



Town of Summerville
Council Meeting
Summerville Municipal Complex
Wednesday, October 14, 2015 at 7:30 p.m.
Amended
A G E N D A

- 1. Invocation and Pledge of Allegiance – Aaron Brown**
- 2. Public Comment**
- 3. Approval of Minutes of Previous Meetings**
 - a. Council Meeting, September 9, 2015
- 4. Approval of Council Committee Reports**
 - a. Finance Committee Report, October 12, 2015
- 5. Petitions**
 - a. Authorization to accept the petition and have first reading of an ordinance to annex TMS #232-00-02-052, approximately 19.4 acres, located at the terminus of Jockey Court and owned by Marymeade Associates to be zoned B3 "General Business"
- 6. Pending Bills and Resolutions**
 - a. Second and final reading of an ordinance authorizing quit-claim deeds to adjacent property owners for portions of unimproved right-of-way on E. 2nd South Street
 - b. Second and final reading of an ordinance to amend Chapter 2 Section 2-69 of the Code of Laws of the Town of Summerville by deleting Section (a) (2) relating to Mayor's compensation
- 7. Introduction of Bills and Resolutions**
 - a. A Resolution directing the Planning Commission to review and make recommendations for an amended capital improvements plan and revised impact fee ordinance
- 8. Miscellaneous**
 - a. Authorization to execute an intergovernmental agreement with Charleston County for disaster debris removal
 - b. Authorization to execute an intergovernmental agreement with Berkeley County for the planning and implementation of certain road projects
 - c. Authorization to execute a Visitor Management Agreement with the Summerville/Dorchester County Chamber of Commerce
 - d. Authorization to execute an agreement with the First Circuit Public Defender to provide indigent legal representation
 - e. *Authorization to execute a memorandum of agreement with the S.C. Department of Transportation for disaster related debris removal*
- 9. Adjourn**

William C. Collins, Mayor

Council Members:

Terry Jenkins, Mayor Pro Tem
Walter Bailey
Aaron Brown
Kima Garten-Schmidt
Bob Jackson
William McIntosh



Clerk-Treasurer

Lisa L. Wallace

Town Attorney

G. Waring Parker

Town of Summerville

**COUNCIL MEETING MINUTES
SEPTEMBER 9, 2015**

ATTENDANCE

Present: Mayor Bill Collins and Council members Walter Bailey, Aaron Brown, Bob Jackson, Kima Garten-Schmidt, Terry Jenkins and Bill McIntosh. Also present were Lisa Wallace, Director of Administrative Services & Clerk-Treasurer, and G.W. Parker, Town Attorney. Members of the press and the public were duly notified of the meeting and were also present.

CALL TO ORDER

The regular monthly meeting of Summerville Town Council was called to order at 7:30 p.m. on Wednesday, September 9, 2015. The meeting was opened with prayer by Mayor Collins, followed by the Pledge of Allegiance.

SPECIAL PRESENTATION – KEY TO THE CITY

Mayor Collins called forward former council member Rollins Edwards and presented Mr. Edwards with a Key to the City and a Proclamation declaring September 10, 2015 as Rollins Edwards Appreciation Day in Summerville in recognition of his life-long dedication to our community and country.

PUBLIC COMMENTS

Mayor Collins called for any comments from the public. A number of residents from the Weatherstone community expressed concerns about the proposed Bear Island Road extension. Thadius Kciuck and Homer Gonzales presented a map with a proposed alternate route and a list of issues associated with the project. Mr. Kciuck also reported that the woods contained endangered species and that the community would prefer to use that area for parks or nature trails. A number of other residents spoke about their concerns for public safety, noise and loss of trees. Mr. Kciuck presented council with a petition opposing the proposed Bear Island Road extension through Weatherstone. Janet Rosensweig of 100 Willis Lane stated that Willis Lane is in the process of being paved but that it is unacceptable that the road won't be finished until November. She reported that she has been stuck in her own driveway and that there is corrosive material that covers the cars, sidewalks, porches, etc. She would like consideration to try and get this project done more quickly. Adrian Kwist stated he is a 50-year resident of the Town of Summerville and sympathizes with the Weatherstone residents, adding that public safety should be the number one priority. There being no further business, the Mayor declared that portion of the meeting closed.

APPROVAL OF MINUTES OF PREVIOUS MEETINGS

Mr. Brown made a motion, seconded by Mr. Jenkins, to approve the minutes of the August 12, 2015 council meeting as presented. The motion carried unanimously.

APPROVAL OF COUNCIL COMMITTEE REPORTS

Mr. Jackson made a motion, seconded by Ms. Garten-Schmidt, to approve the September 8, 2015 Finance Committee report and the September 2, 2015 Public Works Committee report as submitted. The motion carried unanimously.

PETITIONS

There were no petition for annexations to be considered.

PENDING BILLS AND RESOLUTIONS

Mr. Jackson made a motion, seconded by Mr. Jenkins, to have second and final reading of ordinance #15-0201 to annex TMS#'s 135-12-00-012, 135-12-00-016, 135-12-00-017, 135-12-00-018, 135-12-00-020, located along Central Avenue and Old Orangeburg Roads to be zoned B3, "General Business". The motion carried unanimously.

INTRODUCTION OF NEW BILLS AND RESOLUTIONS

Mr. Brown made a motion, seconded by Mr. Bailey, to introduce and have first reading of an ordinance authorizing a quit-claim deed for unimproved right-of-way of W. 3rd South Street. Mr. Jenkins recused himself reporting a conflict of interest. The motion carried unanimously with Mr. Jenkins abstaining.

Mr. McIntosh made a motion, seconded by Mr. Jenkins, to introduce and have first reading of an ordinance authorizing a quit-claim deed to adjacent property owners for unimproved right of way on Parkwood Drive between Golf Road and Simmons Avenue. The motion carried unanimously.

Mayor Collins announced that he would recuse himself from voting on the next item and turned the gavel over to Mayor Pro-Tem, Terry Jenkins, to preside over the meeting. Ms. Garten-Schmidt made a motion, seconded by Mr. Bailey, to introduce and have first reading of an ordinance to amend Chapter 2 Section 2-69 of the Code of Laws of the Town of Summerville by deleting Section (a) (2) relating to the Mayor's compensation. The motion carried unanimously with Mayor Collins abstaining.

MISCELLANEOUS

There were no miscellaneous items to report.

ADJOURN

There being no further business, the meeting adjourned at 8:25 p.m. on motion of Mr. McIntosh, seconded by Mr. Jackson.

Respectfully submitted,

Lisa Wallace, Director of Administrative Services
Clerk and Treasurer

APPROVED:

William C. Collins, Mayor

**TOWN OF SUMMERVILLE
FINANCE COMMITTEE REPORT
OCTOBER 12, 2015**

The Finance Committee met at 8:00 a.m. on Monday, October 12, 2015 in the Training Room of the Summerville Municipal Complex. Present were Mayor Bill Collins and Council members Walter Bailey, Aaron Brown, Kima Garten-Schmidt, Bill McIntosh and Terry Jenkins. Bob Jackson was absent. Also present were Town Attorney, G.W. Parker, Director of Administrative Services, Lisa Wallace and Finance Director, Belinda Harper. Other staff members, members of the press and members of the public were also present.

Presentation of Financial Report	Belinda Harper presented the September 2015 financial report. The report was accepted as information.
Approval of Financial Requisitions	<p>Mr. Bailey made a motion, seconded by Mr. Jenkins, to award the bid and issue a purchase order to Sanders Brothers Construction Co. in the amount of \$613,161 for road resurfacing projects to be paid from the major road repair fund (\$277,250 to be reimbursed from CTC). The motion carried unanimously.</p> <p>Mr. Brown made a motion, seconded by Ms. Garten-Schmidt, to authorize a purchase order to Harley Davidson of Asheville in the amount of \$34,598 on State contract for (2) Harley Davidson motorcycles to be paid from federal drug funds. The motion carried unanimously.</p> <p>Mr. McIntosh made a motion, seconded by Mr. Jenkins, to authorize the Mayor to execute a professional services agreement with Stantec and a purchase order in the amount of \$128,800 for a portion of Phase I of the Hutchinson Square master plan to be paid from CDBG funds. The motion carried unanimously.</p>
Discussion of Council Committee Reports	There were no council committee reports.
Discussion of Proposed/Upcoming Council Agenda Items	There were no questions about the upcoming council agenda.
Miscellaneous	<p>Mr. Bailey made a motion, seconded by Mr. Jenkins, to accept the 2015 COPS Hiring Grant in the amount of \$500,000 to fund salaries and benefits for four police officers over a 3-year period and authorize the 25% match. The motion carried unanimously.</p> <p>Mr. Jenkins made a motion, seconded by Mr. Brown, to waive building permit fees for reconstruction of buildings damaged by flooding due to the recent storm until December 31, 2015. Mr. Jenkins</p>

	added that Mr. Palmer should advise Council at the end of the year if an extension is needed.
Executive Session	<p>Ms. Garten-Schmidt made a motion, seconded by Mr. Jenkins, to enter into executive session at 8:25 a.m. to discuss contractual matters related to the visitor center management agreement and a potential visitor center site and legal matters related to pending litigation regarding the Sawmill Branch Trail. The motion carried unanimously.</p> <p>The Finance Committee returned to public session at 8:50 a.m. and announced that no action was taken.</p>
Adjourn	There being no further business, the meeting adjourned at 8:51 a.m.

Respectfully submitted,



Lisa Wallace
Director of Administrative Services
Clerk/Treasurer

ORDINANCE

TO ANNEX TO, AND INCORPORATE WITHIN THE CORPORATE LIMITS OF THE TOWN OF SUMMERVILLE, A PORTION OF THE AREA OWNED BY MARYMEADE ASSOCIATES LP ADJACENT TO THE BOUNDARY LINE OF THE TOWN, AS DESCRIBED ON THE DEED AND PREPARED PLAT ATTACHED HERETO AND INCORPORATED BY REFERENCE:

WHEREAS, the owner of the real estate designated as a portion of Berkeley County TMS # 232-00-02-052, located at the terminus of Jockey Court described as 19.401 acres labeled as "New Tract A" on the attached plat; has petitioned the Town Council of the Town of Summerville to annex into the Town of Summerville.

NOW, THEREFORE BE IT ORDAINED by the Mayor and Members of Town Council duly assembled;

SECTION I. That the described land on the attached deed and prepared plat, contiguous to the boundary of the Town of Summerville is hereby annexed to, taken into and made a part of the Town of Summerville and including the public roadway (s) immediately adjacent to the property lines of the parcel for the purposes of providing public service to the parcel.

SECTION II. That the property above described and hereby annexed shall be Zoned B3, General Commercial and be classified as B3, General Business under the Zoning Ordinance of the Town of Summerville.

Ratified this _____ day of _____, 2015 A.D.

William C. Collins, Mayor

Lisa Wallace, Clerk to Council

PUBLIC HEARING: September 21, 2015

FIRST READING: October 14, 2015

SECOND READING: _____



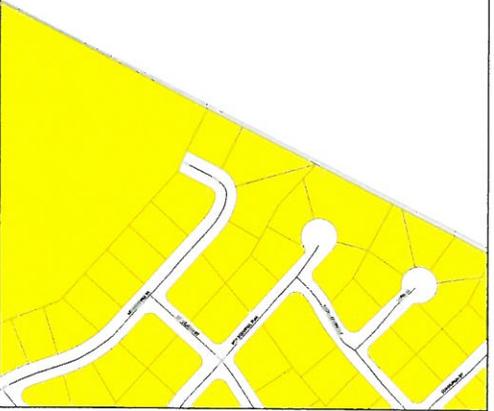
- Legend**
- Annexation Request
 - Waterbodies
 - Streams
 - Roads
- Zoning**
- AC
 - B-1
 - B-2
 - B-3
 - I-1
 - I-2
 - PL
 - PUD
 - PUD/DA
 - R-1
 - R-2
 - R-3
 - R-5
 - R-6
 - R-7
 - Parcels
 - County boundaries

**Annexation of a portion of
TMS# 232-00-02-052
Jockey Court
To be zoned B-3, General Business**



September 15, 2015

Disclaimer: This map is a graphic representation of data obtained from various sources. All efforts have been made to warrant the accuracy of this map. However, the Town of Summerville disclaims all representation and liability for the use of this map.



ORDINANCE NO. 15-0502

AN ORDINANCE TO AUTHORIZE THE MAYOR OR TOWN ADMINISTRATOR TO EXECUTE A QUIT-CLAIM DEED TO LINDA R. SEALY, STEPHEN W. AND TRESE-ANN MOUNT, AND SUMMERVILLE BAPTIST CHURCH FOR THE PROPERTY HEREIN DESCRIBED.

WHEREAS, The Town of Summerville controls the unimproved right-of-way of East Second South Street

WHEREAS, Linda R. Sealy owns 215 South Gum Street that is adjacent and abutting an unimproved portion of right-of-way of East Second South Street; and

WHEREAS, Stephen W. and Trese-Ann B. Mount own 301 South Gum Street that is adjacent and abutting an unimproved portion of right-of-way of East Second South Street; and

WHEREAS, Summerville Baptist Church owns TMS # 137-11-12-004 that is adjacent and abutting an unimproved portion of right-of-way of East Second South Street; and

WHEREAS, these parties wish to have the Town of Summerville execute a quit-claim deed for the adjacent and abutting unimproved portion of right-of-way of East Second South Street; and

WHEREAS, The Town of Summerville is willing to execute a quit-claim for the unimproved portion of right-of-way of East Second South Street to Linda R. Sealy, Stephen W. and Trese-Ann B. Mount, and Summerville Baptist Church and Town Council finds it to be in the best interest of the citizens and taxpayers to transfer a deed of these rights-of-way.

BE IT ORDAINED that Mayor be, and hereby is, authorized to execute a Quit Claim Deed to the above-referenced property owners as described as:

ALL that certain piece, parcel or lot of land, as Parcel W2S-A, a 0.207 Acre of land lying adjacent to South Gum Street and TMS# 137-11-13-001 shown on a plat entitled "BOUNDARY

SURVEY ABANDONING UNOPENEND PORTION OF EAST 2ND SOUTH STREET” by David Scott Wilson, PLS dated August 6, 2015 recorded _____, 2015 in Plat Cabinet ____, Page ____ in the ROD Office aforesaid.

ALL that certain piece, parcel or lot of land, as Parcel W2S-B, a 0.256 Acre of land lying adjacent to South Gum Street and TMS# 137-11-12-006 shown on a plat entitled “BOUNDARY SURVEY ABANDONING UNOPENEND PORTION OF EAST 2ND SOUTH STREET” by David Scott Wilson, PLS dated August 6, 2015 recorded _____, 2015 in Plat Cabinet ____, Page ____ in the ROD Office aforesaid.

ALL that certain piece, parcel or lot of land, as Parcel W2S-C, a 0.140 Acre of land lying adjacent to TMS# 137-11-12-004 shown on a plat entitled “BOUNDARY SURVEY ABANDONING UNOPENEND PORTION OF EAST 2ND SOUTH STREET” by David Scott Wilson, PLS dated August 6, 2015 recorded _____, 2015 in Plat Cabinet ____, Page ____ in the ROD Office aforesaid.

IT IS SO ORDAINED this 14th day of October, 2015.

William C. Collins, Mayor

ATTESTED TO:

Lisa Wallace, Clerk of Council

First Reading: May 13, 2015

Second Reading: October 14, 2015

STATE OF SOUTH CAROLINA)
) QUIT-CLAIM DEED
COUNTY OF DORCHESTER) (TITLE NOT EXAMINED)

TO ALL WHOM THESE PRESENTS MAY COME:

NOW, KNOW ALL MEN BY THESE PRESENTS, that the said THE TOWN OF SUMMERVILLE, GRANTOR, for consideration of the premises and also in consideration of the sum of One AND 00/100 (\$ 1.00) Dollar to us in hand paid at and before the sealing and delivery of these presents by

Linda R. Sealy

GRANTEE, (the receipt of which is hereby acknowledged) have remised, released and forever quit-claim unto the said LINDA R. SEALY, all its right title and interest in the following described property to-wit:

ALL that certain piece, parcel or lot of land, as Parcel W2S-A, a 0.207 Acre of land lying adjacent to South Gum Street and TMS# 137-11-13-001 shown on a plat entitled "BOUNDARY SURVEY ABANDONING UNOPENED PORTION OF EAST 2ND SOUTH STREET" by David Scott Wilson, PLS dated August 6, 2015 recorded _____, 2015 in Plat Cabinet ____, Page ____ in the ROD Office aforesaid.

ADDRESS OF GRANTEE: 215 South Gum Street

Summerville, SC 29483

TMS #: 137-11-13-001

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

TO HAVE AND TO HOLD, all and singular the said Premises before mentioned unto the said LINDA R. SEALY, its Successors and Assigns forever - so that neither the said THE TOWN OF SUMMERVILLE, nor its Successors and or assigns, nor any other person or

persons claiming under it, shall at any time hereafter by any way or means, have, claim or demand any right or title to the aforesaid premises or appurtenances, or any part of parcel thereof, forever.

WITNESS its Hand and Seal, this _____ day of _____ in the year of our Lord Two Thousand and Fifteen (2015).

SIGNED, SEALED AND DELIVERED
IN THE PRESENCE OF:

THE TOWN OF SUMMERVILLE

BY: William C. Collins
It's: Mayor

ATTEST: LISA WALLACE, CLERK-
TREASURER

STATE OF SOUTH CAROLINA)

COUNTY OF DORCHESTER)

The foregoing instrument was acknowledged before me by the Grantor herein on the day and year first above written.

SWORN to before me this ____ day of _____, 2015.

NOTARY PUBLIC FOR SOUTH CAROLINA
My Commission Expires: _____

STATE OF SOUTH CAROLINA)
) QUIT-CLAIM DEED
COUNTY OF DORCHESTER) (TITLE NOT EXAMINED)

TO ALL WHOM THESE PRESENTS MAY COME:

NOW, KNOW ALL MEN BY THESE PRESENTS, that the said THE TOWN OF SUMMERVILLE, GRANTOR, for consideration of the premises and also in consideration of the sum of One AND 00/100 (\$ 1.00) Dollar to us in hand paid at and before the sealing and delivery of these presents by

STEPHEN W. AND TRES-ANN B. MOUNT

GRANTEE, (the receipt of which is hereby acknowledged) have remised, released and forever quit-claim unto the said STEPHEN W. AND TRES-ANN B. MOUNT, all its right title and interest in the following described property to-wit:

ALL that certain piece, parcel or lot of land, as Parcel W2S-B, a 0.256 Acre of land lying adjacent to South Gum Street and TMS# 137-11-12-006 shown on a plat entitled "BOUNDARY SURVEY ABANDONING UNOPENED PORTION OF EAST 2ND SOUTH STREET" by David Scott Wilson, PLS dated August 6, 2015 recorded _____, 2015 in Plat Cabinet ____, Page ____ in the ROD Office aforesaid.

ADDRESS OF GRANTEE: 301 South Gum Street

Summerville, SC 29483

TMS #: 137-11-12-006

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

TO HAVE AND TO HOLD, all and singular the said Premises before mentioned unto the said STEPHEN W. AND TRES-ANN B. MOUNT, its Successors and Assigns forever - so that neither the said THE TOWN OF SUMMERVILLE, nor its Successors and or assigns, nor

any other person or persons claiming under it, shall at any time hereafter by any way or means, have, claim or demand any right or title to the aforesaid premises or appurtenances, or any part of parcel thereof, forever.

WITNESS its Hand and Seal, this _____ day of _____ in the year of our Lord Two Thousand and Fifteen (2015).

SIGNED, SEALED AND DELIVERED
IN THE PRESENCE OF:

THE TOWN OF SUMMERVILLE

BY: William C. Collins
It's: Mayor

ATTEST: LISA WALLACE, CLERK-
TREASURER

STATE OF SOUTH CAROLINA)

COUNTY OF DORCHESTER)

The foregoing instrument was acknowledged before me by the Grantor herein on the day and year first above written.

SWORN to before me this ____ day of _____, 2015.

NOTARY PUBLIC FOR SOUTH CAROLINA
My Commission Expires: _____

STATE OF SOUTH CAROLINA)
) QUIT-CLAIM DEED
COUNTY OF DORCHESTER) (TITLE NOT EXAMINED)

TO ALL WHOM THESE PRESENTS MAY COME:

NOW, KNOW ALL MEN BY THESE PRESENTS, that the said THE TOWN OF SUMMERVILLE, GRANTOR, for consideration of the premises and also in consideration of the sum of One AND 00/100 (\$ 1.00) Dollar to us in hand paid at and before the sealing and delivery of these presents by

Summerville Baptist Church

GRANTEE, (the receipt of which is hereby acknowledged) have remised, released and forever quit-claim unto the said SUMMERVILLE BAPTIST CHURCH, all its right title and interest in the following described property to-wit:

ALL that certain piece, parcel or lot of land, as Parcel W2S-C, a 0.140 Acre of land lying adjacent to TMS# 137-11-12-004 shown on a plat entitled "BOUNDARY SURVEY ABANDONING UNOPENED PORTION OF EAST 2ND SOUTH STREET" by David Scott Wilson, PLS dated August 6, 2015 recorded _____, 2015 in Plat Cabinet ____, Page ____ in the ROD Office aforesaid.

ADDRESS OF GRANTEE: 417 Central Avenue

Summerville, SC 29483

TMS #: 137-11-12-004

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

TO HAVE AND TO HOLD, all and singular the said Premises before mentioned unto the said LINDA R. SEALY, its Successors and Assigns forever - so that neither the said THE TOWN OF SUMMERVILLE, nor its Successors and or assigns, nor any other person or

persons claiming under it, shall at any time hereafter by any way or means, have, claim or demand any right or title to the aforesaid premises or appurtenances, or any part of parcel thereof, forever.

WITNESS its Hand and Seal, this _____ day of _____ in the year of our Lord Two Thousand and Fifteen (2015).

SIGNED, SEALED AND DELIVERED
IN THE PRESENCE OF:

THE TOWN OF SUMMERVILLE

BY: William C. Collins
It's: Mayor

ATTEST: LISA WALLACE, CLERK-
TREASURER

STATE OF SOUTH CAROLINA)

COUNTY OF DORCHESTER)

The foregoing instrument was acknowledged before me by the Grantor herein on the day and year first above written.

SWORN to before me this ____ day of _____, 2015.

NOTARY PUBLIC FOR SOUTH CAROLINA
My Commission Expires: _____

AN ORDINANCE

TO AMEND CHAPTER 2 SECTION 2-69 (a) OF THE CODE OF LAWS OF THE TOWN OF SUMMERVILLE

WHEREAS, S.C. Code Section 5-7-170 and Summerville Town Ordinance Section 2-68 authorizes council to determine the annual salary of its members; and

WHEREAS, the current Mayor's salary of \$45,000 shall revert to \$15,000 on December 31, 2015 unless sooner addressed by Town Council after the seating of the three members elected in the November 2013 election; and

WHEREAS, Summerville Town Council desires to maintain the current salary of the Mayor at \$45,000.

NOW, THEREFORE, BE IT ORDAINED, by the Mayor, Mayor *pro tempore* and Town Council of the Town of Summerville in Council assembled that Section 2-69 (a) of the Code of Laws of the Town of Summerville, South Carolina, is hereby amended by amending section (a) (1) and deleting Section (a) (2) as follows:

Sec. 2-69. Compensation of mayor and members of town council.

(a) Mayor:

- (1). The salary of the current Mayor is increased to \$45,000.00 effective as of the first Wednesday of January 2014.; ~~and,~~
- (2). ~~The increase in the current Mayor's salary to \$45,000 shall revert to \$15,000.00 as of December 31, 2015 unless addressed by Town Council after the seating of the three members elected in the November 2013 election.~~

William C. Collins, Mayor

Terence T. Jenkins, Mayor, *pro tempore*

Lisa Wallace, Clerk of Council

FIRST READING: Sept. 9, 2015

SECOND READING: _____

RESOLUTION

A RESOLUTION DIRECTING THE TOWN OF SUMMERVILLE PLANNING COMMISSION TO CONDUCT A REVIEW OF AND MAKE RECOMMENDATIONS FOR AN AMENDED CAPITAL IMPROVEMENTS PLAN AND A REVISED IMPACT FEE ORDINANCE, IN ACCORDANCE WITH, THE SOUTH CAROLINA DEVELOPMENT FEE ACT, S.C. CODE OF LAWS § 6-1-910, *ET SEQ.*:

WHEREAS, The Town of Summerville desires to amend and revise its capital improvements plan and impact fee ordinance within the Town of Summerville for the primary purpose of funding capital projects and improvements; and,

WHEREAS, in order to review and make recommendations for an amended capital improvements plan and a revised impact fee ordinance, the Town of Summerville is required to direct the Town of Summerville Planning Commission to review and make recommendations for an amended capital improvements plan and a revised impact fee ordinance, pursuant to S. C. Code of Law § 6-1-910, (1976, as amended).

NOW, THEREFORE, BE IT RESOLVED by Summerville Town Council, in a meeting duly assembled; that the Planning Commission shall review and make recommendations for an amended capital improvements plan and a revised impact fee ordinance.

DONE this 14th day of October, 2015.

SUMMERVILLE, SOUTH CAROLINA

William C. Collins, Mayor

ATTEST:

Lisa Wallace
Clerk of Council

STATE OF SOUTH CAROLINA) INTERGOVERNMENTAL AGREEMENT -
) DISASTER DEBRIS REMOVAL TO THE
COUNTY OF CHARLESTON) TOWN OF SUMMERVILLE

THIS INTERGOVERNMENTAL AGREEMENT (hereinafter "Agreement") is entered into as of the _____ day of _____, 2015 by and between the County of Charleston through its Department of **Public Works** (herein called "Charleston County" or the "County") and the Town of Summerville, South Carolina (herein called the "Town").

WITNESSETH:

WHEREAS, the Town desires Charleston County to render certain technical and professional services related to planning and administering the debris removal operations in the aftermath of a severe event; and

WHEREAS, during the debris recovery mission, County staff is given the direction to pick up debris that is reimbursable through the Federal Emergency Management Agency, hereafter referred to as "FEMA"; and

WHEREAS, during these events, the incorporated area of the Town is covered as part of the debris recovery effort; and

WHEREAS, funds may be expended by the County to collect, monitor, and dispose of debris in this incorporated area; and

WHEREAS, the County has a concern that there may be an incident or occasion where FEMA may not reimburse the County for its work and effort; and

WHEREAS, the County and the Town believe it is in the best interest of their citizens to avoid duplication of services with respect to disaster debris management by entering into an agreement for the County to provide for the Town the services identified herein for the effective and efficient handling of these services in the Town; and

NOW, THEREFORE, in consideration of the mutual promises contained herein and other good and valuable consideration, the sufficiency and receipt of which are hereby acknowledged, the County and the Town hereby agree as follows:

Section 1: Findings. The above recitals and findings are incorporated herein by reference and made a part of this Agreement.

Section 2: Delegation of Authority. The Town hereby authorizes the County, and the County hereby agrees to provide the services within its municipal jurisdiction as herein set forth. The County will perform all services hereunder; however, if the Town does not adopt ordinances necessary for the County to perform all services hereunder, the County may terminate this Agreement at its sole discretion.

2. The term of this Agreement shall be through the end of FY 2016 (July 1 – June 30). This Agreement will automatically renew each fiscal year, in part or in whole, unless either party provides notice of termination pursuant to Section 5.

Section 5: Termination for Convenience. The County, by advance written notice, may terminate this Agreement when it is in the best interests of the County. If this Agreement is so terminated, the County shall be compensated for all necessary and reasonable direct costs of performing the County's Obligations. The Town will not be compensated for any other costs in connection with a termination for convenience. The Town will not be entitled to recover any damages in connection with a termination for convenience.

Section 6: Termination for Cause.

1. If the Town or County breaches any of its obligations under this Agreement, the non-breaching party shall give written notice to the other of such default, specifying with particularity the nature of such default. If the breaching party fails within thirty (30) days of receipt of such notice of default to cure such default, or if such default cannot reasonably be cured in a thirty (30) day period, and the breaching party fails to substantially begin such cure within such thirty (30) day period or fails thereafter to diligently pursue completion of such cure, the breaching party shall be deemed to be in default under this Agreement.
2. If either the Town or County defaults, the non-defaulting party shall have the option, in its sole discretion, to terminate this Agreement, effective upon written notice of such termination to the Designated Representative of the Party that is in default, and upon such termination, the non-defaulting Party shall have no further obligation or liability under or pursuant to this Agreement.

Section 7: Notices. Any notice required of one party to the other under this Agreement shall be deemed given upon request of written notice in the U.S. mail to the following address:

To the County:
Charleston County Administrator
4045 Bridgeview Drive
North Charleston, SC 29405

To the Town:
Mayor of Summerville
200 South Main Street
Summerville, SC 29483

Section 8: Successors and Assigns. This Agreement and all covenants thereof shall be binding upon and insure to the benefit of the successors and assigns of the parties hereto.

Section 9: Severance. Should any part of the Agreement be determined by a court of competent jurisdiction to be invalid, illegal, or against public policy, said offending section shall be void and of no effect and shall not render any other section herein, nor this

Agreement as a whole, invalid. Any terms which, by their nature, should survive the suspension, termination, or expiration hereof shall be deemed to so survive.

Section 10: Entire Agreement. This Agreement constitutes the entire understanding between the County and Town and supersedes all prior and contemporaneous written and oral agreements regarding the subject of this Agreement. This Agreement may not be changed, altered, amended, modified, or terminated orally. Any change, alteration, amendment, or modification shall be effective only if written and executed by both the County and the Town.

Section 11: Responsibilities and Limitation of Liability. This Agreement is made upon the express condition that the County, its agents and employees, shall be free from any and all liabilities and claims for damages and/or suits for or by reason of any injury, death to any person or property, or failure of the Town, its agents or employees, or third parties (for any reason) to provide services within the Town, or any part thereof during the term of this Agreement.

IN WITNESS WHEREOF, the parties hereto by their authorized representative have signed, sealed, and delivered this Agreement at Charleston, South Carolina, on the day/year written above.

WITNESSES:

County Administrator, Charleston County

Date

Town Clerk

Mayor, Town of Summerville

Date

**Cooperative Intergovernmental Agreement
between
Berkeley County
and
The Town of Summerville, South Carolina**

THIS AGREEMENT is made this ____ day of _____, 2015, by and between Berkeley County, South Carolina and the Town of Summerville, South Carolina.

WITNESSETH THAT:

WHEREAS, Berkeley County and the Town of Summerville desire to work together in the planning and implementation of a project (defined below) selected for funding by the South Carolina State Infrastructure Bank and using revenues of Berkeley County, as well as funds from the Town of Summerville, and

WHEREAS, both Berkeley County is a body politic with all the rights and privileges of such including the power to contract as necessary and incidental powers to carry out the County's functions covered under this Agreement; and,

WHEREAS, the Town of Summerville is a body politic with all the rights and privileges of such including the power to contract as necessary and incidental powers to carry out the Town's functions covered under this Agreement; and,

WHEREAS, Berkeley County and the Town of Summerville agree to proportionately fund the Project as described hereinafter, and,

NOW THEREFORE, in consideration of the several promises to be faithfully performed by the parties hereto as set forth herein, the Berkeley County and the Town of Summerville do hereby agree as follows:

I. GENERAL RECITALS:

A. Description of Work

This work is to include widening I-26 from approximately 2500 feet west of a proposed new Sheep Island Interchange from 4 lanes to 6 lanes to tie in with the current 6 lane section near Exit 199 (US Route 17A), construction of a new interchange at approximately milepost 197 and removal of the existing Sheep Island Bridge over I-26, construction of associated frontage roads (S-1255 (Drop Off Drive), Business Park Road, and Holiday Drive), construction of Connector South from the interchange to tie-in with N. Maple Street, and the realignment of N. Main Street/Old Dairy Road. (See Figure 1 which illustrates the project and defines the portion located in the Town of Summerville). Hereafter this series of improvements will be referred to as the "Project".

B. Scope of Work

Berkeley County shall carry out all the specific activities necessary to implement and construct the Project, which include planning, design, right of way acquisition, utility coordination, construction and other associated coordination and administration activities.

II. COMMUNICATIONS:

- A. Berkeley County and the Town of Summerville agree that regular communication about this work is essential to the effective execution of the Project. The parties further agree that each party will strive to communicate at both the management level and staff level.

III. OBLIGATIONS OF THE TOWN OF SUMMERVILLE

- A. The Town of Summerville shall provide the estimated pro rata share of the Project, which the parties agree shall be five percent (5%). These funds will be used for design, permitting, construction, and construction management of the project. This portion is currently estimated at \$4 million. Right of way costs will be paid by the Town of Summerville directly to landowners for the actual cost and any necessary legal costs associated with obtaining the required tracts, located within the county of Dorchester. These tracts are defined in figure 2. For purposes of this agreement, the estimate for the acquisition of these tracts is valued at \$125,000
- B. The Town of Summerville further agrees to be responsible for any cost overruns associated with construction of that portion of the Project located in the county of Dorchester, as well as the cost to defend any litigation that may occur related to the project within the limits of the county of Dorchester during or as a result of construction of the project, and to pay any judgment(s) which may result from such litigation. Payments for overruns and/or litigation will be made in accordance with the terms identified in this agreement upon presentation of a valid invoice with supporting documentation by Berkeley County.
- C. The Town of Summerville agrees to provide its portion of funds for construction of the Project to Berkeley County on a monthly basis. The County will provide an estimate of the costs to the Town for the entire project and the portion that is in the Town. The Town agrees to pay invoices of work actually completed on for the duration of the project. The monthly invoice will also include any costs incurred to the date of the invoice for acquisition of Right of Way for the project located in the Town of Summerville. Payments must be received by Berkeley County within 10 days of the date of the invoice.

- D. The Town of Summerville agrees to accept into its system for ownership and maintenance, the portions of the project - from the Sheep Island Parkway at the town limits to its tie in with N. Maple Street. This is more specifically referenced and shown in Figure 1 as referenced section I. A. "description of work" and made a part of this agreement.
- E. The Town of Summerville shall be responsible for the perpetual maintenance of the traffic signal to be installed at the intersections of Sheep Island Parkway with ramps on the south side of Interstate 26 within the highway(s) right-of-way in accordance with the Project Plans.

IV. OBLIGATIONS OF BERKELEY COUNTY:

- A. Berkeley County shall provide or cause to be provided all services necessary for the execution of activities for the planning and execution of the Project, including design, right of way acquisition, construction, and construction management.
- B. The cost of all elements of the project located in Berkeley County shall be funded with grants secured from the State Infrastructure Bank and/Berkeley County funds as defined in the Intergovernmental Agreement with the State Infrastructure Bank dated November 7, 2010.
- C. Berkeley County shall be responsible for providing monthly invoices for payment by the State Infrastructure Bank as work progresses and shall bill the Town of Summerville for their pro rata share of the costs.
- D. Berkeley County will provide the Town of Summerville copies of the quarterly reports on Project progress which are submitted to the Infrastructure Bank and will invite representatives of the town to progress meetings on the project.

V. Miscellaneous General Provisions:

A. Disputes

Any dispute or claim arising out of or related to this Agreement shall be resolved by meetings between the County Supervisor and the Mayor of the Town of Summerville. Should these individuals not be able to settle the dispute, an ad hoc board, the Dispute Resolution Board, will be selected pursuant to the procedures as follows: The Dispute Resolution Board will consist of two members of the Berkeley County and two members of the Town of Summerville. These four members shall choose a fifth member employed neither by Berkeley

County or the Town of Summerville. This fifth member shall be a mediator certified in the State of South Carolina. The cost for the mediator shall be shared equally between Berkeley County and the Town of Summerville. The board shall be empanelled for the entire duration of this Agreement and shall hear all disputes between Berkeley County and the Town of Summerville relating to this Agreement that cannot be resolved by the two officials named above. Exhaustion of this Dispute Resolution Process is a condition precedent to the filing of a lawsuit. Any lawsuit filed by Berkeley County against the Town of Summerville out of or relating to this Agreement shall be filed for non-jury proceedings in Dorchester County, South Carolina. Any lawsuit filed by the Town of Summerville against Berkeley County out of or relating to this Agreement shall be filed for non-jury proceedings in Berkeley County, South Carolina. -

B. Successors/Assigns

Berkeley County and the Town of Summerville each binds itself, its successors, executors, administrators, and assigns to the other party with respect to these requirements, and also agrees that neither party shall assign, sublet, or transfer its interest in the Agreement without the written consent of the other.

C. Enforceability

All of the terms, provisions and conditions of this Agreement shall be binding upon and enforceable by the parties, their respective elected officials, legal representatives, agents and employees and their respective successors.

D. Amendment

This Agreement may be amended or modified only by a written document, which has been signed by the parties hereto, or by their duly authorized officials. Berkeley County, or its authorized agent, shall agree to hold consultations with the Town of Summerville as may be necessary with regard to the execution of supplements to this Agreement during the course of the Project for the purpose of resolving any items that may have been unintentionally omitted from this Agreement or arise from unforeseen events or conditions. Such supplemental agreements shall be subject to the approval and proper execution of the parties hereto. No modifications or amendments to this Agreement shall be effective or binding upon either party unless both parties agree in writing to any such changes.

E. Waiver

No waiver of a breach of any of the covenants, promises or provisions contained in this Agreement shall be construed as a waiver of any succeeding breach of the same covenant or promise or any other covenant or promise thereof. In no event shall any failure by either party hereto to fully enforce any

provision of this Agreement be construed as a waiver by such party of its right to subsequently enforce, assert or rely upon such provision.

F. Governing Law

This Agreement shall be governed by the laws of the State of South Carolina,

-

G. Severability

In the event that any part or provision of this Agreement shall be determined to be invalid and/or unenforceable, the remaining parts and provisions which can be separated from the invalid and/or unenforceable provision or provisions shall continue in full force and effect.

H. Captions

The captions or headings herein are for convenience only and in no way define, limit or describe the scope or intent of any provisions or sections of this Agreement.

I. Notices

All notices pertaining to this Agreement shall be in writing and addressed as set forth below, and shall be deemed properly delivered, given or served when (i) personally delivered, or (ii) sent by overnight courier, or (iii) three (3) days have elapsed following the date mailed by certified or registered mail, postage prepaid.

Notices to Berkeley County:

William W. Peagler, III
County Supervisor
1003 Highway 52
PO Box 6122
Moncks Corner, SC 29461-6120

Notices to Town of Summerville:

William C. Collins
Mayor
200 South Main Street
Summerville, South Carolina 29483

J. Further Documents

Each party will, whenever and as often as it shall be requested by another party, promptly and within a reasonable time, execute, acknowledge and deliver, or cause to be executed, acknowledged and delivered such further

instruments or documents as may be necessary to carry out the intent and purpose of this Agreement.

K. No Third-party Beneficiaries

No rights in any Third-party are created by this Agreement, and no person not a party to this Agreement may rely on any aspect of this Agreement, notwithstanding any representation, written or oral, to the contrary, made by any person or entity. The parties hereto affirmatively represent that this Agreement is made solely for the benefit of the parties hereto and their respective successors and assigns and not for the benefit of any Third-party who is not a signature party hereto. No party other than the signature parties and their respective successors and assigns hereto shall have any enforceable rights hereunder, or have any right to the enforcement hereof, or any claim for damages as a result of any alleged breach hereof.

L. Multiple Counterparts

This Agreement is executed in multiple counterparts, each of which shall be deemed an original but all of which collectively shall constitute one and the same Agreement.

M. Prior Agreements, Entire Agreement

All obligations of the parties, each to the other, relating to the subject matter of this Agreement, contained in any other document or agreement or based on any other communication prior to the execution of this Agreement have been satisfied or are superseded by this Agreement. This Agreement constitutes the entire agreement between the parties relating to the subject matter hereof.

This Agreement, with the Appendices hereto, sets forth the full and complete understanding of the parties as of the date first above stated, and it supersedes any and all agreements and representations made or dated prior thereto.

The parties make no representations, covenants, warranties or guarantees, express or implied, other than those expressly set forth herein. The parties' rights, liabilities and responsibilities with respect to the services provided for in this Agreement shall be exclusively those expressly set forth in this Agreement.

O. Reviews and Approvals

Any and all reviews and approvals required of the parties herein shall not be unreasonably denied, delayed or withheld.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed by their duly authorized representative the day and year first above written.

SIGNED, SEALED AND DELIVERED
IN THE PRESENCE OF:

BERKELEY COUNTY

By: _____
William W. Peagler III
County Supervisor

Attest: _____
John O. Williams II
County Attorney

SIGNED, SEALED AND DELIVERED
IN THE PRESENCE OF:

TOWN OF SUMMERVILLE

By: _____
William C. Collins
Mayor

Attest: _____
Lisa Wallace
Director of Administrative Services

FIGURE 1 – Project Description

Figure 2 –
Right of Way Tracts located within the
Town of Summerville

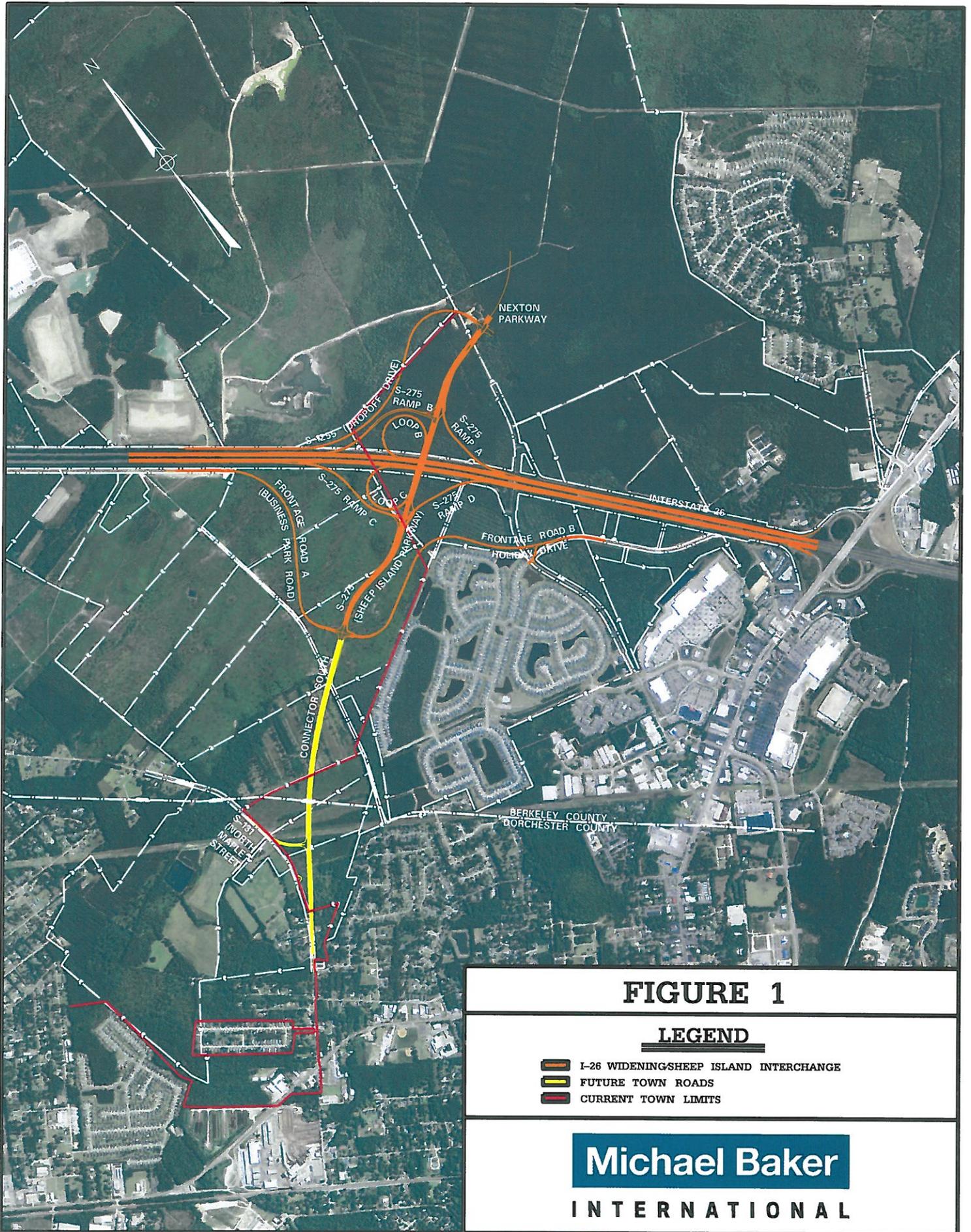


Figure 2 Right of Way Tracts

Reference Section III. A. of Agreement

Uchee Farms, LP & LSB, LLC TMS#130-00-00-022
Margaret "Margie" Bell Newcomer & John E. Bell, Jr. TMS# 130-00-00-021
Rosemary S. Harper Ward, Trustee of the Rosemary S. Harper Ward Trust TMS# 130-00-00-008
The Tolman Salisbury Family, L.P. TMS# 130-00-00-018
The Tolman Salisbury Family, L.P. TMS# 130-00-00-004

STATE OF SOUTH CAROLINA)
)
 COUNTY OF DORCHESTER)
 _____)

VISITOR MANAGEMENT AGREEMENT

This Visitor Center Management Agreement made and entered into by and between the Town of Summerville (hereinafter called the "Town"), a municipal corporation and body politic of the State of South Carolina, and the Greater Summerville/Dorchester County Chamber of Commerce (hereinafter called the "Chamber") a non-profit corporation organized and existing pursuant to the laws of the State of South Carolina.

RECITALS

WHEREAS, the Town, Dorchester County, and the Chamber entered into a management agreement on January 12, 2015 for the purpose of operating a Chamber of Commerce and Tourism and Visitors Reception Center at 402 North Main Street, Summerville, South Carolina.

WHEREAS, the Town and Chamber are now desirous of entering into a Visitor Center management agreement effective January 1, 2016 through December 31, ²⁰¹⁸~~2020~~.

NOW, THEREFORE, in consideration of the foregoing and the terms and conditions set forth in this Visitor Center Management Agreement, the receipt and sufficiency of such consideration being acknowledged by the parties, intending to be legally bound, agree as follows:

1. Recitals. The recitals set forth above are incorporated herein by reference.
2. Length of Term. Town and Chamber acknowledge and agree that this Visitors Center Management Agreement shall be effective January 1, 2016 and terminate on December 31, ²⁰¹⁸~~2020~~, unless extended by the mutual consent of the parties in writing.
3. Financial Commitment of Town. Town and Chamber acknowledge and agree that as consideration for the Chamber's management of the Visitor's Center for the term set forth above, Town agrees to pay Chamber the total sum of **SIXTY SEVEN THOUSAND AND 00/100 (\$67,000.00)**, with a 5% annual increase beginning in year two (2).

4. Performance Obligation of Chamber. Town and Chamber acknowledge and agree that Chamber shall provide the following services in exchange for the consideration set forth in recital number three (3):
 - Provide staffing for visitor center
 - Provide space for visitor center in Chamber building
 - Provide equipment, software, IT support
5. Final Agreement. This Visitor Center Management Agreement represents the final agreement between the parties regarding the subject matter hereof and may not be contradicted by evidence of prior, subsequent or contemporaneous oral agreements of the parties. No amendment or modification hereto shall be valid and binding, unless expressed in writing and executed by both parties hereto.
6. Severability. If any provision of this Visitor Center Management Agreement is determined by a court of competent jurisdiction to be invalid or unenforceable, the remainder of the Visitor Center Management Agreement shall nonetheless remain in full force and effect.
7. Applicable Law. This Visitor Center Management Agreement is enforceable in the State of South Carolina and shall in all respects be governed by, and construed in accordance with, the substantive federal laws of the United States and the laws of the State of South Carolina.

REMAINDER OF THIS PAGE LEFT INTENTIONALLY BLANK

IN WITNESS WHEREOF, the parties have executed this Visitor Center Management Agreement on the _____ day of _____, 2015.

Witnesses:

The Town of Summerville

Its _____
Mayor

Witnesses:

**Greater Summerville/Dorchester
County Chamber of Commerce**

Its _____
Board Chair

STATE OF SOUTH CAROLINA)
)
COUNTY OF DORCHESTER)

AGREEMENT

THE AGREEMENT entered into this ____ day of _____, 2015, by and between the Town of Summerville, herein called the ("Town") and the First Circuit Public Defender (herein called the "Public Defender").

WITNESSETH:

WHEREAS, the Town desires to contract for the representation of persons charged in criminal cases who have been determined indigent through the attention of a qualified attorney; and

WHEREAS, the Town after due consideration is desirous of obtaining the services of the Public Defender to provide legal representation to Defendants in criminal cases who have been determined indigent by the Criminal Justice Coordinator as agent for the Court; and

WHEREAS, the Public Defender is desirous of providing legal representation to Defendants in criminal cases who have been determined indigent by Criminal Justice Coordinator as agent for the Court; and

WHEREAS, the parties to this Agreement wish to set forth in full their mutual agreements as to the terms, covenants, and conditions under which the Public Defender shall provide legal representation to Defendants in criminal cases who have been determined indigent by the Criminal Justice Coordinator as agent for the Court;

NOW, THEREFORE, the parties do hereby agree as follows:

- (1) The Town hereby contracts with the Public Defender to provide legal representation to all assigned defendants.
- (2) The Public Defender is responsible for all Court settings including, but not limited to, the representation of indigent Defendants for police identifications, for pre-statement counseling procedures, pretrial disposition conferences, motions, quashing of warrants, required appearances and trials.
- (3) The Public Defender shall perform and provide such services as are defined in Paragraph (2) which shall also include all necessary secretary and other personnel services, office space and all

materials, equipment, facilities, and supplies required for the support of such personnel in the performance of the legal services under this Agreement. The Public Defender agrees to track all cases assigned to them in the Justice Works on line case system or other such system used by the Public Defender.

- (4) Before incurring costs for expert testimony, translators, investigators, or other professional services, the Public Defender shall obtain the approval of the appropriate Court and file with the South Carolina Commission of Indigent Defense.
- (5) The Public Defender warrants that in accomplishing the representations and legal services envisioned by this Agreement that the Public Defender will provide an attorney (hereinafter "Attorney") who is admitted before the Courts of this State and that in all respects he or she will use their best professional efforts in performing their services, in conformance with all applicable laws, rules, directives of the Court and canons of ethics.
- (6) In the event the Attorney assigned by the Public Defender determines that there is a reasonable doubt as to the entitlement of the Defendant to free legal services, he or she shall bring the matter promptly to the attention of the Court for redetermination of indigency status. It is intended that this be an important affirmative duty of Attorney.
- (7) The Public Defender Attorney may engage other attorney(s) to aid and assist as necessary in the representation of such indigents at their own cost and expense. Any Attorney appearing or participating in any case assigned to them by the Public Defender shall be charged with full responsibility of this Agreement and shall acknowledge in writing with the Public Defender, that he or she has read the Agreement and agrees to be bound to the provisions thereof so far as they are applicable to his or her participation on any given case.
- (8) The Town and the Public Defender agree to designate the Chief Public Defender for the First Judicial Circuit as the contract

manager who oversees and coordinates the terms of this Agreement. The Chief Public Defender will assign the task of developing forms, procedures and policies as they pertain to carrying out the terms of this Agreement as he or she deems appropriate.

- (9) A case, for the purpose of determining caseload, is defined to mean "an arrested or detained defendant who is charged with one or more related criminal charges."
- (10) Attorney agrees to document services provided under the terms of this Agreement and provide the Town with progress and statistical reports as may be reasonably required by the Town for evaluation of the performance of the terms of this Agreement and the assessment of its cost effectiveness.
- (11) This Agreement does not create any attorney client relationship between the Public Defender or its assigned attorneys and the Town. Likewise, this Agreement does not create the relationship of employer-employee as between the Public Defender and the Town, or as between the Town and any attorney assigned by the Public Defender to Summerville Municipal Court. Rather, it is the intention of the parties hereto that the Attorney assigned by the Public Defender is engaged as and shall function as an independent contractor.
- (12) During the terms of this Agreement, the Public Defender promises any attorney operating in the Town's Court agrees to purchase and maintain professional liability insurance covering Attorney with minimum limits of not less than Two Hundred Thousand (\$200,000.00) Dollars.
- (13) The term of the Agreement shall begin on the ____ day of _____, 20__ and end on the ____ day of _____, 20__.
- (14) Thirty (30) days prior to the expiration of this Agreement, the parties shall give notice of their intention to discuss the continuation or discontinuation of its terms and conditions.
- (15) The Town shall pay the sum of \$24,000.00 in consideration for the service more fully set forth out in this Agreement. Said sum shall

be paid on the 1st of each month. The installments will be \$2,000.00. The first installment will be due and payable on _____, ____ 20__.

- (16) The parties may terminate this Agreement with thirty (30) days written notice to the other party.
- (17) Neither the termination of this Agreement nor the end of its term shall have any effect upon the rights or obligations arising out of referrals which occur prior to the termination or prior to the end of the term. The obligations of Attorney assigned by the Public Defender to complete representation of persons referred to him or her shall continue. The Public Defender shall continue to receive referrals up until the last day of the term.
- (18) Pursuant to 29 USCS §701 et seq. Of the Rehabilitation Act of 1973, the Public Defender, in providing services in accordance with the provisions of this Agreement, warrants that they will not discriminate against handicapped persons.

IN WITNESS WHEREOF, the parties have caused this Agreement to be executed as of the day and year first above written.

WITNESS:

WITNESS:

MARK A. LEIENDECKER
CHIEF PUBLIC DEFENDER FOR
FIRST JUDICIAL CIRCUIT

WITNESS:

WITNESS:

TOWN OF SUMMERVILLE

MEMORANDUM OF AGREEMENT

between

SOUTH CAROLINA DEPARTMENT OF TRANSPORTATION

and

TOWN OF SUMMERVILLE

This Memorandum of Agreement (“Agreement”) is made and entered into this ___ day of _____, 2015, by and between **SOUTH CAROLINA DEPARTMENT OF TRANSPORTATION (“SCDOT”)** and TOWN OF SUMMERVILLE, (“the **LOCAL GOVERNMENT**”).

WHEREAS, during a declared State of Emergency declared by the Governor, the **LOCAL GOVERNMENT** may be called upon to perform certain functions, including disaster-related, debris clearing and clean-up activities on the maintained rights-of-way of **LOCAL GOVERNMENT** maintained roads and bridges; and

WHEREAS, it is the policy of SCDOT and the **LOCAL GOVERNMENT** to cooperate with each other to maximize the use and allocation of the resources with which each are entrusted; and

WHEREAS, the **LOCAL GOVERNMENT** has requested this Agreement so that it will have the opportunity to request SCDOT to perform certain disaster-related, debris clearing and clean-up activities on **LOCAL GOVERNMENT** maintained rights-of-way during times of emergency in order to assure that its citizens are served and protected; and

WHEREAS, the implementation of this Agreement will be based on the occurrence of severe disasters that could affect **LOCAL GOVERNMENT** maintained roads and bridges within the **LOCAL GOVERNMENT**’s geographical boundaries; and

WHEREAS, this Agreement is in the best interest of both parties to facilitate the most practical, economical and expeditious performance of disaster-related, debris clean-up activities, where needed.

NOW THEREFORE, the parties agree as follows:

I. Project Description:

- A. In the event of any declared State of Emergency affecting areas within the **LOCAL GOVERNMENT**’s geographical boundaries, this Agreement may be implemented to permit SCDOT to conduct disaster-related “First Push” and “Debris Removal” activities on designated **LOCAL GOVERNMENT** maintained roadway(s).

“First Push” is defined as the initial operation to clear the roadway, which includes cut and toss operations to push debris out of the traveled way. “Cut and Toss” means cutting and/or pushing the debris off of the roadway sufficiently to allow safe vehicular traffic on all traveled ways.

“Debris Removal” is the clearance, removal, and/or disposal of items such as trees, woody debris, sand, mud, silt, gravel, building components, wreckage, vehicles, and personal property. The work must be necessary to:

- Eliminate an immediate threat to lives, public health and safety
- Eliminate immediate threats of significant damage to improved public or private property
- Ensure the economic recovery of the affected community to the benefit of the community-at-large
- Mitigate the risk to life and property by removing substantially damaged structures and associated appurtenances

Examples of “Debris Removal” activities include:

- “Debris Removal” from a street or highway to allow the safe passage of emergency vehicles
 - “Debris Removal” from public property to eliminate health and safety hazards, this includes maintained rights-of-way
- B. To implement this Agreement, the LOCAL GOVERNMENT must make a request to the SCDOT District Engineering Administrator (DEA), or his or her designee, for implementation. Upon receiving such request, LOCAL GOVERNMENT may assign to the SCDOT, the responsibility for “First Push” and “Debris Removal” activities within the confines of the LOCAL GOVERNMENT’s boundaries along the LOCAL GOVERNMENT maintained routes included in Exhibit “A” as requested by LOCAL GOVERNMENT and agreed upon by SCDOT pursuant to Section III and Section IV, herein. Exhibit “A” **may include multiple lists identified by option to allow a varied response based on the severity of the emergency.**
- C. The “First Push” and “Debris Removal” activities will be performed in accordance with Federal Emergency Management Agency (“FEMA”) rules, regulations, and procedures. (See FEMA Public Assistance Guide, FEMA 322, etc.).

II. LOCAL GOVERNMENT Responsibilities:

- A. LOCAL GOVERNMENT’s may request implementation of this Agreement orally and follow up in writing to direct the SCDOT to perform services under the terms of this Agreement.

- B. LOCAL GOVERNMENT does not guarantee that any work or services will be authorized pursuant to this Agreement.
- C. LOCAL GOVERNMENT reserves the right to inspect all work undertaken pursuant to this Agreement.
- D. LOCAL GOVERNMENT will be responsible for the local match share of eligible expenses on roads maintained by LOCAL GOVERNMENT that is not reimbursed by the appropriate federal agency.
- E. If this Agreement is implemented, LOCAL GOVERNMENT retains responsibility for the clearance of and debris removal from those LOCAL GOVERNMENT maintained roadways and bridges, and portions thereof, not specifically included in the LOCAL GOVERNMENT's request as identified in Exhibit "A" and authorized pursuant to this Agreement.

III. SCDOT Responsibilities:

- A. To implement this Agreement, LOCAL GOVERNMENT will request to SCDOT orally and follow-up in writing to proceed with "First Push" and "Debris Removal" activities on LOCAL GOVERNMENT maintained roadways and bridges as identified in Exhibit "A." When applicable, the request shall identify the option in Exhibit "A" that is being implemented.
- B. SCDOT will ensure that all "First Push" and "Debris Removal" activities performed are in accordance with the terms and conditions of FEMA policies and procedures.
- C. SCDOT will apply directly to FEMA, through SCEMD, for reimbursement for work performed by SCDOT or its contractors on LOCAL GOVERNMENT maintained roadways and bridges and will ensure that all "First Push" and "Debris Removal" activities performed are in accordance with FEMA policies and procedure. SCDOT cannot and does not guarantee reimbursement by FEMA.
- D. SCDOT will seek reimbursement from LOCAL GOVERNMENT for any unreimbursed expenses for work performed on LOCAL GOVERNMENT maintained roads.
- E. SCDOT will certify that any of its pre-disaster contracts with third parties for "First Push" and "Debris Removal" activities for which it intends to seek reimbursement shall:
 - 1. Be competitively and openly bid by SCDOT;
 - 2. Mandate compliance with the requirements of the National Environmental Policy Act (NEPA) of 1969 and all FEMA policies and procedures.

- F. SCDOT will be responsible for all claims and damages resulting from negligent equipment operation performed by the SCDOT pursuant to this Agreement within the limits of the SC Tort Claims Act, and will require its contractors to maintain customary general liability insurance for any work they perform.

IV. TERMINATION

- A. Either party may unilaterally terminate this Agreement with 30-day's prior notice in writing.
- B. Failure to perform: LOCAL GOVERNMENT may cancel this agreement and resume the responsibility for performing "First Push" and/or "Debris Removal" activities on LOCAL GOVERNMENT maintained roadways in the event that the SCDOT fails to adequately perform these assigned duties during an emergency response event. This termination will be in writing and will provide a minimum of 72 hours' prior notice.

IN WITNESS WHEREOF, the Parties have caused this Agreement to signed and sealed below.

WITNESS:

Local Government Name

By: _____

Title: _____

Federal ID# _____

SOUTH CAROLINA DEPARTMENT OF
TRANSPORTATION

WITNESS:

By: _____
Deputy Secretary for Engineering or Designee

RECOMMENDED BY:

Title: _____

CERTIFICATION OF SCDOT

I hereby certify that I am the Deputy Secretary for Engineering of the Department of Transportation of the State of South Carolina, or his or her designee. The LOCAL GOVERNMENT or its legal representatives have not been required directly or indirectly as an expressed or implied condition in connection with obtaining or carrying out this Agreement to:

- (a) employ or retain, or agree to employ or retain, any firm or person or
- (b) pay, or agree to pay, to any form, person, or organization, any fee, contribution, donation, or consideration of any kind, except as herein expressly stated (if any).

In accordance with Section 635.105 of Title 23 CFR, I further certify that the work stipulated in this Agreement to be performed by SCDOT can be more advantageously performed by said SCDOT than by the LOCAL GOVERNMENT and that said SCDOT is adequately staffed and suitably equipped to undertake and satisfactorily complete such work under the terms of this Agreement.

I acknowledge that this certificate is to be furnished to FEMA or the Federal Highway Administration, U. S. Department of Transportation, in connection with this Agreement, and is subject to applicable State and Federal Laws, both criminal and civil.

(Date)

(Deputy Secretary for Engineering or Designee)

CERTIFICATION OF THE LOCAL GOVERNMENT

I hereby certify that I am the _____ and duly authorized representative of the LOCAL GOVERNMENT, whose address is 200 SOUTH MAIN STREET, SUMMERVILLE, SC 29483, and that neither I, nor the above LOCAL GOVERNMENT I represent, has:

- (a) employed or retained for a commission, percentage, brokerage, contingent fee, or other consideration, any firm or person (other than a bona fide employee working solely for me or the above LOCAL GOVERNMENT) to solicit or secure this Agreement,
- (b) agreed, as an expressed or implied condition for obtaining this Agreement, to employ or retain the services of any firm or person in connection with carrying out the Agreement, or
- (c) paid or agreed to pay, to any firm, organization or person (other than a bona fide employee working solely for me or the above LOCAL GOVERNMENT) any fee, contribution, or consideration of any kind for, or in connection with, procuring or carrying out the contract except as herein expressly stated (if any).

I acknowledge that this certificate is to be furnished to the SCDOT and FEMA or the Federal Highway Administration, U.S. Department of Transportation, in connection with this Agreement, and is subject to applicable State and Federal laws, both criminal and civil.

(Date)

(LOCAL GOVERNMENT Signature)

CERTIFICATION FOR CONTRACTS, LOANS AND COOPERATIVE AGREEMENTS

The undersigned certifies, to the best of his or her knowledge and belief that:

No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of an agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, of modification of any Federal contract, grant, loan, or cooperative agreement.

If any funds other than Federal appropriated funds have been paid or will be paid to any persons for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying", in accordance with its instructions.

The undersigned shall require that the language of this certification be included in the award documents for all sub-awards at all tiers (including subcontracts, sub-grants, and contracts under grants, loans, and cooperative agreements) and that all sub-recipients shall certify and disclose accordingly.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by section 1352, title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

(Date)

Authorized LOCAL GOVERNMENT Representative

(Date)

Authorized SCDOT Representative

DRUG-FREE WORKPLACE CERTIFICATION

In accordance with Section 44-107-30, South Carolina Code of Laws (1976), as amended, and as a condition precedent to the execution of this Agreement, the undersigned, _____ who is a representative of the LOCAL GOVERNMENT, certifies on behalf of the LOCAL GOVERNMENT that the LOCAL GOVERNMENT will provide a drug-free workplace by:

- (a) Publishing a statement notifying employees that the unlawful manufacture, distribution, dispensing, possession or use of a controlled substance is prohibited in the grantee's workplace and specifying the actions that will be taken against employees for violation of such prohibition;
- (b) Establishing a drug-free awareness program to inform employees about:
 - (1) The dangers of drug abuse in the workplace;
 - (2) The grantee's policy of maintaining a drug-free workplace;
 - (3) Any available drug counseling, rehabilitation, and employee assistance programs; and,
 - (4) The penalties that may be imposed upon employees for drug abuse violations occurring in the workplace;
- (c) Making it a requirement that each employee to be engaged in the performance of the grant be given a copy of the statement required by paragraph (a);
- (d) Notifying the employee in the statement required by paragraph (a) that, as a condition of employment under the grant, the employee will:
 - (1) Abide by the terms of the statement; and,
 - (2) Notify the employer of any criminal drug statute conviction for a violation occurring in the workplace no later than five days after such conviction;
- (e) Notifying the agency within ten days after receiving notice under subparagraph (d)(2) from an employee or otherwise receiving actual notice of such conviction;
- (f) Taking one of the following actions, within 30 days of receiving notice under subparagraph(d)(2), with respect to any employee who is so convicted:
 - (1) Taking appropriate personnel action against such an employee, up to and including termination; or
 - (2) Requiring such employee to participate satisfactorily in a drug abuse assistance or rehabilitation program approved for such purposes by a Federal, State or local health, law enforcement, or other appropriate agency;
- (g) Making a good faith effort to continue to maintain a drug-free workplace through implementation of paragraph (a), (b), (c), (d), (e) and (f).
- (h) The undersigned shall require that the language of this certification be included in the award documents for all sub-awards at all tiers (including sub-grants, and contracts and subcontracts under grants, sub-grants, loans, and cooperative agreements), and that such sub-recipients shall certify and disclose accordingly.

(Date)

Authorized LOCAL GOVERNMENT Representative

EXHIBIT "A"

(List of state maintained roadways and bridges located within the geographical boundaries of LOCAL GOVERNMENT that the LOCAL GOVERNMENT requests SCDOT accept responsibility for pursuant to this agreement. List must include road number, road name, clear termini, and length of roadway segment. Exhibit "A" may include multiple lists identified by option to allow a varied response based on the severity of the emergency. No interstates may be included.)