Lancaster County Council Administration Committee Regular Meeting Agenda

Wednesday, December 12, 2018

Administration Office Conference Room County Administration Building 101 N. Main Street Lancaster, SC 29720

1. Call to Order - Committee Chair Charlene McGriff

5:00 p.m.

- 2. Approval of the agenda [deletions and additions of non-substantive matters]
- 3. Citizens Comments
- 4. Approval of Minutes from the November 15, 2018 Administration Committee regular meeting pgs. 3-7
- 5. Discussion / Action Items
 - a. Ordinance 2019-1553 regarding the Authorization of the Issuance of General Obligation Bonds Not to Exceed \$19,000,000

Ordinance Title: An Ordinance Authorizing The Issuance And Sale Of General Obligation Bonds, Series 2019A Or Such Other Appropriate Series Designation, Of Lancaster County, South Carolina, In The Principal Amount Of Not Exceeding \$19,000,000; Fixing The Form And Details Of The Bonds; Authorizing The County Administrator Or His Lawfully Authorized Designee To Determine Certain Matters Relating To The Bonds; Providing For The Payment Of The Bonds And The Disposition Of The Proceeds Thereof; And Other Matters Relating Thereto. - John DuBose/Francenia Heizer – pgs. 8-31

b. Ordinance 2019-1554 regarding the Creation of the Reid Pointe Special Tax District
Ordinance Title: An Ordinance To Create The Reid Pointe Special Tax District In
Lancaster County; To Set The Boundaries Of The Special Tax District; To Establish The
Nature Of The Services To Be Rendered; To Set The Maximum Level Of The Tax
Collections; To Provide For The Operation Of The Special Tax District; And To Provide
For Other Matters Related Thereto. - John DuBose/Francenia Heizer - pgs. 32-36

c. Ordinance 2019-1555 regarding the Authorization of the Issuance of Not to Exceed \$700,000 General Obligation Bond For Funding the Upgrade of Roads in the Reid Pointe Special Tax District

Ordinance Title: An Ordinance To Authorize The Issuance And Sale Of A Not To Exceed \$700,000 General Obligation Bond, Of Lancaster County, South Carolina, Series 2019B, Or Such Other Appropriate Series Designation, For The Funding Of The Repair And Upgrade Of Roads In The Reid Pointe Special Tax District; To Fix The Form And Details Of The Bond; To Authorize The County Administrator Or The Lawfully-Authorized Designee To Determine Certain Matters Relating To The Bond; To Provide For The Payment Of The Bond And The Disposition Of The Proceeds Thereof; And Other Matters Relating Thereto. - John DuBose/ Francenia Heizer – pgs. 37-49

- **d.** Discussion of ending the subsidy for disposal of solid waste collected by private haulers. *Steve Willis/Jeff Catoe pg. 50*
- e. Discussion regarding final bids for Animal Shelter and additional considerations for bid phase completion *Nicholas Miller pgs. 51-56*
- f. Request to fund the purchase of 41 complete active shooter kits and Tactical helmets Sheriff Barry Faile pgs. 57-60
- g. Reallocation of resources in Public Safety Communications Steve Willis/Stephen Blackwelder pg. 61
- h. Plans for the 2019 Community Development Block Grants Steve Willis pg. 62
- i. Discussion of proceeding with developing a plan to charge Impact Fees or negotiate Development Agreements *Steve Willis pgs. 63-69*

6. Executive Session

a. Discussion regarding the development of security personnel or devices: SC Code Section 30-4-70(a)(3) - SC Code Section 30-4-70(a)(2).

7. Adjournment

Anyone requiring special services to attend this meeting should contact 285-1565 at least 24 hours in advance of this meeting.

Lancaster County Council Administration Committee agendas are posted at the Lancaster County Administration Building and are available on the Website: www.mylancastersc.org



Members of Lancaster County Council Administration Committee

Charlene McGriff, District 2, Chairwoman Steve Harper, District 5 Terry Graham, District 1

Minutes of the Lancaster County Council Administration Committee **Regular Meeting**

101 N. Main Street, Lancaster, SC 29720

Thursday, November 15, 2018

Committee members present were Charlene McGriff, Steve Harper and Terry Graham. Also present at the meeting were County Administrator Steve Willis, County Attorney John DuBose, Chief Financial Officer Veronica Thompson, Budget Analyst Kim Belk, Procurement Director Nicholas Miller, Clerk to Council Sherrie Simpson, Deputy Clerk to Council Chelsea Gardner, Stormwater Engineer Scott Edgar, EMS Director Clay Catoe, Airport Manager Paul Moses, Ken Holt of Holt Consulting Company and citizens. A quorum of the Lancaster County Administration Committee was present for the meeting.

The following press were notified of the meeting by e-mail in accordance with the Freedom of Information Act: Lancaster News, Kershaw News Era, The Rock Hill Herald, Fort Mill Times, Cable News 2, Channel 9 and the local Government Channel. The agenda was posted in the lobby of the County Administration Building and also on the county website for the required length of time.

Call to Order

Chairwoman Charlene McGriff called the meeting to order at approximately 6:00 p.m.

Approval of the agenda

Steve Harper made the motion to amend the agenda to move 5h to the beginning of the agenda. The motion was seconded by Terry Graham. The Committee approved the agenda by unanimous vote of 3-0.

Citizens Comments

There were no citizens that came forward for comments.



Approval of Minutes from the October 18, 2018 Administration Committee regular meeting

Terry Graham moved to approve the minutes from the October 18, 2018 Administration Committee regular meeting. The motion was seconded by Steve Harper. The motion to approve the October 18, 2018 Administration Committee regular meeting minutes passed by unanimous vote of 3-0.

Discussion / Action Items

Resolution 1031-R2018 regarding an Inducement Resolution for Project Mustang

Resolution Title: A Resolution To State The Commitment Of Lancaster County To Enter Into A Fee Agreement With Project Mustang; To Provide The General Terms Of The Fee Agreement Including The Provision Of Special Source Revenue Credits; To State The Commitment Of Lancaster County To Consent To The Transfer And Assignment Of An Existing Fee Agreement To Project Mustang; To Provide That This Resolution Is An Inducement Resolution; And To State The Commitment Of Lancaster County To Place Project Mustang Property In A Multi-County Park

Economic Development Director, Jamie Gilbert reviewed information in the agenda item summary which can be found on page 59 of the agenda packet.

Steve Harper made the motion to send Resolution 1031-R2018 to full Council with a positive recommendation. The motion was seconded by Terry Graham. The motion to send Resolution 1031-R2018 to full Council with a positive recommendation passed by a vote of 3-0.

Resolution 1032-R2018 regarding the Referendum on the General Obligation Bonds Resolution Title: A Resolution Declaring The Results Of A Referendum Held On November 6, 2018, On The Question Of The Issuance Of Not Exceeding \$19,000,000 General Obligation Bonds Of Lancaster County, South Carolina.

Francenia Heizer with McNair Law Firm answered any questions that the Committee had regarding the bonds and stated that generally you want to have all your bond proceeds spent within three years.

Terry Graham made the motion to send Resolution 1032-R2018 to full Council with a positive recommendation. The motion was seconded by Steve Harper. The motion to send Resolution 1032-R2018 to full Council with a positive recommendation passed by a vote of 3-0.

2 | Page

Resolution 1033-R2018 regarding Results of the Special Election regarding the Reid Pointe Special Tax District

Resolution Title: A Resolution To Publish The Results Of The Special Election Held On The Question Of Creating The Reid Pointe Special Tax District.

Francenia Heizer with McNair Law Firm discussed Resolution 1033-R2018 with the Committee and answered any questions that they Committee may have had. She stated that it would be best if all the paperwork was done by the end of the year so the bond process could begin in January.

Terry Graham made the motion to send Resolution 1033-R2018 to full Council with a positive recommendation. The motion was seconded by Steve Harper. The motion to send Resolution 1033-R2018 to full Council with a positive recommendation passed by a vote of 3-0.

Discussion of EMS Headquarters

Procurement Director, Nicholas Miller stated that they wanted to show the Committee a budget breakdown on the large bucket items and inform the Committee on the essential functions on what the facility has come to.

EMS Director, Clay Catoe went over the design of the new EMS headquarters.

Charlene McGriff asked how Council came up with the budget being one million dollars for the EMS Headquarters.

Budget Analyst, Kimberly Belk stated that the million was a combination of two things. One was the funding from the sale from the Wamsutta building. The other was the excess revenue that EMS collected in the prior fiscal year and added them together. The total wasn't quite one million but it was decided to round it up to one million.

County Administrator, Steve Willis suggested to let Nicholas Miller look at other options and work with Clay Catoe.

DHEC EMS Grant

Clay Catoe stated that this is the annual grant that EMS gets if all paperwork is done correctly and turned in on time.

Steve Harper made the motion to send to full Council with a positive recommendation. The motion was seconded by Terry Graham. The motion passed by a vote of 3-0.

Updated Airport Capital Improvement Plan (ACIP) for Lancaster County Airport – McWhirter Field (LKR).

Ken Holt indicated that the Airport comes to Council once per year for approval of an updated five (5) year Capital Improvement Plan, which the Federal Aviation Administration (FAA) requires before January. He reviewed the Lancaster County Airport (LKR) Capital Improvement Plan (CIP) FFY 2020 – FFY 2024 with the Committee members. He noted that once the CIP is approved, the Airport will submit the pre-application to the FAA and that the County Administrator will need to be able to sign the pre-application on behalf of the County.

Terry Graham moved to approve and send the updated Airport Capital Improvement Plan for Lancaster County Airport forward to full Council with a favorable recommendation from the Administration Committee. The motion was seconded by Steve Harper. The motion passed by unanimous vote of 3-0.

Discussion of 2019 calendar (Final adoption will be held at the November 26th Council Meeting)

Terry Graham made the motion to send to full Council with a favorable recommendation. Motion was seconded by Steve Harper. The motion passed by a vote of 3-0.

Resolution 1028-R2018 regarding the Authorization to Design And Construct a Fleet Maintenance Facility

Terry Graham made the motion to send to full Council with no recommendation from the Administration Committee. The motion was seconded by Steve Harper. The motion to send to full Council with no recommendation from the Administration Committee passed by a vote of 2-1. Charlene McGriff opposed.

Monthly Report and discussion of the 2019-2020 budget calendar.

Kim Belk and the Committee discussed the 2019 budget process. The Committee requested a budget workshop for the entire Council including department heads rather than only with the Administration Committee.

Kim Belk reviewed the revenues and expenditures for the month of October, 2018. The Budget Monitoring Report for October 2018 is attached as Schedule A.

Adjournment

Terry Graham moved to adjourn the Committee meeting. The motion to adjourn passed by a vote of 3-0. There being no further business, the Committee meeting adjourned.

| Respectfully Submitted: | Approved by the Administration Committee |
|-------------------------|--|
| | |
| | |
| Chelsea Gardner | |
| Deputy Clerk to Council | Charlene McGriff, Chairwoman |



Agenda Item Summary

Ordinance #: 2019-1553

Contact Person / Sponsor: John K DuBose / Frannie Heizer (McNair law firm)

Department: County Attorney

Date Requested to be on Agenda: Administration Committee – December 12, 2018

Issue for Consideration:

An Ordinance to authorize issuance and sale of general obligation bonds not to exceed \$19,000,000.00 and use of funds for recreational purposes.

Points to Consider:

The Ordinance will effectuate the Bond Referendum and will allow recreation projects to proceed after the issuance and sale of the bonds.

Funding and Liability Factors:

Repayment of bonds.

Council Options:

To pass or not pass the Ordinance.

Recommendation:

Passage of the Ordinance. Positive recommendation to County Council.

| STATE OF SOUTH CAROLINA |) | |
|-------------------------|---|--------------------------------|
| |) | ORDINANCE NO. 2019-1553 |
| COUNTY OF LANCASTER |) | |

AN ORDINANCE

AUTHORIZING THE ISSUANCE AND SALE OF GENERAL OBLIGATION BONDS, SERIES 2019A OR SUCH OTHER APPROPRIATE SERIES DESIGNATION, OF LANCASTER COUNTY, SOUTH CAROLINA, IN THE PRINCIPAL AMOUNT OF NOT EXCEEDING \$19,000,000; FIXING THE FORM AND DETAILS OF THE BONDS; AUTHORIZING THE COUNTY ADMINISTRATOR OR HIS LAWFULLY AUTHORIZED DESIGNEE TO DETERMINE CERTAIN MATTERS RELATING TO THE BONDS; PROVIDING FOR THE PAYMENT OF THE BONDS AND THE DISPOSITION OF THE PROCEEDS THEREOF; AND OTHER MATTERS RELATING THERETO.

Be it ordained by the Council of Lancaster County, South Carolina:

SECTION 1. Definitions. Unless the context shall clearly indicate some other meaning, the terms defined in this Section shall have, for all purposes of this Ordinance, the meanings hereinafter specified, with the definitions equally applicable to both the singular and plural forms and vice versa. The term:

"Beneficial Owner" shall mean any purchaser who acquires beneficial ownership interest in an Initial Bond held by the Depository. In determining any Beneficial Owner, the County, the Registrar and the Paying Agent may rely exclusively upon written representations made and information given to the County, the Registrar and the Paying Agent, as the case may be, by the Depository or its Participants with respect to any Bonds held by the Depository or its Participants in which a beneficial ownership interest is claimed.

"Bonds" shall mean the not to exceed \$19,000,000 general obligation bonds authorized herein.

"Book-Entry Form" or "Book-Entry System" shall mean with respect to the Bonds, a form or system, as applicable, under which (a) the ownership of beneficial interests in the Bonds may be transferred only through a book-entry; and (b) physical Bonds certificates in fully registered form are registered only in the name of the Depository or its nominees as Holder, with the physical Bonds certificates "immobilized" in the custody of the Depository. The book-entry maintained by the Depository is the record that identifies the owners of participatory interests in the Bonds when subject to the Book-Entry System.

"Books of Registry" shall mean the registration books maintained by the Registrar in accordance with Section 5 hereof.

"Code" shall mean the Internal Revenue Code of 1986, as amended.

"County" shall mean Lancaster County, South Carolina.

"County Council" shall mean the County Council of Lancaster County, South Carolina.

"Depository" shall mean any securities depository that is a "clearing corporation" within the meaning of the New York Uniform Commercial Code and a "clearing agency" registered pursuant to the provisions of Section 17A of the Securities Exchange Act of 1934, operating and maintaining, with its Participants or otherwise, a Book-Entry System to record ownership of beneficial interests in the Bonds, and to effect transfers of the Bonds in Book-Entry Form, and includes and means initially The Depository Trust Company, New York, New York.

"Government Obligations" shall mean (1) cash; (2) United States Treasury Obligations – State and Local Government Series; (3) United States Treasury bills, notes, bonds or zero coupon treasury bonds all as traded on the open market; (4) direct obligations of the U.S. Treasury which have been stripped by the Treasury itself, including CATS, TIGRS and similar securities; (5) obligations of any agencies or instrumentalities which are backed by the full faith and credit of the United States of America; (6) bonds or debentures issued by any Federal Home Loan Bank or consolidated bonds or debentures issued by the Federal Home Loan Bank Board; (7) prefunded municipal bonds which are rated in the triple A category by Moody's Investors Service or Standard & Poor's Rating Service; (8) general obligations of the State or any of its political units; or (9) any legally permissible combination of any of the foregoing. Government Obligations must be redeemable only at the option of holder thereof.

"Holders" shall mean the registered owner or owners of any outstanding Bonds.

"Initial Bonds" shall mean the Bonds initially issued in Book-Entry Form as provided in Section 14 hereof.

"<u>Letter of Representations</u>" shall mean the Letter of Representations executed and delivered by the County to the Depository.

"Ordinance" shall mean this Ordinance No. 2019-1553.

"Participant" shall mean any bank, brokerage house or other financial institution for which, from time to time, the Depository effects book-entry transfers and pledges of securities deposited with the Depository.

"Paying Agent" shall mean Regions Bank, Atlanta, Georgia.

"Project" shall mean the recreational projects approved in the November 6, 2018, referendum.

"Record Date" shall mean the fifteenth (15th) day (whether or not a business day) preceding an interest payment date on the Bonds or in the case of any proposed redemption of Bonds, such record date shall be the fifteenth (15th) day (whether or not a business day) prior to the giving of notice of redemption of Bonds.

"Registrar" shall mean the bank, trust company, depository or transfer agent or the County Treasurer designated as registrar pursuant to this Ordinance.

"S.C. Code" shall mean the Code of Laws of South Carolina 1976, as amended.

"State" shall mean the State of South Carolina.

SECTION 2. Findings and Determinations. The County Council hereby finds and determines:

- (a) Pursuant to Section 4-9-10, Code of Laws of South Carolina 1976, as amended, and the results of a referendum held in accordance therewith, the Council-Administrator form of government was adopted and the County Council constitutes the governing body of the County.
- (b) Article X, Section 14 of the Constitution of the State of South Carolina 1895, as amended (the "Constitution") provides that each county shall have the power to incur bonded indebtedness in such manner and upon such terms and conditions as the General Assembly shall prescribe by general law within the limitations set forth therein and in Section 12 of Article X. Article X, Section 14 further provides that if general obligation debt is authorized by a majority vote of the qualified electors of a county voting in a referendum authorized by law, there shall be no conditions or restrictions limiting the incurring of such indebtedness except as specified in Article X.
- (c) Pursuant to Title 4, Chapter 15 of the Code (the same being and hereinafter referred to as the "County Bond Act"), the governing bodies of the several counties of the State may each issue general obligation bonds to defray the cost of any authorized purpose and for any amount not exceeding its applicable constitutional limit.
- (d) The County Bond Act provides that as a condition precedent to the issuance of bonds an election be held and the result be favorable thereto. Title 11, Chapter 27 of the Code of Laws of South Carolina 1976, as amended, provides that if an election be prescribed by the provisions of the County Bond Act, but not be required by the provisions of Article X of the Constitution, then in every such instance, no election need be held (notwithstanding the requirement therefor) and the remaining provisions of the County Bond Act shall constitute a full and complete authorization to issue bonds in accordance with such remaining provisions.
- (e) In a referendum (the "Referendum") held in the County on November 6, 2018, the following question was submitted to the qualified electors of the County:

Shall the County Council of Lancaster County, South Carolina (the "County") be empowered to issue, in one or more series, in one or more years, general obligation bonds of the County, in the principal amount of not exceeding \$19,000,000, the proceeds of which shall be used to finance the costs (including architectural, engineering, legal and related fees) of the following projects:

Addition to Indian Land Recreation Center;

Construction of and equipping of Harrisburg Road Soccer Complex;

Construction of Lindsay Pettus Greenway Phase I;

Renovations to Barr Street Auditorium; and

Construction of and equipping of Heath Springs Soccer Complex?

The Referendum was duly conducted and a majority of the qualified electors of the County voted in favor of the issuance of the general obligation bonds.

(f) It is now in the best interest of the County for Council to provide for the issuance and sale of not exceeding \$19,000,000 principal amount general obligation bonds of the County to provide funds for (i) funding the Project; (ii) paying costs of issuance of the Bonds (hereinafter defined); and (iii) such other lawful purposes as the County Council shall determine.

(g) Pursuant to Ordinance No. 2015-1335 duly enacted on February 23, 2015, the County adopted Written Procedures related to Tax-Exempt Debt and Continuing Disclosure.

SECTION 3. Authorization and Details of Bonds. Pursuant to the aforesaid provisions of the Constitution and laws of the State, there is hereby authorized to be issued not exceeding \$19,000,000 aggregate principal amount of general obligation bonds of the County to be designated "\$19,000,000 (or such lesser amount issued) General Obligation Bonds (appropriate series designation), of Lancaster County, South Carolina" (the "Bonds"), for the purposes set forth in Section 2(f) and other costs incidental thereto, including without limiting the generality of such other costs, engineering, financial and legal fees.

The Bonds shall be issued as fully registered bonds registerable as to principal and interest; shall be dated their date of delivery to the initial purchaser(s) thereof; shall be in denominations of \$5,000 or any integral multiple thereof not exceeding the principal amount of Bonds maturing each year; shall be subject to redemption if such provision is in the best interest of the County; shall be numbered from R-1 upward; shall bear interest from their date payable at such times as hereinafter designated by the County Administrator and/or his lawfully-authorized designee at such rate or rates as may be determined at the time of the sale thereof; and shall mature serially in successive annual installments as determined by the County Administrator and/or his lawfully-authorized designee.

Both the principal of and interest on the Bonds shall be payable in any coin or currency of the United States of America which is, at the time of payment, legal tender for public and private debts. Regions Bank, Atlanta, Georgia shall be a bank, trust company, depository or transfer agent located either within or without the State.

SECTION 4. Delegation of Authority to Determine Certain Matters Relating to the Bonds. Without further authorization, the County Council hereby delegates to the County Administrator or his lawfully-authorized designee the authority to determine: (a) the par amount of the Bonds; (b) the maturity dates of the Bonds and the respective principal amounts maturing on such dates; (c) the interest payment dates of the Bonds; (d) redemption provisions, if any, for the Bonds; (e) the date and time of sale of the Bonds; (f) the authority to receive bids on behalf of the County Council; (g) the authority to award the sale of the Bonds to the lowest bidder therefor in accordance with the terms of the Notice of Sale for the Bonds; and (h) whether the Bonds should be sold together with general obligation refunding bonds to be issued by the County pursuant to separate ordinances.

After the sale of the Bonds, the County Administrator and/or his lawfully-authorized designee shall submit a written report to County Council setting forth the details of the Bonds as set forth in this paragraph.

SECTION 5. Registration, Transfer and Exchange of Bonds. The County shall cause books (herein referred to as the "registry books") to be kept at the offices of the Registrar/Paying Agent, for the registration and transfer of the Bonds. Upon presentation at its office for such purpose the Registrar/Paying Agent shall register or transfer, or cause to be registered or transferred, on such registry books, the Bonds under such reasonable regulations as the Registrar/Paying Agent may prescribe.

Each Bond shall be transferable only upon the registry books of the County, which shall be kept for such purpose at the principal office of the Registrar/Paying Agent, by the registered owner thereof in person or by his duly authorized attorney upon surrender thereof together with a written instrument of transfer satisfactory to the Registrar/Paying Agent duly executed by the registered owner or his duly authorized attorney. Upon the transfer of any such Bond the Registrar/Paying Agent on behalf of the County shall issue in the name of the transferee a new fully registered Bond or Bonds, of the same

aggregate principal amount, interest rate, and maturity as the surrendered Bond. Any Bond surrendered in exchange for a new registered Bond pursuant to this Section shall be canceled by the Registrar/Paying Agent.

The County and the Registrar/Paying Agent may deem or treat the person in whose name any fully registered Bond shall be registered upon the registry books as the absolute owner of such Bond, whether such Bond shall be overdue or not, for the purpose of receiving payment of the principal of and interest on such Bond and for all other purposes and all such payments so made to any such registered owner 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 neither the County nor the Registrar/Paying Agent shall be affected by any notice to the contrary. In all cases in which the privilege of transferring Bonds is exercised, the County shall execute and the Registrar/Paying Agent shall authenticate and deliver Bonds in accordance with the provisions of this Ordinance. Neither the County nor the Registrar/Paying Agent shall be obligated to make any such transfer of Bonds during the fifteen (15) days preceding an interest payment date on such Bonds.

SECTION 6. Record Date. The County hereby establishes a record date for the payment of interest or for the giving of notice of any proposed redemption of Bonds, and such record date shall be the fifteenth (15th) day (whether or not a business day) preceding an interest payment date on such Bond or in the case of any proposed redemption of Bonds, such record date shall be the fifteenth (15th) day (whether or not a business day) prior to the giving of notice of redemption of bonds.

SECTION 7. Mutilation, Loss, Theft or Destruction of Bonds. In case any Bond shall at any time become mutilated in whole or in part, or be lost, stolen or destroyed, or be so defaced as to impair the value thereof to the owner, the County shall execute and the Registrar shall authenticate and deliver at the principal office of the Registrar, or send by registered mail to the owner thereof at his request, risk and expense a new Bond of the same series, interest rate and maturity and of like tenor and effect in exchange or substitution for and upon the surrender for cancellation of such defaced, mutilated or partly destroyed Bond, or in lieu of or in substitution for such lost, stolen or destroyed Bond. In any such event the applicant for the issuance of a substitute Bond shall furnish the County and the Registrar evidence or proof satisfactory to the County and the Registrar of the loss, destruction, mutilation, defacement or theft of the original Bond, and of the ownership thereof, and also such security and indemnity in an amount as may be required by the laws of the State or such greater amount as may be required by the County and the Registrar. Any duplicate Bond issued under the provisions of this Section in exchange and substitution for any defaced, mutilated or partly destroyed Bond or in substitution for any allegedly lost, stolen or wholly destroyed Bond shall be entitled to the identical benefits under this Ordinance as was the original Bond in lieu of which such duplicate Bond is issued, and shall be entitled to equal and proportionate benefits with all the other Bonds of the same series issued hereunder.

All expenses necessary for the providing of any duplicate Bond shall be borne by the applicant therefor.

SECTION 8. Execution of Bonds. The Bonds shall be executed in the name of the County with the manual or facsimile signature of the Chair of the County Council attested by the manual or facsimile signature of the Clerk to the County Council under a facsimile of the seal of the County impressed, imprinted or reproduced thereon; provided, however, the facsimile signatures appearing on the Bonds may not be those of the officers who are in office on the date of enactment of this Ordinance. The execution of the Bonds in such fashion shall be valid and effectual, notwithstanding any subsequent change in such offices. The Bonds shall not be valid or become obligatory for any purpose unless there shall have been endorsed thereon a certificate of authentication. Each Bond shall bear a certificate of authentication manually executed by the Registrar in substantially the form set forth herein.

<u>SECTION 9</u>. <u>Form of Bonds</u>. The Bonds and the certificate of authentication shall be in substantially the form set forth in Exhibit A attached hereto and incorporated herein by reference.

SECTION 10. Security for Bonds. The full faith, credit, and taxing power of the County are hereby irrevocably pledged for the payment of the principal of and interest on the Bonds as they respectively mature, and for the creation of such sinking fund as may be necessary therefor. There shall be levied annually by the County Auditor and collected by the County Treasurer, in the same manner as other county taxes are levied and collected, a tax, without limit, on all taxable property in the County sufficient to pay the principal of and interest on the Bonds as they respectively mature and to create such sinking fund as may be necessary therefor.

The County Council shall give the County Auditor and County Treasurer written notice of the delivery of and payment for the Bonds and they are hereby directed to levy and collect annually, on all taxable property in the County, a tax, without limit, sufficient to pay the principal of and interest on the Bonds as they respectively mature and to create such sinking fund as may be necessary therefor.

<u>SECTION 11.</u> Notice of Public Hearing. The County Council hereby ratifies and approves the publication of a notice of public hearing regarding the Bonds and this Ordinance, such notice in substantially the form attached hereto as Exhibit B, having been published in <u>The Lancaster News</u>, a newspaper of general circulation in the County, not less than 15 days prior to the date of such public hearing.

SECTION 12. Exemption from State Taxes. Both the principal of and interest on the Bonds shall be exempt, in accordance with the provisions of Section 12-2-50 of the S.C. Code from all State, county, municipal, and all other taxes or assessments, except estate or other transfer taxes, direct or indirect, general or special, whether imposed for the purpose of general revenue or otherwise.

SECTION 13. Tax Covenants. The County hereby covenants and agrees with the Holders of the Bonds that it will not take any action which will, or fail to take any action which failure will, cause interest on the Bonds to become includable in the gross income of the Bondholders for federal income tax purposes pursuant to the provisions of the Code and regulations promulgated thereunder in effect on the date of original issuance of the Bonds. The County further covenants and agrees with the holders of the Bonds that no use of the proceeds of the Bonds shall be made which, if such use had been reasonably expected on the date of issue of the Bonds would have caused the Bonds to be "arbitrage bonds," as defined in Section 148 of the Code, and to that end the County hereby shall:

- (a) comply with the applicable provisions of Sections 103 and 141 through 150 of the Code and any regulations promulgated thereunder so long as the Bonds are outstanding;
- (b) establish such funds, make such calculations and pay such amounts, in the manner and at the times required in order to comply with the requirements of the Code relating to required rebates of certain amounts to the United States; and
 - (c) make such reports of such information at the time and places required by the Code.

<u>SECTION 14.</u> <u>Book-Entry System</u>. The "Initial Bonds" will be eligible securities for the purposes of the book-entry system of transfer maintained by The Depository Trust Company, New York, New York ("DTC"), and transfers of beneficial ownership of the Initial Bonds shall be made only through DTC and its participants in accordance with rules specified by DTC. Such beneficial ownership must be of \$5,000 principal amount of Bonds of the same maturity or any integral multiple of \$5,000.

The Initial Bonds shall be issued in fully-registered form, one Bond for each of the maturities of the Bonds, in the name of Cede & Co., as the nominee of DTC. When any principal of or interest on the Initial Bonds becomes due, the Paying Agent, on behalf of the County, shall transmit to DTC an amount equal to such installment of principal and interest. DTC shall remit such payments to the beneficial owners of the Bonds or their nominees in accordance with its rules and regulations.

Notices of redemption of the Initial Bonds or any portion thereof shall be sent to DTC in accordance with the provisions of the Ordinance.

If (a) DTC determines not to continue to act as securities depository for the Bonds, or (b) the County has advised DTC of its determination that DTC is incapable of discharging its duties, the County shall attempt to retain another qualified securities depository to replace DTC. Upon receipt by the County of the Initial Bonds together with an assignment duly executed by DTC, the County shall execute and deliver to the successor securities depository Bonds of the same principal amount, interest rate, and maturity registered in the name of such successor.

If the County is unable to retain a qualified successor to DTC or the County has determined that it is in its best interest not to continue the book-entry system of transfer or that interests of the beneficial owners of the Bonds might be adversely affected if the book-entry system of transfer is continued (the County undertakes no obligation to make any investigation to determine the occurrence of any events that would permit it to make any such determination), and has made provision to so notify beneficial owners of the Bonds by mailing an appropriate notice to DTC, upon receipt by the County of the Initial Bonds together with an assignment duly executed by DTC, the County shall execute, authenticate and deliver to the DTC participants Bonds in fully-registered form, in substantially the form set forth in Section 8 of this Ordinance in the denomination of \$5,000 or any integral multiple thereof.

Notwithstanding the foregoing, at the request of the purchaser, the Bonds will be issued as one single fully-registered bond and not issued through the book-entry system.

SECTION 15. Sale of Bonds, Form of Notice of Sale. The Bonds shall be offered for public sale on the date and at the time designated by the County Administrator and/or his lawfully-authorized designee. A Notice of Sale in substantially the form set forth as Exhibit C attached hereto and incorporated herein by reference shall be distributed to prospective bidders and a summary of such Notice of Sale shall be published in a newspaper of general circulation in the State and/or in a financial publication published in the City of New York not less than seven (7) days prior to the date set for such sale.

SECTION 16. Preliminary and Final Official Statement. The County Council hereby authorizes and directs the County Administrator and/or his lawfully-authorized designee to prepare, or cause to be prepared, a Preliminary Official Statement to be distributed to prospective purchasers of the Bonds together with the Notice of Sale. The County Council authorizes the County Administrator to designate the Preliminary Official Statement as "final" for purposes of Rule 15c2-12 of the Securities and Exchange Commission (the "Rule"). The County Administrator and/or his lawfully-authorized designee are further authorized to see to the completion of the final form of the Official Statement upon the sale of the Bonds so that it may be provided to the purchaser of the Bonds.

SECTION 17. Filings with Central Repository. In compliance with Section 11-1-85, South Carolina Code of Laws 1976, as amended, the County covenants that it will file or cause to be filed with a central repository for availability in the secondary bond market when requested: (a) a copy of the annual financial report of the County within thirty (30) days from the County's receipt thereof; and (b) within

thirty (30) days of the occurrence thereof, relevant information of an event which adversely affects more than five (5%) percent of the revenues of the County or the County's tax base.

SECTION 18. Continuing Disclosure. In compliance with the Rule, the County covenants and agrees for the benefit of the holders from time to time of the Bonds to execute and deliver prior to closing, and to thereafter comply with the terms of a Continuing Disclosure Certificate in substantially the form appearing as Exhibit D attached to this Ordinance. In the event of a failure of the County to comply with any of the provisions of the Continuing Disclosure Certificate, an event of default under this Ordinance shall not be deemed to have occurred. In such event, the sole remedy of any bondholder or beneficial owner shall be an action to compel performance by this Ordinance.

SECTION 19. Deposit and Use of Proceeds. The proceeds derived from the sale of the Bonds shall be deposited with the County Treasurer in a special fund and shall be applied solely to the purposes for which the Bonds have been issued, including payment of costs of issuance of the Bonds, except that any premium shall be placed in the sinking fund established for the Bonds.

SECTION 20. <u>Defeasance</u>. The obligations of the County under this Ordinance and the pledges, covenants and agreements of the County herein made or provided for, shall be fully discharged and satisfied as to any portion of the Bonds, and such Bond or Bonds shall no longer be deemed to be outstanding hereunder when:

- (a) such Bond or Bonds shall have been purchased by the County and surrendered to the County for cancellation or otherwise surrendered to the County or the Paying Agent and is cancelled or subject to cancellation by the County or the Paying Agent; or
- (b) payment of the principal of and interest on such Bonds either (i) shall have been made or caused to be made in accordance with the terms thereof, or (ii) shall have been provided for by irrevocably depositing with a corporate trustee in trust and irrevocably set aside exclusively for such payment, (1) moneys sufficient to make such payment, or (2) Government Obligations maturing as to principal and interest in such amounts and at such times as will ensure the availability of sufficient moneys to make such payment and all necessary and proper fees, compensation and expenses of the corporate trustee. At such time as the Bonds shall no longer be deemed to be outstanding hereunder, such Bonds shall cease to draw interest from the due date thereof and, except for the purposes of any such payment from such moneys or Government Obligations, shall no longer be secured by or entitled to the benefits of this Ordinance.
- (c) Such Bond or Bonds shall be defeased as provided in Section 11-14-110 of the S.C. Code as such may be amended from time to time.

SECTION 21. Declaration of Intent to Reimburse Certain Expenditures. The County Council hereby declares that this Ordinance shall constitute its declaration of official intent pursuant to Regulation § 1.150-2 to reimburse the County from the proceeds of tax-exempt debt in the form of general obligation bonds of the County to be issued pursuant to the Constitution, the County Bond Act and Title 11, Chapter 27, for expenditures with respect to the Bond-approved Project (the "Expenditures"). The County anticipates incurring Expenditures with respect to the Bond-approved Project prior to the issuance by the County of the Bonds. To be eligible for reimbursement of the Expenditures, the reimbursement allocation must be made not later than 18 months after the later of (a) the date on which the Expenditures were paid, or (b) the date the Project was placed in service, but in no event more than three (3) years after the original Expenditures. The Expenditures are incurred solely to acquire, construct or rehabilitate property having a reasonably expected economic life of at least one (1) year. The source of funds for the Expenditures with respect to the Project will be the County's general funds.

SECTION 22. Miscellaneous. The County Council hereby authorizes the County Administrator, Chair of the County Council, the Clerk to the County Council and County Attorney to execute such documents and instruments as necessary to effect the issuance of the Bonds. The County Council hereby retains Burr & Forman LLP, as bond counsel and Compass Municipal Advisors, LLC, as financial advisor, in connection with the issuance of the Bonds. The County Administrator is authorized to execute such contracts, documents or engagement letters as may be necessary and appropriate to effectuate these engagements.

All rules, regulations, resolutions, and parts thereof, procedural or otherwise, in conflict herewith or the proceedings authorizing the issuance of the Bonds are, to the extent of such conflict, hereby repealed and this Ordinance shall take effect and be in full force from and after its enactment.

| En | acted this | day of | | , 2019. |
|---|--|----------|--|-----------------------|
| | | LANC | ASTER COU | NTY, SOUTH CAROLINA |
| | | Steve H | Iarper, Chair, C | County Council |
| | | Larry H | Ioneycutt, Secr | etary, County Council |
| Attest: | | | | |
| | | | | |
| Sherrie Simpson, Clerk to | Council | | | |
| Date of First Reading: Date of Second Reading: Date of Public Hearing: Date of Third Reading: | January 14, 201 January 28, 201 January 28, 201 February 11, 20 | 19 19 | (Tentative) (Tentative) (Tentative) (Tentative) | |
| Approved as to form: | | | | |
| County Attorney | | | | |
| County Attorney | | | | |

Exhibit A

FORM OF BOND

UNITED STATES OF AMERICA STATE OF SOUTH CAROLINA LANCASTER COUNTY GENERAL OBLIGATION BOND, SERIES 2019A

No. R-1

| INTEREST <u>RATE</u> | MATURITY <u>DATE</u> | | RIGINAL SUE DATE | <u>CUSIP</u> |
|--|---|--|---|---|
| | | | | |
| REGISTERED HOLDER: | | | | |
| PRINCIPAL AMOUNT: _ | | (\$ |) Dollars | |
| "County"), is justly indeb specified above, or register above, upon presentation a City of, State amount from the date here this Bond is payable | ted and, for value reced assigns, the principand surrender of this of (the per ann 1, 20, and see | ceived, hereby pal amount specal amount specal Bond at the property of the "Paying Age aum specified a miannually on _ | promises to pay to cified above on the mincipal office of ent"), and to pay interbove until this Bond 1 and | naturity date specified, in the rest on such principal matures. Interest on 1 of each |
| year thereafter, until this I whose name this Bond is it | | | | |
| presently and the fi | | | | |
| close of business on the fi | pal of and interest or | n this Bond ar | e payable in any co | oin or currency of the |
| United States of America provided, however, that int | | | | |

This Bond shall not be entitled to any benefit under the Ordinance (hereafter defined), nor become valid or obligatory for any purpose, until the certificate of authentication hereon shall have been duly executed by the Registrar.

For the payment hereof, both principal and interest, as they respectively mature and for the creation of such sinking fund as may be necessary therefor, the full faith, credit and taxing power of the County are irrevocably pledged and there shall be levied annually by the Auditor of the County and collected by the Treasurer of the County, in the same manner as other county taxes are levied and collected, a tax, without limit, on all taxable property in the County sufficient to pay the principal of and interest on this Bond as they respectively mature and to create such sinking fund as may be necessary therefor.

above.

| | of like date of original issue, tenor and effect, except as to demption provisions, and rate of interest, aggregating |
|--|---|
| Dollars (\$ |), issued pursuant to and in accordance with the rolina, including Article X of the Constitution of the State |
| of South Carolina, 1895, as amended; Title 4 | , Chapter 15, Code of Laws of South Carolina 1976, as of South Carolina 1976, as amended; and Ordinance No |
| [Redemption Provisions] | |
| for that purpose at the principal office of the Rauthorized attorney upon surrender of this Bond to the Registrar duly executed by the registered fully registered Bond or Bonds of the same provisions, if any, and maturity shall be issued Ordinance. The County, the Registrar and the | In the Ordinance, only upon the books of the County kept Registrar by the registered holder in person or by his duly I together with a written instrument of transfer satisfactory I holder or his duly authorized attorney. Thereupon a new e aggregate principal amount, interest rate redemption I to the transferee in exchange therefor as provided in the e Paying Agent may deem and treat the person in whose where hereof for the purpose of receiving payment of or on hereon and for all other purposes. |
| exempt from all State, county, municipal, Count | arolina (the "State"), this Bond and the interest hereon are ty and all other taxes or assessments, except estate or other ial, whether imposed for the purpose of general revenue or |
| and laws of the State to exist, to happen and to exist, have happened and have been performed law; that the amount of this Bond, together with applicable limitation of indebtedness under the levy and collection of a tax, without limit, on | Il acts, conditions and things required by the Constitution be performed precedent to or in the issuance of this Bond in regular and due time, form and manner as required by all other indebtedness of the County, does not exceed the laws of the State; and that provision has been made for the all taxable property in the County sufficient to pay the ame shall respectively mature and to create such sinking |
| Bond to be signed with the manual or facsimile | TER COUNTY, SOUTH CAROLINA, has caused this signature of the Chair of the County Council, attested by rk to the County Council and the seal of the County |
| | LANCASTER COUNTY, SOUTH CAROLINA |
| (SEAL) ATTEST: | Chair, County Council |
| Clerk, County Council | |

[FORM OF REGISTRAR'S CERTIFICATE OF AUTHENTICATION]

| Date of Authentication: | |
|---|---|
| This bond is one of the Bond County, South Carolina. | ds described in the within mentioned Ordinance of Lancaster |
| | as Registrar |
| | By: |
| | Authorized Officer |
| | when used in the inscription on the face of this Bond shall in full according to applicable laws or regulations. |
| TEN COM - As tenants in common | UNIF GIFT MIN. ACT |
| TEN ENT - As tenants by the | Custodian |
| entireties | (Cust.) (Minor) |
| JT TEN - As joint tenants with right of survivorship and not as tenants in common | under Uniform Gifts to Minors (State) |
| Additional abbreviations may also be | used though not in list above. |
| [FORM | I OF ASSIGNMENT] |
| FOR VALUE RECEIVED, th | e undersigned sells, assigns and transfers unto |
| the within Bond and does hereby irrevocab | d address of Transferee) oly constitute and appoint attorney to or registration thereof, with full power of substitution in the |
| Signature Guaranteed: | (Authorizing Officer) |
| Signature(s) must be guaranteed by an institution which is a participant in the Securities Transfer Agents Medallion Program ("STAMP") or similar program. | NOTICE: The signature to this agreement this agreement must correspond with the name of the registered holder as it appears upon the face of the within Bond in every particular, without alteration or enlargement or any change whatever. |

A copy of the final approving opinion to be rendered shall be attached to each Bond and preceding the same a certificate shall appear, which shall be signed on behalf of the County with a manual or facsimile signature of the Clerk to the County Council. The certificate shall be in substantially the following form:

[FORM OF CERTIFICATE]

IT IS HEREBY CERTIFIED that the following is a true and correct copy of the complete final approving opinion (except for date and letterhead) of McNair Law Firm, P.A., Columbia, South Carolina, approving the issue of Bonds of which the within Bond is one, the original of which opinion was manually executed, dated and issued as of the date of delivery of and payment for the Bonds and a copy of which is on file with the County Council of Lancaster County, South Carolina.

LANCASTER COUNTY, SOUTH CAROLINA

| By:_ | | |
|------|--------|----------------|
| _ | Clerk, | County Council |

Exhibit B

FORM OF NOTICE OF PUBLIC HEARING

NOTICE OF PUBLIC HEARING

Notice is hereby given that a public hearing will be held by the County Council of Lancaster County, South Carolina (the "County"), in County Council Chambers located at 101 N. Main Street, Lancaster, South Carolina, at 6:30 p.m. or as soon thereafter as possible, on Monday, ________, 2019, or at such other location as proper notice on the main entrance to the said building might specify.

The purpose of the public hearing is to consider an Ordinance providing for the issuance and sale of General Obligation Bonds, Series 2019A, or such other appropriate series designation, of Lancaster County, South Carolina, in the principal amount of not exceeding \$19,000,000 (the "Bonds"). The proceeds of the Bonds will be used for (i) funding referendum-approved recreational projects; (ii) paying the costs of issuance of the Bonds; and (iii) such other lawful purposes as the County Council shall determine.

The full faith, credit, and taxing power of the County will be pledged for the payment of the principal of and interest on the Bonds and a tax, without limit, will be levied on and collected annually, in the same manner other County taxes are levied and collected, on all taxable property of the County sufficient to pay to principal of and interest on the Bonds as they respectively mature and to create such sinking fund as may be necessary therefor.

At the public hearing all taxpayers and residents of the County and any other interested persons who appear will be given an opportunity to express their views for or against the Ordinance and the issuance of the Bonds.

COUNTY COUNCIL OF LANCASTER COUNTY, SOUTH CAROLINA

FORM OF OFFICIAL NOTICE OF SALE

OFFICIAL NOTICE OF SALE

| \$ GENERAL OBLIGATION BONDS, SERIES 2019A, OF LANCASTER COUNTY, SOUTH CAROLINA |
|---|
| Time and Place of Sale: NOTICE IS HEREBY GIVEN that sealed bids, facsimile bids at electronic bids will be received on behalf of Lancaster County, South Carolina (the "County"), in the offices of the County Administrator, Lancaster County Administration Building, 101 N. Main Street Lancaster County, South Carolina, until 11:00 a.m. South Carolina time, on |
| <u>Electronic Bids:</u> Electronic proposals must be submitted through i-Deal's Parity Electronic B Submission System ("Parity"). No electronic bids from any other providers of electronic bidding service will be accepted. Information about the electronic bidding services of Parity may be obtained from Deal, 1359 Broadway, 2 nd Floor, New York, New York 10018, Customer Support, telephone (212) 845 5021. |
| PROPOSALS MAY BE DELIVERED BY HAND, BY MAIL, OR BY ELECTRONIC BID BUT NO PROPOSAL SHALL BE CONSIDERED WHICH IS NOT ACTUALLY RECEIVED BE THE COUNTY AT THE PLACE, DATE AND TIME APPOINTED, AND THE COUNTY SHALL NOT BE RESPONSIBLE FOR ANY FAILURE, MISDIRECTION, DELAY OR ERRORESULTING FROM THE SELECTION BY ANY BIDDER OF ANY PARTICULAR MEANS OF DELIVERY OF BIDS. |
| Book-Entry-Only Bonds: The Bonds will be issued in fully-registered form. One Bor representing each maturity will be issued to and registered in the name of Cede & Co., as nominee of The Depository Trust Company, New York, New York ("DTC"), as registered owner of the Bonds and each such Bond will be immobilized in the custody of DTC. DTC will act as securities depository for the Bonds. Individual purchases will be made in book-entry form only, in the principal amount of \$5,000 cany integral multiple thereof not exceeding the principal amount of Bonds maturing each year; Purchase will not receive physical delivery of certificates representing their interest in the Bonds purchased. The winning bidder, as a condition to delivery of the Bonds, will be required to deposit the Bond certificates representing each maturity with DTC. |
| The Bonds will be issued in fully-registered form registered as to principal and interest; will be dated, 2016; will be in denominations of \$5,000 or any integral multiple thereof no exceeding the principal amount of Bonds maturing in each year; and will mature serially in successive annual installments on in each of the years and in the principal amounts as follows: |
| Year Principal Amount* Year Principal Amount* |
| *Preliminary, subject to adjustment. |

C-1

Adjustment of Maturity Schedule. The County reserves the right, in its sole discretion, either to decrease or increase the principal amount of the Bonds maturing in any year (all calculations to be rounded to the near \$5,000), provided that any such decrease or increase shall not exceed 15% of the Bonds. Such adjustment(s), if any, shall be made within twenty-four (24) hours of the award of the Bonds. In order to calculate the yield on the Bonds for federal tax law purposes and as a condition precedent to the award of the Bonds, bidders must disclose to the County in connection with their respective bids the price (or yield to maturity) at which each maturity of the Bonds will be reoffered to the public.

In the event of any adjustment of the maturity schedule for the Bonds as described herein, no rebidding or recalculation of the proposals submitted will be required or permitted. Nevertheless, the award of the Bonds will be made to the bidder whose proposal produces the lowest true interest cost solely on the basis of the Bonds offered, without taking into account any adjustment in the amount of the Bonds pursuant to this paragraph.

| The Bonds will bear interest from the date the | nereof payable semiannually on | and |
|--|--------------------------------|-----|
| of each year, commencing | , until they mature. | |

[Redemption Provisions]

Registrar/Paying Agent: Within twenty-four (24) hours of the sale of the Bonds, the School District will designate a registrar and paying agent ("Registrar/Paying Agent") for the Bonds. The Registrar/Paying Agent is a bank, trust company, depository or transfer agent organized under the laws of the State of South Carolina or the laws of the United States of America.

Bid Requirements: Bidders shall specify the rate or rates of interest per annum which the Bonds are to bear, to be expressed in multiples of 1/20 or 1/8 of 1% with no greater difference than three percent (3%) between the highest and lowest rates of interest named by a bidder. Bidders are not limited as to the number of rates of interest named, but the rate of interest on each separate maturity must be the same single rate for all Bonds of that maturity from their date to such maturity date. A BID FOR LESS THAN ALL THE BONDS OR A BID AT A PRICE LESS THAN PAR WILL NOT BE CONSIDERED.

Award of Bid. The Bonds will be awarded to the bidder or bidders offering to purchase the Bonds at the lowest true interest cost (TIC) to the County. The TIC will be the nominal interest rate which, when compounded semiannually and used to discount all debt service payments on the Bonds (computed at the interest rates specified in the bid and on the basis of a 360-day year of twelve 30-day months) to the dated date of the Bonds, results in an amount equal to the price bid for the Bonds. In the case of a tie bid, the winning bid will be awarded by lot. The County reserves the right to reject any and all bids or to waive irregularities in any bid. Bids will be accepted or rejected no later than 3:00 p.m., South Carolina time, on the date of the sale.

Security: The full faith, credit, and taxing power of the County are hereby irrevocably pledged for the payment of the principal of and interest on the Bonds as they respectively mature, and for the creation of such sinking fund as may be necessary therefor. There shall be levied annually by the Auditor of the County and collected by the Treasurer of the County, in the same manner as other county taxes are levied and collected, an ad valorem tax, without limit, on all taxable property in the County sufficient to

pay the principal and interest of the Bonds as they respectively mature and to create such sinking fund as may be necessary therefor.

Good Faith Deposit: No good faith deposit is required.

Bid Form: Proposals should be enclosed in a separate sealed envelope marked "Proposal for \$______ General Obligation Bonds, Series 2019A of Lancaster County, South Carolina" and should be directed to the County Administrator at the address in the first paragraph hereof. It is requested but not required that you submit your bid on the Proposal for Purchase of Bonds supplied with the Official Statement.

Official Statement: Upon the award of the Bonds, the County will prepare an official statement (the "Official Statement") in substantially the same form as the preliminary official statement subject to minor additions, deletions and revisions as required to complete the Official Statement. Within seven (7) business days after the award of the Bonds, the County will deliver the Official Statement to the successful bidder in sufficient quantity to comply with Rule G-32 of the Municipal Securities Rulemaking Board. The successful bidder agrees to supply to the County all necessary pricing information and any Underwriter identification necessary to complete the Official Statement within 24 hours after the award of the Bonds.

Continuing Disclosure: In order to assist the bidders in complying with S.E.C. Rule 15c2-12(b)(5), the County will undertake, pursuant to an ordinance and a continuing disclosure certificate, to provide certain annual financial information and notices of the occurrence of certain events, if material. A description of this undertaking is set forth in the Preliminary Official Statement and will also be set forth in the final Official Statement.

<u>Legal Opinion</u>: The County Council shall furnish upon delivery of the Bonds the final approving opinion of McNair Law Firm, P.A., Columbia, South Carolina, which opinion shall accompany each Bond, together with the usual closing documents, including a certificate of the County that no litigation is pending affecting the Bonds.

<u>Certificate as to Issue Price</u>: The successful bidder must provide a certificate to the County by the date of delivery of the Bonds, stating the initial reoffering price of the Bonds to the public (excluding bond houses and brokers) and the price at which a substantial amount of the Bonds were sold to the public, in form satisfactory to Bond Counsel. A sample copy of such a certificate may be obtained from Bond Counsel.

<u>CUSIP Numbers</u>: It is anticipated that CUSIP identification numbers will be set forth on the Bonds, but neither the failure to print such numbers on any Bond nor any error with respect thereto shall constitute cause for failure or refusal by the purchaser thereof to accept delivery of and pay for the Bonds in accordance with the terms of its proposal. The CUSIP Service Bureau charge for the assignment of such numbers shall be the responsibility of and shall be paid for by the successful bidder.

<u>Delivery</u>: The Bonds will be delivered on or about ______, 2016, in New York, New York, at the expense of the County. The balance of the purchase price then due, including the amount of accrued interest, must be paid in federal funds or other immediately available funds.

Additional Information: The Preliminary Official Statement of the County with respect to the Bonds is available via the internet at officialstatements.compassmuni.com and will be furnished to any person interested in bidding for the Bonds upon request to McNair Law Firm, P. A., Post Office Box 11390, Columbia, South Carolina 29211, attention: Francenia B. Heizer, Esquire, telephone (803) 799-9800, e-mail: fheizer@mcnair.net. The Preliminary Official Statement shall be reviewed by bidders prior to submitting a bid. Bidders may not rely on this Notice of Sale as to the complete information concerning the Bonds. Persons seeking additional information should communicate with the County's Bond Counsel, Francenia B. Heizer, McNair Law Firm, P.A., Post Office Box 11390, Columbia, South Carolina 29211 fheizer@mcnair.net or with the County's Financial Advisor, Brian Nurick, Managing Director, Compass Municipal Advisors, LLC, 1310 Pulaski Street, Columbia, South Carolina 29201; telephone (859) 368-9616, e-mail: brian.nurick@compassmuni.com.

LANCASTER COUNTY, SOUTH CAROLINA

FORM OF CONTINUING DISCLOSURE CERTIFICATE

This Continuing Disclosure Certificate (the "Disclosure Certificate") is executed and delivered by Lancaster County, South Carolina (the "County") in connection with the issuance of \$_____ General Obligation Bonds, Series 2019A (the "Bonds"). The Bonds are being issued pursuant to an Ordinance adopted by the County Council of the County (the "Council"). The County covenants and agrees as follows:

SECTION 1. Purpose of the Disclosure Certificate. This Disclosure Certificate is being executed and delivered by the County for the benefit of the beneficial owners and in order to assist the Participating Underwriters (defined below) in complying with the Rule (defined below).

SECTION 2. Definitions. The following capitalized terms shall have the following meanings:

"Annual Report" shall mean any Annual Report provided by the County pursuant to, and as described in, Sections 3 and 4 of this Disclosure Certificate.

"Bonds" shall mean the \$_____ General Obligation Bonds, Series 2019A, Lancaster County, South Carolina, dated _____, 2019.

"<u>Dissemination Agent</u>" shall mean the County or any successor Dissemination Agent designated in writing by the County and which has filed with the County a written acceptance of such designation.

"Listed Events" shall mean any of the events listed in Section 5(a) of this Disclosure Certificate.

"Repository" shall mean for purposes of the Rule, the Electronic Municipal Market Access (EMMA) system created by the Municipal Securities Rulemaking Board.

"<u>Participating Underwriter</u>" shall mean ______. and any other original underwriter of the Bonds required to comply with the Rule in connection with offering of the Bonds.

"Rule" shall mean Rule 15c2-12(b)(5) adopted by the Securities and Exchange County under the Securities Exchange Act of 1934, as the same may be amended from time to time.

SECTION 3. Provision of Annual Reports.

(a) The County shall, or shall cause the Dissemination Agent to provide, not later than February 1 of each year, commencing in 2020 to the Repository an Annual Report which is consistent with the requirements of Section 4 of this Disclosure Certificate. Not later than fifteen (15) business days prior to such date the County shall provide the Annual Report to the Dissemination Agent, if other than the County; provided, that if the audited financial statements required pursuant to Section 4 hereof to be included in the Annual Report are not available for inclusion in the Annual Report as of such date, unaudited financial statements of the County may be included in such Annual Report in lieu thereof, and the County shall replace such unaudited financial statements with audited financial statements within fifteen (15) days after such audited financial statements become available for distribution. The Annual Report may be submitted as a single document or as separate documents comprising a package, and may cross-reference other

information as provided in Section 4 of this Disclosure Certificate; <u>provided</u> that the audited financial statements of the County may be submitted separately from the balance of the Annual Report.

- (b) If the County is unable to provide to the Repository an Annual Report by the date required in subsection (a), the County shall send a notice to the Municipal Securities Rulemaking Board and State Depository, if any, in substantially the form attached hereto as *Exhibit A*.
 - (c) The Dissemination Agent shall:
 - (1) determine each year prior to the date for providing the Annual Report the name and address of the Repository; and
 - (2) if the Dissemination Agent is other than the County, file a report with the County and (if the Dissemination Agent is not the Registrar) the Registrar certifying whether the Annual Report has been provided pursuant to this Disclosure Certificate, and, if provided, stating the date it was provided, and listing the Repository to which it was provided.

SECTION 4. Content of Annual Reports. The County's Annual Report shall contain or incorporate by reference the most recent audited financial statements, which shall be prepared in conformity with generally accepted accounting principles (or, if not in such conformity, to be accompanied by a qualitative discussion of the differences in the accounting principles and the impact of the change in the accounting principles on the presentation of the financial information) applicable to governmental entities such as the County, and shall, in addition, contain or incorporate by reference the following information relating to the previous fiscal year:

- (a) County population;
- (b) Total state appropriations subject to withholding under Article X, Sec. 14, South Carolina Constitution;
- (c) Outstanding general obligation indebtedness of the County;
- (d) Tax rates for County;
- (e) Tax collections for County; and
- (f) Ten largest taxpayers (including fee-in-lieu-of-tax) for County.

Any or all of the items listed above may be incorporated by reference from other documents, including official statements of debt issues with respect to which the County is an "obligated person" (as defined by the Rule), which have been filed with the Repository. If the document incorporated by reference is a final official statement, it must be available from the Municipal Securities Rulemaking Board. The County shall clearly identify each such other document so incorporated by reference.

SECTION 5. Reporting of Significant Events.

- (a) Pursuant to the provisions of this Section 5, the County shall give, or cause to be given, notice of the occurrence of any of the following events (the "Listed Events"):
 - (1) Principal and interest payment delinquencies;
 - (2) Non-payment related defaults;
 - (3) Unscheduled draws on debt service reserves reflecting financial difficulties;
 - (4) Unscheduled draws on credit enhancements reflecting financial difficulties;
 - (5) Substitution of credit or liquidity providers, or their failure to perform;

- (6) Adverse tax opinions, the issuance by the Internal Revenue Service of proposed or final determinations of taxability, Notices of Proposed Issue (IRS Form 5701-TEB) or other material notices or determinations with respect to the tax status of the security, or other material events affecting the tax status of the security;
- (7) Modifications to rights of security holders;
- (8) Bond calls;
- (9) Tender offers;
- (10) Defeasances;
- (11) Release, substitution, or sale of property securing repayment of the securities;
- (12) Rating changes;
- (13) Bankruptcy, insolvency, receivership or similar event of the County;
- (14) The consummation of a merger, consolidation, or acquisition involving the County or the sale of all or substantially all of the assets of the County other than in the ordinary course of business, the entry into a definitive agreement to undertake such an action or the termination of a definitive agreement relating to any such actions, other than pursuant to its terms;
- (15) Appointment of a successor or additional trustee or the change of name of a trustee.
- (b) Whenever the County obtains knowledge of the occurrence of a Listed Event described in subsections (a)(2), (7), (8), (11), (14), or (15) above, the County shall as soon as possible determine if such event would be material under applicable federal securities laws. If the County determines that knowledge of the occurrence of such event would be material under applicable federal securities laws, the County shall promptly, and no later than 10 days after the occurrence of the event, file a notice of such occurrence with the Repository.
- (c) Whenever the County obtains knowledge of the occurrence of a Listed Event described in subsections (a)(1), (3), (4), (5), (6), (9), (10), (12), or (13) above, the County shall promptly, and no later than 10 days after the occurrence of the event, file a notice of such occurrence with the Repository.
- (d) Notwithstanding the foregoing, notice of Listed Events described in subsections (a)(8), (9), and (10) above need not be given under this subsection any earlier than the notice (if any) of the underlying event is given to owners of affected Bonds. For the purposes of the event identified in (a)(13) above, the event is considered to occur when any of the following occur: the appointment of a receiver, fiscal agent or similar officer for the County in a proceeding under the U.S. Bankruptcy Code or in any other proceeding under state or federal law in which a court or governmental authority has assumed jurisdiction over substantially all of the assets or business of the County, or if such jurisdiction has been assumed by leaving the existing governing body and officials or officers in possession but subject to the supervision and orders of a court or governmental authority, or the entry of an order confirming a plan of reorganization, arrangement or liquidation by a court or governmental authority having supervision or jurisdiction over substantially all of the assets or business of the County.
- <u>SECTION 6.</u> Termination of Reporting Obligation. The County's obligations under this Disclosure Certificate shall terminate upon the defeasance, prior redemption or payment in full of all of the Bonds.
- <u>SECTION 7.</u> <u>Dissemination Agent.</u> The County may, from time to time, appoint or engage a Dissemination Agent to assist it in carrying out its obligations under this Disclosure Certificate, and may discharge any such Agent, with or without appointing a successor Dissemination Agent. The initial Dissemination Agent shall be the County.

SECTION 8. Amendment; Waiver. Notwithstanding any other provision of this Disclosure Certificate, the County may amend this Disclosure Certificate and any provision of this Disclosure Certificate may be waived, if such amendment or waiver is supported by an opinion of counsel expert in federal securities laws acceptable to the County, to the effect that such amendment or waiver would not, in and of itself, cause the undertakings herein to violate the Rule if such amendment or waiver had been effective on the date hereof but taking into account any subsequent change in or official interpretation of the Rule.

SECTION 9. Additional Information. Nothing in this Disclosure Certificate shall be deemed to prevent the County from disseminating any other information, using the means of dissemination set forth in this Disclosure Certificate or any other means of communication, or including any other information in any Annual Report or notice of occurrence of a Listed Event, in addition to that which is required by this Disclosure Certificate. If the County chooses to include any information in any Annual Report or notice of occurrence of a Listed Event, in addition to that which is specifically required by this Disclosure Certificate, the County shall have no obligation under this Certificate to update such information or include it in any future Annual Report or notice of occurrence of a Listed Event.

SECTION 10. Default. In the event of a failure of the County, or the Dissemination Agent to comply with any provision of this Disclosure Certificate, any beneficial owner may take such actions as may be necessary and appropriate, including seeking injunctive relief or specific performance by court order, to cause the County, or the Dissemination Agent, as the case may be, to comply with its obligations under this Disclosure Certificate. A default under this Disclosure Certificate shall not be deemed an event of default under the Ordinance, and the sole remedy under this Disclosure Certificate in the event of any failure of the County, or the Dissemination Agent to comply with this Disclosure Certificate shall be an action to compel performance.

SECTION 11. Duties, Immunities and Liabilities of the Dissemination Agent. The provisions of this Section 11 shall apply if the Issuer is not the Dissemination Agent. The Dissemination Agent shall have only such duties as are specifically set forth in this Disclosure Certificate, and the County agrees to indemnify and save the Dissemination Agent, its officers, directors, employees and agents, harmless against any loss, expense and liabilities which they may incur arising out of or in the exercise or performance of their powers and duties hereunder, including the costs and expenses (including attorneys' fees) of defending against any claim of liability, but excluding liabilities due to the Dissemination Agent's negligence or willful misconduct. The obligations of the County under this Section shall survive resignation or removal of the Dissemination Agent and payment of the Bonds.

SECTION 12. Beneficiaries. This Disclosure Certificate shall inure solely to the benefit of the County, the Dissemination Agent, the Participating Underwriters, and Holders from time to time of the Bonds, and shall create no rights in any other person or entity.

<u>SECTION 13.</u> <u>Counterparts</u>. This Disclosure Certificate may be executed in several counterparts, each of which shall be an original and all of which shall constitute but one and the same instrument.

LANCASTER COUNTY, SOUTH CAROLINA

| | | By: |
|--------|--------|----------------------|
| | | County Administrator |
| Dated: | . 2019 | |

NOTICE TO REPOSITORY OF FAILURE TO FILE ANNUAL REPORT

| Name of County: | Lancaster County, South Carolina | | | |
|---|--|--|--|--|
| Name of Bond Issue: | \$ General Obligation Bonds, Series 2019A, Lancaster County, South Carolina | | | |
| Date of Issuance: | , 2019 | | | |
| provided an Annual Report with Continuing Disclosure Certifica | GIVEN that Lancaster County, South Carolina (the "County") has not respect to the above-named Bonds as required by Sections 3 and 4 of the te executed and delivered by the County as Dissemination Agent. The that the Annual Report will be filed by | | | |

LANCASTER COUNTY, SOUTH CAROLINA



Agenda Item Summary

Ordinance #: 2019-1554

Contact Person / Sponsor: John K DuBose / Frannie Heizer (McNair law firm)

Department: County Attorney

Date Requested to be on Agenda: Administration Committee – December 12, 2018

Issue for Consideration:

ORDINANCE TO CREATE THE REID POINTE SPECIAL TAX DISTRICT IN LANCASTER COUNTY; TO SET THE BOUNDARIES OF THE SPECIAL TAX DISTRICT; TO ESTABLISH THE NATURE OF THE SERVICES TO BE RENDERED; TO SET THE MAXIMUM LEVEL OF THE TAX COLLECTIONS; TO PROVIDE FOR THE OPERATION OF THE SPECIAL TAX DISTRICT

Points to Consider:

The Ordinance effectuates the creation of the special tax district and establishes the assessment of tax and how the tax proceeds will be used and administered.

Funding and Liability Factors:

NA

Council Options:

To pass the ordinance or not.

Recommendation:

Passage of the Ordinance. Positive recommendation to County Council

| STATE OF SOUTH CAROLINA |) | • | |
|-------------------------|---|----------------------|-----|
| |) | ORDINANCE NO. 2019-1 | 554 |
| COUNTY OF LANCASTER |) | | |

AN ORDINANCE

TO CREATE THE REID POINTE SPECIAL TAX DISTRICT IN LANCASTER COUNTY; TO SET THE BOUNDARIES OF THE SPECIAL TAX DISTRICT; TO ESTABLISH THE NATURE OF THE SERVICES TO BE RENDERED; TO SET THE MAXIMUM LEVEL OF THE TAX COLLECTIONS; TO PROVIDE FOR THE OPERATION OF THE SPECIAL TAX DISTRICT: AND TO PROVIDE FOR OTHER MATTERS RELATED THERETO.

Be it ordained by the Council of Lancaster County, South Carolina:

Section 1. Findings.

The Council finds and determines:

- The County, acting by and through the Council, is authorized pursuant to Section 4-9-30(5) of the Code of Laws of South Carolina 1976, as amended, to assess property and levy ad valorem property taxes and uniform service charges, including the power to tax different areas at different rates related to the nature and level of governmental services provided.
- Section 6-1-330 of the Code of Laws of South Carolina 1976, as amended, authorizes the County, acting by and through the Council, to charge and collect a service or user fee, which by definition includes uniform service charges, subject to the following requirements: (i) the imposition of the uniform service charge must be accomplished by ordinance approved by a vote for adoption by a majority of the members of the entire Council, whether present or not; (ii) Council must provide public notice of the uniform service charge being considered and hold a public hearing on the proposed uniform service charge prior to final adoption; and (iii) revenue derived from a uniform service charge to finance the provision of public services must be used to pay costs related to the provision of the service or program for which the uniform service charge is paid.
- Council, pursuant to Section 4-9-30(5)(a)(i) of the Code of Laws of South Carolina 1976, as amended, may, upon certification of a petition signed by fifteen percent or more of the electors in a proposed special tax district, provide for a referendum to be conducted by the county election officials on the question of the creation of the proposed special tax district. By passage of Resolution No, 1001-R2018, Council certified to the Lancaster County Voter Registration and Elections Board (the "Elections Board") a petition that proposed the creation of the Reid Pointe Special Tax District and provided for a referendum to be held on the question of the creation of the Reid Pointe Special Tax District.
- (d) On November 6, 2018, the Elections Board held a referendum on the question of the creation of the Reid Pointe Special Tax District. The Board of Canvassers certified that 257 votes were cast in the referendum, of which 246 votes were cast in favor of the creation of the special tax district and 11 votes were cast in opposition. Council published the results of the referendum in Resolution No. 1033-R2018.
 - (e) It is the purpose of this ordinance to create the Reid Pointe Special Tax District.

33

Section 2. Creation of Special Tax District.

There is hereby created a special tax district, known as the Reid Pointe Special Tax District ("District"). The District consists of all those parcels of real property located within the Reid Pointe Subdivision, more specifically consisting of those parcels of real property located within the Reid Pointe Subdivision fronting on or touching Reid Pointe, Benedict, Jennifer, Tricia Pointe, Arthur, Marcus, Grimley, Ellen and Social Roads having TMS Nos. 0006N-0E-001.00 through 0006N-0E-043.00; 0007B-0A.001.00 through 0007B-0A.085.00; 0007C-0A.001.00 through 0007C-0A.028.01; 0007C-0B-001.00 through 0007C-0B-043.00 and 0007C-0C-001.00 through 0007C-0C-032.00

Section 3. Nature of Services to be Rendered.

The services to be rendered in the District are the repair and upgrading of the roads within the District to County standards and the acceptance of the roads into the County road system for maintenance purposes. The creation of the District is specifically for the purpose of providing a funding mechanism for the repair and upgrading of the roads in the District.

Section 4. Operation of District.

The District shall operate as an administrative division of the County.

Section 5. Levy and Collection of Taxes.

The cost of funding and financing the repair and upgrading of the roads within the District shall be paid from the collection of a tax on all parcels of real property within the District. The taxes shall be levied annually by County Council. For purposes of billing and collection, the tax for each parcel within the District shall be placed on the respective County tax bills for the parcels, beginning with the fall 2019 tax bills, to be collected with and in the same manner as all other taxes.

Section 6. Maximum Level of Tax Collection.

The maximum level of taxes authorized to be levied and collected annually in the District shall be based on the actual costs of repairing and upgrading the roads within the District, currently estimated to cost \$700,000, the cost of financing the repairs and upgrades, and costs incidental thereto.

Section 7. Restricted Use of Monies; Special Fund; Expenditure and Carry Forward of Revenue.

Monies collected from the taxes imposed by this ordinance may be used only for the purpose of repairing and upgrading the District roads, including the costs of financing the repairs and upgrades and costs incidental thereto. Revenues from the taxes shall be deposited in a special fund, separate and distinct from all other funds of the County. Monies in the special fund may be expended only pursuant to appropriation by the Council and in accordance with the terms of this ordinance. Any unexpended balance of the taxes at the end of any fiscal year shall be carried forward into the next fiscal year and expended for the same purposes.

Section 8. Acceptance of Roads.

Notwithstanding the provisions of Chapter 26 of the Lancaster County Code, the County Administrator is authorized to accept the roads within the District into the County road system prior to the repair and upgrading of the roads.

Section 9. Construction Contracts.

The County Administrator is authorized to enter into one or more contracts for the repair and upgrading of the roads in the District.

Section 10. Severability.

The provisions of this ordinance are declared to be separable, and if any section, phrase, or provision shall for any reason be declared by a court of competent jurisdiction to be invalid or unenforceable, then the declaration shall not affect the validity of the remainder of the sections, phrases, and provisions of this ordinance.

Section 11. Conflicting Provisions.

To the extent this ordinance contains provisions that conflict with provisions contained elsewhere in the Lancaster County Code or in any orders, resolutions, ordinances, and parts thereof, the provisions contained in this ordinance supersede all other provisions and this ordinance is controlling.

Section 12. Effective Date.

This ordinance is effective upon third reading.

SIGNATURES FOLLOW ON NEXT PAGE.

| Enacte | d this da | ay of | , 2019. |
|--|--|-------------------------|--------------------------|
| | | LANCASTER CO | UNTY, SOUTH CAROLINA |
| | | Steve Harper, Chair | , County Council |
| | | Larry Honeycutt, S | ecretary, County Council |
| Attest: | | | |
| Sherrie Simpson, Clerk to | Council | | |
| Date of First Reading: Date of Second Reading: Date of Public Hearing: Date of Third Reading: | January 14, 201 January 28, 201 January 28, 201 February 11, 20 | (Tentative) (Tentative) | |
| Approved as to form: | | | |
| | | | |
| County Attorney | | | |



Ordinance #: 2019-1555

Contact Person / Sponsor: John K DuBose / Frannie Heizer (McNair law firm)

Department: County Attorney

Date Requested to be on Agenda: Administration Committee – December 12, 2018

Issue for Consideration:

An Ordinance to authorize issuance and sale of general obligation bonds not to exceed \$700,000.00 in order to upgrade the roads in the Reid Pointe Special Tax District to County standards so that the roads may be accepted into the County road system

Points to Consider:

The Ordinance will effectuate the Referendum on the Reid Pointe Special Tax District and issuance and sale of the bonds needed to generate funds for the road repairs and upgrades.

Funding and Liability Factors:

Repayment of bonds.

Council Options:

To pass or not pass the Ordinance.

Recommendation:

Passage of the Ordinance. Positive recommendation to County Council.

| STATE OF SOUTH CAROLINA |) | |
|-------------------------|---|-------------------------|
| COUNTY OF LANCASTER |) | ORDINANCE NO. 2019-1555 |

AN ORDINANCE

TO AUTHORIZE THE ISSUANCE AND SALE OF A NOT TO EXCEED \$700,000 GENERAL OBLIGATION BOND, OF LANCASTER COUNTY, SOUTH CAROLINA, SERIES 2019B, OR SUCH OTHER APPROPRIATE SERIES DESIGNATION, FOR THE FUNDING OF THE REPAIR AND UPGRADE OF ROADS IN THE REID POINTE SPECIAL TAX DISTRICT; TO FIX THE FORM AND DETAILS OF THE BOND; TO AUTHORIZE THE COUNTY ADMINISTRATOR OR THE LAWFULLY-AUTHORIZED DESIGNEE TO DETERMINE CERTAIN MATTERS RELATING TO THE BOND; TO PROVIDE FOR THE PAYMENT OF THE BOND AND THE DISPOSITION OF THE PROCEEDS THEREOF; AND OTHER MATTERS RELATING THERETO.

Be it ordained by the Council of Lancaster County, South Carolina:

<u>Section 1. Findings and Determinations</u>. The County Council (the "County Council"), of Lancaster County, South Carolina (the "County"), hereby finds and determines:

- (a) Pursuant to Section 4-9-10, Code of Laws of South Carolina 1976, as amended (the "Code"), and the results of a referendum held in accordance therewith, the Council-Administrator form of government was adopted and the County Council constitutes the governing body of the County.
- (b) Article X, Section 14 of the Constitution of the State of South Carolina, 1895, as amended (the "Constitution"), provides that each county shall have the power to incur bonded indebtedness in such manner and upon such terms and conditions as the General Assembly shall prescribe by general law within the limitations set forth in Section 14 and Section 12 of Article X.
- (c) Article X, Section 12 of the Constitution provides that no law shall be enacted permitting the incurring of bonded indebtedness by any county for infrastructure benefiting only a particular geographical section of the county unless a special assessment, tax or service charge in an amount designed to provide debt service on bonded indebtedness incurred for such purpose shall be imposed upon the area or persons receiving the benefit therefrom.
- (d) Article X, Section 14 of the Constitution further provides that general obligation debt may be incurred only for a purpose which is a public purpose and which is a corporate purpose of the County. The power to incur general obligation debt shall include general obligation debt incurred by the County within the limitations prescribed by Article X, Section 12 of the Constitution.
- (e) In determining the debt limitations imposed by the provisions of Article X, Section 14 of the Constitution, bonded indebtedness incurred pursuant to Article X, Section 12 shall not be considered.
- (f) Pursuant to Title 4, Chapter 15 of the Code (the same being and hereinafter referred to as the "County Bond Act"), the governing bodies of the several counties of the State may each issue general obligation bonds to defray the cost of any authorized purpose and for any amount not exceeding its applicable constitutional limit.

- (g) The County Bond Act provides that as a condition precedent to the issuance of bonds an election be held and the result be favorable thereto. Title 11, Chapter 27 of the Code provides that if an election be prescribed by the provisions of the County Bond Act, but not be required by the provisions of Article X of the Constitution, then in every such instance, no election need be held (notwithstanding the requirement therefor) and the remaining provisions of the County Bond Act shall constitute a full and complete authorization to issue bonds in accordance with such remaining provisions.
- (h) The County, acting by and through the Council, is authorized pursuant to Section 4-9-30(5) of the Code, to assess property and levy ad valorem property taxes and uniform service charges, including the power to tax different areas at different rates related to the nature and level of governmental services provided.
- (i) Council, pursuant to Section 4-9-30(5)(a)(i) of the Code of Laws of South Carolina 1976, as amended, may, upon certification of a petition signed by fifteen percent or more of the electors in a proposed special tax district, provide for a referendum to be conducted by the county election officials on the question of the creation of the proposed special tax district. By passage of Resolution No. 1001-R2018, Council certified to the Lancaster County Voter Registration and Elections Board (the "Elections Board") a petition that proposed the creation of the Reid Pointe Special Tax District and provided for a referendum to be held on the question of the creation of the Reid Pointe Special Tax District.
- (j) On November 6, 2018, the Elections Board held a referendum on the question of the creation of the Reid Pointe Special Tax District. The Board of Canvassers certified that 257 votes were cast in the referendum, of which, 246 votes were cast in favor of the creation of the special tax district and 11 votes were cast in opposition. Council published the results of the referendum in Resolution No. 1033-R2018.
- (k) Pursuant to Ordinance No. 2019-1554, enacted on ______, County Council created the Reid Pointe Special Tax District.
- (l) In order to upgrade the roads in the Reid Pointe Special Tax District to County standards so that the roads may be accepted into the County road system, the County is in the process of undertaking repairs and upgrades of roads in the Reid Pointe Special Tax District and all costs associated therewith (the "Project").
- (m) It is necessary and in the best interest of the County for the County Council to provide for the issuance and sale of a not exceeding \$700,000 General Obligation Bond (Reid Pointe Special Tax District), Series 2019B, or such other appropriate series designation (the "Bond") of the County pursuant to the aforesaid provisions of the Constitution and laws of the State of South Carolina, the proceeds of which will be used: (a) to defray the cost of the Project; (b) to pay costs of issuance of the Bond; and (c) for such other lawful corporate and public purposes as the County Council shall determine.
- Section 2. Delegation of Authority to Determine Certain Matters Relating to the Bond. Without further authorization, the County Council hereby delegates to the County Administrator or his lawfully-authorized designee the authority to determine (a) the payment schedule of the Bond and the respective principal amounts due on such dates; (b) the interest payment dates of the Bond; (c) redemption provisions, if any, for the Bond; (d) the time and date of sale of the Bond; and (e) whether the Bond shall be designated as a "qualified tax-exempt obligation," as defined in the Internal Revenue Code of 1986 (the "Code"). The County Council further delegates to the County Administrator or his lawfully-authorized designee the authority to receive bids on behalf of the County and the authority to award the Bond to the low bidder therefor, provided the true interest cost does not exceed 6%. After the sale of the

Bond, the County Administrator or his lawfully authorized designee shall submit a written report to County Council setting forth the details of the Bond as set forth in this paragraph.

Section 3. Authorization and Details of Bond. Pursuant to the aforesaid provisions of the Constitution and laws of the State, there is hereby authorized to be issued a not exceeding Seven Hundred Thousand Dollars (\$700,000) aggregate principal amount general obligation bond of the County to be designated "\$700,000 (or such lesser amount issued) General Obligation Bond, Series 2019B (or such other appropriate series designation), of Lancaster County, South Carolina" (the "Bond"), for the purpose set forth in Section 1(m) and other costs incidental thereto, including without limiting the generality of such other costs, engineering, financial and legal fees.

The Bond shall be issued in fully registered form; shall be registered as to principal and interest in the name of the purchaser thereof; shall be dated as of the date of its delivery or such other date as the County Administrator determines; shall be in the denomination of not exceeding \$700,000; shall bear interest on the unpaid principal balance at the interest rate shown thereon; and shall be payable as determined by the County Administrator.

Interest shall be calculated on a 30-day month and 360-day year basis, unless otherwise agreed upon by the County Administrator and the purchaser of the Bond.

Both the principal of and interest on the Bond shall be payable in any coin or currency of the United States of America which is, at the time of payment, legal tender for public and private debts.

- <u>Section 4. Execution of Bond</u>. The Bond shall be executed in the name of the County with the manual or facsimile signature of the Chair of County Council attested by the manual or facsimile signature of the Clerk to County Council under the seal of the County to be impressed or affixed thereon.
- <u>Section 5. Form of Bond</u>. The Bond and the provisions for registration to be endorsed thereon shall be in substantially the form attached hereto as Exhibit A and incorporated herein by reference.
- <u>Section 6. Form of Notice of Sale</u>. The Bond shall be sold at public sale. The Notice of Sale shall be in substantially the form attached hereto as Exhibit B and incorporated herein by reference.
- <u>Section 7. Publication of Summary Notice of Sale</u>. A summary of the Notice of Sale shall be published in a newspaper of general circulation in the State of South Carolina not less than seven (7) days prior to the date set for such sale.
- Section 8. Security for the Bond. The full faith, credit, and taxing power of the County is irrevocably pledged to the repayment of the Bond. The Bond is payable from an ad valorem tax levied annually by the County auditor and collected by the County treasurer. It is County Council's intent that the annual ad valorem tax to be levied for the payment of the principal and interest on the Bond shall be reduced in each year by the amount of the revenue collected from the imposition of rates and charges in the Reid Pointe Special Tax District so that the levy of an ad valorem tax is necessary only when the revenue from the rates and charges is insufficient to pay principal and interest on the Bond.
- Section 9. Notice of Public Hearing. The County Council hereby ratifies and approves the publication of a notice of public hearing regarding the Bond and this Ordinance, such notice in substantially the form attached hereto as Exhibit C, having been published in *The Lancaster News*, a newspaper of general circulation in the County, not less than fifteen (15) days prior to the date of such public hearing.

Section 10. Exemption from State Taxes. Both the principal of and interest on the Bond shall be exempt, in accordance with the provisions of Section 12-2-50 of the South Carolina Code, from all State, county, municipal, school district, and all other taxes or assessments, except estate or other transfer taxes, direct or indirect, general or special, whether imposed for the purpose of general revenue or otherwise.

<u>Section 11. Deposit and Use of Proceeds</u>. The proceeds derived from the sale of the Bond shall be deposited with the County Treasurer in a special fund, separate and distinct from all other funds, and applied solely to the purposes for which the Bond is issued.

Section 12. Tax Covenants. The County hereby covenants and agrees with the holder of the Bond that it will not take any action which will, or fail to take any action which failure will, cause interest on the Bond to become includable in the gross income of the holders of the Bond for federal income tax purposes pursuant to the provisions of the Internal Revenue Code of 1986 as amended and regulations promulgated thereunder in effect on the date of original issuance of the Bond. The County further covenants and agrees with the holders of the Bond that no use of the proceeds of the Bond shall be made which, if such use had been reasonably expected on the date of issue of the Bond, would have caused the Bond to be "arbitrage bonds," as defined in Section 148 of the Code, and to that end the County hereby shall:

- (a) comply with the applicable provisions of Sections 103 and 141 through 150 of the Code and any regulations promulgated thereunder so long as the Bond is outstanding;
- (b) establish such funds, make such calculations and pay such amounts, in the manner and at the times required in order to comply with the requirements of the Code relating to required rebates of certain amounts to the United States; and
- (c) make such reports of such information at the time and places required by the Code.

Section 13. Filings with Central Repository. In compliance with Section 11-1-85 of the South Carolina Code, the County covenants that it will file or cause to be filed with a central repository for further availability in the secondary bond market when requested: (a) a copy of the annual audit of the County within thirty (30) days of the County's receipt thereof; and (b) within thirty (30) days of the occurrence thereof, relevant information of an event which, in the opinion of the County, adversely affects more than five percent (5%) of the County's revenue or its tax base.

Section 14. Authorization to Issue General Obligation Bond Anticipation Note. Pursuant to Title 11, Chapter 17 of the Code, pending the issuance of the Bond, County Council hereby authorizes the issuance of a general obligation bond anticipation note in an amount not to exceed \$700,000 (the "Note") for the purposes set forth in Section 1(m) herein. In the event the Note is issued prior to issuing the Bond, County Council hereby delegates to the County Administrator the authority, upon advice of Bond Counsel, to determine the specific details of the Note. The Note will be secured by an irrevocable pledge to issue the Bond and further secured in the same manner as the Bond pursuant to Section 8 hereof.

Section 15. Miscellaneous. The County Council hereby authorizes the Administrator and the Clerk to County Council to execute such documents and instruments as may be necessary to effect the issuance of the Bond. The Council hereby retains Burr & Forman LLP as Bond Counsel and Compass Municipal Advisors LLC as financial advisor in connection with the issuance of the Bond and authorizes Bond Counsel to obtain such other professional services as shall be necessary including financial advisor.

<u>Section 16. Conflicting Provisions</u>. To the extent this ordinance contains provisions that conflict with provisions contained elsewhere in the Lancaster County Code or other County ordinances, the provisions contained in this ordinance supersede all other provisions and this ordinance is controlling.

<u>Section 17. Severability</u>. If any section of this ordinance is, for any reason, determined to be void or invalid by a court of competent jurisdiction, it shall not affect the validity of any other section of this ordinance which is not itself void or invalid.

Section 18. Effective Date. This Ordinance is effective upon third reading.

| Enacted | this | day of | | , 2019. |
|-------------------------------|-----------------|----------|-----------------|-----------------------|
| | | LANCA | ASTER COUN | TTY, SOUTH CAROLINA |
| | | Steve Ha | arper, Chair, C | ounty Council |
| | | | | |
| | | Larry Ho | oneycutt, Secre | etary, County Council |
| Attest: | | | | |
| | | | | |
| Sherrie Simpson, Clerk to Cou | ıncil | | | • |
| Date of First Reading: | January 14, 201 | 19 (| (Tentative) | |
| Date of Second Reading: | January 28, 201 | | Tentative) | |
| Date of Public Hearing: | January 28, 201 | , | Tentative) | |
| Date of Third Reading: | February 11, 20 | (| Tentative) | |
| Approved as to form: | | | | |
| | | | | |
| County Attorney | | | | |

FORM OF BOND

UNITED STATES OF AMERICA STATE OF SOUTH CAROLINA LANCASTER COUNTY GENERAL OBLIGATION BOND, SERIES 2019B

| Ψ |
|--|
| KNOW ALL MEN BY THESE PRESENTS, that Lancaster County, South Carolina (the "County"), is justly indebted and, for value received, hereby promises to pay to in, South Carolina (the "Bank"), its successors or registered assigns, the principal sum of \$ together with interest thereon at the rate of % per annum. This Bond is payable in annual installments of principal and interest on, to and including in the amount of \$ |
| Both the principal of and interest on this Bond are payable at the principal office of the Bank, in, in any coin or currency of the United States of America which is, at the time of payment, legal tender for public and private debts. |
| [Redemption provisions, if any] |
| For the payment hereof, both principal and interest, as they respectively mature and for the creation of such sinking fund as may be necessary therefor, the full faith, credit and taxing power of the County are irrevocably pledged and there shall be levied annually by the Auditor of the County and collected by the Treasurer of the County, in the same manner as other county taxes are levied and collected, a tax, without limit, on all taxable property in the County sufficient to pay the principal of and interest on this Bond as they respectively mature and to create such sinking fund as may be necessary therefor. |
| This Bond is issued pursuant to and in accordance with the Constitution and laws of the State of South Carolina, including Article X of the Constitution of the State of South Carolina, 1895, as amended; Title 4, Chapter 15, Code of Laws of South Carolina 1976, as amended; Title 11, Chapter 27, Code of Laws of South Carolina 1976, as amended; and Ordinance No duly enacted by the County Council on, 2019. |
| This Bond and the interest hereon are exempt from all State, county, municipal, school district and all other taxes or assessments, except estate or other transfer taxes, direct or indirect, general or special, whether imposed for the purpose of general revenue or otherwise. It should be noted, however, that Section 12-11-20, Code of Laws of South Carolina 1976, as amended, imposes upon every bank engaged in business in the State of South Carolina a fee or franchise tax computed on the entire net income of such bank which would include any interest paid on this Bond to any such bank. |

It is hereby certified and recited that all acts, conditions and things required by the Constitution and laws of the State of South Carolina to exist, to happen and to be performed precedent to or in the issuance of this Bond exist, have happened and have been performed in regular and due time, form and manner as required by law; that the amount of this Bond, together with all other indebtedness of the County, does not exceed the applicable limitation of indebtedness under the laws of the State of South Carolina.

| with the manual or facsimile signature of the Ch | ounty, South Carolina, has caused this Bond to be signed nairman of the County Council, attested by the manual or ncil under the seal of the County impressed, imprinted or day of, 2017. |
|--|---|
| (SEAL) | LANCASTER COUNTY, SOUTH CAROLINA |
| ATTEST: | Chairman, County Council |
| Clerk, County Council | |

REGISTRATION

| | This | Bond | has | been | registere | d in | the | name | of | | | | | iı |
|--------|---------|----------|-----------|---------|-----------|-------|--------|--------------------|------------------|---------|-------|----------|--------|-----------|
| Lancas | ster Co | unty, So | , outh | Carolir | | the r | egistr | ration b | ooks ke | pt by | the (| Clerk to | County | Council o |
| | Dated | l this | | day of | | | | | _, 2019. | | | | | |
| | | | | | | | | | | | | | | |
| | | | | | | | | rk, Cou th Carc | nty Cou olina | ncil, I | Lanca | ister Co | unty, | |

FORM OF NOTICE OF SALE

| \$ GENERAL OBLIGATION BOND, SERIES 2019B, OF LANCASTER COUNTY, SOUTH CAROLINA |
|---|
| Bank Interest Deduction Eligible |
| Bid Date:, 2019; 12:00 Noon |
| Time and Place of Sale: NOTICE IS HEREBY GIVEN that sealed proposals or facsimile bids addressed to the undersigned will be received by the County Administrator on behalf of Lancaster County, South Carolina (the "County"), in the County Administrator's Office at 101 N. Main Street, 2 nd Floor, Lancaster, South Carolina, until 12:00 noon, South Carolina time, on, 2010, at which time said proposals will be publicly opened for the purchase of a \$ General Obligation Bond, Series 2019B, of Lancaster County, South Carolina (the "Bond"). Proposals may be delivered by hand or by mail or by facsimile transmission, but no proposal shall be considered which is not actually received by the County at the place, date and time appointed and the County shall not be responsible for any failure, misdirection, delay or error resulting from the selection by any bidder of any particular means of delivery of bids. The County will take reasonable steps to ensure the confidentiality of all bids transmitted to it by facsimile transmission, but cannot guarantee the confidentiality of information transmitted by such means. Bids by facsimile transmission should be transmitted to the attention of Steve Willis, County Administrator, Fax: (803) |
| The Bond: The Bond will be issued in fully registered form, as one single fully registered bond; will be dated the date of delivery; will bear interest (computed on a 360-day year, 30-day month basis); and will be payable on in each of the years to and including in approximately equal annual installments. |
| Interest shall be calculated on a 30-day month and a 360-day year basis, unless otherwise agreed upon by the County Administrator and the purchaser of the Bond. |
| Redemption: The Bond [will] [will not] be subject to redemption prior to maturity. |
| Bid Requirements: Bidders shall specify a single, fixed rate of interest for the Bond. Bidders shall specify the rate of interest per annum which the Bond is to bear, to be expressed in multiples of 1/100 of 1%. A bid for less than the entire issue, or a bid at a price less than par, will not be considered. The Bond will be awarded to the bidder or bidders offering to purchase the Bond at the lowest net interest cost to the County, such interest cost to be determined by computing the total dollar interest cost from the date of the Bond to the respective maturity dates. Any fees or costs to be paid by the County to the bidder will be treated as additional interest cost. The County reserves the right to reject any and all bids or to waive irregularities in any bid. Bids will be accepted or rejected no later than 12:00 Noon, South Carolina time, on, 2010. |

<u>Bid Form</u>: No good faith check is required. It is requested, but not required, that your bid be submitted on the attached bid form.

Security: The Bond shall constitute a binding general obligation of the County and the full faith, credit and taxing power of the County are irrevocably pledged for the payment of the Bond. There shall be levied and collected annually in the same manner as other county taxes are levied and collected, a tax, without limit, on all taxable property in the County sufficient to pay the principal of and interest on the Bond as it matures and to create such sinking fund as may be necessary therefor.

<u>Legal Opinion</u>: The issuance of the Bond is subject to the approving opinion of McNair Law Firm, P.A., Bond Counsel, attached hereto, as to the validity of the issuance of the Bond under the Constitution and laws of the State.

Tax Exemption and Other Tax Matters: The Internal Revenue Code of 1986, as amended (the "Code"), includes provisions that relate to tax-exempt obligations, such as the Bond, including, among other things, permitted uses and investment of the proceeds of the Bond and the rebate of certain net arbitrage earnings from the investment of such proceeds to the United States Treasury. Noncompliance with these requirements may result in interest on the Bond becoming subject to federal income taxation retroactive to the date of issuance of the Bond. The County has covenanted to comply with the requirements of the Code to the extent required to maintain the exclusion of interest on the Bond from gross income for federal tax purposes. Failure of the County to comply with the covenant could cause the interest on the Bond to be taxable retroactively to the date of issuance.

The Code imposes an alternative minimum tax on a taxpayer's alternative minimum taxable income. Interest on the Bond is not an item for tax preference for purposes of the individual and corporate alternative minimum tax. However, interest on the Bond will be includable in the adjusted net book income or adjusted current earnings of a corporation for purposes of computing the alternative minimum tax imposed on corporations.

Purchasers of the Bond should consult their tax advisors with respect to collateral tax consequences of ownership of the Bond, such as the calculation of alternative minimum tax, environmental tax or foreign branch profits tax liability, the tax on passive income of S corporations, the inclusion of Social Security or other retirement payments in taxable income, or the portion of interest expense of a financial institution which is allocable to tax-exempt interest.

South Carolina Taxation: The interest on the Bond is exempt from all State taxation except estate or other transfer taxes. Section 12-11-20 of the South Carolina Code of Laws 1976, as amended, imposes upon every bank engaged in business in the State a fee or franchise tax computed at the rate of 4-1/2% of the entire net income of such bank. Regulations of the South Carolina Department of Revenue and Taxation require that the term "entire net income" includes income derived from any source whatsoever including interest on obligations of any state and any political subdivision thereof. Interest on the Bond will be included in such computation.

Investment Letter: The successful purchaser of the Bond will be required to execute a letter to the County acknowledging, among other things, that (1) no official statement or other offering material has been furnished other than the Request for Proposals; (2) the purchaser had an opportunity to make inquiries of, and receive answers from such officials, employees, agents and attorneys of the County; (3) the purchaser has knowledge and experience in financial and business matters and that it is capable of evaluating the merits and risks of its investment in the Bond and is financially able to bear the economic risk of its investment in the Bond; (4) the purchaser is acquiring the Bond as a vehicle for making a commercial loan and without a present view to the distribution or resale thereof (subject, nevertheless, to

any requirement of law that the disposition of its property shall at all times be under its control) within the meaning of the Federal securities laws; and (5) the purchaser is acquiring the Bond solely for its own account and no other person now has any direct or indirect beneficial ownership or interest therein.

The purchaser will also be requested to covenant that it will not voluntarily dispose of all or any portion of the Bond unless it procures from each assignee thereof representations and covenants in form and content substantially the same as those made by the purchaser.

<u>Miscellaneous</u>: Bidders are requested to indicate their intentions with respect to subsequent sales or transfers of the Bond. Bidders are also requested to indicate whether any commitment fee will be required or whether the County will be requested to reimburse the successful bidder for out-of-pocket expenses and counsel fees.

Additional Information: Bidders may not rely on this Request for Proposals as to the complete information concerning the Bond. Persons seeking additional information should communicate with the County's bond counsel, Francenia B. Heizer, Esquire, McNair Law Firm, P.A., Post Office Box 11390, Columbia, South Carolina 29211, Phone: (803) 799-9800; E-mail Address: fheizer@mcnair.net.

LANCASTER COUNTY, SOUTH CAROLINA

FORM OF NOTICE OF PUBLIC HEARING

Notice is hereby given that a public hearing will be held by the County Council of Lancaster County, South Carolina (the "County"), in County Council Chambers, Lancaster County Administration Building, 101 N. Main Street, Lancaster, South Carolina at 6:00 p.m. on November 30, 2010.

The purpose of the public hearing is to consider an Ordinance providing for the issuance and sale of a General Obligation Bond (Reid Pointe Special Tax District), Series 2019B, of Lancaster County, South Carolina, in the principal amount of not exceeding \$700,000 (the "Bond"). The proceeds of the Bond will be used for (i) undertaking repairs and upgrades of roads in the Reid Pointe Special Tax District and all costs associated therewith; (ii) paying the costs of issuance of the Bond; and (iii) such other lawful purposes as the County Council shall determine.

The full faith, credit, and taxing power of the county is irrevocably pledged to the repayment of the bond. The general obligation bonds are payable from an ad valorem tax levied annually by the county auditor and collected by the county treasurer. It is County Council's intent that the annual ad valorem tax to be levied for the payment of the principal and interest on the general obligation bonds shall be reduced in each year by the amount of the revenue collected from the imposition of rates and charges in the District so that the levy of an ad valorem tax is necessary only when the revenue from the rates and charges is insufficient to pay principal and interest on the general obligation bonds.

At the public hearing all taxpayers and residents of the County and any other interested persons who appear will be given an opportunity to express their views for or against the Ordinance and the issuance of the Bond.

| SOUTH | [CAROL] | INA | | |
|-------|---------|-----|--|--|
| /s/ | | | | |
| | Chair | | | |

COUNTY COUNCIL OF LANCASTER COUNTY,



Ordinance # / Resolution#:

Discussion Item

Contact Person / Sponsor:

Steve Willis/ Jeff Catoe

Department:

Admin/ Public Services

Date Requested to be on Agenda:

December I&R Committee

Issue for Consideration:

Ending the subsidy for disposal of solid waste collected by private haulers.

Points to Consider:

For at least two decades (not sure when this started as it was before my time with the County) Lancaster County has paid the tipping fee for solid waste collected by residential private haulers. My understanding is that the theory was that if the private haulers were not collecting the waste the residents would have brought it to the recycling centers anyway.

This was not a problem when the number of haulers was small and we were certain they were only collecting from Lancaster County residents as they were all located in central Lancaster County.

Today the number of private haulers has escalated from all the residential growth in the panhandle. We have no way of determining how much of the waste is coming from Lancaster residents versus residents in the same area but outside Lancaster County. We are basically operating on the honor system and this has greatly increased our costs.

We propose to end this subsidy following notice to all private haulers. Councilman Carnes has expressed concern with this approach.

We still plan to pay for the municipalities unless Council would like to consider the concept of separate tax millage only for the unincorporated area.

Funding and Liability Factors:

If we continue on the current path we will be increasing our solid waste disposal costs annually.

Councilman Carnes had suggested freezing reimbursements for current haulers. I have concerns with the impact on new businesses attempting to compete with existing businesses.

Council Options:

We can handle this administratively but wanted to allow for Council to weigh in. We can modify our reimbursements or we can stay the course and increase the budget.

Staff Recommendation:

Modify our practice to eliminate the subsidy.

Committee Recommendation:

To be determined.



Ordinance # / Resolution#:

Contact Person / Sponsor: Nicholas Miller

Department: Procurement

Date Requested to be on Agenda: I&R Committee (12/11)

Issue for Consideration:

Discussion regarding final bids for Animal Shelter and additional considerations for bid phase completion

Points to Consider:

Restrictive marketplace factors, value engineering opportunities

Funding and Liability Factors:

Requesting evaluation of project budget and additional funding to proceed

Council Options:

Consensus to accept responsive low bid received and proceed to notice of award; or, rebid project; or, suspend project until further notice

Recommendation:

Recommendation from County Administrator and staff is to increase project budget subsequent to marketplace factors and to proceed to notice of award with County Council's approval of additional funding release

Lancaster Animal Shelter Total Estimated Project Budget

8.17.18

| l. | TOTAL ESTIMATED CONSTRUCTION COST | | \$2,350,788 | Construction cost does NOT include Add Alternate kennel wings |
|--------|--|--|-------------|--|
| | A.1 Building Construction A.2 Sitework | \$1,894,728 \$456,060 | | Vetted with 2 GCs, a site contractor, and 5 additional subcontractors Costruction cost with 10% contigency = \$2,585,867 (Contigency added to full cost below) |
| 11. | TOTAL ESTIMATED FF&E (Fixtures, Furnishings and Equipment D.1 - E.9) | of transfer or construction and construc | \$160,000 | (Configency added to full cost below) |
| | D.1 Animal Equipment | \$150,000 | | |
| | D.2 Furniture | \$0 | | Reuse existing |
| | D.3 Signage | \$5,000 | | |
| | E.1 Building Security System | \$0 | | Construction cost includes rough-in only |
| | E.2 Telephone System E.3 Voice & Data Cabling | \$0 \$5,000 | | Construction cost includes rough-in only |
| | E.4 Audio Visual Equipment | \$0 | | Construction cost includes rough an only |
| | E.5 Computer Hardware & Software | \$0 | | Budget assumes that all office, medical, and cleaning |
| | E.6 Other | \$0 | | equipment will move to the new facility. |
| Ш. | TOTAL ESTIMATED PROFESSIONAL COMPENSATION (F.1 - F.5) | | \$134,053 | |
| | F.1 Pre Design Services | | | |
| | a. Road Map | \$0 | | |
| | b. Existing Facility Assessments | \$0 | | |
| | c. Existing Facility Documentation | \$0 | | |
| | d. Programming | \$16,689 | | Actual cost |
| | e. Community Meetings (1 for each location) | \$0 | | |
| | F.2 Architecture and Engineering Basic DesignServices | | | |
| | a. Arch, MEP, Structural and Civil Engineering | \$117,364 | | Actual cost |
| | F.3 FF&E Design Services | | | |
| | a. Not Included | \$0 | | |
| | F.4 Additional Services | | | |
| | a. Sustainability Consulting | \$0 | | |
| | b. Landscape Architecture | \$0 \$0 | | |
| | c. Cost Estimating e. Acoustic Consultant | \$0 | | |
| | e. Lighting Consultant | \$0 | | |
| | f. A/V, Technology, Low Voltage Consultant | \$0 | | |
| | g. Security Consultant | \$0 | | |
| | h. Other | \$0 | | |
| IV. | TOTAL ESTIMATED OWNER'S EXPENSES (G.1 - G.3) | rik) sapra-titi tisaki kalanda kapada sasas sasah dapada | \$19,000 | |
| | G.1 Pre-Design Phase Expenses | | | |
| | a. Land Acquisition Cost | \$0 | | |
| | b. Site Survey | \$0 | | |
| | c. Environmental Studies | \$0 | | |
| | d. Hazardous Material Assessments & Abatement | \$0 \$0 | | |
| | e. Commissioning Agent f. Other | \$0 \$0 | | |
| | | | | |
| , | G.2 Design & Construction Phase Expenses a. Geotechnical Testing | \$4,000 | | Actual cost |
| | b. Special Inspections Req'd by IBC | \$15,000 | | , interest and the second seco |
| | c. Erosion Control Inspections if Req'd by County | \$0 | | |
| | d. Other | \$0 | | |
| (| G.3 Post Construction Expenses | | | |
| . ' | a. Moving Costs | \$0 | | |
| | b. Other | \$0 | | |
| V 5 | SUBTOTAL ESTIMATED PROBABLE PROJECT COST | | \$2,663,841 | |
| | | | , | |
| VI. I | DESIGN AND CONSTRUCTION CONTINGENCY 10% of | · I. | \$235,079 | Contigency applied to Construction Cost only |
| VII. 7 | OTAL ESTIMATED PROBABLE PROJECT COST | | \$2,898,919 | |

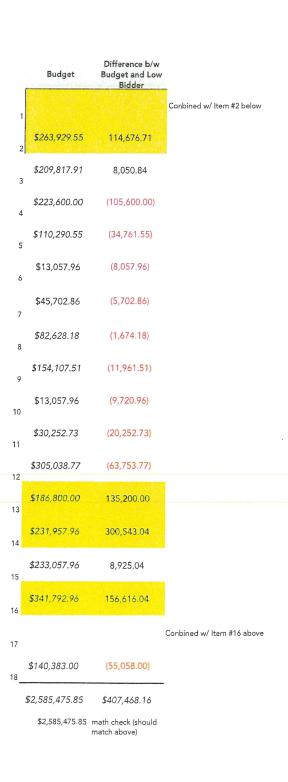


| | | | | | | inber 20, 201 |
|--|----------------------|---------------------------|--|---|--|---------------|
| CONTRACTORS | Southern Builders | Southside Constructors | | | | |
| Mandatory Pre-Bid Attendance | Y | Y | No. of the Control of | Out of a second | The second secon | |
| Acknowledgment of 5 | Y | Y | | | | |
| Addenda | | | | | | |
| Total Base Bid | \$ 2,992,944 | \$ 3,295,500 |) | | | |
| | | | | | | |
| Alternate #1 | \$ 428,000 | \$ 349,000 | | | | |
| | | | | | | |
| SUB-CONTRACTOR BREAKDOWN FOR BASE BID | | | | | | |
| General Conditions | \$196,453.60 | \$169,534.00 | | | | |
| Overhead and Profit | \$182,152.66 | \$318,658.00 | | | | |
| Concrete | \$217,868.75 | \$190,784.00 | | | | |
| Masonry | \$118,000.00 | \$176,000.00 | | | | |
| Metals | \$75,529.00 | \$86,400.00 | | | | |
| Woods and Plastics | \$5,000.00 | \$22,220.00 | | | | |
| Thermal and Moisture Protection | \$40,000.00 | \$65,400.00 | | | | |
| Openings | \$80,954.00 | \$74,300.00 | | | | |
| Finishes | \$142,146.00 | \$206,900.00 | | | | |
| Specialties | \$3,337.00 | \$4,100.00 | | | | |
| Furnishings | \$10,000.00 | \$0.00 | | | | |
| Special Construction / Pre-Engineered Building | \$241,285.00 | \$200,600.00 | | - | | |
| Plumbing | \$322,000.00 | \$329,875.00 | | | | |
| Mechanical | \$532,501.00 | \$579,093.00 | | | | |
| Electrical | \$241,983.00 | \$251,208.00 | | | | |
| Earthwork | \$236,782.00 | \$305,575.00 | | | | |
| Exterior Improvements | \$261,627.00 | \$241,013.00 | | | | |
| Utitlies | \$85,325.00 | \$73,840.00 | | | | |
| Fotal (Should match above) | \$2,992,944 | \$3,295,500 | | | | |
| | | | | | | |
| | | | | | L | |

| CONTRACTORS | Southern Builders | | Southside Constructors | | | |
|---------------------------------|------------------------------|---|-------------------------------------|--|--|--|
| Mandatory Pre-Bid Attendance | Y | CONTRACTOR OF THE PROPERTY OF | Y | ecusiones Ricordus and a provincia Automobile proprietario de metro de transcribo de la composition de metro de transcribo de la composition del composition de la composition della composition de la composition | eleccione de la completa de la comp | |
| Acknowledgment of 5 Addenda | Y | | y Y | | | |
| Total Base Bid | \$ 2,992,944 | | \$ 3,295,500 | | | |
| Major Subcontractors | | | | | | |
| Concrete | NDB Construction | | Southside Constructors | | | |
| Masonry | Division Four Contracting | | Southside Constructors | | | |
| Roofing | Pickens Roofing | | Piedmont Commerical (Roofing) | | | |
| Plumbing | Action Mechanical | 9 | Action Mechanical | | | |
| HVAC | LL John's | | Perrigo Heaating and Air | | | |
| Electrical | Brilin Electric | | Walker Electrical | | | |



| CONTRACTORS | Southern Builders |
|--|----------------------|
| Mandatory Pre-Bid | Y |
| Attendance Acknowledgment of 5 | - |
| Addenda | Y |
| Total Base Bid | \$ 2,992,944 |
| | 400,000 |
| Alternate #1 | \$ 428,000 |
| SUB-CONTRACTOR BREAKDOWN FOR BASE BID | |
| General Conditions | \$196,453.60 |
| Overhead and Profit | \$182,152.66 |
| Concrete | \$217,868.75 |
| Masonry | \$118,000.00 |
| Metals | \$75,529.00 |
| Woods and Plastics | \$5,000.00 |
| Thermal and Moisture Protection | \$40,000.00 |
| Openings | \$80,954.00 |
| Finishes | \$142,146.00 |
| Specialties | \$3,337.00 |
| Furnishings | \$10,000.00 |
| Special Construction / Pre-Engineered Building | \$241,285.00 |
| Plumbing | \$322,000.00 |
| Mechanical | \$532,501.00 |
| Electrical | \$241,983.00 |
| Earthwork | \$236,782.00 |
| Exterior Improvements | \$261,627.00 |
| Utitlies | \$85,325.00 |
| Total (Should match above) | \$2,992,944 |
| | |
| | |





December 3, 2018

Nicholas Miller Director of Procurement 101 N Main Street Lancaster, SC 29720

Nicholas,

After a thorough and collaborative design process for the new Animal Shelter, we share in the County's disappointment with the bid results. That said, unfortunately we can't say we were surprised. Our firm subscribes to several market conditions reports in an effort to stay informed on construction costs, and these have consistently indicated sharply climbing costs for the construction industry over the past two years. Many clients and colleagues have shared in recent budget struggles reflective of this and it has been an unfortunate trend across many projects.

For that reason, we solicited more advice than is typical during design from industry partners, including two General Contractors, a Site Contractor, Metal Building Supplier, and several major subs including Mechanical, Electrical, Plumbing, and Masonry. Several of these partners, along with a third-party Cost Consultant, warned that contractors are extremely busy, labor is in short supply, and material costs are rising unpredictably. Even with this advice roughly three months prior to bidding, we unfortunately still missed the mark of where we'd hoped costs would come in. Offtarget specifically were mechanical, plumbing, sitework, and contractor fees.

We were hopeful during bidding with interest in the project from up to 11 General Contractors requesting drawings directly from MPS, along with several public plan rooms who also made drawings available. We received a good level of interaction through questions and substitution requests, and we vetted and approved all substitutions received within the allotted timeframe to allow GCs to bid alternatives to our specified products if they had more cost-effective options.

Just the morning of the bid opening, a contractor in Greenville shared with me that every project they were currently pricing has come in over budget and that they hoped competition would work in our favor for the shelter. It was especially unfortunate that bids were received from only two contractors. It is our opinion that contractors and the subs they depend on are simply covered up with work. Of the 11 showing interest during bidding, Southern Builders and Southside Constructors submitted bids, with Southern as the apparent low bidder. Our firm has not worked directly with Southern, however their bid package along with other requested materials were complete and timely. While disappointing that the bid amount is higher than hoped, we have no reason to withhold our recommendation to the County to award the project to Southern.

Thank you for the trust you have placed in MPS. We value our work together and we remain committed to navigating this challenging product alongside the County.

Best,

Cary Perkins, AIA Associate Principal

Can perlin



Ordinance # / Resolution#:

Contact Person / Sponsor: Sheriff Barry Faile

Department: Sheriff's Office - Request for purchase of additional Complete Active Shooter Kits and an AirWorx

Police/Fire Drone Package

Date Requested to be on Agenda: Next Available

Issue for Consideration:

Sheriff Faile would like to request purchase of 41 complete active shooter kits and Tactical helmets:

- 1) Plate Carrier
- 2) 2 Steel Plates
- 3) Tactical Helmets

In addition, Sheriff Faile would like to purchase an AirWorx Police/Fire Package M210, XT2, Z30 Drone, which includes the airframe kit, camera/dual sensor, and batteries. Package includes delivery, setup and check flight.

Points to Consider:

The purchase of these complete kits will allow us to suit our entire force. This purchase will be for those on staff, who do not currently have an active shooter kit.

The purchase of the drone will benefit with search and rescue efforts, criminal apprehension, surveillance, intelligence Gathering for search warrants. We already have a licensed remote pilot on staff.

Funding and Liability Factors:

- > Requesting funding for the equipment referenced above at the following costs:
- > Tactical Helmet: with Full Cut / low profile with pads, it is constructed from para aramid material and provides lightweight, robust protection from ballistic and fragmentation projectiles, works with communication equipment, gas masks; Point Blank Active shooter steel plate carrier and 2 steel plates.

Active Shooter Kits Total: \$23, 431.74 (includes kits, tax and shipping)

> Requesting funding for the drone package.

AirWorx Police/Fire Drone Package: \$24,503.00

<u>Council Options:</u> Sheriff Faile is requesting consideration of funding for the purchase of 41 complete active Shooter kits and the AirWorx Special Package. **Total for consideration based on current quotes is, \$47,934.74**.

Recommendation: Sheriff Faile does not have funding in the budget to purchase the additional active shooter kits Nor the AirWorx drone package and requests funding for both.



QUOTE

838 Powdersville Rd., Ste P

Easley, SC 29642 Phone: 864.898.9444

Email: sales@airworxdrone.com Prepared by: Stephen Baxley QUOTE #
Customer ID

Valid Until:

11/15/2018 LanCoSO 1 LanCoSO 12/15/18

Customer

Lancaster Co Sheriff's Office

ATTN: Eric Brown

| DESCRIPTION | QTY | AMOUNT | | | | |
|--|--|--|--|--|--|--|
| AirWorx Police / Fire Special Package M210, XT2, Z30 (November 2018) | 1 | \$22,900,00 | | | | |
| DJI Matrice M210 Airframe Kit | 1 mm 1 m 1 mm 1 mm 1 mm 1 mm 1 mm 1 mm | unice un du la Colombianioni de Celebra de Celebra | | | | |
| Cendence Controller, CrystalSky 7.85, 2- TB50 batteries, Quad Charger, Case, Extra P | | | | | | |
| DJI Zenmuse Flir XT2 Thermal Camera / Dual Sensor | 1 | | | | | |
| 336 Res / 13mm / 30Hz | | | | | | |
| Zenmuse Z30 Camera Sensor / 30x optical zoom | 1 | | | | | |
| DJI TB55 Battery (Extended Range) | 6 | | | | | |
| DJI Cendence / CrystalSky Battery | 2 | | | | | |
| Delivery / Setup / Check Flight | | Included | | | | |
| NO SUBSITUTIONS FOR THE SPECIAL PACKAGE | | | | | | |

red, Pamer

| | Subtotal | \$22,900.00 |
|--|-----------|-------------|
| TERMS AND CONDITIONS | Taxable | \$22,900.00 |
| Customer will be billed after indicating acceptance of this quote | Tax rate | 7.000% |
| Payment will be due prior to delivery of service and goods | Tax due | \$1,603.00 |
| 3. Please fax or mail the signed price quote to the address above | Discount | \$0.00 |
| Customer Acceptance (sign below): | TOTAL Due | \$24,503.00 |

| × | TOTAL CONTINUES AND ADMINISTRATION OF THE CONTINUES AND ADMINISTRA |
|---|--|
| P | rint Name: |

If y



Craig's Firearm Supply Inc. Police Distributor

1531-B Broad River Rd., Columbia, SC 29210
Phone 803-764-6941 ~ Fax 803-764-6961

8761 Chapman Highway, Knoxville, TN 37920 Phone 865-573-4567 ~ Fax 865-573-0820

| TO:_ | L.T. Brandon Rollins | PHONE: | 803-288-2611 |
|--------------|----------------------|---------------------------|-------------------|
| AGENCY:_ | Lancaster County SO | email: <u>bro</u> | ollins@lacoso.net |
| DATE: | 11/14/18 | Quote will be honored for | days. |

A copy of this quote must accompany your purchase order. EACH MANUFACTURER MUST HAVE A SEPARATE PURCHASE ORDER. ALL REMINGTON PRODUCTS REQUIRE A SEPARATE PURCHASE ORDER FOR EACH LINE ITEM. AGENCIES ARE RESPONSIBLE FOR ALL TAXES ITEM DESCRIPTION PART# PRICE QTY. EXT. Paraclete, MICH Tactical helmet with Full Cut / Low Profile with pads, it is constructed from para aramid material and provides lightweight, robust protection from HLMMCF0000 \$255.00 41 \$10,455.00 ballistic and fragmentation projectiles, works with communication equipment, gas masks, Color: Black Sizes Required when ordering Point Blank Active shooter steel plate carrier, will accept size: 10" X 12" steel 55 plates, PCP000BV0J 41 \$0.00 Color: Black with "SHERIFF" ID Patches in Gold Lettering Point Blank, STYLE # PLT450FS, PLT450FSFQ 82 \$0.00 Level 3 + Steel plate 555, Full size: 10" X 12" 41 each - Complete Active Shooter Kits (With above Plate carrier & \$270.22 41 \$11,079.02 (2) Steel Plates) 8% Sales Tax \$1,722.72 Shipping \$175.00 Please allow up to 45 to 50 days delivery

TOTAL \$23,431.74

- * Prices are due and payable NET 30 days for each invoice
- * Trade-In pistols must be in good, serviceable working order
- * Deductions made if trade-ins are damaged or not as specified
- * Trade-In or exchange pistols must be complete with 3 magazines, working sights, & in original box, unless otherwis working sights, & in original box, unless otherwise noted
- * Trade-In or exchange pistols must be turned in within 30 days after receipt of new Glock pistols, unless other arrangements have been made and approved



Ordinance # / Resolution#:

Information Item

Contact Person / Sponsor:

Stephen Blackwelder/ Steve Willis

Department:

Public Safety Communications/ Administration

Date Requested to be on Agenda:

December Public Safety and Administration Committees

Issue for Consideration:

Reallocation of resources in Public Safety Communications.

Points to Consider:

This change does not involve a budget transfer so we can handle this on the staff level. That said, when we hit something like this we want to make sure that Council is kept in the loop. With the upcoming update of our Computer Aided Dispatch software we hit some related computer software that must be updated. This is still a contractual matter and some other planned upgrades will be deferred to allow for this.

The ESRI computer mapping (GIS) component of Computer Aided Dispatch must be updated. We currently operate off of version 9.5; the minimum requirement for the new CAD software is version 10.1; we will be upgrading to the most recent version which is 10.5. The cost is \$54,000.

We must update our VMware and VM sphere licensing to meet the new CAD requirements. This cost is \$17,028.

We must update the servers to handle the new software. This cost is \$2,206.

Funding and Liability Factors:

Individual components discussed above. This will be handled administratively by changing spending priorities and there will be no change to the budget.

Council Options:

N/A

Staff Recommendation:

We are proceeding with work associated with the updated Computer Aided Dispatch package.

Committee Recommendation:

N/A Information only.



Ordinance # / Resolution#:

Discussion Item

Contact Person / Sponsor:

Steve Willis

Department:

Administration

Date Requested to be on Agenda:

December Administration Committee

Issue for Consideration:

Plans for 2019 Community Development Block Grants.

Points to Consider:

Council has approved one submission for 2019 and we just heard that it was approved. That project is for further demolition of twelve (12) dilapidated buildings in the Brooklyn and Midway areas.

As we just closed out our joint water and sewer upgrade projects with the City of Lancaster we will have the capacity to apply for up to two more grants in 2019. Based on discussions with Grazier Rhea concerning Commerce's focus areas I would recommend the following two projects.

- 1. Renovation at DSS building \$500,000. Once the Health Department has moved to the Barnette Building we will need to renovate their space for use by DSS and make ADA upgrades to the entire building. We also plan to isolate one section of a wing for use by the DHHS Medicaid office. We currently lease space for their use and this would be a recurring cost savings.
- 2. Neighborhood revitalization Kershaw Mill Village \$500,000. We did one section a few years back and it is time to look at continuing that project. This would involve repairs/ upgrades to the Town of Kershaw water and sewer system as well as road resurfacing once that work is completed.

Funding and Liability Factors:

Each project requires a 10% local cash match. If we receive the maximum \$500,000 for each project that would come to \$50,000 for each project. Traditionally that has come from the grant match account.

Council Options:

If Council has any other ideas we need to have time to review them with the Council of Governments. Each grant would come to Council prior to submission by the COG.

Staff Recommendation:

N/A at this time.

Committee Recommendation:

N/A at this time.



Ordinance # / Resolution#:

Discussion Item

Contact Person / Sponsor:

Steve Willis

Department:

Administration

Date Requested to be on Agenda:

December Administration Committee

Issue for Consideration:

Do we proceed with developing a plan to charge Impact Fees or negotiate Development Agreements?

Points to Consider:

Attached is a memorandum outlining the statutory authority for both as well as a discussion of the pros and cons of each method.

The material is from publications by the Association of Counties.

Funding and Liability Factors:

There is no clear cut answer here. The proceeds are more restricted with Impact Fees but the ability to negotiate a Development Agreement is limited to only the larger residential developments. Development Agreement proceeds are available for use at the sole discretion of Council.

One liability issue is that Development Agreements lock in the UDO version in existence at the time of the agreement. Council's ability to update the UDO to meet changing needs is limited in Development Agreements.

Council Options:

This is a policy decision for Council.

Staff Recommendation:

Pursue Impact Fees.

Committee Recommendation:

To be determined.

MEMORANDUM

TO:

County Council

FROM:

Steve Willis, County Administrator

SW

TODAY'S DATE:

November 26, 2018

DUE DATE:

N/A

SUBJECT:

Impact Fee Versus Development Agreement

This will be coming up at the December Administration Committee for discussion. I wanted to make sure that full Council had this information for such discussion with those Committee members that might be desired.

Statutory Origins

Development Agreements are authorized pursuant to SC §6-31-10. The following is from the SCAC Guide to Land Use Planning in South Carolina (2017 edition) on Development Agreements:

Chapter 7 Development Agreements

The General Assembly adopted the South Carolina Local Government Development Agreement Act in 1993. S.C. Code § 6-31-10, et seq. The Act authorizes binding agreements for long-term development of large land tracts. The development agreement gives a developer a vested right during the term of the agreement to proceed according to land use regulations in existence on the date of the agreement.

Purpose

The economic impact stemming from the uncertainty for land developments to proceed under laws existing at the time a permit is issued demonstrated a need for development agreements, according to the legislative findings in S.C. Code § 6-31-10. The Act expresses the intent to encourage a stronger commitment to comprehensive and capital facilities planning, providing adequate public facilities, efficient resource use, and reducing development costs.

Development Permits

Development permits include a building permit, zoning permit, subdivision approval, rezoning certification, special exception, variance, or any other official action permitting the property development. S.C. Code § 6-31-20.

Minimum Requirements

The local government cannot use a development agreement for every land development. There are two threshold requirements the development must meet before an agreement is authorized. S.C. Code § 6-31-40.

- 1. Size of property. A property must contain a minimum of 25 acres of highland. The Act does not define the term "highland." The local ordinance authorizing agreements could define the term (e.g., land above the 100-year flood plain).
- 2. Development time. The time frame for developing property up to 250 acres cannot exceed five years. The time is extended to not more than ten years for property more than 250, but less than 1000 acres. If the property exceeds 1,000 but less than 2,000 acres an agreement may extend to 20 years. The jurisdiction may set any time frame by agreement for property larger than 2,000 acres or property subject to redevelopment under the Military Facilities Redevelopment Act.

Contents of Agreement

A development agreement must include the following. S.C. Code § 6-31-60.

- 1. Legal description of the property and names of legal and equitable owners. A purchaser holding a written contract of sale is an equitable owner and should be a party to the agreement.
- 2. The duration of a development agreement varies depending on the size of the property, but must be at least five years to qualify as a development agreement. S.C. Code §6-3140. An agreement may extend the termination date.
- 3. Uses permitted, includes population and building densities, and building heights.'
- 4. Public facilities description of who will serve the development and when. The agreement could include requirements for easements and underground utilities. If the development agreement provides that the local government will provide certain public facilities, the development agreement must provide that the delivery date of such public facilities will be tied to defined completion percentages or other defined performance standards to be met by the developer.
- 5. Reservation or dedication of land for public purposes and environmental protection provisions. An environmental impact study may be appropriate.
- 6. A description of all local development permits needed or approved. A statement should be included that failure to list a permit does not relieve developer from complying with the law.
- 7. A statement that the development is consistent with the comprehensive plan and land development regulations. See S.C. Code §6-31-70.
- 8. Conditions, terms, restrictions, or requirements necessary for public health, safety or welfare.
- 9. Description of provisions for historic preservation and restoration. The agreement should cite local regulations for historic districts and structures.
- 10. Specific time for completion of development or any phase. The local government may extend the time upon request.
- 11. Responsible government. If more than one local government is a party to the agreement, specify which is responsible for overall administration of agreement.

12. Other matters. Any other matter not inconsistent with law may be included. The agreement should contain a provision for applying new laws. S.C. Code § 6-31-80(B)(3). (Maps and plans could be required at appropriate development stages.)

A development agreement may be amended or terminated with the consent of the affected parties. S.C. Code § 6-31-100.

Adoption of Agreement

The following steps are required for approving a development agreement.

- 1. Hearing. Before entering into a development agreement, the governing body must hold at least two public hearings. It may authorize the planning commission to conduct the hearing. S.C. Code § 6-31-50(A).
- 2. Notice. Notice of the hearing must be published in a general circulation newspaper in the community. S.C. Code § 6-31-50(B). The notice must specify the property location, proposed uses, and a place where a copy of the agreement may be obtained. (No time limit for publishing the notice is set by the Act. The general ordinance authorizing development agreements should set the time.) The time and place of the second hearing must be announced at the first hearing.
- 3. Ordinance. The governing body must approve each development agreement by adoption of an ordinance. S.C. Code § 6-31-30.

Applicable Laws

- 1. Existing law. Unless otherwise provided by the development agreement, the laws in force at the time the agreement is executed will apply to the property development. S.C. Code § 6-31-80. The rights of electricity and gas suppliers may not be altered or amended. S.C. Code § 6-31-140. The Act does not give the local governing body any extraterritorial authority.
- 2. Subsequent law. A local government may apply subsequently adopted laws to a development under a development agreement if it determines after a public hearing that one of the following conditions is met. S.C. Code § 6-31-80.
 - a. No conflict. The new laws do not conflict with laws governing the development agreement and do not prevent the development.
 - b. Essential. The new laws are essential to public health, safety, or welfare. They expressly state that they apply to the development subject to the agreement.
 - c. Anticipated. The specific laws are anticipated and provided for in the development agreement.
 - d. Changes. Substantial changes have occurred which would pose a serious threat to public health, safety, or welfare if not addressed.
 - e. Inaccuracy. The development agreement is based on substantially and materially inaccurate information supplied by the developer.

As you can see, the use of a Development Agreement is limited to larger developments and generally residential developments. It is impossible to use these on smaller

developments or individual parcels under the size requirement. Also, these require the mutual consent of the owner; Council may not unilaterally impose a Development Agreement on a developer. Generally we must give something to get one of these, such as a variance to buffering requirements, lot size requirements, installation of some infrastructure, etc. Finally, these lock in the UDO version at the date of adoption so we end up with a variety of UDO versions in effect in Lancaster County. This rapidly becomes an administrative nightmare.

On the pro side it should be noted that the money extracted from the developer can be used at the sole discretion of Council. The money is not restricted in location or use unless so stated in the agreement. I would note that funds should be collected in a lump sum up front as we have done over the last several years. Our older agreements that imposed the fee when the building permit was pulled are very troublesome to administer.

Impact Fee

Information on Impact Fees, authorized pursuant to SC § 6-1-90, is not found in the SCAC Guide to Land Use Planning but instead is found in the SCAC Manual on Revenue Resources (2016 edition). Unless exempted by state law, such as a new school or volunteer fire station, the impact fee is imposed on all new construction (not remodeling or rebuilding following a fire or similar catastrophe) and is revenue to be used for the purpose specified. The section covering Impact Fees is rather lengthy (pages 29 through 45) so I will just hit the highlights. If anyone wants a copy please let me know.

The local government must have a Comprehensive Plan (SC 6-1-930(A)(1)).

The local government must **conduct a study** (SC 6-1-930(A)(2)).

The local government must **state the amount** and that it was calculated in compliance with state law (SC 6-1-940).

The local government must have a Capital Improvements Plan covering the items listed (SC 6-1-960).

The local government may only use the revenue generated for **the specific purposes listed and only within the service area** covered by the fee (SC-6-1-1010).

If a parcel qualifies for a Development Agreement the local government may use that in lieu of an impact fee (SC 6-1-1050). We can't collect both.

As you can see the revenue generated from an Impact Fee is significantly limited and Council may not use the funds at its discretion. The funds may only be used for the specific purposes outlined in the ordinance adopting the fees and may only be used within the area where the fees are collected.

On the pro side the use of a fee in no way affects the UDO and any subsequent amendments that Council may adopt. All development must comply with the current UDO version regardless of any fee paid.

As Council is aware, we have a Comprehensive Plan, we have a Capital Improvements Plan, and the Council of Governments has conducted the required study for us. That said, the study needs to be updated due to several changes that have occurred. Specifically they are:

- 1. The Council has approved plans for expansion of the Indian Land Del Webb Library utilizing Capital Project Sales Tax revenue. Since an alternative funding source has been approved, we cannot impose an Impact Fee for the same project.
- 2. The Council has approved funding (land has been purchased and design is underway) for the relocation and expansion of the Indian Land EMS station (Station 4, expanded to include EMS 9). Again, since an alternative funding source has been approved we cannot impose an Impact Fee for the same project.
- 3. Finally, the voters have approved a bond for the expansion of the Indian Land Recreation Center. Again, since an alternative funding source has been approved we cannot impose an Impact Fee for the same project.

Accordingly, I have asked the COG staff to amend the study to reflect the following changes.

- 1. The Library Impact Fee will be eliminated. NOTE: The architect made clear that a new library branch was needed in the Indian Land area. At some point in the future the CIP could be amended to include such, the study updated, and a revised Impact Fee adopted by ordinance for such.
- 2. The Parks and Recreation Impact Fee for the expansion will be eliminated. The study included funding for practice fields but since that was such a small component of the overall project I recommend this Impact Fee simply be dropped. Should the Committee decide to retain that aspect we would have a minimal Parks and Recreation Impact Fee.
- 3. The EMS Impact Fee would be amended to eliminate the EMS Station component. The acquisition of ambulances (front line and spare for 9, spares for 4 and 8) would remain.
- 4. The Fire Rescue Impact Fee would not be changed. It would remain to fund three fire stations; main station for Charlotte Road Van Wyck and substations for Indian Land and Pleasant Valley.

Other counties that utilize Impact Fees

The Association of Counties reports that the following counties currently utilize Impact Fees:

Beaufort

Dorchester

Georgetown

York

Following an advisory referendum Horry County will begin charging Impact Fees in 2019.

Area cities that charge an Impact Fee include Fort Mill and Rock Hill. I did not reach out to the Municipal Association for a list of cities currently charging such a fee.

Please advise if any additional information is needed or if you would like a full copy of one or both SCAC manuals.

SW

CC:

John DuBose, County Attorney

Veronica Thompson, CFO, Financial Services Director