

**STATE OF SOUTH CAROLINA**  
**COUNTY OF CHARLESTON**

Road/Route **Port Access Road**  
File **10.037345A**  
Item  
Project **GEN8**  
PIN **37345 RD01**  
Tract **27**

) IN THE COURT OF COMMON PLEAS  
) C/A NO. 2011-CP-10-7913  
)

FILED  
2011 OCT 27 PM 4:02  
JULIE J. ARMSTRONG  
CLERK OF COURT

South Carolina Department of Transportation,

Condemnor,

VS.

**Donna L. Works,**

Landowner(s).

CONDEMNATION NOTICE  
AND  
TENDER OF PAYMENT  
(JURY TRIAL DEMANDED)

TO: THE LANDOWNER(S) ABOVE NAMED:

**COPY TO : Rick Bybee, Attorney at Law, Smith, Bundy, Bybee, Barnett, P.C., Post Office Box 1542, Mount Pleasant, SC 29465**

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. **Donna L. Works** is named as Landowner(s) in this action by virtue of **her** claim(s) of title (or other interests) as shown by that certain deed dated **October 7, 2002 from Paulette Botten, recorded October 9, 2002 in the ROD Office for Charleston County in Deed Book L421, Page 763.**

3. 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:

Road/Route Port Access Road File 10.037345A County CHARLESTON Tract 27

Settled out of Court for \$200,000.00  
by Associate Counsel David Pagliarini.  
See legal letter dated 11/7/12

Paid by Check # 140083882  
Document # 3403136548

Condemnation Notice and Tender of Payment (continued)

All that parcel or strip of land to establish a right of way, containing 0.09 acre (3,936 SF) more or less, and being the entire tract of land, one story 1,407 SF brick veneer commercial building and being the entire tract and all improvements thereon if any, including rights of access as may be needed for controlled access facilities, owned by Donna L. Works, shown as the "Area of Acquisition" on Exhibit A, attached hereto and made a part hereof, between approximate survey stations 56+00 and 58+00 left and right of Port Access Road (r/w corridor) Mainline.

Tax Map Number 466-16-00-018

4. 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.

5. 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**.

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

7. 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.

8. Project plans may be inspected at the office of **South Carolina Department of Transportation, Charleston County Maintenance Office, 6355 Fain Street, North Charleston, South Carolina, 29418, under PIN 37345 RD01, Tract 27, Port Access Road (r/w corridor)**.

9. THE CONDEMNOR HAS DETERMINED JUST COMPENSATION FOR THE PROPERTY AND RIGHTS TO BE ACQUIRED HEREUNDER, TO BE THE SUM OF **ONE HUNDRED FORTY THOUSAND SEVEN HUNDRED AND NO/100 DOLLARS (\$140,700.00)** AND HEREBY TENDERS PAYMENT THEREOF TO THE LANDOWNER(S).

10. 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

Condemnation Notice and Tender of Payment (continued)

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 or delivered in person to Kenneth C. Feaster, Director, Rights of Way, South Carolina Department of Transportation, 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.

11. 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.

12. 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.

13. 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.

Condemnation Notice and Tender of Payment (continued)

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

15. 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: 

David G. Pagliarini

234 Seven Farms Drive, Suite 300

Charleston, South Carolina 29492

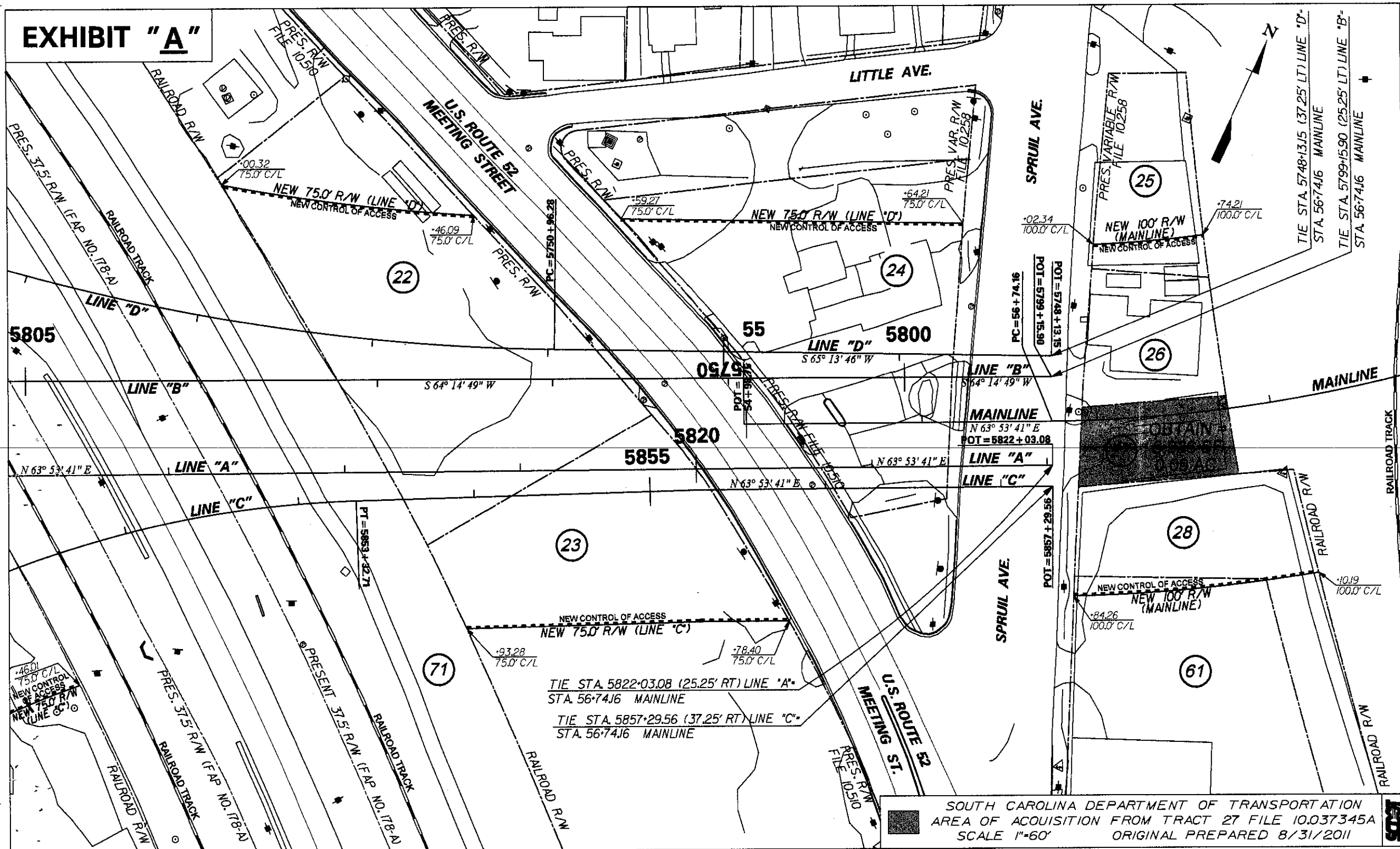
Telephone: (843) 971-8646

Attorney for Condemnor (SCDOT)

Charleston, South Carolina

October 26, 2011.

**EXHIBIT "A"**



STATE OF SOUTH CAROLINA

COUNTY OF CHARLESTON

) IN THE COURT OF COMMON PLEAS

) C/A NO. 2011-CP-10-7913

)

Road/Route Port Access Road

File 10.037345A

Item

Project GEN8

PIN 37345 RD01

Tract 27

South Carolina Department of Transportation,

Condemnor,

VS.

Donna L. Works,

Landowner(s).

2011 DEC 19 PM 2:39  
JULIE J. ARMSTRONG  
CLERK OF COURT  
ORD

FILED

WHEREAS, the Condemnor has a filed Condemnation Action against the Landowner with the Clerk of Court for Charleston County; and

WHEREAS, the Condemnor, pursuant to the South Carolina Eminent Domain Procedure Act has deposited the sum of \$140,700.00 (One Hundred Forty Thousand Seven Hundred and 00/100 Dollars) with the Clerk of Court, which represents the offer made by the Condemnor for just compensation; and

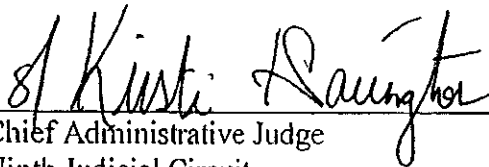
WHEREAS, the Landowner does not dispute the Condemnor's right to take the property however, there is a justiciable controversy as to just compensation; and

WHEREAS, the Condemnor agrees to allow the Landowner to "draw down" a portion of the offer of just compensation being held by the Clerk of Court, plus any accrued interest.

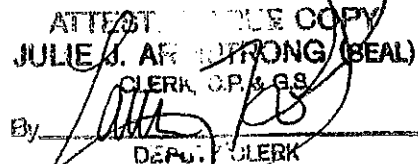
NOW, THEREFORE, on the Motion of the Attorney for the Landowner, with the consent of the Attorney for the Condemnor, consenting hereto,

IT IS ORDERED that the Clerk of Court for Charleston County pay the sum of \$5,000.00 (Five Thousand and 00/100 Dollars), plus accrued interest, to the Landowner.


AND IT IS SO ORDERED.


  
Chief Administrative Judge  
Ninth Judicial Circuit

Charleston, South Carolina  
Dec 12, 2011

ATTEST: TRUE COPY  
JULIE J. ANTHONY (SEAL)  
CLERK, CP & GS  
By   
DEPUTY CLERK

WE HEREBY CONSENT TO THE ABOVE ORDER:

  
Richard D. Bybee, Esquire  
Smith, Bundy, Bybee & Barnett, P.C.  
P.O. Box 1542  
Mt. Pleasant, SC 29465-1542  
(843) 881-1623  
ATTORNEY FOR LANDOWNER

  
David G. Pagliarini, Esquire  
Hinchee, Murray & Pagliarini, LLC  
234 Seven Farms Drive, Suite 300  
Daniel Island, South Carolina 29492  
(843) 971-8646  
ATTORNEY FOR CONDEMNOR

6  
Bonnie

STATE OF SOUTH CAROLINA  
COUNTY OF CHARLESTON

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South Carolina Department of Transportation,  
  
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) IN THE COURT OF COMMON PLEAS  
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) C/A NO.: 2011-CP-10-7913

FILED  
JAN -8 PM 4:28  
JULIE J. ARMSTRONG  
CLERK OF COURT

CONSENT ORDER  
OF DISMISSAL

THIS MATTER comes before this Court upon the motion of the Condemnor, South Carolina Department of Transportation, and with the consent of the parties, pursuant to Rule 41(a)(2) of the South Carolina Rules of Civil Procedure, for an Order to end this case because the case has been settled pursuant to the South Carolina Code of Laws section 28-2-40 (1987).

WHEREAS the Condemnor properly filed and served a Notice of Condemnation on or about October 26, 2011. At the time of filing, Condemnor deposited with the Clerk of Court the sum of One Hundred Forty Thousand Seven Hundred and No/100 Dollars (\$140,700.00); and

WHEREAS by Consent Order filed on December 19, 2011, the Landowner withdrew the amount of Five Thousand and No/100 dollars (\$5,000.00); and

WHEREAS the Condemnor and Landowner have agreed that Two Hundred Thousand and No/100 Dollars (\$200,000.00) is just compensation for the Condemnor's acquisition of the property more particularly described in the Condemnation Notice and Tender of Payment, such

RECEIVED  
JUN 19 2013  
R/W OFFICE

10/3  
[Signature]

ATTEST: A TRUE COPY  
JULIE J. ARMSTRONG (SEAL)  
CLERK, C.P., G.S. & F.C.  
By [Signature]  
DEPUTY CLERK



sum, less Five Thousand and No/100 dollars (\$5,000.00) received by the Landowner as a draw down, to be paid by SCDOT in trust to Smith Bundy Bybee and Barnett, P.C. Trust Account for the benefit of the Landowner; and

WHEREAS the Condemnor has agreed to extend the Landowner's vacate date to December 31, 2012; and

WHEREAS the Condemnor and Landowner have agreed that this case has been settled and therefore should be ended and stricken from the calendar, that the monies on deposit with the Clerk of Court, One Hundred Thirty Five Thousand Seven Hundred and No/100 Dollars (\$135,700.00), plus any accrued interest, should be returned to the SCDOT, that the SCDOT shall pay One Hundred Ninety Five Thousand and No/100 Dollars (\$195,000.00) as described above for the benefit of the Landowner and that the above-titled action be and is dismissed with prejudice.

IT IS THEREFORE ORDERED that this case be ended and stricken, with prejudice, from the calendar; that the Clerk of Court return the monies on deposit with the Court to the South Carolina Department of Transportation, c/o Ken Feaster, Director of Rights of Way, P.O. Box 191, Columbia, South Carolina 29202; that the Clerk of Court annotate a copy of the Condemnation Notice with the date and amount of settlement as **Two Hundred Thousand and No/100 Dollars (\$200,000.00)** and file the annotated Condemnation Notice with the Register of Mesne Conveyance for Charleston County, duly indexed, as provided by law for the recording and indexing of deeds, showing the transfer of the property to the Condemnor, such filing being exempt from filing fees as provided under South Carolina Code of Laws, section 12-24-40 (Cum. Supp. 1997).

[signature page follows]


243  
[Signature]

ATTEST: A TRUE COPY  
JULIE J. ARMSTRONG (SEAL)  
CLERK, C.P., G.S. & F.C.  
By [Signature]  
DEPUTY CLERK


AND IT IS SO ORDERED.

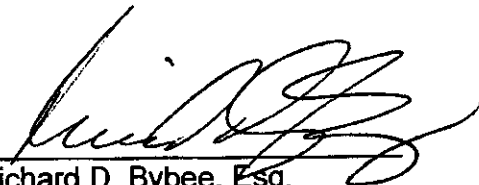
This 28<sup>th</sup> day of December, 2012.


In Charleston, South Carolina

  
Presiding Judge  
Ninth Judicial Circuit

WE CONSENT TO THE ABOVE ORDER:

  
David G. Pagliarini, Esq.  
Hinchee, Murray & Pagliarini, LLC  
234 Seven Farms Drive, Suite 300  
Daniel Island, SC 29492  
(843) 971-8646  
Attorneys for Condemnor

  
Richard D. Bybee, Esq.  
Smith, Bundy, Bybee & Barnett, P.C.  
P.O. Box 1542  
Mt. Pleasant, SC 29465  
(843) 881-1623  
Attorneys for Landowner

ATTEST: A TRUE COPY  
JULIE J. ARMSTRONG (SEAL)  
CLERK, C.P., G.S. & F.C.  
By   
DEPUTY CLERK



BP0307204

**STATE OF SOUTH CAROLINA**  
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## Condemnation Notice and Tender of Payment (continued)

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Road/Route Port Access Road File 10.037345A County CHARLESTON Tract 27

## Condemnation Notice and Tender of Payment (continued)

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Condemnation Notice and Tender of Payment (continued)

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HINCHEY, MURRAY & PAGLIARINI, LLC

BY

David G. Pagliarini

234 Seven Farms Drive, Suite 300

Charleston, South Carolina 29492

Telephone: (843) 971-8646

Attorney for Condemnor (SCDOT)

Charleston, South Carolina

October 20, 2011.

THIS CASE IS ENDED PURSUANT TO THE  
CONSENT ORDER OF DISMISSAL DATED 01/08/13  
IN THE AMOUNT OF \$200,000.00.

JULIE ARMSTRONG  
CLERK OF COURT, CHARLESTON COUNTY

BOOK

PAGE

Road/Route Port Access Road

File 10.037345A

County CHARLESTON

Tract 27

