

**RICHLAND COUNTY**  
**COUNTY COUNCIL AGENDA**



**Tuesday, NOVEMBER 19, 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  
November 19, 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 Jim Manning
3. **PLEDGE OF ALLEGIANCE**

The Honorable Jim Manning
4. **PRESENTATION OF PROCLAMATIONS**

The Honorable Paul Livingston

  - a. A Proclamation Honoring Kristie Coggins  
The Honorable Joyce Dickerson
  - b. A Proclamation Honoring Capt. Odom on his retirement  
from the Richland County Sheriff's Department  
The Honorable Joyce Dickerson
5. **PRESENTATION**

Latasha Taste-Walker,  
Director of Development

  - a. Communities In Schools of the Midlands
6. **APPROVAL OF MINUTES**

The Honorable Paul Livingston

  - a. Regular Session: November 5, 2019 [PAGES 9-34]
7. **ADOPTION OF AGENDA**

The Honorable Paul Livingston
8. **REPORT OF THE ATTORNEY FOR EXECUTIVE SESSION ITEMS**

Larry Smith,  
County Attorney

  - 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]"

**9. CITIZEN'S INPUT**

The Honorable Paul Livingston

- a. For Items on the Agenda Not Requiring a Public Hearing

**10. 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.)

**11. REPORT OF THE COUNTY ADMINISTRATOR**

Leonardo Brown,  
County Administrator

- a. Monthly Financial Budget Update [PAGE 35]

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

Kimberly Williams-Roberts,  
Clerk to Council

- a. REMINDER: Committee Meetings and Zoning Public Hearing - November 21st
- b. Richland County Magistrate's Holiday Luncheon, December 13, 11:30 AM, Trinity Education Community and Conference Center, 2523 Richland Street

**13. REPORT OF THE CHAIR**

The Honorable Paul Livingston

- a. Livestreaming Retreat

**14. APPROVAL OF CONSENT ITEMS**

The Honorable Paul Livingston

- a. 19-037MA  
Fredine McNeal & John E. Mender  
OI to RS-MD (1.04 Acres)  
5718 Miramar Drive  
TMS # R11711-05-07 [THIRD READING] [PAGES 36-37]
- b. 19-032MA  
Charlotte Huggins

RU to RC (2.8 Acres)  
10510 & 10512 Garners Ferry Road  
TMS # R30600-02-16 [THIRD READING] **[PAGES 38-39]**

c. 19-038MA  
Keith McNair  
PDD to RS-LD (2.8 Acres)  
Jacobs Mill Pond Road  
TMS # R25810-03-09 [THIRD READING] **[PAGES 40-41]**

d. 19-040MA  
Krystal Martin  
LI to RM-HD (2.4 Acres)  
10539 Farrow Road  
TMS # R17500-02-18 [THIRD READING] **[PAGES 42-43]**

**15. THIRD READING ITEMS**

The Honorable Paul Livingston

a. 19-027MA  
Phil Savage  
RU to GC (8.23 Acres)  
Dutch Fork Road  
TMS # R02501-03-22 (Portion) **[PAGES 44-45]**

**16. SECOND READING ITEMS**

The Honorable Paul Livingston

- a. An Ordinance providing for the issuance and sale of Utility System Revenue Bonds of Richland County, South Carolina, and other matters relating thereto **[PAGES 46-100]**
- 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 **[PAGES 101-130]**
- 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 **[PAGES 131-163]**
- 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 **[PAGES 164-186]**

- 17. REPORT OF ADMINISTRATION & FINANCE COMMITTEE** The Honorable Joyce Dickerson
- a. Quitclaim Deed for Right-of-Way – 1300 Block of Marion Street – Lofts Apartments [**PAGES 187-208**]
- 18. REPORT OF ECONOMIC DEVELOPMENT COMMITTEE** The Honorable Calvin Jackson
- 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**] [**PAGES 209-231**]
- 19. REPORT OF RULES & APPOINTMENTS COMMITTEE** The Honorable Chakisse Newton
- a. NOTIFICATION OF APPOINTMENTS
1. Airport Commission - Three (3) Vacancies:
1. Kaela Bailey [**PAGE 232**]
2. Thomas J. Callan [**PAGES 233-236**]
3. Michael Medsker [**PAGES 237-239**]
4. Julius W. "Jay" McKay, II [**PAGES 240-241**]
5. Jerome S. Squire [**PAGES 242-249**]
- 20. REPORT OF THE TRANSPORTATION AD HOC COMMITTEE** The Honorable Calvin Jackson
- a. Items for Action:
1. Cash Flow Model Presentation - First Tryon [**PAGES 250-262**]
- 21. OTHER ITEMS** The Honorable Paul Livingston
- a. Tree Canopy Mapping Grant [**PAGES 263-268**]
- b. FY20 - District 10 Hospitality Tax Allocations [**PAGES 269-270**]
- 22. EXECUTIVE SESSION** Larry Smith, County Attorney

**23. MOTION PERIOD**

**24. 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

SPECIAL CALLED MEETING  
November 5, 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, Brad Farrar, Geo Price, Michael Byrd, Judy Carter, Sandra Haynes, Larry Smith, Jeff Ruble, David Bertolini, Allison Steele, Eden Logan, Brittney Hoyle Terry, Cathy Rawls, Tariq Hussain, Dwight Hanna, Casey White, Ronaldo Myers, Robin Carter and Chris Eversmann

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 Joe Walker, III
3. **PLEDGE OF ALLEGIANCE** – The Pledge of Allegiance was led by the Honorable Joe Walker, III
4. **PRESENTATION OF PROCLAMATIONS**
  - a. A Proclamation Honoring the Beta Chi Sigma Chapter of Phi Beta Sigma Fraternity, Inc. International Gold Level Alumni Model Chapter of the Year Award – Ms. Dickerson presented a proclamation to the Beta Chi Sigma Chapter of the Phi Beta Sigma Fraternity.
  - b. A Proclamation Recognizing the Accomplishments of Lazarius L. Walker—Owner of the Twist Restaurant – Ms. McBride presented a proclamation to Mr. Lazarius L. Walker, owner of the Twist Restaurant, which is located in District 3.
5. **APPROVAL OF MINUTES**
  - a. Special Called Meeting – 2<sup>nd</sup> Reading of FY20 Budget: May 23, 2019 – Ms. Dickerson moved, seconded by Ms. Terracio, to approve the minutes as distributed.  
  
In Favor: Terracio, Malinowski, Jackson, Kennedy, Walker, Dickerson, Livingston and McBride  
  
Present but Not Voting: Newton, Myers and Manning  
  
The vote in favor was unanimous.
  - b. Special Called Meeting – 3<sup>rd</sup> Reading of FY20 Budget: June 10, 2019 – Ms. Dickerson moved, seconded by Ms. McBride, to approve the minutes as distributed.

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

Present but Not Voting: Terracio, Newton, Kennedy and Manning

The vote in favor was unanimous.

- c. Regular Session: October 15, 2019 – Ms. Terracio moved, seconded by Ms. Dickerson, to approve the minutes as distributed.

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

Present but Not Voting: Newton and Manning

The vote in favor was unanimous.

- d. Zoning Public Hearing: October 22, 2019 – Ms. McBride moved, seconded by Ms. Myers, to approve the minutes as distributed.

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

Present but Not Voting: Myers, Kennedy and Manning

The vote in favor was unanimous.

- e. Special Called Meeting: October 22, 2019 – Ms. Dickerson moved, seconded by Ms. Kennedy, to approve the minutes as distributed.

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

Present but Not Voting: Jackson and Manning

The vote in favor was unanimous.

6. **ADOPTION OF THE AGENDA** – Mr. Jackson requested to remove Item 19(b)(4): “Staff Project Evaluation Findings and Recommendations”.

Mr. Livingston noted that Items 12(d): “Letter from Sheriff Lott re: Special Assistant United States Attorney and 12(e): “Richland School District II School Resource Officers” need to be taken up as action items due to them being time-sensitive.

Mr. Malinowski inquired if Council was going to receive any information regarding Item 12(e).

Ms. Roberts stated the supporting documentation was attached to the Clerk’s Report that was emailed out on Friday afternoon.

Ms. Myers moved, seconded by Mr. Jackson, to adopt the agenda as amended.

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

Opposed: Malinowski

Special Called Meeting  
November 5, 2019

Present but Not Voting: Kennedy and Manning

The vote was in favor.

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

- a. Richland County vs. SC Dept. of Revenue Update
- b. Richland County and City of Columbia Bond Court IGA

8. **CITIZENS' INPUT**

- a. For Items on the Agenda Not Requiring a Public Hearing – Mr. Jim Felder and Mr. Allan Brown spoke regarding the Transportation Penny Program.

9. **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) – No one signed up to speak.

10. **REPORT OF THE COUNTY ADMINISTRATOR**

- a. The Government Finance Officers Association of the United States and Canada: Award of Financial Reporting Achievement – Mr. Brown recognized the Finance Department for being awarded the GFOA's Certificate of Achievement for Excellence in Financial Reporting.

11. **REPORT OF THE CLERK OF COUNCIL**

- a. Midlands Technical College's Oyster Roast & Shrimp Boil, November 7, 6:00 PM, Midlands Technical College NE Campus, 151 Powell Road – Ms. Roberts reminded Council of Midlands Technical College's upcoming Oyster Roast & Shrimp Boil.
- b. CentralSC's Big Thursday Oyster Roast, November 14, 6:00 PM, 701 Whaley, 701 Whaley Street – Ms. Roberts reminded Council of CentralSC's upcoming Big Thursday Oyster Roast.
- c. Columbia Urban League's 52<sup>nd</sup> Annual Equal Opportunity Day Dinner, November 6, Reception – 6:00 PM; Dinner – 7:00 PM, Columbia Metropolitan Convention Center, 1101 Lincoln Street – Ms. Roberts reminded Council of the Columbia Urban League's upcoming 52<sup>nd</sup> Annual Equal Opportunity Day Dinner.

12. **REPORT OF THE CHAIR**

- a. Proposed 2020 Council Retreat Dates – Mr. Manning moved, seconded by Mr. Walker, to hold the 2020 Council Retreat on January 23 – 24.

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

Present but Not Voting: Dickerson

Special Called Meeting  
November 5, 2019

The vote in favor was unanimous.

- b. Proposed 2020 Council Retreat Locations – Ms. Dickerson moved, seconded by Mr. Manning, to hold the 2020 Council Retreat in Charleston County.

Mr. Walker made a substitute motion, seconded by Ms. Terracio, to hold the 2020 Council Retreat in Richland County.

In Favor: Terracio, Malinowski and Walker

Opposed: Jackson, Kennedy, Manning, Dickerson, Livingston and McBride

Present but Not Voting: Newton and Myers

The substitute motion failed.

Ms. Newton stated, at the last meeting, one of the things discussed was the potential collaboration with other areas that had challenges and/or projects they were doing that were similar to Richland County. She inquired if there was any exploration done, in terms of providing some of that collaboration.

Mr. Brown stated it is his understanding that is a part of the process. Charleston County had a similar Penny Program. The thought was to have onsite sessions and an opportunity for both the Councils and Administrations to meet one-on-one to discuss the various projects that we share in common, and the ways they have put policies and processes in place to address the projects.

Mr. Jackson stated, for the record, last year's Retreat was held in Charleston and one of the things we did was invite the Executive Director of the Fisher House, which is one of the projects that we put in this year's budget to establish a Fisher House here in Columbia. The facility in Charleston is phenomenal, and they spoke to us about the fundraising efforts to make that happen here.

Mr. Walker inquired if any of these counties have reached out to us about holding their retreats in Richland County, and seeking collaborative efforts with us.

Ms. Roberts stated they have not.

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

Opposed: Terracio, Malinowski and Walker

The vote was in favor of holding the 2020 Council Retreat in Charleston County.

Ms. Dickerson moved, seconded Ms. Myers, to reconsider this item.

In Favor: Terracio, Malinowski and Walker

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

The motion for reconsideration failed.

Ms. Myers requested, when we are looking at the conversations between the counties, we specifically ask for a person who worked on transition, funding or timing issues to be a part of those conversations.

Ms. Terracio requested staff to make arrangements to livestream the Council Retreat.

Ms. Roberts stated that has already been taken under consideration, and we will make sure that it is livestreamed.

Ms. Dickerson stated anyone that has any concerns, or may not be familiar with the process, to address them to the Administrator and the Clerk, so the details can be worked out. In the past, we had an agenda, which was approved by Council. She stated the majority of the discussion will be in Executive Session because there are things they have to work out contractually to ensure they give the public the correct information.

Mr. Malinowski stated, when we previously discussed livestreaming any of our meetings, it had to be voted on by full Council.

Mr. Manning stated he thinks Mr. Walker made a wonderful point that the County is a pioneer with the idea of us holding the retreat in another county and then learning from each other. It could be something we would like to present at the SCAC, and may even win an award for the idea.

- c. Proposed 2020 Council Meeting Calendar – Mr. Manning moved, seconded by Ms. Dickerson, to approve the calendar.

Mr. Livingston stated, in the past, the time for the first meeting in January was moved up to accommodate the Swearing-In Ceremony, but this year there will not be a Swearing-In Ceremony. The question before Council is whether they want to hold the meeting at the traditional time of 6:00 PM or hold the meeting at an alternate time.

Ms. Dickerson moved, seconded by Mr. Manning, to hold the January 7<sup>th</sup> meeting at 6:00 PM.

Mr. Livingston stated, as you recall, we are required by State statute to meeting in August. His suggestion is to consider the end of August, and holding the meeting either August 25 or 31.

Ms. McBride recommended to hold the meeting the first Tuesday of August.

Ms. Roberts stated the SCAC Conference is being held August 1 – 5, which would conflict with the first Tuesday in August.

Mr. Manning moved, seconded by Ms. Dickerson, to hold the August Council meeting on August 31.

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 stated he was under the impression we were moving forward with making all Council meetings dates preset “Regular Session” and not “Special Called”. In addition, he noted that

September 15<sup>th</sup> is the 3<sup>rd</sup> Tuesday of the month; therefore, it would be a regularly scheduled meeting, not a Special Called meeting. He suggested that we cancel the September 22<sup>nd</sup> Council meeting since there will only be a week between meetings.

Mr. Manning moved, seconded by Mr. Jackson, to not hold a Council meeting on September 22<sup>nd</sup>.

Ms. Myers inquired, for clarification, if all the “scheduled” meetings would be listed as Regular Session and not Special Called.

Ms. Newton stated the Rules and Appointments Committee is taking up that matter as a part of the Council Rules update, which was distributed to Council for feedback. The updated Council Rules have not been adopted; therefore, the meetings would still need to be listed as a Special Called meeting, at this time.

Ms. Myers inquired, if we can adopt it pending a rules change, so we do not have to come back to discuss something this pandemic.

Mr. Malinowski stated the reason he would suggest leaving them listed as Special Called, at this time, is because we normally meet on the 1<sup>st</sup> and 3<sup>rd</sup> Tuesdays. Therefore, when he schedules meetings in the upcoming year, he bases the Council meeting schedule on that premise. If the meeting is deemed a Special Called meeting, he can still call in and participate in those meetings.

Mr. Brown stated, pertaining to the September meeting schedule, the Zoning Public Hearing meeting is historically held on the 4<sup>th</sup> Tuesday of the month, which would require the ZPH meeting to be held on September 22<sup>nd</sup>.

Mr. Livingston stated, to recap, the January 7<sup>th</sup> Council meeting will be held at 6:00 PM; the August meeting will be August 31<sup>st</sup>; the suggestion is to change September 15<sup>th</sup> to a Regular Session meeting; and September 22<sup>nd</sup> will be the Zoning Public Hearing.

Ms. Terracio inquired if the meeting listed on the calendar for Thursday, May 21<sup>st</sup>, should actually be listed as Tuesday, May 26<sup>th</sup>.

Staff responded the meeting was moved to Thursday, May 21<sup>st</sup> to accommodate the Memorial Day holiday.

Ms. Dickerson stated, for clarification, the September committee meetings should also be held on September 22<sup>nd</sup> and delete the September 29<sup>th</sup> date off the meeting calendar.

Mr. Manning noted the December 15<sup>th</sup> Council meeting should be listed as a Regular Session meeting.

Mr. Manning moved, seconded by Ms. Dickerson, to approve the 2020 Council Meeting Dates, as amended.

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

The vote in favor was unanimous.

- d. Letter from Sheriff Lott re: Special Assistant United States Attorney – Chief Cowan stated this is a temporary position, fully funded by the Federal government, to bring an additional attorney into the Sheriff’s Department that will be cross designated as a United States District Attorney. They will assist the Sheriff’s Department with prosecuting Federal cases, as well as local cases. The idea is to focus on the drug interdiction program, as a partnership between the Sheriff’s Department and other law enforcement agencies, and the DEA.

Ms. Dickerson moved, seconded by Mr. Walker, to approve this item.

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

Present but Not Voting: Manning

The vote in favor was unanimous.

Mr. Walker moved, seconded by Ms. Myers, to reconsider this item.

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

Present but Not Voting: Terracio and Manning

The motion for reconsideration failed.

- e. Richland School District II School Resource Officers – Chief Cowan stated this is a partnership between the Department of Education and the school districts within the State. The school districts in the State applied for funding to the Department of Education to hire School Resource Officers. Richland School District II was awarded four (4) positions. The Department of Education is fully funding those four (4) positions for salary and fringe. The Sheriff’s Department signed a Memorandum of Agreement with the school district requiring them to cover any additional expense, which would include their uniforms, vehicle, body cameras, etc. There is no expense to the County. The Sheriff’s Department has been working with Administration and the Budget Office to ensure that this MOA is in-line.

Mr. Jackson moved, seconded by Mr. Walker, to approve this request.

Mr. Malinowski inquired if this is for one year, or is this ongoing.

Chief Cowan stated, based on the documents they have been provided, these are recurring dollars, but when the Sheriff’s Department handles MOAs with the district, they are handled year to year.

Ms. Dickerson stated, for clarification, Richland County will not be responsible for any additional dollars, and it is fully funded by the Department of Education and the school district.

Ms. McBride stated she commends the schools, the Department of Education and the school district. She stated if the State legislators would take it seriously that the problems that we are having in our school system are beyond legal issues, and School Resource Officers. She noted we need more counselors, and she hopes the legislators will take heed and provide more counseling and other social services that are needed to help the students be educated.

Chief Cowan stated the funds that involved the Richland County Sheriff's Department are for School District II. There were funds provided to School District I for one (1) Officer and that officer was going to the City of Columbia. There was also one (1) for Lexington-Richland Five, but those funds are going to Lexington County.

Mr. Jackson stated, for clarification, all of the schools in School District I have a School Resource Officer. Not all of the schools in School District II do. The funds that were provided to School District I, they chose to send the monies to the City because all of their schools are already funded. As it relates to the budget, you will see it in the budget, but it will be in Richland School District II's budget, and not the County's budget.

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

The vote in favor was unanimous.

Mr. Walker moved, seconded by Ms. Myers, to reconsider this item.

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

Present but Not Voting: Terracio and Manning

The motion for reconsideration failed.

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

Ms. Terracio moved, seconded by Ms. Myers, to approve the consent items.

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

Present but Not Voting: Manning

The vote in favor was unanimous.



14. **SECOND READING ITEMS**

- 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 Ballpark, LLC; and other related matters – Mr. Jackson moved, seconded by Ms. Myers, to approve this item.

In Favor: Terracio, Jackson, Newton, Myers, Walker and Livingston

Opposed: Malinowski

Abstain: Dickerson and McBride

Present but Not Voting: Kennedy and Manning

The vote was in favor.

- b. An Ordinance Amending Ordinance 0309-12HR, the Ordinance Authorizing the one percent (1%) Transportation Sales and Use Tax; so as to amend the projects list as it relates to greenways – Mr. Jackson moved, seconded by Ms. Terracio, to approve this item.

Ms. McBride inquired if there was a funding recommendation for the Columbia Mall Greenway.

Mr. Niermeier stated, for clarification, Columbia Mall Greenway is one of the greenways that has not been developed. There has been some preliminary discussions between the PDT and the school district about how they might like to be involved, or even take over the greenway.

Ms. McBride inquired if the \$600,000 will be appropriated for the Columbia Mall Greenway.

Mr. Niermeier stated it would be in the budget, when we get to the point where we are able to construct that particular greenway.

Mr. Jackson stated, for clarification, the greenway in question is behind a new elementary school that was built in School District II (Jackson Creek Elementary). At the time the school was built, they had planned to develop an environmental study outside of the school. When the greenway came along, and this motion came up, the request was that staff contact the school district to see if they still had an interest in developing that for themselves. No commitment has been made by the school district, or the Department of Transportation, other than the discussion of whether the school will take over the responsibility, create an environmental space for themselves, and not use the funds.

Ms. McBride stated, for clarification, in other words, this project may not be funded. Based on what she just heard, it is just there, and perhaps, if District II would like to, or find the need to, they could negotiate with the County, and there would be some financial responsibilities on District II's part.

Mr. Jackson stated the question is whether the school district would do it to the extent that the County was designing and developing it, or would they do something different.

Ms. McBride stated, for clarification, there is not a plan for the Columbia Mall Greenway.

Mr. Niermeier responded only the discussion between the school district and the County. There is no real design plan.

Ms. McBride stated, for clarification, the project is here, but it may not be funded. The same information has been presented for a number of months, and there has been time to contact District Two. There has been time to do some negotiations, but nothing has happened.

Mr. Niermeier stated we have not moved forward, pending Council's final decision.

Ms. McBride stated she would like confirmation that we will do a greenway in the Columbia Mall area, based on the referendum. She stated this is the only greenway project that does not have a recommendation. There are greenway projects in almost all of the districts, with the exception of District 1 and 3. The issue, for her, is the process. We asked for a process, in terms of how to determine which projects we were moving on. We do not have a process. We have recommendations, and issues that support those recommendations. For example, a process would be that we are funding all the top 10 projects. Then, she could understand what was going on, and which ones were chosen. There is not a process, in place, that satisfies her, particularly given that she does not know what is going to happen to this project.

Ms. Dickerson "dittoed" Ms. McBride's comments. She stated she is getting perturbed with bringing things forward with recommendations, but there is no funding. She stated all the money is pumped into certain districts, and other districts are overlooked.

In Favor: Terracio, Jackson, Manning, Walker and Livingston

Opposed: Malinowski, Myers, Dickerson and McBride

Present but Not Voting: Newton and Kennedy

The vote was in favor.

15. **FIRST 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 [BY TITLE ONLY] – Ms. Myers moved, seconded by Ms. Newton, to approve this item.

In Favor: Terracio, Newton, Myers and Livingston

Opposed: Malinowski and Walker

Abstain: Jackson, Dickerson and McBride

Present but Not Voting: Kennedy and Manning

The vote was in favor.

- 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 [BY TITLE ONLY] – Ms. Myers moved, seconded by Ms. Newton, to approve this item.

Special Called Meeting

November 5, 2019

10

In Favor: Terracio, Newton and Myers

Opposed: Malinowski and Walker

Abstain: Jackson, Manning, Dickerson and McBride

Present but Not Voting: Kennedy and Livingston

The vote was in favor.

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

- a. Quitclaim Deed for Right-of-Way – 1300 Block of Marion Street – Lofts Apartments – Ms. Dickerson stated the committee recommended approval.

Mr. Malinowski stated Mr. Smith mentioned, during the committee meeting, the County is mentioned in the title to the property. He inquired about the square footage the County is quit claiming, in this particular matter. According to the title, in 1966, \$94,000 was paid; therefore, he wonders what square footage that was for versus what square footage we are giving away.

Mr. Smith stated, on p. 171, the research showed the property, which might have been in the name of Richland County, was an 8 X 8 right-of-way extending westward from Marion Street for approximately 141 feet. He stated he did not calculate what the value of the square footage would be in today's dollars.

Ms. Myers stated there is a mention of an 8 X 8 piece in the first paragraph of the deed, but she agrees that we need to be sure that is what is being pulled out and not the whole piece. She stated there needed to be analysis of what we are giving away, and what pieces were paid for in 1966.

Ms. Dickerson moved, seconded by Mr. Malinowski, to defer this until the November 19<sup>th</sup> Council meeting.

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

Present but Not Voting: Manning

The vote in favor was unanimous.

17. **REPORT OF ECONOMIC DEVELOPMENT COMMITTEE**

- a. Committing to negotiate a fee-in-lieu of ad valorem taxes agreement between Richland County and Project Planning; identifying the project; and other matters related thereto – Mr. Jackson stated the committee recommended approval of this item.

Ms. Dickerson stated she is having serious problems with all of these ad valorem taxes, and agreements with Richland Count. She stated she did not have enough information to make a commit to this project. In her opinion, the unincorporated area always is always being "screwed" because they do not get the things they need. Everything else is going in other places. Until we can see where we are going, in the County, she cannot support things going in other areas, and the

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unincorporated areas being left in the dark. Our constituents need to see where we are actually putting funds into their areas, so they can see some of the benefits.

Mr. Jackson stated, for clarification, this item is a request to start the clock for the subsequent item.

Ms. McBride stated, she has said this numerous times, there is no means of evaluating the benefits to Richland County, in terms of the number of jobs that our citizens receive. There is supposed to be an annual report, with an evaluation. For all these projects coming forth, she wants to know what the impact on Richland County is. She has never seen an evaluation of the number of jobs coming in, and who gets those jobs. She does not know how much we benefit from the projects we fund, and the reduction in funds/taxes. She is concerned about us continuing to do these tax abatements, and the citizens not knowing what they are getting. We have a number of underserved areas, and there is not much development in those areas. We need to take a hard look at the projects we are funding, where we are funding, and how the taxpayers' monies are being used.

Mr. Ruble stated "Project Planning" is located in the unincorporated area of Richland County, and employs 800 people. It has never received an incentive. We are trying to establish a fee-in-lieu to encourage them to continue to invest in the County.

Ms. Newton stated we need to look at economic development more strategically. Understanding what our tax environment is, she understands why businesses would come to us and request FILOT agreements. We are constantly looking at these on a one-on-one basis. She believes an opportunity to resolve some of these questions would be to look comprehensively across the County. In addition, she would be interested in seeing an inventory/list of the organizations we have these agreements with, and when their FILOTs expire.

Mr. Ruble stated the Economic Development Committee was informed today that the Economic Development Department plans to do a strategic plan this year. As a part of the strategic plan, they plan to interview each Council member, as well as other allies in development. In addition, Economic Development does an annual audit on all the companies, and the companies file compliance reports. As a part of the GASB 77 Report, they gather all of the different data, which could be provided to Council.

Ms. Dickerson inquired if the Economic Development items were time-sensitive.

Mr. Ruble responded in the affirmative. He stated these items are ordinance-based, so they have to go through three (3) readings and public hearing. Therefore, because we are at the end of the calendar year, the items are time-sensitive.

Ms. Myers stated she agrees with the points Ms. Dickerson and Ms. McBride have raised, but she is supporting, this particular item, because this is one of those companies that we want to continue to incentivize. Eight hundred County residents already work there, and encouraging them to continue to hire and retain that employee base helps the County. In support of the Economic Development Department, and what they are trying to do, the Economic Development Committee has been pushing for exactly what Ms. Dickerson and Ms. McBride are talking about, and pushing for a comprehensive strategic plan. Obviously, it is critical that we be able to tell our constituents they are getting something in exchange for the economic incentives we are giving out.

Ms. McBride stated she appreciated the work that Mr. Ruble is doing, but she is a process person, and she likes to look at the data and the impacts of it, which she has not been able to do that.

In Favor: Malinowski, Jackson, Myers, Walker and Livingston

Abstain: Terracio, Dickerson and McBride

Present but Not Voting: Newton, Kennedy and Manning

The vote in favor was unanimous with Ms. Terracio, Ms. Dickerson and Ms. McBride abstaining from the vote.

- b. 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 [FIRST READING] – Mr. Jackson stated the committee recommended approval of this item.

Ms. Dickerson stated she would meet with the Economic Development Director to discuss this item in more detail.

In Favor: Malinowski, Jackson, Myers, Walker and Livingston

Abstain: Terracio, Dickerson and McBride

Present but Not Voting: Newton, Kennedy and Manning

The vote in favor was unanimous with Ms. Terracio, Ms. Dickerson and Ms. McBride abstaining from the vote.

- c. 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 PDP Bull Street Apartments, LLC (and/or an affiliated entity); and other related matters – Mr. Jackson stated the committee recommended approval of this item.

Ms. Dickerson stated she is concerned about the relationship of I-77 Corridor with the Bull Street project.

Mr. Ruble stated the I-77 Multi-County Park is a tool to convert ad valorem taxes to a fee. The Multi-County Park is the tool they use to provide incentives to commercial projects. Almost every project the Economic Development Department does is put in a Multi-County Park. The Park is an agreement between Richland and Fairfield Counties. The real value of putting it in a Park is being able to convert the fee. They then take the fee and apply the special source revenue credits, which is how they provide an incentive to a project such as this one.

Ms. Dickerson stated, for clarification, we are taking an incentive to do the Bull Street project. She stated she cannot understand how we can be giving credits to Bull Street. She inquired as to how that is going to benefit Richland County.

Mr. Ruble stated, even if the project is located in the City, the County still derives taxes from it, so we still get our percentage of the fee.

In Favor: Terracio, Jackson, Myers, Walker and Livingston

Opposed: Malinowski

Abstain: Kennedy, Dickerson and McBride

Present but Not Voting: Manning

The vote was in favor.

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

a. NOTIFICATION OF APPOINTMENTS

1. East Richland Public Service Commission – One (1) Vacancy – Ms. Newton stated the committee recommended appointing Ms. Jennifer Creed.

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

Abstain: Jackson

Present but Not Voting: Manning

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

2. Procurement Review Panel – Two (2) Vacancies (One applicant must be from the public procurement arena & one applicant must be from the consumer industry) – Ms. Newton stated the committee recommended appointing Dr. Regina N. Givens and re-advertising for the remaining vacancy.

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

Abstain: Jackson

Present but Not Voting: Manning

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

3. Accommodations Tax – Two (2) Vacancies (1 applicant must have a background in the lodging industry & 1 applicant must have a background in the cultural industry) – Ms. Newton stated the committee recommended re-advertising the vacancies.

Ms. McBride stated she does not know why there is a need to re-open both positions for this particular committee. She inquired if it is because of the applicant's background.

Mr. Malinowski stated this committee deals with accommodations tax. All of the funds are collected within the unincorporated area of Richland County. He stated, if the applicant would like to be involved with accommodations tax, the applicant, which lives in the City, should apply with the City of Columbia and help them with their accommodations tax. Some Council members feel it is not right for an individual to have input on where taxes collected in unincorporated areas should go, when they do not reside in the unincorporated area.

Ms. Newton stated, to follow-up on Mr. Malinowski's comment, and to note that was not the unanimous feedback of the committee, she believes it is one of the things that should come back before Council because if something is a rule, then it should be implemented, as a rule, and communicated to applicants. She feels our job is to make sure we appoint the best people who can move the organizations forward. While there may be a preference to have someone who lives in unincorporated Richland County, she would hope that we would select the best person who serves the mission and vision of the organization, and can help the County, whether they live on one side of the road or the other. She does not want us to get into a position where we disenfranchise our residents who may reside in a municipality, but also reside in the County. There are several Council members whose constituents may all reside within the City of Columbia, and if we had a rule that did not allow those people to serve we would be, in essence, be saying those Council members would never be in a position to appoint their constituents to serve.

Ms. McBride made a substitute motion, seconded by Ms. Terracio, to recommend R. Lee Snelgrove for the Accommodations Tax Committee.

Ms. Terracio offered a friendly amendment to re-advertise the remaining vacancy.

Ms. McBride accepted the friendly amendment.

Ms. Kennedy stated it has been discussed several times that we were trying to put applicants that resided in Richland County on the committees.

Ms. McBride stated this person resides in Richland County. Just like, she resides in Richland County. If we follow that procedure, she would not be able to be on this board.

Mr. Malinowski stated, what Ms. Kennedy was saying is, if he were to apply to be on one of the City of Columbia, Forest Acres or Blythewood's boards, he would be rejected even though he resides in Richland County. He stated that is like putting one more person, from that municipality, on a board that is deciding what to do with funding collected strictly in unincorporated Richland County. The municipalities are already get 25% or more of the H-Tax funding now. He stated just because you live in Richland County does not always entitle you to certain boards, committees, and commissions. We are going to try, in the future, to address this through our Legal Department.

Ms. Dickerson stated, having served on numerous boards in Richland County, for the most part, these boards are inundated with citizens who are in the City limits and the County does not have any representation on those boards. She is currently serving on a board that 3 members live on the same block, and no one from the County serves on the board. Many times, we do not have proper representation from the unincorporated area.

Mr. Manning stated the problem he has is, when we advertise, we do not advertise for people to apply based on where they live. If we, as Council, want to make this policy, by majority vote, then he is good with that. Until we do that, he has a problem that we advertise and say, Richland County, where you live, in terms of paying County taxes, has these openings, and we are soliciting applications. Somebody applies, who pays Richland County taxes, because they live in Richland County. The map he has does not say Columbia. It says County seat. He is very unhappy, in the whole notion of transparency, we advertise, without that caveat, and then in the committee we apply that unwritten, unapproved policy. He stated he is going to vote in favor of the substitute motion because Mr. Snelgrove did not know that because he lives in the

County seat there were some Council members, on a committee, that had their own informal, unwritten policy, to exclude him. Until we get policy, or advertise differently, he is not ready to sit here and say we start the process by advertising anybody that lives in the County, but then we apply the unwritten, unannounced policy the people on the committee have, and you cannot get through the committee to Council.

Ms. Kennedy stated the committee has been checking the address of the applicants for the last 2 ½ - 3 years.

Ms. McBride stated, for clarification, she was previously on the committee, and the issue that she has now, she had while she was on the committee. Unless it is a policy, then we cannot exclude anybody. She agrees with Mr. Manning, if we want to make it a policy, then that is fine, but do not penalize this person.

Ms. Terracio moved, seconded by Ms. McBride, to call for the question.

In Favor: Terracio, Jackson, Newton, Walker, Livingston and McBride

Opposed: Malinowski, Myers, Kennedy, Manning and Dickerson

The vote was in favor of the motion to call for the question.

In Favor: Terracio, Newton, Manning, Livingston and McBride

Opposed: Malinowski, Jackson, Myers, Kennedy, Walker and Dickerson

The substitute motion failed.

Mr. Manning stated, for clarification, it will be re-advertised with no explanation about the discussion that took place.

In Favor: Malinowski, Myers, Kennedy, Walker and Dickerson

Opposed: Terracio, Manning, Livingston and McBride

Abstain: Jackson and Newton

The vote was in favor.

19. **REPORT OF THE TRANSPORTATION AD HOC COMMITTEE** – Mr. Jackson thanked the PDT for the work they have done to get many of the projects, throughout the County, in the design, right-of-way, construction and completion phases. In addition, he thanked them for the transition that has taken place, by handing off the baton to the Transportation Department, under the leadership of Mr. Niermeier and his team. He thanked Mr. Niermeier for picking up “the ball” and accepting the responsibilities and challenges the Penny Program brings because there is more projects than there is money. Therefore, “the pie” can only be cut so small.

a. Items for Information:

1. Transition Update – Mr. Niermeier stated the transition has been completed successfully. All of the projects currently underway are still being constructed. There are four (4) widening projects underway; 2 are being managed by SCDOT, and the other 2 by Richland County managers. Atlas

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Road is ready to be advertised, pending a decision by Council. There are two (2) intersection projects underway; North Main/Monticello and Hardscrabble/Kelly Mill. Both are being concurrently done with other widening projects. There are two (2) other intersection projects, Garners Ferry Road and Screaming Eagle, are ready for advertising, pending a decision by Council. Under contract, but not yet started, is North Springs Road and Harrington. In the Special Projects category, Greene Street Phase 2 is under construction; pre-con is scheduled for the beginning of December. There are three (3) Neighborhood Improvement Projects under way: Broad River (50% Complete), Candlewood (Scheduled for completion in 2020) and the Southeast Richland Neighborhood Project (Scheduled for completion in Fall 2020). The only greenway under construction is the Three Rivers Greenway, and is 99% complete. They have been in discussions with the City about it, and should be turning it over within the next couple of months. Currently, there are two (2) resurfacing packages open. Resurfacing Package P has 52 roads; Resurfacing Package Q began last week, with night paving on Decker Boulevard. Resurfacing Package R is ready to be advertised, when the County is ready. The Transportation Improvement Program, which was a combination of resurfacing dirt roads and sidewalks, is approximately 99% complete. They are presently finishing up some work on that. Finally, Sidewalk Package 6 is under construction, and should be completed by the Fall. They just completed the punchlist items in Koon Road. There are two (2) sidewalk packages under advertisement; Harrison Road and Percival Road. Clemson Road has been developed, and can be sent to advertisement, when the County is ready. Presently there are four (4) dirt road packages under construction. Two (2) of them will be completed in the Winter 2019. Additionally, Package J is scheduled to be completed in April 2020. Package K, which contains 6 roads in Council Districts 1, 3, 5 and 10, is developed and ready to be advertised the first of the year. The projects that are over referendum are pending Council action, which will be brought forward at a later date. At the committee meeting, they discussed a work discussion where they can bring the information forward, and show the recommendations by staff, the budget, the process for approving projects, and how to make the decision, so they can get the most from the funding available. They are currently reevaluating the Years 1, 2, 3, and 4 roads. The intent of this department, and the Penny Program moving forward, is to make this type of information more readily available to the residents, stakeholders, staff and Council.

Ms. Myers thanked Mr. Niermeier for providing the helpful information. She noted the information was not in the agenda packet, and it was difficult to follow along without having the information before them. She requested Mr. Niermeier provide the information, and, in the future, to place the documentation in the agenda packet, so Council members can be prepared prior to the meeting.

Mr. Niermeier stated the intent was to give a verbal update tonight, and provide the information to the Clerk's Office for distribution.

Ms. Myers stated, she understands that might have been the intent, but some of us do not learn well that way. She stated she does not know what the different packages are, so having that information, when people ask about it, is more helpful.

Ms. Dickerson "dittoed" what Ms. Myers said. She stated she is a visual learner; therefore, she needs it presented to her in elementary visual context.

Mr. Jackson stated, as you may recall, at the last meeting, there was a written transportation update given out, so it was an oversight that one was not made available to you tonight. He assured Council, a written update will be provided prior to the next meeting.

Mr. Manning inquired, if the night paving on Decker Boulevard, is going from Percival to Two Notch.

Mr. Niermeier responded to Brookfield.

Mr. Manning stated, for clarification, it was originally the entire length of Decker Boulevard.

Mr. Niermeier stated the termini was always Brookfield and Percival.

Mr. Manning inquired if this project is funded by the CTC.

Mr. Niermeier stated there is some State funding.

Mr. Manning inquired if there is any way to have a discussion because the part down toward Two Notch, which is in Ms. McBride's district, we took out the landscaped medians, and the bids came in low for the resurfacing package, so we will be giving money back to the CTC. There is other money in the bond referendum, under the Neighborhood Improvement Program, out of the Planning Department, that was funded, but we are not doing along Decker. Therefore, he is wondering how, when or if there was any decisions made, which did not include Council, as to how we might maximize the pavement of Decker Boulevard.

Mr. Niermeier stated he is not aware of any decisions made without Council.

Mr. Manning stated he is glad to have that on the record.

Ms. McBride stated she found it difficult to follow the oral presentation. She found that several projects were missing. She requested, in the future, that Mr. Brown ensure the information is provided. She does not want to come back to a Council meeting, and be told that you have already been told that.

Ms. Dickerson stated she does not understand all of the moving parts in the transition. She is looking at the data that is being presented, but she may need a one-on-one workshop how the transition is working and why the dollar amounts have changed.

Mr. Brown stated, in reference to how we took money from projects and put into other projects over the last five (5) years, he is concerned about that request because he does not know the details of how and why that was done. As it relates to going forward and presenting you opportunities to address how, or if you will do that, you will be given a package and we can walk through that, as an individual member, as a Council body in a work session, so you can make decisions on these projects that are yet to be put forward.

Ms. Dickerson stated she is not worrying too much about the history. She wants to basically know if we had 10 projects, and when we did it we had funding to say that we had 10 projects. Over the years, the amount of the projects came in overpriced, from what the original amount. She wants to know how we are transitioning from the PDT Team into this, so she can have a firm reason as to why and how she votes on certain issues. In addition, how the funding is going be going forward. She believes Mr. Niermeier can show her, if we came up short on a project, how we can take money from one project and give it to another project.

Ms. McBride requested to be included in the meeting with Mr. Niermeier.

Mr. Jackson stated one of the things that he has heard is that the Procurement Ordinance that is outlined, and defined, does not require, once the list has been approved, for each individual contract let to be brought back to Council. He stated those firms that have not been given a fair opportunity to participate in the process, be given that opportunity. The list we had before, of the firms that were approved, regarding the OETs is alphabetical. The approved list does not require any further approval by this body, when contracts are being issued. He has requested the Transportation Department that it is proactive in keeping Council informed of any, and all, contract actions, and who is being awarded work, moving forward, so we can have a clear understanding of the diversity and inclusion of the contractors.

2. OET RFQ Short List Selection – Mr. Niermeier stated, in compliance with the Richland County Procurement Ordinance, as it pertains to the acquisition of professional services, the listed firms have been qualified to perform design, permitting, surveying, geotechnical investigation, utility and other work, as indicated. He stated just because you are qualified does not guarantee you work. There is a competitive process, among this group, in order to be awarded work. Transportation will ensure it is proactive in keeping Council informed of any contract actions, and whom they are awarded to.

Ms. Dickerson requested, in the future, that Mr. Niermeier indicate what the abbreviations/acronyms stand for.

Mr. Livingston stated, for clarification, no action is required for this item, and the succeeding item.

Mr. Niermeier stated we have gone through the procurement process, and been evaluated. This is the top 8, in alphabetical order, that were approved by the selection committee.

Mr. Malinowski stated, for the public, and new staff's benefit, Mr. Niermeier should include additional information to explain what exactly what an On-Call Engineering Team does.

Ms. Newton inquired if we have a policy where we list vendors the County currently has an issue or conflict with, and if they would be eligible to be awarded new contracts with the County.

Mr. Smith stated, it is his understanding, that unless the vendor has been suspended, they would be eligible.

Ms. Wladischkin stated Procurement has a method to suspend or debar vendors. If they appear on the suspension or debarment list, they would not be eligible for a contract award.

Ms. Newton inquired how someone is added to the list.

Ms. Wladischkin stated the ordinance lists several specific reasons a company could be suspended or debarred, which would include illegal activity, accepting bribes, collusion, etc.

Ms. Newton stated, for clarification, that a conflict issue or legal matter with the County would not trigger that.

Ms. Wladischkin stated not unless the legal matter lead to one of the reasons listed in the ordinance.

Ms. Myers stated, for clarification, we could be in active litigation, over a serious matter, with a company and we would engage them in new business. It would seem to her, that while it does not look like they touch or concern that matter, it might be unwise to be subject to discovery with that company, in the middle of litigation.

Mr. Smith stated he understood Ms. Myers' question, and his recollection of that portion of the ordinance, in terms of the reasons for debarment or suspension, are pretty specific. There may need to be an amendment to the ordinance, which covers the kind of situation Ms. Myers described. Certainly, there would appear to be an inherent conflict, if we are in litigation, but they are eligible. We would have to go back and look at the ordinance; although he believes that portion of the procurement ordinance is modeled after what the State does. He stated we would have to go back and see if we can encapsulated what Ms. Myers is describing.

Ms. Myers inquired if that would be something that would come quickly back to Council, or would it go to Rules. It seems to her, a best practice would take in what Ms. Newton referenced.

Mr. Smith stated, Ms. Wladischkin confirmed the way the ordinance is currently written, the reasons for disbarment or suspension are specific, so we would have to have 3 readings and a public hearing to amend the ordinance to cover a situation, as described by Ms. Myers.

Ms. Myers inquired, in the interim, how would we deal with this kind of issue. To her, there is something glaring problematic, so is there a way to deal with it.

Mr. Brown stated the County has gone through a process, but Mr. Niermeier clearly stated, in that process, there is a qualification. Qualification does not mean that tomorrow you will be given assigned work.

Mr. Manning stated we are in the transition, so when will these people begin working.

Ms. Wladischkin stated they are ready to move forward with the prime agreements, which basically says they may or may not do work under the scopes outlined in the RFQ. From there, they would be issued task orders.

Mr. Manning inquired, if we are past the appeal process, or if there an appeal process.

Ms. Wladischkin stated there would be the 10-day protest period; however, we are not awarding any contracts, at this point.

Mr. Brown stated there is work that is currently under construction, and that was under construction last week. That work is continuing, as a part of the transition, to encourage Council, and the citizens, who are concerned about moving forward with the Penny Program. Any work that has not been awarded, will not be awarded, until we have a session with Council to address those opportunities, which may need to come forward Council may need to decide on. Whether it is a money conversation, or project conversation. Council can feel confident the work that was worked on last week, is still being worked on this week. Anything that has not been awarded, designed, or the right-of-way purchased for, will not be done until Council has an opportunity to discuss, as a body, how you want to address transportation in those areas, particularly going forward. Hopefully, the update gives Council the ability to understand the work is still moving forward. You can also feel confident that you will have the opportunity to address the larger questions about the greenways, bikeways, and the future road construction

that has not been let out, including how we include better processes for including other businesses that may not have been a part of the previous process.

Ms. Dickerson stated, for clarification, Council would not know anything until the contract is awarded.

Ms. Wladischkin stated the projects will be competitively chosen through the RFP process, from the list of 8 firms. When they reach the threshold requiring Council approval, they will be brought back to Council.

Mr. Manning inquired as to when these firms can start. He stated, for clarification, the decision was not made until the list came to Council.

Ms. Wladischkin responded in the affirmative.

Mr. Manning stated that invokes the special purchase ordinance, correct.

Ms. Wladischkin stated, to her knowledge, it has not be invoked.

Mr. Manning stated, he knows, this is not on as an action item, but staff did not take action until after it was brought to Council.

Ms. Wladischkin responded in the affirmative.

Mr. Manning stated he thinks the County Attorney needs to think about that. It seems to him, the action was a determination, by staff, that it was coming to Council, and they were not acting prior to it coming to Council. He stated, if he were the public, he would say staff was waiting, and not moving forward on this until it came to Council. It is like everything else, under the "special ordinance", regarding the Penny. He raised that issue at the ad hoc committee, and we moved it from action to information, which was okay until now it has come to Council tonight, and staff did not proceed until it came to Council. He believes, this is vis-à-vis, that we determined we were not going to move forward, without Council, and thus we would be invoking the Special Purchase Ordinance. He is concerned that this has put us in a new legal mess. He stated, for clarification, everybody connected to the Program Development Team was done, as of Monday, November 4<sup>th</sup>, and everything that has continued has been done by a Richland County employee.

Mr. Brown stated it has continued under the management of Richland County.

Mr. Manning inquired if anyone connected under the PDT contract was still doing work, as of yesterday or today.

Mr. Niermeier stated there are no contractors from the PDT currently performing work on the Transportation Penny Program.

Mr. Manning stated, for clarification, it is Richland County employees that are doing all of the inspections and oversight.

Mr. Niermeier responded in the affirmative.

Ms. Myers stated, for clarification, that we are saying there are no parties working on Penny projects who are not direct Richland County employees.

Mr. Niermeier stated, outside of those managed by the SCDOT, and such things as material testing, which are being contracted out. He stated he cannot speak for SCDOT and who they may have as subcontractors, but for any of the Richland County managed projects, they are all Richland County employees.

Ms. Myers requested, for future reference, to have this information broken down and provided to Council. As to whether we are operating under the Significant Purchase Ordinance, it is not her understanding that we are, but she wants to clarify, for the record, that we are operating under normal procurement.

Mr. Brown stated, he has heard many times, we need to be more informative, there are actions that need to be taken, by communicating to Council what is going on, and that is a function of their process. Therefore, he is concerned or confused about how he is to go about doing this.

Ms. Myers stated, for clarification, where you all were, with Ms. Wladischkin, was providing us information because we have consistently said we do not have enough information, but you were not asking us to move into a new arena and do anything. It is just information, correct.

Mr. Brown responded in the affirmative.

Ms. McBride inquired about how many members were on the evaluation team for the RFQs.

Ms. Wladischkin stated there were 7 members on the OET evaluation team, and 4 members on the CE&I evaluation team. All of which were County employees.

Ms. McBride inquired if there was a ranking sheet for each of the reviewers.

Ms. Wladischkin responded in the affirmative.

Ms. McBride stated she is assuming we are ensuring that we have an inclusive process.

Ms. Wladischkin stated small business participation was a part of the evaluation criteria.

Mr. Malinowski stated, further in the agenda, there is something about inspectors with these other companies, and possibly to continue using these inspectors. He inquired if that is a part of Mr. Niermeier's answer to only using Richland County employees.

Mr. Niermeier stated that item was removed from the agenda; therefore, the backup is not relevant at this moment. Originally, we were looking at contract options available to us.

3. CE&I RFQ Short List Selection – See previous item.

b. Items for Action:

1. Mitigation Credit Sales: Alpine and Percival Road Inspections – Mr. Niermeier stated before Council is the request to sell mitigation credits for two (2) SCDOT projects (Alpine and Percival Road Intersections). The committee forwarded this item to Council for approval.

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

Abstain: Dickerson

Present but Not Voting: Newton, Manning and McBride

The vote in favor was unanimous with Ms. Dickerson abstaining from the vote.

Ms. Terracio moved, seconded by Mr. Walker, to reconsider this item.

Opposed: Terracio, Malinowski, Jackson, Walker and Livingston

Present but Not Voting: Newton, Myers, Kennedy, Manning, Dickerson and McBride

The motion for reconsideration failed.

2. Edmonds Farm Rd./Railroad Crossing Closures – Mr. Niermeier stated there are two (2) railroad closures before Council. One is at Edmond Farm Road, and the other is between Black Swamp Road/Old Hopkins at the north end of Lower Richland Boulevard. The Norfolk Southern Railroad will pay \$25,000 per railroad closure. The funds would go back into dirt road paving. The committee forwarded this item to Council to approve staff proceeding with the railroad crossing closures.

Ms. Myers stated the backup documentation to this project says that once Council votes, and provides the information to Norfolk Southern, they will immediately move to reclaim and close those crossings. In the committee, we discussed the fact that there was no communication with the community to let them know that the manner of ingress and egress would be closed. It concerns her, as well, this is a road in years 3 – 4 of paving, and we are leapfrogging it above years 1 – 2 with no process. She is also concerned with what the County is being given as an exchange for these permanent closings. It is curious to her that there is no cost of paving listed. It is going to cost close to \$500,000 to pave this road. It seems to her, this closure is 100% in the railroad's favor and 0% in that of the residents of the area. If we are giving this exchange, either the road gets paved first, and they bear that cost, or this gets on the list, and when we get ready to pave the road, in the natural order of things, we revisit this and see if we can negotiate something better from the railroad. As it stands, she does not think this is a fair exchange for the residents in that area.

Ms. Myers made a substitute motion, seconded by Mr. Malinowski, to deny the request.

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

Opposed: Jackson, Manning and Livingston

The vote was in favor of the substitute motion.

3. Cash Flow Model Presentation – First Tryon – Mr. Niermeier stated before Council is three (3) models, based on an original schedule developed by the PDT, and modified by County staff. The first scenario is to take out a \$175M General Obligation Bond; the 2<sup>nd</sup> scenario is to pay off the current debt we have of \$25M, and convert the remaining \$150M BAN to a General Obligation Bond; and the 3<sup>rd</sup> is to pay off the BAN off, with cash on hand, and proceed with projects as a

pay-as-you go. Staff's recommendation was to go with the 2<sup>nd</sup> scenario of a partial pay off and convert the remaining \$150M BAN to a General Obligation Bond.

Mr. Malinowski stated, at the last meeting, there was a lengthy Executive Session, whereby a lot of information was discussed after some Council members met with the SCDOR. He inquired if this overview was done subsequent to the SCDOR meetings. If not, that may have some drastic effect on what is being requested here.

Mr. Brown responded that the conversations, in Executive Session, were not shared with First Tryon to make any alterations to any projections, related to this matter.

Mr. Malinowski inquired, since First Tryon did not have this information, would this information still be valid.

Mr. Brown stated there would need to be some assumption changes, which he cannot speak to specifically.

Mr. Malinowski moved, seconded by Mr. Jackson to defer this until after Executive Session.

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

Present but Not Voting: Newton and Manning

The vote in favor was unanimous.

Mr. Jackson moved, seconded by Ms. Dickerson, to defer this item until the November 19<sup>th</sup> Council meeting.

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

Present but Not Voting: Manning and McBride

The vote in favor was unanimous.

4. Staff Project Evaluation Findings and Recommendations – This item was removed from the agenda.

## 20. OTHER ITEMS

- a. Town of Eastover Sewer Bills – Mr. Brown stated, as Council may recall, there was some disputes in monies, related to services, the Town of Eastover was trying to get resolved. In that time, Council took action to withhold payments to the Town of Eastover until the matter was resolved. The matter has been resolved, and staff inquired if the County could release payment to the Town of Eastover. Since it was determined there was Council action, it required us to come back to Council for action to release payment. The Town of Eastover is current on all of their payments; therefore, staff recommends the release of payment to the Town of Eastover.

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

Mr. Malinowski inquired if the Town of Eastover is current on all payment, or only the sewer bills.

Special Called Meeting  
November 5, 2019



Mr. Brown stated he is not aware of any delinquent accounts, but he cannot answer the question definitively, at this time.

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

Abstain: Jackson

Present but Not Voting: Manning

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

Ms. Myers moved, seconded by Ms. Dickerson, to reconsider this item.

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

Abstain: Jackson

Present but Not Voting: Kennedy and Manning

The motion for reconsideration failed.

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

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

Oppose: Walker

Abstain: Jackson

Present but Not Voting: Kennedy, Manning and Dickerson

The vote was in favor.

***Council went into Executive Session at approximately 8:51 PM and came out at approximately 9:59 PM***

Mr. Walker moved, seconded by Mr. Jackson, to come out of Executive Session.

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

Oppose: Dickerson

Present but Not Voting: Manning

The vote was in favor.

22. **MOTION PERIOD** –

- a. Resolution in Support of Dreamers by Congress [MANNING] – This item was referred to the D&S Committee.

- b. FY20 – District 4 Hospitality Tax Allocations: \$2,500 – Skipp Pearson Jazz Foundation [LIVINGSTON] – Ms. Dickerson moved, seconded by Ms. Myers, to approve this item.

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

Present but Not Voting: Manning and Walker

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

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

Present but Not Voting: Manning and Walker

The motion for reconsideration failed.

- c. Unless there are truly extenuating circumstances agenda items should not be listed as “Title Only”. (Somebody was late getting it to us” is not extenuating). This only gives the public two opportunities to see an item prior to final approval by Council when in fact there should be three [MALINOWSKI] – This item was referred to the Rules & Appointments Committee.

- d. FY20 – District 9 Hospitality Tax Allocations: \$12,000 – The Kemetic Institute for Health & Human Development’s Kwanzaa Festival [JACKSON] – Ms. Dickerson moved, seconded by Ms. Myers, to approve this item.

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

Present but Not Voting: Manning and Walker

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

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

Present but Not Voting: Manning and Walker

The motion for reconsideration failed.

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

## Monthly Financial Budget Update September FY20

Fund	FY20 Adjusted Budget	Sept. FY20 Expenses	Sept. FY19 Expenses	Total to Date	Balance as of Sept. 30	% Expended
General Fund Total	175,602,945	38,881,802	38,768,245	38,881,802	120,270,167	22%
Special Revenue Total	217,386,133	16,124,364	20,266,297	16,124,364	162,854,467	7%
Capital Projects Total	287,160,428	11,188,327	2,672,242	11,188,327	212,997,429	4%
Debt Service Total	324,850,088	17,412,896	18,981,009	17,412,896	307,437,192	5%
Enterprise Total	49,877,019	8,243,624	7,541,431	8,243,624	10,524,951	17%
Millage Agency Total	450,396,253	23,363,710	21,864,576	23,363,710	427,032,543	5%
<b>Grand Total</b>	<b>1,505,272,866</b>	<b>115,214,722</b>	<b>110,093,800</b>	<b>115,214,722</b>	<b>1,241,116,749</b>	<b>8%</b>

**Open Encumbrance Totals:**

General Fund	16,450,976
Special Revenue	38,407,302
Capital Projects	62,974,673
Debt Service	n/a
Enterprise Total	31,108,444
Millage Agency	n/a
<b>Grand Total</b>	<b>148,941,395</b>

### Notable Issues:

There are some departments that are projecting to have a negative in their salary line item at fiscal year-end (06/30); the impacted departments complete a budget transfer from their operating budget to cover those deficits or use surpluses in the General Fund as whole to absorb the projected negatives. Fortunately, we are trending much better in this area this year due to the additional funds from the budget process.

## Richland County Council Request for Action

**Subject:**

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

**Notes:**

First Reading: October 22, 2019  
Second Reading: November 5, 2019  
Third Reading:  
Public Hearing: October 22, 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 # R11711-05-07 FROM OFFICE AND INSTITUTIONAL DISTRICT (OI) TO RESIDENTIAL SINGLE-FAMILY MEDIUM DENSITY DISTRICT (RS-MD); 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 # R11711-05-07 from Office and Institutional District (OI) to Residential Single-Family Medium Density District (RS-MD).

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:       October 22, 2019  
First Reading:       October 22, 2019  
Second Reading:     November 5, 2019  
Third Reading:       November 19, 2019

## Richland County Council Request for Action

**Subject:**

19-032MA  
Charlotte Huggins  
RU to RC (2.8 Acres)  
10510 & 10512 Garners Ferry Road  
TMS # R30600-02-16

**Notes:**

First Reading: October 22, 2019  
Second Reading: November 5, 2019  
Third Reading:  
Public Hearing: October 22, 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 # R30600-02-16 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 # R30600-02-16 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:       October 22, 2019  
First Reading:       October 22, 2019  
Second Reading:     November 5, 2019  
Third Reading:       November 19, 2019

## Richland County Council Request for Action

**Subject:**

19-038MA  
Keith McNair  
PDD to RS-LD (2.8 Acres)  
Jacobs Mill Pond Road  
TMS # R25810-03-09

**Notes:**

First Reading: October 22, 2019  
Second Reading: November 5, 2019  
Third Reading:  
Public Hearing: October 22, 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 # 25810-03-09 FROM PLANNED DEVELOPMENT DISTRICT (PDD) TO RESIDENTIAL SINGLE-FAMILY LOW DENSITY DISTRICT (RS-LD); 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 # 25810-03-09 from Planned Development District (PDD) to Residential Single-Family Low Density District (RS-LD).

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:       October 22, 2019  
First Reading:       October 22, 2019  
Second Reading:     November 5, 2019  
Third Reading:       November 19, 2019

## Richland County Council Request for Action

**Subject:**

19-040MA  
Krystal Martin  
LI to RM-HD (2.4 Acres)  
10539 Farrow Road  
TMS # R17500-02-18

**Notes:**

First Reading: October 22, 2019  
Second Reading: November 5, 2019  
Third Reading:  
Public Hearing: October 22, 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 # 17500-02-18 FROM LIGHT INDUSTRIAL DISTRICT (LI) TO RESIDENTIAL MULTI-FAMILY HIGH DENSITY DISTRICT (RM-HD); 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 # 17500-02-18 from Light Industrial District (LI) to Residential Multi-Family High Density District (RM-HD).

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:       October 22, 2019  
First Reading:       October 22, 2019  
Second Reading:     November 5, 2019  
Third Reading:       November 19, 2019

## Richland County Council Request for Action

**Subject:**

19-027MA  
Phil Savage  
RU to GC (8.23 Acres)  
Dutch Fork Road  
TMS # R02501-03-22 (Portion)

**Notes:**

First Reading: September 24, 2019  
Second Reading: October 1, 2019  
Third Reading:  
Public Hearing: September 24, 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 # R02501-03-22 (PORTION OF) FROM RURAL DISTRICT (RU) TO GENERAL COMMERCIAL DISTRICT (GC); 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 # R02501-03-22 (Portion of) from Rural District (RU) to General Commercial District (GC).

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:       September 24, 2019  
First Reading:       September 24, 2019  
Second Reading:     October 1, 2019  
Third Reading:       October 15, 2019

# 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:

Third Reading:

Public Hearing:

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**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.**

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**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 [ ] 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 (15<sup>th</sup>) 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. 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; or

(ii) 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 maximum Annual Principal and Interest Requirements on all Bonds then Outstanding and the additional Bonds then proposed to be issued.

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 ordinance, 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 any lawful purpose in such manner as the County shall from time to time determine.

[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 Association of Counties?]. 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(1)** 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(1)** 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(1)** 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 [ ] 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:

Third Reading:

Public Hearing:

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**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]

## 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]

## **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]

## **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, in the City of [St. Paul, Minnesota]. 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, in the City of [St.

Paul, Minnesota]; 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]

## **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]

## 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.

### 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]

## **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]

## **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]

## 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 the [Revenue Fund], 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 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

**Notes:**

First Reading: November 5, 2019

Second Reading:

Third Reading:

Public Hearing:

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 PROJECT PLANNING 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, Project Planning, (“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

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Chair, Richland County Council

(SEAL)  
ATTEST:

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Clerk of Council, Richland County Council

First Reading: November 5, 2019  
Second Reading: November 19, 2019  
Public Hearing:  
Third Reading:

**EXHIBIT A**  
**FORM OF FEE AGREEMENT**

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**FEE-IN-LIEU OF *AD VALOREM* TAXES AGREEMENT**

**BETWEEN**

**PROJECT PLANNING**

**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.

<b>PROVISION</b>	<b>BRIEF DESCRIPTION</b>	<b>SECTION REFERENCE</b>
<b>Sponsor Name</b>	[to be inserted]	“Sponsor”
<b>Project Location</b>	[to be inserted]	Exhibit A
<b>Tax Map No.</b>	[to be inserted]	Exhibit A
<b>FILOT</b>		
• 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	
<b>Multicounty Park</b>	I-77 Corridor Regional Industrial Park	
<b>Other Information</b>		

## 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 [Project Planning], 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 29<sup>th</sup> 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 [Project Planning] 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:**

□

**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]*

**[PROJECT PLANNING NAME]**

By: \_\_\_\_\_  
Its: \_\_\_\_\_

*[Signature Page 2 to Fee in Lieu of Ad Valorem Taxes Agreement]*

**EXHIBIT A**  
**PROPERTY DESCRIPTION**

A-1

**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/or an affiliated entity); and other related matters

**Notes:**

First Reading: November 5, 2019

Second Reading:

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 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 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”) desires to establish market rate housing and retail facilities within the County (“Project”), consisting of total taxable investments in real and personal property of not less than \$50,000,000 of which \$45,000,000 will be invested by the Company and the remaining \$5,000,000 by unrelated third parties, including BullStreet Retail, LLC;

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

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Chair, Richland County Council

(SEAL)  
ATTEST:

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Clerk of Council, Richland County Council

First Reading: November 5, 2019  
Second Reading: November 19, 2019  
Public Hearing: \_\_\_\_\_, 2019  
Third Reading: \_\_\_\_\_, 2019

**EXHIBIT A**  
**FORM OF AGREEMENT**



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**PUBLIC INFRASTRUCTURE CREDIT AGREEMENT**

**by and between**

**RICHLAND COUNTY, SOUTH CAROLINA**

**and**

**B-6 BENET HORGER, 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 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 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 total taxable investment in real and personal property of not less than \$50,000,000 of which \$45,000,000 will be invested by the Company and the remaining \$5,000,000 by unrelated third parties, including BullStreet Retail, LLC;

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 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 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 \$45,000,000 in taxable property at the Project ("Investment Commitment") by the Certification Date, as defined below, with an unrelated third party investing another \$5,000,000 in the same property. 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, 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.





if to the Company: B-6 Benet Horger, LLC  
Attn: \_\_\_\_\_  
\_\_\_\_\_  
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 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, PDP BULL STREET APARTMENTS, LLC has caused this Agreement to be executed by its authorized officer(s), effective the day and year first above written.

**PDP BULL STREET APARTMENTS, LLC**

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 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, as set forth below.

**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 10<sup>th</sup> year or the year in which the cumulative, total amount of the Public Infrastructure Credit equals the Public Infrastructure costs ("Credit Term").

The property is being developed under a Development Agreement between the Company and BullStreet Retail, LLC, with the Company purchasing air rights to the proposed building above the first floor. The Company and BullStreet Retail, LLC agree that the Company will receive the full amount of the Public Infrastructure Credit. The building may be titled in the name of BullStreet Retail, LLC for purposes of the RMC and Tax Assessor's Office, but the credit will be provided against whatever tax bills are issued for the property.

**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  
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:** Elizabeth McLean, Deputy Attorney  
**Department:** County Attorney’s Office  
**Date Prepared:** October 14, 2019                      **Meeting Date:** October 22, 2019

<b>Budget Review</b>	James Hayes via email	<b>Date:</b>	October 15, 2019
<b>Finance Review</b>	Stacey Hamm via email	<b>Date:</b>	October 15, 2019
<b>Other Review:</b>		<b>Date:</b>	
<b>Approved for Council consideration:</b>		County Administrator	Leonardo Brown, MBA, CPM

**Committee** Administration & Finance  
**Subject:** Quitclaim Deed for Right-of-Way (1300 Block of Marion Street-Lofts Apartments)

**Recommended Action:**

The County Attorney’s Office staff does not have a recommendation as this is a policy decision.

**Motion Requested:**

1. Move to approve the quitclaim deed; or,
2. Move to deny the quitclaim deed.

**Request for Council Reconsideration:** Yes

**Fiscal Impact:**

There is no fiscal impact.

**Motion of Origin:**

There is no associated Council motion of origin. This item was heard in executive session at the request of petitioners. At Council’s request, the item was referred to committee.

<b>Council Member</b>	
<b>Meeting</b>	
<b>Date</b>	

### Discussion:

Pursuant to discussions with attorneys Christian Rogers and Robert Lewis, who represent the owners of 1321 Lofts Apartments, this item is before council. Research shows a former private 8' 8" wide right-of-way (the "ROW") in the name of Richland County extending Westward from Marion Street for approximately 141 feet, and located in the current parking lot serving the residential apartments located at 1321 Lady Street in Columbia, also known as 1321 Lofts Apartments

Capitol Places VI Owner, LLC, granted an historic preservation easement to the Historic Columbia Foundation in December of 2013 to preserve the historic facade of the building located on this property. In its review of the easement transaction, the Internal Revenue Service has questioned whether or not the ROW was still in existence as a public right of way at the time the easement was granted, thereby affecting owner's ability to grant the easement.

It appears that (a) the ROW was a private right-of-way appurtenant to the adjacent properties, and was never a public right-of-way, (b) all properties adjacent to the ROW were acquired by a single owner prior to the date of the easement, and have been owned by Capitol Places VI Owner, LLC since November 20, 2019, and (c) the common ownership of all such adjacent parcels vested 100% ownership of the right-of-way itself in the common owner of the adjacent parcels, thereby eliminating any other party's interests in the ROW.

In order to eliminate any remaining uncertainty regarding this issue, and in order to clarify the status of title to the ROW as of November 20, 2013, Capitol Places VI Owner, LLC is requesting that the County confirm and acknowledge that it does not claim any interest in the ROW, nor does the County claim any public right to access or use the ROW, and that it has not claimed any such interest in the ROW or the Property since November 20, 2013. In order to confirm and clarify the record, a quitclaim deed has been attached for this purpose.

### Attachments:

1. Letter from Christian Rogers
2. Quitclaim Deed
3. Deeds in chain of title

# ROGERS LEWIS

ATTORNEYS AT LAW

Christian L. Rogers  
Direct: (803) 403-8820  
crogers@rogerslewis.com

July 18, 2017

Johnathan E. Chambers  
Land Development Administrator  
City of Columbia – Planning and Development Services  
1136 Washington Street  
Columbia, SC 29201

Re: 1321 Lady Street Building Permit

Dear Mr. Chambers:

I am writing to follow up on our meeting and discussion last Friday morning regarding my client's project at 1321 Lady Street. I understand the City is requesting clarification that my client, Capitol Places VI Owner, LLC, owns the right of way shown in the 2001 tax maps as an 8' 8" alleyway into my client's parking lot from the Marion Street side of the property (the "ROW"). In our meeting on Friday, I provided you with our full title search for the past 60 years, which shows conveyances of the entire property as a single parcel, including the alleyway under warranty deeds going back to the 1980's when several parcels were consolidated under common ownership into one large parcel of property. The past several plats have shown the consolidated parcel as one combined parcel including the alleyway.

With many of the very old deeds in the chain of title being illegible, it has been difficult for us to assemble an uninterrupted chain of title that can be deciphered. However, as I noted before, we believe the only owner in the chain of title that could potentially have a claim to the underlying title to the alleyway, if any, is Harris Realty Company, which does not appear to be in existence any longer. Harris Realty Company conveyed all of its various parcels out to subsequent owners in the 1930's and 1940's. All of the smaller parcels that once made up the combined parcel my client now owns held a right of way for use of the alleyway in common with the other adjacent parcel owners. South Carolina Insurance Company, as a prior owner in the chain of title of the combined parcel, acquired all of those parcels based on our review of the title, which we believe merged title, eliminated the right of way and vested unencumbered fee simple ownership in the owner of the combined parcel. My client has title policies dating back to 2006 insuring its title to the entire parcel also.

This issue is now putting our project in jeopardy as it is delaying our building permit and putting our project funding at risk. I have provided you with the chain of title showing the conveyance through 4 owners of this combined parcel under warranty deeds that include the alleyway in the fee simple title description. These deeds predate the 2001 tax maps that you sent me showing a

Johnathan E. Chambers  
July 18, 2017  
Page 2 of 2

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gore in the property where the alleyway once was. We do not feel we have any title problem given the passage of time, the continued adverse possession my client and its predecessors in title have exercised over this property, and the lack of any claim by any party to ownership of fee simple title to the alleyway. At this time, we are asking you to conclude your review of this matter and approve the issuance of the building permit. Please let us know as soon as possible what else we can provide you with to conclude your review of this matter.

Sincerely,

**Rogers Lewis Jackson Mann & Quinn, LLC**



Christian L. Rogers  
Member

Cc: Thomas J. Pioreschi  
H. Lee Mashburn, Jr.  
Robert B. Lewis, Esq.

# ROGERS LEWIS

ATTORNEYS AT LAW

Christian L. Rogers  
Direct: (803) 403-8820  
crogers@rogerslewis.com

September 30, 2019

Attn: Larry Smith, Esq.  
County of Richland, South Carolina  
Via email: [smithla@rcgov.us](mailto:smithla@rcgov.us)

Re: Former Right of Way extending Westward from Marion Street – 1300 Block

Dear Mr. Smith:

Pursuant to our phone discussions, I have previously provided you with information and documents regarding the former private 8' 8" wide right-of-way (the "ROW") extending Westward from Marion Street for approximately 141 feet, and located in the current parking lot serving the residential apartments located at 1321 Lady Street in Columbia, also known as 1321 Lofts Apartments. As we discussed, my client, Capitol Places VI Owner, LLC, granted an historic preservation easement to the Historic Columbia Foundation in December of 2013 to preserve the historic façade of the building located on this property. In its review of the easement transaction, the Internal Revenue Service has questioned whether or not the ROW was still in existence as a public right of way at the time the easement was granted, thereby affecting my client's ability to grant the easement.

Based upon our review, our firm has determined that (a) the ROW was a private right-of-way appurtenant to the adjacent properties, and was never a public right-of-way, (b) all properties adjacent to the ROW were acquired by a single owner prior to the date of the easement, and have been owned by Capitol Places VI Owner, LLC since November 20, 2019, and (c) the common ownership of all such adjacent parcels vested 100% ownership of the right-of-way itself in the common owner of the adjacent parcels, thereby eliminating any other party's interests in the ROW.

In order to eliminate any remaining uncertainty regarding this issue, and in order to clarify the status of title to the ROW as of November 20, 2013, we are requesting that the County confirm and acknowledge that it does not claim any interest in the ROW, nor does the County claim any public right to access or use the ROW, and that it has not claimed any such interest in the ROW or the Property since November 20, 2013. In order to confirm and clarify the record, I have prepared and attached a quitclaim deed for this purpose. I ask that you please review this document with the appropriate parties and return it to me fully executed by an authorized signor for the County, with appropriate witness and acknowledgement signatures, so that I may record it as soon as possible.

Larry Smith, Esq.  
September 30, 2019  
Page 2 of 2

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My client and I sincerely appreciate the County's assistance in this matter and look forward to your response. Should you have any questions or need any further clarification, please let me know.

Sincerely,

**Rogers Lewis Jackson Mann & Quinn, LLC**



Christian L. Rogers  
Member







1401



LINE  
SEE T.M.S. 089-16-04-1  
FOR ACREAGE

N 364,000  
E 199,000

E 1992,500

REVISIONS	
DATE FIELD CHECKED	DATE LAST REVISED
12/83	7/12/97
12/84	12/7/88
12/86	12/7/99
12/86	12/00
12/87	12/01
12/88	

PROPERTY LINE	RIGHT OF WAY	CITY LIMITS	SCHOOL DIST	RAILROAD	PUBLIC ROAD AND	BLOCK DIVIDER
---	---	---	---	---	---	---

LEGEND	
(R)	NOTES BUILDING USE R - RESIDENTIAL C - COMMERCIAL ETC...
(B) (C)	NOTES SEPARATE OWNER FROM BUILDING

50  
50  
1505  
6.55 AC.  
1204

**PROPERTY TAX MAP**  
**RICHLAND COUNTY**  
SOUTH CAROLINA

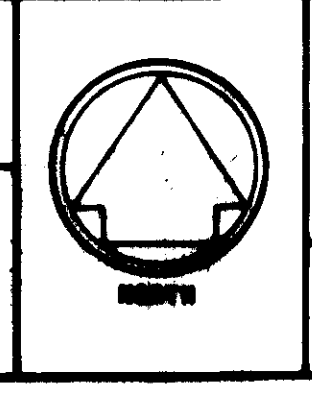
THIS MAP OR PHOTO SOLD BY THE RICHLAND COUNTY ASSESSOR'S OFFICE, THE BOARD OF ASSESSMENT CONTROL, RESERVES THE EXCLUSIVE RIGHT TO SELL AND NO RESALE OR REPRODUCTIONS FOR RESALE PURPOSES IS PERMITTED.

MAP KEY		
090-14	114-02	114-06
090-13	114-01	114-05
089-16	113-04	113-08

GRAPHIC SCALE

1" = 100'

LOCATION AND DIMENSIONS OF BUILDINGS MAY NOT BE DRAWN TO SCALE.



PROPERTY TAX MAP  
SHEET NO.  
**114 01**

SCHOOL DISTRICT  
**ICC**



*Harris Realty Company*  
*Board of School Commissioners School District No. 1, Richland Co.*

{ The State of South Carolina

Know All Men by These Presents, That *Harris Realty Company*, a Corporation of the State of South Carolina, in the State aforesaid, for and in consideration of the sum of One Thousand & Eight Hundred Dollars (\$1,800.00) Dollars to it paid by *Board of School Commissioners School District No. 1, Richland County*

in the State aforesaid, receipt of which is hereby acknowledged, has granted, bargained, sold and released, and by these Presents does grant, bargain, sell and release unto the said *Board of School Commissioners School District No. 1, Richland County*

All that certain piece, parcel or lot of land, situate in the City of Columbia, County of Richland, State of South Carolina, in the rear of 1311 Marion Street, and commencing at a point One Hundred and four feet four inches (104'4") from Marion Street, where the lot hereby conveyed corners with the lot now owned by said Board, and thence running Thirty-seven and three tenths (37.3) feet along lot of Bryan to lot formerly owned by The National Loan and Exchange Bank, now of Moore, and thence turning at right angles and running southwardly along said lot of Moore Forty (40) feet to right of way hereinafter mentioned, thence turning at right angles and running along the said right of way, eastwardly, Thirty-seven and three tenths (37.3) feet to where same corners with lot of said Board and thence turning and running northwardly along said lot of the Board Forty (40) feet to point of commencement. TOGETHER with a right of way on and over a strip of land Eight feet Eight inches (8'8") wide for the length of said lot and on the Southern boundary thereof connecting with the right of way of said Board leading to Marion Street for the sole and separate use for the grantee herein for ingress and egress to the lot hereby conveyed.

TOGETHER with all and singular the Rights, Members, Hereditaments and Appurtenances to the said Premises belonging, or in anywise incident or appertaining TO HAVE AND TO HOLD, all and singular the said premises before mentioned unto the said *Board of School Commissioners School District No. 1, Richland County, its successors*

And the said *Harris Realty Company* does hereby bind itself and its successors to warrant and forever defend all and singular the said premises unto the said *Board of School Commissioners School District No. 1, Richland County, their successors*, Heirs and Assigns, against itself and its successors and all other persons whomsoever lawfully claiming or to claim the same or any part thereof.

IN WITNESS WHEREOF, the said *Harris Realty Company, a Corporation* has caused these Presents to be signed by *Katherine Harris Hammond, its President* and *J. C. Hammond, its Secretary*

and its corporate seal to be affixed this *day of January* in the year of our Lord one thousand nine hundred and *twentieth* year of the Sovereignty and Independence of the United States of America.

SIGNED, SEALED AND DELIVERED IN THE PRESENCE OF  
*C. William Brown* *Corporate Seal* *Harris Realty Company*  
*P. M. Chaper* *(Cancelled)* *Katherine Harris Hammond, President*  
*J. C. Hammond, Secretary*

THE STATE OF SOUTH CAROLINA,  
RICHLAND COUNTY,  
BEFORE ME, *Not. M. Brown*, a Notary Public of South Carolina, personally appeared *Katherine Harris Hammond* and made oath that she saw the within named *Harris Realty Company*, a Corporation, the hands of *Katherine Harris Hammond, its President* and *J. C. Hammond, its Secretary*, sign the copy of this seal and, as the Act and Deed of said corporation, deliver the within written deed, for the uses and purposes therein mentioned, and that he, with *P. M. Chaper* witnessed the execution thereof and subscribed their names as witnesses thereto.

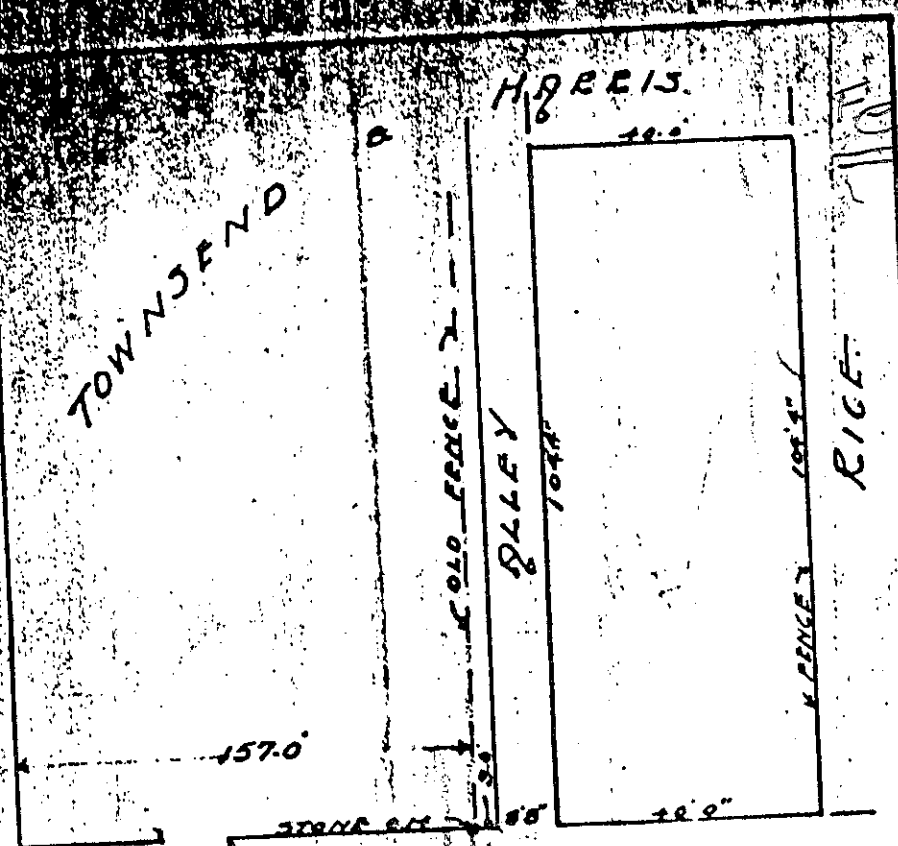
SWORN to and subscribed before me, this *12* day of *January*, 1942.  
*Not. M. Brown*  
Filed for record this *12* day of *January*, 1942 at *Columbia*.

LADY STREET

TOWNSEND

HARRIS

RICE



MARION STREET

PLAT

OF LOT ON THE EAST SIDE OF MARION ST.  
COLUMBIA, S.C.

PROPERTY OF  
TOWNSEND & HARRIS.  
11-18-29  
W.H. MILLER, C.E.  
REC No 280  
1/4 = 20 FT



State of South Carolina,  
COUNTY OF RICHLAND

N.C.  
County

Know All Men by These Presents, That the Board of School Commissioners  
of Richland County School District No. 1

in the State aforesaid, for and in consideration of the  
sum of Ninety-four Thousand (\$94,000.00) -----Dollars  
to it paid by Richland County  
in the State aforesaid, receipt of which is hereby acknowledged,  
have granted, bargained, sold and released, and by these presents do grant, bargain, sell and release unto the said

RICHLAND COUNTY

All that certain piece, parcel or lot of land with the improvements thereon, situate, lying and being on the western side of Marion Street, between Lady Street and Washington Street, in the City of Columbia, in the County of Richland, in the State of South Carolina, said lot being in shape a parallelogram, measuring on its northern and southern sides 104 feet 4 inches each, and on its eastern and western sides 40 feet each, the southeastern corner of said lot being 168 feet 8 inches north of the northwest corner of the intersection of said Marion Street and Lady Street, said lot being bounded North by property now or formerly of Rice; East by Marion Street; South by an alleyway 8 feet 8 inches wide, referred to below; and West by property of Townsend and Harris; together with a right-of-way for access, ingress and egress at all times and for all purposes and for light and air in common with grantors, their successors and assigns and all other persons who may hereafter acquire the like right on, over and along an alleyway just south of said lot, said alleyway being 8 feet 8 inches wide and extending westward from Marion Street to the full depth of above described lot, said right-of-way and easement to be appurtenant to said lot and to the enjoyment of which the same is essentially necessary. A plat of the lot hereby conveyed, made by W. H. Miller, C.E., dated November 18, 1929, is recorded in the Office of the Clerk of Court for Richland County in Plat Book "F", page 149. All measurements being more or less.

ALSO: All that certain piece, parcel or lot of land, situate in the City of Columbia, County of Richland, State of South Carolina; in the rear of 1311 Marion Street, and commencing at a point 104 feet 4 inches from Marion Street, where the lot hereby conveyed corners with the lot now owned by said Board, and thence running 37.3 feet along lot of Bryan to lot formerly owned by The National Loan and Exchange Bank, now of Moore, and thence turning at right angles and running southwardly along said lot of Moore 40 feet to right-of-way hereinafter mentioned,



thence turning at right angles and running along said right-of-way eastwardly 37.3 feet to where same corners with lot of said Board, and thence turning and running northwardly along said lot of the Board 40 feet to point of commencement, TOGETHER with a right-of-way on and over a strip of land 8 feet 8 inches wide for the length of said lot and on the Southern boundary thereof connecting with the right-of-way of said Board leading to Marion Street for the sole and separate use for the grantee herein for ingress and egress to the lot hereby conveyed. All measurements being more or less.

The first above described lot of land being the identical property heretofore conveyed to The Board of School Commissioners for School District of the City of Columbia, being the predecessors of the grantors herein by Ellen Harris and Katherine Harris Townsend by their deed dated December 31, 1929, and recorded in the Office of the Clerk of Court for Richland County in Deed Book "DJ", at page 210.

The second above described lot of land being the identical property heretofore conveyed to the Grantor herein by Harris Realty Company by its deed dated January \_\_\_\_, 1942, and recorded in the Office of the Clerk of Court for Richland County in Deed Book "FE", at page 311.

PROVIDED, HOWEVER, That if the County of Richland sells or otherwise conveys the above described property within a period of five (5) years from the date of this deed, it shall first offer said property to the Grantor herein who, at its option, may re-purchase same upon the payment of the sum of \$94,000.00.

TOGETHER with all and singular, the rights, members, hereditaments and appurtenances to the said premises belonging or in anywise incident or appertaining.

To HAVE AND TO HOLD all and singular the premises before mentioned unto the said

Richland County, its Successors

Heirs and Assigns forever.

And Grantor do hereby binds itself and its Successors ~~Heirs, Heirs and~~  
~~and Administrators~~, to warrant and forever defend all and singular the said premises unto the said

Richland County, its Successors

Heirs and Assigns, against itself and ~~Heirs and~~ against every person whomsoever lawfully claiming, or to claim, the same or any part thereof.

WITNESS our Hands and Seals this 11th day of July  
in the year of our Lord one thousand nine hundred and Sixty-Six  
and in the one hundred and Ninety-first year of the Sovereignty  
and Independence of the United States of America. BOARD OF SCHOOL COMMISSIONERS OF  
RICHLAND COUNTY SCHOOL DISTRICT No. 1

SIGNED, SEALED AND DELIVERED  
IN THE PRESENCE OF

*Jackie Walker*  
*Henry J. ...*

By: *Caldwell Wilbers* (SEAL)  
Caldwell Wilbers, Chairman  
*Edgar Waites* (SEAL)  
Edgar Waites, Secretary

STATE OF SOUTH CAROLINA. )  
RICHLAND COUNTY. )

PERSONALLY appeared before me Henry C. Nelson, Jr.

and made oath that he saw the within-named Board of School Commissioners of Richland County School District No. 1, by Caldwell Withers, Chairman and by Edgar Waites, Secretary, act and deed, deliver the within-written Deed for the uses and purposes therein mentioned and that he, with K. Lewis Smith as to Edgar Waites, Secretary, and) witnessed the execution thereof he, with Jackie Walker as to Caldwell Withers, Chairman)

NOTARIAL SEAL

SWORN to before me this 11th day of July 1960.

*Henry C. Nelson, Jr.*

Notary Public of S. C. (L.S.)

*Henry C. Nelson, Jr.*

STATE OF SOUTH CAROLINA. )  
COUNTY. )

RENUNCIATION OF DOWER

I, \_\_\_\_\_, do hereby certify unto all whom it may concern, that Mrs. \_\_\_\_\_ the wife of the within-named \_\_\_\_\_ did this day appear before me, and upon being privately and separately examined by me, did declare that she does freely, voluntarily and without any compulsion, dread, or fear of any person or persons whomsoever, renounce, release and forever relinquish unto the within-named \_\_\_\_\_

and assigns, all her interest and estate, and also all her right and claim of Dower of, in or to all and singular the premises within mentioned and released. heirs

Given under my Hand and Seal, this

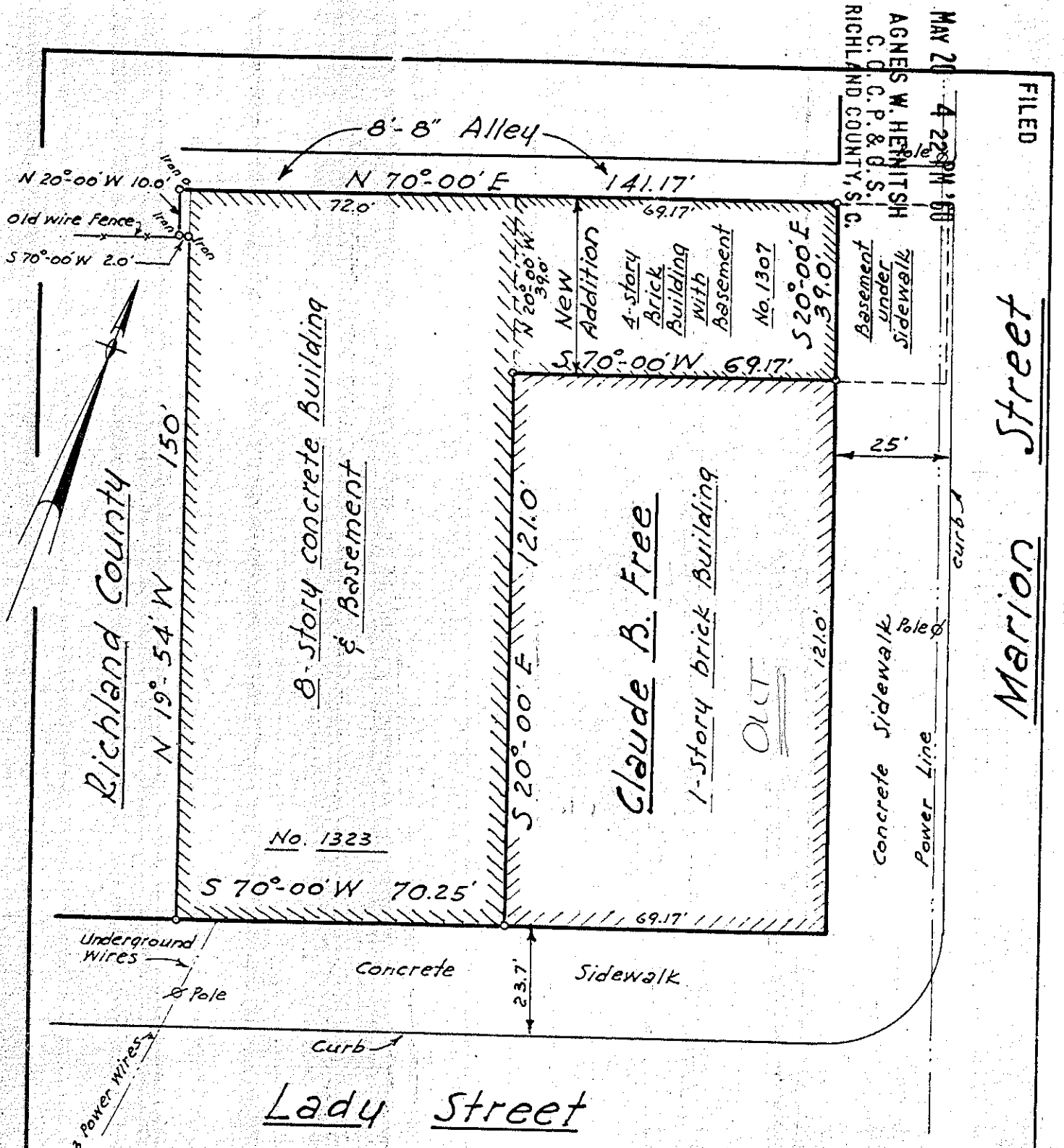
day of

Anno Domini 19

Notary Public of S. C. (L.S.)

\_\_\_\_\_





Lady Street

Property surveyed for  
Owen Building Corporation

Columbia, S.C.

Scale: 1"=30'

B.P. Barber & Associates, Engineers - Columbia, S.C. - August 25, 1959

I hereby certify that the measurements as shown on this plat are correct and there are no encroachments or projections other than shown.

B. F. Walker, Jr., Regis. Engr.

Note:

This plat amended May 5, 1960 to show new building addition as shown at 1307 Marion Street.

B. F. Walker, Jr., Regis. Engr.

FILED

MAY 20 4 22 PM '60

AGNES W. HENRITSH  
C. D. C. P. & D. S. C.  
RICHLAND COUNTY, S. C.

Marion Street

REGISTER OF DEEDS  
CLARA L. HANDELT

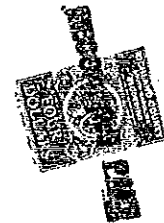
1986 DEC 30 PM 4: 01

6,050.00  
3,025.00

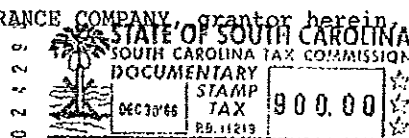
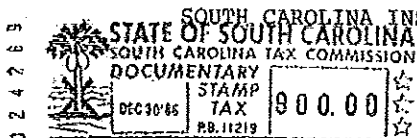
The State of South Carolina,

COUNTY OF RICHLAND

*[Handwritten signature/initials]*



KNOW ALL MEN BY THESE PRESENTS, That



in the State aforesaid,

in consideration of the sum of

Five Dollars (\$5.00) and other valuable consideration

~~XXXXX~~

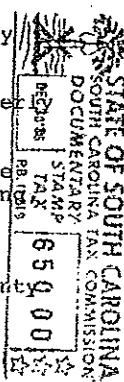
to it in hand paid at and before the sealing of these presents, by Minter Partnership, a South Carolina general partnership composed of William S. Minter, Jr., and William S. Minter III, grantee herein ~~has granted, bargained, sold and released, and by these Presents does grant, bargain, sell and release, unto the said~~ in the State aforesaid, (the receipt whereof is hereby acknowledged)

MINTER PARTNERSHIP

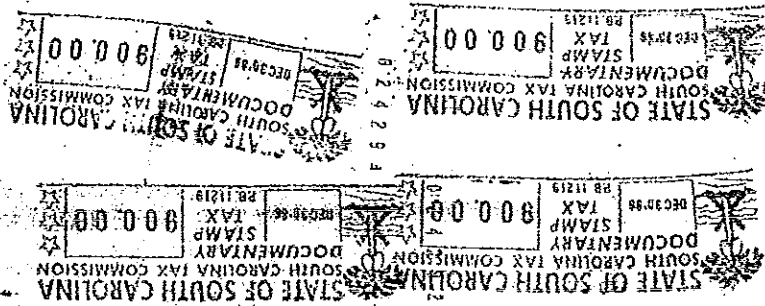
All that certain piece, parcel or lot of land, with improvements thereon, lying and being in the City of Columbia, Richland County, South Carolina, shown and delineated on a plat prepared for Minter Partnership by William Wingfield, R.L.S., dated December 16, 1986, as revised December 30, 1986, recorded in Plat Book \_\_\_\_\_ at page \_\_\_\_\_ in the Office of the RMC for Richland County, South Carolina, and being more particularly described as follows:

Beginning at a point on the western side of the right of way of Marion Street 209.7 feet south of the southwestern corner of the intersection of Marion and Washington Streets, and running thence south 20 degrees 03 minutes 53 seconds east along the western right of way of Marion Street to the northwestern corner of the intersection of Marion and Lady Streets, 209.95 feet more or less; thence turning and running south 70 degrees west along the right of way of Lady Street to the eastern line of property now or formerly of Republic National Bank, 210.48 feet more or less; thence turning and running north 19 degrees 56 minutes 50 seconds west to the southern line of property formerly of American Home Life Insurance Company (now property of the South Carolina Insurance Company), 210.6 feet more or less; thence turning and running north 70 degrees 2 minutes 52 seconds east along the southern line of said property formerly of American Life Insurance Company and continuing along the southern line of property formerly of First Carolina Savings and Loan Association (now property of South Carolina Insurance Company), for a total of 210.05 feet, to the point of beginning

Said property being the same as that conveyed to the grantor herein by Elizabeth G. Owen, et al., by their deed dated June 15, 1977, of record in the office of the RMC for Richland County in Deed Book D-426 at page 32, as to part; and by Richland County by its deed dated June \_\_\_\_\_, 1980, and of record in said RMC office in Deed Book D-543 at page 714, as to part and by School District No. 1 of Richland County by its deed dated December 10, 1986, and of record in said RMC office in Deed Book D-821 at page 561.



Grantees Address: Suite 810, NBSC Bldg. 1122 Lady St. Columbia, SC 29201



TOGETHER with all and singular the Rights, Members, Hereditaments and Appurtenances to the said Premises belonging, or in anywise incident or appertaining.

TO HAVE AND TO HOLD, all and singular the said premises before mentioned unto the said grantee, its successors ~~Heirs~~ and Assigns forever.

And the said grantor does hereby bind itself and its successors, to warrant and forever defend all and singular the said premises unto the said grantee, its successors ~~Heirs~~ and Assigns, against itself and its successors ~~and against all persons whomsoever~~ lawfully claiming or to claim the same, or any part thereof.

IN WITNESS WHEREOF grantor (Insert name of Corporation) has caused these presents to be executed in its name by (Insert name of President or Vice-President) its President, and by (Insert name of Secretary or Treasurer)

and its corporate seal to be hereto affixed this 30th day of December in the year of our Lord, one thousand nine hundred ~~and~~ eighty-six (1986), and in the ~~two~~ hundred ~~and~~ eleventh (211th) year of the Sovereignty and Independence of the United States of America.

Signed, Sealed and Delivered in Presence of

SOUTH CAROLINA INSURANCE COMPANY (Seal)

Witness Bernard Manning (Witness) By Jack S. H... President. Witness Mona R. McCall Assistant Corporate Secretary (Witness)

The State of South Carolina,

COUNTY OF RICHLAND

PERSONALLY appeared before me

Hona R. McCall

(Insert name of Witness)

who, in oath, says that he saw the within-named South Carolina Insurance Company

(Insert name of Corporation)

by

Jack S. Hupe

(Insert name of President or Vice-President)

its

President and Priscilla C. Jones

its Assistant Corporate Secretary

(Insert name of Secretary or Treasurer)

sign the within Deed, and the said Corporation, by said officers, seal said Deed, and, as its act and deed, deliver the same, and that he with Bernard Manning

(Insert name of other Witness)

witnessed the

execution thereof.

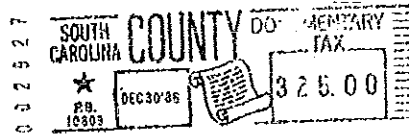
Hona R. McCall

(Witness)

SIVORN to before me, this 30th day of December, A. D. 19 86

Bernard Manning (Seal)  
Notary Public, S. C.

My Commission Expires: 6 Jan 1991



AMERICAN HOME LIFE INSURANCE CO.

FIRST CAROLINA SAVINGS AND LOAN

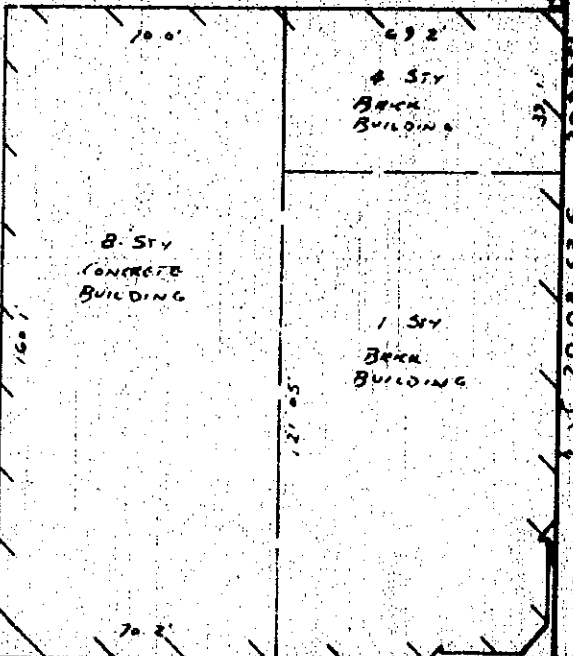
N 70-09-52 E 210.05'

766.800  
LAMP POST  
PND

1. BK 10  
BRICK  
COLUMN

N 19-56-50 W 210.50'

BRICK  
CORNER



209.76  
MANCHESTER ST

MARION STREET

S 70-00-00 W 210.48'

FILE  
REGISTER OF MESSRS  
CLARA L. BARTNETT  
1986 DEC 30

LADY STREET

PLAT PREPARED FOR

MINTEN PARTNER-SHED  
RICHLAND COUNTY COLUMBIA S.C.

BOOK 51 PAGE 3964

WILLIAM WINGFIELD 752  
ENWRIGHT SURVEYING, INC.  
514 GERVAIS STREET  
COLUMBIA S.C. 29201

DECEMBER 16 1986  
SEAL NO. 1-2

I HEREBY CERTIFY THAT THE MEASUREMENTS AS SHOWN ON THIS PLAT ARE  
CORRECT AND TRUE AND THE DIMENSIONS ON THIS PLAT ARE AS SHOWN.

*William Wingfield*

17765-276-8, 14, 15  
1A 14717-434Y

PRINTED  
205 of 270

A-17643-523

Federal  
Map  
subject  
to zoning

**STATE OF SOUTH CAROLINA**

**TITLE TO REAL ESTATE**

**COUNTY OF RICHLAND**

**KNOW ALL MEN BY THESE PRESENTS**, that CPB, LLC, a South Carolina limited liability company (hereinafter called "Grantor") in the State aforesaid, for and in consideration of the sum of Four Million Twenty Thousand and 00/100 Dollars (\$4,020,000.00) paid by Capitol Places VI, LLC, a South Carolina limited liability company (hereinafter called "Grantee"), in the State aforesaid (the receipt whereof is hereby acknowledged), has granted, bargained, sold and released, and by these Presents does grant, bargain sell and release, unto the said Grantee, the following property:

All that certain piece, parcel, lot or tract of land, with any improvements therein, situate, lying and being, in the City of Columbia, County of Richland, State of South Carolina, fronting the right of way of Lady Street, being shown and delineated as "Eight Story Stucco Siding Building No. 1321" and "Four Story Building" on a plat prepared for Capitol Places VI, LLC by Inman Land Survey Company, Inc., dated September 5, 2006 and recorded September 14, 2006 in Record Book 1229 at Page 1467, Office of the Register of Deeds for Richland County, and having such boundaries and measurements as shown on the plat described herein, which is specifically incorporated by reference.

This being the same property conveyed to CPB, LLC, by deed of Minter Partnership, dated July 31, 1999 and recorded August 4, 1999 in Record Book 332 at Page 2835, Office of the Register of Deeds for Richland County.

TMS# 11401-01-5 & 7

Grantees' Address: 1217 Hampton Street, Suite A  
Columbia, SC 29201

**TOGETHER** with all and singular the Rights, Members, Hereditaments and Appurtenances to the said Premises belonging, or in anywise incident or appertaining.

**TO HAVE AND TO HOLD**, all and singular the said premises before mentioned unto the said Grantee forever.

And the said Grantor does hereby bind the Grantor and the Grantor's Successors and Assigns to warrant and forever defend all and singular the said premises unto the said Grantee and the Grantee's and Assigns, against the Grantor and the Grantor's Successors and Assigns, and against every person whomsoever lawfully claiming or to claim the same, or any part thereof.

Book 1231-18  
2006085008 09/19/2006 10:20:56 957 Deed  
Fee: \$10.00 County Tax: \$4422.00 State Tax: \$10462.00



Richland County Register of Deeds

Audited by Paul Brawley 2007

WITNESS the Grantor's Hand(s) and Seal(s) this 15 day of September, in the year of our Lord Two Thousand Six.

WITNESSETH:

Jay G. Baldwin  
Jalun

CPB, LLC

By: [Signature]

Its: Authorized Member

STATE OF SOUTH CAROLINA )

)

ACKNOWLEDGEMENT

COUNTY OF RICHLAND )

)

I, David G. Work, do hereby certify that CPB, LLC, by , its Authorized Member, appeared before me this day and acknowledged the due execution of the foregoing instrument.

Witness my hand and seal September 15, 2006.

[Signature]  
Notary Public for South Carolina  
My Commission expires: 10/8/13

Richland County Register of Deeds

Audited by Paul Brawley 2007



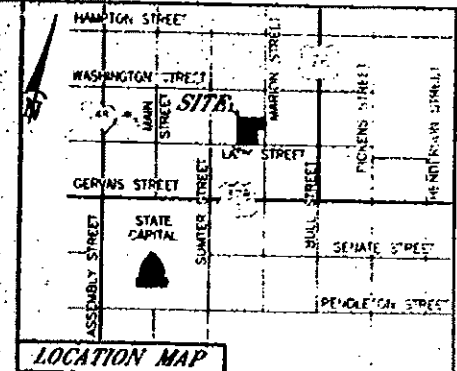
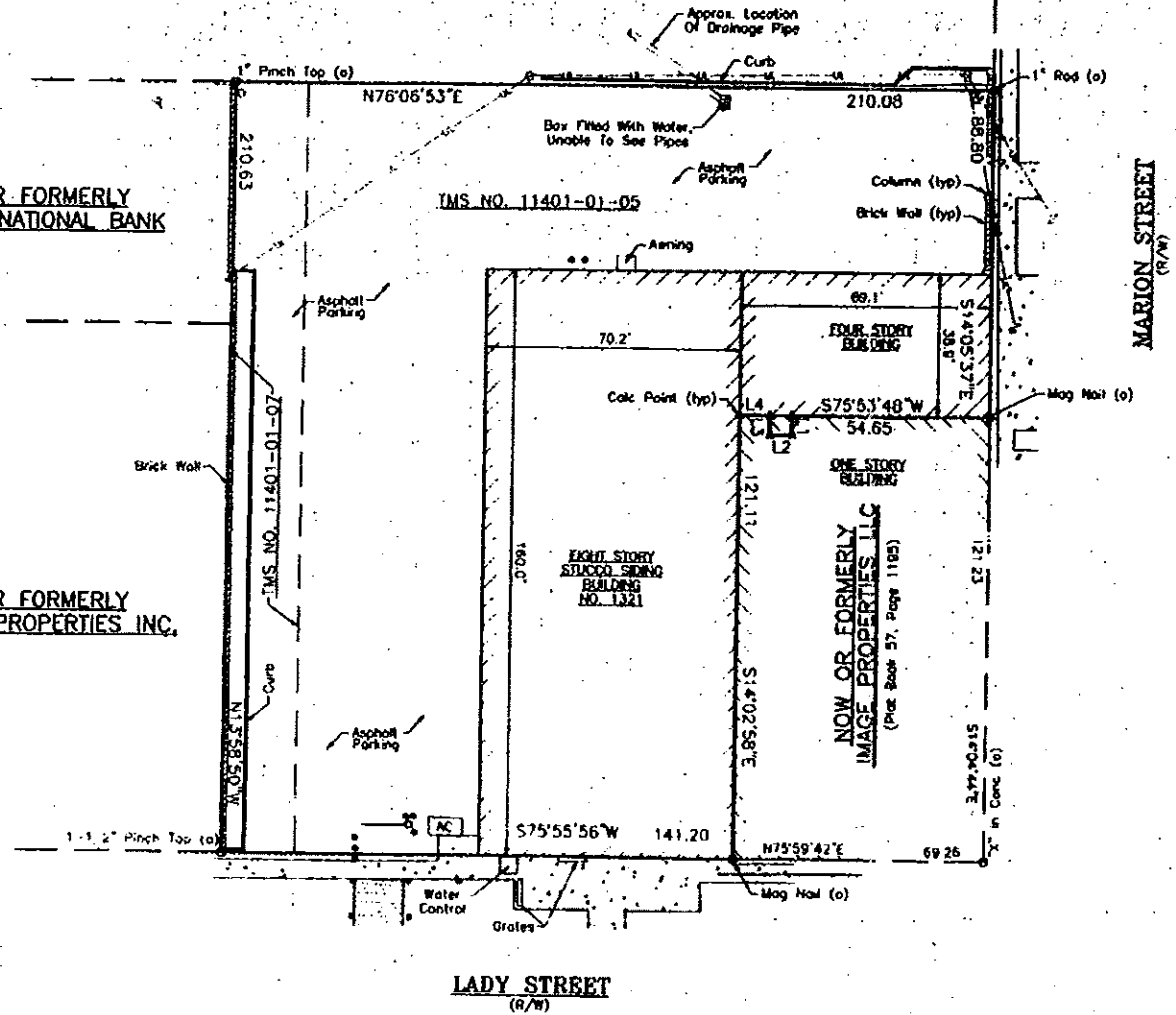
R1229-1467

**NOW OR FORMERLY  
PALMETTO CITIZENS FEDERAL  
CREDIT UNION**  
(Record Book 862, Page 1266)

NOW OR FORMERLY  
REPUBLIC NATIONAL BANK

NOW OR FORMERLY  
JESSAMINE PROPERTIES INC.

NOW OR FORMERLY  
IMAGE PROPERTIES, LLC  
(Plat Book 57, Page 1183)



Book 1229-1467  
2006/09/05 09:30:00 00' 00" 00" 00"  
Fee: \$14.00 County Tax: \$0.00 State Tax: \$4.00  
2006/09/05 Add'l. Note Richard Covert 100

- NOTES:**
1. THIS PROPERTY IS POSSIBLY SUBJECT TO EASEMENTS AND RESTRICTIONS OF RECORD NOT SHOWN HEREON.
  2. THIS PROPERTY MIGHT HAVE UNDERGROUND UTILITIES THAT ARE NOT VISIBLE AT THE SURFACE.
  3. NO FLOOD ZONE INSPECTION AT THIS TIME.
- REFERENCES:**
1. PLAT PREPARED FOR UNITER PARTNERSHIP, BY WILLIAM WINGFIELD, DATED DECEMBER 16, 1986, AND RECORDED IN THE OFFICE OF REGISTER OF DEEDS FOR RICHLAND COUNTY IN PLAT BOOK 51, PAGE 3964.
  2. PLAT PREPARED FOR IMAGE PROPERTIES, BY LANDRUTH SURVEYING, INC., DATED SEPTEMBER 17, 1997 AND RECORDED IN PLAT BOOK 57, PAGE 1183.

**SYMBOL LEGEND**

- BB Catch Basin Grate
- Bolt
- Service Pole
- Light Pole
- Access Control
- Satellite Dish
- Concrete
- ▨ Asphalt
- Overhead Utility Line

LINE	LENGTH	BEARING
L1	5.21	N14°06'12"W
L2	6.13	S75°53'48"W
L3	5.21	S14°06'12"E
L4	6.42	N75°53'48"E

PLAT PREPARED FOR:  
**CAPITOL PLACES VI, LLC**  
RICHLAND COUNTY, COLUMBIA, SOUTH CAROLINA

DATE: SEPTEMBER 5, 2006

SURVEY NO.: G08070

BOOK 231-37 T.M.S. NO. 11401-01-05 & 07 S.F. 140 No. 23

**INMAN LAND SURVEYING COMPANY, INC.**  
2223 BULL STREET COLUMBIA SOUTH CAROLINA 29201  
PHONE 252-1797 FAX 252-1798

I HEREBY CERTIFY THAT TO THE BEST OF MY KNOWLEDGE, INFORMATION AND BELIEF, THE SURVEY SHOWN HEREIN WAS MADE IN ACCORDANCE WITH THE REQUIREMENTS OF THE MINIMUM STANDARDS MANUAL FOR THE PRACTICE OF LAND SURVEYING IN SOUTH CAROLINA, AND MEETS OR EXCEEDS THE REQUIREMENTS FOR A CLASS "B" SURVEY AS SPECIFIED THEREIN. ALSO THERE ARE NO VISIBLE ENCROACHMENTS OR PROJECTIONS OTHER THAN SHOWN.

*Richard P. Inman*  
RICHARD P. INMAN  
P.L.S. NO. 23385



## 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:

Second Reading:

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:   
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 10<sup>th</sup> 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 10<sup>th</sup> 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



APPLICATION FOR SERVICE ON RICHLAND COUNTY COMMITTEE, BOARD OR COMMISSION

Applicant MUST reside in Richland County.

Name: Kaela Bailey

Home Address: 113 Jasmine Place Drive Columbia, SC 29203

Telephone: (home) 803-466-6567 (work) 803-760-1408

Office Address: 1411 Gervias St. Suite 450 Columbia, SC 29201

Email Address: Harmonknc@gmail.com

Educational Background: Ridge View High School, BA Washington & Lee University

Professional Background: Marketing and Public Relations

Male Female X Age: 18-25 26-50 X Over 50

Name of Committee in which interested: Airport Commission

Reason for interest: I have long had an interest and passion for airports. I worked as the PR/Gov't Affairs Manager for the Columbia Metropolitan Airport for nearly five years, I was an airport marketing consultant for airports across the nation for a year and have even worked for the Austin-Bergstrom International Airport in Austin, TX. In 2017 I was recognized by Airport Business Magazine as one of their 20 Under 40 and even today I remain a certified member of the American Association of Airport Executives and I understand the unique value that general aviation airports like CUB offer to a community. So, I'm excited to have this chance to serve the Richland County Airport.

Your characteristics/qualifications, which would be an asset to Committee, Board or Commission: My background and knowledge in airports plus my work in marketing/PR would make me an asset to the commission as I can bring perspective and insight to the airport's needs.

Presently serve on any County Committee, Board or Commission? No

Any other information you wish to give? None at this time

Recommended by Council Member(s): Chakisse Newton

Hours willing to commit each month: As many as required

CONFLICT OF INTEREST POLICY

It is the policy of Richland County to require disclosure of any personal or financial interest that may be influenced by decisions of the Committee Board or Commission for which any citizen applies for membership.





APPLICATION FOR SERVICE ON RICHLAND COUNTY COMMITTEE, BOARD OR COMMISSION

Applicant MUST reside in Richland County.

Name: Thomas J. Callan
Home Address: 620 Yumatage Ln., Chapin, SC 29036
Telephone: (home) 803-732-8773 (cell/work) 803-556-1182
Office Address: N/A
Email Address: tj3callan@gmail.com
Educational Background: BA - Villanova University; MBA - Brenau University
Professional Background: SEE RESUME

Male [X] Female [ ] Age: 18-25 [ ] 26-50 [ ] Over 50 [X]

Name of Committee in which interested: Airport
Reason for interest: Security background

Your characteristics/qualifications, which would be an asset to Committee, Board or Commission:
MANAGEMENT / LEADERSHIP; CONTRACTING; BUDGET FORMULATION

Presently serve on any County Committee, Board or Commission? NO
Any other information you wish to give? SEE RESUME
Recommended by Council Member(s): Bill Malinowski
Hours willing to commit each month: whatever it takes

CONFLICT OF INTEREST POLICY

It is the policy of Richland County to require disclosure of any personal or financial interest that may be influenced by decisions of the Committee, Board or Commission for which any citizen applies for membership.

Such conflict of interest does not preclude service but shall be disclosed before appointment. The Clerk of Council shall be notified of any change on an annual basis and members of all Committees, Boards or Commissions shall be required to abstain from voting or influencing through discussion or debate, or any other way, decisions of the Committee, Board or Commission affecting those personal and financial interests.

All statements so filed shall be signed and verified by the filer. The verification shall state that the filer has used all reasonable diligence in its preparation, and that to the best of his or her knowledge, it is true and complete.

Any person who willfully files a false or incomplete statement of disclosure or no change of condition, or who willfully fails to make any filing required by this article, shall be subject to such discipline, including censure and disqualification from the Committee, Board or Commission, by majority vote of the council.

*Have you been convicted or pled no contest of a crime other than minor traffic violations; checking yes does not automatically preclude you from consideration for appointment.*

Yes \_\_\_\_\_ No ✓

### STATEMENT OF FINANCIAL OR PERSONAL INTERESTS

Do you have any financial or personal interest in any business or corporation (profit or not-for-profit) that could be potentially affected by the actions of the Committee, Board or Commission?

Yes \_\_\_\_\_ No ✓

If so, describe: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

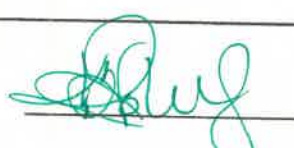
  
Applicant's Signature

10/17/19  
Date

**Return to:**  
**Clerk of Council, Post Office Box 192, Columbia, SC 29202.**  
**For information, call 576-2060.**

**One form must be submitted for each Committee, Board or Commission on which you wish to serve.**

**Applications are current for one year.**

<b>Staff Use Only</b>	
Date Received: <u>10-17-19</u>	Received by: 
Date Sent to Council: _____	
Status of Application: <input type="checkbox"/> Approved <input type="checkbox"/> Denied <input type="checkbox"/> On file	

**Thomas J. Callan**  
**620 Kumatage Lane, Chapin, SC 29036**  
**(803) 732-8773 (Home), (803) 556-1182 (Mobile)**  
**E-mail: tj3callan@gmail.com**

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### **EXPERIENCE**

More than 33 years of proven organizational and managerial effectiveness in positions of increasing responsibility as a Marine Officer; Department of Energy Manager; Corporate Officer/Program Manager for a Fortune 500 Company, and a Director within the largest Research, Development, Test, Evaluation and Acquisition component within the Department of Defense. A visionary with a keen business mind set, capable of transforming organizations and programs to address challenges and opportunities of the future.

### **WORK HISTORY**

**Director, Office of Security & Law Enforcement, Naval Sea Systems Command (NAVSEA), March 2001 – October 2005:** Responsible for program management, policy development, implementation and oversight of a multidisciplinary security program for the largest Research, Development, Test, Evaluation (RDT&E) and Acquisition organization in the Department of Defense. This security program encompassed the full breadth of security disciplines including program management; operational oversight and the education and training of both the general population as well as the security and law enforcement professionals. Activity oversight included 4 Naval Shipyards; 14 Private Shipyards; 2 Undersea Warfare and 8 Surface Warfare Centers (RDT&E); 4 University Affiliated Research Centers (R&D), and a variety of other special purpose activities, which together provide technical and engineering support to the operating forces of the U.S. Navy, as well as development of the next generation of warships, submarines and naval weapons systems. Specific major accomplishments and/or programmatic efforts include, but are not limited to:

- Redefined the mission, vision and values for the Office of Security & Law Enforcement to meet the changing programmatic requirements and challenges of the 21st century, and provide a more responsive and results oriented management effort that would be better aligned with the changes in naval force structure and the threat spectrum.
- Developed a Risk Assessment methodology that examined threat, criticality, vulnerabilities and mitigating measures, and lead the assessments of all major NAVSEA government and contractor activities.
- Developed various databases to enable collection and analysis of information relative to: investigations/incident complaint reports; technology protection programs, and risk assessment and other activity vulnerabilities. These databases enhanced program management efforts by enabling us to track and trend issues, thereby identifying systemic problems for appropriate corrective actions.

**Assistant Vice President, Division/Program Manager, Science Applications International Corporation (SAIC), March 1993 - March 2001:** Responsible for the overall management, efficiency and effectiveness of an independent cost center enterprise in Aiken, SC/Augusta, GA with contracts ranging from \$40,000 to a 6 years \$34,000,000 contract employing a matrix organization that embodied high ethical standards and technical excellence. For more than 6 years supervised contract performance of 57+ concurrent tasks, covering 7 divergent functional areas. Transferred to McLean, Virginia to assume operational management of a new task order contract with the Department of Justice, Office of Domestic Preparedness, as well as provide individual support to the National Guard Bureau for the creation, training and equipage of the RAID/Civil Support Teams - efforts associated with development of a national strategy to address the threat of weapons of mass destruction. Following success in these assignments, served as the winning Proposal Lead for a contract with the U.S. Courts – Federal Judiciary, for assessment of Federal court security and analysis of court security manpower requirements. Specific major accomplishments and/or programmatic efforts include, but are not limited to:



## **EDUCATION**

- **Villanova University, BA** – Social Sciences, Villanova, PA 1970
- **Brenau University** - 26 Credit hours toward MBA (4.0 GPA)

## **CERTIFICATES, LICENSES AND MEMBERSHIPS**

- Held TOP SECRET, “Q” and White House Presidential Cat. 1 clearance with special access eligibility.
- Member, Marine Corps Association
- Member, National Rifle Association
- Member, American Legion
- Past Member, U. S. Coast Guard Auxiliary
- Past Member, National Management Association
- Past Member, Project Management Institute
- Guest Services Representative, Riverbanks Zoo and Botanical Garden
- Poll Manager/Clerk, Dutch Fork 3 Precinct, RC Election Commission
- Finance Committee, Our Lady of the Lake Catholic Church, Chapin, SC
- Volunteer Crew Member, Palmetto Trail

## **JOB -RELATED TRAINING AND COURSES**

- SAIC, Communicating in the Technical Environment
- SAIC, Understanding Personality Styles
- SAIC, Stand & Deliver Effective Presentations
- Council on Education in Management, Personnel Law Update
- Fred Pryor Seminars, Exceptional Customer Service
- SAIC, Project Management I and II
- SAIC, Executive Project Planning and Management Systems
- SAIC, Enhancing People Management Skills
- SAIC, TQM Implementation
- National Seminars Group, How to Manage Projects, Priorities & Deadlines
- DOE, Management Development Program
- SAIC, Managing Employee & HR Issues
- SAIC, Conflict Resolution
- SAIC, Business Management
- U. S. Marine Corps, Command and Staff College
- ASIS, Disaster Management Program, 1999
- American Management Association, Today’s OSHA: A Compliance Update

APPLICATION FOR SERVICE  
COMMITTEE, BOARD OR



ON RICHLAND COUNTY  
COMMISSION

**Applicant MUST reside in Richland County.**

Name: Michael Medsker

Home Address: 411 N. Woodlake Drive, Columbia, SC 29229

Telephone: (home) 803-834-3670 (work) C) 803-<sup>521</sup>512-0936

Office Address: N/A (Retired)

Email Address: Michael.Medsker@HotMail.com

Educational Background: Masters in Business Administration (MBA)

Professional Background: Retired, Strategic Business Manager for Aeronautics at NASA

Male  Female  Age: 18-25  26-50  Over 50

Name of Committee in which interested: Richland County (Owen's) Airport Commission (CUB)

Reason for interest: As NASA's Strategic Business Manager for Aeronautics, I oversaw the future of Air Traffic Control Development systems, Aircraft Safety (even during 911), and Future of Aircraft Design. I was a pivotal part of the interrelations with the White House's/Office of Management and Budget and the U.S. Congress for future funding (for \$1.2B annual) supporting NASA's Future Flight Programs, Unmanned Aircraft Programs and Experimental Aircraft Programs.

Your characteristics/qualifications, which would be an asset to Committee, Board or

Commission: A straight forward worker that can be brutally honest. Served in Government Positions requiring highest level of Security Clearance.

Presently serve on any County Committee, Board or Commission? No

Any other information you wish to give? See attached Bio

Recommended by Council Member(s): Mr. Joel McCreary and Mr. Mike Kelly, Esq

Hours willing to commit each month: 20

**CONFLICT OF INTEREST POLICY**

It is the policy of Richland County to require disclosure of any personal or financial interest that may be influenced by decisions of the Committee, Board or Commission for which any citizen applies for membership.

Such conflict of interest does not preclude service but shall be disclosed before appointment. The Clerk of Council shall be notified of any change on an annual basis and members of all Committees, Boards or Commissions shall be required to abstain from voting or influencing through discussion or debate, or any other way, decisions of the Committee, Board or Commission affecting those personal and financial interests.

All statements so filed shall be signed and verified by the filer. The verification shall state that the filer has used all reasonable diligence in its preparation, and that to the best of his or her knowledge, it is true and complete.

Any person who willfully files a false or incomplete statement of disclosure or no change of condition, or who willfully fails to make any filing required by this article, shall be subject to such discipline, including censure and disqualification from the Committee, Board or Commission, by majority vote of the council.

*Have you been convicted or pled no contest of a crime other than minor traffic violations; checking yes does not automatically preclude you from consideration for appointment.*

Yes \_\_\_\_\_ No MPM

### STATEMENT OF FINANCIAL OR PERSONAL INTERESTS

Do you have any financial or personal interest in any business or corporation (profit or not-for-profit) that could be potentially affected by the actions of the Committee, Board or Commission?

Yes \_\_\_\_\_ No MPM

If so, describe: N/A

Murphy M. McKel  
Applicant's Signature

Oct 9, 2019  
Date

**Return to:**  
**Clerk of Council, Post Office Box 192, Columbia, SC 29202.**  
**For information, call 576-2060.**

**One form must be submitted for each Committee, Board or Commission on which you wish to serve.**

**Applications are current for one year.**

Staff Use Only	
Date Received: <u>10-9-19</u>	Received by: <u>[Signature]</u>
Date Sent to Council: _____	
Status of Application: <input type="checkbox"/> Approved <input type="checkbox"/> Denied <input type="checkbox"/> On file	

**Michael Medsker, Candidate - Richland County Commissions**  
411 Woodlake Dr, Columbia, SC (Phone: 803-834-3670)

**Experience**

NASA\*/Headquarters, IT Investments Business Manager, 2009-2017 (*Retired*)  
Defense Intelligence Agency, Budget Director, 2005-2009 (less 2007)  
President's Commission on Wounded Warriors (Detailed), Chief Financial Officer, 2007  
NASA\*/Headquarters, Strategic Business Manager for Aeronautics, 1997-2005

**Detailed Experience**

As NASA's IT Investments Manager, Michael oversaw all IT infrastructure (\$1.4B annual), super-computing, communication, and navigational control, included the support to the Intergalactic and Mars' Internets, the NASA Wide-area Network (including USSR links) and the connectivity for the Local Area Networks connecting NASA's Field Centers around the country. While serving in the Office of CIO where he was instrumental in the transformation of NASA's IT Infrastructure services from a Center-based model to an enterprise-based management /provisioning model. Additionally, he traveled the country schooling NASA employees on the Congressional Budget Process.

As the Budget Director for the Defense Intelligence Agency (DIA), he was responsible for development, management and execution of DIA's financial plans (with a 38-person staff). He led the first mapping of all critical process and produced the first Office of Management and Budget-approved Performance Plan within the U.S. Intelligence Community; while serving as the principle advisor for the Agency's 270-person financial management team.

In 2007, Michael was detailed to the President's Commission for Care of America's Returning Wounded Warriors and served as Chief Financial Officer for the Commission's \$10.0M budget. He was responsible for financial and economic analysis and realism in the Commissions' Final Report for the President to Congress in July 2007.

As NASA's Aeronautics Strategic Business Manager, he oversaw the future of Air Traffic Control Development systems, Aircraft Safety (even during 911), and Future of Aircraft Design. He was a pivotal part of the interrelations with the White House's/Office of Management and Budget and Congress for future funding (\$1.2B annual) for NASA's Future Flight Programs, Unmanned Aircraft Programs and Experimental Aircraft Programs. Oversaw the strategic direction of four (4) NASA Field Centers working in Aeronautics and Aero support facilities (in Hampton VA; Cleveland, OH; Edwards, CA, and Mountain View, CA).

Michael and his wife retired from NASA in Washington, DC to Columbia in March 2017 and now reside in Woodlake. Michael is married to Dr. Shelley Canright, who retired as the Agency's former Senior Education Advisor. They have four children, ranging from 27 through 31. Michael and Shelley enjoy high impact/high thrill activities where they hike, parachute, and scuba dive. They are also avid roller coaster fans and claim to have ridden half of the top ten roller coasters in the country.

\* NASA – National Aeronautics and Space Administration



APPLICATION FOR SERVICE ON RICHLAND COUNTY  
COMMITTEE, BOARD OR COMMISSION

Applicant **MUST** reside in Richland County.

Name: Julius W. "Jay" McKay, II

Home Address: 1123 Williams Street, Columbia, SC 29201

Telephone: (home) 803-730-7581 (work) 803-256-4645

Office Address: 1303 Blanding Street, Columbia, SC 29201

Email Address: jmckay@mckayfirm.com

Educational Background: J.D., USC Columbia; B.A., USC Colum

Professional Background: Managing Partner/Owner, McKay Firm

Male  Female

Age: 18-25

Name of Committee in which interested: Airport Commission

Your characteristics/qualifications, which would be an asset to Com. \_\_\_\_\_ Board or  
Commission:

As a business owner, father and community leader, I take pride in our community and in seeing it thrive for future generations. My grandfather started our family-owned business in downtown Columbia in 1908. I have achieved an AV-Preeminent Rating, the highest standard for his legal abilities and ethical standards, from Martindale-Hubbell. I have also been listed in SuperLawyers since 2009, a member of Midlands Legal Elite and listed as one of the Best Lawyers in America for Insurance Litigation and Medical Malpractice Defense. I am a member of member of the South Carolina Bar Association, American Bar Association, Richland County Bar Association, Litigation Counsel of America, South Carolina Chamber of Commerce, South Carolina Defense Trial Attorneys' Association, American Arbitration Association, Carolinas Association of General Contractors, and American Business & Insurance Attorneys.

I've enjoyed watching what started as a family business continue to grow and flourish a century later. I love to travel with my two sons and enjoy living in downtown Columbia.

Presently serve on any County Committee, Board or Commission? n/a

Recommended by Council Member(s): Chairman Paul Livingston

Hours willing to commit each month: as needed



**CONFLICT OF INTEREST POLICY**

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All statements so filed shall be signed and verified by the filer. The verification shall state that the filer has used all reasonable diligence in its preparation, and that to the best of his or her knowledge, it is true and complete.

Any person who willfully files a false or incomplete statement of disclosure or no change of condition, or who willfully fails to make any filing required by this article, shall be subject to such discipline, including censure and disqualification from the Committee, Board or Commission, by majority vote of the council.

*Have you been convicted or pled no contest of a crime other than minor traffic violations; checking yes does not automatically preclude you from consideration for appointment?*

Yes \_\_\_\_\_ No X \_\_\_\_\_

**STATEMENT OF FINANCIAL OR PERSONAL INTERESTS**

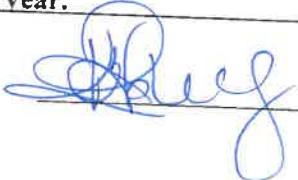
Do you have any financial or personal interest in any business or corporation (profit or not-for-profit) that could be potentially affected by the actions of the Committee, Board or Commission?

Yes \_\_\_\_\_ No X \_\_\_\_\_

Applicant's Signature \_\_\_\_\_

October 17, 2019

**One form must be submitted for each Committee, Board or Commission on which you wish to serve. Applications are current for one year.**

<b>Staff Use Only</b>	
Date Received: <u>10-18-19</u>	Received by: 
Date Sent to Council: _____	
Status of Application: <input type="checkbox"/> Approved <input type="checkbox"/> Denied <input type="checkbox"/> On file	



+

**APPLICATION FOR SERVICE ON RICHLAND COUNTY  
COMMITTEE, BOARD OR COMMISSION**

**Applicant MUST reside in Richland County.**

Name: Jerome S. Squire

Home Address: 4000 Pine Forest Dr. Columbia, SC 29204

Telephone: (home) 803-741-8886 (work) 803-800-8887

Office Address: 4000 Pine Forest Dr. Columbia, SC 29204

Email Address: jsquire99@yahoo.com

Educational Background: 2 year Diploma Georgia Medical Institute (Surgical Technologist)

Professional Background: Private aviation and Commercial Airlines / Health Care

Male  Female  Age: 18-25  26-50  Over 50

Name of Committee in which interested: Airport Commiission

Reason for interest: My 30 years of Private and Commercial aviation Knowledge I know that I would be a great addition for Saftey procedures, as well as Community concerns.

Your characteristics/qualifications, which would be an asset to Committee, Board or Commission:

Knowing air travel for private aviation all types of aircraft, being in the aviation community from 1983 thru 2014, I understand the needs of travelers as well as Community around the airport

Presently serve on any County Committee, Board or Commission? No

Any other information you wish to give? see Attachments

Recommended by Council Member(s): \_\_\_\_\_

Hours willing to commit each month: 8 to 10 hours per month

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*Have you been convicted or pled no contest of a crime other than minor traffic violations; checking yes does not automatically preclude you from consideration for appointment.*

Yes Yes                      No \_\_\_\_\_

**STATEMENT OF FINANCIAL OR PERSONAL INTERESTS**

Do you have any financial or personal interest in any business or corporation (profit or not-for-profit) that could be potentially affected by the actions of the Committee, Board or Commission?

Yes \_\_\_\_\_                      No No \_\_\_\_\_

If so, describe: In 1982 convicted of carrying a concealed weapon, was pardoned by South Carolina Pardon and Parol board in 1991. And was able to hold airport clearances at Columbia Metro, Greenville Spartanburg, and Atlanta Hartsfield.

Jerome Squire  
Applicant's Signature

October 17, 2019  
Date

**Return to:  
Clerk of Council, Post Office Box 192, Columbia, SC 29202.  
For information, call 576-2060.**

**One form must be submitted for each Committee, Board or Commission on which you wish to serve.**

**Applications are current for one year.**

<b>Staff Use Only</b>	
Date Received: _____	Received by: _____
Date Sent to Council: _____	
Status of Application: <input type="checkbox"/> Approved <input type="checkbox"/> Denied <input type="checkbox"/> On file	

## Profile

Accomplished medical services professional with a history of experience in areas of technical services, instruction and training, equipment setup, customer service and satisfaction, and managing patient sensitive information. Resourceful analytical problem solver focused on clear goals with a position in the healthcare industry. Open to challenges associated with growth and providing viable solutions to organizational objectives.

## Job Strengths

Leadership ▪ Management ▪ Team Contributor ▪ Effective Communications ▪ Team Building ▪ People Person ▪ Client Relations ▪ Strong Work Ethic ▪ Problem Solving ▪ Results Oriented ▪ Provides Training ▪ Implementation ▪ Organizational Skills ▪ Time Management ▪ Planning ▪ Customer Service ▪ Creative ▪ Technical Ability ▪ Analytical Thinking ▪ Accountable ▪ Decision Making ▪ Confident ▪ Self-Motivated ▪ Multi-Task Ability ▪ Meeting Deadlines ▪ Project Work ▪ Sales Marketing ▪ Presentation Skills ▪ Negotiations ▪ Compliance ▪ Cost Savings ▪ Quality Control

## Professional Experience

### Medbridge Medical, West Columbia, SC

#### Customer Service Representative

- Process request for respiratory products; CPAP, BI-PAP supplies
- Communicate with patients to ensure questions and concerns are processed in a timely manner
- Create sales orders for deliveries
- Medical data entry
- Educate patients and caregivers

### The Scooter Store, Columbia, SC

2011 – November 26, 2012

#### Medical Services Specialist

Responsible for the overall technical services and instructional training associated with power wheelchairs. Trusted with sensitive and confidential patient personal information, insurance qualifications, and money collection.

- Provided ergonomic home and personal individual assessment. Completed in two parts:
  - Visited customer residents and completed home measurements relative to individual operation of the power wheelchair.
  - Obtained information associated with individual's physical and other challenges. Ensured that individual and medical devices were matched for comfort and ease of operation.
- Provided instructional training on operation of power wheelchairs. Reviewed medical specifications.
- Ensured individual knowledge, understanding, and skill, associated with emergency operation procedures.

### Rotech Health Care, Columbia, SC

2009 – 2011

#### Patient Services Technician

Responsible for medical respiratory services in hospitals, medical facilities, and homes. Installed equipment setup for patients.

- Managed sensitive patient data relative to insurance and personal qualifications.

- Received assignments, traveled to facility, and provided respiratory products; oxygen, hospital beds, sleep apnea devices.
- Collected monies upon delivery of medical products.
- Provided instructions on the use of products and medical devices. Reviewed safety procedures.
- Reviewed and ensured patient understanding of physician prescriptions relative to use and operation.
- Maintained inventory of devices in patients home.

**American Red Cross, Columbia, SC**

2006 – 2009

**Lab Technician II**

**Jerome S. Squire**

**Page 2**

Responsible for data records and storage of units in refrigeration and blast freezer facilities.

- Maintained manual and computer data associated with repository samples.
- Performed preventive maintenance on lab equipment.

**Parkridge Surgery Center, Columbia, SC**

2004 – 2006

**Surgical Technologist**

Assisted surgeons with procedures; GYN, Orthopedic, General and Vascular. Sterile Processing Technician.

**DeKalb Medical Center, Decatur, GA**

2002 – 2004

**Surgical Technologist**

Assisted in daily surgical services; GYN, General, Vascular, Ortho and Neuro, ENT, Thoracic, Labor and Delivery, local room procedures. Sterile Processing Technician.

**Delta Airlines, Atlanta, GA**

1991 – 2001

**Senior, Customer Service**

Responsible for ticketing, gate and ramp operations and procedures.

**Other**

**Shift Supervisor/Crew Chief**

**Education/Training**

Georgia Medical Institute, Marietta, GA – 2002 – 2003

Surgical Technology, Two Year Diploma

Law and Ethics

Anesthesiology

Anatomy and Physiology

Safety Training

Multiple Customer Service Training

CPR Certified

Sterility

Pharmacology

**Recognition**

Multiple Sales Awards

**Demonstrated Knowledge Skills and Abilities**

- ✓ Qualified through experience, training, education and a successful track record requiring mature judgment and practice skills.
- ✓ Demonstrates leadership skills using a diverse range of experience in many disciplines.

- ✓ Ability to organize work, establish priorities, meet deadlines and successfully conclude multiple projects.
- ✓ Strong presentation skills. Ability to effectively communicate both in writing and speech.
- ✓ Resourceful results oriented team contributor and effective leader who demonstrates a strong work ethic and problem solving ability.
- ✓ Provides a communications avenue of understanding the needs at all levels.
- ✓ Prepares and maintains records and data bases in accordance with guidelines.
- ✓ Ability to provide training and guidance within specialization areas.

**Monitors quality and safety measures.**

## Around the Community

In December 2017 I was sworn in to the board of AARP local Chapter #753 as the Secretary as a member of the board I record the minutes for both board meetings as well as the general meetings. I help in determining the speakers for the up coming year and perform various duties. Currently still in place.

In 2016 as a caregiver for my parents who suffer from Dementia, I was certified by the University of South Carolina Arnold School of Medicine as a certified Dementia Dialogue Trainer. I have presented several times and have certified over 15 caregivers to have better understanding of how to care for their love ones

Bible Way Church of Atlas Road I serve with the Senior Enrichment Ministry Planning Committee where I asst. with other committee members to help plan and implement speakers and event for Seniors in the community as well as the church. We have had successful movie matinee, yard and bake sales, Flu shots, Real ID, Social Security, Tax Assistant, and a host of other topics that help Seniors in the community.

Sworn in with the Richland County Family Court, Richland County CASA Guardian Ad Litem where I provide the voice for Children in foster care. My responsibilities are show in court the best interest of the child and to help families find solutions to have a better Family life. I see children in schools as well as Foster homes, I travel across the state to attend medical facilities and law enforcement divisions to help gather a vision to determine what is in the best interest of the child.

I have become a Vegan, and thru the University of South Carolina Soul Study, a program that equips persons wanting to make changes in their health and wellness. We have cooking demos as well as field trips to grocery stores. The Arnold School of Medicine is

While employed at Columbia Metro Airport, I was third shift supervisor where I was in control of the whole operation from refueling aircraft of all types C-150 to Airbuses all military fixed wing as well as rotary, I ran customer service desk taking forms of payments for charter air craft and full filling passengers request and making sure pilots needs were met. During the years at the airport I have been involved in Special Details concerning High Profile Client such as Presidential Candidates and Presidents, Pope John Paul II, Nixon, Ford, Carter, Ragan, Clinton, Obama. I have secured the arrival and departures for guess like Rock bands AC/DC, Stevie Nicks, Luther Vandross, Tina Turner, Guns and Roses, U2, Marvin Gaye, Justin Timberlake, Kenny Rodgers, any important clients that have come through that flown privately.



State of South Carolina  
Department of Probation, Parole and Pardon Services

Henry McMaster  
Governor



Jerry B. Adger  
Director

2221 DEVINE STREET, SUITE 600  
POST OFFICE BOX 50666  
COLUMBIA, SOUTH CAROLINA 29250  
Telephone: (803) 734-9220  
Facsimile: (803) 734-9440  
[www.state.sc.us/ppp](http://www.state.sc.us/ppp)

October 18, 2019

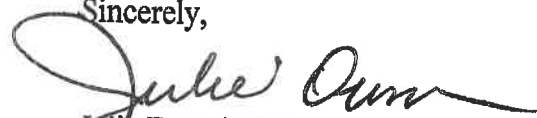
RE: Jerome Squire  
SSN: XXX-XX-8135  
DOB: 01-09-XXXX  
12-09-XXXX

To Whom It may Concern:

According to the Departments records the above individual received Pardon # 4181 on 10-24-1991. Due to a 20 year retention on this Record Series these hard copy files are no longer available.

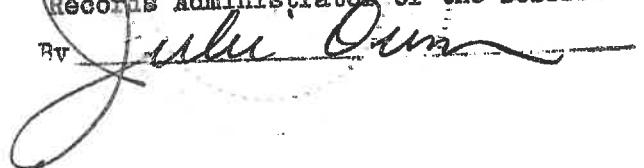
If you need further assistance you may contact this office at 803-734-9195.

Sincerely,

  
Julie Dunn/NAK  
Records Administrator

Certified as a true and exact copy  
of the records of the SC Department  
of Probation, Parole and Pardon Service  
Records Administrator of the SCDPPPS.

By





**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:** October 16, 2019      **Meeting Date:** October 22, 2019

<b>Legal Review</b>	N/A	<b>Date:</b>	
<b>Budget Review</b>	N/A	<b>Date:</b>	
<b>Finance Review</b>	N/A	<b>Date:</b>	
<b>Other Review:</b>	N/A	<b>Date:</b>	
<b>Approved for Council consideration:</b>		Assistant County Administrator	John Thompson, Ph. D

**Committee**

**Subject:** Transportation Cash Flow

**Background Information:**

First Tryon financial advisors have reviewed the remaining Penny projects along with their current proposed cost estimates and has evaluated the three options listed below:

1. Take out the full \$175 million BAN with General Obligation Bonds
2. Pay down \$24 million of the BAN using cash reserves and take out the remaining \$150 million with General Obligation Bonds
3. Do not incorporate a BAN and proceed with the projects on a pay-as-you go schedule.

**Recommended Action:**

Staff requests Council to approve Scenario 2, partial payback with \$150M in bonding.

**Motion Requested:**

Move to approve Transportation cash flow plan, Scenario #2, partial payback with \$150M in bonding.

**Request for Council Reconsideration:** Yes

**Fiscal Impact:**

Although repayment of some debt reduces cash on hand, the program as planned is sustainable with bonding for \$150M. This also reduces debt service costs by nearly \$28M.

**Motion of Origin:**

This request did not result from a Council motion.

<b>Council Member</b>	N/A
<b>Meeting</b>	N/A
<b>Date</b>	N/A

**Discussion:**

As scenario three shows, a pay-go model is possible. However, this involves not starting new projects for at least 18 to 24 months with the current work underway or work about to be advertised.

**Attachments:**



DAVID CHEATWOOD, Managing Director

1355 Greenwood Cliff, Suite 400

Charlotte, NC 28204

Office: (704) 926-2447

Email: [dcheatwood@firsttryon.com](mailto:dcheatwood@firsttryon.com)

Capital Project Sales Tax Model Update

Richland County, South Carolina

# Executive Summary

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## Overview

- Using the County's Capital Project Sales Tax Model, First Tryon has worked with County staff to project three cashflow scenarios in which the County is able to take out its currently outstanding BAN and fund the remainder of its capital projects related to the transportation sales tax.

## Scenario 1: 100% Debt

- The full \$175 million BAN is taken out with General Obligation Bonds.
- Capital projects related to the transportation sales tax are funded under PDT's latest cash flow schedule.

## Scenario 2: 100% Cash

- The full \$175 million BAN is paid off with cash on hand in the penny tax fund (consisting of unexpended BAN proceeds and sales tax revenues)
- Capital projects related to the transportation sales tax will be fund on a pay-go basis out of quarterly sales tax distributions on an estimated project cash flow schedule provided by County staff.

## Scenario 3: Debt/Cash Mix

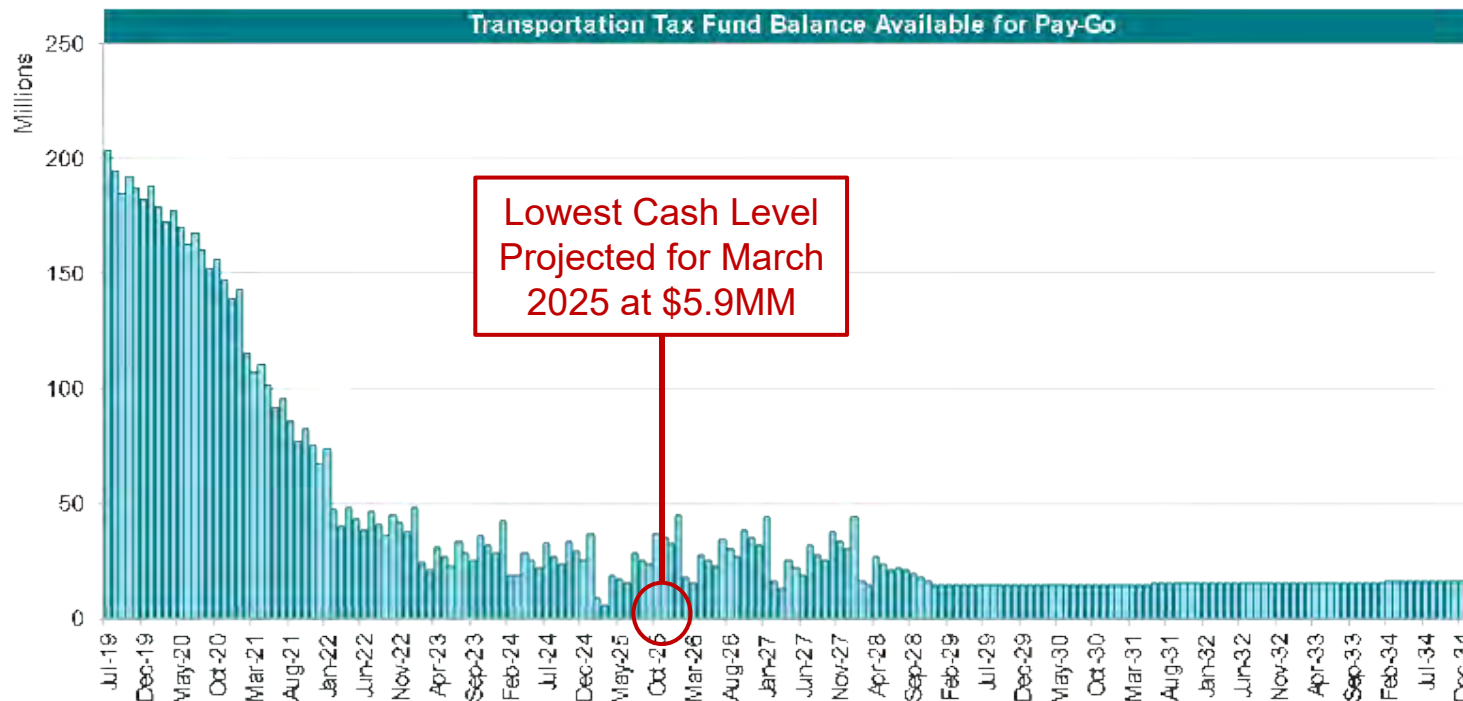
- \$25 million of the BAN is paid down using cash reserves
- Remaining \$150 million of the BAN is taken out with General Obligation Bonds.
- Capital projects related to the transportation sales tax are funded under an amended project cash flow schedule provided by County staff.

# Scenario 1: 100% Debt – Overview

- The full \$175 million BAN is taken out with publicly sold General Obligation Bonds.
- Capital projects related to the transportation sales tax are funded under PDT's latest cash flow schedule.

CPST Revenue Assumptions	
Annual Collections (Beginning FY2020)	68,500,000
Annual Growth	3.00%
Beginning Date	7/1/2019
Ending Date	4/30/2035

Caps and Limitations	Cap/ Limitation	Proposed
Total Collection Limitation	1,070,000,000	1,070,000,000
Total Project Limitation	1,037,900,000	1,027,907,565
CMRTA Proj. Limitation	300,991,000	300,991,000
Roadway Proj. Limitation	656,020,644	657,335,302
Bike, Ped, Greenway Proj. Limitation	80,888,356	69,581,263
Total Administration Limitation	32,100,000	32,904,169

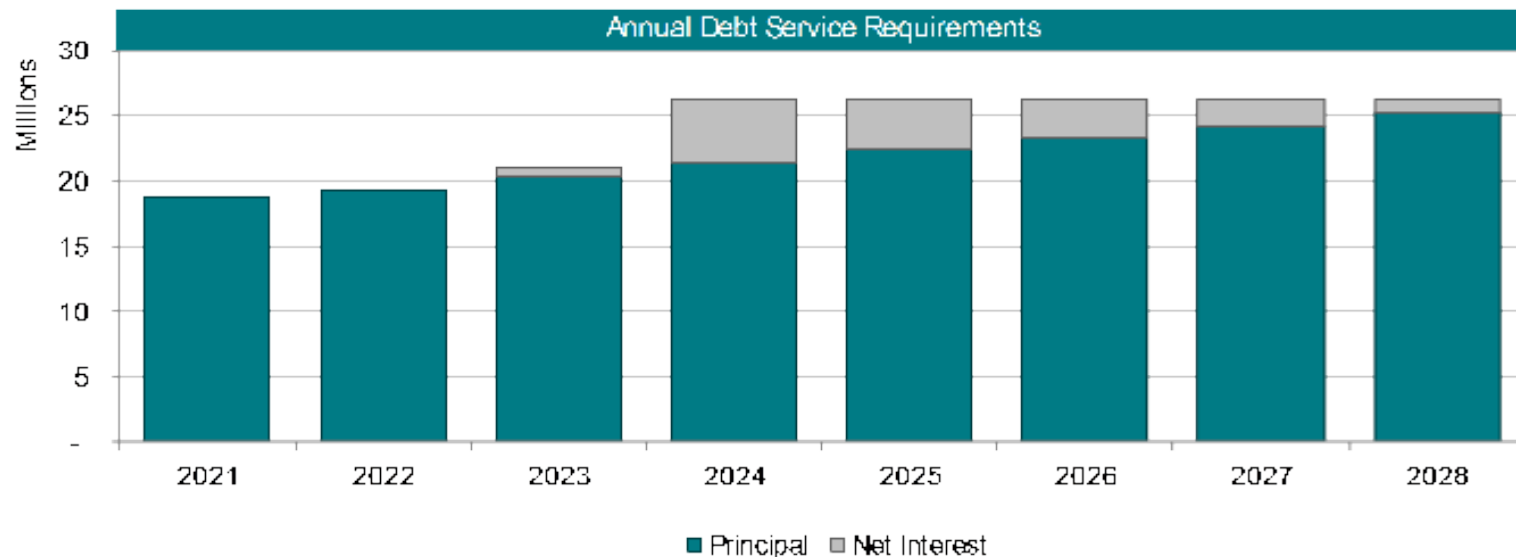


# Scenario 1: 100% Debt – Debt Assumptions

- The County will issue \$175 million of General Obligation Bonds in the public market.
  - Term: 8 years
  - True Interest Cost: 1.71%
  - Total Debt Service: \$209.8 million
  - Total Net Debt Service: \$190.4 million
  - Total Net Interest: \$15.4 million
  - Average Annual D/S: \$26.2 million
  - Average Annual Net D/S: \$23.8 million

Sources of Funds	
Par Amount	175,000,000
Premium	20,298,712
<b>Total Sources of Funds</b>	<b>195,298,712</b>

Uses of Funds	
Project Fund	175,000,000
Capitalized Interest	19,473,712
COI / UD	825,000
<b>Total Uses of Funds</b>	<b>195,298,712</b>



# Scenario 1: 100% Debt – Project Funding Schedule

- Under Scenario 1, it is estimated that the County will fund capital projects related to the transportation sales tax as follows:

Fiscal Year	Roadway Projects	Bike, Ped.,		Total
		Greenway Projects		
2020	80,983,847	8,912,484		89,896,331
2021	92,185,134	13,740,917		105,926,051
2022	82,795,949	3,578,690		86,374,639
2023	49,650,491	-		49,650,491
2024	40,431,647	77,304		40,508,951
2025	35,007,383	752,197		35,759,580
2026	18,083,072	6,173,112		24,256,183
2027	26,966,855	9,964,296		36,931,150
2028	23,527,743	9,004,526		32,532,269
2029	5,761,522	2,415,312		8,176,834
<b>Total</b>	<b>455,393,641</b>	<b>54,618,839</b>		<b>510,012,480</b>

*Note: figures do not include allocable interest earnings or expense*

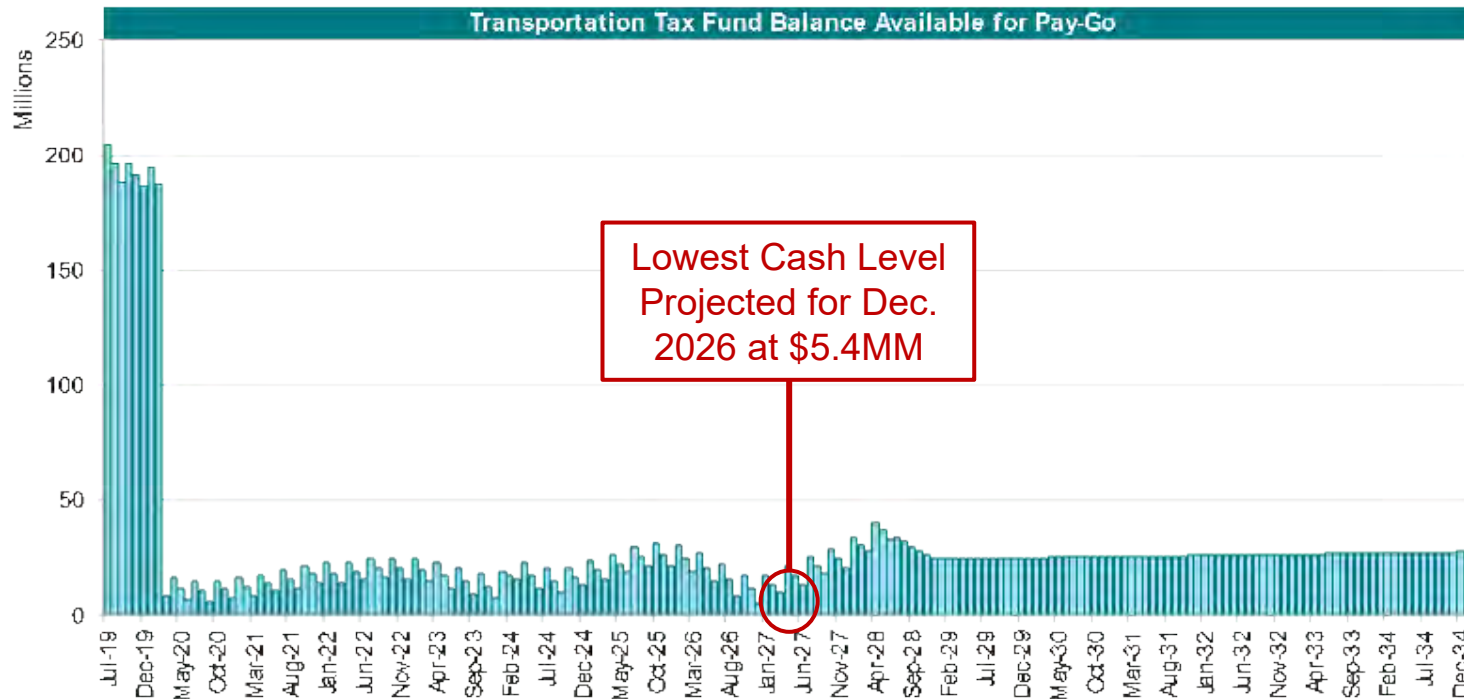


# Scenario 2: 100% Cash – Overview

- 100% of the BAN is paid off using cash on hand in the penny tax fund (consisting of unexpended BAN proceeds and sales tax revenues).
- Capital projects related to the transportation sales tax will be fund on a pay-go basis out of quarterly sales tax distributions on an estimated project cash flow schedule provided by County staff.

CPST Revenue Assumptions	
Annual Collections (Beginning FY2020)	68,500,000
Annual Growth	3.00%
Beginning Date	7/1/2019
Ending Date	4/30/2035

Caps and Limitations	Cap/ Limitation	Proposed
Total Collection Limitation	1,070,000,000	1,070,000,000
Total Project Limitation	1,037,900,000	1,017,784,905
CMRTA Proj. Limitation	300,991,000	300,991,000
Roadway Proj. Limitation	656,020,644	648,323,776
Bike, Ped, Greenway Proj. Limitation	80,888,356	68,470,128
Total Administration Limitation	32,100,000	32,904,169



## Scenario 2: 100% Cash – Project Funding Schedule

- Under Scenario 2, it is estimated that the County will fund capital projects related to the transportation sales tax as follows:

Fiscal Year	Roadway Projects	Bike, Ped., Greenway Projects	Total
2020	63,736,249	5,257,621	68,993,870
2021	38,372,040	7,184,522	45,556,563
2022	35,849,350	9,567,801	45,417,152
2023	54,394,903	3,983,958	58,378,861
2024	64,886,087	315,493	65,201,580
2025	47,978,991	752,197	48,731,188
2026	55,326,910	6,173,112	61,500,022
2027	50,117,609	9,964,296	60,081,905
2028	31,875,652	9,004,526	40,880,178
2029	8,195,147	2,415,312	10,610,459
<b>Total</b>	<b>450,732,939</b>	<b>54,618,839</b>	<b>505,351,777</b>

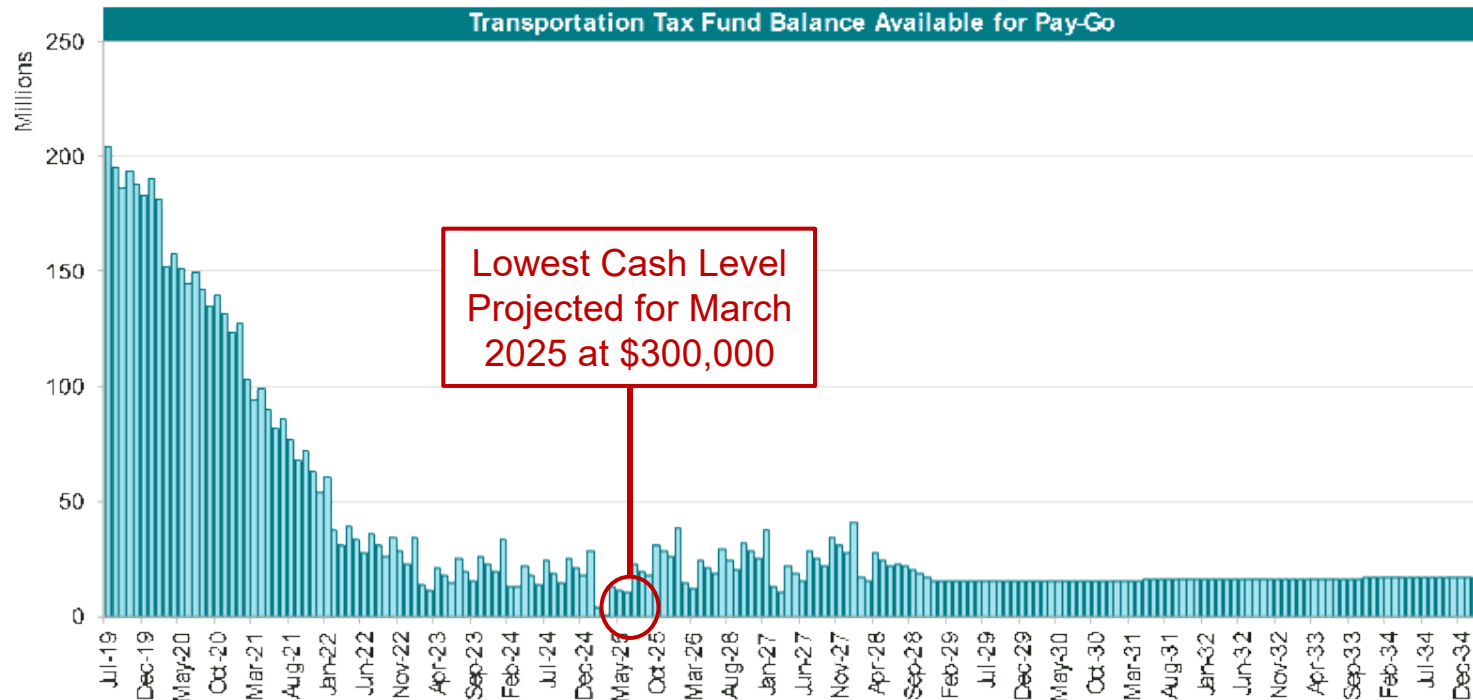
*Note: figures do not include allocable interest earnings or expense*

# Scenario 3: Debt / Cash Mix– Overview

- \$25 million of the BAN is paid down using cash in hand in the transportation fund
- Remaining \$150 million of the BAN is taken out with publicly sold General Obligation Bonds
- Capital projects related to the transportation sales tax are funded under an amended project cash flow schedule provided by County staff.

CPST Revenue Assumptions	
Annual Collections (Beginning FY2020)	68,500,000
Annual Growth	3.00%
Beginning Date	7/1/2019
Ending Date	4/30/2035

Caps and Limitations	Cap/ Limitation	Proposed
Total Collection Limitation	1,070,000,000	1,070,000,000
Total Project Limitation	1,037,900,000	1,027,096,625
CMRTA Proj. Limitation	300,991,000	300,991,000
Roadway Proj. Limitation	656,020,644	656,613,376
Bike, Ped, Greenway Proj. Limitation	80,888,356	69,492,249
Total Administration Limitation	32,100,000	32,904,169

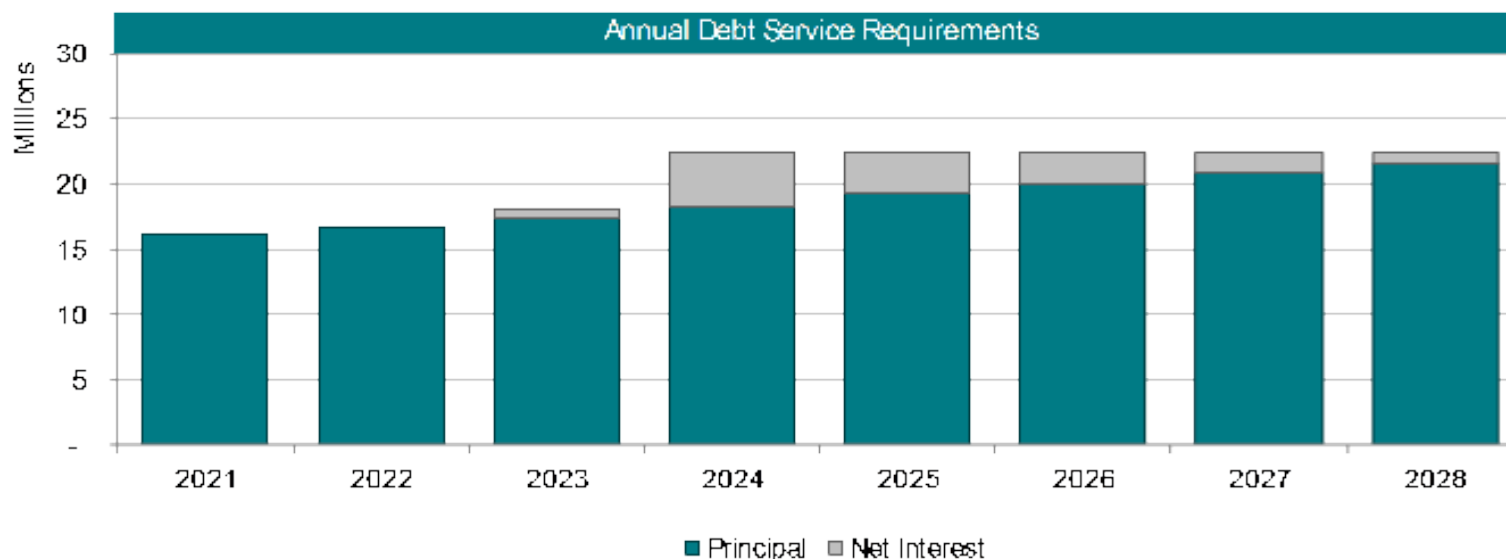


# Scenario 3: Debt / Cash Mix – Debt Assumptions

- The County will issue \$150 million of General Obligation Bonds in the public market.
  - Term: 8 years
  - True Interest Cost: 1.71%
  - Total Debt Service: \$179.9 million
  - Total Net Debt Service: \$163.2 million
  - Total Net Interest: \$13.2 million
  - Average Annual D/S: \$22.5 million
  - Average Annual Net D/S: \$20.4 million

Sources of Funds	
Par Amount	150,000,000
Premium	17,398,807
<b>Total Sources of Funds</b>	<b>167,398,807</b>

Uses of Funds	
Project Fund	150,000,000
Capitalized Interest	16,648,807
COI / UD	750,000
<b>Total Uses of Funds</b>	<b>167,398,807</b>



## Scenario 3: Debt / Cash Mix – Project Funding Schedule

- Under Scenario 3, it is estimated that the County will fund capital projects related to the transportation sales tax as follows:

Fiscal Year	Roadway Projects	Bike, Ped.,		Total
		Greenway Projects		
2020	74,128,848	8,686,782		82,815,630
2021	86,389,483	13,728,430		100,117,913
2022	85,277,812	3,816,879		89,094,692
2023	50,040,605	-		50,040,605
2024	43,242,253	77,304		43,319,558
2025	36,176,794	752,197		36,928,991
2026	20,460,920	6,173,112		26,634,032
2027	29,216,668	9,964,296		39,180,964
2028	23,498,350	9,004,526		32,502,876
2029	5,768,699	2,415,312		8,184,011
<b>Total</b>	<b>454,200,433</b>	<b>54,618,839</b>		<b>508,819,272</b>

*Note: figures do not include allocable interest earnings or expense*

# Disclaimer

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**RICHLAND COUNTY  
ADMINISTRATION**

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



**Agenda Briefing**

**To:** Chair Paul Livingston and Members of Council  
**Prepared by:** Clayton Voignier, Director  
**Department:** Community Planning & Development  
**Date Prepared:** October 28, 2019      **Meeting Date:** November 19, 2019

<b>Legal Review</b>	Elizabeth McLean via email	<b>Date:</b>	November 14, 2019
<b>Budget Review</b>	James Hayes via email	<b>Date:</b>	November 14, 2019
<b>Finance Review</b>	Stacey Hamm via email	<b>Date:</b>	November 14, 2019
<b>Approved for Council consideration:</b>	Assistant County Administrator	Ashley M. Powell, Assoc. AIA, AICP	
<b>Subject:</b> Tree Canopy Mapping Grant			

**Recommended Action:**

Richland County Conservation Commission (RCCC) recommends approval to submit a Letter of Intent for a grant from the Green Infrastructure Center (GIC) and South Carolina Forestry Commission (SCFC) for tree canopy mapping and planting strategy.

**Motion Requested:**

I move for approval to submit a Letter of Intent for a grant from the Green Infrastructure Center (GIC) and South Carolina Forestry Commission (SCFC) for tree canopy mapping and planting strategy.

**Request for Council Reconsideration:**  Yes

**Fiscal Impact:**

None

**Motion of Origin:**

There is no associated Council motion of origin. Staff has moved this request forward at the request of the Richland County Conservation Commission (RCCC).

<b>Council Member</b>	
<b>Meeting</b>	
<b>Date</b>	

## Discussion:

Richland County current does not have a comprehensive map of its tree canopy. The non-profit Green Infrastructure Center (GIC) recently completed canopy assessments and studies of 12 cities' urban forestry programs across the Southern United States and found that while urban forests take up stormwater, provide habitat, shade, increase property values and buffer communities from storms, many communities do not have updated canopy data or realistic canopy goals. Some communities have used statistical software to estimate their canopy, but then cannot create a planting plan because they do not have actual tree locations or open planting areas mapped.

As a result, GIC is collaborating with SCFC to help South Carolina communities make strategic decisions to conserve or expand their community's tree cover. Under this grant, GIC has funding to partner with communities on community forest strategies, and is seeking interested communities over a 12-18 month project to map, evaluate and plan for community forests in towns, cities, and even counties.

At the end of the project, the County will receive the following:

- A land cover map and planting strategy map and GIS data (a value of \$15,000-\$25,000)
- A strategic planting plan (developed in collaboration with the local agencies and non-profit groups) and progress tracking tool
- Trees to plant (to be negotiated) and assistance in solicitation of additional trees and materials
- Campaign media (print, social in multiple venues) adaptable for community customization and use
- Positive public relations for being a progressive green community that attracts families and businesses

The County is expected to contribute the following:

- Staff to participate in map review and goal setting
- Trees planting, either seedlings or large trees, mulch, watering bags, plan of care, and a commitment to track the trees for two years
- In-kind match of time equivalent to \$25,000 met by Richland County Conservation, Planning, and GIS staff activities, public and RCCC members attending related meetings, and volunteers planting trees documented on a match log to track contributed time

GIC has developed a tool called Land Image Analyst that allows GIS staff to do remote sensing analysis to track tree canopy over time. The software is free and GIC staff will provide training. Richland County GIS staff have agreed to do the mapping. Once the tree canopy is mapped, GIC and SCFC staff will assist County staff in determining plantable areas, the number of trees that can be planted on public and private lands, as well as setting place specific goals and budgeting for tree planting. The strategic planting plan ensures trees are planted where they are most needed and effective. Because the majority of plantable areas are on private property, this grant will develop a media campaign to motivate and facilitate private sector participation.

The Richland County Conservation Commission (RCCC) has had concerns about the loss of trees due to land clearing for development and the lack of significant replacement plantings. This grant would provide data on the current tree canopy and a means to encourage plantings on private and public land, and the value of trees for ecological and environmental services, scenic beauty, and sense of place is



difficult to overestimate. For these reasons, RCCC voted unanimously for approval to submit a Letter of Intent for a grant from the Green Infrastructure Center (GIC) and South Carolina Forestry Commission for tree canopy mapping and planting strategy at their regular meeting on October 21

Although the deadline for submission of the Letter of Intent is November 10, 2019, the grantor recommended that Richland County continue to pursue the grant opportunity as funds for technical support may be available after the deadline depending on the number of other communities submitting Letters of Intent.

**Attachments:**

1. Concept for Community Tree Campaign Guide
2. Draft Letter of Intent



## Community Tree Strategies and Planting Campaigns -- Pilot Selection<sup>1</sup>

### What is this Project?

The nonprofit Green Infrastructure Center (GIC) [www.gicinc.org](http://www.gicinc.org) is collaborating with federal and state forestry agencies to help communities make strategic decisions to conserve or expand their community's tree cover. Under a current grant, GIC has funding to partner with communities on community forest strategies. At the end of the project, a Tree Decision and Campaign Guide will be published for use across the southern United States and beyond. *We are looking for interested communities to participate over a 12-18 month project to map, evaluate and plan for community forests in towns, cities and even counties.*

### Why is this needed?

GIC has recently completed canopy assessments and studies of 12 cities' urban forestry programs across the Southern United States. The most common requests were – *How can we get our community members to plant more trees? What are the most effective tactics and how can the city support such a campaign? How can we set realistic canopy goals? How can we engage the private sector? Are we losing more trees than we are planting? Where are we headed?*

Urban forests take up stormwater, provide habitat, shade, increase property values and buffer communities from storms. Yet many communities do not have updated canopy data or realistic canopy goals. Some communities have used statistical software to estimate their canopy but then cannot create a planting plan because they don't have actual tree locations or open planting areas mapped. Goals are often set to a round # such as, achieve 25% canopy by 2025 without an understanding of how many trees that would take, where they could be planted and how they would be funded. One city actually set a goal to plant more trees than they had space for – because they did not use data in setting goals.

And in cities, around 80% of plantable areas are located on private property. Canopy goals cannot be met without the participation of the private sector. Motivating, funding and planting on private property requires effective planting and care campaigns to make this successful. In some communities, local governments lack the tools to undertake a successful campaign. Drawing on successful campaigns from across the United States, this project and resulting guide will show how to undertake a campaign and to set and achieve canopy goals utilizing **both** public and private lands.

### Process?

The GIC and SCFC are seeking some pilot communities to participate as 'test cases.' Several communities will be selected to work with GIC and SCFC over 18 months, The local government is required to be a partner and to participate in map review and goal setting. Some limited funds will be made available to purchase seedlings. Additional funds will be sought to augment the planting campaign from the private sector. Ideally the local government will also contribute trees planting. Trees can be seedlings (e.g. \$25.00, or larger trees \$100), as well as mulch, watering bags and a plan of care (plan of care will differ for private or public property), and a commitment to track the trees' for 2 years.

### How Can My Community Benefit? You Will Get:

- A land cover map and planting strategy map and GIS data (a value of \$15,000-\$25,000)
- A strategic planting plan (developed in collaboration with the local agencies and non-profit groups) and progress tracking tool
- Trees to plant (to be negotiated) and assistance in solicitation of additional trees and materials
- Campaign media (print, social in multiple venues) adaptable for community customization and use
- Great public relations for being a progressive green community that attracts families and businesses!

<sup>1</sup> This is the intellectual property of the Green Infrastructure Center Inc. and may not be use without permission.

## Interested? How May We Participate?

Several options are available – see which of these options may apply to your community below:

### 1) My city has a recent canopy map – we just need help using it to making strategies.

*Excellent* – we can jump right in and start working with you on analyzing data. What is needed, how well is your canopy distributed, which areas lack new trees or are at risk of losing canopy (e.g. development pressures, storms)? Let's make some goals and strategies! Let's engage the community in planting!

### 2) My city does not have a recent map (within last 4 years).

*No problem* – We can use new free software to analyze images of your community and determine tree cover, plantable area, numbers of trees that can be planted on public and private lands, setting goals and budgeting. We can make the maps or we can train your GIS staff in house to work on this so you build capacity to do this work in the future.

### 3) My county is large – we don't have the funds or expertise to map our own tree cover.

*Let's Train You* – We can train your GIS or planning staff to use a new tool called Land Image Analyst. You may also want to consider mapping habitat cores – large blocks of forest – at large resolution for rural areas and then zoom in to do finer grained maps at 1 meter resolution for more developed areas (e.g. small town or suburbs in your county). We can train you staff in house to work on this so you build capacity to do this work in the future.

### 4) My city plants a lot of trees and we have great volunteers – we lack a map or a plan.

*Great* – We can work with you to use new free software to analyze images of your community and determine tree cover, plantable area, numbers of trees that can be planted on public and private lands, setting goals and budgeting. This can ensure you are planting trees where they are most needed and will be most effective and GIC can provide metrics to gauge your success!

## How Much Will This Project Cost Us to Engage?

No money is exchanged. Expert services provided by GIC are matched by volunteer participation by communities. This is a demonstration project so there are limited slots open to participate as funds are not unlimited! Participating communities are expected to contribute 'sweat equity.' That is 1000 hours @ 25.00 per hour = @\$25,000 over 18 months. That is an average of 55 hours a month. And anything of value contributed during the project, such as a tree inventory also counts toward a match. So it's more a dollar figure to attain, whether its people's time or other ways. A simple match log is kept to document contributed time.

City staff should charge out at their benefited rate (wages + vacation + health +retirement). So for example, people earning more than \$50,000 per year (wages and health etc.) would charge out at a higher rate e.g. \$40/hour. ALSO, some of that \$ can come from the public who attend events and the dollar amount can be reached in other ways (e.g. the value of using a city facility could be \$200.00, the value of printing one map = \$75.00 etc. so match does not have to be people's hours. Similarly, if GIC addresses a meeting of a city council or committee, everybody's time in the meeting counts as match. A community event raises a great deal of match. For example, 50 volunteers show up to plant trees for 3 hours = \$3,750. Communities have not had trouble achieving the match in past projects with GIC. So the \$25,000 match can be achieved in many ways!

## This Is A Limited Offer, So What's the Deadline?

Only a handful of openings are available! Interested communities should indicate their interest no later than 30 days. A letter of intent to participate should be sent to [Firehock@gicinc.org](mailto:Firehock@gicinc.org) by **November 10, 2019** to be considered for this opportunity. Failure to submit a letter of commitment will be deemed a lack of interest and applicants will be disqualified. Questions: call K. Firehock at 434-244-0322. Learn more about GIC's other work and staff by visiting [www.gicinc.org](http://www.gicinc.org)



2020 Hampton Street • Room 3063A  
Columbia, SC 29204  
(803) 576-2083

November 6, 2019

Ms. Frances Waite  
Urban and Community Forestry Coordinator  
South Carolina Forestry Commission  
5500 Broad River Road  
Columbia, SC 29212

Dear Ms. Waite:

Richland County Conservation Commission is pleased to participate with the Green Infrastructure Center in collaborating to create Decision Support Tools and a Tree Canopy Planting Campaign. This project will help us create strategic decisions for how to best retain canopy and to plant new trees strategically as we grow and develop. Importantly, this project helps meet goals of the Natural Resources element of the 2015 Comprehensive Plan.

We appreciate South Carolina Forestry Commission's support in creating a strategic planting plan. As a significant majority of plantable areas in our community are located on private property, we will need the participation of the private sector. How to motivate, fund and facilitate private property planting requires effective campaigns to ensure a successful planting effort and the Green Infrastructure Center (GIC) can help us determine how to do this. This partnership with the GIC will allow us to create place-specific goals, motivate and enlist the private sector in planting, and use data to target tree planting to the most strategic locations.

We look forward to partnering with the GIC to set strategic goals for our county's forests. Thank you for your support as we move forward to better manage our forests and promote a more resilient and sustainable future – using our natural green infrastructure as a central avenue to success.

Sincerely,

A handwritten signature in blue ink that reads "Carol Kososki".

Carol Kososki  
Chair, Richland County Conservation Commission



## **REQUEST OF ACTION**

**Subject:** FY20 - District 10 Hospitality Tax Allocations

### **A. Purpose**

County Council is being requested to approve a total allocation of **\$85,000** for District 10.

### **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 (3<sup>rd</sup> 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 (3<sup>rd</sup> 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 10 H-Tax discretionary account breakdown and its potential impact is listed below:

Initial Discretionary Account Funding	\$164,850
FY2020 Allocations	\$ 70,500
FY2019 Remaining	\$ 0
Lower Richland Sweet Potato Festival	\$ 35,000
Kingville Celebration	\$ 25,000
Eastover Holiday Parade & May Day	\$ 25,000
<b>Total</b>	<b>\$ 85,000</b>
<b>Remaining Balance</b>	<b>\$ 9,350</b>

**C. Legislative / Chronological History**

- 3<sup>rd</sup> Reading of the Budget – June 8, 2017
- Regular Session - May 15, 2018
- 3<sup>rd</sup> Reading of Budget FY19 June 21 ,2018
- 3<sup>rd</sup> 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.