

RICHLAND COUNTY
COUNTY COUNCIL AGENDA



Tuesday, DECEMBER 03, 2019

6:00 PM

COUNCIL CHAMBERS

RICHLAND COUNTY COUNCIL 2019



Bill Malinowski
District 1
2018-2022



Joyce Dickerson
District 2
2016-2020



Yvonne McBride
District 3
2016-2020



Paul Livingston
District 4
2018-2022



Allison Terracio
District 5
2018-2022



Joe Walker, III
District 6
2018-2022



Gwendolyn Kennedy
District 7
2016-2020



Jim Manning
District 8
2016-2020



Calvin "Chip" Jackson
District 9
2016-2020



Dalhi Myers
District 10
2016-2020



Chakisse Newton
District 11
2018-2022





Richland County Council

Regular Session
December 03, 2019 - 6:00 PM
Council Chambers
2020 Hampton Street, Columbia, SC 29201

1. **CALL TO ORDER** The Honorable Paul Livingston, Chair
Richland County Council
 - a. ROLL CALL
2. **INVOCATION** The Honorable Bill Malinowski
3. **PLEDGE OF ALLEGIANCE** The Honorable Bill Malinowski
4. **APPROVAL OF MINUTES** The Honorable Paul Livingston
 - a. Regular Session: November 19, 2019 [PAGES 9-31]
 - b. Zoning Public Hearing: November 21, 2019 [PAGES 32-34]
5. **ADOPTION OF AGENDA** The Honorable Paul Livingston
6. **REPORT OF THE ATTORNEY FOR EXECUTIVE SESSION ITEMS** Larry Smith,
County Attorney
 - a. Richland County vs. SC Dept. of Revenue
7. **CITIZEN'S INPUT** The Honorable Paul Livingston
 - a. For Items on the Agenda Not Requiring a Public Hearing
8. **CITIZEN'S INPUT** The Honorable Paul Livingston
 - a. Must Pertain to Richland County Matters Not on the Agenda

(Items for which a public hearing is required or a public hearing has been scheduled cannot be addressed at time.)

9. REPORT OF THE COUNTY ADMINISTRATOR

Leonardo Brown,
County Administrator

- a. Plastic Bag Ordinance Update

10. REPORT OF THE CLERK OF COUNCIL

Kimberly Williams-Roberts,
Clerk to Council

- a. Richland County Conservation Commission & Soil & Water District Holiday Drop-In, December 10, 4:30 -6:00 PM, 3rd Floor Atrium
- b. CentralSC Holiday Drop-In, December 12, 5:00 - 7:00 PM, CentralSC Atrium, 1201 Main Street, Suite 100
- c. Richland County's OSBO Business Appreciation Mixer, December 12, 6:00 - 8:00 PM, Decker Center - Community Room, 2500 Decker Boulevard
- d. Richland County Magistrate's Holiday Luncheon, December 13, 11:30 AM, Trinity Education Community and Conference Center, 2523 Richland Street
- e. December Meeting Schedule:
 - a. December 3 - Regular Session
 - b. December 10 - Special Called
 - c. December 17- Development & Services, Administration & Finance and Zoning Public Hearing

11. REPORT OF THE CHAIR

The Honorable Paul Livingston

- a. Livestreaming Retreat [PAGES 35-48]

12. OPEN / CLOSE PUBLIC HEARINGS

The Honorable Paul Livingston

- a. An Ordinance Amending Ordinance 039-12HR, the Ordinance Authorizing the one percent (1%) Transportation Sales and Use Tax; so as to amend the projects list as it relates to greenways
- b. An Ordinance Providing for the issuance and sale of Utility System Revenue Bonds of Richland County, South Carolina, and other matters relating thereto
- c. An Ordinance Providing for the issuance and sale of not exceeding \$35,000,000 Utility System Revenue Bonds, Series 2020, of Richland County, South Carolina, for the

expenditure of the proceeds thereof, for the payment of said bonds, and other matters relating thereto

- d. Authorizing the expansion of the boundaries of the I-77 Corridor Regional Industrial Park jointly developed with Fairfield County to include certain property located in Richland County, the execution and delivery of a Public Infrastructure Credit Agreement to provide for public infrastructure credits to Ballpark, LLC; and other related matters
- e. Authorizing the execution and delivery of a fee-in-lieu of ad valorem taxes agreement by and between Richland County, South Carolina and Schneider Electric USA, Inc. to provide for payment of a fee-in-lieu of taxes; and other related matters
- f. Authorizing the expansion of the boundaries of the I-77 Corridor Regional Industrial Park jointly developed with Fairfield County to include certain property located in Richland County; the execution and delivery of a Public Infrastructure Credit Agreement to provide for public infrastructure credits to B-6 Benet Horger LLC; and other related matters

13. APPROVAL OF CONSENT ITEMS

The Honorable Paul Livingston

- a. 19-041MA
Gerald K. James
RU to RC (5.6 Acres)
4008 Leesburg Road
TMS # R25000-01-04F & R25000-01-04A (Portion of)
[SECOND READING] [PAGES 49-50]
- b. Conversion of Six Part-Time Deputy Coroner Positions to Full-Time Status [PAGES 51-73]
- c. Amend the Hospitality Tax Council Allocation Process [PAGES 74-84]
- d. Intergovernmental Agreement – Town of Eastover -Magistrate Renewal [PAGES 85-95]
- e. Intergovernmental Agreement with the City of Columbia for Murray Point Water system [PAGES 96-115]

14. THIRD READING ITEMS

The Honorable Paul Livingston

- a. An Ordinance Amending Ordinance 039-12HR, the Ordinance Authorizing the one percent (1%) Transportation Sales and Use Tax; so as to amend the projects list as it relates to greenways [PAGES 116-147]

- b. An Ordinance providing for the issuance and sale of Utility System Revenue Bonds of Richland County, South Carolina, and other matters relating thereto **[PAGES 148-203]**
- c. An Ordinance Providing for the issuance and sale of not exceeding \$35,000,000 Utility System Revenue Bonds, Series 2020, of Richland County, South Carolina, for the expenditure of the proceeds thereof, for the payment of said bonds, and other matters relating thereto **[PAGES 204-233]**
- d. Authorizing the expansion of the boundaries of the I-77 Corridor Regional Industrial Park jointly developed with Fairfield County to include certain property located in Richland County, the execution and delivery of a Public Infrastructure Credit Agreement to provide for public infrastructure credits to Ballpark, LLC; and other related matters **[PAGES 234-256]**
- e. Authorizing the execution and delivery of a fee-in-lieu of ad valorem taxes agreement by and between Richland County, South Carolina and Schneider Electric USA, Inc. to provide for payment of a fee-in-lieu of taxes; and other related matters **[PAGES 257-288]**
- f. Authorizing the expansion of the boundaries of the I-77 Corridor Regional Industrial Park jointly developed with Fairfield County to include certain property located in Richland County; the execution and delivery of a Public Infrastructure Credit Agreement to provide for public infrastructure credits to B-6 Benet Horger LLC; and other related matters **[PAGES 289-312]**

15. SECOND READING ITEMS

The Honorable Paul Livingston

- a. Authorizing the expansion of the boundaries of the I-77 Corridor Regional Industrial Park jointly developed with Fairfield County to include certain property located in Richland County; the execution and delivery of a Public Infrastructure Credit Agreement to provide for public infrastructure credits to [Project Kline]; and other related matters **[PAGES 313-335]**

16. REPORT OF DEVELOPMENT & SERVICES COMMITTEE

The Honorable Gwen Kennedy

- a. Little Jackson Creek/Spring Valley HOA request to remove sediment **[PAGES 336-354]**
- b. Resolution in Support of Dreamers by Congress **[PAGES 355-364]**

17. OTHER ITEMS

The Honorable Paul Livingston

- a. Subdivision Abandoned Paved Road Relief Program [PAGES 365-380]
- b. FY20 - District 4 Hospitality Tax Allocations [PAGES 381-382]

18. EXECUTIVE SESSION

Larry Smith,
County Attorney

19. MOTION PERIOD

20. ADJOURNMENT



Special Accommodations and Interpreter Services Citizens may be present during any of the County's meetings. If requested, the agenda and backup materials will be made available in alternative formats to persons with a disability, as required by Section 202 of the Americans with Disabilities Act of 1990 (42 U.S.C. Sec. 12132), as amended and the federal rules and regulations adopted in implementation thereof. Any person who requires a disability-related modification or accommodation, including auxiliary aids or services, in order to participate in the public meeting may request such modification, accommodation, aid or service by contacting the Clerk of Council's office either in person at 2020 Hampton Street, Columbia, SC, by telephone at (803) 576-2061, or TDD at 803-576-2045 no later than 24 hours prior to the scheduled meeting.



Richland County Council

REGULAR SESSION

November 19, 2019 – 6:00 PM

Council Chambers

2020 Hampton Street, Columbia, SC 29204

COUNCIL MEMBERS PRESENT: Paul Livingston, Chair; Dalhi Myers, Vice-Chair; Joyce Dickerson, Calvin “Chip” Jackson, Gwen Kennedy, Bill Malinowski, Jim Manning, Yvonne McBride, Chakisse Newton, Allison Terracio and Joe Walker

OTHERS PRESENT: Michelle Onley, Ashiya Myers, Beverly Harris, Angela Weathersby, Stacey Hamm, Leonardo Brown, Jennifer Wladischkin, Clayton Voignier, Kim Williams-Roberts, James Hayes, Ashley Powell, John Thompson, Quinton Epps, Michael Niermeier, Janet Claggett, Geo Price, Michael Byrd, Judy Carter, Sandra Haynes, Larry Smith, Jeff Ruble, Eden Logan, Brittney Hoyle Terry, Cathy Rawls, Tariq Hussain, Dwight Hanna, Casey White, Ronaldo Myers, Dale Welch, Christine Keefer, Bryant Davis and Trina Walker

1. **CALL TO ORDER** – Mr. Livingston called the meeting to order at approximately 6:00 PM.
2. **INVOCATION** – The invocation was led by the Honorable Jim Manning
3. **PLEDGE OF ALLEGIANCE** – The Pledge of Allegiance was led by the Honorable Jim Manning
4. **PRESENTATION OF PROCLAMATIONS**
 - a. A Proclamation Recognizing the 2019 University of South Carolina’s Athletics Hall of Fame Inductee – Kristi Coggins – Ms. Dickerson presented a proclamation honoring Ms. Coggins on her induction into the University of South Carolina’s Athletics Hall of Fame.
 - b. A Proclamation Honoring the retirement of Richland County Sheriff’s Department Captain Joseph “Joe” Johnson Odom – Ms. Dickerson presented a proclamation honoring Captain Odom on his retirement from the Richland County Sheriff’s Department.
5. **PRESENTATIONS**
 - a. Communities In Schools of the Midlands: Latasha Taste-Walker, Director of Development – Ms. Taste-Walker thanked Council for their support over the last 30 years. On November 6, they celebrated “All in for Kids Day”. They currently serve over 2,900 students, which are at-risk.
 - b. Serve & Connect: Kassy Alia Ray – Ms. Ray presented an overview of what the “Serve & Connect” initiative has been able to accomplish. She thanked Council for their monetary support for the initiative, as well as their emotional support following the death of her husband.
6. **APPROVAL OF MINUTES**
 - a. Regular Session: November 5, 2019 – Ms. Dickerson moved, seconded by Ms. Kennedy, to approve the minutes as distributed.

Mr. Malinowski stated, near the end of the last Council meeting, Councilman Walker cited Council Rules regarding abstaining from voting, which he does not see reflected in the minutes. In addition, going through the minutes he noted there were 13 items that Council members abstained on, and he would like to know from the Clerk, based on our rules, if she received the reasons those Council members abstained.

Ms. Onley responded that she had not received any responses from the Council members that abstained.

Mr. Malinowski made a substitute motion, seconded by Mr. Walker, to defer the minutes until they are complete.

Mr. Jackson inquired if this only applied to this meeting, or does it encompass past meetings.

Mr. Malinowski withdrew his deferral, so we can get an answer to Mr. Jackson's question.

Ms. Dickerson stated we waited until the end of the meeting before the matter of abstention votes was raised. She stated she has brought this matter up on various occasions when Council members either abstained, or did not vote at all. If we are going to start that, we need to set something in motion, so that we follow Council Rules when Council members abstain. She stated that she requested the Clerk to forward a list of the items that she abstained on, but she has not had an opportunity to respond back to the Clerk.

Mr. Walker stated, as the Council member that pointed this out, at the last meeting, it did not come by way of a motion. It was pointing to existing Council Rule 5.21, and given the large number of abstentions that occurred, it felt appropriate for him to point to the rules, which are indicative of the action that needs to be taken, as a result of an abstaining vote. He, in no way, intend to encumber our staff, or Clerk to Council, with a historical resource project. It was the highlighting of an existing rule; therefore, it should be the practice of this body to simply follow it.

Ms. Myers stated, at the last meeting, there was discussion under the Report Rules and Appointments Committee regarding the appointment to the Accommodations Tax Committee. She stated that Mr. Malinowski made a good point, which was supported by Ms. Kennedy, that because the A-Tax dealt exclusively with money that was collected outside of the incorporated parts of Richland County, it should be dealt with by people who lived in that area. In principle, she agrees with that, but in looking at the composition of that board, everybody on the board is from unincorporated Richland County. She stated there is some support, in her mind, that we would disenfranchise our colleagues, and their constituents, in having a voice in the A-Tax usage.

Ms. Myers moved, seconded by Ms. Dickerson, to reconsider the Report of the Rules and Appointments Committee regarding the Accommodations Tax vacancy.

In Favor: Terracio, Jackson, Newton, Myers, Kennedy, Walker, Dickerson, Livingston and McBride

Opposed: Malinowski

Present but Not Voting: Manning

The vote was in favor.

Ms. Myers moved, seconded by Ms. McBride to appoint Mr. R. Lee Snelgrove to the Accommodations Tax Committee.

Mr. Malinowski stated if we are going to seat an individual that is a resident of a municipality, then we should go forward and have talks with the municipality, where we are seating this person from, and see if we can have quid pro quo arrangement to have an unincorporated resident sit on their board, as well.

Mr. Malinowski made a substitute motion to engage the City of Columbia, in such conversation, to see if we can enact some type of exchange. The motion died for lack of a second.

Ms. McBride stated she supported Mr. Malinowski's concern regarding representation of unincorporated. On the Accommodations Tax Committee, there are seven (7) board members, and currently all of them are from unincorporated Richland County. Also, the policy states that you cannot deny a Richland County citizen a position on a board because he or she does not live in unincorporated Richland County. She stated we are violating policy, based on the minutes of the Rules and Appointments Committee, because that was the purpose for denial. She requested Council's consideration to allow at least one person, from Richland County, who does not live in the unincorporated part of Richland County, to serve on the Accommodations Tax Committee, and revise the policy.

Mr. Manning stated the decision at the last meeting was to re-advertise. He inquired if the position had been re-advertised.

Ms. Roberts stated the position has not been re-advertised.

Mr. Manning inquired if we have been in contact with Mr. Snelgrove to see if he still would like to serve on the Accommodations Tax Committee.

Ms. Roberts stated she has been in touch with Mr. Snelgrove. At that time, he did not say if he was still interested, but she can reach out to him, if that is the will of Council.

Ms. McBride stated Mr. Snelgrove really wanted to serve on the committee. She believes he has been trying for several years now, and the last time she spoke with him, he was still interested.

Mr. Malinowski inquired of the Parliamentarian about violating policy. He is not sure we are violating any policy. The recommendation came from a committee, to the full Council, on whether to appoint, or not appoint an individual. The reason was asked to why, and there were those of us, which gave the reasons why we felt this individual should not be appointed. The policy does not say you have to appoint someone, so he does not believe there is any policy violation there. He believes it is a matter of opinion on how individual members voted.

Mr. Smith stated he is not aware of any written policy, which indicates a particular board member must be from incorporated or outside of the incorporated area to be appointed. He thinks the positions sometimes are based on their skill set, and what specific area you may be looking for, for a particular board. He does not think there is anything written that indicates that someone who lives within the incorporated area would be disqualified simply because they live there.

Ms. Dickerson inquired why the vacancy was not advertised, if Council requested that it be re-advertised.

Ms. Roberts stated the vacancy has not been re-advertised because the policy is that we do not re-advertise until all of the interviews have been held from the previous advertisement. She stated we are still currently interviewing applicants; therefore, we will not re-advertise until all of the interviews are held.

Mr. Manning inquired if we were still in the process of interviews, when this motion came to Council.

Ms. Roberts stated the interviews for the Accommodations Tax Committee had been completed. There were several boards and commissions listed on the last vacancy posted, and we do not typically re-advertise until all of those applicants have been interviewed and appointments made.

In Favor: Terracio, Jackson, Newton, Myers, Kennedy, Walker, Dickerson, Livingston and McBride

Opposed: Malinowski

Present but Not Voting: Manning

The vote was in favor of appointing Mr. Snelgrove to the Accommodations Tax Committee.

Ms. Dickerson moved, seconded by Ms. Kennedy, to approve the minutes as amended.

Mr. Walker requested to include his statement regarding Council member's abstentions from the last meeting in the minutes.

Ms. Myers inquired if Mr. Walker was asking for staff to look at all the votes from the beginning of year forward, or are we looking prospectively and requesting that Council members comply with Council rules.

Mr. Walker stated he is not asking for historical lookback. He is asking that it is publicly noted that he is requested Council members to adhere to the rules of Council moving forward.

In Favor: Terracio, Malinowski, Jackson, Newton, Myers, Kennedy, Walker, Dickerson, Livingston and McBride

Opposed: Manning

The vote was in favor of approving the minutes, as amended.

7. **ADOPTION OF THE AGENDA** – Mr. Smith requested that Item 17(a): “Quitclaim Deed for Right-of-Way—1300 Block of Marion Street—Lofts Apartments” be deferred indefinitely.

Ms. Dickerson moved, seconded by Ms. Kennedy, to adopt the agenda as amended.

In Favor: Terracio, Malinowski, Jackson, Newton, Myers, Kennedy, Walker, Dickerson, Livingston and McBride

Opposed: Manning

The vote was in favor.

8. **REPORT OF ATTORNEY FOR EXECUTIVE SESSION ITEMS**

- a. Contractual Matter: Richland County Insurance
- b. Pending Litigation: Richland County vs. SC Dept. of Revenue Update
- c. September 10, 2019 Council Motion Update: "I move that the County Attorney's Office research State and Federal Law to determine all authority that South Carolina counties have to create gun safety ordinances[MANNING] – Mr. Smith stated they have looked at both State and Federal Law, and concluded the County is preempted from creating any gun safety ordinances.

Ms. Myers inquired if there are any counties that have taken a position on gun violence, and the use of guns within their boundaries.

Mr. Smith stated he cannot address what other counties have done, but according to their research they determined that neither Federal nor State law have the County authority to do it.

Ms. Myers requested the Legal Department to look at whether other counties have taken a position on gun violence.

9. **CITIZENS' INPUT**

- a. For Items on the Agenda Not Requiring a Public Hearing – No one signed up to speak.

10. **CITIZENS' INPUT**

- a. Must Pertain to Richland County Matters Not on the Agenda (Items for which a public hearing is required or a public hearing has been scheduled cannot be addressed at this time) – Mr. Mark Paul Kays spoke regarding the Penny Sales Tax.

11. **REPORT OF THE COUNTY ADMINISTRATOR**

- a. Monthly Financial Budget Update – Mr. Hayes stated included in the agenda packet is a financial update chart. He stated we have expended \$38.8M out of the General Fund. There is a balance of \$120.2M in the General Fund. The most important column on the chart is the percentage expended. As long as each fund is at 25%, or below, we are trending well.

Ms. Newton stated that it was noted there were some departments that are running negative in their salary line item. She inquired what, if any, procedures have been put in place to prevent that from happening, and why has this continue from the first time Council got a report about this.

Mr. Hayes stated, primarily, the reason it has happened, this year, is that we had departments that requested hiring new employees at an amount that is above the minimum, and some departments have requested promotions, which were not budgeted for. They have told departments anything that is outside of the Countywide initiative (i.e. Total Rewards) the department would have to absorb for themselves. The departments will be able to do that by moving funds from their operating funds or vacancy transfer.

Ms. Newton stated she understands the departments may want to hire people at an amount that is higher than what was budgeted. She inquired, if it is higher than what is in their budget, why is being approved or is it only being approved if that department can show they have enough funds to

cover it from another source. In other words, are these artificial numbers because they are going to be covered someplace else.

Mr. Hayes stated they do not get approval unless they able to show we can move money from their operating to cover the projected deficit, or they may have the ability within vacancy recovery funding.

Ms. Newton inquired, if Mr. Hayes would feel comfortable saying, by way of policy and procedure, that no department is currently being allowed to hire for positions they do not have funding for.

Mr. Hayes responded they have to get their approval and within their budget.

Ms. Myers stated she fought hard to get the Total Rewards passed. She believes the staff needs to be paid well and competitively. She has a concern with the way this is trending. What it looks like, in our departmental budgets, is we are gaming the system. We have already set benchmarks, and what we are doing is using the budgeting process to shield money to cover the things that were not asked for in the budget process. She inquired, if are developing any procedures, or putting anything in place to make sure there is some integrity in the departmental budgets. She does not have a problem with people being paid what they are worth, but that ought to be a line that says "salaries". It ought not to be a pencils line that we shift to salaries. That way we will provide more transparency and integrity in the budgeting process. Going forward she would like for us to work more to have an honest budget.

Mr. Brown stated Mr. Hayes and he have had this discussion, and operationally he has a challenge with moving money out of an operating fund to a salary line item. He has already documented this conversation with Mr. Hayes, and you should be aware it will create a lot of conversations amongst all staff and officials. He stated it is not limited to Administration staff, but a Countywide conversation.

Mr. Malinowski stated if we have a department that needed "X" of dollars to run a department, and now we are moving some of those dollars to a salary, that would be one-time funds for recurring costs.

Mr. Hayes stated, historically, he has articulated to the departments because those salary increases are outside of the Countywide TRS the department would have absorb. In an Executive Cabinet Team meeting, Mr. Brown articulated to departments that there are some measures coming down the line to prevent this in the future.

Mr. Malinowski stated if this is allowed to continue you will have departments that inflate their operational budgets, so they can continue to do this.

Mr. Jackson stated we usually get the tracking information regarding funds collected by the Treasurer's Office. He stated it would be interesting to see how that is trending. Even though we may be on track with our spending, he would like to be on equal footing with our collections.

Mr. Hayes stated the majority of our revenues, in terms of the General Fund, come in the months of December and February, so it is still early, that is why he did not include it. Going forward, he plans to include the information.

Ms. Myers stated we approve a line item, through the budget process for operations, and then money, from that line item is shifted to the salaries line item. One is recurring. One is one-time. We

have an obligation, because of our ordinances, to have Council vote on that budget. She inquired if moving the money that way consistent with our ordinances.

Mr. Smith stated he does not think it is. He thinks that anytime you are changing those line items that is a change in the budget, so it begs the question if the department would have to come back and justify to Council why they need additional funds. Then the question becomes whether that comes in the form of a budget amendment, as it relates to that particular line item, as opposed to doing it administratively or operationally.

Ms. Myers stated, as a taxpayer, if the Council members are unaware, surely there is no way the public is aware. She suggested this practice might need to be immediately reviewed.

Mr. Hayes stated there is a budget transfer policy that allows budget transfers. Currently you cannot move money from personnel line items, but you can move money from operations to personnel. Obviously, this body can amend the budget transfer policy, if you want to prevent any transfers from operating to personnel.

12. **REPORT OF THE CLERK OF COUNCIL**

- a. REMINDER: Committee Meetings and Zoning Public Hearing – November 21st – Ms. Roberts reminded Council that the Development & Services Committee, Administration & Finance Committee and Zoning Public Hearing meetings will held on Thursday, November 21st due to the holidays.
- b. Richland County Magistrate’s Holiday Luncheon, December 13, 11:30 AM, Trinity Education Community and Conference Center, 2523 Richland Street – Ms. Roberts reminded Council of the upcoming Richland County Magistrates’ Holiday Luncheon.

13. **REPORT OF THE CHAIR**

- a. Livestreaming Retreat – Mr. Livingston stated we had this discussion last year, and there was discussion as to whether Council took any action to do so. He is requesting that Council take action on whether or not to livestream the upcoming Retreat. He stated the cost would be \$3,500 - \$5,000.

Ms. Terracio moved, seconded by Mr. Manning, to livestream the upcoming Retreat.

Ms. Dickerson inquired about how much this is going to cost.

Mr. Livingston stated the difference between last year’s cost of \$3,500 and this year is going to be approximately \$2,000.

Ms. Dickerson made a substitute motion, seconded by Mr. Malinowski, to forward this item to committee, so that it can be vetted.

Mr. Livingston stated we could get the costs without the item going to committee; otherwise, it will be Retreat time by the time we get to it.

Ms. Dickerson inquired if we meet in December.

Mr. Manning stated we meet on Thursday.

Mr. Livingston stated, for clarification, the item would not go to a committee on Thursday.

Mr. Manning inquired as to why it would not go to committee.

Ms. Dickerson inquired it could not go on an agenda with 24-hour notice.

Mr. Livingston stated it is going to take some time and planning for staff to prepare the information.

Ms. Dickerson stated she might have to abstain and not vote for this item. She does not have a problem with livestreaming, but she does not know why we did not have any costs, so she knows what she is voting on.

Ms. Newton inquired, if this item was sent to committee, would it be able to come before Council, for approval, in time to make arrangements for the Retreat.

Ms. Roberts stated, if it goes to the December committee meeting, there would not because there will not be another Council meeting prior to the Retreat. If it goes to the November 21st committee meeting, there would be time.

Ms. Newton stated, our current rules and practice, would normally not allow us to take an item directly from this meeting and place it on this week's committee agenda. She inquired if that would require them to temporarily suspend the rules, to make that happen, or is there another procedural way to put this item on Thursday's A&F agenda.

Mr. Smith stated the best procedure would be to waive the rules and have that sent directly to committee. Normally, things that go to committee come out of the motion period. If you wanted the item to go to Thursday's committee meeting, you can waive the rules and direct us to place it on the agenda, without it going through the motion period.

Ms. Dickerson stated the item should be moved to the motions list, and then the Chair can forward it to Thursday's committee meeting.

Mr. Livingston responded not according to Council Rules.

Mr. Malinowski inquired as to why we cannot defer this item to the Council meeting in December and ask staff to bring back the information, so we can vote on it.

Mr. Manning made a second substitute motion, seconded by Ms. Dickerson, to defer this item until the December 3rd Council meeting.

In Favor: Terracio, Malinowski, Jackson, Newton, Myers, Kennedy, Manning, Walker, Dickerson and Livingston

The vote in favor was unanimous.

14. **APPROVAL OF CONSENT ITEMS**

- a. 19-037MA, Fredine McNeal & John E. Mender, OI to RS-MD (1.04 Acres), 5718 Miramar Drive, TMS # R11711-05-07 [THIRD READING]

- b. 19-032MA, Charlotte Huggins, RU to RC (2.8 Acres), 10510 & 10512 Garners Ferry Road, TMS # R30600-02-16 [THIRD READING]
- c. 19-038MA, Keith McNair, PDD to RS-LD (2.8 Acres), Jacobs Mill Pond Road, TMS # R25810-03-09 [THIRD READING]
- d. 19-040MA, Krystal Martin, LI to RM-HD (2.4 Acres), 10539 Farrow Road, TMS # R17500-02-18 [THIRD READING]

Mr. Manning moved, seconded by Ms. Dickerson, to approve the consent items.

In Favor: Terracio, Malinowski, Jackson, Newton, Myers, Kennedy, Manning, Walker, Dickerson and Livingston

The vote in favor was unanimous.

15. **THIRD READING ITEM**

- a. 19-027MA, Phil Savage, RU to GC (8.23 Acres), Dutch Fork Road, TMS # R02501-03-22 (Portion) – Mr. Malinowski moved, seconded by Mr. Walker, to approve this item.

In Favor: Terracio, Malinowski, Jackson, Newton, Myers, Kennedy, Walker, Dickerson and Livingston

Present but Not Voting: Manning

The vote in favor was unanimous.

16. **SECOND READING ITEMS**

- a. An Ordinance providing for the issuance and sale of Utility System Revenue Bonds of Richland County, South Carolina, and other matters relating thereto – Mr. Manning moved, seconded by Ms. Kennedy, to approve this item.

Mr. Malinowski stated, on p. 77 of the agenda packet, Section 8.07 – Surplus Money states, “after making the payments required [the funds] shall be disposed of for any lawful purpose in such manner as the County shall from time to time determine.” He stated any lawful purpose means we are collecting funds, from a particular system, and allowing those funds to go wherever. It seems to him they should remain in the fund they came from because we have had problems before of not having enough funds in these systems. Then all of a sudden, we are scrambling to issue bonds, and trying to figure out where the money will come from. He would like to see that portion of the ordinance changed to direct the funds to remain within the system for use, as needed.

Mr. Manning accepted Mr. Malinowski’s amendment to the ordinance.

In Favor: Terracio, Malinowski, Jackson, Newton, Myers, Kennedy, Manning, Walker, Dickerson and Livingston

The vote in favor was unanimous.

- b. An Ordinance providing for the issuance and sale of not exceeding \$35,000,000 Utility System Revenue Bonds, Series 2020, of Richland County, South Carolina, for the expenditure of the

proceeds thereof, for the payment of said bonds, and other matters relating thereto – Mr. Manning moved, seconded by Ms. Kennedy, to approve this item.

In Favor: Terracio, Malinowski, Jackson, Newton, Myers, Kennedy, Manning, Walker, Dickerson and Livingston

The vote in favor was unanimous.

- c. Authorizing the execution and delivery of a fee-in-lieu of ad valorem taxes agreement by and between Richland County, South Carolina and [Project Planning] to provide for payment of a fee-in-lieu of taxes; and other related matters – Mr. Manning moved, seconded by Ms. Kennedy, to approve this item.

In Favor: Terracio, Malinowski, Jackson, Newton, Myers, Kennedy, Manning, Walker, Dickerson and Livingston

The vote in favor was unanimous.

- d. Authorizing the expansion of the boundaries of the I-77 Corridor Regional Industrial Park jointly developed with Fairfield County to include certain property located in Richland County, the execution and delivery of a Public Infrastructure Credit Agreement to provide for public infrastructure credits to B-6 Benet Horger LLC (and/or an affiliated entity); and other related matters – Mr. Manning moved, seconded by Ms. Kennedy, to approve this item.

In Favor: Terracio, Malinowski, Jackson, Newton, Myers, Kennedy, Manning, Walker, Dickerson and Livingston

The vote in favor was unanimous.

17. **REPORT OF ADMINISTRATION & FINANCE COMMITTEE**

- a. Quitclaim Deed for Right-of-Way – 1300 Block of Marion Street – Lofts Apartments – This item was deferred during the Adoption of the Agenda.

18. **REPORT OF ECONOMIC DEVELOPMENT COMMITTEE**

- a. Authorizing the expansion of the boundaries of the I-77 Corridor Regional Industrial Park jointly developed with Fairfield County to include certain property located in Richland County; the execution and delivery of a Public Infrastructure Credit Agreement to provide for public infrastructure credits to [Project Kline]; and other related matters [FIRST READING] – Mr. Jackson stated the committee recommended approval of this item.

In Favor: Terracio, Jackson, Newton, Kennedy, Manning, Walker, Dickerson and Livingston

Opposed: Malinowski and Myers

The vote was in favor.

19. **REPORT OF RULES AND APPOINTMENTS COMMITTEE**

a. NOTIFICATION OF APPOINTMENTS

1. Airport Commission – Three (3) Vacancies – Ms. Newton noted that Mr. Julius W. “Jay” McKay, II withdrew his application for the position.

Ms. Newton stated the committee recommended appointing Ms. Kaela Bailey and Mr. Michael Medsker, and to vote individually on the remaining two (2) applicants to fill the remaining vacancy.

In Favor: Terracio, Malinowski, Jackson, Newton, Myers, Kennedy, Walker, Dickerson and Livingston

Present but Not Voting: Manning

The vote in favor was unanimous to appoint Ms. Kaela Bailey and Mr. Michael Medsker.

Ms. Myers inquired if the committee interviewed both of the applicants, and found them both equally acceptable.

Ms. Newton stated the committee did interview all of the candidates, and voted on them, but neither candidate received a majority of votes to make a recommendation to Council.

Mr. Jackson stated it concerns him when an item comes before Council to make a decision that should be made at the committee level. What he believes he heard was there were enough committee members to vote, but not all of the committee members did vote, so as a result Council is being asked to make the decision.

Callan: Malinowski, Walker and Dickerson

Squire: Terracio, Newton, Myers, Kennedy, Manning and Livingston

Mr. Jerome S. Squire was appointed to fill the remaining vacancy.

20. **REPORT OF THE TRANSPORTATION AD HOC COMMITTEE** –

a. Items for Action:

1. Cash Flow Model Presentation – First Tryon – Mr. Jackson stated the item before Council is the Cash Flow Model, which has been presented on multiple occasions.

Mr. Walker stated he would like to see an all cash method, going forward. It eliminates the ambiguity of bonding, fees associated with bonding, and the misappropriation that bonding brings forward. He stated, for clarification, that he understood Mr. Goldsmith, in his professional opinion, as a financial advisor to multiple municipalities, recommended the hybrid option is in the best interest of the County, its constituents, its taxpayers, and those that are expecting to derive a return and product from this program.

Mr. Goldsmith responded in the affirmative. In an ideal world, we would all say that we never want to borrow because when we do all we are doing is paying interest costs to investors in New York. We would rather be able to spend penny for penny every bit of revenue directly on

construction projects, but you get the revenues quarterly, which means you would have to match up exactly your spending schedule. The benefit of bonding is you get the big pot of money upfront, so you can go out and start spending on multiple projects all at once.

Mr. Walker stated, for clarification, bonding allows for expediency, and a pay go program would have a negative downside of slowing down or potentially interrupting the current project flow.

Mr. Goldsmith stated that is correct, which then exposes you to the construction cost inflation.

Mr. Malinowski inquired as to where we are going to get the contractors. He stated there is only a finite number of contractors that can do the jobs, whether you have the money or not. It does not necessarily mean that we are going to have every project completed in the next year. The fact the funds is borrowed, and used over a longer period of time, also subjects you to a potential rise in construction costs. He stated, for clarification, borrowing a large chunk of money does not guarantee you will not be paying more money for your projects.

Mr. Goldsmith stated First Tryon is the County's financial advisor, and not the construction engineer. They take the projected construction draw schedules, which staff, and previously the PDT, provided as to what the monthly expenditures could be.

Mr. Malinowski stated, in the agenda, the date on the report is October 16th. He inquired if this is the date of preparation for the agenda, or is it the date First Tryon prepared the report.

Mr. Niermeier stated First Tryon prepared the report, for the County, on October 16th. The report was based on the updated schedule.

Mr. Malinowski inquired when First Tryon finished gathering the information for the report.

Mr. Goldsmith stated it is an iterant process, but the information would have been received days or weeks immediately prior to the submission of the report.

Mr. Malinowski inquired if it was after the report was prepared that the County received additional information, in Executive Session, regarding the DOR matter.

Mr. Brown stated the County received new information, after this report was prepared.

Mr. Malinowski inquired if the new information has been taken in account.

Mr. Brown stated, in the general sense, that the financial strength of the County is where it is, we did meet with the financial advisors, so the impact of any concerns you may have has been taken into consideration. The report, as it stands, is still good information.

Mr. Walker stated, as he looks at the project funding schedule on pp. 256, 258, and 261 of the agenda, it looks as though the schedule on all three scenarios is 2020 – 2029. Then, you have a total dollar amount expended under the three scenarios, with cash being the least of the three with \$505M; 100% debt being \$510M; and the hybrid being \$508M. To him, what he sees is the same projects; with the same total overall spend, for the most part, against the revenue projected, with the same timeline. He stated what we are really talking about is frontloading, or accelerating projects, not necessarily the capability to do the projects in the out years. It is a timing mechanism. What we are contemplating is taking on the upfront risk, and burden, against our current bonding capacity and operational capabilities. To him, what it boils down to

is financial discipline. We can do the same projects; the same overall spend, and actually save approximately 1%, simply by maintaining spending discipline. As opposed to going to the bond market, and taking on a bond load that is not necessarily needed to achieve completion of the projects. It would just require some financial discipline and pacing, within the project. He inquired if he had misinterpreted any of the data, or misspoke to any of those points.

Mr. Goldsmith responded Mr. Walker had not misspoken. It is essentially a timing issue. If you complete the borrowing. You have the "big pot" of money upfront, and is shown in the bar charts. As you can see on the cash only bar chart, we paid off the debt, so it showing you that the construction spend schedule has to live within those low bars. Overall, you will be able to build the projects, but you will have to wait until each quarter of revenue comes in. Versus, in the borrowing scenarios, when there is all borrowing, or partial borrowing, and the bars are much higher, which gives you the flexibility, if the construction folks can spend it rapidly, to do so. Whereas, if we paid off the debt, you will be saying to the construction folks, you can only spend the money as it comes in. Philosophically, you may say you would rather do that and not pay interest on debt, but the beginning place for our discussion is when the construction people say this is what we project we can spend. They pick up that, and say, if that is what you are trying to spend, the only way you can do it is to take on some debt. You do not have the cash flow coming in to be able to do that.

Mr. Jackson inquired if it is a fair assumption that the volume of work we are anticipating, going forward, would be greater than the volume of work that has occurred up to this point.

Mr. Niermeier stated that would be a good statement. The larger projects are about to come into fruition. They have gone through the design and right-of-way, and are ready to be advertised, which will take a lot of the construction money that is needed.

Mr. Walker stated if we so chose, to move forward, post advertisement. He stated he wanted to be very overt in his opinion that pacing ourselves "to eat it, as we kill it" is not some social fallacy. There is a discipline associated with leadership position that sometimes you make the tougher decisions to slow things down, and not continue to do things the same way simply because that is how we have been doing them. He finds it interesting that his colleagues appear, or are impugning, that our staff is going to accelerate the pace of projects, when that was not the tune that was sung when we moved to bring this project in-house. He finds it difficult to believe we are going to spend \$130M - \$140M, when the PDT could not do it. He understands the timing of onboarding some of these projects.

Mr. Jackson stated he wants his colleagues to be clear on what is before us. He stated we can debate whether it is appropriate to spend now, or later, all we want. He stated what is before is, once we decide which scenario to go with, it still has to come back to this body, before it is enacted. The attempt has been to try to get one of the scenarios approved. The question is not whether we would be impugning. The question is whether we want to select one of the scenarios, presented before us, to move forward. If the County has moved the project in-house, which it has done, and it decides it wants to move at a slower pace, that is going to happen naturally. Whether or not there are contractors available, it does not negate our obligation to determine which one of these scenarios is the one to choose.

Ms. Newton stated staff's recommendation is the partial payback of the BAN, and Mr. Niermeier just mentioned that some of the bigger projects are about to come online. She inquired, from Mr. Niermeier's perspective, what projects necessitate the additional BAN.

Mr. Niermeier stated there are several large widenings that are coming forward (i.e. Atlas Road).

Ms. Newton stated, for clarification, the ones that are over budget, and on hold.

Mr. Niermeier responded in the affirmative.

Ms. Newton inquired if there is a project that is not currently on hold, due to being over the referendum, which you count as being ready to come on line.

Mr. Niermeier responded there is not.

Ms. Myers stated she does not believe we should be voting to add additional debt to the County. That was the whole point of the referendum. She thinks we should be paying as we go. As in previous years, she will be voting "no" for an option that requires us to go out and get additional funds, rather than using funds on hand.

Mr. Manning stated he, along with over 50% of Richland citizens, voted in favor of bonding for Penny Projects, and is the way he will be voting.

Mr. Jackson stated the committee recommended we approve the funding plan outlined, and recommended by staff and First Tryon, which is a combination of the debt/cash mix.

In Favor: Jackson, Kennedy, Manning, Livingston and McBride

Opposed: Terracio, Malinowski, Newton, Myers and Walker

Present but Not Voting: Dickerson

The motion failed.

Mr. Manning moved, seconded by Mr. Jackson, to approve the option to bond 100%.

Mr. Walker made a substitute motion, seconded by Mr. Malinowski, to approve the all cash model, as presented by First Tryon.

Mr. Manning stated, for clarification, if the substitute motion did not pass, and we went back to the original motion that would allow for total bonding, those items would still come back to Council. The option would be available, and Council could go cash pay the entire way. If the all cash option were to pass, it would prevent the County from bonding, in the future, as was passed by the voters, in 2012.

Mr. Jackson stated that is his understanding. The process, for moving forward with bonding, would end tonight with this vote. We would not be able to come back and revisit that.

Mr. Walker stated, for clarification, if Council chose to initiate a "strategic plan", for the remainder of this program, utilizing only cash, and they were to come up against a project shortfall, or an opportunity was brought forward by the County Administrator to bond per project, why could Council not approve a borrowing mechanism to help bridge a gap.

Ms. Myers stated the referendum prevents it. The referendum says we have to do it by a date certain, or not at all.

Ms. Hamm stated the referendum said that you had to borrow within 5 years. We started the BAN at the end of the 5 years; therefore, if we do not borrow now, we will not ever be able to borrow.

Mr. Livingston inquired, if the motion passes with -0- bonding, at what point will we not be able to do any projects, based on the projections that staff has presented.

Mr. Niermeier stated he does not have that exact date in front of him. He stated if you look at the cash only option, on p. 257 in the agenda, it drops off in Spring 2020. At that point, we would barely be able to continue with current construction, and we would have to stop any advertisement to make sure we remain cash positive for the remainder of the program.

Mr. Livingston inquired if we know how long it would take to finish all of the projects.

Mr. Niermeier responded in the affirmative. The draft schedule we put together for cash only would push us out to 2030 -2032.

Ms. Myers stated, as a point of clarification, in answer to what Mr. Livingston is saying, does that not assume we do all those projects over budget, as they stand.

Mr. Niermeier responded in the affirmative. This model does not include the \$52.5M for Carolina Crossroads, so it would need to be built back in.

Mr. Walker inquired if he was missing something, on the cash-funding schedule, because as he reads it, he does not see a year where we do not do a project. As a matter fact, the delta in the first three years, is representative of a 30 – 40% discrepancy in spending with bonding versus not, but in the out years we make up for all that spending with cash on hand.

Ms. Myers inquired if we are anticipating the projects that are currently over budget will go forward at the planned amount, and not the referendum amount.

Mr. Niermeier stated this particular model anticipated certain assumptions that were presented for this body. Those assumptions could change; therefore, these models will adjust accordingly. We would need to go back in and readjust those for what was actually approved.

Ms. Myers stated, in harmony with what Mr. Walker said, we have been presented a bond now in this large amount or nevermore. She suggested there may be some Council members that would vote for a smaller bonding amount, but will not vote to go to the hilt on a bond, when we have not utilized all of the bond funds in past. We have used it this year, not because we needed, but because we made a decision to use the bond proceeds first to avoid penalties, which means we still had Penny Funds on hand. To her, what has been more frustrating is where we have gone out to the bond market, to get the money, for fear that we are going to need it, when we had a fully standing 30 person, manned operation to spend as much money as fast as they could, and it still did not all get spent. We have consistently said that our staff is going to be leaner and meaner. She does not understand why we are now saying that we have to go to the max, just in case, we move faster than the PDT. She thinks we could refine the model, and come up with a real model that says what we are actually going to do. In addition, to put us to the test, and say, "Council decide if you are going to overspend on these projects."

Rather than going back and forth with the same dancing, and guessing how much money we are going to need.

Ms. Dickerson inquired if we decide to go with the bond versus cash will we have to do three (3) readings and a public hearing. She has a problem with going up to the max, but she does think, since the voters voted for us to use bonding to help us with these projects, she does not know how we can say we will not use any bond, and just do cash only. She stated she could support bonding a smaller amount.

Mr. Jackson stated his initial motion was not to go to the max. Ms. Myers and Mr. Walker are speaking about the motion made by Mr. Manning. His initial motion was the debt/cash mix, which was not the max, and Council voted that down. Mr. Manning then made a motion to go to the max. At which time, he noted that if we did not do the bonding, within the window of time, we would no longer have an opportunity to borrow money, in the future.

Ms. Dickerson stated this is complicated, and it is going to take a lot of thought for her to know which way to vote. She stated we find ourselves in the position where none of us wanted to be. We got stuck in, so now we have to figure out the best way to get out of it. She inquired as to what we need to do in order to bond part of this.

Mr. Brown stated there are a couple options you can consider, besides what you are talking about now. In order to deal with a combination of a bond process, we are up against a timeline to do that. There was a discussion about what other management plans, this County could make to move this process forward. One of the things you could do is roll the BAN forward. You do not remove your capacity, but at the same time, you give yourself an opportunity to say, "Here is what we have decided. Here is what how we are going to move forward. Here is what projects we are going to do." He thinks one of the things we are talking about, and he understands from the Chair of the ad hoc committee and, maybe, some other Council members that this have been ongoing discussions. Where he finds himself, as the County Administrator, is that Mr. Niermeier has a task that he needs to perform, but part of that task is what projects will Richland perform. Mr. Niermeier, to his understanding, the PDT, based on the process they went through, was working off something, which was presented, and was believed to have been approved by Council. Through discussions he has heard, since he has been here, that requires three (3) readings and a public hearing. Those items may not have happened, in that process. However, we are still dealing with decisions that have to be made, and the cash flow/bond mix really requires the Council to have decided on some level what projects we will do, and what level of projects we will do. That has not been decided. At this point, based on our conversations, you have one more meeting where that could be decided. He does not know if you will have the additional time to sit down and have a conversation about what projects Richland County will be moving forward. If that modifies any of the referendum, you would still have to have three (3) readings and public hearing, which would mean you, would not have the time. It may be more prudent, for us, to go with rolling the BAN, which does not prohibit you from the future opportunity to bond, which you may want, and will probably need, on some levels. A managed care approach will allow you to make decisions because Mr. Niermeier will not be able, of his own volition, to decide what projects we are going to do. He does not have that authority within and of itself. It lies within the Council. He inquired what affect rolling the BAN forward would have on our ability to bond, under the referendum.

Mr. Malinowski requested clarification regarding what Ms. Hamm said about the timeline that we are under to issue these bonds. He stated, Ballot Question #2, which was referring to the bonding, said, "I approve the issuance of not exceeding \$450 Million of General Obligation

Bonds of Richland County. Payable from the Special Sales and Use Tax described in Question 1, above. Maturing over a period, not exceeding 22 years, to fund projects from among the categories in Question 1, above." Nowhere in the ballot question does it give any timeline, so where did the timeline come from. According to this, the people voted on giving the County the ability to issue bonds throughout the 22-year period.

Mr. Goldsmith stated when the voters approve the issuance of debt that does not last in perpetuity. The law allows you 5-years to issue the debt. The way you can extend that 5-year requirement is to issue a Bond Anticipation Note. That lets you mark your place that you have issued, and met, the 5-year requirement. Currently, there is an outstanding Bond Anticipation Note in the amount of \$175M that matures at the end of February. That is what has gotten us to this point where we need a decision on how to treat the \$175M. You have the three (3) options that we have discussed: pay it off with cash, borrow \$175M again, or the hybrid approach to use \$50M to pay the BAN down, and issue a \$150M bond. If the answer of any of those is, we want to do a borrowing; the next question is what the Administrator referenced. Do we do a long-term bond issue going out to 2029, or do we just roll the BAN one more time. If you took the position that we do not know how quickly we can spend the construction money, and we do not know the construction schedule and we want to wait a year, you could roll the BAN one more time. We would be back before you this time next year, with the same question. Unfortunately, you have paid the issuance costs, the legal fees, the credit rating agencies, and First Tryon's fees to do that. The good news is that interest rates are low. You would probably be borrowing at 1.25%, and the money you would have invested is earning a good interest rate, maybe even higher than the 1.25%. If you decide to do all cash, which is pay off the BAN, when it matures in February, we think that forecloses the ability to come back and do a borrowing later because now you have tripped up on the 5-year test.

Ms. McBride inquired, if we roll the BAN, with administrative and legal costs, how does that compare to the recommendation from the Transportation Department for costs.

Mr. Goldsmith stated the cost of issuance, the legal and rating agency fees, which equates to approximately \$200,000 - \$300,000. You would have to pay that to the BAN, and you would have to pay it again, if you did a borrowing in the future. The other thing is, if you wanted to do a borrowing a year from now, when the BAN matures, we do not know where interest rates will be. Similarly, we do not know where construction costs will be either.

Mr. Smith stated, he spoke with the Finance Director, who indicated there was a 5-year requirement in State law. He is not familiar with that statute, so they are currently trying to locate that particular statute. Apparently, it is not in the referendum itself, but has to do with the timeframe that is in State law.

Mr. Malinowski stated, for clarification, he thought it was against the law to invest the money, and earn a higher percentage.

Mr. Goldsmith stated Mr. Malinowski was correct. You can earn up to the arbitrage yield on the bond. You cannot get the positive arbitrage, but you can get back to a neutral cost.

Ms. Newton stated, for clarification, if we were to do a rollover, it incurs some costs. From a fee perspective, we are not necessarily paying higher fees, at this point, than if we pursued any of the other options. In terms of doing the rollover, the rollover would potentially allow us to use the pay as you go model over the next year, and then reevaluate another year from now, if we in fact needed those funds or not.

Mr. Goldsmith responded in the affirmative.

Ms. Newton stated we incur fees either way, but we preserve our ability to bond, in the future, if we so chose. Essentially, it delays the borrowing and gives us the option to do it later, but it would give us the opportunity to continue to operate now.

Mr. Goldsmith stated, if you decide to do the borrowing later, you have paid double the issuance costs because you paid the issuance for today, and to do a borrowing a year from now.

Ms. Newton stated that presumes we would eventually do a BAN, and she would hypothesize, if we did the year's pay as you go, we would have a model that would not require that. She understands that we have to make decisions to move forward. She was under the impression whether we issued a new BAN or rolled this BAN over; it would require action by Council in December.

Mr. Brown stated December is going to be our "bump up against the wall" deadline.

Ms. Newton inquired if this requires three (3) readings and a public hearing, or is it simply we vote and we are able to move forward with whatever option we chose.

Mr. Brown stated he is not aware that it requires three (3) readings and public hearing.

Mr. Goldsmith confirmed that it does not require three (3) readings and a public hearing.

Ms. Newton inquired, regarding the models that are before us, what would be the implications if we decided to do either pay as you go or rolling the BAN over. It is her understanding, Mr. Niermeier would have to go back and change the assumptions to move forward with the projects.

Mr. Niermeier responded in the affirmative.

Mr. Goldsmith stated if we were going to wait until the December meeting, he would encourage us to start preparing, as though we were going to be doing a borrowing. We can stop it, but he is mindful that we have to get it sold and closed by February, so we do not default on the existing BAN.

Mr. Manning inquired if bond counsel could answer the question on whether the 5-year requirement is in the referendum or State law.

Mr. Smith stated it is covered in Sec. 4-15-30 of the SC Code of Laws, and says, "The authorities of a county may issue general obligation bonds of the county to defray the cost of any authorized purpose and for any amount not exceeding its applicable constitutional debt limit, if: (2) the bonds are issued within five years following the holding of the election. (C) The five year period required in (A)(2) of this section is tolled while litigation contesting the validity of the election is pending." If you recall, there was a challenge to the Penny Sales Tax that was contested. It is his understanding, from the Finance Director, that gave us an extra six months.

Ms. Dickerson stated, for clarification, the cash payment would be based on how the funds are collected. She stated we have some projects that are \$200M, and we only collect \$150M, we are going to be short \$50M.

Mr. Manning stated State law says 5-years after the election, and the Finance Director reminded us there was a 6-month extension. He stated, according to his math, the bond issuance should have taken place in 2018, in order to meet the 5-year requirement.

Mr. Goldsmith stated you met the 5-year test because you issued the Bond Anticipation Note.

Mr. Manning stated, for clarification, all the discussion about 5 years really does not matter.

Mr. Goldsmith responded you can go from the Bond Anticipation Note seamlessly into the bond, and you will meet the 5-year test. If we pay off the BAN, then those bonds you would later issue do not meet the test because you have a gap. If you think you want the bonding capacity, you cannot pay off the BANs, and then later issue bonds. If you roll the BAN, and continue to roll the BAN, you can issue the bond, in the future.

Ms. Myers stated she is all for spending the referendum amount on the roads. Since we will never have more to spend on roads, than the referendum amount, because that is the rule. It just seems we are consistently putting the cart before the horse. If we had a plan for exactly what we could do, and want to do, then we would know how much money is needed. In this context, we are saying, "let's go get some money" and then we will figure out what we are going to do. It seems to her, the urgent need is to figure out what we are going to spend, on what projects. Which projects we are going to go over the referendum amount on, and figure out how to do it. Which ones we are going to reorganize and have the real conversation about the Penny, and then figure out the money.

Mr. Jackson inquired, if we pay off the BAN, how much cash we will have left on hand.

Mr. Niermeier stated approximately \$25M.

Ms. Myers stated she is a little bit frustrated because she understands math, but this is not a math question. This is a priorities question. It is a what are we going to do. What projects in the referendum are our priorities, year by year? That drives the math. The math does not drive it. We are doing it the backwards way. She understands if we pay down the BAN, which we have to do, we have \$25M, and that is not enough to do what we need to do. Guess what, it might be enough if we did what we needed to do. If we would get the schedule of what we want to do, when, and how much it is going to cost, there might be people like her that would vote for a BAN, or a bond. Right now, we do not have an accurate schedule. We have yet to say, in the next 5 years, this is the County's plan. We are working off a legacy plan that both the Administrator and Mr. Niermeier have conceded is not likely accurate, and needs refinement. She is begging for that refinement, so we can figure out how much money we need.

Mr. Jackson made a second substitute motion, seconded by Mr. Manning, to roll the BAN forward.

Ms. Dickerson stated if we roll the BAN forward that means it is still alive, in case we need it.

Mr. Brown stated you are reserving your option for a year, so you cannot do anything before that time, without a financial penalty.

Mr. Malinowski inquired about the approximate cost to keep the BAN alive.

Mr. Goldsmith stated it would be 1.25%, in terms of interest rate.

Ms. Newton stated, for clarification, with the rollover option, while it does preserve our option to borrow in the future, those monies are not actually available now, and so they could not be spent or spent down.

Mr. Goldsmith stated they could be spent down.

Mr. Walker stated, in the spirit of progressing this program forward, in the most efficient, effective and proper way, he inquired if there was an option to roll a portion of an existing BAN. In other words, we have heard the option to roll the \$175M, which maintains our borrowing integrity for an additional 12 months. There are fees associated with that. He understands the offset on the interest is the arbitrage. If we were to roll a portion of the BAN, as opposed to the full \$175M, would there a significant delta in fees, or is it the same regardless of the amount.

Mr. Goldsmith stated the fees would not be significantly lower.

In Favor: Jackson, Kennedy, Manning, Dickerson, Livingston and McBride

Opposed: Terracio, Malinowski, Newton, Myers and Walker

The vote was in favor.

21. **OTHER ITEMS**

- a. Tree Canopy Mapping Grant – Mr. Voignier stated this item is being moved forward on behalf of the Conservation Commission. The Conservation Commission is recommending approval to submit a letter of intent for a grant from the Green Infrastructure Center and South Carolina Forestry Commission for tree canopy mapping and a planting strategy.

Ms. Myers moved, seconded by Ms. Dickerson, to approve the Conservation Commission's recommendation.

Mr. Malinowski stated if they voted unanimously for this approval at their meeting on October 21st, why was this not at the last Council meeting.

Mr. Voignier stated, as he understands it, there were several revisions and reviews that needed to be done, which prevented it from being on the previous Council agenda.

Mr. Malinowski stated p. 268 of the agenda shows a letter dated November 6, 2019, and indicates it has already gone forward and is signed by the Conservation Commission. The last paragraph, of the letter, starts out, "We look forward to partnering with the GIC to set strategic goals for our County's forest." It looks to him like this is a done deal, and has been sent.

Mr. Voignier stated this is a proposed letter of intent.

Mr. Malinowski stated he would like to know if anybody ever went back and looked up if Richland County has done anything previously because on June 5, 2012 the D&S Committee directed staff to gather all existing information from GIS, DNR and Forestry Commission resources about the existing tree cover in Richland County, in order to see what information was presently available.

Mr. Voignier stated he did not have the answer.

Mr. Malinowski stated he would like to someone to go back and see. We may already have a lot of this information.

Mr. Voignier stated his understanding is that we do not have it, but he can check that information.

Mr. Manning stated, for clarification, the funder requires the elected body to approve this application, before it goes forward.

Ms. Newton inquired if it is because it requires a \$25,000 match, on the part of the County.

Mr. Voignier stated he is not aware of a grant requirement that it needs to come to Council.

Ms. Newton stated, the way she read the document, it required an in-kind contribution on the part of the County.

Mr. Voignier stated he believes that is the recommendation, but he is not sure that is a grant requirement.

Mr. Hayes stated most of the grants are approved during the budget process, but they do need Council's official approval.

In Favor: Terracio, Malinowski, Jackson, Newton, Myers, Kennedy, Walker, Dickerson, Livingston and McBride

Present but Not Voting: Manning

The vote in favor was unanimous.

- b. FY20 – District 10 Hospitality Tax Allocations – Ms. Dickerson moved, seconded by Ms. Myers, to approve this item.

In Favor: Terracio, Malinowski, Jackson, Newton, Myers, Kennedy, Manning, Dickerson, Livingston and McBride

Present but Not Voting: Walker

The vote in favor was unanimous.

Mr. Manning moved, seconded by Ms. Dickerson, to reconsider this item.

Opposed: Terracio, Malinowski, Jackson, Newton, Myers, Kennedy, Manning, Dickerson, Livingston and McBride

Present but Not Voting: Walker

The motion for reconsideration failed.

22. **EXECUTIVE SESSION** – Ms. Kennedy moved, seconded by Ms. Newton, to go into Executive Session.

In Favor: Terracio, Newton, Myers, Kennedy, Dickerson, Livingston and McBride

Oppose: Malinowski, Jackson, Manning and Walker

The vote was in favor.

Council went into Executive Session at approximately 8:40 PM and came out at approximately 9:57 PM

Ms. Terracio moved, seconded by Ms. Newton, to come out of Executive Session.

In Favor: Terracio, Malinowski, Jackson, Newton, Myers, Walker, Dickerson, Livingston and McBride

Present but Not Voting: Kennedy and Manning

The vote in favor was unanimous.

- a. Contractual Matter: Richland County Insurance – Ms. Newton moved, seconded by Ms. Dickerson, to direct staff to negotiate and award the RFP relating to employee group benefits; health, dental, life, vision, short-term disability, long-term disability and voluntary. In addition, to authorize staff to negotiate and award the RFP relating to retiree health, dental and Medicare Advantage retiree group health.

In Favor: Terracio, Malinowski, Jackson, Newton, Myers, Kennedy, Walker, Dickerson, Livingston and McBride

Present but Not Voting: Manning

Ms. Newton moved, seconded by Ms. Terracio, to reconsider this item.

Opposed: Terracio, Malinowski, Jackson, Newton, Myers, Manning, Walker, Dickerson, Livingston and McBride

Present but Not Voting: Kennedy

The motion for reconsideration failed.

- b. Richland County vs. SC Dept. of Revenue – Ms. Myers moved, seconded by Ms. Dickerson, to empower the County Administrator and County Attorney to move forward with SCDOR, as discussed in Executive Session, and to further empower the Legal Department to continue working on all possible remedies available to Richland County.

In Favor: Terracio, Malinowski, Jackson, Newton, Myers, Kennedy, Walker, Dickerson, Livingston and McBride

Abstain: Manning

The vote in favor was unanimous, with Mr. Manning abstaining from the vote.

Mr. Walker moved, seconded by Mr. Malinowski, to reconsider this item.

Opposed: Terracio, Malinowski, Jackson, Newton, Myers, Kennedy, Walker, Dickerson, Livingston and McBride

Present but Not Voting: Manning

The motion for reconsideration failed.

23. **MOTION PERIOD**

- a. I move to direct the County Attorney to work with the County Administrator to research and draft an absentee landlord ordinance. The ordinance should provide potential remedies for individuals who violate county ordinances and provide, via supplemental documentation, a comprehensive review of the legal impacts [potentially] associated with the adoption of such an ordinance. [NEWTON and DICKERSON] – This item was referred to either the Ordinance Review Committee or D&S Committee.

24. **ADJOURNMENT** – The meeting adjourned at approximately 10:03 PM.



Richland County Council

ZONING PUBLIC HEARING
November 21, 2019 – 7:00 PM
Council Chambers
2020 Hampton Street, Columbia, SC 29204

COUNCIL MEMBERS PRESENT: Paul Livingston, Chair; Dalhi Myers, Vice Chair; Joyce Dickerson, Calvin Jackson, Bill Malinowski, Chakisse Newton, Allison Terracio and Yvonne McBride,

OTHERS PRESENT: Michelle Onley, Geo Price, Tommy DeLage, Kimberly Williams-Roberts, Clayton Voignier, Larry Smith, Leonardo Brown, Angela Weathersby and Brian Crooks

- II. **CALL TO ORDER** – Mr. Livingston called the meeting to order at approximately 7:00 PM.
- III. **ADDITIONS/DELETIONS TO THE AGENDA** – Mr. Price stated the applicant for Case # 19-025MA has submitted a withdrawal.

Mr. Jackson moved, seconded by Mr. Malinowski, to accept the applicant's withdrawal.

In Favor: Terracio, Malinowski, Jackson, Newton, Myers, Dickerson and McBride

Present but Not Voting: Livingston

The vote in favor was unanimous.

- IV. **ADOPTION OF THE AGENDA** – Ms. Myers moved, seconded by Mr. Jackson, to adopt the agenda as amended.

In Favor: Terracio, Malinowski, Jackson, Newton, Myers, Dickerson, Livingston and McBride

The vote in favor was unanimous.

V **MAP AMENDMENTS (Public Hearing)**

1. 19-025MA
Patrick S. Noh
RU to GC (6.26 Acres)
10668 Two Notch Road
TMS # R25900-07-01 & R25800-03-04 [FIRST READING]

This item was withdrawn.

2. 19-041MA
Gerald K. James
RU to RC (5.6 Acres)

4008 Leesburg Road
TMS # R25000-01-04F & R25000-01-04A (Portion of) [FIRST READING]

Mr. Livingston opened the floor to the public hearing.

The applicant chose not to speak.

The floor to the public hearing was closed.

Ms. Newton moved, seconded by Ms. Myers, to approve this item.

In Favor: Terracio, Malinowski, Jackson, Newton, Myers, Dickerson, Livingston and McBride

The vote in favor was unanimous.

3. 19-042MA
Lenny Williams
OI to RS-MD (.4 Acres)
1221 Inland Drive
TMS # R06015-01-16 [FIRST READING]

Mr. Livingston opened the floor to the public hearing.

No one signed up to speak.

The floor to the public hearing was closed.

Ms. Dickerson moved, seconded by Mr. Malinowski, to defer this item until the December Zoning Public Hearing. There will not be an additional Public Hearing at the December meeting.

In Favor: Terracio, Malinowski, Jackson, Newton, Myers, Dickerson, Livingston and McBride

The vote in favor was unanimous with Mr. Malinowski abstaining from the vote.

4. 19-043MA
Odell Flemming
RU to LI (2 Acres)
13081 Garners Ferry Road
TMS # R39400-02-02 [FIRST READING]

Mr. Myers moved, seconded by Mr. Malinowski, to defer this item until the December Zoning Public Hearing.

In Favor: Terracio, Malinowski, Jackson, Newton, Dickerson, Livingston and McBride

Present but Not Voting: Myers

The vote in favor was unanimous.

5. 19-044MA
Shirley Ann Montgomery
RU to GC (5.14 Acres)
Lib Lucas Road
TMS # R14781-01-50 & 51 [FIRST READING]

Mr. Livingston opened the floor to the public hearing.

Ms. Shirley Ann Montgomery and Mr. Robert C. Ashley spoke in favor of this item.

Mr. Larry Lowman, Mr. Robert Dow, Mr. David Strother and Ms. Gena Down spoke in opposition of this item.

The floor to the public hearing was closed.

Mr. Malinowski moved, seconded by Dickerson, to deny the re-zoning request.

In Favor: Terracio, Malinowski, Jackson, Newton, Myers, Dickerson, Livingston and McBride

The vote in favor was unanimous.

VI. **OTHER BUSINESS** – No other business.

VII. **ADJOURNMENT** – The meeting adjourned at approximately 7:24 PM.

**RICHLAND COUNTY
ADMINISTRATION**

2020 Hampton Street, Suite 4069
Columbia, SC 29204
803-576-2050



Agenda Briefing

To: Chair Paul Livingston and Members of the Council
Prepared by: Ashiya A. Myers, Assistant to the County Administrator
Department: Administration
Date Prepared: November 22, 2019 **Meeting Date:** December 03, 2019

Budget Review	James Hayes via email	Date:	November 26, 2019
Finance Review	Stacey Hamm via email	Date:	November 26, 2019
Other Review:	Beverly Harris via email	Date:	November 26, 2019
Approved for Council consideration:		County Administrator	Leonardo Brown, MBA, CPM
Subject: Livestream – County Council Retreat 2020			

Recommended Action:

This is a Council initiated request. Staff will move forward as directed by Council.

Motion Requested:

1. Move to Livestream the event; or
2. Move to record the event.

Request for Council Reconsideration: Yes

Fiscal Impact:

To Livestream the event, the total cost is \$10,384.90. If Council desires the host hotel’s preferred vendor to record the event, the total cost is \$8,598.26. Funding has been identified in the Non-Departmental budget.

Motion of Origin:

There is no associated Council motion of origin.

Council Member	
Meeting	
Date	

Discussion:

At the request of County Council, staff determined the costs associated with Livestreaming the 2020 Richland County Council Retreat.

To Livestream the event, the total cost is \$10,384.90.

If Council desires the host hotel's preferred vendor to record the event, the total cost is \$8,598.26.

If the Council desires the County's Public Information Office to provide post-production of the video, which includes adding graphics (i.e., identification of speakers) and other potential edits, the Media Production Specialist will need a minimum of five days to edit and produce two days' worth of raw video, as this project would be worked on in addition to other required duties.

During the 2019 Richland County Council Retreat, staff utilized the services of the host hotel's preferred vendor, AV Connections, to tape the meetings. The total cost associated with recording services, to include associated equipment, was \$3,178.00. The recording's length is 6 hours, 33 minutes, and 39 seconds. The total number of viewers to date of the 2019 recording is 144.

Attachments:

1. Quote from PSAV – Embassy Suites - Airport



Embassy Suites by Hilton Charleston Airport Hotel & Convention Center
5055 International Blvd
North Charleston, SC 29418
Tel: 843-725-1305

Currency: USD Page 1 of 6

Quote # 2177-1811

Richland County County Council
Attn: Angela Weathersby
2020 Hampton St
Columbia, SC 29204

Contact Name: Angela Weathersby Show Date(s): 01/23/2020 - 01/24/2020
Email: weathersby. Show Name: Richland County
angela@richlandcountysc.gov Show Location: Embassy Suites by Hilton
Quote No: 2177-1811 Charleston Airport Hotel & Convention Center
5055 International Blvd
North Charleston, SC 29418
Conveyance Method: Pickup
Billing Method: Master

	Gross	Discount	Ext. Price
Equipment Rental	\$3,116.00	\$608.60	\$2,507.40
Sub-Rental Equipment	\$5,550.00		\$5,550.00
Digital Services Labor	\$990.00		\$990.00
Setup Charges	\$480.00		\$480.00
Subtotal	\$10,136.00	\$608.60	\$9,527.40
Tax			\$857.50

Total Estimate **\$10,384.90**

A Service Charge (subject to applicable taxes) will be applied to this quote/invoice as indicated by the customer's master agreement with the Hotel. These service charges are not paid in whole or in part to employees of PSAV.

**Meeting Room 12 & 13 (01/23/2020 12:00AM - 01/24/2020 5:00PM)
 Job# 2177-3655**

Equipment And Sales

Qty	Item Description	Days Billed	Rate	Subtotal
<i>Video</i>				
1	Meeting Room Projector Package.	2	\$600.00	\$1,080.00
1	Camera Package - HD/SD Camcorder w/Tripod	2	\$1,275.00	\$2,550.00
1	Video Switcher HDMI 4x1	2	\$88.00	\$158.40
<i>LIVESTREAMING</i>				
1	Multicaster Rack	2	\$1,500.00	\$3,000.00
<i>Audio</i>				
1	Podium Microphone Package	2	\$80.00	\$144.00
5	Wired Handheld Microphone	2	\$65.00	\$585.00
<i>-For 11 council memberes (2) On One Table (3) On Second Table</i>				
5	Microphone Table Stand (Black)	2	\$10.00	\$0.00
1	Meeting Room Speaker Package	2	\$220.00	\$396.00
1	10 Channel (4) XLR Compact Mixer	2	\$115.00	\$0.00
<i>Presenter Support</i>				
1	Wood Floor Podium	2	\$80.00	\$144.00
Equipment And Sales Subtotal				\$8,057.40

Labor

Qty	Item Description	Rate	OT Rate	DT Rate	Days	Reg Hrs	OT Hrs	DT Hrs	Subtotal
<i>Labor</i>									
Thursday, January 23, 2020									
1	Webcasting Labor	\$90.00	\$135.00	\$180.00	7.00	0.00	0.00		\$630.00
1	Webcasting Labor	\$90.00	\$135.00	\$180.00	4.00	0.00	0.00		\$360.00
2	Technician To Set/Strike	\$80.00	\$120.00	\$160.00	3.00	0.00	0.00		\$480.00
Labor Subtotal									\$1,470.00
Meeting Room 12 & 13 (01/23/2020 12:00AM - 01/24/2020 5:00PM) Subtotal:									\$9,527.40

Job Note:

-Client to provide laptop for presentation

PSAV
Prepared For: Richland County County Council
Quote No: 2177-1811
Total Estimate: \$10,384.90

	Gross	Discount	Ext. Price
Subtotal	\$10,136.00	\$608.60	\$9,527.40
Tax			\$857.50

Total Estimate

\$10,384.90

A Service Charge (subject to applicable taxes) will be applied to this quote/invoice as indicated by the customer's master agreement with the Hotel. These service charges are not paid in whole or in part to employees of PSAV.

Thank you for your business.

GENERAL TERMS AND CONDITIONS

1. ACCEPTANCE. This Event Quote will be valid for a period of thirty (30) days from the Quote Date, or until December 31 of the calendar year in which the Event Quote was issued, whichever is earlier ("Acceptance Period"). These terms and conditions ("Terms") govern the provision of equipment, labor, and services to be provided by Audio Visual Services Group, LLC ("PSAV") to the undersigned customer ("Customer") for the event ("Event") at the venue ("Venue") each as specified in the Event Quote (or similar ordering document) to which these Terms are attached. In the event this Event Quote is not accepted, signed and returned to PSAV within the Acceptance Period, it will be void. All prices are subject to change without notice following the Acceptance Period. PSAV agrees to provide and Customer agrees to pay for, the charges for equipment, labor, and services specified in the Event Quote.

2. ESTIMATE. PSAV developed this Event Quote based upon information provided by the Customer. This Event Quote is only an estimate of equipment and services PSAV will provide in connection with the Event. In the case where Customer requests and PSAV provides, equipment, services, or labor in connection with the Event that is in excess of what is specified in the Event Quote, the parties will execute updated/amended forms or change orders as needed to indicate approval of these additional terms. Customer will be charged and pay for all such additional equipment, services, or labor (including rental fees and freight) at PSAV's prevailing standard rates, whether or not any additional forms are executed. Unless otherwise itemized on the Event Quote, all pricing excludes sales tax, freight, shipping/handling, and electrical charges (if applicable to the Event), which will be charged to, and payable by, Customer upon final invoice. Sales tax-exempt entities must submit sales tax exemption certificates prior to the commencement of the Event. If Customer does not send tax exemption certificates to PSAV prior to billing the Event, sales tax will be charged to, and payable by, the Customer, and will be included in the final invoice.

3. LABOR RATES. Hourly labor rates, minimum calls, overtime labor rates, daily labor rates, and per diems apply, and PSAV bases them upon prevailing rates and practices at the Venue and of the PSAV business division providing the equipment and services. PSAV developed labor estimates based on information provided by the Customer. All labor calls are subject to a minimum charge period based on the Venue rules, PSAV servicing division policies, and union rules, as they may apply. In the event that a labor resource works more hours than priced in the Event Quote, PSAV will bill the Customer and will pay for the appropriate prevailing or premium rate for the additional hours worked.

4. SERVICE CHARGES. Intentionally deleted.

5. EQUIPMENT RATES. Unless otherwise noted, PSAV bases all rates upon per-room, per-day calculations with the minimum rental period being one calendar day. A day rental period consists of all or any portion of each 24-hour period starting at 12:00 AM to 11:59 PM. Customer agrees to pay the rental fees described in the Event Quote for the stipulated period. Any equipment that is used or retained by Customer for a longer period will be subject to PSAV's prevailing rates until Customer returns the equipment.

6. EQUIPMENT HANDLING. PSAV personnel must handle all equipment. Customer may not move, store, or service the equipment or any other party. Customer may not operate the equipment unless authorized in writing by PSAV. Customer will incur additional charges if Customer violates this requirement. Customer permits PSAV free access to the equipment at any time before, during, or after the Event for purposes of set/strike, maintenance, and routine checks. PSAV retains all title and rights in and to the equipment and all related accessories.

7. DAMAGE & SECURITY. Customer will be responsible for all equipment that is damaged, lost, or stolen (whether by use, misuse, accident, or neglect), unless caused by PSAV's negligence. In addition to amounts due to PSAV in connection with the Event Quote, Customer agrees to pay PSAV, upon demand, all amounts incurred by PSAV on account of lost, damaged and stolen equipment, based upon repair costs for repairable equipment or full replacement cost for lost or irreparable equipment. In addition, Customer will be responsible for rental fees while a PSAV-authorized company repairs or replaces equipment as required. If Customer requires security or PSAV deems security necessary during an event, Customer will be responsible for all costs in connection with the provision of security.

8. EQUIPMENT FAILURE. PSAV maintains and services its equipment in accordance with the manufacturer's specifications and standard industry practice. However, PSAV does not warrant or guarantee that the equipment or services PSAV provides will be free of defect, malfunction, or operator error. If the equipment malfunctions or does not operate properly during the Event for any reason, Customer agrees to immediately notify a PSAV representative. PSAV will attempt to remedy the problem as soon as possible so that no problems interrupt the Event. Customer agrees and acknowledges that PSAV assumes no responsibility or liability for any loss, cost, damage, or injury to persons or property in connection with the Event because of inoperable equipment or other service issues.

9. PAYMENT. (a) **Master Account** Following the Event, PSAV may issue Customer an "Event Order" which summarizes all actual charges. If the Venue requires Customer to establish a "Master Account" with the Venue, the Venue will be PSAV's agent for payment. PSAV will invoice the Venue, and the Venue will invoice Customer. Customer will pay the Venue. Customer must notify PSAV prior to the Event if Customer did not secure a Master Account with the Venue in order to confirm direct billing arrangements. If Customer has established a Master Account, then Customer will make full and final payment to PSAV through such Master Account with the Venue in accordance with the Venue's payment terms; (b) **Direct Bill** – If the Venue is not invoicing Customer through a Master Account with the Venue, Customer will be direct billed for all equipment rental, labor, or services provided by PSAV, and must establish credit with PSAV by completing a credit application based on PSAV Credit Terms Approval SOP at least 30 days prior to the first day of the Event or at signing of the Event Quote if that date is within 30 days of the Event start date. Based on the results of the credit application, PSAV may require Customer to make a deposit payment of up to the full amount at least 30 days prior to the first day of the Event, or at signing of the Event Quote if such date is within 30 days of the first day of the Event. PSAV will credit the deposit received to the final invoice for the Event. PSAV requires Customer to make full and final payment to PSAV within the terms determined by PSAV from Customer's credit application; and (c) **Late Payment** – If Customer fails to make payment by the specified payment date outstanding balances will be subject to late payment charges in an amount equal to one and a half percent (1.5%) per month or a lesser amount as required by law.

10. CREDIT CARDS. PSAV accepts credit cards (Visa, Master Card, American Express, or Discover) as payment for invoices in certain situations, such as COD orders and orders under \$50,000. For non-COD orders and orders over \$50,000, Customer will pay by ACH or by check as directed by PSAV. There may be circumstances in which Customer may pay orders over \$50,000 by credit card, but PSAV must approve such payment arrangements in writing in advance.

11. CREDIT CHECK. PSAV reserves the right to run a credit check on Customer before this Agreement is signed and at any time after the Agreement is signed, so long as this Agreement is in effect or Customer has outstanding funds due to PSAV. Should PSAV determine that Customer's credit history is such that PSAV must modify the payment terms included above, Customer agrees to work with PSAV reasonably and in good faith to update the payment terms. Customer specifically authorizes PSAV to prepare and file without Customer's signature any Uniform Commercial Code ("UCC") financing statement amendments to Customer's existing UCC financing statements and any other filings or recordings in all jurisdictions where PSAV determines necessary or desirable, and authorizes PSAV to describe the collateral in such filings in any manner as PSAV determines appropriate. If Customer fails to make payment by the specified payment date, outstanding balances will be subject to late payment charges in an amount equal to one and a half percent (1.5%) per month or a lesser amount as required by law.

12. EVENT CANCELLATION. If Customer cancels the Event or the provision of audiovisual equipment, labor, or services by PSAV **30 days or more** before the first day of the Event, no cancellation charges will apply, except for any expenses actually incurred by PSAV, which will be payable by Customer. Cancellations received **29 to 15 days before** the

PSAV

Prepared For: Richland County County Council

Quote No: 2177-1811

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Total Estimate: \$10,384.90

first day of the Event will be subject to a cancellation charge equal to **50%** of the charges contained in the Event Quote. Cancellations received **14 to 3 days before** the first day of the Event will be subject to a cancellation charge of **75%** of the charges contained in the Event Quote. Cancellations received **less than 3 days (72 hours) before** the first day of the Event or after equipment has departed from its storage facility, will be subject to a cancellation charge equal to **100%** of the total charges set out in the Event Quote. Customer agrees and acknowledges that the cancellation charges described in this paragraph are reasonable and appropriate under the circumstances if Customer cancels the Event or cancels the provision of audiovisual equipment, labor, or services by PSAV, and that such charges are not a penalty. Cancellation fees, including fees to cover any incurred PSAV costs, will be due immediately upon any such cancellation by Customer. ALL CANCELLATION NOTICES MUST BE IN WRITING AND RECEIVED BY PSAV'S ONSITE REPRESENTATIVES BEFORE BECOMING EFFECTIVE. IF ANY CUSTOM SETS, GOBOS, OR OTHER CUSTOM MATERIALS HAVE BEEN ORDERED FOR AN EVENT, AN ADDITIONAL CANCELLATION FEE WILL BE APPLICABLE AND DUE TO PSAV REGARDLESS OF THE DATE OF CANCELLATION IN AN AMOUNT EQUAL TO THE DIRECT AND INDIRECT COSTS INCURRED BY PSAV OR ITS AFFILIATES IN SECURING OR CONSTRUCTING SUCH CUSTOM MATERIALS PLUS A 15% RESTOCKING FEE.

13. CHANGES TO EVENT QUOTE. Customer may request changes to equipment, labor, or services specified in the Event Quote, and the cancellation charges in Section 12 will not apply if Customer signs a revised Event Quote within 24 hours of the first day of the Event and provided that the total charges in the revised Event Quote are not less than ninety percent (90%) of the charges in the original Event Quote. PSAV will use commercially reasonable efforts to accommodate all such Customer requests but will not be liable to Customer for any failure to do so.

14. INDEMNIFICATION. Customer and PSAV each hereby forever agree to indemnify, defend, and hold harmless the other for any and all claims, losses, costs (including reasonable attorneys' fees and costs), damages, or injury to property and persons (including death) as a result of the negligent acts, errors, or omissions of the indemnifying party and its respective employees, agents, representatives, and contractors. Customer also agrees to indemnify, defend, and hold harmless PSAV against all claims for copyright, patent, or other intellectual property infringement including claims for licenses and royalties, as a result of PSAV's use of any and all Customer-provided materials such as images, recordings, transmissions, videos, software, hardware, or any other form of intellectual property, etc., in connection with the Event.

15. LIMITATION OF LIABILITY. Under no circumstances will either party be liable to each other for any indirect, exemplary, reliance, special, or consequential damages (including, but not limited to, loss of revenues or profits, interest, use, or other consequential economic loss) howsoever caused, whether arising in contract, tort, or otherwise, and even if such damages are foreseeable to such party or such party has been advised of the possibility of such damages. EACH PARTY'S TOTAL LIABILITY IN THE AGGREGATE FOR ANY AND ALL CLAIMS ARISING OUT OF OR IN CONNECTION WITH AN EVENT QUOTATION AND THE EVENT ITSELF WITH RESPECT TO ANY EXPENSE, DAMAGE, LOSS, INJURY, OR LIABILITY OF ANY KIND (INCLUDING INDEMNIFICATION OBLIGATIONS) WILL BE LIMITED TO AND WILL NOT EXCEED AN AMOUNT THAT IS EQUIVALENT TO THE CHARGES TO BE PAID BY CUSTOMER IN RESPECT OF THE APPLICABLE EVENT.

16. COOPERATION IN INVESTIGATIONS. PSAV and Customer each agree to promptly notify the other of any incidents, physical injuries, property damage, claims, demands, losses, causes of action, general damages, and expenses that may arise during PSAV's performance of the services for Customer. PSAV and Customer further agree to work together on the investigation of any such matters unless its own legal counsel, any law enforcement, or any other authority otherwise instructs either party.

17. INTELLECTUAL PROPERTY. Customer allows PSAV to use the trademarks, trade names, service marks, and other intellectual property of Customer given by Customer to PSAV for the strict purposes of carrying out PSAV's duties under the Agreement and as otherwise requested by Customer. Further, Customer permits PSAV to include event photos and renderings of set designs and other elements of Customer's event(s) as PSAV may reasonably require in showing current or prospective customers examples of PSAV's work.

18. NO OTHER WARRANTY. EXCEPT AS EXPRESSLY SET FORTH IN THESE TERMS, THE EQUIPMENT, LABOR, AND SERVICES ARE PROVIDED BY PSAV ON AN "AS IS" AND "AS AVAILABLE" BASIS, AND PSAV DISCLAIMS ALL OTHER WARRANTIES, REPRESENTATIONS, OR CONDITIONS OF ANY KIND, WHETHER EXPRESS OR IMPLIED.

19. FORCE MAJEURE. In no event will either party be liable to the other or any third party for any delay or failure in performance under this Agreement due to governmental actions, applicable law, ordinances, or regulations; acts of God, hurricanes, earthquakes, other adverse weather conditions; war or terrorism; strikes or other labor disputes; third party failures; or other causes outside of a party's control. The affected party will give notice of the delay and its cause to the other party as soon as practicable following the commencement of such delay.

20. MISCELLANEOUS. This Event Quote (including the Terms) will be governed and interpreted in accordance with the laws of the state in which the Event is located. These Terms and the Event Quote (as may be subsequently amended or supplemented as mutually-agreed) are the entire agreement between the parties and supersede any prior agreements, amendments, purchase orders, written communications of any kind, or other terms previously entered into by the parties for the same services, and may only be modified by written agreement signed between the parties. For the avoidance of doubt, handwritten changes to these Terms or an Event Quote are expressly rejected unless signed or initialed by both parties. The terms of any purchase order or other document issued by Customer will not bind PSAV unless otherwise expressly agreed to by PSAV in a signed writing. Customer agrees that the Event Quote and related documents may be digitally scanned and transmitted to Customer following signing by Customer, and that on acceptance by PSAV of such signed Event Quote in digital, facsimile, or other form, such signed Event Quote in PSAV's possession will be deemed for all purposes to be an executed original.

21. ADDITIONAL TERMS AND CONDITIONS. From time to time, PSAV may also include additional Event-specific terms in an updated Event Quote. When Customer requests additional services, Customer understands and agrees to any additional provisions contained within the updated Event Quote.

*REVISED 5.31.19

PSAV

Prepared For: Richland County County Council

Quote No: 2177-1811

Page 6 of 6

Total Estimate: \$10,384.90

Approved By: _____

Printed On: 11/26/2019 11:02 AM

Prepared By: Joy Harley

Prepared For: Richland County County Council (Angela Weathersby)

Signed Acceptance must be received prior to delivery of equipment to Customer/show site.

Signature as Acceptance of the Proposal and Terms

Date of Acceptance



Embassy Suites by Hilton Charleston Airport Hotel
 & Convention Center
 5055 International Blvd
 North Charleston, SC 29418
 Tel: 843-725-1305

Currency: USD Page 1 of 6

Quote # 2177-1811

Richland County County Council
 Attn: Angela Weathersby
 2020 Hampton St
 Columbia, SC 29204

Contact Name:	Angela Weathersby	Show Date(s):	01/23/2020 - 01/24/2020
Email:	weathersby. angela@richlandcountysc.gov	Show Name:	Richland County
Quote No:	2177-1811	Show Location:	Embassy Suites by Hilton Charleston Airport Hotel & Convention Center 5055 International Blvd North Charleston, SC 29418
		Conveyance Method:	Pickup
		Billing Method:	Master

	Gross	Discount	Ext. Price
Equipment Rental	\$4,726.00	\$913.60	\$3,812.40
Sub-Rental Equipment	\$2,550.00		\$2,550.00
Operator Labor	\$1,140.00		\$1,140.00
Setup Charges	\$480.00		\$480.00
Subtotal	\$8,896.00	\$913.60	\$7,982.40
Tax			\$615.86
Total Estimate			\$8,598.26

A Service Charge (subject to applicable taxes) will be applied to this quote/invoice as indicated by the customer's master agreement with the Hotel. These service charges are not paid in whole or in part to employees of PSAV.

Meeting Room 12 & 13 (01/23/2020 12:00AM - 01/24/2020 5:00PM)
 Job# 2177-3655

Equipment And Sales

Qty	Item Description	Days Billed	Rate	Subtotal
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1	Camera Package - HD/SD Camcorder w/Tripod	2	\$1,275.00	\$2,550.00
1	Video Switcher HDMI 4x1	2	\$88.00	\$158.40
1	Digital Video Recording Kit	2	\$805.00	\$1,449.00
Audio				
1	Podium Microphone Package	2	\$80.00	\$144.00
5	Wired Handheld Microphone -For 11 council memberes (2) On One Table (3) On Second Table	2	\$65.00	\$585.00
5	Microphone Table Stand (Black)	2	\$10.00	\$0.00
1	Meeting Room Speaker Package	2	\$220.00	\$396.00
1	10 Channel (4) XLR Compact Mixer	2	\$115.00	\$0.00
Presenter Support				
1	Wood Floor Podium	2	\$80.00	\$0.00
Equipment And Sales Subtotal				\$6,362.40

Labor

Qty	Item Description	Rate	OT Rate	DT Rate	Days	Reg Hrs	OT Hrs	DT Hrs	Subtotal
Labor									
Thursday, January 23, 2020									
2	Technician To Set/Strike	\$80.00	\$120.00	\$160.00		3.00	0.00	0.00	\$480.00
1	Technician - Operate	\$95.00	\$142.50	\$190.00		8.00	0.00	0.00	\$760.00
Friday, January 24, 2020									
1	Technician - Operate	\$95.00	\$142.50	\$190.00		4.00	0.00	0.00	\$380.00
Labor Subtotal									\$1,620.00
Meeting Room 12 & 13 (01/23/2020 12:00AM - 01/24/2020 5:00PM) Subtotal:									\$7,982.40

Job Note:

-Client to provide laptop for presentation

PSAV

Prepared For: Richland County County Council

Quote No: 2177-1811

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Total Estimate: \$8,598.26

	Gross	Discount	Ext. Price
Subtotal	\$8,896.00	\$913.60	\$7,982.40
Tax			\$615.86

Total Estimate

\$8,598.26

A Service Charge (subject to applicable taxes) will be applied to this quote/invoice as indicated by the customer's master agreement with the Hotel. These service charges are not paid in whole or in part to employees of PSAV.

Thank you for your business.

GENERAL TERMS AND CONDITIONS

1. ACCEPTANCE. This Event Quote will be valid for a period of thirty (30) days from the Quote Date, or until December 31 of the calendar year in which the Event Quote was issued, whichever is earlier ("Acceptance Period"). These terms and conditions ("Terms") govern the provision of equipment, labor, and services to be provided by Audio Visual Services Group, LLC ("PSAV") to the undersigned customer ("Customer") for the event ("Event") at the venue ("Venue") each as specified in the Event Quote (or similar ordering document) to which these Terms are attached. In the event this Event Quote is not accepted, signed and returned to PSAV within the Acceptance Period, it will be void. All prices are subject to change without notice following the Acceptance Period. PSAV agrees to provide and Customer agrees to pay for, the charges for equipment, labor, and services specified in the Event Quote.

2. ESTIMATE. PSAV developed this Event Quote based upon information provided by the Customer. This Event Quote is only an estimate of equipment and services PSAV will provide in connection with the Event. In the case where Customer requests and PSAV provides, equipment, services, or labor in connection with the Event that is in excess of what is specified in the Event Quote, the parties will execute updated/amended forms or change orders as needed to indicate approval of these additional terms. Customer will be charged and pay for all such additional equipment, services, or labor (including rental fees and freight) at PSAV's prevailing standard rates, whether or not any additional forms are executed. Unless otherwise itemized on the Event Quote, all pricing excludes sales tax, freight, shipping/handling, and electrical charges (if applicable to the Event), which will be charged to, and payable by, Customer upon final invoice. Sales tax-exempt entities must submit sales tax exemption certificates prior to the commencement of the Event. If Customer does not send tax exemption certificates to PSAV prior to billing the Event, sales tax will be charged to, and payable by, the Customer, and will be included in the final invoice.

3. LABOR RATES. Hourly labor rates, minimum calls, overtime labor rates, daily labor rates, and per diems apply, and PSAV bases them upon prevailing rates and practices at the Venue and of the PSAV business division providing the equipment and services. PSAV developed labor estimates based on information provided by the Customer. All labor calls are subject to a minimum charge period based on the Venue rules, PSAV servicing division policies, and union rules, as they may apply. In the event that a labor resource works more hours than priced in the Event Quote, PSAV will bill the Customer and will pay for the appropriate prevailing or premium rate for the additional hours worked.

4. SERVICE CHARGES. Intentionally deleted.

5. EQUIPMENT RATES. Unless otherwise noted, PSAV bases all rates upon per-room, per-day calculations with the minimum rental period being one calendar day. A day rental period consists of all or any portion of each 24-hour period starting at 12:00 AM to 11:59 PM. Customer agrees to pay the rental fees described in the Event Quote for the stipulated period. Any equipment that is used or retained by Customer for a longer period will be subject to PSAV's prevailing rates until Customer returns the equipment.

6. EQUIPMENT HANDLING. PSAV personnel must handle all equipment. Customer may not move, store, or service the equipment or any other party. Customer may not operate the equipment unless authorized in writing by PSAV. Customer will incur additional charges if Customer violates this requirement. Customer permits PSAV free access to the equipment at any time before, during, or after the Event for purposes of set/strike, maintenance, and routine checks. PSAV retains all title and rights in and to the equipment and all related accessories.

7. DAMAGE & SECURITY. Customer will be responsible for all equipment that is damaged, lost, or stolen (whether by use, misuse, accident, or neglect), unless caused by PSAV's negligence. In addition to amounts due to PSAV in connection with the Event Quote, Customer agrees to pay PSAV, upon demand, all amounts incurred by PSAV on account of lost, damaged and stolen equipment, based upon repair costs for repairable equipment or full replacement cost for lost or irreparable equipment. In addition, Customer will be responsible for rental fees while a PSAV-authorized company repairs or replaces equipment as required. If Customer requires security or PSAV deems security necessary during an event, Customer will be responsible for all costs in connection with the provision of security.

8. EQUIPMENT FAILURE. PSAV maintains and services its equipment in accordance with the manufacturer's specifications and standard industry practice. However, PSAV does not warrant or guarantee that the equipment or services PSAV provides will be free of defect, malfunction, or operator error. If the equipment malfunctions or does not operate properly during the Event for any reason, Customer agrees to immediately notify a PSAV representative. PSAV will attempt to remedy the problem as soon as possible so that no problems interrupt the Event. Customer agrees and acknowledges that PSAV assumes no responsibility or liability for any loss, cost, damage, or injury to persons or property in connection with the Event because of inoperable equipment or other service issues.

9. PAYMENT. (a) Master Account Following the Event, PSAV may issue Customer an "Event Order" which summarizes all actual charges. If the Venue requires Customer to establish a "Master Account" with the Venue, the Venue will be PSAV's agent for payment. PSAV will invoice the Venue, and the Venue will invoice Customer. Customer will pay the Venue. Customer must notify PSAV prior to the Event if Customer did not secure a Master Account with the Venue in order to confirm direct billing arrangements. If Customer has established a Master Account, then Customer will make full and final payment to PSAV through such Master Account with the Venue in accordance with the Venue's payment terms; (b) Direct Bill – If the Venue is not invoicing Customer through a Master Account with the Venue, Customer will be direct billed for all equipment rental, labor, or services provided by PSAV, and must establish credit with PSAV by completing a credit application based on PSAV Credit Terms Approval SOP at least 30 days prior to the first day of the Event or at signing of the Event Quote if that date is within 30 days of the Event start date. Based on the results of the credit application, PSAV may require Customer to make a deposit payment of up to the full amount at least 30 days prior to the first day of the Event, or at signing of the Event Quote if such date is within 30 days of the first day of the Event. PSAV will credit the deposit received to the final invoice for the Event. PSAV requires Customer to make full and final payment to PSAV within the terms determined by PSAV from Customer's credit application; and (c) Late Payment – If Customer fails to make payment by the specified payment date outstanding balances will be subject to late payment charges in an amount equal to one and a half percent (1.5%) per month or a lesser amount as required by law.

10. CREDIT CARDS. PSAV accepts credit cards (Visa, Master Card, American Express, or Discover) as payment for invoices in certain situations, such as COD orders and orders under \$50,000. For non-COD orders and orders over \$50,000, Customer will pay by ACH or by check as directed by PSAV. There may be circumstances in which Customer may pay orders over \$50,000 by credit card, but PSAV must approve such payment arrangements in writing in advance.

11. CREDIT CHECK. PSAV reserves the right to run a credit check on Customer before this Agreement is signed and at any time after the Agreement is signed, so long as this Agreement is in effect or Customer has outstanding funds due to PSAV. Should PSAV determine that Customer's credit history is such that PSAV must modify the payment terms included above, Customer agrees to work with PSAV reasonably and in good faith to update the payment terms. Customer specifically authorizes PSAV to prepare and file without Customer's signature any Uniform Commercial Code ("UCC") financing statement amendments to Customer's existing UCC financing statements and any other filings or recordings in all jurisdictions where PSAV determines necessary or desirable, and authorizes PSAV to describe the collateral in such filings in any manner as PSAV determines appropriate. If Customer fails to make payment by the specified payment date, outstanding balances will be subject to late payment charges in an amount equal to one and a half percent (1.5%) per month or a lesser amount as required by law.

12. EVENT CANCELLATION. If Customer cancels the Event or the provision of audiovisual equipment, labor, or services by PSAV 30 days or more before the first day of the Event, no cancellation charges will apply, except for any expenses actually incurred by PSAV, which will be payable by Customer. Cancellations received 29 to 15 days before the

PSAV

Prepared For: Richland County County Council

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Total Estimate: \$8,598.26

first day of the Event will be subject to a cancellation charge equal to 50% of the charges contained in the Event Quote. Cancellations received 14 to 3 days before the first day of the Event will be subject to a cancellation charge of 75% of the charges contained in the Event Quote. Cancellations received less than 3 days (72 hours) before the first day of the Event or after equipment has departed from its storage facility, will be subject to a cancellation charge equal to 100% of the total charges set out in the Event Quote. Customer agrees and acknowledges that the cancellation charges described in this paragraph are reasonable and appropriate under the circumstances if Customer cancels the Event or cancels the provision of audiovisual equipment, labor, or services by PSAV, and that such charges are not a penalty. Cancellation fees, including fees to cover any incurred PSAV costs, will be due immediately upon any such cancellation by Customer. ALL CANCELLATION NOTICES MUST BE IN WRITING AND RECEIVED BY PSAV'S ONSITE REPRESENTATIVES BEFORE BECOMING EFFECTIVE. IF ANY CUSTOM SETS, GOBOS, OR OTHER CUSTOM MATERIALS HAVE BEEN ORDERED FOR AN EVENT, AN ADDITIONAL CANCELLATION FEE WILL BE APPLICABLE AND DUE TO PSAV REGARDLESS OF THE DATE OF CANCELLATION IN AN AMOUNT EQUAL TO THE DIRECT AND INDIRECT COSTS INCURRED BY PSAV OR ITS AFFILIATES IN SECURING OR CONSTRUCTING SUCH CUSTOM MATERIALS PLUS A 15% RESTOCKING FEE.

13. CHANGES TO EVENT QUOTE. Customer may request changes to equipment, labor, or services specified in the Event Quote, and the cancellation charges in Section 12 will not apply if Customer signs a revised Event Quote within 24 hours of the first day of the Event and provided that the total charges in the revised Event Quote are not less than ninety percent (90%) of the charges in the original Event Quote. PSAV will use commercially reasonable efforts to accommodate all such Customer requests but will not be liable to Customer for any failure to do so.

14. INDEMNIFICATION. Customer and PSAV each hereby forever agree to indemnify, defend, and hold harmless the other for any and all claims, losses, costs (including reasonable attorneys' fees and costs), damages, or injury to property and persons (including death) as a result of the negligent acts, errors, or omissions of the indemnifying party and its respective employees, agents, representatives, and contractors. Customer also agrees to indemnify, defend, and hold harmless PSAV against all claims for copyright, patent, or other intellectual property infringement including claims for licenses and royalties, as a result of PSAV's use of any and all Customer-provided materials such as images, recordings, transmissions, videos, software, hardware, or any other form of intellectual property, etc., in connection with the Event.

15. LIMITATION OF LIABILITY. Under no circumstances will either party be liable to each other for any indirect, exemplary, reliance, special, or consequential damages (including, but not limited to, loss of revenues or profits, interest, use, or other consequential economic loss) howsoever caused, whether arising in contract, tort, or otherwise, and even if such damages are foreseeable to such party or such party has been advised of the possibility of such damages. EACH PARTY'S TOTAL LIABILITY IN THE AGGREGATE FOR ANY AND ALL CLAIMS ARISING OUT OF OR IN CONNECTION WITH AN EVENT QUOTATION AND THE EVENT ITSELF WITH RESPECT TO ANY EXPENSE, DAMAGE, LOSS, INJURY, OR LIABILITY OF ANY KIND (INCLUDING INDEMNIFICATION OBLIGATIONS) WILL BE LIMITED TO AND WILL NOT EXCEED AN AMOUNT THAT IS EQUIVALENT TO THE CHARGES TO BE PAID BY CUSTOMER IN RESPECT OF THE APPLICABLE EVENT.

16. COOPERATION IN INVESTIGATIONS. PSAV and Customer each agree to promptly notify the other of any incidents, physical injuries, property damage, claims, demands, losses, causes of action, general damages, and expenses that may arise during PSAV's performance of the services for Customer. PSAV and Customer further agree to work together on the investigation of any such matters unless its own legal counsel, any law enforcement, or any other authority otherwise instructs either party.

17. INTELLECTUAL PROPERTY. Customer allows PSAV to use the trademarks, trade names, service marks, and other intellectual property of Customer given by Customer to PSAV for the strict purposes of carrying out PSAV's duties under the Agreement and as otherwise requested by Customer. Further, Customer permits PSAV to include event photos and renderings of set designs and other elements of Customer's event(s) as PSAV may reasonably require in showing current or prospective customers examples of PSAV's work.

18. NO OTHER WARRANTY. EXCEPT AS EXPRESSLY SET FORTH IN THESE TERMS, THE EQUIPMENT, LABOR, AND SERVICES ARE PROVIDED BY PSAV ON AN "AS IS" AND "AS AVAILABLE" BASIS, AND PSAV DISCLAIMS ALL OTHER WARRANTIES, REPRESENTATIONS, OR CONDITIONS OF ANY KIND, WHETHER EXPRESS OR IMPLIED.

19. FORCE MAJEURE. In no event will either party be liable to the other or any third party for any delay or failure in performance under this Agreement due to governmental actions, applicable law, ordinances, or regulations; acts of God, hurricanes, earthquakes, other adverse weather conditions; war or terrorism; strikes or other labor disputes; third party failures; or other causes outside of a party's control. The affected party will give notice of the delay and its cause to the other party as soon as practicable following the commencement of such delay.

20. MISCELLANEOUS. This Event Quote (including the Terms) will be governed and interpreted in accordance with the laws of the state in which the Event is located. These Terms and the Event Quote (as may be subsequently amended or supplemented as mutually-agreed) are the entire agreement between the parties and supersede any prior agreements, amendments, purchase orders, written communications of any kind, or other terms previously entered into by the parties for the same services, and may only be modified by written agreement signed between the parties. For the avoidance of doubt, handwritten changes to these Terms or an Event Quote are expressly rejected unless signed or initialed by both parties. The terms of any purchase order or other document issued by Customer will not bind PSAV unless otherwise expressly agreed to by PSAV in a signed writing. Customer agrees that the Event Quote and related documents may be digitally scanned and transmitted to Customer following signing by Customer, and that on acceptance by PSAV of such signed Event Quote in digital, facsimile, or other form, such signed Event Quote in PSAV's possession will be deemed for all purposes to be an executed original.

21. ADDITIONAL TERMS AND CONDITIONS. From time to time, PSAV may also include additional Event-specific terms in an updated Event Quote. When Customer requests additional services, Customer understands and agrees to any additional provisions contained within the updated Event Quote.

*REVISED 5.31.19

PSAV

Prepared For: Richland County County Council

Quote No: 2177-1811

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Total Estimate: \$8,598.26

Approved By: _____

Printed On: 11/26/2019 11:07 AM

Prepared By: Joy Harley

Prepared For: Richland County County Council (Angela Weathersby)

Signed Acceptance must be received prior to delivery of equipment to Customer/show site.

Signature as Acceptance of the Proposal and Terms

Date of Acceptance

Richland County Council Request for Action

Subject:

19-041MA
Gerald K. James
RU to RC (5.6 Acres)
4008 Leesburg Road
TMS # R25000-01-04F & R25000-01-04A (Portion of)

Notes:

First Reading: November 21, 2019
Second Reading:
Third Reading:
Public Hearing: November 21, 2019

STATE OF SOUTH CAROLINA
COUNTY COUNCIL OF RICHLAND COUNTY
ORDINANCE NO. ____-19HR

AN ORDINANCE OF THE COUNTY COUNCIL OF RICHLAND COUNTY, SOUTH CAROLINA, AMENDING THE ZONING MAP OF UNINCORPORATED RICHLAND COUNTY, SOUTH CAROLINA, TO CHANGE THE ZONING DESIGNATION FOR THE REAL PROPERTY DESCRIBED AS TMS # R25000-01-04F and # R25000-01-04A (PORTION OF) FROM RURAL DISTRICT (RU) TO RURAL COMMERCIAL DISTRICT (RC); AND PROVIDING FOR SEVERABILITY AND AN EFFECTIVE DATE.

Pursuant to the authority granted by the Constitution of the State of South Carolina and the General Assembly of the State of South Carolina, BE IT ENACTED BY RICHLAND COUNTY COUNCIL:

Section I. The Zoning Map of unincorporated Richland County is hereby amended to change the real property described as TMS # R25000-01-04F and # R25000-01-04A (portion of) from Rural District (RU) to Rural Commercial District (RC).

Section II. Severability. If any section, subsection, or clause of this Ordinance shall be deemed to be unconstitutional, or otherwise invalid, the validity of the remaining sections, subsections, and clauses shall not be affected thereby.

Section III. Conflicting Ordinances Repealed. All ordinances or parts of ordinances in conflict with the provisions of this ordinance are hereby repealed.

Section IV. Effective Date. This ordinance shall be effective from and after _____, 2019.

RICHLAND COUNTY COUNCIL

By: _____
Paul Livingston, Chair

Attest this _____ day of
_____, 2019.

Michelle M. Onley
Deputy Clerk of Council

RICHLAND COUNTY ATTORNEY'S OFFICE

Approved As To LEGAL Form Only.
No Opinion Rendered As To Content.

Public Hearing: November 21, 2019
First Reading: November 21, 2019
Second Reading: December 3, 2019
Third Reading: December 10, 2019

Richland County Council Request for Action

Subject:

Conversion of Six Part-Time Deputy Coroner Positions to Full-Time Status

Notes:

November 21, 2019 – The Administration and Finance Committee recommended Council approve the Coroner's Office recommendation of converting six part-time Deputy Coroner positions to full-time status.



Agenda Briefing

To: Committee Chair Joyce Dickerson and Members of the Committee

Prepared by: Gary Watts, Coroner

Department: Richland County Coroner's Office

Date Prepared: September 26, 2019

Meeting Date: October 22, 2019

Legal Review	Elizabeth McLean via email	Date:	October 14, 2019
Budget Review	James Hayes via email	Date:	October 17, 2019
Finance Review	Stacey Hamm via email	Date:	September 30, 2019
Approved for Council consideration:	Assistant County Administrator	John M. Thompson, Ph.D.	
Committee	Administration & Finance		
Subject:	Conversion of Six Part-Time Deputy Coroner Positions to Full-Time Status		

Recommended Action:

Richland County Coroner's Office recommends the conversion of six part-time Deputy Coroner positions to full-time status for budget year 2019-2020. Two of the six part-time to full-time conversions were already in process for July 1st, but they are still showing as part-time employees on our payroll. Approval of these last six conversions would complete the process of converting a total of 18 non-exempt part-time Deputy Coroners to exempt full-time Deputy Coroners as agreed upon with the previous Administration.

Motion Requested:

Move to approve the Coroner's Office recommendation of converting six part-time Deputy Coroner positions to full-time status.

Request for Council Reconsideration: Yes

Fiscal Impact:

There would be a minimum fiscal impact of \$46,063.68. The salaries might not change, but once the employees are converted to full time status, the County would offer benefits. The minimum insurance coverage offered for medical, dental, vision and life is \$11,515.92 per employee if they select the benefit and could be more if they choose family/dependents. Two of the employees are already getting insurance benefits, but the other four would receive benefits. All but one of the part-time employees are in the retirement system already so that wouldn't change unless their hours are more.

However, it should be noted that Budget has expressed concern about this request as the Coroner's Office ended last year with a negative balance for its part-time employee line item.

Motion of Origin:

There is no associated Council motion of origin.

Council Member	
Meeting	
Date	

Discussion:

The Coroner’s Office is spending a large amount of money to train and equip part-time Deputy Coroners. Once trained and equipped, they then leave to join other agencies that are offering full-time employment with benefits. In 2017, then Administrator Gerald Seals granted the Coroner’s Office authority to convert three positions on a bi-annual basis every six months (in July and January) until a total of 18 conversions were completed. It was determined that paying the non-exempt part-time deputy coroners for full-time hours plus any time over the 75 hours in a pay period would essentially negate any additional financial impact on the county because those employees would become exempt full-time employees. There would just be a reallocation of funds from the part-time line item to the full-time line item in the department’s budget. Also, it is the Coroner’s understanding that if a part-time employee consistently works full-time hours for a year-long period, the county is obligated to offer him/her insurance benefits after that time requirement is met.

It is logical to continue these conversions to increase the retention rate, and, in doing so, ensuring the Coroner’s Office is prepared to better serve the citizens of Richland County by providing services to them rather than spending most of the department’s time training employees for other agencies.

Attachments:

1. Email communication between Dr. Yúdice and Coroner Watts dated from April 13, 2017 thru April 26, 2017. (Also includes email from Coroner Watts to Dr. Thompson when this was forwarded to him dated September 11, 2019.)
2. Email communication from James Hayes to Coroner Watts dated December 18, 2018 thru December 24, 2018.
3. Email communication from James Hayes to County Administrator Leonardo Brown and Assistant County Administration Dr. John Thompson
4. Budget Analysis of Coroner Position Conversion
5. Email communication from Dwight Hanna to County Administrator Leonardo Brown

CATHY RAWLS

From: GARY WATTS
Sent: Wednesday, September 11, 2019 12:02 PM
To: JOHN THOMPSON
Cc: CATHY RAWLS
Subject: FW: Coroner budget

Dr. Thompson,

Here is the email trail between myself and Dr. Yudice in 2017 regarding the conversion of our part-time employees to full time. This took us through the 2019 budget year. When Mr. Seals left, the continuation of the plan for our last part-time employees in budget year 2019-2020 never got sent out in writing.

I hope this helps and I appreciate your efforts in getting this conversion plan completed.

Gary Watts

From: GARY WATTS
Sent: Wednesday, April 26, 2017 1:59 PM
To: CATHY RAWLS <RAWLSC@rcgov.us>
Subject: FW: Coroner budget

Copy please

From: SANDRA YUDICE
Sent: Wednesday, April 26, 2017 1:13 PM
To: GARY WATTS
Cc: DONALD WOODWARD; SCOTT WEST; KAREN MAGSINO
Subject: RE: Coroner budget

Yes and according to budget staff, it's included in the budget.

The conversion plan is as follows:

- FY 2018 (6 PT to 6 FT):
 - 3 starting July 2017
 - 3 starting January 2018
- FY 2019 (6 PT to 6 FT):
 - 3 starting July 2018
 - 3 starting January 2019

From: GARY WATTS
Sent: Wednesday, April 26, 2017 11:49 AM
To: SANDRA YUDICE
Subject: RE: Coroner budget

Sandra,

Good morning, I was just checking to see if Mr. Seals has signed off on our implantation plan?

Thanks,
Gary

From: SANDRA YUDICE
Sent: Monday, April 17, 2017 6:54 PM
To: GARY WATTS
Subject: RE: Coroner budget

Yes. I just sent the plan to Mr. Seals for his review. I'll let you know later. Thanks for asking. Sandra

From: GARY WATTS
Sent: Monday, April 17, 2017 4:58 PM
To: SANDRA YUDICE
Subject: Re: Coroner budget

Any word from Mr. Woodward yet on our FTE conversions

Sent from my iPhone

On Apr 13, 2017, at 20:19, GARY WATTS <WATTSG@rcgov.us> wrote:

Thank you for your help. Look forward to hearing from you

Sent from my iPhone

On Apr 13, 2017, at 19:52, SANDRA YUDICE <YUDICES@rcgov.us> wrote:

Exactly. The vehicle replacement program will take care of all vehicles in the county's fleet and elected officials who have assigned vehicles will have control up to the amount approved through the budget. In your case will be the amounts submitted in the request for each fiscal year of the biennium budget.

On the conversion of PT positions to FT. I'll meet with the budget staff tomorrow and inform them that Mr. Seals authorized this change in the budget.

Please let me know if you have additional questions.

Thanks.

Sandra

From: GARY WATTS
Sent: Thursday, April 13, 2017 7:06 PM
To: SANDRA YUDICE
Subject: Re: Coroner budget

Just making sure I understand in reference to the vehicles. You are saying that the amount requested in our budget will be the amount approved through the county

vehicle replacement program, and I will not need to do anything else about vehicles.

Sent from my iPhone

On Apr 13, 2017, at 18:53, SANDRA YUDICE <YUDICES@rcgov.us> wrote:

Mr. Watts,

On the vehicles request submitted, you see \$0 in the recommended columns for FY 2018 and 2019. Please note that the county is establishing a Vehicle Replacement Program. Vehicles will be funded and replaced through that program instead of individual elected officials' budgets. Please be assured that you will have control over the replacement of the vehicles up to the amount requested in your budget submittal and approved through the budget.

Please let me know if you have any questions.

Thank you.

Sandra E. Yúdice, Ph.D.
Assistant County Administrator
Richland County Government
2020 Hampton St., Suite 4069
P.O. Box 192
Columbia, SC 29204

Phone: (803) 576-2057 | Fax: (803) 576-2137 | yudices@rcgov.us

"The mission of the government of Richland County, South Carolina, is to provide essential services, efficiently and effectively, in order to improve the quality of life for its citizens."

From: SANDRA YUDICE
Sent: Thursday, April 13, 2017 2:00 PM
To: GARY WATTS
Subject: Coroner budget
Importance: High

Good afternoon Mr. Watts,

In an effort to reconcile your budget request submittal to former Chief Financial Officer Daniel Driggers with the proposed budget from the County Administrator, I'm asking to review the attached Excel file to ensure that the budget team processed your final budget request as submitted.

I'm also requesting your prompt assistance on this matter and to send back the Excel file with any pertinent notations/revisions by 5 p.m. today, if possible.

Thank you.

Sandra E. Yúdice, Ph.D.
Assistant County Administrator
Richland County Government
2020 Hampton St., Suite 4069
P.O. Box 192
Columbia, SC 29204
Phone: (803) 576-2057 | Fax: (803) 576-2137 | yudices@rcgov.us

“The mission of the government of Richland County, South Carolina, is to provide essential services, efficiently and effectively, in order to improve the quality of life for its citizens.”

CATHY RAWLS

From: JAMES HAYES
Sent: Monday, December 24, 2018 8:42 PM
To: GARY WATTS
Subject: Re: New Positions FY18

I thought the net impact on the budget was zero; because the budget was these positions would is currently in your part time line item?; thus it's a matter of re-allocation. Please advise

Sent from my iPad

On Dec 24, 2018, at 2:43 PM, GARY WATTS <WATTS.GARY@richlandcountysc.gov> wrote:

Please make sure it is included. We did not add it our numbers this process because I was under the impression it was already set. Thanks and let me know if you need anything else

Sent from my iPhone

On Dec 18, 2018, at 10:00 AM, JAMES HAYES <HAYES.JAMES@richlandcountysc.gov> wrote:

Ok; thanks; please keep in mind that this was for Biennium Budget I; it needed to be requested again for Council approval for the upcoming Biennium if you desired for it continue

James Hayes, CGFO
Director of Budget and Grants Management
Richland County Administration
2020 Hampton Street
Columbia SC 29201
803-576-2095(W)
803-576-2138(F)

From: GARY WATTS
Sent: Tuesday, December 18, 2018 9:45 AM
To: JAMES HAYES <HAYES.JAMES@richlandcountysc.gov>
Subject: Re: New Positions FY18

Three every six months July 1, January 1 through the budget process

Sent from my iPhone

On Dec 18, 2018, at 9:30 AM, JAMES HAYES <HAYES.JAMES@richlandcountysc.gov> wrote:

How many? I apologize that's what I really wanted to know; Since that Budget was passed before I came upstairs; there a few things that I need clarification on.

Thanks

James Hayes, CGFO
Director of Budget and Grants Management
Richland County Administration
2020 Hampton Street
Columbia SC 29201
803-576-2095(W)
803-576-2138(F)

From: GARY WATTS
Sent: Tuesday, December 18, 2018 9:30 AM
To: JAMES HAYES <HAYES.JAMES@richlandcountysc.gov>
Subject: Re: New Positions FY18

Yes

Sent from my iPhone

On Dec 18, 2018, at 9:15 AM, JAMES HAYES
<HAYES.JAMES@richlandcountysc.gov> wrote:

I have a question; I know Brandon told me you all got approval for new positions in Year 2 of the Biennium which is this year but did you also get new positions in year 1, FY18?

James Hayes, CGFO
Director of Budget and Grants Management
Richland County Administration
2020 Hampton Street
Columbia SC 29201
803-576-2095(W)
803-576-2138(F)

ASHIYA MYERS

From: JAMES HAYES
Sent: Friday, September 20, 2019 4:36 PM
To: JOHN THOMPSON
Cc: LEONARDO BROWN
Subject: RE: HR Inquiry - Coroner's Office
Attachments: Administrative Memorandum 7-1 Revised.pdf

Dr. Thompson,

I went back and reviewed the Council minutes during Biennium Budget I a couple of years ago and I was unable to find any reference to any Coroner positions; I saw discussions regarding the Public Defender, the Solicitor, and CASA but I did not see the Coroner unless I just missed it but I don't believe I did based off the attached; this is a memo sent out by then Administration team highlighting new positions approved by Council and you will note the absence of the Coroner positions; I do really believe this was a work around between the Coroner and Mr. Seals; again not accusing anyone of anything nefarious but I am just saying the Coroner positions were approved in a route different than the normal route. He will have to bring this before Council and they are going to want an explanation as you can imagine.

James Hayes, CGFO
Director of Budget and Grants Management
Richland County Administration
2020 Hampton Street
Columbia SC 29201
803-576-2095(W)
803-576-2138(F)

From: JOHN THOMPSON <THOMPSON.JOHN@richlandcountysc.gov>
Sent: Thursday, September 19, 2019 3:22 PM
To: JAMES HAYES <HAYES.JAMES@richlandcountysc.gov>
Cc: LEONARDO BROWN <BROWN.LEONARDO@richlandcountysc.gov>
Subject: RE: HR Inquiry - Coroner's Office

James: No need for an apology. I am very aware of your busy schedule. I await your response on tomorrow. Thank you, sir!

John

John M. Thompson, Ph.D., MBA, CPM

Assistant County Administrator
Richland County Government
Office of the County Administrator
803-576-2054

Thompson.John@RichlandCountySC.gov

From: JAMES HAYES <HAYES.JAMES@richlandcountysc.gov>
Sent: Thursday, September 19, 2019 3:20 PM
To: JOHN THOMPSON <THOMPSON.JOHN@richlandcountysc.gov>

Cc: LEONARDO BROWN <BROWN.LEONARDO@richlandcountysc.gov>

Subject: Re: HR Inquiry - Coroner's Office

Dr. Thompson

My apologies on the delay. Allow me to do one final check and I will respond afterwards tomorrow

On Sep 19, 2019, at 3:18 PM, JOHN THOMPSON <THOMPSON.JOHN@richlandcountysc.gov> wrote:

James: I am following up with you on the Coroner's matter. Any developments? If not, I will advise the Coroner to submit his request as a briefing document for Council's attention. Thank you.

John M. Thompson, Ph.D., MBA, CPM

Assistant County Administrator

Richland County Government

Office of the County Administrator

803-576-2054

Thompson.John@RichlandCountySC.gov

From: JAMES HAYES <HAYES.JAMES@richlandcountysc.gov>

Sent: Monday, September 9, 2019 12:59 PM

To: JOHN THOMPSON <THOMPSON.JOHN@richlandcountysc.gov>

Cc: LEONARDO BROWN <BROWN.LEONARDO@richlandcountysc.gov>

Subject: RE: HR Inquiry - Coroner's Office

Thanks Dr. Thompson, as I said I have not been able to find any Council approval but I will drill down a little further and report back later this week; If Council did not approve officially then yes this would have to be brought to Council's attention and official approval would have to be given for the additional four positions and then possibly a Budget amendment to cover the salary shortfall.

James Hayes, CGFO

Director of Budget and Grants Management

Richland County Administration

2020 Hampton Street

Columbia SC 29201

803-576-2095(W)

803-576-2138(F)

From: JOHN THOMPSON <THOMPSON.JOHN@richlandcountysc.gov>

Sent: Monday, September 9, 2019 11:58 AM

To: JAMES HAYES <HAYES.JAMES@richlandcountysc.gov>

Cc: LEONARDO BROWN <BROWN.LEONARDO@richlandcountysc.gov>

Subject: RE: HR Inquiry - Coroner's Office

James: Coroner Watts just called following up on the conversion of the part time positions to full time. As you mentioned, he discussed that Administrator Seals allowed him to convert three positions at a time to full time on a biannual basis beginning in 2017. To date, he has converted 12 part time positions to full time. He states that he has four more positions that need to be converted and that he is already paying them the full time salary. He claims that he has money in his budget for this action, but I understand that you object to this notion.

As a next step, please advise on the authority that Seals used to approve these 12 conversions. Also, please enlighten me on the protocol to get Council's approval for the last four converted positions. Is this simply a briefing document? Moreover, if this requires a budget amendment, as you anticipate, please let me know the steps to take to make it happen.

Best,
John

John M. Thompson, Ph.D., MBA, CPM

Assistant County Administrator
Richland County Government
Office of the County Administrator
803-576-2054

Thompson.John@RichlandCountySC.gov

From: LEONARDO BROWN <BROWN.LEONARDO@richlandcountysc.gov>
Sent: Friday, August 23, 2019 8:29 AM
To: JOHN THOMPSON <THOMPSON.JOHN@richlandcountysc.gov>; JAMES HAYES <HAYES.JAMES@richlandcountysc.gov>
Subject: RE: HR Inquiry - Coroner's Office

Thank you very much Mr. Hayes for the information. I know that you want to meet with me on several budget matters, and this seems like another one that we will need to add to our discussion. I appreciate you being patient, and I look forward to meeting with you very soon. Thank you for working to protect the integrity of the budget process; I agree that clear and direct approval from Council is mandatory. We will work through this budget issue and many others together and with a unified approach centered on clear, transparent, and direct communication.

LEONARDO BROWN, MBA, CPM

County Administrator
Richland County Government
County Administration Office
brown.leonardo@richlandcountysc.gov

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From: JOHN THOMPSON <THOMPSON.JOHN@richlandcountysc.gov>
Sent: Thursday, August 22, 2019 6:49 PM
To: JAMES HAYES <HAYES.JAMES@richlandcountysc.gov>
Cc: LEONARDO BROWN <BROWN.LEONARDO@richlandcountysc.gov>
Subject: Re: HR Inquiry - Coroner's Office

James: I appreciate your diligence and very thorough explanation. I am interested in learning more from your discovery, which will help us to determine if we need to take some sort of retrospective action based on past decisions. Moreover, please educate me on a path forward regarding the current request and advise on a timeline in completing the mission successfully.

Thank you,
John

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On Aug 22, 2019, at 6:36 PM, JAMES HAYES <HAYES.JAMES@richlandcountysc.gov> wrote:

Mr. Brown and Dr. Thompson

Just to be clear; I have been meaning to speak with you all about these positions but I don't think you all can move forward with these positions; I don't think Council ever gave approval for these positions to be converted to full time; I believe based off my research and just speaking to the coroner himself who told me that the funds have always been available in their PT object code they proceeded to pay these deputy coroners out of the PT object code but they essentially worked the same number of hours as the FTEs because "he had to do something since you all were not going to give me the positions" I am thinking that there was sort of plan worked out between then Administrator Seals and the Coroner; again; this is not accuse anyone of wrongdoing or anything negative but I am attaching the documents from Biennium Budget I which preceded me; I was promoted after this Budget was passed and I maintained it but I did

not build it; it's not my Budget. These documents do not show any new positions being recommended from the Administrator's Budget for the Coroner's Office. Perhaps and this pure speculation on my part; Mr. Seals worked out something with the Coroner after the fact; I will also go and check the minutes to see if Council passed something outside of the Administrator's recommendation but if that was the case it should have on the list the Budget analysts at the time recorded

Additionally, when we did the FY19 Budget amendment; I had on my list the positions approved by Council for the amendment and I did not submit anything to Council from the Coroner(no one mentioned anything to me); However, the Assistant to the County Administrator at the time Brandon Madden made a list of new positions and it did have on it the coroner positions; again after the Budget was approved, I am definitely not accusing anyone of any wrong doing but I know I did not have them on my new positions list for FY19 but of course if they already had approval from the original budget they would not have needed it but like I said I have not said anything in staff records to indicate we submitted something to Council for approval but I will go back and check the minutes. The individuals who were involved in Biennium Budget I are no longer here and I don't feel comfortable pursuing without hard evidence Council gave approval. My job as I have told all of My administration officials is to protect you all so that's what I am trying to do here.

Attachment Page one is the New positions list in the recommended Biennium Budget Book I which would have been the Administrator's recommended Budget; page two is the list created by the Budget staff given to me after taking the position showing the new positions; please notice the absence of Coroner positions showing as recommended or approved; finally, an email exchange between Dr. Yudice and an official from the Coroner's office during the Budget process of Biennium Budget I; so this makes me think there may have been some type of conversion plan worked out outside of the Budget process; but again, I always thought Council had to give approval for all FTEs even if they are going to be converted from part-time.

Again, My focal point has to stay true to form and provide you all with the very best information so you all can make good decisions and this has been my intent here; I will continue to research to see if I find something that shows Council has given approval and even though these positions have been moved forward with the last two years; I don't want to give the idea it's ok to move forward again if we never should have in the first place.

James Hayes, CGFO
Director of Budget and Grants Management
Richland County Administration
2020 Hampton Street
Columbia SC 29201
803-576-2095(W)
803-576-2138(F)

From: JOHN THOMPSON <THOMPSON.JOHN@richlandcountysc.gov>

Sent: Thursday, August 22, 2019 4:30 PM

To: SHEREKA JACKSON <JACKSON.SHEREKA@richlandcountysc.gov>; JAMES HAYES <HAYES.JAMES@richlandcountysc.gov>
Cc: DWIGHT HANNA <HANNA.DWIGHT@richlandcountysc.gov>
Subject: RE: HR Inquiry - Coroner's Office

Thank you, Shereka!

James: Please see the e-mail chain below beginning with my message about the Coroner's desire to convert two employees from PT to FT. In light of Administrator Brown's directive at Monday's meeting regarding the matter in general, please move this item forward to HR as soon as possible. Let me know if you have any questions or concerns. Thank you.

John M. Thompson, Ph.D., MBA, CPM

Assistant County Administrator
Richland County Government
Office of the County Administrator
803-576-2054

Thompson.John@RichlandCountySC.gov

From: SHEREKA JACKSON <JACKSON.SHEREKA@richlandcountysc.gov>
Sent: Thursday, August 22, 2019 3:52 PM
To: JOHN THOMPSON <THOMPSON.JOHN@richlandcountysc.gov>
Cc: DWIGHT HANNA <HANNA.DWIGHT@richlandcountysc.gov>
Subject: RE: HR Inquiry - Coroner's Office
Importance: High

Good Afternoon Dr. Thompson,

The positions must be approved by Mr. Hayes first. Once I receive approval from budget, I will complete PCC sheets for payroll to "create" the position numbers and process the PAFs.

Regards,

SHEREKA C. JACKSON

Compensation & Employment Coordinator
Richland County Government
Human Resource Services

jackson.shereka@richlandcountysc.gov

P 803-576-5466 F 803-576-2119
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From: JOHN THOMPSON <THOMPSON.JOHN@richlandcountysc.gov>
Sent: Thursday, August 22, 2019 3:37 PM
To: SHEREKA JACKSON <JACKSON.SHEREKA@richlandcountysc.gov>
Cc: DWIGHT HANNA <HANNA.DWIGHT@richlandcountysc.gov>
Subject: HR Inquiry - Coroner's Office

Shereka: Administrator Brown and I are meeting with Coroner Watts. He mentioned two PT employees are supposed to be converted to FT. The employees are Shawn Sears and Rachel Manly. Please excuse the spelling.

Please advise where we are in the process with getting these folks full time status.

Thank you,
John

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<SKM_C65819082218310.pdf>



**RICHLAND COUNTY
GOVERNMENT**
Office of the County Administrator

Administrative Memorandum 7-1 (Revised)

To: Director of Human Resources Dwight Hanna
Acting Finance Director Kevin Bronson
From: County Administrator Gerald Seals
CC: Sandra Yúdice, Assistant County Administrator
James Hayes, Director of the Office of Management and Budget
Date: July 6, 2017
Subject: Biennium Budget I: New Positions for Fiscal Year 2017-2018

This memorandum transmits the new positions for fiscal year 2017-2018 as approved by Council during its Biennium Budget I deliberations. The table below outlines the new positions.

Department	Position Title	Vacancy Start Date	Salary per Vacancy Start Date
Sheriff	Patrol Deputy	July 1, 2017	\$46,318
Sheriff	Patrol Deputy	July 1, 2017	\$46,318
Sheriff	Patrol Deputy	July 1, 2017	\$46,318
Sheriff	Patrol Deputy	July 1, 2017	\$46,318
Sheriff	Patrol Deputy	July 1, 2017	\$46,318
Victim Assistance – Solicitor	Victim Witness Advocate	July 1, 2017	\$50,636
Conservation Commission	Land / Park Manager	July 1, 2017	\$47,088
Broad River Sewer System	Accountant I	July 1, 2017	\$41,724
Human Resources	ADAAA/Title VI Coordinator	January 1, 2018	\$24,902*
Human Resources	Benefits Coordinator	January 1, 2018	\$21,839*
Human Resources	HRIS Analyst	January 1, 2018	\$24,902*
County Attorney	Transactional Attorney	January 1, 2018	\$47,684*
County Attorney	Transactional Attorney	January 1, 2018	\$47,684*
County Attorney	Transactional Attorney	January 1, 2018	\$47,684*
Council Services	Assistant to Clerk of Council	January 1, 2018	\$16,268*
Council Services	Assistant to Clerk of Council	January 1, 2018	\$16,268*
Public Information	Public Outreach Coordinator	January 1, 2018	\$20,862*
Public Information	Public Outreach Coordinator	January 1, 2018	\$20,862*

Public Information	Assistant Public Information Officer	July 1, 2017	\$71,827*
Emergency Services	Paramedic (position 182)	July 1, 2017	\$36,639*
Emergency Services	Paramedic (position 183)	July 1, 2017	\$36,639*
Emergency Services	Paramedic (position 184)	July 1, 2017	\$36,639*
Emergency Services	Emergency Medical Technician (position 186)	July 1, 2017	\$30,114*
Emergency Services	Emergency Medical Technician (position 187)	July 1, 2017	\$30,114*
Emergency Services	Emergency Medical Technician (position 188)	July 1, 2017	\$30,114*
Auditor	Business Tax Specialist	August 1, 2017	\$32,907*
Administration (Office of Management & Budget)	Budget Analyst	January 1, 2018	\$21,839*
Administration (Office of Risk Management)	Safety Officer	January 1, 2018	\$26,823*
Administration (Office of Risk Management)	Claims Assistant	October 1, 2017	\$32,228*

***Position will be funded out of the Non-departmental budget**

Upon my direction (see attached email dated June 6, 2017), eight over hires were authorized in fiscal year 2017 for the Emergency Services Department. The approval of the new positions as outlined in the table above for the Emergency Services Department will amend the number of over hires from eight (8) to two (2).

In the Spirit of Excellence,

Gerald Seals
County Administrator

Coroner Personnel Analysis

Projected Surplus Salaries	69,085.00	
Projected Deficit Part-time	(107,174.00)	
Projected Additional Costs per Finance	(46,064.00)	
Total	(84,153.00)	-

The Coroner's Office is currently projected to have a deficit in PT even without any conversion; the deficit would loom larger upon conversion with the additional costs factored in by Finance for health insurance costs. The projected surplus in salaries would offset it some.

Coroner Personnel Analysis-Salaries

Salaries Budget	1,068,320.00
Additonal funds from TRS	62,000.00
YTD Actual Expenditures	380,635.00
Projected additional Need Thru 06/30	680,600.00
Projected Balance 06/30	69,085.00

Coroner Personnel Analysis-Part-Time

Part Time Budget	259,296.00
Additonal funds from TRS	80,000.00
YTD Actual Expenditures	137,710.00
Projected additional Need Thru 06/30	308,760.00
Projected Balance 06/30	(107,174.00)

The Total Rewards Funds will be added to the Coroner's Budget

ASHIYA MYERS

From: DWIGHT HANNA
Sent: Friday, November 15, 2019 10:13 AM
To: DWIGHT HANNA; LEONARDO BROWN; JAMES HAYES
Cc: ASHIYA MYERS
Subject: Re: 10|22 Administration and Finance Committee Follow-up

Mr. Brown,

To be clear on the HR policy question, I am not aware of there being a HR policy which would speak to this as a violation.

But again, it has been the practice and my clear understanding Council approves new positions.

T. Dwight Hanna, IPMA-HR SCP, CCP, SHRM-SCP, ADAC, CBP

"The most important thing in communication is hearing what isn't said."
- Peter Drucker

Sent from my Verizon, Samsung Galaxy smartphone

----- Original message -----

From: DWIGHT HANNA <HANNA.DWIGHT@richlandcountysc.gov>
Date: 11/15/19 10:02 AM (GMT-05:00)
To: LEONARDO BROWN <BROWN.LEONARDO@richlandcountysc.gov>, JAMES HAYES <HAYES.JAMES@richlandcountysc.gov>
Cc: ASHIYA MYERS <MYERS.ASHIYA@richlandcountysc.gov>
Subject: Re: 10|22 Administration and Finance Committee Follow-up

Mr. Brown,

As it relates, to number 2 and number 3 - historically Council has approved [new] full time positions. The Administrator may approve a reclassification of a full time position approved by Council to another job classification.

As it relates to part time employees, there us no conversion policy - from part time to full time position. Richland County part jobs are not budgeted and funded "positions". Part time employees are paid from a funds budgeted in part time line item. The part time funds are approved by Council during the budget. And the Administrator and Director of HR can designate part time slots within the budget approved by Council.

T. Dwight Hanna, IPMA-HR SCP, CCP, SHRM-SCP, ADAC, CBP

"The most important thing in communication is hearing what isn't said."
- Peter Drucker

Sent from my Verizon, Samsung Galaxy smartphone

----- Original message -----

From: LEONARDO BROWN <BROWN.LEONARDO@richlandcountysc.gov>

Date: 11/13/19 8:42 AM (GMT-05:00)

To: DWIGHT HANNA <HANNA.DWIGHT@richlandcountysc.gov>, JAMES HAYES
<HAYES.JAMES@richlandcountysc.gov>

Cc: ASHIYA MYERS <MYERS.ASHIYA@richlandcountysc.gov>

Subject: FW: 10|22 Administration and Finance Committee Follow-up

Good morning Mr. Hanna and Mr. Hayes,

Please review the email below for context.

Mr. Hayes, concerning the Coroner's Office positions, will you please respond to item 1. today?

Mr. Hanna, concerning the Coroner's Office positions, will you please respond to items 2. and 3. today?

LEONARDO BROWN, MBA, CPM

County Administrator

Richland County Government

County Administration Office

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From: ASHIYA MYERS
Sent: Tuesday, October 22, 2019 7:19 PM
To: LEONARDO BROWN <BROWN.LEONARDO@richlandcountysc.gov>; ASHLEY POWELL <POWELL.ASHLEY@richlandcountysc.gov>
Subject: 10|22 Administration and Finance Committee Follow-up

Good Evening, Mr. Brown, Ms. Powell, and Dr. Thompson,

I noted several requests from the October 22nd Administration & Finance committee's discussion that I felt were prudent to share with you for appropriate assignment:

During its discussion of the Coroner's Office position conversion request, the Committee requested the following:

1. A detailed, financial/budgetary analysis of the fiscal impact of the conversion;
2. Any potential violations of the County's Human Resources' policies regarding "arbitrary conversions of part time positions to full time positions;" and
3. Any County Human Resources' or other policies regarding position conversions.

During its discussion of the sidewalk designs for Kneece Rd and Longreen Parkway, the following was requested:

1. Development of a definitive process by which sidewalks are proposed/applied for, brought before Council, and funded;
2. Methodology to ensure costs associated with projects are primarily for hard costs instead for soft costs;
3. What, if any, best practices exist to govern a proactive approach to sidewalk construction;
4. Definitive cost per foot for the construction of sidewalks; and
5. If denial of the awarding of a contract leads to the loss of funding from the CTC for a defined project.

This information was requested to be provided by the November Administration and Finance committee. Information for November committees is due to Administration by November 7, 2019.

Sincerely,

Ashiya A. Myers, MAT

Assistant to the County Administrator

Richland County Government

Administration

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Richland County Council Request for Action

Subject:

Amend the Hospitality Tax Council Allocation Process

Notes:

November 21, 2019 – The Administration and Finance Committee recommended Council to authorize staff to revise applicable procedures to ensure the compliance of all projects receiving H-tax funds as allocated by County Council.

**RICHLAND COUNTY
ADMINISTRATION**

2020 Hampton Street, Suite 4069
Columbia, SC 29204
803-576-2050



Agenda Briefing

To: Committee Chair Joyce Dickerson and Members of the Committee
Prepared by: James Hayes, Director
Department: Office of Budget and Grants Management
Date Prepared: October 08, 2019 **Meeting Date:** October 22, 2019

Legal Review	Elizabeth McLean via email	Date:	October 10, 2019
Finance Review	Stacey Hamm via email	Date:	October 10, 2019
Approved for Council consideration:	County Administrator	Leonardo Brown, MBA, CPM	
Committee	Administration & Finance		
Subject:	Amend the Hospitality Tax Council Allocation Process		

Recommended Action:

Staff recommends all projects receiving Hospitality Tax (H-tax) funding be compliant with all applicable requirements.

Motion Requested:

Move to authorize staff to revise applicable procedures to ensure the compliance of all projects receiving H-tax funds as allocated by County Council.

Request for Council Reconsideration: Yes

Fiscal Impact:

There is no fiscal impact as funding has already been approved by Council.

Motion of Origin:

“I Move that all first time grantees who are wanting funding from Council H-Tax Allocations must first apply through Zoom Grants with the Office of Budget and Grants Management to ensure their project is H-tax Compliant before Staff completes a Request for Action and it gets on the Council Agenda for Council approval.”

Council Member	Paul Livingston, District 4
Meeting	Regular Session
Date	September 17, 2019

Discussion:

First-time requestors are not required to submit an application via the Zoom Grants web application to be considered for funding via Hospitality Tax (H-tax) allocations. Currently, County Council members submit their allocations; staff prepares a Request of Action for Council's consideration; Council considers the request, then votes to approve or deny. Upon approval, staff contacts the grantee to provide a link to upload their information into Zoom Grants.

Staff vets grantee submissions to confirm projects are H-tax compliant. Additionally, staff assists grantees when they submit documents for payment requests to ensure expenditures are also H-tax compliant. If a grantee submits expenditures for payment which are non-compliant, staff helps the grantee to identify those items which are eligible.

By amending the current allocation process to require an application via Zoom Grants, staff can audit the proposed project to verify its compliance with H-tax guidelines prior to submitting a Request of Action to the County Council.

Attachments:

1. Hospitality Tax FY20 Grant Guidelines



GUIDELINES FOR RICHLAND COUNTY PROMOTIONS HOSPITALITY TAX FUND

FY 2020 (July 1, 2019 - June 30, 2020)

Grant Due: February 4, 2019, before 11:59 PM

Application must be submitted in ZoomGrants

Grant cycle will open December 3, 2018 in ZoomGrants

County Promotion Grants are funded through Hospitality Tax (H-Tax) revenues collected in **unincorporated** Richland County as well as incorporated municipal areas of the Town of Irmo which lie in Richland County and the entire incorporated municipal area of the Town of Eastover. These funds may be used for tourism related events and programs in Richland County, with a priority of funding projects in those areas where H-Tax funds are collected. Please pay close attention to grant guidelines as they explain organization and program eligibility as well as funding priorities.

On May 6, 2003, Richland County Council passed an ordinance establishing a two-percent (2%) H-Tax on all prepared food and beverages sold in the unincorporated areas of Richland County. The proceeds from this tax are to be used for the dedicated purpose of promoting tourism in Richland County. The County Promotions program is a competitive grants program that provides H-Tax funds to eligible organizations.

ALLOCATION REQUIREMENTS

During FY19, Richland County awarded \$347,516 in grants through the County Promotions process. County Promotions award amounts ranged from \$1,000 to \$42,000. The amount available for FY20 grants is subject to change through County's budget process.

For the amounts distributed under the County Promotions program, funds will be distributed with a goal of seventy-five percent (75%) dedicated to **organizations and projects that generate tourism in the unincorporated areas of Richland County and in municipal areas where Hospitality Tax revenues are collected by the county.** These shall include:

- a. Organizations that are physically located in the areas where the county collects Hospitality Tax revenues, provided the organization also sponsors projects or events within those areas;
- b. Organizations that are not physically located in the areas where the county collects Hospitality Tax Revenues; however, the organization sponsors projects or events within those areas; and
- c. Regional marketing organizations whose primary mission is to bring tourists to the region, including the areas where the county collects Hospitality Tax Revenues.

25% of County promotions funds will be allocated to organizations and projects in the incorporated areas of Richland County (Arcadia Lakes, Blythewood, City of Columbia and Forest Acres).

COUNTY PROMOTIONS GRANT PROCESS

To be considered for funding, an application must be submitted in ZoomGrants by the published funding deadline, February 4, 2019, 11:59 PM. Once all applications for H-Tax County Promotions Grant funds are received by Richland County and eligibility is verified, they will be forwarded to the Hospitality Tax Advisory Committee (Committee) for review.

Applicants will be required to deliver a four (4) minute **presentation** on their program to the Committee in March/April. The date will be announced as soon as possible.

The Committee will review and score each application based on the evaluation measures described below. Applications will be ranked based on the scores and the Committee will determine funding recommendations. The Committee will submit its funding recommendations to the County for review by County Council. County Council makes all funding

decisions; however, the Council relies heavily on the recommendations of the Committee. Funding of all projects is entirely dependent upon H-Tax funds being received by Richland County.

COUNTY PROMOTIONS GRANT TIMELINE

Request for applications:	December 3, 2018 – February 4, 2019
Application due date:	February 4, 2019, 11:59 PM
HTax Committee meeting & applicant presentations:	February 5 2019, TBD
County budget process:	April – June 2019
Budget Public Hearing	June 4, 2019 (date subject to change)
Grant award notifications:	June 2019
Grant Period:	July 1, 2019 - June 30, 2020 (if awarded)
Mid-Year Reports:	Due by January 31, 2020 (if awarded)
Final Reports:	Due by July 31, 2020 (if awarded)

ORGANIZATION ELIGIBILITY REQUIREMENTS

- Applicant organizations **must** have been in existence for at **least one (1) year prior** to requesting funds.
- Applicants must provide proof of their non-profit status or fall into one of the following categories:
 - Organizations exempt from federal income tax under Section 501(C)(3) of the Internal Revenue Code and whose primary goal is to attract additional visitors through tourism promotion. The letter of exemption from the Internal Revenue Service must accompany your proposal.
 - Destination Marketing Organizations, which are recognized non-profit organizations charged with the responsibility of marketing tourism for their specific municipalities, counties or regions, such as Chambers of Commerce, Convention and Visitors Bureaus and Regional Tourism Commissions.
 - The Town of Eastover and the Town of Irmo may also apply for funds.
- Richland County will not award H-Tax funds to individuals, fraternal organizations, or organizations that support and/or endorse political campaigns.
- Religious organizations may receive funding; however, Richland County may not sponsor nor provide financial support to a religious organization in a manner which would actively involve it in a religious activity (i.e. public funds must not be used for a religious purpose). Thus, any funds provided must be solely utilized for secular purposes and the principal or primary goal of the sponsored activity must not be to advance religion.
- Grantee organizations may not re-grant County funds to other organizations. All funds must be spent on direct program expenditures by the organization that is granted the allocation.
- Council approved that beginning in FY17 all organizations that use a fiscal agent to administer grant funded projects through the Hospitality Tax grant program can only do so for one fiscal year, after which they must have a 501 (c) (3) tax exempt status to receive future Hospitality Tax grant funds from the County.

CRITERIA FOR PROJECT ELIGIBILITY

As required by the Hospitality Tax Ordinance, projects to be funded by Hospitality Tax funds must result in **the attraction of tourists to Richland County.**

Per SC Code of Laws SECTION 6-1-730, projects must fall under one of the following to qualify for H-Tax funds:

(A) The revenue generated by the hospitality tax must be used exclusively for the following purposes:

- (1) tourism-related buildings including, but not limited to, civic centers, coliseums, and aquariums;
- (2) tourism-related cultural, recreational, or historic facilities;
- (3) beach access and re-nourishment;
- (4) highways, roads, streets, and bridges providing access to tourist destinations;
- (5) advertisements and promotions related to tourism development; or
- (6) water and sewer infrastructure to serve tourism-related demand.

(B)(1) In a county in which at least nine hundred thousand dollars in accommodations taxes is collected annually pursuant to Section 12-36-920, the revenues of the hospitality tax authorized in this article may be used for the operation and maintenance of those items provided in (A)(1) through (6) including police, fire protection, emergency medical services, and emergency-preparedness operations directly attendant to those facilities.

(2) In a county in which less than nine hundred thousand dollars in accommodations taxes is collected annually pursuant to Section 12-36-920, an amount not to exceed fifty percent of the revenue in the preceding fiscal

year of the local accommodations tax authorized pursuant to this article may be used for the additional purposes provided in item (1) of this subsection.

SECTION 6-1-760 states that "tourist" means a person who does not reside in but rather enters temporarily, for reasons of recreation or leisure, the jurisdictional boundaries of a municipality for a municipal project or the immediate area of the project for a county project.

Priority will be given to projects that demonstrate a benefit to **unincorporated** Richland County or regional marketing efforts that draw tourists to the area, especially those areas where Richland County collects Hospitality Tax (Unincorporated Richland County, Town of Eastover and the Richland County portions of the Town of Irmo).

If you are not sure if your program or organization is located in incorporated or unincorporated Richland County, please call the Grants Office for assistance at (803)576-1514

Each application/proposed project will be reviewed individually to determine the potential impact it will have for tourism in unincorporated Richland County.

FUNDING PRIORITIES

Priority will be given to projects that:

- Promote dining at restaurants, cafeterias, and other eating and drinking establishments where Richland County collects Hospitality Tax (Unincorporated Richland County, Town of Eastover and the Richland County portions of the Town of Irmo);
- Generate overnight stay in **unincorporated** Richland County's lodging facilities; and
- Promote and highlight **unincorporated** Richland County's historic and cultural venues, recreational facilities and events and the uniqueness and flavor of the local community.

Funds will be distributed with a goal of **seventy-five percent (75%) dedicated to organizations and projects that generate tourism in the unincorporated areas of Richland County and in municipal areas where Hospitality Tax revenues are collected by the county** (Unincorporated Richland County, Town of Eastover and the Richland County portions of the Town of Irmo). Richland County does not receive H-Tax revenue from incorporated areas.

APPLICATION COMPONENTS

Applications must be submitted in ZoomGrants through Richland County's website:

<https://zoomgrants.com/gprop.asp?donorid=2236&limited=1146>.

Please answer each question in the space provided on the application. All answers should be concise and to the point. No item should be left blank. Answers such as "See Attached" and "N/A" are not acceptable. Incomplete applications will not be reviewed by the H-Tax Committee.

The application must be initialed electronically by the organization's Executive Director or Board Chair in the ZoomGrants system. If your organization is volunteer driven and does not have an Executive Director, please note this in the application.

Total Meal and Overnight Justification - In this section of the application, estimate the number of meals that will be consumed in restaurants and overnight stays in the **unincorporated** areas of the County. Take the following items into consideration when making your estimations and provide a justification explaining how you came up with this number:

- How many people will attend your event?
- Of these, how many people live in the incorporated areas of Richland County? These attendees will more likely eat at home or in restaurants closer to where they live? Richland County does not collect H-Tax in the City of Columbia, Forest Acres, Arcadia Lakes or Blythewood.
- How many of these people live in the unincorporated areas? Only a small portion of these may actually eat out. How many will eat at home?
- How many tourists are attending your event? How many hotel rooms are booked for your event? These are the people who will eat meals out.
- Estimate total hotel room nights will be booked due to your event. Are these rooms located in the unincorporated areas of the County? How will you track this number?

If awarded, organizations will be asked to provide actual attendance and tourism numbers as well as estimated meal and room numbers in their final report.

Program Locations – Provide the (full address) street number and street name of your program location. This helps the County track locations of incorporated and unincorporated events.

Project Description - Describe the project in its totality or at completion of the presently known ultimate stage, and/or the portion, phase or section of the total project for which funding is now being requested.

- Include a thorough, but concise description (Who, what, when, where and why).
- Include information about innovative ideas, community support and partnerships.
- Describe coordination that has been completed or will be needed with other organizations: if they are engaged in similar activities, or if they will be expected to be the beneficiary of this project.

Economic Impact - In this section, provide the income (sponsorship, grants, tickets, food sales and any other income generated from the event as well as expenses for FY17, FY18 and FY19. You must include this information even if the event did not receive H-Tax dollars in the past. If this is a new event, please place zeros in the years in which the event did not take place.

How Will Your Organization Use Income, If Any, Generated by This Program/Event? Describe how your organization uses any income that is generated from your event or project. If the net proceeds are zero, then indicate that the program/events do not generate income in this section.

Benefit to Tourism – How does your event promote and highlight **unincorporated** Richland County’s historic and cultural venues, recreational facilities and events and the uniqueness and flavor of the local community? Describe how your project will impact tourism in Richland County? Include support with data and other records or history. How are you working with local hotels and other hospitality businesses?

Benefit to Community – Describe how your project will benefit the community and Richland County. Include support with data and other records or history.

Project Marketing Plan – Outline your marketing, advertising and promotional plans for your program. How will you track visitors and overnight stays? What methods are you using to track all visitors and count the number of tourists and residents that attend your event or participate in your program?

Previous Success/Organization Capability – Describe how your organization has successfully managed this program or similar programs in the past. Describe your organization’s capacity for managing the program described.

BUDGET/ELIGIBLE EXPENDITURES

H-Tax County Promotions grant funds must be used for tourism related expenses in the following categories only:

- Advertising/Promotions/Marketing (including designing, printing, postage for items mailed to attract tourist). At least **70%** of marketing expenses must be paid to advertise outside of Richland County.
- Security/Emergency Services (Fire Marshalls, police, sheriff deputies, etc.)
- Entertainment/Speakers/Guest Artist Instructor - Entertainment expenses should be no more than **50%** of the total requested amount of the grant.
- Venue fees or rentals
- Transportation or accommodations
- Food or beverages
- Staging or fencing
- **20%** of operational and maintenance of tourism related buildings and cultural, recreational, or historic facilities

Some of the expenditures NOT eligible are: Items given to tourists once they are here (T-shirts, cups, trophies. etc.), gift cards, insurance or licenses, invoices outside the funding year, salaries (other than previously mentioned) or decorations.

All grant funds must be expended by the recipient organization. *Re-granting* or *sub-granting* of funds is **NOT** allowed.

Expenditures **must** be consistent with the application budget. Only goods and services that comply with the H-Tax Guidelines and State Law are permitted. Project or event vendors will not be paid directly by Richland County.

The budget should reflect in financial terms the actual costs of achieving the objectives of the project(s) you propose in your application. A budget form is provided for you as part of the application.

Amounts listed in the County H-Tax Request column should total the amount of funds requested in the application. Please make sure that all expenses in County column fit the expense criteria mentioned above. Eligible expenses for H-Tax grants are different from A-Tax grants. Note that there are blank spaces to provide additional expense categories as all budgets are not the same. Feel free to use these additional spaces for other categories not listed such as rentals or transportation.

Hospitality Tax Grant funds can account for up to **50%** of the total cost of the program/event you are applying for. Applicants must provide **50%** of the total cost of the project as either in-kind or cash match.

Budget Narrative/Justification (H-Tax Grant Funds Only) - Please include a detailed description for each category included in the budget. For example:

- Marketing/Advertising – \$5,000 for 6 billboards located in Charleston, Greenville, Aiken, Myrtle Beach and Rock Hill. \$1,000 for TV ads on WIS. \$2,500 radio ads on Clear Channel
- Security/Emergency Services: \$100 fire marshal, \$300 Richland County Sheriff's Deputies
- Entertainment: \$9,000 for 3 bands
- Rentals: \$2,000 tents, \$500 sound system, \$1,000 stage

Budget Tips:

- Budgets **MUST** be entered on the budget section of the application and **MUST** include a narrative for H-Tax expenditures. This tells Richland County in detail how you plan to spend the grant funds.
- Grant funds should be used for tourism marketing first above any other expense. See the list of eligible expenditures above for more information.
- Be as detailed as possible in your budget narrative. If awarded, this information will be compared to your payment requests. Items in your payment requests must appear in your application budget.
- Signage and banners used at your event, directional signage, programs, volunteer T-shirts, and other items handed out at your event **do not** count as marketing expenses.

PROCUREMENT NOTICE: Organizations receiving **\$50,000** or more in H-Tax funds will be required to follow County Procurement Code when spending County H-Tax funds. Your expenditures will not run through the County's Procurement Office, but they will need to be procured based on the County's Code. Education materials will be sent to organizations prior to the grant due date and a training session will be held to provide education and the opportunity to ask questions. County staff will conduct audits during the year to ensure organization compliance. In the meantime, organizations may contact the Grants Manager for more information.

STATEMENT OF ASSURANCES

By providing electronic initials and submitting the H-Tax County Promotions application, your organization is agreeing to the following Statement of Assurances:

- Upon grant application acceptance and funding award, applicant agrees that financial records, support documents, statistical records and all other records pertinent to Hospitality Tax funding shall be retained for a period of three years.
- All procurement transactions, regardless of whether negotiated or advertised and without regard to dollar value, shall be conducted in a manner so as to provide maximum open free competition.
- The funding recipient shall establish safeguards to prohibit employees from using their positions for a purpose that has the appearance of being motivated by a desire for private gain for themselves and others.
- All expenditures must have adequate documentation.
- All accounting records and supporting documentation shall be available for inspection by Richland County upon request.

- No person, based on race, color, national origin, religion, age, sex, ancestry, gender identity (including gender expression), sexual orientation, disability, age, marital status, family/parental status, income derived from a public assistance program, political beliefs, veteran status, military discharge status, citizenship status or reprisal or retaliation for prior civil rights activity should be excluded from participation in be denied the benefit of or be otherwise subjected to discrimination under the program or activity funding in whole or in part by Hospitality Tax funds.
- Employment made by or resulting from Hospitality Tax funding shall not discriminate against any employee or applicant on the basis on race, color, national origin, religion, age, sex, ancestry, gender identity (including gender expression), sexual orientation, disability, age, marital status, family/parental status, income derived from a public assistance program, political beliefs, veteran status, military discharge status, citizenship status or reprisal or retaliation for prior civil rights of handicap, age, race, color, religion, sex, or national origin.
- None of the funds, materials, property, or services provided directly or indirectly under Hospitality Tax funding shall be used for any partisan political activity, or to further the election or defeat of any candidate for public office.
- The applicant hereby certifies that the information submitted as part of this application is accurate and reliable.
- Any change and/or variation must be reported immediately, otherwise, funding may be withheld.

APPLICATION EVALUATION

The Committee will use the following evaluation criteria to evaluate applications and proposed projects. The individual factors are important in project evaluation, as they are an indication of the degree to which the proposed project will contribute to the tourism in Richland County. Please ensure that you review these factors and include the elements in your application. These factors, with their corresponding point values, are:

Project Design and Benefit to Community:

55 points maximum

Benefit to Tourism (20) - Does the project promote tourism in the areas of the County in which Richland County H-Taxes are collected? Will it promote a positive image for the County? Will it attract visitors, build new audiences and encourage tourism expansion in the areas of the County in which Richland County H-Taxes are collected? Will it increase awareness of the County's amenities, history, facilities, and natural environment in the areas of the County in which Richland County H-Taxes are collected?

Reliable Tracking Mechanism and Marketing Plan (15) – How will visitors and tourists would be tracked? (surveys, wristbands, ticketing, and etc.) Are these methods viable? Does the marketing plan describe how the organization will reach tourists? Are at least 70% of the ads or other marketing expenses targeted outside the Columbia/Richland County area? Is the expected number of tourists in line with the organization's marketing plan?

Benefit to Community (10) - How will this project benefit the citizens of Richland County? Will the project benefit unincorporated Richland County? Who will attend the event? How many visitors will the event serve? A visitor is defined by someone who travels at least 50 miles to attend the event.

Community Support and Partnerships (10) - Does the project have broad-based community appeal or support? What is the evidence of need for this project in the County? What kind and degree of partnership does the project exhibit? Does it exhibit volunteer involvement or inter-jurisdictional, corporate, business, and/or civic support?

Economic Impact and Accountability

45 points maximum

Budget (5) – Are all expenses that are to be paid with H-Tax funds eligible expenses? Did the budget and justification provide enough detail to show how funds will be spent? Does the applicant provide 50% in cash or in-kind match?

Expected H-Tax Revenue Generated (15) - What are the projected direct and indirect dollar expenditures by visitors/tourists? What is the estimated number of meals consumed? Are any overnight stays anticipated? Will this program drive business to those businesses that collect and remit Richland County H-Tax in the unincorporated areas of the County as well as Eastover and Richland portions of Irmo?

Reasonable Cost/Benefit Ratio (15) - Does the benefit of the project (i.e. number of tourists estimated; expected revenue generated) exceed the cost of the project? Is this project "worth" its cost?

Management Capability (10) - Does the applicant organization demonstrate an ability to successfully complete the project through effective business practices in the areas of finance, administration, marketing, and production? If this organization has received County Hospitality Tax funding previously, was the project successful?

APPLICATION PACKAGE

In order to be considered for funding, applicants must submit a **complete** application package for the H-Tax grant program. Incomplete applications will not be considered. Complete applications include:

1) Completed application: You can complete the application at:

<http://www.richlandonline.com/Government/Departments/Grants/Hospitality-Tax>

- Answer all questions and complete each section. "N/A" and "See Attached" are not valid responses.
- Electronic initials by board chair and the executive director - If your organization does not have an Executive Director, please note this in the application.

2) Project budget and narrative (form included in the application)

3) Required Attachments:

- **IRS determination letter** indicating the organization's 501 c 3 charitable status
- **Proof of current registration as a charity with the SC Secretary of State's Office.** Visit <http://www.sos.sc.gov/PublicCharities> for more information.
- **Current list of board of directors**
- **Most recent 990 tax return or 990 post-card**
- **Richland County business license or business license assessment survey form** (this form shows that a business license is not needed for your organization).

Note: You must submit one full 990 form (scheduled and attachments) with your application.

Incomplete applications will not be evaluated by the Committee. County Council approved a motion in May 2011 that stated that late and incomplete applications will not be sent to the grant committees for review.

Please submit only the required elements of your application, any additional brochures and handouts will be discarded.

Grant cycle will open December 4, 2018 in ZoomGrants. Applications are due by 11:59 PM on Monday, February 4, 2019 in ZoomGrants Emailed or faxed applications **will not** be accepted. **Applications must be received by 11:59 PM in ZoomGrants or they will not be considered for funding by the Committee.**

AWARD NOTIFICATION

The Grants Manager will notify all applicant organizations of the funding outcome in writing in June 2019. Awards will be available for reimbursement beginning July 1, 2019. Final reports for the previous fiscal year, if applicable, must be received before FY20 payments are released.

REPORTING REQUIREMENTS

Richland County requires grantees to complete a mid-year and/or a final report for H-Tax funds. Grantees are required to submit proof of grant expenditures (invoices and proof of payment).

Grantees are asked to report on attendance, room and meal numbers, event success or failure as well as the impact on Richland County, especially the unincorporated areas. Each grantee will receive a copy of a link to the reporting documents with their award packet.

GRANT ACKNOWLEDGEMENT

Grantees must acknowledge the receipt of H-Tax funding by including the Richland County Government logo, or by stating that funds were provided by Richland County Government Hospitality Tax Funds on all program/project advertising, marketing and promotional materials. Examples of this must be included in your final report.

Freedom of Information Act NOTICE

Please be advised that all materials submitted for H-Tax grant funding are subject to disclosure based on the Freedom of Information Act (FOIA).

CONTACT

Steven Gaither, Grants Manager, PO Box 192, Columbia, SC 29202, (803)576-15148 Gaither.Steven@richlandcountysc.gov

Richland County Council Request for Action

Subject:

Intergovernmental Agreement – Town of Eastover - Magistrate Renewal

Notes:

November 21, 2019 – The Administration and Finance Committee recommended Council to accept the Chief Magistrate’s recommendation to renew the Intergovernmental Agreement with the Town of Eastover for the Town of Eastover Municipal Judge.



Agenda Briefing

To: Committee Chair Joyce Dickerson and Members of the Committee
Prepared by: Ashiya A. Myers, Assistant to the County Administrator
Department: Administration
Date Prepared: October 08, 2019 **Meeting Date:** November 21, 2019

Legal Review	Elizabeth McLean via email	Date:	November 15, 2019
Budget Review	James Hayes via email	Date:	November 15, 2019
Finance Review	Stacey Hamm via email	Date:	November 14, 2019
Other Review:	Chief Magistrate Tomothy Edmond	Date:	October 23, 2019
Approved for Council consideration:	County Administrator	Leonardo Brown, MBA, CPM	
Committee	Administration and Finance Committee		
Subject:	Intergovernmental Agreement – Town of Eastover - Magistrate Renewal		

Recommended Action:

Chief Magistrate Edmond recommends approving the renewal of the Intergovernmental Agreement (IGA) with the Town of Eastover for the Town of Eastover Municipal Judge.

Motion Requested:

Move to accept the Chief Magistrate’s recommendation to renew the Intergovernmental Agreement with the Town of Eastover for the Town of Eastover Municipal Judge.

Request for Council Reconsideration: Yes

Fiscal Impact:

There is no fiscal impact to the County. Per the IGA, the Town of Eastover shall pay all compensation for Judge Simons’s services as a Town of Eastover Municipal Judge, including, but not limited to, FICA and State retirement.

Motion of Origin:

There is no associated Council motion of origin.

Council Member	
Meeting	
Date	

Discussion:

On September 18, 2019, Town of Eastover Mayor Geraldene Robinson requested that Donald J. Simons continue to serve as the Town of Eastover Municipal Judge. Judge Simons has served since September 4, 2015. The terms of the agreement state Judge Simons's term is "not to exceed four years and until his successor is appointed and qualified;" therefore, the agreement must be amended, modified, or changed by written agreement.

Chief Magistrate Tomothy Edmond has reviewed the agreement and agrees it is consistent with other, related agreements.

Attachments:

1. Intergovernmental Agreement executed September 04, 2015
2. Unexecuted Intergovernmental Agreement

STATE OF SOUTH CAROLINA
COUNTY OF RICHLAND

**INTERGOVERNMENTAL
SERVICE CONTRACT**

This Agreement made and entered in to between the COUNTY OF RICHLAND, a political subdivision of the State of South Carolina, hereinafter referred to as the "County", and the TOWN OF EASTOVER, a political subdivision of the State of South Carolina, hereinafter referred to as the "Town".

WHEREAS, the Town is desirous of providing an efficient and effective municipal court system utilizing the most qualified judicial personnel available;

WHEREAS, the Town desires to utilize the services of Richland County Magistrate, Donald J. Simons for the position of Town of Eastover Municipal Judge; and

WHEREAS, the County is willing to permit Donald J. Simons to serve as the Town of Eastover Municipal Court Judge; and

WHEREAS, The County and the Town are authorized to enter into the Agreement by virtue of the provisions of Sections 4-9-40 and 14-25-25 of the South Carolina Code of Laws of 1976, as amended, and as authorized by Order of South Carolina Supreme Court dated May 25, 2001.

NOW, THEREFORE, it is mutually agreed by and between the Town and County as follows:

1. Judge Donald J. Simons shall serve as the Town of Eastover Municipal Court Judge.
2. Judge Donald J. Simons shall perform all functions and provide such services to the Town as have been customarily rendered by the Town's Municipal Court Judge, consisting of but not limited to conducting bench and jury trials, issuing arrest warrants, setting bonds, and such other duties and functions as shall be mutually agreed upon by the parties. The provision of such services shall be in a time and manner so as not to interfere with Judge Donald J. Simons' regular duties with Richland County.
3. While actually performing the functions and duties of the Municipal Judge, Donald J. Simons shall be totally responsible and dedicated to the benefit and objectives of the judicial system of the Town, without interference from or influence by County, its employees, or its Council.
4. In order to compensate the County for the services of Richland County Magistrate, Donald J. Simons serving as Town of Eastover Municipal Judge, the Town shall pay the County the sum Three Hundred Fifty-Five and 05/100 (\$355.05) Dollars per month or prorated portion thereof, plus the employer's share of FICA, State Retirement, and any other sums customarily paid by an employer, calculated on the monthly amount paid, said sum being due on or before the last day of the month of each and every month that said judicial services are rendered. Said sum shall constitute the total compensation to Donald J. Simons for services as Municipal Judge. The County shall be responsible for all required deductions and reporting all sums for withholding, social security,

unemployment, and any other deductions on the sums paid for the judicial services of Judge Donald J. Simons.

5. All compensation for Richland County Magistrate Donald J. Simons' services as a Town of Eastover Municipal Judge, including but not limited to FICA and State retirement, shall be paid by the Town according to paragraph 4, above. The sums paid to the County for the services of Richland County Magistrate Donald J. Simons less the deductions set forth herein, shall be duly paid to Donald J. Simons. In the event that Richland County Magistrate Donald J. Simons services as Town of Eastover Municipal Judge terminate for any reason, this Agreement shall automatically terminate, the compensation paid by the Town to the County pursuant to this agreement shall cease, and no further payments pursuant to this Agreement shall be made to Richland County Magistrate Donald J. Simons. It is further understood and agreed by the parties and by Donald J. Simons as evidenced by his consenting signature below, that for the purposes of determining Richland County Magistrate Donald J. Simons' salary under S. C. Code 22-8-40(j) only, no monies paid pursuant to the Agreement shall constitute Richland County Magistrate Donald J. Simons' salary from Richland County, but shall be considered merely as a pass through payment from the Town for services rendered as Town of Eastover Municipal Judge pursuant to this Agreement. As such, cessation of payments pursuant to this Agreement shall not constitute a reduction of salary under S. C. Code 22-8-40(j) and the County shall not be required to pay Donald J. Simons any monies to compensate for the loss of monies associated with the cessation of his services as a Town of Eastover Municipal Judge and of this Agreement.
6. This agreement may be terminated, at any time, by the Town, the County, or Judge Donald J. Simons by giving all parties thirty (30) days written notice of termination.
7. The Agreement may be amended, modified, or changed only by written agreement of the Council of Richland County and Council of the Town of Eastover, except that the Town reserves the right to alter or change, from time to time, the compensation rendered to Judge Donald J. Simons for his services to the Town, without further approval of the County. Any such change in compensation shall be timely reported to the County by the Town.
8. The Town shall be responsible for defending any and all claims, demands, and/or actions brought against the Town and/or Judge Donald J. Simons arising out of or from any act(s) and/or omission(s) on the part of Judge Donald J. Simons during the course of providing such judicial services to the Town.
9. The assignment of Judge Donald J. Simons as Municipal Judge for the Town shall be made by the Chief Summary Court Judge for Richland County in accordance with the terms of this Agreement. Additionally, the Town shall comply with the requirements of S. C. Code Ann. Section 14-25-145 (2004), and in particular (i) shall pursuant to

subsection (A) appoint Magistrate Simons to serve for a set term "not to exceed four years and until his successor is appointed and qualified"; and (ii) shall pursuant to subsection (B) "notify South Carolina Court Administration of" the appointment of Magistrate Judge Donald J. Simons as Municipal Judge for the Town of Eastover.

(Remainder of page left intentionally blank.)

IN WITNESS WHEREOF WE THE UNDERSIGNED have this 4th day of September 2015, set our hand and seal hereon.

RICHLAND COUNTY

WITNESSES

[Signature]

[Signature]

By: Chairman

[Signature]

Its: _____

TOWN OF EASTOVER

[Signature]

[Signature]

By: Mayor

[Signature]

Its: _____

I So Consent and Agree:

[Signature]
Donald J. Simons
Richland County Magistrate

Richland County Attorney's Office

[Signature]

Approved As To LEGAL Form Only.

No Opinion Rendered As To Content.

Richland County Council, Chairman

Mr./Madame Chair:

Pursuant to Item number seven of the Intergovernmental Service Agreement (ISA) between Richland County Council and Eastover Town Council, signed and dated September 4, 2015, regarding services to the Town to be provided by Judge Donald J. Simons, the Town, with the agreement of Judge Simons, has changed Judge Simons' compensation to be paid to the Richland County under item number four of the ISA, as follows:

1. \$1,200.00 yearly salary
2. \$74.40 Fica Company
3. \$17.40 Medicare Company

Total: \$1,291.80 Cost to the Town of Eastover

Respectfully submitted by:

Geraldene Robinson, Mayor Eastover, SC

Cc: Judge Simons

File

Encl: ISA, Compensation change document signed by Judge Simons

STATE OF SOUTH CAROLINA)	
)	INTERGOVERNMENTAL
COUNTY OF RICHLAND)	SERVICE AGREEMENT
		(Magistrate)

This Agreement made and entered into by and between the County of Richland, a political subdivision of the State of South Carolina, hereinafter referred to as the “County”, and the Town of Eastover, a political subdivision of the State of South Carolina, hereinafter referred to as the “Town”;

WHEREAS, the Town is desirous of providing an efficient and effective municipal court system utilizing the most qualified judicial personnel available;

WHEREAS, the Town desires to utilize the services of Richland County Magistrate Donald J. Simons for the position of Town of Eastover Municipal Judge;

WHEREAS, the County is willing to permit Judge Donald J. Simons to serve as the Town of Eastover Municipal Judge; and

WHEREAS, the County and Town are authorized to enter into this Agreement by virtue of the provisions of Sections 4-9-40 and 14-25-25 of the South Carolina Code of Laws 1976, as amended, and as authorized by Order of the South Carolina Supreme Court dated May 25, 2001.

NOW, THEREFORE, it is mutually agreed by and between the Town and County as follows:

1. Judge Donald J. Simons shall serve as the Town of Eastover Municipal Court Judge.
2. Judge Donald J. Simons shall perform all functions and provide such services to the Town as have been customarily rendered by the Town’s Municipal Judge, consisting of, but not limited to conducting bench and jury trials, issuing arrest warrants, setting bonds, and such other duties and functions as shall be mutually agreed upon by the parties. The provision of such services shall be in a time and manner so as not to interfere with Judge Donald J. Simons’ regular duties with Richland County.
3. While actually performing the functions and duties of the Municipal Judge, Donald J. Simons shall be totally responsible and dedicated to the benefit and objectives of the judicial system of the Town, without interference from or influence by the County, its employees, or its Council.

4. In order to compensate the County for the services of Richland County Magistrate Donald J. Simons serving as Town of Eastover Municipal Judge, the Town shall pay the County the sum of One Hundred Dollars (\$100.00) per month or prorated portion thereof, plus the employer's share of FICA, State Retirement at the rate of 15.56% to increase 1% every July 1st through 2023, and any other sums customarily paid by an employer, calculated on the monthly amount paid, said sum being due on or before the last day of each and every month that said judicial services are rendered. Said sum shall constitute the total compensation to Donald J. Simons for services as Municipal Judge. The County shall be responsible for all required deductions and reporting all sums for withholding, social security, unemployment and any other deductions on the sums paid for the judicial services of Judge Donald J. Simons.

5. All compensation for Richland County Magistrate Donald J. Simons' services as a Town of Eastover Municipal Judge, including but not limited to FICA and state retirement, shall be paid by the Town according to paragraph 4, above. The sums paid to the County for the services of Richland County Magistrate Donald J. Simons less the deductions set forth herein, shall be duly paid to Donald J. Simons. In the event that Richland County Magistrate Donald J. Simons serves as Town of Eastover Municipal Judge terminate for any reason, this Agreement shall automatically terminate, the compensation paid by the Town to the County pursuant to this Agreement shall cease, and no further payments pursuant to this Agreement shall be made to Richland County Magistrate Donald J. Simons. It is further understood and agreed by the parties and by Donald J. Simons as evidenced by his consenting signature below, that for the purposes of determining Richland County Magistrate, Donald J. Simons' salary under S.C. Code §22-8-40(j) **only**, no monies paid pursuant to this Agreement shall constitute Richland County Magistrate Donald J. Simons' salary from Richland County, but shall be considered merely as a pass through payment from the Town for services rendered as a Town of Eastover Municipal Judge pursuant to this Agreement. As such, cessation of payments pursuant to this Agreement shall not constitute a reduction of salary under S.C. Code §22-8-40(j) and the County shall not be required to pay any monies to compensate for the loss of monies associated with the cessation of his services as a Town of Eastover Municipal Judge and of this Agreement.

6. This Agreement may be terminated, at any time, by the Town, the County, or Judge Donald J. Simons by giving all other parties thirty (30) days written notice of termination.

7. This agreement may be amended, modified or changed only by written agreement of the Council of Richland County and Council of the Town of Eastover; except that, the Town reserves the right to alter or change, from time to time, the compensation rendered to Judge Donald J. Simons for his services to the Town without further approval of the County. Any such change in compensation shall be timely reported to the County by the Town.
8. The Town shall be responsible for defending any and all claims, demands, and/or actions brought against the Town and/or Judge Donald J. Simons arising out of or from any act(s) and/or omission(s) on the part of Judge Donald J. Simons during the course of providing such judicial services to the Town.
9. The assignment of Judge Donald J. Simons as Municipal Judge for the Town shall be made by the Chief Summary Court Judge for Richland County in accordance with the terms of this Agreement. Additionally, the Town shall comply with the requirements of S.C. Code Ann. Section 14-25-15 (2004), and in particular (i) shall pursuant to subsection (A) appoint Magistrate to serve for a set term “not to exceed four years and until his successor is appointed and qualified”; and (ii) shall pursuant to subsection (B) “notify South Carolina Court Administration of” the appointment of Magistrate Judge Donald J. Simons as Municipal Judge for the Town of Eastover.

{Remainder of page left intentionally blank.}

IN WITNESS WHEREOF WE THE UNDERSIGNED have this _____day of _____, 2019,
set our hand and seal hereon.

RICHLAND COUNTY

WITNESSES:

By: _____
Its: _____

TOWN OF EASTOVER

By: _____
Its: _____

I So Consent and Agree:

Richland County Magistrate

Richland County Council Request for Action

Subject:

Intergovernmental Agreement with the City of Columbia for Murray Point Water system

Notes:

November 21, 2019 – The Administration and Finance Committee recommended Council to approve the Intergovernmental agreement (IGA) with the City of Columbia for bulk water purchase.



Agenda Briefing

To: Committee Chair Joyce Dickerson and Members of the Committee
Prepared by: Jessica Mancine, Manager of Administration
Department: Utilities
Date Prepared: November 07, 2019 **Meeting Date:** November 21, 2019

Legal Review	Elizabeth McLean via email	Date:	November 15, 2019
Budget Review	James Hayes via email	Date:	November 13, 2019
Finance Review	Stacey Hamm via email	Date:	November 14, 2019
Other Review:	City of Columbia	Date:	October 16, 2019
Approved for Council consideration:	Assistant County Administrator	John M. Thompson, Ph.D., MBA, CPM	

Committee Administration & Finance

Subject: Intergovernmental Agreement with the City of Columbia for Murray Point Water system.

Recommended Action:

Staff recommends approval of the Intergovernmental agreement (IGA) with the City of Columbia for bulk water purchase.

Motion Requested:

Move to approve staff's recommendation.

Request for Council Reconsideration: Yes

Fiscal Impact:

The anticipated cost to connect the City of Columbia's water system with the Murray Point subdivision network will be approximately \$70,000. There is also an associated monthly cost based on the usage. We estimate we will break even if we do not increase the usage rate; however, if the City of Columbia increases its bulk water rate in July, we will need to increase the rate. Funding is available in the Utilities Department's construction budget for the connection of the new line to the City of Columbia.

The rate study commissioned by Richland County evaluated three water systems: Hopkins, Pond Dr., White Rock (Murray Point). Richland County Utilities pumps then provides water to its customers. The bulk rate agreement with the City of Columbia allows the County to use the City as a water source only for those customer using the White Rock (Murray Point) system. The City of Columbia may raise the bulk rate price in future. Accordingly, Richland County Utilities will evaluate and may raise the rate to the White Rock (Murray Point) customers to pay for the operation and maintenance of the system serving them.

Motion of Origin:

Please see attachment 1.

Council Member	Bill Malinowski, District 1
Meeting	Special Called Meeting
Date	October 02, 2018

Discussion:

The White Rock Water System is currently the only water distribution network in the Broad River Utility System. The water system serves the Murray Point neighborhood located in District 1 of Richland County (see attached map of the service area – **Figure 1**). The system is approximately 30 years old and served water to the neighborhood via a well system. The system serves 14 customers who are billed at a base rate for first 1,000 gallons and a subsequent rate for each additional gallon (rates below).

	Current Rate
1 st 1,000 gallons – base	\$20.00
Next 8,000 gallons	\$4.67/1,000 gallons
Next 11,000 gallons	\$4.37/1,000 gallons
Next 10,000 gallons	\$4.12/1,000 gallons
Next 30,000 gallons	\$3.87/1,000 gallons
Next 60,000 gallons	\$3.87/1,000 gallons

Since July 2018, the Murray Point Subdivision has been temporarily connected to the City of Columbia (dba Columbia Water) due to drying out of the well. On the September 25, 2018, the Richland County Utilities staff recommended approval of purchasing water from the City of Columbia at the Industrial Bulk Rate and presented several options to review committee. Since then, we received approval to move forward with Intergovernmental agreement with City of Columbia for bulk water purchasing. The Richland County Attorney’s Office has reviewed the agreement.

Included below is information from the Willdan rate study done in 2018. The study shows current rates for Richland County systems in White Rock (Murray Point), Hopkins, Pond Drive with a 0.0% (percentage) increase highlighted in the yellow box below. The bulk water agreement with the City of Columbia for White Rock (Murray Point) will not increase any water rates for customers served by Richland County Utilities.

A comparison of the typical monthly bills for the County's current water and sewer rates with those of other neighboring utilities follows:

Description	Existing	Fiscal Year Ending June 30,									
	FY 2019	2020	2021	2022	2023	2024	2025	2026	2027	2028	2029
Water											
County (@ 6,000 Gals.)	\$ 43.33	\$ 43.33	\$ 43.35	\$ 43.35	\$ 43.35	\$ 43.35	\$ 43.35	\$ 43.35	\$ 43.35	\$ 43.35	\$ 43.35
Annual Rate Adjustment		0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%
City of Columbia (Outside) ⁽¹⁾	\$ 36.14	\$ 37.59	\$ 39.09	\$ 40.65	\$ 42.28	\$ 43.97	\$ 45.73	\$ 47.56	\$ 49.46	\$ 51.44	\$ 53.20
Average of Other Utilities ⁽¹⁾	\$ 48.32	\$ 50.25	\$ 52.26	\$ 54.35	\$ 56.53	\$ 58.79	\$ 61.14	\$ 63.59	\$ 66.13	\$ 68.77	\$ 71.53
Sewer											
With Columbia Customers:											
BRS Effective Monthly Bill	\$ 44.54	\$ 44.54	\$ 44.54	\$ 44.54	\$ 44.54	\$ 44.54	\$ 44.54	\$ 44.54	\$ 44.54	\$ 44.54	\$ 44.54
Annual Rate Adjustment		0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%
SERC Monthly Bill	\$ 37.60	\$ 44.54	\$ 44.54	\$ 44.54	\$ 44.54	\$ 44.54	\$ 44.54	\$ 44.54	\$ 44.54	\$ 44.54	\$ 44.54
Annual Rate Adjustment		18.5%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%
City of Columbia (Outside) ⁽¹⁾	\$ 66.71	\$ 69.38	\$ 72.15	\$ 75.04	\$ 78.04	\$ 81.16	\$ 84.41	\$ 87.79	\$ 91.30	\$ 94.95	\$ 98.75
Average of Other Utilities ⁽¹⁾	\$ 62.54	\$ 65.04	\$ 67.64	\$ 70.35	\$ 73.16	\$ 76.09	\$ 79.13	\$ 82.30	\$ 85.59	\$ 89.01	\$ 92.57

Note:
⁽¹⁾ Reflects monthly bills based on rates obtained from neighboring utilities' websites as of October 2018. It is unknown if, when or by how much the neighboring utilities will adjust rates in the future. However, for the purposes of this analysis, we have assumed a 4% annual inflationary adjustment to both the water and sewer rate of the city of Columbia outside rates as well as the average of the utilities beginning in 2020 and each year thereafter.

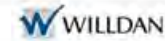
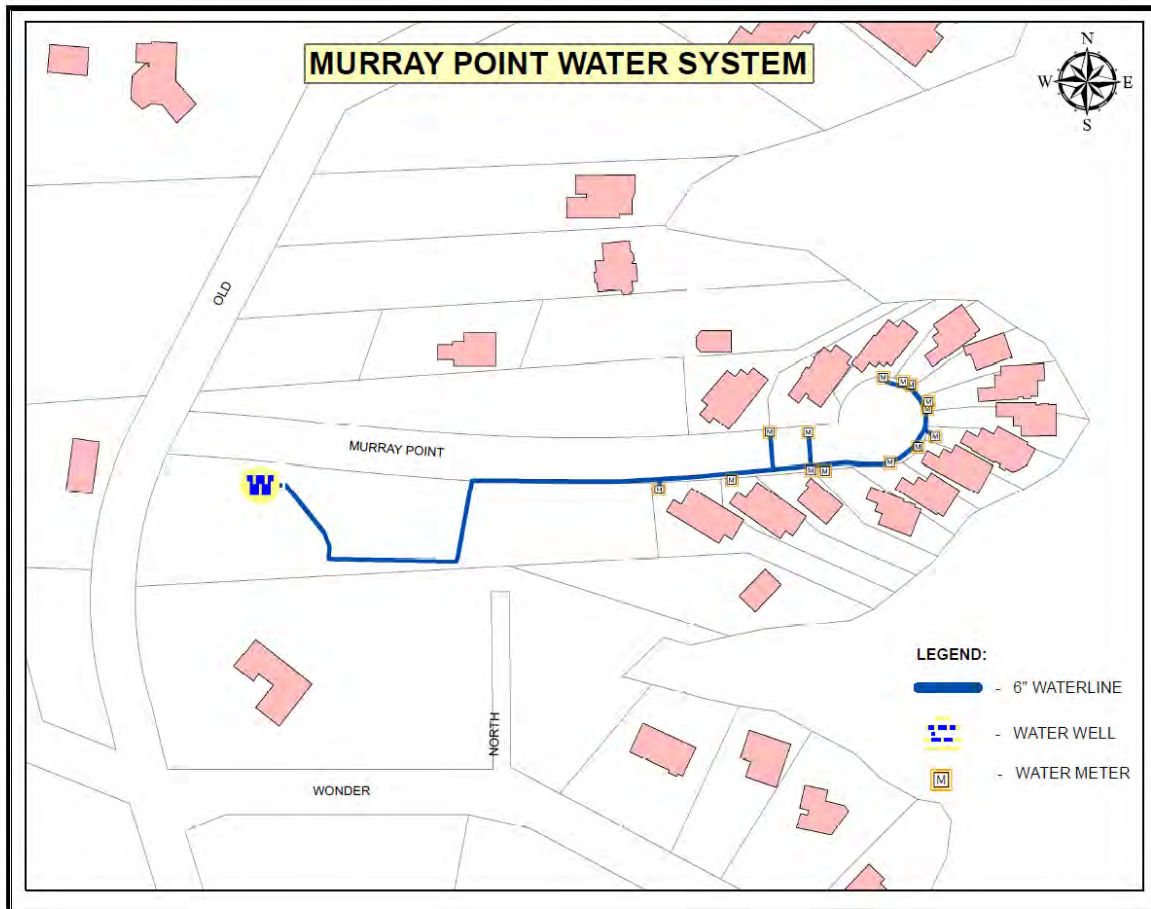


Figure 1: Murray Point Water System Service Area



Attachments:

1. Excerpt of Richland County Council Special Called Meeting – October 02, 2018
2. Email Correspondence with the City of Columbia
3. Intergovernmental Agreement for Bulk Water Sale

Mr. Livingston inquired about how many test we may have to do.

Dr. Yudice stated the discussion in committee was to identify up to \$70,000. The recommendation will be to go with the company that charges \$210/per test.

Mr. Malinowski inquired as to what happens once the test is done.

Dr. Yudice stated she believes we will have to talk to Westinghouse, depending on the results, and have an action plan with them.

Ms. Myers stated she was at the meeting last night. Westinghouse did not unequivocally say they would not pay. They said they are discussing it, and we said the reason we are not holding off until they make a decision is because people have water they are drinking that we need to make sure is safe. It is a health and safety issue, but we made it clear to Westinghouse that we would unequivocally expect them to pay for these items. This is not meant to be a freebie for Westinghouse. They were not happy that is what we were asking for, but they certainly did not say they would not pay. That is why she likes the friendly amendment.

Mr. Livingston inquired if we can include a letter requesting Westinghouse to pay for the test.

Mr. Pearce accepted Mr. Livingston's friendly amendment to include a letter requesting Westinghouse to pay for the test.

In Favor: Malinowski, C. Jackson, Myers, Pearce, Kennedy, Manning, Dickerson, N. Jackson, Livingston, Rose and McBride

- d. Council Motion: To resolve the water contamination issues in the Lower Richland community and put the citizens at ease I move that Richland County move forward with the water system already approved with partnership with Westinghouse nuclear energy plant, International Paper, SCE&G and others to provide seed funds as they all have contributed to water quality in the area [N. JACKSON] – Mr. Pearce stated the recommendation of the committee is to direct the Utility Director to explore the potential of receiving seed money to expedite this project.

In Favor: Malinowski, C. Jackson, Myers, Pearce, Manning, Dickerson, N. Jackson and Livingston

Opposed: Rose

The vote was in favor.

- e. Upgrading the Murray Point Lane Water System (aka White Rock Water System) – Mr. Malinowski stated he received a call from one of the people that lives in this area, and they inquired if there will be any citizen input regarding this matter.

Mr. Khan stated there is no formal requirement for a public hearing, but if Council would like a public hearing one could be scheduled.

Mr. Malinowski stated he informed the individual there likely would not be a public hearing, but would

**Special Called
October 2, 2018**

-19-

determine if that were the case. In addition, they would like to be provided the potential rates to be charged vs. Columbia resident rates.

Mr. Khan stated they could provide a comparison table of the City of Columbia rates, the County's current rates, and the future proposed rates to Mr. Malinowski and/or the citizens.

Mr. Malinowski moved, seconded by Mr. Livingston, to approve this item.

In Favor: Malinowski, C. Jackson, Myers, Pearce, Kennedy, Dickerson, N. Jackson, Livingston, Rose and McBride

The vote in favor was unanimous.

16. **REPORT OF ADMINISTRATION AND FINANCE COMMITTEE**

- a. County Council is requested to approve the award of the contract for the Fountain Lake Rd. Paving Project to Armstrong Contractors, LLC – Mr. Livingston stated the committee's recommendation is for approval of this item.

In Favor: C. Jackson, Myers, Pearce, Kennedy, Dickerson, N. Jackson, Livingston, Rose and McBride

Opposed: Malinowski

Mr. N. Jackson moved, seconded by Mr. Livingston, to reconsider this item.

In Favor: Malinowski

Opposed: C. Jackson, Myers, Pearce, Kennedy, Dickerson, N. Jackson, Livingston, Rose and McBride

The motion for reconsideration failed.

- b. Hospitality Tax Funding for EdVenture – Mr. Livingston stated the committee recommended approval of this item.

Mr. Malinowski inquired, for the record, if the employee responsible for costing the County taxpayers' \$58,000 have been disciplined.

Dr. Yudice stated her understanding is the employee has been disciplined and removed from handling grant matters.

In Favor: Malinowski, C. Jackson, Myers, Pearce, Kennedy, Dickerson, N. Jackson, Livingston, Rose and McBride

The vote in favor was unanimous.

- c. Council Motion: Move forward with review of the SE & NE Sport Complex plans to promote tourism and

**Special Called
October 2, 2018**

-20-

ASHIYA MYERS

From: BRAD FARRAR
Sent: Wednesday, October 30, 2019 3:59 PM
To: TARIQ HUSSAIN
Cc: LARRY SMITH; JOHN THOMPSON; IFEOLU IDOWU; Jessica Mancine
Subject: FW: [EXTERNAL] RE: Murray Point Wholesale Water Service Agreement - City Legal Approved
Attachments: Murray Point_Wholesale Agreement_City Legal Approved_101119.pdf

Tariq,

The attached appears to contain the changes the County recommended some time ago, and I have no further recommendations as to this agreement. It should be ready for the County's consideration and execution. Thanks.

Bradley T. Farrar
Chief Deputy County Attorney
Richland County Attorney's Office
2020 Hampton Street, Room 4018
Post Office Box 192
Columbia, South Carolina 29202
(803) 576-2076 (fax) (803) 576-2139
bradfarrar@richlandonline.com or FARRARB@rcgov.us

ATTORNEY-CLIENT OR OTHER PRIVILEGED COMMUNICATION NOT FOR DISSEMINATION BEYOND ORIGINAL ADDRESSEE(S) AND ORIGINAL COPIED RECIPIENT(S).

From: LARRY SMITH
Sent: Wednesday, October 30, 2019 3:45 PM
To: BRAD FARRAR
Subject: FW: [EXTERNAL] RE: Murray Point Wholesale Water Service Agreement - City Legal Approved

FYI

From: TARIQ HUSSAIN <HUSSAIN.TARIQ@richlandcountysc.gov>
Sent: Friday, October 18, 2019 3:42 AM
To: LARRY SMITH <SMITH.LARRY@richlandcountysc.gov>
Cc: JOHN THOMPSON <THOMPSON.JOHN@richlandcountysc.gov>; IFEOLU IDOWU <IDOWU.IFEOLU@richlandcountysc.gov>; Jessica Mancine <Mancine.Jessica@richlandcountysc.gov>
Subject: FW: [EXTERNAL] RE: Murray Point Wholesale Water Service Agreement - City Legal Approved

Mr. Larry,

I have attached the revised copy (Brad changes) from City of Columbia for the Murray Point whole sale service agreement. The RC Utilities team reviewed and agree with the agreement. Please review and let us know if there are any changes. We will submit it to Dr. Thompson with the briefing document to present it to the D&S.

City would like this agreement signed by RCA to present it to City Council by November 19th meeting for approval and execution.

Thanks for all the support.

Jani Tariq Hussain

Deputy Director

P 803-401-0045

HUSSAIN.TARIQ@richlandcountysc.gov



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From: Shealy, Clint E [<mailto:Clint.Shealy@columbiasc.gov>]

Sent: Wednesday, October 16, 2019 3:27 PM

To: JOHN THOMPSON <THOMPSON.JOHN@richlandcountysc.gov>; TARIQ HUSSAIN <HUSSAIN.TARIQ@richlandcountysc.gov>

Cc: Wright, Patrick <Patrick.Wright@columbiasc.gov>; Jaco, Joey D <Joey.Jaco@columbiasc.gov>

Subject: Re: [EXTERNAL] RE: Murray Point Wholesale Water Service Agreement - City Legal Approved

Hi Dr. Thompson,

Hope you are well. We are hopeful to take before Council on our next meeting which is November 19th.

Do you think you will be able to get your Council approval and get a signed copy back to me by then?

Thanks.

Clint E. Shealy, P.E.

Assistant City Manager

Columbia Water

300 Laurel Street | Columbia, SC 29201

Email: clint.shealy@columbiasc.gov

Phone: (803)733-8682

Cell: (803) 240-6350

----- Original message -----

From: JOHN THOMPSON <THOMPSON.JOHN@richlandcountysc.gov>

Date: 10/16/19 11:02 AM (GMT-05:00)

To: "Shealy, Clint E" <Clint.Shealy@columbiasc.gov>, TARIQ HUSSAIN <HUSSAIN.TARIQ@richlandcountysc.gov>

Cc: "Wright, Patrick" <Patrick.Wright@columbiasc.gov>, "Jaco, Joey D" <Joey.Jaco@columbiasc.gov>

Subject: [EXTERNAL] RE: Murray Point Wholesale Water Service Agreement - City Legal Approved

CAUTION: This email originated outside of the organization. Do not click links or open attachments from unknown senders or suspicious emails. Never enter a username or password on a site that you did not knowingly access.

Good morning, Clint,

Thank you for your follow up. When are you planning to take it before City Council?

Best,
John

John M. Thompson, Ph.D., MBA, CPM

Assistant County Administrator
Richland County Government
Office of the County Administrator
803-576-2054

Thompson.John@RichlandCountySC.gov

From: Shealy, Clint E <Clint.Shealy@columbiasc.gov>

Sent: Tuesday, October 15, 2019 6:46 PM

To: JOHN THOMPSON <THOMPSON.JOHN@richlandcountysc.gov>; TARIQ HUSSAIN <HUSSAIN.TARIQ@richlandcountysc.gov>

Cc: Wright, Patrick <Patrick.Wright@columbiasc.gov>; Jaco, Joey D <Joey.Jaco@columbiasc.gov>

Subject: Murray Point Wholesale Water Service Agreement - City Legal Approved

Good evening Dr. Thompson and Jani,

Please find attached the referenced agreement with the requested changes. This document has been approved and stamped by City Legal staff and is ready for approval by our respective governing bodies. Please let me know if you have any questions. Thank you.



Clint E. Shealy, P.E.
Assistant City Manager

Columbia Water

300 Laurel Street | Columbia, SC 29201
Email: clint.shealy@columbiasc.gov
Phone: (803)733-8682
Cell: (803) 240-6350

ColumbiaSCWater.Net
ColumbiaSC.Net

City of Columbia E-Mail Address Change Notice:

The City of Columbia will be updating our e-mail address format and moving from **columbiasc.net** to **columbiasc.gov**. Please make note and update contact information accordingly.

STATE OF SOUTH CAROLINA)
)
) **INTERGOVERNMENTAL AGREEMENT FOR**
) **BULK WATER SALE**
COUNTY OF RICHLAND)

This PURCHASE AGREEMENT FOR BULK WATER (“Agreement”), effective as of the _____ of _____, 2019, is made by and between RICHLAND COUNTY, SOUTH CAROLINA (“County”), and the CITY OF COLUMBIA, SOUTH CAROLINA (“Columbia”).

WHEREAS, Columbia is a body politic and corporate and is vested with all powers granted to municipal corporations by the Constitution and the general laws of the State of South Carolina (“State”), including the power to make and execute contracts and operate utility systems;

WHEREAS, the County is a political subdivision authorized to conduct business in the State and is vested with all corporate powers under the Constitution and general laws of the State, including the power to make and execute contracts and to operate utility systems;


WHEREAS, the County desires to purchase water from Columbia on a bulk basis so that the County can service the property more particularly described on the attached Exhibit A (“Service Area”);

WHEREAS Columbia is willing to sell water to the County on a bulk basis.

NOW, THEREFORE, in consideration of the mutual covenants, benefits and promises herein, the sufficiency of which is hereby acknowledged, the parties agree as follows:

1. Columbia agrees to supply and County agrees to purchase bulk water from Columbia, not to exceed 10,000 gallons per day, for County to serve within the Service Area as described in Exhibit A. County shall be responsible for determining that the amount of water purchased is adequate for service to the Service Area from the specified delivery point. Columbia does not guarantee or warrant any specific level of service, but will use all reasonable efforts to provide County with bulk water from Columbia, not to exceed 10,000 gallons per day. Water delivered to the County’s specified service delivery point shall meet all applicable South Carolina Department of Health and Environmental Control (SCDHEC) standards for potable water. Columbia shall monitor the water quality on Columbia’s side of the meter(s) at the service delivery points, at such times and in such manner as Columbia deems appropriate, to confirm that the water delivered to County at the service delivery points meets all applicable SCDHEC standards for potable water. If Columbia determines that the water does not meet all applicable SCDHEC standards for potable water, Columbia shall immediately notify County, shut off the provision of water purchased under this Agreement to County and take appropriate measures to cause the water to meet all applicable SCDHEC standards for potable water. The parties agree that the sale of water by Columbia and the purchase by County does not constitute permission by County for Columbia to annex now or in the future any portion of the Service Area as described in Exhibit A. This agreement does not constitute permission from the County for Columbia to annex any property in the unincorporated area of Richland County, nor does it constitute waiver by Columbia of any rights of annexation it may have as provided by law.

2. Water furnished by Columbia shall be measured at the service delivery point by metering equipment owned and maintained by Columbia and paid for and installed by County. County shall pay for and purchase the appropriate size meter from Columbia. Metering equipment shall be installed in housing constructed by County, at County’s cost and expense, at service

APPROVED AS TO FORM

Legal Department City of Columbia, SC

delivery points acceptable to the parties. Columbia and County shall have free access to the metering equipment.

3. In the event County requires service delivery points in addition to the current service delivery point(s), County shall construct, not at Columbia's expense, any water main extensions and appurtenances of appropriate size, required to provide water to the service delivery points, and County shall own any water main extensions and appurtenances it may construct. In accordance with paragraphs 7 and 10 of this Agreement, such water main extensions shall be installed within easements and in accordance with plans approved by County. County shall obtain all approvals from the South Carolina Department of Health and Environmental Control or any federal or other state entities required to construct, operate and maintain the system.

4. Columbia shall read the metering equipment installed at the service delivery point at periodic intervals of approximately thirty (30) days to determine the amount of water provided by Columbia to County. The volume of water measured through the metering equipment shall be used to calculate monthly service charges. Monthly service charges for water supplied and billed to County are to be paid on or before the due date indicated on the monthly bill. If monthly service charges for water supplied and billed to County are fifteen (15) days in arrears, Columbia shall have the right, thirty (30) days after the mailing of written notice of the default to County, to terminate this Agreement and cease furnishing water to County.

5. County shall pay to Columbia monthly service charges for all water provided under the terms of this Agreement in accordance with the rates set forth in Appendix "A", which is attached hereto and incorporated herein by specific reference thereto.

6. The rates specified in Paragraph 5, Appendix A, above, may be increased or decreased by Columbia City Council, from time to time, by Ordinance, in its sole and exclusive discretion.

7. Installation, ownership, operation and maintenance of any and all portions of the water distribution system past the service delivery points shall be the sole responsibility of County, at no cost to Columbia.

8. County shall have the exclusive right to assess and collect any tap-on fees and service charges for any connections to any portions of the water distribution systems that are located past the service delivery points.

9. Columbia shall use reasonable diligence to provide a regular and uninterrupted supply of water to the service delivery points, but shall not be liable to County for damages, breach of contract or other variations of service occasioned by any cause whatsoever. Such causes may include by way of illustration, but not limitation, acts of God or of the public enemy, acts of any federal, state or local government in either its sovereign or contractual capacity, fires, droughts, floods, epidemics, quarantine restrictions, strikes, failure or breakdown of transmission or other facilities, or temporary interruptions of water service. Columbia shall notify County as soon as is practicable in advance of any reduction in the amount of water made available to County. In the event the City restricts water use during a water shortage as provided for by City Ordinance Sec. 23-70, such restrictions shall apply equally to County and City of Columbia customers affected by the water shortage and subject to the restrictions. Upon receiving such notice from Columbia, County shall, within twenty-four (24) hours, initiate adequate measures to reduce its water demands from Columbia to an amount identified by Columbia. Columbia reserves the right, at any time without notice to County or its customers, to shut the water off its mains for the purpose of making repairs, performing maintenance or installing lines, mains hydrants or other connections.

No claims shall be made against Columbia by County by reason of the breakage of any service pipe or service cock, or from any other damage that may result from shutting off water for repairing, laying or relaying mains, hydrants or other connections. Columbia shall assume no responsibility, financially or otherwise, for water quantity or quality past the service delivery points, including responsibility for compliance with all state and/or federal regulations relating to drinking water.

10. This Agreement shall be effective once signed by the parties and shall be in effect unless terminated by either party upon the terminating party giving ninety (90) days' written notice of its termination of the Agreement to the other party.

11. The parties agree that this Agreement supersedes all previous agreements between the parties for the sale of bulk water for the Service Area described in Exhibit A, and all such previous agreements shall be of no effect upon the execution of this Agreement.

12. Waiver of any breach of this Agreement shall not constitute waiver of any subsequent breach hereof. Neither party shall assign this Agreement or transfer any rights and obligations hereunder without written consent of the other party. Such consent will not be unreasonably withheld by Columbia or County. This Agreement may not be amended or modified unless such amendments or modifications are in writing and signed by the parties hereto.

13. Any notice as may be required herein shall be sufficient, if in writing and sent by certified U.S. mail with sufficient postage affixed thereto, to the following addresses, unless otherwise changed by written notice:

City of Columbia	Attention:	City Manager Post Office Box 147 Columbia, SC 29217	Copy to:	City Attorney Post Office Box 667 Columbia, SC 29202
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COUNTY	Attention:	County Administrator Post Office Box 192 Columbia, SC 29202	Copy to:	County Attorney Post Office Box 192 Columbia, SC 29202
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14. If any one or more of the terms of this Agreement should be determined by a court of competent jurisdiction to be contrary to law, Columbia and County agree to amend such term or terms to bring the Agreement in compliance with law if such term or terms are essential to the validity or operation of this Agreement. Otherwise such terms shall be deemed severable from the remaining terms of this Agreement and shall in no way affect the validity of the other terms of this Agreement.

15. Ambiguities in the terms of this Agreement, if any, shall not be construed against Columbia or County. Jurisdiction of any action brought by Columbia or County under this Agreement shall be in the Court of Common Pleas with venue in Richland County.

16. This Agreement contains the entire agreement between the parties and shall be binding upon the parties, their respective successors and assigns, as may be applicable to the particular entity.

IN WITNESS WHEREOF, the parties have caused this Agreement to be executed by duly authorized officials the date first written above.

WITNESSES:

COUNTY

By: _____

ITS: _____

Date: _____

WITNESSES:

CITY OF COLUMBIA

By: _____

ITS: _____

Date: _____

APPROVED AS TO FORM


Legal Department City of Columbia, SC

APPENDIX A
RATE ORDINANCE



ORDINANCE NO.: 2019-039

Amending the 1998 Code of Ordinances of the City of Columbia, South Carolina, Chapter 23, Utilities and Engineering, Article V, Water and Sewer Rates, Sec. 23-143 Water service rates and Sec. 23-149 Sewer service rates

BE IT ORDAINED by the Mayor and Council this 18th day of June, 2019, that the 1998 Code of Ordinances of the City of Columbia, South Carolina, Chapter 23, Utilities and Engineering, Article V, Water and Sewer Rates, Sec. 23-143 Water service rates and Sec. 23-149 Sewer service rates, are amended to read as follows:

Sec. 23-143. Water service rates.

Generally. Except as otherwise provided by contract, monthly water service charges shall be as follows:

Monthly Water Use (cubic feet)	Meter Size (inches)	In City	Out of City
Minimum--300	3/4"	8.12	13.81
	1"	13.56	23.05
	1.5"	20.31	34.53
	2"	32.49	55.24
	3"	65.00	110.49
	4"	101.55	172.63
	6"	203.35	345.69
	8"	324.96	552.43
	10"	645.21	1096.85

Additional charge per 100 cubic feet

Volumetric Charges are based on the customer category.

Monthly Water Use (cubic feet)	In City	Out of City
Residential:		
Next 9,700	2.91	4.96
Next 90,000	2.77	4.71
Over 100,000	2.62	4.45
Irrigation:		
Next 9,700	4.96	8.43
Next 90,000	4.71	8.02
Over 100,000	4.45	7.58
All others:		
Next 9,700	2.77	4.71
Next 90,000	2.62	4.45
Over 100,000	2.45	4.18

ORIGINAL
STAMPED IN RED

ORIGINAL
STAMPED IN RED

Sec. 23-149. Sewer service rates.

(a) Generally. Except as otherwise provided by contract, the monthly sewer service charge shall be as follows:

Size of Meter (inches)	Monthly Sewer Service Charge	
	In City	Out of City
5/8	8.12	13.81
1	8.12	13.81
1½	8.12	13.81
2	13.00	22.09
3	25.99	44.18
4	40.62	69.04
6	81.24	138.11
8	129.99	220.97
10	203.10	345.27

Monthly Water Use (cubic feet)	Monthly Sewer Service Charge	
	In City	Out of City
Each 100 cubic feet	4.22	7.18

(b) Consumers using water cooling towers for air conditioning. Consumers using water cooling towers for air conditioning systems shall be given a credit of 30 cubic feet per ton per month during the service periods commencing in the months of April through October. The minimum charge shall be:

Size of Meter (inches)	In City	Out of City
5/8	13.17	16.75
1	18.57	24.53
1½	23.96	32.30
2	34.75	47.80
3	56.31	78.87
4	99.44	140.99
6	207.25	296.30
8	293.48	420.55
10	646.54	929.21

(c) Surcharge for excess BOD or suspended solids. If any person discharges into the sanitary sewerage system a waste containing BOD concentration or suspended solids in excess of 300 milligrams per liter, then such person shall pay an additional cost according to rates determined by the city council. This monthly surcharge will be assessed on each pound of BOD and each pound of suspended solids in excess of 300 milligrams per liter as follows:

	BOD Rate	Suspended Solids Rate
Effective July 1, 1998	\$0.08	\$0.06
Effective July 1, 1999	0.11	0.08
Effective July 1, 2000	0.14	0.10
Effective July 1, 2001	0.17	0.12
Effective July 1, 2002	0.20	0.14

ORIGINAL
STAMPED IN RED

- (d) *Limitation on charge on single-family residences.* Maximum sewer charge on single-family residences during the service periods commencing in the months of April through October will be 1,400 cubic feet.
- (e) *Apartments and trailer parks.* Sewer rates for apartment buildings and trailer parks shall be the base rate of a single-family residence per dwelling unit plus a base fee based on meter connection size plus the rate per 100 cubic feet as reflected by water consumption.
- (f) *Hotels, motels, dormitories and roominghouses.* Sewer rates for hotels, motels, dormitories and roominghouses shall be one-half the base rate of a single-family residence per room plus a base fee based on meter connection size plus the rate per 100 cubic feet as reflected by water consumption.
- (g) *Contaminated groundwater.* Separate meters for discharges of contaminated groundwater are required. In city or out of city customers discharging contaminated ground water shall pay the out of city base monthly sewer service charge times one and one-half plus the out of city monthly sewer service charge for each 100 cubic feet times one and one-half.

This ordinance is effective as of July 1, 2019.

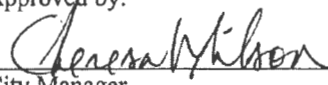
Requested by:

Mayor and City Council




Mayor

Approved by:



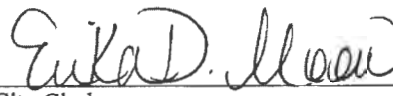
City Manager

Approved as to form:



City Attorney

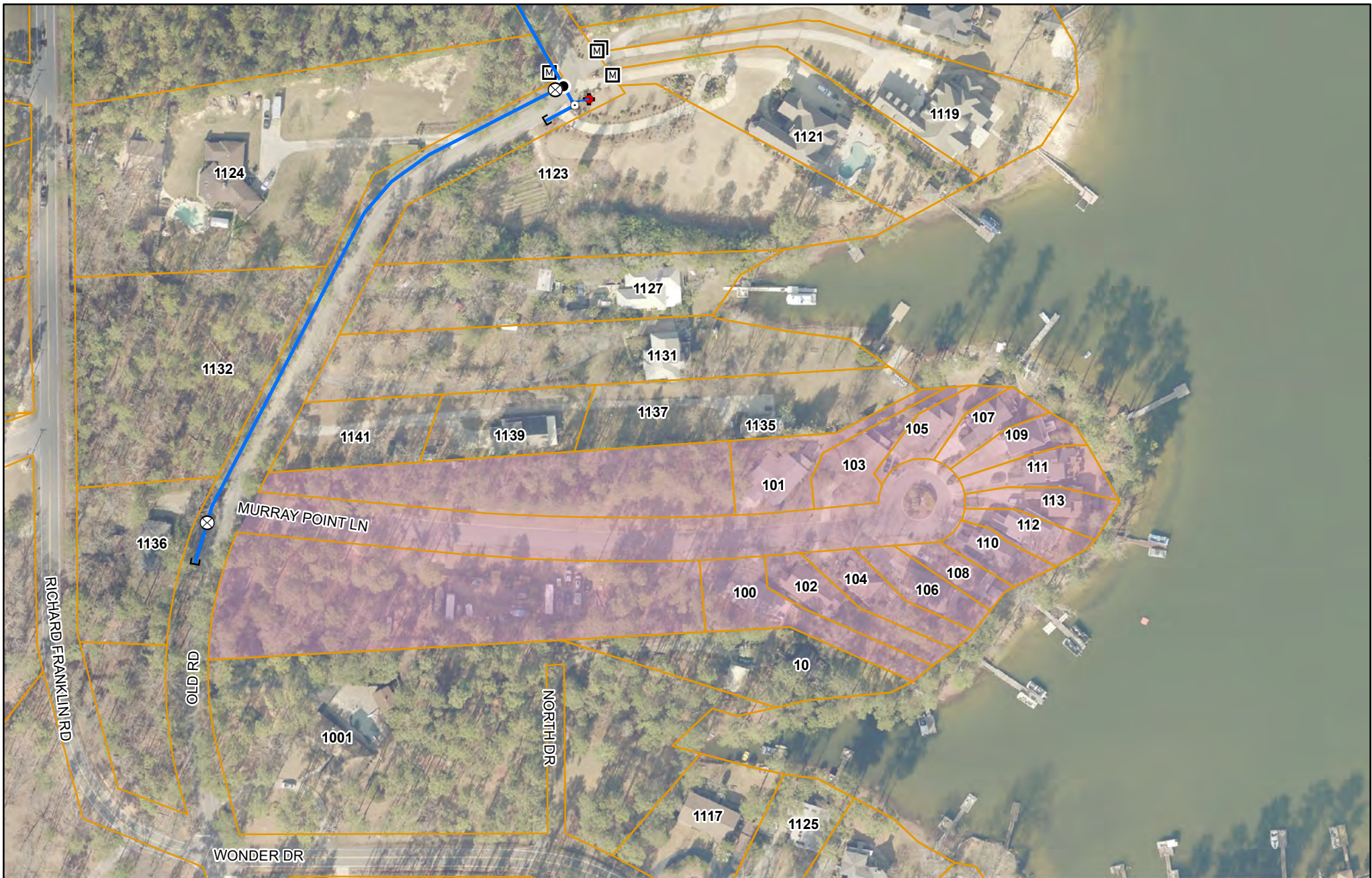
ATTEST:



City Clerk

Public Hearing: 6/11/2019
Introduced: 6/11/2019
Final Reading: 6/18/2019

EXHIBIT A



- | | | | | | |
|---|--------------------|---|------|--------|--|
| + | Water Hydrant | ● | Tap | | City of Columbia Water Distribution Line |
| ⊗ | Water System Valve | ◻ | Bend | | City of Columbia Water Lateral Line |
| M | Water Meter | ┌ | Cap | 123 | Tax Parcel w/ Address # |
| | | | | SA 382 | Service Area |



1 inch = 150 feet



Exhibit A Murray Point Ln

Prepared For: Columbia Water

Richland County Council Request for Action

Subject:

An Ordinance Amending Ordinance 039-12HR, the Ordinance Authorizing the one percent (1%) Transportation Sales and Use Tax; so as to amend the projects list as it relates to greenways

Notes:

First Reading: October 15, 2019

Second Reading:

Third Reading:

Public Hearing:

STATE OF SOUTH CAROLINA
COUNTY COUNCIL FOR RICHLAND COUNTY
ORDINANCE NO. ____-19HR

AN ORDINANCE AMENDING ORDINANCE 039-12HR, THE ORDINANCE AUTHORIZING THE ONE PERCENT (1%) TRANSPORTATION SALES AND USE TAX; SO AS TO AMEND THE PROJECTS LIST AS IT RELATES TO GREENWAYS.

Pursuant to the authority by the Constitution of the State of South Carolina and the General Assembly of the State of South Carolina, BE IT ENACTED BY RICHLAND COUNTY COUNCIL:

SECTION 1. Findings and Determinations. The County Council (the “County Council”) of Richland County, South Carolina (the “County”), hereby finds and determines:

(a) Pursuant to Section 4-37-10, Code of Laws of South Carolina 1976, as amended, the County enacted Ordinance 039-12HR (the “Transportation Penny Ordinance”) which includes a projects list (the “Projects List”).

(b) The Projects List includes fifteen (15) greenway projects (the “Greenway Projects”) as a part of the Bike/Pedestrian/Greenway projects section.

(c) The Greenway Projects have a total funding amount of \$20,970,779. One project has been completed, and one project is in the final stages of construction. The thirteen (13) remaining projects are:

1. Gills Creek Ph. A
2. Gills Creek Ph. B
3. Gills Creek Ph. C
4. Smith\Rocky Branch Ph. A
5. Smith\Rocky Branch Ph. B
6. Smith\Rocky Branch Ph. C
7. Crane Creek Ph. A
8. Crane Creek Ph. B
9. Crane Creek Ph. C
10. Columbia Mall Greenway
11. Polo\Windsor Lake Connector
12. Woodbury\Old Leesburg Connector
13. Dutchman Boulevard Connector

(d) The County Council has evaluated the recommendations of the Program Development Team and the Richland County Conservation Commission and has determined that in order to complete as many of the remaining Greenway Projects, and portions thereof, as possible with the remaining dedicated funds, the County will need to reallocate funds within the Greenway Projects.

(e) The County Council finds that all of the amendments provided herein are consistent with the intent of the Transportation Penny Ordinance and will integrate well with the current conditions and characteristics of the County.

SECTION 2. Amendments to Greenway Projects. Pursuant to the above findings and determinations, the Greenway Projects are hereby amended as provided herein, and for the reasons provided in conjunction:

1. Gills Creek Ph. A; Gills Creek Ph. B.; Gills Creek Ph. C.

Original plans - \$2,246,160; \$2,785,897; \$344,667 (\$5,376,724)

Gills Creek A is currently in the design phase with its northern termini beginning at Ft. Jackson Boulevard and extending approximately 4,400' to Mikell Lane.

Gills Creek B is an approximate 5.8 mile greenway with trails and boardwalks along a tributary to Gills Creek from Wildcat Creek to Leesburg Rd.

Gills Creek C is planned as a 3,000' greenway with trails and boardwalks extending from Forest Drive to Quail Lane.

Amended plan/amount – Remove Gills Creek B (\$2,785,897) and Gills Creek C (\$344,667) from the Projects List; and reallocate funding from both sections to Gills Creek A. Extend Gills Creek A to Timberlane Dr., or as appropriate, and allow for additional coordination with ongoing October 2015 flood mitigation efforts. Total new allocated amount for Gills Creek A - \$5,376,724.

Reasons for amendment – The County sent out 600 resident surveys in the affected areas. Gills Creek B and C received very little support and mainly negative comments. Most residents favored Gills Creek A, as amended (on the west side.)

2. Smith\Rocky Branch Ph. A; Smith\Rocky Branch Ph. B; Smith\Rocky Branch Ph. C

Original plans – \$431,183; \$1,415,316; \$901,122 (\$2,747,621)

The project scope is a greenway with trails and boardwalks that will border Smith Creek and Rocky Branch.

Smith\Rocky Branch A is 4,400' and would run from the Three Rivers Greenway to Clement Rd. along Smith Creek.

Smith\Rocky Branch B is 4,700' and would run from Clement Rd. to Colonial Dr. along Smith Creek.

Smith\Rocky Branch C is 1.70 miles and would run from Granby Park to Gervais St. along Rocky Branch

Amended plan/amount - Remove Smith\Rocky Branch A (\$431,183) and Smith\Rocky Branch B (\$1,415,316) from the Projects List; and reallocate funding from both sections to Smith\Rocky Branch C. Design Smith\Rocky Branch C from Olympia Park to Granby Park. Total new allocated amount for Gills Creek C - \$2,747,621.

Reasons for amendment – The City of Columbia has coordinated with a developer who has committed to constructing a portion of Smith\Rocky Branch C from Olympia Avenue towards the Congaree River terminating at a utility substation approximately 1,500' from the Congaree River. As a result of the comments received from the public meeting and coordination with project stakeholders and greenway planners with previous knowledge of the projects, as well as safety

considerations, project impacts, and available funding, the PDT recommends reallocating the funds from Smith\Rocky Branch A and B to Smith\Rocky Branch C such that the greenway constructed by the developer could be continued to the Congaree River and connect with the existing Granby Park greenway.

3. Crane Creek Ph. A; Crane Creek Ph. B; Crane Creek Ph. C

Original plans - \$1,541,816; \$460,315; \$793,908 (\$2,796,039)

Crane Creek A is about 2.10 miles and runs from Monticello Rd. along Crane Creek to the Three Rivers Greenway terminus at the City of Columbia canal headworks along the Broad River.

Crane Creek B extends about 4,000' from the Three Rivers Greenway along the Broad River and following a City of Columbia easement to a point near the intersection of Mountain Dr./Clement Road/Duke Road.

Crane Creek C was presented as a greenway extending from the CIU campus southward along a utility easement approximately 2 miles to a point near I-20.

Amended plan/amount - Remove Crane Creek A (\$1,541,816) and Crane Creek C (\$793,908) from the Projects List; and reallocate funding from both sections to Crane Creek B. Design Crane Creek B to provide connectivity to the existing Three Rivers Greenway from the neighborhoods along Clement and Duke Roads. Total new allocated amount for Gills Creek C - \$2,796,039.

Reasons for amendment – The County hosted, through the PDT, a public meeting regarding Crane Creek A, B and C. 39 citizens attended. Of the 35 comments received, over half favored Section B. Sections A and B did not have sufficient public support.

4. Columbia Mall Greenway

Original plans - \$648,456

Amended plan/amount – No amendment.

5. Polo\Windsor Lake Connector; Dutchman Boulevard Connector

Original plans - \$385,545; \$105,196 (\$490,741)

The Polo/Windsor Lake Greenway is a proposed greenway and trail approximately 4,000' in length. This project would begin at Windsor Lake Blvd. north of I-77 and follow the general alignment along the I-77 and I-20 interchange to the intersection of Alpine Rd. and Polo Rd. The benefit of the project is that when completed, users can access Alpine Rd. and Polo Rd. sidewalk projects linking locations such as Cardinal Newman School, Sesquicentennial State Park, and Two Notch Rd. With the mix of residential, commercial, and recreational facilities in close proximity to the greenway, this project would have a positive impact for the community. It will also provide a

safe route to sidewalks that will be used for neighborhoods and roads located by both termini.

The Dutchman Blvd. Connector is a proposed 2,000' greenway and trail from Broad River Road along Dutchman Blvd. to a point along Lake Murray Blvd. The proposed route is in a commercial/industrial area and most businesses in this area are engaged in activities such as warehousing, wholesale, light manufacturing, and distribution. Dutchman Blvd. terminus is a cul-de-sac, where the proposed greenway would continue through the adjacent parcels to Lake Murray Blvd.

Amended plan/amount – Remove Dutchman Blvd. Connector (\$105,196) from the Projects List; and reallocate funding to Polo/Windsor Lake Greenway. Total new allocated amount for Gills Creek C - \$490,741.

Reasons for amendment – The parcels needed to complete the Dutchman Blvd. Connector have been developed since the Transportation Penny Ordinance passed. The Polo/Windsor Lake Greenway is underfunded and needs additional funds for completion.

6. Woodbury\Old Leesburg Connector

Original plans - \$116,217

The Woodbury/Old Leesburg Greenway is a proposed to be a 1,000' greenway and trail. It is proposed to connect Old Leesburg to Woodbury Rd. as a way to avoid using the Trotter Rd. /Leesburg Rd. Intersection.

Amended plan/amount – Remove Woodbury\Old Leesburg Connector (\$116,217) from the Projects List.

Reasons for amendment – Aerial photographs and site visits do show a pathway where people have used this proposed route, most likely for offroad vehicles and foot traffic, but it is not an official thoroughfare. One terminus, proposed at Woodbury Rd., sits at the far corner of a single-family residential neighborhood, and would have the greenway go between two residences. The other proposed terminus is at a small crossroads intersection. Currently, the Old Leesburg terminus has few small commercial buildings including a bar/grill, a barber shop, and a small trailer park. As this area has little new development, there does not appear to be enough demand, current or future, to warrant a greenway.

SECTION III. Severability. If any section, subsection, or clause of this ordinance shall be deemed to be unconstitutional or otherwise invalid, the validity of the remaining sections, subsections, and clauses shall not be affected thereby.

SECTION IV. Conflicting Ordinances Repealed. All ordinances or parts of ordinances in conflict with the provisions of this ordinance are hereby repealed.

SECTION V. Effective Date. This ordinance shall be effective from and after _____, 2019.

RICHLAND COUNTY, SOUTH CAROLINA

By: _____
Paul Livingston, Chair
Richland County Council

ATTEST THIS ____ DAY OF
_____, 2019

Michelle Onley
Deputy Clerk to Council

RICHLAND COUNTY ATTORNEY'S OFFICE

Approved As To LEGAL Form Only
No Opinion Rendered As To Content

Date of First Reading:
Date of Second Reading:
Date of Public Hearing:
Date of Third Reading:



MEMORANDUM

10/21/2019

To: Leonardo Brown, MBA, CPM, County Administrator
From: Michael Niermeier, MPA, PMP, Richland County Transportation
David Beaty, P.E., Program Manager, Richland County Program Development Team
Cc: John Thompson, Ph.D., MBA, CPM, Assistant County Administrator
Subj: Response to Administrative Memorandum 10-2(2019)

In response to the subject memorandum, the following information is provided.

1. Greenway Expertise:

- a. What steps have been taken to ensure the County hires staff with greenway expertise?
Response: Greenway expertise was not a requirement for our current hiring actions. However, one of our current project managers has worked with pre-construction design of our current greenway projects, another has inspected and managed construction on the Three Rivers Greenway, while another has worked greenway projects in Beaufort County.
- b. If there is not staff expertise, will the County contract consultants with greenway expertise?
Response: Should the Staff require greenway expertise, we will have access to our On-call Engineering Teams as well as subject matter expertise through our staff augmentation contract.

2. PDT project evaluations and recommendations:

- a. Has Richland County Staff also independently evaluation those projects (greenways)?
Response: Yes, Staff has reviewed and concurred with PDT recommendations

3. Public input related to Dutchman Boulevard Connector Greenway:

- a. What public meeting was held?
Response: This project was ranked last of the 15 greenways. Therefore, no development, to include public involvement, has occurred yet. To date Council has directed that no development occur on specific greenway projects due to public input or otherwise. If and when Council make a decision on modifying, realigning funds or dropping certain segments of projects through three readings and a public hearing,



this office will coordinate a press release to notify the public of the change in referendum ordinance.

4. Project Alignment and Funding:

- a. Has Richland County Staff examined leveraging other funding sources to augment the projects that are not fully funded?

Response: Yes. The PDT has previously identified and assisted in obtaining outside funding to include federal and state funds. There is the potential for County staff to pursue additional funding for other projects including greenways.

- b. Does the realignment automatically lead to “dollars spent” for new design fees, etc?

Response: Most projects within the Program have had some level of design performed to date, so the realignment would require additional design fees if projects scopes were changed. In addition, some projects have had right-of-way obtained that may now not be required dependent upon scope changes.

Respectfully,

Michael A. Niermeier

Michael Niermeier





Agenda Briefing

To: Chair of the Committee and the Honorable Members of the Committee
Prepared by: Michael A. Niermeier, Director
Department: Richland County Transportation
Date Prepared: September 11, 2019 **Meeting Date:** September 24, 2019

Legal Review	N/A	Date:	
Budget Review	N/A	Date:	
Finance Review	N/A	Date:	
Other Review:	N/A	Date:	
Approved for Council consideration:	Assistant County Administrator	John Thompson, Ph. D	

Committee

Subject: Greenway Realignment

Background Information:

The Greenway Program originally consisted of 15 projects with a total amount of funding of \$20,970,779. To date, one project has been completed, and one project is in the final stages of construction. The 13 remaining projects are:

1. Gills Creek Ph. A
2. Gills Creek Ph. B
3. Gills Creek Ph. C
4. Smith\Rocky Branch Ph. A
5. Smith\Rocky Branch Ph. B
6. Smith\Rocky Branch Ph. C
7. Crane Creek Ph. A
8. Crane Creek Ph. B
9. Crane Creek Ph. C
10. Columbia Mall Greenway
11. Polo\Windsor Lake Connector
12. Woodbury\Old Leesburg Connector
13. Dutchman Boulevard Connector

The PDT has evaluated these remaining projects and submitted a Recommendation Memorandum (see attachment) that includes recommendations for each project with the goal of completing as many as the funding allows. The Richland County Conservation Commission (RCCC) Executive Committee has reviewed the Recommendation Memorandum and has provided a letter of support for all of the recommendations provided (see attachment.)

Recommended Action:

Staff requests Council to approve the recommendations presented in the Recommendation Memorandum

Motion Requested:

Move to approve the Greenway funding alignment as presented on Page 5 of the memorandum.

Request for Council Reconsideration: Yes

Fiscal Impact:

The funding amount provided for the Greenways projects will not be enough to complete every section of every project. By moving forward with the proposed recommendations, the County will be able to complete the projects that are viable and that integrate well within today's current conditions and characteristics.

Motion of Origin:

This request did not result from a Council motion.

Council Member	N/A
Meeting	N/A
Date	N/A

Discussion:

The Recommendation Memorandum has a detailed breakdown of each project. Some project phases are proposed to be dropped and some projects are proposed to be dropped in their entirety for several reasons including:

1. Lack of Public Support
2. Lack of Funding To Complete All Phases
3. Changes In Area Conditions That Prevent Construction

Attachments:

1. RCCC Letter Of Support With Recommendation Memorandum



TRANSPORTATION PROGRAM

To: John Thompson, PhD
Assistant County Administrator

From: David Beaty, PE
Program Manager

Date: March 15, 2019

Re: 2012 Referendum Greenway Category Status and Recommendation Memorandum

Introduction

The purpose of this memorandum is to provide a summary of the fifteen Richland County Transportation Program Greenway projects and recommendations to continue the program into the future with the goal of completing as many sections as funding allows. These projects warrant a review and consideration by Richland County as the development and characteristics of the surrounding neighborhoods, in conjunction with public input garnered at public hearings has changed substantially in the past seven years since the program began. It is the intent to provide information and recommendations to Richland County to address the viability of these Greenways, and possible reallocation of funds to other projects.

The Richland County Transportation Program has a total funding of \$1.07 billion funded through the Transportation Sales Tax approved by voters in 2012. Of this, \$80,888,356 was allotted to the Bike/Pedestrian/Greenway category with \$20,970,779 specifically dedicated to Greenways. Development of the Greenway category to date has utilized a cost constrained approach in an effort to stay within the original referendum amounts. The following is a summary of the Greenway projects, and recommendations for each project.

Project Summaries

Three Rivers Greenway Extension Phase 1

The Three Rivers Greenway Extension Phase 1 is a 3.2 mile greenway that incorporates an 8-foot-wide concrete trail that undulates from near the I-26/I-126 interchange along the Saluda River. It continues past River Banks Zoo to the confluence of the Saluda and Broad Rivers. Included are benches, environmentally-friendly public restrooms, signage, and information kiosks. The referendum amount was \$7,902,242 and the project is scheduled to be complete Spring/Summer 2019 and be within the referendum amount.

Lincoln Tunnel Greenway

The Lincoln Tunnel Greenway is 3,100 feet and extends from Taylor St. to Elmwood Ave. It was completed in 2017 at a cost of \$1,493,126. The referendum amount was \$892,739 and the City received a grant to be applied to the project in the amount of \$323,680 resulting in the referendum amount being exceeded by approximately \$276,709. The Greenway is a popular destination for pedestrians, cyclists and other visitors in one part because it connects bikeways and sidewalks in the downtown to shopping, restaurants and parks. The Greenway has lights, benches, and the renovated tunnel, with public art on display throughout.

Gills Creek A, B and C Greenways

Gills Creek A is currently in the design phase with its northern termini beginning at Ft. Jackson Boulevard and extending approximately 4,400' to Mikell Lane. The referendum amount was \$2,246,160. Section B is an approximate 5.8 mile greenway with trails and boardwalks along a tributary to Gills Creek from Wildcat Creek to Leesburg Rd. No work has been performed to date and it remains in the programming phase with a Referendum allocation of \$2,785,897. Section C is in the programming phase as well. It is planned as a 3,000' greenway with trails and boardwalks extending from Forest Drive to Quail Lane and has a referendum amount of \$344,667.

In 2016, two public hearings for sections A resulted in over 600 residents and property owners in attendance. In addition to section A, many comments were received for sections B and C. In total, the County received 652 comments, with 503 positively favoring the greenway section A, but constructed on the west side of Gills Creek. There was little support for B or C, and most comments were negative for these two sections.

The PDT is working closely with the City of Columbia and the Gills Creek Watershed Association to ensure coordination and input from stakeholders in the design phase of Section A, and recommend that based on the public input, that Council reallocate the 2012 Referendum funds for Sections B and C to Section A. This would allow the Greenway to likely extend to Timberlane Dr., and allow for additional coordination with ongoing October 2015 flood mitigation efforts.

Smith/Rocky Branch Greenway Sections A, B, and C

Smith Rocky Branch Greenway Sections A, B, and C are currently in the design phase and public meetings have recently been conducted on February 13, 2019 and February 21, 2019. The project scope is a greenway with trails and boardwalks that will border Smith Creek and Rocky Branch. Section A is 4,400' and would run from the Three Rivers Greenway to Clement Rd. along Smith Creek, and has a Referendum allocation of \$431,183. Section B is 4,700' and would run from Clement Rd. to Colonial Dr. along Smith Creek, and Section C is 1.70 miles and would run from Granby Park to Gervais St. along Rocky Branch. The allocated costs for Sections B and C is \$1,415,316 and \$901,122, respectively.

In the recent weeks, the City of Columbia has coordinated with a developer who has committed to constructing a portion of section C from Olympia Avenue towards the Congaree River terminating at a utility substation approximately 1,500' from the Congaree River.

As a result of the comments received from the public meeting and coordination with project stakeholders and greenway planners with previous knowledge of the projects, as well as safety considerations, project impacts, and available funding, the PDT recommends reallocating the funds from Section A and B to Section C such that the greenway constructed by the developer could be continued to the Congaree River and connect with the existing Granby Park greenway.

Crane Creek Greenway Sections A, B, and C

Crane Creek Greenway Section Sections A, B, and C are currently in the design phase and a public meeting was recently conducted on January 15, 2019. Section A is about 2.10 miles and would run from Monticello Rd. along Crane Creek to the Three Rivers Greenway terminus at the City of Columbia canal headworks along the Broad River. Section A has a Referendum allocation of \$1,541,816. Section B would extend about 4,000' from the Three Rivers Greenway along the Broad River and following a City of Columbia easement to a point near the intersection of Mountain Dr./Clement Road/Duke Road. Section B has a referendum amount of \$460,315. Section C was presented as a greenway extending from the CIU campus southward along a utility easement approximately 2 miles to a point near I-20. Section C has a referendum amount of \$793,908.

At the January 15, 2019 public meeting 39 citizens attended. Of the 35 comments received, over half favored Section B. The PDT recommends further design studies on Greenway Section B and reallocating funds from Section A and C to Section B to allow for completion of the this section of the greenway which would provide connectivity to the existing Three Rivers Greenway from the neighborhoods along Clement and Duke Roads.

Polo/Windsor Lake Greenway

The Polo/Windsor Lake Greenway is a proposed greenway and trail approximately 4,000' in length. This project would begin at Windsor Lake Blvd. north of I-77 and follow the general alignment along the I-77 and I-20 interchange to the intersection of Alpine Rd. and Polo Rd. The benefit of the project is that when completed, users can access Alpine Rd. and Polo Rd. sidewalk projects linking locations such as Cardinal Newman School, Sesquicentennial State Park, and Two Notch Rd. With the mix of residential, commercial, and recreational facilities in close proximity to the greenway, this project would have a positive impact for the community. It will also provide a safe route to sidewalks that will be used for neighborhoods and roads located by both termini. The PDT recommends moving to design phase with this project. Furthermore, because the allocated amount of \$385,545 is likely not enough to complete this greenway completely, the PDT recommends reallocating funds from the Dutchman Blvd. greenway to this project.

Dutchman Blvd. Connector Greenway

The Dutchman Blvd. Connector is a proposed 2,000' greenway and trail from Broad River Road along Dutchman Blvd. to a point along Lake Murray Blvd. It has a Referendum allocation of \$105,196. The proposed route is in a commercial/industrial area and most businesses in this area are engaged in activities such as warehousing, wholesale, light manufacturing, and distribution. Dutchman Blvd. terminus is a cul-de-sac, where the proposed greenway would continue through the adjacent parcels to Lake Murray Blvd. Since the 2012 referendum, these parcels have now

been developed. The PDT recommends that the County does not move forward with this project, and reallocates the funds to the Polo/Windsor Lake project.

Woodbury/Old Leesburg Greenway

The Woodbury/Old Leesburg Greenway is proposed to be a 1,000' greenway and trail. It is proposed to connect Old Leesburg to Woodbury Rd. as a way to avoid using the Trotter Rd. /Leesburg Rd. Intersection and has a referendum allocation of \$116,217. Aerial photographs and site visits do show a pathway where people have used this proposed route, most likely for off-road vehicles and foot traffic, but it is not an official thoroughfare. One terminus, proposed at Woodbury Rd., sits at the far corner of a single-family residential neighborhood, and would have the greenway go between two residences. The other proposed terminus is at a small crossroads intersection. Currently, the Old Leesburg terminus has few small commercial buildings including a bar/grill, a barber shop, and a small trailer park. As this area has little new development, there does not appear to be enough demand, current or future, to warrant a greenway. The PDT recommends that the County does not move forward with this project, and reallocates the allocated funds to the Lower Richland Boulevard Widening which includes a Shared Use Path. During final design of the Lower Richland Boulevard Widening, the PDT further recommends that consideration be given extending the Shared Use path where feasible and coordinating with the Richland County Sports complex for potential locations of the path.

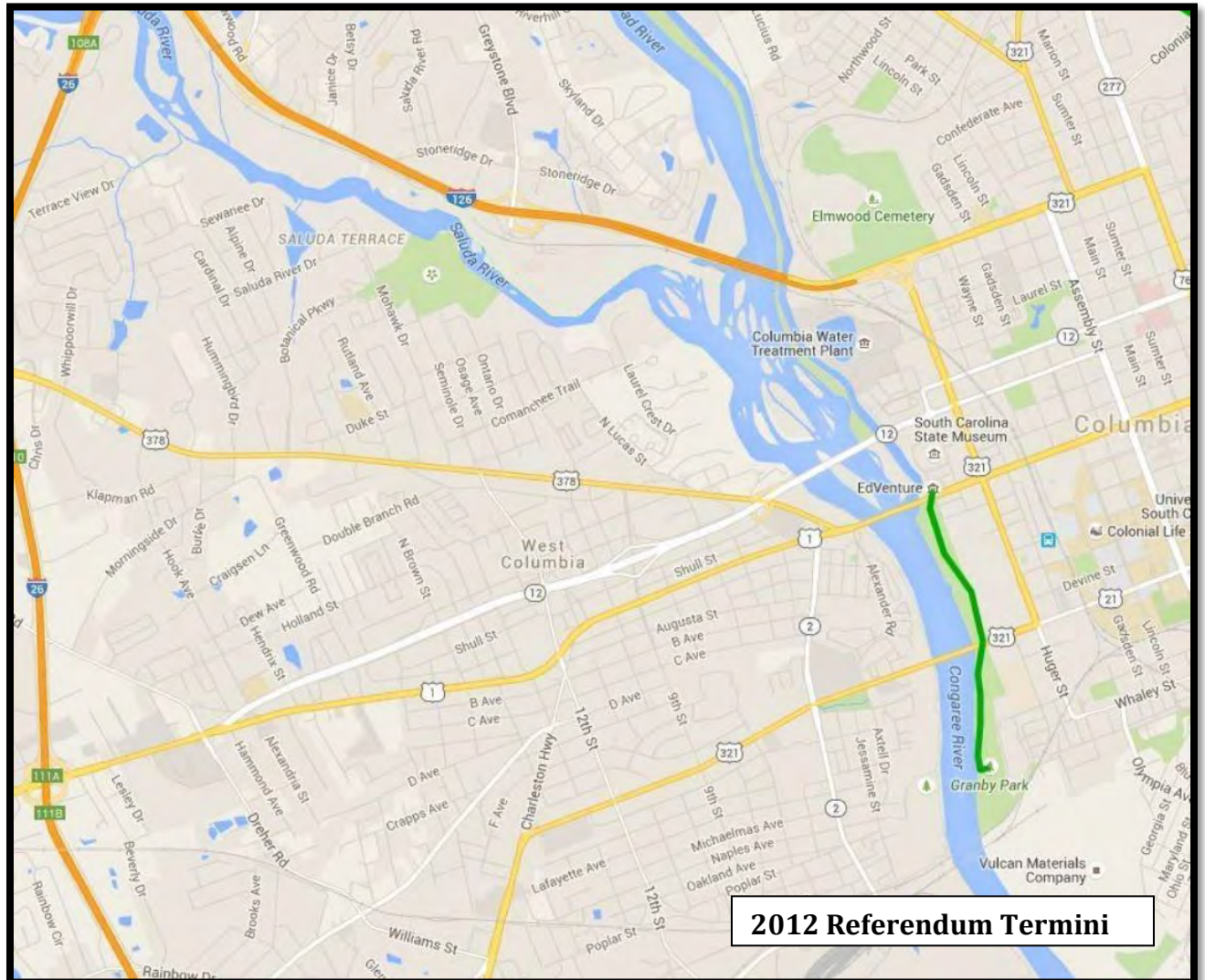
Columbia Mall Greenway

The Columbia Mall Greenway would begin on Trenholm Rd., near Dent Middle School, and would travel behind Dent Middle School crossing Decker Boulevard and following Jackson Creek to a point near Two Notch Road for a distance of 1.2 miles. This project includes areas with very high vehicle and commercial use, and connects two residential neighborhoods at each terminus. As it crosses Decker Blvd. and O'neil Court, safe pedestrian crossing would be an expensive addition to the greenway's overall cost. The PDT recommends further coordination with RCSD2 be conducted specifically regarding construction of the greenway on school property located at Jackson Creek Elementary. Based on available funding, it appears a viable greenway could be constructed on school property with a connection to the school such that it could both be used by the community and also by the school.

Recommendation Summary

Priority Rank	Project Name	2012 Referendum Cost	Recommendation/Status
1	Three Rivers Greenway Extension	\$7,902,242	In Construction
2	Lincoln Tunnel	\$892,739	Complete
3	Gills Creek Section A	\$2,246,160	Extend design to Timberlane; Reallocate funds from Gills Creek Section B and C
4	Smith/Rocky Branch Section C	\$901,122	Design from Olympia Park to Granby Park greenway; Reallocate funds from Sections A and B
5	Gills Creek Section B	\$2,785,897	Do not build; Reallocate funds to Gills Creek Section A
6	Smith/Rocky Branch Section B	\$1,415,316	Do not build; Reallocate funds to Smith/Rocky Branch Section C
7	Smith/Rocky Branch Section A	\$431,183	Do not build; Reallocate funds to Smith/Rocky Branch Section C
8	Gills Creek Section C	\$344,667	Do not build; Reallocate funds to Gills Creek Section A
9	Crane Creek Section A	\$1,541,816	Do not build; Reallocate funds to Crane Creek Section B
10	Crane Creek Section B	\$460,315	Continue Design and Construct
11	Columbia Mall Greenway	\$648,456	Coordinate design at Jackson Creek Elem. with Richland County School District.
12	Polo/Windsor Lake Connector	\$385,545	Continue Design and Construct
13	Woodbury/Old Leesburg Connector	\$116,217	Do not build
14	Crane Creek Section C	\$793,908	Do not build; Reallocate funds to Crane Creek Section B
15	Dutchman Blvd. Connector	\$105,196	Do not build; Reallocate funds to Polo/Windsor Rd. greenway

Three Rivers Greenway Extension



Project Name: Three Rivers Greenway Extension

Council District: 5

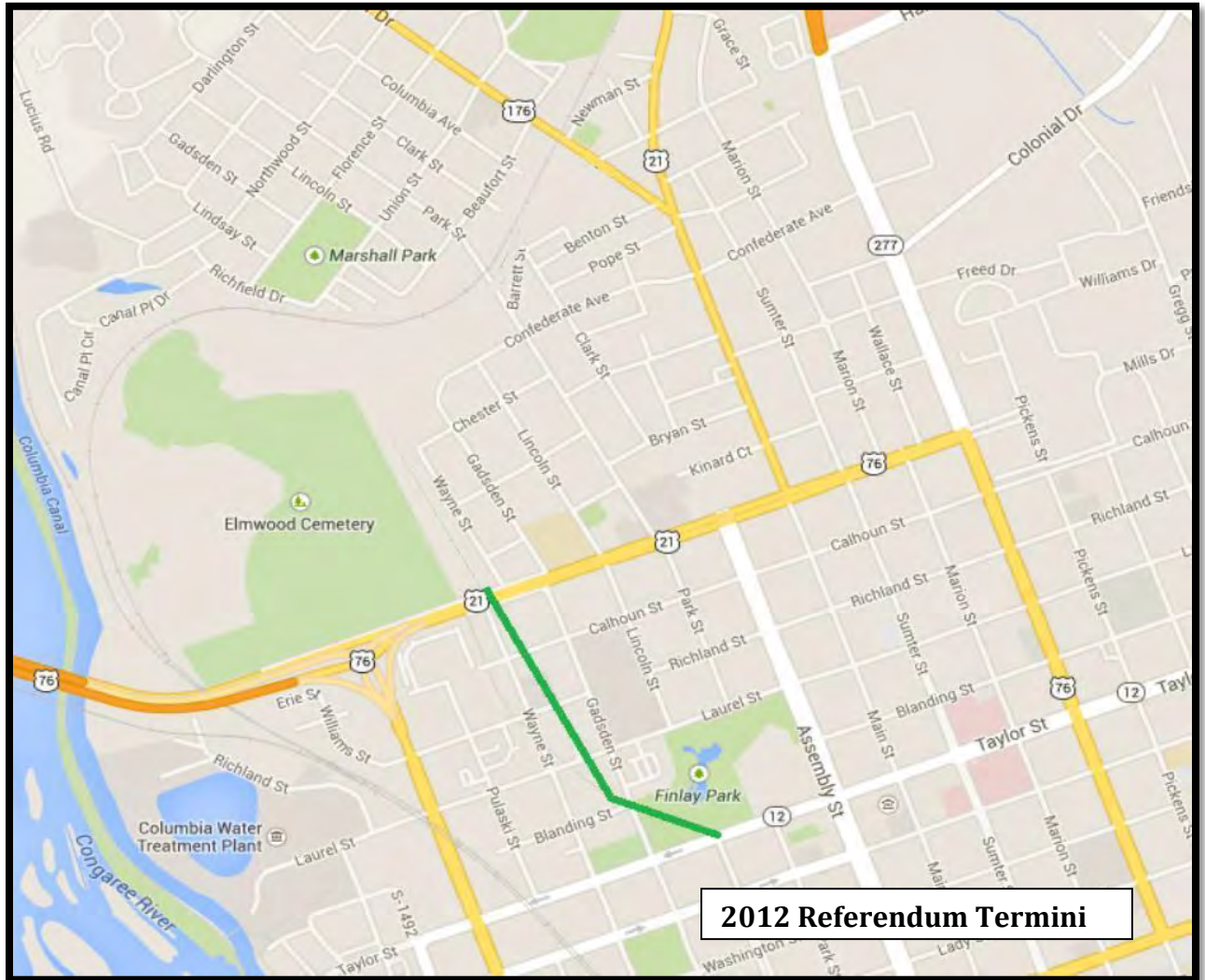
Length: 3.2 Miles

Description: Beginning on the Richland County side of the Saluda River near the I-26/I-126 interchange, extending east along the Saluda River past River Banks Zoo to the Saluda and Broad River junction.

Beginning Location: I-26/ I-126 Interchange

End Location: Saluda River/ Broad River Junction

Lincoln Tunnel Greenway



Project Name: Lincoln Tunnel Greenway

Council District: 4, 5

Length: 3,100 feet

Description: Abandoned rail tunnel linking Finley Park to Elmwood Ave. consisting of 14' trails, lights, and benches.

Beginning Location: Elmwood Avenue

End Location: Finley Park at Intersection of Taylor St. and Lincoln St.

Gills Creek Section A



Project Name: Gills Creek Section A

Council District: 6, 10

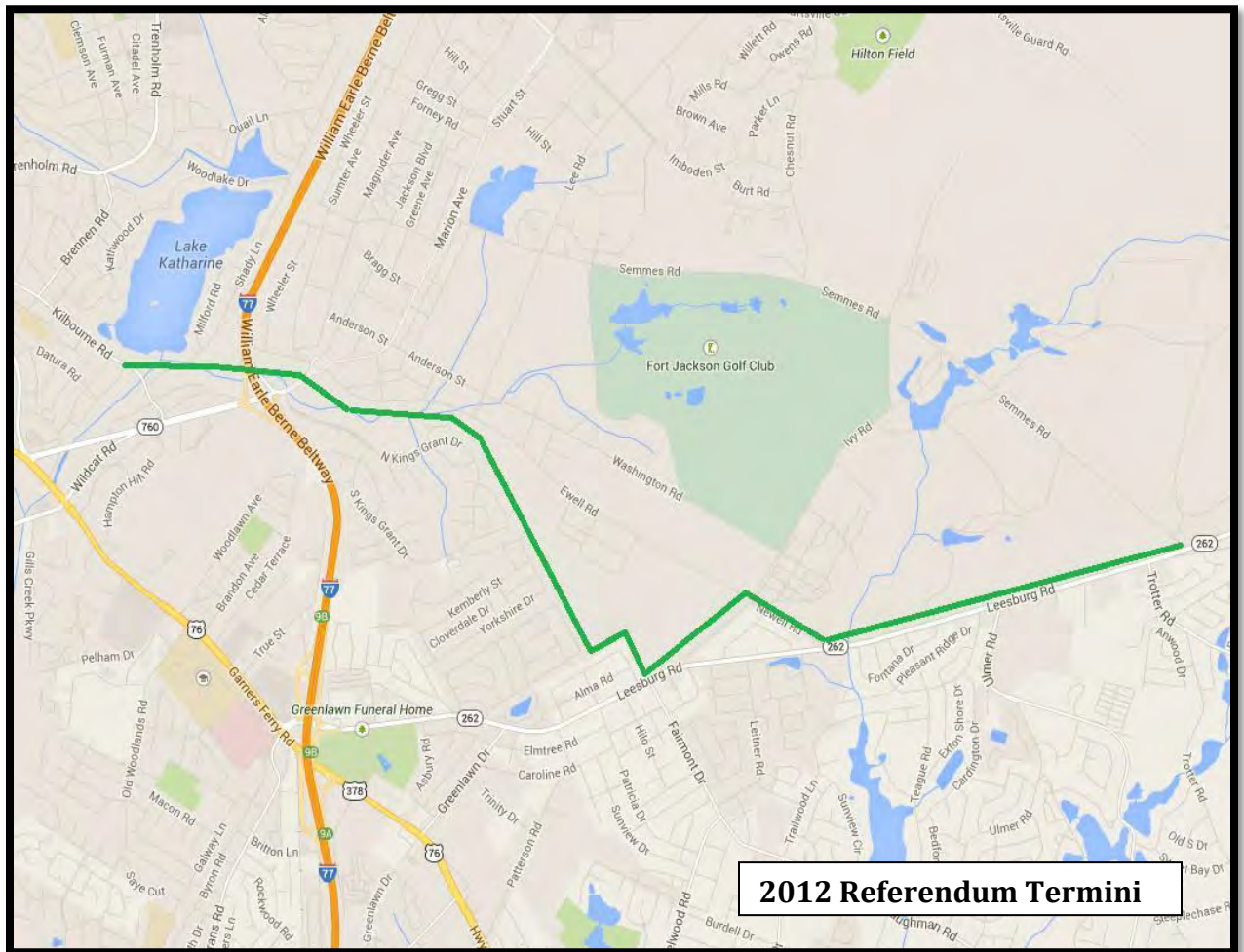
Length: 4,400 feet

Description: Trail beginning at Ft. Jackson Blvd, along Gills Creek to Mikell Lane

Beginning Location: Intersection of Burwell Rd. and Kilbourne Rd. South of Lake Katherine.

End Location: Bluff Rd. South of I-77.

Gills Creek Section B



Project Name: Gills Creek Section B

Council District: 6, 10, 11

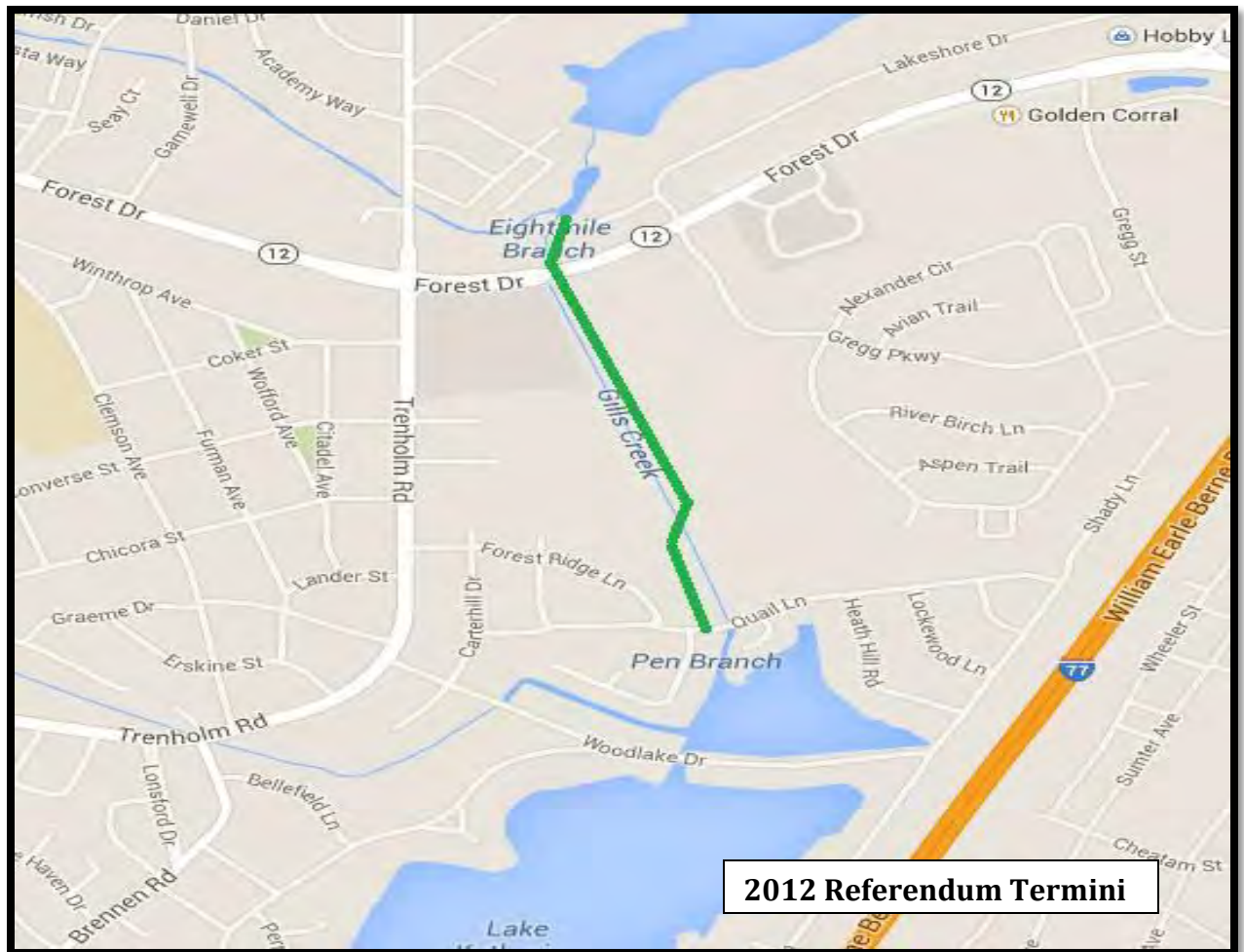
Length: 5.38 Miles

Description: Trail beginning at Wildcat creek, along Gills Creek to Leesburg Rd.

Beginning Location: Burwell Ln. South of Lake Katherine.

End Location: Intersection of Semmes Rd. and Leesburg Rd.

Gills Creek North Section C



Project Name: Gills Creek North Section C

Council District: 6, 11

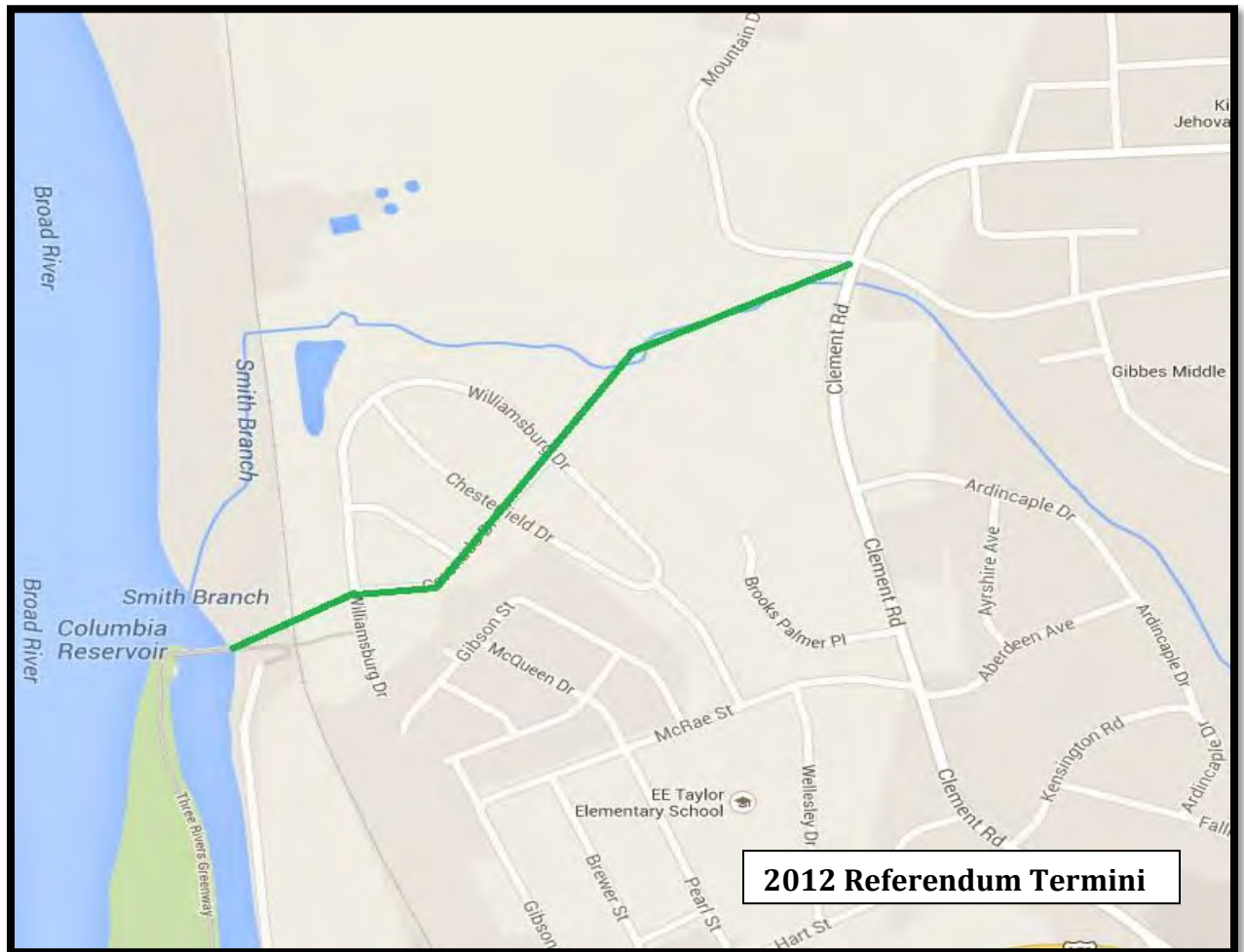
Length: 3,000 feet

Description: From just North of Forest Drive Trenholm Rd., along Gills Creek to Quail Dr.

Beginning Location: Intersection of Quail Ln. and Portobello Rd.

End Location: End of Shopping Center Rd.

Smith/Rocky Branch Section A



Project Name: Smith/Rocky Branch Section A

Council District: 4

Length: 4,400 feet

Description: Beginning at Northern Three Rivers Greenway, along Smith Creek to Clement Rd.

Beginning Location: North Three Rivers Greenway.

End Location: Intersection of Clement Rd. and Westwood Ave.

Smith/ Rocky Branch Section B



Project Name: Smith/ Rocky Branch B

Council District: 4

Length: 4,700 feet

Description: Trail beginning at Clement Rd., along Smith Creek to Colonial Dr.

Beginning Location: Intersection of Clement Rd. and Westwood Ave.

End Location: Intersection of Colonial Dr. and Gregg St.

Smith/Rocky Branch Section C



Project Name: Smith/ Rocky Branch Section C

Council District: 4

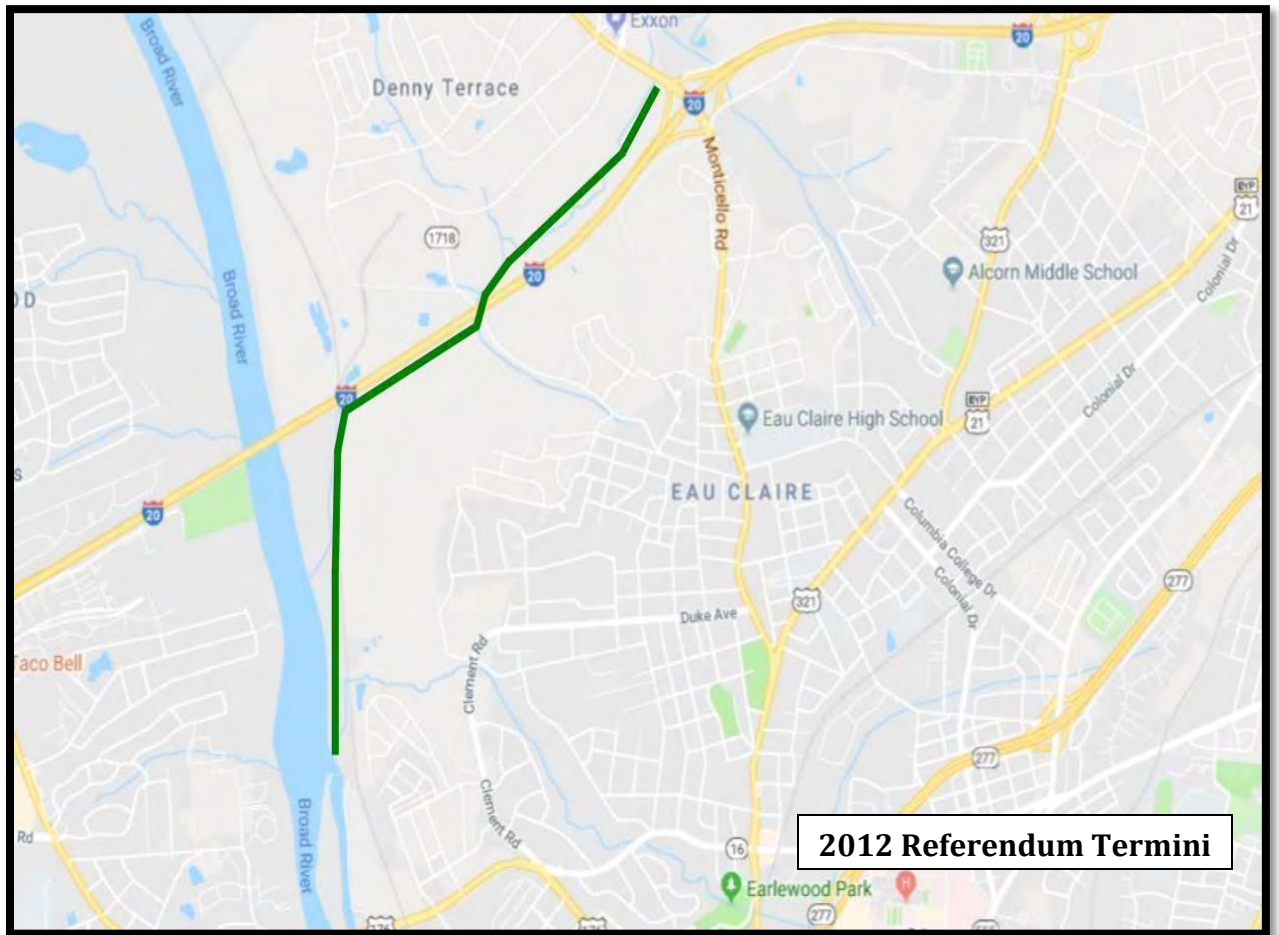
Length: 1.7 Miles

Description: Trail beginning at Granby Park, along Rocky Branch to Gervais St.

Beginning Location: Olympia Park.

End Location: Granby Park

Crane Creek Section A



Project Name: Crane Creek Section A

Council District: 4

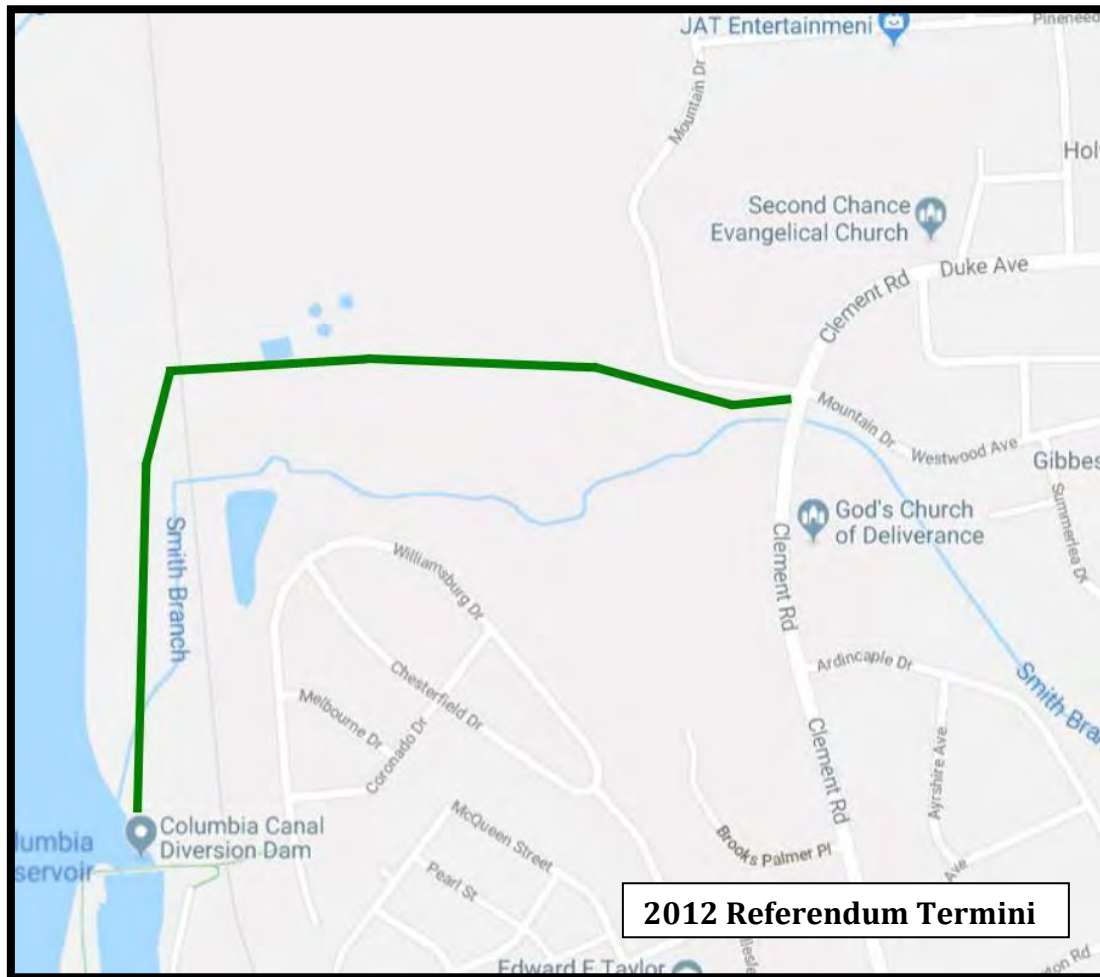
Length: 2.10 Miles

Description: Trail beginning from Monticello Rd. along Crane Creek to the Three Rivers Greenway terminus at the City of Columbia canal headworks along the Broad River.

Beginning Location: Monticello Rd. North of I-20.

End Location: Broad River South of I-20.

Crane Creek Section B



Project Name: Crane Creek Section B

Council District: 4

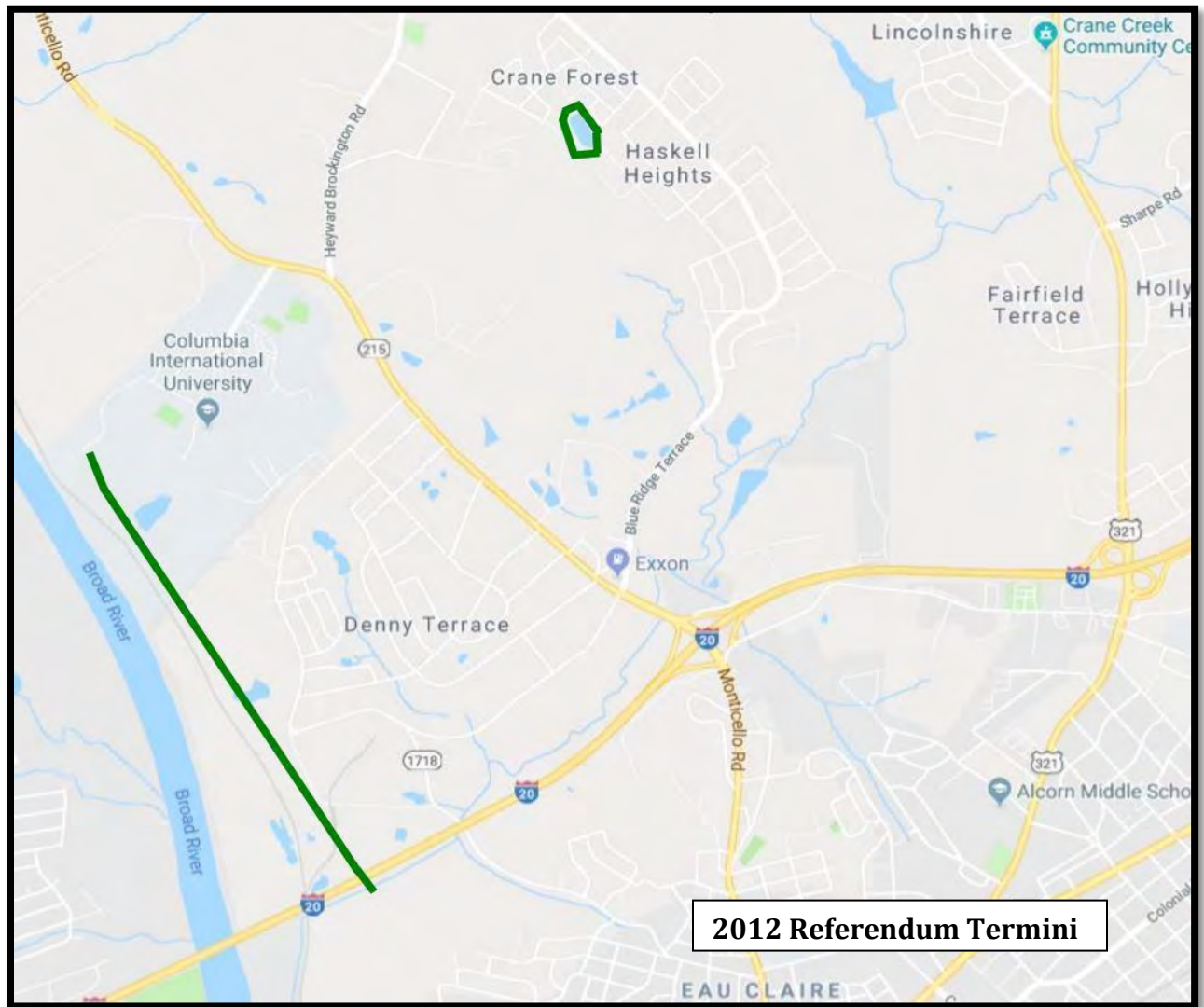
Length: 4,000 feet

Description: Beginning from the Three Rivers Greenway, along the Broad River to a point near the intersection of Mountain Dr./Clement Rd./Duke Rd.

Beginning Location: Crane Creek Section A, near Brickyard Rd.

End Location: Westwood Ave. and Duke Ave.

Crane Creek Section C



Project Name: Crane Creek Section C

Council District: 4, 7

Length: 1.53 Miles

Description Trail beginning at the CIU campus, southward along a utility easement approximately two miles to a point near I-20.

Beginning Location: Intersection of Peachwood Dr. and Widgean Dr.

End Location: North East of Sunbelt Blvd.

Polo Rd/Windsor Lake Connector



Project Name: Polo Rd/Windsor Lake Connector

Council District: 8

Length: 4,000 feet

Description: Trail beginning at Windsor Lake Blvd., north of I-77 along the I-77 and I-20 interchange to the intersection of Alpine Rd. and Polo Rd.

Start point: Windsor Lake Blvd north of I-77

End point: Intersection of Alpine Rd. and Polo Rd.

Dutchman Blvd. Connector



Project Name: Dutchman Blvd. Connector

Council District: 2

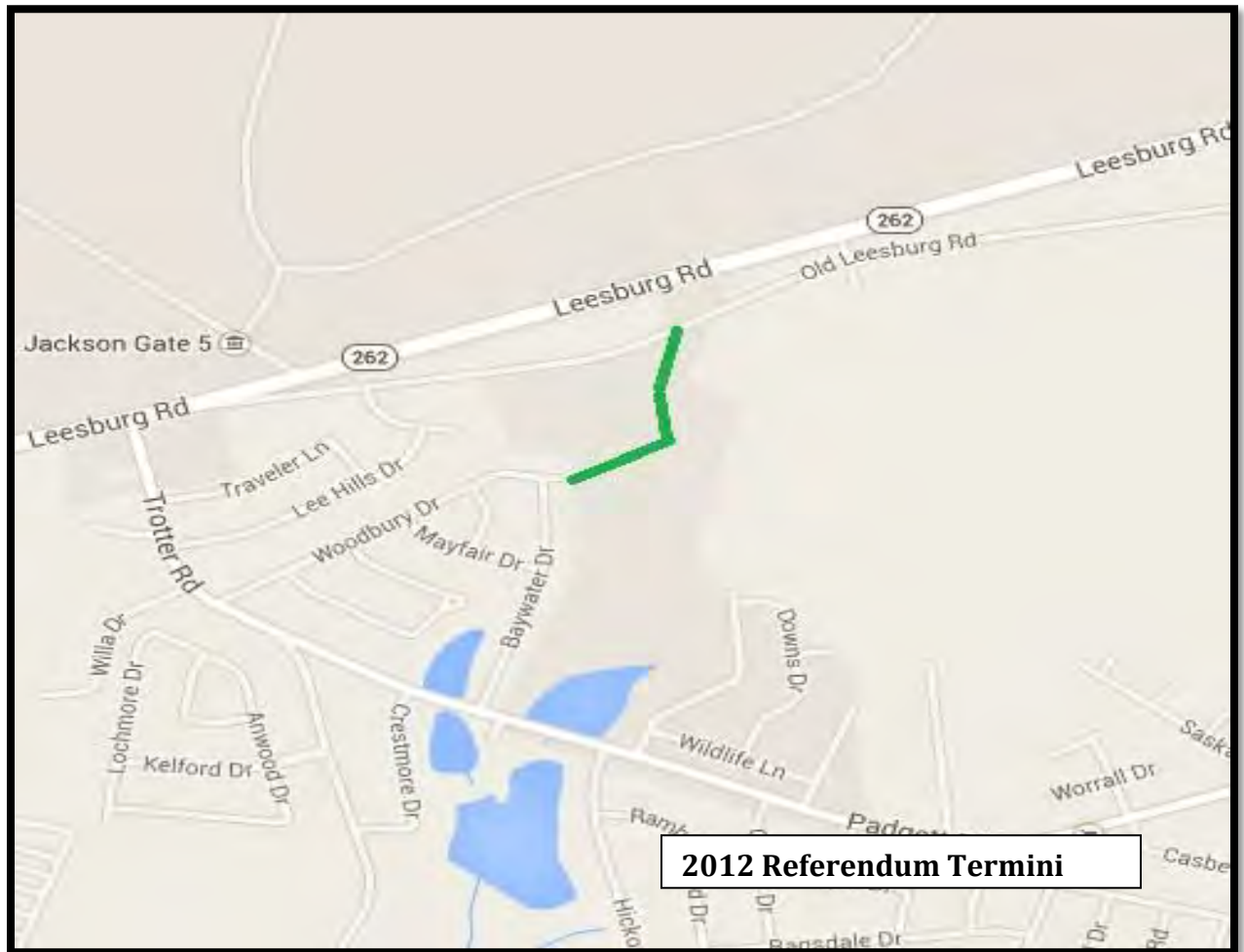
Length: 2,000 feet

Description: Trail beginning at Broad River Road along Dutchman Blvd. to a point along Lake Murray Blvd.

Beginning Location: End of Dutchman Blvd.

Ending Location: Lake Murray Blvd. between Parkridge Dr. and Kinley Rd.

Woodbury/Old Leesburg Connector



Project Name: Woodbury/ Old Leesburg Connector

Council District: 11

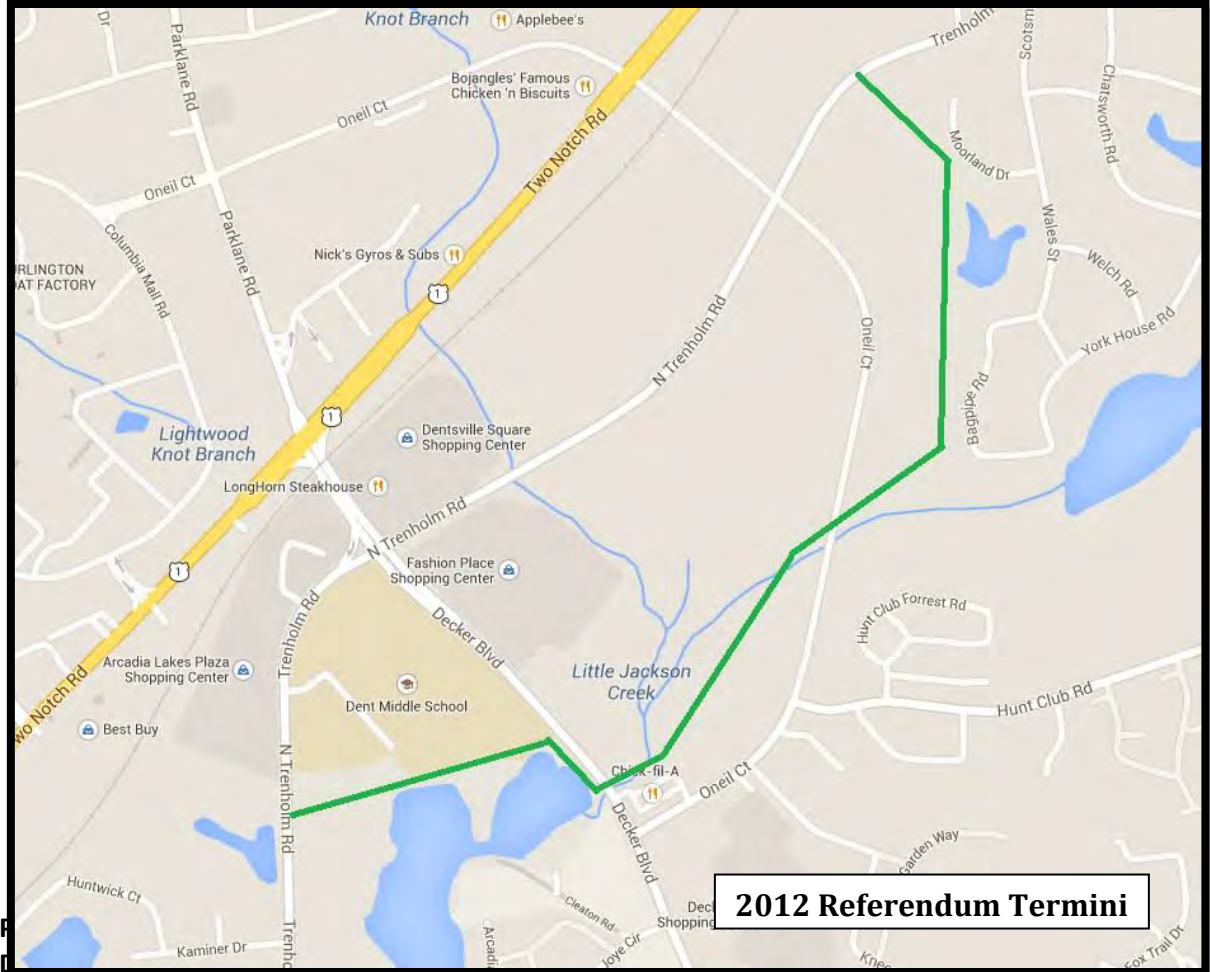
Length: 1,000 feet

Description: Trail beginning at the end of Woodbury Dr., northeast towards Old Leesburg Rd., and west of Lester Farm Rd.

Beginning Location: Woodbury Dr.

End Location: Old Leesburg Rd East of Lee Hills Dr.

Columbia Mall Greenway



Length: 1.2 Miles

Description: Trail beginning on Trenholm Rd, near Dent Middle School, behind Dent Middle School crossing Decker Blvd.

Beginning Location: Trenholm Rd. North of Oneil Ct.

End Location: Trenholm Rd. South of Dent Middle School.



**2020 Hampton Street • Room 3063A
Columbia, SC 29204
(803) 576-2083**

To: Members of Richland County Council
From: Richland County Conservation Commission (RCCC) Executive Committee
Date: July 12, 2019
Re: Support for 2012 Referendum Greenway Category Status and Recommendation Memorandum dated March 15, 2019 (Attachment 1)

The RCCC unanimously approved a recommended Policy for Reprogramming Greenway Funds (Attachment 2) at the April 15, 2019 meeting. The RCCC Executive Committee believes the attached Memorandum from the Penny Development Team (PDT) dated March 15, 2019 which provides implementation recommendations is compliant with the intent and terms of our proposed policy. Based on this the RCCC Executive Committee supports the adoption of the recommendations outlined in the Memorandum from the PDT.



2020 Hampton Street • Room 3063A
Columbia, SC 29204
(803) 576-2083

To: Members of Richland County Council
From: Richland County Conservation Commission (RCCC)
Date: April 16, 2019
Re: A Proposed Policy to Reprogram Greenway Funds

Several members of the Ad Hoc Transportation Committee have suggested the need for a policy to amend the Transportation Penny Greenway 2012 Referendum funding levels due to changed conditions. The following is a proposed policy to structure reprogramming decisions that was approved by the RCCC at its meeting on April 15, 2019.

Richland County Council may consider reprogramming Transportation Penny Greenway Funds after adequate opportunity for public input has been completed. Upon recommendation of the Ad Hoc Transportation Committee, Council may approve reprogramming funds from one greenway project to another referendum-approved project as follows:

- 1. The original planned use of the funds is no longer feasible due to inadequate resources, lack of public support, or other conditions limiting completion, and*
- 2. The referendum-approved project to be funded is consistent with the goals of the original project, and*
- 3. The referendum-approved project's completion is furthered by the transferred funds.*

Richland County Council Request for Action

Subject:

An Ordinance Providing for the issuance and sale of Utility System Revenue Bonds of Richland County, South Carolina, and other matters relating thereto

Notes:

First Reading: November 5, 2019
Second Reading: November 19, 2019
Third Reading: December 3, 2019 {Tentative}
Public Hearing: December 3, 2019

ORDINANCE NO. _____

AN ORDINANCE PROVIDING FOR THE ISSUANCE AND SALE OF UTILITY SYSTEM REVENUE BONDS OF RICHLAND COUNTY, SOUTH CAROLINA, AND OTHER MATTERS RELATING THERETO.

**GENERAL BOND ORDINANCE
Adopted December [], 2019**

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BE IT ORDAINED BY THE COUNTY COUNCIL, THE GOVERNING BODY OF RICHLAND COUNTY, SOUTH CAROLINA, IN MEETING DULY ASSEMBLED:

ARTICLE I

FINDINGS OF FACT

As an incident to the adoption of this Ordinance (the “*Ordinance*”) and the issuance of the Bonds (as defined below) provided for herein, the County Council (the “*County Council*”), the governing body of the Richland County, South Carolina (the “*County*”), finds that the facts set forth in this **Article I** exist, and the following statements are in all respects true and correct.

Section 1.01 Recitals and Statement of Purpose

(a) The County is a body politic and corporate and a political subdivision of the State of South Carolina (the “*State*”) and possesses all powers granted by the Constitution and laws of the State to furnish water and collect sewer within the geographical boundaries of the County and the County, acting by and through County Council, owns, operates and maintains a utility system (“*System*”) which furnishes water to commercial, industrial and residential users and a collects, treats and disposes of sewage from commercial, industrial and residential users.

(b) Article X, Section 14 of the Constitution of the State of South Carolina, 1895, as amended, provides that a political subdivision may incur indebtedness payable solely from a revenue-producing project which source does not involve revenues from any tax or license. Pursuant to Title 6, Chapter 21, Code of Laws of South Carolina, 1976, as amended (the “*Enabling Act*”), the County may issue revenue bonds to defray the cost of making additions and improvements to the System.

(c) There are currently no outstanding obligations of the County secured by any revenues of the System.

(d) County Council is therefore adopting this Ordinance to authorize the issuance of bonds payable from revenues of the System, from time to time, and to provide a mechanism for the ordering of pledges and liens created to secure such bonds.

[End of Article I]

ARTICLE II

DEFINITIONS, CONSTRUCTION AND INTERPRETATION

Section 2.01 Definitions of Ordinance

This Ordinance may be hereafter cited and is hereafter sometimes referred to as the Bond Ordinance. Such term shall include all ordinances supplemental to, or amendatory of, this Ordinance.

Section 2.02 Defined Terms

In the Bond Ordinance, including **Article I**, unless a different meaning clearly appears from the context, the following terms shall have the following respective meanings:

“Accountant” shall mean an independent firm of certified public accountants of suitable standing who audit the books, records, and accounts of the County.

“Accreted Value” shall mean the amounts set forth in and the amounts computed pursuant to a formula set forth in a Series Ordinance, or determined in the manner provided in a Series Ordinance, authorizing the issuance of Bonds in the form of Capital Appreciation Bonds, the Accreted Value of which will be determined in, or in the manner provided by, such Series Ordinance.

“Administrator” shall mean the County Administrator of Richland County, South Carolina.

“Annual Budget” shall mean the budget or amended budget of the County for the System.

“Annual Principal and Interest Requirement” shall mean, with respect to any particular Fiscal Year and to a Series of Bonds Outstanding, an amount (other than amounts paid from proceeds of Bonds) equal to the sum of (1) all interest payable on such Series of Bonds during such Fiscal Year plus (2) any Principal Installment of such Series of Bonds during such Fiscal Year. For purposes of computing Annual Principal and Interest Requirement, the rate of interest used to determine (1) above shall be a rate per annum equal to (a) with respect to any Series of Bonds which bear interest at a fixed rate, the rate of interest borne or to be borne by such Bonds, and (b) with respect to any Series of Variable Rate Bonds, the following methods shall determine the interest rate to be used:

(i) in the case of determining the Reserve Requirement for the Series of Bonds containing such Variable Rate Bonds, the interest rate shall be equal to the lesser of (x) the 30-year Revenue Bond Index published by The Bond Buyer (or its successor index) no more than two (2) weeks prior to, but in no event after, the sale of the Series of Bonds to which the Reserve Requirement in question applies, or (y) the maximum interest rate allowable on such Variable Rate Bonds;

(ii) in the case of determining the Annual Principal and Interest Requirement for purposes of **Sections 4.02(g)** and **4.02(h)** of this Bond Ordinance, the interest rate shall be equal to the lesser of (x) the thirty (30)-year Revenue Bond Index published by The Bond Buyer (or its successor index) no more than two (2) weeks prior to, but in no event after, the sale of the proposed Series of Bonds to be issued, or (y) the maximum interest rate allowable on such Variable Rate Bonds; and

(iii) in the case of determining the Annual Principal and Interest Requirement for purposes of applying the rate covenant contained in **Section 5.01(b)** of this Bond Ordinance, the interest rate shall be equal to the lesser of (x) the average rate at which interest accrued on such Variable Rate Bonds for the preceding twelve (12) month period, or (y) the maximum interest rate allowable on such Variable Rate Bonds. For purposes of this subsection (iii), the average rate of interest shall be the result of dividing the total interest paid during such twelve (12) month period by the average principal amount outstanding calculated on a 360-day year, twelve 30-day months basis during such twelve (12) month period;

provided, however, that if the thirty (30)-year Revenue Bond Index referred to in (i) and (ii) above is no longer published, any reasonably equivalent nationally recognized index published for the periods in question may be selected by the Authorized Representative for use in its stead.

“Authorized Investments” shall mean, within the limitations set forth herein, any investments now or hereafter permitted under Chapters 5 and 6 of r 6 of the South Carolina Code, or any successor statute, as the same may be further limited pursuant to the provisions of a Series Ordinance.

“Authorized Representative” shall mean the Chairman of County Council, the Administrator, the Finance Director of the County or such other officer or employee of the County designated from time to time as an Authorized Representative by a certificate signed on behalf of the County by the Chairman, the Administrator, or the Finance Director and when used with reference to any act or document also means any other person designated by a certificate signed on behalf of the County by the Chairman, the Administrator or the Finance Director to perform such act or sign such document.

“Bond Counsel” shall mean an attorney or firm of attorneys of recognized standing in the field of law relating to municipal, state and public agency financing and selected by the County.

“Bond Payment Date” shall mean each date as shall be prescribed by any applicable Series Ordinance on which interest on any of the Bonds shall be payable or on which both principal and interest shall be payable on any of the Bonds according to their respective terms.

“Bondholder” or **“Holder,”** or any similar term, when used with reference to a Bond or Bonds, shall mean any person who shall be the registered owner of any Outstanding Bond.

“Bonds” unless otherwise specifically provided, shall mean the bonds or any indebtedness or obligations, including indebtedness or obligations entered into under the provisions of long term contracts payable from the revenues of the System and issued in accordance with the provisions of this Bond Ordinance, excluding Junior Lien Bonds and Special Facilities Bonds, which shall not be deemed to constitute bonds for purposes of this Bond Ordinance.

“Business Day” shall mean any day other than (a) a Saturday or Sunday, (b) a day on which commercial banks in New York, New York, or the city or cities in which the corporate trust office of the Trustee are authorized or required by law to close, (c) a day on which the New York Stock Exchange is closed, or (d) a day on which the payment system of the Federal Reserve Bank is not operational.

“Capital Appreciation Bonds” shall mean Bonds that bear interest payable at maturity, upon redemption prior to maturity or prior to maturity at the date set forth in, or in the manner provided in, the Series Ordinance authorizing the issuance of such Bonds in the amounts determined by reference to the Accreted Value of such Capital Appreciation Bonds in accordance with the provisions of the Series Ordinance authorizing the issuance of such Capital Appreciation Bonds.

“Chairman” shall mean the Chairman of County Council or the interim or acting Chairman, as the case may be. Chairman shall also mean the Vice Chairman of County Council, whenever, by reason of absence, illness or other reason, the person who is the Chairman is unable to act.

“Clerk” shall mean to the Clerk to County Council of the County, which includes the acting or deputy clerk or such other person designated by County Council to fulfill such role.

“Code” shall mean the Internal Revenue Code of 1986, as amended, and the Treasury Regulations issued thereunder, in each case, as from time to time in force.

“County” shall mean Richland County, South Carolina. References to actions required of or permitted by the County shall mean actions taken by or under the authority of County Council.

“County Council” shall mean the County Council of Richland County, South Carolina, the governing body of the County.

“Consulting Engineer” shall mean any independent firm of consulting engineers having skill and experience in utility financing and rate design and the design and operation of waterworks systems.

“Custodian” shall mean one or more financial institution or entity, including the Treasurer of the County, which is authorized by the County to hold or maintain certain of the funds created or established under this Ordinance or any Series Ordinance.

“Date of Issue” shall mean that date established in any Series Ordinance from which interest shall accrue on the Bonds of the applicable Series.

“Debt Service Fund” shall mean, with respect to any Series of Bonds, the fund herein so designated and designed to provide for the payment of the principal of, premium, if any, and interest on all Bonds Outstanding of such Series and issued pursuant to the Bond Ordinance, as the same respectively fall due.

“Debt Service Reserve Fund” shall mean, with respect to any Series of Bonds, the fund, if established, so designated and established for such Series of Bonds by the authorizing Series Ordinance, and designed to insure the timely payment of the principal of and interest on all Bonds Outstanding of that Series and to provide for the redemption of such Bonds prior to their stated maturity.

“Defeasance Obligations,” unless otherwise provided in a Series Ordinance for a particular Series of Bonds, shall mean non-callable (i) Government Obligations and (ii) evidences of ownership of a proportionate interest in specified Government Obligations, which Government Obligations are held by a bank or trust company organized and existing under the laws of the United States of America or any state thereof in the capacity of custodian.

“Depreciation and Contingent Fund” shall mean the fund designed to provide for contingencies, for the replacement of depreciated or obsolete parts of the System and for improvements, betterments and extensions of the System.

“Enabling Act” shall mean Chapter 21 of Title 6, South Carolina Code, and all other statutory authorizations, authorizing and enabling the County to adopt the Bond Ordinance.

“Events of Default” shall mean those events set forth in **Section 13.01** of this Bond Ordinance.

“Fiscal Year” shall mean the period of twelve (12) calendar months, beginning on July 1 of each year, and ending on June 30 of the following calendar year, unless the same shall have been changed pursuant to the authorization of **Section 3.01** hereof.

“General Revenue Fund” shall mean the account or accounts established and maintained by the County Council in such fashion as to adequately reflect all of the receipts and revenues derived from the operation of the System and all interest and other income earned by the County in connection with the System, as established by the provisions of **Section 7.02** hereof.

“Government Obligations” shall mean (i) direct obligations of the United States of America for the payment of which the full faith and credit of the United States of America are pledged; and (ii) obligations, specifically including interest payment strips, including without limitation REFCORP interest strips, the payment of the principal (if any), the premium (if any) and the interest (if any) on which is fully guaranteed as a full faith and credit obligation of the United States of America.

“Gross Revenues” or **“Gross Revenues of the System”** shall mean:

(i) all receipts and revenues derived from the operation of the System, including without limitation, any charges and fees established by the County applicable to the System,

(ii) all proceeds from the sale or other disposition of any property owned directly or beneficially by the County in connection with the System,

(iii) all interest and other income received directly or indirectly by the County from the investment of moneys or accounts relating to the System; excluding, however, investment income restricted to a purpose inconsistent with the payment of operating expenses or debt service, and specifically excluding interest earned on any construction fund or construction account created with the proceeds of Bonds, and

(iv) all other unencumbered or unrestricted money to which the County in connection with the System, may become entitled from any source whatsoever, but specifically excluding any amounts received by way of government grants, developer contributions and aids-to-construction.

Gross Revenues does not include *ad valorem* taxes or Bond proceeds.

“Insurance Consultant” shall mean a person or firm who is not, and no member, director, officer or employee of which is, an officer or employee of the County, which is qualified to survey risks and to recommend insurance coverage for public utilities and services and organizations engaged in such operations.

“Insurer,” with respect to any Series of Bonds, shall mean an insurance company that has written a Municipal Bond Insurance Policy covering such Series of Bonds.

“Junior Lien Bonds” shall mean any revenue bonds or other obligations issued by the County which are secured by a pledge of the revenues and lien on the System which are junior and subordinate in all respects to the pledge and lien made to secure Bonds and to the payment by the County of all Operation and Maintenance Expenses.

“Municipal Bond Insurance Policy” shall mean any municipal bond insurance policy insuring the payment, when due, of the principal of and interest on a Series of Bonds.

“Net Earnings” shall mean for the period in question, the Gross Revenues of the System, less Operation and Maintenance Expenses.

“Other Indebtedness” shall mean any bonds or other obligations issued by the County which are payable from the revenues of the System and is junior and subordinate in all respects to the pledge and lien made to secure Bonds, to the payment by the County of all Operation and Maintenance Expenses and to the pledge and lien made to secure Junior Lien Bonds.

“Operation and Maintenance Expenses” shall mean for the period in question all expenses incurred in connection with the administration and the operation of the System, including, without limiting the generality of the foregoing, such expenses as may be reasonably necessary to preserve the System in good repair and working order, principal and interest payments with respect to lease financing arrangements under Section 6.02 hereof, the fees and charges of the Trustee and the Registrar, Paying Agent, or custodian of any fund, the costs of audits required hereunder, the costs of computation and payment of any arbitrage rebate, and the premiums for all insurance and fidelity bonds required by this Bond Ordinance in accordance with the Annual Budget then in effect. Operation and Maintenance Expenses shall not include:

- (i) depreciation and amortization (including Bond principal) allowances,
- (ii) any cumulative effect of change in method for adopting any new accounting pronouncement as required by any accounting standards setting body,
- (iii) amounts paid as interest on Bonds,
- (iv) the amortization of financing expenses, underwriting discounts, call premiums, gains or losses on the extinguishment of debt due to the refinancing of the same, and other related or incidental non-recurring expenses resulting from the issuance or refinancing of Bonds,
- (v) unfunded net pension liabilities, other post-employment benefit liabilities or similar accounting determinations under generally accepted accounting principles and practices applied to governmental entities that do not result in any actual disposition of cash,
- (vi) any transfers to the general fund of the County (which shall only be payable out of surplus revenues under Section 8.07 hereof).

“Operation and Maintenance Fund” shall mean the fund established by the provisions of Section 7.03 hereof and designed to provide for the payment of Operation and Maintenance Expenses.

“Outstanding” when used with reference to the Bonds, and except as may be modified pursuant to the provisions of a Series Ordinance, shall mean, as of any date, all such Bonds theretofore or then being authenticated and delivered except:

- (i) Bonds cancelled at or prior to such date;
- (ii) Bonds in lieu of or in substitution for which other Bonds shall have been executed and delivered;
- (iii) Bonds deemed to have been paid as provided in **Article XV** hereof; and

(iv) for purposes of any consent or other action to be taken by the holders of a specified percentage of Bonds, Bonds held by, or for the account of the County, or by any person controlling, controlled by, or under common control with the County.

“Paying Agent” shall mean any bank, trust company or national banking association which is designated by the County to pay the principal, interest and redemption premium, if any, with regard to the Bonds to the Bondholders.

“Principal Installment” shall mean, as of any date of calculation, (i) the aggregate principal amount of Outstanding Bonds of a particular Series due on a Bond Payment Date, reduced by the aggregate principal amount of such Bonds which would be retired by reason of the payment when due of, and application in accordance with, any mandatory sinking fund payment payable before such future date, plus (ii) any mandatory sinking fund payment due on such certain future date, together with the aggregate amount of the premiums, if any, applicable to such mandatory sinking fund payments, plus (iii) with respect to any Capital Appreciation Bonds required to be paid on such certain future date, the Accreted Value of such Capital Appreciation Bonds.

“Record Date” shall mean the fifteenth (15th) day of the month immediately preceding each Bond Payment Date (or such other time or times as shall be prescribed by any applicable Series Ordinance).

“Registrar” shall mean the Trustee or any bank or trust company which is authorized by County Council to maintain an accurate list of those who from time to time shall be the Holders of Bonds of a particular Series and to effect the transfer of such Bonds in accordance with the provisions of the Bond Ordinance and having the duties, responsibilities, and rights provided for in the Bond Ordinance and any Series Ordinance, and its successor or successors and any other corporation or association which at any time may be substituted in its place pursuant to the Bond Ordinance.

“Reserve Requirement” shall mean, as of any date of calculation, the debt service reserve requirement, if any, established by a Series Ordinance authorizing a Series of Bonds.

“Responsible Officer” shall mean any officer within the corporate trust department of the Trustee, including any vice president, assistant vice president, assistant secretary, assistant treasurer, trust officer or any other officer of the Trustee who customarily performs functions similar to those performed by the persons who at the time shall be such officers, respectively, or to whom any corporate trust matter is referred because of such person’s knowledge of and familiarity with the particular subject and who shall have direct responsibility for the administration of any Series of Bonds.

“Securities Depository” shall mean The Depository Trust Company, New York, New York, or any other recognized securities depository selected by the County, which securities depository maintains a book-entry system in respect of the Bonds of any Series, and shall include any substitute for or successor to the securities depository initially acting as Securities Depository.

“Securities Depository Nominee” shall mean, as to any Securities Depository, such Securities Depository or the nominee of such Securities Depository in whose name there shall be registered on the registration books maintained by any Registrar the Bond certificates to be delivered to and immobilized at such Securities Depository during the continuation with such Securities Depository of participation in its book-entry system.

“Serial Bonds” shall mean the Bonds of any Series which are stated to mature in installments and for which there are no mandatory sinking fund provisions.

“Series” shall mean all of the Bonds authenticated and delivered on original issuance in a simultaneous transaction and designated as a single Series by the authorizing Series Ordinance, and any Bonds thereafter authenticated and delivered in lieu of or in substitution for (but not to refund) such Bonds as herein provided, regardless of variations in maturity, interest rate or other provisions.

“Series Ordinance” shall mean an Ordinance of County Council authorizing the issuance of a Series of Bonds pursuant to this Bond Ordinance in accordance with the terms and provisions hereof, adopted by County Council in accordance with **Article IV** hereof.

“South Carolina Code” shall mean the Code of Laws of South Carolina, 1976, as amended.

“State” shall mean the State of South Carolina.

“System” shall mean the water and sanitary sewer system of the County as the same is now, or may be, constituted, all property real and personal, used and useful therefor, all apparatus and equipment used in connection therewith, and all acquisitions, replacements, enlargements, improvements, extensions, additions and betterments that may be made thereto at any time hereafter.

“Term Bonds” shall mean the Bonds of any Series which are stated to mature in a single year and which are subject to mandatory sinking fund redemption prior to the stated maturity date.

“Trustee” shall mean a financial institution serving pursuant to the provisions of this Bond Ordinance and the applicable Series Ordinance and which shall have such other duties, privileges and functions as are set forth herein. Such term shall include any successor and any corporation or association resulting from or surviving any consolidation or merger to which it or its successors may be a party and any successor Trustee at the time serving as successor Trustee hereunder. Each Series Ordinance shall designate the Trustee which shall establish the applicable Debt Service Fund and Debt Service Reserve Fund, if any. The financial institution selected as Trustee may also serve as a Custodian, and the Registrar and the Paying Agent.

“Variable Rate Bonds” shall mean, for any period of time, any Bonds which during such period bear interest at a variable rate; provided that Bonds the interest rate on which has been fixed for the remainder of the term thereof shall no longer be Variable Rate Bonds.

Section 2.03 Interpretations

In the Bond Ordinance, unless the context otherwise requires:

(a) Articles, Sections and paragraphs referred to by number shall mean the corresponding Articles, Sections and paragraphs of the Bond Ordinance.

(b) Words of the masculine gender shall be deemed and construed to include correlative words of the feminine and neuter genders. Words importing the singular number shall include the plural number and vice versa, and words importing persons shall include firms, associations, partnerships (including limited partnerships), trusts, corporations, or other legal entities, including public bodies, as well as natural persons.

(c) The terms “hereby”, “hereof”, “hereto”, “herein”, “hereunder”, and any similar terms, as used in the Bond Ordinance refer to the Bond Ordinance or the Articles, Sections or paragraphs of the Bond Ordinance and the term “hereafter” shall mean any date after the date of adoption of the Bond Ordinance.

(d) References to the payment of principal of Bonds shall be deemed to include payment of principal both at maturity and by mandatory redemption pursuant to any sinking fund payment obligations.

(e) Any fiduciary shall be deemed to hold an Authorized Investment in which money is invested pursuant to the provisions of the Bond Ordinance, even though such Authorized Investment is evidenced only by a book entry or similar record of investment.

[End of Article II]

ARTICLE III

FISCAL YEAR

Section 3.01 Establishment and Modification of Fiscal Year

The System shall continue to be operated on a Fiscal Year basis, which, until changed, shall commence on July 1 of each year and shall end on June 30 of the following calendar year. The County may, by ordinance duly adopted by County Council, change the Fiscal Year at any time from that then existing to a different twelve (12)-month period. The County shall provide the Trustee with a copy of the ordinance authorizing such change to the System's Fiscal Year.

[End of Article III]

ARTICLE IV

THE BONDS

Section 4.01 Authorization for Bonds in Series

- (a) From time to time and for the purposes of:
- (i) Obtaining funds for (1) the expansion, improvement, repair and replacement of the System, including the acquisition of equipment for the use of the System and (2) the reimbursement of funds previously expended for such purposes;
 - (ii) Providing funds for the payment of any bond anticipation note or notes that may have been issued in anticipation of the issuance and sale of Bonds;
 - (iii) Refunding the Bonds, or other obligations issued to provide land or facilities which are or are to become a part of the System or which are or were payable in whole or in part from revenues of the System;
 - (iv) Providing funds for the payment of interest due on such Bonds;
 - (v) Funding a Debt Service Reserve Fund or restoring the value of the cash and securities in a Debt Service Reserve Fund to the amount equal to its Reserve Requirement; and
 - (vi) Paying the costs of issuance of Bonds, including any credit enhancement therefor,

but subject to the terms, limitations and conditions herein, County Council may authorize the issuance of a Series of Bonds by the adoption of a Series Ordinance, and the Bonds of any such Series may be issued and delivered upon compliance with the provisions of this **Article IV**. The Bonds of each Series shall be issued in fully registered form, without coupons, and may be book-entry bonds. The Bonds shall, in addition to the title Richland County, South Carolina Utility System Revenue Bonds, bear a letter or number series designation as may be necessary to distinguish them from the Bonds of every other Series and shall designate the year in which the Series is issued. Bonds of any Series may be authorized to be issued in the form of Serial Bonds or Term Bonds, with or without mandatory sinking fund payments, or Capital Appreciation Bonds, or a combination of any of them, and may bear interest in whatever manner and payable at whatever frequency as shall be prescribed by the applicable Series Ordinance.

(b) Each Series Ordinance shall include a determination to the effect that the issuance of such Series of Bonds is necessary to provide funds to be used and expended for one or more of the purposes enumerated in paragraph (a) above. In addition each Series Ordinance shall specify and determine:

- (i) The Date of Issue of such Series of Bonds or the manner of the determination thereof and the Authorized Representatives authorized to make such determination;
- (ii) The maximum authorized principal amount of such Series of Bonds, and the Authorized Representatives authorized to make the determination of the precise principal amount;
- (iii) The Bond Payment Dates of such Series and the Record Dates, and the date or dates of maturity and the amounts thereof, or the manner of determining such dates and amounts and the Authorized Representatives authorized to make such determinations, provided that the

Series Ordinance shall specify a date beyond which the final maturity of such Series shall not extend which date shall not be longer than forty-five (45) years from the date of such Series of Bonds or such longer period as may be provided by the Enabling Act;

(iv) The specific purposes for which such Series of Bonds is being issued, which shall be to provide funds for the purposes authorized by the Enabling Act and the Bond Ordinance;

(v) The title and designation of the Bonds of such Series;

(vi) The manner in which Bonds of such Series are to be sold and provisions for the sale thereof;

(vii) The interest rate or rates, or the manner of determining such rate or rates, of the Bonds of such Series;

(viii) The portion of such Series that are Serial Bonds and that are Term Bonds and that are Capital Appreciation Bonds, if any, including the amount and date of each mandatory redemption or sinking fund installment, if any, required by such Series Ordinance to be paid for the retirement of any such Bonds, or the manner of making such designations and the Authorized Representatives authorized to make such designations;

(ix) The redemption price or redemption prices and the redemption date or redemption dates and other terms of redemption (if any) applicable to any of the Bonds of such Series for such payments, or the manner of determining such dates and prices and the Authorized Representatives authorized to make such determinations;

(x) The Trustee, the Registrar, Paying Agent if any, and custodian, if any, for such Bonds, and the escrow agent if such Bonds are refunding Bonds that may require an escrow;

(xi) The form or forms of the Bonds of such Series;

(xii) The manner of numbering and lettering, and the denomination or denominations of the Bonds of such Series;

(xiii) Whether the Bonds of such Series shall be issued in book-entry form pursuant to **Section 4.18** hereof;

(xiv) Whether such Series of Bonds will be subject to a Reserve Requirement and if subject to one, that such Reserve Requirement has been or will be met;

(xv) The disposition of the proceeds of the sale of the Bonds of such Series and the manner of their application;

(xvi) That a Debt Service Fund be established for the Series of Bonds, and that a construction fund be established if the proceeds of the Bonds of any Series are intended to be used for the expansion, improvement, repair or replacement of the System, and that a capitalized interest account be established within any such construction fund if interest for any period is to be paid from proceeds of such Series of Bonds; and

(xvii) Any other provisions or funds deemed advisable by the County for the Bonds and any other applicable redemption requirement for the Bonds of such Series and the method of

satisfying the same and not in conflict with or in substitution for the provisions of the Bond Ordinance.

Section 4.02 Conditions to Issuance of Bonds of a Series

All Bonds shall be issued in compliance with the following provisions of this **Section 4.02**:

(a) Bonds shall be stated to mature and/or have mandatory or sinking fund redemptions on such day or days in the years and amounts prescribed by or approved as provided in the Series Ordinance.

(b) Bonds shall bear interest at the rates and on the occasions prescribed by or approved as provided in the Series Ordinance.

(c) Bonds shall be issued for a purpose or purposes set forth in **Section 4.01(a)** hereof.

(d) There shall exist, on the occasion of the issuance of the Bonds, no default in the payment of the principal of or interest on any Bonds or any Junior Lien Bonds then Outstanding.

(e) Unless on the date of delivery of such Series of Bonds there shall be on deposit in each Debt Service Reserve Fund the amount equal to the applicable Reserve Requirement, there shall be deposited in such Debt Service Reserve Funds such amounts as may be necessary to make the value of the moneys and securities in each Debt Service Reserve Fund equal to the applicable Reserve Requirement, unless:

(i) the Series Ordinance and any previous Series Ordinances shall have provided for successive monthly payments beginning in the first month following the date of the issuance of the Bonds of any such Series in substantially equal monthly amounts (the “*Monthly Series Payments*”) so that by the end of twelve (12) months from the date of issuance of such Series of Bonds there shall be in the applicable Debt Service Reserve Fund an amount equal to the applicable Reserve Requirement with respect to such Bonds;

(ii) there shall be no unremedied defaults of any Monthly Series Payments required to have been made; and

(iii) each Debt Service Reserve Fund is funded in an amount equal to the applicable Reserve Requirement with respect to each Series of Bonds, other than Bonds issued pursuant to Series Ordinances described in (i) above.

(f) Except in the case of the initial series of Bonds issued hereunder and Bonds issued for the purpose of refunding any Bonds and which meet the test prescribed in **Section 4.02(g)** hereof, or in the event no Bonds are Outstanding:

(i) Net Earnings of the System for the last Fiscal Year for which audited financial statements are available shall have been equal to at least one hundred twenty percent (120%) of the maximum Annual Principal and Interest Requirements on all Bonds then Outstanding and the additional Bonds then proposed to be issued (with adjustments, if any, for any Bonds that will be discharged upon the issuance of such additional Bonds) with such calculations to be given by an Authorized Representative on the basis of a report of the Auditors showing Net Earnings for the Fiscal Year preceding the Fiscal Year in which the proposed Series of Bonds are to be issued; or

(ii) Net Earnings of the System for the last Fiscal Year for which audited financial statements are available shall have been equal to at least one hundred twenty percent (120%) of the Annual Principal and Interest Requirements on all Bonds then Outstanding in that Fiscal Year, with such calculations to be given by an Authorized Representative on the basis of a report of the Auditors showing Net Earnings for the Fiscal Year preceding the Fiscal Year in which the proposed Series of Bonds are to be issued, and for each of the three Fiscal Years following the later of the date of delivery of the proposed Series of Bonds, or the period (if any) for which interest is funded from the proceeds of such Bonds, Net Earnings of the System as has been forecasted, as certified by an Authorized Representative, taking into account such circumstances and factors as may be appropriate including rate adjustments, or acquisitions or improvements to expand the System, shall be equal to at least one hundred twenty percent (120%) of the Annual Principal and Interest Requirements on all Bonds then Outstanding and the additional Bonds then proposed to be issued in those three Fiscal Years.

For purposes of calculating Net Earnings under this **Section 4.02(f)**, actual revenues shall be adjusted upward or downward so as to be stated on the basis of the rate schedule that has been adopted and will be effective during the Fiscal Year which includes the date of issuance of such additional Bonds.

In the event that the County determines to issue a note or other obligation in anticipation of the issuance of a Series of Bonds, for the purposes of complying with the additional bonds tests established in this **Section 4.02(f)** above, the future Series of Bonds and the projections of the maturity schedule (including rate, term and principal maturities) thereof, as certified by the Authorized Representative, shall be “the additional Bonds then proposed to be issued” for purposes of the additional bonds tests in **Section 4.02(f)**.

the Authorized Representative shall project the maturity schedule (including rate, term and principal maturities

(g) In the case of Bonds issued for the purpose of refunding any Bonds, in lieu of compliance with **Section 4.02(f)** hereof, the Annual Principal and Interest Requirements of the refunding Bonds shall not exceed Annual Principal and Interest Requirements of the Bonds to be refunded in the aggregate until a time subsequent to the last maturity of Bonds not refunded and which remain Outstanding following the issuance of the refunding Bonds.

(h) If any Series of Bonds shall contain Variable Rate Bonds:

(i) The Series Ordinance shall provide for and specify a maximum interest rate on (1) such Bonds and (2) any reimbursement obligation to a liquidity provider for such Bonds;

(ii) The liquidity provider for such Bonds shall be rated in one of the highest two short-term rating categories by either Moody’s Investors Service, Inc. or S&P Global Ratings; and

(iii) Any accelerated principal payments or any interest computed at a rate in excess of that on such Bonds due to the liquidity provider for such Bonds pursuant to any reimbursement agreement with such liquidity provider shall be subordinate to the payment of debt service on all Bonds; provided, however, if either of the tests referred to in **Sections 4.02(g)** or **4.02(h)** of this Bond Ordinance is calculated (and met) assuming such accelerated principal payment and such excess interest amount to the liquidity provider, then such accelerated principal payment and excess interest amount may be on a parity with the payment of debt service on all Bonds.

Section 4.03 Reliance on Certificates

Each of the County and any purchaser of any Bonds shall be entitled to rely upon certificates of Accountants and certificates of any Insurance Consultant made in good faith, pursuant to any provision of this Bond Ordinance.

Section 4.04 Execution of Bonds

(a) Unless otherwise prescribed by any Series Ordinance, the Bonds shall be executed in the name of and on behalf of the County by the Chairman, and the same shall be attested by the Clerk. Such officers may employ facsimiles of their signatures.

(b) In case any officer whose signature or facsimile signature shall appear on the Bonds shall cease to be such officer, such signatures or such facsimiles shall nevertheless be valid and sufficient for all purposes, the same as if such officer had remained in office.

Section 4.05 Authentication

Only such Bonds as shall have endorsed thereon a certificate of authentication duly executed by the Trustee or the Registrar shall be entitled to any right or benefit under this Bond Ordinance. No Bond shall be valid or obligatory for any purpose unless and until such certificate of authentication shall have been duly executed by the Trustee or Registrar, and such executed certificate of the Trustee or Registrar upon any such Bond shall be conclusive evidence that such Bond has been authenticated and delivered under this Bond Ordinance.

Section 4.06 Medium of Payment

The Bonds shall be payable with respect to principal, interest, and premium, if any, in lawful money of the United States of America.

Section 4.07 Mutilated, Lost, Stolen or Destroyed Bonds

In the event any Bond is mutilated, lost, stolen or destroyed, the County may execute and the Trustee or Registrar may authenticate a new Bond of the same Series of like date, maturity and denomination as that mutilated, lost, stolen or destroyed; provided that, in the case of any mutilated Bond, such mutilated Bond shall first be surrendered to the Trustee or Registrar, and in the case of any lost, stolen or destroyed Bond, there shall be first furnished to the County and to the Trustee or Registrar evidence of such loss, theft or destruction satisfactory to the County and the Registrar together with indemnity satisfactory to them. In the event any such Bond shall have matured, instead of issuing a duplicate Bond, the County may pay the same. The County may charge the Holder or owner of such Bond with their reasonable fees and expenses in this connection.

Section 4.08 Transfer and Registry; Persons Treat as Owners

(a) As long as any Bonds shall be Outstanding, the County shall cause books for the registration and for the transfer of Bonds to be kept. Such books shall be kept by the Registrar for any particular Series of Bonds. The transfer of each Bond may be registered only upon the registration books of the County kept for that purpose by the Holder thereof in person or by his duly authorized attorney upon surrender thereof and an assignment with a written instrument of transfer satisfactory to the Registrar duly executed by the Holder or his duly authorized attorney. Upon the registration or transfer of any Bond, the County shall cause to be issued, subject to the provisions of **Section 4.11** hereof, in the name of the

transferee a new Bond or Bonds of the same aggregate principal amount, maturity and interest rate as the surrendered Bond.

(b) The County, the Registrar or any Paying Agent may deem and treat the person in whose name any Bond shall be registered upon the registration books of the County as the absolute owner of such Bond, whether such Bond shall be overdue or not, for the purpose of receiving payment of, or on account of, the principal of, premium (if any) and interest on such Bond and for all other purposes, and all such payments so made to any such Holder or, upon his order, shall be valid and effectual to satisfy and discharge the liability upon such Bond to the extent of the sum or sums so paid; and none of the County, the Registrar or any Paying Agent shall be affected by any notice to the contrary.

Section 4.09 Date and Payment Provisions

Unless otherwise provided in any Series Ordinance with respect to Bonds issued thereunder, each Bond of a Series shall be authenticated on such dates as they shall, in each case, be delivered. Each Bond shall bear interest from the Date of Issue if no interest has yet been paid; otherwise from the last date to which interest has been paid and which date is on or prior to the date of such Bond's authentication.

Section 4.10 Interchangeability of Bonds

Bonds of a Series, upon surrender thereof at the office of the Registrar for the Bonds of such Series with a written instrument of transfer satisfactory to the Registrar, duly executed by the Holder or his duly authorized attorney, may, at the option of the Holder and upon payment by such Holder of any charges made pursuant to **Section 4.11** hereof, be exchanged for an equal aggregate principal amount of Bonds of such Series of like maturity and interest rate of any other authorized denominations.

Section 4.11 Regulations with Respect to Exchanges and Transfer

In all cases in which the privilege of exchanging or transferring Bonds is exercised, the County shall execute and the Registrar shall authenticate and deliver, Bonds in accordance with the provisions of the Bond Ordinance. All Bonds surrendered in any such exchanges or transfers shall forthwith be cancelled and destroyed and shall not be reissued, and a counterpart of the certificate of destruction evidencing such destruction shall be furnished by the Registrar to the County. All Bonds so destroyed shall thereafter no longer be considered Outstanding for any purposes of the Bond Ordinance. There shall be no charge to the Holder for such exchange or transfer of Bonds except that the Registrar may make a charge sufficient to reimburse it for any tax or other governmental charge required to be paid with respect to such exchange or transfer. Neither the County nor the Registrar shall be required to register, transfer or exchange Bonds of a Series after the Record Date for such Series until the next succeeding Bond Payment Date for such Series or to register, transfer or exchange any Bonds called for redemption after the mailing of any notice of redemption of such Bond.

Section 4.12 Cancellation and Destruction of Mutilated, Paid or Surrendered Bonds

Upon the surrender of mutilated Bonds pursuant to **Section 4.07** hereof, or Bonds paid or surrendered, the same shall be cancelled and destroyed and shall not be reissued, and a counterpart of the certificate evidencing such destruction shall, upon request, be furnished by the Registrar to the County. All Bonds so destroyed shall thereafter no longer be considered Outstanding for any purposes of the Bond Ordinance.

Section 4.13 Notice of Redemption

If any of the Bonds, or portions thereof, is called for redemption, the County shall give notice to the Holders of any Bonds to be redeemed of the redemption of such Bonds, or portions thereof. Notice of each redemption of Bonds is required to be mailed by first class mail, postage prepaid, not less than thirty (30) days nor more than sixty (60) days prior to the redemption date to each registered owner of Bonds to be redeemed, at the address of such owner recorded on the bond register and to be otherwise given in accordance with, among others, the following requirements:

(a) notices must contain, at a minimum, the complete official name of the Bonds, CUSIP number, if any, Bond numbers, principal amount of each Bond to be redeemed (if less than all), publication date, redemption date, redemption price, redemption agent's name and address with contact person and phone number, date of the Bonds, interest rate, maturity date and the place or places where amounts due will be payable;

(b) a second notice to registered owners of the Bonds must be mailed by the means specified above to any registered owner of Bonds who has not presented Bonds for redemption 60 days after the redemption date;

(c) the obligation of the County to give the notice required by this **Section 4.13** shall not be conditioned upon the prior payment to the Trustee of money or the delivery to the Trustee of Authorized Investments sufficient to pay the redemption price of the Bonds to which such notice relates or the interest thereon to the redemption date; provided however, the notice may state that the redemption is conditional on the deposit of the redemption moneys with the Trustee or Paying Agent on the redemption date.

Any Series Ordinance providing for the issuance of Bonds consisting of contractual obligations not in the form of an instrument may provide alternative methods for delivery of notice of redemption. In the event there is a single Holder for a Series of Bonds, notice may be given in any manner agreeable to such Holder.

Provided sufficient funds for such redemption are on deposit with the Trustee on the redemption date, all Bonds so called for redemption shall cease to bear interest on the specified redemption date and shall no longer be deemed to be Outstanding hereunder. If said money shall not be so available on the redemption date, such Bonds or portions thereof shall continue to bear interest until paid at the same rate as they would have borne had they not been called for redemption.

Section 4.14 Cancellation of Bonds Which Have Been Redeemed

All Bonds which have been redeemed shall be cancelled and destroyed by the Registrar and shall not be reissued, and a counterpart of the certificate of destruction evidencing such destruction shall be furnished, upon request, by the Registrar to the County. All Bonds so destroyed shall thereafter no longer be considered Outstanding for any purposes of the Bond Ordinance.

Section 4.15 Selection of Bonds to be Redeemed

In the event of redemption of less than all of the Bonds of a Series of any maturity, the Bonds or portions of Bonds to be redeemed, shall be selected by lot by the County; provided, however, that the portion of any Bond of a denomination which is larger than the minimum denomination for the Bonds of such Series shall be in the principal amount of such minimum denomination or a multiple thereof, and that, in selecting portions of such Bonds for redemption, the County shall treat each such Bond as representing that number of Bonds of minimum denomination which is obtained by dividing the principal amount of

such Bond to be redeemed in part by the amount of the minimum denomination; provided further that, if less than all of the beneficial interests in a Bond of a single maturity registered in the name of a Securities Depository or a Securities Depository Nominee are to be redeemed, the beneficial interests to be redeemed shall be selected by lot by the Securities Depository. If there shall be drawn for redemption less than all of a Bond, the County shall execute and the Registrar shall authenticate and deliver, upon the surrender of such Bond, without charge to the owner thereof, for the unredeemed balance of the principal amount of the Bond so surrendered, Bonds of the same Series in any authorized denomination.

Section 4.16 Bonds Issued as Taxable Obligations

Notwithstanding anything in this Bond Ordinance to the contrary, the County may from time to time, pursuant to one or more Series Ordinances, provide for the issuance of Bonds the interest on which may be includable in gross income of the Holders of such Bonds for federal income taxation purposes. Such Series Ordinance shall provide such rules and regulations with respect to the ownership, transfer and substitution of such Bonds as are not inconsistent with the other provisions of this Bond Ordinance.

Section 4.17 Security for Payment of the Bonds; Priority of Lien

The Bonds shall be payable solely from and shall be secured equally and ratably by a pledge of and lien on the Net Earnings. Such pledge securing the Bonds shall at all times and in all respects be and remain superior to pledges made and given to secure any other bonds or other obligations payable from the revenues of the System and which are issued hereafter. In order to further secure the payment of the principal and interest due on the Bonds, a statutory lien upon the System, as authorized by the Enabling Act, is hereby provided. The Bonds shall not constitute an indebtedness of the County within the meaning of any provision, limitation or restriction of the Constitution or the laws of the State, other than those provisions authorizing indebtedness payable solely from a revenue-producing project not involving revenues from any tax or license; and the faith, credit and taxing power of the County are expressly not pledged therefor. The County is not obligated to pay any of the Bonds or the interest thereon except from the Net Earnings of the System as provided in this Ordinance.

Section 4.18 Bonds in Book-Entry Form

Notwithstanding any other provision of this Bond Ordinance with respect to the form of Bonds to the contrary, a Series Ordinance may provide for the issuance of one or more Series of Bonds solely in fully registered form registrable to a Securities Depository, a Securities Depository Nominee or the beneficial owner of the Bonds. The Series Ordinance may further provide that such Series of Bonds shall be evidenced by one or more certificates or by a system of book entries in form satisfactory to the Authorized Representative and to provide for payment, redemption, notices and like provisions in a manner consistent with such system of registration.

Section 4.19 Waiver of Certain Provisions

Notwithstanding anything in this Bond Ordinance to the contrary, whenever all of the debt issued or all of the obligations incurred by the County under a Series Ordinance are acquired by and are held by a single entity, that single entity, at its sole option, may waive any provision or requirement of this Bond Ordinance that relates separately to the governance of such Series and is for the protection and benefit of such single entity only and not for the protection or benefit of any other Holder or Holders of Bonds.

Section 4.20 Purchases of Bonds Outstanding

Purchases of Bonds Outstanding may be made by the County at any time with money available to

it from any source. Upon any such purchase the County shall deliver such Bonds to the Registrar for cancellation.

[End of Article IV]

ARTICLE V

RATES AND CHARGES

Section 5.01 Rate Covenant

(a) It is hereby determined that the rates for services and facilities furnished by the System shall, until otherwise revised, be as now established. Said rates and charges are determined to be sufficient to meet the requirements of the Bond Ordinance but they shall be revised by County Council whenever necessary in order that they shall at all times be maintained on a basis sufficient to meet the requirements of the Bond Ordinance. The County specifically covenants and agrees to maintain rates and charges for all services furnished by the System which shall at all times be sufficient:

(i) To provide for the payment of the Operation and Maintenance Expenses as may be necessary to preserve the System in good repair and working order;

(ii) To maintain the Debt Service Funds and thus provide for the punctual payment of the principal of and interest on the respective Series of Bonds;

(iii) To maintain any Debt Service Reserve Funds in the manner prescribed herein and in any applicable Series Ordinances;

(iv) To pay all amounts owing under a reimbursement agreement with any provider of a surety bond, insurance policy or letter of credit as contemplated under the applicable Series Ordinance with respect to a Series of Bonds;

(v) To build and maintain a reserve for depreciation of the System, for contingencies and for improvements, betterments and extensions to the System other than those necessary to maintain the same in good repair and working order;

(vi) To discharge all obligations imposed by the Enabling Act and by the Bond Ordinance;

(vii) To provide for the punctual payment of the principal of and interest on all Junior Lien Bonds that may from time to time hereafter be Outstanding; and

(viii) To provide for the punctual payment of the principal of and interest on all Other Indebtedness that may from time to time hereafter be Outstanding.

(b) County Council covenants and agrees that it will, at all times, prescribe and maintain and thereafter collect rates and charges for the services and facilities furnished by the System that, together with other income, are reasonably expected to yield annual Net Earnings in the current Fiscal Year equal to at least the sum of (i) one hundred twenty percent (120%) the Annual Principal and Interest Requirement for all Series of Bonds Outstanding in such Fiscal Year, plus (ii) one hundred percent (100%) of any required payment into a Debt Service Reserve Fund due in such Fiscal Year, plus (iii) one hundred percent (100%) of the principal and interest on Junior Lien Bonds, or the capital costs pursuant to the provisions of long-term contracts that County Council has entered into in order to provide water or sanitary sewer services to the areas included within its service area, due in such Fiscal Year; and promptly upon any material change in the circumstances that were contemplated at the time such rates and charges were most recently reviewed, but not less frequently than once in each Fiscal Year, shall review the rates and charges for its services and shall promptly revise such rates and charges as necessary to comply with the foregoing requirement. Prior to the beginning of each Fiscal Year, County Council shall adopt an Annual Budget including amended rate schedules for such Fiscal Year that shall set forth in reasonable detail the estimated revenues and operating

expenses and other expenditures of the System for such Fiscal Year and that shall include the amount to be deposited during such Fiscal Year in the Depreciation and Contingent Fund. County Council may at any time adopt an amended Annual Budget for the remainder of the then current Fiscal Year.

(c) If the County, in adopting the Annual Budget, determines that revenues may not be sufficient to meet the rate covenant established hereinabove or if the audited financial statements of the County indicate that the County did not satisfy the rate covenant for the prior year, the County shall, within forty-five (45) days, engage a Consulting Engineer to prepare a report recommending such actions which will provide sufficient revenues in the following Fiscal Year to permit the County to meet the rate covenant. Copies of such report shall be made available to the County and the Trustee no later than sixty (60) days after the engagement of the Consulting Engineer. The County agrees that it shall use its best efforts to effect such changes recommended by the Consulting Engineer in its report. So long as the County uses its best efforts to comply with such recommendations, failure to comply with the rate covenant shall not constitute an Event of Default under **Article XIII** hereof; provided, however, a failure to comply with the rate covenant for a period of two consecutive Fiscal Years shall constitute an Event of Default. The Trustee shall have no duty or obligation to monitor the County's compliance with any such recommendations.

[End of Article V]

ARTICLE VI

JUNIOR LIEN BONDS AND CAPITAL LEASE FINANCING

Section 6.01 Right to Issue Junior Lien Bonds; Accession Thereof to Status of Bonds

Notwithstanding that Bonds may be Outstanding, the County may, at any time, and without limitation and free of all conditions issue Junior Lien Bonds, in such amount as it may from time to time determine, payable from the revenues of the System, provided that the pledge of revenues and any lien upon the System granted for the protection of said Junior Lien Bonds, shall at all times be and remain subordinate and inferior in all respects to the pledges of revenues and liens upon the System made or authorized for the Bonds and to the payment of all Operation and Maintenance Expenses; and provided, further, that the maturity of Junior Lien Bonds may not be accelerated and paid in full unless all of the Bonds shall have been paid or provision therefor has been made pursuant to Article [] hereof.

By proceedings authorizing the issuance of Junior Lien Bonds, the County may provide for the accession of such Junior Lien Bonds to the status of Bonds provided all of the conditions set forth in subparagraphs (a) through (g) are met. Any such subsequent proceedings adopted by County Council providing for such accession shall make the findings provided in subparagraphs (a) through (d) and state whether and to what extent a Debt Service Reserve Fund shall be established as set forth in subparagraph (e).

(a) The Junior Lien Bonds were issued for a purpose or purposes set forth in **Section 4.01(a)** hereof.

(b) There shall exist on the date of accession (i) no default in the payment of the principal of or interest on any Bonds or any Junior Lien Bonds then Outstanding and (ii) no default in the performance of any duties required under the provisions of the Bond Ordinance and (iii) no amount owed by the County with respect to the full funding of a Debt Service Reserve Fund, either by way of cash or reimbursement of any other funding mechanism, except in accordance with **Section 4.02(e)(i)** hereof.

(c) There shall be deposited in the Debt Service Fund for such Series of newly-acceded Bonds the amounts which would have been required under the provisions of **Section 8.03** hereof to be accumulated therein on the date of accession if said Junior Lien Bonds had originally been issued as Bonds.

(d) On the date of accession, the earnings test prescribed by **Section 4.02(f)** hereof shall have been met.

(e) In the event such proceedings require a Reserve Requirement to be maintained for such Series of newly-acceded Bonds, then in such event, there shall be on deposit on the date of accession in a Debt Service Reserve Fund an amount equal to the Reserve Requirement established for such Junior Lien Bonds which are being acceded to the status of Bonds.

(f) The County shall obtain an opinion of Bond Counsel to the effect that (i) the Bond Ordinance and the proceedings authorizing such Junior Lien Bonds have been duly adopted and are in full force and effect; (ii) the Junior Lien Bonds have been duly and lawfully authorized and executed by the County and are valid and binding upon, and enforceable against, the County (except to the extent that the enforceability thereof may be limited by the operation of bankruptcy, insolvency and similar laws affecting rights and remedies of creditors); and (iii) the Bond Ordinance creates the valid pledge which it purports to

create of the revenues and of moneys and securities on deposit in any of the funds established hereunder subject to the application thereof to the purposes and on the conditions permitted by the Bond Ordinance.

In the event such Junior Lien Bonds were issued with variable rates, the provisions of **Section 4.02(h)** hereof shall have been met.

Section 6.02 Capital Lease Financings

The County shall have at all times the right to enter into capital leases or other lease financing agreements secured by a lien on not more than 10% of the value of the property, plant, and equipment comprising the System.

Section 6.03 Right to Issue Special Facilities Bonds

The County shall have at all times the right to enter into contracts, leases or other agreements pursuant to which it will agree to construct, operate and pay the costs of Special Facilities to be financed by its issuance of Special Facilities Bonds, subject to the following conditions:

(a) It shall have been determined to the satisfaction of the County that the rents, revenues or receipts to be derived from the Special Facilities shall be at least equal to the principal, interest and any reserve requirements contained in the Ordinance authorizing such Special Facilities Bonds and to pay all operation, maintenance and other costs and expenses applicable to such Special Facilities; and

(b) The revenues derived from Special Facilities need not be deposited in the General Revenue Fund, and may be pledged to secure Special Facilities Bonds; but no debt service or other costs or expense related to any Special Facilities may be paid from System revenues deposited in the General Revenue Fund except pursuant to **Section 8.07** hereof.

For purposes of this **Section 6.03**, the term “*Special Facilities*” shall include all or a portion of any utility system facilities and rights to all or a portion of the use of, or the capacity available from, any such facilities.

[End of Article VI]

ARTICLE VII

ESTABLISHMENT OF FUNDS

Section 7.01 Requirement for Special Funds

For so long a time as any sum remains due and payable by way of principal or interest on Bonds, the following funds or accounts relating to the revenues of the System shall be established and maintained, and deposits shall be made therein in the manner herein required.

Section 7.02 The General Revenue Fund

(a) There shall be established and maintained with a Custodian a fund or account designated as the General Revenue Fund. This account shall be so maintained as to accurately reflect the Gross Revenues of the System and Net Earnings.

(b) Except as otherwise specifically directed or permitted herein, all Gross Revenues of the System shall be deposited in accordance with and in the manner prescribed by **Article VIII** hereof into this fund. Money in the General Revenue Fund shall be withdrawn and made use of only in the manner and in the order of priority specified in **Article VIII** hereof. So long as the County establishes, from an accounting standpoint, proper records of receipts and disbursements for the General Revenue Fund, the General Revenue Fund may be used for the purposes of the Operation and Maintenance Fund, subject to the order of priority specified in **Article VIII** hereof.

Section 7.03 The Operation and Maintenance Fund

(a) There shall be established and maintained with a Custodian an Operation and Maintenance Fund. This fund is intended to provide for the payment of the Operation and Maintenance Expenses.

(b) Withdrawals from the Operation and Maintenance Fund shall be made by or on the order of an Authorized Representative in accordance, as nearly as may be practicable, with the Annual Budget then in effect.

Section 7.04 The Debt Service Funds

(a) There shall be established and maintained a Debt Service Fund for each Series of Bonds Outstanding. The Debt Service Funds are intended to provide for the ratable payment of the principal of, redemption premium, if any, and interest on Bonds of the respective Series as the same respectively fall due. Payments into these Funds shall be made in the manner prescribed by the Bond Ordinance, including the applicable provisions of **Article VIII**, and, except as herein provided, all money in each Debt Service Fund shall be used solely to pay the principal of and interest on the Bonds of the respective Series, and for no other purpose.

(b) Each Debt Service Fund shall be held in trust by a Trustee and to that end shall be kept in its complete custody and control and withdrawals from each Debt Service Fund shall be made only by such Trustee who shall transmit to each Bondholder, at such times as may be appropriate, the sums required to pay the principal of, redemption premium, if any, and interest on the Bonds of that respective Series.

(c) Money in each Debt Service Fund shall be invested and reinvested at the written direction of an Authorized Representative or his designee in Authorized Investments, maturing not later than the date

on which such money is required to pay the interest and/or the principal and interest next maturing. All earnings from such investments shall be added to and become a part of such Debt Service Fund, but shall be credited against payments that would otherwise be made to that Debt Service Fund pursuant to the provisions of **Section 8.03** hereof.

(d) Within each Debt Service Fund, the Trustee, or as otherwise provided in the Series Ordinance, is authorized to create accounts, as it determines necessary for the timely payment of the principal of, interest on, and sinking fund installments due on the Bonds.

Section 7.05 The Debt Service Reserve Funds

(a) Each Series Ordinance may create a Debt Service Reserve Fund for the Series of Bonds authorized thereby. Any such Debt Service Reserve Fund shall be for the equal and ratable benefit only of Bonds of that Series. Each such Debt Service Reserve Fund is intended to insure the timely payment of the principal of, and premium, if any, and interest on, that issue of that Series of Bonds, and to provide for the redemption of such Bonds prior to their stated maturities. Any Debt Service Reserve Fund shall be maintained in an amount equal to the Reserve Requirement established by the Series Ordinance for such Series of Bonds. Money in a Debt Service Reserve Fund shall be used for the following purposes, and for no other:

- (i) To prevent a default in the payment of the principal of or interest on that Series of Bonds, by reason of the fact that money in its Debt Service Fund is insufficient for such purposes;
- (ii) To pay the principal of, interest on, and redemption premium of Bonds of that Series in the event that all Outstanding Bonds of that Series be redeemed as a whole; or
- (iii) To effect partial redemption of Bonds of that Series.

The requirements for and provisions governing any Debt Service Reserve Fund in the remainder of the Bond Ordinance shall, in references to “the Debt Service Reserve Fund,” “the Reserve Requirement,” the “Debt Service Fund(s)” and “the Bonds,” be deemed to refer to each such Debt Service Reserve Fund created by a Series Ordinance, and in each case to the respective Reserve Requirement and Debt Service Fund for the respective Series of Bonds, and to Bonds only of that respective Series and not to any other Bonds.

(b) Each Debt Service Reserve Fund shall be kept in the complete custody and control of the Trustee. Withdrawals therefrom shall be made only by the Trustee who shall transmit to the Bondholders, at such times as may be appropriate, the sums required to pay the principal of, redemption premium, if any, and interest on the Bonds.

(c) Money in a Debt Service Reserve Fund shall be invested and reinvested by the Trustee at the written direction of an Authorized Representative or his designee in Authorized Investments. Subject to the remaining provisions of this paragraph (c), the earnings from such investments shall be added to and become a part of the Debt Service Reserve Fund. If as of any date of calculation, the value of the securities and money in a Debt Service Reserve Fund shall exceed its Reserve Requirement, such excess shall either be used to effect partial redemption of Bonds of that Series, or shall be removed from such Debt Service Reserve Fund and transferred into the Debt Service Fund, as directed by an Authorized Representative in writing.

(d) Notwithstanding anything in this Bond Ordinance to the contrary, the County, in lieu of the deposit of moneys into a Debt Service Reserve Fund, may satisfy the applicable Reserve Requirement

by causing to be credited to such Fund an irrevocable and unconditional surety bond, line of credit, letter of credit or insurance policy payable to the Trustee or the Paying Agent for the benefit of the Holders of the Bonds of the applicable Series in an amount which together with other moneys on deposit in such Debt Service Reserve Fund is equal to such Reserve Requirement. The details of such surety bond, line of credit, letter of credit or insurance policy shall be provided in the applicable Series Ordinance.

Section 7.06 The Depreciation and Contingent Fund

(a) There shall be established and maintained a Depreciation and Contingent Fund held and administered by the County. This fund shall be maintained in an amount to be established not less frequently than annually by the County in its sole discretion in order to provide a reserve for depreciation of the System, for contingencies and for improvements, betterments and extensions of the System.

(b) Money in this fund shall be used solely:

(i) For the purpose of restoring depreciated or obsolete items of the System;

(ii) For improvements, betterments and extensions to the System, other than for those things which are reasonably necessary to maintain the System in good repair and working order;

(iii) To defray the cost of unforeseen contingencies and extraordinary repairs of the System;

(iv) To prevent defaults of Bonds and Junior Lien Bonds; and

(v) For optional redemption of Bonds.

(c) Withdrawals from this Fund shall be made by or on order of an Authorized Representative.

Section 7.07 The Capitalized Interest Account

There may be established a capitalized interest account to provide for the payment of interest on the Bonds of a particular Series. Any such account shall be created by the Series Ordinance relating to the issuance of the Bonds of such Series. The Series Ordinance shall provide for the disposition of any earnings from the investment of the funds in any such capitalized interest account.

Section 7.08 Investments of Funds

Whenever, in the opinion of an Authorized Representative, it becomes desirable to invest money in any of the funds established by this **Article VII** (other than the Debt Service Reserve Funds, the Debt Service Funds and any capitalized interest account for which provisions are made above) an Authorized Representative may make Authorized Investments. Earnings resulting from the investment of money in a particular fund shall be deposited into the General Revenue Fund (i) except as provided in **Sections 7.04, 7.05 and 7.07** hereof and (ii) unless an Authorized Representative shall have determined pursuant to the Annual Budget that any such earnings on amounts in the Depreciation and Contingent Fund shall remain therein. The Trustee shall have no liability for losses resulting from the investment of money in any Authorized Investments.

[End of Article VII]

ARTICLE VIII

DISPOSITION OF REVENUES

Section 8.01 Deposits to General Revenue Fund; Dispositions Therefrom

The Gross Revenues of the System except customers' deposits and that money the disposition of which is controlled by other provisions of the Bond Ordinance are declared to be a part of the General Revenue Fund and shall from time to time be promptly deposited in a bank or depository in an account which will reflect the fact that they are a part of the General Revenue Fund. The dispositions from the General Revenue Fund required by the remaining Sections of this **Article VIII** shall be made on or before the first Business Day of each month following the delivery of the first Series of Bonds issued pursuant to the Bond Ordinance. Payments from the General Revenue Fund shall be made in the order of priority established by the sequence of the remaining Sections of this **Article VIII**.

Section 8.02 Deposits for Operation and Maintenance Fund

From the General Revenue Fund, there shall be deposited in the Operation and Maintenance Fund the amount necessary for the ensuing month for the payment of all Operation and Maintenance Expenses. Such payments shall be made by or on the order of an Authorized Representative in accordance, as nearly as may be practicable, with the Annual Budget then in effect.

Section 8.03 Payments for the Bonds

Provision shall be made for the payment of principal of, premium, if any, and interest on the Bonds without priority of any one over any other. To that end:

(a) There shall be deposited into each Debt Service Fund the monthly fraction of the aggregate amount of interest to become due on the respective Series of Bonds on the next ensuing interest payment date (or the monthly amount due, if interest is payable monthly); provided, however, that if provision has been made for the payment of all or part of the next installment of interest to become due on any Bonds, pursuant to any other provision of the Bond Ordinance, or any Series Ordinance, or by reason of investment earnings, then, in such event, the deposits required by this paragraph may be omitted, or reduced accordingly.

(b) There shall be deposited into each Debt Service Fund the monthly fraction of the Principal Installment of the respective Series of Bonds next becoming due and payable (or the monthly amount due, if principal is payable monthly), so that on each principal maturity date, the amount of principal to be paid shall have been accumulated and be on hand; provided, however, that if provision has been made for the payment of all or part of the next installment of principal to become due on the respective Series of Bonds, pursuant to any other provision of the Bond Ordinance, or any Series Ordinance, or by reason of investment earnings, then, in such event, the deposits required by this paragraph may be omitted, or reduced accordingly.

(c) If, on the occasion when the deposits required by paragraphs (a) and (b) of this **Section 8.03**, are to be made, the sum total of the deposits required thereby plus previous monthly deposits and the remaining deposits to be made prior to the next succeeding principal and interest payment dates, will be less than the sum required to effect the payment of the next succeeding installment of either principal or interest, or both on the respective Series of Bonds, as the case may be, a sum equal to such deficiency shall be added to the deposits so to be made.

Section 8.04 Deposits for the Debt Service Reserve Funds - Valuation

Deposits shall next be made in the amounts required by this **Section 8.04** into the respective Debt Service Reserve Funds. The Trustee shall calculate the market value of the cash and securities in each Debt Service Reserve Fund as of each Bond Payment Date (such calculation to be made within forty-five (45) days after such Bond Payment Date) in order to determine if the Debt Service Reserve Fund contains the Reserve Requirement therefor, and the extent to which payments therefor or withdrawals must be made therefrom, and the timing thereof, pursuant to the Bond Ordinance and the respective Series Ordinances. Unless a Debt Service Reserve Fund is being funded pursuant to Section 4.02(e)(i) of the Bond Ordinance or then contains in cash and securities an amount at least equal to its Reserve Requirement, there shall be paid into such Debt Service Reserve Fund on the last Business Day of each of the twelve (12) months following a determination of a deficiency in such Debt Service Reserve Fund one-twelfth (1/12) of the amount necessary to re-establish in such Debt Service Reserve Fund its Reserve Requirement; provided, however, nothing herein shall preclude the County from fully re-establishing such Reserve Requirement in a more timely fashion than as so prescribed. The value of any Authorized Investments in a Debt Service Reserve Fund shall be calculated as follows:

(a) except for Authorized Investments described in (b) or (c) below, the bid price published by a nationally recognized pricing service selected by the Trustee in its sole discretion; provided, however, if the maturity of such security pre-dates the next Bond Payment Date, then such security shall be valued at its maturity value plus interest to be paid on such date;

(b) as to certificates of deposit and bankers acceptances: the face amount thereof, plus accrued interest; and

(c) as to any investment not valued by the nationally recognized pricing selected by the Trustee or not specified in (b) above: the value thereof established by prior agreement between the County and the Trustee; provided, however, if the maturity of such security pre-dates the next Bond Payment Date, then such security shall be valued at its maturity value plus interest to be paid on such date.

The County acknowledges that the Trustee does not have any duty to independently value any asset or an obligation for which the price is provided by the pricing service selected by the Trustee.

Section 8.05 Deposits for the Depreciation and Contingent Fund

There shall be deposited into the Depreciation and Contingent Fund that sum which is one-twelfth (1/12) of the sum which has been currently determined by County Council to be the estimated requirement therefor for the then current Fiscal Year.

Section 8.06 Payments for Junior Lien Bonds

Provision shall then be made for the payment of any other indebtedness which is junior and subordinate to the Bonds in the order of priority contemplated by the proceedings authorizing their issuance.

Section 8.07 Use of Surplus Money

All money remaining after making the payments required by **Sections 8.02 to 8.06** shall be disposed of for the purpose of operating, maintaining, improving or expanding the System or in such manner as the County Council shall from time to time determine by ordinance.

[End of Article VIII]

ARTICLE IX

AGREEMENT TO FURNISH INFORMATION WITH RESPECT TO SYSTEM

Section 9.01 Keeping Records

The County recognizes that those who may from time to time hereafter be Bondholders will, throughout the life of the Bonds, require full information with respect to the System, the fiscal affairs of the System, and all matters incident to each. To that end the County covenants and agrees that it will install and thereafter at all times maintain proper books of records and accounts, separate and distinct from all other records and accounts, in which complete and correct entries shall be made of all transactions relating to the System, and all revenues and receipts derived therefrom, directly or indirectly. Such books and records shall be kept in such fashion as to reveal in detail:

- (a) The number of customers who may from time to time make use of the System;
- (b) The Gross Revenues of the System and the source from whence derived;
- (c) All expenses incurred in the operation of the System suitably identified as to purpose;
- (d) The Net Earnings of the System;
- (e) All expenditures made from the several funds established by the Bond Ordinance, and Series Ordinances authorizing the issuance of the Bonds; and
- (f) The rate schedules that may from time to time be in force.

Section 9.02 Audit Required

The County further covenants and agrees that so long as any Bonds are Outstanding, it will, not later than two hundred ten (210) days after the close of each Fiscal Year, cause to be made and completed by the Accountants, an audit of the records, books and accounts pertaining to the System, made in accordance with generally accepted accounting practices. The cost of such audit shall be treated as a part of the cost of operating and maintaining the System.

Pursuant to the Enabling Act, the County will make available, on request, for inspection during regular business hours an unaudited balance sheet and income statement and other information required thereby within three month of the close of the Fiscal Year.

[End of Article IX]

ARTICLE X
INSURANCE

Section 10.01 Insurance

- (a) The County covenants and agrees that so long as any Bonds are Outstanding:
- (i) That it will insure and at all times keep the System insured against physical loss or damage with a responsible insurance company or companies, authorized and qualified under the laws of the State, to assume the risks insured against, in such amount as private corporations engaged in similar endeavors would customarily insure for;
 - (ii) That it will secure adequate fidelity bonds (blanket or individual) of a surety company doing business in the State, indemnifying the County against defalcation of all persons handling money derived from the System or signing checks on any bank accounts relating to the System;
 - (iii) That all premiums on all bonds or insurance policies shall be deemed an Operation and Maintenance Expense;
 - (iv) That all insurance policies shall be open to the inspection of any Bondholder at any reasonable time; and
 - (v) That all money received by the County as a consequence of any defalcation, covered by any fidelity bond, shall be used to restore the fund depleted by the defalcation. All sums received by the County from insurance with respect to the System may, to the extent necessary, be applied to the repair and replacement of the damaged or destroyed property, but, in the event that such money is not used for such purposes, then the same shall be deposited in the Depreciation and Contingent Fund.
- (b) Insurance required by this **Section 10.01** may be provided through the South Carolina Insurance Reserve Fund or the South Carolina Association of Counties Insurance Trust Programs. The County may obtain or adopt alternative risk management programs which an Insurance Consultant determines to be reasonable, including, without limitation, self-insurance in whole or in part individually or in connection with other institutions, participation in programs of captive insurance companies, participation with other governmental entities in mutual or other cooperative insurance or other risk management programs, participation in state or federal insurance programs, taking advantage of state or federal laws now or hereafter in existence limiting liability, or establishing or participating in other alternative risk management programs; all as may be approved by the Insurance Consultant as reasonable and appropriate risk management by the County. If the County shall be self-insured for any coverage, the County shall obtain a report of an Insurance Consultant stating whether the anticipated funding of any self-insurance fund is actuarially sound, and if not, the required funding to produce such result and such coverage shall be reviewed by the Insurance Consultant not less frequently than annually. Any self-insurance program shall be subject to annual review by the Insurance Consultant who shall provide a written report to the County which shall include recommendations relating to such self-insurance program.
- (c) All costs and expenses of providing the insurance required by this **Section 10.01** shall be payable solely from the Gross Revenues of the System.

[End of Article X]

ARTICLE XI

ADDITIONAL COVENANTS

Section 11.01 Additional Covenants to Secure Bonds

The County further covenants and agrees:

(a) That neither the System, nor any part thereof, nor any of the revenues derived from the System, have been or will be hypothecated, mortgaged, otherwise pledged or encumbered, save and except as herein disclosed and provided for;

(b) That it will permit no free service to be rendered, or use to be made of the services and facilities of the System, and for the services and facilities of the System used by the County, the reasonable cost and value of such services and facilities shall be paid as such services accrue. The revenue so received from the County shall be deemed revenue derived from the operation of the System, and shall be accounted for in the same manner as other revenues of the System;

(c) That it will permit no customer to be connected to the System, or to receive any service afforded by the System, unless a proper account is established and charges are levied against such account for services rendered, and such customer shall become obligated to pay for the service rendered at the appropriate rate according to the rate schedule then in force;

(d) That it will permit, so long as there are any Bonds Outstanding, any Bondholder to inspect the System and all records and accounts thereof under reasonable terms and conditions and after reasonable notice has been given;

(e) That it will not make any use of the proceeds of any Series of Bonds other than Bonds issued pursuant to **Section 4.16** hereof which, if such use had been reasonably expected on the date of the issuance of the Bonds of such Series, would have caused such Bonds or any other Bonds to be "arbitrage bonds" within the meaning of Section 148 of the Code and will observe and not violate the requirements of Section 148 of the Code;

(f) That, as to any Series of Bonds that was intended at the time of their issuance to be exempt from federal income taxation, it will take all actions required of it under the Code that are necessary to preserve the tax-exempt status of such Series of Bonds, including without limitation, actions necessary to comply with all information reporting requirements and any obligation to rebate arbitrage earnings on the proceeds of such Bonds to the United States Government;

(g) That so long as there are any Bonds Outstanding, it will perform all duties with reference to the System required by the Constitution and statutes of the State; and

(h) That it will not pledge, mortgage or otherwise encumber the System or any part thereof, or any revenues therefrom, except in the manner herein authorized, and it will not sell, lease or dispose of any portion of the System, necessary or useful (as determined by County Council) in the operation of the System, until all Bonds shall be paid in full, or unless and until provision shall have been made for the payment of all Bonds and the interest thereon in full, and that it will maintain in good condition and operate the System. If pursuant to this paragraph anything belonging to the System which is not deemed by County Council to be necessary or useful therefor shall be sold or disposed of, the proceeds of such sale or

disposition shall be deposited at the direction of County Council in either of the Depreciation and Contingent Fund or in the General Revenue Fund.

[End of Article XI]

ARTICLE XII

MODIFICATION OF ORDINANCE

Section 12.01 Modification Without Bondholder Approval

(a) Provided always that the security of the Bonds shall not be lessened, or in any manner impaired, County Council may for any one or more of the following purposes at any time, or from time to time, without the consent of any bondholder, adopt a Ordinance, supplementing the Bond Ordinance, which Ordinance shall be fully effective in accordance with its terms:

(i) To provide for the issuance of a Series of Bonds in accordance with **Article IV** hereof;

(ii) To add to the covenants and agreements of the County in the Bond Ordinance, other covenants and agreements thereafter to be observed;

(iii) To surrender any right, power or privilege reserved to or conferred upon the County by the Bond Ordinance;

(iv) To cure, correct and remove any ambiguity or inconsistent provisions contained in the Bond Ordinance; and

(v) For any other purpose which, in the opinion of Bond Counsel, does not materially affect the interests of the Bondholders.

(b) It is further provided that, except for a Series Ordinance as permitted by subsection (a)(i) above, such supplemental Ordinance shall not become effective until a copy thereof, duly certified, shall have been filed in the office of the Clerk of Court for Richland County.

(c) In addition, no modification or alteration shall, without the consent of the Trustee, affect the rights, duties or obligations of the Trustee hereunder.

[End of Article XII]

ARTICLE XIII

EVENTS OF DEFAULT; CONSEQUENCES OF DEFAULT AND REMEDIES

Section 13.01 Events of Default

- (a) Each of the following events is hereby declared an *“Event of Default”*:
- (i) Payment of the principal of any of the Bonds shall not be made when the same becomes due and payable, either at maturity or by proceedings for redemption;
 - (ii) Payment of any installment of interest on any Bonds shall not be made when the same becomes due and payable;
 - (iii) Failure to make any payments into the Debt Service Reserve Fund as required under **Sections 8.04** hereof;
 - (iv) Payment of any installment of either interest or principal of any Junior Lien Bonds shall not be made when the same becomes due and payable or any other event of default shall exist with respect to any Junior Lien Bonds;
 - (v) Except as provided in **Section 5.01(c)** hereof, the County shall not comply with the rate covenant found in **Section 5.01(b)** hereof;
 - (vi) The County shall for any reason be rendered incapable of fulfilling its obligations hereunder;
 - (vii) An order or decree shall be entered with the consent or acquiescence of the County appointing a receiver, or receivers, of the County, or of the revenues thereof, or any proceedings shall be instituted with the consent or acquiescence of the County for the purpose of effecting a composition between the County and its creditors whose claims relate to the County, or for the purpose of adjusting claims of such creditors, pursuant to any Federal or State statute now or hereafter enacted, or if such order or decree, having been entered without the consent or acquiescence of the County, shall not be vacated or discharged or stayed on appeal within sixty (60) days after entry thereof, or if such proceeding having been instituted without the consent or acquiescence of the County, shall not be withdrawn or any orders entered shall not be vacated, discharged, or stayed on appeal within sixty (60) days after the institution of such proceedings, or the entry of such orders;
 - (viii) The County shall default in the due and punctual performance of any other of the covenants, conditions, agreements or provisions contained in the Bonds or in this Bond Ordinance, and such default shall continue for thirty (30) days after written notice, specifying such default and requiring the same to be remedied, shall have been given to the County by any Bondholder, provided that in the case of default specified in this paragraph (viii), if the default be such that it cannot be corrected within the said thirty (30) day period, it shall not constitute an event of default if corrective action is instituted by the County within said thirty (30) day period and diligently pursued until the default is corrected; and
 - (ix) Such other events of default as may be specified in a Series Ordinance.

(b) The foregoing provisions of paragraphs (v) and (viii) of the preceding subsection (a) are subject to the following limitations: If by reason of force majeure the County is unable in whole or in part to carry out its agreements herein contained (other than the obligations on the part of the County contained in any of **Section 4.02** or **Articles V, VI, VII and VIII** as to which this paragraph shall have no application), the County shall not be deemed in default during the continuance of such inability. The term “*force majeure*” as used herein shall mean, without limitation, the following: acts of God; strikes; lockouts or other industrial disturbances; acts of public enemies; orders of any kind of the government of the United States or of the State or any of their departments, agencies, or officials, or any civil or military authority; insurrections; riots; epidemics; landslides; lightning; earthquake; fire; hurricanes; storms; floods; washouts; droughts; arrests; restraint of government and people; civil disturbances; explosions; breakage or accident to machinery, tunnels or canals; partial or entire failure of utilities; or any other similar cause or event not reasonably within the control of the County, it being agreed that the settlement of strikes, lockouts and other industrial disturbances shall be entirely within the discretion of the County, and the County shall not be required to make settlement of strikes, lockouts and other industrial disturbances by acceding to the demands of the opposing party or parties when such course is in the judgment of the County unfavorable to the County.

Section 13.02 Acceleration; Annulment of Acceleration

(a) Upon the occurrence of an Event of Default, the Trustee may, and upon the written request of the Holders of at least a majority in aggregate principal amount of Bonds Outstanding shall, by notice in writing to the County, declare all Bonds Outstanding immediately due and payable; and such Bonds shall become and be immediately due and payable, anything in the Bonds or in this Bond Ordinance to the contrary notwithstanding. In such event, there shall be due and payable on the Bonds an amount equal to the total principal amount of all such Bonds, plus all interest accrued thereon and which will accrue thereon to the date of payment.

(b) At any time after the principal of the Bonds shall have been so declared to be due and payable and before the entry of final judgment or decree in any suit, action or proceeding instituted on account of such default, or before the completion of the enforcement of any other remedy under this Bond Ordinance, the Trustee may, with the consent of each Insurer of any Series of Bonds Outstanding, annul such declaration and its consequences with respect to any Bonds not then due by their terms if:

(i) Moneys shall have been deposited in the applicable Debt Service Funds sufficient to pay all matured installments of interest and principal (other than principal then due only because of such declaration) of all Outstanding Bonds;

(ii) Moneys shall have been deposited with the Trustee sufficient to pay the charges, compensation, expenses, disbursements, advances and liabilities of the Trustee;

(iii) All other amounts then payable by the County hereunder shall have been paid or a sum sufficient to pay the same shall have been deposited with the Trustee; and

(iv) Every Event of Default known to the Trustee (other than a default in the payment of the principal of such Bonds then due only because of such declaration) shall have been remedied to the satisfaction of the Trustee. No such annulment shall extend to or affect any subsequent Event of Default or impair any right consequent thereon.

Section 13.03 Additional Remedies and Enforcement of Remedies

(a) Upon the occurrence and continuance of any Event of Default, the Trustee may, and upon the written request of the Holders of at least a majority in aggregate principal amount of the Bonds Outstanding, together with indemnification of the Trustee to its satisfaction therefor, shall proceed forthwith to protect and enforce its rights and the rights of the Bondholders under this Bond Ordinance by such suits, actions or proceedings as the Trustee, being advised by counsel, shall deem expedient, including but not limited to:

(i) Requiring the County to carry out its duties and obligations under the terms of this Bond Ordinance and under the Enabling Act;

(ii) Suit upon all or any part of the Bonds;

(iii) Civil action to require the County to account as if it were the trustee of an express trust for the Holders of Bonds;

(iv) Civil action to enjoin any acts or things which may be unlawful or in violation of the rights of the Holders of the Bonds; and

(v) Enforcement of any other right of the Bondholders conferred by law or by this Bond Ordinance including the right to make application for the appointment of a receiver to administer and operate the System.

(b) Regardless of the happening of an Event of Default, the Trustee, if requested in writing by the Holders of at least a majority in aggregate principal amount of the Bonds then Outstanding, shall, upon being indemnified to its satisfaction therefor, institute and maintain such suits and proceedings as it may be advised by counsel shall be necessary or expedient:

(i) To prevent any impairment of the security under this Bond Ordinance by any acts which may be unlawful or in violation of this Bond Ordinance; or

(ii) To preserve or protect the interests of the Bondholders, provided that such request is in accordance with law and the provisions of this Bond Ordinance and, in the sole judgment of the Trustee, is not unduly prejudicial to the interests of the Holders of Bonds not making such request.

Section 13.04 Application of Revenues and Other Moneys After Default

(a) The County covenants that if an Event of Default shall happen and shall not have been remedied or waived, the County, upon demand of the Trustee, shall:

(i) Pay or caused to be paid over to the Trustee, forthwith, all moneys and securities then held by the County which is credited to any fund under this Bond Ordinance and

(ii) Pay or caused to be paid over to the Trustee, as promptly as practicable after receipt thereof, all Gross Revenues.

(b) During the continuance of an Event of Default, the Trustee shall apply all moneys, securities, Gross Revenues, payments and receipts in its possession and the income therefrom as follows and in the following order:

- (i) To the payment of the reasonable and proper charges of the Trustee;
- (ii) To the payment of necessary Operation and Maintenance expenses
- (iii) To the payment of the interest and principal (and redemption premium, if any) then due on the Bonds, as follows:

(A) Unless the principal of all of the Bonds shall have become or has been declared due and payable,

(1) First: To the payment of the persons entitled thereto of all installments of interest then due in the order of the maturity of such installments, and, if the amount available shall not be sufficient to pay in full any installment or installments maturing on the same date, then to the payment thereof ratably, according to the amounts due thereon to the persons entitled thereto, without any discrimination or preference;

(2) Second: To the payment to the persons entitled thereto of the unpaid principal installments (and redemption premiums, if any) of any Bonds which shall have become due, whether at maturity or by call for redemption, in the order of their due dates, and if the amounts available shall not be sufficient to pay in full all the Bonds due on any date, then to the payment thereof ratably, according to the amounts of principal (plus redemption premium, if any) due on such date, to the persons entitled thereto, without any discrimination or preference.

(B) If the principal of all of the Bonds shall have become or has been declared due and payable, to the payment of the principal and interest then due and unpaid upon the Bonds without preference or priority of principal over interest or of interest over principal, or of any installment of interest over any other installment of interest, or of any Bond over any other Bond, ratably, according to the amounts due respectively for principal and interest, to the persons entitled thereto without any discrimination or preference except as to any differences as to the respective rates of interest specified in the Bonds; and

(C) For the purposes and in the priority of the respective funds set forth in Article VIII hereof.

Section 13.05 Remedies Not Exclusive

No remedy by the terms of this Bond Ordinance conferred upon or reserved to the Trustee or the Bondholders is intended to be exclusive of any other remedy, but each and every such remedy shall be cumulative and shall be in addition to every other remedy given under this Bond Ordinance or existing at law or in equity or by statute (including the Enabling Act) on or after the date hereof.

Section 13.06 Remedies Vested in Trustee

All rights of action (including the right to file proof of claims) under this Bond Ordinance or under any of the Bonds may be enforced by the Trustee without the possession of any of the Bonds or the production thereof in any trial or other proceedings relating thereto. Any such suit or proceedings instituted by the Trustee shall be brought in its name as Trustee without the necessity of joining as plaintiffs or defendants any Holders of the Bonds. Subject to the provisions of **Section 13.04** hereof, any recovery of judgment shall be for the equal benefit of the Holders of the Outstanding Bonds.

Section 13.07 Majority of Bondholders Control Proceedings

If an Event of Default shall have occurred and be continuing, notwithstanding anything in this Bond Ordinance to the contrary, the Holders of at least a majority in aggregate principal amount of Bonds then Outstanding shall have the right, at any time, by an instrument in writing executed and delivered to the Trustee, to direct the method and place of conducting any proceeding to be taken in connection with the enforcement of the terms and conditions of this Bond Ordinance or for the appointment of a receiver or any other proceedings hereunder, provided that such direction is in accordance with law and the provisions of this Bond Ordinance (including indemnity to the Trustee) and, in the sole judgment of the Trustee, is not unduly prejudicial to the interests of the Bondholders not joining in such direction and provided further that nothing in this **Section 13.07** shall impair the right of the Trustee in its discretion to take any other action under this Bond Ordinance which it may deem proper and which is not inconsistent with such direction by Bondholders. If a bond insurer insures a particular Series of Bonds, then such bond insurer will act in lieu of the bondholders of such Series of Bonds hereunder.

Section 13.08 Individual Bondholder Action Restricted

(a) No Holder of any Bond shall have any right to institute any suit, action, or proceeding in equity or at law for the enforcement of this Bond Ordinance or for the execution of any trust hereunder or for any remedy under this Bond Ordinance unless:

(i) An Event of Default has occurred of which the Trustee has knowledge in accordance with **Section 14.05(I)** hereof; and:

(ii) The Holders of at least a majority in aggregate principal amount of Bonds Outstanding shall have made written request to the Trustee to proceed to exercise the powers granted in this Bond Ordinance or to institute such action, suit or proceeding in its own name; and

(iii) Such Bondholders shall have offered the Trustee reasonable indemnity; and

(iv) The Trustee shall have failed or refused to exercise the powers herein granted or to institute such action, suit or proceedings in its own name for a period of sixty (60) days after receipt by it of such request and offer of indemnity.

(b) No one or more Holders of Bonds shall have any right in any manner whatsoever to affect, disturb or prejudice the security of this Bond Ordinance or to enforce any right hereunder except in the manner herein provided and for the equal benefit of the Holders of all Bonds Outstanding.

(c) Nothing contained in this Bond Ordinance shall affect or impair, or be construed to affect or impair, the right of the Holder of any Bond:

(i) to receive payment of the principal of or interest on such Bond on the due date thereof; or

(ii) to institute suit for the enforcement of any such payment on or after such due date.

Section 13.09 Termination of Proceedings

In case any proceeding taken by the Trustee or any Bondholder on account of any Event of Default shall have been discontinued or abandoned for any reason or shall have been determined adversely to the Trustee or the Bondholders, the County, the Trustee and the Bondholders shall be restored to their former

positions and rights hereunder, and all rights, remedies and powers of the Trustee and the Bondholders shall continue as if no such proceeding had been taken.

Section 13.10 Waiver and Non-Waiver of Event of Default

(a) No delay or omission of the Trustee or of any Holder of the Bonds to exercise any right or power accruing upon any Event of Default shall impair any such right or power or shall be construed to be a waiver of any such Event of Default or an acquiescence therein. Every power and remedy given by this **Article XIII** to the Trustee and the Holders of the Bonds, respectively, may be exercised from time to time and as often as may be deemed expedient.

(b) The Trustee may waive any Event of Default which in its opinion shall have been remedied before the entry of final judgment or decree in any suit, action or proceeding instituted by it under the provisions of this Bond Ordinance, or before the completion of the enforcement of any other remedy under this Bond Ordinance.

(c) Notwithstanding anything contained in this Bond Ordinance to the contrary, the Trustee, upon the written request of the Holders of at least a majority of the aggregate principal amount of Bonds then Outstanding (including, if more than one Series of Bonds shall at the time be Outstanding, the Holders of a majority in principal amount of all Bonds then Outstanding of each such Series), shall waive any Event of Default hereunder and its consequences; provided, however, that except under the circumstances set forth in **Section 13.02(b)** hereof or **Section 13.10(b)**, a default in the payment of the principal of, premium, if any, or interest on, any Bond, when the same shall become due and payable by the terms thereof or upon call for redemption, may not be waived without the written consent of the Holders of all Bonds at the time Outstanding.

(d) In case of any waiver by the Trustee of an Event of Default hereunder, the County, the Trustee, each Insurer, if any, and the Bondholders shall be restored to their former positions and rights under this Bond Ordinance, respectively, but no such waiver shall extend to any subsequent or other Event of Default or impair any right consequent thereon. The Trustee shall not be responsible to anyone for waiving or refraining from waiving any Event of Default in accordance with this **Section 13.10**.

Section 13.11 Notice of Defaults

(a) Within thirty (30) days after the Trustee has knowledge of the occurrence of an Event of Default in accordance with **Section 14.05(l)** hereof, the Trustee shall, unless such Event of Default shall have theretofore been cured, give written notice thereof by first class mail to each Holder of Bonds then Outstanding, provided that, except in the case of a default in the payment of principal of, together with premium, if any and interest on any of the Bonds, the Trustee may withhold such notice if, in its sole judgment, it determines that the withholding of such notice is in the best interests of the Bondholders.

(b) The Trustee shall promptly notify the County of any Event of Default known to the Trustee in accordance with **Section 14.05(l)** hereof.

[End of Article XIII]

ARTICLE XIV

TRUSTEE AND ITS FUNCTIONS; SUBSTITUTE REGISTRAR

Section 14.01 Appointment and Vesting of Power in Trustee; Limitation of Rights of Bondholder to Appoint Trustee

Prior to the delivery of any Bonds pursuant to this Bond Ordinance, the County Council shall appoint the Trustee. Such appointment shall be made by means of the Series Ordinance adopted by County Council in connection with the issuance of the first Series of Bonds pursuant to this Bond Ordinance. The Trustee shall be and is hereby vested with all rights and powers necessary to enable it to discharge its duties hereunder. The right of the Bondholders to appoint a successor Trustee hereunder is limited to the circumstances contemplated by **Section 14.10** hereof.

Section 14.02 Functions of Trustee

The Trustee shall have the following additional functions:

- (a) To authenticate the Bonds of all Series that may be issued, except to the extent that a Series Ordinance provides that a Bond of such Series need not be authenticated if another Registrar is provided for therein and the Bond of such Series is not in book-entry format;
- (b) To act as custodian of the various Debt Service Funds;
- (c) To act as custodian of the various Debt Service Reserve Funds;
- (d) To act as Paying Agent for the Bonds;
- (e) Unless otherwise prescribed by any Series Ordinance, to act as Registrar for the Bonds, and to maintain a set of registration books therefor, which shall at all times accurately reflect the names and addresses of all those who may be Holders of any Bonds; and
- (f) To make reports to the County on a monthly or such other basis as may be requested by the County, but not less often than semi-annually:
 - (i) Establishing balances on hand;
 - (ii) Listing investments made for any fund handled by the Trustee;
 - (iii) Establishing the market value of the various Debt Service Reserve Funds and to maintain accurate records, as to the amounts available to be drawn at any given time under any credit enhancement or funding substitute and as to the amounts paid and owing to the provider of any such credit enhancement or funding substitute, and the Trustee shall verify all such records with any such provider; and
 - (iv) Listing all securities, if any, pursuant to **Section 14.13** hereof.

Section 14.03 Duty of Trustee with Respect to Deficits in the Debt Service Funds

It shall be the further duty of the Trustee to give written notice to the County three (3) Business Days prior to each Bond Payment Date if there is any deficiency in any of the Debt Service Funds which

would result in a need for further moneys to meet the payment of interest and/or principal falling due on the next ensuing Bond Payment Date, and the extent, if any, to which resort must be had to the applicable Debt Service Reserve Fund to meet such deficiency.

Section 14.04 Acceptance by Trustee Required

Prior to the delivery of any Bonds, (i) the County shall deliver to the Trustee appointed pursuant to **Section 14.01** hereof copies of this Bond Ordinance, and copies of the Series Ordinance and (ii) the said Trustee shall signify its acceptance of the powers, duties and obligations conferred and imposed upon it by this Bond Ordinance, by executing and delivering to the County a written acceptance thereof.

Section 14.05 Liability as to Recitals in Bond Ordinance and Bonds; Duties, Rights and Responsibilities of Trustee

(a) The recitals of fact made in this Bond Ordinance and in the Bonds shall be taken as statements of the County, and the Trustee shall not be deemed to have made any representation as to the correctness of the same, nor shall the Trustee be deemed to have made any representation whatsoever as to the validity or sufficiency of this Bond Ordinance or of the Bonds issued hereunder except with respect to the authentication of any Bonds. Nor shall the Trustee be deemed to have made any representation as to the value, condition, or sufficiency of any assets pledged or assigned as security for the Bonds, the right, title, or interest of the County therein, the technical feasibility of the System, the compliance of the County with the Enabling Act, or the tax-exempt status of any of the Bonds. Nor shall the Trustee be under responsibility or duty with respect to the issuance of said Bonds, or the application of the proceeds thereof, except to the extent provided for herein. Nor shall the Trustee be liable in connection with the performance of its duties hereunder, except for its own negligence or default.

(b) Prior to the occurrence of an Event of Default of which the Trustee has or is deemed to have notice hereunder, and after the curing of any Event of Default which may have occurred:

(i) The Trustee shall undertake to perform such duties and only such duties as are specifically set forth in this Bond Ordinance or any Series Ordinance, as applicable, and no implied covenants or obligations shall be read into this Bond Ordinance or any Series Ordinance, as applicable, against the Trustee; and

(ii) In the absence of bad faith on its part, the Trustee may conclusively rely, as to the truth of the statements and the correctness of the opinions expressed therein, upon certificates or opinions furnished to the Trustee and conforming to the requirements of this Bond Ordinance or any Series Ordinance, as applicable, but in the case of any such certificates or opinions which by any provision hereof are specifically required to be furnished to the Trustee, the Trustee is under a duty to examine same to determine whether or not they conform to the requirements of this Bond Ordinance or any Series Ordinance, as applicable.

(c) In case an Event of Default of which a Responsible Officer of the Trustee has or is deemed to have notice hereunder has occurred and is continuing, the Trustee shall exercise such of the rights and powers vested in it by this Bond Ordinance or any Series Ordinance, as applicable, and use the same degree of care and skill in their exercise, as a prudent person would exercise or use in the conduct of such person's own affairs.

(d) No provision of this Bond Ordinance or any Series Ordinance, as applicable, shall be construed to relieve the Trustee from liability for its own negligent action, its own negligent failure to act, or its own willful misconduct, except that:

(i) this subsection shall not be construed to limit the effect of subsection (b) of this **Section 14.05**;

(ii) the Trustee is not liable for any error of judgment made in good faith by an authorized agent or officer of the Trustee, unless it is proven that the Trustee was negligent in ascertaining the pertinent facts;

(iii) the Trustee is not liable with respect to any action taken or omitted to be taken by it in good faith in accordance with the direction of the Bondholders under any provision of this Bond Ordinance or any Series Ordinance, as applicable, relating to the time, method and place of conducting any proceeding for any remedy available to the Trustee, or exercising any trust or power conferred upon the Trustee under this Bond Ordinance or any Series Ordinance, as applicable; and

(iv) no provision of this Bond Ordinance or any Series Ordinance, as applicable, shall require the Trustee to expend or risk its own funds or otherwise incur any financial liability in the performance of any of its duties hereunder, or in the exercise of any of its rights or powers, if it has reasonable grounds for believing that the repayment of such funds or adequate indemnity against such risk or liability is not reasonably assured to it.

(e) The Trustee may rely and is protected in acting or refraining from acting upon any Ordinance, certificate, statement, instrument, opinion, report, notice, request, direction, consent, order, approval, bond, debenture or other paper or document believed by it to be genuine and to have been signed or presented by the proper party or parties.

(f) Any request, direction, order or demand of the County under this Bond Ordinance or any Series Ordinance, as applicable, shall be sufficiently evidenced by a written certificate of the County (unless other evidence thereof is specifically prescribed).

(g) Whenever in the administration of this Bond Ordinance or any Series Ordinance, as applicable, the Trustee deems it desirable that a matter be proved or established prior to taking, suffering or omitting any action hereunder, the Trustee (unless other evidence thereof is specifically prescribed) may, in the absence of bad faith on its part, rely upon a written certificate of the County.

(h) The Trustee may consult with legal counsel and the written advice of such legal counsel or an opinion of legal counsel shall be full and complete authorization and protection for any action taken, suffered or omitted by it in good faith and in accordance with such advice or opinion.

(i) The Trustee is under no obligation to exercise any of the rights or powers vested in it by this Bond Ordinance or any Series Ordinance, as applicable, at the request or direction of any of the Bondholders unless such holders have offered to the Trustee security or indemnity satisfactory to the Trustee as to its terms, coverage, duration, amount and otherwise with respect to the costs, expenses and liabilities which may be incurred by it in compliance with such request or direction, and the provision of such indemnity shall be mandatory for any remedy taken upon direction of the holders of twenty-five (25%) in aggregate principal amount of the Bonds.

(j) The Trustee is not required to make any inquiry or investigation into the facts or matters stated in any resolution, certificate, statement, instrument, opinion, report, notice, request, direction, consent, order, approval, bond, debenture or other paper or document, but the Trustee, in its discretion, may make such further inquiry or investigation into such facts or matters as it may see fit and, if the Trustee determines to make such further inquiry or investigation, it is entitled to examine the books, records and premises of the System, in person or by agent or attorney.

(k) The Trustee may execute any of its trusts or powers or perform any duties under this Bond Ordinance or any Series Ordinance, as applicable, either directly or by or through agents or attorneys, and may in all cases pay, subject to reimbursement by the County, such reasonable compensation as it deems proper to all such agents and attorneys reasonably employed or retained by it, and the Trustee shall not be responsible for any misconduct or gross negligence of any agent or attorney appointed with due care by it.

(l) The Trustee is not required to take notice or deemed to have notice of any default or Event of Default hereunder, except Events of Default under **Sections 13.01(a)(i)** and **13.01(a)(ii)**, unless a Responsible Officer of the Trustee has actual knowledge thereof or has received notice in writing of such default or Event of Default from the County or from the holders of at least twenty-five (25%) in aggregate principal amount of the Outstanding Bonds, and in the absence of any such notice, the Trustee may conclusively assume that no such default or Event of Default exists.

(m) The Trustee is not required to give any bond or surety with respect to the performance of its duties or the exercise of its powers under this Bond Ordinance or any Series Ordinance, as applicable.

(n) In the event the Trustee receives inconsistent or conflicting requests and indemnity from two or more groups of Holders of Bonds, each representing less than a majority in aggregate principal amount of the Bonds then Outstanding, pursuant to the provisions of this Bond Ordinance or any Series Ordinance, as applicable, the Trustee, in its sole discretion, may determine what action, if any, shall be taken.

(o) The Trustee's immunities and protections from liability and its right to indemnification in connection with the performance of its duties under this Bond Ordinance or any Series Ordinance, as applicable, shall extend to the Trustee's officers, directors, agents, attorneys and employees. Such immunities and protections and right to indemnification, together with the Trustee's right to compensation, shall survive the Trustee's resignation or removal, the discharge of this Bond Ordinance or any Series Ordinance, as applicable, and final payment of the Bonds.

(p) The permissive right of the Trustee to take the actions permitted by this Bond Ordinance or any Series Ordinance, as applicable, shall not be construed as an obligation or duty to do so.

(q) The Trustee shall have no responsibility for any information in any offering memorandum or other disclosure material distributed with respect to the Bonds, and the Trustee shall have no responsibility for compliance with any state or federal securities laws in connection with the Bonds.

(r) The Trustee, in its commercial banking or in any other capacity, may in good faith buy, sell, own, hold and deal in any of the Bonds and may join in any action which any Bondholder may be entitled to take with like effect as if it were not Trustee. The Trustee, in its commercial banking or in any other capacity, may also engage in or be interested in any financial or other transaction with the County and may act as depository, trustee or agent for any committee of Bondholders secured hereby or other obligations of the County as freely as if it were not Trustee. The provisions of this subsection shall extend to affiliates of the Trustee.

(s) Whether or not expressly so provided, every provision of this Bond Ordinance or any Series Ordinance, as applicable, relating to the conduct or affecting the liability of or affording protection to the Trustee is subject to the provisions of this **Section 14.05**.

(t) The County hereby covenants and agrees:

(i) to pay to the Trustee compensation for all services rendered by it hereunder and under the other agreements relating to the Bonds to which the Trustee is a party in accordance with terms agreed to from time to time, and, subsequent to default, in accordance with the Trustee's then-current fee schedule for default administration (the entirety of which compensation shall not be limited by any provision of law regarding compensation of a trustee of an express trust); and

(ii) to reimburse the Trustee upon its request for all reasonable expenses, disbursements and advances incurred or made by the Trustee in accordance with any provision of this Bond Ordinance, as supplemented, any other agreement relating to the Bonds to which it is a party or in complying with any request by the County or any rating service with respect to the Bonds, including the reasonable compensation, expenses and disbursements of its agents and counsel, except any such expense, disbursement or advance attributable to the Trustee's gross negligence or bad faith.

In the event the Trustee incurs expenses or renders services in any proceedings under Bankruptcy Law relating to the County, the expenses so incurred and compensation for services so rendered are intended to constitute expenses of administration under Bankruptcy Law.

As security for the performance of the obligations of the County under this **Section 14.05**, the Trustee shall have a lien prior to the lien securing the Bonds, which it may exercise through a right of setoff, upon all property or funds held or collected by the Trustee pursuant to this Bond Ordinance, as supplemented. The obligations of the County to make the payments described in this **Section 14.05** shall survive discharge of this Bond Ordinance, as supplemented, the resignation or removal of the Trustee and payment in full of the Bonds.

Section 14.06 Trustee May Rely on Notices; etc.

The Trustee shall at all times be protected in acting upon any notice, resolution, request, consent, order, certificate, statement, opinion, bond, or other paper or document believed to be genuine and to have been signed by the proper party or parties.

Section 14.07 Trustee Permitted to Resign

The Trustee may at any time resign and be discharged of its duties and obligations hereunder by giving to the County and the Bondholders written notice of such resignation, specifying a date (not less than sixty (60) days after such notice) when such resignation is intended to take effect. Such resignation shall take effect immediately upon but not before the appointment and qualification of such successor.

Section 14.08 Removal of Trustee

(a) The Trustee may be removed upon 30 days prior notice at any time by the Holders of not less than fifty percent (50%) of the principal amount of Bonds at such time Outstanding.

(b) The Trustee may be removed upon 30 days prior notice at any time by the County or, if a Series Ordinance so provides, upon the request of an Insurer insuring the Series of Bonds thereby authorized.

(c) Any such removal shall take effect immediately upon but not before the appointment and qualification of such successor.

Section 14.09 Appointment of Successor Trustee Upon Resignation or Removal of Trustee

(a) In case at any time the Trustee shall resign, or be removed or become incapable of acting, or be adjudged a bankrupt or insolvent, or a receiver of its property shall be appointed, or any public officer shall take charge or control of its property or affairs, a successor thereto shall be promptly appointed by resolution by County Council duly adopted. Such successor shall in all instances be a bank or trust company duly chartered pursuant to the laws of the United States or of the State, and shall have a combined capital and surplus of not less than \$1 billion.

(b) Immediately following such appointment the County shall give written notice of such appointment to the Bondholders and any Registrar other than the Trustee.

Section 14.10 When Bondholder May Seek Successor Trustee

If, in a proper case, no appointment of a successor Trustee shall be made promptly pursuant to **Section 14.09**, any Bondholder may make application to any court of competent jurisdiction for the appointment of a successor and said court may thereupon, after such notice, if any, as such court may prescribe, appoint a successor.

Section 14.11 Acceptance by Successor Trustee

Any successor Trustee appointed hereunder shall execute and deliver to its predecessor and to the County a written acceptance of such appointment, and thereupon such successor, without any further act, deed or conveyance, shall become fully vested with all moneys, estates, properties, rights, powers, duties and obligations of its predecessor hereunder with like effect as if originally named as such Trustee and its predecessor shall be obligated to pay over, transfer, assign and deliver all moneys, securities and other property held by it to its successor, and on the written request of the County, or the successor, shall execute, acknowledge and deliver such instruments of conveyance and further assurance and do such other things as may be reasonably required for the vesting and confirming in such successor all the right, title and interest of the predecessor in and to any property held by it.

Section 14.12 Effect of Trustee Merging With Another Bank

Any bank into which the Trustee may be merged, or with which it may be consolidated, or any bank resulting from any merger or consolidation to which it shall be a party, or any bank to which the Trustee may sell or transfer all or substantially all of its corporate trust business, shall become the successor without the execution or filing of any paper or the performance of any further act; provided, always, that if the County shall be dissatisfied with the institution resulting from the merger, consolidation or other action spoken of above, then the County may at any time within thirty (30) days after such action name a new Trustee (with the qualifications prescribed by **Section 14.09** hereof) in lieu of the Trustee then acting.

Section 14.13 Trustee to Secure Funds and Securities Held in Trust

Unless the same be secured as trust funds in the manner provided by the regulations of the Comptroller of the Currency as from time to time in effect, all funds in the custody of the Trustee, in excess of the amount of such deposit insured by the Federal Deposit Insurance Corporation, shall be invested in Authorized Investments.

Section 14.14 Disposition of Paid Bonds

It shall be the duty of the Trustee to cancel all Bonds which shall have been paid, whether upon their maturity or redemption prior to maturity; such cancellation shall be done in such fashion as to render such Bonds incapable of further negotiation or hypothecation. In any event it shall furnish appropriate certificates to the County indicating the disposition of such Bonds. Upon effecting such cancellation, the Trustee shall furnish appropriate certificates to the County setting forth the disposition made of the Bonds so cancelled.

Section 14.15 Appointment of Substitute Registrar

The County may, from time to time, appoint a Registrar or Registrars to act in the place and stead of the Trustee as Registrar of the Bonds of one or more Series. The County shall cause written notice of such appointment to be mailed to the Holders of all Bonds affected by such appointment thirty (30) days prior to the effective date of such appointment.

Section 14.16 Trustee Not to Consider Insurance

Notwithstanding any other provision of this Ordinance, in determining whether the rights of the Bondholders will be adversely affected by any action taken pursuant to the terms and provisions of this Ordinance, the Trustee shall consider the effect on the Bondholders as if there were no Municipal Bond Insurance Policy.

[End of Article XIV]

ARTICLE XV

DEFEASANCE

Section 15.01 Defeasance Generally

Subject to the provisions of any Series Ordinance, if all of the Bonds issued pursuant to the Bond Ordinance shall have been paid and discharged, then the obligations of the County under the Bond Ordinance, the pledge of revenues made hereby, and all other rights granted hereby shall cease and determine. Subject to the provisions of any Series Ordinance, Bonds shall be deemed to have been paid and discharged within the meaning of this **Article XV** under each of the following circumstances:

(a) Each Trustee shall hold, at the stated maturities of the applicable Bonds, in trust and irrevocably appropriated thereto, sufficient money for the payment thereof.

(b) If default in the payment of the principal of such Bonds or the interest thereon shall have occurred on the stated maturities of such Bonds, and thereafter tender of such payment shall have been made, and the appropriate Trustee shall then hold in trust and irrevocably appropriated thereto, sufficient money for the payment thereof to the date of the tender of such payment.

(c) If the County shall have deposited with the Trustee, or, at the direction of the County, any other bank or trust company in an irrevocable trust money or Defeasance Obligations, the principal of and interest on which when due (without reinvestment thereof) will provide money which, together with the money, if any, deposited at the same time, shall be sufficient to pay, when due, the principal, interest and redemption premium, if any, due and to become due on and prior to the maturity of, or, if the County has irrevocably elected to redeem Bonds, on and prior to the redemption date of, such Bonds.

Section 15.02 Money to be Held in Trust - When Returnable to County

Any money which at any time shall be deposited with the Trustee or any other bank or trust company, by or on behalf of the County, for the purpose of paying and discharging any Bonds or the interest thereon, shall be and is hereby assigned, transferred and set over to such institution in trust for the respective Holders of the Bonds, and such money shall be and is hereby irrevocably appropriated to the payment and discharge thereof. But if, through lapse of time or otherwise, the Holders of said Bonds shall no longer be entitled to enforce payment of their obligations, then, in such event, it shall be the duty of such institution to forthwith return said funds to the County.

Section 15.03 Deposit With Trustee Subject to Conditions of Article XV

The County covenants and agrees that any money which it shall deposit with the Trustee shall be deemed to be deposited in accordance with, and subject to, the applicable provisions of this **Article XV**, and that whenever it shall have elected to redeem Bonds it will irrevocably bind and obligate itself to give notice of redemption thereof, and will further authorize and empower the Trustee to cause the publication of such notice of redemption in its name and on its behalf.

Section 15.04 No Defeasance of Series of Bonds Paid by Insurer

In the event that the principal and/or interest due on a Series of Bonds shall be paid by an Insurer pursuant to a Municipal Bond Insurance Policy, such Series of Bonds shall remain Outstanding for all purposes, not be defeased or otherwise satisfied and not be considered paid by the County until the Insurer has been

reimbursed in full therefor in accordance with the terms of the Municipal Bond Insurance Policy, and the assignment and pledge of the portion of Gross Revenues of the System remaining after payment of costs of operation and maintenance of the System and all covenants, agreements and other obligations of the County to the registered Holders shall continue to exist and shall run to the benefit of the Insurer, and the Insurer shall be subrogated to the rights of such registered Holders.

[End of Article XV]

ARTICLE XVI

MISCELLANEOUS

Section 16.01 Miscellaneous Insurer Rights

(a) Notwithstanding any provision of this Bond Ordinance to the contrary, each Insurer shall be deemed the exclusive Holder of all Bonds insured by that Insurer, for the purposes of all approvals, consents, waivers, institution of any action, and the direction of all remedies. No rights granted to an Insurer by this Bond Ordinance shall be effective at any time that such Insurer is in breach of its obligations under the Municipal Bond Insurance Policy or is subject to bankruptcy or receivership proceedings.

(b) Any provision of this Bond Ordinance expressly recognizing or granting rights in or to Insurers may not be amended in any manner which affects the rights of such Insurers hereunder without the prior written consent of each such Insurer.

(c) To the extent that an Insurer makes payment of the principal of or interest on any Bonds, it shall become the owner and Holder of such Bonds, appurtenant coupons or right to payment of such principal of or interest on such Bonds and shall be fully subrogated to all of the registered Holders' rights thereunder, including the registered Holders' rights to payment thereof. To evidence such subrogation (i) in the case of subrogation as to claims for past due interest, the Trustee shall note Insurer's rights as subrogee on the registration books of the County maintained by the Trustee or Registrar upon receipt of proof from the Insurer as to payment of interest thereon to the registered Holders of the Bonds, and (ii) in the case of subrogation as to claims for past due principal, the Trustee shall note the Insurer's rights as subrogee on the registration books of the County maintained by the Trustee or Registrar upon surrender of the Bonds by the registered Holders thereof to the Insurer or its agent.

Section 16.02 Purpose of Covenants in Bond Ordinance

Every covenant, undertaking and agreement made on behalf of the County, as set forth in the Bond Ordinance is made, undertaken and agreed to, for the proper securing of the payment of the principal of and interest on the Bonds. Each shall be deemed to partake of the obligation of the contract between the County and the Bondholders and shall be enforceable accordingly. Nothing in the Bond Ordinance expressed or implied is intended or shall be construed to confer upon, or to give to, any person or entity, other than the County and the registered Holders of the Bonds, any right, remedy or claim under or by reason of the Bond Ordinance or any covenant, condition or stipulation hereof, and all covenants, stipulations, promises and agreements in the Bond Ordinance contained by and on behalf of the County shall be for the sole and exclusive benefit of the County and the registered Holders of the Bonds.

Section 16.03 Effect of Remedies Granted by Ordinance Not Being Available to Holders of Other Bonds

If it shall be held by any court of competent jurisdiction that any right or remedy granted by the Bond Ordinance or any Series Ordinance to the Holders of any Bond is not available to the Holders of all other Bonds, then such rights and remedies are herewith conferred upon the Holders of such other Bonds.

Section 16.04 Severability

If any Section, paragraph, clause or provision of the Bond Ordinance shall be held invalid, the invalidity of such Section, paragraph, clause or provision shall not affect any of the remaining provisions of the Bond Ordinance.

Section 16.05 Repealing Clause

All Ordinances or resolutions, or parts thereof, inconsistent herewith are hereby repealed to the extent of such inconsistencies.

[End of Article XVI]

DONE in meeting duly assembled, this 3rd day of December, 2019.

RICHLAND COUNTY, SOUTH CAROLINA

Chairman, Richland County Council

Attest:

Clerk, Richland County Council

Richland County Council Request for Action

Subject:

An Ordinance Providing for the issuance and sale of not exceeding \$35,000,000 Utility System Revenue Bonds, Series 2020, of Richland County, South Carolina, for the expenditure of the proceeds thereof, for the payment of said bonds, and other matters relating thereto

Notes:

First Reading: November 5, 2019
Second Reading: November 19, 2019
Third Reading: December 3, 2019 {Tentative}
Public Hearing: December 3, 2019

ORDINANCE NO. _____

AN ORDINANCE PROVIDING FOR THE ISSUANCE AND SALE OF NOT EXCEEDING \$35,000,000 UTILITY SYSTEM REVENUE BONDS, SERIES 2020, OF RICHLAND COUNTY, SOUTH CAROLINA, FOR THE EXPENDITURE OF THE PROCEEDS THEREOF, FOR THE PAYMENT OF SAID BONDS, AND OTHER MATTERS RELATING THERETO.

2020 SERIES ORDINANCE
Adopted December [], 2019

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BE IT RESOLVED BY THE COUNTY COUNCIL, THE GOVERNING BODY OF RICHLAND COUNTY, SOUTH CAROLINA, IN MEETING DULY ASSEMBLED:

ARTICLE I

FINDINGS OF FACT

Section 1.01 Findings.

As an incident to the adoption of this Ordinance, and the issuance of the bonds provided for herein, the County Council of Richland County, South Carolina (the “*County Council*”), the governing body of Richland County, South Carolina (the “*County*”), finds that the facts set forth in this **Article I** exist and the following statements are in all respects true and correct:

(1) The County has made general provision for the issuance from time to time of Utility System Revenue Bonds (the “*Bonds*”) of the County through the adoption, on even date herewith, of an Ordinance entitled “A ORDINANCE PROVIDING FOR THE ISSUANCE AND SALE OF UTILITY SYSTEM REVENUE BONDS OF RICHLAND COUNTY, SOUTH CAROLINA, AND OTHER MATTERS RELATING THERETO” (the “*Bond Ordinance*”).

(2) It is provided in and by the Bond Ordinance that, upon adoption of a series ordinance there may be issued one or more series of Bonds for the purpose of obtaining funds for the expansion and improvement of the utility system of the County (the “*System*”); providing funds for the payment of the issuance and sale of Bonds; refunding Bonds or other obligations issued to provide land, facilities or equipment that are or are to become a part of the System or that are or were payable in whole or in part from revenues of the System; providing funds for the payment due of interest on such Bonds; funding a debt service reserve fund established for the benefit of the Holders of a particular Series of Bonds or restoring such funds to their required funding level; and paying the cost of issuance of Bonds, including the cost of any credit enhancement therefor.

(3) The County Council has determined that it is necessary and in the best interests of the customers of the System to raise not exceeding \$35,000,000 through the issuance of a series of Bonds in order to provide funds (i) to defray the cost of funding certain improvements, extensions and enlargements of the System, including but not limited to acquiring related real property and equipment necessary thereto (collectively, the “*Improvements*”), (ii) to satisfy the 2020 Reserve Requirement (as defined herein), if any, and (iii) to pay costs of issuance.

(4) By reason of the foregoing, the County has determined to adopt this ordinance as a Series Ordinance in accordance with the terms and provisions of the Bond Ordinance in order to effect the issuance of the Series 2020 Bonds (as defined below) for the purpose of defraying the cost of the Improvements, funding the 2020 Reserve Requirement, if any, and defraying the cost of issuance of said bonds, including the costs of the premium for the Municipal Bond Insurance Policy (as defined below), if any, associated therewith.

[End of Article I]

ARTICLE II

DEFINITIONS AND AUTHORITY

Section 2.01 Definitions.

(a) Except as provided in subsection (b) below, all terms which are defined in **Section 2.02** of the Bond Ordinance shall have the same meanings in this 2020 Series Ordinance as such terms are prescribed to have in the Bond Ordinance.

(b) As used in this 2020 Series Ordinance, unless the context shall otherwise require, the following terms shall have the following respective meanings:

“Bond Insurer” shall mean the issuer of the Municipal Bond Insurance Policy and/or the Surety Bond.

“Bond Ordinance” shall mean the Ordinance entitled “AN ORDINANCE PROVIDING FOR THE ISSUANCE AND SALE OF UTILITY SYSTEM REVENUE BONDS OF RICHLAND COUNTY, SOUTH CAROLINA, AND OTHER MATTERS RELATING THERETO” adopted on even date herewith, by County Council.

“Financial Advisor” shall mean an individual or firm of individuals registered as a municipal advisor with the United States Securities and Exchange Commission and the Municipal Securities Rulemaking Board or with any successor registration organization.

“Interest Payment Date” shall mean, with respect to the Series 2020 Bonds, each September 1 and March 1, commencing September 1, 2020 and continuing until the principal of the Series 2020 Bonds has been paid in full, or such other date as determined by the Authorized Representative on advice of the County’s Financial Advisor.

“Municipal Bond Insurance Policy” shall mean a municipal bond insurance policy or financial guaranty insurance policy insuring the payment when due of the principal of and interest on the Series 2020 Bonds as provided therein.

“Purchase Contract” shall mean the purchase contract or bond purchase agreement between the County and the Underwriter relating to the purchase by the Underwriter of the Series 2020 Bonds.

“Series 2020 Bonds” shall mean the Bonds of the County of the Series authorized by this 2020 Series Ordinance, in the principal amount of not exceeding \$35,000,000 whether or not the Bonds are actually issued in calendar year 2020. If the Series 2020 Bonds are issued in a year other than 2020, then the Series 2020 Bonds will bear the year designation of the year in which it is actually issued.

“Surety Bond” shall mean a surety bond, if any, issued by the Bond Insurer guaranteeing certain payments into the 2020 Debt Service Reserve Fund, if any, with respect to the Series 2020 Bonds as provided therein and subject to the limitations set forth therein.

“Underwriter” shall mean Wells Fargo Bank, National Association, its successors and assigns.

“2020 Construction Fund” shall mean the Fund established pursuant to **Section 6.01** hereof with respect to payments of the costs of the Improvements and costs of issuance.

“2020 Debt Service Fund” shall mean the Fund established pursuant to **Section 4.06** hereof to provide for the payment of the principal of and interest on the Series 2020 Bonds.

“2020 Debt Service Reserve Fund” shall mean the Fund, if any, established pursuant to **Section 4.07** hereof to provide additional security for the payment of the principal of and interest on the Series 2020 Bonds.

“2020 Reserve Requirement” shall mean \$0 if there is no Reserve Requirement with respect to the Series 2020 Bonds or an amount equal to, as of the date of calculation, the least of (i) 10% of the original sales proceeds of the Series 2020 Bonds (within the meaning of the Code), (ii) maximum remaining Annual Principal and Interest Requirement for the then-current and each future Fiscal Year with respect to the Series 2020 Bonds outstanding, (iii) 125% of the average Annual Principal and Interest Requirement for the then-current and each future Fiscal Year with respect to the Series 2020 Bonds outstanding, or (iv) such other amount as may be determined by the Authorized Representative on advice of the County’s Financial Advisor.

“2020 Series Ordinance” shall mean this Ordinance.

Section 2.02 Authority for this 2020 Series Ordinance.

This 2020 Series Ordinance is adopted pursuant to the provisions of the Bond Ordinance.

[End of Article II]

ARTICLE III

USEFUL LIFE

Section 3.01 Determination of the Useful Life of the System.

The period of usefulness of the System is hereby determined to be not less than forty (40) years from the date hereof.

[End of Article III]

ARTICLE IV

AUTHORIZATION AND TERMS OF THE SERIES 2020 BONDS

Section 4.01 Principal Amount and Designation of Series 2020 Bonds.

Pursuant to the provisions of the Enabling Act and the Bond Ordinance, a series of Bonds of the County entitled to the benefits, protection and security of the provisions of the Bond Ordinance is hereby authorized to be issued for the purposes set forth in **Section 4.02** below. The Bonds so authorized shall be in the total principal amount of not exceeding \$35,000,000 and designated “Richland County, South Carolina Utility System Revenue Bonds, Series 2020” (the “**Series 2020 Bonds**”).

Section 4.02 Purposes of Series 2020 Bonds.

The Series 2020 Bonds are authorized for the purposes of:

- (a) defraying the costs of the Improvements;
- (b) funding the 2020 Debt Service Reserve Fund, if any, at the 2020 Reserve Requirement either by depositing a portion of the proceeds of the Series 2020 Bonds therein or by purchasing a Surety Bond; and
- (c) paying costs and expenses relating to the issuance of the Series 2020 Bonds, including the premium for the Municipal Bond Insurance Policy, if any, pursuant to **Section 10.06** hereof.

Section 4.03 Date, Interest Rate and Maturity of Series 2020 Bonds.

(a) The Series 2020 Bonds shall mature on March 1 in the years and in the principal amounts as determined by the Chairman; provided that the aggregate principal amount may not exceed \$35,000,000 and the final maturity date shall not be later than March 1, 2065. The net interest rate shall not exceed 6.00% per annum. The Purchase Contract will set forth the respective years of maturity, principal amounts and interest rates.

(b) A portion of the Series 2020 Bonds may be retired by mandatory redemption payments (the “**Series 2020 Term Bonds**”) which shall be accumulated in a bond redemption account in the Debt Service Fund in amounts sufficient to redeem such Series 2020 Bonds in the years specified in the Purchase Contract as determined by the Authorized Representative. To the extent all or a portion of the principal amount of Series 2020 Term Bonds are purchased by the County or redeemed by right of optional redemption, future mandatory redemption payments may be reduced by the amount of such excess in the years and amounts designated in writing by the County delivered to the Trustee.

(c) The Series 2020 Bonds shall originally be dated the date of issuance and shall be issued as fully registered Bonds in the denominations of \$5,000 and whole multiples of \$5,000.

(d) Principal of and premium, if any, of the Series 2020 Bonds shall be payable at the corporate trust office of the Trustee designated by the Trustee. Interest on the Series 2020 Bonds shall be payable from the Interest Payment Date next preceding the date of authentication thereof to which interest has been paid, unless the date of authentication is an Interest Payment Date, in which case interest shall be payable from that date; provided, however, that interest shall be first payable from the dated date. Interest on the Series 2020 Bonds shall be payable on each Interest Payment Date, in each case to the Holders as of the immediately

preceding Record Date, interest to be paid by the Trustee by check or draft mailed to each Holder at his address as it appears on the Books of Registry maintained at the corporate trust office of the Trustee; provided that payment to a Holder of \$1,000,000 or more may be made by wire transfer to an account within the continental United States in accordance with written instructions filed with the Trustee at least five Business Days prior to such Record Date.

Section 4.04 Optional Redemption.

The Series 2020 Bonds shall be subject to redemption prior to maturity, at the option of the County, on the dates selected by the Authorized Representative and set forth in the Purchase Contract, as a whole or in part at any time, in the maturities as designated by the County and by lot within a maturity, at the redemption prices with respect to each Series 2020 Bond, expressed as a percentage of principal amount of the Series 2020 Bond to be redeemed, as set forth in the Purchase Contract, together, in each case, with the interest accrued on the principal amount thereof to the date fixed for redemption. Any notice of redemption given by the County shall not be conditioned upon the prior payment to the Trustee of money or the delivery to the Trustee of Authorized Investments sufficient to pay the redemption price of the Series 2020 Bonds or the interest thereon to the redemption date.

Section 4.05 Appointment of Registrar, Paying Agent and Trustee; Transfer and Exchange of Series 2020 Bonds.

U.S. Bank National Association is hereby appointed to act as Registrar, Paying Agent and Trustee for the Series 2020 Bonds under the Bond Ordinance.

The Series 2020 Bonds shall be presented for registration of transfers and exchanges as provided in the Bond Ordinance, and notices and demands in respect of the Series 2020 Bonds may be served upon the Registrar.

Section 4.06 Establishment of 2020 Debt Service Fund.

In accordance with the Bond Ordinance, the 2020 Debt Service Fund is hereby directed to be established with the Trustee on the date of original delivery of the Series 2020 Bonds for the benefit of the Holders of the Series 2020 Bonds. Payments to and from the 2020 Debt Service Fund shall be made in accordance with the provisions of Articles VII and VIII of the Bond Ordinance. The Trustee shall be entitled to rely upon any investment direction provided to it by an Authorized Representative as a certification to the Trustee that such investments constitute Authorized Investments. In the absence of written investment directions from an Authorized Representative, the Trustee shall hold the amounts in the 2020 Debt Service Fund uninvested in cash, without liability for interest.

Section 4.07 Establishment of 2020 Debt Service Reserve Fund.

If as of the date of the initial delivery of the Series 2020 Bonds, the Authorized Representative, upon advice of the County's Financial Advisor, determines that the 2020 Debt Service Reserve Fund needs to be established for the issuance of the Series 2020 Bonds, then the Chairman shall provide the Trustee with a written direction to establish with the Trustee the 2020 Debt Service Reserve Fund on the date of original delivery of the Series 2020 Bonds for the benefit of the Holders of the Series 2020 Bonds pursuant to Section 7.05 of the Bond Ordinance. The 2020 Debt Service Reserve Fund, if established, shall be held by the Trustee and maintained at the 2020 Reserve Requirement in accordance with the provisions of Section 7.05 of the Bond Ordinance. The Trustee shall be entitled to rely upon any investment direction provided to it by an Authorized Representative as a certification to the Trustee that such investments constitute Authorized Investments. In the absence of written investment directions from an Authorized

Representative, the Trustee shall hold the amounts in the 2020 Debt Service Reserve Fund uninvested in cash, without liability for interest.

Section 4.08 Form of Series 2020 Bonds.

The Series 2020 Bonds together with the Certificate of Authentication and Assignment to appear thereon, are to be in substantially the form attached hereto as *Exhibit A*, with necessary and appropriate variations, omissions and insertions as permitted or required by the Bond Ordinance or this 2020 Series Ordinance. The Series 2020 Bonds shall be numbered R-1 and upward.

Section 4.09 Book-Entry System; Recording and Transfer of Ownership of Series 2020 Bonds.

Unless and until the book-entry-only system described in this **Section 4.09** has been discontinued, the Series 2020 Bonds will be available only in book-entry form only in principal amounts of \$5,000 or any whole multiple thereof. The Depository Trust Company, New York, New York ("**DTC**"), will act as Securities Depository for the Series 2020 Bonds, and the ownership of one fully registered Series 2020 Bond for each maturity, each in the aggregate principal amount of such maturity, will be registered in the name of Cede & Co., as the Securities Depository Nominee. Purchases of Series 2020 Bonds under the book-entry system may be made only through brokers and dealers who are, or act through, DTC Participants in accordance with rules specified by DTC. Each DTC Participant will receive a credit balance in the records of DTC in the amount of such DTC Participant's ownership interest in the Series 2020 Bonds. The ownership interest of each actual purchaser of a Series 2020 Bond (the "**Beneficial Owner**") will be recorded through the records of the DTC Participant or persons acting through DTC Participants (the "**Indirect Participants**"). Transfers of ownership interests in the Series 2020 Bonds will be accomplished only by book entries made by DTC and, in turn, by DTC Participants or Indirect Participants who act on behalf of the Beneficial Owners. Beneficial Owners of the Series 2020 Bonds will not receive nor have the right to receive physical delivery of Series 2020 Bonds, and will not be or be considered to be holders thereof under the Bond Ordinance, except as specifically provided in the event the book-entry system is discontinued.

So long as Cede & Co., as Securities Depository Nominee, is the registered owner of the Series 2020 Bonds, references in this 2020 Series Ordinance to the Bondholders or registered owners of the Series 2020 Bonds shall mean Cede & Co. and shall not mean the Beneficial Owners. The County, the Trustee, the Registrar and the Paying Agent may treat the Securities Depository Nominee as the sole and exclusive owner of the Series 2020 Bonds registered in its name for the purpose of payment of the principal of or interest or premium, if any, on the Series 2020 Bonds, giving any notice permitted or required to be given to Bondholders under the Bond Ordinance, registering the transfer of Series 2020 Bonds, obtaining any consent or other action to be taken by Bondholders and for all other purposes whatsoever, and shall not be affected by any notice to the contrary. The County, the Trustee, the Registrar and the Paying Agent shall not have any responsibility or obligation to any DTC Participant, any person claiming a beneficial ownership interest in the Series 2020 Bonds under or through DTC or any DTC Participant, or any other person which is not shown on the registration books kept by the Registrar as being a Bondholder, with respect to the accuracy of any records maintained by DTC or any DTC Participant; the payment by DTC or any DTC Participant of any amount in respect of the principal of or interest or premium, if any, on the Series 2020 Bonds; any notice which is permitted or required to be given to Bondholders thereunder or under the conditions to transfers or exchanges adopted by the County or the Trustee; or any consent given or other action taken by DTC as a Bondholder.

Principal, premium, if any, and interest payments on the Series 2020 Bonds will be made to DTC or the Securities Depository Nominee, as registered owner of the Series 2020 Bonds. Payments by DTC Participants and Indirect Participants to Beneficial Owners of the Series 2020 Bonds will be the responsibility of such DTC Participant or Indirect Participant and not of DTC, the Trustee, the Registrar, the Paying Agent or the County.

While the book-entry system is used for the Series 2020 Bonds, the Trustee will give any notice of redemption or any other notice required to be given to holders of the Series 2020 Bonds only to DTC. Any failure of DTC to advise any DTC Participant, or of any DTC Participant to notify any Indirect Participant, or of any DTC Participant or Indirect Participant to notify any Beneficial Owner, of any such notice and its content and effect will not affect the validity of the redemption of the Series 2020 Bonds called for redemption or of any other action premised on such notice. Conveyance of notices and other communications by DTC to DTC Participants, by DTC Participants to Indirect Participants and in turn by DTC Participants and Indirect Participants to Beneficial Owners of the Series 2020 Bonds will be governed by arrangements among them.

Neither the County, the Trustee, the Registrar nor the Paying Agent will have any responsibility or obligation to such DTC Participants, or the persons for whom they act as nominees, with respect to payments actually made to DTC or the Securities Depository Nominee, as registered owner of the Series 2020 Bonds in book-entry form, or with respect to the providing of notice for the DTC Participants, the Indirect Participants, or the Beneficial Owners of the Series 2020 Bonds in book-entry form.

For every transfer and exchange of a beneficial ownership interest in the Series 2020 Bonds, a Beneficial Owner may be charged a sum sufficient to cover any tax, fee or other governmental charge that may be imposed in relation thereto. If for any such reason the system of book-entry-only transfers through DTC is discontinued, Series 2020 Bond certificates will be delivered as described in the Bond Ordinance in fully registered form in denominations of \$5,000 or any whole multiple thereof in the names of Beneficial Owners or DTC Participants; provided, however, that in the case of any such discontinuance the County may within 90 days thereafter appoint a substitute securities depository which, in the County's opinion, is willing and able to undertake the functions of DTC upon reasonable and customary terms.

In the event the book-entry system is discontinued, the persons to whom Series 2020 Bond certificates are delivered will be treated as "Bondholders" for all purposes of the Ordinance, including the giving by the County or the Trustee of any notice, consent, request or demand pursuant to the Bond Ordinance for any purpose whatsoever. In such event, the Series 2020 Bonds will be transferable to such Bondholders, interest on the Series 2020 Bonds will be payable by check or draft of the Trustee, as Paying Agent, mailed to such Bondholders, and the principal and redemption price of all Series 2020 Bonds will be payable at the principal corporate trust office of the Paying Agent.

Section 4.10 Investment Agreements.

The Authorized Representative is authorized to accept proposals for the investment of amounts held in the 2020 Construction Fund, the 2020 Debt Service Fund or the 2020 Debt Service Reserve Fund, if established. To the extent the Authorized Representative directs the Trustee to enter into one or more investment agreements with respect to funds held by the Trustee in the 2020 Construction Fund, the 2020 Debt Service Fund or the 2020 Debt Service Reserve Fund, if established, the County shall assume all responsibility for complying with requirements of the Code with respect to obtaining any such investment agreements.

Section 4.11 Security for Funds and Accounts; Brokerage Confirmations.

All accounts and funds maintained or held pursuant to this 2020 Series Ordinance shall be continuously secured in the manner provided by the regulations of the Comptroller of the Currency as from time to time in effect. County Council acknowledges that regulations of the Comptroller of the Currency grant the County the right to receive brokerage confirmations of security transactions as they occur. To the extent permitted by applicable law, the County specifically waives compliance with 12 C.F.R. § 12 and hereby notifies the Trustee that no brokerage confirmations need to be sent relating to the security transactions as they occur. Notwithstanding the foregoing, to the extent the Trustee receives and invests amounts under this 2020

Series Ordinance, the Trustee shall provide the County with periodic cash transaction statements which shall include details for all investment transactions made by the Trustee hereunder.

Section 4.12 Crediting of Funds and Accounts.

The Trustee may elect, but shall not be obligated, to credit the funds and accounts held by it with moneys representing income or principal payments due on, or sales proceeds due in respect of, Authorized Investments in such funds and accounts, or to credit to Authorized Investments intended to be purchased with such moneys, in each case before actually receiving the requisite moneys from the payment source, or to otherwise advance funds for account transactions. The County acknowledges that the legal obligation to pay the purchase price of any Authorized Investments arises immediately at the time of the purchase. Notwithstanding anything else in this 2020 Series Ordinance, (i) any such crediting of funds or assets shall be provisional in nature, and the Trustee shall be authorized to reverse any such transactions or advances of funds in the event that it does not receive good funds with respect thereto, and (ii) nothing in this 2020 Series Ordinance shall constitute a waiver of any of Trustee's rights as a securities intermediary under Uniform Commercial Code §9-206.

[End of Article IV]

ARTICLE V

EXECUTION OF BONDS; NO RECOURSE

Section 5.01 Execution.

The Series 2020 Bonds shall be executed by the Chairman and attested by the Clerk and authenticated in accordance with the applicable provisions of the Bond Ordinance.

Section 5.02 No Recourse.

All covenants, stipulations, promises, agreements and obligations of the County contained in the Bond Ordinance or in this 2020 Series Ordinance shall be deemed to be the covenants, stipulations, promises, agreements and obligations of the County and not those of any officer or employee of the County in his or her individual capacity, and no recourse shall be had for the payment of the principal or redemption price of or interest on the Series 2020 Bonds or for any claim based thereon or on the Bond Ordinance or on this 2020 Series Ordinance, either jointly or severally, against any officer or employee of the County or any person executing the Series 2020 Bond.

[End of Article V]

ARTICLE VI

2020 CONSTRUCTION FUND

Section 6.01 Creation of 2020 Construction Fund.

There is hereby created a fund to be known as the “*2020 Construction Fund.*” There shall be paid into the 2020 Construction Fund the sums prescribed under **Section 6.02** hereof. The 2020 Construction Fund shall be held and maintained by the Trustee or the Custodian.

Section 6.02 Use, Disposition and Investment of Series 2020 Bonds Proceeds.

(a) Upon the delivery of the Series 2020 Bonds and receipt of the proceeds thereof, a portion of the proceeds of the Series 2020 Bonds as further described in **Section 7.01** hereof shall be deposited into the 2020 Construction Fund.

(b) Withdrawals from the 2020 Construction Fund shall be made only upon written certificate of the County executed by an Authorized Representative of the County. Except as set forth in paragraph (e) below, the County hereby authorizes the Trustee to disburse the moneys in the 2020 Construction Fund to the persons entitled thereto in accordance with instruction of the Authorized Representative in the form referred to below, only for the purpose of paying costs of issuance of the Series 2020 Bonds and costs of the Improvements.

(c) Payments made from the 2020 Construction Fund shall be made by the Trustee only upon receipt of the certificate below described:

(1) A requisition signed by the Authorized Representative stating, with respect to each payment:

(i) the amount to be paid;

(ii) the nature and purpose of the obligation for which the payment is requested;

(iii) the person to whom the obligation is owed or to whom a reimbursable advance has been made;

(iv) that the obligation has been properly incurred and is a proper charge against the 2020 Construction Fund and has not been the basis of any previous withdrawal;

(v) that it has not received notice of any mechanic’s, materialmen’s or other liens or right to liens or other obligations (other than those being contested in good faith) which should be satisfied or discharged before payment of the obligation is made; and

(vi) that the payment does not include any amount which is then entitled to be retained under any holdbacks or retainages provided for in any agreement.

(2) With respect to any requisition for payment for work, materials, or supplies, a certificate signed by the Authorized Representative certifying that, insofar as the obligation was incurred for work, materials, or supplies in connection with the acquisition, construction, or installation of the Improvements, the work was actually performed in a satisfactory manner, and

the materials or supplies were actually used in or for the acquisition, construction, or installation or delivered to the Improvements for that purpose in accordance with the approved plans and specifications; and

(3) Copies of all bills, invoices, or statements for all expenses for which the disbursement is requested.

(d) In making any payment from the 2020 Construction Fund, the Trustee may conclusively rely on directions, requisitions, and certifications delivered to it pursuant to this **Section 6.02**, and the Trustee shall not have any liability with respect to making payments in accordance with directions, requisitions, and certifications for any liability with respect to the proper application hereof by the County. The Trustee shall be liable only for its own negligent and willful misconduct. Any requisition made from the 2020 Construction Fund shall be in substantially the form attached hereto as **Exhibit B**.

(e) Promptly after the completion of the Improvements, the County shall instruct the Trustee of the 2020 Construction Fund, in writing, to transfer any moneys held therein and not needed to pay the costs of the Improvements (i) to the 2020 Debt Service Fund and shall be used only to pay the principal of, premium, if any, and interest on the Series 2020 Bonds; or (ii) to apply to other lawful purposes with respect to the System provided an Opinion of Bond Counsel is provided to the Trustee that such disposition will not jeopardize the tax-exemption of interest on the Series 2020 Bonds.

(f) Moneys in the 2020 Construction Fund shall be invested and reinvested in Authorized Investments at the written direction of an Authorized Representative of the County. All earnings shall be added to and become a part of the 2020 Construction Fund. The Trustee shall be entitled to rely upon any investment direction provided to it by an Authorized Representative as a certification to the Trustee that such investments constitute Authorized Investments. In the absence of written investment directions from an Authorized Representative, the Trustee shall hold the amounts in the 2020 Construction Fund uninvested in cash, without liability for interest.

[End of Article VI]

ARTICLE VII

APPLICATION OF SERIES 2020 BOND PROCEEDS

Section 7.01 Use and Disposition of Series 2020 Bonds Proceeds.

Upon the delivery of the Series 2020 Bonds and receipt of the proceeds thereof, such proceeds and other available funds shall be disposed of as follows:

- (1) such amount as is necessary to pay any Municipal Bond Insurance Policy premium, if any, or a Surety Bond premium, if any, shall be deposited with the Bond Insurer;
- (2) the remaining proceeds of the Series 2020 Bonds will be deposited with the Trustee to be utilized as follows:
 - (i) fund the 2020 Debt Service Reserve Fund at the 2020 Reserve Requirement (if established and to the extent not funded with a Surety Bond); and
 - (ii) the remaining proceeds will be deposited into the 2020 Construction Fund to pay costs of the Improvements (and to reimburse the County for expenditures previously made therefor) and costs of issuance of the Series 2020 Bonds; and
- (3) any proceeds remaining after the establishment of the 2020 Debt Service Reserve Fund, the payment of the costs of the Improvements and the payment of costs of issuance shall be applied as set forth in **Section 6.02(e)** hereof.

[End of Article VII]

ARTICLE VIII

AWARD OF BOND

Section 8.01 Sale of Series 2020 Bonds; Official Statement.

(a) County Council authorizes and directs the Authorized Representative to negotiate and execute a Purchase Contract with the Underwriter on advice of the County's attorney, Bond Counsel, and Financial Advisor, with such person's execution being conclusive evidence of such approval, and deliver it on behalf of the County to the Underwriter.

(b) County Council authorizes the preparation and delivery and use by the Underwriter of the preliminary Official Statement of the County relating to the Series 2020 Bonds. County Council authorizes the Authorized Representative to, on behalf of the County, deem the preliminary Official Statement "final" for purposes of S.E.C. Rule 15c2-12 under the Securities and Exchange Act of 1934, as amended.

(c) County Council hereby authorizes the use of the Official Statement of the County and the information contained therein relating to the Series 2020 Bonds, with any modification as the Authorized Representative approves in connection with the public offering and sale of the Series 2020 Bonds by the Underwriter. The Authorized Representative is authorized and directed to execute copies of the Official Statement and deliver them on behalf of the County to the Underwriter, which execution and delivery shall be conclusive evidence of the approval of any modifications.

(d) County Council hereby authorizes and directs all of the officers and employees of the County to carry out or cause to be carried out all obligations of the County under the Bond Ordinance, this 2020 Series Ordinance and the Purchase Contract and to perform all other actions as they shall consider necessary or advisable in connection with the issuance, sale, and delivery of the Series 2020 Bonds.

(e) Such persons as the Authorized Representative shall designate may exercise the foregoing powers and duties of the Authorized Representative in lieu thereof.

[End of Article VIII]

ARTICLE IX

COMPLIANCE WITH REQUIREMENTS OF THE CODE

Section 9.01 Compliance with the Code Generally

(a) The County will comply with all requirements of the Code in order to preserve the tax status of the Series 2020 Bonds, including without limitation, the requirement to file an information report with the Internal Revenue Service and the requirement to comply with the provisions of Section 148(f) of the Code and Section 1.148-3 of the Treasury Regulations pertaining to the rebate of certain investment earnings on the proceeds of the Series 2020 Bonds (including without limitation on sums on deposit in the 2020 Construction Fund and the 2020 Debt Service Reserve Fund, if established) to the United States Government.

(b) The County further represents and covenants that it will not take any action which will, or fail to take any action (including, without limitation, filing the required information report with the Internal Revenue Service) which failure will, cause interest on the Series 2020 Bonds to become includable in the gross income of the Holder thereof for federal income tax purposes pursuant to the provisions of the Code and regulations promulgated thereunder. Without limiting the generality of the foregoing, the County represents and covenants that:

(1) All property financed by the Series 2020 Bonds will be owned by the County in accordance with the rules governing the ownership of property for federal income tax purposes.

(2) The County shall not permit any facility financed with the proceeds of the Series 2020 Bonds to be used in any manner that would result in (i) ten percent (10%) or more of such proceeds being considered as having been used directly or indirectly in any trade or business carried on by any natural person or in any activity carried on by a person other than a natural person other than a governmental unit as provided in Section 141(b) of the Code, or (ii) five percent (5%) or more of such proceeds being considered as having been used directly or indirectly to make or finance loans to any person other than a governmental unit as provided in Section 141(c) of the Code.

(3) The County is not a party to nor will it enter into any contracts with any person for the use or management of any facility financed with the proceeds of the Series 2020 Bonds that do not conform to the guidelines set forth in Revenue Procedure 2017-13, as amended, of the Internal Revenue Service.

(4) The County will not sell or lease any property financed by the Series 2020 Bonds to any person unless it obtains the opinion of Bond Counsel that such lease or sale will not affect the tax exemption of the Series 2020 Bonds.

(5) The Series 2020 Bonds will not be federally guaranteed within the meaning of Section 149(b) of the Code. The County shall not enter into any leases or sales or service contracts with any federal government agency unless it obtains the opinion of Bond Counsel that such action will not affect the tax exemption of the Series 2020 Bonds.

[End of Article IX]

ARTICLE X

MISCELLANEOUS

Section 10.01 Severability.

If any one or more of the covenants or agreements provided in this 2020 Series Ordinance on the part of the County or any fiduciary to be performed should be contrary to law, then such covenant or covenants or agreement or agreements shall be deemed severable from the remaining covenants and agreements, and shall in no way affect the validity of the other provisions of this 2020 Series Ordinance.

Section 10.02 Table of Contents and Section Headings Not Controlling.

The Table of Contents and the Headings of the several Articles and Sections of this 2020 Series Ordinance have been prepared for convenience of reference only and shall not control, affect the meaning of, or be taken as an interpretation of any provision of this 2020 Series Ordinance.

Section 10.03 Continuing Disclosure.

(a) In accordance with Section 11-1-85, Code of Laws of South Carolina, 1976, as amended, the County hereby covenants to, as long as the provisions of said Section 11-1-85 remain in effect with respect to the Series 2020 Bonds, file with a central repository for availability in the secondary bond market when requested: (1) an annual independent audit, within thirty (30) days of the County's receipt of such audit; and (2) event specific information, within thirty (30) days of an event adversely affecting more than five percent of the County's revenue or tax base. The only remedy for failure by the County to comply with the covenant in this **Section 10.03(a)** shall be an action for specific performance of the covenant. The County specifically reserves the right to amend or delete the covenant to reflect any change in (or repeal of) Section 11-1-85, without the consent of any Series 2020 Bondholder.

(b) The County hereby covenants and agrees for the benefit of the Holders of the Series 2020 Bonds issued from time to time hereunder that it will execute and deliver a continuing disclosure undertaking to the Underwriter on the date of delivery of the Series 2020 Bonds which provides for the annual provision of certain financial and operating data of the County and the System and the filing of notice of certain enumerated events. Notwithstanding any other provision of this Ordinance, any Holder of any Series 2020 Bond may seek mandate or specific performance by court order, to cause the County to comply with its obligations under this paragraph.

Section 10.04 Ordinance to Constitute Contract.

In consideration of the purchase and acceptance of the Series 2020 Bonds by those who shall purchase and hold the same from time to time, the provisions of this Ordinance shall be deemed to be and shall constitute a contract between the County and the Holder from time to time of the Series 2020 Bond, and such provisions are covenants and agreements with such Holder which the County hereby determines to be necessary and desirable for the security and payment thereof. The pledge hereof and the provisions, covenants, and agreements herein set forth to be performed on behalf of the County shall be for the equal benefit, protection, and security of the Holder of the Series 2020 Bond.

Section 10.05 Additional Documents.

The Authorized Representative is fully authorized and empowered to take any further action and to execute and deliver any closing documents as may be necessary and proper to effect the award, issuance and

delivery of the Series 2020 Bonds, to carry out the intentions of this 2020 Series Ordinance and to comply with the requirements of the Bond Insurer, if applicable, in accordance with the terms and conditions hereinabove set forth, and the action of the officers or any one or more of them in executing and delivering any documents, in the form as he, she or they shall approve, is hereby fully authorized.

Section 10.06 Bond Insurance and Surety Bond.

Upon the recommendation of the Underwriter and the County's Financial Advisor, the Authorized Representative is authorized to accept pricing for a Municipal Bond Insurance Policy with respect to the Series 2020 Bonds and a Surety Bond to satisfy the 2020 Reserve Requirement, if any. Proceeds of the Series 2020 Bonds may be used to pay the premiums for the Municipal Bond Insurance Policy and the Surety Bond. The Authorized Representative is authorized to execute and deliver on behalf of the County one or more insurance agreements between the County and the Bond Insurer (the "*Insurance Agreement*") setting forth certain covenants of the County, providing for the procedure for payment of principal and interest when due under the Municipal Bond Insurance Policy, providing for all matters related to the Surety Bond, and granting certain rights to the Bond Insurer and the Trustee with respect thereto. An event of default under the Insurance Agreement shall constitute an event of default under this 2020 Series Ordinance. In the event of any conflict between the Bond Ordinance and this 2020 Series Ordinance and the Insurance Agreement, the Insurance Agreement shall control. The Insurance Agreement will be fully effective as if stated herein.

Section 10.07 Notices

All notices, certificates or other communications hereunder or under the Bond Ordinance shall be sufficiently given and shall be deemed given when mailed by registered mail, postage prepaid or given when dispatched by telegram addressed as follows:

If to the County: Richland County, South Carolina
 2020 Hampton Street (29204)
 Post Office Box 192
 Columbia, South Carolina 29202
 Attention: Administrator

If to the Trustee: U.S. Bank National Association
 1441 Main Street, Suite 775
 Mail Code: EX-SC-WMSC
 Columbia, South Carolina 29201
 Attention: Global Corporate Trust

The County, the Trustee and any custodian may, by notice given to the other parties, designate any further or different addresses to which subsequent notice, certificates or other communications shall be sent.

Section 10.08 Reimbursement Provisions

The County is authorized to and has paid or may pay for certain costs and expenditures relating to the Improvements from its general fund, the Revenue Fund or the enterprise fund relating to the System, in an amount not exceeding \$35,000,000, prior to the issuance of the Series 2020 Bonds (collectively, “Initial Expenditures”). Such Initial Expenditures are (a) properly chargeable to a capital account (or would be so chargeable with a proper election or with the application of the definition of “placed in service” under Treasury Regulation §1-150-2) under general federal income tax principles; or (b) certain de minimis or preliminary expenditures satisfying the requirements of Treasury Regulation §1.150-2(f).

The County may reimburse itself from the proceeds of the Series 2020 Bonds for the Initial Expenditures. To the extent the County reimburses itself from the proceeds of the Series 2020 Bonds, pursuant to Treasury Regulation §1.150-2, this 2020 Series Ordinance is an official declaration by the County of its intent with respect to the repayment of the Initial Expenditures incurred and paid on or after the date occurring 60 days prior to the date of adoption of this Ordinance, from the proceeds the Series 2020 Bonds.

[End of Article X]

This 2020 Series Ordinance shall be effective on the date of final reading approval by County Council.

DONE AND ADOPTED this [] day of December 2019.

RICHLAND COUNTY, SOUTH CAROLINA

Chairman, Richland County Council

ATTEST:

Clerk, Richland County Council

EXHIBIT A

FORM OF BOND

**UNITED STATES OF AMERICA
STATE OF SOUTH CAROLINA
RICHLAND COUNTY
UTILITY SYSTEM REVENUE BONDS
SERIES 2020**

No. R-__ \$ _____

Interest Rate Maturity Date Original Date of Issue CUSIP

REGISTERED HOLDER: CEDE & CO.

PRINCIPAL SUM : [] DOLLARS

KNOW ALL MEN BY THESE PRESENTS, that **Richland County, South Carolina** (the "**County**"), a body politic and corporate and a political subdivision under the laws of the State of South Carolina (the "**State**"), is justly indebted, and, for value received, hereby promises to pay, but only from the Net Earnings (as defined in the herein defined Ordinance) of the System (as defined herein) which are pledged to the payment hereof, to the Registered Holder, or registered assigns, hereof on the Maturity Date set forth above, the Principal Amount set forth above (unless this bond be subject to redemption and shall have been duly called for previous redemption and payment of the redemption price made or provided for), and to pay interest on the Principal Sum from the date hereof or from the March 1 or September 1 next preceding the date of authentication to which interest shall have been paid, unless the date of authentication is an March 1 or September 1 to which interest shall have been paid, in which case from that date, interest being payable to the maturity hereof on the first days of March and September of each year (those dates being hereinafter referred to as the "**Interest Payment Dates**"), commencing _____, at the rate per annum specified above, until payment of the Principal Sum. The interest so payable and to be punctually paid or duly provided for on any Interest Payment Date will be paid to the person in whose name this bond is registered at the close of business on the fifteenth day (whether or not a business day) of the calendar month next preceding the Interest Payment Date (the "**Record Date**"), mailed to the Registered Holder hereof by U.S. Bank National Association (the "**Trustee**") at his address as it appears on the registration books (the "**Books of Registry**") of the Trustee or at any other address as is furnished in writing by the Registered Holder to the Trustee; provided that payment to any Registered Holder of \$1,000,000 or more of Series 2020 Bonds (as hereinafter defined) may be made by wire transfer to an account in the United States in accordance with written instructions filed with the Trustee at least five Business Days prior to such Record Date. The principal of and premium, if any, of this bond, when due, shall be payable upon presentation and surrender of this bond at the corporate trust office of the Trustee in the City of St. Paul, State of Minnesota. Both the principal of and interest on this bond are payable in any coin or currency of the United States of America which is, at the time of payment, legal tender for the payment of public and private debts.

THIS BOND HAS BEEN ISSUED UNDER THE PROVISIONS OF CHAPTER 21, TITLE 6 OF THE CODE OF LAWS OF SOUTH CAROLINA, 1976, AS AMENDED (THE "**ENABLING STATUTE**"), AND DOES NOT CONSTITUTE AN INDEBTEDNESS OF THE COUNTY WITHIN ANY STATE CONSTITUTIONAL PROVISIONS (OTHER THAN ARTICLE X, SECTION 14, PARAGRAPH 10 OF THE SOUTH CAROLINA CONSTITUTION AUTHORIZING OBLIGATIONS PAYABLE SOLELY

FROM SPECIAL SOURCES NOT INVOLVING REVENUES FROM ANY TAX OR LICENSE) OR STATUTORY LIMITATION AND SHALL NEVER CONSTITUTE NOR GIVE RISE TO A PECUNIARY LIABILITY OF THE COUNTY OR A CHARGE AGAINST ITS GENERAL CREDIT OR TAXING POWER. THE FULL FAITH, CREDIT, AND TAXING POWERS OF THE COUNTY ARE NOT PLEDGED TO THE PAYMENT OF THE PRINCIPAL OF AND INTEREST ON THIS BOND.

This bond and the interest hereon are exempt from all State, county, municipal, school district, and all other taxes or assessments of the State, direct or indirect, general or special, whether imposed for the purpose of general revenue or otherwise, except estate, transfer or certain franchise taxes.

It is hereby certified and recited that all acts, conditions, and things required by the Constitution and Laws of the State to exist, to happen, and to be performed precedent to or in the issuance of this bond exist, have happened, and have been done and performed in regular and due time, form, and manner, and that the amount of this bond, and the issue of which this bond is one, does not exceed any constitutional or statutory limitation thereon.

This bond shall not be entitled to any benefit under the Ordinance (as hereinafter defined) or become valid or obligatory for any purpose until it shall have been authenticated by the execution of the Certificate of Authentication which appears hereon by the manual signature of an authorized agent of the Trustee as Bond Registrar.

This bond is one of a series of bonds (the “*Series 2020 Bonds*”) of like tenor and effect, except as to number, denomination, date of maturity, rate of interest, date of authentication, registered owner, and redemption provisions, aggregating \$ _____ issued pursuant to a Bond Ordinance adopted by the County Council, the governing body of the County, on December [], 2019, and a Series Ordinance adopted by County Council on December [], 2019, (collectively, the “*Ordinance*”), and under and in full compliance with the Constitution and Statutes of the State, including particularly Section 14, Paragraph 10 of Article X of the South Carolina Constitution and the Enabling Statute, to obtain funds to (i) pay for the costs of the Improvements (as defined in the Series Ordinance); (ii) [fund the 2020 Debt Service Reserve Fund at the 2020 Reserve Requirement]; and (iii) pay costs of issuance of the Series 2020 Bonds and other costs related thereto.

The Series 2020 Bonds maturing on or prior to March 1, 20__ are not subject to redemption prior to their maturity. The Series 2020 Bonds maturing after March 1, 20__ are subject to redemption, at the option of the County, on and after March 1, 20__, in whole or in part at any time, but if in part in order of maturity to be selected by the County and by lot as to bonds or portions of bonds within a maturity (but only in whole multiples of \$5,000 denominations), at a redemption price equal to the principal amount thereof plus accrued interest to the date fixed for redemption.

[The Series 2020 Bonds maturing on March 1, 20__, are also subject to mandatory sinking fund redemption, prior to maturity, at par plus accrued interest to the redemption date on March 1, 20__, and each March 1 thereafter, to and including March 1, 20__, in the following principal amounts on the dates specified below:

<u>Year</u>	<u>Principal Amount</u>
-------------	-------------------------

†

†Final Maturity

The Series 2020 Bonds to be redeemed in compliance with the mandatory redemption requirements shall be selected by lot by the Trustee.]

In the event any of the Series 2020 Bonds shall be called for redemption, notice of redemption shall be given by first-class mail, not less than thirty (30) days and not more than sixty (60) days prior to the redemption date, to the Registered Holder of each Series 2020 Bond to be redeemed in whole or in part at the address shown on the Books of Registry. Failure to give notice by mail, or any defect in any notice so mailed, to the Registered Holder of any Series 2020 Bond shall not affect the validity of the proceedings for redemption of any other Series 2020 Bonds. Interest on the Series 2020 Bonds or portion thereof to be redeemed shall cease to accrue from and after the redemption date specified in the notice, unless the County defaults in making due provisions for the payment of the redemption price thereof.

All principal, interest, or other amounts due hereunder shall be payable only to the Registered Holder hereof. The County designates the Trustee as Bond Registrar and directs the Trustee as Bond Registrar to maintain the Books of Registry for the registration or transfer of this bond. This bond may not be transferred except by the Registered Holder hereof in person or by his attorney duly authorized in writing, upon surrender hereof together with a written instrument of transfer satisfactory to the Trustee as Bond Registrar duly executed by the Registered Holder of this bond or his duly authorized attorney. Any purported assignment in contravention of the foregoing requirements shall be, as to the County, absolutely null and void. The person in whose name this bond shall be registered shall be deemed and regarded as the absolute owner hereof for all purposes, and payment of the principal of and interest on this bond shall be made only to or upon the order of the Registered Holder or his legal representative. All payments made in this manner shall be valid and effective to satisfy and discharge the liability of the County upon this bond to the extent of the sum or sums paid. No person other than the Registered Holder shall have any right to receive payments, pursue remedies, enforce obligations, or exercise or enjoy any other rights under this bond against the County. Notwithstanding the foregoing, nothing herein shall limit the rights of a person having a beneficial interest in this bond as against a person (including the Registered Holder) other than the County, as in the case where the Registered Holder is a trustee or nominee for two or more beneficial owners of an interest in this bond.

Neither the County nor the Trustee as Bond Registrar shall be required (a) to exchange or transfer Series 2020 Bonds (i) from the Record Date to the next succeeding Interest Payment Date or (ii) for a period of fifteen (15) days following any selection of Series 2020 Bonds to be redeemed or thereafter until after the first publication or mailing of any notice of redemption or (b) to transfer any Series 2020 Bonds called for redemption.

The principal of, premium, if any, and interest on the Series 2020 Bonds are payable solely from the Net Earnings derived from the operation of the County's utility system (the "**System**"). The pledge of Net Earnings and the statutory lien on the System made to secure the payment of the Series 2020 Bonds have priority over all other pledges of Net Earnings and statutory liens on the System except the pledge and lien in favor of Bonds to be issued under the Ordinance which are on a parity with the Series 2020 Bonds. Additional Bonds issued on a parity with the Series 2020 Bonds are authorized under certain conditions pursuant to the Ordinance.

No recourse shall be had for the payment of the principal of, premium, if any, and interest on the Series 2020 Bonds against the several funds of the County, except in the manner and to the extent provided in the Ordinance, nor shall the credit or taxing power of the County be deemed to be pledged to the payment of the Series 2020 Bonds. The Series 2020 Bonds shall not be a charge, lien, or encumbrance, legal or equitable, upon any property of the County or upon any income, receipts, or revenues of the County, other than the portion of Gross Revenues remaining after payment of costs of operation and maintenance of the System that have been pledged to the payment thereof, and this bond is payable solely from the Net Earnings of the System pledged to the payment thereof and the County is not obligated to pay the same except from such Net Earnings.

Whenever the terms of this bond require any action be taken on a Saturday, Sunday, or legal holiday or bank holiday in the State or in any state where the corporate trust office of the Trustee is located, the action shall be taken on the first Business Day occurring thereafter.

The Ordinance contains provisions defining terms; sets forth the terms and conditions upon which the covenants, agreements, and other obligations of the County made therein may be discharged at or prior to the maturity of this bond with provisions for the payment thereof in the manner set forth in the Ordinance; and sets forth the terms and conditions under which the Ordinance may be amended or modified with or without the consent of the Registered Holder of this bond. Reference is hereby made to the Ordinance, to all the provisions of which any Registered Holder of this bond by the acceptance hereof thereby assents.

IN WITNESS WHEREOF, RICHLAND COUNTY, SOUTH CAROLINA, has caused this bond to be signed in its name by the Chairman of County Council and attested by the Clerk to County Council.

RICHLAND COUNTY, SOUTH CAROLINA

Chairman, Richland County Council

ATTEST:

Clerk to County Council

CERTIFICATE OF AUTHENTICATION

This bond is one of the Bonds of the issue designated herein and issued under the provisions of the within-mentioned Ordinance.

U.S. BANK NATIONAL ASSOCIATION,
Bond Registrar

By: _____
Authorized Agent

Date of Authentication _____

The following abbreviations, when used in the inscription on the face of this bond, shall be construed as though they were written out in full according to applicable laws or regulations:

TEN COM - as tenants in common
TEN ENT - as tenants in entireties
JT TEN - as joint tenants with right of survivorship
and not as tenants in common

UNIF GIFT MIN ACT - _____
(Cust)

Custodian _____
(Minor)

under Uniform Gifts to Minors Act _____
(State)

Additional abbreviations may also be used, though not in the above list.

ASSIGNMENT

FOR VALUE RECEIVED the undersigned hereby sells, assigns and transfers unto _____ (Social Security No. or other Identifying Number of Assignee _____) the within Bond of Richland County, South Carolina, and does hereby irrevocably constitute and appoint _____ to transfer the within Bond on the books kept for registration thereof with full power of substitution in the premises.

DATED: _____

Signature Guaranteed: _____

NOTICE: Signature must be guaranteed by an institution who is a participant in the Securities Transfer Agent Medallion Program ("**STAMP**") or similar program.

NOTICE: The signature to this assignment must correspond with the name as it appears upon the face of the within Bond in every particular, without alteration or enlargement or any change whatever.

EXHIBIT B

FORM OF REQUISITION

§ _____
RICHLAND COUNTY, SOUTH CAROLINA
UTILITY SYSTEM REVENUE BONDS
SERIES 2020

Requisition No.: _____

Total Requisition Amount: \$ _____

With regard to the Bond Ordinance adopted on December [], 2019, and the Series Ordinance adopted on December [], 2019 (collectively the “*Ordinance*”) by County Council, the governing body of the Richland County, South Carolina (the “*County*”), authorizing the issuance of the County’s \$ _____ Utility System Revenue Bonds, Series 2020, the County hereby requests a withdrawal from the 2020 Construction Fund and hereby certifies the following in connection with the payment of costs of the Improvements or costs of issuance for the Series 2020 Bonds:

1. The amount to be paid are for costs of Improvements or costs of issuance, have been properly incurred, are due and payable from the 2020 Construction Fund and have not been the subject of any previous requisition.
2. All representations and warranties contained in the Ordinance remain true and correct.
3. The County is not in breach of any provisions contained in the Ordinance.
4. Payments for this requisition are to be made as follows:

Payee and Purpose	Amount	Payment Address

5. The County has not received notice of any mechanic’s, materialmen’s or other liens or right to liens or other obligations (other than those being contested in good faith) which should be satisfied or discharged before payment of such obligation is made.

6. This payment does not include any amount which is currently entitled to be retained under any holdbacks or retainages provided for in any agreement.

With respect to a cost of the Improvements, these obligations were incurred for work, material or supplies in connection with the acquisition, construction or installation of the Improvements, and such work was actually performed in a satisfactory manner, and such materials or supplies were actually used in or for such acquisition, construction or installation or delivered to the Improvements for that purpose in accordance with the approved plans and specifications.

Attached are the written bills, invoices or statements for all expenses for which the disbursement is requested from the parties providing the items or services for which payment is to be made.

RICHLAND COUNTY, SOUTH CAROLINA

Dated: _____

By: _____
Authorized Representative

Richland County Council Request for Action

Subject:

Authorizing the expansion of the boundaries of the I-77 Corridor Regional Industrial Park jointly developed with Fairfield County to include certain property located in Richland County, the execution and delivery of a Public Infrastructure Credit Agreement to provide for public infrastructure credits to Ballpark, LLC; and other related matters

Notes:

First Reading: October 15, 2019
Second Reading: November 5, 2019
Third Reading: December 3, 2019 {Tentative}
Public Hearing: December 3, 2019

STATE OF SOUTH CAROLINA
COUNTY COUNCIL FOR RICHLAND COUNTY
ORDINANCE NO. _____

AUTHORIZING THE EXPANSION OF THE BOUNDARIES OF THE I-77 CORRIDOR REGIONAL INDUSTRIAL PARK JOINTLY DEVELOPED WITH FAIRFIELD COUNTY TO INCLUDE CERTAIN PROPERTY LOCATED IN RICHLAND COUNTY; THE EXECUTION AND DELIVERY OF A PUBLIC INFRASTRUCTURE CREDIT AGREEMENT TO PROVIDE FOR PUBLIC INFRASTRUCTURE CREDITS TO BALLPARK, LLC; AND OTHER RELATED MATTERS.

WHEREAS, Richland County (“County”), acting by and through its County Council (“County Council”), is authorized pursuant to the provisions of Article VIII, Section 13(D) of the South Carolina Constitution and the provisions of Title 4, Chapter 1 of the Code of Laws of South Carolina, 1976, as amended (collectively, “Act”), to (i) develop a multicounty park with counties having contiguous borders with the County; and (ii) include property in the multicounty park which inclusion under the terms of the Act (A) makes such property exempt from *ad valorem* property taxes, and (B) changes the character of the annual receipts from such property to fees-in-lieu of *ad valorem* property taxes in an amount equal to the *ad valorem* taxes that would have been due and payable but for the location of the property in such multicounty park (“Fee Payments”);

WHEREAS, the County is further authorized by Section 4-1-175 of the Act, to grant credits against Fee Payments (“Public Infrastructure Credit”) to pay costs of designing, acquiring, constructing, improving or expanding infrastructure serving the County (collectively, “Public Infrastructure”);

WHEREAS, pursuant to the authority provided in the Act, the County has developed with Fairfield County, South Carolina (“Fairfield”), the I-77 Corridor Regional Industrial Park (“Park”) and executed the Amended and Restated Master Agreement Governing the I-77 Corridor Regional Industrial Park, dated September 1, 2018 (“Park Agreement”), which governs the operation of the Park;

WHEREAS, Ballpark, LLC, a limited liability company organized and existing under the laws of the State of South Carolina (“Company”) desires to establish market rate housing and retail facilities within the County (“Project”), consisting of taxable investments in real and personal property of not less than \$50,000,000;

WHEREAS, at the Company’s request, the County desires to expand the boundaries of the Park and amend the Park Agreement to include the real and personal property relating to the Project (“Property”) in the Park; and

WHEREAS, the County further desires to enter into a Public Infrastructure Credit Agreement between the County and the Company, the substantially final form of which is attached as Exhibit A (“Agreement”), to provide Public Infrastructure Credits against certain of the Company’s Fee Payments with respect to the Project for the purpose of assisting in paying the costs of certain Public Infrastructure.

NOW THEREFORE, BE IT ORDAINED, by the County Council as follows::

Section 1. Statutory Findings. Based on representations made by the Company to the County, the County finds that the Project and the Public Infrastructure will enhance the economic development of the County and promote the welfare of its citizens.

Section 2. *Expansion of the Park Boundaries, Inclusion of Property.* The expansion of the Park boundaries and an amendment to the Park Agreement to include the Property in the Park is authorized. The Chair of County Council (“Chair”), is authorized to execute such documents and take such further actions as may be necessary to complete the expansion of the Park boundaries and the amendment to the Park Agreement. Pursuant to the terms of the Park Agreement, the expansion of the Park’s boundaries to include the Property is complete on the adoption of this Ordinance by County Council, receipt of the consent of the City of Columbia, the municipality in which the Property is located, as to the inclusion of the Property in the Park, and delivery of written notice to Fairfield of the inclusion of the Property, which written notice shall include a copy of this Ordinance and identification of the Property.

Section 3. *Approval of Public Infrastructure Credit; Authorization to Execute and Deliver Agreement.* The Public Infrastructure Credits, as more particularly set forth in the Agreement, against the Company’s Fee Payments with respect to the Project are approved. The form, terms and provisions of the Agreement that is before this meeting are approved and all of the Agreement’s terms are incorporated in this Ordinance by reference as if the Agreement was set out in this Ordinance in its entirety. The Chair is authorized and directed to execute the Agreement in the name of and on behalf of the County, subject to the approval of any revisions or changes as are not materially adverse to the County by the County Administrator and counsel to the County, and the Clerk to County Council is hereby authorized and directed to attest the Agreement and to deliver the Agreement to the Company.

Section 4. *Further Assurances.* The County Council confirms the authority of the Chair, the County Administrator, the Director of Economic Development and the Clerk to County Council, and various other County officials and staff, acting at the direction of the Chair, the County Administrator, the Director of Economic Development or Clerk to County Council, as appropriate, to take whatever further action and to negotiate, execute and deliver whatever further documents as may be appropriate to effect the intent of this Ordinance and the incentives offered to the Company under this Ordinance and the Agreement.

Section 5. *Savings Clause.* The provisions of this Ordinance are separable. If any part of this Ordinance is, for any reason, unenforceable then the validity of the remainder of this Ordinance is unaffected.

Section 6. *General Repealer.* Any prior ordinance, the terms of which are in conflict with this Ordinance, is, only to the extent of that conflict, repealed.

Section 7. *Effectiveness.* This Ordinance is effective after its third reading and public hearing.

RICHLAND COUNTY, SOUTH CAROLINA

Chair, Richland County Council

(SEAL)
ATTEST:

Clerk of Council, Richland County Council

First Reading: October 15, 2019
Second Reading: November 5, 2019
Public Hearing: December 3, 2019
Third Reading: December 3, 2019

EXHIBIT A
FORM OF AGREEMENT

PUBLIC INFRASTRUCTURE CREDIT AGREEMENT

by and between

RICHLAND COUNTY, SOUTH CAROLINA

and

BALLPARK, LLC

Effective as of: _____, 2019

PUBLIC INFRASTRUCTURE CREDIT AGREEMENT

This PUBLIC INFRASTRUCTURE CREDIT AGREEMENT, effective as of _____. 2019 (“Agreement”), is by and between RICHLAND COUNTY, SOUTH CAROLINA, a body politic and corporate, and a political subdivision of the State of South Carolina (“County”), and BALLPARK, LLC, a South Carolina limited liability company (“Company” together with the County, “Parties,” each, a “Party”).

WITNESSETH:

WHEREAS, the County, acting by and through its County Council (“County Council”), is authorized and empowered under and pursuant to the provisions of Article VIII, Section 13(D) of the South Carolina Constitution and the provisions of Title 4, Chapter 1 of the Code of Laws of South Carolina, 1976, as amended (collectively, “Act”), to (i) develop multicounty parks with counties having contiguous borders with the County; and (ii) include property in the multicounty park, which inclusion under the terms of the Act (A) makes such property exempt from *ad valorem* property taxes, and (B) changes the character of the annual receipts from such property to fees-in-lieu of *ad valorem* property taxes in an amount equal to the *ad valorem* taxes that would have been due and payable but for the location of the property in such multicounty park (“Fee Payments”);

WHEREAS, the County is further authorized by Section 4-1-175 of the Act to grant credits against Fee Payments (“Public Infrastructure Credit”) to pay costs of designing, acquiring, constructing, improving or expanding public infrastructure serving the County (collectively, “Public Infrastructure”);

WHEREAS, pursuant to the authority provided in the Act, the County has developed with Fairfield County, South Carolina, the I-77 Corridor Regional Industrial Park (“Park”) and executed the “Amended and Restated Master Agreement Governing the I-77 Corridor Regional Industrial Park” dated September 1, 2018 (“Park Agreement”), which governs the operation of the Park;

WHEREAS, the Company has committed to establish market rate housing and retail facilities in the County (“Project”) on property more particularly identified by Exhibit A (“Land”), consisting of taxable investment in real and personal property of not less than \$50,000,000;

WHEREAS, by an ordinance enacted on _____, 2019 (“Ordinance”), the County authorized the expansion of the boundaries of the Park and an amendment to the Park Agreement to include the Land and other real and personal property comprising the Project (“Property”) in the Park, subject to the consent to such expansion being granted by the City of Columbia, South Carolina in accordance with Section 4-1-170(C) of the Act;

WHEREAS, in accordance with Section 4-1-170(C) of the Act, the City, acting by and through its City Council, enacted, on _____, 2019, a [resolution/ordinance] consenting to the inclusion of the Property within the boundaries of the Park; and

WHEREAS, pursuant to the Ordinance, the County further authorized the execution and delivery of this Agreement to provide Public Infrastructure Credits against the Company’s Fee Payments with respect to the Project for the purpose of assisting in paying the costs of certain Public Infrastructure invested by the Company at or in connection with the Project, subject to the terms and conditions below.

NOW, THEREFORE, in consideration of the respective representations and agreements hereinafter contained, the County and the Company agree as follows:

ARTICLE I REPRESENTATIONS

Section 1.1. *Representations by the County.* The County represents to the Company as follows:

- (a) The County is a body politic and corporate and a political subdivision of the State of South Carolina;
- (b) The County is authorized and empowered by the provisions of the Act to enter into and carry out its obligations under this Agreement;
- (c) The County has duly authorized and approved the execution and delivery of this Agreement by adoption of the Ordinance in accordance with the procedural requirements of the Act and any other applicable state law;
- (d) The County is not in default of any of its obligations (contractual or otherwise) as a result of entering into and performing its obligations under this Agreement;
- (e) The County has approved the inclusion of the Property in the Park; and
- (f) Based on representations made by the Company to the County, the County has determined the Project and the Public Infrastructure will enhance the economic development of the County and promote the welfare of its citizens. Therefore, the County is entering into this Agreement for the purpose of promoting the economic development of the County and the welfare of its citizens.

Section 1.2. *Representations and Covenants by the Company.* The Company represents to the County as follows:

- (a) The Company is in good standing under the laws of the State of South Carolina, has power to conduct business in the State of South Carolina and enter into this Agreement, and by proper company action has authorized the officials signing this Agreement to execute and deliver it;
- (b) The Company will use commercially reasonable efforts to achieve the Investment Commitment, each as defined below, at the Project;
- (c) The Company's execution and delivery of this Agreement, and its compliance with the provisions of this Agreement do not result in a default under any agreement or instrument to which the Company is now a party or by which it is bound; and
- (d) The Company covenants to complete the Public Infrastructure in a workmanlike manner and in accordance with all applicable codes and regulations.

ARTICLE II PUBLIC INFRASTRUCTURE CREDITS

Section 2.1. *Investment Commitment.* The Company shall invest not less than \$50,000,000 in taxable property at the Project ("Investment Commitment") by the Certification Date, as defined below. The Company shall certify to the County achievement of the Investment Commitment by no later than [DATE] ("Certification Date"), by providing documentation to the County sufficient to reflect achievement of the Investment Commitment. If the Company fails to achieve and certify the Investment

Commitment by the Certification Date, the County may terminate this Agreement and, on termination, the Company is no longer entitled to any further benefits under this Agreement.

Section 2.2. Public Infrastructure Commitment.

(a) Prior to receiving the Public Infrastructure Credits under this Agreement, the Company shall make an investment in Public Infrastructure in the County which may be comprised of the following improvements and facilities benefitting the public or dedicated to public use: water sewer, or stormwater improvements, greenspaces, recreation or community facilities, pedestrian or transportation facilities, parking facilities, facade redevelopment, roadway improvements, and energy production or communications technology infrastructure. Public Infrastructure may also include expenditures on the eradication of blight.

(b) The Company has committed to invest in the Public Infrastructure as described on Exhibit B. The Company shall certify its actual investment in the Public Infrastructure to the County by the Certification Date, by providing documentation to the County's Economic Development Department sufficient to reflect the amount invested in the Public Infrastructure. If the Company fails to complete the Public Infrastructure by the Certification Date, then the Company may not be entitled to the full value of the Public Infrastructure Credits as provided by this Agreement.

(c) Following the Certification Date, the County's Economic Development Department shall have 30 days ("Verification Date") to verify the Company's investment in the Public Infrastructure. The County has the right to exclude from the investment in Public Infrastructure certified by the Company any costs the County determines, in its sole discretion, to be ineligible costs. The County may also reject any Public Infrastructure investment as ineligible if the County determines, in its sole discretion, that it has not been completed in a workmanlike manner or in accordance with applicable codes or regulations. The County's Economic Development Department shall provide to the Company, by written notice, the County's determination of the verified amount of investment made by the Company in Public Infrastructure. Failure to provide a written verification shall be deemed to be a determination by the County that all costs certified by the Company are verified as eligible costs.

Section 2.3. Public Infrastructure Credits.

(a) To assist in paying for costs of Public Infrastructure, the County shall provide a Public Infrastructure Credit against certain of the Company's Fee Payments due with respect to the Project, commencing with the first Fee Payment following the Verification Date. The term, amount and calculation of the Public Infrastructure Credit is described in Exhibit B.

(b) For each property tax year in which the Company is entitled to a Public Infrastructure Credit ("Credit Term"), the County shall prepare and issue the Company's annual bill with respect to the Project net of the Public Infrastructure Credit set forth in Section 2.3 (a) ("Net Fee Payment"). Following receipt of the bill, the Company shall timely remit the Net Fee Payment to the County in accordance with applicable law.

(c) THIS AGREEMENT AND THE PUBLIC INFRASTRUCTURE CREDITS PROVIDED BY THIS AGREEMENT ARE LIMITED OBLIGATIONS OF THE COUNTY. THE PUBLIC INFRASTRUCTURE CREDITS ARE DERIVED SOLELY FROM AND TO THE EXTENT OF THE FEE PAYMENTS MADE BY THE COMPANY TO THE COUNTY PURSUANT TO THE ACT AND THE PARK AGREEMENT. THE PUBLIC INFRASTRUCTURE CREDITS DO NOT AND SHALL NOT CONSTITUTE A GENERAL OBLIGATION OF THE COUNTY OR ANY MUNICIPALITY WITHIN THE MEANING OF ANY CONSTITUTIONAL OR STATUTORY LIMITATION AND DO

NOT AND SHALL NOT CONSTITUTE OR GIVE RISE TO A PECUNIARY LIABILITY OF THE COUNTY OR ANY MUNICIPALITY OR A CHARGE AGAINST THE GENERAL CREDIT OR TAXING POWER OF THE COUNTY OR ANY MUNICIPALITY. THE FULL FAITH, CREDIT, AND TAXING POWER OF THE COUNTY OR ANY MUNICIPALITY ARE NOT PLEDGED FOR THE PROVISION OF THE PUBLIC INFRASTRUCTURE CREDITS.

Section 2.4. Filings. To assist the County in administering the Public Infrastructure Credits, the Company shall, for the Credit Term, prepare and file a separate schedule to the SCDOR PT-100, PT-300 with respect to the Property. Additionally, the Company shall, on or before January 31 of each year during the Credit Term, commencing in January 31, 2020, deliver to the Economic Development Director of the County the information required by the terms of the County’s Resolution dated December 12, 2017, which is attached hereto as Exhibit C, as may be amended by subsequent resolution, with respect to the Company.

Section 2.5 Cumulative Public Infrastructure Credit. The cumulative dollar amount of the Public Infrastructure Credit shall not exceed the amount invested by the Company in Public Infrastructure, as verified, or deemed verified, by the County as of the Verification Date. The County Economic Development Department shall provide the verified investment amount to the County Auditor for purposes of applying the Public Infrastructure Credit in accordance with Section 2.3 of this Agreement.

ARTICLE III DEFAULTS AND REMEDIES

Section 3.1. Events of Default. The following are “Events of Default” under this Fee Agreement:

(a) Failure by the Company to make a Net Fee Payment, which failure has not been cured within 30 days following receipt of written notice from the County specifying the delinquency in payment and requesting that it be remedied;

(b) An abandonment or closure of the Project; For purposes of this Agreement, “abandonment or closure of the Project” means failure to place all or a portion of the project in service by December 31, 2023;

(c) A representation or warranty made by the Company which is deemed materially incorrect when deemed made;

(d) Failure by the Company to perform any of the terms, conditions, obligations, or covenants under this Agreement (other than those described in Sections 2.1 and 2.2 and under (a) above), which failure has not been cured within 30 days after written notice from the County to the Company specifying such failure and requesting that it be remedied, unless the Company has instituted corrective action within the 30-day period and is diligently pursuing corrective action until the default is corrected, in which case the 30-day period is extended to include the period during which the Company is diligently pursuing corrective action;

(e) A representation or warranty made by the County which is deemed materially incorrect when deemed made; or

(f) Failure by the County to perform any of the terms, conditions, obligations, or covenants hereunder, which failure has not been cured within 30 days after written notice from the Company to the County specifying such failure and requesting that it be remedied, unless the County has instituted

corrective action within the 30-day period and is diligently pursuing corrective action until the default is corrected, in which case the 30-day period is extended to include the period during which the County is diligently pursuing corrective action.

Section 3.2. Remedies on Default.

(a) If an Event of Default by the Company has occurred and is continuing, then the County may take any one or more of the following remedial actions:

(i) terminate the Agreement; or

(ii) take whatever action at law or in equity may appear necessary or desirable to collect amounts due or otherwise remedy the Event of Default or recover its damages.

(b) If an Event of Default by the County has occurred and is continuing, the Company may take one or more of the following actions:

(i) bring an action for specific enforcement;

(ii) terminate the Agreement; or

(iii) in case of a materially incorrect representation or warranty, take such action as is appropriate, including legal action, to recover its damages, to the extent allowed by law.

Section 3.3. Reimbursement of Legal Fees and Other Expenses. On the occurrence of an Event of Default, if a Party is required to employ attorneys or incur other reasonable expenses for the collection of payments due under this Agreement or for the enforcement of performance or observance of any obligation or agreement, the prevailing Party is entitled to seek reimbursement of the reasonable fees of such attorneys and such other reasonable expenses so incurred.

Section 3.4. Remedies Not Exclusive. No remedy described in this Agreement is intended to be exclusive of any other remedy or remedies, and each and every such remedy is cumulative and in addition to every other remedy given under this Agreement or existing at law or in equity or by statute.

Section 3.5. Nonwaiver. A delay or omission by the Company or County to exercise any right or power accruing on an Event of Default does not waive such right or power and is not deemed to be a waiver or acquiescence of the Event of Default. Every power and remedy given to the Company or County by this Agreement may be exercised from time to time and as often as may be deemed expedient.

**ARTICLE IV
MISCELLANEOUS**

Section 4.1. Examination of Records; Confidentiality.

(a) The County and its authorized agents, at any reasonable time on prior notice, may enter and examine the Project and have access to and examine the Company's books and records relating to the Project for the purposes of (i) identifying the Project; (ii) confirming achievement of the Investment Commitment; (iii) verifying the investment in Public Infrastructure; and (iv) permitting the County to carry out its duties and obligations in its sovereign capacity (such as, without limitation, for such routine health and safety purposes as would be applied to any other manufacturing or commercial facility in the County).

(b) The County acknowledges that the Company may utilize confidential and proprietary processes and materials, services, equipment, trade secrets, and techniques (“Confidential Information”) and that disclosure of the Confidential Information could result in substantial economic harm to the Company. The Company may clearly label any Confidential Information delivered to the County pursuant to this Agreement as “Confidential Information.” Except as required by law, the County, or any employee, agent, or contractor of the County, shall not disclose or otherwise divulge any labeled Confidential Information to any other person, firm, governmental body or agency. The Company acknowledges that the County is subject to the South Carolina Freedom of Information Act, and, as a result, must disclose certain documents and information on request, absent an exemption. If the County is required to disclose any Confidential Information to a third party, the County will use its best efforts to provide the Company with as much advance notice as is reasonably possible of such disclosure requirement prior to making such disclosure and to cooperate reasonably with any attempts by the Company to obtain judicial or other relief from such disclosure requirement.

Section 4.2. Assignment. The Company may assign or otherwise transfer any of its rights and interest in this Agreement on prior written consent of the County, which may be given by resolution, and which consent will not be unreasonably withheld.

Section 4.3. Provisions of Agreement for Sole Benefit of County and Company. Except as otherwise specifically provided in this Agreement, nothing in this Agreement expressed or implied confers on any person or entity other than the County and the Company any right, remedy, or claim under or by reason of this Agreement, this Agreement being intended to be for the sole and exclusive benefit of the County and the Company.

Section 4.4. Severability. If any provision of this Agreement is declared illegal, invalid, or unenforceable for any reason, the remaining provisions of this Agreement are unimpaired, and the Parties shall reform such illegal, invalid, or unenforceable provision to effectuate most closely the legal, valid, and enforceable intent of this Agreement.

Section 4.5. Limitation of Liability.

(a) The County is not liable to the Company for any costs, expenses, losses, damages, claims or actions in connection with this Agreement, except from amounts received by the County from the Company under this Agreement.

(b) All covenants, stipulations, promises, agreements and obligations of the County contained in this Agreement are binding on members of the County Council or any elected official, officer, agent, servant or employee of the County only in his or her official capacity and not in his or her individual capacity, and no recourse for the payment of any moneys or performance of any of the covenants and agreements under this Agreement or for any claims based on this Agreement may be had against any member of County Council or any elected official, officer, agent, servant or employee of the County except solely in their official capacity.

Section 4.6. Indemnification Covenant.

(a) Except as provided in paragraph (d) below, the Company shall indemnify and save the County, its employees, elected officials, officers and agents (each, an “Indemnified Party”) harmless against and from all liability or claims arising from the County’s execution of this Agreement, performance of the County’s obligations under this Agreement or the administration of its duties pursuant to this Agreement, or otherwise by virtue of the County having entered into this Agreement.

(b) The County is entitled to use counsel of its choice and the Company shall reimburse the County for all of its costs, including attorneys' fees, incurred in connection with the response to or defense against such liability or claims as described in paragraph (a) above. The County shall provide a statement of the costs incurred in the response or defense, and the Company shall pay the County within 30 days of receipt of the statement. The Company may request reasonable documentation evidencing the costs shown on the statement. However, the County is not required to provide any documentation which may be privileged or confidential to evidence the costs.

(c) The County may request the Company to resist or defend against any claim on behalf of an Indemnified Party. On such request, the Company shall resist or defend against such claim on behalf of the Indemnified Party, at the Company's expense. The Company is entitled to use counsel of its choice, manage and control the defense of or response to such claim for the Indemnified Party; provided the Company is not entitled to settle any such claim without the consent of that Indemnified Party.

(d) Notwithstanding anything herein to the contrary, the Company is not required to indemnify any Indemnified Party against or reimburse the County for costs arising from any claim or liability (i) occasioned by the acts of that Indemnified Party, which are unrelated to the execution of this Agreement, performance of the County's obligations under this Agreement, or the administration of its duties under this Agreement, or otherwise by virtue of the County having entered into this Agreement; or (ii) resulting from that Indemnified Party's own negligence, bad faith, fraud, deceit, or willful misconduct.

(e) An Indemnified Party may not avail itself of the indemnification or reimbursement of costs provided in this Section unless it provides the Company with prompt notice, reasonable under the circumstances, of the existence or threat of any claim or liability, including, without limitation, copies of any citations, orders, fines, charges, remediation requests, or other claims or threats of claims, in order to afford the Company notice, reasonable under the circumstances, within which to defend or otherwise respond to a claim.

Section 4.7. Notices. All notices, certificates, requests, or other communications under this Agreement are sufficiently given and are deemed given, unless otherwise required by this Agreement, when (i) delivered and confirmed by United States first-class, registered mail, postage prepaid or (ii) sent by facsimile, and addressed as follows:

if to the County:	Richland County, South Carolina Attn: Director of Economic Development 2020 Hampton Street Columbia, South Carolina 29204 Phone: 803.576.2043 Fax: 803.576.2137
-------------------	--

with a copy to (does not constitute notice):	Parker Poe Adams & Bernstein LLP Attn: Ray E. Jones 1221 Main Street, Suite 1100 (29201) Post Office Box 1509 Columbia, South Carolina 29202 Phone: 803.255.8000 Fax: 803.255.8017
---	--

if to the Company:

Ballpark, LLC

Phone: _____

Fax: _____

with a copy to

Burnet R. Maybank III, Esq.

Nexsen Pruet, LLC

1230 Main Street, Suite 700 (29201)

Post Office Box 2426

Columbia, South Carolina (29202)

Phone: 803.771.8900

Fax: 803.253.8277

The County and the Company may, by notice given under this Section, designate any further or different addresses to which subsequent notices, certificates, requests or other communications shall be sent.

Section 4.8. *Administrative Fees.* The Company will reimburse, or cause reimbursement to, the County for the Administration Expenses in the amount of \$5,000. The Company will reimburse the County for its Administration Expenses on receipt of a written request from the County or at the County's direction, which request shall include a statement of the amount and nature of the Administration Expense. The Company shall pay the Administration Expenses as set forth in the written request no later than 60 days following receipt of the written request from the County. For purposes of this Section, "Administration Expenses" means the reasonable expenses incurred by the County in the negotiation, approval and implementation of the terms and provisions of this Agreement, including reasonable attorneys' fees. Administration Expenses do not include any costs, expenses, including attorneys' fees, incurred by the County (i) in defending challenges to the Fee Payments or Public Infrastructure Credits brought by third parties or the Company or its affiliates and related entities, or (ii) in connection with matters arising at the request of the Company outside of the immediate scope of this Agreement, including amendments to the terms of this Agreement. The payment by the Company of the County's Administration Expenses shall not be construed as prohibiting the County from engaging, at its discretion, the counsel of the County's choice.

Section 4.9. *Entire Agreement.* This Agreement expresses the entire understanding and all agreements of the Parties with each other, and neither Party is bound by any agreement or any representation to the other Party which is not expressly set forth in this Agreement or in certificates delivered in connection with the execution and delivery of this Agreement.

Section 4.10 *Agreement to Sign Other Documents.* From time to time, and at the expense of the Company, to the extent any expense is incurred, the County agrees to execute and deliver to the Company such additional instruments as the Company may reasonably request and as are authorized by law and reasonably within the purposes and scope of the Act and this Agreement to effectuate the purposes of this Agreement.

Section 4.11. *Agreement's Construction.* Each Party and its counsel have reviewed this Agreement and any rule of construction to the effect that ambiguities are to be resolved against a drafting party does not apply in the interpretation of this Agreement or any amendments or exhibits to this Agreement.

Section 4.12. *Applicable Law.* South Carolina law, exclusive of its conflicts of law provisions that would refer the governance of this Agreement to the laws of another jurisdiction, governs this Agreement and all documents executed in connection with this Agreement.

Section 4.13. *Counterparts.* This Agreement may be executed in any number of counterparts, and all of the counterparts together constitute one and the same instrument.

Section 4.14. *Amendments.* This Agreement may be amended only by written agreement of the Parties.

Section 4.15. *Waiver.* Either Party may waive compliance by the other Party with any term or condition of this Agreement but the waiver is valid only if it is in a writing signed by the waiving Party.

Section 4.16. *Termination.* Unless first terminated under any other provision of this Agreement, this Agreement terminates on the expiration of the Credit Term and payment by the Company of any outstanding Net Fee Payment due on the Project pursuant to the terms of this Agreement.

Section 4.17. *Business Day.* If any action, payment, or notice is, by the terms of this Agreement, required to be taken, made, or given on any Saturday, Sunday, or legal holiday in the jurisdiction in which the Party obligated to act is situated, such action, payment, or notice may be taken, made, or given on the following business day with the same effect as if taken, made or given as required under this Agreement, and no interest will accrue in the interim.

*[TWO SIGNATURE PAGES FOLLOW]
[REMAINDER OF PAGE INTENTIONALLY BLANK]*

IN WITNESS WHEREOF, Richland County, South Carolina, has caused this Agreement to be executed by the appropriate officials of the County and its corporate seal to be affixed and attested, effective the day and year first above written.

RICHLAND COUNTY, SOUTH CAROLINA

Chair, Richland County Council

(SEAL)
ATTEST:

Clerk to Council, Richland County Council

[SIGNATURE PAGE 1 TO PUBLIC INFRASTRUCTURE CREDIT AGREEMENT]

IN WITNESS WHEREOF, BALLPARK, LLC has caused this Agreement to be executed by its authorized officer(s), effective the day and year first above written.

BALLPARK, LLC

By: _____

Name: _____

Its: _____

[SIGNATURE PAGE 2 TO PUBLIC INFRASTRUCTURE CREDIT AGREEMENT]

EXHIBIT A

LAND DESCRIPTION

“The Ballpark”

All those certain pieces, parcels or tracts of land situate, lying and being in the City of Columbia, County of Richland, State of South Carolina, and being more particularly shown and delineated on an ALTA/NSPS Land Title Survey prepared by Survey Matters, LLC dated November 21, 2018 as Project No. 18-167 and a plat prepared by Cox and Dinkins, Inc. dated June 4, 2019 as Project No. 9F79C-58.dwg, and according to such plats having the following measurements:

BEGINNING at an IPF located at the Northwest intersection of S. Assembly Street and Ferguson Street, said point being known as the POINT OF BEGINNING, thence proceeding S33°33'46"W for a distance of 259.08' to an IPINF; thence proceeding S33°59'43"W for a distance of 50.12' to an IPF; thence, proceeding N56°02'02"W for a distance of 124.66' to an IPF; thence, proceeding S33°12'17"W for a distance of 89.47' to an IPF; thence, proceeding S35°20'14"W for a distance of 148.32' to an IPINF; thence proceeding S35°01'13"W for a distance of 39.64'; thence proceeding S33°03'47"W for a distance of 11.49'; thence proceeding S35°05'09"W for a distance of 50.30'; thence proceeding S34°36'07"W for a distance of 50.00'; thence proceeding N55°49'02"W for a distance of 2.98' to an IPINF; thence proceeding S33°39'15"W for a distance of 166.06' to an IPINF; thence turning and proceeding N56°00'42"W for a distance of 357.27' to an IPF; thence proceeding N54°46'51W for a distance of 62.55' to an IPINF; thence turning and proceeding N34°04'49"E for a distance of 465.14; thence turning and proceeding N70°34'54"W for a distance of 63.37'; thence N52°57'06"W for a distance of 105.00'; thence proceeding N50°37'06"W for a distance of 132.54'; thence turning and proceeding N83°16'06"W for a distance of 88.24'; thence turning and proceeding N33°52'19"E for a distance of 300.12'; thence proceeding N30°02'39"E for a distance of 240.80' to an IPINS located at Dreyfus Road; thence turning and proceeding along Dreyfus Road N88°32'39"E for a distance of 35.47' to an IPINS; thence proceeding along Dreyfus Road in a curved line along a chord bearing S79°47'17"E for a chord distance of 114.59' and an arc distance of 114.79'; thence proceeding S85°40'24"E for a distance of 190.78' to NAILS located at the intersection of Dreyfus Road and S. Assembly Street; thence turning and proceeding along Assembly Street in a curved line along a chord bearing S51°40'37"E for a chord distance of 127.17' and an arc distance of 127.52'; thence proceeding S59°01'48"E for a distance of 150.54'; thence S59°01'48"E for a distance of 50.00'; thence S59°01'48"E for a distance of 289.52' to the POINT OF BEGINNING.

EXHIBIT B (See Section 2.2)
DESCRIPTION OF PUBLIC INFRASTRUCTURE

The project will have both onsite and offsite infrastructure improvements. Onsite, the project will address the earthwork necessary on the site, the Rocky Branch channel improvements, and the water/sewer infrastructure. Offsite, the project will extensively mitigate flooding by excavating the channel, removing the trestle, and installing box culverts with a 72” reinforced concrete pipe. In addition, the project will make resurfacing improvements to Assembly Street that will include a new traffic signal and bus stop. Here is a summarized forecasted budget of the public improvements associated with the project.

Preliminary Budget – Ballpark Mixed-Use Development	
Rocky Branch Flood Mitigation & Olympia Park Stream Restoration	
Engineering, Design & Permitting	
Olympia Park Stream Restoration (EPC: Environ. Permitting Consultants)	621,315
Rocky Branch Flooding (PACE Engineering)	165,000
Box Culverts & DOT Olympia Ave. (Genesis Consulting)	15,000
Geo technical & Environmental testing (Vulcan soils)	17,900
Permits	15,000
Surveying	15,000
Total Engineering, Design & Permitting	849,215
Land, Legal & Insurance	
CSX Land Purchase	159,000
Other Land Purchase or Easement	35,000
Legal	25,000
Insurance & Performance Bond	66,809
Total Land, Legal & Insurance	285,809
Excavate Channel, Remove Trestle, Install 72” RCP and Box Culverts	3,490,000
Environmental Contingency (Soil Contamination)	200,000
Contingency (% of overall budget)	253,949
Total Flood Mitigation & Park / Stream Restoration Cost	5,078,972
Preliminary Budget – Ballpark Mixed-Use Development	
Public Improvements (DOT: Assembly & Ferguson; RB Connect Multi-Modal Paths, Greenway)	
DOT Road Improvements	
DOT Road Improvements - Assembly Street (Mill. Pave. Re-mark)	642,000
DOT Road Improvements - Ferguson Street	325,000
Total DOT Road Improvements	967,000
Rocky Branch Channel Improvements	
Channel Connection: Rocky Branch Clean & Flow Improve Allowance	135,000
Channel Improvement (Armenity: Rock Structures & Bridges from Assembly)	185,000
Total Rocky Branch Channel Improvements	320,000
Multi-Modal Paths Around Site and Up Assembly to Youinion	
Multi-Modal Path (Surrounding Site) Allowance: Assembly, Ferguson, Dreyfus	235,000
Multi-Modal Path Off-Site Allowance: Dreyfus to Church (Site to Aspyre/Youinion)	95,000
Rocky Branch Crossing on Assembly To Aspyre (Bridge & Box Culverts) - Allowance	190,000
Total Multi-Modal Paths Around Site and Up Assembly to Youinion	510,000
Traffic Signal & Bus Stop/Shelter	
Traffic Signal; Ferguson/Assembly	130,000
Comer; Bus & USC Shuttle Stop/Shelter	10,000
Total Traffic Signal & Bus Stop/Shelter	140,000
Professional Services Allocation (Legal & Civil Engineering)	
Legal Allocation	10% 20,000
Civil Engineering Allocation	10% 30,000
Total Professional Services Allocation (Legal & Civil Engineering)	50,000
Additional Public Improvements & Contributions	
Greenway Contribution	250,000
Historic Columbia Contribution	60,000
Security	Not Included
Total Public Improvements & Contributions	310,000
Total Other Public Improvements (Partial List)	2,297,000
Total Flood Mitigation, Stream Restoration, Road, Paths, Greenway & "Other"	7,375,972

EXHIBIT C (See Section 2.3)

DESCRIPTION OF PUBLIC INFRASTRUCTURE CREDIT

The County shall provide a 50% Public Infrastructure Credit against the Fee Payments due and owing from the Company to the County in connection with the Project as provided in the Credit Agreement, provided, the cumulative total amount of the Public Infrastructure Credit shall not exceed the Company's Public Infrastructure costs.

The Company is eligible to receive the Public Infrastructure Credit for a period of up to 10 consecutive years, beginning with the first full year for which the Company owes a Fee Payment in connection with the Project following the Verification Date and ending on the earlier of the 10th year or the year in which the cumulative, total amount of the Public Infrastructure Credit equals the Public Infrastructure costs.

EXHIBIT D (See Section 2.5)
**RICHLAND COUNTY RESOLUTION REQUIRING CERTAIN ACCOUNTABILITY PRACTICES CONCERNING
ECONOMIC DEVELOPMENT PROJECTS IN THE COUNTY**

**A RESOLUTION TO AMEND THE DECEMBER 21, 2010,
RESOLUTION REQUIRING CERTAIN ACCOUNTABILITY
PRACTICES CONCERNING ECONOMIC DEVELOPMENT
PROJECTS IN RICHLAND COUNTY**

WHEREAS, Richland County Council adopted a resolution dated as of December 21, 2010 (“Prior Resolution”), which requires companies receiving economic development incentives from Richland County, South Carolina (“County”) to submit annual reports to the Richland County Economic Development Office; and

WHEREAS, the County desires to make the form of the annual reports submitted by such companies uniform in order to make the substantive information contained in the annual reports more easily tracked and documented by the Richland County Economic Development Office.

NOW, THEREFORE, BE IT RESOLVED by Richland County Council as follows:

Section 1. The County affirms that each company awarded an incentive by the County in exchange for the location or expansion of a facility or facilities within the County shall submit an annual report to the Richland County Economic Development Office by January 31 of each year throughout the term of the incentives.

Section 2. The Richland County Economic Development Office is authorized to create (and from time to time, if necessary, amend or recreate) and make available the form of the annual report; however, such form, shall require, at a minimum, the following information:

- a. Name of company;
- b. Cumulative capital investment (less any removed investment) to date as a result of the project;
- c. Net jobs created to date as a result of the project;

Section 3. A copy of the then-current form of the annual report may be obtained from the following address. The annual report shall likewise be submitted to the following address by the required date.

Richland County Economic Development Office
Attention: Kim Mann
1201 Main Street, Suite 910
Columbia, SC 29201

Section 4. This Resolution amends the Prior Resolution and sets forth the County’s requirements with respect to the annual reports to be submitted by each company awarded an incentive by the County as described in Section 1.

Section 5. The substance of this Resolution shall be incorporated into the agreement between the County and each company with respect to the incentives granted by the County to the company.


Section 6. In the event that any company shall fail to submit an annual report, or any portion thereof, such company may be required to return all incentives, or a dollar amount equal thereof, to the County. Such incentives, or the dollar amount equal thereto, shall be paid to the County within 60 days after the date upon which the information was originally due.

RESOLVED: December 12 2017

RICHLAND COUNTY, SOUTH CAROLINA


Chair, Richland County Council

(SEAL)
ATTEST:


Clerk to County Council

Richland County Council Request for Action

Subject:

Authorizing the execution and delivery of a fee-in-lieu of ad valorem taxes agreement by and between Richland County, South Carolina and Schneider Electric USA, Inc. to provide for payment of a fee-in-lieu of taxes; and other related matters

Notes:

First Reading: November 5, 2019

Second Reading: November 19, 2019

Third Reading: December 3, 2019 {Tentative}

Public Hearing: December 3, 2019

STATE OF SOUTH CAROLINA
COUNTY COUNCIL FOR RICHLAND COUNTY
ORDINANCE NO. _____

AUTHORIZING THE EXECUTION AND DELIVERY OF A FEE-IN-LIEU OF *AD VALOREM* TAXES AGREEMENT BY AND BETWEEN RICHLAND COUNTY, SOUTH CAROLINA AND SCHNEIDER ELECTRIC USA, INC. TO PROVIDE FOR PAYMENT OF A FEE-IN-LIEU OF TAXES; AND OTHER RELATED MATTERS.

WHEREAS, Richland County, South Carolina (“County”), acting by and through its County Council (“County Council”) is authorized pursuant to the provisions of Title 12, Chapter 44, Code of Laws of South Carolina, 1976, as amended (“FILOT Act”), to encourage manufacturing and commercial enterprises to locate in the State of South Carolina (“South Carolina” or “State”) or to encourage manufacturing and commercial enterprises now located in the State to expand their investments and thus make use of and employ the manpower, products, and other resources of the State by entering into an agreement with a sponsor, as defined in the FILOT Act, that provides for the payment of a fee-in-lieu of *ad valorem* tax (“FILOT Payments”), with respect to economic development property, as defined in the FILOT Act;

WHEREAS, pursuant to Article VIII, Section 13 of the South Carolina Constitution and Title 4, Section 1, Code of Laws of South Carolina, 1976, as amended (collectively, “MCIP Act”), the County is authorized to jointly develop multicounty parks with counties having contiguous borders with the County and, in the County’s discretion, include property within the boundaries of such multicounty parks. Under the authority provided in the MCIP Act, the County has created a multicounty park with Fairfield County, South Carolina more particularly known as the I-77 Corridor Regional Industrial Park (“Park”);

WHEREAS, Schneider Electric USA, Inc., (“Sponsor”), desires to expand its electrical component manufacturing facility in the County (“Project”) consisting of taxable investment in real and personal property of not less than \$9,886,000 and the creation of 74 new, full-time jobs; and

WHEREAS, at the request of the Sponsor and as an inducement to locate the Project in the County, the County desires to enter into a Fee-in-Lieu of *Ad Valorem* Taxes Agreement with the Sponsor, as sponsor, the final form of which is attached as Exhibit A (“Fee Agreement”), pursuant to which the County will provide certain incentives to the Sponsor with respect to the Project, including (1) providing for FILOT Payments, to be calculated as set forth in the Fee Agreement, with respect to the portion of the Project which constitutes economic development property; and (2) locating the Project in the Park.

NOW THEREFORE, BE IT ORDAINED, by the County Council as follows:

Section 1. Statutory Findings. Based on information supplied to the County by the Sponsor, County Council evaluated the Project based on relevant criteria including, the purposes the Project is to accomplish, the anticipated dollar amount and nature of the investment, employment to be created, and the anticipated costs and benefits to the County, and hereby finds:

(a) The Project is anticipated to benefit the general public welfare of the County by providing services, employment, recreation, or other public benefits not otherwise adequately provided locally;

(b) The Project gives rise to no pecuniary liability of the County or incorporated municipality or a charge against its general credit or taxing power;

(c) The purposes to be accomplished by the Project are proper governmental and public purposes and the benefits of the Project are greater than the costs.

Section 2. *Approval of Incentives; Authorization to Execute and Deliver Fee Agreement.* The incentives as described in this Ordinance (“Ordinance”), and as more particularly set forth in the Fee Agreement, with respect to the Project are hereby approved. The form, terms and provisions of the Fee Agreement that is before this meeting are approved and all of the Fee Agreement’s terms and conditions are incorporated in this Ordinance by reference. The Chair of County Council (“Chair”) is authorized and directed to execute the Fee Agreement in the name of and on behalf of the County, subject to the approval of any revisions or changes as are not materially adverse to the County by the County Administrator and counsel to the County, and the Clerk to County Council is hereby authorized and directed to attest the Fee Agreement and to deliver the Fee Agreement to the Sponsor.

Section 3. *Inclusion within the Park.* The expansion of the Park boundaries to include the Project is authorized and approved. The Chair, the County Administrator and the Clerk to County Council are each authorized to execute such documents and take such further actions as may be necessary to complete the expansion of the Park boundaries. Pursuant to the terms of the agreement governing the Park (“Park Agreement”), the expansion of the Park’s boundaries and the amendment to the Park Agreement is complete on adoption of this Ordinance by County Council and delivery of written notice to Fairfield County of the inclusion of the Project in the Park.

Section 4. *Further Assurances.* The County Council confirms the authority of the Chair, the County Administrator, the Director of Economic Development, the Clerk to County Council, and various other County officials and staff, acting at the direction of the Chair, the County Administrator, the Director of Economic Development or Clerk to County Council, as appropriate, to take whatever further action and to negotiate, execute and deliver whatever further documents as may be appropriate to effect the intent of this Ordinance and the incentives offered to the Sponsor under this Ordinance and the Fee Agreement.

Section 5. *Savings Clause.* The provisions of this Ordinance are separable. If any part of this Ordinance is, for any reason, unenforceable then the validity of the remainder of this Ordinance is unaffected.

Section 6. *General Repealer.* Any prior ordinance, resolution, or order, the terms of which are in conflict with this Ordinance, is, only to the extent of that conflict, repealed.

Section 7. *Effectiveness.* This Ordinance is effective after its third reading and public hearing.

RICHLAND COUNTY, SOUTH CAROLINA

Chair, Richland County Council

(SEAL)
ATTEST:

Clerk of Council, Richland County Council

First Reading: November 5, 2019
Second Reading: November 19, 2019
Public Hearing: December 3, 2019
Third Reading: December 3, 2019

EXHIBIT A
FORM OF FEE AGREEMENT

FEE-IN-LIEU OF *AD VALOREM* TAXES AGREEMENT

BETWEEN

SCHNEIDER ELECTRIC USA, INC.

AND

RICHLAND COUNTY, SOUTH CAROLINA

EFFECTIVE AS OF DECEMBER 31, 2019

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**SUMMARY OF CONTENTS OF
FEE AGREEMENT**

The parties have agreed to waive the requirement to recapitulate the contents of this Fee Agreement pursuant to Section 12-44-55 of the Code (as defined herein). However, the parties have agreed to include a summary of the key provisions of this Fee Agreement for the convenience of the parties. This summary is included for convenience only and is not to be construed as a part of the terms and conditions of this Fee Agreement.

PROVISION	BRIEF DESCRIPTION	SECTION REFERENCE
Sponsor Name	Schneider Electric USA, Inc.	“Sponsor”
Project Location	8821 Garners Ferry Road, Hopkins, SC 29061	Exhibit A
Tax Map No.	R21800-05-10	Exhibit A
FILOT		
• Phase Exemption Period	Thirty (30) years	
• Contract Minimum Investment Requirement	\$9,886,000	
• Contract Minimum Jobs Requirement	Seventy Four (74) full time equivalent jobs	
• Investment Period	Five (5) years	
• Assessment Ratio	6%	
• Millage Rate	482.5	
• Fixed or Five-Year Adjustable Millage	Fixed	
Multicounty Park	I-77 Corridor Regional Industrial Park	
Other Information		

FEE-IN-LIEU OF AD VALOREM TAXES AGREEMENT

THIS FEE-IN-LIEU OF *AD VALOREM* TAXES AGREEMENT (“*Fee Agreement*”) is entered into, effective, as of December 31, 2019, between Richland County, South Carolina (“*County*”), a body politic and corporate and a political subdivision of the State of South Carolina (“*State*”), acting through the Richland County Council (“*County Council*”) as the governing body of the County, and Schneider Electric USA, Inc., a corporation organized and existing under the laws of the State of Delaware (“*Sponsor*”).

WITNESSETH:

(a) Title 12, Chapter 44, (“*Act*”) of the Code of Laws of South Carolina, 1976, as amended (“*Code*”), authorizes the County to induce manufacturing and commercial enterprises to locate in the State or to encourage manufacturing and commercial enterprises currently located in the State to expand their investments and thus make use of and employ the manpower, products, and other resources of the State by entering into an agreement with a sponsor, as defined in the Act, that provides for the payment of a fee-in-lieu of *ad valorem* tax (“*FILOT*”) with respect to Economic Development Property, as defined below;

(b) The Sponsor has committed to expand a manufacturing facility (“*Facility*”) in the County, consisting of taxable investment in real and personal property of not less than \$9,886,000 and the creation of 74 new, full-time jobs;

(c) By an ordinance enacted on [December 3, 2019], County Council authorized the County to enter into this Fee Agreement with the Sponsor to provide for a FILOT to induce the Sponsor to expand its Facility in the County.

NOW, THEREFORE, AND IN CONSIDERATION of the respective representations and agreements hereinafter contained, the parties agree as follows:

ARTICLE I DEFINITIONS

Section 1.1. Terms. The defined terms used in this Fee Agreement have the meaning given below, unless the context clearly requires otherwise.

“*Act*” means Title 12, Chapter 44 of the Code, and all future acts successor or supplemental thereto or amendatory of this Fee Agreement.

“*Administration Expenses*” means the reasonable expenses incurred by the County in the negotiation, approval and implementation of the terms and provisions of this Fee Agreement, including reasonable attorney’s and consultant’s fees. Administration Expenses does not include any costs, expenses, including attorney’s fees, incurred by the County (i) in defending challenges to the FILOT Payments[, Infrastructure Credits or other incentives] provided by this Fee Agreement brought by third parties or the Sponsor or its affiliates and related entities, or (ii) in connection with matters arising at the request of the Sponsor outside of the immediate scope of this Fee Agreement, including amendments to the terms of this Fee Agreement.

“*Code*” means the Code of Laws of South Carolina, 1976, as amended.

“*Commencement Date*” means the last day of the property tax year during which Economic Development Property is placed in service. The Commencement Date shall not be later than the last day of the property tax year which is three years from the year in which the County and the Sponsor enter into

this Fee Agreement. For purposes of this Fee Agreement, the Commencement Date is expected to be December 31, 2019.

“Contract Minimum Investment Requirement” means a taxable investment in real and personal property at the Project of not less than \$9,866,000.

“Contract Minimum Jobs Requirement” means not less than 74 full-time, jobs created by the Sponsor in the County in connection with the Project.

“County” means Richland County, South Carolina, a body politic and corporate and a political subdivision of the State, its successors and assigns, acting by and through the County Council as the governing body of the County.

“County Council” means the Richland County Council, the governing body of the County.

“Department” means the South Carolina Department of Revenue.

“Diminution in Value” means a reduction in the fair market value of Economic Development Property, as determined in Section 4.1(a)(i) of this Fee Agreement, which may be caused by (i) the removal or disposal of components of the Project pursuant to Section 4.3 of this Fee Agreement; (ii) a casualty as described in Section 4.4 of this Fee Agreement; or (iii) a condemnation as described in Section 4.5 of this Fee Agreement.

“Economic Development Property” means those items of real and tangible personal property of the Project placed in service not later than the end of the Investment Period that (i) satisfy the conditions of classification as economic development property under the Act, and (ii) are identified by the Sponsor in its annual filing of a PT-300S or comparable form with the Department (as such filing may be amended from time to time).

“Equipment” means all of the machinery, equipment, furniture, office equipment, and fixtures, together with any and all additions, accessions, replacements, and substitutions.

“Event of Default” means any event of default specified in Section 7.1 of this Fee Agreement.

“Fee Agreement” means this Fee-In-Lieu Of *Ad Valorem* Taxes Agreement.

“Fee Term” means the period from the effective date of this Fee Agreement until the Final Termination Date.

“FILOT Payments” means the amount paid or to be paid in lieu of *ad valorem* property taxes as provided in Section 4.1.

“Final Phase” means the Economic Development Property placed in service during the last year of the Investment Period.

“Final Termination Date” means the date on which the last FILOT Payment with respect to the Final Phase is made, or such earlier date as the Fee Agreement is terminated in accordance with the terms of this Fee Agreement. Assuming the Phase Termination Date for the Final Phase is December 31, 2053, the Final Termination Date is expected to be January 15, 2055, which is the due date of the last FILOT Payment with respect to the Final Phase.

“Improvements” means all improvements to the Real Property, including buildings, building additions, roads, sewer lines, and infrastructure, together with all additions, fixtures, accessions, replacements, and substitutions.

“Infrastructure” means (i) the infrastructure serving the County or the Project, (ii) improved and unimproved real estate, and personal property, including machinery and equipment, used in the operation of a manufacturing or commercial enterprise, or (iii) such other items as may be described in or permitted under Section 4-29-68 of the Code.

“Investment Period” means the period beginning with the first day of any purchase or acquisition of Economic Development Property and ending five years after the Commencement Date, as may be extended pursuant to Section 12-44-30(13) of the Act. For purposes of this Fee Agreement, the Investment Period, unless so extended, is expected to end on December 31, 2024.

“MCIP Act” means Article VIII, Section 13(D) of the Constitution of the State of South Carolina, and Sections 4-1-170, 4-1-172, 4-1-175, and 4-29-68 of the Code.

“Multicounty Park” means the multicounty industrial or business park governed by the Amended and Restated Master Agreement Governing the I-77 Corridor Regional Industrial Park, dated as of September 1, 2018, between the County and Fairfield County, South Carolina, as may be amended.

“Phase” means the Economic Development Property placed in service during a particular year of the Investment Period.

“Phase Exemption Period” means, with respect to each Phase, the period beginning with the property tax year the Phase is placed in service during the Investment Period and ending on the Phase Termination Date.

“Phase Termination Date” means, with respect to each Phase, the last day of the property tax year which is the 29th year following the first property tax year in which the Phase is placed in service.

“Project” means all the Equipment, Improvements, and Real Property in the County that the Sponsor determines to be necessary, suitable, or useful by the Sponsor in connection with its investment in the County.

“Real Property” means real property that the Sponsor uses or will use in the County for the purposes that Section 2.2(b) describes, and initially consists of the land identified on Exhibit A of this Fee Agreement.

“Removed Components” means Economic Development Property which the Sponsor, in its sole discretion, (a) determines to be inadequate, obsolete, worn-out, uneconomic, damaged, unsuitable, undesirable, or unnecessary pursuant to Section 4.3 of this Fee Agreement or otherwise; or (b) elects to be treated as removed pursuant to Section 4.4(c) or Section 4.5(b)(iii) of this Fee Agreement.

“Replacement Property” means any property which is placed in service as a replacement for any Removed Component regardless of whether the Replacement Property serves the same functions as the Removed Component it is replacing and regardless of whether more than one piece of Replacement Property replaces a single Removed Component.

“Sponsor” means Schneider Electric USA, Inc. and any surviving, resulting, or transferee entity in any merger, consolidation, or transfer of assets; or any other person or entity which may succeed to the rights and duties of the Sponsor under this Fee Agreement.

“*Sponsor Affiliate*” means an entity that participates in the investment at the Project and, following receipt of the County’s approval pursuant to Section 9.1 of this Fee Agreement, joins this Fee Agreement by delivering a Joinder Agreement, the form of which is attached as Exhibit B to this Fee Agreement.

“*State*” means the State of South Carolina.

Any reference to any agreement or document in this Article I or otherwise in this Fee Agreement shall include any and all amendments, supplements, addenda, and modifications to such agreement or document.

The term “investment” or “invest” as used in this Fee Agreement includes not only investments made by the Sponsor, but also to the fullest extent permitted by law, those investments made by or for the benefit of the Sponsor in connection with the Project through federal, state, or local grants, to the extent such investments are or, but for the terms of this Fee Agreement, would be subject to *ad valorem* taxes to be paid by the Sponsor.

ARTICLE II REPRESENTATIONS AND WARRANTIES

Section 2.1. *Representations and Warranties of the County.* The County represents and warrants as follows:

(a) The County is a body politic and corporate and a political subdivision of the State and acts through the County Council as its governing body. The Act authorizes and empowers the County to enter into the transactions that this Fee Agreement contemplates and to carry out its obligations under this Fee Agreement. The County has duly authorized the execution and delivery of this Fee Agreement and all other documents, certificates or other agreements contemplated in this Fee Agreement and has obtained all consents from third parties and taken all actions necessary or that the law requires to fulfill its obligations under this Fee Agreement.

(b) Based on representations by the Sponsor, County Council evaluated the Project based on all relevant criteria including the purposes the Project is to accomplish, the anticipated dollar amount and nature of the investment resulting from the Project, and the anticipated costs and benefits to the County and following the evaluation, the County determined that (i) the Project is anticipated to benefit the general public welfare of the County by providing services, employment, recreation, or other public benefits not otherwise adequately provided locally; (ii) the Project gives rise to no pecuniary liability of the County or any incorporated municipality and to no charge against the County’s general credit or taxing power; (iii) the purposes to be accomplished by the Project are proper governmental and public purposes; and (iv) the benefits of the Project are greater than the costs.

(c) The County identified the Project, as a “project” on November 5, 2019, by adopting an Inducement Resolution, as defined in the Act.

(d) The County is not in default of any of its obligations (contractual or otherwise) as a result of entering into and performing its obligations under this Fee Agreement.

(e) The County has located or will take all reasonable action to locate the Project in the Multicounty Park.

Section 2.2. *Representations and Warranties of the Sponsor.* The Sponsor represents and warrants as follows:

(a) The Sponsor is in good standing under the laws of the state of its organization, is duly authorized to transact business in the State (or will obtain such authority prior to commencing business in the State), has power to enter into this Fee Agreement, and has duly authorized the execution and delivery of this Fee Agreement.

(b) The Sponsor intends to operate the Project as a manufacturing facility and for such other purposes that the Act permits as the Sponsor may deem appropriate.

(c) The Sponsor's execution and delivery of this Fee Agreement and its compliance with the provisions of this Fee Agreement do not result in a default under any agreement or instrument to which the Sponsor is now a party or by which it is bound.

(d) The Sponsor will use commercially reasonable efforts to achieve the Contract Minimum Investment Requirement and the Contract Minimum Jobs Requirement by the end of the Investment Period.

(e) The execution and delivery of this Fee Agreement by the County and the availability of the FILOT and other incentives provided by this Fee Agreement has been instrumental in inducing the Sponsor to locate the Project in the County.

(f) The Sponsor has retained legal counsel to confirm, or has had a reasonable opportunity to consult legal counsel to confirm, its eligibility for the FILOT and other incentives granted by this Fee Agreement and has not relied on the County, its officials, employees or legal representatives with respect to any question of eligibility or applicability of the FILOT and other incentives granted by this Fee Agreement.

ARTICLE III THE PROJECT

Section 3.1. *The Project.* The Sponsor intends and expects to (i) construct or acquire the Project and (ii) meet the Contract Minimum Investment Requirement and the Contract Minimum Jobs Requirement within the Investment Period. The Sponsor anticipates that the first Phase of the Project will be placed in service during the calendar year ending December 31, 2019. Notwithstanding anything contained in this Fee Agreement to the contrary, the Sponsor is not obligated to complete the acquisition of the Project. However, if the Contract Minimum Investment Requirement is not met, the benefits provided to the Sponsor, or Sponsor Affiliate, if any, pursuant to this Fee Agreement may be reduced, modified or terminated as provided in this Fee Agreement.

Section 3.2 *Leased Property.* To the extent that State law allows or is revised or construed to permit leased assets including a building, or personal property to be installed in a building, to constitute Economic Development Property, then any property leased by the Sponsor is, at the election of the Sponsor, deemed to be Economic Development Property for purposes of this Fee Agreement, subject, at all times, to the requirements of State law and this Fee Agreement with respect to property comprising Economic Development Property.

Section 3.3. *Filings and Reports.*

(a) On or before January 31 of each year during the term of this Fee Agreement, commencing in January 31, 2020, the Sponsor shall deliver to the Economic Development Director of the County with respect to the Sponsor and all Sponsor Affiliates, if any, the information required by the terms of the

County's Resolution dated December 12, 2017, which is attached hereto as Exhibit C, as may be amended by subsequent resolution.

(b) The Sponsor shall file a copy of this Fee Agreement and a completed PT-443 with the Economic Development Director and the Department and the Auditor, Treasurer and Assessor of the County and partner county to the Multicounty Park.

(c) On request by the County Administrator or the Economic Development Director, the Sponsor shall remit to the Economic Development Director records accounting for the acquisition, financing, construction, and operation of the Project which records (i) permit ready identification of all Economic Development Property; (ii) confirm the dates that the Economic Development Property or Phase was placed in service; and (iii) include copies of all filings made in accordance with this Section.

ARTICLE IV FILOT PAYMENTS

Section 4.1. *FILOT Payments.*

(a) The FILOT Payment due with respect to each Phase through the Phase Termination Date is calculated as follows:

- (i) The fair market value of the Phase calculated as set forth in the Act (for the Real Property portion of the Phase, the County and the Sponsor have elected to [use the fair market value established in the first year of the Phase Exemption Period]/[determine the Real Property's fair market value by appraisal as if the Real Property were not subject to this Fee Agreement, except that such appraisal may not occur more than once every five years]), multiplied by
- (ii) An assessment ratio of six percent (6%), multiplied by
- (iii) A fixed millage rate equal to 482.5, which is the cumulative millage rate levied by or on behalf of all the taxing entities within which the Project is located as of June 30, 2018.

The calculation of the FILOT Payment must allow all applicable property tax exemptions except those excluded pursuant to Section 12-44-50(A)(2) of the Act. The Sponsor acknowledges that (i) the calculation of the annual FILOT Payment is a function of the Department and is wholly dependent on the Sponsor timely submitting the correct annual property tax returns to the Department, (ii) the County has no responsibility for the submission of returns or the calculation of the annual FILOT Payment, and (iii) failure by the Sponsor to submit the correct annual property tax return could lead to a loss of all or a portion of the FILOT and other incentives provided by this Fee Agreement.

(b) If a final order of a court of competent jurisdiction from which no further appeal is allowable declares the FILOT Payments invalid or unenforceable, in whole or in part, for any reason, the parties shall negotiate the reformation of the calculation of the FILOT Payments to most closely afford the Sponsor with the intended benefits of this Fee Agreement. If such order has the effect of subjecting the Economic Development Property to *ad valorem* taxation, this Fee Agreement shall terminate, and the Sponsor shall owe the County regular *ad valorem* taxes from the date of termination, in accordance with Section 4.7.

Section 4.2. *FILOT Payments on Replacement Property.* If the Sponsor elects to place Replacement Property in service, then, pursuant and subject to the provisions of Section 12-44-60 of the

Act, the Sponsor shall make the following payments to the County with respect to the Replacement Property for the remainder of the Phase Exemption Period applicable to the Removed Component of the Replacement Property:

(a) FILOT Payments, calculated in accordance with Section 4.1, on the Replacement Property to the extent of the original income tax basis of the Removed Component the Replacement Property is deemed to replace.

(b) Regular *ad valorem* tax payments to the extent the income tax basis of the Replacement Property exceeds the original income tax basis of the Removed Component the Replacement Property is deemed to replace.

Section 4.3. Removal of Components of the Project. Subject to the other terms and provisions of this Fee Agreement, the Sponsor is entitled to remove and dispose of components of the Project in its sole discretion. Components of the Project are deemed removed when scrapped, sold or otherwise removed from the Project. If the components removed from the Project are Economic Development Property, then the Economic Development Property is a Removed Component, no longer subject to this Fee Agreement and is subject to *ad valorem* property taxes to the extent the Removed Component remains in the State and is otherwise subject to *ad valorem* property taxes.

Section 4.4. Damage or Destruction of Economic Development Property.

(a) *Election to Terminate.* If Economic Development Property is damaged by fire, explosion, or any other casualty, then the Sponsor may terminate this Fee Agreement. For the property tax year corresponding to the year in which the damage or casualty occurs, the Sponsor is obligated to make FILOT Payments with respect to the damaged Economic Development Property only to the extent property subject to *ad valorem* taxes would have been subject to *ad valorem* taxes under the same circumstances for the period in question.

(b) *Election to Restore and Replace.* If Economic Development Property is damaged by fire, explosion, or any other casualty, and the Sponsor does not elect to terminate this Fee Agreement, then the Sponsor may restore and replace the Economic Development Property. All restorations and replacements made pursuant to this subsection (b) are deemed, to the fullest extent permitted by law and this Fee Agreement, to be Replacement Property.

(c) *Election to Remove.* If Economic Development Property is damaged by fire, explosion, or any other casualty, and the Sponsor elects not to terminate this Fee Agreement pursuant to subsection (a) and elects not to restore or replace pursuant to subsection (b), then the damaged portions of the Economic Development Property are deemed Removed Components.

Section 4.5. Condemnation.

(a) *Complete Taking.* If at any time during the Fee Term title to or temporary use of the Economic Development Property is vested in a public or quasi-public authority by virtue of the exercise of a taking by condemnation, inverse condemnation, or the right of eminent domain; by voluntary transfer under threat of such taking; or by a taking of title to a portion of the Economic Development Property which renders continued use or occupancy of the Economic Development Property commercially unfeasible in the judgment of the Sponsor, the Sponsor shall have the option to terminate this Fee Agreement by sending written notice to the County within a reasonable period of time following such vesting.

(b) *Partial Taking.* In the event of a partial taking of the Economic Development Property or a transfer in lieu, the Sponsor may elect: (i) to terminate this Fee Agreement; (ii) to restore and replace the

Economic Development Property, with such restorations and replacements deemed, to the fullest extent permitted by law and this Fee Agreement, to be Replacement Property; or (iii) to treat the portions of the Economic Development Property so taken as Removed Components.

(c) In the year in which the taking occurs, the Sponsor is obligated to make FILOT Payments with respect to the Economic Development Property so taken only to the extent property subject to *ad valorem* taxes would have been subject to taxes under the same circumstances for the period in question.

Section 4.6. *Calculating FILOT Payments on Diminution in Value.* If there is a Diminution in Value, the FILOT Payments due with respect to the Economic Development Property or Phase so diminished shall be calculated by substituting the diminished value of the Economic Development Property or Phase for the original fair market value in Section 4.1(a)(i) of this Fee Agreement.

Section 4.7. *Payment of Ad Valorem Taxes.* If Economic Development Property becomes subject to *ad valorem* taxes as imposed by law pursuant to the terms of this Fee Agreement or the Act, then the calculation of the *ad valorem* taxes due with respect to the Economic Development Property in a particular property tax year shall: (i) include the property tax reductions that would have applied to the Economic Development Property if it were not Economic Development Property; and (ii) include a credit for FILOT Payments the Sponsor has made with respect to the Economic Development Property.

Section 4.8. *Place of FILOT Payments.* All FILOT Payments shall be made directly to the County in accordance with applicable law.

**ARTICLE V
ADDITIONAL INCENTIVES**

The County acknowledges that the Company has applied for certain non-County grants with respect to the Project. If the Company is awarded such grants, then the County shall assist in the administration of such grants and shall execute any agreement that may be necessary to effect the administration of the grant and the receipt of the grant funds by the Company.

**ARTICLE VI
[RESERVED]**

**ARTICLE VII
DEFAULT**

Section 7.1. *Events of Default.* The following are “Events of Default” under this Fee Agreement:

(a) Failure to make FILOT Payments, which failure has not been cured within 30 days following receipt of written notice from the County specifying the delinquency in FILOT Payments and requesting that it be remedied;

(b) A Cessation of Operations. For purposes of this Fee Agreement, a “*Cessation of Operations*” means a publicly announced closure of the Facility;

(c) A representation or warranty made by the Sponsor which is deemed materially incorrect when deemed made;

(d) Failure by the Sponsor to perform any of the terms, conditions, obligations, or covenants under this Fee Agreement (other than those under (a), above), which failure has not been cured within 30 days after written notice from the County to the Sponsor specifying such failure and requesting that it be remedied, unless the Sponsor has instituted corrective action within the 30-day period and is diligently pursuing corrective action until the default is corrected, in which case the 30-day period is extended to include the period during which the Sponsor is diligently pursuing corrective action;

(e) A representation or warranty made by the County which is deemed materially incorrect when deemed made; or

(f) Failure by the County to perform any of the terms, conditions, obligations, or covenants hereunder, which failure has not been cured within 30 days after written notice from the Sponsor to the County specifying such failure and requesting that it be remedied, unless the County has instituted corrective action within the 30-day period and is diligently pursuing corrective action until the default is corrected, in which case the 30-day period is extended to include the period during which the County is diligently pursuing corrective action.

(g) Notwithstanding anything herein to the contrary, failure to meet any investment requirements, job requirements, thresholds, or levels set forth in this Fee Agreement shall not be deemed to be an Event of Default under this Agreement.

Section 7.2. *Remedies on Default.*

(a) If an Event of Default by the Sponsor has occurred and is continuing, then the County may take any one or more of the following remedial actions:

(i) terminate this Fee Agreement; or

(ii) take whatever action at law or in equity may appear necessary or desirable to collect amounts due or otherwise remedy the Event of Default or recover its damages.

(b) If an Event of Default by the County has occurred and is continuing, the Sponsor may take any one or more of the following actions:

(i) bring an action for specific enforcement;

(ii) terminate this Fee Agreement; or

(iii) in case of a materially incorrect representation or warranty, take such action as is appropriate, including legal action, to recover its damages, to the extent allowed by law.

Section 7.3. Reimbursement of Legal Fees and Other Expenses. On the occurrence of an Event of Default, if a party is required to employ attorneys or incur other reasonable expenses for the collection of payments due under this Fee Agreement or for the enforcement of performance or observance of any obligation or agreement, the prevailing party is entitled to seek reimbursement of the reasonable fees of such attorneys and such other reasonable expenses so incurred.

Section 7.4. Remedies Not Exclusive. No remedy described in this Fee Agreement is intended to be exclusive of any other remedy or remedies, and each and every such remedy is cumulative and in addition to every other remedy given under this Fee Agreement or existing at law or in equity or by statute.

ARTICLE VIII PARTICULAR RIGHTS AND COVENANTS

Section 8.1. Right to Inspect. The County and its authorized agents, at any reasonable time on prior written notice (which may be given by email), may enter and examine and inspect the Project for the purposes of permitting the County to carry out its duties and obligations in its sovereign capacity (such as, without limitation, for such routine health and safety purposes as would be applied to any other manufacturing or commercial facility in the County).

Section 8.2. Confidentiality. The County acknowledges that the Sponsor may utilize confidential and proprietary processes and materials, services, equipment, trade secrets, and techniques (“**Confidential Information**”) and that disclosure of the Confidential Information could result in substantial economic harm to the Sponsor. The Sponsor may clearly label any Confidential Information delivered to the County pursuant to this Fee Agreement as “**Confidential Information.**” Except as required by law, the County, or any employee, agent, or contractor of the County, shall not disclose or otherwise divulge any labeled Confidential Information to any other person, firm, governmental body or agency. The Sponsor acknowledges that the County is subject to the South Carolina Freedom of Information Act, and, as a result, must disclose certain documents and information on request, absent an exemption. If the County is required to disclose any Confidential Information to a third party, the County will use its best efforts to provide the Sponsor with as much advance notice as is reasonably possible of such disclosure requirement prior to making such disclosure, and to cooperate reasonably with any attempts by the Sponsor to obtain judicial or other relief from such disclosure requirement.

Section 8.3. Indemnification Covenants.

(a) Except as provided in paragraph (d) below, the Sponsor shall indemnify and save the County, its employees, elected officials, officers and agents (each, an “*Indemnified Party*”) harmless against and from all liability or claims arising from the County’s execution of this Fee Agreement, performance of the County’s obligations under this Fee Agreement or the administration of its duties pursuant to this Fee Agreement, or otherwise by virtue of the County having entered into this Fee Agreement.

(b) The County is entitled to use counsel of its choice and the Sponsor shall reimburse the County for all of its costs, including attorneys’ fees, incurred in connection with the response to or defense against such liability or claims as described in paragraph (a), above. The County shall provide a statement of the costs incurred in the response or defense, and the Sponsor shall pay the County within 30 days of receipt of the statement. The Sponsor may request reasonable documentation evidencing the costs shown on the statement. However, the County is not required to provide any documentation which may be privileged or confidential to evidence the costs.

(c) The County may request the Sponsor to resist or defend against any claim on behalf of an Indemnified Party. On such request, the Sponsor shall resist or defend against such claim on behalf of the Indemnified Party, at the Sponsor’s expense. The Sponsor is entitled to use counsel of its choice, manage and control the defense of or response to such claim for the Indemnified Party; provided the Sponsor is not entitled to settle any such claim without the consent of that Indemnified Party.

(d) Notwithstanding anything in this Section or this Fee Agreement to the contrary, the Sponsor is not required to indemnify any Indemnified Party against or reimburse the County for costs arising from any claim or liability (i) occasioned by the acts of that Indemnified Party, which are unrelated to the execution of this Fee Agreement, performance of the County’s obligations under this Fee Agreement, or the administration of its duties under this Fee Agreement, or otherwise by virtue of the County having entered into this Fee Agreement; or (ii) resulting from that Indemnified Party’s own negligence, bad faith, fraud, deceit, or willful misconduct.

(e) An Indemnified Party may not avail itself of the indemnification or reimbursement of costs provided in this Section unless it provides the Sponsor with prompt notice, reasonable under the circumstances, of the existence or threat of any claim or liability, including, without limitation, copies of any citations, orders, fines, charges, remediation requests, or other claims or threats of claims, in order to afford the Sponsor notice, reasonable under the circumstances, within which to defend or otherwise respond to a claim.

Section 8.4. *No Liability of County Personnel.* All covenants, stipulations, promises, agreements and obligations of the County contained in this Fee Agreement are binding on members of the County Council or any elected official, officer, agent, servant or employee of the County only in his or her official capacity and not in his or her individual capacity, and no recourse for the payment of any moneys under this Fee Agreement may be had against any member of County Council or any elected or appointed official, officer, agent, servant or employee of the County and no recourse for the payment of any moneys or performance of any of the covenants and agreements under this Fee Agreement or for any claims based on this Fee Agreement may be had against any member of County Council or any elected or appointed official, officer, agent, servant or employee of the County except solely in their official capacity.

Section 8.5. *Limitation of Liability.* The County is not liable to the Sponsor for any costs, expenses, losses, damages, claims or actions in connection with this Fee Agreement, except from amounts received by the County from the Sponsor under this Fee Agreement. Notwithstanding anything in this Fee Agreement to the contrary, any financial obligation the County may incur under this Fee Agreement is deemed not to constitute a pecuniary liability or a debt or general obligation of the County.

Section 8.6. Assignment. The Sponsor may assign this Fee Agreement in whole or in part with the prior written consent of the County or a subsequent written ratification by the County, which may be done by resolution, and which consent or ratification the County will not unreasonably withhold. The Sponsor agrees to notify the County and the Department of the identity of the proposed transferee within 60 days of the transfer. In case of a transfer, the transferee assumes the transferor's basis in the Economic Development Property for purposes of calculating the FILOT Payments.

Section 8.7. No Double Payment; Future Changes in Legislation. Notwithstanding anything contained in this Fee Agreement to the contrary, and except as expressly required by law, the Sponsor is not required to make a FILOT Payment in addition to a regular *ad valorem* property tax payment in the same year with respect to the same piece of Economic Development Property. The Sponsor is not required to make a FILOT Payment on Economic Development Property in cases where, absent this Fee Agreement, *ad valorem* property taxes would otherwise not be due on such property.

Section 8.8. Administration Expenses. The Sponsor will reimburse, or cause reimbursement to, the County for Administration Expenses in the amount of \$5,000. The Sponsor will reimburse the County for its Administration Expenses on receipt of a written request from the County or at the County's direction, which request shall include a statement of the amount and nature of the Administration Expense. The Sponsor shall pay the Administration Expense as set forth in the written request no later than 60 days following receipt of the written request from the County. The County does not impose a charge in the nature of impact fees or recurring fees in connection with the incentives authorized by this Fee Agreement. The payment by the Sponsor of the County's Administration Expenses shall not be construed as prohibiting the County from engaging, at its discretion, the counsel of the County's choice.

ARTICLE IX SPONSOR AFFILIATES

Section 9.1. Sponsor Affiliates. The Sponsor may designate Sponsor Affiliates from time to time, including at the time of execution of this Fee Agreement, pursuant to and subject to the provisions of Section 12-44-130 of the Act. To designate a Sponsor Affiliate, the Sponsor must deliver written notice to the Economic Development Director identifying the Sponsor Affiliate and requesting the County's approval of the Sponsor Affiliate. Except with respect to a Sponsor Affiliate designated at the time of execution of this Fee Agreement, which may be approved in the County Council ordinance authorizing the execution and delivery of this Fee Agreement, approval of the Sponsor Affiliate may be given by the County Administrator delivering written notice to the Sponsor and Sponsor Affiliate following receipt by the County Administrator of a recommendation from the Economic Development Committee of County Council to allow the Sponsor Affiliate to join in the investment at the Project. The Sponsor Affiliate's joining in the investment at the Project will be effective on delivery of a Joinder Agreement, the form of which is attached as Exhibit B, executed by the Sponsor Affiliate to the County.

Section 9.2. Primary Responsibility. Notwithstanding the addition of a Sponsor Affiliate, the Sponsor acknowledges that it has the primary responsibility for the duties and obligations of the Sponsor and any Sponsor Affiliate under this Fee Agreement, including the payment of FILOT Payments or any other amount due to or for the benefit of the County under this Fee Agreement. For purposes of this Fee Agreement, "primary responsibility" means that if the Sponsor Affiliate fails to make any FILOT Payment or remit any other amount due under this Fee Agreement, the Sponsor shall make such FILOT Payments or remit such other amounts on behalf of the Sponsor Affiliate.

ARTICLE X MISCELLANEOUS

Section 10.1. Notices. Any notice, election, demand, request, or other communication to be provided under this Fee Agreement is effective when delivered to the party named below or when deposited with the United States Postal Service, certified mail, return receipt requested, postage prepaid, addressed as follows (or addressed to such other address as any party shall have previously furnished in writing to the other party), except where the terms of this Fee Agreement require receipt rather than sending of any notice, in which case such provision shall control:

IF TO THE SPONSOR:

Schneider Electric USA, Inc.
Attn: General Manager
8821 Garners Ferry Road
Hopkins, South Carolina 29061

WITH A COPY TO (does not constitute notice):

Burr & Forman LLP
Attn: Erik P. Doerring
1221 Main Street, Suite 1800 (29201)
Post Office Box 11390
Columbia, South Carolina 29211

IF TO THE COUNTY:

Richland County, South Carolina
Attn: Richland County Economic Development Director
2020 Hampton Street
Columbia, South Carolina 29204

WITH A COPY TO (does not constitute notice):

Parker Poe Adams & Bernstein LLP
Attn: Ray E. Jones
1221 Main Street, Suite 1100 (29201)
Post Office Box 1509
Columbia, South Carolina 29202-1509

Section 10.2. Provisions of Agreement for Sole Benefit of County and Sponsor. Except as otherwise specifically provided in this Fee Agreement, nothing in this Fee Agreement expressed or implied confers on any person or entity other than the County and the Sponsor any right, remedy, or claim under or by reason of this Fee Agreement, this Fee Agreement being intended to be for the sole and exclusive benefit of the County and the Sponsor.

Section 10.3. Counterparts. This Fee Agreement may be executed in any number of counterparts, and all of the counterparts together constitute one and the same instrument.

Section 10.4. Governing Law. South Carolina law, exclusive of its conflicts of law provisions that would refer the governance of this Fee Agreement to the laws of another jurisdiction, governs this Fee Agreement and all documents executed in connection with this Fee Agreement.

Section 10.5. Headings. The headings of the articles and sections of this Fee Agreement are inserted for convenience only and do not constitute a part of this Fee Agreement.

Section 10.6. Amendments. This Fee Agreement may be amended only by written agreement of the parties to this Fee Agreement.

Section 10.7. Agreement to Sign Other Documents. From time to time, and at the expense of the Sponsor, to the extent any expense is incurred, the County agrees to execute and deliver to the Sponsor such additional instruments as the Sponsor may reasonably request and as are authorized by law and reasonably within the purposes and scope of the Act and this Fee Agreement to effectuate the purposes of this Fee Agreement.

Section 10.8. Interpretation; Invalidity; Change in Laws.

(a) If the inclusion of property as Economic Development Property or any other issue is unclear under this Fee Agreement, then the parties intend that the interpretation of this Fee Agreement be done in a manner that provides for the broadest inclusion of property under the terms of this Fee Agreement and the maximum incentive permissible under the Act, to the extent not inconsistent with any of the explicit terms of this Fee Agreement.

(b) If any provision of this Fee Agreement is declared illegal, invalid, or unenforceable for any reason, the remaining provisions of this Fee Agreement are unimpaired, and the parties shall reform such illegal, invalid, or unenforceable provision to effectuate most closely the legal, valid, and enforceable intent of this Fee Agreement so as to afford the Sponsor with the maximum benefits to be derived under this Fee Agreement, it being the intention of the County to offer the Sponsor the strongest inducement possible, within the provisions of the Act, to locate the Project in the County.

(c) The County agrees that in case the FILOT incentive described in this Fee Agreement is found to be invalid and the Sponsor does not realize the economic benefit it is intended to receive from the County under this Fee Agreement as an inducement to locate in the County, the County agrees to negotiate with the Sponsor to provide a special source revenue or Infrastructure Credit to the Sponsor [(in addition to the Infrastructure Credit explicitly provided for above)] to the maximum extent permitted by law, to allow the Sponsor to recoup all or a portion of the loss of the economic benefit resulting from such invalidity.

Section 10.9. Force Majeure. The Sponsor is not responsible for any delays or non-performance caused in whole or in part, directly or indirectly, by strikes, accidents, freight embargoes, fires, floods, inability to obtain materials, conditions arising from governmental orders or regulations, war or national emergency, acts of God, and any other cause, similar or dissimilar, beyond the Sponsor's reasonable control.

Section 10.10. Termination; Termination by Sponsor.

(a) Unless first terminated under any other provision of this Fee Agreement, this Fee Agreement terminates on the Final Termination Date.

(b) The Sponsor is authorized to terminate this Fee Agreement at any time with respect to all or part of the Project on providing the County with 30 days' notice.

(c) Any monetary obligations due and owing at the time of termination and any provisions which are intended to survive termination, survive such termination.

(d) In the year following termination, all Economic Development Property is subject to *ad valorem* taxation or such other taxation or payment in lieu of taxation that would apply absent this Fee Agreement. The Sponsor's obligation to make FILOT Payments under this Fee Agreement terminates to

the extent of and in the year following the year the Sponsor terminates this Fee Agreement pursuant to this Section.

Section 10.11. *Entire Agreement.* This Fee Agreement expresses the entire understanding and all agreements of the parties, and neither party is bound by any agreement or any representation to the other party which is not expressly set forth in this Fee Agreement or in certificates delivered in connection with the execution and delivery of this Fee Agreement.

Section 10.12. *Waiver.* Either party may waive compliance by the other party with any term or condition of this Fee Agreement only in a writing signed by the waiving party.

Section 10.13. *Business Day.* If any action, payment, or notice is, by the terms of this Fee Agreement, required to be taken, made, or given on any Saturday, Sunday, or legal holiday in the jurisdiction in which the party obligated to act is situated, such action, payment, or notice may be taken, made, or given on the following business day with the same effect as if taken, made or given as required under this Fee Agreement, and no interest will accrue in the interim.

Section 10.14. *Agreement's Construction.* Each party and its counsel have reviewed this Fee Agreement and any rule of construction to the effect that ambiguities are to be resolved against a drafting party does not apply in the interpretation of this Fee Agreement or any amendments or exhibits to this Fee Agreement.

[Signature pages follow]

IN WITNESS WHEREOF, the County, acting by and through the County Council, has caused this Fee Agreement to be executed in its name and on its behalf by the Chair of County Council and to be attested by the Clerk of the County Council; and the Sponsor has caused this Fee Agreement to be executed by its duly authorized officer, all as of the day and year first above written.

RICHLAND COUNTY, SOUTH CAROLINA

(SEAL)

By: _____
County Council Chair
Richland County, South Carolina

ATTEST:

By: _____
Clerk to County Council
Richland County, South Carolina

[Signature Page 1 to Fee in Lieu of Ad Valorem Taxes Agreement]

SCHNEIDER ELECTRIC USA, INC.

By: _____

Its: _____

[Signature Page 2 to Fee in Lieu of Ad Valorem Taxes Agreement]

EXHIBIT A

All real and tangible personal property of the Project, including Real Property, including specifically that Real Property located at 8821 Garners Ferry Road, Hopkins, SC 29061 and identified as TMS No. R21800-05-10, Improvements, and Equipment, placed in service not later than the end of the Investment Period that (i) satisfy the conditions of classification as economic development property under the Act, and (ii) are identified by the Sponsor in its annual filing of a PT-300S or comparable form with the Department (as such filing may be amended from time to time).

EXHIBIT B (see Section 9.1)
FORM OF JOINDER AGREEMENT

Reference is hereby made to the Fee-in-Lieu of *Ad Valorem* Taxes Agreement, effective [DATE] (“Fee Agreement”), between Richland County, South Carolina (“County”) and [COMPANY] (“Sponsor”).

1. Joinder to Fee Agreement.

[_____], a [STATE] [corporation]/[limited liability company]/[limited partnership] authorized to conduct business in the State of South Carolina, hereby (a) joins as a party to, and agrees to be bound by and subject to all of the terms and conditions of, the Fee Agreement as if it were a Sponsor [except the following: _____]; (b) shall receive the benefits as provided under the Fee Agreement with respect to the Economic Development Property placed in service by the Sponsor Affiliate as if it were a Sponsor [except the following _____]; (c) acknowledges and agrees that (i) according to the Fee Agreement, the undersigned has been designated as a Sponsor Affiliate by the Sponsor for purposes of the Project; and (ii) the undersigned qualifies or will qualify as a Sponsor Affiliate under the Fee Agreement and Section 12-44-30(20) and Section 12-44-130 of the Act.

2. Capitalized Terms.

Each capitalized term used, but not defined, in this Joinder Agreement has the meaning of that term set forth in the Fee Agreement.

3. Representations of the Sponsor Affiliate.

The Sponsor Affiliate represents and warrants to the County as follows:

(a) The Sponsor Affiliate is in good standing under the laws of the state of its organization, is duly authorized to transact business in the State (or will obtain such authority prior to commencing business in the State), has power to enter into this Joinder Agreement, and has duly authorized the execution and delivery of this Joinder Agreement.

(b) The Sponsor Affiliate’s execution and delivery of this Joinder Agreement, and its compliance with the provisions of this Joinder Agreement, do not result in a default, not waived or cured, under any agreement or instrument to which the Sponsor Affiliate is now a party or by which it is bound.

(c) The execution and delivery of this Joinder Agreement and the availability of the FILOT and other incentives provided by this Joinder Agreement has been instrumental in inducing the Sponsor Affiliate to join with the Sponsor in the Project in the County.

4. Governing Law.

This Joinder Agreement is governed by and construed according to the laws, without regard to principles of choice of law, of the State of South Carolina.

5. Notice.

Notices under Section 10.1 of the Fee Agreement shall be sent to:

[_____]

IN WITNESS WHEREOF, the undersigned has executed this Joinder Agreement to be effective as of the date set forth below.

Date

Name of Entity
By: _____
Its: _____

IN WITNESS WHEREOF, the County acknowledges it has consented to the addition of the above-named entity as a Sponsor Affiliate under the Fee Agreement effective as of the date set forth above.

RICHLAND COUNTY, SOUTH CAROLINA

By: _____
Its: _____

EXHIBIT C (see Section 3.3)
RICHLAND COUNTY RESOLUTION REQUIRING CERTAIN ACCOUNTABILITY PRACTICES CONCERNING
ECONOMIC DEVELOPMENT PROJECTS IN THE COUNTY

**A RESOLUTION TO AMEND THE DECEMBER 21, 2010,
RESOLUTION REQUIRING CERTAIN ACCOUNTABILITY
PRACTICES CONCERNING ECONOMIC DEVELOPMENT
PROJECTS IN RICHLAND COUNTY**

WHEREAS, Richland County Council adopted a resolution dated as of December 21, 2010 (“Prior Resolution”), which requires companies receiving economic development incentives from Richland County, South Carolina (“County”) to submit annual reports to the Richland County Economic Development Office; and

WHEREAS, the County desires to make the form of the annual reports submitted by such companies uniform in order to make the substantive information contained in the annual reports more easily tracked and documented by the Richland County Economic Development Office.

NOW, THEREFORE, BE IT RESOLVED by Richland County Council as follows:

Section 1. The County affirms that each company awarded an incentive by the County in exchange for the location or expansion of a facility or facilities within the County shall submit an annual report to the Richland County Economic Development Office by January 31 of each year throughout the term of the incentives.

Section 2. The Richland County Economic Development Office is authorized to create (and from time to time, if necessary, amend or recreate) and make available the form of the annual report; however, such form, shall require, at a minimum, the following information:

- a. Name of company;
- b. Cumulative capital investment (less any removed investment) to date as a result of the project;
- c. Net jobs created to date as a result of the project;

Section 3. A copy of the then-current form of the annual report may be obtained from the following address. The annual report shall likewise be submitted to the following address by the required date.

Richland County Economic Development Office
Attention: Kim Mann
1201 Main Street, Suite 910
Columbia, SC 29201

Section 4. This Resolution amends the Prior Resolution and sets forth the County’s requirements with respect to the annual reports to be submitted by each company awarded an incentive by the County as described in Section 1.

Section 5. The substance of this Resolution shall be incorporated into the agreement between the County and each company with respect to the incentives granted by the County to the company.


Section 6. In the event that any company shall fail to submit an annual report, or any portion thereof, such company may be required to return all incentives, or a dollar amount equal thereof, to the County. Such incentives, or the dollar amount equal thereto, shall be paid to the County within 60 days after the date upon which the information was originally due.

RESOLVED: December 12 2017

RICHLAND COUNTY, SOUTH CAROLINA


Chair, Richland County Council

(SEAL)
ATTEST:


Clerk to County Council

Richland County Council Request for Action

Subject:

Authorizing the expansion of the boundaries of the I-77 Corridor Regional Industrial Park jointly developed with Fairfield County to include certain property located in Richland County; the execution and delivery of a Public Infrastructure Credit Agreement to provide for public infrastructure credits to B-6 Benet Horger LLC; and other related matters

Notes:

First Reading: November 5, 2019
Second Reading: November 19, 2019
Third Reading: December 3, 2019 {Tentative}
Public Hearing: December 3, 2019

**STATE OF SOUTH CAROLINA
COUNTY COUNCIL FOR RICHLAND COUNTY
ORDINANCE NO. _____**

AUTHORIZING THE EXPANSION OF THE BOUNDARIES OF THE I-77 CORRIDOR REGIONAL INDUSTRIAL PARK JOINTLY DEVELOPED WITH FAIRFIELD COUNTY TO INCLUDE CERTAIN PROPERTY LOCATED IN RICHLAND COUNTY; THE EXECUTION AND DELIVERY OF A PUBLIC INFRASTRUCTURE CREDIT AGREEMENT TO PROVIDE FOR PUBLIC INFRASTRUCTURE CREDITS TO B-6 BENET HORGER LLC; AND OTHER RELATED MATTERS.

WHEREAS, Richland County (“County”), acting by and through its County Council (“County Council”), is authorized pursuant to the provisions of Article VIII, Section 13(D) of the South Carolina Constitution and the provisions of Title 4, Chapter 1 of the Code of Laws of South Carolina, 1976, as amended (collectively, “Act”), to (i) develop a multicounty park with counties having contiguous borders with the County; and (ii) include property in the multicounty park, which inclusion under the terms of the Act (A) makes such property exempt from *ad valorem* property taxes, and (B) changes the character of the annual receipts from such property to fees-in-lieu of *ad valorem* property taxes in an amount equal to the *ad valorem* taxes that would have been due and payable but for the location of the property in such multicounty park (“Fee Payments”);

WHEREAS, the County is further authorized by Section 4-1-175 of the Act, to grant credits against Fee Payments (“Public Infrastructure Credit”) to pay costs of, amongst other things, designing, acquiring, constructing, improving or expanding infrastructure serving the County (collectively, “Public Infrastructure”);

WHEREAS, pursuant to the authority provided in the Act, the County has developed with Fairfield County, South Carolina (“Fairfield”), the I-77 Corridor Regional Industrial Park (“Park”) and executed the Amended and Restated Master Agreement Governing the I-77 Corridor Regional Industrial Park, dated September 1, 2018 (“Park Agreement”), which governs the operation of the Park;

WHEREAS, B-6 Benet Horger LLC, a limited liability company organized and existing under the laws of the State of South Carolina (and/or a related or affiliated entity, collectively or alternatively, the “Company”), has, as part of a commercial development to be located in the County, committed to establish market rate housing in the County (“Project”) including, and to be located on, land more particularly identified in the Agreement (as hereinafter defined) (“Land”), consisting of total taxable investment by the Company in real and personal property of not less than \$45,000,000, and in connection with the Project, anticipates making investment in certain Public Infrastructure;

WHEREAS, at the Company’s request, the County desires to expand the boundaries of the Park and to amend the Park Agreement to include the Land and other real and personal property comprising the Project (“Property”) in the Park; and

WHEREAS, the County further desires to enter into a Public Infrastructure Credit Agreement between the County and the Company, the substantially final form of which is attached as Exhibit A (“Agreement”), to provide Public Infrastructure Credits against the Company’s Fee Payments with respect to the Project for the purpose of assisting in paying the costs of certain Public Infrastructure invested by the Company at, in, or in connection with, the Project, subject to the terms and conditions set forth in the Agreement.

NOW THEREFORE, BE IT ORDAINED, by the County Council as follows:

Section 1. *Statutory Findings.* Based on representations made by the Company to the County, the County finds that the Project and the Public Infrastructure will enhance the economic development of the County and promote the welfare of its citizens.

Section 2. *Expansion of the Park Boundaries, Inclusion of Property.* The expansion of the Park boundaries and an amendment to the Park Agreement to include the Property in the Park is authorized. The Chair of County Council (“Chair”), is authorized to execute such documents and take such further actions as may be necessary to complete the expansion of the Park boundaries and the amendment to the Park Agreement. Pursuant to the terms of the Park Agreement, the expansion of the Park’s boundaries to include the Property is complete on the adoption of this Ordinance by County Council, receipt of the consent of the City of Columbia, the municipality in which the Property is located, as to the inclusion of the Property in the Park, and delivery of written notice to Fairfield of the inclusion of the Property, which written notice shall include a copy of this Ordinance and identification of the Property.

Section 3. *Approval of Public Infrastructure Credit; Authorization to Execute and Deliver Agreement.* The Public Infrastructure Credits, as more particularly set forth in the Agreement, against the Company’s Fee Payments with respect to the Project are approved. The form, terms and provisions of the Agreement that is before this meeting are approved and all of the Agreement’s terms are incorporated in this Ordinance by reference as if the Agreement was set out in this Ordinance in its entirety. The Chair is authorized and directed to execute the Agreement in the name of and on behalf of the County, subject to the approval of any revisions or changes as are not materially adverse to the County by the County Administrator and counsel to the County, and the Clerk to County Council is hereby authorized and directed to attest the Agreement and to deliver the Agreement to the Company.

Section 4. *Further Assurances.* The County Council confirms the authority of the Chair, the County Administrator, the Director of Economic Development and the Clerk to County Council, and various other County officials and staff, acting at the direction of the Chair, the County Administrator, the Director of Economic Development or Clerk to County Council, as appropriate, to take whatever further action and to negotiate, execute and deliver whatever further documents as may be appropriate to effect the intent of this Ordinance and the incentives offered to the Company under this Ordinance and the Agreement.

Section 5. *Savings Clause.* The provisions of this Ordinance are separable. If any part of this Ordinance is, for any reason, unenforceable then the validity of the remainder of this Ordinance is unaffected.

Section 6. *General Repealer.* Any prior ordinance, the terms of which are in conflict with this Ordinance, is, only to the extent of that conflict, repealed.

Section 7. *Effectiveness.* This Ordinance is effective after its third reading and public hearing.

RICHLAND COUNTY, SOUTH CAROLINA

Chair, Richland County Council

(SEAL)
ATTEST:

Clerk of Council, Richland County Council

First Reading: November 5, 2019
Second Reading: November 19, 2019
Public Hearing: December 3, 2019
Third Reading: December 3, 2019

EXHIBIT A
FORM OF AGREEMENT

PUBLIC INFRASTRUCTURE CREDIT AGREEMENT

by and between

RICHLAND COUNTY, SOUTH CAROLINA

and

B-6 BENET HORGER LLC

Effective as of: December 3, 2019

PUBLIC INFRASTRUCTURE CREDIT AGREEMENT

This PUBLIC INFRASTRUCTURE CREDIT AGREEMENT, effective as of December 3, 2019 (“Agreement”), is by and between RICHLAND COUNTY, SOUTH CAROLINA, a body politic and corporate, and a political subdivision of the State of South Carolina (“County”), and B-6 BENET HORGER LLC, a South Carolina limited liability company (as hereinafter defined “Company” together with the County, “Parties,” each, a “Party”).

WITNESSETH:

WHEREAS, the County, acting by and through its County Council (“County Council”), is authorized and empowered under and pursuant to the provisions of Article VIII, Section 13(D) of the South Carolina Constitution and the provisions of Title 4, Chapter 1 of the Code of Laws of South Carolina, 1976, as amended (collectively, “Act”), to (i) develop multicounty parks with counties having contiguous borders with the County; and (ii) include property in the multicounty park, which inclusion under the terms of the Act (A) makes such property exempt from *ad valorem* property taxes, and (B) changes the character of the annual receipts from such property to fees-in-lieu of *ad valorem* property taxes in an amount equal to the *ad valorem* taxes that would have been due and payable but for the location of the property in such multicounty park (“Fee Payments”);

WHEREAS, the County is further authorized by Section 4-1-175 of the Act to grant credits against Fee Payments (“Public Infrastructure Credit”) to pay costs of, amongst other things, designing, acquiring, constructing, improving or expanding public infrastructure serving the County (collectively, “Public Infrastructure”);

WHEREAS, pursuant to the authority provided in the Act, the County has developed with Fairfield County, South Carolina, the I-77 Corridor Regional Industrial Park (“Park”) and executed the “Amended and Restated Master Agreement Governing the I-77 Corridor Regional Industrial Park” dated September 1, 2018 (“Park Agreement”), which governs the operation of the Park;

WHEREAS, as part of a commercial development to be located in the County, the Company has committed to establish market rate housing in the County (“Project”) including, and to be located on, land more particularly identified by Exhibit A (“Land”), consisting of total taxable investment by the Company in real and personal property of not less than \$45,000,000, and in connection with the Project, anticipates making investment in certain Public Infrastructure as further described herein;

WHEREAS, by an ordinance enacted on December 3, 2019 (“Ordinance”), the County authorized the expansion of the boundaries of the Park and an amendment to the Park Agreement to include the Land and other real and personal property comprising the Project (“Property”) in the Park, subject to the consent to such expansion being granted by the City of Columbia, South Carolina (the “City”) in accordance with Section 4-1-170(C) of the Act;

WHEREAS, in accordance with Section 4-1-170(C) of the Act, the City, acting by and through its City Council, enacted, on December 3, 2019, an ordinance consenting to the inclusion of the Land within the boundaries of the Park; and

WHEREAS, pursuant to the Ordinance, the County further authorized the execution and delivery of this Agreement to provide Public Infrastructure Credits against the Company’s Fee Payments with respect to the Project for the purpose of assisting in paying the costs of certain Public Infrastructure invested by the Company at, in, or in connection with, the Project, subject to the terms and conditions below.

NOW, THEREFORE, in consideration of the respective representations and agreements hereinafter contained, the County and the Company agree as follows:

ARTICLE I REPRESENTATIONS

Section 1.1. *Representations by the County.* The County represents to the Company as follows:

- (a) The County is a body politic and corporate and a political subdivision of the State of South Carolina;
- (b) The County is authorized and empowered by the provisions of the Act to enter into and carry out its obligations under this Agreement;
- (c) The County has duly authorized and approved the execution and delivery of this Agreement by adoption of the Ordinance in accordance with the procedural requirements of the Act and any other applicable state law;
- (d) The County is not in default of any of its obligations (contractual or otherwise) as a result of entering into and performing its obligations under this Agreement;
- (e) The County has approved the inclusion of the Property in the Park; and
- (f) Based on representations made by the Company to the County, the County has determined the Project and the Public Infrastructure will enhance the economic development of the County and promote the welfare of its citizens. Therefore, the County is entering into this Agreement for the purpose of promoting the economic development of the County and the welfare of its citizens.

Section 1.2. *Representations and Covenants by the Company.* The Company represents to the County as follows:

- (a) The Company is in good standing under the laws of the State of South Carolina, has power to conduct business in the State of South Carolina and enter into this Agreement, and by proper company action has authorized the officials signing this Agreement to execute and deliver it;
- (b) The Company will use commercially reasonable efforts to achieve the Investment Commitment, each as defined below, at the Project;
- (c) The Company's execution and delivery of this Agreement, and its compliance with the provisions of this Agreement do not result in a default under any agreement or instrument to which the Company is now a party or by which it is bound; and
- (d) The Company covenants to complete any and all Company Public Infrastructure (as defined herein) in a workmanlike manner and in accordance with all applicable codes and regulations.

ARTICLE II PUBLIC INFRASTRUCTURE CREDITS

Section 2.1. *Investment Commitment.* The Company shall invest not less than \$45,000,000 in taxable property in the Project ("Investment Commitment") by December 3, 2024 ("Certification Deadline"). The Company shall certify to the County achievement of the Investment Commitment on a date

no later than the Certification Deadline (“Certification Date”), by providing documentation, which documentation may include, without limitation, pay applications, invoices, and accounting logs, and, only with respect to the personal property portion of the Project, any SCDOR PT-100 filed by the Company with respect to the Project, to the County’s Economic Development Department sufficient to reflect achievement of the Investment Commitment, in form and substance reasonably acceptable to the County. If the Company fails to achieve and so certify the Investment Commitment by the Certification Deadline, the County may terminate this Agreement and, upon any such termination, the Company shall no longer be entitled to any further benefits under this Agreement.

Section 2.2. Public Infrastructure Commitment.

(a) Prior to receiving the Public Infrastructure Credits under this Agreement, the Company shall make an investment in Public Infrastructure in the County which may be comprised of any or all of the following improvements and facilities benefitting the public or dedicated to public use: water, sewer, or stormwater improvements, greenspaces, recreation or community facilities, pedestrian or transportation facilities, parking facilities, facade redevelopment, roadway improvements, and energy production or communications technology infrastructure. Public Infrastructure may also include expenditures on the eradication of blight.

(b) In connection with the Project, the Company has committed with commercially reasonable efforts to invest in the Public Infrastructure as described on Exhibit B hereto (“Company Public Infrastructure”). The Company shall certify its actual investment in the Company Public Infrastructure to the County on the Certification Date, by providing documentation, which documentation may include, without limitation, pay applications, invoices, and accounting logs, to the County’s Economic Development Department sufficient to reflect the Company’s investment in the Company Public Infrastructure, in form and substance reasonably acceptable to the County. If the Company fails to substantially complete the Company Public Infrastructure by the Certification Deadline in the cumulative total investment amount set forth in Exhibit B hereto, then the Company may not be entitled to the full value of the Public Infrastructure Credit as provided by this Agreement.

(c) Following the Certification Date, the County’s Economic Development Department shall have 30 days (“Verification Deadline”) to verify the Company’s investment in the Company Public Infrastructure. The County has the right to exclude from the investment in Company Public Infrastructure certified by the Company any costs the County determines, in its sole discretion, to be ineligible costs. The County may also reject any Company Public Infrastructure investment as ineligible if the County determines, in its sole discretion, that it has not been completed in a workmanlike manner or in accordance with applicable codes or regulations. The County’s Economic Development Department shall, on a date no later than the Verification Deadline (the “Verification Date”), provide to the Company, by written notice, the County’s determination of the verified amount of Company Public Infrastructure investment. Failure to provide such a written determination by the Verification Deadline shall be deemed to be a determination by the County that all Company Public Infrastructure investment certified by the Company is verified as eligible costs, and, in such event, the Verification Date shall be deemed to be the Verification Deadline.

Section 2.3. Public Infrastructure Credit.

(a) To assist in paying for costs of Company Public Infrastructure, the County shall provide a Public Infrastructure Credit against each of the Company’s Fee Payments due with respect to the Project, commencing with the first Fee Payment following the Verification Date. The term, amount and calculation of the Public Infrastructure Credit is described in Exhibit B.

(b) For each tax year for which the Company is entitled to a Public Infrastructure Credit (“Credit Term”), the County shall prepare and issue the Company’s annual Fee Payment bill with respect to the Project net of the Public Infrastructure Credit set forth in **Section 2.3 (a)** (“Net Fee Payment”). Following receipt of the bill, the Company shall timely remit the Net Fee Payment to the County in accordance with applicable law.

(c) THIS AGREEMENT AND THE PUBLIC INFRASTRUCTURE CREDITS PROVIDED BY THIS AGREEMENT ARE LIMITED OBLIGATIONS OF THE COUNTY. THE PUBLIC INFRASTRUCTURE CREDITS ARE DERIVED SOLELY FROM AND TO THE EXTENT OF THE FEE PAYMENTS MADE BY THE COMPANY TO THE COUNTY PURSUANT TO THE ACT AND THE PARK AGREEMENT. THE PUBLIC INFRASTRUCTURE CREDITS DO NOT AND SHALL NOT CONSTITUTE A GENERAL OBLIGATION OF THE COUNTY OR ANY MUNICIPALITY WITHIN THE MEANING OF ANY CONSTITUTIONAL OR STATUTORY LIMITATION AND DO NOT AND SHALL NOT CONSTITUTE OR GIVE RISE TO A PECUNIARY LIABILITY OF THE COUNTY OR ANY MUNICIPALITY OR A CHARGE AGAINST THE GENERAL CREDIT OR TAXING POWER OF THE COUNTY OR ANY MUNICIPALITY. THE FULL FAITH, CREDIT, AND TAXING POWER OF THE COUNTY OR ANY MUNICIPALITY ARE NOT PLEDGED FOR THE PROVISION OF THE PUBLIC INFRASTRUCTURE CREDITS.

Section 2.4. Filings; Administration. To assist the County in administering the Public Infrastructure Credit, with respect to the Company’s Fee Payments due with respect to the personal property portion of the Project, the Company shall, for the tax year comprising the Credit Term, prepare and file a separate schedule to the SCDOR PT-100 with respect to the personal property portion of the Project. Additionally, the Company shall, on or before January 31 of each year following the commencement of the Credit Term, deliver to the Economic Development Director of the County the information required by the terms of the County’s Resolution dated December 12, 2017, which is attached hereto as Exhibit C, as may be amended by subsequent resolution, with respect to the Company. The County and the Company further acknowledge and agree that the Land, as identified by Exhibit A as of the original execution and delivery of this Agreement, reflects the present anticipation as to the general boundaries of the land upon which the Project will be located and that, as the specific boundaries upon which the Project will be located are delineated, as an additional means of assisting the County in administering the Public Infrastructure Credit, the Company and the County will work cooperatively to properly assign the Project with a specific identifying description including, but not limited to, one or more tax map numbers.

Section 2.5 Cumulative Public Infrastructure Credit. The cumulative dollar amount of the Public Infrastructure Credit shall not exceed the amount invested by the Company in Company Public Infrastructure, as verified, or deemed verified, by the County on or before the Verification Deadline. The County Economic Development Department shall provide the verified investment amount to the County Auditor for purposes of applying the Public Infrastructure Credit in accordance with **Section 2.3** of this Agreement.

ARTICLE III DEFAULTS AND REMEDIES

Section 3.1. Events of Default. The following are “Events of Default” under this Fee Agreement:

(a) Failure by the Company to make a Net Fee Payment, which failure has not been cured within 30 days following receipt of written notice from the County specifying the delinquency in payment and requesting that it be remedied;

(b) An abandonment or closure of the Project; for purposes of this Agreement, “abandonment or closure of the Project” means failure to place all or a portion of the Project in service by December 31, 2023;

(c) A representation or warranty made by the Company which is deemed materially incorrect when deemed made;

(d) Failure by the Company to perform any of the terms, conditions, obligations, or covenants under this Agreement (other than those described in **Sections 2.1** and **2.2** and under **(a)** above), which failure has not been cured within 30 days after written notice from the County to the Company specifying such failure and requesting that it be remedied, unless the Company has instituted corrective action within the 30-day period and is diligently pursuing corrective action until the default is corrected, in which case the 30-day period is extended to include the period during which the Company is diligently pursuing corrective action;

(e) A representation or warranty made by the County which is deemed materially incorrect when deemed made; or

(f) Failure by the County to perform any of the terms, conditions, obligations, or covenants hereunder, which failure has not been cured within 30 days after written notice from the Company to the County specifying such failure and requesting that it be remedied, unless the County has instituted corrective action within the 30-day period and is diligently pursuing corrective action until the default is corrected, in which case the 30-day period is extended to include the period during which the County is diligently pursuing corrective action.

Section 3.2. Remedies on Default.

(a) If an Event of Default by the Company has occurred and is continuing, then the County may take any one or more of the following remedial actions:

(i) terminate the Agreement; or

(ii) take whatever action at law or in equity may appear necessary or desirable to collect amounts due or otherwise remedy the Event of Default or recover its damages.

(b) If an Event of Default by the County has occurred and is continuing, the Company may take one or more of the following actions:

(i) bring an action for specific enforcement;

(ii) terminate the Agreement; or

(iii) in case of a materially incorrect representation or warranty, take such action as is appropriate, including legal action, to recover its damages, to the extent allowed by law.

Section 3.3. Reimbursement of Legal Fees and Other Expenses. On the occurrence of an Event of Default, if a Party is required to employ attorneys or incur other reasonable expenses for the collection of payments due under this Agreement or for the enforcement of performance or observance of any obligation or agreement, the prevailing Party is entitled to seek reimbursement of the reasonable fees of such attorneys and such other reasonable expenses so incurred.

Section 3.4. Remedies Not Exclusive. No remedy described in this Agreement is intended to be exclusive of any other remedy or remedies, and each and every such remedy is cumulative and in addition to every other remedy given under this Agreement or existing at law or in equity or by statute.

Section 3.5. Nonwaiver. A delay or omission by the Company or County to exercise any right or power accruing on an Event of Default does not waive such right or power and is not deemed to be a waiver or acquiescence of the Event of Default. Every power and remedy given to the Company or County by this Agreement may be exercised from time to time and as often as may be deemed expedient.

ARTICLE IV MISCELLANEOUS

Section 4.1. Examination of Records; Confidentiality.

(a) The County and its authorized agents, at any reasonable time on prior notice, may enter and examine the Project and have access to and examine the Company's books and records relating to the Project for the purposes of (i) identifying the Project; (ii) confirming achievement of the Investment Commitment; (iii) verifying the investment in Public Infrastructure; and (iv) permitting the County to carry out its duties and obligations in its sovereign capacity (such as, without limitation, for such routine health and safety purposes as would be applied to any other manufacturing or commercial facility in the County).

(b) The County acknowledges that the Company may utilize confidential and proprietary processes and materials, services, equipment, trade secrets, and techniques ("Confidential Information") and that disclosure of the Confidential Information could result in substantial economic harm to the Company. The Company may clearly label any Confidential Information delivered to the County pursuant to this Agreement as "Confidential Information." Except as required by law, the County, or any employee, agent, or contractor of the County, shall not disclose or otherwise divulge any labeled Confidential Information to any other person, firm, governmental body or agency. The Company acknowledges that the County is subject to the South Carolina Freedom of Information Act, and, as a result, must disclose certain documents and information on request, absent an exemption. If the County is required to disclose any Confidential Information to a third party, the County will use its best efforts to provide the Company with as much advance notice as is reasonably possible of such disclosure requirement prior to making such disclosure and to cooperate reasonably with any attempts by the Company to obtain judicial or other relief from such disclosure requirement.

Section 4.2. Assignment. The Company may assign or otherwise transfer any of its rights and interest in this Agreement on prior written consent of the County, which may be given by resolution, and which consent will not be unreasonably withheld.

Section 4.3. Provisions of Agreement for Sole Benefit of County and Company. Except as otherwise specifically provided in this Agreement, nothing in this Agreement expressed or implied confers on any person or entity other than the County and the Company any right, remedy, or claim under or by reason of this Agreement, this Agreement being intended to be for the sole and exclusive benefit of the County and the Company.

Section 4.4. Severability. If any provision of this Agreement is declared illegal, invalid, or unenforceable for any reason, the remaining provisions of this Agreement are unimpaired, and the Parties shall reform such illegal, invalid, or unenforceable provision to effectuate most closely the legal, valid, and enforceable intent of this Agreement.

Section 4.5. Limitation of Liability.

(a) The County is not liable to the Company for any costs, expenses, losses, damages, claims or actions in connection with this Agreement, except from amounts received by the County from the Company under this Agreement.

(b) All covenants, stipulations, promises, agreements and obligations of the County contained in this Agreement are binding on members of the County Council or any elected official, officer, agent, servant or employee of the County only in his or her official capacity and not in his or her individual capacity, and no recourse for the payment of any moneys or performance of any of the covenants and agreements under this Agreement or for any claims based on this Agreement may be had against any member of County Council or any elected official, officer, agent, servant or employee of the County except solely in their official capacity.

Section 4.6. *Indemnification Covenant.*

(a) Except as provided in paragraph (d) below, the Company shall indemnify and save the County, its employees, elected officials, officers and agents (each, an “Indemnified Party”) harmless against and from all liability or claims arising from the County’s execution of this Agreement, performance of the County’s obligations under this Agreement or the administration of its duties pursuant to this Agreement, or otherwise by virtue of the County having entered into this Agreement.

(b) The County is entitled to use counsel of its choice and the Company shall reimburse the County for all of its costs, including attorneys’ fees, incurred in connection with the response to or defense against such liability or claims as described in paragraph (a) above. The County shall provide a statement of the costs incurred in the response or defense, and the Company shall pay the County within 30 days of receipt of the statement. The Company may request reasonable documentation evidencing the costs shown on the statement. However, the County is not required to provide any documentation which may be privileged or confidential to evidence the costs.

(c) The County may request the Company to resist or defend against any claim on behalf of an Indemnified Party. On such request, the Company shall resist or defend against such claim on behalf of the Indemnified Party, at the Company’s expense. The Company is entitled to use counsel of its choice, manage and control the defense of or response to such claim for the Indemnified Party; provided the Company is not entitled to settle any such claim without the consent of that Indemnified Party.

(d) Notwithstanding anything herein to the contrary, the Company is not required to indemnify any Indemnified Party against or reimburse the County for costs arising from any claim or liability (i) occasioned by the acts of that Indemnified Party, which are unrelated to the execution of this Agreement, performance of the County’s obligations under this Agreement, or the administration of its duties under this Agreement, or otherwise by virtue of the County having entered into this Agreement; or (ii) resulting from that Indemnified Party’s own negligence, bad faith, fraud, deceit, or willful misconduct.

(e) An Indemnified Party may not avail itself of the indemnification or reimbursement of costs provided in this Section unless it provides the Company with prompt notice, reasonable under the circumstances, of the existence or threat of any claim or liability, including, without limitation, copies of any citations, orders, fines, charges, remediation requests, or other claims or threats of claims, in order to afford the Company notice, reasonable under the circumstances, within which to defend or otherwise respond to a claim.

Section 4.7. *Notices.* All notices, certificates, requests, or other communications under this Agreement are sufficiently given and are deemed given, unless otherwise required by this Agreement, when

(i) delivered and confirmed by United States first-class, registered mail, postage prepaid or (ii) sent by facsimile, and addressed as follows:

if to the County: Richland County, South Carolina
Attn: Director of Economic Development
2020 Hampton Street
Columbia, South Carolina 29204
Phone: 803.576.2043
Fax: 803.576.2137

with a copy to
(does not constitute notice): Parker Poe Adams & Bernstein LLP
Attn: Ray E. Jones
1221 Main Street, Suite 1100 (29201)
Post Office Box 1509
Columbia, South Carolina 29202
Phone: 803.255.8000
Fax: 803.255.8017

if to the Company: B-6 Benet Horger LLC
c/o Proffitt Dixon Partners, LLC
Attn: Matt Poindexter
1420 East 7th Street, Suite 150
Charlotte, North Carolina 28204
Phone: _____
Fax: _____

with a copy to Tushar V. Chikhliker, Esq.
Nexsen Pruet, LLC
1230 Main Street, Suite 700 (29201)
Post Office Box 2426
Columbia, South Carolina (29202)
Phone: 803.771.8900
Fax: 803.253.8277

The County and the Company may, by notice given under this Section, designate any further or different addresses to which subsequent notices, certificates, requests or other communications shall be sent.

Section 4.8. Administrative Fees. The Company will reimburse, or cause reimbursement to, the County for the Administration Expenses in an amount not exceeding \$5,000. The Company will reimburse the County for its Administration Expenses on receipt of a written request from the County or at the County's direction, which request shall include a statement of the amount and nature of the Administration Expense. The Company shall pay the Administration Expenses as set forth in the written request no later than 60 days following receipt of the written request from the County. For purposes of this Section, "Administration Expenses" means the reasonable expenses incurred by the County in the negotiation, approval and implementation of the terms and provisions of this Agreement, including reasonable attorneys' fees. Administration Expenses do not include any costs, expenses, including attorneys' fees, incurred by the County (i) in defending challenges to the Fee Payments or Public Infrastructure Credits brought by third parties or the Company or its affiliates and related entities, or (ii) in connection with matters

arising at the request of the Company outside of the immediate scope of this Agreement, including amendments to the terms of this Agreement. The payment by the Company of the County's Administration Expenses shall not be construed as prohibiting the County from engaging, at its discretion, the counsel of the County's choice.

Section 4.9. Entire Agreement. This Agreement expresses the entire understanding and all agreements of the Parties with each other, and neither Party is bound by any agreement or any representation to the other Party which is not expressly set forth in this Agreement or in certificates delivered in connection with the execution and delivery of this Agreement.

Section 4.10 Agreement to Sign Other Documents. From time to time, and at the expense of the Company, to the extent any expense is incurred, the County agrees to execute and deliver to the Company such additional instruments as the Company may reasonably request and as are authorized by law and reasonably within the purposes and scope of the Act and this Agreement to effectuate the purposes of this Agreement.

Section 4.11. Agreement's Construction. Each Party and its counsel have reviewed this Agreement and any rule of construction to the effect that ambiguities are to be resolved against a drafting party does not apply in the interpretation of this Agreement or any amendments or exhibits to this Agreement.

Section 4.12. Applicable Law. South Carolina law, exclusive of its conflicts of law provisions that would refer the governance of this Agreement to the laws of another jurisdiction, governs this Agreement and all documents executed in connection with this Agreement.

Section 4.13. Counterparts. This Agreement may be executed in any number of counterparts, and all of the counterparts together constitute one and the same instrument.

Section 4.14. Amendments. This Agreement may be amended only by written agreement of the Parties.

Section 4.15. Waiver. Either Party may waive compliance by the other Party with any term or condition of this Agreement but the waiver is valid only if it is in a writing signed by the waiving Party.

Section 4.16. Termination. Unless first terminated under any other provision of this Agreement, this Agreement terminates on the expiration of the Credit Term and payment by the Company of any outstanding Net Fee Payment due on the Project pursuant to the terms of this Agreement.

Section 4.17. Business Day. If any action, payment, or notice is, by the terms of this Agreement, required to be taken, made, or given on any Saturday, Sunday, or legal holiday in the jurisdiction in which the Party obligated to act is situated, such action, payment, or notice may be taken, made, or given on the following business day with the same effect as if taken, made or given as required under this Agreement, and no interest will accrue in the interim.

*[TWO SIGNATURE PAGES FOLLOW]
[REMAINDER OF PAGE INTENTIONALLY BLANK]*

IN WITNESS WHEREOF, Richland County, South Carolina, has caused this Agreement to be executed by the appropriate officials of the County and its corporate seal to be affixed and attested, effective the day and year first above written.

RICHLAND COUNTY, SOUTH CAROLINA

Chair, Richland County Council

(SEAL)
ATTEST:

Clerk to Council, Richland County Council

[SIGNATURE PAGE 1 TO PUBLIC INFRASTRUCTURE CREDIT AGREEMENT]

IN WITNESS WHEREOF, B-6 BENET HORGER LLC has caused this Agreement to be executed by its authorized officer(s), effective the day and year first above written.

B-6 BENET HORGER LLC

By: _____

Name: _____

Its: _____

[SIGNATURE PAGE 2 TO PUBLIC INFRASTRUCTURE CREDIT AGREEMENT]

EXHIBIT A

LAND DESCRIPTION

ALL that certain piece, parcel or lot of land, including air rights, situate, lying and being in the City of Columbia, County of Richland, State of South Carolina, and within the following two parcels, to-wit:

Parcel C-6

Parcel C-6 as shown on a Subdivision Plat prepared for Bull Street Development, LLC, by Jeffrey W. Poole, PLS NO. 18267, Davis & Floyd and dated September 4, 2018 and recorded September 27, 2018 in the Office of the Register of Deeds for Richland County in Book 2338, at page 2806. Said property containing 1.62 Acres, and being described as follows: Commencing at a #5 rebar found in the southern quadrant of the Boyce Street and Freed Street intersection; said #5 rebar found is the Point of Beginning; thence running in a southeasterly direction S19°07'17"E along the Boyce Street westerly right-of-way for a distance of 302.96 feet to a #5 rebar set on said right-of-way; thence turning and running in a southwesterly direction S70°52'43"W along Parcel C-7 belonging to Tellus Delaware, LLC for a distance of 262.78 feet to a P.K. Nail set; thence turning and running in a northwesterly direction N 19°07'17"W along Tract 2 of property belonging to South Carolina Department of Mental Health for a distance of 43.35 feet to a P.K. Nail set; thence turning and running in a northeasterly direction N70°56'58"E along Tract 2 of property belonging to South Carolina Department of Mental Health for a distance of 34.79 feet to a P.K. Nail set; thence turning and running in a northwesterly direction N 19°03'02" W through the Williams Building and along Tract 2 of property belonging to South Carolina Department of Mental Health for a distance of 259.92 feet to a P.K. Nail set; thence turning and running in a northeasterly direction N70°56'45"E along Parcel A-4 belonging to Tellus Delaware, LLC for a distance of 227 .67 feet to a #5 rebar found on the Boyce Street right-of-way in the southern quadrant of the Boyce Street and Freed Street intersection; said point being the Point of Beginning.

TMS No.: R09-113-16-03 (portion of)

Parcel C-7

Parcel C-7 as shown on a Subdivision Plat prepared for Bull Street Development, LLC, by Jeffrey W. Poole, PLS NO. 18267, Davis & Floyd and dated November 15, 2017 and recorded December 20, 2017 in the Office of the Register of Deeds for Richland County in Book 2268, at page 2778. Said property containing 3.05 Acres, and being described as follows: Commencing at a #5 rebar found at the southwesterly end of the right-of-way of Saunders Street at its corner with property belonging to South Carolina Department of Mental Health and proceeding N19°03'15"W 72.00 feet to the Point of Beginning; thence running in a southwesterly direction S70°52'43"W along property belonging to South Carolina Department of Mental Health for a distance of 268.84 feet to a #5 rebar set; thence turning and running northwesterly direction N19°07'17"W along property now or formerly belonging to South Carolina Department of Mental Health for a distance of 465.62 feet to a #5 rebar set; thence turning and running in a northeasterly direction N70°52'43"E along Parcel C-6 belonging to BullStreet Retail, LLC for a distance of 262.78 feet to a #5 rebar set; thence turning and running in a southeasterly direction S19°07'17"E along the westerly right-of-way of Boyce Street for a distance of 15.85 feet to a #5

A-1

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rebar found; thence continuing along the right-of-way of Boyce Street in a southeasterly direction S49°03'15"E for a distance of 49.17 feet to a #5 rebar found; thence continuing along the right-of-way of Boyce Street in a southeasterly direction S19°03'15"E for a distance of 407.20 feet to a #5 rebar found on the Boyce Street right-of-way in the western quadrant of the Boyce Street and Saunders Street intersection; said point being the Point of Beginning.

Further described as Lots 2, 4 (including references to divisions A-G), and Bridge as shown on a Summary Plat of seven (7) pages, entitled Bull Street Subdivision prepared for BullStreet Retail, LLC, by Site Design, Inc. and dated November 1, 2019.

TMS No.: R11501-02-01 (portion of)

EXHIBIT B (See Section 2.2)

DESCRIPTION OF COMPANY PUBLIC INFRASTRUCTURE

The Company Public Infrastructure includes a parking deck that will provide 345 spaces on 4 levels. The lowest level will provide approximately 74 spaces for the general public visiting The BullStreet District. The remaining spaces will serve the residential and office uses within The BullStreet District. In addition to the parking deck, general infrastructure benefiting the public will be constructed around the perimeter of the Project, including sidewalks, plaza areas, site lighting, utility connections, some surface parking, all as set forth in greater detail below.

Company Public Infrastructure Budget Estimate	
Parking Deck (Hard Costs)	
	Budget
Land Costs	\$151,000
Construction Estimate	\$5,955,000
Hard Costs Contingency	\$357,300
Total Hard Costs	\$6,463,300
Parking Deck (Soft Costs)	
	Budget
Due Diligence & Survey	\$28,000
Legal, Insurance and Related Fees	\$52,000
Financing	\$137,000
Architecture & Engineering	\$90,000
Consultants	\$12,000
Miscellaneous Soft Costs	\$13,000
Total Soft Costs	\$332,000
Total Parking Deck Costs	\$6,795,300
Additional Public Infrastructure	
	Budget
Right-of-Way Hardscape	\$425,000
Right-of-Way Landscaping	\$275,000
Public Infrastructure Lighting	\$165,000
Architecture, Engineering & Survey	\$62,000
Contingency	\$55,620
Total Additional Infrastructure Costs	\$982,620
Total Company Public Infrastructure Costs	\$7,777,920

Notwithstanding anything above or in this Agreement to the contrary, the Company and the County acknowledge and agree that: (i) the Company Public Infrastructure shall, subject to the provisions of **Section 2.2(c)** of this Agreement, include, in addition to that described and delineated above, any Public Infrastructure invested in by the Company in connection with the Project and consisting of improvements or infrastructure included within the description of Public Infrastructure set forth in **Section 2.2** of this Agreement; and, (ii) the specific line item budget amounts listed above are current estimates and the actual expenditures made by the Company with respect to each such line item may fluctuate as the Project develops.

EXHIBIT C (See Section 2.3)

DESCRIPTION OF PUBLIC INFRASTRUCTURE CREDIT

The County shall provide a 50% Public Infrastructure Credit against the Fee Payments due and owing from the Company to the County with respect to the Project as provided in this Agreement, provided, the cumulative total amount of the Public Infrastructure Credit shall not exceed the Company's investment in the Company Public Infrastructure.

The Company is eligible to receive the Public Infrastructure Credit against each of the Company's Fee Payments due with respect to the Project for a period of 10 consecutive years, beginning with the first such Fee Payment due with respect to the Project following the Verification Date and ending on the earlier of the 10th year or the year in which the cumulative total amount of the Public Infrastructure Credit equals the Company's investment in the Company Public Infrastructure ("Credit Term").

EXHIBIT D (See Section 2.5)
**RICHLAND COUNTY RESOLUTION REQUIRING CERTAIN ACCOUNTABILITY PRACTICES CONCERNING
ECONOMIC DEVELOPMENT PROJECTS IN THE COUNTY**

**A RESOLUTION TO AMEND THE DECEMBER 21, 2010,
RESOLUTION REQUIRING CERTAIN ACCOUNTABILITY
PRACTICES CONCERNING ECONOMIC DEVELOPMENT
PROJECTS IN RICHLAND COUNTY**

WHEREAS, Richland County Council adopted a resolution dated as of December 21, 2010 (“Prior Resolution”), which requires companies receiving economic development incentives from Richland County, South Carolina (“County”) to submit annual reports to the Richland County Economic Development Office; and

WHEREAS, the County desires to make the form of the annual reports submitted by such companies uniform in order to make the substantive information contained in the annual reports more easily tracked and documented by the Richland County Economic Development Office.

NOW, THEREFORE, BE IT RESOLVED by Richland County Council as follows:

Section 1. The County affirms that each company awarded an incentive by the County in exchange for the location or expansion of a facility or facilities within the County shall submit an annual report to the Richland County Economic Development Office by January 31 of each year throughout the term of the incentives.

Section 2. The Richland County Economic Development Office is authorized to create (and from time to time, if necessary, amend or recreate) and make available the form of the annual report; however, such form, shall require, at a minimum, the following information:

- a. Name of company;
- b. Cumulative capital investment (less any removed investment) to date as a result of the project;
- c. Net jobs created to date as a result of the project;

Section 3. A copy of the then-current form of the annual report may be obtained from the following address. The annual report shall likewise be submitted to the following address by the required date.

Richland County Economic Development Office
Attention: Kim Mann
1201 Main Street, Suite 910
Columbia, SC 29201

Section 4. This Resolution amends the Prior Resolution and sets forth the County’s requirements with respect to the annual reports to be submitted by each company awarded an incentive by the County as described in Section 1.

Section 5. The substance of this Resolution shall be incorporated into the agreement between the County and each company with respect to the incentives granted by the County to the company.

Section 6. In the event that any company shall fail to submit an annual report, or any portion thereof, such company may be required to return all incentives, or a dollar amount equal thereof, to the County. Such incentives, or the dollar amount equal thereto, shall be paid to the County within 60 days after the date upon which the information was originally due.


RESOLVED: December 12 2017

RICHLAND COUNTY, SOUTH CAROLINA



Chair, Richland County Council

(SEAL)
ATTEST:



Clerk to County Council

Richland County Council Request for Action

Subject:

Authorizing the expansion of the boundaries of the I-77 Corridor Regional Industrial Park jointly developed with Fairfield County to include certain property located in Richland County; the execution and delivery of a Public Infrastructure Credit Agreement to provide for public infrastructure credits to [Project Kline]; and other related matters

Notes:

First Reading: November 19, 2019

Second Reading: December 3, 2019 {Tentative}

Third Reading:

Public Hearing:

STATE OF SOUTH CAROLINA
COUNTY COUNCIL FOR RICHLAND COUNTY
ORDINANCE NO. _____

AUTHORIZING THE EXPANSION OF THE BOUNDARIES OF THE I-77 CORRIDOR REGIONAL INDUSTRIAL PARK JOINTLY DEVELOPED WITH FAIRFIELD COUNTY TO INCLUDE CERTAIN PROPERTY LOCATED IN RICHLAND COUNTY; THE EXECUTION AND DELIVERY OF A PUBLIC INFRASTRUCTURE CREDIT AGREEMENT TO PROVIDE FOR PUBLIC INFRASTRUCTURE CREDITS TO [PROJECT KLINE]; AND OTHER RELATED MATTERS.

WHEREAS, Richland County (“County”), acting by and through its County Council (“County Council”), is authorized pursuant to the provisions of Article VIII, Section 13(D) of the South Carolina Constitution and the provisions of Title 4, Chapter 1 of the Code of Laws of South Carolina, 1976, as amended (collectively, “Act”), to (i) develop a multicounty park with counties having contiguous borders with the County; and (ii) include property in the multicounty park which inclusion under the terms of the Act (A) makes such property exempt from *ad valorem* property taxes, and (B) changes the character of the annual receipts from such property to fees-in-lieu of *ad valorem* property taxes in an amount equal to the *ad valorem* taxes that would have been due and payable but for the location of the property in such multicounty park (“Fee Payments”);

WHEREAS, the County is further authorized by Section 4-1-175 of the Act, to grant credits against Fee Payments (“Public Infrastructure Credit”) to pay costs of designing, acquiring, constructing, improving or expanding infrastructure serving the County (collectively, “Public Infrastructure”);

WHEREAS, pursuant to the authority provided in the Act, the County has developed with Fairfield County, South Carolina (“Fairfield”), the I-77 Corridor Regional Industrial Park (“Park”) and executed the Amended and Restated Master Agreement Governing the I-77 Corridor Regional Industrial Park, dated September 1, 2018 (“Park Agreement”), which governs the operation of the Park;

WHEREAS, [Project Kline] (“Company”) desires to develop a mixed-use development, consisting of commercial, retail and multi-family housing within the County (“Project”), resulting in a taxable investments in real and personal property of not less than \$[34,000,000];

WHEREAS, at the Company’s request, the County desires to expand the boundaries of the Park and amend the Park Agreement to include the real and personal property relating to the Project (“Property”) in the Park; and

WHEREAS, the County further desires to enter into a Public Infrastructure Credit Agreement between the County and the Company, the substantially final form of which is attached as Exhibit A (“Agreement”), to provide Public Infrastructure Credits against certain of the Company’s Fee Payments with respect to the Project for the purpose of assisting in paying the costs of certain Public Infrastructure.

NOW THEREFORE, BE IT ORDAINED, by the County Council as follows::

Section 1. Statutory Findings. Based on representations made by the Company to the County, the County finds that the Project and the Public Infrastructure will enhance the economic development of the County and promote the welfare of its citizens.

Section 2. *Expansion of the Park Boundaries, Inclusion of Property.* The expansion of the Park boundaries and an amendment to the Park Agreement to include the Property in the Park is authorized. The Chair of County Council (“Chair”), is authorized to execute such documents and take such further actions as may be necessary to complete the expansion of the Park boundaries and the amendment to the Park Agreement. Pursuant to the terms of the Park Agreement, the expansion of the Park’s boundaries to include the Property is complete on the adoption of this Ordinance by County Council and delivery of written notice to Fairfield of the inclusion of the Property, which written notice shall include a copy of this Ordinance and identification of the Property.

Section 3. *Approval of Public Infrastructure Credit; Authorization to Execute and Deliver Agreement.* The Public Infrastructure Credits, as more particularly set forth in the Agreement, against the Company’s Fee Payments with respect to the Project are approved. The form, terms and provisions of the Agreement that is before this meeting are approved and all of the Agreement’s terms are incorporated in this Ordinance by reference as if the Agreement was set out in this Ordinance in its entirety. The Chair is authorized and directed to execute the Agreement in the name of and on behalf of the County, subject to the approval of any revisions or changes as are not materially adverse to the County by the County Administrator and counsel to the County, and the Clerk to County Council is hereby authorized and directed to attest the Agreement and to deliver the Agreement to the Company.

Section 4. *Further Assurances.* The County Council confirms the authority of the Chair, the County Administrator, the Director of Economic Development and the Clerk to County Council, and various other County officials and staff, acting at the direction of the Chair, the County Administrator, the Director of Economic Development or Clerk to County Council, as appropriate, to take whatever further action and to negotiate, execute and deliver whatever further documents as may be appropriate to effect the intent of this Ordinance and the incentives offered to the Company under this Ordinance and the Agreement.

Section 5. *Savings Clause.* The provisions of this Ordinance are separable. If any part of this Ordinance is, for any reason, unenforceable then the validity of the remainder of this Ordinance is unaffected.

Section 6. *General Repealer.* Any prior ordinance, the terms of which are in conflict with this Ordinance, is, only to the extent of that conflict, repealed.

Section 7. *Effectiveness.* This Ordinance is effective after its third reading and public hearing.

RICHLAND COUNTY, SOUTH CAROLINA

Chair, Richland County Council

(SEAL)
ATTEST:

Clerk of Council, Richland County Council

First Reading: November 19, 2019
Second Reading: December 3, 2019
Public Hearing:
Third Reading:

EXHIBIT A
FORM OF AGREEMENT

PUBLIC INFRASTRUCTURE CREDIT AGREEMENT

by and between

RICHLAND COUNTY, SOUTH CAROLINA

and

[PROJECT KLINE]

Effective as of: []

PUBLIC INFRASTRUCTURE CREDIT AGREEMENT

This PUBLIC INFRASTRUCTURE CREDIT AGREEMENT, effective as of [DATE] (“Agreement”), is by and between RICHLAND COUNTY, SOUTH CAROLINA, a body politic and corporate, and a political subdivision of the State of South Carolina (“County”), and [PROJECT KLINE], a [STATE] limited liability company (“Company” together with the County, “Parties,” each, a “Party”).

WITNESSETH:

WHEREAS, the County, acting by and through its County Council (“County Council”), is authorized and empowered under and pursuant to the provisions of Article VIII, Section 13(D) of the South Carolina Constitution and the provisions of Title 4, Chapter 1 of the Code of Laws of South Carolina, 1976, as amended (collectively, “Act”), to (i) develop multicounty parks with counties having contiguous borders with the County; and (ii) include property in the multicounty park, which inclusion under the terms of the Act (A) makes such property exempt from *ad valorem* property taxes, and (B) changes the character of the annual receipts from such property to fees-in-lieu of *ad valorem* property taxes in an amount equal to the *ad valorem* taxes that would have been due and payable but for the location of the property in such multicounty park (“Fee Payments”);

WHEREAS, the County is further authorized by Section 4-1-175 of the Act to grant credits against Fee Payments (“Public Infrastructure Credit”) to pay costs of designing, acquiring, constructing, improving or expanding public infrastructure serving the County (collectively, “Public Infrastructure”);

WHEREAS, pursuant to the authority provided in the Act, the County has developed with Fairfield County, South Carolina, the I-77 Corridor Regional Industrial Park (“Park”) and executed the “Amended and Restated Master Agreement Governing the I-77 Corridor Regional Industrial Park” dated September 1, 2018 (“Park Agreement”), which governs the operation of the Park;

WHEREAS, the Company has committed to develop a mixed-use development, consisting of commercial, retail and multi-family housing in the County (“Project”) on property more particularly identified by Exhibit A (“Land”), resulting in a taxable investment in real and personal property of not less than \$[34,000,000];

WHEREAS, by an ordinance enacted on [DATE] (“Ordinance”), the County authorized the expansion of the boundaries of the Park and an amendment to the Park Agreement to include the Land and other real and personal property relating to the Project (“Property”) in the Park; and

WHEREAS, pursuant to the Ordinance, the County further authorized the execution and delivery of this Agreement to provide Public Infrastructure Credits against the Company’s Fee Payments with respect to the Project for the purpose of assisting in paying the costs of certain Public Infrastructure invested by the Company at or in connection with the Project, subject to the terms and conditions below.

NOW, THEREFORE, in consideration of the respective representations and agreements hereinafter contained, the County and the Company agree as follows:

ARTICLE I REPRESENTATIONS

Section 1.1. *Representations by the County.* The County represents to the Company as follows:

- (a) The County is a body politic and corporate and a political subdivision of the State of South Carolina;
- (b) The County is authorized and empowered by the provisions of the Act to enter into and carry out its obligations under this Agreement;
- (c) The County has duly authorized and approved the execution and delivery of this Agreement by adoption of the Ordinance in accordance with the procedural requirements of the Act and any other applicable state law;
- (d) The County is not in default of any of its obligations (contractual or otherwise) as a result of entering into and performing its obligations under this Agreement;
- (e) The County has approved the inclusion of the Property in the Park; and
- (f) Based on representations made by the Company to the County, the County has determined the Project and the Public Infrastructure will enhance the economic development of the County and promote the welfare of its citizens. Therefore, the County is entering into this Agreement for the purpose of promoting the economic development of the County and the welfare of its citizens.

Section 1.2. *Representations and Covenants by the Company.* The Company represents to the County as follows:

- (a) The Company is in good standing under the laws of the State of [STATE], has power to conduct business in the State of South Carolina and enter into this Agreement, and by proper company action has authorized the officials signing this Agreement to execute and deliver it;
- (b) The Company will use commercially reasonable efforts to achieve the Investment Commitment, each as defined below, at the Project;
- (c) The Company's execution and delivery of this Agreement, and its compliance with the provisions of this Agreement do not result in a default under any agreement or instrument to which the Company is now a party or by which it is bound; and
- (d) The Company covenants to complete the Public Infrastructure in a workmanlike manner and in accordance with all applicable codes and regulations.

ARTICLE II PUBLIC INFRASTRUCTURE CREDITS

Section 2.1. *Investment Commitment.* The Company shall invest not less than [\$34,000,000] in taxable property at the Project ("Investment Commitment") by the Certification Date, as defined below. The Company shall certify to the County achievement of the Investment Commitment by no later than [DATE] ("Certification Date"), by providing documentation to the County sufficient to reflect achievement of the Investment Commitment. If the Company fails to achieve and certify the Investment Commitment by the Certification Date, the County may terminate this Agreement and, on termination, the

Company is no longer entitled to any further benefits under this Agreement. The County has the right to exclude

Section 2.2. Public Infrastructure Commitment.

(a) Prior to receiving the Public Infrastructure Credits under this Agreement, the Company shall make an investment in Public Infrastructure in the County which may be comprised of the following improvements and facilities benefitting the public or dedicated to public use: water sewer, or stormwater improvements, greenspaces, recreation or community facilities, pedestrian or transportation facilities, parking facilities, facade redevelopment, roadway improvements, and energy production or communications technology infrastructure. Public Infrastructure may also include expenditures on the eradication of blight.

(b) The Company has committed to invest in the Public Infrastructure as described on Exhibit B. The Company shall certify its actual investment in the Public Infrastructure to the County by the Certification Date, by providing documentation to the County's Economic Development Department sufficient to reflect the amount invested in the Public Infrastructure. If the Company fails to complete the Public Infrastructure by the Certification Date, then the Company may not be entitled to the full value of the Public Infrastructure Credits as provided by this Agreement.

(c) Following the Certification Date, the County's Economic Development Department shall have 30 days ("Verification Date") to verify the Company's investment in the Public Infrastructure. The County has the right to exclude from the investment in Public Infrastructure certified by the Company any costs the County determines, in its sole discretion, to be ineligible costs. The County may also reject any Public Infrastructure investment as ineligible if the County determines, in its sole discretion, that it has not been completed in a workmanlike manner or in accordance with applicable codes or regulations. The County's Economic Development Department shall provide to the Company, by written notice, the County's determination of the verified amount of investment made by the Company in Public Infrastructure. Failure to provide a written verification shall be deemed to be a determination by the County that all costs certified by the Company are verified as eligible costs.

Section 2.3. Public Infrastructure Credits.

(a) To assist in paying for costs of Public Infrastructure, the County shall provide a Public Infrastructure Credit against certain of the Company's Fee Payments due with respect to the Project, commencing with the first Fee Payment following the Verification Date. The term, amount and calculation of the Public Infrastructure Credit is described in Exhibit B.

(b) For each property tax year in which the Company is entitled to a Public Infrastructure Credit ("Credit Term"), the County shall prepare and issue the Company's annual bill with respect to the Project net of the Public Infrastructure Credit set forth in Section 2.3 (a) ("Net Fee Payment"). Following receipt of the bill, the Company shall timely remit the Net Fee Payment to the County in accordance with applicable law.

(c) THIS AGREEMENT AND THE PUBLIC INFRASTRUCTURE CREDITS PROVIDED BY THIS AGREEMENT ARE LIMITED OBLIGATIONS OF THE COUNTY. THE PUBLIC INFRASTRUCTURE CREDITS ARE DERIVED SOLELY FROM AND TO THE EXTENT OF THE FEE PAYMENTS MADE BY THE COMPANY TO THE COUNTY PURSUANT TO THE ACT AND THE PARK AGREEMENT. THE PUBLIC INFRASTRUCTURE CREDITS DO NOT AND SHALL NOT CONSTITUTE A GENERAL OBLIGATION OF THE COUNTY OR ANY MUNICIPALITY WITHIN THE MEANING OF ANY CONSTITUTIONAL OR STATUTORY LIMITATION AND DO

NOT AND SHALL NOT CONSTITUTE OR GIVE RISE TO A PECUNIARY LIABILITY OF THE COUNTY OR ANY MUNICIPALITY OR A CHARGE AGAINST THE GENERAL CREDIT OR TAXING POWER OF THE COUNTY OR ANY MUNICIPALITY. THE FULL FAITH, CREDIT, AND TAXING POWER OF THE COUNTY OR ANY MUNICIPALITY ARE NOT PLEDGED FOR THE PROVISION OF THE PUBLIC INFRASTRUCTURE CREDITS.

Section 2.4. Filings. To assist the County in administering the Public Infrastructure Credits, the Company shall, for the Credit Term, prepare and file a separate schedule to the SCDOR PT-100, PT-300 with respect to the Property. Additionally, the Company shall, on or before January 31 of each year during the Credit Term, commencing in January 31, [2019], deliver to the Economic Development Director of the County the information required by the terms of the County’s Resolution dated December 12, 2017, which is attached hereto as Exhibit C, as may be amended by subsequent resolution, with respect to the Company.

Section 2.5 Cumulative Public Infrastructure Credit. The cumulative dollar amount of the Public Infrastructure Credit shall not exceed the amount invested by the Company in Public Infrastructure, as verified, or deemed verified, by the County as of the Verification Date. The County Economic Development Department shall provide the verified investment amount to the County Auditor for purposes of applying the Public Infrastructure Credit in accordance with Section 2.3 of this Agreement.

ARTICLE III DEFAULTS AND REMEDIES

Section 3.1. Events of Default. The following are “Events of Default” under this Fee Agreement:

(a) Failure by the Company to make a Net Fee Payment, which failure has not been cured within 30 days following receipt of written notice from the County specifying the delinquency in payment and requesting that it be remedied;

(b) An abandonment or closure of the Project; For purposes of this Agreement, “abandonment or closure of the Project” means [to be tailored to nature of Project];

(c) A representation or warranty made by the Company which is deemed materially incorrect when deemed made;

(d) Failure by the Company to perform any of the terms, conditions, obligations, or covenants under this Agreement (other than those described in Sections 2.1 and 2.2 and under (a) above), which failure has not been cured within 30 days after written notice from the County to the Company specifying such failure and requesting that it be remedied, unless the Company has instituted corrective action within the 30-day period and is diligently pursuing corrective action until the default is corrected, in which case the 30-day period is extended to include the period during which the Company is diligently pursuing corrective action;

(e) A representation or warranty made by the County which is deemed materially incorrect when deemed made; or

(f) Failure by the County to perform any of the terms, conditions, obligations, or covenants hereunder, which failure has not been cured within 30 days after written notice from the Company to the County specifying such failure and requesting that it be remedied, unless the County has instituted corrective action within the 30-day period and is diligently pursuing corrective action until the default is

corrected, in which case the 30-day period is extended to include the period during which the County is diligently pursuing corrective action.

Section 3.2. Remedies on Default.

(a) If an Event of Default by the Company has occurred and is continuing, then the County may take any one or more of the following remedial actions:

(i) terminate the Agreement; or

(ii) take whatever action at law or in equity may appear necessary or desirable to collect amounts due or otherwise remedy the Event of Default or recover its damages.

(b) If an Event of Default by the County has occurred and is continuing, the Company may take one or more of the following actions:

(i) bring an action for specific enforcement;

(ii) terminate the Agreement; or

(iii) in case of a materially incorrect representation or warranty, take such action as is appropriate, including legal action, to recover its damages, to the extent allowed by law.

Section 3.3. Reimbursement of Legal Fees and Other Expenses. On the occurrence of an Event of Default, if a Party is required to employ attorneys or incur other reasonable expenses for the collection of payments due under this Agreement or for the enforcement of performance or observance of any obligation or agreement, the prevailing Party is entitled to seek reimbursement of the reasonable fees of such attorneys and such other reasonable expenses so incurred.

Section 3.4. Remedies Not Exclusive. No remedy described in this Agreement is intended to be exclusive of any other remedy or remedies, and each and every such remedy is cumulative and in addition to every other remedy given under this Agreement or existing at law or in equity or by statute.

Section 3.5. Nonwaiver. A delay or omission by the Company or County to exercise any right or power accruing on an Event of Default does not waive such right or power and is not deemed to be a waiver or acquiescence of the Event of Default. Every power and remedy given to the Company or County by this Agreement may be exercised from time to time and as often as may be deemed expedient.

**ARTICLE IV
MISCELLANEOUS**

Section 4.1. Examination of Records; Confidentiality.

(a) The County and its authorized agents, at any reasonable time on prior notice, may enter and examine the Project and have access to and examine the Company's books and records relating to the Project for the purposes of (i) identifying the Project; (ii) confirming achievement of the Investment Commitment; (iii) verifying the investment in Public Infrastructure; and (iv) permitting the County to carry out its duties and obligations in its sovereign capacity (such as, without limitation, for such routine health and safety purposes as would be applied to any other manufacturing or commercial facility in the County).

(b) The County acknowledges that the Company may utilize confidential and proprietary processes and materials, services, equipment, trade secrets, and techniques (“Confidential Information”) and that disclosure of the Confidential Information could result in substantial economic harm to the Company. The Company may clearly label any Confidential Information delivered to the County pursuant to this Agreement as “Confidential Information.” Except as required by law, the County, or any employee, agent, or contractor of the County, shall not disclose or otherwise divulge any labeled Confidential Information to any other person, firm, governmental body or agency. The Company acknowledges that the County is subject to the South Carolina Freedom of Information Act, and, as a result, must disclose certain documents and information on request, absent an exemption. If the County is required to disclose any Confidential Information to a third party, the County will use its best efforts to provide the Company with as much advance notice as is reasonably possible of such disclosure requirement prior to making such disclosure and to cooperate reasonably with any attempts by the Company to obtain judicial or other relief from such disclosure requirement.

Section 4.2. Assignment. The Company may assign or otherwise transfer any of its rights and interest in this Agreement on prior written consent of the County, which may be given by resolution, and which consent will not be unreasonably withheld.

Section 4.3. Provisions of Agreement for Sole Benefit of County and Company. Except as otherwise specifically provided in this Agreement, nothing in this Agreement expressed or implied confers on any person or entity other than the County and the Company any right, remedy, or claim under or by reason of this Agreement, this Agreement being intended to be for the sole and exclusive benefit of the County and the Company.

Section 4.4. Severability. If any provision of this Agreement is declared illegal, invalid, or unenforceable for any reason, the remaining provisions of this Agreement are unimpaired, and the Parties shall reform such illegal, invalid, or unenforceable provision to effectuate most closely the legal, valid, and enforceable intent of this Agreement.

Section 4.5. Limitation of Liability.

(a) The County is not liable to the Company for any costs, expenses, losses, damages, claims or actions in connection with this Agreement, except from amounts received by the County from the Company under this Agreement.

(b) All covenants, stipulations, promises, agreements and obligations of the County contained in this Agreement are binding on members of the County Council or any elected official, officer, agent, servant or employee of the County only in his or her official capacity and not in his or her individual capacity, and no recourse for the payment of any moneys or performance of any of the covenants and agreements under this Agreement or for any claims based on this Agreement may be had against any member of County Council or any elected official, officer, agent, servant or employee of the County except solely in their official capacity.

Section 4.6. Indemnification Covenant.

(a) Except as provided in paragraph (d) below, the Company shall indemnify and save the County, its employees, elected officials, officers and agents (each, an “Indemnified Party”) harmless against and from all liability or claims arising from the County’s execution of this Agreement, performance of the County’s obligations under this Agreement or the administration of its duties pursuant to this Agreement, or otherwise by virtue of the County having entered into this Agreement.

with a copy to

The County and the Company may, by notice given under this Section, designate any further or different addresses to which subsequent notices, certificates, requests or other communications shall be sent.

Section 4.8. *Administrative Fees.* The Company will reimburse, or cause reimbursement to, the County for the Administration Expenses in the amount of \$5,000. The Company will reimburse the County for its Administration Expenses on receipt of a written request from the County or at the County's direction, which request shall include a statement of the amount and nature of the Administration Expense. The Company shall pay the Administration Expenses as set forth in the written request no later than 60 days following receipt of the written request from the County. For purposes of this Section, "Administration Expenses" means the reasonable expenses incurred by the County in the negotiation, approval and implementation of the terms and provisions of this Agreement, including reasonable attorneys' fees. Administration Expenses do not include any costs, expenses, including attorneys' fees, incurred by the County (i) in defending challenges to the Fee Payments or Public Infrastructure Credits brought by third parties or the Company or its affiliates and related entities, or (ii) in connection with matters arising at the request of the Company outside of the immediate scope of this Agreement, including amendments to the terms of this Agreement. The payment by the Company of the County's Administration Expenses shall not be construed as prohibiting the County from engaging, at its discretion, the counsel of the County's choice.

Section 4.9. *Entire Agreement.* This Agreement expresses the entire understanding and all agreements of the Parties with each other, and neither Party is bound by any agreement or any representation to the other Party which is not expressly set forth in this Agreement or in certificates delivered in connection with the execution and delivery of this Agreement.

Section 4.10 *Agreement to Sign Other Documents.* From time to time, and at the expense of the Company, to the extent any expense is incurred, the County agrees to execute and deliver to the Company such additional instruments as the Company may reasonably request and as are authorized by law and reasonably within the purposes and scope of the Act and this Agreement to effectuate the purposes of this Agreement.

Section 4.11. *Agreement's Construction.* Each Party and its counsel have reviewed this Agreement and any rule of construction to the effect that ambiguities are to be resolved against a drafting party does not apply in the interpretation of this Agreement or any amendments or exhibits to this Agreement.

Section 4.12. *Applicable Law.* South Carolina law, exclusive of its conflicts of law provisions that would refer the governance of this Agreement to the laws of another jurisdiction, governs this Agreement and all documents executed in connection with this Agreement.

Section 4.13. *Counterparts.* This Agreement may be executed in any number of counterparts, and all of the counterparts together constitute one and the same instrument.

Section 4.14. *Amendments.* This Agreement may be amended only by written agreement of the Parties.

Section 4.15. Waiver. Either Party may waive compliance by the other Party with any term or condition of this Agreement but the waiver is valid only if it is in a writing signed by the waiving Party.

Section 4.16. Termination. Unless first terminated under any other provision of this Agreement, this Agreement terminates on the expiration of the Credit Term and payment by the Company of any outstanding Net Fee Payment due on the Project pursuant to the terms of this Agreement.

Section 4.17. Business Day. If any action, payment, or notice is, by the terms of this Agreement, required to be taken, made, or given on any Saturday, Sunday, or legal holiday in the jurisdiction in which the Party obligated to act is situated, such action, payment, or notice may be taken, made, or given on the following business day with the same effect as if taken, made or given as required under this Agreement, and no interest will accrue in the interim.

*[TWO SIGNATURE PAGES FOLLOW]
[REMAINDER OF PAGE INTENTIONALLY BLANK]*

IN WITNESS WHEREOF, Richland County, South Carolina, has caused this Agreement to be executed by the appropriate officials of the County and its corporate seal to be affixed and attested, effective the day and year first above written.

RICHLAND COUNTY, SOUTH CAROLINA

Chair, Richland County Council

(SEAL)
ATTEST:

Clerk to Council, Richland County Council

[SIGNATURE PAGE 1 TO PUBLIC INFRASTRUCTURE CREDIT AGREEMENT]

IN WITNESS WHEREOF, [PROJECT KLINE], has caused this Agreement to be executed by its authorized officer(s), effective the day and year first above written.

[PROJECT KLINE]

By: _____

Name: _____

Its: _____

[SIGNATURE PAGE 2 TO PUBLIC INFRASTRUCTURE CREDIT AGREEMENT]

EXHIBIT A

LAND DESCRIPTION

EXHIBIT B (See Section 2.2)

DESCRIPTION OF PUBLIC INFRASTRUCTURE

The Public Infrastructure primarily consists of a parking deck that will serve development and the County. The parking deck will include [102] spaces for general public use and the remaining [307] spaces will serve the commercial, retail and residential uses within the development. Additional Public Infrastructure will consist of sidewalks, lighting, utility infrastructure, and green spaces.

EXHIBIT C (See Section 2.3)

DESCRIPTION OF PUBLIC INFRASTRUCTURE CREDIT

The County shall provide a 50% Public Infrastructure Credit against the Fee Payments due and owing from the Company to the County in connection with the Project; provided, the cumulative total amount of the Public Infrastructure Credit shall not exceed the Company's Public Infrastructure costs.

The Company is eligible to receive the Public Infrastructure Credit for an initial period of up to 10 consecutive years, beginning with the first full year for which the Company owes a Fee Payment in connection with the Project following the Verification Date and ending on the earlier of the 10th year or the year in which the cumulative, total amount of the Public Infrastructure Credit equals the Public Infrastructure costs ("Initial Credit Term").

If, on the 10th year, (a) the Company achieved its Investment Commitment by the Certification Date, (b) the Company has maintained or exceeded its Investment Commitment, (c) there has not been and there is not an Event of Default under the Credit Agreement, and (d) the total, cumulative amount of Public Infrastructure Credits the Company has actually received does not equal the costs of the Public Infrastructure, then the Company may receive a Public Infrastructure Credit against the Fee Payments due and owing from the Company to the County in connection with the Project for an additional period of up to 4 years ("Additional Credit Term"); provided that the Additional Credit Term shall terminate as soon as the total, cumulative value of the Public Infrastructure Credit equals the Public Infrastructure costs.

EXHIBIT D (See Section 2.5)

**RICHLAND COUNTY RESOLUTION REQUIRING CERTAIN ACCOUNTABILITY PRACTICES CONCERNING
ECONOMIC DEVELOPMENT PROJECTS IN THE COUNTY**

**A RESOLUTION TO AMEND THE DECEMBER 21, 2010,
RESOLUTION REQUIRING CERTAIN ACCOUNTABILITY
PRACTICES CONCERNING ECONOMIC DEVELOPMENT
PROJECTS IN RICHLAND COUNTY**

WHEREAS, Richland County Council adopted a resolution dated as of December 21, 2010 (“Prior Resolution”), which requires companies receiving economic development incentives from Richland County, South Carolina (“County”) to submit annual reports to the Richland County Economic Development Office; and

WHEREAS, the County desires to make the form of the annual reports submitted by such companies uniform in order to make the substantive information contained in the annual reports more easily tracked and documented by the Richland County Economic Development Office.

NOW, THEREFORE, BE IT RESOLVED by Richland County Council as follows:

Section 1. The County affirms that each company awarded an incentive by the County in exchange for the location or expansion of a facility or facilities within the County shall submit an annual report to the Richland County Economic Development Office by January 31 of each year throughout the term of the incentives.

Section 2. The Richland County Economic Development Office is authorized to create (and from time to time, if necessary, amend or recreate) and make available the form of the annual report; however, such form, shall require, at a minimum, the following information:

- a. Name of company;
- b. Cumulative capital investment (less any removed investment) to date as a result of the project;
- c. Net jobs created to date as a result of the project;

Section 3. A copy of the then-current form of the annual report may be obtained from the following address. The annual report shall likewise be submitted to the following address by the required date.

Richland County Economic Development Office
Attention: Kim Mann
1201 Main Street, Suite 910
Columbia, SC 29201

Section 4. This Resolution amends the Prior Resolution and sets forth the County’s requirements with respect to the annual reports to be submitted by each company awarded an incentive by the County as described in Section 1.

Section 5. The substance of this Resolution shall be incorporated into the agreement between the County and each company with respect to the incentives granted by the County to the company.


Section 6. In the event that any company shall fail to submit an annual report, or any portion thereof, such company may be required to return all incentives, or a dollar amount equal thereof, to the County. Such incentives, or the dollar amount equal thereto, shall be paid to the County within 60 days after the date upon which the information was originally due.

RESOLVED: December 12 2017

RICHLAND COUNTY, SOUTH CAROLINA


Chair, Richland County Council

(SEAL)
ATTEST:


Clerk to County Council

Richland County Council Request for Action

Subject:

Little Jackson Creek/Spring Valley HOA request to remove sediment

Notes:

November 21, 2019 – The Development and Services Committee recommended denying the request and to research the possibility of donating the design for the sediment removal.



Agenda Briefing

To: Committee Chair Gwendolyn Kennedy and Members of the Committee
Prepared by: Synithia Williams, Stormwater General Manager
Department: Public Works
Date Prepared: August 27, 2019 **Meeting Date:** September 24, 2019

Legal Review	Larry Smith via email	Date:	
Budget Review	James Hayes via email	Date:	August 27, 2019
Finance Review	Stacey Hamm via email	Date:	August 28, 2019
Approved for Council consideration:	Assistant County Administrator	John Thompson, Ph.D. MBA, CPM	
Committee	Development & Services		
Subject:	Little Jackson Creek/Spring Valley HOA request to remove sediment		

Recommended Action:

Staff requests Council review the information provided and respond to the Spring Valley Homeowners Association’s request for the County to remove sediment from the Spring Valley Entrance Lake.

Motion Requested:

1. Move to approve the request from the Spring Valley Homeowners Association; or,
2. Move to deny the request from the Spring Valley Homeowners Association.

Request for Council Reconsideration: Yes

Fiscal Impact:

The previous engineer’s estimate to remove sediment from the Spring Valley Entrance Lake was \$379,500. This estimate has not been updated since 2015 and will likely increase. There are currently no funds budgeted to complete this project. Funding would have to be allocated from the Stormwater Fund Balance.

Motion of Origin:

There is no associated Council motion of origin.

Council Member	
Meeting	
Date	

Discussion:

The Little Jackson Creek Project was a three-phase project that began in 2014. The first phase resulted from the need for wetland mitigation credits in order to extend Taxiway 'A' at the Jim Hamilton Owens Airport. The County's conservation easement in the Spring Valley Neighborhood was selected as the location for a wetlands mitigation project to achieve mitigation credits.

The second phase of the project involved stabilizing the ditch in the Spring Valley neighborhood that receives high amounts of runoff from Two Notch Road and discharges into the planned wetlands mitigation project and Entrance Lake. The third phase was to remove accumulated sediment within the Spring Valley Entrance Lake.

On December 2, 2014, County Council approved several work orders related to the Taxiway 'A' extension including approving \$287,400.00 for professional services to design Phase II (Up Ditch) and Phase III (Entrance Lake). A grant from the Federal Aviation Administration funded Phase I (wetlands mitigation). The Stormwater Management Division funded the design of Phase II (Up Ditch) and III (Entrance Lake).

The original engineer's estimate for construction to stabilize the Up Ditch and remove sediment from the Entrance Lake returned at \$1.2 million. This amount exceeded the Stormwater Management Division's budget. In June 2015, County Council approved FY16 budget that included \$500,000 in the Stormwater Budget to complete a portion of the Up Ditch. There was no funding allocated for sediment removal in the Entrance Lake. The Public Works Department made the decision to revisit the Entrance Lake under the terms of the 2005 Private Pond Maintenance Policy after the completion of the Mitigation project and Up Ditch.

In October 2015, a massive flood damaged property and infrastructure within the County. In February 2016, County Council approved the Blue Ribbon Committee's recommended ten categories for FEMA Hazard Mitigation Grant Funding that included the Up Ditch project.

Construction of the wetlands mitigation (Phase I) began in October 2016. Due to delays in approval of FEMA funding for the Up Ditch, the FY17 Stormwater Capital budget included \$500,000 for a portion of the Up Ditch in case FEMA denied the grant application for the project. After the 2015 flood, due to an Attorney General opinion that public funds should not be used on private property unless there is a proven public benefit, County Administration recommended removal of the Entrance Lake portion of the project. On August 6, 2018, an email was sent to the president of the Spring Valley HOA stating no funding had been budgeted for removal of the sediment from the Entrance Lake and the county will not proceed with soliciting a contractor to remove sediment from the Entrance Lake.

County Council approved the revision of the Private Pond Maintenance Policy to the Private Pond Outfall on November 14, 2018. The policy states that the county will remove sediment from outfalls connected to the County Maintained Public Drainage System. The County Drainage System does not connect to the Spring Valley Entrance Lake, and all the roads and drainage within the subdivision are privately owned and maintained.

In April 2019, FEMA approved \$904,487 in HMGP funding for the Up Ditch (Phase II) portion of the project. The County cannot use HMGP funds to clean the sediment from the Entrance Lake (Phase III).

Since the October 2015 Flood Richland County has responded to three other requests for assistance with sediment removal from privately owned ponds. In May 2016, the Cary Lake Homeowners Association requested assistance with dam repair and sediment removal on the basis that their pond was a Stormwater management facility. The Public Works Department denied the request.

In April 2017, Richland County Council approved \$62,400.00 in funding to the City of Columbia for their project to remove sediment Lake Katherine. Lake Katherine is located entirely within the limits of the City of Columbia and owned by the Lake Katherine HOA.

In, August 2017 the Public Works Department followed the intent of the then draft Private Pond Outfall Maintenance Policy and removed sediment within county maintained outfalls discharging into Upper Rockyford Lake. This was limited only to the County maintained outfalls and completed with in-house staff and equipment.

Attachments:

1. Right of Entry Agreement for Phase I, II and III of the Little Jackson Creek project
2. 2005 Private Pond Policy
3. 2018 Private Pond Outfall Maintenance Policy
4. Explanation of Mitigation Credits

3. INDEMNIFICATION BY SVHA. SVHA agrees to save, hold harmless, indemnify and release County, its employees, officers, agents, contractors, subcontractors, assigns or successors from all losses, damages or claims arising from activities described above which result from any negligent or willful acts or omissions of SVHA, its members, officers, assigns, successors, or third party contractors or subcontractors engaged by SVHA in connection with the activities described in this agreement. The parties agree that this Agreement may be pleaded as a full and complete defense to any civil action, suit or other proceeding which may be instituted, prosecuted or attempted for, upon, or in respect of any of the claims released hereby.

4. COUNTY INSURANCE. Throughout the term of this Agreement the County will maintain the coverage required to meet the provisions of the South Carolina Tort Claims Act, which provides the sole and exclusive remedy for torts by South Carolina governmental entities. The County may choose to be self-funded for liability. The County shall furnish SVHA certification of coverage.

5. TERM AND TERMINATION. This Agreement shall remain in force and effect until June 1, 2015 unless terminated earlier by either party providing thirty (30) days' written notice of termination to the other party.

6. AUTHORITY TO EXECUTE. By executing this Agreement, SVHA, Inc. warrants that it has the authority and permission to enter into this Agreement, to grant the rights provided herein and can lawfully undertake each provision included herein.

7. ENTIRE AGREEMENT AND AMENDMENT. The parties agree that this Agreement expresses the entire agreement and all promises, covenants, and warranties between the parties. The Agreement may only be amended by a subsequent written

amendment signed by both parties.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement under seal as of the date first written above.

SPRING VALLEY
HOMEOWNERS ASSOCIATION:

By: *Paul M. Smith*
Its: *President SVHOA*

WITNESSES:

Cathy B. Carroll

RICHLAND COUNTY

By: *Tony McDonald*
Its: *County Administrator*

WITNESSES:

Ashleigh Myers

Suzanne J. Miller
Richland County Attorney's Office
Suzanne J. Miller
Approved As To LEGAL Form Only.
No Opinion Rendered As To Content.

**DEPARTMENT OF PUBLIC WORKS
BEST MANAGEMENT PRACTICE STANDARD**

		STANDARD #	26.17.1(O)
TITLE:	Private Pond Maintenance Policy	NUMBER OF PAGES: 4	
EFFECTIVE DATE:	May 3, 2005	LEAD AGENCY:	Stormwater Management
PREPARED BY:	Rocky Archer, PE Stormwater Manager	AUTHORIZED BY:	Christopher S. Eversmann, PE Public Works Director
REFERENCES:	None	REVIEW DATE:	May 3, 2010

I. Purpose

To establish criteria and considerations that will allow Richland County to perform appropriate maintenance activity at private ponds in order to mitigate or reduce the negative impact of connection of private water-bodies to public drainage systems

II. Definitions

- A. Dry detention basins – Depressions that are excavated for the purpose of detaining excess stormwater runoff from newly developed land. Basins are also created to act as holding areas for the initial runoff of stormwater in order to allow sediment and pollutants to settle out from the stormwater medium. Dry detention basins may serve the same function as a pond, but there are significant differences. As their name suggests, they are most often dry (*i.e.* – lack standing water). Also, they are not considered an amenity to the community. As such, they are considered infrastructure and, in the case of residential subdivisions, are deeded to the County for perpetual maintenance.
- B. Pond – A water body that, under normal circumstances, retains water. This water may be stormwater runoff or groundwater from an active spring. They may be naturally occurring or constructed. Ponds are considered an amenity (as opposed to infrastructure). However, they may be integrated into a drainage system.
- C. Private water-bodies – Receiving waters (most often ponds, lakes or basins) that are privately owned by individuals or an association for which Richland County has no ownership or formal maintenance responsibilities. Private water-bodies may be integral to public drainage systems.
- D. Public drainage system – A stormwater conveyance system whose maintenance is the responsibility of a public entity that provides area drainage to a publicly maintained road network. Private water-bodies may be integral to these systems.
- E. Waters of the state - Lakes, bays, sounds, ponds, impounding reservoirs, springs, wells, rivers, streams, creeks, estuaries, marshes, inlets, canals, the Atlantic Ocean within the territorial limits of the State and all other bodies of surface or underground water, natural or artificial, public or private, inland or coastal, fresh or salt, which are

Private Pond Maintenance Policy

wholly or partially within or bordering the State or within its jurisdiction; *South Carolina Code of Laws Section 48-1-10*.

III. Background

In 1990, the Environmental Protection Agency (EPA) established The National Pollutant Discharge Elimination System (NPDES) to reduce the quantity of pollutants that may be transported through the Storm Sewer Systems to "Waters-of-the-State". The South Carolina Department of Health and Environmental Control (SCDHEC) Bureau of Water issued a NPDES Permit to Richland County in April 2000. In compliance with that Permit, Richland County has inventoried stormwater drainage systems and the locations to which they outfall into waters-of-the-state.

In the process of performing this inventory, Richland County has identified or been made aware of several areas of concern with respect to private water-bodies. These water bodies are in existence for a variety of reasons including recreation, aesthetics, and utility (water supply and power generation). Concurrently, stormwater retention or detention is also accomplished. It is not uncommon for these private water-bodies to be integral to public drainage systems. As such, they may be adversely affected by both controllable and uncontrollable factors that include adjacent development, discharge from public road drainage network, above average rainfall, and topography of the watershed.

IV. Problem

Among the more negative effects on these private water-bodies from their integration with the area public drainage system are deposits of sediment carried by stormwater flowing into them (or siltation). The accumulation of sediment reduces pond volume and alters or obstructs the natural or designed stormwater flow path. Sedimentation can also impair water quality by providing a medium for the transportation of pollutants into the pond.

Some ponds are dedicated to Richland County at the time of development. This occurs predominantly in residential developments in which the roads and drainage system are to be maintained by Richland County. Whereas other ponds remain private, pre-date any formal maintenance policy, or are natural waters-of-the-state. Consequently, consideration for public maintenance of these ponds has not, heretofore, been addressed.

V. Policy

In order to mitigate or reduce the negative impact of connection of private water-bodies to public drainage systems, it is necessary to develop criteria and considerations that will allow Richland County to perform appropriate maintenance activity at private ponds. These criteria and considerations are as follows:

- A. Adjacent development with public road or drainage network discharges stormwater runoff directly into the pond, and;
- B. The pond or lake should not be "isolated" or contained within a single property, and;
- C. Maintenance activity will not disturb any wetland area, and;

Private Pond Maintenance Policy

- D. Property owners must grant and sign easement agreements to access each of the established discharge points and surrounding area, and;
- E. Hold harmless agreements must be obtained from property owners or Pond Owners Association.

Other considerations that may facilitate County participation for maintenance:

- F. The presence of a perennial stream flowing through the pond,
- G. The pond is currently managed and maintained by an established Pond Owner's Association with a point of contact.

VI. Procedure

Upon agreement of listed criteria, the County can proceed with the corrective action needed. In order to effectively resolve the problem, the County must first assess the stormwater runoff discharge points and then develop a plan to meet that particular need. County staff will determine the need for structural repair, the extent of sedimentation, or the amount of debris removal.

RESPONSIBLE PARTY SHALL ACQUIRE APPROPRIATE PERMITS AND PULL

All easement and hold harmless agreements shall be recorded prior to any maintenance activity is performed.

All dredging activity performed by the County will be limited to the furthest extent of determined sedimentation that can be practically reached from the ~~bank~~ by County

NORMAL HIGH WATER MARK

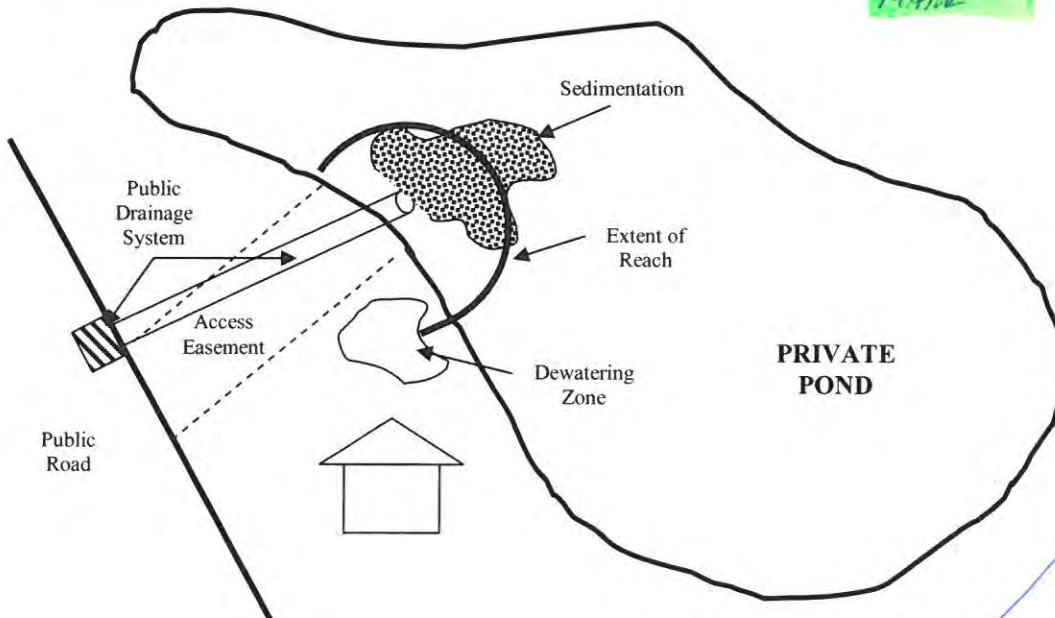


Figure 1. Typical outfall sediment removal activity components.

THE POND WATERS DOWN TO ALLOW FOR APPROPRIATE VISUAL ACCESS OF THE AREA FOR REMEDIATION

Private Pond Maintenance Policy

The County may also provide assistance in the hauling of removed spoil material by private parties provided that the material is accessible from a public road, appropriately dewatered and free of litter, debris or other hazardous substances.

The Department of Public Works is continuing to locate and identify potential sites for the retrofit of Best Management Practices (BMP's) to improve stormwater quality. Thusly, outfall sites that need frequent maintenance may be considered.

These BMPs can be physical or non-physical. Physical BMPs may include installation of structures or planting of natural vegetation to assist in removing sediment, debris, and pollutants. Non-physical BMPs consist of education and awareness. County staff will meet with the community and provide guidance on how each individual can do their part to promote positive stormwater management.

As these processes are developed and followed, Richland County Department of Public Works can continue to promote and deliver quality stormwater management while building positive relationships with its citizens.

By publication of this policy, Richland County assumes no obligation or liability associated with maintenance activity on private ponds.

This policy was approved Richland County Council in their meeting of May 3, 2005.



**DEPARTMENT OF PUBLIC WORKS
STANDARD OPERATING PROCEDURE**

DPW SOP #: N/A
TITLE: Private Pond Outfall Silt Removal Policy
LEAD DIVISION: Stormwater Management Division
EFFECTIVE DATE: December 1, 2018
REVIEW DATE: November 2020
PREPARED BY: Synithia Williams, Stormwater General Manager
APPROVED BY: Richland County Council
REFERENCES: USACE/Dam and Reservoir Safety Act
ATTACHMENTS: None

I. PURPOSE

To establish criteria and limited considerations that will allow Richland County to provide appropriate assistance to mitigate or reduce the negative impacts from the connection to a County owned or maintained area drainage system with a privately owned pond or lake.

II. DEFINITIONS

- A. Dredging – The removal of sediments and debris from the bottom of lakes, rivers, harbors, and other water bodies. The U.S. Army Corps of Engineers issues permits for the disposal of dredged material.

- B. Homeowners Association (HOA) - An organization in a subdivision, planned community, or condominium that makes and enforces rules for the properties within its jurisdiction.
- C. Perpetual maintenance – Long term and continual responsibility for the maintenance of a pond, lake, detention, or retention facility.
- D. Pond – A water body that, under normal circumstances, holds water. This water may be stormwater runoff or groundwater from an active spring. They may be naturally occurring or constructed. Ponds are considered an amenity (as opposed to infrastructure). However, they may be connected to a public drainage system.
- E. Pond Owners Association (POA) – An organization in a subdivision, planned community or condominium that makes and enforces rules for the pond or lake within its jurisdiction.
- F. Private water-bodies – Receiving waters (most often ponds, lakes or basins) that are privately owned by individuals or an association for which Richland County has no ownership or formal maintenance responsibilities. Private water-bodies may be connected to a public drainage system.
- G. Property owner (Owner) – A holder or proprietor of land.
- H. Public drainage system – A stormwater conveyance system whose maintenance is the responsibility of a public entity that provides area drainage to a publicly maintained road network. Private water-bodies may receive runoff from these systems.
- I. Routine maintenance – Efforts toward effective management of a lake or pond such as the harvesting and cut back of dead vegetation, clearing accumulated debris and other preventative maintenance.
- J. Waters of the state - Lakes, bays, sounds, ponds, impounding reservoirs, springs, rivers, streams, creeks, and all other bodies of surface or underground water, natural or artificial, public or private, inland or coastal, fresh or salt, which are wholly or partially within or bordering the State or within its jurisdiction.

III. BACKGROUND

The County owns and maintains an extensive network of stormwater drainage assets including pipes, ditches, catch basins, etc. Some of these drainage assets are connected to private waterbodies such as ponds or lakes either directly or indirectly through a public drainage

system. Perpetual and routine maintenance of privately owned water bodies is the responsibility of the property owner(s), but by accepting the drainage from the public system, the private water body is providing a small measure of public good and in some cases may qualify for assistance from the County to ensure the water body's proper function.

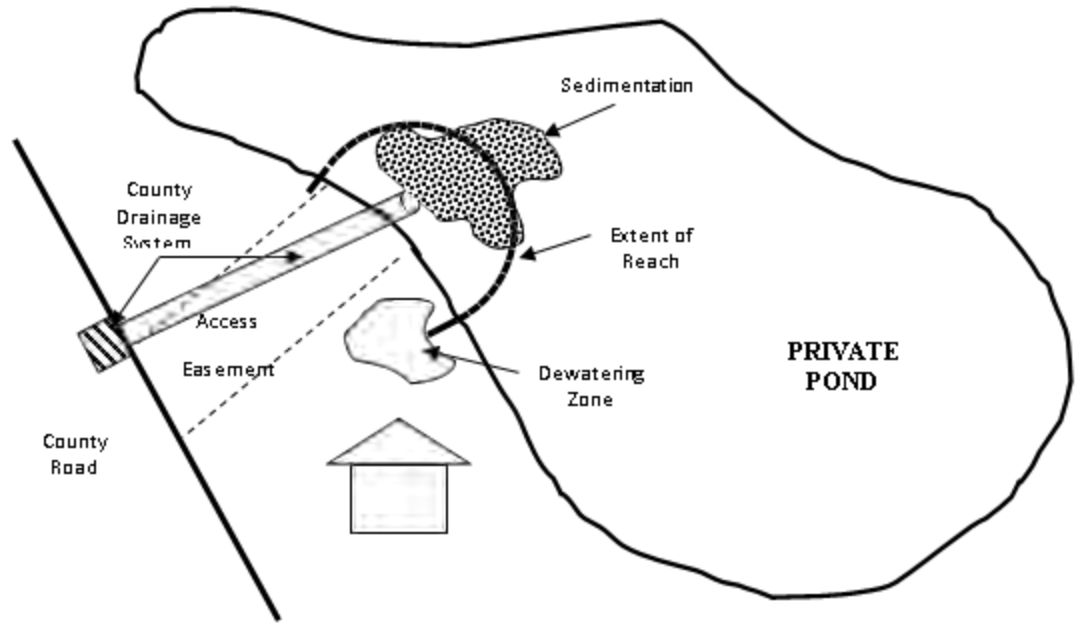
IV. POLICY

This policy only relates to the removal of sediment build up in and around outfalls from a County maintained public drainage system. The County Engineer or his/her designee will determine if the pond or lake is connected to a County maintained public drainage system and if runoff from the drainage system contributed significantly to the maintenance requirement.

The County will only remove the blockages using force account equipment and staff (See Figure 1). Blockages that require rental of equipment, hiring of an outside engineer, or capital project status do not fall under this policy and will be reviewed as a separate issue by the County Engineer and his/her designee.

In order to mitigate or reduce the negative impact of connection of private water bodies (lakes, ponds, and dry detention basins) to County maintained public drainage systems, the following criteria must be met:

- A.** Direct connection with a County maintained drainage system that discharges stormwater runoff into the water body;
- B.** Maintenance activity will not disturb any known or delineated wetland area;
- C.** The owners dedicate temporary drainage easements and hold harmless agreements at no cost to the County, as determined appropriate by the County Engineer;
- D.** The property owner, POA, or HOA have made no significant changes to the water body or surrounding area which caused damage or the need for County assistance;
- E.** The County will provide this assistance no more than once every five years. The property owner, HOA, or POA must contact the County for assistance related to this policy.



V. EXCEPTIONS

The policy does not apply in the following circumstances:

- A.** Water bodies with the Waters of the State designation that are under the jurisdiction of the US Army Corps of Engineers;
- B.** Removal of materials, including sediment, from the entire pond outside of the reach of County equipment and in proximity to the County outfalls;
- C.** Litter removal;
- D.** Vegetation management;
- E.** Wildlife control and/or replenishment of fish;
- F.** Privately owned dry detention basins designed as a stormwater management feature;
- G.** Dam modifications and maintenance subject to the SC Dams and Reservoirs Safety Act and under the jurisdiction of the SC Department of Health and Environmental Control.

- H.** Sediment removal around outfalls associated with a SC Department of Transportation drainage network;
- I.** Haul off and disposal of sediment or other materials removed from a pond by the property owner, HOA, or POA.

VI. PROCEDURE

- A.** When a property owner, HOA, or POA contacts the county for assistance, the structure will be evaluated by the County Engineer or his/her designee to determine if all criteria are met;
- B.** The County Engineer will assess the water body's connection to the public drainage system and determine the extent of blockage caused by sediment in stormwater runoff from the public drainage system;
- C.** A document package will be prepared to obtain the property owner's consent for the County to access the pipes, ditches, or inlet into the pond to remove the blockage from the waterbody;
- D.** The property owner, HOA, or POA is responsible for providing unobstructed access to the outfall and lowering the water levels if needed to provide maintenance;
- E.** Water bodies that meet qualifications, and the work required can be accomplished by County staff, will be added to the County's maintenance schedule in the order that the project is received;
- F.** All easements and hold harmless agreements shall be recorded prior to any maintenance activity is performed.

This policy will provide a general guidance when providing assistance on privately owned ponds, lakes and basins. All situations may not fit this policy and in those circumstances the request will be evaluated on a case-by-case basis.

The private pond policy was originally approved Richland County Council in their meeting of May 3, 2005, reviewed by the Department of Public Works in May 2010 and revised to the private pond outfall silt removal policy in November 2018.



Addendum: Explanation of Mitigation Credits

What is a mitigation credit?

A mitigation credit is a unit of measure representing the accrual or attainment of aquatic functions at a compensatory mitigation site. Compensatory mitigation is the third step in a three-step mitigation process prescribed by the US Army Corps of Engineers (USACE) to mitigate the impacts of proposed projects, such as roads or airports, on wetlands, streams and/or aquatic resources.

The owner of a proposed project that impacts wetlands and streams or aquatic resources is required to obtain a USACE 404 Permit pursuant to Section 404 of the Clean Water Act. One of the requirements of the USACE 404 Permit is the mitigation of impacts to aquatic resources. Mitigation is composed of 3 parts generally applied sequentially in the following order:

- 1) Avoidance means mitigating an aquatic resource impact by selecting the least-damaging project type, spatial location and extent compatible with achieving the purpose of the project. Avoidance is achieved through an analysis of appropriate and practicable alternatives and a consideration of impact footprint.
- 2) Minimization means mitigating an aquatic resource impact by managing the severity of a project's impact on resources at the selected site. Minimization is achieved through the incorporation of appropriate and practicable design and risk avoidance measures.
- 3) Compensatory Mitigation, commonly called "mitigation," means mitigating an aquatic resource impact by replacing or providing substitute aquatic resources for impacts that remain after avoidance and minimization measures have been applied. It is achieved through appropriate and practicable restoration, establishment, enhancement, and/or preservation of aquatic resource functions and services.

Mitigation credits are developed using the USACE Standard Operating Procedures (SOP) and Mitigation Guidelines. Basically, an area of impacted wetlands or streams is restored (some examples include removing fill to restore hydrology, planting native species, adding structures and sinuosity to a stream), enhanced (some examples include applying upland buffers and planting natives species) and preserved. Based on these actions and the USACE SOP and Guidelines, units of mitigation credits are generated as approved by the USACE Interagency Review Team (IRT).

How many credits were received for the wetlands mitigation project?

The Little Jackson Creek Stream and Wetland Permittee Responsible Mitigation (PRM) project performed on the Spring Valley property restored streams and wetlands by removing large amounts of sediment and backfill from wetlands, planting those wetlands, and restoring a highly eroded ditch into a stable stream which reduced sediment loads into the downstream pond and watershed. These actions provided the following mitigation credits to offset unavoidable impacts resulting from the Jim Hamilton – LB Owens Airport (CUB) taxiway expansion:

- 18.09 wetland restoration credits
- 11.48 wetland enhancement credits
- 4,806 stream restoration credits

These credits were produced by restoring the aquatic resources as described above. The winning bid for the work was \$910,462.00. All of these credits were utilized to satisfy the CUB taxiway expansion USACE 404 permit requirements.

How are credits calculated?

Credits are calculated using the USACE SOP and Mitigation Guidelines and approved during the USACE 404 Permitting process. These documents are available at the USACE Charleston District website listed below: <https://www.sac.usace.army.mil/Missions/Regulatory/Compensatory-Mitigation/>. Calculations for the number of mitigation credits required to compensate for proposed project impacts include consideration of the type of proposed impacts, the amount and kind of aquatic resources impacted, as well as other factors. These credit requirements are then satisfied using either a Mitigation Bank or a PRM project, where the amount of credits generated by the mitigation site is calculated with consideration of the type of aquatic restoration performed, the timing of the actions, as well as other factors.

Where did the credits go? (Mitigation bank, toward another project, etc.)

The credits generated from the PRM site were used to satisfy the permitting requirements of the USACE 404 Permit for the CUB taxiway expansion. This mitigation site was a PRM which is a site where credits are utilized for a specific project, such as the CUB taxiway expansion. When the compensatory mitigation site is a Mitigation Bank it can generate credits for multiple impact sites and projects.

Richland County Council Request for Action

Subject:

Resolution in Support of Dreamers by Congress

Notes:

November 21, 2019 – The Development and Services Committee recommended Council approve the resolution. Council members were requested to forward any proposed language changes prior to the Council meeting, in order for them to be discussed at the meeting.



Agenda Briefing

To: Committee Chair Gwendolyn Kennedy and Members of the Committee
Prepared by: Ashiya A. Myers, Assistant to the County Administrator
Department: Administration
Date Prepared: November 07, 2019 **Meeting Date:** November 21, 2019

Legal Review	Elizabeth McLean via email	Date:	November 13, 2019
Budget Review	James Hayes via email	Date:	November 13, 2019
Finance Review	Stacey Hamm via email	Date:	November 14, 2019
Approved for Council consideration:	County Administrator	Leonardo Brown, MBA, CPM	
Committee	Development & Services		
Subject:	Resolution in Support of Dreamers by Congress		

Recommended Action:

This is a Council initiated request. Staff recommends consideration of the information provided.

Motion Requested:

1. Move to approve the proposed resolution; or,
2. Move to deny the proposed resolution.

Request for Council Reconsideration: Yes

Fiscal Impact:

There is no fiscal impact associated with adoption of the resolution.

Motion of Origin:

Resolution in Support of Dreamers by Congress (attachment 1)

Council Member	Jim Manning, District 8
Meeting	Regular Session
Date	November 05, 2019

Discussion:

At the Richland County Council Regular Session meeting held on November 05, 2019, Councilmember Jim Manning of District 8 proposed the attached “Resolution in Support of Dreamers by Congress.”

Councilmember Manning provided the following contextual information:

South Carolina by the Numbers

- *There are nearly 7,000 DACA recipients in South Carolina*
- *Dreamers are continuing to grow businesses here in our state:*
 - *SC has 18,300 immigrant entrepreneurs*
 - *66,000 employees at immigrant-owned firms*
 - *\$10.8 billion in total sales of immigrant-owned firms.*

Attachments:

1. Proposed Resolution
2. Fact Sheet: “The Dream Act, DACA, and Other Policies Designed to Protect Dreamers.” American Immigration Council, 3 Sept. 2019, www.americanimmigrationcouncil.org/research/dream-act-daca-and-other-policies-designed-protect-dreamers.

Whereas Deferred Action for Childhood Arrivals (DACA) program recipients have helped build our country's economy and contributed to the unique character of our nation;

Whereas Dreamers, both directly and indirectly, continue to grow businesses, innovate, strengthen our economy, and create American jobs in South Carolina;

Whereas Dreamers have provided the United States with unique social and cultural influence, fundamentally enriching the extraordinary character of our nation;

Whereas Dreamers, who have been living in legal limbo due to the uncertainty of the program protecting them, have been tireless leaders in their communities and economies, and amongst their families, friends, and loved ones.

And Whereas, despite these countless contributions, Dreamers' importance to South Carolinian society have been overlooked and their uncertainty and fear only drawn out by the lack of a permanent legislative solution protecting them.

Now, therefore, be it resolved by the [BLANK] assembled, that [DISTRICT/STATE] supports the passage of permanent protections for Dreamers by Congress.

The Dream Act, DACA, and Other Policies Designed to Protect Dreamers

With the attempted rescission of the Deferred Action for Children Arrivals (DACA) initiative in September of 2017, there has been renewed pressure on Congress to pass federal legislation known as the Dream Act to protect young immigrants who are vulnerable to deportation. This fact sheet provides an overview of the Dream Act¹ and other similar legislative proposals, explains changes made to DACA on March 13, 2019, and provides information about policies at the state level that support Dreamers.

History of the Dream Act

The first version of the Development, Relief, and Education for Alien Minors (DREAM) Act was introduced in 2001.² As a result, young undocumented immigrants have since been called “Dreamers.” Over the last 18 years, at least ten versions of the Dream Act have been introduced in Congress. While the various versions of the Dream Act have contained some key differences,³ they all would have provided a pathway to legal status for undocumented youth who came to this country as children. Some versions have garnered as many as 48 co-sponsors in the Senate and 152 in the House.⁴

Despite bipartisan support for each bill, none has become law.⁵ The bill came closest to full passage in 2010 when it passed the House of Representatives but fell just five votes short of the 60 necessary to proceed in the Senate.⁶

In July 2017, versions of the Dream Act were introduced in the Senate by Senators Lindsay Graham (R-SC) and Richard Durbin (D-IL) and in the House by Rep. Lucille Roybal-Allard (D-CA) and Rep. Ileana Ros-Lehtinen (R-FL).⁷ That year, members of the House of Representatives introduced several other legislative proposals to address undocumented youth, most of which were variants of the Dream Act.⁸ Although some of these bills drew significant support, none became law.

Current Federal Legislative Proposals

The most recent version of the Dream Act, H.R. 2820, was introduced in May 2019 in the House by Rep. Roybal-Allard.⁹ H.R. 2820 was passed by the House Judiciary Committee on May 22, 2019, and the bill was subsequently combined with H.R. 2821, the American Promise Act of 2019, to form H.R. 6, the American Dream and Promise Act of 2019.¹⁰ H.R. 6 would provide permanent legal status for Dreamers as well as beneficiaries of two humanitarian programs: Temporary Protected Status (TPS) and Deferred Enforced Departure (DED). H.R. 6 passed the House on June 4, 2019, by a vote of 237 to 187.

What Does the Dream Act do?

The American Dream and Promise Act of 2019 would provide current, former, and future¹¹ undocumented high-school graduates and GED recipients a three-step pathway to U.S. citizenship through college, work, or the armed services.

STEP 1: CONDITIONAL PERMANENT RESIDENCE

An individual is eligible to obtain conditional permanent resident (CPR) status for up to 10 years, which includes work authorization, if the person:¹²

- entered the United States under the age of 18;
- entered four years prior to enactment and has since been continuously present;
- has been admitted to an institution of higher education or technical education school, has graduated high school or obtained a GED, or is currently enrolled in secondary school or a program assisting students to obtain a high school diploma or GED;
- has not been convicted of any "crime involving moral turpitude" or controlled substance offense, any crime punishable by more than one year in prison, or three or more offenses under state or federal law. There is an exception for offenses which are essential to a person's immigration status;
- has not been convicted of a crime of domestic violence unless the individual can prove the crime was related to being the victim of domestic violence, sexual assault, stalking, child abuse, neglect in later life, human trafficking, battery, or extreme cruelty.

Under the terms of the bill, the Secretary of Homeland Security can issue waivers for humanitarian purposes, for family unity, or when the waiver is otherwise in the public interest. In addition, anyone who has DACA would be granted a swift path to CPR status.¹³

STEP 2: LAWFUL PERMANENT RESIDENCE

Anyone who maintains CPR status can obtain lawful permanent residence (LPR status or a "green card") by satisfying one of the following requirements:¹⁴

- Higher education: Has completed at least two years, in good standing, of higher education or of a program leading to a certificate/credential from an area career and technical education school;
- Military service: Has completed at least two years of military service with an honorable discharge, if discharged; or
- Work: Can demonstrate employment over a total period of three years and at least 75 percent of the time that the individual had employment authorization, with exceptions for those enrolled in higher education or technical school.

Individuals who cannot meet one of these requirements can apply for a “hardship waiver” if the applicant is a person with disabilities, a full-time caregiver of a minor child, or for whom removal would cause extreme hardship to a spouse, parent, or child who is a national or lawful permanent resident of the United States.

STEP 3: NATURALIZATION

After maintaining LPR status for five years, an individual can generally apply to become a U.S. citizen through the normal process.

According to the Migration Policy Institute, as many as 2.31 million individuals would qualify for conditional permanent resident status under the 2019 version of the Dream Act, putting them on a path to citizenship. The bill would also provide a path to citizenship for an estimated 429,000 people who are current or former beneficiaries of TPS or DED.¹⁵

Deferred Action for Childhood Arrivals

On June 15, 2012, then-Secretary of Homeland Security Janet Napolitano created Deferred Action for Childhood Arrivals (DACA). DACA is an exercise of prosecutorial discretion, providing temporary relief from deportation (deferred action) and work authorization to certain young undocumented immigrants brought to the United States as children.¹⁶ DACA has enabled almost 800,000 eligible young adults to work lawfully, attend school, and plan their lives without the constant threat of deportation, usually to an unfamiliar country.¹⁷ Unlike federal legislation, however, DACA does not provide permanent legal status to individuals and must be renewed every two years.

On September 5, 2017, Acting Secretary of Homeland Security Elaine Duke rescinded the 2012 DACA memorandum and announced a “wind down” of DACA.¹⁸ Effective immediately, no new applications for DACA would be accepted. DACA beneficiaries whose status was due to expire before March 5, 2018, were permitted to renew their status for an additional two years if they applied by October 5, 2017.¹⁹ Any person for whom DACA would have expired as of March 6, 2018, would no longer have deferred action or employment authorization.²⁰

On January 9, 2018, a federal judge in California blocked the Trump administration’s termination of DACA and continued to allow renewal requests.²¹ Similarly, on February 13, 2018, a federal judge in New York issued a preliminary injunction preventing the administration from abruptly ending the DACA program.²² As of August 2019, individuals with DACA or those who have had DACA in the past can continue to renew their benefits on a two-year basis. However, first-time applications are no longer being accepted.²³

State Policies that Protect Dreamers

States cannot legalize the status of undocumented immigrants, but they may address collateral issues that stem from being undocumented. Most notably, numerous states have enacted legislation that helps overcome barriers to higher education faced by many undocumented youth. Pursuant to some state laws and policies, undocumented students may be able to attend state universities and qualify for in-state tuition.

Colleges and universities each have their own policies about admitting undocumented students; some deny them admission, while others allow them to attend. Even when undocumented students are allowed to attend college, however, the tuition is often prohibitively expensive. If students cannot prove legal residency in a state, they must pay the much higher out-of-state or international-student tuition rates. Further, undocumented students do not qualify for federal student loans, work study, or other financial assistance. As a result, it is extremely difficult for undocumented students to afford to attend public universities.²⁴

To help undocumented students afford college, at least 19 states have passed laws that provide them with the opportunity to receive in-state tuition. California, Colorado, Connecticut, Florida, Illinois, Kansas, Maryland, Minnesota, Nebraska, New Jersey, New Mexico, New York, Oklahoma, Oregon, Rhode Island, Texas, Utah, Virginia, and Washington permit undocumented students who have attended and graduated from the state's primary and secondary schools to pay the same college tuition as other state residents.²⁵ The laws generally require undocumented students to attend a school in the state for a certain number of years and graduate from high school in the state.²⁶

Endnotes

1. Although the first “DREAM” act was known by its acronym in all capital letters, subsequent proposals have adopted the title “Dream.”
2. S. 1291, 107th Cong. (2001).
3. For example, prior versions of the Dream Act have varied in their treatment of potential beneficiaries who are abroad, the treatment of close family members of potential beneficiaries, and in the duration of the conditional status to be conferred.
4. S. 1545, 108th Cong. (2003); H.R. 1648, 108th Cong. (2003).
5. S. 1291, 107th Cong. (2001); S. 1545, 108th Cong. (2003); H.R. 1648, 108th Cong. (2003); S. 2075, 109th Cong. (2005); H.R. 5131, 109th Cong. (2005); S. 2205, 110th Cong. (2007); H.R. 1275, 110th Cong. (2007); H.R. 5241, 111th Cong. (2010); S. 729, 111th Cong. (2010); S. 3992, 111th Cong. (2010); H.R. 1842, 112th Cong. (2011); S. 952, 112th Cong. (2011); H.R. 1468, 115th Cong. (2017); H.R. 3591, 115th Cong. (2017). The comprehensive immigration reform bill S. 744, which passed the Senate in 2013 with bipartisan support from 68 Senators, included special legalization provisions for Dreamers.
6. H.R. 5241, 111th Cong. (2010); 12/18/2010 Cloture on the motion to agree to House amendment to Senate amendment not invoked in Senate by Yea-Nay Vote. 55 – 41.
7. S. 1615, 115th Cong. (2017); H.R. 3440, 115th Cong. (2017).
8. For example, Rep. Carlos Curbelo (R-FL) proposed the Recognizing America’s Children (RAC) Act, which contained a more restrictive path to legalization than the Dream Act bill currently pending in the Senate and House. H.R. 1468, 115th Cong. (2017). Rep. Luis Gutierrez (D-IL) introduced the American Hope Act, which had a more generous path to legalization than any of the Dream Act bills. H.R. 3591, 115th Cong. (2017). In addition, Rep. Mike Coffman (R-CO) introduced the Bar Removal of Individuals who Dream and Grow our Economy Act (BRIDGE Act), that would not create a permanent legal status for Dreamers, but instead would provide deferred action from deportation to Dreamers for only three years. H.R. 496, 115th Cong. (2017).
9. H.R. 2820, 116th Cong. (2019).
10. H.R. 6, 116th Cong. (2019).
11. *Ibid.* at Section 102(b)(1)(D).
12. *Ibid.* at Section 102(b)(1).
13. *Ibid.* at Section 102(b)(2).
14. *Ibid.* at Section 105(a).
15. Julia Gelatt, “More than a DREAM (Act), Less than a Promise” (Washington, DC: Migration Policy Institute, March 2019), <https://www.migrationpolicy.org/news/more-dream-act-less-promise>.
16. To be eligible, DACA applicants have had to meet the following requirements:
 - Arrived in the United States before turning 16, and were under the age of 31 on June 15, 2012;
 - Continuously resided in the United States from June 15, 2007, to the present;
 - Were physically present in the United States on June 15, 2012, as well as at the time of requesting deferred action;
 - Entered without inspection before June 15, 2012, or any previous lawful immigration status expired on or before June 15, 2012;
 - Are either in school, have graduated or obtained a certificate of completion from high school, have obtained a general education development (GED) certificate, or are honorably discharged veterans of the U.S. Coast Guard or the U.S. Armed Forces; and
 - Have not been convicted of a felony, significant misdemeanor, or three or more other misdemeanors occurring on different dates and arising out of different acts, omissions, or schemes of misconduct, and do not otherwise pose a threat to national security or public safety.

17. “Number of Form I-821D, Consideration of Deferred Action for Childhood Arrivals, by Fiscal Year, Quarter, Intake, Biometrics and Case Status Fiscal Year 2012-2017,” U.S. Citizenship and Immigration Services, last updated March 31, 2017, https://www.uscis.gov/sites/default/files/USCIS/Resources/Reports%20and%20Studies/Immigration%20Forms%20Data/All%20Form%20Types/DACA/daca_performancedata_fy2017_qtr2.pdf.
18. Memorandum from Elaine Duke, Acting Sec., Department of Homeland Security, to James McCament, Acting Director, U.S. Citizenship and Immigration Services, Thomas Homan, Acting Director, U.S. Immigration and Customs Enforcement, Kevin McAleenan, Acting Commissioner, U.S. Customs and Border Protection, Joseph Maher, Acting General Counsel, Ambassador James Nealon, Assistant Secretary International Engagement, Subj: Memorandum on Recession of Deferred Action for Childhood Arrivals (DACA) (September 5, 2017) <https://www.dhs.gov/news/2017/09/05/memorandum-rescission-daca>.
19. Ibid.
20. Ibid.
21. See *Regents of U. of California v. U.S. Dept. of Homeland Sec.*, 279 F. Supp. 3d 1011, 1020 (N.D. Cal. 2018), *aff’d sub nom. Regents of the U. of California v. U.S. Dept. of Homeland Sec.*, 908 F.3d 476 (9th Cir. 2018); Michael D. Shear, “Trump Must Keep DACA Protections for Now,” *New York Times*, January 9, 2018, <https://www.nytimes.com/2018/01/09/us/trump-daca-improper.html>.
22. *Batalla Vidal v. Nielsen*, 279 F. Supp. 3d 401, 407 (E.D.N.Y. 2018).
23. Deferred Action for Childhood Arrivals: Response to January 2018 Preliminary Injunction,” U.S. Citizenship and Immigration Services, last updated February 22, 2018, <https://www.uscis.gov/humanitarian/deferred-action-childhood-arrivals-response-january-2018-preliminary-injunction>.
24. Roberto G. Gonzales, *Wasted Talent and Broken Dreams: The Lost Potential of Undocumented Students* (Washington, DC: Immigration Policy Center, American Immigration Law Foundation, October 2007), p. 2, <https://www.americanimmigrationcouncil.org/research/wasted-talent-and-broken-dreams-lost-potential-undocumented-students>.
25. “Undocumented Student Tuition: Overview,” National Conference of State Legislatures, last updated October 29, 2015, <http://www.ncsl.org/research/education/undocumented-student-tuition-overview.aspx>; “US States that Offer In-State Tuition Rates to Undocumented Students (and What to Do if Your State Isn’t One of Them),” University of the People, <https://www.uopeople.edu/blog/us-states-that-offer-in-state-tuition-rates-to-undocumented-students-and-what-to-do-if-your-state-isnt-one-of-them/>.
26. Ibid.



Agenda Briefing

To: Council Chair Paul Livingston and Members of the Council
Prepared by: Christopher S. Eversmann, PE, Interim Director of Public Works
Department: Public Works
Date Prepared: November 19, 2019 **Meeting Date:** December 03, 2019

Legal Review	Brad Farrar via email	Date:	November 21, 2019
Budget Review	Stacey Hamm via email	Date:	November 19, 2019
Finance Review	James Hayes via email	Date:	November 19, 2019
Approved for Council consideration:	Assistant County Administrator	John M. Thompson, Ph.D., MBA, CPM	
Subject: Subdivision Abandoned Paved Road Relief Program			

Recommended Action:

Staff recommends approval of the proposed Subdivision Abandoned Paved Road Relief Program as presented.

Motion Requested:

“I move that Richland County Council direct County Staff to implement a plan, as briefed herein, by which 93 subdivision paved roads and road segments be brought into the County Road Maintenance System through the voluntary donation of necessary Right-of-Way for maintenance and eventual upgrade, as resources permit, to County standards. Any future request to obtain any of these roads by purchase or the exercise of eminent domain must be separately considered by County Council.”

Request for Council Reconsideration: Yes

Fiscal Impact:

The proposed primary funding sources for the construction improvement phase of this program would be grants provided by the County Transportation Committee (CTC).

Maintenance would be paid for from the Roads & Drainage Maintenance Division operating budget.

Motion of Origin:

“...to bring this item back to Council, with definitive information, at the 1st Council meeting in December.”

Council Member	Bill Malinowski, District 1
Meeting	Special Called
Date	September 17, 2019

Discussion:

Most recently, this issue was discussed at the County Council's meeting on September 17, 2019 when County Engineer Staley presented a prioritization plan by which these roads and road segments were prioritized based on:

- Condition (based on a cost-per-foot to repair cost);
- Number of residences served;
- Relative ease by which Right-of-Way (the required first step in any process) can be obtained.

The consensus of the County Council was to return to County Council in Early December with a presentation that addresses:

- Legal Issues;
- Additional (background) information;
- Developer accountability;
- Fairness
- Completeness

Those issues and a recommended program is contained in the attachment.

Attachments:

1. Subdivision Abandoned Paved Road Relief Program w/ enclosures

Subdivision Abandoned Paved Road Program

Richland County Department of Public Works

Updated: November 22, 2019

Subdivision Abandoned Paved Road Program – The program by which certain, identified, paved roads and road segments abandoned by the Developer prior to conveyance to Richland County are brought into the **County Road Maintenance System** for maintenance and improvement.

Background:

“Abandoned Roads” definition – Those paved subdivision roads and road segments, which have not been conveyed to the **County Roads Maintenance System** as originally intended, and for which the subdivision infrastructure performance bond has expired.

Occasionally, developers fail to complete subdivision roads to County standards, or fail to convey these roads to the County before disbanding their Companies or Corporations. Unaccepted roads that have not been conveyed to the County remain private property and are not included in the **County Road Maintenance System**, and are ineligible for the use of public resources towards their maintenance or improvement.

This situation was recognized by the then Planning Director, Ms Tracy Hegler who, working with the then Director of Public Works, Mr Ismail Ozbek, and the County Engineer, Mr Stephen Staley, prepared a comprehensive presentation at a County Council Work Session in October 2018. Since then, the issue has been discussed at the 2019 County Council Retreat as well as several County Council meetings. Roads in various stages of completion and in the development pipeline were separated into various “buckets” or categories. This proposal addresses the most problematic collection of roads that have been abandoned by the developer and that remain private property, not included in the County Road Maintenance System.

Most recently, the issue was discussed at the County Council’s meeting on September 17, 2019 when County Engineer Staley presented a plan by which these roads and road segments were prioritized based on:

- Condition (based on a cost-per-foot to repair cost);
- Number of residences served;
- Relative ease by which Right-of-Way (the required first step in any process) can be obtained.

The consensus of the County Council was to return to County Council in Early December with a presentation that addresses:

- Legal Issues;
- Additional (background) information;

- Developer accountability;
- Fairness
- Completeness

Legal Issues – Obtaining Right-of-Way to bring roads into the **County Road Maintenance System** for maintenance and improvement. Right-of-Way acquisition can be a time consuming aspect of a road program.

At this point, we recommend that all **Right-of-Way be obtained through donation** as the quickest and least expensive way to achieve the program’s intent.

Also, it is recommended that **condemnation** be addressed only in appropriate circumstances by Council in the exercise of its Home Rule power of eminent domain.

Developer Accountability – This issue will be addressed by the staff of the Planning and Development Department.

Program Goal – A prioritization plan, managed by the cognizant staff using sound project management procedures and techniques, by which abandoned paved road relief is provided to:

- the **most number of residences** in the;
- shortest amount of time** for the;
- least cost** to Richland County.

Completeness – Ensuring that the list of abandoned roads is complete and that the current Development / infrastructure bonding process are monitored. This issue will be addressed by the staff of the Planning and Development Department.

Three-phased process:

- Acceptance** of Right-of-Way (short-term);
- Maintenance** as part of the County Road Maintenance System (short to mid-term);
- Improvement** as part of the County Road Maintenance System (long term).

Program steps:

1. Approve program;
2. Obtain the Right-of-Way;
3. Provide preliminary maintenance and limited scope repair with force account resources as accepted;
4. Develop annual, incremental projects under the supervision of the County Engineers using consultants and contractors for more significant repairs and construction completion, generally reflecting the established priority contained

herein. The primary funding source shall be “C” – Fund grants provided by the County Transportation Committee (CTC).

“Buckets” of roads included in this program:

1. Right-of-Way easy to obtain – most residences to fewest (54 Roads)
2. Right-of-Way moderate difficulty obtain – most residences to fewest (24 Roads)
3. Right-of-Way difficult to obtain – most residences to fewest (15 Roads)

Total count (all three “buckets”) – 93 Roads

Motion – I move that Richland County Council direct County Staff to implement a plan, as briefed herein, by which 93 subdivision paved roads and road segments be brought into the **County Road Maintenance System** through the donation of necessary Right-of-Way for maintenance and eventual upgrade, as resources permit, to County standards. Any future request to obtain any of these roads by purchase or the exercise of eminent domain must be separately considered by County Council.

BLYTHE CREEK DR.



Cul de sac 96x80 alligator and reflective cracking. 87 ft curb damaged binder course surface course not installed

Intermittent reflective cracking throughout roads binder course surface



Intermittent reflective cracking at intersection of Running bear ct. and Blythe Creek Drive

24x 33alligator cracking



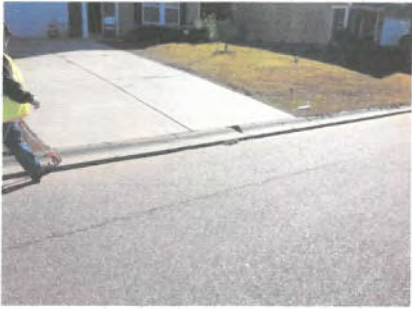
24x12 Alligator cracking in front of house 306 Blythe creek dr. 30 ft of curb damage



40 ft of curb damage in front of 310 Blythe creek dr.



12x24 utility failure



21 ft of curb damage in front of 313 Blythe creek dr



57 ft of curb damage in front of 312 Blythe creek dr



20 ft curb damaged in front of 317 Blythe Creek Dr
195x24 ft road damaged starting at 317 ending at 325 Blythe
Creek Dr



12x24 reflective cracking at 325 Blythe Creek Dr
21 ft of curb damage

At 325 Blythe creek dr 21ft of curb damage



60x24 longitudinal cracking and reflective at intersection of broken arrow ct and Blythe creek dr



30 ft curb damage in front of house 333 Blythe Creek drive. An additional 30ft curb damage across street Also a utility crossing road failure of 12x24

Phase 2 has surface course down



Utility crossing settling 12x8 in front of 344 Blythe Creek Drive



Bird Bath Area in front of 364 Blythe Creek Dr



24x26 settling at utility crossing in front of 388 Blythe Creek Dr



10 ft curb damage in front of 397 Blythe Creek Dr



**Richland County Community Planning & Development Department
Richland County Department of Public Works**

ABANDONED PAVED ROADS RESCUE RELIEF				Estimate for Construction without Contingency	\$3,163,592.92
				Contingency of 40%	\$1,265,437.17
				Total Estimate with contingency	\$4,429,030.09
Ability to Acquire ROW - Easy				Total Length (ft)	52,313
Road Name	Ability To Obtain ROW	Total Length (ft)	Number of Residences on Road	Total Construction Cost	District
Blythe Creek Drive Blythe Creek Subdivision	1	3331.0	70	\$87,562.00	2
Big Game Loop River Station Subdivision	1	3120.0	56	\$103,500.00	7
Gleneagle Circle 1 Ashford Subdivision	1	3300.0	45	\$113,461.50	1
Gleneagle Circle 2 Ashford Subdivision	1	3300.0	40	\$72,213.11	1
Caughman Ridge Road Caughman Ridge Phase 1 & 2 Subdivision	1	1269.0	36	\$17,501.56	11
Compass Rose Way Rose Oaks Subdivision	1	1470.0	35	\$57,061.88	1
Savannah Branch Trail Rolling Creek, Courtyards Subdivision	1	1604.0	32	\$167,631.91	1
Dutchmans Creek Trail Rolling Creek, The Preserve Subdivision	1	1783.0	30	\$3,100.00	1
Dutchmans Creek Trail Rolling Creek, The Preserve Subdivision	1	1783.0	30	\$10,544.38	1
Coopers Hawk Circle 2 Ashford Subdivision	1	1617.0	30	\$87,069.09	1
Dutchmans Branch Court Rolling Creek, The Preserve Subdivision	1	1135.0	28	\$12,094.38	1
Running Bear Court Blythe Creek Subdivision	1	911.0	24	\$145,648.13	2
Center Creek Court Blythe Creek Subdivision	1	1469.0	23	\$1,750.00	2
Rose Oak Drive Rose Oaks Subdivision	1	1723.0	22	\$94,823.75	1
Antique Rose Court Rose Oaks Subdivision	1	691.0	20	\$76,060.63	1



**Richland County Community Planning & Development Department
Richland County Department of Public Works**

ABANDONED PAVED ROADS RESCUE RELIEF				Estimate for Construction without Contingency	\$3,163,592.92
				Contingency of 40%	\$1,265,437.17
Ability to Acquire ROW - Easy				Total Estimate with contingency	\$4,429,030.09
				Total Length (ft)	52,313
Road Name	Ability To Obtain ROW	Total Length (ft)	Number of Residences on Road	Total Construction Cost	District
Nichols Branch Lane Rolling Creek, The Preserve Subdivision	1	849.0	20	\$106,284.38	1
Crims Creek Way Rolling Creek, The Preserve Subdivision	1	778.0	18	\$48,419.38	1
Greenmont Circle Phase 2 Caughman Ridge Phase 1 & 2 Subdivision	1	755.0	16	\$26,960.94	11
Ashwood Hill Drive Ashwood Hill Subdivision	1	881.0	16	\$50,309.55	1
Thyme Circle Sageland Place Subdivision	1	382.0	14	\$15,525.00	1
Placid Drive The Courtyards At Salem Place Subdivision	1	550.0	13	\$48,770.00	8
Boyd Branch Crossing Rolling Creek, Courtyards Subdivision	1	2380.0	13	\$130,543.75	1
Dutchfork Creek Trail Rolling Creek Subdivision	1	1130.0	13	\$302,689.38	1
Serene Court The Courtyards At Salem Place Subdivision	1	288.0	12	\$9,465.00	8
Tranquil Trail The Courtyards At Salem Place Subdivision	1	729.0	12	\$55,560.00	8
Harlan Court Ashford Subdivision	1	434.0	12	\$127,495.64	1
Ostrich Circle River Station Subdivision	1	864.0	11	\$25,875.00	7
English Legend Drive Rose Oaks Subdivision	1	800.0	11	\$31,588.75	1
Whetstone Creek Court Rolling Creek, Courtyards Subdivision	1	580.0	11	\$63,121.88	1
Placid Drive The Courtyards At Salem Place Subdivision	1	255.0	10	\$13,720.00	8



**Richland County Community Planning & Development Department
Richland County Department of Public Works**

<i>ABANDONED PAVED ROADS RESCUE RELIEF</i>				Estimate for Construction without Contingency	
				\$3,163,592.92	
<i>Ability to Acquire ROW - Easy</i>				Contingency of 40%	
				\$1,265,437.17	
				Total Estimate with contingency	
				\$4,429,030.09	
				Total Length (ft)	
				52,313	
Road Name	Ability To Obtain ROW	Total Length (ft)	Number of Residences on Road	Total Construction Cost	District
Summer Branch Lane Rolling Creek, Courtyards Subdivision	1	533.0	10	\$115,193.75	1
Kestrel Lane Ashford Subdivision	1	463.0	10	\$161,378.53	1
Broken Arrow Court Blythe Creek Subdivision	1	311.0	9	\$6,151.00	2
Amber Ridge Trail Rose Oaks Subdivision	1	389.0	9	\$27,889.38	1
Rainbows End Court Rose Oaks Subdivision	1	256.0	8	\$13,761.30	1
Coral Rose Drive Rose Oaks Subdivision	1	481.0	8	\$16,764.38	1
Parkhaven Court Caughman Ridge Phase 1 & 2 Subdivision	1	308.0	8	\$18,452.66	11
Harrier Court Ashford Subdivision	1	268.0	8	\$25,155.38	1
Dutchfork Branch Court Rolling Creek Subdivision	1	380.0	8	\$96,266.25	1
Red Horse Court Blythe Creek Subdivision	1	228.0	7	\$3,500.00	2
Greenmont Circle Caughman Ridge Phase 1 & 2 Subdivision	1	368.0	6	\$4,112.31	11
Coopers Hawk Circle 1 Ashford Subdivision	1	157.0	6	\$8,274.20	1
Black Elk Lane Blythe Creek Subdivision	1	480.0	6	\$15,306.90	1
South Nichols Creek Point Rolling Creek, The Preserve Subdivision	1	251.0	6	\$20,994.38	1
English Legend Drive Rose Oaks Subdivision	1	145.0	6	\$22,277.22	1



**Richland County Community Planning & Development Department
Richland County Department of Public Works**

ABANDONED PAVED ROADS RESCUE RELIEF				Estimate for Construction without Contingency	\$3,163,592.92
				Contingency of 40%	\$1,265,437.17
Ability to Acquire ROW - Easy				Total Estimate with contingency	\$4,429,030.09
				Total Length (ft)	52,313
Road Name	Ability To Obtain ROW	Total Length (ft)	Number of Residences on Road	Total Construction Cost	District
Red Winds Court Blythe Creek Subdivision	1	352.0	6	\$118,837.74	2
Caughman Ridge Road Phase 2 Caughman Ridge Phase 1 & 2 Subdivision	1	423.0	5	\$5,072.43	11
Crims Branch Court Rolling Creek, The Preserve Subdivision	1	247.0	5	\$22,884.38	1
Kestrel Court Ashford Subdivision	1	126.0	5	\$77,860.63	1
North High Duck Trail Willow Lake Subdivision	1	1000.0	3	\$15,816.56	7
Amber Ridge Trail Rose Oaks Subdivision	1	389.0	3	\$26,888.19	1
Rice Creek Farms Road Rice Creek Rdige Subdivision 1 Resident/ Connector Rd	1	3561.0	1	\$168,710.00	8
Rivers Station Way River Station Subdivision	1	356.0	0	\$10,350.00	7
Boyd Branch Crossing Rolling Creek, The Preserve Subdivision	1	680.0	0	\$55,544.38	1



**Richland County Community Planning & Development Department
Richland County Department of Public Works**

ABANDONED PAVED ROADS RESCUE RELIEF				Estimate for Construction without Contingency	
				\$1,819,736.98	
Ability to Acquire ROW - Moderate Difficulty				Contingency of 40%	
				\$727,894.79	
				Total Estimate with contingency	
				\$2,547,631.77	
				Total Length (ft)	
				20,782	
Road Name	Ability To Obtain ROW	Total Length (ft)	Number of Residences on Road	Total Construction Cost	District
Stonebury Circle Stonnington Subdivision	2	2439.0	42	\$108,943.75	7
W Bowmore Drive Beasley Creek Estates Subdivision	2	1497.0	24	\$152,893.44	7
Glen Ord Court Beasley Creek Estates Subdivision	2	538.0	23	\$115,988.13	7
Beasley Creek Drive Beasley Creek Estates Subdivision	2	1408.0	22	\$174,640.65	7
Buttonbush Court Rice Creek Rdige Subdivision	2	530.0	21	\$14,044.38	8
Garvey Circle Phase 3 Hastings Point Phase 1, 2, & 3 Subdivision	2	2265.0	21	\$119,025.00	7
Hastings Point Drive Phase 1 Hastings Point Phase 1, 2, & 3 Subdivision	2	2312.0	21	\$567,818.75	7
Garvey Circle Phase 2 Hastings Point Phase 1, 2, & 3 Subdivision	2	1888.0	13	\$47,221.88	7
Redden Row Stonnington Subdivision	2	518.0	9	\$12,294.38	7
Marrob Court Phase 1 Hastings Point Phase 1, 2, & 3 Subdivision	2	803.0	8	\$140.00	7
Ringbelle Row Stonnington Subdivision	2	510.0	8	\$21,088.75	7
E Bowmore Drive Beasley Creek Estates Subdivision	2	505.0	8	\$25,786.74	7
McLester Court Phase 3 Hastings Point Phase 1, 2, & 3 Subdivision	2	475.0	6	\$20,700.00	7
Boutchet Court Phase 3 Hastings Point Phase 1, 2, & 3 Subdivision	2	581.0	6	\$25,875.00	7
Sand Iris Court Rice Creek Rdige Subdivision	2	180.0	5	\$600.00	8



**Richland County Community Planning & Development Department
Richland County Department of Public Works**

ABANDONED PAVED ROADS RESCUE RELIEF				Estimate for Construction without Contingency	\$1,819,736.98
Ability to Acquire ROW - Moderate Difficulty				Contingency of 40%	\$727,894.79
				Total Estimate with contingency	\$2,547,631.77
				Total Length (ft)	20,782
Road Name	Ability To Obtain ROW	Total Length (ft)	Number of Residences on Road	Total Construction Cost	District
Granary Court Hastings Point Phase 1, 2, & 3 Subdivision	2	305.0	5	\$62,471.88	7
Flutterby Court Stonnington Subdivision	2	178.0	4	\$300.00	7
Tormore Court Beasley Creek Estates Subdivision	2	235.0	4	\$10,966.15	7
Tubman Court Phase 2 Hastings Point Phase 1, 2, & 3 Subdivision	2	195.0	3	\$11,158.88	7
Sardis Court Beasley Creek Estates Subdivision	2	266.0	3	\$105,443.75	7
Rice Meadow Way Rice Creek Rdige Subdivision	2	1874.0	3	\$196,441.71	8
Unnamed Street Stonnington Subdivision	2	76.0	2	\$900.00	7
Hastings Point Drive Phase 2 Hastings Point Phase 1, 2, & 3 Subdivision	2	535.0	1	\$19,244.38	7
Bare Wick Lane Stonnington Subdivision	2	669.0	0	\$5,749.38	7



**Richland County Community Planning & Development Department
Richland County Department of Public Works**

ABANDONED PAVED ROADS RESCUE RELIEF				Estimate for Construction without Contingency	\$1,232,438.24
				Contingency of 40%	\$492,975.30
				Total Estimate with contingency	\$1,725,413.54
Ability to Acquire ROW - Difficult				Total Length (ft)	11,602
Road Name	Ability To Obtain ROW	Total Length (ft)	Number of Residences on Road	Total Construction Cost	District
Water Willow Way Willow Lake Subdivision	3	1000.0	34	\$12,030.00	7
Weeping Willow Circle Willow Lake Subdivision	3	1130.0	28	\$23,588.75	7
Sand Oak Court Willow Lake Subdivision	3	562.0	18	\$158,165.63	7
Willow Glen Circle Willow Lake Subdivision	3	593.0	17	\$6,952.19	7
North High Duck Trail Willow Lake Subdivision	3	3342.0	16	\$272,255.76	7
Whistling Duck Court Willow Lake Subdivision	3	800.0	15	\$54,221.88	7
Goldeneye Court Willow Lake Subdivision	3	497.0	13	\$57,221.88	7
Old Hickory Court Willow Lake Subdivision	3	302.0	11	\$106,843.75	7
Oak Lake Court Willow Lake Subdivision	3	290.0	10	\$105,443.75	7
Gadwell Court Willow Lake Subdivision	3	213.0	9	\$827.22	7
Pegonia Lane Willow Lake Subdivision	3	323.0	9	\$4,200.00	7
Knot Court Willow Lake Subdivision	3	132.0	4	\$158,165.63	7
North Nichols Creek Point Rolling Creek, The Preserve Subdivision	3	174.0	2	\$15,836.80	1
Pine Loop Court Willow Lake Subdivision	3	126.0	1	\$126,532.50	7
South High Duck Trail Willow Lake Subdivision	3	2118.0	1	\$130,152.50	7



REQUEST OF ACTION

Subject: FY20 - District 4 Hospitality Tax Allocations

A. Purpose

County Council is being requested to approve a total allocation of **\$1,500** for District 4.

B. Background / Discussion

For the 2019 - 2020 Fiscal Year, County Council approved designating the Hospitality Discretionary account funding totaling \$164,850.00 for each district Council member. The details of these motions are listed below:

Motion List (3rd reading) for FY17: Hospitality Tax discretionary account guidelines are as follows: (a) Establish a H-Tax discretionary account for each Council District; (b) Fund the account at the amount of \$164,850.00; (c) Council members will recommend Agencies to be funded by their allocation. Agencies and projects must meet all of the requirements in order to be eligible to receive H-Tax funds; (d) All Council recommendation for appropriations of allocations to Agencies after the beginning of the fiscal year will still be required to be taken back to Council for approval by the full Council prior to the commitment of funding. This would only require one vote.

Motion List (3rd reading) for FY20, Special Called Meeting – June 10, 2019: Establish Hospitality Tax discretionary accounts for each district in FY20. Move that all unspent H-Tax funding for FY18-19 be carried over and added to any additional funding for FY19-20.

Pursuant to Budget Memorandum 2017-1 each district Council member was approved \$164,850.00 to allocate funds to Hospitality Tax eligible organizations of their own discretion. As it relates to this request, District 4 H-Tax discretionary account breakdown and its potential impact is listed below:

Initial Discretionary Account Funding	\$164,850
FY2020 Allocations	\$145,000
FY2019 Remaining	\$ 40,200
	Skipp Pearson Jazz Foundation
	\$ 1,500
Total	\$ 1,500
Remaining Balance	\$ 58,550

C. Legislative / Chronological History

- 3rd Reading of the Budget – June 8, 2017
- Regular Session - May 15, 2018
- 3rd Reading of Budget FY19 June 21 ,2018
- 3rd Reading of the Budget FY20 June 10, 2019

D. Alternatives

1. Consider the request and approve the allocation.
2. Consider the request and do not approve the allocation.

E. Final Recommendation

Staff does not have a recommendation regarding this as it is a financial policy decision of County Council. The funding is available to cover the request. Staff will proceed as directed.