

4
10 AW
QSN

STATE OF SOUTH CAROLINA) FIRST AMENDMENT TO THE FIRST
) AMENDMENT TO THE NEW
COUNTY OF BEAUFORT) RIVERSIDE CONCEPT PLAN

THIS FIRST AMENDMENT ("First Amendment") TO THE FIRST AMENDMENT TO THE NEW RIVERSIDE CONCEPT PLAN dated this day, April 25, 2012, is entered into by and between NEW RIVERSIDE, LLC, a South Carolina limited liability company (referred to herein as "Owner"), and the TOWN OF BLUFFTON, SOUTH CAROLINA ("Town"),

WITNESSETH:

WHEREAS, on the 9th day of March, 2005, New Riverside, LLC, a South Carolina limited liability company, and the Town of Bluffton entered into the First Amendment to the New Riverside Concept Plan which was recorded on the 22nd day of March, 2005, in the Office of the Register of Deeds for Beaufort County, South Carolina, in Book 2117 at Page 0135 ("First Amendment to the New Riverside Concept Plan"); and

WHEREAS, due to the dramatic down-turn in the economy and the lack of sales of residential dwelling units in New Riverside, the parties have agreed to amend Paragraph 6(c) and 7 of the First Amendment to the New Riverside Concept Plan;

NOW, THEREFORE, for Ten and 00/100 (\$10.00) and other good and valuable consideration, it is agreed as follows:

1. Paragraph 6(c) of the First Amendment to the New Riverside Concept Plan is hereby amended as follows:

6(c). a Municipal Improvement Development Fee (MIDF) in the amount of Nine Hundred and 00/100 (\$900.00) Dollars per residential dwelling unit in New Riverside (excluding Parcels 2 and 3) shall be paid to the Town for the purpose of municipal improvements including, but not being limited to, traffic and other infrastructure impacts, parks and open spaces within the Town. All MIDFs shall be paid at the time of issuance of a building permit for each residential dwelling unit within New Riverside for as long as the Town is in compliance with the terms hereof and those of the Development Agreements as amended by the Second Amendment to the Palmetto Bluff Development Agreement. The guaranteed minimum and the maximum amount to be paid to the Town as MIDFs shall be \$3.7 Million Dollars, and in the event that the Town has not collected \$3.7 Million Dollars (including any and all collections of MIDFs prior to this First Amendment) within fifteen (15) years from the date of this First Amendment, New Riverside, LLC, shall pay the difference between the total amount that has been collected and \$3.7 Million Dollars in complete satisfaction of all obligations hereunder. After the Town collects \$3.7 Million Dollars, any MIDFs collected thereafter shall be paid to New Riverside, LLC.

After Recording, please return to:
William W. Jones, Jr., Esquire
Jones Simpson & Newton
P.O. Box 1938
Bluffton, SC 29910 4900 417

BEAUFORT COUNTY SC- ROD
BK 03137 PGS 3125-3128
DATE: 04/26/2012 09:14:07 AM
INST # 2012023303 RCPT# 674918

2. Paragraph 7 of the First Amendment to the New Riverside Concept Plan is hereby amended as follows:

7. It is hereby specifically acknowledged and agreed that the agreements, restrictions, donations, grants, and MIDFs, as set forth in this First Amendment to the New Riverside Concept Plan, and the Second Amendment to the Palmetto Bluff Development Agreement, shall serve as mitigation assistance for the greater Bluffton area for present and future traffic infrastructure impacts within the Town arising as a result of the development of New Riverside and Palmetto Bluff. Notwithstanding any provisions to the contrary, if any, contained in the Development Agreements, from and after the date hereof, the Town may seek, request, or demand (directly or indirectly) any additional contributions of money, assessments, impact or other fees or development right concessions ("New Taxes") from New Riverside and/or Palmetto Bluff only if enacted pursuant to and in accordance with S.C. Code §6-31-80(B) (as amended) and the applicable Tax Enabling Ordinance or State Statute. This limitation on New Taxes shall not include site-specific project mitigation associated with specific projects that are within the jurisdiction of the Town and allowed under the appropriate Development Standards Ordinance applicable to New Riverside and Palmetto Bluff. For a period of fifteen (15) years from the date of this First Amendment, in the event the Town establishes any New Taxes within New Riverside or Palmetto Bluff in accordance with S.C. Code §6-31-80(B) (as amended) and the applicable Tax Enabling Ordinance or State Statute, the amount of any such New Taxes shall be offset against the MIDFs, thereby reducing the Nine Hundred and 00/100 (\$900.00) Dollars per Residential Dwelling Unit MIDF by the amount of the per unit or per lot New Taxes. In the event the Town enacts New Taxes during the fifteen (15) year period from the date of this First Amendment, the combination of such New Taxes and MIDF's will be guaranteed to be no greater than, but no less than, \$3.7 Million Dollars over the fifteen (15) year period from the date of this First Amendment (including any and all collections of MIDFs and/or new taxes prior to this First Amendment). New Riverside, LLC, Palmetto Bluff Development, LLC, and Palmetto Bluff Uplands, LLC, guarantee to pay the Town any shortfall from the \$3.7 Million Dollars once all MIDF's and/or New Taxes collected over the fifteen (15) year period from the date of this First Amendment (including any and all collections of MIDFs and/or new taxes prior to this First Amendment) are reconciled. New Riverside, LLC, Palmetto Bluff Development, LLC, and Palmetto Bluff Uplands, LLC, shall use best efforts to cooperate with the Town with regard to the establishment of any tax increment financing districts that include New Riverside, Palmetto Bluff, and other undeveloped portions of nearby properties within the Town to be served by the improvements funded by such tax increment financing district.

3. All terms and conditions of the First Amendment to the New Riverside Concept Plan not specifically amended by this First Amendment to the First Amendment to the New Riverside Concept Plan shall remain in full force and effect.

