

# **RICHLAND COUNTY**

## **DEVELOPMENT & SERVICES COMMITTEE AGENDA**

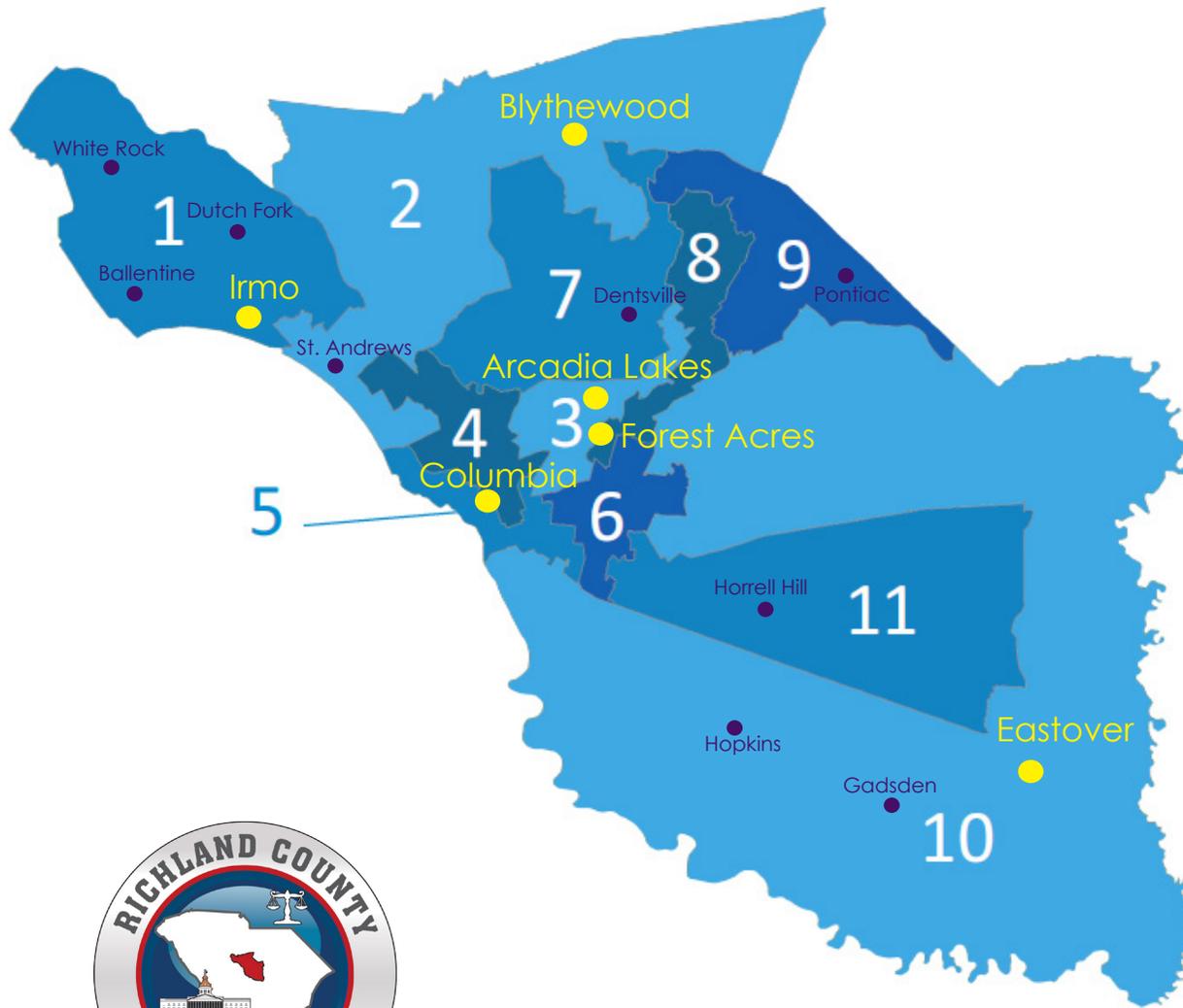


**TUESDAY, JUNE 27, 2017**

**5 P.M.**

**COUNCIL CHAMBERS**

# RICHLAND COUNTY COUNCIL 2017-2018



**VICE CHAIR**  
Bill Malinowski  
District 1



**CHAIR**  
Joyce Dickerson  
District 2



Yvonne McBride  
District 3



Paul Livingston  
District 4



Seth Rose  
District 5



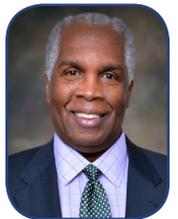
Greg Pearce  
District 6



Gwendolyn Kennedy  
District 7



Jim Manning  
District 8



Calvin "Chip" Jackson  
District 9



Dalhi Myers  
District 10



Norman Jackson  
District 11



Richland County Development & Services Committee

June 27, 2017 – 5:00 PM

Council Chambers

2020 Hampton Street, Columbia, SC 29201

Yvonne McBride District 3	Gwen Kennedy District 7	Seth Rose (Chair) District 5	Chip Jackson District 9	Dalhi Myers District 10
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1. **CALL TO ORDER** The Honorable Seth Rose, Chair,  
Development & Services Committee
  
2. **APPROVAL OF MINUTES** The Honorable Seth Rose
  - a. Development & Services Committee Meeting: May 23, 2017  
[PAGES 4 - 7]
  
3. **ADOPTION OF AGENDA** The Honorable Seth Rose
  
4. **ITEMS FOR ACTION** The Honorable Seth Rose
  - a. Council Motion: Require that all municipal utility service providers must request consent and approval from Richland County Council prior to extending or accepting water and sewer infrastructure within the unincorporated boundaries of Richland County [MALINOWSKI] [PAGES 8 - 9]
  
  - b. Contract Extension for NPDES Services for Public Works Stormwater Management Division [PAGES 10 - 12]
  
  - c. Approve an agreement with Cascata Development, LLC and Rivers Station, LLC to complete the construction of the roads in Rivers Station Subdivision and Blythecreek Subdivision [PAGES 13 - 24]
  
  - d. Approval of Temporary Right-of-Way Agreement for Logging Truck Access on Mill Creek Club Road [PAGES 25 - 32]
  
5. **ADJOURN**

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Note: Pursuant to Council Rules, Council will record non-electronic roll call voting for all votes that are not unanimous for second and third reading or one time votes; and which are not merely procedural in nature.



Special Accommodations and Interpreter Services Citizens may be present during any of the County's meetings. If requested, the agenda and backup materials will be made available in alternative formats to persons with a disability, as required by Section 202 of the Americans with Disabilities Act of 1990 (42 U.S.C. Sec. 12132), as amended and the federal rules and regulations adopted in implementation thereof. Any person who requires a disability-related modification or accommodation, including auxiliary aids or services, in order to participate in the public meeting may request such modification, accommodation, aid or service by contacting the Clerk of Council's office either in person at 2020 Hampton Street, Columbia, SC, by telephone at (803) 576-2061, or TDD at 803-576-2045 no later than 24 hours prior to the scheduled meeting.



## Richland County Council

### DEVELOPMENT AND SERVICES COMMITTEE

May 23, 2017 – 5:00 PM

Council Chambers

2020 Hampton Street, Columbia, SC 29201

**COMMITTEE MEMBERS PRESENT:** Seth Rose, Chair; Yvonne McBride, Gwen Kennedy, Chip Jackson, and Dalhi Myers

**OTHERS PRESENT:** Greg Pearce, Bill Malinowski, Joyce Dickerson, Paul Livingston, Jim Manning, Norman Jackson, Gerald Seals, Larry Smith, Brad Farrar, Brandon Madden, Michelle Onley, Sandra Yudice, Pam Davis, Tracy Hegler, Ismail Ozbek, Quinton Epps, Shahid Khan, and Kevin Bronson

**CALL TO ORDER** – Mr. Rose called the meeting to order at approximately 5:06 PM.

#### **APPROVAL MINUTES**

April 25, 2017 – Mr. C. Jackson moved, seconded by Ms. Kennedy, to approve the minutes as distributed. The vote in favor was unanimous.

**ADOPTION OF AGENDA** – Ms. Myers moved, seconded by Mr. C. Jackson to adopt the agenda as published. The vote in favor was unanimous.

#### **ITEMS FOR ACTION**

- a. **Legal Department: Petition to Close Portion of Appleton Lane** – Mr. Smith stated this was a petition filed by Mr. Cleveland Jackson to close a portion of Appleton Lane. Appleton Lane is located in District 10. Traditionally EMS, Public Works, and Planning Department are contacted to determine whether there is any issues with the petition. It has been determined it will not present a problem to close this portion of Appleton Road.

Ms. Myers stated she has spoken with the petitioner and he had some damage from the flood that he is unable to remediate at this time; therefore, she has not objection with petition.

Ms. Myers moved, seconded by Ms. McBride, to forward to Council with a recommendation to approve the petitioner's request to close the subject road and direct Legal to answer the suit accordingly. The vote in favor is unanimous.

- b. **Legal Department: Petition to Close Portion of Jilda Drive near Olga Road** – Mr. Smith stated this is a petition that has been filed by Larry A. Powell & Associates. It is unclear if Richland County ever maintained this dirt road; however, it is staff's understanding that Mr. Powell actually owns the property. The County was namely primarily in case the County had an interest in the property. Planning, EMS and Public Works had no objection to the closure of this portion of Jilda Drive.

Mr. Malinowski inquired as to why the County is getting involved if the County does not definitively own the road.

Mr. Smith stated it is his understanding the County may have at some point maintained the road; therefore, the County was named as a party to the closure petition. The County is not necessarily closing the road, but not the County is not objecting to the petition.

Mr. C. Jackson moved, seconded by Ms. Myers, to forward to Council with a recommendation to approve the request to close the portion of Jilda Drive near Olga Road. The vote in favor was unanimous.

- c. Legal Department: Road Closing of an Alleyway in the Vicinity of 5313 Two Notch Road – Mr. Farrar stated this is a grass alleyway in the vicinity of 5313 Two Notch Road, which is located in Council District 3.

Ms. McBride stated this is the first she is hearing of this request; therefore, she would like to discuss the request in more detail.

Ms. McBride moved, seconded by Ms. Myers, to defer this item until the June D&S Committee meeting. The vote in favor was unanimous.

- d. An Ordinance authorizing deed to the City of Columbia for certain water lines to serve the Ballentine Branch Library Dutch Fork Road; Richland County TMS# 03303-01-06 & 02 (Portion) – Mr. Smith stated the County purchased property in the Ballentine area for the location of the Richland Library in the committee. Apparently the library has been built and the water lines, water meters, and infrastructure needed to support the building are being installed. The City of Columbia, as provider of the water to the building, is requesting the County deed over the water lines and infrastructure.

Mr. C. Jackson moved, seconded by Ms. Myers, to forward to Council with a recommendation to approve the request.

Mr. Malinowski stated normally when the City of Columbia provides water an annexation agreement has to be signed. He inquired if an MOU would be drafted to protect the County from annexation of this property.

Mr. Smith stated there has been discussion of the County moving forward in that direction, but he is unsure if that has been formally voted upon by Council. He is to go back and research if the County has adopted anything in the past in regards to this matter.

The vote in favor was unanimous.

- e. Council Motion: Require that all municipal utility service providers must request consent and approval from Richland County Council prior to extending or accepting water and sewer infrastructure within the unincorporated boundaries of Richland County – Mr. Khan stated both water and sewer are operated under the regulatory guidelines of DHEC and EPA. Both the utilities are treated differently when it comes to construction and expansion.

Sewer is operated through DHEC and Central Midlands Council of Governments (COG). They define territories for different service providers. No one can enter into the service provider territories until they get a final consent approval or no objections certificate from the other service provider.

Water is treated more like a business or an independent commodity. There are no regulatory guidelines in terms of controlling the tidal flow.

Mr. Khan stated he cannot speak from the legal perspective, but from the technical perspective, the County should have a control on our area, our expansion and giving the different service providers the right to provide the service under terms and conditions that respect the best interests of Richland County.

The biggest service provider currently is the City of Columbia. The City has a standard procedure as a part of their water flow service. They require the customer to sign a covenant document, wherein if their property is adjacent to the City limits they cannot object to annexation.

Mr. Smith stated this is an issue that has come up multiple times. It is his understanding, Council requested the prior Administration to contact the City. He does not know what occurred regarding this particular issue. There is a statute, which allows for the County to require their consent.

Mr. Khan stated he does not recall any request being made and honored. He further stated there are tools in the County's pocket. The first step in development is to have the development concept approved by Zoning Office, wherein those tools (i.e. statute) could be utilized to take control of these matters.

Mr. Rose stated the City of Columbia is in the process of building millions of dollars' worth of infrastructure that would be directly impacted by the enforcement of this statute. He would like to hold this item in committee and request a formal recommendation from the Legal Department.

Mr. N. Jackson stated the City of Columbia has a practice of moving forward and informing the County after the fact.

Ms. Kennedy stated she contacted the Mayor regarding areas in her district and was assured they were not pursuing annexation of those areas. Last week these areas received a message the City is planning to annex those areas.

Mr. Malinowski stated he believes it is somewhat derelict that the Legal Department did not provide the information where there is already a State Law on the books that grants the County a particular territory to control water.

Mr. Smith stated for clarification that there is a State law which requires the City of Columbia to seek the County's consent.

Ms. Myers stated she does not know if this motion does any harm to the City. It simply says if you want to annex our areas, you have to notify us. She does not feel like it's too much to ask for the City to come before the County and state they are interested in incorporating unincorporated areas into the City. There is no reason to not move forward with this item tonight.

Mr. C. Jackson stated he concurs with Ms. Myers.

Mr. Rose inquired if the City of Columbia provided water to all of the unincorporated portions of the County.

Mr. Smith stated the City provides water to the majority of the County.

Mr. Rose inquired if water is provided to an unincorporated part of Richland County does that portion then waive their right to fight annexation.

Mr. Smith stated that is not what he said.

Ms. Myers stated the concern raised by Mr. Rose that the City has all these infrastructure projects underway and to impose this requirement on them would mean they would be at a disadvantage is the basis for her prior comments. Richland County has its own unique concerns. The City of Columbia has its set. Planning to incorporate an unincorporated area does not have anything to do with whether the City has plans for water infrastructure. This simply says this is our territory and the City has to inform the County they have an interest in the County's territory. It's the County's right to aggressively monitor the areas under the County's control.

Mr. N. Jackson stated the problems he's seen over the years is when a Comprehensive Land Use Plan or Neighborhood Master Plan and then the City decides to annex that area. The plan goes out the window after the County has spent some much time and money because the City has the right to annex if the developer has utilized City water.

Mr. C. Jackson moved, seconded by Ms. Myers, to call for the question. The vote in favor was unanimous.

The vote in favor was unanimous to forward this item to Council with a recommendation to require that all municipal utility service providers must request consent and approval from Council prior to extending or accepting water and sewer infrastructure within the unincorporated boundaries of Richland County.

- f. Richland County lost millions of dollars by not collecting taxes on (SOB) for the past five years. I move that the Legal Department along with Administration explore recovering the funds from Sexual Oriented Businesses directly

*The Committee went into Executive Session at approximately 5:37 PM and came out at approximately 5:58 PM.*

Ms. Myers moved, seconded by Ms. McBride, to proceed as discussed in Executive Session. The vote in favor was unanimous.

**ADJOURNMENT** – The meeting adjourned at approximately 5:45 PM.



**REQUEST OF ACTION SUMMARY SHEET**

Agenda Item No.: 4a Meeting Date: June 21, 2017

To: Seth Rose, Chair, Development and Services Committee  
From: Vice-Chairman Bill Malinowski, District 1  
Department: County Council

**Item Subject Title:** Council Motion: Require that all municipal utility service providers must request consent and approval from Richland County Council prior to extending or accepting water and sewer infrastructure within the unincorporated boundaries of Richland County

**Action Taken by Committee previously:** The Committee recommended Council approval of this motion during its May 23, 2017 deliberations. Council referred this item back to the Committee for review during its June 6, 2017 deliberations.

**Options:**

1. Consider the motion and approve accordingly.
2. Consider the motion and do not approve.

**Motion Requested Today:** Council’s discretion as this request is pursuant to a Council motion.

**Staff Recommendation:** Council’s discretion as this request is pursuant to a Council motion. Staff will proceed as directed by County Council.

**Impact of Action:** Operating Budget: Not applicable.

Capital Budget: Not applicable.

**Funding Amount/Source:** There is no apparent financial impact associated with this request.

**Requested by:** Vice-Chairman Bill Malinowski, District 1

**Staff Representative:** County Administrator Gerald Seals

**Outside Representative:** None.

**List of Attachments:**

1. Detailed Request of Action

4/4/17  
Date Submitted

Brandon Madden  
Approved by the County Administrator’s Office

All  
Council District



# RICHLAND COUNTY GOVERNMENT

Office of the County Administrator

## REQUEST OF ACTION

**Subject:** Council Motion: Require that all municipal utility service providers must request consent and approval from Richland County Council prior to extending or accepting water and sewer infrastructure within the unincorporated boundaries of Richland County

### A. Purpose

County Council is requested to consider a Council motion relative to utility infrastructure.

### B. Background / Discussion

At the April 4, 2017 Council meeting, Vice-Chairman Malinowski brought forth the following motion:

“I move to require that all municipal utility service providers must request consent and approval from Richland County Council prior to extending or accepting water and sewer infrastructure within the unincorporated boundaries of Richland County.”

There is no apparent financial impact associated with this request.

### C. Legislative / Chronological History

There is no legislative / chronological history associated with this request.

### D. Alternatives

1. Consider the motion and approve accordingly.
2. Consider the motion and do not approve.

### E. Final Recommendation

Council’s discretion. Staff will proceed as directed by County Council.



**RICHLAND COUNTY  
GOVERNMENT**  
Office of the County Administrator

**REQUEST OF ACTION SUMMARY SHEET**

Agenda Item No.: 4b Meeting Date: June 27, 2017

To: Seth Rose, Chair, Development and Services Committee  
From: Jennifer Wladischkin, Procurement Division  
Department: Finance

**Item Subject Title:** Contract extension for National Pollutant Discharge Elimination System (NPDES) consulting services for the Public Works Stormwater Division.

**Action Taken by Committee previously:** None.

- Options:**
1. Consider the request and approve accordingly.
  2. Consider the request and do not approve.

**Motion Requested Today:** It is recommended that County Council approve this request to extend the contract with Woolpert to provide NPDES Consulting Services so that the Stormwater Division can continue to meet permit mandated deadlines and remain in compliance.

**Staff Recommendation:** County Council approve this request to extend the contract with Woolpert to provide NPDES Consulting Services so that the Stormwater Division can continue to meet permit mandated deadlines and remain in compliance.

**Impact of Action:** Operating Budget: Not applicable.

Capital Budget: Not applicable.

**Funding Amount/Source:** All of the items are related to requirements in the County’s NPDES MS4 permit and some are also associated with permit scheduled deadlines for implementation. The total fee for the FY18 scope of services is \$159,660. The Stormwater Division budgeted \$191,694 in FY18 under Professional Services for NPDES Program Compliance Assistance and Annual Report documentation.

**Requested by:** Finance c/o Procurement Division  
Public Works c/o Stormwater Division

**Staff Representative:** Jennifer Wladischkin, Procurement Division  
Synithia Williams, Stormwater Division

**Outside Representative:** None.

- List of Attachments:**
1. Detailed Request of Action

<u>6/20/17</u>	<u>Brandon Madden</u>	<u>All</u>
Date Submitted	Approved by the County Administrator’s Office	Council District



# RICHLAND COUNTY GOVERNMENT

Office of the County Administrator

## REQUEST OF ACTION

**Subject:** Subject: Contract Extension for NPDES Services for Public Works Stormwater Management Division

### A. Purpose

County Council is requested to approve the contract extension for National Pollutant Discharge Elimination System (NPDES) consulting services for the Public Works Stormwater Division.

### B. Background / Discussion

In May 2014, the Stormwater Division worked with the Procurement Division to put out a request for proposals to eleven (11) consultants for NPDES consulting services to assist Richland County's Stormwater Management Program. The tasks associated with the request included:

- Updating the County's Stormwater Management Plan
- Implementing the County's Stormwater Management Plan
- Assisting in the adherence to the NPDES Phase I requirements
- Evaluating the existing program and providing recommendations to strengthen the program
- Assisting in the development of Total Maximum Daily Loads (TMDL) plans
- Providing feasible cost for implementing each part of the NPDES requirements
- Providing consulting services in watershed studies
- Assisting in identifying and applying for grants

Three firms submitted proposals: Woolpert, AECOM and Amec Foster Wheeler. The contract was awarded to Woolpert. The initial contract in FY16 included six tasks for a total of \$85,000. FY17 included 7 additional tasks for a total of \$87,807.

The Stormwater Division has worked with Woolpert in FY2017 on updating the County's Stormwater Management Plan to meet the requirements of the new NPDES MS4 Permit issued July 1, 2017. After meeting with Woolpert staff on the scope of items needed for the next year of the NPDES Permit Requirements, Woolpert Submitted a Scope of Services for 2018 Fiscal Year. The scope for 2018 includes:

1. Stormwater Management Program Internal Compliance Audit;
2. Water Quality Monitoring Data Review and Plan Development;
3. Year 1 Annual Report Review;
4. Asset Management System Implementation Recommendations; and
5. Total Maximum Daily Loads (TMDL) Implementation Plan Development.

All of the items listed in the scope are related to requirements in the County's NPDES MS4 permit and some are also associated with permit scheduled deadlines for implementation. The total fee for the FY18 scope of services is \$159,660. The Stormwater Division budgeted \$191,694 in FY18 under Professional Services for NPDES Program Compliance Assistance and Annual Report documentation.

**C. Legislative / Chronological History**

- The original contract for services totaled \$85,000 and was on 5/27/2016.
- The second year of the contract was \$87,807 and was approved on 11/1/2016.

**D. Alternatives**

1. Approve the request and the Public Works Stormwater Division can continue to work with Woolpert to meet the requirements to stay in compliance with the NPDES MS4 Permit and meet mandated program deadlines.
2. Do not approve the request and the Public Works Stormwater Division will have to seek another consultant to assist with NPDES MS4 Permit compliance which could lead to missed deadlines for program elements in the permit.

**E. Final Recommendation**

It is recommended that County Council approve this request to extend the contract with Woolpert to provide NPDES Consulting Services so that the Stormwater Division can continue to meet permit mandated deadlines and remain in compliance.



**REQUEST OF ACTION SUMMARY SHEET**

Agenda Item No.: 4c Meeting Date: June 27, 2017

To: Seth Rose, Chair, Development and Services Committee  
 From: Tracy Hegler  
 Department: Community Planning and Development

**Item Subject Title:** Approve an agreement with Cascata Development, LLC and Rivers Station, LLC to complete the construction of the roads in Rivers Station Subdivision and Blythecreek Subdivision.

**Action Taken by Committee previously:** None.

- Options:**
1. Consider the request and approve accordingly.
  2. Consider the request and do not approve.

**Motion Requested Today:** Council is asked to approve the execution of this agreement, with the language recommended by the Developer, which will allow the County to make road repairs that will serve the citizens in Blythecreek and Rivers Station Subdivisions. Staff also recommends adding a clause about final accounting of the repairs and what will occur if those repairs are over or under the estimated amounts.

**Staff Recommendation:** Approval.  
**Impact of Action:** Operating Budget: Not applicable.

Capital Budget: Not applicable.  
**Funding Amount/Source:** Department of Public Works (DPW) Roads and Drainage Fund Balance will cover the expense of the work (est. \$200,000) with repayment by the party to the agreement (Developer of Blythecreek and Rivers Station).

**Requested by:** Tracy Hegler, Director of Community Planning & Development

**Staff Representative:** Tracy Hegler, Director of Community Planning & Development

**Outside Representative:** None.

- List of Attachments:**
1. Detailed Request of Action
  2. Maps of Neighborhoods

6/21/17  
Date Submitted

Brandon Madden  
Approved by the County Administrator's Office

2 and 7  
Council District



# RICHLAND COUNTY GOVERNMENT

Office of the County Administrator

## REQUEST OF ACTION

**Subject:** Enter into an agreement with Cascata Development, LLC and Rivers Station, LLC to complete the construction of the roads in Rivers Station Subdivision and Blythecreek Subdivision.

### A. Purpose

County Council is requested to approve the execution of an agreement with Richland County and Cascata Development, LLC & Rivers Station, LLC to complete road construction, including repair of existing infrastructure, at Blythecreek Subdivision (Council District 2) and Riverstation Subdivision (Council District 7). The agreement will allow Richland County to make the necessary repairs in both subdivisions in order to bring the roads into compliance, and receive arranged payments from the Representative of both entities to cover the expenses incurred by the County, which will include labor, materials, and professional services.

### B. Background / Discussion

Blythecreek Subdivision (Attachment A) is a single-family residential development located on Boney road (S-40-1367). The 80.61 acre neighborhood consists of 153 lots and approximately 9,000 linear feet of road, along with approximately 20 acres of common area. A land disturbance permit was issued on September 29, 2006 and the project was constructed in two (2) phases.

Riverstation Subdivision (Attachment B) is a single-family residential development located on Longtown Road. The neighborhood covers 31.17 acres with 106 lots, approximately 4,500 linear feet of road and approximately 9 acres of common area. A land disturbance permit was issued on July 30, 2007 and the project was constructed in two (2) phases.

Both subdivisions are 100% occupied and the citizens in both developments have voiced concerns about the conditions of the unfinished roads in their neighborhoods. To date, the developer of Blythecreek Subdivision and Riverstation Subdivision has 'not' petitioned the county to accept the roads in these neighborhoods, given their unfinished state and non-compliance with County standards.

Richland County has been responding to complaints from homeowners concerning the conditions of the roads and the County conducted a full assessment of both projects to present a report to the developer to make said repairs. The Developer indicated the Limited Liability Companies that originally developed the neighborhoods are dissolved and no longer in a position to complete the construction of the roads in both neighborhoods. Further, the Developer indicated he is not in a financial position to perform all the work needed to complete the roads at one time and is unlikely to be able to secure bank loans on such an old project. The County conducted a search of bonds for both projects and no information can be

found on Blythecreek Subdivision and a bond was in place for Riverstation Subdivision in the amount of \$471K which expired on January 1, 2010.

The Developer, personally and with his current corporation, has offered to enter into an agreement to satisfy the obligations of Cascata Development, LLC and Rivers Station, LLC. The agreement will allow the County to accept the roads in their current conditions and complete their construction, to include making repairs that will bring the roads into compliance. The Developer will be required to make an initial payment and subsequent agreed-upon payments to reimburse the county for services rendered. The County will take an accounting of services rendered to assure that the total payment from the developer covers all labor, materials, and professional services.

The following steps have been taken to develop the structure of the agreement:

- Richland County prepared a report for each subdivision that identifies deficiencies and list quantities of failures for the purpose of developing a cost estimate.
- The County Engineer created a cost estimate based on the quantities submitted.
- The scope of work was presented to the developer with an estimated total cost.
- The agreement defined the scope of work to be conducted and outlined a schedule of payments to be made by the developer.

The proposed agreement has been reviewed by the County's Legal Department and the Developer. The County's Legal Department indicates the agreement is legally sound and provides adequate protection for the County. However, it should be noted the Developer removed language proposed by the County's Legal Department that would explicitly strengthen the recourse available to us in the event of a default. The alternate language for paragraph 3 follows. The decision as to the acceptable language is a policy decision for Council.

Pickrel agrees that regardless of the responsibility of Cascata and Rivers Station to make the payments herein established, he is also personally liable for the payments herein, and in the case of any default in payment, Pickrel agrees that the County may take any action available to it in law or equity to recover the debt from him personally, including execution on his real and personal property. Until receipt by Richland County of the final payment, Owner and Pickrel do hereby bind themselves and their heirs, successors, and assigns to indemnify, defend, hold harmless and release the Richland County, its successors and assigns, from all losses, damages, destruction and claims in any way relating to the design, construction, or previous maintenance performed by anyone other than Richland County of such streets, roads or rights-of-way hereinabove specified.

Richland County Department of Public Works (DPW) has been a part of these discussions and reviewed the agreement, as it is assumed the work can be completed by DRW personnel and equipment. DPW agrees to complete the necessary work and recover funds from the Developer for those costs.

The cost to complete the roads in both neighborhoods is not estimated to exceed \$200,000 and would be covered by DPW's Roads & Drainage Fund Balance. The terms of the proposed agreement require the Developer pay the County back in three installments within twenty-four (24) months of the agreement's effective date. That repayment should be deposited into the County's Roads & Drainage Fund Balance.

The County will prepare final accounting of the repairs. The Developer would be responsible for any additional funds or work that may be required outside of the original scope or an additional contract may be negotiated.

This request has been reviewed by Finance with no concerns.

**C. Legislative / Chronological History**

This is a staff-initiated request. Therefore, there is no legislative history.

**D. Financial Impact**

There is no financial impact associated with this request.

**E. Alternatives**

1. Approve the execution of the agreement which will allow the Department of Public Works to facilitate repairs and completion of the road to serve the citizens in the neighborhoods.
2. Do not approve the execution of the agreement. Choosing this alternative would leave the citizens living in these two neighborhoods with failing and incomplete infrastructure. The County will continue to hold the developer responsible for making repairs and completing the construction of the roads.

**F. Recommendation**

It is recommended that Council approve the execution of this agreement, with the language recommended by the Developer, which will allow the County to make road repairs that will serve the citizens in Blythecreek and Rivers Station Subdivisions. Staff also recommends adding a clause about final accounting of the repairs and what will occur if those repairs are over or under the estimated amounts.

# **DEVELOPMENT AGREEMENT**

[Draft 3-25.26.2017]

THIS DEVELOPMENT AGREEMENT (the "Agreement"), is made as of the \_\_\_ day of ~~March~~June, 2017 ("Effective Date"), by and between **CASCATA DEVELOPMENT, LLC** ("Cascata"), a South Carolina limited liability company, and **RIVERS STATION, LLC** ("Rivers Station"), a South Carolina limited liability company (collectively, "Owner") and **COUNTY OF RICHLAND, SOUTH CAROLINA** ("Richland County"), a body politic and corporate and a political subdivision of the State of South Carolina.

## WITNESSETH

WHEREAS, Cascata is the owner of the roads in the Blythecreek subdivision ("Blythecreek") located in Richland County, South Carolina, and controls the developer's rights in Blythecreek; and

WHEREAS, the roads within Blythecreek are in need of repairs to the base layer and a surface course of asphalt on all roads in Phase I of the subdivision; and

WHEREAS, Rivers Station is the developer of the Rivers Station subdivision located in Richland County, South Carolina, and the roads within the Rivers Station subdivision are in need of repairs to the base layer and a surface course of asphalt on all roads; and

WHEREAS, Cascata and Rivers Station have agreed to convey and Richland County has agreed to accept the dedication of the roads within the Blythecreek and Rivers Station subdivisions, to perform the needed repairs and paving to the roads, and, thereafter, to take full responsibility for the maintenance of the roads, all according to the terms and conditions of the Agreement.

NOW, THEREFORE, for and in consideration of these premises and the mutual covenants herein contained and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, Cascata, Rivers Station and Richland County hereby agree as follows:

1. Conveyance of Roads. Cascata shall convey to Richland County and Richland County shall accept from Cascata the roads within the Blythecreek subdivision as shown on the Blythecreek Map attached hereto as Exhibit 1, which shall thereafter be owned and held by Richland County. Rivers Station shall convey to Richland County and Richland County shall accept from Rivers Station the roads within the Rivers Station subdivision as shown on the Rivers Station Map attached hereto as Exhibit 2, which shall thereafter be owned and held by Richland County. These conveyances shall be made in accordance with Richland County's standard documentation.

2. Road Improvements. After taking possession of the roads, Richland County shall make needed repairs to the base layer and pave a surface course of asphalt on all roads within the Blythecreek (Phase I) and Rivers Station subdivisions.

3. Payments. Owner shall cause to be paid to Richland County the sum of Fifty Thousand Dollars (\$50,000) on the Effective Date. Owner shall make a second payment to Richland County in the sum of Fifty Thousand Dollars (\$50,000) within twelve (12) months of the Effective Date. Owner shall make a third payment to Richland County in the sum of One Hundred Thousand Dollars (\$100,000) within twenty-four (24) months of the Effective Date. Upon the last payment to Richland County, Owner Harold V. Pickrel, III ("Pickrel") agrees that regardless of the responsibility of Cascata and Rivers Station to make the payments herein established, he is also personally liable for the payments herein, and in the case of any default in payment, Pickrel agrees that the County may take any action available to it in law or equity to recover the debt from him personally. Upon the last payment to Richland County, Owner and Pickrel shall have no further obligations to Richland County with respect to the roads within the Blythecreek and Rivers Station subdivisions.

4. Entire Agreement; Successors; Headings. This Agreement contains the entire understanding between the parties with respect to the subject matter hereof and supersedes all prior agreements or understandings, inducements or conditions, express or implied, oral or written and shall extend to and bind the successors and assigns of the respective parties hereto. The headings in this Agreement are for convenience of reference only and shall not affect the construction hereof.

5. Governing Law and Jurisdiction. This Agreement has been executed and delivered in the State of South Carolina, and its validity, interpretation, performance and enforcement and all matters relating thereto, shall be governed by and construed and interpreted in accordance with the laws of the State of South Carolina. For purposes of any litigation arising from or related to this Agreement, the parties hereby submit to the jurisdiction of the appropriate state or federal court located in Richland County, South Carolina.

6. Attorneys' Fees. In the event of any litigation arising out of any matters pertaining to this Agreement, or any agreements between the parties described herein, the prevailing party shall be entitled to reasonable attorneys' fees and costs as awarded by a court of competent jurisdiction.

7. No Adverse Presumption. It is acknowledged that this Agreement arose as the result of arms-length negotiations between the parties and that this Agreement, although prepared by representatives of Owner, was prepared with the advice, consent, recommendation and review of Richland County and its counsel, and is the product of input by all parties. As a result, any ambiguity or uncertainty is not to be construed against the party whose counsel prepared this Agreement on the grounds that such party's representatives drafted this Agreement.

*[THE REMAINDER OF THIS PAGE HAS BEEN INTENTIONALLY LEFT BLANK –  
SIGNATURE PAGES FOLLOW]*

**SIGNATURE PAGE FOR  
DEVELOPMENT AGREEMENT**

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

WITNESS:

**CASCATA DEVELOPMENT, LLC,**  
a South Carolina limited liability company

\_\_\_\_\_

By: \_\_\_\_\_ [SEAL]  
Harold V. Pickrel, III, Authorized Member

**RIVERS STATION, LLC,**  
a South Carolina limited liability company

By: HVP3 Development, LLC,  
a South Carolina limited liability company,  
Managing Member

\_\_\_\_\_

By: \_\_\_\_\_ [SEAL]  
Harold V. Pickrel, III, Sole Member

Harold V. Pickrel, III joins in an individual capacity for the purpose of acknowledging his responsibilities under Section 3 of the Agreement.

\_\_\_\_\_

[SEAL]  
\_\_\_\_\_ Harold V. Pickrel, III

**SIGNATURE PAGE FOR  
DEVELOPMENT AGREEMENT**

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

WITNESS:

**RICHLAND COUNTY, SOUTH CAROLINA**  
a body politic and corporate and  
political subdivision of the State of South Carolina

\_\_\_\_\_

By: \_\_\_\_\_ [SEAL]

Print Name: \_\_\_\_\_

Title: \_\_\_\_\_

\_\_\_\_\_

ATTEST: \_\_\_\_\_ [SEAL]

Print Name: \_\_\_\_\_

Title: \_\_\_\_\_

**EXHIBIT 1**

**Blythecreek Map**

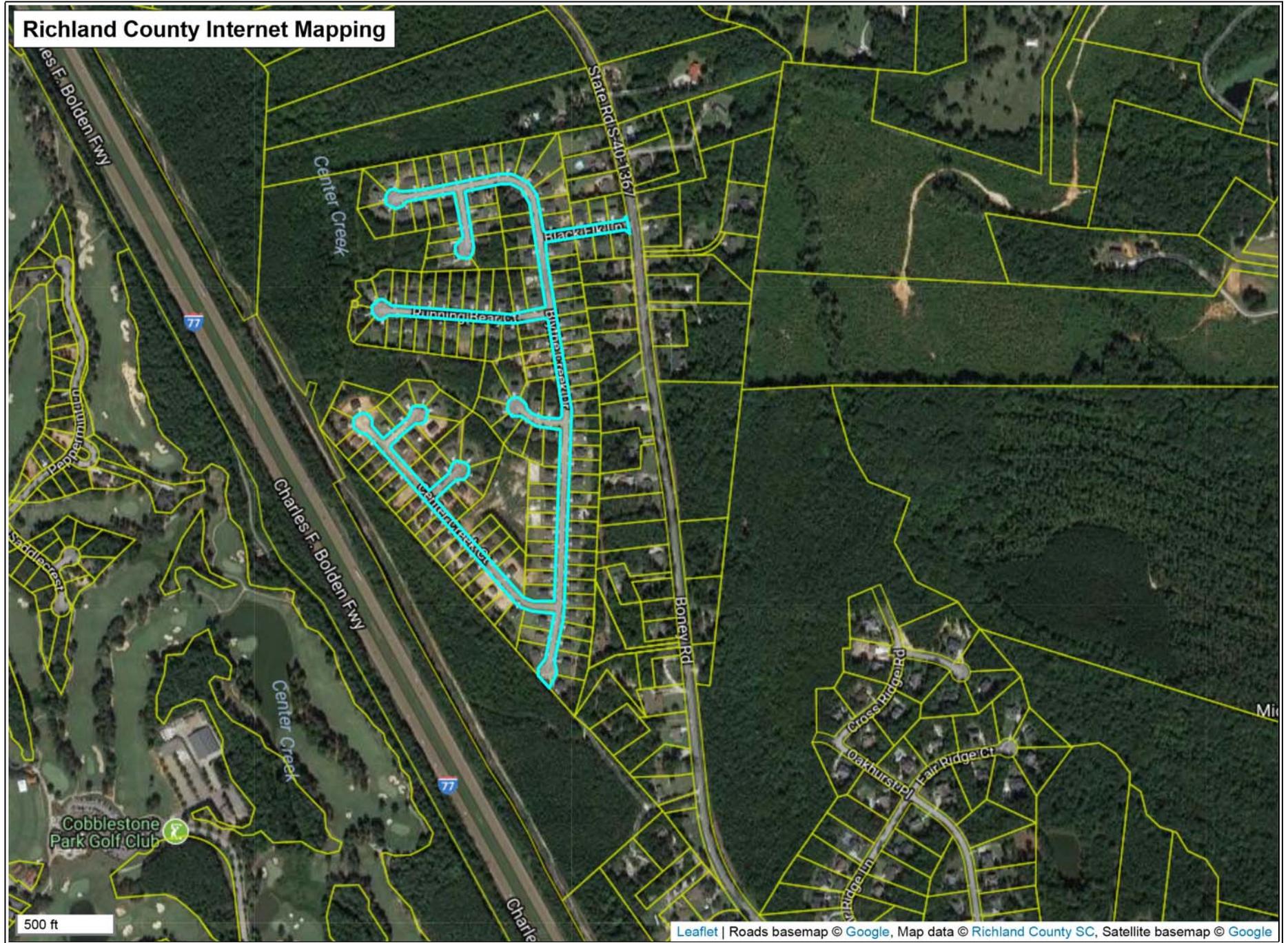
[SEE ATTACHED]

**EXHIBIT 2**

**Rivers Station Map**

[SEE ATTACHED]

ATTACHMENT A







**RICHLAND COUNTY  
GOVERNMENT**  
Office of the County Administrator

**REQUEST OF ACTION SUMMARY SHEET**

Agenda Item No.: 4d Meeting Date: June 27, 2017

To: Seth Rose, Chair, Development and Services Committee  
From: Tracy Hegler, Director of Community Planning and Development  
Department: Community Planning and Development

**Item Subject Title:** Approval of Temporary Right-of-Way Agreement for Logging Truck Access on Mill Creek Club Road

**Action Taken by Committee previously:** None.

- Options:**
1. Consider the request and approve accordingly.
  2. Consider the request and do not approve.

**Motion Requested Today:** Council is asked to approve the request for a Temporary Right-of-Way Agreement with White Wood, Inc. for logging truck access to the unpaved road informally known as Mill Creek Club Road. Staff further recommends payment by White Wood, Inc. to the county in the amount of \$1,000 based on a similar agreement for logging access in the vicinity.

**Staff Recommendation:** Approval.  
**Impact of Action:** Operating Budget: Not applicable.

Capital Budget: Not applicable.

**Funding Amount/Source:** Not applicable.

**Requested by:** Tracy Hegler, Director of Community Planning & Development

**Staff Representative:** County Administrator Gerald Seals

**Outside Representative:** None.

- List of Attachments:**
1. Detailed Request of Action
  2. Exhibits
  3. Draft Agreement

6/21/17  
Date Submitted

Brandon Madden  
Approved by the County Administrator's Office

10  
Council District



# RICHLAND COUNTY GOVERNMENT

Office of the County Administrator

## REQUEST OF ACTION

**Subject:** Approval of Temporary Right-of-Way Agreement for Logging Truck Access on Mill Creek Club Road

### A. Purpose

Council is requested to approve a temporary right-of-way agreement to White Wood, Inc. for use of an unpaved road (informally known as Mill Creek Club Road) (Council District 10) for logging truck access.

### B. Background / Discussion

Mark Paul Kays of Kays Forestry, Inc. has requested a temporary right-of-way to use an unpaved road on county land to transport timber from the Wannamaker tract to Old Bluff Road. The unpaved road (informally known as Mill Creek Club Road) runs from Old Bluff Road westward .6 mile until it intersects with Mosley Oaks Road (Attachment A) and provides access to the Upper Mill Creek tract purchased by Richland County Conservation Commission (RCCC) in 2016 for conservation and recreational purposes. The deed to the property includes easements of right-of-way for access, ingress and egress, on foot or by vehicle of any kind and for all purposes to several neighboring landowners. This includes the Wannamakers who own land to the west of Upper Mill Creek which is separated by two large tracts. An existing easement for the road that crosses the width of the Upper Mill Creek tract (Attachment B) requires “Any repairs or maintenance required as a result of logging, construction ... will be the responsibility of the Party causing or permitting such disrepair or damage.”

As agent for the Wannamakers, Kays Forestry, Inc. has sold timber to White Wood, Inc. for logging this summer. He is requesting use of Mill Creek Club Road rather than using the northern end of Mosley Oaks Road due to his concern about potential injury to fowl and livestock on Mosley Oaks Road through multiple family yards. Mill Creek Club Road was used for the same purpose within the past few years when timber was logged on an adjoining property.

Staff of the Conservation Division and Legal Department have developed a Temporary Right-of-Way Agreement (Attachment C) to allow use of Mill Creek Club Road for a six-month period. The provisions require White Wood, Inc. to:

- Maintain the road in serviceable condition during the time of use and restore it to a condition equal to or better than the road now exists
- Maintain various insurance and bonding requirements
- Pay a fee to the county in an amount to be determined by Council
- Indemnify and hold harmless Richland County.

Richland County Department of Public Works (DPW) reviewed this request and recommends we:

- Document the existing conditions of the access easement by pictures, videos and descriptions
- Define the term “serviceable condition” used in the agreement that is expected at the end of the term. This will be done through the documentation of existing conditions and will include minimum width and vehicle drivable/accessible surface and material.
- Increase the surety bond to \$5,000, which was done.

DPW will not have maintenance responsibility for Mill Creek Club Road due to any potential damage caused by the logging activity permitted in this agreement.

Finance reviewed the ROA and had no concerns.

### **C. Legislative / Chronological History**

This is a staff-initiated request. Therefore, there is no legislative history. Upper Mill Creek Tract was acquired in 2016 by RCCC for conservation and recreational purposes.

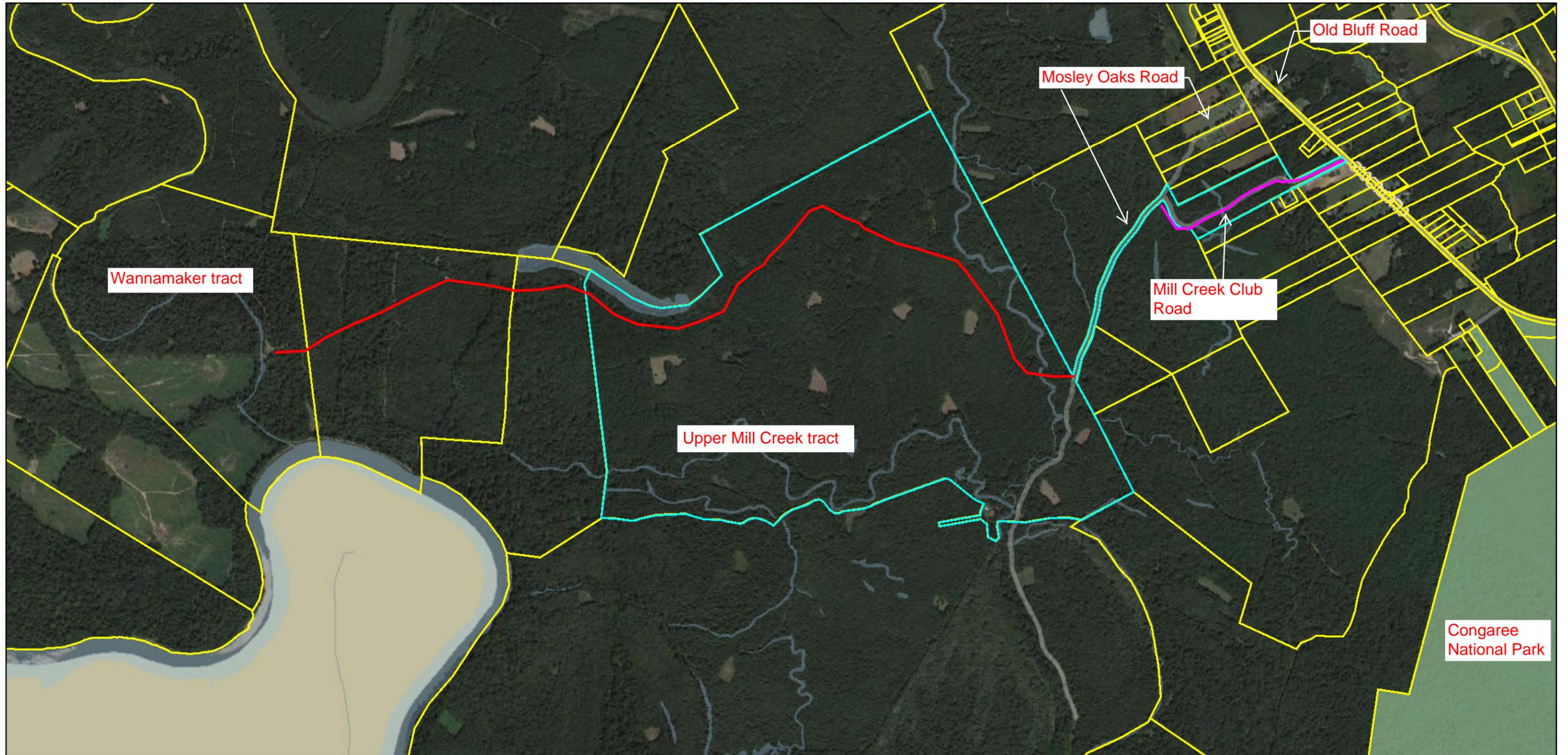
### **D. Alternatives**

1. Approve the request by White Wood, Inc. to use Mill Creek Club Road for a temporary, six-month right-of-way for logging operations. This would take the logging trucks off the road that runs through four properties, keeping it on county property with less impact to adjacent landowners.
2. Deny the request. Logging trucks would use Mosley Oaks Road and potentially injure fowl and livestock that venture into the road. Logging trucks will share the same road as three homeowners unlike the situation on Mill Creek Club Road where the one homeowner close to the logging road has access through Henry Reeves Road.

### **E. Final recommendation**

Staff recommends approving the request for a Temporary Right-of-Way Agreement with White Wood, Inc. for logging truck access to the unpaved road informally known as Mill Creek Club Road. Staff further recommends payment by White Wood, Inc. to the county in the amount of \$1,000 based on a similar agreement for logging access in the vicinity.

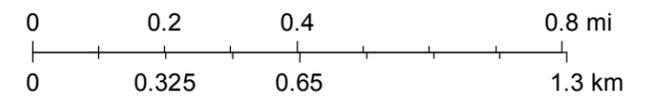
# Temporary ROW easement for Mill Creek Rd



June 13, 2017

-  Parcels
-  Deeded logging road

1:17,500

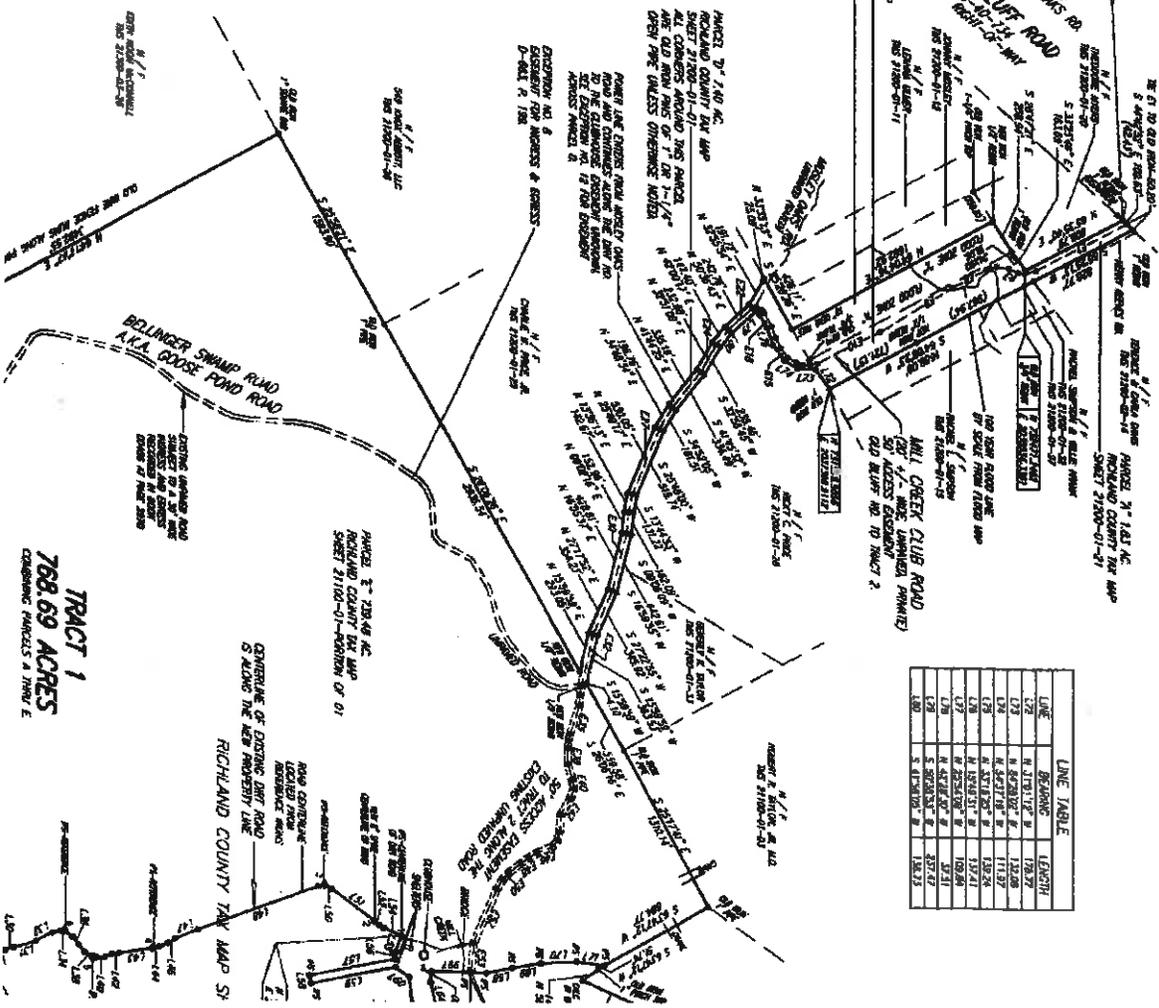


Richland County  
Richland County & Google



# Exhibit B

LINE	BEARING	LENGTH
501	S 89°52'00" W	781.25
502	S 89°52'00" W	781.25
503	S 89°52'00" W	781.25
504	S 89°52'00" W	781.25
505	S 89°52'00" W	781.25
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600	S 89°52'00" W	781.25



LINE	BEARING	LENGTH
126	N 170°11'27" W	178.77
127	N 84°28'30" E	132.08
128	N 54°21'18" E	115.97
129	N 33°18'30" E	107.25
130	N 23°24'00" E	102.81
131	N 14°24'00" E	97.21
132	S 80°24'00" E	257.47
133	S 41°24'00" E	136.23



such as oil cans, tires, litter, cables, etc., brought on and/or across the property by the logger will be removed from the property upon completion of its logging.

- 2) **Grantee**, its contractors, successors, and agents shall obtain and maintain, during and throughout the term of this Agreement, all such insurance required by the State of South Carolina, and minimally the below listed insurance. A breach of the insurance requirements shall be material.

(a) Workers' Compensation and Employers Liability Insurance with minimum limits of One Million (\$1,000,000) Dollars per accident/disease. "Other states" coverage is not sufficient. South Carolina must be specified. Subrogation against Grantor shall be waived.

(b) Business Auto Insurance with liability per occurrence limits of One Million (\$1,000,000) Dollars for all owned/leased, non-owned, and hired vehicles.

(c) Commercial General Liability Insurance with minimum limits of One Million (\$1,000,000) Dollars per occurrence and Two Million (\$2,000,000) Dollars general aggregate for bodily injury, property damage, and personal injury.

(d) A surety bond in the amount of \$5,000 in favor of Grantor to ensure that the Right-of-Way is restored pursuant to paragraph 3 above.

Richland County Government shall be named on the policies as certificate holder. Grantee shall furnish Grantor with certified copies of certificates of insurance contemporaneously with the execution of this agreement.

- 3) **Grantee** will notify **Grantor** at least twenty-four (24) hours prior to commencing use of the existing road and twenty-four (24) hours before completing of existing road use.
- 4) This agreement shall remain in effect until December 30, 2017 or the conclusion of logging on the Wannamaker Tract, whichever occurs first.
- 5) **White Wood, Inc.** will, at all times, indemnify and save, protect and hold harmless **Richland County** and the said premises from any and all costs, and warrant and defend all and singular the said easement unto **Richland County**, its successors-in-interest, and/or assigns, against itself and its successors and/or assigns lawfully claiming or to claim the same, or any part thereof,

Signed this \_\_\_\_\_ day of July, 2017

WITNESS TO GRANTOR:

GRANTOR:

\_\_\_\_\_  
\_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_

WITNESS TO GRANTEE:

GRANTEE:

\_\_\_\_\_  
\_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_