LANDOWNER(S) WILL BE CONSIDERED TO HAVE WAIVED THE CHALLENGE.

14. THE CONDEMNOR HAS ELECTED NOT TO UTILIZE THE APPRAISAL PANEL PROCEDURE. Therefore, if the tender herein is rejected, the Condemnor shall notify the Clerk of Court and shall demand a trial to determine the amount of just compensation to be paid. A copy of that notice must be served on the Landowner(s). That notice shall state whether the Condemnor demands a trial by jury or by the Court without a jury. The Landowner(s) has

the right to demand a trial by jury. The case may not be called for trial before sixty (60) days after the service of that notice, but it may thereafter be given priority for trial over other civil cases. The Clerk of Court shall give the Landowner(s) written notice by mail of the call of the case for trial.

15. THEREFORE, IF THE TENDER HEREIN IS REJECTED, THE LANDOWNER(S) IS ADVISED TO OBTAIN LEGAL COUNSEL AT ONCE, IF NOT ALREADY OBTAINED.

16. In the event the Landowner(s) accepts the amount tendered in this Notice, the attached Agreement and Request for Payment form should be signed and returned to the Condemnor within thirty (30) days of your receipt of this Notice.

HINCHEY, MURRAY & PAGLIARINI, LLC

BY 

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Attorneys for Condemnor (SCDOT)

Charleston, South Carolina

June 17, 2014

EXHIBIT "A"

Map showing proposed and existing right-of-way (R/W) for I-26 and surrounding roads (AZALEA DR, BAKER HOSPITAL BLVD, SPEISSEGGER DR, U.S. ROUTE 78, CSX RAILROAD). The map includes stationing (e.g., STA 5764+71.26, STA 5781+04.47) and line designations (LINE "A", LINE "H", LINE "G").

Area Calculations:

- OBTAIN FOR TR. 1 = 64,570 S.F. (1.48 AC.)
- OBTAIN FOR TR. 66 = 14,790 S.F. (0.34 AC.)
- TOTAL OBTAIN FOR TRS. 1 & 66 = 79,360 S.F. (1.82 AC.)**

Legend:

- SOUTH CAROLINA DEPARTMENT OF TRANSPORTATION
- AREA OF ACQUISITION FROM TRACTS 1 & 66 FILE 10.037345A
- SCALE 1"=200'
- ORIGINAL PREPARED 1/20/2010

OBTAIN FOR TR. 66 =
14,790 S.F. (0.34 AC.)

SOUTH CAROLINA DEPARTMENT OF TRANSPORTATION
AREA OF ACQUISITION FROM TRACTS 1 & 66 FILE 10.037345A
SCALE 1"=200' ORIGINAL PREPARED 1/20/2010

