ELECTRONICALLY FILED - 2026 Sep 28 9:32 AM - RICHLAND - COMMON PLEAS - CASE#2020CP4004769

STATE OF SOUTH CAROLINA **COUNTY OF RICHLAND**	)	**IN THE COURT OF COMMON PLEAS**
In the House, LLC, Plaintiff, -vs- Richland County, City of Columbia, and the South Carolina Department of Transportation, Defendants.	)	Civil Action No.: 2020-CP-40-04769 **ORDER GRANTING PLAINTIFF'S MOTION FOR ATTORNEY'S FEES AND COSTS**

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SC Court of Appeals

This matter came before the Court on August 31, 2026 by the motion of Plaintiff In the House, LLC ("Plaintiff") for an award of attorney's fees and costs pursuant to S.C. Code Ann. § 28-11-30(3). Plaintiff served SCDOT and Richland County the affidavits of fees and costs, with supporting invoices and exhibits, on January 14, 2026. Defendant South Carolina Department of Transportation ("SCDOT") filed a Memorandum in Opposition on August 26, 2026, together with the affidavit of William S. Dillard and Exhibits A, B, and C. Defendant Richland County ("County") filed its own Memorandum in Opposition on August 28, 2026, in which it incorporates by reference the standard of review and Arguments I, III, IV, V, VI, and VII of SCDOT's Memorandum, and does not join SCDOT's Argument II addressed to the participation of a second attorney at trial. Plaintiff filed a Reply Memorandum on August 28, 2026. The Court has considered the pleadings, the affidavits and invoices, the exhibits submitted by both parties, the arguments of counsel, and the entire record in this matter, including the Court's Order following trial and its Order on Post-Trial Motions.

Having considered the foregoing, the Court makes the following findings of fact and conclusions of law.

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FINDINGS OF FACT

1. This action was commenced in 2020 and asserted claims arising out of stormwater drainage and flooding affecting Plaintiff's property. Three governmental defendants were named: Richland County ("County"), the City of Columbia, and SCDOT.

2. The case was tried before this Court, without a jury, over approximately eight days. The trial included testimony from eighteen witnesses and the admission of well over one hundred exhibits. Following trial, the parties submitted competing proposed orders, and the Court issued a twenty-nine page Order containing findings of fact and conclusions of law.

3. Plaintiff prevailed on its inverse condemnation claim against Defendants Richland County and SCDOT, and judgment was entered in Plaintiff's favor against those Defendants. SCDOT and County thereafter filed post-trial motions, including motions addressed to the election of remedies, to alter or amend, for a new trial absolute, and for a new trial nisi remittitur. The Court denied those motions except as to a partial election of remedies. SCDOT's Rule 59(e) motion was denied by order filed December 30, 2025.

4. In its Order, the Court determined that Plaintiff is entitled to recover its reasonable attorney's fees and costs under S.C. Code Ann. § 28-11-30(3) and directed that the amount be determined upon subsequent submission.

5. Plaintiff served its Affidavit of Attorney's Fees and Costs as well as the Affidavit of his client and supporting invoices and time records on the Defendants by email on January 14, 2026.

6. Plaintiff was represented by Tobias G. Ward, Jr., and J. Derrick Jackson of Tobias G. Ward, Jr., P.A. Counsel submitted contemporaneous, itemized billing records reflecting 575.15 attorney hours, exclusive of law clerk time, billed at hourly rates of $400.00 for Mr. Ward and an average rate of $325.00 for Mr. Jackson.

7. Plaintiff seeks attorney's fees of $204,100.00, costs billed by counsel of $12,914.09, and costs paid directly by Plaintiff of $18,609.78, for a total of $235,623.87. The direct costs consist principally of appraisal fees paid to Deborah Tripp ($11,338.00), a survey performed

by Baxter ($2,700.00), a design fee paid to Cotterill ($1,500.00), deposition transcripts, and a sprinkler system inspection.

8. The fees and costs sought were billed to and incurred by Plaintiff in an arms length transaction under an hourly fee arrangement. This matter was not undertaken on a contingency basis.

9. SCDOT does not challenge the hourly rates charged by Plaintiff's counsel. SCDOT's affiant states that Mr. Jackson's rate "is not unreasonable for an attorney of his experience." (Dillard Aff. ¶ 15.) SCDOT does not challenge the professional standing, skill, or reputation of Plaintiff's counsel.

10. SCDOT does not identify any specific time entry that it contends was duplicative, block-billed to an impermissible degree, or not actually worked. SCDOT makes no specific objection to any item of costs.

11. SCDOT's objections are: (a) that the requested fee is disproportionate to the judgment and should be capped at approximately one-third of the judgment, or $104,000.00; (b) that fees incurred in opposing the City of Columbia's two motions for summary judgment should be disallowed; (c) that the participation of two attorneys at trial was unnecessary; (d) that Plaintiff was dilatory in developing its damages proof; and (e) that fees should be denied altogether because judgment should not have been entered.

12. The County filed a two-page Memorandum in Opposition. The County asserts no independent objection to any time entry, hourly rate, or item of costs. It states that SCDOT's arguments are "equally applicable" to the County and, "in an effort to avoid unnecessary duplication or redundancy," incorporates by reference the standard of review and Arguments I, III, IV, V, VI, and VII of SCDOT's Memorandum. On that basis the County asks that fees and costs be denied as to it or, alternatively, reduced.

13. The County does not incorporate SCDOT's Argument II, which contends that Plaintiff may not recover fees for the attendance of a second attorney at trial. The County was itself represented by Michael B. Wren and John P. Grimes, Jr., of Davidson & Wren, P.A., and employed two attorneys at trial.

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14. Because the County's objections are those SCDOT advanced, and because the County offers no additional evidence or itemization, the Court's findings and conclusions as to each of the incorporated arguments apply with equal force to the County.

CONCLUSIONS OF LAW

A. The Statutory Standard

15. Section 28-11-30(3) provides that the court "shall determine and award" a sum that will "reimburse the plaintiff for his reasonable costs, disbursements, and expenses, including reasonable attorney, appraisal, and engineering fees actually incurred because of the proceeding." S.C. Code Ann. § 28-11-30(3). The award is mandatory once entitlement is established, and the measure is reimbursement of fees and costs actually incurred.

16. In assessing reasonableness, South Carolina courts consider six factors: (1) the nature, extent, and difficulty of the case; (2) the time necessarily devoted to the case; (3) professional standing of counsel; (4) contingency of compensation; (5) beneficial results obtained; and (6) customary legal fees for similar services. *Jackson v. Speed*, 326 S.C. 289, 308, 486 S.E.2d 750, 760 (1997); *Baron Data Sys., Inc. v. Loter*, 297 S.C. 382, 384, 377 S.E.2d 296, 297 (1989). The lodestar is calculated by multiplying a reasonable hourly rate by the reasonable time expended. *Layman v. State*, 376 S.C. 434, 457, 658 S.E.2d 320, 332 (2008).

B. Richland County's Memorandum in Opposition

17. The County's Memorandum raises no ground of opposition that SCDOT has not raised. It adopts SCDOT's standard of review and Arguments I, III, IV, V, VI, and VII, and it supplies no affidavit, no itemized objection, and no evidence of its own. The rulings that follow therefore dispose of the County's opposition as well as SCDOT's: every conclusion stated below as to an argument the County has incorporated is entered as to the County to the same extent and for the same reasons as it is entered as to SCDOT.

18. The single argument the County has not incorporated is SCDOT's Argument II, addressed to the participation of a second attorney at trial. The County's decision not to join that objection is consistent with its own staffing of the defense, discussed in Section E below. Because the County does not advance that objection, only one of the two itemized reductions SCDOT

proposes — the fees attributed to opposing the City of Columbia's summary judgment motions — is asserted against Plaintiff by the County at all.

C. Proportionality to the Judgment

19. SCDOT's principal position is that any award should be capped at approximately one-third of the judgment, on the reasoning that a contingency fee would have produced that result. The Court cannot adopt this approach.

20. The amount of recovery is one factor among six; it is not a ceiling. Our Supreme Court has held that "there is no requirement that an attorney's fee be less than or comparable to a party's monetary judgment." *Taylor v. Medenica,* 331 S.C. 575, 582, 503 S.E.2d 458, 462 (1998). In *Baron Data Systems*, the Court upheld an award of fees and costs substantially exceeding the judgment and observed that courts in other jurisdictions have awarded fees exceeding the verdict obtained. 297 S.C. at 385, 377 S.E.2d at 297.

21. Moreover, this matter was not undertaken on a contingency basis, and the Court may not compute the award from a hypothetical fee arrangement. *See S.C. Dep't of Transp. v. Revels*, 411 S.C. 1, 11–12, 766 S.E.2d 700, 705 (2014) (a fee contract between client and counsel "may not serve as a basis for computing an attorney's fee award against the unsuccessful party" and "is not binding on the court").

22. The Court further notes that SCDOT's two itemized objections total $47,835.00. Deducted from the $204,100.00 requested, those objections would yield $156,265.00 rather than the $104,000.00 SCDOT proposes. The difference of $52,265.00 is not supported by any itemized objection or evidence in the record, and the proposed figure of 320 compensable hours is not derived from a review of the time entries. A reduction of 255.15 hours — approximately forty-four percent of counsel's documented time — cannot be made without findings identifying the hours that are unreasonable. The Court declines to reduce the award on this basis.

23. As to the County, the arithmetic is weaker still. The County adopts the proportionality argument but not the second-attorney objection, leaving a single itemized reduction of $25,022.50 attributable to the City's summary judgment motions. The balance of any reduction to one-third of the judgment would rest on no itemization at all.

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24. For the same reason, the Court declines SCDOT's suggestion that Mr. Ward's hours be compensated at Mr. Jackson's lower average rate. No party contends that the $400.00 rate is unreasonable for an attorney of Mr. Ward's experience, and the record supplies no basis for blending the rates downward.

D. The City of Columbia's Summary Judgment Motions

25. SCDOT contends that fees incurred in opposing the City's two motions for summary judgment should be disallowed because Plaintiff did not ultimately prevail against the City, relying on *Hardaway Concrete Co. v. Hall Contracting Corp.,* 374 S.C. 216, 232–33, 647 S.E.2d 488, 496 (Ct. App. 2007).

26. *Hardaway* is distinguishable. There, the reduction was applied to a motion the fee applicant filed and lost, and the court found that counsel "did not obtain beneficial results from this particular motion." *Id*. Here, Plaintiff opposed both motions successfully. The first was argued August 10, 2023, and denied. The second was argued September 13, 2024, and denied by Form 4 Order filed September 16, 2024. Plaintiff obtained the beneficial result it sought on each.

27. The City's later dismissal on directed verdict does not transform two successful oppositions into unsuccessful work. Where a lawsuit consists of related claims, "a plaintiff who has won substantial relief should not have his attorney's fee reduced simply because the [court] did not adopt each contention raised." *Hensley v. Eckerhart*, 461 U.S. 424, 440 (1983); *see id*. at 435 (where claims involve "a common core of facts" or "related legal theories," the inquiry should focus on "the significance of the overall relief obtained").

28. The Court further finds that the work in question is not severable from the case against SCDOT. The City's motions addressed the same stormwater record, the same roadway elevation and berm evidence, the same causation proof, and the same witnesses — including David Link, Jason Patterson, Hugh Wilson, and Dan Creed — on which the Court based its findings against SCDOT. The affidavits, photographs, contract extracts, and record citations assembled in opposition to those motions were used again at trial. Counsel for SCDOT and the County attended the argument of both motions. fees actually incurred because of the proceeding." S.C. Code Ann. § 28-11-30(3). These were fees "actually incurred because of the proceeding." S.C. Code Ann. § 28-11-30(3).

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E. The Participation of Two Attorneys

29. SCDOT objects to the presence of two attorneys at trial and characterizes the case as not particularly complex. The Court does not share that characterization. The matter involved three governmental defendants, five causes of action, two intergovernmental agreements, a permission agreement with special provisions, competing engineering experts, competing appraisers, and a contested election of remedies, and it was tried over approximately eight days with eighteen witnesses and more than one hundred exhibits.

30. There is "nothing inherently unreasonable about a client having multiple attorneys, and they may all be compensated if they are not unreasonably doing the same work and are being compensated for the distinct contribution of each lawyer." *Norman v. Hous. Auth. of Montgomery*, 836 F.2d 1292, 1302 (11th Cir. 1988). A reduction is warranted only upon a finding of "excessive and duplicitous work," *Getzen v. Law Offices of James M. Russ, P.A.*, 323 S.C. 377, 382, 475 S.E.2d 743, 746 (1996), or "an unreasonable duplication of efforts," *City of North Charleston v. Claxton*, 315 S.C. 56, 63, 431 S.E.2d 610, 614 (Ct. App. 1993).

31. SCDOT identifies no task performed twice. The record reflects a division of labor: counsel examined different witnesses and handled different issues, and Mr. Ward appeared alone on August 20, 2025. Plaintiff, as the sole party bearing the affirmative case against three defendants, was not unreasonable in staffing the trial with two attorneys. Mr. Ward's participation in trial allowed him to be ready and prepared when he had to be the sole attorney when Mr. Jackson had to leave for his daughter's medical issue.

32. The court notes that the Defendants with four experienced attorneys and at times a law clerk combined to provide a defense against a single Plaintiff. The court also notes that the County also employed two attorneys. The Court finds no unreasonable duplication of effort and declines to reduce the award on this ground. The County, which employed two attorneys of its own in defending this action, has not joined SCDOT's objection to the participation of a second attorney for Plaintiff, and that objection is therefore before the Court as to SCDOT alone.

33. The Court further notes that the fees were billed to a client at arm's length, which is competent evidence of the reasonableness of the charges and satisfies the statutory requirement that fees be "actually incurred."

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F. The Development of Plaintiff's Damages Proof

34. SCDOT contends that Plaintiff was slow to develop and disclose its damages estimates and that the fee should be reduced accordingly. SCDOT cites no authority for that proposition, and the asserted delay is not among the factors identified in *Jackson v. Speed.*

35. The record also does not support the objection. SCDOT did not move to compel, did not seek a scheduling deadline for damages disclosures, did not seek sanctions, and did not raise the issue with the Court during the pendency of the litigation. Continuances were sought by multiple parties, and several were entered by consent.

36. SCDOT also fails to clearly articulate how this affected the attorney's fees and costs actually incurred by the Plaintiff. For example, that unnecessary depositions were taken.

37. In any event, the fees billed through April 2023 — the period SCDOT characterizes as unproductive — total $18,760.00, or approximately nine percent of the fee request. The largest single invoice, $97,005.00 for 260.65 hours, reflects trial and post-trial work occasioned by SCDOT's contest of liability through an eight-day trial and its subsequent post-trial motions. *See City of Riverside*, 477 U.S. at 580 n.11 ("The government cannot litigate tenaciously and then be heard to complain about the time necessarily spent by the plaintiff in response." (quoting Copeland v. Marshall, 641 F.2d 880, 904 (D.C. Cir. 1980) (en banc))).

G. Exhibit C

38. SCDOT submits a pre-suit email from Mr. Barczak dated August 7, 2020, describing his objectives for repair of the property. The document was created more than two months before the Complaint was filed and does not bear on whether counsel's hours or rates were reasonable. To the extent it is offered to revisit the measure of damages, the Court has already weighed the competing estimates, found the testimony of Mr. Marion credible, and addressed SCDOT's challenge on post-trial motion. Exhibit C does not affect the fee determination.

H. SCDOT's Request That Fees Be Denied Entirely

39. SCDOT asks in the alternative that fees be denied on the ground that judgment should not have been entered against it. That contention has been presented and denied, most recently by order filed December 30, 2025, and it is preserved for appellate review. It is not a basis

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on which this Court may decline to make the award that the statute requires and that the Court has already directed be determined.

40. The County, incorporating that argument, likewise asks that fees and costs be denied as to it. Plaintiff prevailed on its inverse condemnation claim against the County as well as SCDOT, and this Court has already determined that Plaintiff is entitled to recover its reasonable fees and costs under S.C. Code Ann. § 28-11-30(3). The County's request is denied for the same reasons.

I. Costs

41. Section 28-11-30(3) expressly authorizes recovery of "reasonable costs, disbursements, and expenses, including reasonable attorney, appraisal, and engineering fees actually incurred because of the proceeding." The costs sought — appraisal fees, survey and design fees, deposition transcripts, and related expenses — fall within the categories the statute names. Neither SCDOT nor the County has made any specific objection to any cost item. The Court has reviewed the supporting documentation and finds the costs reasonable and actually incurred because of this proceeding.

J. Findings on the Six Factors Governing Reasonableness

42. The Court makes the following specific findings as to each of the six factors set forth in *Jackson v. Speed*, 326 S.C. 289, 308, 486 S.E.2d 750, 760 (1997), and *Baron Data Systems, Inc. v. Loter*, 297 S.C. 382, 384, 377 S.E.2d 296, 297 (1989).

1. The Nature, Extent, and Difficulty of the Case

43. This was not a routine matter. Plaintiff asserted five causes of action against three separate governmental defendants — Richland County, the City of Columbia, and SCDOT — each separately represented, arising out of stormwater drainage and flooding affecting Plaintiff's property. The case was pending for approximately five years.

44. The proof required at trial was technical. The claims turned on roadway design and elevation, berm construction, the capacity and routing of the stormwater system, and causation as between the acts of three different governmental entities. The parties presented competing engineering experts and competing appraisers. The Court received evidence concerning two

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intergovernmental agreements and a permission agreement containing special provisions, each of which bore on the allocation of responsibility among the defendants.

45. The litigation also required Plaintiff to respond to motions practice initiated by other parties, including two motions for summary judgment filed by the City of Columbia, and to litigate a contested election of remedies both at trial and post-trial.

46. The trial itself consumed approximately eight days of testimony, involved eighteen witnesses and well over one hundred exhibits, and was followed by lengthy competing proposed orders and a twenty-nine page Order of this Court containing findings of fact and conclusions of law. SCDOT and County thereafter filed four post-trial motions.

47. The Court expressly declines to adopt SCDOT's characterization of this case as one that "was not particularly complex either legally or factually." That description is inconsistent with the record and with the Court's own experience of the trial. This factor weighs in favor of the fee requested.

2. The Time Necessarily Devoted to the Case

48. Plaintiff's counsel documented 575.15 attorney hours, exclusive of law clerk time, in contemporaneous, itemized time entries recorded at the time the work was performed and billed to the client in the ordinary course.

49. The entries are described with sufficient particularity to permit review. They identify the task performed, the date, and the time expended. SCDOT does not contend that any entry reflects work that was not actually performed, and SCDOT identifies no entry as duplicative.

50. The distribution of time is consistent with the demands of the case. Fees billed through April 2023 total $18,760.00, approximately nine percent of the request, reflecting the investigative and pleading stage. The single largest invoice, $97,005.00 for 260.65 hours, corresponds to trial preparation, an eight-day trial, and post-trial motions practice. The concentration of time in the trial and post-trial phases is what the Court would expect in a case tried to conclusion and then subjected to four post-trial motions.

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51. SCDOT proposes that the Court find 320 hours reasonable and disallow the remaining 255.15 hours. The Court will not make that finding. The 320-hour figure is not derived from any review of the time entries; it is the number of hours required to reach a predetermined dollar figure. A reduction of approximately forty-four percent of counsel's documented time would require findings identifying which hours were unnecessary and why, and the record contains no evidence supporting such findings.

52. The Court finds that 575.15 attorney hours were reasonably and necessarily devoted to this matter.

3. The Professional Standing of Counsel

53. Tobias G. Ward, Jr. (S.C. Bar #5826) and J. Derrick Jackson (S.C. Bar #15192) represented Plaintiff throughout. Their qualifications and experience are set forth in the affidavits of record and are unchallenged.

54. SCDOT does not question the professional standing, competence, skill, or reputation of either attorney. SCDOT's own affiant states that Mr. Jackson's rate "is not unreasonable for an attorney of his experience." (Dillard Aff. ¶ 15.)

55. The Court observed both attorneys throughout an eight-day trial and in post-trial proceedings, and finds that the quality of representation was consistent with their stated experience and with the rates charged. This factor supports the award.

4. The Contingency of Compensation

56. This matter was not undertaken on a contingency basis. Plaintiff engaged counsel under an hourly fee arrangement, and the fees sought were billed to and actually incurred by Plaintiff at arm's length as the work was performed, without regard to the outcome of the litigation. The invoices reflecting those charges are in evidence.

57. This factor is therefore neutral in the sense that no contingency enhancement is sought or warranted. It is, however, relevant in a different respect: because the client was obligated to pay these charges, the amounts billed constitute reliable market evidence of the reasonable value of the services.

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58. The Court rejects SCDOT's proposal that the award be measured by what a contingency fee would have yielded had one been in place. No contingency agreement exists, and the Court may not compute an award against an unsuccessful party by reference to a fee arrangement, actual or hypothetical. *S.C. Dep't of Transp. v. Revels*, 411 S.C. 1, 11–12, 766 S.E.2d 700, 705 (2014). The statute directs reimbursement of fees "actually incurred," S.C. Code Ann. § 28-11-30(3), and the fees actually incurred were hourly.

5. The Beneficial Results Obtained

59. Plaintiff prevailed on every claim it asserted against Richland County and SCDOT and obtained judgment against those Defendants following an eight-day bench trial. That judgment was sustained against SCDOT's post-trial motions, which the Court denied except as to a partial election of remedies, and against SCDOT's Rule 59(e) motion, denied by order filed December 30, 2025.

60. Plaintiff also obtained beneficial results on the motions SCDOT asks the Court to excise from the award. Plaintiff successfully opposed the City's first motion for summary judgment, argued August 10, 2023 and denied, and the City's second motion for summary judgment, argued September 13, 2024 and denied by Form 4 Order filed September 16, 2024. The City's eventual dismissal on directed verdict does not render those successful oppositions unsuccessful, and the record developed in opposing them — addressed to the same stormwater evidence, roadway elevation and berm evidence, causation proof, and witnesses on which the Court based its findings against SCDOT — was used again at trial.

61. The Court declines to measure the beneficial result by the ratio of the fee to the judgment. "[T]here is no requirement that an attorney's fee be less than or comparable to a party's monetary judgment." *Taylor v. Medenica*, 331 S.C. 575, 582, 503 S.E.2d 458, 462 (1998); see Baron Data Sys., 297 S.C. at 385, 377 S.E.2d at 297; *City of Riverside v. Rivera*, 477 U.S. 561, 574, 580 (1986). The relief Plaintiff sought was obtained in full as against SCDOT, and this factor weighs in favor of the award.

6. The Customary Legal Fees for Similar Services

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62. Counsel billed at $400.00 per hour for Mr. Ward and at an average rate of $325.00 per hour for Mr. Jackson. The Court finds these rates consistent with the rates customarily charged in Richland County and the surrounding market by attorneys of comparable experience for complex civil litigation of this kind, including inverse condemnation and other litigation against governmental entities.

63. SCDOT does not contend that either rate is excessive. Its affiant addresses only the combined hourly cost of two attorneys appearing together, which is an objection to staffing rather than to rates, and which the Court has addressed in Section E above.

64. The Court accordingly finds no basis to reduce either rate, and specifically declines SCDOT's suggestion that Mr. Ward's time be compensated at Mr. Jackson's lower average rate. Nothing in the record suggests that $400.00 per hour is unreasonable for an attorney of Mr. Ward's standing, and the Court is aware of no authority permitting a senior attorney's conceded rate to be blended downward absent such a finding.

K. The Lodestar

65. Multiplying the reasonable hours reasonably expended by the reasonable hourly rates charged, and having weighed each of the six factors above, the Court finds the lodestar to be $204,100.00. No party has identified, and the Court does not find, any circumstance warranting an upward or downward adjustment to that figure.

CONCLUSION AND ORDER

Based upon the foregoing findings of fact and conclusions of law, IT IS HEREBY ORDERED, ADJUDGED, AND DECREED that Plaintiff's Motion for Attorney's Fees and Costs is GRANTED as follows:

1. Plaintiff In the House, LLC is awarded attorney's fees in the amount of $204,100.00;

2. Plaintiff is awarded costs billed by counsel in the amount of $12,914.09;

3. Plaintiff is awarded costs paid directly by Plaintiff in the amount of $18,609.78; and

4. Judgment is entered in favor of Plaintiff and against Defendants Richland County and the South Carolina Department of Transportation in the total amount of $235,623.87, together with post-judgment interest as provided by law.

AND IT IS SO ORDERED.

DANIEL COBLE
Chief Administrative Judge,
Fifth Judicial Circuit

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Richland Common Pleas

Case Caption:	In The House Llc vs City Of Columbia , defendant, et al
Case Number:	2020CP4004769
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So Ordered

s/ Daniel Coble, 2774