RESOLUTION NO.: R-2019-047

Authorizing the City Manager to execute an Intergovernmental Agreement between Richland County and the City of Columbia for the Innovista Transportation Projects 2 - Greene Street Improvements, Phase 2, SCDOT Project No. 0038231 from Huger Street to Gadsden Street; CF#332-14

BE IT RESOLVED by the Mayor and City Council of the City of Columbia, South Carolina this 4th day of June, 2019, that the City Manager is hereby authorized to execute the attached Intergovernmental Agreement, or on a form approved by the City Attorney, for the construction of the referenced project to convert Greene Street from a four-lane and two-lane roadway to a three-lane curb and gutter roadway with sidewalks and dedicated bike lanes from Huger Street to Gadsden Street and a new bridge over the Norfolk Southern and CSX railroads to reconnect the 700 and 600 blocks of Greene Street in the City of Columbia and County of Richland, South Carolina. The project is to be fully funded through the Richland County Penny Tax or such other source(s) of funds as may be available to Richland County.

Reference is made to the construction plans for the Richland County Transportation Penny Program, Greene Street Improvements, Phase 2, prepared by ICA Engineering, dated February 20, 2019 and being on file in the office of the Department of Engineering, City of Columbia, SC under CF#332-14.

Requested by:

Assistant City Manager Shealy

Approved by:

Gerson Napol

City Manager

Approved as to form:

City Attorney

Introduced: 6/4/2019
Final Reading: 6/4/2019
INTERGOVERNMENTAL AGREEMENT
BETWEEN
COUNTY OF RICHLAND, SOUTH CAROLINA
AND CITY OF COLUMBIA, SOUTH CAROLINA

Project No. PDT-321 Innovista Transportation Projects 2 – Greene Street Improvements,
Phase 2, SCDOT Project No. 0038231

This Intergovernmental Agreement (the “Agreement”) is entered by and between Richland County, South Carolina (the “County”) and the City of Columbia, South Carolina (the “City”).

WITNESSETH THAT:

WHEREAS, a one percent (1%) special sales and use tax (the “Penny Tax”) was imposed by and throughout Richland County pursuant to a successful referendum held on November 6, 2012. One of the projects identified to be completed with a portion of the proceeds of the Penny Tax is Project No. PDT – 321 Innovista Transportation Projects 2 – Greene Street Improvements Phase 2, SCDOT Project No. 0038231 (the “Project”); and

WHEREAS, the Project consists of inter alia converting Greene Street from a four-lane and two-lane roadway to a three-lane curb and gutter roadway with sidewalks and dedicated bike lanes from Huger Street to Gadsden Street and a new bridge over the Norfolk Southern and CSX railroads to reconnect the 700 and 600 blocks of Greene Street in the City of Columbia and County of Richland, South Carolina; and

WHEREAS, the City hereby acknowledges and agrees that the Project will benefit, improve, and enhance the overall aesthetic of Greene Street and the safety, flow, and movement of pedestrian, bicycle, and motor vehicle traffic in the City of Columbia, and hereby affirms its support that the Project be constructed; and

WHEREAS, the City hereby agrees and consents to the construction and improvements of the Project in accordance with the construction plans attached hereto and incorporated herein by this reference as Exhibit A (“Project Plans”).

WHEREAS, the construction of the Project is fully funded through the Penny Tax or such other source(s) of funds as may be available to the County, unless otherwise stated herein; provided, however, that such costs shall not exceed the amount appropriated by the Richland County Council for the Project.

WHEREAS, the City has no responsibility whatsoever for funding the construction of the Project, unless the parties hereto mutually agree otherwise.

WHEREAS, Greene Street is a street within the corporate limits of the city of Columbia and upon completion of the Project, the City will be fully and completely responsible for the operation, maintenance, care, and upkeep of the Project improvements.
NOW THEREFORE, in consideration of the foregoing and of the mutual covenants herein set forth, the County and the City agree as follows:

1. The City hereby acknowledges that this Agreement is binding on the City; that this Agreement has been finally approved by the City; and the County agrees that upon submittal of the Project Plans to the City's Development Center and receipt of a project approval letter from the Department of Engineering that no further action or approval is needed for the County to commence and complete construction of the Project.

2. The City hereby approves, consents, and agrees to the construction of or improvements in connection with the Project within its corporate limits in accordance with the Project Plans, subject to receipt of the project approval letter. This consent and agreement shall be the sole approval necessary from the City for the County to complete the Project under the Project Plans; however, the County agrees that the City has the option to inspect the work being constructed by the County at any time during construction to ensure all work complies with the City's ordinances and all state and federal regulations, policies, procedures and guidelines applicable to the Project; failure to comply may result in a stop work order by the City until compliance is achieved.

Any plan revisions made to the Project Plans shall comply with City's ordinances and all state and federal regulations, policies, procedures and guidelines prior to the acceptance of the project improvements for operation and maintenance by the City.

2a. The County agrees to obtain all necessary permits for bidding and lettings the project. The City agrees to waive the costs associated with all necessary permits from the City.

3. The City may propose revisions or additions to the Project Plans that are outside of the scope of work for the Project, which the County may accept or reject in its sole discretion. If the County accepts a proposed revision or addition, the City shall be solely responsible for paying all additional costs incurred, as determined by the County, to construct and complete the Project as a result of such revision or addition.

4. The County shall be responsible for securing all necessary rights-of-way for the Project. The County agrees to prepare and obtain all necessary rights-of-way for the construction of the Project, subject to the City's review and approval of the documents prior to acquisition of any rights-of-way, excepting the drainage and power line rights-of-way at or near Huger Street, which are to be obtained by the City. The City agrees to support the County in its effort to secure necessary rights-of-way, including, without limitation, assisting in negotiations with landowners or condemnees and representing its support for the Project, whether orally or in writing. Further, to the extent the Project impacts property in which the City has an ownership or other compensable interest (if there be any), the City hereby agrees to waive any entitlement to just compensation under the eminent domain laws of this state or other damages of any kind or nature whatsoever, subject to the agreement of the County to restore the property to as nearly as practicable to its original condition or post-construction condition as set forth in the Project construction plans. All rights-of-way agreements obtained by County shall be in assignable form and assigned to City prior to final acceptance of the Project.
5. The City shall exempt all existing rights-of-way, a new right-of-way, and all other properties purchased in connection with the right-of-way for the Project from any general or special assessment against real property for municipal services.

6. As part of the Project, the County shall, at Penny Tax expense, relocate any City-owned utilities as necessary to construct the Project. Relocation of the water, storm drainage and sewer utilities will consist of like kind and size ("in-kind") and shall not consist of upgrades or betterments. In addition, the Project will include relocating the City-owned traffic signal fiber interconnect line along Huger Street. Those City-owned utilities may be replaced upon the "Project right-of-way" at such locations as may be agreed upon by the County, the City, and the South Carolina Department of Transportation. The City shall not be liable for damages to property or injuries to persons, including, without limitation, death claims for damage caused by the County or its Contractors in constructing, placing, maintaining, removing, replacing or relocating any utility as set forth herein; provided, however, once the City has approved and accepted such constructed, placed, replaced or relocated utility, this paragraph shall no longer apply.

6a. All privately-owned utilities including, but not limited, gas pipelines, manholes, cables, fiber optics, and power lines or poles located within the existing right-of-way shall be relocated in-kind at the private utility’s expense. Payment for the relocation of privately-owned utilities will only be made if the private utility can demonstrate a prior right of occupancy or when the Project requires upgrade or betterment of the utility, such as undergrounding a utility. The County shall not be liable for damages to property or injuries to persons, including, without limitation, death claims, as a consequence of the City or its Contractors placing, maintaining, removing, replacing or relocating any utility.

7. The County shall solely conduct the procurement process for all aspects of the Project. Decisions made by the County regarding this process will be at the sole discretion of the County.

8. The County may, in its sole discretion, authorize change orders, modifications, or alterations to the Project Plans that it deems necessary to complete the Project so long as such change orders, modifications, or alterations are within the scope of the Project. Any major changes in the Project Plans must be re-submitted to the City through the Development Center for review and approval by the City prior to the County commencing the work. Major changes are defined as changes in material types, material sizes, and relocation of appurtenances as well as changes in the project design that impact railroad construction agreements, easements, right-of-way acquisition, and that are not in compliance with the Project specifications, the City's, state and federal policies, procedures and guidelines.

9. Upon completion of the Project, and inspection of the Project proving the new improvements are in accordance with plans and specifications, and upon submittal of record drawings for all project improvements, the City will accept the Project and all improvements associated therewith and shall permanently operate and maintain the Project as a street or improvement within the City at its sole cost and expense. Any and all corrections determined to be necessary by the City for the Project to comply with the plans and specifications, shall be made by the County, or its Contractor, prior to the acceptance of the Project improvements for
operation and maintenance by the City. Such acceptance shall not be unreasonably withheld by the City. The County has no obligation to operate or maintain the Project improvements after its acceptance by the City.

10. The parties hereby acknowledge that they have reviewed this Agreement and concur that any rule of construction to the effect that ambiguities are to be resolved against the drafting party shall not apply in the interpretation of any provision of this Agreement.

11. If any provision of this Agreement or any obligation or agreement contained herein is determined by a court of competent jurisdiction to be invalid or unenforceable, that determination shall not affect any other provision, obligation or agreement, each of which shall be construed and enforced as if the invalid or unenforceable portion were not contained herein. That invalidity or unenforceability shall not affect any valid and enforceable application thereof, and each such provision, obligation, or agreement shall be deemed to be effective, operative, made, entered into, or taken in the manner and to the full extent permitted by law.

12. This Agreement may be executed in several counterparts, all or any of such shall be regarded for all purposes as one original and shall constitute and be but one and the same instrument.

13. This Agreement represents the entire and integrated agreement between the County and the City and supersedes and replaces all terms and conditions of any prior agreements, arrangements, negotiations, or representations, written or oral, with respect to the Project.
IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the day and year of the last signature here in below.

WITNESS:  

[Signature]

RICHLAND COUNTY, SOUTH CAROLINA

By:  

[Signature]

Print:  

[Print Name]

Title:  

[Title]

Date:  

6/5/19

CITY OF COLUMBIA, SOUTH CAROLINA

By:  

[Signature]

Print:  

[Print Name]

Title:  

[Title]

Date:  

6/11/2019

APPROVED AS TO FORM

[Signature]

Legal Department City of Columbia, SC
EXHIBIT A
PROPOSED PLANS FOR UNIVERSITY OF SOUTH CAROLINA DEVELOPMENT FOUNDATION GREENE STREET IMPROVEMENTS PHASE II GREENE STREET BRIDGE OVER CSX & NORFOLK SOUTHERN RAILROAD