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SC Court of Appeals

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM RICHLAND COUNTY
DeAndrea Gist Benjamin, Circuit Court Judge

Appellate Case No. 2020-001135
Case No. 2015-CP-40-1805

Wendy Brawley,..... Respondent-Appellant,

v.

Richland County, South Carolina Appellant-Respondent.

**RECORD ON APPEAL
VOLUME II OF II**

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1 record. Please spell your last name.

2 (Witness seated.)

3 THE WITNESS: Andy Howard Metts. It is
4 M-E-T-T-S.

5 ANDY H. METTS,
6 after being duly sworn, testified as follows:

7 DIRECT EXAMINATION

8 BY MR. BLAKE:

9 Q Good morning, Mr. Metts.

10 A Good morning.

11 Q My name is Shaun Blake. I am one of the attorneys
12 that represent Representative Brawley here in this
13 lawsuit today. You and I have never had a chance
14 to speak, correct?

15 A No.

16 Q And I don't have you under subpoena to be here
17 today, do I?

18 A I'm very hard of hearing, I'm sorry.

19 Q I'm sorry. I'll make sure I account for that.

20 A Okay.

21 Q I haven't placed you under subpoena to be here,
22 have I?

23 A This week, no.

24 Q And have I coordinated with you in any way in your
25 testimony?

1 A No.

2 Q Have you coordinated with anybody about your
3 testimony here today? Is that a no?

4 A No.

5 Q Have you had any conversations with Richland
6 County's attorney?

7 A Some casual conversations, yes.

8 Q Casual conversations about this lawsuit?

9 A Just that I'm -- was going to be asked to testify.

10 Q Okay. Have you looked at any records to prepare to
11 come here and testify today?

12 A I have seen some documents that were prepared for
13 this testimony, yes.

14 Q Okay. Who gave you those documents?

15 A Mr. Lindemann.

16 Q Okay. And how did you receive those from
17 Mr. Lindemann?

18 A Through -- we had a meeting, just a brief meeting.

19 Q Okay. And when was that?

20 A Yesterday.

21 Q Okay. And did you have a meeting again to speak to
22 him this morning?

23 A In casual conversation walking in the door.

24 Q Okay. And you were an employee of Richland County
25 for how long?

1 A Twenty-six and a half years.

2 Q Okay. And when did it begin?

3 A In 1986.

4 Q Okay. And when did it end?

5 A 2014.

6 Q And what was your position -- what was the last
7 position you held with the county?

8 A Director of utilities.

9 Q Director of utilities? And what did that job
10 entail?

11 A Managing the utilities department.

12 Q Okay. And just for the Court's benefit, what was
13 the utilities department responsible for?

14 A Water and sewer for residents in the unincorporated
15 areas of the county.

16 Q Okay. How long were you the director of utilities
17 for Richland County?

18 A The last several years. I don't know exactly how
19 long.

20 Q Was it prior to 2010?

21 A Yes.

22 Q Okay. Who was your predecessor?

23 A There was none.

24 Q Okay. Okay. This was a position that was for you?

25 A Yes.

1 Q Okay. And you know you had the position prior to
2 2010. You believe you had it before 2005?

3 A I had been part of the utilities department since
4 '86. I started as sanitary engineer, gone to
5 utilities coordinator, and then transitioned to
6 director.

7 Q Okay. What was your role at the time the county
8 first started discussing the need for a sewer
9 project in Lower Richland?

10 A I believe I was the director at that time.

11 Q And we have marked and put into evidence Exhibit
12 No. 6 in this case, which shows Bates numbers on
13 the bottom of it, No. 89 through No. 92. And I'll
14 represent to you as you look for Exhibit 6 in front
15 of you, that it was produced by Richland County in
16 response to this FOIA.

17 MR. LINDEMANN: Objection, Your Honor. That
18 is not a correct representation. It was produced
19 as part of discovery in this case.

20 MR. BLAKE: It is semantics, Your Honor. It
21 is the same thing.

22 THE COURT: All right. The objection is
23 sustained.

24 MR. LINDEMANN: It is not the same thing.

25 THE COURT: Rephrase the question.

1 MR. BLAKE: Thank you, Your Honor.

2 BY MR. BLAKE:

3 Q It was produced in discovery over this lawsuit,
4 which is a FOIA dispute.

5 A I'm still looking for Exhibit 6.

6 (Pause.)

7 A Okay, I have Exhibit 6.

8 Q Okay. And Exhibit 6 purports to be a timeline of
9 activities related to the Lower Richland Sewer
10 System, is that correct?

11 A Appears to be.

12 Q Okay. Have you seen this document before?

13 A I don't recall seeing this document.

14 Q Okay. Who would be responsible within the
15 utilities department for creating a document like
16 this?

17 A I'm not sure it was produced by the utilities
18 department. I --

19 Q Was there another department charged with outlining
20 the Lower Richland Sewer System's timeline of
21 activities?

22 A There could have been. There could have been
23 someone in administration. I'm just --

24 Q Okay. Well, Richland County's Council has
25 represented to this Court that the records that

1 were reviewed in his office were records that were
2 the entire project file. Are you aware of anyone
3 besides the Richland County Utilities Department
4 that maintained the project file for the Lower
5 Richland Sewer System?

6 A I'm sure the grants coordinator did.

7 Q The grants coordinator?

8 A Yes.

9 Q Okay. You believe that she -- and who was the
10 grants coordinator that you are referencing?

11 A Sara Salley.

12 Q Okay. So you know she had a file. Do you know if
13 anyone else had a file?

14 A It could have been a file in the finance department
15 office, procurement department office, and
16 administration.

17 Q Okay. Tell me -- there is an entry there on
18 March 16, 2010, on the first page that talks about
19 Council authorized approval of the agreement
20 contingent upon the administrator, including
21 negotiations with the city, regarding points
22 discussed in executive session. Tell me what that
23 March 16, 2010, Council meeting was about.

24 MR. LINDEMANN: Your Honor, objection on the
25 basis of relevance. The witness already testified

1 he has never seen this document. He did not
2 produce this document. And, quite frankly, I don't
3 know what the relevance of this particular
4 agreement that he is asking about is to this case.

5 MR. BLAKE: I'm happy for the witness to be
6 excused so I don't coach him as I answer the
7 objection, Your Honor, or I can go through and lay
8 the foundation. The date is significant based on
9 the other records that have been admitted into
10 evidence without counsel's objection.

11 THE COURT: All right, the objection is
12 overruled, but lay the foundation.

13 MR. BLAKE: I will.

14 THE COURT: And, of course, if he doesn't
15 know, he can't --

16 MR. BLAKE: Certainly. If he doesn't know, he
17 doesn't know.

18 BY MR. BLAKE:

19 Q Again, this document is already in evidence, sir.
20 I'm just asking you if you are aware of what the
21 entry on that timeline refers to about March 16th,
22 2010?

23 A I don't recall exactly what was discussed.

24 Q Okay. And then on May 9th, 2010, on the following
25 page, there is reference to a newspaper ad being

1 ran showing that public notice was given because
2 the utilities department, which is your department,
3 right?

4 A It was.

5 Q -- will file an application for loan and grant with
6 rural utility service, right?

7 A Again, I didn't produce this document, so I'm not
8 sure exactly what they are speaking of.

9 Q Sure. But do you have any reason to disagree that
10 Richland County ran a newspaper ad notifying the
11 public that it intended to file a loan and grant
12 application with the rural utility service on or
13 about May 9th, 2010?

14 A I don't have any reason to disagree with that.

15 Q Did your department have to run a newspaper ad
16 before it would actually file an application for a
17 loan or grant to rural utilities?

18 A I don't know that our department would have to run
19 that ad, but I just don't remember.

20 Q Do you know whether the ad was required to be ran
21 before the application for the loan or grant was
22 submitted?

23 A I don't remember that, no.

24 Q Who was responsible, then, to make sure that the
25 utilities department, when it was submitting loan

1 and grants to rural utilities -- that is a USDA
2 division right, RUS?

3 A Excuse me, I'm sorry?

4 Q Is RUS, rural utilities service, is that the USDA
5 that we have discussed here today?

6 A That doesn't -- I don't recognize rural utility
7 service, no.

8 Q Okay. Well --

9 A That would be a USDA grant.

10 Q Is rural utilities service something other than the
11 USDA?

12 A Again, not familiar with that term.

13 Q Well, who in the utilities department would have
14 been familiar with the loan and grants that it was
15 filing in 2010?

16 A Well, I would have -- I would have been familiar
17 with the loan and grant filing, but I don't
18 recognize rural utility services.

19 Q Okay, fair enough. Well, what loan and grants do
20 you recall being filed or submitted to another
21 funding source in 2010?

22 A I don't recall any other than USDA.

23 Q USDA is the only loan and grant that you are aware
24 of, correct?

25 A Yes.

1 Q So, again, do you have any reason --

2 A And I'm not sure exactly when that was filed.

3 Q Okay. Well, you admit you were involved in
4 responding to the FOIA request seeking all of the
5 loan and grant applications, FOIA documentation,
6 correct?

7 A Yes, I was.

8 Q And that came to you from where?

9 A I believe it was Ms. Carter's office.

10 Q Okay. And at that point you had done some kind of
11 investigation, I'm sure, to identify the responsive
12 records, right?

13 A Yes, we did.

14 Q And so at that point, what did you learn had been
15 filed seeking either a loan or a grant to the USDA?

16 A We searched our records and within our department
17 didn't locate any applications. We contacted Ms.
18 Salley's office and were able to obtain a copy of
19 the application from her office.

20 Q You are saying we. What did you do?

21 A There could be members of my staff. I mean, I
22 would turn this over to my staff for research.

23 Q So you, in fact, have no knowledge of what, in
24 fact, they actually did because it was someone
25 else's conduct, not yours, correct?

1 A There was research put in by several people within
2 our department, yes.

3 Q Right. But what they did to accomplish their
4 research you don't know because you didn't perform
5 it, correct?

6 A I can't speak for the other folks.

7 Q Okay. Thank you. So you personally, what did you
8 discover had been applied for in response to that
9 FOIA request?

10 A We -- again, we were able to identify an
11 application that we obtained from Ms. Sara Salley's
12 office, and that was a USDA loan application.

13 Q And how did you receive it from Ms. Salley's
14 office?

15 A I don't -- I don't recall.

16 Q Did you receive it or somebody else receive it?

17 A I don't recall that either.

18 Q So how do you know it came from Ms. Salley's
19 office?

20 A I just remember that that was -- it was delivered
21 from her office. How we received it, I'm not sure.
22 Probably inner office mail. That is how we
23 transferred all the information.

24 Q But you have no actual recollection of receiving it
25 from Ms. Salley's office?

1 A I don't recall getting an envelope, no.

2 Q Okay. What other department besides yours was
3 responsible for submitting USDA loan and grant
4 applications?

5 A The grants coordinator and administration.

6 Q And did they, in fact, submit USDA loan
7 applications outside of what your department
8 submitted?

9 A I don't know the answer to that.

10 Q Well, what did you do to investigate that when the
11 FOIA request came to you?

12 A Excuse me?

13 Q What did you do to investigate that when the FOIA
14 request came to you?

15 A We provided the information that we had within our
16 department. I did not address what administration
17 or the grants coordinator could have provided.

18 Q Did you have any documentation in your department
19 that you provided in response to the FOIA?

20 A Any documentation?

21 Q Did you have a single document in your department,
22 not from the grants coordinator, that you provided
23 in response to the FOIA?

24 A I don't -- I don't recall at this point in time.

25 Q Okay. So as you sit here today --

1 A It's been many, many years ago, so --

2 Q I understand. I want you to refresh your
3 recollection, then, please by looking at Exhibit 4.

4 A Okay.

5 Q And Exhibit 4 contains an e-mail, the FOIA
6 requests, and then the six pages of documentation
7 that was, in fact, given in response to the FOIA
8 prior to this lawsuit?

9 A Okay.

10 Q Okay. And you see your e-mail? That is your
11 e-mail on there, correct?

12 A Yes.

13 Q You don't dispute that you sent that e-mail on
14 September 15, 2014, correct?

15 A No, I don't. No.

16 Q In response to Paragraph 2, which is the paragraph
17 where you discuss what is being provided in
18 response to the FOIA that we are here about today,
19 you say what?

20 A A copy of the application is provided by -- as
21 provided by Sara Salley's office is attached.

22 Q Okay. And you didn't indicate that anything came
23 from the utilities department in your e-mail,
24 right?

25 A Not in that sentence, no.

1 Q And then look through the records that are actually
2 provided and tell me if any of those records at all
3 came from your department. There are six pages
4 following that.

5 A Is that what you are speaking to?

6 Q Yes. I apologize.

7 A No, I think this is all part of the application
8 that we received from Ms. Salley's office.

9 Q Okay. And the application itself, part of it is
10 scratched out and has some handwriting on it,
11 doesn't it?

12 A There is a signature on it.

13 Q Yes. I'm talking about the address, the address
14 portion of that is scratched out and has some
15 handwriting on it, doesn't it?

16 A It does.

17 Q And there is a signature on it, but there is not a
18 date on there, is there? Just on the application
19 itself?

20 A Well, I believe all six pages are part of the
21 application.

22 Q So why do you believe that if you didn't submit it
23 or prepare it?

24 A Excuse me?

25 Q Why do you believe that if you neither submitted it

1 nor prepared it?

2 A Because I believe that this is an application form
3 that consists of at least six pages.

4 Q Well, let's look at the form. The form is a
5 numbered form, right? It is a standard form, isn't
6 it?

7 A It is.

8 Q And it has that standard form number on the bottom,
9 doesn't it? You see on the bottom right there?

10 A Yes.

11 Q And that form is what? What is the standard form
12 number for the page that you are looking at?

13 A The first page is 424.

14 Q Standard Form 424. And are you familiar with
15 Standard Form 424?

16 A I have seen this form before, yes.

17 Q Okay. Have you completed a Standard Form 424?

18 A I participated in completing one.

19 Q You signed one, haven't you?

20 A Yes.

21 Q Okay. And when you signed them, you date them
22 before you submit them, don't you?

23 A If it requires dating, then, yes, I would.

24 Q Okay. And what you are looking at on the next
25 page, then, has instructions for that Standard Form

1 424, doesn't it?

2 A Appears to be, yes.

3 Q And those tell whoever is completing the form how
4 to complete it, what to put on there, right?

5 A Yes.

6 Q Then the next page is a budget document, is that
7 right? It says, budget information at the top?

8 A Yes.

9 Q Then we go to the next page. It is instructions
10 for a different form, isn't it?

11 A Instructions Form 424C.

12 Q That's right. And what does 424C mean?

13 A I'm not sure.

14 Q It is not the same as Form 424, though, correct?

15 A It says 424C.

16 Q Okay. Different instructions there?

17 A Yes, different instructions.

18 Q Okay. And the next page says, assurances for
19 construction programs, right?

20 A Yes.

21 Q What is a construction program?

22 A Construction programs? This is a Rural Development
23 form. I'm not sure exactly what their construction
24 programs are.

25 Q Okay. Well, the application that was submitted

1 indicates in Box No. 1, it is a non-construction
2 application, doesn't it?

3 A This application, yes.

4 Q It says it is non-construction, right? This
5 assurances document is for construction programs,
6 isn't it?

7 A The title says construction programs.

8 Q And these -- and what was produced, these
9 assurances for construction programs followed the
10 instruction for a Form 424C, correct?

11 A Appears to, yes.

12 Q Right. And, admittedly, that is signed and dated,
13 the second page of the assurances document, for
14 construction programs is signed and dated, correct?

15 A Yes.

16 Q Okay. And that is signed and dated March 16th,
17 2010, right?

18 A Yes.

19 Q And do you recognize that signature?

20 A Yes.

21 Q Whose signature is it?

22 A Milton Pope's.

23 Q Okay. Mr. Pope did not date the Form 424, the
24 first page on what was produced with the FOIA,
25 correct?

1 A I don't see a date on it, no.

2 Q Okay. And so explain to the Court, please, your
3 reasoning as to why you believe this assurances
4 document for a construction program is part and
5 parcel of this non-construction application that is
6 the first page here?

7 A I believe this was the application provided by Ms.
8 Sara's office to our office in whole. I believe it
9 was the application that she had in her possession.

10 Q Okay. Not that she prepared and submitted that,
11 right?

12 A I don't know the answer to that.

13 Q You didn't ask her, Sara, are you the right person
14 for me to get the information from to respond to
15 this FOIA request?

16 A She would have been one of the other departments
17 that may have had this application in their
18 possession. That is why we contacted her.

19 Q Well, what did you do to contact Mr. Pope to find
20 out what he actually submitted?

21 A I don't recall at the moment.

22 Q Okay. So the date on that assurances document,
23 what is that date again?

24 A Date on the assurance?

25 Q Yes. It is the only date that is there.

1 A March 16, 2010.

2 Q March 16, 2010. That is the same date back on
3 Exhibit 6 that a Council meeting happened, right?
4 According to Exhibit No. 6? We looked at that
5 earlier?

6 A There is a date, certainly a date of March 16th for
7 a Council meeting.

8 Q Okay. And that March 16th Council meeting
9 proceeded the May 9th, 2010, public notice issued
10 by your department saying it will file an
11 application for a loan and grant with the rural
12 utility service, correct?

13 A Of course March 16th precedes May 9th, yes.

14 Q Right. And you have already testified you don't
15 know of any loan or grant besides the USDA loan or
16 grant that was being submitted in May of 2010,
17 right?

18 A No.

19 Q Okay. So do you really believe that Mr. Pope sent
20 an application in unsigned with handwriting on
21 it -- I mean, I'm sorry, undated with handwriting
22 on it for a non-construction project months before
23 Richland County actually did the public notice that
24 was filing an application for a loan and grant?

25 A Again, I don't know who prepared this chronology

1 here, whether they were familiar with the process
2 or not.

3 Q But you have no reason to dispute Richland County
4 records about the chronology, right?

5 A I don't have any reason to dispute it, no.

6 Q Okay. But you did have your own file, correct?
7 You had your own file with the utilities
8 department?

9 A There were files in the utilities, certainly.

10 Q Apart from what Sara Salley or anyone else may have
11 had?

12 A Yes.

13 Q And you, yourself, did not search that file, you
14 delegated that down to other people?

15 A No, I can't say that. I'm sure I did some
16 searching of the files when the FOIA requests came
17 through.

18 Q Okay. And you personally would have had e-mails
19 and other documents that you had been trading with
20 USDA for years at that point, right?

21 A I can't say for years, but I'm sure there was some
22 correspondence probably.

23 Q Okay. Well, did your department engage Wilbur
24 Smith and Associates to assist with the USDA
25 funding and loan application documentation?

1 A We contracted with Wilbur Smith to do the
2 preliminary engineering report for the project.

3 Q Okay. And I will ask you to look at No. 11,
4 Exhibit No. 11. Have you had a chance to locate
5 that yet?

6 A I just located it.

7 Q Okay. Do you recognize that business stamp up
8 there in the top right-hand corner as Wilbur Smith
9 and Associates logo, don't you?

10 A I do.

11 Q Okay. And this is a letter of transmittal. What
12 is the date on it?

13 A June 7th, 2002.

14 Q And who is it directed to?

15 A To me.

16 Q Is that your office at 7525 Broad River Road?

17 A Yes.

18 Q Okay. Do you recall receiving this letter?

19 A I don't recall right now, but I don't doubt it.

20 Q Okay. And do you know who Richard Culler is?

21 A Yes.

22 Q Who is he?

23 A He was one of the engineers with Wilbur Smith
24 working on the preliminary engineering report.

25 Q Okay. And this was transmitting and attaching

1 documents to you, correct?

2 A Yes.

3 Q And the first item there on the box in the middle
4 dated May 28th, 2010, is an environmental
5 assessment for Rural Development, right?

6 A Yes, part of the preliminary engineering report.

7 Q Right. And that was part of the requirements for
8 you to submit to USDA as part of the loan and grant
9 application, correct?

10 A Not necessarily. We had a preliminary engineering
11 report for the project itself. I don't know that
12 the application required the PER.

13 Q Would it assist you if you and I went through the
14 pages of the application documentation required by
15 the USDA to help jog your memory if they required
16 to see environmental assessments as part of the
17 application?

18 A The environmental assessment would have been part
19 of the preliminary engineering report.

20 Q Okay. And it was required -- you agree the USDA
21 required an environmental assessment as part of
22 loan and grant application process, correct?

23 A Again, I don't know if it was part of the loan and
24 grant application portion.

25 Q Well, let's do it this way. Let's go through what

1 the USDA communicated they required to be submitted
2 in support of a loan and grant then, okay? So
3 let's look at Exhibit No. 18, which has been
4 submitted at this point and marked for
5 identification only.

6 A Okay. I believe Exhibit No. 18 is an internal
7 checklist used by the Rural Development office to
8 make sure items are provided that they needed, but
9 it was an internal document, not something that we
10 had knowledge of or have used.

11 Q Well, if you didn't have knowledge of it, how did
12 Richland County have it?

13 A There would be communications from representatives
14 from Rural Development requesting various
15 information from us.

16 Q Right. So they gave you this -- they being the
17 USDA -- gave you this so that you understood what
18 they required as part of the application, correct?

19 A I don't believe that I saw this document, no.

20 Q Well, you may not have seen it, but you don't
21 dispute that Richland County had this in their
22 project file, do you?

23 MR. LINDEMANN: Objection, Your Honor.

24 MR. BLAKE: He can answer the question without
25 coaching from an objection. I would like the

1 witness to be removed.

2 MR. LINDEMANN: Your Honor, this is a
3 mischaracterization --

4 THE COURT: Hold on. Hold on one second.
5 What is the objection?

6 MR. LINDEMANN: The objection is that this is
7 a mischaracterization of the evidence, a lack of
8 foundation.

9 THE COURT: Hold on. Hold on. Hold on. What
10 is the question again?

11 MR. BLAKE: I'm asking whether he disputes
12 that Richland County had this record that it
13 produced to my client in its file. Again, he can
14 object on lack of foundation, but he has got to
15 wait until after the witness says, I don't know the
16 answer to it.

17 MR. LINDEMANN: No, I don't. The objection
18 comes before the witness answers.

19 THE COURT: The objection is overruled.

20 MR. BLAKE: Just laying a foundation for the
21 witness --

22 THE COURT: Let him answer the question, if he
23 can.

24 BY THE WITNESS:

25 A I don't know if this was included in the county's

1 files or not.

2 Q Okay.

3 A I don't recall seeing it.

4 Q Well, certainly USDA found some way to communicate
5 to Richland County the documentation that it
6 required to be submitted in support of the loan
7 application, the grant application, didn't it?

8 A I'm sure there was some sort of communication. It
9 could have been phone calls.

10 Q But I'm sure that you received some of those
11 communications, didn't you?

12 A I spoke to people from the USDA, yes.

13 Q You had meetings with them, right?

14 A I had some meetings.

15 Q You had e-mails where they explained what they
16 needed for you to update things like the PER, for
17 example, right?

18 A I don't know if there were e-mails. I'm not -- I
19 don't recall exactly how the communications --

20 Q We'll go through them all together. That's okay.
21 Let's just go back to Exhibit 11 for now. So you
22 are not going to testify, at this point at least,
23 that USDA required any environmental assessment to
24 be submitted as part of the loan and grant
25 application, is that what you are saying?

1 A I don't know whether it is part of the application
2 or not.

3 Q Do they require it to be submitted as supporting
4 documentation for the application?

5 A I know that we did the environmental assessment as
6 part of the preliminary engineering report.

7 Q And did that have to be given? Did any
8 environmental assessment have to be given to the
9 USDA?

10 A I think at some point in time it was.

11 Q Yes. And it was given at some point in time during
12 your employment with the utilities department,
13 correct?

14 A Yes.

15 Q It was given at some point in time before 2013
16 whenever this thing was put up for a vote for
17 funding, correct?

18 A I would think so, yes.

19 Q Okay. And Item 3 on there, public meeting
20 documents -- again, I am referring to Exhibit No.
21 11 -- Item 3 says, public meeting documents
22 submitted to Rural Development.

23 A I'm not sure exactly what is meant by public
24 meeting documents.

25 Q Well, again, as part of this loan and grant

1 application, the USDA required proof that public
2 meetings had occurred regarding the project and the
3 funding that was being sought, didn't it?

4 A I think there were some public meetings required,
5 yes.

6 Q Right. And, in fact, what we are submitting here
7 is showing to you documents back on June 7th, 2010,
8 that were submitted to Rural Development as a part
9 of this loan and grant application, correct?

10 A Appears to, yes.

11 Q Yes. And certainly when you received this record
12 from Richard Culler in your engineering group, you
13 kept those records, didn't you?

14 A I'm sure we probably did, yes.

15 Q You weren't in the habit of going about and
16 shredding these records that you are receiving from
17 your engineers, were you?

18 A No.

19 Q You weren't in the habit of destroying records that
20 were submitted to USDA, were you?

21 A No.

22 Q They were going in your project file, right?

23 A Yes.

24 Q Just like this letter went into the project file,
25 right?

1 A Should have, yes.

2 Q And that was back on June 2010, correct?

3 A That's the date on the letter, yes.

4 Q Do you have any reason to believe that you got this
5 record and its attachments after Ms. Brawley
6 submitted the FOIA, do you?

7 A After? I don't know.

8 Q Well, okay. Well, how is this? In response to the
9 FOIA, did you ever reach out to the engineers that
10 were preparing and submitting supporting
11 documentation for the county to USDA?

12 A Did I ever reach out to the engineer?

13 Q Yes?

14 A Requesting additional information?

15 Q Sure. Documents that you had the right to get from
16 someone you paid to do a job?

17 A I don't know if we did or not.

18 Q Okay. Let's look, if you would, please, at
19 Exhibit 12. It is a 1-page e-mail there in front
20 of you. Have you had a chance to put your hands on
21 that one yet?

22 A I do.

23 Q Have you had a chance to look it over?

24 A Yes.

25 Q Who sent you that e-mail?

1 A Michele Cardwell.

2 Q And who is Michele Cardwell?

3 A She was a USDA representative.

4 Q When you say representative, what do you mean?
5 What was her role?

6 A She was the project representative for us, for the
7 Lower Richland Sewer Project.

8 Q Okay. And then I see there is a carbon copy on
9 there. That is Richard Culler, the engineer at
10 Wilbur Smith we were just talking about, correct?

11 A Yes.

12 Q And he was engaged in at least some of your
13 communications with the USDA, including
14 Ms. Cardwell, correct?

15 A Appears to, yes.

16 Q And she is directing this e-mail to you, copying
17 Richard, and talking about the possibility of
18 funding Phase I. What does Phase I mean?

19 A The project was divided up into several phases.
20 Phase I would be the initial phase.

21 Q Okay. And when you say the project, you mean the
22 Lower Richland Sewer Project, right?

23 A Yes, that's correct.

24 Q And somewhere, then, of course, there is a document
25 we should be able to look at that was given to

1 Ms. Cardwell that says what Phase I is, right?

2 A That would have been a preliminary engineering
3 report.

4 Q Right. And that preliminary engineering report is
5 sometimes called a PER, right?

6 A Right.

7 Q That was submitted to USDA prior to her sending to
8 you this e-mail on August 18th, 2010, correct?

9 A Could have been, yes. Probably.

10 Q Well, would you have known what she was talking
11 about when she e-mails you about the status of
12 Phase I in August of 2010 if you hadn't already
13 submitted a PER dealing with Phase I?

14 A There was some discussion before that with Richard
15 Culler talking about the funding for the project
16 estimating how much grant funds and loan funds we
17 needed. It was eventually finalized and included
18 in the PER. And I think that is what this was
19 discussing.

20 Q Yes. Saying the proposal will be resubmitted for
21 reconsideration for funding today, is what she
22 represents to you, correct?

23 A That's what this e-mail states, yes.

24 Q Right. So you understood, at least by August 18,
25 2010, the loan and grant had already been submitted

1 and was again -- it was being resubmitted for
2 reconsideration for funding on August 18th, 2010,
3 correct?

4 A That is her statement.

5 Q And that is certainly, therefore, why you believed
6 that the PER and other supporting documentation
7 required for the loan and grant to be considered
8 had already been given to USDA prior to August 18,
9 2010, right?

10 A I don't know if the PER had been submitted to them
11 or not.

12 Q But the application had been?

13 A Apparently the application had been, yes.

14 Q And then the other requirements that they asked for
15 you before they would submit for consideration,
16 right?

17 A Probably just the application. I don't know that
18 any of the other documents or PER was required
19 prior to submitting the application.

20 Q So you think that 1-page document attached to the
21 FOIA is the only thing the government was looking
22 at when it was deciding whether to fund a
23 \$20 million project?

24 A I think it could have been that 6-page document
25 that was attached.

1 Q Well, it is not even the same numbers, is it? Look
2 at the budget and look at her e-mail.

3 A Again, there was ongoing discussions about this
4 particular document. That is No. 12.

5 Q I know. I just want you to look at her numbers in
6 her e-mail and look at the numbers in the budget
7 that you are saying that you think the USDA was
8 considering at that point. Tell me if they are the
9 same numbers.

10 A Numbers in the e-mail and the numbers --

11 Q Yes. The e-mail in Exhibit 12, she's got loan and
12 grant funding in there, correct?

13 A Okay. Right.

14 Q Does this line up with the loan and grant funding
15 sought in the application?

16 A Well, this would have been 10, 12 -- that is about
17 \$12,700,000 that she mentioned in this Attachment
18 12.

19 Q Compare that to the application, or at least the
20 budget document that has been purportedly included
21 in the application.

22 A Well, I see \$20 million.

23 Q Right. Do you think there are some other documents
24 that were submitted to the USDA that kind of
25 explains that delta?

1 A I think this was -- No. 12 was an ongoing
2 discussion with USDA.

3 Q Sure. And I'm not questioning or doubting that.
4 I'm saying that that discussion was backed up by
5 documents that were being submitted by both Wilbur
6 Smith through Richard Culler in your department,
7 right?

8 A I recall some documents from Richard Culler to our
9 department, 1- or 2-page documents that we talk
10 about these same numbers.

11 Q Right. So, again, you have looked at the
12 checklist. You have looked at the checklist we
13 marked No. 18. Surely you are not suggesting that
14 the USDA was not only submitting but resubmitting
15 the loan application without any of the supporting
16 documentation that they require to turn over?

17 A I have just recently seen this checklist. I don't
18 recall seeing this back during the project process.

19 Q I understand. That is not my question, though. My
20 question is, you identified this as their internal
21 checklist? That was your testimony?

22 A That is an internal checklist, yes.

23 Q Right. And that internal checklist is replete with
24 requirements for processing the initial
25 application, correct?

1 A I haven't read this checklist, so I --

2 Q Well, it says on the head of it, on the top of it,
3 processing the initial application, right?

4 A Okay. Right.

5 Q And it says, the initial application consisting of
6 the documents in the following --

7 MR. LINDEMANN: Your Honor, let me state an
8 objection here. First of all, this document is not
9 in evidence. Your Honor only allowed them to mark
10 it. So a lot of it is now getting published where
11 it shouldn't be.

12 No. 2, it is not a county document. It is a
13 Rural Development document. So for it to be
14 explained, they would need witnesses from the Rural
15 Development, which I understand. I tried to
16 subpoena them to trial the first time this case
17 came up, and USDA wouldn't allow it. But the
18 bottom line is, this is hearsay. And asking this
19 witness to interpret somebody else's document that
20 he never saw while he was working for Richland
21 County is objectionable.

22 THE COURT: All right. The objection is
23 sustained.

24 MR. BLAKE: Thank you, Your Honor.
25

1 BY MR. BLAKE:

2 Q So, Mr. Metts, let me make sure I understand your
3 testimony. As you sit up here today, it is your
4 testimony that by August, 2010, when you are
5 e-mailing with the USDA about them resubmitting the
6 loan application, that the only documents that they
7 have in their possession is an unsigned -- I'm
8 sorry, undated, non-construction application, three
9 pages of their own instructions for two different
10 types of applications, a 1-page budget that no way
11 correlates with the numbers they are evaluating or
12 resubmitting, and then a 2-page sign of assurances
13 for construction project? Is that your testimony?

14 A I'm saying that our research of our files following
15 the FOIA request didn't include any additional
16 information, and we were able to obtain the
17 document that we did provide from Ms. Salley's
18 office.

19 Q Right, sir. It is so implausible to you that the
20 USDA would be not only submitting, but resubmitting
21 a loan and grant application on those six documents
22 that you are not even going to answer my question
23 directly, right? Is that right?

24 MR. LINDEMANN: Objection, Your Honor. He
25 just answered.

1 BY THE WITNESS:

2 A I just answered.

3 MR. LINDEMANN: That is argumentative.

4 MR. BLAKE: It was a completely different
5 answer to my question.

6 THE COURT: All right, objection sustained.
7 Please rephrase the question. Argumentative.

8 MR. BLAKE: Thank you. Thank you, Your Honor,
9 I will.

10 BY MR. BLAKE:

11 Q Sir, you looked at those six pages that were
12 produced in response to the FOIA, correct?

13 A Yes.

14 Q And you have seen her e-mail, so you know where you
15 are at in the progress with the USDA in August of
16 2010, correct?

17 A Yes.

18 Q Surely it is not your testimony that the only
19 documents that had been submitted in support of the
20 loan and grant for that much money is a budget
21 based on different numbers and unsigned -- I mean,
22 undated application for a non-construction project
23 and some assurances for a construction project, is
24 it?

25 A That was the only application that we were able to

1 identify.

2 Q I don't disagree with you it is the only
3 application, I'm asking about that is not the only
4 supporting documentation that was submitted to the
5 USDA prior to August of 2010? Sir, that is not
6 your testimony under oath here today, is it?

7 A I'm sure that there was some -- a cost estimate
8 provided that was included in the application.

9 Q And you have already testified you didn't go to
10 your engineers to get the documents that they were
11 providing to the USDA, correct?

12 A That we did not -- that what, I'm sorry?

13 MR. LINDEMANN: Did you hear that?

14 THE WITNESS: No, sir, I didn't.

15 MR. LINDEMANN: Your Honor, he was acting like
16 he was unable to hear the question.

17 THE COURT: Please repeat the question.

18 BY MR. BLAKE:

19 Q And you have already testified that you did not, in
20 the process of responding to the FOIA, go to Wilbur
21 Smith, at least, to get the documents they had
22 provided on Richland County's behalf to the USDA,
23 correct?

24 A I don't recall whether we did or not, no.

25 Q Okay. Who is John Fleming?

1 A Could you repeat that?

2 Q John Fleming?

3 A John Fleming. I don't -- I don't know.

4 Q How about Candace Mitchell?

5 A Candace Mitchell? I believe Candace Mitchell is an
6 engineer. I'm not sure who she worked for.

7 Q How about Mohamad Ismail?

8 A Mohamad is also another engineer.

9 Q What group did they work with? Which engineering
10 firm?

11 A I'm not sure.

12 Q Does the name Hussey, Gay, Bell & DeYoung ring a
13 bell to you?

14 A I'm familiar with Hussey, Gay, Bell, yes.

15 Q Look, if you would, with me at Exhibit 14.

16 A I have it.

17 Q Okay. This is an e-mail from you on the bottom, is
18 that right?

19 A Yes, appears to be.

20 Q Okay. And you sent that e-mail to Mr. Ismail on
21 March 19, 2012, correct?

22 A Yes.

23 Q It has got your signature down there in the
24 signature block on the bottom, right?

25 A Yes.

1 Q And what project are you discussing with Mr. Ismail
2 in this e-mail?

3 A The Eastover Sewer System and the Hopkins.

4 Q Is that the same as what we have been referring to
5 as the Lower Richland Sewer System?

6 A The Eastover Sewer System was a stand-alone system
7 for the Town of Eastover. The Hopkins System would
8 be to connect or to install piping to connect the
9 Hopkins community to the Eastover Sewer System.

10 Q Okay. So did the Lower Richland Sewer Project, did
11 that project involve Hussey, Gay, Bell & DeYoung,
12 and specifically Mr. Ismail as an engineer involved
13 on that project?

14 A I don't recall them working on that project.

15 Q Okay. Thank you. Jump with me, then, to
16 Exhibit 15.

17 A Okay.

18 Q And that e-mail was a printout from your e-mail
19 account, correct?

20 A A portion of it.

21 Q Well, it says Andy Metts at the top. Were you in
22 the habit of printing out your own e-mails and
23 sticking them in your project file?

24 A If it was of importance.

25 Q Okay. So you did do that on occasion?

1 A From time to time.

2 Q And the importance on this e-mail, at least there
3 at the top, indicates high, doesn't it?

4 A That's not something that I do. It was an e-mail
5 that I received from someone, yes.

6 Q Okay. Well, who sent this e-mail to you?

7 A Appears to be Judy Capehart.

8 Q And who is Judy Capehart?

9 A I'm not sure I remember who she is.

10 Q Well, it says on her signature block that she works
11 for USDA, right?

12 A Right.

13 Q That she is an area specialist, correct?

14 A That's the title beside her name, yes.

15 Q And she is setting up a meeting with you, right?

16 A Yes.

17 Q And did you attend that meeting?

18 A Yes, I think I did.

19 Q And what was the purpose of that meeting?

20 A I don't recall at the moment. That is many years
21 ago.

22 Q Take the chance to check down through the e-mail
23 and see if it refreshes your recollection, please.

24 A She is attempting to set up a meeting to discuss
25 the Lower Richland Sewer Project.

1 Q Okay. So it was a meeting for the Lower Richland
2 Sewer Project, correct?

3 A Appears to be, yes.

4 Q And she said it be very helpful if your engineer on
5 this project was in attendance, didn't it?

6 A Excuse me?

7 Q She said it would be very helpful if your engineer
8 for this project is in attendance as well, correct?

9 A That's what -- yes, that's what the e-mail says.

10 Q Who was the engineer Richland County had engaged as
11 of 2012 -- this is May of 2012 -- to be the
12 engineer on the Lower Richland Sewer Project?

13 A Wilbur Smith was our engineer of record back then,
14 best I know.

15 Q Did it ever change? Did Richland County ever fire
16 Wilbur Smith and hire another engineer?

17 A Not that I recall.

18 Q Okay. Did you, in fact, attend this meeting back
19 on May 22nd, 2012?

20 A I believe I did.

21 Q Who went with you?

22 A I don't remember.

23 Q You don't remember anybody that went with you?

24 A I don't remember.

25 Q Okay. What would have been on the agenda for May

1 of 2012?

2 A I don't remember.

3 Q Do you remember where the project was at that point
4 in time?

5 A Do you mean the status of the project?

6 Q Sure, yes?

7 A I don't remember at that time.

8 Q Okay. But we know a couple of years after USDA
9 advising you that it was being resubmitted for
10 consideration at least, correct?

11 A Are you referring back to another --

12 Q The 2010 e-mail that we looked at earlier?

13 A Yes. It is 2012.

14 Q That's right. So that was in May. Do you recall
15 if you were discussing the need to submit any more
16 applications for the loan or grants for that
17 project?

18 A During this meeting?

19 Q Yes?

20 A I don't recall.

21 Q But you did, in fact, submit another application,
22 didn't you?

23 A We worked on the other loan application, yes.

24 Q And you submitted it to them, didn't you?

25 A I believe so.

1 Q And it has your name on it, right?

2 A I remember working on another one, yes.

3 Q Okay. Well, look at Exhibit 17 for me and see if
4 that jogs your recollection.

5 A It appears to be another loan application, yes.

6 Q Okay. And that is your signature on the bottom of
7 that, that block, right?

8 A Yes.

9 Q And there is a date handwritten on there. Is that
10 your handwriting?

11 A Yes, it is.

12 Q And what is the date that is on there?

13 A 7/18 of '12.

14 Q Okay. You don't indicate whether or not this is a
15 construction or non-construction application up in
16 Box No. 1, do you?

17 A There is nothing checked.

18 Q Okay. But at least Box No. 2 does say it was
19 submitted on 7/18/2012, correct?

20 A It is dated 7/18/2012.

21 Q It doesn't have a date received by the state
22 completed in Box No. 3, does it?

23 A Nothing in Box No. 3.

24 Q It doesn't have a date received by the federal
25 agency in Box No. 4, does it?

1 A No.

2 Q This says it is a new application in Box No. 8, is
3 that right?

4 A That's what is checked, yes.

5 Q Why would you have checked new?

6 A I don't recall exactly what the definition of new
7 was.

8 Q Well, refer back to the instructions. This is
9 still the same Form 424, correct?

10 A Where are those instructions?

11 Q Well, first, if you don't mind, just confirm with
12 me that on Exhibit 17 we are still looking at
13 Standard Form 424?

14 A Yes.

15 Q Right? And then back in Exhibit No. 4, the
16 documents that were produced in response to the
17 FOIA, there is definitions and instructions for Box
18 No. 8?

19 A Yes.

20 Q And you would have had those instructions whenever
21 you completed this application, right?

22 A Probably, yes.

23 Q Do you think you referred to them and relied upon
24 them?

25 A Excuse me?

1 Q Do you thing you looked at them and relied upon
2 them for completing it?

3 A Yes, we did.

4 Q Okay. So what does new stand for in those
5 instructions?

6 A The definition in the instructions says new. It
7 means a new assistance award.

8 Q A new what?

9 A New assistance award.

10 Q A new assistance award. So when you checked that
11 box, you were indicating that you were seeking a
12 new award from the USDA, right?

13 A We had not been previously funded, so.

14 Q And what does that mean, had not been previously
15 funded?

16 A There was no previous commitment of funding from
17 USDA.

18 Q Well, what came out --

19 A This was an application that USDA had requested of
20 us.

21 Q They requested it. When did they request it from
22 you?

23 A About a week before it was delivered.

24 Q Okay. Sometime in July of 2012, correct?

25 A I believe so, yes.

1 Q And why did they request a new application?

2 A I got a call from Michele Cardwell, and she was --
3 we had been having some phone conversations about
4 the scope of work changing. She believed that if
5 she had a new application with the revised scope of
6 work, she was planning to go to Washington that
7 week, and she would take that application with her.

8 Q Okay. So at that point they had already evaluated
9 some scope of work as part of the original
10 application, yes?

11 A There had been discussions about the scope of work,
12 yes.

13 Q Well, they saw the scope of work and they asked you
14 to revise it based on your own testimony just now,
15 correct?

16 A Well, I'm sure I had had communications with her
17 telling her that some of the pipelines had changed
18 from a gravity flow pipeline to a force main
19 pipeline, yes.

20 Q And those are all documents that your engineers had
21 prepared and submitted as a part of the scope of
22 work to the USDA already, right?

23 A That would have been part of the preliminary
24 engineering report.

25 Q Right. Which had been given to them prior to you

1 submitting this application on July 18th, 2012?

2 A I'm not sure exactly when it was provided to them,
3 but it was provided to them.

4 Q And you have no reason to believe it was after
5 July 18, 2012, when you were having to reapply anew
6 for the project, right?

7 A I -- I don't have any reason to doubt that, no.

8 Q Okay. And so then there was a revised scope of
9 work done as part of this application, correct?

10 A There was some revisions to the preliminary
11 engineering report, yes.

12 Q Okay. And then that was submitted to her to seek
13 the funding approval, correct?

14 A Again, don't know exactly when that PER was
15 submitted.

16 Q Didn't ask when, just said it was submitted,
17 correct?

18 A At some point in time, yes.

19 Q And it was created by who?

20 A It would have been Wilbur Smith.

21 Q Okay. And whenever you received a FOIA request,
22 you didn't go to Wilbur Smith and ask them for a
23 copy of that preliminary -- any version of the
24 preliminary engineering report, did you?

25 A I don't know if we did or not.

1 Q Okay. Don't you think that you would have reviewed
2 the preliminary engineering report before
3 submitting the application?

4 A Probably, yes.

5 Q And, again, you wouldn't have taken that --

6 A There would have been some form of the preliminary
7 engineering report that I did review, yes.

8 Q And you wouldn't have taken those records and
9 shredded them or destroyed them, right?

10 A Probably not, no.

11 Q Those are important public records that the county
12 spent a lot of money acquiring, right?

13 A The preliminary engineering report is required,
14 yes.

15 Q Right. And expensive for the county to get, right?

16 A They are not cheap.

17 Q They are not cheap, that's right. And so when you
18 got those records, they would have made their way
19 into your project file, correct?

20 A There would have been a stand-alone document
21 somewhere, yes.

22 Q I mean, it should have been somewhere in the
23 utilities department, you agree with me on that,
24 right?

25 A I'm sure the preliminary engineering report is

1 somewhere in the utilities department, yes.

2 Q Okay. Please look with me at Exhibit No. 19.

3 A Okay.

4 Q This purports to be a letter from USDA, doesn't it?

5 A Excuse me?

6 Q This on the top has the USDA logo, Rural
7 Development, it says it is from the United States
8 Department of Agriculture Rural Development State
9 Office in Columbia, doesn't it?

10 A Yes. Yes.

11 Q And it is dated August 2nd, 2012?

12 A Yes.

13 Q And it is related to the Lower Richland County
14 Sewer Project, correct?

15 A It says Lower Richland County Sewer preliminary
16 engineering report.

17 Q Yes. That's what I was going to ask you. So this
18 specifically is dealing with the preliminary
19 engineering report we were discussing about,
20 correct?

21 A Right.

22 Q And they indicate that they have reviewed the
23 revised PER, which we have already said is the
24 preliminary engineering report, dated July of 2012
25 prepared by CDM Smith for subject applicant, and it

1 has been reviewed and the following comments are
2 offered. Did I read that right?

3 A Yes.

4 Q Okay. Who is CDM Smith?

5 A They are the predecessor for Wilbur Smith.

6 Q Okay.

7 A CDM Smith bought them out, I think.

8 Q Okay. So CDM Smith is the person that bought out
9 Wilbur Smith?

10 A The company, yes.

11 Q I got it. So CDM Smith then became the project
12 engineer for Richland County, correct?

13 A Yes.

14 Q For this project?

15 A Yes.

16 Q Thank you. And they had, at this point, at least
17 by August 2nd of 2012, submitted a revised PER to
18 the USDA on behalf of the subject applicant, who is
19 Richland County, right?

20 A Yes.

21 Q Okay. And then it provided lots of comments in
22 here about how they expect or basically asking for
23 additional information about the project, correct?

24 A Yes.

25 Q And do you recall receiving this letter?

1 A I believe I have seen this, yes.

2 Q Whose handwriting is that?

3 A Could be mine.

4 Q That's your handwriting on this letter?

5 A Yes.

6 Q So you received it and you evaluated kind of line
7 by line the 16 different comments that -- in the
8 request for additional information that the USDA
9 submitted to Richland County, correct?

10 A Yes.

11 Q It is pointing out things that the county had
12 omitted some calculations that the USDA would like
13 to see, right? No. 2, Paragraph 2.

14 A Yes.

15 Q And No. 3 is asking the county to provide a map of
16 the service area, correct?

17 A Yes.

18 Q And then on Paragraph No. 4 they are talking about
19 missing financial documentation that the USDA was
20 waiting for Richland County to submit to it,
21 correct?

22 A Yes, appears to be.

23 Q They ask for certain explanations to be provided to
24 them in writing, such as in Paragraph 6 where they
25 are asking for an explanation of a transfer of

1 ownership from the City of Columbia to Richland
2 County, correct?

3 A Yes.

4 Q They asked Richland County to provide a letter from
5 the City of Columbia talking about their inability
6 to provide services, correct?

7 A No. 7, yes.

8 Q No. 7, yes. No. 9 asks for a schedule to be
9 provided, right?

10 A Yes.

11 Q No. 10 also asks for a debt service schedule to be
12 provided?

13 A Yes.

14 Q No. 11 asks for certain financial information to be
15 provided pursuant to RUS Bulletin 1780-3, correct?

16 A Yes.

17 Q No. 12 asks for a budget to be provided, O&M
18 budget, right?

19 A Yes.

20 Q Other explanations are sought further as we go on
21 down through the letter, correct?

22 A Yes.

23 Q And certainly you did not ignore this request from
24 the USDA office in 2012, right?

25 A Yes, this was in conjunction with getting the

1 preliminary engineering report approved.

2 Q Right. Well, the revised preliminary engineering
3 report, correct?

4 A Yes.

5 Q Okay. Not the first one, right?

6 A Right.

7 Q Right. And so at some point between August 2012
8 and October of 2014, this information, or at least
9 some of it, was given to the USDA in support of
10 Richland County's grant and loan application,
11 wasn't it?

12 A It was in support of getting the preliminary
13 engineering report.

14 Q Which was required for the grant and loan
15 application, correct?

16 A It is part of the project approval.

17 Q Okay. And their role in the project is giving a
18 loan or a grant, right?

19 A Right.

20 Q USDA is not going to come out and put a shovel to
21 the dirt, are they?

22 A No.

23 Q They give money, right?

24 A Right.

25 Q That is the only part of the project they are

1 involved in?

2 A Right.

3 Q Okay. I think I know the answer, but I have got to
4 ask it to make sure the record is clear. You
5 didn't go to CDM Smith and ask them to provide
6 those documents to Richland County to give
7 Ms. Brawley in response to her FOIA, correct?

8 A I don't recall going to them, no.

9 Q Okay. Look with me to Exhibit 20, if you would,
10 please, sir.

11 A Which one was that? I'm sorry?

12 Q I'm sorry, No. 20. If you haven't looked at it
13 yet, it should be further down in your stack. It
14 is another e-mail between you and Candace Mitchell.

15 A Okay.

16 Q Now, I'm asking in particular if this document
17 refreshes your recollection about whether or not
18 Hussey, Gay, Bell & DeYoung were involved in the
19 Lower Richland Sewer Project?

20 A From what I recall, this is from Hussey, Gay, Bell.
21 They had looked at an area of a portion of Lower
22 Richland Boulevard that had been identified by the
23 County Health Department as having malfunctioning
24 septic tanks. And they were looking at how that
25 system or that area could be provided sewer

1 service.

2 Q Those malfunctioning septic tanks were one of the
3 primary reasons the county was seeking to get the
4 loan and grant application and build the Lower
5 Richland Sewer Project, wasn't it?

6 A That was one. There were five existing wastewater
7 treatment plants that were malfunctioning here at
8 the time.

9 Q Okay.

10 A That was the primary reason.

11 Q And so -- I'm not sure -- maybe we talked about it.
12 So does that mean that you agree that Hussey, Gay,
13 Bell & DeYoung were part of the Lower Richland
14 Sewer Project?

15 A I recall them working on the septic tank
16 elimination project area in particular, but not
17 the overall Lower Richland Sewer Project, no.

18 Q So was that project part of the same project that
19 you were seeking loan and grant funding for from
20 the USDA?

21 A It was included, yes.

22 Q It was included? So it was a subpart of the Lower
23 Richland project, correct?

24 A It was.

25 Q Okay. And this documentation that they are talking

1 about with the Phase I project, that Phase I that
2 is referenced in Candace Mitchell's e-mail, that is
3 the same Phase I of the Lower Richland Sewer
4 Project that we have been discussing, correct?

5 A No. No, it was not.

6 Q That was a different project?

7 A Yes. It was -- again, we were looking at just that
8 septic tank problem area on Lower Richland
9 Boulevard at the time that they were working on,
10 so, no, it is not. There was a Phase I of that
11 project as well.

12 Q Thank you for that clarification, sir. Look with
13 me, please, at Exhibit 21, a lengthy, approximately
14 21-page letter.

15 A Okay.

16 Q And that letter on the top shows it is from the
17 USDA Rural Development Office, correct?

18 A Yes.

19 Q And that is directed to Richland County, yes?

20 A Yes.

21 Q It specifically was directed to Kelvin Washington,
22 correct?

23 A Yes.

24 Q And Mr. Washington's office would forward you
25 communications like this, correct?

1 A This would have gone to the -- he was Chairman of
2 the County Council at the time.

3 Q Correct. His office would forward communications
4 to you regarding projects that the USDA decided the
5 project for Lower Richland, correct?

6 A I don't know that his office would have. This
7 would probably have come from the Clerk of Court.

8 Q Okay.

9 A I'm sorry, Clerk of Council.

10 Q Clerk of Council?

11 A Right.

12 Q Well, I represent to you that this was presented by
13 Richland County in the discovery of this case. And
14 you would agree that this letter establishes the
15 conditions that Richland County must understand and
16 agree to before further consideration would be
17 given to its application, correct?

18 A This letter, from what I recall, was presented by
19 Michele Cardwell to Council in an open Council
20 meeting and then the administrator was authorized
21 to execute numerous documents following Council's
22 approval of the condition of acceptance. And this
23 was a letter, again, a letter that was presented to
24 Council.

25 Q It is a letter of condition, LOC, is that a correct

1 use of that term of art?

2 A Could you repeat that?

3 Q Letter of condition, LOC?

4 A I'm not sure. This is a letter of conditions, yes.

5 Q It is a letter of condition?

6 A Yes.

7 Q I've had the benefit of seeing your e-mails that
8 you may not have looked at. So I'm trying to track
9 language that I have seen you use before.

10 A Okay.

11 Q But you agree it is a letter of conditions?

12 A Yes.

13 Q Okay. So, and this is relating, again, to the
14 Lower Richland Sewer Project, right?

15 A That's correct, yes.

16 Q And they are saying they need everything agreed to
17 herein before they are going to give further
18 consideration to the loan and grant application
19 submitted by Richland County, correct?

20 A No. This was after the grant was approved.

21 Q Well, I want you to read the first sentence of the
22 letter in the record for me, then.

23 A This letter will establish conditions which you
24 must understand and agree to before further
25 consideration may be given to your application.

1 Then the application was submitted, and this was
2 the result of that application.

3 Q Right. And here the USDA is telling Richland
4 County that these conditions must be met before
5 they will give further consideration to the
6 application, correct?

7 A Yes, that is what the first sentence says.

8 Q Okay. And is the application that is being
9 discussed here your application that was submitted
10 in July of 2012?

11 A I believe it was.

12 Q And you submitted a new application, we have
13 established, in July of 2012 at the USDA's request,
14 correct?

15 A Yes, that's correct.

16 Q And then this letter follows your application,
17 right?

18 A Right.

19 Q And it outlines in here 21 pages of requirements
20 and conditions that must be met before further
21 consideration to your application would be
22 considered, correct?

23 A Yes.

24 Q And throughout these -- and you recall this letter,
25 you recall it being presented at County Council?

1 Have you been through this letter before?

2 A Excuse me?

3 Q Have you been through this letter before?

4 A Yes, I'm sure I did.

5 Q Right. Because it had certain things that your
6 department was responsible for responding to,
7 correct?

8 A Again, this was presented at Council and the letter
9 was then taken to Council chambers to the
10 chairman's chambers and the chairman signed various
11 documents.

12 Q So on Page 1 there is a project budget referenced.
13 Do you see that project budget there, \$12,937,700?

14 A With the two that is added together?

15 Q I'm just reading the total down under Paragraph 1
16 says: Project Budget, \$12,937,700, correct?

17 A Are we still looking at the same document?

18 Q Yes, Page 2 of that document.

19 A Oh.

20 Q Look under the big Paragraph 1 there. I'm sorry, I
21 turned the page and didn't tell you.

22 A Under Paragraph 1?

23 Q Yes.

24 A Yes. \$12,937,700.

25 Q That was not the budget that was in the application

1 that was given in response to Ms. Brawley's FOIA,
2 right? We have already established that was over
3 \$20 million, right?

4 A Yes.

5 Q So assuming that application was, in fact,
6 submitted in 2010, despite the absence of a date on
7 it, we know it is not talking about the same budget
8 anymore, right? Because here in 2013 we are
9 talking about \$12,937,000 budget, right?

10 A Right.

11 Q Was Ms. Brawley ever given a copy of that budget
12 documentation submitted to the USDA as part of her
13 FOIA response?

14 A I don't know if she was or not. I know that we
15 didn't identify one in our project files. The only
16 one that we were able to obtain was from Ms.
17 Salley's files.

18 Q Sure. Sure. But you agree that budget
19 documentation, if not the application, the budget
20 documentation existed somewhere in Richland
21 County's files, correct?

22 A Again, believing that that application should have
23 been in our files but was not, I don't know if it
24 existed anywhere else or not.

25 Q I'm not referring to the application, I am talking

1 about the budget documentation. I am talking about
2 the actual budget documentation. There was a
3 budget given in response to FOIA, it is just not
4 the right budget, right?

5 A It is probably in the preliminary engineering
6 report.

7 Q That is probably where we would find this budget
8 that was in the letter of conditions?

9 A Probably so.

10 Q Okay. And that was not given to Ms. Brawley in
11 response to her FOIA request, correct?

12 A I don't know. I don't think we provided it, no.

13 Q An outdated budget was given to her that was back
14 from 2010, not relevant in 2013, correct?

15 A Once again, the only application we were able to
16 obtain out of our files.

17 Q And when you say we, again, it wasn't you, because
18 you delegated the responsibility to go find it,
19 right?

20 A Well, it was --

21 Q It wasn't a collectively we?

22 A When I say we, I mean more than just the utilities
23 department, I mean the grants department or
24 administration.

25 Q Right. And you can't speak on behalf of what

1 anyone besides yourself did, correct?

2 A No, I can't. Right.

3 Q You have no recollection of what you did, correct?

4 A I do have some recollection of it, yes.

5 Q Okay. Well, tell me what you do recall doing in
6 response to the FOIA.

7 A Well, everything that was included in that e-mail
8 that I sent to Ms. Carter's office.

9 Q Okay. So you recall sending that e-mail?

10 A Excuse me?

11 Q You recall sending that e-mail?

12 A I recall that, yes.

13 Q Okay. Anything else?

14 A I don't know if -- I don't know if I recall
15 anything else.

16 Q Okay. If you will look with me to Page 5 of this
17 letter, Bates No. 350. It refers -- I'm looking
18 specifically at Paragraph 7.

19 A Okay.

20 Q Somehow the USDA knows by, well, January 30th,
21 2013, that there is going to be at least 1,197 bona
22 fide residential equivalent users on the system
23 when completed, right?

24 A That's what is listed here, yes.

25 Q Did Richland County provide that information to the

1 USDA?

2 A That would have been part of the preliminary
3 engineering report.

4 Q Okay. What about the proposed rates? There was a
5 proposed rate schedule that Richland County
6 submitted to the USDA, correct?

7 A It was also part of the preliminary engineering
8 report.

9 Q Okay. There was a proposed operating budget and
10 user rate structure, wasn't there?

11 A That was also part of the PER.

12 Q Okay. Did Richland County provide proof of
13 insurance to USDA as part of its application for
14 loan and grant?

15 A Proof of insurance?

16 Q Yes. Look at Paragraph 13, Page 7.

17 A I don't -- I feel certain they did, but I don't
18 know for a fact.

19 Q If you would look with me at the bottom of Page 10,
20 Paragraph 16, it is Bates label 355. Have you had
21 a chance to get there?

22 A Sixteen?

23 Q Yes, Paragraph 16?

24 A Yes.

25 Q Therein is a discussion of the various proof of

1 property rights that the USDA was telling Richland
2 it needed to give it, correct?

3 A Yes.

4 Q And that is detailed in more detail going on on
5 Page 11, right?

6 A Right.

7 Q USDA was requiring that Richland County submitted
8 evidence of valid right of ways and then all these
9 particular federal forms related to that, correct?

10 A That says prior to advertisement for construction.
11 I don't know if it is under construction yet or
12 not.

13 Q Okay. So you don't know if any of this has taken
14 place yet?

15 A I don't know if it has or not.

16 Q Okay. Thank you. So then you don't believe, or
17 you have reason to believe that by October 2014 you
18 don't believe that Richland County would have
19 provided the USDA with these property right
20 documents?

21 A There was ongoing discussion when I retired from
22 Richland County with property owners.

23 Q Okay. About things like easements, and that sort
24 of thing?

25 A Yes.

1 Q Okay. So that hadn't been finalized yet?

2 A No.

3 Q Well, what about Paragraph 19 where it is talking
4 about mitigation? It shows a list of actions
5 required for successful completion of the project.
6 And it talks about conclusions of the proposals and
7 environmental review process. Were there documents
8 submitted to the USDA regarding Richland County's
9 environmental review process?

10 A Well, there was -- the environmental review was
11 included in the preliminary engineering report.

12 Q Okay. So that was submitted to the USDA?

13 A It was included with the preliminary engineering
14 report.

15 Q Was it in the first PER or the later PER?

16 A I don't know the answer to that.

17 Q Okay. Could it have been in both?

18 A It could have been.

19 Q Okay. But you didn't get those records from
20 either -- you didn't find -- no one found them in
21 the file at Richland County and you didn't go get
22 them from the engineer in response to the FOIA,
23 correct?

24 A I don't know the answer to that.

25 Q Okay. Well, certainly not in the 6-page FOIA

1 response she received prior to filing this lawsuit,
2 correct?

3 A I believe it was part of the preliminary
4 engineering report.

5 Q Okay. Did it provide -- did Richland County
6 provide the USDA the documentation regarding civil
7 rights and equal opportunity as is required in this
8 letter?

9 A I don't know.

10 Q Would that have been part of the preliminary
11 engineering report?

12 A I don't know that that would have been part of the
13 preliminary engineering report. I think it was
14 more part of the construction contract once they
15 got to that stage.

16 Q Did Richland County ever put the construction out
17 for bids?

18 A I don't know if they did or not. Not during my --

19 Q Not during your employment?

20 A Not during my employment, no.

21 Q Please look with me on Page 20, Paragraph 28, Bates
22 labeled RC-365.

23 A Okay.

24 Q There is a whole list of forms down there that
25 needed to be executed promptly, according to, at a

1 proper -- I'm sorry -- at a properly called
2 meeting, you must adopt the properly executed
3 following forms, and minutes showing the adoption
4 must be provided. And there is a whole list of
5 forms, correct?

6 A I believe these were all the forms that I mentioned
7 earlier that were presented to and approved by
8 Council, and the chairman signed following that
9 meeting.

10 Q Okay. Were those forms ever given to Wendy Brawley
11 in response to her FOIA request?

12 A This was after the grant application process. This
13 was a result of Rural Development approving the
14 grants and funds.

15 Q Which year was that?

16 A It would have been after the grant application
17 process.

18 Q But --

19 A Excuse me?

20 Q They are saying here, We need this before we
21 complete consideration of your application.

22 A Well, that is their statement, but I'm just telling
23 you the way it was. It was -- this was approved by
24 Council. So this was the letter of conditions
25 presented to Council by Rural Development approving

1 the grant and loan funds. All these documents that
2 you just referenced were signed following that
3 meeting that this document was presented to Council
4 and approved, but that was months after the
5 application process.

6 Q So you are disagreeing with the USDA's statement
7 saying that they are not concluding the USDA
8 application process until they receive all of these
9 forms that their letter to Mr. Washington says you
10 must complete before we will further consider your
11 application?

12 A I'm just telling you how that was represented to
13 me.

14 Q Represented to you by who?

15 A By Michele Cardwell of Rural Development.

16 Q So you are saying that USDA told you that, but then
17 she came to Richland County Council and read -- and
18 gave them this letter at a Council meeting, and the
19 first statement there is, We need all of this
20 before we are going to give further consideration
21 to your application, right?

22 A That's what the first sentence says.

23 Q Okay. So is that why, then, you didn't go dig?

24 A Excuse me?

25 Q Is that belief -- is your belief based on the

1 conversation you had with Ms. Cardwell, is that the
2 reason why you didn't give those records to
3 Ms. Brawley in response to her FOIA?

4 A No, certainly not. This was the grant award
5 process.

6 Q The grant award process as opposed to the
7 application process?

8 A Right. This followed the application process.

9 Q At least according to your recollection of what
10 someone from the USDA told you, correct?

11 A Yes. That is the way she represented it to us.

12 Q Right. It is not the way she -- you said us. To
13 you, that is not the way --

14 A To Richland County.

15 Q That is certainly not the way that she represented
16 it to Richland County at the meeting or in her
17 letter, correct?

18 A The letter -- the first sentence of the letter says
19 that, yes.

20 Q Okay. Whenever Ms. Brawley was given access to go
21 dig around in files at Mr. Lindemann's office from
22 Richland County, there were some other documents at
23 least entitled applications that she located. Did
24 you recall ever finding other applications or draft
25 applications or other supporting documentation

1 whenever you were looking to respond to FOIA?

2 A None in our department files.

3 Q Well, look at Exhibit No. 7 for me.

4 A Okay.

5 Q That is a Form SF-424, correct?

6 A Yes.

7 Q And it says new on it, that box is checked, right?

8 A Yes.

9 Q And it says application on it, correct?

10 A Yes.

11 Q And if you go to No. 18, Box 18 on the third page
12 of this exhibit, it has got a \$13,212,000 estimated
13 funding, doesn't it?

14 A Yes.

15 Q Okay. Do you know anything about where this
16 document came from?

17 A I don't recall, so I don't know.

18 Q Okay. You did not get it from the USDA, correct?

19 A I don't know.

20 Q You don't recall getting anything from the USDA, do
21 you? You personally?

22 A Do I recall getting anything?

23 Q Yes? In terms of applications, applications
24 submitted by Richland County? Did you get anything
25 from the USDA?

1 A I don't recall that, no.

2 Q Okay. And its says, Sewer system improvements,
3 Hopkins service area. Was that part of the Lower
4 Richland Sewer Project?

5 A Yes.

6 Q And would that have been the responsibility of your
7 department to seek this federal assistance?

8 A It could have been mine, could have been the grants
9 coordinator's office, it could have been
10 administration.

11 Q The last page there is a document that says, Public
12 information meeting requirements. Do you see that?

13 A I do.

14 Q It actually has prescribed public notice. It does,
15 doesn't it?

16 A It does.

17 Q And was that a requirement from the USDA for a Form
18 424?

19 A I don't know. Again, I don't recall seeing this
20 form.

21 Q Well, it says, Prior to loan approval, it will be
22 necessary for you to hold a public meeting to
23 inform the citizenry of the proposed project. Did
24 I read that right?

25 A Yes. And there were numerous public meetings held.

1 Q Right. USDA wanted proof that those public
2 meetings had been conducted prior to loan approval,
3 didn't it?

4 A Apparently so.

5 Q Okay. Was that documentation ever given to Ms.
6 Brawley in response to her FOIA request?

7 A Again, I don't know. I'm not familiar with this
8 form. I don't recall seeing it.

9 Q Okay. But you agree that public meetings were
10 held, right?

11 A Public meetings were held.

12 Q And the USDA -- did Richland County ever tell USDA
13 the public meetings were held?

14 A I don't know.

15 Q You don't recall ever being involved in providing
16 proof to the USDA that the required public meetings
17 were held?

18 A It seems like there was some correspondence to that
19 effect. I'm just not real sure.

20 Q Okay. And would that correspondence have come from
21 your office?

22 A It is possible. There were, again, numerous
23 meetings held.

24 Q Right. And the documentation for those meetings,
25 they would have either been in the utilities

1 department file or where? Where else could it have
2 been in Richland County?

3 A The administrator's office could have set up those
4 meetings.

5 Q Okay. So presumably they have a file, correct?

6 A Presumably. Presumably, yes.

7 Q And what did you do to get their file materials to
8 produce in response to the FOIA Ms. Brawley sent?

9 A Again, we researched what we had in our files.

10 Q Sir, I'm not asking for we, I'm asking just you.

11 A My staff and I researched what we had in our files.

12 Q Okay. You didn't reach out to the -- you didn't
13 reach out to the administration department, then,
14 did you?

15 A Only to Ms. Salley's office to try to locate that
16 application.

17 Q Okay. Look with me, please, at Exhibit No. 9.
18 Actually go to No. 8 first, I'm sorry. I apologize
19 for that.

20 A Okay.

21 Q This is an application to the USDA again, isn't it?

22 A It appears to be another application form, yes.

23 Q The same form we looked at that Richland County had
24 been submitting in other situations, SF-424,
25 correct?

1 A Yes, but it appears different in its configuration.

2 Q It does, I agree. And this indicates that Box 1 is
3 a change or corrected application, doesn't it?

4 A Change? Yes.

5 Q It says it is a continuation application in Box No.
6 2, doesn't it?

7 A I mean, but I don't know that it was ever executed.

8 Q I understand. But it indicates that you, in Box
9 F -- Box F says that you, Andy Metts, on contact
10 information, you are the person to be contacted on
11 matters involving the application, correct?

12 A On this document. Again, I don't know if it was
13 ever executed.

14 Q Well, from the two that we have seen that were
15 executed, you were the person to be contacted on
16 that, right?

17 A That's what Box F says, yes.

18 Q Yes. And that is what it says on the application
19 that you signed, right?

20 A I'm sure it probably does.

21 Q And the same thing for the one that Mr. Milton Pope
22 signed? Same thing, right?

23 A I don't know. I'll have to --

24 Q It is right there in Exhibit 4 if you want to look
25 at it.

1 A Excuse me?

2 Q It is right there in Exhibit 4 if you want to look
3 at it to be sure.

4 A Could you identify where that -- where it
5 identified me as -- I do see where it says name and
6 telephone. Yes, my name is on that application as
7 well.

8 Q As the contact person, correct?

9 A Yes.

10 Q Okay, thank you. But you don't know whether or not
11 this application was submitted, correct?

12 A This application?

13 Q Yes, Exhibit No. 8 that we are looking at?

14 A I don't know.

15 Q Well, what causes you to question --

16 A I don't believe --

17 Q What causes you, sir, to question whether that
18 application was submitted?

19 A I don't recall seeing it, and I don't see where it
20 was signed.

21 Q Okay. Well, do you recall seeing the one signed by
22 Mr. Pope that doesn't bear a date on it and has
23 handwriting on it? Do you recall seeing that
24 before you got the FOIA request?

25 A No, but I recognize his signature.

1 Q Sure. Did you ever recall seeing it until you were
2 responding to the FOIA request?

3 A I don't know if I did or not.

4 Q Okay. So you really don't know whether that one
5 was submitted either, do you?

6 A I can't say that I know that it was submitted.

7 Q Okay. Look with me at Exhibit No. 9, please.

8 A Okay.

9 Q Is that another Form 424?

10 A Yes.

11 Q That is another application for federal assistance?

12 A Yes. Unsigned.

13 Q Again, same sewer project, correct?

14 A Excuse me?

15 Q It is dealing with the same sewer project, correct?

16 A Yes.

17 Q It still has you as the contact person for matters
18 involving that application, correct?

19 A Yes.

20 Q This purports to be a new application, doesn't it,
21 Box 8?

22 A Again, this application is unsigned, sir, so I
23 don't believe it was ever submitted.

24 Q And you are just solely basing that on the fact
25 that it doesn't bear a signature?

1 A Yes.

2 Q Well, how about that budget, three pages in? Was
3 that budget ever submitted?

4 A Don't know.

5 Q Who would know whether or not the budget attached
6 as Page 3 to this application was ever submitted to
7 the USDA?

8 A I don't know that anyone would.

9 Q What records would show whether or not it was
10 submitted?

11 A I don't know. Again, I'm not familiar with this
12 particular application. I don't see where it was
13 signed. I don't believe it was submitted because
14 it was not signed.

15 Q And regardless of the application, I'm moving on to
16 this budget information sheet here, this budget
17 information sheet was worked up by somebody,
18 correct?

19 A Somebody, yes.

20 Q I mean, it was for the purpose of seeking funding
21 from USDA for the loan and grant that we are
22 talking about, right?

23 A Again, I don't believe this was submitted.

24 Q I know. Who would have worked this up?

25 A It could have been someone in our department, it

1 could have been someone in administration.

2 Q Where would this budget have been held and
3 maintained at?

4 A It could have been part of the preliminary
5 engineering report.

6 Q It wouldn't have been shredded and destroyed,
7 though, right?

8 A We didn't shred or destroy anything, no.

9 Q Right. And we know it wasn't because ultimately it
10 was in the project file whenever Ms. Brawley was
11 given access to it, right?

12 A If you say so.

13 Q Well, the Bates number is on the bottom of it and
14 your counsel represents --

15 A That was well after I was -- I had retired from the
16 county.

17 Q I understand. I understand. I am just basing that
18 on counsel's representation in court today. But,
19 fair enough. Well, you would certainly agree that
20 this would have --

21 A There is a budget attached.

22 Q And that budget, if submitted, would have been
23 submitted prior to June 30th, 2013, where
24 everything went up for approval to Richland County?

25 A I don't know the answer. I don't know if it would

1 have or not.

2 Q Well, do you know of any budgets that were
3 submitted after June 30th, 2013, the time that you
4 testified we were beyond the application and into
5 the approval process?

6 A I don't know of any budgets that would have been
7 submitted after that.

8 Q No reason to keep making budgets at that point,
9 right?

10 A No. The grant had already been awarded.

11 Q Right. So all supporting documentation that was
12 going to be submitted in support of any of these
13 applications all would have been submitted and
14 created prior to June 30th, 2013, correct?

15 A I would think so.

16 Q Right. And Richland County didn't shred or destroy
17 anything to your knowledge related to this project,
18 correct?

19 A I don't know if -- I know the utilities department
20 didn't.

21 Q Okay. And, to your knowledge, your engineers, or
22 Richland County's engineers that were paid to do
23 this project and submit information to USDA, they
24 weren't in the business of destroying Richland
25 County records, were they?

1 A Not Richland County records, no.

2 Q Okay.

3 MR. BLAKE: One second.

4 (Pause.)

5 BY MR. BLAKE:

6 Q Can you look at Exhibit 17? Right now it has only
7 been marked for identification. Can you tell the
8 Court what that is?

9 A What this is?

10 Q Yes, Exhibit 17?

11 A It appears to be the first page of a Form 424.

12 Q Okay. And, again, that bears your signature?

13 A Yes.

14 Q You created that document?

15 A I participated in it, yes.

16 Q Yes. And that document was submitted to USDA as
17 part of the Richland County loan project or grant
18 project application, correct?

19 A I believe it was, yes.

20 Q Okay.

21 MR. BLAKE: Your Honor, I would move
22 Exhibit 17 in evidence.

23 THE WITNESS: Could you repeat that?

24 MR. BLAKE: I'm sorry, that is for the judge.

25 THE COURT: Any objection?

1 MR. LINDEMANN: It is not a complete version,
2 Your Honor. The complete version is one of the
3 ones that has been marked for ID. That is just the
4 first page.

5 THE WITNESS: Just the first page.

6 MR. LINDEMANN: I mean, there are a number of
7 other documents that are a part of that application
8 that were obtained from Rural Development that
9 included a lot of attachments.

10 MR. BLAKE: I appreciate Mr. Lindemann's
11 testimony.

12 MR. LINDEMANN: It is not testimony, I'm
13 making an argument.

14 THE COURT: All right. What is your position?

15 MR. BLAKE: My position is that this witness
16 has identified that document. There is no
17 indication that that form has a Page 2 or anything
18 else on it. That is a stand-alone form that in his
19 own instructions calls itself a face sheet. It
20 doesn't say it has any other exhibits to it. It
21 just says it is a face sheet in the instructions
22 that are in Exhibit 4 and already in evidence.
23 Mr. Lindemann can call these things an application
24 just because his office may have put them together
25 that way before they gave them to us in discovery,

1 but that, in fact, does not make it a unified whole
2 document. We have already laid the foundation that
3 what was given in response to the FOIA appears to
4 have at least four distinct documents within six
5 pages. And I have no reason to believe that
6 whatever Mr. Lindemann contends is part of that
7 application is part and parcel of the same
8 document, just like I don't believe the original
9 FOIA responses. His testimony is not sufficient to
10 establish that that document is inadequate. The
11 witness has identified it and has not said there
12 was a page missing to it. I agree there may be
13 other parts of the application, but that doesn't
14 retract from the stand-alone nature of that form.

15 MR. LINDEMANN: That is absolutely incorrect,
16 Your Honor. First of all, Your Honor, when you
17 admitted No. 17, or allowed it to be marked
18 earlier --

19 THE COURT: I'm confused. I thought 17 was
20 admitted over the objection of the Defense.

21 THE COURT REPORTER: I thought so too.

22 THE COURT: It was. Sixteen and 18. So why
23 are you trying to readmit it? It is already in
24 evidence.

25 MR. BLAKE: Well, first, No. 1, I don't

1 believe there is any sound basis for an objection
2 any longer. So for that reason alone, I would move
3 to readmit it because I would like to resolve the
4 objection.

5 MR. LINDEMANN: Well, that's crazy. But,
6 anyway.

7 THE COURT: It is already in evidence. I'm
8 not sure how you readmit it. It is already in
9 evidence.

10 Now, the ones that I had marked for ID
11 purposes were 16 and 18. Those two are the ones
12 that are not in evidence.

13 MR. LINDEMANN: Just for the record, let me
14 say I stand by my objections to 17.

15 THE COURT: I know. But 17 was already
16 admitted. So it is already in evidence. So go
17 ahead and ask him about it. Sixteen and 18 were
18 for ID purposes, if I'm correct.

19 MR. BLAKE: Well, I will ask him about 16,
20 then. He can clarify this one.

21 BY MR. BLAKE:

22 Q Sir, please look at Document 16 that has been
23 marked for the record.

24 A Okay.

25 Q How many pages are there, sir? The first page of

1 that record, what is it?

2 A Appears to be the first page of the application.

3 Q And how many pages are typically on a Form 424,
4 sir?

5 A I don't know typically, all I have is what is in
6 front of me now.

7 Q Well, when you completed the form, was there a
8 second page to the Form 424 or was it a 1-page
9 document?

10 A I don't remember. It appears to be -- everything
11 that I have seen here today, the second page is the
12 instructions.

13 Q But the instructions are not the form itself, the
14 instructions are by definition --

15 A Instructions?

16 Q -- instructions, right?

17 A But --

18 Q You didn't complete anything on the instructions,
19 did you?

20 A No.

21 Q You received that from the USDA's documentation,
22 correct?

23 A Yes.

24 Q The instructions were not a part of Richland
25 County's application, was it?

1 A Were they a part? They were included with.

2 Q So it is your testimony you sent the instructions
3 back to the USDA whenever you completed this Form
4 424?

5 A I'm not exactly sure what we included. The 424,
6 when we searched our files, I couldn't find this
7 particular document. I knew that I had worked on
8 it, but, again, didn't find a copy of it and don't
9 recall exactly what was connected or attached.

10 Q Well, go to the third page of -- you can at least
11 authenticate the first page for us, right? The
12 first page is a document that you created?

13 A Yes.

14 Q Okay. And that is document that --

15 A I filled in and signed, I didn't create.

16 Q I understand. Thanks for that clarification. You,
17 in fact, completed the -- filled in the blanks, as
18 it would be, for this form here, right?

19 A Yes, I believe so.

20 Q Okay. That is your signature and the date on it,
21 correct?

22 A Yes.

23 Q Then if you look at the third page of this
24 document, there is budget information on there,
25 correct?

1 A Yes.

2 Q So it is typed, See attached cost estimate. Did
3 you type that?

4 A I had someone type it.

5 Q You had someone type it for you?

6 A I don't think I did it myself.

7 Q Okay. Did you sign it, though?

8 A Excuse me?

9 Q Did you sign it?

10 A Yes, I did.

11 Q So it says on the bottom of Page 1, there is a
12 signature with a 7/18/12 date. Is that your
13 signature?

14 A Yes.

15 Q Okay. Then there is a second page that says 2 of
16 2, correct? Is that the fourth page? It is
17 instructions for the HUD 424C?

18 A Yes, at the bottom of Page 2 of 2.

19 Q I am just reading down at the bottom of it. It
20 says Page 2 of 2 down on the bottom?

21 A Yes.

22 Q So that is the second page of that cost document
23 that says, See attached cost estimate, correct?

24 A It appears to be instructions, yes.

25 Q All right. Then we go on to Page 5. Was that the

1 attached cost estimate that you are referencing
2 where you had someone type up on Page 3 there?

3 A Yes.

4 Q Okay. Who prepared that?

5 A The budget?

6 Q Yes, the budget, who prepared that?

7 A This would have been part of the preliminary
8 engineering report.

9 Q Okay. So that was actually submitted with the
10 application here on July 18, 2012?

11 A I believe this 1-page budget was included, yes.

12 Q Now, at the top right, so that is Page 1 of 3, is
13 that right?

14 A Could you repeat that?

15 Q Yes. On the top right?

16 A Right.

17 Q It says Page -- where it says 1 of 3. Am I reading
18 that right?

19 A Yes, it is.

20 Q Exhibit 6 of what?

21 A Excuse me? I don't know. Again --

22 Q Well, who signed off on -- whose signature is that
23 on the right?

24 A On Page --

25 Q Page 5?

1 A That is my signature.

2 Q So you signed Page 5 as well, right?

3 A Yes.

4 Q And it says at the top right that Page 5 is
5 Exhibit 6 to something, right?

6 A Right. Exhibit 6, 1 of 3.

7 Q Exhibit 6, 1 of 3. So when you pulled this out and
8 signed it, what did you pull it out of?

9 A I don't know. I don't have the rest of the
10 documents. I don't know where this particular
11 document came from or --

12 Q Would it have been in the preliminary engineering
13 report?

14 A Again, I don't know.

15 Q So you don't know who prepared it?

16 A I worked on just preparing this document, yes. But
17 where 1 of 3, I mean, that is -- you are talking
18 seven or eight years ago. I don't remember.

19 Q Were there other documents besides these five pages
20 that were submitted as a part of this application
21 then?

22 A Again, I don't know. This wasn't in our files.

23 Q Okay. But it should have been in your files,
24 right, because, again, you signed off on these?

25 A I don't know why there was not a copy in our files,

1 but --

2 Q Well, you don't know for sure they weren't, you
3 just didn't find them yourself, right?

4 A I didn't find them, no.

5 Q You didn't find them. But you agree that this was
6 Exhibit 6 to something Richland County had?

7 A It appears to be.

8 Q And you agree that that was a budget Richland
9 County prepared?

10 A Yes.

11 Q And you agree that at least this first page was
12 submitted as part of your application, correct?

13 A I believe it was.

14 Q We just don't have the other pages of this exhibit
15 or the other exhibits, correct?

16 A I don't know.

17 MR. BLAKE: Well, Your Honor, he has
18 identified it and said it is a record that has his
19 signature on it in three places, so I would go
20 ahead and move Exhibit 16 into evidence as an
21 authenticated record bearing his signature.

22 MR. LINDEMANN: And, Your Honor, again, my
23 only objection, it is not a complete document.
24 They picked out five pages and have made that an
25 exhibit. I think that is --

1 THE COURT: I thought he testified that that
2 form was the front and the back.

3 MR. LINDEMANN: Then he has got some of the
4 submissions, and the issue of submissions is one of
5 the issues raised in this case, and there are
6 numerous other pages and financial documents that
7 are initialed by Mr. Metts that come after it. So
8 I'm objecting to that as being a partial document,
9 not being a full document.

10 MR. BLAKE: Your Honor, I am happy to approach
11 and show you the document production. To make him
12 comfortable with that, I have not admitted any
13 document that was given to my client in response to
14 her FOIA request after this lawsuit by the county.
15 These are basically 1 through 5. The next page in
16 their production, 6, is a blank document. The next
17 page in their document, Page 7, which Mr. Metts has
18 already testified was an internal document he
19 didn't see during his employment. So I don't
20 understand the objection to putting in the very
21 records that were given to Ms. Brawley, testified
22 were given to her in response to her FOIA request
23 after this lawsuit was filed, which Mr. Lindemann
24 admitted in his opening were given by Richland
25 County in June in response.

1 MR. LINDEMANN: Your Honor, all I'm saying is,
2 for instance RC-11 is signed, Andy Metts, and it is
3 dated 7/18/2012, the same day as the submissions.
4 And it goes on and on and on. There are numerous
5 submissions. There is another one, RC-22, signed
6 by Andy Metts, dated 7/18/12. It is all part of
7 the same submission.

8 THE COURT: But they are submitted for
9 purposes of discovery, right, but they are
10 individual documents?

11 MR. LINDEMANN: Well, I believe they are all
12 part of the same submission that was made on
13 7/18/2012 to Rural Development because these
14 files -- these documents came from Rural
15 Development.

16 MR. BLAKE: And, again, if Mr. Lindemann wants
17 to testify about that, I would ask that the witness
18 be excused from the room because now what I can't
19 do is ask the witness that question because
20 Mr. Lindemann just coached him on the answer.

21 THE COURT: All right. So the objection is
22 overruled. It will be entered -- he has identified
23 it as an individual document, although it is a part
24 of a packet. I think the record is clear that it
25 is a part of a packet, but that the document is an

1 individual document, so I will enter that over the
2 objection of the Defense.

3 MR. BLAKE: And, Your Honor, I am going to
4 just go ahead and hand him the entirety of the
5 first 55 pages and let him answer for the Court
6 whether or not he submitted all of these or not.
7 Despite already testifying that some of these
8 records he has never seen, I am going to ask the
9 question.

10 THE COURT: It has already been marked as --

11 MR. BLAKE: Just for the record, I will just
12 mark it for ID at this point.

13 MR. MANN: It is already in as Exhibit 5.
14 That is Exhibit 5 for identification.

15 MR. BLAKE: Thank you.

16 MR. MANN: Thank you.

17 BY MR. BLAKE:

18 Q Look at Exhibit 5, which is marked for
19 identification. Do you have that there? You have
20 now heard Richland County's at least theory that
21 you submitted all 55 of these documents to the USDA
22 as part of your application on July --

23 THE COURT: Let me see it.

24 MR. LINDEMANN: That is not the representation
25 I made to the Court, Your Honor.

1 BY MR. BLAKE:

2 Q Please look through Exhibit 5 --

3 THE COURT: Hold on one second. Hold on one
4 second. Please rephrase the question.

5 BY MR. BLAKE:

6 Q Okay. Mr. Metts, please look through Exhibit 5 and
7 tell us what else you submitted as part of your
8 July 18, 2012, application?

9 A What else?

10 Q Yes, what else?

11 A I don't know what else.

12 Q Please look through it and look for things that
13 have your signature on it and tell us if you signed
14 that and made that a part of one submission to the
15 USDA?

16 A Most everything in here is, I believe is, except
17 for this internal checklist -- I don't recall the
18 section where it says the Richland County Utilities
19 Department. I don't recall that being part of it.

20 Q Which Bates number, sir?

21 A Page No. 34. I don't remember Page 36. I see all
22 these descriptions on the front. I don't know if
23 they were included. That would be 45, 46, and 47.
24 I'm familiar with those, but I just don't remember
25 them being included as part of the --

1 Q So which pages, if you just tell us by Bates number
2 for the Court's benefit, which Bates numbers are
3 you saying were a part of the application that you
4 submitted to the USDA on July 18th, 2012?

5 A Most every page except for the ones I just said I
6 don't recall them being part of the package. And
7 I'm not -- and I -- since I don't remember whether
8 they were included or not.

9 Q And those pages are 34 --

10 A I have to go back through again.

11 Q Let's go over it again because I will modify the
12 exhibit and move it in evidence. So Page 34?

13 A Then I would start with Page 7, 8, 9.

14 Q So you don't believe 7, 8, and 9 was part of your
15 application?

16 A I don't believe it was part of the application.

17 Q Okay. What else?

18 A Let me get back to those pages again.

19 Q I have 34, 36 --

20 A Thirty-four, 35, 36. I don't recall 46, 47, and
21 48. Again, those may have been included, I just
22 don't recall.

23 Q Okay. But you are confident that besides those
24 nine pages, the other pages in that 55-page
25 document were part of your application submitted to

1 the USDA in July of 2012?

2 A To the best of my recollection. But, again,
3 many years ago. I'm just not -- I'm not --

4 MR. BLAKE: Okay. Well, Your Honor, subject
5 to redacting those nine pages out of Exhibit 5, I
6 am happy to now or on break, I would move Exhibit 5
7 into evidence as Mr. Metts has now authenticated
8 and identified that record as something he created
9 and submitted to the USDA.

10 THE COURT: Any objection?

11 MR. LINDEMANN: I don't, Your Honor. And I
12 don't think those Bates numbers need to be
13 redacted. They are in the record themselves. I
14 think it is obviously part of the production that
15 was made.

16 MR. BLAKE: Since I'm moving it in, I'm taking
17 them out because I no longer need them.

18 THE COURT: All right.

19 MR. BLAKE: Thank you, Your Honor.

20 THE COURT: It will be entered without
21 objection. And 7, 8, 9, 34, 35, 36, 46, 47, 48
22 will be redacted.

23 MR. BLAKE: Thank you, Your Honor. I
24 appreciate that.

25

1 (WHEREUPON, Plaintiff's Exhibit No. 5
2 was admitted into evidence.)

3 THE COURT: I don't want to interrupt you, but
4 I'm not sure how much longer you have. I need to
5 take -- I have a conference call that I was
6 supposed to have at 2:00 o'clock because I was told
7 this was only going to take a couple of hours this
8 morning, and so I thought we would be done, with
9 some other attorneys that are waiting for us to
10 call them. And, also, of course, I have to think
11 about lunch for everybody else. So we probably
12 need to take a break. How much longer do you have?

13 MR. BLAKE: On mine, Your Honor, I'll go
14 through this document and I'll be done.

15 THE COURT: Let's go ahead and take a break.
16 Like I said, I need to make that call.

17 MR. LINDEMANN: Your Honor, one note for the
18 record. I would ask that the pages that are being
19 redacted out of this document, since it was marked
20 for identification in its whole, that the pages
21 that are redacted are at least made a Court's
22 Exhibit so that we have them.

23 THE COURT: Yes, sir.

24 (WHEREUPON, Court's Exhibit No. 1 was
25 marked for identification only.)

1 THE COURT: All right, let's take a break. I
2 am going to go make that call. I'm sure my court
3 reporter is looking at me and the clerk wondering
4 when we are going to lunch. So we'll just, while
5 we are taking a break, we will just start back at
6 3:00.

7 MR. BLAKE: Thank you, Your Honor.

8 THE COURT: And we'll finish up with this
9 witness, and then cross-examination. And then you
10 all have one or two more witnesses?

11 MR. BLAKE: The Plaintiff, depending on how
12 this wraps up, I think we will rest at the end of
13 this witness. We may or may not need to call
14 Ms. Carter.

15 MR. LINDEMANN: We have a motion for a
16 nonsuit. And depending on the Court's ruling on
17 that, we'll have one witness.

18 THE COURT: All right. So I will see you all
19 at 3:00.

20 MR. BLAKE: Thank you, Your Honor.

21 THE COURT: Please do not discuss your
22 testimony with anyone. You are still on the stand.

23 (Witness steps down.)

24 (WHEREUPON, a break was taken at 2:04 p.m.)

25 (WHEREUPON, the hearing resumed at 3:04 p.m.)

1 THE COURT: Mr. Metts, you may retake the
2 stand.

3 (Witness returns to witness stand.)

4 THE COURT: Yes, sir, you may continue.

5 MR. BLAKE: Thank you, Your Honor.

6 **DIRECT EXAMINATION CONTINUES**

7 BY MR. BLAKE:

8 Q Mr. Metts, when we left off, you were about to
9 start to go through this. At the time you and I,
10 we discussed the first five pages of it, so I'd
11 like to jump to Page, what is Bates labeled RC-10.
12 Before I broke, you identified this as one of the
13 records that you do recall submitting to the USDA
14 in support of the loan and grant application,
15 correct?

16 A Yes.

17 Q And that is your signature on the bottom of it,
18 correct?

19 A Yes.

20 Q And it is dated 7/18/2012, correct?

21 A Yes.

22 Q Did you type that up?

23 A Someone in my office did.

24 Q Someone in your office did. Okay. But you don't
25 dispute the authenticity of this record, right?

1 A No.

2 Q All right. It says, See attachment on back, and
3 there is no attachment. The next page I have is
4 dated -- I'm sorry, is Bates labeled RC-11, is that
5 right?

6 A Yes.

7 Q And on the bottom it says Page 170?

8 A Yes.

9 Q What is that Page 170 out of?

10 A I don't know. It is a financial document for the
11 county.

12 Q It is Table 10. Do you know what Table 10 is out
13 of?

14 A No, I don't.

15 Q You signed that document anyway, right?

16 A Yes. That was provided by our finance department
17 or our administration.

18 Q Okay. So is that your handwriting that says,
19 Completed 1/23/2012?

20 A Yes.

21 Q Okay. Then you wrote 7/18/2012 on it, correct?

22 A Yes.

23 Q And that was, again, you signing and dating
24 indicating that you were submitting it to the USDA
25 in support of a loan and grant application on

1 July 18, 2012, correct?

2 A Yes.

3 Q And the application is the one that we reviewed
4 earlier that you signed in July of 2012, not the
5 one that was given to Ms. Brawley in response to
6 her FOIA request, yes?

7 A Yes.

8 Q And you didn't discover any of these documents here
9 that we are going through that you signed through
10 your own personal search efforts in responding to
11 that FOIA, correct?

12 A Correct. They were provided to me.

13 Q Right. They were provided to you. What do you
14 mean they were provided to you?

15 A These documents were requested and provided by
16 either our finance department or our
17 administration.

18 Q Okay. But once they were provided to you and you
19 signed onto them, what did do with them other than
20 send them to the USDA? Did you put them in the
21 project file?

22 A No. I included them with this application.

23 Q You didn't keep a copy of the application you
24 submitted?

25 A I could not find a copy in our files, no.

1 Q A different question. Did you keep a copy or did
2 you destroy it?

3 A No, I didn't destroy it.

4 Q Okay. So why did you not have a -- why did you not
5 keep a copy of it?

6 A I don't know the answer to that.

7 Q Okay. But you might have kept a copy of it and you
8 just couldn't locate it later when you looked for
9 it?

10 A We couldn't find it in the file.

11 Q Sir, I have never asked you to -- Hold on, hold on,
12 please answer my question, because I'm not asking
13 you about we. That is hearsay.

14 A I could not find it in my files when I was
15 searching.

16 Q What file did you search?

17 A Files pertaining to the Lower Richland Sewer
18 Project and the utilities department.

19 Q Where were they stored?

20 A In the utilities department.

21 Q Where in the utilities department?

22 A In the filing room.

23 Q So you got up -- you received a FOIA request, you
24 got up and you walked down to the filing room,
25 correct?

1 A It wasn't that simple.

2 Q Okay. Walk us through the process.

3 A Well, yes, we do. I mean, once we get a FOIA
4 request, we go to the files, pull the files from
5 the drawers, search the files for these
6 applications.

7 Q Sir, I'm not asking we. I'm not asking for --

8 A When I mention we, I'm talking about me and my
9 staff.

10 Q Please do not answer my question about what your
11 staff did or does. That is hearsay, and that is
12 not what I'm asking for. You, when you received
13 this FOIA request, what did you do?

14 A I searched the files.

15 Q Tell me about it. Where did you go?

16 A The files are in the file room in the utilities
17 department.

18 Q So you got up from your desk and you walked to the
19 file room in the utilities department?

20 A I'm sure at some point in time, yes.

21 Q But you have no independent recollection of you
22 actually doing that, though, do you?

23 A I'd say it was seven years ago.

24 Q Right. So you actually have no independent
25 recollection about you getting up and searching the

1 files yourself, do you?

2 A I did search the files, yes.

3 Q But you have no recollection of doing it, right?

4 A I don't recall going and opening the drawer of the
5 file cabinet, no.

6 Q Do you recall doing anything yourself to search for
7 records responsive to the FOIA?

8 A Yes, I did.

9 Q Tell me exactly what it is you actually recall.

10 A I went to the file room, pulled the files out of
11 the file cabinet, and began looking through the
12 files.

13 Q Okay. So you now do recall going to the file room?

14 A Yes, I recall going to the file room. I recall
15 looking for the information that was being
16 requested, yes, in the file room.

17 Q So you went to the file room and you looked through
18 physical files?

19 A Yes.

20 Q And which files did you look through?

21 A Lower Richland Sewer files.

22 Q Tell me about the files that were in the cabinet.

23 A Numerous files in the cabinet.

24 Q Okay. Well, tell us about what is in there,
25 because, again, I want to know why there were no

1 responses to the loan application or the supporting
2 documentation or the grant application or its
3 supporting documentation. Which files were in
4 there?

5 A Numerous files identified as Lower Richland Sewer
6 Project. That is the heading on the files.

7 Q Did it include these type of records that the USDA
8 was asking for?

9 A The USDA was asking for?

10 Q Right. You gave USDA Page RC-11 because they
11 wanted it, that is part of your new application you
12 submitted in July, correct?

13 A They had requested various documents from us.

14 Q That's right. You signed --

15 A Most of these documents I had to obtain from other
16 sources.

17 Q Right. And once you obtained them --

18 A They were attached to this application form and
19 provided to the USDA.

20 Q But no copy of it was added to your file cabinet?

21 A Could not locate a copy in our file cabinet, no.

22 Q Different question than what I'm asking.

23 A Was there a copy?

24 Q Yes?

25 A We could not find -- I could not find a copy in our

1 file cabinet.

2 Q Okay. And so did you then pick up the phone to
3 whoever sent this to you and say, Hey, back in
4 July 18, 2012, you gave me Page 170 out of Table 10
5 and I signed it and I dated it and I submitted it
6 to the USDA as part of the loan application, I need
7 you to resend me this document so that I can get it
8 to Representative Brawley in response to her FOIA
9 request?

10 A No. We contacted Sara Salley's office and asked
11 for a copy of the application that she had, and she
12 provided that document.

13 Q Okay. And so you did not contact the person that
14 prepared this document, correct?

15 A I don't recall doing that.

16 Q Okay. And as you sit here today, you don't even
17 know who that person is, correct?

18 A No. I don't remember.

19 Q And you have no recollection of who prepared RC-11,
20 which is Richland County's South Carolina Ratio of
21 Outstanding Debt by Type, correct?

22 A I don't recall who prepared it.

23 Q Okay. Then look with me to RC-12. And this is
24 additional financial records. It looks like it is
25 Richland County's South Carolina Direct Overlapping

1 Governmental Activities Debt as of June 30th, 2011.
2 That is dated June 30th, 2011. It says Table 11 on
3 the top right. I assume you don't know what Table
4 11 means, right?

5 A No, I don't.

6 Q It is Page 171 of something, but you don't know
7 what that 171 is, correct?

8 A No.

9 Q And you don't know who prepared it, correct?

10 A I believe it is part of the comprehensive financial
11 statement, but I'm not sure.

12 Q Okay. And did you contact whoever prepared the
13 comprehensive financial statement in response to
14 Representative Brawley's FOIA and ask that these
15 records be resubmitted to you so that you could
16 provide it to her in response to her FOIA?

17 A No.

18 Q Okay. Look with me at Page RC-13. This was
19 another document that was included in your loan
20 application and grant application, correct?

21 A Yes.

22 Q Okay. And Page 172, I'm assuming it is the next
23 page in the record that we talked about already.
24 You can't -- you are not sure what it is, right?

25 A No.

1 Q And I am assuming your answer is the same, you
2 didn't seek this document back out to provide a
3 response to her FOIA, correct?

4 A That's correct.

5 Q No reason to believe that Richland County still
6 doesn't have these financial records from 2011 as
7 you sit here today, correct?

8 A No.

9 Q Okay. You don't recall anyone telling you, We
10 would love to send you that financial information
11 that you submitted to the USDA a couple of years
12 ago, but it is gone, right?

13 A Not having a copy of this application, I didn't
14 know what to ask for.

15 Q Okay. Table 13, RC-14, that is another Richland
16 County financial record, correct?

17 A Yes.

18 Q And it was submitted to the USDA loan and grant --
19 in support of the USDA loan and grant application,
20 correct?

21 A Yes.

22 Q And same thing, this record wasn't sought out and
23 provided to Representative Brawley in response to
24 her FOIA, correct?

25 A No.

1 Q All right. RC-15, what are we looking at here? I
2 think it is a multi-page document, so you can take
3 a moment and let me know.

4 A It is. This is a document that I had prepared,
5 discussed the possibility of financial
6 sustainability of the Lower Richland Sewer Project.

7 Q What Bates number does this document end on?

8 A Excuse me?

9 Q What is the Bates number on the bottom right-hand
10 corner that this document ends on? It begins on
11 RC-15?

12 A Ends on? It begins on RC-0015.

13 Q It ends on RC-20?

14 A Yes.

15 Q So this is a 6-page document you created, correct?

16 A Correct.

17 Q Did you create it on your computer at work?

18 A Yes.

19 Q Okay. Did you save it on your computer at work
20 before you printed it?

21 A Yes.

22 Q And this is something that you never went back in
23 and deleted off your computer, correct?

24 A No.

25 Q But it was a document that was prepared and

1 submitted to the USDA in support of the loan and
2 grant application, correct?

3 A It is in this attachment. I'm sure that it was
4 included, yes.

5 Q Okay. And it is a document that was not provided
6 by you or anyone else in response to the FOIA to
7 Representative Brawley, correct?

8 A No.

9 Q No I'm not correct, or no it was not provided?

10 A Excuse me?

11 Q No I'm not correct, or no it was not provided?

12 A No, I don't believe it was provided.

13 Q Okay. Going to RC-21. This is a balance sheet,
14 correct?

15 A Yes.

16 Q And it is on -- it looks like it is on a Rural
17 Development form. It is Form RD-442-3, correct?

18 A Yes.

19 Q All right. And did you complete this or did
20 someone else complete this document?

21 A Someone else would have completed it.

22 Q Who was it?

23 A I don't remember.

24 Q Okay. But it was included in the submission?

25 A Yes.

1 Q Even though the assets and liabilities stated on
2 there are all blank?

3 A To the best of my knowledge, yes.

4 Q Okay. Go to RC-22. This is another balance sheet
5 here. That one has your signature on it, correct?

6 A Yes.

7 Q And it says Exhibit 3 in the top right-hand corner.
8 And it has Page 15 on the bottom. I'm assuming
9 that is out of the same financial document that
10 some of these other ones in the 170's. Does that
11 seem fair to you?

12 A Yes.

13 Q Okay. So I'm assuming that you did not create this
14 balance sheet, correct?

15 A No, I did not.

16 Q You received it from some source, and then you
17 signed it, and you submitted it to the USDA in
18 support of the loan and grant application, correct?

19 A Yes.

20 Q And this document, again, no reason to believe
21 Richland County didn't still have this document in
22 2014, correct?

23 A Right.

24 Q It just was not provided to Representative Brawley,
25 correct?

1 A No.

2 Q Okay. RC-23. This says Schedule D-5, and it is
3 got Page No. 123. Do you think that was out of
4 same financial -- Richland County financial record
5 we talked about?

6 A Yes.

7 Q Okay. And the same question, you didn't prepare
8 this schedule, did you? This capital projects fund
9 balance sheet, you didn't prepare this, did you?

10 A No.

11 Q Okay. It was prepared by somebody else inside
12 Richland County, correct?

13 A Yes.

14 Q And it was provided to the USDA in support of the
15 loan and grant application by you, correct?

16 A Yes.

17 Q And it just was not provided to Representative
18 Brawley in 2014, correct?

19 A Correct.

20 Q Flip with me just for the sake of time, because I
21 see there is more documents in here, a lot of them
22 look like they are all sort of financial records.
23 All of these are financial records that -- and I'm
24 starting RC-24 and I'm going -- let's stop at
25 RC-32. These are all financial records?

1 A Yes.

2 Q Correct?

3 A Yes.

4 Q You didn't prepare any of them, correct?

5 A No, I did not.

6 Q You did submit all of them to the USDA in support
7 of the loan and grant application that you
8 completed in July of 2012, correct?

9 A Yes.

10 Q And none of these records, to your knowledge, were
11 ever destroyed or lost by the county, correct?

12 A Correct.

13 Q They just weren't provided to Representative
14 Brawley in response to her FOIA request, correct?

15 A Correct.

16 Q Can you identify what Page 33 is? I'm referring to
17 RC-33 just for the record.

18 A It is a letter from the county attorney.

19 Q And who was the county attorney at that time?

20 A Larry Smith.

21 Q Is that his signature on the page there?

22 A Appears to be.

23 Q And the letter is dated October 20 of 2010,
24 correct?

25 A Yes.

1 Q And this was a letter that you provided certifying
2 to the USDA that Richland County does have
3 judgments, pending actions, and claims against them
4 as of the date of the letter; however, there were
5 no judgments pending or pending litigation against
6 Richland County Utilities Department that our
7 office has been able to determine at this time. Is
8 that right?

9 A That is what the letter states.

10 Q Okay. And that was provided in response to the
11 USDA's request for additional supporting
12 documentation for the loan and grant application,
13 correct?

14 A Yes.

15 Q And did you reach back out to Larry Smith in 2014
16 when you received the FOIA request to get him to
17 resend you this letter and provide the same to
18 Representative Brawley?

19 A No.

20 Q Okay. Identify, if you would for us, what -- is
21 RC-35 a document you recognize?

22 A This is some sort of information provided -- it
23 appears to be provided by Michele Cardwell of USDA.

24 Q Okay. And why did you resubmit that to USDA as
25 part of your application?

1 MR. LINDEMANN: Objection, Your Honor. That
2 was already taken care of before the break. That
3 was one of the documents that was supposed to be
4 redacted out of the exhibit.

5 MR. BLAKE: My apologies, Your Honor. We will
6 take it out.

7 MR. LINDEMANN: Are we talking about 35?

8 MR. BLAKE: Yes. Thank you, Your Honor.

9 BY MR. BLAKE:

10 Q Let's move on to Page 37. Actually, if you have
11 got 35 still in front of you, let me follow up real
12 quick. You do recognize what the document is,
13 correct?

14 A I just recognize the signature from Michele
15 Cardwell.

16 Q Have you seen it before today?

17 A I don't know that I have -- I don't recall seeing
18 this.

19 Q Okay. Thank you. Let's move on to 37 then. 37
20 appears to me to be a multi-page record. Would you
21 agree with that?

22 A Yes.

23 Q It looks like it goes 37 to 43, am I correct?

24 A Yes.

25 Q Okay. Tell the Court, please, what this document

1 is.

2 A Appears to be minutes of a meeting, Hopkins
3 community on August of 2006.

4 Q Okay. And this record was provided to the USDA in
5 support of a loan and grant application, correct?

6 A I believe it was.

7 Q And where were these minutes maintained?

8 A I don't know where they were maintained, but this
9 was signed by Sandra Dickerson of our utilities
10 department.

11 Q Well, did you maintain -- did the utilities
12 department maintain minutes of meetings like this?

13 A They obviously produced this document, so.

14 Q Right. So this came -- this was produced by you in
15 2012, correct?

16 A This document?

17 Q Yes?

18 A Was provided? Yes. It is part of the application.

19 Q In July 2012, correct?

20 A Correct.

21 Q It was dated August 28, 2006, correct?

22 A Yes.

23 Q So you had somewhere inside your department where
24 you could go get 6-year-old minute meetings when
25 you needed them for the application in July of

1 2012, correct?

2 A Again, didn't produce this document, so I don't
3 know the answer to that.

4 Q But you did produce it to USDA, correct?

5 A Provided it with -- it was produced by someone else
6 in our department and placed in the package for the
7 application -- as part of the application.

8 Q Someone else put this in the application package
9 for you?

10 A No, we -- I included it in the application.

11 Q That's what I'm saying. So you got it from your
12 department to include in the package?

13 A It was provided to me by someone else, yes.

14 Q Okay. So someone found it in the utilities
15 department, gave it to you, and you put it in the
16 package for the application, correct?

17 A Yes, that's correct.

18 Q Did you go back to that person to get these minutes
19 and provide them in response to Representative
20 Brawley's FOIA in 2014?

21 A No.

22 Q Why not?

23 A I didn't remember that this document was in there.
24 Didn't have a copy.

25 Q Okay. What is Page RC-44?

1 A This appears to be a response letter from -- that
2 we received as part of the environmental
3 assessment.

4 Q Okay. What is the date on that letter?

5 A April 12th, 2010.

6 Q Again, it predates FOIA served in this case,
7 correct?

8 A Yes.

9 Q And it was something that was produced in July of
10 2012 to the USDA by you in support of the loan and
11 grant application, correct?

12 A Yes.

13 Q And this letter certifies what?

14 A It is discussing historic preservation procedures.
15 It says, All historic preservation procedures
16 outlined in 36 CFR 800 should be observed and any
17 necessary plans and specifications should be
18 submitted to the South Carolina Department of
19 Health and Environmental Control for review and
20 approval.

21 Q Okay. Why did you send it to the USDA? Was it
22 required?

23 A This would have been part of the environmental
24 assessment, which was part of the preliminary
25 engineering report, sir.

1 Q Right. But why did you send it to the USDA as part
2 of this loan application? Was it required?

3 A I don't recall exactly why it was included.

4 Q Okay. Do you recall them requiring an
5 environmental assessment?

6 A Environmental assessment?

7 Q Yes?

8 A Yes.

9 Q Okay. And this was part of what was submitted with
10 the other environmental records to the USDA in
11 support of the loan and grant application, right?

12 A Yes. There are numerous letters sent out to the
13 various agencies, and this is a response from one
14 of those letters.

15 Q Excellent. Okay. And, again, these letters, you
16 were able to put your hands on them two years after
17 they were created to provide them to the USDA in
18 support of the application, correct?

19 A Correct.

20 Q You just couldn't find -- you personally couldn't
21 find them again two years later to provide to
22 Representative Brawley?

23 A I don't know exactly where this was stored,
24 correct. Again, didn't know this document was
25 included. Did not recall.

1 Q But you knew it included it two years earlier?

2 A Well, I didn't have a copy of the application to
3 reproduce from.

4 Q Sure. But you knew how to -- you knew how to put
5 it together in the first instance, right?

6 A Yes. Wasn't asked to re-establish that
7 application, so.

8 Q So did someone tell you -- you just said you
9 weren't asked to rebuild the application. Did
10 someone tell you how to respond to the FOIA?

11 A No.

12 Q No? You did that --

13 A There were several questions and we responded to
14 those questions.

15 Q Okay. Well, you did provide what you believed was
16 an application that you received from Sara Salley's
17 office, correct?

18 A Yes.

19 Q And then having been a person who had already
20 submitted an application two years earlier, you
21 knew what actually went with an application a lot
22 more than just those six pages, correct?

23 A Yes. I had some guidance back then. I had
24 requests back then for information.

25 Q So when you saw that all that Sara Salley's office

1 gave you was six pages of records, what did you go
2 to do get the other records that would have had to
3 go with both Milton Pope's application and then the
4 one that you know that you submitted two years
5 later? What did you go do?

6 A We --

7 Q Not we, you.

8 A The information I got from Sara Salley was
9 included. All the information we got now. That is
10 all we had available.

11 Q Well, at least that is all you put your hands on,
12 right?

13 A Yes.

14 Q What is Page RC-45?

15 MR. LINDEMANN: Your Honor, again, I believe
16 that is part of the documents that have already
17 been redacted from this exhibit. Maybe I didn't
18 understand the request by Plaintiff's counsel
19 before the break.

20 THE COURT: I didn't have 45. It was 46, 47,
21 48.

22 MR. LINDEMANN: It looks like 45 is the first
23 page of that multi-page document. Maybe I'm wrong.

24 THE COURT: I don't have it in front of me,
25 so.

1 MR. LINDEMANN: It looks like the first page
2 of a 3-page document.

3 MR. BLAKE: Well, I have got a No. 2 on the
4 bottom of it, so I'm not sure why it would be a
5 3-page document. I have also got a No. 6 as Page
6 49. So I'm not quite sure the position here. The
7 witness has already testified he recalls submitting
8 Page 45. So if there is an objection, I'm not sure
9 what it is. It has already been admitted in
10 evidence without objection.

11 MR. LINDEMANN: Well, my understanding was
12 that that entire document was being redacted,
13 but --

14 THE COURT: I mean, I was given pages. It has
15 already been admitted into evidence. 46, 47, 48
16 were the ones that were supposed to be redacted.

17 MR. BLAKE: Your Honor, if the witness doesn't
18 know what it is, I'll move on.

19 THE COURT: All right. Go ahead.

20 BY THE WITNESS:

21 A It appears to be a description of the Lower
22 Richland Sewer Project.

23 Q Was it a description that you typed up?

24 A I'm not sure who produced this.

25 Q Okay. You might have typed that up?

1 A May have, but I don't believe so.

2 Q Okay. Page 6, looks like it is part of the same
3 document?

4 A I believe it is. I believe that was part of a map.
5 Actually Page 6 and Page 7, which is RC-49 and 50.

6 Q What are those then?

7 A Excuse me?

8 Q What is RC-49 and RC-50?

9 A They appear to be maps that would show the general
10 area of the project.

11 Q Well, they were maps prepared by Wilbur Smith,
12 correct? It has got their logo on the bottom?

13 A It had their logo.

14 Q Prepared for this Richland, Lower Richland Sewer
15 Project, correct?

16 A Yes.

17 Q And they were submitted to the USDA in support of
18 the loan application, correct?

19 A They appeared to be attached, yes.

20 Q And, again, as you testified, you had no reason to
21 believe that Wilbur Smith didn't still have these
22 in their possession back in 2014 whenever the
23 county was responding to Representative Brawley's
24 FOIA request, correct?

25 A I believe it was part of the PER.

1 Q No one that you know of from the county, including
2 yourself, went and got those records from Wilbur
3 Smith, correct?

4 A No.

5 Q Okay. Moving on to 51. And to be fair, Wilbur
6 Smith was still employed by the county for this
7 project in 2014, correct, or its successor, CDM?

8 A CDM, yes.

9 Q Okay, thank you. All right, RC-51. Can you
10 identify that for us, please?

11 A It is another document that discusses and describes
12 the Lower Richland Sewer Project.

13 Q And who prepared this document?

14 A I believe I did.

15 Q Okay. And what was the purpose of preparing this
16 document?

17 A That was part of the sustainability study that I
18 was working on.

19 Q Okay. And you submitted that sustainability study
20 to the USDA in support of the loan agreement
21 application, correct?

22 A It was prepared for in-house discussions, but I
23 believe it was included with the USDA.

24 Q Okay. And it says, the last sentence on Page 51
25 says results are found on the following pages, so

1 are the following pages part and parcel of the same
2 document that begins on RC-51?

3 A I believe it is. It was part of the rate
4 discussion.

5 Q Okay. How far does this document go, then?

6 A I believe 51 and 52.

7 Q Thank you, sir. And you prepared both of those
8 documents and submitted them to the USDA?

9 A Yes.

10 Q And, again, that happened in July of 2012. These
11 aren't dated, but these were all submitted in
12 July of 2012, correct?

13 A Correct.

14 Q They just were not provided to Representative
15 Brawley in October of 2014 when her FOIA response
16 was given, correct?

17 A Correct.

18 Q All right. Then RC-53, can you identify that
19 record for us?

20 A Appears to be an internal document from the state
21 environmental coordinator of the USDA to another
22 employee of the USDA.

23 Q Okay. And it has got Exhibit A on the top right.
24 Do you know what this is an Exhibit A to?

25 A No, I don't.

1 Q Do you know why this was a part of your supporting
2 documentation for the loan application?

3 A I don't.

4 Q But it was dated July 21, 2010. You were able to
5 locate it two years later and provide it to the
6 USDA in support of the loan and grant application,
7 correct?

8 A Correct.

9 Q Where was this letter -- where would it have
10 normally been stored at?

11 A I don't -- I don't know about this particular
12 letter.

13 Q Well, it relates to the Lower Richland Sewer
14 Project, right?

15 A It could have been included in the preliminary
16 engineering report as well, I guess. I don't know.

17 Q You don't doubt the preliminary engineering report
18 was somewhere in your department's records,
19 correct?

20 A Correct.

21 Q Because there was no way that this project would
22 have gone forward without you actually obtaining a
23 copy from Wilbur Smith, is that correct?

24 MR. LINDEMANN: Your Honor, objection to the
25 question. He is asking this in such a way that --

1 Mr. Metts hasn't been there since 2014. I don't
2 know how he can ask him whether something was
3 present in his office currently. He works for the
4 Town of Chapin.

5 MR. BLAKE: I didn't say currently. And this
6 is coaching. I didn't say currently at all.

7 THE COURT: All right. Objection is
8 overruled. Rephrase the question. Go ahead.

9 BY MR. BLAKE:

10 Q So this letter was dated July 21st, 2010?

11 A Right.

12 Q You worked there in July 21st, 2010?

13 A At Richland County? Yes.

14 Q It has got Exhibit D stamped on the top of it,
15 correct?

16 A Excuse me?

17 Q It has Exhibit D stamped on the top?

18 A Yes.

19 Q That was why you believed it was part of the
20 preliminary engineering report, right?

21 A I said it is possible. I don't know.

22 Q Possible?

23 A Right.

24 Q If it is referencing the preliminary engineering
25 report, you agree with me that your office had

1 received copies from Wilbur Smith of the
2 preliminary engineering report, correct?

3 A At some point in time, yes.

4 Q As we discussed, it even had to be amended at some
5 point in time prior to 2012, correct?

6 A I believe so, yes.

7 Q We looked at correspondence back in 2010 with it
8 being amended already, correct?

9 A Correct.

10 Q And so do you have any doubt in your mind that
11 Richland County at some point before July 18th,
12 2012, had in its possession a copy of any version
13 of the preliminary engineering report that was
14 prepared by Wilbur Smith and submitted to the USDA
15 in support of the loan and grant application?

16 A I believe we had seen a report, yes. But whether
17 we had it in our possession, I'm not sure.

18 Q Again, you wouldn't have thrown it out, though,
19 right?

20 A I wouldn't have thrown it out if we had had a copy
21 of it.

22 Q And you got a copy of it because Richland County
23 paid a lot of money for it, correct?

24 A They pay a lot of money for that, yes.

25 Q Right. And then if you will look at Page -- I

1 think we are on 54. Is that where we are at? Have
2 we talked about 54?

3 A We were just talking about 54.

4 Q I apologize. Let's go to 55, RC-55. Look at that
5 one with me.

6 A Okay.

7 Q And what is that document?

8 A It is another document prepared or -- yes, prepared
9 by USDA.

10 Q Okay. And it is dated July 21st, 2010, correct?

11 A Correct.

12 Q And so if you submitted it back to -- you did
13 submit it back to USDA in support of the loan and
14 grant application in July of 2012, correct?

15 A I believe so.

16 Q And so at some point after July 21st, 2010, it came
17 to be in your department's possession, correct?

18 A Yes.

19 Q And, again, you have no reason to believe it was
20 ever lost or destroyed, correct?

21 A No.

22 Q But it was not provided to Representative Brawley
23 in response to her FOIA request, correct?

24 A Correct.

25 Q When you saw Mr. Pope's application come through,

1 did you recognize it didn't have a date on the
2 bottom of it?

3 A Don't recall recognizing that, no.

4 Q Okay. Well, do you recall thinking, you know, if
5 that date on the assurances document is right and
6 he did this in 2010, I know I did one two years
7 later, did you have that epiphany at any point when
8 you were preparing the response?

9 A At the time I did not.

10 Q Okay. Look at Exhibit 23. It is the last
11 document. And this letter is on Richland County
12 letterhead, correct?

13 A Excuse me?

14 Q This is on Richland County letterhead, correct?

15 A Yes, it is.

16 Q It came from your office, correct?

17 A Yes.

18 Q And does it have your signature on the second page
19 on RC-69?

20 A I'm sorry?

21 Q Was that your signature -- is that your signature?

22 A Yes.

23 Q It is? Okay. And can you identify what this
24 record is for us?

25 A What this is?

1 Q Yes. What is this February 4, 2014, letter?

2 A It appears to be a letter from me to George Hicks,
3 of USDA, which provided him with a copy of the
4 proposed project schedule.

5 Q Of the proposed project schedule? Did you prepare
6 that proposed project schedule?

7 A No, I didn't.

8 Q Who prepared that proposed project schedule?

9 A I believe it was the engineer, Wilbur Smith.

10 Q Okay. And you received that, then you provided
11 that to USDA, correct?

12 A Yes, correct.

13 Q And in this letter you are getting written
14 assurance to the USDA that Richland County is
15 proceeding with the development of the sewer system
16 to serve Lower Richland County, correct?

17 A Correct.

18 Q You affirmed Richland County's commitment to meet
19 all of the items contained in the letter of
20 conditions dated January 30th, 2013, right?

21 A Right.

22 Q And that is that letter which we went through
23 earlier, the 21-page letter from the USDA, that at
24 least leads with the sentence saying, You have to
25 comply with all these things before we will

1 consider your application further, right?

2 A That is the sentence, yes.

3 Q Right. And so you were affirming to them, at
4 least, well, 13 months later, that the project was
5 still going forward and Richland County intended to
6 provide all of those things in the letter that USDA
7 was committed to doing, correct?

8 A Correct.

9 Q And at no point, then, in 2014, at least while you
10 were still working for the county, would you have
11 authorized people in your department going in
12 behind and destroying any records on this project,
13 correct?

14 A No.

15 Q No. Because, at least at this time when this
16 letter was sent, you had every intention of this
17 project going forward in accordance with the
18 schedule that is here on Page 270, right?

19 A Correct.

20 Q And that was true up until the day you retired, you
21 had every intention of continuing to follow through
22 on this project and obtain the loan and grant money
23 from the USDA, correct?

24 A Correct.

25 Q And what was your last date of employment?

1 A It was in October.

2 Q October? Was it before or after October 8th?

3 A I believe it was October the 5th.

4 Q Okay. So right -- a few days before the county
5 sent its formal response to the FOIA to
6 Representative Brawley, does that sound right?

7 A If it was sent on the 8th, then, yes, a few days.

8 Q Okay. Mr. Metts, you have been very patient with
9 me. I appreciate it. That's all the questions I
10 have, unless I need to get back up briefly and
11 speak again.

12 CROSS-EXAMINATION

13 BY MR. LINDEMANN:

14 Q Andy, I will try to go through this fairly quickly
15 since it is so late in the day. Honestly, I didn't
16 expect this to be a trial that lasted this long.

17 Where are you currently employed?

18 A Town of Chapin.

19 Q Okay. And how long have you been there?

20 A Approximately five years.

21 Q Since your retirement from Richland County?

22 A Yes.

23 Q All right. What is your position with the Town of
24 Chapin?

25 A Director of Public Works and Utilities.

1 Q As far as the Lower Richland Sewer Project, can you
2 give a brief description of what that is? I don't
3 know that we got that earlier in your testimony.

4 A Yes. It was a project to eliminate five existing
5 wastewater treatment plants in and around the
6 Hopkins community that were having difficulties
7 meeting their EBD discharge permit limits. It also
8 included providing sewer service to an area along
9 Lower Richland Boulevard that had been identified
10 by the health department as having malfunctioning
11 septic tanks.

12 And, finally, it was to take over several
13 hundred house connections that had previously been
14 made to the City of Columbia. They were going to
15 transfer those connections over to the county to be
16 incorporated into this system.

17 Q And along the lines with that last point you made,
18 was there ultimately an agreement that had to be
19 entered into with the county? I mean, with the
20 city?

21 A Yes, between the city and the county.

22 Q And that took the form of a memorandum of
23 understanding?

24 A I'm not exactly sure what the form was, but it was
25 an agreement.

1 Q Well, let me ask you to look at Exhibit No. 6. I
2 am going to go through these exhibits in order
3 fairly quickly, so if you have them in order,
4 great. Otherwise, take a moment to put them in
5 order.

6 A I do have Exhibit 6.

7 Q Okay. Exhibit 6 I believe is the timeline that you
8 indicated you did not create, correct?

9 A Correct.

10 Q And you don't know who actually made it, do you?

11 A No, I don't.

12 Q And I assume you have no idea when this document
13 was created?

14 A No, I don't.

15 Q So you don't know whether it existed prior to your
16 retirement or not?

17 A No, I don't.

18 Q Anyway, you were asked a specific question about
19 March 16, 2010. There is a reference to an
20 agreement there?

21 A Yes.

22 Q If you know, is that a reference to the memorandum
23 of agreement or understanding with the city?

24 A I believe that is, yes.

25 Q Because it does discuss negotiations with the city,

1 does it not?

2 A Yes, it does.

3 Q All right. Would the USDA loan application have
4 involved the city in any respect?

5 A No.

6 Q They were not a party to any type of agreement with
7 the USDA, correct?

8 A No.

9 Q Is that correct?

10 A Correct.

11 Q All right. Again, with Plaintiff's Exhibit No. 6,
12 was this document ever submitted, to your
13 knowledge, to the USDA?

14 A Not to my knowledge.

15 Q Okay. And this wasn't part of any application
16 package you put together?

17 A No.

18 Q Looking at Exhibit No. 7, if you have that in front
19 of you.

20 A Okay.

21 Q I believe you indicated that this was a draft form
22 of the application for federal assistance to the
23 USDA Rural Development?

24 MR. BLAKE: Objection to the form. That is
25 not the testimony. He is mischaracterizing.

1 MR. LINDEMANN: Well, that is my question.

2 MR. BLAKE: And it is a leading question. He
3 is telling the witness how to answer.

4 MR. LINDEMANN: I believe I'm on
5 cross-examination.

6 MR. BLAKE: It is a friendly witness. I
7 called him out of order and I crossed him. He
8 testified in the beginning of his testimony that he
9 was prepared for his testimony by Mr. Lindemann.
10 He is the guy that responded to the FOIA and the
11 reason why we are here today, so I'm not quite sure
12 what right Mr. Lindemann has to take his own key
13 witness and tell him how to testify.

14 MR. LINDEMANN: Your Honor, I think bottom
15 line, because I am on cross-examination, he is not
16 my party. He hasn't been employed by the county in
17 five years.

18 MR. BLAKE: He is certainly within the
19 county's control group. Mr. Lindemann presented
20 him here today. Mr. Lindemann prepped him for his
21 testimony. I began -- I laid the foundation for
22 his hostility as a witness, which was why I was
23 able to lead him through direct. We called him out
24 of order. He is clearly the county's witness.

25 MR. LINDEMANN: Your Honor, I am so tired of

1 the misstatements to the Court. This -- Mr. Metts
2 was -- this case came up for trial many times in
3 the last two years. He was subpoenaed many times
4 by Plaintiff's counsel. No longer was it necessary
5 to subpoena him. Mr. Metts agreed that he didn't
6 need two process servers every single time this
7 came up on a roster. He was subpoenaed originally
8 by Plaintiff's counsel.

9 THE COURT: All right.

10 MR. LINDEMANN: But I'm happy to ask the
11 witness.

12 BY MR. LINDEMANN:

13 Q Mr. Metts, have you received subpoenas from the
14 Plaintiff's counsel in the past relative to this
15 litigation?

16 A Multiple, yes.

17 Q Do have any idea how many?

18 THE COURT: Hold on, hold on, hold on. Yes,
19 sir. Hold on a minute.

20 All right. So he no longer works for the
21 county, but he has been listed as a county witness?

22 MR. LINDEMANN: We never got served
23 interrogatories, Your Honor.

24 MR. BLAKE: He was in the trial brief as the
25 county's witness. It was prepared --

1 THE COURT: He was listed as your witness in
2 the --

3 MR. LINDEMANN: Sure. But he was listed as
4 their witness as well.

5 MR. BLAKE: No, he was not.

6 THE COURT: Was he listed as your witness? I
7 don't think he was listed as their witness. It is
8 your witness.

9 MR. LINDEMANN: By agreement he is here today,
10 Your Honor.

11 THE COURT: The rules state you have to
12 direct --

13 MR. LINDEMANN: I think, Your Honor, if I'm on
14 cross-examination, I can be on cross-examination.

15 THE COURT: Hold on one second. Did you --
16 you had direct examination. You did not declare
17 him as a hostile witness or anything.

18 MR. BLAKE: Your Honor, he never objected to
19 me crossing him, which is why I crossed him after
20 laying the foundation for his hostility. The fact
21 that he was a director of the department that
22 received and responded to this FOIA, he was
23 prepared by the county's attorney for his testimony
24 here today, and there was not one leading objection
25 to me calling him out of order, because it was that

1 obvious that he is the county's only witness of
2 record that dealt with the utilities department at
3 this time.

4 MR. LINDEMANN: And, Your Honor, that is a
5 total misstatement that he was called out of order.

6 MR. BLAKE: Well, he wasn't in my trial brief,
7 Your Honor.

8 MR. LINDEMANN: He was called as their
9 witness, Your Honor. I didn't ask him to wait
10 until after the motion for involuntary nonsuit.
11 They called him as a witness, I did not.

12 THE COURT: All right. I am going to let him
13 cross him, cross-examine him. I guess he can lead.
14 But you can't testify for him.

15 MR. LINDEMANN: Thank you, Your Honor. And
16 I'll try to limit that, but also it is 4:00 o'clock
17 on a case that should have taken two or three
18 hours, Your Honor, and I apologize to the Court.

19 THE COURT: We are here, so.

20 MR. LINDEMANN: Ultimately, I am trying to
21 move it along as well.

22 BY MR. LINDEMANN:

23 Q Mr. Metts, looking at Exhibit No. 7, was it your
24 understanding that Ms. Brawley's FOIA request
25 required turning over draft copies of any USDA

1 applications?

2 A She was -- I believe the request was for the
3 application.

4 Q Right. I'm asking you did you understand it to
5 include draft copies?

6 A No, I didn't understand that.

7 Q Okay. Did you read it to include unsigned copies?

8 A No, I didn't.

9 Q Did you read it to include incomplete draft copies?

10 A No, I didn't.

11 Q All right. Now, looking at Exhibit No. 7, is that
12 a signed application, sir?

13 A No, it is not.

14 Q Is that an application where all those different
15 sections were filled in?

16 A No, it is not.

17 Q Was this document ever submitted to the USDA?

18 A No, I don't believe so.

19 MR. BLAKE: Objection, Your Honor. I believe
20 he testified he doesn't know.

21 MR. LINDEMANN: Your Honor, his testimony will
22 speak for itself. I just asked him the question
23 and the answer is no.

24 THE COURT: All right, the objection is -- he
25 said he didn't know. So let's move on.

1 MR. LINDEMANN: All right.

2 BY MR. LINDEMANN:

3 Q Looking at Exhibit No. 8, Plaintiff's Exhibit
4 No. 8, were you aware of any unsigned applications
5 ever submitted to the USDA, Mr. Metts?

6 A No, I am not.

7 Q Is this document signed?

8 A No, it is not.

9 Q Okay. Is most of it blank?

10 A Yes, it is.

11 Q Exhibit No. 9, Plaintiff's No. 9, is that document
12 signed?

13 A No, it is not.

14 Q Okay. There is a proposed project start date and
15 ending date on that document. See there at Item
16 No. 13? Can you read the start date and ending
17 date?

18 A The start date is June 2010. The ending date is
19 June 2011.

20 Q Okay. And how does that compare to the next
21 exhibit, Plaintiff's Exhibit No. 10, which was
22 actually signed by Mr. Pope?

23 A There is no start date or ending date on that
24 document.

25 Q All right. To your knowledge, sir, was Exhibit No.

1 9 ever submitted to the USDA?

2 A Not to my knowledge.

3 Q All right. Let me ask you about Exhibit No. 11.

4 Was that document ever submitted to the USDA? I'm
5 sorry, I will let you catch up.

6 A I don't know.

7 Q Okay. You are not aware of it being submitted, do
8 you?

9 A No, I'm not.

10 Q All right. And that was actually a letter of
11 transmittal from Mr. Culler to yourself?

12 A That's correct.

13 Q And USDA wasn't a party to that communication, were
14 they?

15 A No. No.

16 Q All right. Let's look at Exhibit No. 12. Do you
17 have that?

18 A I do.

19 Q Is that an affidavit that you received from Michele
20 Cardwell at USDA?

21 A Yes, an e-mail.

22 Q An e-mail, I'm sorry. Was that e-mail ever
23 submitted by you back to the USDA?

24 A Not to my knowledge.

25 Q Okay. Would there have ever been a reason to?

1 A No.

2 Q Let's look at Exhibit No. 12 -- Exhibit No. 13, I
3 apologize. Who authored that memorandum?

4 A Jason Fell, State Civil Engineer.

5 Q Was he with the Department of Agriculture?

6 A I believe he was.

7 Q All right. And the memo, it is directed to an
8 individual named Fred Ducey. Do you see that?

9 A Yes.

10 Q All right. Was Mr. Ducey employed by Richland
11 County?

12 A No.

13 Q Okay. There is another name, Kent Evans. Was
14 Mr. Evans employed by Richland County?

15 A No.

16 Q Was this ever a document that was submitted by
17 Richland County back to the USDA for any reason?

18 A No.

19 Q Looking at Exhibit 14, there appear to be two
20 e-mails on that page. Let me ask you, Mohamad
21 Ismail, he was not employed by the USDA, was he?

22 A No, he was not.

23 Q Okay. And his engineering firm, Hussey, Gay, Bell,
24 & DeYoung, were not working on behalf of the USDA,
25 were they?

1 A No.

2 Q So these are just e-mails back and forth between
3 yourself and Mr. Ismail?

4 A Yes.

5 Q And were these -- was Exhibit 14 ever submitted to
6 the USDA?

7 A No.

8 Q Looking at Exhibit 15, please. This appears to be
9 e-mails between yourself and Judy Capehart
10 attempting to schedule a meeting for May 22nd,
11 2012, is that right?

12 A Yes.

13 Q Okay. Was this document ever submitted to USDA as
14 part of an application for loan or grant
15 assistance?

16 A No.

17 Q Jump to Exhibit No. 19. Who prepared this
18 memorandum?

19 A Jason Fell.

20 Q You already indicated he was employed by the USDA?

21 A Yes.

22 Q It looks like it is directed to George Hicks. Was
23 Mr. Hicks employed by the USDA?

24 A Yes.

25 Q All right. Then it also shows, Attention, Judy

1 Capehart and Rusty Craven. You already testified
2 that Judy Capehart was with the USDA, correct?

3 A Yes.

4 Q How about Rusty Craven, who is he?

5 A He was also an employee of the USDA.

6 Q All right. Is there any reason that this document,
7 Exhibit No. 19, would have ever been submitted back
8 to the USDA by Richland County?

9 A No.

10 Q Take a look at Exhibit 20, please. This is a
11 series of e-mails from August -- let me get the
12 dates. I think the earliest e-mail is July 9,
13 2012, is that correct?

14 A Yes.

15 Q And then the e-mails on the first five pages of
16 that document actually are in August 2012, isn't
17 that right?

18 A Yes.

19 Q And that would have been after the 2012 application
20 had been submitted by you, correct?

21 A Correct.

22 Q Was this series of e-mails that make up Exhibit No.
23 20, were they ever submitted back or submitted in
24 any form to the USDA?

25 A No.

1 Q Look at Exhibit No. 21, please. This is what you I
2 believe earlier described as a letter of
3 conditions, is that correct?

4 A Correct.

5 Q And this is a document that was actually prepared
6 by the USDA, isn't that right?

7 A That is correct.

8 Q All right. Is there any reason why this document
9 would have ever been submitted back to the USDA by
10 the county for any reason?

11 A No.

12 Q Look at Exhibit No. 22, if you would, please. And
13 that is a loan resolution that was adopted by
14 Richland County Council, is that correct?

15 A That's correct.

16 Q Okay. And that was in follow-up to the letter of
17 conditions, is that correct?

18 A That's correct.

19 Q Was this part of any type of application that was
20 submitted to the USDA?

21 A No, it was not.

22 Q All right. I have just got a couple more. If you
23 could look at Exhibit No. 23, please. Was that
24 document -- that document was prepared by you,
25 correct?

1 A Correct.

2 Q And it is dated February 4, 2014?

3 A Yes.

4 Q So that was approximately a year and a half after
5 the 2012 application was submitted?

6 A Yes.

7 Q Was this document ever provided as part of either
8 the 2010 or 2012 application to the USDA?

9 A No.

10 Q Okay. And that letter actually just addresses the
11 letter of conditions, does it not?

12 A And I think it provides a schedule.

13 Q I'm sorry?

14 A And I believe it provides a schedule.

15 Q Oh, okay. And the second paragraph of that letter
16 you wrote, We have every intention of meeting all
17 of the items contained in the letter of conditions
18 dated January 30th, 2013?

19 A Correct.

20 Q Let me ask you quickly about -- if you go back to
21 Plaintiff's Exhibit No. 5. And I understand you
22 went through here and testified as to the portions
23 of this exhibit that you believe made up the
24 application from 2012, is that correct?

25 A Correct.

1 Q Did you play any role at all in obtaining this
2 document from Rural Development?

3 MR. BLAKE: Object to the form. Again,
4 counsel is testifying.

5 MR. LINDEMANN: I'm not testifying.

6 MR. BLAKE: He is absolutely -- he is stating
7 a fact not in evidence, which any part of that
8 document was obtained from Rural Development.
9 Until he puts that in, he can't ask that question.
10 He has got no foundation for it. He is leading and
11 testifying.

12 THE COURT: I am going to allow him to lead on
13 cross.

14 MR. BLAKE: But he is making up facts as part
15 of his leading questions that aren't in evidence.

16 BY MR. LINDEMANN:

17 Q Did you have any part in obtaining this --

18 THE COURT: Hold on. The objection is
19 sustained. Please rephrase the question. Lay the
20 foundation.

21 MR. LINDEMANN: All right.

22 BY MR. LINDEMANN:

23 Q Mr. Metts, do you know where this copy of this
24 document came from?

25 A Do I know?

1 Q Do you know?

2 A I don't know where this document came from.

3 Q Did you have any involvement in obtaining it from
4 whatever source?

5 A No, I didn't.

6 Q Okay. This is a document that you testified was
7 not in the file at the time you searched in trying
8 to formulate a response to the Plaintiff's FOIA
9 request?

10 A That's correct.

11 Q And I believe when you were asked questions about
12 recreating this document, you testified you were
13 never asked to recreate it by anyone, is that
14 correct?

15 A That's correct.

16 Q Okay. And I believe you indicated you weren't able
17 to recreate it if you wanted to, because you didn't
18 know everything that was attached to the
19 application?

20 A That's correct.

21 Q And I do have a question for you. It seems to me
22 that some of the attachments were actually
23 initialed and dated by you on July 18th, 2012, is
24 that right?

25 A Yes, they were.

1 Q And that is a lot of the financial documents that
2 were attached to it?

3 A Yes.

4 Q And I was curious as to whether some of the other
5 documents that were not initialed by you, you have
6 certainty that those were included as part of the
7 application that was actually submitted in 2012?

8 A I don't have certainty that they were included.

9 Q Well, let me show you a couple of things that may
10 assist you in determining that or refreshing your
11 memory. If you look, for instance, at RC-27.

12 A Okay.

13 Q See the bottom right-hand corner? It says current
14 date August 28th, 2012?

15 A Yes.

16 Q All right. And that would have been after you
17 would have submitted that application, correct?

18 A Correct.

19 Q All right. Does that lead you to believe that
20 those particular financial documents that are, I
21 think there are several that are dated on August
22 28, 2012, would not have been part of that
23 application process?

24 A It would lead me to believe that.

25 Q Or application packet, I mean to say. Is that

1 correct?

2 A That's correct.

3 Q All right. Just as another example, look as RC-53,
4 three pages from the end. That is actually a USDA
5 form that is actually filled out by George Smith,
6 who works for the USDA, correct?

7 A That's correct.

8 Q And it was directed to Mike Hucks, who works for
9 the USDA?

10 A Correct.

11 Q Okay. Is there any indication from that that that
12 would have been part of a submittal as opposed to
13 simply documents that the USDA had generated at
14 some point?

15 MR. BLAKE: Your Honor, this has all been
16 asked and answered. He already said it wasn't
17 multiple times. When it came into evidence over
18 objection, and then again when I asked the witness
19 that same question.

20 MR. LINDEMANN: Your Honor, I'm not --

21 THE COURT: Hold on a minute.

22 MR. LINDEMANN: I'm entitled to probe that.
23 I'm on cross-examination.

24 THE COURT: Overruled. Overruled. Go ahead.

25 BY THE WITNESS:

1 A There is nothing there to indicate that it was
2 included.

3 Q Let me get you to look at one other document real
4 quick, RC-21.

5 A Okay.

6 Q That is a balance sheet that was provided as part
7 of that application, was it not?

8 A Yes.

9 Q I believe Mr. Blake pointed out that it had all
10 zeros, is that right?

11 A That's correct.

12 Q I want you to look up at the upper left corner.
13 What does it say under balance sheet?

14 A It says, See attached.

15 Q All right. And then is there a balance sheet that
16 is attached to that document?

17 A Yes, on the following page.

18 Q Okay. RC-0022, is that correct?

19 A Yes.

20 Q Is that your signature signing off on that
21 particular document with the date of July 18, 2012?

22 A Yes, it is.

23 MR. LINDEMANN: Court's indulgence.

24 (Pause.)

25 BY MR. LINDEMANN:

1 Q Do you have a copy of Plaintiff's Exhibit 1 in
2 front of you?

3 A Is that the letter --

4 Q It is the FOIA request from Ms. Brawley.

5 A Yes.

6 Q And please read that first sentence.

7 A Please provide me with a copy of the application
8 and supporting documentation Richland County
9 submitted to the USDA Rural Development for grant
10 and loan funding for the Lower Richland Sewer
11 Project.

12 Q And is that the request that was made by the
13 ombudsman's office to your office to look for
14 documents for that?

15 A Yes, it was.

16 Q All right. And did you interpret that request as a
17 request for engineering reports or engineering
18 documents?

19 A No. It was just the application.

20 Q Okay. Tell the Court how you interpreted what was
21 being asked of you.

22 A I interpreted it as being the USDA application that
23 was signed and submitted.

24 Q Okay. And ultimately you obtained a copy of 2010,
25 one from Ms. Salley?

1 A Yes, we did.

2 Q And you turned that --

3 A Yes, I did.

4 Q -- over to ombudsman's office?

5 A Yes, I did.

6 Q All right. In 2012 when you weren't able to locate
7 it in the files, is that right?

8 A No, I was not.

9 Q To your knowledge, was there ever an attempt to
10 reach out to Rural Development to try to assist in
11 answering this particular FOIA request from
12 Ms. Brawley?

13 MR. BLAKE: Objection. He is asking a
14 question -- he is not asking if he reached out, he
15 is asking if anybody did. He can ask the question
16 to the witness, did the witness reach out. The
17 witness can't talk about other hearsay activities
18 of other parties.

19 BY MR. LINDEMANN:

20 Q Let me ask you this way. Are you aware of anyone
21 reaching out to Rural Development?

22 MR. BLAKE: Again, calls for hearsay. If he
23 is asking for the truth of the matter asserted,
24 whether anyone reached out, that anyone is hearsay.
25 He can ask the witness if the witness reached out.

1 He can't ask the witness if anyone else reached out
2 to Rural Development.

3 MR. LINDEMANN: I will withdraw the question,
4 Your Honor.

5 THE COURT: All right, thank you.

6 BY MR. LINDEMANN:

7 Q Let me show you a series of e-mails and ask you if
8 you have seen those before.

9 MR. BLAKE: Your Honor, this record wasn't
10 produced in discovery. I don't know what it is.

11 THE COURT: You gave him a copy?

12 MR. LINDEMANN: I did. I didn't produce it in
13 discovery. They didn't ask for it.

14 MR. BLAKE: Your Honor, we filed a motion to
15 compel and we asked for everything that was
16 relevant to any of the issues in this case.

17 THE COURT: What is the document?

18 MR. LINDEMANN: And that was not in their
19 request for production, Your Honor.

20 MR. BLAKE: We asked for everything that dealt
21 with each one of the FOIA requests.

22 THE COURT: And I have to look at the requests
23 for --

24 MR. LINDEMANN: Here are the requests, Your
25 Honor, as well as our responses served September 6,

1 2015.

2 MR. BLAKE: Your Honor, this thing is just
3 filled with hearsay. So we need to deal with the
4 hearsay within hearsay issues on every level for
5 this document, I think.

6 THE COURT: All right. Yes, sir, your
7 response regarding hearsay? The e-mail --

8 MR. LINDEMANN: Well, Your Honor, it is a
9 business record, but I can get that in with
10 Ms. Carter if you want me to do it that way. This
11 is an exception to the hearsay rule.

12 THE COURT: Yes, but you can't get it in
13 through him for purposes of hearsay.

14 MR. LINDEMANN: He was actually copied on the
15 e-mail.

16 MR. BLAKE: On some of them, not on the last
17 two.

18 THE COURT: So it can't come in through him on
19 hearsay.

20 As to the request, I need you all to -- if he
21 tries to bring it in through Ms. Carter, you have
22 to tell me which request your -- this response
23 would fall up under.

24 MR. BLAKE: Thank you, Your Honor.

25 THE COURT: All right, thank you.

1 BY MR. LINDEMANN:

2 Q Who is Dan Fiorini?

3 A He was the special projects coordinator for the
4 utilities departments, Richland County.

5 Q To your knowledge, is he with the county any
6 longer?

7 A I don't believe so.

8 Q But he was there in 2014 when you were there?

9 A Yes, he was.

10 MR. LINDEMANN: Court's indulgence.

11 (Pause.)

12 MR. LINDEMANN: I don't have any further
13 questions. Thank you, Your Honor.

14 MR. BLAKE: Briefly, if I may, Your Honor?

15 THE COURT: Yes, sir.

16 REDIRECT EXAMINATION

17 BY MR. BLAKE:

18 Q Mr. Metts, you said that you don't believe that
19 Exhibits 7, 8, 9 were submitted to the USDA in
20 response to Mr. Lindemann's questions -- and I'll
21 get closer because I know the hearing issue -- you
22 don't believe those were provided to the USDA
23 because they were incomplete copies? That was one
24 of his questions to you, correct?

25 A Correct.

1 Q But you would agree the one that was produced was
2 also an incomplete copy, wasn't it?

3 A Incomplete?

4 Q The application from Milton Pope, that was also an
5 incomplete copy, wasn't it?

6 A I don't know.

7 Q Well, it didn't have a date on it, did it?

8 A I believe the last page was dated.

9 Q Well, again, the application itself, the form
10 wasn't dated?

11 A I'm not sure what all constitutes the application.
12 I believe that was dated.

13 Q The front page?

14 A I don't believe the front page was dated.

15 Q It was not dated, correct?

16 A Correct.

17 Q It had other blanks on it as well, didn't it?
18 Please look at Exhibit 4 again, because this is
19 very important to me on this issue as to whether or
20 not it is your opinion that incomplete records
21 therefore could not have been submitted to the USDA
22 at all?

23 A I believe that the application that was attached to
24 Exhibit 4 was a complete application and was
25 submitted.

1 Q The front page of the application, the only thing
2 that actually says application on it -- I'm not
3 talking about the assurances document that has a
4 date on it, I'm talking about the actual
5 application, the form itself, the application is
6 not dated, correct?

7 A Correct.

8 Q It has incorrect information on it, correct?

9 A Incorrect?

10 Q Right. It says it is a non-construction
11 application, which you know is incorrect, correct?

12 A I don't have the definition to that right now,
13 but --

14 Q It is on the next page in the instructions and you
15 can --

16 A Well, it is not on the first page, and that is what
17 you were referring to.

18 Q Okay. Well, please look at the next page and tell
19 me if it also has incorrect information on that
20 application?

21 A The definition says, select type of submission.

22 Q Correct. And when you selected it, you knew this
23 was a construction project, which is why there is a
24 construction budget attached, correct?

25 A It was a construction project.

1 Q In Mr. Pope's application there, that says
2 non-construction, doesn't it?

3 A Non-construction box is checked.

4 Q And then it has the wrong dates typed on it and
5 then someone scratched through it and wrote some
6 stuff out to the side, correct?

7 A Addresses, yes.

8 Q There is other blank boxes not completed on there,
9 correct? Just look at the form and see if there is
10 other incomplete blanks just like there were
11 incomplete blanks in response to the questions you
12 answered by Mr. Lindemann.

13 A There is certainly some blanks on this form.

14 Q Certainly some blanks on the form. So then you
15 can't testify what was, in fact, given to
16 Representative Brawley was, in fact, an application
17 ever submitted to the USDA, can you?

18 A I didn't submit it, so I --

19 Q Right. So you cannot testify to that, correct?

20 A Right.

21 Q So as far as you know, then, until she filed this
22 lawsuit, Representative Brawley got zero documents
23 that were actually responsive to her FOIA requests
24 from the county, correct?

25 MR. LINDEMANN: Objection, Your Honor.

1 Argumentative.

2 BY THE WITNESS:

3 A No, I believe this was a document that was --

4 THE COURT: Overruled.

5 BY MR. BLAKE:

6 Q Is that correct? Since you don't know whether that
7 was actually submitted, you cannot testify?

8 A This was a document given to us by Ms. Salley that
9 she represented was submitted.

10 Q Well, she testified here in court today. I can
11 tell you she didn't say that.

12 A Okay.

13 MR. LINDEMANN: Objection, Your Honor.

14 THE COURT: Sustained.

15 BY MR. BLAKE:

16 Q So jump to Exhibit 13.

17 A To what, I'm sorry?

18 Q Exhibit 13. Exhibit 13. Do you have that?

19 A I do.

20 Q Okay. It has got a Bates number from Richland
21 County on the bottom, correct, RC-139, RC-140?

22 A Those are the numbers, yes.

23 Q So when you and I talked earlier, I never asked you
24 whether or not you submitted this or anyone
25 submitted this as part of the application, correct,

1 I asked you about the revised PER, referenced in
2 the top line on January 5th, this January 5th, 2011
3 letter. The revised PER was, in fact, submitted to
4 the USDA, as confirmed by this letter dated
5 January 5th, 2011, correct?

6 A Appears to be, yes.

7 Q Right. And that revised PER, as we discussed a lot
8 earlier, was submitted into court as a loan and
9 grant application, correct?

10 A Was submitted where?

11 Q In support of the loan and grant application,
12 correct?

13 A It was in support of the project.

14 Q Right. Only --

15 A Whether it was considered part of the grant
16 application or not, I'm not sure.

17 Q And Exhibit 14 -- let's move on to 19. Move on to
18 19. The letter dated August 2, 2012, from the
19 USDA, that confirms as well that there was a
20 revised PER dated July 2012, correct?

21 A Correct.

22 Q And that revised PER in July 2012 went with your
23 July 2012 application, correct?

24 A Again, it was submitted. I'm not sure it was
25 submitted as part of the application.

1 Q Well, the sentence says, The revised PER dated
2 July 2012, prepared by CDM Smith for subject
3 applicant, has been reviewed and the following
4 comments are offered. And you received this letter
5 because you testified that is your handwriting that
6 is on there, correct?

7 A Right. Again, it was submitted for Richland
8 County. They were the subject applicant.

9 Q Right. And you submitted --

10 A But I don't believe it was submitted as part of the
11 application.

12 Q They might not have gotten a package, but it was
13 supporting documentation submitted along in support
14 of Richland County seeking to get loan and grant
15 funding, correct?

16 A Yes. It was submitted.

17 Q Right. And, sir, I understand that your response
18 to Mr. Lindemann's questions are that you thought
19 putting together the application was okay, but you
20 would agree with me that the FOIA didn't just ask
21 for an application, it asked for the supporting
22 documentation, correct?

23 A The way I interpreted that was the supporting
24 application, or documentation for the application.

25 Q Right. Well, it says application, and then it says

1 the supporting documentation. And the PER was
2 supporting documentation, correct?

3 A It was in support of the project. I can't say it
4 was in support of the application.

5 Q But, again, the only role USDA, the project had was
6 processing the application and deciding whether to
7 give Richland County money, correct?

8 A Yes.

9 Q They had no other role in the project other than
10 processing the application and deciding whether to
11 give Richland County money, correct?

12 A Correct.

13 Q So anything that Richland County gave them was in
14 support of its application for the USDA to give
15 Richland County money, correct?

16 A Correct.

17 Q If you would flip with me to the third page of
18 Exhibit No. 20, which pairs RC-332. This is an
19 e-mail from you dated August 2nd, 2012, correct,
20 where it begins with Richard and Candy?

21 A Yes.

22 Q You lead with saying, Michele Cardwell -- from the
23 USDA, correct?

24 A Yes.

25 Q Michele Cardwell has scheduled a meeting?

1 MR. LINDEMANN: Your Honor, I believe this is
2 beyond the scope of cross.

3 MR. BLAKE: He asked about Exhibit 20 and what
4 its relevance was.

5 MR. LINDEMANN: Please let me finish.

6 THE COURT: All right, what is the objection?

7 MR. LINDEMANN: I didn't speak -- I mean, I
8 didn't address any of the specific e-mails as part
9 of my examination. I simply asked him were these
10 e-mails ever submitted back to the USDA. That was
11 the extent of my examination regarding this
12 document. And what he is asking is beyond the
13 scope.

14 THE COURT: What is it you want to ask?

15 MR. BLAKE: I want to ask him -- because the
16 next sentence says, RD, Rural Development, is
17 questioning three things in the PER.

18 I think counsel's argument was that this is a
19 red herring, but it is not, because what these
20 documents confirm repeatedly is that as a part of
21 the application process Rural Development is asking
22 questions about the supporting documentation, which
23 was never actually given to Representative Brawley.

24 So this email says RD is questioning three
25 things in the PER, and I'm wanting to confirm his

1 proximity, this says two of weeks after he
2 submitted this application, and to get him to
3 confirm that he understood that they were looking
4 at the PER as a part of their considering the
5 application.

6 MR. LINDEMANN: Your Honor, may I just make a
7 record? My point was this case is about documents
8 that were submitted to the USDA. If this wasn't
9 submitted to the USDA, this is not a document that
10 we should have produced to her. That is the point
11 that I made.

12 Now, this whole argument -- I will just remind
13 the Court, Judge Newman has already decided the
14 claims for injunctive relief. This claim is solely
15 for declaratory relief. So it deals with the
16 documents that they have received and did they
17 receive them prior to bringing a lawsuit or should
18 they have received them prior to bringing a
19 lawsuit.

20 MR. BLAKE: I say Bingo to that.

21 MR. LINDEMANN: That is the extent of the case
22 that is before Your Honor. That is why I keep
23 telling the Court, and I will be making that
24 argument in a minute, but this is really driven by
25 a legal question, which we don't have answers for

1 in South Carolina, we have federal case law. So
2 that was the extent of me asking him. This is a
3 document that they found in our file as part of
4 discovery in this case, and I just wanted to make
5 the point that they aren't arguing that this should
6 have been produced in response to a FOIA request.

7 MR. BLAKE: And my counterpoint is that this
8 document contains references to documents that
9 should have been produced in response to the FOIA
10 request. It is not --

11 THE COURT: I will overrule the objection.
12 Ask the question, but let's move on.

13 MR. BLAKE: I will move on.

14 BY MR. BLAKE:

15 Q Michele Cardwell was with the USDA, correct, sir?

16 A Yes.

17 Q And she was having a meeting with you two weeks
18 after you submitting the application in July of
19 2012, correct?

20 A Yes.

21 Q Right. And the point of that meeting was to
22 discuss the USDA's questions about the PER,
23 correct?

24 A Appears to be, yes.

25 Q Right. And the PER was submitted and being

1 discussed with USDA as a part of the application
2 that you had just submitted at her request two
3 weeks earlier, correct?

4 A It is part of the project, not necessarily the
5 application.

6 Q Okay. But supporting documentation for the loan
7 and grant that is being sought for the USDA,
8 correct?

9 A For the project, yes.

10 Q Right. And the project as it relates to USDA is
11 nothing more than getting a loan and grant from
12 USDA, correct?

13 A Correct.

14 Q Thank you. And then you were asked questions about
15 Exhibit 22. And, again, you were just confirming
16 in February of 2014 that the county still had every
17 intention of complying with that January 30th,
18 2013, letter to Mr. Washington that we talked
19 about, correct?

20 A You are referring to Exhibit 22?

21 Q Yes, sir?

22 A This is just a loan resolution that was approved by
23 Council.

24 Q That was a loan resolution. That was a loan
25 resolution acquired by Mr. Washington's -- the

1 letter directed to Mr. Washington from the USDA on
2 January 30th of 2013, correct?

3 A This was one of the many documents that the USDA
4 required of County Council.

5 Q Right. And, again, this was submitted in response
6 to USDA saying, Before we will consider your
7 application further, we need the following. The
8 letter, this loan resolution is one of those
9 documents that they required and was submitted by
10 the county to the USDA, correct?

11 A Yes.

12 Q Yes. And this was a record that was not produced
13 in response to the FOIA request sought by
14 Representative Brawley, correct?

15 A This was, again, after County Council had accepted
16 the letter of conditions.

17 Q Right. Which was a requirement for the loan and
18 grant application, correct?

19 A A requirement of the loan and grant award.

20 Q Those are all I have. I appreciate your time
21 today, sir.

22 THE COURT: All right, anything else?

23 MR. LINDEMANN: Nothing.

24 THE COURT: All right, you may step down.

25 MR. LINDEMANN: May he be released, Your

1 Honor?

2 THE COURT: Yes. Any objection to him being
3 released?

4 MR. BLAKE: No objection, Your Honor.

5 THE COURT: All right, sir, you are free to
6 leave.

7 (Witness steps down and excused.)

8 THE COURT: All right, call your next witness,
9 please.

10 MR. BLAKE: The Plaintiff rests.

11 THE COURT: All right. I will be glad to hear
12 any motions at this time.

13 MR. LINDEMANN: Thank you, Your Honor.

14 At this time, on behalf of Richland County, we
15 would make a motion for involuntary nonsuit, Your
16 Honor.

17 What the evidence has made clear, Your Honor,
18 is that were two loan applications, one from 2010
19 and one from 2012. There has been no testimony of
20 any other loan applications actually being
21 submitted to the USDA.

22 The Plaintiffs have the burden of proof. They
23 have not -- in fact, they have questioned whether
24 the 2010 loan application got submitted to the
25 USDA. If something is not submitted, it doesn't

1 meet the FOIA request. So maybe I should start
2 with that.

3 Ms. Brawley asked for a copy of the
4 application and supporting documentation Richland
5 County submitted to the USDA Rural Development for
6 grant and loan funding for the Lower Richland Sewer
7 Project. She was produced the 2010 application,
8 which consisted of six pages.

9 Ultimately, we believe that was submitted to
10 the USDA. They don't have proof here that USDA
11 received it or that it actually was submitted, but
12 the bottom line is, it was produced in response to
13 the FOIA request.

14 The 2012 application was not. The explanation
15 that is before Your Honor is undisputed and
16 uncontradicted. The county searched for that
17 document. Mr. Metts went through the procedures
18 that were followed by him and his office that the
19 request was made to Ms. Salley, who is the grants
20 coordinator, who the Court also heard from. She
21 indicated she produced everything that she had in
22 her office that would be responsive. The 2012
23 application was not retained and was not available
24 to provide to Ms. Brawley.

25 So the legal question that arises -- and, of

1 course, Ms. Brawley has now received a copy of the
2 2012 application because it was obtained as part of
3 discovery in this case.

4 They keep arguing that I'm testifying, but
5 answers to discovery is absolutely appropriate for
6 the Court to take into consideration. It was
7 provided as part of discovery in this case when it
8 was obtained from Rural Development. And we turned
9 it over and made it available to the Plaintiff.

10 So they have the 2012. Obviously they do. We
11 litigated that case. But the dispositive question
12 for the Court is whether or not that document and
13 the supporting documentation that went with it was
14 available in or on -- excuse me, in September,
15 September 9th, 2014, when the FOIA request was
16 first read at a County Council meeting.

17 The Plaintiffs have that burden of proof.
18 They have not met that burden of proof. They have
19 not demonstrated or provided this Court any
20 evidence that would support this Court's finding
21 that that document was in our possession.

22 Now, should a copy of that document have been
23 in possession? Was it potentially sloppy not to
24 have made a copy of that document before providing
25 it to the USDA? That is not the issue before this

1 Court. Recordkeeping is handled under the records
2 act, the state records act. There is no cause of
3 action brought under that. There is no private
4 right action brought under that. That is not what
5 this case is about. This case is about FOIA.

6 And it boils down to a straightforward legal
7 question for this Court to rule on. That, of
8 course, makes it very appropriate for a motion for
9 involuntary nonsuit.

10 We have no case law in South Carolina other
11 than the Trask case that I cited in my memo, which
12 cites with favorability the Kissinger vs. Reporters
13 Committee for Freedom of the Press, a U.S. Supreme
14 Court case from 1980.

15 Just to read a couple of pieces of black
16 letter law from the Kissinger case, the Court
17 said -- I cite it in my pretrial -- the Court said
18 FOIA is only directed at requiring agencies to
19 disclose those agency records for which they have
20 chosen to retain possession or control.

21 So we have got to possess them, we have got to
22 control them in order to have a duty to produce
23 them under FOIA. And that is the Plaintiff's
24 burden of proving that we had those documents
25 within our possession or control in September 2014.

1 There is no evidence that that 2012
2 application and the supporting documents were in
3 the possession of the county in September of 2014.
4 In fact, the evidence is uncontradicted just the
5 opposite. Mr. Metts couldn't find that he had a
6 copy of that application and the supporting
7 documentation at that time.

8 The Kissinger case goes on to say -- this is
9 the quote that was quoted by our Court of Appeals
10 in Trask -- it says: The act does not obligate
11 agencies to create or retain documents; it only
12 obligates them to provide access for those which it
13 in fact has created and retained.

14 So, again, it is a pure matter of law for this
15 Court if the documents were not in the possession.
16 Maybe they should have been, maybe it is hard to
17 believe they weren't, but they needed to be in our
18 possession at the time the FOIA request was made,
19 and there is no evidence to support that.

20 Now, there were a lot of questions that were
21 asked by the Plaintiff's counsel, particularly
22 after the lunch break, about recreating those
23 documents. And, of course, Mr. Metts indicated,
24 No. 1, he wasn't asked to recreate them. No. 2, he
25 wouldn't have been able to recreate them because he

1 didn't know where all the attachments were that
2 were attached to the 2012 application.

3 But I would call to the Court's attention the
4 District Court of -- the District of Columbia
5 decision that I cite in my pretrial, *James v.*
6 *United States Secret Service*. Again, dealing with
7 the federal FOIA claim, FOIA act, that is very
8 comparable to the state act. And, of course, South
9 Carolina appellate courts have cited repeatedly to
10 case law, including in *Trask*, as I mentioned, case
11 law that relies on or interprets the federal act.

12 But, anyway, this is what the Court in *James*
13 says: A FOIA requests the agency records be made
14 available to a person who reasonably describes them
15 and submits his request in compliance with public
16 rules. FOIA is only directed at requiring agencies
17 to disclose those agency records for which they
18 have chosen to retain possession or control. The
19 Court cites *Kissinger* for that. And it goes on and
20 says: An agency does not control a record which
21 has been destroyed. There is no issue about
22 destruction in this case. Here is the key part.
23 And it says: It is under no obligation to obtain a
24 duplicate of or to recreate a record in order to
25 fulfill a FOIA request.

1 Again, there is no duty, and there is no duty
2 in our FOIA as well. There is nothing in the act
3 as it existed in 2014. There is nothing in the new
4 act either as far as I'm aware. But certainly what
5 we are dealing with is the act prior to its
6 amendment, its wholesale amendment in 2017.

7 But there is nothing in the act that requires,
8 in this particular case, Richland County, to go to
9 third parties, such as he suggested we should have
10 gone to Wilbur Smith or we should have gone to
11 Rural Development. There is nothing that creates
12 that obligation or that legal duty to do so to
13 obtain a duplicate copy. And, importantly here,
14 there is no obligation to recreate a record that
15 has not been retained and is not in the county's
16 possession.

17 So, whereas this Court has heard a lot of
18 evidence, it really boils down to a legal issue.
19 The key points are, again, that they have not
20 proven that the county was in possession of any
21 documents that they contend that they did not get
22 in September of 2014.

23 I would also add, and I touched on this in the
24 first quote I referenced in James, it says: The
25 person must reasonably describe the request.

1 One of the issues for this Court ultimately to
2 determine too is what is meant by supporting
3 documentation? How would that be reasonably
4 interpreted?

5 What I think is very key in this case, Your
6 Honor, you have heard no testimony whatsoever that
7 after Ms. Brawley received these responses that she
8 ever followed up and asked for additional
9 information or challenged the responses until she
10 filed suit. And, of course, when she filed suit,
11 that is when we attempted to try to resolve these
12 issues with her.

13 But, ultimately, Your Honor, what this case
14 boils down to is what the situation was in
15 September of 2014 and whether or not they have
16 proven sufficient evidence for this Court to rule
17 in their favor that Richland County was in
18 possession of any documents whatsoever that were
19 not produced.

20 As an additional point, Your Honor, I'll touch
21 on this. This case comes to you with most of the
22 case already thrown out. Three of the four FOIA
23 requests were already dismissed. And Judge Newman
24 has also already dismissed the injunctive relief
25 claim. So to the extent they are trying to argue

1 to this Court that there are documents that
2 Richland County still possesses that we haven't
3 produced to her, such as this engineering report
4 that keeps coming up, that has already been dealt
5 with. This Court can't award an injunctive relief.
6 What this Court can do is issue declaratory relief
7 to determine whether the response was timely and
8 whether the response was adequate.

9 And, ultimately, Your Honor, again, going back
10 to my same point, in order for them to be able to
11 prove that, they have to prove that there were
12 documents in our possession that we did not
13 produce.

14 Now, they should have when able to prove that
15 if it was true because, ultimately, we did make our
16 file available to them. And I went through most of
17 those documents with Mr. Metts. Most of them were
18 not even things that were submitted to the USDA. A
19 lot of the documents that they picked out of our
20 file were USDA documents themselves, which
21 obviously you are not going to submit back to them
22 their own documents.

23 But, again, there has been no proof whatsoever
24 that any of the documents that they are challenging
25 here today -- and it is not clear from their

1 pleadings nor from their arguments exactly what
2 documents they contend they didn't get. I think it
3 is pretty obvious about the 2012 application, but
4 we have dealt with that particular issue.

5 But the bottom line is, they haven't carried
6 their burden of proof. And, for that reason, we
7 believe an involuntary nonsuit is appropriate, Your
8 Honor.

9 THE COURT: All right. Yes, sir?

10 MR. BLAKE: Thank you, Your Honor.

11 So I guess to start with, let's start with the
12 references to the appropriateness of counsel quote,
13 unquote, putting discovery before the Court.

14 Mr. Lindemann continues even in this motion to
15 cite his own fiat where records that were produced
16 in response to a FOIA request in this lawsuit, he
17 continues to just put that in there as if that is
18 evidence that the Court should consider in weighing
19 the completeness of the response.

20 What No. 17, Exhibit 17 shows is that, and
21 what Ms. Brawley -- Representative Brawley
22 testified to is that during her digging through the
23 file, Richland County's file, she located Andy
24 Metts' 2012 application. It has been Bates labeled
25 RC-287. He has authenticated and it has been

1 admitted into evidence. And her uncontroverted
2 testimony is that when she dug through their
3 records, she put her hands on an application that
4 Mr. Metts testified he couldn't put his hands on.

5 Now, counsel is burden shifting here by
6 suggesting that the only evidence that the Court
7 can -- the only thing the Court can infer from the
8 testimony in this case is that Richland County no
9 longer had the documents, which is of course not
10 getting the benefit to Representative Brawley in
11 response to this motion.

12 What, in fact, we know is that there is a
13 e-mail produced in response to the FOIA that has
14 many names on it, it is not just Andy Metts. It
15 has numerous county employees who were involved in
16 the process of searching these records.

17 Who we heard from today is Sara Salley, who
18 said, My office wasn't even responsible for
19 submitting this record. I didn't submit this
20 application. It didn't come from my office. But
21 yet when you look at the e-mail dated
22 September 15th, 2014, the only document that Mr.
23 Metts actually went and got was an application from
24 Sara Salley's office. That is all he said he does.
25 He doesn't say he made any effort in that e-mail to

1 go get an application from any other source. He
2 didn't put in that e-mail that he went and sought
3 any supporting documentation. I think his
4 testimony here today was telling. He frankly only
5 went to look for the application. He ignored the
6 FOIA response or the FOIA request for supporting
7 documentation. He went and got an application, he
8 got it from Sara Salley, he sent it out.

9 Now, he testified, I looked. I don't know
10 exactly what else I did besides go to the file
11 room, but I looked in some folders and I couldn't
12 find it.

13 But Representative Brawley found it when she
14 went and looked in the files. That is
15 uncontroverted. She managed to find it. He
16 couldn't. So that in and of itself defeats their
17 motion for nonsuit.

18 But the declaratory relief doesn't -- the fact
19 that this case no longer includes a temporary
20 injunction to stop the Richland project from going
21 forward, that does not control the fact that there
22 are still other documents that the Court can
23 declare were responsive to the FOIA within the
24 county's control but not produced to Representative
25 Brawley, which is what we spent the majority of

1 today on. And he acknowledges that Mr. Metts talks
2 about this preliminary engineering review, the PER,
3 and then the revised PER. We have had to go
4 through this time to go through those records today
5 and elicit his testimony that those, in fact, were
6 records submitted by the very agency or the very
7 engineering firm the county retained to submit
8 things on its behalf to the USDA, that those
9 records were submitted, they were in Wilbur Smith's
10 possession, they were given to the USDA, he simply
11 didn't think to go get them. That is not the same
12 as going to a federal agency like the USDA and
13 asking for records. This argument is a red
14 herring.

15 No one is suggesting in this case -- I want to
16 be clear for the record -- Ms. Brawley,
17 Representative Brawley does not assert that they
18 had a duty to go to the USDA and get USDA records
19 and produce it back to her, but they absolutely had
20 a duty to go get any records that were in their
21 control.

22 He read the Kissinger case to you. And the
23 very quote he read didn't just say, in their
24 possession, it said their possession or control.

25 Wilbur Smith, the engineering firm, was within

1 Richland County's control. He testified they
2 remained on the project throughout the entire time,
3 that that is what they were engaged to do. I said
4 they were employed by the county for this purpose.
5 He agreed. It persisted throughout the entire term
6 of his employment, which was three days -- up until
7 three days before the FOIA response was finally
8 completed. And he testified that he never went to
9 the company that was acting on his behalf,
10 communicating with the USDA as we have seen in
11 these records, for four years, at least four years
12 on this application at that point in time. He
13 never went to them to go get records. Those were
14 precisely the supporting documentations that the
15 FOIA seek. That is precisely what the obligation
16 of the public agency to do. When it outsources its
17 function to someone in its control like a private
18 firm and the public spends hundreds of thousands of
19 dollars getting the services for an expensive thing
20 like a PER, and those things are then used to give
21 a debt instrument of \$20 million or somewhere
22 thereabouts and advise the county, when the
23 citizens want to see those records, that is what
24 FOIA is designed for. And he can't hide behind the
25 fact that Wilbur Smith is a third party, because it

1 is still a third party within the county's control.

2 And so not only is a motion for nonsuit
3 improper, there is really irrefuted testimony
4 before the Court that, 1, there was an application
5 itself that Ms. Brawley found in the county's file
6 and managed to put her hands on it when Andy Metts
7 could not. And that, 2, there were other records,
8 all sorts of supporting records identified in the
9 applications, identified in the correspondence,
10 identified both in response to this alleged 2010
11 application, which, again, taking the evidence in
12 the light most favorable to her was never even
13 submitted to the USDA. And that, subsequently,
14 this 2012, none of the supporting documentation was
15 provided. And the only answer we have as to why is
16 that one county official says, I couldn't put my
17 hands on it and I couldn't remember what I filed
18 two years earlier.

19 That doesn't meet the burden of FOIA. They
20 have a duty to do more than have a guy go try to
21 put a hand on his file and try to say, Ah, I don't
22 remember anymore. Even though it is an ongoing
23 thing. The correspondence that we put into
24 evidence was put in to demonstrate the project was
25 active, ongoing. Andy Metts stayed engaged with

1 the USDA all the way up into 2014. There is no
2 reason, no plausible reason for the Court to
3 believe that the county had no means within the
4 documents in its possession or in its control to
5 give something in response to FOIA, because all we
6 heard today from Andy Metts is that -- well,
7 incomplete records, incomplete applications he
8 doesn't believe were submitted. And the only thing
9 they gave her in response to a FOIA at best was an
10 incomplete, undated, discombobulated application.

11 The motion for nonsuit should respectfully be
12 denied. And, frankly, I'm not sure what else we
13 have to discuss, but I think the Plaintiff's
14 evidence establishes without any ability to refute
15 it that there has been violations of the FOIA act.

16 Thank you, Your Honor.

17 MR. LINDEMANN: Real quickly, Your Honor, just
18 a couple of points.

19 First of all, that was improper shifting of
20 the burden of proof. The Plaintiff has the burden
21 of proof in this case.

22 To the extent that they didn't call any other
23 employees of Richland County, that is on them.
24 Andy Metts was here and Ms. Salley were the only
25 employees of Richland County involved. So you

1 can't sit here and suggest that other people may
2 have said something different or that somehow we
3 have the obligation as Defendants to negate -- and,
4 of course, we are at the end of the Plaintiff's
5 case in chief anyway, but that we have some
6 obligation to negate what they have alleged. Now,
7 they have the burden to prove it, No. 1.

8 No. 2, this whole misnomer of Ms. Brawley
9 found the first page of the 2012 document in the
10 file after looking through thousands and thousands
11 of pages, she found that in February of 2016.
12 There is absolutely no evidence that has been
13 presented that that was available to them in 2014.
14 Plus, that was after this litigation was filed.
15 And the Court is well aware that documents have
16 been obtained from Rural Development.

17 And then lastly, Your Honor, one additional
18 point, this whole idea that Wilbur Smith is a third
19 party within our control, that is not what the case
20 law says. The case law says it can't be a third
21 party and that there is no obligation to go get
22 documents that are not within your possession.

23 And, ultimately, Your Honor, a very good point
24 too, is they have got a real proximate cause
25 problem if that is their argument, because nobody

1 presented any evidence that Wilbur Smith, as to
2 what they had in their file, whether a request had
3 been made in 2014 that they could have produced any
4 of these documents. None of that. That is pure
5 speculation that they are asking this Court to rely
6 upon. So if that is their argument, they haven't
7 proven it, okay?

8 But, ultimately, Your Honor, the case law, the
9 federal case law, the Kissinger case is very clear,
10 it is what is required and what is in your
11 possession and what you choose to retain. If you
12 don't choose to retain it, for whatever reason, you
13 don't have an obligation to produce it. And you
14 certainly don't have to go out and try to duplicate
15 it or recreate it. That is their case law. That
16 is the exact language from that case law. I
17 believe our South Carolina Supreme Court would
18 adopt that same case law. Because the FOIA statute
19 itself doesn't spell out this obligation that they
20 are arguing, this really broad obligation
21 suggesting you have got to go -- be able to go to
22 third parties or you might have to recreate
23 documents. None of that is in the statute, Your
24 Honor.

25 THE COURT: Thank you.

1 All right, considering the motion for
2 involuntary nonsuit, the Court must consider it in
3 the light most favorable to the non-moving party.
4 The Court must consider the inferences from --
5 reasonable inferences from the evidence and based
6 on testimony provided to the Court.

7 This Court finds that the inferences from the
8 evidence entered by the Plaintiff are reasonable
9 and thus -- reasonable inferences drawn from
10 testimony, and thus, for that reason, the Court
11 respectfully denies the motion, the Defendant's
12 motion for involuntary nonsuit.

13 All right. How many -- do you have one
14 witness?

15 MR. LINDEMANN: Potentially, Your Honor. Can
16 you give me five minutes? I may not put up a case
17 since you denied the nonsuit.

18 THE COURT: All right.

19 MR. LINDEMANN: Thank you. Your Honor, can we
20 have five minutes?

21 THE COURT: Sure.

22 MR. LINDEMANN: I think it is time for a
23 break. I know it is 5:00 o'clock.

24 THE COURT: Yes, 5:00 o'clock. So we will
25 take about five minutes and we will start back.

1 (WHEREUPON, a break was taken at 4:55
2 p.m.)

3 (WHEREUPON, the hearing resumed at 5:07
4 p.m.)

5 THE COURT: Yes, sir, Mr. Lindemann?

6 MR. LINDEMANN: The Defendant's case will
7 consist only -- I do want to publish and make an
8 exhibit the responses to request for production. I
9 want to publish two of them, or I can just tell you
10 which ones and you can read them yourself later.
11 Let me just publish them.

12 No. 4, request to produce any and all
13 documents, including but not limited to any
14 application submitted to the United States
15 Department of Agriculture and Rural Development
16 Office for grant and loan funding in connection
17 with the Lower Richland Sewer Project.

18 The response to No. 4 was as follows: The
19 Plaintiffs referred to a letter dated June 3, 2015.

20 MR. BLAKE: Your Honor, I am going to object.
21 These are not sworn statements. It is not an
22 interrogatory response signed by his client. These
23 are, again, statements of counsel in a document
24 signed only by counsel referencing a letter signed
25 only by counsel. That is not proper for the Court

1 to take judicial notice of and it is not evidence.
2 If this was a sworn interrogatory response, that
3 would be one thing, but counsel reading in
4 counsel's statement in a request for production
5 where the proper response is either respond by
6 saying documents will be produced or having an
7 objection signed by counsel, which is what Rule 34
8 allows. The fact that counsel has chosen to type
9 in something other than what Rule 34 requires and
10 then sign that and then reference back with his own
11 letters, that is not evidence, it is not
12 appropriate for publication, it is not appropriate
13 for consideration by the Court. Consideration of
14 it is error.

15 MR. LINDEMANN: Your Honor, I believe it is
16 absolutely appropriate. Interrogatory responses,
17 request for production responses are read into the
18 record as part of people's cases all the time in
19 cases.

20 MR. BLAKE: And, sure, because interrogatories
21 are required to be signed and sworn under --

22 THE COURT: Are they verified?

23 MR. LINDEMANN: No, they are not.

24 THE COURT: If they are not verified by the
25 client, then I'm not sure --

1 MR. LINDEMANN: But typically in South
2 Carolina responses are not verified, Your Honor.

3 MR. BLAKE: Because they -- because the only
4 response appropriate under Rule 34 is an objection
5 by counsel or a statement that the production will
6 be made available for inspection or alternatively
7 laying out the documents being responded. A typed
8 up response by counsel in a non-client-signed
9 document is no different than his letter. So he
10 can't use that record to bootstrap in his letter,
11 which is itself not evidence, not for consideration
12 or publication.

13 MR. LINDEMANN: I think it is appropriate for
14 whatever weight Your Honor wants to give it. I
15 think it is properly submitted. As I said, my
16 experience, answers to discovery are read into the
17 record in cases all the time and don't have to be
18 verified to do so.

19 MR. BLAKE: True for interrogatories, not true
20 for requests for production, Your Honor.

21 THE COURT: I'm sorry?

22 MR. BLAKE: I said he is absolutely right as
23 opposed -- verified interrogatory responses are
24 absolutely read into the record because they are
25 statements by that party. Counsel's signed request

1 for production responses are not responses by
2 Richland County or any of its witnesses. And,
3 again, if he wants to make himself a witness and
4 put himself on the stand -- I don't know how he is
5 going to cross himself on his own statements in an
6 RFP, but just publishing it to the Court, it is not
7 evidence, so there is no reason to allow it to be
8 published. And it is certainly prejudicial for him
9 to continue to harp on something that has never
10 been put into evidence by any witness in this case.

11 MR. LINDEMANN: Your Honor, the Plaintiffs
12 have the burden of proof in this case, just so the
13 record is clear. And they have to show where that
14 2012 application came from. And they have not
15 shown that to Your Honor. Bottom line is, the
16 reason why they haven't shown that is because it
17 didn't come from the county, it came from Rural
18 Development. And I'm simply laying that
19 foundational basis with these answers to discovery.

20 I mean, that is essentially another ground for
21 reason why they haven't proven their case, because
22 in addition to the fact that they are claiming we
23 should have gotten them from a third party, Wilbur
24 Smith, they haven't proven that if we had gotten
25 them from Rural Development that they would have

1 been available there.

2 THE COURT: So the issue is, the statement
3 that you are trying to get in, is it a statement
4 that is in evidence or is it just a statement
5 from --

6 MR. LINDEMANN: It is a statement, Your Honor,
7 as to the documents RC-001 through RC-0055.

8 THE COURT: And who did that statement come
9 from?

10 MR. LINDEMANN: Where they came from? They
11 are my responses on behalf of the Defendant,
12 Richland County. They are Richland County's
13 responses. They don't have to be verified. They
14 are Richland County's responses in this discovery
15 in this litigation.

16 MR. BLAKE: Rule 34 doesn't contemplate
17 counsel typing up responses to anything in response
18 to a request for production. Rule 34 says that you
19 shall respond by stating that the documents will be
20 permitted or counsel may object. Rule 34 doesn't
21 allow counsel to bootstrap evidence in that he
22 would like to come in.

23 The unrefuted evidence in this case is that
24 Mr. Metts' application was found in Richland
25 County's file by Representative Brawley. He

1 understands that that creates a terrible problem
2 for him factually in this case, and so the solution
3 to that is to try to get his own testimony in: No,
4 trust me, it wasn't there before, we went and got
5 it from the USDA, and therefore they can't meet
6 their burden.

7 They are asking you to ignore the obvious
8 circumstantial evidence that Ms. Brawley found it
9 in the file. And their rebuttal to the
10 circumstantial evidence is Mr. Lindemann's own
11 testimony that: No, no, no, trust me, the records
12 came from USDA and that is how they are here.

13 Unfortunately, there is no witness here today
14 to testify, They were not in our file until we got
15 them from the USDA and that what Representative
16 Brawley testified she found was put there in that
17 file after it was received from the USDA. He is
18 just asking the Court to infer that from his own
19 writings, both in the terms of the letter and the
20 RFP, none of those things are appropriate for the
21 Court to consider because neither his letter nor
22 the RFP is evidence.

23 MR. LINDEMANN: That is not the case, Your
24 Honor. Mr. Blake is entirely wrong. What I'm
25 trying to do is give the Court the understanding of

1 where RC-001 through RC-0055 came from. That is
2 not the documents that Ms. Brawley looked at based
3 upon the document production of the entire Richland
4 Facilities file.

5 Ultimately, Your Honor, the Court should know
6 that information, should have that information,
7 because right now there is a deception to the Court
8 where that information came from. Okay? And where
9 things are discovered is information that the -- in
10 the discovery process and how it implicates a
11 lawsuit is something that the Court is entitled to
12 know.

13 And so it is -- you know, without making
14 lawyers constantly have to be -- become witnesses
15 in the case. Because the alternative, Your Honor,
16 I go back to my request for a continuance, then,
17 because the alternative is to both make both
18 Mr. Mann and myself witnesses in this case. That
19 doesn't happen. Why does that not happen? Because
20 the Court is entitled to obtain information that is
21 undisputed. I mean, they haven't disputed this.
22 They just keep calling it evidence. No, it is not
23 evidence. It is production of documents, when it
24 was produced and from where it was produced. That
25 is not evidence. That is giving the Court an

1 explanation as to the discovery process that went
2 on in this case and not deceiving the Court as to
3 the location of or the source of those documents.

4 MR. BLAKE: Your Honor, I have got to defend
5 myself on the record here. I don't appreciate
6 being accused of deceiving the Court when they put
7 on a witness who has testified, I went through
8 their file when they let me and I found this
9 record. It is the application signed by Andy
10 Metts. It is Exhibit 17. It is entered into
11 evidence. Mr. Metts identified it. Representative
12 Brawley said she found it. That is not deception
13 on the Court, that is an absolute uncontroverted
14 fact that she found it in their file.

15 What he is trying to interject is, he is
16 giving you a reason to believe it only got in that
17 file because he is telling you it came from the
18 USDA. Now, he can't get there and say that it was
19 not in the file until then, because he doesn't
20 know. Just like Mr. Metts didn't know. Just like
21 Mr. Metts didn't know. So he can't testify to
22 that. We are not deceiving the Court. We are just
23 saying he is trying to create a shadow of doubt
24 where there is otherwise irrefutable evidence.

25 MR. LINDEMANN: Your Honor, that is not the

1 case. As you know from hearing the testimony, the
2 2012 application included numerous attachments to
3 it. That was not located. That was not part of
4 Exhibit 17. That wasn't located by Ms. Brawley.
5 That was provided by Rural Development. And this
6 will give you that background. It is just that
7 simple. This isn't that complicated. Answers to
8 discovery can be published to the Court,
9 particularly in a non-jury case like this where the
10 Court understands what the discovery process is.
11 But --

12 THE COURT: All right.

13 MR. LINDEMANN: I mean, whether you are going
14 to allow it or not, I am at least going to ask for
15 it to be marked as a proffer, Your Honor.

16 THE COURT: I'm going to allow it. Instead of
17 reading it -- and I will give it the weight that I
18 think it deserves. Based on your objection to it
19 being a statement not verified, a statement that
20 was --

21 MR. LINDEMANN: Your Honor, Requests 4 and 5
22 that I believe the Court should take under
23 consideration.

24 THE COURT: You are going to mark the
25 entire --

1 MR. LINDEMANN: Yes.

2 THE COURT: Any objection to him marking the
3 entire -- other than the objection --

4 MR. BLAKE: I reserve an objection to the
5 whole document, but if he wants to mark it for
6 proffer, we have no objection to marking for
7 proffer.

8 THE COURT: So that will be Defendant's No. 2.
9 And 4 and 5 are the ones that we need to take a
10 look at. And, as I stated, I will take your
11 objection and the arguments of your objection in
12 consideration of the weight given to it.

13 MR. LINDEMANN: Thank you, Your Honor.
14 (WHEREUPON, Defendant's Exhibit No. 2
15 was marked for identification and
16 received into evidence.)

17 MR. LINDEMANN: Given the lateness of the day,
18 Your Honor -- and I apologize to the Court that
19 this was represented to you as a two or three hour
20 trial -- but we will not call any further
21 witnesses.

22 THE COURT: All right, thank you.

23 Anything else? I will give you an opportunity
24 to provide proposed -- I think I have pretty much
25 heard the arguments when you made --

1 MR. LINDEMANN: Correct.

2 THE COURT: But I will be glad to hear any
3 further arguments, or I also will give you an
4 opportunity to provide proposed orders.

5 MR. LINDEMANN: Proposed orders is fine with
6 me.

7 THE COURT: How much time do y'all need? I
8 mean --

9 MR. LINDEMANN: Can we request copy of the
10 transcript or wait until we get the transcript to
11 be able -- I am a lousy note taker, and obviously
12 you have got to make findings of fact, so I want to
13 make sure they are accurate.

14 THE COURT: I actually will -- yes, because I
15 probably will need a copy of the transcript too, so
16 if you request it, then --

17 MR. LINDEMANN: Can we say ten days after the
18 transcript? I'm not putting any pressure on you.

19 THE COURT: Yes, I don't know what her list
20 looks like in terms of Court Administration.

21 MR. LINDEMANN: This case has been sitting for
22 four years. I don't think it makes a difference
23 for us to get an immediate ruling, but I think it
24 would be real helpful to have a transcript to be
25 able to do a good job on an order.

1 THE COURT: All right.

2 MR. BLAKE: I agree.

3 MR. LINDEMANN: Can I split that with you?

4 MR. BLAKE: Yes, sure.

5 THE COURT: And what, 15 days after you
6 receive the transcript? Because you have to read
7 it and then you have got to prepare an order.

8 MR. LINDEMANN: That will be fine.

9 MR. BLAKE: Your Honor, I put this in the
10 pretrial brief, because obviously a request for
11 attorney's fees and costs, can we preserve that as
12 a post-order motion? I don't want to have to pull
13 together all that, because we have to redact a lot
14 of the time that was spent representing the other
15 Defendant or the other Plaintiff in the case. So
16 can we submit our affidavit in support of fees and
17 costs after you rule on who the prevailing party
18 is? Or would you like it in the proposed order?

19 THE COURT: Well --

20 MR. LINDEMANN: Part of the problem with that,
21 Your Honor, from my perspective, even if Your Honor
22 rules in their favor on this particular FOIA
23 request, I mean, a substantial amount -- parts of
24 this case we were the prevailing party, already are
25 the prevailing party, on three out of four FOIA

1 requests, plus the total injunctive relief cause of
2 action. So, you know, ultimately we are going to
3 be -- want to be able to argue to you that, you
4 know, even if they prevail on that one particular
5 issue, they are entitled to no or very limited
6 attorney's fees and costs.

7 THE COURT: All right. So what we'll do is
8 wait, because I have got to review the cases.

9 MR. BLAKE: Right. True.

10 THE COURT: And Mr. Lindemann says there are
11 none in South Carolina other than -- and he cited a
12 Supreme Court case, and we'll do some research. Is
13 it Kissinger?

14 MR. LINDEMANN: Kissinger. Would you like a
15 copy of that, Your Honor?

16 THE COURT: If you have a copy, that would be
17 great. And any other cases you all want me to
18 review, you can go ahead and send those with your
19 proposed orders.

20 So what we'll do is wait for the ruling. And
21 then once we get the ruling, if I rule in your
22 favor, I'm sure we will have to have another
23 hearing about attorney's fees.

24 MR. BLAKE: Fair enough.

25 THE COURT: All right, thank you.

1 MR. BLAKE: Thank you, Your Honor.

2 MR. LINDEMANN: Thank you for your time, Your
3 Honor.

4 (WHEREUPON, the hearing adjourned at
5 5:21 p.m.)
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(END OF TRANSCRIPT)

CERTIFICATE OF REPORTER

STATE OF SOUTH CAROLINA)
)
COUNTY OF RICHLAND)

I, Deborah M. McCurdy, Official Court Reporter for the Fifth Judicial Circuit of the State of South Carolina, do hereby certify that the foregoing is a true, accurate and complete Transcript of Record of the proceedings had and evidence introduced in the trial of the captioned case, relative to appeal, in the Court of Common Pleas for Richland County, South Carolina, on the 5th day of September, 2019.

I do further certify that I am neither of kin, counsel nor interest to any party hereto.

November 9, 2019

s/Deborah M. McCurdy, RPR

Deborah M. McCurdy, RPR
Fifth Circuit Court Reporter

Wendy C. Brawley
217 Sagemont Drive
Hopkins, SC 29061
(803) 776-9286

Mr. Tony McDonald
Richland County Administrator
P.O. Box 192
2020 Hampton Street
Columbia, SC 29202

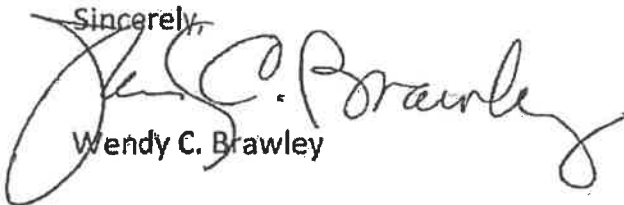
Sept. 9, 2014

RE: FOIA Request - Copy of Richland County's USDA Rural
Development Application for Loan and Grant Funding Lower
Richland Sewer Project

Dear Mr. McDonald:

Please provide me a copy of the application and supporting documentation Richland County submitted to the USDA Rural Development for grant and loan funding for the Lower Richland Sewer Project. I am requesting this information pursuant to the Freedom of Information Act. If there is a cost to provide the copies of the information requested, please advise by contacting me at (803) 776-9286.

Sincerely,


Wendy C. Brawley



RICHLAND COUNTY OMBUDSMAN'S OFFICE

2020 Hampton Street Suite 3061
Phone: (803)929-6000

Columbia, SC 29204
Fax: (803)929-6009



October 1, 2014

Wendy C. Brawley
217 Sagemount Dr
Hopkins, SC 29061

RE: Freedom of Information Act (FOI) Request

Copies of Lower Richland Sewer Project
records & sewer services agreement
records for the Lower Richland Area &
Rabbit Run Rd

Dear Mrs. Brawley,

Your request for information pursuant to the Freedom of Information Act, S.C. Code § 30-4-10 *et. seq.*, was received in the Richland County Ombudsman's Office on September 10, 2014.

This letter confirms Richland County understands your request for a copy of the minutes from the Richland County Council meeting when Council approved funds for waivers of tap on fees for the Lower Richland Sewer Project (LRSP); a copy of the application and supporting documentation Richland County submitted to USDA Rural Development for grant and loan funding for the LRSP; a copy of the minutes from County Council's meeting when the Council gave third reading approval for the LRSP and a copy of the MOU between the county and the City of Columbia regarding the sewer services agreement for the housing developments located off Rabbit Run Rd & other adjacent properties behind Lower Richland High School. The information requested will be released. The data is being researched and it is expected to be available within the next few weeks, at which time will be sent to you via US Mail. If you have additional questions, please feel free to call me anytime.

Sincerely,

A handwritten signature in cursive script that reads "Judy A. Carter".

Judy A. Carter /nms
County Ombudsman



ONE-CALL RESPONSE CENTER

OMBUDSMAN@RCGOV.US

RICHLAND COUNTY OMBUDSMAN'S OFFICE

2020 Hampton Street Suite 3061
Phone: (803)929-6000

Columbia, SC 29204
Fax: (803)929-6009



October 8, 2014

Wendy C. Brawley
217 Sagemont Dr
Hopkins, SC 29061



RE: Freedom of Information Act (FOI) Request

Copy of Richland County's USDA rural
development application for loan and
grant funding for Lower Richland sewer
project

Dear Mrs. Brawley,

Your request for information pursuant to the Freedom of Information Act, S.C. Code 30-4-10 Ct. seq., concerning the above-referenced matter, was received in the Ombudsman's Office on September 10, 2014 and forwarded to the Richland County Clerk of Council, Procurement Department, Utility Department and Finance Department for review.

Please find enclosed documents which contain information regarding the abovementioned request. Richland County has no further information regarding this matter.

Feel free to contact me at (803) 929-6000 if you have any questions.

Sincerely,

A handwritten signature in cursive script.

Judy A. Carter /nms
County Ombudsman

cc: County Legal Department
Tony McDonald, County Administrator
Sparty Hammett, Assistant County Administrator
Roxanne Ancheta, Assistant County Administrator
Monique McDaniels, Clerk of Council
Cheryl Patrick, Procurement Department Director
Andy Metts, Utility Department Director
Daniel Driggers, Finance Department Director

ONE-CALL RESPONSE CENTER

OMBUDSMAN@RCGOV.US

Wendy C. Brawley

217 Sagemont Drive

Hopkins, SC 29061

(803) 776-9286

Mr. Tony McDonald
Richland County Administrator
P.O. Box 192
2020 Hampton Street
Columbia, SC 29202

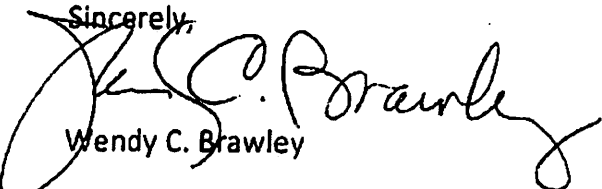
Sept. 9, 2014

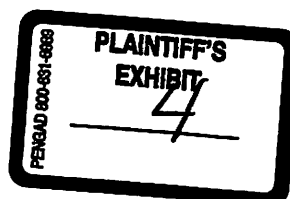
RE: FOIA Request - Copy of Richland County's USDA Rural
Development Application for Loan and Grant Funding Lower
Richland Sewer Project

Dear Mr. McDonald:

Please provide me a copy of the application and supporting documentation Richland County submitted to the USDA Rural Development for grant and loan funding for the Lower Richland Sewer Project. I am requesting this information pursuant to the Freedom of Information Act. If there is a cost to provide the copies of the information requested, please advise by contacting me at (803) 776-9286.

Sincerely,


Wendy C. Brawley



Navisala McAllister

Subject: FW: FOI Request-Lower Richland Sewer Project & Sewer Services Agreement-Lower Richland Area & Rabbit Run Rd
Attachments: USDA Application for LRSS Project, 3.18.2010.pdf; Lower Richland SS Intergovernmental Agreement, City of Columbia, 11.04.2....pdf

From: ANDY METTS

Sent: Monday, September 15, 2014 10:21 AM

To: Ombudsman

Cc: Sparty Hammett; CHRISTY SWOFFORD; ROXANNE ANCHETA; ELIZABETH MCLEAN; Julia Dake; Monique McDaniels; DANIEL DRIGGERS; CHERYL PATRICK; Dan Purini; Raymond Peterson; SANDRA DICKERSON

Subject: RE: FOI Request-Lower Richland Sewer Project & Sewer Services Agreement-Lower Richland Area & Rabbit Run Rd

Folks,

The following is provided in response to the FOI request below:

1. Minutes from the RC Council meeting when funds were approved by Council waivers of tap on fees for the LR Sewer Project. I'm not aware of a specific vote by Council to waive tap fees on the Lower Richland Sewer Project. Council did accept the terms of the Letter of Conditions offered by USDA Rural Development on February 19, 2013. This Letter of Conditions does discuss the waiving of tap fees. Also, during the June 3, 2014 meeting, Council approved the Tap Fee Assistance Program which has the potential to waive tap fees for those who qualify.
2. Application and supporting documentation RC submitted to the USDA Rural Development for grant and loan funding for the LR Sewer Project. A copy of the application as provided by Sara Salley's office is attached.
3. Minutes from the RC Council meeting when the Council gave third reading approval for the LR Sewer Project. On October 5, 2010; "Council voted to proceed with staff's recommendations to move forward with a wastewater treatment plant for the Lower Richland sewer area, and to expeditiously execute an MOU with the City of Columbia to provide for immediate sewer service in the area. The vote to reconsider the item failed." The FOI requestor is likely confusing the 1st and 2nd reading approval dated September 10, 2013 and September 17, 2013 for the issuance of revenue bonds and the issuance of revenue bond anticipation notes as the project approval. Third reading approval cannot occur until the project is ready for bids and USDA approves the language in the funding documents.
4. MOU between RC and the City of Columbia regarding the sewer services agreement for the housing developments located off Rabbit Run Rd and other adjacent properties behind Lower Richland High School. A copy of the agreement is attached.

Please review the above and contact me if additional information is needed.

Andy H. Metts, Director
Richland County Utilities
Email: mettsa@rcgov.us
Tel. 803-401-0050

RCU
Richland County Utilities

**APPLICATION FOR
FEDERAL ASSISTANCE**

Version 7/03

1. TYPE OF SUBMISSION: Application ☐ Construction ☒ Non-Construction		2. DATE SUBMITTED	Applicant Identifier State Application Identifier Federal Identifier																												
3. DATE RECEIVED BY STATE 4. DATE RECEIVED BY FEDERAL AGENCY		5. APPLICANT INFORMATION Legal Name: Richland County, South Carolina Organizational DUNS: 073709883 Address: Street: 3500 Fernandino Road 2020 Hampton Street Administration City: Columbia County: Richland State: SC Zip Code: 29210 29204 Country: USA																													
6. EMPLOYER IDENTIFICATION NUMBER (EIN): 57-80000398		Organizational Unit: Department: WEP /RUS Division: USDA, Rural Development Name and telephone number of person to be contacted on matters involving this application (give area code) Prefix: Mr. First Name: Andy Middle Name: H. Last Name: Metts Suffix: Email: andymetts@richlandonline.com Phone Number (give area code): 803/401-0042 Fax Number (give area code): 803/401-0030																													
7. TYPE OF APPLICATION: ☐ New ☒ Continuation ☐ Revision If Revision, enter appropriate letter(s) in box(es) (See back of form for description of letters.) Other (specify)		7. TYPE OF APPLICANT: (See back of form for Application Types) B - Other Other (specify)																													
10. CATALOG OF FEDERAL DOMESTIC ASSISTANCE NUMBER: TITLE (Name of Program): 10-71610		8. NAME OF FEDERAL AGENCY: USDA, Rural Development																													
12. AREAS AFFECTED BY PROJECT (Cities, Counties, States, etc.): Hopkins Community, Richland County, SC		11. DESCRIPTIVE TITLE OF APPLICANT'S PROJECT: Sewer System Improvements for Hopkins Community																													
13. PROPOSED PROJECT Start Date: Ending Date:		14. CONGRESSIONAL DISTRICTS OF: a. Applicant 02 b. Project 06																													
15. ESTIMATED FUNDING: <table border="1" style="width:100%; border-collapse: collapse;"> <tr> <td style="width:20%;">a. Federal</td> <td style="width:10%;">\$</td> <td style="width:10%;">20,961,360</td> <td style="width:10%;">w</td> </tr> <tr> <td>b. Applicant</td> <td>\$</td> <td></td> <td>w</td> </tr> <tr> <td>c. State</td> <td>\$</td> <td></td> <td>w</td> </tr> <tr> <td>d. Local</td> <td>\$</td> <td></td> <td>w</td> </tr> <tr> <td>e. Other</td> <td>\$</td> <td></td> <td>w</td> </tr> <tr> <td>f. Program Income</td> <td>\$</td> <td></td> <td>w</td> </tr> <tr> <td>g. TOTAL</td> <td>\$</td> <td>20,961,360</td> <td>w</td> </tr> </table>		a. Federal	\$	20,961,360	w	b. Applicant	\$		w	c. State	\$		w	d. Local	\$		w	e. Other	\$		w	f. Program Income	\$		w	g. TOTAL	\$	20,961,360	w	16. IS APPLICATION SUBJECT TO REVIEW BY STATE EXECUTIVE ORDER 12372 PROCESS? a. Yes. ☒ THIS PREAPPLICATION/APPLICATION WAS MADE AVAILABLE TO THE STATE EXECUTIVE ORDER 12372 PROCESS FOR REVIEW ON DATE: b. No. ☐ PROGRAM IS NOT COVERED BY E. O. 12372 ☐ OR PROGRAM HAS NOT BEEN SELECTED BY STATE FOR REVIEW	
a. Federal	\$	20,961,360	w																												
b. Applicant	\$		w																												
c. State	\$		w																												
d. Local	\$		w																												
e. Other	\$		w																												
f. Program Income	\$		w																												
g. TOTAL	\$	20,961,360	w																												
18. TO THE BEST OF MY KNOWLEDGE AND BELIEF, ALL DATA IN THIS APPLICATION/PREAPPLICATION ARE TRUE AND CORRECT. THE DOCUMENT HAS BEEN DULY AUTHORIZED BY THE GOVERNING BODY OF THE APPLICANT AND THE APPLICANT WILL COMPLY WITH THE ATTACHED ASSURANCES IF THE ASSISTANCE IS AWARDED. a. Authorized Representative Prefix: Mr. First Name: J. Milton Last Name: Pope Title: County Administrator Signature of Authorized Representative: [Signature]		17. IS THE APPLICANT DELINQUENT ON ANY FEDERAL DEBT? ☐ Yes If "Yes" attach an explanation. ☒ No c. Telephone Number (give area code): 803. 576. 2050 d. Date Signed:																													

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Standard Form 424 (Rev. 9-2003)
Prescribed by OMB Circular A-102

INSTRUCTIONS FOR THE SF-424

Public reporting burden for this collection of information is estimated to average 45 minutes per response, including time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding the burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to the Office of Management and Budget, Paperwork Reduction Project (0348-0043), Washington, DC 20503.

PLEASE DO NOT RETURN YOUR COMPLETED FORM TO THE OFFICE OF MANAGEMENT AND BUDGET. SEND IT TO THE ADDRESS PROVIDED BY THE SPONSORING AGENCY.

This is a standard form used by applicants as a required face sheet for pre-applications and applications submitted for Federal assistance. It will be used by Federal agencies to obtain applicant certification that States which have established a review and comment procedure in response to Executive Order 12372 and have selected the program to be included in their process, have been given an opportunity to review the applicant's submission.

Item:	Entry:	Item:	Entry:
1.	Select Type of Submission.	11.	Enter a brief descriptive title of the project. If more than one program is involved, you should append an explanation on a separate sheet. If appropriate (e.g., construction or real property projects), attach a map showing project location. For preapplications, use a separate sheet to provide a summary description of this project.
2.	Date application submitted to Federal agency (or State if applicable) and applicant's control number (if applicable).	12.	List only the largest political entities affected (e.g., State, counties, cities).
3.	State use only (if applicable).	13.	Enter the proposed start date and end date of the project.
4.	Enter Date Received by Federal Agency Federal Identifier number: If this application is a continuation or revision to an existing award, enter the present Federal Identifier number. If for a new project, leave blank.	14.	List the applicant's Congressional District and any District(s) affected by the program or project.
5.	Enter legal name of applicant, name of primary organizational unit (including division, if applicable), which will undertake the assistance activity, enter the organization's DUNS number (received from Dun and Bradstreet), enter the complete address of the applicant (including country), and name, telephone number, e-mail and fax of the person to contact on matters related to this application.	15.	Amount requested or to be contributed during the first funding/budget period by each contributor. Value of in kind contributions should be included on appropriate lines as applicable. If the action will result in a dollar change to an existing award, indicate only the amount of the change. For decreases, enclose the amounts in parentheses. If both basic and supplemental amounts are included, show breakdown on an attached sheet. For multiple program funding, use totals and show breakdown using same categories as item 15.
6.	Enter Employer Identification Number (EIN) as assigned by the Internal Revenue Service.	16.	Applicants should contact the State Single Point of Contact (SPOC) for Federal Executive Order 12372 to determine whether the application is subject to the State Intergovernmental review process.
7.	Select the appropriate letter in the space provided. A. State B. County C. Municipal D. Township E. Interstate F. Intermunicipal G. Special District H. Independent School District I. State Controlled Institution of Higher Learning J. Private University K. Indian Tribe L. Individual M. Profit Organization N. Other (Specify) O. Not for Profit Organization	17.	This question applies to the applicant organization, not the person who signs as the authorized representative. Categories of debt include delinquent audit disallowances, loans and taxes.
8.	Select the type from the following list: "New" means a new assistance award. "Continuation" means an extension for an additional funding/budget period for a project with a projected completion date. "Revision" means any change in the Federal Government's financial obligation or contingent liability from an existing obligation. If a revision enter the appropriate letter: A. Increase Award B. Decrease Award C. Increase Duration D. Decrease Duration	18.	To be signed by the authorized representative of the applicant. A copy of the governing body's authorization for you to sign this application as official representative must be on file in the applicant's office. (Certain Federal agencies may require that this authorization be submitted as part of the application.)
9.	Name of Federal agency from which assistance is being requested with this application.		
10.	Use the Catalog of Federal Domestic Assistance number and title of the program under which assistance is requested.		

SF-424 (Rev. 7-97) Back

BUDGET INFORMATION - Construction Programs

NOTE: Certain Federal assistance programs require additional computations to arrive at the Federal share of project costs eligible for participation. If such is the case, you will be notified.

COST CLASSIFICATION	a. Total Cost	b. Costs Not Allowable for Participation	c. Total Allowable Costs (Columns a-b)
1. Administrative and legal expenses	\$ 150,000.00	\$.00	\$ 150,000.00
2. Land, structures, rights-of-way, appraisals, etc.	\$.00	\$.00	\$ 0.00
3. Relocation expenses and payments	\$.00	\$.00	\$ 0.00
4. Architectural and engineering fees	\$ 1,019,520.00	\$.00	\$ 1,019,520.00
5. Other architectural and engineering fees	\$.00	\$.00	\$ 0.00
6. Project inspection fees	\$ 483,840.00	\$.00	\$ 483,840.00
7. Site work	\$.00	\$.00	\$ 0.00
8. Demolition and removal	\$.00	\$.00	\$ 0.00
9. Construction	\$ 17,280,000.00	\$.00	\$ 17,280,000.00
10. Equipment	\$ 50,000.00	\$.00	\$ 50,000.00
11. Miscellaneous	\$ 250,000.00	\$.00	\$ 250,000.00
12. SUBTOTAL (sum of lines 1-11)	\$ 19,233,360.00	\$ 0.00	\$ 19,233,360.00
13. Contingencies	\$ 1,728,000.00	\$.00	\$ 1,728,000.00
14. SUBTOTAL	\$ 20,961,360.00	\$ 0.00	\$ 20,961,360.00
15. Project (program) income	\$.00	\$.00	\$ 0.00
16. TOTAL PROJECT COSTS (subtract #15 from #14)	\$ 20,961,360.00	\$ 0.00	\$ 20,961,360.00
FEDERAL FUNDING			
17. Federal assistance requested, calculate as follows: (Consult Federal agency for Federal percentage share.) Enter the resulting Federal share.	Enter eligible costs from line 16c Multiply X 100.00 %		\$ 20,961,360.00

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Standard Form 424C (Rev. 7-97)
Prescribed by OMB Circular A-102

INSTRUCTIONS FOR THE SF-424C

Public reporting burden for this collection of information is estimated to average 180 minutes per response, including time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding the burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to the Office of Management and Budget, Paperwork Reduction Project (0348-0041), Washington, DC 20503.

PLEASE DO NOT RETURN YOUR COMPLETED FORM TO THE OFFICE OF MANAGEMENT AND BUDGET. SEND IT TO THE ADDRESS PROVIDED BY THE SPONSORING AGENCY.

This sheet is to be used for the following types of applications: (1) "New" (means a new [previously unfunded] assistance award); (2) "Continuation" (means funding in a succeeding budget period which stemmed from a prior agreement to fund); and (3) "Revised" (means any changes in the Federal Government's financial obligations or contingent liability from an existing obligation). If there is no change in the award amount, there is no need to complete this form. Certain Federal agencies may require only an explanatory letter to effect minor (no cost) changes. If you have questions, please contact the Federal agency.

Column a. - If this is an application for a "New" project, enter the total estimated cost of each of the items listed on lines 1 through 16 (as applicable) under "COST CLASSIFICATION."

If this application entails a change to an existing award, enter the eligible amounts approved under the previous award for the items under "COST CLASSIFICATION."

Column b. - If this is an application for a "New" project, enter that portion of the cost of each item in Column a. which is not allowable for Federal assistance. Contact the Federal agency for assistance in determining the allowability of specific costs.

If this application entails a change to an existing award, enter the adjustment (+ or -) to the previously approved costs (from column a.) reflected in this application.

Column. - This is the net of lines 1 through 16 in columns "a." and "b."

Line 1 - Enter estimated amounts needed to cover administrative expenses. Do not include costs which are related to the normal functions of government. Allowable legal costs are generally only those associated with the purchases of land which is allowable for Federal participation and certain services in support of construction of the project.

Line 2 - Enter estimated site and right(s)-of-way acquisition costs (this includes purchase, lease, and/or easements).

Line 3 - Enter estimated costs related to relocation advisory assistance, replacement housing, relocation payments to displaced persons and businesses, etc.

Line 4 - Enter estimated basic engineering fees related to construction (this includes start-up services and preparation of project performance work plan).

Line 5 - Enter estimated engineering costs, such as surveys, tests, soil borings, etc.

Line 6 - Enter estimated engineering inspection costs.

Line 7 - Enter estimated costs of site preparation and restoration which are not included in the basic construction contract.

Line 9 - Enter estimated cost of the construction contract.

Line 10 - Enter estimated cost of office, shop, laboratory, safety equipment, etc. to be used at the facility, if such costs are not included in the construction contract.

Line 11 - Enter estimated miscellaneous costs.

Line 12 - Total of items 1 through 11.

Line 13 - Enter estimated contingency costs. (Consult the Federal agency for the percentage of the estimated construction cost to use.)

Line 14 - Enter the total of lines 12 and 13.

Line 15 - Enter estimated program income to be earned during the grant period, e.g., salvaged materials, etc.

Line 16 - Subtract line 15 from line 14.

Line 17 - This block is for the computation of the Federal share. Multiply the total allowable project costs from line 16, column "c." by the Federal percentage share (this may be up to 100 percent; consult Federal agency for Federal percentage share) and enter the product on line 17.

ASSURANCES - CONSTRUCTION PROGRAMS

Public reporting burden for this collection of information is estimated to average 15 minutes per response, including time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding the burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to the Office of Management and Budget, Paperwork Reduction Project (0348-0042), Washington, DC 20503.

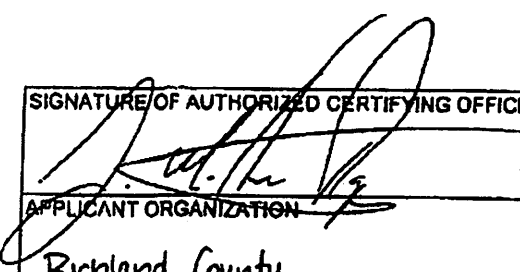
PLEASE DO NOT RETURN YOUR COMPLETED FORM TO THE OFFICE OF MANAGEMENT AND BUDGET. SEND IT TO THE ADDRESS PROVIDED BY THE SPONSORING AGENCY.

NOTE: Certain of these assurances may not be applicable to your project or program. If you have questions, please contact the Awarding Agency. Further, certain Federal assistance awarding agencies may require applicants to certify to additional assurances. If such is the case, you will be notified.

As the duly authorized representative of the applicant, I certify that the applicant:

1. Has the legal authority to apply for Federal assistance, and the institutional, managerial and financial capability (including funds sufficient to pay the non-Federal share of project costs) to ensure proper planning, management and completion of the project described in this application.
2. Will give the awarding agency, the Comptroller General of the United States and, if appropriate, the State, through any authorized representative, access to and the right to examine all records, books, papers, or documents related to the assistance; and will establish a proper accounting system in accordance with generally accepted accounting standards or agency directives.
3. Will not dispose of, modify the use of, or change the terms of the real property title, or other interest in the site and facilities without permission and instructions from the awarding agency. Will record the Federal interest in the title of real property in accordance with awarding agency directives and will include a covenant in the title of real property acquired in whole or in part with Federal assistance funds to assure non-discrimination during the useful life of the project.
4. Will comply with the requirements of the assistance awarding agency with regard to the drafting, review and approval of construction plans and specifications.
5. Will provide and maintain competent and adequate engineering supervision at the construction site to ensure that the complete work conforms with the approved plans and specifications and will furnish progress reports and such other information as may be required by the assistance awarding agency or State.
6. Will initiate and complete the work within the applicable time frame after receipt of approval of the awarding agency.
7. Will establish safeguards to prohibit employees from using their positions for a purpose that constitutes or presents the appearance of personal or organizational conflict of interest, or personal gain.
8. Will comply with the Intergovernmental Personnel Act of 1970 (42 U.S.C. §§4728-4763) relating to prescribed standards for merit systems for programs funded under one of the 19 statutes or regulations specified in Appendix A of OPM's Standards for a Merit System of Personnel Administration (5 C.F.R. 800, Subpart F).
9. Will comply with the Lead-Based Paint Poisoning Prevention Act (42 U.S.C. §§4801 et seq.) which prohibits the use of lead-based paint in construction or rehabilitation of residence structures.
10. Will comply with all Federal statutes relating to non-discrimination. These include but are not limited to: (a) Title VI of the Civil Rights Act of 1964 (P.L. 88-352) which prohibits discrimination on the basis of race, color or national origin; (b) Title IX of the Education Amendments of 1972, as amended (20 U.S.C. §§1681 1683, and 1685-1686), which prohibits discrimination on the basis of sex; (c) Section 504 of the Rehabilitation Act of 1973, as amended (29 U.S.C. §794), which prohibits discrimination on the basis of handicaps; (d) the Age Discrimination Act of 1975, as amended (42 U.S.C. §§6101-6107), which prohibits discrimination on the basis of age; (e) the Drug Abuse Office and Treatment Act of 1972 (P.L. 92-255), as amended, relating to nondiscrimination on the basis of drug abuse; (f) the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment and Rehabilitation Act of 1970 (P.L. 91-616), as amended, relating to nondiscrimination on the basis of alcohol abuse or alcoholism; (g) §§523 and 527 of the Public Health Service Act of 1912 (42 U.S.C. §§290 dd-3 and 290 ee 3), as amended, relating to confidentiality of alcohol and drug abuse patient records; (h) Title VIII of the Civil Rights Act of 1968 (42 U.S.C. §§3601 et seq.), as amended, relating to nondiscrimination in the sale, rental or financing of housing; (i) any other nondiscrimination provisions in the specific statute(s) under which application for Federal assistance is being made; and, (j) the requirements of any other nondiscrimination statute(s) which may apply to the application.

11. Will comply, or has already complied, with the requirements of Titles II and III of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (P.L. 91-648) which provide for fair and equitable treatment of persons displaced or whose property is acquired as a result of Federal and federally-assisted programs. These requirements apply to all interests in real property acquired for project purposes regardless of Federal participation in purchases.
12. Will comply with the provisions of the Hatch Act (5 U.S.C. §§1501-1508 and 7324-7328) which limit the political activities of employees whose principal employment activities are funded in whole or in part with Federal funds.
13. Will comply, as applicable, with the provisions of the Davis-Bacon Act (40 U.S.C. §§276a to 276a-7), the Copeland Act (40 U.S.C. §276c and 18 U.S.C. §874), and the Contract Work Hours and Safety Standards Act (40 U.S.C. §§327-333) regarding labor standards for federally-assisted construction subagreements.
14. Will comply with flood insurance purchase requirements of Section 102(a) of the Flood Disaster Protection Act of 1973 (P.L. 93-234) which requires recipients in a special flood hazard area to participate in the program and to purchase flood insurance if the total cost of insurable construction and acquisition is \$10,000 or more.
15. Will comply with environmental standards which may be prescribed pursuant to the following: (a) institution of environmental quality control measures under the National Environmental Policy Act of 1969 (P.L. 91-190) and Executive Order (EO) 11614; (b) notification of violating facilities pursuant to EO 11738; (c) protection of wetlands pursuant to EO 11990; (d) evaluation of flood hazards in floodplains in accordance with EO 11988; (e) assurance of project consistency with the approved State management program developed under the Coastal Zone Management Act of 1972 (16 U.S.C. §§1451 et seq.); (f) conformity of Federal actions to State (Clean Air) Implementation Plans under Section 176(c) of the Clean Air Act of 1955, as amended (42 U.S.C. §§7401 et seq.); (g) protection of underground sources of drinking water under the Safe Drinking Water Act of 1974, as amended (P.L. 93-523); and, (h) protection of endangered species under the Endangered Species Act of 1973, as amended (P.L. 93-205).
16. Will comply with the Wild and Scenic Rivers Act of 1968 (16 U.S.C. §§1271 et seq.) related to protecting components or potential components of the national wild and scenic rivers system.
17. Will assist the awarding agency in assuring compliance with Section 106 of the National Historic Preservation Act of 1966, as amended (16 U.S.C. §470), EO 11593 (identification and protection of historic properties), and the Archaeological and Historic Preservation Act of 1974 (16 U.S.C. §§469a-1 et seq.).
18. Will cause to be performed the required financial and compliance audits in accordance with the Single Audit Act Amendments of 1996 and OMB Circular No. A-133, "Audits of States, Local Governments, and Non-Profit Organizations."
19. Will comply with all applicable requirements of all other Federal laws, executive orders, regulations, and policies governing this program.

SIGNATURE OF AUTHORIZED CERTIFYING OFFICIAL 		TITLE County Administrator	
APPLICANT ORGANIZATION Richland County		DATE SUBMITTED March 16, 2010	

SF-424D (Rev. 7-97) Back

APPLICATION FOR FEDERAL ASSISTANCE

Version 7/03

1. TYPE OF SUBMISSION: Application		2. DATE SUBMITTED 7/18/12	Applicant Identifier
☐ Construction		3. DATE RECEIVED BY STATE	State Application Identifier
☐ Non-Construction		4. DATE RECEIVED BY FEDERAL AGENCY	Federal Identifier
5. APPLICANT INFORMATION			
Legal Name: Richland County		Organizational Unit: Department: Utilities	
Organizational DUNS: 073709883		Division: Administration	
Address: Street: 2020 Hampton Street		Name and telephone number of person to be contacted on matters involving this application (give area code) Prefix: First Name: Andy	
City: Columbia		Middle Name H.	
County: Richland		Last Name Matis	
State: SC		Suffix:	
Zip Code 29202		Email: matisa@rcgov.us	
Country: USA: United States		Phone Number (give area code) 803-401-0050	
6. EMPLOYER IDENTIFICATION NUMBER (EIN): 57-0000308		Fax Number (give area code) 803-401-0030	
8. TYPE OF APPLICATION: ☒ New ☐ Continuation ☐ Revision If Revision, enter appropriate letter(s) in box(es) (See back of form for description of letters.) Other (specify)		7. TYPE OF APPLICANT: (See back of form for Application Types) County Other (specify)	
10. CATALOG OF FEDERAL DOMESTIC ASSISTANCE NUMBER: TITLE (Name of Program): 10-700		9. NAME OF FEDERAL AGENCY: USDA, Rural Development	
12. AREAS AFFECTED BY PROJECT (Cities, Counties, States, etc.): Lower Richland County		11. DESCRIPTIVE TITLE OF APPLICANT'S PROJECT: Sewer System Improvements, Hopkins Service Area	
13. PROPOSED PROJECT Start Date: 03/15/2013		14. CONGRESSIONAL DISTRICTS OF: a. Applicant SC-02	
Ending Date: 09/15/2014		b. Project SC-06	
15. ESTIMATED FUNDING:		16. IS APPLICATION SUBJECT TO REVIEW BY STATE EXECUTIVE ORDER 12372 PROCESS?	
a. Federal	\$ 16,181,100	a. Yes. ☒ THIS PREAPPLICATION/APPLICATION WAS MADE AVAILABLE TO THE STATE EXECUTIVE ORDER 12372 PROCESS FOR REVIEW ON	
b. Applicant	\$ 966,000	DATE:	
c. State	\$ 0	b. No. ☐ PROGRAM IS NOT COVERED BY E. O. 12372	
d. Local	\$ 0	☐ OR PROGRAM HAS NOT BEEN SELECTED BY STATE FOR REVIEW	
e. Other	\$ 0	17. IS THE APPLICANT DELINQUENT ON ANY FEDERAL DEBT?	
f. Program Income	\$ 0	☐ Yes If "Yes" attach an explanation. ☒ No	
g. TOTAL	\$ 17,147,100		
18. TO THE BEST OF MY KNOWLEDGE AND BELIEF, ALL DATA IN THIS APPLICATION/PREAPPLICATION ARE TRUE AND CORRECT. THE DOCUMENT HAS BEEN DULY AUTHORIZED BY THE GOVERNING BODY OF THE APPLICANT AND THE APPLICANT WILL COMPLY WITH THE ATTACHED ASSURANCES IF THE ASSISTANCE IS AWARDED.			
a. Authorized Representative			
Prefix		First Name Andy	
Last Name Matis		Middle Name H.	
b. Title Director of Utilities		Suffix	
c. Telephone Number (give area code) 803-401-0050		d. Date Signed 7/18/12	

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Standard Form 424 (Rev.8-2003)
Prescribed by OMB Circular A-102

INSTRUCTIONS FOR THE SF-424

Public reporting burden for this collection of information is estimated to average 45 minutes per response, including time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding the burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to the Office of Management and Budget, Paperwork Reduction Project (0348-0043), Washington, DC 20503.

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Item:	Entry:	Item:	Entry:
1.	Select Type of Submission.	11.	Enter a brief descriptive title of the project. If more than one program is involved, you should append an explanation on a separate sheet. If appropriate (e.g., construction or real property projects), attach a map showing project location. For preapplications, use a separate sheet to provide a summary description of this project.
2.	Date application submitted to Federal agency (or State if applicable) and applicant's control number (if applicable).	12.	List only the largest political entities affected (e.g., State, counties, cities).
3.	State use only (if applicable).	13.	Enter the proposed start date and end date of the project.
4.	Enter Date Received by Federal Agency Federal Identifier number: If this application is a continuation or revision to an existing award, enter the present Federal Identifier number. If for a new project, leave blank.	14.	List the applicant's Congressional District and any District(s) affected by the program or project.
5.	Enter legal name of applicant, name of primary organizational unit (including division, if applicable), which will undertake the assistance activity, enter the organization's DUNS number (received from Dun and Bradstreet), enter the complete address of the applicant (including country), and name, telephone number, e-mail and fax of the person to contact on matters related to this application.	15.	Amount requested or to be contributed during the first funding/budget period by each contributor. Value of in kind contributions should be included on appropriate lines as applicable. If the action will result in a dollar change to an existing award, indicate only the amount of the change. For decreases, enclose the amounts in parentheses. If both basic and supplemental amounts are included, show breakdown on an attached sheet. For multiple program funding, use totals and show breakdown using same categories as item 15.
6.	Enter Employer Identification Number (EIN) as assigned by the Internal Revenue Service.	16.	Applicants should contact the State Single Point of Contact (SPOC) for Federal Executive Order 12372 to determine whether the application is subject to the State intergovernmental review process.
7.	Select the appropriate letter in the space provided. A. State B. County C. Municipal D. Township E. Interstate F. Intermunicipal G. Special District H. Independent School District I. State Controlled Institution of Higher Learning J. Private University K. Indian Tribe L. Individual M. Profit Organization N. Other (Specify) O. Not for Profit Organization	17.	This question applies to the applicant organization, not the person who signs as the authorized representative. Categories of debt include delinquent audit disallowances, loans and taxes.
8.	Select the type from the following list: "New" means a new assistance award. "Continuation" means an extension for an additional funding/budget period for a project with a projected completion date. "Revision" means any change in the Federal Government's financial obligation or contingent liability from an existing obligation. If a revision enter the appropriate letter: A. Increase Award C. Increase Duration B. Decrease Award D. Decrease Duration	18.	To be signed by the authorized representative of the applicant. A copy of the governing body's authorization for you to sign this application as official representative must be on file in the applicant's office. (Certain Federal agencies may require that this authorization be submitted as part of the application.)
9.	Name of Federal agency from which assistance is being requested with this application.		
10.	Use the Catalog of Federal Domestic Assistance number and title of the program under which assistance is requested.		

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Budget Information—Construction Programs

OMB Approval No. 0348-0041

Notes: Certain Federal assistance programs require additional computations to arrive at the Federal share of project costs eligible for participation. If such is the case you will be notified.

Cost Classification	a. Total Cost	b. Costs Not Allowable for Participation	c. Total Allowable Costs (Column a-b)
1. Administrative and legal expenses	\$.00	\$.00	\$.00
2. Land, structures, right-of-way, appraisals, etc.	\$.00	\$.00	\$.00
3. Relocation expenses and payments	\$.00	\$.00	\$.00
4. Architectural and engineering fees	\$.00	\$.00	\$.00
5. Other architectural and engineering fees	\$.00	\$.00	\$.00
6. Project inspection fees	\$.00	\$.00	\$.00
7. Site work	\$ SEE ATTACHED	\$.00	\$.00
8. Demolition and removal	\$ COST ESTIMATE	\$.00	\$.00
9. Construction	\$.00	\$.00	\$.00
10. Equipment	\$.00	\$.00	\$.00
11. Miscellaneous	\$.00	\$.00	\$.00
12. Subtotal	\$.00	\$.00	\$.00
13. Contingencies (sum of lines 1-11)	\$.00	\$.00	\$.00
14. Subtotal	\$.00	\$.00	\$.00
15. Project (program) income	\$.00	\$.00	\$.00
16. Total Project Costs (subtract #15 from #14)	\$.00	\$.00	\$.00
Federal Funding			

17. Federal assistance requested, calculate as follows: Enter eligible costs from line 16c _____ Multiply x _____ %
(Consult Federal agency for Federal percentage share).
Enter the resulting Federal share. _____

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Page 1 of 2
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SF-424C (Rev. 4/82)
Prescribed by OMB Circular A-102

Instructions for HUD-424C

Public reporting burden for this collection of information is estimated to average 3 hours per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing this collection of information. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden to the Office of Management and Budget, Paperwork Reduction Project (0348-0041), Washington, D.C. 20503. Please do not return your completed form to the Office of Management and Budget; send it to the address provided by the sponsoring agency.

This sheet is to be used for the following types of applications: (1) "New" (means a new [previously unfunded] assistance award); (2) "Continuation" (means funding in a succeeding budget period which stemmed from a prior agreement to fund); and (3) "Revised" (means any changes in the Federal government's financial obligations or contingent liability from an existing obligation). If there is no change in the award amount there is no need to complete this form. Certain Federal agencies may require only an explanatory letter to effect minor (no cost) changes. If you have questions please contact the Federal agency.

Column a.—If this is an application for a "New" project, enter the total estimated cost of each of the items listed on lines 1 through 16 (as applicable) under "Cost Classifications." If this application entails a change to an existing award, enter the eligible amounts approved under the previous award for the items under "Cost Classification."

Column b.—If this is an application for a "New" project, enter that portion of the cost of each item in Column a. which is not allowable for Federal assistance. Contact the Federal agency for assistance in determining the allowability of specific costs.

If this application entails a change to an existing award, enter the adjustment (+ or -) to the previously approved costs (from column a.) reflected in this application.

Column c.—This is the net of lines 1 through 16 in columns "a." and "b."

Line 1—Enter estimated amounts needed to cover administrative expenses. Do not include costs which are related to the normal functions of government. Allowable legal costs are generally only those associated with the purchase of land which is allowable for Federal participation and certain services in support of construction of the project.

Line 2—Enter estimated site and right(s)-of-way acquisition costs (this includes purchase, lease, and/or easements).

Line 3—Enter estimated costs related to relocation advisory assistance, replacement housing, relocation payments to displaced persons and businesses, etc.

Line 4—Enter estimated basic engineering fees related to construction (this includes start-up services and preparation of project performance work plan).

Line 5—Enter estimated engineering costs, such as surveys, tests, soil borings, etc.

Line 6—Enter estimated engineering inspection costs.

Line 7—Enter estimated costs of site preparation and restoration which are not included in the basic construction contract.

Line 9—Enter estimated cost of the construction contract.

Line 10—Enter estimated cost of office, shop, laboratory, safety equipment, etc. to be used at the facility, if such costs are not included in the construction contract.

Line 11—Enter estimated miscellaneous costs.

Line 12—Total of lines 1 through 11.

Line 13—Enter estimated contingency costs. (Consult the Federal agency for the percentages of the estimated construction cost to use.)

Line 14—Enter the total of lines 12 and 13.

Line 15—Enter estimated program income to be earned during the grant period, e.g., salvaged materials, etc.

Line 16—Subtract line 15 from line 14.

Item 17—This block is for the computation of the Federal share. Multiply the total allowable project costs from line 16, column "c." by the Federal percentage share (this may be up to 100 percent; consult Federal agency for Federal percentage share) and enter the product on line 17.

**Richland County Utilities Department
Lower Richland Sewer System
Preliminary Engineering Report
July 2012**

Exhibit 6
1 of 3

**Cost Estimate
Phase 1**

Item	Quantity	Unit	Unit Price	Total
24" PVC Gravity Sewer	2,500	LF	\$120	\$300,000
12" PVC Gravity Sewer	2,800	LF	\$60	\$168,000
8" PVC Gravity Sewer	17,500	LF	\$33	\$577,500
4' Precast Manhole	76	EA	\$5,000	\$380,000
Duplex Pump Station (1.3 MGD)	1	LS	\$1,200,000	\$1,200,000
Duplex Pump Station	3	LS	\$250,000	\$750,000
Goose Branch Pump Station Upgrade	1	LS	\$500,000	\$500,000
16" PVC Force Main	58,300	LF	\$58	\$3,381,400
12" PVC Force Main	13,900	LF	\$45	\$625,500
6" PVC Force Main	14,400	LF	\$25	\$360,000
4" PVC Force Main	5,500	LF	\$21	\$115,500
18" HDPE - Sewer Force Main	2,000	LF	\$400	\$800,000
8" HDPE - Sewer Force Main	500	LF	\$240	\$120,000
Sewer Combination Air Valve in MH	20	EA	\$4,600	\$92,000
16" Plug Valve	15	EA	\$6,000	\$90,000
12" Plug Valve	3	EA	\$4,000	\$12,000
6" Plug Valve	19	EA	\$2,000	\$38,000
4" Plug Valve	2	EA	\$1,000	\$2,000
Bore & Jack Steel Casing - 36"	692	LF	\$500	\$346,000
Bore & Jack Steel Casing - 24"	464	LF	\$340	\$157,800
Bore & Jack Steel Casing - 16"	336	LF	\$175	\$58,800
Bore & Jack Steel Casing - 12"	300	LF	\$150	\$45,000
Remove & Replace Gravel Driveways	6,680	LF	\$12	\$80,200
Remove & Replace Asphalt Driveways	6,010	LF	\$22	\$132,200
Remove & Replace Asphalt Roadway	1,400	LF	\$30	\$42,000
Service Connections (gravity)	92	EA	\$4,000	\$368,000
Mobilization	1	LS	\$100,000	\$100,000
Sediment & Erosion Control	114,900	LF	\$6	\$689,400
Total Estimated Construction Cost				\$11,531,300
Construction Contingency			10%	\$1,153,100
Engineering Fee (Design)			6.1%	\$703,400
Survey	1	LS	\$350,000	\$350,000
Geotechnical	1	LS	\$175,000	\$175,000
Engineering Fee (Construction)			4.0%	\$460,000
Railroad Agreement Fees	3	EA	\$15,000	\$45,000
Land Purchase/Easements	1.6	Acre	\$20,000	\$32,000
Legal	5	LS	\$5,000	\$25,000
City of Columbia Fees	1057	EA	\$800	\$845,600
24 months interest	1	LS	\$860,700	\$860,700
Estimated Total Cost				\$ 16,181,100

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DATE: 07/18/2012

SEE ATTACHED

(APPLICANT OFFICIAL)

NAME OF APPLICANT SSS

RICHLAND COUNTY, SOUTH CAROLINA
RATIOS OF OUTSTANDING DEBT BY TYPE
LAST TEN FISCAL YEARS
(Amounts shown in thousands, except per capita amount)

Table 10

Fiscal Year	Governmental Activities					Business-type Activities			Total Primary Government	Percentage of Personal Income (a)	Per Capita (a)
	General Obligation Bonds	Special Assessment Bonds	Certificates of Participation	Capital Leases	Notes Payable	General Obligation Bonds	Mortgage Note	Other Long Term Liabilities			
2002	\$ 64,422	\$ 5,470	\$ 1,605	\$ 74	\$ 1,587	\$ 6,205	\$ -	\$ -	\$ 79,363	0.86%	243.09
2003	63,521	8,175	1,605	241	1,322	5,945	-	-	80,809	0.85%	245.00
2004	58,785	9,392	1,605	192	1,415	21,345	6,233	-	98,967	0.97%	295.10
2005	37,214	8,380	1,375	337	1,140	21,000	6,022	-	95,468	0.86%	278.22
2006	49,375	8,525	1,130	179	858	20,585	-	5,000	85,652	0.71%	247.98
2007	51,235	27,723	870	34	880	37,120	-	5,376	123,238	0.97%	350.40
2008	48,670	27,445	595	312	554	39,375	-	-	116,951	0.89%	324.72
2009	46,075	26,200	305	173	394	36,147	-	-	109,369	0.81%	298.47
2010	42,880	23,432	-	173	320	35,473	-	-	102,278	0.76%	274.92
2011	47,305	22,485	-	80	241	34,670	-	-	104,781	0.78%	272.51

Notes:

2011 Percentage of Personal Income are computed using 2010 personal income data, which is the most recent available
 (a) - Personal income data and population data can be found on Table 14

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RICHLAND COUNTY, SOUTH CAROLINA
DIRECT AND OVERLAPPING GOVERNMENTAL ACTIVITIES DEBT
As of June 30, 2011

Table 11

Governmental Unit Cities:	Assessed Value	General Bonded Debt Outstanding		
		Debt Outstanding	Estimated Percentage Applicable (a)	Estimated Share of Direct and Overlapping Debt (a)
Columbia	\$ 497,362,979	\$ 30,055,000	94.60%	\$ 28,432,030
School Districts:				
School District One	786,984,736	496,865,000	100.00%	496,865,000
School District Two	518,489,776	418,170,000	100.00%	418,170,000
School District Five	446,654,368	129,795,000	39.20%	50,844,360
Total school districts	1,752,128,880	1,044,740,000		965,879,360
Special districts and others:				
Recreation District	1,010,034,191	36,946,897	100.00%	36,946,897
Richland/Lexington Riverbanks Park District	2,468,444,750	10,125,000	60.00%	6,075,000
East Richland County Public Sewer District	238,991,309	10,195,347	100.00%	10,195,347
Subtotal, overlapping dept		1,132,062,244		1,047,528,634
Total direct debt	\$ 1,480,613,010	\$ 47,305,000	100.00%	\$ 47,305,000
Total direct and overlapping debt		\$ 1,179,367,244		\$ 1,094,833,634

Source: Richland County Treasurer & Richland County Auditor

(a) - Overlapping Debt is computed by determining the percentage of property for each governing body that lies within Richland County, then multiplying that percentage to the total debt outstanding of each governing body.

**RICHLAND COUNTY, SOUTH CAROLINA
LEGAL DEBT MARGIN
LAST TEN FISCAL YEARS**

Table 12

	Fiscal Year									
	2002	2003	2004	2005	2006	2007	2008	2009	2010	2011
Total assessed valuation	\$ 1,031,426,388	\$ 1,042,271,460	\$ 1,037,190,743	\$ 1,037,076,346	\$ 1,202,805,693	\$ 1,250,371,910	\$ 1,316,008,321	\$ 1,378,994,410	\$ 1,487,350,825	\$ 1,480,613,010
Debt limit, 8% of assessed value (secondary limitations)	\$2,314,127	\$1,381,717	\$2,975,259	\$4,566,108	\$6,224,455	\$10,028,753	\$10,684,682	\$11,031,953	\$18,988,066	\$18,449,041
Amount of debt applicable to limit Less excluded debt	68,892,286 (22,300,776)	71,808,690 (23,462,923)	71,387,167 (24,372,653)	65,013,553 (17,967,324)	56,070,030 (15,195,009)	50,359,000 (12,890,009)	51,960,000 (10,425,000)	46,380,000 (7,847,500)	42,880,000 (3,227,500)	47,206,000 (3,365,000)
Total net debt applicable to limit	47,591,510	48,345,737	47,014,484	47,046,229	40,875,030	37,469,000	41,535,000	38,532,500	37,652,500	43,841,000
Legal debt margin	\$ 34,922,617	\$ 35,035,689	\$ 35,966,775	\$ 37,519,879	\$ 56,349,425	\$ 62,979,750	\$ 66,349,682	\$ 71,781,483	\$ 81,305,966	\$ 74,808,041
Total net debt applicable to the limit as a percentage of debt limit	57.7%	58.0%	56.7%	55.6%	42.5%	37.4%	38.9%	34.9%	31.6%	37.1%

Source: Richland County Treasurer

RICHLAND COUNTY, SOUTH CAROLINA
RATIOS OF GENERAL BONDED DEBT OUTSTANDING
LAST TEN FISCAL YEARS
(amounts shown in thousands, except per capita amount)

Table 13

<u>Fiscal Year</u>	<u>General Obligation Bonds</u>	<u>LESS: Amounts Restricted to Repaying Debt Principal</u>	<u>Total</u>	<u>Percentage of Estimated Actual Taxable Value of Property (a)</u>	<u>Per Capita (b)</u>
2002	70,627	3,470	67,157	0.39%	205.71
2003	69,466	5,576	63,890	0.36%	193.70
2004	80,130	5,685	74,445	0.42%	221.98
2005	78,214	7,437	70,777	0.38%	206.27
2006	69,960	8,211	61,749	0.28%	178.78
2007	88,355	7,160	81,195	0.36%	230.86
2008	88,045	6,977	81,068	0.33%	225.09
2009	82,222	7,130	75,092	0.30%	204.93
2010	78,353	8,834	69,519	0.25%	186.87
2011	81,975	-	81,975	0.29%	213.20

Notes:

(a) See Table 6 for property value data

(b) See Table 14 for population data

Lower Richland Sewer Revenue/Expenditure Projections

Assumptions	Number Customers Connected	Year	new customer connections per year				Monthly User Fee	Monthly User Revenue	Monthly Tap Fee Revenue	Other Revenue	Total Monthly Revenue	Monthly O & M Expense	Monthly Capital Expense	Annual Depreciation Expense	Debt Service Expense	Total Monthly Expense	Monthly Surplus or Deficit	Total Cumulative Funds W/Depreciation	Debt Service Ratio
			120	120	120	120													
#1			\$12,000,000.00 bond issue for 30 yrs at 4.0% to construct phase I in FY 2012																
#2			\$3,600,000.00 bond issue for 30 yrs at 4.0% to construct phase II in FY 2014																
#3			\$3,600,000.00 bond issue for 30 yrs at 4.0% to construct phase III in FY 2015																
#4			\$2,700,000.00 bond issue for 30 yrs at 4.0% to construct phase IV in FY 2016																
#5			\$2,700,000.00 bond issue for 30 yrs at 4.0% to construct phase V in FY 2017																
#6			\$12,000,000 + \$2,700,000 = \$14,700,000 bond issue in 2012 debt service \$550.00																
#7			Assume \$3,000.00 tap fee thru 2013, \$3,500 thru 2017, \$4,000 thereafter																
	1227	TOTALS FY 11/12	\$38.00	\$840,704.00	\$880,000.00	\$812,000.00	\$1,512,704.00	\$1,512,704.00	\$0.00	\$0.00	\$1,512,704.00	\$219,291.96	\$24,000.00	\$8,057.00	\$812,000.00	\$860,348.96	\$752,355.04	\$752,355.04	N/A
	1347	TOTALS FY 12/13	\$37.06	\$769,286.32	\$360,000.00	\$0.00	\$1,069,286.32	\$0.00	\$0.00	\$1,069,286.32	\$241,221.15	\$22,000.00	\$10,955.97	\$9,982.70	\$1,105,000.00	\$1,155,184.82	(\$48,898.50)	\$683,458.54	1.77
	1467	TOTALS FY 13/14	\$35.19	\$761,532.03	\$420,000.00	\$0.00	\$1,201,532.03	\$0.00	\$0.00	\$1,201,532.03	\$285,343.27	\$24,000.00	\$10,955.97	\$10,955.97	\$1,105,000.00	\$1,405,608.31	(\$203,971.28)	\$459,487.26	1.44
	1587	TOTALS FY 14/15	\$39.34	\$857,592.95	\$420,000.00	\$0.00	\$1,277,592.95	\$0.00	\$0.00	\$1,277,592.95	\$291,577.80	\$26,000.00	\$12,054.67	\$12,054.67	\$1,105,000.00	\$1,455,693.94	(\$137,363.99)	\$391,528.67	1.31
	1707	TOTALS FY 15/16	\$40.52	\$937,635.12	\$420,000.00	\$0.00	\$1,357,635.12	\$0.00	\$0.00	\$1,357,635.12	\$321,065.35	\$29,000.00	\$13,260.35	\$13,260.35	\$1,105,000.00	\$1,488,690.00	(\$110,973.86)	\$190,552.69	1.22
	1827	TOTALS FY 16/17	\$41.73	\$1,021,528.94	\$420,000.00	\$0.00	\$1,441,528.94	\$0.00	\$0.00	\$1,441,528.94	\$353,171.89	\$32,000.00	\$14,556.39	\$14,556.39	\$1,105,000.00	\$1,504,669.90	(\$53,140.96)	\$127,411.73	1.18
	1947	TOTALS FY 17/18	\$42.99	\$1,110,395.46	\$480,000.00	\$0.00	\$1,590,395.46	\$0.00	\$0.00	\$1,590,395.46	\$385,452.76	\$35,000.00	\$16,045.03	\$16,045.03	\$1,242,000.00	\$1,581,958.89	(\$31,616.41)	\$35,798.32	1.10
	2067	TOTALS FY 18/19	\$44.26	\$1,200,388.69	\$480,000.00	\$0.00	\$1,680,388.69	\$0.00	\$0.00	\$1,680,388.69	\$427,337.59	\$38,000.00	\$17,849.53	\$17,849.53	\$1,242,000.00	\$1,726,983.69	(\$42,576.69)	(\$5,780.67)	1.06
	2187	TOTALS FY 19/20	\$45.60	\$1,301,125.66	\$480,000.00	\$0.00	\$1,781,125.66	\$0.00	\$0.00	\$1,781,125.66	\$470,071.79	\$42,000.00	\$19,414.49	\$19,414.49	\$1,242,000.00	\$1,774,358.94	\$9,765.71	(\$14.06)	1.10
	2307	TOTALS FY 20/21	\$46.97	\$1,403,768.06	\$480,000.00	\$0.00	\$1,883,768.06	\$0.00	\$0.00	\$1,883,768.06	\$517,078.97	\$47,000.00	\$21,353.93	\$21,353.93	\$1,242,000.00	\$1,827,566.93	\$66,170.93	\$36,156.06	1.15
	2427	TOTALS FY 21/22	\$48.38	\$1,511,518.49	\$480,000.00	\$0.00	\$1,991,518.49	\$0.00	\$0.00	\$1,991,518.49	\$569,798.87	\$51,000.00	\$23,491.29	\$23,491.29	\$1,242,000.00	\$1,886,155.82	\$105,360.96	\$161,517.03	1.27
	2547	TOTALS FY 22/23	\$49.83	\$1,624,538.67	\$480,000.00	\$0.00	\$2,104,538.67	\$0.00	\$0.00	\$2,104,538.67	\$626,068.05	\$57,000.00	\$26,040.68	\$26,040.68	\$1,242,000.00	\$1,950,571.08	\$154,077.59	\$315,534.62	
	2667	TOTALS FY 23/24	\$51.33	\$1,743,205.77	\$480,000.00	\$0.00	\$2,223,205.77	\$0.00	\$0.00	\$2,223,205.77	\$688,232.11	\$62,000.00	\$29,424.76	\$29,424.76	\$1,242,000.00	\$2,021,426.18	\$201,777.69	\$517,512.21	
	2787	TOTALS FY 24/25	\$52.87	\$1,867,698.73	\$480,000.00	\$0.00	\$2,347,698.73	\$0.00	\$0.00	\$2,347,698.73	\$757,053.32	\$68,000.00	\$33,369.42	\$33,369.42	\$1,242,000.00	\$2,093,571.00	\$246,227.73	\$765,539.93	
	2907	TOTALS FY 25/26	\$54.45	\$1,998,007.35	\$480,000.00	\$0.00	\$2,478,007.35	\$0.00	\$0.00	\$2,478,007.35	\$832,760.66	\$76,000.00	\$37,953.31	\$37,953.31	\$1,242,000.00	\$2,166,108.10	\$292,659.24	\$1,058,439.18	
																		\$1,346,262.7	

Lower Richland Sewer Revenue/Expenditure Projections

Assumptions	120	new customer connections per year	per mo 10	88	Fin-Chem continues to pay \$7,700.00 per month The Town of Eastover pays \$3,500.00 per month Assume initial monthly user fee rate of \$50.00 Operating, Capital and Depreciation expenses increase at a rate of 10% per year Assume monthly user fee rate increases at 9% per year Assume 1987 City cost, and 80 Franklin Park cost, as inflated cost. Assume instant only payment in FY 2012 at \$207,750	Monthly O & M Expense	Total Monthly Revenue	Monthly User Revenue	Monthly Tap Fee Revenue	Other Revenue	Monthly Capital Expense	Annual Depreciation Expense	Debit Services Expense	Total Monthly Expense	Monthly Surplus or Deficit	Total Cumulative Funds	Total Cumulative Funds W/Depreciation	Debit Services Ratio
#1	120	\$12,000,000 bond issue for 20 yrs at 1.5 % to construct phase I in FY 2012		#8		\$13,274.35	\$31,412.00	\$31,412.00	\$30,000.00	\$0.00	\$1,666.06	\$754.75	\$0.00	\$23,685.74	\$50,715.25	\$50,715.25	\$50,715.25	
#2	120	\$2,000,000 bond issue for 20 yrs at 1.5% to construct phase II in FY 2012		#9		\$15,271.25	\$31,772.00	\$31,772.00	\$30,000.00	\$0.00	\$1,666.06	\$754.75	\$0.00	\$23,685.74	\$51,076.35	\$51,076.35	\$51,076.35	
#3	120	\$2,000,000 bond issue for 20 yrs at 1.5% to construct phase III in FY 2012		#10		\$15,271.35	\$32,132.00	\$32,132.00	\$30,000.00	\$0.00	\$1,666.06	\$754.75	\$0.00	\$23,685.74	\$51,432.40	\$51,432.40	\$51,432.40	
#4	120	\$2,000,000 bond issue for 20 yrs at 1.5% to construct phase III in FY 2012		#11		\$15,271.35	\$32,492.00	\$32,492.00	\$30,000.00	\$0.00	\$1,666.06	\$754.75	\$0.00	\$23,685.74	\$51,788.50	\$51,788.50	\$51,788.50	
#5	120	\$1,000,000 + \$1,600,000 = \$2,600,000 bond issue in 2012 debt service \$600,705		#12		\$15,271.35	\$32,852.00	\$32,852.00	\$30,000.00	\$0.00	\$1,666.06	\$754.75	\$0.00	\$23,685.74	\$52,144.60	\$52,144.60	\$52,144.60	
#6	120	\$1,000,000 + \$1,600,000 = \$2,600,000 bond issue in 2012 debt service \$600,705		#13		\$15,271.35	\$33,212.00	\$33,212.00	\$30,000.00	\$0.00	\$1,666.06	\$754.75	\$0.00	\$23,685.74	\$52,500.70	\$52,500.70	\$52,500.70	
#7	120	Assume \$2,000.00 tap fee thru 2013, \$4,000 thru 2017, \$4,000 thereafter		#14		\$15,274.35	\$33,572.00	\$33,572.00	\$30,000.00	\$0.00	\$1,666.06	\$754.75	\$207,750.00	\$228,446.52	\$544,005.04	\$544,005.04	\$544,005.04	N/A
						\$219,251.96	\$1,000,704.00	\$640,704.00	\$360,000.00	\$0.00	\$20,000.00	\$9,057.50	\$207,750.00	\$228,446.52	\$544,005.04	\$544,005.04	\$544,005.04	
						Total Depreciation												
1-Jul-12	1247	\$37.00	\$37,057.06	\$30,000.00	\$0.00	\$37,057.06	\$37,057.06	\$37,057.06	\$30,000.00	\$0.00	\$1,833.41	\$830.23	\$0.00	\$22,765.40	\$54,800.46	\$54,800.46	\$54,800.46	
1-Aug-12	1247	\$37.00	\$37,417.06	\$30,000.00	\$0.00	\$37,417.06	\$37,417.06	\$37,417.06	\$30,000.00	\$0.00	\$1,833.41	\$830.23	\$0.00	\$22,765.40	\$55,156.56	\$55,156.56	\$55,156.56	
1-Sep-12	1247	\$37.00	\$37,777.06	\$30,000.00	\$0.00	\$37,777.06	\$37,777.06	\$37,777.06	\$30,000.00	\$0.00	\$1,833.41	\$830.23	\$0.00	\$22,765.40	\$55,512.66	\$55,512.66	\$55,512.66	
1-Oct-12	1247	\$37.00	\$38,137.06	\$30,000.00	\$0.00	\$38,137.06	\$38,137.06	\$38,137.06	\$30,000.00	\$0.00	\$1,833.41	\$830.23	\$0.00	\$22,765.40	\$55,868.76	\$55,868.76	\$55,868.76	
1-Nov-12	1247	\$37.00	\$38,497.06	\$30,000.00	\$0.00	\$38,497.06	\$38,497.06	\$38,497.06	\$30,000.00	\$0.00	\$1,833.41	\$830.23	\$0.00	\$22,765.40	\$56,224.86	\$56,224.86	\$56,224.86	
1-Dec-12	1247	\$37.00	\$38,857.06	\$30,000.00	\$0.00	\$38,857.06	\$38,857.06	\$38,857.06	\$30,000.00	\$0.00	\$1,833.41	\$830.23	\$0.00	\$22,765.40	\$56,580.96	\$56,580.96	\$56,580.96	
1-Jan-13	1247	\$37.00	\$39,217.06	\$30,000.00	\$0.00	\$39,217.06	\$39,217.06	\$39,217.06	\$30,000.00	\$0.00	\$1,833.41	\$830.23	\$0.00	\$22,765.40	\$56,937.06	\$56,937.06	\$56,937.06	
1-Feb-13	1247	\$37.00	\$39,577.06	\$30,000.00	\$0.00	\$39,577.06	\$39,577.06	\$39,577.06	\$30,000.00	\$0.00	\$1,833.41	\$830.23	\$0.00	\$22,765.40	\$57,293.16	\$57,293.16	\$57,293.16	
1-Mar-13	1247	\$37.00	\$40,000.00	\$30,000.00	\$0.00	\$40,000.00	\$40,000.00	\$40,000.00	\$30,000.00	\$0.00	\$1,833.41	\$830.23	\$0.00	\$22,765.40	\$57,649.26	\$57,649.26	\$57,649.26	
1-Apr-13	1247	\$37.00	\$40,422.22	\$30,000.00	\$0.00	\$40,422.22	\$40,422.22	\$40,422.22	\$30,000.00	\$0.00	\$1,833.41	\$830.23	\$0.00	\$22,765.40	\$58,005.36	\$58,005.36	\$58,005.36	
1-May-13	1247	\$37.00	\$40,844.44	\$30,000.00	\$0.00	\$40,844.44	\$40,844.44	\$40,844.44	\$30,000.00	\$0.00	\$1,833.41	\$830.23	\$0.00	\$22,765.40	\$58,361.46	\$58,361.46	\$58,361.46	
1-Jun-13	1247	\$37.00	\$41,266.67	\$30,000.00	\$0.00	\$41,266.67	\$41,266.67	\$41,266.67	\$30,000.00	\$0.00	\$1,833.41	\$830.23	\$0.00	\$22,765.40	\$58,717.56	\$58,717.56	\$58,717.56	
TOTALS FY 12/13	1347	\$37.00	\$709,250.32	\$360,000.00	\$0.00	\$1,069,250.32	\$709,250.32	\$449,250.32	\$360,000.00	\$0.00	\$22,000.57	\$9,057.50	\$207,750.00	\$228,446.52	\$1,000,000.00	\$1,000,000.00	\$1,000,000.00	1.09
1-Jul-13	1347	\$38.19	\$43,027.09	\$35,000.00	\$0.00	\$43,027.09	\$43,027.09	\$43,027.09	\$35,000.00	\$0.00	\$2,016.78	\$913.25	\$0.00	\$25,041.94	\$72,065.14	\$72,065.14	\$72,065.14	
1-Aug-13	1347	\$38.19	\$43,408.01	\$35,000.00	\$0.00	\$43,408.01	\$43,408.01	\$43,408.01	\$35,000.00	\$0.00	\$2,016.78	\$913.25	\$0.00	\$25,041.94	\$72,421.24	\$72,421.24	\$72,421.24	
1-Sep-13	1347	\$38.19	\$43,788.93	\$35,000.00	\$0.00	\$43,788.93	\$43,788.93	\$43,788.93	\$35,000.00	\$0.00	\$2,016.78	\$913.25	\$0.00	\$25,041.94	\$72,777.34	\$72,777.34	\$72,777.34	
1-Oct-13	1347	\$38.19	\$44,169.86	\$35,000.00	\$0.00	\$44,169.86	\$44,169.86	\$44,169.86	\$35,000.00	\$0.00	\$2,016.78	\$913.25	\$0.00	\$25,041.94	\$73,133.44	\$73,133.44	\$73,133.44	
1-Nov-13	1347	\$38.19	\$44,550.78	\$35,000.00	\$0.00	\$44,550.78	\$44,550.78	\$44,550.78	\$35,000.00	\$0.00	\$2,016.78	\$913.25	\$0.00	\$25,041.94	\$73,489.54	\$73,489.54	\$73,489.54	
1-Dec-13	1347	\$38.19	\$44,931.71	\$35,000.00	\$0.00	\$44,931.71	\$44,931.71	\$44,931.71	\$35,000.00	\$0.00	\$2,016.78	\$913.25	\$0.00	\$25,041.94	\$73,845.64	\$73,845.64	\$73,845.64	
1-Jan-14	1417	\$38.19	\$45,312.63	\$35,000.00	\$0.00	\$45,312.63	\$45,312.63	\$45,312.63	\$35,000.00	\$0.00	\$2,016.78	\$913.25	\$0.00	\$25,041.94	\$74,201.74	\$74,201.74	\$74,201.74	
1-Feb-14	1417	\$38.19	\$45,693.55	\$35,000.00	\$0.00	\$45,693.55	\$45,693.55	\$45,693.55	\$35,000.00	\$0.00	\$2,016.78	\$913.25	\$0.00	\$25,041.94	\$74,557.84	\$74,557.84	\$74,557.84	
1-Mar-14	1417	\$38.19	\$46,074.47	\$35,000.00	\$0.00	\$46,074.47	\$46,074.47	\$46,074.47	\$35,000.00	\$0.00	\$2,016.78	\$913.25	\$0.00	\$25,041.94	\$74,913.94	\$74,913.94	\$74,913.94	
1-Apr-14	1417	\$38.19	\$46,455.39	\$35,000.00	\$0.00	\$46,455.39	\$46,455.39	\$46,455.39	\$35,000.00	\$0.00	\$2,016.78	\$913.25	\$0.00	\$25,041.94	\$75,270.04	\$75,270.04	\$75,270.04	
1-May-14	1417	\$38.19	\$46,836.31	\$35,000.00	\$0.00	\$46,836.31	\$46,836.31	\$46,836.31	\$35,000.00	\$0.00	\$2,016.78	\$913.25	\$0.00	\$25,041.94	\$75,626.14	\$75,626.14	\$75,626.14	
1-Jun-14	1417	\$38.19	\$47,217.23	\$35,000.00	\$0.00	\$47,217.23	\$47,217.23	\$47,217.23	\$35,000.00	\$0.00	\$2,016.78	\$913.25	\$0.00	\$25,041.94	\$75,982.24	\$75,982.24	\$75,982.24	
TOTALS FY 13/14	1467	\$38.19	\$781,532.03	\$420,000.00	\$0.00	\$1,201,532.03	\$781,532.03	\$481,532.03	\$420,000.00	\$0.00	\$20,000.57	\$9,057.50	\$207,750.00	\$228,446.52	\$1,000,000.00	\$1,000,000.00	\$1,000,000.00	1.43
						Total Depreciation												

Lower Richland Sewer Revenue/Expenditure Projections

	Number Customers Connected	Monthly User Fee	Monthly User Revenue	Monthly Top Fee Revenue	Other Revenue	Total Monthly Revenue	Monthly O & M Expenses	Monthly Capital Expense	Annual Depreciation Expenses	Debt Service Expense	Total Monthly Expense	Surplus or Deficit of Funds	Total Cumulative Funds	Comprehensive Funds W/Depreciation
1-Jul-14	1477	\$39.34	\$58,302.48	\$35,000.00	\$0.00	\$104,302.48	\$24,221.13	\$2,218.43	\$1,004.57	\$0.00	\$27,546.14	\$70,756.34	\$403,784.00	
1-Aug-14	1487	\$39.34	\$59,065.86	\$35,000.00	\$0.00	\$104,065.86	\$24,221.13	\$2,218.43	\$1,004.57	\$0.00	\$27,546.14	\$71,160.79	\$600,904.32	
1-Sep-14	1497	\$39.34	\$70,080.24	\$35,000.00	\$0.00	\$105,080.24	\$24,221.13	\$2,218.43	\$1,004.57	\$0.00	\$27,546.14	\$71,565.11	\$838,447.43	
1-Oct-14	1507	\$39.34	\$70,482.63	\$35,000.00	\$0.00	\$105,482.63	\$24,221.13	\$2,218.43	\$1,004.57	\$0.00	\$27,546.14	\$71,969.49	\$778,383.92	
1-Nov-14	1517	\$39.34	\$70,878.01	\$35,000.00	\$0.00	\$105,878.01	\$24,221.13	\$2,218.43	\$1,004.57	\$0.00	\$27,546.14	\$72,373.78	\$794,733.78	
1-Dec-14	1527	\$39.34	\$71,269.39	\$35,000.00	\$0.00	\$106,269.39	\$24,221.13	\$2,218.43	\$1,004.57	\$0.00	\$27,546.14	\$72,778.25	\$873,471.04	
1-Jan-15	1537	\$39.34	\$71,662.77	\$35,000.00	\$0.00	\$106,662.77	\$24,221.13	\$2,218.43	\$1,004.57	\$0.00	\$27,546.14	\$73,118.53	\$892,453.68	
1-Feb-15	1547	\$39.34	\$72,058.15	\$35,000.00	\$0.00	\$107,058.15	\$24,221.13	\$2,218.43	\$1,004.57	\$0.00	\$27,546.14	\$73,510.02	\$1,092,003.68	
1-Mar-15	1557	\$39.34	\$72,449.53	\$35,000.00	\$0.00	\$107,449.53	\$24,221.13	\$2,218.43	\$1,004.57	\$0.00	\$27,546.14	\$73,903.40	\$1,111,987.08	
1-Apr-15	1567	\$39.34	\$72,842.92	\$35,000.00	\$0.00	\$107,842.92	\$24,221.13	\$2,218.43	\$1,004.57	\$0.00	\$27,546.14	\$74,298.78	\$1,192,280.87	
1-May-15	1577	\$39.34	\$73,238.30	\$35,000.00	\$0.00	\$108,238.30	\$24,221.13	\$2,218.43	\$1,004.57	\$0.00	\$27,546.14	\$74,695.18	\$1,273,076.05	
1-Jun-15	1587	\$39.34	\$73,635.68	\$35,000.00	\$0.00	\$108,635.68	\$24,221.13	\$2,218.43	\$1,004.57	\$1,028,038.00	\$1,055,592.14	\$346,982.46	\$328,001.57	
TOTALS FY 14/15	1587	\$39.34	\$857,892.86	\$420,000.00	\$0.00	\$1,277,892.86	\$287,877.80	\$28,021.17	\$12,054.87	\$1,028,038.00	\$1,350,588.84	(\$80,993.65)	\$328,001.57	\$388,035.11
							Total Depreciation		\$42,033.54					1.38
1-Jul-15	1597	\$40.52	\$75,007.75	\$35,000.00	\$0.00	\$110,007.75	\$25,755.45	\$2,440.27	\$1,105.03	\$0.00	\$30,300.75	\$89,007.00	\$408,603.57	
1-Aug-15	1607	\$40.52	\$75,312.84	\$35,000.00	\$0.00	\$110,312.84	\$25,755.45	\$2,440.27	\$1,105.03	\$0.00	\$30,300.75	\$89,412.19	\$487,603.76	
1-Sep-15	1617	\$40.52	\$75,710.12	\$35,000.00	\$0.00	\$110,710.12	\$25,755.45	\$2,440.27	\$1,105.03	\$0.00	\$30,300.75	\$89,817.37	\$567,004.13	
1-Oct-15	1627	\$40.52	\$76,108.49	\$35,000.00	\$0.00	\$111,108.49	\$25,755.45	\$2,440.27	\$1,105.03	\$0.00	\$30,300.75	\$90,222.55	\$646,804.60	
1-Nov-15	1637	\$40.52	\$76,506.86	\$35,000.00	\$0.00	\$111,506.86	\$25,755.45	\$2,440.27	\$1,105.03	\$0.00	\$30,300.75	\$90,627.74	\$726,605.07	
1-Dec-15	1647	\$40.52	\$76,905.23	\$35,000.00	\$0.00	\$111,905.23	\$25,755.45	\$2,440.27	\$1,105.03	\$0.00	\$30,300.75	\$91,032.92	\$806,405.54	
1-Jan-16	1657	\$40.52	\$77,303.61	\$35,000.00	\$0.00	\$112,303.61	\$25,755.45	\$2,440.27	\$1,105.03	\$0.00	\$30,300.75	\$91,438.10	\$886,206.01	
1-Feb-16	1667	\$40.52	\$77,702.00	\$35,000.00	\$0.00	\$112,702.00	\$25,755.45	\$2,440.27	\$1,105.03	\$0.00	\$30,300.75	\$91,843.28	\$966,006.48	
1-Mar-16	1677	\$40.52	\$78,100.38	\$35,000.00	\$0.00	\$113,100.38	\$25,755.45	\$2,440.27	\$1,105.03	\$0.00	\$30,300.75	\$92,248.46	\$1,045,806.95	
1-Apr-16	1687	\$40.52	\$78,498.76	\$35,000.00	\$0.00	\$113,498.76	\$25,755.45	\$2,440.27	\$1,105.03	\$0.00	\$30,300.75	\$92,653.64	\$1,125,607.42	
1-May-16	1697	\$40.52	\$78,897.14	\$35,000.00	\$0.00	\$113,897.14	\$25,755.45	\$2,440.27	\$1,105.03	\$0.00	\$30,300.75	\$93,058.82	\$1,205,407.89	
1-Jun-16	1707	\$40.52	\$79,295.52	\$35,000.00	\$0.00	\$114,295.52	\$25,755.45	\$2,440.27	\$1,105.03	\$0.00	\$30,300.75	\$93,463.99	\$1,285,208.36	
TOTALS FY 15/16	1707	\$40.52	\$937,855.12	\$420,000.00	\$0.00	\$1,357,855.12	\$287,065.35	\$28,203.29	\$13,263.35	\$1,028,038.00	\$1,397,645.00	(\$39,000.93)	\$397,697.89	\$547,285.56
							Total Depreciation		\$55,268.89					1.34
1-Jul-16	1717	\$41.73	\$82,857.65	\$35,000.00	\$0.00	\$117,857.65	\$29,430.59	\$2,684.30	\$1,215.53	\$0.00	\$33,300.83	\$84,284.22	\$376,517.91	
1-Aug-16	1727	\$41.73	\$83,274.35	\$35,000.00	\$0.00	\$118,274.35	\$29,430.59	\$2,684.30	\$1,215.53	\$0.00	\$33,300.83	\$84,694.16	\$461,461.48	
1-Sep-16	1737	\$41.73	\$83,691.05	\$35,000.00	\$0.00	\$118,691.05	\$29,430.59	\$2,684.30	\$1,215.53	\$0.00	\$33,300.83	\$85,104.10	\$546,822.38	
1-Oct-16	1747	\$41.73	\$84,108.07	\$35,000.00	\$0.00	\$119,108.07	\$29,430.59	\$2,684.30	\$1,215.53	\$0.00	\$33,300.83	\$85,514.04	\$632,000.62	
1-Nov-16	1757	\$41.73	\$84,525.40	\$35,000.00	\$0.00	\$119,525.40	\$29,430.59	\$2,684.30	\$1,215.53	\$0.00	\$33,300.83	\$85,923.98	\$717,768.50	
1-Dec-16	1767	\$41.73	\$84,943.74	\$35,000.00	\$0.00	\$119,943.74	\$29,430.59	\$2,684.30	\$1,215.53	\$0.00	\$33,300.83	\$86,333.92	\$803,493.11	
1-Jan-17	1777	\$41.73	\$85,361.08	\$35,000.00	\$0.00	\$120,361.08	\$29,430.59	\$2,684.30	\$1,215.53	\$0.00	\$33,300.83	\$86,743.86	\$889,253.37	
1-Feb-17	1787	\$41.73	\$85,778.42	\$35,000.00	\$0.00	\$120,778.42	\$29,430.59	\$2,684.30	\$1,215.53	\$0.00	\$33,300.83	\$87,153.80	\$975,066.97	
1-Mar-17	1797	\$41.73	\$86,195.76	\$35,000.00	\$0.00	\$121,195.76	\$29,430.59	\$2,684.30	\$1,215.53	\$0.00	\$33,300.83	\$87,563.74	\$1,060,880.50	
1-Apr-17	1807	\$41.73	\$86,613.10	\$35,000.00	\$0.00	\$121,613.10	\$29,430.59	\$2,684.30	\$1,215.53	\$0.00	\$33,300.83	\$87,973.68	\$1,146,694.17	
1-May-17	1817	\$41.73	\$87,030.44	\$35,000.00	\$0.00	\$122,030.44	\$29,430.59	\$2,684.30	\$1,215.53	\$0.00	\$33,300.83	\$88,383.62	\$1,232,507.80	
1-Jun-17	1827	\$41.73	\$87,447.77	\$35,000.00	\$0.00	\$122,447.77	\$29,430.59	\$2,684.30	\$1,215.53	\$1,028,038.00	\$1,067,366.53	\$88,698.61	\$1,318,319.05	
TOTALS FY 16/17	1827	\$41.73	\$1,021,528.94	\$420,000.00	\$0.00	\$1,441,528.94	\$353,171.83	\$32,311.82	\$14,838.39	\$1,028,038.00	\$1,428,065.90	\$18,623.04	\$395,814.73	\$375,685.01
							Total Depreciation		\$59,860.28					1.37

Lower Richland Sewer Revenue/Expenditure Projections

	Number Customers Connected	Monthly User Fee	Monthly User Revenue	Monthly Tap Fee Revenue	Other Revenue	Total Monthly Revenue	Monthly O & M Expense	Monthly Capital Expense	Annual Depreciation Expense	Debt Service Expense	Total Monthly Expense	Monthly Surplus or Deficit of Funds	Total Cumulative Funds	Total Cumulative Funds W/Depreciation
1-Jan-17	1837	\$42.28	\$80,165.07	\$40,000.00	\$0.00	\$120,165.07	\$32,374.09	\$2,682.73	\$1,337.09	\$0.00	\$36,053.91	\$80,165.18	\$360,315.09	\$360,315.09
1-Apr-17	1847	\$42.28	\$80,594.95	\$40,000.00	\$0.00	\$120,594.95	\$32,374.09	\$2,682.73	\$1,337.09	\$0.00	\$36,053.91	\$80,595.02	\$400,909.11	\$400,909.11
1-Jul-17	1857	\$42.28	\$81,024.78	\$40,000.00	\$0.00	\$121,024.78	\$32,374.09	\$2,682.73	\$1,337.09	\$0.00	\$36,053.91	\$81,024.81	\$441,503.92	\$441,503.92
1-Oct-17	1867	\$42.28	\$81,454.64	\$40,000.00	\$0.00	\$121,454.64	\$32,374.09	\$2,682.73	\$1,337.09	\$0.00	\$36,053.91	\$81,454.74	\$482,098.66	\$482,098.66
1-Jan-18	1877	\$42.28	\$81,884.50	\$40,000.00	\$0.00	\$121,884.50	\$32,374.09	\$2,682.73	\$1,337.09	\$0.00	\$36,053.91	\$81,884.59	\$522,693.25	\$522,693.25
1-Apr-18	1887	\$42.28	\$82,314.36	\$40,000.00	\$0.00	\$122,314.36	\$32,374.09	\$2,682.73	\$1,337.09	\$0.00	\$36,053.91	\$82,314.31	\$563,287.56	\$563,287.56
1-Jul-18	1897	\$42.28	\$82,744.22	\$40,000.00	\$0.00	\$122,744.22	\$32,374.09	\$2,682.73	\$1,337.09	\$0.00	\$36,053.91	\$82,744.25	\$603,881.81	\$603,881.81
1-Oct-18	1907	\$42.28	\$83,174.08	\$40,000.00	\$0.00	\$123,174.08	\$32,374.09	\$2,682.73	\$1,337.09	\$0.00	\$36,053.91	\$83,174.08	\$644,475.89	\$644,475.89
1-Jan-19	1917	\$42.28	\$83,603.94	\$40,000.00	\$0.00	\$123,603.94	\$32,374.09	\$2,682.73	\$1,337.09	\$0.00	\$36,053.91	\$83,603.94	\$685,070.83	\$685,070.83
1-Apr-19	1927	\$42.28	\$84,033.80	\$40,000.00	\$0.00	\$124,033.80	\$32,374.09	\$2,682.73	\$1,337.09	\$0.00	\$36,053.91	\$84,033.80	\$725,664.63	\$725,664.63
1-Jul-19	1937	\$42.28	\$84,463.65	\$40,000.00	\$0.00	\$124,463.65	\$32,374.09	\$2,682.73	\$1,337.09	\$0.00	\$36,053.91	\$84,463.65	\$766,258.28	\$766,258.28
1-Oct-19	1947	\$42.28	\$84,893.51	\$40,000.00	\$0.00	\$124,893.51	\$32,374.09	\$2,682.73	\$1,337.09	\$0.00	\$36,053.91	\$84,893.51	\$806,851.79	\$806,851.79
TOTALS FY 17/18	1947	\$42.28	\$1,110,351.45	\$400,000.00	\$0.00	\$1,510,351.45	\$323,490.00	\$25,432.78	\$18,945.03	\$1,228,071.00	\$1,556,007.89	\$375,584.41	\$280,128.32	\$318,059.03
1-Jan-18	1957	\$44.28	\$97,047.07	\$40,000.00	\$0.00	\$137,047.07	\$33,611.50	\$3,240.00	\$1,470.78	\$0.00	\$40,320.30	\$97,047.07	\$327,048.10	\$327,048.10
1-Apr-18	1967	\$44.28	\$97,476.90	\$40,000.00	\$0.00	\$137,476.90	\$33,611.50	\$3,240.00	\$1,470.78	\$0.00	\$40,320.30	\$97,476.90	\$367,642.00	\$367,642.00
1-Jul-18	1977	\$44.28	\$97,906.73	\$40,000.00	\$0.00	\$137,906.73	\$33,611.50	\$3,240.00	\$1,470.78	\$0.00	\$40,320.30	\$97,906.73	\$408,235.90	\$408,235.90
1-Oct-18	1987	\$44.28	\$98,336.56	\$40,000.00	\$0.00	\$138,336.56	\$33,611.50	\$3,240.00	\$1,470.78	\$0.00	\$40,320.30	\$98,336.56	\$448,829.80	\$448,829.80
1-Jan-19	1997	\$44.28	\$98,766.39	\$40,000.00	\$0.00	\$138,766.39	\$33,611.50	\$3,240.00	\$1,470.78	\$0.00	\$40,320.30	\$98,766.39	\$489,423.70	\$489,423.70
1-Apr-19	2007	\$44.28	\$99,196.22	\$40,000.00	\$0.00	\$139,196.22	\$33,611.50	\$3,240.00	\$1,470.78	\$0.00	\$40,320.30	\$99,196.22	\$530,017.60	\$530,017.60
1-Jul-19	2017	\$44.28	\$99,626.05	\$40,000.00	\$0.00	\$139,626.05	\$33,611.50	\$3,240.00	\$1,470.78	\$0.00	\$40,320.30	\$99,626.05	\$570,611.50	\$570,611.50
1-Oct-19	2027	\$44.28	\$100,055.88	\$40,000.00	\$0.00	\$140,055.88	\$33,611.50	\$3,240.00	\$1,470.78	\$0.00	\$40,320.30	\$100,055.88	\$611,205.40	\$611,205.40
1-Jan-20	2037	\$44.28	\$100,485.71	\$40,000.00	\$0.00	\$140,485.71	\$33,611.50	\$3,240.00	\$1,470.78	\$0.00	\$40,320.30	\$100,485.71	\$651,799.30	\$651,799.30
1-Apr-20	2047	\$44.28	\$100,915.54	\$40,000.00	\$0.00	\$140,915.54	\$33,611.50	\$3,240.00	\$1,470.78	\$0.00	\$40,320.30	\$100,915.54	\$692,393.20	\$692,393.20
1-Jul-20	2057	\$44.28	\$101,345.37	\$40,000.00	\$0.00	\$141,345.37	\$33,611.50	\$3,240.00	\$1,470.78	\$0.00	\$40,320.30	\$101,345.37	\$732,987.10	\$732,987.10
1-Oct-20	2067	\$44.28	\$101,775.20	\$40,000.00	\$0.00	\$141,775.20	\$33,611.50	\$3,240.00	\$1,470.78	\$0.00	\$40,320.30	\$101,775.20	\$773,581.00	\$773,581.00
TOTALS FY 18/19	2067	\$44.28	\$1,203,348.09	\$400,000.00	\$0.00	\$1,603,348.09	\$427,337.96	\$35,978.06	\$18,945.03	\$1,228,071.00	\$1,695,407.50	\$329,847.89	\$303,480.43	\$307,055.20
1-Jan-19	2077	\$45.00	\$105,918.83	\$40,000.00	\$0.00	\$145,918.83	\$33,172.85	\$3,572.81	\$1,617.87	\$0.00	\$44,363.53	\$105,918.83	\$347,843.96	\$347,843.96
1-Apr-19	2087	\$45.00	\$106,348.66	\$40,000.00	\$0.00	\$146,348.66	\$33,172.85	\$3,572.81	\$1,617.87	\$0.00	\$44,363.53	\$106,348.66	\$388,438.59	\$388,438.59
1-Jul-19	2097	\$45.00	\$106,778.49	\$40,000.00	\$0.00	\$146,778.49	\$33,172.85	\$3,572.81	\$1,617.87	\$0.00	\$44,363.53	\$106,778.49	\$429,033.22	\$429,033.22
1-Oct-19	2107	\$45.00	\$107,208.32	\$40,000.00	\$0.00	\$147,208.32	\$33,172.85	\$3,572.81	\$1,617.87	\$0.00	\$44,363.53	\$107,208.32	\$469,627.85	\$469,627.85
1-Jan-20	2117	\$45.00	\$107,638.15	\$40,000.00	\$0.00	\$147,638.15	\$33,172.85	\$3,572.81	\$1,617.87	\$0.00	\$44,363.53	\$107,638.15	\$510,222.48	\$510,222.48
1-Apr-20	2127	\$45.00	\$108,067.98	\$40,000.00	\$0.00	\$148,067.98	\$33,172.85	\$3,572.81	\$1,617.87	\$0.00	\$44,363.53	\$108,067.98	\$550,817.11	\$550,817.11
1-Jul-20	2137	\$45.00	\$108,497.81	\$40,000.00	\$0.00	\$148,497.81	\$33,172.85	\$3,572.81	\$1,617.87	\$0.00	\$44,363.53	\$108,497.81	\$591,411.74	\$591,411.74
1-Oct-20	2147	\$45.00	\$108,927.64	\$40,000.00	\$0.00	\$148,927.64	\$33,172.85	\$3,572.81	\$1,617.87	\$0.00	\$44,363.53	\$108,927.64	\$632,006.37	\$632,006.37
1-Jan-21	2157	\$45.00	\$109,357.47	\$40,000.00	\$0.00	\$149,357.47	\$33,172.85	\$3,572.81	\$1,617.87	\$0.00	\$44,363.53	\$109,357.47	\$672,601.00	\$672,601.00
1-Apr-21	2167	\$45.00	\$109,787.30	\$40,000.00	\$0.00	\$149,787.30	\$33,172.85	\$3,572.81	\$1,617.87	\$0.00	\$44,363.53	\$109,787.30	\$713,195.63	\$713,195.63
1-Jul-21	2177	\$45.00	\$110,217.13	\$40,000.00	\$0.00	\$150,217.13	\$33,172.85	\$3,572.81	\$1,617.87	\$0.00	\$44,363.53	\$110,217.13	\$753,790.26	\$753,790.26
1-Oct-21	2187	\$45.00	\$110,646.96	\$40,000.00	\$0.00	\$150,646.96	\$33,172.85	\$3,572.81	\$1,617.87	\$0.00	\$44,363.53	\$110,646.96	\$794,384.89	\$794,384.89
TOTALS FY 19/20	2187	\$45.00	\$1,301,125.85	\$400,000.00	\$0.00	\$1,701,125.85	\$470,071.79	\$42,873.86	\$18,945.03	\$1,228,071.00	\$1,795,430.94	\$22,894.71	\$236,175.14	\$349,164.43

Lower Richland Sewer Revenue/Expenditure Projections

	Number Customers Connected	Monthly User Fee	Monthly User Revenue	Monthly Tap Fee Revenue	Other Revenue	Total Monthly Revenue	Monthly O & M Expense	Monthly Capital Expense	Annual Depreciation Expense	Debt Service Expense	Total Monthly Expense	Monthly Surplus or Deficit of Funds	Total Cumulative Funds	Total Cumulative Funds W/Depreciation	
1-Jul-20	2197	\$48.97	\$114,597.12	\$40,000.00	\$0.00	\$154,597.12	\$40,000.00	\$0.00	\$1,779.66	\$0.00	\$41,779.66	\$105,827.46	\$311,772.80		
1-Aug-20	2207	\$48.97	\$114,660.84	\$40,000.00	\$0.00	\$154,660.84	\$40,000.00	\$0.00	\$1,779.66	\$0.00	\$41,779.66	\$105,886.52	\$437,052.37		
1-Sep-20	2217	\$48.97	\$114,724.56	\$40,000.00	\$0.00	\$154,724.56	\$40,000.00	\$0.00	\$1,779.66	\$0.00	\$41,779.66	\$105,945.69	\$562,327.03		
1-Oct-20	2227	\$48.97	\$114,788.28	\$40,000.00	\$0.00	\$154,788.28	\$40,000.00	\$0.00	\$1,779.66	\$0.00	\$41,779.66	\$106,004.86	\$687,601.69		
1-Nov-20	2237	\$48.97	\$114,852.00	\$40,000.00	\$0.00	\$154,852.00	\$40,000.00	\$0.00	\$1,779.66	\$0.00	\$41,779.66	\$106,064.03	\$812,876.35		
1-Dec-20	2247	\$48.97	\$114,915.72	\$40,000.00	\$0.00	\$154,915.72	\$40,000.00	\$0.00	\$1,779.66	\$0.00	\$41,779.66	\$106,123.19	\$938,151.01		
1-Jan-21	2257	\$48.97	\$114,979.44	\$40,000.00	\$0.00	\$154,979.44	\$40,000.00	\$0.00	\$1,779.66	\$0.00	\$41,779.66	\$106,182.36	\$1,063,425.67		
1-Feb-21	2267	\$48.97	\$115,043.16	\$40,000.00	\$0.00	\$155,043.16	\$40,000.00	\$0.00	\$1,779.66	\$0.00	\$41,779.66	\$106,241.52	\$1,188,700.33		
1-Mar-21	2277	\$48.97	\$115,106.88	\$40,000.00	\$0.00	\$155,106.88	\$40,000.00	\$0.00	\$1,779.66	\$0.00	\$41,779.66	\$106,300.69	\$1,313,974.99		
1-Apr-21	2287	\$48.97	\$115,170.60	\$40,000.00	\$0.00	\$155,170.60	\$40,000.00	\$0.00	\$1,779.66	\$0.00	\$41,779.66	\$106,359.85	\$1,439,249.65		
1-May-21	2297	\$48.97	\$115,234.32	\$40,000.00	\$0.00	\$155,234.32	\$40,000.00	\$0.00	\$1,779.66	\$0.00	\$41,779.66	\$106,419.02	\$1,564,524.31		
1-Jun-21	2307	\$48.97	\$115,298.04	\$40,000.00	\$0.00	\$155,298.04	\$40,000.00	\$0.00	\$1,779.66	\$0.00	\$41,779.66	\$106,478.19	\$1,689,798.97		
TOTALS FY 2021	2307	\$48.97	\$1,400,766.88	\$480,000.00	\$0.00	\$1,880,766.88	\$480,000.00	\$0.00	\$21,355.98	\$1,226,071.00	\$1,247,427.00	\$72,009.88	\$258,276.08	\$442,020.32	1.38
1-Jul-21	2317	\$49.36	\$122,258.75	\$40,000.00	\$0.00	\$162,258.75	\$40,000.00	\$0.00	\$1,957.63	\$0.00	\$1,957.63	\$108,016.13	\$407,894.19		
1-Aug-21	2327	\$49.36	\$122,322.47	\$40,000.00	\$0.00	\$162,322.47	\$40,000.00	\$0.00	\$1,957.63	\$0.00	\$1,957.63	\$108,075.30	\$532,869.53		
1-Sep-21	2337	\$49.36	\$122,386.19	\$40,000.00	\$0.00	\$162,386.19	\$40,000.00	\$0.00	\$1,957.63	\$0.00	\$1,957.63	\$108,134.47	\$657,844.87		
1-Oct-21	2347	\$49.36	\$122,449.91	\$40,000.00	\$0.00	\$162,449.91	\$40,000.00	\$0.00	\$1,957.63	\$0.00	\$1,957.63	\$108,193.64	\$782,820.21		
1-Nov-21	2357	\$49.36	\$122,513.63	\$40,000.00	\$0.00	\$162,513.63	\$40,000.00	\$0.00	\$1,957.63	\$0.00	\$1,957.63	\$108,252.81	\$907,795.55		
1-Dec-21	2367	\$49.36	\$122,577.35	\$40,000.00	\$0.00	\$162,577.35	\$40,000.00	\$0.00	\$1,957.63	\$0.00	\$1,957.63	\$108,312.00	\$1,032,770.89		
1-Jan-22	2377	\$49.36	\$122,641.07	\$40,000.00	\$0.00	\$162,641.07	\$40,000.00	\$0.00	\$1,957.63	\$0.00	\$1,957.63	\$108,371.17	\$1,157,746.23		
1-Feb-22	2387	\$49.36	\$122,704.79	\$40,000.00	\$0.00	\$162,704.79	\$40,000.00	\$0.00	\$1,957.63	\$0.00	\$1,957.63	\$108,430.34	\$1,282,721.57		
1-Mar-22	2397	\$49.36	\$122,768.51	\$40,000.00	\$0.00	\$162,768.51	\$40,000.00	\$0.00	\$1,957.63	\$0.00	\$1,957.63	\$108,489.51	\$1,407,696.91		
1-Apr-22	2407	\$49.36	\$122,832.23	\$40,000.00	\$0.00	\$162,832.23	\$40,000.00	\$0.00	\$1,957.63	\$0.00	\$1,957.63	\$108,548.68	\$1,532,672.25		
1-May-22	2417	\$49.36	\$122,895.95	\$40,000.00	\$0.00	\$162,895.95	\$40,000.00	\$0.00	\$1,957.63	\$0.00	\$1,957.63	\$108,607.85	\$1,657,647.59		
1-Jun-22	2427	\$49.36	\$122,959.67	\$40,000.00	\$0.00	\$162,959.67	\$40,000.00	\$0.00	\$1,957.63	\$0.00	\$1,957.63	\$108,667.02	\$1,782,622.93		
TOTALS FY 21/22	2427	\$49.36	\$1,511,516.49	\$480,000.00	\$0.00	\$1,991,516.49	\$480,000.00	\$0.00	\$23,461.59	\$1,226,071.00	\$1,249,532.60	\$121,283.89	\$419,666.03	\$597,401.61	1.48
1-Jul-22	2437	\$49.83	\$132,841.61	\$40,000.00	\$0.00	\$172,841.61	\$40,000.00	\$0.00	\$2,153.39	\$0.00	\$2,153.39	\$113,594.02	\$533,190.04		
1-Aug-22	2447	\$49.83	\$132,905.33	\$40,000.00	\$0.00	\$172,905.33	\$40,000.00	\$0.00	\$2,153.39	\$0.00	\$2,153.39	\$113,653.19	\$658,165.23		
1-Sep-22	2457	\$49.83	\$132,969.05	\$40,000.00	\$0.00	\$172,969.05	\$40,000.00	\$0.00	\$2,153.39	\$0.00	\$2,153.39	\$113,712.36	\$783,140.42		
1-Oct-22	2467	\$49.83	\$133,032.77	\$40,000.00	\$0.00	\$173,032.77	\$40,000.00	\$0.00	\$2,153.39	\$0.00	\$2,153.39	\$113,771.53	\$908,115.61		
1-Nov-22	2477	\$49.83	\$133,096.49	\$40,000.00	\$0.00	\$173,096.49	\$40,000.00	\$0.00	\$2,153.39	\$0.00	\$2,153.39	\$113,830.70	\$1,033,090.80		
1-Dec-22	2487	\$49.83	\$133,160.21	\$40,000.00	\$0.00	\$173,160.21	\$40,000.00	\$0.00	\$2,153.39	\$0.00	\$2,153.39	\$113,889.87	\$1,158,066.00		
1-Jan-23	2497	\$49.83	\$133,223.93	\$40,000.00	\$0.00	\$173,223.93	\$40,000.00	\$0.00	\$2,153.39	\$0.00	\$2,153.39	\$113,949.04	\$1,283,041.19		
1-Feb-23	2507	\$49.83	\$133,287.65	\$40,000.00	\$0.00	\$173,287.65	\$40,000.00	\$0.00	\$2,153.39	\$0.00	\$2,153.39	\$114,008.21	\$1,408,016.38		
1-Mar-23	2517	\$49.83	\$133,351.37	\$40,000.00	\$0.00	\$173,351.37	\$40,000.00	\$0.00	\$2,153.39	\$0.00	\$2,153.39	\$114,067.38	\$1,532,991.57		
1-Apr-23	2527	\$49.83	\$133,415.09	\$40,000.00	\$0.00	\$173,415.09	\$40,000.00	\$0.00	\$2,153.39	\$0.00	\$2,153.39	\$114,126.55	\$1,657,966.76		
1-May-23	2537	\$49.83	\$133,478.81	\$40,000.00	\$0.00	\$173,478.81	\$40,000.00	\$0.00	\$2,153.39	\$0.00	\$2,153.39	\$114,185.72	\$1,782,941.95		
1-Jun-23	2547	\$49.83	\$133,542.53	\$40,000.00	\$0.00	\$173,542.53	\$40,000.00	\$0.00	\$2,153.39	\$0.00	\$2,153.39	\$114,244.89	\$1,907,917.14		
TOTALS FY 22/23	2547	\$49.83	\$1,624,866.87	\$480,000.00	\$0.00	\$2,104,866.87	\$480,000.00	\$0.00	\$25,540.66	\$1,226,071.00	\$1,251,611.66	\$169,346.69	\$598,511.22	\$783,180.06	1.64

Lower Richland Sewer Revenue/Expenditure Projections

	Number Customers Connected	Monthly User Fee	Monthly User Revenue	Monthly Trap Fee Revenue	Other Revenue	Total Monthly Revenue	Monthly O & M Expenses	Monthly Capital Expenses	Annual Depreciation Expenses	Debt Service Expenses	Total Monthly Expenses	Monthly Surplus or Deficit of Funds	Total Cumulative Funds	Total Cumulative Funds W/Depreciation
1-Jul-23	2657	\$51.35	\$142,444.14	\$40,000.00	\$0.00	\$182,444.14	\$77,352.53	\$5,200.94	\$2,388.73	\$0.00	\$84,982.35	\$117,461.79	\$707,000.41	\$707,000.41
1-Aug-23	2657	\$51.35	\$142,967.42	\$40,000.00	\$0.00	\$182,967.42	\$77,352.53	\$5,200.94	\$2,388.73	\$0.00	\$84,982.35	\$117,461.79	\$707,000.41	\$707,000.41
1-Sep-23	2657	\$51.35	\$143,490.69	\$40,000.00	\$0.00	\$183,490.69	\$77,352.53	\$5,200.94	\$2,388.73	\$0.00	\$84,982.35	\$117,461.79	\$707,000.41	\$707,000.41
1-Oct-23	2657	\$51.35	\$144,013.96	\$40,000.00	\$0.00	\$184,013.96	\$77,352.53	\$5,200.94	\$2,388.73	\$0.00	\$84,982.35	\$117,461.79	\$707,000.41	\$707,000.41
1-Nov-23	2657	\$51.35	\$144,537.24	\$40,000.00	\$0.00	\$184,537.24	\$77,352.53	\$5,200.94	\$2,388.73	\$0.00	\$84,982.35	\$117,461.79	\$707,000.41	\$707,000.41
1-Dec-23	2657	\$51.35	\$145,060.51	\$40,000.00	\$0.00	\$185,060.51	\$77,352.53	\$5,200.94	\$2,388.73	\$0.00	\$84,982.35	\$117,461.79	\$707,000.41	\$707,000.41
1-Jan-24	2657	\$51.35	\$145,583.78	\$40,000.00	\$0.00	\$185,583.78	\$77,352.53	\$5,200.94	\$2,388.73	\$0.00	\$84,982.35	\$117,461.79	\$707,000.41	\$707,000.41
1-Feb-24	2657	\$51.35	\$146,107.06	\$40,000.00	\$0.00	\$186,107.06	\$77,352.53	\$5,200.94	\$2,388.73	\$0.00	\$84,982.35	\$117,461.79	\$707,000.41	\$707,000.41
1-Mar-24	2657	\$51.35	\$146,630.33	\$40,000.00	\$0.00	\$186,630.33	\$77,352.53	\$5,200.94	\$2,388.73	\$0.00	\$84,982.35	\$117,461.79	\$707,000.41	\$707,000.41
1-Apr-24	2657	\$51.35	\$147,153.61	\$40,000.00	\$0.00	\$187,153.61	\$77,352.53	\$5,200.94	\$2,388.73	\$0.00	\$84,982.35	\$117,461.79	\$707,000.41	\$707,000.41
1-May-24	2657	\$51.35	\$147,676.88	\$40,000.00	\$0.00	\$187,676.88	\$77,352.53	\$5,200.94	\$2,388.73	\$0.00	\$84,982.35	\$117,461.79	\$707,000.41	\$707,000.41
1-Jun-24	2657	\$51.35	\$148,200.15	\$40,000.00	\$0.00	\$188,200.15	\$77,352.53	\$5,200.94	\$2,388.73	\$0.00	\$84,982.35	\$117,461.79	\$707,000.41	\$707,000.41
TOTALS FY 23/24	2657	\$51.35	\$1,748,205.77	\$480,000.00	\$0.00	\$2,228,205.77	\$883,292.11	\$52,771.35	\$28,424.75	\$1,228,071.00	\$2,005,498.19	\$217,708.59	\$887,218.21	\$1,029,520.41
1-Jul-24	2657	\$52.67	\$152,725.53	\$40,000.00	\$0.00	\$192,725.53	\$83,087.94	\$5,754.04	\$2,605.60	\$0.00	\$91,447.58	\$121,277.95	\$928,498.15	\$928,498.15
1-Aug-24	2657	\$52.67	\$153,254.20	\$40,000.00	\$0.00	\$193,254.20	\$83,087.94	\$5,754.04	\$2,605.60	\$0.00	\$91,447.58	\$121,277.95	\$928,498.15	\$928,498.15
1-Sep-24	2657	\$52.67	\$153,782.88	\$40,000.00	\$0.00	\$193,782.88	\$83,087.94	\$5,754.04	\$2,605.60	\$0.00	\$91,447.58	\$121,277.95	\$928,498.15	\$928,498.15
1-Oct-24	2657	\$52.67	\$154,311.55	\$40,000.00	\$0.00	\$194,311.55	\$83,087.94	\$5,754.04	\$2,605.60	\$0.00	\$91,447.58	\$121,277.95	\$928,498.15	\$928,498.15
1-Nov-24	2657	\$52.67	\$154,840.22	\$40,000.00	\$0.00	\$194,840.22	\$83,087.94	\$5,754.04	\$2,605.60	\$0.00	\$91,447.58	\$121,277.95	\$928,498.15	\$928,498.15
1-Dec-24	2657	\$52.67	\$155,368.89	\$40,000.00	\$0.00	\$195,368.89	\$83,087.94	\$5,754.04	\$2,605.60	\$0.00	\$91,447.58	\$121,277.95	\$928,498.15	\$928,498.15
1-Jan-25	2657	\$52.67	\$155,897.56	\$40,000.00	\$0.00	\$195,897.56	\$83,087.94	\$5,754.04	\$2,605.60	\$0.00	\$91,447.58	\$121,277.95	\$928,498.15	\$928,498.15
1-Feb-25	2657	\$52.67	\$156,426.23	\$40,000.00	\$0.00	\$196,426.23	\$83,087.94	\$5,754.04	\$2,605.60	\$0.00	\$91,447.58	\$121,277.95	\$928,498.15	\$928,498.15
1-Mar-25	2657	\$52.67	\$156,954.91	\$40,000.00	\$0.00	\$196,954.91	\$83,087.94	\$5,754.04	\$2,605.60	\$0.00	\$91,447.58	\$121,277.95	\$928,498.15	\$928,498.15
1-Apr-25	2657	\$52.67	\$157,483.58	\$40,000.00	\$0.00	\$197,483.58	\$83,087.94	\$5,754.04	\$2,605.60	\$0.00	\$91,447.58	\$121,277.95	\$928,498.15	\$928,498.15
1-May-25	2657	\$52.67	\$158,012.25	\$40,000.00	\$0.00	\$198,012.25	\$83,087.94	\$5,754.04	\$2,605.60	\$0.00	\$91,447.58	\$121,277.95	\$928,498.15	\$928,498.15
1-Jun-25	2657	\$52.67	\$158,540.92	\$40,000.00	\$0.00	\$198,540.92	\$83,087.94	\$5,754.04	\$2,605.60	\$0.00	\$91,447.58	\$121,277.95	\$928,498.15	\$928,498.15
TOTALS FY 24/25	2657	\$52.67	\$1,807,288.73	\$400,000.00	\$0.00	\$2,207,288.73	\$877,053.92	\$58,048.48	\$31,267.22	\$1,228,071.00	\$2,083,442.00	\$284,192.79	\$1,071,274.83	\$1,324,744.36
1-Jul-25	2787	\$54.45	\$163,005.09	\$40,000.00	\$0.00	\$203,005.09	\$90,388.74	\$6,329.44	\$2,865.18	\$0.00	\$97,592.34	\$124,913.34	\$1,125,298.28	\$1,125,298.28
1-Aug-25	2787	\$54.45	\$163,534.76	\$40,000.00	\$0.00	\$203,534.76	\$90,388.74	\$6,329.44	\$2,865.18	\$0.00	\$97,592.34	\$124,913.34	\$1,125,298.28	\$1,125,298.28
1-Sep-25	2787	\$54.45	\$164,064.43	\$40,000.00	\$0.00	\$204,064.43	\$90,388.74	\$6,329.44	\$2,865.18	\$0.00	\$97,592.34	\$124,913.34	\$1,125,298.28	\$1,125,298.28
1-Oct-25	2787	\$54.45	\$164,594.10	\$40,000.00	\$0.00	\$204,594.10	\$90,388.74	\$6,329.44	\$2,865.18	\$0.00	\$97,592.34	\$124,913.34	\$1,125,298.28	\$1,125,298.28
1-Nov-25	2787	\$54.45	\$165,123.77	\$40,000.00	\$0.00	\$205,123.77	\$90,388.74	\$6,329.44	\$2,865.18	\$0.00	\$97,592.34	\$124,913.34	\$1,125,298.28	\$1,125,298.28
1-Dec-25	2787	\$54.45	\$165,653.44	\$40,000.00	\$0.00	\$205,653.44	\$90,388.74	\$6,329.44	\$2,865.18	\$0.00	\$97,592.34	\$124,913.34	\$1,125,298.28	\$1,125,298.28
1-Jan-26	2787	\$54.45	\$166,183.11	\$40,000.00	\$0.00	\$206,183.11	\$90,388.74	\$6,329.44	\$2,865.18	\$0.00	\$97,592.34	\$124,913.34	\$1,125,298.28	\$1,125,298.28
1-Feb-26	2787	\$54.45	\$166,712.78	\$40,000.00	\$0.00	\$206,712.78	\$90,388.74	\$6,329.44	\$2,865.18	\$0.00	\$97,592.34	\$124,913.34	\$1,125,298.28	\$1,125,298.28
1-Mar-26	2787	\$54.45	\$167,242.45	\$40,000.00	\$0.00	\$207,242.45	\$90,388.74	\$6,329.44	\$2,865.18	\$0.00	\$97,592.34	\$124,913.34	\$1,125,298.28	\$1,125,298.28
1-Apr-26	2787	\$54.45	\$167,772.12	\$40,000.00	\$0.00	\$207,772.12	\$90,388.74	\$6,329.44	\$2,865.18	\$0.00	\$97,592.34	\$124,913.34	\$1,125,298.28	\$1,125,298.28
1-May-26	2787	\$54.45	\$168,301.79	\$40,000.00	\$0.00	\$208,301.79	\$90,388.74	\$6,329.44	\$2,865.18	\$0.00	\$97,592.34	\$124,913.34	\$1,125,298.28	\$1,125,298.28
1-Jun-26	2787	\$54.45	\$168,831.46	\$40,000.00	\$0.00	\$208,831.46	\$90,388.74	\$6,329.44	\$2,865.18	\$0.00	\$97,592.34	\$124,913.34	\$1,125,298.28	\$1,125,298.28
TOTALS FY 25/26	2787	\$54.45	\$1,684,007.35	\$480,000.00	\$0.00	\$2,164,007.35	\$833,782.85	\$75,593.31	\$34,593.94	\$1,228,071.00	\$2,198,179.10	\$308,828.24	\$1,390,203.18	\$1,657,988.54

Form RD 442-3
(Rev. 3-97)**BALANCE SHEET**
(SEE ATTACHED)Name
Richland CountyAddress
2020 Hampton Street
Columbia, SC 29202

ASSETS		Month	Day	Year	Month	Day	Year
		Current Year			Prior Year		
CURRENT ASSETS							
1. Cash on hand in Banks							
2. Time deposits and short-term investments							
3. Accounts receivable							
4. Less: Allowance for doubtful accounts		(		)	(		)
5. Inventories							
6. Prepayments							
7.							
8.							
9. Total Current Assets (Add 1 through 8)				\$0.00			\$0.00
FIXED ASSETS							
10. Land							
11. Buildings							
12. Furniture and equipment							
13.							
14. Less: Accumulated depreciation		(		)	(		)
15. Net Total Fixed Assets (Add 10 through 14)				\$0.00			\$0.00
OTHER ASSETS							
16.							
17.							
18. Total Assets (Add 9, 15, 16 and 17)				\$0.00			\$0.00
LIABILITIES AND EQUITIES							
CURRENT LIABILITIES							
19. Accounts payable							
20. Notes payable							
21. Current portion of USDA note							
22. Customer deposits							
23. Taxes payable							
24. Interest payable							
25.							
26.							
27. Total Current Liabilities (Add 19 through 26)							
LONG-TERM LIABILITIES							
28. Notes payable USDA							
29.							
30.							
31. Total Long-Term Liabilities (Add 28 through 30)							
32. Total Liabilities (Add 27 and 31)							
EQUITY							
33. Retained earnings							
34. Memberships							
35. Total Equity (Add lines 33 and 34)							
36. Total Liabilities and Equity (Add lines 32 and 35)							

CERTIFIED CORRECT

Date

Appropriate Official (Signature)

According to the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number. The valid OMB control number for this information collection is 0570-0015. The time required to complete this information is estimated to average 1 hour per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information.

RD 442-3 (Rev. 3-97)

RICHLAND COUNTY, SOUTH CAROLINA
BALANCE SHEET
GOVERNMENTAL FUNDS
JUNE 30, 2011

Exhibit 3

	General Fund	Fire Service Special Revenue Fund	Nonmajor Governmental Funds	Total Governmental Funds
Assets				
Cash and cash equivalents	\$ 82,569	\$ -	\$ 772,225	\$ 854,794
Equity in pooled cash	66,727,032	7,087,513	42,799,297	116,613,842
Funds held by others	-	-	200,675	200,675
Investments	1,750,000	-	-	1,750,000
Receivables, net:				
Property taxes and other taxes	4,885,097	134,932	653,889	5,673,918
Other	3,288,857	-	2,355,284	5,644,141
Due from other governments	8,875,718	102,545	1,336,869	10,315,132
Due from other funds	968,193	-	-	968,193
Land held for resale	-	-	735,422	735,422
Restricted equity in pooled cash	4,495,756	-	18,059,982	22,555,738
Inventories	926,348	96,889	74,775	1,098,012
Total assets	\$ 91,999,570	\$ 7,421,879	\$ 66,988,418	\$ 166,409,867
Liabilities and Fund Balances				
Liabilities				
Accounts payable	\$ 4,534,649	\$ 96,907	\$ 1,044,833	\$ 5,676,389
Retainage payable	-	-	111,724	111,724
Accrued salaries, wages and related costs	7,665,086	17,248	226,860	7,909,194
Due to other funds	-	-	245,532	245,532
Due to other governments	2,940,842	-	88,515	3,029,357
Unearned revenue	4,556,226	13,444	3,017,300	7,586,970
Other liabilities	4,263,316	-	396	4,263,712
Total liabilities	23,960,119	127,599	4,735,160	28,822,878
Fund Balances				
Nonspendable	926,348	96,889	810,197	1,833,434
Restricted	-	1,386,578	33,456,868	34,843,446
Committed	52,729,969	5,810,813	27,986,193	86,526,975
Assigned	5,350,284	-	-	5,350,284
Unassigned	9,032,850	-	-	9,032,850
Total fund balances	68,039,451	7,294,280	62,253,258	137,586,989
Total liabilities and fund balances	\$ 91,999,570	\$ 7,421,879	\$ 66,988,418	\$ 166,409,867

Completed 7/18/12
1/23/12

The accompanying notes are an integral part of these financial statements.

**RICHLAND COUNTY, SOUTH CAROLINA
SHERIFF VEHICLES AND OTHER PROJECTS
CAPITAL PROJECTS FUND
BALANCE SHEETS**

Schedule D-5

	JUNE 30,	
	2011	2010
Assets		
Equity in pooled cash	\$ 1,450,414	\$ 2,502,183
Restricted equity in pooled cash	<u>12,426,135</u>	<u>2,110,727</u>
Total assets	<u>\$ 13,876,549</u>	<u>\$ 4,612,910</u>
Liabilities and Fund Balances		
Liabilities		
Accounts payable	\$ 35,887	\$ 252,720
Retainage payable	<u>5,214</u>	<u>132,015</u>
Total liabilities	<u>41,101</u>	<u>384,735</u>
Fund balances		
Restricted	12,358,174	2,010,233
Committed	<u>1,477,274</u>	<u>2,217,942</u>
Total fund balances	<u>13,835,448</u>	<u>4,228,175</u>
Total liabilities and fund balances	<u>\$ 13,876,549</u>	<u>\$ 4,612,910</u>

RICHLAND COUNTY, SOUTH CAROLINA
SHERIFF VEHICLES AND OTHER PROJECTS
CAPITAL PROJECTS FUND
SCHEDULE OF REVENUES, EXPENDITURES AND
CHANGES IN FUND BALANCE - BUDGET (GAAP) AND ACTUAL
For the year ended June 30, 2011

Schedule D-5a

	2011			2010
	Budget Final	Actual	Variance with Final Budget Positive (Negative)	Actual
Revenues				
Interest	\$ -	\$ 45,561	\$ 45,561	\$ 17,100
Total revenues	-	45,561	45,561	17,100
Expenditures				
Public safety	-	-	-	5,918,878
Capital outlay	20,728,769	6,943,732	13,785,037	3,176,144
Total expenditures	20,728,769	6,943,732	13,785,037	9,095,022
Excess (deficiency) of revenues over expenditures	(20,728,769)	(6,898,171)	13,830,598	(9,077,922)
Other Financing Sources (Uses)				
Issuance of bonds	16,326,600	16,330,000	3,400	525,354
Transfers in	496,205	499,067	2,862	8,485,000
Transfers out	(323,623)	(323,623)	-	(1,870,000)
Total other financing sources (uses)	16,499,182	16,505,444	6,262	7,140,354
Net change in fund balance	(4,229,587)	9,607,273	13,836,860	(1,937,568)
Fund balance, beginning of year	4,228,175	4,228,175	-	6,165,743
Fund balance, end of year	\$ (1,412)	\$ 13,835,448	\$ 13,836,860	\$ 4,228,175

**RICHLAND COUNTY, SOUTH CAROLINA
TOWNSHIP
CAPITAL PROJECTS FUND
BALANCE SHEETS**

Schedule D-6

	<u>JUNE 30,</u>	
	<u>2011</u>	<u>2010</u>
Assets		
Equity in pooled cash	\$ 849,394	\$ 818,380
Restricted equity in pooled cash	<u>875,966</u>	<u>1,773,879</u>
Total assets	<u>\$ 1,725,360</u>	<u>\$ 2,592,259</u>
Liabilities and Fund Balances		
Liabilities		
Accounts payable	\$ -	\$ 244,337
Retainage payable	<u>10,000</u>	<u>330,559</u>
Total liabilities	<u>10,000</u>	<u>574,896</u>
Fund balances		
Restricted	865,966	818,380
Committed	<u>849,394</u>	<u>1,198,983</u>
Total fund balances	<u>1,715,360</u>	<u>2,017,363</u>
Total liabilities and fund balances	<u>\$ 1,725,360</u>	<u>\$ 2,592,259</u>

**RICHLAND COUNTY, SOUTH CAROLINA
TOWNSHIP
CAPITAL PROJECTS FUND
SCHEDULE OF REVENUES, EXPENDITURES AND
CHANGES IN FUND BALANCE - BUDGET (GAAP) AND ACTUAL
For the year ended June 30, 2011**

Schedule D-6a

	2011		Variance with Final Budget Positive (Negative)	2010
	Budget Final	Actual		Actual
Revenues				
Interest	\$ -	\$ 31,013	\$ 31,013	\$ 58,936
Total revenues	-	31,013	31,013	58,936
Expenditures				
Capital outlay	1,198,982	333,016	865,966	10,060,113
Total expenditures	1,198,982	333,016	865,966	10,060,113
Excess (deficiency) of revenues over expenditures	(1,198,982)	(302,003)	896,979	(10,001,177)
Net change in fund balance	(1,198,982)	(302,003)	896,979	(10,001,177)
Fund balance, beginning of year	2,017,363	2,017,363	-	12,018,540
Fund balance, end of year	\$ 818,381	\$ 1,715,360	\$ 896,979	\$ 2,017,363

RICHLAND COUNTY, SOUTH CAROLINA

General Fund

Balance Sheet As of 6/30/2012

DRAFT: For Discussion purposes only

	<u>2012</u>	<u>2011</u>
Assets		
Cash	119,643	82,569
Equity in pooled cash	64,771,087	68,477,032
Receivables	2,178,545	3,619,262
Due from other governments	6,925,526	8,875,718
Due from other funds	911,822	968,193
Inventories	1,022,924	926,348
Other	0	0
Restricted Cash	761,756	4,495,756
Total assets	<u>\$ 76,691,307</u>	<u>\$ 87,444,882</u>
Liabilities and Fund Balance		
Liabilities:		
Accounts payable	4,507,818	4,534,649
Accrued Expenditures	8,249,311	7,665,086
Due to other governments	3,396,781	2,940,842
Other liabilities	4,247,587	4,264,852
GO bonds and spec assess debt	36,314	0
Total liabilities	<u>20,437,813</u>	<u>19,405,431</u>
Fund Balance:		
Fund balance - designated	0	0
Nonspendable	1,022,924	926,348
Committed	42,443,209	52,729,967
Assigned	5,350,284	5,350,284
Unassigned	7,437,075	9,032,850
Total fund balance	<u>56,253,494</u>	<u>68,039,451</u>
Total liabilities and fund balances	<u>\$ 76,691,307</u>	<u>\$ 87,444,882</u>

RICHLAND COUNTY, SOUTH CAROLINA

Water / Sewer Enterprise Fund

Statement of Net Assets

As of 6/30/2012

*DRAFT: For
discussion purposes
only*

	<u>2012</u>	<u>2011</u>
Assets		
Current Assets		
Cash	0	0
Equity in pooled cash	2,257,446	1,613,517
Receivables	238,107	398,715
Due from other funds	50,708	50,708
Inventories	192,218	202,369
Total Current Assets	<u>2,738,481</u>	<u>2,265,310</u>
Non-current assets		
Capital Assets:		
Land	944,215	944,215
Buildings and improvements	71,293,259	62,408,041
Equipment	79,656	79,656
Construction in Progress	59,831	5,453,044
Vehicles	960,823	945,421
Heavy Equipment	791,876	722,043
Accumulated depreciation	(12,501,177)	(9,997,543)
Computer Equipment	51,570	51,570
Net capital assets	<u>61,680,055</u>	<u>60,606,449</u>
Restricted Cash	3,340,639	4,056,934
Total Non-current assets	<u>65,020,695</u>	<u>64,663,383</u>
Deferred Charges		
Deferred charges, net	588,310	390,607
Total Deferred Charges	<u>588,310</u>	<u>390,607</u>
Total Assets	<u>68,347,487</u>	<u>67,319,301</u>
Liabilities		
Current liabilities		
Accounts payable	190,703	935,225
Accrued Expenditures	106,117	93,659
Due to other funds	494,708	773,368
Accrued interest payable	449,533	549,087
GO bonds - current portion	907,867	2,598,883
Other liabilities	983,312	548,748
Retainage payable	212,311	156,221
Total Current liabilities	<u>3,344,552</u>	<u>5,655,194</u>
Non-current liabilities		
Accrued Expenditures	268,277	268,277
Other liabilities	0	0
Accrued comp absences-LT	124,395	112,888
GO bonds - LT	36,303,599	34,048,790

RICHLAND COUNTY, SOUTH CAROLINA
Water / Sewer Enterprise Fund
Statement of Net Assets
As of 6/30/2012

	<u>2012</u>	<u>2011</u>
Total Non-current liabilities	<u>36,696,273</u>	<u>34,429,956</u>
Total Liabilities	<u>40,040,826</u>	<u>40,085,151</u>
Net Assets:		
Investment in capital assets, net of related debt	27,809,230	28,015,712
Unrestricted	497,430	(781,559)
Total net assets	<u>28,306,661</u>	<u>27,234,150</u>
Total liabilities and net assets	<u>68,347,487</u>	<u>67,319,301</u>

RICHLAND COUNTY, SOUTH CAROLINA

Lower Richland Water / Sewer

Statement of Net Assets

As of 6/30/2012

*DRAFT: For
discussion
purposes only*

	<u>2012</u>	<u>2011</u>
Assets		
Current Assets		
Cash	0	0
Equity in pooled cash	232,902	206,278
Receivables	38,852	241,036
Inventories	1,926	2,017
Total Current Assets	<u>273,680</u>	<u>449,332</u>
Non-current assets		
Capital Assets:		
Land	1	1
Buildings and improvements	9,942,020	1,426,957
Construction in Progress	0	5,393,213
Heavy Equipment	17,547	17,547
Accumulated depreciation	(785,174)	(544,322)
Net capital assets	<u>9,174,394</u>	<u>6,293,396</u>
Restricted Cash	100,457	1,200,000
Total Non-current assets	<u>9,274,852</u>	<u>7,493,396</u>
Total Assets	<u>9,548,532</u>	<u>7,942,728</u>
Liabilities		
Current liabilities		
Accounts payable	28,621	770,880
Accrued Expenditures	6,430	4,706
Due to other funds	50,708	265,368
GO bonds - current portion	22,867	1,873,883
Other liabilities	997	0
Retainage payable	212,311	156,221
Total Current liabilities	<u>321,936</u>	<u>3,071,060</u>
Non-current liabilities		
Other liabilities	0	0
Accrued comp absencea-LT	6,947	10,975
GO bonds - LT	1,995,357	0
Total Non-current liabilities	<u>2,002,305</u>	<u>10,975</u>
Total Liabilities	<u>2,324,241</u>	<u>3,082,036</u>

RICHLAND COUNTY, SOUTH CAROLINA

Lower Richland Water / Sewer

Statement of Net Assets

As of 6/30/2012

	<u>2012</u>	<u>2011</u>
Net Assets:		
Investment in capital assets, net of related debt	7,256,627	5,619,512
Unrestricted	(32,338)	(758,820)
Total net assets	<u>7,224,290</u>	<u>4,860,692</u>
Total liabilities and net assets	<u>9,548,532</u>	<u>7,942,728</u>

RICHLAND COUNTY, SOUTH CAROLINA

Hopkins Utility System Enterprise Fund

Statement of Net Assets

As of 6/30/2012

*DRAFT: For
discussion
purposes only*

	<u>2012</u>	<u>2011</u>
Assets		
Current Assets		
Cash	0	0
Equity in pooled cash	(41,503)	52,064
Receivables	22,489	225,556
Inventories	1,411	1,343
Total Current Assets	<u>(17,602)</u>	<u>278,963</u>
Non-current assets		
Capital Assets:		
Buildings and improvements	4,655,255	0
Construction in Progress	0	3,463,444
Net capital assets	<u>4,655,255</u>	<u>3,463,444</u>
Restricted Cash	99,609	0
Total Non-current assets	<u>4,754,865</u>	<u>3,463,444</u>
Total Assets	<u>4,737,262</u>	<u>3,742,408</u>
Liabilities		
Current liabilities		
Accounts payable	10,390	765,008
Accrued Expenditures	1,656	2,513
Due to other funds	50,708	265,368
GO bonds - current portion	22,867	1,873,883
Other liabilities	908	0
Retainage payable	212,311	156,221
Total Current liabilities	<u>298,841</u>	<u>3,062,996</u>
Non-current liabilities		
Other liabilities	0	0
Accrued comp absences-LT	6,947	9,596
GO bonds - LT	1,995,357	0
Total Non-current liabilities	<u>2,002,305</u>	<u>9,596</u>
Total Liabilities	<u>2,301,147</u>	<u>3,072,592</u>
Net Assets:		
Investment in capital assets, net of related debt	2,736,640	1,589,561
Unrestricted	(300,525)	(919,745)
Total net assets	<u>2,436,115</u>	<u>669,816</u>
Total liabilities and net assets	<u>4,737,262</u>	<u>3,742,408</u>

The County of Richland



Office of the County Attorney

RECEIVED

OCT 22 2010

WILLIAMSBURG COUNTY

October 20, 2010

United States Department of Agriculture Rural Development
P.O. Box 769
Kingstree, SC 29556

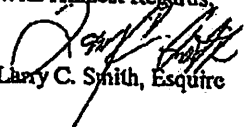
Re: Richland County - Hopkins Water and Sewer System

To Whom It May Concern:

As County Attorney, I hereby certify that Richland County does have judgments, pending actions and or claims against them as of the date of this letter. However, there are no judgments or pending litigation against the Richland County Utilities Department that our office has been able to determine at this time.

This certification is given in connection with the above-pending loan application.

With Kindest Regards,


Larry C. Smith, Esquire

LCS:mzb

cc: Sparty Hammett, Assistant County Administrator
Andy Metts, Director of Utilities
Sara Salley, Grants Manager
Frannie Heizer, Esquire (sent via e-mail only)

2020 Hampton Street, Suite 4018/P.O. Box 192/ Columbia, South Carolina 29202/ (803) 576-2170
Tele Fax: (803) 576-2139/ TDD # 748-4999

MINUTES OF A MEETING
HOPKINS COMMUNITY WATER PROJECT
HOPKINS PARK, MONDAY 28 AUGUST 2006

PRESENT:

COUNCILMEMBER BERNICE SCOTT
ANDY METTS, RICHLAND COUNTY UTILITIES
READ MINER, SC DHEC
KAREN SPRAYBERRY, SC DHEC

THE MEETING OPENED AT 6:15 PM, 28 AUGUST 2006.

OPENING - COUNCILMEMBER BERNICE G. SCOTT

INVOCATION

PRESENTATION - READ MINOR, SCDHEC

The primary focus is for construction of a water and sewer system for the area. Environmental issues arising from gasoline contaminates from gas pumps at three former local businesses (Brazzells, Swap Shop and Brooks Grocery) affecting Cabin Creek Road, Martin Luther King Boulevard, Mineverille Road.

Cleanup progress is taking place in phases. Cleanup first started in 1998 around the former Swap Shop. At that time there wasn't any information on former Brooks Grocery contamination. Aquaterra Environmental was the consultant and they went out of business in 2002. A new cleanup effort began with Consultec Environmental in 2003. This company was originally located in Georgia, but relocated to North Carolina. Current cleanup efforts involve all three areas (Former Brazzell, Swap Shop and Brooks Grocery).

Monitoring wells are used in order to determine groundwater contamination and have shown significant reductions in contamination over time. For example, in September 2002, Benzene levels behind the former Brooks Grocery registered an 85% reduction; from 22,600 parts to 3,400. It is the MTBE chemical contaminate that is causing the worst problem in wells. Each chemical represents a different combination of hydrogen oxygen and hydrogen. Configuration of molecules creates certain chemicals.

Benzene is known to cause cancer if exposed to for a long period of time. This is a major concern and we are aggressively trying to remove it.

MTBE moves away from the source faster and is causing more of the problem. It is getting into layers of sand and gravel.

Q. Are they all toxins?

A. Benzene is the biggest toxin of concern. The others are not as toxic. MTBE is not very toxic, but it produces a very bad taste so homeowners can taste it in the water.

All of the constituents are in gasoline. The bulls-eye on the chart shows the highest levels of contamination located.

Future Cleanup - Modifications to treatment strategy have to be made. The cleanup process will take several more years. EPA is involved in the cleanup.

Clean Drinking Water - Periodic sampling of drinking water wells are being done. The last sample was in December 2005 and another one is scheduled in the next couple of months. However, installing carbon filters is a temporary solution.

Q. What about cooking water?

A. In theory, cooking causes vapors to go out of water, and the contaminants can be inhaled.

Q. With the carbon filters on the well, will the water getting to the house be clean?

A. Yes.

Q. If water is bad enough, will the filter hold up?

A. We were not aware of this situation, but will take care of it.

Q. Have all gas tanks and contaminated tanks been removed and the soil areas treated?

A. All that has been determined in these particular areas.

Q. Is the contaminated water contained in the area?

A. Entirely confined within red lines of the map.

Q. Has any other testing been done in other areas nearby?

A. Some homes on the edges of the map didn't grant permission. We wanted to be sure that every thing is clean. All evidence shows that it is contained within area if the red

lines on the map. There is no contamination anywhere near Air Base Road and none on the north side of Cabin Creek Road.

Q. Name the highlighted areas?

A. Cabin Creek Road, Martin Luther King Boulevard, Mineraville Road, Masonry Circle, Spring Hope, Prioleau Road

Q. What about new homes in the area?

A. There was a home under construction and we asked that the construction crew inform the homeowner so the well could be tested.

Q. Where do you plan to put the new well?

A. Deferred to Andy Metts.

Q. Does this problem affect Albene Park?

A. Deferred to Andy Metts. This system will tie into Franklin Park.

Q. Is this a done deal and you're just informing residents with this meeting?

A. This has been in the works for some time and it is a long, slow process. City Council was approached some time ago, to help resolve, but these are now the plans to resolve the problem.

Q. Can SCDHEC send a personal letter (in laymen's terms) on the status of homeowner's particular well situation?

A. We will work on that.

Q. Since contaminated water could bring significant health risks, how can residents immediately protect themselves?

A. If properties in question are homes on the roads presented, sampling has already been done and some carbon filters installed. However, other samples can be done. Since there are a lot of septic tanks in the area, a fecal coliform sample may need to be done for approximately twenty dollars for an analysis.

The test is free for residents 65 and older with proof of age. Otherwise the cost is in the \$20 - \$25 cost range. Residents can also check with a lab to check for lead which is naturally occurring. Metal lines can also leak lead into water, similar to the problem in Franklin Park.

Q. Was Albene Park in the contaminated area?

- A. Not within the determined area on the map.
- Q. What about sample bottles for drinking water?
- A. Depending on what you're sampling for, specific type sample bottles may be required. Ten sites have samples being collected for lead. Albene Park has been ok for a few years.
- Q. Are there certain wells that you can buy that are more resistant?
- A. In the area, the gravel layer underground produces lots of water. Drillers target these gravel layers when putting in wells. Contaminants seek the quickest pathway. With so many wells, it makes cleanup difficult. We had to drill 250 feet into the ground to get clean water. Most existing wells are only 8 - 10 feet deep. Well drillers try to get water through the cheapest route. They take the first water they can that is adequate.
- Q. What do well owners need to make sure of in general (on Martin Luther King Boulevard)?
- A. If the area of concern is not located on this map, there shouldn't be any concern about petroleum from the particular gas stations in question in those areas.

PRESENTATION - ANDY METTS - RICHLAND COUNTY UTILITIES

DHEC has invested a lot of time and money to resolve these and other problem areas, by bringing a public water system which will also serve Franklin and Albene Park. One year ago, the County took over these systems on a temporary basis. Many of the problems were operating issues. Richland County added a pH adjustment system in Franklin Park and corrected the existing system in Albene Park. Both systems have had dramatic reductions in levels; Albene Park an 8,000% reduction and Franklin Park a 600% reduction. Both systems are now working properly. The drinking water now is in much better shape than a year ago.

Richland County tried to get the City of Columbia to extend the line and build a distribution system a couple of years ago. The City did extra engineering studies and determined that there were not enough users to keep the water fresh in the line, it was not cost effective and they couldn't ensure good water.

Richland County began looking at it and began working with DHEC. Now wells at Hopkins Middle and Elementary schools had wells

that could serve the area. The County is planning to construct and extend lines from the school sites into affected areas. It will cost approximately 4.9 million dollars to build. We determined how to fund mainly through a grant/loan from Rural Development. An environmental impact study was completed and approved. This meeting is the last requirement of Rural Development. Rural Development will be releasing the funds within the next 30 - 45 days. This system will include fire protection.

The last stages will require:

Engineering Contract / Notice to Proceed - 2 - 3 months

Procurement Bidding Process - 4 - 6 weeks

Completion of construction of the project - 12 months

The project may have to be done in segments.

Q. Will there be one or several elevated water tanks?

A. One.

Q. What will be the tap on cost?

A. That hasn't been determined yet. Rural Development will ensure that the cost is the lowest possible. Maybe \$18 - \$20 per household for residents who do not qualify under LMI status. For LMI qualifies there will not be a cost.

Q. The City raised tap on cost up to \$4,000.

A. Rural Development will ensure that that the cost won't be that high. They will make sure that the residents can afford it.

Q. What is the difference between a tap fee and monthly fee?

A. The tap fee is a one time fee assessed. The monthly fee is what the resident will be for user fees each month.

Q. What will be the size of the line?

A. The size will vary. The design will be based on the City of Columbia's design criteria. Once the City recognizes the customer bases, the City will want to extend the line.

Q. Will this be a county wide system or just for a certain area?

A. This will be a stand-a-lone system, an enterprise fund. The system must be self supporting.

Q. Where will lines be?

A. The blue lines on the map are main lines. Smaller individual lines will go across properties.

- Q. Will this extend to everyone in Lower Richland?
A. Right now it is just for the specified service area.
- Q. What will be the height of the tank?
A. That is to be determined. It will probably be a ½ million gallon tank.
- Q. Will the lines be designed for fire protection? In other instances, it has been found during emergencies that fire hydrants were inoperable.
A. The system will be operable for fire protection and potential growth.
- Q. Will the wastewater treatment plant funnel the same route?
A. Lets finish the water issues, then adjourn and then can take other questions relative to sewer.
- Q. Will they do surveys?
A. When the funds are released from Rural Development, surveys and income assessments will be done.
- Q. Any plans in the near future to provide drinking water to the whole Lower Richland Area?
A. There will probably be plans for the future, but we can't see that far out right now.
- Q. Once the system is up and running, will there be enough taps for the City to bring lines?
A. The City may then want to run the lines and collect revenue, but the water could be sold to them instead for wholesale.
- Q. Will City lines get to Bluff Road anytime soon?
A. Not sure.
- Q. Will lines be sufficient to support growth?
A. Yes.

COMMENTS - REPRESENTATIVE JOE NEAL

City has refused the extend lines to the Lower Richland area in the past. There is a problem with the City and municipalities providing service to communities of color and the poor. The future of water is dependent upon developers. Arthurtown didn't get it until the 1990's and Greenview in 2002. Since the City

refused, the County had to step up. Lives are at risk and were not valued by the City. This is an issue of humanity.

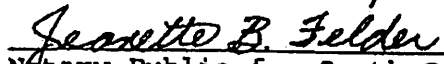
- Q. If the City connects, will the area annex into the City?
- A. This will be negotiated later. If this area does not want to annex into the City, wholesale rates may have to be considered.
- Q. What about proceeds for fees? What is the liability for companies that contaminated the water?
- A. Fees collected will be for the enterprise fund and to operate as a business. Fees collected will be used to operate the system. If the County falls short, Council will supplement.

There are State funds in place to clean up the contamination. The businesses that contaminated the area are former businesses.

THE MEETING ADJOURNED AT 8:30 PM, 28 AUGUST 2006.


Sandra Dickerson
Richland County
Department of Utilities

Sworn and subscribed before me
This 1st day of September, 2006


Notary Public for South Carolina
My Commission Expires: 8/15/10

MARK SANFORD, CHAIRMAN
GOVERNOR

CONVERSE A. CHELLIS, III, CPA
STATE TREASURER

RICHARD ECKSTROM, CPA
COMPTROLLER GENERAL



SC BUDGET AND CONTROL BOARD

Office Of State Budget
Les Bales
Director

(803) 734-2280
Fax: (803) 734-8645

April 12, 2010

Aiken: George Smith

HUGH K. LEATHERMAN, SR.
CHAIRMAN, SENATE FINANCE
COMMITTEE

DANIEL T. COOPER
CHAIRMAN, HOUSE WAYS AND MEANS
COMMITTEE

FRANK W. FUSCO
EXECUTIVE DIRECTOR

RECEIVED

APR 15 2010

COMMUNITY PROGRAMS

Ms. Vernita F. Dore
State Director
US Department of Agriculture
Rural Development
1835 Assembly Street, Room 1007
Columbia, SC 29201

RECEIVED

APR 15 2010

STATE DIRECTOR
SOUTH CAROLINA

Re: 10.760
Richland
Sewer System Improvements for Hopkins Community

State Application Identifier: SC100304-403

Dear Ms. Dore:

The proposed project has been processed in accordance with Executive Order 12372. All historic preservation procedures outlined in 36 CFR 800 should be observed and any necessary plans and specifications should be submitted to the South Carolina Department of Health and Environmental Control for review and approval.

The State Application Identifier indicated above should be used in any future correspondence with this office regarding this proposal. If you have any questions please contact Bonny Anderson at (803) 734-0435.

Sincerely,

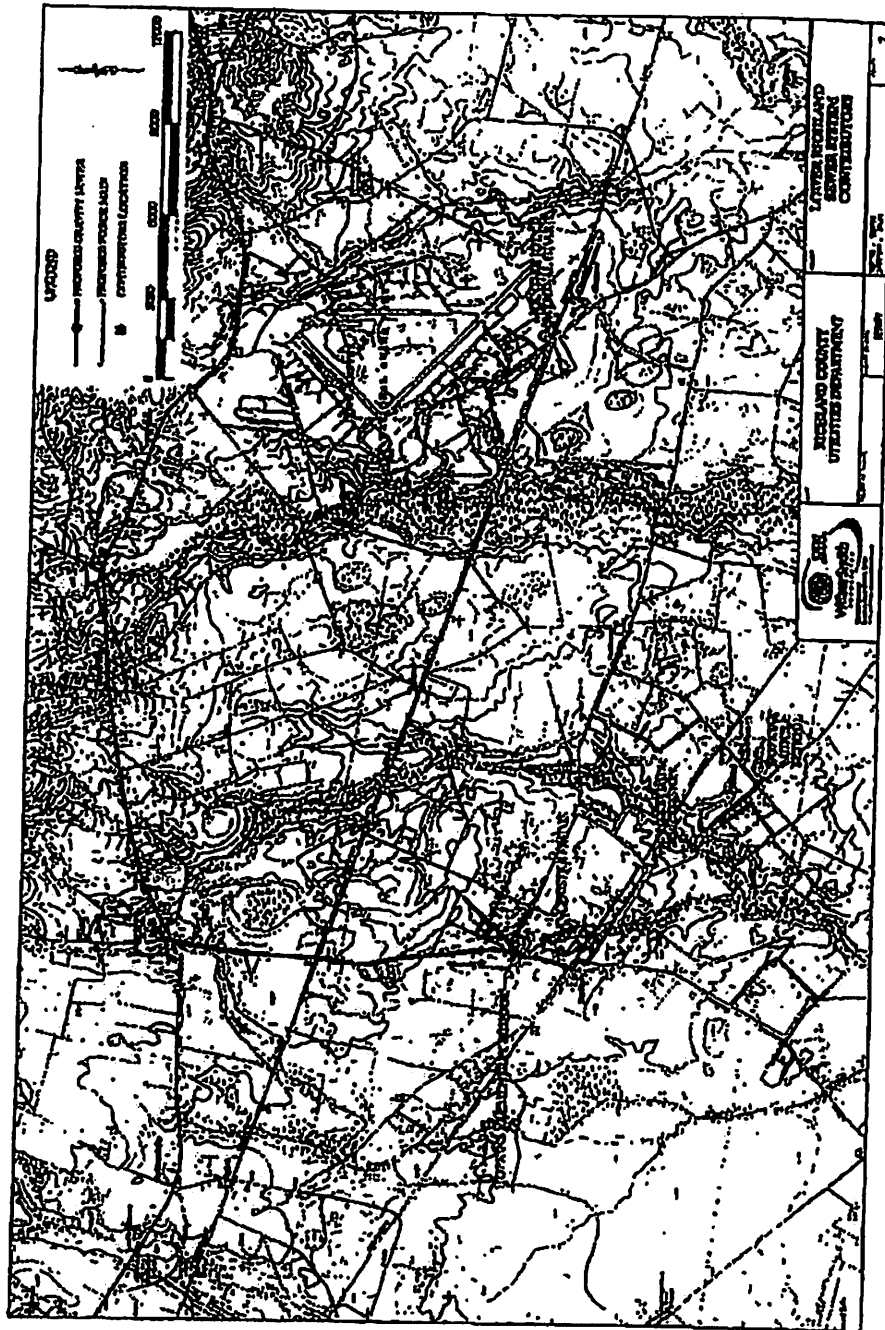
Jean Ricard
Fiscal Manager, Grant Services

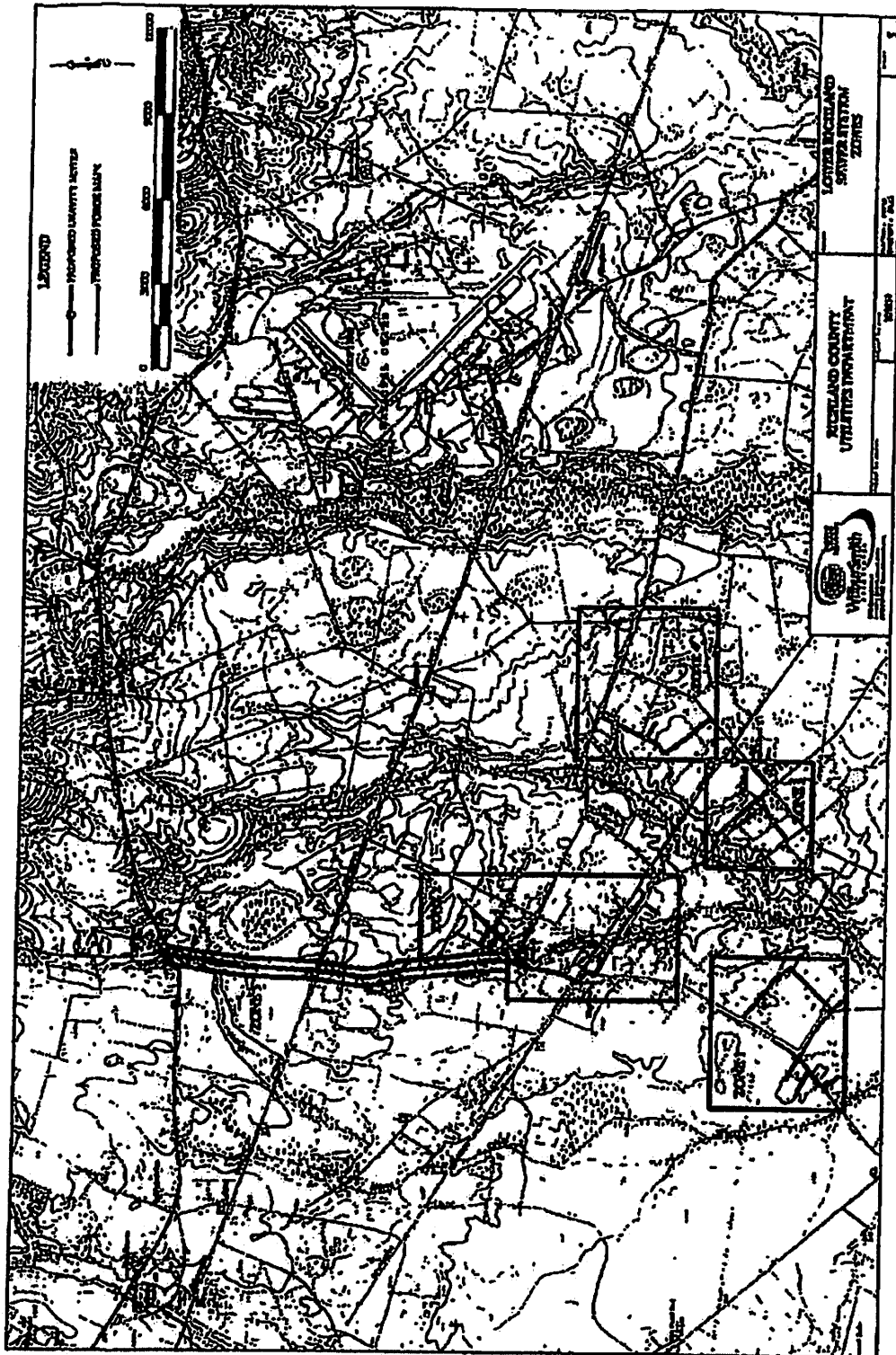
Lower Richland Community Sewer System Project

The Lower Richland Community Sewer Project will address the following sewer and water quality issues in Lower Richland County; more specifically the Hopkins community and areas between the Town of Eastover and Hopkins. Consolidating treatment to the County system would be in accordance with the Central Midlands Regional 208 Water Quality Management Plan.

Environmental Conditions and Demonstrated Need (Figures 1 -2 Lower Richland Community Sewer Project)

- Lower Richland has been identified by the SC Department of Health and Environmental Control (SCDHEC) as the number one problem area in Richland County with malfunctioning septic tanks that present an imminent health threat to the community. Approximately eighty (80) single family residences and mobile homes with septic tank problems exist in this area. (Zone 1)
- Hopkins Elementary School has an on-site wastewater treatment plant that discharges approximately 12,000 gallons per day and is not capable of meeting current discharge limits. This plant is under a SCDHEC consent order to be eliminated. (Zone 2)
- Hopkins Middle School has difficulty maintaining compliance at its on-site wastewater treatment plant that discharges approximately 25,000 gallons per day to a tributary that flows through the Congaree National Park, which is the State's only National Park. (Zone 3)
- Franklin Park Subdivision has an on-site wastewater treatment lagoon that discharges approximately 40,000 gallons per day into Cabin Branch. This wastewater lagoon provides service to approximately fifty (50) residences in the subdivision. The lagoon has had numerous problems meeting discharge limits and is currently being operated and maintained by Richland County Utilities under a court ordered receivership agreement with SCDHEC, due to improper operation by the former owner/operator. (Zone 4)
- Manchester Farms, the largest producer of farm raised quail in the United States, has an on-site wastewater treatment plant and discharges their wastewater at a spray field on nearby property. Connecting to public sewer and eliminating this system would improve water quality and also allow Manchester Farms to expand operations and employ additional workers. (Zone 1)
- Existing facilities are provided sewer service by the City of Columbia through a pump station/force main system along Highway 378, including, Square D, Lower Richland High School, Horrell Hill Elementary School, South East Middle School, Food Lion Shopping Center and Alexander Point Subdivision. These facilities represent approximately 340 residential equivalent sewer connections. The pump station is in an area that has been designated by the regional 208 Water Quality Management Plan as a Richland County service area. (Zone 5)
- Several future planned communities are being proposed for the Highway 378/Lower Richland Boulevard and are in need of sewer services. Capacity is not available in the existing City of Columbia system to provide sewer service to these proposed developments. (Zone 2,5)
- All surface water from the Lower Richland Community flows through the Congaree National Park. With all the malfunctioning systems and inadequate facilities as identified above, several hundred thousand gallons of under-treated wastewater flows through the Park's swamp daily.
- McEntire Joint National Guard Base is expanding its facilities and personnel. At the same time, the Department of Defense is looking for alternatives to eliminate the operation of its aging wastewater pumping and treatment facilities, which currently discharge to Cedar Creek. It has been reported that this Base is the last in the nation to maintain its own wastewater facilities and needs to consider connecting to a regional or county maintained system. Although a proposed sewer line is shown on the attached maps to identify service for the base, this report does not include the cost of any design or construction of the line. Engineering review for the connection of the Base is being performed by Wilbur Smith & Associates under a separate project. Although McEntire is seeking their own funding to connect to the County system, they will need to connect to the County's main line, which will be included in Phase I of this project.
- The Lower Richland Wastewater Facility is currently permitted to discharge up to 0.25 million gallons per day to the Wateree River. Although, this is not in a proposed zone, it is a concern because SCDHEC has recently released its renewed National Pollutant Discharge Elimination (NPDES) permit for the existing facility. The permit proposes more stringent water quality discharge parameters. In the event the new parameters cannot be met, the permit also proposes that a construction permit application for an upgraded facility be submitted to SCDHEC no later than October 31, 2011 and for construction to begin no later than May 1, 2012.
- On December 3, 2009, a catastrophic structural failure occurred at the 30 year old existing Lower Richland Wastewater Facility, which is located near the Town of Eastover. The failure destroyed approximately half of the major treatment basin and eliminated the possibility of its use





Development of a Richland County Owned and Operated Sewer System To Serve Lower Richland County

The development of a regional sewer system to serve Lower Richland County requires several assumptions. Some of these are as follows:

1. Several developers have requested sewer service near the intersection of Lower Richland Blvd and Sumter Hwy. They have previously indicated that approximately 2025 new taps will be added to the sewer system from their developments. The developers will connect to a sewer system if provided.
2. Approximately 350 existing houses will have access to sewer service once the new system is installed.
3. The City of Columbia has 1057 existing customers that can be disconnected from their system and connected to the new regional system.
4. There are approximately 50 existing customer in Franklin Park that will be connected to the new regional system
5. Finn-Chem will continue to be a customer of the Richland County System and will pay approximately \$7,700.00 per month for service.
6. The Town of Eastover will continue to be a customer of the Richland County System and will pay approximately \$3,500.00 per month for service.
7. The estimated cost of constructing the various phases of the sewer system are as follows:

Phase I	\$11,862,011.00
Phase II	\$ 3,811,101.00
Phase III	\$ 3,398,066.00

8. The estimated cost of taking over the existing City of Columbia sewer system in the area is \$1,700,000 for lost City revenue plus \$1,000,000 for re-routing sewer lines for a total of \$2,700,000.
9. A \$12,000,000.00 bond issue for 30 yrs at 4% to construct phase I in 2012.
10. A \$3,800,000.00 bond issue for 30 yrs at 4% to construct phase II in 2014.
11. A \$3,400,000.00 bond issue for 30 yrs at 4% to construct phase III in 2018.
12. A \$2,700,000.00 bond issue for 30 yrs at 4% to pay City and re-route sewer in 2012.
13. The first full year the debt service payment will be interest only - \$612,000.00 in 2012
14. The total bond issue in 2012 is: \$12,000,000.00+\$2,700,000.00+\$612,000.00=\$15,312,000.00.
15. The sewer tap fee rate is \$3,000.00 thru 2013, \$3,500.00 thru 2017 and \$4,000.00 thereafter.
16. The operating, capital and depreciation expenses increase at a rate of 10% per year.
17. The monthly user fee rate increases at 3% per year.

Base on the above assumptions, several scenarios were considered with differing connection rates and monthly user fees. The results are found on the following pages.

Lower Richland Sewer Monthly User Fee and New Customer Connection Rate Comparison

Assumptions

- #1 \$12,000,000.00 bond issue for 30 yrs at 4.0 % to construct phase I in FY 2012
- #2 \$3,800,000.00 bond issue for 30 yrs at 4.0% to construct phase II in FY 2014
- #3 \$3,400,000.00 bond issue for 30 yrs at 4.0% to construct phase III in FY 2016
- #4 \$2,700,000.00 bond issue for 30 yrs At 4% to City & eye improvements in 2012
- #5 \$12,000,000 + \$2,700,000= \$14,700,000 bond issue in 2012 debt service \$850,000
- #6 Assume \$3,000.00 tep fee thru 2013, \$3,500 thru 2017, \$4,000 thereafter
- #7 Film-Chem continues to pay \$7,700.00 per month
- #8 The Town of Eastover pays \$3,500.00 per month
- #9 Operating, Capital and Depreciation expenses increase at a rate of 10% per year
- #10 Assume monthly user fee rate increases at 3% per year
- #11 Assume 1057 City cust. and 50 Franklin Park cust. as initial cust.
- #12 Assume \$812,000 interest payment in FY 2012 but included in bond issue

Monthly user fee and new customer connection rate comparison to maintain debt service coverage at approximately 1.2

Monthly User Fee (with City Customers)	Required Annual Connection Rate	Monthly User Fee (without City Customers)	Required Annual Connection Rate
\$46.54	84	\$46.54	172
\$44.00	86	\$44.00	180
\$40.00	108	\$38.00	182
\$36.00	120		
\$34.00	132		



United States Department of Agriculture
Rural Development

Rural Business-Cooperative Service • Rural Housing Service • Rural Utilities Service

July 21, 2010

SUBJECT: Richland County Utilities Department –Lower Richland County Sewer Project- Environmental Report/Environmental Documentation from Other Sources¹ Review

TO: Mike J. Hucks
Rural Development Processing Office

FROM: 
George T. Smith
State Environmental Coordinator

I have reviewed the Environmental Report/Environmental Documentation for the Richland County Utilities Department –Lower Richland County Sewer Project and have made the following determinations:

CONCURRENCE WITH CLASSIFICATION OF PROPOSAL

- ☐ Categorical Exclusion with an Environmental Report (7 CFR 1794.22 (b) and (c))
- ☒ Environmental Assessment (7 CFR 1794.23 (a) and (b))

ACCEPTANCE OF ENVIRONMENTAL REPORT/ENVIRONMENTAL DOCUMENTATION

- ☒ Acceptable
- ☐ Unacceptable. In order to bring the report into compliance with regulatory and Agency requirements, please address the items listed in Exhibit B.

¹ This Exhibit can be used to document the review and acceptance of environmental documentation received from any source whether it's for an adoption of environmental documentation prepared for or by another Federal Agency or for the incorporation of information into the RUS's environmental review process.

Rural Development is an Equal Opportunity Lender
Complaints of discrimination should be sent to:
Secretary of Agriculture, Washington, DC 20250

Revised: 1/8/03



United States Department of Agriculture
Rural Development

Rural Business-Cooperative Service • Rural Housing Service • Rural Utilities Service

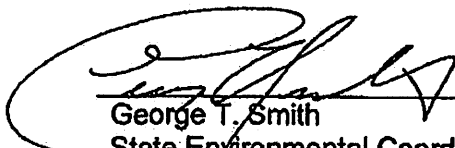
July 21, 2010

SUBJECT: Richland County Utilities Department –Lower Richland
County Sewer Project, Recommendation of a Finding of No
Significant Impact

TO: Mike J. Hucks, CP Program Director
Rural Development

I have reviewed the environmental documentation for the Richland County Utilities Department –Lower Richland County Sewer Project. In accordance with 7 CFR Part 1794, Rural Utilities Service's Environmental Policies and Procedures, the proposed project meets the classification criteria for an Environmental Assessment. The public review period is complete and all public comments and outstanding issues have been addressed and resolved to the extent practicable. Therefore in accordance with 40 CFR 1508.13, I recommend that the Agency issue a determination that the proposed project will not have a significant effect on the human environment and that an Environmental Impact Statement will not be prepared.

Attached for your approval is the Finding of No Significant Impact document. Please sign, forward the document to the Rural Development processing office and the attached cover letter and have them request that the applicant publish a public notice informing the public of our decision.


George T. Smith
State Environmental Coordinator
Rural Development

Revised: 1/8/03

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United States Department of Agriculture
Rural Development

Rural Business-Cooperative Service • Rural Housing Service • Rural Utilities Service

July 21, 2010

SUBJECT: Richland County Utilities Department –Lower Richland County
Sewer Project,
Finding of No Significant Impact

TO: Rural Development Processing Office

In accordance with 7 CFR Part 1794, Rural Utilities Service's Environmental Policies and Procedures, I have reviewed and approved a Finding of No Significant Impact for the above project. To inform the public of our decision, please direct the applicant to publish the appropriate public notice. An example of a public notice for the Finding of No Significant Impact can be found in Appendix B-4 in Bulletin 1794A-602.

If you have any questions, please contact George T. Smith, State Environmental Coordinator at (803) 649-4221 Ext. 115.

A handwritten signature in cursive script, reading "Mike J. Hucks", is positioned above a horizontal line.

Mike J. Hucks
CP Program Director
Rural Development

Revised: 1/8/03

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Secretary of Agriculture, Washington, DC 20250

Lower Richland Sewer System

October 21, 2005	Community Meeting	Discussion of Need, project overview, public questions/comments. Three committees (<i>Site Selection; Finance; Boundaries</i>) to be formed to work with County Council on issue.
December 4, 2007	Council Meeting	County Administrator to request that City provide wholesale treatment on a temporary basis until construction of regional system. Sewer tap fees & monthly fees to be paid to County.
February 5, 2008	Council Meeting	Council approved proceeding with option 3.
March 4, 2008	Council Meeting	Council directed staff to work with developers & McEntire ANG to secure funding. Funding recommendations may include the use of fund balance, creation of special tax district, or other mechanisms.
March 18, 2008	Council Meeting	Lower Richland sewer service <i>referred</i> to Executive Session & received as information.
September 9, 2008	Council Meeting	Lower Richland Sewer update received as information.
September 16, 2008	Council Meeting	Lower Richland Sewer update received as information.
October 7, 2008	Council Meeting	Council directed Administrator to proceed as discussed in Executive Session. MOU to be sent to City.
October 21, 2008	Council Meeting	MOU to City to be forwarded by week's end. Mr. Pope to advise the principals of status.
December 8, 2009	Council Meeting	Sewer Extension Plan.
February 2, 2010	Council Meeting	The Administrator was directed to move forward as discussed in Executive Session.
March 2, 2010	Council Meeting	Administrator waiting on City to forward information.
March 16, 2010	Council Meeting	Council authorized approval of the agreement contingent upon the Administrator including negotiations with the City regarding points discussed in Executive Session.
May 4, 2010	Council Meeting	Mr. Pope stated that proposal sent to Council.



May 9, 2010	Newspaper Ad	Public Notice – Richland County Utilities Department will file application for a loan/grant with Rural Utilities Service.
May 18, 2010	Council Meeting	May ROA will outline the proposal. Staff to plan a meeting with developers.
May 19, 2010	Public Meeting	Discussion of Need, project overview, public questions/comments.
June 1, 2010	Council Meeting	Staff pursuing 3 paths - (1) MOU with City, (2) receive and gather info from Palmetto Utilities, (3) still pursuing Rural Development Loan/Grant.
June 10, 2010	Newspaper Ad	Notice of the Availability of an Environmental Assessment.
June 11, 2010	Newspaper Ad	Notice of the Availability of an Environmental Assessment.
June 12, 2010	Newspaper Ad	Notice of the Availability of an Environmental Assessment.
June 15, 2010	Council Meeting	Still pursuing 3 above items of June 1st. There is a Special Called EPAC (COG) Meeting June 16, 2010 with a subsequent update.
July 6, 2010	Council Meeting	Still pursuing 3 above items of June 1 st .
July 20, 2010	Council Meeting	Administration received response from Palmetto Utilities & will request additional information. USDA requested that project be divided into 3 phases. PER approved and submitted for funding.
July 27, 2010	Council Meeting (special called)	Staff received response from Palmetto Utilities. Council directed staff to meet with Palmetto Utilities and obtain more information (County's obligations, liability, governance, etc.) and forward to Economic Development Committee Meeting for September 7, 2010.
August 13, 2010	Newspaper Ad	Notice of a Finding of No Significant Impact.
August 20, 2010	Newspaper Ad	Notice of a Finding of No Significant Impact.
September 7, 2010	Council Meeting	Lower Richland Sewer update information to be presented to Council at September 21 meeting.

September 21, 2010	Council Meeting	Council deferred item to September 28.
September 28, 2010	Council Meeting (special called)	Council voted to hold Economic Development Committee Meeting/Work Session October 5 with Palmetto Utilities and City representatives in attendance.
October 5, 2010	Council Meeting	Council voted to proceed with Staff's recommendations to move forward with a wastewater treatment plant for the Lower Richland sewer area; and expeditiously execute MOU with City. Vote to reconsider the item failed.
February 19, 2013	Council Meeting	Motion passed to approve USDA Rural Development Resolution and Letter of Conditions. Vote to reconsider failed.
September 10, 2013	Council Meeting	Authorizing and Providing for the creation of the Lower Richland Sewer System and for the issuance of improvement revenue bonds (<i>1st reading</i>). Authorizing and Providing for the issuance of Bond Anticipation Note in an amount not to exceed \$9,359,000 (<i>1st reading</i>).
September 17, 2013	Council Meeting	Authorizing and Providing for the creation of the Lower Richland Sewer System and for the issuance of improvement revenue bonds (<i>2nd reading – unanimous approval</i>). Authorizing and Providing for the issuance of Bond Anticipation Note in an amount not to exceed \$9,359,000 (<i>2nd reading – unanimous approval</i>).
October 1, 2013	Council Meeting	Authorizing and Providing for the creation of the Lower Richland Sewer System and for the issuance of improvement revenue bonds (<i>3rd reading – motion to defer unanimous approved</i>). Authorizing and Providing for the issuance of Bond Anticipation Note in an amount not to exceed \$9,359,000 (<i>3rd reading – motion to defer unanimous approved</i>).
October 19, 2013	Council Meeting	Mr. Pope stated City Council discussing this item at their October 19 meeting.
December 3, 2013	Council Meeting	Authorizing and Providing for the creation of the Lower Richland Sewer System and for the issuance of improvement revenue bonds (<i>3rd reading</i>).

		Authorizing and Providing for the issuance of Bond Anticipation Note in an amount not to exceed \$9,359,000 (<i>3rd reading</i>).
April 1, 2014	Council Meeting	Approve Reimbursement Resolution related to preliminary expenditures related to the Lower Richland Sewer System Project Phase 1.
June 3, 2014	Council Meeting	Water/Sewer/Industrial Waste User Rates (<i>deferred to June 17</i>); Utilities Tap Fee Assistance Program; (<i>approved</i>); Water & Sewer Tap Fee Payment Plan (<i>deferred to June 17</i>); Council approved resolution to accept \$577,000 principal forgiveness loan and execution of loan assistance agreement.
June 17, 2014	Council Meeting	Water/Sewer/Industrial Waste User Rates (<i>approved</i>); Water & Sewer Tap Fee Payment Plan (<i>approved</i>);
July 7, 2014	Community Meeting	Discussion proposed project phasing and funding, public questions/comments, start sign-up.
July 10, 2014	Community Meeting	Discussion proposed project phasing and funding, public questions/comments, start sign-up.



Application for Federal Assistance SF-424	Version 02
9. Type of Applicant 1: Select Applicant Type: County	
Type of Applicant 2: Select Applicant Type:	
Type of Applicant 3: Select Applicant Type:	
* Other (specify):	
* 10. Name of Federal Agency: USDA, Rural Development	
11. Catalog of Federal Domestic Assistance Number: 10.760 CFDA Title:	
* 12. Funding Opportunity Number: * Title:	
13. Competition Identification Number: Title:	
14. Areas Affected by Project (Cities, Counties, States, etc.): Lower Richland County	
* 15. Descriptive Title of Applicant's Project: Sewer System Improvements, Hopkins Service Area	

Application for Federal Assistance SF-424		Version 02
16. Congressional Districts Of:		
* a. Applicant	SC-02	* b. Program/Project SC-06
Attach an additional list of Program/Project Congressional Districts if needed.		
17. Proposed Project:		
* a. Start Date:	07/14/2010	* b. End Date:
18. Estimated Funding (\$):		
* a. Federal	<u>\$11,862,000</u>	
* b. Applicant	<u>\$1,350,000</u>	
* c. State	<u>\$0</u>	
* d. Local	<u>\$0</u>	
* e. Other	<u>\$0</u>	
* f. Program Income	<u>\$0</u>	
* g. TOTAL	<u>\$13,212,000</u>	
* 19. Is Application Subject to Review By State Under Executive Order 12372 Process?		
☒ a. This application was made available to the State under the Executive Order 12372 Process for review on _____ ☐ b. Program is subject to E.O. 12372 but has not been selected by the State for review. ☐ c. Program is not covered by E.O. 12372.		
* 20. Is the Applicant Delinquent On Any Federal Debt? (If "Yes", provide explanation.)		
☐ Yes ☒ No		
21. *By signing this application, I certify (1) to the statements contained in the list of certifications** and (2) that the statements herein are true, complete and accurate to the best of my knowledge. I also provide the required assurances** and agree to comply with any resulting terms if I accept an award. I am aware that any false, fictitious, or fraudulent statements or claims may subject me to criminal, civil, or administrative penalties. (U.S. Code, Title 218, Section 1001) ☒ ** I AGREE ** The list of certifications and assurances, or an Internet site where you may obtain this list, is contained in the announcement or agency specific instructions.		
Authorized Representative:		
Full Name		
* Title:		
* Telephone Number:		Fax Number:
* Email:		
* Signature of Authorized Representative:		
_____		Date

Standard Form 424 (Revised 10/2005)
Prescribed by OMB Circular A-102

*** Applicant Federal Debt Delinquency Explanation**

The following field should contain an explanation if the Applicant organization is delinquent on any Federal Debt. Maximum number of characters that can be entered is 4,000. Try and avoid extra spaces and carriage returns to maximize the availability of space.

PUBLIC INFORMATION MEETING REQUIREMENTS

Prior to loan approval, it will be necessary for you to hold a public meeting to inform the citizenry of the proposed project. This meeting must give the citizens an opportunity to become acquainted with the project and to comment on different items, such as economic and environmental impacts, service area, alternatives to the project and any other issue identified by Rural Development. The notice of the meeting must be published in a newspaper of general circulation in the service area at least 10 days prior to the meeting. You are also required to post a public notice in your office and to notify RD of the meeting. After the meeting is held, it will necessary for you to provide RD two copies of the following:

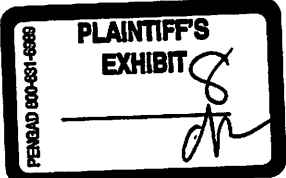
- The notice published in the newspaper.
- 2. The notice posted at your office.
- 3. Certified minutes of the public meeting.

An example/guide of a notice prepared to be published is:

PUBLIC NOTICE

The _____ will hold a public meeting
on _____ at its office at _____ at
_____ p.m. The purpose of the meeting is to give an opportunity to become
acquainted with a proposed Rural Development project consisting generally of

Citizens will have the opportunity to comment on such items as economic and
environmental impacts, service area and alternatives to the project.

Application for Federal Assistance SF-424		Version 02
*1. Type of Submission: ☐ Preapplication ☐ Application ☒ Changed/Corrected Application	*2. Type of Application * If Revision, select appropriate letter(s) ☐ New ☒ Continuation *Other (Specify) _____ ☐ Revision	
3. Date Received: _____ 4. Applicant Identifier: _____		
5a. Federal Entity Identifier: _____		*5b. Federal Award Identifier: _____
State Use Only:		
6. Date Received by State: _____		7. State Application Identifier: _____
8. APPLICANT INFORMATION:		
*a. Legal Name: Richland County, South Carolina		
*b. Employer/Taxpayer Identification Number (EIN/TIN): 57-6000398		*c. Organizational DUNS: 07-370-9883
d. Address:		
*Street 1: <u>2020 Hampton Street</u> Street 2: _____ *City: <u>Columbia</u> County: _____ *State: <u>South Carolina</u> Province: _____ *Country: <u>United States</u> *Zip / Postal Code <u>29204</u>		
e. Organizational Unit:		
Department Name: Utilities		Division Name: Utilities
f. Name and contact information of person to be contacted on matters involving this application:		
Prefix: <u>Mr.</u> *First Name: <u>Andy</u> Middle Name: _____ *Last Name: <u>Metts</u> Suffix: _____		
Title: <u>Director of Utilities</u>		
Organizational Affiliation: <u>Director</u>		
*Telephone Number: 803-401-0050		Fax Number: _____
*Email: mettsa@rcgov.us		

Application for Federal Assistance SF-424	Version 02
*9. Type of Applicant 1: Select Applicant Type: B.County Government Type of Applicant 2: Select Applicant Type: Type of Applicant 3: Select Applicant Type: *Other (Specify)	
*10 Name of Federal Agency: USDA-Rural Development	
11. Catalog of Federal Domestic Assistance Number: <u>10-760</u> CFDA Title: _____	
*12 Funding Opportunity Number: _____ *Title: _____	
13. Competition Identification Number: _____ Title: _____	
14. Areas Affected by Project (Cities, Counties, States, etc.): Hopkins Community, Lower Richland Community, Town of Eastover all in Richland County, South Carolina	
*15. Descriptive Title of Applicant's Project:	

Application for Federal Assistance SF-424		Version 02
16. Congressional Districts Of:		
*a. Applicant: _____	*b. Program/Project: _____	
17. Proposed Project:		
*a. Start Date: _____	*b. End Date: _____	
18. Estimated Funding (\$):		
*a. Federal _____		
*b. Applicant _____		
*c. State _____		
*d. Local _____		
*e. Other _____		
*f. Program Income _____		
*g. TOTAL _____		
*19. Is Application Subject to Review By State Under Executive Order 12372 Process?		
☒ a. This application was made available to the State under the Executive Order 12372 Process for review on <u>August 10, 2005</u>		
☐ b. Program is subject to E.O. 12372 but has not been selected by the State for review.		
☐ c. Program is not covered by E. O. 12372		
*20. Is the Applicant Delinquent On Any Federal Debt? (If "Yes", provide explanation.)		
☐ Yes ☒ No		
21. *By signing this application, I certify (1) to the statements contained in the list of certifications** and (2) that the statements herein are true, complete and accurate to the best of my knowledge. I also provide the required assurances** and agree to comply with any resulting terms if I accept an award. I am aware that any false, fictitious, or fraudulent statements or claims may subject me to criminal, civil, or administrative penalties. (U. S. Code, Title 218, Section 1001)		
☒ ** I AGREE		
** The list of certifications and assurances, or an internet site where you may obtain this list, is contained in the announcement or agency specific instructions		
Authorized Representative:		
Prefix: <u>Mr.</u>	*First Name: <u>Milton</u>	
Middle Name: _____		
*Last Name: <u>Pope</u>		
Suffix: _____		
*Title: <u>County Administrator</u>		
*Telephone Number: <u>803-576-2050</u>		Fax Number: _____
* Email: _____		
*Signature of Authorized Representative: _____		*Date Signed: _____

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Standard Form 424 (Revised 10/2005)
Prescribed by OMB Circular A-102

Application for Federal Assistance SF-424

Version 02

***Applicant Federal Debt Delinquency Explanation**

The following should contain an explanation if the Applicant organization is delinquent of any Federal Debt.

INSTRUCTIONS FOR THE SF-424

Public reporting burden for this collection of information is estimated to average 60 minutes per response, including time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding the burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to the Office of Management and Budget, Paperwork Reduction Project (0348-0043), Washington, DC 20503.

PLEASE DO NOT RETURN YOUR COMPLETED FORM TO THE OFFICE OF MANAGEMENT AND BUDGET. SEND IT TO THE ADDRESS PROVIDED BY THE SPONSORING AGENCY.

This is a standard form (including the continuation sheet) required for use as a cover sheet for submission of preapplications and applications and related information under discretionary programs. Some of the items are required and some are optional at the discretion of the applicant or the Federal agency (agency). Required items are identified with an asterisk on the form and are specified in the instructions below. In addition to the instructions provided below, applicants must consult agency instructions to determine specific requirements.

Item	Entry:	Item	Entry:
1.	Type of Submission: (Required) Select one type of submission in accordance with agency instructions. • Preapplication • Application • Changed/Corrected Application - If requested by the agency, check if this submission is to change or correct a previously submitted application. Unless requested by the agency, applicants may not use this to submit changes after the closing date.	10.	Name Of Federal Agency: (Required) Enter the name of the Federal agency from which assistance is being requested with this application.
		11.	Catalog Of Federal Domestic Assistance Number/Title: Enter the Catalog of Federal Domestic Assistance number and title of the program under which assistance is requested, as found in the program announcement, if applicable.
2.	Type of Application: (Required) Select one type of application in accordance with agency instructions. • New - An application that is being submitted to an agency for the first time. • Continuation - An extension for an additional funding/budget period for a project with a projected completion date. This can include renewals. • Revision - Any change in the Federal Government's financial obligation or contingent liability from an existing obligation. If a revision, enter the appropriate letter(s). More than one may be selected. If "Other" is selected, please specify in text box provided. A. Increase Award B. Decrease Award C. Increase Duration D. Decrease Duration E. Other (specify)	12.	Funding Opportunity Number/Title: (Required) Enter the Funding Opportunity Number and title of the opportunity under which assistance is requested, as found in the program announcement.
		13.	Competition Identification Number/Title: Enter the Competition Identification Number and title of the competition under which assistance is requested, if applicable.
		14.	Areas Affected By Project: List the areas or entities using the categories (e.g., cities, counties, states, etc.) specified in agency instructions. Use the continuation sheet to enter additional areas, if needed.
3.	Date Received: Leave this field blank. This date will be assigned by the Federal agency.	15.	Descriptive Title of Applicant's Project: (Required) Enter a brief descriptive title of the project. If appropriate, attach a map showing project location (e.g., construction or real property projects). For preapplications, attach a summary description of the project.
4.	Applicant Identifier: Enter the entity identifier assigned by the Federal agency, if any, or applicant's control number, if applicable.	16.	Congressional Districts Of: (Required) 16a. Enter the applicant's Congressional District, and 16b. Enter all District(s) affected by the program or project. Enter in the format: 2 characters State Abbreviation - 3 characters District Number, e.g., CA-005 for California 5 th district, CA-012 for California 12 th district, NC-103 for North Carolina's 103 rd district. • If all congressional districts in a state are affected, enter "all" for the district number, e.g., MD-all for all congressional districts in Maryland. • If nationwide, i.e. all districts within all states are affected, enter US-all. • If the program/project is outside the US, enter 00-000.
5a.	Federal Entity Identifier: Enter the number assigned to your organization by the Federal Agency, if any.	17.	Proposed Project Start and End Dates: (Required) Enter the proposed start date and end date of the project.
5b.	Federal Award Identifier: For new applications leave blank. For a continuation or revision to an existing award, enter the previously assigned Federal award identifier number. If a changed/corrected application, enter the Federal Identifier in accordance with agency instructions.	18.	Estimated Funding: (Required) Enter the amount requested or to be contributed during the first funding/budget period by each contributor. Value of in-kind contributions should be included on appropriate lines, as applicable. If the action will result in a dollar change to an existing award, indicate only the amount of the change. For decreases, enclose the amounts in parentheses.
6.	Date Received by State: Leave this field blank. This date will be assigned by the State, if applicable.	19.	Is Application Subject to Review by State Under Executive Order 12372 Process? Applicants should contact the State Single Point of Contact (SPOC) for Federal Executive Order 12372 to determine whether the application is subject to the
7.	State Application Identifier: Leave this field blank. This identifier will be assigned by the State, if applicable.		
8.	Applicant Information: Enter the following in accordance with agency instructions: a. Legal Name: (Required) Enter the legal name of applicant that will undertake the assistance activity. This is the name that the organization has registered with the Central Contractor Registry. Information on registering with CCR may be obtained by visiting the Grants.gov website. b. Employer/Taxpayer Number (EIN/TIN): (Required) Enter the Employer or Taxpayer Identification Number (EIN or TIN) as assigned by the Internal Revenue Service. If your organization is not in the US, enter 44-4444444. c. Organizational DUNS: (Required) Enter the organization's DUNS or DUNS+4 number received from Dun and Bradstreet. Information on obtaining a DUNS number may be obtained by visiting the Grants.gov website. d. Address: Enter the complete address as follows: Street address (Line 1 required), City (Required), County, State (Required, if country is US), Province, Country (Required), Zip/Postal Code (Required, if country is US). e. Organizational Unit: Enter the name of the primary organizational unit (and department or division, if applicable) that will undertake the		

	assistance activity, if applicable. f. Name and contact information of person to be contacted on matters involving this application: Enter the name (First and last name required), organizational affiliation (if affiliated with an organization other than the applicant organization), telephone number (Required), fax number, and email address (Required) of the person to contact on matters related to this application.	State intergovernmental review process. Select the appropriate box. If "a." is selected, enter the date the application was submitted to the State.		
		20. Is the Applicant Delinquent on any Federal Debt? (Required) Select the appropriate box. This question applies to the applicant organization, not the person who signs as the authorized representative. Categories of debt include delinquent audit disallowances, loans and taxes. If yes, include an explanation on the continuation sheet.		
9.	Type of Applicant: (Required) Select up to three applicant type(s) in accordance with agency instructions. <table border="0" style="width: 100%;"> <tr> <td style="vertical-align: top; width: 50%;"> A. State Government B. County Government C. City or Township Government D. Special District Government E. Regional Organization F. U.S. Territory or Possession G. Independent School District H. Public/State Controlled Institution of Higher Education I. Indian/Native American Tribal Government (Federally Recognized) J. Indian/Native American Tribal Government (Other than Federally Recognized) K. Indian/Native American Tribally Designated Organization L. Public/Indian Housing Authority </td> <td style="vertical-align: top; width: 50%;"> M. Nonprofit with 501(c)(3) IRS Status (Other than Institution of Higher Education) N. Nonprofit without 501(c)(3) IRS Status (Other than Institution of Higher Education) O. Private Institution of Higher Education P. Individual Q. For-Profit Organization (Other than Small Business) R. Small Business S. Hispanic-serving Institution T. Historically Black Colleges and Universities (HBCUs) U. Tribally Controlled Colleges and Universities (TCCUs) V. Alaska Native and Native Hawaiian Serving Institutions W. Non-domestic (non-US) Entity X. Other (specify) </td> </tr> </table>	A. State Government B. County Government C. City or Township Government D. Special District Government E. Regional Organization F. U.S. Territory or Possession G. Independent School District H. Public/State Controlled Institution of Higher Education I. Indian/Native American Tribal Government (Federally Recognized) J. Indian/Native American Tribal Government (Other than Federally Recognized) K. Indian/Native American Tribally Designated Organization L. Public/Indian Housing Authority	M. Nonprofit with 501(c)(3) IRS Status (Other than Institution of Higher Education) N. Nonprofit without 501(c)(3) IRS Status (Other than Institution of Higher Education) O. Private Institution of Higher Education P. Individual Q. For-Profit Organization (Other than Small Business) R. Small Business S. Hispanic-serving Institution T. Historically Black Colleges and Universities (HBCUs) U. Tribally Controlled Colleges and Universities (TCCUs) V. Alaska Native and Native Hawaiian Serving Institutions W. Non-domestic (non-US) Entity X. Other (specify)	21. Authorized Representative: (Required) To be signed and dated by the authorized representative of the applicant organization. Enter the name (First and last name required) title (Required), telephone number (Required), fax number, and email address (Required) of the person authorized to sign for the applicant. A copy of the governing body's authorization for you to sign this application as the official representative must be on file in the applicant's office. (Certain Federal agencies may require that this authorization be submitted as part of the application.)
A. State Government B. County Government C. City or Township Government D. Special District Government E. Regional Organization F. U.S. Territory or Possession G. Independent School District H. Public/State Controlled Institution of Higher Education I. Indian/Native American Tribal Government (Federally Recognized) J. Indian/Native American Tribal Government (Other than Federally Recognized) K. Indian/Native American Tribally Designated Organization L. Public/Indian Housing Authority	M. Nonprofit with 501(c)(3) IRS Status (Other than Institution of Higher Education) N. Nonprofit without 501(c)(3) IRS Status (Other than Institution of Higher Education) O. Private Institution of Higher Education P. Individual Q. For-Profit Organization (Other than Small Business) R. Small Business S. Hispanic-serving Institution T. Historically Black Colleges and Universities (HBCUs) U. Tribally Controlled Colleges and Universities (TCCUs) V. Alaska Native and Native Hawaiian Serving Institutions W. Non-domestic (non-US) Entity X. Other (specify)			

APPLICATION FOR FEDERAL ASSISTANCE

Version 7/03

1. TYPE OF SUBMISSION: Application		2. DATE SUBMITTED	Applicant Identifier
☒ Construction	Pre-application	3. DATE RECEIVED BY STATE	State Application Identifier
☐ Non-Construction	☒ Construction ☐ Non-Construction	4. DATE RECEIVED BY FEDERAL AGENCY	Federal Identifier

5. APPLICANT INFORMATION

Legal Name: Richland County, South Carolina		Organizational Unit: Department: Utilities	
Organizational DUNS: 07-370-8883		Division: Utilities	
Address: Street: 7525 Broad River Road		Name and telephone number of person to be contacted on matters involving this application (give area code) Prefix: Mr. First Name: Andy	
City: Irmo		Middle Name H.	
County: Richland County		Last Name Motts	
State: South Carolina	Zip Code 29063	Suffix:	
Country: USA		Email: andy.motts@richlandonline.com	
6. EMPLOYER IDENTIFICATION NUMBER (EIN): [5][7]-[8][0][0][3][9][8]		Phone Number (give area code) 803-401-0042	Fax Number (give area code) 803-401-0030
8. TYPE OF APPLICATION: ☒ New ☐ Continuation ☐ Revision If Revision, enter appropriate letter(s) in box(es) (See back of form for description of letters.) Other (specify) ☐ ☐		7. TYPE OF APPLICANT: (See back of form for Application Types) B - County Other (specify)	
10. CATALOG OF FEDERAL DOMESTIC ASSISTANCE NUMBER: TITLE (Name of Program): [1][0]-[7][8][0]		9. NAME OF FEDERAL AGENCY: USDA - Rural Development	
12. AREAS AFFECTED BY PROJECT (Cities, Counties, States, etc.): Hopkins Community, Lower Richland, Richland County, SC		11. DESCRIPTIVE TITLE OF APPLICANT'S PROJECT: Lower Richland County Sewer System	
13. PROPOSED PROJECT Start Date: June 2010 Ending Date: June 2011		14. CONGRESSIONAL DISTRICTS OF: a. Applicant 2nd b. Project 6th	
15. ESTIMATED FUNDING: a. Federal \$ 16,084,009 ⁰⁰ b. Applicant \$ ⁰⁰ c. State \$ ⁰⁰ d. Local \$ ⁰⁰ e. Other \$ ⁰⁰ f. Program Income \$ 1,213,000 ⁰⁰ g. TOTAL \$ 17,277,009 ⁰⁰		16. IS APPLICATION SUBJECT TO REVIEW BY STATE EXECUTIVE ORDER 12372 PROCESS? a. Yes. ☐ THIS PREAPPLICATION/APPLICATION WAS MADE AVAILABLE TO THE STATE EXECUTIVE ORDER 12372 PROCESS FOR REVIEW ON DATE: b. No. ☐ PROGRAM IS NOT COVERED BY E. O. 12372 ☐ OR PROGRAM HAS NOT BEEN SELECTED BY STATE FOR REVIEW	
18. TO THE BEST OF MY KNOWLEDGE AND BELIEF, ALL DATA IN THIS APPLICATION/PREAPPLICATION ARE TRUE AND CORRECT. THE DOCUMENT HAS BEEN DULY AUTHORIZED BY THE GOVERNING BODY OF THE APPLICANT AND THE APPLICANT WILL COMPLY WITH THE ATTACHED ASSURANCES IF THE ASSISTANCE IS AWARDED.		17. IS THE APPLICANT DELINQUENT ON ANY FEDERAL DEBT? ☐ Yes If "Yes" attach an explanation. ☒ No	
a. Authorized Representative Prefix Mr. Last Name Pope b. Title County Administrator d. Signature of Authorized Representative		First Name J. Middle Name Milton Suffix c. Telephone Number (give area code) 803-578-2050 e. Date Signed	

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Standard Form 424 (Rev.9-2003)
Prescribed by OMB Circular A-102



INSTRUCTIONS FOR THE SF-424

Public reporting burden for this collection of information is estimated to average 45 minutes per response, including time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding the burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to the Office of Management and Budget, Paperwork Reduction Project (0348-0043), Washington, DC 20503.

PLEASE DO NOT RETURN YOUR COMPLETED FORM TO THE OFFICE OF MANAGEMENT AND BUDGET. SEND IT TO THE ADDRESS PROVIDED BY THE SPONSORING AGENCY.

This is a standard form used by applicants as a required face sheet for pre-applications and applications submitted for Federal assistance. It will be used by Federal agencies to obtain applicant certification that States which have established a review and comment procedure in response to Executive Order 12372 and have selected the program to be included in their process, have been given an opportunity to review the applicant's submission.

Item:	Entry:	Item:	Entry:
1.	Select Type of Submission.	11.	Enter a brief descriptive title of the project. If more than one program is involved, you should append an explanation on a separate sheet. If appropriate (e.g., construction or real property projects), attach a map showing project location. For preapplications, use a separate sheet to provide a summary description of this project.
2.	Date application submitted to Federal agency (or State if applicable) and applicant's control number (if applicable).	12.	List only the largest political entities affected (e.g., State, counties, cities).
3.	State use only (if applicable).	13.	Enter the proposed start date and end date of the project.
4.	Enter Date Received by Federal Agency Federal Identifier number. If this application is a continuation or revision to an existing award, enter the present Federal Identifier number. If for a new project, leave blank.	14.	List the applicant's Congressional District and any District(s) affected by the program or project.
5.	Enter legal name of applicant, name of primary organizational unit (including division, if applicable), which will undertake the assistance activity, enter the organization's DUNS number (received from Dun and Bradstreet), enter the complete address of the applicant (including country), and name, telephone number, e-mail and fax of the person to contact on matters related to this application.	15.	Amount requested or to be contributed during the first funding/budget period by each contributor. Value of in kind contributions should be included on appropriate lines as applicable. If the action will result in a dollar change to an existing award, indicate only the amount of the change. For decreases, enclose the amounts in parentheses. If both basic and supplemental amounts are included, show breakdown on an attached sheet. For multiple program funding, use totals and show breakdown using same categories as item 15.
6.	Enter Employer Identification Number (EIN) as assigned by the Internal Revenue Service.	16.	Applicants should contact the State Single Point of Contact (SPOC) for Federal Executive Order 12372 to determine whether the application is subject to the State Intergovernmental review process.
7.	Select the appropriate letter in the space provided. A. State B. County C. Municipal D. Township E. Interstate F. Intermunicipal G. Special District H. Independent School District I. State Controlled Institution of Higher Learning J. Private University K. Indian Tribe L. Individual M. Profit Organization N. Other (Specify) O. Not for Profit Organization	17.	This question applies to the applicant organization, not the person who signs as the authorized representative. Categories of debt include delinquent audit disallowances, loans and taxes.
8.	Select the type from the following list: "New" means a new assistance award. "Continuation" means an extension for an additional funding/budget period for a project with a projected completion date. "Revision" means any change in the Federal Government's financial obligation or contingent liability from an existing obligation. If a revision enter the appropriate letter: A. Increase Award B. Decrease Award C. Increase Duration D. Decrease Duration	18.	To be signed by the authorized representative of the applicant. A copy of the governing body's authorization for you to sign this application as official representative must be on file in the applicant's office. (Certain Federal agencies may require that this authorization be submitted as part of the application.)
9.	Name of Federal agency from which assistance is being requested with this application.		
10.	Use the Catalog of Federal Domestic Assistance number and title of the program under which assistance is requested.		

SF-424 (Rev. 7-97) Back

BUDGET INFORMATION - Construction Programs				OMB Approval No. 0348-0041
NOTE: Certain Federal assistance programs require additional computations to arrive at the Federal share of project costs eligible for participation. If such is the case, you will be notified.				
COST CLASSIFICATION	a. Total Cost	b. Costs Not Allowable for Participation	c. Total Allowable Costs (Columns a-b)	
1. Administrative and legal expenses	\$ 57,500.00	\$.00	\$	57,500.00
2. Land, structures, rights-of-way, appraisals, etc.	\$ 20,000.00	\$.00	\$	20,000.00
3. Relocation expenses and payments	\$.00	\$.00	\$	0.00
4. Architectural and engineering fees	\$ 830,120.00	\$.00	\$	830,120.00
5. Other architectural and engineering fees	\$.00	\$.00	\$	0.00
6. Project inspection fees	\$ 349,524.00	\$.00	\$	349,524.00
7. Site work	\$.00	\$.00	\$	0.00
8. Demolition and removal	\$.00	\$.00	\$	0.00
9. Construction	\$ 14,563,513.00	\$.00	\$	14,563,513.00
10. Equipment	\$.00	\$.00	\$	0.00
11. Miscellaneous	\$.00	\$.00	\$	0.00
12. SUBTOTAL (sum of lines 1-11)	\$ 15,820,657.00	\$ 0.00	\$	15,820,657.00
13. Contingencies	\$ 1,456,351.00	\$.00	\$	1,456,351.00
14. SUBTOTAL	\$ 17,277,008.00	\$ 0.00	\$	17,277,008.00
15. Project (program) income	\$ 1,213,000.00	\$.00	\$	1,213,000.00
16. TOTAL PROJECT COSTS (subtract #15 from #14)	\$ 16,064,008.00	\$ 0.00	\$	16,064,008.00
FEDERAL FUNDING				
17. Federal assistance requested, calculate as follows: (Consult Federal agency for Federal percentage share.) Enter the resulting Federal share.			Enter eligible costs from line 16c Multiply X _____ %	
			\$	0.00

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Standard Form 424C (Rev. 7-97)
Prescribed by OMB Circular A-102

U.S. DEPARTMENT OF AGRICULTURE

**Certification Regarding Debarment, Suspension, and Other
Responsibility Matters - Primary Covered Transactions**

This certification is required by the regulations implementing Executive Order 12549, Debarment and Suspension, 7 CFR Part 3017, Section 3017.510, Participants' responsibilities. The regulations were published as Part IV of the January 30, 1989 Federal Register (pages 4722-4733). Copies of the regulations may be obtained by contacting the Department of Agriculture agency offering the proposed covered transaction.

(BEFORE COMPLETING CERTIFICATION, READ INSTRUCTIONS ON REVERSE)

- (1) The prospective primary participant certifies to the best of its knowledge and belief, that it and its principals:
- (a) are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any Federal department or agency;
 - (b) have not within a three-year period preceding this proposal been convicted of or had a civil judgement rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State or local) transaction or contract under a public transaction; violation of Federal or State antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;
 - (c) are not presently indicted for or otherwise criminally or civilly charged by a governmental entity (Federal, State or local) with commission of any of the offenses enumerated in paragraph (1)(b) of this certification; and
 - (d) have not within a three-year period preceding this application/proposal had one or more public transactions (Federal, State or local) terminated for cause or default.
- (2) Where the prospective primary participant is unable to certify to any of the statements in this certification, such prospective participant shall attach an explanation to this proposal.

Richland County

Organization Name

PR/Award Number or Project Name

J. Milton Pope, Richland County Administrator

Name(s) and Title(s) of Authorized Representative(s)

Signature(s)

Date

Form AD-1047 (1/92)

Instructions for Certification

1. By signing and submitting this form, the prospective primary participant is providing the certification set out on the reverse side in accordance with these instructions.
2. The inability of a person to provide the certification required below will not necessarily result in denial of participation in this covered transaction. The prospective participant shall submit an explanation of why it cannot provide the certification set out on this form. The certification or explanation will be considered in connection with the department or agency's determination whether to enter into this transaction. However, failure of the prospective primary participant to furnish a certification or an explanation shall disqualify such person from participation in this transaction.
3. The certification in this clause is a material representation of fact upon which reliance was placed when the department or agency determined to enter into this transaction. If it is later determined that the prospective primary participant knowingly rendered an erroneous certification, in addition to other remedies available to the Federal Government, the department or agency may terminate this transaction for cause or default.
4. The prospective primary participant shall provide immediate written notice to the department or agency to whom this proposal is submitted if at any time the prospective primary participant learns that its certification was erroneous when submitted or has become erroneous by reason of changed circumstances.
5. The terms "covered transaction," "debarred," "suspended," "ineligible," "lower tier covered transaction," "participant," "person," "primary covered transaction," "principal," "proposal," and "voluntarily excluded," as used in this clause, have the meanings set out in the Definitions and Coverage sections of the rules implementing Executive Order 12549. You may contact the department or agency to which this proposal is being submitted for assistance in obtaining a copy of those regulations.
6. The prospective primary participant agrees by submitting this form that, should the proposed covered transaction be entered into, it shall not knowingly enter into any lower tier covered transaction with a person who is debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized by the department or agency entering into this transaction.
7. The prospective primary participant further agrees by submitting this form that it will include the clause titled "Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion - Lower Tier Covered Transactions," provided by the department or agency entering into this covered transaction, without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions.
8. A participant in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that is not debarred, suspended, ineligible, or voluntarily excluded from the covered transaction, unless it knows that the certification is erroneous. A participant may decide the method and frequency by which it determines the eligibility of its principals. Each participant may, but is not required to, check the Nonprocurement List.
9. Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render in good faith the certification required by this clause. The knowledge and information of a participant is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.
10. Except for transactions authorized under paragraph 6 of these instructions, if a participant in a covered transaction knowingly enters into a lower tier covered transaction with a person who is suspended, debarred, ineligible, or voluntarily excluded from participation in this transaction, in addition to other remedies available to the Federal Government, the department or agency may terminate this transaction for cause or default.

Date: _____

CERTIFICATION OF OUTSTANDING DEBTS

This is to certify that the following constitute all the outstanding debts of _____
Richland County (Applicant)

[illegible]

Richland County

(Name of Applicant)

Attest: _____

By: _____
(Applicant Official)

Date: 2/10/2010

CERTIFICATION OF OUTSTANDING DEBTS

This is to certify that the following constitute all the outstanding debts of Richland County (Applicant)

Lien Holder	Debt Instrument	Security Position	Use of Funds	Date of Debt Instrument	Original Loan Amount	As of 6/30/09 Outstanding Loan Balance	Final Maturity Date	Interest Rate	Date Payment Due	Payment Amount
Series 2001A			Detention Center	08/01/01	\$ 20,600,000.00	\$ 8,650,000.00	03/01/17	3.50% to 4.50%	03/01/10	\$ 1,635,000.00
Series 2001B			Midlands Technical College Capital Improvements	08/01/01	\$ 2,000,000.00	\$ 840,000.00	03/01/12	4.00% to 4.50%	03/01/10	\$ 205,000.00
Series 2001C			Refunding Series 1994C	08/01/01	\$ 13,435,000.00	\$ 7,265,000.00	03/01/16	4.13% to 4.80%	03/01/10	\$ 910,000.00
Series 2002A			Fire Protection (Refunded 1994B)	09/01/02	\$ 3,825,000.00	\$ 3,595,000.00	09/01/12	3.00% to 3.50%	09/01/09	\$ 115,000.00
Series 2002B			Countywide Improvements, Judicial HVAC, EMS	09/01/02	\$ 4,025,000.00	\$ 3,775,000.00	09/01/12	3.00% to 3.50%	09/01/09	\$ 125,000.00
Series 2003B			Library & Detention Center Refunding	09/01/03	\$ 20,230,000.00	\$ 5,270,000.00	03/01/11	2.00% to 5.00%	03/01/10	\$ 2,840,000.00
Series 2003C			Fire Protection (Refunded 1994B)	09/01/03	\$ 2,250,000.00	\$ 300,000.00	03/01/10	2.00% to 4.00%	03/01/10	\$ 300,000.00
Series 2004B			Capital Projects for the Airport	10/01/04	\$ 3,000,000.00	\$ 2,585,000.00	03/01/14	5.00% to 5.38%	03/01/10	\$ 115,000.00
Series 2007A			Sheriff Vehicles	03/01/07	\$ 3,545,000.00	\$ 1,180,000.00	06/01/11	4.00%	06/01/10	\$ 1,000,000.00
Series 2007C			Innovista (non-taxable), Animal Shelter, Sheriff Vehicles & Public Safety Office	12/12/07	\$ 8,755,000.00	\$ 6,055,000.00	03/01/15	3.75% to 4.00%	03/01/10	\$ 1,410,000.00
Series 2007D			Innovista (taxable)	12/12/07	\$ 2,875,000.00	\$ 1,855,000.00	03/01/11	4.50%	03/01/10	\$ 485,000.00
Series 2008A			Sheriff Vehicles & LPADAC Building	11/16/08	\$ 5,560,000.00	\$ 4,775,000.00	03/01/18	3.72%	03/01/10	\$ 710,000.00
Series 2009A			Sheriff Vehicles and Miscellaneous Capital Projects	10/09/09	\$ 8,485,000.00	\$ 8,485,000.00	03/01/13	3.72%	03/01/10	\$ 1,790,000.00
1994 Certificates of Participation			Purchase Land & Equipment for Sheriff Department and Register of Deeds	08/01/94	\$ 4,780,000.00	\$ 305,000.00	03/01/10	3.50% to 5.75%	03/01/10	\$ 305,000.00
2004 Special Source Revenue Bonds			Project Jaguar (Economic Development)	01/28/04	\$ 3,700,000.00	\$ 1,850,000.00	03/01/14	4.64%	03/01/10	\$ 370,000.00
Series 2007A Project Loan			Township, Farmers' Market and Insurance Costs	04/30/07	\$ 16,855,000.00	\$ 15,760,000.00	04/15/27	4.32%	04/15/10	\$ 580,000.00
Series 2007B Project Loan			Farmers' Market, Recreation and Insurance Costs	04/30/07	\$ 9,910,000.00	\$ 8,600,000.00	04/15/27	4.32%	04/15/10	\$ 325,000.00
Series 2003D			Broad River Sewer	09/01/03	\$ 15,500,000.00	\$ 15,205,000.00	03/01/33	3.00% to 6.38%	03/01/10	\$ 80,000.00
Series 2003E			Sewer Refunding 1994A	09/01/03	\$ 6,275,000.00	\$ 4,095,000.00	03/01/16	2.83% to 4.40%	03/01/10	\$ 385,000.00
Series 2007B			Broad River Sewer Upgrade	08/12/07	\$ 16,970,000.00	\$ 16,775,000.00	03/01/37	4.00% to 5.00%	03/01/10	\$ 205,000.00

* Series 2009A issued after 03/01/09 audited close of FY09

Attest: Daniel Driggers Director of Finance
 Richland County
 (Name of Applicant)
 (Applicant Official)

APPLICATION FOR FEDERAL ASSISTANCE

2. DATE SUBMITTED

Applicant Identifier

Version 7/03

1. TYPE OF SUBMISSION:
Application

Pre-application

3. DATE RECEIVED BY STATE

State Application Identifier

☐ Construction

☐ Construction

4. DATE RECEIVED BY FEDERAL AGENCY

Federal Identifier

☒ Non-Construction

☐ Non-Construction

5. APPLICANT INFORMATION

Legal Name:

Richland County, South Carolina

Organizational DUNS:
073709883

Address:

Street:
3506 Fernandina Road 2020 Hampton Street
Administration

City:

Columbia

County:

Richland

State:

SC

Zip Code

29210 29204

Country:

USA

Organizational Unit:

Department:

WEP /RUS

Division:

USDA, Rural Development

Name and telephone number of person to be contacted on matters involving this application (give area code)

Prefix:

Mr.

First Name:

Andy

Middle Name

H.

Last Name

Matts

Suffix:

Email:

andy.matts@richlandonline.com

Phone Number (give area code)

803/401-0042

Fax Number (give area code)

803/401-0030

6. EMPLOYER IDENTIFICATION NUMBER (EIN):

57-6000398

8. TYPE OF APPLICATION:

☐ New ☒ Continuation ☐ Revision
If Revision, enter appropriate letter(s) in box(es)
(See back of form for description of letters.)

Other (specify)

7. TYPE OF APPLICANT: (See back of form for Application Types)

B - Other

Other (specify)

9. NAME OF FEDERAL AGENCY:

USDA, Rural Development

10. CATALOG OF FEDERAL DOMESTIC ASSISTANCE NUMBER:

TITLE (Name of Program):

110-71610

12. AREAS AFFECTED BY PROJECT (Cities, Counties, States, etc.):

Hopkins Community, Richland County, SC

13. PROPOSED PROJECT

Start Date:

Ending Date:

15. ESTIMATED FUNDING:

a. Federal	\$	20,961,360
b. Applicant	\$	
c. State	\$	
d. Local	\$	
e. Other	\$	
f. Program Income	\$	
g. TOTAL	\$	20,961,360

14. CONGRESSIONAL DISTRICTS OF:

a. Applicant

02

b. Project

06

16. IS APPLICATION SUBJECT TO REVIEW BY STATE EXECUTIVE ORDER 12372 PROCESS?

a. Yes. ☒ THIS PREAPPLICATION/APPLICATION WAS MADE AVAILABLE TO THE STATE EXECUTIVE ORDER 12372 PROCESS FOR REVIEW ON

DATE:

b. No. ☐ PROGRAM IS NOT COVERED BY E. O. 12372

☐ OR PROGRAM HAS NOT BEEN SELECTED BY STATE FOR REVIEW

17. IS THE APPLICANT DELINQUENT ON ANY FEDERAL DEBT?

☐ Yes ☒ No

18. TO THE BEST OF MY KNOWLEDGE AND BELIEF, ALL DATA IN THIS APPLICATION/PREAPPLICATION ARE TRUE AND CORRECT. THE DOCUMENT HAS BEEN DULY AUTHORIZED BY THE GOVERNING BODY OF THE APPLICANT AND THE APPLICANT WILL COMPLY WITH THE ATTACHED ASSURANCES IF THE ASSISTANCE IS AWARDED.

a. Authorized Representative

Prefix

Mr.

First Name

J. Milton

Middle Name

Last Name

Pope

Suffix

b. Title

County Administrator

c. Telephone Number (give area code)

803. 576. 2050

d. Signature of Authorized Representative

e. Date Signed

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Standard Form 424 (Rev.9-2003)
Prescribed by OMB Circular A-102



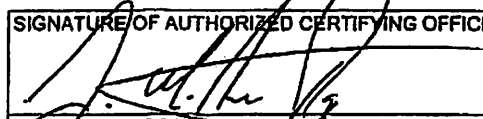
BUDGET INFORMATION - Construction Programs				OMB Approval No. 0348-0047
NOTE: Certain Federal assistance programs require additional compilations to arrive at the Federal share of project costs eligible for participation. If such is the case, you will be notified.				
COST CLASSIFICATION	a. Total Cost	b. Costs Not Allowable for Participation	c. Total Allowable Costs (Columns a-b)	
1. Administrative and legal expenses	\$ 150,000 .00	.00	\$	150,000 .00
2. Land, structures, rights-of-way, appraisals, etc.	\$.00	.00	\$	0.00
3. Relocation expenses and payments	\$.00	.00	\$	0.00
4. Architectural and engineering fees	\$ 1,019,520 .00	.00	\$	1,019,520 .00
5. Other architectural and engineering fees	\$.00	.00	\$	0.00
6. Project inspection fees	\$ 483,840 .00	.00	\$	483,840 .00
7. Site work	\$.00	.00	\$	0.00
8. Demolition and removal	\$.00	.00	\$	0.00
9. Construction	\$ 17,280,000 .00	.00	\$	17,280,000 .00
10. Equipment	\$ 50,000 .00	.00	\$	50,000 .00
11. Miscellaneous	\$ 250,000 .00	.00	\$	250,000 .00
12. SUBTOTAL (sum of lines 1-11)	\$ 19,233,360 .00	0.00	\$	19,233,360 .00
13. Contingencies	\$ 1,728,000 .00	.00	\$	1,728,000 .00
14. SUBTOTAL	\$ 20,961,360 .00	0.00	\$	20,961,360 .00
15. Project (program) income	\$.00	.00	\$	0.00
16. TOTAL PROJECT COSTS (subtract #15 from #14)	\$ 20,961,360 .00	0.00	\$	20,961,360 .00
FEDERAL FUNDING				
17. Federal assistance requested, calculate as follows: (Consult Federal agency for Federal percentage share.) Enter the resulting Federal share.				
		Enter eligible costs from line 16c Multiply X	100.00	%
		\$	\$	20,961,360 .00

Standard Form 424C (Rev. 7-97)
Prescribed by OMB Circular A-102

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11. Will comply, or has already complied, with the requirements of Titles II and III of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (P.L. 91-646) which provide for fair and equitable treatment of persons displaced or whose property is acquired as a result of Federal and federally-assisted programs. These requirements apply to all interests in real property acquired for project purposes regardless of Federal participation in purchases.
12. Will comply with the provisions of the Hatch Act (5 U.S.C. §§1501-1508 and 7324-7328) which limit the political activities of employees whose principal employment activities are funded in whole or in part with Federal funds.
13. Will comply, as applicable, with the provisions of the Davis-Bacon Act (40 U.S.C. §§276a to 276a-7), the Copeland Act (40 U.S.C. §276c and 18 U.S.C. §874), and the Contract Work Hours and Safety Standards Act (40 U.S.C. §§327-333) regarding labor standards for federally-assisted construction subagreements.
14. Will comply with flood insurance purchase requirements of Section 102(a) of the Flood Disaster Protection Act of 1973 (P.L. 93-234) which requires recipients in a special flood hazard area to participate in the program and to purchase flood insurance if the total cost of insurable construction and acquisition is \$10,000 or more.
15. Will comply with environmental standards which may be prescribed pursuant to the following: (a) institution of environmental quality control measures under the National Environmental Policy Act of 1969 (P.L. 91-190) and Executive Order (EO) 11514; (b) notification of violating facilities pursuant to EO 11738; (c) protection of wetlands pursuant to EO 11990; (d) evaluation of flood hazards in floodplains in accordance with EO 11988; (e) assurance of project consistency with the approved State management program developed under the Coastal Zone Management Act of 1972 (16 U.S.C. §§1451 et seq.); (f) conformity of Federal actions to State (Clean Air) Implementation Plans under Section 176(c) of the Clean Air Act of 1955, as amended (42 U.S.C. §§7401 et seq.); (g) protection of underground sources of drinking water under the Safe Drinking Water Act of 1974, as amended (P.L. 93-523); and, (h) protection of endangered species under the Endangered Species Act of 1973, as amended (P.L. 93-205).
16. Will comply with the Wild and Scenic Rivers Act of 1968 (16 U.S.C. §§1271 et seq.) related to protecting components or potential components of the national wild and scenic rivers system.
17. Will assist the awarding agency in assuring compliance with Section 106 of the National Historic Preservation Act of 1966, as amended (16 U.S.C. §470), EO 11593 (identification and protection of historic properties), and the Archaeological and Historic Preservation Act of 1974 (16 U.S.C. §§469a-1 et seq.).
18. Will cause to be performed the required financial and compliance audits in accordance with the Single Audit Act Amendments of 1996 and OMB Circular No. A-133, "Audits of States, Local Governments, and Non-Profit Organizations."
19. Will comply with all applicable requirements of all other Federal laws, executive orders, regulations, and policies governing this program.

SIGNATURE OF AUTHORIZED CERTIFYING OFFICIAL 	TITLE County Administrator
APPLICANT ORGANIZATION Richland County	DATE SUBMITTED March 16, 2010

SF-424D (Rev. 7-97) Back



Letter of Transmittal

Date: June 7, 2010

To: Mr. Andy H. Metts, Director
Richland County Utilities
7525 Broad River Road
Irmo, South Carolina 29063

Subject: Lower Richland Sewer System Environmental Assessments

We are sending the following items:

☒ Attached	☐ Under separate cover	Via _____
☐ Shop drawings	☐ Prints	☐ Drawings
☐ Samples	☐ Specifications	☐ Copy of letter
☐ Other		

Copies	Date	Description	Code
1	5/28/10	Environmental Assessment for Rural Dev, Final – Client's copy	
1	5/27/10	HUD Modified Environmental Assessment, Final – Client's copy	
1	6/01/10	Public meeting documents submitted to Rural Dev – Client's copy	
1	4/26/06	Hopkins School CWS Env Rpt – borrowed copy being returned	
1		Hopkins School CWS Env Rpt – scanned copy on CD including maps	

These are transmitted as checked below:

☐ For distribution	A. ☐ Approved	E. ☐ No exceptions taken
☒ For your use	B. ☐ Approved as noted	F. ☐ Exceptions noted
☐ As requested	C. ☐ Revise and resubmit	G. ☐ Rejected
☐ For approval	D. ☐ Not approved	

Remarks:

Richard E. Culler

Signed: _____
Richard E. Culler



C: File

ANDY METTS

From: Cardwell, Michele - Aiken, SC [Michele.Cardwell@sc.usda.gov]
Sent: Wednesday, August 18, 2010 10:40 AM
To: ANDY METTS
Cc: Culler, Richard E.
Subject: Hopkins -Sewer

Andy,

As we quickly approach the end of our fiscal year, grants funds have gotten very low. To assist with the possibility of funding Phase I, we discussed increasing the applicant's contribution by way of tap fees that will be generated initially as of result of this project. The following loan and grant amounts are an estimate only based on the proposal that we discussed:

Applicant Contribution of \$1,350,000 (450 new sewer taps)

\$7,043,000 Loan (estimate), 2.375%, 40 year term

\$3,349,000 Grant (estimate)

This proposal will be re-submitted for onsideration for funding today.

If you have further questions , please call my cell number @ 706-951-7982. I'll be in a meeting most of today.

I will let you know status of possible funding as soon as I found out.

Thank you,

MICHELE J. CARDWELL
USDA, Rural Development
Area Specialist



10/5/2010



United States Department of Agriculture
Rural Development
State Office
Columbia, South Carolina

DRAFT

January 5, 2011

SUBJECT: Richland County
Lower Richland County Sewer System

TO: Fred Ducey, Chester Area Director
Richland County, SC

ATTN: Kent Evans, RD Specialist

The revised PER dated July 2010, prepared by Wilbur Smith Associates for subject applicant has been reviewed and the following comments are offered:

- Growth projections should be based on a 20-year planning period based on historical data. In Exhibit 3 why was the US census not used for 1990 or 1980 in favor of the "Comp Plan"? The Richland County Planning projections are not needed.
- What proportion of Census tracks 118 and 11901 is County providing sewer service? Please provide a map of the service area that the Richland County Wateree WWTP will treat.
- Please provide additional justification for a growth projection of 30.9%. Is the force main from Hopkins to Eastover sized, 16-inch diameter, based off of this growth rate?
- All of the alternatives considered involve a regionalization approach to the WWTP in Eastover. Discuss why other alternatives were not feasible, such as improving existing WWTFs or designing a new WWTP closer to project area.
- Please explain whether the existing WWTFs will continue to be used in some capacity such as primary treatment or be removed.
- Explain the transfer of ownership from City of Columbia to Richland County in more detail. For example, is the City of Columbia going to transfer the sewer utility assets over to Richland County?
- In Section 3.4 states the force main from Eastover to the existing WWTP is a 12-inch diameter. Please discuss how this will function with the proposed 16-inch force main from Hopkins to Eastover.
- In Section 8.2 and Exhibit 12: A \$3000 tap fee appears high. It appears this fee will make it difficult to attract new customers. Please provide a current rate schedule and a proposed rate chart with projected increases for this area. The projected rates provided should be as if RD's funding is 100% loan with no grant.



Strom Thurmond Federal Building • 1835 Assembly Street • Suite 1007 • Columbia, SC 29201
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- Please provide a schedule of existing debts for Richland County and indicate those debts that are specific to this project.
- Please provide a debt reserve schedule for this project. The debt service and reserve schedule should be based on the first full year after construction, Year 1. It is preferable this information is provided on an annual basis for comparison purposes.
- Please provide financial information required in RUS Bulletin 1780-3 for the entire Richland County sewer utility.
- Please provide an explanation of how the salvage value was determined in both present worth analyses. Also, the initial capital costs in the present worth analysis should be for the construction costs only. Please review O&M expenses provided. The O&M total for Alternative in Exhibit 6 does not match the total provided in Exhibit 14.
- If RD is able fund the project without phasing, the engineering fees requested should be proportional to the construction cost of entire project and not to the construction cost of the individual phases of the project.

If any further information is needed please advise:

JASON FELL, PE
State Civil Engineer

cc: Mike Hucks

Attachments to Area Office: PER and PER checklist

ANDY METTS

From: Mohamad Ismail <mismail@hgbd.com>
Sent: Monday, March 19, 2012 3:32 PM
To: ANDY METTS
Cc: 'John Fleming'; 'Candace Mitchell'
Subject: RE: Rate Study Discussion

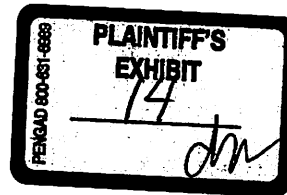
Andy,

Thanks, we will review the information, then call you to meet and discuss the project.

Have a good day,

Mohamad "Mo" Ismail, PE

Hussey, Gay, Bell & DeYoung
Post Office Box 7967
Columbia, SC 29202
Email: mismail@hgbd.com
Phone: 803.799.0444
FAX: 803.799.1499



From: ANDY METTS [<mailto:METTSA@rcgov.us>]
Sent: Monday, March 19, 2012 2:58 PM
To: mismail@hgbd.com
Subject: FW: Rate Study Discussion

Mohamed,

Attached is some basic information that has been presented to our County Council toward the expansion of our Eastover sewer system into the Hopkins community. You will note a project description, a project assumption summary sheet, a monthly user fee comparison sheet and a revenue/expenditure comparison sheet that was used to compare various monthly user fees. These are all in-house documents that were developed by our staff from information we have available.

We are now at a point where we need to finalize our funding plans. We have retained a Financial Advisor who has suggested that we have an independent party conduct a rate study. This study may be as simple as reviewing our numbers for accuracy or a complete comprehensive rate study from scratch. This is where I need your input.

Please review the attached information and contact me to discuss further.

Andy H. Metts, Director
Richland County Utilities
Email: mettsa@rcgov.us
Tel. 803-401-0050
Fax. 803-401-0030

ANDY METTS

From: Capehart, Judy - RD, Orangeburg, SC <Judy.Capehart@sc.usda.gov>
Sent: Tuesday, May 15, 2012 3:50 PM
To: ANDY METTS
Cc: Hicks, George - RD, Walterboro, SC; Craven, Rusty - RD, Walterboro, SC; Cardwell, Michele - RD, Aiken, SC
Subject: RE: Lower Richland Sewer Project
Importance: High

Great! 10:00 AM on Tuesday, May 22, 2012, at USDA, RD – Orangeburg Agriculture Center, 1550 Henley Street, Room 100, Orangeburg, SC 29115. Please confirm.

Thanks,

Judy J. Capehart | Area Specialist
803-534-2409 Ext. 4 | judy.capehart@sc.usda.gov

From: ANDY METTS [<mailto:METTSA@rcgov.us>]
Sent: Tuesday, May 15, 2012 2:35 PM
To: Capehart, Judy - RD, Orangeburg, SC
Cc: Hicks, George - RD, Walterboro, SC; Craven, Rusty - RD, Walterboro, SC; Cully, Bryan L
Subject: RE: Lower Richland Sewer Project

Judy,

Thanks for the email.

We are available both Monday and Tuesday mornings. Tuesday morning would be our preference. Please provide us with a time and location and we will adjust our schedules.

I look forward to hearing from you.

Andy H. Metts, Director
Richland County Utilities
Email: mettsa@rcgov.us
Tel. 803-401-0050
Fax. 803-401-0030



From: Capehart, Judy - RD, Orangeburg, SC [<mailto:Judy.Capehart@sc.usda.gov>]
Sent: Tuesday, May 15, 2012 10:05 AM
To: ANDY METTS
Cc: Hicks, George - RD, Walterboro, SC; Craven, Rusty - RD, Walterboro, SC
Subject: Lower Richland Sewer Project
Importance: High

Good Morning Mr. Metts,

Tried to reach you by telephone but the circuits are busy. None the less, the staff of USDA, RD's Rural Utility Program would like to meet with you and your staff either May 21 or 22, whichever is good for you all to discuss subject project. It would be very helpful if your Engineer for this project is in attendance as well. We would like to meet in Orangeburg, SC if possible. Please advise as to availability and we will confirm location.

Our goal is to aggressively move forward with your project. I look forward to hearing from you soon.

Thanks,

Judy J. Capehart | Area Specialist
USDA, Rural Development
1550 Henley Street, Room 100
Orangeburg, SC 29115

Phone: 803-534-2409 Ext. 4 | Fax: 803-536-5827
www.rurdev.usda.gov

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APPLICATION FOR FEDERAL ASSISTANCE

Version 7/03

1. TYPE OF SUBMISSION: Application ☐ Construction ☒ Non-Construction		2. DATE SUBMITTED 7/18/12	Applicant Identifier
Pre-application ☐ Construction ☒ Non-Construction		3. DATE RECEIVED BY STATE	State Application Identifier
		4. DATE RECEIVED BY FEDERAL AGENCY	Federal Identifier
5. APPLICANT INFORMATION			
Legal Name: Richland County		Organizational Unit: Department: Utilities	
Organizational DUNS: 073708883		Division: Administration	
Address: Street: 2020 Hampton Street		Name and telephone number of person to be contacted on matters involving this application (give area code) Prefix: First Name: Andy	
City: Columbia		Middle Name H.	
County: Richland		Last Name Matis	
State: SC Zip Code 29202		Suffix:	
Country: USA: United States		Email: matisa@rogov.us	
6. EMPLOYER IDENTIFICATION NUMBER (EIN): 57-8000398		Phone Number (give area code) 803-401-0050 Fax Number (give area code) 803-401-0030	
8. TYPE OF APPLICATION: ☒ New ☐ Continuation ☐ Revision If Revision, enter appropriate letter(s) in box(es) (See back of form for description of letters.) Other (specify)		7. TYPE OF APPLICANT: (See back of form for Application Types) County Other (specify)	
10. CATALOG OF FEDERAL DOMESTIC ASSISTANCE NUMBER: TITLE (Name of Program): 10-780		9. NAME OF FEDERAL AGENCY: USDA, Rural Development	
12. AREAS AFFECTED BY PROJECT (Cities, Counties, States, etc.): Lower Richland County		11. DESCRIPTIVE TITLE OF APPLICANT'S PROJECT: Sewer System Improvements, Hopkins Service Area	
13. PROPOSED PROJECT Start Date: 03/15/2013 Ending Date: 09/15/2014		14. CONGRESSIONAL DISTRICTS OF: a. Applicant SC-02 b. Project SC-06	
15. ESTIMATED FUNDING:		16. IS APPLICATION SUBJECT TO REVIEW BY STATE EXECUTIVE ORDER 12372 PROCESS?	
a. Federal \$ 16,181,100		a. Yes. ☒ THIS PREAPPLICATION/APPLICATION WAS MADE AVAILABLE TO THE STATE EXECUTIVE ORDER 12372 PROCESS FOR REVIEW ON	
b. Applicant \$ 986,000		DATE:	
c. State \$ 0		b. No. ☐ PROGRAM IS NOT COVERED BY E. O. 12372	
d. Local \$ 0		☐ OR PROGRAM HAS NOT BEEN SELECTED BY STATE FOR REVIEW	
e. Other \$ 0		17. IS THE APPLICANT DELINQUENT ON ANY FEDERAL DEBT?	
f. Program Income \$ 0		☐ Yes If "Yes" attach an explanation. ☒ No	
g. TOTAL \$ 17,147,100			
18. TO THE BEST OF MY KNOWLEDGE AND BELIEF, ALL DATA IN THIS APPLICATION/PREAPPLICATION ARE TRUE AND CORRECT. THE DOCUMENT HAS BEEN DULY AUTHORIZED BY THE GOVERNING BODY OF THE APPLICANT AND THE APPLICANT WILL COMPLY WITH THE ATTACHED ASSURANCES IF THE ASSISTANCE IS AWARDED.			
a. Authorized Representative			
Prefix		First Name Andy	
Last Name Matis		Middle Name H.	
b. Title Director of Utilities		Suffix	
c. Telephone Number (give area code) 803-401-0050		d. Signature of Authorized Representative	
a. Date Signed 7/18/12			

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Standard Form 424 (Rev.9-2003)
Prescribed by OMB Circular A-102



INSTRUCTIONS FOR THE SF-424

Public reporting burden for this collection of information is estimated to average 45 minutes per response, including time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding the burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to the Office of Management and Budget, Paperwork Reduction Project (0348-0043), Washington, DC 20503.

PLEASE DO NOT RETURN YOUR COMPLETED FORM TO THE OFFICE OF MANAGEMENT AND BUDGET. SEND IT TO THE ADDRESS PROVIDED BY THE SPONSORING AGENCY.

This is a standard form used by applicants as a required face sheet for pre-applications and applications submitted for Federal assistance. It will be used by Federal agencies to obtain applicant certification that States which have established a review and comment procedure in response to Executive Order 12372 and have selected the program to be included in their process, have been given an opportunity to review the applicant's submission.

Item:	Entry:	Item:	Entry:
1.	Select Type of Submission.	11.	Enter a brief descriptive title of the project. If more than one program is involved, you should append an explanation on a separate sheet. If appropriate (e.g., construction or real property projects), attach a map showing project location. For preapplications, use a separate sheet to provide a summary description of this project.
2.	Date application submitted to Federal agency (or State if applicable) and applicant's control number (if applicable).	12.	List only the largest political entities affected (e.g., State, counties, cities).
3.	State use only (if applicable).	13.	Enter the proposed start date and end date of the project.
4.	Enter Date Received by Federal Agency Federal Identifier number: If this application is a continuation or revision to an existing award, enter the present Federal Identifier number. If for a new project, leave blank.	14.	List the applicant's Congressional District and any District(s) affected by the program or project.
5.	Enter legal name of applicant, name of primary organizational unit (including division, if applicable), which will undertake the assistance activity, enter the organization's DUNS number (received from Dun and Bradstreet), enter the complete address of the applicant (including country), and name, telephone number, e-mail and fax of the person to contact on matters related to this application.	15.	Amount requested or to be contributed during the first funding/budget period by each contributor. Value of in kind contributions should be included on appropriate lines as applicable. If the action will result in a dollar change to an existing award, indicate only the amount of the change. For decreases, enclose the amounts in parentheses. If both basic and supplemental amounts are included, show breakdown on an attached sheet. For multiple program funding, use totals and show breakdown using same categories as Item 15.
6.	Enter Employer Identification Number (EIN) as assigned by the Internal Revenue Service.	16.	Applicants should contact the State Single Point of Contact (SPOC) for Federal Executive Order 12372 to determine whether the application is subject to the State Intergovernmental review process.
7.	Select the appropriate letter in the space provided. A. State B. County C. Municipal D. Township E. Interstate F. Intermunicipal G. Special District H. Independent School District I. State Controlled Institution of Higher Learning J. Private University K. Indian Tribe L. Individual M. Profit Organization N. Other (Specify) O. Not for Profit Organization	17.	This question applies to the applicant organization, not the person who signs as the authorized representative. Categories of debt include delinquent audit disallowances, loans and taxes.
8.	Select the type from the following list: "New" means a new assistance award. "Continuation" means an extension for an additional funding/budget period for a project with a projected completion date. "Revision" means any change in the Federal Government's financial obligation or contingent liability from an existing obligation. If a revision enter the appropriate letter: A. Increase Award C. Increase Duration B. Decrease Award D. Decrease Duration	18.	To be signed by the authorized representative of the applicant. A copy of the governing body's authorization for you to sign this application as official representative must be on file in the applicant's office. (Certain Federal agencies may require that this authorization be submitted as part of the application.)
9.	Name of Federal agency from which assistance is being requested with this application.		
10.	Use the Catalog of Federal Domestic Assistance number and title of the program under which assistance is requested.		

SF-424 (Rev. 7-97) Back

Budget Information—Construction Programs

OHB Approval No. 0348-0041

Note: Certain Federal assistance programs require additional computations to arrive at the Federal share of project costs eligible for participation. (If such is the case you will be notified.)

Cost Classification	a. Total Cost	b. Costs Not Allowable for Participation	c. Total Allowable Costs (Column a-b)
1. Administrative and legal expenses	\$.00	\$.00	\$.00
2. Land, structures, rights-of-way, appraisals, etc.	\$.00	\$.00	\$.00
3. Relocation expenses and payments	\$.00	\$.00	\$.00
4. Architectural and engineering fees	\$.00	\$.00	\$.00
5. Other architectural and engineering fees	\$.00	\$.00	\$.00
6. Project inspection fees	\$.00	\$.00	\$.00
7. Site work	\$.00	\$.00	\$.00
8. Demolition and removal	\$.00	\$.00	\$.00
9. Construction	\$.00	\$.00	\$.00
10. Equipment	\$.00	\$.00	\$.00
11. Miscellaneous	\$.00	\$.00	\$.00
12. Subtotal	\$.00	\$.00	\$.00
13. Contingencies (sum of lines 1-11)	\$.00	\$.00	\$.00
14. Subtotal	\$.00	\$.00	\$.00
15. Project (program) income	\$.00	\$.00	\$.00
16. Total Project Costs (subtract #15 from #14)	\$.00	\$.00	\$.00
Federal Funding			

17. Federal assistance requested, calculate as follows: Enter eligible costs from line 16c _____ Multiply x _____ %
 (Consult Federal agency for Federal percentage share).
 Enter the resulting Federal share. _____

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Page 1 of 2
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SF-424C (Rev. 4/82)
 Prescribed by OHB Circular A-102

Instructions for HUD-424C

Public reporting burden for this collection of information is estimated to average 3 hours per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden to the Office of Management and Budget, Paperwork Reduction Project (0348-0041), Washington, D.C. 20503. Please do not return your completed form to the Office of Management and Budget; send it to the address provided by the sponsoring agency.

This sheet is to be used for the following types of applications: (1) "New" (means a new [previously unfunded] assistance award); (2) "Continuation" (means funding in a succeeding budget period which stemmed from a prior agreement to fund); and (3) "Revised" (means any changes in the Federal government's financial obligations or contingent liability from an existing obligation). If there is no change in the award amount there is no need to complete this form. Certain Federal agencies may require only an explanatory letter to effect minor (no cost) changes. If you have questions please contact the Federal agency.

Column a.—If this is an application for a "New" project, enter the total estimated cost of each of the items listed on lines 1 through 16 (as applicable) under "Cost Classifications."

If this application entails a change to an existing award, enter the eligible amounts approved under the previous award for the items under "Cost Classification."

Column b.—If this is an application for a "New" project, enter that portion of the cost of each item in Column a. which is not allowable for Federal assistance. Contact the Federal agency for assistance in determining the allowability of specific costs.

If this application entails a change to an existing award, enter the adjustment [+ or (-)] to the previously approved costs (from column a.) reflected in this application.

Column c.—This is the net of lines 1 through 16 in columns "a." and "b."

Line 1—Enter estimated amounts needed to cover administrative expenses. Do not include costs which are related to the normal functions of government. Allowable legal costs are generally only those associated with the purchase of land which is allowable for Federal participation and certain services in support of construction of the project.

Line 2—Enter estimated site and right(s)-of-way acquisition costs (this includes purchase, lease, and/or easements).

Line 3—Enter estimated costs related to relocation advisory assistance, replacement housing, relocation payments to displaced persons and businesses, etc.

Line 4—Enter estimated basic engineering fees related to construction (this includes start-up services and preparation of project performance work plan).

Line 5—Enter estimated engineering costs, such as surveys, tests, soil borings, etc.

Line 6—Enter estimated engineering inspection costs.

Line 7—Enter estimated costs of site preparation and restoration which are not included in the basic construction contract.

Line 9—Enter estimated cost of the construction contract.

Line 10—Enter estimated cost of office, shop, laboratory, safety equipment, etc. to be used at the facility, if such costs are not included in the construction contract.

Line 11—Enter estimated miscellaneous costs.

Line 12—Total of lines 1 through 11.

Line 13—Enter estimated contingency costs. (Consult the Federal agency for the percentage of the estimated construction cost to use.)

Line 14—Enter the total of lines 12 and 13.

Line 15—Enter estimated program income to be earned during the grant period, e.g., salvaged materials, etc.

Line 16—Subtract line 15 from line 14.

Item 17—This block is for the computation of the Federal share. Multiply the total allowable project costs from line 16, column "c," by the Federal percentage share (this may be up to 100 percent; consult Federal agency for Federal percentage share) and enter the product on line 17.

**Richland County Utilities Department
Lower Richland Sewer System
Preliminary Engineering Report
July 2012**

Exhibit 6
1 of 3

**Cost Estimate
Phase 1**

Item	Quantity	Unit	Unit Price	Total
24" PVC Gravity Sewer	2,500	LF	\$120	\$300,000
12" PVC Gravity Sewer	2,800	LF	\$60	\$168,000
8" PVC Gravity Sewer	17,500	LF	\$33	\$577,500
4' Precast Manhole	76	EA	\$5,000	\$380,000
Duplex Pump Station (1.3 MGD)	1	LS	\$1,200,000	\$1,200,000
Duplex Pump Station	3	LS	\$250,000	\$750,000
Goose Branch Pump Station Upgrade	1	LS	\$500,000	\$500,000
16" PVC Force Main	58,300	LF	\$58	\$3,381,400
12" PVC Force Main	13,900	LF	\$45	\$625,500
6" PVC Force Main	14,400	LF	\$25	\$360,000
4" PVC Force Main	5,500	LF	\$21	\$115,500
18" HDPE - Sewer Force Main	2,000	LF	\$400	\$800,000
8" HDPE - Sewer Force Main	500	LF	\$240	\$120,000
Sewer Combination Air Valve in MH	20	EA	\$4,600	\$92,000
16" Plug Valve	15	EA	\$6,000	\$90,000
12" Plug Valve	3	EA	\$4,000	\$12,000
6" Plug Valve	19	EA	\$2,000	\$38,000
4" Plug Valve	2	EA	\$1,000	\$2,000
Bore & Jack Steel Casing - 36"	692	LF	\$500	\$346,000
Bore & Jack Steel Casing - 24"	464	LF	\$340	\$157,800
Bore & Jack Steel Casing - 16"	336	LF	\$175	\$58,800
Bore & Jack Steel Casing - 12"	300	LF	\$150	\$45,000
Remove & Replace Gravel Driveways	6,680	LF	\$12	\$80,200
Remove & Replace Asphalt Driveways	6,010	LF	\$22	\$132,200
Remove & Replace Asphalt Roadway	1,400	LF	\$30	\$42,000
Service Connections (gravity)	92	EA	\$4,000	\$368,000
Mobilization	1	LS	\$100,000	\$100,000
Sediment & Erosion Control	114,900	LF	\$6	\$689,400
Total Estimated Construction Cost				\$11,531,300
Construction Contingency			10%	\$1,153,100
Engineering Fee (Design)			6.1%	\$703,400
Survey	1	LS	\$350,000	\$350,000
Geotechnical	1	LS	\$175,000	\$175,000
Engineering Fee (Construction)			4.0%	\$460,000
Railroad Agreement Fees	3	EA	\$15,000	\$45,000
Land Purchase/Easements	1.6	Acre	\$20,000	\$32,000
Legal	5	LS	\$5,000	\$25,000
City of Columbia Fees	1057	EA	\$800	\$845,600
24 months interest	1	LS	\$860,700	\$860,700
Estimated Total Cost				\$ 16,181,100

Handwritten signature/initials

APPLICATION FOR FEDERAL ASSISTANCE

2. DATE SUBMITTED
7/18/12

Applicant Identifier

Version 7/03

1. TYPE OF SUBMISSION:
Application

Pre-application

3. DATE RECEIVED BY STATE

State Application Identifier

☐ Construction
☐ Non-Construction

☐ Construction
☐ Non-Construction

4. DATE RECEIVED BY FEDERAL AGENCY

Federal Identifier

5. APPLICANT INFORMATION

Legal Name:

Richland County

Organizational Unit:

Department:
Utilities

Organizational DUNS:
073709883

Division:
Administration

Address:

Street:
2020 Hampton Street

Name and telephone number of person to be contacted on matters
involving this application (give area code)

Prefix:

First Name:
Andy

City:
Columbia

Middle Name
H.

County:
Richland

Last Name
Metts

State:
SC

Zip Code
29202

Suffix:

Country:
USA: United States

Email:
mettsa@rogov.us

6. EMPLOYER IDENTIFICATION NUMBER (EIN):

57-8000398

Phone Number (give area code)

803-401-0050

Fax Number (give area code)

803-401-0030

8. TYPE OF APPLICATION:

☒ New ☐ Continuation ☐ Revision

If Revision, enter appropriate letter(s) in box(es)
(See back of form for description of letters.)

Other (specify)

7. TYPE OF APPLICANT: (See back of form for Application Types)

County

Other (specify)

9. NAME OF FEDERAL AGENCY:
USDA, Rural Development

10. CATALOG OF FEDERAL DOMESTIC ASSISTANCE NUMBER:

10-760

TITLE (Name of Program):

11. DESCRIPTIVE TITLE OF APPLICANT'S PROJECT:

Sewer System Improvements, Hopkins Service Area

12. AREAS AFFECTED BY PROJECT (Cities, Counties, States, etc.):

Lower Richland County

13. PROPOSED PROJECT

Start Date:
03/15/2013

Ending Date:
08/15/2014

14. CONGRESSIONAL DISTRICTS OF:

a. Applicant
SC-02

b. Project
SC-06

15. ESTIMATED FUNDING:

a. Federal	\$	18,181,100
b. Applicant	\$	866,000
c. State	\$	0
d. Local	\$	0
e. Other	\$	0
f. Program Income	\$	0
g. TOTAL	\$	17,147,100

16. IS APPLICATION SUBJECT TO REVIEW BY STATE EXECUTIVE
ORDER 12372 PROCESS?

a. Yes ☒ THIS PREAPPLICATION/APPLICATION WAS MADE
AVAILABLE TO THE STATE EXECUTIVE ORDER 12372
PROCESS FOR REVIEW ON

DATE:

b. No ☐ PROGRAM IS NOT COVERED BY E. O. 12372

☐ OR PROGRAM HAS NOT BEEN SELECTED BY STATE
FOR REVIEW

17. IS THE APPLICANT DELINQUENT ON ANY FEDERAL DEBT?

☐ Yes If "Yes" attach an explanation.

☒ No

18. TO THE BEST OF MY KNOWLEDGE AND BELIEF, ALL DATA IN THIS APPLICATION/PREAPPLICATION ARE TRUE AND CORRECT. THE
DOCUMENT HAS BEEN DULY AUTHORIZED BY THE GOVERNING BODY OF THE APPLICANT AND THE APPLICANT WILL COMPLY WITH THE
ATTACHED ASSURANCES IF THE ASSISTANCE IS AWARDED.

a. Authorized Representative

Prefix

First Name
Andy

Middle Name
H.

Last Name
Metts

Suffix

b. Title
Director of Utilities

c. Telephone Number (give area code)

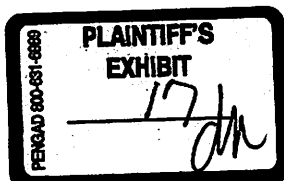
803-401-0050

d. Signature of Authorized Representative

e. Date Signed

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1. Processing the Initial Application

- 1.1 The initial application, consisting of the documents in the following checklist, should be reviewed and a copy forwarded to the CP Program Director. Items (a) through (i) should be submitted to the CP Director upon receipt for a preliminary review and evaluation of the proposed project. If it is determined that the applicant and project appear eligible for WEP funding, items (j), (k), and (l) would then be requested. Your transmittal memo should include comments regarding the review and recommendation for further processing. Your comments should also include specific reasons why Rural Development needs to fund this project; i.e., unsafe drinking water, replacing inadequate private wells, unsanitary sewer situations, pollution to lakes, rivers, etc.

If additional information is needed from the applicant they should be notified in writing within 15 working days as to what additional submittal items are needed.

1.2 Initial Application Processing Checklist (initial and date on the lines to the left of each item when received)

- _____ (a) Completed Form SF-424.2, "Application for Federal Assistance (For Construction)," with map identifying area of proposed project. If applicant requests a review before submitting a PER and Environmental Report (ER), they need to provide good documentation as to the need for this project and how the need will be met.
- _____ (b) Evidence of Clearinghouse Review has been initiated (must be completed for initial application to be completed)
- _____ (c) Applicant's written certification, with supporting documentation, that other credit is not available. At a minimum, this should include the lender's name, address, and telephone number, the name of the person contacted, the date of the contact, and information concerning the terms offered and/or the reasons why the lender would not consider making the loan.
- _____ (d) Most recent audit report. Form RD 442-3, "Balance Sheet" and current financial statements on the facility for which funds are being requested should also be submitted if a current audit report, within six months of date of initial application, is not available.
- _____ (e) Applicant's certification of outstanding debts.
- _____ (f) Copies of organizational documents, if not previously submitted



- _____ (g) Nonprofits: Certification from attorney that applicant is current with Secretary of State, IRS & SC Tax Commission
- _____ (h) New applicants: Copies of any outstanding bond ordinances, notes, etc., for the facility for which financing is being requested.
- (i) Running record documentation of your findings regarding the following:
 - _____ (1) Results of site visit: Comments to include assessment that no low income or minority community within the service area has been omitted or discouraged from participating in the proposed project, your Civil Rights Impact Analysis documentation, (addresses the potential for adverse impacts to minority or low income populations) and any other information significant to the project, such as the need, viability, partners, and any potential alternatives that need to be considered. Once the information is available for the Area Office to make this determination the documentation should be made and the Civil Rights Impact Analysis Certification should be completed by the Area office.
 - _____ (2) Applicant & project eligibility – Using Application Processing Guide Part I, and applicable section of Part II, Preliminary Eligibility Determination.
 - _____ (3) Other Credit Evaluation -*RUS Staff Instruction 1780-6, Attachment 2* may be used for this purpose
 - _____ (4) Preliminary Loan and Grant indications – Can use section 18 of Application Processing Guide for documentation
 - _____ (5) Historical & archaeological assessment in accordance with RD Inst. 1901 F Section 1901.255
 - _____ (6) The date of the government wide non procurement list that is reviewed and the findings
 - _____ (7) The date, confirmation number and findings of the Credit Alert Interactive Voice Response System (CAIVRS), (1st. check of CAIVRS). Enter information in CPAP on the Loan & Grant information, 1940-1 information screen with the CAIVRS information.
- _____ (j) Preliminary Engineering Report in accordance with appropriate RUS Bulletin

- _____ (k) Engineering Agreement in accordance with Engineers Joint Contract Documents Committee (EJCDC) documents.
- _____ (l) Environmental Report - (You should forward the ER and any subsequent environmental documentation to the State Environmental Coordinator (SEC) for concurrence. The SEC will make recommendations to the CP Program Director for the Finding of No Significant Impact.)
- _____ (m) Bulletin 1780-1, "*Water & Waste Project Selection Criteria*" (completed through Section D).

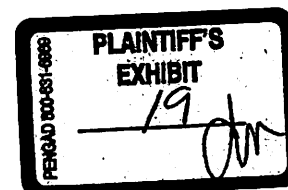


United States Department of Agriculture
Rural Development
State Office
Columbia, South Carolina

August 2, 2012

SUBJECT: Richland County
Lower Richland County Sewer System
Preliminary Engineering Report (PER)

TO: George Hicks, Colleton Area Director
Walterboro, SC



ATTN: Judy Capehart and Rusty Craven, RD Specialists

The revised PER dated July 2012, prepared by CDM Smith for subject applicant has been reviewed and the following comments are offered:

1. It appears for Census tracks 118 and 119.01 the County is using more conservative 3.7% and 9.9% growth rates as found in Exhibit 10. This should be discussed in the narrative. Currently, the reader is left to assume that the weighted growth rate of 23.7% was used.
2. Please provide calculations used to determine the size of the 16-inch trunk line.
3. Please provide a map of the service area that the Richland County Wateree WWTP will treat.
4. Following RUS Bulletin Section 3.4 the following is missing from the Financial Status of any Existing Facilities: a. Most recent audit or financial statement (or estimated), b. Proposed rate schedule, c. proposed O&M budget, d. Other Capital Improvement Programs, e. Tabulation of users by monthly usage categories, f. Status of existing and required reserve accounts.
5. Following RUS Bulletin Section 4.a: Are there any Consent Orders that have been issued for this area for failing septic tanks?
6. Explain the transfer of ownership from City of Columbia to Richland County in more detail. For example, is the City of Columbia going to transfer the sewer utility assets over to Richland County?
7. Please provide a letter from the City of Columbia that they are unable or the costs that they would incur to provide service to the Hopkins Area.
8. In Section 8.2 and Exhibit 12: A \$3500 tap fee appears high. It appears this fee will make it difficult to attract customers. However, based on our discussions the

Ray
Provide a copy of assignment

Andy

Sandra
copy of City of Columbia
AS

Strom Thurmond Federal Building • 1835 Assembly Street • Suite 1007 • Columbia, SC 29201
Phone: (803) 785-5183 • Fax: (803) 785-5833 • TDD: (803) 785-5897 • Web: <http://www.rurdev.usda.gov/sc>

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County indicated that the fee would be waived during construction. Please discuss in the narrative.

Finance (Andy) 9. Please provide a schedule of existing and proposed debts for Richland County and indicate those debts that are specific to this project. *Sample*

in PER & rate study 10. Please provide a debt reserve schedule for this project. The debt service and reserve schedule should be based on the first full year after construction.

11. Please provide financial information required in RUS Bulletin 1780-3 for the entire Richland County sewer utility.

in PER 12. Please provide a proposed O&M Budget from 2012 through the first full year after construction.

Richard 13. Please provide an explanation of how the salvage value was determined in both present worth analyses. Also, the initial capital costs in the present worth analysis should be for the construction costs only. Please review O&M expenses provided. The O&M total for Alternative in Exhibit 6 does not match the total provided in Exhibit 14.

Richard 14. In Exhibit 6 (Cost Estimate for Phase 1) Several of the unit prices appear higher than recent bid tabulations RD has reviewed, please justify.

Andy 15. In Exhibit 4, please include the most recent SCDHEC updated priority list. A copy can be provided by RD if needed.

16. The engineering fees requested are above what RD would typically concur with at 14.64% or \$1,688,400. Based on RD's fee guide the engineering fees should be close to 9% or \$1,035,000.

If any further information is needed please advise:

JASON FELL, PE
State Civil Engineer

cc: Michele Cardwell

ANDY METTS

From: Mitchell, Candace <cmitchell@hgbd.com>
Sent: Tuesday, August 07, 2012 9:52 AM
To: ANDY METTS
Cc: Mr. John William Fleming; Mohammed Ismail
Subject: Re: Lower Richland Sewer Service Area

Andy,

I am assuming since this is based on the RUS funding that the scenario they are requiring is the one that is based on the historical population data with no builder contributions? Or can we maintain the assumption that 50 builder homes will be added annually?

As a note, the rates have increased significantly (\$45-\$53). I did make one modification to bring the rates down slightly. The assumed O&M and Capital Expense increase was decreased from 5% to 4%. This allocates a 2% increase for inflation and a 2% increase for system expansion. I felt this was a reasonable reduction due to the increase in the initial O&M cost associated with Phase I in the revised PER.

I also added Scenario 4 and 5 as requested to finance the Phase I project with a 4% Bond under both population projections.

So I will be adding Scenario 6 which is a RUS grant and loan with a grant amount that will maintain a \$38.00 initial monthly fee. If you could verify that they want this option to be based on the historical population trends (Census 1980-2000) without developer contributions, OR if we can include a developer contribution? I will try to get this option completed for you by Wednesday.

Thanks,

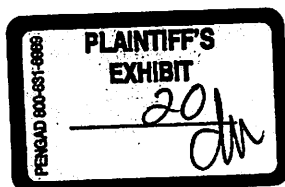
Candy

Candace G. Mitchell

Phone: 843.849.7500
Mobile: 803.429.3906
FAX: 843.849.7502
E-Mail: cmitchell@hgbd.com
Web: www.hgbd.com
FTP: [files.hgbd.com](ftp://files.hgbd.com)
Hussey, Gay, Bell & DeYoung

On Tue, Aug 7, 2012 at 9:34 AM, ANDY METTS <METTSA@rcgov.us> wrote:

Candy,



Following our meeting with Rural Development (RD) representatives yesterday, they plan to submit our project to Washington for funding by this Friday, August 10, 2012. They have asked us to include your rate study as part of the PER. Therefore, I need your revisions by Wednesday if at all possible.

RD has also requested that once you have made the initial cost and O&M cost adjustments to your spreadsheet, that you run one scenario to determine the ratio of grant-to-loan that would be required to maintain the monthly user fee at \$38.00 per month. They have asked that you include this information in a summary paragraph at the end of your technical memorandum.

Please review and contact me if you have any questions.

Andy H. Metts , Director

Richland County Utilities

Email: mettsa@rcgov.us

Tel. 803-401-0050

Fax. 803-401-0030

From: Mitchell, Candace [<mailto:cmitchell@hgbd.com>]
Sent: Friday, August 03, 2012 10:23 AM
To: ANDY METTS
Cc: Mohammed Ismail; Mr. John William Fleming
Subject: Re: Lower Richland Sewer Service Area

Andy,

There are two things that are going to drive up the rates with the new estimates.

1. the initial cost is increased.
2. the phase I O&M costs increased.

These two increases will have a direct increase on the monthly rate. I don't think that any of the scenarios will return an initial rate of less than \$38. My quick changes are indicating rates closer to \$44.

I will work on the spreadsheets today, but might not have the full revision available by Monday.

Candace G. Mitchell, PE

Phone: 843.849.7500
Mobile: 803.429.3906
FAX: 843.849.7502
E-Mail: cmitchell@hgbd.com
Web: www.hgbd.com
FTP: [files.hgbd.com](ftp://files.hgbd.com)

Hussey, Gay, Bell & DeYoung

On Thu, Aug 2, 2012 at 11:39 AM, ANDY METTS <METTSA@rcgov.us> wrote:

Richard and Candy,

Michele Cardwell has scheduled a meeting with me on Monday to discuss the LR Sewer Project.

Richard,

RD is questioning three things in the PER:

- 1 City of Columbia Alternative-They want something from the City stating that they cannot serve the area or a cost estimate that exceeds the recommended alternative.
- 2 Engineering fees-they state that they can only pay the published amount unless the engineer can substantiate the need for additional fees.
- 3 Viability-hopefully this will be addressed by Candy's rate study.

Candy,

If possible, I need the revised information that we discussed with the new numbers provided by Richard by Monday morning. Also, our Finance Director has requested that you run one version of your spreadsheet assuming a straight bond issue with no additional funds provided by SRF or RD. He wants to see a worst case scenario with associated monthly rates and customer connection requirements for a straight bond issued project.

I appreciate your continued support on this project and look forward to your responses.

Andy H. Metts, Director

Richland County Utilities

Email: mettsa@rcgov.us

Tel. 803-401-0050

Fax. 803-401-0030

From: Culler, Richard E. [<mailto:cullerre@cdmsmith.com>]

Sent: Thursday, August 02, 2012 11:17 AM

To: Mitchell, Candace

Cc: ANDY METTS; Raymond Peterson; Cully, Bryan L

Subject: RE: Lower Richland Sewer Service Area

Candy,

Here are all the exhibits. Let me know if you need anything else.

Thanks,

Richard

Richard E Culler, PE

Environmental Engineer

Project Manager

CDM Smith

1301 Gervais Street, Columbia, SC 29201-3356

w:803-251-2979 m:803-727-7469

CullerRE@CDMSmith.com

CDMSmith.com

Please Note New E-mail Address

From: Mitchell, Candace [<mailto:cmitchell@hgbd.com>]
Sent: Thursday, August 02, 2012 10:52 AM
To: Culler, Richard E.
Subject: Re: Lower Richland Sewer Service Area

Richard,

Can you forward me the revised estimates that were generated in the latest updates?

Thanks,

Candy

Candace G. Mitchell, PE

**Error!
Filename
not
specified..**

Phone: 803.799.0444
Mobile: 803.429.3906
FAX: 803.799.1499
E-Mail: cmitchell@hgbd.com
Web: www.hgbd.com
FTP: files.hgbd.com

Hussey, Gay, Bell & DeYoung

On Mon, Jul 9, 2012 at 10:05 AM, Culler, Richard E. <cullerre@cdmsmith.com> wrote:

Candace,

Attached is the growth projection we talked about. Please let me know if you have any questions.

Thanks,

Richard

Richard E Culler, PE

Environmental Engineer

Project Manager

CDM Smith

1301 Gervais Street, Columbia, SC 29201-3356

w:803-251-2979 m:803-727-7469

CullerRE@CDMSmith.com

CDMSmith.com

Please Note New E-mail Address

From: Mitchell, Candace [<mailto:cmitchell@hgbd.com>]

Sent: Monday, July 09, 2012 9:16 AM

To: Culler, Richard E.

Subject: Lower Richland Sewer Service Area

Mr. Culler,

In follow up to my earlier voicemail, I want to see if you could forward me your updated numbers for the Lower Richland wastewater improvements. I am attempting to finish up the rate study for the area and wanted to make sure that we are presenting the same data.

Thanks,

Candy

Candace G. Mitchell, PE

Phone: 803.799.0444

Mobile: 803.429.3906

FAX: 803.799.1499

E-Mail: cmitchell@hgbd.com

Web: www.hgbd.com

FTP: [files.hgbd.com](ftp://files.hgbd.com)

Hussey, Gay, Bell & DeYoung



COPY

United States Department of Agriculture
Rural Development
State Office
Columbia, South Carolina

January 30, 2013

Richland County
Mr. Kelvin Washington, Chairman
2020 Hampton Street
Columbia, SC 29202

Dear Mr. Washington:

This letter will establish conditions which you must understand and agree to before further consideration may be given to your application. The State and Area staff of USDA, Rural Development (RD) will administer the loan and grant on behalf of the Rural Utilities Service (RUS). You must report any changes in project cost, source of funds, scope of services, or any other significant changes in the project to USDA, Rural Development for review and approval. A written amendment to this letter will be prepared for any changes approved. Any changes not approved by Rural Development shall be cause for discontinuing processing of the application.

The scope of the project consists of the Lower Richland County Sewer System Project Phase I. This Phase includes providing sewer service to the Lower Richland neighborhood, Hopkins Middle School, and Hopkins Elementary School, Franklin Park Subdivision, as well as the acquisitions of existing customers on Garners Ferry Road. Wastewater will be transported for treatment at the County's Wateree WWTF.

This letter is not to be considered as loan approval or as representation to the availability of funds. The RD proposed funding is not to exceed \$9,359,000 of loan funds and \$2,279,800 of grant funds.

You may be required to refinance (graduate) the unpaid balance of its RD loan, in whole or in part, upon the request of RD if at any time it shall be determined the authority is able to obtain a loan for such purposes from responsible cooperative or private sources at reasonable rates and terms for loans for similar purposes and periods of time.

Extra copies of this letter are being provided for use by your engineer, attorney, bond counsel and accountant. All parties may access our web-site located at www.usda.gov/rus/water/ for the following:

- a. RD Instruction 1780
- b. RUS Bulletin 1780-13, "Agreement Between Owner and Contractor"
- c. RUS Bulletin 1780-26, "Guidance for the Use of EJCDC Standard Documents on Water and Waste Projects with RUS Financial Assistance"

Strom Thurmond Federal Building • 1835 Assembly Street • Suite 1007 • Columbia, SC 29201
Phone: (803) 785-5163 • Fax: (803) 785-5633 • TDD: (803) 785-5697 • Web: <http://www.rurdev.usda.gov/sc>

Committed to the future of rural communities.

"USDA is an equal opportunity provider, employer and lender."
To file a complaint of discrimination write USDA, Director, Office of Civil Rights, Room 328-W, Whitten Building, 14th and Independence Avenue, SW, Washington, DC 20250-9410 or call (202) 720-5864 (voice or TDD).

Mr. Kelvin Washington, Chairman
Richland County

2

- d. RUS Bulletin 1780-30, "Water Programs Audit Guide and Compliance Supplement"
- e. RUS Bulletin 1780-31, "Water Programs Compliance Supplement For OMB Circular A-133 Audits"

The enclosures listed below are attached to your copy of this letter as noted. Enclosed are the following:

Form RD 442-7 - "Operating Budget"
Government Auditing Standards (Revision 2007) available on line at
<http://www.gao.gov/govaud/ybk01.htm>
Form RD 442-3, "Balance Sheet"
Form RD 442-2, "Statement of Budget, Income and Equity" (Accountant Copy for all three of these attachments)

The conditions referred to above are as follows:

1. **Project Budget** - Funding from all sources has been budgeted for the estimated expenditures as follows:

Project Costs:

Construction	\$9,481,700
Legal Fees	25,000
Basic	\$587,900
Insp.	\$275,000
Engineering Fees (Total)	862,900
Land & Rights	92,000
City of Columbia Fees	845,600
Interest	682,300
Project Contingency	948,200
TOTALS	\$12,937,700

2. **Project Funds** - The project funding is planned in the form of a loan and grant from the following sources and amounts:

<u>Project Funding Source:</u>	<u>Funding Amount:</u>
RD Loan	\$9,359,000
RD Grant	\$2,279,800
Tap Fee/Applicant Contribution	\$ 723,900
Other Fund(SRF Loan)	\$ 575,000
Total Project Funding (All Sources):	\$12,937,700

Any changes in funding sources following obligation of RD funds must be reported to the processing official. You must assure that all project funds are

expended only for the eligible items included in the project budget of this letter of conditions or as amended by RD in writing at a later date.

Any applicant contribution shall be considered as the first funds expended, unless other funding are not available at the start of project construction, other funds can be prorated and/or used when funding becomes available during the construction period. After providing for all authorized costs, any remaining RD project funds will be considered to be RD grant funds and refunded to RD. If the amount of unused RD project funds exceeds the RD grant, that part would be RD loan funds and applied as an extra payment.

Prior to advertisement for construction bids, you must provide evidence of applicant contributions and approval of the other funds. This evidence should include a copy of any other funds awarded. An agreement should be reached with all funding sources on how funds are to be disbursed before the start of construction.

3. **Disbursement of Funds** - The RD funds or interim financing will be advanced as they are needed in the amount(s) necessary to cover the RD proportionate share of any disbursements required of your entity, over 30 day periods. Funds will be disbursed by electronic transfer of funds. Interim financing will be used for the RD loan if it is available at reasonable rates and terms. You must provide RD with a copy of the tentative agreement reached in connection with interim financing for review and approval.

You must establish a separate fund, to be known and hereafter referred to as the Construction Account, with a participating 31 CFR Part 202 collateral depository, federal agency, or Federal Reserve Bank acting as a fiscal agent in the United States. All project funds will be deposited into this account. The account shall be used solely for the purpose of paying authorized costs of the project as outlined in the project budget. Once the funds are deposited into the construction account, they become your responsibility. Financial institutions or depositories accepting deposits of public funds and providing other financial agency services to the Federal Government are required to pledge adequate, acceptable securities as collateral. General requirements for designating depositories and regulations governing the pledging of collateral are identified in 31 CFR Part 202 ("Depositaries and Financial Agents of the Federal Government"). Treasury's current acceptability and valuation requirements are identified in 31 CFR Part 380 ("Collateral Acceptability and Valuation") and specific eligibility and valuation guidance is provided in Treasury's procedural instructions and on Treasury's Bureau of the Public Debt website at www.publicdebt.treas.gov. All funds in the account will be secured by a collateral pledge equaling at least 100% of the highest amount of funds expected to be deposited in the Construction Account at any one time.

Any RD grant funds not disbursed immediately upon receipt must be deposited in an interest bearing account except as follows:

- a. Federal grant awards (includes all federal funding sources) are less than \$120,000 per year.
- b. The best available interest bearing account would not be expected to earn in excess of the following:

Public Bodies

Interest earned on grant funds in excess of \$100 per year will be submitted to RD at least quarterly as required in 7CFR3016.

- c. The depository would require a minimum balance so high that it would not be feasible.
4. **Security – (Revenue Bonds - Public Body)** The loan will be evidenced by a waterworks and Sewer System Improvement Bond secured by a pledge of revenue and a statutory lien on the waterworks and sewer system. The pledge of water and sewer revenue and the statutory lien on the waterworks and sewer system will be on parity with the bonds previously issued to Rural Development.

A pledge of the system's revenues and other agreements between you and RD as set forth in the bond ordinance. Additional security requirements are contained in RUS Bulletin 1780-12 and RUS Bulletin 1780-27 which are mentioned later.

The services of a recognized bond counsel are required. The bond counsel will prepare the form of ordinance to be used, in accordance with Subpart D of RUS Instruction 1780. You should immediately provide your bond counsel with a copy of this letter of conditions and its enclosures.

5. **Loan Repayment – (Monthly Installments)** The loan will be scheduled for repayment over a period of 40 years. The payments due the first 2 year(s) will consist of interest only. Payments for the remaining 38 years will be equal amortized monthly installments. For planning purposes use a 2.50% interest rate and a monthly amortization factor of 3.40, which provides for a monthly payment of \$31,821.

The interest rate will be the lower of the rate in effect at the time of loan approval or the time of loan closing, whichever is less, unless you choose otherwise. Should the interest rate be reduced, the payment will be recalculated to the lower amount. The payment due date will be established as the day that the loan closes, but no later than the 28th of each month. Interest only payments during the 24 month deferral period will be advanced to you from the RD loan project funds as agreed to by RD.

You will be required to complete SF-5510, Authorization Agreement for Preauthorized Payments, if you participate for all new and existing indebtedness to RD. It will allow for your payment to be electronically debited from your account on the day your payment is due.

6. **Reserves** – Reserves must be properly budgeted to maintain the financial viability of any operation. Reserves are important to fund unanticipated emergency maintenance and repairs, and assist with debt service should the need arise. Reserves can also be established and maintained for the anticipated and expected expenses including but not limited to operation and maintenance, customer deposits, and depreciation of short-lived assets.

It has been determined as part of this funding proposal that you have sufficient funds to establish reserves for the following purposes and amounts:

Operation and Maintenance	\$ 82,181

As a part of this RD loan proposal you must establish and fund monthly a debt service reserve fund equal to 10% of the monthly payment each month over the life of the loan until you accumulate one annual installment. This reserve is required to establish an emergency fund for maintenance and repairs and debt repayment should the need arise. Ten percent of the proposed loan installment would equal \$3,183.00 per month.

7. **Users** – This letter of conditions is based upon you providing evidence or a certification that there will be at least 1,197 bona fide residential equivalent users (REUs) on the existing system when construction has been completed. If a number less than 1,197 is certified, Richland County shall adjust user rates to provide an equivalent revenue to match that which would be provided by 1,197 REUs at the initial user rate as established in the proposed rate schedule below. Evidence or certification must be provided on the final number of bona fide REUs and the associated final user fee when construction is complete.

Before RD can agree to the project being advertised for construction bids, you must provide evidence or a certification of the total number of bona fide users are currently using the system or signed up to use the system. You must provide evidence or a certification to show those users will actually be connected to the system when the project is completed and that the monthly sewage volume projected for each by the engineer is reasonable. In the event any of the large volume users discontinue the offered service, you must obtain enough additional revenue (i.e., increase in user rates, sign up of an adequate number of other users, reduction in project scope to reduce debt service and O&M, etc.) to make up the projected income that would be lost by not having those users on the system.

8. **Proposed Rate Schedule:**

Users and Rate Schedule: Before the loan and grant can be closed, you must provide that Richland County has 1,197 REUs signed up for connection to the system when construction is complete or that action has been taken to adjust the monthly user fee to produce an equivalent revenue with a lesser number of REUs. The users are as follows:

	Residential	Commercial	Bulk
Sewer	1187	8	2

With 1,197 REUs signed up, the initial monthly user fee shall be established at \$37.60 per REU. If a number less than 1,197 is certified, Richland County shall adjust user rates to provide equivalent revenue to match that which would be provided by 1,197 REUs at the initial monthly user fee rate of \$37.60. The County must always maintain a rate schedule that provides adequate revenue to meet the requirements of operation and maintenance, debt service, reserves, short lived assets and fund contingency and depreciation accounts.

9. **Income Available** – You must maintain a rate schedule that provides adequate income to meet the minimum requirements for operation and maintenance, debt service, and reserves.

10. **Delayed Payment Penalty**

An enforceable use agreement with a penalty clause and reconnection charges are required except for users presently receiving service or where mandatory use of the system is required. RUS Bulletin 1780-9 can be used.

11. **Operation and Maintenance Expenses** – O&M expenses must be properly budgeted to determine the financial viability of any operation. For planning purposes, we have projected O&M expenses based on the information provided in the preliminary engineering report and other financial information provided which should be representative of a typical year. This information is utilized to determine loan repayment and is reflected in the operating budget. It is expected that O&M will change over each successive year and user rates will need to be adjusted for the need.

12. **Proposed Operating Budget and User Rate Structure** - You will be required to submit a copy of your proposed annual operating budget and rate analysis to this office which supports the proposed loan repayment prior to loan approval and updated to current status prior to this agency giving you written authorization to proceed with the bidding phase. The operating budget should be based on a typical year cash flow subject to completion of this project in the first full year of operation. The rate analysis will be required to show the number of users, their

average consumption based on a twelve month consecutive average, and rate structure to support the necessary revenue to make the operating budget cash flow. Form RD 442-7 - "Operating Budget", or similar form may be utilized for this purpose. Separate budgets should be prepared for your water and sewer systems.

13. **Insurance and Bonding Requirements** - Prior to loan closing or start of construction, whichever occurs first, you must acquire the types of insurance and bond coverage shown below. The use of deductibles may be allowed providing you have the financial resources to cover potential claims requiring payment of the deductible. RD strongly recommends that you have your engineer, attorney, and insurance provider(s) review proposed types and amounts of coverage, including any exclusions and deductible provisions. It is your responsibility and not that of RD to assure that adequate insurance and fidelity or employee dishonesty bond coverage is maintained.
- a. **General Liability Insurance** – Include vehicular coverage.
 - b. **Workers' Compensation** - In accordance with appropriate State laws.
 - c. **Position Fidelity Bond(s)** - All positions occupied by persons entrusted with the receipt and/or disbursement of funds must be bonded. You should have each position bonded in an amount equal to the maximum amount of funds to be under the control of that position at any one time. The minimum coverage acceptable to RD will be for each position to be bonded for an amount at least equal to one annual installment on your loan(s). The coverage may be increased during construction of this project based on the anticipated monthly advances. The amount of coverage should be discussed and approved by RD.
 - d. **National Flood Insurance** - In addition to meeting the requirements for the type of assistance requested, the following requirements must be met for financial assistance for acquisition and/or construction in designated special flood or mudslide prone areas:
 - (1) If flood insurance is available, you must purchase a flood insurance policy at the time of loan closing.
 - (2) Applicants whose buildings, machinery or equipment are to be located in a community which has been notified as having special flood or mudslide prone areas will not receive financial assistance where flood insurance is not available.
 - e. **Real Property Insurance** – Fire and extended coverage will normally be maintained on all structures except reservoirs, pipelines and other structures if such structures are not normally insured and subsurface lift stations except for the value of electrical and pumping equipment. Prior to the acceptance of the

facility from the contractor(s), you must obtain real property insurance (fire and extended coverage) on all facilities identified above.

14. **Accounting Services** - If you have both water and sewer facilities you should maintain accounting records in such a manner that will allow the operation of each to be reported separately. You may be required to obtain the services of an independent licensed Certified Public Accountant (CPA). When permitted by state statutes or with the approval of RD, a state or Federal auditor may perform the audit in lieu of a CPA. A CPA will be considered independent if the CPA:
- a. Meets the standards for independence contained in the American Institute of Certified Public Accountants (AICPA) Code of Professional Conduct in effect at the time the CPA's independence is under review;
 - b. Does not have any direct financial interest or any material indirect financial interest in the borrower during the period covered by the audit; and
 - c. Is not, during the period of the audit, connected with the borrower as a promoter, underwriter, trustee, director, officer or employee.

Audit Agreement: You must enter into a written audit agreement with the auditor and submit a copy to RD prior to advertisement of bids. The audit agreement may include terms and conditions that the borrower and auditor deem appropriate; however, the agreement should include the following:

1. A statement that the auditor will perform and document the audit work in accordance with Generally Accepted Government Auditing Standards, (GAGAS), as outlined in the attached booklet, "Government Auditing Standards (Revised 1994)", and the professional standards of the AICPA;
2. A statement that the auditor will submit the completed audit and accompanying letters to your governing body 30 days prior to the date the audit is due to RD;
3. A statement that the auditor will make all audit-related documents, including work papers, available to RD or its representatives, upon request; and
4. A statement that the auditor will immediately report, in writing, all irregularities and illegal acts to your governing body and the Agency.

Prior to the advertisement for bids, your accountant must certify to you and RD that the accounts and records as required by your bond [resolution] [ordinance] have been established and are operational.

Quality Review Requirement: As required by GAGAS, the auditor must belong to and participate in an external quality review program and provide you with a copy of the most recent quality review report. These reviews are performed every 3 years by an independent organization to determine if the auditor is following established audit procedures and applicable auditing standards.

Audit Requirements: The following management data will be required from you on an annual basis and be submitted to RD as specified below:

1. A borrower that expends \$500,000 or more in Federal financial assistance per fiscal year shall submit an audit performed in accordance with the requirements of OMB Circular A-133. As described above, the total Federal funds expended from all sources shall be used to determine Federal financial assistance expended. Projects financed with interim financing are considered federal expenditures. OMB Circular A-133 audits shall be submitted no later than 9 months after the end of the fiscal year. In addition to submitting two (2) copies of the audit report to RD, the borrower is also required to submit copies of OMB Circular A-133 audits, accompanying audit letters (the "reporting package"), and the Data Collection Form to the Federal clearinghouse designated by OMB to retain as an archival copy. The Federal clearinghouse address is: Federal Audit Clearinghouse, Bureau of the Census, 1201 E. 10th Street, Jeffersonville, Indiana 47132. RUS Bulletin 1780-31, outlines the requirements of OMB Circular A-133 audits.
2. A borrower that expends less than \$500,000 in Federal financial assistance per fiscal year and an outstanding RUS loan balance of \$1,000,000 or more, shall submit an audit performed in accordance with Water and Waste audit requirements (i.e., a GAGAS audit). These audits shall be submitted to RD no later than 150 days after the end of the fiscal year. Two (2) copies of the audit report are required by RD. An audit performed in accordance with Water and Waste audit requirements should not be submitted to the Federal clearinghouse. RUS Bulletin 1780-30, outlines the requirements for Water Programs Audits.
3. A borrower that expends less than \$500,000 in Federal financial assistance per fiscal year and has an outstanding RD loan balance of less than \$1,000,000 may submit a management report in lieu of an audit report unless notified by RD otherwise. Management reports shall be submitted to RD no later than 60 days after the end of the fiscal year. A year-end management report shall consist of : Form RD 442-3, "Balance Sheet", and Form RD 442-2, "Statement of Budget, Income and Equity", or forms that provide the information in a similar format. Form RD 442-2 should have Schedule 1, all Columns completed on page 1, and page 2. Schedule 2 is not required for year end reports. An annual audit report must be submitted in lieu of Forms RD 442-2 and 442-3. The audit report must be submitted no later than 150 days after the end of the borrower's fiscal year.

Compensation for preparation of the A-133 audit or your annual audit is not included in project funds and should be paid from the operational revenues generated from your system operation.

Annual Budget and Projected Cash Flow: Thirty days prior to the beginning of each fiscal year, you will be required to submit an annual budget and projected

cash flow to this office. You should submit two copies of Form RD 442-2, Statement of Budget, Income and Equity, Schedule 1, page 1; and Schedule 2, Projected Cash Flow. The only data required at this time on Schedule 1, page 1, is Columns 2 & 3. All of Schedule 1, page 2 and Schedule 2, Projected Cash Flow will be required. With the submission of the annual budget, you will be required to provide a current rate schedule, a current listing of the Board or Counsel members and terms.

15. **Legal Services** – You must obtain a legal services agreement with your attorney for providing legal services for your project. It is suggested that Rural Development guides be used in preparing this agreement. It is also suggested that ten percent of the cost be retained until the loan is closed and construction of the project is complete. This agreement is subject to the approval of the Rural Development Community Programs Director.

Prior to loan and grant closing, the attorney must provide this office with a certification as to judgments and/or litigation of the County. A similar certification must also be furnished Rural Development for each advance of loan funds from the Finance Office and before loan and grant closing instructions can be issued.

The closing instructions for this loan and grant will be issued by the approving official and the Office of the General Counsel of the Department of Agriculture. A determination that loan and grant closing instructions can be met must be made prior to loan and grant closing or the issuance of a commitment for interim financing.

A preliminary title search shall be made by your attorney to determine that the County will have fee simple title to properties on which its sewer system is located. After the loan and grant are closed, a final title opinion shall be prepared by your attorney indicating that the County does have fee simple title to these properties. These opinions are to be recorded on Forms RD 1927-9 and 1927-10.

Your documents concerning the creation and legal existence of your entity are administratively acceptable; however, the documents will be reviewed further by our Office of the General Counsel at the time your file is forwarded for closing instructions. Any changes required by our Office of the General Counsel will be included in the closing instructions.

16. **Property Rights** - Prior to advertisement for construction bids, you must furnish satisfactory evidence that you have or can obtain adequate continuous and valid control over the lands and rights needed for the project. Acquisitions of necessary land and rights must be accomplished in accordance with the Relocation and Real Property Acquisition Act. Such evidence must be in the following form:

- a. Evidence of adequate, continuous, and valid rights-of-way must be provided as follows:

1. Form RD 442-21, "Right-of-Way Certificate," with two copies of right-of-way map attached.
2. Form RD 442-22, "Opinion of Counsel Relative to Right-of-Way."
3. A right-of-way map showing the location of all structures, pipelines, ditches, etc. The map should show that rights-of-way are continuous, and any rights-of-way acquired by use or adverse possession will be shown by some distinctive color. This map will bear the written signatures of the "Applicant's representative" and "Applicant's engineer."

- b. Preliminary Title Work - A copy of deeds, contracts or options for any lands needed other than rights-of-way, along with a preliminary title opinion covering such lands. A separate Form RD 1927-9, "Preliminary Title Opinion" may be used for each property to be acquired.

In the case of your existing system or where you have already acquired real property (land or facilities), a preliminary title opinion(s) concerning all such property(s) will be provided.

A narrative opinion from your attorney concerning all permits, certificates, licenses and other items necessary to show that all legal requirements can be met and stating how they will be met.

- c. Final Title Work - On the day of loan closing, your attorney must furnish a separate final title opinion on all existing land(s) and those to be acquired on the day of loan closing. Form RD 1927-10, "Final Title Opinion" Form RD 442-21 "Right-of-Way Certification" should be used with two copies of the right of way map attached.

A certification and legal opinion relative to title to rights-of-way and easements. Form RD 442-22, "Opinion of Counsel Relative to Rights-of-Way," should be used. This form must be provided showing no exceptions.

17. **Engineering Services** – RD must approve any agreements or modifications to agreements for professional design services.
18. **Resident Inspector** – Resident inspection is required for this project in accordance with the RD approved engineering agreement. This service is to be provided by the consulting engineer or other arrangements as approved by RD. Prior to the pre-construction conference, a resume of qualifications of the resident inspector(s) will be submitted to the owner and RD for review and approval. The owner will provide a letter of acceptance for all proposed inspectors to the

engineer and RD. The resident inspector(s) must also attend the pre-construction conference.

19. Environmental Requirements

- a. Mitigation - At the conclusion of the proposal's environmental review process, specific actions were negotiated with environmental regulatory officials to avoid or minimize adverse environmental impacts. The following list of action(s) are required for successful completion of the project and must be adhered to during project design and construction:

Mitigation for Land Use/Important Farmlands/Formally Classified Lands
Land Use / Important Farmland. The gravity sewers and force mains will be buried immediately upon completion of installation. Every effort will be made to complete the installation of the facilities in a timely manner to minimize the temporary impacts during installation. Construction of the facilities along the roadway rights-of-way will require Encroachment Permits from the South Carolina Department of Transportation (SCDOT) and the Richland County Roads Department. The encroachment permits should have conditions and restrictions that will lessen temporary impacts. This will be required in and enforced through the contractor's contract documents.

Richland County Planning and Development Services Department has in place a land development review process to ensure the zoning regulations are complied with. No building or other structure shall be erected, moved, added to, or structurally altered without a land development permit being issued by the County. In addition, a land development permit is also required for expansions of existing uses as well as for a change of use. Therefore any potential indirect and cumulative impacts discussed above will be addressed. Portions of the Richland County Land Development Code which address zoning are included in the Maps/Exhibits Section. Included are copies of the zoning maps with the project highlighted, "Article V. Zoning Districts and District Standards," Sec. 26-86. RU Rural District, and "Table 26-V-2 Table of Permitted Uses, Permitted Uses with Special Requirements, and Special Exceptions."

Formally Classified Lands Installations under streams will be installed by boring and other best management practices will be utilized during construction to minimize possible erosion and sedimentation that has the potential to impact Congaree National Park. These practices include, but are not limited to, utilizing silt fencing and straw bales to prevent siltation, backfilling trenches with the topsoil originally removed from the trenched area, returning the elevation to the pre-existing grade, and re-establishing vegetation as quickly as is feasible after construction. Every effort will be made to complete the installations of the sewers and force mains in a timely manner to minimize the impact. This will be required in and enforced through the contractor's contract documents.

Richland County Planning and Development Services Department has in place a land development review process to ensure the zoning regulations are complied with.

Wild and Scenic Rivers / Nationwide Rivers Inventory

The increased volume of effluent discharge to the Wateree River will require revision of the current NPDES permit; a process overseen by the South Carolina Department of Health and Environmental Control (SCDHEC). The National Park Service staff at the Congaree National Park must be provided the opportunity to view the environmental document and they reserve the option/right to comment on the NPDES permit through SCDHEC. When environmental assessment is reviewed and a Notice of Availability issued, Congaree National Park must be contacted regarding the availability.

The expansion of the treatment facility will be designed to meet regulatory requirements and will also have to be permitted by SCDHEC prior to construction. Once in operation the effluent will be monitored by SCDHEC which will also conduct annual inspections of the facility. Any violations of limits will be addressed through the existing SCDHEC enforcement program to ensure that any and all problems are corrected.

The replacement of the various existing discharges and malfunctioning septic tanks with a newly upgraded treatment facility designed to meet current requirements will improve the overall water quality in the region. Mitigation should not be required because the discharge will result in a net improvement of water quality in the region.

Richland County Planning and Development Services Department has in place a land development review process to ensure the zoning regulations are complied with.

Mitigation for Floodplains

To prevent possible erosion and sedimentation during construction, best management practices will be utilized to minimize temporary impacts. These practices include but are not limited to, utilizing silt fencing and straw bales to prevent siltation, backfilling trenches with the topsoil originally removed from the trenched area, returning the elevation to the pre-existing grade, and re-establishing vegetation as quickly as is feasible after construction. Every effort will be made to complete the installations of the sewers and force mains in a timely manner to minimize the impact. These practices and actions will be required in and enforced through the contractor's contract documents.

Richland County Planning and Development Services Department has in place a land development review process to ensure the regulations are complied with. No building or other structure shall be erected, moved, added to, or structurally altered without a land development permit being issued by the County. In addition, a land development permit is also required for expansions of existing uses as well as for a change of use. Therefore any potential indirect and cumulative impacts discussed above will be addressed. The Land Development Code requires that a floodplain development permit be requested for any development activities in the FP Overlay District to ensure compliance with all regulations concerning floodplain development. The County flood coordinator reviews all applications for floodplain development permits for danger to life, damage to property, safe access, among other considerations. A land disturbance permit will be required for all development and will not be issued until an approved SWPPP for the work is in place.

Mitigation for Wetlands

To avoid direct impacts on wetlands, the pipelines will be bored under the stream crossings and wetlands adjacent to existing roadways. Determination of the limits of the

wetlands will be accomplished and drawings showing the locations of bore entrance and exit points will be provided to the USACE to allow a final determination of the necessity of permitting to be made. A complete Jurisdictional Determination package will be submitted to the USACE during design.

To prevent possible erosion and sedimentation during construction, best management practices will be utilized to minimize impacts. These practices include but are not limited to, utilizing silt fencing and straw bales to prevent siltation, backfilling trenches with the topsoil originally removed from the trenched area, returning the elevation to the pre-existing grade, and re-establishing vegetation as quickly as is feasible after construction. Every effort will be made to complete the installations of the force mains in a timely manner to minimize the impact. These practices and actions will be required in and enforced through the contractor's contract documents.

Richland County Planning and Development Services Department has in place a land development review process to ensure the regulations are complied with. No building or other structure shall be erected, moved, added to, or structurally altered without a land development permit being issued by the County. In addition, a land development permit is also required for expansions of existing uses as well as for a change of use. Therefore any potential indirect and cumulative impacts discussed above will be addressed. The Land Development Code requires that all submissions for SWPPP approval include wetlands maps and that all sediment and erosion control plans show locations of all waters of the U.S. and State (including wetlands). The County reviews all submittals to ensure requirements are met before approval. A land disturbance permit will be required for all development and will not be issued until an approved SWPPP for the work is in place.

Mitigation for Cultural Resources

The contracts will specify that if any previously unknown cultural and/or historical resources are located during construction, all construction activities in the immediate and adjacent areas will cease immediately and the proper authorities will be notified. The authorities to be notified will be the SHPO, Rural Development, all three Tribal Contacts, and Richland County. Construction in the area will not resume until concurrence is obtained from these entities.

Mitigation for Water Quality Issues

To prevent possible erosion and siltation during construction, Best Management Practices will be utilized to minimize impacts. These practices include but are not limited to, utilizing silt fencing and straw bales to prevent siltation, backfilling trenches with the topsoil originally removed from the trenched area, returning the elevation to the pre-existing grade, and re-establishing vegetation as quickly as is feasible after construction. Every effort will be made to complete the installations of the facilities in a timely manner to minimize impacts. These practices and actions will be required in and enforced through the contractor's contract documents.

Mitigation for Air Quality

There may be temporary impacts due to the emissions of heavy equipment during construction. Every effort will be made to complete construction in a timely manner to minimize these impacts. Fugitive dust may be controlled by application of water from appropriate spray devices. Contractors will be required to control fugitive dust if construction occurs during dry periods. Construction and installation of the force mains along the roadway rights-of-way will require encroachment permits from the South Carolina Department of Transportation (SCDOT) and Richland County. The encroachment permits should have conditions and restrictions that should address safety issues from dust clouds. Compliance with these conditions and restrictions will be required in and enforced through the contractor's contract documents.

Mitigation for Solid and Hazardous Waste

Contractors will be required to dispose of solid waste in a manner that meets all state and federal requirements. This will be required in and enforced through the contractor's contract documents.

Mitigation for Transportation

Installation of the sewers and force mains will be conducted in as quick and as efficient a manner as possible to minimize the time of impact to transportation. Construction and installation of the facilities along the roadway rights-of-way will require encroachment permits from the South Carolina Department of Transportation (SCDOT) and Richland County. The encroachment permits should have conditions and restrictions that should address issues such as obstruction of traffic.

Mitigation for Noise

Construction and installation of the gravity sewers and force mains along the roadway rights-of-way will require encroachment permits from the South Carolina Department of Transportation (SCDOT) and Richland County. The encroachment permits should have conditions and restrictions that address issues such as noise. Such restrictions could include limiting construction to daylight hours, limiting construction to weekdays, and using appropriate sound reduction devices such as mufflers on all equipment for which such devices are intended to be used. Other mitigation will not be required because impacts will be minimal and temporary. Compliance with these conditions and restrictions will be required in and enforced through the contractor's contract documents.

- b. Project Modifications – The project as proposed has been evaluated to be consistent with all applicable environmental requirements. If the project or any project element deviates from or is modified from the original approved project, additional environmental review may be required.

20. **Vulnerability Assessment and Emergency Response Plans**
Requirements serving populations less than 3300:

The Public Health Security and Bioterrorism Preparedness and Response Act of 2002, Public Law 107-188 (Bioterrorism Act) amended the Safe Drinking Water Act (SDWA) to require all medium-sized and large-sized community water systems (serving populations greater than 3300) to assess vulnerability to terrorist attack and develop emergency plans for and response to such attacks. The Environmental Protection Agency (EPA) maintains responsibility for vulnerability assessments (VAs) and emergency response plans (ERPs) under the Bioterrorism Act. Rural Development (RD) and EPA share the objective of ensuring safe, reliable and affordable drinking water and wastewater for residents of rural areas. Protection of rural America's water and wastewater systems will be enhanced through the implementation of the RD Water and Environmental Program Homeland Security Initiative. RD will assist systems, especially those servicing populations of less than 3300, in completing VAs and ERPs. The County will provide Rural Development with the certifications on VA and ERP or other documentation that the system has taken appropriate steps to ensure public safety. The VA and ERP should not be offered and will not be accepted by Rural Development.

21. **Civil Rights & Equal Opportunity** - You should be aware of and will be required to comply with other federal statute requirements including but not limited to:

Section 504 of the Rehabilitation Act of 1973 - Under section 504 of the Rehabilitation Act of 1973, as amended (29 U.S.C. 794), no handicapped individual in the United States shall, solely by reason of their handicap, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving RD financial assistance.

Civil Rights Act of 1964 - All borrowers are subject to, and facilities must be operated in accordance with, title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d et seq.) and subpart E of part 1901 of this title, particularly as it relates to conducting and reporting of compliance reviews. Instruments of conveyance for loans and/or grants subject to the Act must contain the covenant required by paragraph 1901.202(e) of this title.

Prior to the closing of the loan and grant or the beginning of construction, whichever occurs first, it will be necessary that our Rural Development Area Office conduct a user certification and compliance review. The user Certification will include the review of the user agreements, collected tap fees and service declination statements. Your office's full cooperation will be necessary in accomplishing this certification and review. At the time of the review, it will be necessary for your office to furnish to the representative of the Rural Development Area Office evidence that the County has the users and has adopted the rate schedules required in item #8 of this letter. During the review, the representative of the Rural Development Area Office will complete and execute Form RD 400-8, "Compliance Review." So as to assist the Rural Development

Area Office with the Compliance Review, you will need to have available a *numerical breakdown* of your required users into the following categories:

RESIDENTIAL USERS

Ethnicity:

- ☐ Hispanic or Latino
- ☐ Not Hispanic or Latino

Race:

- ☐ White
- ☐ Black or African American
- ☐ American Indian or Alaskan Native
- ☐ Native Hawaiian or Other Pacific Islander
- ☐ Asian

☐ **COMMERCIAL USERS**

☐ **INDUSTRIAL USERS**

The same breakdown data will be needed for applications of persons wishing to become users and for the County's water/sewer employees and Board.

The nondiscrimination poster, "And Justice For All," is to be displayed at your offices and facilities.

The Americans with Disabilities Act (ADA) of 1990 – This Act (42 U.S.C. 12101 et seq.) prohibits discrimination on the basis of disability in employment, State and local government services, public transportation, public accommodations, facilities, and telecommunications. Title II of the Act applies to facilities operated by State and local public entities which provides services, programs and activities. Title III of the Act applies to facilities owned, leased, or operated by private entities which accommodate the public.

Age Discrimination Act of 1975 – This Act (42 U.S.C. 6101 et seq.) provides that no person in the United States shall on the basis of age, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving federal financial assistance.

RD financial programs must be extended without regard to race, color, religion, sex, national origin, marital status, age, or physical or mental handicap.

22. **Permits** - Copies of all permits needed for the project must be provided for review prior to advertisement for construction bids. Such permits may include but are not limited to the following:
 - SC Department of Health and Environmental Control
 - Corps of Engineers
23. **Contract Documents, Final Plans and Specifications**
 - a. The contract documents should consist of the EJCDC Construction Documents as indicated in RUS Bulletin 1780-26 or other approved form of

agreement.

- b. The contract documents and final plans and specifications must be submitted to RD for approval.
- c. The project must be designed in compliance with Section 504 of the Rehabilitation Act of 1973.

24. **Bid Authorization** - Once all the conditions outlined in this letter have been met, RD may authorize you to advertise the project for construction bids. Such advertisement must be in accordance with appropriate State statutes. Immediately after bid opening you must provide RD with (a) bid tabulation, and (b) your engineer's evaluation of bids and recommendations for contract awards. If RD agrees that the construction bids received are acceptable, adequate funds are available to cover the total project costs, and all the administrative conditions of loan approval have been satisfied, loan closing instructions will be issued to you setting forth any further requirements that must be met before the loan can be closed. Obligated loan and grant funds not needed to complete the proposed project will be deobligated prior to construction. Any reductions will be applied to grant funds first.

When all parties agree that the closing requirements can be met, a mutually acceptable date for the loan closing will be scheduled.

25. **The Central Contractor Registration (CCR)**
Beginning October 1, 2010 financial assistance grant recipients must have a Dun and Bradstreet Data Universal Numbering System (DUNS) numbers and maintain current registrations in the Central Contractor Registration (CCR) database. The CCR requirement will also apply to loans obligated after October 1, 2011. The CCR requirement is new for grants effective October 1, 2010 (and loans and loan guarantees starting on October 1, 2011). Completing the CCR registration process takes up to five business days.

The CCR registration must remain active, with current information, at all times during which an entity has an application under consideration by an agency or has an active Federal Award. To remain registered in the CCR database after the initial registration, you are required to review and update on an annual basis from the date of initial registration or subsequent updates in the CCR database to ensure it is current, accurate and complete. You will have an expiration date and it is your responsibility to ensure that you keep the CCR registration current.

Central Contracting Registration (CCR) is now using the new System for Award Management (SAM), Phase 1.

What Does SAM Include?

SAM Phase 1 includes the capabilities previously included in the following

"legacy" systems: Central Contractor Registration (CCR), Federal Agency Registration (FedReg), Online Representations and Certifications Application (ORCA), and the Excluded Parties List System

Where Can I Find SAM?

SAM is online at <http://sam.gov>. The legacy systems will redirect users to this address.

Where Can I Get Help?

SAM.gov contains quick start guides, webinars, a User Guide and other materials that provide all the information you need to get started using SAM. For other questions, beginning Monday, July 30, the help desk for SAM will be the Federal Service Desk (FSD). You can reach them at <http://fsd.gov>.

You as the recipient must maintain the currency of your information in the CCR. This requires that you review and update the information at least annually after the initial registration.

26. **Cost Overruns** – Cost overruns must be due to high bids or unexpected construction problems that cannot be reduced by negotiations, redesign, use of bid alternatives, rebidding or other means prior to consideration by Rural Development for subsequent funding. Such requests will be contingent on the availability of funds. Cost overruns exceeding 20% of the development cost at time of loan or grant approval or where the scope of the original purpose has changed will compete for funds with all other applications on hand as of that date.
27. **Use of Remaining Funds** – Applicant contributions, in the form of waived tap fees for LMI homes, will be considered the first funds expended in the project. Tap fees collected by the applicant must be contributed towards the project but will not be required until the system is operational and the tap fee has been paid by the customer. Remaining funds may be considered in direct proportion to the amounts obtained from each source and handled as follows:
- Remaining funds may be used for eligible loan and grant purposes, provided the use will not result in major changes to the original scope of work, the request is made within 60 days of project completions, and the purpose of the loan and grant must remain the same.
 - RD loan funds that are not needed will be applied as an extra payment on the RD indebtedness unless other disposition is required by the bond ordinance, resolution, or State statute.
 - Grant funds not approved for authorized purposes will be cancelled within 60 days of project completion. Prior to actual cancellation, you and your attorney and engineer will be notified of RD's intent to cancel the remaining funds and given appropriate appeal rights.

28. **Processing Forms** - At a properly called meeting, you must adopt and properly execute the following forms, and minutes showing the adoption must be provided:

RD Binding Covenant

Form RD 400-1 - "Equal Opportunity Agreement"

Form RD 400-4 - "Assurance Agreement"

Form AD 1047 - "Certification Regarding Debarment, Suspension and other Responsibility Matters"

Form AD 1049 - "Certification Regarding Drug-Free Workplace Requirements"

Form RD 1910-11 - "Applicant Certification, Federal Collection Policies"

RD Instruction 1940-Q, Exhibit A-1, "Certification for Contracts, Grants and Loans"

Standard Form LLL - "Disclosure of Lobbying Activities" (If Applicable)

RUS Bulletin 1780-22, "Eligibility Certification"

RUS Bulletin 1780-27 - "Loan Resolution (Public Bodies)"

RUS Bulletin 1780-12 - "Water or Waste System Grant Agreement"

Form RD 1940-1 - "Request for Obligation of Funds"

Please complete and return the enclosed Form RD 1942-46, "Letter of Intent to Meet Conditions," if you desire further consideration be given your application.

The loan will be considered approved on the date a signed copy of Form RD 1940-1, "Request for Obligation of Funds," is mailed to you.

Attached is a copy of RUS Bulletin 1780-12, "Water and Waste System Grant Agreement," for your review. You will be required to execute a completed form at the time of grant closing.

29. **Special Requirements**

Any public information events are to be coordinated in advance with Rural Development through our Public Information Coordinator in our State Office. These events are to be planned in order for the public to be aware of this project and Rural Development's participation in the project.

If the conditions set forth in this letter are not met within 12 months from the date of this letter, RD reserves the right to discontinue processing of the application. In the event the project has not advanced to the point of loan closing within 12 months and it is determined the applicant still wishes to proceed, it may be necessary to review the conditions outlined in this letter. If during that review, it is determined the conditions outlined are no longer adequate, RD reserves the right to require that the letter of conditions be revised or replaced.

Mr. Kelvin Washington, Chairman
Richland County

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We believe the information in this letter clearly sets forth the conditions which must be complied with; however, this letter does not relieve you from meeting the requirements of RD Instruction 1780. If you have any questions, please do not hesitate to contact me.

Sincerely,

A handwritten signature in black ink, appearing to read 'Michele J. Cardwell', written over the printed name.

MICHELE J. CARDWELL
Acting Community Programs Director

Attachments



RUS BULLETIN 1780-27
(Automated 8-97)

Position 5

FORM APPROVED
OMB. No. 0575-0015

LOAN RESOLUTION
(Public Bodies)

A RESOLUTION OF THE _____
County Council

OF THE _____
Richland County

AUTHORIZING AND PROVIDING FOR THE INCURRENCE OF INDEBTEDNESS FOR THE PURPOSE OF PROVIDING A
PORTION OF THE COST OF ACQUIRING, CONSTRUCTING, ENLARGING, IMPROVING, AND/OR EXTENDING ITS
Sewer

FACILITY TO SERVE AN AREA LAWFULLY WITHIN ITS JURISDICTION TO SERVE.

WHEREAS, it is necessary for the _____
Richland County
(Public Body)

(herein after called Association) to raise a portion of the cost of such undertaking by issuance of its bonds in the principal amount of

NINE MILLION THREE HUNDRED FIFTY-NINE THOUSAND AND XX / 100 DOLLARS (9,359,000.00)

pursuant to the provisions of Revenue Bond Act for Utilities as amended _____ ; and

WHEREAS, the Association intends to obtain assistance from the United States Department of Agriculture, (herein called the Government) acting under the provisions of the Consolidated Farm and Rural Development Act (7 U.S.C. 1921 et seq.) in the planning, financing, and supervision of such undertaking and the purchasing of bonds lawfully issued, in the event that no other acceptable purchaser for such bonds is found by the Association:

NOW THEREFORE, in consideration of the premises the Association hereby resolves:

1. To have prepared on its behalf and to adopt an ordinance or resolution for the issuance of its bonds containing such items and in such forms as are required by State statutes and as are agreeable and acceptable to the Government.
2. To refinance the unpaid balance, in whole or in part, of its bonds upon the request of the Government if at any time it shall appear to the Government that the Association is able to refinance its bonds by obtaining a loan for such purposes from responsible cooperative or private sources at reasonable rates and terms for loans for similar purposes and periods of time as required by section 333(c) of said Consolidated Farm and Rural Development Act (7 U.S.C. 1983(c)).
3. To provide for, execute, and comply with Form RD 400-4, "Assurance Agreement," and Form RD 400-1, "Equal Opportunity Agreement," including an "Equal Opportunity Clause," which clause is to be incorporated in, or attached as a rider to, each construction contract and subcontract involving in excess of \$10,000.
4. To indemnify the Government for any payments made or losses suffered by the Government on behalf of the Association. Such indemnification shall be payable from the same source of funds pledged to pay the bonds or any other legally permissible source.
5. That upon default in the payments of any principal and accrued interest on the bonds or in the performance of any covenant or agreement contained herein or in the instruments incident to making or insuring the loan, the Government at its option may (a) declare the entire principal amount then outstanding and accrued interest immediately due and payable, (b) for the account of the Association (payable from the source of funds pledged to pay the bonds or any other legally permissible source), incur and pay reasonable expenses for repair, maintenance, and operation of the facility and such other reasonable expenses as may be necessary to cure the cause of default, and/or (c) take possession of the facility, repair, maintain, and operate or rent it. Default under the provisions of this resolution or any instrument incident to the making or insuring of the loan may be construed by the Government to constitute default under any other instrument held by the Government and executed or assumed by the Association, and default under any such instrument may be construed by the Government to constitute default hereunder.
6. Not to sell, transfer, lease, or otherwise encumber the facility or any portion thereof, or interest therein, or permit others to do so, without the prior written consent of the Government.
7. Not to defease the bonds, or to borrow money, enter into any contractor agreement, or otherwise incur any liabilities for any purpose in connection with the facility (exclusive of normal maintenance) without the prior written consent of the Government if such undertaking would involve the source of funds pledged to pay the bonds.
8. To place the proceeds of the bonds on deposit in an account and in a manner approved by the Government. Funds may be deposited in institutions insured by the State or Federal Government or invested in readily marketable securities backed by the full faith and credit of the United States. Any income from these accounts will be considered as revenues of the system.
9. To comply with all applicable State and Federal laws and regulations and to continually operate and maintain the facility in good condition.
10. To provide for the receipt of adequate revenues to meet the requirements of debt service, operation and maintenance, and the establishment of adequate reserves. Revenue accumulated over and above that needed to pay operating and maintenance, debt service and reserves may only be retained or used to make prepayments on the loan. Revenue cannot be used to pay any expenses which are not directly incurred for the facility financed by USDA. No free service or use of the facility will be permitted.

Public reporting burden for this collection of information is estimated to average 1 hour per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing the burden, to Department of Agriculture, Clearance Officer, OIRM, Room 404-W, Washington, DC 20250; and to the Office of Management and Budget, Paperwork Reduction Project (OMB No. 0575-0015), Washington, DC 20503.

11. To acquire and maintain such insurance and fidelity bond coverage as may be required by the Government.
12. To establish and maintain such books and records relating to the operation of the facility and its financial affairs and to provide for required audit thereof as required by the Government, to provide the Government a copy of each such audit without its request, and to forward to the Government such additional information and reports as it may from time to time require.
13. To provide the Government at all reasonable times access to all books and records relating to the facility and access to the property of the system so that the Government may ascertain that the Association is complying with the provisions hereof and of the instruments incident to the making or insuring of the loan.
14. That if the Government requires that a reserve account be established, disbursements from that account(s) may be used when necessary for payments due on the bond if sufficient funds are not otherwise available and prior approval of the government is obtained. Also, with the prior written approval of the Government, funds may be withdrawn and used for such things as emergency maintenance, extensions to facilities, and replacement of short lived assets.
15. To provide adequate service to all persons within the service area who can feasibly and legally be served and to obtain USDA's concurrence prior to refusing new or adequate services to such persons. Upon failure to provide services which are feasible and legal, such person shall have a direct right of action against the Association or public body.
16. To comply with the measures identified in the Government's environmental impact analysis for this facility for the purpose of avoiding or reducing the adverse environmental impacts of the facility's construction or operation.
17. To accept a grant in an amount not to exceed \$2,279,800

under the terms offered by the Government; that

Chairman

and Clerk

of the Association are hereby authorized and empowered to take all action necessary or appropriate in the execution of all written instruments as may be required in regard to or as evidence of such grant; and to operate the facility under the terms offered in said grant agreement(s).

The provisions hereof and the provisions of all instruments incident to the making or the insuring of the loan, unless otherwise specifically provided by the terms of such instrument, shall be binding upon the Association as long as the bonds are held or insured by the Government or assignee. The provisions of sections 6 through 17 hereof may be provided for in more specific detail in the bond resolution or ordinance; to the extent that the provisions contained in such bond resolution or ordinance should be found to be inconsistent with the provisions hereof, these provisions shall be construed as controlling between the Association and the Government or assignee.

Yeas 9 Nays 1 Absent 1

IN WITNESS WHEREOF, the County Council of the
Richland County has duly adopted this resolution and caused it

to be executed by the officers below in duplicate on this 19th day of February, 2013

(SEAL) (if applicable)

Attest:

Michelle Onley
Michelle Onley

Title Clerk to Council

Richland County

By Kelvin Washington
Title Chairman

CERTIFICATION TO BE EXECUTED AT LOAN CLOSING

I, the undersigned, as Clerk to Council of the Richland County
hereby certify that the County Council of such Association is composed of
11 members, of whom 6 constituting a quorum, were present at a meeting thereof duly called and
held on the 19th day of February 2013 that the foregoing resolution was adopted at such meeting
by the vote shown above. I further certify that as of _____
the date of closing of the loan from the United States Department of Agriculture, said resolution remains in effect and has not been
rescinded or amended in any way.

Dated, this 20th day of February

Michelle Onley
Michelle Onley
Clerk to Council of Richland County

ATTACHMENT TO RUS BULLETIN 1780-27
LOAN RESOLUTION (Public Bodies) Dated: 02-19-2013

BINDING COVENANT

NOW, THEREFORE, BE IT RESOLVED by Kelvin Washington, Chairman, Richland County Council that in order to provide for protection to valued and environmentally sensitive resources, Richland County offers and adopts the following in the form of a "Binding Covenant" as detailed in the Environmental Assessment prepared of the Lower Richland County Sewer System:

4.1 Mitigation for Land Use/Important Farmlands/Formally Classified Lands

Land Use / Important Farmland. The gravity sewers and force mains will be buried immediately upon completion of installation. Every effort will be made to complete the installation of the facilities in a timely manner to minimize the temporary impacts during installation. Construction of the facilities along the roadway rights-of-way will require Encroachment Permits from the South Carolina Department of Transportation (SCDOT) and the Richland County Roads Department. The encroachment permits should have conditions and restrictions that will lessen temporary impacts. This will be required in and enforced through the contractor's contract documents.

Richland County Planning and Development Services Department has in place a land development review process to ensure the zoning regulations are complied with. No building or other structure shall be erected, moved, added to, or structurally altered without a land development permit being issued by the County. In addition, a land development permit is also required for expansions of existing uses as well as for a change of use. Therefore any potential indirect and cumulative impacts discussed above will be addressed. Portions of the Richland County Land Development Code which address zoning are included in the Maps/Exhibits Section. Included are copies of the zoning maps with the project highlighted, "Article V. Zoning Districts and District Standards," Sec. 26-86. RU Rural District, and "Table 26-V-2 Table of Permitted Uses, Permitted Uses with Special Requirements, and Special Exceptions."

Formally classified lands.

Installations under streams will be installed by boring and other best management practices will be utilized during construction to minimize possible erosion and sedimentation that has the potential to impact Congaree National Park. These practices include, but are not limited to, utilizing silt fencing and straw bales to prevent siltation, backfilling trenches with the topsoil originally removed from the trenched area, returning the elevation to the pre-existing grade, and re-establishing vegetation as quickly as is feasible after construction. Every effort will be made to complete the installations of the sewers and force mains in a timely manner to minimize the impact. This will be required in and enforced through the contractor's contract documents.

Wild and Scenic Rivers / Nationwide Rivers Inventory.

The increased volume of effluent discharge to the Wateree River will require revision of the current NPDES permit; a process overseen by the South Carolina Department of Health and Environmental Control (SCDHEC). The National Park Service staff at the Congaree National Park must be provided the opportunity to view the environmental document and they reserve the option/right to comment on the NPDES permit through SCDHEC. When environmental assessment is reviewed and a Notice of Availability issued, Congaree National Park must be contacted regarding the availability.

The expansion of the treatment facility will be designed to meet regulatory requirements and will also have to be permitted by SCDHEC prior to construction. Once in operation the effluent will be monitored by SCDHEC which will also conduct annual inspections of the facility. Any violations of limits will be addressed through the existing SCDHEC enforcement program to ensure that any and all problems are corrected.

The replacement of the various existing discharges and malfunctioning septic tanks with a newly upgraded treatment facility designed to meet current requirements will improve the overall water quality in the region. Mitigation should not be required because the discharge will result in a net improvement of water quality in the region.

Richland County Planning and Development Services Department has in place a land development review process to ensure the zoning regulations are complied with.

4.2 Mitigation for Floodplains

To prevent possible erosion and sedimentation during construction, best management practices will be utilized to minimize temporary impacts. These practices include but are not limited to, utilizing silt fencing and straw bales to prevent siltation, backfilling trenches with the topsoil originally removed from the trenched area, returning the elevation to the pre-existing grade, and re-establishing vegetation as quickly as is feasible after construction. Every effort will be made to complete the installations of the sewers and force mains in a timely manner to minimize the impact. These practices and actions will be required in and enforced through the contractor's contract documents.

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4.3 Mitigation for Wetlands

To avoid direct impacts on wetlands, the pipelines will be bored under the stream crossings and wetlands adjacent to existing roadways. Determination of the limits of the wetlands will be accomplished and drawings showing the locations of bore entrance and exit points will be provided to the USACE to allow a final determination of the necessity of permitting to be made. A complete Jurisdictional Determination package will be submitted to the USACE during design.

To prevent possible erosion and sedimentation during construction, best management practices will be utilized to minimize impacts. These practices include but are not limited to, utilizing silt fencing and straw bales to prevent siltation, backfilling trenches with the topsoil originally removed from the trenched area, returning the elevation to the pre-existing grade, and re-establishing vegetation as quickly as is feasible after construction. Every effort will be made to complete the installations of the force mains in a timely manner to minimize the impact. These practices and actions will be required in and enforced through the contractor's contract documents.

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4.4 Mitigation for Cultural Resources

No mitigation is included because there will be no adverse effects. The contracts will specify that if any previously unknown cultural and/or historical resources are located during construction, all construction activities in the immediate and adjacent areas will cease immediately and the proper authorities will be notified. The authorities to be notified will be the SHPO, Rural Development, all three Tribal Contacts, and Richland County. Construction in the area will not resume until concurrence is obtained from these entities.

4.5 Mitigation for Biological Resources

The only anticipated impacts to protected species are minimal and temporary if Best Management Practices are used. These practices will be required in and enforced through the contractor's contract documents, therefore mitigation is not required.

4.6 Mitigation for Water Quality Issues

To prevent possible erosion and siltation during construction, Best Management Practices will be utilized to minimize impacts. These practices include but are not limited to, utilizing silt fencing and straw bales to prevent siltation, backfilling trenches with the topsoil originally removed from the trenched area, returning the elevation to the pre-existing grade, and re-establishing vegetation as quickly as is feasible after construction. Every effort will be made to complete the installations of the facilities in a timely manner to minimize impacts. These practices and actions will be required in and enforced through the contractor's contract documents.

4.7 Mitigation for Coastal Resources

Mitigation will not be required because there will be no impacts to coastal resources.

4.8 Socio-Economic/ Environmental Justice Issues

Mitigation will not be required for construction and installation because there are no adverse impacts.

4.9 Mitigation for Air Quality

There may be temporary impacts due to the emissions of heavy equipment during construction. Every effort will be made to complete construction in a timely manner to minimize these impacts. Fugitive dust may be controlled by application of water from appropriate spray devices. Contractors will be required to control fugitive dust if construction occurs during dry periods. Construction and installation of the force mains along the roadway rights-of-way will require encroachment permits from the South Carolina Department of Transportation (SCDOT) and Richland County. The encroachment permits should have conditions and restrictions that should address safety issues from dust clouds. Compliance with these conditions and restrictions will be required in and enforced through the contractor's contract documents.

4.10 Mitigation for Solid and Hazardous Waste

Contractors will be required to dispose of solid waste in a manner that meets all state and federal requirements. This will be required in and enforced through the contractor's contract documents.

4.11 Mitigation for Transportation

Installation of the sewers and force mains will be conducted in as quick and as efficient a manner as possible to minimize the time of impact to transportation. Construction and installation of the facilities along the roadway rights-of-way will require encroachment permits from the South Carolina Department of Transportation (SCDOT) and Richland County. The encroachment permits should have conditions and restrictions that should address issues such as obstruction of traffic.

4.12 Mitigation for Noise

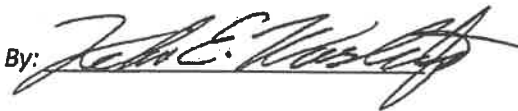
Construction and installation of the gravity sewers and force mains along the roadway rights-of-way will require encroachment permits from the South Carolina Department of Transportation (SCDOT) and Richland County. The encroachment permits should have conditions and restrictions that address issues such as noise. Such restrictions could

include limiting construction to daylight hours, limiting construction to weekdays, and using appropriate sound reduction devices such as mufflers on all equipment for which such devices are intended to be used. Other mitigation will not be required because impacts will be minimal and temporary. Compliance with these conditions and restrictions will be required in and enforced through the contractor's contract documents.

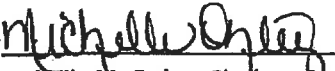
A meeting of County Council was duly called on and held on 02-19-2013. The Council is composed of 11 members of whom 10 constituting a quorum, were present at the meeting. At the meeting, they adopted a resolution agreeing to comply with said "Binding Covenant"

The vote was: Yeas 9 Nays 1 Absent 1

(SEAL)

By: 

Kelvin Washington, Chairman

Attest: 
Michelle M. Onley, Clerk to Council



RICHLAND COUNTY
Department of Utilities
7525 Broad River Road
Irmo South Carolina 29063

Andy H. Metts, Director

Phone: (803) 401-0050
Facsimile: (803) 401-0030

Maintenance: (803) 401-0050
Billing: (803) 576-2094

February 4, 2014

Mr. George W. Hicks, Jr.
Area Director, USDA Rural Development
531 Robertson Boulevard, Suite A
Walterboro, South Carolina 29488

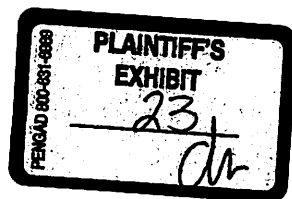
RE: Richland County
Lower Richland County Sewer Project
USDA Rural Development Letter of Conditions

Dear Mr. Hicks:

The following is provided in response to your letter to Mr. Kelvin Washington, County Council Chairman, dated January 15, 2014 on the subject. A copy of this letter was received by my office on February 3, 2014.

Richland County is proceeding with the development of a sewer system to serve Lower Richland County. We have every intention of meeting all of the items contained in the Letter of Conditions (LOC) dated January 30, 2013. An engineering design firm has been selected and a contract has been submitted to Rural Development for review and approval. Also, County Council has given two of the three reading approvals to the Bond Anticipation Note required for interim financing. The Bond Anticipation Note Ordinance has also been submitted to Rural Development for review and approval.

The design engineer has provided a tentative project schedule (a copy is attached for your review). You will note in this schedule that design has begun and the project construction is expected to be complete in early 2015. Based on their schedule, we hereby request that the subject Letter of Conditions be extended until July 1, 2015 to allow for complete project close-out.





RICHLAND COUNTY
Department of Utilities
7525 Broad River Road
Irmo South Carolina 29063

Andy H. Metts, Director

Phone: (803) 401-0050
Facsimile: (803) 401-0030

Maintenance: (803) 401-0050
Billing: (803) 576-2094

We appreciate USDA Rural Development's support on this project and look forward to an expeditious approval of our request.

Sincerely,

A handwritten signature in black ink, appearing to read "Andy H. Metts", is written over a horizontal line.

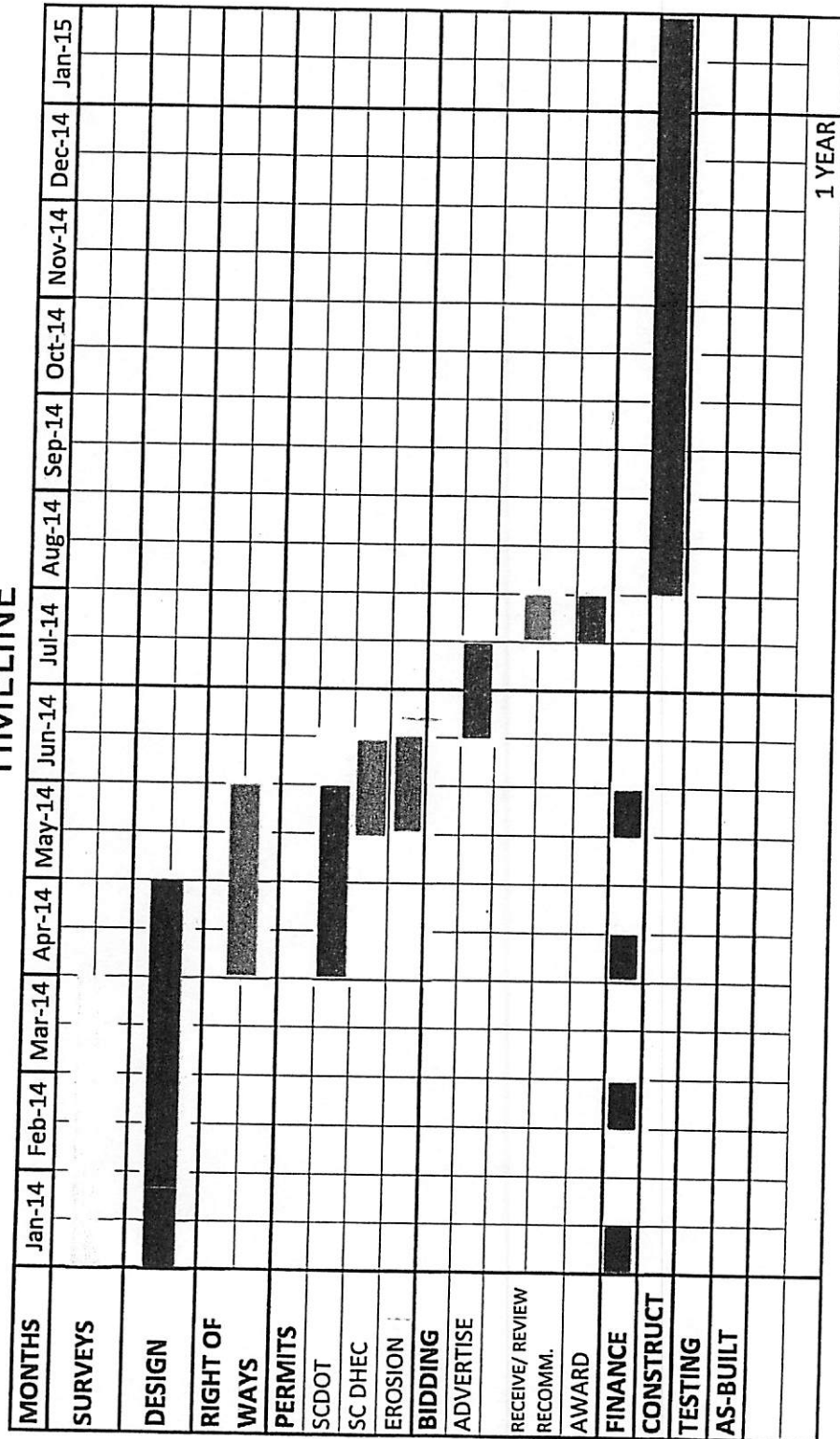
Andy H. Metts
Director of Utilities

AHM/swd

Attachment

Cc: Councilman Kelvin Washington
Tony McDonald
Sparty Hammett
Dan Purini

LOWER RICHLAND SEWER SYSTEM PROJECT TIMELINE



1 YEAR

RICHLAND COUNTY OMBUDSMAN'S OFFICE

2020 Hampton Street Suite 3061
Phone: (803)929-6000

Columbia, SC 29204
Fax: (803)929-6009



September 12, 2014

Mrs. Wendy C. Brawley
217 Sagemont Dr
Hopkins, SC 29061

RE: Freedom of Information Act (FOI) Request

Copies of date & vote for Lower Richland Sewer Project (LRSP) tap on fee waiver funds, copy of Richland County's USDFA Rural Development Application for loan & grant funding and council Third Reading approval date for LRSP, and copy of Richland County's MOU with City sewer services

Mrs. Brawley,

Thank you for contacting the Ombudsman's Office. Your request for information pursuant to the Freedom of Information Act, S.C. Code § 30-4-10 et. seq., was received on September 10, 2014 and forwarded to the Richland County Clerk of Council, Finance Department, Utilities Department and Procurement Department for review. Please be advised that § 30-4-30(b) of the South Carolina Code authorizes a public body to "establish and collect fees" for providing information pursuant to a Freedom of Information Act request. Prior to providing pertinent documentation, we will notify you of any fees associated with your request.

Please note, County Council meeting minutes are available online via the county website: www.rcgov.us. Choosing to obtain a copy of the meeting minutes from the County website may cause you not to incur any costs.

Once all documentation has been compiled and reviewed by the County Legal Department, non-exempt documents will be forwarded to you.

Please feel free to contact our office if we may be of further assistance.

Sincerely,

Judy A. Carter

Judy A. Carter /nms
County Ombudsman



ONE-CALL RESPONSE CENTER

OMBUDSMAN@RCGOV.US

STATE OF SOUTH CAROLINA
COUNTY OF RICHLAND

IN THE COURT OF COMMON PLEAS

Hopkins and Lower Richland Citizens
United, Inc. and Wendy Brawley,

Civil Action No. 2015-CP-40-1805

Plaintiffs,

v.

RESPONSES TO PLAINTIFFS' FIRST
SET OF REQUESTS FOR PRODUCTION

Richland County, South Carolina,

Defendant.

TO: JENKINS M. MANN, ESQUIRE AND SHAUN C. BLAKE, ESQUIRE,
COUNSEL FOR PLAINTIFFS

Pursuant to Rule 34, SCRCPP, the Defendant responds to the Plaintiffs' First Set of
Requests for Production as follows:

1. Produce a copy of the minutes from the Richland County Council meeting where
the Richland County Council gave the Third Reading Approval for the Lower Richland Sewer
Project.

RESPONSE #1:

None. The fact that no such minutes exist and that no such vote has been taken was
provided in response to one of FOIA requests at issue by letter dated October 3, 2014, from
Judy A. Carter (Richland County Ombudsman) to the Plaintiff Wendy C. Brawley, which
included an email with that information.

2. Produce a copy of the MOU between Defendant and the City of Columbia
regarding any agreement in connection with sewer services for any housing developments



located off that certain road known as Rabbit Run Road in Richland County and for those certain properties located behind Lower Richland High School in Richland County.

RESPONSE #2:

The document requested herein was previously produced to the Plaintiffs in response to one of the FOIA requests at issue. That document was produced by letter dated October 3, 2014, from Judy A. Carter (Richland County Ombudsman) to the Plaintiff Wendy C. Brawley.

3. Produce a copy of the minutes from the Richland County Council meeting where the Richland County Council approved waivers on tap fees for the Lower Richland Sewer Project.

RESPONSE #3:

The minutes for Richland County Council meetings are available online on the County's website. The Plaintiffs are directed to the minutes for the following meetings: March 17, 2015 and June 2, 2015.

4. Produce any and all documents, including, but not limited to, any applications, submitted to the United States Department of Agriculture Rural Development Office for grant and loan funding in connection with the Lower Richland Sewer Project.

RESPONSE #4:

The Plaintiffs are referred to the letter dated June 3, 2015, from Andrew F. Lindemann to Jenkins M. Mann, whereby the Defendant has already produced these documents which are Bates numbered RC-0001 through RC-0055. As that letter states, "those documents appear to include a subsequent Application for Federal Assistance dated July 18, 2012, which Richland County had not located in its files at the time of the FOIA responses but which has now been obtained from Rural Development." In addition, the Application for Federal Assistance dated March 16, 2010, was previously produced to the Plaintiffs in response to one of the FOIA requests at issue. That document was produced by letter dated October 8, 2014, from Judy A. Carter (Richland County Ombudsman) to the Plaintiff Wendy C. Brawley.

5. Produce all documents provided to Defendant by the United States Department of Agriculture Rural Development Office in connection with the Lower Richland Sewer Project.

RESPONSE #5:

The Plaintiffs are referred to the letter dated June 3, 2015, from Andrew F. Lindemann to Jenkins M. Mann, whereby the Defendant has already produced these documents which are Bates numbered RC-0001 through RC-0055.

6. Produce all documents contained in Defendant's Utilities Project file for the Lower Richland Sewer Project.

RESPONSE #6:

The Plaintiffs are referred to the letter dated June 3, 2015, from Andrew F. Lindemann to Jenkins M. Mann, whereby the Defendant agreed to make the Richland County Utilities project file available for inspection and copying. The Plaintiffs, through counsel, have made no attempt to schedule a time for the proposed inspection and copying. While the information requested in this request is not relevant to the issues actually framed by this litigation, the Defendant nonetheless again offers to make the Richland County Utilities project file available for inspection and copying at a mutually agreed time.

DAVIDSON & LINDEMANN, P.A.

BY: 

ANDREW F. LINDEMANN
1611 Devonshire Drive
Post Office Box 8568
Columbia, South Carolina 29202
(803) 806-8222

Counsel for Defendant Richland County

Columbia, South Carolina

September 6, 2015

STATE OF SOUTH CAROLINA

COUNTY OF RICHLAND

IN THE COURT OF COMMON PLEAS

Hopkins and Lower Richland Citizens
United, Inc. and Wendy Brawley,

Plaintiffs,

v.

Richland County, South Carolina,

Defendant.

Civil Action No. 2015-CP-40-1805

CERTIFICATE OF SERVICE

The undersigned employee of Davidson & Lindemann, P.A., counsel for the Defendant, does hereby certify that service of the **Responses to Plaintiffs' First Set of Requests for Production** in the above-captioned matter was made upon Plaintiffs' counsel by placing copies in the United States Mail, first class postage prepaid, at the below listed address clearly indicated on said envelope this the 6th day of September 2015:

Jenkins M. Mann, Esquire
Rogers, Lewis, Jackson, Mann & Quinn, LLC
Post Office Box 11803
Columbia, South Carolina 29211



) COURT OF COMMON PLEAS
) 2014-CP-10-04340

) TRANSCRIPT OF RECORD
)

) November 9, 2020

T) WebEx

B E F O R E:

THE HONORABLE DEANDREA BENJAMIN.

A P P E A R A N C E S:

SHAUN BLAKE, ESQ.
Attorney for the Plaintiff

ANDREW F. LINDEMANN, ESQ.
Attorney for the Defendant

KESHIA REED
Official Court Reporter

I N D E X

(WHEREUPON, there were no witnesses called.)

1 THE COURT: Okay. This is civil action for our
2 clerk's purposes 2015-CP-40-1805 Wendy Brawley vs.
3 Richland County South Carolina. And I scheduled this
4 hearing today because it appears that the defendant are
5 now appellant. They appealed the case to Court of
6 Appeals. And then there was a stay issued, I believe, it
7 at one point. And then it has been sent back by the Chief
8 Judge of the Court of Appeals Judge Lockemy for this court
9 to resolve the matter regarding the issuance of attorneys
10 fees. And so I believe in my previous order I ordered a
11 reasonable amount of attorney's fees and then we're
12 waiting on the affidavit.

13 And so I'll be glad to hear from you all and, I
14 guess, we will start with Mr. Blake and then I'll come to
15 Mr. Lindemann and then back to Mr. Blake with the reply.
16 And I did receive -- for the record, I did receive your
17 motion for attorney's fees and then Mister -- or affidavit
18 for attorney's fees. And then I receive Mr. Lindemann's
19 memorandum opposing the award of attorney's fees. And
20 then I received a reply memorandum on behalf of the
21 plaintiff for Mr. Blake. So I'll will be glad to hear
22 from you both.

23 Yes, sir, Mr. Blake.

24 MR. BLAKE: Thank you, Judge. Good afternoon.
25 Can you hear me okay?

1 THE COURT: Yes, I can hear you. I mute my
2 computer because I'm right here on Assembly Street and
3 it's a lot of traffic noise. And so I'll mute, but you
4 can go ahead and start.

5 MR. BLAKE: Thank you very much. I appreciate
6 your time. Your Honor, as you'll recall, we tried this
7 case approximately a year ago and in February you entered
8 a final order on the merits in this case. In that order,
9 you said that Representative Brawley had prove that she
10 was entitled to attorney's fees amongst other relief
11 sought. Richland County then filed a 59(e). I asked you
12 to reconsider that ruling. On July 20th, you issued an
13 amended order. In that order, you again reiterated that
14 Representative Brawley was entitled to an award of
15 reasonable attorney's fees and costs.

16 Within ten days or ten business days, if you
17 don't count the Sunday, then ten business days of your
18 entry of that order, my law partner, Jenkins Mann,
19 submitted an affidavit of attorney's fees and costs. And
20 in that affidavit included chase law argument and
21 otherwise address all the factors set forth in deeds for
22 the Court to consider the affidavit. Prior to your Honor
23 having an opportunity having an opportunity to rule upon
24 the affidavit and whether or not Representative Brawley
25 was entitled to the \$81,000 in attorney's fees and costs,

1 she has requested -- Richland County took this case up on
2 appeal. We had some motions practice in front of the
3 Court of Appeals over whether or not this case should be
4 stayed while the issue of the amount of attorney's fees to
5 be awarded was sent back down to your Honor to rule upon.
6 Ultimately, the Court of Appeals agreed that your Honor
7 should go upon the request for a specific award of
8 attorney's fees and costs, that way there's judicial
9 economy for any other issues Richland County may take with
10 the award of fees and costs in this case. So we're here
11 today on that request for attorney's fees and costs.

12 My partner has in detail laid out an affidavit
13 specifying the 23 categories of work where Ms. Brawley
14 Fields, Representative Brawley Fields she's entitled to an
15 award of fees and costs. The 305 hours stated in his
16 affidavit do not represent all of the work my firm has
17 done. It doesn't represent the work my firm did for
18 example on behalf of the non-profit organization that was
19 initially a co-plaintiff in this case and was dismissed
20 back in October of 2016. The affidavit is targeted to
21 those 23 categories, that ultimately resulted in your
22 Honor finding that Richland County had violated the
23 Freedom of Information Act, had failed even as the date of
24 trial to produce or to search and make a reasonable search
25 and produce all records that appear to be responsive to

1 the FOIA, so that the \$80,000 in fees and costs are the
2 305 hours that our law firm spent working on behalf of
3 Representative Brawley to achieve that result at trial.

4 I'm happy to address any of the specific deeds
5 factors that would aid your Honor in looking into that
6 but, but considering the number of years that this
7 litigation went on considering the, you know. The fact
8 that it did have to go through a full trial, the fact that
9 we're, you know, since that affidavit had been submitted
10 that had done tens of hours of additional work to secure
11 this relief for Representative Brawley. I think that it's
12 difficult to argue that the amount sought by Ms. Brawley
13 is unreasonable under the circumstances. That I'm happy
14 to address any questions your Honor may have about the
15 affidavit itself.

16 THE COURT: All right. And so because I do know
17 that was one of the objections for Mr. Lindemann. The
18 co-plaintiffs claims were dismiss. Are you asking for
19 those fees? Is that in that 80?

20 MR. BLAKE: No, Your Honor. So there was a
21 501(c)(3) that my law firm assisted in the formation of
22 and ultimately, I believe, it was Judge Newman back in
23 2016 found that because the 501(c)(3) had not been formed
24 as of the date of the request that the request were made
25 by Representative Brawley, Judge Newman found that that

1 was not a proper plaintiff. And so we have not sought any
2 time for the work spent acting on behalf of that 501(c)(3)
3 entity. 501(c)(3) entity did not challenge the dismissal.
4 It became a mute issue as of October of 2016. And the
5 majority -- and frankly really the other three FOIA
6 requests submitted by Representative Brawley have not been
7 the meat of this case your Honor. Those were request --
8 two of those three requests were for minutes. And one of
9 those three requests was for a copy of a MOU. Those
10 issues have never been what the parties have spent this
11 case fighting about. We didn't spend hours digging
12 through Richland County's records looking for those
13 issues.

14 This case has always been about and was only
15 tried on the issue of whether or not the loan
16 documentations sought under the FOIA request that you
17 heard a days worth of testimony about was properly
18 answered by Richland County. And I think the evidence
19 that you found at trial your Honor was that even as the
20 date of trial based on the testimony of Sarah Salley and
21 Mr. Metts, Richland County never really did a proper
22 search and that's what we spent years fighting about,
23 that's always been the central issue in the case. And we
24 are not seeking fees for the immediate time spent acting
25 on behalf of the 501(c)(3) entity that was dismissed way

1 back in 2016.

2 THE COURT: All right. Thank you.

3 Yes, sir. Mr. Lindemann.

4 MR. LINDEMAN: Thank you, Your Honor. May it
5 please the Court. Andrew Lindemann for the Defendant
6 Richland County. Your Honor just to add to some of the
7 background information. Your Honor had indicated in the
8 introduction comments that there was an appeal filed by
9 Richland County. There was also your Honor an appeal
10 filed by Ms. Brawley. I wanted Your Honor to be aware of
11 that. Both parties filed an appeal on the 30th day after
12 your Honor issued your July 15, 2020 order which resolved
13 the Rule 59(e) and Rule 42(b) motion that the County had
14 filed.

15 I also want to just reiterate one point I made
16 at trial cause quite frankly this bothers me. I object to
17 continually referring to the plaintiff as Representative
18 Brawley your Honor. We went through that at trial. Your
19 Honor removed those references from the proposed order and
20 that plaintiff's counsel submitted. Make no mistake about
21 it, Representative Brawley was not a representative when
22 this action was brought, when the FOIA claims were made.
23 And I just think this is improper attempt to influence the
24 Court by keep referring to her as Representative Brawley
25 because not an action that has been brought by a member of

1 the general assembly, so I do want to make that clear on
2 the record.

3 Also your Honor in your February 13, 2020 order,
4 your Honor stated on page 12 of that order, you directed
5 the plaintiff to quote submit a schedule of fees in a
6 motion to support the amount of fees and costs incurred
7 herein. You didn't ask for an affidavit. You asked for a
8 motion and a schedule of fees. There has never been a
9 motion filed, that's not elevating form over substances
10 they have argued. And there's never been a schedule of
11 fees that has been provided. I assume that your Honor
12 indicated by a schedule of fees that you are working for
13 what those 305 hours constitute.

14 I don't know how the Court can review the
15 reasonableness of attorney's fees or how my client can
16 have the process to be able to review attorney's fees and
17 be able to argue to this court what's reasonable and
18 what's not reasonable if we've only been provided the
19 ballpark number, the total number 305. And I'm absolutely
20 amazed and, of course, just totally supports my position
21 that Mr. Blake comes in here today and attempts to make
22 oral argument not in the form of a sworn statement, not in
23 the form of an affidavit and tries to argue what those 305
24 hours of time do not include. I know I don't have to tell
25 your Honor there's many many cases that say this, I'm sure

1 you run across it many times argument of counsel is not
2 evidence. Evidence as presented either by testimony,
3 affidavit or exhibits. And so I would ask the Court to
4 strike any type of attempt to supplement the record with
5 Mr. Blake's comments as being evidence because it is not
6 evidence. And they have continued even after I raised
7 these objections, they never submitted the first billing
8 record to show the Court what the 305 hours consist of and
9 to show that the 305 hours was number one not expended for
10 the true defendant and the co-plaintiff was dismissed or
11 more importantly as I'll touch on in a few minutes that it
12 have anything to do with the numerous issues and claims on
13 which the County prevailed and the plaintiff lost.

14 I want to go there your Honor just to sort of
15 take things in the proper order. Our first contention
16 your Honor is that this court lacks subject matter
17 jurisdiction to award any attorney's fees at this point.
18 And you are correct that the Court of Appeals sent this
19 case back for your Honor to first resolve these issues. I
20 do want to highlight though the footnote in the Court of
21 Appeals order which says quote this court takes no
22 position on the timeliness of respondent appellant's
23 request for attorney's fees. So the fact that they have
24 remanded to this court is not any type of adjudication or
25 suggestion to this court as to whether or not you have

1 jurisdiction. Courts always have jurisdiction to
2 determine whether they have jurisdiction. So you do have
3 jurisdiction to determine whether you have jurisdiction
4 over this request for attorney's fees and we submit that
5 you do not.

6 And the reason for that is clear your Honor.
7 Your Honor issued on February 13th 2020, which you,
8 yourself, called a final order on the merits, that
9 established a judgment in the case which triggered ten
10 days for posttrial motions. If no posttrial motions were
11 filed within ten days, your Honor lost jurisdiction. The
12 plaintiff never filed a motion for attorney's fees or
13 schedule of fees as this court directed. So there was
14 never a motion filed within those ten days. A timely
15 posttrial motion within those ten days for attorney's
16 fees. And to argue that they weren't required to file a
17 motion, is absolutely frivolous because your Honor's own
18 order directed them to file a motion. In addition your
19 Honor, that is the way you claim attorney's fees in a case
20 under clear South Carolina procedure. Rule 54(d) even for
21 costs require a motion to be filed. And it is well known
22 in jurisprudence that the Court loses jurisdiction after
23 ten days after a final order is issued.

24 So in this particular case Your Honor you did
25 lose jurisdiction as of February 23rd because the

1 Defendant Richland County did file a motion under Rule
2 52(b) and 59(e). So for the period of time that that
3 motion was under advisement by this court, the Court, of
4 course, maintain jurisdiction. The minute this court
5 resolved those timely posttrial motions, this court's
6 jurisdiction ended. Your Honor issued your order on the
7 Rule 52(b) and 59(e) motions on July 16th 2020. It was on
8 that date as soon as your Honor filed your order, that
9 this court lost jurisdiction. At that point in time your
10 Honor no motion was made for attorney's fees nor was the
11 affidavit that is now at issue before this Court filed,
12 that affidavit was filed 11 days later on July 27th 2020.

13 So our fierce argument your Honor is that you do
14 not have whether you want to exercise it or not, that you
15 do not have jurisdiction to award attorney's fees in this
16 case. A circuit court judge -- I know you run across this
17 issue numerous times it's not anything new loses
18 jurisdiction after ten days. And in fact prior to the
19 rules of civil procedure, it was determine that
20 jurisdiction of a circuit court ended as soon as the term
21 of court ended.

22 Of course, in the Pitman case, which is one of
23 the cases we rely on which is decision from the Court of
24 Appeals in 2002. In footnote number one of that opinion,
25 the Court of Appeals said through the adoption of the

1 South Carolina Rules of Civil Procedure will set a rule in
2 this state was that a trial judge possess the authority to
3 modify his own judgments only until the expiration of the
4 term of court. The Court goes on to state and this is a
5 quote whether or not Rule 59(e) supercedes this rule
6 entirely or made an exception to it has not been decided
7 by our Supreme Court.

8 What the Supreme Court has clearly stated and I
9 do want to cite an additional case that I cited actually
10 in the Court of Appeals but not in my opposition to your
11 Honor's orders, so I do want to call this to your Honor's
12 attention. It's a case called Overland vs. Nance. And
13 I'll be happy to e-mail it to your law clerk and it's at
14 815 Southeast 2nd 431. And that deals with motions under
15 Rule 59 specifically Rule 59(e). And this is a Supreme
16 Court decision from 2018. And what the Supreme Court said
17 is they described a ten-day deadline in that case under
18 Rule 59(e), but it applied to any Rule 59 motion or any
19 Rule 52 motion. Any type of posttrial motion it calls it
20 quote an absolute deadline. And then goes on to say a
21 trial court does not have the power to alter or amend a
22 final order if more than ten days passes and no Rule 59(e)
23 motion has been served. Again, that's true for any type
24 of posttrial motion. In fact, we cited several cases that
25 where motions for attorney's fees have been denied when

1 they been beyond ten days notice. And in fact one of the
2 principle cases we're relying on is the case of Pitman v.
3 Republic Leasing, which I've already cited to. And in
4 that particular case, I call your attention to language
5 and, again, this is the Court's language. They refer to
6 allowing attorney's fees in this case under the Federal
7 Civil Proceedings Act to be awarded beyond the ten day
8 limit. They say would quote one counter to our establish
9 case law that a trial judge loses jurisdiction over a case
10 when the time to file posttrial motions has elapsed.

11 So just to sum up your Honor, your Honor had
12 jurisdiction until your Honor entered that July 16th 2020
13 order. At that point in time no motion was filed for
14 attorney's fees, still to this day no motion has been
15 filed for attorney's fees. The affidavit at issue was
16 filed on July 27th, which was beyond that date. So as of
17 July 16th 2020, this court lacks jurisdiction.
18 Ultimately, we ask this court to rule that you lack
19 jurisdiction.

20 As I indicate earlier, courts always have
21 jurisdiction to determine their own jurisdiction. So your
22 Honor has jurisdiction to issue an order finding that you
23 don't have jurisdiction in this matter, but ultimately
24 July 16th was the last date your Honor had jurisdiction.
25 And ultimately that was the date where the 30 days started

1 to run to file an appeal. And low and behold the 30 days
2 after that date, the County filed this appeal and Ms.
3 Brawley filed her appeal. So she filed an appeal as well
4 not 30 days from the 27th, not until your Honor ruled on
5 her affidavit of attorney's fees. She filed her appeal to
6 the Court of Appeals on that exact same date that the
7 County did, which, again, was the outside deadline. It
8 was the 30th day after your Honor had lost jurisdiction,
9 so that's ground number one Your Honor.

10 Ground number two your Honor is as I indicated
11 earlier the plaintiff never complied with your direction
12 in the first place regardless of timeliness. No motion
13 was ever filed. Ultimately no schedule of fees were ever
14 filed. They didn't submit what it was that they were
15 claiming. And ultimately your Honor it's impossible for
16 this court to be able to determine the reasonableness of
17 the fees based upon this affidavit and that is critical in
18 this case. And we cited there's no case law in South
19 Carolina, but we cited United States Supreme Court Case
20 law, so you can't get much better than that. The
21 importance of providing contemporary billing records in
22 order to prove a claim for attorney fees.

23 And specifically your Honor if you look at my
24 objections, it's the case of Hinsley vs. Egerhart (sic).
25 And our Supreme Court has filed -- has cited Hinsley in

1 the past as well, but ultimately your Honor the burden is
2 on the party seeking attorney's fees to show the
3 reasonableness of those attorney's fees. And it's
4 impossible to show that without the Court knowing what
5 those are.

6 And I would point out a couple of other
7 shortcomings of this affidavit. On paragraph three and
8 the paragraph 4B, the plaintiff has indicated that
9 approximately -- it doesn't even say precisely
10 approximately 305 billable hours by attorneys and
11 paralegals. Well, they didn't differentiate between
12 paralegals and attorneys. And then in paragraph E of 4E
13 of that affidavit, they won't even show or provide the
14 Court with an appropriate hourly rate, any hourly rate for
15 the paralegals. So I don't know how your Honor can award
16 paralegal time and certainly shouldn't be awarding it at a
17 legal rate provided for attorneys. So in short, the
18 record that has been created for your Honor, provided for
19 your Honor is woefully deficient by its due process,
20 denies the defendant due process and doesn't allow this
21 court the ammunition of the record to even make a
22 determination of reasonableness.

23 Importantly, your Honor and corroborating your
24 Honor as you know under the privy 2017 version of FOIA,
25 which is what you recognize actually in your first

1 footnote February 13, 2020 order. You actually in your
2 supplement order cited the new FOIA statute, which, of
3 course, is one of the issues that we have that I know
4 that's not before you anymore. But the proper Rule
5 40-4-100 to look at is the one that was in existence in
6 2014 and that states under subsection B if a person or
7 entity seeking such relief prevails, he or it may be
8 awarded reasonable attorney's fees and other costs of
9 litigation. If the perifner (sic) entity prevails in
10 part, the Court may in its discretion award him or it
11 reasonable attorney fees or appropriate portion thereof.
12 That's actually significant for several reasons.

13 Number one going back to my first point on
14 jurisdiction. There's nothing in that statute that
15 provides the Court with continuing jurisdiction beyond the
16 ten days that is normally provided by law. Number two, it
17 indicates that if the plaintiff prevails only in part, the
18 Court within its discretion may award attorney's fees or
19 an appropriate portion thereof. And, again, the third key
20 from that statute, of course, is it states that only
21 reasonable attorney's fees can be awarded and then your
22 Honor does not have an appropriate record to even make
23 that determination.

24 It is important in determining the attorney's
25 fees even if your Honor finds the affidavit is adequate is

1 you need to look at the extent to which the plaintiff
2 prevailed pursuant to your orders. You're not the first
3 judge on this case as you know. There are a number of
4 matters that were handled by Judge Clifton Newman prior to
5 the trial of the case.

6 If you look at the complaint your Honor, the
7 complaint includes claim for both injunctive relief and
8 declaratory relief. A motion to dismiss was filed early
9 on in the case. And in fact your Honor, the only
10 injunctive relief that was sought by Ms. Brawley was to
11 enjoin things that the Freedom of Information Act doesn't
12 even apply to. She was attempting to stop the field
13 project to stop it from going forward. She fought three
14 different injunctions. They're outlined on page four of
15 the memo directly word for word from the complaint
16 paragraph 40 of the complaint specifically. I ask the
17 Court to enjoin the County from sending surveys to any
18 residents representation that Richland County will provide
19 all residents that reside within 200 feet of the proposed
20 page one sewer line a fee rate of tapper or connection
21 fees.

22 Number two enjoin the County from entering into
23 negotiations with residents of Hopkins of Lower Richland
24 for the acquisition of easements. And number three enjoin
25 Defendant County from providing third reading to the Lower

1 Richland sewer project, that was the injunctive relief
2 that was sought by that lawsuit. That is the injunctive
3 relief that Judge Newman threw out. So they lost one
4 entire cause of action all their claims for injunctive
5 relief. And, your Honor, initially in your February 13,
6 2020, order did grant injunctive relief in part to the
7 plaintiff, but you corrected that in your order on the
8 Rule 52(b) motion. So based upon your final decision in
9 this case your Honor, you granted no injunctive relief.
10 The only relief that was awarded by this court was
11 declaratory relief. And importantly your Honor, it was
12 declaratory relief with respect to only one, one full FOIA
13 request. This litigation was brought over four different
14 FOIA requests that were all attached to the complaint.

15 In a motion for summary judgment, Judge Clifton
16 Newman a different hearing much later in the litigation,
17 granted summary judgment to the county on three out of
18 four of those FOIA requests. So ultimately only one of
19 the FOIA requests went to trial and was decided by your
20 Honor. So the plaintiff lost not just on all the
21 injunctive relief claims, but they lost on three out of
22 four of their FOIA claims.

23 Now, in their motion to -- in their reply
24 motion -- memorandum that was filed on October 19th.
25 There's a bit of a misnomer there and I give plaintiff's

1 counsel credit and suggest that it wasn't done
2 deliberately, but the Court says Richland County attempts
3 to argue Representative Brawley only prevail on a fraction
4 of her claims. Frankly, that is laughable differing when
5 one compares the denial of the complaint and the numerous
6 defenses stated by Richland County goes on to say at the
7 time Representative Brawley was forced to file her FOIA
8 action, she had received only a six-page response to her
9 FOIA request. Your Honor, that is blatantly false,
10 blatantly false. As I indicated Your Honor, on the three
11 FOIA request on which the County prevailed, Judge Newman
12 concluded that documents responsive to those requests were
13 either provided or did not exist. And quite frankly the
14 plaintiff's themselves conceded that point at the summary
15 judgment motion. The record clearly says for the Court to
16 the affidavit of Judy Carter that was filed with that
17 motion -- with that motion for summary judgment as well as
18 the memorandum of law that we filed at that time. And if
19 necessary, we can deliver a transcript that the bottom
20 line is your Honor there was a request for minutes of
21 county counsel meeting regarding wager of tap fees. In
22 response to that, several different dates of counsel
23 minutes were produced as well as an e-mail response from
24 Andy Metts who advised there not in a specific vote taken
25 by county counsel to authorize funds through the waiver of

1 tap fees refer your Honor to Ms. Carter's affidavit of
2 paragraph ten.

3 The next request that Judge Newman granted
4 summary judgment on was the request for minutes of the
5 county counsel meeting regarding third reading of the
6 Lower Richland sewer project. The October 3rd 2014 letter
7 to Ms. Brawley which was responsive to that FOIA request
8 included a copy of an e-mail from the clerk of counsel and
9 that e-mail exonerates (sic) the May 3rd reading had yet
10 been taken and is also addressed in Judy Carter's
11 affidavit at paragraph eight. And, again, Judge Newman
12 granted a summary judgment on that FOIA request.

13 And then lastly your Honor, there was a request
14 for Richland County's memorandum of understanding with the
15 City of Columbia. An October 3rd 2014 letter to Ms.
16 Brawley in response to that FOIA request, included a copy
17 of that agreement. And, again, Judge Newman granted a
18 summary judgment on that position. So to suggest that the
19 FOIA requests were responded to only with a six-page
20 document as I indicated your Honor patently false on this
21 record and to suggest that Richland County's position
22 where we prevailed on three out of four FOIA request is
23 laughable is absolutely false. So we prevailed on three
24 out of four FOIA requests. We prevailed on the injunctive
25 relief requests. So the Court needs to take into

1 consideration to the extent you reach the issue of
2 attorney's fees in this case, that the plaintiff prevailed
3 on very little in this case, very little.

4 Your Honor issued what turns out to be a
5 declaratory judgment on a claim -- with all due respect to
6 the Court, on a claim that was never even pled, that you
7 won't even signed it in the complaint. And that's the
8 claim that your Honor concluded citing federal law, that
9 the County failed to make an appropriate investigation in
10 response to the FOIA request that was at issue at trial.
11 And, again, even though your Honor denied us relief on
12 our Rule 52(b) motion, that doesn't necessarily mean that
13 your Honor can't take into account and take a look at the
14 complaint and realize that our position is correct on
15 that. That claim was never pled and so basically this
16 court is awarded declaratory relief on an unpled claim.
17 And our argument is your Honor that certainly doesn't
18 justify over \$80,000 worth of taxpayer money to be paid on
19 this particular FOIA case. With the Court's indulgence.

20 Lastly, your Honor, I would make the point that,
21 again, Mr. Blake's arguments today are not evidence. And,
22 obviously, the plaintiff has the burden of presenting
23 evidence as to what their attorney's fees are. And what
24 they've done your Honor in this affidavit including the
25 clause that I've already outlined to the Court, all it

1 does is state in conclusory terms what they feel the areas
2 of actions that were taken by plaintiff's counsel. And I
3 would point out that attending hearing on motion to
4 dismiss the complaint that they totally lost was one of
5 them that's being claimed. So I don't think there's any
6 reasonable argument that can be made that they're entitled
7 to fees for defending a motion to dismiss that they lost
8 completely as part of their attorney's fees in this case,
9 but based on the record that's before your Honor, you have
10 no way of even being able to determine how many hours that
11 was to be able to even deduct that amount. And I'll also
12 point out to the Court that Mr. Blake makes a broad
13 statement that 305 hours is justified considering all the
14 work that was done in this case your Honor.

15 I would submit to your Honor that not a single,
16 not single deposition was taken in this case, very minimal
17 discovery was done. There's a motion's practice and there
18 was a bench trial before your Honor that lasted about two
19 thirds to about three quarters of a day. But the bottom
20 line is it's not my burden to disprove these fees or run
21 account for these fees or having been provided with
22 billing records, but the bottom line is they haven't
23 proven it. But I did want the Court to be aware that this
24 case is not a normal case where you are expected to see,
25 you know, half dozen or dozen depositions and detail

1 discovery and all of that nature, didn't happen. So
2 ultimately your Honor, I don't think there's a record even
3 if you had jurisdiction, I don't think there's a record
4 that which you can make a determination of reasonableness.
5 And ultimately your Honor for all of these reasons and we
6 rely on our memorandum of law as well, number one the
7 Court doesn't have jurisdiction. Number two plaintiffs
8 didn't even do as the Court directed it to do no motions,
9 no schedule of fees. Number three they prevailed on very
10 little in this case, very little and it's not laughable.
11 And then lastly the record is absolutely deficient of
12 sufficient evidence for you to make a determination of
13 reasonableness. They have that burden of proof. They
14 have failed to sustain that burden. We ask the Court to
15 deny the motion for the attorney or the request I
16 misstated there is no motion. The request for attorney's
17 fees contained in the affidavit on all of those grounds.
18 Thank you, your Honor.

19 THE COURT: Thank you.

20 All right, yes, sir, Mr. Blake, I'll hear your
21 reply.

22 MR. BLAKE: Thank you, your Honor. So I'll just
23 go in order if that suits the Court. I'll start with the
24 County's argument about jurisdiction. So we have cited to
25 the Court to your Honor the case of Publishin vs. Clemson.

1 We have cited other decisions in our filings to your
2 Honor. The fact of the matter is both in your February
3 order and your July order you stated that the Court would
4 be awarding attorney's fees in that Ms. Brawley had
5 prevailed upon that issue. You found that based upon not
6 just a demand form in the complaint, not just a statement
7 in the statute saying she's entitled to it, you found that
8 upon numerous oral motions made at the beginning and at
9 the end of trial wherein we have provided your Honor the
10 transcript testimony where I specifically asked your Honor
11 if we may submit that by way of affidavit were included in
12 the posttrial order.

13 In your July order, you did not specify a
14 specific time that Ms. Brawley had to submit to your Honor
15 the affidavit, but you gave the County 15 days after she
16 submitted that order -- I mean, that affidavit to you or
17 that motion to you to give the County an opportunity to
18 reply. In fact, that's exactly what happened the tenth
19 day allowing for the Sunday following your final order,
20 which was the July order an affidavit of attorney's fees
21 was filed. Again, the motion was made in oral court which
22 is absolutely -- a court reporter was present, that's
23 absolutely permitted under Rule 7(b) of our rules. Not
24 only that, your order saying in July of 2020 that you were
25 going to take up the motion of attorney's fees after it

1 had been fully briefed and the County had the opportunity
2 to respond to it, submit that that order was interlocutory
3 on that issue. The Clemson versus -- the Culbertson vs.
4 Clemson case we cited to you states you retain
5 jurisdiction over that issue which you reserved in the
6 order you issued on this case. The County argues that
7 your order on July was final the second that it was
8 entered not that it was subject to the ten days for a
9 59(e) to be filed by Ms. Brawley, simply incorrect. But,
10 again, even if that was correct, on the issue of
11 attorney's fees your Honor retained jurisdiction over it,
12 stated that your order in July was interlocutory and
13 provided a time period of 15 days for the County to
14 respond once Representative Brawley submitted the
15 affidavit to you. So the suggestion that this court was
16 immediately divested of jurisdiction, the moment it
17 entered a new final order in July amending its February
18 order is simply efficient. It's not supported.

19 You been cited case law interpreting the statute
20 under the Frivolously Proceedings Act which has frankly a
21 stated requirement for a posttrial motion to be filed.
22 The FOIA statute contains no such language. It's just not
23 there. It's very misleading for the County to continue to
24 assert that the Court should follow case law interpreting
25 a statutory scheme that the legislature did not adopt in

1 the FOIA statute, but, again, I don't think any of that
2 matters. What it ultimately comes down to is your Honor
3 said that Representative Brawley was entitled to
4 attorney's fees. A motion was made for in oral court and
5 then a detailed affidavit citing case law addressing deeds
6 laying out 23 distinct categories where legal work was
7 performed citing a precise number of hours perform. It's
8 a prima facie showing of the -- of what your Honor asked
9 for which is a motion with a schedule of fees explaining
10 what was sought. That form that my partner used for that
11 affidavit and to submit their request for attorney's fees
12 it's not one we came up with. It's commonly used. I
13 would not be surprised if your Honor hasn't seen it from
14 other attorneys as, again, we have those forms, that's
15 what we based it off of. So I think the argument that the
16 Court was divested of subject matter jurisdiction the
17 moment it filed a new final order in July of 2020 is a
18 specious argument.

19 The next argument they're trying to raise is
20 that without contemporaneous billing records this court is
21 incapable of finding that Representative Brawley has made
22 a prima facie showing of entitlement to attorney's fees
23 and costs. And, again, there is absolutely no South
24 Carolina case law that says law firms are required to hand
25 over bills, legal bills identifying precisely every action

1 and every tenth of hour charge. The burden upon
2 Representative Brawley is to show whether or not what is
3 being asked for was reasonable.

4 Again, the affidavit details 23 categories of
5 work performed by our firm over the course of a five-year
6 long case. And, again, to suggest that they had nothing
7 happening five years on this case is just way off base. I
8 mean, the Court can look at the Court's docket and see the
9 numerous motions including motions to compel discovery on
10 the issue that was ultimately in front of this court
11 numerous motions of continuances. The work -- this was a
12 full-day long trial, wasn't a third or two thirds or part
13 of the day. We left the courtroom at 5:30 in the
14 afternoon the day of trial with you. This case was
15 mediated, that's stated in the affidavit. There are
16 substantial work post mediation to try to resolve this
17 specific issue and that is all addressed in the 23
18 categories of work laid out by my partner Mr. Mann in the
19 application for attorney's fees. And so, again, Mr.
20 Mann's affidavit makes the prima facie showing. The
21 County has had months if it wanted to do supplemental
22 discovery to ask for more information. It has had every
23 opportunity to do it. We been arguing with Mr. Lindemann
24 and the Court of Appeals about this matter was never in
25 front of the Court and still in front of your Honor. The

1 County's made no effort to actually get the addition to
2 detail that its saying it now needs to dispute the prima
3 facie showing, but, certainly, the prima facie showing is
4 there. And so, again, without any legal case law saying
5 that South Carolina requires contemporaneous billing
6 records before a party make a prima face showing of
7 attorney's fees without that, I think that is placing two
8 high of a burden under a remedial statute adopted so that
9 people like Representative Brawley have access to public
10 records and are compensated when as she had to do in this
11 case, they're required to go all the way through a trial
12 to get the declarations that were sought in the complaint.

13 Mr. Lindemann has directed your attention to the
14 fact that there was -- that ultimately your Honor granted
15 a relief that was never sought in the complaint and that's
16 just simply false. The first cause of action seeks a
17 declaration that there are other documents in response to
18 the FOIA requests that the County has not given
19 Representative Brawley and to say that they breached FOIA
20 by not doing so and by asking them to give those records,
21 that that was not under the injunctive cause of action.
22 He actually went into detail and demonstrated how that was
23 not what the injunctive case was about, that was what our
24 declaratory judgment sought.

25 There was no contest. He's correct there was no

1 contest by the time we got to the summary judgment motion
2 over those other three FOIA requests, that's not what this
3 case been litigated over. Summary judgment was granted by
4 consent not with -- not over opposition on those three
5 issues. The declaration sought as to those three were
6 that the response from the County was untimely and that
7 they needed to be deemed admitted. Again, there was no
8 point in fighting over that issue once we received
9 evidence after the lawsuit was filed to show that there
10 was no other minutes and there was not another MOU or
11 further MOU's, but that it is not what the time spent
12 sought in the affidavit is about, which is why there's
13 nothing disingenuous with what Mr. Mann filed in the court
14 and saying that there was only six pages given in response
15 to the FOIA requests. If you read my partner's
16 memorandum, it said request singular not FOIA requests
17 plural. The six pages that he references in that brief
18 your Honor are the six pages that the County gave in
19 response to Representative Brawley's efforts to get the
20 loan documentation.

21 This entire case has been spent over the efforts
22 to get the loan documentation. The summary judgment that
23 they prevailed upon again it was not contested. And as he
24 said we didn't spend time fighting over that issue. We
25 took Judge Carter's affidavit at her word. We didn't

1 depose her. There was not a bunch of wasteful overly
2 litigious activity done on this case by Ms. Brawley's
3 part. This case has always been focused on getting the
4 records for that loan documentation. It's the only issue
5 that we had between us when we mediated the case. It's
6 the only issue that we had when we took this case to
7 trial. And it's the only issue that we're appealing about
8 now is whether or not your Honor correctly determine the
9 County failed to meet its burden to provide the loan
10 documentation under the FOIA request. So I think that
11 it's disingenuous to say that the County won on the vast
12 majority of the claims.

13 The County won on three of the four FOIA
14 requests to be sure, but those were never the vast
15 majority of this litigation. And so the bill that as
16 submitted your Honor as laid out in Mr. Mann's affidavit
17 is related to Representative Brawley's attempt to get a
18 response to her FOIA from the loan documentation and to
19 pretend that this case is somehow sliceable first in half
20 between the injunctive and declaratory relief and then to
21 force, again, based on the declaratory relief sought
22 really is a misrepresentation of what work went into this
23 case and what we ultimately took to trial. She prevailed
24 on the issue that she brought to trial before your Honor.
25 And, again, if the County or the Court has any concern

1 over any other billing detail subject to any kind of
2 protective order or agreement to review it in-camera that
3 your Honor would deem appropriate, my firm certainly has
4 no secrets. It's more than happy to make its bills
5 available to the County had they asked for or your Honor
6 if it would assist you, we would just ask the Court to,
7 you know, put in some protections so that it's not a
8 waiver of attorney-client privilege for the work product
9 that's laid out in detail in those very records. But I
10 don't think that that's necessary to establish a prima
11 facie case for attorney's fees, that's met by the
12 affidavit which in and of itself meet both the motion
13 requirements under Rule 7 in your Honor's order.

14 And so we would just respectfully request given
15 the fact that you retained jurisdiction under Culbertson
16 vs. Clemson that you would enter its a ruling finding
17 either the \$81,000 sum that Representative Brawley
18 submitted or whatever other sum your Honor deems bear
19 based on the record in front of you as you may deem it fit
20 to see it and have it supplemented by sending you any
21 other things that would help the Court aid in its
22 adjudication of this issue that you look at the materials
23 in front of you and find that Representative Brawley is in
24 deed entitle to a sum certain of attorney's fees and
25 costs, so that we could bring that issue in front of the

1 Court of Appeals along with the other issues raised by the
2 County. Thank you.

3 THE COURT: All right. And just real quick for
4 the record, just so the record is clear. I'm getting an
5 echo, hold on one second. There was an objection made by
6 Mr. Lindemann regarding referencing Ms. Brawley -- Wendy
7 Brawley as stated in the complaint as the -- as to
8 Representative Brawley. I am going to sustain the
9 objection because she is not acting as a representative,
10 it's my understanding. I think there's no objection that
11 she was not a representative at the time that this was
12 filed and so she's not acting in her capacity as a
13 representative. And so for purposes of any orders or
14 motions or anything, she should be referred to as Wendy
15 Brawley as it is in the -- as it is stated in the original
16 complaint. All right. And I think Mr. Lindemann wanted
17 to respond quickly.

18 MR. LINDEMANN: Yes, can I make a couple of
19 points, your Honor?

20 THE COURT: Yes, sir.

21 MR. LINDEMANN: This is simply unfair because
22 they didn't address the issues in their opening, so if
23 your Honor allow me to make a couple of points. Number
24 one, Mr. Blake for the first time now refers to this prima
25 facie case of attorney's fees. I don't know where he's

1 getting that from. There's no requirement -- it's not
2 sufficient to state a prima facie claim of attorney fees.
3 You won't find that in the case law. You certainly don't
4 find that in 30-4-100(b). There's no question that the
5 plaintiff has the burden of proving not just attorney's
6 fees but reasonable attorney's fees. Again, to the extent
7 that Mr. Blake has done it again, I would state an
8 objection to his statements which are not evidence. His
9 arguments of counsel are not evidence. And what he's
10 attempting to do now is shift the burden of proof
11 suggesting that somehow he just has to make a prime facie
12 case, then the burden shifts to the County to disprove the
13 reasonableness of those attorney's fees. Your Honor
14 absolutely that is not how it works and I think that
15 should be quite telling to you about the failure of the
16 proof. And to suggest that the record can be reopened at
17 this point to allow additional materials, we strenuously
18 object to that. Plaintiff had sufficient time to present
19 to the Court evidence to support their attorney's fees
20 claim. There is no evidence that would allow your Honor
21 to do that. In addition to which, obviously, I don't want
22 to overlook that. Your Honor doesn't have jurisdiction we
23 would submit.

24 The Culbertson case on the jurisdictional issue.
25 The Culbertson case is a family court case. It's from

1 1996, your Honor. It predates all of the case law that we
2 cited to your Honor the Holmes case, the Pitman case, the
3 Overland vs. Nance case. All of those cases which deal
4 specifically with pretrial motions, that was not a circuit
5 court decision in Culbertson. And the bottom line is any
6 suggestion that your Honor was not issuing a final order
7 on February 13th 2020, is false. Your Honor called it
8 final order on the merits. If nobody had taken any
9 further action your Honor and ten days went by, the case
10 would be over. The case would be over. They have ten
11 days to act just like the County had ten days to act.

12 The County acted. We filed a timely 52(b)
13 motion and 59(e) motion, which your Honor ruled on. As
14 soon as you ruled on that motion, the jurisdiction was
15 gone and that was July 16th 2020. At that point no
16 posttrial motion for attorney's fees, no affidavit if
17 that's sufficient to be a motion which it's not. To
18 suggest that they didn't know that -- well, first of all
19 your Honor, your Honor didn't give them a particular
20 amount of time to able to file their motion for attorney's
21 fees and the schedule of fees. And I know why your Honor
22 didn't do it because you didn't have to do it, it's ten
23 days. Rule 54(d) says it's ten days. Rule 52(b) says
24 it's ten days. Rule 59 says it's ten days. The case law
25 says it's ten days. They had ten days. They didn't do

1 it. And at that point the only reason your jurisdiction
2 continued beyond February 23rd is because we filed our
3 motion for posttrial motions, but, again, as I indicated.
4 As soon as your Honor issued that order, you lost
5 jurisdiction. It didn't trigger another ten days.
6 There's absolutely no basis and absolutely no authority to
7 suggest that that issue -- that triggered an additional
8 ten days.

9 And to the extent that your Rule 59(e) order
10 reiterated your language about attorney's fees. Your
11 Honor didn't have jurisdiction to extend it at that point
12 in time. The case law that we cited to the Court makes
13 that very clear. Court's do not have the ability to
14 extend deadlines under Rule 52 and Rule 59 and that
15 include attorney's fees motions. So even if they made
16 that argument, you didn't have the ability to extend it.
17 Circuit courts can't extend jurisdiction for any period of
18 time beyond ten days. It's that simple.

19 And, again, the fact that they claim they
20 weren't aware of that, I mean, Rule 54(d) which talks
21 about costs and certainly they're making a claim for costs
22 here. And in fact as another point that we raised in our
23 memo, they didn't even present to you with the first
24 invoice to justify their costs, but the bottom line is
25 have to be brought within ten days. The case law that we

1 cited supports that as well. I have one more point with
2 the Court's indulgence.

3 On the other three FOIA requests, Mr. Blake made
4 it sound like those were uncontested. They were for the
5 first time uncontested at the summary judgment motion in
6 2016 in front of Judge Newman. This case was filed in
7 2014. They contested those issues throughout the case.
8 We contested the motion the injunctive relief claim.
9 County prevailed. We contested all of the FOIA claims.
10 And it wasn't until Judge -- and I have the order right
11 here. Judge Newman's order was issued November 2nd 2016
12 your Honor. And it was at that hearing that -- look at
13 the record, we filed a memo explaining our position and
14 that we had complied with all of those FOIA requests. We
15 filed the affidavit of Judy Carter already referenced and
16 she's the ombudsman for the County. So taken seriously by
17 this nonevidence that Mr. Black is erroneously informing
18 the Court, that somehow this case has all along been about
19 one FOIA case that went to trial and it's absolutely
20 false. They contested all of the issues that were raised
21 in the complaint. And ultimately are now claiming
22 obviously attorney's fees through a claim that they lost
23 because based on the affidavit as they pointed out,
24 they're asking for attorney's fees for the motion to
25 dismiss which they clearly lost completely. And, again, I

1 don't know how your Honor parses -- and frankly its absurd
2 that the law in South Carolina is -- that a party doesn't
3 have to prove what reasonable attorney's fees are. It's
4 absurd.

5 And I would submit to the Court that the South
6 Carolina Supreme Court has cited the Hemsley case with
7 favor in the past. There's no reason to believe that
8 South Carolina is not going to hold a party who is seeking
9 over \$80,000 from the taxpayers of Richland County to
10 suggest that you don't have to prove anything other than
11 just give us a total, give the Court a total and that's
12 all that's necessary, that is absurd. And I would ask
13 this court respectfully hold the plaintiff to their burden
14 because they haven't sustained it even if this court has
15 jurisdiction which I respectfully submit that you do not.
16 Thank you your Honor. I appreciate you giving me this
17 opportunity to reply.

18 THE COURT: All right. Thank you. Of course,
19 I'm not ruling. I'm going to look at all the case laws.
20 I read through the memorandum. However, Mr. Blake, I am
21 going to ask that you provide the Court a copy of any --
22 so I can consider it all at one time copy of any legal
23 billing to support the affidavit that you have filed. And
24 if there's anything in there that is attorney-client
25 privilege, you can redact that on Mr. Lindemann's copy

1 that you send him a copy of. And then I'll take a look at
2 it to see if it is -- if it falls under the
3 attorney-client privilege, but I think what he's asking
4 for and what the Court would probably need is just -- I
5 don't want to use the word generic, not detail where you
6 don't have to go into anything. On a billing statement,
7 hopefully here's nothing on there that is attorney-client
8 privilege, but if there is, just note it on the billing
9 statement but send a copy to Mr. Lindemann for those
10 things that you are noting that are privilege or parts of
11 the statement that would be privilege, similar to a
12 privilege log that just makes some to note something on
13 there that states that it is actually attorney-client
14 privilege that you are asserting. However, you need to
15 send the entire billing statement to the Court so I can
16 look at it in-camera and then I can make a ruling if there
17 is something on there that it's not that I find that's not
18 attorney-client privilege will disclose that to Mr.
19 Lindemann and I will make a ruling. I believe we have 60
20 days to get an order to the Court of Appeals and that
21 means -- this was filed on October 2nd, so December the
22 2nd. How soon can you, Mr. Blake, get me that record five
23 days? Unmute yourself.

24 MR. BLAKE: Five days should be more than
25 sufficient. Jenkins Mann my law partner is traveling back

1 from Oklahoma. He'll be back on Wednesday and he and I
2 will sit down on Wednesday and try to get it to your Honor
3 by then. We will certainly get it to you by the end of
4 the week.

5 THE COURT: All right and a copy to Mr.
6 Lindemann.

7 MR. LINDEMANN: Your Honor just to protect
8 myself on the record, I certainly object to any
9 supplementation of the record at this point number one.
10 Number two is your Honor going to give the County the
11 ability to be heard once that additional submission is
12 made that we can then review it and be able to comment on
13 it because obviously there should have been asserted or
14 provided to the Court and to the defendant prior to this
15 hearing, so that we would have had the opportunity to
16 address it. I think the process requires that
17 particularly we're talking about an awful lot of money
18 here your Honor. And also is a question as to whether or
19 no you're going to require it to be sworn.

20 I've had experience with billing records not
21 being contemporaneous and I don't think a representation
22 has been made one way or the other as to whether they have
23 contemporaneous records in order for the Court to know
24 whether or not these documents are contemporaneous with
25 being the work or being put together after the fact to

1 justify an award of attorney's fees.

2 THE COURT: I think it's listed in the format of
3 affidavit of attorney's fees. And as an officer of the
4 Court, it does not have to sworn to it, but he needs to
5 provide that to the Court details and then the affidavit
6 to support it. All right. And as to a hearing, I'll take
7 a look at it. And if I need to reschedule another
8 hearing, we will once I receive he said by the end of the
9 week, we should receive it by Friday. How many days do
10 you think you're going to need, Mr. Lindemann, to review
11 it five days after you receive it?

12 MR. LINDEMANN: I think that would be sufficient
13 your Honor.

14 THE COURT: My date to get it back to the Court
15 of Appeals is upon us so...

16 MR. LINDEMANN: I understand.

17 THE COURT: So if we have another hearing it
18 would be the week of Thanksgiving.

19 MR. LINDEMANN: I understand. And your Honor,
20 just so again to protect my record, are your Honor making
21 it a finding of good cause and I haven't heard any
22 evidence to suggest that there's any good cause ---

23 THE COURT: You muted yourself. You muted. I'm
24 not making any findings -- I want to review it and take it
25 under advisement, but I would like to have that. And

1 you'll have a copy of it, so when I do rule, but I will
2 make my findings in my order.

3 MR. LINDEMANN: So you're taking my objection
4 under advisement as well?

5 THE COURT: Your objections to?

6 MR. LINDEMANN: The untimeliness of submitting
7 billing records after the records close and the hearing is
8 over.

9 THE COURT: Yes, I'll take it, yes.

10 MR. LINDEMANN: I mean, obviously the rules
11 require you to file supporting documents with the motion.
12 Again, I know we don't have a motion, but, you know, I
13 don't know what good cause there is to reopen the record
14 and allow plaintiff's counsel to submit billing records at
15 this point and I want to preserve that objection. And,
16 obviously, if your Honor finds good cause, I would ask the
17 Court to indicate what the good cause is for review.

18 THE COURT: Yes, and I would do that in my
19 order.

20 MR. LINDEMANN: Thank you.

21 THE COURT: All right. Thank you. I'll be
22 looking for those records by Friday.

23 MR. LINDEMANN: Thank you, your Honor.

24 THE COURT: Bye bye.

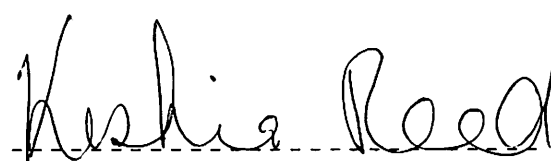
25 END OF REQUESTED TRANSCRIPT

CERTIFICATE OF REPORTER

STATE OF SOUTH CAROLINA)
)
COUNTY OF FLORENCE)

I, Keshia Reed, Court Reporter in and for the State of South Carolina At Large, do hereby certify that the above-entitled cause was heard as hereinafter set out; that I was authorized to and did transcribe the said proceedings; and that the foregoing and annexed paged, numbered 1 through 43, inclusive, constitute a true and accurate transcription of my stenographic report of the said cause taken during the said hearing. In the Court of Common Pleas for Richland County via WebEx, South Carolina, on the 9th day of November, 2020.

I do further certify that I am neither of kin, counsel nor interest to any party hereto. In witness whereof, I have hereunto affixed my signature this 11th day of April 2021.


Keshia Reed, Court Reporter

1 STATE OF SOUTH CAROLINA
 2 IN THE COURT OF COMMON PLEAS
 3 FIFTH JUDICIAL CIRCUIT
 4 COUNTY OF RICHLAND

5 Civil Action No. 2015-CP-40-1805

6 WENDY BRAWLEY,)
 7 vs. Plaintiff,)
 8 TRANSCRIPT
 OF
 PROCEEDINGS

9 RICHLAND COUNTY,
 10 SOUTH CAROLINA,)
 11 Defendant.)

12 -----/
 January 8, 2021

13 B E F O R E:

14 HONORABLE DeANDREA G. BENJAMIN
 15 RICHLAND COUNTY COURTHOUSE
 COLUMBIA, SOUTH CAROLINA

16 A P P E A R A N C E S:

17 For the Plaintiff:

18 MANN, BLAKE & JACKSON, LAW
 1901 Main Street
 19 Columbia, South carolina 29201
 BY: SHAUN C. BLAKE, Attorney at Law and
 20 JENKINS MANN, Attorney at Law

21 For the Defendant:

22 LINDEMANN DAVID & HUGHES, PA
 5 Calendar Court
 23 Columbia, South Carolina 29206
 BY: ANDREW F. LINDEMANN, Attorney at Law
 24

25 Reported by Karen A. Kocsis, CCR

1 THE COURT: This is case number
2 2015-CP-40-1805. Wendy Brawley verses Richland
3 County, South Carolina. And it was, Mr. Lindemann's
4 motion to alter or amend the Court's order regarding
5 attorney fees. And for purposes of this hearing, I
6 wanted to address; there were some issues, Mr.
7 Lindemann brought up, not so much about the
8 jurisdictional issues because I think the Court has
9 ruled on that a couple of times, regarding the
10 jurisdiction issue, so that's preserved, but more
11 so, regarding the entries Mr. Blake, Mr. Lindemann
12 has made, I'll try to summarize.

13 I've had motions all week. So it's been a long
14 week. Issues regarding billing records not
15 authenticated. That fees are related to the
16 injunctive relief made should not be recovered
17 because that case -- because you're actually off on
18 that case. The defendant prevailed on it; time
19 entries related to the summary judgment award to
20 report on claims on Plaintiff's-1; billing records
21 failed to identify persons who worked for each
22 entry. He says that you want me to identify the
23 individuals and he also claims unreasonable time
24 entries and the entry of August 17th. The attorney
25 fees related to appellate matters each would have to

1 be awarded by the Appellate court. Then he says
2 that the Court did not make the fact findings as to
3 explain what cost was awarded, I'll take a look at
4 that. And the law considers that the claims prevent
5 on all claims and that the Court cannot order the
6 90-day payments -- made within 90 days.

7 All right. So, Mr. Blake, do you want to --
8 I'm just trying to get an understanding on these.
9 I'll let Mr. Lindemann go and then I'll let
10 Mr. Blake respond.

11 MR. LINDEMANN: I understand you indicated you
12 don't want to hear any argument on the jurisdiction
13 issue, which, you know, we'll rest on our previous
14 briefs on that. This is part of 59(e) motion. It
15 is just to be certain that the issue is preserved.

16 As far as the various issues that you just
17 raised, Your Honor, I guess the threshold issue is
18 that the plaintiff never submitted any type of
19 billing records to this Court. Before, while the
20 record was open on the motion for attorney fees, the
21 billing records got submitted after that hearing
22 because Your Honor requested those. At the end of
23 the hearing, we had and I don't remember the date of
24 it, I had raised an objection to the Court sua
25 sponte asking for the plaintiff to supplement the

1 record for something that they had refused and
2 during that hearing to refuse to provide the Court.

3 To remedy the issues that we have raised in our
4 objections I think, Your Honor has allowed me to
5 file once the plaintiff submitted those billing
6 records that was not addressed in Your Honor's order
7 was whether the Court has authority sua sponte to
8 in, essence, we had raised the objections to the
9 fact, they haven't proved their claims and Your
10 Honor basically attempted to prove it for them, and
11 with all due respect, we believe that is beyond the
12 scope of the authority of a Court to have a party
13 to, in essence, to jump in and assist a party in
14 proving their claim in what kind of evidence needs
15 to be presented to the Court.

16 We entered that in our objections, Your HONor,
17 we didn't address that in your order, and so
18 certainly we would ask to the Court to consider that
19 issue.

20 Now, Quite frankly, I know it's some what
21 unique to consider that issue because I've never had
22 attorneys fees where somebody never checked billings
23 records and when the other defendant raised that,
24 they still refused to do it. So in essence, Your
25 Honor forced them to do something they were refusing

1 to do.

2 Now, when they did submit the bill, they didn't
3 submit them in way that it would be admissible. The
4 billing records were not authenticated. They
5 explained to the Court, they have these entries of
6 people by initials, we don't know who those are.

7 So my guess that SB is Shaun Blake and I can
8 guess probably that JM is Jenkins Mann but I have no
9 idea who all the other people are. And I don't know
10 what kind of software these folks use, but I know my
11 billing software will then make the time keeper at
12 the end, identify the time keeper and the total
13 amount of hours and what the billing rate is for
14 them, but this was submitted to the Court that
15 contained that information. It included clearly a
16 total number of hours. And I know that in the
17 affidavit that Mr. Mann submitted, he said that
18 there were approximately 305 hours. I know Your
19 Honor in your order accepted that and awarded 305
20 hours. I presume, we can't really tell because you
21 awarded attorney fees and costs as one number as
22 opposed to breaking them out, but since that was the
23 number that was included in Mr. Mann's, affidavit,
24 you awarded all of the hours that he claimed in the
25 affidavit, and again, you used the word

1 "approximately 305 hours."

2 When I got these billing records, and I'm
3 claiming my math is correct, but I added up the
4 hours, and what was submitted, exceeded 305 hours
5 because they included time all the way up to
6 November 9, 2020, which included a lot of time that
7 was done in handling the appeal that was already
8 filed by both sides. Both sides appealed and is
9 currently pending. When I cut off the time and the
10 date of Mr. Mann's affidavit, I came up with a
11 number in the 280s. I think it was 285.2 hours, and
12 again, that was me just calculating it by adding it
13 up. I'm not claiming that was hundred percent
14 correct but it definitely didn't come anywhere close
15 to 305 hours based on my math. And again, I've
16 never seen software that doesn't provide you a total
17 number of hours, but this one does not.

18 So we raised that issue as one of our
19 objections that the Court did not address. So one
20 of the things that we currently -- in order to get a
21 meaningful appeal here, I want to make certain that
22 the Court lays out exactly what you awarded in fees;
23 why you awarded them; and exactly what you awarded
24 in costs; and why you awarded them because most
25 costs are not even recoverable under Rule 54. If

1 you're going by this invoice, Your Honor, they have
2 some costs that were raised in the Appellate filing.
3 These are not something that cannot be recovered by
4 in the Circuit Court. They can only be by the
5 prevailing party on appeal by the Court of Appeals
6 or the Supreme Court awards them. And that is the
7 same for any type of attorneys. The Circuit Court
8 can never award those. They can only be awarded by
9 the Supreme Court or Court of Appeals. And in fact
10 our rules of the appellate procedure combined with
11 an order of the Supreme Court actually limit the
12 exact amount of fees that can be recovered by the
13 prevailing party on appeal by \$2500.

14 So I don't know why they sent you all the time
15 and again, the Court's order doesn't spell out how
16 you arrived at those numbers. I don't know whether
17 you included appellate time or didn't include
18 appellate time but to the extent, the Court included
19 appellate time, I think it would been clearer
20 because of the reasons I just stated.

21 Another one of the primary issues and Your
22 Honor just mentioned it. This is not a case where
23 the plaintiff was a prevailing party based on Your
24 Honor's orders, one of the FOIA requests, they were
25 not a prevailing party on the entire case. Just to

1 remind Your Honor, they were four FOIA requests at
2 issue and the County prevailed on three out of four
3 of those.

4 In addition, the primary reason the plaintiff
5 brought this suit was to try to stop the lower
6 Richland County sewer project, to actual stop the
7 project. That was a matter that was taken up almost
8 immediately after the suit was filed on a motion to
9 dismiss and Judge Clifton Newman heard that motion,
10 granted the motion to dismiss and denied all the
11 injunctive relief.

12 So ultimately when you look at the billing
13 records, and I'm assuming that 305 hours goes all
14 the way to the back to the beginning, but if you
15 look at the billing records and the billing records
16 don't -- and the request for 305 hours, do not pull
17 out matters on which -- does not prevail. And the
18 provision in FOIA that allows attorney fees,
19 describes what a prevailing party is but also
20 indicates that the Court should only provide an
21 allocation of the attorney fees recoverable on
22 claims on which they were prevailed and that is
23 consistent with attorney fees law both federally and
24 state. So the plaintiff did not prevail on what we
25 contend to be a substantial portion of the claim.

1 The entire injunctive relief claim they did not
2 prevail on and a three out of four of the FOIA
3 claims they did not prevail on. It was not imputed
4 that you, for lack of a better word, that you
5 discounted what they were claiming, for any of the
6 claims on which they clearly did not prevail and on
7 reconsideration, we asked the Court to do so.

8 With all due respect, I would submit that that
9 would be an abusive discretion to award attorney
10 fees on claims on which they clearly did not
11 prevail. So that would include the motion to
12 dismiss and then some location of the motion for
13 summary judgment.

14 Additionally, Your Honor, as we point out,
15 there was an additional plaintiff in the case.
16 Where a plaintiff which was an unincorporated
17 association of people who were opposing the lower
18 Richland Two project. If you look at the early
19 billing records, pre-suit billing records that were
20 submitted and again, I presume the Court awarded
21 these because they were part of the approximately
22 305 hours being claimed. I don't really know
23 because the record was so poorly presented by the
24 plaintiff. But to the extent that those billing
25 records were certainly submitted to Your Honor and

1 it includes numerous -- the plaintiff, by
2 "plaintiff," meaning Wendy Brawley for meeting with
3 a party that was dismissed from the case. There are
4 a number of matters that deal with strategy in order
5 to try to obtain an injunction. There is time
6 actually for the preparation. If you look at May
7 22, 2015, there is record billing time for preparing
8 a motion for preliminary injunction, which never
9 even got filed and obviously doesn't go to FOIA. It
10 will go to this attempt to -- and, Your Honor, I can
11 go into all this detail. I think we went into the
12 detail in our objections about the various entries.
13 I know there was conference with Sara Ellis. I
14 don't know who Sara Ellis is but I'm guessing it's a
15 reporter with The State newspaper. Don't see how
16 that would be FOIA related. There were entries with
17 reviewing and responding to some type of survey, and
18 again, I don't know whether those are surveys that
19 were provided to members of this unincorporated
20 association, Hopkins in lower Richland County,
21 Citizens United. But clearly, indicated it had to
22 be dismissed by Judge Newman. Again --

23 THE COURT: What date are you referring to on
24 that?

25 MR. LINDEMANN: Let's see. I have -- I guess I

1 don't that specifically referenced. Your Honor, I
2 can try to find that. Obviously that would be prior
3 to suit being filed.

4 THE COURT: All right.

5 MR. LINDEMANN: With the Court's indulgence.

6 (Pause.)

7 MR. LINDEMANN: There's a conference on April
8 -- a conference with counsel, re: survey sent by
9 Richland County, re: a temporary injunction
10 additional quarter. Then next entry, a meeting with
11 Shaun and Jenkins regarding survey, response to
12 survey. There may be some additional entries.

13 Yes, there's one earlier that day. Receive and
14 review survey. Meet with Shaun Blake and Wes
15 Jackson, re: a response survey.

16 Again, you know, none of this is in the record.
17 That's my huge concern about one of the main issues
18 I raised prior would be that the records didn't
19 support their request for attorney fees and that's
20 why you ordered them sua sponte ordered them to
21 produce their billing records. But their billing
22 records alone are not sufficient proof when, number
23 one, they are not authenticated. Number two, they
24 were given no explanation as for the work that they
25 did and why that would be related to the FOIA claims

1 and why that would be related to the FOIA claim on
2 which they prevailed.

3 So it's just numerous, numerous problems with
4 various entries. We outline them in Paragraph five
5 of our Rule 59(e) motion, which is basically a
6 reiterate of the objections that we filed on
7 November 23, 2020 to the records that were provided.
8 And the last point, I touched on this. Even the
9 summary judgment motion, Your Honor, clearly did not
10 prevail on the three out of four of the FOIA claims,
11 yet assuming -- and again, I can't tell from the
12 order, but I'm assuming that Your Honor, would rule
13 that all the attorney fees on all the motions
14 because as indicated, it's 305 hours. I assume it
15 encompasses all that time. I don't know, and I
16 don't know if Your Honor did an analysis of the
17 billing records or not, like said, the billing
18 records, based on my calculations, which could be in
19 error, you know, I had to add them up, didn't even
20 come to 305 hours through the data on Mr. Mann's
21 affidavit. So, I don't know if there were
22 additional time that were taken out since the
23 affidavit. I just don't know and I know the Court
24 doesn't know. And once again, we don't have an
25 affidavit even authenticating those documents and

1 advising the Court how they were prepared.

2 It also goes to an additional point that we
3 made which is fully or actually allows for the
4 recovery of attorney fees. Doesn't say anything
5 about the recovery of non-attorney personnel. The
6 initials, I don't know who everybody is other than
7 SB and JM, but there are multiple different people
8 and of course, people billing all kinds of different
9 rates, \$105 an hour, \$175 an hour. Nothing has been
10 presented to the Court to justify those billing
11 rates; who those people are; what their
12 qualifications are; whether those are appropriate
13 rates. And quite frankly, the point I was getting
14 to, for the award of attorney fees. They don't
15 allow for an award of non-attorneys fees. Or
16 paralegal fees or non-paralegal support-staff type
17 fees. And we just don't know. This record just
18 doesn't give the Court the ability to make that
19 determination. And part of my issue is, it doesn't
20 provide a proper basis, number one for the order.
21 Number two, for there to be meaningful review at the
22 next level on these issues.

23 Next, Your Honor, there are some issues that
24 just seem to be, excessive. For instance, they are
25 30 minutes for actually electronically filing a

1 document. I've got a pet peeve about how lawyers
2 bill. I will try to not get on my soapbox here, but
3 anybody who has filed something electronically, I
4 mean I know in state court it doesn't work quite as
5 easily as in federal court but still it doesn't take
6 30 minutes to file a pretrial brief. So that is
7 just an example.

8 In this particular case, Your Honor, this case
9 was up for trial and continued on numerous occasions
10 for various reasons and so each time, they issued
11 the same trial subpoenas over and over and over
12 again and we vetted out the entries to be five
13 different dates that they are claiming to prepare
14 these trial subpoenas and quite frankly, re-billing
15 that every time other than perhaps a .1 is not
16 reasonable. All your doing is pulling up the old
17 subpoena and changing the date and then issuing the
18 same subpoena. So, Your Honor, I mean Your Honor's
19 practiced law for a long time, you know how do it.
20 It's just absolutely not reasonable. And again,
21 these are fairly minor points compared to the others
22 but still they add up, and quite frankly, it's not
23 fair to taxpayers to Richland County with expenses
24 that are just flat unreasonable.

25 Let's see. I think, Your Honor, that is the

1 primary non-jurisdictional arguments that I have.
2 The last point that Your Honor mentioned as well,
3 you included a time limit giving the County 90 days
4 in which to pay these attorneys fees and costs.
5 With all due respect, I don't know of basis that
6 allows the Court to put a time limit on attorney
7 fees. My understanding is an award of attorney fees
8 gets recorded as a judgment just like any other
9 judgment. And this case is currently on appeal and
10 I would suspect that one or both of the parties will
11 be appealing the attorneys' fees order as well, just
12 to be consistent with the previous appeals are
13 pending in stay.

14 So, to the extent that there is some sort of
15 sanction that will come from the defendant for not
16 paying within 90 days conflicts with our right to
17 appeal. So all of those issues, I would ask the
18 Court at the very least to strike that time
19 limitation on the date to appeal, because again,
20 Your Honor doesn't cite any authority, I am not
21 aware of any authority that the Court would have to
22 put a time limitation on that, but I also submit it
23 should be treated like any other judgment and be
24 good for ten years. The plaintiff can recover the
25 judgment how any party can recover a judgment, but I

1 don't think a judgment would be recoverable until
2 after we've exhausted all of our appellate rights.

3 Thank you, Your Honor.

4 THE COURT: All right, thank you. All right,
5 Mr. Blake.

6 MR. BLAKE: Okay. I got myself unmuted. Thank
7 you, Your Honor. We appreciate the opportunity --

8 THE COURT: Mr. Lindemann, mute yourself
9 because if not, it will give feedback and I'll mute
10 myself also.

11 Yes.

12 MR. BLAKE: Thank you, Your Honor. I appreciate
13 the opportunity to be heard today. We agree that
14 the Court has previously addressed this matter of
15 subject matter jurisdiction, which we continue to
16 say is a misnomer and in fact is not subject matter
17 jurisdiction under the Russell case raised by the
18 County. We would again just stand on our prior
19 arguments and briefing and specifically the
20 Culbertson versus Clemens case and the Rutland
21 versus Holler, Dennis, Corbett, Ormand, Garner case
22 indicating that this Court retain jurisdiction over
23 its own judgments and decrees that left some further
24 act be done before it would be final. And obviously
25 all of your orders, Your Honor have recognized Ms.

1 Brawley's right to recover reasonable attorneys'
2 fees and costs in this case, which was specifically
3 provided by the FOIA statute in Section 34 100(b).

4 And as I address the the argument today, Your
5 Honor, I think that it's important for the Court to
6 remember that this is a statutory provision. You've
7 heard argument about Rule 54(d) Costs for example
8 from counsel, but Rule 54(d) begins with the
9 statement, "unless expressly authorized by other
10 statutes," right, and so recognition by our courts
11 that when the legislature has weighed in on a
12 subject, the statute prevails. And what our statute
13 says, is that if a person or entity seeking relief,
14 under the subpoena and under cost of litigation
15 specific to the request, if the person or entity
16 prevails in part, the Court, may in its discretion
17 award him reasonable attorney fees, or an
18 appropriate portion of those attorneys' fees. The
19 legislature has given this Court broad discretion
20 under this statute, which makes sense because as the
21 legislature has stated and our Court has recognized,
22 the FOIA statute is a remedial statute and while the
23 County complains about how unfair it is for the
24 taxpayers to be burdened by an award of attorney
25 fees and the legislature was to dis-incentivize the

1 County from wasting it's taxpayers and its citizens
2 time to get try to get records under the FOIA
3 statute to begin with and the County has lost sight
4 of that in its argument that somehow it is unfair
5 for the taxpayers now to be paying an attorneys'
6 fees award, or to be paying it's time today as it
7 listens to a 59(e) following this Court's third
8 order awarding Ms. Brawley's attorney fees in this
9 case.

10 Specifically, there is no mathematical
11 requirement laid out in the statute or in our case
12 law that requires this Court to have an evidential
13 analysis of every time entry that has been submitted
14 to this Court. What the Court received initially in
15 support was a schedule of fees as requested in the
16 July 2020 order that was submitted under oath, that
17 submitted the amount of hours that our firm's record
18 showed we work up to the point of Mr. Mann's
19 affidavit. Mr. Mann is a standing member of this
20 bar, in good standing and has sworn under oath at
21 the time he analyzed the work our firm had done, he
22 submitted the hours he was able to estimate based on
23 our records and he submitted what he believed to be
24 the fair value of that.

25 At the hearing, I recall that it was actually I

1 that first suggested that the Court would benefit
2 from seeing specific billing details, we would be
3 happy to supplement that record to the Court and
4 ultimately, Your Honor decided that that would aid
5 you in making a specific finding as to attorneys'
6 fees and costs.

7 So you've heard argument today that somehow Ms.
8 Brawley or my firm was unwilling even through the
9 hearing to submit it's billing to you and that
10 simply is not the case. During our last hearing,
11 Mr. Lindemann asked you to require Mr. Mann to
12 submit some additional affidavit testimony to
13 support the bill and you specifically declined that
14 in the last hearing. And Your Honor said that
15 Mr. Mann, as a member of this bar and an officer of
16 this Court can simply submit that billing and he
17 emailed Your Honor a submission back, I believe it
18 was November 13, where he advised this Court and
19 said, Please find attached a true and accurate copy
20 of my firm's billing records for work performed and
21 cost incurred through November 9th, which
22 Ms. Brawley is seeking payment as prevailing
23 supporting documentation for the majority of the
24 cost incurred. Please let me know if you need
25 anything from my office.

1 Mr. Lindemann and the County object to this
2 saying that the Court had no authority following
3 it's hearing to supplement the record. And, of
4 course, we all know that is simply not the case. It
5 is quite common in Richland County and elsewhere for
6 parties to submit affidavits up to and at the time
7 of a hearing, or following a hearing, for a record
8 for a hearing to be continued while the record is
9 supplemented.

10 Rule 5(b) -- I apologize, 6(d) contemplates
11 this. That the timing rule says that when there is
12 an affidavit required, here's the timeline, "unless
13 the Court says otherwise." And I'm paraphrasing,
14 but unless the Court determines that there is some
15 additional time that should be allowed to receive
16 additional evidentiary submissions. That is exactly
17 what Your Honor did following the last hearing.
18 It's completely appropriate. It's a common practice
19 and there is no due process concerns here that the
20 County asked for additional time to receive and
21 respond and analyze. We consented to it. Your
22 Honor granted it and here we are conducting another
23 hearing on this issue of attorneys' fees.

24 And so Your Honor, your order cites the (d)
25 case and it performs precisely the analysis that the

1 law requires. It certainly provides analysis and
2 does the consideration contemplated by our
3 legislature under the FOIA statute in 30-4-100(b).
4 You've analyzed the billing submissions, you've
5 analyzed the cost. The statute says that you may
6 award reasonable fees and other costs of litigation
7 to attorney fees.

8 And I'm happy to address the overall argument,
9 or go line by line with these items, but I do not
10 believe that Your Honor needs to submit a detailed
11 order that goes through 20-plus pages of billing
12 records and makes an appropriateness finding for
13 each entry and then does some mathematical
14 calculation. Your Honor, you're not bound by the
15 hours; you're not bound by the rates that are set on
16 my bill; you can determine what a reasonable rate
17 is; you can determine what reasonable time is.

18 As I've argued in the past hearings on this,
19 while the County urges the Court to adopt some ratio
20 analysis of plaintiff's claims, as the billing
21 records show and as the transaction history in this
22 case shows that this case was not about not those
23 other three claims. They were pled; they were
24 summarily disposed of. As we discussed in the last
25 hearing, the summary motion of those hearings was

1 granted by consent at the hearing, they weren't even
2 opposed at the hearing. The matter of injunction
3 was immediately taken up and the County's broader
4 premise that when we're discussing a FOIA lawsuit
5 with witnesses and with clients, that somehow the
6 Court must trotch those into overlapping claims and
7 create a fiction essentially and say, well, this
8 meeting, well, because it dealt with surveys and
9 surveys were what the word appears in your bill to
10 be, therefore, the Court can't deal with that. I
11 can't honestly tell Your Honor, four and five years
12 later the substance of the conversation with those
13 witnesses back in 2015, but there is no doubt that
14 we were meeting with witnesses and clients in 2015
15 to discuss our FOIA lawsuit. All the claims for
16 relief in complaint were brought under FOIA and we
17 prevailed on a FOIA claim. If for some reason Your
18 Honor believes that a total of \$81,000 is
19 insufficient -- is too high for attorneys spending
20 four, five years pursuing a case, then you're
21 certainly at your discretion to adjust downward what
22 was sought. But what I don't believe you're
23 required to do is what the County is urging you to
24 do today, which is to go entry by entry, line item
25 by line item and come up with some mathematical

1 formula using as the upward limits for your
2 consideration what appears in the rate figure and
3 then adjusting downward from there. It's simply not
4 the analysis that the statute or case law requires.
5 And I believe there is ample detail there. The
6 County acknowledges had Your Honor's practice law,
7 Mr. Lindemann has practiced law for a long time.

8 As Your Honor might suspect, the partners in my
9 firm billing \$300 an hour; the associates here were
10 billing at 175; and the paralegals were billing at
11 105. I think anybody engaged in the three-tier
12 hierarchy of billings, but I don't think it's too
13 mysterious what's going on here in terms of the
14 status of the person's billing. But ultimately,
15 Your Honor, I'm happy to answer any questions about
16 any entry to the extent that I'm able to do so, that
17 the Court may have, or that the County may have, but
18 I simply disagree that you're required to do an
19 entry by entry analysis and justify in your order a
20 mathematical calculation. This is based on
21 reasonableness. It's based on your overall view of
22 the amount time invested in the case and you're free
23 to do that at your discretion.

24 THE COURT: So let me just ask you a couple
25 questions. So -- and I do think that in awarding

1 attorneys' fees that the question is the
2 reasonableness of the fees and taking into
3 consideration the fact that the case dates back to
4 2015. But a couple things that he brought up: What
5 is your position regarding Mr. Lindemann's argument
6 that you're paralegals are not, for purposes of
7 attorney fees, you're not allowed to recover those
8 fees? It's just attorneys' fees. Do you have
9 authority to cite?

10 MR. BLAKE: Your Honor, no. I did a research
11 just like the County's memorandum doesn't have any
12 citation suggesting that the award of reasonable
13 attorneys fees doesn't include supervised staff. I
14 don't find any authority, binding authority in South
15 Carolina addressing that issue at all. I believe
16 that reasonable attorney fees is a statutory term
17 art and again, going on common practice, I've never
18 been involved in a case, involving an award of
19 attorneys' fees where supervised staff time done for
20 efficiency purposes that keeps cost down has ever
21 not been submitted.

22 Again, a construction of reasonable attorneys'
23 fees to only include time worked by attorneys would
24 suggest that the legislature would prefer that the
25 people billing at the highest hourly rate perform

1 every task in a case so that a rate is as high as
2 possible and can be recovered. Certainly that sort
3 if an absurd reading of the statutory intent and
4 reasonable attorneys' fees should include a
5 reasonable down stream delegation to supervised
6 staff of attorneys. It always has been in cases in
7 the past. I've never had this issue challenged
8 before. It's certainly -- I certainly concede that
9 the word in the statute is reasonable attorneys'
10 fees but I believe that is a term art that refers to
11 the professional fees incurred by a client, or in
12 this case, a FOIA pursuer to recover the FOIA
13 documentation. And again, I did search for case law
14 on that, Your Honor to see if there was anything
15 specific in the definition of attorneys fees that
16 clarified between attorney and attorney's supervised
17 staff, but I have not found any case law on that
18 issue.

19 THE COURT: All right. And then the next
20 question that I have and I think that Mr. Lindemann
21 is correct, there's some -- and let me just say
22 this, we've received, I believe -- let me just back
23 up. There is an affidavit of attorneys' fees that
24 were filed in July.

25 MR. BLAKE: Yes, Your Honor.

1 THE COURT: And the Court requested the billing
2 records to supplement the fees, the affidavit of
3 fees, because I think Mr. Lindemann, I think you
4 said there was never an affidavit of fees filed, is
5 that correct?

6 MR. LINDEMANN: Your Honor, I agree with you.
7 Mr. Mann filed an affidavit on July 27th, but there
8 was no affidavit submitted with the billing records.

9 THE COURT: -- okay.

10 MR. LINDEMANN: -- to indicate those and to
11 explain what those were --

12 THE COURT: All right.

13 MR. LINDEMANN: -- at the point where we
14 rested.

15 THE COURT: And I think Mr. Blake is saying
16 that they filed the affidavit and the billing
17 records to supplement the previous affidavits.

18 Is that correct, Mr. Blake?

19 MR. BLAKE: Yes, but specifically Your Honor,
20 during the last hearing we had a conversation about
21 this and Mr. Lindemann asked you to require an
22 affidavit to be submitted along with that billing
23 record and you declined Mr. Lindemann's request
24 noting that Mr. Mann was an officer of this bar and
25 bound by duties of candor and honesty to it, and

1 following up on your Court's instructions in that
2 last hearing, that's why Mr. Mann sent an e-mail,
3 verifying the truthfulness and accuracy of the
4 billing information not submitting some additional
5 affidavit.

6 THE COURT: All right. So my next question for
7 Mr. Blake. There it appears, and I will say that in
8 looking at these, obviously y'all have been more
9 intimately involved in the case than the Court
10 dating back to 2015. And so I'm trying to figure
11 out how -- I will go to my first thought.

12 There appears to be some time entries regarding
13 the appeal. I took take care of that one. Those
14 obviously under the Appellate rules, would need to
15 be redacted, the filing fees for appeals, and
16 anything -- Mr. Lindemann, I was trying to take
17 notes as y'all spoke. So any appellate filing fees
18 or any attorney fees related to the appellate work
19 will need to be redacted.

20 MR. BLAKE: Yes, Your Honor. I believe -- if
21 you recall, the award that you entered was not for
22 the full amount of this bill. The award that you
23 entered was for an amount slightly more than \$10,000
24 left in the exhibit to your order. So Your Honor
25 had already deducted over \$10,000 from the

1 submission here. So I had assumed when I received
2 your order, Your Honor, that the things that you
3 found to be inappropriate and reduced said this bill
4 is for an amount of \$91,591.96 and Your Honor
5 entered in a judgment more than \$10,000 less than
6 that.

7 THE COURT: There is some things we had
8 highlighted. Let's see.

9 And going back to 2015 entries. It is
10 Mr. Lindemann's position -- and correct me if I am
11 wrong that these entries, the co-plaintiff's and not
12 Ms. Brawley.

13 MR. BLAKE: And again, Your Honor to provide
14 you with the context for this, Ms. Brawley is a part
15 of that co-plaintiff. So we're drawing a little bit
16 of an arbitrary distinction that the other
17 co-plaintiff was a 501c3 entity of which of Ms.
18 Brawley was forming officer of. That is why I'm
19 saying it's very difficult for the Court to separate
20 work done working with Ms. Brawley on her individual
21 claim versus the work done with Ms. Brawley's 501c3
22 in contesting whatever standing argument he had his
23 compliant.

24 Ultimately what Judge Newman found is, Look,
25 when Ms. Brawley submitted this FOIA request, this

1 entity had not yet been formed, therefore, I'm just
2 dismissing this entity.

3 My point that I was trying to make earlier,
4 Your Honor, maybe I didn't do so artfully is that
5 when I'm meeting with witnesses in Hopkins, I'm
6 meeting with Ms. Brawley and I'm meeting with her
7 witnesses. I'm meeting with them to discuss their
8 FOIA efforts and what their on-going actions were,
9 attending all of these Richland County Council
10 meetings back in 2015 in order to get access to what
11 the County was doing in connection with this sewer
12 project and to do everything they could to have full
13 disclosure and avoid misinformation being sent out
14 to residents in the County about this project.

15 And so what I'm looking at my March 12, 2015
16 entry, for example, I'm driving from downtown
17 Columbia to Hopkins. I'm going to a building with
18 Ms. Brawley and the people who she's introducing me
19 to to discuss the issues with their FOIA request and
20 why their concerns about these FOIA requests exist.
21 Jenkins Mann traveled with me to that meeting as
22 well so I see that he billed a fee there. The
23 following day I call tell -- for three days later
24 looks like I had emails with Ms. Brawley following
25 up on that.

1 Certainly at that time, I don't even believe
2 that other plaintiff had been formed yet, which is
3 ultimately why that other plaintiff was released
4 from this case, that 501c3 entity was released from
5 this case, but I don't really understand how the
6 County suggests this Court can go through the
7 exercise in using some mathematical approach to
8 taking that 3.2 and reducing it because at the end
9 of the day, that meeting on March 12, 2015 it was
10 regarding the substance of the FOIA dispute and the
11 same one upon which we ultimately prevailed, which
12 is why I think what the Court is required to do
13 under the statute, is not to do this mathematical
14 line by line analysis but rather look at the issues,
15 the complexity of them, the work that ultimately
16 went into case and the result obtained and then
17 compare that to who we are as attorneys, what a fair
18 market rate for that is in this environment and come
19 up with a reasonable forensic accounting.

20 THE COURT: All right. And then the next
21 question regarding, I believe it's August 10, 2015
22 is his argument regarding the injunctive relief
23 claim should not be recovered because it's his
24 position that the defendant was successful on those
25 claims.

1 MR. BLAKE: The defendant did have the request
2 for temporary injunction claim in the complaint
3 dismissed. And so I would agree that we consider
4 and I thought the Court had when it reduced -- when
5 it did not accept this entire bill. I think the
6 Court should consider in weighing the analysis and
7 state as much in its order that it did consider that
8 the County prevailed on a motion to dismiss the
9 injunctive relief and I think that is appropriate.

10 Again, I just assumed differently than the
11 County. I assumed that the Court looked at the
12 overall result in the case and the amount of time
13 stated on the bill and made appropriate downward
14 adjustments. I think there is absolutely nothing.
15 I have considered this case and it appears to me
16 that the County prevailed on some aspects of its
17 claim. I am also looking at 34:100(b) and it says
18 that I am allowed to consider that in making any
19 reasonable judgments I see fit in the total
20 attorneys' fees awarded and here's what I find to be
21 reasonable under the circumstances.

22 So I agree, Your Honor. I think you should
23 consider those issues and reflect as much in your
24 order. I just don't believe that you're required to
25 say, Okay. Therefore, I'm taking what I believe to

1 be a \$81,000 reasonable award, reduce that by 2.1
2 hours and now my new math is this. I just don't
3 believe that the Court is required to conduct that
4 granular of a level of attorneys' fees otherwise
5 what we're really putting on trial is every act,
6 every communication that any attorney representing a
7 client does from the inception of the case through
8 trial and it would require the Court to conduct an
9 evidentiary trial on the trial of the case; the
10 trial about the trial; the trial about the
11 pleadings; the trial about every motion hearing; the
12 trial about every confidential communication. That
13 is not the evidential analysis you're required to
14 do.

15 THE COURT: All right. So in looking at the
16 billing statement, I see there's some things that
17 are highlighted but also in the affidavit that was
18 submitted to the Court. I think that the request
19 was for \$81,000, is that correct? Mr. Mann's
20 original affidavit for attorney fees?

21 MR. BLAKE: I think Mr. Mann's original
22 affidavit for attorney fees was \$81,000. And I will
23 represent to the Court that I do believe Mr.
24 Lindemann is correct, I don't believe that this bill
25 reflects all of the time my firm worked. I think

1 Mr. Mann put that in his affidavit. I think that is
2 what he understood was our total time in. We
3 regularly delete duplicative billings in things that
4 look to be redundant or if we find a staff member
5 does something excessive.

6 So again, I don't know think that this bill was
7 intended to reflect the entirety of the 305 hours
8 that Mr. Mann put in his affidavit back on
9 July 26th. The run date on this bill was in
10 November, I believe which it certainly has entries
11 well into November -- yeah, has a entry into
12 November 9th. So the run date on this bill was
13 after November 9th.

14 Yes, I do agree that Mr. Mann's affidavit on
15 July 27th request for \$81,000 total. It separated
16 out fees from cost, Your Honor in that affidavit and
17 again that is part of the record and we assumed the
18 Court compared Mr. Mann's affidavit and compared the
19 fees and costs requested in that affidavit to this
20 bill, which was made an exhibit to your third order
21 on this issue of attorney fees and came up with a
22 reasonable analysis in number. And I think on
23 appeal all Your Honor has to do is affirm that that
24 is the exercise you undertook and if you see fit to
25 make any other upward or downward adjustment on the

1 amount awarded, I think you're free to do so at your
2 discretion.

3 THE COURT: All right. Thank you. I'd be glad
4 to hear from Mr. Lindemann.

5 MR. LINDEMANN: Thank you, Your Honor. Just a
6 couple of quick points, Your Honor.

7 First of all, just because the case was filed
8 in 2015, right now for numerous reasons doesn't mean
9 it was a super-complicated case. As I'm sure if
10 Your Honor reviewed those billing records, you'll
11 see there is no single entry for any depositions.
12 Not a single deposition was taken in the case.
13 Extremely minimal discovery was done in case. The
14 trial itself, as Your Honor knows was about five or
15 six hours. Just because \$81,000 might not sound a
16 lot for a case that was litigated through trial,
17 typically, this is not a typical case. I did want
18 to call the Court's attention to that.

19 Also, Mr. Blake indicated that Judge Newman's
20 ordered denied his motion for injunction, that is
21 not the case at all. A motion for temporary
22 injunction was never filed even though the billing
23 records as I indicated earlier, I asked for this
24 Court and this Court has awarded time to prepare.

25 THE COURT: You said a temporary injunction was

1 never filed. Do you agree with that, Mr. Blake?

2 MR. BLAKE: It's a temporary injunction was
3 pled as a cause of relief in the second cause of
4 action in the complaint. It's actually in the
5 complaint. So yes. I agree that a subsequent
6 motion on that was never filed because it did not
7 require to be filed because the County filed a
8 motion to dismiss both Ms. Brawley's prayer for
9 temporary injunction and her prayer for preliminary
10 injunction, so yes, I agree. There wasn't a
11 separate motion filed but was our request for
12 temporary injunction was stated and pled in the
13 complaint.

14 MR. LINDEMANN: Well, Your Honor, you don't
15 make up -- you don't bring a motion for a
16 preliminary injunction before a Court by pleading in
17 the complaint. You bring it by a motion. They
18 asked for relief in their complaint. But anyway,
19 the bottom line is, my point being there is not an
20 order by Judge Newman to deny a motion for a
21 preliminary injunction. Judge Newman dismissed with
22 prejudice the entire claim for injunctive relief;
23 temporary, permanent, he didn't distinguish. And
24 there wasn't a motion for preliminary injunction
25 that it was in the billing record that was never

1 filed. That is my point. And I don't think
2 Mr. Blake was disputing that. They submitted
3 billing entries for preparation in the complaint,
4 I'm not challenging those so...

5 A couple others real quick, Your Honor.

6 THE COURT: Let me ask you a question,
7 Mr. Lindemann. Because I'm getting a little bit of
8 feedback. Can you mute yourself real quick? And
9 then we'll unmute you, okay.

10 (Complies.)

11 THE COURT: You made the argument that there is
12 nothing that says that he cannot request fees for --
13 but since you have cited no authority to state that
14 fees have to be only for attorneys, I guess is the
15 best way to answer.

16 MR. LINDEMANN: Well, Your Honor, my answer to
17 that is no, I'm not aware of any authority one way
18 or the other on that issue. I did not research it
19 federally. I mean you can certainly do that. But
20 my provision is in contravention of the common law.
21 So by law is to be strictly-construed particularly
22 against a governmental agency and any authority is
23 in contravention of the common law has to be
24 strictly-construed. They are usually reasonable
25 fees, attorneys' fees. Mr. Blake said, well, it

1 should be interpreted as professional fees. Arguing
2 they used professional fees as they intended that. I
3 would suggest that that language needs to be
4 strictly-construed. If they are making a claim and
5 I've had under, you know, under Section 1988, I've
6 had claims that I've had to defend where attorneys'
7 fees were made through support staff, not support
8 staff, paralegals, and the way you justify that,
9 it's not been justified in this case, you present
10 affidavit testimony of the sort. Who those people
11 are; what's their experience is; what's their rate
12 that is being claimed; whether that rate is
13 appropriate in the jurisdiction; things of that
14 nature. You just don't blatantly just throw it out.
15 There's approximately 305 hours. He mentioned that
16 attorneys are not held to the same standards of
17 evidence. It is flatly not correct. I'm not
18 challenging the truthfulness of Mr. Mann's
19 affidavit. I'm challenging the fact that it is not
20 adequate to prove his case and allow this Court to
21 determine the reasonableness of the fees claimed, or
22 the defendant to be able to challenge the
23 reasonableness of the fees. That is what I argued
24 at the last hearing.

25 Incidentally, Mr. Mann, my recollection was not

1 part of the last hearing. I believe it was just Mr.
2 Blake. But anyway, the fact that an attorney is
3 submitting evidence doesn't mean an attorney -- and
4 I think it's little appalling that the suggestion is
5 that the rules of evidence don't apply to us just
6 because we're officers of the Court. I think all
7 rules of evidence apply to attorneys.

8 One last point really quick -- two last
9 points. I'm sorry.

10 Mr. Blake indicated when he read his order, he
11 understood the Court had made a downward adjustment
12 of the attorney fees claimed because the invoices
13 they submitted were for \$91,000 and Your Honor
14 obviously awarded \$81,263. We dispute that because
15 if you look at the 81,263 number that to the penny
16 that number that was in Mr. Mann's affidavit. So I
17 don't think the Court made any type of downward
18 adjustment to what was being claimed in Mr. Mann's
19 affidavit.

20 So, Your Honor knows better me if you made any
21 adjustment and that is part my motion for
22 reconsideration is we don't from reading your order
23 and an appellate court won't know from reading your
24 order if you did make any adjustments. I mean you
25 didn't address in your order the issues that we

1 raised about including these FOIA claims and the
2 injunctive relief claims on which the plaintiff
3 didn't prevail. You didn't address that in your
4 order. So whether you made a downward adjustment,
5 the order to me reflects that you did not and
6 because, as I indicated, you gave the plaintiff
7 exactly what Mr. Mann asked for his affidavit.

8 Now, in his affidavit, Mr. Mann never indicated
9 that they made any adjustments for claims on which
10 they didn't prevail, and we have the invoices. It's
11 clear that they didn't do so because his affidavit
12 didn't imply that. And I welcome anybody to correct
13 me on that and I might have made mathematical errors
14 myself. Again, I think it's very odd that the
15 software doesn't provide a total of hours such
16 because it's 17 pages or 20 pages I had to add up,
17 but I think it is comes out not substantially less.
18 I think it was in the 280s. I have 285.2 and I'm
19 not claiming that is hundred percent accurate but I
20 feel very confident it didn't get up to 305. And
21 again, Your Honor was using approximately 305 hours.
22 We had \$300 an hour.

23 With all due deference, to determine
24 reasonableness in requiring a party to pay money,
25 you know, it should be done in such a way that it's

1 with some more precision than simply saying
2 approximately 305 hours. You know, I'm not asking
3 Court to do an entry by entry analysis as to billing
4 records as Mr. Blake has suggested. I have
5 experience with 1988 claims, federal courts do a
6 substantial analysis of billing records and often
7 Courts will determine that there is a percentage of
8 attorneys fees because of improper documentation or
9 inadequate documentation they make downward
10 adjustments for exactly what I've asked for which is
11 issues on which plaintiff did not prevail, or work
12 that was not related to the issue on which they did
13 prevail, or not related to the party who was the
14 prevailing party which is of course part of my
15 argument in this case.

16 Your Honor did allow me to make objections on
17 and I didn't object line-by-line on the billing
18 records, but I did raise a handful of entry
19 objections and as I understood what Your Honor had
20 indicated at the end of that hearing, you were
21 taking that entire evidentiary matter under
22 advisement whether you'd even accept the billing
23 records at that point, and then allow us to make
24 objections. And ultimately, one of the issues I
25 have on 59(e) is your order doesn't indicate that

1 you actually made those evidentiary rulings in such
2 a way that they can be reviewed meaning you didn't
3 say one way or the other. I mean I assumed when you
4 attached the billings records to your order that you
5 had accepted them into evidence but there was
6 nothing in the record that addressed our objections.

7 So again, I don't think you have to go through
8 every single entry and we're not challenging --
9 we're challenging very few of the entries. But, I
10 do think, in order to allow for appellate review,
11 that a Court needs to rule on the objections that
12 were made. And I think that is probably -- he also
13 made a little comment that this is the third order
14 on attorney fees. Your Honor, you've issued one
15 order on attorneys' fees. We filed as we're
16 required to do to preserve our record on appeal to
17 raise issues that are not specifically addressed in
18 the order, we filed one Rule 59(e) motion as to the
19 attorneys' fees award. So I don't where Mr. Blake
20 is getting that this is the third order awarding
21 attorneys' fees. There's one order awarding
22 attorneys' fees.

23 I think that is all I have, Your Honor.

24 THE CHAIRMAN: All right. Mr. Blake, I'll let
25 you have the last word.

1 MR. BLAKE: Thank you, Your Honor. I will be
2 very brief. I would just point this Court to
3 Quality Towing, Inc. versus City of Myrtle Beach,
4 which is 547 SC 2nd 862, which states that FOIA is
5 remedial in nature, liberally construed to carry out
6 the purpose mandated by the legislature. When
7 adopting FOIA, the legislature stated it must be
8 performed in an open and public manner. I just
9 provide that to the Court in response to the
10 County's argument that FOIA needs to be strictly
11 construed consistent with Quality Towing and it's
12 predecessors and it's successors of the courts of
13 appeals.

14 Your Honor, I certainly did not intend to
15 mislead the Court when I referenced three orders. I
16 was referring specifically to your order in
17 February 2020 and July 2020 where you stated --
18 well, I'll use your exact language. You're initial
19 response to our request for attorney fees made in
20 the complaint and at trial is that Ms. Brawley is
21 quote, entitled.

22 Your Honor in your July 2020 order considered
23 the County's last round of 59(e) motion and
24 concluded quote, that Ms. Brawley is, "Still
25 entitled to reasonable attorneys' fees incurred

1 herein." That is all I meant by saying that. Your
2 November 2020 order is the third time Your Honor has
3 recognized that Ms. Brawley is entitled to
4 reasonable attorneys' fees and that is all she's
5 asking for. We trust the Court to make whatever
6 appropriate adjustments it deems necessary for the
7 affidavit submitted back in July and the billing
8 records submitted from my firm through November 9,
9 2020. And we thank you for your time today.

10 THE COURT: All right.

11 MR. LINDEMANN: Your Honor, have a good
12 weekend.

13 THE COURT: Gentlemen, I'll get back to you as
14 soon as possible. All right. Thank you.

15 (Matter concluded.)

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1 CERTIFICATE OF REPORTER)

2 STATE OF SOUTH CAROLINA)

3 RICHLAND COUNTY)

4 I, KAREN ANN KOCSIS, a Certified
5 Court Reporter and Notary Public for the State of
6 South Carolina at Large, do hereby certify:

7 That the foregoing proceedings were
8 taken before me on the date and at the time
9 mentioned on Page 1 and the proceedings were
10 recorded stenographically by and were thereafter
11 transcribed under my direction; that the foregoing
12 transcript as typed is a true, accurate and complete
13 record of the proceedings to the best of my ability.

14 I further certify that I am
15 neither related to nor counsel for any party to the
16 cause pending or interested in the events thereof.

17 Witness my hand, I have hereunto
18 affixed my official seal on this 27th day of
19 September 2021 at Columbia, Richland County, South
20 Carolina.

21

22

Karen A. Kocsis

23

24

25

Karen A. Kocsis, CCR
Notary Public
State of South Carolina at Large
My Commission expires August 9, 2031

STATE OF SOUTH CAROLINA	)	
	)	IN THE COURT OF COMMON PLEAS
COUNTY OF RICHLAND	)	
Wendy Brawley,	)	
	)	Civil Action No. 2015-CP-40-1805
Plaintiff,	)	
	)	
v.	)	
	)	PLAINTIFF'S PRE-TRIAL BRIEF
Richland County, South Carolina,	)	
	)	
Defendant.	)	
_____	)	

The Plaintiff, Representative Wendy Brawley, hereby submits this Pre-Trial Brief in accordance with Rule 16(c), SCRCP.

1. A concise, non-argumentative statement of the facts of the case.

The Plaintiff, Representative Wendy Brawley, has brought this action pursuant to the South Carolina Freedom of Information Act (FOIA), S.C. Code Ann. § 30-4-10, *et seq.* The Plaintiff presented four separate FOIA requests to the Defendant Richland County at the meeting of Richland County Council held on the evening of September 9, 2014, the fourth of which sought "a copy of the application and supporting documentation Richland County submitted to the USDA Rural Development for grant and loan funding for the Lower Richland Sewer Project" (hereinafter "Loan Documentation FOIA Request"). The Defendant failed to provide a timely or complete response to the Loan Documentation FOIA Request.

2. An objective statement of the facts in controversy.

By letter dated October 8, 2014, Defendant provided Representative Brawley only six (6) pages of documents in response to the Loan Documentation FOIA request. This consisted of a one (1) page "Continuation" Application for Federal Assistance dated March 16, 2010, as signed by County Administrator J. Milton Pope; two (2) pages of instructions; two (2) pages of "assurances"; and a one (1) page budget. Representative Brawley contends this response was untimely, inaccurate, and incomplete. Defendant's records and the testimony of Sara Salley will confirm that Defendant failed to actually conduct a meaningful search in response to the FOIA.

On March 25, 2015, Representative Brawley was forced to file the instant suit seeking, *inter alia*, the production of all responsive documents to the Loan Documentation FOIA Request. On June 3, 2015, Defendant produced 55 pages of documents that it did not provide Plaintiff in response to the Loan Documentation FOIA Request, including the July 18, 2012 Application for Federal Assistance. Representative Brawley was thereafter given access to records as part of discovery in this action and identified additional documents which were not produced originally in response to the Loan Documentation FOIA Request.

3. The legal issues involved. This includes the law applicable to the cause of action and the defense.

S.C. Code Ann. § 30-4-30(a) (2014) provides that: Any person has a right to inspect or copy any public record of a public body, except as otherwise provided by § 30-4-40, in accordance with reasonable rules concerning time and place of access. S.C. Code Ann. § 30-4-30(c) (2014) further provides that “if the request is granted, the record must be furnished or made available for inspection or copying. If written notification of the determination of the public body as to the availability of the requested public record is neither mailed nor personally delivered to the person requesting the document within the fifteen days allowed herein, the request must be considered approved.”

Richland County approved the Loan Documentation FOIA Request. However, it failed to furnish or make available the records sought in the request, requiring an action to be brought against Richland County to compel compliance with the law under S.C. Code Ann. § 30-4-100 (2014), which provides that:

(b) Any citizen of the State may apply to the circuit court for either or both a declaratory judgment and injunctive relief to enforce the provisions of this chapter in appropriate cases as long as such application is made no later than one year following the date on which the alleged violation occurs or one year after a public vote in public session, whichever comes later. The court may order equitable relief as it considers appropriate, and a violation of this chapter must be considered to be an irreparable injury for which no adequate remedy at law exists.

(b) If a person or entity seeking such relief prevails, he or it may be awarded reasonable attorney fees and other costs of litigation. If such person or entity prevails in part, the court may in its discretion award him or it reasonable attorney fees or an appropriate portion thereof.

As a result, Representative Brawley is entitled to judgment recognizing that Richland County violated the South Carolina Freedom of Information Act and awarding her reasonable attorney’s fees and costs.

4. A listing of exhibits, indicating those to which there is disagreement and a listing of witnesses who may be called and, if available, their address and phone number.

- (a) FOIA request dated September 9, 2014;
- (b) Email from Andy Metts dated September 15, 2014;
- (c) Letter from Judy Carter dated October 1, 2014;
- (d) Letter from Judy Carter dated October 8, 2014;
- (e) Enclosures to letter from Judy Carter dated October 8, 2014;
- (f) Fifty-five pages of records produced by Defendant on or about June 3, 2015
- (g) Exhibit D to Wendy Brawley Affidavit dated August 18, 2016
- (h) Any other exhibits or records exchanged between the parties as may be necessary to refresh a witnesses’ recollection or to rebut a witnesses’ testimony.

5. Any unusual problems relating to evidence to be introduced, such as “Business Records as Evidence Act,” hearsay, use of depositions, etc.

None anticipated by Representative Brawley.

6. Any unusual question or matter which should be brought to the attention of

the court.

This matter includes a request for an award of attorneys' fees and costs under S.C. Code Ann. § 30-4-100(b) (2014) and S.C. Code Ann § 15-37-10 et seq. If the court finds that Representative Brawley should prevail on her claim as the successful party, the undersigned counsel requests five (5) days to submit an affidavit of attorneys' fees and costs in support of this award.

7. A statement that settlement negotiations were attempted before the date of the pre-trial hearing and the status of settlement negotiations.

The parties mediated this action but were unable to reach a resolution.

Respectfully submitted,

s/ Jenkins M. Mann, Esq.

s/ Shaun C. Blake, Esq.

Counsel for Plaintiff

September 4, 2019

STATE OF SOUTH CAROLINA	)	
	)	
COUNTY OF RICHLAND	)	IN THE COURT OF COMMON PLEAS
	)	FOR THE FIFTH JUDICIAL CIRCUIT
Wendy Brawley,	)	
	)	
Plaintiff,	)	Civil Action No. 2015-CP-40-1805
	)	
v.	)	
	)	FINAL ORDER ON THE MERITS
Richland County, South Carolina,	)	
	)	
Defendant.	)	
_____	)	

THIS MATTER CAME BEFORE THE COURT on September 5, 2019 for a hearing on the merits (“**Trial**”). Present at the Trial and appearing on behalf of Plaintiff Representative Wendy Brawley (“**Representative Brawley**”) were Shaun C. Blake, Esq. and Jenkins M. Mann, Esq. Present at the Trial and appearing on behalf of Defendant Richland County was Andrew F. Lindemann, Esq.

FACTS

Based on the testimony presented at trial, I find the following. Prior to February 2013, Richland County applied for a loan and grant from the USDA Rural Development office to fund the majority of what is known as “Phase I” of the Lower Richland Sewer Project (hereinafter, the “**Grant**”), which includes planning, acquiring easements, and installing the infrastructure to provide Richland County sewer service to Lower Richland. (Transcript at 97, Salley Testimony). Richland County’s utilities department, grants coordinator, and general administration had roles in applying for the Grant. (Transcript at 97, Salley Testimony; Transcript at 114, Metts Testimony).

On September 9, 2014, at a Richland County Council Meeting, Representative Brawley submitted four (4) separate written South Carolina Freedom of Information Act (“**FOIA**”) requests to the Defendant Richland County. (Transcript at 23-27 and 81, Brawley Testimony). Of the four requests, only one remains at issue; specifically, Representative Brawley sought "a copy of the application and supporting documentation Richland County submitted to the United States

Department of Agriculture (USDA) Rural Development for grant and loan funding for the Lower Richland Sewer Project" (hereinafter "**Loan Documentation FOIA Request**"). (Transcript at 28-29, Brawley Testimony; Exhibit 1).

Defendant informed Representative Brawley by letter dated October 1, 2014 that they were researching her Loan Documentation FOIA Request and expected to have data available within the next few weeks. (Transcript at 29-31, Brawley Testimony; Exhibit 2). The October 1, 2014 letter provided, in part, "The information requested will be released." (Transcript at 83, Brawley Testimony; Exhibit 2).

a) The County's Response to Representative Brawley's Loan Documentation FOIA Request

By letter dated October 8, 2014, Defendant informed Representative Brawley that her request was forwarded to the Richland County Clerk of Council, Procurement Department, Utility Department, and Finance Department for review and provided documents as a response to the Loan Documentation FOIA Request. (Transcript at 32, Brawley Testimony; Exhibit 3). The October 8, 2014 letter also informed Representative Brawley that "**Richland County has no further information regarding this matter**". (Exhibit 3). The October 8, 2014 letter included only six (6) pages of documents consisting of the following:

- a) A one (1) page Application for Federal Assistance on Form 424, as signed by County Administrator J. Milton Pope;
- b) Two (2) pages of instructions for the SF-424 and SF-424c;
- c) Two (2) pages of "assurances" dated March 16, 2010; and
- d) A one (1) page budget.

(Hereinafter "**Original Response Documents**"). (Transcript at 33-34, Brawley Testimony; Exhibit 4).

The Application included with the Original Response Documents specifies the type of submission is "Non-Construction," the type of application is marked as a "Continuation," and the estimated federal funding requested was \$20,961,360. (Exhibit 4). Further, the documents provide that "Continuation" is defined as "an extension for an additional funding/budget period for a project with a projected

completion date.” (Transcript at 93, Brawley Testimony; Exhibit 4).

Recognizing that the County’s six-page response was not complete¹, on March 25, 2015, Representative Brawley was forced to file the instant lawsuit pursuant to the South Carolina Freedom of Information Act (FOIA), S.C. Code Ann. § 30-4-10, *et seq* seeking, *inter alia*, the production of all responsive documents to the Loan Documentation FOIA Request. On June 3, 2015, after suit was filed, Defendant produced 55 pages of additional documents². The documents provided were:

- a) Application for Assistance dated July 18, 2012;
- b) Instructions for the SF-424
- c) Budget Information – Construction Programs;
- d) Instructions for HUD-424C;
- e) Richland County Utilities Department - Lower Richland Sewer System - Preliminary Engineering Report - July 2012 – Cost Estimate – Phase I;
- f) SC WEP Guide 1 – Processing the Initial Application;
- g) Certification of Outstanding Debts dated July 18, 2012;
 - o Richland County – Ratios of Outstanding Debt by Type – Last Ten Fiscal Years;
 - o Richland County – Direct and Overlapping Governmental Activities Debt– As of June 30, 2011;
 - o Richland County – Legal Debt Margin – Last Ten Fiscal Years;
 - o Richland County – Ratios of General Bonded Debt Outstanding – Last Ten Fiscal Years;
- h) Lower Richland Sewer Revenue/Expenditure Projections;
- i) Balance Sheet (Governmental Funds; Capital Projects Fund; Water/Sewer Enterprise Fund) and related documents;
- j) Lower Richland Water/Sewer – Statement of Net Assets;
- k) Hopkins Utility System Enterprise Fund – Statement of Net Assets;
- l) Letter dated October 20, 2010 to the United States Department of Agriculture Rural Development from Richland County;
- m) Memorandum entitled “Richland County for Richland County/Utilities Department” dated February 23, 2007;
- n) Memorandum entitled “Information Needed for Organizational Review”
- o) Minutes of a Meeting Hopkins Community Water Project – Hopkins Park – Monday 28 August 2006;
- p) Letter dated April 12, 2010 to the United States Department of Agriculture Rural Development from South Carolina Budget and Control Board;
- q) Memorandum entitled “Lower Richland Community Sewer System Project”;
- r) Memorandum entitled “Development of a Richland County Owned and Operated Sewer

¹ The fact that the County’s response was incomplete was evident to Representative Brawley by both the sparsity of the documents produced and by the very language used in those few documents, including that the Application specified that it was a Continuation.

² Counsel for the Defendant, Mr. Lindemann, has sought to enter into evidence the transmittal letter that he wrote at the time of providing the June 2015 Discovery Documents to counsel for the Plaintiff Representative Brawley. In that transmittal letter, counsel for the Defendant maintains that the June 2015 Discovery Documents were obtained after the instant suit was brought from the USDA. There is no testimony or evidence before this court establishing that the June 2015 Discovery Documents came from the USDA and, as such, cannot be considered by this court.

- System to Serve Lower Richland County”;
- s) Lower Richland Sewer – Monthly User Fee and New Customer Connection Rate Comparison;
- t) Three (3) USDA Memoranda with Subject referring to “Richland County Utilities Department – Lower Richland County Sewer Project”;

(Transcript at 42-57, Brawley Testimony; Exhibit 5) (Hereinafter “**June 2015 Discovery Documents**”).

Believing the County’s production to still be incomplete, in February 2016, nearly a year and a half after the Loan Documentation FOIA Request was originally submitted, Representative Brawley was allowed inspection of Richland County’s Lower Richland Sewer Project file at Mr. Lindemann’s office as part of discovery in this action. (Transcript at 57-58, 88, Brawley Testimony). In reviewing the County’s files, Representative Brawley identified more than 120 pages of additional, entirely unique and relevant documents which were not produced originally in response to the Loan Documentation FOIA Request, **nor were they produced as part of the June 2015 Discovery Documents.** (Transcript at 57-58, Brawley Testimony). The newly discovered documents Representative Brawley found included the following:

- a) “New” Application for Federal Assistance SF-424 for Sewer System Improvements, Hopkins Service Area (Exhibit 7);
- b) “New” Application for Federal Assistance for Sewer System Improvements, Hopkins Service Area dated July 18, 2012 (Exhibit 17);
- c) “Continuation” Application for Federal Assistance SF-424 for project affecting “Hopkins Community, Lower Richland Community, Town of Eastover” (Exhibit 8);
- d) “New” Construction Application for Federal Assistance for Lower Richland County Sewer System, that included (i) Budget Information – Construction Programs, (ii) Certification Regarding Debarment, Suspension, and Other Responsibility Matters, and (iii) Certification of Outstanding Debts (Exhibit 9);
- e) “Continuation” Non-Construction Application for Federal Assistance for Sewer System Improvements for Hopkins Community, that included Budget Information – Construction Programs dated March 16, 2010 (Exhibit 10);
- f) Letter of Transmittal dated June 7, 2010 from Wilbur Smith indicating sending (i) Environmental Assessment for USDA (client copy); (ii) HUD Modified Environmental Assessment (client copy), among other items (Exhibit 11);
- g) South Carolina Rural Infrastructure Authority Grant Checklist (Exhibit 18);
- h) Letter from the USDA to Richland County dated January 5, 2011 providing comments to the revised “PER dated July 2012” (Exhibit 19);
- i) Letter from the USDA to Richland County dated August 2, 2012 providing comments to the revised “PER dated July 10” (Exhibit 13);
- j) Letter from the USDA to Richland County dated January 30, 2013, 21 pages in total,

- providing conditions which Richland County “must understand and agree to before further consideration may be given to [Richland County’s] application.” (Exhibit 21);
- k) Letter from Richland County to the USDA dated February 4, 2014 confirming Richland County is moving forward with the sewer project and is working to meet all “items contained in the Letter of Conditions dated January 30, 2013” (Exhibit 23);

(Transcript at 59-81, Brawley Testimony) (Hereinafter collectively “**February 2016 Located Documents**”).

b) Richland County’s Efforts in Responding to Loan Application FOIA

At trial, Sara Salley, the former grants coordinator for Richland County, testified that she accumulated and provided the documents that were given to Representative Brawley in the Original Response Documents. (Transcript at 101, Salley Testimony). Salley admitted that the documents she provided were solely from a search of what was in her office and further testified that she only had some files in her office, but her office did not have the “full application file” and that additional files should be kept by each department involved with the Grant. (Transcript at 101 and 98, Salley Testimony). Salley’s office was not in the same building as the Utilities Department and Salley did not search files in the Utilities Department or Finance Department. (Transcript at 99-100, Salley Testimony).

Andy Metts, Director of Utilities for Richland County in 2014, testified that files on the Grant “could have been” in the finance department office, procurement department office, and administration. (Transcript at 108, Metts Testimony). Metts is listed on both applications as point of contact for Richland County. (Transcript at 177-178, Metts Testimony; Exhibit 8; Exhibit 4). Mr. Metts’ testimony made it abundantly clear that he knew or should have known that the Defendant was in possession of more than six pages of documents at the time they responded to the Loan Documentation FOIA. Specifically, Mr. Metts testified that he was aware of the following:

- a) A Grant application and supporting documentation were given to the USDA prior to August 18, 2010. (Transcript at 133, Metts Testimony).
- b) The County submitted a USDA Application in July 2012 related to the Grant. (Transcript at 142-145, Metts Testimony; Exhibit 17).
- c) In August 2012, USDA requested additional information and explanations, which were likely provided by Richland County. (Transcript at 152-155, Metts Testimony).

- d) Richland County obtained and submitted preliminary engineering reports and revised preliminary engineering reports as part of the Grant. (Transcript at 150-152, Metts Testimony).
- e) In July 2012, Richland County received and Metts reviewed a 21-page letter from the USDA with requirements and conditions that must be met prior to the USDA further considering the Grant request. (Transcript at 158-162, Metts Testimony; Exhibit 21).
- f) Likely correspondence between Richland County and the USDA regarding the USDA's need for proof that Richland County held public meetings about the project. (Transcript at 175, Metts Testimony).
- g) The County's full application included numerous documents provided as part of the June 2015 Discovery Documents. (Transcript at 197, Metts Testimony).

In regards to Richland County record keeping practices, Metts further testified as follows:

- a) Documents and correspondence created as early as June 7, 2010 as part of the Grant were likely kept as part of Richland County's file. (Transcript at 129, Metts Testimony).
- b) Metts general mode of operation involved printing off important emails and keeping them in his files. (Transcript at 141, Metts Testimony).
- c) Metts likely did not destroy preliminary engineering reports obtained by Richland County for the Grant and submitted to the USDA, and such is "sure" to be somewhere in the Utilities Department's files. (Transcript at 150-151, Metts Testimony).
- d) Mr. Metts further admitted that he possessed miscellaneous documents associated with the Grant and submitted to the USDA as part of the application on his computer that he never deleted, which were not part of the Original Response Documents. (Transcript at 211-212, Metts Testimony).

However, despite Representative Brawley's clear request for the application "and supporting documentation," Metts testified that he inexplicably interpreted the Loan Documentation FOIA Request to be seeking just "the USDA application that was signed and submitted". (Transcript at 256, Metts Testimony). Accordingly, in response to the Loan Documentation FOIA Request, after Metts and his staff could not locate a USDA application in records within the Utilities Department, Metts contacted Salley. (Transcript at 112, 166, Metts Testimony). After obtaining "a USDA loan application" from Salley, despite Metts' admittedly knowing the Grant application was more involved than six pages, Metts and Richland County provided the Original Response Documents to Representative Brawley as their complete and final response. (Transcript at 222, Metts Testimony). Perhaps more troublingly, Metts later testified that in his search he found numerous documents related to the application which were not produced to Representative Brawley as part of the Original Response Documents. (Transcript at 206-208, 211-215, 226-227, 231-234, 266, and 272

Metts Testimony).

Representative Brawley seeks a declaration that FOIA requests are deemed approved, Richland County failed to properly and fully Loan Documentation FOIA, Plaintiff is entitled to immediate full and complete responses, and Plaintiff is entitled to recover costs and reasonable attorney fees.

LEGAL ANALYSIS

“The essential purpose of FOIA is to protect the public from secret government activity.”
See Brock v. Town of Mount Pleasant, 785 S.E.2d 198, 200 (S.C. 2016) (*citing Lambries v. Saluda County Council*, 760 S.E.2d 785, 789 (S.C. 2014)). S.C. Code Ann. § 30-4-15 (2014) provides as follows:

The General Assembly finds that it is vital in a democratic society that public business be performed in an open and public manner so that citizens shall be advised of the performance of public officials and of the decisions that are reached in public activity and in the formulation of public policy. Toward this end, provisions of this chapter must be construed so as to make it possible for citizens, or their representatives, to learn and report fully the activities of their public officials at a minimum cost or delay to the persons seeking access to public documents or meetings.

Our supreme court has found that the clear legislative intent is for FOIA to be liberally construed to carry out its purpose. *Pope v. Wilson*, 427 S.C. 377, 384-385, 831 S.E.2d 442, 446 (Ct. App. 2019) (*quoting Evening Post Publ’g. Co. v. Berkeley Cty. Sch. Dist.*, 392 S.C. 76, 82, 708 S.E.2d 745, 748 (2011)).

Pursuant to S.C. Code Ann. § 30-4-30(a) (2014), except for a few limited exceptions specifically exempted by § 30-4-40, “Any person has a right to inspect or copy any public record of a public body . . . in accordance with reasonable rules concerning time and place of access.” S.C. Code Ann. § 30-4-30(c) (2014)³ further provides:

Each public body, upon written request for records made under this chapter, shall

³ 2017 Act No. 67, Section 1, rewrote the section, providing for various revisions including revising the time limits and manner for responding to records requests.

within fifteen days (excepting Saturdays, Sundays, and legal public holidays) of the receipt of any such request notify the person making such request of its determination and the reasons therefor. Such a determination shall constitute the final opinion of the public body as to the public availability of the requested public record and, if the request is granted, the record must be furnished or made available for inspection or copying. If written notification of the determination of the public body as to the availability of the requested public record is neither mailed nor personally delivered to the person requesting the document within the fifteen days allowed herein, the request must be considered approved.

FOIA creates an affirmative duty on the part of public bodies to disclose information. Bellamy v. Brown, 305 S.C. 291, 295, 408 S.E.2d 219, 221 (1991) .

In this case, the central question is whether Richland County’s response to Representative Brawley’s Loan Documentation FOIA Request violated FOIA. Representative Brawley contends the October 8, 2014 response was woefully incomplete and that it was, at best, the result of an inadequate effort by the Defendant to locate and produce responsive documentation. I agree.

1. Defendant Failed to Provide All Responsive Documentation.

a) Richland County Failed to Produce all Documents in its Possession in Response to the Loan Documentation FOIA

The record demonstrates Richland County failed to provide even one tenth⁴ of the responsive documents in their possession in response to the Loan Documentation FOIA Request. By this court’s analysis, S.C. Code Ann. § 30-4-20(c) (2014), defines a “Public record” to include “all . . . documentary materials regardless of physical form or characteristics prepared, owned, used, in the possession of, or retained by a public body.” In replying to the Loan Documentation FOIA Request, Richland County informed Representative Brawley that, “The information requested will be released.” (Transcript at 83, Brawley Testimony; Exhibit 2). Per S.C. Code Ann. § 30-4-30(c) (2014), this constitutes the final opinion of the public body and as such, Representative Brawley was entitled to receive or have access to “a copy of the application and supporting documentation” related to the

⁴ Representative Brawley was given 6 pages in response to her Loan Documentation FOIA. Exhibits 5-15, 17, and 19-23, all responsive documents which were not provided to Representative Brawley in the Original Response Documents.

Lower Richland Sewer Project as she requested. Nevertheless, Richland County merely provided a total of 6 pages in response to the request and informed Representative Brawley “Richland County has no further information regarding this matter”. (Exhibit 3). Exhibits 5-15, 17, and 19-23, are all responsive documents which were not provided to Representative Brawley in the Original Response Documents. Accordingly, this Court finds the Defendant failed to provide, at a minimum, additional supporting documentation that was contained in its files at the time of the Loan Documentation FOIA Request. In addition, of note, during discovery Richland County also provided Representative Brawley a June 2015 Discovery Documents that included the July 18, 2012 Application for Federal Assistance, that was not part of the Original Response Documents⁵.

b) Defendant’s Contention that its FOIA Response was Sufficient is without Merit

Richland County contends that it did not violate FOIA, arguing that it is only required to produce those documents it created or retained, and is not required to obtain documents from a third-party or duplicate or re-create documents. In support of this argument, Defendant cites Trask v. South Carolina Dept. of Public Safety, 2012 WL 10864175 (S. C. Ct. App. 2012) (unpublished), which references, Kissinger v. Reporters Comm. for Freedom of the Press, 445 U.S. 136, 152 (1980), for that proposition.

Defendant’s reliance on Trask is misplaced and inapplicable to the facts before this Court. First, Defendant has attempted to argue that the June 2015 Discovery Documents were obtained from the USDA after the instant suit was brought. There is no testimony or evidence before this Court establishing any such origin for June 2015 Discovery Documents. Defendant’s reliance on its own counsel’s transmittal letter for the June 2015 Discovery Documents is not evidence establishing the origin of these documents. Neither Defendant’s counsel, nor any witness, testified that the June 2015

⁵ The Court acknowledges that Richland County contends these 55-pages were provided by the USDA. However, no admissible evidence supports this contention. As such, the record documents only that Richland County provided the 55-pages to Representative Brawley after this action was filed and as such, facts demonstrate said pages were in Richland County’s possession and control at the time the Loan Documentation FOIA Request was submitted.

Discovery Documents originated from the USDA.

Second, the February 2016 Located Documents were not produced to Representative Brawley prior to filing suit, **are completely unique from the June 2015 Discovery Documents**, and are responsive to the Loan Documentation FOIA Request. Defendant has nonetheless attempted to argue that Representative Brawley cannot establish that the February 2016 Located Documents were in the Defendant's possession at the exact moment that it responded to her FOIA request. The law places no such burden on the Plaintiff. The only testimony in the case provides that loan application documentation involved numerous submittals and documents, that Richland County Utilities Department generally kept copies of important documents, that supporting documentation was likely within Richland County's files and that these very same documents were present in the Defendant's file when Representative Brawley was allowed to search it in February 2016. No evidence or testimony was presented by Richland County to the contrary.

In a civil case, proof of circumstances warranting a given inference is sufficient to prove a fact. *See generally, Eickhoff v. Beard-Laney*, 20 S.E.2d 153, 155 (S.C. 1942). (*citing Leek v. New South Exp. Lines*, 192 S.C. 527, 7 S.E.2d 459). "In the absence of a statute or a valid contractual provision to the contrary, circumstantial evidence is regarded by law as competent to prove any given fact in issue in a civil case *and is sometimes as cogent and irresistible as direct and positive testimony.*" *Id.* (*quoting* Am. Jur, Volume 20 at 259-260) (emphasis included in original) (*see also, Graves v. CAS Med. Sys., Inc.*, 401 S.C.63, 80, 735 S.E.2d 650, 658 (2012) (providing "the general rule is any fact can be shown through circumstantial evidence, and it is up to the trier of fact to determine whether it alone is worth as much merit as direct evidence."))

Finally, this Court finds that under FOIA, a public body is required to make reasonable and diligent efforts to locate and/or identify the location of public records requested and that the Defendant failed to do so in this case. Understanding the legislative intent is that FOIA "must be construed so as to make it possible for citizens, or their representatives, to learn and report fully the

activities of their public officials at a minimum cost or delay to the persons seeking access to public documents or meetings” (S.C. Code Ann. § 30-4-15 (2014)), and that FOIA is to be liberally construed to carry out its purpose (Pope, 427 S.C. at 384-38), I find that FOIA imposes on a public body, at a minimum, an obligation to conduct a thorough investigation for the requested documents and that Defendant, as a public body, failed to do so. Accordingly, based on the foregoing, I find that in failing to undertake reasonable investigation to obtain and/or locate all applicable documents, and in failing to provide all applicable documents, Richland County violated FOIA. Federal law supports this analysis. In Ethyl Corp. v. U.S. Env'tl. Prot. Agency, 25 F.3d 1241, 1246 (4th Cir.1994), the Court held that “in judging the adequacy of an agency search for documents the relevant question is . . . whether the agency has demonstrated that it has conducted a search reasonably calculated to uncover all relevant documents.” (citations and quotations omitted). In Ethyl Corp., the Court found that to comply with FOIA the agency must demonstrate that the search conducted include a search of all files likely to contain responsive materials; the agency cannot merely aver that the search was consistent with customary practices and procedures. Id. at 1246-47. Accordingly, based on the foregoing, I find that FOIA in South Carolina requires that a public body take, at a minimum, must undertake reasonable investigative measures to provide requested public records.

2. Richland County is ordered to provide all applicable documents.

Per section 30-4-100(a) (2014) of the South Carolina Code, “The court may order equitable relief as it considers appropriate.” Further, a violation of FOIA “must be considered to be an irreparable injury for which no adequate remedy at law exists.” Id.

The record demonstrates additional responsive documents to the Loan Documentation FOIA Request may exist within the Defendant’s records. I hereby order that the Defendant conduct a thorough examination of its records for any heretofore unidentified responsive documents and

produce those to Representative Brawley within 10 days of the date of this order.

3. Representative Brawley is entitled to Attorney's Fees.

Per section 30-4-100(b) (2014) of the South Carolina Code, Representative Brawley is entitled to reasonably attorney's fees incurred herein. Sloan v. Friends of Hunley, Inc., 393 S.C. 152, 157-158, 711 S.E.2d 895, 897-898 (2011). As directed at the September 5, 2019 trial on the merits, this Court will set a hearing as soon as practicable for the Court and the Parties to determine the amount of fees and costs Representative Brawley is entitled to.

IT IS THEREFORE ORDERED AND DECREED THAT Defendant violated FOIA in responding to the Loan Documentation FOIA Request, and in so doing failed to reasonably investigate the location of and/or provide applicable public records in response the same, all in violation of FOIA;

IT IS FURTHER ORDERED AND DECREED THAT Richland County must complete a reasonable investigation into stored documents and provide all applicable public records that pertain to the Loan Documentation FOIA Request;

IT IS FINALLY ORDERED AND DECREED THAT, pursuant to South Carolina Code Annotated Section 30-4-100(B), Plaintiff, as the prevailing party, is entitled to the recovery of attorneys' fees, in an amount to be determined by a hearing before this Court as soon as practicable.

IT IS SO ORDERED!

The Honorable Deandrea G. Benjamin
Presiding Circuit Court Judge
Fifth Judicial Circuit

_____, 2019
Columbia, South Carolina

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Jul 21 2022

SC Court of Appeals

CERTIFICATE OF COUNSEL

The undersigned counsel certifies that the Record on Appeal contains all material proposed to be included by all parties and not any other material.

LINDEMANN & DAVIS, P.A.

BY: s/ Andrew F. Lindemann

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*Counsel for Appellant-Respondent
Richland County*

June 16, 2022

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SC Court of Appeals

CERTIFICATE OF COMPLIANCE

The undersigned counsel for the Appellant-Respondent Richland County certifies that the Record on Appeal complies with the Supreme Court's Revised Order Concerning Personal Identifying Information and Other Sensitive Information in Appellate Court Filings, issued April 15, 2014.

LINDEMANN & DAVIS, P.A.

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June 16, 2022