

RESOLUTION NO. R-2020-003

A RESOLUTION OF THE CITY OF CLEMSON, SOUTH CAROLINA, AUTHORIZING THE CREATION OF A JOINT AUTHORITY WATER AND SEWER SYSTEM; AUTHORIZING THE CITY OF CLEMSON, SOUTH CAROLINA TO JOIN WITH OTHER AUTHORITIES IN THE CREATION AND OPERATION OF A JOINT AUTHORITY WATER AND SEWER SYSTEM; AND OTHER MATTERS RELATED THERETO.

NOW, THEREFORE, BE IT ORDAINED by the City Council of the City of Clemson, South Carolina duly assembled and with a legal quorum, as follows:

ARTICLE I **FINDINGS OF FACT**

Section 1.01 Findings of Fact.

Incident to the adoption of this resolution (this "Resolution"), the City Council of the City of Clemson, South Carolina (the "City Council"), the governing body of the City of Clemson, South Carolina (the "City"), has made the following findings:

(a) The City is a political subdivision of the State of South Carolina, and is authorized to provide water service pursuant to Title 5, Chapter 31 of the Code of Laws of South Carolina 1976, as amended.

(b) Pursuant to the provisions of Title 6, Chapter 25 of the Code of Laws of South Carolina 1976, as amended (the "Act"), any two or more governing bodies of Authorities (as such term is defined in the Act) may create a Joint Authority Water and Sewer System (a "Joint System") for the purposes of planning, financing, developing, constructing, acquiring, improving, enlarging, selling, leasing, maintaining, and operating a project (as such term is defined in the Act) for the present and future needs of their service areas and/or to create a finance pool.

(c) The City intends to negotiate a non-binding Memorandum of Understanding ("MOU") with the Town of Pendleton, South Carolina and the County of Anderson, South Carolina (the "Parties"), setting forth certain understandings of the Parties with respect to the creation of a Joint System, and is considering the adoption of this Resolution and the entry into such Joint System based upon the mutual understandings of the parties as shall be set forth therein.

(d) After due investigation and consideration, the City Council has determined that it is in the best interests of the City, its citizens, and its customers to create a Joint System, and to that end, has further determined that the City should join with the Parties to create a Joint System pursuant to the provisions of the Act. This finding is made pursuant to Section 6-25-30(A) of the Act.

ARTICLE II
AUTHORIZATION

Section 2.01 Authorization to Establish System

(e) The City is hereby authorized to join with the Parties to create a Joint System in accordance with the provisions of the Act. Additional Authorities (as such term is defined in the Act) may be permitted to join the Joint System with the approval of all members of the Joint System (collectively, the “Members”) as shall exist at such time.

(f) The Joint System will be known by the name as shall be agreed upon by the Parties and set forth in the MOU.

(g) In accordance with Section 6-25-40 of the Act, the City Council shall cause notice of the adoption of this Resolution to be published once a week for two consecutive weeks in a newspaper of general circulation within Pickens County, South Carolina (the “County”). The notice shall be substantially similar to the form attached hereto as Exhibit A.

(h) Pursuant to the provisions of the MOU to be enacted by the Parties and in accordance with the provisions and requirements of Sections 6-25-50 and 6-25-60 of the Act, the Joint System shall be governed by a commission (the “Commission”) consisting of no fewer than eight members and no more than eleven members (each member a “Commissioner”) appointed by resolution of the governing body of the appointing Party. The Parties shall specify in the MOU the number of commissioners each Party may appoint to the Commission pursuant to Section 6-25-50(A) of the Act.

(i) Each Commissioner shall be entitled to one vote on any proposed action of the Commission. Unless otherwise required by the Act or by agreement of the Parties, approval of any action of the Commission shall require the affirmative vote of a majority of the Commissioners present and voting, with at least a majority of the Commissioners present.

(j) The City Council shall, by separate resolution duly adopted, appoint its Commissioners to the Commission, in accordance with the provisions of Section 6-25-60 of the Act.

(k) The Commissioners appointed by the City Council are empowered and directed to execute and deliver an application to the Secretary of State of South Carolina for the creation of the Joint System, in accordance with Section 6-25-50 of the Act, and such other documents as are necessary to carry out the purposes of this Resolution and not inconsistent herewith.

Section 2.02 Authorization of MOU

The City Council hereby authorizes the Mayor or the City Administrator to execute an MOU, after the form of such MOU has been approved by resolution of City Council, with such revisions and alterations as he shall deem appropriate to carry out the spirit of this Resolution, as a non-binding expression of present intent setting forth the understandings and intentions of the City with respect to the establishment and creation of the Joint System.

Section 2.03 Effective Date

This Resolution shall become effective immediately upon its adoption.

[Signatures appear on Following Page]


DONE, RATIFIED AND ADOPTED BY THE CITY COUNCIL OF THE CITY OF CLEMSON, SOUTH CAROLINA, THIS 3rd day of February 2020.

(SEAL)



Mayor, City of Clemson, South Carolina

ATTEST:



Clerk, City of Clemson, South Carolina

EXHIBIT A

FORM OF NOTICE OF ADOPTION

NOTICE OF ADOPTION OF RESOLUTION

Notice is hereby given that by the adoption of a resolution dated February 3rd, 2020, adopted by the City Council of the City of Clemson, South Carolina, the City of Clemson has authorized the formation of a joint authority water and sewer system to be created by the City of Clemson, South Carolina, the Town of Pendleton, South Carolina, and the County of Anderson, South Carolina. The joint authority water and sewer system is to be created pursuant to Title 6, Chapter 25 of the Code of Laws of South Carolina 1976, as amended (the "Act"). This notice is required by Section 6-25-40 of the Act, and precedes the filing of an application with the South Carolina Secretary of State for a corporate certificate designating the system as a public body and as a body corporate and politic under the provisions of the Act.