

RESOLUTION NO.: R-2009-088

*Authorizing the Mayor to execute a Memorandum of Intent
between the South Carolina State Museum Foundation and City of Columbia*

BE IT RESOLVED by the Mayor and City Council this ___ day of _____, 2009,
that the Mayor is authorized to execute the attached Memorandum of Intent between the
South Carolina State Museum Foundation and the City of Columbia for the purposes therein
mentioned.

Requested by:

South Carolina State Museum Foundation

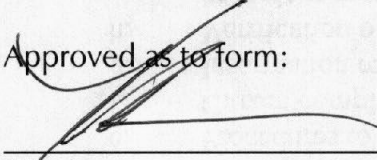
MAYOR

Approved by:

Interim City Manager

Approved as to form:

ATTEST:



City Attorney

City Clerk

Introduced:

Final Reading:

LEGAL DEPARTMENT DRAFT

STATE OF SOUTH CAROLINA)
)
)
)
COUNTY OF RICHLAND) MEMORANDUM OF INTENT
) BETWEEN THE SOUTH CAROLINA
) STATE MUSEUM FOUNDATION AND
) CITY OF COLUMBIA, SOUTH CAROLINA

THIS MEMORANDUM OF INTENT is made and entered into by and between the South Carolina State Museum Foundation (hereinafter "SCSMF") and the City of Columbia, South Carolina (hereinafter "City").

WHEREAS, City has imposed a local hospitality tax, as provided for by S.C. Code Ann. §6-1-700 et seq. (2004), as amended, the revenue from which must be used exclusively for the purposes set forth in S.C. Code Ann. §6-1-730 (2004), as amended; and,

WHEREAS, the SCSMF is a 501(c)(3) non-profit organization under the United States Internal Revenue Code, was created support and promote the purposes of the South Carolina State Museum, (hereinafter "the Museum"); and,

WHEREAS, the Museum is a tourist attraction bringing tourists to the City; and,

WHEREAS, SCSMF funds advertisements and promotions related to tourism development on behalf of the Museum to attract tourists to the Museum; and,

WHEREAS, SCSMF provides funds to the Museum for the operation and maintenance of the Museum's tourism-related buildings and its tourism related cultural, recreational and historic facilities; and,

WHEREAS, Columbia City Council recognizes the positive contributions made by SCSMF in attracting tourists to the Museum and the City of Columbia; and

WHEREAS, Columbia City Council, having recognized the contributions of SCSMF to the promotion of tourism to the City of Columbia, has conditionally budgeted Two Hundred Thousand (\$200,000.00) Dollars for fiscal year 2009/2010 from the City's anticipated 2009/2010 local hospitality tax revenues to the South Carolina State Museum Foundation; and,

WHEREAS, SCSMF has requested that the City express its intent to conditionally budget a like amount through fiscal year 2012/2013.

WHEREAS, the payment these funds from fiscal year 2009/2010 through fiscal year 2012/2013, are to be contingent as outlined herein below and are an expression of intent and not a contractual obligation.

NOW, THEREFORE, the SCSMF and City hereby express their intent as follows:

Columbia City Council intends to conditionally budget Two Hundred Thousand (\$200,000.00) Dollars in local hospitality tax revenues for fiscal years 2009/2010 through 2012/2013 to the South Carolina State Museum Foundation. **This expression of intent is contingent upon and subject to Columbia City Council legislatively allocating in the City's annual budget for each fiscal year; a determination that there have been sufficient hospitality tax revenues received or sufficient hospitality tax revenues are anticipated during the fiscal year to make the allocation; the availability of funds during any fiscal year; and, Columbia City Council reserves the right and ability to withhold, suspend, terminate, reallocate, reduce or eliminate such allocation at any time in any fiscal year; all of the foregoing which shall be in the sole and exclusive discretion of the then current Columbia City Council.**

SCSMF shall use any allocation by the City exclusively for the purposes set forth in S.C. Code Ann. §6-1-730 (2004), as amended. SCSMF may use any allocation by the City to retire any economic development revenue bonds issued by the South Carolina Jobs-Economic Development Authority if such use meets one or more of the purposes for which hospitality tax revenue can be used as is set forth in S.C. Code Ann. §6-1-730 (2004), as amended.

SCSMF shall submit a written request for a quarterly disbursement of any budgeted allocation to City of Columbia, Attention: City Manager, PO Box 147, Columbia, SC 29217 with a copy to City of Columbia, Attention: Chief Financial Officer, PO Box 147, Columbia, SC 29217. Such requests shall include a balance sheet and expenditure summary as of the end of the preceding quarter.

SCSMF acknowledges that this expression of intent by Columbia City Council is for fiscal years 2009/2010 through 2012/2013 only and is contingent as outlined hereinabove.

SCSMF shall submit a proposed budget plan for fiscal years 2009/2010 through 2012/2013, which must be updated annually, and approved by Columbia City Council prior to each fiscal year before disbursement of any of the allocated hospitality tax revenues, if any.

SCSMF shall submit an annual report of expenditures of the funds received by March 1 of each fiscal year. SCSMF shall also demonstrate how such expenditures impacted tourism in the City of Columbia for the preceding fiscal year. SCSMF shall also provide a report of expected expenditures for the next fiscal year and how it anticipates the expenditures will impact tourism in the City of Columbia for the forthcoming fiscal year.

If it is determined by the City, in its sole and exclusive discretion, or otherwise that the funds are not being used exclusively for the purposes set forth in S.C. Code Ann. §6-1-730 (2004), as amended, the City may immediately terminate this Memorandum of Intent.

SCSMF or City, in their sole and exclusive discretion, may terminate this Memorandum of Intent at any time. This Memorandum of Intent is not a contract and shall not be enforceable by either party as such.

IN WITNESS WHEREOF SCSMF and City have this _____ day of _____, 2009, set their respective hands and seals by their duly authorized representatives.

WITNESSES:

SOUTH CAROLINA STATE MUSEUM FOUNDATION

BY: _____
Adrienne Huffman
ITS: Executive Director

CITY OF COLUMBIA

BY: _____
Robert Coble
ITS: Mayor